

Case law

Case Details

National ID: 312 0 74/09

Member State: Germany

Common Name: Nicht-Einhaltung der Lieferfrist II - Beamer-Lampe

Decision type: Court decision, first degree

Decision date: 01/05/2009

Court: Regional Court (Hamburg)

Subject:

Plaintiff: not disclosed

Defendant: online dealer of electronic products - name not disclosed

Keywords: ability to supply, delivery, false information, internet, misleading statements

Directive Articles

Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6, 1., \(b\)](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 7, 4., \(d\)](#)

Headnote

If an online dealer quotes a specific delivery period for offers on his website, but knows that he does not have enough stock to fulfil the expected demand for the offer, so that the products cannot be delivered within this period, he misleads his customers.

Facts

An online dealer quoted a delivery time of 2-4 days within a comp shop and 5-7 days in its online shop, for a product which was out of stock at his supplier.

The plaintiff requested to impose a cease-and-desist order for advertisements for products that were not available at the time of the advertisement, or for products which the advertiser would not be able to deliver within the specified delivery period.

Legal issue

The false indication of a delivery period can violate §§ 5 I No. 1, 5a III No. 4, III UWG (the German Unfair Competition Act) if the online dealer should know that the product cannot, by far, be delivered by the specified date. According to the court, consumers expect in online shops where the offers are continuously updated that the offered products are immediately available if not indicated otherwise. Also, consumers typically expect a quick delivery from online shops, and the delivery time is crucial for their decision in which online shop to buy. An advertisement is therefore misleading if the dealer knows that there is no possibility to meet the indicated delivery time.

Decision

Does a wrong indication of a delivery time for a product constitute an unfair commercial practice?

Full text: [Full text](#)

Related Cases

No results available

Legal Literature

No results available

Result

The plaintiff's request was granted.