



European Communities Trade Mark Association

**European Counterfeiting and Piracy Observatory
Sub-Group on Legal Framework
Eighth Meeting (31 May 2010, Brussels)**

Reported by Olivier Vrins, Member of the ECTA Anti-Counterfeiting Committee, Altius, BE

Chair:	Benoît Lory	DG MARKT
Commission:	Zuzana Hečková	DG MARKT
	Chiara Santangelo	DG MARKT
	Corina Ullrich	DG MARKT
Stakeholders:	Ted Shapiro	MPA
	Allen Dixon	BASCAP representative
	Charlotte Lund Thomsen	IVF
	Olivia Regnier	IFPI
	Lisa Peets	BSA representative
	Ann-Charlotte Söderlund	SACG representative
	Ronald Brohm	SNB-REACT
	Prof. Cesare Galli	INDICAM representative

The eighth meeting of the Legal Sub-group of the European Observatory on Counterfeiting and Piracy took place on 31 May 2010 under the chairmanship of Mr. Benoît Lory, DG Internal Market and Services. Discussions focused on the written submission to the Public Consultation launched by DG TAXUD on the review of the Council Regulation (EC) No 1383/2003, as well as the preliminary findings of the evaluation of the implementation/effectiveness of the Enforcement Directive (2004/48/EC) and, more in particular, the written Recommendations on Damages, Corrective Measures and Evidence including the Right of Information, in view of the next plenary session of the Observatory which will take place on 10 June in Madrid. These recommendations, as well as the progress of the Sub-Group's work, will be presented to the Observatory at this occasion.

1. Written submission to the Public Consultation launched by DG TAXUD on the review of the Council Regulation (EC) No 1383/2003

The Sub-Group's members formulated a new wording of their recommendation concerning the "personal allowance" exception. It has been agreed to circulate, as soon as possible, an updated version of this submission for final approval before sending it to DG TAXUD. In the meantime, TAXUD agreed to extend the deadline for filing the submission until 7 June 2010.

The Sub-Group's submission was eventually finalized and filed on 4 June 2010.

2. Meeting of the Observatory of 10 June 2010

Administrative issues concerning the meeting of the European Observatory on Counterfeiting and Piracy on 10 June in Madrid were clarified. The format of the recommendations on damages and corrective measures was agreed.

3. Recommendations on Damages

The almost-final draft of the recommendations on damages was reviewed once again. The issue of burden of proof for the award of lump-sum damages was discussed and a new sentence giving the possibility to a shift of the burden of proof has been formulated. It was agreed to send out an updated version by the first week of June. These recommendations are to be finalized before the plenary meeting of the Observatory on 10 June.

4. Recommendations on Corrective Measures

Recommendations on corrective measures were presented to the Sub-Group by ECTA member Ann-Charlotte Söderlund. It was agreed to send out an updated version by the first week of June. These recommendations are to be finalized before the plenary meeting of the Observatory on 10 June.

5. Draft Recommendations on Evidence and the Right of Information

The meeting continued by analyzing the draft version of the recommendations on evidence and the right of information. It was highlighted that the Sub-group's presentation at the Observatory meeting in Madrid on 10 June 2010 shall contain an overview on the present state and the planned work on the recommendations on evidence and the right of information.

6. Publication of the Sub-Group's documents

The executive summaries and recommendations on damages and correctives measures will, in principle, be published on 10 June 2010 on the website of the Observatory (http://ec.europa.eu/internal_market/iprenforcement/observatory/index_en.htm). As for the evidence and the right of information, it was agreed that the publication of the relevant documents on the Observatory's website would take place later on.

7. Next Meeting

The next meeting of the Sub-Group will take place sometime in July 2010 in Brussels. Topics for the next meeting are injunctions and the recommendations for evidence and the right of information.

30 June 2010