IP enforcement over the Internet : monitoring Phase 2

Olivier Bomsel

Cerna, MINES ParisTech

Conference on piracy & counterfeiting
Brussels, 13 May 2008

QuickTime™ et un
décompresseur TIFF (non compressé)
sont requis pour visionner cette image.

The IP content distribution problem

- IP rights shape vertical relations down to the consumer
- IP goods are distributed through specialized technical systems
- Digital innovations generate new distribution "systems"

IP rights

Distribution contracts (versions/territory)

Publishers

Distributors

Retail Network Operators

Terminal equipment (consumer)

- Digital distribution involves investments of different parties
- Each party competes for revenues
- Moral hazard (piracy incentives) occurs all along the chain
- It creates distortions both in distribution and in retail markets
- How to enforce efficiently IP rights ?

QuickTime™ et un décompresseur TIFF (non compressé) sont requis pour visionner cette image.

The case of Internet piracy

- Broadband networks are new content distribution systems
- **Phase 1** : the broadband industries use free content to boost their roll-out.
  - Their consumers accept to pay for equipment and access, not for content => massive IP infringement
- **Phase 2** : once the roll-out is over, the ISPs have to become fair distributors.
  - But they don't want to restrict their service, especially if their competitors don't
- How to set up rules enforcing IP rights while avoiding free-riding among distributors ?

QuickTime™ et un décompresseur TIFF (non compressé) sont requis pour visionner cette image.

The French voluntary agreement

- **Principle** : to raise the cost of piracy for the user
- After two strikes, the alleged infringer loses his Internet access
- A watchdog (HADOPI) relays the warnings of the right holders through the ISP
- After two strikes, the ISP is requested to suspend its service
- The infringer is blacklisted

- Nov 2007 : a voluntary agreement is signed by all parties, right holders and ISPs.
- The watchdog status and power is to be defined by law (under discussion).
- The watchdog prevents free-riding in applying the sanction. It keeps the ISP irresponsible for piracy.
- The system is based on the reliability and the deterrence of the sanction
- Other legal sanctions can still apply
- An official indicator of piracy is published monthly to monitor the system

QuickTime™ et un décompresseur TIFF (non compressé) sont requis pour visionner cette image.