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Buying the real deal – Discover the future EUIPO anti-counterfeiting platform (EBSI-ELSA)

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Questions and answers – ‘Buying the real deal’ – Discover the future EUIPO anti-counterfeiting platform (EBSI-ELSA)

Will the EUIPO be running pilots in other countries? Can EBSI-ELSA be used by non-EU countries? Are there any non-EU countries that recognise the importance of EBSI-ELSA?

The purpose of EBSI-ELSA is to safeguard authentic products within the EU market. Non-EU countries can adopt a similar approach and then link their system to EBSI-ELSA. Discussions with several non-EU countries are underway.

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How do we get consumers to scan products? Does the system take the aftermarket and the second-hand market into account?

The scan performed by the end consumer is done on a voluntary basis. Under the current model, the end consumer simply scans the serialisation of the product (quick response [QR] Code, radio frequency identification [RFID], etc.) and is redirected to the intermediary site of the IP rights holder where all the checks are performed, as outlined in this webinar.

The value proposition of using Non Fungible Tokens and transferring it to the end consumer's wallet is that IP rights holders can use this as a vector for aftermarket and/or second-hand market purposes.

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Does the system rely on every check/scan to also transmit the current location/holder onto the blockchain?

Although not part of EBSI-ELSA functionalities, the geo-localisation aspect of the scan is an additional service the IP rights holder can set-up in their own intermediary space.

This does not necessarily require a blockchain timestamping service to function, but IP rights holders may be interested in creating an audit trail which they can later use as evidence on products routing.

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The companies and Intellectual Property Commission (CIPC) looked at similar solution a few years ago and the biggest challenge was the cost to add 3D code to end products. Has the cost issue been addressed? Will the EBSI-ELSA system be used across all sectors or be of greater use/impact in certain industries (e.g., the pharmaceuticals or fashion industries)?

The EUIPO has analysed the cost to IP rights holders of onboarding EBSI-ELSA, including the serialisation aspect. While the cost-benefit analysis will soon be made public, the short answer to this question is that the cost of serialisation depends on the scale on which it is used, in other words the volume of products being serialised, as well as the actual benefit margin of every product. However, this should be weighed against the costs to IP rights holders of products being held by customs authorities at the EU borders.

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How does Amazon monitor supplier fulfilled orders when goods are delivered directly by supplier?

For third-party sales made through the Amazon store but fulfilled by the Merchant (MFN – Merchant Fulfilled Network), the merchant is using Amazon's store to engage with customers and conduct a transaction but has chosen not to use Amazon logistics. Nonetheless, Amazon has many built-in checks to help vendors sell correctly and to prevent bad actors. Find more information here and here.

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If a trade mark infringement occurs, how to report to Amazon? What does Amazon check to review possible infringement? How long does the procedure take? Is there anything to pay special attention to?

The best way for a brand to report IP infringements is through Brand Registry. This enables Amazon to learn from reports and develop preventative tools. As part of our compliance programme with the Digital Services Act, we have created a new channel for submitting notices against suspected illegal products and content, which can be accessed through the 'report incorrect product information' feature on the product detail page.

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What is the advantage of using blockchain in this solution compared to a centralised one owned by an authority?

Blockchain ensures trust but also the portability of credentials. This is fundamental to legally determine who has the IP rights to a given product. In this first pillar of EBSI-ELSA, EUIPO provides IP credentials to rights holder, so that they can integrate them together with additional anti-counterfeiting metadata package to the digital twin of the product (NFT). However, it is equally important to create new channels of information exchange for the IP rights holder, the different intermediaries involved in the logistic chain (freight forwarder, carriers), and law enforcement authorities (including custom authorities), especially where some information must remain private to ensure continued business and trade. This is the core function of the logistic module, which is the second pillar of EBSI-ELSA.

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Are there any links or interaction between this project and the IP Enforcement Portal?

Yes. As part of the Minimum Viable Product, IP rights holders will be able to collect their IP credentials through the IP Enforcement Portal dedicated section. IP right holders can use some of the information contained in their IP Enforcement Portal space to automatically retrieve some information related to their product to populate the anti-counterfeiting metadata library.

The rest of the EBSI-ELSA functionalities (anti-counterfeiting metadata library submodule and the logistic module) will be provided as open source. The EUIPO is currently exploring additional ways to collect IP credentials as part of EBSI-ELSA product roadmap.

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What is the benefit of NFT if the system is already working properly with QR code/RFID and the transparency app? Is NFT an avoidable double cost?

There are already existing services on the market that perform a check through the scan of a product, but they do not specifically guarantee the existence of IP rights.

To use EBSI-ELSA, IP rights holders need a container of information. This must be publicly available, must include the digital credentials provided by the EUIPO, and must be accessible to the product holder by way of scanning the serialisation. This container should also be tamper-proof to prevent it from being copied and create a strong bond with the serialisation technique being used to increase the overall security.

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The added value of NFTs is twofold:

- Some NFT platform providers have a functionality that allows the NFT creator to know the URL used for the new NFT in advance. This information can be integrated into the anti-counterfeiting metadata package with the serialisation number, thus securing the bond between physical product and its digital twin.
- An NFT can be transferred to the end consumer and a new communication channel for IP rights holders can provide additional services.

Furthermore, to ensure a safe logistic chain, an exchange information system is needed between IP rights holder, logistic intermediaries, and customs authorities. This is why EBSI-ELSA combines NFT together with peer-to-peer logistic modules.

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Can I use other authenticity methodologies instead of QR Codes, such as covert or overt watermarks, if they are connected to the EUIPO Blockchain?

Any serialisation technique that holds a digital carrier and a digital connector can work. The most important part of the solution at product level is to allow the user/product holder to reach a digital intermediary space via a scanning tool where all checks regarding IP credentials and digital twin validity are performed.

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In the solution, is there a way to know if a code has been accessed/checked before? This would help identify codes that have been copied/stolen.

No, EBSI-ELSA does not offer this feature. However, there are existing serialisation techniques as well as intermediary space providers that can offer such services.

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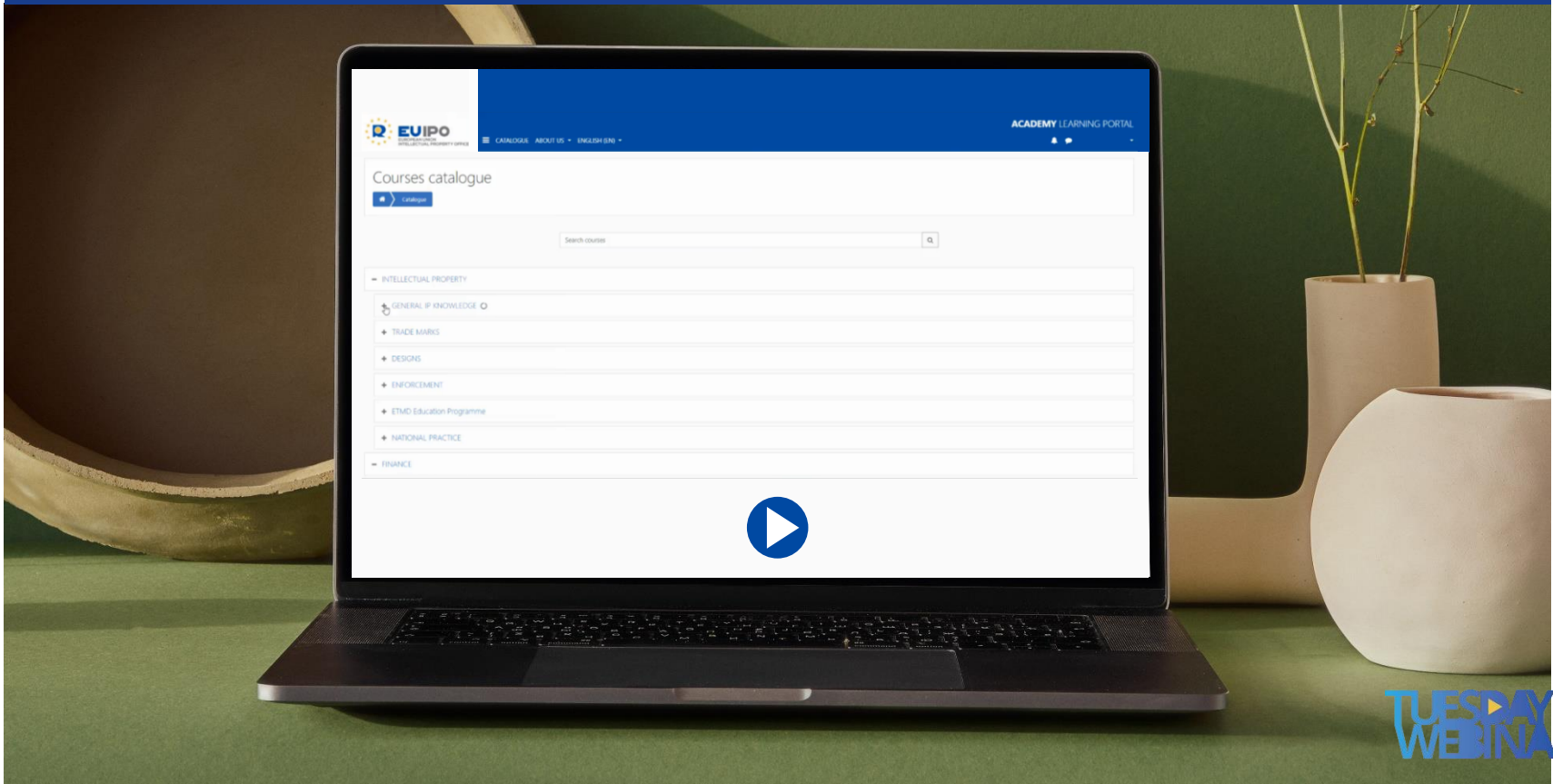

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