

SYNTHESIS REPORT ON IPR INFRINGEMENT 2018

Executive Summary



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Synthesis Report on IPR Infringement

This report brings together the findings of the research carried out since 2013 by the European Union Intellectual Property Office (EUIPO), through the European Observatory on the Infringement of Intellectual Property Rights (Observatory), on the extent, scope and economic consequences of Intellectual Property Right (IPR) infringement in the EU.

The report is intended to tie together the various studies on the value of IP, on the public's perception of it, on the mechanisms used to infringe IP rights and the economic consequences of infringement in order to provide a coherent picture of the state of IPR and IPR infringement in the EU. It also includes a section on the actions being taken to combat infringement. The plan is to publish such a report on an annual basis.

In a study carried out in partnership with the European Patent Office (EPO), the EUIPO found that the total contribution of IPR-intensive industries to the EU economy accounts for approximately 42 % of GDP (EUR 5.7 trillion) and 28 % of employment (plus another 10 % in indirect employment effects in non-IPR intensive sectors). Those sectors also generate a trade surplus of approximately EUR 96 billion with the rest of the world and pay their workers 46 % higher salaries than other sectors.

Because of the high value associated with IPR, infringement of those rights is a lucrative criminal activity, which generates significant costs to the rights owners and to the economy in general.

According to a study carried out by the EUIPO and the OECD in 2016, estimates of IPR infringement in international trade in 2013 could reach as much as 5 % of EU imports, or EUR 85 billion per year.

In a series of sectorial studies, the EUIPO has estimated lost sales in 13 sectors (directly in the industries being analysed and across their associated supply chain), as a result of counterfeiting. These losses totalled more than EUR 100 billion per year.

Abundant value, lenient sentences and high returns on investment, define the incentives for criminal gangs to engage in counterfeiting activities. The modus operandi of such gangs is becoming increasingly complex as technology and distribution channels evolve, hand in hand with the breadth of products being counterfeited.

The business models adopted by counterfeiters make significant use of the internet to distribute their products and to promote the distribution and consumption of illegal digital content. Internet sites selling counterfeit goods benefit from additional advertising revenues from both 'high risk' ads (adult, gaming, and malware) and, paradoxically, from legitimate brands, which then suffer in two ways from advertising on such sites (damage to their own brand and provision of credibility to the hosting website).

In addition to analysing the supply of counterfeit goods and pirated content, the EUIPO has also studied the demand side, that is, the attitudes of EU citizens towards IPR and their willingness to engage in illicit consumption. The incentives for consumers to purchase counterfeit goods include lower prices, easy accessibility and a low degree of social stigma associated with such purchases.

In response to these developments the EUIPO, together with public and private partners, is undertaking and supporting a number of actions to meet these challenges. These actions range from providing rights owners with information on the changing infringement landscape, working with Europol on wider responses to IP crime, not least by funding a specialised IP crime unit within Europol, supporting the European Commission (DG Trade) efforts to address the supply of counterfeit goods in third countries, and by providing citizens with information on the availability of legal digital content offers and on the economic impact of purchasing counterfeit goods or accessing illegal content.

The main sections of the report include:

Economic contribution and the value of IPR

This section contains a summary of the 2016 IP Contribution study which showed that 42 % of EU's GDP and 28 % of employment are generated in IPR-intensive sectors. There is also a summary of the 2015 firm-level study which showed that companies that own at least one trade mark, design or patent exhibit better economic performance than those that do not own any IPR, with the effect being particularly pronounced for SMEs. Finally, there is also a discussion of the 2016 SME Scoreboard which surveyed more than 9 000 SMEs in the EU to examine their use of IPR or the reasons for not using IPRs.

Why and how are IP rights infringed?

This section examines the supply and demand side of the market for infringing goods. On the supply side, the methods used to bring the counterfeit goods to the consumer are discussed, drawing on a

variety of sources and reports, such as the joint EUIPO-Europol situation report from 2017. In separate sub-sections, the business models used by the infringers online are examined, in particular advertising on websites suspected of infringement and the misuse of the domain name system to generate traffic to e-shops selling counterfeit goods.

The final sub-section looks at the demand side: what motivates consumers to infringe IPR. It draws on the 2017 IP Perception study and the 2016 Youth Scoreboard, which show that among the factors cited by citizens as reasons to infringe are the lower prices of counterfeit goods and lower price and greater perceived availability of illicit content online, compared with legal offers.

Economic consequences of IPR infringement

This section turns to the economic impact of infringement on both the private and public sectors of the economy. It draws on the joint EUIPO-OECD studies of counterfeit trade and on the sectorial studies published since 2015 which provide estimates of the economic costs arising from the presence of counterfeit goods in the EU. The impact on both the private sector sales and employment, and the derived impact on public finances are both included. Taken together, these two sets of studies provide a comprehensive picture of the global trade in counterfeit goods (with particular emphasis on imports of fakes into the EU which account for as much as 5 % of total EU imports), the sectors most affected, the provenance of the counterfeits, and the resulting impact on the European economy.

In a final sub-section, the costs of combating IPR infringement by the private sector are examined, drawing on a 2017 survey of almost 1 300 companies in 14 Member States. This survey showed that the costs of dealing with infringement are particularly onerous for smaller companies.

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