



2017 SITUATION REPORT ON COUNTERFEITING AND PIRACY IN THE EUROPEAN UNION

EXECUTIVE SUMMARY

Joint EUIPO / EUROPOL Report



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FOREWORD

2017 Situation Report on Counterfeiting and Piracy in the European Union

This situation report prepared by the EUIPO and Europol once again puts the spotlight on the importance of tackling the international criminals who are among the principle beneficiaries of IPR infringements in the European Union.

It builds upon the previous 2015 report, also jointly developed, by tracking the evolution of counterfeiting and piracy, updating the key conclusions and offering new insights into some of the emerging trends.

IP crime affecting the European Union continues to represent a cause for concern. Criminal activity in this area not only causes potential harm to the health and safety of EU citizens, but also to the environment. It also affects legitimate economies, contributing to reduced revenues for the affected businesses, decreased sales volume and job losses.

The present study confirms that IPR infringements are an important source of income for organised criminal groups. These groups are also often engaged in other crimes, such as drug trafficking, excise fraud, human trafficking or money laundering. Their activities are increasingly facilitated by the use of corruption and document fraud.

Online marketplaces, as highlighted in *SOCTA 2017*, have increasingly become key distribution channels for counterfeit goods, with criminals attempting to copy the notable success of legal online business models.

Other threats are emerging however, and amongst potential challenges, this report explores the expanding use of rail transport between China and the EU, and how IPR infringers may be exploiting this.

In the digital world, the online dissemination of protected content has been identified as a particular issue, with illegal television broadcasts and digital piracy posing a further challenge for enforcement authorities.

The current report continues the efforts undertaken by both EU agencies to develop a clearer picture of the extent of the problem of counterfeiting and piracy, working with leading partners.

It complements, in particular, the EUIPO's development of databases to assist the efforts of enforcement authorities and the EUIPO-Europol collaboration within the recently established Intellectual Property Crime Coordinated Coalition (IPC3). This centre, which has been set up to increase information gathering and to monitor trends in the field of online IP crime and related areas, is already producing significant results. Europol has used it to help take down websites used to sell counterfeit merchandise, to target pirated TV decoders, and to shut down illegal operations using the 'bitcoin' digital currency.

This report confirms that counterfeiting and piracy in the EU is a continuing challenge, with organised criminal groups often 'pulling the strings' and benefiting financially.

It demonstrates that the need for ongoing, enhanced cooperation and education amongst stakeholders and intermediaries is of the utmost importance, to ensure that the fight against such criminality and its effects becomes ever more cohesive and well informed.



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2017 Situation Report on Counterfeiting and Piracy in the European Union

This report, drawn up in partnership between Europol and the EUIPO, is intended to update policymakers, practitioners, businesses and the general public on the current counterfeiting and piracy landscape in the European Union (EU).

It explores Intellectual Property Rights (IPR) and their value, key product sectors, notable trade routes and countries of provenance for counterfeit products. It also outlines and examines the threat of piracy and other online infringements, and demonstrates how IPR and their protection are foundation stones of the EU economy and society.

The report analyses how organised criminal groups (OCGs) are involved in IPR crime and uses a number of case studies to highlight the dangers posed by their activities. It goes on to examine some of the challenges faced when tackling IPR crimes, and includes a review of a series of initiatives that are in place to combat these crimes.

A number of future outlooks are set out and investigated, including some emerging threats in the world of IPR protection.

The value and stability that IPR-intensive industries lend to society is reflected in the finding that such enterprises remained particularly resilient during and immediately after the global economic crisis, when many other sectors struggled. For the 2011-2013 period, IPR-intensive industries contributed 86 % of imports and 93 % of exports to EU external trade, and 42 % to GDP¹.

IPR crimes, which were calculated to be worth up to USD 461 billion annually worldwide², now taint nearly all types of product and geographical areas. The impact of such criminality leads to a series of hidden knock-on effects on citizens, businesses and governments, and limits the opportunity for legitimate IPR-intensive businesses to reinvest in research, development and employment, which constitutes a serious threat to future growth.

For certain product types, some Member States (MS) seize a lower proportion of counterfeits by value than their ratio of overall legitimate imports may indicate. This suggests that authorities fighting IPR crime at the external borders in some regions may benefit from risk assessments of a given product group in order to target illegal imports more effectively. The work of customs authorities to detain IPR-infringing goods at the external borders continues to be very important, even though they are only able to stop a relatively low proportion of the total counterfeit imports arriving in the EU annually.

China remains the key country of provenance for counterfeit goods, and Hong Kong acts as a transit point for goods originally manufactured in China, but other countries also have specific trading characteristics. For instance, Turkey has been linked with Bulgaria and Belgium through trade in counterfeit labels, tags and stickers, which facilitates internal manufacture.

Free trade zones (FTZ) continue to be associated with a number of IPR crimes, and harmonised enforcement standards are still required in certain geographical areas.

¹ European Patent Office and the European Union Intellectual Property Office, *Intellectual property rights intensive industries and economic performance in the European Union*, 2016, p. 6. Available at: https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/IPContributionStudy/performance_in_the_European_Union/performance_in_the_European_Union_full.pdf.

² OECD/EUIPO (2016), *Trade in counterfeit and pirated goods mapping the economic impact*, 2016, p. 11. Available at: <http://www.oecd.org/gov/risk/trade-in-counterfeit-and-pirated-goods-9789264252653-en.htm>.

EU-based criminals rely predominantly on manufacturers based abroad, but then organise importation, transportation, storage and distribution of the counterfeit goods within the EU. However, this report demonstrates how some are also active manufacturers within the EU. Such internal counterfeit manufacture is facilitated by the use of fake labels and packaging imported from outside the EU and is often orchestrated by OCGs; there are indications that such criminality is on the rise.

Counterfeit goods are increasingly distributed via online marketplaces. Products sold on the internet are usually distributed in small parcels via postal and express freight services, often directly to customers, and the growing role of technologies in IPR crime has been noted.

OCGs linked to IPR crime are often poly-criminal, and are also engaged in other crimes, such as drug trafficking, excise fraud, human trafficking and money laundering. Document fraud and corruption continue to greatly facilitate criminal activities in this area.

In the digital world, the online dissemination of protected content has been identified as a particular issue. Illegal television broadcasts pose a further challenge for enforcement authorities and fraud also continues to be rife and closely connected to acts of digital piracy.

This report highlights and defines how those at the forefront of fighting IPR crime still operate under a number of constraints and face specific challenges, such as the need to coordinate cross-border investigations and tackle new technologies that criminals are using to hide their locations and activities.

Low penalties render IPR crime attractive to criminals and, with the prospect of punishing a defendant with an extremely low penalty, pursuing such cases in the first place may not appeal greatly to certain authorities in some MS.

Terrorism, cybercrime, migrant smuggling, drug trafficking, and other areas of criminal activity have all moved centre stage in the global law enforcement environment and IPR crimes have become less of a priority. This update reveals how IPR crime is still one of the most lucrative criminal enterprises however, and it continues to be closely linked to other criminal activities.

Nevertheless, new threats in the IPR crime landscape are emerging and this report sets out specific concerns regarding the increasing use of rail transport as a method of cargo conveyance between China and the EU, and how IPR infringers may be exploiting this in a hitherto unquantified manner. Digitalisation of trading and transport systems is expected to bring new opportunities for criminals.

In all aspects of IPR crime enforcement, there is an identified and ongoing need for enhanced cooperation and education amongst all stakeholders and intermediaries to ensure that the fight against such criminality and its effects becomes more cohesive and well informed.

Finally, IPR crime and the criminals associated with it are fluid in nature and many of the threats and situations detailed in this report are developing on a daily basis. The overarching conclusion however, is that in all areas of IPR crime, complacency or acceptance at any level would be ill-advised.



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