[DE] Hyperlink to Software for Circumvention of Copy Protection Systems Banned

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In July 2005, the Oberlandesgericht (regional appeal court - OLG) in Munich upheld a first-instance decision by the Landgericht München I (Munich district court), banning the Heise publishing house from offering a hyperlink to the homepage of a software manufacturer, which sells software that can be used to circumvent the copy protection mechanisms on DVDs. The Landgericht had granted an application filed by eight music publishers for an injunction in accordance with Articles 823.2 and 1004 of the Bürgerliches Gesetzbuch (Civil Code) on account of a breach of Article 95 a para. 3 of the Urhebergesetz (Copyright Act), since by offering the link the news service was deliberately aiding and abetting the importation and distribution of devices used primarily to circumvent technical copy protection measures. However, a separate application for an injunction against reporting on copy protection software was rejected. The OLG dismissed the appeal of both parties on the grounds that the editorial report on copy protection software complained about by the music industry was not classified as advertising and was covered by freedom of the press. The link provided by the online service, however, was an additional service which did not enjoy the same legal protection. The Heise publishing house nevertheless believes that hyperlinks provide added value compared to printed articles and intends to appeal to the Constitutional Court on the grounds of a breach of freedom of the press.

OLG München, Urteil vom 28. Juli 2005, AZ.: 29 U 2887/05

Munich regional appeal court, ruling of 28 July 2005, case no.: 29 U 2887/05

Der beklagte Heise Verlag dokumentiert den Verfahrensgang auf seinen Internetseiten unter:

http://www.heise.de/heisevsmi/

The Heise publishing house is reporting on the proceedings on its website at:

http://www.heise.de/heisevsmi/

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LG München, Urteil vom 7. März 2005, AZ.:21 O 3220/05, MMR 2005, 385 ff.

Munich district court, ruling of 7 March 2005 case no.: 21 O 3220/05, MMR 2005, 385 ff.

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