[AT] Supreme Court on the Subject of Web Cameras

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A decision on the subject of web cameras was given recently by the Supreme Court (OGH). While, on the surface, this is only a matter of the photograph producer's analogous protection right, in reality it is also a question of the admissibility of hyperlinks.

The events surrounding the case took place in a skiing area of Western Austria. At the behest of the high ridge cable railway an Internet provider had bought some digital cameras and installed them around this cable railway's highest station. The cameras produced images that were transmitted into the valley and onto a computer belonging to the Internet provider, via a PC belonging to the cable railway, and a telephone line. The pictures were distributed, on the one hand, within the Internet provider's online service and, on the other hand, on the cable railway's website. With the cable railway's consent, a third party transferred the images into its own online service, operated at the addresses, www.montafon.at and www.montafon.com (according to the plaintiff's claim, using framing); as a result, the Internet provider petitioned for a restraining injunction against this third party.

The Supreme Court (following an in-depth treatment of the notion of ownership of the photograph producer's analogous protection right, continuing for many pages) reached the conclusion that, in view of its the services it provided, the plaintiff at least contributed to the production of the photographs, so has entitlement to copyright protection, in any case. Moreover, this judgement is surprising in that, entirely uncritically, the Supreme Court assumes that whoever sets up a hyperlink (in this instance in the form of framing) is reproducing the `linked-in' contents. The Supreme Court did not think it needed to go into the aspects of the case pertaining to unfair competition law.

Urteil des Obersten Gerichtshofs vom 1. Februar 2000, Aktenzeichen 4 Ob 15/00k.

Judgement of the Supreme Court dated 1 February 2000, Reference No.: 4 Ob 15/00k.

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