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Government Proposes to Amend the Law to Combat Online Copyright Infringement

An amendment to the Israeli Copyright Law, recently proposed by the Ministry of Justice, offers new measures against online copyright infringement. The proposed measures are not directly aimed at the publisher of the infringing material, but at intermediaries, such as internet service providers and other individuals or entities that either host the infringing material or could identify the publisher of such material.

An interesting aspect of the proposed law, is that it seeks to provide courts with the authority to issue an order for revealing identifying details (such as the IP address) of a person who anonymously published copyright infringing material online, at the request of the copyright or moral right owner. Such orders, which according to the proposal would be issued to individuals or entities that are believed to hold information on the publisher of the infringing material, are meant to facilitate filing of lawsuits against publishers of infringing material and, as a result, to deter potential infringers. Prior to providing identifying details to the owner of the infringed rights, the court would be required to allow the publisher of the infringing information (in case the court is able to identify such a person) to object to revealing his/her details.

In addition, the proposed law would allow courts to issue injunction orders requiring internet service providers and providers of storage services to fully or partially restrict access to a website that contains copyright infringing material, provided that such infringing material constitutes the main content of such website. Although even under existing law courts can issue injunction orders to prevent copyright infringement, the proposed amendment is meant to better clarify towards whom such orders would be aimed and what the court should consider when deciding on requests to issue such injunction orders. Among others, prior to issuing such an injunction order, the court would need to consider, the severity of the claimed infringement, possible alternatives to restricting access to the site and the effects such restriction of access would have on the public. This proposal aims to provide an effective and immediate course of action for ceasing online infringements.

In addition to the abovementioned measures, the proposed amendment suggests to broaden the current definition of “Indirect Infringement” so that such definition would include making works available to the public, even without creating an infringing copy. Such Indirect Infringement would include, for example, unauthorized streaming of copyright protected films or television shows. In order to deter such forms of online infringements, which appear to be fairly popular nowadays, the proposed amendment also suggests penalizing the making of works available to the public and the broadcasting of a work, provided that such infringements were done for the purpose of making a profit.

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