[DE] Munich Regional Court Finds YouTube’s Use of GEMA Blocked Content Messages Unlawful

IRIS 2014-4:1/10

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According to media reports, the Landgericht München (Munich Regional Court - LG) issued a ruling on 25 February 2014, banning Google subsidiary YouTube from continuing to use its blocked content messages. In doing so, it granted a request for an injunction submitted in the first instance by the Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (society for musical performance and mechanical reproduction rights - GEMA).

One of the messages displayed when users try to download certain videos says (in German): “Unfortunately, this video is not available in Germany, as it may contain music for which GEMA has not granted the necessary music rights. We apologise for this.” The LG München thought that this gave a distorted picture of the legal dispute between the defendant and GEMA. The wording was detrimental to GEMA and denigrated it by suggesting that it was responsible for blocking the videos. However, it actually only blocked a very small number of videos. By using the current wording of the blocked content messages, the defendant deliberately misled its users and caused ill-feeling towards GEMA. The text also hid the fact that GEMA and YouTube were in competition with one another. However, the defendant claimed that the messages were not meant to be cheap propaganda, but to provide clearer information to users. The court suggested that there would be no problem with a message worded as follows, for example: “Unfortunately, this video is not available in Germany, as it may be protected under copyright law.” Future infringements are subject to a fine of EUR 250,000.

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