



Q2016 Copyright

Linking and making available on the internet

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Jur. mag. Kacper Szkalej
kacper.szkalej@jur.uu.se



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Linking and making available on the internet

Reporter: Reporter Kacper SZKALEJ
Co-reporter Hans ERIKSSON

Contributors: Karin CEDERLUND
Johan ENGDAHL
Hans ERIKSSON
Mats FOGEMAN
Johan GERHARDSSON
Tobias KEMPAS
David LEFFLER
Niclas LINDBLAD
Azra OSMANCEVIC
Kacper SZKALEJ
Stefan WIDMARK



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Linking and making available on the internet

- **Arbetet**
 - Inlämning av nationella rapporter

 - **1st Draft Resolution** (cirkuleras 2 veckor innan Study Committee Meeting. Utformas av ledningsgruppen)

 - **2nd Draft Resolution** (Study Committee meeting)

 - **Plenary Approved Resolution** (Plenary session)

 - **AIPPI Resolution** (ExCo)



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Linking and making available on the internet

- **Fyra typer av länkning:**
 - Hyperlänkning till startsidan
 - Djuplänkning
 - Ramlänkning
 - Inbäddning

- **Art. 8 WCT**

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- 41 rapporter

- Argentina, Australia, *Austria*, *Belgium*, Brazil, *Bulgaria*, Canada, Chile, China, *the Czech Republic*, Denmark, *Estonia*, *Finland*, *France*, *Germany*, *Hungary*, *Malta*, Bosnia/Herzegovina, *Cyprus*, *Italy*, **Japan**, *Latvia*, Mexico, *the Netherlands*, New Zealand, Norway, Pakistan, Paraguay, Philippines, *Poland*, *Portugal*, Republic of Korea, *Slovenia*, *Spain*, *Sweden*, Switzerland, Turkey, *United Kingdom*, **United States of America**, Uruguay and Venezuela
- 21 EU-medlemsstater

Utgångspunkterna

- Olika typer av länkning ska betraktas likadant
- Ett skriftligt förbud om länkning skall inte medföra intrång
- Inbäddning/-ramning skall inte utgöra intrång.
- Länkning till olovligt material skall eventuellt utgöra intrång men endast om länkaren har kunskap om att materialet är olovligt
- Eventuella (åtkomst)begränsningar som införs på en webbsida skall endast vara tekniska hinder
 - (jmf HD:s dom B3510-1 pkt 15)

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Resolutionen

- 1) Providing a ~~user-activated~~ hyperlink to a copyrighted work that has already been made available to the public on the Internet with the authorization of the relevant rights holder or in otherwise lawful circumstances should not, by itself, constitute a further act of making such a work available to the public. To this extent, the Resolution on Q216B is confirmed.
- 2) Further, providing a hyperlink to a copyrighted work that has already been made available to the public on the Internet ~~with the authorization of the relevant rights holder~~ lawfully should not, by itself, constitute a communication of such work to the public.
- 3) For the purposes of 1) and 2), no distinction should be made between a hyperlink reference to a starting page of a second website or a deep link reference to another page within ~~the~~ this second website.

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Resolutionen

- 4) If a copyrighted work is made available ~~with the authorization of the relevant rights holder~~ lawfully on a webpage without any access restrictions, such work should be considered as having been made available to all members of the public that have access to the Internet.

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Resolutionen

5) The act of placing a framed link or an embedded link should constitute a communication to the public, ~~provided that the works so embedded or framed are made available to the public~~ at least when the manner in which the work has been framed or embedded misleads the public into believing that the party engaging in the framing or linking is the source of the work.

6) A mere statement on the second website that prohibits linking should not, by itself, make placing a link to the second website on the first website an infringement of copyright by the linker.

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Resolutionen

7) The act of placing a hyperlink or deep link on the first website to the second website that contains a copyrighted work that has been posted to the second website ~~without the consent of the copyright owner~~ unlawfully, should not be by itself, an infringement of copyright.

However it may attract liability where

a) the linker knows or ought to have known that the copyrighted work has been uploaded without the consent of the rights holder;

b) provides an inducement or authorization to copy or display or communicate to the public the unauthorized work; or

c) contributes to the copying or communication to the public or display of such work

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Resolutionen

8) ~~Circumventing~~ Linking to a copyrighted work which circumvents a technological restriction, in particular but not limited to a technical protection measure, pay wall or a password ~~protected site whether done by linking or some other means~~ protection on a website, should attract liability ~~whether~~ under copyright law ~~or~~. Additionally, liability pursuant to other laws relating to the violation of such measures restrictions may arise.

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Tack för uppmärksamheten!