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**TRANSCRIPT**  
**FROM**  
**THE RECORD OF JUDGMENTS OF THE MARITIME AND COMMERCIAL**  
**COURT IN COPENHAGEN**

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**RULING**

given on 11 December 2014

A-38-14

- 1) Fritz Hansen A/S
  - 2) Louis Poulsen Lighting A/S
  - 3) Carl Hansen & Søn Møbelfabrik A/S
  - 4) Fredericia Furniture A/S
  - 5) Erik Jørgensen Møbelfabrik A/S
- (all represented by lawyer Peter Schønning)
- v.
- Telia Danmark
- A company in Telia Nättjänster Norden AB
- (represented by lawyer Steen Thorup)

**Introduction**

The case relates to the question of whether Telia Danmark, a company in Telia Nättjänster Norden AB ('Telia Danmark'), should be ordered to block their customers' access to the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk).

### **Claims**

Fritz Hansen A/S, Louis Poulsen Lightning A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen (the 'Plaintiffs') have made the following claims:

1. As an Internet service provider, Telia Danmark must be prohibited from allowing its customers access to the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk) and associated subpages and subdomains.
2. Telia Danmark must be prohibited (The verb used in the Danish source text is "forbydes" (prohibited), but it should be "påbydes" (ordered). We have contacted the court and asked them to correct the mistake in the source text, ed.) from taking the appropriate legal action to prevent Telia Danmark's customers from accessing the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk) and associated subpages and subdomains.

Telia Danmark submits that the request for the granting of an injunction be denied.

### **Details of the case**

On 20 May 2014, the Maritime and Commercial Court in Copenhagen delivered judgment in a case (V-63-12) brought by the Plaintiffs against Interior Addict Ltd. which sells slavish copies of designer furniture and other decorative items. Each of the Plaintiffs hold the rights to a number of Danish designer furniture classics and decorative items under licensing agreements. According to the judgment, Interior Addict Ltd. was required to cease and admit to the following activities:

"Interior Addict Ltd. must be prohibited from selling and marketing copies of the works mentioned in Exhibit 1 manufactured without permission from Fritz Hansen A/S, Louis

Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S with a view to delivery or import to Denmark.

...

Interior Addict Ltd. must admit to wrongfully reproducing, without permission from Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S, via the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk), the works mentioned in Exhibit 1 manufactured without permission from Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S, in Denmark.

Interior Addict Ltd. must admit to wrongfully offering, without permission from Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S, via the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk), the works mentioned in Exhibit 1 manufactured without permission from Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S, to customers in Denmark.

Interior Addict Ltd. must admit to wrongfully marketing, without permission from Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S, via the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk), the works mentioned in Exhibit 1 manufactured without permission from Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S, to customers in Denmark.

Interior Addict Ltd. must admit to wrongfully using the trademarks mentioned in Exhibit 2 in Denmark in connection with the business carried on by Interior Addict Ltd. in contravention of the trademark rights held by Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S.

Interior Addict Ltd. must admit to wrongfully advertising, without permission from Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S, the sale of the works mentioned in Exhibit 1, in electronic, printed and other media that are published or otherwise aimed at Denmark, such works being manufactured without permission from Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S.

...

Interior Addict Ltd. must admit to wrongfully distributing, without permission from Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S, copies of the works mentioned in Exhibit 1 manufactured without permission from Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S, on Danish territory or to contribute to such distribution.

...

Within 14 days, Interior Addict Ltd. is required to pay DKK 200,000 to Fritz Hansen A/S, Louis Poulsen Lighting A/S, Carl Hansen & Søn Møbelfabrik A/S, Fredericia Furniture A/S and Erik Jørgensen Møbelfabrik A/S, including litigation interest as of 20 November 2013.

..."

It appears from the screen dump of Interior Addict Ltd.'s website dated 1 September 2014 that Interior Addict Ltd. continued to reproduce, market and sell copies of the works to which the Plaintiffs hold the licensing rights and that the products were now being sold at half price. The works represent a significant part of the products offered on the website. It appeared from the 'Terms and Conditions' section that the products would be delivered to the seller's warehouse in the UK. The buyer could either collect the goods there or arrange for a third party carrier to collect the goods at the warehouse. Clause 6.5 of the Terms and Conditions:

"The title in Goods will only pass to the Buyer upon cleared full payment of the price and on delivery of the Goods to the Delivery Address. Depending on the country and region, Goods will be delivered to street level, between 9am and 2pm Monday-Friday, or taken into the room of your choice either in the morning or afternoon Monday-Friday;"

Delivery & Returns section:

**Delivery of your furniture**

In stock items: If your products are in stock we aim to deliver within 7-14 days (for deliveries to Denmark)...

...

**Delivery prices**

...

Delivery charges for the rest of Europe: Delivery to ground floor and front door in Europe, including Denmark...

Delivery charges for deliveries to Denmark are shown on the 'Shopping basket' page. ...

On the website, next to the text 'We deliver to all of Europe!', a map of Europe was shown, where Denmark and six other countries were highlighted.

The Plaintiffs have stated that they have been unable to reach Interior Addict after judgment was delivered by the Maritime and Commercial Court in Copenhagen. Nor has the lawyer

who represented Interior Addict during the case in the Maritime and Commercial Court been able to reach Interior Addict.

On 22 September 2014, the Plaintiffs submitted a request for the granting of an injunction against Telia Danmark, which as an Internet service provider allows its customers access to the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk).

On 1 October 2014, Telia Danmark sent an email via their lawyer to Jason Graham, Managing Director of Interior Addict, at the address [j.graham@live-ionic.com](mailto:j.graham@live-ionic.com), informing him that Telia Danmark had been served with a summons claiming that they block their customers' access to Interior Addict's website [www.interioraddict.co.uk](http://www.interioraddict.co.uk). Telia Danmark sent a reminder email to the same address on 13 October, pressing for a reply. However, the email was undeliverable as the email address could either not be found or was invalid. On 14 October 2014, Telia Danmark sent a letter to Interior Addict at their business address in London. The letter contained the same information as provided in the email of 1 October 2014. Interior Addict has not responded to Telia Danmark's enquiries.

### **Views of the parties**

*The Plaintiffs* have essentially pleaded as per the request of 18 September 2014, which states, among other things:

"In support of the claims made by the rights holders, the following submissions are made:

1. Copyrighted works to which the rights holders hold the exclusive copyrights are offered and reproduced on the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk). This constitutes an infringement of the rights holders' rights under the Danish Copyright Act (*Ophavsretsloven*).
2. Trademarks to which the rights holders own the exclusive rights in Denmark are used in the course of the business carried on on the

website [www.interioraddict.co.uk](http://www.interioraddict.co.uk). This constitutes an infringement of the rights holders' rights under the Danish Copyright Act.

3. The supply of slavish copies of the works listed in Exhibit 1 in Denmark constitutes a violation of Section 1 of the Danish Marketing Act (*Markedsføringsloven*).
4. In a judgment delivered on 20 May 2014, the Maritime and Commercial Court found that the actions taking place on and via the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk) are illegal under Danish law and infringe on the rights of the rights holders.
5. The copyright infringements on the website continue, and permission for the actions taking place has not been granted by the rights holders.
6. The reproductions (and, by extension, the infringements) at issue in the case brought before the Maritime and Commercial Court represent a significant part of the total offering of reproductions on the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk); blocking access to the entire website would therefore not be disproportionate. The injunction is aimed at potential customers in Denmark, which largely primarily the Danish design reproductions (The Danish verb “aftager” (buy) is missing in the source text. The translation “buy” should be inserted between “largely” and “primarily”, ed.).

7. The copyright infringements occur during transmission on the part of the Internet which Telia is physically/actually capable of controlling.
8. Article 8(3) of the Information Society Directive and Article 11 of the Directive on enforcement of intellectual property rights provide for an injunction to be granted against Internet service providers such as Telia. Both provisions are implemented in Danish law; see decided cases in 2006.1474 H and 2010.2221 H of the Danish weekly law reports, among others.
9. Section 14 of the Danish E-commerce Act (*E-handelsloven*) does not preclude the possibility of an injunction against Telia's actions, which objectively infringe on the right holders' exclusive copyrights.
10. In light of the above, Telia must be ordered to take appropriate and necessary steps to prevent its customers from accessing [www.interioraddict.co.uk](http://www.interioraddict.co.uk).
11. The general rules on injunctions set out in Part 40 of the Danish Administration of Justice Act (*Retsplejeloven*) do not imply subjective liability, but only the occurrence of illegal activities in the Internet service provider's network.
12. The actions against which an injunction is sought clearly infringe on the rights of the rights holders; see judgment delivered by the Maritime and Commercial Court on 20 May 2014.

13. The illegal activities against which an injunction is sought are expected to continue. The general rules of law on punishment and compensation do not provide adequate legal protection for the rights holders, just as the rights holders' right would be lost if they had to await a decision in ordinary proceedings. Reference is made to Sections 413 and 414 of the Danish Administration of Justice Act. It should be noted that, in connection with the tightening of the conditions in the Danish Administration of Justice Act for granting injunctions, the legislators have expressly established in the preparatory works that the conditions for granting injunctions will generally be fulfilled in cases regarding intellectual property right infringements.

In connection with the granting of the injunction, the following is submitted with respect to the provision of security:

14. Telia customers that are prevented from accessing [www.interioraddict.co.uk](http://www.interioraddict.co.uk) will not be able to claim compensation from Telia. Telia will therefore not suffer any loss on account of such injunction. In light of the above, the rights holders are not required to provide security in connection with the injunction.

During the main proceedings, the Plaintiffs further argued that Telia must comply with an injunction in the event of a DNS level block. It was also argued that a significant part of the products marketed on the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk) infringe on the Plaintiffs' rights. Products on the website that may not be protected by copyright will only constitute an insignificant part of the product offering. It will therefore not be disproportionate to order Telia to block access to the website.



*Telia* has essentially pleaded as per the defence of 10 October 2014, which states, among other things:

"In support of the claim made, it is submitted:

- that it is for the Plaintiffs to prove that an injunction can be granted as claimed,
- that it is for the Plaintiffs to prove, among other things, that the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk) contains sufficient illegal material to warrant such injunction,
- that *Telia Danmark* is an Internet service provider only and has no knowledge of or responsibility for the website comprised by the case,
- that *Telia Danmark* is primarily interested in a substantively correct decision being made, thus providing *Telia Danmark* with a secure cause of action, and
- that this reduces the risk of *Telia Danmark* becoming involved in further proceedings regarding the case as much as possible, including claims for compensation made by the owner."

During the main proceedings, *Telia Danmark* further argued that any decision regarding the granting of an injunction must specify the block level.

The parties have agreed that each party will bear its own costs.

#### **Decision of the Danish Maritime and Commercial Court**

In a judgment delivered on 20 May 2014, the Maritime and Commercial Court found that the Plaintiffs' intellectual property rights are being infringed on Interior Addict's website [www.interioraddict.co.uk](http://www.interioraddict.co.uk). It is submitted that Interior Addict, without permission from the Plaintiffs, continues to reproduce and offer products in Denmark that are identical to those

comprised by the judgment delivered by the Danish Maritime and Commercial Court on 20 May 2014. Furthermore, given the information available on [www.interioraddict.co.uk](http://www.interioraddict.co.uk), it is likely that the products are still being delivered to customers in Denmark.

It follows from Article 8(3) of Directive 2001/29/EC of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (the Infosoc directive) that the rights holders may demand that an injunction be granted against Internet service providers whose services are used by a third party to infringe on their copyright. The directive was transposed into Danish law by Act no. 1051 of 17 December 2002. An injunction is conditional upon the fulfilment of the provisions of Part 40 of the Danish Administration of Justice Act; see the remarks on the amending act (Office of the Folketing Hansard 2002/03, Section A.) regarding Section 11a(1).

Furthermore, it follows from Article 11 of Directive 2004/48/EC on the enforcement of intellectual property rights that the member states must ensure that rights holders are able to seek an injunction against an intermediary whose services are used by a third party to infringe on intellectual property rights.

By allowing its customers access to the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk), Telia Danmark is contributing to the manufacture and making available of the works to the general public in Denmark to which the Plaintiffs hold the exclusive rights; see Section 2 of the Danish Copyright Act. As the Plaintiffs have not given their consent to such manufacture and making available, the conditions stipulated in Section 413, i and ii, of the Danish Administration of Justice Act are deemed to be fulfilled.

Given the fact that Interior Addict have continued their actions despite an enforceable judgment, it would serve no purpose if the Plaintiffs had to assert their rights through ordinary proceedings; see Section 413, iii, of the Danish Administration of Justice Act.

Moreover, as it can be submitted that the products infringing on the Plaintiffs' rights represent a significant part of the range of products offered at [www.interioraddict.co.uk](http://www.interioraddict.co.uk), and that it would actually be possible for Telia Danmark to establish a DNS level block of the website, a block is not deemed to unfairly prevent Internet users from accessing information to which they are legally entitled, and a block will not contravene the principle of proportionality.

Therefore, the granting of an injunction will not contravene the rules of the Act on services in the information society, including certain aspects of e-commerce (Danish E-Commerce Act (*E-handelsloven*)); see 2006.1474 H of the Danish weekly law reports.

The claims made by the Plaintiffs are allowed by the Court.

As the infringements have been established by judgment, the Plaintiffs are not required to provide security for the damage and inconvenience that Telia Danmark may suffer on account of the injunction; see Section 415 of the Danish Administration of Justice Act.

**It is held that:**

As an Internet service provider, Telia Danmark, a company in Telia Nättjänster Norden AB, is prohibited from allowing its customers access to the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk) and associated subpages and subdomains.

Telia Danmark, a company in Telia Nättjänster Norden AB, must prevent the customers of Telia Danmark, a company in Telia Nättjänster Norden AB, from accessing the website [www.interioraddict.co.uk](http://www.interioraddict.co.uk) and associated subpages and subdomains by establishing a DNS level block.

Each party will bear its own costs.

Mette Christensen

**(Sign.)**

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**This is certified to be a true copy**  
**Maritime and Commercial Court in Copenhagen, [date]**