[DE] Premiere Loses Case against Kathrein

IRIS 2009-7:1/15

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In a ruling of 28 May 2009 (case no. 7 O 17548/08), the Landgericht München I (Munich District Court I - LG) rejected the claim by German pay-TV provider Premiere Fernsehen GmbH & Co. KG against aerial manufacturer Kathrein-Werke KG for payment of a penalty for breach of contract of more than EUR 26 million.

Between 2003 and 2007, Kathrein had made decoders for the reception of Premiere's television service. Agreeing to pay a penalty of EUR 50,000 for any breach of its contract with Premiere, Kathrein had promised not to manufacture, either itself or via third parties, devices which could be used to receive the service illicitly without the payment of a Premiere subscription.

The plaintiff claimed that the defendant should pay the penalty for breach of contract in 527 separate cases. It argued that Kathrein had links with the Zehnder company, which had imported from China and sold almost 220,000 such devices between 2006 and 2008. It claimed that Kathrein must have been aware of this fact.

The LGdisagreed, since the defendant had neither sold the devices itself nor used the third company as a middleman. Moreover, Premiere had been unable to prove that Kathrein had known about the business arrangements in question. The plaintiff had not even been able to prove its claim that the directors of the Zehnder company knew all about these transactions. The LGwas therefore convinced that Premiere had no rightful claim to payment of the agreed penalty for breach of contract.

Pressemitteilung des Landgerichts (LG) München I vom 28. Mai 2009

http://www.justiz.bayern.de/gericht/lg/m1/presse/archiv/2009/02045/index.php

Press release of the Munich District Court I of 28 May 2009

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