



Copyright enforcement in the digital environment

IP Key SEA, 6-7 June 2023

Promoting Creativity and Innovation

- *Véronique Delforge , EUIPO Observatory*
- *Angélique Monneraye and Lucía Livianos Arias-Camisón, DG CNECT*

Overview

1. Digital Services Act (DSA)

2. EU copyright legal framework

- Article 8 of Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society ('InfoSoc' Directive)
- Article 9 and 11 of Directive 2004/48/EC on the enforcement of intellectual property rights ('IPRED')
- Article 15 and Article 17 of Directive(EU) 2019/790 on copyright and related rights in the Digital Single Market ('CDSM')
- Recommendation on combating online piracy of sports and other live events

3. EUIPO Observatory – Policy Support

1. EU legal framework – Article 8 Directive 2001/29/EC ('InfoSoc Directive')

- Full title: *Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society*
- Member States shall provide sanctions and remedies in respect of infringements of the rights and obligations of rightholders
- Sanctions must be **effective, proportionate and dissuasive**.
- Rightholders can bring an action for damages and/or apply for an injunction

1. EU legal framework – Articles 9 and 11 of Directive 2004/48/EC ('IPRED')

- Full title: *Directive 2004/48/EC on the enforcement of intellectual property rights*
- Injunctions available against alleged infringers and intermediaries can be of **two types**:
 1. **Article 9** - Interlocutory injunctions (provisional and precautionary measure)
 - prevent the infringement or prohibit the continuation
 2. **Article 11** - Permanent Injunctions (procedure on the merits of the case)
 - to prohibit the continuation of the infringement

1. EU legal framework – Directive on copyright and related rights in the Digital Single Market ('CDSM')

- Full title: *Directive(EU) 2019/790 on copyright and related rights in the Digital Single Market*
- The DSM Directive aims at ensuring a better functioning **copyright marketplace in the online environment**.
- New provisions for press publishers and rightsholders in general to control content on platforms, while respecting legitimate uses and users' rights:
 - **Article 15**: Platforms need authorization for press publications, unless they use very short extracts or hyperlinks.
 - **Article 17**: Platforms ('OCSSPs') are directly liable for 'communication to the public' unless they prove they have made their '**best efforts**' to obtain an authorization or have taken down notified content and kept it down.

1. EU legal framework – Recommendation on combating online piracy of sports and other live events

- Not a legislative initiative
- **Aim:** assist Member States, national authorities, rightholders and providers of intermediary services to make the best use of existing legal remedies against online piracy of live events
- **Scope:** unauthorised retransmissions of broadcasts of live events taking place through illegal websites, apps, or IPTV
- **Recommended actions:**
 - Prompt treatment of notices addressed to hosting providers
 - Use of dynamic injunctions addressed to Internet Service Providers
 - Cooperation between market players and national authorities
 - Availability of the legal offer

EUIPO Observatory on Infringements of Intellectual Property Rights (EUIPO Observatory)

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**ROBUST
LEGISLATION**

DATA/EVIDENCE

STICK

**CARROT
EDUCATION**

COOPERATION

What is the EUIPO Observatory?

[Regulation \(EU\) No 386/2012 of 19 April 2012](#)

Comprehensive approach in combatting online IPR infringement

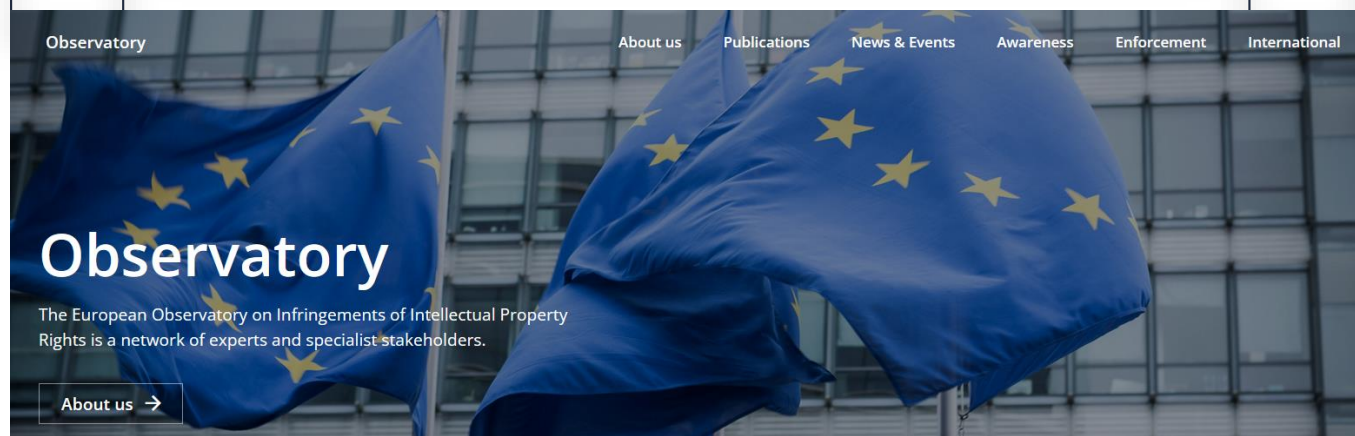
Strengthening the Network

Provide facts and evidence to support effective policies

Create tools and resources to sharpen the fight against IP infringement

Raise awareness of the importance of IP and of the negative effects of counterfeiting and piracy

International Cooperation



EUIPO Observatory: DATA/EVIDENCE

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Studies and reports – Copyright focus

cyclical	The IP contribution studies with the EPO – every 3 years (2022)- quantification of the weight of the copyright-intensive sectors in the EU economy
	IP Perception studies and Youth Scoreboard studies- every 2 years – section on copyright infringement
2017	Derivative Use of Public Domain Content - <u>Film Industry Focus</u>
2018	Feasibility Analysis for an EU deposit System
2020	Open Source Software in the European Union
2020	Online copyright Infringements in the EU 2020: Film, Music and TV
2021	Online Copyright Infringement in the European Union: Music, Films and TV (2017-2020), trends and drivers - update of 2019
2022	Study on the impact of artificial intelligence on the infringement and enforcement of copyright and designs
2023	Live Event Piracy Discussion Paper
	Online Copyright Infringement in the EU 2023

ONLINE COPYRIGHT INFRINGEMENT
IN THE EUROPEAN UNION
FILMS, MUSIC, PUBLICATIONS, SOFTWARE AND TV
(2017-2022)



September 2023

EUIPO Observatory: STICK

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EVIDENCE

- Presentation of Evidence (Art.6)
- Preservation of Evidence (Art. 7)

**RIGHT OF
INFORMATION**

- (Art.8) gathering information from infringer or another person on origin and distribution networks of IP-infringing goods
- Names and addresses

**IPRED
TOOLBOX**

ART. 3

EFFECTIVENESS & PROPORTIONALITY

DAMAGES AND LEGAL COSTS

- Damages Art. 13
- Legal costs Art. 14

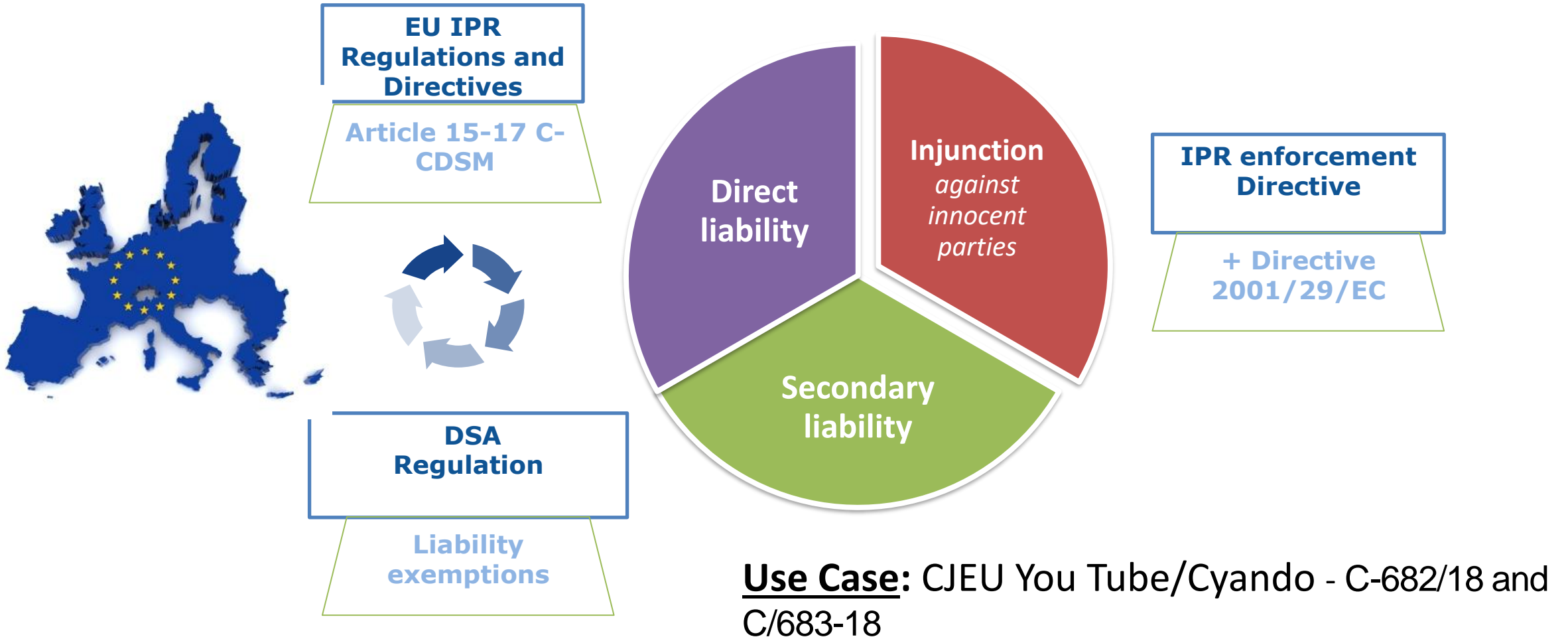
**PROVISIONAL AND
PRECAUTIONARY
MEASURES;
CORRECTIVE
MEASURES**

- (Art.9)

**MEASURES –
DECISION ON THE
MERIT**

- Corrective measures (Art.10)
- Injunctions (Art.11)
- Alternative measures (Art. 12)

INTERMEDIARIES CIVIL LIABILITY - IPR enforcement in EU



INJUNCTIONS IN EUROPE



STUDY ON DYNAMIC BLOCKING INJUNCTIONS IN THE EUROPEAN UNION

IPR ENFORCEMENT
CASE-LAW COLLECTION



www.euiipo.europa.eu

LIVE EVENT PIRACY

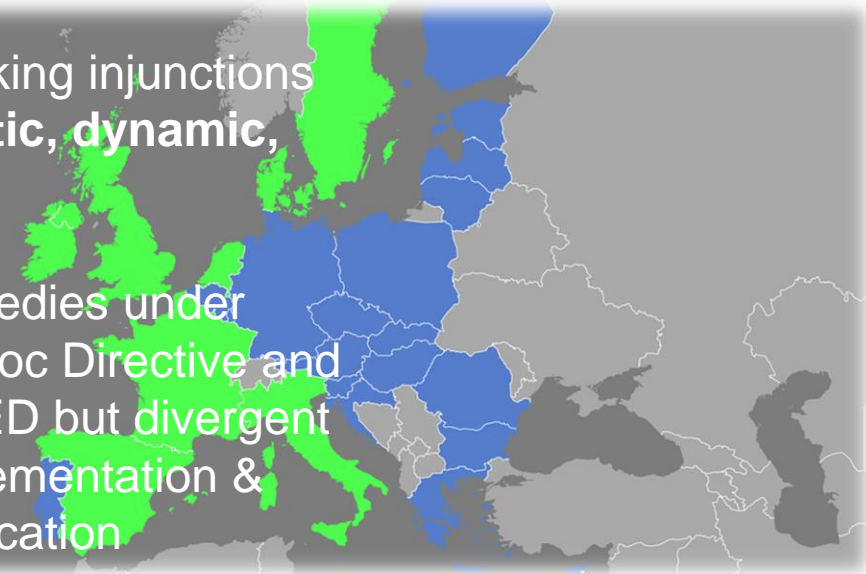
DISCUSSION PAPER

Challenges and good practices from online
intermediaries to prevent the use of their
services for live event piracy



March 2023

- Blocking injunctions «static, dynamic, live»
- Remedies under Infosoc Directive and IPRED but divergent implementation & application



INJUNCTIONS IN EUROPE



Recommendation on combating online piracy of sports and other live events

May 4th, 2023



NOTICES: Prompt treatment & Cooperation



INJUNCTIONS: Dynamic, Safeguards & Voluntary Cooperation



RAISING AWARENESS and VOLUNTARY COOPERATION between public authorities



FOLLOW UP AND MONITORING

EU MEMBER STATES EXPERIENCE – ‘LIVE’

 <p>Judicial process (court orders)</p>	<p>Evolving case-law Ireland, Malta, Portugal, the Netherlands.</p>
 <p>Judicial process (court orders) & administrative intervention</p>	<p>Regulatory approach administrative authority supporting the effectiveness of a court order France (Arcom)</p>
 <p>Administrative process (administrative orders)</p>	<p>Regulatory approach administrative process</p> <ul style="list-style-type: none"> • Greece (EDPPI) • Portugal (IGAC) • Italy (AGCOM)
 <p>Voluntary procedure with intervention of administrative bodies</p>	<p>Voluntary agreement administrative authority as trusted third party:</p> <ul style="list-style-type: none"> • Portugal (IGAC)



Combating piracy

The EUIPO Observatory is supporting the fight against online piracy, including online piracy of live events.

In line with the European Commission's [Recommendation on combating online piracy of live events](#) (the Recommendation), the EUIPO has established a specialised network of national administrative authorities to facilitate regular information exchange and will assist the European Commission in monitoring the implementation and effects of the Recommendation. The EUIPO is also encouraged to develop and organise knowledge-building activities for national judges and authorities in this area (see the [Observatory's knowledge-building events](#) page).

The Observatory has already explored several topics on the fight against IP infringement online. The [discussion paper on Live Event Piracy](#) is one such example. Further information can also be found in [Observatory publications](#).


Dedicated network of administrative authorities

In line with the European Commission's Recommendation, the Observatory has established a dedicated network of administrative authorities ('Dedicated Network') to regularly exchange information on the measures and good practices used to address the issues covered in the Recommendation and the challenges encountered.

The Dedicated Network is composed of

- representatives from administrative authorities with specific competence in the enforcement of intellectual property rights, particularly online piracy, and/or
- representatives from other administrative authorities that are competent in policy or regulatory developments relating to the enforcement of intellectual property rights, particularly online piracy.

Further information

 [Mission statement of the Dedicated Network](#)

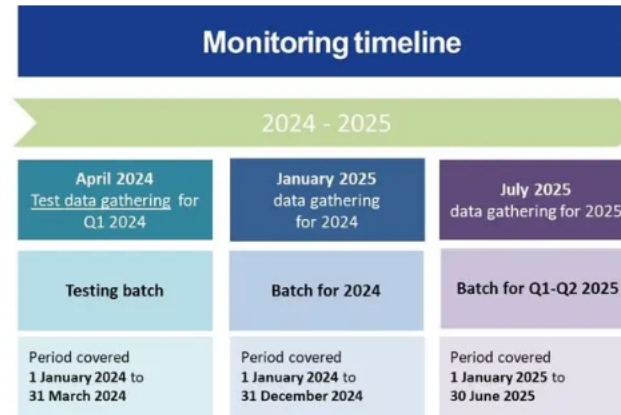
Monitoring live event piracy

The Observatory is supporting the European Commission in **monitoring the effects** of the Recommendation by gathering data from national authorities, rights holders and a number of intermediary services.

There will be 3 milestones for data collection during the period January 2024 to June 2025

- April 2024: gathering of test data
- January 2025: gathering of data for the period January to December 2024
- July 2025: gathering of data for the period January to June 2025

Monitoring timeline









The data, based on identified key performance indicators (KPIs), can be submitted using standardised templates to the EUIPO Observatory at the following address: observatory.piracy@euipo.europa.eu.

From this data analysis, the European Commission will assess the effects of the Recommendation on unauthorised retransmissions of live sports and other live events, no later than 17 November 2025.

Templates

Participants are kindly invited to indicate the 'year' and 'name of organisation' when naming the file. It is possible to provide additional clarifications by email for further substantiation. For encrypted transmissions you may use the [PGP Public Key](#)

-  Advertising and payment services
-  Content delivery networks (CDN)
-  Holders of rights
-  Hosting providers/Online platforms/Dedicated service providers
-  Internet access providers
-  Public and national authorities

EUIPO Observatory: CARROT- EDUCATION

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Tools to improve access and discoverability of EU cultural works

Orphan Works
Database



24

Countries

4295

Legal Offer Sites

OUT-OF-COMMERCE
WORKS PORTAL



Find creative content legally online in your country

Use the map to find Legal Offer Sites in your country, filter by the content you require



■ Content available ■ Content not available

Or select the type of content you are looking for



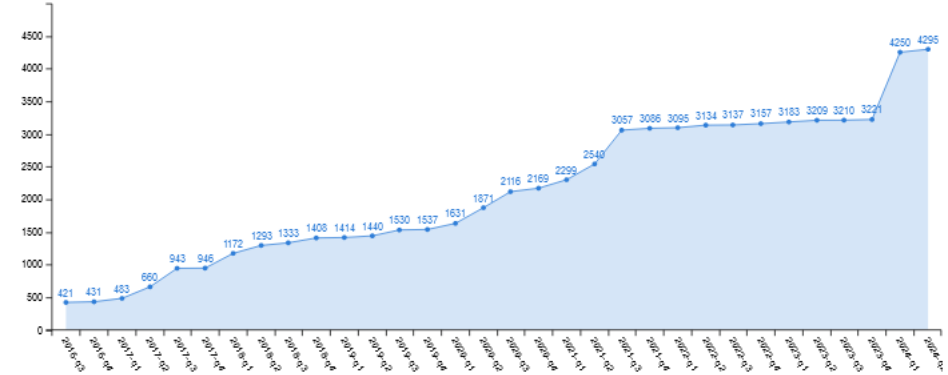
Total number of offer sites accessible through this site so far:



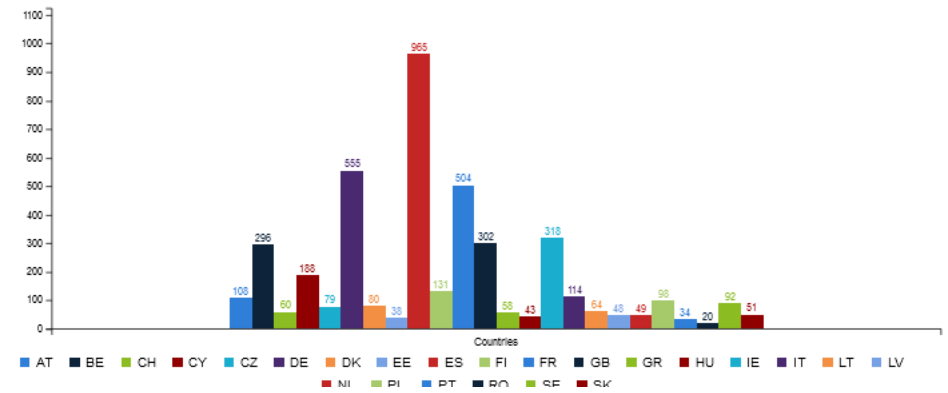
statistics

Evolution of Legal Offer Sites

4295
Legal Offer Sites



Number of Legal Offer Sites by country



EUIPO Observatory: CARROT- EDUCATION



Grants

IP in Education

ideas powered

Media outreach

SMEs

Authenticity

Consumers' Frequently Asked Questions (FAQs) about Copyright

Home > Intellectual property for... > IP for Consumers > FAQs on copyright for consumers

FAQs on copyright for consumers

FAQs on copyright for consumers

The Frequently Asked Questions (FAQs) on copyright help inform all European consumers about what is legal and what is not when using copyright protected content, such as music or film, on the Internet.

As an extension of this successful initiative, the FAQs on copyright for teachers will provide teachers and students from the EU with clear and accurate information on what use of copyright protected content is allowed in the context of education.

15 questions from consumers on copyright for all EU Member States

Answers to the FAQs are given for all EU Member States. They are available in English and at least one of the official languages of the Member State in focus.

How does copyright affect your daily life?



Are you streaming legally?

Click on a country in the map or select a country from the list to show the answers for the country.

- Select a country -



FAQs on copyright for teachers

This initiative helps teachers and students from the EU's 27 Member States find out what is legal and what is not when using copyright protected content during teaching and educational activities, in particular online.

[Go to website](#)

Summary Report on the Frequently Asked Questions on Copyright

This report provides an overview of the differences and similarities between the national copyright laws with regard to the FAQs.

[Download](#)

Participating national Copyright experts

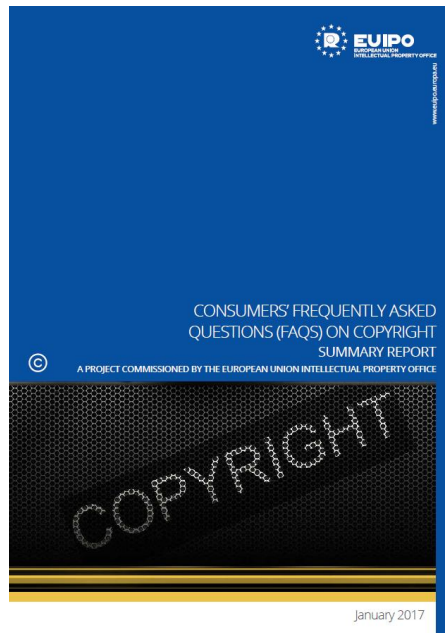
The answers to the FAQs on copyright are provided by national copyright experts for their EU Member State.

[Download](#)

The EU Copyright legislation

The EU has adopted several legal instruments in the field of copyright, namely 11 directives and 2 regulations, which harmonise the essential rights of authors, performers, producers and broadcasters. Yet, unlike in other fields of intellectual property law, there is no 'single EU title' for copyright, and each of the Member States has its own copyright law and policy.

[Go to website](#)



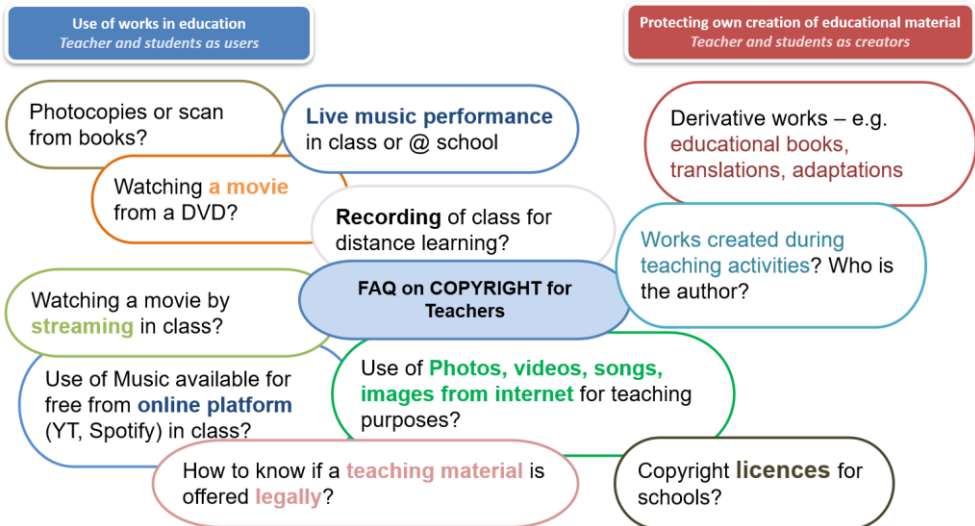
January 2017



Disclaimer

The answers to the Frequently Asked Questions (FAQs) were finalized on the date indicated as the status date on the website. Gathering up-to-date information from 27 Member States is an extensive exercise. While the EUIPO tries to keep the information up-to-date, new case law or legislative reforms may impact the content of the FAQs. Neither the EUIPO nor any person acting on behalf of the EUIPO is responsible for the use which might be made of the FAQs.

Teachers' Frequently Asked Questions (FAQs) about Copyright



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DEDICATED NETWORK OF ADMINISTRATIVE AUTHORITIES ON LIVE EVENT PIRACY

EXPERT GROUP COOPERATION WITH INTERMEDIARIES

JUDGES AND PROSECUTORS' NETWORK

Dedicated Network of Administrative authorities



MEASURES PROCEDURES REMEDIES

- Injunctions
 - Addressees
 - Procedures/requirements
 - List of internet locations covered
 - Methodology for update
 - Safeguards
- + **Voluntary measures**



IMPACT AND EFFICIENCY

- Studies
- Analysis
- Case-law reports



CHALLENGES AND GOOD PRACTICES

- Redirection, legal offers
- Infringing websites lists/
Trusted websites list

- ✓ **Monitoring effect of the Recommendation**
- ✓ **Developing a framework of cooperation**
- ✓ **EUIPO activities and projects**



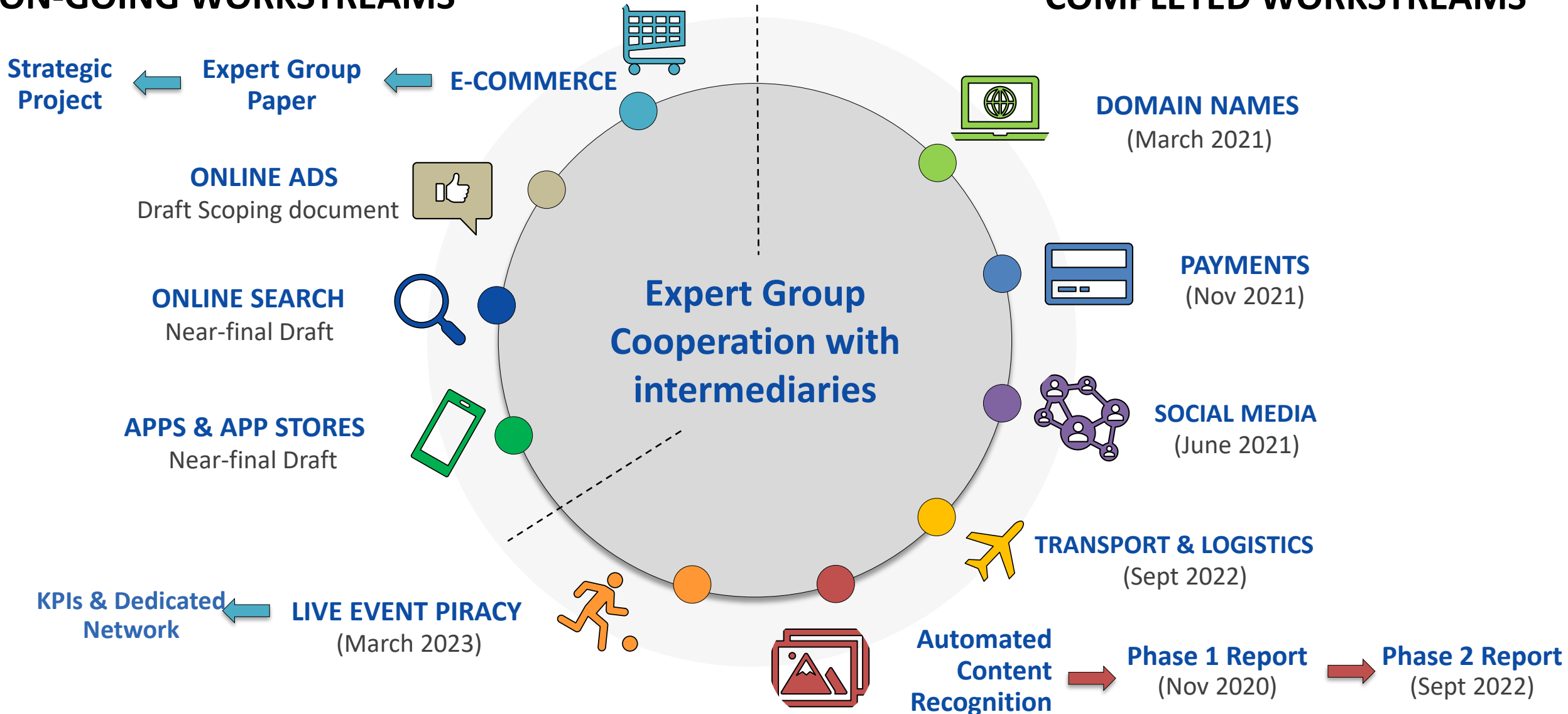
+ **CROSS BORDER OPPORTUNITIES**



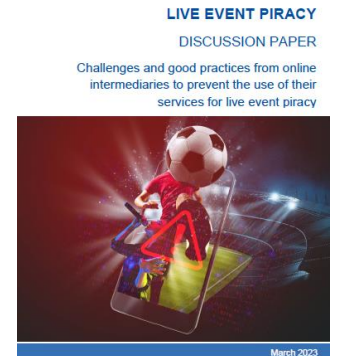
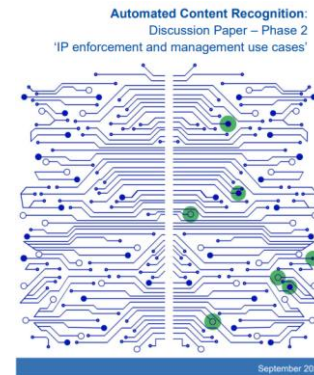
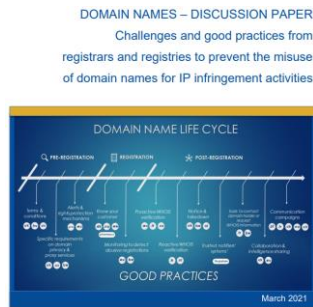
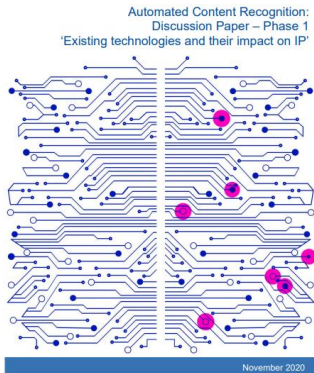
Expert Group Cooperation with intermediaries

ON-GOING WORKSTREAMS

COMPLETED WORKSTREAMS



Expert Group Cooperation with intermediaries



2020

2021

2022

2023

Judges and Prosecutors' network

Observatory tasks: *'enhancing the expertise of persons involved in the enforcement of intellectual property rights'*

- Regulation 386/2012

Judges network:

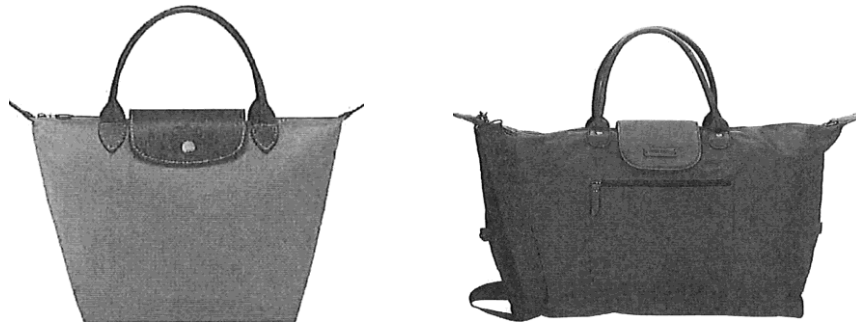
- **Unique forum for privileged exchanges on IPR infringement – enforcement**
- Tailor made Seminars and Webinars focusing on comparative law approaches, in a secure context
- Closed/secured environment, hands on trainings, **exchange of ideas and good practices; breakout discussions**
- Creation of **synergies with case-law activities**

Judges and prosecutors' network

Similar cases in Belgium and Italy Bolso « Le Pliage »

BELGIUM

Tribunal de l'Entreprise (Liège) A/21/00037,
Longchamp vs Enrico Benetti - 22 Nov 2021



Original

Longchamp "Le Pliage" (left) Enrico Benetti, "Emily" (right) – BE ruling

1° Originality test

ITALY

Milan Court of First Instance, Longchamp S.A.S v X,
Sentenza n.10280/2021 - 13 Dec 2021



NO artistic value



Longchamp "Le Pliage" (left), defendant's bag (right) – source [here](#)

2° Infringement test

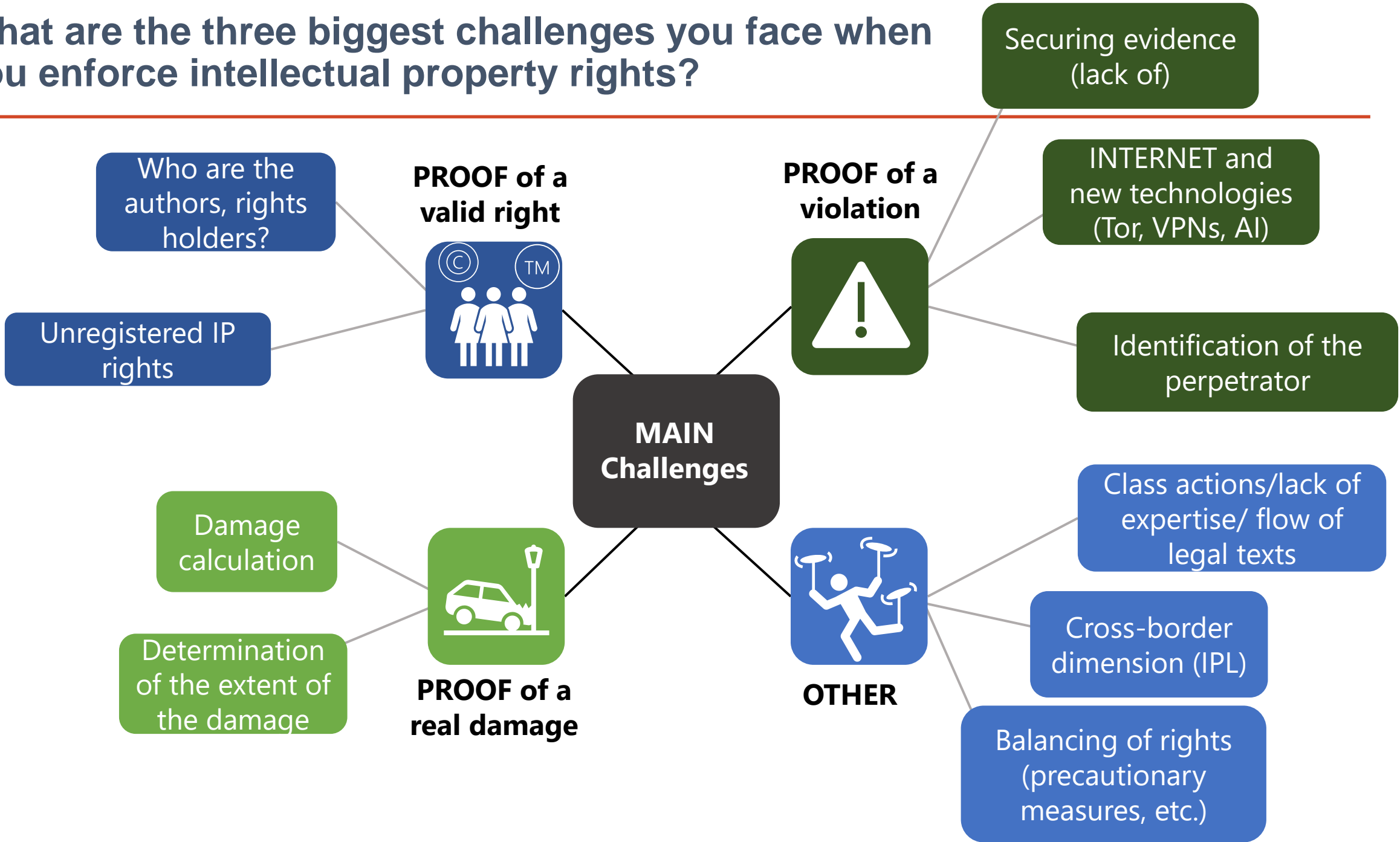
IS IT ORIGINAL?

Two similar cases initiated in Belgium and Italy

President Tribunal entreprise Liège,
21 November 2023
Louboutin/Steve Madden



What are the three biggest challenges you face when you enforce intellectual property rights?



Conclusions: Copyright enforcement at EUIPO Observatory

Fact and evidence (studies/papers)

- Economic data, statistics
- Legal: civil and criminal
- EU policy: e.g. Live event piracy, AI, IPTV, Metaverse

Tools and Resources (copyright databases, portals)

- Databases: Orphan works, Out of commerce works
- Agorateka
- Case-law: National and CJEU Key IP Enforcement rulings (incl. Copyright)

Awareness and education

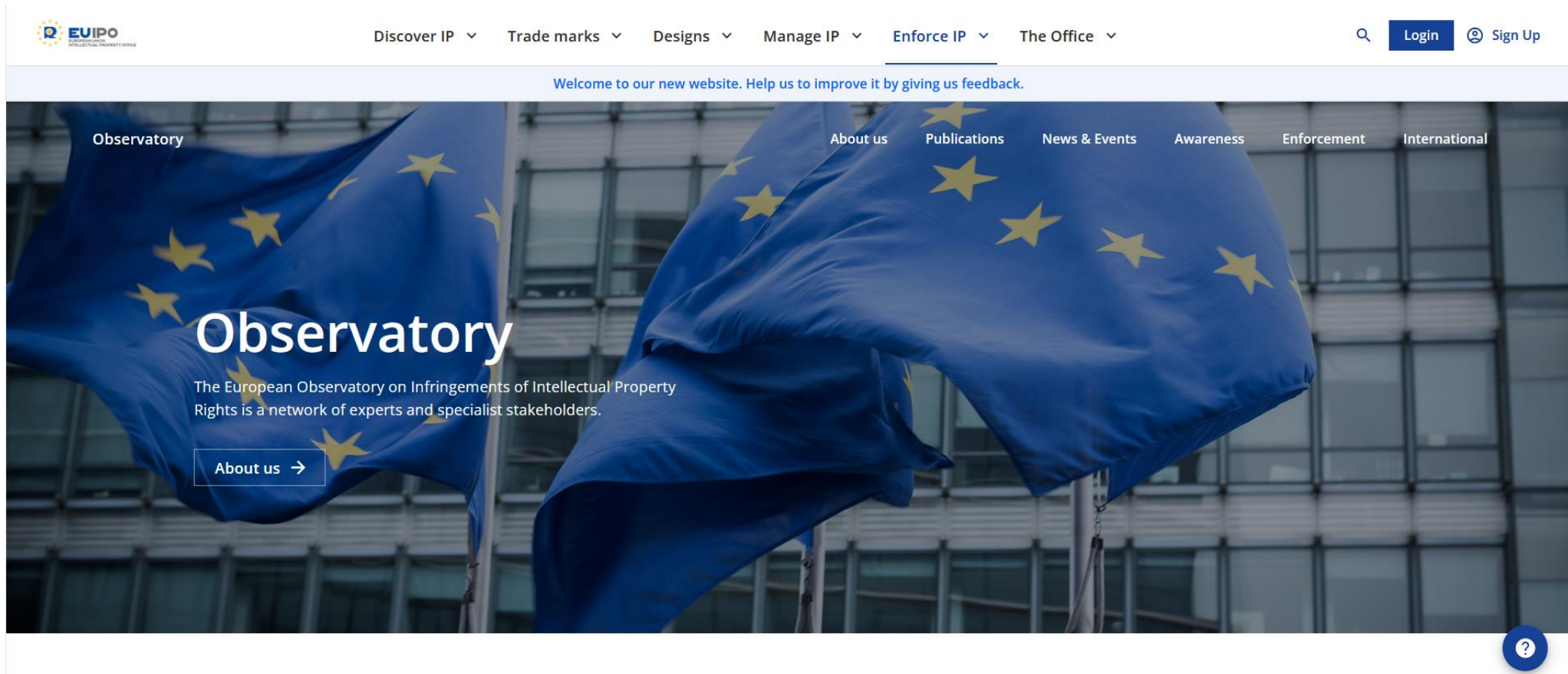
- FAQs on copyright for consumers (2016)- Teachers (2022)
- IP in Education: Copyright Mooc, Materials, Trainings Young/Teachers , SoMe campaigns, Grants

Cooperation & Networks

- Live piracy: Dedicated network of public authorities – Monitoring COM Rec.
- EG Cooperation with intermediaries, EG Legal experts, International
- Judges & Prosecutors network

**+ International
cooperation**

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The European Observatory on Infringements of Intellectual Property Rights is a network of experts and specialist stakeholders.

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