[FR] Judgment ordering Facebook France to reinstate a “non-official” page operated by fans of a television series overturned

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In a decision on 16 October, the Court of Appeal in Paris overturned the judgment of the Regional Court in Paris which had ordered Facebook France to reinstate a “non-official” page operated by fans of the popular TV series Plus Belle la Vie (“PBLV”), which had been blocked the previous year by its executive producer (see IRIS 2014-1/21).

In the present case, the creator and moderator of “pblvmarseille”, a non-official Internet site devoted to the series launched the “PBLV Marseille” Facebook page in 2008. In 2012, she discovered that the producer of the series and owner of the “Plus Belle la Vie” and “PBLV” brand names, with whom she maintained regular relations, had asked Facebook France to merge her non-official page (which had 605,200 fans at the time) with the production company’s official page. She felt the latter had thereby surreptitiously appropriated the fans of her page, and had Facebook France ordered to reinstate the page and pay her compensation for the prejudice she had suffered. Although Facebook France did not appoint counsel in the original proceedings, it appealed against the judgment and asked for it to be cleared.

The company said that while it did indeed belong to a group of companies whose parent company was Facebook Inc., it was a separate legal entity and neither operated nor hosted the social network’s service. It said that the conditions for using the service, which all users had to accept, specified that users resident outside North America contracted with the company Facebook Ireland Limited when they created an account. The creator of the disputed fan page contested this let-out, on the grounds that the company Facebook France was held by the company Facebook and managed by the same person, from France.

The Court of Appeal stated that the host, within the meaning of Article 6.1.2 of the LCEN, the Act on which the respondent party’s claim was based, was the only party storing the content of the Facebook service and the only one that had the technical means of taking any action involving the service. There was nothing to prove, and indeed it was not even being claimed, that Facebook France operated and hosted the Facebook service. Thus, according to its entry in the companies register, the activity of the company Facebook France is to provide the Facebook

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group with services in connection with the sale of advertising space, commercial development, marketing, public relations, lobbying, communication, legal support and any other services of a commercial, administrative and/or IT-related nature aimed at developing the services provided by the Facebook brand in France. It did not own the Facebook domain names. This all showed that the companies Facebook Ireland and Facebook France SARL were separate legal entities. Their activities were not the same as those of their parent company, and were strictly limited; they had no authority or right of supervision regarding the operations and content of the Facebook.com service. The fact that the same person managed the two companies did not prevent the two entities having separate legal existences.

In the present case, it was not shown that Facebook France held any kind of authorisation to represent the Irish company in France, that it had had any contact with the respondent party, or that it had been involved in the withdrawal of the disputed Facebook page (the e-mails informing it of the removal of the page in favour of the series' production company were in English, sent by Facebook.com, and signed "The Facebook team"). The court deduced from this that the original court had been wrong in ordering Facebook France to reinstate the respondent party's Facebook site, as it had no entitlement to do so. The judgment was overturned in this respect and the applicant party was found incompetent to take action against Facebook France.

Cour d'appel de Paris (pôle 5, ch. 2), 17 octobre 2014 - EURL Facebook France c. Laurence Collard

Court of appeal in Paris (centre 5, chamber 2), 17 October 2014 - Facebook France SARL v. Laurence Collard

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