

Stichting Brein kills Usenet

New-Service.com loses case against Stichting Brein

Amsterdam, 29 September 2011 – News-Service.com has lost a procedure brought against it by the Dutch music and film industry trade association, Stichting Brein on 21 July 2009. During proceedings on the merits of the case before the Court of Amsterdam, Stichting Brein demanded that News-Service.com exclude all material protected by copyright from its servers. Despite the fact that News-Service.com only facilitates access to Usenet, and allows users to post messages on Usenet, the Court is of the opinion that News-Service.com nevertheless (also) copies these messages and makes them available to users. This verdict may have far-reaching consequences for News-Service.com's business operations as well as for Usenet as an Internet service.

News-Service.com will now evaluate the verdict and deliberate with the Usenet industry. Based on this analysis, a decision on whether or not to file an appeal will be taken.

During the last two and a half years, News-Service.com has argued, at various hearings, that it only facilitates the technical transfer according to the procedures that apply to Usenet, and that it is not responsible for the nature or the content of the messages users exchange among themselves. In its defence, News-Service.com also relied on the Dutch implementation in article 6:196c Civil Code of articles 12-14 European E-commerce Directive. This law explicitly waives service providers such as News-Service.com from liability.

A threat to Usenet

“We are very disappointed with the Court's verdict. It is technically as well as economically infeasible to check the contents of the 15 to 20 million messages that are exchanged on a daily basis. Added to which, there is no automated way of checking whether Usenet messages contain copyrighted material or whether permission has been obtained for the distribution of such material. Consequently, we see no way of complying with this verdict. Furthermore, the verdict endangers our very existence as a company, and is thus a threat to Usenet itself, as the facilitation of Usenet services has become impossible on the grounds of this verdict. The exchange of messages by means of this oldest of Internet services has de facto become impossible,” explains Patrick Schreurs, the CEO of News-Service.com.

“We have also argued that — on the grounds of Section 6:196c of the Dutch Civil Code which waives service providers, including Usenet providers, from liability — providers like us are protected, even if they transfer copyrighted works. The Court has failed to take this defence into account,” continues Schreurs. “We find it incomprehensible and simply wrong that the Court has not investigated whether News-service.com, in its capacity of Usenet provider, is free to process material and make it available — material that may be in violation of copyright laws that it has no knowledge of and in which it holds no material interest. This is particularly surprising because foreign Courts have ruled accordingly in similar cases. In one instance, a Court deemed that Usenet providers similar to News-Service.com cannot be held liable for any copyright violations by their users and were therefore entitled to continue their services. In this framework, the verdict of the Court of Amsterdam creates a major gap in jurisprudence among EU member states.”

About News-Service.com

News-Service.com is the trade name of News-Service Europe B.V. The company provides access to the worldwide Usenet for exchanging messages between users. Founded in 1979, Usenet was one of the earliest forms of internet. It is used to exchange text messages and files through newsgroups in an email-like way. News-Service.com was founded in 2004 and is based in Amsterdam. News-Service.com is managed by Wierd Bonthuis and Patrick Schreurs. For more information, please visit www.news-service.com.

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