



# **Linking Cases Worldwide – A Comprehensive Overview**

**By Stephan Ott**

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## **Links to Illegal Material / Liability**

### **Intellectual Reserve Inc. v. Tanners**

A temporary restraining order stopped the Tanners from displaying parts of the Church Handbook of Instructions on their website. Soon after the ruling they posted e-mails on their Website that tell visitors where to find copies of the book online. They didn't link to these sites, but merely provided the URL. International Reserve Inc., the corporation that holds the copyrights in the book, successfully asked a court to expand the restraining order. In view of the court the URL posting amounted to contributory copyright infringement. The case was finally settled.

- December 7, 2000: Fulton, Ben, [The Tanners' Uneasy Settlement](#), Salt Lake City Weekly
- December 23, 1999: Fulton, Ben, [LDS Copyright Battle Storms Web](#), Salt Lake City Weekly:  
"First it was a religious dispute. Then it was a copyright dispute. Now, say some Internet experts, it could change the way people link from one site to another on the Web."
- December 14, 1999: Lawson, Stephen, [Copyright ruling targets Web links](#), CNN:  
"A ruling this week by a federal court in Utah could represent a body blow to a key feature of the Web: linking users of one site to information on others."
- December 10, 1999: Kaplan, Carl, [Copyright Decision Threatens Freedom to Link](#), New York Times:  
"In a ruling that could undermine the freedom to create links on the Web, a federal judge in Utah has temporarily barred two critics of the Mormon Church from posting on their Web site the Internet addresses of other sites featuring pirated copies of a Mormon text."
- December 10, 1999: Reaves, Jessica, [Better Be Careful Whose Links You Click...](#), Times.com:

"A Utah judge says Internet links to copyrighted material may be a legal no-no. What happened to the free-for-all Web?"

- November 11, 1999: [Federal judge orders couple to remove Web links to Mormon text](#), freedomforum:

"A federal judge has extended a restraining order barring a local couple from posting parts of a Mormon church handbook on the Internet."

- Chronology of the events on the [website of the defendant's Information on the Settlement](#)
- [Court Transcripts](#)
- [Photos](#)
- December 6, 1999, [Preliminary Injunction](#)

Also see the Decision Section: [December 6, 1999](#)

## **Bernstein v. J.C Penney**

Department store J.C. Penney and cosmetics company Elizabeth Arden were sued by Photographer Gary Bernstein because of an unauthorized reproduction of one of his photographs. The picture was three clicks away from the website of the defendants. In the opinion of Los Angeles Judge Manuel Real the links did not violate Bernstein's copyright.

- November 1998: [CA Judge Dismisses Copyright Claims Based On Linking](#), Software Law Bulletin:  
"Without comment, a California federal judge has dismissed, with prejudice, copyright infringement allegations against defendants who maintained links that eventually led to a Swedish web site where allegedly infringing photographs were displayed."
- September 25, 1998: Kaplan, Carl, [Can A Web Link Break Copyright Laws?](#), New York Times:  
"Suppose a Web site links to a site that links to another site containing illegally reproduced photographs. Can the first site be sued for illegal linking?"
- September 22, 1998: Borland, John, [Court Dismisses Web Copyright Case](#), TechWeb:  
"A Los Angeles judge has dismissed a copyright lawsuit that threatened to

hold websites legally responsible for links to content posted elsewhere on the Web."

- Samson, Martin, [Short Summary](#)

## **Nottinghamshire County Council v. Journalists**

In 1997 three British journalists posted the so called JET-Report on their website, which deals with a flawed government investigation into a case of alleged satanic ritual abuse. The journalists removed the report after Britain' s high court issued an injunction, ordering them to take the report off their site.

To stop this government censorship, people around the globe put the report on their websites and thus created several mirror sites. The journalists linked to these websites. The Nottinghamshire County Council tried to stop the dissemination and to keep the content of the report a secret. They send threatening letters to several people, but finally dropped all legal action.

## **News Articles**

- August 18, 1997: [Wieder ein Veröffentlichungsverbot am Internet gescheitert](#), Juristisches Internetprojekt Saarbrücken:  
"Trotz Obsiegens im einstweiligen Verfahren - am 30.6. hatte der Londoner High Court britischen Journalisten die ungenehmigte Veröffentlichung von JET-Report-Auszügen im Internet bei Haftandrohung verboten - gab das Nottinghamshire County Council jetzt bekannt, dass es auf die Fortsetzung des Verfahrens in der Hauptsache verzichten werde."
- August 4, 1997: Craddock, Ashley, [Nottingham v. Net: Game, Set, Match to Net](#), Wired:  
"Thwarted by the Net, the Nottinghamshire County Council has dropped its two-month-old attempt to quash the online publication of a report critical of a flawed government investigation into the United Kingdom' s first case of alleged satanic ritual abuse."
- August 4, 1997: Kornblum, Janet, [British relent on banned report](#), CNet:  
"Score a victory for the Internet: A local government in England, which had

been fighting to stop the distribution of a banned government report on the Net, has withdrawn from the fight, leaving the other side to claim victory."

- August 4, 1997: Recent [Press Releases](#) issued by Cyber-Rights & Cyber-Liberties (UK) about the availability of the JET Report on the Internet and its up-to-date coverage including mirror sites and the problems with the hyperlinks
- June 13, 1997: Kornblum, Janet, [Britain pursues banned report](#), CNet: "British authorities trying to regain control of a report let loose online last week are telling an American professor to take the report--along with any links to it--off the Net."
- June 10, 1997: Kornblum, Janet, [Governments strive to keep lid on the Net](#), CNet
- June 3, 1997: Kornblum, Janet, [U.K. child abuse witch-hunt exposed](#), CNet: "David Hebditch and two other British journalists knew they were breaking the law when they posted a banned government report detailing a notorious ritual child abuse case on their Web site."
- June 3, 1997: [Cyber-Rights & Cyber-Liberties \(UK\) Press Release](#): UK Nottingham County Council in bid to stop Internet publication of controversial child abuse report
  
- [Dr. Michael Baker' s Case Australia](#): He will not comply with the demands of the Nottinghamshire County Council
- [Professor Peter Junger' s Case USA](#): He will not comply with the demands of the Nottinghamshire County Council
- [Jeremy Freeman' s Case Canada](#): Jeremy Freeman has been forced to remove the JET Report and the Links to the JET Report by the Nottinghamshire CC
- [Nils Kammenhuber' s Case Germany](#): Nils Kammenhuber has been forced to remove the JET Report and the Links to the JET Report by the Nottinghamshire CC



- [The BroXtowe Files](#)
- [Injunction](#)
- [JET-Report](#)

Also see the Decision Section: [June 3, 1997](#)

## **IFPI Schweden v. Tommy Olssen**

Criminal charges were filed against Tommy Olssen, because he had provided links to more than 300 copyrighted songs. Sweden's Supreme Court dismissed the lawsuit.

- June 15, 2000: [Musikverband verliert Klage gegen MP3-Fan](#), tecchannel:  
"Das Oberste Gericht in Schweden hat in Stockholm die erste Klage der europäischen Musikindustrie wegen Verbreitung illegaler Musikkopien im Internet abgewiesen."
- September 16, 1999: [Musikindustrie verliert Prozess um MP3-Links](#), Heise:  
"Das Gericht begründete den Freispruch damit, dass der 17-Jährige niemals selbst Musik ins Netz gestellt, sondern nur Verbindungen zu anderen Links mit Musik angegeben habe."
- Claesson, Katarina: [Linking and copyright – a summary of a recent ruling in a Swedish court of Appeal](#):  
"On the 27th of December 1999 the Swedish court of appeal in Mid Sweden (Göta Hovrätt) ruled on a criminal case involving a private person (Olsson) linking to MP3-websites."

Also see the Decision Section: [June 15, 2000](#)

## **Direct links into Peer-2-Peer networks**

Fake files in Peer-2-Peer networks begin to spoil the fun of illegal downloads. In reaction to this development, direct links into Peer-2-Peer networks are becoming more and more popular. Several websites confirm the authenticity of files and provide directlinks, e.g. Sharereactor, Filenexus or Bitzi. Direct links into the Gnutella network are called "Magnet Uniform Ressource" (Magnet URI), into Kazaa sig2dat.

The sig2dat program e.g. creates startfiles and gives a file a unique signature hash that no other file has. Thus a file hash serves as the identifier of a file content and can be compared to a fingerprint. A user can report the hash information to other users, thus enabling them to create startfiles. The program also enables a user to create quicklinks. A quicklink works and looks like any regular website link, but instead of taking a user to a website it creates a startfile in the shared folder. When a user opens Grokster or KaZaa, the startfile automatically shows up in the traffic section and the download of the file starts. (For more information on the technical background see the [FastTrackMovies FAQ](#))

IFPI Germany send letters to several webmasters demanding they remove directlinks to music files in P2P networks within 24 hours. Several webmaster complied.

- February 13, 2003: [Die deutsche Musikindustrie geht gegen eDonkey-Seiten vor](#), Heise:  
"Die deutsche Landesgruppe der International Federation of the Phonographic Industry (IFPI) hat alle größeren deutschen eDonkey-Seiten, die so genannte "Directlinks" auf urheberrechtlich geschützte Musik anbieten, aufgefordert, diese innerhalb einer 24-stündigen Frist zu entfernen."
- January 27, 2003: [Directlinks zum Tauschbörsen-Himmel](#), derStandard.at
- July 23, 2002: [eDonkey-Linkseite unter Beschuss](#), Heise

## **Austropersonal.com / Jobmonitor.com**

- April 17, 2001: Rötzer, Florian, [Haftbar für Inhalte auf einer verlinkten fremden Website](#), Telepolis:  
"Der Oberste Gerichtshof in Österreich hat sich erstmals mit der Frage beschäftigt, ob der Betreiber einer Website für einen Link auf eine andere Website haftet."

Also see the Decisions Section: [December 19, 2000](#)

## **Sir Elton John v. Countess Joulebine**

Defendant, who operates a website specialized in gossip, linked to a highly confidential stolen document relating to a court case between Sir Elton John and his accountants.

- McIlwaine, David, [Summary and Commentary](#), pp. 14 ff.

## Warez.at

Warez.at, a website that redirected people to a variety of other pirated software suppliers around the world, has been closed down.

- October 18, 2001: [Warez.at versenkt](#), Heise:  
"Die österreichische Schatzinsel für Softwarepiraten, Warez.at, wurde von der Business Software Alliance dichtgemacht."
- October 18, 2001: Blincoe, Robert, [BSA stomps Warez.at](#), The Register:  
"The Business Software Alliance shut down 118 UK warez (pirate software) sites between January and September 2001."

## Google v. Scientology

The Church of Scientology demanded that Google remove links to anti-Scientology websites from the Google search engine, which violate their copyright. Google removed certain specific URLs in response to the notification.

- April 22, 2002: Gallagher, David, [Google Runs Into Copyright Dispute](#), New York Times:  
"Google Web search engine finds creative response to complaint from Church of Scientology that search results for ' Scientology' included links to copyrighted church material on foreign Web site critical of church and beyond reach of United States copyright law."
- April 10, 2002: [Scientology Complaint to Google](#), Chilling Effects
- March 26, 2002: Hiler, John, [Church v. Google, round 3](#), Microcontent News:  
"Last week, Google removed Scientology critic Xenu.net from its search engine database, after Scientologists lawyers filed a DMCA (Digital Millennium Copyright Act) complaint to Google."

- March 22, 2002: Hiler, John, [Church v. Google, round 2](#), Microcontent News: "Since the spate of mass media coverage yesterday, Xenu.net is once again the #4 result when you search for the word "Scientology"."
- March 22, 2002: [Google Restores Church Links](#), Wired: "Google restored a website critical of the Church of Scientology on its search engine Thursday while free-speech advocates slammed the company for removing the site in the first place."
- March 22, 2002: [Google hat Scientology-Kritiker wieder im Index](#), Heise: "Nachdem Google auf Druck der Scientology-Organisation Anfang der Woche einige Scientology-kritische Seiten aus seinem Index entfernt hatte, hat der Suchmaschinen-Betreiber zumindest die wichtigste der betroffenen Seiten, die Homepage der Operation Clambake, mittlerweile wieder in seinen Index aufgenommen."
- March 21, 2002: McCullagh, Declan, [Google Yanks Anti-Church Sites](#), Wired: "The Church of Scientology has managed to yank references to anti-Scientology websites from the Google search engine."
- March 21, 2002: [Google zensiert Scientology-Kritiker](#), Heise: "Google hat eine Reihe von Seiten der Scientology-kritischen Sites "Operation Clambake" und ihrer Mirror-Server aus seinem Index gelöscht."
- March 21, 2002: Hiler, John, [Church v. Google](#), Microcontent News: "Microcontent News has learned that the Church of Scientology™ is aggressively using digital copyright laws to eliminate one of its chief online critics from the Google database."

Google, [Digital Millennium Copyright Act](#)

[Quote from Google.com e-mail 20.03.2002](#)

## **Deutsche Bahn v. AltaVista, Google, Yahoo**

Deutsche Bahn sent letters to AltaVista, Yahoo and Google asking them to remove hyperlinks to the online copies of two articles from the German-language left-wing

extremist publication, Radikal, which has been outlawed in Germany. The articles published under the headline "A handbook for destruction of railroad transport of all kinds" detail how to cut power on parts of the railway system. All three search engines complied with the request, thus avoiding a lawsuit.

- April 22, 2002: Schulzki-Haddouti, Christiane, [Deutsche Bahn setzt sich bei Suchmaschinen-Betreiber durch](#), Telepolis:  
"Die Deutsche Bahn hat die deutschen Tochtergesellschaften der Suchmaschinen Google, Altavista und Yahoo abgemahnt - mit Erfolg."
- April 22, 2002: [Suchmaschinen entfernen "radikale" Links](#), Heise:  
"Die deutschen Tochtergesellschaften der Suchmaschinen Google, Altavista und Yahoo folgen der Abmahnung der Deutschen Bahn, Links auf die Site der linksradikalen Zeitschrift Radikal aus dem Angebot zu nehmen."
- April 18, 2002: Evers, Joris, [AltaVista, Google Remove Controversial Links](#), PC World:  
"Search engines avoid legal action, agree to delete links to site offering info on sabotaging railway systems."
- April 17, 2002: Naraine, Ryan, [Google May Remove Controversial Links](#), Enterprise News:  
"Search engine firm Google said late Thursday it was negotiating a resolution of a lawsuit filed by Germany' s national railway operator Deutsche Bahn AG over search results that link to allegedly illegal Web articles."
- April 17, 2002: [Deutsche Bahn will Google verklagen](#), Golem.de:  
"Die Deutsche Bahn will den Suchmaschinen-Anbieter Google verklagen, da dieser eine Sabotage-Anleitung für Bahnstrecken verlinkt."
- April 17, 2002: [Suchmaschinen sollen "Radikal"-Links aus dem Netz nehmen](#), Heise:  
"Die Deutsche Bahn AG hat nun auch die Suchmaschinen Google, Yahoo und Altavista abgemahnt."
- April 16, 2002: Schulzki-Haddouti , Christiane / Virtel, Martin, [Deutsche Bahn: Teilerfolg bei Klage gegen Google, Yahoo und Altavista](#), Financial Times:

"Die Deutsche Bahn hat bei ihrem Kampf gegen Sabotage-Tipps im Internet einen Teilerfolg erzielt."

- April 16, 2002: Evers, Joris, [Deutsche Bahn to sue Google; Yahoo, AltaVista next up](#), Network World Fusion:  
"Deutsche Bahn AG, the German national railway operator, Wednesday will file suit against Google because the company's search engine provides links to a Web site that offers instructions on how to sabotage railway systems, Deutsche Bahn said Tuesday."

## **Deutsche Bahn v. XS4ALL**

- November 10, 2002: [Keine Berufung im Verfahren wegen „radikaler“ Websites](#), Heise:  
"Ein niederländisches Gericht hat den Berufungsantrag des Webhosters XS4ALL im Fall Radikal abgewiesen."
- April 15, 2002: Schulzki-Haddouti, Christiane, [Deutsche Bahn verklagte XS4ALL wegen linksradikaler Zeitschrift „Radikal“ und gewann](#), Telepolis:  
"XS4ALL musste die "Radikal"-Seiten vom Netz nehmen; Amsterdamer Gericht urteilte nach der in niederländisches Recht umgesetzten europäischen E-Commerce-Richtlinie."
- April 15, 2002: [Deutsche Bahn gewinnt gegen Provider der Zeitschrift „Radikal“](#), Heise:  
"Die Deutsche Bahn AG hat den niederländischen Webhoster XS4ALL dazu gezwungen, zwei deutschsprachige Anleitungen zur Sabotage des Eisenbahnbetriebs vom Netz zu nehmen."

## **Deutsche Bahn v. Indymedia.nl**

Indymedia website contained links to mirror sites of Radikal which have popped up all over the Web. Deutsche Bahn demanded the removal of the links on April 23, 2002. Indymedia.nl refused and Deutsche Bahn sued. A dutch judge ordered Indymedia NL to remove links pointing to the mirrors of Radikal sites from a page on their website.

What makes the decision especially noteworthy is the fact, that all links were surface links. None of the links was pointing to the offending articles directly!

- July 2, 2002: Cullen, Drew, [Indymedia.nl loses anarchist hyperlinks case](#), The Register:

"In April this year, Deutsche Bahn sued Google over links to a German anarchist website which showed how to sabotage a railway."

- [Deutsche Bahn vs. Indymedia: Where is the internet without indirect links?](#), Indymedia.nl:

"Deutsche Bahn, the German rail company, won a court case against Indymedia.nl, ordering Indymedia.nl to remove all direct and indirect links to two pages that contain information considered unlawful in the Netherlands."

- June 20, 2002: [Press Release: Judge orders Indymedia NL to remove links to Radikal mirrors](#), Indymedia.nl:

"The court case, initiated by Deutsche Bahn (German Rail, DB) against Indymedia NL, has turned out negative for the latter organisation."

- April 25, 2002: [German railroad threatens Indymedia over links to "Radikal" site](#), Politech:

"The German Railroads are threatening Indymedia in the Netherlands with a lawsuit to remove links to mirrors of the magazine Radikal."

- April 25, 2002: [Indymedia NL entfernt Seite mit Links nach Radikal NICHT!](#), Indymedia.nl:

"Am Dienstag den 23 April 2002 is das Newsmedium Indymedia.nl mittels eines Briefes van den Rechtsanwaelten der Deutschen Bahn aufgefordert eine Internetseite zu entfernen. Die bewusste Seite enthaelt eine anzahl Links zu Mirrors der schon seit Jahren nicht mehr existierenden deutschen Zeitschrift Radikal."

Also see the Decision Section: [June 20, 2002](#)

## Lucasfilm v. Aldera.net / NaboOnline

After a request from Lucasfilm Ltd. at least two fan sites stopped linking stolen storyboard images from the film "Star Wars: Episode II."

- October 2, 2000: Sieberg, Daniel, [Lucasfilm orders links to new „Star Wars“ images removed](#), CNN:

"Striking back in an effort to stop copyright infringement, Lucasfilm Ltd. has ordered at least two fan sites to stop linking to fiercely guarded storyboard images from the upcoming film "Star Wars: Episode II."

## Cyber Patrol

The hack of Cyber Patrol, a blocking software offered by Mattel, was done by two persons with a program they called "cphack." Cphack was designed to reveal the list of blocked sites that Mattel didn't want to disclose to the public. Mattel first sued the hackers from distributing Cphack over their website. After getting an injunction, Mattel went after mirror sites that posted Cphack and anyone who downloaded it or linked to it.

- November 16, 2000: Guernsey, Lisa: [Lifting the Curtain on Web Filter Strategies](#), New York Times
- April 14, 2000: Gunn, Angela, [No-Tell Mattel](#), LA Weekly
- March 29, 2000: McCullagh, Declan, [Mattel Ruling Confuses Hackers](#), Wired: "A federal judge' s vague ruling in a case over a program that reveals Cyberpatrol' s secret blacklist has left the Net' s hacking community thoroughly confused."
- March 28, 2000: McCullagh, Declan, [Mattel Can Go After Mirrors](#), Wired: "A federal judge in Boston has invited Mattel to start contempt of court proceedings to shut down mirror sites in a suit over its Cyberpatrol filtering software."
- March 28, 2000: Rötzer, Florian, [Überraschende Wende](#), Telepolis: "Cyberpatrol-Hacker stimmen einer Einigung mit Mattel zu und übertragen das



Copyright an ihrem Programm zur Umgehung der Verschlüsselung an das Unternehmen."

- March 27, 2000: McCullagh, Declan, [Mattel Stays on the Offensive](#), Wired:  
"Upping the stakes in a battle over a utility that reveals Cyberpatrol' s list of off limits websites, Mattel threatened mirror sites with contempt charges during a court hearing Monday afternoon."
- March 21, 2000: Stenger, Richard: [Cyber Patrol decoding brawl gets ugly and international](#), CNN:  
"A legal dispute between a U.S. toymaker that produces a popular Internet pornography filter and two programmers that decoded the software could heat up into a messy international brawl."
- March 19, 2000: Rötzer, Florian, [Cyberpatrol-Hack: Einstweilige Verfügung eines amerikanischen Richters](#), Telepolis:  
"Das Verbot, das Umgehungsprogramm zu verbreiten, betrifft alle Mirror- Websites; der schwedische Provider von einem der Beklagten hat die Seite mit dem Programm bereits vom Netz genommen."
- March 17, 2000: McCullagh, Declan, [CyberPatrol Hackers Lose Round](#), Wired:  
"U.S. District Judge Edward Harrington granted Mattel -- the toy giant that also sells CyberPatrol -- its request on Friday for an injunction against two programmers who created the "cphack" utility."
- March 16, 2000: McCullagh, Declan, [Mattel Sues Over Blocking Hack](#), Wired:  
"Toy-maker Mattel has sued two programmers who revealed how to circumvent its CyberPatrol blocking software."
- [Permanent Injunction](#)
- [Cyber Patrol break FAQ](#)
- [CyberPatrol lawsuit archive](#)

## **MP3Board v. RIAA**

The Recording Industry Association of America (RIAA) sent several cease-and-desist lettres to MP3Board.com, a search engine that provides hyperlinks to MP3 music files

available for download over the Internet, alleging that the links would infringe their copyright. MP3Board filed a preemptive lawsuit on June 2, 2000 in federal district court in San Jose to get a decision on whether providing hyperlinks constitutes copyright infringement or not. MP3Board also asked for redress for the RIAA' s role in temporarily shutting down the MP3Board Website. A short time later, the RIAA also filed suit in federal district court in New York.

#### News Articles:

- March 20, 2001: [MP3-Suchmaschine verlangt Schadensersatz von Plattenindustrie](#), Heise:  
"Die MP3-Suchmaschine MP3Board hat mit einer Schadenersatzklage gegen die Recording Industry Association of America (RIAA) eine weitere juristische Hürde übersprungen."
- October 17, 2000: Borland, John [MP3Board case moves to New York](#), News.com:  
"While file-trading paragon Napster waits in court and rival Scour seeks bankruptcy protection, another potentially landmark online music case is moving toward resolution."
- July 26, 2000: King, Brad: [MP3Board Offers to Sever Links](#), Wired:  
"Music portal MP3Board is trying to appease the RIAA with technology that enables copyright owners to destroy links on its site to music files thought to be pirated."
- July 18, 2000: Borland, John, [MP3Board countersues RIAA, calls MP3 links legal](#), News.com:  
"MP3Board today filed its own claim against the Recording Industry Association of America, asking for redress for the RIAA' s role in "temporarily shutting down the MP3Board Web site" because it links to copyrighted songs on other Web sites."
- June 26, 2000: King, Brad, [RIAA: No Hyperlinking Allowed](#), Wired:  
"On Friday, the Recording Industry Association of America (RIAA) filed a suit against content-aggregation site MP3Board.com. The copyright infringement suit filed in federal district court in New York claims that the website knowingly

gathers, indexes, and organizes links to sites where illegal files are offered for download."

- June 6, 2000: Mariano, Gwendolyn, [MP3 firm in music-linking dispute with record industry](#), News.com:  
"A little-known Internet search company has fired a legal shot over the bow of the recording industry to preserve its ability to guide Web surfers to online music files, legal and illegal."
- June 5, 2000: King, Brad, [MP3 Site Sues RIAA Over Linking](#), Wired:  
"The recording industry got a bit of a shock on Monday when a digital music search site filed a lawsuit asking the judge to stop the Recording Industry Association of America from attempting to shut its website down."

#### Legal Documents:

- April 23, 2001: [MP3Board Opposition to RIAA Motion for Summary Judgment](#)
- April 23, 2001: [MP3Board Opposition to Record Company Motion for Summary Judgment](#)
- April 6, 2001: [MP3Board Motion for Summary Judgment](#)
- June 2, 2000: [Complaint](#)

Information on the lawsuit on the [MP3Board website](#).

## **Scientology v. Spaink**

According to a Dutch court ruling links to a website that infringes someone's copyright are also an infringement. The decision stems from a lawsuit Scientology filed against the journalist Karin Spaink, who posted materials written by Scientology founder L. Ron Hubbard on her Website.

October 2003 Update:

The Court of Appeal in The Hague, Netherlands, denied the Scientologists' latest appeal in an online copyright dispute that dates back to 1995. The court also

overturned two previous rulings by the Amsterdam District Court of March 1996 and June 1999 that held that if a provider was made aware of illegal publishing of copyrighted materials by their subscribers, or hyperlinks to illegal or copyrighted information, it should take action and remove the website or links.

Xs4all believes that "a hyperlink is merely a road marker on the Internet, and can never be unlawful." Although not all European courts will consent with that statement and the statement is in contradiction to the law in some European countries, Xs4all won an important copyright case, that significantly narrows the ability of copyright claims against ISPs in the Netherlands based on "illegal" hyperlinks.

- September 9, 2003: Hines, Matt, [Hyperlinks remain legal after Scientology defeat](#), ZDNet UK:  
"The Church of Scientology has lost a courtroom battle to compel a Dutch writer and her Internet service provider to remove postings from a Web site, in a ruling that keeps hyperlinks to copyrighted material legal."
- September 8, 2003: Libbenga, Jan, [Scientologists loses copyright case](#), The Register:  
"The Court of Appeal in The Hague last week rejected all of the Church of Scientology' s claims its action against the Dutch ISP Xs4all, writer Karin Spaink and ten other internet providers for publishing copyrighted material on the web."
- September 8, 2003: [Veröffentlichung von Scientology-Dokumenten bleibt legal](#), Heise:  
"Die niederländische Journalistin Karin Spaink hat im jahrlangen juristischen Kampf gegen die Scientology-Organisation erneut einen Sieg errungen."
- June 9, 1999: Goodin, Dan, [Scientologists' copyright suit shapes Net liability](#), CNet:  
"Linking to a site that contains material that infringes someone' s copyright also is an infringement, a Dutch court ruled today, according to the Church of Scientology, the plaintiff in the case."

Also see: [Postings and information about the Dutch protest against Scientology](#)

Also see the Decisions Section: [June 9, 1999](#)

## Microsoft v. Slashdot

On May 2, 2000, Slashdot posted an article describing Microsoft' s extensions to the Kerberos standard. Several Slashdot users posted hyperlinks to Microsoft' s Kerberos specifications. Microsoft sent Slashdot a letter claiming copyright violation and loss of trade secrets, and requested to remove posts containing links. Slashdot refused to remove the posts. Microsoft should not suppress free speech in the public Web forum.

- June 1, 2000: Gunn, Angela, [A nudge and a link](#), Seattle Weekly:  
"A few months back during the cphack fracas, the American Civil Liberties Union asked the judge in that case whether injunctions on that Net-filter workaround extended to third-party sites that linked to the information rather than hosting it on their own servers."
- May 12, 2000: Kermath, Annie, [Microsoft picks fight with Slashdot](#), The Register:  
"Despite Microsoft' s requesto Slashdot owner and ISP Andover.net to remove postings containing technical details of its proprietary extensions to Kerberos, the open source authentication standard, they' re still up there."
- May 11, 2000: McCullagh, Declan, [Call it Slash-and-Burn.org](#), Wired:  
"Thursday just wasn' t a good day for geekculture destination Slashdot."
- May 11, 2000: [Microsoft Asks Slashdot To Remove Readers' Posts](#), Slashdot

## IFPI v. Fast Search / Lycos

IFPI sued Norwegian company FAST Search over the use of its MP3 search engine and database. Fast' s software offers links to more than half a million MP3based copyrighted songs. FAST MP3 Search finally resolved the conflict with RIAA and IFPI in June 1999.

- March 25, 1999: Medosch, Armin, [Musikindustrie weiter auf Feldzug gegen MP3](#), Telepolis:  
"Klage gegen FAST, die Softwarefirma, die das MP3-Suchwerkzeug für Lycos programmiert."

- March 24, 1999: Robertson, Chiyo, [Lycos may face lawsuit over MP3](#), ZDNet:  
"The International Federation of the Phonographic Industry (IFPI) on Wednesday sued Norwegian company FAST Search & Transfer ASA over the use of its MP3 search engine and database, which it has licensed to portal giant Lycos."
- March 24, 1999: [MP3 Search Engine Under Fire](#), Wired:  
"The global recording industry opened fire Wednesday on Internet music piracy, launching proceedings against a Norwegian partner of US search engine Lycos."
- 02.02.1999: [RIAA Rains on Lycos' MP3 Party](#)Wired:  
"Lycos will work with the Recording Industry Association of America to ensure the company' s new MP3 searb engine does not link to illegal sites, the Associated Press reported Tuesday."

#### [Information on the signing of a contract](#)

### **Suhrkamp v. Kantel**

Kantel's website contained a link to an illegal copy of Martin Walser's latest book "Tod eines Kritikers". The Suhrkamp Verlag send him a cease-and-desist-letter.

- June 21, 2002: [Walser-Roman: Ärger im Netz](#), Netzzeitung.de:  
"Nachdem «Tod eines Kritikers» im Web aufgetaucht war, hat der Suhrkamp-Verlag Homepage-Betreiber, die die Raubkopie verlinkten, abmahnen lassen."
- June 20, 2002: [Suhrkamp zieht Abmahnung wegen Link auf Walser-Roman zurück](#), Heise:  
"Der Suhrkamp-Verlag hat seine Abmahnung gegen den Betreiber des Weblogs Schockwellenreiter.de wegen Veröffentlichung eines Links auf die im Internet kursierende illegale Kopie des neuen Romans von Martin Walser zurückgezogen."
- June 16, 2002: [Suhrkamp mahnt Weblog wegen Walser-Roman ab](#), Heise:  
"Der Betreiber des Weblogs "Schockwellenreiter" soll 1200 Euro Abmahnkosten dafür zahlen, dass er einen Link auf eine der vielen im Internet

kursierenden Online-Versionen des Martin-Walser-Romans "Tod eines Kritikers" gesetzt hat."

- June 14, 2002: Hammerschmitt, Marcus, [La règle du jeu](#), Telepolis:  
"Künstliche Erregung in Frankfurt: Nachdem man etlichen Journalisten per Email den Volltext von Martin Walsers "Tod eines Kritikers" zukommen ließ, wundert man sich nun über die Verbreitung des Machwerks im Internet."

### [Letter from Suhrkamp](#)

## **UCSD v. Student Group**

The University of California at San Diego ordered a student organization called the Chè Café Collective to delete hyperlinks to the official site of the Revolutionary Armed Forces of Colombia (FARC), an alleged terrorist organization. After receiving several letters, the University agreed with the signers of the letters that links are a First Amendment right.

- October 9, 2002: [UCSD retreats on links to terrorist group, but hosting not OK](#), Politech:  
"The University of California at San Diego has abandoned plans to discipline a student group for linking to an alleged terrorist Web site."
- October 8, 2002: McCullagh, Declan, [University backs down on link ban](#), CNet:  
"On Tuesday, the American Association of University Professors and nine other groups wrote a letter asking UCSD to abandon its threats of disciplinary action against the Che Cafe Collective, a move that the school had claimed was necessary because of the USA Patriot Act. The cafe had linked to a site supporting the Revolutionary Armed Forces of Colombia, which the U.S. government has designated as a terrorist group."
- September 28, 2002: Asaravala, Amit, [College Questioning Site' s Link](#)Wired:  
"Officials at the University of California at San Diego are reconsidering a

recent decision that would have forced a student activist group to remove from its website a link to a guerilla group accused of being a terrorist organization."

- September 26, 2002: McCullagh, Declan, [University bans "illegal" links](#), ZDNet:  
"The University of California at San Diego has ordered a student organization to delete hyperlinks to an alleged terrorist Web site, citing the recently enacted USA Patriot Act."

## Google v. Illegal Content

Section 512 of the DMCA protects online service providers e.g. search engines from liability for information posted or transmitted by subscribers if they quickly remove or disable access to material identified in the copyright holder' s complaint. You will find many cease and desist letters addressed to Google on the [Chilling Effects Website](#).

According to a [report from Harvards University' s Berkman Center](#), Google also deleted more than 100 controversial sites from its French and German listings. Banned are e.g. anti-Semitic and pro-Nazi websites and a fundamentalist Christian site that is adamantly opposed to abortion. The removed sites still appear after a search on the Google.com site.

- October 25, 2002: Rötzer, Florian, [Die Welt ist keineswegs alles, was Google auflistet](#), Telepolis:  
"Nach einem Bericht des Berkman Center an der Harvard-Universität wurden bei google.de und google.fr mehr als 100 Websites bei den Suchresultatenen nicht aufgeführt, die bei google.com aber nicht zensiert werden."
- October 25, 2002: Schwartz, John, [Study Tallies Sites Blocked by Google](#), New York Times:  
"Study by Ben Edelman and Jonathan Zittrain, co-director of Berkman Center for Internet and Society at Harvard Law School, finds that Google, popular Internet search engine, has excluded more than 100 Web sites from French and German versions of its index under pressure from those nations' governments."



- October 23, 2002: McCullagh, Declan, [Google excluding controversial sites](#), CNet:

"Absent from Google' s French and German listings are **Wb** sites that are anti-Semitic, pro-Nazi or related to white supremacy, according to a new report from Harvard University' s Berkman Center."

## Google and Kazaa Lite Links

The DMCA used against Google by Sherman Networks (aka Kazaa) ordered it to remove references to 15 websites that contain information related to Kazaa Lite, an unauthorized copy of Kazaa with the pop-up ads removed. Google has complied, but has linked to the [notice](#) .at the bottom of the violation-related search result page. "In response to a complaint we received under the Digital Millennium Copyright Act, we have removed 14 results from this page," the statement said. "If you wish, you may read the DMCA complaint for these removed results." Removed sites include [www.kazaagold.com](#), [www.kazaalite.tk](#), and [www.kaaza.com](#).

Notices were also filed against Slyck, Zeropaid and several other websites.

- September 3, 2003: [KaZaA, DMCA gegen Google, KaZaA Lite](#), futureZone:  
"US-Copyrightgesetz DMCA zwingt Google, Links auf KaZaA Lite zu unterdrücken."
- September 2, 2003: Lyman, Jay, [Google Pulls P2P Links Over Kazaa Copyright Claims](#), TechNewsWorld:  
"In a bizarre twist to the file-sharing fight in which the Recording Industry Association of America is using copyright law to pursue file traders, search engine Google pulled links to sites hawking unofficial Kazaa alternatives after the popular file-swapping service made its own copyright-infringement claims."
- September 2, 2003: McCullagh, Declan, [Google pulls links to Kazaa imitator](#), News.com:  
"In response to a legal threat that invoked the Digital Millennium Copyright Act, Google has removed from its index eight sites that distribute a hacked version of file-swapping service Kazaa."

- September 2, 2003: [Kazaa vs. Lite: Google in der Schusslinie](#), Heise:  
"Wer in der Web-Suchmaschine Google "Kazaa Lite" eingibt, bekommt nach wie vor mehrere hunderttausend Ergebnisse angezeigt. Am Ende der Seite findet sich allerdings ein Hinweis, dass Ergebnisse aus der Seite herausgefiltert worden seien."
- September 1, 2003: Jodda, Bettina, [Vorauselender Gehorsam als Standard - Google entfernt erneut Seiten aus dem Index, ohne es auf eine gerichtliche Auseinandersetzung ankommen zu lassen](#), Telepolis:  
"Sherman Networks wandte sich mit einem freundlichen Brief an Google und forderte darin auf, Links zu Seiten, welche nicht autorisierte Downloads anbieten, nicht im Index aufzulisten ."

## **Recommendations on the responsibilities for linking to illicit content**

France' s Internet Rights Forum (Le forum des droits sur l'internet or FDI) has published recommendations on the responsibilities of sites that create hyperlinks to "illicit content".

- October 24, 2003: Dumout, Estelle, [Could your hyperlinks land you in hot water](#), silicon.com
- [Recommendation report: Hyperlinks: Legal Status](#), foruminternet.org:  
"A principle must be stated: the establishment of a link is free. This principle is justified by the nature and the very functioning of the Internet. However, in our society, a freedom is not absolute and a proper balance between constraints and freedom must be achieved."

## **IFPI China v. MyWeb Inc.com**

MyWeb Inc.com settled a lawsuit brought against it in China by the IFPI. The IFPI lawsuit had been filed in the People' s Court of Beijing in December 1999, claiming

MyWeb's site enabled Internet users to download the sound recordings of IFPI members through hyperlinks and search engines.

- [Internet settlement in China leads to joint IFPI/My Web copyright campaign](#), IFPI:  
"China' s leading TV portal, MyWeb Inc.com [AMEXMWB], together with the IFPI, representing the international recording industry, today launched a joint campaign to uphold copyright laws and fight music piracy on the Internet in China."
- March 27, 2000: Fridman, Sherman, [My Web Inc.com Settles Copyright Lawsuit](#), Computeruser:  
"The suit complained that MyWeb had set up Web pages on its China-based Web portal that enabled Internet users to download the sound recordings of IFPI members, in MP3 format through hyperlinks and search engines."

## **CDU and the Ketchup Song**

German opposition party CDU has been sued by Sony/ATV Music Publishing because of its use of the song "Aserejè" by Spanish group Las Ketchup in its political campaigns. A link on their website leads to a MP3-file which features the song with new German lyrics. The song ridicules the government.

- October 25, 2002: [German opposition party being sued for using the Ketchup Song](#), Ananova
- October 24, 2002: [Schröder-Song im Internet beschert CDU Ärger mit Musikindustrie](#), Heise
- October 24, 2002: [Sony verklagt CDU wegen Werbung mit „Ketchup-Song“](#), derStandard.at
- October 24, 2002: Patalong, Frank, [Böse, böse CDU!](#), Spiegel Online

## Fahrenheit 9/11

On June 27, 2004, the anti-Moore Web site [MooreWatch.com](http://MooreWatch.com) posted a link to an illegal version of the film "Fahrenheit 9/11" available elsewhere on a file-sharing network, noting that Moore himself has publicly backed downloading the movie online. Moore is quoted: "I don't agree with the copyright laws, and I don't have a problem with people downloading the movie and sharing it with people. As long as they're not doing it to make a profit, you know, as long as they're not trying to make a profit off my labor. I would oppose that."

- July 5, 2004: Roth, Wolf-Dieter, Michael Moore: ["Raubkopieren ist erlaubt, solange niemand daran verdient"](#), Telepolis:  
" Die Gegner von Michael Moore hofften schon auf einen spektakulären Prozess, doch der Dicke hält Wort: Solange es kostenlos geschieht, gilt für ihn: P2P und Brenner frei!"
- July 2, 2004: [Streit um Michael-Moore-Film im Internet](#), Heise:  
"Moorewatch.com-Betreiber Jim Kenefick sieht sich im Recht und hat auf seiner Website ein Tondokument verlinkt, laut dem Moore gesagt haben soll, er habe keine Probleme damit, wenn Web-Surfer den Film über P2P-Tauschbörsen verbreiten."
- July 2, 2004: [«Fahrenheit 9/11» kursiert im Netz](#), Netzzeitung:  
" Wie nicht anders zu erwarten, ist eine erste Kopie des neuen Michael-Moore-Films in Online-Tauschbörsen aufgetaucht. Eine Anti-Moore-Website hat den Link darauf verbreitet."
- July 1, 2004: Borland, John, [' Fahrenheit 9/11' sparks file sharing flare-up](#), News.com:  
" The political firestorm surrounding filmmaker Michael Moore' s "Fahrenheit 9/11" has found its way into the file-sharing world."

## Schöner Wetten

In 2003, the German Federal Court of Justice in Karlsruhe [issued a verdict](#) holding that an online service which offers links to articles in a protected database is not in

violation of copyright and competition law, thus ending the discussion about the legality of deep links in Germany. This week the court published its April 1, 2004 decision ( I ZR 317/01) on links from websites to gambling sites. And once again the court stressed the importance of hyperlinks and came to a very "hyperlink friendly decision".

Defendant' s website contained an article about the success of an operator of gambling sites - a former model - and included a link to an Austrian gambling site, which lacks a German gambling permit and is considered illegal under German law because it also caters to German customers.

According to the highest German civil court the link only served informational purposes and was not set to promote the gambling site. The court denied civil liability under unfair competition laws. Most important the court provided long awaited clarity as to the required standard of care for website operators: As long as it is not obvious that the linked-to-site is involved in illegal activities, website operators are protected by the freedom of press and opinion and may not be held liable for providing hyperlinks. Even when the operator is in doubt about of the legality of the linked contend he does not violate the duty of care.

So as long as as it is not obvious that you are linking to illegal information you will probably not be held liable in Germany. Although the decision centers around a news article and the freedom of press it is reasonable to think the same standard will be applied by the courts to all website operators.

#### [Text of the decision](#)

- June 8, 2004: [BGH schränkt Haftung von Presseorganen für Hyperlinks ein](#), Heise:  
"Ein Presseorgan haftet nicht für Hyperlinks auf rechtswidrige Angebote, die als Ergänzung eines redaktionellen Artikels ohne Wettbewerbsabsicht gesetzt werden -- sofern der Inhalt der verlinkten Seite nicht eindeutig als strafbar zu erkennen ist."
- June 8, 2004: [Deutschland lockert Linkhaftung](#), futureZone:  
"Der deutsche Bundesgerichtshof [BGH] hat die Anforderungen für Online-

Medien zur Prüfung von Links heruntergeschraubt, auf die ihre Websites verweisen."

- June 9, 2004: [Link-Haftung gelockert](#), intern.de  
"Tagesschau.de berichtete gestern über ein bereits am 1. April verkündetes Urteil, bei dem es um Fragen der Link-Haftung geht."

## Online Policy Group v. Diebold, Inc.

Diebold Election Systems sells electronic voting systems used in states including California, Georgia, Ohio and Texas. Diebold demands that webmasters remove internal documents, that include conversations that cast doubt on the company' s ability to sell secure software and criticize the company' s software, security, certification and sales practices, or stop hyperlinking to the documents.

The cease and desist letters earned Diebold a lawsuit by an ISP (The Online Policy Group) with a client (Indymedia) who linked to the documents and by two Swarthmore students whose school--acting as their ISP--had removed copies under takedown threat. They pledged to seek a court order spelling out that publishing or linking to the Diebold e-mails doesn' t amount to copyright infringement. EFF is representing the Online Policy Group.

"An ISP with knowledge that hyperlinks on its site direct users to potentially infringing material is not immunized from liability," Diebold' s filing said. "It is now well established that hyperlinks directing users to websites containing infringing material themselves infringe the underlying copyright." But Diebold soon backed off and told a judge it won' t sue websites that post information about possible flaws in its touch screen machines. Lawyers who represent the Online Policy Group indicated that they had not finished pressing their case against Diebold, that they wanted more: They are seeking a court order that says publishing or linking to the Diebold files on the Web does not violate copyright law, and that ISPs should not face penalties for hosting Web sites that do.

A hearing is scheduled Feb. 9.

U.S. congressional representative Dennis Kucinich, who is seeking the Democratic Party' s presidential nomination, also provides links to the Diebold email correspondence from his House of Representatives Website.

- December 2, 2003: [Online-Bürgerrechtler wollen Urteil gegen Wahlmaschinenhersteller erzwingen](#), Heise:  
 "Die mit dem US-Wahlmaschinenhersteller Diebold im juristischen Clinch liegenden Bürgerrechtsaktivisten wollen gerichtlich feststellen lassen, dass die Online-Veröffentlichung interner Diebold-Dokumente nicht gegen US-Copyrightgesetze verstößt."
- December 2, 2003: Zetter Kim, [Diebold Backs Off Legal Challenge](#), Wired:  
 "Diebold Election Systems is withdrawing legal threats against voting activists and Internet service providers for publishing copies of internal staff e-mails that the company says were stolen from its servers."
- December 1, 2003: Festa, Paul, [Diebold retreats; lawmaker demands inquiry](#), CNet:  
 "Diebold is facing threats on two fronts as free-speech advocates pursue monetary damages against it and a presidential candidate urges a congressional inquiry into the company."
- November 21, 2003: Röttgers, Janko, [Abmahnungen vierter Ordnung](#), Telepolis:  
 "Der Wahlcomputer-Hersteller Diebold versucht weiter, mit allen Mitteln gegen Kritiker vorzugehen. Doch zu den nächsten Abmahn-Fällen könnte auch ein demokratischer Präsidentschaftskandidat gehören. Mittlerweile fordern Politiker aller Parteien eine Nachbesserung der Technologie."
- November 18, 2003: [Juristischer Streit um Wahlmaschinen-Hersteller geht weiter](#), Heise:  
 "Im Rechtsstreit um die Online-Veröffentlichung interner Dokumente des Wahlmaschinen-Herstellers Diebold Election Systems ist nach einer ersten Anhörung am gestrigen Montag noch kein Urteil ergangen."
- November 17, 2003: McCullagh, Declan, [Students fight e-vote firm' s DMCA claims](#), CNet:  
 "A federal judge in San Jose, Calif., heard arguments in a lawsuit brought by student activists seeking to disseminate internal documents from Diebold Election Systems, an Ohio company that sells e-voting software."
- November 4, 2003: [Bürgerrechtler und Studenten klagen gegen Wahlmaschinenhersteller](#), Heise:  
 "Die Internet-Bürgerrechtsorganisation Electronic Frontier Foundation (EFF)

und Vertreter des Center for Internet and Society der Stanford Law School wollen juristische Drohungen des Wahlmaschinen-Hersteller Diebold Election Systems wegen Veröffentlichung interner Diebold-Dokumente im Internet per einstweiliger Verfügung stoppen."

- November 4, 2003: Festa, Paul, [California voting machine called into question](#), CNet:  
"As voters in California go to the polls, the state is launching an investigation into alleged illegal tampering with electronic voting machines in a San Francisco Bay Area county."
- November 4, 2003: [Why not to mirror Diebold documents: privacy concerns](#), Politech
- November 3, 2003: McCullagh, Declan, [Students buck DMCA threat](#), CNet:  
"When Diebold Election Systems learned that its internal e-mail correspondence had popped up on the Web, it used a common legal tactic: sending cease-and-desist letters to Webmasters."
- October 31, 2003: [Diebold documents now on Freenet, safe from censorship?](#), Politech
- October 30, 2003: [Diebold nastygrams Politech member over internal Letters](#), Politech

For more information on the case see [Online Policy Group](#), especially the [Media Coverage](#), and [Why-War.com](#)  
Lawsuit Documents

- November 12, 2003, [Diebold' s Opposition to Motion for Preliminary Injunction](#)
- November 12, 2003, [Amendment to Application for Preliminary Injunction](#)
- November 12, 2003, [Second Supplemental Declaration of Smith](#)
- November 12, 2003, [Declaration of Nancy Reeves](#)
- November 7, 2003 [EFF' s Supplemental Brief on behalf of OPG](#)
- November 7, 2003, [Supplemental Declaration of David Weekly](#)
- November 7, 2003, [Supplemental Declaration of Luke Thomas Smight](#)
- November 4, 2003, [Judge Fogel' s order, setting expedited hearing schedule for Preliminary Injunction](#)
- November 4, 2003, [Diebold' s opposition to Temporary Restraining Order](#)
- November 4, 2003, [Proposed Temporary Restraining Order](#)
- November 3, 2003, [Application for Temporary Restraining Order](#)
- November 3, 2003, [Declaration of Wendy Seltzer, EFF Staff Attorney](#)
- November 2, 2003, [Online Policy Group v. Diebold Complaint](#)
- November 2, 2003, [Declaration of Luke Thomas Smith, Swarthmore Student](#)
- November 2, 2003, [Declaration of Nelson Chu Pavlosky, Swarthmore Student](#)
- November 1, 2003, [Declaration of David Weekly, OPG Board Member](#)
- October 31, 2003, [Declaration of Benny Ng, Hurricane Electric](#)



- October 22, 2003, [OPG response to Diebold cease-and-desist letter](#)
- October 10, 2003, [Cease-and-desist letter Diebold sent to OPG](#)

## Mark Pollard v. Miramax Film

Mark Pollard, who runs the [Kung Fu Cinema](#) website, has received a letter demanding that he cease online sales of a Chinese film for which Miramax owns distribution rights. Pollard's web site only links to various other sites where copies of this film can be purchased. The *Hero* (a 2002 film starring Jet Li) [review](#) page on Pollard's site linked to HKFlix.com, a U.S. company that sold *Hero* and other films. Although Pollard doesn't actually sell any films on his website and HKLIX.com also stopped selling the movie some time ago, Pollard deleted the link after receiving the legal notice.

- December 16, 2003: [Miramax seeks to break the link](#), SXSW Interactive
- December 15, 2003: Dean, Katie, [Studio Warns Kung Fu Site](#), Wired
- December 8, 2003: Pollard, Mark, [Miramax Serves Us Notice!](#), Kung Fu Cinema

## Donkeymania

A judge in Madrid has ordered the site DonkeyMania.com to be shut down by Tuesday, the 5th of August 2003. The site did not contain any downloadable files itself, only links to peer-to-peer file sharing networks. The links allowed users to download copyright protected files.

The creators of the page defended themselves, arguing that they did not distribute audio-visual works, but simply organized information. It were the users that feed the online forum with commentaries and links. They further said that they were not contacted prior to the procedure. Nobody told them that some of the connected pages or files were illicit. Spanish news source Kriptópolis spoke of an attack against the freedom of expression in Spain. Javier Maestre, the lawyer for the defense, said: "...It's the first time in Spain that the closing of a web page has been ordered based on the links it contains. It's surprising that they've declared the complete

closure of a site for this motive, when the files and linked pages have not been declared illegal."

- August 5, 2003: Rötzer, Florian, [Spanische Forumswebsite geschlossen](#), Telepolis:  
"Wegen eines Links auf eine Download-Möglichkeit für eine urheberrechtlich geschützte Datei im Beitrag eines Forumsteilnehmers ordnete eine spanische Richterin die Schließung von Donkeymania an."
- August 4, 2003: [Una juez de Madrid ordena el cierre de un sitio que proporcionaba enlaces a contenidos P2P](#), Libertad Digital:  
"Tras un final de julio protagonizado por la anunciada y no presentada demanda contra miles de usuarios de redes de pares, agosto comienza con una orden judicial de cierre cautelar de un *site* que contiene enlaces a sitios que permiten descargar archivos mediante programas de P2P."
- August 4, 2003: [Una juez ordena el cierre de un sitio español que da enlaces a contenidos P2P](#), El Mundo:  
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- August 2, [Un juez español ordena el primer cierre de un sitio web de P2P](#), IBLNews:  
"Primera página web dedicada al P2P (Peer-to-peer, o intercambio de archivos) que se cierra en España, consumándose la amenaza de una demanda colectiva contra miles de usuarios, que pendía desde mediados de julio y adelantándose al plazo previsto de septiembre."

Additional information: Spain has a law that regulates the legal responsibility for hyperlinks: [Art. 17 LSSICE \(Spain\)](#)

## ShareReactor

The Swiss Judicial Inquiry Department of Thurgau has taken down the ShareReactor web site due to copyright infringement. ShareReactor was online for about 30 months and served as a link platform for filesharing offerings, especially as an anchorpoint for

links to downloads of copyright and trademark protectet games and movies. The site made the "search" feature of filesharing programs irrelevant by using hash codes to directly link to a file.

- March 18, 2004: [ShareReactor: Schweizer Polizei macht Piratenplattform dicht](#), Golem:  
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## **DeCSS – Cases: Universal City Studios, Inc. v. Reimerdes and DVD Copy Control Association, Inc. v. Andrew Bunner**

It started in 1999 when Norwegian teen Jon Johansen created DeCSS to descramble DVDs so that they could be played on PCs running the Linux operating system. DeCSS, which can break the encryption on almost any DVD, was posted on several websites shortly after. Despite the DVD CCA and the motion picture industry' s anti piracy task force sending notices to dozens of Web site operators demanding the information be removed, the dissemination of the program could not be stopped effectively.

Eight major motion picture companies filed injunction complaints in New York against three alleged hackers to prevent them from publishing DeCSS and later to stop them from linking to hundreds of mirror websites containing DeCSS. Defendant' s attorneys argued that posting of DeCSS was protected under the First Amendment, which guarantees freedom of speech and the press. Judge Kaplan' s August 2000 93page

ruling prevents defendants from not only distributing copies of DeCSS, but also from linking to Websites where it resides. The decision was upheld by the Second Circuit Court of Appeals. Defendants announced that they will not seek U.S. Supreme Court review of the court order, ending the two-and-a-half year legal battle over DeCSS in New York.

The DVD Copy Control Association brought a lawsuit against 72 hackers and Website authors and succeeded in seeking a court order in California that prevents the defendants from continuing to post the DeCSS program. But they failed to enjoy defendants from linking to it. In November 2001, the Appellate Court ruled in Defendant' s favor, finding that the lower court violated his First Amendment rights when it forced him to remove DeCSS from his website. The DVD Copy Control Association has appealed to the California Supreme Court to challenge the appeals panel ruling.

January 2003 Update:

Norwegian teenager Jon Johansen, the creator of a computer program that enables unauthorised copying of DVDs, was acquitted of all charges against him in a Norwegian court.

According to a ruling from the California Supreme Court in November 2002, Andrew Brunner can not be sued in a California court, because he resides in Texas: "the mere posting of information on a passive Internet Web site, which is accessible from anywhere but is directed at no particular audience, cannot be an action targeted at a particular (state)."

The U.S. Supreme Court has lifted a temporary stay that barred Brunner from posting DeCSS on the internet, ending the DVD Copy Control Association' s effort to keep the California Supreme Court ruling from taking effect.

February 2003 Update:

Norwegian prosecutors are appealing the court ruling that acquitted 19-year-old Jon Lech Johansen of charges for creating DeCSS.

September 2003 Update:

The California Supreme Court ruled that Web publisher Bunner could be barred from posting DeCSS, which can be used to help decrypt and copy DVDs, without infringing on his free speech rights. The state' s high court overturned an earlier decision that said blocking Web publishers from posting DeCSS would violate their First

Amendment rights. The court ordered the case to be sent back to the appeals court level and required the Court of Appeal to reexamine the evidence.

The Supreme Court ruling is available [here](#).

#### News Articles

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"Im inzwischen vier Jahre währenden Rechtsstreit um das DVD-Entschlüsselungs-Tool DeCSS hat ein Berufungsgericht in Kalifornien entschieden, dass die Veröffentlichung des Codes durch den Programmierer Andrew Brunner durch das Recht auf freie Meinungsäußerung gedeckt war."
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"Santa Clara Superior Court Judge William J. Elfving denied a request by the DVD Copy Control Association to submit code-bearing T-shirts into evidence on Friday."
- January 21, 2000: Howe, Jeff, [DVD Hackers Take a Hit in NY](#), Wired:  
"After hearing three hours of argument, federal judge Louis A. Kaplan granted the MPAA's request for a preliminary injunction against three Web site hosts who had distributed the DVD decryption utility."
- January 20, 2000: Burke, Lynn, [DVD Case: Battle of the Basics](#), Wired:  
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- January 19, 2000: [Mit T-Shirts für DVD-Hacker](#), Heise:  
"Durch T-Shirt-Verkauf wollen Betroffene im DVD-Hack-Gerichtsverfahren der Electronic Frontier Foundation (EFF) für die juristische Unterstützung danken."
- January 19, 2000: Medosch, Armin, [Richter verschiebt Entscheidung im Verfahren über DVD-Kopierschutz](#), Telepolis:  
"Nach einer vierstündigen Anhörung gestern entschied Richter William J. Elfving, dass er über den Antrag der DVD-CAA, die Verbreitung von DeCSS zu verbieten, noch keine Entscheidung treffen kann."
- January 19, 2000: Harrison, Ann, [Civil-rights group blasts DVD suit](#), CNN:  
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- January 18, 2000: Burke, Lynn, [DVD Judge Needs More Time](#), Wired:  
"After listening to four hours of testimony in a packed Santa Clara County Superior Court room Tuesday, Judge William J. Elfving decided not to decide anything."

- January 18, 2000: Burke, Lynn, [DVD Hearing: Suits Meet Geek](#), Wired:  
"A hearing on a preliminary injunction hearing is scheduled Tuesday in Santa Clara County Superior Court."
- January 18, 2000: McCullagh, Declan, [Digital Copyright Law on Trial](#), Wired:  
"The New York lawsuit appears to be the first to use the Digital Millennium Copyright Act (DMCA) to try to restrict a computer program."
- January 18, 2000: Uimonen, Terho, [Film studios file suit against accused DVD hackers](#), CNN:  
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- January 17, 2000: Medosch, Armin, [Filmstudios verklagen DVD-Hack-Websites](#), Telepolis:  
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- January 7, 2000: Kaplan, Carl, [DVD Lawsuit Questions Legality of Linking](#), New York Times:  
"For the second time in as many months, an American court has been asked to wrestle with a problem whose answer could determine the future look and free-wheeling nature of the World Wide Web."
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"Eric S. Raymond nimmt Stellung zum DVD-Crack, zu DeCSS, zur DVD-Industrie und den eigentlichen Motiven ihrer Lobby. "Warum lügt die DVD CCA?"

- December 31, 1999: [Judge Rejects Effort to Block DVD Program](#), New York Times:  
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- December 29, 1999: Oakes, Chris, [DVD Round 1 Goes to Hackers](#), Wired:  
"In a lawsuit that accuses 72 Web site owners of posting -- or linking to -- illegal DVD software code, Santa Clara County Superior Court Judge William J. Elfving declined the DVD Copy Control Association' s request for a temporary restraining order on Wednesday."
- December 29, 1999: Oakes, Chris, [Geeks Get Their Day in Court](#), Wired:  
"Around 30 engineers, consultants, Linux enthusiasts, open-source believers - - and at least one self-described troublemaker -- turned out to express solidarity with the hackers who are being sued by the DVD industry for distributing allegedly proprietary source code over the Web."
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"The DVD industry sued 72 hackers and Web-site authors Tuesday for posting -- and even linking to -- software that unlocks the system for preventing illegal copying of DVDs."
- December 28, 1999: [DVD-Hack: einstweilige Verfügungen beantragt](#), Heise:  
"Eine kalifornische Anwaltskanzlei hat in der Nacht zum 28. Dezember mindestens 40 Website-Betreiber in aller Welt per E-Mail wegen angeblich widerrechtlicher Veröffentlichung geschützter Geschäftsgeheimnisse kontaktiert und gerichtliches Vorgehen angekündigt."
- December 28, 1999: Barnett, Armanda, [Hundreds of defendants named in lawsuit over DVD hacking](#), CNN:  
"An industry group that licenses encryption technology for DVDs filed a lawsuit in California on Tuesday accusing 500 Web site administrators of giving away trade secrets in a scheme to override encryption software that protects against DVD piracy."
- November 18, 1999: Macavinta, Courtney, [Movie trade group tries to block DVD cracking tool](#), CNet:  
"In a major test of a new copyright law, the Motion Picture Association of

America is hunting down and eliminating from the Net a program that cracks the security on DVDs."

"Some" case documents:

- January 3, 2003: [Order denying stay](#)
- January 2, 2003: [Stay Granted](#)
- January 2, 2003: [Application For Stay Of Judgement Of The Supreme Court Of California](#)
- November 25, 2002: [Pavlovich Court Opinion](#)
- July 18, 2002: [Brief of Amici Curiae –Intellectual Property Law Professors, the Computer & Communications Industry Association, and the United States Public Policy Committee of the Association for Computing Machinery Supporting Affirmance in CCA v. Bunner](#)
- July 11, 2002: [Brief of ACLU in Support of Defendant Andrew Brunner](#)
- June 11, 2002: [DVD CCA' s Reply Brief](#)
- January 14, 2002: [2600 Magazine 2nd Cir. En Banc Appeal - in MPAA v. Corley, et al](#)
- November 28, 2001: [US Second Circuit Court of Appeals Decision, affirming District Court ruling against defendants, in Universal v. Reimerdes](#)
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- November 1, 2001: [CA Appellate Decision Overturning DeCSS Injunction in DVDCCA v. Bunner](#)
- May 30, 2001: [EFF Supplemental Letter Brief in Corley v. Universal appeal](#)
- May 30, 2001: [MPAA Supplemental Letter Brief in Corley v. Universal appeal](#)
- May 28, 2001: [EFF Supplemental Letter Brief in Corley v. Universal appeal](#)
- May 8, 2001: [Response Augmentation Order in Universal, et al. v. 2600, et al.](#)
- May 1, 2001: [Transcript of Oral Argument in Universal v. Reimerdes, et al.](#)
- March 19, 2001: [EFF/2600 Appellate Reply Brief in Universal v. Reimerdes](#)
- March 19, 2001: [DVD Copy Control Association Amicus Curiae for Plaintiffs, in Universal v. Reimerdes](#)
- March 12, 2001: [Amicus Brief from Law Professors for the Plaintiffs in Universal v. Reimerdes](#)
- February 28, 2001: [Appellate Reply Brief of Movie Industry Plaintiffs-Appellee in Universal v. Reimerdes](#)
- January 26, 2001: [Journalists' & Publishers' Amici Brief in "MPAA v. 2600" Case](#)
- [Brief of Amici Curiae in Support of Appellants and Reversal of the Judgment Below](#)
- January 26, 2001: [Law Professors' Amici Brief in "MPAA v. 2600" Case](#)
- [Brief Amicus Curiae in Support of Defendants-Appellants, Supporting Reversal](#)
- January 26, 2001: [Profs. Benkler & Lessig Amici Brief in "MPAA v. 2600" Case](#)

- [Brief of Amici Curiae in Support of Appellant](#)
- January 26, 2001: [ACM' s Amicus Brief in "MPAA v. 2600" Case Amicus Curie Brief in Support of Appellants](#)
- January 26, 2001: [Programmers' & Academics' Amici Brief in "MPAA v. 2600" Case - Brief of Amici Curiae in Support of Appellants and Reversal of the Judgment Below](#)
- January 26, 2001: [Educators Amici Brief in "MPAA v. 2600" Case - Brief of Amici Curiae in Support of Appellant](#)
- January 26, 2001: [Library & public interest group Amicus brief](#)
- January 19, 2001: [EFF/2600 Appeal Brief in Universal v. Reimerdes](#)
- August 30, 2000: [Judge' s revision of the decision](#)
- August 17, 2000: [Initial Decision](#)
- May 15, 2000: [Appeal Brief in CCA v. Brunner](#)
- January 14, 2000: [MPAA Members' Complaint in MPAA v. Reimerdes, Corley and Kazan](#)
- February 2, 2000: [Memorandum Order, in MPAA v. Reimerdes, Corley and Kazan](#)
- January 20, 2000: [Order Granting Prelim. Injunction for plaintiffs against defendants, in DVD CCA v. McLaughlin, Bunner et al.](#)
- December 28, 1999: [DVD CCA Complaint in DVD CCA v. McLaughlin, Bunner, et al.](#)

Not enough links yet? See [Links to DVD news of technical and legislative/litigative natures](#), [DeCSS Press Coverage](#), [OpenDVD.org](#) for more press coverage.

Also see the [Openlaw/DVD forum](#).

Look here for [A Brief History of DeCSS and the DMCA](#).

For legal documents see the EFF Archive for [Universal City Studios, Inc. v. Reimerdes](#) and for [DVD Copy Control Association, Inc. v. Andrew Bunner](#). Case Documents are also available in the [2600 Archive](#).

Also available online is an [Interview with Jon Johansen](#), the Norwegian, who created DeCSS.

Want to see [Photos from the trial](#)? Want to listen to the arguments? [AUDIO AVAILABLE FOR 2600 DECSS HEARING](#), 2600 News Archive

Also see the Decision Section: [November 28, 2001](#), [November 1, 2001](#), [August 17, 2000](#), [February 2, 2000](#), [January 20, 2000](#)

## Criminal Law

### **Burkhard Schröder**

Burkhard Schröder wanted to inform people about right-wing extremism. His website contained a large collection of links to racist organisations. Criminal proceedings against him were finally closed.

- December 10, 2001: [Links nach rechts doch nicht strafbar](#), Heise:  
"Das Ermittlungsverfahren wegen "Verwendung von Kennzeichen verfassungswidriger Organisationen" gegen den Journalisten Burkhard Schröder wurde eingestellt."
- November 26, 2000: Corinth, Ernst, [Beifall von der falschen Seite](#), Telepolis
- November 4, 2000: Rötzer, Florian, [Sind Links auf Nazi-Seiten selbst strafbar?](#), Telepolis:  
"Offenbar aber will man jetzt das Netz auch von Links auf beanstandete Webseiten säubern."

[Auch Berlins \(EX-!\) Senatssprecher Helmut Lölhöffler war in die Affäre um die Verbreitung von Nazi-Propaganda durch den Journalisten Burkhard Schröder verwickelt](#), Berliner Institut für Faschismus-Forschung

### **Stricker**

Is it illegal to link to an anti-racist website like [Stop the Hate](#) that contains links to websites operated by racist groups? In February 2000, Swiss Professor Stricker was accused of spreading and promoting racist propaganda. Criminal proceedings were commenced. In September 2002 Professor Stricker was acquitted.

- September 11, 2002: [ETH-Professor im Verfahren um "rassistische Links" freigesprochen](#), Heise:  
"Das Bezirksgericht Zürich hat am Dienstag den ETH-Assistenzprofessor

Thomas Stricker vom Vorwurf der Rassendiskriminierung wegen Verbreitung rassistischer Links freigesprochen."

- February 26, 2000: Hering, Uschi, [Hexenjagd auf Meinungsfreiheit](#), Freedom for Links
- February 24, 2000: Rötzer, Florian, [Ab wie vielen Zwischenschritten ist ein Link auf eine rechtswidrige Website strafbar?](#), Telepolis:  
"In der Schweiz wurde gegen einen Informatikprofessor ein Strafverfahren wegen eines Links eingeleitet, der mit zwei Zwischenschritten auf eine rassistische Website führt."
- February 24, 2000: Rötzer, Florian, [Strafverfahren gegen ETH-Professor wegen Links zu rassistischen Websites](#), Telepolis:  
"Schon gestern wurde die Seite, auf der Thomas Stricker Links zu einer pornographischen und zu einer antirassistischen Website gelegt hatte, von der man wiederum zu rassistischen Websites gelangte, von der Schulleitung vom Netz genommen."
- [Sollen Links auf Links strafbar sein?](#), Swiss Internet User Group:  
"Gegen ETH Professor Thomas M. Stricker ist ein Strafverfahren eingeleitet worden. Der Grund: Auf seiner persönlichen Webseite befindet sich ein nur innerhalb der ETH zugänglicher Link, der auf eine Seite verweist, die gegen den Rassenhass aufruft."
- [ETH Press Statement](#)
- Stellungnahme der Professorenschaft des Departements für Informatik zu den Rassismusvorwürfen gegen Prof. Thomas Stricker.
- Erklärung der Professoren des Departements Informatik der ETH Zürich zur Verantwortung beim Setzen von Links im WWW

Also see the Decision Section: [September 9, 2002](#)



## **LGCM**

About a police investigation in the United Kingdom because of a link to a poem, that is illegal in England. The poem was banned under English Blasphemy law.

- Black, Jane, [Link to explicit poem deemed OK](#), CNet:  
"Police in the United Kingdom have decided not to bring charges against the Lesbian and Gay Christian Movement, whose Web site provided a link to a controversial poem."

## **Rediff's search engine**

In India a complaint was filed against six directors of Rediff's search engine, which gave access to pornographic material.

- December 4, 2000: Joseph, Manu, [Porn a Thorn for Indian Portal](#), Wired:  
"In a court order that could have serious legal ramifications in India, a judge in Pune has put six directors of a premier portal called Rediff.com on trial for "giving access to pornographic material."
- October 2, 2000: Joshi, Manoj, [India Wrestles With Net Porn](#), Wired:  
"Attorney Rohas Nagpal, working on behalf of law student Abhinav, claims that Rediff.com, a premier Indian site listed on the Nasdaq, can be punished under section 292 of the Indian Penal Code because its search engine gives access to millions of pornographic sites."

## **Osaka District Court: FLMask**

According to an Osaka District Court ruling, a webmaster linking to a website that is in violation of the law, can be charged with aiding and abetting the crime. Even if he is unaware of the content of the linked page, the decision would hold him liable.

- June 2000: Scuka, Daniel, [Japan Walks Where the US Fears to Tread](#), Japan Inc.:

"Japan has again chosen the path less traveled by in this country' s quest to resolve issues of law and the Internet: a recent Osaka District Court ruling found that, in some cases, links from one site to another may be considered a breach of law."

- April 7, 2000: Tanaka, Kazumi, [Web Links Can Be Considered Illegal, Osaka Court Judgement Says](#), Asia Biz Tech:

"A landmark verdict handed down on March 30 by the Osaka District Court states that, under certain sets of conditions, links used to connect one Web page to another could be considered an infringement of the law."

## Trademark Law

### **Explorer - Cases**

The company Symicron, the owner of the trademark "Explorer" in Germany, started sending out bundles of cease-and-desist-letters to webmasters who linked the American FTPX Corp. website, the maker of "FTP-Explorer", in 1997. The use of their trademark in a link would allegedly violate German trademark law. Addressees of the letters were many holders of private homepages, universities and Stefan Münz, who is well known for his Self HTML book. Several lawsuits followed. They resulted in quite disparate decisions.

#### News Articles:

- July 30, 2002: [Marke "Explorer" wegen Bösgläubigkeit gelöscht](#), Heise:  
"Das Deutsche Patent- und Markenamt (DPMA) hat heute per Beschluss die deutsche Marke "Explorer" gelöscht."
- May 30, 2002: [Stefan Münz sucht Verwendung für 28000 Euro](#), 4Websites:  
"Für das Verfahren gegen die Abmahnung durch die Marke Explorer im letzten Jahr wurden in der Netzgemeinde fast 30000 Euro Spenden gesammelt."
- April 10, 2002: [Explorer-Streit: Bayerische Richter urteilen anders](#), Heise:  
"Die in Konkurs gegangene Speedlink GmbH muss die Abmahnkosten im Rechtsstreit um einen Link auf die FTP-Explorer-Software tragen."
- November 3, 2001: [Münz-Urteil im „Explorer“-Streit rechtskräftig](#), Heise:  
"Stefan Münz darf im Rahmen seines Webentwickler-Tutorials SelfHTML auch weiterhin auf das Tool "FTP-Explorer" der amerikanischen FTPx Corp. verlinken."
- September 19, 2001, ["FTP Explorer" - Weiterer Etappensieg für Stefan Münz](#), Golem.de:  
"Laut dem Onlinemagazin Advograt hat der SELFHTML-Autor Stefan Münz im

Rechtsstreit mit der Firma Symicron einen weiteren Etappensieg errungen, indem die Berufung Symicrons gegen ein früheres und zu Gunsten von Münz gefälltes Urteil zurückgewiesen wurde."

- September 1, 2001: ["Explorer": Urheberrechtsklage abgewiesen](#), Heise:  
"Der Dauerrechtsstreit um die Marke "Explorer" der Ratinger Firma Symicron ist um einen weiteren Fall reicher. Am vergangenen Mittwoch hat die 12. Zivilkammer des Landgerichts Düsseldorf die Klage des früheren CHIP-Redakteurs Claus Vester abgewiesen, wie das satirische "Magazin gegen den Abmahnwahn" AdvoGraf berichtet."
- August 2, 2001: [Abmahnung: Gravenreuth siegt vor OLG München](#), ZDNet:  
"Richter verbieten Download des Programms FTP-Explorer von deutscher Website."
- August 2, 2001: [OLG München: „FTP-Explorer“-Link verletzt Markenrecht](#), Heise:  
"Das Oberlandesgericht (OLG) München hat heute in einem Berufungsverfahren festgestellt, dass Webpage-Betreiber nach Ansicht des Gerichts für Links zu fremden Inhalten haftbar gemacht werden können."
- July 23, 2001: [OLG Braunschweig: Keine Haftung für Hyperlinks](#), Heise:  
"Zum jüngst ergangenen Urteil gegen die Firma Symicron liegt jetzt die schriftliche Begründung des Oberlandesgerichts (OLG) Braunschweig vor."
- July 19, 2001: [OLG Braunschweig: Links zu FTP-Explorer sind rechters](#), Heise:  
"Die Firma Symicron hat im Markenrechtsstreit um den Begriff "Explorer" eine Schlappe hinnehmen müssen."
- June 28, 2001: [Kein Urteil im Prozess Münz gegen Symicron](#), Heise:  
"Vor dem 27. Senat des Oberlandesgerichts Düsseldorf wurde gestern der Rechtsstreit zwischen dem Autor Stefan Münz und der Firma Symicron um die Benutzung des Markennamens "Explorer" verhandelt."
- March 10, 2001: Delbrouck, Dirk, [Marke "Explorer" könnte gelöscht werden](#), ZDNet:  
"Recherchen ergeben, dass Symicron den Namen vor 1995 nicht verwendet hat."

- March 8, 2001: [Die Jagd nach dem verlorenen Explorer](#), AdvoGraf:  
"Die Angaben, die die Firma Symicron zum Vertrieb ihrer Software "Explorer" sind höchst zweifelhaft."
- February 21, 2001: Rieger, Susanne, [Gravenreuth und Symicron unterliegen vor Gericht](#), ZDNet:  
"Bei der gestrigen mündlichen Berufungsverhandlung zwischen Ulrike Strieder und der Symicron, die vor dem Oberlandesgericht Düsseldorf verhandelt wurde, musste die Inhaberin des "Explorer"-Markennamens, vertreten durch ihren Anwalt Günter Freiherr von Gravenreuth eine Niederlage hinnehmen."
- February 1, 2001: Graf, Thorsten, [Der FTP-Explorer-Fall - Beispiel für schwindende Kennzeichnungskraft einer Marke](#), Freedom for Links
- December 28, 2000: [Prozess um "FTP-Explorer"-Link geht in die nächste Instanz](#), Heise:  
"Ende Oktober entschied das Landgericht Düsseldorf im Rechtsstreit um den "FTP-Explorer"-Link auf den SelfHTML-Seiten, dass die Nennung des FTP-Explorer wie auch der Link zur amerikanischen Firma FTPx Corporation keine Rechte der Ratinger Firma Symicron verletze."
- December 12, 2000: [Gericht: "FTP-Explorer" verletzt Markenrechte nicht](#), Heise:  
"Die Firma Symicron hat erneut einen Prozess um die Benutzung des Namens "Explorer" verloren."
- November 28, 2000: [Explorer-Streit: Landgericht entscheidet zu Gunsten Gravenreuths](#), Heise:  
"Im Rahmen der Streitigkeiten, ob ein Link auf die Downloadmöglichkeit des Programms "FTP-Explorer" Markenrechte der Ratinger Firma Symicron verletzt, war Streit um die Begleichung der Abmahnkosten in Höhe von 1633 Mark entbrannt."
- November 3, 2000: [Explorer-Streit: Symicron muss Abmahnkosten selbst tragen](#), Heise:  
"Der Betreiber einer Suchmaschine haftet für markenrechtsverletzende Querverweise nur, wenn der Gesetzesverstoß auch für den juristischen Laien offenkundig war."

- October 26, 2000: Rieger, Susanne, [Münz gewinnt Explorer-Fall](#), ZDNet:  
"Symicron und von Gravenreuth wollen in die Berufung gehen."
- October 25, 2000: [„FTP-Explorer“-Prozess in erster Instanz entschieden](#), Heise:  
"Wie bereits in der Verhandlung Ende September anklang, hat SELFHTML-Autor Stefan Münz den Rechtsstreit um den "FTP-Explorer"-Link in erster Instanz gewonnen."
- September 26, 2000: [Sieg im Explorer-Prozess für Münz](#), PC-Welt:  
"Stefan Münz hat die erste Instanz der negativen Feststellungsklage gegen die Abmahnung des Rechtsanwalts von Gravenreuth gewonnen."
- September 21, 2000: Baumgärtel, Tilman, [Explorer-Klage wird wohl abgewiesen](#), BerlinOnline:  
"Stefan Münz, der Autor der beliebten Webdesign-Führers "SELFHTML" dürfte in dem Verfahren, welches Software-Unternehmen Symicron gegen ihn angestrengt hat, Recht bekommen."
- September 21, 2000: Mueller, Dietmar, [Noch kein Urteil im Explorer-Fall](#), ZDNet:  
"Münz vs. Gravenreuth wird erst im Oktober entschieden."
- September 20, 2000: [Stefan Münz gewinnt "Explorer"-Prozess](#), Heise:  
"Der Autor von SELFHTML, Stefan Münz, hat den Rechtsstreit um den "FTP-Explorer"-Link in erster Instanz offenbar gewonnen."
- September 19, 2000: [Explorer-Abmahnungen: Gerichtsverhandlung und Netz-Demonstration](#), Heise:  
"Am Landgericht Düsseldorf wird morgen ab 10 Uhr der Fall Stefan Münz gegen die Firma Symicron mündlich verhandelt."
- September 18, 2000: [„Explorer“-Abmahnungen machen vor Unis nicht Halt](#), Heise:  
"Das Braunschweiger Landgericht hat die Klage der Fachhochschule Oldenburg/Ostfriesland/Wilhelmshaven gegen eine Explorer-Abmahnung abgewiesen."

- May 11, 2000: [Zivilrechtliche Schritte gegen Explorer-Abmahnungen](#), Heise:  
"Nach der Strafanzeige wegen der FTP-Explorer-Abmahnwelle kommt jetzt auch eine so genannte negative Feststellungsklage auf den Münchener Anwalt von Gravenreuth und seinen Mandanten Symicron zu."
- May 10, 1999: [Neues-Link-Urteil](#), Akademie.de:  
"Der Berliner Tagesspiegel berichtet in der heutigen Ausgabe über eine aktuelle Entscheidung des Oberlandesgerichts (OLG) München, wonach die Verlinkung einer Site im Internet den Linkenden teuer zu stehen kommen kann."
- April 12, 1999: Rötzer, Florian, [Wieder ein Link-Prozeß](#), Telepolis:  
"Wieder einmal geht es in einem Gerichtsprozeß, diesmal ab heute vor der Handelskammer des Münchner Landesgerichts, um die Verantwortung für Links zu fremden Inhalten."

More Information:

- [Speedlink-Klageschrift](#)
- [Zur Verhandlung Münz gegen Symicron GmbH \("Explorer"\) vor dem OLG Düsseldorf vom 27.06.2001](#), Jurawelt
- [Abmahnung des Computer Club Seeshaupt e.V.](#)
- Appelt, Susanne, [Abmahnung wegen Links](#)
- Münz, Stefan, [Die Schändung mit der Maus](#)
- Münz, Stefan, [Recht und Links: SELFHTML und der Fall "Explorer"](#)
- Zimmermann, Renè, [Haftung für Links](#)
- Hansen Ralf, ["Strieder gegen Symicron" - Eine Gerichtsreportage](#), Jurawelt
- [Antwort des Bundesministeriums der Justiz](#) auf die Aufforderung, gegen um sich greifende Abmahnungen wie die Explorer-Abmahnwelle, Maßnahmen zu ergreifen

Also see the Decision Section!

## **Nissan Motor Co., Ltd. v. Nissan Computer Corp.**

Uzi Nissan registered the domain nissan.com and initially used it to offer computer-related services. When he started displaying banner advertisements and web links to various Internet search engines and automobile merchandisers and including a logo, that was similar to the one used by Nissan Motor Co., he was sued.

The court enjoined Uzi from displaying on its website any automobile-related information, advertising, or links, including links to automobile-related portions of Internet search engines.

- [Summary of the Decision](#), Finnegan.com

Also see the Decision Section: [March 23, 2000](#)

## **Digital Equipment Corp. v. Alta Vista Corp.**

Defendant was, inter alia, enjoined from using on its Web page at <http://www.altavista.com> or elsewhere, a link (without any search boxes), direct or indirect, to Digital' s AltaVista Internet Search Service that creates the false impression that ATI' s Web site is Digital' s AltaVista Search Service.

- [Summary of the Decision](#), Finnegan.com
- [Alta Vista Cannot Use Its Name on Products or Services, MA Judge Says](#) - Software Law Bulletin, Vol. 10; No. 4; Pg. 81, April 1997

Also see the Decision Section: [March 12, 1997](#)

## **PaineWebber Inc. v. Fortuny**

Defendant registered the domain "wwwpainewebber.com", a misspelling of plaintiff's domain name in that it omitted a period after "www." and linked visitors to pornographic websites. The court granted a temporary restraining order on April 2 and a preliminary injunction on April 9, 1999, holding that plaintiff's trademark would be diluted by being linked with pornography.



- [Summary of the Decision](#), Finnegan.com

Also see the Decision Section: [April 9, 1999](#)

### **Jeri-Jo Knitwear, Inc. v. Club Italia, Inc.**

The Defendant had been enjoined from advertising or promoting apparel bearing plaintiff's "Energie" trademark in the US. He is the holder of the trademark "Energie" in several European countries and operates three websites, one of them [www.energie.it](http://www.energie.it). His other two websites [www.missixty.com](http://www.missixty.com) and [www.sixty.net](http://www.sixty.net) both contained a hyperlink to [www.energie.it](http://www.energie.it). The US Court ordered the Defendant to remove the links, but did not find that the action was in contempt of the previous injunction.

- Samson, Martin, [Summary of the Decision](#)
- [Summary of the Decision](#), Finnegan.com

Also see the Decision Section: [April 17, 2000](#)

### **Ford Motor Company v. 2600 Enterprises**

In 2001 Ford requested an injunction against 2600 Enterprises to prevent it from hyperlinking from the website "fuckgeneralmotors.com" to its own Website. In December 2001, the lawsuit was dismissed in its entirety for "failure to state a claim upon which relief may be granted." "Trademark law does not permit (Ford) to enjoin persons from linking to its homepage simply because it does not like the domain name or other content of the linking Web page." Besides *ACLU v. Miller* this is another decision that suggests that there might be a "right to link".

Ford initially decided to appeal to the Sixth Circuit U.S. Court of Appeals, but finally withdrew its appeal in June 2002.

News Articles:

- June 28, 2002 : [Ford Takes 2600 to Court](#), 2600 news:  
"Ford Motor Company has officially and unconditionally conceded its complete, utter, and perpetual loss on the merits of the FORD v. 2600 "FuckGeneralMotors.com" case."
- June 28, 2002: Leyden, John, [Ford loses 2600 lawsuit](#), The Register:  
"Online hacker magazine 2600 has emerged victorious in its campaign to retain ownership of the controversial FuckGeneralMotors.com domain."
- February 1, 2002: [Ford will keinen Link von fuckgeneralmotors.com](#), tecChannel:  
"Nach Angaben der Hacker-Postille 2600.com hat Ford Rechtsmittel gegen den Freispruch von Eric Corley, Betreiber eines Online-Magazins, eingelegt."
- January 31, 2002: McAuliffe, Wendy, [Ford run over by hyperlinks](#), ZDNet:
- December 25, 2001: [fuckgeneralmotors.com darf auf Ford linken](#), futurezone:  
"Ein US-Gericht hat eine Klage der Ford Motor Company gegen das Hacking- und Bürgerrechtsgestein 2600 Enterprises abgewiesen."
- December 23, 2001: Greene, Thomas, [2600.com wins dismissal in f\\*\\*k-generalmotors.com lawsuit](#), The Register:  
"A suit brought by Ford Motor Company against 2600.com founder Eric Corley aka Emmanuel Goldstein for setting up the Web site fuckgeneralmotors.com to re-direct surfers to the Ford home page has been dismissed."
- May 20, 2001: [Auch Ford klagt gegen Eric Corley](#), Heise:  
"Zusätzlich zu dem Grundsatzprozess mit der US-Filmindustrie wegen der Veröffentlichung des Programms DeCSS hat der Betreiber von 2600.com jetzt auch noch eine Klage der Ford Motor Company am Hals."
- May 18, 2001: Kaplan, Carl, [Cyber Law Journal: Hacker Gadfly at Center of New Suit](#), New York Times:  
"Eric Corley is in the legal soup again. The man at the center of the landmark DeCSS case - a federal court battle over Corley' s posting of and linking software code designed to decrypt DVD movies - is now being sued by the Ford Motor Company in a separate cyberspace matter."
- April 28, 2001: [Ford Takes 2600 To Court](#), 2600 News

- October 21, 2000: Kahney, Leander, [Hacker Site Raises GM' s Hackles](#)  
Wired:  
"Bloodied but not bowed from recent courtroom skirmishes, 2600 Magazine is courting fresh legal battles by registering unflattering domain names referring to large corporations."

Legal Material:

- [Brief for Preliminary Injunction](#)
- [Complaint](#)
- [Motion for Preliminary Injunction](#)
- [Preliminary Injunction Opposition Brief and Motion to Dismiss](#)
- [2600 Motion to Dismiss](#)
- [Order Denying Plaintiff' s "Motion for Preliminary Injunction"](#)

For further material see the [2600 News Archive](#) and [dmoz](#).

Also see the Decision Section: [December 20, 2001](#)

## **Bihari v. Gross**

Defendants operate several websites that are critical of plaintiff' s interior design services. They contain links to other interior designers. They use plaintiffs' common law service mark in meta tags to attract visitors. The Court denied plaintiff' s motion for a preliminary injunction, holding that defendant' s use of the mark in metatags is protected as a fair use, because the mark was only used in its descriptive sense to fairly identify the content of the websites. As for the hyperlinks, the court said: "Nor do the Gross websites offer any "commercial transaction." Defendants are not interior designers and do not sell visitors any products or services. However, the Gross websites contain hyperlinks to other websites which promote the services of other interior designers. The Gross websites effectively act as a conduit, steering potential

customers away from Bihari Interiors and toward its competitors, thereby transforming his otherwise protected speech into a commercial use."

- Samson, Martin, [Summary of the Decision](#)
- [Summary of the Decision](#), Finnegan.com

Also see the Decision Section: [September 28, 2000](#)

## **Toronto.com v. Sinclair**

The plaintiff operates an Internet city guide, that can be found at [www.toronto.com](http://www.toronto.com). The Defendants began operation of their website under the domain name "toronto2.com" in late April 1999. The plaintiff claimed that the defendants had infringed his copyright by linking and framing content of the toronto.com website and passed off wares and services as those of the plaintiff by adopting a confusingly similar mark. Toronto2 displayed a disclaimer that states that the Toronto2 website is not affiliated with the toronto.com website.

The Court refused to grant an injunction because the Plaintiffs had no evidence demonstrating likelihood of confusion or loss of goodwill or reputation

- Macdonnell, John, [Toronto.com v. Toronto2.com](#)

Also see the Decision Section: [Decision of June 1, 2000](#)

## **Imax Corporation v. Showmax, Inc.**

Plaintiff IMAX claimed, inter alia, that its IMAX trademark was infringed by links from a website operated by the defendant Showmax. Showmax has used its website <http://www.showmax.com> to advertise the opening of the Showmax large-format theatre at the Forum Entertainment Centre in Montréal. The website also featured further links, including one which lead the viewer to the Old Port of Montréal website, which appeared framed within the framing page of the Showmax website. The Old Port of Montréal website, as framed, contained information and advertising regarding the Imax theatre at the Old Port of Montreal and displayed the Imax trademark.

The Court granted the request for an interlocutory injunction, restraining the defendant's use of the SHOWMAX trademark and other misleading conduct, including the unauthorized framing.

Also see the Decision Section: [Decision of January 18, 2000](#)

## **Parody Sites**

Some webmasters designed websites to parody or criticise other companies and used the trademark of the company in their domain-name. They got sued by the respective owner of the trademark. To succeed in their claim plaintiffs had to show that the use of their mark as the domain name constitutes commercial use. Several courts had to decide whether hyperlinks to other commercial sites in competition with the criticized company or to other web pages containing negative opinions and stories, were sufficient to hold defendant's "use in commerce".

## **People for the Ethical Treatment of Animals v. Doughney**

Doughney registered the domain name peta.org and created a website called "People Eating Tasty Animals", a "resource for those who enjoy eating meat, wearing fur and leather, hunting, and the fruits of scientific research." PETA (People for the Ethical Treatment of Animals) alleged, inter alia, service mark infringement. The website contained links to various meat, fur, leather, hunting, animal research, and other organizations, all of which held views generally antithetical to PETA's views. Another statement on the website asked the viewer whether he/she was "Feeling lost? Offended? Perhaps you should, like, exit immediately." The phrase "exit immediately" contained a hyperlink to PETA's official website.

PETA's motion for summary judgement was granted and later affirmed by the Fourth Circuit: "Moreover, Doughney's web site provides links to more than 30 commercial operations offering goods and services. By providing links to these commercial

operations, Doughney' s use of PETA' s Mark is "in connection with" the sale of goods or services."

- Samson, Martin, [Summary of the Decision](#)
- August 25, 2001: McCullagh, Declan, [Ethical Treatment of PETA Domain](#), Wired

Also see the Decision Section: [June 12, 2000](#) and [August 23, 2001](#)

### **OBH, Inc. v. Spotlight Magazine, Inc.**

In early 1999 defendant decided to set up his own website to parody and provide a public forum for criticism of The Buffalo News' website. Therefore he registered the domain thebuffalonews.com. The website contains disparaging comments about The Buffalo News and hyperlinks to other websites containing negative opinions and stories about The Buffalo News. It also features hyperlinks to other news-related websites, e.g. other local news sources such as local magazines, newspapers, radio stations and television stations. At one point it also contained a hyperlink to the website ' ' www.buffalonyapartments.com", an online version of defendants' ~~Apac~~ Apartment Spotlight Magazine.

The court granted a preliminary injunction, ordering the defendant to cease and desist from using the domain name thebuffalonews.com: "First, defendants' use of plaintiffs' trademark as the domain name for the Tortora web site constitutes ' ' use in commerce' ' because that web site contains a hyperlink that connects users to defendants' other web site, the online version of *Apartment Spotlight Magazine*, which they operate for commercial purposes, *i.e.*, advertising apartments for rent....

The facts present here are even more compelling than those in *Planned Parenthood*. Prospective users of plaintiffs' news services who mistakenly access defendants' web site may, instead of continuing to look of plaintiffs' web site, opt to select one of the several news-related hyperlinks contained in defendants' web site. These news related hyperlinks will directly link the user to other news-related web sites that are in direct competition with plaintiffs in providing news-related services over the Internet.

Thus, defendants' action in appropriating plaintiffs' mark is likely to have a negative affect on plaintiffs' commercial activities."

- [Summary of the Decision](#), Finnegan.com

Also see the Decision Section: [February 28, 2000](#)

## **Jews for Jesus v. Brodsky**

Plaintiff Organization, a non-profit, international outreach ministry owns the right to the service marks "Jews f<< StarOfDavid>>r Jesus" and "Jews for Jesus." The Defendant registered the domain [jewsforjesus.org](#) to criticize the Plaintiff Organization. His website also contained a "hyperlink" to the Outreach Judaism (the "Outreach Judaism Organization") website, which also contains information critical of and contrary to the teachings of the Plaintiff Organization.

The court granted a preliminary injunction: "Although the Defendant Internet site does not solicit funds directly like the defendant' s site did in Planned Parenthood, the Outreach Judaism Organization Internet site (available through the hyperlink) does do so through the sale of certain merchandise. The Defendant does not argue that the Outreach Judaism Organization site is not commercial in nature. Considering the limited nature of the Defendant Internet site and its hyperlink to the Outreach Judaism Organization Internet site, it is apparent the Defendant Internet site is a conduit to the Outreach Judaism Organization Internet site, notwithstanding the statement in the Disclaimer that "[t]his website ... is in no way affiliated with the Jewish organization Outreach Judaism...."

The activities of the Defendant are "in connection" with goods and services for several reasons. First, the hyperlink in the Defendant Internet site to the Outreach Judaism Organization Internet site is designed to promote the viewpoint of the Outreach Judaism Organization and to encourage the purchase of the products and services offered by that organization."

- [Jewish Law - Legal Briefs \("Jews For Jesus v. Brodsky"\)](#)
- Samson, Martin, [Summary of the Decision](#)
- [Summary of the Decision](#), Finnegan.com

Also see the Decision Section: [March 6, 1998](#) and [July 2, 1998](#)

## **Bally Total Fitness Holding Corp. v. Faber**

Website developer Faber operated a "Bally Sucks" website dedicated to complaints and commentaries about Bally's health club business practices. The site contained a statement that the site was "Unauthorized", but used several Bally trademarks. Bally's claims included dilution by tarnishment based on defendant's "Drew Faber Web Site Services" site, which contained links to both a pornographic website and the "Bally Sucks" website. No direct link between the pornographic website and the "Bally Sucks" site existed.

The Court found that criticism of the Bally fitness company on a 'Bally Sucks' website did not infringe the company's trademark because it amounted to non-commercial expression protected by the First Amendment of the U.S. Constitution. The court also rejected the linking argument: "Looking beyond the 'Bally sucks' site to other sites within the domain or to other linked sites would, to an extent, include the Internet in its entirety, thus making it an impossible task to determine dilution on the Internet."

- [Summary of the Decision](#), Finnegan.com

Also see the Decision Section: [December 21, 1998](#)

## **Morrison & Foerster LLP v. Wick**

The law firm Morrison and Foerster successfully sued Brian Wick, the owner of Internet website domain names similar to the firm's trademarked names. Mr. Wick's websites contained, inter alia, hyperlinks which allowed a user to link on to offensively named websites, such as [www.letsdosomeillegalsteroids.com](http://www.letsdosomeillegalsteroids.com), [www.gestapotactics.com](http://www.gestapotactics.com), [www.holocaustmemorial.com](http://www.holocaustmemorial.com) and [www.mightaswellfireuptheovens.com](http://www.mightaswellfireuptheovens.com).



The judge concluded "that if the public believed these (the websites) to be Morrison & Foerster' s sites, Mr. Wick' s web sites would harm the goodwill represented by Morrison & Foerster' s mark. As noted above, Mr. Wick' s sites contain many hyperlinks to Anti-Semitic, racist, and offensive domain names. Mr. Wick' s sites refer to attorneys as parasites and are derogatory of the legal profession. Although some might profess to agree with Mr. Wick, the likelihood of confusion is great. Because Mr. Wick has placed his web sites at domain names identical or confusingly similiar to Morrision & Foerster' s mark, a user may wonder about Morrison & Foerster' s affiliation with the sites or endorsement with the sites or endorsement of the sites."

Also see the Decision Section: [April 19, 2000](#)

## **Deep Links/ Search Engines**

### **Paperboy**

The German Federal Court of Justice issued a verdict today holding that an online service which offers links to articles in a protected database is not in violation of copyright and competition law.

The lawsuit against an online news search engine which allowed users access to articles in the database of the plaintiffs via deep links was based on paragraph 87 b of the German copyright law (UrhG). This paragraph derives from European Union Directive 96/9/ECC of March 11, 1996. A decision, which had banned deep linking by search engines to databases could have influenced other EU member states' jurisprudence and caused significant difficulties for search engines outside the European Union as well. Try to imagine the internet without search engines!

The plaintiffs did not succeed with their argument that deep links are illegal, because they take users directly to news articles, bypassing introductory pages and advertising, thus depriving the plaintiffs of revenue from their advertisements. In the view of the court plaintiffs can not demand that users have to start with the homepage. The court stressed the importance of deep links for the internet and held that it is up to the plaintiffs to prevent deep links with technical measures, if they don't like them. The court did not answer the question if the circumvention of these measures would be illegal.

Where there is light, there is also darkness. The fight about the legality of deep links is far from being over after this decision. Upcoming Amendments to the German copyright law, which implement the May 22, 2001 European parliament and council directive (2001/29/EC) on the harmonization of certain aspects of copyright and related rights in the information society, introduce a new right of making available. The discussion if hyperlinks violate this new exclusive right of a copyright holder, has already begun. The Federal Court of Justice addressed this issue and said that linking

does not violate the making available right, but failed to deliver a convincing argument.

A similar discussion was addressed by the U.S. Court of Appeals for the Ninth Circuit, which held that inline linking violates the copyright owner's right of public display. For more information on this case, [click here](#)!

So, with the new decision, a battle has been won today, but the war is not over yet. Courts worldwide will be faced with the issue of deep linking again. For now, the danger that courts will prohibit deep linking, thus changing the way we all experience the internet, has been reduced by the verdict.

Additional note: There have also been lawsuits about the legality of deep links in the USA. More information on the lawsuit between Ticketmaster and Microsoft can be found [here](#), and about the lawsuit between Ticketmaster and Tickets.com [here](#)!

- July 23, 2003: [Deep linking wins court approval in Germany](#), out-law.com:  
"The German Federal Supreme Court ruled on Thursday that deep links from a news search engine direct to articles in a publisher's web site do not violate German copyright or competition law."
- July 20, 2003: Cullen, Drew, [Deep links are legal in Germany. Official](#), The Register:  
"Deep-linking has won the legal thumbs-up in Germany."
- July 18, 2003: [BGH: Funktion der Hyperlinks steht über kommerziellen Interessen](#), Heise:  
"Der unter anderem für Urheber- und Wettbewerbsrecht zuständige I. Zivilsenat des Bundesgerichtshofs (BGH) hat heute sein mit Spannung erwartetes Grundsatzurteil zur Frage der Wettbewerbswidrigkeit so genannter *Deep Links* bekannt gegeben."
- July 18, 2003: [Bundesgerichtshof: Deep-Links sind zulässig](#), Golem.de:  
"Das Setzen von so genannten Deep-Links ist zulässig."
- July 18, 2003: Roth, Wolf-Dieter, [Freedom for deep links](#), Telepolis

- [Pressemitteilung des Bundesgerichtshofs](#)
- July 18, 2003: [BGH: Deep Link-Urteil bestätigt](#), intern.de:  
"Der Bundesgerichtshof hat gestern das so genannte Paperboy-Urteil durch eine Zurückweisung der Revision bestätigt."
- July 17, 2003: [BGH prüft Rechtmäßigkeit des Deep Linking](#), Heise:  
"Die Zulässigkeit von Internet-Suchdiensten für Zeitungsnachrichten steht beim Bundesgerichtshof (BGH) auf dem Prüfstand."

## Shetland Times v. Shetland News

In 1996 the Shetland Times newspaper filed a lawsuit against the Shetland News for linking to Times' articles. Scotland's Court of Session issued an interim interdict banning the links. Before Scotland's highest court could rule on the legality of the links, the two publishers settled the case.

- December 3, 1997: Rothman, David, [Internet Links Could Take a Hit in Scottish Feud](#)
- [Digital feud rages in Scotland](#), News.com:  
"The Scotland court will have to decide if unauthorized links are illegal and ponder whether headlines are bound by copyright law."
- November 27, 1997: Kaplan, Carl, [Editors Feud Over Whether Linking Is Stealing](#), New York Times:  
"A cutting-edge Internet legal dispute about the "right to link" that arose in Scotland's remote Shetland Islands was settled out of court recently by the still-feuding editors."
- November 20, 1997: Jonathan Wills, ["Floatingpoints: Feedback: Tale of two halves."](#), Response by Shetland News' operator to previous editorial.
- November 13, 1997: Campbell, Duncan, [Computing and the Net: Shetland showdown; Duncan Campbell on a good day in court for the Web](#), The Guardian (London):  
"By taking their squabble to court, the owners of the two media organisations

threatened the world with a legal precedent about whether linking to a site without the site operator' s express permission was or was not lawful."

- November 11, 1997: Macavinta, Courtney, [Scottish link suit settled](#), News.com:  
"With a small island off the north coast of Scotland as a backdrop, two old friends turned enemies over Web site links have finally settled a long, drawn-out copyright lawsuit."
- December 21, 1996: Oppenheim, C., '[Copyright Battles: The Shetlands](#)' Ariadne:  
"On 24 October 1996, Lord Hamilton gave in a Scottish court a preliminary interdict (equivalent to injunction in English law) to prevent the Shetland News, an Internet based newspaper, from offering links from its WWW pages to those of its rival Internet newspaper, the Shetland Times."
- November 30, 1996: Mendels, Pamela, [Scottish Case Tests ' Right to Link](#)' New York Times:  
"It is a dispute between two local publishers that some believe could set the first legal precedent about use of hypertext links on the World Wide Web."
- Legal Analysis: Connolly, James / Cameron, Scott, [Fair Dealing in Webbed Links of Shetland Yarns](#)
- [Text of Settlement](#)
- German Translation in GRUR Int. 1998, 723

Also see the Decision Section: [October 14, 1996](#)

## **PCM v. Kranten.com**

One of the first news meta-sites that got sued was kranten.com in the Netherlands. The site provided direct links to articles on newspaper web sites. PCM, publisher of most of the country' s national dailies, failed to get an injunction against kranten.com.

A Rotterdam court found that PCM could place advertisements next to individual stories, and that external links only brought it extra traffic.

- August 22, 2000: Cramb, Gordon, [Dutch papers fail in cyber case](#), Financial Times (link does no longer work, website not available with the Wayback Machine)

Also see the Decisions Section: [August 22, 2000](#)

## **BMG Australia Ltd. v. S 11**

Record label BMG Australia Ltd. claims that the owners of an Australian website are infringing on copyright laws by simply linking to a song by artist John Farnham.

- August 25, 2000: Creed, Adam, [Record Label Threatens Australian Web Site Over Song Link](#), Newsbytes:  
"Record label BMG Australia Ltd, part of the giant Bertelsmann media empire, has threatened to sue the owners of an Australian Web site over a link to a famous song by artist John Farnham."

## **Ticketmaster v. Tickets.com**

Ticketmaster failed twice in an attempt to obtain a preliminary injunction in the United States District Court for the Central District of California to stop Tickets.com from deep linking into its pages. According to an March 2000 ruling linking couldn' t contravene copyright laws because no copying was involved.

- October 25, 2000: Kennedy, DeBrae', [Deep Linking Your Way into a Lawsuit](#), Internet Law Journal:  
"Today, however, the legality of hyperlinking is being debated in courtrooms. What is it about hyperlinking that could lead Web site owners to courtroom battles?"

- September 12, 2000: Ciminello, Dominic, [Deep Linking Is Here To Stay...For Now](#), Internet Law Journal:  
"A recent decision by a Los Angeles District Court OK' d the use of hyperlinks to link one page of a website to the page of another website, bypassing the second website's homepage."
- September 5, 2000: Sinrod, Eric, [To link or not to link?](#), Upsidetoday:  
"Lately there has been quite a bit of commotion in the legal world about whether linking between websites is permissible, and more and more cases are preventing links and related activities."
- August, 2000: Bonisteel, Steven, [Ticketmaster Gets Setback in "Deep-Linking" Suit](#), Computer User:  
"Ticketmaster Online-Citysearch Inc. [NASDAQ:TMCS] said it has failed again in an attempt to obtain a preliminary injunction preventing another Web site from "deep linking" into its pages while a lawsuit over the issue unfolds in a California federal court."
- June 7, 2000: Contreras, Jorge / Morgan, Jeffrey / Bevilacqua, Michael, [The Legality of Hyperlinks: The Issues Deepen](#), Hale and Dorr LLP:  
"Many Internet commentators have argued that legal restrictions on hyperlinking would inhibit the growth of the web and defeat the openness that led to its widespread popularity."
- April 7, 2000: Kaplan, Carl, [Legality of "Deep Linking" Remains Deeply Complicated](#), New York Times:  
"When a federal judge issued a decision last week in a case involving "deep linking," many reports suggested that the controversial Internet practice was now unambiguously legal."
- March 30, 2000: Finley, Michelle, [Attention Editors: Deep Link Away](#), Wired:  
"Deep linking has an official seal of approval now that U.S. District Judge Harry Hupp has ruled that websites can legally provide links to any pages on all other sites."
- October 19, 1999: Rötzer, Florian, [Deep Linking](#), Telepolis
- August 10, 1999: Tedeschi, Bob, [Ticketmaster Sues Again Over Links](#), New York Times:

"Six months after settling a lawsuit against the Microsoft Corp. over the practice known as "deep linking," Ticketmaster Online-CitySearch Inc. filed a similar suit against a competitor, Tickets.com Inc."

Cocks, Elijah, [Internet Ruling: Hypertext Linking does not violate Copyright](#)

Also see the Decision Section: [August 10, 2000](#) and [March 27, 2000](#)

## **Ticketmaster v. Microsoft**

In April 1997 Microsoft launched Seattle Sidewalk, a Web guide to the Seattle area, which also listed various events. When visitors wanted to purchase tickets for them, they were referred to Ticketmaster's website. On April 28, 1997, Ticketmaster reacted with a suit to Microsoft's deep linking in the U.S. District Court for the Central District of California. Ticketmaster alleged that Microsoft had "pilfered" its content and diluted its value. The lawsuit was finally settled in 1999.

- February 15, 1999: Tedeschi, Bob, [Ticketmaster and Microsoft Settle Linking Dispute](#), New York Times:  
"Ticketmaster Corp. has settled its closely-watched lawsuit against the Microsoft Corp., the chief executive of Ticketmaster Online-CitySearch said Thursday, with the ticketing giant prevailing in the dispute over whether one Web site can freely link to pages deep within another site."
- January 9, 1998: [News Robot Leads To Linking, Indexing Dispute](#), Searchenginewatch.com
- May 21, 1997: Dunn, Ashley, [Hey, You! Who You Pointin' At?](#), New York Times:  
"The lawsuit filed earlier this month by Ticketmaster against Microsoft sent a shiver of anxiety through the online world since it struck at one of the most basic aspects of the Web -- the freedom and openness of the hypertext link."
- May 21, 1997: Macavinta, Courtney, [Sidewalk link to Ticketmaster fizzles](#), CNet:



"Microsoft Sidewalk tried to sneak its users past Ticketmaster' s blocks this week, but faulty search engine links frustrated its efforts."

- May 19, 1997: Macavinta, Courtney, [Sidewalk sidesteps Ticketmaster](#), CNet:  
"Microsoft' s new Seattle Sidewalk site has developed a crafty way to skirt the blocks Ticketmaster put in place last week to halt traffic from the entertainment guide' s Seattle and New York sites."
- May 9, 1997: [Two links of seperation](#), CNet
- May 5, 1997: Schiesel, Seth, [Choosing Sides in Ticketmaster vs. Microsoft](#), New York Times
- April 30, 1997: Flynn, Laurie, [Ticketmaster Suing Microsoft Over Link From Sidewalk Site](#), New York Times:  
"Ticketmaster, the nation' s largest ticketing agency, is suing Microsoft Corp. for linking to its Web site without its permission, accusing the company of "sucking" the value from the Ticketmaster site without paying for it."
- April 29, 1997: Ricciuti, Mike, [MS link irks Ticketmaster](#), CNet:  
"Ticketmaster' s lawsuit, filed in U.S. District Court in Los Angeles yesterday, contends that Microsoft' s new Seattle Sidewalk Web site illegally uses the Ticketmaster name and trademark, mainly by providing links to Ticketmaster' s own site."
- April 23, 1997: Flynn, Laurie, [CitySearch Teams Up With Ticketmaster to Sell on City Sites](#), New York Times
- April 4, 1997: Flynn, Laurie, [Sidewalk: The Battle for Seattle Is Met](#), New York Times
- April 3, 1997: [Sidewalk now concrete](#), CNet
  
- [Summary and Analysis](#)
- [Complaint](#)
- [First Amended Complaint](#)
- [Answer to First Amended Complaint](#)

## Stepstone v. Ofir

Cologne County Court issued an injunction against StepStone's German rival OFIR, stopping OFIR from further deep linking to StepStone's online job advertisements. The court held that deep links infringe StepStone's exclusive rights in its database of job vacancies.

- January 17, 2001: McCarthy, Kieren, [StepStone sets precedent with hyperlink ban](#), The Register:  
"Online job site StepStone has obtained an injunction against German rival OFiR which prevents it from linking to StepStone pages."

Also see the Decision Section: [February 28, 2001](#)

## Barkingdogs.org

Belo, the parent corporation of the Dallas Morning News, sent a letter to the Website, BarkingDogs.org, demanding it stop deep linking to specific news articles from the paper's site, rather than its home page.

- Roberts, Janet: [Should You Lose Sleep Over Linking Deep?](#), Ezine-Tips.com
- August 6, 2002: [US-Amerikaner hat Ärger wegen Deep Linking](#), Heise:  
"Nicht die Verlinkung generell stört das Verlagshaus der Morning News, die Firma Belo, sondern das Deep Linking."
- July 3, 2002: Bowman, Lisa, [Deep linking faces clampdown](#), ZDNet:  
"Imagine your surprise, then, when you receive a letter from one of the sites you directed people to, which says posting such links is illegal without first seeking written permission."
- July 1, 2002: Gibbs, Mark, [Links to sue for](#), NetworkWorldFusion:  
"The issue for these organizations is deep linking, or linking from another Web site to content below a home page. Rather than solve the problem with

technology, they opted to bully sites into removing all links except those to their home pages."

- May 17, 2002: Morrissey, Brian, [Can Deep Linking lead to deep trouble?](#) InternetNews:  
"Their mistake: Linking directly to a runnersworld.com interview with 800-meter Olympic champion Peter Snell. Instead of linking to the home page, LetsRun.com sent readers directly to the "printer-friendly" version of the article, deep inside the site."
- May 13, 2002: Dizikes, Peter, [Testing the Links](#), ABCNews:  
"To the consternation of some observers, a recent federal court ruling in San Francisco has called into question some basic linking practices — and demonstrated the extent to which the legal status of links remains undefined, even though they have been the essence of the World-Wide Web since Tim Berners-Lee developed it in 1989."
- May 13, 2002: Kling, Arnold, [Deep Links? Yay!](#), TCS:  
"And lawyers for the Dallas Morning News want to prevent other web sites from linking to pages within the DMN site, other than its home page."
- May 9, 2002: [Public Citizen will defend Dallas Morning News "deep linker"](#), Politech:  
"Washington-based Public Citizen said Thursday that Belo' s stance against "deep links" on the Internet threatens the viability of the Web and attempts to stifle free speech."
- May 9, 2002: Sullivan, Carl, [Public Citizen Attacks Belo's Deep-Linking Policy](#), Editor & Publisher:  
"Washington-based Public Citizen said Thursday that Belo' s stance against "deep links" on the Internet threatens the viability of the Web and attempts to stifle free speech."
- May 7, 2002: Coursey, David, [Skip the ads, go to jail? Yeah, right!](#), ZDNet:  
"The good folks at the Dallas Morning News consider deep linking a problem."
- May 2, 2002: Farrel, Nick, [Newspaper hacked off by deep linking](#) Personal Computer World:

"Legal heavies from the Dallas Morning News are demanding that a website removes so-called deep links to its stories."

- May 1, 2002: Manjoo, Farhad, [Site Barks About Deep Link](#), Wired:  
"Now Adelman is locked in a battle against the Belo media corporation, owner of The Dallas Morning News, which sent him a legalistic letter this week demanding that BarkingDogs.org remove all "deep links" to the DallasNews.com site."

[Barkingdogs.org on the conflict](#)

## **Runnersworld.com v. LetsRun.com**

LetsRun.com received a letter from Rodale Press, the publisher of *Runner's World* magazine, demanding it delete a hyperlink to a "printer-friendly" version of a runnersworld.com article or face the consequences.

- May 31, 2002: White, Caroline, [Deep Linking = Deep Trouble](#), Journalism.co.uk:  
"Brothers Robert and Weldon Johnson, owners of LetsRun.com, initially thought the letter - which claimed that they had infringed copyright by linking to an interview page inside the Runner' s World site was a joke."
- May 14, 2002: [Runner' s World and LetsRun.com replyd Politech on deep linking](#), Politech
- May 14, 2002: ["Runner' s World" threatens suit over printefriendly deep links](#), Politech
- May 14, 2002: McCullagh, Declan, [Another Run to a Deep-Link Suit](#), Wired:  
"Rodale Press, the publisher of Runner' s World magazine and many other prominent health-oriented publications, sent a stiff note to a hobbyist website this week, demanding it delete a hyperlink to a "printer-friendly" version of a runnersworld.com article or -- face the consequences."

See LetsRun.com with [information on the conflict and the text of some letters](#)

Also see: [Deep Linking Redux](#), Poynter Forums

Fasusett, Bret, [Into the Deep](#), new architect

[Legal Letters](#)

## **NVM v. De Telegraaf**

The Dutch Association of Real Estate Agents (NVM) brought a suit against De Telegraaf, a search engine that enables its users to search other websites for information on certain topics, e.g. real estate sales. De Telegraaf lost its case in the first instance verdict of September 12, 2000, but successfully appealed to the Court of Appeal in The Hague. According to the court the NVM database was not protected by a database right. The decision was overturned in March 2002 by the Dutch Supreme Court that ruled that owners of online databases can prohibit deep linking to the contents of their database.

- March 27, 2002: Vos, Esme, [Supreme Court bans unauthorised deeplinking](#), Europemedia.net:  
"The Dutch Supreme Court has ruled that owners of online databases can prohibit other websites from "deeplinking" into the contents of their database."

Also see the Decisions Section: [March 22, 2002](#), [December 21, 2000](#), [September 12, 2000](#)

## **Software 2000 v. Electronic Arts**

A German court ruled that Software 2000 can stop deep links from a competitors site, because users might think there was a business connection between the parties.

- January 20, 2001: Rieger, Susanne, [Link setzen ohne Erlaubnis ist gefährlich](#), ZDNet:  
"Landgericht Hamburg verbietet unauthorisierten Verweis auf die Konkurrenz-Site."

- January 23, 2001: [Gericht: Fremde Links auf eigene Seiten kann man verbieten](#), Heise:  
"Das Landgericht Hamburg hat einer Firma in einem kürzlich verkündeten Urteil, zu dem nun die schriftliche Begründung vorliegt, beim Setzen unerwünschter Weblinks einen Unterlassungsanspruch gegenüber einem Mitbewerber zugestanden – und zwar auf Basis des Wettbewerbsrechts."

Also see the Decision Section: [January 2, 2001](#)

### **Pacific Internet Ltd. v. Catcha.com Pte Ltd.**

Singapore High Court refused to strike out an action for trespass for providing an unauthorised web link. The case was finally settled.

[Information on the case in Signapore:](#)

"The plaintiffs sued the defendants for copyright infringement, passing-off, breach of statutory duty involving s 188 of the Copyright Act (Cap 63) and the common law tort of trespass. What the defendants had done was to link their website to subsidiary web pages belonging to the plaintiffs instead of the plaintiffs' main web page."

### **EBay v. AuctionWatch**

Both Auctionwatch and Bidder's Edge used software to search other websites and collect descriptions of items for auction. They then displayed them and offered links to the items. One of the searched websites was eBay. In what turned out to be a futile attempt, eBay demanded that the companies stop searching eBay's website. EBay then turned to the courts and filed a suit to stop Bidder's Edge from crawling its website and invoked the doctrine of trespass. A preliminary injunction prohibiting Bidder's Edge from searching eBay's site and displaying the auction results, was appealed. The appeal was dropped after EBay and Bidder's Edge signed an agreement to end their legal dispute in 2001.

- March 1, 2001: Wolverton, Troy: [eBay, Bidder's Edge end legal dispute](#), CNET:  
"eBay and Bidder' s Edge have decided to bury the hatchet."
- June 8, 2000: Wolverton, Troy: [Bidder's Edge changes eBay search after injunction](#), CNET:  
"Responding to a court-ordered injunction, Bidder' s Edge has modified its search of eBay."
- July 31, 2000: Cisneros, Oscar: [Ebay Fights Spiders on the web](#), Wired:  
"A lawsuit filed by eBay to prevent automated agents known as spiders from crawling its site could turn websites into no-trespass fortresses and block common searching and indexing."
- April 14, 2000: Wolveron, Troy: [eBay, Bidder's Edge face off in court](#), CNET:  
"A U.S. District court judge said today that he is leaning toward issuing an injunction that limits the ability of Bidder' s Edge to search eBay' s auctions and to display the results on its Web site."
- November 5, 1999: Rötzer, Florian: [Ebay blockiert Zugriffe von AuctionWatch-Servern](#), Telepolis:  
"Der Konflikt über Deep Linking zwischen der Auktionswebsite Ebay und AuctionWatch, einer Website, die wie eine Metasuchmaschine die Angebote von unterschiedlichen Auktionswebsites auflistet, hat sich verschärft."
- November 4, 1999: Richtel, Matt, [Ebay Raises Stakes in Auction Dispute](#), New York Times:  
"Raising the stakes in a dispute that has important intellectual property implications for the digital age, Ebay Thursday blocked access to its site from the computers of AuctionWatch.com, a service that lists items for sale from Ebay and other online auction houses."
- October 11, 1999: [Auction Conflict Escalates](#), Wired:  
"AuctionWatch.com, a startup that runs a search engine for tracking online auctions, said Monday it plans to blow off a request from eBay to stop indexing items on its site."
- October 5, 1999: Richtel, Matt, [Dispute Over eBay Auction Listings](#), New York Times:

"In a brewing dispute over Internet auction listings, the Web site AuctionWatch.com said on Monday that it would continue to provide its visitors with lists of items for sale on the site of the industry leader, eBay Inc., which is threatening to sue to stop the practice."

### Preliminary Injunction

Bidder' s Edge, Inc. also filed an antitrust lawsuit against eBay, Inc. and the Justice Department launched an antitrust investigation, see:

- February 5, 2001: Dembeck, Chet & Conlin, Robert: [One Year Ago: U.S. Justice Department Launches eBay Anti-Competitive Probe](#), E-Commerce-Times:  
"The U.S. Justice Department is reportedly investigating online auctioneer eBay, Inc. to determine whether its efforts to block price comparison search software from probing its Web site Relevant Products/Services from Interland are anti-competitive."
- February 14, 2000: Wasserman, Elizabeth, [The New Bidding War](#), The Industry Standard:  
"Federal antitrust officials have launched an informal probe into eBay and its long-simmering dispute with two auction-listing aggregators that scour eBay and other sites to create a master list of all online auctions."
- February 8, 2000: Dembeck, Chet: [eBay Sued for "Anticompetitive Behavior"](#), E-Commerce Times:  
"Auction portal Relevant Products/Services from Verity Bidder' s Edge, Inc. filed an antitrust lawsuit against eBay, Inc. yesterday, alleging that the giant online auctioneer had attempted monopolization, interfered with contractual relations, and utilized unfair practices."

Also see the Decision Section: [May 24, 2000](#)

## **Newsbooster**

Newsbooster, a search engine for news articles was sued by the Danish Newspaper Publishers Association (DNPA), which claimed that Danish company Newsbooster



violated copyright laws by "deep linking" to newspaper articles on some Danish newspapers' Internet sites. Bailiff's Court of Copenhagen ruled in favor of DNPA, ruling that the deep links violate the newspapers' intellectual property rights.

In 2003 Newsbooster has developed a downloadable program called "Newsbrowser" that uses peer-to-peer techniques to search for news across the Internet. The program comes as a reaction to a verdict from 2002, that prohibits Newsbooster from deep linking to some news websites.

- January 22, 2003: White, Caroline, [Deep-linker sets up in the UK](#), journalism.co.uk:  
"The battle over deep-linking has taken a new twist as the banned search facility Newsbooster moves its operations to the UK."
- January 17, 2003: Delio, Michelle, [This Is Your Deep Link on P2P](#), Wired:  
"Following links from one Web page to another may soon require users to run special stealth applications, if a Danish search company's experience is a sign of things to come."
- October 21, 2002: Ovrebo, Olav, [Newsbooster's "Deep Links" Could Create Fallout](#), Yahoo News:  
"Newsbooster's idea was a simple one. The Danish company combed through the Web sites of local newspapers for stories of interest to its subscribers, and e-mailed story links based on its customers' preferences. To many, that sounded like a good deal. But to one Danish judge, it sounded like a crime."
- August 9, 2002: Fatherree, Dwayne, [In guarding their content, Web sites lose traffic](#), Herald Tribune:  
"Some online entities, however, are getting a little provincial about who links to their content."
- July 23, 2002: Minahan, Simon, [What will become of Web's missing links?](#) Sidney Morning Herald:  
"The legalities of linking have again raised their head, this time in Denmark, where a Copenhagen news-searching service, Newsbooster.com, has been restrained by a Danish court from providing its clients with direct links to articles provided by members of the Danish Newspaper Publishers Association."

- July 16, 2002: Crosbie, Vin, [Who Owns Your Hyperlinks?](#), ClickZ:  
"Otherwise tranquil Copenhagen, Denmark, was the epicenter of a convulsion that rocked the online publishing world earlier this month, when a Danish court found that European laws make deep hyperlinking, a fundamental Web function, illegal."
- July 9, 2002: Bowman, Lisa, [Court cuts off deep linking](#) ZDNet:  
"A Danish court bars a news site from linking to other Web sites' back pages without permission - the first legal ruling to outlaw ' deep linking' . It could be the start of a crackdown."
- July 8, 2002: Delio, Michelle, [Deep Link Foes Get Another Win](#) Wired
- July 6, 2002: [Dänisches Gericht verbietet Deep Linking](#) Heise Online:  
"Der dänische Internet-Recherchedienst Newsbooster darf laut einer am Freitag erlassenen einstweiligen Verfügung Meldungen auf den Websites dänischer Zeitungen nicht direkt verlinken."
- July 4, 2002: Bowman, Lisa, [Web ties cut by hyperlinking crackdown](#) ZDNet:  
"Some Web publications are clamping down on ' deep linking' , where a hyperlink goes to a page other than their home page, but others warn that this destroys the very essence of the Web."
- June 26, 2002: Manjoo, Farhad, [Deep Linking' s Legal Link on Hold](#) Wired:  
"After two days of hearings, a Danish court has delayed making a decision in a closely watched case that could determine the legality of "deep linking" in Denmark and other European Union countries."
- June 24, 2002: Manjoo, Farhad, [Danish Deep-Link Decision Due](#) Wired:  
"If everything goes well for the Danish news service Newsbooster this week, nothing will change: The Web will be the same freewheeling place it' s always been, with everyone allowed to link to everyone else."
- June 13, 2002: [Hyperlinks May Cause A War in Europe](#), Pravda.ru
- June 10, 2002: Jesdanun, Anick, [Danish publishers in court over links](#), SiliconValley.com:  
"Danish publishers, however, equate such linking with stealing - Nicolai Lassen considers linking such a fundamental element of the World Wide Web

that he sees nothing wrong with creating a service around linking to news articles at more than 3,000 other sites."

- June 1, 2002: [Deep Linking Prohibition Sought](#) HexMap:  
"Danish Newspaper Publishers' Association is seeking an injunction against Newsbooster for linking to the individual stories instead going through the main page for the web site."
- May 20, 2002: Taylor, Charlie, [The war on links](#), Nua Analysis:  
"Just imagine for a second that instead of providing you with a link to a specific report on Nua, I forced you to visit the home page and plough through the archives until you found what you were looking for."
- April 19, 2002: [Future of Deep Hyperlinking Could be Decided by Danish Courts](#), Inside e-Law:  
"The Danish Newspaper Publisher' s Association has applied to the Danish courts for an injunction to be taken against Newsbooster for their practice of supplying newsfeeds to its users which contain links to newspaper stories."
- April 18, 2002: Delio, Michelle [Deep Linking Returns to Surface](#), Wired:  
"Legal experts say that deep-linking can violate U.S. and European copyright and trademark laws."

For a list of further articles see [Newsbooster.com](#)

Also see the Decision Section: [July 5, 2002](#)

## **Homestore v. Bargain Network**

Homestore filed a lawsuit with U.S. District Court in Los Angeles against Bargain Network because of its deep linking to detailed real estate listings.

- April 26, 2002: [Homestore Accuses Bargain.com Of Trespassing](#), siliconvalley.com:  
"Online real estate site Homestore.com Friday defended its property line against what it calls trespassing."
- April 26, 2002: [Bargain Basement](#), Appraiser's Cafe:  
"Homestore.com (Nasdaq: HOMS) announced yesterday afternoon it has

commenced a lawsuit against Bargain Network in U.S. District Court in Los Angeles."

## **Newsclub**

Are Deep Links from Meta-News-Sites legal or can they be banned? The news searching engine NewsClub.de was sued by a publishing company for copyright infringement because of web site linking. NewsClub won an interim injunction at Berlin court in January 2001, but lost in the main lawsuit at Munich regional court (LG München). NewsClub appealed the ruling.

April 2003 Update: The inventor of NewsClub had been sued for linking to the plaintiff' s news articles. In January 2001, NewsClub had won an interim injunction at a Berlin court. Nevertheless, plaintiff managed to move the lawsuit to Munich regional court, and won. The decision was appealed at first but the appeal was withdrawn at the end of March 2003. By agreeing to comply with the cease and desist agreement, the Plaintiff accommodated the Defendant by abandoning its claims of demanding compensation and further information that had been determined by Munich Regional Court first instance court.

So the decisive question of the legality of search engines in general will probably be answered by higher German courts in parallel cases against the search engines Paperboy.de or Net-Clipping.de.

- March 25, 2003: [Press Release](#), Newsclub
- March 20, 2003: [News-Suchmaschine zieht Berufung gegen Deep-Linking-Urteil zurück](#), Heise:  
"Im Rechtsstreit mit der Verlagsgruppe Mainpost, einem Tochterunternehmen des Verlagshauses Holtzbrinck, hat die News-Suchmaschine Newsclub.de heute die Berufung beim Oberlandesgericht München zurückgezogen."
- March 12, 2003: [Press Release](#), Newsclub:  
"Lawsuit against searching engine NewsClub – Hard times for Google & Co.!"
- August 24, 2002: [Clinch zwischen Copyright und freier Information](#), derStandard.at

- August 13, 2002: Kohlschütter, Christian, [Germany: deep linking lunacy continues](#), The Register:  
"Mainpost, a publishing subsidiary of German group Verlagsgruppe Holtzbrinck, is suing NewsClub.de, a news headline aggregator, over deep linking."
- July 17, 2002: Delio, Michelle, [Deep Linking Takes Another Blow](#), Wired:  
"Using a search engine to locate stories on newspapers' sites violates European Union law, according to a recent ruling by judges in Munich's Upper Court."
- July 12, 2002: [Ein Verlagshaus gegen Hyperlinks](#), futurezone:  
"Ein Unternehmen der deutschen Verlagsgruppe Holtzbrinck klagt die Nachrichtensuchmaschine Newsclub wegen Verletzung der Urheberrechte durch so genanntes "Deep Linking" gemäß §87b UrhG."

More information on the lawsuit with court decisions, other case documents and an english discussion forum can be found at the [newsclub website](#).

Also see the Decision Section: [September 18, 2001](#), [January 30, 2001](#)

## Movie-List

Bazinet, who runs the website Movie-List, which contains over 900 links to movie trailers, received a letter from Universal Pictures, demanding he remove all links to trailers for movies from Universal Pictures. Bazinet complied with the request.

- August 6, 1999: Kaplan, Carl, [Is Linking Always Legal? The Experts Aren't Sure](#), New York Times:  
"Late last month, Bazinet removed the links to all trailers for movies from Universal Pictures. Lawyers from the studio had sent letters and e-mail objecting to his linking to Universal trailers without permission."
- July 27, 1999: Cisneros, Oscar, [Universal: Don't link to Us](#), Wired:  
"A Web site that aggregates links to movie trailers online has come under fire from a major movie studio that says the links infringe on its copyrights."

## [Correspondence](#)

## **Finn Eiendom AS and Finn.no v. Notar AS**

According to a Norwegian district court ruling hyperlinks to a competitor's database website do not violate Norway's Copyright Act or Marketing Practices Act (Finn Eiendom AS and Finn.no v. Notar AS (Trondheim D. Ct.), 162): "Surface Hyperlinking is a normal practice on the internet"

## Linking Policies

Not every company loves links. Linking policies that request permission for a simple link become more and more popular, challenging the freedom to link to any site you want.

Some companies contacted webmaster and requested the removal of links. News articles deal with the linking policies from the Better Business Bureau, KPMG and NPR. NPR's linking policy once stated: "Linking to or framing of any material on this site without the prior written consent of NPR is prohibited. Please use this form to request permission to link to npr.org and its related sites."

### **Better Business Bureau**

- April 2, 2001: [When should linking be impermissible](#), LeFile:  
"A letter from the Better Business Bureau to a web site operator to remove a "link" to the BBB has caused a stir in internet circles."
- March 23, 2001: Kaplan, Carl: [When Linking Isn't Better Business](#), The New York Times:  
"But not everyone loves hypertext links. Take the Better Business Bureau, for example. Recently, the consumer protection and educational organization sent an e-mail demanding that a Web publisher take down its unauthorized links to the group."
- March 16, 2001: [BBB responds to politech subscriber on "copyright" linking claim](#), Politech
- March 14, 2001: AP, [This Link Wasn't Better Business](#), Wired
- Livingston, Brian, [The BBB tries to keep Web sites from linking to it](#), InfoWorld:  
"The policy, promoted by the Council of Better Business Bureaus (CBBB) in Arlington, Va., doesn't just limit use of the wellknown BBB logo. It also asserts

that the CBBB might not "permit" a for-profit Web site to even link to a BBB page."

### [CBBB Terms & Conditions Of Web Site Use](#)

## **NPR**

- July 8, 2002: Janssen, Mike, [No linking to NPR? No way!](#), Current Online:  
"After outraging many webheads with an effort to tame the Internet, NPR has backed away from a policy restricting links to its website."
- July 1, 2002: ["Link-Affäre" beim öffentlich-rechtlichen US-Radio](#),  
Netzzeitung.de:  
"Der angesehene Kultursender «NPR» verlangte bis vor kurzem vor jedem gelegten Hyperlink einen schriftlichen Antrag. Erst eine Protestbewegung aus dem Netz stimmte ihn um."
- June 28, 2002: Manjoo, Farhad, [NPR Retreats, Link Stink Lingers](#), Wired:  
"In response to furious criticism of its online linking policy, National Public Radio will no longer require webmasters to ask permission to link to NPR.org."
- June 21, 2002: [NPR: Hype and Paranoia](#), What Do I Know:  
"What was once a small, rather silly rant about NPR's linking policy on their web site has bloomed into a full blown tech news story."
- June 20, 2001: Hughes, Rob, [NPR's strange linking policy](#), Geek.com
- June 20, 2002: Manjoo, Farhad, [Public Protests NPR Link Policy](#), Wired:  
"When huge, nameless, faceless corporations try to impose "linking policies" upon webmasters who want to point to the company' s site, people usually react in a predictable way. They get mad, they spitefully put up dozens of policy-violating links, and they bemoan, once more, the fact that some folks still don' t understand that if you don't want to be linked you shouldn' t be on the Web."
- June 20, 2002: Rochmis, Jon, [Want to Read This? Ask First](#), Wired

### [NPR's Privacy Policy](#)



The policy stated:

Linking to or framing of any material on this site without the prior written consent of NPR is prohibited.

Please use this form to request permission to link to npr.org and its related sites.

## KPMG

- December 11, 2001: [Hyperlinks? Bitte erst beantragen](#), Netzzeitung.de:  
"Die bekannte Firma zur Wirtschaftsprüfung KPMG will aber nicht verlinkt werden. Die Internet-Gemeinschaft protestiert dagegen - mit Links."
- December 7, 2001: Riedlberger, Peter, [Linken verboten](#), Telepolis
- December 6, 2001: [KPMG Link Policy](#), intern.de
- December 6, 2001: Manjoo, Farhad, [Big Stink Over a Simple Link](#), Wired:  
"In a letter to a consultant in Britain who runs a personal website that has not been especially nice to KPMG, the company said it had discovered a link on his site to www.kpmg.com, and that the website owner, Chris Raettig, should "please be aware such links require that a formal Agreement exist between our two parties, as mandated by our organization' s Web Link Policy."
- December 5, 2001: [KPMG says nobody can link to kpmg.com without permission](#), Politech

Song from KPMG,

<http://a1966.g.akamai.net/7/1966/492/version0002/www.wired.com/news/audio/specials/2001/11/kpmg/kpmg.mp3>

## Fees for Links

Several websites require fees for hyperlinks!

- December 28, 2000: McCullagh, Declan, [Free Links, Only \\$50 Apiece](#), Wired:  
"Online news sites are turning to a novel way to make some extra cash: requiring fees for links. The *Albuquerque Journal* charges \$50 for the right to


link to each of its articles. Localbusiness.com and Latino.com are more generous, and permit one to five links without payment."

- July 1, 1999: Sprenger, Polly, [Music Licenser Shakes Down Web](#), Wired :  
"ASCAP, an organization that collects licensing fees for musical performances, is asking webmasters to pay for the right to link to online music, even if it is stored on another site."

## **Don' t Link To Us**

Sorkin, associate professor of law at the John Marshall Law School in Chicago links to "stupid linking policies" that restrict linking.

- September 10, 2002: Manktelow, Nicole, [Net lawyers ponder the right to link](#), The Age:  
"To link or not to link? There' s no question in the mind of David E. Sorkin, an American legal expert and Internet campaigner fed up with some websites telling others what to do."
- August 26, 2002: [Linkverbot als "Rettung" des Contents](#), FutureZone
- August 21, 2002: Festa, Paul, [Web site flouts linking bans](#), CNet:  
"Sorkin, associate professor of law at The John Marshall Law School in Chicago, is the man behind Don' t Link to Us, a Web site that exists merely to flout what it terms "stupid linking policies."
- [Don' t Link To Us Website](#)

"Stupid linking policies" only in the USA? Not at all. A small collection of websites that restrict linking in Germany is [available here!](#)  This list got media attention in January 2003:

- January 10, 2003: [Don' t Link](#)derStandard.at
- January 9, 2003: [Polityka linkowania, głupia polityka...](#), vaGla.pl
- January 9, 2003: [Verlinken verboten](#), symlink

- January 8, 2003: [You Can' t Link Here](#) Slashdot:  
"His website fights ' stupid linking policies' that attempt to impose restrictions on other sites that link to them. Now a German law student joined the fight against linking restrictions and starts getting media attention in Germany."
- January 7, 2003: [German Sorkin?](#), GrepLaw
- January 7, 2003: [German Sorkin?](#), LawMeme

## **Olympic Games: The gold medal for stupid linking policy goes to ...**

There have always been [reports](#) about webmasters that don' t like links pointing to their websites. First they sued - mostly because of deep links - and lost in many European countries (e.g. [Austria](#), [Germany](#)) and in the USA - remember the [Ticketmaster case](#)? Then they tried to restrict the [right to link](#) with "[stupid](#)" [linking policies](#) and ridiculed themselves (the websites of [Prof. Sorkin](#) and [Links & Law](#) feature lists of companies that do so in the USA and in Germany). And are they getting smarter now? Guess not! Take a look at the official Olympic website and their [Hyperlink policy](#): If you want to link to their site you have to send a request letter to the Internet Department stating e.g. a short description of your site, the url of your site, the publishing period (How about linking for three months?... ) and the reason for linking (I always wanted to link to your site, I very much admire its content....)! And finally you are only allowed to use the term "ATHENS 2004" and no other term as the text referent...

## **Fast Company**

The linking policy of Fast Company also deserves some closer scrutiny. It expected people who want to link to their site to fax a permission form to their legal department! Shortly after reports about the linking policy hit the net, Fast Company amended it. [Their Contacts and Customer Service website](#) now states:

"Fast Company permits links to the Fastcompany.com Web site.

However, Fast Company reserves the right to withdraw permission for

any link and requests that you not link for any impermissible purpose or in a manner that suggests that Fast Company promotes or endorses your Web site.

Fastcompany.com does not allow framing of its Web site content."

- June 26, 2004, [FastCompany' s terrible linking policy](#), boingboing

## **Framing/ Inline-Linking**

### **Total News**

Several newspapers and periodicals, including CNN, Dow Jones, Reuters, Time Inc., Times Mirror, and The Washington Post filed suit in the Southern District of New York against Total News, Inc. (97 Civ. 1190 (S.D.N.Y., filed Feb. 2, 1997)), alleging copyright and trademark infringement by framing their news stories. The conflict was finally settled on the basis that Total News may continue deep linking to the articles, but ceases framing.

- May 1998, Spaulding, Michelle, [Framing, Linking and Packaging: Who Deserves What?](#)
- December 20, 1997: Stone, Martha, [News sites go after framers](#), ZDNet:  
"Online news publishers are mad as hell about framing and certain linking by some news index sites, and they' re not goingd take it anymore."
- June 11, 1997: Kirsner, Scott: [TotalNews Pokes a Stick at Big Media Again](#), Wired:  
"Just days after settling a lawsuit with several media giants, TotalNews is once again flirting with the same framing technology that spurred accusations of copyright and trademark infringement."
- February 25, 1997: Biggs, Brook Shelby, [Newspapers Struggle with Online Archives](#), Wired: "What if the information on the other end of that link doesn' t *want* to be found, or wants to be found, but only at a price? Those questions are at the heart of a debate now raging among the newly wired denizens of the newspaper industry."
- February 24, 1997: Mitchel, Dan, [Para-Site Draws Ire, Suit from News Giants](#), Wired:  
"Several major news organizations have sued TotalNews, a so-called "para-site" that links to news stories on other Web sites."

### **Complaint**

### **Stipulation And Order Of Settlement And Dismissal**

## **METEO-data / Hot Maps**

The Austrian company Meteodata, which is producing weather charts, started billing webmasters for unsolicited links to their website.

April 2003 Update: Meteodata filed a petition for bankruptcy. This comes as a reaction to a verdict from the OGH that held that framing the website with the weather charts produced by Meteodata, is not illegal. Some webmasters, who had already paid for links, demanded their money back, while other webmasters, who thus far have not complied with the demand, were strengthened in their view that the company has no legal basis for its claim.

October 2003 Update: Meteo-data demanded that people pay for links to their website. In one case they sued for framing their weather-charts. They lost. That does not keep others from trying again. As reported before, Hot Maps also send letters to people who linked to their site, demanding they pay a fee. Hot maps obtained interim injunctions against some website operators. In one case the defendant produced firm pieces of evidence that the Hot-maps website contained the statement that links to the website concerned in this lawsuit were free of charge. The court hearing before Hamburg regional court was lifted on application of Hot Maps. Hot Maps will not make further claims in this case.

- August 29, 2003: [Deep-Links Verfahren abgesagt](#), intern.de:  
"Nach Angaben des Anwalts hat der Kläger, die Hot Maps GmbH, an "zahlreiche Betreiber von Homepages Abmahnungen" verschickt und teilweise auch Einstweilige Verfügungen erwirkt."
- August 29, 2003: [Rückzug des Klägers im Prozess um Deep Links](#), webwork-magazine:  
"Wer Links auf die Unterseiten des Stadtplan-Dienstes Hot Maps setzt, muss mit einer Abmahnung wegen Urheberrechtsverletzung seitens des Unternehmens rechnen."
- April 4, 2003: [Umstrittener "Linkverrechner" Meteo-data ist bankrott](#), Heise:  
"Der vor allem durch seine umstrittene Copyright-Politik bekannt gewordene Online-Wetterdienst Meteo-data hat am Donnerstag Konkurs angemeldet."

- April 3, 2003: [Meteodata meldet Konkurs an](#), Futurezone:  
"Der oberösterreichische Wetterinformationsdienstleister Meteodata hat am Donnerstag den Konkursantrag gestellt."
- February 24, 2003: [Copyright-Vermerk ermöglicht fremde Inhalte auf Website](#), diepresse.at:  
"Öffnet der Oberste Gerichtshof dem Content-Diebstahl Tür und Tor, oder erleichtert er im Interesse von Anbietern und Nutzern bloß die Benützung des WWW? Diese Frage stellt sich nach einer Entscheidung des Höchstgerichts, mit der Internet-Anbietern gestattet wird, fremde Leistungen unter bestimmten Bedingungen auf der eigenen Homepage darzubieten."
- February 23, 2003: [Weblinks - Meteodata verliert wichtiges OGH Verfahren](#), derStandard.at:  
"Der Wetterinformationsdienstleister Meteodata hat ein möglicherweise entscheidendes Verfahren vor dem OGH verloren."
- February 20, 2003: [OGH Österreich entschied über Frame-Links](#), Heise:  
"In Österreich hat der Oberste Gerichtshof (OGH) einen mit Spannung erwarteten Beschluss zum Recht auf Web-Verweise (Links) gefällt."
- February 20, 2003: [Meteodata spricht von "Fehlurteil" und will vor den EuGH](#), presstext.at:  
"Meteodata will den Fall um die Einbindung von Wetterkarten in Frames der Website der oberösterreichischen Baufirma Bernegger Bau <http://www.bernegger.at> vor den Europäischen Gerichtshof bringen."
- February 20, 2003: [Meteodata verliert wichtiges OGH-Verfahren um Weblinks](#), presstext.at:  
"Der Wetterinformationsdienstleister Meteodata <http://www.meteodata.at> hat ein möglicherweise entscheidendes Verfahren vor dem OGH verloren."
- February 20, 2003: ["Link-Abkassierer" will vor den EuGH](#), futureZone:  
"Der Antrag auf Einstweilige Verfügung, die oberösterreichische Baufirma Bernegger Bau dürfe in ihre Website keine Wetterkarten von Meteodata.at mittels Frame einbinden, wurde in letzter Instanz zurückgewiesen."
- September 25, 2002: [Von Links und Web Cams](#), intern.de

- August 30, 2002: [Arge Daten versus Meteodata](#), derStandard.at:  
"Die Firma Meteodata schickt an Website-Betreiber, die auf ihrer Seite einen Link auf die Wetterkarten von Metedata gesetzt haben, laut ARGE Daten - "nicht nur eine Unterlassungsaufforderung, sondern auch eine Honorarforderung mit teilweise absurden Beträgen und Begründungen"."
- July 9, 2002: [Erste Klagen von Meteodata](#), Internet Ombudsman:  
"Richterspruch soll endgültig Klarheit über die Zulässigkeit von Links auf fremde Websites schaffen."
- July 4, 2002: [Internet-Ombudsmann reitet gegen Meteodata - "Geschäftsprinzip Einschüchterung"](#), futureZone:  
"Die Copyright-Klagen des oberösterreichischen Wettersite-Betreibers Meteodata wegen unautorisierter Links haben zu einer scharfen Reaktion des Internet-Ombudsmannes geführt."
- July 4, 2002: [Millionenklagen wegen Website-Links](#), derStandard.at:  
"Das oberösterreichische Unternehmen Meteodata, Betreiber der Wetter-Site Meteodata.com, hat mehrere Website-Betreiber in Österreich, Deutschland und der Schweiz geklagt, weil sie auf ihren Websites Links auf Wetterkarten von Meteodata gelegt haben."
- March 5, 2002: [Österreich, Posse um Links](#), Netzzeitung.de:  
"Das weiß doch jedes Kind: Das Internet wird von Verknüpfungen, so genannten Hyperlinks, zusammengehalten. Wer die setzte, machte sich bislang um Gebühren keine Sorgen. Bis zu diesem Streitfall in der Alpenrepublik jedenfalls."
- March 4, 2002: [Abkassieren für Hyperlinks](#), futureZone:  
"Summen bis zu 100.000 Euro wurden von kleinen Firmen gefordert, die illegal Inhalte von Meteodata übernommen hatten."
- March 1, 2002: Fiutak, Martin, [Abmahnwelle: 10.000 Euro für einen Link](#), ZDNet:  
"Österreichische Site: "Die Zeiten sind vorbei, in denen einfach hin und her gelinkt wurde, wie man will"
- February 28, 2002: Klage, [Kulanz und Hyperlinks](#), futureZone



[Allgemeine Geschäfts- und Nutzungsbedingungen von Meteo-data](#)

[Die Geschichte von METEO-Data](#) with screenshots and correspondence

[Meteo Data vs. e-Steyr.com - die Chronologie](#)

If you receive a message, demanding you pay for links, I recommend you take a look at <http://www.abmahnungswelle.de> or Forum B-L-R (both sources are in German):

If you are looking for more information about the Meteodata case, here are two more resources: [Forum B-L-R](#) and [Stockhammer](#).

Also see the Decisions Section: [August 29, 2002](#) and [June 28, 2002](#)

## **Starbucks Coffee Company v. Backwash.com**

Backwash.com stopped framing the content of Starbuck's website after receiving the request to remove the links.

- [Letter from Starbucks](#)
- [Response from Backwash](#)

## **Amnesty International v. amnesty-tunesia.org**

Amnesty International uses the framing technology to display both the Tunisian propaganda website ([www.amnesty-tunesia.org](http://www.amnesty-tunesia.org)) and Amnesty International's description of the human rights situation in Tunisia ([www.amnesty.org/tunisia](http://www.amnesty.org/tunisia)) on the screen.

- February 1, 1999: [Tunesia - Amnesty International launches Internet site to set the record straight on Tunisia "hoax" website](#), Amnesty International

## **Futuredontics v. Applied Anagramic**

The plaintiff alleged that a framed link falsely tied the defendant to plaintiff' s service. Injunctive relief was denied, and the denial was affirmed by the 9th Circuit on July 23, but defendant' s motion to dismiss was also denied. The case was finally settled.

- October 1998, [Claim that Framing Constitutes Copyright Infringement Survives Motion to Dismiss](#), The Computer Lawyer

Also see the Decisions Section: [January 30, 1998](#) and [November 24, 1997](#)

## **Yahoo.de v. Austro.net**

Yahoo.de threatened a lawsuit in case austro.net does not stop framing Yahoo's news articles.

- April 11, 1997: Wenning, Rigo, [Re: Tagesspiegel-Interview bzgl. Austro-net](#), fitug.de

## **Dilbert**

In 1996 programmer Dan Wallach used inline-links to display United Media' s Dilbert cartoon on his website. He received a cease-and-desist letter by the company und removed the links.

- [Dilbert Hack Page Archives](#)

## **Kelly v. Arriba Soft**

A visual search engine (ditto.com, formerly known as Arriba) crawls the web to produce thumbnail images of photographs and uses them to link to the original

pictures. Leslie Kelly, a professional photographer filed suit on April 6, 1999, alleging copyright infringement. A California District Court ruled that both the creating of the thumbnails and the inline-linking is justified under the fair use doctrine. The Ninth Circuit Court of Appeals affirmed and reversed in part the district court decision. The display of the tiny images was deemed to be legal fair use, but not the inline-linking.

Update 8 (August 2003):

On February 6, 2002, the US Court of Appeals for the Ninth Circuit held that that unauthorized inline linking to images residing on the copyright owner' s website violates the copyright owner' s right of public display. The court rejected defendant' s fair use defense: Inline Linking diminishes the opportunities of the copyright owner to sell or licence the images on his own website. If the court' s conclusion would be applied to all hyperlinks, it could seriously interfere with internet use.

In July 2003, the court found that the district court should not have reached the issue because neither party moved for summary judgment as to the full-size images." So the lower court once again has to take a look at the issue of inline linking.

- July 10, 2003: [Thumbnail and framing ruling revised](#), Out-Law.com:  
"A US federal appeals court this week revised an earlier copyright ruling over a search engine that provided miniature images in search results, known as thumbnails, and linked to the original image framed within the search engine' s own site."
- July 8, 2003: [Einbettung per Inline Link erlaubt?](#), Intern.de:  
"Der 9. U.S. Circuit Court of Appeals hat sich noch einmal den Fall Arriba Soft gegen Leslie Kelly vorgenommen."
- July 8, 2003: [Thumbnails OK, says court](#), Business Journal:  
"An Internet search engine did not break the law when it collected and distributed thumbnail images of copyrighted photos, the 9th U.S. Circuit Court of Appeals in San Francisco has ruled in another case involving the Internet and copyright law."
- July 7, 2003: Olsen, Stefanie, [Court backs thumbnail image linking](#), CNet:  
"Search engines' display of miniature images is fair use under copyright law, a federal appeals court ruled Monday, but the legality of presenting full-size renditions of visual works is yet to be determined."

- March 15, 2002: Filler, Stephen, [An Internet-Age Copyright Ruling](#), atnewyork.com:  
 "Also, and more significantly, the Court ruled that the Web site' s use of inline linking and frames to display content residing on a third party' s server was a copyright infringement."
- February 20, 2002: Sullivan, Danny, [Legal Rulings On Image Search & Meta Tags](#), Search Engine Watch:  
 "In the right circumstances, image search engines don' t violate copyright and using another company' s trademarks in meta tags isn' t infringement, two separate court cases have found."
- February 20, 2002: Contreras, Jorge / Steinberg, Donald, [Thumbnails, Fair Use and Hyperlinks: The Ninth Circuit Breaks New Ground in Kelly v. Arriba Soft](#), Hale and Dorr LLP:  
 "On February 6, the U.S. Court of Appeals for the Ninth Circuit in Kelly v. Arriba Soft Corp. further expanded the scope of the "fair use" exception to include "thumbnail" reproductions of copyrighted images generated by a visual Internet search engine. In doing so, however, the court also confirmed that hyperlinking to full-sized images "framed" by the search engine was not permitted."
- February 7, 2002: Krebs, Brian, [Court Rules "Thumbnail" Images OK, Full-Sized Copies Not](#), Newsbytes:  
 "In an important decision for the application of copyright law on the Internet, a federal appeals court has ruled that while Web sites may legally reproduce and post "thumbnail" versions of copyrighted photographs, displaying full-sized copies of the images violates artists' exclusive right to display their own works."
- February 6, 2002: Sandburg, Brenda, [Bigger Not Better With Copyrighted Web Photos](#), law.com:  
 "Search engines can display "thumbnails," but not full-sized images of copyrighted works on their Web sites, the 9th U.S. Circuit Court of Appeals ruled Wednesday."
- April 6, 1999: [Leslie A. Kelly Press Release Regarding Suit Against Arriba Soft Corporation and the Arriba Vista Search Engine](#)

Legal Material:

- February 21, 2002: [Ditto Rehearing Petition](#)
- [EFF Amicus Curiae Brief in Kelly v. Arriba Soft, US Ninth Circuit Court of Appeals, in support of rehearing](#)
- [Electronic Frontier Foundation Media Release](#)
- The American Society of Media Photographers, joined by The Author' s Guild, North American Nature Photographers Association, National Music Publishers' Association and the Harry Fox Agency, also filed an [Amici Curiae brief.](#)
- Kelly, Leslie: [Kelly v Arriba Soft Case Background And Documents](#)
- [EFF Archive](#)

For legal analysis see:

- Baroni, Michael, [Photos and Fair Use Online: From Penthouse Pets to Kelly's Thumbnails](#), GigaLaw
- March 1, 2002: Freedman, Bradley, [Visual search engines: Case comment on Kelly v. Arriba Soft Corporation](#)

Also see the Decision Section: [February 6, 2002](#) and [December 15, 1999](#)

So, thumbnails are legal in the USA, but what about the situation in Germany  
(Update 16, March 2004):

The [German-language Google News](#) went online in July 2003, covering about 700 news sources. Germany was the 7th country to get a country-specific Google News service, which presents information culled from many news sources. Topics are updated continuously throughout the day. There are no human editors. Google has developed an automated grouping process for Google News that pulls together related headlines and photos. And here is the legal problem: Often thumbnail images from other news sources are used to illustrate links. These thumbnails could be in contradiction to copyright law. In the USA, the U.S. Court of Appeals for the Ninth Circuit in [Kelly v. Arriba Soft Corp.](#) held that the " fair use" exception includes

"thumbnail" reproductions of copyrighted images generated by a visual Internet search engine. But the legal situation is different in Germany. Under the German Copyright Law of 1965 there is no general limitation of fair use, but a closed set of 'limitations' on a copyright owners rights (e.g. the reproduction for private or scientific use is permitted). All limitations don't apply to the conversion of internet photos to "thumbnails", according to the [regional court of Hamburg](#). This means that Google can no longer use thumbnail images without the permission of the copyright owner. The decision is on appeal.

## **Haymarket v. Burmah Castrol**

UK publisher Haymarket is suing oil firm Burmah Castrol for infringement of its intellectual property rights. Haymarket websites (whatcar.com and autosport.com) are framed in a Castrol-branded border.

- Spring 2001: Misquitta, Anthony, [You've been framed](#):  
"Internet hyper-linking and framing are currently hot topics, not least because of the lack of any English case law. Having recently advised Haymarket Magazines on their well publicised (and successful) claim against Burmah Castrol for the unauthorised framing of two of their sites, we review where the law is at present."
- March 2001: [In too deep?: hypertext linking on the web](#), Legal 500:  
"Recent decisions in a number of cases across Europe and the US have contributed to a confusing picture on the legality of deep linking: the use of hypertext links (strings of text, usually coloured and underlined, or graphics) between websites which bypass homepages and the banner advertising that they display."
- January 10, 2001: Leyden, John: [Castrol frames car sites – publisher sues](#), The Register:  
"UK publisher Haymarket is suing oil firm Burmah Castrol for alleged infringement of its online intellectual property rights."

## DerPoet.de

According to an injunction from Cologne, framing a database of poems and prose violates German copyright law, if the frameprovider adds advertisement to the original content.

- May 17, 2002: [Werbeganiertes "Framing" verletzt Urheberrechte](#), Heise:  
"In einem noch nicht rechtskräftigen Urteil von Anfang Mai hat das Landgericht Köln festgestellt, dass das "Entführen" tief verlinkter fremder Webseiten in Frames bei gleichzeitigem Hinzufügen von Werbe-Frames rechtswidrig ist."
- February 21, 2002, [Poetry and advertising don't mix' Says Cologne court](#), Marketing law

Also see the Decision Section: [May 2, 2001](#)

## Journal Gazette/The News-Sentinel v. Ft-Wayne.com

The owners of The Journal Gazette and The News-Sentinel filed suit against the Website Ft-Wayne.Com, because it framed its content (Journal Gazette Co. v. Midwest Internet Exchange, 98-CV0130 (D. Ind. filed May 4, 1998)). In response to the suit, the defendant discontinued the use of frames. The action is still pending before the Northern District Court of Indiana.

- May 29, 1998: Kaplan, Carl, [Lawsuit May Determine Whether Framing Is Thieving](#), New York Times:  
"A lawsuit pitting a pair of century-old Midwestern newspapers against three Internet companies could set the stage for an important court decision on the legality of a common Internet practice known as "framing."

## Yahoo v. vlbq.at

- March 29, 1997: [Yahoo bedroht Provider wegen Link](#)

## Other cases or things of interest

### **British Telecom v. Prodigy**

British Telecommunications (BT) claimed it owns a patent to hyperlinks, which it filed back in 1976 and was granted in 1989. BT demanded from several Internet service providers that they pay licensing fees on hyperlinks. In, what BT called a test case, Prodigy, the oldest online access service, was sued. An initial ruling by a New York federal judge in March 2002 carefully analyzed the technological claims in British Telecom' s patent. On August 22, 2002, US judge Colleen McMahon ruled that ISPs did not infringe the patent filed by BT.

- September 10, 2002: Richardson, Tim, [Hyperlink case ' not on priority list'- BT CEO](#), The Register:  
"The head of BT is waiting to hear back from lawyers in the US before deciding his next move concerning the telco' s claim to own hyperlinks."
- September 5, 2002: Donner, Irah / Juran, Belinda, [Who Invented Hyperlinks? Summary Judgement for the Defendant in the BT Case](#), Hale and Dorr LLP:  
"As discussed in our April 17, 2002 Internet Alert, British Telecommunications plc (BT) sued an Internet service provider (ISP), claiming that use of hyperlinks infringes a BT patent."
- August 26, 2002: Osborne, Brian, [BT loses hyperlink patent suit](#), Geek.com:  
"British Telecom has lost a patent lawsuit against Prodigy Communications."
- August 23, 2002: [US-Gericht sieht in Nutzung von Hyperlinks keine Patentrechtsverletzung](#), Heise:  
"Der Telefonkonzern British Telecom (BT) hat seine Patentansprüche auf Hyperlinks nicht durchsetzen können."
- August 23, 2002: Richardson, Tim, [BT loses hypertext claim](#), The Register:  
"BT has lost its legal challenge to charge US ISPs a fee for using hyperlinks."
- June 21, 2002, Richardson, Tim, [Ruling on BT hyperlink patent expected soon](#), The Register:



"The future of BT' s claim that it owns the patent to hyperlinks should be decided soon."

- May 2000, [British Telecom' s ' hyperlink' patent action](#), Legal500.com:  
"There has been a great deal of media interest in British Telecom' s US patent infringement case against the ISP, Prodigy. A recent court decision on the construction of the patent' s claims probably leaves Prodigy in a more favourable position than BT."
- April 17, 2002: Donner, Irah / Juran, Belinda, [Who Invented Hyperlinks? IP Audit Uncovers Potentially Valuable Patent](#), Hale and Dorr LLP
- March 15, 2002: Richardson, Tim, [BT mulls adverse ruling over hyperlink patent](#), The Register:  
"BT' s legal battle with US ISP Prodigy over the telco' s claim that it owns the patent to hyperlinks received a knock yesterday, following an initial ruling by a US Federal Court."
- March 14, 2002: Sandburg, Brenda, [Defining Ruling in Key Internet Case](#), Law.com:  
"In a case closely watched by intellectual property lawyers, a New York federal judge Wednesday issued an initial ruling that may undermine British Telecommunications Inc.' s claims that it owns rights to the use of Internet hyperlinking."
- March 14, 2002: Delio, Michelle, [BT Linking Suit Dealt a Blow](#), Wired:  
"British Telecom had set out to prove in a U.S. federal court last month that it developed and holds a patent to the hyperlink technology used to whisk Web users from one site to another."
- February 14, 2002: Delio, Michelle, [Move Over, BT: He Invented Links](#), Wired:  
"Nobody should be more outraged over British Telecom' s claim that it owns the patent to hyperlinking than Bob Berner, who believes he may be the world' s oldest, living computer programmer."
- February 12, 2002: Delio, Michelle, [Why This Link Patent Case Is Weak](#), Wired:  
"It may be a long time before British Telecom knows whether it lucked out or

lost big in the legal sweepstakes. But even if it wins its court battle, experts said the British telephone company has already lost the war."

- February 12, 2002: [Hyperlinks gehören uns](#), Netzzeitung.de:  
"Patente auf Internet-Basistechnologien sind umstritten. Doch dieser Fall gilt als besonders absurd: Die British Telecom meint, anno 1976 den Hyperlink erfunden zu haben - und klagt nun bei Providern auf Lizenzgebühren."
- February 11, 2002: Delio, Michelle, [Judge Dubious About Link Patent](#), Wired:  
"The British telephone company had set out to prove in a U.S. federal court Monday that the company developed and holds a patent to the hyperlink technology used to whisk Web users from one site to another."
- February 7, 2002: [Linking Patent Goes to Court](#), Wired:  
"It may sound far-fetched, but a U.S. federal court will hear preliminary arguments next week to determine if this most elemental of Internet activities is the business property of a lone company, protected in the form of a patent."
- February 7, 2002: Warner, Bernhard, Auchard, Eric, [BT in Fight to Establish Web Surfing Patent](#), techTV:  
"Imagine if one company held the right to collect a fee each time an Internet user clicked on a website link and jumped to another webpage."
- November 23, 2001: Loney, Matt, [Date set for BT hyperlink case](#), ZDNet:  
"BT has been given a date for its lawsuit, in which it claims ownership of the patent for hyperlinks - the basic building blocks of the Web."
- December 17, 2000: [Hyperlink-Patent: British Telecom macht ernst](#), Heise:  
"Der Telekom-Konzern British Telecom (BT) macht nun offensichtlich ernst mit dem Patent auf Hyperlinks, das die Firma für sich beansprucht."
- December 15, 2000: Richardson, Tim: [Prodigy to fight BT's shameless' hyperlinks patent lawsuit](#), The Register:  
"Prodigy Communications Corp has reacted angrily to BT's hypertext link lawsuit branding it "blatant and shameless"."
- December 14, 2000: Richardson, Tim, [BT launches US hyperlinks legal action](#), The Register:

"BT - which owns the patent to hypertext links - has begun its legal fight to claim back millions of dollars in licensing revenue from US ISPs."

- October 2, 2000: [Patent auf Hyperlinks zweifelhaft](#), Heise:  
"Laut dem New Scientist dürfte das von der British Telecom (BT) 1976 eingereichte Patent auf Hyperlinks nicht mehr lange Bestand haben."
- July 3, 2000: Lambert, Nancy: [Does British Telecom Own Hyperlinks?](#), NewsBreaks
- June 21, 2000: Mieszkowski, Katharine: [Stop the Web! We own those links!](#), Salon:  
"British Telecom claims it has patented hyperlinks, but one of the icons of Web history tells a different story."
- June 20, 2000: [British Telecom beansprucht Patent auf Hyperlinks](#), Heise:  
"Ein Patent auf Hyperlinks, auf die kleinen, anklickbaren Text- und Grafik-Bereiche in Web-Seiten, die zu weiteren Informationen, anderen Seiten oder Servern führen?"
- June 19, 2000: Richardson, Tim: [BT claims ownership of hyperlinks](#), The Register:  
"British Telecommunications (BT) claims it owns the patent to hyperlinks and wants ISPs in the US to cough up hard cash for the privilege of using them."

December 13, 2000: [Complaint](#)

[Text of the patent](#)

Also see the Decision Section: [March 13, 2002](#) and [August 22, 2002](#)

## **SBC Communications v. Museumtour.com: Frames Patent?**

In 2002 British Telecom (BT) lost its legal challenge against Prodigy to charge US ISPs a fee for using hyperlinks. A court ruled that ISPs do not infringe a patent filed by BT more than 25 years ago. BT had asserted that the [U.S. patent 4,873,662](#) covers hyperlinks (Also see a [compilation of articles](#) for further information on the case).

Now SBC Communications claims that it owns the right to links that stay visible on the page during navigation. SBC sent an e-mail to the site [www.museumtour.com](http://www.museumtour.com) demanding a licence fee. If the claim would be valid, SBC could demand fees from every company that puts links in frames.

- Petty, Scott, ["SBC Communications "Frames" On-line Sellers By Seeking Royalties For Patent Covering Internet Frames"](#), King & Spalding:  
"SBC Communications, Inc., the U.S. Baby Bell in the West, has asserted that it is the exclusive owner of a technology for "structured document" browsing - the use of frames to provide hyperlinks to documents displayed by a browser."
- April 30, 2003: [SBC Getting Aggressive With Frames Patent](#), Slashdot
- January 31, 2003: Orlowski, Andrew, [Evidence torpedoes SBC web patent](#), The Register:  
"In regards to your article on SBC Communications attempting to enforce their patents on frame presentations, I can assure you there most definitely IS prior art."
- January 30, 2003: Koerner, Brendan, [Can You Patent Common Features of the Internet?](#), Slate:  
"Telcom giant SBC is sending cease-and-desist letters to hundreds of Web site operators, accusing them of infringing on an SBC patent covering "frames," those stationary menus that innumerable Web sites employ to help users navigate sites."
- January 29, 2003: Gillmor, Dan, [SBC' s patent claim on Web navigation is way off course](#), Mercury News:  
"There was widespread satisfaction in the Internet community last summer when a federal judge tossed out an outrageous claim by British Telecom that it had a patent on hyperlinks, the clickable words and pictures on Web pages that take you to other pages on the Net. BT' s `invention' ' was neither original."
- January 21, 2003: Bowman, Lisa, [SBC stakes claim on Web frames patent](#), CNet:

"SBC Communications is claiming a wide-ranging patent on Web frames that could affect hundreds of sites that use the technology."

- January 21, 2003: Goodwins, Rupert, [US company claims millions over site-nave patent](#), ZDNet Australia:

"Every Web site that uses a common form of site navigation could be hit for thousands or millions of dollars in licence fees, claims a US company holding a patent on the idea."

You can read the letter at the [museumtour.com website](#).

## **Mark Maughan v. Google**

On March 25, 2003, Mark Maughan, a certified public accountant with the Brown & Maughan firm, googled his name and found some "alarming, false, misleading and injurious results" about himself and his firm. Specifically, he alleges that the search results falsely represent that plaintiffs Maughan and/or Brown & Maughan have e.g. been disciplined for gross negligence. The plaintiff's attorney, John A. Girardi, claims that the error was created because of Google's PageRank algorithm. His argument seems to be based around the idea that Google provides "snippets" of text from a website when it creates its search engine results listings. In his view PageRank "reformats information obtained from accurate sources, resulting in changing of the context in which information is presented." To better illustrate this case, consider another example. My website features articles about several lawsuits. In some of them Playboy was the plaintiff. If someone searches for my name "Stephan Ott", it is possible that Google would list my website with the text snippets: "Stephan Ott ... Playboy .... illegally published copyrighted materials". Would any search engine user believe I'm a playboy that offers illegal material? Without clicking on the link to my website, I doubt it, but Mark Maughan doesn't. His lawsuit seeks an injunction to force Google to discontinue use of the PageRank system as well as requesting unspecified monetary damages. Yahoo! and AOL-Time Warner were also listed as co-defendants. Well, someone better tell the plaintiff that the PageRank algorithm only is one factor that determines on which position a website is listed within the search results (see [Technical Background: Search Engines](#)).

- March 22: [Google Sued Over PageRank](#), webpronews:  
"A man in Southern California is irate over the results of "Googling" his name. Mark Maughan, certified public accountant of the Brown & Maughan firm, believes the search results for "Mark Maughan" contained "alarming, false, misleading and injurious results."
- March 19, 2004: [Accountant "Googles" Himself, Sues for Libel](#), NBC 4:  
"A South Bay accountant who said an Internet search engine returned "alarming" information about him and his firm sued Google, AOL, Time Warner and Yahoo! Friday for libel."

## **US- President George W. Bush - A miserable failure?**

Here is what you have to do: Go to Google' s main page and type in "MISERABLE FAILURE". The search engine will direct you to the biography of the president on the White House website. Try and see it! The trick is possible because Google searches more than just the contents of web pages - it also counts how often a site is linked to, and with what words. Thus, members of an online community can affect the results of Google searches - called "Google bombing" - by linking their sites to a chosen one.

- December 7, 2003: ["Miserbale failure" links to Bush](#), BBC:  
"George W Bush has been Google bombed: Web users entering the words "miserable failure" into the popular search engine are directed to the biography of the president on the White House website."
- December 6, 2003: [Google überrascht bei der Suche nach erbärmlichen Versagern](#), Heise:  
"Die Eingabe der Formulierung "miserable failure", die im Deutschen die Bedeutung "erbärmlicher Versager" hat, bringt bei der Suchmaschine Google Erstaunliches zutage. Auf Platz eins findet sich die Biografie des amtierenden US-Präsidenten, George W. Bush."

Adam Mathes first used a bomb to ensure that whenever anyone typed the phrase "talentless hack" into Google they got the site of his friend Andy Pressman.

## Google v. China

In its effort to control the flow of information, the Chinese government blocked access to the Internet search engine Google in September 2002, because it could bring up links to e.g. pornography or content associated with the banned spiritual movement Falun Gong. Typing in Google' s address produced an error message, as if the page did not exist. After some days users were routed to an array of other search engines in China.

Chinese users were also blocked from using AltaVista' s search engine, but not from Yahoo. Yahoo' s China-based affiliate had agreed to voluntarily block access to certain sites to comply with Beijing' s rules.

Google is accessible in China again at the moment.

- September 14, 2002: Kahn, Joseph, [China Seems to Refine Bid to Restrict Web Access](#), New York Times:  
"China apparently has refined efforts to block access to popular United States-based Internet search engines, again allowing access to Google but selectively blocking access to specific content; continues to block access to Altavista; users can find references on Google to banned spiritual movement Falun Gong and other censored topics, but efforts to call up references fail and can cause Internet browser to fail."
- September 12, 2002: Kahn, Joseph, [China Toughens Obstacles to Internet Searches](#), New York Times:  
"China is conducting unusually strong campaign to funnel Chinese Internet traffic away from United States-based search engine Google and onto sites government deems friendly and safe."
- September 12, 2002: Goodman, Peter / Musgrove, Mike, [China Blocks Web Search Engines](#), Washington Post:  
"China' s government has begun blocking access in recent days to two widely

used Internet search engines, Google and AltaVista, intensifying its effort to control the flow of information while at the same time embracing the profit-making potential of the global computer network."

- September 10, 2002: [More on China' s redirecting of Google to thirdparty sites](#), Politech
- September 9, 2002: Olsen, Stefanie, [China blocks search engine AltaVista](#), CNet:  
"The Chinese government has blocked access to search engine AltaVista as part of its campaign to prevent citizens from accessing material deemed unsuitable and threatening to the ruling Communist Party."
- September 6, 2002: Knight, Will, [Google mirror beats Great Firewall of China](#), NewScientist.com:  
"China' s widely criticised blocking of the web' s most popular search engine Google can be defeated by viewing a strange Google mirror site through a mirror, New Scientist has discovered."
- September 3, 2002: Lyman, Jay, [Google Responds to China Ban](#), Newsfactor:  
"Google could not provide the number of Chinese users of its search engine, but said in a statement it is working on restoring service to "millions of Chinese users."
- September 2, 2002: [Google in China anscheinend in Ungnade gefallen](#), Heise:  
"Seit dem vergangenen Wochenende ist Google, beliebte Suchmaschine auch für chinesische Netznutzer, von China aus nicht mehr erreichbar."
- August 13, 2002: Hu, Jim, [Yahoo yields to Chinese Web laws](#), CNet:  
"Yahoo on Tuesday defended its decision to sign off on voluntary content limitations in China, a move that critics say opens the door to online censorship by the Web portal."
- August 9, 2002: [Yahoo! Risks Abusing Rights in China](#), Human Rights News:  
"Yahoo! Inc. risks complicity in rights abuses if it remains a signatory to China' s "Public Pledge on Selfdiscipline for the Chinese Internet Industry," Human Rights Watch said today."



- July 16, 2002: [Yahoo unterwirft sich freiwilliger Zensur-Verpflichtung in China](#), Heise:

"Immer mehr Internet-Portale in China unterzeichnen offensichtlich eine freiwillige Erklärung, nach der so genannte subversive Inhalte künftig gesperrt werden, berichtet die in Hongkong erscheinende South China Morning Post."

[Replacement of Google with Alternative Search Systems in China - Documentation and Screen Shots](#), Berkman Center for Internet & Society, Harvard Law School

Google Mirror: [elgooG](#)

## **Internet Gambling Bill**

A proposed bill to ban Internet gambling would have required Internet Service Provider to remove hyperlinks to Websites that offer gambling. The bill did not pass in the Senate.

- October 23, 2002: [Leach Bill fails to pass in Senate](#), Casino News:  
"As was widely predicted, H.R.556 – the “Leach Bill”, which would have effectively outlawed Internet gambling within the US – has failed to pass in the US Senate."
- October 1, 2002: Batt, Tony, [House vote one hurdle for Internet gaming ban](#), Las Vegas Review-Journal:  
"As the House prepares to vote today on legislation to ban Internet gambling, a South Dakota senator has introduced similar legislation in the Senate."

## **National Association of Recording Merchandisers, Inc. v. Sony Corporation of America, et al.**

The National Association of Recording Merchandisers (NARM) filed a lawsuit against Sony Music and Sony Corp. of America in the U.S. District Court for the District of Columbia. NARM accused Sony, inter alia, to illegally steer customers to its online

stores by including hyperlinks on music compact discs. In November 2001 NARM withdraw its lawsuit.

- November 30, 2001: [Statement On NARM's Withdrawal Of Lawsuit Against Sony:](#)

"The NARM Board of Directors has voted to withdraw its pending lawsuit against Sony Music over the use of hyperlinks on CDs that direct retail customers to label controlled sites. In the nearly two years since the litigation initially was filed, the landscape and the facts surrounding digital distribution of music have changed dramatically."

- February 3, 2000: Rosencrance, Linda, [Music retailers: Sony promotions amount to antitrust](#), CNN:

"A national music retailing association has filed a lawsuit against Sony Corporation of America, alleging that the company is illegally forcing retailers to direct their customers to Sony' s online stores, where they can purchase CDs."

- February 1, 2000: News, Bloomberg, [Sony's Music Unit Sued Over Customer Steering](#), New York Times:

"Sony Music Entertainment was sued by retailers who say the company illegally steers customers to its online stores by including hyperlinks on music compact discs."

- January 31, 2000: [Retailers Sue Sony](#), Wired:

"Sony Music Entertainment, one of the world' s biggest music companies, forces record stores to sell CDs that drive consumers to Sony' s online stores, a group representing music retailers alleged in a lawsuit on Monday."

- January 31, 2000: Macavinta, Courtney, [Music retailers charge Sony with unfair competition](#), CNet:

"A retail industry group is suing Sony Music Entertainment, alleging that the company is strong-arming retailers to point their customers toward its online shops."

- February 1, 2000: [Complaint](#)
- [First Amended Complaint](#)
- [Brief Amicus Curiae Of The United States](#)

## **ASCAP v. Travelfinder**

ASCAP demanded a fee from Travelfinder for linking to other musical sites.

- July 1, 1999: Sprenger, Polly, [Music Licensor Shakes Down Web](#), Wired: "ASCAP, an organization that collects licensing fees for musical performances, is asking webmasters to pay for the right to link to online music, even if it is stored on another site."

## **SEC Interpretation: Use of Electronic Media**

The U.S. Securities and Exchange Commission (SEC) issued guidance on the use of electronic media including some comments on hyperlinks from Issuer' s Website to third-party information and reports.

- [Text](#)
- DiFiore, Gerard / Pollack, Michael / Schwartz, Matthew, [SEC Issues Guidance on the Use of Electronic Media by Issuers](#), Bank Securities Journal

## **The Putnam Pit, Inc. v. City of Cookeville**

According to a court decision in the Middle District of Tennessee, the publisher of the online newspaper Putnam Pit has no first amendment right to force the government of Cookeville to link from the city's Website to his own. Prior to the request from Putnam Pit, the city had not refused a link to others who had wanted one. Putnam Pit had alleged viewpoint discrimination, because the denial was based on the controversial content of the Putnam Pit website, which is critical on city politics in Cookeville.

The United States Court of Appeals for the Sixth District reversed and remanded the decision with respect to the First Amendment claim concerning the city's Website.

Putnam Pit was once again denied a link by a October 15, 2000<sup>1</sup> jury verdict. Putnam Pit appealed the decision.

- February 1, 2001: Kennedy, Shirl, [Linking Policies For Public Websites](#), LLRX.com

### [Short Summary](#)

For legal documents visit the [Putnam Pit website](#).

For legal analysis see Horwood, James / Hopkins, Peter / Stein, Alisa, [Municipal Web Site Liability Under the First Amendment](#), Municipal Lawyer

Also see the Decision Section: [July 19, 2000](#) and [September 21, 1998](#)

## **ACLU v. Miller**

A federal district judge issued a permanent injunction preventing enforcement of a Georgia law (HB 1630) which criminalized online anonymous speech and the use of trademarked logos as links on the World Wide Web. The Court agreed with the ACLU, Electronic Frontiers Georgia and others that the statute is unconstitutionally vague and overbroad.

- 1997: Miller, Christopher, [Courts Rule That Georgia and New York Internet Censorship Laws Are Unconstitutional](#):  
"Following the enactment of the Federal Communication Decency Act (CDA), eleven states have passed laws regulating content on the Internet. These laws were challenged in federal district courts in two states this past summer."
- Rothman, David, [The Internet Police Law: The Day the Sites Went Out in Georgia?](#):  
"Linking your Web site to anyone else' s without permission? Be glad you' re not in Georgia--or be worried if you are."

- July 19, 1996: Mendels, Pamela, [ACLU Fights Georgia Internet Fraud Law](#), The New York Times:  
"A new Georgia law that seeks to prevent people from misrepresenting themselves on line is coming under fire from civil libertarians and others who argue that it could severely curtail free speech in cyberspace."
- July 1, 1996: Kuester, Jeffrey, [Cyber-Sheriff's in Town](#):  
"On July 1, Georgia becomes the first state to criminalize explicitly the use of certain Internet e-mail addresses, domain names, and Web pages. According to critics, HB1630--dubbed the "Internet Police" law--criminalizes the use of an e-mail address that includes a name other than the name of the mailbox owner, as well as the use of domain names and hyperlinks on a Web page without first obtaining permission from the owner of any included trademark, trade name, logo, legal or official seal, or copyrighted symbol."
- 1996: Faber, Joseph, [Regulation of the Internet: A Lesson in Reaching Too Far](#)

Overview over [EFGA's Lawsuit against the State of Georgia](#)

[Text of HB 1630](#)

Also see the Decision Section: [June 20, 1997](#)

## Center for Disease Control Links

On March 9, 2002, the Center for Disease Control and Prevention (CDC) removed a National Prevention Information Network (NIPN) website link to the Coalition for Positive Sexuality (CPS) website called positive.org, which offers information about birth control, abortion and sexual orientation. Some groups demanded the website link to positive.org to be restored.

- March 20, 2002: [Federal agencies urged to keep linking to healthy-sex site](#), Politech
- March 13, 2002: Baim, Tracey, [Who is policing the sex police](#), Windy City Times:

"The Coalition for Positive Sexuality (CPS), a grassroots, all-volunteer sexuality education organization, denounced the CDC' s and the U.S. Department of Agriculture' s decisions to remove links to CPS' s sexuality education website, [www.positive.org](http://www.positive.org)."

- March 9, 2002: McCullagh, Declan, [CDC Sex Site Has Some Eyes Sore](#), Wired:  
"The staid folks at the Centers for Disease Control and Prevention have been caught in a political flap after they linked to a -- gasp! -- site that advocates a "positive attitude towards sexuality."

Online Policy Group – [Action Alert](#)

### Message to Bankers and Examiners

This bulletin highlights the risks and provides risk management guidance concerning banks' webliking relationships with third parties.

### **Hyperlinks & Law in China**

There is not much information available about how China' s internet law deals with hyperlinks. Computer World Hongkonk reports a case against ISP Soho: "The Court ducked the issue as to whether hyperlinks may constitute copyright infringement by simply holding that no law in China definitively provides that hyperlinks constitute copyright infringement." Another articles mentiones the case Liu Jinsheng v Sohu Aitexin Infor-Tech (Beijing) Co Ltd. The defendant was held liable for three hyperlinks to websites, that contained an unauthorized translation of Don Quixote.

- July 2, 2003: Bullock, Peter, [Internet regulation in China](#), Computerworld Hong Kong
- [China/Copyright/Hyperlinks](#), PCT Forum

## State Department Link

Until a reporter inquired about it, the State Department Website had provided a link to a Republican National Committee Website despite federal laws prohibiting government resources from being used for partisan purposes.

- September 13, 2002: Hernandez, Raymond, [A Simple Click Stirs a Lot of Outrage](#), New York Times

## Protection of Minors on the internet and Search Engines in Germany

- May 13, 2003: [Gute Filter sind teuer - Medientreffpunkt Mitteldeutschland diskutiert über Jugendschutz im Internet](#), Medientreffpunkt Deutschland: "Komplexe Filter-Systeme in Suchmaschinen könnten junge Internet-Nutzer besser vor pornographischen Inhalten schützen, doch vielen Betreibern ist diese Technik zu aufwendig und teuer. Das war das Ergebnis einer Experten-Runde zum Jugendschutz im Internet auf dem Medientreffpunkt Mitteldeutschland am 13. Mai 2003."
- July 31, 2002: [Initiativen zum Jugendschutz und der Zensurvorwurf - Fragen an Friedemann Schindler](#), Leiter der Jugendschutz.net
- July 22, 2002: Schröder, Burkhard, [Google filtert - Zensur bei Suchmaschinen und jugendschutz.net](#), Telepolis:
- July 13, 2002: [Suchmaschinen sollen gemeinsame Filterliste erstellen](#), Heise: "Das Mainzer Aufsichtsgremium [jugendschutz.net](#), eine gemeinsame Einrichtung der Jugendministerien der Länder, hat an Betreiber von Suchdiensten eine "Verpflichtungserklärung" zum Aufbau und Austausch einer schwarzen Liste für "unzulässige und jugendgefährdende Adressen" und Keywords verschickt."

## Government search engine links

Searches for "John Kerry" on certain government agency websites (Department of Homeland Security, Department of Health and Human Services) have provided links to Republican websites, that criticise Kerry, as the top results in June 2004. Both

Departments pointed the finger at the government' s official Web portal, Firstgov.gov, which maintains their search engines. Firstgov.gov, for its part, blamed the error on a technical glitch...

- July 15, 2004: [Kerry-Bashing durch Regierungs-Suchmaschine](#), intern.de:  
Der US-Regierung wird Suchmaschinen-Optimierung der besonderen Art vorgeworfen. Die Suche auf den Seiten verschiedener Ministerien nach dem Begriff "Kerry" soll parteipolitisch motivierte Ergebnisse erbracht haben.
- July 14, 2004: Wolfe, Elizabeth, [Gov' t Search Engines Link to Kerry Critics](#), AP:  
Searching for "Kerry" on the Department of Homeland Security' s Web site Tuesday afternoon turned up an unexpected top hit: a Republican attack on the Democratic presidential candidate.

## **Michael Bradley**

According to the [criminal complaint](#), which was unsealed in San Jose in March 2004, Michael Bradley attempted to defraud and extort money from Google by developing a software program that automates fraudulent "clicks" on "cost-per-click" advertisements utilized by Google. Bradley said he would sell the software to spammers if Google did not pay him about \$150,000. He was arrested in March and unsuccessfully pled not guilty to the charges (extortion and wiretap fraud) against him. A federal grand jury in San Jose returned an indictment at the end of June 2004, charging him with one count of interfering with commerce by threats and 10 counts of wire fraud.

- June 25, 2004: Cullen, Drew, [Man charged over Google blackmail attempt](#), The Register:  
A California man who claimed to have software which automatically clicked on Google cost-per-click ads has been charged with extortion and wiretap fraud.
- June 25, 2004: [Schuldspruch für Google Erpresser](#), intern.de:  
"Der Programmierer Michael Bradley der Google im März dieses Jahres zur Zahlung einer größeren Geldsumme wollte, wurde von einem



Geschworenengericht wegen erpresserischer Handlungen und wegen Betrugs für schuldig befunden."

- June 24, 2004, [Man indicted in Google fraud scheme](#), ZDNet:  
A California man was arraigned on Thursday on federal extortion and wire fraud charges arising from a software program he claimed could allow spammers to defraud Web search company Google Inc. of millions of dollars, federal prosecutors said.

Also see the [Criminal Complaint](#) and the United States Attorney Northern District of California [Press Release](#): Computer Programmer Arrested for Extortion and Mail Fraud Scheme Targeting Google, Inc.

### **NeoMedia Technologies, Inc. v. AirClic Inc / Scanbuy(TM), Inc.**

Early in 2004, NeoMedia Technologies, Inc filed a patent infringement lawsuits against AirClic Inc. and Scanbuy(TM), Inc. The lawsuit was dismissed in April 2004 by the United States District Court for the Northern District of Illinois, Eastern Division, for lack of personal jurisdiction. An Illinois federal judge held that general jurisdiction cannot be established exclusively on the basis of a Website's hyperlink to other sites that sell infringing products.

The websites of both AirClic and Scanbury allow users to submit contact information and later receive information about products and services. Scanbury' s website also contained a hyperlink to another company (AESI) that sold products that incorporated Scanbuy software. AESI also sold software to Illinois residents. That was not enough to establish general jurisdiction in Illinois. The court found that Scanbuy' s website was more akin to an advertisement, simply trying to promote its business by attracting new customers. If personal jurisdiction would simply be based on Scanbuy' s hyperlink to a website that is active in a forum, it would establish as precedent that any website owner who hyperlinks to a website that conducts business online would be susceptible to personal jurisdiction in every state and district. "It is therefore inappropriate for the hyperlink factor to tip the scales in favor of general jurisdiction in Illinois, when it would otherwise be lacking based solely on Scanbuy's website," the judge said.

[Text of the decision](#)

The court distinguished this case from LFG, LCC v. Zapata Corp., 78 F. Supp.2d 731 (N.D. Ill 199), a case in which a hyperlink was found to have created jurisdiction, by pointing out that, unlike here, the LFG website was a highly interactive portal website whose business it was to generate traffic to linked websites.

## **Laws & Regulations**

### **§ 512 DMCA - Limitations on liability relating to material online (USA)**

(d) INFORMATION LOCATION TOOLS.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the provider referring or linking users to an on-line location containing infringing material or infringing activity, by using information location tools, including a directory, index, reference, pointer, or hypertext link, if the service provider—

(1)(A) does not have actual knowledge that the material or activity is infringing;

(B) in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or

(C) upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

(2) does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

(3) upon notification of claimed infringement as described in subsection (c)(3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity, except that, for purposes of this paragraph, the information described in subsection (c)(3)(A)(iii) shall be identification of the reference or link, to material or activity claimed to be infringing, that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate that reference or link.

### **Methamphetamine Anti-Proliferation Act of 1999 - Sec. 421. Distribution of information relating to manufacture of controlled substances (USA)**

(a) Prohibition on distribution of information relating to manufacture of controlled substances

(1) Controlled substance defined - In this subsection, the term `controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(2) Prohibition - It shall be unlawful for any person--

(A) to teach or demonstrate the manufacture of a controlled substance, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of a controlled substance, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime; or

(B) to teach or demonstrate to any person the manufacture of a controlled substance, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of a controlled substance, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime.

Is it a federal crime to knowingly link to drug-related websites?

- August 23, 2000: McCullagh, Declan, [Only News That's Fit To Link](#), Wired: "Internet journalists, beware: A recent ruling by a federal judge could imperil your ability to place hyperlinks in some news articles."

## **Unlawful Internet Gambling Funding Prohibition Act (USA)**

The Unlawful Internet Gambling Funding Prohibition Act was approved by the House Judiciary crime subcommittee. The bill could require Internet service providers to delete hyperlinks to offshore gambling sites.

- May 7, 2003: McCullagh, Declan, [Online gambling loses the house](#), ZDNet: "A bill that a House panel approved on Tuesday afternoon takes a two-pronged approach toward curbing Internet wagers."
- [Unlawful Internet Gambling Funding Prohibition Act](#)

## **The Online Privacy and Disclosure Act of 2002**

The proposed Online Privacy and Disclosure Act of 2002, inter alia, contends that the company can reserve the right to change its privacy policy without notice to the individual, but must provide hyperlinks to at least three of the most recent privacy

policies if they are substantially different in some form or fashion from the current privacy policy.

- August 29, 2002, Singer, Michael, [Bill Could Expose Internet Privacy](#), Siliconvalley

## **§ 17 ECG – Liability for Links (Austria)**

(1) Ein Diensteanbieter, der mittels eines elektronischen Verweises einen Zugang zu fremden Informationen eröffnet, ist für diese Informationen nicht verantwortlich, 1. sofern er von einer rechtswidrigen Tätigkeit oder Information keine tatsächliche Kenntnis hat und sich in Bezug auf Schadenersatzansprüche auch keiner Tatsachen oder Umstände bewusst ist, aus denen eine rechtswidrige Tätigkeit oder Information offensichtlich wird, oder, 2. sobald er diese Kenntnis oder dieses Bewusstsein erlangt hat, unverzüglich tätig wird, um den elektronischen Verweis zu entfernen.

(2) Abs. 1 ist nicht anzuwenden, wenn die Person, von der die Informationen stammen, dem Diensteanbieter untersteht oder von ihm beaufsichtigt wird oder der Diensteanbieter die fremden Informationen als seine eigenen darstellt.

## **80 Electronic Communications and Transactions Bill - Information location tools (South Africa)**

A service provider is not liable for damages incurred by a person if the service provider refers or links users to a web page containing an infringing data message or infringing activity, by using information location tools, including a directory, index, reference, pointer, or hyperlink, where the service provider—

(a) does not have actual knowledge that the data message or an activity relating to the data message is infringing the rights of that person;

(b) is not aware of facts or circumstances from which the infringing activity or the infringing nature of the data message is apparent;

(c) does not receive a financial benefit directly attributable to the infringing activity; and

(d) removes, or disables access to, the reference or link to the data message or activity within a reasonable time after being informed that the data message or the activity relating to such data message, infringes the rights of a person.

## The Dot Kids Implementation and Enforcement Act of 2002 (HR 3833)

The United States Senate passed the Dot Kids Implementation and Enforcement Act of 2002 (HR 3833), which establishes an Internet domain (.kids.us) as a kids-friendly area on the World Wide Web. Hyperlinks to websites outside the kids area will be prohibited. In December President George W. Bush signed into law the .kids bill.

- December 5, 2002: [US-Präsident unterzeichnet Gesetz für Kinder-Domain](#), Heise:  
"Mit dem gestern von US-Präsident George W. Bush unterzeichneten "Dot Kids Implementation and Efficiency Act of 2002" hat die US-Regierung die organisatorischen Bedingungen für eine "kindgerechte" Internet-Domain geschaffen."
- December 5, 2002: Rötzer, Florian, [Virtueller Grünlichtbezirk für Kinder](#), Telepolis:  
"Präsident Bush unterzeichnet das Gesetz zur Schaffung einer geschützten und sauberen kid.us-Domain."
- November 16, 2002: Marilyn, Geewax, [House bill creates "safe haven" for kids on Internet](#), Seattle Post-Intelligencer:  
"The Internet soon will have a child-friendly neighborhood, located at ".kids.us."
- November 16, 2002: Rötzer, Florian, [Ein abgeschlossener Kinderspielplatz im Internet](#), Telepolis:  
"Ein nun dem US-Präsidenten vorliegendes Gesetz will eine kontrollierte kid.us-Domain einführen, um den Kindern (und Eltern) einen sicheren und sauberen Ort zur Verfügung zu stellen."
- November 15, 2002: AP, [Kids Get Safe Internet Haven](#), Wired:  
"Congress approved legislation Friday to create a safe haven on the Internet for children, where parents can be assured websites are free of pornography and other material not suitable for youngsters."

Update January 2004:

## Is there a legal difference between a hyperlink and a URL?

In 2002 The United States Senate passed the [Dot Kids Implementation and Enforcement Act of 2002 \(HR 3833\)](#), which established an Internet domain (.kids.us) as a kids-friendly area on the World Wide Web. NeuStar, Inc., has been appointed to be the administrator of the kids.us domain name space by the DoC to operate a shared registrations system, domain name servers, and other equipment for the kids.us second-level domain (For more information see the [Laws and Regulations section](#)).

Because there is no foolproof method for protecting children online at this time, the kids.us Act specifies limitations put on specific technologies commonly used on the Internet today. Hyperlinks that take a user outside of the kids.us domain are prohibited from use in any kids.us domain.

At the moment there are 6 .kids.us websites. Three of them don't link to websites outside the .kids.us domain or mention them (<http://www.info.kids.us/> / <http://stnicholas.kids.us/> / <http://www.space.kids.us/>).

The website <http://www.minnesota.kids.us/> lists several attractions in Minnesota that might be of interest for kids, e.g. museums. If a museum has a website, the site is mentioned, but no link is provided (e.g. Bakken Library and Museum: You have probably seen a movie in which Dr. Frankenstein catches lightning to shock a body to life. However, what happens with electricity and magnetism and the human body in real life? The answers may shock you! Lots of people have little machines in them that use electricity to help their hearts beat better. Find out all about electricity, magnetism, medicine, and history at the Bakken Library and Museum.... **Check out at their website** or give them a call at 612-926-3878 for more information.)

Two other websites seem to have found a way around the restriction not to hyperlink. Instead of providing hyperlinks they merely provide the URL. See <http://www.smithsonian.kids.us/president/gallery/links.cfm> (e.g. The American Presidency - <http://americanhistory.si.edu/presidency/index.html>) and [http://www.firstgov.kids.us/kus\\_history.htm](http://www.firstgov.kids.us/kus_history.htm) (America's Story (<http://www.americaslibrary.gov/cgi-bin/page.cgi>) - Discover the stories of America's past. Jump back in time, meet amazing Americans, explore the states and more.)

Are these two websites in contradiction to the no hyperlinks regulation? Well, a "hyperlink" is generally a word or a picture that can be activated by a click of the mouse to transport the user to another website. That is not the case here, but there is no great difference between a URL and a hyperlink. There is no reason to believe kids won't be able to reach the websites mentioned even if there is no hyperlink. Copy and Paste and the job is done. Sure, the mentioned websites outside the .kids.us domain probably won't be harmful to minors, but where is the sense in prohibiting hyperlinks when you allow the posting of URL's? We already have several software programs that recognize a URL and automatically convert it into a hyperlink (e.g. Word or Front Page). Are there already browsers out there that can do the same job?

Can there be another legal approach to a hyperlink than to a URL? I don't think so. The legislator didn't want kids to find an easy way to a website outside the kids.us domain. So hyperlinks were not allowed. On the one hand the idea of creating a safe haven for kids on the internet would already be at its end, if the law is not construed in a way that it also prohibits the posting of URL's. On the other hand there are serious concerns that a wide interpretation of the law could violate the First Amendment. NeuStar, Inc. did not answer an e-mail asking for their point of view on the topic.

Several other websites also prohibit their users from posting hyperlinks, especially dating and auction sites. [eBay.de](#) e.g. prohibits links to websites outside the ebay-Domain. Their terms of use expressly state that URL addresses count as links.

### **Third-party hyperlinks in auction descriptions (eBay)**

eBay ended some auctions because they contained links to the BidRobot website. eBay's Links policy prohibits the inclusion of third-party hyperlinks with some exceptions.

- December 2, 2002: Steiner, David, [eBay Bans Auctions Containing Links to Sniping Service](#), Auctionbytes-NewsFlash

Also see:



In 2001, eBay implemented a linking policy to keep sellers from linking from the auction description to a website where they could sell an item directly without waiting for the auction to end.

- June 7, 2001: Steiner, Ina, [eBay Adresses ReturnBuy Policy Violations](#), Auctionbytes-NewsFlash:  
"In a previous NewsFlash, AuctionBytes reported that ReturnBuy was in violation of eBay' s links policy and failed to maintain the required positive feedback ratio of 98% to retain Power Seller status."

[eBay's link policy](#): "The eBay item page can only be used to describe, promote and facilitate the sale of the listed eBay item - it cannot refer to or promote the seller' s individual web site, off eBay sales or other businesses. The eBay About Me page is a place where the seller can promote their individual web site or business...."

## European Convention on Cybercrime

An update of the European Convention on Cybercrime could criminalize hyperlinks to hate speech websites.

- November 11, 2002: [EU-Ministerrat fordert Gesetze gegen Rassismus im Internet](#), Heise:  
"Der EU-Ministerrat hat am Donnerstag auf seinem Treffen in Straßburg ein Zusatzprotokoll zur Konvention über Cyberkriminalität angenommen."
- November 9, 2002: Scheeres, Julia, [Europeans Outlaw Net Hate Speech](#), Wired:  
"The Council of Europe has adopted a measure that would criminalize Internet hate speech, including hyperlinks to pages that contain offensive content."

Additional Protocol to the Convention on Cybercrime concerning the Criminalisation of Acts of a racist and xenophobic nature committed through computer systems, [Text](#)

*Article 3 – Dissemination of racist and xenophobic material through computer systems*

1. Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:  
distributing, or otherwise making available, racist and xenophobic material to the public through a computer system.

Explanatory Report Nr. 28.

“Distribution” refers to the active dissemination of racist and xenophobic material, as defined in Article 2 of the Protocol, to others, while “making available” refers to the placing on line of racist and xenophobic material for the use of others. This term also intends to cover the creation or compilation of hyperlinks in order to facilitate access to such material.

Germany signed the additional protocol, see:

- January 29, 2003: [Deutschland unterzeichnet Vereinbarung gegen Rassismus im Internet](#), Heise

## **Ley de Servicios de la Sociedad de la Información y de Comercio Electrónico (LSSICE) - Artículo 17. Responsabilidad de los prestadores de servicios que faciliten enlaces a contenidos o instrumentos de búsqueda (Spain)**

1. Los prestadores de servicios de la sociedad de la información que faciliten enlaces a otros contenidos o incluyan en los suyos directorios o instrumentos de búsqueda de contenidos no serán responsables por la información a la que dirijan a los destinatarios de sus servicios, siempre que:

- a) No tengan conocimiento efectivo de que la actividad o la información a la que remiten o recomiendan es ilícita o de que lesiona bienes o derechos de un tercero susceptibles de indemnización, o
- b) si lo tienen, actúen con diligencia para suprimir o inutilizar el enlace correspondiente.

Se entenderá que el prestador de servicios tiene el conocimiento efectivo a que se refiere la letra a) cuando un órgano competente haya declarado la ilicitud de los datos, ordenado su retirada o que se imposibilite el acceso a los mismos, o se hubiera declarado la existencia de la lesión, y el prestador conociera la correspondiente resolución, sin perjuicio de los procedimientos de detección y retirada de contenidos que los prestadores apliquen en virtud de acuerdos voluntarios y de otros medios de conocimiento efectivo que pudieran establecerse.

2. La exención de responsabilidad establecida en el apartado primero no operará en el supuesto de que el destinatario del servicio actúe bajo la dirección, autoridad o control del prestador que facilite la localización de esos contenidos.

## **Paid Listings / Fake Error Messages**

When is it necessary to label links, search engine results, advertising banners?

### **Commercial Alert Complaint & Federal Trade Commission Investigation**

The consumer advocacy group Commercial Alert, which was founded by longtime consumer advocate Ralph Nader, filed a complaint in July 2001, requesting that the Federal Trade Commission investigate whether search engines are violating Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45(a)(1) by failing to disclose that advertisements are inserted into search engine results lists.

After 11 months, the FTC said that paid listings must be clearly marked. The FTC choose not to take formal action at this time.

- October 31, 2002: Beriker, James, [Opinion: FTC's Focus on Paid Search Engine Disclosure: Golden Moment or Missed Opportunity?](#), Search Engine Marketing:  
"The Federal Trade Commission's recent landmark recommendation to the search engine industry to improve disclosure of paid listings within search results is a gentle rebuke."
- August 19, 2002: Olsen, Stefanie, [Search sites work to clean up their act](#), CNet:  
"The commercial practices of search engines are once again in the spotlight after a recent warning shot from federal regulators over inadequate disclosure of paid links."
- July 11, 2002: AP, [Search engines responding slowly to regulator's request](#), Mercury News:  
"Online search engines are built to find information in seconds. But most leading sites appear to be taking their time meeting a federal request for more transparency on how money influences their display of search results."

- July 1, 2002: Saunders, Christopher, [FTC Warns Sites On Paid Listings](#), Internetnews.com:  
"The Federal Trade Commission is recommending that Web sites using paid search listings make their advertising practices and policies clearer to consumers -- or they could potentially face legal action."
- June 28, 2002: Hansen, Evan, [FTC wants paid search to shape up](#), CNet:  
"The Federal Trade Commission on Friday said search-engine companies need to clearly mark paid listings on their sites, concluding an 11-month investigation."
- June 27, 2002: [Federal Trade Commission's Guide to Paid Placement Search Engine Ads](#)
- July 17, 2001: [Suchmaschinen im Visier der Verbraucherschützer](#), Heise:  
"Die US-Verbraucherschutzgruppe Commercial Alert hat bei der Federal Trade Commission Beschwerde gegen die Betreiber von acht Suchmaschinen wegen Schleichwerbung eingereicht."

### [Complaint](#)

A list of more articles is available here: Sullivan, Danny, [Pay For Placement](#), SearchEngineWatch

Also see: Schulzki-Haddouti, Christiane, [Die Suche nach Geld](#), C't

## **Bonzi Software**

On November 25, 2002 a class action lawsuit was filled against Bonzi Software, Inc. because of its allegedly deceptive advertising banners that impersonate computer error messages.

- December 5, 2002: Olsen, Stefanie, ["Security alert" ads pop up in court](#), ZDNet:  
"Web advertisements that masquerade as pop-up "security alert" windows generated by a surfer' s computer or browser are the subject of a new class action lawsuit, which aims to rid the Internet of the deceptive banners."

- December 5, 2002: Ross, Rachel, [Class-action lawsuit says phooey to those pesky FUIs](#), Toronto Star:  
"Ads pose as computer error messages Case would take aim at Bonzi Software."
- December 5, 2002: Trickbanner: [Wer anderen eine Grube gräbt...](#), Heise:  
"Sie gewinnen keinen Schönheitspreis, sondern sehen aus wie Windows-Fehlermeldungen. Sie entstammen einer Zeit, als Durchklickraten das Maß aller Dinge in der Online-Werbung waren und haben schon so manchen User in die Irre geführt: Amerikanische Anwälte haben nun wegen Trickbannern, die beispielsweise den Eindruck einer Windows-Fehlermeldung erwecken, eine Klage eingereicht."
- December 4, 2002: Cullen, Drew, [Who will rid us of fake error message ads?](#), The Register:  
"A class action suit has been filed in Spokane County Washington against Bonzi Software, the maker of the fake error message banner ads you have all seen thousands of times."
- December 4, 2002: [Sammelklage gegen Bonzi Software](#), FutureZone:  
"Wegen des Erscheinungsbilds seiner Werbebanner steht dem Online-Werber Bonzi Software eine US-Sammelklage ins Haus."

### **„Trennungsgebot“ according to German Law (MDStV / TDG)**

- Rauschhofer, Hajo, [Mediendienste im World Wide Web](#), JurPC Web-Dok. 241/2000, Abs. 1 – 58
- [Werbung in Push-Diensten: zulässige Variante der unerbetenen kommerziellen Kommunikation?](#), Oliver-Klimek.de

- August 4, 2003: [Jurist nennt Online-Seiten von ZDF-Sendung rechtswidrig](#), Heise: "Der Rechtsprofessor Christoph Degenhart hat im [Focus](#) den [Internet-Auftritt](#) der ZDF-Sendung *Leute heute* als rechtswidrig bezeichnet."
- August 3, 2003: [Grenzenlose Nähe](#), Spiegel Online: "In bisher einmaliger Weise vermischt ausgerechnet das öffentlich-rechtliche ZDF auf seinen Internet-Seiten Werbung und Inhalt."

## **Mark Nutritionals against Overture, AltaVista, FindWhat.com and Kanoodle**

Mark Nutritionals filed suit against Overture, AltaVista, FindWhat.com and Kanoodle for selling their trademark, "Body Solutions," to their competitors, seeking \$440 million in damages for alleged trademark infringement and unfair competition. All sued search engines have paid-placement listings that appear when searches are conducted for the term "body solutions." Body Solutions believes the ads are misleading consumers and infringing its trademark.

- February 20, 2002: Sullivan, Danny, [Lawsuit Over Paid Placements to Define Search Engines, Part 2](#), ClickZ:  
"A few weeks ago, AltaVista, FindWhat, Kanoodle, and Overture were slapped with a lawsuit filed by weight-loss product maker Mark Nutritionals, and the case has implications for the entire search engine industry."
- February 19, 2002: Sullivan, Danny, [Lawsuit Over Paid Placements To Define Search Engines](#), SearchDay:  
"A new chapter in search engine law was opened last week, when Mark Nutritionals filed lawsuits seeking \$440 million in damages for alleged trademark infringement and unfair competition against AltaVista, FindWhat, Kanoodle and Overture."
- February 1, 2002: Saunders, Christopher, [Weight Loss Company Sues Search Engines](#), internetnews.com:  
"The diet firm, Mark Nutritionals, filed the suit in U.S. District Court in San Antonio, and seeks at least \$10 million in compensatory damages and \$100 million in punitive damages from each search engine, for what it termed a "willful attempt to mislead users" for their own financial gain."

- January 31, 2002: Lafferty, Shannon, [Seek and Ye Shall Find ... or Not](#), The Recorder:  
"For Internet search engines, the "pay for placement" business model seemed like sheer marketing genius: Let businesses bid for search terms like "weight loss" or "auto repair," and program the engine so that the links popping up point to the highest bidder."

Complaints:

- <http://searchenginewatch.com/sereport/02/02-altavista.doc>
- <http://searchenginewatch.com/sereport/02/02-findwhat.doc>
- <http://searchenginewatch.com/sereport/02/02-kanoodle.doc>
- <http://searchenginewatch.com/sereport/02/02-overture.doc>

## Google v. Louis Vuitton

The civil court in Nanterre fined Google 75,000 euros for allowing advertisers to link text internet advertisements to trademarked search terms and gave the company 30 days to stop the practice. In the trademark case, the owner of the name "Bourse des vols" (Market for Flights) wanted Google to stop allowing competitors to include "Bourse des vols" as a term that would generate an advertisement and link to their own site. Google said it would appeal the decision.

Louis Vuitton also is suing Google and its French subsidiary for trademark infringement. Lawyers for Google and Vuitton are to attend a preliminary hearing in Paris on November 3.

- October 28: [Louis Vuitton verklagt Google](#), Heise:  
"Der französische Luxusgüter-Hersteller [Louis Vuitton](#) hat die Betreiber der Suchmaschine [Google](#) auf Schadenersatz verklagt, weil sie dessen Markenrechte durch die Platzierung von Werbebotschaften neben Trefferlisten verletzt haben sollen."

- October 24, 2003: Frost, Laurence, [Louis Vuitton sues Google for alleged trademark infringement online](#), Mercury News:  
"Google and its French subsidiary are facing another trademark challenge in the wake of a landmark ruling that could force the popular Internet search engine to change how it sells advertising."
- October 24, 2003: [Handbag maker Vuitton sues Google](#), CNN:  
"Louis Vuitton SA is suing Google and its French subsidiary for trademark infringement in the wake of a landmark ruling that could force the popular Internet search engine to change the way it sells advertising."
- October 20, 2003: [Google muss 75.000 Euro wegen Einblendung von Textwerbung zahlen](#), Institut für Urheber- und Medienrecht:  
"Die Eingabe von Adwords, die gleichzeitig Markennamen sind, darf nicht zur Auflistung von Textwerbung führen, die den geschützten Begriff enthält."
- October 19, 2003: ["Adwords" bei Google dürfen nicht auf fremde Werbung verweisen](#)", Heise:  
"In Frankreich hat ein Gericht entschieden, dass Suchworte bei Google, die gleichzeitig Markennamen sind, nicht mehr auf Links von Konkurrenten verweisen dürfen, die diese Markennamen in ihre Werbung einbauen."

## Google v. American Blind

American Blind sent Google a letter complaining that it was selling AdWords that infringed on its trademarks. Google places the sponsored links on the right side of its results page. For example, if someone types 'American Blind & Wallpaper Factory' into Google's search box, the advertisements of other companies are listed beside the search results, luring users to click on them. American Blind threatened a trademark lawsuit similar to one brought against Google by French handbag seller Louis Vuitton in August (In October a French court ordered Google to cease the practice and pay a fine).

Google asked the U.S. District Court, Northern District of California for declaratory judgment that its AdWords don't infringe on American Blind's trademarks and demanded a jury trial. The complaint filed November 26 states, "Google believes and maintains that descriptive terms (including terms such as 'blind,' 'wallpaper' and 'factory,' which are component parts of American Blind's trademark) are not ~~entl~~



to any such treatment, and that Google' s sale of keyword-triggered advertising does not violate the Lanham Act."

Google' s AdWords ([German](#) / [English](#))

- December 5, 2003: Kuchinskas, Susan: [Google Asks Judge to Lay Down Trademark Law](#), internetnews.com:  
"Today, Google asked a U.S. district court to rule on whether some of the keywords it sells to advertisers infringe on the trademarks of American Blind and Wallpaper Factory."
- December 5, 2003: [Google Adwords in den USA auf dem juristischen Prüfstand](#), Heise:  
"Der Suchmaschinenbetreiber Google will vor Gericht klären lassen, unter welchen Bedingungen mit Suchbegriffen verknüpfte bezahlte Werbung mit dem US-Markenrecht kollidiert."
- December 4, 2003: Olsen, Stefanie, [Google wants ruling on search trademark law](#), CNet:  
"Aiming to pre-empt mounting complaints of trademark violations, search company Google has asked a court to rule on whether its keyword-advertising policy is legal."
- November 21, 2003: [Einstweilige Verfügung gegen Google.de](#), Heise:  
"Das Landgericht Hamburg hat in einem Beschluss vom 14. November (Aktenzeichen 312 O 887/03) Google.de verboten, weiterhin Werbeanzeigen für das Keyword "Preispiraten" zu schalten, wenn der Link auf die Domain Preisserver.de verweist."
- November 13, 2003: [Google verbietet AdWords-Anzeigen für Dialer-Seiten](#), Heise:  
"Auch Google greift nun gegen Dialer durch: Werbeanzeigen für Seiten, die Dialer nutzen oder "den Gebrauch von Dialern fördern", sind ab sofort nicht mehr zulässig..."
- November 5, 2003: Sullivan, Danny, [Google Faces Fight Over Ads & Trademarks In France](#), Search Engine Watch:  
"Days after Google was fined by a French court for selling ads linked to the

terms "travel market" and "airflight market," news emerged that Louis Vuitton launched its own trademark-related action against Google."

- October 16, 2003: McCullagh, Declan, [Google France fined for trademark violation](#), ZDNet:  
"A French court has ruled against Google France in an intellectual property dispute, saying the company must pay a fine for allowing advertisers to tie their text notices to trademarked search terms."
- April 4, 2003: Steiner, Ina, [Amazon to Put Google Ad Words & Search on Its Site](#), Auctionbytes:  
"Amazon.com and Google have announced a multi-year agreement that will make Google' s search technology and targeted sponsored links available on Amazon.com."

Earlier this year, auction giant eBay asked Google to block advertisers from using its trademark in sponsored search results. eBay listed, in 13 pages, a wide selection of terms related to its trademarks. Google complied with some of its requests.

- August 8, 2003: Olsen, Stefanie, [Google ads a threat to eBay trademark?](#), CNet:  
"Auction giant eBay has moved to block Google advertisers from using its trademark in sponsored search results that appear on Google and across the Web."

## **A "Code of Conduct" for search-engine operators?**

Bertelsmann Stiftung, the foundation which owns the german media giant Bertelsmann, published a study about the usage of search engines in Germany (see [Transparency on the Internet: Search Engines](#), Bertelsmann Stiftung) and developed a "Code of Conduct" for search-engine operators that aims to ensure objective, transparent access to information on the Net.

- October 24, 2003: [Kodex für Suchmaschinen-Betreiber](#), futureZone
- October 22, 2003: [Kodex für Suchmaschinen](#), ZDF heute:  
"Gemäß einem neuen Verhaltenskodex wollen mehrere Betreiber von

Internet-Suchmaschinen Werbung künftig eindeutig kenntlich machen.  
Grundlage ist ein Papier, das die Bertelsmann-Stiftung (Gütersloh) entwickelt hat."

- October 22, 2003: [Verhaltensrichtlinien für Suchmaschinenbetreiber](#), Heise:  
"Vor allem sollen die Suchmaschinenbetreiber für mehr Transparenz bei den Kriterien für das Ranking sorgen, gekaufte Links klarer kennzeichnen und auch Informationen über die Suchmaschinen-kompatible Gestaltung von Webseiten beziehungsweise Ausschlusskriterien für "Fälscher" bieten."
- September 25, 2002: [Transparenz im Netz: Die Suche im Internet erleichtern](#), Bertelsmann:  
"Bertelsmann Stiftung erforscht Suchverhalten von Internet-Nutzern und Qualität von Suchmaschinen."

Also see:

- Alexander, Marcus, [Transparency is the first step in search engines self-regulation](#), PCMLP Self-Regulation Review - August 2003
- Mueller, Dietmar, [dmmv prangert unlautere Suchmaschinen an](#), ZDNet:  
"Der Deutsche Multimedia Verband (dmmv) plant ein Treffen von Suchmaschinenbetreibern und -optimierern, um die Ergebnislisten von irrelevanten Resultaten zu reinigen."

## **Playboy vs. Netscape**

The 9th U.S. Circuit Court of Appeals reinstated a trademark infringement lawsuit by Playboy Enterprises against Netscape Communications. Playboy accused Netscape of violating its trademark by selling banner advertisements triggered by the terms "playboy" and "playmate." Playboy argued the links tarnished and diluted its brand name by associating its trademarks with inferior products. The decision reverses a district court ruling that dismissed the suit without a trial in 2000.

A week after the appeals court ruling, the companies have reached a settlement in the case. The terms of the settlement have not been disclosed. The agreement puts

an end to a case, which has been closely watched in the search engine advertising field.

- January 29, 2004: [Netscape einigt sich mit Playboy](#), Heise:  
"Der Streit zwischen der AOL-Firma Netscape und dem Erotikanbieter Playboy Enterprises ist beendet."
- January 23, 2004: Olsen, Stefanie, [Netscape, Playboy settle search trademark case](#), ZDNet:  
"Netscape settled a 5-year-old lawsuit brought by Playboy Enterprises, a week after a federal appeals court ruled that the Web company could be held liable for the unauthorized use of trademarks in search engine ads."
- January 16, 2004: [Playboy wins Net search trademark dispute](#), ZDNet:  
"A U.S. appeals court ruled on Wednesday that Playboy Enterprises Inc.'s trademark terms "playboy" and "playmate" should be protected even in Internet searches that prompt pop-up advertisements."
- January 16, 2004: [Playboy on top in internet ad dispute](#), Out-Law.com:  
"A US appeals court has overturned a ruling that Playboy trade marks may be used by search engines to display specific banner ads without the company's authorisation."
- January 16, 2004: [Playboy gegen Netscape](#), derStandard.at:  
"Ein US-Bundesgericht hat eine Klage des Entertainment-Konzerns Playboy gegen Netscape wieder aufleben lassen."
- January 16, 2004: Olsen, Stefanie, [Case threatens search engines' use of trademarks](#), ZDNet:  
"Playboy Enterprises will have its day in court over accusations that search engines sold its trademark as advertising without permission."
- January 15, 2004: [Playboy darf doch gegen Suchmaschine klagen](#), Heise:  
"Der United States District Court for the Central District of California hat eine Klage des US-amerikanischen Erotik-Anbieters Playboy Enterprises gegen Excite und dessen Lizenznehmer Netcape Communications zugelassen."
- January 15, 2004: Olsen, Stefanie, [Web ad trademark law to be retested](#), CNet:  
"Dealing a potential setback to the Web search advertising market, a federal appeals court has reopened a lawsuit challenging the unauthorized use of trademarks in ads linked to search engine keywords."

- January 15, 2004: [Big Bunny Still Hopping Mad](#), Wired:  
"In a decision that could cast scrutiny over Internet search engines and online advertisers, a federal appeals court Wednesday reinstated a trademark infringement lawsuit by Playboy Enterprises against Netscape Communications."
- September 15, 2000: [Playboy-Klage gegen Suchmaschine erneut abgewiesen](#), Heise:  
"Wenn Suchmaschinen nach der Eingabe von geschützten Markennamen gezielt Werbebanner Dritter einblenden, verstößt dies nicht gegen das US-Wettbewerbsrecht."

## Other Search Engine News

### **Update 19: Google updates Toolbar - introduces Browse by Name**

In July 2004 [Google](#) added a new feature to its toolbar that allows users to navigate the Web by typing in a name instead of a URL. Now, to search, you simply type the name or description of the site you're looking for. If there's a strong match, Google will go straight to that page. If users type in a name that isn't specific or well recognized, the toolbar automatically performs a Google search on the subject, giving users a choice of destinations to choose from, the company said.

- July 16, 2004: [Neue Google-Toolbar für den IE versteht Begriffseingaben](#), Golem:  
" Google hat seine Google Toolbar für den Internet Explorer überarbeitet und bietet ab sofort eine neue Version zum Download an. Als Neuerung wurde nun die Möglichkeit integriert, dass Begriffe direkt eingegeben werden können und Google versucht, dazu die passende Webseite zu finden. Außerdem werden damit Webseiten-Adressen bei der Eingabe vervollständigt."
- July 15, 2004: Sherman, Chris, [Google Toolbar Adds Keyword Browsing to Internet Explorer](#), Searchenginewatch:  
" Google has added a keyword based browsing feature to its toolbar, allowing users to type words rather than URLs into the Internet Explorer address bar and automatically see the "most relevant" site for those terms."
- July 15, 2004: [Google kapert MSIE-Adresszeile](#), intern.de:  
" Der Google Toolbar wurde um die Funktion "Browse by Name" erweitert."

### **Update 18: Google knows what people want...**

Google's spell checking software automatically looks at your query and checks to see if you are using the most common version of a word's spelling. If it calculates that you're likely to generate more relevant search results with an alternative spelling, it will ask "Did you mean: (more common spelling)?" So far so good. But did you ever search for legal movies on Google? No? Well, try [Google Germany](#) and search for "legaler filmdownload" (means legal film download). The result is quite surprising.

Google knows what users really want: Google comes up with the question: Did you mean "illegal film download" :-)

## March 2004

- March 27, 2004: Peterson, Kim, [MSN to add features Google got to first](#), The Seattle Times:  
"Microsoft' s MSN division, still playing technological catchup to Internet search king Google, said yesterday that it would soon introduce tools for people to search news articles online."
- March 26, 2004: Hansen, Evan / Hu, Jim: [Stoked on search deals](#), News.com:  
"Yahoo' s \$575 million acquisition of European e-commerce provider Kelkoo is the Web portal' s fourth major acquisition in the past year and a half the latest effort to expand its search business."
- March 24, 2004: [Google promotes local search](#), websearch.about.com:  
"Google shared their local search tool with the world this week by unveiling the feature designed to compete with Yahoo!' s new local search tools."
- March 24, 2004: Kotadia, Munir, [Google talks without the browser](#), ZDNet:  
"Google is not the obvious company to telephone when you are looking for directions to a restaurant or hotel, but the popular search engine' s development team is hoping that its emerging voice search facility may over time completely change the concept of a search engine."
- March 22, 2004: Best, Jo, [Man arrested for allegedly extorting Google](#), News.com:  
"A California man has been charged with extortion, after allegedly making demands for \$100,000 from search giant Google. According to court papers, he claimed that if Google did not pay, he would release a piece of software to spammers that would generate fake advertising hits, costing the search giant millions."
- March 11, 2004: [Yahoo cuts ties to Google in Asia-Pacific](#), ZDNet:  
"Yahoo has dumped Google' s algorithmic search technology for its Australian and New Zealand portals in favor of an in-house search engine, Yahoo Search Technologies."

- March 6, 2004: [Yahoo! Adopts New Fees to Explore Web](#), KOTV  
" Internet giant Yahoo! Inc. is adopting a new system for indexing Web pages that will charge businesses to include more material currently unlisted in its online search engine, marking the first volley in a duel with its former ally Google Inc."

## February 2004

- February 27, 2004: Google' s Page "dismayed" by IPO speculations, ZDNet:  
"No definitive statements have been made about a public offering, according to Google' s cefounder."
- February 20, 2004: [Oceana Campaign to Get Ads back on Google](#), Search Engine Journal:  
"Oceana has launched an online awareness and action campaign to get their anti-Royal Caribbean ads placed back into Google AdWords searches for the cruise line with the controversial sewage treatment system."
- February 20, 2004: Worthington, David, [Yahoo! Drops Google, Launches New Search Engine](#), BetaNews:  
"Yahoo! has ended its marriage of convenience with Google and has begun to field test its own search engine technology in regional markets."
- February 17, 2004: Liedtke, Michael, [Google ads a billion more pages](#), MSNBC News:  
"Online search engine leader Google Inc. added an additional 1 billion pages to its Web index Tuesday, increasing its breadth by about one-third as it girds for tougher competition from Yahoo! Inc. and Microsoft Corp."
- February 5, 2004: Hedger, Jim: [Search Engine Wars: MSN + Google = Netscape](#), Internet Search Engine Database:  
"The search engine war between Google and MSN is generating some nasty tactics reminiscent of the Microsoft vs. Netscape battle of the mid ' 90' s."
- February 5, 2004: Pearce, James, [Google swamps Australian university' s server](#), ZDNet:  
"The astronomy department of Swinbourne University suffered an effective



denial-of-service attack after Google spotlighted mathematician Gaston Julia' s birthday."

- February 3, 2004: [Google voted best brand](#), BBC News:  
"Internet search engine Google was the top brand of 2003, a survey of 4,000 branding professionals has concluded."
- February 3, 2004: Thibodeau, Serge, [The latest on update Austin](#), Internet Search Engine Database:  
"Some of the websites that haven't been hit too hard in Google's Florida update (November 2003) got hit real hard on or around January 23. Google's latest update is called "Austin", and they are beginning to 'sound' like elections..."
- February 2, 2004: Graham, Jefferson, [For Google, many retailers eagerly jump through hoops](#), USA Today

## January 2004

- January 28, 2004: [Google to set up in Zurich](#), NZZ:  
"The world's leading internet search engine, Google, has chosen Zurich as the base for its new European research and development centre."
- January 28, 2004: Olsen, Stefanie, [Google' s Orkut gets back online](#), CNet:  
"Google' s experimental socialnetworking site, Orkut, resurfaced Wednesday after being offline for nearly three days, keeping the thousands of Silicon Valley executives and techies invited to sign up from joining the service."
- January 28, 2004: Ellen Bates, Mary, [Hidden Google Tools](#), Searchenginewatch:  
"Even if you consider yourself a Google expert, these "hidden" tools and resources let you push the search engine' s capabilities to the max."
- January 28, 2004: Yates, Dana, [Senate Google Bombing?](#), San Mateo Daily Journal:  
"State Senate candidate Ted Lempert has been bombed. In what is known as Google bombing, someone has manipulated the top rated search engine to deliver the Web site of campaign rival Assemblyman Joe Simitian, D-Palo Alto."

- January 27, 2004: Olsen, Stefanie, [Network Solutions cuts short Google shortcut](#), CNet:  
 "The issue cropped up about two weeks ago, when Google quietly launched a service allowing visitors to look up data on domain name owners from public databases--collectively known as Whois--run by registrars worldwide."
- January 26, 2004: Gibson, Owen: [BBC buys up "Hutton inquiry" Google links](#), MediaGuardian:  
 "Just 48 hours before Lord Hutton delivers his verdict on the controversy surrounding the death of Dr David Kelly, the BBC has begun an advertising experiment that involves buying up all internet search terms relating to the inquiry."
- January 24, 2004: McNichol, Tom, [Google Bombing: Weapons of mass obstruction](#), seattlepi.com:  
 "Time was -- say, two months ago -- when typing the phrase "miserable failure" into the Google search box produced an unexpected result: the White House' s official biography of President George W. Bush."
- January 22, 2004: Olsen, Stefanie, [Google spawns social networking service](#), CNet:  
 "Google tip-toed into the hot market of online social networks with the quiet launch of Orkut.com on Thursday."
- January 22, 2004: [Google bombing heating up](#), Ars Technica:  
 "So-called ' Google bombing' is ~~is~~ easily Google' s #1 problem."
- January 21, 2004: Pasick, Adam, [Google to sell ads on European shopping site](#), Reuters:  
 "The popular Internet search engine Google will sell advertisements on European price comparison site Kelkoo, the companies said on Wednesday."
- January 19, 2004: [Google eyes email-based ad delivery](#), ZDNet:  
 "Google, which dominates the market for Web search, is developing a service that could dramatically extend the reach of its lucrative keyword-based advertising by linking such ads to email, people familiar with the matter said on Friday."
- January 15, 2004: Hansen, Evan / Hu, Jim, [Yahoo dumps Google as search war intensifies](#), ZDNet:

"Yahoo has developed its own algorithmic search technology so that it can drop search partner Google."

- January 14, 2004: Hansen, Evan / Hu, Jim, Yahoo, [Google primed for search war](#), CNet:  
"Yahoo on Wednesday said it will drop search partner Google during the first quarter of 2004 in favor of its own technology, opening a new phase in the battle for Web search dominance."
- January 9, 2004: [VAT to rise on Google' s paid placements](#)Internet Magazine:  
"UK webmasters using Google's Adwords service to promote their websites will see a price increase from 22 January."
- January 6, 2004: Harrigan, Susan, [Google to go public](#), newsday.com:  
"It' s already the Web' s dominant search engine. But will it be the engine that shifts the market for initial public offerings into overdrive this year?"
- January 6, 2004: [Yahoo poised to drop Google](#), ZDNet.uk:  
"The Web portal is set to replace Google' s search engine with its own technology."
- January 5, 2004: Haines, Lester, [Prince Charles tops UK Google 2003 top ten](#), The Register  
"Prince Charles, tree-hugging heir to the British throne, has topped the Google most wanted list for 2003, according to the search engine."

## December 2003

- December 2, 2003: [Google will künftig keine Werbung für illegalen Medikamentenversand schalten](#), Heise:  
"Suchmaschinenbetreiber Google will künftig keine Werbung mehr für Online-Apotheken schalten, die rezeptpflichtige Medikamente in die USA importieren."

## November 2003

- November 25, 2003: [Suchmaschinen sollen Inhalt und Werbung trennen](#), Heise:  
"Verbraucherschützer und Medienwissenschaftler haben einen Verhaltenskodex für Betreiber von Internet-Suchmaschinen gefordert."
- November 3, 2003: Krüger, Alfred, [Krieg der Suchmaschinen?](#), Telepolis:  
"Die Gerüchte um Geheimverhandlungen zwischen Microsoft und Google wollen nicht verstummen."

## October 2003

- October 21, 2003: [Bezirksregierung will Suchmaschinen für Inhalte in die Pflicht nehmen](#), Heise
- October 10, 2003: Orlowski, Andrew, [Blog noise achieves Google KO](#), The Register:  
"The humble weblog has finally achieved dominance over Google, the world's most-used search engine. Originally intended as a tool that allowed people to publish their personal diaries, weblog software has swiftly evolved, accreting several "innovations" that have had catastrophic consequences for Google."
- October 10, 2003: Orlowski, Andrew, [Google bug blocks thousands of sites](#), The Register:  
"Google, like the rest of us, seems to be fighting a losing battle to make sense of a rising tide of Internet garbage. But a programming error by the search engine has compounded the problem: by inadvertently blocking thousands of sites from Google users."
- October 2, 2003: Orlowski, Andrew, [Google shafts blogger, adds gagging clause to Adsense](#), The Standard:  
"Google has added a gagging order to its Adsense Terms and Conditions in an attempt to quell a firestorm of controversy over payouts to participants."