

ONLINE COUNTERFEITING FOCUS

# YOU CAN RUN, BUT YOU CAN'T HIDE



With the help of tracking technology, it is increasingly difficult for online IP infringers to go undetected, as **Rafael Lacaz Amaral** of Kasznar Leonardos explains.

**I**P owners have been waging relentless battles against those who insist on violating their rights for a long time.

We know that the legal systems of the vast majority of countries contain provisions which guarantee protection for trademarks, patents, industrial designs and intellectual works. They also contain rules that ensure the adoption of civil and criminal measures that seek to stop the act of infringement and to hold the infringer responsible.

Until the early 1990s, infringements occurred in a 'physical' way, meaning the manufacturing and selling of products that violated the intellectual or industrial property rights of others. The path was relatively easy: it was enough for the right holder to find the source and take the necessary legal measures.

However, this scenario has changed dramatically with the popularisation of the internet. Today, most companies have at least a website and a corporate profile on social media networks. If a company does not, then the consumer will struggle to find it.

Modern consumers consume all kinds of products through the virtual environment. Not surprisingly, according to recent studies, each person in Brazil spends about ten hours a day on the internet. It is in this scenario that the same violations of industrial and IP rights also happen.

The way to catch offenders has become increasingly

difficult and complex. Let's look at examples of software, music and images, which are copyrightable elements. In the not so distant past, pirated software and music CDs were produced and sold on the streets and at flea markets. The enforcement measures were usually the search and seizure of all material and consequent destruction.

But today, the vast majority of the same software and music is no longer being printed on physical media to be later marketed. This distribution and sale happens on the internet itself, usually through the download mode.

Traditionally, rights holders would go after those who gave rise to the infringement, that is, the individual or company that made the offending product available for download. These, of course, need to suffer the punishments provided in the legislation because the violation would not have happened without their direct participation.

But what about those individuals who choose not to pursue the right path to licensing software, music or images, and download them to their computer and start to exploit them commercially? Under Brazilian law, these end-users are also infringing IP rights.

In recent years, software developers and music, image and video libraries have increasingly sought to educate the market through campaigns.

However, enforcement measures are also necessary,

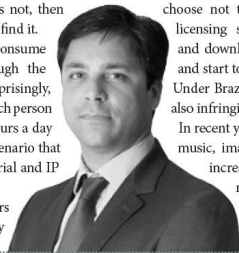
mainly to repress the infringement and compel the unlicensed user to pay compensation or royalties for the undue economic exploitation of another's rights.

But the questions are: how to find this end-user if the internet is still an environment yet to be fully exploited? How to determine who is behind the use of illegal and unpaid software, music, images and video?

To solve this problem, companies have been developing highly accurate and sophisticated systems that enable the monitoring of the internet and tracking of the path travelled by the offender.

Thanks to the massive investments that have been made in this area, there are now tracking technologies that are applied to software, music, images and videos. The moment the individual downloads the product to their computer and starts to operate it, the security code that is applied to it sends signals to the security platform, so that it is possible to get, in most cases, some basic information about the infringer.

Online infringers can still try to hide, but not for long, because their activities leave traces that can be tracked. ■



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