

Civil enforcement of intellectual property rights: public consultation on the efficiency of proceedings and accessibility of measures

Introduction	
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Case Number	359647153032306313
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Status	N
Language	en

Background information	
Name of the respondent:	Gianfranco Pozzati
Identity of the respondent: 	CITIZEN
Country of residence:	IT - Italia
In which Member States do you operate or trade?	IT - Italia
Please provide your contact information (name, address and e-mail address):	Gianfranco Pozzati, Ferrara (Italy), yanfry@autistici.org

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?	No
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:	same opportunities for justice in the laws of intellectual property as in other areas of law
Did you take part in litigation of cases concerning the infringements of IPRs during the period under examination?	NO
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
Please explain, what would be in your opinion the drawbacks of this system?	
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

Please explain, what would be, in your opinion, the drawbacks of this system?

Do you think it would be useful to establish rules for fast track proceedings for litigation of infringements of community trademarks and community designs? NO

Do you think it would be useful to establish rules for small claims proceedings for litigation of infringements of community trademarks and community designs? NO

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

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: Reform of copyright law is needed, no other way, notice and takedown creates legal uncertainty

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: it's a fundamental errors a systems based on scare their users for take them to obedience

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:

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:

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:

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? NO

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

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:

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

Please explain:

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:

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