IPR Enforcement

Ralph Heinrich
UNECE Team of Specialists on Intellectual Property
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The UN Economic Commission for Europe (ECE)
UNECE Committee on Economic Cooperation and Integration (CECI)

- Innovation and Competitiveness
- Public-Private Partnerships
- Entrepreneurship and Enterprise development
- Financing Innovation and Intellectual Property Rights
Adverse Effects of Counterfeit and Piracy on Rights Holders

- brand value dilution
- unfair competition
- cost of fighting counterfeit and piracy
- potential liability for unsafe fake goods
- lower sales
- \( \Rightarrow \) lower profitability and shareholder value
Adverse Effects of Counterfeit and Piracy on Consumers

- health and safety risks
- loss of utility (when unknowingly buying fakes)
Adverse Effects of Counterfeit and Piracy on Government

- lost tax revenue
- cost of fighting counterfeit and piracy
- possibly corruption and undermining of state institutions
Adverse Effects of Counterfeit and Piracy on Economy and Society

• weaker incentives to innovate
• … and to maintain product quality
• shadow economy
  – strengthening of organised crime
  – lower environmental and labour standards
• negative effects on FDI, trade, technology transfer
• hence lower long-term growth and living standards
Problem has been increasing!

- Seizures at EU borders up more than 10 fold in 10 years
- Counterfeit and pirated goods infiltrating legitimate supply chains
- Counterfeit and piracy from luxury to mass market goods
Regional Picture

• Generally a lack of systematic data
• Rapid increase in cases (thru 2008) …
• … in part due to stronger efforts
• Effect of economic crisis still unclear
Regional Picture

- Re-packaging/ re-labelling => importance of internal market surveillance/ policing
- Some important transit countries
- Main origin China, but also some w/in region and domestic producers
- Proximity effect?
Regional Picture

• Types of goods varies by country and import/transit/domestic production
• Typical items: clothes, sports shoes, mobile phone equipment, car parts, watches, perfumes, batteries, cigarettes, alcohol, herbicides
Magnitude of the Damage?
We don’t know!

• Counterfeit and piracy up to US $ 200 billion annually in *international trade* (2005) (OECD)
  – does not include digital goods and services or *domestically produced and consumed* fakes

• “value of counterfeit and pirated goods estimated at over € 500 billion annually” (ICC)

• 10% of medicines sold are estimated to be counterfeit (WHO)
Magnitude of the Damage?

- No economy-wide estimates of job losses or lost economic growth available
- Sectoral estimates vary extremely widely
- … due to data problems
Magnitude of the Damage?

BUT:

• Damage not just from *actual* (hence measurable) infringements!
• Counterfeit and piracy *threat* affects *everyone*!

=> Costs of
   – Counterfeit and piracy prevention
   – Weakened investment incentives
   – Reduced technology transfer
UNECE’s Work

• TOS-IP established in 2006
• provide a forum for the exchange of experiences
• collect/ disseminate good practices and policy recommendations
• engage in capacity building and policy advice at national and sub-regional level
… through

• our network of experts representing
  – government ministries and agencies
  – the business community
  – international organisations
  – professional associations
  – academic institutions

• and our inter-governmental process
Good Practices on Enforcement

• Reduce time and cost to rights holders of taking action
  – Effective provisional measures
  – Ex officio powers for enforcement agencies to act

• Effective criminal sanctions for wilful infringement on commercial scale => Provide adequate deterrence (repeat offenders!)
Good Practices on Enforcement

• Strengthen legal basis for fighting counterfeit and piracy in trans-shipment/transit

• Strengthen regulatory oversight over wholesalers and retailers => **protect legitimate supply chain**
Good Practices on Enforcement

• Training of enforcement officials and judges
• Cooperation and coordination between various IPR enforcement agencies
  – Designated lead agency or
  – Inter-agency coordination group
• Cooperation and coordination between IPR enforcement agencies and internal safety and health enforcement agencies => **tackle counterfeit and piracy on internal market**
Good Practices on Enforcement

- Cooperation between enforcement agencies and rights holders
- Consumer awareness campaigns
- International cooperation
3 Selected UNECE Programs

- Promoting Innovation
- Using Market Surveillance for IPR Enforcement
- Transport Sector Cooperation
Importance of International Support for Innovation

- Effective enforcement requires resources
- IPR enforcement competes w/ other priorities
- Support for innovation as a key driver of economic development
- => helps relax resource constraint
- => gives countries a stake in IPR protection
Importance of International Support for Innovation

- UNECE Committee on Economic Cooperation and Integration (CECI) offers assistance in:
  - Improving national innovation systems,
  - Commercializing own IP
  - Promoting innovative enterprise
  - Promoting innovation financing
Market Surveillance & IPR Enforcement

• UNECE WP on Regulatory Cooperation & Standardization Recommendation “M”
• Involve market surveillance agencies in fight against counterfeits
• Provide for coordination & cooperation w/ IPR enforcement agencies
• Give IPR owners opportunity to exchange information w/ market surveillance agencies
Market Surveillance & IPR Enforcement

• Improve capacity of MSAs to identify counterfeits

• Give authority to inspect for IPR compliance and to inform IPR enforcement agencies &/or rights holders

• Give IPR owners opportunity to exchange information w/ market surveillance agencies
UNECE Transport Sector Work

• Int’l trade in counterfeits relies on carriers
• Today carriers have no legal responsibility
• “Origin laundering” often makes it impossible to get to original producers
• Costs of storing & destroying counterfeits often fall on rights holders
UNECE Transport Sector Work

- UNECE Inland Transport Committee has conventions which might in future be used/serve as precedent for bringing carriers into the fight against counterfeiting
- **CMR convention**: regulates liability between carrier and sender in case of incomplete/inaccurate documentation
UNECE Transport Sector Work

- **TIR convention**: provides an industry-financed international insurance chain to cover liabilities for customs duties/taxes

- **WP on Customs Questions Affecting Transport**: Sept meeting considered abuse of TIR by smugglers
Thank You!

- [http://www.unece.org/ceci/Welcome.html](http://www.unece.org/ceci/Welcome.html)
- mailto: [ralph.heinrich@unece.org](mailto:ralph.heinrich@unece.org)
- phone: +41 22 917 1269