28.05.2008 События

The illegal use of the works and phonograms protected by the Law No. 293-XIII of 23.11.1994“ “On copyright and related rights” jeopardizes the observance of the legal norms in the Republic of Moldova, causing damages both to the autochthonous and foreign owners of the author right and related rights and to the state by non-payment of the corresponding taxes, however “pirates” obtain the enormous profits, proposing to the consumers the products of bad quality.

According to the Law “On dissemination of copies of woks and phonograms” each person disseminating copies of works and phonograms registered on the audio discs (MC), compact-discs (CD, DVD, VCO), video cassettes (VHS) etc., is obliged to request with AGEPI registration thereof in the State Register and issue of the control marks corresponding to the denominations and the number of copies of works or phonograms provided for dissemination. Such is one of measures to prevent the damage of the copyright and related rights that is an especially great impact in the world.

The control mark represents a label in the form of a three-dimensional image having a special level of protection on the exterior side, realized on the auto-adhesive auto-destructive layer, on the surface thereof being written an alpha-numerical code including series and number of registration of the work or phonogram copy in AGEPI.

Dissemination of copies of works or phonograms is authorized at observance of following conditions:

a. each copy of the work or the phonogram shall contain information on administration of the rights on the work or phonogram and the respective control mark;
b. the distributor shall possess an invoice signed and stamped by the right owner of the work or the phonogram, where it shall be designated the denomination , the price, the number of copies and the sum for every denomination of the work or the phonogram;
c. the distributor shall possess of the certificate on registration in the State register and certificate on obtaining the control mark;
d. the distributor shall possess of a contract with the respective annexes in the written form, registered at the Agency in the prescribed form permitting him to distribute in a speciall mode the respective copies of the works or phonograms.

According to the Paragraph 13 of the Regulations on the mode of producing, issue and use of the control marks onto the copies of works and phonograms, in order to obtain the control marks physical and legal persons producing and/or distributing the copies of the works or phonograms are obliged to represent with AGEPI the following acts:

a. the author contracts and other legal documents concluded with the owner of the copyright or related rights on producing and/or distributing the copies of the works or phonogram;
b. documents confirming the origin of the works or phonograms;
c. the custom documents confirming that the copies of the works or the phonograms was imported in the Republic of Moldova (in the case of importation thereof).

On the request of the importer the control marks may be applied onto the copies of works or phonograms after performing the custom documents on the import and before the distribution of such copies. On the copies of works and phonograms provided for the export, the control marks shall be applied on the request of the exporter before performing the custom documents on the export.

The users of the Republic of Moldova shall know and become aware of the fact that copies of the works and phonograms may be commercialized only if they contain the applied control marks and the special locations provided for commercialization thereof. According to the legislation on copyright and relative rights it exists also an exception. The control marks don’t shall be applied on

the copies of works and phonograms used by the physical persons exclusively in the personal use.

However the control marks represent a pecuniary value, they may be falsified in the same mode as the banknotes. The illegal counterfeit, producing, destruction, using or commercialization of the control marks, illegal producing or distribution of the copies of works or phonograms, as well as infringement of the present Law may be subjected to the administrative or penal punishment provided for by the legislation in force on the copyright and related rights.

Wherever the legal person infringes grave or systematic the law, his activity shall be suspended up to 30-90 days on the ground of a decision of the competent court.

Another norm providing for a punishment related to the committed illegality on the control marks is regulated by the art. 51/2 paragraph 2 of the Code of the Republic of Moldova “On the administrative contraventions” provides for in the case of the falsification or illegal production, destruction, use, commercialization of control marks, imposing a fine: physical persons in the amount of 150-200 conventional units, and the persons bearing responsibility – 200-300 conventional units, the object constituting the committing instrument or the direct subject of the administrative contravention being seized.

Simultaneously with including the Art. 185/1, in the Penal Code, in the legislation there are stipulated respective measures for the illegalities committed by illegal marking, commercialization, import, export, transportation or depositing the control marks and falsification thereof, causing damages in the especially great amounts. Such damages lead to fines in the amount of 2000 up to 4000 conventional units or a punishment by the honorary work in favour to the community up to 180-240 hours; the legal person is punished with a fine in the amount of 2000 up to 6000 conventional units, being deprived of the right to carry out the given activity during the term of 1-5 years.

The control mark is first of all a guaranty for the consumer who want buy a licensed product. Moreover, he confirms legality and justice on using the copies of the works and phonograms to which it is applied, provides observance of the copyright and related rights. The respective marks will represent for the institutions of control an index characterizing the legal used product of the counterfeit one. The control mark will contribute to the effective fight with piracy in the field of copyright and related rights.

Источник: https://agepi.md/ru/node/4972