[FR] Court Condemns Unlawful Use of Advertisements on an Internet Site Offering Job Advertisements

IRIS 2001-10:1/28

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The commercial court in Paris found the Internet site Keljob guilty last December of the unlawful use of hypertext links (see IRIS 2001-2: 12). Keljob, a free browser for jobseekers, lists offers presented on other sites, and has again been involved in a dispute raised by one of these sites. On 5 September the Regional Court of Paris ordered it to pay a million French francs in damages to the employment advertisement site Cadremploi for having made use of the offers it listed without its agreement.

Firstly, the plaintiff company felt that the Keljob site, by reproducing the Cadremploi name in is advertising leaflets and on its site, was guilty of counterfeit. The court noted that the name was being used for commercial purposes and not merely to inform users, and that the company Keljob thereby benefited from the reputation enjoyed by Cadremploi. Moreover, by not limiting itself to referring to Cadremploi as it might in a guide, but by using it to gather and select job advertisements in direct competition with the plaintiff, the company Keljob was indeed counterfeiting the name.

The company Cadremploi also claimed that the Keljob site was infringing its intellectual property rights in respect of its database. The court noted that the company Keljob, which consulted the Cadremploi site each night and selected those offers of interest to it, extracted the substantial elements of the site (for each advertisement - title of post, sector of activity, geographical area, address on the Cadremploi site and URL address). The court decided that the use of these elements from the Cadremploi database without authorisation constituted an infringement of the plaintiff's rights.

On the other hand, the court rejected the plaintiff's claims concerning unfair competition. Cadremploi claimed that Keljob had set up "deep links" - links from its own site leading directly to secondary pages on the Cadremploi site - that were prohibited in that they misinterpreted and misappropriated the content of its site, thereby violating its integrity. The court found that there was no real risk of confusing the two sites as the plaintiff alleged, as an intermediate window indicated clearly to Internet users that they were on the Cadremploi site and could continue browsing there.

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TGI Paris (3e ch., 3e sect.), 5 septembre 2001, Cadremploi c/ Keljob

Regional Court of Paris (3 chamber, 3 section), 5 September 2001, Cadremploi v. Keljob

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