New French Act: Google Images will have to pay royalties

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The new French law will have to pay royalties via a compulsory collective management for the reproduction and communication to the public by search engine services, i.e. thumbnails, graphics and photographic works. In other words, Google Images, and other similar services, will soon have to pay royalties in France.

Google Images: what is the (legal) problem?

The new provisions, set out in the French Intellectual Property Code at Article L.122-5 (1) IPC, extend the scope of the exception for private copying to certain online remote digital recording of sound and visual works performed by a search engine service. The new French statutory provisions would probably breach of Directive 2001/29/EC and extend the scope of the exception for private copying to certain online remote digital recording.

Recipients are reproduction and communication to the public by search engine services. If the author or rightholder does not designate a collecting society, the right will be managed by a government representative, will render a decision on these issues.

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Article L.122-5 IPC (1) states that the royalty will be due on the amount of the reproduction of the work in its entirety or any part of it, and on the number of copies of the work or of the parts thereof reproduced in the reproduction of a work. The royalty will be due in consideration of the reproduction of the work in its entirety or any part of it, or the number of copies of the work or of the parts thereof reproduced in the reproduction of a work.

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A new French Act was approved by the French National Assembly on 2016-925 of 7 July 2016. In particular this Act:

- establishes a mandatory license for the reproduction and communication to the public by search engine services of plastic, graphic or photographic works;
- sets out the percentage of the royalty that will be paid to the relevant rightholders; and
- specifies that the images have to be ‘reproduced and made available’ by the search engines.

These are the provisions that were passed in the Act of 2016-925.

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Collecting and redistributing royalties: how and how much?

According to the new provisions, the image search services will have to pay royalties to the relevant rightholders. However, the percentage of the royalty that will be paid to the relevant rightholders has not yet been determined. The new French statutory provisions would probably breach of Directive 2001/29/EC and extend the scope of the exception for private copying to certain online remote digital recording.

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