[BE] Conditional Duty on Internet Service Provider to Withdraw Allegedly Illegal Hyperlinks to MP3 Websites

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A judgment of 13 February 2001 of the Brussels Court of Appeal has overruled a judgment of the Commercial Court of 2 November 2000 ordering the Internet Service Provider Belgacom/Skynet, at the request of IFPI/NV Universal, to remove hyperlinks pointing to illegal MP3 files from its server. The Court of Appeal was of the opinion that the refusal to remove hyperlinks to files allegedly in breach of copyright and neighbouring rights at the demand of the rightsholders may be considered an act of unfair competition. However, removal is only obligatory under certain conditions that were developed in the judgment of 13 February 2001. This judgment refers inter alia to the EC Directive on Electronic Commerce. According to the Court of Appeal, IFPI/NV Universal did not sufficiently identify all of the websites to be withdrawn and did not sufficiently prove the illegal character of all of the websites concerned. As it was not demonstrated that Belgacom/Skynet had committed an act of unfair competition in these circumstances, the Court overturned the judgment of 2 November 2000.

Cour d'appel de Bruxelles, 13 février 2001. Voir Auteurs & Media 2001/1, Numéro spécial : Internet et l'environnement numérique / Internet en de digitale omgeving

Brussels Court of Appeal, 13 February 2001. See Auteurs & Media 2001/1, Special Issue: Internet et l'environnement numérique/Internet en de digitale omgeving

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