

Press release

First decision on ancillary copyright for press publishers: Google is obliged to pay

- Ancillary copyright for press publishers is applicable to Google
- Arbitration Board proposes minimum remuneration rather than a revenue-based tariff
- Display of only seven words is exempted from the remuneration obligation
- Ancillary copyright for press publishers does not infringe on constitutional and European law
- Arbitration Board advises parties to reach a compromise agreement

Berlin, Germany, 24 September 2015. The ancillary copyright for press publishers is applicable to the form of presentation chosen by Google (and other search engines and news aggregators) to display search results. This was decided by the Arbitration Board of the German Patent and Trade Mark Office as the special authority responsible for this issue on 24 September 2015.

The Arbitration Board stated in its decision that Google makes use of the digital products of press publishers in its services, noting that “press products increase the overall advertising value and attractiveness of the search engine”. In the proceedings of VG Media versus the search engine operator and quasi-monopolist Google, it was clarified that the tariff established by VG Media is applicable in principle. However, in order to determine the details of the tariff, VG Media is dependent on data which only Google has available, according to the Arbitration Board. Thus, the ancillary copyright for press publishers is not only enforced in the first step, but Google is obliged to pay remuneration to press publishers. Journalists will also benefit in the form of a remuneration claim anchored in the law.

Markus Runde, Managing Director of VG Media: “The ancillary copyright for press publishers is applicable. Within the meaning of copyright law, Google makes use of press products in the various Google surfaces. Important issues have thus been resolved by the competent Arbitration Board. Companies such as Google that generate up to €5 billion in revenues per year in Germany by operating a search engine should not only take advantage of the free and orderly economic activity in Germany, but should also accept the enforcement of German law as an essential condition of this freedom, and should therefore now seek a compromise agreement with us, as proposed by the Arbitration Board.”

Maren Ruhfus, Managing Director of VG Media, adds: “The decision of the Arbitration Board provides valuable insights for the introduction of an ancillary copyright for press publishers throughout Europe. VG Media will follow the European Commission’s invitation and will actively contribute its knowhow and experience from this case to the political debate at the European level.”

Through VG Media, press publishers will also enforce their claims against Google for the period as of 23 October 2014. The declarations of a free-of-charge consent and the decision of the German Federal Cartel Office pursuant to Section 32c of the Act against Restraints of Competition (GWB) do not stand in the way of this. Google abused its dominant market position to force press publishers to give their free consent. These declarations of consent are therefore illegal under competition law and thus invalid. Numerous press publishers already instituted legal proceedings against Google at the Berlin Regional Court in December 2014 to clarify this question.

The ancillary copyright for press publishers was passed by the German Bundestag in 2013 and entered into force on 1 August 2013. It states that search engines and news aggregators must pay remuneration to press publishers for the use of press products. Google (and other search engines) had previously denied the applicability of the law vis-à-vis VG Media, which is mandated to enforce the ancillary copyright for a large number of press publishers.

For more information on the ancillary copyright for press publishers, the tariff of VG Media and the proceedings to enforce the law, see www.LSR-aktuell.de, the information service of the VG Media press publishers for the protection of property and diversity in digital media markets.

Contact

VG Media Gesellschaft zur Verwertung der Urheber- und
Leistungsschutzrechte von Medienunternehmen mbH
Lennéstraße 5
10785 Berlin

Bernd Delventhal, Head of Communications
Tel.: +49 (0)30 2062 00-0 / Fax: -32
Email: bernd.delventhal@vgmedia.de
www.vg-media.de

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