[DE] Internet advertising - not for lawyers, says court

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On 20 May 1998, the Nuremberg-Fürth Regional Court upheld an earlier decision of 18 February 1998, forbidding a lawyer to advertise his services with the help of an Internet guest-book.

This judgment refers to a lawyer with a homepage guest-book, on which anyone can enter information, which is then open to inspection by all other users.

The lawyer concerned claims that he does not use his guest-book to advertise. It does not serve to collect commissions and addresses, but as a means of communication, like letters, telephone or fax. He also points out that, under the professional rules applying to lawyers in the European Community, personal advertising is acceptable in places where the law permits it. This means that lawyers may advertise on the Internet, provided that people living in other countries, where such advertising is allowed, are the primary target. The court decided, however, that this constituted unobjective advertising, incompatible with Article 43b of the Federal Barristers Act (Bundesrechtsanwaltsordnung - BRAO) and in breach of Section 1 of the Unfair Competition Act (Gesetz gegen den unlauteren Wettbewerb - UWG).

One typical danger, as the court saw it, was the regular inclusion of positive comments, effectively advertising the lawyer featured on the homepage. It also pointed out that the lawyer could not influence the content of the guest-book, and that round-the-clock monitoring of new entries was unlikely - hence the danger of unobjective advertising.

The court took no account of the professional rules applying to lawyers in the European Community, since these were not normative - which meant that the BRAO took precedence.

Entscheidung des Landgerichts Nürnberg-Fürth vom 20. Mai 1998.

Decision of the Regional Court of Nuremburg-Fürth of 20.05.1998.

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