

Jakub M. Doliński,

*PhD student at the Intellectual Property Institute,
Jagiellonian University*

SOCIAL MOVEMENTS AGAINST COPYRIGHT AMENDMENTS

Last decade will remain in memory of nowadays generation — just as on history's pages — as a time of revolutions, the second Spring of Nations. From Northern Africa, through Middle East and Eastern Europe to Australia and Northern America — a lot of these protests were organised in the name of national independence or protecting constitutional privileges and Human Rights. Some of them were dedicated strictly to save copyright's status quo from amendments. They were victorious civil manifestations against powerful lobbies responsible for confidentially attempts at changing intellectual property law.

SOPA and PIPA bills

On 11th May 2011 an anti-piracy bills PROTECT IP Act (PIPA) and Commercial Felony Streaming Act (CFSA) were introduced in U. S. Senate. Only five months later another anti-piracy bill called Stop Online Piracy Act (SOPA) was introduced to another administration unit — U. S. House. That was the beginning of the conflict between Internet users supported by tech companies against the governments. PIPA's full name was «Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property» and its main purpose was to give

the government and copyright holders tools to prevent access to rogue websites that are dedicated to counterfeit goods or infringe the intellectual property act. The basic idea of it was to create new enforcement measures against online piracy and counterfeiting.

PIPA and SOPA provided new methods for holding copyright infringement on foreign websites. U. S. Department of Justice could seek court orders requiring some web service providers to block the domain names of infringing sites (f.e.: prevent internet users from accessing pirate pages which's underlying IP address would be still reachable). According to the section 3 of the PIPA bill Attorney General may commence an *in personam* action against:

- 1) a registrant of a nondomestic domain name used by an Internet site dedicated to infringing activities;
- 2) an owner or operator of an Internet site dedicated to infringing activities accessed through a nondomestic domain name.

If through due diligence the Attorney General is unable to find a person described in subparagraphs (A) or (B) of paragraph one, or no such person found has an address within a judicial district of the United States, the Attorney General may commence an *in rem* action against a non-domestic domain name used by an Internet site dedicated to infringing activities.

Most shocking propose was a provision that authorized the U.S. government to engage blocking domain was the same practice used in China to censorship a free speech which is nick-named and better known as a the «Great Firewall of China». Controversy with SOPA bill was even bigger. Its creators assured that it would protect the intellectual property market and was necessary to bolster enforcement of copyright laws according to foreign websites. Proposed legislation enabled law enforcement to hold access to whole network due to infringing content posted on

a single internet page. Opposition to SOPA bill accused that this act requiring search engines to delete domain names violated the first amendment and could be a precedence for next censorship waves. Electronic Frontier Foundation marks that in reference to SOPA's paragraphs individuals and corporations could send a notice to a site's payment partners, requiring those partners to cut the site off — since many sites depend on this revenue to cover operational costs, even one accusation of infringement could be ruinous. According to section 104 of SOPA's bill the Attorney General would be able to hide websites by creating a blacklist and requiring service providers (such as search engines and domain services) to block the sites on the list. SOPA's solution allowed IP owners to proceed directly against global information services and payment providers by sending a notice alleging that one of its customers was a theft of U.S. property, which was formulated to include sites related to copyright infringement. On January 18, 2012 millions of web users prepared the largest online protest in history (supported by founders of Mozilla, Google, Twitter and Wikipedia) aimed in SOPA and PIPA. Physical demonstrations were organised in New York City, San Francisco and Seattle. Two days later political environment regarding both bills had shifted significantly. The bills were removed from further voting.

ACTA agreement

Another bill that was focused on copyright system — especially in websites and its users — was ACTA (Anti-Counterfeiting Trade Agreement). This international treaty was presented as an agreement which will establish legal framework for targeting copyright infringement on the web pages. At the beginning (October 2011) it was signed only by eight countries: Australia, Canada, Japan, Morocco, New Zealand, Singapore, South Korea

and the United States. The real aim of this bill was to create a new determinant for countries without developed intellectual property system. Participation of such countries with a long-tradition copyright law would be an incentive for the other ones. In 2012 Mexico and 22 of European Union's members signed ACTA which was a beginning for a growing criticism mostly by internet users. First accuse was a suspicious secrecy of negotiations: in EU the Council of Ministers officially adopted ACTA at a meeting of the Fisheries Council. The negotiations took place behind closed doors. ACTA had a non-disclosure agreement's character as an act — every its member were bound to secrecy. What is more: majority of intellectual property law societies accused ACTA of breaking Human Rights. ACTA's content provided every enforcement without any balancing of the rights between authors and consumers. Briefly phrases of ACTA were so ambiguous that could be easily interpreted as a free way to access restrictions which could be against free speech and privacy of web users. Finally it was clear that it was just a legal excuse to expand government's and industries control on the internet. Thousands of web users started their demonstrations against ACTA in Poland and after that also in Sweden, Slovakia and Germany. Polish politicians expressed disapproval of the treaty during parliamentary proceedings subsequently called for a referendum on ACTA. After that, Poland has abandoned plans for ratification and urged other EU countries to reject this agreement.

Shadows of ACTA, PIPA and SOPA bills upon the Human Rights and free speech are gone. Few years after great protests and demonstrations these issues seems to be a closed case. Unfortunately, media are informing that there are preparing another legislation in EU and another international agreements which will be another hidden attempt to carry new rules against a liberty in web pages.