



Institut der beim Europäischen Patentamt zugelassenen Vertreter  
Institute of Professional Representatives before the European Patent Office  
Institut des mandataires agréés près l'Office européen des brevets

European Patent Institute · Bayerstrasse 83 · 80335 Munich · Germany

European Commission  
DG for Internal Market, Industry, Entrepreneurship and SMEs  
Unit F/5 - Intellectual Property and Fight against Counterfeiting

Via e-mail to [GROW-IPRENFORCEMENT@ec.europa.eu](mailto:GROW-IPRENFORCEMENT@ec.europa.eu)

29 April 2016

**epi Response to Questionnaire "Public consultation on the evaluation and modernisation of the legal framework for the enforcement of intellectual property rights"**

Dear Sirs,

Please find attached some comments of our Litigation Committee in response to the questionnaire "Public consultation on the evaluation and modernisation of the legal framework for the enforcement of intellectual property rights".

We kindly request you to duly consider these comments.

The **epi** is currently in the process of registering on the Transparency Register, which we hope to finalise shortly.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Antonius Tangena', written over a horizontal line.

Antonius Tangena  
President

Annex: **epi** Answer to the Questionnaire on the IPR Enforcement Directive



28 April 2016

## **EPI answer to the questionnaire on the IPR enforcement Directive**

The European Patent Institute (epi) welcomes the initiative of the EU Commission to evaluate and modernise the legal framework of enforcement of intellectual property rights.

After careful study of the questionnaire of the public consultation, the epi would like to make the following comments which are limited to patent questions.

The Agreement on a Unified Patent Court (UPC), including the Rules of procedure which are now proposed, are in line with the present provisions of the IP rights enforcement Directive (2004/48EC of 29 April 2004) and are satisfactory. In particular, the UPC Agreement solves the current difficulties of cross border injunctions and damages for patent infringement within the territory of the Contracting Member States.

Of course, it will be necessary to carefully watch the development of the practice of this new court and the epi would propose to the EU Commission to report on the functioning of this new court in the future.

For the time being, the epi considers therefore that the IP rights enforcement directive fulfils its goals.

Nevertheless, the epi considers that one point could be improved concerning access and preservation of evidence in the digital environment:

The increasing number of patent infringements occurring in the digital environment via websites, social media (such as Facebook pages for commercial purposes), app stores, etc. require namely quick and efficient means for preserving digital evidence that may easily be deleted from the publicly accessible webpage or other source. In that regard the IP Rights enforcement directive, seem to be more designed with view to the seizure of physical proof (samples of products, materials, production machines, etc.) rather than to the preservation of digital evidence (such as data stored on servers, old or deleted versions of web pages, etc.).

Improvement in this regard could be considered.