

SPAIN'S UNNECESSARY NEW DOWNLOAD LAW - ECIJA

Posted on 02/05/2011



Category: [Uncategorized](#)



Spanish legislators look likely to create a new Commission of Intellectual Property with the power to target internet copyright infringers but more effective means already exist

El proyecto de ley conocido como "Ley Sinde" (Ley de Economía Sostenible) intenta adaptar la actual legislación de propiedad intelectual a la era digital; sin embargo su aplicación es confusa, según Hugo Écija, socio co-director del despacho Ecija Abogados, especializado en nuevas tecnologías.

Spain's proposed "Ley Sinde" (Law on a Sustainable Economy) aims to bring domestic intellectual property law up-to-date with the internet era but is nonetheless confused in its application, says Hugo Ecija, co-Managing Partner of technology-focused Ecija Abogados.

"The proposed Law presents, among other things, a rapid alternative to the ordinary Courts to halt intellectual property (IP) infringements over the internet, but more adequate remedies already exist." The Ley Sinde, named after the Minister of Culture, Ángeles González Sinde, is expected to be

passed by early 2011 and will modify the existing Information Services, IP and Administrative Acts. The main focus of the law concerns the development of the economy in the global scenario, but almost as an aside foresees the implementation of a Commission of Intellectual Property in charge of prosecuting online copyright infringements.

The Government has however been strongly criticised, given the significance of such a Commission, says Ecija.

"The main objective of the Commission would be to block and delete in an expedited procedure any website that infringes Spanish copyright law. It's a mechanism that already exists in France and the UK, by which IP infringements may be prosecuted without the assistance of a Court, where 'three-notice systems' operate with increasingly severe punishments leading ultimately to the suspension of a user's internet connection."

Conversely the Spanish proposals do not target users but the websites that enable users to download material protected by copyright. The main differences are the target of the punishment and the ability of IP rights holders to reach the Administrative Courts to delete or block sites.

"While the French and the British models focus on the users, the Spanish model focuses on the webmaster, which is in my opinion much fairer and more accurate."

Such measures complement existing judicial remedies, he notes, while recent judicial legislation actually contradicts the spirit of the Ley Sinde.

"The proposed law is adequate in its intention but not in its execution. IP rights must be subject to severe protection, however there are more effective ways, including those already available through the Criminal and Mercantile Courts."