German court: Google has no ‘duty to inspect’ websites for illegal content before displaying

A German court has ruled that Google is not required to pre-screen websites for defamation before displaying them in search results. This ruling comes from the German Federal Court of Justice, the country’s highest court.

The plaintiffs in the case had sought to force Google to

filter out websites that displayed allegedly defamatory content about them in an IT-related online discussion forum. They also sought to collect damages from Google for the presentation of those sites in search results, arguing that Google had a duty to screen and not to display the defamatory material to others online.

A ruling in favor of the litigants would have put a huge burden on Google to essentially review all website content in Germany for any potential violations before displaying it in search results. The German court, however, recognized the practical impossibility of this and held that a duty to take action is triggered only if Google is notified "of a clearly recognizable violation of individuals' rights."

The court said, "Instituting a general duty to inspect the content would seriously call into question the business model of search engines, which is approved by lawmakers and wanted by society, " according to a Reuters translation. "Without the help of such search engines it would be impossible for individuals to get meaningful use out of the internet due to the unmanageable flood of data it contains."

The case apparently arose under the Right to Be Forgotten (RTBF). I haven't seen the underlying factual and legal discussion so can't comment on the full implications of the decision. However, it would appear to clearly affirm the broader proposition that Google can't be held liable for illegal content in search results without first being notified of its disputed or potentially illegal nature.

Yesterday Google published a report on three years' worth of RTBF requests and who's making them.

About The Author

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