



U.S. experts debate Google copyright ruling

Could the search engine company face similar suits here?

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February 15, 2007 ([Computerworld](#)) Earlier this week, a court in Belgium ruled that Google Inc. [violated](#) the copyright of Belgian newspapers for posting portions of their stories on its Web site. The judgment could open the door to further lawsuits and limit the ability of search engines in Europe to display copyrighted material on their Web sites.

Google said it planned to appeal.

But the larger question is could this happen here? Some Internet and media experts in the U.S. varied on how to answer that question.

"Yes, this can happen here and does," said Heather Polinsky, an assistant professor in the School of Broadcast and Cinematic Arts at Central Michigan University. "Many newspapers that use stringers and freelance writers must pay them extra to post their writings on their Internet sites. *The New York Times* has blocked access to certain columns and content to their site unless you pay for access to the content. Posting these columns and content is a violation of *The New York Times*' copyright and their business strategy."

Although Google sees its news service as a conduit to bring readers to news Web sites, the news agencies may not be so welcoming to this service, she said. News organizations want readers to go directly to their sites rather than use a search engine to find them and all of their competitors, Polinsky said.

In addition, if users are only interested in reading the few sentences that Google posts on its site, they may never bother to click through to the news site, she said.

"Since news sites sell user attention to the sites to advertisers, Google is taking potential users away from the Internet sites and potentially away from the printed hard copies of the news organizations," Polinsky said. "So if news organizations feel threatened by news search engines, such as Google or Yahoo or others, then they will sue for copyright infringements."

Polinsky said media organizations may try to stop the Internet search engines, which was the case in Belgium, or they may demand monetary compensation.

"Traditional media organizations are trying to find ways to cope with the changing media landscape, where

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content is much harder to control and Internet sites are trying to keep content flowing because users want it. This will not be an easy issue to settle. Napster was the beginning, and it is hard to say how, when and where it will end."

Kembrew McLeod, professor of communication studies at the University of Iowa said there is potential for copyright infringement lawsuits by U.S. media companies. "It always could happen because if you're handling someone else's copyrighted materials, you always can be potentially sued."

However, McLeod said it was unlikely because there have already been decisions in the U.S. regarding similar cases of archiving and linking to news materials, and the courts have ruled it was fair use, not copyright infringement.

In January 2006, a federal district court in Nevada found that Google does not violate copyright law when it copies and transmits Web sites to Internet users as part of its Google Cache feature, according to the [Electronic Frontier Foundation](#).

In that case, Blake Field, an author and lawyer, sued Google for copyright infringement because the search engine automatically copied and cached a story on his Web site. Google maintained that its Cache feature, which allows Google users to link to an archival copy of Web sites indexed by Google, does not violate copyright law, the EFF said. The court agreed, finding that the cache qualifies as a fair use of copyrighted material.

Mickie Voges Piatt, a professor and executive director of Chicago-Kent College of Law's program in intellectual property law, said opinion is split on whether Google will face similar problems in the U.S. to the Belgian ruling.

"That really is the \$64,000 question," she said. "It appears that one of the things the Belgian court was concerned with was caching, and the way Google creates these excerpts is by having cached these pages." In the U.S., such caching is protected under the Fair Use provisions of the Digital Millennium Copyright Act, she said.

The DMCA allows search engines such as Google to display material that's freely available online. However, they must remove such material if the owners can show that the search engines are infringing on their copyrights.

"But you can certainly make a case that, at least, somebody would be willing to try to test it," she said.