Facebook to Face 25,000 Users in Court: First Hearing of European Privacy Class Action in April.

The largest privacy class action in Europe is getting concrete: The responsible court in Vienna, Austria has scheduled the first hearing on April 9th. Facebook so far remains silent on the alleged violation of European privacy laws and instead focuses on formalistic counter-claims.

Delay-Tactics. In the first formal pleadings¹ Facebook mainly focused on delaying the procedure by submitting formalistic objections, while the class action (PDF) focused on a large number of specific violations of the users' rights: Invalid privacy policies; illegal collection and forwarding of user data; surveillance of users' via "like buttons" or "apps"; or the participation in the NSA "PRISM" program. However Facebook remains silent on these accusations. Instead, Facebook simply "refutes" all claims across the board, without explaining why. Facebook simply claims that it cannot be sued by its users.

First Step: Admissibility. On April 9th Facebook will now have to face the court. In a first step the court will decide about Facebook's objections on the admissibility of the lawsuit. Facebook is of the opinion that it cannot be sued: A lawsuit of a larger number of users would be illegal in Ireland (the international headquarter of Facebook), because such a lawsuit would – according to Facebook – violate the "public order" of Ireland. At the same time Facebook claims that the lawsuit is also inadmissible in Austria (the location of the plaintiff). Facebook claims that it cannot be sued anywhere effectively. This, and other claims, was now rebutted in the final submissions of the plaintiff (PDF, in German). "We have reviewed all objections from Facebook in great detail and came to the conclusion that they lack any substance. It seems that they try to delay the procedure with partly really bizarre arguments," said Dr. Proksch, the lawyer representing the users.

Timeline. The lawsuit was filed on August 1st 2014. Within the first six days, more than 25,000 Facebook users have assigned their claims to participate in the class action (<u>country breakdown</u>). More than 50,000 additional Facebook users have since then registered on <u>www.fbclaim.com</u> to join the class action at a later stage. This means that more than 75,000 users have applied to join the class action.

Right at the beginning, Facebook has unrightfully refused the German version of the lawsuit and delayed the procedure through the thus necessary second international delivery. In November 2014, Facebook's lawyers have filed the formal response to the lawsuit and in essence only claimed that the lawsuit is not admissible. Facebook did not agree to the publication of this formal response. The court has now asked for additional submissions and set the first court hearing for April 9th 2015. A detailed timeline of the procedure, including all documents and media updates can also be found here.

Possible Consequences for Facebook. The claimants demand a suspension of data usage by Facebook that violates European privacy laws and ask for a nominal compensation for damages of € 500 per person. A judgment could accordingly cost Facebook more than € 10 Mio, but this would be the lesser problem for Facebook, given that the court could declare its questionable business practices illegal under European law. Given the strict privacy laws in Europe, there are very good chances the lawsuit will be won.

Background & Factsheets. The class action is organized as a non-profit arrangement and financed by the German procedure financing company "ROLAND Prozessfinanz AG". Participating users have no financial risk. You can find further information here, a factsheet on legal details can be found here.

Questions? Email: media@fbclaim.com or via phone at +43 660 1616 327 (not always available).

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¹ Facebook has unfortunately not agreed to the submissions to be published.