COUNTERFEIT, PIRACY, PLAGIARISM - COMPARISON BETWEEN THESE CRIMES THAT THREATEN NATIONAL SECURITY

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Abstract: Although “counterfeiting, piracy, plagiarism”, means, apparently, the same thing, they bear however, some differences. The areas referred to, are the ones that make the difference. While counterfeiting is considering industrial property infringement, piracy and plagiarism are considering breach of copyright and related rights to it. This study aims to software piracy, piracy by photocopy, counterfeiting medicines, counterfeiting pattern and design, the subject of patent infringement and also plagiarism and self-plagiarism.

Counterfeit products, illegal manufacture of objects and goods, piracy in other words, really threaten the health of consumers. On the other hand, the crime phenomena in this field, affect most of all, the holders’ rights, authors of works, their legitimate rights and interests. These offenses can seriously undermine the economic activity, resulting in a poor development that includes the whole areas of the society.

The methods I have used throughout this article are exploratory method - by means of reading books and articles on the internet, but also by obtaining statistics (for piracy) of the bodies to promote intellectual property. As a goal, I intend to contribute through my article to prevent and counteract the phenomenon of counterfeiting, piracy and plagiarism.

Key-Words: infringement, copyright, pattern, design, economic activity, counterfeit, piracy, plagiarism
1. Introduction

Counterfeiting, piracy, plagiarism, are forms of undermining national progress, the proper course of society, the attempt on the legal provisions of the Universal Declaration of Human Rights (proclaimed in 1948) and the European Convention on Human Rights (signed in 1950). Provisions of these laws enshrine the fundamental rights of persons who contribute to the spread and establishment of culture. According to the Universal Declaration of Human Rights, article 27 (2), everyone has the right to the protection of moral and material interests resulting from any scientific, literary or artistic work, whose author he/she is. More than ever, it is necessary to strike a balance between the legitimate interests of authors, rights holders and the interests of the public and society in general.

2. Counterfeiting

Counterfeiting can seriously undermine economic activity in general, the rights and legitimate interests of inventors in particular and last but not least, consumers' health.

Referring to the industrial property law, counterfeit deals with manufacturing or illicit use of the object of a patent, unauthorized use of design, according to Law 64/1991 on patents and Law 129/1992 on counterfeiting the drawing or model, things that are mentioned in this paper.

European Commission President Jose Manuel Barroso warned in 2008: "Now we are not to mention just poor quality of copy shirts but counterfeit toothpaste, crowded with dangerous microorganisms and the risk of electric shock because of toasters counterfeit, counterfeit toys, food, electrical equipment, medicines, building airplanes… forgery generally takes place on an industrial scale and is a very profitable industry, since profit margins are as important as drug trafficking or arms but with significantly less risk." (March 10, 2008; „Comisia Europeană: Industria falsurilor poate ucide şi trebuie zdrobită”, retrieved from http://www.ziare.com/articole/medicamente-contrafacute).

2.1 Counterfeit Patents

Inventions are a determinant part of technological progress. As a result of technical creation, is the most important piece of protection in the industrial property.

The crime of counterfeiting is even greater, as the invention is defined as "a work that brings a new spirit, a result of thought, an idea that brings something new as a result” or "a solution to a specific problem in the field of technology". (Pecorari, Diane, Teaching to avoid plagiarism, Mc-Grow Hill House, England, 2013)

According to Law 64/1991, counterfeiting involves: „manufacture, use or putting into circulation the subject of a patent or any other infringement of the rights conferred by this Act, if the violations were committed after the date of publication the application of patent " (Law 64/1991 regarding the patents in Romania)

In Romania and around the world there are many counterfeit products, especially for perfumes and cosmetics, which bring great harm for human health.
It should be noted that import counterfeit products come from lot. There are also cases when they are counterfeit in home conditions, but this is a chaotic phenomenon.

2.2. Counterfeit Medicines

A strong reason that boosted the trade in counterfeit medicines, especially in the last period marked by the global crisis, is that they can be forged at industrial level so that the amounts of money from the real "industry" will be used by criminal organizations as the main means of funding transnational criminal activities.

Found that unduly in the period 1995-2000 was a decline of new medicines on the market from 40-27 new pharmaceutical products, which led to significant losses of public health systems and hence on consumers. Thus occurred 45 billion losses due to counterfeiting of pharmaceuticals. In Europe, the market of counterfeit drugs in 2010 was estimated at about 10.5 billion euros, pharmaceuticals showing a 20% share of the total population of the community (February 22, 2010 „Cumperi medicamente contrafăcute?”, retrieved from http://www.ziare.com/articole/medicamente-contrafacute).

Examples in this field are staggering, if we consider that there are sold counterfeit medicines and medical devices to treat cancer, AIDS and other diseases and that 200,000 people die annually due to consumption of counterfeit medicines.

An audit by the European authorities in December 2009 revealed that 62% of pharmaceutical products purchased online are falsified in whole or below the average standards set: the active substance concentration is not required; top counterfeit products is represented by drugs for flu and weakened drug.

2.3. Counterfeit Auto Parts

Although counterfeit drugs are associated most often with risks to life and health, experience shows that there are other equally dangerous products that affect public safety. We take the example of automotive parts replacement.

Customs Service data for 2013 states that 31% of all items retained as counterfeit proved to be auto parts imported from Turkey and China.

There were sanctioned many drivers for operation of vehicles with technical defects. Thus, stopping the import of counterfeit auto parts, along with other operational measures, could be an effective tool to prevent deaths and injuries in traffic.

2.4 Counterfeit Perfumes

Millions of counterfeit perfumes are used by the Europeans, without them knowing what risks they run. Organized crime flooding the European market with fake perfumes route China - Turkey - Romania, earning tens of millions of euros of business fragrances, threatening people's health instead. Although shipments of fake perfumes are retained by customs officers or border police, however, the lack of responsiveness regarding representatives of companies that produce luxury perfumes involve legal sale on the European market to counterfeit.

Counterfeit products can be found at border crossings, relatively simple, say specialists. Rights” holder over the trademark has the opportunity to apply for border
intervention. Consequently, counterfeit products can be found at the border and later destroyed.

2.5 Counterfeit the Drawing or Model/ Infringement Drawing

According to Law on Designs’ protection 129/1992, counterfeiting is unlawful performance of any act provided after the date of registration of the design. If the facts are likely to present a danger to public safety or health, the punishment is severe (Law on Designs' protection 129/1992)

Further, the law requires that, throughout the duration of the registration of designs, the holder has an exclusive right to use and to prevent use by a third party not having his consent. Specifically, this manual includes: breeding, production, marketing, offering for sale, marketing, importing, exporting or using of a product in which the design is incorporated or to which it is applied, or storage of such items in these purposes.

While in the case of piracy, copyright violators are largely able to provide similar quality of original works and phonograms, then if counterfeiting, criminal groups do not want and cannot provide the required standards.

Scientists show that the main causes of widespread counterfeiting are as follows:
- relatively light punishment - from Aristotle's assertion "that a person commits an offense when not expecting any punishment;
- risks to life and health;
- technological progress in the media;
- lack of interest from the rights holders.

Steady economic growth (Report on EU customs enforcement of intellectual property rights, Results at the UE border – 2010, p. 11.) indicator of infringement is not determined by a single cause, but a conglomerate of reasons conducive to the development of this form of crime. At the same time, causes growth are answered and the geographical location of the state, level of development, purchasing power, unemployment, legal culture of society and so on.

It is known that the level of counterfeiting in a country is directly proportional to the indicators of corruption. So, the dark figure of crime, which represents the difference between real and apparent crime is more pronounced in countries with low respect to the legal provisions.

In a poll conducted in Hungary (Survey "Counterfeiting in Hungary", 2010-2012.), the results demonstrate social intolerance against counterfeiting, and those who commit such acts are considered criminals and should be punished most severely. As a result, Hungary is one of the European countries with the lowest rate of counterfeiting, and the most plausible reason is that the authorities had the support of society. So the combined efforts of all stakeholders, has shown that it is possible to reduce counterfeiting to a minimum indicator and the common interest prevailed in relation to the individual.
3. Piracy

Piracy means unlawful action, reproduction by any means of a work published or phonograms, film or computer program and illegal retransmission of radio or television signals through cable, fiber optic, satellite or any other similar process; it also includes uploading and downloading, if performed without the authorization of holders' rights (Rodica Parvu, Ciprian Romitan, „Dreptul de autor si drepturile conexe”, All Beck, București, 2005)

3.1 Software Piracy

International Data Corporation conducts, upon Business Software Alliance’s request, global studies about the software piracy phenomenon, from both a statistical and an analytical approach - software piracy rates and losses, causes, explanations and even recommendations for fighting it. According to last studies, worldwide piracy rate increased and, surprisingly, the growth could be well seen on emerging markets, such as: China, India, Russia, Brazil, while the same market in the USA and Western Europe less grew.

There are various factors that determine software piracy: level of intellectual property rights protection, commitment of the local authorities and governments, availability of pirated software, level of economic development and education, differences in culture and mentalities.

As well, the piracy is higher for the consumer software (by software typology) such as games, than for operating systems.

Therefore, efforts made on the local market both by authorities and by software publishers, must be continued in order to bring visible results.

3.2 Book Piracy

Book piracy has a promotional effect for less known works and artists. Digitization has impacted media industries by lowering the cost of distributing cultural goods. Illegal work rises up by downloading legal work, however. The effect of piracy protection varies across formats and titles. E-books, the closest substitute for online piracy, benefit from piracy protection by selling almost 20% units more units, while there is no significant effect on other formats. The effect is more pronounced for titles that have been successful prior to piracy protection, indicating that book piracy has a promotional effect for not so known artists.

Technological change has transformed media industries such as television, books, newspapers, music, movies. Digitization has posed challenges that can be attributed to increased competition through free online versions. These phenomena have got another effects: as the legal distribution of creative works has become easier, so has the illegal distribution of these works. The question that arises is: “How does illegal distribution of content, affect the legal sales of a work? Can works be effectively protected from piracy? (Reimers, 2014)

Tarja Koskinen - Olsson - the Honorary President of the International Federation for the Bodies of reproductive rights' protection, says that if photocopies are made without the consent of the holders' rights and they are not paid remuneration, this creates great harm to their legitimate interests. (Koskinen, 2005)
The European Union has established the notion of “remuneration for the private copy” - done under the law.

According to most representative publisher houses in Bucharest (Universul Juridic, C.H. Beck, Hamangiu, Lumina Lex, Pro Universitaria, etc..), global economic loss due to piracy of such works through photocopying massive scientific papers, treaties, courses, amounted to over 1.5 million annually.

3.3 Book Piracy Statistics – View Of Some Countries

3.3.1 United Kingdom

Over a three month period that ended in January 2013, almost 400 million digital files were pirated by Internet users in the United Kingdom. According to a study by Ofcom, 18 percent of Internet users in the UK over the age of 12 accessed a pirated copy of an entertainment service. These files included movies, music, television, software and video games. In the previous three month period, the number of Internet users who accessed pirated files was 16 percent. Out of the 18 percent who accessed a pirated file, the study states that 5 percent of that figure only use illegal services. 59 percent of the digital piracy users in the UK are male, and 68 percent are under the age of 34. (Sweney, 2013)

3.3.2 India

Children who sell pirated copies of books on the streets of Mumbai, India are paid roughly $2 (100 Indian Rupee) for each book that they sell. An essay published in the New York Times interviewed child who sells three pirated books a day and thus was earning much money than his father, who was working as a plumber. Most of the children who sell pirated books in India are unable to read. (Faleiro, 2013)

3.3.3 United States

A survey conducted by Book Industry Study Group found that during the Spring 2013 semester, 34 percent of college students in the United States illegally downloaded course material from unauthorized websites. In 2010, the percentage of textbook piracy 20 percent. In addition to unauthorized downloads, 31 percent of students in the survey stated that they photocopied scanned chapters from other student textbooks. The rate of unauthorized copying in 2010 was 21 percent. According to a report by the Government Accountability Office, the costs of textbooks has been rising by 6 percent each year. (Schick, 2013)

4. Plagiarism

Although plagiarism is not a modern phenomenon, it became today a real alarming issue because technological development, as I said, that offers countless ways remittance information.

A very important criterion is that plagiarism requires intention. First, the plagiarist must be aware of having copied. A legitimate error in copying and pasting (always assuming
that it can be demonstrated that a legitimate error was involved) is not plagiarism. (Pecorari, 2013)

“Plagiarism is presenting someone else's work as if it were your own, whether you mean to or not”. Intention was the sole point on which policies were found to be contradictory. There are nonetheless a number of reasons for concluding that plagiarism in its central sense, involves intentional deception. (Pecorari, 2001)

It is spending considerable time attempting to distinguish between deliberate and unintentional plagiarism.

Thereby, prototypical plagiarism is a form of cheating, an act of deception, in an attempt to gain unearned credit. It raises another problem: what to do in the cases of merging sources – patchwriting – which is not intentionally deceptive but is indicative of a developmental stage in learning the skills and techniques of academic writing? The answer comes by citing sources. When doing this, a person cannot assume that paragraphs belong to him/her and readers will be able to make the difference between them, without being confused.

Plagiarism includes not only written work, such as books or journals, but data or images that may be presented in tables, diagrams, designs, plans, photographs, film, music, formulae, Web sites and computer programs. Penalties associated with plagiarism extend from canceling all marks for the specific assessment item or for the entire unit through to exclusion from your course.

4.1 Achievement Motivation: Ego Versus Social. Collective versus Individual Orientation

I refer to students' different points of view in this case - the way they appreciate plagiarism, as it follows: students at Universities in England – authors depict a “sense of vertigo at the idea of accusation” and describe a students' fear at the very real possibility of unintentional plagiarism due to “lack of skill in referencing; another student acknowledges the historical contingencies scholarly research and says that the core material provided by teachers is drawn upon by students as they rely on “leading authors as a way of learning” (Wendy Sutherland Smith, Plagiarism, the internet and Student Learning: Improving Academic Integrity, Taylor and Francis, 2008, pp.94)

Chinese students have got a totally different point of view: their notion that society's pressure to achieve success is more influential the personal motivation to succeed, may be a concern relevant to students on a broader scale.

The authors note that in Western cultures, intrinsic motivation - the deep desire to learn ad understand – is the key to learning success. For Chinese students, however, intrinsic and extrinsic motivational forces, may intervene. The authors assert that: “for Western students, intrinsic motivation is an antecedent of the desired deep learning strategies.. but for Chinese students, the adoption of deep strategies may be activated by a head of mixed motivational steam: personal ambition, family face, peer support, material reward, possibly even interest. They conclude that “in short, South-East Asian nations are prepared to engage in learning with deep respect for the institution, moreover, for elders and teachers. Japanese
and Chinese children are groomed for the demands of schooling before they get there, in a way that Western children usually are not” (Sutherland, 2008)

Students negotiate a complex relationship between imitations and invention, in which they are expected to take up the opportunity discerned in the writing prompt without acknowledging its presence explicitly in their essay. It can be seen how students negotiate the possible range of relationships, to various degrees of success, between imitation and invention as defined between these two genres. (Eisner, 2008)

The next case allows us to examine how uptake can be a site of intervention when it exceeds a genre's normalized relation between imitation and invention: “My name is Rigoberta Menchu. I am 23 years old. This is my testimony. I didn't learn it from a book, and I didn't learn it alone. I'd like to stress that it's not only my life, it's also the testimony of my people. It's hard for me to remember everything that has happened to me in my life.. The important thing is that what has happened to me has happened to many other people too. My story is the story of all poor Guatemalans. My personal experience is the reality of a whole people. At the same time, political and academic supporters hailed the book for its literary strength, for its ability to give voice to voiceless and create change in the world.

Plagiarism is the term used more and more lately, and a concrete definition can not be found anywhere, currently. However, there are some issues that need to keep in mind, in order to avoid any unpleasant situation.

Some authors of scientific papers, in conferences where they are invited, do not mention that some smaller or larger paragraphs, included in new works, are taken from their previously published papers. Therefore, some suggestions in this regard that authors have to take into account, have come to light (Romitan, 2008)

- mentioning that their new works contain texts previously published in other works;
- material submitted for publication to several magazines in the country or abroad, have to mention in the footnotes, as they have been published or are turning up in another magazines;
- if a paper has been published, or is turning up into another journal, the author should obtain the consent of the previous editor.

5. Conclusions

The legal protection of creation encourages investment and lead to other innovations and the promotion and protection of intellectual property stimulates growth and leads to the creation of new jobs, new industries and improving the quality of life

Scope of the criminal / crime / offenses in intellectual property is varied and manifest through the production, development, build, change, redistribution of goods, smuggling, counterfeiting, piracy or other criminal means used to obtain a certain share of the legal economy product.

This sector is the most dangerous criminal element structural economy and it attributed all criminal acts that contribute unique or systematic offenders, understood as subjects of economic activity illegal, anticompetitive etc.
The fight against counterfeiting and piracy is a major objective of the European Commission, which in its Communication to the European Parliament calls for enhancing them.

The terms "counterfeiting, piracy and plagiarism 'should be understood as referring to the infringement of all intellectual property rights, as stated in the Declaration Commission concerning Article 2 of Directive 2004/48 / EC; OJ L 94, 13.4.2005, p 37

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Acknowledgement

This paper has been financially supported within the project entitled “Horizon 2020 - Doctoral and Postdoctoral Studies: Promoting the National Interest through Excellence, Competitiveness and Responsibility in the Field of Romanian Fundamental and Applied Scientific Research”, contract number POSDRU/159/1.5/S/140106. This project is co-financed by European Social Fund through Sectoral Operational Programme for Human Resources Development 2007-2013. Investing in people!”