[DE] BGH Refuses Injunction against Hartplatzhelden

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In a ruling of 28 October 2010, the Bundesgerichtshof (Federal Supreme Court - BGH) decided that film footage of amateur football matches was not protected under competition law and therefore overturned the lower instance decisions of the Landgericht Stuttgart (Stuttgart regional court - see IRIS 2008-7/12) and Oberlandesgericht Stuttgart (Stuttgart regional court of appeal - see IRIS 2009-5/18).

In the proceedings, the Fußballverband Württemberg (Württemberg Football Association - WFV) had asked the operator of the Internet portal, “www.hartplatzhelden.de”, to refrain from publishing film footage of amateur football matches. On the portal, which is funded through advertising, members can upload privately filmed footage of amateur football matches and make it accessible to the public free of charge. The footage comprises clips of match action lasting between 60 and 90 seconds. The WFV claimed that this service breached its exclusive rights to commercially exploit matches organised under its jurisdiction, since the defendant had illegally adopted its product as organiser.

The BGH rejected this argument on the grounds that the WFV did not have the aforementioned exclusive exploitation right. The defendant’s service did not represent unfair imitation of a protected product in the sense of Article 4(9)(b) of the Gesetz gegen den unlauteren Wettbewerb (Unfair Competition Act - UWG). There was no need to protect the WFV as a football match organiser in this way. If the WFV wanted to prevent the economic exploitation of matches played under its jurisdiction, it could ban private filming during matches, for example. Individual clubs could impose such a ban as part of their stadium regulations. The complaint should therefore be dismissed.

Pressemitteilung des BGH zum Urteil vom 28. Oktober 2010 (I ZR 60/09)

http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=pm&Datum=2010&Sort=3&nr=53789&pos=4&anz=210

BGH press release on the ruling of 28 October 2010 (I ZR 60/09)

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