



European Communities Trade Mark Association

Mr. Christophe Zimmermann  
World Customs Organisation WCO/OMD  
Fight against Counterfeiting and Piracy  
Email: christophe.zimmermann@wcoomd.org

Antwerp, 16 November 2006

Dear Mr. Zimmermann,

**Comments from the ECTA Anti-counterfeiting Committee  
on the WCO Draft Action Plan and Customs Kit on IPR Measures**

In the IPR Strategic Group meeting held last 2 and 3 November 2006 at the WCO Headquarters in Brussels, two initiatives were launched, namely the WCO new Action Plan and a Customs Kit containing different measures against counterfeiting and piracy. Interested parties have been invited to submit their comments on these proposals, and therefore on behalf of the Anti-counterfeiting Committee of the European Communities Trade Mark Association (ECTA) we make the following general observations.

First of all the ECTA Anti-counterfeiting Committee wishes to support and congratulate the WCO for these interesting initiatives, which seem to be backed by an intelligent analysis, that will undoubtedly result in practical measures which will prove beneficial to right holders and the public interest.

The WCO Action Plan is structured into 5 groups of Activities, dealing with legislative provisions, training activities, perfecting the WCO tools for improving the risk analysis techniques, improving the visibility of the work of WCO and promoting International relations. These Activities are developed through a set of 48 specific initiatives of a different nature.

The Kit of measures enables members of the WCO to fight counterfeiting and piracy more effectively and is based on 6 key subjects: improvement of Customs legislation, implementation of a risk analysis system, publication of annual statistics, use of the CEN System information exchange, improving cooperation with right holders, and promoting international cooperation.

We will now follow on with a few overall comments which could serve to guide the principles of the Action Plan and the specific measures proposed, without going into detail as regards each particular initiative which we generally support.

1. One of the aspects of concern to right owners is that they are at times forced, quite out of proportion, to bear the cost of the anti-counterfeiting measures. This aspect is

dealt with in the introduction to the Action Plan but we believe that it is not sufficiently elaborated later on.

2. In relation to the legislative proposals, we should underscore the need for customs procedural regulations to be in accordance with the IP substantive legislation. For example, customs legislation enables action to be taken in certain goods customs regimes, such as goods in transit, while in certain jurisdictions no substantive legislation supports those types of actions.

3. As regards the training programmes, ECTA is very interested in actively participating and cooperating with the WCO whilst offering the support of its organisation and experts and also benefiting from the training provided by other WCO experts and customs officers.

4. From a European standpoint of an organisation such as ECTA we believe that the Action Plan should highlight the positive experience that has taken place in the past within the framework of the EU, through its various customs regulations. We feel that it is a reference that should be expressly taken into account.

5. There is a legal issue regarding the legislative measures that are necessary to face the problem of false transport documents. This is an issue that not only concerns counterfeiting and IP protection, but also the general prevention of crime. In any event, it is extremely important vis-à-vis facilitating the fight against counterfeiting and piracy, and should be expressly faced.

6. As regards the different Tools used by the national customs authorities, at times they are not sufficiently well-known by the right holders which prevents adequate cooperation. This is an issue which we believe the Action Plan should focus on.

Finally, we wish to take this opportunity to express ECTA's interest in acquiring an informal observer status in the WCO IPR Strategic Group.

Once again we congratulate WCO for this initiative and on behalf of ECTA we remain at your disposal and look forward to further collaboration.

Regards,



Ignacio D. Rivera Elzaburu  
Chairman  
Anti-counterfeiting Committee



Mireia Curell  
President