

# **IDENTIFICATION OF IPR OFFENDERS IN INTERNET - BULGARIAN LAW AND PRACTICE**

By Author: Ofelia Kirkorian-Tsonkova, attorney at law; assistant professor Sofia University St. Kliment Ohridski”

Internet is undoubtedly one of the best achievements of the human beings but in the same time it creates a lot of problems to the creative sector and not only. Usually when someone speaks about IPR infringements in Internet the first association is to the copyrights and the movies and songs that young people share from their computers for fun. However, among these cases exist many other which are not so harmless for the IPR holder or for sure much more harmful – for example unauthorized use of registered industrial design or trade mark, or some object of copyright, but not just for fun or for saving some money and for earning money on the back of IPR holder without his or her consent. In the paper will be given examples of such infringements, which prove that the protection of IPR shall not be underestimated and shall not be interpreted only like a limitation of rights of the young people to have a fun.

Bulgarian law protects the IPR holders from such infringements against their rights and provide for different measures that could be undertaken against the offenders. In the paper these special measure will me described in details.

However, the IPR holders difficultly could take advantage from these measures in the cases of Internet infringements because usually the offender is hidden behind some account name with no personal data like full name and address which are required for addressing whatever official documents to the civil court. Since the Law on Electronic Communications provides for Internet service providers \ISP\ to present retained by them information for the data traffic only to very limited persons like policemen and public prosecutors, the IPR holders usually starts with a complain to these institutions stating that the offender’s behavior is a crime according to art. 172a or 172b of Criminal Code in order to receive some personal information for him and to be able to sue him before the civil court. In the paper the procedure for demanding data from ISP according to the law on Electronic Communications will be fully described together with some regulations of the Commission for protection of the personal data. All disadvantages for the IPR holders will be discussed.

Very often the illegal usage of a trade mark, design, picture or something else is not a crime that could be described as a behavior with high level of social danger and the authorities refuse to demand any information from the ISP. The result of this is that despite all the special provisions for protection of IPR and rules for retaining and demanding traffic data from ISP there is no effectiveness of the fight against the Internet infringements of IPR.

20.02.2014