

## IP Enforcement Portal

### Legal Notice

THE IP ENFORCEMENT PORTAL IS FOUNDED ON THE PROVISIONS OF [REGULATION \(EU\) No 386/2012](#) ESTABLISHING THE MANDATE OF THE EUROPEAN OBSERVATORY ON INFRINGEMENTS OF INTELLECTUAL PROPERTY RIGHTS<sup>1</sup>. THESE PROVISIONS CONSTITUTE THE LEGAL BASIS OF THE TOOL. HENCE, ITS USE BY LAW ENFORCEMENT AUTHORITIES — WITHIN THEIR INSTITUTIONAL TASKS AND IN FULL RESPECT OF THEIR DUTIES AND OBLIGATIONS — IS COMPLIANT TO THE LAW.

BY USING THIS DATABASE, YOU AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS.

### About the IP Enforcement Portal

To achieve the tasks and objectives assigned by [Regulation \(EU\) No 386/2012](#) of the European Parliament and of the Council of 19 April 2012, through the European Observatory on Infringements of Intellectual Property Rights (the Observatory), the EUIPO developed the IP Enforcement Portal, a secure web-based platform, specifically designed:

- to exchange information between rights holders and enforcement authorities: rights holders of intellectual propriety rights (IPR), customs and police authorities as well as market surveillance authorities, as a tool for information sharing to support IPR enforcement and the detection of IPR infringement;
- to report non-EU IP enforcement cases: rights holders can, on a voluntary basis, give structured information on cases of IPR infringement that the holders are suffering, or have suffered, in non-EU countries and the relevant follow-up actions taken with the local authorities; the database allows for EU institutions to have a comprehensive review of IPR infringement occurrences in third countries;
- to report detention data: enforcement authorities, that is, customs and police authorities as well as market surveillance authorities, can report statistical data on IPR enforcement.

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<sup>1</sup> [Regulation \(EU\) No 386/2012](#) of the European Parliament and of the Council of 19 April 2012 on entrusting the European Union Intellectual Property Office with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights. In particular, Article 2(1)(g), calls for the Observatory to provide ‘mechanisms which help to improve the online exchange, between Member States’ authorities working in the field of intellectual property rights, of information relating to the enforcement of such rights, and fostering cooperation with and between those authorities’.

Regulation (EU) No 386/2012 establishes the legal basis for this technical tool, in particular its Article 2.1(g), which assigns the EUIPO with the task of providing mechanisms to help improve the online exchange of information among EU Member States' authorities, related to IPR enforcement and to provide mechanisms that help improve the online uploading by the EU Member States' enforcement authorities of information relating to IPR enforcement.

Regarding the exchange of information, the aim of the IP Enforcement Portal is to enable rights holders to share information with law enforcement authorities (LEAs) about their products protected by IPR. The general purpose of the IP Enforcement Portal is therefore the collection — from authenticated users — and the storage of information on registered IPR and the relevant products, contact data, supplementary product information — such as packaging details as well as photos of the products — logistics, alerts and information on cases and new trends in IPR infringement (the information), aiming at facilitating the identification of fakes.

Among the data provided by rights holders, only general information about the company and contact data are made available for all enforcement authorities by default; however, rights holders can allow any enforcement authority to have access to other categories of information on a case-by-case basis. Moreover, information uploaded by a rights holder is visible only to LEAs and in no circumstances can other rights holders have access to it.

The data entered by the rights holders into the database cannot be seen by the EUIPO. This data is accessible to the EUIPO strictly for the purposes of maintenance and ensuring the correct functioning of the database. Since April 2019, an exception has been introduced to this general rule: the IP Enforcement Portal team of the EUIPO has access to the *Company Information* and rights holders can share information of their products with the EUIPO IP Enforcement Portal team for the purpose of training enforcement authorities. No other information is visible to EUIPO.

Additionally, through a specific functionality, the IP Enforcement Portal allows IPR holders to electronically file the application for action (AFA) to national customs authorities under Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013, which is subsequently transmitted to the anti-counterfeit and anti-piracy information system (COPIS), the European Commission central database established by this Regulation.

In what refers to the recording of non-EU cases, the purpose of the Portal is the collection and storage of information on IPR infringement cases outside of the EU, from EU companies, registered as authenticated users, and the storage of information on their IPR infringement cases outside of the EU, including information on enforcement action (IPR infringement case), as well as a user's contact data, and their use to create statistics. Rights holders using the IP Enforcement Portal have full access to the statistics in their cases. The overall statistics are also available to all of the other companies presently registered in the IP Enforcement Portal in an anonymised format, so that they cannot identify the company that uploaded the cases or have access to any case details.

The IP Enforcement Portal provides information in 23 languages of the EU through drop-down menus. However, any court decision reporting a non-EU case can be translated by users under the rules of responsibility, as stated in the privacy statements.

## Security and access

### Security

The security of the IP Enforcement Portal is ensured by the EUIPO's general security policy. In the framework of its information security management policy, the EUIPO is certified to ISO 27001 standards, which provides security and protection of information assets to all its IT systems and guarantees their integrity, availability and confidentiality, in compliance with international rules and guidelines.

Moreover, to ensure the highest level of security for its IT systems including the IP Enforcement Portal, the EUIPO is certified to service organisation control (SOC) 2 standards. The SOC 2 report focuses on a business's non-financial reporting control, based upon the internationally recognised 'trust service principles' of security, availability, processing integrity, confidentiality and privacy, ensuring in particular that systems:

- are logically and physically protected from unauthorised access;
- are available for committed or agreed use;
- are complete, accurate, timely and authorised in processing;
- protect information that is designated 'confidential' as committed or agreed;
- collect, use, retain and disclose personal information in conformity with the commitments of the entity's privacy notice and with international privacy standards.

SOC 2 certification is a recurrent process, with the EUIPO being subject to a yearly independent audit.

### Access

- For rights holders

The creation of an account for an IPR holder is based upon a security code, which is assigned on completion of an administrative procedure, which ensures the security of the processing system and confidentiality of the relevant information.

After being assigned a security code and, consequently, access to the IP Enforcement Portal, the IPR holder is the only one responsible for further assignments of the security code to others appointed to manage the account and the relevant data or to create other accounts on behalf of the IPR holder ('sub-accounts' and/or representatives' accounts).

For reporting on non-EU cases, apart from the rights holders (EU businesses), information on cases can also be uploaded by IPR associations, the 'IPR Helpdesks', established within the framework of the project funded by the European Commission to provide first-line advice and information on IPR to EU enterprises and/or EU delegations. EU businesses or any of the other types of users representing them have access only to their own cases.

Depending on the needs of the organisation, a sub-account can be created by the master user and assigned to other persons. In the case of EU businesses, these can be

local representatives, delocalised offices or the like, and can be linked to a geographical area (country) for which they are competent.

- For the exchange of information functionalities and the LEAs

For LEAs to accede to the IP Enforcement Portal, a profile must be created for each LEA in the secure Customs Communication Network (CCN) — or in other secure networks used by the enforcement authorities at EU or national level to connect to the CCN.

The CCN is a network developed and operated by the EU Commission's Directorate General for Taxation and Customs Union (DG Taxud) to support EU common policies in the area of customs, excise and taxation. CCN provides all involved national authorities of the Member States with a secure method of access to all DG Taxud applications. CCN gateways are hosted in national administrations and EU premises, interconnected via a wide area network. Communication via the CCN (through a message-based interface and interactive access to applications) is based on authentication and authorisation mechanisms under the control of each national administration. All access requires identification, authentication and authorisation.

As regards authorities other than customs, in order to facilitate their access to and use of the IP Enforcement Portal, while looking for the best technical procedures to establish the connection to CCN through a secure network, they are allowed to use an internet-based secure connection. This solution ensures security of access and suitable identification and statistics protocols.

It is the responsibility of the LEA with a profile in the IP Enforcement Portal to authorise whether or not another person within their organisation has access to the database for IP enforcement purposes. The LEA will have sole responsibility for the use of the information by any authorised person within its organisation.

Each IPR holder with an IP Enforcement Portal account can monitor the accesses to his or her information by each LEA with a profile in the database.

- For the record of detentions and LEAs

Only LEA officers with the appropriate profiles may upload and validate data in the IP Enforcement Portal.

It is up to each LEA with an account in the IP Enforcement Portal as to whether or not it grants anyone within its organisation access to the database for the purposes of practical use in IPR enforcement. The LEA will bear sole responsibility for use made of the information by any authorised person within its organisation.

- For the record of non-EU cases and the EU institutions

A limited number staff from the following EU institutions has access to the information shared by rights holders through the tool: the EU Commission – DG TRADE, EU delegations and the Observatory’s IP Enforcement Portal team.

DG TRADE and the Observatory have full access to data uploaded by all users. The EU delegations also have full access to data uploaded by all users, but it is restricted to the data of the country where they operate.

They are also able to see cases marked ‘for internal use only’. These cases can, however, not be used by DG TRADE (or the EU delegations) in the course of high-level discussions and/or negotiations with third countries on trade or IPR-related matters, for example in the framework of their ‘IP dialogues’, as the rights holders and/or any representative in the tool have specifically marked them and not agreed to their disclosure.

The EUIPO is committed to ensure the uninterrupted availability of the IP Enforcement Portal. However, access to the IP Enforcement Portal and its functionalities may occasionally be suspended, restricted or impeded to permit repairs, maintenance or the introduction of new functionalities. Should any such event occur, all users will be notified at least 24 hours beforehand. Moreover, the EUIPO makes no representations or warranties of any kind, express or implied, about the completeness, accuracy, reliability, suitability or availability of the information contained in the IP Enforcement Portal.

## **Applicable terms**

Access to, and use of, any part of the IP Enforcement Portal, any document, material or other information contained therein, including data, text, images and sound made available on the IP Enforcement Portal and any of the functionalities provided with the IP Enforcement Portal are governed by these terms and conditions of use and constitute their acceptance by the user.

By accessing the IP Enforcement Portal, the user assumes the responsibility for any use of the information not related to the purposes of the IP Enforcement Portal as described above.

The EUIPO reserves the right to amend these terms and conditions and any other specific terms related to the IP Enforcement Portal at any time by posting amended terms and conditions on the IP Enforcement Portal home page. These amendments will take effect from the date on which they are posted.

## **Ownership**

Rights holders are the sole owners of the information and content they enter in the IP Enforcement Portal and which is made available to the LEAs for the exchange of information function and the EU Commission for the recording of non-EU IP infringement cases.

In what refers to the reporting of detention data, the LEAs are the sole owners of the information that they enter in the IP Enforcement Portal on IP infringement cases and that is then made available to users through the database.

This information and content may be protected by intellectual and industrial property rights. Proprietary rights, including copyright, subsisting in any of the loaded data, are vested in their respective owners. Access to the IP Enforcement Portal does not give users any ownership title of the information. All rights not specifically granted herewith are reserved by the respective owner(s).

## Right of use

Without prejudice to the limitations to the right of use as laid down below in this notice, access to the information and to functionalities of the IP Enforcement Portal is granted, for the enforcement of IP rights purposes of the IP ENFORCEMENT PORTAL and in compliance with the applicable European Union law:

- on the IPR holders' side, to all the holders of an account or sub-account;
- on the LEAs' side, to all their authorised officers;
- on IPR national offices, to their authorised staff.
- for EU institutions: to all holders of an account or sub-account within the services, units or teams that are respectively identified as follows:

As regards the Observatory, full access to information is only provided to the Observatory's project team created to implement the single collaborative IT platform for IPR enforcement (EU IPR Enforcement platform), as well as to any other team member within the EUIPO's Digital Transformation Department involved in that project, as far as access to information in the production environment is necessary for their work.

As regards DG TRADE, only officials working in the IPR unit of DG TRADE, as well as any other official directly related to the IPR projects of this unit, as far as access to the information is necessary for their work.

As regards the EU delegations, only officials working in the specific delegation, such as an IP attaché or similar, will have full access to the information provided.

The holder of an account or sub-account has the right to use any data relevant to him or her entered in the IP Enforcement Portal by the LEAs, namely that containing information on suspicious cases of infringement, which may serve the purposes of protection of his or her own rights.

The holder of an account or sub-account can make use of his or her own information for training purposes or awareness initiatives aimed at IPR enforcement.

The LEAs have the right to use information made available in the IP Enforcement Portal only in pursuing their respective institutional enforcement tasks and, as regards customs, in full respect of obligations and within the faculties set forth by Article 12 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013, laying down the Union Customs Code (Communication of information and data protection). With particular

reference to their activities for IPR enforcement, use of information by the LEAs can include risk assessment, the planning of anti-fraud and control activities, informing IPR holders of suspicious cases and data collection for the purposes of statistics.

The EUIPO has the right to store information made available by rights holders and by the LEAs — other than that contained in the ‘alerts’ and ‘suspicious cases’ or in the AFA submitted through the IP Enforcement Portal under Regulation No 608/2013, containing nominal data — for the purposes of the IP Enforcement Portal only, in full respect of the applicable European Union law and within the terms and conditions of the IP Enforcement Portal privacy statement.

The EUIPO has the right to use statistical data to:

- develop tools for the LEAs to support risk analysis in the field of counterfeiting;
- provide statistics to support the monitoring, improvement and development of the system (number of accesses, number of accounts/sub-accounts, number of products, products categories, number of suspicious cases, etc.);
- provide data for the EUIPO’s economic studies;
- develop tools and knowledge-building activities for the benefit of the LEAs and private sector, to enhance IPR protection at international level;
- draft additional analytical reports on progressions and trends.

The EUIPO has the right to use the user’s contact data (names, surnames and email addresses) to:

- help them manage their account and related sub-accounts;
- provide any technical support as required;
- provide them with IP Enforcement Portal related information and news.

### **Limitations to the right of use**

The LEAs must abstain from all use of information made available by rights holders contrary to their obligations set forth in the corresponding legal framework and in particular by Article 12 of the Union Customs Code as regards the use by customs. Moreover, they must abstain from any download activity of information, data, documents, images, video, etc., from the IP Enforcement Portal for purposes other than for IPR enforcement.

The EUIPO has no right to process data stored in the IP Enforcement Portal for purposes other than those listed in the previous paragraph.

All users must abstain from:

- performing any activity that could harm or violate the IP Enforcement Portal and/or the EUIPO’s network performance and/or security and, in particular, upload files containing viruses or other malware that might damage the operation of another user’s computer;

- using any information uploaded in the IP Enforcement Portal – including any download activity of documents – for purposes other than those indicated in this notice.
- using integration techniques, such as framing and inline linking with the IP Enforcement Portal and the information therein.

## Obligations of IP rights holders

Rights holders must respect the obligations below.

To provide accurate and honest information and timely updates. In the event that this is not possible, they must inform the Observatory of any changes that need updating, making use of the dedicated mailbox at [ipenforcementportal@euipo.europa.eu](mailto:ipenforcementportal@euipo.europa.eu).

To ensure accessibility to and the quality of all documents uploaded to the IP Enforcement Portal and their reliability, genuineness and safety, to the best of their possibilities.

To ensure all personal data uploaded is compliant with data protection rules as set forth in the privacy statements of the IP Enforcement Portal, as well as with the rules applicable in their countries on the upload of decisions, in particular to the whitening out of personal data in the text of the uploaded and translated decisions.

To ensure accessibility to as well as the reliability, genuineness and safety of all the websites that they may include in the respective company information section of the IP Enforcement Portal.

To inform the EUIPO, in a timely manner, of any malfunctioning of the IP Enforcement Portal as well as of any misuse of it that they may become aware of, making use of the above dedicated mailbox.

## Disclaimer

By making use of any information on the IP Enforcement Portal, the user agrees to the following.

Information provided to the IP Enforcement Portal by users is displayed 'as is', without any express or implied guarantee by the EUIPO of accuracy and reliability, and is for the IP Enforcement Portal's purposes only. Users remain solely responsible for any use, adaptation or misuse of any of the information or content in the IP Enforcement Portal.

The user henceforth accepts the translation of all content, which is uploaded to the database, provided by the IP Enforcement Portal through the use of drop-down menus.

While it strives to keep the information up to date and accurate, the EUIPO makes no express or implied claims, assurances, or guarantees about the accuracy, completeness, reliability, suitability, availability or adequacy of the information contained in the IP Enforcement Portal. The EUIPO therefore expressly disclaims its liability for errors and omissions to the maximum extent permitted by law and it assumes or undertakes **no liability** for any loss or damage

suffered as a result of the use, misuse, unavailability or reliance by the user on the information and content of the IP Enforcement Portal.

The EUIPO accepts no responsibility for any loss or damage that may arise from the use of the information provided via the IP Enforcement Portal.

## Contact

With respect to matters concerning the IP Enforcement Portal, please contact the Observatory through the dedicated mailbox at [ipenforcementPortal@euipo.europa.eu](mailto:ipenforcementPortal@euipo.europa.eu). For questions relating to the protection of personal data, please find the conditions under the related [privacy statements](#) on the data protection page of the Observatory web page. For further questions please contact the EUIPO's Data Protection Officer at [DataProtectionOfficer@euipo.europa.eu](mailto:DataProtectionOfficer@euipo.europa.eu).

For all issues not covered by the present terms and conditions of use, reference is made — *mutatis mutandi* — to the General Terms for the Observatory's website.