

"2.3.2. Each Party shall further provide that its judicial authorities shall have the authority to order that materials and implements the predominant use of which has been in the manufacture or creation of [infringing] [pirated or counterfeit] goods be, without undue delay and without compensation of any sort, destroyed or disposed of outside the channels of commerce in such a manner as to minimize the risks of further infringements."

So they're going to destroy computers and networks because they might be used to copy something again some time? Will they be burning notebooks, pens and pencils as well?

"2.5.X. Each Party shall provide that its judicial authorities shall have the authority, at the request of the applicant, to issue an interlocutory injunction intended to prevent any imminent infringement of an intellectual property right ... Each Party shall also provide that provisional measures may be issued, even before the commencement of proceedings on the merits,"

so if a party decides they think someone may be about to copy them, they can get an injunction and go about destroying and / or confiscating material (as described in 2.3) without having to display any evidence! I can see newspapers magazines using this on one another quite happily. They limit this some in 2.5.3 but the wording: "to provide any reasonably available evidence" leaves much latitude.

"Liability

The competent authorities shall not be liable towards the persons involved in the situations referred to in Article 2.6 for damages suffered by them as a result of the authority's intervention, except where provided for by the law of the Party in which the application is made or in which the loss or damage is incurred

2.14.1

Willful copyright or related rights piracy on a commercial scale includes:

[(a) significant willful copyright or related rights infringements that have no direct or indirect motivation of financial gain; and"

Which means you can't make parodies, cartoons where the characters wear Ralph Lauren shirts may be subject to criminal persecution, etc.

"2.14.3

Each Party shall provide for criminal procedures and penalties to be applied [in accordance with its laws and regulations,] against any person who, without authorization of the holder of copyright [or related rights] [or the theatre manager] in a [motion picture or other audiovisual work], [cinematographic work] [knowingly] [uses an audiovisual recording device to transmit or make] [makes] a copy of [, or transmits to the public] the motion picture or other audiovisual work, or any part thereof, from a performance of the motion picture or other audiovisual work in a motion picture exhibition facility open to the public."

Which means - you can't back up movies you bought, you can't show them to your friends, you can't watch it in a park and you can't use any of the footage therein for any purpose whatsoever, eg. to edit your own home film and / or parody.

"2.18.3

(b) condition the application of the provisions of subparagraph (a) on meeting the

following requirements:

(i) an online service provider adopting and reasonably implementing a policy[58] to

address the unauthorized storage or transmission of materials protected by copyright or

related rights

(ii) an online service provider expeditiously removing or disabling access to material or

[activity][alleged infringement], upon receipt [of legally sufficient notice of alleged

infringement,][of an order from a competent authority] and in the absence of a legally

sufficient response from the relevant subscriber of the online service provider

indicating that the notice was the result of mistake or misidentification."

Which means an ISP has to become some sort of copyright enforcer And they have to start censoring the internet - that's not their job! They provide access to internet!

But option 2 3a gets worse:

"Each Party shall enable right holders, who have given effective notification to an

online service provider of materials that they claim with valid reasons to be infringing

their copyright or related rights, to expeditiously obtain from that provider information

on the identity of the relevant subscriber."

So without legal due process, ISPs are expected to give out personal information on their customers to 'rights holders' who don't have to prove they are, in fact, rights holders of anything.

"4b
the manufacture, importation, or circulation of a [technology], service, device, product, [component, or part thereof, that is: [marketed] or primarily designed or produced for the purpose of circumventing an effective technological measure; or that has only a limited commercially significant purpose or use other than circumventing an effective technological measure.]]"

Which means you couldn't invent the tape recorder, VHS, DVD recorder, photocopier maybe even the harddisk.

"6
(a) to remove or alter any [electronic] right management information
(b) to distribute, import for distribution, broadcast, communicate, or make available to the public copies of works, [or other subject matters specified under Article 14 of the TRIPS Agreement] [performances, or phonograms], knowing that [electronic]rights management information has been removed or altered without authority.]"

Again, you can't use parts of anything for any reason and you're not allowed to make edits. This would include the use of quotations in books, photocopies of pages in libraries,

"3.3.5
[5. State parties shall endeavour to provide technical assistance in the following areas:
(a) Promoting the culture of intellectual property."

What? Why? I don't think IP is a good culture to promote, it's a call for stagnation.

There are plenty of articles showing this, as well as articles showing that lacking IP, especially in the fashion industry, drives innovation.

Large problems:

ACTA leans heavily on the Agreement on Trade-Related Aspects of Intellectual Property

Rights (TRIPS), which itself leans on the 1971 Berne Convention for the protection of literary and artistic works - how can a 1971 document still be relevant in this digital

world? Especially when ACTA for at least a third concerns software piracy. Not only the medium but also the way the inhabitants of the world perceive it (as opposed to large corporations) has changed. In order to guarantee your IP you need to spend vast amounts of money, thus favouring the large IP companies at the expense of the smaller IP companies.

There is a lot said about sharing information between signatories and parties, without any mention of how this information is going to be safeguarded.

This document will stifle innovation in any country that uses it and put unprecedented power into the hands of 'rights holders' who can perform all kinds of mayhem without legal process, as well as turning ISPs into monitors, spies and judges, which they aren't.

All these problems combine to make this an unacceptable document.