Cologne Higher Regional Court

IN THE NAME OF THE PEOPLE

Judgement

In the law suit

By Mr Andreas Meyer, Dohmengasse 7, 50829 Cologne,
Plaintiff, Appeal Plaintiff and Appeal Defendant
Represented by: Rechtsanwälte Raue LLP, Potsdamer Platz 1, 10785 Berlin

Against

Mr Karl Schucht, Attorney, c/o Rechtsanwälte Toews Hertel Marchend, Kekuléstraße 31, 53115 Bonn
Defendant, Appeal Defendant and Appeal Plaintiff,
Represented by: Rechtsanwälte Redeker Sellner Dahs, Willy-Brandt-Allee 11, 53113 Bonn

The 15th Civil Senate of the Cologne Higher Regional Court, in the oral proceedings on 15.02.2018 by the Higher Regional Court Judge Reske (in the chair), Higher Regional Court Judge Dötsch and Higher Regional Court Judge Kahsnitz, has recognised:

On the appeal of the Plaintiff and the Defendant – with dismissal of the respective further-reaching legal remedies apart from this – the judgement of the Bonn Regional Court of 10.05.2017 – 13 O 136/16 – is amended and reformulated as follows:

1. The Defendant is ordered, on pain of a fine of up to 250,000.00 EUR with the alternative of detention, or detention for breach of a court order for up to 6 months to be determined by the court for every case of infringement, to cease and desist from expressing and/or disseminating and/or allowing to be disseminated in these words or in words to the same effect the assertions:

a. Mr Meyer has alleged that for 30 years Grünenthal has also been looking into the medical files of the affected persons at the Contergan Foundation. This allegation is untrue. At no time has Grünenthal had access to the medical files of the Contergan Foundation. The medical files were and are always kept in the office of the Contergan Foundation.

b. Mr Meyer has alleged that Grünenthal has been paying for the experts of the Medical Commission of the Contergan Foundation for 30 years. This allegation is untrue. The experts of the Medical Commission have always been paid out of funds of the Contergan Foundation.

Apart from this, the suit is dismissed.

The costs of the law suit in First Instance are borne 60% by the Plaintiff and 40% by the Defendant. The costs of the appeal proceedings are charged 75% to the Plaintiff and 25% to the Defendant.

With reference to the operative parts of the judgement 1.a und 1.b, the judgement is provisionally enforceable against payment of security in the amount of 5,000.00 € in each case, otherwise against payment of security in the amount of 110% of the enforceable amount.

A further appeal is not permitted.

Grounds:

I.

The Plaintiff is Chairman of the Bund der Contergangeschädigten und Grünenthalopfer e.V.. Since 19.11.2009 he has also been a member of the Council of the Contergan Foundation for People with Disabilities. The Defendant was Chairman of the Medical Commission of the Contergan Foundation from 01.01.2004 until the end of 2009, and from the end of 2009 onwards he was also a member of the Council of the Foundation's Management Board. On 01.02.2013, a public hearing took place before the Committee for Family Affairs, Senior Citizens, Women and Youth of the German Federal Parliament in the 17th Legislative Period on the results of a long-term study on the living situation of Contergan victims. The Plaintiff was invited to this hearing in his capacity as member of the Council of the Foundation and Chairman of the Bund der Contergangeschädigten und Grünenthalopfer e.V.. He expressed himself there as follows:

> "Today in Australia, millions are paid to the victims because they are able to sue the firms that were responsible. In Germany this is no longer possible. But what is possible is the following: for 30 years, Grünenthal was represented in the Contergan Foundation by a lawyer; for 30 years, Grünenthal looked into our medical files in the Contergan Foundation; for 30 years, Grünenthal paid the experts of the Medical Commission, and even today Mrs. Blumenthal, the Chairwoman of the Management Board of the Contergan Foundation, who is present here, advocates a contract with the Grünenthal company to pay the costs of the Medical Commission. Payment of the costs by Grünenthal is only of benefit to the Federal Government, namely the

> costs of the Medical Commission. Because otherwise the Federal Government would have to pay the costs of the Medical Commission."

Beyond this, reference is made to the copy of the verbatim record of the session on 01.02.2013 with legal document dated 02.11.2016 submitted on the part of the Defendant as Annex B 1.

Following the Committee hearing, the Defendant, who had not been called as an expert witness in the hearing, drafted a letter on 22.02.2013 to all members of the Committee for Family Affairs, Senior Citizens, Women and Youth, using the letterhead of the Management Board of the Contergan Foundation, in which he wrote among other things:

> "Mr Meyer has alleged that for 30 years Grünenthal has also been looking into the medical files of the affected persons at the Contergan Foundation. This allegation is untrue. At no time has Grünenthal had access to the medical files of the Contergan Foundation. The medical files were and are always kept in the office of the Contergan Foundation. Mr Meyer has alleged that Grünenthal has been paying for the experts of the Medical Commission of the Contergan Foundation for 30 years. This allegation is untrue. The experts of the Medical Commission have always been paid out of funds of the Contergan Foundation."

Beyond this, reference is made to the copy of the verbatim record of the session submitted with the statement of claim as Annex K 2.

With its judgement of 10.05.2017, to which reference is made for the remaining grounds, the Regional Court only partially accepted the Plaintiff's cease-and-desist and rectification requests, and forbade the Defendant to allege or to disseminate that the assertion of the Plaintiff that for 30 years Grünenthal had been looking into the medical files of the affected persons in the Contergan Foundation was untrue. At the same time it ordered the Defendant to rectify this statement in writing to the members of the Committee for Family Affairs, Senior Citizens, Women and Youth of the German Federal Parliament in the 17th Legislative Period as follows:

> *"In a letter dated 22 February 2013, I told the members of the Committee for Family Affairs, Senior Citizens, Women and Youth of the 17th German Federal Parliament that Mr Andreas Meyer had made untrue allegations. I wrote:*
>
> *'Mr Meyer has alleged that for 30 years Grünenthal has also been looking into the medical files of the affected persons at the Contergan Foundation. This allegation is untrue. At no time has Grünenthal had access to the medical files of the Contergan Foundation. The medical files were and are always kept in the office of the Contergan Foundation.*
>
> *I hereby make the following rectification. Mr Meyer's statements were not untrue. Grünenthal GmbH had access to the medical files of the Contergan Foundation in the person of the head of its Legal Department and Marketing Department, Attorney Herbert Wartensleben, who was Chairman of the Medical Commission of the Contergan Foundation from 1972 until 2003."*

It rejected the cease-and-desist request for 1.b as well as the rectification request apart from this.

Against this, both parties have lodged and justified their legal remedy of appeal.

The Plaintiff further pursues his request in the First Instance with the exception of the sentence “the reference files of Mr Herbert Wartensleben were held initially by himself and subsequently in the archives of the company Grünenthal GmbH”, which was originally also requested for rectification. The Defendant seeks the dismissal of the suit in its entirety.

The Plaintiff bases his appeal principally on the argument that the dismissal of the suit by the Regional Court was based on a false understanding of the text and context with regard to the payments by Grünenthal.

The Plaintiff requests – with dismissal of the appeal of the opposing side –
To amend the judgement of the Bonn Regional Court of 10.05.2017 – 13 O 136/16 –and to further order the Defendant, on pain of a fine of up to 250,000.00 EUR with the alternative of detention, or detention for breach of a court order for up to 6 months to be determined by the court for every case of infringement, to cease and desist from expressing and/or disseminating and/or allowing to be disseminated in these words or in words to the same effect the assertion:

> Mr Meyer has alleged that Grünenthal has been paying for the experts of the Medical Commission of the Contergan Foundation for 30 years. This allegation is untrue. The experts of the Medical Commission have always been paid out of funds of the Contergan Foundation.

And at the same time to order the Defendant to rectify the cited statement in writing to the members of the Committee for Family Affairs, Senior Citizens, Women and Youth of the German Federal Parliament in the 17th Legislative Period as follows:

> “In a letter dated 22 February 2013 I told the members of the Committee for Family Affairs, Senior Citizens, Women and Youth of the 17th German Federal Parliament that Mr Andreas Meyer had made untrue allegations. I wrote:
>
> ‘Mr Meyer has alleged that Grünenthal has been paying for the experts of the Medical Commission of the Contergan Foundation for 30 years. This allegation is untrue. The experts of the Medical Commission have always been paid out of funds of the Contergan Foundation.'
>
> I hereby make the following rectification. Mr Meyer’s statements were not untrue. Since 1973 Grünenthal GmbH has made lump sum payments to the Contergan Foundation to fund the experts of the Medical Commission of the Contergan Foundation.”

The Defendant requests – with dismissal of the appeal of the opposing side –

To amend the judgement of the Bonn Regional Court of 10.05.2017 – 13 O 136/16 – and to reject the suit in full.

The Defendant principally makes reference to the argument that the statements that are the subject of the case were made by the Defendant with the agreement of the Management Board of the Contergan Foundation as a necessary written supplement to the expert hearing of its Chairwoman, Mrs Blumenthal on 01.02.2013 to the Committee for Family Affairs, Senior Citizens, Women and Youth and were thus subject to the privileged status of the right of free speech in § 193 BGB, and that it furthermore concerned an expression of opinion with reference to the dual function of the witness Wartensleben. Independently of this it was argued on the part of the Defendant that with reference to both the witness Wartensleben and the witness Ritzerfeld comprehensive precautions were made to prevent a flow of information to the Grünenthal company, and that the opposing argument of the Plaintiff according to which the Grünenthal company had had ongoing insight into the medical files of the affected persons was “mere” speculation.

For all further details of the submissions of both sides, reference is made to the exchanged written pleadings as well as the annexes.

II.
Both appeals are procedurally unobjectionable. They are partially justified.

1. The Plaintiff, who is affected in his claim of social validity, can demand from the Defendant according to §§ 823 Section 1, 1004 Section 1 BGB analogous in connection with Art 1, Art 2 Section 1 GG to cease and desist in full from making the statements to which objection is made, while a claim for the requested rectification does not exist due to the absence of any ongoing damage to his reputation.

   a.
   The Regional Court correctly assumes that a legitimate interest to take legal action exists for the Plaintiff’s claim. However, the legitimate interest would be absent in the case of statements by a participant for the concrete preparation of, or in the course of, a legal or administrative proceeding (see FCJ Judgement of 28.02.2012 – VI ZR 79/11 – NJW 2012, 1659-1660). For it is a requirement of the rule of law, and a particular attribute of the right to a fair hearing as guaranteed by the Basiv Law, that in pending proceedings the parties may present as arguments everything that they consider necessary for the recognition of their rights, even when these may affect the honour of another party. However, these principles only apply when the legal system opens up independent ways to the person affected by a statement to safeguard his interests, and the operation of the process of protecting his honour alongside this sufficient procedure for safeguarding his interests would come into conflict with the different jurisdictions in the administration of justice (see FCJ Judgement of 05.05.1981 – VI ZR 184/79 – Paragraph 11). But the hearing before the Committee for Family Affairs, Senior Citizens, Women and Youth that is under

consideration here has nothing in common with this (see FCJ ibid. for the comparable case of an expert hearing in the main committee of a Federal State Parliament). This is because such a hearing does not serve the purpose of the final resolution of disputed matters in a process similar to legal proceedings. Rather, the purpose of a hearing before a Federal parliamentary committee is to prepare for decision-making by the Federal Parliament in plenum; the intention is that the statements and information in the expert committee are to prepare for the forming of the opinion of the plenum (see Jarass/Pieroth commentary on GG 14th edition, Art 40 Paragraph 4).

b.
The cease-and-desist request that is the subject of the present case is also fully justified, i.e. beyond the scope of the operative part of the judgement in the First Instance, because the explanations that are objected to here, which are to be understood as assertions of fact, are indisputably untrue. Thus, the underlying facts – on the one hand regarding the (dual) function of the corporate lawyer and attorney Wartensleben and his assistant, the Grünenthal employee Ritzerfeld, and on the other hand regarding the contributions made by the Grünenthal company towards financing the work of the Medical Commission – are not in dispute between the parties, they merely evaluate the factual basis differently insofar as this is of importance for the decision. For the further dissemination of an untrue assertion of fact, an interest worthy of protection cannot exist in terms of the fundamental right of freedom of opinion (FCJ, judgement of 22.06.1982, VI ZR 251/80, NJW 1982, 2246, 2247 – Klinikdirektoren). An untrue assertion of fact is not covered by the protection of Art. 5 I 1 GG (see FCJ Judgement of 26.11.1996, VI ZR 323/95, NJW 1997, 1148 – “Stern-TV”).

aa)

c.
For the permissibility of a statement, it is decisive whether it concerns assertions of fact or expressions of opinion. Assertions of fact are characterised by the objective relationship between statement and reality, and their truth can be verified. By contrast, value judgements and expressions of opinion are marked by the subjective relationship of the person making the statement to the content of his statement. With assertions of fact, the weighing-up between the conflicting interests depends on the truth of their contents. As a rule, true assertions of fact are to be accepted even when they are disadvantageous for those affected, while untrue assertions are not (see FCJ Judgement of 13.01.2015 – VI ZR 386/13 – “Promi-Friseur”, NJW 2015, 776, juris Tz. 15 with further references). Insofar as a statement in which facts and opinions are mingled is marked by elements of opinions, viewpoints or beliefs, it is protected as opinion by the Basiv Law in Art. 5 Abs 1 S 1 GG. Equally however, even if the statement as a whole is to be seen as a value judgement, the truth of its factual components carries weight in weighing-up between the conflicting interests

(see FCJ Judgement of 01.03.2016 – VI ZR 34/15 – jamada.de II NJW 2016, 2016, juris Tz. 33, 36). Excluded from the protection of Art. 5 Abs 1 GG are thus only deliberately untrue assertions of fact and those, the untruth of which can already be determined at the moment of their expression. All other assertions of fact with an expression of opinion enjoy the protection of the Basiv Law, even when they turn out later to have been untrue (FCJ Judgement of 17.12.2013, VI ZR 211/12, GRUR 2014, 693, Paragraph 23, Sächsische Korruptionsaffäre – with further references).

The prerequisite for the correct categorisation of a statement is thus an investigation of the statement's content. Here, the judgement cannot be based on a reading of the text highlighted in the suit in isolation. Rather, it must be interpreted in connection with the complete text of the statement. Decisive for the understanding of the assertion is thus neither the subjective viewpoint of the person making the statement nor the subjective understanding of the person affected by the statement, but its meaning according to the understanding of an uninvolved and intelligent average member of the public (FAC judgement of 25.10.2005 – 1 BvR 1696/98 – "IM Stolpe", NJW 2006, 207, juris Tz. 31).

Following from these principles, the Defendant made assertions of fact with respect to both of the disputed statements. Also the classification of the statement of another person as truth or lie is – when the truth of the content of the statement can be verified – to be seen as an assertion of fact (see FCJ Judgement of 26.11.1996 – VI ZR 323/95 -, NJW 1997, 1148 "Stern-TV"). In his written statement, the Defendant firstly repeats each of the Plaintiff's statements in the committee session, in order to then explain that the "allegations" were "untrue". This is followed, as a kind of rectification, by stating his own version of the facts. The core statement of the Defendant is thus that the Plaintiff had alleged something untrue in the committee hearing. It must be taken into account in particular that the Defendant's letter that is the subject of the present case was addressed to the then members of the committee. As participants in the session, they could understand the explanations in the letter only in the context of the Plaintiff's earlier statements in that committee hearing. Thus it is clearly not a case of an expression of opinion, because the question of whether the Plaintiff had alleged an untruth in the committee hearing is not a matter of opinion but is subject to the proof or otherwise of its truth. Insofar as the Defendant wishes to place in the foreground of the grounds for appeal that the case concerns the "dual function" of Attorney Wartensleben and is thus – in his view – an expression of opinion, this point is not reflected in his explanation according to the principal contents of the statement ("this allegation is untrue").

(1)

With reference to the decisive understanding of the average recipient, the content of the statement in the Plaintiff's declaration comprises firstly that Grünenthal employees had had the possibility of looking into the medical files via the Contergan Foundation ("for 30 years, *Grünenthal looked into our medical files* in the Contergan Foundation"), while in the same context the Defendant asserted in the form of a denial that Grünenthal had at no time had access to the medical files, as was already correctly determined by the Regional Court.

(2)
When, in what follows concerning the question of financing, the Regional Court assumes that the further statement in the Defendant's letter of 22.02.2013 to which objection is made is only to be understood as meaning that the experts in the Medical Commission were not paid directly by the Grünenthal company, the Senate is unable to agree with this. The Regional Court argues that in the following sentence, "the experts of the Medical Commission have always been paid out of funds of the Contergan Foundation", the Defendant qualifies the originally complete denial of the Plaintiff's statement by saying that the experts of the Medical Commission were always paid out of funds of the Contergan Foundation, and thus the Plaintiff's assertion did not refer to an indirect financing by Grünenthal. This is not convincing. Because it must be taken into account that, in his explanation, the core of the Defendant's statement as seen by an average recipient is that the Plaintiff had spoken an untruth to the committee. But it can be seen from the meaning contained in the overall context that the Plaintiff's declaration during the committee meeting that it also related to indirect payments to the experts. Because the Plaintiff had followed the passage claimed by the Defendant's side as untrue with "and", that even today the Chairwoman of the Management Board of the Contergan Foundation who was present at the committee meeting advocated a contract with the Grünenthal company to take over the costs of the Medical Commission. But in the year 2005 the Grünenthal company had contractually agreed to make an annual payment of 24,000.00 EUR to the Contergan Foundation which was to serve for the indirect coverage of expenses by the Medical Commission. The supplementary statement by the Plaintiff was clearly referring to this, because in the passage that is the subject of the present case he had ended his train of thought with the remark that the payment of costs by Grünenthal would only be of benefit to the Federal Government ("namely the costs of the Medical Commission"), because otherwise the Federal Government would have to pay the costs of the Medical Commission.

bb)
These statements by the Defendant are untrue.

(1)

The Regional Court correctly recognised that, independently of whatever may have been the contents of the “reference files” that were ultimately transferred to the Grünenthal company’s archives, Attorney Wartensleben had received the medical files (according to his letter of 3.9.2013, Annex B 6, Annex Volume II), so that these were accessible to employees of this company. Mr Wartensleben received them in his capacity as a member of the Medical Commission of the Contergan Foundation, but at the same time he was employed in the initial period as this company’s corporate lawyer, and later, after leaving the company, he represented it as an attorney. The same applies, for the whole of Mr Wartensleben’s period of activity, to his assistant and employee Ritzerfeld, who was an employee of Grünenthal. It may be that one can speak of a “dual role” of Attorney Wartensleben and the other employee Ritzerfeld. It may also be that one can assume the imposition of “confidentiality” by statute or in law, or at least organised in the form of a so-called “Chinese wall”. However there was always an identity of the persons involved, which on this account alone could justify the *possibility* for “Grünenthal” to become aware of the contents.

(2)
It is also not in dispute that the financing of the work of the Medical Commission was at least partly secured by a lump-sum payment which the Grünenthal company transferred to the Contergan Foundation. This practice had existed since 1973 and was placed on a contractual basis in 2005, under which the Grünenthal company agreed to make an annual payment of 24,000.00 EUR to the Contergan Foundation to serve as coverage of expenses by the Medical Commission. The question which remains in dispute between the parties, of whether payments to the experts were made directly by the Contergan Foundation, which the Regional Court took as the sole basis for its judgement, is not decisive here.

The cease-and-desist claim is thus founded on the fact that untrue assertions were made by the Defendant which were in danger of repetition. The question of whether the Defendant had made these assertions in the position of an expert (or equivalent) through the letter that is the subject of the present case is not relevant here. It is true that the Federal Court of Justice has stated that the possibility that an “expert” could later be subjected to an injunction on account of his presentations in a committee hearing could have repercussions on the unbiased, independent and unconditional fulfilment of the duty given to him by Parliament, which must be taken into account in the weighing-up of benefits and interests (FCJ Judgement of 05.05.1981 - VI ZR 184/79 - Paragraphs 13 and 14). However it is also clear that in the situation where the untruth of the statement objected to has been determined (as here), a weighing-up of benefits does not apply, because an interest worthy of protection never exists for the repetition of such statements, analogous to the meaning of § 193 StGB (FCJ ibid. Paragraph 35, and Senate judgement of 08.06.1999 - 15 U 110/98 - Paragraph 143).

Moreover, the Senate does not consider that the Defendant was performing a function similar to that of an expert when he sent the letter to the parliamentary committee. It is true that the Chairwoman of the Contergan Foundation was unable to answer the questions about the Plaintiff's statements that were put to her in the hearing, but the Defendant was not appointed or requested to answer them in her place. He himself explained, in the letter of 22.02.2013 that is the subject of the present case, that he saw himself obliged as "a member of the Management Board of the Contergan Foundation" and "a listener in the public hearing" to respond to the statement by the Plaintiff by opposing the Plaintiff's supposed deliberately untrue assertions, which in his view were only designed to discredit the Contergan Foundation and put it in a bad light.

d. Further-reaching claims do not exist.

It is fundamentally the case that, with the appropriate application of §§ 823 Section 1, 1004 BGB, an affected person can demand from the troublemaker the correction of an assertion of fact that is undisputedly, or proven to be, untrue in order to put an end to a situation of ongoing damage to his reputation and thus stop the illegal disruption (see for example FCJ Judgement of 22.04.2008 - VI ZR 83/07 - BGHZ 176, 175-191). Forms of correction are in particular a retraction, or a rectification which is less drastic for the troublemaker (see FAC Decision 99, 185, 199; FCJ Judgement of 25.11.1997 - VI ZR 306/96 - VersR 1998, 195, 196 with further references; Wenzel/Gamer, Das Recht der Wort- und Bildberichterstattung, 5th edition, Chapter 13 Paragraph 6 ff.).
In the present case however, the prerequisites for the claim for rectification made here on the part of the Plaintiff are not seen as fulfilled.
It is true that both statements were untrue assertions of fact (see above). However, because a claim for correction represents a sanction and thus a "loaded weapon" that demands a declaration from the opponent by which he places himself in the wrong in relation to its recipients, a correction can only be demanded when it is necessary in order to counteract a still ongoing loss of reputation of substantial weight. From this viewpoint of necessity, the aspect of immediacy is particularly to be taken into account. Anyone who, after becoming aware of untrue assertions of fact affecting him and touching his honour, waits for an unusually long time before asserting a claim for correction without being able to explain this convincingly, makes it appear from his behaviour that he does not consider the damage arising from the false assertion to be so serious that the enforcement of the claim for correction is necessary (see Korte "Praxis des Presserechts" § 5 Paragraphs 170 and 171; Soehring in Soehring/Hoene "Presserecht" 5th edition. § 31 Paragraph 8b). It is thus to be assumed, at least after a period of one year, that the immediacy and thus the necessity of a correction can be discounted (Soehring ibid. with further references). The hearing of the Plaintiff and the reaction of the Defendant that is the subject of the present case already took place in February 2013. The answer of the Federal Government to the Minor Interpellation, in which reference was made to the

Defendant's letter of 22.02.2013, was given on 23.04.2013 (Annex B 4). But then the Plaintiff still waited to submit his suit until 07.06.2016, i.e. much longer than a year, and until a time when the 17th Legislative Period of the German Federal Parliament had long been completed. Thus, the Committee for Family Affairs, Senior Citizens, Women and Youth of the German Federal Parliament in the 17th Legislative Period in its then composition, to the members of which the rectification should be made according to the Plaintiff's petition, could no longer concern itself with hearings on any proposed legislation. Because with the end of the legislative period the principle of personal and factual discontinuity applies (see Maunz - Dürig Art 39 GG Paragraphs 50 and 53). Although the Plaintiff pointed out in the oral proceedings that in many respects an identity of persons existed between today's committee members and those of the 17th German Federal Parliament, a correction was not requested in relation to the new Members of Parliament, while it was requested that former Members of Parliament should also be informed. Thus however, the ongoing necessity of such a rectification is not clear.
The delayed assertion of the claim for rectification by the Plaintiff also cannot be explained by waiting for the information delivered on 07.10.2014 on completion of the work of the law firm GSK Stockmann + Kollegen regarding the discovery of files of the Contergan Foundation in the archives of Grünenthal GmbH. Even at this time, the events that are the subject of the present case were considerably more than a year old and it cannot be seen that the delayed assertion of the claim for rectification was connected to the activities of these lawyers. It is true that in the statement of the claim there was a file note dated 14.04.2015 (Annex K 3) which concerned both the payments by the Grünenthal company and the position of Attorney Wartensleben and his employee, but the activities of this body still continued into the recent past.

2. The subsidiary procedural decisions follow from §§ 91, 92, 97,. 709 ZPO.

3. There is no reason to permit a further appeal. The preconditions of § 543 Section 2 ZPO are not present. It concerns a decision in an individual case without fundamental significance.

Value in dispute:
45,000.00 € in total;

- For the appeal of the Plaintiff 25,000 € (for the cease-and-desist request for 1.b. 10,000 € as well as for the corresponding rectification request for 2. 15,000 €)
- For the appeal of the Defendant 20,000 € (for the cease-and-desist request for 1.a. 10,000.00 € as well as for the corresponding rectification request for 2. only 10,000.00 €, because the sentence "the reference files of Mr Herbert Wartensleben were held initially by himself and subsequently in the archives of the company Grünenthal GmbH" was already rejected.)

Reske Dötsch Kahsnitz

Notarised
Cordier-Ludwig, Judicial Inspector
as Registrar of the Court

Note: This English translation is unofficial. Only the original German text carries legal authority.