

Seminar session 2: Principles of Digital Forensics and Cyber Law – Cybercrime Case Analysis

Discussion Includes (E-Portfolio Activities)

- What is law?
 - Common Law
 - National Law
 - Law as a Citizen
- Principles of Evidence and Proof
 - Technical (reason, facts, evidence)
 - Evidence admissibility
 - Evidence assessment
 - Evidence Determination

Presentation: Intellectual Property (IP) Crime

- Case No. A28 – 11930/2021 in the Arbitration Court of the Kirov Region (Arbitr, 2022)
- Trademarks of Peppa Pig case

Description and Explanation of the crime:

- In September 2021, Entertainment One sued a Russian entrepreneur, Ivan, for copyright infringement based on the unauthorised trademarks of the Peppa characters in his artwork.
- In March 2022, Judge Adrei subsequently dismissed the case, citing that “Unfriendly actions of the United States of America and affiliated foreign countries.” Andrei noted that Russians were free to use the Peppa Pig characters as they pleased.
- In June 2022, the Court of Appeal reversed the decision. Claimed that the location of the plaintiff in an unfriendly country is not a reason to refuse judicial protection of the right. (Arbitr, 2022)

Identify its unique characters:

- Due to the economic sanctions of the Russo-Ukrainian war, the Russian government has issued a decree that allows patented inventions and industrial designs from “unfriendly countries” to be used without permission or compensation.

- Russia's intellectual property treaties might be affected, including the "Paris Convention", the "Agreement on Trade Related Aspects of Intellectual Property Rights" and the "Hague Agreement".
- Lawyers believe that the approach proposed by the trial court could advance an uncontrolled growth in the volume of counterfeit products on the Russian market.
- "Offering items, either billed as genuine, or clearly fake, for sale through online shops and auction sites, or on social networking sites" (CPS, 2019)

Evaluate the extent of which this cybercrime is different than its offline version:

- Beside the awareness of the artwork from YouTube or trading websites, there is no difference in copyright infringement based on using the unauthorized character's trademarks for the physical or visual artwork in this case.

Identify and assess issues concerning laws:

- Peppa Pig is a British animated television series about Peppa, her family and friends.
- In December 2019, Hasbro Inc. acquired Entertainment One, the television studio that owns rights to the Peppa Pig franchise, for \$3.8 billion, and renewed the series for additional season until 2027 (Dorsey & Whitney LLP, 2022).

Identify and assess issues concerning burden of proof, standards of proof and admissibility:

- Burden of proof: Entertainment One
- Standards of Proof:
 - Trademarks owner
 - Intellectual property violation
 - YouTube videos
 - Trading website
- Admissibility:
 - Reputation impact
 - Financial loss

Unit 1 & 2 e-portfolio activity:

- What is Law?
 - Protect our safety
 - Ensure our rights as citizens
 - Protect against abuse (by organization, people, government)
 - Protect us at local and national level
- Common Law
 - Law about Food safety
 - Law about speed limits
 - Law about licensing for doctors, nurses to ensure proper training
- Law that protects our right as a citizen
 - Freedom of speech, religion and press
 - Protect us from discrimination (race, disability, gender or age)
- Where does Law come from?
 - From Judicial branch
 - Make legal decision on what is in constitution

Issues to think upon:

- Moral Principles
- Separation of powers
- Separation from religion
- Human Rights/ Fundamental rights
- “Western world” vs others
- Justice (as a concept)
- Challenges and opportunities of regulating and policing cyberspace

Unit 2: Principles of Evidence and Proof:

- It is a factual matter
- Evidence that helps to prove and disprove the case
- Legal and technical requirement must be met
- Court examine the Legal authorization
- Allow searches and seizures of information and communication technology and data
- Ensure relevancy, authenticity, integrity and eligibility of digital evidence

Unit 3: Evidence Admissibility

- Examine the digital forensic tools and procedures used to preserve digital evidence
- Examine digital laboratories where analyses are performed
- Report of digital analyst
- Technical and academic qualification of digital analyst and expert witness
- Technical and legal requirement that determine evidence

Unit 3: Digital Evidence Assessment:

- Court checks whether proper legal authorization was used to collect/search data/evidence/computer
- Legal authorization includes, search warrant, court order
- L order depends upon country's national law
- Legal order based on the circumstances of the case, surrounding of incident and credential of those conducting the search

Unit 3: Digital Evidence Determination:

- Authenticity, integrity and reliability of digital evidence is assessed based on the outcomes
- Based on the method used to collect evidence, such as evidence of expert witness, tools, procedure
- Checks the evidence were unaltered during the forensic process
- Make the decision