

Israel: Blocking Orders Permissible Against ISPS

On January 1, 2019, the Knesset (Israeli Parliament) approved Amendment No. 5 to Israel's Copyright Law, which adds the following provisions:

1. Indirect copyright infringement by making copyright-protected content available to the public (new Section 48A);
2. Restriction of access to an internet site by court order (new Section 53A);

[More](#)

On January 1, 2019, the Knesset (Israeli Parliament) approved Amendment No. 5 to Israel's Copyright Law, which adds the following provisions:

1. Indirect copyright infringement by making copyright-protected content available to the public (new Section 48A);
2. Restriction of access to an internet site by court order (new Section 53A); and
3. Exposing the identity of copyright infringers on the internet and use of "orphan" works (new Part H1).

Indirect Infringement

An indirect infringer is a "person" who makes copyright-protected work available to the public after the work has already been made available to the public in an infringing manner by another party. A court can issue blocking orders against an indirect infringer if the infringer knew or should have known that the work was copyright-protected and that the original display of the work was an infringement.

Under this provision, courts may issue blocking orders to internet service providers (ISPs) to block access to websites that display or make available to the public content that infringes copyright-protected work. The ISP must then take reasonable steps to limit or block access to their website as to content that directly or indirectly amounts to copyright infringement.

Restriction of Access

District Courts may order an ISP to limit access to a website where the majority of the content constitutes copyright infringement, or where an action taken in connection with the source provided on the website could constitute indirect copyright infringement. Courts may take into account the effect of the order on the public, the severity of the infringement, whether the order is required, the efficacy of other remedies available, and the possible harm to the privacy of internet users.

III. Identity of Infringers/Use of “Orphan” Works

District Courts are permitted to order a respondent to provide the identity and “user information” of unknown persons whose actions have infringed the petitioner’s copyright online. Where it is *not* possible to locate the copyright owner of the infringed work, the Amendment allows use of the work so long as the rights-holder remains unknown.

This Amendment is in line with the Knesset’s track record in recent years of putting in place increased security measures to police ISPs. For example, the Knesset passed a law in July 2017 permitting District Courts to force ISPs to block access to websites with content that promotes criminal activity, including gambling and pedophilia sites, websites that promote prostitution or illegal drugs, and websites that support acts of terror. The new Amendment also follows a global trend where courts are increasing efforts to combat internet piracy. (See also our Newsletters of [December 2014 \(United Kingdom\)](#); [September 2017 \(Canada\)](#) and [September 2018 \(United Kingdom\)](#)).