

THE INTERNATIONAL  
IP ENFORCEMENT  
SUMMIT

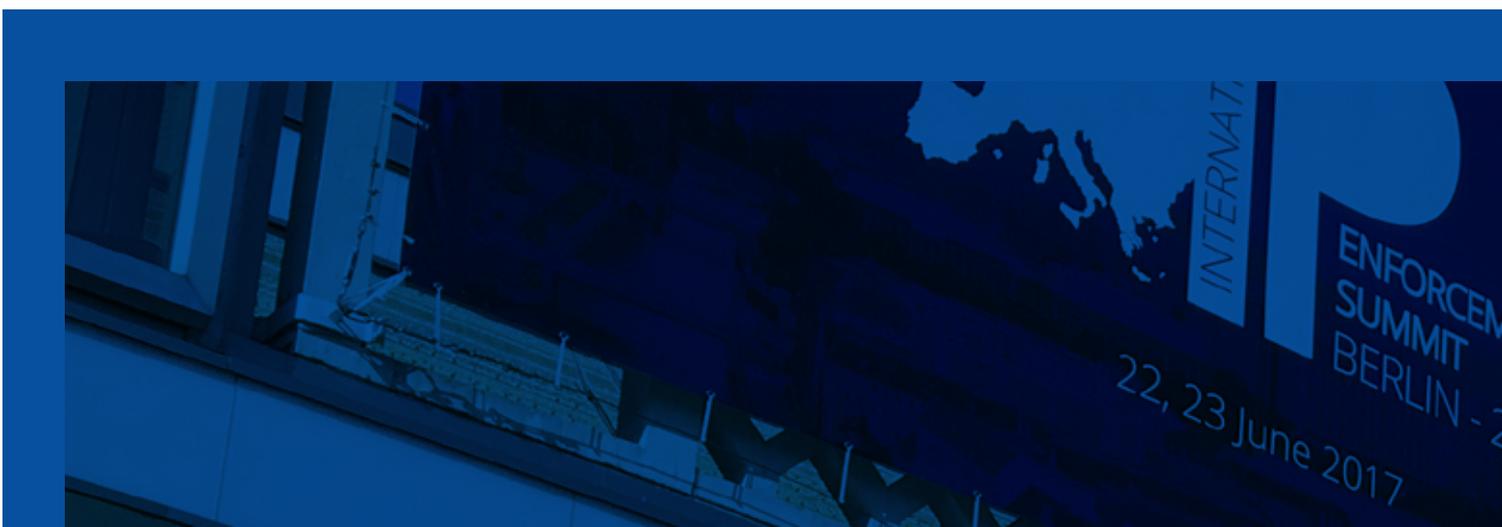


Berlin, 22-23 June 2017

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THE INTERNATIONAL IP  
ENFORCEMENT SUMMIT  
Berlin, 22-23 June 2017



The International IP Enforcement Summit, co-hosted by the European Union Intellectual Property Office (EUIPO), the European Commission and the German Federal Ministry of Justice and Consumer Protection, took place on 22 and 23 June 2017 in Berlin. It gathered participants from industry, enforcement and civil society with the aim of addressing the growing impact of Intellectual Property Rights (IPR) infringement within society and the increasingly complex challenges which face European businesses and enforcement authorities. The summit offered a two-day platform of strategic and practical presentations and discussions on international enforcement issues, in addition to structured workshops within which to share best practices and identify areas of potential future enforcement collaboration.



## OPENING ADDRESSES

The International IP Enforcement Summit - Berlin, 22-23 June 2017

In his opening address, **Mr Gerd Billen, State Secretary of the German Federal Ministry of Justice and Consumer Protection** highlighted the significant impact which counterfeit goods pose to the EU's economy, explaining that over 5% of all imports into the EU are counterfeit. As a result, nearly 60 million jobs which are directly linked to IPR-intensive industries are jeopardised. Counterfeit goods not only infringe IPRs, but also constitute substantial risks to the health and safety of consumers. The State Secretary emphasised the importance of establishing adequate IPR enforcement measures, and heightening awareness within society regarding the risks associated with counterfeit products.



Counterfeit products not only infringe IP rights, but also constitute substantial risks to the health and safety of consumers. Perhaps the prime example of this is counterfeit medicines. But we also note how falsified tools, electronic products and technical equipment entail considerable health and safety risks. Raising awareness of the risks associated with counterfeit products, and educating consumers on how to avoid accidentally buying them, are therefore just as important as other measures of IP enforcement.

**Mr Gerd Billen**  
State Secretary of the German Federal  
Ministry of Justice and Consumer  
Protection

Speaking on behalf of **Commissioner Elżbieta Bieńkowska, Mr Antti Peltomäki, Deputy Director General of the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs**, underlined the importance of IPR in sustaining industrial innovation and fostering growth throughout the EU. While new generation information technologies and digitisation bring opportunities, they also facilitate IPR infringement. In this respect, the voluntary measures envisaged under the ‘follow the money’ approach allow for cooperation between stakeholders to minimise the profit gained by infringers in the online world. The Commission has successfully facilitated the development of voluntary agreements with online sales platforms, and is working on similar agreements for the advertising industry, payment service providers, and transport companies in order to enhance the fight against IPR infringement. It was stressed that intellectual property must be protected and enforced in a balanced and effective manner.



“ Events such as this Summit show the importance of IP rights for our economies and the negative impact of IP rights infringements on businesses and consumers. We at the Commission are assessing whether the current legal framework for IP enforcement is fit for the digital age. We are also promoting dialogue and agreements with stakeholders, and offer support to platforms on voluntary measures.

”

**Elżbieta Bieńkowska**  
Commissioner of the  
Directorate-General for  
Internal Market, Industry,  
Entrepreneurship and SMEs.

As underlined by **Mr António Campinos, Executive Director of the EUIPO**, consolidated and harmonised intellectual property enforcement ensures a smooth and efficient intellectual property system. According to a joint study<sup>1</sup> conducted with the European Patent Office, IPR intensive industries contribute to 42% of the EU's GDP, and account for 38% of jobs and 90% of external trade. Protecting IPRs is therefore essential for the stability and growth of the EU economy, and the safety of European society.

1 - Intellectual property rights intensive industries and economic performance in the European Union



In order to strengthen the fight against counterfeiting and piracy, Europol and the EUIPO have joined forces to launch the Intellectual Property Crime Coordinated Coalition (IPC3). The IPC3 provides operational and technical support to law enforcement agencies by facilitating cross-border investigations; monitoring online criminal trends and emerging modus operandi; enhancing the harmonisation and standardisation of legal instruments and operating procedures; and reaching out to the public and enforcement authorities by raising awareness and training. Joining efforts is necessary to address this common problem; all relevant parties must collaborate to find ways to face the new challenges that lie ahead.

Mr Campinos drew the floor's attention to the fact that international, organised criminal gangs are able to take advantage of legislative loop holes. Therefore, cooperation and harmonisation of efforts would help to strengthen the fight against IPR crime.

# POINTS OF VIEW FROM THE CIVIL SOCIETY AND INDUSTRY

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Consumers' behaviour with respect to IPR was outlined by **Mr Klaus Müller, Executive Director of the Federation of German Consumer Organisations, Verbraucherzentrale Bundesverband e.V.** Consumers, when given the choice, will choose a legal option to access content; online subscription services have become increasingly popular with the European public. However, websites offering pirated content are still accessed, some of which allow payments in virtual currencies which are not easily detected or traced. Mr Müller emphasised that consumers who are willing to pay for a service should be given the opportunity to do so, regardless of the Member State in which the service originates. In addition to focusing on the enforcement of copyright, legislation should pave the way for better access to legally accessed media content across borders.





“Counterfeits do cause severe damage; fighting against them needs to be a comprehensive joint effort of all parties involved. It starts with the right-holders, includes licensed manufacturers, the entire logistic chain, online and offline trade, consumers, banks and the authorities. Focusing on isolated spots will not be enough.”

**Volker Bartels**  
Head of the German Anti-Counterfeiting Association

Meanwhile, **Mr Volker Bartels, Head of the German Anti-Counterfeiting Association Aktionskreis gegen Produkt- und Markenpiraterie e. V.** highlighted that counterfeit products are often sub-standard products that pose a tangible hazard to consumers. In addition to the health and safety risks posed by such goods, brand reputations are also damaged. Fakes are becoming more complex with time, and criminals are able to react swiftly when illegal websites are taken down by setting up new sites almost instantaneously. The current system does not work effectively. If it did, the rampant infringement present online would not exist.

Furthermore, intermediaries must also be included in the fight against counterfeiting by preventing the distribution of illegal offers. Legitimate and well-known online sellers are being used – and abused - in order to sell counterfeit products. In conclusion, Mr Bartels highlighted that IPRs could only live up to their purpose if they are properly protected. Counterfeiting must, therefore, be regarded as an organised crime, rather than a trivial offence.

# CHALLENGING ONLINE INFRINGEMENTS

The International IP Enforcement Summit - Berlin, 22-23 June 2017

The experiences and views of EU institutions and bodies regarding how IPR enforcement is dealt with were shared with the floor. **Mr Pavel Svoboda, Chair of the European Parliament's JURI Committee**, referred to the alarming amount of online IPR infringements, particularly within creative content industries, and the legal lacunae for online IPR infringement. Mr Svoboda underlined that adequate protection of IPR is a prerequisite for the development of the digital economy and the Digital Single Market. Therefore effective, proportionate and dissuasive means of enforcing IPR across European borders must be used.

The European Parliament called on the European Commission to update the Directive on Enforcement of Intellectual Property Rights<sup>2</sup> (IPR Enforcement Directive), in order to reflect the developments in the digital environment and to respond to the increasing number of cross-border IPR infringement. The analysis is still ongoing, but a public consultation on the Directive that was launched in December 2015 revealed that diverging interpretation of the Directive led to diverging application across the EU. The European Parliament noted that they are looking forward to the evaluation report and to proposals for amendments to the legislative framework. Importantly, all IPR enforcement legislation must reflect the development of the current digital era.

2 - Directive 2004/48/EC



**The European Observatory on Infringements of Intellectual Property Rights' Director, Mr Paul Maier**, also shared the Observatory's views regarding the necessary steps required for effective IPR enforcement. Robust laws, tailored training for enforcement officers, and raising awareness amongst enforcement authorities are key elements in establishing a solid system of IPR protection. In order to contribute to these efforts, the EUIPO has initiated a programme to aid SMEs in protecting their IPRs, along with an IP in Education programme aimed at helping young people to understand the contributory role that IPR plays in our society.



“Robust laws, tailored training for enforcement officers, and raising awareness amongst law enforcement authorities are key elements in establishing a solid system of IPR protection.”

**Paul Maier**  
Director of the European  
Observatory on Infringements of  
Intellectual Property Rights

Mr Maier underlined that there can be no solution to copyright infringement without the availability of legal offers and that a financial balance between the price and affordability, must be struck- which is a major challenge for the future. Making legal offers available to consumers, such as the through the agorateka website which collates national legal offers in one online repository, is a step in the right direction. Mr Maier concluded that only through full cooperation by all interested entities - both public and private - can there be a meaningful impact on the fight against IPR infringement.

**Mr Antti Peltomäki, Deputy Director General of the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs** underlined the Commission’s commitment to fight commercial scale IPR infringements, which is carried out through a dual track: the evaluation and modernisation of the legal framework, and the development of voluntary agreements under the ‘follow the money’ approach. Through the 2015 Digital Single Market initiative and the Single Market Strategy, the Commission embarked upon the evaluation of the enforcement legal framework. The feedback received from the public consultation on the IPR Enforcement Directive revealed that the majority of the respondents are relatively pleased with the existing rules. However, three areas of improvement were identified: the different levels of protection afforded in Member States; high costs, lengthy procedures and low amounts of damages awarded; and the imbalance between IPR protection and other fundamental rights. The Commission is finalising the evaluation; it is envisaged that concrete proposals – of legislative or soft law nature - be drafted by the end of 2017.



# CURRENT ONLINE TRENDS AND CHALLENGES – DISCUSSIONS IN PANEL I

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The challenges facing online IPR crime were addressed by **Mr Henrik Rasmusson from the Swedish International Prosecution Office**. These challenges include the issues of mobility, organisation, anonymity, national boundaries, and legal obstacles. He also explained that there are also no physical or permanent spaces in the online world, and websites which have been taken down can be replaced by another infringing site, almost instantly. Notably, the online market knows no national boundaries; it is a global market place that offers almost limitless outreach at a low cost. Furthermore, many of the current procedural laws do not cater for the online environment. Different procedural laws in different countries render effective law enforcement arduous: harmonisation is therefore essential. It was concluded that enforcement success depends on several factors, including the creation of national intellectual property crime specialist police, akin to those established in Sweden, and prosecutorial task forces across Europe that work in cooperation with each other, which would allow for effective knowledge preservation and use of best practice in law enforcement.



“While the online environment offers great opportunities for business it also poses a great threat to intellectual property rights. Combatting IP crime online is a great challenge for law enforcement.”

**Henrik Rasmusson**  
National Prosecution Department,  
Swedish International Prosecution  
Office



3 - The Roles and Responsibilities of Intermediaries: Fighting Counterfeiting and Piracy in the Supply Chain

Meanwhile, the **Director of Global Brand Protection at Unilever, Ms Meena Sayal**, stressed the need to work as partners by harnessing a proportionate two-way flow of key information, which would allow for maximisation of efforts. Focusing on the ‘follow the money’ approach is necessary, as it enables the identification of all the actors involved within criminal networks, including those involved in transportation and in laundering the proceeds of crime. In its 2015 report - *The Roles and Responsibilities of Intermediaries: Fighting Counterfeiting and Piracy in the Supply Chain*<sup>3</sup> - BASCAP underlined the issues of risk profiling, securing supply chain integrity, improved ‘know your client’ due diligence and information sharing. The organisation’s discussions with major shipping companies have led to a declaration of intent to prevent the maritime transport of counterfeit goods, which was signed by brand owners, vessel companies and freight forwarders in Brussels on 30 November, 2016. A key challenge for policy makers is ensuring that there is a continuous and fruitful exchange of information between businesses, intermediaries and enforcement authorities at national and international levels.

The perspective of law enforcement authorities was shared by **Mr Jari Liukku, Head of the European Organised Crime Centre at Europol**, who briefed the floor on Europol's efforts in the fight against counterfeiting and piracy. One of the important initiatives developed with the EUIPO is the aforementioned IPC3, which provides support to law enforcement authorities and other partners within the EU and beyond. Currently, the IPC3 provides operational and technical support to more than 50 IPR infringing investigations. One area of concern, however, is the increasing use of Darknet by criminal networks because it conceals their identity during the online sale of counterfeit products. It was underlined that addressing technological advances and their employment for clandestine criminal acts is a necessity in the modern digital age.





“The rapid growth in size and scope of counterfeiting shows that a change is needed. European consumers are increasingly being exposed to counterfeit without knowing it. We should see authenticity in the same way that we see safety and privacy – a job for everyone in the value chain.”

**Jaymeen Patel**  
Head of Brussels Office, LVMH Moët  
Hennessy Louis Vuitton

The rapid growth in the size and scope of counterfeiting was highlighted by **Mr Jaymeen Patel, Head of Brussels Office, LVMH Moët Hennessy Louis Vuitton**. Consumers are increasingly and unknowingly exposed to counterfeits, and European consumers and businesses are strategically targeted. Research suggests that 10% of consumers were unaware they had bought a counterfeit good online, and 35% were unsure. Online trends indicate that price points are changing, and that social media increasingly offers counterfeits for sale. Counterfeit goods not only undermine sales, but also the reputation which brands have invested resources to build.

## BREAKOUT SESSIONS

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The participants were divided into groups that took part in three simultaneous sessions. Exchanges of views and experiences were carried out in an effort to reach a set of conclusions that was shared during the plenary session.

The first session was aimed at exploring how the education of consumers could address some of the challenges facing IPR enforcement. The session's participants concluded that it was important to raise awareness on intellectual property and to organise campaigns in schools, in order to enhance intellectual property knowledge amongst both teachers and students. Such awareness programmes would help to further the understanding of the role played by intellectual property in society and the importance of its protection.

Meanwhile, the second session addressed enforcement challenges, the evolution of enforcement tools and strategies, and the new solutions developed to that end. Some of the main ideas discussed included the opinion that the current sets of tools being used are not sufficiently effective, and that the current litigation process is cumbersome and expensive. The question of whether enough was being done at EU level to harmonise procedures was raised, as it seemed that counterfeiters' activities are more harmonised than those of Member States' enforcement authorities.

The third session discussed the evolution of IPRs and business models based on new technological trends. Emerging technologies such as 3D printing have allowed the copying and reproduction of material by counterfeiters on an industrial scale. Solutions discussed included *Google's* Content ID programme that detects infringing material through machine learning. Meanwhile, *whiteBULLET* explained that preventing advertisements from appearing on infringing websites is a successful method of reducing the incentive for organised criminal groups because it would significantly reduce the website's revenue stream. It was concluded that although technology can help to solve some of the issues within the supply chain, criminals will always strive to find ways of circumventing the solutions. Preventative – rather than reactionary - measures are required.

# EUROPEAN DECISION MAKERS

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Speaking on behalf of the **upcoming Estonian EU Presidency, Mr Margus Viher, Director-General of the Estonian Patent Office**, underlined the significant role played by the IPR Enforcement Directive in strengthening and harmonising the enforcement of IPRs throughout the EU. However, the lapse of time, technological developments and disparities in the application of the Directive suggest that it must be reassessed, clarified, or revised. As the upcoming Presidency, Estonia is prepared for an in-depth revision of the IPR Enforcement Directive, but is equally ready for a more limited initiative. Any possible initiative should aim to narrow the gaps between the interpretation and application of the Directive, and the enforcement of IPRs in Member States. The general approach of the EU should be to focus on commercial scale infringements and on facilitating voluntary collaboration agreements in accordance with the 'follow the money' approach. Additionally, clarification or revision of the IPR Enforcement Directive should be in line with the current liability framework for intermediaries created by the e-Commerce Directive<sup>4</sup>.

4 - Directive 2000/31/EC



The presentation underlined other important topics including the use of evidence - in particular the use of digital evidence and the admissibility of cross-border evidence - and ways in which to encourage the specialisation of the judiciary in IPR matters in a way which reflects the relevant differences between Member States.

The first day of the summit was concluded with a Networking Cocktail address delivered by **Mr Heiko Maas, Federal Minister of Justice and Consumer Protection**, who highlighted the need for effective and balanced enforcement of IPRs to promote innovation. Mr Maas underlined the need to address the challenges as well as the potentials of continuing digitalisation. He emphasised that, without confidence in the security and integrity of the digital world, it will not be possible to explore the economic and social potential of digital development. This would necessarily include strengthened efforts in the fight against counterfeiting in the online and physical environments.



The opening speech of the seminar's second day was delivered by **Mr Zhao Meisheng, the Deputy Director-General of the Patent Affairs Administration, State Intellectual Property Office (SIPO)**. The speech emphasised China's efforts in recent years to promote IPR enforcement mechanisms, including through reciprocal visits to enhance bilateral methods of working and improve cooperation. Through effective enforcement mechanisms, right holders across the world can achieve better results when tackling IPR infringements in China. Mr Meisheng underlined that IPR protection requires strengthening relationships between the judiciary, administrative organs, online and offline players, and national and international actors. It was underlined that both administrative enforcement and judicial protection should be strengthened through legislation. Notably, through a sound enforcement system, right holders' confidence in governmental efforts to enforce IPRs will be enhanced, the creation and use of IPRs will be safeguarded, and a fair domestic and international market environment will be fostered.



“Through strong IP enforcement systems, IP right holders, innovators and investors' confidence in the government's efforts to enforce IPRs will be enhanced, the creation and utilization of IPRs will be promoted, and the fair domestic and international market environment will be fostered.”

Zhao Meisheng  
Deputy Director-General of the Patent  
Affairs Administration, State Intellectual  
Property Office (SIPO)

# STRATEGIC OVERVIEWS

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**The Director of the Public Governance and Territorial Development Directorate at the Organisation for Economic Cooperation and Development (OECD), Mr Rolf Alter**, made reference to a recent joint publication by the OECD and the EUIPO<sup>5</sup> which concluded that counterfeits account for approximately 2.5% of global trade. The presentation underlined that counterfeiting is part of globalisation and is an issue of public concern, funding criminal networks at the expense of consumers, companies and governments. Closer collaboration between national Customs departments, enforcement authorities, international organisations, businesses, and consumers is a key factor for a successful fight against infringements.



“Generating immense benefits worldwide, globalization is unfortunately also associated with opportunities for criminal networks to profit from illicit trade in counterfeit goods at the expense of consumers, companies and governments. The only response is closer collaboration between national customs departments, law enforcement agencies, international organisations, business and consumers.”

**Rolf Alter**  
Director of the Public Governance and Territorial Development Directorate at the Organisation for Economic Cooperation and Development (OECD)



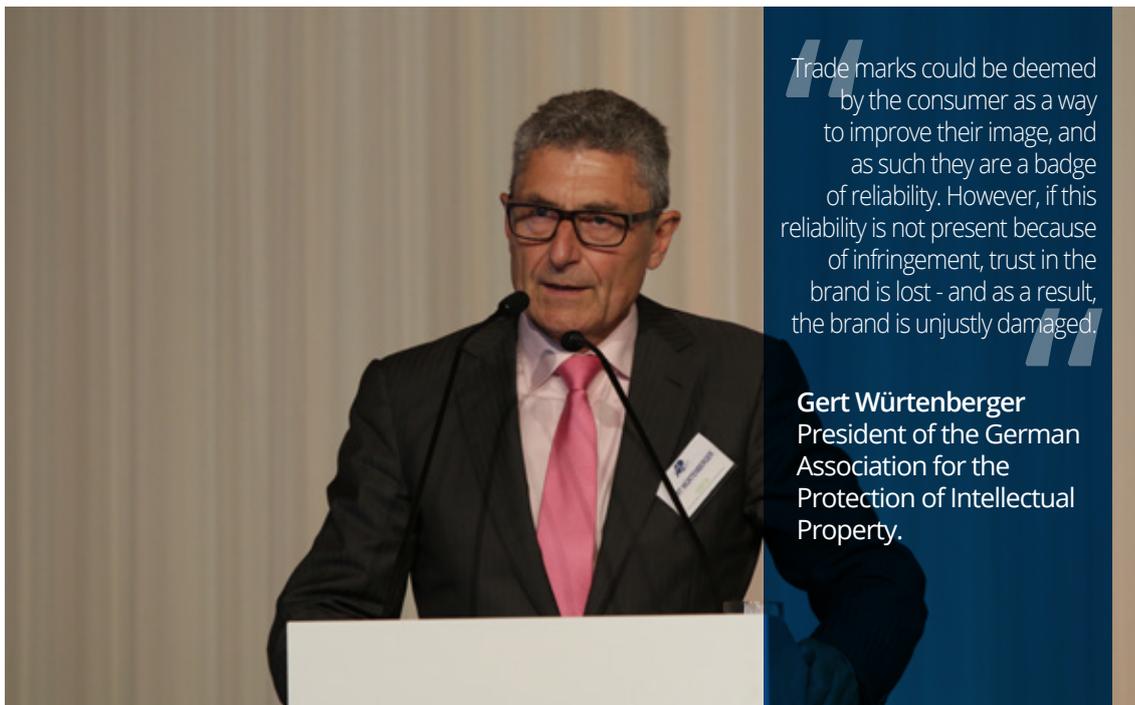
“ One must question the current resistance to harmonised copyright laws while there is substantial insistence on harmonised enforcement. In its copyright review, the EU must consider proper harmonisation of exceptions and limitations, along with clear rules for education and freedom of panorama.”

**Joe McNamee (left)**  
Executive Director of the  
European Digital Rights

5 - Mapping the Real Routes of Trade in Fake Goods

6 - Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society

The complexity and excessive enforcement of copyright law, and how it currently undermines credibility and renders enforcement more difficult were highlighted by **Mr Joe McNamee, the Executive Director of the European Digital Rights**. In order to clarify copyright practices in Member States to the public, a project was carried out with the EUIPO to publish a series of consumer FAQs, which clarify what is legal - and what is not - with regard to copyright, and which highlight the legislative differences between the Member States. In this regard, one must question the current resistance to harmonised copyright laws while there is substantial insistence on harmonised enforcement. In its copyright review, the EU must consider proper harmonisation of exceptions and limitations, along with clear rules for education and freedom of panorama. The recitals of the Copyright Directive<sup>6</sup> and Article 13 appear to change the e-Commerce Directive in a rather chaotic, contradictory and unpredictable way.



Meanwhile, **Mr Gert Würtenberger, President of the German Association for the Protection of Intellectual Property**, made reference to one of the association's missions which supports legislators in developing laws, which would benefit consumers, industries and society as a whole. Consumers tend to concentrate on trade marks, which convey certain messages and project lifestyle images. These trade marks could be deemed by the consumer as a way to improve their image, and as such they are a badge of reliability. However, if this reliability is not present because of infringement, trust in the brand is lost - and as a result, the brand is unjustly damaged.

# LOOKING AHEAD: FIGHTING ORGANISED CRIME AND RECONCILING BUSINESS AND CONSUMERS' EXPECTATIONS – DISCUSSIONS IN PANEL II

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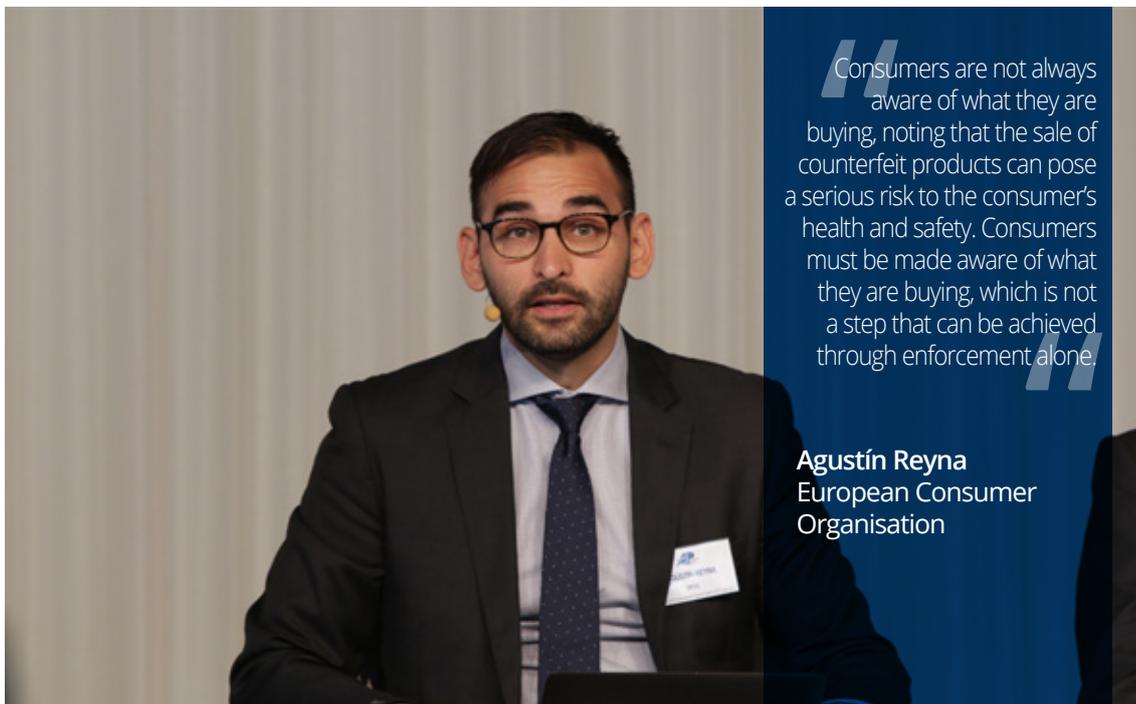
In his presentation, **Mr Siegmar Reiss, Head of Sector, Counterfeit Goods, at the European Anti-Fraud Office (OLAF)**, shared OLAF's experience in supporting the efforts to counter IPR infringements, in Europe and at a global level. OLAF has liaison officers stationed in Ukraine, China and the United Arab Emirates, and has signed Mutual Administrative Assistance Agreements regarding Customs matters with 74 countries. OLAF takes part in joint Customs operations as well. The presentation underlined OLAF's close cooperation with authorities including national Customs, market surveillance authorities, Europol, Eurojust and Interpol. Mr Reiss highlighted the vital role that trust, cooperation, and the swift exchange of information play in successful investigations into the smuggling and sale of counterfeit goods.



“The seizure of counterfeit goods already at the borders protects the consumers' health and safety, the public budget and the markets from distortion. Subsequently to the seizure, trustful cooperation, efficient coordination, swift exchange of information and solid legal tools are the foundation of successful investigations into smuggling of counterfeit goods. These investigations should lead to dismantling criminal networks in source and destination countries.”

**Siegmar Reiss**  
Head of Sector, Counterfeit  
Goods, at the European Anti-  
Fraud Office (OLAF)

On the other hand, **Mr Agustín Reyna from the European Consumer Organisation** shared the perspective of consumers with the floor. He explained that while companies and right holders have an interest in protecting their IP, consumer association's look at the phenomenon of counterfeiting from a different perspective. Firstly, consumers are not always aware of what they are buying, and secondly, the sale of counterfeit products can pose a serious risk to the consumer's health and safety. Consumers must be made aware of what they are buying, which is not a step that can be achieved through enforcement alone.



Mr Reyna also suggested that all IPR infringements should not be treated in the same way. Resources and tools should be developed which take into account the economic and non-economic harm, and the scale of infringement. Surveillance authorities also play a key role in protecting consumers from counterfeits, because they have the power to recall such products from the market.

The need for an enforceable IPR system which allows for focusing resources on key areas was highlighted by **Ms Julia Reda, Member of the European Parliament**. Ms Reda explained that debates on IPR enforcement are conducted with an over-emphasis on security aspects, whereas it is necessary to remember that IPRs are - first and foremost - economic rights. Furthermore, IPR enforcement can only be as good as the underlying law. For instance, the current copyright law requires updating to be fit with the digital age; consumers should not run the risk of infringing IPR in their daily interactions online. In order to improve IPR enforcement, it is necessary to first start with enhancing the legislative framework, particularly with respect to copyright law, which requires simplification and harmonisation.



The final presentation prior to the breakout sessions was delivered by **Mr Mathew J. Bassiur, Vice-President and Head of Global IP Enforcement at the Alibaba Group**, who indicated that Alibaba leverages their big data technology capabilities to actively assist law enforcement authorities in offline anti-counterfeiting investigations. *Alibaba* scans up to 10 million listings a day in order to search for infringing products and commits substantial resources as part of *Alibaba's* proactive effort to identify and takedown counterfeit listings. *Alibaba* has a robust notice-and-takedown programme, and dedicated teams of people who are available to assist the right holder in the delisting process. The organisation is committed to being a global leader in IPR protection, and continuously refines their monitoring capabilities, notice and takedown processes, and offline investigative efforts.



# BREAKOUT SESSIONS

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The fourth session aimed at presenting enforcers' experiences in dealing with organised IPR crime. It was agreed that the amount of undetected counterfeit goods was quite high, owing to the growth in the volume of imported counterfeits that are increasingly being sent in small packages via courier services. One of the innovative initiatives undertaken to raise awareness is the Dutch 'IP Awareness Week'. Through cooperation between the public prosecutor, law enforcement authorities, and various media outlets, the public were shown the negative impact of counterfeit products. The general conclusion of the session was the importance of multi-organizational cooperation in order to apprehend the organised criminal groups. Without reciprocal communication and cooperation between all the relevant agencies and industries, the counterfeiters will continue to supply fake goods and pirated content. Notably, border control and internal prevention are equally important.

7 - Mapping the Real Routes of Trade in Fake Goods  
8 - 2017 Situation Report on Counterfeiting and Piracy in The European Union

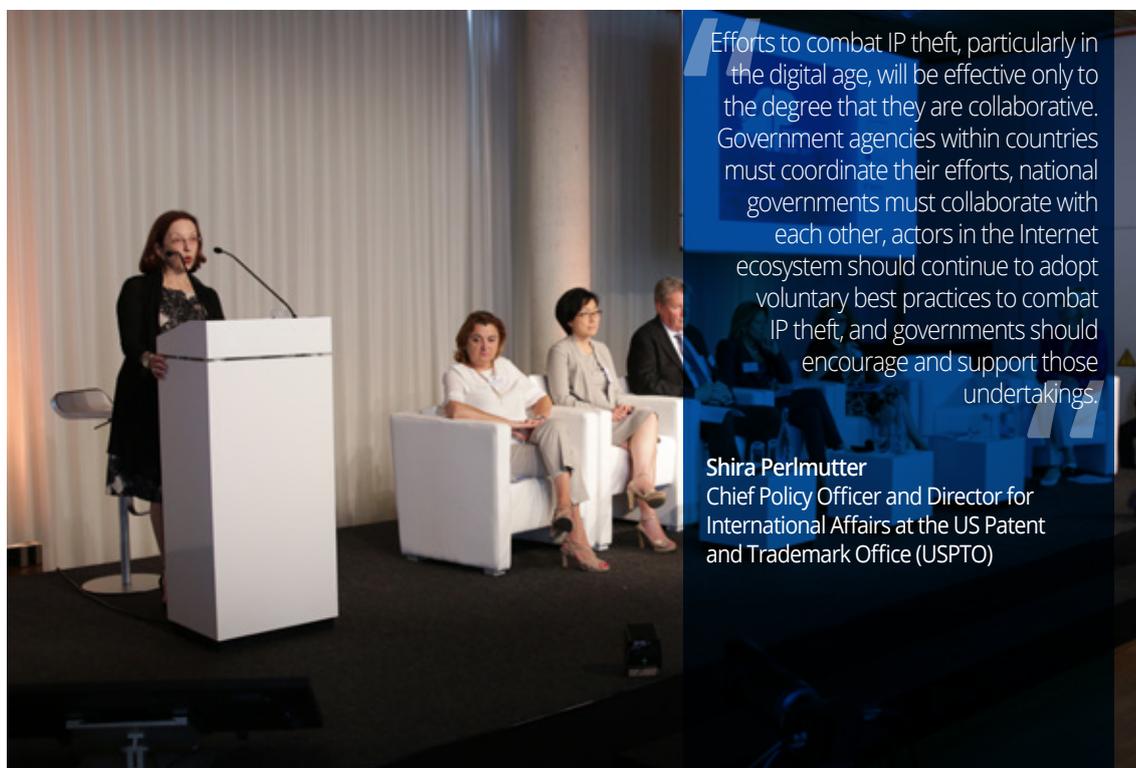
The fifth session discussed new practices and the role that intermediaries play in tackling IPR infringements. Voluntary collaboration initiatives provide ways to assist, but more can be done. Some of the solutions included the suggestion that the pharmaceutical industry pool its information in order to create a certification system. This would allow for genuine medication to be differentiated from counterfeit medication through a process of checks starting with the pharmaceutical company and ending with the dispenser of the medication. Securing the supply chain through enhanced cooperation of intermediaries was also suggested.

The sixth session discussed the new trends in counterfeiting. Two reports were highlighted: Mapping the Real Routes of Trade in Fake Goods<sup>7</sup> – which illustrated the use of producers and global transit points, and the 2017 Situation Report on Counterfeiting and Piracy in the European Union<sup>8</sup> – which illustrated how counterfeits make it to their final destination, and places more focus on the EU. Interestingly, both reports reveal some common findings including China as the world's major producer of counterfeit goods, and its second biggest producer of counterfeit pharmaceuticals. The main global trade hubs of counterfeits are recognised as Hong Kong, Singapore and the UAE, while Albania, Egypt, Morocco and Ukraine are the four major transit hotspots to the EU. It was noted that counterfeiters manipulate logistical technology which is also used to facilitate legal trading within, small parcel express services, rail services and within Free Trade Zones (FTZs).

## INTERNATIONAL COOPERATION - DISCUSSIONS IN PANEL III

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The final panel addressed international experiences on IPR enforcement from an institutional point of view. **Ms Shira Perlmutter, Chief Policy Officer and Director for International Affairs at the US Patent and Trademark Office (USPTO)**, gave the first presentation which highlighted that efforts to combat IPR theft are effective only to the degree that they are collaborative. Governmental agencies must coordinate their efforts, national governments must collaborate, actors in the Internet ecosystem should continue to adopt voluntary best practices in order to combat infringements, and governments should encourage and support such initiatives. They underlined that international coordination is critical to meet the challenges of IPR infringement, in both the online and offline world. The training that the USPTO provides is aimed at raising awareness through a collaborative approach using tailored training programmes.



The EU's experience in international cooperation was relayed by **Ms Maria Martin-Prat from the Directorate-General for Trade**. IPR infringement was described as a growing cross-border problem; to be tackled effectively, enforcement agencies must focus on the sources of counterfeit goods, FTZs, and borders. This will require cooperation from international agencies and organisations in order to produce meaningful results. To this end, DG TRADE takes action at different levels in its fight against IPR infringement, including via multi-lateral discussions. The EU has also forged important bilateral and regional trade agreements which include enforcement sections in comprehensive IPR chapters, and cooperation mechanisms (such as exchange of information and experience, capacity building, awareness building and training). Saliiently, trade agreements address the problems identified in the Commission's Biennial Report on the Protection and Enforcement of IPRs in Third Countries.





“The scope of counterfeit is wide, and the counterfeiters’ *modus operandi* is ever growing. In order to fight organised crime, police and Customs must work together.”

**Ms Roraima Andriani**  
Director for Organised and Emerging Crime at Interpol

**Ms Roraima Andriani, Director for Organised and Emerging Crime at Interpol**, provided an international view of law enforcement. Ms Andriani explained that organised crime is transforming through its use of technology, transport and communication and that illicit trade gravely affects consumers, industry and governments alike. The scope of counterfeit is wide, and the counterfeiters’ *modus operandi* is ever growing. In order to fight organised crime, police and Customs must work together. The speaker added that Interpol will co-host the 11<sup>th</sup> Annual Conference on International Law Enforcement Intellectual Property Crime on 28 and 29 August, in New York City. The conference will provide a vital platform to share best practices, develop new tools and create stronger networks to advance the common purpose of combatting transnational organised intellectual property crime, promoting safety worldwide, and developing joint initiatives focused on enforcement, education and partnerships.

The perspective of the **World Customs Organization** was shared by **Mr Leigh Winchell, Deputy Director of the Enforcement Sub-Directorate**, who underlined that harmonised enforcement standards and laws are still required in certain areas. EU-based criminals rely predominantly on manufacturers based abroad, and subsequently organise importation, transportation, storage and distribution of the counterfeit goods within the EU. A recent trend reveals that the domestic manufacture of counterfeit products within the EU is increasing, in order to reduce the potential for detection. It is facilitated by the use of fake labels and packaging imported from outside the EU, which is often orchestrated by organised criminal gangs. In this context, the role of FTZs which serve as transit and transshipment points should be re-examined. Mr Winchell stressed the need to acknowledge that trade facilitation must not come at the cost of security and safety, and that risk-based Customs controls would facilitate trade that is immune to counterfeits.



The key activities undertaken when building respect for intellectual property were outlined by **Ms Eun-Joo Min, Senior Legal Counsellor at the World Intellectual Property Organization (WIPO)**. These activities include the facilitation of information exchange, the provision of legislative and capacity building assistance to requesting States, cooperation with international actors to achieve policy cohesion, and maximisation of impact through shared expertise and resources.



During WIPO's Advisory Committee on Enforcement sessions, discussions have taken place regarding international cooperation. Given the complexity of building respect for intellectual property within the parameters of a global economy, WIPO continues to carry out its work alongside other efforts undertaken in the same direction, and coordinates with intergovernmental and non-governmental organisations, industry associations and academic institutions.



The final presentation was made by **Ms Patricia García-Escudero Marquez, Director General of the Spanish Patent and Trade Mark Office**, who explained that their office promotes agreements with public and private organisations which share key objectives regarding the protection of IPRs and raising awareness on intellectual property. The Spanish Commission on Infringements of Intellectual Property Rights provides the necessary stable framework for coordination and cooperation between the public and private sector in the fight against counterfeiting. With that belief, the office launched campaigns to raise awareness on the negative consequences of buying counterfeits, and has organised training activities, including a programme for Latin American judges. Such initiatives raise awareness, spread best practices, and support the fight against IPR infringements.

The closing note was delivered by **Mr Christoph Ernst from the German Federal Ministry of Justice and Consumer Protection**. Mr Ernst underlined the importance of the exchanges between the EU, international decision makers, enforcement agencies and consumer organisations and how they are necessary in order to identify the current deficiencies in IPR enforcement - and to drive new ideas. The German Federal Ministry of Justice and Consumer Protection have highlighted the problems and potential solutions from many different perspectives. Through dialogues with consumer representatives, it is clear that consumers are willing to respect IPRs, on the condition that they are offered at fair prices and with transparent terms of use. From the point of view of industry, all the relevant parties - from right holders, manufacturers and along the entire logistic chain - must assume responsibility in order to better combat IPR infringement, which is only possible through meaningful communication and cooperation.



The summit provided an excellent opportunity to discuss possible answers and solutions to the challenges to IPR enforcement posed by new technologies. The knowledge and ideas that were shared during the two-day event offer the potential to contribute greatly to future legislative proposals. Close cooperation between governments, companies and consumer organisations have the power to establish and sustain intelligent and decisive actions with which to ensure effective IPR enforcement on an international level.



**Mr Andrea Di Carlo, Deputy Director of the European Observatory on Infringements of Intellectual Property Rights**, thanked the speakers, attendees and organisers for helping to make the summit a great success. He added that the discussions and ideas presented over the course of the summit would serve to establish future guidelines for IPR enforcement. The question of whether or not there had been progress in IPR enforcement was raised on occasion throughout the summit. Mr Di Carlo said he believed that there had been significant progress made regarding intellectual property protection, and that there have been significant advances in the areas of data collection and in intellectual property-related policy. With regard to enforcement, specialised national police units such as the Police Intellectual Property Crime Unit have been created which help greatly in the fight against counterfeiting and piracy.

Although huge strides had been made since the early days of IPR protection, more remains to be done. Cooperation between Customs and police must be improved in conjunction with strengthening international cooperation. Building awareness with consumers through education is vital in order to highlight the importance of intellectual property to society. There is also a clear understanding of the economic impact of piracy and counterfeiting, which should be complemented with knowledge about how counterfeiting also impacts the health and safety of consumers, its reciprocal relationship with organised crime, and other more serious types of crime.

In closing, Mr Di Carlo underlined that unless these issues become political priorities, there will be no giant leaps, but only various, gradual steps in the fight against IPR infringement.

## OTHER KEY SPEAKERS

The International IP Enforcement Summit - Berlin, 22-23 June 2017



“The education of consumers so as to fight online piracy involves different tools in France: a very large one to raise awareness among the whole population about copyright (the graduated response) combined with a plurality of targeted actions so as to reach specific audiences.”

**Emilie Passemaid**  
Director of Rights Protection, Hadopi

“France is at the forefront of the fight against counterfeiting at both preventive (charters; awareness campaigns; etc.) and punitive level (improvement of the assessment of damages; reinforcement of customs' means of action; etc.). Many challenges must still be overcome, starting with the battle against online counterfeit sales. In order to efficiently tackle this scourge, the French Anti-Counterfeiting Committee (CNAC) has made several proposals: setting up of a « follow the money » strategy aiming at depriving commercial scale infringers of their revenue streams (complaints handling mechanism); definitive deletion of domain names facilitating IPR infringement; involvement of intermediaries in IPR enforcement via the adaptation of the IPR enforcement directive to the digital era and the revision of the e-commerce directive. In addition to these specific proposals, the CNAC recommends the publication of a list of physical and online marketplaces worldwide in which large-scale IPR infringement takes place, the enhancement of inter-ministerial coordination (setting up of a public body charged with developing the government's strategy for the enforcement of IPR and the fight against counterfeiting) and the establishment of an IP enterprise court (similar to the UK's IPEC).”



**Richard Yung**  
President of the French anti-counterfeiting committee



“The HCO strongly believes that younger generations should be reached in a friendly and non-punitive manner through arguments. Education is the best way to build mentalities and work towards a better society.”

**Eirini Zafeiratou**  
EU Public Policy Director, Amazon

“3D printing sparks a lot of discussion in the field of IP, mostly because of the ‘printing’ in the name of the technology. Although Materialise believes that there are some challenges, especially when it comes to copyright, we do not think that there is a need for big changes to our legislative IP framework. Because of the high skill cap and considerable cost the B2C market will stay a niche for enthusiasts in the years to come. In the B2B market the new forms of collaborations and co-creations might prove it harder to agree on IP issues between companies, but this should all be taken care of in the contract negotiations. The industry is still relatively small and as it grows problems may rise, but these will probably be challenges in enforcing the IP laws, much more than in creating new regulatory frameworks.”



**Bram Smits**  
Public Policy Officer, Materialise NV



“Anti-piracy technologies have grown in sophistication and effectiveness, and today drive revenue and opportunity for artists and copyright owners. Cross-industry cooperation and sensitive use of these technologies can successfully balance between protection of IP rights, freedom of expression, and new businesses’ ability to compete and thrive.”

**Simon Morrison**  
Public Policy and Government Relations  
Manager, Google



“ Preventing advertisements from appearing on infringing websites is a successful method of reducing the incentive for organised criminal gangs because it would significantly reduce the website’s revenue stream. ”

**Peter Szyszko**  
Founder whiteBULLET

“ Counterfeiting involves fake medicines, fake toys, fake foods and beverages, fake spare parts for cars and aircrafts. These products can turn into killers for their users. Counterfeiting also kills legal enterprises and decreases taxes and revenues collected by governments meaning fewer resources are available for hospitals and schools. Counterfeiting comes from the unscrupulous search for profits pursued by the same criminal organizations that manage drug trafficking, arms smuggling and human trafficking. ”

**Leif Villadsen**  
Senior Programme Officer, UNICRI



“ The illegal import of counterfeit goods is often carried out by international organised crime. Effective combating of these groups can only be undertaken within the framework of multidisciplinary international cooperation between the law enforcement authorities, involving the private sector and international organizations. ”

**Dietmar Moellmann**  
Head of the Prohibitions and Restrictions Unit,  
German Customs Investigation Service



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## THE INTERNATIONAL IP ENFORCEMENT SUMMIT