EUROPEAN
COMMISSION

Brussels, 16.9.2014
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COMMISSION DECISION

of 16.9.2014

on setting up a group of experts on the enforcement of intellectual property rights

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Whereas:

(1) The protection of intellectual property is important not only for promoting innovation and creativity, but also for developing employment and improving competitiveness. Intellectual property rights infringing activities, in particular those carried out on a commercial scale, dissuade investment in innovation, undermine job creation and put consumers and businesses at risk.

(2) A comprehensive enforcement policy, which fully respects fundamental rights, is required to successfully combat such intellectual property rights infringements at EU and national level. The persisting difficulties of cross-border protection of intellectual property, often linked to the borderless nature of the internet, require a common EU approach. Improved collaboration amongst Member States could contribute significantly to increasing the efficiency of intellectual property rights enforcement in the EU.

(3) The Communication from the Commission 'Towards a renewed consensus on the enforcement of Intellectual Property Rights: An EU Action Plan' (hereinafter "the Communication")[1] defines an action plan identifying initiatives to be taken at national and at Union level. Discussions in an expert group could contribute to an improved framework for the enforcement of intellectual property rights.

(4) The Commission should therefore set up a group of experts composed of the competent Ministries of the Member States or other national authorities responsible for overseeing national intellectual property policies and, in particular, the enforcement of intellectual property rights. Without prejudice to the Commission's right of initiative, cooperation between the Commission and Member States is important in order to involve Member States in the development and implementation of a consistent Union policy on the enforcement of intellectual property rights.

(5) Given the similarity of the matters that may arise in this connection, discussions in the group of experts should, besides the enforcement of classical intellectual property rights, where relevant also extend to other, related issues concerning the protection and enforcement of intellectual property understood in a broad sense, such as enforcement actions to address the misappropriation of trade secrets.

(6) The group of experts should be a platform for discussion, providing advice and expertise on enforcing intellectual property rights and related issues concerning the protection and enforcement of intellectual property, so as to support the Commission's work in the context of the Communication and its work in this regard more generally. In particular, the work of the group should focus on matters such as: economic and

[1] COM(2014) 392 final

social impacts of infringements of intellectual property rights, impact of enforcement of intellectual property rights on fundamental rights and general principles of law, including data protection and due process, exchange of information and cooperation between all authorities with responsibilities related to the enforcement of intellectual property rights, including through the European Observatory on Infringements of Intellectual Property Rights, established by Regulation (EU) N° 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights[2]; public and business awareness of the problems posed by infringements of intellectual property rights; strengthening of supply chains for products which depend heavily on intellectual property; and accessibility and response procedures in case of infringements of intellectual property rights.

(7) Rules on the disclosure of information by members of the group should be laid down.

(8) Personal data should be processed in accordance with Union law on the protection of personal data, in particular Regulation (EC) N° 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data[3].

(9) It is appropriate to fix a period for the application of this Decision. The Commission will in due time consider the advisability of an extension.

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

The group of experts on the enforcement of intellectual property rights, hereinafter referred to as “the Group”, is hereby set up.

Article 2

Tasks

With respect to matters regarding the enforcement of intellectual property rights and related issues concerning the protection and enforcement of intellectual property, the Group’s tasks shall be:

(a) to establish cooperation between Member States' authorities and the Commission on matters relating to the enforcement of intellectual property rights;

(b) to advise and assist the Commission in the preparation and implementation of policy initiatives relating to the enforcement of intellectual property rights;

(c) to monitor the development of policies and emerging issues in the area of enforcement of intellectual property rights within and, where necessary, outside the EU;

[2] OJ L 129, 16.5.2012, p. 1.
[3] OJ L 8, 12.1.2001, p. 1.

(d) to bring about an exchange of experience and good practice in the area of enforcement of intellectual property rights, including its international dimension and drawing on the output of the European Observatory on Infringements of Intellectual Property Rights.

Article 3

Consultation

The Commission may consult the Group on any matter regarding the enforcement of intellectual property rights and related issues concerning the protection and enforcement of intellectual property.

Article 4

Membership

1. Members of the Group shall be Member States' authorities responsible for intellectual property policy and, in particular, the enforcement of intellectual property rights.

2. The Member States' authorities concerned shall appoint their representatives in the Group, without exceeding two representatives per Member State. This is without prejudice to the applicable rules for reimbursement of meeting expenses.

3. The Member States' authorities concerned may replace their appointed representatives by ad hoc representatives in light of the matters to be discussed during a particular meeting of the Group, subject to prior notification of the Commission of such a replacement.

4. The names of the Member States' authorities concerned shall be published in the Register of Commission expert groups and other similar entities (hereinafter "the Register").

5. Personal data shall be collected, processed and published in accordance with Regulation (EC) N° 45/2001.

Article 5

Operation

1. The Group shall be chaired by a representative of the Commission.

2. In agreement with the Commission services, the Group may set up sub-groups to examine specific matters on the basis of terms of reference defined by the Group. Such sub-groups shall be dissolved as soon as their mandates are fulfilled.

3. Observers of the Group shall be national authorities responsible for intellectual property policy and, in particular, the enforcement of intellectual property rights, of the States that are parties to the Agreement on the European Economic Area, other than the Member States of the Union, and of the States that are candidates for accession to the Union. The observers shall appoint and replace their representatives in accordance with the same rules and conditions as the members of the Group. The Commission's representative may also give observer status to individuals and organisations as defined in Rule 8(3) of the horizontal rules on expert groups[4].

[4] C(2010) 7649 final

4. The Commission’s representative may invite experts from outside the Group with specific competence in a subject on the agenda to participate in the work of the Group or sub-group on an ad hoc basis.

5. Working priorities of the Group shall be set by the Commission's representative, as laid out in the agendas prepared for the meetings.

6. Members of the Group and their representatives, as well as the observers and experts from outside the Group, shall comply with the obligations of professional secrecy laid down by the Treaties and their implementing rules. They shall also comply with the Commission's rules on security regarding the protection of EU classified information, laid down in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom[5]. Should they fail to respect those obligations, the Commission may take all appropriate measures.

7. The meetings of the Group and its sub-groups shall be held on Commission premises. The Commission shall provide secretarial services. Commission officials with an interest in the proceedings may attend the meetings of the Group and its sub-groups.

8. The Group shall adopt its rules of procedure on the basis of the standard rules of procedure for expert groups.

9. The Commission shall publish the relevant documents on the activities carried out by the Group, such as agendas, minutes and participants' submissions, either by including them in the Register or via a link from the Register to a dedicated website. Exceptions to systematic publication should be foreseen where disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) N° 1049/2001.

Article 6

Meeting expenses

1. Participants in the activities of the Group shall not be remunerated for the services they render.

2. Travel and subsistence expenses incurred by participants in connection with the activities of the Group shall be reimbursed by the Commission in accordance with the provisions in force within the Commission.

Those expenses shall be reimbursed within the limits of the available appropriations allocated under the annual procedure for the allocation of resources.

[5] Commission Decision of 29 November 2001 amending its internal Rules of Procedure (OJ L 317, 3.12.2001, p. 1).

Article 7

Applicability

This Decision shall apply until 31 December 2019.

Done at Brussels, 16.9.2014

For the Commission
Michel BARNIER
Vice-President