[DE] Hamburg Regional Court Prohibits RedTube Warnings

IRIS 2014-4:1/9

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In a decision of 19 December 2013, the Landgericht Hamburg (Hamburg Regional Court - LG) issued a temporary order, preventing the company “The Archive AG” from continuing to issue warnings, in their current form, to RedTube users (see also IRIS 2014-1/19).

On the one hand, the warnings influenced the relationship between RedTube and its customers, thereby violating the streaming portal’s right to carry on its trade. On the other, the warnings in their current form were unlawful because their wording was too vague. For example, they simply demanded that users refrain from watching a film, the rights to which were held by “The Archive AG”. The warnings also asked recipients to promise not to stream the film from a site that was not obviously illegal. However, since such an activity was lawful under Article 44a(2) of the Urheberrechtsgesetz (Copyright Act - UrhG), the defendant, which had sent the original warnings, could not make such a demand.

However, the LG Hamburg did not state whether the warnings should be classified as an abuse of the law and whether users’ IP addresses had been obtained legally. It also specifically omitted to comment on the unanswered question as to the legality or otherwise of streaming content made available illegally in the light of Article 44a(2) UrhG.

The ruling only prohibits “The Archive AG” from continuing to issue the aforementioned warnings in their current form. It does not exclude new warnings per se, as long as they no longer demand that users refrain from using any streaming service, but are limited to those that are clearly illegal.

Beschluss des Landgerichts Hamburg, Az.: 310 O 460/13

http://www.wbs-law.de/wp-content/uploads/2014/02/EV-Landgericht-Hamburg.pdf

Ruling of the Hamburg Regional Court, case no. 310 O 460/13

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