

 **NEWSBYTES®** German Landmark Nazi Ruling

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KARLSRUHE, GERMANY,
12 Dec 2000, 5:09 PM CST

****German Landmark Nazi Ruling 12/12/00 KARLSRUHE, GERMANY, 2000 DEC 12 
(NB) -- By Steve Gold, Newsbytes. A complex court case involving an Australian Holocaust revisionist has resulted in the German Supreme Court ruling that any Web publisher, no matter what his or her country of origin, is liable for any pro-Nazi or Holocaust denial information on their pages.

Specifically, the German Federal Court of Justice has ruled that the country's 1950s and 1960s legislation banning the glorification of the Nazis and the denial of the Holocaust, applies to all aspects of the Internet, no matter what their country of origin, or how the information is presented.

Previously, it was thought that country's prohibition of pro-Nazi and Holocaust denial legislation applied to Web material which had originated in Germany.

In Germany today, however, the Federal Court of Justice quashed the appeal of Frederick Toben, an Australian Holocaust revisionist who denied that millions of Jews died during the Second World War.

Germany-born Toben, who has an Australian passport, was found guilty in November, 1999, of promoting his opinions on Holocaust denial through printed leaflets and Web pages.

Although sentenced to 10 months in prison for his offences, he appealed the case, arguing that since his Internet material was "printed" outside of Germany, it was not subject to German legislation.

The Federal Court disagreed with his legal arguments, but, in doing so, effectively set the precedent that all material published on the Web is subject to German post-Second World War legislation.

In their ruling on the case, Federal Court judges said that the laws prohibiting racial hatred clearly apply to Internet material created outside of Germany and stored on servers outside the country, but which is accessible to German Internet users.

The case has divided the German Internet community, with many of Germany's Web watchers agreeing with the comments of Michael Rosenthal, one of Toben's lawyers, who accused the Federal Court of trying to act as the world's policeman for the Internet.

Toben, meanwhile, is in danger of becoming a martyr to the cause of Holocaust denial. Although born in Germany prior to the war, in 1944, at the age of 10, he moved to Australia to be with his family.

Although he has a Bachelor of Arts degree from Melbourne and Wellington Universities, as well as a Ph.D. in English and Philosophy from Melbourne. His work on the Holocaust is not related to his academic expertise.

Located at <http://www.adelaideinstitute.org> , Toben's Web site has been condemned by organizations as diverse as <http://www.ratbags.com> ("offensive buffoonery") and the Simon Wiesenthal Center (<http://www.wiesenthal.com>).

Yahoo in the US is currently defending its auction site against German court action, dating from

late November. In that case, Yahoo is accused of selling Mein Kampf, Adolf Hitler's notorious manifesto, on its service. The book is banned in Germany.

The German Yahoo case follows in the wake of a French court decision on November 20, which instructed Yahoo to prevent French Web surfers from seeing Nazi memorabilia items for sale on its pages.

Yahoo's problem in meeting this request is that, like many pan-European and global e-commerce sites, its French users merely see a customized overlay to the main Yahoo pages, with all users able to view the underlying auctions.

Like rivals eBay and QXL, this strategy has allowed Yahoo to offer country- and language-specific versions of its portal at relatively low cost, rather than go to the prohibitive expense of creating a new and separate portal for each region or country.

A Paris court on November 20 ordered Yahoo to prevent French Web users from viewing Nazi memorabilia on its site within three months or face a fine of 15,000 euros (\$17,000) a day.

Now court action in Germany could result in a similar ruling, although the Munich state court is going for a more tangible case, alleging that the site allowed the sale of copies of Hitler's book to German citizens - something that is expressly forbidden under German law.

The state court said it has proof that the Yahoo Germany site sold a copy of Mein Kampf on February 1 and April 19 of this year. Yahoo has yet to make a statement on the prosecution, but the company's legal team at its US headquarters are known to be dealing with the case.

Yahoo's Web site is at <http://www.yahoo.com> .

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17:09 CST

Reposted 20:29 CST

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