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Pictures in a complaint

Thomas Musmann (Rospatt Osten Pross) · Friday, December 6th, 2013

By Bernward Zollner

Every now and then it is suggested that a picture or pictures be incorporated in a motion of a complaint against the defendant requesting defendant to cease and desist from a certain activity (being a patent or a copyright infringement) so that defendant's activity by described more clearly. A recent decision of the German Bundesgerichtshof recalls a particular risk which is linked with a motion in which reference is made to pictures. The risk is the missing clarity (definiteness) of a court decision which is based on such a motion. Even if plaintiff has submitted clear and definite photos with the motion it is up to the court to draw copies from the motion for the various copies of the written judgment (or the ex-parte preliminary decision). Sometimes such copies have a poorer quality than the original pictures. Sometimes already the original pictures are of a poor quality. In a recent decision the German Bundesgerichtshof has changed an attacked decision of an appeal court and has sent back the case to the appeal court simply because the pictures in the appeal court decision were not good enough to clearly describe the scope of the court's order.

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