

Design rights	
Patent rights	
Geographical indications	
Utility model rights	
Plant variety rights	
Trade names	
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?	We don't calculate the exact losses but the impact of the infringement is significant. For the detailed answer see IFPI's submission.
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?	For the detailed answer see IFPI's submission.
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)?	
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:	Piracy limits the investing in new artists etc.

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?	OTHER
What were the costs and the length of proceedings?	There were only some "administrative" costs during the alternative dispute resolution mechanism and length depended on the each particular case.
Were your rights sufficiently safeguarded (including right to privacy, right to be heard, and due process)? Please explain:	Yes, they were.
Please explain:	For the detailed answer see IFPI's submission.
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 OPINION
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?	We have filed just only one action few weeks ago. We usually follow the proceedings of criminal law.
How many of these cases were subject to an appeal?	

In which capacity?	PLAINTIFF
In which countries? Please indicate relevant Member States:	CZ - Česká republika
Did you already launch proceedings concerning infringements of your IPRs that occurred in another Member State?	NO
Please explain why:	We have not found such case during our activities and observations yet.
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?	NO
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?	PROCEDURES TOO COSTLY PROCEDURES TOO LONG LOW LIKELIHOOD OF SUCCESSFULLY PROVING THE INFRINGEMENT TO THE REQUIRED STANDARD LOW LIKELIHOOD OF BEING COMPENSATED AT THE END OF THE PROCEEDINGS OTHER
Please explain:	The cost of civil litigation is the major problem. Another important factor is that the remedies are limited. The costs often exceed damages awarded.
Did your decision on whether or not to litigate depend on the jurisdiction?	YES
Please explain:	Current legislation is quite weak and the likelihood of the successful case is relatively low.
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)?	N/A
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 TO TAKE MEASURES TO PREVENT FURTHER INFRINGEMENTS TO DISSUADE INFRINGING BEHAVIOUR IN THE FUTURE
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?	Court fee is about 6.000,- CZK (235 Euro). The proceeding takes place in the Czech Republic. The subject of this proceeding is constituted by "the breach of related rights (phonogram producer's rights)".

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?	NO
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?	We have called only one expert. The payment was about 9.000,- CZK (353 Euro).
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?	We don't have the exact amount of in-house costs. The action was prepared together by 2-3 of our employees. We were collecting all important and useful materials for our attorney and for the completion of the action. Estimated cost is about 10.000,- CZK (392 Euro). The proceeding takes place in the Czech Republic. The subject of this proceeding is constituted by "the breach of related rights (phonogram producer's rights)".
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?	Attorney's charge (for the preparation of the action and for the preparatory works) was about 100.000,- CZK (3.922 Euro). The proceeding takes place in the Czech Republic. The subject of this proceeding is constituted by "the breach of related rights (phonogram producer's rights)".
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:	We also paid the notary's fee because we asked her to write notarial deed about the defendant - about the cyberlocker and about its functioning. Notary's fee was about 9.000,- CZK (353 Euro).
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?	We cannot assume the total amount of costs yet. First instance proceeding hasn't started yet. We have spent about 150.000,- CZK (5.882 Euro) till this day.
Please explain how do these costs change for the preliminary proceedings:	We haven't considered (asked for) preliminary proceedings in this case.
Please explain how do these costs change for the appeal proceedings:	Costs can be doubled (for the appeal proceedings).

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?

NO OPINION

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:

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:

It depends on the particular case. It is very hard to provide some accurate data. The average length of the court proceedings at first instance in the Czech Republic is at least 12 - 24 months (for the first instance).

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:

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?

NO OPINION

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?

NO OPINION

Do you think it would be useful to establish rules for fast track proceedings for litigation of infringements of community trademarks and community designs?

Do you think it would be useful to establish rules for small claims proceedings for litigation of infringements of community trademarks and community designs?

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?

Right of information

How do you identify infringers/alleged infringers of your IPRs?	We consult publicly available sources, for instance cyberlockers have sometimes all information about the provider and the company which runs the cyberlocker on their websites. We also use (as a source of basic important information about the particular entity) the Access to Registers of Economic Subjects / Entities and other public sources / databases.
Do you face problems identifying infringers/alleged infringers of your IPRs?	YES
Please explain what are the main difficulties:	It is very hard to identify the particular individual. Internet service providers are not cooperative. We can search for the IP address only but not the specific user. Article 8 of the Enforcement Directive is (in the Czech Republic) correctly implemented. It is easier to get the information (about infringers/alleged infringers) in criminal procedure but in civil procedure is it rather complicated because of the personal data protection.
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?	IT IS REQUIRED TO FIRST OBTAIN AN ORDER FROM A COMPETENT JUDICIAL AUTHORITY
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:	See answer for the question 10).

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:	For the detailed answers for all questions in the section "Mechanisms to inform about the alleged infringement and to impede access to goods and services allegedly infringing IPRs", please see IFPI's submission.

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?	N/A
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 OPINION
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 OPINION
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 OPINION

Requirements for granting injunctions

Have preliminary injunctions been sought in the context of the litigation you were party to?	NO
Have permanent injunctions been sought in the context of the litigation you were party to?	NO
Is the urgency of the case taken into account by the competent judicial authorities when granting a provisional injunction?	DON'T KNOW
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?	DON'T KNOW
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?	DON'T KNOW
Are claims against the validity of IPRs taken into account by the competent judicial authorities when granting a provisional injunction?	DON'T KNOW
What other circumstances are taken into account by the competent judicial authorities when granting a provisional injunction?	

Injunctions imposed on intermediaries

Have you obtained a preliminary injunction imposed on an intermediary who was not a party to the proceedings?	NO
Please explain on what grounds such a preliminary injunction was not granted:	We cannot answer this question because we have filed the action two months ago and we haven't asked for the preliminary injunction.

Have you obtained a permanent injunction imposed on an intermediary who was not a party to the proceedings?	NO
Please explain on what grounds such a permanent injunction was not granted:	We cannot answer this question because we have filed the action two months ago and we haven't asked for the permanent injunction.
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)?	NO
Please explain on what grounds such a permanent injunction was not granted:	We cannot answer this question because we have filed the action two months ago and we haven't asked for the permanent injunction.
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:	We cannot answer this question because we have filed the action two months ago and we haven't asked for the permanent injunction.
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:	We cannot answer this question because we have filed the action two months ago and we haven't asked for the preliminary injunction.
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?	NO
Please explain on what grounds such a permanent injunction was not granted:	We cannot answer this question because we have filed the action two months ago and we haven't asked for the permanent injunction.

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 <i>conditio sine qua non</i> 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?	NO OPINION

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?	We haven't asked for damages in this current civil case.
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?	NO
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?	No opinion.
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?	DON'T KNOW
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?	YES
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?	DON'T KNOW
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:

It is very bad situation that infringers have a profit from the infringement of IPRs (they earn a lot of money from advertisements on their web sites, from regular payments from “consumer” for faster downloading and for particular amount of data, etc.).

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:

No, it is usually not sufficient. Compensations should be higher and the granting of these compensations as such could be one kind of the preventive measures.

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?