



ACTA Debated At WTO; Petitions And Letters Fly In Brussels

By William New, Intellectual Property Watch on 29/02/2012 @ 8:51 pm

With Maricel Estavillo for Intellectual Property Watch

While action on the Anti-Counterfeiting Trade Agreement is occurring at the European Parliament in Brussels – including a new letter from Members of Parliament and 2.5 million petitioners in opposition – ACTA also was the subject of discussion at the World Trade Organization this week.

ACTA arose at WTO in the context of enforcement trends on the agenda of the Council on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which met on 28-29 February.

Meanwhile, today in Brussels, the co-presidents of the Greens/EFA Group in the European Parliament (Rebecca Harms and Daniel Cohn-Bendit) sent a [letter](#) ^[1] [pdf] to European Commission President José Manuel Barroso. They charged that the Commission did not properly inform the Parliament of the decision to send ACTA to the European Court of Justice for legal review. According to rules of procedure, the Parliament must be informed before the Commission makes a public announcement.

The Parliament members also urged that the Commission ask the Court to assess ACTA on the basis of the balance between intellectual property rights and the right to: private life, protection of personal data, freedom of expression, freedom to receive or impart information, protection of property and freedom to conduct a business.

The European Commission announced on 22 February that it will seek a decision from the European Court of Justice (ECJ) regarding the legality of ACTA.

And according to a press report, the Member of Parliament responsible for ACTA said yesterday that Parliament should also seek the opinion of the ECJ.

An official told *Intellectual Property Watch* today that if that occurs, the court may combine cases. Parliament is not in plenary again until next month. It's unclear when the Commission will send its request to the Court of Justice.

Meanwhile, the Parliament said it also has received letters from EU citizens and organisations supporting ACTA, including a letter from the International Confederation of Societies of Authors and Composers (CISAC). "ACTA is good for Europe," the CISAC letter said, according to Parliament. "Without changing EU law, it establishes common procedures for dealing with intellectual property rights infringements across countries accounting for 50% of world trade."

2.5 Million Signatures Opposed to ACTA

The European Parliament has received a petition signed by nearly 2.5 million people from around the world opposing the ratification of ACTA. Signatures on the petition were gathered by the civic organisation Avaaz. The [petition is here](#) ^[2].

The petition states: "As concerned global citizens, we call on you to stand for a free and open Internet and reject the ratification of the Anti-Counterfeiting Trade Agreement (ACTA), which would destroy it. The Internet is a crucial tool for people around the world to exchange ideas and promote democracy. We urge you to show true global leadership and protect our rights."

"Receiving a petition supported by more than 2 million people places an even bigger responsibility on us to listen to the European people and offer them a place to express their views to the European institutions," Parliament Petitions Committee Chair Erminia Mazzoni, was quoted saying in a [statement](#) ^[3] on the European Parliament website.

The Petitions Committee will decide on the petition's admissibility at its next meeting on 19-20 March. If found admissible, the committee will start holding discussions with the petitioners, experts, the European Commission and other stakeholders.

Under the EU Treaty, Parliament's consent is needed for any international treaty to enter into force and it needs to be ratified later by each member state.

The European Union and 22 of its 27 member states are signatories to ACTA, but none have ratified it yet according to reports. Other signatories to the treaty are: Australia, Canada, Japan, Morocco, New Zealand, Singapore, South Korea and the United States.

WTO Debate

A number of proponents of ACTA, such as the European Commission and the United States, spoke in favour of ACTA at the 28-29 February meeting of the WTO Council on Trade-Related Aspects of Intellectual Property Rights (TRIPS). And a set of developing countries raised concerns about it.

The ACTA issue was discussed in a broader context of IP enforcement trends, with the understanding that IP enforcement is relevant to TRIPS. Copies of ACTA were circulated at the TRIPS Council.

[Update: the United States intervention is [US Intervention TRIPS Council Feb 2012](#) ^[4] available here (doc)]

The European Commission used the opportunity to give good information about ACTA and show that it has nothing to hide and is transparent, according to a participant. It indicated that it would have preferred to negotiate the agreement with all members of the WTO, but a group of countries that shared similar views went ahead when multilateral movement was not possible.

ACTA was considered one of the "tools" governments had against counterfeiting and piracy, but now there is misinformation about it that is leading to reactions, the participant said. In particular, the ACTA debate gets "mixed up" with copyright issues, when copyright itself is not addressed in ACTA, the participant said.

"ACTA enforces copyright. It does not say something is legal or illegal," the participant said. "ACTA gives a tool to address illegality. ACTA does not say what is a copyright infringement."

Among the critics, India gave a substantive [statement](#) ^[5] [doc], arguing that, "In this situation of shrinking health budgets, it is essential that access to affordable medicines in every country, whether developed or developing, does not get circumscribed by the agreements like ACTA and TPP [Trans-Pacific Partnership], which are basically motivated by the interests of big pharma companies."

India said the IP enforcement trend has been toward restrictions on the availability of medicines to the poor, and that the TRIPS Council "should deliberate on how the TRIPS agreement should promote access to health to the billions of needy people rather than discuss the IP agenda of a few countries." ACTA border measures could "stifle the supply" of generic medicines to needy countries, it said.

India also said that reliable data on the extent of counterfeiting and piracy do not exist. And it raised concern that countries would accept the tough terms of ACTA in order to obtain much-needed market access to developed countries, creating a deterrent to South-South trade.

Another ACTA concern India cited was over digital goods and internet freedom. It said ACTA's obligations for copyright enforcement, coupled with new norms for damages for infringement, are "likely to have a severe impact on the efforts towards literacy and access to knowledge and information that has been at the core of aspirations of the developing world."

"ACTA is fundamentally hostile to consumers," India added.

Several of the ACTA countries had an informal coordinating meeting today at the WTO after the TRIPS Council ended early. The countries shared views on how the agenda item fared in the Council meeting, according to a source. It was unclear whether the issue will be raised again at the TRIPS Council in the future.

During the TRIPS Council meeting, some countries questioned whether Council is the right place to discuss a plurilateral agreement. Developing countries raised doubts that it is a good example to follow for developing countries. They called for IP enforcement trends with a development perspective, such as access, affordability and availability, a developing country official said.

But ACTA was not blocked from discussion by the meeting chair. The new TRIPS Council Chair is Dacio Castillo, the ambassador to the WTO from Honduras.

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- [WTO IP Committee Addresses Medicines Access, Plain-Packaged Tobacco, ACTA](#) ^[6]
- [Inside Views: Trading's End: Is ACTA The Leading Edge Of A Protectionist Wave?](#) ^[7]
- [Parliament Study: ACTA Not Fully In Line With EU Rules](#) ^[8]

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Article printed from Intellectual Property Watch: <http://www.ip-watch.org>

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URLs in this post:

[1] a letter: http://www.greens-efa.eu/fileadmin/dam/Documents/Letters/2012-2-29%20Letter%20to%20President%20Barroso_ACTA.pdf

[2] petition is here: https://secure.avaaz.org/en/eu_save_the_internet/

[3] a statement:

<http://www.europarl.europa.eu/news/en/pressroom/content/20120227IPR39337/html/Parliament-receives-petition-against-ACTA>

[4] US Intervention TRIPS Council Feb 2012: <http://www.ip-watch.org/weblog/wp-content/uploads/2012/02/US-Intervention-TRIPS-Council-Feb-2012.docx>

[5] statement: <http://www.ip-watch.org/weblog/wp-content/uploads/2012/02/India-IP-Enforcement-Trends-Feb-2012.docx>

[6] WTO IP Committee Addresses Medicines Access, Plain-Packaged Tobacco, ACTA: <http://www.ip-watch.org/2011/10/23/wto-ip-committee-to-address-medicines-access-plain-packaged-tobacco-acta/>

[7] Inside Views: Trading's End: Is ACTA The Leading Edge Of A Protectionist Wave?: <http://www.ip-watch.org/2011/05/06/trading%e2%80%99s-end-is-acta-the-leading-edge-of-a-protectionist-wave/>

[8] Parliament Study: ACTA Not Fully In Line With EU Rules: <http://www.ip-watch.org/2011/07/20/parliament-study-acta-not-fully-in-line-with-eu-rules/>