[FR] Proper Use of Hypertext Links

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In a judgment on 26 December, the commercial court of Paris defined - for the first time ever, to our knowledge - the rules for using hypertext links. "Keljob.com", a free employment search engine listing offers of jobs presented on other sites (including that of the company Cadres on line), was charged by the latter with modifying and altering the source codes of its web pages. The Keljob site used hypertext links to present the pages of the site at "cadresonline.com" at a different URL address to that of the site. The company Keljob claimed that there was no rule of law that obliged it to inform the owner of an Internet site or obtain prior authorisation before establishing a hypertext link to another site. However, according to the court, "the proper use of the possibilities offered by the Internet network" demanded this. Moreover, hypertext links could not be set up "except on the sine qua non condition of compliance with legislation on intellectual property" (including Article L 122-4 of the CPI, which made it an offence to represent a work without the consent of its originator). Having laid down these basic principles, the court drew a distinction between ordinary hypertext links, which were considered to be implicitly authorised by all website operators, and "deep" links, such as those at the heart of the present case, which sent visitors straight to the secondary pages of a target site rather than via the site's homepage. Unfair parasitic behaviour was characterised by the appropriation of the work and financial efforts of others, in this case by the creation of hypertext links which could result in distorting the content or image of the target site or making it appear to be the defendant's own site, specifically by modifying its address. As these characteristics were present in the case in hand, the company Keljob was ordered to cease such action on penalty of being fined.

Tribunal de commerce de Paris, 26 décembre 2000 - Havas et Cadre on line c/ Keljob

Commercial court of Paris, 26 December 2000 - Havas and Cadres on line v. Keljob.

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