

Translation – Proceedings of hearing (legal case of FSC A.C. versus eurobinia

Public court proceedings of the
9th civil division
of the District Court Braunschweig
9 O 319/10

Braunschweig, 01.09.2010

Present:
Chief Judge of the District Court Dr. Meyer
as chairman
Judge of the District Court Dembowski and
Judge of the District Court Wölber
as committee members

- without consulting of a recording secretary -

The cassette on which the record is dictated will be deleted one month after the arrival of the record copies at the attorneys of the parties. After this date complaints cannot be accepted.

In the legal case

Forest Stewardship Council AC versus Eurobinia

According to the summons appeared:

- 1) for the plaintiff lawyer Jankowski and lawyer Dr. Osnabrügge
- 2) with Mister Harms lawyer Munderloh
- 3) further Mister Wieschalla with the power of attorney of the plaintiff appeared

The attorney of the defendant received copies of the pleading from 27.08.2010.

The question of the amount in dispute was debated. The question of the legitimacy and at first the question of the capacity to sue of the plaintiff were debated.

The attorney of the plaintiff explains:

The plaintiff is an Association Civil according to the Mexican law, comparable to a society with legal capacity in German law. The board contains 9 members.

The attorney further explains:

The plaintiff is registered in Mexico. This results from the tax credit according to attachment K 25.

The attorney of the defendant explains:

The attachment K 25 is in Spanish. I cannot say anything about it. It would need to be presented in an official certified translation.

The attorney of the defendant further explains:

We insofar adhere to the reprimand already uttered in the statement of defence.

The attorney of the plaintiff explains:

I consider this denial to be unacceptable. It is carried out without concrete evidence.

Further the question of the process power of attorney is debated. Insofar the attachment K 11.

The attorney of the plaintiff presented the original to the attachment K 11, which were given to the attorney of the defendant for deeper insight.

The attorney of the defendant explains:

The authenticity of the signature shall not be further denied. The reprimand of an effective process power of attorney is however further maintained because we cannot investigate the effectiveness of the attorney

The question of a violation of the trademark law was disputed. The division pointed out that an action in commercial connections would be given. The question of the right to sue and the objection of non-use was debated. Further the question of a violation of the law against unfair competition was debated. The division especially referred to the decision BGH GRUR 2010age 161 – “gib mal Zeitung”. The possibility of a compromise solution was addressed. The court proceedings were subsequently interrupted shortly for a consulting pause and then continued.

A compromise solution did not result. The court explained, because it corresponded to the matching will of the parties to find a clarification of the case, that it would be suggestive in this instance to not further maintain the reprimand of the party capacities of the process power of attorney.

The attorney of the defendant explained in the following:

We want a decision in this case. Therefore the reprimand is not maintained for this instance. But I reserve to claim it again in the second instance.

The attorney of the plaintiff made the applications from the pleading from 10.06.2010.
The attorney of the defendant applied to dismiss the case.

The date of the publication of the decision is determined to:
Friday, the 24.09.2010, 8:50 h, room 217 (middle building)

Dr. Meyer

for the correctness of the transmission from the sound record medium:

Sende, JAng'e