

[DE] Costly Connections - Damages Awarded for Internet Links

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In a judgment of 12 May 1998, the Hamburg Regional Court (Landgericht Hamburg - LG) found that a homepage operator, against whom proceedings had been brought because of a link to defamatory material on another homepage, was liable for damages under Articles 823 I, 823 II and 249ff of the Civil Code (Bürgerliches Gesetzbuch - BGB).

The homepage accessed via the link contained allegations and opinions which were defamatory and insulting to the plaintiff. The defendant argued that he had, by providing links to various pages, set up an "opinion forum", and had also expressly indicated on his own homepage that he accepted no responsibility for the content of the linked pages. He further argued that his action was covered by the right of free speech. The Court rejected these arguments, stating that anyone who disseminated disparaging statements made by another person concerning a third, without sufficiently distancing himself from those comments, violated the victim's personality rights. In stating that he accepted no responsibility for other people's comments, the plaintiff was not distancing himself from them, but passing them on while disclaiming liability - which amounted to disseminating them himself. Since all the defendant's links were to defamatory material, the Court also rejected the "opinion forum" argument. The right to free speech enshrined in Article 5 (1) of the Basic Law (Grundgesetz - GG) did not give the defendant the right to provide the links complained of, since the Court, having weighed up the interests at issue in accordance with Article 5 (2) of the Basic Law (GG), found that the gravity of the defamatory statements in question outweighed the right of free speech.

