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**BELGIAN COURT UPHOLDS GOOGLE HEADLINE BAN**

11 May 2011

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Simon Crompton, London

**Google has been told it infringes publishers' copyright by reproducing their headlines, in a decision by the Belgian Court of Appeal**

The ruling confirms a 2007 first instance decision that supported the claims of Copiepresse, which represents French-language newspapers in Belgium.

It claimed the way Google News reproduces headlines and article extracts in order to create a search engine for news infringed its copyright. Google claimed the system produced large benefits for the publishers and could be opted out of.

But the problem for innovative companies such as Google, and publishers themselves, is unlikely to be this decision but rather the uncertainty around the interpretation of copyright around Europe.

In January last year a Paris court ruled that Google did not break its copyright laws by reproducing thumbnail images of visual works. Other countries have followed similar interpretations of copyright.

One Copiepresse member, L'Echo, a French-language daily paper, was not included in the court case after it specifically asked Google to be included its Google News listings. Google sends 4 billion clickthroughs a year to publishers' sites.

The legal uncertainty only looks likely to be resolved if Google finds a way to refer the case to the Court of Justice of the EU, possibly on the interaction with competition law.

Before then it looks likely to appeal to the Cour de Cassation in Belgium, the country's highest court.

The way Google and other search engines work and the way websites reach them is by using the technical internet protocol robots.txt, which allows websites to communicate with search engines and each other.

Google argues that this is an industry standard and that the publishers can stop their websites' content from appearing on its News and cache platforms.

European industry groups reacted strongly to the Belgian appeal court ruling. Consumer rights group BEUC said the ruling "sets a dangerous precedent by a restrictive interpretation of the copyright exceptions regime".

Digital rights group EDRI said: "This is a perfect example of European legislation that seems almost designed to undermine innovation and access to copyrighted material in the European Union."

Copiepresse has a separate case pending for damages during the time its content was visible on Google News, although Google News does not earn advertising revenue.

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