Intellectual Property and Beyond

“The challenges of IP enforcement: some initiatives of the EU Observatory”

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The Observatory is a network

- 28 Member States
- 58 European and international associations of the Private sector
- 7 Associations representing consumers and civil society
- European Commission (GROWTH, TAXUD, TRADE, OLAF, JRC, CONNECT, others)
- 10 MEPs
- EU and International organisations (Europol, Eurojust, EPO, WIPO, Interpol, WCO, OECD, Cepol)
Functioning

- Plenary
- Public Stakeholder
- Private Stakeholder
- Working Groups
- Sub-Groups
- Procedure for studies
Roles

- Studies
- Tools to help enforcement
- Awareness
- Trainings
agree that it is important that inventors and performing artists can **protect their rights** and be **paid for their work**.

agree that **innovation and IP go hand in hand** and the one cannot really exist without the other.

agree that IP-intensive companies **create significantly more jobs** than non IP-intensive companies.

agree that without IP there would be **economic chaos**.
Over a third of Europeans finds that the **purchase of a counterfeit product can be justified individually**, believing that it ‘allows for making a smart purchase’ or that it is ‘an act of protest’ against a market driven economy.

- **34%** of EU citizens agree that **buying counterfeit products** allows making a **smart purchase**
- **38%** of EU citizens agree that buying counterfeit products is an **act of protest** and a way to **resist the market driven economy** and the large premium brands
22% of Europeans consider it is acceptable to download or access copyright-protected content illegally when there is no legal alternative in their country. This is 42% amongst citizens from 15 to 24 years old.

42% of Europeans consider it is acceptable to download or access copyright protected content illegally when it is for personal use. This number rises from 15 points to 57% amongst citizens from 15 to 24 years old.
IPR-intensive industries

• 26% of all EU jobs (direct)
• 35% if indirect included
• 39% GDP (4.7 trillion €)
• Wage premium over 40%
• 90% of EU exports
Comparing the results for the EU with those of a USA study* reveals that the contributions of IPR-intensive industries are similar.

Comparison with the USA

- Employment: Europe 26% vs. USA 19%
- GDP: Europe 39% vs. USA 35%
- Remuneration: Europe 41% vs. USA 42%

*undertaken by the US Patent and Trademark Office
Most IPR-intensive industries are intensive in more than one type of IPR.
Quantification of Infringement Work Stream

- Objective: to quantify the extent and impact of counterfeiting and piracy in the EU
  - Reduced sales by legitimate businesses
  - Reduced tax revenues
  - Lower employment
  - Costs of enforcement, both public and private
- Four work streams
  - Joint study with OECD (counterfeit goods)
  - Studies to be carried out with JRC: infringement of digital content
  - Sectorial studies carried out by OHIM
  - Questionnaires and inquiries with enforcement authorities and companies
Example of sector study: pilot for perfumes and toilet preparations

- Three NACE 4-digit industries selected for pilot from IP Contribution Study
  - 20.11: Manufacture of industrial gases
    (patent and trade mark intensive, in top 20 patent-intensive industries)
  - 20.42: Manufacture of perfumes and toilet preparations
    (“cosmetics and perfumes”)
    (patent, trade mark and design-intensive, in top 20 TM-intensive industries)
  - 20.59: Manufacture of other chemical products n.e.c.
    (patent, trade mark and design-intensive, in top 20 patent-intensive industries)
- Cooperation with European Chemical Industry Council (CEFIC)
- CEFIC providing historical data. Consultation with experts.
NACE 20.42: Eurostat definition

- Perfumes and toilet water
- Beauty and make-up preparations
- Sunburn prevention and suntan preparations
- Manicure and pedicure preparations
- Shampoos, hair lacquers, waving and straightening preparations
- Dentifrices and preparations for oral hygiene, including denture fixative preparations
- Shaving preparations, including pre-shave and aftershave preparations
- Deodorants and bath salts
- Depilatories
- Manufacture of cosmetic soap
Effects of counterfeiting in the cosmetics and personal care sector

- Direct loss of sales 7.8% (4.7 billion €)
- Direct effect on employment: + 50,000 jobs lost (plus indirect jobs lost 79,000)
- Lost government revenue 1.7 billion €
EDB

What?

- Free-of-charge electronic tool enabling secure exchange of information between right owners and enforcement authorities

Why?

- Sharpen enforcement authorities’ fight against counterfeiting
- Enable IPR owners to contribute to the defence of their rights
- Enhance IP protection
EDB – state of play

100+ companies
Available for customs
Security certified
EDB – Next steps

EC/COPIS
WCO/IPM
Europol
ACIST

What?
- Electronic tool for collection and exploitation of figures on detentions (at borders and within the Internal Market)

Why?
- Enable reporting and forecasting at EU level
- Define common standards
- Ease input of information
ACIST – State of play

- Complete data from 5 Member States
- Work to increase this number

Go-live Nov. 2014
ACRIS

What?

– Information about IPR infringements EU companies were victims of outside EU and respective follow-up by local authorities.

Why?

– Systematic view of the difficulties faced by EU enterprises in third countries

– Provide competent EU authorities with factual data and information

– Inform on companies’ strategies to protect IPR outside the EU
Orphan Works Registry

What?

- A single EU registry of orphan works, in accordance with Directive 2012/28/EU

Why?

- Enable cultural institutions to digitise and disseminate orphan works
- Promote digital libraries
- Allow a reappearing right holder to assert his copyright and thereby end the orphan work status
Orphan Works Database
THE EU DIRECTIVE ON ORPHAN WORKS
Youth Action Plan

Youth and IP Scoreboard

- Market Research results
- Online Monitoring
- "Sentiment Analysis"

Annual Scoreboard Report

IP Community & mapping of multipliers

- Identification of youth opinion leaders
- Engagement of these opinion leaders (e.g. meeting in Alicante)
- Social media presence

Building a Community of youngsters 15-24
Market research activities

Quantitative

- Online survey (15-24)- 28 Member States
- Identify relevant trends and behaviours (counterfeiting, piracy, online behaviours…)

Qualitative

- 2 focus groups 15-18, 18-24 per country (trends, issues, support quantitative research..); understand better behaviours and views (picture in time)
Explore if and how SME/ Innovative SME position themselves towards IP

Develop appropriate awareness approaches and materials tailored to SME needs

Survey micro, small and medium enterprises from various sectors in 28 Member States

Sample: 9000 enterprises
Funding schema to support public/private initiatives

- **Support request from** existing or future national awareness raising initiatives.
- **Complementarity & national deployment of activities**: the Office should support the activities of national authorities, the private sector and Union institutions in the fight against infringements of intellectual property rights (cf. regulation)

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**Bilateral agreements**
- Office/National offices
- For awareness-raising activities

**Call for proposals**
- Open and competitive process
- Part of Observatory annual work programmes
### Objectives and Approach to be Defined Annually

**Objective:**

- Raising awareness about value and benefits of IP
- Raising awareness about damages of IP infringements
- Involving multipliers, media, stimulating people-to-people encounters (e.g. youngsters)

**Expected Results:**

- Contribute to better understanding of IP via more innovative, positive and interactive approach
- Closely linking IP to the daily lives of people; a more personal and emotional approach
- Deconstruct stereotypes and myths

Objectives and approach to be defined annually in consultation with the Public Awareness Working Group and reflected in the text of the call.
CALL FOR PROPOSALS

• Annual budget: EUR 500,000

• Co-financing principle: 80% of eligible costs (maximum level)

• Level of grant: max EUR 50,000 – min EUR 15,000

• No double financing: projects may not benefit from any other OHIM support with the same objective or EU funding for the same activity
TIMELINE

Publication
16 January
2016

• Guidelines, budget template, letter of intent for partners, identification forms, draft grant agreement
• Observatory & OHIM website, Commission TED page, notification to stakeholders

Deadline
31 March
2015

• Submission of proposals
• Questions received/answered
• Q&A publicly available online

Final process

• Evaluation (OHIM representatives, consultation of technical advisers) - April & May
• Notification of results to applicants - early June
• Signing of grant agreements - end of June

To be evaluated ex-post.... for Call 2016?
Knowledge Building Seminars for Law Enforcement Authorities

3-5 June
“Counterfeiting of Cosmetics, Perfumes and Luxury Goods”

18-20 November
“Infringements of Designs protected by Design and Copyright Law”

• Hosted by OHIM
• Co-chaired with Europol and Eurojust
• ± 100 participants (police, customs, prosecutors and other enforcement authorities)
12-14 May
Southern European Regional Seminar
- Hosted by Italy (Guardia di Finanza)
- ± 60 participants (police, customs, prosecutors and other enforcement authorities)
- 6/7 EUMED delegates from Non-EU MS

Eastern European Regional Seminar (date TBD)
- Hosted by Hungary (National IP Office)
CEPOL-OHIM Training Course

14-19 September

1st EU Training Course on Counterfeiting

- Hosted by OHIM
- ± 60 participants (police, customs and other enforcement authorities)
- Daily lectures, workshops and practical exercises
- Different modules (IPR basics, legislation, international and EU cooperation, online infringements, enforcement tools, etc.)
Collaboration with Eurojust: Prosecutors´ Network

1-2 June
Launch of the “European Intellectual Property Prosecutors´ Network” (EIPPN)

- Hosted by OHIM
- ± 60 participants
- The signing of a Memorandum of Understanding between OHIM and Eurojust
Judges’ Network: 2015 Seminars

24-25 March
“The Sale of Counterfeited Goods on the Internet”

5-6 May
“The Differences Between Civil and Criminal Law Suits in the Field of IPR, Including a Special Focus on the Proceeds of Crime Recovery”

15-16 October
“The Assessment of Trade Marks Containing Weak or Non-Distinctive Elements
Objective of the Toolkit

• To give a practical and easily accessible overview of the main intellectual property rights (and relevant concepts of EU law) within business and enforcement surroundings
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