

LG Ravensburg, judgment of March 12, 2015 - 4 O 346/13

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Course of proceedings hereinafter: Az. [12 U 63/15](#)

tenor

- ¹ 1. The defendant is ordered to pay the plaintiff:
- ² a. EUR 100,000.00 plus annual interest from this in the amount of 5 percentage points above the respective base rate since May 1, 2012,
- ³ b. EUR 2,924.07 at extrajudicial costs,
- ⁴ c. EUR 492.54 plus annual interest from this in the amount of 5 percentage points above the respective base rate since April 16, 2014.
- ⁵ 2nd. The defendant bears the costs of the legal dispute.
- ⁶ 3rd. The judgment is provisionally enforceable against security in the amount of 110% of the amount to be enforced.

Fact

- ⁷ The plaintiff essentially requests the defendant to pay a reward from a claim regarding the proof of the existence and size of the measles virus.
- ⁸ The plaintiff is a doctor. The defendant has a doctorate in biology. On the website of a publisher he operated, the defendant praised the „ The measles virus - EUR 100,000 reward! - WANTED - The diameter “ on November 24, 2011 a „ prize money “ of EUR 100,000.00. Among other things, it said:
- ⁹ „ The background to the current advertising wave for the idea that measles are caused by a virus and therefore vaccine should be implanted is the fact that in September vaccine spending will increase by 19% have decreased compared to the same month of the previous year. Since the largest market for expenditure, the flu vaccines, the decline is even 29% [...], the Federal Government has decided, to stir the advertising drum for the measles vigorously. First, it flooded the population with hundreds of thousands of brochures [...] Immediately after the brochure was distributed, the WHO started the measles advertising [...]
- ¹⁰ The prize money
- ¹¹ The federal government then spread at the beginning of November that the vaccine-approving authority, the Paul Ehrlich Institute (PEI), had succeeded in proving that the measles virus would spread across the trachea. [...]
- ¹² Then the Berlin health senate Masern raised the alarm: [...]
- ¹³ If German researchers work with measles viruses on behalf of the federal government, there must be documentation of this research, especially since these viruses are used to make vaccines and these particles are to be used in cancer research. It makes sense that the first scientific criterion must be the diameter of the viruses.
- ¹⁴ 100,000 EUR
- ¹⁵ Since we know that the measles virus does not exist and cannot exist when we know biology and medicine and we know the real causes of measles very well, but fear continues to increase („ Not vaccination is child abuse “, „ This is not dying, but an entry “, „ The measles viruses destroy the brain of the infected child over a longer period of time “), if we want to bring about the prize money,
- ¹⁶ 1. that people enlighten themselves and 2. that the enlightened people help the unenlightened and 3. the enlightened act on the actors in accordance with the law. [...]
- ¹⁷ In Germany, the Federal Government Ms. Dr. ... instructed to conduct independent research on the causes of measles within the framework of the law, i.e. the Basic Law and the Infection Protection Act (IfSG). Since she herself claims to be breeding measles viruses, she must be aware of the diameter of the measles virus. At least she needs to know where it is.
- ¹⁸ The question of the diameter of the measles virus must be asked of them, since it is primarily responsible for the measles virus. Your address:
- ¹⁹ PD Dr. ...Robert Koch Institute [...]
- ²⁰ The prize money is paid out when a scientific publication is presented in which the existence of the measles virus not only asserts, but also proves and, among other things, whose diameter is determined. [...]
- ²¹ The next step
- ²² If it turns out that Dr. ... Measles viruses claim that without having scientific evidence of their existence, their behavior - as if there was a measles virus - must not be accepted [...]. “
- ²³ The content of the expression presented as Appendix K1 is also fully referred to.
- ²⁴ By letter dated January 16, 2012 (. K2), the plaintiff addressed the defendant under the subject „ her claim of 100,000 euros for the proof of the existence of the measles virus “ and pointed out, he had www on the defendant's website. (...) .de read that on November 24, 2011 the defendant suspended a price of EUR 100,000 in the event that a publication was sent to him to prove that, that there is the measles virus and that makes a statement about the size of the virus particles. The plaintiff also referred to the passage on the website (“ cited above. The prize money is paid out if [...] “) and asked the defendant for a short written confirmation, „ that the price in this form and under these conditions is still advertised “.

- ²⁵ The defendant replied to this by letter dated January 30, 2012 (Anl. K3), which included: „ Thank you for your request. Yes, the prize money is advertised. The legal provisions that the publication must meet are laid down in the Infection Protection Act (IfSG). “
- ²⁶ By letter dated January 31, 2012 (. K4), the plaintiff submitted the following six publications to the defendant (here only designated with authors and reference):
- ²⁷ - Enders & Peebles.Proc Soc Exp Bil Med 1954; 86: 277-86.- Bech & by Magnus.Acta Pathol Microbiol Scand 1958; 42: 75-85- Horikami & Moyer.Curr Top Microbiol Immunol 1995; 191:35-50- Nakai & Imagawa.J Virol 1969; 3: 187-97- Lund et al.J Gen Virol 1984; 65: 1535-42- Daikoku et al.Bull Osaka Med Coll 2007; 53: 107-14
- ²⁸ The plaintiff continued to rely on, that through his extensive literature research he provided the defendant with proof of the existence of the measles virus as well as the required images and information on the diameter of the measles virus, and asked for the amount of EUR 100,000.00 to be transferred to an account of the plaintiff specified in the letter.
- ²⁹ After the plaintiff was unable to determine receipt of payment by February 17, 2012, he asked the defendant by another letter (Anl. K5) again for payment by setting a deadline by March 7th, 2012.
- ³⁰ The defendant responded to this by letter dated March 6, 2012 (Anl. K6), in which he complained that the plaintiff had submitted publications in which only cell-specific components and structures were shown that were not isolated and biochemically characterized. Every biologist immediately recognizes that the structures are endogenous, i.e. cell-specific particles, with which the cell inter- and intracellular transport, substance uptake and delivery, exocytosis and endocytosis. No publication contains a source with a reference to the isolation and characterization of the claimed „ measles viruses “. He could not therefore hand over the prize money to the plaintiff, but hoped that he would seriously advocate that the virus error that had become fraud in Germany, be eliminated from the world.
- ³¹ The plaintiff replied to this by letter dated March 21, 2013 (Anl. K7), in which he reaffirmed his view that he had fulfilled the requirements for the defendant to be advertised, and set the plaintiff a new deadline for paying the prize money by April 30, 2012. The plaintiff also described his motivation to prove to the defendant the existence of the measles viruses. The defendant did not pay, not even on an out-of-court warning from the plaintiff's legal representative by letter dated September 25, 2013 (Appendix. K9).
- ³² On April 13, 2014 - three days after the first hearing in the present proceedings - the following could be read temporarily on the publisher's website „ (), which is owned by the defendant:
- ³³ „ On Monday, April 14th, 2014 we will report here, to which we will point out in a newsletter, that why and how the unpromoted, foreign young doctor D... B ... and his illegal backers in „ betting that there are no measles viruses! “ - Trial on April 10, 2014, before the Ravensburg Regional Court, the court and the public lied.
- ³⁴ We expect Dr. L. will be acquitted on April 24, 2014 and D... B ... is arrested for legal fraud, insolvency of court and lawyer fees, expenses and allowances, allowance for massive bodily harm, partly with fatalities and due to the risk of flight abroad. “
- ³⁵ On the request sent by law firm on April 14, 2014 to submit a punitive declaration of omission with a cost note (Anl. K10), the defendant signed the sent injunction on April 15, 2014, deleting a passage that was rejected as indefinite and sent it to the plaintiff's legal representative (Anl. K11). In it, the defendant pointed out that the quoted contribution did not come from him. Someone must have access to their website and posted the contribution online. When he noticed this in the afternoon on Sunday, April 13, 2014, he immediately removed the contribution from the network long before the letter of formal notice reached him.
- ³⁶ At the beginning of May, the defendant published the following entry on his website:
- ³⁷ „ Dear readers, due to an omission declaration that the young doctor D... B ... through his lawyers against us, we must not use the so-called „ bets, that the measles virus does not exist “ - Report process. So we may not send the already finished edition 3/2014 of W ... first
- ³⁸ In a publication in the magazine W ... - The magazine 3 + 4/2014, the author of which is the defendant, presented as Appendix K14. 11 of the contribution the following remark:
- ³⁹ „ When my employees wanted to report on the process on our website, D... B ... immediately legally forbid this, although he later repeated these statements in interviews. We were therefore unable to publish the already finished issue No. 3/2014 from our magazine W ... “
- ⁴⁰ The plaintiff incurred extrajudicial legal fees of EUR 492.54 for the lawyer's letter of April 14, 2014, of which he paid EUR 150.00 himself and with regard to the excess amount from R. Legal protection insurance company was authorized to assert itself.
- ⁴¹ The plaintiff essentially claims:
- ⁴² The publications submitted to the defendant undoubtedly prove the existence of the measles virus in the scientific sense and determine its diameter. The electron microscopic images included in the transmitted publications, including the scale, were sufficient to determine the diameter. If the size of the measles viruses fluctuates in a certain spectrum and this spectrum is specified, the diameter is thus determined. All the conditions laid down by the defendant in his claim for the payment of the reward of EUR 100,000.00 were met.
- ⁴³ Regarding the alleged extrajudicial legal costs for obtaining a punitive injunction, the plaintiff submits that there is already prima facie evidence that the defendant himself put the content on his homepage.
- ⁴⁴ At the time the lawyer's letter was sent on April 14, 2014, the following text could still be read on the homepage:
- ⁴⁵ „ On Monday, April 14th, 2014 we will report here, to which we will point out in a newsletter, that why and how the unpromoted, foreign young doctor D... B ... and his illegal backers in „ betting that there are no measles viruses! “ - Trial on April 10, 2014, before the Ravensburg Regional Court, the court and the public lied. “

⁴⁶ The defendant is responsible for the content on his homepage, so he cannot be heard with his - contested - objection that someone had gained access to his homepage.

⁴⁷ The plaintiff claims,

⁴⁸ 1. Order the defendant to pay the plaintiff EUR 100,000.00 plus 5% interest above the base rate since May 1, 2012;

⁴⁹ 2. Order the defendant to pay the plaintiff a secondary claim of EUR 2,924.07 in extrajudicial legal costs;

⁵⁰ 3. Order the defendant to pay the plaintiff an amount of EUR 492.54 plus 5% interest above the base rate since April 16, 2014.

⁵¹ The defendant requests,

⁵² dismiss the application.

⁵³ The defendant claims:

⁵⁴ The publications submitted did not meet the requirement to provide evidence in the scientific sense. The phenomena output as measles viruses are actually cell-owned transport vesicles (vesicles).

⁵⁵ None of the documentation presented is based on experiments in which the pathogen - as required - was previously isolated and biochemically characterized or even such isolation would have been scientifically documented. The type of „ evidence “ in the experiments to which the plaintiff relies, does not correspond to the state of science and technology and does not meet the requirements for evidence taking into account the Koch postulates.

⁵⁶ The documentation submitted by the plaintiff all dated from before the Infection Protection Act (IfSG) came into force on January 1, 2001.

⁵⁷ The determination of the diameter was also not well founded. The size range of 300 to 1000 nanometers given in one of the publications presented already refutes the thesis of the virus, because viruses were characterized by a small variation in their diameter between 15 and a maximum of 400 nanometers. The excuse used by individual scientists that it is „ viruses “ from pleomorphic, i.e. in form, composition and size of constantly changing structure, is neither scientifically recognized nor applicable.

⁵⁸ He is of the opinion that the following further requirements - which were not met by the publications (- for the payment of the reward can be found in the award if the interpretation is correct:

⁵⁹ The existence of the measles virus must be proven by a publication by the Robert Koch Institute (i.F. : RKI), which is based on § [4th](#) IfSG is responsible. This already follows from the fact that with regard to the award made in Germany, the rules of the IfSG specially created for the evidence in the area of infectious diseases must be used. Since according to the provision of § [4th](#) IfSG research on the cause of infectious diseases is the task of the RKI, be that in § [7](#) No. 31 IfSG, the measles virus was only permitted if this institute has its own, according to § [1](#)IfSG has the scientific evidence that the claim included in the law is correct, sufficient for the current state of science and technology. The purpose of the award is clearly to clarify whether there is a documentation of the RKI corresponding to the Koch postulate of the isolation of the pathogen.

⁶⁰ A (only) publication was also requested, in which both the proof of the existence of the measles virus and its diameter are provided, so that it is not sufficient, if - as represented by the expert - only the combination of the scientific statements in the six specialist articles submitted by the plaintiff proves the existence of the measles virus and at least two of these articles provide sufficient information on the diameter of the Contained measles virus.

⁶¹ With regard to the declaration on the homepage, the background of the application no. 3, the defendant denies that this entry is written by him, initiated or published with his knowledge and will. Furthermore, the entry no longer existed at the time of the lawyer's letter, which the plaintiff was probably also aware of. Accordingly, the defendant had given no reason for the plaintiff's legal representative to act out of court.

⁶² Because of the arguments of the parties, in particular also because of the criticisms that the defendant makes in detail regarding the publications submitted, is based on the submitted briefs and documents as well as the minutes of the appointment from April 10, 2014 (Bl. 42ff) and March 12, 2015 (Bl. 139ff) referenced.

⁶³ The board has stated the plaintiff's assertion, which was made by letter of January 31, 2012 (Anl. Publications sent to K4) are scientific publications in which the existence of the measles virus is not only claimed, but also proven and, among other things, its diameter is determined, Evidence collected by obtaining an expert opinion from the expert Prof. Dr. med. Dr. rer. nat. A... P... Because of the expert's statements, reference is made to his written report of November 17, 2014 (on sheet 97), his supplementary statement of March 3, 2015 on the defendant's objections and supplementary questions (Bl. 132ff) and the minutes of the negotiation date of March 12, 2015 (Bl. 139ff),in which the expert is a supplementary member and the content of his written report as well as the objections raised by the defendant and the supplementary questions addressed to the expert were discussed.

reasons

⁶⁴ The action is admissible and well founded.

⁶⁵ The plaintiff is entitled to payment of the advertised reward in the amount of EUR 100,000.00 against the defendant from § [657](#) BGB.

⁶⁶ The defendant's „ competition “ contains a serious, binding reward promise (for this I.), the award is also made public i.S.v. § [657](#) BGB (II.). The interpretation of the declaration of invitation does not result in any restrictions as claimed by the defendant (III.); with the publications submitted by the plaintiff, the requirements of the award are fully met (IV.).

⁶⁷ I.

⁶⁸ From the award text itself and taking into account the correspondence exchanged between the parties, the defendant has a binding obligation to perform, in particular the seriousness of the promise of reward.

⁶⁹ In particular, the very lurid traits heading „ The measles virus - 100,000 EUR reward! - WANTED - The diameter “ and also the sheer height of the promised reward give the impression of lack of seriousness that the defendant could only have been concerned with, to attract as much attention as possible to his vaccination criticism expressed in the text. However, the purpose that the defendant pursues with the promised reward speaks in particular against the acceptance of a clearly not serious declaration. The defendant - he himself expressly explains - wants to effect „ with the prize money, 1. that people educate themselves and 2. that the enlightened people help the unenlightened and 3. the enlightened act on the actors within the meaning of the law.“ The defendant is obviously concerned with providing an incentive to those who - in his view - are too uncritical about the arguments of the vaccine supporters, with the question, to critically examine whether there is scientific evidence for the existence of the measles virus. There is only an incentive in this sense if the reward can actually be obtained and the claim is serious. if the reward can actually be obtained and the claim is serious. if the reward can actually be obtained and the claim is serious.

⁷⁰ Finally, in his letter of January 30, 2012, the defendant also (Anl. K3) have no doubt about the seriousness of his prize money promise. The plaintiff's request for content of January 16, 2012 (Anl. K2) after the topicality and the conditions of the statement - even expressly designated as such in the subject line of the plaintiff's letter - had given the defendant sufficient opportunity to clarify any lack of seriousness or. to disclose. The defendant did not do the same, but rather expressly confirmed that the prize money was advertised.

⁷¹ II.

⁷² By publishing the tender for the „ prize money “ on the website of the „ ... - publisher “, the defendant made the claim publicly known. A public announcement requires the announcement to an individually indefinite group of people (cf. Seiler, in: MünchKomm-BGB, 6. Edition 2012, § 657 marg. 12; Spray, in: Palandt BGB, 74. Ed. 2015, § 657 marg. 3), which is composed of all potential visitors to the publishing pages.

⁷³ III.

⁷⁴ The award is a one-sided declaration, addressed to the general public and not in need of reception, but rather in need of publication (BGH Urt. v. 23.09.2010 - [III ZR 246/09](#) - [BeckRS 2010, 24346](#) Marg. 12; Spray loc. Cit. Rn 1; Seiler op. Cit. Rn 4). Your subject is interpreted according to §§ [133](#), [242](#) To determine the BGB, which is based on the possibility of understanding any reasonable participant in legal transactions - as part of the public addressed by the award - (Seiler op. Cit. Marg. 6; Spray loc. Marg. Marg. 4; Kotzian-Marggraf, in: Beck-OK-BGB, as of 1.2.2015, § 657 marg. 7). Based on the wording of the declaration, circumstances must also be taken into account that are known or recognizable to everyone or to any member of the target group (cf. BGHZ 53, 307 - juris-Rn. 12). The interpretation to be made on this scale leads to the result that, contrary to the defendant's view, the publications are neither those of the RKI (1.) must date from the time after the IfSG comes into force (2.); the award is also not to be understood as, that the required proof must be provided in a single publication or that reviews should not be used (3.).

⁷⁵ 1. The interpretation of the declaration of declaration of declaration of declaration does not result in a restrictive requirement that the scientific publication to be submitted must be that of the RKI or its employees.

⁷⁶ The defendant postulated this requirement for the first time as part of the judicial process. Out of court, as from his letter of March 6, 2012 (Anl. K6), with regard to the publications sent by the plaintiff, essentially only rely on the content that „ only shows the cell's own components and structures that were not isolated and biochemically characterized “, why he could not hand over the prize money. The objection that the articles did not meet the award criteria simply because none of them came from RKI employees is not mentioned in this pre-judicial correspondence.

⁷⁷ a) The wording of the defendant's declaration does not support the acceptance of such a restrictive statement condition.

⁷⁸ Rather, the only thing that is expressly raised about the conditions for the payment of the prize money is that „ a scientific publication is presented in which the existence of the measles virus not only claims, but also proven and included whose diameter is determined. “ According to the wording, this is only limited by the fact that the prize money is not paid out, „ if the diameter of the measles virus is only a model or drawing [...]. “ It would have been easy for the defendant to make clear the restrictive requirement of the claim that he first presented in the course of the judicial proceedings by, for example, formulating: „ a scientific publication by the Robert Koch Institute [...] “. Last but not least, the defendant would have had the opportunity to clarify this in his letter of January 30, 2012, which he responded to the plaintiff's explicit request for the award criteria (Anl. K2) wrote. However, the defendant only supplements the conditions of the award cited by the plaintiff from the „ competition “ in such a way that the publication must meet the legal provisions laid down by the IfSG and leaves it unchallenged. and leaves them unchallenged. and leaves them unchallenged.

⁷⁹ b) Even taking into account the circumstances known or recognizable to an objective explanatory recipient from among the potential visitors to the website of the „ ... publishing house “, the statement does not show, that it must be a publication from among the research members of the RKI.

⁸⁰ (1) First of all, the interest that the defendant has clearly associated with his claim is of crucial importance.

⁸¹ The award is part of an internet article in which the defendant speaks out against the pharmaceutical industry and tries to expose the „ idea that measles are caused by a virus “ as part of an advertising campaign, which - supported by the federal government and international institutions (WHO) - should increase lower sales in the area of vaccines again. The defendant denies the existence of measles viruses, not measles. Its stated goal is to educate the population that there are no measles viruses and to dissuade them from being vaccinated in this regard.

⁸² A particular focus of the defendant is on PD Dr ... from the RKI, which he claims to claim the breeding of measles viruses, which presupposes, that she is aware of the diameter of the measles virus. He calls for Dr. ... to be turned, which is commissioned by the federal government to independently conduct research on the causes of measles, to ask them the question of the diameter of the measles virus.

- ⁸³ From this reference to the mandate received from the Federal Government to conduct research independently, the conclusion could be that the defendant had just requested the results of this independent research to be presented, hence a publication by Dr. ... or at least one of the people entrusted with this research assignment at the RKI. However, such an understanding falls short of the overall context in which the defendant places his claim.
- ⁸⁴ Taking into account the text of the award, the interpretation rather raises a concern of the defendant, which is of a much more fundamental nature. The defendant's ultimate goal is to expose the RKI to the extent that the requests from visitors to the publishing pages or whose research for scientific publications on the measles virus negated by the defendant should be clear: The RKI propagates measles viruses without being able to rely on scientific evidence in this regard. If - according to the defendant's idea - such dishonest behavior were documented first, the step to knowledge among the enlightening population, the institute act for the pharmaceutical industry, not far anymore.
- ⁸⁵ The fact that the defendant was not solely concerned with the accusation that the RKI neglected the research mandate assigned to it, so to speak, also follows from the fact that the defendant emphasizes in principle that it is forbidden to „ To assert false “ and not, for example, it is forbidden to make claims that are not based on our own research. With regard to Dr ... he also takes the view that she must know „ [...] at least [...] where it is meant [the diameter of the measles virus, note. the chamber] stands “, which in turn creates a reference to foreign publications that are available to the employees of the RKI and among them in particular to the „ main responsible “ Dr. ... (only) are available for reading. Below the drawing of a measles virus in the manner of a children's drawing, the defendant states,„ [...] that the official science to which everyone relies does not work much more scientifically “ - this emphasis on all-round „ Calling “ on „ the official science “ speaks for it, that it is sufficient to submit a publication to which the RKI relies, without this necessarily having to come from the RKI or its employees themselves.
- ⁸⁶ Finally, under the heading „ The further procedure “, he reveals that he is generally concerned with uncovering, that the RKI - according to the defendant's approach - ultimately recommends vaccinations without any evidence and not just without independent research results when he writes: „ If it turns out that Dr. ... Measles viruses claim that without having scientific evidence of their existence, their behavior - as if there was a measles virus - must not be accepted. Your supervisor, who then has to complain about Dr ... if she cannot provide proof, is [...]. Should it turn out that Prof. ... knows that Dr. ... works without a scientific and therefore legal basis [..., emphasis by the chamber] “.
- ⁸⁷ (2) The fact that the defendant's criticism is by no means directed solely against the RKI also speaks against the understanding claimed by the defendant. Rather, this also applies to the WHO and the Paul Ehrlich Institute (PEI) as a vaccine-approving authority and the Berlin Health Senate. In addition, a context for German researchers as a whole is created in the award text, if, in the immediate connection with the presentation of the research successes of the PEI, which are widespread by the federal government, the actions of the Berlin Health Senate and before the RKI is mentioned: „ So if German researchers work with measles viruses on behalf of the federal government, there must be documentation of this research [...] .“ This already suggests that with the German researchers, who work with measles viruses on behalf of the federal government, not only the employees of the RKI can be meant.
- ⁸⁸ (3) Finally, the reference to the IfSG made in the declaration of award itself under the heading „ 100,000 EUR “ in the fourth paragraph and that in the letter of 16.1.2012 (Annex. K3) formulated the defendant's notice to the plaintiff that the legal provisions that the publication must comply with cannot be found by the IfSG, that the publication should be one of the RKI.
- ⁸⁹ First of all, it should be noted that the IfSG cannot be taken directly as such legally stipulated requirements for scientific publications. Against this background, the defendant's reference to the IfSG is in need of interpretation; the bridge now struck by the defendant from the reference to the legal provisions of the IfSG to the postulated requirement, However, the result is that the publication must come from members of the RKI.
- ⁹⁰ According to § 4th IfSG on the tasks assigned to the RKI as part of the IfSG, also the „ research on the cause, diagnosis and prevention of communicable diseases “. However, the transfer of a task group does not readily contain a legal provision as to which requirements a publication according to the IfSG must meet. In any case, the defendant's reference to the requirements of the IfSG does not necessarily lead to the conclusion to (in particular not in a way that can be recognized from the objective recipient horizon), that this should establish a further award condition in such a way that only RKI publications should provide the required scientific evidence of the existence of the measles virus. Rather, when viewed impartially, there is an interpretation that the defendant was concerned with, to formulate certain standards that must be met by the publications to be submitted if in § 1 Paragraph 2 IfSG, for example, the respective state of medical and epidemiological science and technology is expressly raised to the relevant quality standard. Finally, he confirmed that such an understanding is by no means foreign to the defendant himself by his statement of 2.2.2015, presented on page 125, where p. 2, where he explains: „ With the binding of the competition to the IfSG, which came into force on January 1, 2001 and in § 2nd IfSG demands the requirement of scientific work at the respective state of science, it was ensured, that the required publication was created on the basis of the precise formulations of the „ rules to ensure good scientific practice “. [...] . “
- ⁹¹ Finally, it should be noted that the legislator apparently started from the existence of measles viruses when standardizing the IfSG, since he was already in the first, from 1.1.2001 the version of the IfSG under § 7 Paragraph 1 No. 30 raised the measles virus to be a reportable pathogen; As can be seen, the legislature no longer considered it necessary to provide evidence regarding the measles virus that the RKI had to provide. This fact also speaks against understanding the reference to the IfSG as an indication that the defendant's claim only wants to apply to RKI publications.
- ⁹² 2nd. The statement should also not be interpreted in such a way that only a publication that was published after the IfSG came into force can meet the requirements for the award.

- ⁹³ According to the objective recipient horizon, it is not sufficient for such a restriction that the defendant refers to the legal provisions of the IfSG with regard to the publications to be submitted. It does not follow from the time of publication alone that the publication is based on the § 1 Paragraph 2 IfSG on the bar, the current state of medical and epidemiological science and technology could not be checked with the result that it also has this quality. Rather, the changeability and openness to development of research-related standards in the medical field is inherent in the legal provisions of the IfSG if this is in § 1 Paragraph 2 IfSG is preceded by a regulation that expressly declares the „ respective “ state of science as a guideline.
- ⁹⁴ In addition, the expert P. clearly explained that almost all of the relevant scientific „ community “, i.e. H. the global entirety of measles virus researchers and medical users of these research results, as necessary and sufficiently accepted technical articles to prove the existence and the structural and molecular nature of the measles virus were published before July 2000. Technical articles from later times are therefore far-reaching or extremely rare because, in the eyes of this scientific community, there is no reason to prove what has already been proven; corresponding studies would also not be public, since scientific journals have already published and generally accepted results not once again, regardless of the source,would accept for publication. From the point of view of a recipient of the declaration from the group of medically trained or interested visitors to the publishing pages who are at least addressed by the award, the reference to the IfSG can therefore not be a reference point for, that all specialist articles from the years before 2001 should be excluded. Such a restrictive criterion would limit the fulfillment of the award criteria to such an extent from the outset, that from the perspective of an unbiased reader, a certain medical training would simply not be expected. Interested visitors to the publishing pages can therefore not be sure that all specialist articles from the years before 2001 should be excluded. Such a restrictive criterion would limit the fulfillment of the award criteria to such an extent from the outset, that from the perspective of an unbiased reader, a certain medical training would simply not be expected. Interested visitors to the publishing pages can therefore not be sure that all specialist articles from the years before 2001 should be excluded. Such a restrictive criterion would limit the fulfillment of the award criteria to such an extent from the outset, that from the perspective of an unbiased reader, a certain medical training would simply not be expected.that from the perspective of an unbiased reader, a certain medical training would simply not be expected.that from the perspective of an unbiased reader, a certain medical training would simply not be expected.
- ⁹⁵ 3rd. Finally, the interpretation of the award text does not result in, that the required proof of the existence of the measles virus and the determination of its diameter would have to be provided in a single publication (a) and that overview articles should not be regarded as suitable publications (b).
- ⁹⁶ a) The defendant relied on these restrictive criteria for the first time after submitting the expert opinion of November 17, 2014, in which the expert P. came to the conclusion, that an article in itself is not sufficient for the evidence, that, however, the statements of the six publications submitted - sufficiently proven by adequate and scientifically correct experiments - in their combination documented both the existence of the measles virus and its specific infectivity and its showed approximate diameter.
- ⁹⁷ The defendant is to be conceded that the wording of the award does not conflict with his understanding if it says: „ The prize money is paid out when a scientific publication is submitted, in which the existence of the measles virus is not only claimed, but also proven and included whose diameter is determined. “ (Highlight by the chamber).
- ⁹⁸ However, such a restrictive understanding of the claim cannot be reconciled with the accompanying circumstances already fanned out above and the overall context in which the award is integrated in the text.
- ⁹⁹ The defendant's point is to use the „ prize money “ to bring to light that „ does not even have a “ publication, in which the existence of the measles virus is proven and its diameter is determined, since it wants to help the readers of the publishing pages to realize that the claim of a measles virus is not scientifically proven. Ultimately, he emphasizes how safe he is for his cause. On the other hand, the defendant's criticism of the vaccine supporters mentioned is not based on the fact that the large, coherent original work, which offers the evidence requested by the defendant, has not yet existed.
- ¹⁰⁰ Such an understanding is also not compatible with publication practice in the medical research context, in which the defendant expressly wants to see his claim himself involved and on whose standards he emphasizes - at least in a form as he wants them to be understood. Scientific evidence chains or even evidence - as the expert P. has shown - have not been published as monographs for at least decades, but as sequences of several to a large number of specialist articles. First of all, this is due to the complexity of the knowledge gained in recent times, which generally necessitates the simultaneous or consecutive use of different groups of scientists with their respective methodological and financial resources. Other reasons would be a significantly increased international competition among scientists and the emergence of new publication formats. The demand for a single and comprehensive scientific article would therefore simply not do justice to the theoretical and practical standards of modern science in view of the complex relationships and the degree of differentiation of today's medical research.
- ¹⁰¹ b) For the same reason, the defendant's last objection to the fundamental exclusion of reviews from the canon of suitable scientific publications cannot be the result of the interpretation of the „ competition “.
- ¹⁰² Expert P. explained that the form of publication of the review works receives specific scientific value by, so to speak, representing a modern equivalent of a monograph. The review does not present any independent research achievements by the author (s), but contains literature quotes for all presented facts and research results, which clearly enable the relevant primary literature to be found; A review work gains independent conclusions from the overview of numerous original works - beyond the mere presentation of previous research results.
- ¹⁰³ The exclusion of this type of publication would also contradict the standards of modern science. There is also nothing to be seen as to why the defendant's recognizable claim goal should prevent overview work from being taken into account.
- ¹⁰⁴ IV.
- ¹⁰⁵ The plaintiff earned the reward; because the submitted publications meet the requirements of the award.

- ¹⁰⁶ The Chamber came to this conclusion on the basis of the expert opinion P.. The expert is a doctor for microbiology, virology and infection epidemiology as well as for hygiene and environmental medicine and director of the Institute for Medical Microbiology, Virology and Hygiene at the University Medicine R., his qualification is beyond doubt. This outstanding professional qualification has become clear to the Chamber both in the written statements of the expert and in the course of his hearing. The expert has presented the submitted publications in detail and classified them in a comprehensible and understandable manner in the context of research history; he dealt with the defendant's objections in detail and thoroughly.
- ¹⁰⁷ On the basis of the expert's statements, the board is convinced that the plaintiff's letter of 31.1.2012 (Anl. K 4) transmitted publications scientific publications are (plus 1.), which in their overall view prove the existence of the measles virus (2.) and determine its diameter (3.).
- ¹⁰⁸ 1. According to the current state of medical science in its research-historical context, the publications submitted by the plaintiff are all of such formal quality that they are awarded the title „ scientifically “ in this sense.
- ¹⁰⁹ a) The expert explained convincingly why the submitted publications should all be qualified as scientific articles. He explained that a publication essentially had to meet two formal requirements in order to be able to qualify as a scientific article at international level. On the one hand, the article had to be published in a magazine with a so-called „ peer review “ (expert) system and thus usually checked by at least two independent specialist scientists before publication and, if necessary, have been provided with correction requests. On the other hand, the listing and viewability (is at least in the form of a so-called abstract) in scientific databases such as NCBI (National Center for Biotechnological Information; Bethesda,USA) and DIMDI (German Institute for Medical Documentation and Information) required. All submitted articles met these requirements.
- ¹¹⁰ b) The defendant has questioned the scientific nature of the articles in formal terms, citing the rules of the German Research Foundation (DFG) to ensure good scientific practice in its current form.
- ¹¹¹ From the Chamber's point of view, expert P. has pointed out that the DFG rules can only be viewed to a limited extent as criteria for scientificity, both in terms of time and object. This makes sense immediately, because a large part of the scientific research in the medical field is carried out outside of Germany and thus outside the scope of the DFG regulations and current standards of scientific work from research results of yesteryear are already due to the constant further developing (both information and documentation) technical possibilities cannot be fulfilled from the outset.
- ¹¹² 2nd. The publications at issue show the existence of a virus that is the cause of measles disease.
- ¹¹³ a) As the expert has pointed out, there are basically two questions to be distinguished - firstly, whether there is a particular microorganism at all and what nature it is, and secondly, the question of, whether this microorganism is actually causally significant for a disease (here the measles disease). The meaningfulness of one of the six publications at issue is not sufficient in itself to provide evidence in this regard. Overall, however, the statements made by the articles submitted by the plaintiff, based on adequate and scientifically correct experiments, prove both the existence of the measles virus as a specific microorganism and its causality for the Measles disease.
- ¹¹⁴ (1) As far as the existence and nature of the measles virus are concerned - according to the expert - there are many fundamentally equivalent ways of collecting documents, whereby biology is typically required, that two independent paths would be taken to prove the existence of a microorganism and to classify it taxonomically. The classic way is optical detection using microscopic methods, in the case of viruses using an electron microscope. On the other hand, the components of a pathogen can be detected. A pathogen would also typically be expected to multiply; hence the method of cultural detection of this germ. Another step could then be, that the multiplication of the germ is understood as a cleaning step and then the pathogen is subjected to a microscopic examination again to determine whether its appearance and the biochemistry of its germ are unchanged. In the meantime, these methods have been added to the possibility of isolating the nucleic acids and fully sequencing them. - Based on this, the articles presented showed in their overall view the existence of the measles virus as a specific microorganism.- Based on this, the articles presented showed in their overall view the existence of the measles virus as a specific microorganism.- Based on this, the articles presented showed in their overall view the existence of the measles virus as a specific microorganism.
- ¹¹⁵ The expert carried out concise, comprehensible and convincingly for each of the publications submitted, using which of the methods described above the authors came to results, the employee's status was then critically analyzed and described in a differentiated manner. The expert's statements in his report of November 17, 2014 under Section VII are fully referred to.
- ¹¹⁶ For the chamber's conviction, the work of Horikami & Moyer from 1995 and Daikoku et al. from 2007 special importance. In the review work by Horikami & Moyer - as the expert explained - basic and completely clear characteristics of measles viruses such as their complete genome sequence are presented, the article evaluates and summarizes the content of 97 original works from specialist journals with expert review system („ peer review “) on the structure, genome transcription and multiplication of the measles virus. This review article and the publications cited therein also bring in the so-called gold standard of an agent characterized down to the molecular detail, since thanks to the genome sequencing all modern ways to direct (z. B. Proof of antigen, hybridizations, nucleic acid amplifications) and indirect (z. B. Antibody reactions, T cell activation) clear detection of a microorganism in a host organism could be undertaken. The publication by Daikoku et al. To be qualified as an original work and in view of its structure and scope as a so-called „ full-sized “ article. also use two methods, each described in more detail by the expert, to demonstrate the measles virus specificity of the examined virions of the classic Edmonston fiber virus strain. The publication by Daikoku et al. To be qualified as an original work and in view of its structure and scope as a so-called „ full-sized “ article. also use two methods, each described in more detail by the expert, to demonstrate the measles virus specificity of the examined virions of the classic Edmonston fiber virus strain.

- ¹¹⁷ (2) With regard to the question of the causation of the measles virus for measles disease, the expert expressly stated that, that the submitted works in their summary also meet the Koch-Henle's postulates raised by the defendant in the course of the legal dispute as a measure of evidence.
- ¹¹⁸ These postulates were formulated to demonstrate the causal importance of a microbial pathogen for an infectious disease. In their classic form, according to the plausible explanations of the expert - paraphrased - they contain the following statements: A pathogen is causally responsible for an infectious disease, if he (1) is typically associated with a clearly defined clinical picture when present in humans, (2) can be isolated and cultivated from the affected people, (3) after transmission to a test animal causes similar symptoms there and finally (4) can be isolated or cultivated from the diseased test animal.
- ¹¹⁹ In addition to the historical context of the Koch-Henle postulates, the expert stated that they were formulated at a time when only a few, particularly aggressive, Bacterial species that are equally threatening for humans and animals (as the pathogens of anthrax and tuberculosis) were known, which also pose a vital threat to healthy people. The mechanisms of pathogen defense in humans were largely unknown at the time the postulates were formulated or completely unknown at the molecular level. To argue that viruses were not known at the time, so that the applicability of the postulates to this form of pathogens was at least debatable. In addition, numerous pathogens have been discovered since the formulation of the postulates, characterized in detail and clearly identified as an infectious agent without all or even one of the statements being made. Against this background, three additional statements would have proven helpful in many cases: causally responsible pathogens lead on the one hand to a locally or systemically demonstrable defense reaction in the affected person (1), also show behavior similar to that of natural infection in in vitro experiments or lead to a similar cell / histopathology (2); in addition, their selective eradication from the affected person leads to an improvement in symptoms or even recovery (3). In addition to the classically formulated postulates or in some cases also in their place, these modern criteria would also apply. without all or even one of the statements being made. Against this background, three additional statements would have proven helpful in many cases: causally responsible pathogens lead on the one hand to a locally or systemically demonstrable defense reaction in the affected person (1), also show behavior similar to that of natural infection in in vitro experiments or lead to a similar cell / histopathology (2); in addition, their selective eradication from the affected person leads to an improvement in symptoms or even recovery (3). In addition to the classically formulated postulates or in some cases also in their place, these modern criteria would also apply. without all or even one of the statements being made. Against this background, three additional statements would have proven helpful in many cases: causally responsible pathogens lead on the one hand to a locally or systemically demonstrable defense reaction in the affected person (1), also show behavior similar to that of natural infection in in vitro experiments or lead to a similar cell / histopathology (2); in addition, their selective eradication from the affected person leads to an improvement in symptoms or even recovery (3). In addition to the classically formulated postulates or in some cases also in their place, these modern criteria would also apply. Against this background, three additional statements would have proven helpful in many cases: causally responsible pathogens lead on the one hand to a locally or systemically demonstrable defense reaction in the affected person (1), also show behavior similar to that of natural infection in in vitro experiments or lead to a similar cell / histopathology (2); in addition, their selective eradication from the affected person leads to an improvement in symptoms or even recovery (3). In addition to the classically formulated postulates or in some cases also in their place, these modern criteria would also apply. also show behavior similar to that of natural infection in in vitro experiments or lead to a similar cell / histopathology (2); in addition, their selective eradication from the affected person leads to an improvement in symptoms or even recovery (3). In addition to the classically formulated postulates or in some cases also in their place, these modern criteria would also apply. also show behavior similar to that of natural infection in in vitro experiments or lead to a similar cell / histopathology (2); in addition, their selective eradication from the affected person leads to an improvement in symptoms or even recovery (3). In addition to the classically formulated postulates or in some cases also in their place, these modern criteria would also apply. also show behavior similar to that of natural infection in in vitro experiments or lead to a similar cell / histopathology (2); in addition, their selective eradication from the affected person leads to an improvement in symptoms or even recovery (3). In addition to the classically formulated postulates or in some cases also in their place, these modern criteria would also apply.
- ¹²⁰ In addition to his written report, the expert explained in detail in the course of his hearing that and how the publications at issue provide evidence of the causative properties of the measles virus. He stated that Enders & Peebles' contribution in 1954 fulfilled the classic postulates (1) and (2); In addition, there is a certain biochemical characterization (temperature sensitivity) and a statement about the size. In the contribution by Bech & von Magnus 1958, the classic postulate (3) was also fulfilled and an additional defense reaction according to the extended postulate version. The review article by Horikami & Moyer 1995 finally quotes and presents several articles that fulfilled the classic postulates (1) to (4). The specific cytopathology (extended postulates) is also documented, namely the formation of syncytia, i.e. cell fuses, which are typical for paramyxoviruses (, which also include the measles virus). In addition, full reference is made to the negotiation protocol, in particular pp. 6 and 7.
- ¹²¹ In summary, the board comes to the conclusion that, that the publications submitted by the plaintiff as a whole also prove the detection of the pathogen property of the measles virus - especially with a view to the Koch-Henle postulates.
- ¹²² b) The defendant doubts the suitability of the submitted articles and is therefore based on criticisms, which the expert himself has attached to individual articles in terms of methodology or in terms of documentation requirements. The defendant takes this as the starting point for his thesis that the content of the publications submitted should be denied their scientific nature. From the Chamber's point of view, however, these approaches are not suitable, on the basis of the medical-research-historical explanations of the expert, to question the probative value of the submitted specialist articles in their overall view.

- ¹²³ On the one hand, the expert has expressly and comprehensibly demonstrated that the publications submitted contain in particular the necessary data and control experiments, on the basis of which it can be excluded, that only cell-owned artifacts - as the defendant classifies the supposed measles viruses - are available.
- ¹²⁴ Above all, however, the expert - understandable and immediately obvious in the matter - has shown that, given the circumstances, that the canon of methods and in particular the documentation practice of scientific research continue to develop in qualitative and quantitative terms, almost necessary and generally give individual aspects of scientific publications, in retrospect, critical remarks should also be made. In the practice of scientific research, however, a good cleaning mechanism has been established in the specialist literature, which has recently also affected articles from the highest-ranking specialist journals. If the processes described in an article could not be understood in subsequent tests, this is typically evident in articles by other researchers, at least this would be expected with a topic as intensively as measles. Research results that stand in the way of a broad scientific consensus are not always easy to publish. Compared to a broadly accepted view, however, it promises a high reputation to publish new and better findings; scientifically correctly justified refutations of previous positions should then also be published in a high-level manner. Nevertheless, no article was found in the random check carried out by the expert on the huge number of specialist articles that negated the existence of the measles virus or its causal importance for measles disease. In any case, this would be expected with a topic as intensively as the measles. Research results that stand in the way of a broad scientific consensus are not always easy to publish. Compared to a broadly accepted view, however, it promises a high reputation to publish new and better findings; scientifically correctly justified refutations of previous positions should then also be published in a high-level manner. Nevertheless, no article was found in the random check carried out by the expert on the huge number of specialist articles that negated the existence of the measles virus or its causal importance for measles disease. That stand in the way of a broad scientific consensus are not always easy to publish. Compared to a broadly accepted view, however, it promises a high reputation to publish new and better findings; scientifically correctly justified refutations of previous positions should then also be published in a high-level manner. Nevertheless, no article was found in the random check carried out by the expert on the huge number of specialist articles that negated the existence of the measles virus or its causal importance for measles disease. That stand in the way of a broad scientific consensus are not always easy to publish. Compared to a broadly accepted view, however, it promises a high reputation to publish new and better findings; scientifically correctly justified refutations of previous positions should then also be published in a high-level manner. Nevertheless, no article was found in the random check carried out by the expert on the huge number of specialist articles that negated the existence of the measles virus or its causal importance for measles disease. To publish new and better findings; Scientifically correctly justified refutations of previous positions should then also be published in a high-level manner. Nevertheless, no article was found in the random check carried out by the expert on the huge number of specialist articles that negated the existence of the measles virus or its causal importance for measles disease. To publish new and better findings; Scientifically correctly justified refutations of previous positions should then also be published in a high-level manner. Nevertheless, no article was found in the random check carried out by the expert on the huge number of specialist articles that negated the existence of the measles virus or its causal importance for measles disease.
- ¹²⁵ In this respect, it seems significant to the board that the defendant, who himself did his doctorate in the field of virology, could not name a single specialist article or well-known scientist apart from his own statements, who denies the existence of the measles virus or its causal importance for measles disease.
- ¹²⁶ As a result, the undeniable weaknesses of the publications submitted are therefore not suitable to question their evidential value overall.
- ¹²⁷ c) Finally, the defendant postulates its own chain of indications that the proof that the measles virus (1) photographs in a person or his body fluid, (2) isolated from it, (3) cleaned up, (4) photographed again and then (5) whose composition is characterized biochemically with a subsequent re-infection experiment (6).
- ¹²⁸ With regard to this chain of evidence postulated by the defendant, the Chamber's expert explained in a comprehensible and convincing manner that it was of no scientific importance beyond the quality of a hypothesis. The Chamber is convinced that the publications submitted should not be measured against hypotheses, but only against scientifically established standards, with regard to their scientifically sound significance. However, the defendant was unable to demonstrate or prove that the chain of evidence lined up by the defendant was such.
- ¹²⁹ 3rd. The determination of the diameter in the form requested by the defendant was also successful within the framework of the scientific articles submitted by the plaintiff to convince the chamber.
- ¹³⁰ Information on the diameter of the measles virus on the basis of electron microscopic analyzes can be found in particular in the original work and all as so-called „ full-sized “ Article on qualifying contributions by Nakai & Imagawa from 1969, by Lund et al. from 1984 and Daikoku et al. from 2007.

¹³¹ That the size or. To the Chamber's conviction, the diameter information can be explained plausibly scientifically in a range of 50 to 1000 nm, as the expert explained in more detail on the defendant's doubts in this regard. The expert on the structure of a virus stated that the nucleic acid (genetic material) is wrapped in a structured arrangement of protein for each virus. Depending on the type of virus, the nucleocapsid is replaced by another protein shell with a specified size and rigid structure (z. B. Polyhedron or complex radially symmetrical structure) or part of the host cell membrane (outer shell). The creation of this outer shell, which is flexible due to its chemism, includes random aspects for each Virion that arises, which in turn affects the individual size. Wrapped viruses would therefore have a diverse, constantly changing shape and a variable size that varies considerably between the virions of a generation. Wrapped viruses of a virus type are accordingly diverse (= pleomorph) and of different sizes, which also applies to the taxonomic family of paramyxoviruses, to which the measles virus belongs. If electron microscopic images of such diverse virions were now made, two-dimensional optical cuts would have to be made through the three-dimensional particles. Depending on the angle at which the cut is made by the three-dimensional virion and also at which point in the virion this cut is placed by its three-dimensional structure, two-dimensional images could be created, whose diameter differs considerably - also in the variation ranges specifically determined for the measles virus in the publications.

¹³² Since the defendant was in arrears with the payment of the reward at the time the plaintiff commissioned the agent, the plaintiff can, according to §§ [657](#), [280](#) Paragraph 1, paragraph 2, [286](#) BGB also demand reimbursement of the legal costs incurred for the related extrajudicial work of its legal representatives.

¹³³ The plaintiff can also - with the consent of R.-Rechtsschutz-Versicherungs-AG - from the defendant § [831](#) BGB Request payment of the legal fees for the law firm letter of April 14, 2014 (Anl. K10) and the corresponding pre-judicial activity of his legal representatives have arisen.

¹³⁴ I.

¹³⁵ The statements at issue, regarding which the plaintiff requested and almost completely achieved a criminal injunction from the defendant in the letter of attorney presented as Appendix K10, constitute factual claims. Because the correctness of the statement that the plaintiff and his „ illegal backers “ lied to the court and the public before the Ravensburg district court is available to the proof (cf. Rixecker, in MünchKomm-BGB, 6. Edition 2012, appendix to § 12 The general right of personality marg. 143). In the statement: „ We expect Dr. L ... on April 24, 2014 and D... B ... due to legal fraud, insolvency of court and lawyer fees, expenses and allowances, allowance for mass personal injury, is partly arrested with fatalities and due to the risk of escaping abroad “ is also incidentally the claim that the plaintiff cheated on the court and was unable to pay, which is also a factual claim. The mere fact that the claims are formulated very well does not deprive the statement of the character of a factual claim.

¹³⁶ II.

¹³⁷ The defendant has certainly not claimed that his statements are true. However, anyone who makes generally honorable factual claims that also violate the plaintiff's general right to personality, must in principle explain their justification and provide evidence for its presentation (Rixecker, op. Cit. Marg. 150). The defendant has not complied with this burden of proof regarding the truth of the factual claim or, in any case, the circumstances from which it follows that the defendant's statement is based on careful research.

¹³⁸ III.

¹³⁹ The defendant cannot relieve himself of the fact that he neither wrote nor arranged the entry himself and that the publication was not made with his knowledge and will. Rather, the defendant has to allow the behavior of his employees to be attributed. In a publication written by the defendant himself (Anl. K14) he himself stated that the plaintiff immediately had it legally prohibited „ when my employees wanted to report on the process on our website [...] “. Since it is not disputed that a declaration of omission was only requested and achieved with regard to the statement at issue, the defendant himself admitted that the design of the website was initiated by his own employees in this regard. He must therefore compensate the plaintiff for the damage, which the employee who is not known has added to him in the execution of the work assigned to him.

¹⁴⁰ IV.

¹⁴¹ The defendant was open to § [831](#) To relieve paragraph 1 sentence 2 BGB (Exculpation). However, the defendant has not already shown that he observed the care required in traffic when selecting and instructing the persons appointed („ my employees “). There has been no concrete submission to this effect, although the plaintiff already wrote in writing to justify the defendant's responsibility on the defendant's remark (Anl. K14).

¹⁴² V.

¹⁴³ Due to the tort, the defendant owes reimbursement of the legal fees incurred for obtaining the punitive injunction. The commissioning of the legal representatives was also necessary because, due to the fact that the plaintiff had already been impaired in his general personal right, the risk of repetition within the meaning of § [1004](#) Paragraph 1 of the German Civil Code is suspected and this presumption is not eliminated, in particular, by the mere deletion - whether it is complete or only partial - of the entry. Finally, given the circumstances and the assertion of an injunction based on the violation of general personal rights, which required a certain amount of legal knowledge, the plaintiff was also not entitled to waive legal assistance.

¹⁴⁴ VI.

¹⁴⁵ According to the amount, the claim amounts to EUR 492.54 in accordance with the calculation of the plaintiff's legal representative (1.3 - business fee from an object value of EUR 5,000.00 plus postal flat rate and VAT).

¹⁴⁶ The interest claims are justified by §§ [280](#) Paragraph 1, paragraph 2, [286](#), [288](#) BGB.E.

¹⁴⁷ The cost decision follows from § [91](#) ZPO. The decision on provisional enforceability is based on § [709](#) S. 1 + 2 ZPO.