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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 22 June 2018 by CBA Spielapparate- und Restaurantbetriebs GmbH against the order of the General Court (Third Chamber) made on 19 April 2018 in Case T-606/17, CBA Spielapparate- und Restaurantbetriebs GmbH v European Commission

(Case C-415/18 P)

(2019/C 82/02)

*Language of the case: German***Parties**

Appellant: CBA Spielapparate- und Restaurantbetriebs GmbH (represented by: A. Schuster, Rechtsanwalt)

Other party to the proceedings: European Commission

By order of 10 January 2019, the Court of Justice of the European Union (Eighth Chamber) dismissed the appeal as being in part manifestly inadmissible and in part manifestly unfounded and ordered the appellant to bear its own costs.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 6 November 2018 — LF v Google LLC, YouTube Inc., YouTube LLC, Google Germany GmbH

(Case C-682/18)

(2019/C 82/03)

*Language of the case: German***Referring court**

Bundesgerichtshof

Parties to the main proceedings

Applicant: LF

Defendants: Google LLC, YouTube Inc., YouTube LLC, Google Germany GmbH

Questions referred

1. Does the operator of an internet video platform on which videos containing content protected by copyright are made publicly accessible by users without the consent of the rightholders carry out an act of communication within the meaning of Article 3(1) of Directive 2001/29/EC⁽¹⁾ if
 - the operator earns advertising revenue by means of the platform,
 - the upload process takes place automatically and without material being seen in advance or controlled by the operator,

- in accordance with the conditions of use, the operator receives a worldwide, non-exclusive and royalty-free licence for the videos for the duration for which the videos are posted,
- in the conditions of use and during the upload process, the operator points out that copyright-infringing content may not be posted,
- the operator provides tools with which rightholders can take steps to block infringing videos,
- on the platform, the operator prepares search results in the form of rankings and content categories, and displays to registered users an overview that is oriented towards previously seen videos and that contains recommended videos which can be displayed to registered users,

if the operator is not specifically aware of the availability of copyright-infringing content or, after having become aware, expeditiously deletes that content or expeditiously disables access thereto?

2. If Question 1 is answered in the negative:

Does the activity of the operator of an internet video platform under the conditions described in Question 1 come within the scope of Article 14(1) of Directive 2000/31/EC? ⁽²⁾

3. If Question 2 is answered in the affirmative:

Must the actual knowledge of the illegal activity or information and the awareness of the facts or circumstances from which the illegal activity or information is apparent relate to specific illegal activities or information pursuant to Article 14(1) of Directive 2000/31/EC?

4. Also if Question 2 is answered in the affirmative:

Is it compatible with Article 8(3) of Directive 2001/29/EC if the rightholder is in a position to obtain an injunction against a service provider whose service consists of the storage of information provided by a recipient of the service, and whose service has been used by a recipient of the service to infringe a copyright or related right, only if such an infringement has taken place again after notification of a clear infringement has been provided?

5. If Questions 1 and 2 are answered in the negative:

Is the operator of an internet video platform under the conditions described in Question 1 to be regarded as an infringer within the meaning of the first sentence of Article 11 and Article 13 of Directive 2004/48/EC? ⁽³⁾

6. If Question 5 is answered in the affirmative:

Can the obligation of such an infringer to pay damages pursuant to Article 13(1) of Directive 2004/48/EC be made subject to the condition that the infringer acted intentionally with regard both to his own infringing activity and to the infringing activity of the third party, and knew, or ought reasonably to have known, that users use the platform for specific acts of infringement?

⁽¹⁾ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10).

⁽²⁾ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ 2000 L 178, p. 1).

⁽³⁾ Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004 L 157, p. 45).