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"The human right to privacy
versus
concepts of intellectual property protection on the Internet"

A summary of a Ph.D. dissertation

The main elements of this dissertation are comparative analyses of legislative trends, and of a number of previously established legislative instruments and international documents which had been enacted to protect intellectual-property holders' rights which were being infringed on the Internet.

The author analysed this body of legislation in the light of the human right to privacy, which, in the author's opinion, can actually be violated by it, and also have a negative effect on other human rights.

The globality of the Internet, the unlimited possibilities for exchanging data and any other information, the convergence of multimedia services, and the transfer of many aspects of real life onto the virtual world of the Internet, so real life and virtual life co-exist, all have a great influence on the possibilities and scope for disseminating subject-matter protected under intellectual-property rights. The rapid development of technology, the existence of the Information Society, sparked off the movement to take a closer look at the human right to privacy and look for the proper balance in these laws and in intellectual-property rights in the Internet environment.

Because of the cyber-piracy problem, many countries tried to protect copyright holders on the Internet by enacting laws. The first laws in Europe were the HADOPI statutes (Hadopi I, Hadopi II) enacted by the French Government in 2009, which were based on the concept of *graduated response*.

Another example of a law based on the *graduated response* concept is the British law called *The Digital-Economy Act 2010*. The *graduated=response* concept also functions, for example, in New Zealand, Spain, and South Korea.

In The U.S.A. and in The U.K. there have also been attempts to fight cyber piracy through cooperation between copyright holders and Internet-System Providers. This cooperation was based on agreements between those entities, and were strictly commercial in nature, but were also predicated on the *graduate response* concept. These programmes are named *The Copyright Alert System* in The U.S.A. and *The Voluntary Copyright Alert Programme* in The U.K.

The main basis of the *graduated response* concept is the filtering of internet content and all the activities of random users of the Internet. One of the main debatable issues is the procedure of for precisely identifying, by IP address, users who are infringing copyright laws, and the collecting of personal data and private information by the ISP.

The problem of content filtering is also addressed in the *notice and take down* concept, which is the basis for The U.S. *Digital Millennium Copyright Act*, and Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000, *on certain legal aspects of information-society services, in particular electronic commerce, in the Internal Market*, called the *E – commerce Directive.*

Infringements of intellectual-property rights also induced action by international organisations, exemplified by agreements called *The Anti - Counterfeiting Trade Agreement* (ACTA) and *The Comprehensive Economic and Trade Agreement* (CETA). Both these agreements are very similar, both assumed cooperation between intellectual-property-rights holders and ISP's, and also the filtering of Internet content and the activities of the precise user on the worldwide web.

The author of this dissertation also performed analyses of U.S.A. projects involving laws like SOPA (*The Stop On - line Piracy Act*), PIPA (*Preventing Real Online Threats to Economic Creativity and The Theft of Intellectual Property Act*).

The first chapter of the dissertation is an attempt to show the development of the human right to privacy and the influence of those rights on the relationship between individuals and the whole of society. In this chapter the author analyses the global and European systems of human rights. This chapter is also a comparative analysis of the development of the right to privacy in France, The U.S.A., The U.K. and Poland.

The second chapter aims to indicate the scope of the definition of the right to privacy in *The Universal Declaration of Human Rights, The International Covenant on Civil and Political Rights, The European Convention on Human Rights* and *The Charter Of Fundamental Rights of The European Union*. In this chapter the author defines and outlines the legal framework of the protection of the right to privacy in France, The U.K., The U.S.A. and Poland.

In the third chapter the author analyses the International Intellectual-Protection system, and attempts to epitomise the definition of copyrights, trademarks, patents, and industrial-design rights. It also emphasises the showing of the difference between two different models of copyrights – the monistic and dualistic models. The author also points out the scope of the public domain in the legal definition and significance of the actual public domain of the Information Society.

The last chapter is a comparative analysis of selected domestic laws, international solutions, enumerated upon – which are based on the *graduated response* and the *notice and take down* concepts. The author made those analyses in the light of limitations imposed by clause in art. 8.2 of *The European Convention on Human Rights.*