

FOCUS IP

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DATABASE: SANCTION FOR "SCRAPING" AN ADVERTISING WEBSITE DUE TO DEMONSTRATED LOSS OF TRAFFIC



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Cass. Civ. 1ère, 15 October 2025, n°23-23.167

IMPACT: By this decision, the French Supreme Court considers that the practice of "web scraping" can be sanctioned on the basis of the *sui generis* right.

It also reiterates the criteria for a database to benefit from *sui generis* protection and the evidence that must be provided to make stop data extraction, such as the risk of undermining the recovery of the database producer's investments.

➤ The facts

The company GROUPE LA CENTRALE ("LA CENTRALE") edits and operates the used-vehicle classified ads website www.lacentrale.fr, which features 320,000 listings. These ads are submitted by sellers (professionals or individuals) and then verified, completed, and harmonized by the company LA CENTRALE before being made available to the public via an internal search engine.

The company ADS4ALL publishes and operates a website also dedicated to the sale of used vehicles, available at www.leparking.fr. It lists ads published on

other websites, including that of LA CENTRALE, obtained by extracting them from its website (a method known as "web scraping").

After an unsuccessful formal notice letter, LA CENTRALE sued ADS4ALL on the grounds of infringement of its database producer's rights under Articles L. 341-1 *et seq.* of the Intellectual Property Code (*sui generis* right).

In a ruling dated September 8, 2023¹, the Paris Court of Appeal ordered the company ADS4ALL to pay LA CENTRALE the sum of €100,000 in damages to compensate for the loss resulting from the infringement of the database producer's rights.

The company ADS4ALL appealed to the Supreme Court which rejected its appeal on the following grounds.

- ***The requirement for investments to be made in the collection of data for the database and not in the creation of such data***

To benefit from protection, the database producer must demonstrate that it has made a "*substantial financial, material, or human investment*" within the

¹ CA Paris, pôle 5, ch 2, 8 septembre 2023, n°21/15589

meaning of Article L. 341-1 of the Intellectual Property Code.

The Court of Cassation then points out that the concept of investment refers to *“the resources devoted to searching for existing elements and compiling them in the database”* and not those devoted to *“the creation of the elements constituting a database”* in accordance with the rulings of the CJEU².

The producer of the database must therefore *“demonstrate an investment that is independent of that required for the creation of the data contained in the database”*, according to the Court.

In this case, the Supreme Court holds that the Court of Appeal had indeed carried out this verification:

- The database of the company LA CENTRALE was *“consisting of information relating to vehicles for sale and appearing in advertisements written for that purpose by advertisers providing that information”*: the data had therefore *“not been created by La Centrale before being collected in the database.”*
- LA CENTRALE did indeed make investments to verify the pre-existing data collected:
 - acquisition of the SIVIN³ database license;
 - deployment of an “Auto-Visa” service for the creation of historical reports on vehicles offered for sale;
 - existence of a contract for the provision of a database relating to the specifications of new vehicles, the information from which was processed by an employee;
 - use of anti-fraud software and software for the dissemination of car advertisements on the internet.

The website www.lacentrale.fr therefore constitutes a database within the meaning of Article L. 112-3 of the

Intellectual Property Code, since the data were pre-existing and LA CENTRALE had made substantial investments in their verification.

After noting that the website www.lacentrale.fr was indeed eligible for protection as a database, the Supreme Court examined whether ADS4ALL's extraction of data from the database infringed upon that protection.

➤ ***The prohibition on extracting and reusing the contents of a substantial part of a database, subject to a risk of damage to the investments of its producer***

The Supreme Court first points out that Article L. 342-1 of the Intellectual Property Code prohibits the extraction and reuse, by making available to the public, of all or a substantial part of the contents of a database.

It then quotes two judgments of the CJEU to establish the criteria leading to the prohibition:

- (i) Extraction and reuse of data from the database⁴ : this must be prohibited when a company puts online a meta-search engine that reuses all or a substantial part of the content of a protected database which:
 - provides the end user with a search form offering the same functionality as the database form;
 - translates end-user queries “in real time” into the search engine with which the database is equipped.
- (ii) the existence of a risk for the database producer of not being able to recoup its investment as a result of this re-use of data⁵.

In this case, the Court of Cassation upheld the reasoning adopted by the Court of Appeal to verify these two criteria.

² CJCE, 9 novembre 2004, aff. C-203/02, C-46/02, C-338/02, C-444/02 (4 arrêts)

³ Vehicle registration system relating to vehicle registration documents

⁴ CJEU, December 19, 2013, case C-202/12, *Innoweb BV v ICT Media BV, Weneger Mediaventions BV*.

⁵ CJEU, June 3, 2021, Case C-762/19, *CV-Online Latvia SIA v. Melons SIA*.

It first notes that the website www.leparking.fr transferred the data comprising the advertisements from LA CENTRALE's database to its own platform, making them available to internet users who had made a query on the Le Parking website.

This therefore constituted a substantial extraction.

The Court then notes that this extraction had the effect of *"discouraging consumers from visiting the homepage of this site to search directly for vehicles for sale that met their criteria."*

This resulted in a significant loss of traffic on LA CENTRALE's homepage and a decline in turnover.

The Court of Appeal therefore rightly held that *"the massive appropriation of LA CENTRALE's data was likely to undermine the substantial human, technical, and financial investments it had made in obtaining, verifying, or presenting the content of its database."*

Consequently, the Supreme Court considered that the Court of Appeal had legally justified its decision and therefore dismissed the appeal.

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