

German PRO Gema Fact Check

The recent press release made by the German performance rights organization Gema (<http://alturl.com/3g69m>) in response to the SoniXCast press release (<http://alturl.com/jifsj> - October 12, 2013) falls short of explaining many of the questions raised by SoniXCast customers. In typical Gema fashion, the spin put upon SoniXCast statements are full of falsehoods and misquotations. We decided to fact check them:

Gema Statement: *“Die kanadische Walton International Business Group (WIBG) bietet Dritten im Rahmen ihres Dienstes „SoniXCast“ die Möglichkeit, Radioprogramme via Internet zu streamen. Die Auswahl der gesendeten Inhalte erfolgt jedoch nicht durch die WIBG, sondern durch die einzelnen Kunden des Dienstes.”*

Translation: The Canadian Walton International Business Group (WIBG) offers consumers under the brand “SoniXCast” the possibility to broadcast radio via the Internet. The choice in programming is maintained by the individual customers.”

Fact-Check: SoniXCast imposes no centralized program management or anything of the kind upon their customers. Each broadcaster generally does what they want which is the standard for most internet radios.

Gema Statement: *“Die einstweilige Verfügung des Landgerichts München ist eine Fälschung eines ehemaligen SoniXCast-Channelleiters“*

Translation: “The temporary injunction issued by the high court Munich is a forgery made by an ex-SoniXCast channel manager”

Fact-Check: The actual statement was prefixed by “According to an anonymous source” which translates to “Laut anonymem Informant” in German. Nobody can prove that the judgment even exists. Let alone that a SoniXCast customer was involved.

Gema Statement: *“So hat sie (Gema) dafür Sorge zu tragen, dass Webradiobetreiber für die Sendung von Musikwerken mit dem Empfangsgebiet Deutschland über eine entsprechende Lizenz der GEMA verfügen.”*

Translation: *“Gema is responsible to ensure that Internet Radios broadcasting within Germany are properly licensed.”*

Fact-Check: Gema sees it as their charter to do so, but it is a common misconception that Gema has any legal standing whatsoever let alone a government sanction. Gema acts of their own accord like all other corporations do. Only SOCAN is governmentally sanctioned and chartered.

Gema Statement: *“Das Geschäftsmodell von SoniXCast ist darauf ausgerichtet, diesen Auftrag der GEMA zu untergraben. Sie gaukeln ihren oft gutgläubigen Kunden vor, dass SoniXCast in der Lage ist, ihnen für*

Sendehandlungen in Deutschland eine existierende urheberrechtliche Sendelizenz der kanadischen Verwertungsgesellschaft SOCAN vermitteln zu können.“

Translation: *“The SoniXCast licensing model is designed to undermine Gema’s directive. They (SoniXCast) misguide unsuspecting customers into believing that they will be granted a license to broadcast in Germany via the Canadian performance rights organization SOCAN.“*

Fact-Check: Absolutely! We’ve delegitimized Gema with our existence and our longevity and will continue to do so. Our message is clear and has not changed since inception.

Gema Statement: *“Genau dies ist aber nach der Rechtsauffassung der GEMA nicht möglich. Aus diesem Grund ist die GEMA gerichtlich gegen einen der sogenannten „SoniXCast-Channelleiter“ vorgegangen, d. h. gegen einen Kunden von SoniXCast mit Wohnsitz in Deutschland. Am 10. September 2013 hat sie eine einstweilige Verfügung des Landgerichts München erwirkt (Az. 21 O 19802/13).“*

Translation: *“This is not possible according to our (Gema) interpretation of the law (referring to SoniXCast’s business model). For that reason Gema filed charges against a so-called “SoniXCast Channel Manager” in other words a SoniXCast customer living in Germany. On September 10, 2013 we were granted a temporary injunction by the high court Munich against the defendant”*

Fact-Check: Interpretation of the law does not indicate legal fact. The reason why SoniXCast and partners have been in business in Europe so long is because Gema has no legal charter as evident by all the lost and overturned court cases (refer to the sources below). Even the famous YouTube decision is back in the courts destined to be overturned.

Dr. Stefanie Ruhwinkel spokesperson for the high court in Munich would neither confirm nor deny the existence of the alleged judgment. Our attorneys couldn’t find any court documents either. In their opinion, the judgment is an utter fabrication carefully architected to scare SoniXCast customers. Gema cannot prove that the judgment exists, nor can they prove that the defendant was a SoniXCast customer and they never will.

Gema Statement: *“nicht SoniXCast, sondern der Betreiber eines „SoniXCast-Webradios“ mit Wohnsitz in Deutschland für in Deutschland stattfindende Sendehandlungen von Musikwerken verantwortlich ist“*

Translation: *“Not SoniXCast, but the operator of a SoniXCast Webradio living in Germany is responsible for the program management of music works”*

Fact-Check: All SoniXCast “Channels” are owned by SoniXCast, sub-licensed via SoniXCast’s umbrella license with SOCAN which is non-transferable and therefore the only responsible party for the reporting of music works is (you guessed it) SoniXCast.

Gema Statement: *“dieser „SoniXCast-Channelleiter“ für das Webradio eine Lizenz von der GEMA zu erwerben hat“*

Translation: *“that the “SoniXCast Channel Manager” responsible is for obtaining a Gema license”*

Fact-Check: Liar, Liar. Pants on Fire! They are protected by our SoniXCast.

Gema Statement: *“eine Lizenzierung von SoniXCast durch die SOCAN – so überhaupt vorhanden – nur für in Kanada empfangbare Webradios gilt.”*

Translation: *“SoniXCast’s license with SOCAN, if it exists, only covers Webradios in Canada”*

Fact-Check: *Really?!?! WIBG/SOCAN License Number: 168511. The license only covers broadcasting from Canada. But (and this is what really pisses Gema off) there are no provisions which prohibit broadcasting beyond borders nor are there any provisions which prohibit listening to a foreign channel in any country.*

Gema Statement: *“Weder sprechen Mitarbeiter der GEMA Drohungen aus, noch werden falsche Tatsachen behauptet. Die GEMA hat vielmehr Kunden von SoniXCast, auf die die Kriterien der einstweiligen Verfügung des Landgerichts München zutreffen, über die Aussagen des Beschlusses in Kenntnis gesetzt und darauf hingewiesen, dass sie in der Vergangenheit (wohl unwissentlich) „schwarz“ gesendet haben und aktuell weiterhin „schwarz“ senden. Ferner hat die GEMA diesen Kunden von SoniXCast angeboten, für die Vergangenheit nachträglich eine Lizenz der GEMA zu erwerben sowie sich für die Zukunft zu lizenzieren.”*

Translation: *“Gema employees have not expressed any threat nor were any untruths stated. Gema simply notified SoniXCast customers about the temporary injunction granted by the high court Munich and notified them that they have been (unknowingly) broadcasting illegally. An offer was made to SoniXCast customers to properly license their radio”*

Fact-Check: *definition SCAM: a dishonest scheme; a fraud. Florian Neuroth fraudulently stated that a judgment was granted against a SoniXCast customer. When put on the spot to prove it, he disappeared and sent his cronies against SoniXCast customers. And how does “pay by this date or there will be consequences” not constitute a threat! Only SoniXCast customers were sent the letter which means the scheme, the scam was directed specifically at SoniXCast.*

Gema Statement: *“Die GEMA hat sich zu keinem Zeitpunkt von Mitarbeitern distanziert, die in Kontakt zu „SoniXCast-Channelleitern“ stehen, und wird dies auch nicht tun.”*

Translation: *“Gema never distanced itself from its employees that are in contact with “SoniXCast Channel Managers” and will never do so”*

Fact-Check: A nice twist on words, still a falsehood. The Gema facebook group GemaDialog issued many statements concerning this issue. Screenshots were made and can be viewed in the SoniXCast facebook groups.

Gema Statement: *“Stattdessen aber werden Mitarbeiter der GEMA – ebenso wie ihre externen Unterstützer – beleidigt und sogar strafbarer Handlungen bezichtigt.”*

Translation: *“Instead Gema employees and supporters are being insulted and even accused of acting illegally”*

Fact-Check: When Gema was proven fraudulent, their next course of action was to dispatch their serfs into the social media networks to bully and terrorize SoniXCast customers directly. Screenshots were made and published and escalated as far as threatening bodily harm. The TRUTH of the matter is SoniXCast customers stood up to the abuse maturely and responsibly. They calmly collected evidence against Gema and accomplices and now will use that same evidence against them in court.

Summary: SoniXCast channels represent up the majority of the internet music entertainment in Germany, delegitimizing Gema completely and utterly. This act, this scam was perpetrated by a financially broken and deranged assemblage that steals from members and shamelessly defrauds consumers. In their desperation they hire common street thugs to bully and intimidate with mafia tactics reminiscent of John Gotti.

Only 12 SoniXCast customers received fraudulent letters from Gema. They were singled out because they were considered defenseless. In some cases children, the disabled and the elderly. Those who are considered by society to be less than whole and easy targets to be exploited. Anyone would be appalled by this behavior if it would have come from a government.

Gema was nothing more than a members club a few years back and made the misguided attempt to gain legitimacy by incorporating. They couldn't leave behind the narrow-mindedness fueled by greed that marginalized them as a consortium though and now facing their inevitable demise, they grasp at desperate measures by attacking a couple of small radio broadcasters in order to stay alive.

SoniXCast customers have been broadcasting legally since 2006 and there is nothing Gema can do to change that.

Translations by: ASIST Translation Services, Inc (<http://www.asisttranslations.com/>)

Other sources (Thank you)

- Wikipedia.com
- Virtualnights.com
- Openpetition.de
- NMZ.de
- Bevision.de
- BrunoKramm.wordpress.com
- Spiegel.de