

# FECHNER LEGAL

Rechtsanwalt • Lawyer

Fechner Legal · Georgenstraße 35 · 10117 Berlin

Wikimedia Foundation Inc.  
Eileen Hershenov, Designated Agent, c/o  
CT Corporation System, 818 West Seventh  
Street  
90017 Los Angeles, California  
United States

## Rechtsanwalt

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Berlin, den 07/11/2018

## Bankverbindung:

[REDACTED]  
IBAN: [REDACTED]  
BIC: [REDACTED]

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www.fechner-legal.de  
contact@fechner-legal.de

Zeichen: 266-00082

Via E-Mail to: [jrogers@wikimedia.org](mailto:jrogers@wikimedia.org); [legal@wikimedia.org](mailto:legal@wikimedia.org)

**Infringement of Copyright:** Müller / Wikimedia Foundation Inc. (266-00082)

- Without Prejudice -

Dear Mr. Rogers,

In the case Müller / Wikimedia Foundation Inc. I refer to the previous correspondence. Unfortunately, I did not receive any payment within the allowed time. I therefore call on you again to take the chance to settle extrajudicially. If it comes to court proceedings at the District Court of Berlin, the legal costs will be much higher.

I strongly suggest you take a look at the judgement of the European Court of Justice from October 3<sup>rd</sup>, 2013: <http://photoclaim.com/en/verdicts-and-orders/> if you assume that in United States in a matter of copyright infringement on the Internet the lawsuit cannot be filed in Germany.

The Court of Justice of the European Union has decided on 22 January 2015 under the file C-441/13 that, in the case of copyright infringements on the Internet, the court of each Member State is competent within the EU in the place where either the infringement has been carried out (place of action) or in the place where the website with the copyrighted work was made available (place of success). Therefore, the court at the registered office of the injured party is responsible, as long as the infringing content was available there over the Internet. According to the ECJ, it is not a matter of whether the website in question is "directed" to the Member State of the court seized, but its mere accessibility in a Member State justifies the jurisdiction of the court in that Member State. **Naturally, also possible for my client, to claim his rights in front of the national courts through one of our international partners. The costs occurring in such event, however, will be much higher for you.**

Should you suspect that we cannot enforce a verdict in United States even in the event of a successful trial, I would like to draw your attention to the European Order for Payment procedure. It is no longer a problem to enforce payments within the European Union; borders do not stop the process.

Possible risk of process costs in Germany (1<sup>st</sup> court; Value in dispute €6.000):

Attorneys' fees (plaintiff), § 13 Abs.1 RVG, Anlage 1 VV 2300 13/10	€1,076.95
Attorneys' fees (respondent), § 13 Abs.1 RVG, Anlage 1 VV 2300 13/10	€1,076.95
Court fees, §3 GKG, Anlage 1 1210 30/10	<u>€495.00</u>
<b>Total risk of process costs</b>	<b>€2,648.90</b>

The outstanding balance is not included in the risk of process costs.

**Bear in mind that you are in default since the deadline of my previous letter and additional costs in the amount of 5% above the basic interest rate published in the German Federal Gazette by the German Central Bank arise daily.**

Payments that are made on the account above until **15/11/2018** can prevent a lawsuit. Should you fail to meet the outstanding balance in the amount of **€4,472.10**, including interest of €634.36, within the given period, my client asked me to institute proceedings.

Should you decide to settle out of court, please include the case number in the title of the transfer for us to identify the payment. This will also allow us to send you a confirmation of settlement as soon as possible.

We hope that we can find an amicable solution to settle out of court. Please don't hesitate to contact me if you have any questions.

Yours faithfully,



Robert Fechner  
Rechtsanwalt