

Bulgaria: Commercial case No.199 of 2014, Supreme Court of Cassation of Bulgaria, 218, 16 June 2015

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Teodora Tsenova (Institute of Private International Law)

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The time at which extraction from an electronic database takes place is the time at which the materials being extracted are placed on a medium other than that of the original database, independently of whether they are placed there permanently or temporarily (Case 545/07, *Apis Hristovih EOOD v. Lakorda AD*, paragraph 45). The time of extraction is essential for civil proceedings for infringement of database rights and the burden to prove this specific moment lies with the claimant (in addition to proving the fact of infringement). In proceedings for infringement of database rights the content of the respective databases should be compared as at the time of claimed extraction.

Where the claimant claims extraction from its database to one which is no longer used by the defendant, then the fact of illegal extraction at the relevant moment has to be proven. In such a case the claimant has legal standing to file a claim for a finding of the fact of infringement. If the claimant claims illegal extraction of a database to one that continues to be used at the time of filing of the claim, then the claimant may also request that the court orders discontinuation of the infringement. In such a case, it should also be proven that the use of the extracted database continues. Finally, if damages are claimed, the duration of use of the extracted content is of relevance for determination of the damages suffered.

A [full summary](#) of this case has been published on [Kluwer IP Law](#).