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Intellectual Property Watch
15 April 2010

WIPO, WTO Requested To Advise On Anti-Counterfeiting Treaty

By [Kaitlin Mara](#) @ 10:10 pm

Several members of the European Parliament today sent letters to the directors general of the World Intellectual Property Organization and the World Trade Organization requesting technical assistance in the negotiation of an agreement that some are calling an attempt to circumvent global norms on intellectual property enforcement and related public interest flexibility.

"We are aware that this is an unconventional request but considering the circumstances, we would like" WIPO and the WTO "to provide an expert assessment and analysis of the current provisions of ACTA [the Anti-Counterfeiting Trade Agreement] from your institutional viewpoint as one of the two specialised organisations entrusted with the issue of norm-setting in the field of intellectual property rights and related issues," the letters read.

They were signed by seven members of the [European Parliament Greens/European Free Alliance](#) party. Their full texts are available here: [WIPO](#), [WTO](#).

Meanwhile, in the United States, the chairman and ranking member of the House Foreign Affairs Committee sent a joint [letter dated 15 April](#) to US Trade Representative Ron Kirk in support of a quick conclusion to ACTA as a way to promote US jobs. The letter sent by Chairman Howard Berman, a Democrat from California whose constituents include Hollywood, and Ileana Ros-Lehtinen of Florida, supports USTR on transparency and its claim that the new agreement will not change US laws. The US Chamber of Commerce issued a statement in support of the House letter. Chamber statement [available here](#).

Public concern about ACTA has persisted, fueled in part by several leaked texts in recent months that raised particular concerns about internet freedom in a post-ACTA world. But also frustrating to some stakeholders is the secrecy of a negotiation they have cause to fear will have wide-ranging impact on their lives. Some industry groups have called it necessary to stem the rising tide of digital piracy, while others have worried it will make them liable for their users' actions.

The negotiation is "anti-democratic at its core: key industrial groups are trying to achieve in ACTA changes they couldn't win in Congress and Parliaments," Kevin Outterson, co-director of the Health Law Program at Boston University Law School, told *Intellectual Property Watch*. Outterson is faculty editor-in-chief at the American Journal of Law & Medicine, and editor-in-chief of the Journal of Law, Medicine & Ethics.

"Given the existence of TRIPS and WIPO, the drive to create ACTA in secret without adequate public consultation can only be seen as a naked attempt by IP-dependent industries to bypass existing global economic institutions to pursue a narrow agenda," he added.

Citing a 10 March agreement of the European Parliament to be kept fully informed of a process it decried as nontransparent ([IPW, Enforcement, 10 March 2010](#)), the letters ask for information on WIPO/WTO norms for transparency to stakeholders and their current enforcement activities (and if there is need for new ones). They also ask for an assessment of the relationship of ACTA to current norms, including possible restrictions on ability to use certain knowledge goods and the likely effects on flexibilities within the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement intended to ease access to medicines.

"Asking WIPO to comment is a clever idea, but given that WIPO is funded by rights-holders, I would be surprised if WIPO really felt freedom to speak their mind on this," Outterson said.

WIPO Director General Francis Gurry has typically said when asked in public that he has not read the agreement and indicates WIPO does not know a great deal about ACTA. At a press conference in October, he said, "naturally we prefer open, transparent international processes to arrive at conclusions that are of concern to the whole world" ([IPW, WIPO, 22 October](#)

2009).

The most recent ACTA negotiation is taking place behind closed doors this week in Wellington, New Zealand 12-16 April.

William New contributed to this article.

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