

The start of a new life for Orphan Works

In Depth

**Economic impact of
counterfeiting**
in the cosmetics & personal care sector



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The start of a new life for Orphan Works

The cultural richness and diversity of Europe has never been in doubt, and its artists and creators have never been idle. Millions of European creative, literary and documentary works are produced every year, and are protected by copyright.

But what happens when the owner of a work can't be traced? Then the protection offered by copyright can become a barrier for those seeking to preserve and give access to the work in question. And the vast technological explosion of the late 19th and early 20th centuries mean that films, newspapers, books and photographs can all remain tantalisingly out of reach of archivists, who may have them in their collections and want to digitise them, but can't, as their owners cannot be found.

These are the so-called orphan works; orphaned because their parents—their creators—are untraceable. They are more common than most people think; the British Library estimates that up to 40% of creative

works in its archive could be orphaned, for example.

It's a problem that Thomas Christensen knows only too well, not only in his day job as curator at the Danish Film Institute, but also wearing his other hat, as Secretary General of the Association des cinémathèques européennes (ACE), the umbrella body for 44 national and regional preservation film archives from all over Europe. "We did a survey through the EU with ACE members around a dozen years ago", he says, "and we came up with the figure of 21% of our collections designated as orphans. Until the EU Orphan Works Directive was passed, that term was used more or less colloquially – in the US, for example, an orphan is sometimes anything that's out of commerce. Now, with our legal basis in the EU, I would still say that 21% of film heritage held in institutions is a good ball park figure".

The EU Orphan Works Directive was finalised under the Danish presidency of the EU, after much hard

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work on the side of the Danish Ministry of Culture. The Directive allows for works which have been identified as orphan after a diligent search on their authorship to be used by publicly accessible cultural institutions. Once identified as orphan in one country, these works are recognised as orphan across the European Union.

All orphan works must be included in an EU-wide data base, which is an important part of the Directive package. These cultural bodies that hold works must first conduct a diligent search on the right holders of the works. If that search yields no result, they must record the information about the work in the database. If the information about the orphan work is already recorded in the database, there is no need to repeat the diligent searches.

Established and maintained by OHIM, the database aims to collect information about orphan works which are part of the collections currently held at national level by public libraries, museums, archives, film

and audio heritage institutions and public service broadcasting organisations all over Europe.



**Thomas Christensen, Curator
Danish Film Institute**

In Copenhagen, Thomas Christensen and his colleagues have been adding their own entries to the database. His team is the work package leader

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for metadata enrichment in the FORWARD project, an ACE member-driven project which aims to locate orphan works among European film archives, too. “The main bulk of what we expect to find, and what has gone in to the database now, is documentary works from the 20s, 30s and 40s”, he explains. “Much of this is state produced material, but since company rights run out after 50 years, the authors would now be the main right holders. But of course many have names like Knudsen and Hansen, and these are very common names in Denmark!”

The films themselves are a window into Denmark’s past. They range from government-produced works on agriculture (“films on how to prevent bugs eating grains”, Thomas Christensen offers as an example) to fictional works. “A lot of it is educational films, done in a documentary style, which gives fantastic impressions of the time, and how the government wanted to empower its citizens at the time”, Thomas Christensen explains. “And when you look at them,

you sometimes think that what they are showing is really modern, and then when you watch others you think they really had no clue!” However, no matter what their current applicability might be, the films are an invaluable source to understanding European history and identity.



**Szabolcs Dancs, Project Director
National Széchényi Library**

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Over a thousand kilometres to the south, Szabolcs Dancs and his colleagues in the National Széchényi Library in Budapest are also working with the issue of orphan works. The Library is planning to implement a national digitalisation programme, but, as Szabolcs Dancs points out, “it was a particular challenge in terms of online disclosure of orphan works”.

The Hungarians already work with the ELDORADO system, which is their national electronic dispatch system database. In the future ELDORADO will link with the OHIM system, and as Hungary was one of the key partners in the testing process, Szabolcs Dancs explains, “we had the opportunity not only to comment on the database, but to start a common outline for good cooperation between the Library and OHIM as well”.

The database covers all EU and EEA countries, and is filling up fast. Recent entries include audiovisual and literary works from Germany, and the Eye Film institute

from the Netherlands has also recently joined. The UK too, as well as Denmark and Hungary, has entered items into the Orphan Works Database, which is easily and freely accessible by the general public. It is hoped that the database, as a child of the Directive, will help to give new life to orphan works, allowing many of them to be digitised and saving them from oblivion.



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**Michèle Coninsx,
President of Eurojust**

Interview

Eurojust, the European Union's Judicial Cooperation Unit was set up in February 2002 with a view to reinforcing the fight against serious crime. Michele Coninsx, President of Eurojust, explains the cooperation between Eurojust and OHIM, and the joint projects shared by both organisations

How do Eurojust and OHIM/the Observatory work together?

In 2013, Eurojust took up an observer position in the Observatory. In this capacity, it attended meetings convened by the Observatory and provided input based on casework experience for the Observatory's Draft Multiannual Plan 2014-2018. In November 2014, Eurojust co-chaired - for the first time - the Knowledge and Awareness Building Conference on Infringements

of Intellectual Property Rights on the Internet to assist Member States and third States to deal with the phenomenon of increased online IP infringement. In the near future, Eurojust and OHIM will continue to organise joint events, the next two being in June 2015 (topics include establishing a European Intellectual Property Prosecution Network).

Eurojust has informed the Council of its intention to conclude a Memorandum of Understanding with OHIM in line with Article 26(2) of the Eurojust Decision. This will enable the exchange of strategic or technical information and allow both organisations to inform each other of developments in the field and projects of mutual interest and to exchange observations concerning such activities to enable them to promote effective cooperation. It also would enable them to increase efficiency and eliminate unnecessary duplication of effort and resources.

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**Michèle Coninx,
President of Eurojust**

Interview

How important, from your perspective, is the fight against infringements of intellectual property rights?

Eurojust's mandate is to strengthen and increase judicial coordination and cooperation between national authorities in the fight against serious cross-border crime affecting the European Union, including counterfeiting and product piracy. The counterfeiting of goods has been a crime priority at the EU level since 2011. A specific challenge is the Internet as facilitator of intellectual property right (IPR) infringement (cross-border nature, size, impact of digital piracy). IPR infringement is often linked to other crime areas (cybercrime, organised crime, money laundering), requires specific expertise, and generates large proceeds. As the modi operandi evolve, more cross-border and public/private cooperation will be required



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**Michèle Coninsx,
President of Eurojust**

Interview

to bring perpetrators to justice. IPR infringement can represent a threat to public security and public health: 25 cases of product piracy (counterfeit goods) were registered at Eurojust between January 2011 and December 2014 (counterfeit medicine, foodstuffs and beverages), with the Belgian (3), French (9), Hungarian (3) and Slovenian (2) National Desks referring the most cases. A wide range of stakeholders (institutional bodies, associations, specific industries, consumers) is affected by IPR infringement.

What difference does a coordinated approach to this issue make?

Because the counterfeiting of goods is a crime priority at EU level, Eurojust takes part in actions agreed within the framework of the EU Policy Cycle. Eurojust's important role comes from its position as a centre of legal and judicial expertise and the

methods it employs to fulfil its mandate, in particular, Eurojust' coordination tools: coordination meetings, coordination centres, joint investigation teams, and the Eurojust National Coordination System. Within the scope of a multidisciplinary approach, various stakeholders (such as OHIM, Europol, and Interpol) can be brought together to foster greater partnerships and synergies, and increase the exchange of information with maximum flexibility. Such coordinated approach allows for greater coherence, cooperation and tangible results.

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Economic impact of counterfeiting in the cosmetics & personal care sector

The figures speak for themselves. €4.7 billion of lost revenue due to the presence of counterfeit cosmetics and other personal care items. A figure which corresponds to 7.8% of the sector's sales, and which translates into employment losses of approximately 50,000 jobs across the EU.

The first part of the Quantification of Infringements report from OHIM, acting through the EU Observatory on Infringements of Intellectual Property Rights, makes for stark reading, especially when the knock-on effects on other industries and on government revenue are considered.

The indirect impact of the presence of counterfeit goods in the EU cosmetic and personal care market sees lost sales rise to €9.5 billion, and employment losses rise to 80,000. This takes into account not just the direct effect on companies, distributors and retailers, but also affects other parts of the supply chain, like the chemical sector, for example, which is

the very first step in the value chain. Moreover, €1.7 billion of government revenue, in areas like VAT, is also lost.

The study's scope, throughout the sector officially labelled "Manufacture of Perfumes and Toilet Preparations" by Eurostat, was wide. The products included perfumes, toilet water, shampoos, toothpaste, soap and sun cream. For more details click [here](#)

The report, launched on March 10, was prepared by the EU Observatory with input from Cefic, the European Chemical Industry Council, which represents more than 29,000 businesses, including many SMEs, across the EU, and represents around a fifth of all chemical manufacturing in the world. "These businesses very much rely on IP for their innovation", points out Nicole Maréchal, Cefic's senior legal counsellor and governance officer.

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Part 2/3

Economic impact of counterfeiting in the cosmetics & personal care sector

Cefic's involvement with the report goes back to its inception. OHIM collaborated with Cefic from the outset, following a proposal put to the Observatory Working Group in which the association is represented. The collaboration took place with the aim of defining a workable methodology and testing it.

Cefic proved to be natural partners. "For several years, we have been collecting figures on our industry, using figures from Eurostat and other sources, and we had a base already using the NACE codes", Nicole Maréchal explains. "So when the OHIM team and our own chief economist, Moncef Hadhri, got together, they were speaking the same language".

Throughout the process, the two groups learned together. "We had both positive and negative learning", Nicole Maréchal smiles. "The methodology was workable for this NACE class, but when we tested it with another sector, which was industrial gas, we saw that the methodology could not be used because this

is a sector where substances go to other industries, and the counterfeiting is concentrated in a sub-sector for which data could not be retrieved per se. So with this knowledge, we found that the methodology developed could be used in some sectors but not in others".



Nicole Maréchal
Senior Legal Counsel, Cefic

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Economic impact of counterfeiting in the cosmetics & personal care sector

All the data used from the study came from official sources; in particular from Eurostat. In addition, Cefic shared its knowledge of the complexities of the chemical industry with the OHIM team, and facilitated contacts with groups like Cosmetics Europe, EIGA – the European Industrial Gases Association and an individual firm from the personal care sector, through which the OHIM team could validate its results.

OHIM's own IP Perception study links in with the chosen methodology, as does the first report from OHIM and the EPO, the IP Contribution Study. The latter, Nicole Maréchal points out, was very valuable. "It was the first time that there was a quantification of the importance of the intensive use of IP in the EU, into which so many of our sectors fall, and it is so marvellous to find something like this done by an EU agency. In the wake of the economic crisis, it's so important that people realise that there are jobs behind IP, that there is innovation to help citizens behind IP".

OHIM's report is one in a series of such reports which will be rolled out over the course of the next eighteen months, each looking at different sectors across the EU. Nicole Maréchal is in no doubt as to the value of such studies, and says that collaboration with OHIM has been a valuable experience, which has led to the production of a useful report. "For years, I wondered how we could get figures to show that there is a reality behind IP", she says. "And this gets us closer to the reality."



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Observatory meetings

At the end of February, the Observatory Working Groups met in Alicante. Delegates heard updates on the work of the Observatory and its ongoing projects

IP in Digital world Working Group

Working group members were briefed on **the study on voluntary collaboration practices inside and outside the EU**. The first phase of the study identifies practices on online IPR infringements, and the second phase analyses some of the voluntary collection practices.

Members were updated on the **Orphan Works Database**, which has been up and running since the end of 2014, and which is used by 29 authorities across the EU. Additional functionalities are planned for the database in order to increase its user-friendliness, alongside a stakeholder network which can advise on developments in the tool.



The Observatory briefed members on the **European Aggregator of Legal Offers project**, which aims to inform consumers on how to find legal sources for music, sport, films, games, books and TV online. The project will take the shape of a website, which will link with national aggregators of legal sources which already exist, or which will be built by OHIM through an aggregator toolkit.

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Observatory meetings

The International Federation of the Phonographic Industry (IFPI) gave a demonstration of the Pro Music site, which links more than 450 licensed music services across the world. Delegates were also briefed on the planned independent research study, aiming to provide an overview of the different business models used to generate direct or indirect profit by the operators of IPR infringements.

Legal and International Working Group

The Observatory briefed delegates on the **Case Law collection project**, which is aimed at collecting national case law on IP rights to make them available in OHIM's case law database. The project has collected key judgements in both civil and criminal jurisprudence in collaboration with eight national IP offices, which reveal the application of enforcement measures between 2006 and 2014, after the implementation

of the EU Enforcement Directive. The project will be updated on a yearly basis in future.



Delegates received an update on the **ACRIS tool**, which is a free, web-based tool which aims to collect infringements of EU business outside of the EU. Delegates were also given a briefing on the international cooperation work done by OHIM and the various work carried out with non-EU and BRIC countries. Updates were also provided on the EU Delegation Network.

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Observatory meetings

Enforcement Working Group

Delegates were briefed on the **state of play of the Enforcement Database**, including the link with DG TAXUD's CCN network, which allows customs officers to access the tool easily and securely. The World Customs Organization also reported on the work carried out to date on the **planned interface between the Interface Public Members (IPM) tool and the Enforcement Database**.

Delegates were also briefed on the **Anti-Counterfeiting Intelligence Support Tool (ACIST)**, which helps enforcers to collect and collate harmonised data on seizures and detentions across the EU-28.

The Observatory outlined the events planned for 2015 including a **jointly held knowledge-building seminar (with Europol and Eurojust)** focusing on

the counterfeiting of cosmetics, perfume and luxury goods from 3rd to 5th June, and an event focusing on infringements of protected designs from 18th to 20th November.



Europol explained the nature of its joint cooperation with OHIM, which was consolidated with a **Memorandum of Understanding** and a cooperation agreement in November 2013, and outlined potential future projects.

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Observatory meetings

Delegates also heard about the regional workshops programme, which aids training within specific European regions. To date there have been two Nordic/Baltic seminars and one for Eastern Europe in Romania. In May 2015, there will be an enforcement event for Mediterranean countries held in Italy and a Central European event held in Hungary.

Public Awareness Working Group

Delegates were briefed on ongoing projects, including the qualitative research element of the IP Youth Scoreboard, which deepens the IP Perception Study and focuses on 15-24 year olds. Also discussed was an online sentiment analysis tool which will assess real-time perceptions based on social media conversations and blog contributions, and which will complement the qualitative and quantitative part of the Youth scoreboard.



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Observatory meetings

Delegates were also briefed on the social media channels of the Youth Action Plan, and the mapping exercise of young opinion leaders and influencers belonging to the overall initiative. Stakeholders were also presented with the results of the IP and Education in Europe study, which focuses on how IP is taught across 28 EU Member States.

The social media accounts, Facebook and Twitter opened in the autumn of 2014 were presented as well as the soon to be launched "Ideas Powered" web site, and the mapping exercise of young opinion leaders and influencers belonging to the overall youth action plan initiative. Stakeholders were also presented with the results of the IP and Education in Europe study, which focuses on how IP is taught across 28 EU Member States, and compares results with four leading innovative economies outside the EU. Stakeholders shared some examples of dedicated IP schools programmes with which they are involved.

The Observatory also announced another study to be carried out in all 28 EU Member States to assess if and how SMEs use IP. Several stakeholders volunteered to test the scope and relevance of the questionnaire aimed at SMEs, before implementation. Delegates also heard updates on the Observatory's communication channels, notably a proposal to improve the content and layout of the newsletter, as well as a new section for SMEs on the web site.

Economics and Statistics Working Group

Delegates were updated on ongoing research projects, **including the public and private costs of dealing with infringement project** and the study centred on the **economic contribution of the public domain**. Delegates also heard updates on the **Geographical Indications study** which concentrates on unlawful

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Observatory meetings

use of EU GI names under Article 12 and 13 of the 2006 Regulation, including imitation, evocation or translation; and were briefed on the outline and terms of reference of the **proposed study on Trade Secrets and their function in the economy.**

In terms of the **quantification of infringement study**, the working group was updated on three bodies of work: the study on counterfeit goods to be carried out jointly with the OECD, the study on online piracy which will be carried out jointly with the Joint Research Centre and fifteen sectorial studies, which began with Perfumes and Toilet Preparations (the cosmetics study) and will continue with a study on clothing, footwear and accessories.

Working group members heard that other countries are planning to carry out similar studies to the IP Contribution study. The OHIM/EPO study has already been translated into Mandarin and published in

China by the Guangdong Intellectual Property Office. A workshop has already taken place in Jakarta for the ASEAN countries interested in carrying out their own version of the study.

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Observatory/MEP meeting

Following the provisions of the Regulation 386/2012, and subsequent decision of the President of the European Parliament, 10 MEPs from 7 political groups were nominated to represent the European Parliament in the Observatory. Those MEPs were invited to a lunch organised by the Observatory that took place on the 4th of February in the European Parliament. Among those present were Mr Cavada, Ms Le Grip, Mr Rapkay (ex-MEP) and Mr Zwiefka. Several MEPs unable to attend were represented by their assistants; the assistants to Mr de Grandes Pascual, Ms Rozière, Mr Dzhambazki and Ms Ferrara. Ms Zuleta, from the Secretariat of the JURI Committee was also present as were Mr Bergevin (European Commission DG Growth) and Ms Martin-Prat (European Commission DG Connect). The goal of the meeting was twofold: to present the EU Observatory, especially to those MEPs who had not been able to attend previous meetings

and to enquire about the best way to communicate in the future with MEPs.

Ms Le Grip informed the participants about the state of play on the Trade Secrets Directive, for which she is Rapporteur for the JURI Committee. Amongst the discussions there was an exchange of information about the studies having been carried out and the future ones and more practical questions on how to follow meetings and the schedules.

It was agreed that the Observatory continue to send information at regular intervals, in particular about new publications and initiatives.

20th UNIFAB European Intellectual Property Forum

More than 310 delegates attended two days of discussion and debate, which brought together all the

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major players in the world of IP and anti-counterfeiting, from February 5-6 in Paris. This conference – the 20th such conference organised by UNIFAB – was entitled “Intellectual Property: an essential investment for growth?”



The answer to that question was a resounding yes, highlighting the positive value of IP rights. Some of the high-level speakers who gathered in Paris for the two day session included Sénateur Richard Yung, President of the French Anti-Counterfeiting National Committee, and OHIM President António Campinos.

Advisory Board meeting: 17 March 2015

On 17 March 2015 members of the Advisory Board met in Brussels to discuss and advice on projects of the Observatory programme 2015. They were presented with the results of the second phase of the IP contribution study, the IP SME Scoreboard, the IP Youth Scoreboard, the IP and Education report, the OHIM/Observatory public awareness fund, the Voluntary Collaboration report and the special programmes on economic impact of IP infringements. In general, members of the Advisory Board were pleased with the progress of the programme, and they praised the results of the work carried out so far. Among the many valuable inputs received from the Board they suggested that further work should be done with the younger generations, especially those under 15 years old. The Observatory will reflect how to build on this advice.

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The EDB Roadshow – thank you from the EDB team

The Enforcement Database (EDB) roadshow began on 17 September 2014, with the team visiting Slovakia and finished on 19 February 2015 in Greece. The main reason behind the roadshow was to hold technical meetings with the customs authorities of the 28 Member States to make sure they had all the necessary information to be able to access EDB through CCN, the secure network of DG Taxud.

In order to organise these meetings, OHIM President António Campinos sent a letter to the heads of all the national IP offices asking for their kind assistance. Their support in this has been overwhelming. The team managed to combine the technical meetings with general presentations on the activities of the Observatory and awareness raising on the Enforcement Database not only to customs officials,

but also to police, rights holders and even colleagues in the national IP offices.

All in all it was a positive adventure. The three team members visited 26 Member States and met professionals from the various customs authorities. The overall result is that there are now 24 customs authorities that have access to EDB. The remaining 4 authorities and a number of police authorities will shortly have access to the database.



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News

Coordination Group meets at WIPO

On 25 March the 3rd Coordination Group meeting took place at WIPO's headquarters in Geneva.

This inter-agency group was launched by OHIM, acting through the EU Observatory on Infringements of Intellectual Property Rights, at the beginning of 2014. Its aim is to provide a forum for EU agencies and international organisations dealing with IP Rights to discuss ongoing initiatives and projects in order to avoid possible duplications of efforts and overlaps.

The first meetings were held at OHIM's premises in Brussels and saw the participation of the European Commission, the European Law Enforcement Agency (Europol), the European Judicial Cooperation Unit (Eurojust), European Police College (CEPOL), the World Intellectual Property Organization (WIPO), the World Customs Organization (WCO), the International Criminal Police Organization (Interpol) and the

Organisation for the Economic Co-operation and Development (OECD).

The meeting organised by WIPO on 25 March saw the participation of other international organizations such as: the United Nations Interregional Crime Research Institute (UNICRI) and the International Telecommunications Unit (ITU).

Delegates exchanged information on the current and upcoming initiatives and discussed future collaboration.

Judges Symposium

On 24 and 25 March, sixty judges and prosecutors from 22 EU Member States, Norway and the USA, met at OHIM to discuss the problem of the sale of counterfeit products through the internet. The Commission (DG Growth) and the French Gendarmerie also participated actively as observers and experts.

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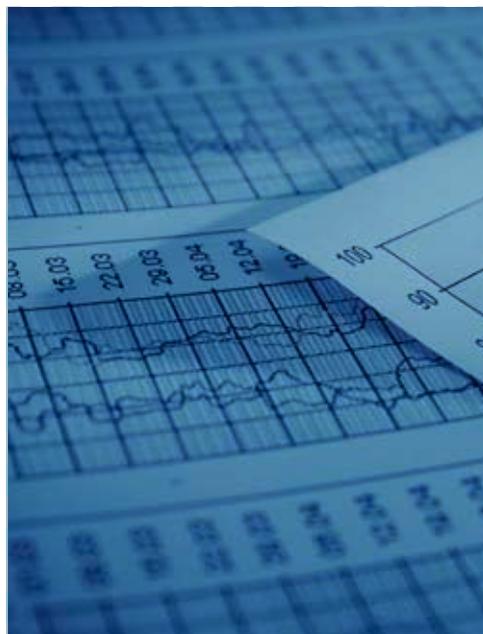


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The Commission (DG Growth) and the French Gendarmerie also participated actively as observers and experts.

The seminar provided the participants who deal with civil and criminal aspects of intellectual property rights, or will do in the future, a possibility to network with other colleagues and discuss practical issues related to the sale of counterfeit products through the internet. The judges' seminar is a regular feature on the OHIM calendar. It brings together specialist IP judges and prosecutors from across the EU offering a platform for dynamic debate and information exchange, as well as providing the latest updates on case law and practice.

This particular event was organised following a high number of requests from the Judiciary. Between 2013 and 2015 the OHIM has hosted a total of 110 judges and prosecutors covering 27 of the 28 EU Member States, and two non-EU countries.



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ACIST in Belgium - Jannik Grooten. (Head of Anti-counterfeit Unit, Federal Public Service of Economy)

The Economic Inspection is an enforcement authority within the Belgian federal public service Economy, SME's, Self-Employed and Energy. The anti-counterfeit unit is part of Economic Inspection and specialises in the fight against counterfeit and piracy on the Belgian internal market. To facilitate our work we always are in search of useful and, if possible, free tools.

Thanks to the EU Observatory we can use a series of interesting and important tools. ACIST for example is a big improvement for our unit. The web based tool is user-friendly and gives our unit a uniform way for gathering intelligence on seizures of counterfeited goods. At all times we can deliver figures to the Belgian government and the European Union when asked to do so. It helps us to have a clear overview

on trends and changes in the seizures of counterfeit goods in the Belgian internal market.

We started to use the tool in January of this year and already we are convinced of its utility. We would recommend this tool to everyone, because the more countries and services start to use it, the stronger the output will become and as a result, a clear overview on seizures of counterfeited goods in Europe will be possible.

Online IPR-Infringements of Growing Concern - Lennart Röer (APM)

45,000 cases in 2014 – this is the record breaking number of interceptions of counterfeit articles by German customs as published by the German Ministry of Finance on March 12th. That's an increase of 72 per cent compared to 2013.

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The reason for such a high number is due to - not surprisingly but still necessary to underline - a constant development during the last years: the offer and sale of counterfeit goods over the internet. The number of seizures demonstrates the support given by customs but also the challenges as regards resources.

This development also poses enormous challenges to right holders of all sectors and all IP-rights. They need to find a way to deal with the sheer mass of counterfeit offers via various channels: fake websites, offers on auction platforms or on social networks. The possible measures may differ from one provider to the next and from one jurisdiction to another. How do companies of different size and different sectors approach this problem strategically? APM will look at this in the coming months.

And how can consumers be better protected? The mass of bogus websites misleads them too many times

and makes them choose fraudulent options. This topic should be investigated further. Additionally, “thinking out of the box” solutions must also be considered, and all parties should strengthen their efforts in order to improve this unsatisfactory situation.

Pretend you see me! - Dimitar Dimitrov (WIKIMEDIA)

In the Brussels jungle, to quote Lino the Rhino, there are lots of monkeys but not trees. It seems like most of these monkeys are talking about balance every single chance they get. Yet, little can be seen of it. All events are almost stunningly identical - we come in, play back our pre-recorded tune and leave two hours later (two and half if there’s canapés and wine). We know what everyone is going to say and we even know the position of the ones who won’t say anything at all.

There has been some unrest about having the

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Observatory's working group meetings in Alicante. Apparently many people from Brussels couldn't come. It allegedly provides for unevenly represented interests. Brussels, so the thesis goes, is the much better venue for such events.

What are we talking about here? The representation in Brussels is everything but even and balanced. Events in Brussels are ineffective due to over-saturation and a waste of time due to pre-prepared positions. Serious monkey business! Most wouldn't dare say anything new or opening up their minds, out of fear some decision-maker or an ally might interpret this as weakness of position. Most Brussels dialogues are a circus and not a very entertaining one at that.

So why don't we try to break out of this? Disagreeing with someone on every single issue is much harder when you're stuck with them in an hotel for two days or in an aeroplane (yes, the British spelling is nifty) for two hours. All right, some of us won't make it every

time, but is this a real loss? We badly need some re-shuffling and new cards on the table. Instead of being stuck with the same people for another day in a room looking at the Berlaymont, we get to meet new and exciting ones that wouldn't have necessarily made it to Brussels. People who can help us bridge some serious gaps. Plus there are palm trees, of course.

Now, don't get me wrong. I don't think the Observatory is very balanced, at least not yet. But it is new and willing to adapt and experiment. It is happy to provide us with a chance to shape it. The future of the Observatory in Alicante is a chance for having an actual future debate.

In my mind, the reason why the Observatory is not as balanced as it could be is the inherent bias reflected in its name. Talking about infringements of something is futile without talking about the actual thing. I know people like to disagree here, but at least half of the reason for IP infringements is rooted in the IP part. Similarly, talking IP without talking about PD (public

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domain) immediately turns the talk into an ideal rant (the same applies vice-versa).

Solely talking about infringements and enforcement is not very shrewd. It just makes it impossible to provide evidence-based contributions. The annual plans acknowledge this already by broadening the focus of the activities. Yet, the bias is bound to remain, as the name attracts the stakeholders. Palm trees or not, for the Observatory to fulfill its mission it needs to be an attractive platform for many very different groups. An effective way of attracting different groups is to recognise thematic focus already taking place by changing its name. The European IP Observatory comes to mind, but I am happy to propose cooler things to the European Commission. Any ideas?



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Events

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April 21-23



**Observatory Public Sector
Representatives Meeting**



Riga, Latvia



April 14



**EDB Stakeholders
Meeting**



Brussels, Belgium



April 14



**Meeting with the Competent
National Authorities for the Orphan
Works Database and Directive**



Alicante, Spain



April 29



**Observatory Private Sector
Representatives meeting**



Brussels, Belgium

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May 5-6



Judges Seminar



Alicante, Spain



May 12-13-14



Regional Seminar for Enforcers



Bari, Italy



June 1-2



Prosecutors' Network meeting



Alicante, Spain



June 3-5



**Eurojust-Europol-OHIM
Knowledge Building Conference**



Alicante, Spain

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