# [FR] Journalists' Copyright and the Internet

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*Bertrand Delcros*
*Radio France*

Reconciling rights is always a difficult matter. This is true for labour law as well as for copyright, particularly with Internet. Journalists are the employees of a press company (or audiovisual communication company), but they are also authors of works, generally considered to be collective. Should the press company require journalists to give further authorisation in order to be able to put on-line articles which have already been published in the newspaper? The matter can be settled contractually. This is being explored very carefully in France, and a few agreements have already been reached, as for example Radio France International in the public sector of audiovisual communication as well as the newspapers Le Monde and Dernières Nouvelles d'Alsace . Initially, there had been a dispute between this paper and its journalists, and the latter had been authorised by the Court of First Instance in Strasbourg to prohibit Dernières Nouvelles d'Alsace putting their articles on-line without their authorisation (see Iris 1998-2: 5). In the end the parties considered that it was more constructive to come to an agreement.

In the absence of a contractual solution, the matter has to be taken to court. This happened in the case between the national union of journalists (SNJ) and Le Figaro newspaper, which was brought before the Court of First Instance in Paris on 14 April 1999.

Le Figaro had set up an electronic issue offering articles by its journalists for consultation on-line. The journalists considered that this infringed their rights in respect of their articles, and therefore took their employer to court in order to prevent this. The Court found in their favour.

The judgement aroused considerable emotion in the press and audiovisual world. For more than a century, France has enjoyed a system based on freedom and it is extremely serious for a prohibitive measure to be taken, even if the support is electronic. Internet is in fact a communications support, like paper or terrestrial broadcasting waves; prohibition should therefore only be allowed in very rare cases where the threat to public order is extremely serious. In delivering its judgement, the Court side-stepped the question of the legal qualification of the newspaper in respect of copyright, even though this was at the heart of the dispute. While it is obvious that a journalist is an employee linked to the company by an employment contract, it is a matter of determining which rights a journalist

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and a press company exercise in terms of exploitation of a newspaper. The Court held that although a newspaper is a collective work (which is indeed its legal qualification), this could not override the rights of journalists in respect of their work. The obvious counter to this is that the copyright held by the press company is also inalienable. The Court lastly found that, in the absence of an agreement between the management of Le Figaro newspaper and the journalists, the remuneration paid to the latter only covered publication of their articles and added that «since publication in more than one newspaper or magazine, i.e. on another support of the same kind, is prohibited, the principle was all the more applicable to the reproduction of articles on a new support resulting from recent technology». This «all the more» leaves us to understand that Internet is a communication support which, because it is unique of its kind, should be governed, as regards the content it carries, by a specific legal system. This point of view runs counter to the most pertinent analyses.

There is no doubt that, as in the case of Dernières Nouvelles d'Alsace , an inter-professional agreement is the most realistic solution. The Minister for Culture and Communication has got the right idea; she has invited journalists, press and audiovisual communication companies to take part in a round-table on copyright and Internet.

### *Tribunal de grande instance de Paris (1re ch. 1ère section), 14 avril 1999 - SNJ et autres c/ Le Figaro*

*Court of First Instance, Paris (1st Chamber, 1st Section), 14 April 1999 - SNJ et al. v. Le Figaro*

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