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Public consultation on the evaluation and modernisation of the legal framework for the enforcement of intellectual property rights: Judiciary and Legal Profession

Fields marked with * are mandatory.

Objectives and General information

The views expressed in this public consultation document may not be interpreted as stating an official position of the European Commission.

You are invited to read the privacy statement^[1] for information on how your personal data and contribution will be dealt with.

Please complete this section of the public consultation before moving to other sections.

Respondents with disabilities can request the questionnaire in .docx format and send their replies in email to the following address: GROW-IPRCONSULTATION@ec.europa.eu.

If you are an association representing several other organisations and intend to gather the views of your members by circulating the questionnaire to them, please send us a request in email and we will send you the questionnaire in .docx format. However, we ask you to introduce the aggregated answers into EU Survey. In such cases we will not consider answers submitted in other channels than EU Survey.

If you want to submit position papers or other information in addition to the information you share with the Commission in EU Survey, please send them to GROW-IPRCONSULTATION@ec.europa.eu and make reference to the "Case Id" displayed after you have concluded the online questionnaire. This helps the Commission to properly identify your contribution.

Given the volume of this consultation, you may wish to download a PDF version before responding to the survey online.

[1] Add link.

*** Please enter your name/organisation and contact details (address, e-mail, website, phone)**

The Intellectual Property Lawyers' Association (IPLA) c/o Arty Rajendra, Rouse Legal, 4th Floor, City Tower, 40 Basinghall Street, London, EC2V 5 DE. Tel: 0207 536 4100. Email: arajendra@rouse.com. Website: www.ipl

a.org.uk.

*** Is your organisation registered in the Transparency Register of the European Commission and the European Parliament?**

In the interests of transparency, organisations (including, for example, NGOs, trade associations and commercial enterprises) are invited to provide the public with relevant information about themselves by registering in the Interest Representative Register and subscribing to its Code of Conduct

If you are a registered organisation, please indicate your Register ID number. Your contribution will then be considered as representing the views of your organisation

If your organisation is not registered, you have the opportunity to register now. Then return to this page to submit your contribution as a registered organisation.

Submissions from organisations that choose not to register will be treated as 'individual contributions' unless they are recognized as representative stakeholders via relevant Treaty Provisions.

- Yes
- No
- Non-applicable

*** Register ID number**

15066281874-49

*** In the interests of transparency, your contribution will be published on the Commission's website. How do you want it to appear?**

- Under the name supplied? (I consent to the publication of all the information in my contribution, and I declare that none of it is subject to copyright restrictions that would prevent publication.)
- Anonymously? (I consent to the publication of all the information in my contribution except my name/the name of my organisation, and I declare that none of it is subject to copyright restrictions that would prevent publication).
- No publication - your answer will not be published and in principle will not be considered.

"Please note that your answers may be subject to a request for public access to documents under Regulation (EC) No 1049/2001."

A. Identification

* You are a

- Judge sitting at a specialised IP court
- Judge sitting at a specialised IP chamber in the general civil/commercial court
- IP-specialised single judge
- Judge sitting in the general civil/commercial court, reviewing IP cases
- Association representing the judiciary
- Legal counsellor
- Association representing the legal profession
- Legal academic
- Other

Please specify:

100 character(s) maximum

* Please indicate your country of profession:

- | | | |
|---|-----------------------------------|--------------------------------------|
| <input type="radio"/> Austria | <input type="radio"/> Belgium | <input type="radio"/> Bulgaria |
| <input type="radio"/> Cyprus | <input type="radio"/> Croatia | <input type="radio"/> Czech Republic |
| <input type="radio"/> Denmark | <input type="radio"/> Estonia | <input type="radio"/> Finland |
| <input type="radio"/> France | <input type="radio"/> Germany | <input type="radio"/> Greece |
| <input type="radio"/> Hungary | <input type="radio"/> Ireland | <input type="radio"/> Italy |
| <input type="radio"/> Latvia | <input type="radio"/> Lithuania | <input type="radio"/> Luxembourg |
| <input type="radio"/> Malta | <input type="radio"/> Netherlands | <input type="radio"/> Poland |
| <input type="radio"/> Portugal | <input type="radio"/> Romania | <input type="radio"/> Slovakia |
| <input type="radio"/> Slovenia | <input type="radio"/> Spain | <input type="radio"/> Sweden |
| <input checked="" type="radio"/> United Kingdom | <input type="radio"/> Other | |

Please specify:

100 character(s) maximum

B. Your views and opinion on the scale of IPR infringements and general issues of IP litigation

*** To your knowledge and experience, are IPR-infringements cases taking a considerable part of the overall civil/commercial litigations in your country?**

- Yes
 No
 Don't know

Please specify:

1,500 character(s) maximum

Please explain:

IP rights holders generally use litigation as a last resort to resolve a n IP dispute for several of the reasons indicated below, including the outcome not being predictable and there being other means available to protect IPR. Costs are likely to be the most dissuasive factor against litigation, and the inability in most cases to get EU-wide relief.

However, in patent enforcement involving highly valuable patent rights, particularly in the pharmaceutical and mobile telephone industry, the costs of litigation are manageable in comparison to the significant damages and losses at stake.

Settlement is encouraged by the UK Courts and underpins pre-action conduct protocols in England & Wales. There are no equivalent protocols in Scotland. So even when litigation is contemplated or even started, most IP infringement cases will settle before trial.

SMEs are less likely to litigate than companies with a stronger financial standing because they have fewer resources. However, the Intellectual Property Enterprise Court ("IPEC"), which is designed for simpler and low value cases, is a popular forum with SMEs as its streamlined procedure is less costly than actions in the High Court. In Scotland, costs are generally less than in England & Wales, and all cases are referred to the Intellectual Property Court of the Court of Session, which is similar to the High Court. There is no IPEC equivalent in Scotland.

What is approximately the percentage of IP cases of the overall civil/commercial litigation in your country?

2.5 %

*** Do you think that IP rightholders are frequently using litigation as a means of protecting their IPRs?**

- Yes
 No
 Don't know

*** In your opinion, what is the reason for this?**

- The costs for litigation and legal representation are too high
- Civil court proceedings take too long

Procedures are too complex

The outcome of litigation is not predictable

Alternative dispute resolution mechanisms can achieve better results in terms of time and money

There are other means available to protect IPR (notice-and-action procedures, voluntary cooperation with intermediaries, etc.)

Other

Please specify:

500 character(s) maximum

* In your experience, do SMEs litigate to protect their IPR?

"SME"

According to Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, 2003/361/EC: enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million (http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition/index_en.htm).

Yes

No

Don't know

* In your opinion, what is the reason for this?

The costs for litigation and legal representation are too high

Civil court proceedings take too long

Procedures are too complex

The outcome of litigation is not predictable

Alternative dispute resolution mechanisms can achieve better results in terms of time and money

There are other means available to protect IPR (notice-and-action procedures, voluntary cooperation with intermediaries, etc.)

Other

Please specify:

500 character(s) maximum

C. Functioning of key provisions of Directive 2004/48/EC on the

enforcement of intellectual property rights

This section aims to provide the Commission with stakeholder' views, opinions and information about the functioning of the overall enforcement framework and of key provisions of IPRED.

C.1. Overall functioning of the enforcement framework

In which Member State(s) do you litigate most?

at most 3 choice(s)

- | | | |
|--|--------------------------------------|---|
| <input type="checkbox"/> Austria | <input type="checkbox"/> Belgium | <input type="checkbox"/> Bulgaria |
| <input type="checkbox"/> Cyprus | <input type="checkbox"/> Croatia | <input type="checkbox"/> Czech Republic |
| <input type="checkbox"/> Denmark | <input type="checkbox"/> Estonia | <input type="checkbox"/> Finland |
| <input type="checkbox"/> France | <input type="checkbox"/> Germany | <input type="checkbox"/> Greece |
| <input type="checkbox"/> Hungary | <input type="checkbox"/> Ireland | <input type="checkbox"/> Italy |
| <input type="checkbox"/> Latvia | <input type="checkbox"/> Lithuania | <input type="checkbox"/> Luxembourg |
| <input type="checkbox"/> Malta | <input type="checkbox"/> Netherlands | <input type="checkbox"/> Poland |
| <input type="checkbox"/> Portugal | <input type="checkbox"/> Romania | <input type="checkbox"/> Slovakia |
| <input type="checkbox"/> Slovenia | <input type="checkbox"/> Spain | <input type="checkbox"/> Sweden |
| <input checked="" type="checkbox"/> United Kingdom | | |

For these jurisdictions please provide your overall experience and satisfaction with the legal framework for civil enforcement of IPR (please indicate Member State concerned first)?

	Overall experience and satisfaction
Member State 1:	As UK practitioners, it is not surprising that we are largely content with the legal framework in the UK. The UK has a long history of effective and sophisticated IP enforcement, with a judiciary willing to use the existing rules of procedure and framework to provide effective and appropriate relief to parties seeking to enforce their IP rights. Many of the 'minimum standards' imposed by IPRED were already available in the UK, such that the law in England & Wales required very little amendment to implement IPRED, effected by the Intellectual Property (Enforcement, etc) Regulations 2006 (the "2006 Regs"). The main complaint we hear from industry is not the lack of enforcement tools available for IP infringement matters but the high cost and inherent risks of IP litigation. Significant strides have been taken to address these in the last few years, particularly the creation of streamlined procedures and a smaller specialised IP Court. Interestingly, these changes have not come about because of IPRED but a desire in the UK to achieve more cost effective IP enforcement. Where the UK Courts have doubted their jurisdiction to provide certain relief under existing UK law, they have used the IPRED to support the making of orders and granting of relief which is more readily ascertainable under IPRED. The 2006 Regs required the introduction of rules on disclosure of information and publication of judgments which applied to Scotland alone.
Member	

State 2:	
Member	
State 3:	

Do you think that the existing rules – as provided by the Directive and implemented at national level – have helped effectively in protecting IP and preventing IPR infringements?

- Yes
- No
- Partly
- No opinion

Please explain:

1,500 character(s) maximum

A lot of the current uncertainty in IP enforcement involves action against intermediaries. Since IPRED explicitly states that measures against intermediaries are available, that is helpful. The UK Courts have used those provisions to seek further guidance from the CJEU as to the scope of relief available against intermediaries (see L'Oréal SA v eBay International AG) and to interpret pre-existing UK law (see Cartier International AG v British Sky Broadcasting Limited). However, there is certainly scope for more clarity and more guidance in relation to the scope of relief available against intermediaries. This clarity may come from guidance from the Courts including the CJEU rather than an amended IPRED.

C.2. Measures, procedures and remedies provided for by IPRED

Responses to this section should be based on the overall experience with the measures, procedures and remedies provided for by IPRED as implemented and applied at national level. If appropriate please specify in your response, to the extent possible, particular national issues or practices and the jurisdiction concerned.

C.2.1 Evidence (Articles 6 and 7)

*** Would you consider that the measures provided by IPRED are effective means for presenting, obtaining and preserving evidence?**

- Yes
- No
- No opinion

Please explain:

*

1,500 character(s) maximum

Please explain:

The UPC Rules of Procedure and the UPCA have been drafted based on the Enforcement Directive to a large degree. Therefore, any change to the Enforcement Directive could risk the emergence of (further) discrepancies between patents litigated under the UPC regime and the national regime. This consideration should be borne in mind before revising the Enforcement Directive which applies to all IP rights, not just patents.

The following areas are worthy of consideration:

1. Amend Article 7 to compel the party making an application for pre-action disclosure to disclose any material fact known to it which might influence the Court in deciding whether to grant such relief.
2. In addition to Articles 6 and 7, IPRED could provide that, once an action has started or is contemplated/intimated, all parties involved should be under a positive obligation to preserve relevant documents and evidence. Such a provision would make the obligation to produce evidence more effective.

The UPC Rules of Procedure do not provide for the preservation of evidence. However, parties would be best advised to do so, as a failure to comply with an order to produce evidence would be taken into account when deciding on issues (Rule 190(7)) or in the case of the infringer, could make him more susceptible to an order for inspection (Rule 199) or a Saisie order.

*** In view of your experience with the implementation and application of the rules for having access to and preserving evidence do you see a need to adjust the application of that measure, in particular with regard to preserving evidence in the digital environment and in cross-border cases?**

- Yes
- No
- No opinion

* Please explain:

1,500 character(s) maximum

Digital Environment: The IPRED could specifically provide that the obligations to preserve and disclose information extends to relevant material that is online/digital; and that the suspension of any automatic destruction policies and disclosure of online/digital information may be ordered where (i) the requestor has "presented reasonably available evidence sufficient to support its claims"; (ii) it is proportionate; (iii) it is just; and (iv) the disclosed information is subject "to the protection of confidential information" where necessary.

Cross-Border: It would make sense for preservation and disclosure obliga

tions under Articles 6 and 7 to be allowed against all premises in the EU controlled by the respondent company, where appropriate (for example in a case where a unitary right is in suit). It is suggested that cross-border applications should be made in the Member State in which the respondent company is domiciled.

C.2.2. Right of information (Article 8)

What are the requirements for a request for information to be proportionate and justified when exercising the right of information against an infringer?

1,500 character(s) maximum

A party may make a request for further information or clarification of their opponent's case if that information is reasonably necessary and proportionate to enable the requestor to prepare its own case. In England & Wales this is done through Part 18 of the CPR (known as a "Part 18 Request"). In Scotland, Reg. 4 of the 2006 Regs would be used.

In addition to standard disclosure, a party is entitled to request that their opponent searches for and discloses a specific category of documents under CPR 31.12 ("Specific Disclosure Application"). The Court will take into account all the circumstances of the case and in particular whether the documents sought are relevant and within the disclosing party's control.

In all cases, concepts of proportionality and justice are key in deciding whether to order the disclosure of the information sought. In exercising the discretion, the Court balances all parties' interests, taking into account all the relevant factors.

What are the requirements for a request for information to be proportionate and justified when exercising this right of information against another person (e.g. an intermediary)?

1,500 character(s) maximum

Disclosure of documents can be sought from third parties under CPR 31.17 ("Third Party Disclosure Order") if the documents are likely to support the applicant's case or adversely affect the case of one of the other parties to the proceedings, and the disclosure is necessary to dispose fairly of the claim or to save costs.

Further, a party may also make an application for information from a third party by applying for a Norwich Pharmacal Order ("NPO") - see below. In Scotland, the equivalent processes are known as commission and diligence after the commencement of an action or an order under Section 1 of the Administration of Justice etc (Scotland) Act 1972 pre-action ("Section 1 Order").

Conditions for an NPO:

- (i) a wrong must have been carried out, or arguably carried out, by an ultimate wrongdoer;
- (ii) there must be the need for an order to enable action to be brought against the ultimate wrongdoer; and
- (iii) the person against whom the order is sought must: (a) be mixed in so as to have facilitated the wrongdoer; and (b) be able or likely to be able to provide the information necessary to enable the ultimate wrongdoer to be sued.

An NPO may be granted ex parte only if it can be shown that the requestor will suffer irreparable damage if there is any delay.

The rules in Scotland are broadly the same. An ex parte order for recovery of evidence will require the Court being satisfied that there is a risk that the evidence will be lost or destroyed in the event.

How do you define "commercial scale" in your jurisdiction?

1,500 character(s) maximum

"Commercial scale" has not been defined and no threshold has been set under UK law with respect to the IPRED.

Given the lack of definition or thresholds on what exactly constitutes "commercial scale" under IPRED, there is scope for discrepancy in application between different jurisdictions and different Courts/judges within each jurisdiction. It is therefore suggested that "commercial scale" should be defined and/or thresholds set for when activities may be deemed to be "commercial" in scale for sake of consistency. This guidance could come from the Courts including the CJEU.

What is the scope of the assessment of the admissibility and the merits of a request for information?

1,500 character(s) maximum

The merits of a request for information are discussed elsewhere.

What is the burden of proof and evidence required to demonstrate the existence of an infringement?

1,500 character(s) maximum

Balance of probabilities.

What are the procedural safeguards in your jurisdiction to ensure the proportionate use, the relevance of the information for the identification of an infringer and the accuracy and correctness of the identification of the infringer, in particular when information is to be provided by a third person, for example an intermediary service provider, for such purposes?

1,500 character(s) maximum

Please see above. In addition, the following is noted:

Proportionate use

The CPR provide at Rule 31.22 that documents disclosed in the course of proceedings can only be used for the purposes of those proceedings, except where: (a) the document has been read to or by the Court, or referred to, at a hearing which has been held in public; (b) the Court gives permission; or (c) the party who disclosed the document and the person to whom the document belongs agree.

The principle in the above rule has been extended to apply in the context of NPOs against third parties.

Relevance of information for identification

CPR 31.17 provides that a Court may grant a Third Party Disclosure Order against a party that is not party to proceedings only if (a) the documents of which disclosure is sought are likely to support the case of the applicant or adversely affect the case of one of the other parties to the proceedings; and (b) disclosure is necessary in order to dispose fairly of the claim or to save costs.

Cross-undertaking in damages

An applicant for an NPO or Section 1 Order may be required to provide a cross-undertaking in damages to indemnify a third party/intermediary for any loss as a result of having to comply with the order.

In your experience, what are the main reasons for not obtaining the requested information?

	Very relevant	Relevant	Less relevant	Not relevant
Unjustified/disproportionate request	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protection of confidentiality of information	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Right to respect for private life and/or right to protection of personal data	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information not available (anymore)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Information provided in the request inaccurate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Other	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please specify:

500 character(s) maximum

Information not known.

*** In view of your experience with the application of the right of information do you think that the existing rules have helped effectively in protecting IP and preventing IPR infringements?**

- Yes
 No
 No opinion

Please explain:

1,500 character(s) maximum

The provision of information concerning the origin and distribution networks of the goods/services can facilitate the resolution of the dispute against the whole network. Where it is just and proportionate, such information should be disclosed and in this regard the IPRED is effective. However, in the UK, a Court will consider the application for the disclosure of information envisaged by Article 8 on the basis of where the balance convenience lies, in terms of the harm caused to the party in disclosing the information as against the harm caused to other party in not having access to that information. This safeguards the interests of all parties involved. Such guidance could be included in IPRED to make it more effective.

The UPC Agreement Article 67 is based on Article 8 Enforcement Directive.

*** Do you consider the application of the rules on the right of information to be clear and unambiguous, in particular with regard to requests for information held by intermediaries?**

- Yes
 No
 No opinion

Please explain:

1,500 character(s) maximum

When infringing activity is taking place via an internet intermediary's services, then the IPRED could provide that the internet intermediary should be under an obligation to preserve and disclose information to identify the underlying infringer. Consideration should also be given to provisions which, upon receipt of a proper/compliant notice, require an internet intermediary to contact the underlying infringer to request removal.

al of the complained-of materials and, if take-down is not forthcoming, then the internet intermediary may take down the infringing materials and suspend services to the underlying infringer. The underlying infringer should be able to apply to Court for relief if the take-down request is improper.

*** In view of your experience with the application of the right of information do you see a need to adjust the provisions for the application of that measure?**

- Yes
 No
 No opinion

*** Please explain:**

1,500 character(s) maximum

Please see the above.

*** Do you see a need to clarify the criteria used to reconcile the requirements of the right to respect for private life/right to protection of personal data on the one hand and the right to effective remedy on the other hand when assessing requests for disclosure of personal data for the purpose of initiating judicial proceedings?**

- Yes
 No
 No opinion

Please explain:

1,500 character(s) maximum

As an overarching point: in exercising its discretion whether to grant an order for disclosure, the Court should balance all parties' interests considering all the relevant circumstances. These circumstances will differ from case to case. In order to enable the Court to reach a just result, the balancing exercise should not be too prescriptive.

As a separate point: in relation to the disclosure of information from a third party intermediary which will assist in identifying the underlying wrongdoer specifically, there could be some clarification that the disclosure of that limited information by the intermediary will not fall foul of data protection, confidence and privacy laws.

C.2.3. Procedures and courts, damages and legal costs (Articles 3, 13 and 14)

In your experience, what are the reasons for taking infringer to court?

	Very		Less	Not
--	------	--	------	-----

	relevant	Relevant	relevant	relevant
Damages	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Provisional and precautionary measures	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Injunctions	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please specify:

500 character(s) maximum

*** Do you encounter specific problems when dealing with legal actions in a cross-border situation (applicant or defendant incorporated or resident in another EU Member State)?**

- Yes
- No

* Please explain:

1,500 character(s) maximum

The law regarding jurisdiction for online infringement of IP rights is currently very uncertain. The current position as to whether "accessibility" or "intention to target" is the correct test for jurisdiction in online infringement cases is very confused and inconsistent for different IP rights. There needs to be an urgent clarification of this across the EU although this guidance may be more appropriate from the Courts including the CJEU.

Serving defendants incorporated or resident in another jurisdiction can also cause difficulties.

In your jurisdiction the award of damages as a compensation for the prejudice suffered as a result of an infringement can include?

	Yes	No
Lost profit	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Unfair profits	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Moral prejudice	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Lump sum	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

Please specify:

500 character(s) maximum

*** In your jurisdiction damages are usually granted in full?**

- Yes
- No
- Don't know

*** What are the main reasons for not granting damages in full?**

- Limitations in law
- Unjustified request / lack of evidence
- Other

Please specify:

1,500 character(s) maximum

*** Is it possible in your jurisdiction for the right holder to claim damages from a third party who actively and knowingly facilitates infringements of IPRs?**

- Yes
- No
- Don't know

Please specify:

1,500 character(s) maximum

Such a third party can be liable as a contributory infringer i.e. for tortious and statutory interference. It is a copyright infringement to authorise another to do any of the restricted acts without the licence of the copyright owner (s16 CDPA '88). Pursuant to CBS v Amstrad [1988] 1 AC 1013 "authorise" means the grant or purported grant of the right to do the act complained of and does not extend to mere enablement, assistance or even encouragement. A person who procures an infringement can also be jointly and severally liable with an IP infringer. Similarly, two or more persons can participate in a common design to infringe IP rendering them jointly liable.

*** Overall, in view of your experience with the application of the rules for setting damages do you think that the existing rules have helped effectively in protecting IP and preventing IPR infringements?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

The injunction is the main deterrent in preventing IP infringements. Triple damages are not available in the UK, unlike in the US. Such exemplary damages awards might be appropriate in the right circumstances and deter IPR infringements.

*** In view of your experience with the application of the rules for the calculation of damages do you see a need to adjust the application of that measure?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

The rules on assessing damages are difficult so parties often avoid taking litigation as far as an inquiry to damages. The costs of the accounting process involved in an inquiry also make the process disproportionately expensive.

In your jurisdiction the reimbursement of legal costs incurred by the successful party can cover?

	Yes	No
Court fees for instituting proceedings	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other court fees	<input checked="" type="checkbox"/>	<input type="checkbox"/>
External expert(s) costs	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-house costs	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Attorney's charge	<input checked="" type="checkbox"/>	
Additional attorney's fees	<input checked="" type="checkbox"/>	
Other	<input type="checkbox"/>	<input type="checkbox"/>

Please specify:

500 character(s) maximum

*** Are there any limitations on the recoverability of legal costs stipulated in the legislation/established by case law in your jurisdiction?**

- Yes
- No
- Don't know

Please explain:

1,500 character(s) maximum

The procedural rules across the UK require the Court to deal with cases in a way proportionate to the amount involved and/or complexity. The cost burden on the losing party should not be greater than the subject matter of the litigation warrants.

In England & Wales parties are required to prepare and exchange litigation budgets for claims worth less than £10m. The Court then manages the case so that it proceeds within the approved budgets and, at the end of the litigation, the recoverable costs of the winning party are assessed in accordance with the approved budget. In deciding the reasonable and proportionate costs of each phase of the budget, the Court will have regard to the factors set out at CPR 44.3(5) and 44.4(3). This includes the value of any non-monetary relief in issue in the proceedings.

There is no equivalent rule in Scotland.

Costs awards in the IPEC are subject to a capped and scaled costs regime.

*** In view of your experience with the application of the rules for the reimbursement of legal costs do you think that the existing rules have helped effectively in protecting IP and preventing IPR infringements?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

The reimbursement of legal costs by the losing party to the winning party has been a long tradition in the UK so the IPRED has had no impact. The principle that the losing party pays the winning party's legal costs encourages settlement and discourages speculative litigation. The scaled and capped cost provisions of the IPEC are intended to make the Court more accessible by reducing the risk of an adverse costs order against a party, giving certainty to litigants as to their maximum potential exposure to their opponents' costs, regardless of the outcome of the case.

*** In view of your experience with the application of the rules for the reimbursement of legal costs do you see a need to adjust the application of that measure?**

- Yes
- No
- No opinion

*** Please explain:****1,500 character(s) maximum**

There is a concern that the cost budgeting rules, which came into force in England & Wales in 2013, are too rigid, but this is not a matter for the IPRED.

C.2.4. Provisional and precautionary measures and injunctions (Articles 9 and 11)*** From your experience what kind of provisional measures and injunctions are most frequently requested?**

- Provisional measures against an infringer
- Injunction against an infringer
- Provisional measures against an intermediary
- Injunction against an intermediary
- Don't know

*** What is usually the geographical scope of the provisional measures and injunction requested?**

- Domestic
- Another EU jurisdiction
- Non-EU jurisdiction
- Multi-jurisdictional
- Don't know

From your experience what are the reasons for applying for a provisional and precautionary measures?

	Very relevant	Relevant	Less relevant	Not relevant
Prevent an imminent infringement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Forbid the continuation of an alleged infringement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lodging of guarantees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Seizure or delivery up of the goods suspected of infringing an IPR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Blocking alleged infringer's bank accounts and other assets	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Precautionary seizure of other movable and immovable property of the alleged infringer	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please specify:

500 character(s) maximum

What are the reasons for not obtaining provisional and precautionary measures against an infringer?

	Very relevant	Relevant	Less relevant	Not relevant

Insufficient evidence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Measure requested disproportionate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
No likelihood of success on the merits of the case	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Protection of confidentiality of information	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Request for a security or an equivalent assurance	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Right to respect for private life and/or right to protection of personal data	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
No commercial scale infringement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Infringer established in another jurisdiction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please specify:

500 character(s) maximum

Legal costs.

Against which type of intermediary provisional and precautionary measures and injunctions are most frequently requested?

For the purpose of this consultation:

"Advertising service provider" Advertising agencies, advertising broker

"Contract manufacturing service provider" Contract manufacturing is an outsourcing of certain production activities previously performed by the manufacturer to a third-party. This may concern certain components for the product or the assembly of the

whole product.

"Business-to-business data storage provider"Data storage space and related management services for commercial user,

"Business-to-consumer data storage provider"File-storing or file-sharing services for personal media files and data

"Content hosting platform"Platforms providing to the user access to audio and video files, images or text documents.

"Press and media company"Newspaper, broadcaster

- | | |
|---|---|
| <input type="checkbox"/> Advertising service provider | <input type="checkbox"/> Contract manufacturing service provider |
| <input type="checkbox"/> Business-to-business data storage provider | <input type="checkbox"/> Business-to-consumer data storage provider |
| <input checked="" type="checkbox"/> Content hosting platform | <input type="checkbox"/> Domain name registrar |
| <input type="checkbox"/> Domain name registry | <input type="checkbox"/> DNS hosting service provider |
| <input checked="" type="checkbox"/> Internet Access Provider | <input type="checkbox"/> Mobile apps marketplace |
| <input type="checkbox"/> Press and media company | <input type="checkbox"/> Online marketplace |
| <input type="checkbox"/> Payment service provider | <input type="checkbox"/> Retailer |
| <input type="checkbox"/> Search engine | <input type="checkbox"/> Social media platform |
| <input type="checkbox"/> Transport and logistics company | <input type="checkbox"/> Wholesaler |
| <input type="checkbox"/> Other | |

Please specify:

500 character(s) maximum

*** In your jurisdiction does the availability of provisional and precautionary measures against an intermediary depend on whether or not the infringer has been identified?**

- Yes
- No
- Don't know

Please explain:

1,500 character(s) maximum

*** Is it possible in your jurisdiction to obtain provisional and precautionary measures against any intermediary or is such a measure subject to an active involvement (responsibility/liability) of the intermediary in the infringement?**

- Any intermediary
- Only intermediaries actively involved in the infringement
- Don't know

*** What are the criteria for determining if an intermediary is actively involved in the infringement?**

1,500 character(s) maximum

In your experience, what are the reasons for not obtaining provisional and precautionary measures against an intermediary?

	Very relevant	Relevant	Less relevant	Not relevant
Insufficient evidence	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Measure requested disproportionate	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
No sufficient link between the intermediary and the infringement	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
No likelihood of success on the merits of the case	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protection of confidentiality of information	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Request for a security or an equivalent assurance	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Right to respect for private life and/or right to protection of personal data	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
No commercial scale infringement	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Intermediary established in another jurisdiction	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please specify:

500 character(s) maximum

*** Are you aware of problems in cases of application for provisional and precautionary measures in a cross-border situation (for example infringer or intermediary established in another Member State)?**

- Yes
- No

* Please explain:

1,500 character(s) maximum

If an infringing act is being performed in the UK, the Court has jurisdiction to order provisional and precautionary measures regardless of whether the infringer or intermediary is based outside the UK. For example, website blocking injunctions have been granted against websites operated by parties outside the UK because those websites are accessible within the UK.

*** Are you aware of problems when executing provisional and precautionary measures in a cross-border situation (judicial authority in another jurisdiction and infringer or intermediary established in your jurisdiction)?**

- Yes
- No

* Please explain:

1,500 character(s) maximum

No direct experience but we can imagine it would be time-consuming and expensive enforcing such measures in the UK and, obviously, provisional and precautionary measures are usually time-critical.

*** In your jurisdiction can an injunction against an infringer be issued only to stop an actual infringement or also to prevent further infringements in the future?**

- Only actual infringement
- Also further infringements in the future
- Don't know

*** How do you define "further infringements"?**

1,500 character(s) maximum

The Court will usually grant an injunction against infringing the particular IP right in issue. Therefore, the infringer will still breach the injunction even if he modifies his activities but still infringes the particular IP right in issue.

What are the reasons for not obtaining an injunction against an infringer?

	Very relevant	Relevant	Less relevant	Not relevant
Insufficient evidence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Measure requested disproportionate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Protection of confidentiality of information	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Right to respect for private life and/or right to protection of personal data	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
No commercial scale infringement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Infringer established in another jurisdiction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please specify:

500 character(s) maximum

An injunction may not be granted against infringement of a Standard Essential Patent if the infringer agrees to take a licence on FRAND terms.

What are the reasons for applying for an injunction against an intermediary with regard to a third party using its services infringing an IPR?

	Very relevant	Relevant	Less relevant	Not relevant
Block access to infringing content online	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stay down of infringing content online	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Adopt technical measures such as filtering	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
De-indexing infringing websites	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Permanent termination of domain	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Permanent termination of subscriber account	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Discontinue providing payment services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Discontinue providing advertising services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Discontinue providing transport services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Discontinue manufacturing of infringing products	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Termination of lease for commercial premises	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please specify:

500 character(s) maximum

*** Is it possible in your jurisdiction to obtain an injunction against any intermediary or is an injunction subject to an active involvement (responsibility/liability) of the intermediary in the infringement?**

- Any intermediary
- Only intermediaries actively involved in the infringement
- Don't know

*** What are the criteria for determining if an intermediary is actively involved in the infringement?**

1,500 character(s) maximum

*** In your jurisdiction can an injunction against an intermediary be issued only to stop an actual infringement or also to prevent further infringements in the future?**

- Only actual infringement
- Also further infringements in the future
- Don't know

How do courts define "further infringements" without imposing on intermediaries general monitoring obligation in the meaning of the E-commerce Directive?

1,500 character(s) maximum

Following the ruling of the CJEU in L'Oreal v. eBay International AG (Case C-324/09), the Courts will, where appropriate, grant injunctions against intermediaries that will aim to prevent further infringements. Before the UK Courts grant an injunction against intermediaries, they need to be satisfied that the intermediaries have actual knowledge of the infringing activity - see Cartier International AG et al v. British Sky Broad

dcasting Limited [2014] EWHC 3354 at paragraph 141.

*** Is it possible in your jurisdiction to obtain an injunction against an internet intermediary forbidding the continued access to the material that is allegedly infringing IPR when that injunction does not specify the exact measures which that access provider must take?**

- Yes
- No
- Don't know

How do courts guarantee the judicial oversight of the measures chosen by the intermediary with regard to the need to ensure compliance with the fundamental right of internet users to freedom of information?

1,500 character(s) maximum

To your knowledge what are the reasons for not obtaining an injunction against an intermediary?

	Very relevant	Relevant	Less relevant	Not relevant
Insufficient evidence	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
No sufficient link between the intermediary and the infringement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Measure requested disproportionate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Protection of confidentiality of information	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Right to respect for private life and/or right to protection of personal data	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
No commercial scale infringement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intermediary				

established in another jurisdiction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please specify:

500 character(s) maximum

The availability of alternative measures to tackle the infringing activity.

*** Are you aware of problems in cases of application for an injunction in a cross-border situation (for example infringer or intermediary established in another Member State)?**

- Yes
 No

* Please explain:

1,500 character(s) maximum

*** Are you aware of problems when executing an injunction in a cross-border situation (judicial authority in another jurisdiction and infringer or intermediary established in your jurisdiction)?**

- Yes
 No

* Please explain:

1,500 character(s) maximum

*** In view of your experience with the application of the rules for provisional and precautionary measures and injunctions do you see a need to adjust the application of these measures?**

- Yes
 No
 No opinion

*** Should the Directive explicitly establish that all types of intermediaries can be enjoined?**

- Yes
 No
 No opinion

Please explain:

1,500 character(s) maximum

No - not least because there is a debate as to what is the scope of the term "intermediaries". For example, are credit card providers through whom infringing activity is conducted to be treated as intermediaries?

*** Should the Directive explicitly establish that no specific liability or responsibility (violation of any duty of care) of the intermediary is required to issue an injunction?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

It is already the case that the UK Courts do not require a specific liability or responsibility on the part of the intermediary to be demonstrated before granting an injunction.

*** Should the Directive explicitly establish that national courts must be allowed to order intermediaries to take measures aimed not only at bringing to an end infringements already committed against IPR using their services, but also at preventing further infringements?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

No - as there has already been the ruling by the CJEU in L'Oreal v eBay (see above).

*** In that respect should the Directive establish criteria on how preventing further infringements is to be undertaken (in the on-line context without establishing a general monitoring obligation under the E-Commerce Directive)?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

By their very nature, injunctions, which are discretionary remedies, need to be assessed on a case by case basis. Following CJEU rulings, the English Court will grant injunctions provided that it concludes such remedies will be (i) effective; (ii) likely to dissuade infringements; (iii) not unnecessarily costly or complicated; (iv) strictly targeted so as not to impede lawful access to information/impediment to lawful trade; and (v) are proportionate. In the case of injunctions against intermediaries, a further requirement is that the Court must be satisfied that the intermediaries are aware that their facilities are being used for infringing activity. The English Courts will often employ a sunset clause when granting website blocking orders and other injunctions against intermediaries.

We are unaware of any similar orders being granted in Scotland.

*** Do you see a need for criteria defining the proportionality of an injunction?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

Injunctions are and should remain a discretionary remedy. Whether or not to grant such an order should be assessed on a case by case basis. Attempting to define 'proportionality' would detract from this type of analysis.

*** Do you see a need for a definition of the term "intermediary" in the Directive?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

For the reasons given above. As technologies develop and the manner in which online business is transacted changes, it is useful that the term for intermediaries remains fluid and adaptable.

*** Do you see a need for a clarification on how to balance the effective implementation of a measure and the right to freedom of information of users in case of a provisional measure or injunction prohibiting an internet service provider from allowing its customers access to allegedly IPR infringing material without specifying the measures which that service provider must take?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

For the reasons given above, the grant of injunctions should be a discretionary act by the Court after considering of the specific facts of the case and applying the established set of principles.

*** Do you see a need for other amendments to the provisions on provisional and precautionary measures and on injunctions?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

C.2.5. Publication of judicial decisions

*** In your experience, do parties request in legal proceedings instituted for infringement of an IPR the decision to be published in full or in part?**

- Yes
- No
- Don't know

Please explain:

1,500 character(s) maximum

In its Claim Form, the claimant will usually seek an Order requiring the defendant to pay for publication of the judgment. In England & Wales, rarely will the claimant insist on publication if it wins. In Scotland, the practice of seeking the publication order is more commonly used. This is particularly the case as part of enforcement campaigns for certain rights holders which seek to publicise their enforcement activities.

*** Are judicial decisions related to the enforcement of intellectual property rights publicly available in your jurisdiction?**

- Yes

- No
- Don't know

Please provide detail and reference:

1,500 character(s) maximum

Most, but not all, final judgments in IP matters are published on a free to access website operated by the British and Irish Legal Information Institute ("BAILII"). However, not all judicial decisions are made publicly available. For example, judgments in interim applications are not generally made publicly available unless the issues involved are unusual. Similarly, copies of orders granted by the Court are not generally made available via the BAILII platform.

These documents are, however, available to parties who request them from the Court or may be obtained through paid-for legal research tools, and are 'public' in that sense.

*** Do you see a need for / added value in a more systematic dissemination of the information concerning the decision in legal proceedings instituted for infringement of an IPR?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

Ability to access to UK judgments is acceptable. Ability to access judgments in other EU jurisdictions is poor, and translations into English are not freely available.

C.6. Other issues

Do you think that the existing rules strike the right balance between the need to effectively protect IPR and preventing IPR infringements and the need to protect fundamental rights including the right to respect for private life, the right to protection of personal data, the freedom to conduct a business as well as the freedom of information?

- Yes
- No
- No opinion

* Please explain:

1,500 character(s) maximum

*** Are there any other provisions of the Directive which, in your view, would need to be improved?**

- Yes
- No
- No opinion

*** Please specify the relevant provisions and explain.**

3,000 character(s) maximum

D. Issues outside the scope of the current legal framework

D.1. Specialised courts

*** Do you have in your jurisdiction dedicated courts, courts' chamber or judges specialised in IP matters?**

- Yes
- No
- Don't know

*** Which rights were covered by the competence of the court?**

- | | |
|---|---|
| <input checked="" type="checkbox"/> Copyright | <input checked="" type="checkbox"/> Community trademark rights |
| <input checked="" type="checkbox"/> Community design rights | <input checked="" type="checkbox"/> Rights related to copyright |
| <input checked="" type="checkbox"/> National trademark rights | <input checked="" type="checkbox"/> National design rights |
| <input checked="" type="checkbox"/> Patent rights (including rights derived from supplementary protection certificates) | <input checked="" type="checkbox"/> Geographical indications |
| <input checked="" type="checkbox"/> Rights of the creator of the topographies of a semiconductor product | <input checked="" type="checkbox"/> Plant variety rights |
| <input checked="" type="checkbox"/> Sui generis right of a database maker | <input checked="" type="checkbox"/> Trade names (in so far as these are protected as exclusive property rights in the national law concerned) |
| <input type="checkbox"/> Utility model rights | <input type="checkbox"/> Other |
| <input type="checkbox"/> Don't know | |

Please specify:

500 character(s) maximum

*** Does legal action at a court specialised in IPR matters provide an added value compared to legal actions at other courts?**

- Yes
- No
- No opinion

Please explain:

1,500 character(s) maximum

*** Please specify the added value:**

- Shorter proceedings
- Lower costs
- Build expertise
- Court proceedings more fit-for-purpose
- Other

Please specify:

500 character(s) maximum

D.2. Alternative procedures

*** In your view and with regard to civil litigation in the area of IPR enforcement do any of the following procedures provide an added value or alternative to court proceedings worth considering?**

at most 7 choice(s)

- Fast track procedure
- Arbitration
- Mediation
- Fact-finding procedures
- Online dispute resolution
- Cease and desist procedures
- Other

Please specify:

500 character(s) maximum

D.3. Other issues outside the scope of the current legal framework

*** Do you identify any other issue outside the scope of the current legal framework that should be considered in view of the intention to modernise the enforcement of IPR?**

- Yes
- No
- No opinion

*** Please specify:**

3,000 character(s) maximum

E. Other comments

*** Do you have any other comments?**

- Yes
- No

*** Please specify:**

3,000 character(s) maximum

Whilst we think there could be further strengthening and harmonisation of IP enforcement at an EU-level our concerns are that (i) an amended IPRED may not be the most appropriate way of achieving that and instead further guidance from the Courts including the CJEU would be better and (ii) this could create unintended consequences across all IP rights enforcement. For example, an amended IPRED may introduce stronger interim injunction measures or more onerous obligations for intermediaries. Whilst these would certainly assist rights holders against counterfeiting and piracy activities, they may also be used for less noble reasons by the owners of IP rights of questionable validity and where infringement is less easy to establish. Further, we should be mindful of the potential impact changes to the IPRED will have on the UPC Rules of Procedure.

Useful links

Enforcement of intellectual property rights (http://ec.europa.eu/growth/industry/intellectual-property/enforcement/index_en.htm)

The Single Market Strategy (http://europa.eu/rapid/press-release_MEMO-15-5910_en.htm)

The Digital Single Market Strategy (http://europa.eu/rapid/press-release_MEMO-15-4920_en.htm)

Background Documents

- [DE] Datenschutzerklärung (/eusurvey/files/6b3f6f9f-fbbc-41a1-8f2c-b9a758dd5b45)
- [DE] Hintergrund (/eusurvey/files/d4a4dfac-6727-4f34-b5b9-fd9a4a35415d)
- [EN] Background information (/eusurvey/files/d7d4225a-b4d3-4b88-ba51-ac199c2c5fbd)
- [EN] Privacy statement (/eusurvey/files/bdb37dfc-4bb6-4b76-8e30-e29507d2b92d)
- [ES] Antecedentes (/eusurvey/files/96ab9918-056e-49f8-bd56-025d50e98d74)
- [ES] Declaración de confidencialidad (/eusurvey/files/0008481f-5985-434e-acee-a29247d96246)
- [FR] Contexte (/eusurvey/files/e5215029-8bbc-4cd4-ad61-46a9ac967711)
- [FR] Déclaration relative à la protection de la vie privée (/eusurvey/files/ae799bbe-6492-42e9-b9df-8a619da5bcd1)
- [IT] Contesto (/eusurvey/files/7079e177-0398-489c-9ed3-8c1ffc5141c9)
- [IT] Informativa sulla privacy (/eusurvey/files/66f8f74e-5e5f-40a9-ac30-230b52dc12d6)
- [PL] Kontekst (/eusurvey/files/b243ed40-dd6d-411b-8b9c-00d1c533b87a)
- [PL] Oświadczenie o ochronie prywatności (/eusurvey/files/1894672a-bff5-4032-bb88-5b5fe3cbb697)

Contact

✉ GROW-IPRCONSULTATION@ec.europa.eu