[DE] Düsseldorf District Court on Inline-Linking on the Internet

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In its judgment of 29 April 1998, the Düsseldorf District Court dismissed an action by the owner of a page on the World Wide Web. The plaintiff complained that, when a link on the defendant's page was called up, its own page was displayed in such a way that the defendant's navigation elements continued to be visible (inlinelinking) and petitioned for a restraining order on the display of its own page in a frame of the defendant's page. A copy of the plaintiff's pages submitted to the Court portrayed various gluepots and a stylised, coloured shower cubicle.

As to the facts of the case, the plaintiff argued that there was an inadmissible alteration of its website protected under copyright by virtue of its coloured graphics. It also took the view that there was an infringement of competition law inasmuch as a misleading impression arose that the firms shown on its page were advertising clients of the defendant.

The Court refused a claim under Copyright Law (Urheberrechtsgesetz - UrhG) §§ 97, 23. The Court found that the necessary copyrightable content was not present, since the mere compilation of elements is not deemed to be a special creative feature and coloured graphics are in common use in catalogues and product firms and thus not creative. A claim under §§ 1, 3 of the Law on Unfair Competition (Gesetz gegen den unlauteren Wettbewerb -UWG) was also denied by the Court. In its view, the plaintiff would have to prove that visitors to the defendant's page are misled by the inline-link. The public understanding of the matter, in the Court's view, could not be determined without expert testimony, since the Chamber did not feel itself in a position, in the light of the relative novelty of the "Internet" phenomenon, to form an opinion itself. However, no such evidence had been adduced by the plaintiff.

Urteil des Landgerichts Düsseldorf vom 29. April 1998, Az. 12 O 347/97.

http://www.netlaw.de/urteile/lgd_3.htm

Judgment by Düsseldorf District Court on 29 April 1998, ref. 12 O 347/97.

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