

MANDATE

01.02.2021

GLEISS LUTZ SECURES IMPORTANT VICTORY FOR BURDA AND NOWEDA IN MUNICH HIGHER REGIONAL COURT REGARDING ABUSIVE BEHAVIOUR BY PUBLISHERS OF APOTHEKEN UMSCHAU

mylife media GmbH & Co. KG (a joint venture of Hubert Burda Media Group and pharmaceutical wholesaler Noweda) publishes my life, a new magazine for pharmacy customers. Wort & Bild Verlag has been publishing Apotheken Umschau for decades and was until recently practically the only company to publish magazines aimed specifically at pharmacy customers. It is using abusive practices to try and prevent the new my life magazine from gaining a foothold in the market. It is offering the pharmacies especially attractive digital packages, subject to the condition that they do not in future reduce the number of paper copies of Apotheken Umschau they are purchasing from the publishing house.

Back in December of 2019 Munich I Regional Court already ruled that, in doing so, Wort & Bild was abusing its dominant position on the market for pharmacy customer magazines.

And in a judgment handed down on 28 January 2021 (VI-U (Kart) 4/20), Munich Higher Regional Court upheld that decision on all counts. Wort & Bild were denied leave to appeal to the Federal Court of Justice on points of law. The Higher Regional Court also considers it proven that Wort & Bild is abusing its dominant position and acting in breach of antitrust law. One main point of criticism was that Wort & Bild was seeking essentially to maintain its market share from back when it had a quasi monopoly by imposing conditions for its digital offerings. As Munich Higher Regional Court sees it, too, there is no justification for tying the lower-priced digital offerings to the quantity of paper copies of Apotheken Umschau currently being purchased. It based its arguments on recent decisions by the European Court of Justice (Intel) and the Federal Court of Justice (Facebook), among others.

The following Gleiss Lutz team advised mylife media (Burda and Noweda): Dr. Petra Linsmeier (partner, Competition/Antitrust), Dr. Luidger Röckrath (counsel, Litigation, both lead), Dr. Daniel Petzold (Competition/Antitrust) and Dr. Björn Kalbfus (counsel, Intellectual Property, all Munich).

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