[DE] YouTube and Google liable as “interferers” for breaches of copyright by their users

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In two judgments of 1 July 2015 the *Oberlandesgericht Hamburg* (Hamburg Court of Appeal - OLG) ruled on the extent of a video platform operator’s liability for the content uploaded by its users (Cases 5 U 87/12 and 5 U 175/10). It explained that a platform operator’s obligations included the prevention of all versions of a work uploaded onto its platform in violation of copyrights.

In both cases at issue, private users of the platform had uploaded videos with copyright protected music without possessing exploitation rights in the titles. In one of the two proceedings, the collecting society that manages the rights in the music titles concerned had called for the platform operator to issue a cease-and-desist declaration in respect of twelve titles. In the second, the holder of rights in various music items had demanded that the platform operator and its parent company both pay damages and cease making the items available to the public. In both proceedings, the plaintiffs held that the platform operator was liable as the perpetrator of the copyright violations because it adopted as its own the videos uploaded by its users.

The defendants argued that they did not have to be made liable for the copyright violations as they had neither produced nor uploaded the videos in question, and had also taken all reasonable steps to prevent such violations.

In both proceedings, the OLG ruled out the defendants’ liability as perpetrators and therefore denied a claim for damages. However, it disagreed with the defendants’ opinion that they had taken all reasonable steps to prevent copyright violations and, instead, affirmed that the defendants were liable as “interferers”. Having been informed about an unlawful activity on the part of its users, the platform operator was not only obliged to take down the items offered without delay, but also ensure there were no further rights violations of that nature. The platform operator accordingly not only had to prevent the further publication version of the work drawn to its attention, but also prevent the publication of all versions of that work.

Die Pressemitteilung des OLG Hamburg vom 1. Juli 2015

http://justiz.hamburg.de/oberlandesgericht/4542880/pressemeldung-2015-07-01-olg-01/

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