



IMAGINATION

Image-based Navigation in Multimedia Archives

FP6 - 034626

Deliverable

WP 2: Requirement Analysis

D 5

Report on legal situation

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October 24th, 2006



SUMMARY

This deliverable reports about the legal situation for storing and processing statistical and individual-related user data in the web-based application IMAGINATION.

The results are rules that have to be fulfilled in each country, where IMAGINATION will be published to maintain the respective legal situation for processing user-related data. This deliverable has relevance to Workpackage 8: Web GUI.

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Document Information

IST Project Number	FP6 – 034626	Acronym	IMAGINATION
Full title	Image-based Navigation in Multimedia Archives		
Project URL	http://www.IMAGINATION-project.org/		
Document URL			
EU Project officer	Rehana Schwinniger-Ladak		

Deliverable	Number	D 5	Title	Requirement Analyses
Work package	Number	2	Title	Report on legal situation







Date of delivery	Contractual	M 6	Actual	M 6
Status	version. 1.0		final <input checked="" type="checkbox"/>	
Nature	Prototype <input type="checkbox"/> Report <input checked="" type="checkbox"/> Dissemination <input type="checkbox"/>			
Dissemination Level	Public <input checked="" type="checkbox"/> Consortium <input type="checkbox"/>			

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Abstract (for dissemination)	Report about the Europe-wide and country-specific legal situation when individual related data are stored. For every project partner that installs IMAGINATION on public servers the country specific legal situation has to be considered.
Keywords	Legal situation, storage and processing of individual related data

Version Log			
Issue Date	Rev No.	Author	Change
24.10.2006		Andreas Walter	initial version
6.11.2006		Andreas Walter	final version (incorporated reviewer comments)

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1 LEGAL SITUATION FOR THE STORAGE AND PROCESSING OF USER DATA

Although, a user can browse through most of the web-sites without giving any information about itself, in some cases, personal information is required in order to provide the services him or her requests. Web-sites that require such information must treat it according to the policy described in the regulation of the located country. Therefore, each of these web-sites have to contain a privacy statement that describes the usage of personal information.

IMAGINATION plans to install a server that runs web-based applications in the countries Germany, Italy, France and Latvia. To conform to the legal situation for processing user data in these countries, it is therefore laws that apply will be described. Also the rules based on a European regulation for users out of other countries of the European Union will be discussed.

1.1 Relevant Laws for storing user data in Germany

The laws for storing user data in Germany are based on the “Bundesdatenschutzgesetz” [1]. Its main target is to guard humans from disadvantageous consequences when personal data are processed (§1 Abs 1 Bundesdatenschutzgesetz). Therefore, all individual-related data may only be stored, used and processed, when the concerned person declares his or her agreement (§§ 4, 4a). Individual-related data are defined as information about a persons name, age, address and about abilities, belief and attitudes (§ 3 BDSG).

When individual related data are processed, there are several rules that need to be considered

- Every user must approve the storage and processing of each individual-related data (§§ 4, 4a BDSG).
- The user must be informed about all kind of data, before they are processed.
- The data collection may only be in the minimum required amount (§§ 4, 13, 28, 29 BDSG).
- The data may not be collected in a secret way.
- The system must be protected against trespasser. Every user may only edit its individual-related data and may not see individual-related data from other users.
- Every user has the right to request, what kind of individual-related data are stored from him §§ 19, 19a, 33, 34 BDSG
- All user-related data must be deleted when the user requests for that.

Hence, it is necessary to tell the user each kind of data that are processed before processing them. This requires a dialogue already in the registration phase of a new user-account.

1.1.1 IP-Address and log-files in a web-browser

Based on the § 6 Abs. 1 Nr. 1 of the Teledienstschutzgesetz [8] and on the § 15 Abs. 1 Nr. 1 Mediendienste–Staatsvertrag [4], user data when using a web-site are those data that are generated during the usage of the web-site, e.g. time of usage, used IP-

Address, etc. The usage of these data for statistical purposes is allowed. The processing of these data must be anonymous, i.e., without any relation to the original user-data.

1.2 Relevant Laws for storing user data in Italy

The laws for storing user data in Italy [5] are based on the “PERSONAL DATA PROTECTION CODE - Legislative Decree no. 196 of 30 June 2003”.

1.2.1 General Rules

- A data subject shall have the right to obtain confirmation **as to whether or not personal data concerning him exist, regardless of whether they are already recorded**. The communication of such data must be in an intelligible form. (Section 7)
- A data subject shall have the right to be informed of the source of the personal data; **of the purposes and methods of the processing**; of the logic applied to the processing, if the latter is carried out with the help of electronic means; of the identification data concerning data controller, data processors and the representative designated
- A data subject shall have the right to obtain updating, rectification or, where interested therein, integration of the data and erasure, anonymisation or blocking of data that have been processed unlawfully, including data whose retention is unnecessary for the purposes for which they have been collected or subsequently processed. These rights referred may be exercised by making a request to the data controller or processor without formalities.

1.2.2 Data Processing Rules

Personal data undergoing processing shall be:

- processed lawfully and fairly
- collected and recorded for specific, explicit and legitimate purposes and used in further processing operations in a way that is **not inconsistent with said purposes**
- accurate and, when necessary, kept up to date;
- Any personal data that is processed in breach of the relevant provisions concerning the processing of personal data may not be used.

1.3 Relevant Laws for storing user data in Latvia

The laws for storing user data in Latvia [6] are based on the “Personal Data Protection Law, April 2000”.

1.3.1 General Rules

- Every natural person has the right to protection of his or her personal data.
- Personal data processing is permitted only if not prescribed otherwise by law, and at least one of the following conditions exist:
 - 1) The data subject has given his or her consent.

- 2) The personal data processing results from contractual obligations of the data subject or, observing request of the data subject, the data processing is necessary for conclusion of the corresponding contract.
- 3) The data processing is necessary to a system controller for performance of his / her obligations established in the law;
- 4) the data processing is necessary to protect vitally important interests of the data subject, including life and health.
- 5) The data processing is necessary in order to ensure that the public interest is complied with, or to fulfil functions of public authority for whose performance the personal data have been transferred to a system controller or transmitted to a third person.
- 6) The data processing is necessary in order to, complying with the fundamental human rights and freedoms of the data subject, exercise lawful interests of the system controller or of such third person as the personal data have been disclosed to.

1.4 Relevant Laws for storing user data in France

The laws for storing user data in France are based on the “Act n°78-17 of 6 January 1978 on Data Processing, Data Files and Individual Liberties”.

1.4.1 General Rules

Processing may be performed only on personal data that meet the following conditions:

- The data shall be obtained and processed fairly and lawfully.
- The data shall be obtained for specified, explicit and legitimate purposes, and shall not subsequently be processed in a manner that is incompatible with those purposes.
- Further data processing for statistical, scientific and historical purposes shall be considered compatible with the initial purposes of the data collection.
- They shall be adequate, relevant and not excessive in relation to the purposes for which they are obtained and their further processing.
- They shall be accurate, complete and, where necessary, kept up-to-date.
- They shall be stored in a form that allows the identification of the data subjects for a period no longer than is necessary for the purposes for which they are obtained and processed.

1.4.2 Data Processing Rules

Processing of personal data must have received the consent of the data subject or must meet one of the following conditions:

- Compliance with any legal obligation to which the data controller is subject.

- The pursuit of the data controller's or the data recipient's legitimate interest, provided this is not incompatible with the interests or the fundamental rights and liberties of the data subject.
- The data controller or his representative must provide a data subject from whom personal data is obtained with the following information, except where he already has it.
- The identity of the data controller and of his representative.
- The purposes of the processing for which the data are intended
- Whether replies to the questions are compulsory or optional.
- The possible consequences for him of the absence of a reply.
- The recipients or categories of recipients of the data.
- The rights granted him by Section "general rules".

Any natural person providing proof of identity is entitled to interrogate the data controller of personal data in order to obtain:

- Confirmation as to whether the personal data relating to him form part of the processing.
- Information relating to the purposes of the processing, the categories of processed personal data and the recipients or categories of recipients to whom the data are disclosed.
- Information allowing him to know and to object to the logic involved in the automatic processing, in the case of a decision taken based on automatic processing.

1.5 Personal data protection in the "European Commission"

The policy on "protection of individuals with regard to the processing of personal data by the Community institutions" is based on "Regulation (EC) N° 45/2001 of the European Parliament and of the Council of 18 December 2000" [7] . The user needs to be informed about:

- What information is collected, for what purpose and through which technical means the EU collects personal information exclusively to the extent necessary to fulfil a specific purpose. The information will not be re-used for an incompatible purpose.
- To whom the information is disclosed. The EU will only disclose information to third parties if that is necessary for the fulfilment of the purpose(s) identified above and to the mentioned (categories of) recipients. The EU will not divulge your personal data for direct marketing purposes.
- How a user can access its information, verify its accuracy and, if necessary, correct it. (Article 13 of the Data Protection Regulation).
- As a data subject a user can also have the right to object to the processing of its personal data on legitimate compelling grounds except when it is collected in

order to comply with a legal obligation, or is necessary for the performance of a contract to which the user is a party, or is to be used for a purpose for which a user has given its unambiguous consent.

- How long the users' data are kept. The EU only keeps the data for the time necessary to fulfil the purpose of collection or further processing.
- What are the security measures taken to safeguard your information against possible misuse or unauthorised access.
- Whom to contact if a user has queries or complaints.

1.6 Summary of rules for collecting data in Europe and its countries

In summary, based on the described rules for collecting data in Europe and the countries Germany, Latvia, Italy and France, the following things have to be considered for the IMAGINATION prototype installations that are publicly accessible via a Web interface:

- All statistics that are collected must have a purpose that is related to the intention of a web-site.
- All data that are collected in relation to not anonymous information of a user must be told to a user before they are collected. Only when a user expresses his or her agreement, those data may be collected.

To keep the things as simple as possible in IMAGINATION, we try to collect data anonymously whenever possible. Data that are collected in relation to user data are only requested, when they are really needed, e.g. the e-Mail-address of users to be able to send them newsletters. These personal information, however, are never connected to the data that are automatically collected from the users.

2 CONTENTS IN THE WEB-SITE OF IMAGINATION AND LEGAL SITUATION

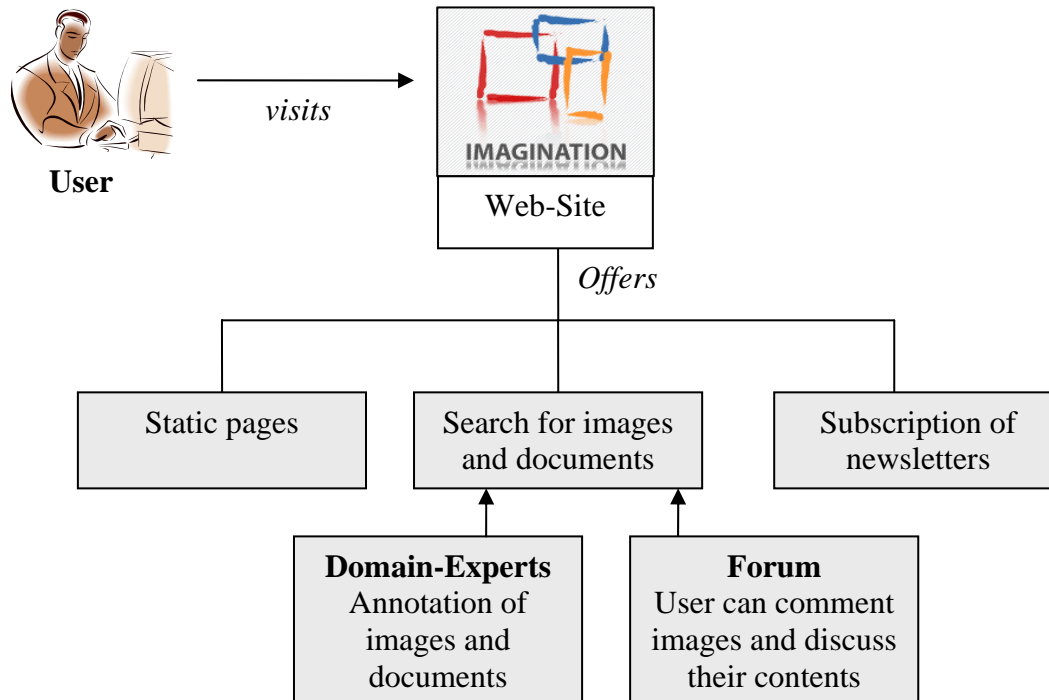


Figure 1 : Contents in the web-site of imagination

All applications of IMAGINATION are web based. To use IMAGINATION, a user visits the web-site of IMAGINATION. The web-site itself runs on a web-server. The web-server generates web-pages that can be displayed to the user in HTML format.

In the following chapter, the legal situation will be described for all data that the web-server collects, when the web-site IMAGINATION is used. Then, the three main areas that the IMAGINATION webpage offers and especially the kind of user-data that will be collected are described focusing on the legal situation in Europe and all countries, where an installation of IMAGINATION will take place.

The three main areas (Figure 1) of IMAGINATION are “Static pages” (e.g. a page to display information about IMAGINATION), the area “Search for images and documents” – the main application of IMAGINATION and the area “Subscription of newsletters and discussion forums”, that can be used for a user to regularly get information about updates in IMAGINATION and to participate in discussion forums about the prototype.

2.1 Usage-Statistics of the web-server

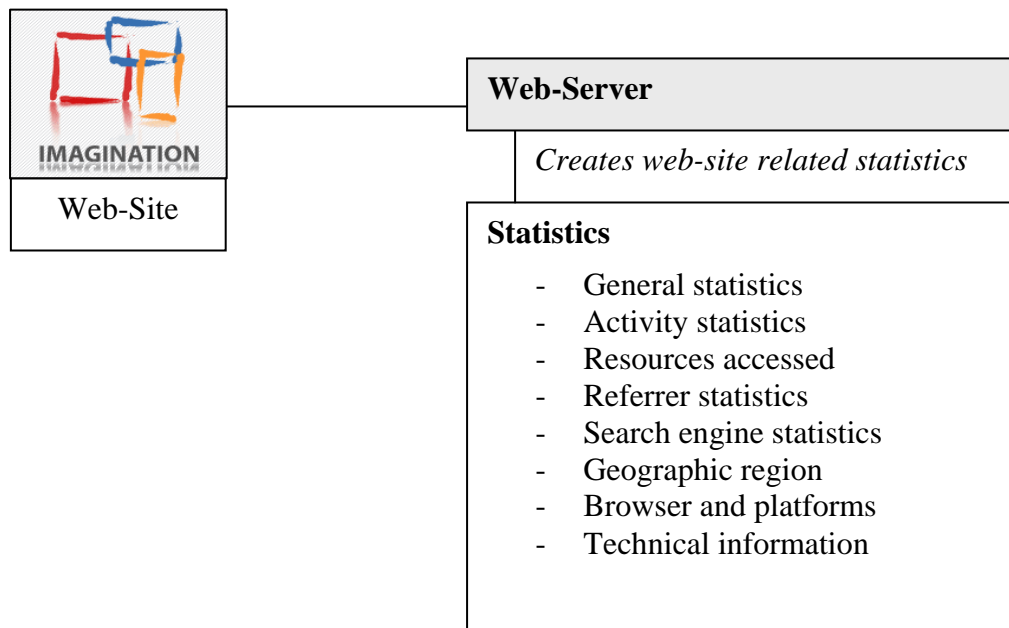


Figure 2 : Usage-Statistics of the web-server

The web-server of IMAGINATION is the technical base of the IMAGINATION web-site. The web-server is contacted through a web-browser of a user. Then, the user receives web-pages in HTML format that display the content of the web-pages of IMAGINATION. While users click through the web-pages of IMAGINATION, the web-server generates web-site related statistics (Figure 2). The kind of statistics that is created that way is described in the following chapter followed by the legal situation for these statistics in the context of user-related data.

2.1.1 Statistics created by the web-server

For each month, the statistics based on Table 1 are generated by the web-server.

General statistics

- Hits: Total hits, average hits per day, hour and per visitor
- Visitors: Total visitor, Average visitors per day, average page views per visitor, average data transferred per visitor
- Page Views: Total number of page-views, average page view per day
- Bandwidth: Total data transferred, average data transferred

Activity statistics	<ul style="list-style-type: none">- by time increment- by day of week- by hour of the day- by page views per day- by visitor stay length
Resources Accessed	<ul style="list-style-type: none">- by page-view- by browsing sequences- Top entry pages- Top exit pages
Referrer Statistics	<ul style="list-style-type: none">- by referring domains- by referring url
Search engine statistics	<ul style="list-style-type: none">- Top search engines- By keywords general; By keywords of each search engine
Geographic Region	<ul style="list-style-type: none">- List of countries ordered by page views and visitors
Browsers and platforms	<ul style="list-style-type: none">- Used browsers- Used operation systems- Spiders from search-engines, that crawled the web-site
Technical Information	<ul style="list-style-type: none">- Missing Files- Miscellaneous errors that occurred in the web-server

Table 1 : Statistics created by the web-server

2.1.2 Legal situation

All statistics will be created without any usage of personal user-data. I.e., the statistics are created anonymously.

To inform the user about the generated data, we will install a static page “Legal situation” on the web-page that informs about the general collected data and the generated statistics.

2.2 Static pages

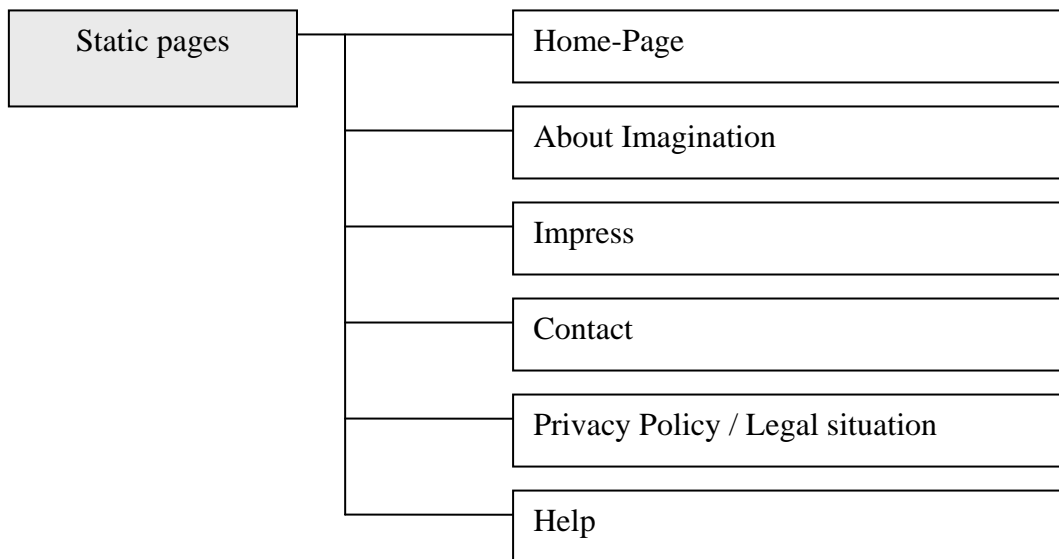


Figure 3 : Overview of static pages in IMAGINATION

2.2.1 Contents

Static pages in IMAGINATION do not change frequently. They shall inform the user about the kinds of contents that can be searched in IMAGINATION (Figure 3), the responsible organisations and the addresses that can be contacted in case of any questions. The section “help” aims to explain the user the concept of the search for images and the role of documents in IMAGINATION, and how the system works. The page “legal situation” shall inform the user about all kinds of collected data in IMAGINATION and how these are used.

2.2.2 Legal situation

Static pages do not collect any kind of further data. The usage statistics of these pages is done by the web-server.

2.3 Search for images and documents

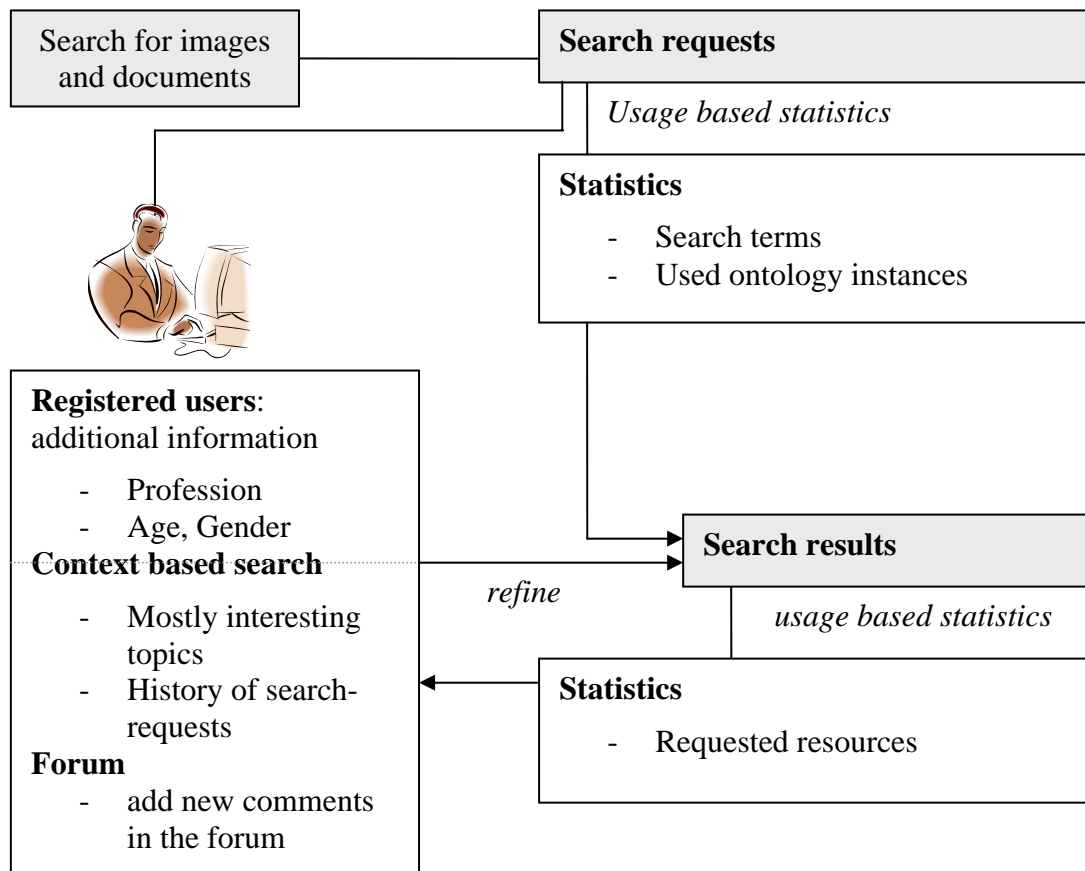


Figure 4 : Search for images and documents

The area “Search for images and documents” allows a user to enter keywords or ontology instances as search requests. Then, the IMAGINATION system processes a search in all stored resources (images and their descriptions) and creates a search result that is displayed to the user. In the search-results, the user can view the images that are relevant for the entered search request. (Figure 4)

IMAGINATION offers in addition the feature “Context based search”. This feature helps refine search results of a user based on its previous search requests. Therefore, the IMAGINATION-system must store the search requests in relation to a user.

These search requests can than be used, to refine the search results of a user (Figure 4). In general, there were to possible ways to handle registered users, discussed by the IMAGINATION consortium.

Possibility 1:

A user registers to IMAGINATION and submits its personal user data, e.g. name and its address. Then, the user would not be anonymous anymore to the IMAGINATION

system and this would lead to a more complex legal situation based on the laws in Europe and its countries.

Possibility 2:

A user registers with an anonymous account to the IMAGINATION system. Then, the system can connect the search requests of a user with that anonymous account. An anonymous account contains of a free definable “screen-name” and a “password”.

Since personal user data are not required, to enable the feature of “context based search”, the IMAGINATION consortium voted for the possibility 2. In the following, the legal situation on collection data of registered users and on unregistered users are described

2.3.1 Statistics of unregistered users

For unregistered users, the system collects statistics for the areas “search request” and “search results”.

Statistics for search requests

- Search terms: stores all keywords, that user entered to start search requests.
- Used ontology instances: stores all ontology instances, that where used to start search requests.

Statistics for search results

- Requested resources: stores a list of images-names, that the user have viewed in detail (have clicked on in the result list)

Legal situation

All data that are collected from unregistered users do not have any relation to user-related data. The statistics are generated anonymously. The purpose of these statistics is, to get better knowledge about the themes, that users requested mostly and the contents that are requested mostly.

In the static web-page “Privacy policy”, the user will get informed about the generated statistics and its purposes.

2.3.2 Collected data and statistics of registered users

Registered users can use the feature “context based search” in addition to the features described for unregistered users (Figure 4)

Statistics collected by the context based search

- History of search-requests: all search-requests a registered user enters are linked with the screen name of the users. This enables the refinement of new search results based on the history of a users search requests.
- History of requested resources: This enables the identification of topics or groups of images and documents that a user prefers. These topics can be displayed with a higher ranking in further search results.

Registration process

To become a registered user, it is necessary to fill out a registration form. In the registration process, the following data will be collected

- Desired screen name and password. This information is mandatory. The screen name can be defined freely and must have no relation to personal user data, e.g. its e-mail address.
- Additional information: This information can be optionally entered. It helps to get some information about the kind of users that register to IMAGINATION, e.g., age, profession, country.

Legal situation

In the registration process, the user will be informed about the statistics that are generated for the context-based search. Even though these statistics are collected anonymously, the user has to accept the collection of these statistics before he becomes a registered user.

In the static web-page “Privacy policy”, the user will get informed about the generated statistics by the “context based search” tool.

2.3.3 Domain-Experts: Annotation of images and documents

Registered users in IMAGINATION may add annotations to images that are displayed in the search results and add new elements to the ontology. To assure a high quality of the annotations and the ontology, these entries of registered users are considered only as proposals.

These proposals can be viewed by a special sort of users in the IMAGINATION system, the so called “domain experts”. Domain experts can be defined by the owner of images and documents that are displayed in IMAGINATION. Then, the domain experts can read the proposals of new annotations and ontology elements. Based on their knowledge about a domain, they can accept these proposals when they are reasonable and correct and reject them otherwise. After acceptance, the new annotations will be globally visible for all of the users.

Registered users in IMAGINATION can make requests to the IMAGINATION system to become a domain expert. The content-owner can then decide, which of these requestors become domain experts. These decisions require some detailed user data. These are the name and address of a domain expert, its e-Mail-Address to contact him and also information about their profession.

Legal situation

Domain experts will be informed through the registration process, that these user data are only collected for the content owners in IMAGINATION. These data will not be processed for other purposes than to decide, whether a user has enough knowledge to become a domain expert or not. Also, these data will not be sent to third parties.

A domain expert will then have to different kinds of logins. One is the login as a registered user – the other is the login as domain expert. Both logins can be done with the same username and password. This kind of separated data management avoids that search requests of a domain expert – that shall be anonymous – can get connected to the personal user data of a domain expert. Both account types will be handled separately and there will be no kind of merging these data together.

2.3.4 Forum

All images that are displayed in search results can be commented by user of IMAGINATION. Therefore, a forum will be installed. The forum allows to add comments to images and to discuss their contents. Entries in the forum can be read by every user of the forum. To add new entries in the forum, a user must have an account as a registered user for the image. An entry to the forum will then contain the user-name of the user, the date and time of when the entry was stored and the comment itself.

Legal situation

The accounts that enable entries to the forum are based on anonymous user accounts (2.3). Hence, all data that are collected in the forum are anonymous too and can not be connected to personal user data.

2.4 Subscription of newsletters

Users can subscribe on the IMAGINATION web-site to receive newsletters via e-Mail. The purpose of these newsletters is, to inform users about new features and contents in IMAGINATION. Therefore, subscribed users will receive such a newsletter in regular intervals, e.g. one per month.

Legal situation

The e-mail address of a user is not anonymous and related to the user. When the user subscribes to the newsletter, he or she needs to get informed about the purpose of the subscription.

Therefore, he must accept in the subscription form, that he allows IMAGINATION to collect its e-mail address for the purpose of receiving e-mails. The e-mail address will neither be given to third parties nor associated with account information of registered users.

2.5 Legal situation concerning the copyright of images

Images are copyright protected, e.g., in Germany based on the Urheberrecht (Bundesgesetz über das Urheberrecht an Werken der Literatur und der Kunst und über verwandte Schutzrechte, StF: BGBl. Nr. 111/1936 idF BGBl I 36/2003) [3]. This means, that images may only be used on web-sites and in publications, when the author has requested the rights for publications by the owner of the copyrights of the images.

For all images in IMAGINATION, the respective copyright owner has given the right to store its images and show small thumbnail images (max. 200 pixel height / width) in the IMAGINATION web-site. Also, layout images (max. 800 pixel height / width) may be shown. To protect these images from illegal usage, all these images have a water-mark in the centre of the images. The detailed agreements with the content provider partners involved in the IMAGINATION consortium were codified in the Consortium Agreement.

Additionally, IMAGINATION may use freely available content, e.g., available from Wikipedia or from the audiovisual archive of the European Commission. In these cases, the use of the images is explicitly allowed for the general public for any purpose (in the case of the EC archive, a notice of the image source is required).

2.6 Contact person for questions on legal situation on the web-site

The contact person for questions of users concerning the legal situation and the privacy policy for processing user related data in IMAGINATION is Andreas Walter, FZI

3 CONCLUSION

All areas of IMAGINATION were researched to guarantee conformity to the applicable laws for storing user related data and the processing of thereby created statistics. All data that are user related were identified and their usage in the IMAGINATION system was specified. Thus, all areas are now conform to the legal situation of storing user related data in the countries Germany, Italy, France and Latvia, where installations of IMAGINATION will be placed.

In addition, intellectual property issues were also analysed and discussed.

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