

“Reusing” databases (GasPedaal case)

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Internet search engines can be general (*Google*, *Yahoo*) or dedicated search engines, i.e., specializing in one topic. A metasearch engine sends search commands from its users to other search engines.

GasPedaal offers a metasearch engine dedicated to vehicle sales announcements, such that by means of a single search command, users can search simultaneously in several compilations of vehicle sales announcements. *GasPedaal* translates the search command into the proper format for third party search engines. The result is pooled in a single element showing the links to all sources, creating a page with essential information about each vehicle. One of the search engines used is *AutoTrack*, and 100,000 searches are

conducted every day in *GasPedaal*, using 80% of its combinations on a daily basis.

A database is a compilation of data, works or other independent elements. Databases are copyright protected if they are original with regard to their *structure* or form of expression or arrangement of the content. Content, however, is not protected. The *sui generis* right over a non-original database protects only those that require a qualitatively or quantitatively substantial investment, and the protection thereof allows preventing the retrieval or the complete or substantial reuse of the content.

It is based on the idea that the content of the *AutoTrack* database can be protected by the *sui generis* right. A metaengine does not comb through other Internet sites like a search engine does, but rather it translates, in real time, its users' search commands for those search engines all at the same time. Reuse is any form making all or a substantial part of database content available to the public by means of the distribution, rental or on line

broadcasting of copies, or doing so in other ways. Metaengines provide users access to all database content by translating the commands, but it does so through a different channel than that provided by the manufacturer, by-passing the database owner because the user therefore does not have to enter the welcome page or the search form. This may mean lower earnings for the database owner, for example, due to advertising. This can negatively affect the owner's ability to pay off the cost of the investment. Therefore, the activity of a metaengine such as the one described makes the database content available to the public, and it therefore is reusing the content. Ultimately, a substantial part of or all the database content is reused (it is actually equivalent to conducting a query in the actual database), because what is most important is the content that the metaengine is exploring, regardless of the results it obtains. In short, the reuse can be considered unlawful



José GARRIDO holds a Bachelor of Laws (LL.B.) from the Universidad Autónoma de Madrid, as well as a post-graduate degree in Spanish and European Patents from the Universidad de Barcelona. He continued his specialization in intellectual property law in Berkeley (California, USA) with a 6-month stay, with an in-depth study of trade mark law. He also pursued post-graduate private law courses at the Universidad Autonoma de Madrid. After garnering experience in two different firms, he founded Garrido Pastor Abogados in 1995. This firm combines the filing and registration of intellectual property rights with advising and litigation services concerning these rights. Lecturer at Universidad Autónoma de Madrid on the Master on Intellectual Property

Publications:

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“La nulidad de la marca solicitada con mala fe” at press “50 years of AIPPI National group”

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