

Australian wins \$208k from Google for defamation

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Milorad Trkulja, an entertainment promoter who is now 62, was shot in

the back in 2004 in a crime that was never solved.

He accused [Google](#) of defaming him with material which he said implied he was a major crime figure in Melbourne and had been the target of a professional hit.

Searches of his name brought up references to the city's gangsters including crime boss Tony Mokbel and a now defunct site called "Melbourne Crime" chronicling gang-related incidents.

Google denied publication in the Supreme Court of Victoria, saying it had innocently disseminated material published by others. It also disputed that the material conveyed the defamatory implications claimed by Trkulja.

But a jury ruled in his favour, finding the Internet firm had been on notice and failed to act on the issue from October 2009, when Trkulja's lawyers wrote to them demanding action over the "grossly defamatory" content.

Bond University media law expert Mark Pearson, who specialises in social media and legal issues, said it was a "groundbreaking" precedent in Australia and could have broader implications.

"What the court's said here is that this isn't just innocent architecture, what this is is human-designed software to showcase information in a certain way," Pearson told AFP.

"The judge has said that because you (Google) have designed (the search results) to appear in this way, you are the publisher of the material."

Google, which is understood to be contemplating an appeal, stood by its arguments in court.

"Google's search results are a reflection of the content and information that is available on the web," a Google spokesman told AFP.

"The sites in Google's [search results](#) are controlled by those sites' webmasters, not by Google."

Judge David Beach ordered Google to pay Trkulja Aus\$200,000, likening their role in publication to a library or newsagent, which have "sometimes been held to be publishers for the purposes of defamation law" in Australia.

"Google Inc is like the newsagent that sells a newspaper containing a defamatory article," Beach said in his judgement.

"While there might be no specific intention to publish defamatory material, there is a relevant intention by the newsagent to publish the newspaper for the purposes of the law of defamation."

Beach said the jury was "entitled to conclude that Google Inc intended to publish the material that its automated systems produced, because that was what they were designed to do upon a search request".

Trkulja argued that his reputation was central to his work and had been seriously damaged by the defamatory material. He had already won Aus\$225,000 from Yahoo in an earlier case on the same matter.

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