

Case law

Case Details

National ID: OLG Köln, Urteil v. 07.09.2012 - 6 U 86/12

Member State: Germany

Common Name: link

Decision type: Court decision in appeal

Decision date: 07/09/2012

Court: Higher Regional Court Cologne

Subject:

Plaintiff: Unknown

Defendant: Unknown

Keywords: information obligation, invitation to purchase, material information, misleading omissions

Directive Articles

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

Headnote

If a trader does not mention its legal form's suffix in an invitation to purchase in a newspaper advertisement this does not constitute a misleading commercial practice if the consumer obtains sufficient information to identify the trader.

Facts

The defendant sells electronic goods by retail. He advertised his products in a newspaper stating the name of his company, its postal address, telephone and facsimile numbers but without mentioning its legal form's suffix ("e.K.").

The plaintiff, a competition association, claims that the defendant is obliged under Art. 7, 4 (b) of the UCP Directive to mention its full trade name, i.e. including its legal form's suffix, in a newspaper advertisement containing an invitation to purchase in order to enable the consumer to identify the trader.

The court of first instance dismissed the plaintiff's claim for cease and desist of the respective advertisement without mentioning the legal form's suffix, finding that the information given by the defendant in the respective advertisement was sufficient (Sections 5 a, 2 and 3 no. 3 UWG).

Legal issue

The court dismissed the appeal arguing that the defendant did not use unfair commercial practices for his business since there was no doubt or risk of confusion about the identity of the trader.

In the opinion of the court it depends on the individual circumstances of the case to determine which identification details must be provided according to article 7, 4 of the UCP Directive, also taking into account the communication medium used and the possibility to obtain additional information elsewhere.

For the court it is decisive if the advertiser obscures its identity or if the identification of the trader is apparent from the context so that the consumer is able to contact him without difficulties. Therefore, abbreviations of or deviations from the registered company name are harmless if there are no doubt about the identity of the trader.

Decision

Does not mentioning the legal form's suffix of the trader in an invitation to purchase in a newspaper advertisement constitute a misleading commercial practice if the consumer obtains sufficient information to identify the trader?

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Result

The plaintiff's request was denied. The court found that the information provided by the advertiser was sufficient for the consumer to identify the trader.