[FR] Dailymotion Sanctioned again for Infringing Film Copyright

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The companies La Chauve-Souris and 120 Films had a statement drawn up by sworn officers of the association to combat audiovisual piracy (Association de Lutte contre la Piraterie Audiovisuelle - ALPA) noting that the video-sharing platform Dailymotion was showing shortened extracts of the film Sheitan, of which they are the producers. Dailymotion subsequently withdrew the unlawful content from its site. As extracts of the film were still being shown, the producers had the platform charged with piracy.

Referring to its by now well-established jurisprudence, the third chamber of the regional court in Paris refuted the qualification of Dailymotion as an editor, contrary to the claim of the applicant parties. The court held that the company's role was limited to supplying the technology for storing and viewing videos that allowed them to be put on line on the sole initiative of the site's users, who retained complete control of the operation. Furthermore, the commercialisation of advertising space provided by Dailymotion could not be held to prevent the benefit of the provisions of Article 6-I-2 of the Act of 21 June 2004 setting up a scheme of limited liability for hosts.

The court noted firstly that the platform was qualified as a host and might validly invoke that scheme, and secondly that because it had been notified of the judge's order in respect of the applications further to the reports drawn up by ALPA's officers, it had had knowledge that it was unlawful to show the film at issue on its site and as a result it should have used all necessary means to withdraw that content promptly and prevent further showing. Since Dailymotion did not make further showing impossible, the company could not invoke the scheme of limited liability introduced by Article 6-I-2 of the LCEN, and its civil liability was therefore invoked under the terms of common law. The court therefore sanctioned Dailymotion for failing in its obligations as a host, and fined it the sum of EUR 15,000 in damages in favour of the two production companies that had brought the proceedings. It was also ordered to display a legal communiqué on the opening page of its site for eight days.

TGI de Paris (3e ch. 2e sect.), 11 juin 2010, Stés La chauve souris et 120 Films c/ Dailymotion

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Regional court of Paris (3rd chamber, 2nd section), 11 June 2010, La Chauve-Souris and 120 Films v Dailymotion

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