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On 6 May 2024, the Royal Decree of 18 April 2024 concerning the establishment of the service for the fight against copyright and related rights infringements on the Internet and the illegal operation of online gambling games was published in the Belgian Official Gazette. This Royal Decree provides for the entry into force of a new judicial procedure for handling large-scale online copyright infringements in summary proceedings as of 1 June 2024. To ensure the effectiveness of the provisional measures that might be granted within this new procedure, the Royal Decree also establishes a new service with specific competences.

## LARGE-SCALE ONLINE COPYRIGHT INFRINGEMENT

### NEW JUDICIAL PROCEDURE

#### THE NEW JUDICIAL PROCEDURE IN SUMMARY PROCEEDINGS

As of 1 June 2024, the new judicial procedure in summary proceedings established by the law of 19 June 2022 transposing Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market (“DSM Directive”) will enter into force. This new procedure, applicable solely to manifest and substantial online copyright infringements (e.g. flagrant counterfeiting), aims to swiftly and efficiently terminate large-scale online copyright infringements. Other IP rights infringements (trademark, patent, design, ...) cannot be ceased using this procedure.

Unlike “ordinary” summary proceedings, this new procedure can be introduced, at the plaintiff’s choice, by unilateral (*ex parte*) petition or by (*inter partes*) writ of summons. In both cases (extreme) urgency is legally presumed.

The President of the French-speaking or Dutch-speaking enterprise court of Brussels has exclusive jurisdiction and will be able to issue provisional measures against the alleged infringer and intermediaries (such as internet service providers, social media platforms, online market places, website hosting providers, etc.), if:

1. the copyright whose protection is invoked is apparently (*prima facie*) valid;
2. the infringement appears clear and substantial; and
3. after weighing the interests, rights and freedoms involved, including the public interest, the facts and, where appropriate, the evidence relied on by the plaintiff are such that they reasonably justify the provisional measures requested.

The provisional measures that can be obtained are broad, and may include an injunction made to a website host or platform operator to remove



infringing content, or an order made to an internet service provider in Belgium to block access to such content. If the copyright infringement is subsequently denied following opposition by the alleged infringer or in proceedings on the merits, the court can order the party who obtained and enforced the provisional measures to appropriately compensate the original defendant for any damage caused.

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## IMPLEMENTATION OF A SERVICE FOR COMBATING COPYRIGHT AND RELATED RIGHTS INFRINGEMENTS ON THE INTERNET AND THE ILLEGAL OPERATION OF ONLINE GAMBLING GAMES

Another significant novelty established by the Royal Decree is the establishment of a “Service for Combating Copyright and Related Rights Infringements on the Internet and the illegal operation of online gambling games” (“Service”). The provisional measures granted within the framework of this new summary proceedings may, at the judge’s discretion, be subsequently specified or adapted by this new Service.

The establishment of this Service should therefore yield two positive outcomes. First, it will address the obsolescence or ineffectiveness of a provisional measure in light of changing circumstances. Second, this Service should also solve the practical challenges that frequently arise when enforcing cease-and-desist orders, such as the emergence, after a cease-and-desist order has been issued, of new ways of accessing illegal online content in order to circumvent the order (for instance, when the infringing content reappears on other websites or is made accessible via domain names or Internet addresses other than those initially used, e.g. mirror sites).

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## CONCLUSION

With this new procedure, copyright holders now have a swift and efficient means to put an end to obvious large-scale online copyright infringements. Such a novelty is welcome for copyright holders, and could perhaps serve as an experiment that could later be extended to challenge other IP rights infringements as well.

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**For any questions or assistance, please reach out to our  
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