

Intellectual Property Rights in Third Countries

Ir. Denis Dambois
European Patent Attorney

European Commission
DG Trade

“Intellectual property and public procurement” unit

- IPR issues : may be difficult in the EU (esp. for SMEs), even more difficult **outside** the EU...
 - Different rules (law, case law, ...)
 - Additional barriers (languages, culture, ...)
 - Less (accessible) documentation (incl. databases, ...)
- Very significant problems regarding IPR **counterfeiting** / enforcement in third countries
 - International trade (only) of counterfeits valued at \$200 billion/year by the OECD report of 2007.
 - 79 million articles seized at EU borders in 2007, with 58% of all fakes coming from China.

EU's objective is to see **high IPR standards respected by third countries.**

This objective is being pursued in different ways:

- The EU works in the **WTO** to improve respect for IP rights and was a key supporter of the Agreement on *Trade-Related Aspects of Intellectual Property Rights* (TRIPs);
- The EU negotiates provisions on IP rights protection in its **bilateral trade agreements** (e.g. FTAs) and works closely at a **technical level** with its trading partners on IP issues (“technical assistance/co-operation”, with participation of EU industry);
- ...

...

- The EU is also involved in the development of a new *Anti-Counterfeiting Trade Agreement (ACTA)*;
- **Operational** initiatives provide support to EU right-holders investing abroad (e.g. "*China IPR SME Helpdesk*");
- **IPR Enforcement Survey** (every 2 years): extensive report on the situation in the most problematic third countries (assessment of positive and negative aspects of IPR enforcement), based on input from EU industry.

Questions that a SME should ask itself (with external assistance if needed)

- It is worth seeking IPR protection within/outside the EU ? (taking into account the effectiveness of local enforcement)
- Which are the main problems in specific countries ? (e.g. deficient protection and/or enforcement mechanisms in specific areas, etc.)
- Is it important to assess freedom-of-use within/outside the EU ?



External Trade

Thank you for your attention !

For more information :

http://ec.europa.eu/trade/issues/sectoral/intell_property