

JURI/7/01257

INDICATIVE VOTING LIST

on the draft report

on the enforcement of intellectual property rights in the internal market

(2009/2178(INI))

Rapporteur: Marielle Gallo

PE 439.233v01-00 (ams 1-122) + PE 438.391v02-00 + PE 438.494v04-00

Part of the text being considered	Subject of the vote	Comments	LQDN's opinion	Justification
horizontal amendment	in all the paragraphs concerned the word " <i>piracy</i> " is replaced by the word " <i>IPR infringements</i> " if adopted AM 40 falls		-	An all encompassing expression like "IPR infringement" is as likely to lead to abusive actions against alleged infringers than the word "privacy". To be acceptable this amendment should replace "piracy" by "wilful for-profit infringement of trademarks and copyright"
Citation (new)	am 1 Lambrinidis		+	
Citation (new)	am 2 Engström		+	
Citation (new)	am 3 Castex		+	
Citation (new)	am 4 Geringer de Oedenberg/Castex/Rap		+	

	kay/Wikström/Engström			
Citation (new)	am 5 Castex			
Recital A	am 6 Lambrinidis	<u>separated vote</u> <u>first part: the text without the word "can"</u> whereas infringements of intellectual property rights (IPR) constitute a genuine threat not only to consumer health and safety but also to our economies and societies,	?	The final version of this amendment will be known only Monday morning. Our recommendations is likely to be positive on including a word that limits the affirmation in the text. In reality IPR infringements per se never constitute a threat to consumer health and safety. It is fake products that do so. We could accept a statement that would mention that some products that infringe patents or trademarks are more likely to constitute a threat to consumer health and safety.
		<u>second part:</u> The word "can"	+	
Recital A	am 7 Castex/Geringer de Oedenberg/Berlinguer/Masip Hidalgo/Rapkay/Lambrinidis/Wikström/Engström	falls if AM 6 is adopted	++	
Recital A a (new)	am 8 Castex/Lambrinidis			
Recital A a (new)	am 9 McCarthy		-	
Recital A b (new)	am 10 Castex/Geringer de Oedenberg/Berlinguer/Hidalgo/Rapkay/Lambrinidis		+	

Recital A c (new)	am 11 Castex/Lambrinidis/ Wikström		++	
Recital A d (new)	am 12 Castex/Wikström/ Engström		++	
Recital B a (new)	am 13 Yáñez-Barnuevo García			
Recital C	AMC 1	<i>whereas data concerning the scale of IPR infringements are inconsistent, incomplete, insufficient and dispersed, and whereas an objective, independent impact assessment is needed for any additional legislative proposal,</i> if adopted AMs 14 and 17 fall	+	In reality an objective and independent assessment is needed not only on the scale of IPR infringements but also on the negation and positive impacts and on possible alternative measures. However, the acknowledgment that existing figures mentioned are not substantiated is positive, and we recommend adopting this amendment.
Recital C	am 14 Castex/Geringer de Oedenberg/Berlinguer/ Rapkay/Engström	falls if AMC 1 is adopted	++	
Recital E	am 15 Castex/Rapkay			
Recital E a (new)	am 16 Manders		-	
Recital F	am 17 Castex/Geringer de Oedenberg/Berlinguer/ Masip Hidalgo/Rapkay/ Engström	falls if AMC 1 is adopted	++	
Recital F	am 18 Thein/Wikström		+	

Recital F	am 19 Lambrinidis		+	
Recital F a (new)	am 21 Wikström	<u>oral amendment:</u> <i>Whereas efforts to tackle infringement of copyright must enjoy public support in order not to risk eroding support for intellectual property rights amongst the citizens;</i> if adopted AM 20 falls	+	
Recital F a (new)	am 20 Castex/Geringer de Oedenberg/Berlinguer/Hidalgo/Rapkay/Lamb rini/Engström	falls if AM 21 is adopted	++	
Recital F a (new)	am 22 McCarthy		--	
Recital F a (new)	am 23 Cavada	withdrawn		
Recital F b (new)	am 24 McCarthy		-	
Recital F b (new)	am 25 Cavada			
Recital G	AMC 2	whereas, with the exception of legislation on penalties under the criminal law, a Community legal framework already exists with regard to the phenomenon of counterfeiting and piracy of physical goods, but whereas lacunae persist with regard <i>to on-line IPR</i>	--	This amendment reveals that the rapporteur sole real focus is on fighting on-line file sharing. As there is no distinction between for-profit activities and non-commercial sharing between individuals this would open the door to measures that

		<i>infringements,</i> if adopted AMs 26, 27 and 28 fall		endanger fundamental freedoms and access to culture.
Recital G	am 26 Castex/Geringer de Oedenberg/Berlingue/ Hidalgo/Rapkay/Engstr öm	falls if AMC 2 is adopted	++	
Recital G	am 27 Wikström	falls if AMC 2 is adopted	+	
Recital G	am 28 Lambrinidis	falls if AMC 2 is adopted	-	
Recital H	am 29 Castex/Lambrinidis/ Wikström/Engström		++	
Recital H a (new)	am 30 Castex/Geringer de Oedenberg/Berlinguer/ Hidalgo/Rapkay/ Lambrinidis/Wikström/ Engström	<u>split vote:</u> <u>first part:</u> <i>whereas the telecoms regulatory framework has recently been amended, includes provisions for standardised public interest notices which can address, among other things, copyright and infringement thereof without jeopardising data protection and privacy rights and stresses the need to respect fundamental rights in matters relating to Internet access,</i>	+	
		<u>second part:</u> <i>rejecting proposals for so-called graduated response schemes at EU level, and instead,</i>	+	

Recital H a (new)	am 31 Manders		-	
Recital J	AMC 3	whereas there are proven connections between various forms of organised crime and IPR infringements,	-	To be acceptable, the amendment should state for which forms of IPR infringements and clarify that there is no proven, nor even hinted connection between organised crime and not-for-profit copyright infringement.
Recital J	am 32 Castex/Geringer de Oedenberg/Berlinguer/Hidalgo/Rapkay/Wikström/Engström	falls if AMC 3 is adopted	++	
Recital J a (new)	am 33 Castex/Lambrinidis/Wikström/Engström		+	
Recital K a (new)	am 34 Speroni			
Recital K a (new)	am 35 Yáñez-Barnuevo García			
Recital L a (new)	am 36 Yáñez-Barnuevo García			
Recital M a (new)	am 37 Yáñez-Barnuevo García		-	
Paragraph 1	AMC 4	<i>Welcomes the communication of 11 September 2009 from the Commission concerning additional non-legislative measures; regrets however that the communication does not deal with the</i>	--	This amendment calls in reality for reintroducing the IPRED2 directive or other texts that criminalize IPR infringements in an indiscriminate manner and create penal sanctions for inciting or abetting or

		<p><i>matter of completing the legislative framework by introducing a set of measures to combat intellectual property right infringements in an effective manner; welcomes the progress made in the EU in harmonising the fight against counterfeiting; encourages the Commission to step up its efforts in areas that are sensitive in terms of health and safety, including that of medicines;</i></p> <p>if adopted AMs 38, 39 and 42 fall</p>		<p>provision of technical means that can be potentially used for infringement. In addition it opens the door to a confusion between generic drugs (sometimes alleged to infringe patents or other titles) and life-endangering fake drugs.</p>
Paragraph 1	am 38 Manders	falls if AMC 4 is adopted	-	
Paragraph 1	am 39 Castex/Engström	falls if AMC 4 is adopted	+	
Paragraph 1 a (new)	am 42 Yáñez-Barnuevo García	falls if AMC 4 is adopted	-	
Paragraph 1 a (new)	am 40 Manders	falls if horizontal AM is adopted	+	
Paragraph 1 a (new)	am 41 Castex/Geringer de Oedenberg/Berlinguer/ Hidalgo/Rapkay/Engström		++	
Paragraph 1 b (new)	am 43 Castex/Geringer de Oedenberg/Berlinguer/ Hidalgo/Rapkay/ Lambrinidis/Engström	see horizontal AM	++	
Paragraph 1 c (new)	am 44 Geringer de		++	

	Oedenberg/Castex/ Berlinguer/Rapkay/ Engström			
Paragraph 1 d (new)	am 45 Castex/Geringer de Oedenberg/Berlinguer/ Rapkay	split vote	++	
		<u>first part:</u> <i>Recalls that an exception to IPRs exists in the cultural area: the ‘private copy’;</i>		
		<u>second part:</u> <i>calls on the Commission to retain this exception and to adapt it to new technological progress and the internet; stresses the potential usefulness of authorising sharing between individuals of copies for non-commercial use and linking them to new mutualised forms of funding for creative endeavour;</i>	++	
Paragraph 1 d (new)	am 14 IMCO	covered by rapporteur 's Paragraph 1		
Paragraph 1 e (new)	am 10 ITRE			
Paragraph 2	AMC 5	Calls on the Commission to present <i>by the end of 2010</i> , a comprehensive IPR strategy addressing all aspects of IPRs, including their enforcement <i>as well as their promotion, in particular the role of copyright as an enabler and not an obstacle, helping creators earn a living</i>	-	It is not just the promotion of IPR that is needed to help creators to earn a living and disseminating their works, but the promotion of all means that contribute to this aim.

		<i>and disseminating their works;</i>		
		if adopted AMs 47 and 48 fall		
Paragraph 2	am 46 Geringer de Oedenberg/Castex/Masip Hidalgo/Rapkay, Lambrinidis/Wikström/Engström		+	
Paragraph 2	am 47 Gallo	falls if AMC 5 is adopted	-	
Paragraph 2	am 48 Manders	falls if AMC 5 is adopted	--	
Paragraph 2 a (new)	AMC 6	<i>Stresses that any measures taken to enforce IPR must respect the Charter of Fundamental Rights of the European Union, in particular Article 7 and Article 8, and the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 6, Article 8, and Article 10, and be necessary, proportionate, and appropriate within a democratic society; recalls in this connection that Article 17 of the Charter of Fundamental Rights of the European Union provides for the protection of intellectual property;</i>	o	<p>The lack of mention of articles regarding freedom of expression and communication raises severe concerns is in contradiction with the Constitutional or conventional case law of several Member States and with previous resolutions of the European Parliament.</p> <p>If one wants to quote article 17, one should also mention that article 17.1 states “everyone has the right to own, use, dispose and bequeath his or her lawfully acquired possessions”, a provision that is very relevant to the rights of use of digital representations of works.</p>
		if adopted AMs 49,		

		50, 57, 90, 91, 109, AM 11 ITRE and AM 1 IMCO fall		However, the mention of articles on fundamental rights to a fair trial and privacy is positive, and we appeal to the wisdom of MEPs on what is the best choice regarding this amendment.
Paragraph 2 a (new)	am 49 Geringer de Oedenberg/Castex/Mas ip Hidalgo/Rapkay/ Lambrinidis/Engström	falls if AMC 6 is adopted	++	
Paragraph 2 a (new)	am 11 ITRE	falls if AMC 6 is adopted		
Paragraph 2 a (new)	am 1 IMCO	falls if AMC 6 is adopted		
Paragraph 2 a (new)	am 2 IMCO			
Paragraph 2 a (new)	am 6 IMCO			
Paragraph 2 a (new)	am 15 IMCO			
Paragraph 2 a (new)	am 16 IMCO			
Paragraph 2 a (new)	am 26 IMCO			
Paragraph 2 a (new)	am 1 ITRE			
Paragraph 3	am 50 Engström	falls if AMC 6 is adopted	+	
Paragraph 3	am 51 Wikström			
Paragraph 3 a (new)	am 52 Castex/Masip Hidalgo			

Paragraph 3 a (new)	am 53 Gallo	withdrawn		
Paragraph 4 a (new)	am 56 Yáñez-Barnuevo García	if adopted am 54, 55 fall	-	
Paragraph 4	am 54 Castex/Geringer de Oedenberg/Berlinguer/ Masip Hidalgo/ Rapkay/Wikström/ Engström	falls if AM 56 is adopted	++	
Paragraph 4	am 55 Manders	falls if AM 56 is adopted		
Paragraph 4 a (new)	am 20 IMCO			
Paragraph 5	am 57 Castex/Masip Hidalgo/Rapkay/ Lambrinidis/Wikström/ Engström	falls if AMC 6 is adopted	+	
Paragraph 5 a (new)	am 7 IMCO			
Paragraph 5 a (new)	am 8 IMCO			
Paragraph 5 a (new)	am 34 IMCO			
Paragraph 5 a (new)	am 6 ITRE			
Paragraph 5 a (new)	am 7 ITRE			
Paragraph 6	AMC 7	Does not share the Commission view that the principal body of laws with respect to IPR enforcement is already in place; points out in this respect that negotiations on the directive on criminal sanctions have not	-	Same comments than for AMC 4.

		been successfully concluded if adopted AMs 58 and 59 falls		
Paragraph 6	am 58 Wikström	falls if AMC 7 is adopted	+	
Paragraph 6	am 59 Castex/Geringer de Oedenberg/Berlinguer/Masip Hidalgo/Rapkay/Engström	falls if AMC 7 is adopted	+	
Paragraph 6 a (new)	am 60 Castex/Geringer de Oedenberg/Berlinguer/Masip Hidalgo/Rapkay/Lambrinidis/Wikström/Engström		+	
Paragraph 6 a (new)	am 24 IMCO			
Paragraph 6 a (new)	am 35 IMCO			
Paragraph 6 a (new)	am 8 ITRE			
Paragraph 6 a (new)	am 9 ITRE			
Paragraph 7	Am 62 Thein/Wikström			
Paragraph 7	am 61 Geringer de Oedenberg/Castex	irrecevable	-	
Paragraph 7 a (new)	am 14 ITRE			
Title after paragraph 7	Am 63 Borys		-	
Paragraph 8 a (new)	am 64 Castex/Masip Hidalgo		+	
Paragraph 8 a (new)	am 65		++	

	Engström			
Paragraph 9	AMC 8	<p>Welcomes the establishment of the Observatory as a tool for centralisation of statistics and data which will serve as a basis for proposals to be implemented to combat effectively the phenomena of counterfeiting and <i>on-line IPR infringements; urges the Commission to produce a report on how best to use Europol and existing structures for cooperation between customs authorities in this field to combat IPR criminal infringements effectively;</i></p> <p>if adopted AMs 66 and 67 fall</p>	-	If the role of the Observatory is to prepare a basis for legislative or regulatory proposals, the introduction of a specific report on police and custom measures unduly restricts the scope of solutions for which the Observatory will produce statistics and data.
Paragraph 8 b (new)	am 66 Castex/Masip Hidalgo/Rapka/Wikström/Engström	falls if AMC 8 is adopted	+	
Paragraph 9	am 67 Castex/Masip Hidalgo/Rapkay/Wikström/Engström	falls if AMC 8 is adopted	+	
Paragraph 9 a (new)	am 68 Geringer de Oedenberg/Castex/Masip Hidalgo/Rapkay/Lambrinidis		+	
Paragraph 10	AMC 9	Wishes the Observatory to become a tool for collecting and exchanging data	- or °	The amendment defines a focus for research compilation that is narrower than

		and information on all forms of all IPR infringements, <i>including to compile scientific research regarding counterfeiting and IPR regulation;</i> if adopted AMs 69 and 70, AM 3 IMCO and AM 4 IMCO, AM 15 ITRE fall		in many of the amendments it intends to replace. Is is however closer to acceptable than other fake compromise amendments.
Paragraph 10	am 69 Castex/Masip Hidalgo	falls if AMC 9 is adopted	++	
Paragraph 10	am 70 Engström	falls if AMC 9 is adopted	+	
Paragraph 10 a (new)	am 3 IMCO	falls if AMC 9 is adopted		
Paragraph 10 a (new)	am 4 IMCO	falls if AMC 9 is adopted		
Paragraph 10 a (new)	am 15 ITRE	falls if AMC 9 is adopted		
Paragraph 11	am 71 Engström			
Paragraph 11 a (new)	am 5 IMCO			
Paragraph 11 a (new)	am 18 IMCO			
Paragraph 11 a (new)	am 25 IMCO			
Paragraph 11 a (new)	am 33 IMCO			
Paragraph 11 a (new)	am 30 IMCO			
Paragraph 11 a (new)	am 13 ITRE			

Paragraph 12	am 72 Castex/Masip Hidalgo/Lambrinidis	as addition		
Paragraph 12	am 73 Engström			
Paragraph 13	AMC 10	<i>Calls on the Commission and the Member States in association with the stake holders</i> to organise a campaign to raise awareness at European, national and local level of the risks to consumer health and safety arising from counterfeit products and also the adverse impact of counterfeiting <i>and on-line IPR infringement</i> on the economy and society; <i>emphasises the need to increase awareness, especially among young European consumers, of the need to respect IPR;</i> if adopted AMs 74, 75, 76, 77 AM 19 IMCO, AM 16 ITRE fall	--	Same comments than for AMC 2. In addition, this amendment is in total contradiction with what is stated in AMC1: it calls for a propaganda campaign based on statements that are known to be unsubstantiated.
Paragraph 13	am 74 Gallo	falls if AMC 10 is adopted		
Paragraph 13	am 75 Castex/Masip Hidalgo/ Rapkay/Wikström/ Engström	falls if AMC 10 is adopted	+	
Paragraph 13	am 76 Yáñez-Barnuevo García	falls if AMC 10 is adopted		

Paragraph 13	am 77 Manders	falls if AMC 10 is adopted	--	
Paragraph 13 a (new)	am 19 IMCO	falls if AMC 10 is adopted		
Paragraph 13 a (new)	am 16 ITRE	falls if AMC 10 is adopted		
Paragraph 13 a (new)	am 17 ITRE			
Paragraph 14	am 78 Gallo		-	
Paragraph 14	am 79 Wikström	falls if AM 78 is adopted	++	
Paragraph 14	am 80 Castex/Masip Hidalgo/Engström	falls if AM 78 and 79 are adopted	+	
Paragraph 15	AMC 11	Stresses the need to educate young people to enable them to understand what is at stake in intellectual property and to identify clearly what is legal and what is not, by means of targeted public awareness campaigns, particularly against on-line <i>IPR infringement</i> ; if adopted AMs 81 and 82 fall	--	Same comments than for AMC2.
Paragraph 15	am 81 Yáñez-Barnuevo García	falls if AMC 11 is adopted	--	
Paragraph 15	am 82 Castex/Geringer de Oedenberg/Berlinguer/ Masip Hidalg/ Wikström/Engström	falls if AMC 11 is adopted	++	
Title after	AMC 12	<i>Tackling</i> on-line	-	Same comments than

paragraph 15		<i>infringement</i> and protecting IPR on the Internet if adopted AMs 83 and 84 fall		for AMC 2
Title after paragraph 15	am 83 Wikström	falls if AMC 12 is adopted	++	
Title after paragraph 15	am 84 Castex/Engström	falls if AMC 12 is adopted	+	
Paragraph 15 a (new)	am 32 IMCO			
Paragraph 16	am 85 Wikström		+	
Paragraph 16	am 86 Yáñez-Barnuevo García	falls id AM 85 is adopted	--	
Paragraph 16	am 87 Castex/Geringer de Oedenberg/Berlinguer/ Masip Hidalgo/ Rapkay/Lambrinidis/ Engström	falls id AM 85 is adopted	+	
Paragraph 16 a (new)	am 88 Gallo		--	
Paragraph 17	am 89 Castex/Geringer de Oedenberg/Berlinguer/ Masip Hidalgo/ Rapkay/Wikström/ Engström	deletion	++	
Paragraph 17	am 90 Lambrinidis	falls if AMC 6 is adopted		
Paragraph 17 a (new)	am 91 Gallo	falls if AMC 6 is adopted	--	
Paragraph 18	am 92 Castex/Lidia de Oedenberg/Berlinguer/ Masip Hidalgo/ Rapkay/Lambrinidis/		-	

	Wikström			
Paragraph 18 a (new)	am 2 ITRE			
Paragraph 19	am 93 Wikström	as modified: Stresses that support for and development of the provision of a diversified, attractive, high-profile, legal range of goods and services for consumers may help to tackle the phenomenon <i>of online infringement, and recognises in this respect that the lack of a functioning internal European digital market constitutes an important</i> obstacle to the development of legal online offers and the EU runs the risk of condemning to failure efforts to develop the legitimate online market if it does not recognise that fact and make urgent proposals to address it;	-	The rapporteur has rejected several constructive proposals for opening the door to policies that contribute to a diverse and rich creative economy. The proposed amendment addresses a limited question but ignores the key condition for success of a digital creative economy : the creation of offers that are attractive because they allow for a wide range of user rights.
Paragraph 19	am 94 Castex/Geringer de Oedenberg/Berlinguer/Masip Hidalgo/Rapkay/Engström	falls if AM 93 is adopted	+	
Paragraph 19	am 95 Lambrinidis	falls if AM 93 is adopted	+	
Paragraph 19	am 96 Thein	falls if AM 93 is adopted		
Paragraph 19 a (new)	am 97 Manders			
Paragraph 19 a (new)	am 98		++	

	Speroni			
Paragraph 20	am 99 Castex/Geringer de Oedenberg/Berlinguer/ Masip Hidalgo/ Rapkay/Lambrinidis		+	
Paragraph 20	am 100 Thein			
Paragraph 20 a (new)	am 101 Castex/Geringer de Oedenberg/Berlinguer/ Rapkay/Engström		++	
Paragraph 20 a (new)	am 9 IMCO			
Paragraph 20 a (new)	am 12 IMCO			
Paragraph 20 a (new)	am 17 IMCO			
Paragraph 21	Am 102 Wikström			
Paragraph 21	am 103 Gallo			
Paragraph 21	am 104 Castex/Geringer de Oedenberg/Berlinguer/ Masip Hidalgo/Rapkay			
Paragraph 21	am 105 Yáñez-Barnuevo García			
Paragraph 21 a (new)	am 106 Gallo			
Paragraph 21 a (new)	am 107 Castex/Wikström/ Engström		+	
Paragraph 21 a (new)	am 108 Castex/Geringer de Oedenber/Berlinguer/		++	

	Masip Hidalgo/Rapkay			
Paragraph 21 a (new)	am 109 Castex/Geringer de Oedenberg/Berlinguer/Masip Hidalgo/Lambrinidis/Engström	falls if AMC 6 is approved	+	
Paragraph 21 a (new)	am 110 Borys			
Paragraph 21 b (new)	am 111 Borys			
Paragraph 21 a (new)	am 22 IMCO			
Paragraph 21 a (new)	am 31 IMCO			
Paragraph 21 a (new)	am 3 ITRE			
Paragraph 21 a (new)	am 5 ITRE			
Paragraph 22	am 112 Castex/Geringer de Oedenberg/Berlinguer/Masip Hidalgo/Lambrinidis/Engström		+	
Paragraph 22 a (new)	am 113 Bodu		--	
Paragraph 23	am 114 Castex/Geringer de Oedenberg/Berlinguer/Masip Hidalgo/Lambrinidis			
Paragraph 23 a (new)	am 115 Bodu		-	
Paragraph 23 a (new)	am 28 IMCO			
Paragraph 23 a (new)	am 29 IMCO			

Paragraph 24	am 116 Castex/Geringer de Oedenberg/Berlinguer/ Masip Hidalgo/ Rapkay/Lambrinidis		++	
Paragraph 24	am 117 Engström		+	
Paragraph 25	am 118 Gallo			
Paragraph 25	am 119 Castex/Hidalgo/Rapka y/ Lambrinidis/Wikström/ Engström		+	
Paragraph 25 a (new)	am 120 Castex/Masip Hidalgo/Rapkay/ Lambrinidis/Wikström/ Engström		+	
Paragraph 25 b (new)	am 121 Castex/Masip Hidalgo/ Lambrinidis		++	
Paragraph 25 b (new)	am 13 IMCO			
Paragraph 25 c (new)	am 21 IMCO			
Paragraph 26 a (new)	am 27 IMCO			
Paragraph 26 b (new)	am 12 ITRE			
Paragraph 27	AMC 13	Stresses the importance of fighting organised crime in the area of IPRs, in particular counterfeiting <i>and on line IPR infringements</i> ; points out in this context the need for appropriate	-	The reference to on-line infringements in a context relating to organized crime introduces a dangerous confusion between organised crime and non-for-profit file sharing between individuals.

		EU legislation on <i>proportional and fair</i> sanctions and supports close strategic and operational cooperation between all the interested parties within the EU, in particular Europol, national authorities and the private sector, as well as with non-EU states and international organisations;		
Paragraph 27	am 122 Castex/Geringer de Oedenberg/Berlinguer/Masip Hidalgo/Rapkay/Wikström/Engström	falls if AMC 13 is approved	+	
Paragraph 27 a (new)	am 10 IMCO			
Paragraph 27 b (new)	am 23 IMCO			
DRAFT REPORT AS A WHOLE			-	unless all the above recommendations are matched