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2026 AIPPI World Congress – Hamburg
Adopted Resolution
10 October 2026

Resolution

2026 – Study Question - Copyright

Online infringement and territoriality considerations

Background:

1) This Resolution concerns the application of the principle of territoriality to copyright in the digital era and, in particular, it aims to identify the criteria for the determination of the competent jurisdiction and applicable law in case of online copyright infringement.

2) The following definitions are not subject to harmonisation proposal but meant to clarify the meaning of the terms used in this Resolution:

- The term "Private International Law" means national/regional provisions, their interpretation, as well as treaties (e.g. Berne Convention), that are applicable, in a specific jurisdiction/country, in order to determine the competent jurisdiction and the applicable law.
- The term 'Domicile' means:
  - for a natural person, the place of his/her habitual residence/permanent home.
  - for a legal person, the place where it has its statutory seat, central administration, or principal place of business.
- The term "Place of Infringement" means the place of the events which gave rise to or are the origin of the copyright infringement.
- The term "Place of Damage" means the place where the damage occurred, i.e. the place where the infringing act produced its effects, e.g. places of communication of works, meaning communication to users.

- The term "Accessibility" means one of the two theories used to determine the Place of Damage, referring to whether the public in the relevant country or region can access the website or app (application software).
- The term "Targeting" or "Targeted Country" means one of the two theories used to determine the Place of Damage, referring to whether the website or app is directed or targeted at the public in the relevant country or region.
- The term "Website Operator" means a natural or legal person who is responsible for the content and presentation of a website, app., etc., including deciding what is published and how it is accessed by the public.
- The term "Website Hosting Provider" means a service provider that supplies the infrastructure and technical resources required to run and display a website on the internet, such as server space or connectivity.
- The term "Domain Name Hosting Provider" means a service provider that registers, manages, and maintains domain names, on behalf of its holder. It does not include domain name regulatory institutions, such as ICANN, JPNIC, etc.
- The term "Geoblocking" means a technical measure that restricts or prevents access to online specific contents by users located in a particular country or region, typically by reference to the user's IP address or other location-identifying data.

3) 36 reports were received from AIPPI's National and Regional Groups and Independent Members providing detailed information and analysis regarding national and regional laws relating to this Resolution. These Reports were reviewed by the Reporter General Team of AIPPI and distilled into a Summary Report (which can be found at www.aippi.org).

4) At the AIPPI World Congress in Hamburg in 2026, the subject matter of this Resolution was further discussed within a dedicated Study Committee, and again in a full Plenary Session, following which the present Resolution was adopted by the Executive Committee of AIPPI.

AIPPI resolves that:

1) Harmonisation of Private International Law, and the use and legal effects of geoblocking, in the context of online copyright infringement is desirable, due to the cross-border nature of the internet.

Competent court / Conflict-of-jurisdiction

2) Jurisdiction for online copyright infringement should be established where there is a connecting factor. Following connecting factors should be applicable:
    - the Defendant's Domicile
    - the Place of Infringement
    - the Place of Damage.

3) The Defendant's Domicile should be a connecting factor to determine the competent court in cases of online copyright infringement.

- For the purposes of identifying Defendant's Domicile, Domicile of the Website Operator and the Domicile of the Website Hosting Provider, in each case to the extent they can be considered as a copyright infringer, should generally be considered relevant.
- The Domicile of the Domain Name Hosting Provider should not be a relevant factor unless the Domain Name Hosting Provider can itself be considered complicit in the infringement.
- For the purposes of identifying the Defendant's Domicile in disputes involving multiple infringers (e.g., a Website Operator and a Website Hosting Provider and/or Domain Name Hosting Provider, to the extent they can be considered as infringers upon the circumstances of the case), the Domicile of any of such infringer should be considered relevant, provided the claims presented to the court are so closely connected that it is expedient to hear and determine them together to avoid rights holders from being forced to bring proceedings in multiple countries and the risk of irreconcilable judgments resulting from separate proceedings.
- Where jurisdiction is based on the Defendant's Domicile, the competent court should be entitled to hear and decide the full dispute in any country or jurisdiction worldwide, including multi-territorial claims, each act of infringement being subject to the applicable substantive law(s) of the territory(ies) for which the protection is claimed.

4) The Place of Infringement should be a connecting factor to determine the competent court in cases of online copyright infringement.

- For the purposes of identifying the Place of Infringement, the place of infringing acts should be relevant, e.g. the place from where the infringing content was uploaded and/or made available online or where an AI system/model is trained, depending on the applicable law.

- Where jurisdiction is based on the Place of Infringement, the competent court should be entitled to hear and decide the full dispute in any country or jurisdiction worldwide, including multi-territorial claims, each act of infringement being subject to the applicable substantive law(s) of the territory(ies) for which the protection is claimed.

5) The Place of Damage should be a connecting factor to determine the competent court in cases of online copyright infringement.

- For the purposes of identifying the Place of Damage, the Accessibility to the work should serve as the starting point for closer examination of the Place of Damage, but it should not be a sole decisive criterion. Whether the jurisdiction has been targeted by the relevant Website Operator should also be considered. The relevant criteria for assessing the jurisdiction of the Targeted Country should include:
  - the language of the website;
  - the currency of payment;
  - market orientation;
  - public targeted by promotional activities; and/or
  - the existence of business facilities or operation in the country.

  Other factors may be considered as indicating targeting of a specific market.
- Where jurisdiction is based on the Place of Damage, the competent court should be entitled to hear and decide the claims relating to the damages, and prejudices occurring within the territory of the national court.

Applicable law / Conflicts-of-laws rules

6) The law of the country for which territory protection is claimed (lex loci protectionis), as enshrined in Article 5(2) of the Berne Convention, should be the central criterion to determine the law applicable to the issue of online copyright infringement.

7) The expression "the law of the place for which territory protection is claimed" should be interpreted, in view of the claims presented by the plaintiff, the territorial scope of national copyright laws, and the characteristics of the infringement, as follows:

- to refer to the Law of the Place of Damage, i.e. the law of the Targeted country; or

- to refer also to the Law of the Place of Infringement (in particular the place of uploading the infringing content).

8) In cases of online copyright infringement involving multiple jurisdictions, the parties may agree on the law to be applied to all or part of the dispute, to the extent permitted by the applicable rules of Private International Law.

Geoblocking

9) Geoblocking should be considered an appropriate and proportionate means of preserving the territoriality of copyright in the digital environment.

10) Geoblocking measures should be a substantial part of the overall assessment made by the courts of measures that could be adopted by operators (e.g. Website Operators) in order to achieve the goal to prevent online copyright infringement in countries to which they are not allowed to make available such materials (either by contract or by law).

11) Geoblocking might not always be sufficiently technically effective in preventing access to online copyright material. Therefore, to raise such effectiveness to prevent or discourage access to content in a blocked country, Geoblocking should to the extent technically and reasonably feasible and proportionate in the circumstances, be supported with proportional complementary measures, such as contractual and informational safeguards (territorial terms of use, alert-and-confirm screens, redirection), and international cooperation on notice-and-takedown and on the recognition of blocking orders across jurisdictions.