[FR] Journalists Have Copyright Recognised for Publication of their Articles on Internet

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Case-law concerning the Internet is gradually taking shape. The order delivered in an urgent matter by the Commercial Chamber of the Regional Court (Tribunal de grande instance - TGI) of Strasbourg is a further demonstration that it is a mistake to think that Internet is a law unto itself. The decision is all the more interesting in that this is the first time in France that it has been judged that a newspaper does not have the right to use articles written by journalists subsequently on Internet without first obtaining their consent; the same holds for television broadcasts. The computer company distributing the disputed works has been ordered to stop such illegal distribution on pain on a fine of FRF 5,000 per day.

As a newspaper was involved (the daily newspaper "Les Dernières Nouvelles d'Alsace") in this case, the defendant claimed that the undertaking had every right as it was a collective work giving rise to copyright directly in the newspaper's name; however, the judge held on the basis of a solution reached in positive law that the newspaper only had rights in respect of first publication, such that any other type of use required the agreement of the journalists.

For television broadcasts the matter was slightly different, as they were collaborative rather than collective works. It was therefore for the television channel (France 3) to acquire the rights by means of a transfer agreement in compliance with the Code of Literary and Artistic Property. There was a collective agreement on this, but not only did the clause not comply with the rules governing transfers contained in the Code of Intellectual Property (CPI) but moreover, at any event, the Code did not provide, save in the event of a clause to the contrary, for transfers in respect of methods of use other than those existing at the time it was devised; The Internet did not exist at the time the collective agreement was being finalised.

More than the specific case in question, it is the whole problem of the secondary use of journalists' work by the new methods of communication which is in question.

Tribunal de grande instance (TGI) de Strasbourg, chambre commerciale, ordonnance de référé, 3 février 1997

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Regional Court of Strasbourg, Commercial Chamber, order in an urgent matter, 3 February 1997

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