[DE] Federal Supreme Court Clears Parents of Liability for Filesharing by Grown-Up Children

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In a ruling of 8 January 2014 (case no. I ZR 1169/12), the first civil chamber of the Bundesgerichtshof (Federal Supreme Court - BGH) decided that parents were not liable for copyright infringements committed by their grown-up children if they had no actual knowledge of the offences.

The plaintiffs, four major German record producers, had taken court action against the defendant. According to the charge, the defendant's 20-year old stepson had made around 3,750 music files available via online filesharing sites in 2006. The rightsholders had written to the stepfather, demanding lawyers' and caution costs of around EUR 3,500 on the grounds that he had failed to meet his obligation to monitor his son's activities.

Both the lower-instance Landgericht Köln (Cologne District Court, ruling of 24 November 2010 - 28 O 202/108) and Oberlandesgericht Köln (Cologne Appeal Court, ruling of 22 July 2011 - 6 U 208/10) had upheld the rightsholders' complaints. They had ruled that parents were obliged to monitor and instruct grown-up family members even if they were unaware of previous or future copyright infringements.

The BGH disagreed, ruling that these obligations only applied to Internet connection owners if they had concrete knowledge of the risk that an adult family member might commit an infringement, such as if a caution had previously been issued. A fundamental obligation to monitor and instruct children regardless of such concrete knowledge was in conflict with the particular relationship of trust that existed between family members. The fact that adults were responsible for their own actions also meant that parents should be able to let their grown-up children use an Internet connection without having to monitor or instruct them.

Pressemitteilung des Gerichtshofs Nr. 5/2014

http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&sid=591ae8154d0ace84c435b1581f6eac45&nr=66407&linked=pm&Blank=

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