



WE CARE ABOUT FOOTBALL

Union des associations européennes de football

By email: Bergische@brustkrauler.de

Your reference

Your correspondence of

Our reference  
LEVE/gid

Date  
19.06.2008

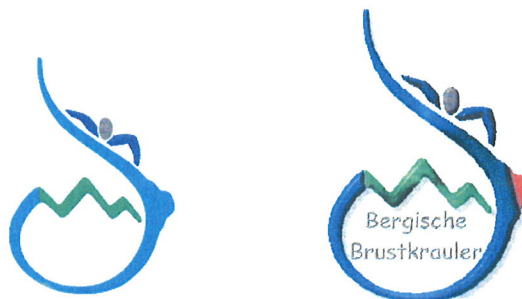
**Your email dated 17 June 2008**

Dear Sir/Madam,

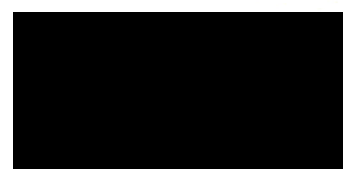
We received your email of 17 June 2008, which was signed with „DER PRÄSIDENT“. Within this email you claim that our UEFA EURO 2008 logo



infringed your not further specified intellectual property right in the following logos:



Certainly, we do not have to point out that we take such severe accusations very seriously, even if they are as obviously unfounded as in the present case. Consequently, you should



reconsider the allegations and claims in your email. The following comments will help you to get a first impression of the legal deficiencies of your legal opinion.

1. The term “intellectual property rights” does not designate a specific kind of legally protected absolute rights. It is only a generic term comprising and designating various kinds of intangible absolute rights, such as trademarks, patents and copyrights. Consequently, it is not possible to base infringement claims on (only alleged) “intellectual property rights” as such. You would have to clarify (and prove) what specific kind of intellectual property right was infringed by our UEFA EURO 2008 logo. For example, our UEFA EURO 2008 logo is registered, inter alia, as an international trademark (IR 869651) for a large variety of goods and services. This international trademark is also valid in Germany.
2. Obviously you do not own any trademark rights in the signs shown above. Moreover, besides trademark law, there are no legal regulations on which your absolutely unfounded claims can be based. In particular they can not be derived from the German regulations concerning copyright laws (UrhG), as you can see from our short following comments.
  - a. Firstly, claims based on copyrights require – other than, for example, claims based on registered trademarks – that the (alleged) infringer imitated the protected creation. This is only possible, if the (alleged) infringer actually knows the creation and used it as a kind of model for his own creation.  
In the present case, our UEFA EURO 2008 logo was autonomously created by a reputable English design agency. It is an individual creation which had nothing to do with your logos as shown above.
  - b. Copyrights do originally not belong to corporations, but to individual persons, namely the maker of the respective creation. Consequently, your association can not base any claims on (alleged) copyrights without a detailed explanation (and proof) of their specific rights in the creation.

- c. Copyright protection requires that the creation is the result of a personal intellectual creation. According to the undisputable case law of the German courts, such a personal intellectual creation needs a certain level of (individual) creativity. Thus, simple graphic designs do not fulfil the requirement of a personal intellectual creation.

According to a consistent body of case law, the necessary level of individual creativity must be even higher in cases where the creation can be classified as applied arts. Applied arts means that the creation serves a specific intended use. Since your logo is created for the use as a club logo, there can be no doubt that we are talking about applied arts (for further information we refer to the decision of the German Federal Constitutional Court of January 26, 2005, docket number 1 BvR 157/02).

Applied arts are only protected by the German Copyright Act if their creation exceeds the ability of an average designer. You do not really want to say that this requirement is fulfilled by the simple design of your logo consisting of only one bent line and the additional stylized arms and head of a swimmer. We are convinced that no German court will find that your logo fulfils the requirements of a copyright protection for applied arts.

- d. Last but not least, even if you had copyright protection for the logos shown above, the scope of protection of these rights would obviously not comprise our UEFA EURO 2008 logo.

When assessing a potential copyright infringement, the respective designs have to be compared by their overall impression. It is not correct to only compare certain elements.

Your logos consist of

- a specifically designed line, which is drawn – almost exclusively – in the colours blue and green,
- the stylized arms and head of a swimmer (in blue and grey),
- the terms “Bergische Brustkrauler”.

Our UEFA EURO 2008 logo is composed of

- a specifically designed line (red),
- a stylized football (green and white),
- the verbal elements "UEFA", "EURO2008" and "Austria-Switzerland" (black, red, grey).

Your attempt to show a similarity between both logos incorrectly reduces both designs to their respective "specifically designed lines". However, even in this regard the differences are very large:

- The upper end of your logo is formed by a bent line pointing straight upwards, whereas our logo's upper side is a zigzagged line pointing to the left and even slightly downward. The colours are completely different.
- The middle part of your design is formed by a curved line pointing to the right, whereas our logo shows a stylized football in this position.
- On the right side of your logo, the line obviously resembles secondary female sexual characteristics. Your association's name suggests that this interpretation is intended. Needless to say, our logo does not show any similarities thereto.

Obviously, you are of the opinion that each logo showing a line with a bow on its lower side and a curved or zigzagged end in any position infringes your (non-existing) rights in your logo. In this regard, it suffices to mention that Copyright law does not protect mere elements of a creation but only the creation as a whole.

3. As you can see from our above comments, the claims raised without any further explanation in your email are absolutely unfounded. Consequently, we consider this matter as settled.

Sincerely yours,

**U E F A**

