[ES] Acquittal of the four persons responsible for the largest pirated website in Spain

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The Criminal Court nº 4 of Murcia acquitted the administrators of the websites "filmsyonkis.es", "seriesyonkis.es" and "videosyonkis.es" from 2008 to 2014of a crime against intellectual property.

The judgement considered proven that the aforementioned pages contained links or hyperlinks, classified according to different criteria, preceded or not by a synopsis of the work and its cover, with a discussion forum, and limited themselves to redirecting visitors to external mega servers (mainly Megavideo and Megaupload) which host audiovisual works protected by intellectual property rights uploaded by unidentified third parties, with the works not too visible when searching directly on the mega server.

With regard to the facts, the judgement related that these websites did not contain any audiovisual content, but were limited to the publication of links that led to other servers where the works were hosted.Furthermore, no evidence was obtained that any of the defendants had accessed the mega server to upload the content of a movie whose link appeared later on its website. Furthermore, there is no record of any of the four defendants obtaining direct economic income derived from the number of downloads of the protected audiovisual material (benefits that were obtained by the uploader). Any income received was the indirect benefits derived from the advertising which appeared on the web pages in the form of a pop-up window or banners.

After an exhaustive analysis of the existing doctrine and jurisprudence on this matter, including even the most recent jurisprudence of the European Court of Justice, the court concluded that the proven facts did not fit the definition of a crime against intellectual property as contained in Article 270 of the Criminal Code before the reform operated in July 2015.

Sentencia nº 222/2019, de 21 de Junio de 2019, del Juzgado de lo Penal nº 4 de Murcia

http://www.poderjudicial.es/search/contenidos.action?action=accessToPDF&databasematch=AN&reference=7b38d7bf1b8a2d69&publicinterface=true&encode=true

Judgment nº 222/2019, of 21 June 2019, of the Criminal Court nº 4 of Murcia

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