[DE] The producer of the dubbed version of a film is to be considered a film producer

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The OLG Rostock (Rostock Higher Regional Court) ruled in a decision of 6 January 2016 (case no. 2 W 31/15) that a film producer acquires rights in a dubbed version through a material act, even if the producer of the dubbed version has not obtained the necessary rights.

The plaintiff, who sought an interlocutory injunction, produced a dubbed German version of a Norwegian film. The title of the German version is “Z.D.K.”; the original Norwegian title is “Mørke sjeler”. It is not known whether other dubbed versions have been made. The defendant distributed the German version of the film without the consent of the plaintiff. The latter objected and brought an action for injunctive relief. The defendant disputed that the plaintiff had any rights over either the German or the original version of the film.

In its decision, the Court established that the producer of the dubbed version was a film producer within the meaning of section 94 of the Urhebergesetz (Copyright Act - UrhG), because the dubbed version of a film with a new soundtrack constituted a new cinematographic work. When determining the existence of rights as a film producer, it was, the Court said, immaterial whether the producer of the dubbed version had acquired the necessary rights from the producer of the original Norwegian version or from the creators of the film. Rather, the film producer’s rights within the meaning of section 94 of the Copyright Act came into being through a material act. Accordingly, in order for the rights to come into being there was no requirement that the recording be made legally, or that no copyrights or related rights be violated in the production of the dubbed version. The plaintiff was able to show convincingly that he/she/they had produced the dubbed German version, and the Court noted that he/she/they had not claimed any rights in the original version of the cinematographic work or any versions in other languages.

Entscheidung des OLG Rostock vom 06. Januar 2016

http://www.landesrecht-mv.de/jportal/portal/page/bsmvprod.psml;jsessionid=0.jp35?showdoccase=1&doc.id=KORE204412016&st=ent

Decision of the Rostock Higher Regional Court of 6 January 2016

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