Office for Harmonisation in the Internal Market (Trade Marks and Designs): tasks related to the protection of intellectual property rights

2011/0135(COD) - 09/01/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report drafted by Antonio MASIP HIDALGO (S&D, ES) on the proposal for a regulation of the European Parliament and of the Council on entrusting the Office for Harmonisation in the Internal Market (Trade Marks and Designs) with certain tasks related to the protection of intellectual property rights, including the assembling of public and private sector representatives as a European Observatory on Counterfeiting and Piracy.

It recommended that the European Parliament's position, adopted at first reading under the ordinary legislative procedure, should be to amend the Commission proposal as follows:

Subject matter and scope: Members stipulate that the this Regulation entrusts the Office for Harmonization in the Internal Market with tasks aimed at facilitating and supporting the activities of national authorities, the private sector and the institutions of the Union in the fight against infringements of the intellectual property rights covered by Directive 2004/48/EC on the enforcement of intellectual property rights.

In carrying out these tasks, the Office shall organise, administer and support the gathering of experts, authorities and stakeholders assembled under the name "European Observatory on the infringements of Intellectual Property Rights".

The tasks and activities of the Office under this Regulation do not extend to participation in individual operations or investigations carried out by the competent authorities.

Tasks and activities: the Office shall have the following tasks:

- improving the understanding on the value of intellectual property;
- improving the understanding on the scope and impact of infringements of intellectual property rights;
- assisting in raising citizens' awareness of the impact of infringements of intellectual property rights;
- enhancing the knowledge on technical tools to prevent and tackle the infringement of intellectual property rights, including tracking and tracing systems which help to distinguish genuine from counterfeit products;
- providing mechanisms which help to improve the online exchange, between Member States' authorities working in the field of intellectual property rights, of information related to the enforcement of such rights, and fostering cooperation with and between these authorities.

In the fulfilment of the tasks, the Office shall carry out the **following activities**:

- providing regular assessments and specific reports by economic sector, including an assessment of the effects on SMEs, as well as health, environment, safety and security;
- collecting, analysing and disseminating information regarding best practices between the representatives meeting as the Observatory, and, if applicable, making recommendations for strategies based on such practices;

- drawing up reports and publications to raise awareness among the Union's citizens of the impact of infringements of intellectual property rights, and to this end, organising conferences, events and meetings at European and international levels as well as assisting national and pan-European actions, including on-line and off-line campaigns, principally by providing data and information;
- monitoring the development of new competitive business models that enlarge the legal offer of cultural and creative content, encouraging the exchange of information and raising consumer awareness in this respect;
- organising ad hoc meetings of experts, including meetings of academic experts and meetings of relevant representatives of the civil society, to support its work under this Regulation.

Meetings of the Observatory: in order to carry out the activities, the Office shall invite to meetings of the Observatory, at least once a year, representatives from public administrations, bodies and organisations in the Member States dealing with intellectual property rights and representatives from the private sector, for the purpose of participating in the Office's work under this Regulation. Representatives meeting as the Observatory invited from the private sector shall include a broad, representative and balanced range of Union and national bodies representing the different economic sectors, **including the creative industries**, most concerned by or most experienced in the fight against infringements of intellectual property rights.

Members or other representatives of the European Parliament and representatives from the Commission shall be invited to any of the meetings, either as participants or observers, as appropriate.

The names of the representatives, the agenda and the minutes of the meetings shall be published on the Office's website.

Information obligations: without prejudice to the law governing the processing of personal data and to the protection of confidential information, **private sector representatives** meeting as the Observatory shall, when possible, at the request of the Office:

- inform the Office of policies and strategies in their field of activity on the enforcement of intellectual property rights and any changes thereto;
- provide statistical data on infringements of intellectual property rights in their field of activity.

Content of the work programme and of the management report: the Office shall draw up an annual work programme that prioritises the activities appropriately under this Regulation and for the meetings of the Observatory, in line with the Union's policies and priorities in the field of protection of intellectual property rights, and in cooperation with the Observatory representatives.

The work programme shall be submitted to the Office’s Administrative Board for information. It shall contain an overall assessment of the fulfilment of the Office's tasks as well as observations on the enforcement of intellectual property rights and potential future policies and strategies, including on how to enhance an effective cooperation with and between Member States.

The President of the Office shall consult the Observatory representatives on the relevant parts of the management report referred to in this Article before submitting the report to the European Parliament, the Commission and the Administrative Board.