[RU] Violation of Intellectual Property is Now a Grave Crime

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On 16 March 2007 the State Duma adopted and on 9 April 2007 the President Vladimir Putin signed into law the Statute which amended Articles 146 and 180 of the Criminal Code of the Russian Federation. The Statute enters into legal force on the day of its publication

Article 146 of the Criminal Code covers liability with regard to a number of violations of copyright and neighbouring rights; Article 180 punishes illegal use of registered trade marks, service marks and names of the place of origin of goods, or similar designations for homogeneous goods.

The new law has modified provisions concerning punitive measures. The most important innovation is that the Statute altered the maximum term of imprisonment for aggravated violations of intellectual property rights. From now on such term shall be up to six years of imprisonment (instead of five years as it was before) for the following offences:

1) Illegal use of objects of copyright or neighbouring rights, as well as acquisition, storage or carriage of counterfeited copies of works or phonograms for the purpose of sale if such actions have been committed: a) repeatedly, b) by a group of persons in a preliminary collusion or by an organised group, c) by a governmental official who uses his/her office to commit the crime; as well as if said actions have caused substantial damage (para 2, 3 Art. 146 of the Code);

2) A trademark piracy, illegal use of service marks, name of the place of origin of goods, or similar designations for homogeneous goods, committed by a group of persons in a preliminary collusion or by an organised group, if such actions have been committed repeatedly or have caused substantial damage (para 1, 3 Art. 180 of the Code);

3) Illegal use of a trademark symbol in respect to a trademark which is not registered in the Russian Federation, or the name of the place of origin of goods, committed by a group of persons in a preliminary collusion or by an organised group, if such actions have been committed repeatedly or have caused substantial damage (para 2, 3 Art. 180 of the Code).

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Arising from the amendment the aggravated violations of intellectual property rights shall be considered as belonging to the category of “grave” crimes (as provided by Art. 15 of the Code). Such status implies a number of additional limitations to be applied to a person planning or carrying out actions that are considered as grave crimes. In particular, the mere planning of a grave crime shall be punishable (Art. 30 of the Code); heavy fines (those exceeding EUR 15,000) may be imposed on an offender who commits a grave crime (Art. 46). A court shall have the right to deprive a person who committed a grave crime of any special, military, or honorary rank as well as any governmental awards (Art. 48). A person who committed a grave crime may be brought to justice for such an offence at any point within ten years from the date of wrongdoing (Art. 78). A convicted grave crime offender shall endure a sentence in a penal colony (Art. 58). A release on parole shall be a complicated and long-lasting procedure in the case of committing a grave crime (Art. 79). Finally, a person who was given a sentence shall only have the right to cancellation of a criminal record six years after his (her) release from custody (Art. 95).

Despite the fact that crimes specified in articles 146, 180 of the Criminal Code shall be considered as grave ones, the lawmakers do not sanction the heaviest fines to be imposed upon persons violating Articles 146, 180 of the Criminal Code. The maximum amount of such fine according to the Statute shall not exceed RUB 500,000 (approximately EUR 15,000).

“О внесении изменений в статьи 146 и 180 Уголовного кодекса Российской Федерации ”, Российская газета, 12.04.2007

http://www.rg.ru/2007/04/12/uk-izmen-dok.html

Federal Statute of the Russian Federation of 9 April 2007 “On amending articles 146 and 180 of the Criminal Code of the Russian Federation”, published in Российская газета (official gazette) on 12 April 2007

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