



EUROPEAN PARLIAMENT

2014 - 2019

Committee on the Internal Market and Consumer Protection

2014/2151(INI)

25.3.2015

OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Legal Affairs

on ‘Towards a renewed consensus on the enforcement of Intellectual Property Rights: An EU Action Plan’
(2014/2151(INI))

Rapporteur: Catherine Stihler

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SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Recognises that the enforcement of intellectual property rights (IPRs) is not merely a driver for jobs and growth across the Union but is essential for the proper functioning of the single market, especially in view of factors such as share of EU GDP, employment, and the range of industries which benefit from and exploit IPRs, and plays a key role in stimulating innovation, creativity, competitiveness and cultural diversity;
2. Underlines that IPRs are not just copyrights but also trademarks and patents, among others, and that each of these is vital to the value of Europe's goods and services;
3. Welcomes the Commission's Action Plan with its emphasis on tackling enforcement, including by adopting a 'follow the money' approach aimed at ensuring that those who are significant IPR offenders, in particular on a commercial scale, will be targeted and suffer financial loss; stresses that the prime responsibility for IPR enforcement rests with the Member States' public authorities;
4. Stresses the need for the Commission's actions on IPR enforcement to be adapted to the growth of the Digital Single Market and to address both digital and physical IPR infringement equally; notes that counterfeit and IPR infringing physical goods are increasingly being traded and sold via online marketplaces, where Member State authorities have limited abilities to control sales; stresses the need to involve marketplace platform owners in all efforts to enforce IPRs, including efforts to remove counterfeit goods and ban sellers of counterfeit goods from their sites;
5. Recalls that a voluntary Memorandum of Understanding on the Sale of Counterfeit Goods via the Internet has been in existence since May 2011, and calls on the Commission to assess the results of the implementation of this MoU and to report back to Parliament;
6. Recognises the importance of voluntary Memoranda of Understanding that establish firm principles agreed upon during stakeholder dialogues, as they will help reduce commercial-scale IPR infringements in the online environment, and looks forward to a report back on the success of any voluntary measures on a regular basis;
7. Stresses the need to establish performance benchmarks in respect of these agreements, so as to gauge their effectiveness and keep European citizens informed;
8. Believes that the Commission should also consider the effectiveness of existing initiatives and possible future activities with regard to the role of intermediaries in tackling IPR infringement;
9. Stresses that IPR infringing products not only cause a direct loss of revenue to legitimate businesses and the European economy but also lead to direct and indirect job losses, to reputational damage and to increased enforcement costs, whilst often having links with organised crime, in addition to posing a potential threat and being a potential source of

damage to consumer health and safety; stresses, in this context, that product quality and safety is not automatically linked to product authenticity, and that IPR status and the possible infringement thereof is governed by a different set of rules than consumer product safety and quality;

10. Compliments the Commission on its engagement with consumers, in particular those of the younger generation, who are unaware of the consequences of such infringements, via public information campaigns and other relevant means, and encourages the Commission and the Member States to further develop awareness actions aimed at specific audiences and relevant markets, for example by developing an online consumer warning system; welcomes, in particular, the efforts of the Observatory located within the Office for Harmonisation in the Internal Market (OHIM) that are aimed at raising awareness among consumers of the benefits of choosing IPR respecting products and facilitating access to such products;
11. Believes, at the same time, that consumers should be better able to identify infringing offers so that they can decide not to proceed with a given purchase; deplores the fact that the Commission's action plan does not include any action designed to improve consumers' ability to identify infringing goods and contents, and calls on the Commission to reflect further on the development of specific tools, in particular with regard to the sharing of best practices;
12. Asks Member States' authorities to ensure that IPR infringing goods that are a safety risk are included in RAPEX notifications, regardless of whether these goods are sold legally or illegally in the Member State in question;
13. Looks forward to receiving information on existing national initiatives addressing IP civil enforcement for SMEs by the end of 2015; welcomes the forthcoming Green Paper on the need for future Union action based on the best practice found in nationally financed schemes assisting SMEs to enforce their IP rights; calls on the Commission to take into account SMEs when drafting legislation and reiterates that the 'think small first' principle should be applied at all times;
14. Emphasises that for SMEs, clear and manageable structures for enforcement of their IPRs are crucial;
15. Requests the development of mediation services and other alternative dispute resolution schemes, in particular for SMEs, in the area of IPR;
16. Welcomes the Commission's proposed Green Paper on consulting stakeholders on the impact of chargeback and related schemes to tackle commercial-scale IP infringements and to assess the need to take more concrete actions in this field, in both the online and offline context; believes that the introduction of an EU-wide right to 'chargeback' on all unwillingly bought counterfeit goods could be a positive benefit for consumers and encourage traders to verify goods before putting them on sale;
17. Supports the emphasis placed in the Action Plan on the importance of working with Member States, sharing information and best practice, and coordinating activities on crossborder enforcement; welcomes the establishment of the Member State Expert Group on IP Enforcement, as sharing best practice will help with the development of policies and

the implementation of the Action Plan, building upon data and research prepared nationally and via the Observatory;

18. Notes that training for development of sectorial IPR enforcement at national level is essential, as is the role which the Observatory located within OHIM will play in helping train Member State authorities and sharing best practice, in particular by promoting digitally accessible value for money campaigns and coordinating these with the relevant agencies and bodies;
19. Emphasises that the duty of the Office for Harmonisation in the Internal Market (OHIM) to obtain data documenting IPR infringements from the industry and to generate reliable data and analysis of the real impact of infringements on economic actors should be part of the ten-point action plan and of the basis for further actions in the different sectors most affected; calls on the Commission in this connection to improve the ACIST database developed by the OHIM, so as to provide information concerning counterfeiters and ensure that counterfeit products are not purchased by contracting authorities;
20. Stresses that in order to achieve a meaningful enforcement of IPR, full information should be available and accessible regarding the type of IP rights (patent, trademark and copyright, for example) concerned in each situation, the status of the validity of these rights and the identity of the owners, including in the form of metadata in the case of digital files;
21. Highlights the vital role public authorities play on all levels, including local, regional and national, through procurement and purchasing, and commends the Commission's desire to develop, promote and publish a guide on best practices to avoid public authorities on all levels purchasing counterfeit goods;
22. Further notes the inclusive stakeholder consultation proposals on applying EU due diligence throughout the supply chain, including to providers of payment services, to prevent IP infringements, and asks that the outcome of the consultations and the voluntary EU due diligence scheme be presented to Parliament on an annual rather than biennial basis;
23. Welcomes any potential actions on due diligence throughout the supply chain, which leads to fewer IP infringing goods; stresses that such actions must be targeted in nature, without creating additional administrative burdens on the average trader, and flexible, as IP infringers move from one product to another to avoid controls;
24. Calls on the Commission to make all stakeholder consultations transparent and timely and to ensure that the outcome of consultations is analysed both qualitatively as well as quantitatively and shared with stakeholders, including Parliament and other EU institutions;
25. Calls on the Commission to bring forward necessary proposals in line with stakeholders if voluntary measures are found not to be working after the first publication of the 'IP in the EU economy' report, which should be published annually;
26. Stresses that any IPR-related legislation needs to reflect the development of the digital era, taking into account the online environment and various means of distribution,

guaranteeing a balanced approach representing the interests of all stakeholders involved, and in particular of consumers and their right of access to content, whilst at the same time promoting artists, creators and innovation in Europe;

27. Is of the opinion that enforcement of intellectual property rights should fully respect the principle of proportionality, balancing the rights of content owners with those of the users, which need to be fully compatible with the Charter of Fundamental Rights of the European Union and data protection rules, namely the protection of personal data, respect for private life and the right of access to justice.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	24.3.2015
Result of final vote	+: 33 -: 1 0: 3
Members present for the final vote	Dita Charanzová, Carlos Coelho, Sergio Gaetano Cofferati, Lara Comi, Daniel Dalton, Nicola Danti, Pascal Durand, Vicky Ford, Ildikó Gáll-Pelcz, Evelyne Gebhardt, Maria Grapini, Antanas Guoga, Sergio Gutiérrez Prieto, Liisa Jaakonsaari, Antonio López-Istúriz White, Jiří Maštálka, Marlene Mizzi, Jiří Pospíšil, Virginie Rozière, Christel Schaldemose, Andreas Schwab, Olga Sehnalová, Igor Šoltes, Ivan Štefanec, Catherine Stihler, Mylène Troszczynski, Anneleen Van Bossuyt, Marco Zullo
Substitutes present for the final vote	Roberta Metsola, Adam Szejnfeld, Ulrike Trebesius, Sabine Verheyen, Inês Cristina Zuber
Substitutes under Rule 200(2) present for the final vote	Jonathan Arnott, Philippe De Backer, Norbert Lins, Andrey Novakov