

## Are Search Engine Spiders Infringing on Copyright? Belgium Speaks Out

By [Ross Dunn](#), CEO, [StepForth Search Engine Placement Inc.](#)

Last Friday (Sept 15<sup>th</sup>) a Belgium court dealt a stunning blow against Google and its Google News search service. The court is now forbidding the popular search engine from indexing Belgian newspaper content without paying each newspaper for the use of their content.



The ruling requires Google to remove the plaintiff's newspaper content from its search engine database within 10 days or face threatened fines of 1,000,000- € per day. In addition, Google must publish "in a visible and clear manner and without any commentary from her part the entire intervening judgment on the home pages of 'google.be' and of 'news.google.be' for a continuous period of 5 days within 10 days... under penalty of a daily fine of 500,000- € per day of delay." ([source website](#) and [original legal document](#))

This ruling signifies a strong precedent for other newspapers to follow and ultimately brings up a tempting legal option for all of those sue-happy "people" out there; "if my site is copyrighted... can I sue Google for indexing it?" The fact is newspapers with an online presence are bound to jump in on the action and try to get a little financial love from the major search engines and precedent like this just urges them on. Danny Sullivan published an extremely informative [article](#) today where he describes his interview with the Belgian group that led this successful case against Google. In this article he notes that Google CEO Eric Schmidt cut to the chase and sensibly summarized this legal nightmare as "business negotiation being done in a courtroom." I must agree because there is no question the path news companies are taking to get their needs met is ass-backwards.

Just consider the following:

1. Google drove traffic to Belgian news sites ultimately making these sites money; their advertisers got more visibility and they got more subscribers.
2. Belgian news sites took Google to court to have their copyrighted material removed because they felt Google should not be able to use it without paying for it.
3. By winning their case Belgian news sites have now been removed from Google and ultimately the news sites will lose money by their online exposure being severely decreased.

To put this in another perspective if this was your business; would you spend money to go to court with the ultimate goal of losing money by losing online presence in the hopes that Google will pay you to get your content back later? Seems like a silly gamble to me and based entirely on the pursuit of ego.

The simple fact is that newspapers make money by getting free exposure from search giants like Google. Now they are biting the hand that feeds them. In that vein, the World Association of Newspapers (WAN) is taking a different, more sensible step to locate a technological solution to the problem without going immediately to court. Based in Paris, WAN represents 18,000 newspapers from around the world. According to WAN, two options have been considered at this early juncture:

1. **Pay Royalties:** search engines that pay an essential royalty will then be allowed to present copyrighted content within their search engine results for a limited time. If they don't pay then the

content will be blocked and this must be respected by the search engines as a whole.

2. **New Robot Limiting Capabilities:** the search engines need to acknowledge and follow an instructive file that could be provided by news sites which would define limits for the use of copyrighted information on their site.

How serious is WAN? Apparently a number of WAN members have separately launched legal proceedings against Google over the "Napsterisation" (illegal use) of stories on its website.

Here is a January 31<sup>st</sup> article discussing this issue: [Newspaper, Magazine and Book Publisher Organizations to Address Search Engine Practices.](#)

### **My Take**

Google has been paying the Associated Press (AP) for content for a while now under the reasoning that Google expects to use AP content within a new Google News offering later this year. Other news companies see this paid arrangement as additional precedent that Google should be paying for their content. At this time WAN as a whole has not legally moved against the major search engines for infringement but has decided to try and find a solution amenable to both the search engines and WAN. I believe the search engines are smart enough to know that finding some middle ground is worth their time. I expect that between the two industries a solution such as new WAN-approved licensing Meta tags or robots.txt tags added over the next year to tackle the use and expiration of copyrighted content.