



Headline

Vladimir Marić, assistant director for copyrights and related rights and international co-operation, Intellectual Property Office of the Republic of Serbia

Piracy in the music industry

On 27th of May 2010, the Intellectual Property Office was host to a round table on piracy in the music industry. The meeting was attended by the representatives of the public and the private sectors: the Intellectual Property Office, the Ministry of Culture of the Government of the Republic of Serbia, the Union of Serbian Composers' Organisations (SOKOJ) and the Organisation of Phonogram Producers of Serbia (OFPS), plus representatives of Serbian music producers and composers.

The discussion focused on the infringement of copyright held by composers and other stakeholders in the music industry. The participants agreed that success in the struggle against piracy requires closer co-operation between the private and public sectors. It is well known in the developed world that effective co-operation is crucial to success in this area.

The participants emphasised that copyright infringement in the music industry causes damage not only to composers and music producers, but also to our society as a whole. The degree of intellectual property protection provided by a state, and the attitude of its society towards that important issue, are indicators not only of the country's ability to become part of the developed world but also of its level of civilisation. A social setting which ensures that scientists, artists, inventors and other authors are rewarded for their work, and where their creative dignity is appreciated, is the only setting that can guarantee our country's integration into the developed world, while at the same time acting as a good reference for foreign investments. All that is impossible unless intellectual property rights are adequately protected. The struggle against piracy in the music industry is only a small part of the broad front in the struggle to ensure respect for intellectual property.

Protection of intellectual property is vitally important in any modern society. All prosperous countries in the world base their economies on knowledge and the development of new technologies, or more precisely on adequate protection for the rights of inventors, authors and other creative individuals. Those attending the meeting highlighted two basic preconditions for the success of the anti-piracy struggle in the music industry: good regulations in the field of copyright and related rights, and effective enforcement. Our country, doubtless, has modern legislation in the area of copyright protection, i.e. laws in line with those



of the European Union's member states, and the Serbian state is therefore fully authorised to take decisive action in suppressing piracy. However, experience shows that our experts – inspectors, judges and other civil servants – quite often need additional training in this field, since the level of knowledge of our lawyers working against piracy is still unsatisfactory.

Although "piracy" is not a legal term, it usually denotes any form of unauthorised, illegal copying of works covered by copyright law. The most frequent and the most familiar form of piracy is so-called physical piracy, which implies the creation of tangible copies of a copyrighted work: music discs, software, films, and so on. However, what is now becoming a much greater challenge for our music industry is so-called Internet piracy. Illegal copying and playing of music on the internet takes many forms, the most frequent being the infringement of music copyright and sharing of music files via the peer-to-peer network, as well as "downloading" of music from web servers where such music content has been illegally duplicated.

Nevertheless, the first step in the struggle against piracy in the music industry should be counteract-

ing so-called "institutional piracy": the illegal use of music by broadcasters and other corporate entities which copy music onto optical discs or download it from illegal Internet sites and peer-to-peer networks. Round-table participants stressed that the key role in that regard should be assigned to supervisory bodies and the courts.

The round table reached the following conclusions:

- Piracy is a serious economic crime which undermines the industries affected and reduces their economic potential.

- To counteract piracy with success, we need to provide judges with the necessary additional training and ensure closer co-operation between all government departments concerned with the protection of intellectual property.

- Our country has good legislation in this field, compatible with that of EU countries, and the government has a legal basis for taking decisive action to suppress piracy. However, there should be more active co-operation on the part of the private sector, which is directly exposed to the consequences of piracy.



Mikailo Tijanić,

chief of section for IP crime suppression, Ministry of Interior

Fighting piracy in Serbia

Much energy and effort have to be invested in the creation of a work of authorship, and today it is particularly important to protect that work from illegal exploitation. Very often, third parties acting without the knowledge or approval of authors exploit their works in various ways, regardless of the type of work concerned. Thanks to the emergence of new global technologies, and primarily the Internet, the creation, copying and distribution of works of authorship have become simple and accessible to everyone. As a consequence, traditional systems of protection and exploitation of works of authorship have become difficult to maintain, coupled with growing difficulties in implementing the legal framework and enormous increases in the damage caused by copyright infringement.

As a result, the sale of music content has dropped by about 40% over the past five years, and the number of legal proceedings for breach of copyright and related rights has increased at the same time.

The Department for Cyber Crime Suppression includes the Section for Intellectual Property Crime Suppression. Criminals operating in this field use computer technology to circumvent the law.

Very often, individuals advertise their services on the Internet, offering music or films for sale or

exchange without the approval of the copyright holders. In that way they earn large profits at the expense of the authors.

The situation is similar in the case of electronic books posted on internet sites without the knowledge of their authors, but accessible to an unlimited number of people. One example is the educational portal Edusoft, which helps teachers and professors to prepare their instruction material. In this case, a slightly altered version of this portal's content was posted on the portal belonging to certain members of the Edusoft portal, who collected the fees for accessing their site by SMS. As a result, the authors of the Edusoft portal suffered a loss of many millions within a period of months. That was a signal for them to refer the matter to the Serbian Ministry of the Interior, and after a series of inquiries, charges were brought against several of the perpetrators for unauthorised exploitation of a copyrighted work. The authors of the portal estimated that they had lost RSD 5 000 000.

These problems urgently need legal solutions specifying in detail the obligations of the provider in respect of making content available to users who "download" large quantities of data, and also stipulating the obligation of data custody for a specified period of time. It would then be possible to monitor user access to a certain site and any attempt by users to distribute the content they have "downloaded".



Nenad Vujić,

acting director, Judicial Academy

Judicial Academy launched

The Judicial Academy opened on 1st of January 2010, rounding off the process of establishing a modern system of training for judges and prosecutors.



This marked the end of the transformation of the Judicial Centre, which had provided training programmes for judges and prosecutors over the preceding eight years. The Law on the Judicial Academy, which took effect on 24th of December 2010, made provision for introductory training courses in addition to the ongoing training for judges and prosecutors, thus ensuring that future judicial staff would receive appropriate professional tuition. The Academy's first generation of trainees will be registered in September, the eight months before that being devoted primarily to setting up

bodies constituting the Academy and drawing up the syllabus for the introductory training courses. The Minister of Justice, Snežana Malović, has appointed Nenad Vujić Acting Director in accordance with the Law on the Judicial Academy. Since 1st of January 2010, staff of the Judicial Centre have been working as employees of the Judicial Academy.

The Academy's professional and creative team will be providing ongoing and introductory training courses of the very highest standard, as required by the law. Furthermore, members of the judiciary will be directly involved in the management structure and the training programme, acting as mentors in the introductory training courses and as lecturers in the ongoing courses.

The adoption of this law has created a clear-cut normative framework for training designed to promote the further development of a modern, efficient and unbiased judiciary.

MISSION

The Judicial Academy has been established to bolster the enforcement of the rights specified by the Law on the Judicial Academy, and those which are

of significance for the bar examination in the Republic of Serbia. The basic objective is to ensure professional, independent, unbiased and efficient performance of judicial and prosecutorial functions in accordance with the Constitution of the Republic of Serbia and international norms laid down by the United Nations and the Council of Europe. The Law on the Judicial Academy provides for an additional enhancement of the objectives set and of the measurable criteria applied to elections and promotions in the judiciary.

VISION

The Judicial Academy is dedicated to guaranteeing that every individual in society has equal access to justice. To this end, judicial staff will receive initial and ongoing training based on best practice.

In implementing the Academy's mission as set out in its draft Strategic Plan, the staff will endeavour to ensure that it is successful in the pursuit of its fundamental objectives: quality, openness to suggestions, good communications, impartiality, integrity, and respect for the law. By establishing the Academy, the Republic of Serbia has shown its commitment to proceeding with the reforms initiated in the judiciary and to pursuing ongoing improvements in the high standards already reached.



Copyright

What is a work of authorship?

A work of authorship is an original creation of the author's mind expressed in a certain form, irrespective of its artistic, scientific or other values, or its intended purpose, size, content, and manner of manifestation, or the permissibility of the communication of its contents to the public. The following, for example, are considered to be works of authorship: books, brochures, computer programs, speeches, dramatic works, films, paintings, works of architecture, geographical charts, photographs, etc.

What rights does an author have?

Moral rights are the author's right to have his/her name designated on the work itself, the right to publish the work, the right to oppose modifications to the work by unauthorised persons, the right to oppose public communication of the work in a modified or incomplete form and to issue a licence for remaking the work...

Property rights are the right to commercial exploitation of the author's work, his/her right to a fee for such exploitation by another person, the right to prohibit or approve the recording or copying of his/her work by another person, the right to approve or prevent the circulation of copies of the work by another person, the right to approve or prevent the performance of the work by another person, the right to approve or prevent the broadcasting of the work by another person...

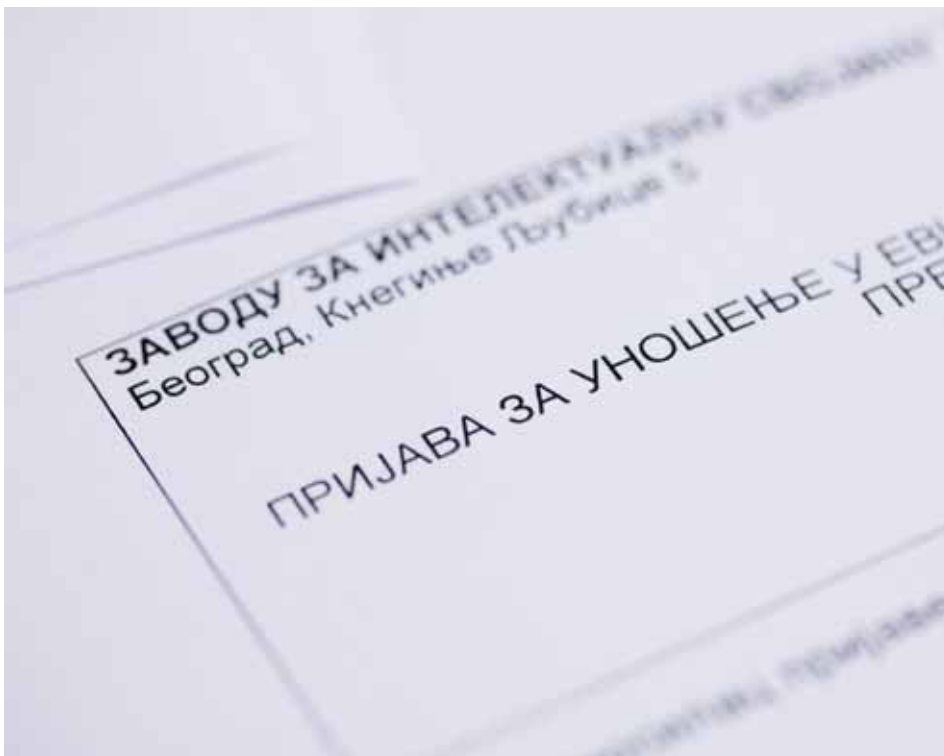


How can copyright be acquired?

The author acquires copyright immediately upon creating a work. For example, a writer acquires copyright for a book the very moment he/she has finished writing it, so it is not indispensable (even though it is advisable) to obtain a Certificate of Authorship. As opposed to trade marks and patents, copyright is not subject to a formal registration procedure.

What do you get by depositing your work?

Upon filing an application with the Intellectual Property Office, you are issued with a certificate of registration in the register of deposits. The procedure for registering and depositing copyright and related rights differs from that for other IP rights in being simpler and quicker.



The Office does not have the power to examine the content of the deposited subject-matter. By receiving the deposit, the Office neither confirms that the deposited subject-matter has the features of a copyrighted work or is subject-matter for related rights, nor that the subject-matter is actually copyrighted or covered by related rights.

The deposit serves exclusively to constitute evidence of facts that may be of significance in the event of a lawsuit or for other purposes in connection with the deposited subject-matter. For instance, it will enable you to prove more easily that you are the author of the work, not only in the event of legal proceedings, but also if you want to sell or license out your work or to make a financial profit from it otherwise. The Office is the only official authority empowered to keep a record of deposited copyrighted works and subject-matter covered by related rights.

The form, and instructions for its completion, are available at: http://www.zis.gov.rs/sr/autorsko_pravo/ap_obraci.html.

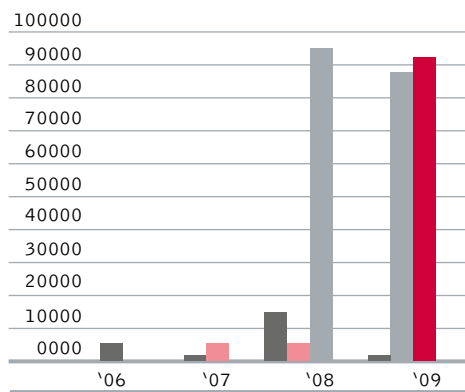
Daniela Zlatić Šutić, senior adviser,
Intellectual Property Office of the Republic of Serbia

Figures on seized pirated goods

The trade inspectorate and the customs and police departments are the primary agencies for

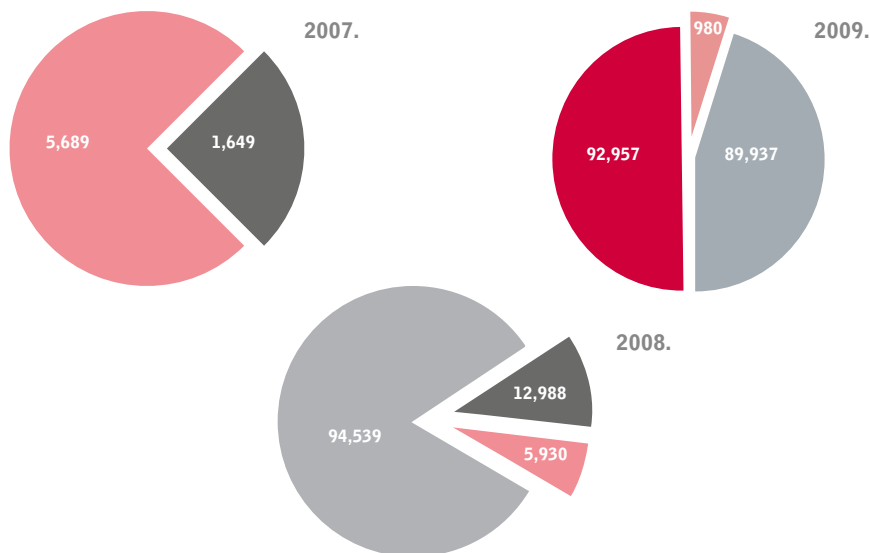
enforcing the law against violation of copyright and related rights in the Serbian music and film industries. Two different police departments deal with piracy, one of which is concerned

with Internet piracy and the other with piracy in physical goods. The graph shows figures for pirated CDs and DVDs seized by the two police departments in question.



Seized pirated products

- Market Inspectorate
- Customs
- Ministry of Interior – Internet piracy
- Ministry of Interior – Physical piracy



News

Nikola Radovanović, adviser
Intellectual Property Office of the Republic of Serbia

Seminars for chambers of commerce

Two seminars were organized in June by the EIC, in the cities of Valjevo and Sremska Mitrovica. EIC experts were giving lectures to the representatives of chambers of commerce on the basics of the intellectual property. Seminars were followed by the great interest of participants, who expressed their willingness to attend more lectures on the intellectual property matters in the next period.



Co-operation agreement with the National Agency for Regional Development



In its determination to support the national economy, the Serbian Office has joined forces with another important player in the economy. In June, directors of the Intellectual Property Office and the National Agency for Regional Development signed a co-operation agreement which will bring the two institutions together in pursuit of the same

goal. The agreement provides a solid foundation for sharing expertise with a view to increasing the competitiveness and innovative capacity of the country's small and medium-sized enterprises and raising awareness of the importance of intellectual property in Serbian society.

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Education and Information Centre



The Intellectual Property Office of the Republic of Serbia