[DE] Ruling on “onlinetvrecorder.com”

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In a ruling of 4 August 2006, the *Landgericht Leipzig* (Leipzig District Court - LG) confirmed its decision to grant an application by Sat.1 Satellitenfernsehen GmbH for a temporary injunction against the Internet service "onlinetvrecorder.com", which functions as a virtual video recorder. On 27 March 2006, the LG had granted the temporary injunction, under which the domain operator had been prohibited, *inter alia* , from storing, making available to third parties, transmitting via so-called online streaming or uploads (ie via the Internet) and/or copying or making available for copying the TV programmes broadcast by Sat.1 or parts thereof. The operator was also prohibited from “making available to children and/or teenagers Sat.1 television programmes or parts thereof, which are broadcast between 8 pm and 6 am and are likely to harm the development of children and teenagers into independent, sociable individuals”. After the defendant had exercised its right of appeal, the court confirmed the legality of the provisions of the temporary injunction. It ruled that the recording of TV programmes breached the right of the producing and broadcasting body to determine who should copy its programmes and make them available to the public. Since the service provider rather than the viewer stored the programmes on its servers and made them available from there, this was not a case of producing a copy for private use, which was permitted under Art. 53 of the *Urheberrechtsgesetz* (Copyright Act). Furthermore, the operator made money through advertising. The court rejected the defendant's claim that German copyright law did not apply because the servers were located in the Netherlands. The important thing was that the service was aimed at German Internet users. The court also ruled that the *Jugendmedienschutz-Staatsvertrag* (Inter-State Agreement on the Protection of Young People in the Media) had been breached, since the virtual video recorder did not have the required age verification system. It considered the defendant's argument that it had transferred the domain to a foreign company to be irrelevant, since it had owned the domain in the past and could offer the service again at any time. Since the defendant refused to offer a legally binding undertaking to cease and desist, there was a risk that it might repeat the offence.

Since mid-2005, various German courts have issued temporary injunctions banning such recordings of TV programmes.

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Urteil des Landgerichts (LG) Leipzig vom 4. August 2006, Az. 05 O 1058/06

Ruling of the Leipzig District Court, 4 August 2006, case no. 05 O 1058/06

Pressemitteilung des Landgerichts Leipzig

http://www.justiz.sachsen.de/lgl/docs/Presseinformation_Onlinetvrecorder.pdf

Press release of the Landgericht Leipzig

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