[DE] On-demand Service not Comparable to a Radio Station

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Nicola Lamprecht-Weißenborn
Cologne Media Law Research Centre

Recent reports reveal that, on 21 February 2007, the *Landgericht Hamburg* (Hamburg District Court) confirmed an interim injunction issued in December last year prohibiting the company Impressions Future Media from using certain music recordings for its on-demand service known as StayTuned.de.

At the StayTuned.de platform, music titles can be selected and played for a fee. The service also comprises a choice of radio programmes and offers the possibility of "borrowing" downloads. The *Deutsche Phonoverbände* (German Phonographic Associations, which include the German section of the IFPI), representing the interests of the German music industry, had sued the operators of StayTuned.de on the grounds that the company did not have the relevant licences.

According to the phonographic associations, the court states in the reasoning of its judgment that "the on-demand use is a separate use and thus requires specific contractual arrangements for the grant of exploitation rights".

In the proceedings, the company was evidently unable to prove the existence of such contractual arrangements.

Entscheidung des Landgerichts Hamburg vom 21. Februar 2007, Az.: 308 O 791/06

Decision of the Landgericht Hamburg of 21 February 2007 (Ref.: 308 O 791/06)

Pressemitteilung des IFPI

http://www.ifpi.de/news/news-880.htm

Press release of the IFPI

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