[NL] Court Puts an End to Exploitation of Mp3 Search Engine

IRIS 2006-7:1/28

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The Court of Appeal of Amsterdam has decided that Techno Design's exploitation of the mp3 search engine zoekmp3.nl is unlawful with regard to copyright owners and owners of neighbouring rights. This is the outcome of the appeal Stichting BREIN (BREIN Foundation- an entity representing copyright owners) filed a case against a previous judgment of the District Court.

Zoekmp3.nlfacilitates the search for mp3 music files on the World Wide Web. It provides Internet users with a hyperlink or deeplink to the server of the user whose computer contains the requested file. By clicking on the link, the file is downloaded from one user's computer into the other's. Additional information on the searched mp3 files can be found on the website as well. All this information is stored in Techno Design's database.

The District Court had previously decided that zoekmp3.nl did not infringe any copyrights and was therefore not unlawful. The Court of Appeal chose to overturn this judgment. The Court of Appeal decided that, in principle, exploiting an mp3-oriented search engine is not in itself unlawful, even if the provider of the search engine is aware of the fact that users may infringe copyrights and neighbouring rights. In this case, however, Techno Design knew that its search engine systematically and structurally refers to unauthorized material and gives access to copyright and neighbouring rights' protected music files. In fact, Techno Design derives most of its money from this search engine that is mainly based on the availability of unauthorized music files on the World Wide Web. According to the Court, this occurs in breach of the rights held by copyright owners and owners of neighbouring rights. Techno Design's warning on the website, that unauthorized copying is prohibited by law, is insufficient since downloading unauthorized music files is exactly what users are looking to do. They will not be discouraged by a simple warning.

Techno Design had already shut down zoekmp3.nl in June 2004, but is now explicitly forbidden to provide users with hyperlinks to unauthorized music files by means of search engines. The Court ordered Techno Design to pay damages.

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http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=AX7579

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Hof Amsterdam, 15 June 2006, Stichting BREIN vs. Techno Design Internet Programming BV, case LJ number AX7579

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