

Press release by Robert Kneschke and SLD Intellectual Property RA GmbH

Hamburg Regional Court dismisses lawsuit against LAION e.V.

27.09.2024 Landshut/ Hamburg - The 10th Civil Chamber of the Hamburg Regional Court today handed down its judgment in the lawsuit Robert Kneschke filed against LAION e.V. Our client's claim for injunctive relief and reproduction of his photograph was dismissed. The issue in dispute between the parties was whether the defendant was allowed to download and reproduce our client's copyrighted photograph for the purpose of creating an AI training dataset.

Initial situation

The defendant LAION e.V. offers the data set “LAION-5B”, among others, for training AI image generators. This data set contains over 5.8 billion images including text descriptions. This also includes an image to which our client holds the copyrights, as he took it himself. Our client believes that his copyrights have been infringed and instructed our law firm to protect his interests.

On behalf of our client, we sued the defendant for injunctive relief and information about the exact scope of use with regard to this specific image. We are of the opinion that the use of the photograph in the above-mentioned dataset constitutes a copyright-relevant reproduction within the meaning of § 16 (1) sentence 1 UrhG.

In our legal opinion, there was and continues to be doubt that the defendant's action in question could be covered by the copyright limitation provisions on text and data mining, in particular Sections §§ 44b and 60d UrhG.

We are not alone in this view. For example, an elaboration by the scientific services of the German Bundestag from 2018 already contains the indication that this side also assumes that data mining constitutes such an act of reproduction, which is not possible without the consent of the authors.

Sebastian Stober and Tim W. Dornis recently published their expert opinion on this topic at the beginning of September 2024. On behalf of the Copyright Initiative, they examined the question of whether AI training constitutes copyright infringement. The conclusion of legal scholar Dornis is clear: “As a closer look at the technology of generative AI models reveals, the training of such models is not a case of text and data mining. (...) It is a case of copyright infringement - there is no valid barrier in sight for this under German and European copyright law.”

The court's decision

At the conciliation hearing on 11.07.2024, the 10th Civil Chamber of the Hamburg Regional Court stated in the “Introduction to the state of the case and dispute” that it was currently still undecided: If the exception of § 44b UrhG were to apply in the present case,

the plaintiff would probably have to expect the action to be dismissed. If this is not the case, further submissions on the existence of the requirements of § 60d UrhG may be required.

Contrary to the announcement that it would hear further submissions from the parties, the court dismissed the action on the basis of the limitation provision in § 60d UrhG. Based on the arguments presented so far, the requirements are now considered to be met.

We are of the opinion that the court has incorrectly answered the question of whether the defendant's actions constitute text and data mining at all. Although the court took note of the study by Stober and Dornis submitted by us in this regard, it did not come to the conclusion in a comprehensible manner that the present case nevertheless involved text and data mining.

It is pleasing that the court also tends to consider a reservation of rights in natural language as machine-readable within the meaning of § 44b (3) sentence 2 UrhG. This should put an end to an ongoing discussion between rights holders and AI organizations outside of these proceedings.

Our classification

Like the plaintiff, we were very surprised at the main reason for the dismissal of the action.

The court assumed that the defendant was engaged in research and could therefore invoke the exception in § 60d UrhG. Based on the fact that, in our opinion, the alleged research has not yet been proven in the slightest, the court sets the bar for this copyright barrier very low.

As a result, this would mean that it would be irrelevant who subsequently uses the created training data (commercially and non-commercially) as long as the copyright-relevant act of reproduction is carried out in advance by an association such as the defendant.

It does not take much imagination to realize that this interpretation of § 60d UrhG would result in massive disadvantages for authors in the future if it only takes this intermediate step to wipe all copyright concerns off the table.

The plaintiff is considering lodging an appeal and contesting the judgment of the Regional Court for the above-mentioned reasons, among others.

If you have any questions about the facts of the case and the judgment, please send an e-mail to kanzlei@sld-ip.com