[BE] Courts Uphold Sentence against Google for Violating the Copyright of Journalists

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On 5 September 2006, the presiding judge at the court of first instance in Brussels, where termination proceedings were brought on the basis of the Act of 30 June 1994 on copyright and neighbouring rights, had upheld the case of the company Copiepresse, responsible for the collective management of the copyright held by Belgian journalists. The judge had considered that, by using articles and photographs that had appeared in the Belgian press without first obtaining authorisation, Google - and more particularly its 'Google News' service and its cache sites - was violating the copyright of journalists. The presiding judge had ordered Google to publish this judgment on its "google.be" site, and above all to withdraw from all its sites "all articles, photographs and graphic representations by Belgian daily newspaper editors represented by the company Copiepresse", with the imposition of a fine of EUR 1,000,000 per day of delay in doing so.

Somewhat surprisingly, Google had failed to respond to the various summonses to court issued by the Belgian courts, and the decision of 5 September 2006 had been delivered in the company's absence. This was widely reported in the international media, with references to the victory of a small Belgian "David" against the great global "Goliath" of the Internet.

Fifteen days later, Google appealed against the judgment. In the first instance, on 22 September 2006, the judge in Brussels returned to the earlier order and refused to lift the obligation of the injunction to publish the judgement of 5 September 2006. The judgment was therefore published for five days on Google's Internet site. In retaliation, however, Google decided to erase from its search engine all direct links to the sites of the newspapers, which had been involved in the proceedings.

It remained for the judge to pronounce on the merits of the case further to Google's appeal, this time after hearing the American giant's arguments. This has now been done, and the result is a 44-page order, which was pronounced on 13 February 2007. The main outcome is that the presiding judge of the court of first instance has upheld the previous order. While the amount of the fine has been reduced from EUR 1,000,000 to EUR 25,000 per day of delay, and the judge has based his decision solely on the law on copyright and neighbouring rights (the initial judgment also made reference to the law on databases), the judgement

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confirms nonetheless that the activities of Google News and the use of the Google cache, by reproducing articles without first obtaining authorisation from the economic beneficiaries, constituted a violation of copyright.

Google has already announced its intention to appeal against the decision of 13 February 2007.

Décision du Tribunal de première instance de Bruxelles du 13 février 2007, n. 06/10.928/C

http://www.copiepresse.be/copiepresse_google.pdf

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