

ANTI-COUNTERFEITING TECHNOLOGIES IN JAPAN
(Topic: Addressing Online IP Infringements)

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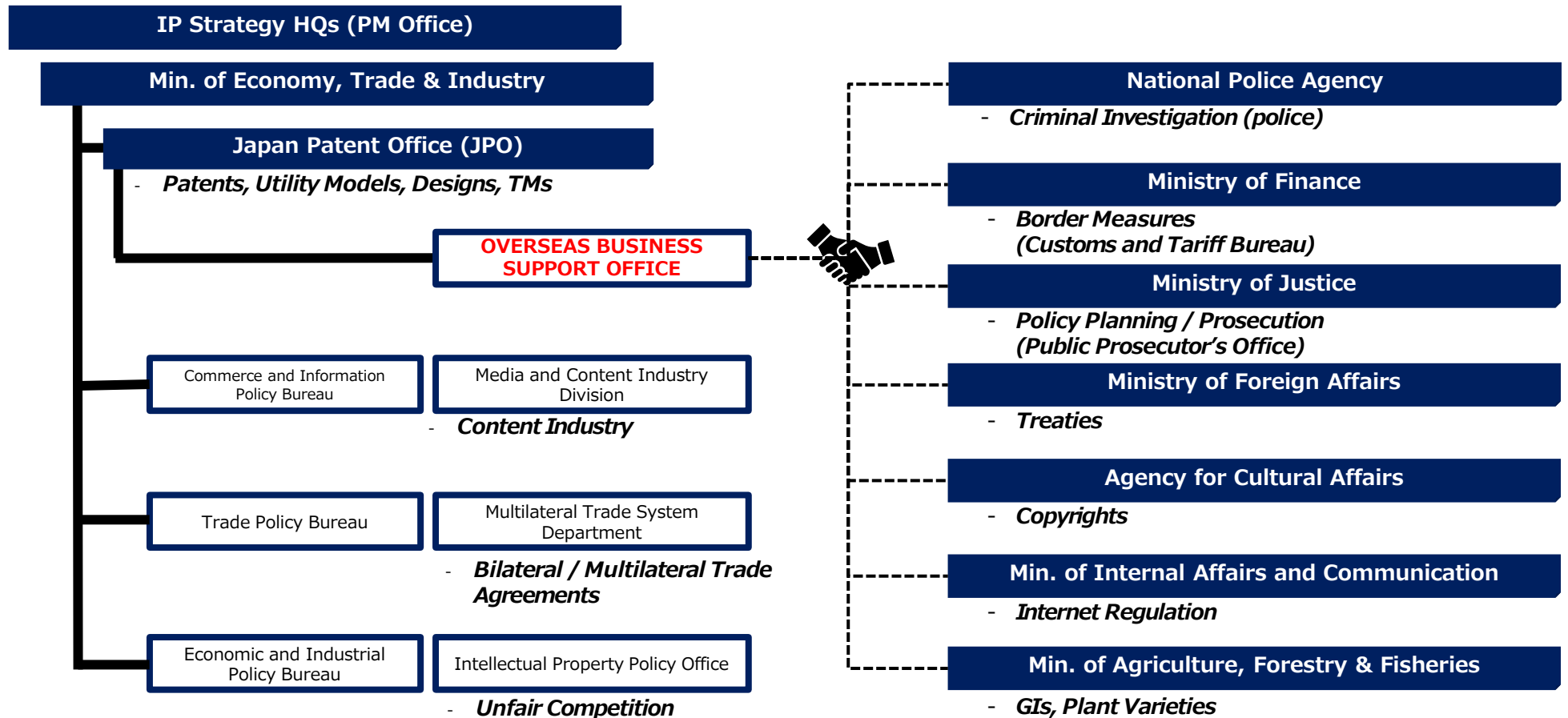
February 2024

Outline of this Presentation

- Introduction
- Anti-Counterfeiting Technologies: Overview & Examples
- Challenges: Tech Providers & Users
- Possible Way Forward
- International Intellectual Property Protection Forum (IIPPF)

Our Office

- Established in 2004 by **IP Strategy HQs** (headed by PM) as **centralized point of contact** for counterfeiting / piracy matters
- Coordinate among relevant ministries and work with industries to take **concerted policy measures** against emerging counterfeiting issues



Our Activities

- Our Office works to cope with counterfeiting issues arising overseas in close **collaboration with private/public sector**
- **IP offices, customs, police, and other law enforcement authorities** in other countries are particularly **important partners**

■ Provide consultation service for general public:

• Consultation service for matters on counterfeit and pirated goods



• Cooperation with industries (The International Intellectual Property Protection Forum (IIPPF))



■ Work with other countries:

• Counterfeit Goods Identification Seminars



• Dialogue with government agencies



■ Provide Subsidies to SMEs:

• Cost of IP applications in other countries

• Cost of anti-counterfeiting activities (monitoring, takedown, sending cease & desist letters, filing appeals to cancel trademarks filed in bad faith by third parties)



■ Awareness raising activities:

• Anti-Counterfeiting Campaign
<https://www.youtube.com/watch?v=KaGnxEpLURQ>



■ Work with industries:

• Financially support industries (IIPPF activities)



■ Work with relevant authorities :

• Organize regular meetings of officials from relevant agencies



■ Partner with other SME/academia support organizations:



独立行政法人 工業所有権情報・研修館
 National Center for Industrial Property Information and Training

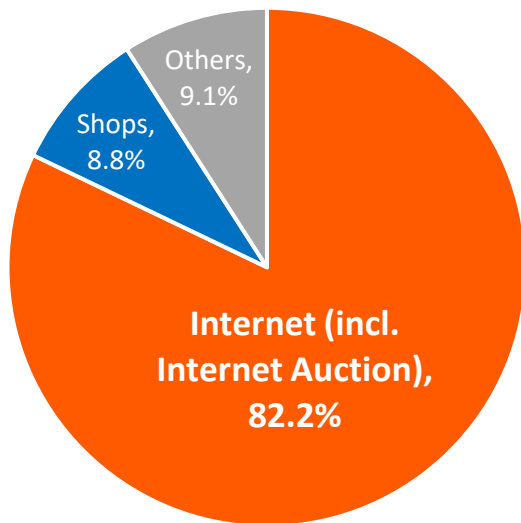
JETRO

Japan External Trade Organization

Statistics & Updates

- Most of IP infringement cases take place in online marketplaces
- To counter increasing counterfeits purchased online and imported “for personal use,” imports to Japan by overseas business, even if purchased by individuals for their personal use (B2C), have been clarified as infringement since Oct. 2022

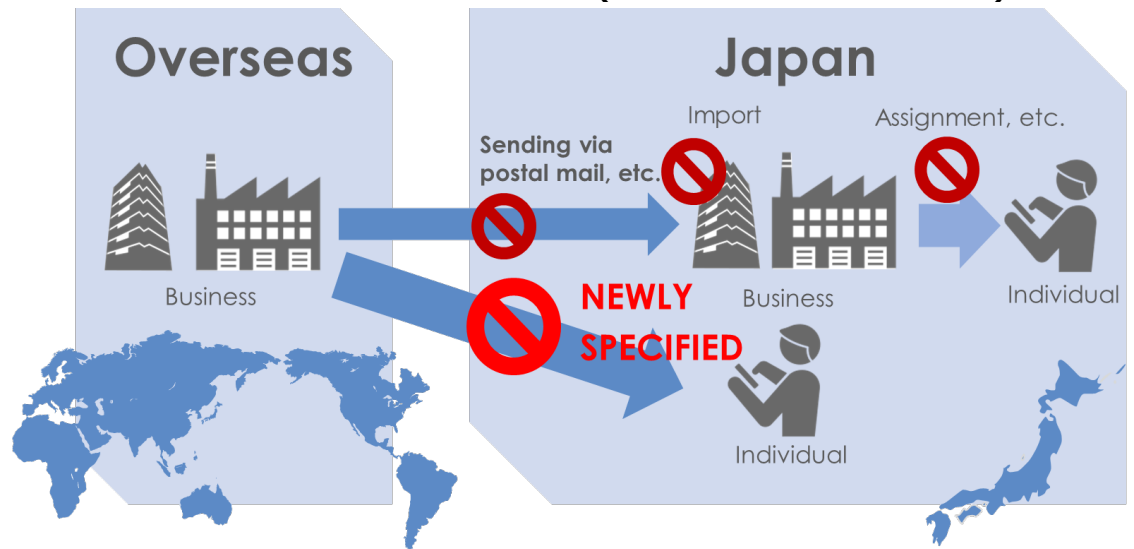
Trademark Infringement Cases in FY2022 (264 Arrests)



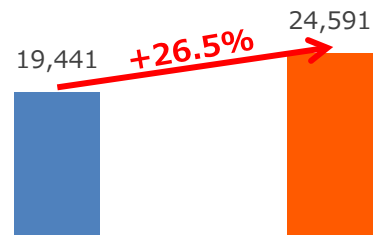
Source: [National Police Agency](#)

Source: [Ministry of Finance](#)

New Border Measures (Effective since Oct. 2022)

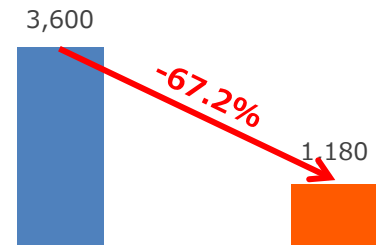


Seizures at the Border (TM & Design Infringement)



Oct. 2021-Jun. 2022 Oct. 2022-Jun. 2023

Protests by Importers



Oct. 2021-Jun. 2022 Oct. 2022-Jun. 2023

Outcome of G7 Heads of IP Office Conversation

- On December 15, 2023, the JPO hosted **G7 Heads of IP Office Conversation**, within the metaverse, bringing together officials who lead the IP Offices of G7 member states, and WIPO.
- During the Conversation, participants discussed such issues as the importance of **protection of IPRs in new digital contexts**, including the metaverse



The G7 Heads of IP Office Conversation
(meeting space)



Group photo
(Itsukushima Shrine space)

Joint Statement

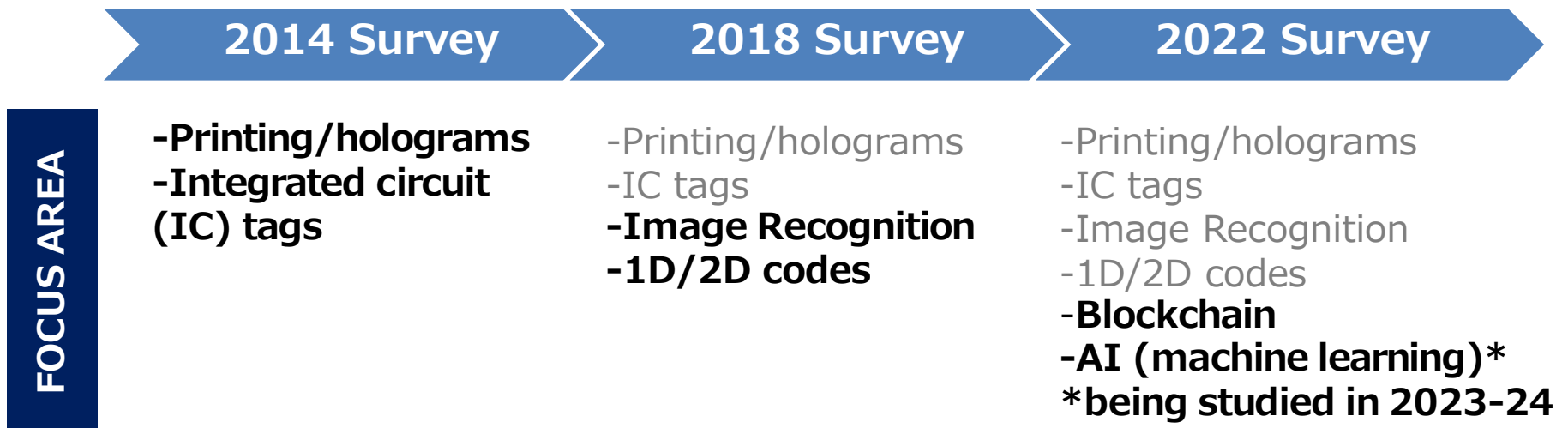
“We will work ... toward addressing IP issues including **enforcement and infringement** arising in new digital contexts such as the metaverse ...

To this end, we will continue to work to **foster collaboration** with national and international stakeholders, including WIPO, to exchange and promote best practices and identify approaches that can address the challenges of **IP enforcement and infringement** not only in off-line markets but also in **online markets**, including new digital contexts.

In this regard, we will also cooperate further to raise consumers’ awareness on the risks related to **counterfeiting and piracy** in the new digital contexts, including the metaverse...”

Introduction of Surveys

- In 2014, 2018 and 2022, the JPO commissioned three surveys, focusing on trends in anticounterfeiting technologies available mainly in the Japanese market.
- The aim is to address the growing challenges from counterfeit products, particularly in the rapidly expanding e-commerce market, by providing up-to-date information on such technologies to the Japanese industries.
- The findings highlight not only the benefits of these technologies but also the gaps in their adoption in Japan.



Anti-Counterfeiting Technologies in Japan - Overview

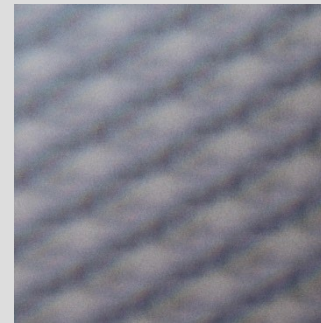
- A variety of technologies are available in the Japanese market to detect and prevent counterfeit products, and multiple methods are often used simultaneously.
- Each of these technologies has its advantages and disadvantages. Some have a high reliability of assessment results, but are not easy to implement in terms of cost, etc., while others are easy to implement, but the reliability of assessment results decreases because the technology itself is easy to imitate.
- Effectiveness of a technology also depends on how it is applied – for instance, whether it is applied to the product itself, the packaging or the tags attached to / embedded in it.

Anti-Counterfeiting Technologies in Japan (1)

- **Object Image Matching:**
uses mobile cameras to compare product images for authenticity.



- **Printing Technology:**
implements holograms, angle-dependent color-changing inks, and light-reactive images to verify authenticity.



Anti-Counterfeiting Technologies in Japan (2)

- **1D/2D Code:**
employs barcodes or 2D codes
containing product information to ascertain authenticity.



- **Integrated Circuit (IC) Tag:**
uses tags with product details
read by devices to confirm product genuineness.

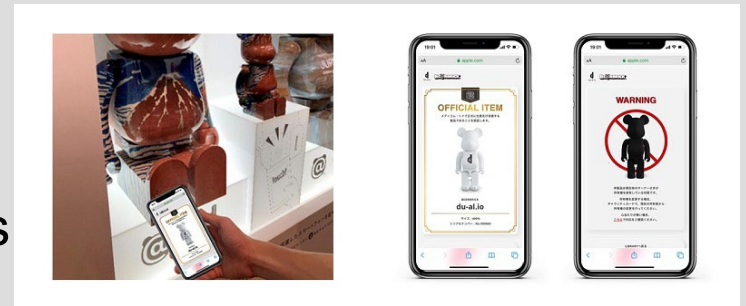


Anti-Counterfeiting Technologies in Japan (3)

- **Product Information Judgment Technology:**
flags products that may be counterfeit
via machine learning and data collection.



- **Blockchain Technology:**
maintains accurate transaction histories
through decentralized, cryptographic methods



Challenges: Technology Providers

a) Misalignment with Industry Needs

- Despite some industry associations promoting anti-counterfeiting measures using such technologies, there seems to be a lack of understanding among providers on the specific technological needs of right holders. This misalignment results in scattered investments that do not necessarily lead to improved performance or cost reductions.

b) Stagnant Cost Reduction

- It would be possible to reduce and distribute initial and ongoing operating costs by sharing a single system among multiple companies. However, varying technological preferences across user industries and companies hinder cost reduction. High implementation costs deter users from adopting these technologies.

c) Unproven Effectiveness

- The nascent stage of some technologies means their benefits are not widely recognized or quantified, which makes it harder for providers to market them.

Challenges: Technology Users

a) Diverse Technological Needs

- In addition to the confidential nature of anti-counterfeiting strategies, the needs for technology implementation differ by product group or by company, complicating the adoption process. In other words, an anti-counterfeiting technique itself becomes part of the brand value, making it less likely to be shared with others in the same industry.

b) Management's Lack of Understanding and Budgetary Constraints

- There is a lack of understanding at the management level about the risks of counterfeit products, making it challenging to allocate budgets for anti-counterfeiting measures. Also, counterfeiting data is hard to obtain, complicating the cost-benefit assessment on anti-counterfeiting measures.

c) Distribution and Technology Challenges

- Involving distributors and wholesalers in anti-counterfeiting initiatives is problematic for the manufacturers of genuine products. Additionally, consumer awareness about counterfeit risks varies across countries and regions, further complicating the situation.

Other Challenges

a) Complex Distribution Channels

- The myriad ways products reach consumers increase the risk of counterfeits infiltrating the market.
- In e-commerce marketplaces, due to the vast number of sellers, it is challenging to single out and eliminate malicious ones.
- When wholesalers intervene in the distribution channel, they have an incentive to make a profit by selling low-cost counterfeit products at the price of genuine products.

b) Antitrust Concerns

- The collaborative introduction of certain technologies might inadvertently be regarded as barriers for third-party products, leading to potential antitrust issues.
- Third-party products exist in motorcycle and automobile parts. Antitrust issues may arise due to the establishment of a system that could effectively exclude third-party parts.

Possible Way Forward

a) Industry-Specific Needs Assessment

- In the case of nascent technologies, a deeper understanding between providers and users is necessary for its future adoption.

b) Increased Collaboration

- Industries may be able to refer to successful collaborative efforts, such as those in semiconductor and bearing manufacturing industry.

c) Public Support

- Continue awareness-raising activities. Consider government incentives such as subsidies or tax breaks to reduce the costs associated with implementing anti-counterfeiting technologies.
- The government should inform and update the industries on the benefits of introducing technology beyond just eliminating counterfeit products. Such benefits include boosting brand power, understanding distribution channels and improving risk management through traceability. The government should also present best practices and recommend technology groups most effective to be introduced in an industry.

International Intellectual Property Protection Forum (IIPPF)

- The **IIPPF** was inaugurated in **April 2002** as a public-private / cross-sector platform to implement various activities for solving the problem of infringement of IP overseas; its activities are partially funded by JPO
- IIPPF is **willing to work with like-minded organizations in other countries** to jointly tackle cross-border counterfeiting issues

MANAGEMENT

- Chair: Tagawa Joji, Senior VP, Nissan Motor Co., Ltd.
- Vice-chair: Sone Ichiro, Executive VP, JETRO
- Total number of members: **293** as of 2023

ACTIVITIES

- Counterfeit-Identification Seminars
- Study Missions
- Invitation of Key Officials
- Public Awareness Building etc

PJs

- China
- Asia & Pacific
- MEA
- Internet / EC



CURRENT ACTIVE MEMBERS



Panasonic



EPSON

Canon



CASIO



YKK®

TOYOTA

GOLDWIN



JBIA

OBSERVER



SECRETARIAT



Recent IIPPF Activities on Online Marketplaces

- As the Group of Japanese Rightholders, IIPPF has been in **dialogue with various Online Marketplaces / Platformers**
- Dialogues with Chinese Platformers are in line with “**Japan-China IPR Working Group**” organized by Japanese METI and Chinese Ministry of Commerce

✓ Sep. 6, 2023 IIPPF × WeChat

✓ Sep. 25, 2023 IIPPF × Alibaba



✓ Jun. 14, 2023 IIPPF × Amazon

✓ Oct. 5, 2023 IIPPF × TikTok Shop



THANK YOU



From our new mascot "Kawanzo the Otter"
say NO to counterfeits

E-MAIL: hara-shinichiro@jpo.go.jp

For IIPPF: IIPPF@jetro.go.jp

THE ROLE OF INTERNET ACCESS PROVIDERS AND ONLINE SERVICE PROVIDERS ADDRESSING INTELLECTUAL PROPERTY INFRINGEMENTS

ITS EVOLUTION WITHIN THE MEXICAN LEGAL SYSTEM



ECONOMÍA
SECRETARÍA DE ECONOMÍA



IMPI
INSTITUTO MEXICANO
DE LA PROPIEDAD
INDUSTRIAL



YEARS 2013 – 2018 A FIRST APPROACH THAT QUESTIONED IMPI'S POWERS

INDUSTRIAL PROPERTY LAW

Abrogated since 11-05-2020

by Decree **DOF 07-01-2020**

Article 199 BIS.- *In administrative declaration procedures related to the violation of any of the rights protected by this Law, the Institute may adopt the following measures:*

V.- *Order to the alleged infringer or third parties to suspend or cease acts that constitute a violation of the provisions of this Law, and*

**Provisional measure:
suspension or cease
of the following
websites**

www.mymusiic.com

www.BA-K.COM



LESSONS LEARNED

In accordance with the Supreme Court, for provisional measures to be aligned with the parameter of constitutional regularity, they should:

- 01 BE PROVIDED FOR IN THE LAW.** Now they will be expressly provided for in the law.
- 02 BE BASED ON A LEGITIMATE PURPOSE.** When the examination takes into account the likelihood of success as to the merits of the case, it ensures the protection of intellectual property rights.
- 03 BE NECESSARY AND PROPORTIONAL.** Rather than ordering the complete blocking of websites, the scope of blocking orders should be proportional to the intellectual property rights infringed.

REFORM OF 2020

FEDERAL LAW FOR THE PROTECTION OF INDUSTRIAL PROPERTY

EXPRESS PROVISIONS

Article 344.- *In procedures related to the alleged violation of any of the rights protected by this Law, the Institute may adopt the following measures:*

VII.- *Order the alleged infringer or third parties to suspend, block, remove content or cease acts that constitute a violation of this Law through any virtual, digital or electronic means, known or to be known, and*

Article 358.- *Inspection visits are understood to be those carried out in the places where products are manufactured, stored, transported, sold or marketed or where services are provided, in order to examine the products, the conditions of the provision of the services and documents related to the activity in question, whether in physical establishments or digital platforms.*

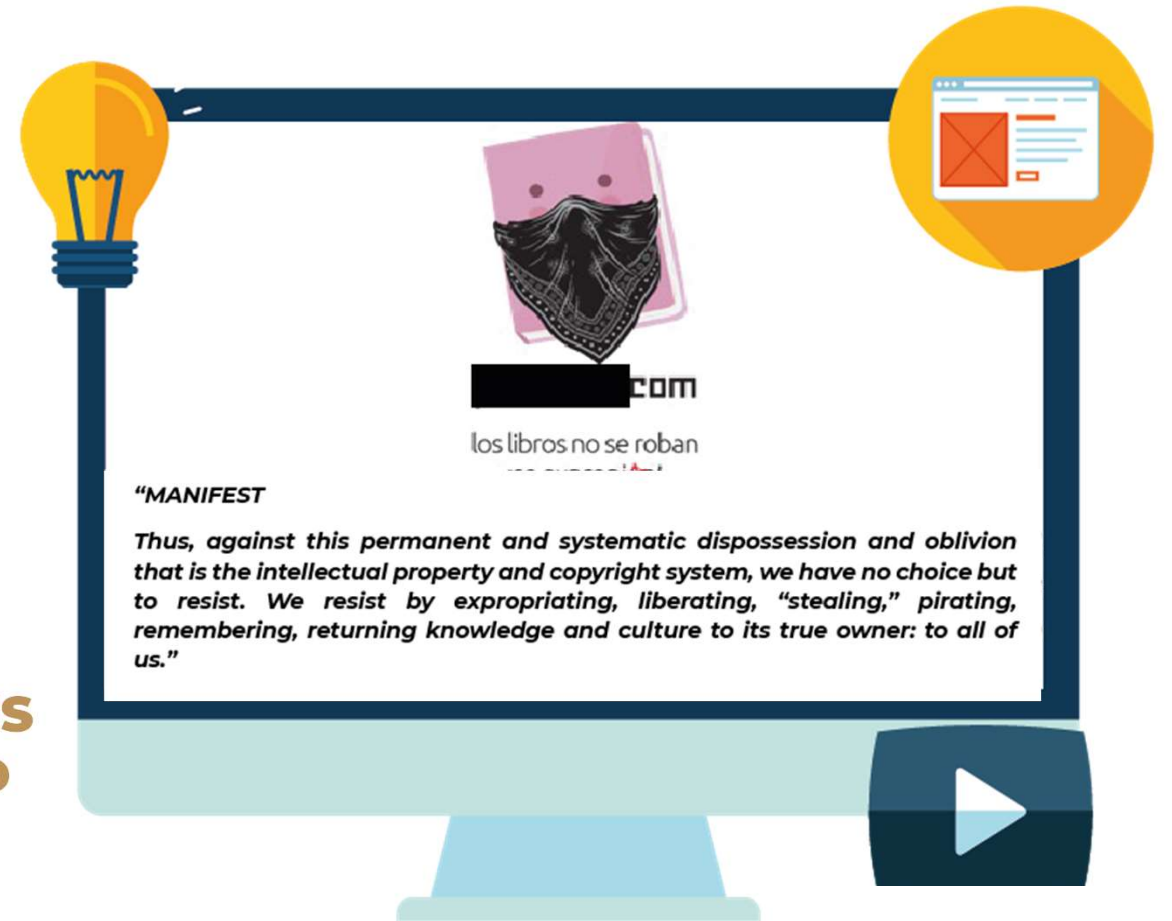
PROCEDURES STARTED WITH THE NEW LAW

PROCEDURE AT THE REQUEST OF A PARTY



**MEASURES
IMPOSED**

EX-OFFICIO PROCEDURE



CURRENT SITUATION AND THE FUTURE

Digital record: 2027061

Instance: Tribunales Colegiados de Circuito

THE REQUEST FOR PROVISIONAL MEASURES AGAINST A BLOCKING ORDER OF A WEBSITE PREDOMINANTLY DEDICATED TO “CONTENT RIPPING” OR “STREAM RIPPING” MUST BE DENIED, BECAUSE GRANTING IT WOULD CONTRAVENE PUBLIC ORDER PROVISIONS AND AFFECT SOCIAL INTERESTS.

*In accordance with article 28 of the Constitution (Constitución Política de los Estados Unidos Mexicanos), the Federal Copyright Law (Ley Federal del Derecho de Autor) and the Trade-Related Aspects of Intellectual Property Rights, of which the Mexican State is a Party, **rapid and effective provisional measures** aimed at preventing an infringement of any intellectual property right **must be ordered**. In this sense, **based on a preliminary consideration** of the interests of the complainant and public order in the precautionary phase, it is possible to observe that although **the freedom of expression, information and network neutrality prevent, as a general rule, blocking web pages, such valuable interests are not represented on an Internet site whose commercial purpose is based, predominantly, on a downloading, transformation, and portability engine for copyright-protected music, carried out without the legal authorizations.** Therefore this case of exception, the provisional suspension against the order to block this type of web pages must be denied, since its granting would contravene provisions of public order and would affect the social interest.*



2024
AÑO DE
Felipe Carrillo
PUERTO
BENEMÉRITO DEL PROLETARIADO,
REVOLUCIONARIO Y DEFENSOR
DEL MAYAB

Aldo Fragoso Pastrana

Deputy Director General of Industrial Property
Mexican Institute of Industrial Property



ECONOMÍA
SECRETARÍA DE ECONOMÍA



IMPI
INSTITUTO MEXICANO
DE LA PROPIEDAD
INDUSTRIAL

COMBATING ONLINE PIRACY OF SPORTS AND OTHER LIVE EVENTS - THE EUROPEAN UNION APPROACH -

**WIPO Advisory Committee on Enforcement
Sixteenth Session
Geneva, January 31 to February 2, 2024**

**Harrie TEMMINK
Head of Service « IP in the Digital World »
EUIPO**

CONTEXT

CHALLENGES AND SPECIFICITIES OF LIVE EVENT PIRACY

Live nature

- Main commercial value during live transmissions



Unauthorized retransmissions of live sport and other cultural event

- Significant loss in revenues
- Undermines the viability of the services



New methods of piracy and resilience strategy

- Increasingly sophisticated means (illegal IPTV, apps, website, 'Piracy-as-a-Service') / mirrors



Misuse of intermediaries services (upstream, downstream)

- Crucial role intermediaries in assisting holders of rights
- Need for effective legal tools tailored to respective functions of intermediaries



Tackling live event piracy The EU Journey to date



MAY
2021

European Parliament resolution [on the challenges of sports events](#)

MARCH
2023

Publication of the EUIPO [Live Piracy Discussion Paper](#)

MAY
2023

Adoption of the European [Commission Recommendation](#)

JULY
2023

[Publication of Key Performance Indicators](#) after stakeholders' consultations

OCT
2023

[High level Conference](#) Implementation of the Recommendation and first meeting of the public sector network

THE EUIPO DISCUSSION PAPER



Published on 15 March 2023

Ecosystem

Live event piracy requires significant resources, with piracy services using a variety of online intermediary services to optimise illegal live content delivery

Trends & Challenges

Live event piracy can be countered at different levels:

- depending on the specific set up of the piracy service
- reconciling the need for prompt measures with the need to avoid wrongful or over-blocking

Good practices

Different approaches are developing:

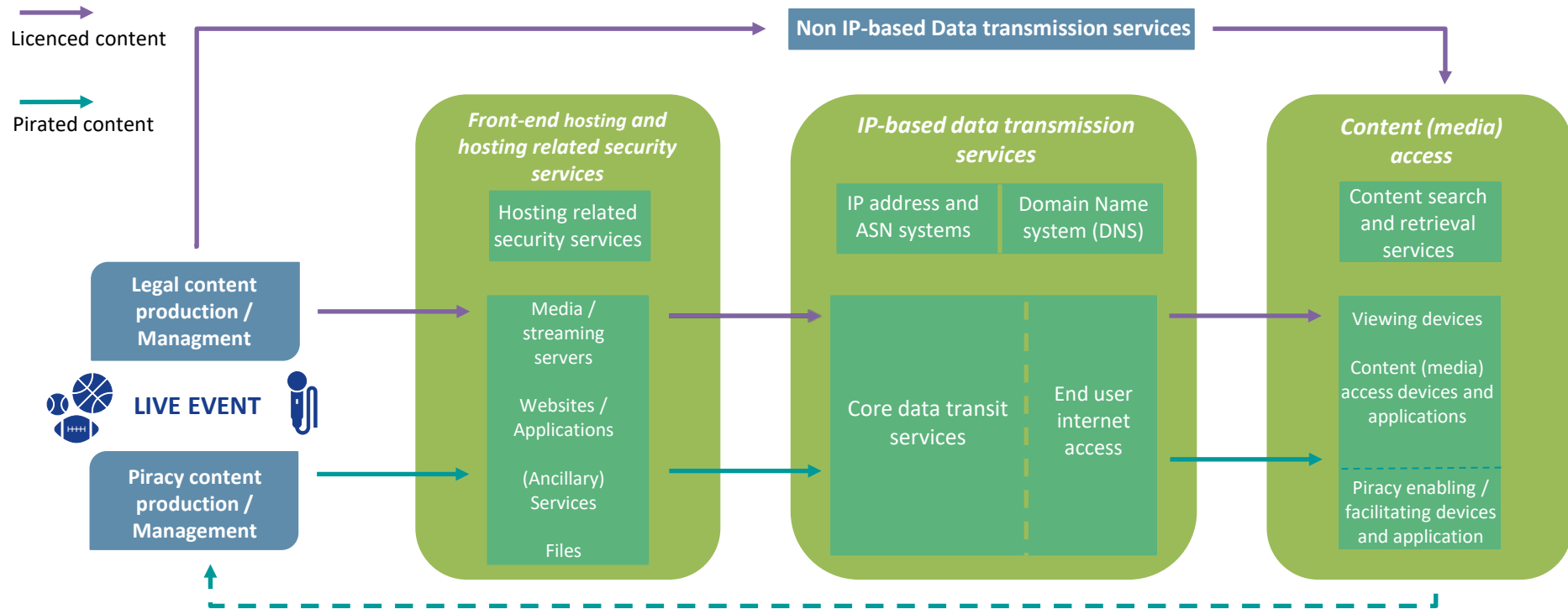
- in cooperation with **online intermediaries**
- at **EU Member States** level

LIVESTREAMING TECHNICAL ECOSYSTEM

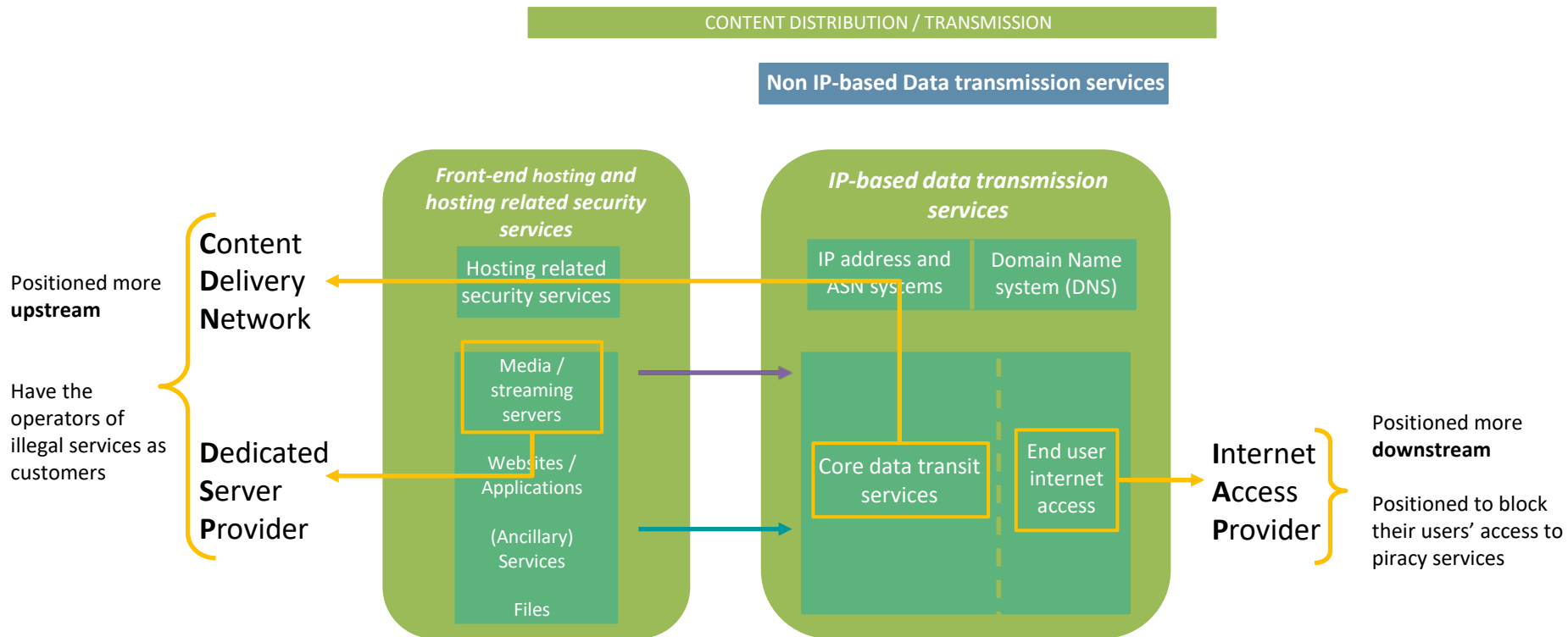
CONTENT GENERATION / MANAGEMENT

CONTENT DISTRIBUTION / TRANSMISSION

CONTENT CONSUMPTION



LIVESTREAMING TECHNICAL ECOSYSTEM – Focus of the analysis



EU LEGAL FRAMEWORK

EU TOOLS AVAILABLE ALREADY:

Since 2004

IP Enforcement Directive and *Copyright Information Society Directive* for injunctions







- Interlocutory and permanent injunctions
- Interpretation CJEU

New as of 2023-2024

Digital Service Act for notice & action

- More detailed rules than the E-commerce Directive
- New provisions e.g. on N&A procedures and trusted flaggers

EU MEMBER STATES EXPERIENCE– Online piracy

	<p>Judicial process (court orders)</p>	<p>Evolving case-law in different EU Member States supporting:</p> <ul style="list-style-type: none"> • Dynamic and live blocking injunctions: e.g. France, Ireland, Malta, Spain, Portugal, Denmark, Austria • Blocking injunctions targeting other intermediaries than IAPs: e.g. Italy or Germany
	<p>Judicial process (court orders) & administrative intervention</p>	<p>Regulatory approach: administrative authority supporting the effectiveness of a court order</p> <ul style="list-style-type: none"> • France (ARCOM) - Belgium: Service to fight against online infringement of copyright and neighbouring rights.
	<p>Judicial process (courts orders) & voluntary measures</p>	<p>Voluntary agreement Rhs and IAPs - IAPs agree to voluntarily comply with blocking orders directed at IAPs from the same country</p> <ul style="list-style-type: none"> • Denmark - The Netherlands- Spain - Sweden
	<p>Administrative process & judicial intervention</p>	<p>Regulatory approach administrative decision - as a basis to request a court order in:</p> <ul style="list-style-type: none"> • Spain - second section of the IP Commission - Lithuania - Radio and Television Commission (RTKL)
	<p>Administrative process (administrative orders)</p>	<p>Regulatory approach – administrative procedure</p> <ul style="list-style-type: none"> • Italy (AGCOM) - Greece (EDPPI) Portugal (IGAC)
	<p>Voluntary procedure with intervention of administrative bodies</p>	<p>Voluntary agreement whereby an administrative authority acts as a trusted third party in between right holders and ISPs in:</p> <ul style="list-style-type: none"> • Portugal: (IGAC) (2015)- Germany: (BNetzA) (2021)

RECOMMENDATION



European Commission Recommendation on combating online piracy of sports and other live events

*Adopted on 4 may 2023
Evaluation by 17 Nov 2025*



NOTICES on live events: Prompt treatment & Cooperation



INJUNCTIONS: Dynamic injunctions, Safeguards & Voluntary Cooperation



RAISING AWARENESS and VOLUNTARY COOPERATION between public authorities



FOLLOW UP AND MONITORING



NOTICES: Prompt treatment & Cooperation

Building on the Digital Services Act

Prompt treatment of notices related to live events

- **Hosting providers: urgent action** to minimise harm caused during the illegal live transmission
- **Hosting providers other than online platforms** to cooperate with holders of rights to:
 - engage with **trusted flaggers**
 - develop/use **technical solutions** e.g. Application Programming Interfaces (APIs)

Cooperation between holders of rights and providers of intermediary services

- **Holders of rights**: use best available technical solutions - identification of the source
- **Providers of intermediary services (CDNs, Reverse Proxies, DSPs)** to:
 - cooperate to facilitate identification of the source
 - put in place measures against repeated misuse of their services



INJUNCTIONS: Dynamic, Safeguards & Voluntary Cooperation (I)

Building on *IP Enforcement Directive*, *Copyright Information Society Directive* and national experience

Legal Standing for sport event organisations

For Member States to enable the organisations to seek injunctions where currently not possible

Addressees

- Operators of unauthorised retransmissions of live sport event
- Intermediary services – **‘regardless of the intermediary lack of liability’**
- Which target their activities to recipients of services in Member States
- Before the start of the live event



INJUNCTIONS: Dynamic, Safeguards & Voluntary Cooperation (II)

Dynamic nature

- Injunction to be extended to **services unidentified** at the time of the application – but for same sports event
- Case by case methodology for **updating list** of internet locations:
 - **cooperation** (holders of rights and addressees) subject to control by a judicial authority
 - **independent national authority** to certify the list of internet locations covered by injunction
- Administrative authority to issue injunction or update list – **right of appeal to the courts**



INJUNCTIONS: Dynamic, Safeguards & Voluntary Cooperation (III)

Safeguards

- Measures **not unreasonably burdensome** for the **addressees**
- **Strictly targeted**
- **Adequate technical measures:** to prevent/ at least make difficult the access to infringing content and seriously discourage users from accessing it
- **Regular update by holders of rights:** internet locations no longer used for infringing content
- **Duration:** not beyond what is necessary



INJUNCTIONS: Dynamic, Safeguards & Voluntary Cooperation (IV)

Voluntary cooperation

- Providers of intermediary services: to consider **appropriate and voluntary** initiatives to prevent their services from being misused
- Other market players (e.g. **Advertising, Payment services**) to ensure that their service do not facilitate the promotion and functioning of pirate services (**Follow the money**)



RAISING AWARENESS and VOLUNTARY COOPERATION between public authorities

Commercial offer: live sport and other event organisers to increase the **availability, affordability and attractiveness** of their commercial offers to end users across EU

Awareness: on **legal offers** - redirecting users of blocked services to legal offer (e.g. **Agorateka**, national portals) and on **piracy** among law enforcement authorities

Cooperation between public authorities:

- Member States to proactively exchange info on services blocked on the basis of an injunction
- **EUIPO** to establish a **dedicated network of administrative authorities** – assess opportunities for cross border cooperation
- **EUIPO** to make available **knowledge building activities for national judges and authorities**



FOLLOW UP AND MONITORING

EUIPO to

- Support in the **identification of indicators** to monitor implementation and effects of the Recommendation
- Support in the **monitoring of the effects of the Recommendation**

European Commission to

- Assess the effects of the Recommendation (taking due account of the findings of the EUIPO) by **17 November 2025**
- Decide whether **additional measures** are needed at EU level

Key Performance Indicators – General overview

KPI1

Volume of unauthorized retransmission of live events in Member States

- MUSO data

KPI2

Prompt treatment of **notices**, **cooperation** and measures against **misuse** of services

- Holders of rights
- Intermediaries

KPI3

Use of dynamic **injunctions** for live events

- Holders of rights
- Intermediaries (IAPs)
- Public authorities

KPI4

Availability, affordability, attractiveness and awareness raising of the **commercial and legal offer**

- Holders of rights
- Public authorities

OCTOBER 2023 – HIGH LEVEL CONFERENCE & FIRST MEETING OF THE PUBLIC NETWORK



DEDICATED NETWORK OF ADMINISTRATIVE AUTHORITIES: MANDATE



MEASURES PROCEDURES REMEDIES

- Injunctions
 - Addressees
 - Procedures/requirements
 - List of internet locations covered
 - Methodology for update
 - Safeguards
- + **Voluntary measures**



IMPACT AND EFFICIENCY

- Studies
- Analysis
- Case-law reports



CHALLENGES AND GOOD PRACTICES

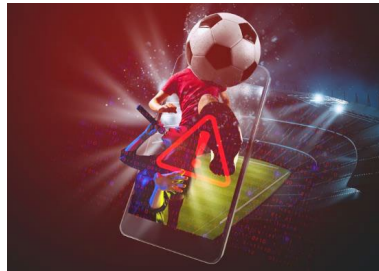
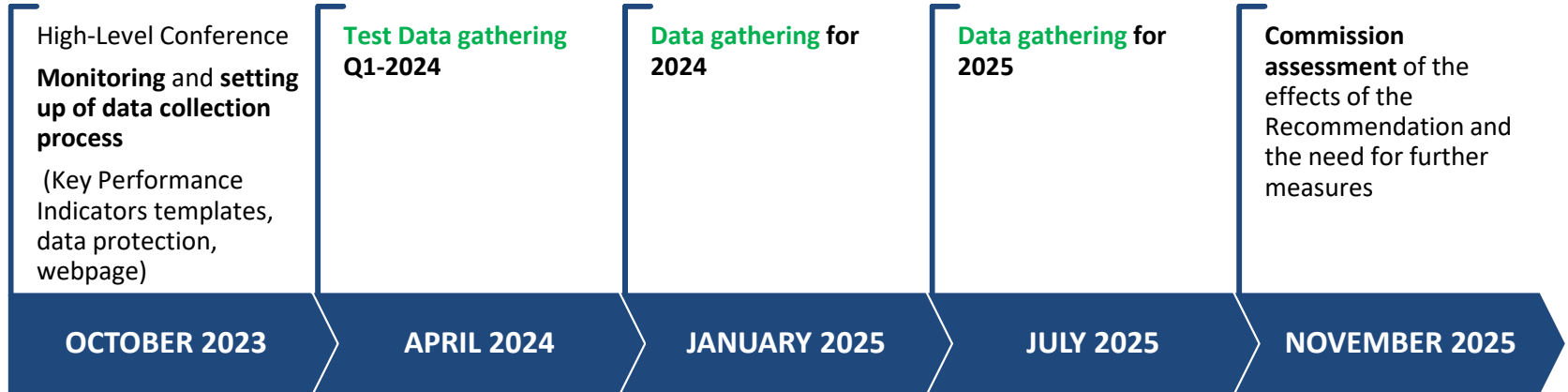
- Redirection, legal offers
- Infringing websites lists/
Trusted websites list



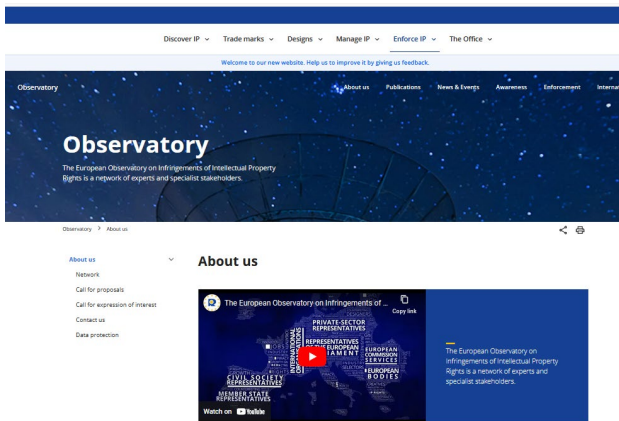
- ✓ **Monitoring effect of the Recommendation**
- ✓ **Developing a framework of cooperation**
- ✓ **EUIPO activities and projects**

+ **CROSS BORDER OPPORTUNITIES**

TIMELINE - MONITORING



CONCLUDING REMARKS



EUIPO
EUROPEAN UNION
INTELLECTUAL PROPERTY OFFICE

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Thank you!

To know more:

<https://www.euiipo.europa.eu/en/observatory>