

The “IP Jurisprudence” of the European Court of Human Rights

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Strasbourg “Jurisprudence on IP” – most prominent Judgments

- *Anheuser- Busch v Portugal* 73049/01, 11th January 2007 (GC, A1P1)
- *Ashby-Donald v France* 36769/08, 10th January 2013 (Art 10)
- *Neij v Sweden* 40397/12, 19th February 2013 (Art 10)

Strasbourg “Jurisprudence on IP – other interesting Judgments

- “Personality rights”
 - *Ernst August von Hannover v Germany* 53649/09, 19th February 2015 (Art 8; A1P1)
 - *Bohlen v Germany* 53495/09, 19th February 2015 (Art 8, A1P1)
- Internet blocking order
 - *Akdeniz v Turkey* 20877/10, 11th March 2014 (Art 10, Art 6)

Schau mal, Dieter,
so schreibt man
süß: Bücher.



Lucky Strike. Sonst nichts.

War das Ernst?
Oder August?



Limits to deference

- *Balan v Moldova* 19247/03, 29th January 2008 (A1P1)
- *Cengiz v Turkey* 48226/10 & 14027/11, 1st December 2015

Prospects?

- Obstacles to development of a substantive IP jurisprudence?
 - Continuing problem of case-load
 - Court of Justice’s assumption of responsibility for fundamental rights protection
- Potential areas of development
 - Non-EU states? “Blind-spots”?
Enforcement?

However....

- Heightened relevance of Strasbourg case-law in national IP proceedings?
- For example:
 - Standardised packaging of tobacco products – expropriation of trade mark rights?
 - Parody – copyright – achieving the “fair balance”