



Council of the  
European Union

Brussels, 27 October 2014  
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**NOTE**

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From: General Secretariat of the Council  
To: Delegations  
Subject: Draft Council Conclusions on IPR enforcement  
- Revised Presidency proposal

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Delegations will find attached revised draft Council conclusions on IPR enforcement, drawn up by the Presidency, to be discussed at the meeting of the Working Party on Intellectual Property on 31 October 2014.

Changes in relation to the previous version are highlighted.

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**Draft Council Conclusions on IPR enforcement**

THE COUNCIL OF THE EUROPEAN UNION:

1. RECALLING :

- its conclusions of 30 and 31 May 2012 on the Digital Single Market and Governance of the Single Market<sup>1</sup> ;
- its resolution of 1 March 2010 on the enforcement of intellectual property rights in the internal market<sup>2</sup> ;
- its resolution of 25 September 2008 on a comprehensive European anti-counterfeiting and anti-piracy plan<sup>3</sup>;
- the Communication from the Commission of 2 July 2014 « Towards a renewed consensus on the enforcement of Intellectual Property rights : An EU Action Plan »<sup>4</sup> ;
- the Communication from the Commission of 24 May 2011 « A Single Market for Intellectual Property Rights – Boosting creativity and innovation to provide economic growth, high quality jobs and first class products and services in Europe »<sup>5</sup> ;
- the Communication from the Commission of 11 September 2009 « Enhancing the enforcement of intellectual property rights in the internal market »<sup>6</sup> ;

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<sup>1</sup> 9958/1/12 REV 1

<sup>2</sup> OJ C 56, 6.3.2010, p. 1.

<sup>3</sup> OJ C 253, 4.10.2008, p. 1.

<sup>4</sup> 11533/14

<sup>5</sup> 10667/11

<sup>6</sup> 13286/09

- the Report from the Commission of 22 December 2010 « Application of Directive 2004/48/EC of the European Parliament and the Council of 29 April 2004 on the enforcement of intellectual property rights »<sup>7</sup> and its Accompanying staff working document<sup>8</sup> ;
  - the document from the Commission of July 2013 « Synthesis of the responses on the public consultation on the civil enforcement of intellectual property rights »<sup>9</sup>
2. STRESSES its commitment in the fight against intellectual property rights (hereafter referred to as "IPR") infringements while safeguarding the rights of all parties concerned by IPR enforcement ;
  3. RECOGNISES that tackling IPR infringement effectively is complex, particularly in the online environment;
  4. WELCOMES the Commission's Communication « Towards a renewed consensus on the enforcement of Intellectual Property rights : An EU Action Plan » and its focus on commercial scale infringements and the « Follow the money » strategy ;
  5. SHARES the Commission's view that improved collaboration between Member States and the Commission and sharing good practices will increase the efficiency of intellectual property rights enforcement in the EU and WELCOMES the Commission's initiative to set up an expert group on the enforcement of Intellectual Property Rights;

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<sup>7</sup> 5140/11

<sup>8</sup> 5140/11 ADD 1

<sup>9</sup> [http://ec.europa.eu/internal\\_market/consultations/docs/2012/intellectual-property-rights/summary-of-responses\\_en.pdf](http://ec.europa.eu/internal_market/consultations/docs/2012/intellectual-property-rights/summary-of-responses_en.pdf)

6. ENCOURAGES the Commission, in close consultation with the Member States, with the support of the EU Observatory on the infringement of IPR and with full cooperation of all stakeholders, to focus efforts on delivering the actions contained within the EU Action Plan, giving emphasis to the "follow the money" approach and assistance to SMEs in enforcing their intellectual property rights;
7. STRESSES the importance of accessibility of judicial systems, in particular for SMEs, either through accelerated procedures, even if not specific to IP, or through general cost-efficient systems;
8. NOTES that reflection on several other aspects of IPR enforcement not contained in the Action Plan is ongoing on the basis of the consultation process carried out by the Commission from 2012 to 2014 and as a follow-up to the adoption of the Commission's report on the application of Directive 2004/48/EC ;

[...]

9. RECALLS that further analysis is needed on the functioning of the current legislative framework regarding in particular:
- the use of the tools available to identify IPR infringers;
  - the role of intermediaries to stop IPR infringement;
  - the allocation of damages in IPR disputes.

10. HIGHLIGHTS that, within this context, a range of options should be assessed by the Commission, including business-led initiatives, soft law options, such as interpretative guidelines and the setting of best practices, or proposals for legislative change, if necessary.

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