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

2011/0135(COD) - 19/04/2012 - Final act

PURPOSE: to entrust the Office for Harmonisation in the Internal Market (Trade Marks and Designs) with certain tasks related to the protection of intellectual property rights (IPR).

LEGISLATIVE ACT: Regulation (EU) No 386/2012 of the European Parliament and of the Council on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights.

CONTENT: the Council adopted a Regulation **entrusting the EU's office for harmonisation in the internal market (OHIM) with new tasks related to the enforcement of intellectual property rights**. The adoption follows an agreement with the European Parliament at first reading.

The OHIM, which is the EU's trade marks and designs office, will carry out new tasks aimed at facilitating and supporting the activities of national authorities, the private sector and the EU institutions in the fight against infringements of intellectual property rights.

In carrying out these tasks the OHIM will organise, administer and support the gathering of experts, authorities and stakeholders assembled under the "**European observatory on infringements of intellectual property rights**".

The new tasks of the OHIM do not extend to participation in individual operations or investigations carried out by national authorities.

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

- improving understanding of the value of intellectual property;
- improving understanding of the scope and impact of infringements of intellectual property rights;
- enhancing knowledge of best public and private sector practices to protect intellectual property rights;
- assisting in raising citizens' awareness of the impact of infringements of intellectual property rights;
- enhancing the expertise of persons involved in the enforcement of intellectual property rights;
- enhancing knowledge of technical tools to prevent and tackle infringements of intellectual property rights, including tracking and tracing systems which help to distinguish genuine products from counterfeit ones;
- providing mechanisms which help to improve the online exchange, between Member States' authorities working in the field of intellectual property rights, of information relating to the enforcement of such rights, and fostering cooperation with and between those authorities;
- working, in consultation with Member States, to foster international cooperation with intellectual property offices in third countries so as to build strategies and develop techniques, skills and tools for the enforcement of intellectual property rights.

Meetings of the Observatory: in order to carry out the activities, the Office shall at least **once per year** invite to meetings of the Observatory 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 their participation in the Office's work under this Regulation.

Private-sector representatives invited to meetings of the Observatory shall include a broad, representative and balanced range of Union and national bodies representing the different economic sectors, **including the creative industries**.

Consumer organisations, small and medium-sized enterprises, authors and other creators shall be properly represented.

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

Information obligations: private-sector representatives meeting as the Observatory shall, when possible, at the request of the Office: (a) inform the Office of policies and strategies in their field of activity on the enforcement of intellectual property rights and any changes thereto; (b) 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 appropriately prioritises the activities 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 representatives from the Observatory.

Before submitting the management report to the European Parliament, the Commission and the Administrative Board, the President of the Office shall consult the representatives on the relevant parts of the report.

Evaluation: the Commission shall adopt a report evaluating the application of this Regulation by 6 June 2017. The report shall assess the operation of this Regulation, in particular as regards its impact on the enforcement of intellectual property rights in the internal market.

ENTRY INTO FORCE: 05/06/2012.