Study Guidelines

by Ralph NACK, Reporter General
Guillaume HENRY and Johanna FLYTHSTRÖM, Deputy Reporters General
Rafael ATAB, Klaudia BLACH-MORYSINSKA, Mamta RANI JHA, Yanfeng XIONG
Assistants to the Reporter General

2026 – Study Question

Dynamic Injunctions

Introduction

1) Rapid advancements in technology have posed significant challenges to the protection and enforcement of Intellectual Property Rights (IPRs). Infringers now often conceal their identities, making it extremely difficult to trace or hold them accountable. Even when their online activities are uncovered and they are brought into legal proceedings, many choose not to engage or comply with judicial orders, thereby undermining the integrity of the legal process. Furthermore, court directives such as blocking orders or notices for take-down of infringing content are frequently rendered ineffective, as the content quickly resurfaces on new platforms or "mirror" and proxy websites. This forces rights-holders to continuously seek additional legal remedies, expend further resources, and persistently monitor the internet for ongoing violations. While injunctions have traditionally served as a crucial remedy in enforcing IPRs, the ever-evolving tactics, and circumventive measures used by infringers in the digital age render traditional injunctions insufficient for delivering effective justice. Therefore, there could be a need for a dynamic system of injunctions, as the sheer scale of content, its rapid dissemination, and the sophisticated evasive strategies employed by infringers impede efficient adjudication.

2) Traditionally, injunctions were cast as "static" injunctions which operated against identified defendants which were properly impleaded in legal proceedings. Mareva injunctions or Anton Piller orders were also frequently granted to curb a defendant's ability to resume its infringing activities after being injuncted. However, with the passage of time, right-holders encountered more challenging forms of counterfeiting/piracy, which involved a network of infringers, which was not fully discernible at the first instance. Thus, courts adapted the traditional "static" injunction to cover such modern challenges. "John Doe" orders began to be employed and are now firmly established in global jurisprudence by which injunctions can be granted against hitherto unidentifiable defendants who are later impleaded in the suit. However, even these remedies are found to be insufficient given the scale and rapidity with which infringers operate in the digital space.

3) Some illustrative forms of modern infringements are:
   a. **Rogue websites/rogue contents**: These websites/contents exist to infringe and infringe to exist - their entire user base and resultant revenue is founded on infringement. Such rogue websites/rogue contents, exist only to provide pirated copyright works. Aptly called "Hydra-headed" websites, they are characterized by a blatant disregard for court orders, jurisdiction-hopping, and persistent infringement through the creation of "mirror" and "proxy" websites/contents. Another form of rogue websites/rogue contents is **pirated live streams**.

   b. **Sale of Counterfeits/Online Piracy**: There has been a sharp rise of online locations and/or e-commerce sellers offering counterfeit goods/services. These infringers are aided by deceptive social media presence and imitated/copied official brand imagery to lend an air of legitimacy to their operations.

   c. **Generative-AI [Gen-AI] Infringements**: This includes use of Gen-AI models to create clones of original works, widescale merchandizing piracy, misappropriation of personality rights, deep fakes, etc.

   d. **Financial/Employment Frauds and "Bait & Switch" frauds using IP**: Another concerning area is frauds and scams being perpetuated in the name of well-established brands. Infringers in this category use nearly identical domain names, and copy the entire official website source

code, to dupe customers into investing in scams and/or pay fee for registration to employment portals. Yet another mode of infringement is re-directing users to gambling/betting websites or other forms of illegal gameplay by using dummy websites resembling established gaming platforms.

4) Some courts have begun recasting the traditional "static injunction" to orders which dynamically extend to future incidents of infringement and mirror/proxy websites, obviating the need for filing fresh legal actions or approaching the Court. Popularly, these injunctions are called "**Real-Time Continuing Injunctions**" or "**Dynamic Injunctions**." The appeal of Dynamic Injunctions lies in their ability to match up to the speed and agility of online infringement, as:

   - Right-holders save time & resources as the injunction is seamlessly extended by establishing that the new website is a mirror/proxy.
   - They are important for typical cases such as film/music content where time is of the essence
   - The inflexible bar against "illegal" streaming options compels consumers to seek legitimate sources of content. Modifying consumer behaviour is a critical factor in diminishing infringement over time.

5) Despite their advantages, significant legal and procedural questions persist which hinder their broader recognition and adoption. At the outset, there is a need to study the diverse global approach towards the recognition, advantages and disadvantages of Dynamic Injunctions. While granting the Dynamic Injunction various jurisdictions have cautioned against overbroad orders that may impinge upon freedom of expression, due process, intermediary liability and proportionality. Courts are tasked with balancing two important equities - public interest in protecting consumers from confusion and deception, and on the other hand, the public interest in protecting against inadvertent encroachments into legitimate speech.

6) In light of these evolving modalities and considerations, this Study Question seeks to explore the legal regimes governing Dynamic Injunctions across jurisdictions for effective, proportionate, and technologically resilient enforcement of IPRs in the digital era. It further aims to conduct a comparative assessment to:

i. **Identify Need** for wider adoption of injunctions in the nature of Dynamic Injunctions to combat new-age online infringements.

ii. **Identify legal basis** for acceptance or rejection of the Dynamic Injunction regime.

iii. **Identify best practices** in issuance, implementation, and supervision of Dynamic Injunctions.

iv. **Understand associated risks & challenges** including those related to obligations and directions to other entities and procedural safeguards; and

v. **Harmonization** for efficient and balanced global framework on Dynamic Injunctions.

Why AIPPI considers this an important area of study?

7) There is a need for a proactive judicial enforcement tool against the rapid and adaptive nature of online infringement today. Whether Dynamic Injunction, which, unlike "static injunctions", can extend automatically to future infringements, is the answer to this challenge, or whether there are concerns that require balancing, needs discussion and study. In particular, the following aspects call for deliberation:

- **Uneven recognition:** Dynamic Injunctions are recognized in some jurisdictions (UK, Singapore, India, Canada, Italy and some EU States) but remain untested or unimplemented in many others.
- **Varying scope of application:** Most countries limit Dynamic Injunctions to copyright cases (piracy, mirror sites, live streaming), while a few extend them to trademarks, designs, or AI-generated content.
- **Divergent approaches:** Some courts adopt liberal, flexible Dynamic Injunctions; others apply narrow, cautious standards to prevent overreach and protect fundamental rights.
- **Procedural diversity:** The evidentiary thresholds, technical implementation methods, and intermediary obligations differ across jurisdictions.

- **Rights balancing:** Courts weigh IP enforcement against freedom of speech, privacy, due process, and fair use.
- **Safeguards and oversight:** Variations exist in judicial review mechanisms, time limits, and transparency requirements.
- **Intermediary involvement:** Obligations and liabilities of ISPs, domain registrars, and platforms vary widely, with differing cost and compliance structures.
- **Emerging technologies:** Jurisdictions are beginning to test Dynamic Injunctions against new challenges such as AI-generated content, app-based piracy, live-streaming of sports, deep fakes, counterfeit goods, scams/frauds, rogue contents etc.
- **Need for harmonization:** Differences in legal and procedural frameworks underscore the need for shared international principles and minimum safeguards.

8) Given the wide diversity of national practices (or lack thereof), finding a balanced approach is critical when considering Dynamic Injunction, a relief of wide amplitude in the hands of right-holders. Studying aspects of Dynamic Injunctions - a mechanism at the intersection of law, technology, and global enforcement – would assist in development of balanced, adaptive, and globally informed IP policy for addressing challenges posed by the digital and AI-driven future. There is an immediate need to study this regime in order to ascertain clear benchmarks for availability and applicability of Dynamic Injunctions, conditions for grant/refusal, characteristics and safeguards, and balancing competing rights and interests of all stakeholders.

Definitions:

9) In the context of this study, the following terms have the following definitions:

i. **Dynamic Injunction or Dynamic Blocking Injunction:** Dynamic Injunction refers to the injunction directing blocking of additional domain names, URLs and/or IP addresses that provide access to the same websites which are the subject of the main injunction. The dynamic injunction merely blocks new means of accessing the same infringing

websites, rather than blocking new infringing websites that have not been included in the main injunction.[1]

ii. **"Dynamic +" Injunctions**: Dynamic Injunctions which protect infringement of Plaintiff's future works as well.[2]

iii. **Superlative Injunction/Real-Time Site Blocking:** A Superlative Injunction is an extended form of a dynamic injunction, which contemplates real-time blocking of streaming websites as and when they pop up. It is not necessary that the future blocked sites are **mirrors**, but that they contain the same infringing content. These are especially useful when time is of the essence, for instance, in cases of recent movie releases or sports events etc.

iv. **Live Blocking Order:** A live blocking order is a judicial (or court-issued) injunction that directs one or more Internet Service Providers (or other intermediaries) to block access to websites, servers, mobile applications or other dissemination platforms that are streaming or transmitting infringing same or similar content during the live broadcast or transmission of an event, allowing for immediate or near-immediate blocking for the event's duration.[3]

For the purpose of this Study Question, all of the above injunctions, or orders having similar intended effects are termed as "Dynamic Injunctions."

v. **Rogue Websites or Flagrantly Infringing Online Locations [FIOLs]:** Used interchangeably, these are online websites or locations which are determined by the courts or authorities as being used to flagrantly commit or facilitate infringement of copyright[4] or other IP.

vi. **Rogue Contents:** online material that is made available, shared, or distributed without authorisation, in violation of legal rights, platform policies, or applicable regulations. This includes content that is unlawful,

[1] *UTV Software Communication Ltd. v. 1337X.TO & Ors., 2019(78) PTC 375(Del), Delhi High Court*
[2] *Universal City Studios LLC & Ors v dotmovies Baby & Ors, Order dt. 09.08.2024 in CS(COMM) 514/2023]*
[3] *Dazn Limited &Anr. v. Boxingstreamlinks.org & Ors., Order dt.29.05.2025 passed in CS(COMM) 563/2025*
[4] *Section 193DDA, Copyright (Amendment) Act, 2014 Singapore*

infringing, deceptive, harmful and is intentionally posted to evade detection, moderation, or enforcement measures.

vii. **Mirror/Proxy Websites**: New website with nearly identical domain name or even a different alphanumeric domain name that replicates the original infringing website which has been blocked. Such mirrors pop up almost instantaneously to evade injunction orders. E.g., if piracy-site.com is blocked, the operators quickly launch piracy-site2.com or 191.168.123.4 (numeric equivalent) which mirrors the original website completely.

viii. **Intermediaries or Service Providers**: Platforms or entities that provide services to or on behalf of an originator. They have no role to play in the creation, upload or dissemination of the content, infringing or otherwise. Most countries provide "safe harbour" and immunity from liability to such intermediaries, subject to fulfilment of criteria.

ix. **Hosting Service Provider (HSP)**: an intermediary that stores information, data, or content on behalf of a user and provides infrastructure that allows users to upload, store, share, or otherwise make content available online.

x. **Internet Service Provider (ISP):** an entity that provides users with access to the internet and related network connectivity services. An ISP supplies the technical infrastructure **required** for users to connect to the internet through broadband, fiber, DSL, cable, satellite, or mobile data.

xi. **Domain Name Registrars** (**DNRs**): Entity that provides services for managing and **registering** domain names which are available online.

xii. **E-commerce websites:** Online platforms that allow users to buy and sell goods or services over the internet. These websites provide digital interfaces through which customers can browse products, place orders, make payments, and receive delivery or access to the purchased item or service.

xiii. **Social media websites**: Online platforms that enables users to create, share, and **interact** with content, and to communicate or connect with

other users through profiles, posts, messages, or other interactive features.

xiv. **App aggregators:** Digital platforms that collect, organise, and provide means to download **mobile** applications.

Relevant treaty provisions:

10) **TRIPS Agreement:** Article 41 of the Agreement on Trade-Related Aspects of Intellectual Property Rights [**TRIPS**] mandates that Member states must provide enforcement procedures including "expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements."

Article 41
1. Members shall ensure that enforcement procedures as specified in this Part are available under their law so as to permit effective action against any act of infringement of intellectual property rights covered by this Agreement, **including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements.** These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to **provide for safeguards against their abuse**.

2. Procedures concerning the enforcement of intellectual property rights shall be fair and equitable. They shall not be unnecessarily complicated or costly or entail unreasonable time-limits or unwarranted delays.

3. Decisions on the merits of a case shall preferably be in writing and reasoned. They shall be made available at least to the parties to the proceeding without undue delay. Decisions on the merits of a case shall be based only on evidence in respect of which parties were offered the opportunity to be heard.

4. Parties to a proceeding shall have an opportunity for review by a judicial authority of final administrative decisions and, subject to jurisdictional provisions in a Member's law concerning the importance of a case, of at least the legal aspects of initial judicial decisions on the merits of a case.

However, there shall be no obligation to provide an opportunity for review of acquittals in criminal cases.

5. It is understood that this Part **does not create any obligation to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of Members to enforce their law in general. Nothing in this Part creates any obligation with respect to the distribution of resources as between enforcement of intellectual property rights and the enforcement of law in general.**

11) Article 44 generally envisages the authority of Member States to grant injunctions. Read together, TRIPS provides ample basis to grant injunctions that deter future infringements, allowing for the innovation of Dynamic Injunction.

12) The WIPO Copyright Treaty [**WCT, 1996**] and the WIPO Performances and Phonograms Treaty [**WPPT, 1996**] establish enforcement obligations regarding technological protection measures and rights management information. While not explicitly addressing dynamic injunctions, these treaties underscore that enforcement mechanisms must adapt to technological sophistication of infringement.

Previous Work of AIPPI:

13) AIPPI has not studied Dynamic Injunctions in depth, in any previous study.

Scope:

14) This Study Question aims to comprehensively examine the global availability of Dynamic Injunctions, including scope, the procedural and substantive factors influencing their grant or denial, considerations of grant & duration, identification of relevant parties and implementation mechanisms and considerations for balancing the rights. A detailed analysis of how the Dynamic Injunction remedy reconciles with existing legal frameworks is also included within the scope.

15) Availability and Recognition of Dynamic Injunction across Jurisdictions: The Study Question shall examine whether the domestic legal framework in each

jurisdiction provides a statutory or judicial basis for granting Dynamic Injunctions. It will further consider whether the existing framework is sufficient to address evolving forms of intellectual property infringement or whether policy considerations limit their recognition under current law. Participants will also be asked to assess whether the provisions of the TRIPS Agreement or other international instruments may serve as a sufficient legal foundation for such remedies.

16) Applicability of Dynamic Injunction to other forms of IP: The Study Question will explore the conditions under which Dynamic Injunctions may appropriately be granted. This includes identifying the types of intellectual property rights covered, the categories of intermediaries or service providers that may be targeted, and whether the right-holder must demonstrate special injury or the insufficiency of traditional injunctions.

17) Standards and Proportionality of Dynamic Injunctions: The Study Question shall examine the desired characteristics of Dynamic Injunctions, including their duration, scope, stage of grant, assessment of "rogue websites", evidentiary standards etc. Responses will help assess whether such standards should be qualitative, quantitative, or hybrid in nature, and whether different considerations apply across various categories of intellectual property rights.

18) Balancing of competing rights and competing public interests: The Study Question will also inquire into the mechanisms for implementation, modification, and vacation of such orders, including the criteria and procedural safeguards applicable. It will also seek to understand their compatibility with fundamental rights such as freedom of expression and access to information. Participants will be invited to consider how courts may balance these competing interests and move towards consistent guiding principles internationally. Additionally, it will explore how compliance may be monitored, who should be responsible for oversight, and what technological measures may be integrated to ensure effectiveness and accountability.

19) Harmonization: Finally, the Study Question will address the broader need for harmonization.

20) **Please note that cross-jurisdictional applicability and implementation of dynamic orders is not included within the scope of the present Study Question.**

Discussion:

21) Legal Regimes have always grappled with the challenge of protecting rights in the online world, wherein infringers operate with impunity, emboldened by the cloak of anonymity and ease of access to technology.

22) In this background, Dynamic Injunctions are increasingly being considered as an appropriate remedy that provide an urgent and swift response against piracy in a both proactive and reactive manner. A Dynamic Injunction contemplates automatic extension of injunctions against mirror/proxy websites/contents, without necessarily approaching the Court afresh every time.

23) Dynamic Injunctions have been granted by several countries, including Italy, Singapore, India, Canada and some EU members states and continue to evolve and apply to other forms of infringement, such as Live-streaming sites, cyber-lockers, mirror websites, DNS systems, etc.

Recognition in National Frameworks

24) **United Kingdom:** In 2017, The Football Association Premier League Ltd. V. British Telecommunications PLC and Ors [2017] EWHC 480 (Ch), before the England and Wales High Court, FAPL sought to combat the problem of live Premier League footage being streamed without prior consent and authorization from FAPL. The court gave a one of its kind live blocking orders which was applicable from 18.03.2017 to 22.05.2017 i.e. the duration of the 2016-17 Premiere League Season. Herein new infringing streams were ordered to be blocked as and when they appeared. With this order the Court attempted to restrain any further infringement of FAPL's rights.

25) **Italy:** In 2018, the Milan Court of First Instance (Tribunale di Milano) while granting a dynamic injunction to block access to current and future infringing domain names reasoned that if a judge's intervention is required in relation to any further infringement of same rights, it would be contrary to the very purpose of granting an injunction.

26) **Singapore:** In 2018, the Singapore High Court's 2018 ruling in "Disney Enterprises, Inc and Ors v M1 Ltd & Ors" [(2018) SGHC 206], explicitly recognized dynamic injunction orders as a remedy, drawing upon existing statutes and the inherent power of courts to issue orders in equity. The Court further elaborated on "Frequently Infringing Online Locations" [**FIOLs**] as defined in Section 193DDA of the Copyright Act and parameters to label websites as FIOLs which warranted grant of the dynamic injunction. The High Court granted a dynamic injunction to block all future domains or IP addresses identified to be hosting pirated materials, to avoid evasion of the main injunction by the Defendants.

27) **Australia**: In 2018, Australia's amended its Copyright Act, specifically Section 115A(2B)a(ii) to specify that courts may grant injunctions that may require carriage service providers [ISPs] to block domain names, URLs and IP Addresses that, the ISP and the copyright owner agree in writing, have started to provide infringing materials after an injunction is made. This reflects legislative intent that appropriate scope of blocking order should encompass current but also future infringements.

28) **Greece**: In 2021, Greece amended Article 66E(10A) of Law 2121/1993 to establish a distinctive administrative framework wherein the Committee for the Notification of Copyright and Related Rights Infringements on the Internet [**EDPPI**] possesses authority to issue dynamic and live blocking injunctions against infringing content. The Greek model demonstrates that dynamic blocking need not operate exclusively within traditional judicial frameworks but can be integrated within specialized administrative regimes.

29) **India:** In 2019, UTV Software Communications Ltd. V. 1337x.to, the Delhi High Court passed its first "dynamic injunction" and directed right-holders to file affidavits regarding the subsequent mirror websites for extension of the injunction. In 2023-2024, Indian courts have further expanded the scope of real time continuing injunctions to Superlative injunctions (real-time ISPs blocking), Dynamic++ Injunction for future copyright piracy and orders against various modes of infringement such as cyber-lockers etc. Dynamic Injunctions have also been granted for trademark infringement.

30) **Canada:** In 2022, the Federal Court of Canada granted its first ever dynamic site blocking injunction in Rogers Media Inc. v. John Doe 1, 2022 FC 775 (CanLII). Rogers Media held exclusive broadcasting rights for NHL games. The Court affirmed the infringement of the Plaintiff's rights at the hands of the Defendants by unlawfully distributing the broadcasts to individuals in Canada. The court further noted that the ISPs possessed the technical capability for dynamic site blocking. The order remained operational until the end of the 2021-2022 NHL season.

31) **European Union:** In 2024, the European Commission released its Recommendation on measures to combat counterfeiting (dated 19.03.2024), inter alia, explicitly addressing dynamic injunctions. In Preamble 22, the EC recognises that dynamic injunctions are available only in a few Member States and calls for need for greater harmonization to combat mirror infringements. Chapter III, Points 34-38 of the Recommendation encourages Member States to foster use of dynamic injunctions and deployment of similar technological measures, subject to certain safeguards. In particular, Dynamic Injunctions must not be unreasonably burdensome, their duration must not go beyond what is necessary to ensure effective protection and they must comply with applicable Union or national law, including in relation to the processing of personal data, the right to privacy, free speech, to conduct business and the right to an effective remedy.

32) The European Commission Recommendation reflects the consensus position of a major regulatory body that dynamic injunctions are an appropriate and necessary enforcement mechanism within the modern intellectual property framework, while establishing that such mechanisms must be implemented with careful attention to proportionality, fundamental rights, and practical feasibility.

33) **WIPO:** The WIPO Advisory Committee on Enforcement in its Publication WIPO/ACE/17/17 dated 30 January 2025 has recognized the EDPPI model as a significant development, highlighting Greece's administrative (out-of-court) solution while emphasizing safeguards to prevent over-blocking and the importance of international cooperation.

34) On the other hand, countries such as the United States of America, China, Japan, Russia appear not to have passed or referred to Dynamic Injunctions as a special category of injunctive remedies.

35) Right-holders are intensifying efforts to replicate the success of the Dynamic Injunction across the globe and are increasingly petitioning Courts to recognise Dynamic Injunctions as a routine measure that can be employed by courts to protect right-holders from flagrant piracy and thus making the **enforcement mechanism efficient, meaningful and cost-effective.** However, despite their obvious benefits, Dynamic Injunctions raise legal and practical concerns.

36) The foremost concern is the potential for **over-blocking**, where the broad nature of the Dynamic Injunction could inadvertently result in the blocking of legitimate, non-infringing websites or content. This raises serious concerns regarding freedom of speech and access to information.

37) Additionally, there are **evidentiary and due process concerns**. Typically, Dynamic Injunctions are extended on the Plaintiff's representation that the subsequent website/content is in fact a mirror/identical to the previously injuncted content. Since the Dynamic Injunction is extended without the need for approaching the Court, this extension might involve less judicial scrutiny, leading to concerns about due process and over-emphasis of plaintiff's rights. Courts have tried to balance this aspect by mandating filing of affidavits and other measures.

38) Since the actual websites choose not to participate in these proceedings, the burden of verifying and implementing the Dynamic Injunction often falls on **Service Providers** who are typically third parties to the original dispute and governed by safe harbour regimes. There is a divergent on how far these entities should be involved in the implementation of the Dynamic Injunctions as well as their right to seek clarifications/pushback on requests.

39) Finally, the fact remains that even Dynamic Injunctions can be circumvented by technological measures such as Virtual Private Network (VPNs), which call to question the **efficacy of this remedy**. When weighed against the issue of **proportionality and possible overreach**, whether such a **broad** remedy should be made available at all is a question faced by courts/authorities.

40) While the global sentiment is largely uniform - that pirate rogue websites must be stopped - the challenge remains in crafting effective and balance form of Dynamic Injunction that can curb infringement as well as guard against its resurgence, within the bounds of extant legal regimes and whilst balancing considerations of over-blocking/chilling effect on speech.

You are invited to submit a Report addressing the questions below.

Questions

I) Current law and practice

Please answer all questions in Part I on the basis of your Group's current law or practice.

A. <u>Recognition of Dynamic Injunctions</u>:

1) Does your jurisdiction recognise Dynamic Injunctions to enforce IPRs? Please answer YES or **NO**.

While Finnish local IP laws neither explicitly prohibit nor permit Dynamic Injunctions as a means of enforcing intellectual property rights, applications for such measures based on copyright have thus far been rejected by the Finnish Market Court — the court of first instance in IP disputes. To date, there is no Supreme Court precedent addressing this question in Finland.

If you answered YES to question A above, please continue answering all questions below.
If you answered NO to question A above, please move directly to Part III below.

B. <u>Availability of Dynamic Injunctions</u>:

2) In which situations have Dynamic Injunctions been typically granted in your jurisdiction [Please answer YES or NO]:

   i. Movie Piracy [YES / NO]
   ii. Unauthorized streaming of live events [YES / NO]
   iii. Counterfeits [YES / NO]
   iv. AI-Generated Content [YES / NO]
   v. Deep-fakes [YES / NO]
   vi. Others [YES/NO]
   [Please provide a brief explanation, if required]

3) What categories of Dynamic Injunctions are granted in your jurisdiction?

   i. Complete blocking of Rogue/mirror websites [YES / NO]

ii. Specific URL of rogue contents [YES / NO]
iii. Blocking of key-words/domain name [YES / NO]
iv. Take down orders for infringing/rogue accounts on e-commerce and social media [YES / NO]
v. Blocking of live-streaming [YES / NO]
vi. App blocking [YES / NO]
vii. Others [YES/NO]
[Please provide a brief explanation, if required]

4) For which IPRs are Dynamic Injunctions applied for and granted/refused in your jurisdiction [Please answer YES or NO]:

i. Copyrights [Applied: YES / NO] [Granted: YES / NO]
ii. Trademarks [Applied: YES / NO] [Granted: YES / NO]
iii. Designs [Applied: YES / NO] [Granted: YES / NO]
iv. Patents [Applied: YES / NO] [Granted: YES / NO]
v. Geographical Indications [Applied: YES / NO] [Granted: YES / NO]
vi. Trade Secrets [Applied: YES / NO] [Granted: YES / NO]
vii. Others [YES/NO]
[Please provide a brief description, if required]

C. <u>Authority for Granting Dynamic Injunctions</u>:

5) Which is the authority before which an application for Dynamic Injunction can be filed in your jurisdiction?

i. IP authority [YES / NO]
ii. Court [YES / NO]
iii. Other governmental body? [YES / NO]
iv. Other?
[Please provide a brief explanation, if required]

6) Can the decision be appealed and to whom? [YES / NO] Please add a brief explanation

7) Please select what are the factors considered by the authority in your jurisdiction for grant of Dynamic Injunction?

i. Special damage entitling right holder to a Dynamic Injunction? [YES / NO]
ii. Traditional injunctions would not suffice for the violation? [YES / NO]
iii. Public interest considerations for grant of a Dynamic Injunction? [YES / NO]
iv. Special urgency for grant of a Dynamic Injunction? [YES / NO]
v. Defendant/Infringer is a repeat/rogue infringer, warranting of dynamic injunction [YES / NO]
vi. Any other factor? [YES / NO]
[Please add a brief explanation, if any]

8) While granting dynamic injunctions, please select how do authorities assess the evidence?

i. Illustrative evidence provided by Plaintiff to assert that an Infringer is a rogue infringer/website (Qualitative test) [YES / NO]
ii. Voluminous evidence must be provided that the activities of the infringer consist of piracy/counterfeiting (Quantitative test) [YES / NO]
iii. Any other test? [YES / NO]
[Please add a brief explanation, if any]

9) In determining whether an infringer is rogue/repeat infringer, please select which factors do Authorities consider:

i. Primary purpose is to commit/facilitate infringement [YES / NO]
ii. Flagrancy of infringement [YES / NO]
iii. Anonymity of infringer [YES / NO]
iv. Silence/inaction despite receipt of legal notice [YES / NO]
v. Availability of alternative modes/indexes for continuing with infringing activities [YES / NO]
vi. Prior injunctive orders already issued [YES / NO]
vii. Any other factor? [YES / NO]
[Please add a brief explanation, if any]

10) Whether the tests described in questions (7) to (9), apply equally for different kinds of IP? [YES / NO]
[Please provide a brief description, if any]

D. <u>Characteristics of Dynamic Injunction</u>

11) Are Dynamic Injunctions:

i. Granted only for online infringements? [YES / NO]
ii. Granted for a fixed duration and limited extension thereof? [YES / NO]
iii. Mandate impleadment of subsequently identified websites/platforms? [YES / NO]
iv. Can be granted for future works of the Plaintiff? [YES / NO]
v. Granted only at the interlocutory stage? [YES / NO]
vi. Allow right to seek clarifications/pushback to implementing entities? [YES / NO]
vii. Others [YES / NO]
[Please provide a brief description, if any]

12) Apart from the primary rogue infringer, please select other kind of entities to whom directions can be passed:

i. Internet Service Providers (ISP) [YES / NO]
ii. Hosting Service providers (HSP) [YES / NO]
iii. Domain Name Registrars (DNRs) [YES / NO]
iv. E-commerce websites [YES / NO]
v. Social medial websites [YES / NO]
vi. App aggregators [YES / NO]
vii. Others [YES / NO]
[Please provide a brief description, if any]

<u>Implementation and monitoring.</u>

13) Does your current law specify any particular manner of implementation or monitoring of the Dynamic Injunction? [YES / NO]. If the answer to question is YES, please select the nature of over-sight/monitoring provided in your jurisdiction:

i. Court appointed representative to certify that subsequent infringements are covered within the order [YES / NO]
ii. Affidavits/reports detailing subsequent infringements to which the dynamic injunction need to be extended [YES / NO]
iii. Regular listing of the matter before the authority/court [YES / NO]

iv. Others [YES / NO]
[Please provide a brief description, if any]

Vacation of a Dynamic Injunction.

14) Can a Dynamic Injunction be vacated/terminated during its term? [YES / NO]. If the answer to the question is YES, Who can apply for vacation of a dynamic injunction?

i. Court on its own motion [YES / NO]
ii. Infringers [YES / NO]
iii. Any party wrongly affected by the order [YES / NO]
iv. Any person aggrieved [YES / NO]
v. Service providers and other entities, apart from infringers [YES / NO]
vi. Others [YES / NO]
[Please provide a brief description, if any]

15) Please select the ground for vacation/termination of dynamic injunction in your jurisdiction:

i. Misrepresentation of material fact [YES / NO]
ii. Conditions warranting grant of the dynamic injunction are sufficiently mitigated? [YES / NO]
iii. Abuse of the Dynamic Injunction? [YES / NO]
iv. Failure to comply with implementation/reporting requirements? [YES / NO]
v. Unintended chilling effect on legitimate content/speech? [YES / NO]
vi. Public interest of other nature [YES / NO] Please add a brief explanation.
vii. Others [YES / NO]
[Please provide a brief description, if any]

II) Policy considerations and proposals for improvements of your Group's current law

16) According to the opinion of your Group, is your current law regarding Dynamic Injunctions adequate and/or sufficient? [YES / NO]

17) If the answer to question (16) is NO, please briefly explain what aspect needs further consideration?

i. Procedure for grant [YES / NO]
ii. Applicability to other IPs [YES / NO]
iii. Conditions for grant [YES / NO]
iv. Characteristics of Dynamic Order [YES / NO]
v. Award of costs and damages and accompanying directions [YES / NO]
vi. Applicability to other entities apart from infringer [YES / NO]
vii. Consideration for vacation of dynamic injunction order [YES / NO]
viii. Implementation/over-sight mechanism [YES / NO]
ix. Others [YES / NO]
[Please provide a brief description, if any]

18) Is there a need to amend legal statutes to recognize Dynamic Injunctions? [YES / NO]
[Please provide a brief description, if any]

19) Have Dynamic Injunctions led to mitigation of infringement within your jurisdiction? [YES / NO] [Please provide a brief description, if any.]

20) Are there any other policy considerations and/or proposals for improvement to your Group's current law falling within the scope of this Study Question?

[Please provide a brief description, if any.]

III) Proposals for Harmonization

Please consult with relevant in-house / industry members of your Group in responding to Part III.

A. Recognition & Availability of Dynamic Injunctions:

21) Should Dynamic Injunctions be recognized and granted to enforce IPRs? [YES / NO]
[Please provide a brief description, if any.]

22) Is there a need to amend legal statutes to recognize Dynamic Injunctions? [**YES** / NO]
[Please provide a brief description, if any.]

The evolving tactics and circumventive measures employed by infringers in the digital age appear to have rendered traditional injunctions inadequate for providing effective protection to intellectual property rights holders.

23) For which IPRs Dynamic Injunctions be applicable/granted:

i. Copyrights [**YES** / NO]
ii. Trademarks [**YES** / NO]
iii. Designs [**YES** / NO]
iv. Patents [**YES** / NO]
v. Geographical Indications [**YES** / NO]
vi. Trade Secrets [**YES** / NO]
vii. Others [YES/NO]

[Please provide a brief description, if any.]

Although the Finnish AIPPI Group considers Dynamic Injunctions to be most suitable in the context of copyright infringement, it takes the view that such measures should — at least in principle — be available in respect of any category of intellectual property right.

24) In which situations should Dynamic Injunctions be typically granted:

i. Movie Piracy [**YES** / NO]
ii. Unauthorized streaming of live events [**YES** / NO]
iii. Counterfeits [**YES** / NO]
iv. AI-Generated Content [**YES** / NO]
v. Deep-fakes [**YES** / NO]
vi. Others [**YES**/NO]

[Please provide a brief explanation,if any]

Although the Finnish AIPPI Group considers Dynamic Injunctions to be most suitable in the context of copyright infringement — for example in connection with film piracy and the unauthorised streaming of live events — it takes the

view that there should be no numerus clausus list restricting the scenarios in which such measures may be available.

25) What categories of dynamic Injunctions should be granted in your jurisdiction?

i. Complete blocking of Rogue/mirror websites [**YES** / NO]
ii. Specific URL of rogue contents [**YES** / NO]
iii. Blocking of key-words/domain name [**YES** / NO]
iv. Take down orders for infringing/rogue accounts on e-commerce and social media [**YES** / NO]
v. Blocking of live-streaming [**YES** / NO]
vi. App blocking [**YES** / NO]
vii. Others [**YES**/NO]

[Please provide a brief explanation, if any]

Although the Finnish AIPPI Group considers that certain categories of Dynamic Injunctions are most fit for purpose — for example complete blocking of rogue/mirror websites – it takes the view that there should be no numerus clausus list restricting the categories of such measures.

B. <u>Authority for Granting Dynamic Injunctions</u>:

26) Which should be the authority before which an application for Dynamic Injunction ought to be filed in your jurisdiction?

i. IP authority [YES / **NO**]
ii. Court [**YES** / NO]
iii. Other governmental body? [YES / **NO**]
iv. Other? YES/**NO**]

[Please add a brief explanation, if any]

In accordance with the criteria for access to justice and fair trial, such decision should be handled by a Court.

27) Should the decision of grant/refusal be appealable? [**YES** / NO]

[Please add a brief explanation, if any]

In accordance with the criteria for access to justice and fair trial, such decision should be appealable.

28) Please select what should be the factors considered by the authority in your jurisdiction for grant of Dynamic Injunction?

i. Special damage entitling right holder to a Dynamic Injunction? [**YES** / NO]
ii. Traditional injunctions would not suffice for the violation? [**YES** / NO]
iii. Public interest considerations for grant of a Dynamic Injunction? [YES / **NO**]
iv. Special urgency for grant of a Dynamic Injunction? [**YES** / NO]
v. Defendant/Infringer is a repeat/rogue infringer, warranting of dynamic injunction [**YES** / NO]
vi. Any other factor? [YES / NO]
[Please add a brief explanation, if any]

The Finnish AIPPI Group considers that Courts should retain a degree of flexibility in determining the relevant factors to be taken into account. Public interest considerations should not, however, generally be decisive; rather, the primary focus should be on the rights holder's need and entitlement to obtain effective protection for their intellectual property rights. That said, the public interest in protecting consumers from confusion and deception, as well as the public interest in guarding against inadvertent encroachments upon legitimate speech, may nonetheless be relevant considerations in the overall assessment.

29) While granting dynamic injunctions, please select how should authorities assess the evidence?

i. Illustrative evidence provided by Plaintiff to assert that an Infringer is a rogue infringer/website (Qualitative test) [YES / NO]
ii. Voluminous evidence must be provided that the activities of the infringer consist of piracy/counterfeiting (Quantitative test) [YES / NO]
vii. Any other test? YES / **NO**]
[Please add a brief explanation, if any]

The Finnish AIPPI Group does not favour the adoption of any fixed test — whether qualitative or quantitative — and takes the view that courts should retain a degree of flexibility in their assessment of the evidence.

30) In determining whether an infringer is rogue/repeat infringer, please select which factors should authorities consider:

i. Primary purpose is to commit/facilitate infringement [**YES** / NO]
ii. Flagrancy of infringement [**YES** / NO]
iii. Anonymity of infringer [**YES** / NO]
iv. Silence/inaction despite receipt of legal notice [**YES** / NO]
v. Availability of alternative modes/indexes for continuing with infringing activities [**YES** / NO]
vi. Prior injunctive orders already issued [**YES** / NO]
viii. Any other factor? **YES** / NO]
[Please add a brief explanation, if any]

The Finnish AIPPI Group does not favour the adoption of any fixed set of factors and takes the view that courts should retain a degree of flexibility in their assessment of the evidence.

31) Whether the tests described in questions (28) to (30) should apply equally for different kinds of IP?

i. Copyrights [**YES** / NO]
ii. Trademarks [**YES** / NO]
iii. Designs [**YES** / NO]
iv. Patents [**YES** / NO]
v. Geographical Indications [**YES** / NO]
vi. Trade Secrets [**YES** / NO]
ix. Others YES / NO]
[Please add a brief explanation, if any]

Although the Finnish AIPPI Group considers Dynamic Injunctions to be most suitable in the context of copyright infringement, it takes the view that such measures should — at least in principle — be available in respect of any category of intellectual property right. Nevertheless, the factors to be considered and the type of evidence required may vary

depending on the nature of the intellectual property right and the circumstances of the individual case.

C. Characteristics of Dynamic Injunction

32) Should Dynamic Injunctions be:

i. Granted only for online infringements? [YES / NO]
ii. Granted for a fixed duration and limited extension thereof? [YES / NO]
iii. Mandate impleadment of subsequently identified websites/platforms? [YES / NO]
iv. Can be granted for future works of the Plaintiff? [YES / NO]
v. Granted only at the interlocutory stage? [YES / NO]
vi. Allow right to seek clarifications/pushback to implementing entities? [YES / NO]
x. Others YES / NO]
[Please add a brief explanation, if any]

33) Apart from the primary rogue infringer, please select other kind of entities to whom directions should be passed:

i. Internet Service Providers (ISP) [YES / NO]
ii. Hosting Service providers (HSP) [YES / NO]
iii. Domain Name Registrars (DNRs) [YES / NO]
iv. E-commerce websites [YES / NO]
v. Social medial websites [YES / NO]
vi. App aggregators [YES / NO]
xi. Others YES / NO]
[Please add a brief explanation, if any]

Implementation and monitoring.

34) Should there be any particular manner of implementation or monitoring of the Dynamic Injunction? [YES / NO] If the answer is YES, what should be the nature of over-sight/monitoring:

i. Court appointed representative to certify that subsequent infringements are covered within the order [YES / NO]

ii. Affidavits/reports detailing subsequent infringements to which the dynamic injunction need to be extended [YES / NO]
iii. Regular listing of the matter before the authority/court [YES / NO]
iv. Others YES / NO]

[Please add a brief explanation, if any]

The Finnish AIPPI Group takes the view that the manner of implementation and monitoring would be governed by national procedural and administrative legislation, which may not be susceptible to harmonisation even at an international level.

Vacation of a Dynamic Injunction.

35) Should a Dynamic Injunction be vacated/terminated during its term? [**YES** / NO]. If the answer to the question is YES, who may apply for vacation of a dynamic injunction?

i. Court on its own motion [**YES**/NO]
ii. Infringers [**YES** / NO]
iii. Any party wrongly affected by the order [**YES** / NO]
iv. Any person aggrieved [**YES** / NO]
v. Service providers and other entities, apart from infringers [**YES** / NO]
vi. Others YES / NO]

[Please add a brief explanation, if any]

36) Please select the possible ground for vacation/termination of dynamic injunction in your jurisdiction:

i. Misrepresentation of material fact [**YES** / NO]
ii. Conditions warranting grant of dynamic injunction are sufficiently mitigated. [**YES** / NO]
iii. Abuse of the Dynamic Injunction? [**YES** / NO]
iv. Failure to comply with implementation/reporting requirements? [**YES** / NO]
v. Unintended chilling effect on legitimate content/speech? [**YES** / NO]
vi. Public interest of other nature [YES / **NO**] Please add a brief explanation.
vii. Other? YES / NO]

[Please add a brief explanation, if any]

37) Please comment on any additional issues concerning any aspect of Dynamic Injunctions you consider relevant to this Study Question.

N/A

38) Please indicate which industry sector views provided by in-house counsel are included in your Group's answers to Part III.