

“Music should strike fire from the heart of man, and bring tears from the eyes of woman.”
Ludwig Van Beethoven

INTERNATIONAL

ACTA is a ‘first of its kind agreement’ says Whitehouse Annual IP Report

The annual Whitehouse Intellectual Property report, released this month, references the unique nature of the Anti-Counterfeiting Trade Agreement finalised in December last year. Using trade agreements for IPR enforcement is new and the report acknowledges it as a significant step forward in international cooperation. ACTA will help rights holders and the US Government to combat infringement and the US will continue to push for further trade tools and coordinated global sweeps with the World Customs Organisation and INTERPOL .

WIPO Congress emphasises enforcement and global cooperation to combat piracy

The sixth World Intellectual Property Organisation (WIPO) Global Congress on Combating Counterfeiting and Piracy, held in Paris on 2-3 February made some gloomy predictions about economic loss due to Piracy. At the meeting the Investigative Committee of the Russian Ministry of International Affairs shared that it had recorded more than 6,000 infringement cases in 2010 and criticised the lack of cooperation with internet service providers as many counterfeited goods are sold on the internet. The meeting laid emphasis on enforcement measures and global cooperation as the solution to overcome the challenge.

The Congress also held a dedicated panel session - entitled ‘Seek Innovative solutions vs. Counterfeiting’ - on Sustainable Development and conduct in developing countries where piracy can have a devastating effect and be linked to wider crime and terrorism. It was suggested that a centralised documentation and enforcement system along with international cooperation would help developing countries in fighting these crimes. Speakers also urged that the WTO agreement on Trade-Related Aspects of IP rights (TRIPS) needed to be complemented.

North America

Canada’s cultural industries issue joint statement against Bill C-32

In a bid to take a strong stand on copyright protection, a joint statement has been issued by almost 90 Canadian cultural organisations representing some 600,000 creators and copyright owners calling for changes to the C-32 copyright bill.

The statement warns that the exceptions in the current bill turn copyright on its head and will undermine Canada’s digital economy. The cultural industries claim that the bill rewards infringement, would make Canada a safe-haven for pirates and thwarts new business models. In total the statement highlights nine key areas in which change is needed if the creative sector is not to be severely damaged.

Canada-Europe Trade negotiations held in Brussels

The sixth round of Comprehensive Economic and Trade Agreement (CETA) negotiations between the EU and Canada were held in Brussels in January with significant progress made in areas such as goods and services investment and procurement. Canada’s International Trade Minister Peter Van Loan has made it clear that he is seeking a ‘cultural exemption’ that says all chapters of the agreement are exempt if they

affect the cultural industries. The agreement also includes an intellectual property chapter that would require amendments to Canada's copyright law. It is hoped that an agreement will be concluded by the end of the year.

Digital Archive launched by New York Philharmonic Orchestra

New York's Philharmonic orchestra has begun placing its archives on the internet. The project, which will take several years and comprise some 8 million pages, kicked off with the digitisation of the Leonard Bernstein archive from 1943 to 1970 and included over 1,000 conducting scores marked by composers including Bernstein and Gustav Mahler. The digital archive is funded by a \$2.4 million grant from the Leon Levy Foundation.

Europe

Sky football deal contravenes EU law claims ECJ lawyer

The European Court of Justice (ECJ) Advocate General has suggested that attempts by Sky and ESPN to prevent customers using foreign, lower-priced services to watch Premier League football is against EU law. Speaking ahead of the ECJ's ruling on the case of a British pub landlady who used a Greek subscription service to broadcast football to her customers, Advocate General Juliane Kokott said that the "exclusivity rights in question have the effect of partitioning the internal market into quite separate national markets, something which constitutes a serious impairment of the freedom to provide services." The case, brought by enforcement company FAPL on the basis that Sky has an exclusive UK deal to show Premier league games, is due to be ruled on by the ECJ later this year.

Access to Online Content crucial for a true Single Market says Kroes

EU Commissioner for the Digital Agenda, Neelie Kroes has stressed the need to open up access to online content in order to deliver a true Single Market. Speaking in London last week on the subject of 'Ending fragmentation of the Digital Single Market Business for Europe', the Commissioner said that while digitisation had changed content industries, licensing models had not developed in the same way and had created 'a series of Berlin cultural walls' that stifled creators and let down consumers. She called for a simple, consumer-friendly legal framework for making digital content available cross border and warned that while the EU would work to enable a framework, it was up to national governments and the private sector to implement it.

Commissioner Kroes also touched on piracy, asserting that fighting piracy was essential to ensure fair remuneration of rights holders and give legal offers the chance to succeed.

National and Members News

Italy: FEM grew significantly in 2010

ICMP's Italian MPA member FEM has announced that it has joined Confindustria, the Italian Industry Federation, and will sit on the Board of CCI (Confindustria Cultura Italia), its content producers cluster. The CCI is involved in trying to protect intellectual property with particular attention to the digital economy.

FEM is also helping the FPM board (Anti Piracy Association) to start taking action against sites that publish lyrics illegally. A project with AGCOM (National Communication Agency) involves a notice and take down programme carried out directly by the agency once alerted by rights holders.

The association FEM has grown significantly in 2010 with 2 new employees, 7 new medium and small publisher members, and a new association member (Anem - Association of independent small publishers).

UK: Ofcom asked to assess whether forcing ISPs to block access to websites could work

UK Culture secretary Jeremy Hunt has asked the media regulator Ofcom to assess whether allowing courts to issue injunctions forcing ISPs to block access to websites hosting unauthorised material is actually workable. The clause was dropped from the Digital Economy Act (DEA) when it passed last year but the minister is nevertheless keen to understand whether such a provision could actually work in practice. The act does provide for education and warnings against P2P piracy but this has not yet been implemented and Ofcom is yet to introduce a code of conduct to manage the system.

Spain: Government proposes reworded version of anti piracy bill

Following the defeat of the anti-piracy bill last December, the Spanish Government has introduced a new version that addresses some of the concerns raised by the US film studios –among the greatest losers in the piracy struggle. The so-called ‘Sinde law’, after culture minister Angeles Gonzales-Sinde, now allows judges to review the cases over a two week period before shutting down sites, as opposed to the four days proposed in the original draft.

Spain has one of the highest rates of illegal file-sharing in Europe and recent research by investigators at Madrid’s Carlos III University found that three-quarters of the files uploaded on Pirate Bay and Mininova over an eight month period came from the same 100 people. This suggests that they are not P2P sharers, but big business, and are likely to move out of Spain and use proxy servers rather than submit to the new law.

Israel: Data protection laws receive EU approval

Israel’s data protection laws have been formally approved as meeting the EU’s Data Protection Directive, enabling Israeli companies to receive and process personal data from companies in the EU.

Israel joins a list of just seven other countries – Argentina, Canada, Switzerland, the Isle of Man, the Bailiwick of Guernsey and the Bailiwick of Jersey - who offer citizens the same protection as they enjoy in the EU.

ICMP news

AMPAL presents Australia and New Zealand Markets

The ICMP General Assembly last month was very pleased to hear from Peter Hebbes, General Manager and chair Catherine Gerrard, of the Australasian Music Publishers Association Limited (AMPAL), who outlined the market and the objectives in the year ahead. In an entertaining talk, Peter sketched the challenges of a market that is geographically on a par with North America, but that comprises just 25 million people in Australia and New Zealand combined. The music market is just 2% of the world market and tends to follow the US and UK trends. However, the gross product of the creative industries is 2.8% of GDP and larger than many traditional industries such as agriculture, communications and electricity.

Ms Gerrard explained the aims and future direction of AMPAL and its commitment to lobbying at both state and federal level on behalf of the sector. She elaborated on some of the educational issues being addressed with other rightsholders and the ongoing programme of seminars and speaker engagements at conferences, schools and universities to promote creativity and the importance of copyright.

The EU Observatory on Counterfeiting and Piracy publishes a photo album

The EU Observatory on Counterfeiting and Piracy has published the photo album of the June Forum sponsored by ICMP and other rightsholders.

The album can be viewed here:

http://ec.europa.eu/internal_market/iprenforcement/docs/observatory/rfalbum_en.pdf - and of particular interest to ICMP viewers is page 13 and 17 showing photos of Nicolas Galibert, ICMP Chair, Alain Chamfort singer and composer with Commissioner Barnier, MEP Bill Newton Dunn and Margot Frohlinger of DG Internal Market.

Other news

ICC Study reveals further details on Impact of Piracy

A new study from the International Chamber of Commerce (ICC) calculates that the global impact of piracy and counterfeiting is some \$775 billion each year and predicts it will reach \$1.7 trillion pa by 2015 and jeopardize 2.5 million jobs. The estimates include impact of lost tax revenue and higher government spending on law enforcement and health care. Taken with the recent OECD report, the ICC study paints a grim picture of the drain that counterfeiting and piracy inflicts on the whole economy and its far-reaching impact for governments, businesses and citizens.

Upcoming meetings and events

ICMP:

ICMP panel at Frankfurt Musikmesse, 6 April 2011, Frankfurt, Germany

OTHER:

Save-the-Date 7 & 8 June 2011: CISAC World Copyright Summit in Brussels

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