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SEARCH ENGINE FREEDOM

On the Implications of the Right to Freedom
of Expression for the Legal Governance of
Web Search Engines

Joris van Hoboken



Wolters Kluwer

Law & Business

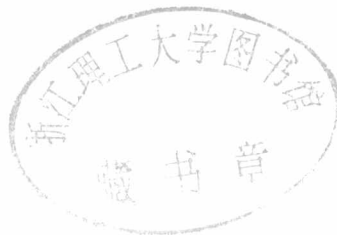


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Search Engine Freedom

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List of Abbreviations

A-G	Advocate-General
BBS	Bulletin Board Service
BGH	Bundesgerichtshof
BPjM	Bundesprüfstelle für jugendgefährdende Medien
BVerfG	Bundesverfassungsgericht
CDA	Communications Decency Act
CoE	Council of Europe
COM	European Commission document number
CPC	Cost per Click
CPM	Cost per Mille
DMCA	Digital Millennium Copyright Act
EC	European Commission
ECD	EU Directive on Electronic Commerce
ECHR	European Convention on Human Rights
ECTHR	European Court of Human Rights
EHRC	European Human Rights Commission
EU	European Union
FCC	Federal Communications Commission
FSM	Freiwillige Selbstkontrolle Multimedia-Diensteanbieter
FTC	Federal Trade Commission
FTP	File Transfer Protocol
HTTP	Hypertext Transfer Protocol
IFLA	International Federation of Library Associations
IP	Internet Protocol
ISP	Internet Service Provider
IWF	Internet Watch Foundation

List of Abbreviations

LG	Landesgericht
OJ	Official Journal
OLG	Oberlandesgericht
SEO	Search Engine Optimization
SEM	Search Engine Marketing
TCP	Transmission Control Protocol
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
U.S.C.	United States Code

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Joris van Hoboken
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Chapter 1

Introduction

1.1. GENERAL INTRODUCTION

Over the last two decades, a new type of medium, the Web search engine, has established itself as an essential intermediary of the public networked information environment. The World Wide Web, its sheer abundance of available material and its inherent lack of organization, created the need for this new kind of service, which provides an ordered index to what is available, in terms of its usefulness, quality and attractiveness for different users. Internet users have flocked to search media, thereby turning them into a locus of online marketing activities as well as important platforms to reach an audience for information providers.

In other words, search media can be seen as primary contributors to the ‘opening up’ of the Web, understood as the process of connecting information and ideas online to their societal use. Not surprisingly, the centrality of search engines for the Web and the effectiveness of search engines in this process of opening up information and ideas online have spurred public debate, litigation and regulatory activity with regard to the proper legal limitations on the provision of search engine services.

China’s interference with Google is probably the most popular example of a government’s interference with the deployment of search engine technology on the Internet. To be able to run its search engine service in China, *google.cn* has had to obtain a license and censor its search results to prevent references to a variety of topics, including politically sensitive speech. The severe limitation on search services in China is not restricted to Google and is part of a much broader, sophisticated and repressive Internet policy.

China, however, is not the only country where search engine operations are the subject of government pressure or legal restrictions that impact their ability to open up the Web more generally. This happens in constitutional democracies as well.