

The wording proposed by the P.D. of Ukraine - members of the Committee

LAW of UKRAINE

On Amending Certain Legislative Acts of Ukraine on Increasing the Liability for Violations of the Rights to Objects of the Right of Intellectual Property

No.5213

March 23, 2000

The Verkhovna Rada of Ukraine enacts the following:

I. To make amendments to the following legislative acts of Ukraine:

1. In the Criminal Code of Ukraine:

1) Article 136 shall read as follows:

"Article 136. Violation of the Rights to an Object of the Right of Intellectual Property

Illegal use of an object of the right of intellectual property (work of literature or art, performance thereof, phonogram, broadcasting organization's transmission, computer software, data base, scientific discovery, invention, useful model, industrial sample, trademark for goods and services, chip topography, improvement suggestion, plant sort, etc.), appropriation of authorship with respect to such an object or other intentional violation of the right to an object of the right of intellectual property protected by law, if these actions cause significant material damage, -

- are punishable by imprisonment for a term of up to two years, or correctional labor for a term of up to one year, or a fine from two hundred to one thousand minimum tax-free incomes and confiscation of the illegally manufactured products as well as equipment and materials that were used for the manufacture thereof.

The same actions, if committed repeatedly or upon prior complot of a group of persons or if they cause a very significant material damage, -

- are punishable by imprisonment for a term from two to five years, or correctional labor for a term of up to two years, or a fine from one thousand to three thousand minimum tax-free incomes and confiscation of the illegally manufactured products as well as equipment and materials that were used for the manufacture thereof.

Note. Significant material damage is deemed to occur when the value thereof is one hundred or more times greater than the minimum tax-free income, and very significant material damage is

deemed to occur when the value thereof is one thousand or more times greater than the minimum tax-free income.";

2) to delete Article 137.

2. In Article 112 of the Criminal Procedural Code of Ukraine:

in part one, to replace the figures "135 - 137" with the figures "135";

in part two, to add the figures "136" after the figures "124".

3. In the Code of Ukraine on Administrative Violations ("Vidomosti Verkhovnoyi Rady URSR", 1984, annex to No. 51, p. 1122):

1) Article 51² shall read as follows:

"Article 51². Violation of the rights to an object of the right of intellectual property

Illegal use of an object of the right of intellectual property (work of literature or art, performance thereof, phonogram, broadcasting organization's transmission, computer software, data base, scientific discovery, invention, useful model, industrial sample, trademark for goods and services, chip topography, improvement suggestion, plant sort, etc.), appropriation of authorship with respect to such an object or other intentional violation of the rights to an object of the right of intellectual property protected by law, -

- are punishable by a fine from ten to two hundred minimum tax-free incomes and confiscation of the illegally manufactured products as well as equipment and materials that were used for the manufacture thereof."

2) paragraph one of part one of Article 164³ shall read as follows:

"illegal copying of the form, packaging, appearance, as well as imitation, copying, direct reproduction of another entrepreneur's goods, unauthorized use of its name";

3) in part one of Article 255:

paragraph two of clause 1, after the figures "51", to add the figures "51²";

in the paragraph "bodies of the tax service (Articles 164⁵, 177²)", to add the figures "51²" after the word "Articles";

4. To add the following Article 116¹ to the Customs Code of Ukraine ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1992, No. 16, p. 203):

"Article 116¹. Transportation across the customs border of Ukraine of the goods or items manufactured in violation of the rights to an object of the right of intellectual property

Transportation across the customs border of Ukraine of the goods or items manufactured in violation of the rights to an object of the right of intellectual property protected by law, -

- for individuals, is punishable by a fine from one minimum salary to five hundred minimum salaries, as officially established on the day of the violation of the customs rules, and by confiscation of the infringing goods, and for officials - from ten to one thousand two hundred minimum salaries, as officially established on the day of the violation of the customs rules, and by confiscation of said goods".

II. This Law shall take effect on the day of its publication.