A year of studies
The impact of reporting and analysis

The benefits of training and knowledge building

Cover Story
- A year of studies

Interview
- The in depth interview of the edition

In Depth
- Increasing knowledge

Observatory meetings
- Full reports on Observatory meetings

News
- IP and Enforcement news

Stakeholder news
- Stakeholder roundup

Events
- A round up of what’s coming up
A year of studies - the impact of the Observatory’s reporting work

For OHIM and the EU Observatory on Infringements of Intellectual Property Rights, 2015 has been a year of studies. Over the past twelve months, OHIM, acting through the Observatory, has rolled out a series of reports which have added to and informed political and public debate.

The Quantification of Infringements series has put the spotlight on the staggering cost of IPR infringements in three key sectors so far: cosmetics; clothing, footwear and accessories; and sporting goods. The reports reveal that all three sectors lose a combined €31.5 billion euro per year due to counterfeiting.

This month, another report, this time on toys and games has been launched at an event in Spain. The launch of the report is particularly timely, coming as it does in the run-up to Christmas.

Over the past year, the reports have featured in approximately 600 European and global media outlets – on radio, television, print and online. They have also entered the media discourse, regularly being quoted when follow up news stories on counterfeiting are done, sometimes months after their launch.

But headlines are only one part of the story. Reports like the Europol-OHIM Situation Report on Counterfeiting in the European Union, released in April, show the depth and breadth of counterfeiting across the EU, and its links with organised crime.

The first major report released by OHIM through the Observatory was, of course, the “Intellectual Property Rights Intensive Industries: contribution to economic performance and employment in the EU” report, released in September 2013 in partnership with the EPO.

Its main figures – that one in three jobs in the EU are supported by IPR-intensive industries, which in turn
A year of studies - the impact of the Observatory’s reporting work

Contribute 39% of the EU's GDP - have well and truly entered the debate on the value of IP as a driver of economic growth.

In June 2015, OHIM released a companion report to that first study, this time focusing on firm performance, and revealing that companies that own IP rights perform better than those that do not. This reporting work builds on previous analysis, and helps build a complete picture of IP as it is used at economic level in the EU.

Late in 2015, the IP in Education report was released. It was something different for OHIM, in that it looked deeply into how IP is taught in schools both inside and outside the EU. It carried out a full analysis of IP curricula across the schools system, at national and at regional levels, to get an accurate snapshot of not just the content of IP-related material on the various classroom courses, but also under what broad heading it was taught.

The reports are also providing valuable input to policy makers at EU level. The vice-chair of the Legal Affairs Committee in the European Parliament, Jean-Marie Cavada (ALDE, FR), underlines that legislators need reliable data. “It’s very important that when we come to legislate on a certain issue that we have
A year of studies - the impact of the Observatory’s reporting work

good information,” he stresses, “and the Observatory, from that point of view, is a marvellous source of this information – of studies and notably of opinion-based reporting, be that of consumers or of economic actors.”

For MEP Julia Reda (Green/EFA, DE), the Observatory’s independence is key. “I think it is important that there are organisations that bring independent evidence to policy makers,” she points out, “because we are always bombarded with opinions on what the law should be and what opinions are. Really, to have the full picture we need to get everybody around the table; and to get the perspective of civil society as well, and also to get an academic view of these questions. I think that here OHIM is playing an important role.”

2016 will see further study launches from OHIM. The Quantification of Infringement series will continue, with other sectors known to be vulnerable to counterfeiting analysed. Also due to be released is a report prepared in conjunction with the OECD to estimate the value of counterfeit goods in international trade, reports into infringements in the music industry, voluntary collaboration practices, infringing business models and other studies.
A year of studies - the impact of the Observatory’s reporting work

Case study: Portugal and the Observatory

Leonor Trindade, President, Portuguese Intellectual Property Office (INPI)

“Our office participates in the Observatory meetings as a representative of the Portuguese Anti-Counterfeiting Group (GAC). Our participation in this network is highly relevant for us in that it gives us the possibility of having up to date information, which we disseminate between all the Portuguese enforcement bodies. For our office, the Observatory network is an amazing platform for cooperation between representatives from national authorities and also stakeholders, allowing exchange and expertise on best practices. In fact, not only in the public sector meetings, but also in the working groups in which Portugal takes part, it is possible to have access to the best practices in this field, which brings added value to our own activities and practices.”
A year of studies - the impact of the Observatory’s reporting work

Case study: Portugal and the Observatory

Leonor Trindade, President, Portuguese Intellectual Property Office (INPI)

“Every year the Anti-Counterfeiting group organises technical and high level meetings with the purpose to analyse the activities developed during the previous year and also to propose activities that will be organized in the following months. In these meetings information shared by the Observatory is discussed, and the GAC’s annual action plan integrates this information, adapted to reflect our national priorities. For instance, the IP Perception Study helped us to understand that the Portuguese Anti-Counterfeiting Group activities should also focus on younger people. As a result, our office launched some activities specifically targeted to youngsters, namely the creation of a children’s card game, totally personalized with questions/answers related to IP, counterfeiting and piracy.”
A year of studies - the impact of the Observatory’s reporting work

Case study: France and the Observatory

Both inside and outside France, the Observatory’s work and studies is proving its use. Anne-Catherine Milleron, the intellectual property attaché for Korea, Japan and Taiwan at the French Embassy in Korea highlights that: “firstly, they allow me to understand the counterfeit process and its background. But the studies also show the situation in Europe to our partners from other countries, and sometimes serve as models for other studies.”

Within France, the Union des Fabricants (Unifab) is working with Observatory data too. “Unifab is very much involved in awareness-raising among consumers,” the association’s general manager, Delphine Safarti-Sobreira, explains. “Last January, to informing college students about the positive effects of IP and about the consequences of counterfeiting, especially on the internet, we reached out to 14 classes, with practical information and advice.
A year of studies - the impact of the Observatory’s reporting work

Case study: France and the Observatory

The students were very receptive to the positive value of IP and very quickly understood that it brought far more to people than it took away! The idea was to build up their reflexes to avoid the traps set by counterfeiters, and to encourage them to adopt an attitude of responsible consumption. The results of this exercise have been more than convincing: around 80% of those we reached out to understand the importance of, and the necessity of preserving, intellectual property rights. Encouraged by this success, and further bolstered by the results of the studies undertaken by OHIM through the Observatory, Unifab is currently in talks with the French Education Ministry with the aim of adding an IP module in the citizenship course taught in French schools.”
The European Police College (CEPOL) is an EU agency dedicated to training police officers and, in particular, to strengthening the capacity of European law enforcement agencies to respond to evolving threats, focusing on those with a European or cross border dimension. The Director of CEPOL, Dr. Ferenc Bánfi, kindly took time out to answer some questions for the Observatory Newsletter.

How would you like to expand collaboration with OHIM in the future (in view of, for example, the successful CEPOL-OHIM training session which took place in September 2015)? Following the implementation of our first joint activity it is my intention to build on the success already achieved. Last month I agreed with the OHIM President that we further enhance our collaborative efforts by constructing a unique educational platform addressing the existing knowledge gap in the European law enforcement structures with regard to the enforcement of intellectual property. CEPOL and OHIM aim to launch a long-lasting joint project in close cooperation with other key European players such as Europol, the European Judicial Training Network, Eurojust, DG Taxud, DG Home and the Customs Cooperation Working Party in order to guarantee that customs, police and judicial officers are armed with improved skills to deal with the different forms of IPR infringements.

Has CEPOL been envisaging an increase in training programmes on IP-related matters? Yes, I am ambitious to make major progress in this area during the coming years. I would like to highlight the fact that from next year the life of the European Police College will change significantly as our Agency’s mandate will be expanded to provide trainings for the EU customs organizations. As a consequence of this long awaited decision, CEPOL’s training portfolio...
will increasingly address customs law enforcement issues including crime against intellectual property. In terms of counterfeiting and piracy, traditional face to face courses, modern e-learning tools and a flexible law enforcement officer exchange programme will be offered to the European law enforcement community. I envisage a strong European training need in the field and a high degree of interconnectivity with other serious crimes such as cybercrime and financial crime. Due to the fact that a large part of IP infringements are connected to online commerce, we plan to hold specialised activities on digital investigation techniques addressing the threats prevailing on open websites and also on the infamous darknet. Crime on intellectual property is a profit-oriented activity; therefore our related training activities always share best practices on how organised crime groups can be deprived of the proceeds of IP infringements thanks to financial investigations and asset recovery measures. Protection of the legal supply chain, cooperation with the private sector, best investigative practices, international police and judicial cooperation are equally crucial subjects that are and will be discussed during CEPOL-OHIM training events.

What benefits do you see arising from collaboration and cooperation with OHIM and other EU agencies like Europol and Eurojust?
Nowadays, when technological development and expanding online commerce facilitate counterfeiting
and piracy at an unprecedented level, it is paramount that integrated multidisciplinary trainings are provided for all stakeholders active in the enforcement of intellectual property. Horizontal coordination between rights owners, law enforcement officers, judicial and other state officials is vital; they must sit at the same table, so to speak, exchanging experience and building mutually profitable practical cooperation. It is my firm belief that no single organization or agency has a capability to efficiently tackle this complex crime phenomenon. We must act in partnership with each other sharing our knowledge, expertise and network for the benefit of the legitimate business and EU citizens. Cooperation with OHIM and other strategic players brings all the knowledge together and where the knowledge is combined, a solution is found.
Increasing knowledge - capacity building at the Observatory

There are not many places in the world where you will find a Maltese and an Icelander chatting about counterfeit designs protected by design law and copyright, but the joint OHIM/Europol/Eurojust seminar, held in Alicante in November, was one of them.

Apart from the difference in temperature in their respective jurisdictions, of course, the two enforcement professionals face similar challenges in their day to day jobs. That is something that all their colleagues, from the EU and beyond, who gathered for the knowledge and awareness building conference, have in common.

Improving exchange of information and promoting best practices, however, has been part of the Observatory’s DNA even before its transfer to OHIM in 2012. Since then, it has made great strides, not least in the area of knowledge building and training, for both EU and non-EU enforcement professionals.

As a department within OHIM, the Observatory works more and more with partners, like Europol, Eurojust, CEPOL and national level police forces like the Guardia di Finanza in Italy as it continues to roll out targeted, strategic training and awareness raising events, which bring results.

“We have evidence of a greater increase in networking among the delegates,” says Giorgio Sincovich, Senior
Increasing knowledge - capacity building at the Observatory

IP Crime Expert at Europol, “not just within one law enforcement agency, but among agencies. We also see more networking done horizontally among other actors, prosecutors and the private sector. And this increases operational results.”

Each event is carefully constructed to bring the most value to delegates, maximising the expertise available at OHIM and through the wider Observatory network of stakeholders, experts and hands-on enforcement professionals.

Topics are chosen to be relevant and of the most use, and are designed to increase knowledge and awareness in key areas where IP and enforcement intersect.

Additionally, the scope of the training offered is broad, bringing in many actors in the enforcement chain; customs officers, police officers, prosecutors, judges, and the private sector too.

The impact of all this work is being felt on the ground. George Agius, Head of Unit, Malta Customs IP Enforcement Division, has been attending these knowledge building events since they began. He is convinced of their value – not just to him, but to his colleagues back home in Malta too - who benefit from his experience at every seminar when he returns.
"Today, I am learning about copyright and design," he says. "The main IP concept we deal in customs with is trade marks. But certain designs and copyrights are also registered as trade marks as well."

George Agius sees the benefits of the knowledge-building events spreading through the enforcement community in Malta.

"OHIM always brings people to these events that have real knowledge and experience, and I disseminate the knowledge that I learn here," he says.

He stresses that dissemination takes place formally - through his own role - and informally, through colleagues seeking advice and support on IP issues.

"I am the central point for IP customs issues in Malta", he points out, "and I help colleagues from other authorities who come to me, like the police and colleagues from the IP office. Malta is a small island so we are all connected. When I go home, and if certain cases arise, and I have a question about them, I just send an email to OHIM and I get a reply containing a technical and professional answer."

George Agius’s experience bears out Giorgio Sincovich’s belief that what is learned at awareness raising events carries forward on the ground after the event is over.

He underlines the carry-forward of events like these, as enforcement professionals continue to gather for the continually evolving and closely programme of
Increasing knowledge - capacity building at the Observatory

targeted seminars and knowledge-building events offered by OHIM.

“In the long term, we can expect more and more tangible results, not just in terms of operations, but also in terms of policy, in terms of raising awareness,” he stresses.

And as events continue, and participants return, organisers can easily see the benefits of what is being taught at Observatory level. This enables them to track the impact of the capacity building activities over years, not months.

The awareness raising and training events are set to continue through 2016 and beyond. Each one builds on the lessons learned from the last, in order to provide delegates with the best possible learning experience possible.

As a result of all this work, networks are formed, built and strengthened.

Whether they are formal or informal, they add value to the daily work of enforcement professionals all across the EU and beyond, as they lead the front-line fight against IP infringements.
Increasing knowledge - capacity building at the Observatory

Knowledge Building at OHIM 2012-2016

- Knowledge Building Seminar on “Fake and Illegal Pesticides” (26-28 September 2012)
- Knowledge Building Seminar on “Counterfeit Pharmaceutical Products” (26-28 June 2013)
- Knowledge Building Seminar on “Fake Automotive Parts and Household Appliances” (4-6 November 2013)
- Knowledge Building Seminar on “Infringements of Intellectual Property Rights on the Internet” (5-7 November 2014)
- Knowledge Building Seminar on “Counterfeit Cosmetics, Perfumes and Luxury Goods” (3-5 June 2015)

- Knowledge Building Seminar on “Infringements of Designs Protected by Design Law and Copyright” (18-20 November 2015)
- Knowledge Building Seminar on “Fake Food and Agricultural Products” (16-18 March, 2016)
- Knowledge Building Seminar on “Fake Toys and Pirated Video Games” (9-11 November, 2016)
Observatory Plenary 2015

The fourth Observatory Plenary meeting took place in Alicante on October 21 and 22, with a more interactive and participative format than before.

Public and private stakeholders, the Luxembourg Presidency, civil society, European Commission representatives, Advisory Board members, and two MEPs, Mr. Jean Marie Cavada and Ms. Julia Reda, all participated actively in the debate.

This year more time was given for discussion, and the agenda was grouped around the themes of: Consumers; Businesses; IP and young people and Infringement.

Each themed discussion concluded with a summing up of the most important elements that should be considered in the Observatory’s 2016 work programme and beyond. The work programme had been previously shared with all stakeholders for comments, thus gathering differing views in a highly inclusive process.

During the Consumers panel, delegates were briefed on the findings of two Observatory reports (IP perception study and IP Youth Scoreboard), which showed that consumers, especially the younger ones, generally prefer to obtain content legally. Barriers for them are the lack of availability of legal offers and also lack of legal certainty.

There was a lively debate on the findings with participants sharing their views and experiences. All agreed that efforts should be continued to provide attractive, available legal offers.

The Observatory showed three projects aimed at helping consumers find legal offers, and informing on what is legal and what is not in terms of copyright law.
The projects are: Test Case Music; European Aggregator of Legal Offers and FAQ on Copyright.

The panel on businesses discussed two Observatory reports (the second phase of the IP contribution study and the forthcoming IP SME Scoreboard) which showed that 9% of SMEs use registered IPR.

Innovative SMEs not using IP rights state that they do not know enough about the IP registration system. Participants agreed that educating SMEs is paramount and noted that attention should be paid to the trade secrets and non-registered rights, which are very popular among SMEs.

On the panel dealing with IP and youth, delegates heard that younger generations question IP more than other age groups.

Delegates discussed initiatives like the Ideas Powered; the IP and education report which analyses how IP is taught in European schools and outside the EU; and the financial grant that was concluded providing financial support for Member State-level communication campaigns aimed at young people.

All agreed that efforts should continue to raise respect of IP among young people through the most suitable communication channels for this age group.

On the infringement panel, the Observatory presented highlights of the Europol-OHIM Situation Report on Counterfeiting in the EU which maps
Observatory meetings

criminal organisations involvement in commercial scale counterfeiting.

The voluntary collaboration report, the OECD-OHIM report on the scale of counterfeiting and three sectorial reports were also presented, as well as an update on the Infringing Business Models Report, which assesses business models which are being used to infringe online. Participants agreed that coordinated action and collaboration is crucial for further work in the area of IP infringements.

To make sure the discussion and debate was shared as widely as possible, the Plenary delegates live tweeted using the hashtag #Obsplenary. A live Twitter feed was placed in the conference room so delegates could keep up with the response to tweets on social media.
15 Member States now reporting in ACIST on internal market detentions

Over the past three months, France, Croatia, Greece, Latvia and Finland have begun to report internal market detention data to the Anti-Counterfeiting Intelligence Support Tool (ACIST) tool, taking the total number of Member States participating up to 15.

ACIST is the European Union database that gathers statistics on detentions at borders and in the internal market. Data on border detentions already exist for all Member States, but the picture is being complemented in the different Member States with the situation inside their borders.

Some authorities like the Belgian FPS Economy, the Danish State Prosecutor’s Office for Serious economic and International Crime and the Department of Customs & Excise of the Republic of Cyprus report their seizures directly through the tool. This allows them to use its exporting and reporting services for their own internal purposes. But the tool also permits a bulk upload and validation of data.

The EU Observatory is co-operating with the European Union enforcement authorities to establish best practices with regard to data collection and to further
News

develop the tool. ACIST is free to use and available through tmdn.org, the online home of the European Trade Mark and Design Network.

Regional Seminar - Hungary

A regional seminar for enforcement authorities took place from 11 to 13 November, in Budapest, Hungary. It was the first regional seminar for the Eastern European region and is co-organised by the OHIM, through its Observatory, together with the Hungarian Intellectual Property Office as hosts.

Enforcers from a selection of EU Member States attended the seminar, as well as a number of representatives from the private sector and other EU institutions and international bodies: Vis Probandi, OLAF and Eurojust.

The Observatory regional seminars are intended to facilitate networking among the delegates and to raise awareness on the ongoing activities in specific regions.

Judges’ Symposium at OHIM

On November 5-9, the 9th Judges’ Symposium took place at OHIM.

The Symposium, organised by the Observatory, provides national judges and prosecutors, who deal with criminal aspects of intellectual property rights, a platform to network with other European colleagues and discuss practical issues related to various topics.

The Symposium is a regular feature on the OHIM calendar taking place every two years, bringing together specialist IP judges and prosecutors from across the EU as well as judges from the European Court of Justice.
The eighth meeting of the Interdepartmental Commission for the coordination of cooperation in the fight against counterfeiting and piracy (IC) was held in Banská Bystrica, Slovakia, on 22 September.

The main purpose of the meeting was the specialization of courts in the field of intellectual property, ahead of the introduction of the Civil Disputes Code which takes effect from 1 July 2016.

The important reform of causal jurisdiction brought about by the legislation will have a significant impact on the operation of the courts concerned and its mastery requires increased attention and preparation by all stakeholders.

The meeting was held at the initiative of the President of the Intellectual Property Office of the Republic of Slovakia, Mr Ľuboš Knoth.

The Netherlands

EYE Film Museum in Orphan Works Database

The EYE Film Museum from Amsterdam has submitted its first dataset into the Orphan Works Database.

The museum is also one of 11 film archives in the EU taking part in the FORWARD project, which aims at setting up an EU-wide system to assess the rights status of audiovisual works.

New European legislation led to an exception in the Dutch Copyright Act, which allows orphan works to be digitised and made public under certain conditions.

This means that EYE Film Museum can legitimately re-use movies under the “orphan” status, provided an active and
diligent search has been conducted. This search will be facilitated by the FORWARD programme. While FORWARD aims at setting up an EU-wide system for assessing the rights status of audiovisual works, OHIM, under Article 3(6) of the Directive 2012/28/EU, is responsible for the establishment and management of a single publicly accessible online database on orphan works.

To bridge FORWARD and OHIM, EYE Film Museum recently submitted its first dataset to the OHIM Orphan Works Database. The EYE Film Museum dataset included 720 audio-visual works that were steadily uploaded to the database.

EYE Film Museum noted that the system workflow speed and user-friendliness were excellent and that the connection with the Dutch National Authority (Cultural Heritage Agency, Ministry of Education, Culture and Science of The Netherlands) was optimal. The ability to build cross queries in an easy and intuitive manner was also appreciated.

Recently the second bulk upload of data was performed increasing the total amount of records from EYE Film Museum to 780. The EYE Film Museum is currently the biggest user of the Orphan Works Database, setting an example of good practice for other organisations.
Hungary
The Hungarian National Board Against Counterfeiting at the VOLT Festival

After last year’s Sziget Festival and the success at the Valley of Arts festival, the audience at this year’s VOLT festival was captivated by the “NO BS!” tent hosted by the National Board Against Counterfeiting of Hungary (NBAC).

The VOLT festival is one of the highlights of the European summer festival calendar, and is held every year near the city of Sopron, on the Hungarian-Austrian border. This year marked its 23rd edition, with more than 123,000 attending this year over a four and a half day period.

Many festival goers took the opportunity to stop by the NBAC booth, where the message against counterfeiting was being given via a series of interactive games, talks and hands-on demonstrations.

The exhibition of a range of counterfeited products drew interest from the festivalgoers.

Also appreciated by those who attended was the range of interactive games which provided insight into the joint activities of NTCA (the National Tax and Customs Administration of Hungary), the Hungarian Intellectual Property Office and the National Board Against Counterfeiting.

In front of the tent there was a ‘selfie-wall’, which proved extremely popular with camera-phone wielding visitors.

From there it was just one step to a large variety of exhibits and games, helping to understand the depth of counterfeiting and intellectual property in the world.

On the “touch and feel” display table fake objects could be examined, so that festival goers could experience at first hand what fake products look like, and how to distinguish them from real ones.
Events

January 14
Coordination Group on Infringements of IP Rights
Brussels, Belgium

February 25-26
Seminar on IP Enforcement (OHIM/DG TAXUD)
Alicante, Spain

February 23-24
Judges' Seminar: assessment of weak trade marks
Alicante, Spain

March 1-3
Observatory Working Group Meetings
Alicante, Spain

News
IP and Enforcement news

Stakeholder news
Stakeholder roundup

Cover Story
A year of studies

Interview
The in depth interview of the edition

In Depth
Increasing knowledge

Observatory meetings
Full reports on Observatory meetings
Events

March 16-18
Eurojust-Europol-OHIM knowledge building conference
Alicante, Spain

April 19-21
Observatory Public Sector meeting & conference
The Netherlands

May 4-5
Judges’ Seminar on confiscation of proceeds of crime in IPR
Alicante, Spain

September 28-29
Observatory Plenary Meeting
Alicante, Spain

Cover Story
A year of studies

Interview
The in depth interview of the edition

In Depth
Increasing knowledge

Observatory meetings
Full reports on Observatory meetings

News
IP and Enforcement news

Stakeholder news
Stakeholder roundup

Events
A round up of what’s coming up