Intellectual property versus data protection in the Internet

The purpose of this study is to discuss the proper balance between the protection of intellectual property and privacy.

The protection of intellectual property in the Internet requires on many occasions the disclosure and processing of personal data of the Internet users, in particular their IP addresses (even if it is not always reliant information). The IP address is covered by the definition of communication (i.e. preamble to the directive 2002/58/EC, p. 15) and therefore should strictly follow the legally prescribed procedure for waiving the confidentiality.

The General Court of the European Union has already ruled in the case *Promusicae* that the EU Law do not require the Member States to lay down an obligation to communicate personal data in order to ensure effective protection of copyright in the context of civil proceedings.

Erosion of privacy brought about the Directive 2009/140/EC. It allows that Member States may impose measures to stop violations of copyright at a fair and impartial process. Indeed, judicial decision is not required.

The example of France is particularly interesting. The French legislator has chosen to provide penalties for the Internet user, unless it has taken steps to prevent the use of its interrnet connection by a third person (HADOPI 1, HADOPI 2).

Further recession of data protection is due to the the Law 3917/2011, which incorporated in Greek Law Directive 2006/24/EC known as data retention directive. It requires data retention for one year by the internet service providers. Instead, Directive 2002/58/EC allowed the retention of data only for as long as was necessary for the service charge.