

<p>Please explain, specifying in particular what types of infringements of IPRs could be covered, and what kind of measures should be granted, in the course of such fast track proceedings:</p>	<p>alleged entertainment industry copyright infringements. soleley proven damage to be used as measure, not alleged/estimated damage. damages from repeated infringements by same subject may be added up (to prevent "scaleout"-commercial infringement). immediate final dismissal of case if value of proven damage below watermark for absolutely distinct commercial nature of proceedings, at least 10K €.</p>
<p>Do you think it would be useful to establish, at EU level, specific (in addition to Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European small claims procedure) model rules for small claims proceedings for civil law cases concerning infringements of IPRs?</p>	<p>YES</p>
<p>Please explain, specifying in particular what types of infringements of IPRs could be covered by such small claims proceedings:</p>	<p>alleged entertainment industry copyright infringements. soleley proven damage to be used as measure, not alleged/estimated damage. damages from repeated infringements by same subject may be added up (to prevent "scaleout"-commercial infringement). immediate final dismissal of case if value of proven damage below watermark for absolutely distinct commercial nature of proceedings, at least 10K €</p>
<p>Do you think it would be useful to establish rules for fast track proceedings for litigation of infringements of community trademarks and community designs?</p>	<p>YES</p>
<p>Please explain:</p>	<p>especially usage of trademarks/designs for fanart, satirical or criticising purposes. soleley proven damage to be used as measure, not alleged/estimated damage. damages from repeated infringements by same subject may be added up (to prevent "scaleout"-commercial infringement). immediate final dismissal of case if value of proven damage below watermark for absolutely distinct commercial nature of proceedings, at least 10K €</p>
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What safeguards of defendant's rights should be put in place in case of the EU-level fast track/small claims proceedings concerning infringements of IPRs?

cost/royalty free cease and desist order should be acquirable as soon as any damage is proven. c-a-d-order topic must be specific to the ipr infringed in this special case (no broadband "you must not ever infringe anything else from us or you owe us USD \$1bn" or alike) because IPR legislature and claims are way too fuzzy for joe plumber to fully understand

Right of information

Mechanisms to inform about the alleged infringement and to impede access to goods and services allegedly infringing IPRs

Do you consider the possibility to use notification mechanisms to be a useful tool to inform the intermediary about the fact that his services are being (allegedly) used to infringe an intellectual property right and thus bring a stop to the infringing/allegedly infringing activity?

NO

Please explain:

too prone to be abused

Do you consider the possibility to use notification mechanisms to be a useful tool also where the infringements/alleged infringements occurred in, or the intermediaries are incorporated in, a Member State other than the one in which you operate?

NO

Please explain:

too prone to be abused in case of intermediaries

Do you consider the possibility to use notification mechanisms to be a useful tool to inform the infringer/alleged infringer about the infringing/allegedly infringing character of his activity?

YES

Please explain:

In cases of commercial scale infringements of intellectual property rights, do you consider that there should be particular consequences (i.e. including e.g. suspension of the infringer's/alleged infringer's account) resulting from a notification mechanism?

NO

Please explain:

too prone to be abused if there is no severe backlash that might and does hit those that send unjustified notices. sending unjustified must do more damage to the sender than the alleged IPR claim, otherwise there's nothing to lose in sending large amounts of spurious notifications.

In cases of notorious infringers of intellectual property rights, do you consider that there should be particular consequences (i.e. including e.g. suspension of the infringer's/alleged infringer's account) resulting from a notification mechanism?

NO

Please explain:

from what scale is it notorious? 2 consecutive alleged infringements? 3? 500? without a fix scale for this, way too prone to be abused.

Requirements for granting injunctions

Injunctions imposed on intermediaries

Third party facilitation of infringements of IPRs

Corrective measures

Should the competent judicial authorities privilege one specific type of corrective measure? YES

Please explain which one:

revelation of customer data to court, where available. - still, no duty to record customer data; would be too much of an overhead for cost free services - also, no revelation of _any_ customer data to party claiming infringement prior to legally valid verdict in favor of party claiming infringement

Should the competent judicial authorities be able to order that the goods that were found to infringe an intellectual property right should be disposed of outside the channels of commerce? YES

Please explain under which conditions should the competent judicial authorities be able to order disposal outside the channels of commerce:

Should the consent of the right holder constitute a *conditio sine qua non* for disposing of the goods that were found to infringe an intellectual property right outside the channels of commerce? NO

Please explain how in your opinion the infringing goods could be disposed of outside the channels of commerce:

if it's physical good whose only defect is not to be licensed, (eg generic pharmaceuticals that do have proper formula) it should be made available for charitable purposes. make this a tax deductible donation for the rights holder and they'll happily agree.

Would you be in favour of introducing sanctions for a party who, notwithstanding that the infringing goods were subject to corrective measures ordered by the competent judicial authorities, allowed these goods to subsequently return to the channels of commerce?

Damages

Would you agree that the level of damages awarded to the right holder in civil law cases concerning an infringement of IPRs should at least equal the profits made by the infringer? NO

Please explain:

There must be a modulo. If the infringer gains no profit (eg online p2p sharing), he's not working in a commercial outfit. awarded damages in this case have to be zero. there are no damages that can be proven, as there is no assurance whether a/any/every p2p sharer would else-how have purchased the shared content; more the contrary. ipr holders should be compensated for this "personal use" via a kind of general "culture fee" that is distributed amongst content creators (NOT copyright holders).

Use of IPR enforcement measures for frivolous and/or anti-competitive purposes