

Sui generis right of a database maker	NONE
Rights of the creator of the topographies of a semiconductor product	NONE
Trademark rights	NONE
Design rights	NONE
Patent rights	NONE
Geographical indications	NONE
Utility model rights	NONE
Plant variety rights	NONE
Trade names	NONE
What is the value of your IPR portfolio?	
How do infringements of your intellectual property rights impact the total value of your IPR portfolio (eg. estimated annual loss of turnover)? How do you calculate this impact?	According to the 2011 FAPAV-IPSOS research, 37% of Italian consumers have used the unlawful copy of an IP-protected work at least once during the period analyzed, and an estimated 384 million infringements took place; an increase of almost 30 million in relation to the previous year. In financial terms, the impact is estimated to result in a loss of € 500 million for the lawful distribution channels in the period under consideration. Over half of the aforesaid amount comes from acts of Internet piracy. Among the legitimate distribution channels, the worst damage is inflicted to video sell-through (€ 150 million) and rentals (€ 130 million). The lost value for the theatrical business is over € 100 million.
What is the substitution rate between original goods and counterfeited/pirated goods in your sector according to your estimation? How do you measure this rate?	
How do infringements of your intellectual property rights impact your investment in research, development and innovation (eg. estimated loss in investments/amount of investments not undertaken)?	The enforcement of intellectual property rights belonging to FAPAV members (i.e. some of the most important Italian companies of production and distribution of audiovisual and cinematographic works) is critical to the performance and growth of their business. On one hand, IP rights allow film studios to protect the works they create in order to license and sell them profitably (e.g. cinema, DVD, Blu-ray, television, internet, etc.). On the other hand, IP rights are essential to attract the investments necessary for the creation of new movies and TV shows.

What is the relevance of the quality of civil enforcement system for intellectual property rights for your research, development and innovation investments? Crucial

Please explain:

Efficiency and effectiveness of civil proceedings in cases concerning infringements of intellectual property rights

Did you pursue alternative dispute resolution mechanisms before instituting court proceedings in the cases of intellectual property rights' infringements? Yes

What kind of alternative dispute resolution mechanisms did you undertake? MEDIATION
OTHER

What were the costs and the length of proceedings? Although it varies considerably from Member State to another, litigation involves substantial expenditures. In Italy, considering the unpredictable length of litigation, a determination of the costs is unfeasible, unless FAPAV agrees in advance with its attorneys to a lump sum or a maximum fee to be paid for their assistance.

Were your rights sufficiently safeguarded (including right to privacy, right to be heard, and due process)? Please explain: In general, FAPAV members' fundamental rights have been sufficiently safeguarded. While FAPAV believes that there may have been individual cases where FAPAV's rights to be heard, privacy and property, have not been fully protected, those are exceptions. FAPAV's experience shows that national courts are well equipped to render judgments that are consistent with EU law.

Please explain:

Do you consider that alternative dispute resolution mechanisms in cases of intellectual property rights' infringements are sufficiently accessible to parties affected by an infringement? NO

Please explain: In case of copyright infringements on a commercial scale, ADR tends to be ineffective (see previous answer). In FAPAV's opinion, ADR tends to be more effective and easily accessible to the parties involved, when it comes to minor infringements.

Did you take part in litigation of cases concerning the infringements of IPRs during the period under examination? YES

In how many cases per year do you take part on average? 5 maximum per year

How many of these cases were subject to an appeal? It depends on the type of case and the jurisdiction in which the proceeding is commenced.

In which capacity? PLAINTIFF
THIRD PARTY
OTHER

Please explain:

Please explain:	
In which countries? Please indicate relevant Member States:	IT - Italia
Did you already launch proceedings concerning infringements of your IPRs that occurred in another Member State?	NO
Please explain why:	In principle, FAPAV activates proceedings and injunctions only under its jurisdiction. Structurally-infringing websites tend to relocate from one Member State to another in order to evade enforcement. Infringing websites tend to spread their business units over several territories (i.e. hosting in country A, payment structure in country B, etc.). When faced with takedown requests from rights-holders, these anonymous operations move the affected units from one country to another, at different national hosting providers. Another clear example is that at least 10 separate but relatively similar civil injunctions have been granted in respect of The Pirate Bay across several Member States. It would be more efficient and of benefit to society to combine these type of proceedings. The lack of tools to target these multi-national operations by way of combined proceedings or multi-territorial injunctions is one of the main barriers to enforcement.
Did you already launch proceedings concerning infringements of your IPRs that occurred in several Member States?	NO
Have claims against the validity of infringed/allegedly infringed intellectual property rights been made in the context of the litigation you were a party to?	YES
Please explain what was the impact of these claims on the procedure concerning the infringement:	Validity issues arise more in the context of patent and trademark matters. FAPAV has very limited experience in this regard. FAPAV has some experience with alleged infringers seeking to disprove copyright ownership and incomplete chain of title. However, the presumption of copyright ownership (Article 5 of the Enforcement Directive) is not correctly implemented in some Member States.
In approximately what percentage of cases were these intellectual property rights found to be invalid as a result of these claims?	
For what reasons did you refrain from litigating?	OTHER
Please explain:	Litigation is always the last resort. FAPAV tends to avoid litigation when there is a lack of strategic interest or when the costs/benefits are not favourable.
Did your decision on whether or not to litigate depend on the jurisdiction?	YES

Please explain:	In principle, yes. In special cases, the decision to litigate may largely depend on where the infringing operation or the intermediary are located.
Did your decision on whether or not to litigate depend on the type of court concerned (e.g. courts specialised in intellectual property as opposed to standard commercial courts)?	NO
For you, is it more important to stop infringements that are committed for profit than infringements committed not for profit?	IT IS MORE IMPORTANT
What is your general intention in instituting civil law court proceedings concerning infringements of intellectual property rights?	TO STOP THE INFRINGING ACTIVITY
What was the amount of a court fees that you had to pay for instituting first instance proceedings on the merits of the case concerning an infringement of your IP right?	In Italy, court fees have been recently modified. The amount of such costs is now the following: (i) € 37,00 for claims up to € 1.100,00, (ii) € 85,00 for claims exceeding € 1.100,00 and up to € 5.200,00, (iii) € 206,00 for claims exceeding € 5.200,00 and up to € 26.000,00, (iv) € 450,00 for claims exceeding € 26.000,00 and up to € 52.000,00, (v) € 660,00 for claims exceeding € 52.000,00 and up to € 260.000,00, (vi) € 1.056,00 for claims exceeding € 260.000,00 and up to € 520.000,00, and (vii) € 1.466,00 for claims exceeding € 520.000,00.
Did you have to pay any other court fees in relation to the first instance proceedings on the merits of the case concerning an infringement of your IP right?	YES
Please specify total additional costs and explain what the fee was paid for and indicate the Member State(s) where the proceedings took place and the intellectual property right(s) that constituted the subject of these proceedings.	In specific cases in which an expert opinion was needed or technical expertise were requested by the judge, FAPAV borne the expenditure, in addition to the legal fees. No other costs were borne by FAPAV. In recent times, filing fees for civil cases have increased significantly, with the result that, unlike in the past, it became impossible to include them in retainer agreements.
What was the amount of external experts' costs you had to pay in relation to the first instance proceedings on the merits of the case concerning infringement of an IP right?	The assistance of experts is sometimes requested by the court and otherwise employed by the parties in order to corroborate their case. In Internet-related litigation, the assistance of IT experts, statisticians, accountants and academics is regularly acquired. The costs for the assistance provided by the said experts are set on the basis of free market principles or on the basis of court-determined fees.

<p>What was the amount of in-house costs you had to bear in relation to the first instance proceedings on the merits of the case concerning infringement of an IP right?</p>	<p>FAPAV does not have an in-house counsel. FAPAV's legal expenditures are primarily related to the assistance provided by an external law firm and an organization that studies and evaluate the effects of the infringements committed prior to bringing them to the attention of its outside counsel. Currently, FAPAV is assisted by a law firm and, in addition to FAPAV's Secretary General, one professional, takes care of its legal strategy. The expenditures related to the professionals involved in legal activities do not usually exceed a general amount of €3.000 per month.</p>
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<p>What was the amount of legal representation costs you had to pay in relation to the first instance proceedings on the merits of the case concerning infringement of an IP right?</p>	<p>The new laws and regulations in force in Italy on the free competition market are no longer imposing a specific fee to be paid to the attorney who was not providing legal assistance on the basis of a retainer agreement. However, following the ratification of Art. 9, first paragraph, of Law Decree n. 1 of January 24, 2012, the Decree of the Ministry of Justice n. 140 of July 20, 2012 was implemented. This Decree established the rules for the assessment, by judicial authorities, of the compensation to be paid to members of a regulated profession, including the practice of law. With respect to the practice of law, the first 14 articles of the aforementioned Decree confirm the possibility to freely negotiate the fee between an attorney and its client, save as that, in lack of an agreement, the new principles apply.</p>
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<p>Please indicate, if appropriate, other costs that you had to bear in relation to the first instance proceedings on the merits of the case concerning infringement of an IP right:</p>	<p>In the two major matters in which FAPAV was recently involved as plaintiff, there were no additional costs for the proceedings before the courts of first instance, such as those owed for securities or corrective measures.</p>
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<p>What was the total amount of costs you had to bear in relation to the first instance proceedings on the merits of the case concerning infringement of an IP right?</p>	<p>To date, FAPAV has paid approximately €120.000 in relation to a pending case concerning infringement of IP rights.</p>
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<p>Please explain how do these costs change for the preliminary proceedings:</p>	<p>As explained above, preliminary injunctions are treated like special proceedings and their cost, even under the new rules introduced by the aforementioned Decree n. 140 of 2012, on average, is higher than the expenditure foreseen for ordinary cases.</p>
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<p>Please explain how do these costs change for the appeal proceedings:</p>	<p>As addressed above, legal fees on appeals have an average 20% increase in comparison with cases brought before the courts of first instance.</p>
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Please indicate which of the various costs associated with the proceedings on the merits of the case at first instance were ordered by the court to be reimbursed to the winning party by the losing party following the final decision:

Copyright:

Rights related to copyright:

Sui generis right of a database maker:

Rights of the creator of the topographies of a semiconductor product:

Trademark rights:

Design rights:

Patent rights:

Geographical indications:

Utility model rights:

Plant variety rights

Trade names:

Do you consider that the general rule, according to which legal costs and other expenses incurred by the successful party shall be borne by the unsuccessful party, is effectively applied by the courts? YES

Please explain:

Some countries have a longstanding practice of providing disincentives to litigation (in all areas of the law). The winning party only receives a small percentage, or a minimal fixed sum, for legal costs. In those countries, full cost reimbursement has generally been resisted, for instance by providing guidelines on the levels of reasonable full cost reimbursement. This, in turn, leads to de-facto statutory amounts that tend not to cover the winning parties' reasonable costs.

Please indicate the average time (months and days) between the lodging of a request before a court and the granting of a preliminary injunction (e.g. cease and desist orders against the infringer) in civil law cases concerning infringement of an IP right in your Member State/in the Member States in which you have been a party to court proceedings:

In Italy, the preliminary injunctions issued by the IP-specialized courts have always been rapid and effective. This is in contrast with ordinary judgments (even those pending before the IP-specialized courts) which are long-lasting and, in most cases, the relevant judgment tends to be rendered too late to be truly beneficial to the plaintiffs. FAPAV estimates that a lapse of time between 30 and 90 days is the average duration of a preliminary injunction in Italy. The norms regulating IP-specialized courts in major Italian cities, including those set forth in Legislative Decree n. 168 of June 27, 2003, were recently modified by Legislative Decree n. 1 of 2012. FAPAV has been a party in proceedings that took place solely in Italy.

<p>Please indicate the average length (months and days) of court proceedings on the merits of the case (from lodging the claim to obtaining the final decision of the court at first instance) in civil law cases concerning infringement(s) of an IP right(s) in your Member State/ in the Member States in which you have been a party to court proceedings:</p>	<p>The Italian judicial system has been suffering from various malfunctions during the years. Obsolete instruments, mismanagement or lack of management of the judicial offices, backlog of cases, lack in the effective adoption of mediation and arbitration proceedings, extremely lengthy ordinary trials, thus denying justice to the plaintiffs who resorted to the courts. The only area where results are obtained speedily and effectively are the above-mentioned preliminary injunction procedures. In case of on-line piracy, the resort to civil remedies is not the most effective way, suggesting criminal actions, when and where possible and reasonable, are more effective. FAPAV has currently a civil case pending on the merits relating to the follow-up of the preliminary injunction requested to the IP-specialized Court of Rome, as indicated in section 36 above.</p>
<p>Please indicate the average length (months and days) of the appeal court proceedings (from lodging the appeal to obtaining the final decision of the court at appeal) in civil law cases concerning infringement(s) of an IP right(s) in your Member State/ in the Member States in which you have been a party to court proceedings:</p>	<p>According to the figures available to our Counsel the duration of an appeal in IP cases brought before the Italian courts may take one to three years, based upon the complexity of the matter. Ordinary cases in the merits (not IP) have an average duration to 900 days according to the data made available by ISTAT in 2012.</p>
<p>Do you think it would be useful to establish, at EU level, model rules for fast track 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, and what kind of measures should be granted, in the course of such fast track proceedings:</p>	<p>FAPAV believes that it would be useful to establish rules for fast track procedures. National civil procedure in certain Member States is so slow that it is not an effective avenue in the fast changing online environment. Moreover, this difference between Member States not only negatively impacts on the protection of IPRs but also on the functioning of the internal market.</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>FAPAV believes that it would be useful to establish model rules for small claims proceedings</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>NO OPINION</p>
<p>Do you think it would be useful to establish rules for small claims proceedings for litigation of infringements of community trademarks and community designs?</p>	<p>NO OPINION</p>

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?

Small claim proceedings should be subject to full judicial oversight like in any other area of the law. Only the procedural timeframes (i.e. filing briefs, term for hearing, term for verdict, etc) should be shortened.

Right of information

How do you identify infringers/alleged infringers of your IPRs?

Given the high levels of online infringement, FAPAV prioritises the most damaging forms of infringement and, as a result, it focuses on large scale pirate websites. These websites tend to operate anonymously, i.e. they register fake WHOIS data and operate their business through empty shell companies in for instance the Seychelles (i.e. The Pirate Bay). The problem is compounded by a lack of cooperation from intermediaries which offer anonymizer services facilitating anonymous registration of domain names, hide actual IP address of the infringing website, and generally provide services such as hosting without any interest in ensuring that contact details are accurate and/or up to date, etc. High profile websites use several layers of anonymization. In such cases, it is very difficult for the claimants to enforce their rights and in many case there is no means of redress.

Do you face problems identifying infringers/alleged infringers of your IPRs?

YES

Please explain what are the main difficulties:

Yes, problems identifying infringers/alleged infringers of IPRs are faced.

Has it been possible for you to obtain information allowing identification of infringers/alleged infringers directly from an intermediary?

NO

What was the justification when the request was denied?

OTHER

Please explain:

The justification tends to be based on grounds of impossibility (i.e. the request can not be met because no customer/business records are allegedly kept) or privacy. Even in cases in which they do provide details or the courts order them to do so, the info turns out to be worthless because it concerns falsified/fake personal data.

Has it been possible for you to obtain a court order obliging an intermediary to disclose the identity of the infringer/alleged infringer?

NO

What was the court's particular justification for a denial?

LIMITS IMPOSED BY DATA PROTECTION RULES

Has it been possible for you to obtain a court order obliging an intermediary to disclose the identity of the infringer/alleged infringer of your IPRs in case where the intermediary and/or the infringer/alleged infringer of your IPRs were incorporated, or resident in a Member State other than the one in which you operate?

NO

Please explain:

No, it was not possible to obtain any of such court orders either in Italy or abroad (FAPAV never brought copyright cases outside the Italian borders). Under the current Italian regulations and case law, it is impossible to protect the copyright of FAPAV members. The above-highlighted interpretations of the EU Directives nullify the very same meaning and extent of the Copyright, e-Commerce and Enforcement Directives, on-line, so to deprive the rights-holders of their own property.

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?

YES

Please explain:

Notice and action procedures are useful and effective in the context of bona fide platforms. Notice and action procedures are not useful in the context of platforms/intermediaries that encourage infringement, and obviously, they serve no purpose whatsoever with platforms that ignore notices altogether. In Italy, AGCOM (the Italian Communication Authority) developed a draft regulation that, if enacted, might have entrusted itself with the task of preventing infringements and taking down protected materials made available to the public without the consent of the stakeholders. However, the enactment of this regulation is still pending.

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?

YES

Please explain:	Notice and action procedures are useful in international or cross-border contexts. Notice and action procedures are not useful in the context of platforms/intermediaries that encourage infringement and, obviously, they serve no purpose whatsoever with platforms that ignore notices altogether. Where the rights-holder sending the notice is located in another jurisdiction, the intermediary in question is often even more unlikely to cooperate.
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?	NO
Please explain:	When it comes to manifestly infringing contents such as films and TV shows, the infringers are usually operating anonymously and they are clearly fully aware that they lack the necessary permission from the rights-holder. In that context, notification would be an unnecessary requirement, further hindering enforcement. Some of the FAPAV members send out millions of notifications to intermediaries (i.e. platforms, websites, search, hosting providers) and these are useful when dealing with bona fide platforms but mostly useless in case of structurally infringing sites.
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?	YES
Please explain:	FAPAV supports strict enforcement against commercial scale infringement which would include account suspension, but also other measures such as providing contact details of the infringer allowing the rights-holder the possibility of taking action against the infringer directly.
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?	YES
Please explain:	FAPAV supports strict enforcement against notorious infringers, which would include account suspension, but also other measures such as providing contact details of the infringer allowing the rights-holder the possibility to take action directly against the infringer.

Requirements for granting injunctions

Have preliminary injunctions been sought in the context of the litigation you were party to?	YES
In approximately what percentage of cases were these injunctions granted by the competent judicial authorities?	30
Have permanent injunctions been sought in the context of the litigation you were party to?	YES
In approximately what percentage of cases were these injunctions granted by the competent judicial authorities?	30
Is the urgency of the case taken into account by the competent judicial authorities when granting a provisional injunction?	YES
Is the potential harm of the measure for either of the parties taken into account by the competent judicial authorities when granting a provisional injunction?	YES
Is the impact of the measure on the market, competition and consumers taken into account by the competent judicial authorities when granting a provisional injunction?	YES
Are claims against the validity of IPRs taken into account by the competent judicial authorities when granting a provisional injunction?	YES
What other circumstances are taken into account by the competent judicial authorities when granting a provisional injunction?	The ECJ has clarified in several recent verdicts (L'Oreal Vs. E-Bay and Sabam/Netlog) that national courts have to apply the proportionality test, i.e. weighing all fundamental rights against each others in coming to a just outcome. In doing so the courts taking into account the rights and the interest of the parties and stakeholders. National courts follow these guidelines and balance the human rights of all parties involved. These sufficient safeguards prevent unjust outcomes.

Injunctions imposed on intermediaries

Have you obtained a preliminary injunction imposed on an intermediary who was not a party to the proceedings?	N/A
Have you obtained a permanent injunction imposed on an intermediary who was not a party to the proceedings?	N/A
Have you obtained a permanent injunction imposed on an intermediary providing services necessary for the financing of the infringing activity (e.g. a payment service provider)?	YES
Please specify the type of intermediary that was involved:	As to the other Member States, in the Dutch case BREIN vs. Technodesign (Gerechtshof Amsterdam, June 15, 2006) the payment provider was ordered to render account of the contact details of a customer.
Have you obtained a permanent injunction imposed on an intermediary providing services necessary to access the infringing services/goods?	NO

Please explain on what grounds such a permanent injunction was not granted:	No, FAPAV did not.
Have you obtained a preliminary injunction imposed on an intermediary providing services necessary to access the infringing services/goods when the intermediary or the person infringing/allegedly infringing your IPRs were incorporated in a Member State other than the one in which you operate?	NO
Please explain on what grounds such a preliminary injunction was not granted:	No, no preliminary injunction has been obtained on an intermediary providing services necessary to access the infringing services/goods.
Have you obtained a permanent injunction imposed on an intermediary providing services necessary to access the infringing services/goods when the intermediary or the person infringing/allegedly infringing your IPRs were incorporated in a Member State other than the one in which you operate?	N/A

Third party facilitation of infringements of IPRs

Corrective measures

Have corrective measures been ordered in cases in which you have been a party?	NO
Should the competent judicial authorities privilege one specific type of corrective measure?	NO OPINION
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?	NO OPINION
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 OPINION
Please explain how in your opinion the infringing goods could be disposed of outside the channels of commerce:	
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?	YES
Please explain:	Yes, FAPAV is 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

How do you determine the amount of damages to be awarded for the purpose of filing a civil claim concerning an infringement of an IPR?	Damages are calculated on the basis of lost revenue, the damage inflicted to the value of the IPR rights, legal costs, costs incurred re experts and investigations. Damages may also be determined on the basis of profits made by the infringer. FAPAV's experience shows that damage claims are rarely deterrent in case of structurally infringing sites, since the profits are substantial and the abilities to hide assets due to the aforementioned problem of being able to do business anonymously.
Do you take into account the resources invested in research and development while determining the damages to be awarded for the purpose of filing a civil claim concerning an infringement of an IPR?	YES
Please explain:	The research and development costs are a basis for the part of the claim that is based on the damage to the value of the IPR rights.
On what basis do the competent judicial authorities establish the amount of damages awarded to the right holder in its final decision in a civil claim concerning an infringement of an IPR?	Courts take into account all the relevant factors, including the (financial)position of the infringer. The goal in most judicial systems is to reach a "zero-sum" outcome whereby the victim's position is restored (i.e. he is in the same position as he would have been, were his rights not infringed) and the infringer is stripped off of his benefits (i.e. he is also placed back in the same position).
Is the unjust enrichment of the infringer taken into account by the competent judicial authorities in the course of establishing the amount of damages to be awarded to the right holder in its final decision in a civil claim concerning infringement of an IPR?	YES
Is due diligence of the right holder taken into account by the competent judicial authorities in the course of establishing the amount of damages to be awarded to the right holder in its final decision in a civil claim concerning infringement of an IPR?	YES
Is it possible for the competent judicial authorities in civil law cases concerning an infringement of IPRs to award damages on the joint basis of provisions on compensation for lost profits and those on unjust enrichment?	NO
Please explain:	No, this possibility is excluded under Art. 2042 of the Italian Civil Code.
Is it possible for the competent judicial authorities in civil law cases concerning an infringement of IPRs to award damages on the basis of the alleged infringement of a broader portfolio of intellectual property rights, despite the fact that normally only a very limited number of these rights are asserted during one particular court proceeding?	NO
Please explain:	No, it is not possible. The plaintiff has to indicate precisely in its pleadings the infringement occurred and the protected material involved.

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?	YES
Please explain:	Yes. The infringer should at least be placed back into the position he was before infringing. He should not be better off. FAPAV supports regulations whereby there are elements of deterrence so as to provide a disincentive to infringe.
Do you consider the award of damages in cases of intellectual property rights' infringements is sufficient to compensate for the actual prejudice suffered by the parties affected by an infringement?	NO
Please explain:	The award of damages is practically never sufficient to compensate for the actual prejudice suffered. This is particularly true online, where infringements tend to occur on a large scale, involving thousands of titles, whereas the damage amounts are usually only calculated on the basis of a sample of titles. The account for profit claim is made difficult due to a lack of financial recordkeeping by the operators of infringing platforms.

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

In approximately what percentage of cases would you consider that a party used IPR enforcement measures frivolously and/or for anti-competitive purposes?	0
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