

# REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS: RESULTS AT EU BORDERS AND IN MEMBER STATES 2013-2017



# REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS: RESULTS AT EU BORDERS AND IN MEMBER STATES 2013-2017

September 2019

## EXECUTIVE SUMMARY

REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS:

RESULTS AT EU BORDERS AND IN MEMBER STATES 2013-2017

In 2012 the EUIPO<sup>(1)</sup> created the Anti-Counterfeiting Intelligence Support Tool (ACIST). In 2013, following the mandate to its European Observatory on Infringements of Intellectual Property Rights (the Observatory)<sup>(2)</sup>, the EUIPO made the ACIST database available to all law enforcement authorities in every EU Member State, thus launching the 'ACIST community'.

The database, which from June 2019 was integrated into the IP Enforcement Portal, gathers statistics on detentions of goods that are suspected of infringing IP rights and converts the collected data into a harmonised format so that they can be compared and aggregated.

The report on the EU enforcement of intellectual property rights: results at the EU borders and in Member States 2013-2017 is the first joint analysis of two sources of data, namely, detentions at EU borders and within national markets.

This first issue on detentions of counterfeit and pirated goods<sup>(3)</sup> is planned to be updated and published regularly. The report was produced by the EUIPO following analysis of the data on detentions at EU borders reported and published in the IP Enforcement Portal by customs authorities via DG TAXUD, and on detentions within their national markets by 24 of the 28 Member State enforcement authorities.

The objective of the report is to inform EU enforcers and policymakers of the trends and estimates of the counterfeit and pirated goods detained, and to develop an evidence base for future policies and priorities.

At the time of preparing this report, the figures for detentions at EU borders were available for 100 % of the Member States for the period reviewed. However, the data for detentions within their national markets were not available for every Member State or for every year analysed. In some cases, none of the Member State enforcement authorities had shared their data with the ACIST community, while others had not provided full datasets. Limitations in the availability of data on national market detentions may affect in part the results obtained, in particular at national level.

### **Aggregated detention data: borders and the national markets**

This report allows a first, overarching view of the detentions of fake products during the period 2013-2017, as reported to the IP Enforcement Portal by EU Member States both at EU borders and in their national markets.

- The **volume** of fake items detained in the EU between 2013-2017 was approximately **438 million**

---

<sup>1)</sup> OHIM at the time.

<sup>2)</sup> Article 2(1) of Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) 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 ([Official Journal of the European Union L 129/1 of 16.5.2012](#)).

<sup>3)</sup> In this report the term 'counterfeit' refers to tangible goods that infringe trade marks, designs or patents and the term 'pirated' to tangible goods that infringe copyright. However, the term 'fake' refers by extension to tangible goods that infringe any kind of IP right. In this sense, the IP Enforcement Portal includes data on the detention of any kind of fake goods.

**items.** This equates to one fake item detained per EU citizen (aged 15 years and over) for the period. About 30-40 % of these were detained at EU borders, and the rest in the national markets.

- The **estimated value** of fake items detained in the EU amounted to some **EUR 12 billion**. This value is almost equivalent to the 2018 GDP of a EU Member State such as Malta. About 70-85 % of the total value of detained items reported was accounted for by detentions in the national markets, while the remainder was detained at EU borders.

The **10 Member States** with the highest number of detentions reported accounted for **almost 90 % by volume** and **95 % by estimated value** of the items. Italy recorded the highest individual figures, with 54 % by volume and 60 % by estimated value. However, there is no data currently available for national markets detentions in some of the larger Member States, such as Germany, Poland and, in part, the United Kingdom.

The 4 most common subcategories<sup>(4)</sup> of detained products in terms of the number of items detained were *Clothing accessories*, *Toys*, *Recorded CDs/DVDs* and *Cigarettes*. These 4 accounted for more than 33 % of the products recorded.

In terms of estimated value of the items reported, the top 4 subcategories of products identified were, similarly, *Clothing accessories* and *Recorded CDs/DVDs*, but also *Watches* and *Bags, wallets, purses*. The latter four represented almost 50 % of the estimated value of detentions during the period 2013-2017.

The distribution of IP rights allegedly infringed by fake products at the moment of detention shows that **trade marks predominate**. Trade mark infringement accounted for almost 70 % by volume and 54 % by estimated value of detentions at EU borders and in the national markets.

### **Detentions at EU borders**

Following a peak in 2014, the annual number of operations relating to the detention of counterfeit goods by customs authorities at EU borders has gradually decreased. The number of items detained and their estimated values have also decreased, albeit at a slower pace, apart from temporarily rising in 2015 and 2016. However, despite the decrease, there was a sustained increase in the efficiency of operations during the period, as shown by the indicators for the volume and value of items per case. These results are noteworthy in a context of increasing usage by counterfeiters of types of shipments “inefficient per se”.

- In terms of number of procedures, the product subcategories appearing in most procedures during the period at stake were Common Consumer products (Clothing and Footwear) and Luxury products (Bags, wallets, purses and Watches). In turn, in terms of the number of articles detained, those subcategories in which the unitary item is usually smaller in size and value and are mainly transported in bigger shipments in containers or trucks (Cigarettes, small Toys, Foodstuffs such as sweets and bubble gum), led the ranking of the aggregated period.
- Regarding the estimated value of the products detained, Luxury products whose corresponding genuine item had a high unitary domestic retail value (in particular due to the brands involved) such as Watches, Bags, wallets, purses and Perfumes and cosmetics, led the ranking of the aggregated period.
- The historical series showed that the preponderance of China (with Toys and Cigarettes) and the

---

<sup>4)</sup> See the classification of products used in this report in **Error! Reference source not found.** and **Error! Reference source not found.**

appearance in this top 5 ranking of Hong Kong, China (with Packaging material and Labels, tags, stickers) and Turkey (with Clothing and Perfumes and cosmetics) were constant, whereas Malaysia (with Other body care items and Toys) showed a downwards trend.

### **Detentions within the EU**

Specific analysis of the data related to detentions within the Member State national markets shows many similarities with the joint overall figures (in EU Internal Market and at EU borders aggregated). This demonstrates the weight and scale of the detentions carried out in the Member States.

- For both volume and estimated value, the trend reflected that **the top 5 Member States accounted for around 97 % of total detentions** in the national markets for the period analysed. For both criteria Italy led the way, with 77 % of the detentions. France and Spain appeared in both of the top 5 rankings of EU national markets detentions by volume and estimated value. However, this could change significantly once data from all Member States has been reported to the IP Enforcement Portal.
- From the top 4 product subcategories identified in terms of volume (40 % of items reported as detained during the period), Clothing accessories and Recorded CDs/DVDs were listed as the most detained items within the EU. Clothing and Toys which made up the other two subcategories also appeared in the top 4 most detained at EU borders.
- The recurrence of two specific product subcategories, *packaging material* and *labels, tags, stickers* is relevant, due to their multiplier effect for the production of more fake products.
- In terms of the estimated value of the detained items during the period, from the top 4 subcategories (more than 50 % of the total estimated value of these items), *Clothing accessories* and *Recorded CDs/DVDs* were the most detained, particularly in the Member State national markets, whereas *Watches* and *Sunglasses* appeared in the top 4 most detained subcategories both in the Member State national markets and at EU borders.
- Trade marks predominated as the most infringed right in detentions at EU borders. The other infringed rights, copyright, patents, designs and, to a lesser extent, geographical indications and plant varieties, played more of a role in the national markets. However, it must be noted that IP rights are often unidentified at the reporting stage.

### **Outlook**

This report is a first attempt to provide evidence-based analysis on past detentions of fake products, in order to help EU enforcers combat counterfeiting and piracy.

The analysis of data relating to the detention of counterfeit goods at EU borders and in national markets is limited to data collected by the ACIST community and is, therefore, limited by the type, depth and scope thereof.

Increased cooperation with other enforcement authorities to widen the existing community would significantly improve the relevance and depth of the results.

With the inclusion of ACIST in the newly launched IP Enforcement Portal and the coming additional dashboards planned, this database should become the new analysis tool for IP infringement trends in the EU and available to all those enforcers using it.

REPORT ON THE EU  
ENFORCEMENT OF INTELLECTUAL  
PROPERTY RIGHTS:  
RESULTS AT EU BORDERS AND IN  
MEMBER STATES 2013-2017



SEPTEMBER 2019