[FR] Paris Court of Appeal Acknowledges Liability of an Internet Site Host

IRIS 1999-3:1/1

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The Court of Appeal in Paris recently delivered its decision in the dispute between a well-known model and an Internet service provider. The provider had allowed one of the web sites it hosts to show nude photographs of the model. Maintaining that publication of the photographs infringed her right of personal portrayal and her right to personal privacy, the model had applied to the urgent applications judge, whose powers include putting a stop to a manifestly unlawful nuisance. In his order of 9 June 1998, this judge found that the matter of liability on the part of the access provider or host and the model's application for advance damages required full debate in court. Nevertheless, in view of the urgency of the matter, the judge had ordered the site host, on pain of paying a pecuniary penalty of FRF 100 000 (EUR 15 245) a day, to implement means of rendering any circulation of the disputed photographs impossible from a site it hosts. An appeal has been lodged against this decision. In its decision on 10 February, the Paris Court of Appeal found that the matter of the liability of the site host could only be properly adjudicated after a full debate in court on the merits of the matter. The Court nevertheless considered that in the case at hand, by offering to host anonymously on the disputed site any person who, under whatever name, applied for the purpose of making available to the public messages of any kind not constituting private correspondence, the site host went beyond the technical role of a mere transmitter of information. It must therefore assume the consequences of such an activity in respect of those people whose rights it may infringe. Thus the circulation of the disputed photographs incurred its liability and, because the model's right of personal portrayal and to privacy had been infringed, justified granting advance damages. In deciding the amount (FRF 300 000 / EUR 45 735), the Court took into account the victim's profession, her celebrity and the extent of circulation technically possible on the Internet. Lastly, the Court ordered the publication of a press release in three magazines in the form of a legal insertion, at the expense of the party liable.

This decision has been heavily criticised by all the site hosts, and adds further fuel to the much-debated question of the liability of those involved in the Internet.

Cour d'appel de Paris (14e ch. A), 10 février 1999, V. Lacambre c/ E. Halliday.

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Paris Court of Appeal (14th chamber, A), 10 February 1999, V. Lacambre v. E. Halliday.

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