

# Danish Court issues website blocking ruling concerning the illegal distribution of replica products

## **Kluwer Copyright Blog**

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The first Danish court decision on blocking an infringing website selling replica products was issued on December 11, 2014. It was the Danish Maritime and Commercial High Court that issued the ruling, which orders Danish Internet Service Providers (ISPs) to block access to the online store, Interior Addict. Interior Addict is a website which illegally distributes replica furniture and lamps in Denmark.

Danish right holders and their local content protection organisation, RettighedsAlliancen, have a long history when it comes to website blocking. Right holders have, since the first blocking ruling in 2006, obtained a number of court rulings requiring Danish ISPs to block access to illegal websites. Recently, the Teleindustrien signed a code of conduct defining the conditions for voluntary site blocking by the Danish ISPs. In the event that a court order has been obtained against one ISP, the participating ISPs have committed themselves to implementing the block within seven days of notification by the right holders (RettighedsAlliancen); see more [here](#).

The recent ruling is the first Danish blocking ruling concerning online distribution of illegal tangible goods. The judgment is based on both Article 8(3) of the Infosoc Directive and Article 11 of the Enforcement Directive and relies on copyright infringements as the central issue. The blocking ruling is also based on the fact that a prior ruling convicted the owners of the Interior Addict website of illegal distribution and marketing of replica products that infringe the copyrights of Danish right holders.

The ruling is one step in a number of legal actions taken by Danish furniture manufacturers to protect their works from being exploited by law breakers, who have seen the potential in setting up English-based companies and websites for illegally distributing replicas of Danish design companies' products to Danish consumers. In England there is a shorter term of protection for industrial designs as these expire 25 years after first marketing of the product, whereas in Denmark the term of protection expires 70 years after the death of the creator of the work. These differences in legal regime have been used as loopholes for law breakers to distribute replicas of Danish design products. There are already a number of civil judgments which confirm that the actions of marketing and distribution of replicas of Danish designers' products to Danish consumers from English-based websites and companies is indeed illegal under Danish law. In 2013, the UK Government decided to change the law and make the term of protection the same as elsewhere in Europe - life plus 70 years. However, no date has yet been set for these changes to enter into force. Therefore, these legal actions by Danish rights holders are still their most important remedy against the illegal distribution of replica products.

The Danish and Swedish police have had success in dealing with some of the law breakers behind such activities. Police raids and actions have yielded substantial results, leading to the closure of the websites, confiscation of large quantities of illegal products, seizure of money and assets and taking some of the people behind the activities into custody.

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Du har prøvet at få adgang til en hjemmeside, som indeholder materiale, der krænker kunstnerens ophavsret. Derfor er internetudbyderne blevet pålagt at blokere for adgang til siden.

Vi vil opfordre dig til at bruge nogle af de mange muligheder for lovlig deling af film, musik mm. Du kan se en samlet oversigt på [www.sharewithcare.dk](http://www.sharewithcare.dk)

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The recent blocking ruling means that when Danish consumers try to access Interior Addict's website, they will be met with the text above, which translates as *"You have tried to access a website which contains content that violates the artist's copyright. For that reason the internet service provider has been ordered to block access to the website. We encourage you to use some of the many options for legal sharing of movies, music, etc. See an overview on [www.sharewithcare.dk](http://www.sharewithcare.dk)".* The communication on the website is based on "[Share With Care](#)": a joint initiative between the Danish Internet Service Providers, represented by Dansk Industry and Teleindustrien; the Danish Ministry of Culture; and the right holders' organization, RettighedsAlliancen. One of the main aims of this initiative is to ensure that consumers are directed in a positive manner to non-infringing products and services and thus the message on the blocked website directs users to legal retailers of genuine designer products.

This way of regulating user behaviour has proven successful in a number of pilot projects that have been carried out as part of the Share With Care initiative. For example, pilot projects have been carried out on websites that are illegally distributing film. This "blocking message" had a positive influence on more than 80 percent of the users who received the message, since they left the illegal website, even though they were offered the opportunity to continue to it by clicking on a link. Some consumers also went to [www.sharewithcare.dk](http://www.sharewithcare.dk) to find more information about legal services.

This gives the legal tool of website blocking, a new and non-legal dimension as a strong information and awareness tool.

