

Germany gives hope on IP crime

Germany's law makers have agreed measures that introduce some of Europe's toughest penalties for the illegal downloading of music and films. Under the new legislation, individuals risk a maximum of two years in prison for unauthorised acts of downloading, while those who illegally take material for commercial reasons could end up behind bars for up to five years.

And quite right too. Copyright owners are entitled to receive protection from thieves who believe they are justified in taking material for free. They are not.

The predictable outrage of German consumer groups should not mask the fact that most of

those who use the net to access music and films from unauthorised sites know exactly what they are doing. Those who do not will have nearly two years to absorb this fact: the Act does not come into force until the beginning of 2007.

No-one should underestimate how hard it was politically for this legislation to reach the statute books. Germany is among the most computer-literate countries in the world and its citizens download millions of films and songs a year. You are not going to be popular if you seek to curtail something that many consider to be a perfectly normal activity. But just because it is normal does

not mean it is right; even if there are legitimate criticisms to be made of the failure of many branches of the German entertainment industry to react quickly enough to the way in which the internet has changed traditional business models.

The fact that Germany's politicians are willing to risk negative headlines offers hope to all rights owners that suffer as a result of IP crime. A well-presented, well-targeted case that accurately details the harm suffered from illegal behaviour can go a long way. Trademark owners, who have yet to assemble counterfeiting figures that can stand up to proper

scrutiny, should take note.

But despite this positive development, Germany's music and film industries are not out of the woods yet. It is one thing having legislation, it is quite another to have it enforced. The challenge now is to get state prosecutors to give the matter their attention. For this to happen, it is likely that industry itself is going to have to take the lead by monitoring illegal use carefully and assembling compelling evidence that will make the jobs of prosecutors as easy as possible. Rights owners may not like having to invest yet more time and monetary resources to do this but in a world where enforcement authorities prioritise crime fighting activities, they have no choice.