[NL] Court Orders Newspaper to Cease Publication of Programme Guide

IRIS 2012-9:1/34

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On 13 June 2012, the Amsterdam Court ordered the Dutch newspaper De Telegraaf to cease publication of its weekly programme guide. An interlocutory injunction was sought by four broadcasting organisations (NPO, RTL, SBS and Veronica), which claimed copyright protection in the programming schedules. De Telegraaf considered these schedules as being databases within the meaning of Directive 96/9/EC (the Database Directive) and the protection granted under Article 10 of the Dutch Copyright Act to non-original writings, such as databases, in breach of the Directive. The argument made by De Telegraaf is based upon the recent decision by the Court of Justice of the European Union, Case C 604/10 Football Dataco Ltd. which held that copyright protection in databases can only exist where 'the selection or arrangement of the data which it contains amounts to an original expression of the creative freedom of its author'.

The Amsterdam Court found that an interpretation in conformity with the Directive would lead to a contra legem decision. Until the Dutch government responds to the implications of the Football Dataco Ltd. case, the programming schedules are protected under Article 10 of the Dutch Copyright Act. The Minister for Education, Culture and Science has reported that the issue is currently under investigation. Earlier, the Dutch government adopted an amendment to Article 2139 of the Dutch Media Act 2008, which makes programme data available by abolishing the monopoly held by public broadcasting organisations. (see IRIS 2012-6/28).

LJN: BW8334, Rechtbank Amsterdam, 518640 / KG ZA 12-774 SR/JWR, 13-06-2012

http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=BW8334

Decision of the Amsterdam Court, NPS/RTL a.o. v. Telegraaf Media Group, LJN: BW8334, 13 June 2012

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