



The New European Union Regime on Customs Enforcement of Intellectual Property Rights

Contributor: Florian Traub
Squire Sanders (UK) LLP, London, United Kingdom

Verifier: Nathalie Dreyfus
Dreyfus & associés, Paris, France

The new regime on customs enforcement in the European Union (Regulation (EU) No. 608/2013 of June 12, 2013, concerning customs enforcement of intellectual property rights) became effective as of January 1, 2014. It enables right-holders (and, under the new regulation, other organizations such as intellectual property collective rights management bodies) to exercise control, through the customs authorities of the EU Member States, over the import into the EU of goods suspected of infringing an intellectual property right. The regime aims to address a real and growing threat to businesses, consumers and the public at large regarding the movement throughout Europe of counterfeit goods that infringe

intellectual property rights. The magnitude and escalation of this issue are reflected in figures published by the European Commission in its annual customs detention report for 2012, which reported that in 2011, EU Customs had detained almost 115 million products suspected of violating IPR (the value of which represented nearly €1.3 billion) compared with 103 million in 2010.

The new regulation improves the position of right-holders by strengthening and streamlining customs procedures on the enforcement of intellectual property rights. However, it, perhaps deliberately, leaves some contentious issues unresolved, most notably the detention of goods in transit, which will fuel debate about the need for further reform to plug the perceived gaps in the new regulation. While the European Parliament's adoption of draft amendments on goods in transit as part of the EU Trademarks Package would resolve

In Numbers

21 Percentage of jobs created by trademark-intensive industries in the European Union between 2008 and 2010.

56 million Number of jobs IPR-intensive industries accounted for in the European Union (26 percent of total EU employment).

33.9 Percentage of the total EU gross domestic product (GDP) trademark-intensive industries alone accounted for.

Source: [OHIM-European Patent Office joint report on IP Contribution in the EU](#).

this issue (see page 10), it remains to be seen whether they are adopted by the Council and how Member States will interpret and implement the new regulation.

INTA will be monitoring national implementation of the regulation in the months ahead.

UK IP Bill and Designs

Keith Howick, Carpmals & Ransford, UK

An Intellectual Property Bill introduced on May 10, 2013, in the UK's House of Lords could mean significant changes for design protection in the country. Although the Bill is focused largely on patents, it is in relation to UK design law that there has been most controversy, and amendment of the Bill.

INTA has become increasingly active in relation to design protection, particularly its overlap with trademarks in the context of nontraditional marks. The ability to protect two-dimensional trademarks through design registration in certain jurisdictions and whether there is any impact on trademark protection when patent protection (utility or design) or a design registration expires are key issues for many INTA members.

The provision of the IP Bill that has caused the most debate is the introduction of criminal penalties for copying UK registered designs. While the designer lobby has pressed for wider penalties, the IP professions and others in the UK have expressed concerns about this development. After much deliberation, the current wording in the IP Bill requires, for a criminal act to have taken place, that:

- Copying of the registered design in an attempt to make the product has been intentional.
- The product copied has to be either exactly the same as the registered design or with features that differ only in immaterial details from the registered design.

Criminal sanctions do not apply to infringement of UK unregistered design rights. Another significant provision of the IP Bill is that it paves the way to the UK acceding to the Hague Agreement Concerning the International Registration of Industrial Designs.

The Bill has traveled through the House of Lords (First Reading, Second Reading, Committee Stage, Report Stage and Third Reading), the House of Commons (First Reading, Second Reading, Committee Stage, Report Stage and Third Reading) and now will undergo "Ping Pong" on April 2, 2014. [www.parliament.uk](#) helpfully provides a glossary; "Ping Pong" refers to the "to and fro of amendments to Bills between the House of Commons and the House of Lords" before receiving Royal Assent.

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