

Press release

First decision in interim proceedings by German Arbitration Board: Microsoft must pay Corint Media at least € 1.2 million for press use by Bing

Provisional remuneration level proposed by Arbitration Board at the German Patent and Trade Mark Office (DPMA). Corint Media expects higher payments in case of final decision by Arbitration Board in mid-2023. First decision by an official body in the dispute over press intellectual property rights has a signal effect. Microsoft does not lodge an appeal.

Corint Media Managing Director: "A decisive signal for the German press."

Berlin, 20 December 2022 The Arbitration Board at the German Patent and Trade Mark Office (DPMA) has proposed an interim payment of 1.2 million euros from Microsoft in the dispute over the use of press content by the search engine Bing. The Arbitration Board follows an urgent request by Corint Media. The payment is to cover the period since 7 June 2021, when the press protection law came into force in Germany. The undisputed payment is based on a remuneration amount of 800,000 euros per year for Corint Media's repertoire - 36 per cent of German press outlets. Both Microsoft and Corint Media have agreed to this proposal.

The interim remuneration represents a "provisional arrangement" which is intended to allow the legally secure use of press content until a final decision is made by the arbitration board. A final decision on the amount of the appropriate remuneration is to be made by mid-2023. Here, Corint Media expects another increase in the amount of remuneration in the first instance. The interim payment now proposed has no prejudicial effect on the coming decision on the appropriate remuneration.

The Arbitration Board at the DPMA issued its decision in expedited proceedings under Section 106 of the Collecting Societies Act (VGG). Corint Media had filed this urgent application due to the urgency of the clarification. Platforms such as Microsoft's Bing, but also Google, Facebook and others have been unlawfully using the content of press publishers since June 2021, which should be remunerated under the Press Publishers' Right. The Arbitration Board's decision is the first known urgent appeal to be granted by the Arbitration Board. This shows the need for quick decisions in a field where technology companies, with their free use of protected content, harm the holders of these rights on a daily basis.

With this pre-decision on an appropriate remuneration, the Arbitration Board is breaking new ground in copyright law. Although it had already ruled in 2015 on the "old" press ancillary copyright that the remuneration demanded by Corint Media in the amount of 11 per cent of the turnover was "in and of itself appropriate for an entire repertoire". However, further fundamental questions could not be conclusively

clarified. According to the Arbitration Board, the question of a suitable basis for calculation could only be clarified in further proceedings after detailed discussion with the parties involved. This assessment, as well as the decision itself, is significant for the negotiations with Google on the use of the Corint Media press rights. Google's attempt to create facts about the value of the press rights with low-priced individual contracts thus fails. While Microsoft's Bing only has a maximum market share of five per cent in the German search engine market, Google has a market share of about 93 per cent, which is about 18-20 times higher. Google's current offer is, in relation to the market share, significantly lower than Microsoft's offer. Corint Media has signed a licence agreement with Ecosia, a search engine developed and operated in Berlin that is committed to reforestation, among other things. Ecosia accepted the customary level of remuneration set by Corint Media and, with this law-abiding behaviour, sent a signal to the market that successful business is also possible without avoiding payment obligations.

Markus Runde, Christoph Schwennicke, Managing Director Corint Media: *"The proposal of the Arbitration Board at the DPMA is a decisive signal for the German press: Their rights must not be ignored and the envisaged remuneration must not be artificially reduced. However, this interim ruling is not a final decision on the amount of appropriate remuneration. It does, however, show the amount that users such as Microsoft, Google and Facebook must provisionally pay to avoid unlawful use. The determination of the actual amount of remuneration is still pending. The arbitration board will probably decide on this by mid-2023: Corint Media assumes that this remuneration will once again be significantly higher than the interim payment. This is also important because journalists can only participate appropriately in the revenues of the ancillary copyright with a transparent decision of the instances - as intended by the legislator. Confidential individual contracts, such as Google is currently concluding, represent an attempt to avoid this participation - on the backs of the actual authors. This must not be allowed.*

About Corint Media

Corint Media, based in Berlin, is a European company in the private media industry. It represents the copyrights and neighbouring rights of almost all German and several international private television and radio stations as well as numerous press publishers.

The media companies represented by Corint Media include TV stations such as Sat.1, ProSieben, RTL, WELT, SPORT1, CNBC, Eurosport, VOX and CNN, radio stations such as ANTENNE BAYERN, radio ffn, Klassik Radio, Radio Hamburg, Hit Radio-FFH, RADIO PSR, R.SH, RPR1 and RTL RADIO, as well as press publishers such as Axel Springer, Verlagsgesellschaft Madsack, Mediengruppe Pressedruck, Aschendorff Mediengruppe, Rheinische Post Mediengruppe, sh:z Schleswig-Holsteinischer Zeitungsverlag and Badischer Verlag.

Corint Media is one of 13 collecting societies authorised in Germany and is under the supervision of the German Patent and Trade Mark Office (DPMA).

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