



Digital copyright contention
in France and Europe

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PREDICTION 49

In the future, new technology will allow police to solve 100 percent of all crimes.

The bad news is that we'll realize 100 percent of the population are criminals, including the police.

Have you committed any of these crimes?

- Speeding in your car?
- Using office supplies for personal business?
- Making personal phone calls from the phone at work?
- **Violating copyright law?**

Scott Adams, *The Dilbert Future*, 1997

RESEARCH PUZZLE

Empirical question

- Complex process of supranational and national IPR lawmaking
- High **political salience and controversy**
- Intense **online/offline collective action** by movements endowed with a high level of ICT knowledge and skills

Theoretical question

- Digital activism and social skills (**digital network repertoires**)

RESEARCH FRAMEWORK

Policy perspective

- Law as a governing institution (Morgan and Quack)
- Social skill and framing (Fligstein)
- Digital network repertoires (Chadwick)
- Discursive opportunity structures (McCammon et al.)

METHODS

Case studies

- DADVSI and HADOPI
- Telecoms package reform

Data collection

- In-depth interviews with stakeholders
- Specialized media and activist publications

CASE SELECTION

Comparability

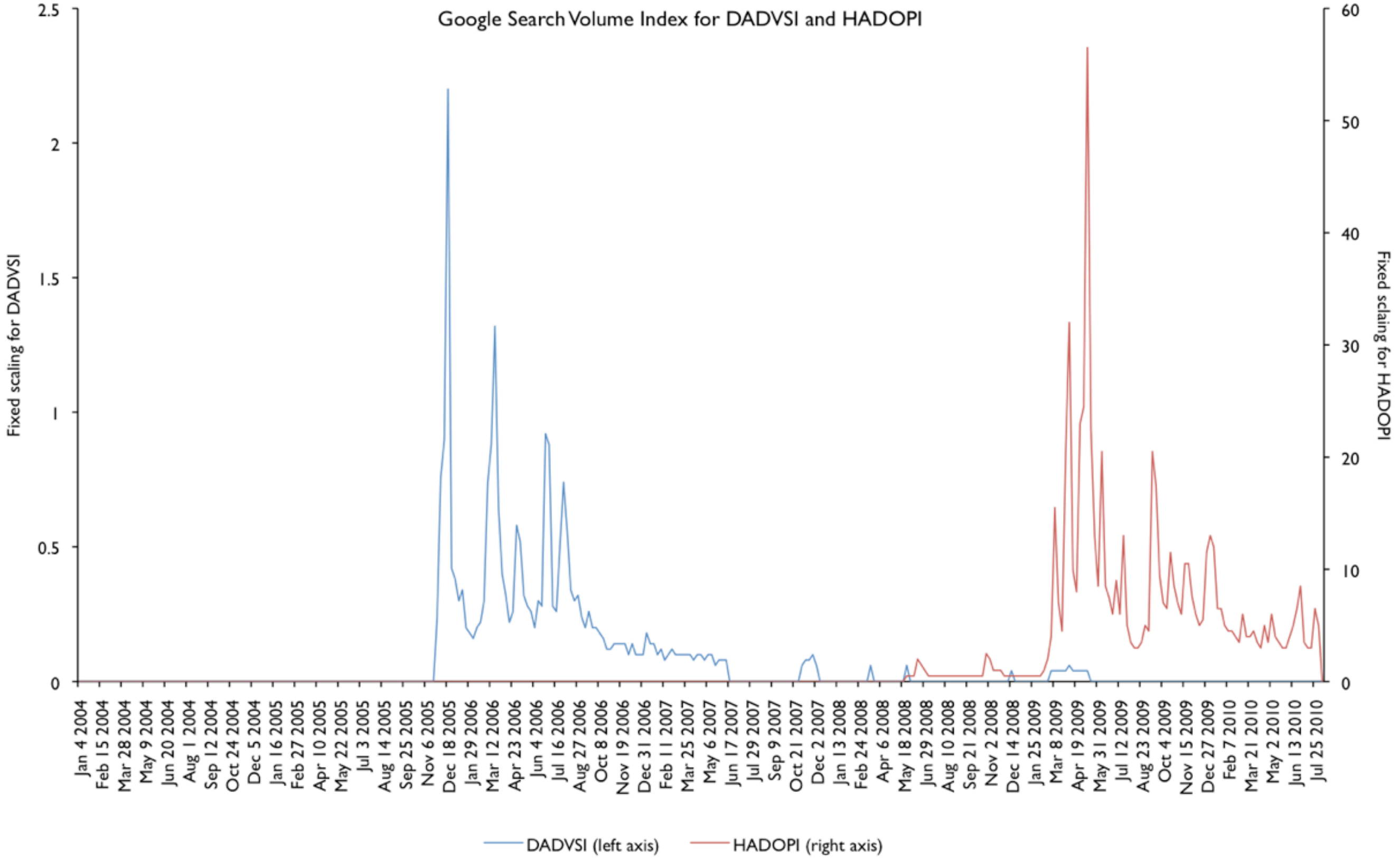
- WEIRD context
- Temporal period

Variance

- Institutions and agents
- Liberalism vs. *dirigisme*

DADVSI AND HADOPI
2006–2010

Google Search Volume Index for DADVSI and HADOPI



www.partager.mp3



LA MUSIQUE GRATUITE A UN PRIX



l'échange de musique sur internet c'est du vol et désormais c'est
- jusqu'à 300 000€ d'amende
et 3 ans d'emprisonnement -
< article 335-4 du code de la propriété intellectuelle >

Syndicat National de l'Édition Phonographique





DRM



**«TRUSTED»
COMPUTING**



**BREVETS
LOGICIELS**



**VENTE
LIEE**

WWW.PRIL.ORG

**NE
OU!**

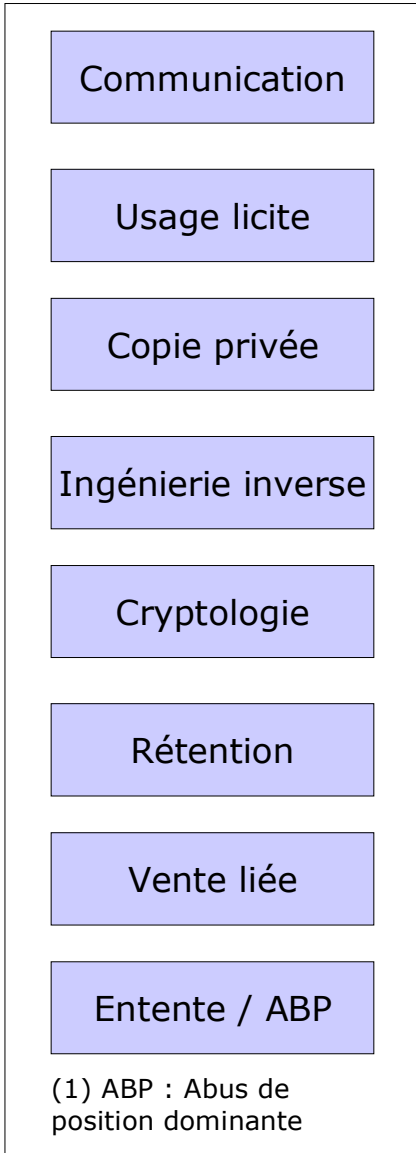
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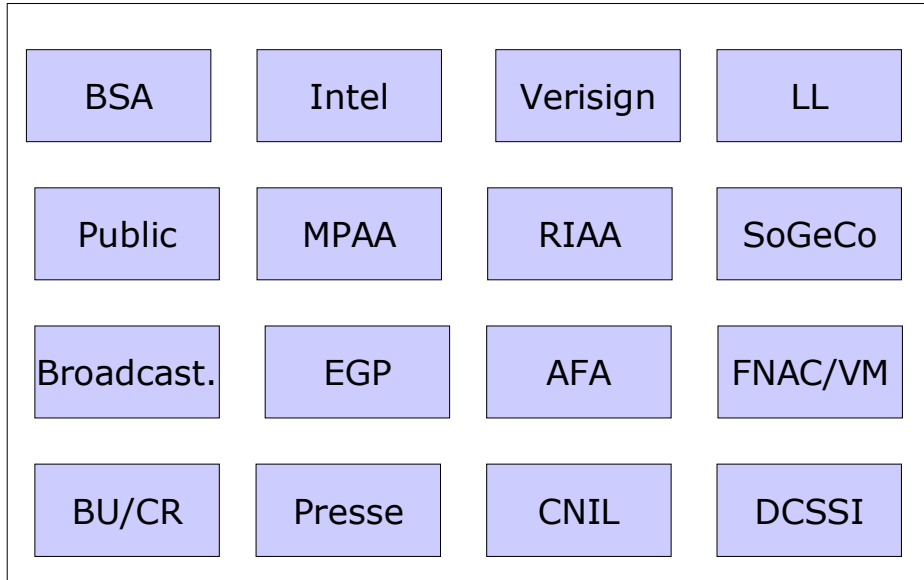


Le projet de loi DADVSI en quatre points

Par activités concernées

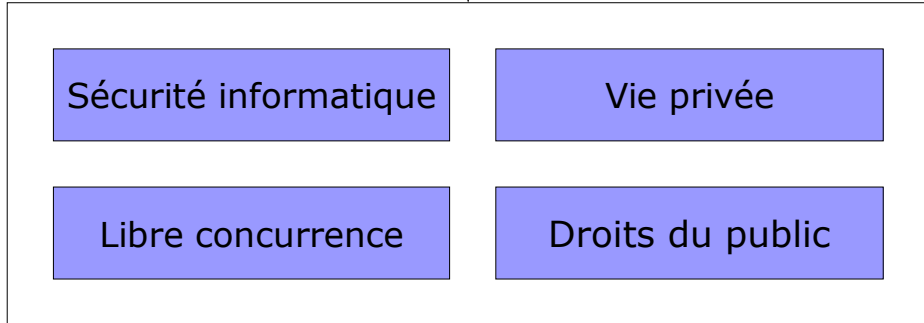


Par acteurs concernés (liste non exhaustive)



DADVSI

En quatre points



Par considérations

Economiques

Convergence des médias, technos et réseaux
 WIFI, GPS, GPRS, DRMS, VOD everywhere
 Entente Microsoft/Time Warner, historique et composition du TCG (1), brevets logiciels
 Ententes stratégiques sur marchés stratégiques ?

Sociales

Bibliothèques, domaine public, droit au progrès, équilibre du droit d'auteur, exception culturelle, rémunération équitable
 Interêt général ou intérêts particuliers ?

Citoyennes

Identifiant unique, contrôle d'usage, secret du choix des programmes, des communications, invasion de la sphère privée, NGSCB(2) ...
 Big Brother is watching us ?

Stratégiques

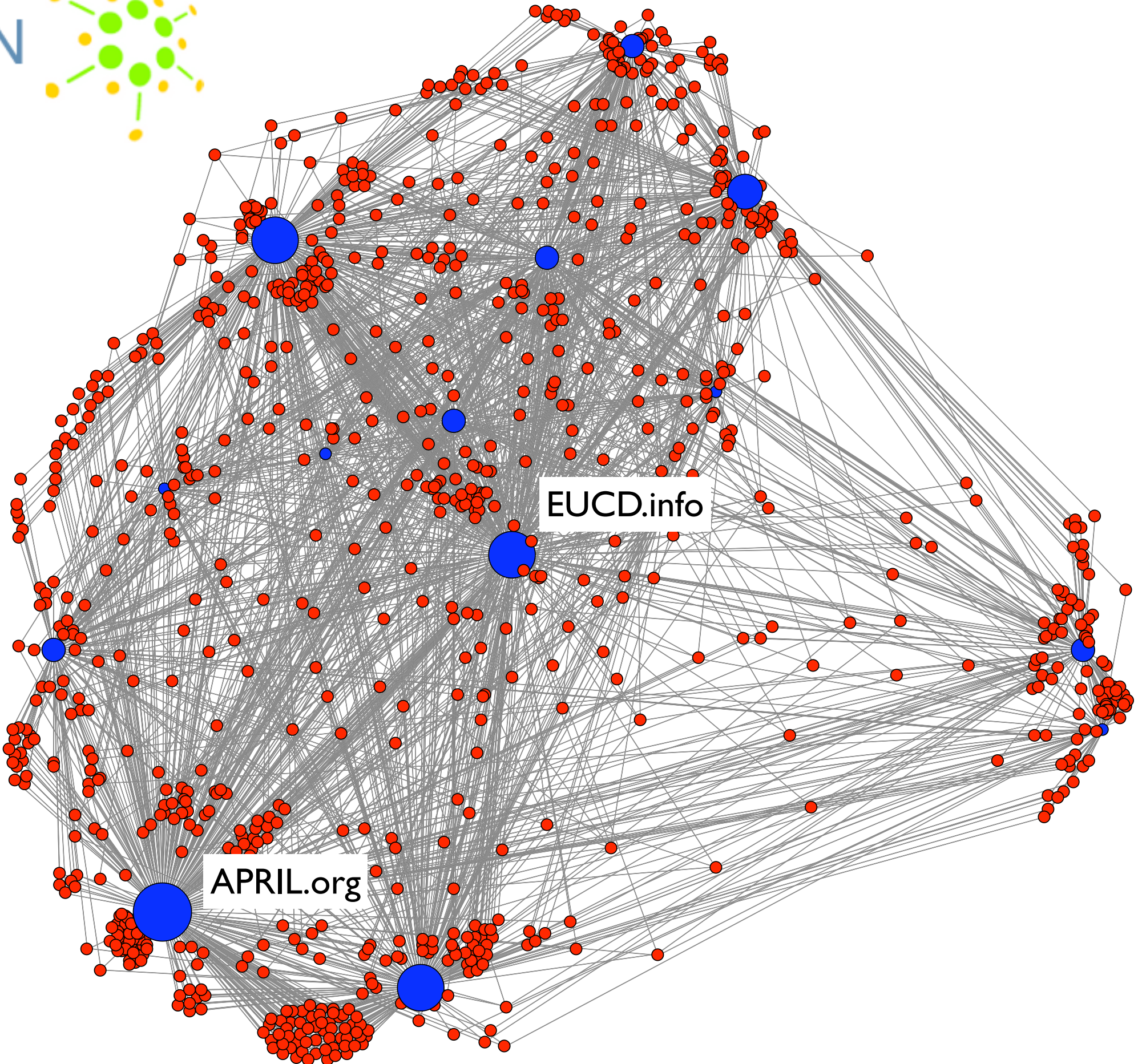
Contrôle de l'information, des communications, cryptologie, protection par le secret, Informatique 'de confiance' ou guerre du sens ?

(1) TCG : Trusted Computing Group
 (2) NGSCB : Next-Generation Secure Base
 Plateforme informatique dite "de confiance" reposant sur une puce crypto. à identifiant unique et réservée aux logiciels certifiés par Microsoft

Décryptage des acteurs concernés

BSA : Business Software Alliance : éditeurs de logiciels propriétaires (Microsoft, Apple, Adobe, ...)
BU/CR : bibliothèques universitaires / centres de recherche
EGP : fabricants de périphériques électroniques grand public (Sony, Phillips, ...)
FNAC/VM : Fnac/Virgin Mega et autres distributeurs de produits culturels en transition (du CD au fichier, du support au service)
LL : Logiciel Libre. Free Software Foundation, APRIL, AFUL et auteurs/utilisateurs
Public : consommateurs, familles internautes (UFC, CLCV, UNAF, ODEBI, ...)
MPAA : Motion Picture Association of America – Producteurs américains de films
Broadcast : Services de communication par voie électronique (TF1, OD2, GESTE, ...) : les broadcasters (de l'analogique au numérique, du hertz au bit)
RIAA : Recording Industry Association of America – Producteurs américains de disques
DCSSI : Direction Centrale de la Sécurité des Systèmes d'Information
SoGeCo : Sociétés de gestion collective (SACEM, SACD, ADAMI, ...)

VOSON

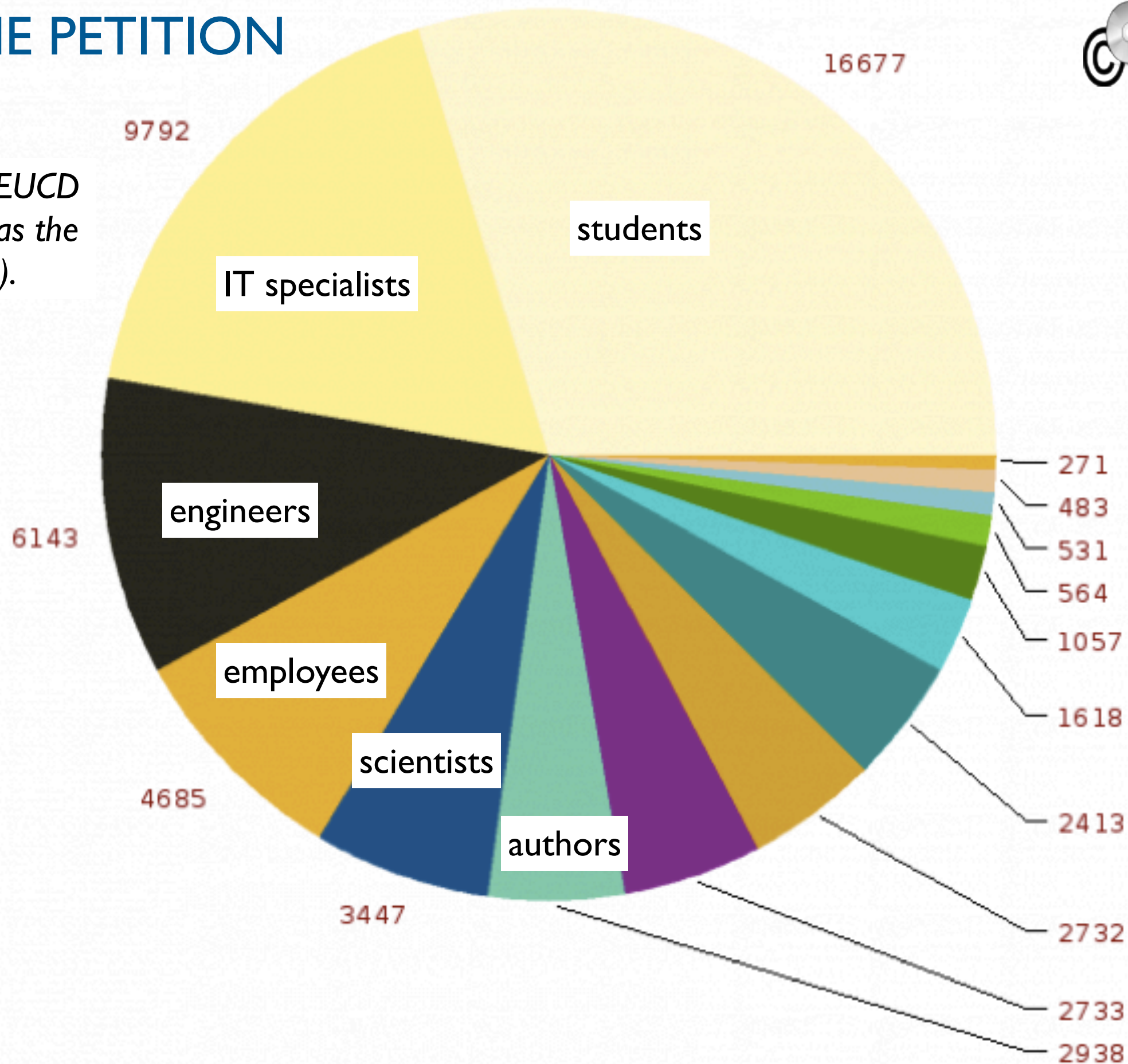


EUCD ONLINE PETITION SIGNATORIES



Disclosure: I signed the EUCD petition (2006) as well as the HADOPI petition (2009).

- Étudiants
- Informaticiens
- Ingénieurs
- Employés
- Chercheurs
- Auteurs
- Cadres
- Enseignants
- Lycéens
- Retraités
- Prof. Libérales
- Chomeurs
- Fonctionnaires
- Bibliothécaires
- Journalistes







BOYCOTT DE LA MUSIQUE VERROUILLEE

Verrouiller la culture nuit gravement à la société

DADVSI : 60 ans de délits

RENDEZ-NOUS BOYCOTT de la MUSIQUE VERROUILLEE

BOYCOTT DES PRODUITS DES MAJORS!

BOYCOTT DE LA MUSIQUE VERROUILLEE

DADVSI TUE

LES INDUSTRIES CULTURELLES FONT LA GUERRE A LEURS CLIENTS

Quand le gouvernement viole les droits du peuple, l'insurrection est, pour le peuple et pour chaque portion du peuple, le plus sacré des devoirs et le plus indispensable des devoirs (Art. 15 DDHC)

Verrouiller les arts peut entraîner une lente et douloureuse mort de la culture, de la créativité, de l'innovation.

SALVONS LE DROIT D'AUTEUR
NON A LA LOI DADVSI NON AUX

Contrôler les œuvres culture et fertilité de

Sylvie FORBIN (Vivendi Universal)
Hervé RONY (SNEP)
Jacques BLACHE (SACEM)
ne sont PAS des élus de la République !!!
Ils écrivent la loi!

~~EUCD~~
~~DADVSI~~
~~NA~~

BOYCOTT DES PRODUITS DES MAJORS!



WHAT WE LEARNED

I – THE PUBLIC

- BASIC SYNTHETIC ARGUMENTS
- EXPLICIT STRIKING EXAMPLES
- SIMPLE "ATOMIC" ACTIONS

II – JOURNALISTS

- CALL ALL REDACTIONS (AGAIN)
- IDENTIFY SPECIALISTS
- TRADE EXCLUSIVE INFOS

III – POLITICIANS

- WANT TO GET REELECTED
- REAL LACK OF EXPERTISE
- CARROTS OR STICKS
- INDIRECT MENACES WORK!

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 - 1.1.1 Functions in European Parliament
 - 1.1.2 Curriculum Vitae
 - 1.2 Votes
 - 1.3 Opinions
 - 1.3.1 Sources
 - 1.3.2 Positions

Political Memory: Marielle GALLO, MEP

General Data

- *Born on* 19 May 1949, Lons-le-Saunier
- *Country:*  France
- *Political Group:*  [Group of the European People's Party \(Christian Democrats\) \(PPE\)](#)
Party: Union pour un Mouvement Populaire

Contact

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- *Page on European Parliament website:*
www.europarl.europa.eu/members/expert/alphaOrder/view.do?language=EN&id=96896 



ACTA release 20100421

last modified 3 months, 4 weeks ago / 2 versions



Text Versions (2) Embed

62 discussions, browse by: location 54/62

(a) [that controls access to a protected work, performance, or phonogram]; and

(b) 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

59 At least one delegation has reservations about several elements in paragraph 4.

60 At least one delegation opposes inclusion of 'adequate legal protection'.

61 At least one delegation opposes inclusion of 'or owner of an exclusive license'.

62 [For the purpose of this Article, willful conduct means actual knowledge or reasonable grounds to know that he or she is pursuing the objective of circumventing any effective technological measure.]

63 At least one delegation opposes inclusion of 'adequate legal protection'.

64 For the purposes of this Article, effective technological measure means any technology, device, or component that, in the normal course of its operation, [controls access to a protected work, performance, phonogram, or protects any copyright or any rights related to copyrights.][is controlled by the right holders through application of an access control or protection process such as encryption, scrambling, or other transformation of their works, performances or phonograms, or a copy control mechanism, which achieves the protection objective.]

23 significant purpose or use other than circumventing an effective technological measure.]]

[5. [4.2] Each Party shall provide [that a] [adequate legal protection against a violation of a measure implementing paragraph (4) [is a separate civil or criminal offense,] independent of any infringement of copyright or related rights. 65] 66

Sounds like the Vivendi-Universal amendment of French DADVSI law

by jz, created on 2010-04-21 16:33
tags: DADVSI, DRM, Vivendi, circumvention, primarily designed

What is a tool "primarily designed for the purpose of circumventing..."?
Is a knife "primarily designed for killing", or cutting meat?
the same tools are used for legitimate or illegitimate purposes.
This would literally censor the publication of source code, which is works protected under copyright.
This is a serious threats to Free Software users and authors, whose sole way of getting access to legitimately acquired works captured in DRM is to circumvent them...
A very similar wording was pushed by Vivendi in the DADVSI law, the French transposition of the EUCD directive (equiv. of the US DMCA)

MAIN RESULTS

Copyright regime

- Path dependence
- Entropic and suboptimal legislative status quo

Political contention

- Digital network repertoires
- Online and offline repertoire switching

TELECOMS PACKAGE REFORM 2007–2009

THE EUROPEAN UNION

Liberal policy system:

- Flexible majorities
- Open to interest representation
- Economic competences

Discursive opportunity

- Democratic governance
- Economic arguments

TELECOMS PACKAGE REFORM

Set of five EU Directives regulating the telecom sector

- EECMA/BEREC, spectrum, next-generation networks, consumer protection...
- Surprise guest: “three-strikes” (Amendment 138) and net neutrality

Challenges for activists

- Complexity of the package
- Highly lobbied *dossier*
- Play on election politics

CAMPAIGN (SPRING 2008-NOVEMBER 2009)

Tools:

- IRC, mailing lists, wiki, website, social web (Twitter, identi.ca, Facebook)...
- Open source tools
- Technical expertise and culture of doing

Cross-country coalitions

Proposal for a Directive of the European Parliament and of the Council amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and services, and 2002/20/EC on the authorisation of electronic communications networks and services (COD/2007/0247)

Directive on access to, and interconnection of, electronic communications networks and associated facilities (Access 2002/19/EC)

Article 9

European Parliament First Reading	Council of European Union Common Position	European Parliament Second Reading
<p>Article 9 – Obligation of transparency</p> <p>1. National regulatory authorities may, in accordance with the provisions of Article 8, impose obligations for transparency in relation to interconnection and/or access, requiring operators to make public specified information, such as accounting information, technical specifications, network characteristics, restrictions on access to services and applications, traffic management policies, terms and conditions for supply and use, and prices.</p> <p>2. In particular where an operator has obligations of non-discrimination, national regulatory authorities may require that operator to publish a reference offer, which shall be sufficiently unbundled to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components according to market needs, and</p>	<p>Article 9 – Obligation of transparency</p> <p>1. National regulatory authorities may, in accordance with the provisions of Article 8, impose obligations for transparency in relation to interconnection and/or access, requiring operators to make public specified information, such as accounting information, technical specifications, network characteristics, restrictions on access to services and applications, traffic management policies, terms and conditions for supply and use, including traffic management policies, and prices.</p> <p>2. In particular where an operator has obligations of non-discrimination, national regulatory authorities may require that operator to publish a reference offer, which shall be sufficiently unbundled to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components according to market needs, and</p>	<p>Article 9 – Obligation of transparency</p> <p>1. National regulatory authorities may, in accordance with the provisions of Article 8, impose obligations for transparency in relation to interconnection and/or access, requiring operators to make public specified information, such as accounting information, technical specifications, network characteristics, restrictions on access to services and applications, traffic management policies, terms and conditions for supply and use, including any conditions limiting access to and/or use of services and applications where such conditions are allowed by Member states in conformity with Community law, and prices.</p> <p>2. In particular where an operator has obligations of non-discrimination, national regulatory authorities may require that operator to publish a reference offer, which shall be sufficiently unbundled to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components according to market needs, and</p>

LA QUADRATURE DU NET
WIKI

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acta

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loppi

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telecoms package

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- Conciliation Committee

Reach members of European Parliament and track their votes & opinions!

Political Memory is a toolbox designed to help you reach members of European Parliament (MEPs), and track their voting records. We hope it will help citizens to get to better know their elected representatives and to allow them to inform them on the issues covered by La Quadrature du Net.

We strongly encourage you to improve these informations in order to get better about these issues.

All these pages have been produced and maintained using a free software.

New:MEPs ranking for all recorded votes!

Your MEPs by country

- | | | | |
|----------------|------------|----------|----------------|
| Austria | Belgium | Bulgaria | Cyprus |
| Czech Republic | Germany | Denmark | Estonia |
| Spain | Finland | France | United Kingdom |
| Greece | Hungary | Ireland | Italy |
| Lithuania | Luxembourg | Latvia | Malta |
| Netherlands | Poland | Portugal | Romania |
| Sweden | Slovenia | Slovakia | |

How to contact the EU Council See also [Codecision_Flow_chart](#)

List of recorded votes

Click each directive,report or resolution for more informations and sorting of the MEPs according to their votes.

- New Directives reforming the EU's regulatory framework for**



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- vote records analysis

adopi

- Dossier HADOPI
- Contacter son député

Catherine Trautmann

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 - 1.3.2.1 28/03/2010 Written Declaration 12/2010 (ACTA)
 - 1.3.2.2 02/09/2008 Telecoms Package Plenary Speeches

Political Memory: Catherine TRAUTMANN, MEP

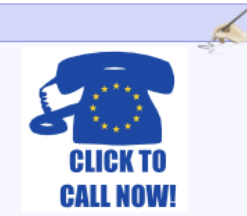
General Data

- Born on 15 January 1951, Strasbourg
- Country: France
- Political Group: Group of the Progressive Alliance of Socialists and Democrats in the European Parliament (SD)
- Party: Parti socialiste



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570	Antonios TRAKATELLIS	Greece	PPE-DE	11.8	Show details ↗
571	Catherine TRAUTMANN	France	PSE	22.2	Show details ↗
572	Helga TRÜPEL	Germany	Verts/ALE	100.0	Show details ↗

POLITICAL MEMORY

CAMPAIGN

Build on past and national campaigns

Establish credibility and legitimacy

Frame bridging

Collective analysis – Collaboration across EU

Achieve media resonance: pass message through media ecology

Combination of online and offline strategies

CONCLUSIONS

Challenging transnational IPR lawmaking

- **Main argument:** Within the transnational copyright regime, resource-poor actors mobilize **social and digital skills** to form **digital network repertoires** that open **discursive opportunity structures** in which framing strategies generate political contention.

Mixed results on current legal institutions

- **Status quo:** Resource-rich interest actors remain influential in the lawmaking process but fail to counter alternative schemes of contention, which makes contemporary legal arrangements suboptimal and ambiguous at best for consumers, service providers and content providers alike.

THANK YOU FOR YOUR ATTENTION

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