



Photo: Wikipedia/Peter Rammstein, Public Domain.



# Alea ACTA est?

**Issues and Non-issues under a Disputed Treaty**

2012 LIDC Congress in Prague

# Looking back ...

1. Unprecedented Europe-wide protests against ACTA starting in January 2012
2. Unprecedented vote of the European Parliament against ACTA by massive majority on 4 July 2012
3. Unprecedented rejection of an international trade agreement negotiated by the European Commission

# Who wouldn't support a global treaty against counterfeiting?

# Digital Copyright

- **History of Copyright:** Longer, stronger, stricter, broader, harsher ... a *'must'*?!
- **ACTA 27:** *'Enforcement of Intellectual Property Rights in the Digital Environment'*

# Digital World

- Reading mail, forwarding documents, downloading pictures, creating content, publishing blogs, watching videos, ... creating, re-creating and **sharing** – often based on existing material
- Copyright touches **everything** we do in the digital world

# Digital Copyright Law

- **Software code:** Digital Rights Management (DRM)
- **Legal code:**
  - Existing copyright law
  - DMCA / EUCD
  - ACTA / SOPA
  - CETA / TPP / *'The Clean IT Project'*?

# Civil Liberties

- Punishment solely based on allegations
- Preposterous concept for civil damages
- Criminal sanctions for trivial infringements
- 24/7 surveillance in the near future?  
Legal lockdown of the Internet?



# Moore's Law

- *'For a given price, computing power and storage doubles every two years.'*
- **Google:** *'It takes about the same amount of computing to answer one Google Search query as all the computing done – in flight and on the ground – for the entire Apollo program!'*
- **Abundance** in the digital world

# Abundance vs. Scarcity

- **Analogue world:** Scarcity, copyright encourages creativity
- **Digital world:** Abundance, Internet encourages creativity while copyright hinders it and causes collateral damage
- Digital copyright has to be different from analogue copyright – is it even necessary and useful?

# Copyright is only one example ...

# Patent Law

*‘In the smartphone industry alone, according to a Stanford University analysis, as much as \$20 billion was spent on patent litigation and patent purchases in the last two years — an amount equal to eight Mars rover missions. Last year, for the first time, spending by Apple and Google on patent lawsuits and unusually big-dollar patent purchases exceeded spending on research and development of new products, according to public filings.’*

(New York Times on 7 October 2012)

# Patent Law

*'A closer look at the historical and international evidence suggests that while weak patent systems may mildly increase innovation with limited side-effects, strong patent systems retard innovation with many negative side-effects. Both theoretically and empirically, the political economy of government operated patent systems indicates that weak legislation will generally evolve into a strong protection and that the political demand for stronger patent protection comes from old and stagnant industries and firms, not from new and innovative ones. Hence the best solution is to abolish patents entirely through strong constitutional measures and to find other legislative instruments, less open to lobbying and rent-seeking, to foster innovation whenever there is clear evidence that laissez-faire under-supplies it.'*

(Boldrin/Levine, The Case against Patents 2012)



**Is intellectual property in the form of copyright, patent, trademark etc. necessary for innovation and the creation of ideas and inventions?**

# Conclusions

- Public and open discussion on IP and IP law such as ACTA based on facts
- Questioning the benefits of IP and today's IP law
- Digital world needs different IP law
- Lessons learnt from ACTA?

# Thank you for your attention!

Rechtsanwalt Martin Steiger

[steiger@steigerlegal.ch](mailto:steiger@steigerlegal.ch)

[www.steigerlegal.ch](http://www.steigerlegal.ch)

[@martinsteiger](#)