




www.innovaccess.eu

ENFORCEMENTS FAQs BY COUNTRY

- Austria.....	2
- Bulgaria.....	12
- Czech Republic.....	22
- Estonia.....	34
- Finland.....	46
- France.....	58
- Germany.....	66
- Greece.....	84
- Hungary.....	94
- Italy.....	106
- Luxemburg.....	112
- Malta.....	122
- Poland.....	132
- Portugal.....	144
- Romania.....	155
- Spain.....	164
- Sweden.....	169
- Turkey.....	176
- United Kingdom.....	187

LEGEND:

A colour icon describes the complexity of each question as follows:

-  Low
-  Medium
-  High





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Who can file an objection against my patent?
Everybody can file an objection; grounds for objection: - missing novelty; - missing or insufficient disclosure; - patented subject-matter exceeds the content of the original application
- Can I file an objection against a someone else's patent?
Yes, upon existence of a ground for objection.
- Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
An objection can be filed within 4 months from the day when the grant of the patent has been published.
- Who will take a decision on the objection?
The Austrian Patent Office/nullity department decides on the objection.

SIGNPOST

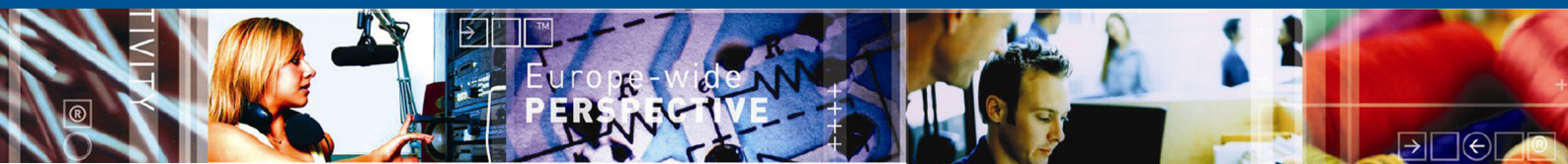
- What signposts exist?
http://www.patentamt.at/Erfindungsschutz/Schutzrechte/Patent_national/; [technical information service: 0043-1-53424-76](#)

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Everybody can file an application for declaration of invalidity; grounds for declaration of invalidity: - missing novelty; - missing or insufficient disclosure; - patented subject-matter exceeds the content of the original application
- Can I file an application for declaration of invalidity of someone else's patent?
Yes, upon existence of a ground for declaration of invalidity.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
An application for declaration of invalidity can be filed during the whole term of the patent. A declaration of invalidity takes the effect as if patent protection has never commenced.

SIGNPOST



- What signposts exist?

http://www.patentamt.at/Erfindungsschutz/Schutzrechte/Patent_national/;%20technical%20information%20service:%200043-1-53424-76

2. PROACTIVE MEASURES

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?

Competent jurisdiction for action for damages: civil courts.

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

Custom seizure constitutes an instrument to combat counterfeiting or product piracy by preventing import, export and transit of goods, which infringe an intellectual property right.

HOW TO PROCEED

- What initial steps are necessary?

To initialize proceedings, an application has to be filed at the Customs Competence Center in Villach.

SIGNPOST

- What signposts exist?

https://www.bmf.gv.at/Zoll/Produktpiraterie/Kontaktadressen_2966.htm





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
Everybody can file a request for cancellation of a utility model; grounds for cancellation: - missing novelty; - missing or insufficient disclosure; - protected subject-matter exceeds the content of the original application
- Can I file a request for the cancellation of someone else's utility model?
Yes, upon existence of a ground for cancellation.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
A request for cancellation can be filed during the whole term of the utility model.
- Who will take a decision on the cancellation?
The Austrian Patent Office decides on the cancellation.

LINKS

- What signpost exists?
Technical information service: 0043-1-53424-76

2. PROACTIVE MEASURES

ACTION FOR DAMAGES

SIGNPOST

- What signpost exists?
Competent jurisdiction for action for damages: civil courts.

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
Custom seizure constitutes an instrument to combat counterfeiting or product piracy by preventing import, export and transit of goods, which infringe an intellectual property right.





www.innovaccess.eu

HOW TO PROCEED

● What initial steps are necessary?

To initialize proceedings, an application has to be filed at the Customs Competence Center in Villach.

SIGNPOST

● What signposts exist?

https://www.bmf.gv.at/Zoll/Produktpiraterie/Kontaktadressen_2966.htm





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
The owner of a trademark with a better priority, which is already registered or at least applied for registration, can file an opposition against a newly registered trademark upon existence of an assumed likelihood of confusion.
- Can I file an opposition against a someone else's trade mark?
Yes, if your trademark is already registered or at least applied for registration and you are of the opinion that there is a likelihood of confusion, you can file an opposition against a newly registered trademark.
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
An opposition can be filed within 3 months from the day when the grant of the trademark, which I want to oppose, has been published.
- Who will take a decision on the opposition?
The Austrian Patent Office/legal department for (national or international) trademarks decides on the opposition.

SIGNPOST

- What signposts exist?
Legal information service: 0043-1-53424-391; http://www.patentamt.at/Markenschutz/Schutzrechte/Marke_national/

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
Depending on the ground for cancellation, the owner of a registered trademark with a better priority (e.g. in case of likelihood of confusion) or even everybody (e.g. in case of non-use of the trademark) can file a request for cancellation.
- Can I file a request for the cancellation of someone else's trade mark?
Yes, upon existence of a ground for cancellation.





● Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
A request for cancellation can be filed during the whole term of the trademark. In case of a request for cancellation because of non-use, the trademark has to be registered for a minimum of 5 years.

● Who will take a decision on the cancellation?
The Austrian Patent Office/nullity department decides on the cancellation.

LINKS

● What signpost exists?
Legal information service: 0043-1-53424-391; http://www.patentamt.at/Markenschutz/Schutzrechte/Marke_national/

LIMITATION

GENERAL INFORMATION

● Who can restrict my trade mark rights?
Trademark rights can be restricted by the Austrian Patent Office/nullity department, only after the filing of a nullity action/request for cancellation by anybody who claims a ground for cancellation/limitation.

● Can I restrict someone else's trade mark?
You can bring in a request for cancellation/limitation of someone else's trademark at the Austrian Patent Office upon existence of a ground for cancellation/limitation.

● Are there specific deadlines/timeframes which I have to observe in connection with limitation?
A request for limitation can be filed during the whole term of the trademark.

SIGNPOST

● What signposts exist?
Legal information service: 0043-1-53424-391; http://www.patentamt.at/Markenschutz/Schutzrechte/Marke_national/

2. PROACTIVE MEASURES

ACTION FOR DAMAGES

SIGNPOST

● What signposts exist?
Competent jurisdiction for action for damages: civil courts.

CUSTOMS SEIZURE





GENERAL INFORMATION

● What does customs seizure mean?

Custom seizure constitutes an instrument to combat counterfeiting or product piracy by preventing import, export and transit of goods, which infringe an intellectual property right.

HOW TO PROCEED

● What initial steps are necessary?

To initialize proceedings, an application has to be filed at the Customs Competence Center in Villach.

SIGNPOST

● What signposts exist?

https://www.bmf.gv.at/Zoll/Produktpiraterie/Kontaktadressen_2966.htm





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Anybody, who is of the opinion that your design should not have been registered (e.g. because of missing novelty, missing character) can file an application for declaration of invalidity.
- Can I file an application for declaration of invalidity of someone else's design?
Yes, upon existence of certain ground for declaration of invalidity.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
An application for declaration of invalidity can be filed during the whole term of the design and even after its expiry/termination upon proof of a legal interest.

SIGNPOST

- What signposts exist?
Legal information service: 0043-1-53424-391; http://www.patentamt.at/Designschutz/Schutzrechte/Muster_national/

2. PROACTIVE MEASURES

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Competent jurisdiction for action for damages: civil courts.

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
Custom seizure constitutes an instrument to combat counterfeiting or product piracy by preventing import, export and transit of goods, which infringe an intellectual property right.





www.innovaccess.eu

HOW TO PROCEED

● What initial steps are necessary?

To initialize proceedings, an application has to be filed at the Customs Competence Center in Villach.

SIGNPOST

● What signposts exist?

https://www.bmf.gv.at/Zoll/Produktpiraterie/Kontaktadressen_2966.htm





Copyright

1. PROACTIVE MEASURES

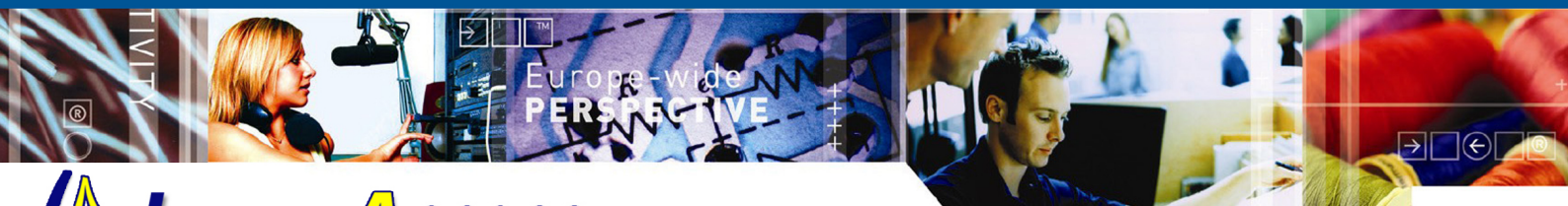
CUSTOMS SEIZURE

SIGNPOST

- What signposts exist?

https://www.bmf.gv.at/Zoll/Produktpiraterie/Kontaktadressen_2966.htm





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Who can file an objection against my patent?
everybody can file it (art.46r) but it concerns a patent application only
- Can I file an objection against a someone else's patent?
Yes, but it concerns a patent application only
- Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
Yes in 3 months period from the date of patent application publication
- Who will take a decision on the objection?
the examiner of the patent application

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs

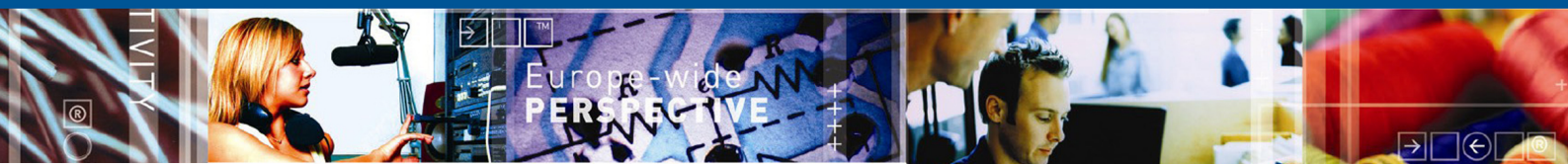
NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
everybody can file it (art 55 (2))
- Can I file an application for declaration of invalidity of someone else's patent?
Yes
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
No (art 56(2))

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs



www.innovaccess.eu

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs

CUSTOMS SEIZURE

HOW TO PROCEED

- What initial steps are necessary?
the owner shall file a written request that includes description of goods, copy of the patent, registered utility model or SPC and letter-certificatory by the Patent Office that they are in force





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
everybody can file it (art 55 (2))
- Can I file a request for the cancellation of someone else's utility model?
Yes
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
No (art 56(2))
- Who will take a decision on the cancellation?
department of disputes

LINKS

- What signpost exists?
web site bpo.bg guide for SMEs

2. PROACTIVE MEASURES

ACTION FOR DAMAGES

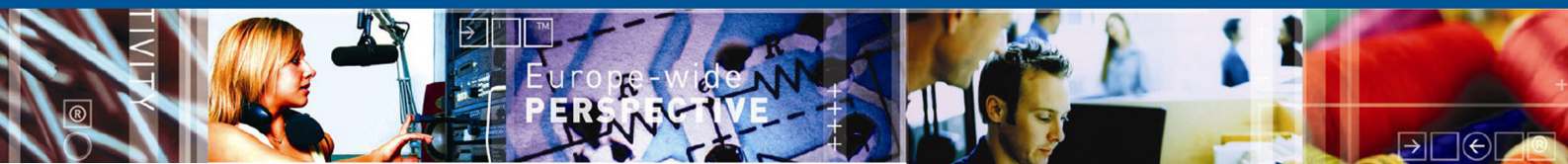
SIGNPOST

- What signpost exists?
web site bpo.bg guide for SMEs

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
(art. 83a, 836) it concerns goods that are protected by patent or registered utility model or SPC



HOW TO PROCEED

● What initial steps are necessary?

the owner shall file a written request that includes description of goods, copy of the patent, registered utility model or SPC and letter-certificatory by the Patent Office that they are in force

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

web site bpo.bg guide for SMEs

www.innovaccess.eu





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
everybody can file it (art.365) but it concerns a trademark application only
- Can I file an opposition against a someone else's trade mark?
Yes, but it concerns a trademark application only
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
Yes in 2 months period from the date of trademark application publication

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
everybody can file it (art 42 (1))
- Can I file a request for the cancellation of someone else's trade mark?
Yes
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
No (art 43(1))
- Who will take a decision on the cancellation?
department of disputes

LINKS

- What signpost exists?
web site bpo.bg guide for SMEs



LIMITATION

GENERAL INFORMATION

- Who can restrict my trade mark rights?
everybody can file it (art 42 (1) and 46(5))
- Can I restrict someone else's trade mark?
Yes
- Are there specific deadlines/timeframes which I have to observe in connection with limitation?
No (art 43(1))

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs

CUSTOMS SEIZURE

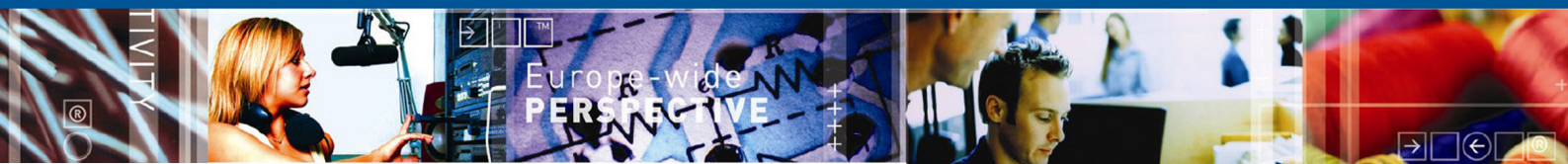
GENERAL INFORMATION

- What does customs seizure mean?
(art. 78, 79) it concerns goods that are protected by registered trademark

HOW TO PROCEED

- What initial steps are necessary?
the owner shall file a written request that includes description of goods, copy of the registered trademark and letter-certificatory by the Patent Office that it is in force

SIGNPOST



www.innovaccess.eu

- What signposts exist?
web site bpo.bg guide for SMEs

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
everybody can file it (art 41 (1)) but it is also possible to file opposition against a design application (art.366)
- Can I file an application for declaration of invalidity of someone else's design?
Yes
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
no (art 42(2))

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs

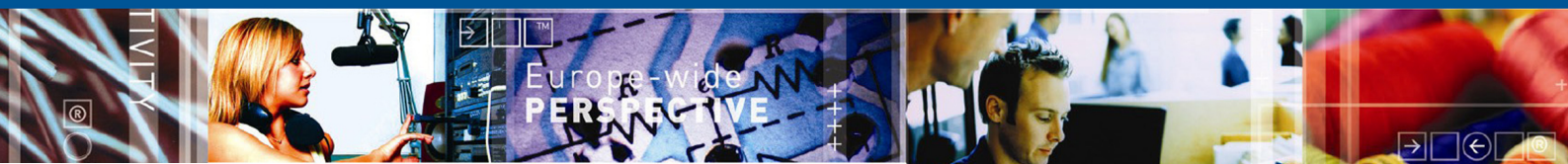
ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs

CUSTOMS SEIZURE

GENERAL INFORMATION



www.innovaccess.eu

- What does customs seizure mean?
(art. 62, 63) it concerns goods that are protected by registered design

HOW TO PROCEED

- What initial steps are necessary?
the owner shall file a written request that includes description of goods, copy of the registered design and letter-certificatory by the Patent Office that it is in force

SIGNPOST

- What signposts exist?
web site bpo.bg guide for SMEs





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
guide for SMEs

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
guide for SMEs

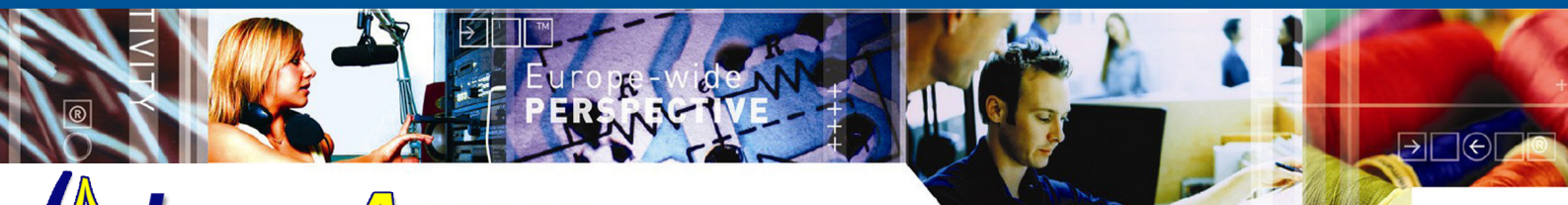
2. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
guide for SMEs





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Who can file an objection against my patent?
Any individual
- Can I file an objection against a someone else's patent?
Yes
- Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
The national legislation does not state any timeframes. Any time during proceedings before granting.
- Who will take a decision on the objection?
IPO, during substantive examination

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association

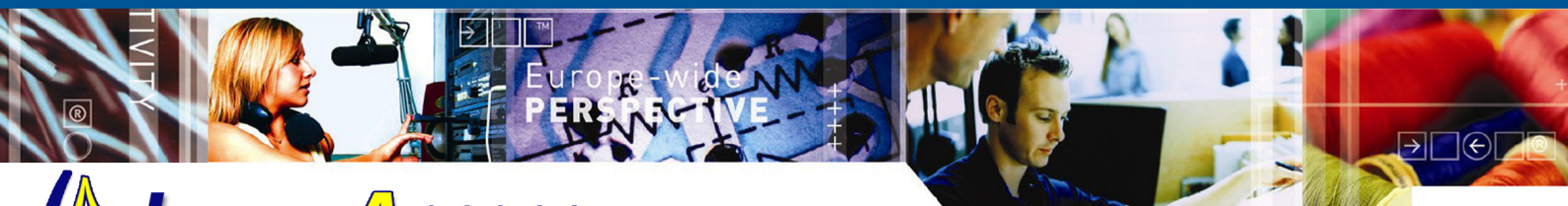
NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Any individual, however there are exceptions, pursuant to Czech Patent Act No 527/1990 (see art. 23)
- Can I file an application for declaration of invalidity of someone else's patent?
Yes, however there are exceptions, pursuant to Czech Patent Act No 527/1990 (see art. 23)
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
The national legislation does not state any timeframes.

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association



2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association, Police of the Czech Republic

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
The customs can cease (or upon request of the right holder - Application for Action) suspected goods for the period of three days

HOW TO PROCEED

- What initial steps are necessary?
Written request - Application for Action

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association, Customs Administration of the Czech Republic

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association, Customs Administration of the Czech Republic, Police of the Czech Republic

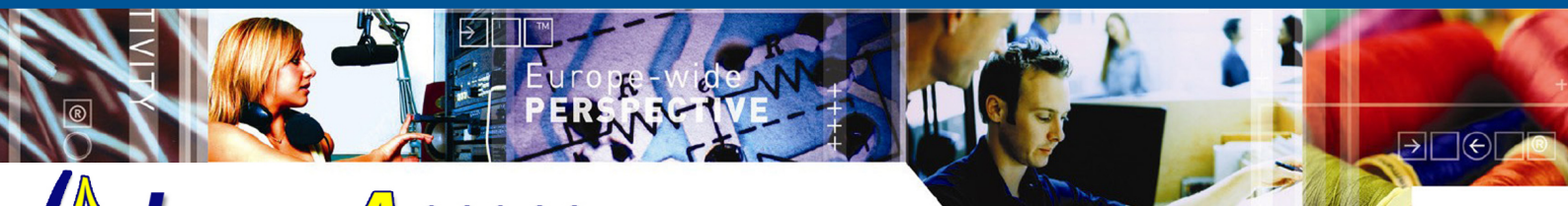


ENFORCEMENT FAQs FOR CZECH REPUBLIC



www.innovaccess.eu





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
Any individual, however there are exceptions, pursuant to Czech Utility Model Act No. 478/1992 (see art. 17, 18 and 19)
- Can I file a request for the cancellation of someone else's utility model?
Yes, however there are exceptions, pursuant to Czech Utility Model Act (see art. 17, 18 and 19)
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
The national legislation does not state any timeframes, however see art. 17, 18 and 19 of the Czech Utility Model Act No. 478/1992 *
- Who will take a decision on the cancellation?
IPO CZ

LINKS

- What signpost exists?
Chamber of Patent Attorneys, Czech Bar Association

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

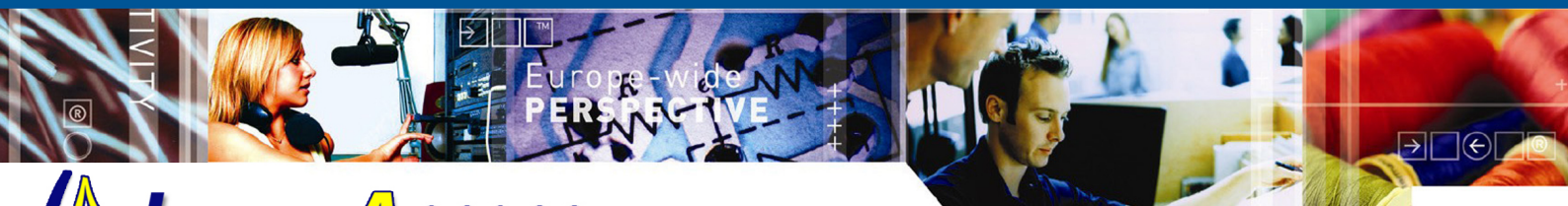
- What signpost exists?
Chamber of Patent Attorneys, Czech Bar Association

ACTION FOR DAMAGES

SIGNPOST

- What signpost exists?
Chamber of Patent Attorneys, Czech Bar Association, Police of the Czech Republic





CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

The customs can seize (or upon request of the right holder - Application for Action) suspected goods for the period of three days

HOW TO PROCEED

● What initial steps are necessary?

Written request - Application for Action

SIGNPOST

● What signposts exist?

Chamber of Patent Attorneys, Czech Bar Association, Customs Administration of the Czech Republic

3. INSTRUMENTS

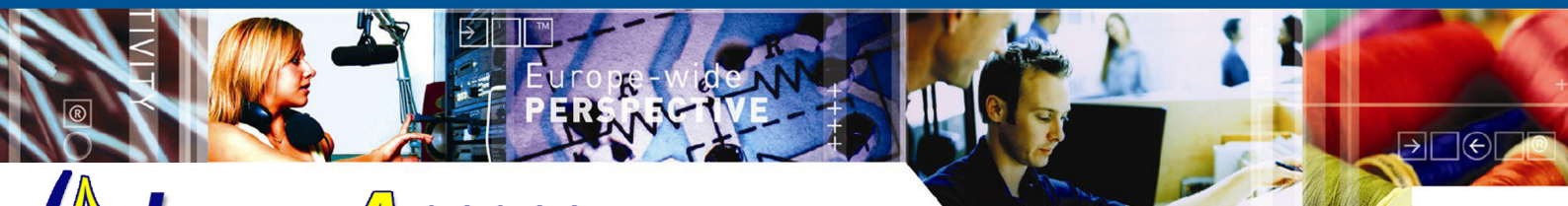
PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

Chamber of Patent Attorneys, Czech Bar Association, Customs Administration of the Czech Republic, Police of the Czech Republic





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
Individuals as per Trademark Act No.441/2003, Article 7
- Can I file an opposition against a someone else's trade mark?
Yes, only against published trademarks
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
Opposition can be filed within 3 months after publishing of the trademark in IPO Bulletin
- Who will take a decision on the opposition?
IPO, Dispute procedures section

SIGNPOST

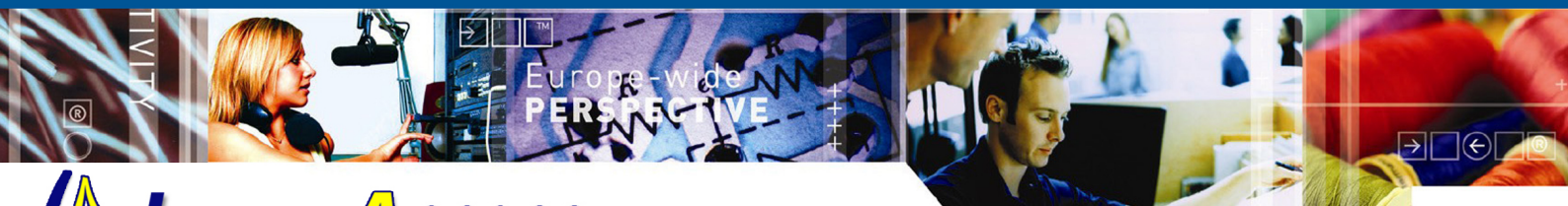
- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
Any individual in accordance with Trademark Act No.441/2003*, Article 31,32
- Can I file a request for the cancellation of someone else's trade mark?
Yes, but only for a registered trademark
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
Anytime after trademark registration
- Who will take a decision on the cancellation?
IPO, Dispute procedures section

LINKS



- What signpost exists?
Chamber of Patent Attorneys, Czech Bar Association

LIMITATION

GENERAL INFORMATION

- Who can restrict my trade mark rights?
Any individual as per Article 7,31 and 32 of Trademark Act No. 441/2003 based on IPO's decision
- Can I restrict someone else's trade mark?
Yes, with reference to Trademark Act No. 441/2003*
- Are there specific deadlines/timeframes which I have to observe in connection with limitation?
Yes, with reference to Trademark Act No. 441/2003

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association

ACTION FOR DAMAGES

SIGNPOST

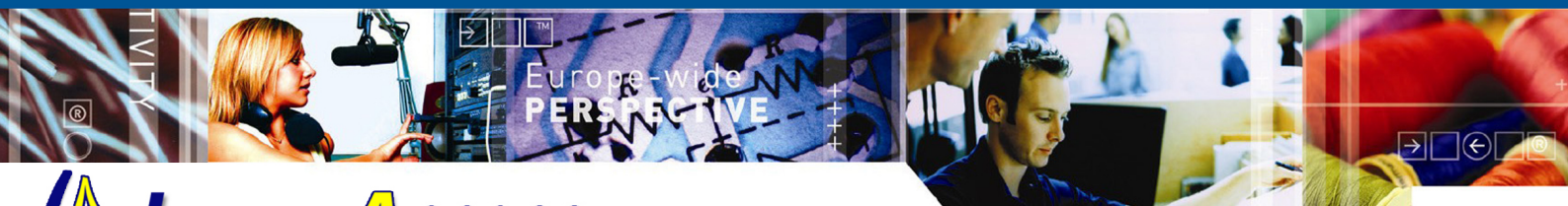
- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association, Police of the Czech Republic

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
The customs can cease (or upon request of the right holder - Application for Action) suspected goods for the period of three days





HOW TO PROCEED

- What initial steps are necessary?
Written request - Application for Action

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association, Customs Administration of the Czech Republic

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association, Customs Administration of the Czech Republic, Police of the Czech Republic





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Absolute grounds - any individual pursuant to Design Act No. 207/2000 (Art. 27 a, b) Relative grounds - only individuals pursuant to Design Act No. 207/2000 (Sect. 27 c, d, e, f, g)
- Can I file an application for declaration of invalidity of someone else's design?
Yes, however there are exceptions, pursuant to Design Act No. 207/2000 (Art. 27 see above)
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
Anytime during the design validity. After its expiration a legal interest must be submitted pursuant to Design Act No. 207/2000

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

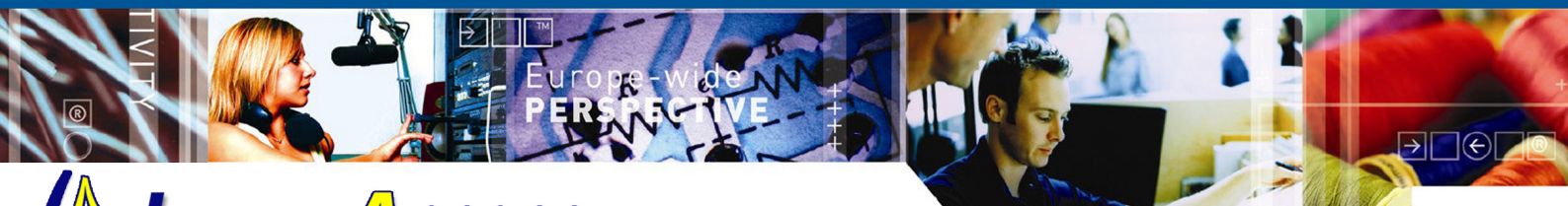
- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Chamber of Patent Attorneys, Czech Bar Association, Police of the Czech Republic

CUSTOMS SEIZURE



GENERAL INFORMATION

● What does customs seizure mean?

The customs can cease (or upon request of the right holder - Application for Action) suspected goods for the period of three days

HOW TO PROCEED

● What initial steps are necessary?

Written request - Application for Action

SIGNPOST

● What signposts exist?

Chamber of Patent Attorneys, Czech Bar Association, Customs Administration of the Czech Republic

3. INSTRUMENTS

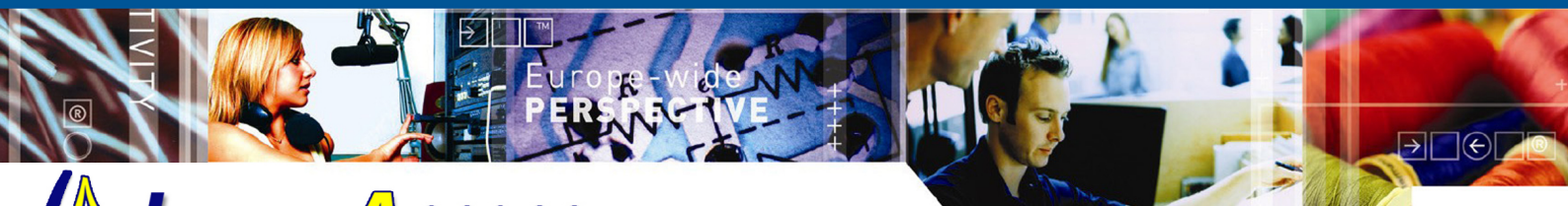
PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

Chamber of Patent Attorneys, Czech Bar Association, Customs Administration of the Czech Republic, Police of the Czech Republic





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
Czech Bar Association, Ministry of Culture

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Czech Bar Association, Ministry of Culture, Police of the Czech Republic

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
The customs can cease (or upon request of the right holder - Application for Action) suspected goods for the period of three days

HOW TO PROCEED

- What initial steps are necessary?
Written request - Application for Action

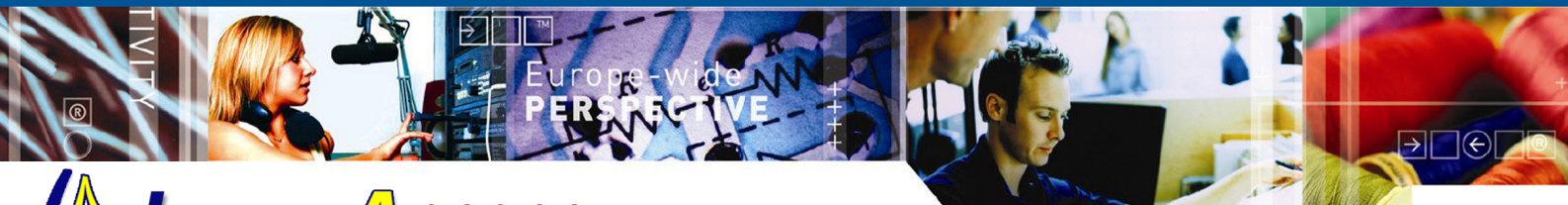
SIGNPOST

- What signposts exist?
Czech Bar Association, Customs Administration of the Czech Republic, Ministry of Culture

2. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST



ENFORCEMENT FAQs FOR CZECH REPUBLIC



What signposts exist?

Czech Bar Association, Ministry of Culture, Customs Administration of the Czech Republic, Police of the Czech Republic

www.innovaccess.eu





Patent

1. DEFENSIVE ACTIONS

OBJECTION


GENERAL INFORMATION

 Who can file an objection against my patent?

An interested person can file an objection against my patent to the Industrial Property Board of Appeal if the invention protected by a patent does not comply with the criteria of patentability (novelty, inventive step, industrial application); the invention is not disclosed in the description of the invention in a sufficiently clear and concise manner to enable a person skilled in the art to make the invention; the invention protected by the patent does not correspond to the subject matter of the invention as disclosed in the initial patent application. The objection may be filed to the court if the invention protected by a patent does not comply with the patentability criteria. The authorship of an invention or the ownership of a patent can be objected only in the court.

 Can I file an objection against a someone else's patent?

Any person may file an objection against a someone else's patent if the ground of objection exists.

 Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?

The objection to the Industrial Property Board of Appeal must be filed within nine months after the publication date of the notice of issue of the patent. The decision of the Board of Appeal can be objected in the court within three months from the date decision was published. There is no deadline for the objection to the court if the invention protected by a patent does not comply with the patentability criteria. The authorship of an invention on non-proprietary disputes can be objected in court without limitation period. Claim on the proprietary dispute relating to the use of an invention must be filed within three years from the date on which the author becomes aware of the infringement of the author's right.

 Who will take a decision on the objection?

The decision on the objection will be taken by the Industrial Property Board of Appeal or by court.


SIGNPOST

 What signposts exist?

IP attorneys (Official Register of Patent Attorneys); Industrial Property Board of Appeal; Advocacy; Courts and Judges. In the Industrial Property Board of Appeal only IP attorney can act as representative. In county court and circuit court IP attorney or advocate can be representatives. In Supreme Court IP attorney can be representative only together with the attorney at law.

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

 Who can file an application for declaration of invalidity of my patent?

An interested person can file an application for declaration of invalidity of my patent. The application may be filed to the Industrial Property Board of Appeal or to the court which depends on grounds on which declaration of invalidity is filed.



● Can I file an application for declaration of invalidity of someone else's patent?

An interested person may file an application for declaration of invalidity of someone else's patent if the grounds of declaration of invalidity of the patent exist.

● Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?

The application to the Industrial Property Board of Appeal with the request of declaration of invalidity of the patent must be filed within nine months after the publication date of the notice of issue of the patent. The decision of the Board of Appeal can be objected in the court within three months from the date decision was published. There is no deadline for the application for declaration of invalidity to the court if the invention protected by a patent does not comply with the patentability criteria.

SIGNPOST

● What signposts exist?

IP attorneys (Official Register of Patent Attorneys); Industrial Property Board of Appeal; Advocacy; Courts and Judges. In the Industrial Property Board of Appeal only IP attorney can act as representative. In county court and circuit court IP attorney or advocate can be representatives. In Supreme Court IP attorney can be representative only together with an attorney at law.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

● What signposts exist?

Estonian Competition Authority

ACTION FOR DAMAGES

SIGNPOST

● What signposts exist?

IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges.

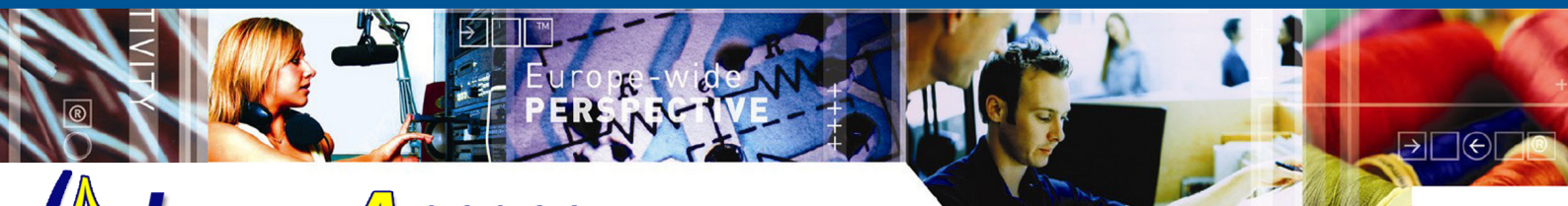
CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

Customs seizure means blocking the entry into the Community and the export and re-export from the Community of goods infringing intellectual property rights.

HOW TO PROCEED



● What initial steps are necessary?

The holder of intellectual property rights must apply applications for customs action to Estonian Tax and Customs Board.

SIGNPOST

● What signposts exist?

Estonian Tax and Customs Board.

3. INSTRUMENTS

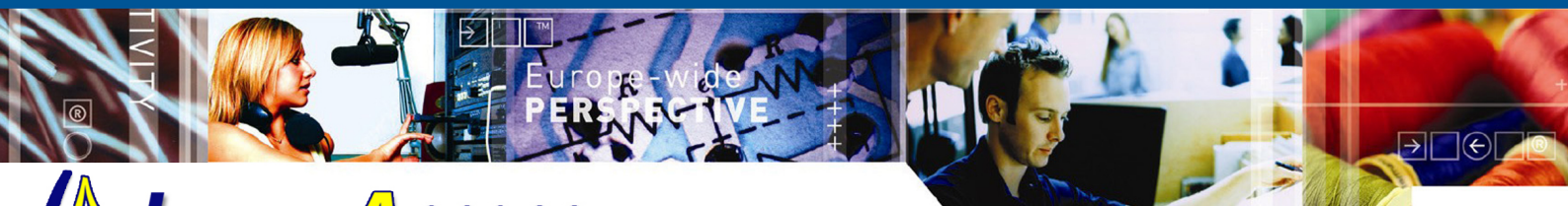
PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges.





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
An interested person who finds my registered utility model does not comply with registration criteria (novelty, inventive step, industrial application, unity of utility model) can file a request for the cancellation of utility model.
- Can I file a request for the cancellation of someone else's utility model?
Any person can file a request for the cancellation of someone else's utility model if the ground of cancellation exists.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
There is no deadline for filing the request for cancellation to the court.
- Who will take a decision on the cancellation?
The decision on the cancellation will be taken by court.

LINKS

- What signpost exists?
IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges. In county court and circuit court IP attorney or advocate can be representatives. In Supreme Court IP attorney can be a representative only together with an attorney at law.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signpost exists?
Estonian Competition Authority

ACTION FOR DAMAGES

SIGNPOST





● What signpost exists?

IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges.

CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

Customs seizure means blocking the entry into the Community and the export and re-export from the Community of goods infringing intellectual property rights.

HOW TO PROCEED

● What initial steps are necessary?

The holder of intellectual property rights must apply application for customs action to Tax and Customs Board.

SIGNPOST

● What signposts exist?

Estonian Tax and Customs Board

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges.









Trade Mark


1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION



-  Who can file an opposition against my trade mark?
An interested person can file an objection against my trademark if absolute or relative grounds (according to the Trade mark act) for refusal of registration of trade mark exist.
-  Can I file an opposition against a someone else's trade mark?
An interested person may file an objection against a someone else's trade mark if the ground of refusal of registration exists.
-  Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
The objection to the Industrial Property Board of Appeal must be filed within two months from the date of publication of the notice of the decision of Patent Office to register a trade mark. The decision of the Industrial Property Board of Appeal may be objected in the court within three months from the date of the decision of the Board of Appeal was published.
-  Who will take a decision on the opposition?
The decision on the objection will be taken by the Industrial Property Board of Appeal or by court.

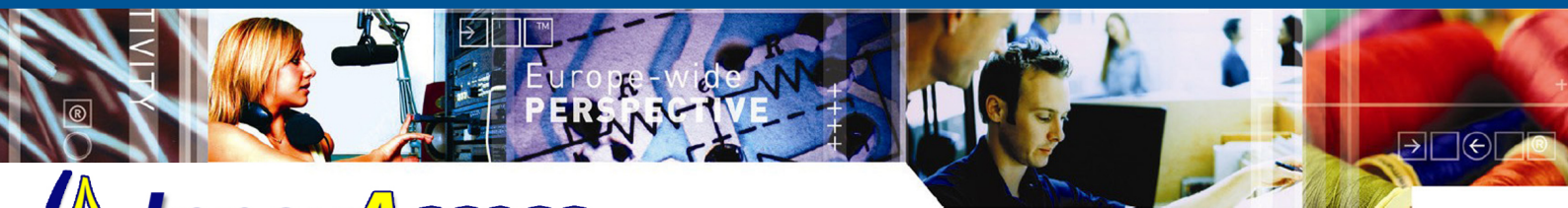
SIGNPOST

-  What signposts exist?
IP attorneys (Official Register of Patent Attorneys); Industrial Property Board of Appeal; Advocacy; Courts and Judges. In the Industrial Property Board of Appeal only IP attorney can act as representative. In county court and circuit court IP attorney or advocate can be representatives. In Supreme Court IP attorney can be representative only together with an attorney at law.

CANCELLATION

GENERAL INFORMATION

-  Who can file a request for the cancellation of my trade mark?
An interested person can request for the cancellation of my trade mark if the absolute or relative grounds (according to the Trade mark Act) for the cancellation of trade mark exist. The request for the cancellation must be filed to the court.
-  Can I file a request for the cancellation of someone else's trade mark?
An interested person may request for the cancellation of someone else's trade mark if the absolute or relative grounds (according to the Trademark Act) for the cancellation of trade mark exist. The request for the cancellation must be filed to the court.



● Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
The request to the court must be filed within five years after becoming aware of the later trade mark. This term does not apply if the application of the later trade mark was filed in bad faith. An interested person can demand ceasing trade mark right if the trade mark was not used during five consecutive years without a good reason.

● Who will take a decision on the cancellation?
The decision on the cancellation will be taken by court.

LINKS

● What signpost exists?
IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges. In county court and circuit court IP attorney or advocate can be representatives. In Supreme Court IP attorney can be a representative only together with an attorney at law.

LIMITATION

GENERAL INFORMATION

● Who can restrict my trade mark rights?
An interested person can apply for restriction of trade mark rights to the court.

● Can I restrict someone else's trade mark?
I can restrict someone else's trademark, filing the objection to the court.

● Are there specific deadlines/timeframes which I have to observe in connection with limitation?
I have to observe deadlines concerning the cancellation proceeding.

SIGNPOST

● What signposts exist?
IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges.

2. PROACTIVE MEASURES

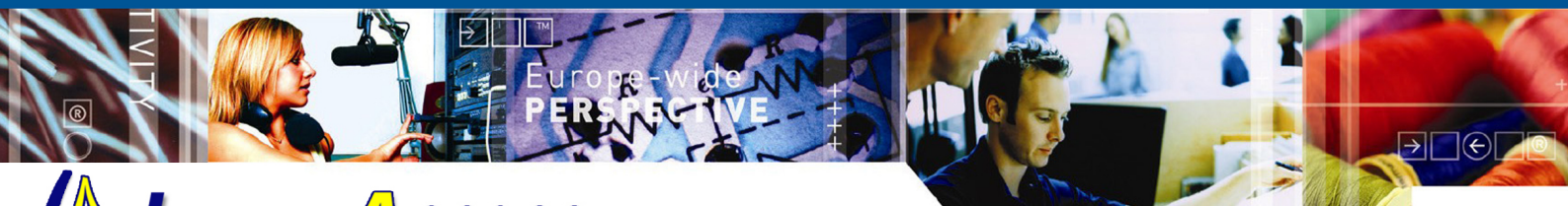
ACTION UNDER COMPETITION LAW

SIGNPOST

● What signposts exist?
Estonian Competition Authority

ACTION FOR DAMAGES





SIGNPOST

● What signposts exist?

IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges.

CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

Customs seizure means blocking the entry into the Community and the export and re-export from the Community of goods infringing intellectual property rights.

HOW TO PROCEED

● What initial steps are necessary?

The holder of intellectual property rights must apply applications for customs action to Tax and Customs Board.

SIGNPOST

● What signposts exist?

Estonian Tax and Customs Board

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges.





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)


GENERAL INFORMATION

 Who can file an application for declaration of invalidity of my design?

An interested person who finds my design does not comply with the registration requirements (design must be new, have an individual character and may be used for manufacturing industrial or handicraft products) can file an application for declaration of invalidity of my design. An interested person can request ceasing design rights if during one year from the deletion of the company from the commercial register no written request is filed for the making of an entry on the transfer of the industrial design in the register.

 Can I file an application for declaration of invalidity of someone else's design?

I can file an application for declaration of invalidity of someone else's design if the ground of cancellation exists.

 Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?

There is no deadline for declaration of invalidity if the registered design does not fulfill the registration requirements (it be filed even after the expiring the validity of the registration). The request of ceasing design rights on the ground of deleting the company from commercial register is possible if during one year from the deletion from the commercial register no written request is filed for the making of an entry on the transfer of the industrial design in the register.

SIGNPOST

 What signposts exist?

IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges. In county court and circuit court IP attorney or advocate can be representatives. In Supreme Court IP attorney can be a representative only together with an attorney at law.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

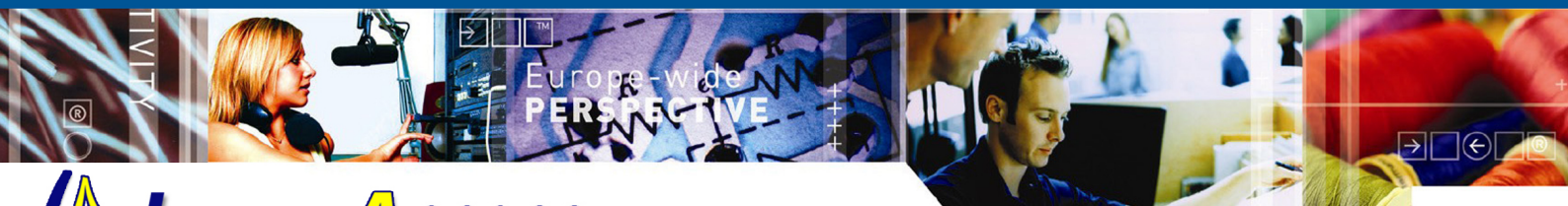
SIGNPOST

 What signposts exist?

Estonian Competition Authority

ACTION FOR DAMAGES





SIGNPOST

● What signposts exist?

IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges.

CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

Customs seizure means blocking the entry into the Community and the export and re-export from the Community of goods infringing intellectual property rights.

HOW TO PROCEED

● What initial steps are necessary?

The holder of intellectual property rights must apply applications for customs action to Tax and Customs Board.

SIGNPOST

● What signposts exist?

Tax and Customs Board

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

IP attorneys (Official Register of Patent Attorneys); Advocacy; Courts and Judges.





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
Estonian Competition Authority

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Advocacy; Courts and Judges; Estonian Ministry of Culture (Commission of copyright authorities); Press Council of Estonia.

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
Customs seizure means blocking the entry into the Community and the export and re-export from the Community of goods infringing intellectual property rights.

HOW TO PROCEED

- What initial steps are necessary?
The holder of intellectual property rights must apply applications for customs action to Tax and Customs Board.

SIGNPOST

- What signposts exist?
Estonian Tax and Customs Board

2. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST





ENFORCEMENT FAQs FOR ESTONIA

- What signposts exist?
Advocacy; Courts and Judges.

www.innovaccess.eu





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Who can file an objection against my patent?
Anybody (including I myself)
- Can I file an objection against a someone else's patent?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
Objection has to be made within 9 months of the granting of patent
- Who will take a decision on the objection?
National Board of Patents and Registration of Finland (PRH)

SIGNPOST

- What signposts exist?
National Board of Patents and Registration of Finland (PRH)

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Anybody to whom the granted patent is harmful. In case of public interest, also public authorities. In case the patent is granted to an applicant who should not be entitled to the patent, only the one who claims to be entitled to the patent instead.
- Can I file an application for declaration of invalidity of someone else's patent?
Yes (provided that the above requirements apply)
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
Legal proceedings has to be taken within 1 year since the plaintiff has found out the granting of the patent and other relevant matters.
In case the patentee has been acting in good faith when the patent was granted, or transferred to him, not later than 3 years of the granting of the patent.





- Who will take a decision on the invalidation?

Helsinki District Court

SIGNPOST

- What signposts exist?

Helsinki District Court

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?

Finnish Competition Authority: www.kilpailuvirasto.fi

The Market Court: www.oikeus.fi/markkinaoikeus

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?

Helsinki District Court: www.oikeus.fi/6061.htm (service available only in Finnish and Swedish)

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

Customs can keep goods potentially infringing others' IPRs in order to give an opportunity for the IPR owners to investigate whether these goods are infringing their IPRs or not. If they are, then the goods are seized by the Customs.

HOW TO PROCEED

- What initial steps are necessary?

Drafting and sending a surveillance application that identifies the genuine products vs. counterfeit products to be watched by the Customs (use of IPR expert services is strongly recommended)

SIGNPOST

- What signposts exist?



Finnish Customs: www.tulli.fi

See also: Finnish Anti-Counterfeiting Group: www.facg.fi

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

🟡 What signposts exist?

National Board of Patents and Registration of Finland (PRH): www.prh.fi (patent registers)

www.innovaccess.eu





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
Anybody
- Can I file a request for the cancellation of someone else's utility model?
Yes
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
No. (However, in case the utility model right is granted to an applicant who should not be entitled to it, only the one who claims to be entitled to the right instead. Legal proceedings has to be taken within 1 year since the plaintiff has found out the granting of the right and other relevant matters. In case the utility model right holder was acting in good faith when the right was granted, or transferred to him, not later than within 3 years of the registration of the utility model.)
- Who will take a decision on the cancellation?
National Board of Patents and Registration of Finland (PRH)

LINKS

- What signpost exists?
National Board of Patents and Registration of Finland (PRH)

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signpost exists?
Finnish Competition Authority: www.kilpailuvirasto.fi

The Market Court: www.oikeus.fi/markkinaoikeus

ACTION FOR DAMAGES





SIGNPOST

- What signpost exists?

Helsinki District Court: www.oikeus.fi/6061.htm (service available only in Finnish and Swedish)

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

Customs can keep goods potentially infringing others' IPRs in order to give an opportunity for the IPR owners to investigate whether these goods are infringing their IPRs or not. If they are, then the goods are seized by the Customs.

HOW TO PROCEED

- What initial steps are necessary?

Drafting and sending a surveillance application that identifies the genuine products vs. counterfeit products to be watched by the Customs (use of IPR expert services is strongly recommended)

SIGNPOST

- What signposts exist?

Finnish Customs: www.tulli.fi

See also: Finnish Anti-Counterfeiting Group: www.facg.fi

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?

National Board of Patents and Registration of Finland (PRH): www.prh.fi (utility model register)





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
Anybody
- Can I file an opposition against a someone else's trade mark?
Yes
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
Objection has to be made within 2 months of the public notice.
- Who will take a decision on the opposition?
National Board of Patents and Registration of Finland (PRH)

SIGNPOST

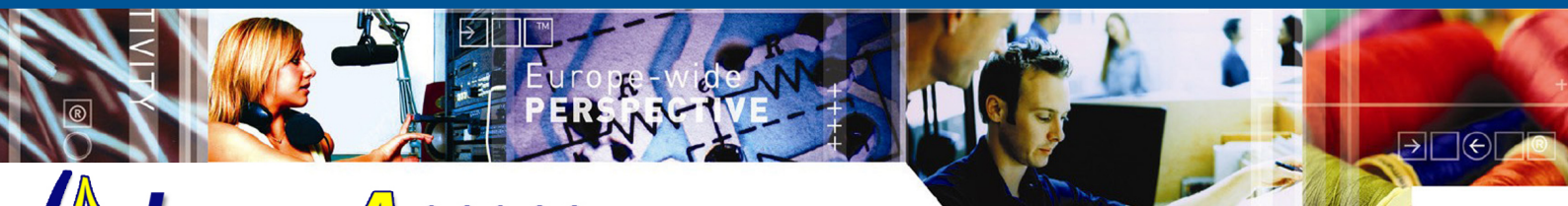
- What signposts exist?
National Board of Patents and Registration of Finland (PRH)

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
Anybody to whom the granted trademark right is harmful, also a community supervising common interests.
- Can I file a request for the cancellation of someone else's trade mark?
Yes (provided that the above requirements apply)
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
No
- Who will take a decision on the cancellation?
Helsinki District Court

LINKS



www.innovaccess.eu

- What signpost exists?
No (National Board of Patents and Registration of Finland (PRH) needs not to be informed)

LIMITATION

GENERAL INFORMATION

- Who can restrict my trade mark rights?
In case of opposition, anybody. In case of going to the court, anybody to whom the granted trademark right is harmful, also a community supervising common interests.
- Can I restrict someone else's trade mark?
Yes (provided that the above requirements apply)
- Are there specific deadlines/timeframes which I have to observe in connection with limitation?
In case of opposition, 2 months. In case of going to the court, no.

SIGNPOST

- What signposts exist?
National Board of Patents and Registration of Finland (PRH)

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?

Finnish Competition Authority: www.kilpailuvirasto.fi
The Market Court: www.oikeus.fi/markkinaoikeus

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Helsinki District Court: www.oikeus.fi/6061.htm (service available only in Finnish and Swedish)

CUSTOMS SEIZURE





GENERAL INFORMATION

● What does customs seizure mean?

Customs can keep goods potentially infringing others' IPRs in order to give an opportunity for the IPR owners to investigate whether these goods are infringing their IPRs or not. If they are, then the goods are seized by the Customs.

HOW TO PROCEED

● What initial steps are necessary?

Drafting and sending a surveillance application that identifies the genuine products vs. counterfeit products to be watched by the Customs (use of IPR expert services is strongly recommended)

SIGNPOST

● What signposts exist?

Finnish Customs: www.tulli.fi

See also: Finnish Anti-Counterfeiting Group: www.facg.fi

3. INSTRUMENTS

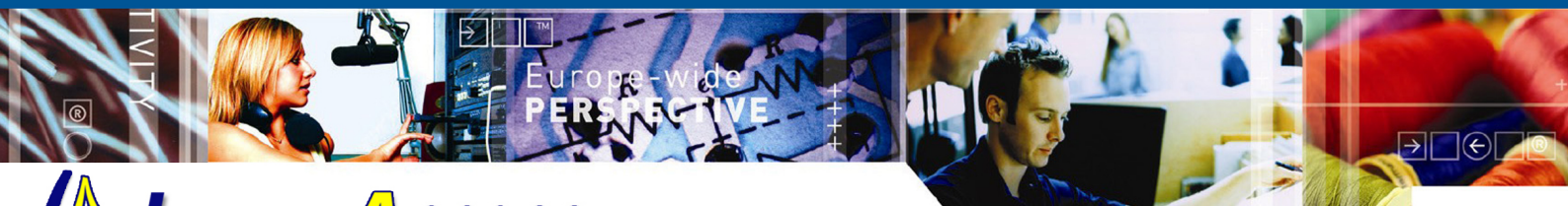
PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

National Board of Patents and Registration of Finland (PRH): www.prh.fi (trademark register)





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Anybody to whom the granted design right is harmful, or whose existing rights are infringed.
- Can I file an application for declaration of invalidity of someone else's design?
Yes (provided that the above requirements apply)
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
Legal proceedings has to be taken i) in case the applicant has been acting in good faith, within 1 year since the plaintiff has found out about the registration ii) not later than 3 years of the registration.

SIGNPOST

- What signposts exist?
Helsinki District Court

National Board of Patents and Registration of Finland (PRH) must be informed in case of nullity action.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?

Finnish Competition Authority www.kilpailuvirasto.fi

The Market Court: www.oikeus.fi/markkinaoikeus





ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?

Helsinki District Court: www.oikeus.fi/6061.htm (service available only in Finnish and Swedish)

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

Customs can keep goods potentially infringing others' IPRs in order to give an opportunity for the IPR owners to investigate whether these goods are infringing their IPRs or not. If they are, then the goods are seized by the Customs.

HOW TO PROCEED

- What initial steps are necessary?

Drafting and sending a surveillance application that identifies the genuine products vs. counterfeit products to be watched by the Customs (use of IPR expert services is strongly recommended)

SIGNPOST

- What signposts exist?

Finnish Customs: www.tulli.fi

See also: Finnish Anti-Counterfeiting Group: www.facg.fi

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?

National Board of Patents and Registration of Finland (PRH): www.prh.fi (register of registered designs)





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?

Finnish Competition Authority: www.kilpailuvirasto.fi

The Market Court: www.oikeus.fi/markkinaoikeus

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?

Helsinki District Court: www.oikeus.fi/6061.htm (service available only in Finnish and Swedish)

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

Customs can keep goods potentially infringing others' IPRs in order to give an opportunity for the respective IPR owners to investigate whether these goods are infringing their IPRs or not. If they are, then the goods are seized by the Customs.

HOW TO PROCEED

- What initial steps are necessary?

Drafting and sending a surveillance request that identifies the genuine products vs. pirated products to be watched by the Customs (use of IPR expert services is strongly recommended)

SIGNPOST

- What signposts exist?

Finnish Customs: www.tulli.fi

See also: Finnish Anti-Counterfeiting Group: www.facg.fi

2. INSTRUMENTS





www.innovaccess.eu

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?

(Members of) Copyright Information & Anti-Piracy Centre in Finland: www.antipiracy.fi

No preservation of evidence by public authorities





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Before NPI, is it possible to contest a patent ? / Is it possible to present an opposition to a patent application ?

The patent delivery procedure does not include the possibility to present an opposition.
However, in a delay of three months from the publication of the preliminary search report, the third parties have the possibility to present observations (by presenting to the INPI any document which could be considered as additional anteriorities).

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Any interested party can file an application for declaration of invalidity of your patent,
- Can I file an application for declaration of invalidity of someone else's patent?
Yes
- Where can I file an application for declaration of invalidity of someone else's patent?
Application for declaration of invalidity must be filed before a Court

2. PROACTIVE MEASURES

ACTION FOR DAMAGES

GENERAL INFORMATION

- Is an action for damages available in your country?
Yes, you can file an action for damages in France.
- Against whom to bring action for damages?
Action for damages can be brought against any person who has infringed your rights
- Can someone bring an action for damages against me too?
Yes, if you don't respect the rights of third persons, they can bring action for damages against you.
- To what kinds of IP rights do actions for damages relate?





Actions for damages can be related to patents, trademarks, designs (registered and non registered), copyrights, plant variety certificates,

- Are there specific deadlines/timesframes which I have to observe in connection with an action for damages?
Yes, the deadline is about 3years counted from the counterfeiting acts concerned; about 10 years if the rights infringed are copyrights,
- Who will take a decision on the legitimacy of an action for damages?
A court will take the decision on the legitimacy of the action for damages,
- Do I need a legal adviser to bring an action for damages?
Yes, a legal adviser is compulsory,
- Is customs seizure available in your country?
No, not for patents

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

GENERAL INFORMATION

- Is it possible to collect evidence against an IP infringer?
Yes, there are several means to collect evidence against an IP infringer (for example, "saisie contrefaçon",,,)
- Who can help me to preserve evidence?
For example : a bailiff, the customs the police or gendarmerie nationale.





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION


GENERAL INFORMATION

 Who can file an opposition against my trade mark?

The procedure of opposition to a registration is open to the owner of a former mark, (a french mark, an international mark which have effect in France, a filed or registered community trade marks, or a well-known mark) as well as the exclusive licensee (except in case of a contrary contractual article), who estimate that the mark for which the registration is required infringes their rights.

 Can I file an opposition against a someone else's trade mark?

Yes, if you are the owner of a former mark, (a french mark, an international mark which have effect in France, a filed or registered community trade marks, or a well-known mark) as well as if you are the exclusive licensee (except in case of a contrary contractual article), who estimate that the mark for which the registration is required infringes their rights.

 Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?


The publication of the application in the Official Bulletin of Industrial Property opens a delay of two months within which an opposition to registration may be opened,

 Who will take a decision on the opposition?

The Director of the industrial property office

CANCELLATION


GENERAL INFORMATION

 Who can file a request for the cancellation of my trade mark?

Any interested person

 Can I file a request for the cancellation of someone else's trade mark?

Yes, you can file a request for the cancellation of someone else.

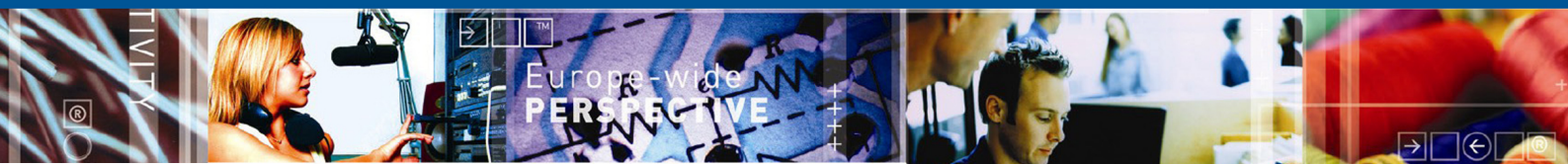
 Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?

The deadline is 30 years or 10 years (if the commercial law applies)

 Who will take a decision on the cancellation?

The Court will take the decision on the cancellation





- Where can I file an application for declaration of invalidity of someone else's patent?

Application for declaration of invalidity must be filed before a Court

2. PROACTIVE MEASURES

CUSTOMS SEIZURE

GENERAL INFORMATION

- Is customs seizure available in your country?

Yes, customs seizure is available in France

- Who can seize goods and what can be seized?

The customs. Any product which infringes a trademark, and all the products which helped in the realization of the fraud (the means of transport for example)

- What risks may be involved if I have goods seized by customs?

The risks are fine (up to twice the value of the goods), and imprisonment (3 years),

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

GENERAL INFORMATION

- Is it possible to collect evidence against an IP infringer?

Yes, there are several means to collect evidence against an IP infringer (for example, "saisie contrefaçon",...)

- Who can help me to preserve evidence?

For example : a bailiff, the customs the police or gendarmerie nationale.





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Any interested party can file an application for declaration of invalidity of your design,
- Can I file an application for declaration of invalidity of someone else's design?
Yes, you can file an application for declaration of invalidity of someone else's design,
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
The deadline is 30 years or 10 years (if the commercial law applies)
- Where can I file an application for declaration of invalidity of someone else's design?
Application for declaration of invalidity must be filed before a Court,
- Who will take a decision on the invalidity?
The Court will take the decision on the invalidity,

OBJECTION

GENERAL INFORMATION

- Before NPI, is it possible to present an opposition to a design application ?
No, the design registration procedure does not include the possibility to present an opposition.

2. PROACTIVE MEASURES

ACTION FOR DAMAGES

GENERAL INFORMATION

- Is an action for damages available in your country?
Yes, you can file an action for damages in France.
- Against whom to bring action for damages?
Action for damages can be brought against any person who has infringed your rights





- Can someone bring an action for damages against me too?
Yes, if you don't respect the rights of third persons, they can bring action for damages against you.
- To what kinds of IP rights do actions for damages relate?
Actions for damages can be related to patents, trademarks, designs (registered and non registered), copyrights, plant variety certificates,
- Are there specific deadlines/timesframes which I have to observe in connection with an action for damages?
Yes, the deadline is about 3years counted from the counterfeiting acts concerned; about 10 years if the rights infringed are copyrights,
- Who will take a decision on the legitimacy of an action for damages?
A court will take the decision on the legitimacy of the action for damages,
- Do I need a legal adviser to bring an action for damages?
Yes, a legal adviser is compulsory,

CUSTOMS SEIZURE

GENERAL INFORMATION

- Is customs seizure available in your country?
No, not for patents

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

GENERAL INFORMATION

- Is it possible to collect evidence against an IP infringer?
Yes, there are several means to collect evidence against an IP infringer (for example, "saisie contrefaçon",,,)
- Who can help me to preserve evidence?
For example : a bailiff, the customs the police or gendarmerie nationale.



Copyright

1. PROACTIVE MEASURES

ACTION FOR DAMAGES

GENERAL INFORMATION

- Is an action for damages available in your country?
Yes, you can file an action for damages in France.

- Against whom to bring action for damages?
Action for damages can be brought against any person who has infringed your rights

- Can someone bring an action for damages against me too?
Yes, if you don't respect the rights of third persons, they can bring action for damages against you.

- To what kinds of IP rights do actions for damages relate?
Actions for damages can be related to patents, trademarks, designs (registered and non registered), copyrights, plant variety certificates,

- Are there specific deadlines/timesframes which I have to observe in connection with an action for damages?
Yes, the deadline is about 3years counted from the counterfeiting acts concerned; about 10 years if the rights infringed are copyrights,

- Who will take a decision on the legitimacy of an action for damages?
A court will take the decision on the legitimacy of the action for damages,

- Do I need a legal adviser to bring an action for damages?
Yes, a legal adviser is compulsory,

CUSTOMS SEIZURE

GENERAL INFORMATION

- Is customs seizure available in your country?
No, not for patents

2. INSTRUMENTS

PRESERVATION OF EVIDENCE



GENERAL INFORMATION

- Is it possible to collect evidence against an IP infringer?
Yes, there are several means to collect evidence against an IP infringer (for example, "saisie contrefaçon",,,)
- Who can help me to preserve evidence?
For example : a bailiff, the customs the police or gendarmerie nationale.





Patent

1. DEFENSIVE ACTIONS

OBJECTION


GENERAL INFORMATION

 Who can file an objection against my patent?

Anybody can oppose the grant of a patent (Sec. 59 (1) Patent Law) based on a ground for opposition. If no opposition is filed, the patent becomes legally valid upon expiry of the opposition period. The patent will then become valid retroactively from the date of filing for a period of up to 20 years. The notice of opposition allows the opponent to state the reasons why he considers the patent to be unlawful.

 Can I file an objection against a someone else's patent?

Yes, upon existence of a ground for opposition.

 Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?

The opposition has to be lodged within three months from the publication of the patent specification in the patent gazette. The opposition procedure is fee-based. Even after expiry of the opposition period, a patent in force can be challenged by an action for the declaration of nullity brought before the Federal Patent Court.

 Who will take a decision on the objection?

The German Patent and Trade Mark Office. A panel of members of a patent division of the DPMA re-examines whether the patent meets requirements for grant or maintenance. The patent will be either revoked or maintained as granted or maintained in an amended form of more limited scope. Appeals against decisions in opposition procedures can be lodged at the Federal Patent Court (Bundespatentgericht).

SIGNPOST

 What signposts exist?

<http://www.dpma.de/patent/patentschutz/durchsetzung/beispiel2/index.html>

<http://www.dpma.de/patent/patentschutz/durchsetzung/beispiel2/index.html#a3>

<http://bundesrecht.juris.de/bundesrecht/patg/gesamt.pdf>

<http://www.patentinformation.de>

<http://www.dpma.de/english/patent/procedures/index.html>





NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Anybody can oppose the grant of a patent after expiry of the opposition period by an action for the declaration of invalidity brought before the Federal Patent Court (Sec. 81 (1) Patent Law), based on a ground for nullity.
- Can I file an application for declaration of invalidity of someone else's patent?
Yes, if there is a ground for nullity.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
A declaration of invalidity can be brought before the courts 3 months after the publication of the patent in the patent gazette at the earliest.

SIGNPOST

- What signposts exist?
<http://bundesrecht.juris.de/bundesrecht/patg/gesamt.pdf>
<http://www.patentinformation.de>
<http://www.dpma.de/english/patent/procedures/index.html>
<http://www.dpma.de/patent/patentschutz/durchsetzung/index.html>

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
Legal advice is exclusively provided by attorneys-at-law:
<http://www.brak.de/seiten/01.php>
<http://www.patentanwalt.de>
<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:094:0037:0037:EN:PDF>





ACTION FOR DAMAGES

SIGNPOST

● What signposts exist?

Legal advice is exclusively provided by attorneys-at-law:

<http://www.brak.de/seiten/01.php>

<http://www.patentanwalt.de>

<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:094:0037:0037:EN:PDF>

CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

According to Art. 9 (1) of Council Regulation (EC) No 1383/2003, the customs administration takes action if goods, which are suspected of infringing intellectual property rights, are imported into the EU. If, based on the available information, a customs office suspects incoming goods of infringing the intellectual property rights of an applicant, the goods will be detained.

The right holder, whose intellectual property rights are affected by the supposed infringement, will be informed about the measure of the customs office. He can also request to get the data of the importer and some examples of the goods in question. If the right holder confirms, after examination, that the goods are infringing his intellectual property right, he has a choice of two options. He can either have the goods destroyed, with the agreement of the importer and under customs supervision, or start a civil trial to confirm the infringement.

HOW TO PROCEED

● What initial steps are necessary?

In general it is necessary, that the owners of intellectual property rights (right holders) file an application for action by the customs authorities, according to Art. 5 of Council Regulation (EC) No 1383/2003, at the Central Bureau of Intellectual Property Rights (CBIPR) in Munich using a special form which is available at the national customs authorities.

The application must contain all available information (electronically, if possible) to allow the customs officers to distinguish original and fake goods (for example names and addresses of manufacturers of the original products, pictures of original products, information about special security features).

SIGNPOST

● What signposts exist?

For individual and detailed information please contact the team of the Central Bureau of Intellectual Property Rights:

Bundesfinanzdirektion Südost
Central Bureau of Intellectual Property Rights
Sophienstraße 6



80333 Munich
Germany
Phone: +49 (0) 89 – 59 95 23 13
Fax: +49 (0) 89 – 59 95 23 17
Email: zgr@ofdm.bfinv.de
More information about the border seizure system is available at:

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

 What signposts exist?

As soon as an infringement of property rights has been determined,

it is recommended to preserve evidence in the form of samples, catalogues and available material and arrange an inspection, accompanied by witnesses that are no legal representatives of the company of the right holder.
<http://www.messefrankfurt.com/content/corporate/frankfurt/de/messe/willkommen/produktpiraterie/>

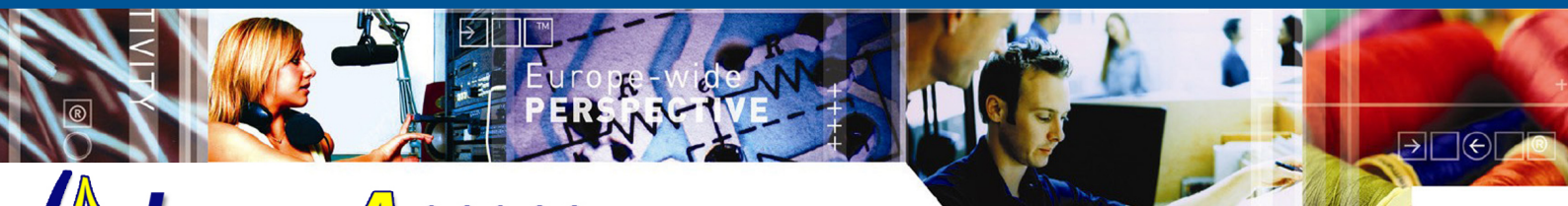
[_jcr_content/rightParsys/rightteaserdownload/file.res/MFaC-Brosch%C3%BCre2010.pdf](http://www.brak.de/seiten/01.php)
<http://www.brak.de/seiten/01.php>

<http://www.patentanwalt.de>

<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>

www.innovaccess.eu






Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION


GENERAL INFORMATION

 Who can file a request for the cancellation of my utility model?

The utility model unit of the German Patent and Trade Mark Office registers the utility model without previously examining if the substantive requirements are met. In case of a dispute, cancellation proceedings will clarify whether the registered invention is in fact new and involves an inventive step. Any person may file a cancellation request.

 Can I file a request for the cancellation of someone else's utility model?

After the publication of someone else's utility model you can file a cancellation if you can demonstrate that the invention is not new and does not involve an inventive step.

 Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?

A request for cancellation must be filed within a period up to ten years after the publication of the registration. The request is subject to a fee and must be filed in writing together with a statement of reasons. The fee must be paid within three months after filing the request for cancellation.

 Who will take a decision on the cancellation?

The German Patent and Trade Mark Office. A committee consisting of a lawyer and two patent examiners of the relevant technical field decides on cancellation requests. The decisions may be contested by lodging appeals with Bundespatentgericht (the Federal Patent Court).

LINKS

 What signpost exists?

http://www.dpma.de/english/utility_models/procedure/index.html

<http://bundesrecht.juris.de/bundesrecht/gebrmg/gesamt.pdf>

<http://www.patentinformation.de>

2. PROACTIVE MEASURES

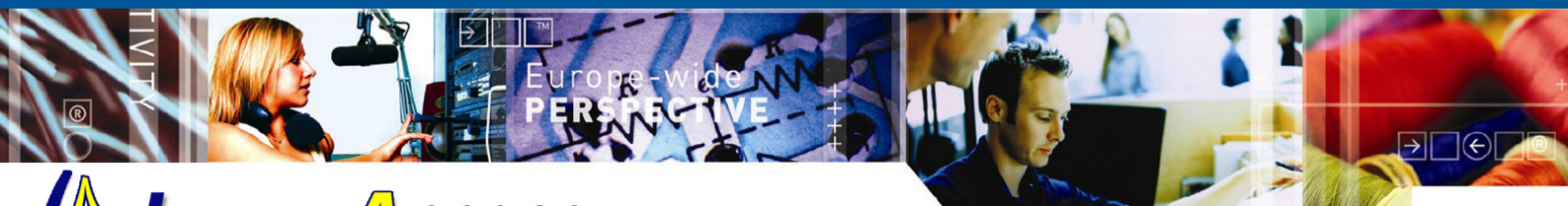
ACTION UNDER COMPETITION LAW

SIGNPOST

 What signpost exists?

Legal advice is exclusively provided by attorneys-at-law:





<http://www.patentanwalt.de>

<http://www.brak.de/seiten/01.php>

<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:094:0037:0037:EN:PDF>

ACTION FOR DAMAGES

SIGNPOST

- What signpost exists?

Legal advice is exclusively provided by attorneys-at-law:

<http://www.patentanwalt.de>

<http://www.brak.de/seiten/01.php>

<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:094:0037:0037:EN:PDF>

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

According to Art. 9 (1) of Council Regulation (EC) No 1383/2003, the customs administration takes action if goods, which are suspected of infringing intellectual property rights, are imported into the EU. If, based on the available information, a customs office suspects incoming goods of infringing the intellectual property rights of an applicant, the goods will be detained.

The right holder, whose intellectual property rights are affected by the supposed infringement, will be informed about the measure of the customs office. He can also request to get the data of the importer and some examples of the goods in question. If the right holder confirms, after examination, that the goods are infringing his intellectual property right, he has a choice of two options. He can either have the goods destroyed, with the agreement of the importer and under customs supervision, or start a civil trial to confirm the infringement. Applications for the seizure of goods suspected of infringing a utility model right must be based on German IP laws.

HOW TO PROCEED

- What initial steps are necessary?

In general it is necessary, that the owners of intellectual property rights (right holders) file an application for action by the customs authorities, according to Art. 5 of Council Regulation (EC) No 1383/2003, at the Central Bureau of Intellectual Property Rights (CBIPR) in Munich using a special form which is available at the national customs authorities.

The application must contain all available information (electronically, if possible) to allow the customs officers to distinguish original and fake goods (for example names and addresses of manufacturers of the original products, pictures of original products, information about special security features).



SIGNPOST

● What signposts exist?

For individual and detailed information please contact the team of the Central Bureau of Intellectual Property

Rights:
Bundesfinanzdirektion Südost
Central Bureau of Intellectual Property Rights
Sophienstraße 6
80333 Munich
Germany
Phone: +49 (0) 89 – 59 95 23 13
Fax: +49 (0) 89 – 59 95 23 17
Email: zgr@ofdm.bfinv.de

More information about the border seizure system is available at:
http://www.zoll.de/english_version/d0_protection_property/index.html

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

As soon as an infringement of property rights has been determined,

it is recommended to preserve evidence in the form of samples, catalogues and available material and arrange an inspection, accompanied by witnesses that are no legal representatives of the company of the right holder.

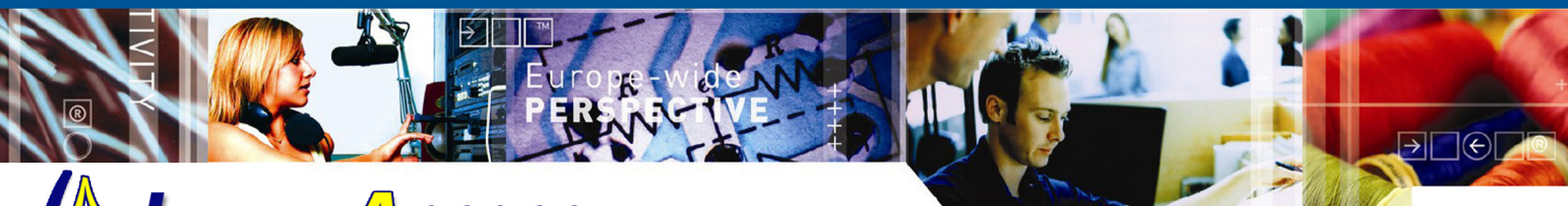
<http://www.messefrankfurt.com/content/corporate/frankfurt/de/messe/willkommen>

[/produktpiraterie/_jcr_content/rightParsys/rightteaserdownload/file.res/MFaC-Brosch%C3%BCre2010.pdf](http://produktpiraterie/_jcr_content/rightParsys/rightteaserdownload/file.res/MFaC-Brosch%C3%BCre2010.pdf)
<http://www.brak.de/seiten/01.php>

<http://www.patentanwalt.de>

<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

 Who can file an opposition against my trade mark?

After the publication of a trade mark in the electronic Markenblatt (trade mark journal), holders of earlier rights have the opportunity to object to the registration. Opposition can be raised on principle if the owner of an earlier mark deems that there is a risk of confusion with his own trade mark registered or applied for - including Community trade marks and international registrations. Notice of opposition must be filed in writing.

Please note: The German Patent and Trade Mark Office does not check whether similar or identical trade marks have already been registered.


 Can I file an opposition against a someone else's trade mark?

After the publication of someone else's trade mark registration you can file an opposition within a period of three months following publication if

-you are the owner of an earlier trade mark

-or you want to claim earlier rights in signs acquired by use (so-called 'trade marks acquired by use' and commercial designations)

-or you want to claim the enlarged protection of trade marks which have a reputation in Germany and you deem that there is a risk of confusion between your own trade mark and the newly registered trade mark.

 Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?

Notice of opposition must be filed in writing within three months after the publication of the registration. The opposition fee must be paid within this time limit too.

 Who will take a decision on the opposition?

A decision is taken within the scope of an opposition procedure. It may be that the newly registered trade mark will be cancelled in the register.

SIGNPOST

 What signposts exist?

http://www.dpma.de/english/trade_marks/procedures/index.html

<http://www.dpma.de/docs/service/formulare/marke/w7202.pdf>

<http://www.markenverband.de/publikationen/Broschueren/Markenpiraterie%20-%20April%202008.pdf>

<http://www.patentinformation.de/>

http://www.brak.de/seiten/01_03.php





<http://www.patentanwalt.de/>

CANCELLATION

GENERAL INFORMATION

Who can file a request for the cancellation of my trade mark?

As proprietor of a registered trade mark you may anytime renounce the trade mark in full or in respect of some of the goods/services (Sec. 48 Trade Mark Law).

Cancellation on the grounds of revocation: Furthermore, the registered trade mark may be revoked upon request by any person on the grounds prescribed in Sec. 49, 53 Trade Mark Law.

Cancellation on the grounds of nullity due to absolute grounds for refusal: Furthermore, the registered trade mark may be declared invalid due to absolute grounds for refusal (Sec. 50, 54 Trade Mark Law) upon request by any person.

Cancellation proceedings before the civil courts: In addition, the registration may be cancelled after the conclusion of cancellation proceedings before the civil courts due to revocation of the trade mark or due to existing earlier rights (Sections 49, 51, 55 Trade Mark Law).

Can I file a request for the cancellation of someone else's trade mark?

You can file a request for the cancellation on the grounds prescribed in

Sec. 49, 53 Trade Mark Law or the registration of the trade mark can be declared invalid due to absolute grounds for refusal (Sec. 50, 54 Trade Mark Law).

In addition, the registration may be cancelled after the conclusion of cancellation proceedings before the civil courts due to revocation of the trade mark or due to existing earlier rights (Sections 49, 51, 55 Trade Mark Law).

Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?

A request for the cancellation can be filed in writing at any time. A request for cancellation on absolute grounds for refusal (Sec. 50 (2), Sec. 8 (2) Nr. 1, 2, 3 Trade Mark Law) can be filed within 10 years after the registration of the trade mark.

Who will take a decision on the cancellation?

A decision is taken within the scope of a cancellation procedure by the Trade Mark Department of the German Patent and Trade Mark Office. It may be that the registered trade mark will be cancelled in the register.

The registration may be also cancelled after the conclusion of cancellation proceedings before the civil courts due to revocation of the trade mark or due to existing earlier rights.

LINKS

What signpost exists?

http://www.dpma.de/english/trade_marks/procedures/index.html

<http://www.dpma.de/docs/service/formulare/marke/w7437.pdf>

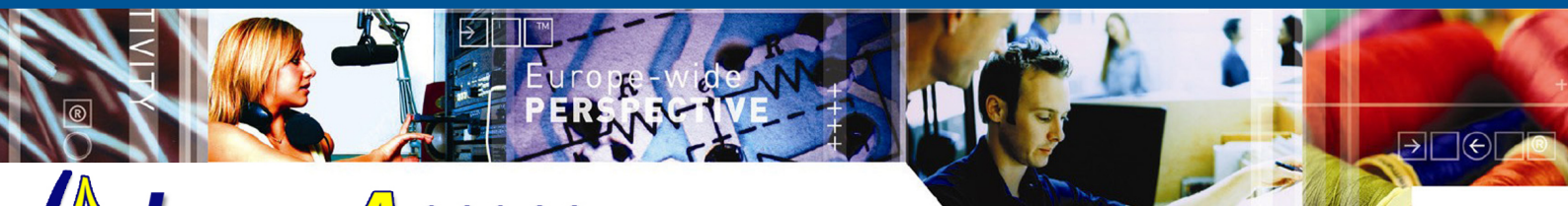
Cancellation due to nullity:

<http://www.dpma.de/docs/service/formulare/marke/w7442.pdf>

Cancellation upon request for revocation:

<http://www.dpma.de/docs/service/formulare/marke/w7440.pdf>





<http://www.patentinformation.de>

LIMITATION

GENERAL INFORMATION

● Who can restrict my trade mark rights?

An owner of a trade mark can surrender his own trade mark any time.

● Can I restrict someone else's trade mark?

You can restrict someone else's trade mark by filing a request for the cancellation on the grounds prescribed in Sec. 49, 53 Trade Mark Law or the registration of the trade mark can be declared invalid due to absolute grounds for refusal (Sec. 50, 54 Trade Mark Law).

In addition, the registration may be cancelled after the conclusion of cancellation proceedings before the civil courts due to revocation of the trade mark or due to existing earlier rights (Sections 49, 51, 55 Trade Mark Law).

● Are there specific deadlines/timeframes which I have to observe in connection with limitation?

A request for the cancellation can be filed in writing at any time. A request for cancellation on absolute grounds for refusal (Sec. 50 (2), Sec. 8 (2) Nr. 1, 2, 3 Trade Mark Law) can be filed within 10 years after the registration of the trade mark.

SIGNPOST

● What signposts exist?

http://www.dpma.de/english/trade_marks/procedures/index.html

<http://bundesrecht.juris.de/bundesrecht/markenG/gesamt.pdf>

<http://www.dpma.de/docs/service/formulare/marke/w7437.pdf>

<http://www.patentinformation.de/>

http://www.brak.de/seiten/01_03.php

<http://www.patentanwalt.de>

<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

● What signposts exist?

http://www.dpma.de/english/trade_marks/faq/index.html#a14





www.innovaccess.eu

<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:094:0037:0037:EN:PDF>

<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>

<http://www.patentanwalt.de>

http://www.brak.de/seiten/01_03.php

ACTION FOR DAMAGES

SIGNPOST

🟡 What signposts exist?

http://www.brak.de/seiten/01_03.php

<http://www.patentanwalt.de>

http://www.dpma.de/english/trade_marks/faq/index.html#a14

<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:094:0037:0037:EN:PDF>

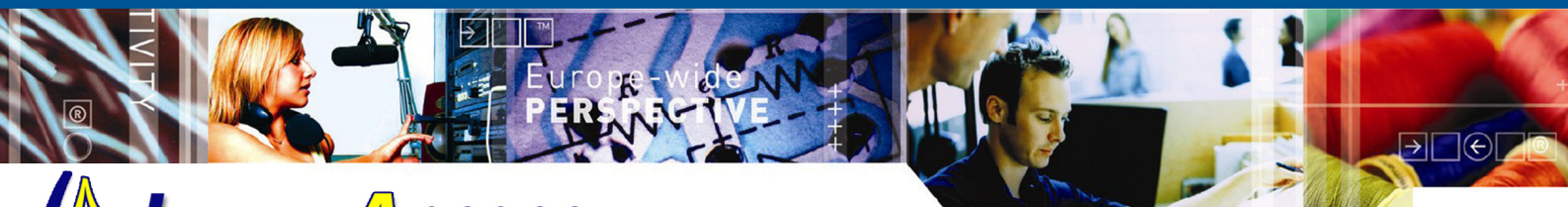
<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>

CUSTOMS SEIZURE

GENERAL INFORMATION

🟡 What does customs seizure mean?





According to Art. 9 (1) of Council Regulation (EC) No 1383/2003, the customs administration takes action if goods, which are suspected of infringing intellectual property rights, are imported into the EU. If, based on the available information, a customs office suspects incoming goods of infringing the intellectual property rights of an applicant, the goods will be detained.

The right holder, whose intellectual property rights are affected by the supposed infringement, will be informed about the measure of the customs office. He can also request to get the data of the importer and some examples of the goods in question. If the right holder confirms, after examination, that the goods are infringing his intellectual property right, he has a choice of two options. He can either have the goods destroyed, with the agreement of the importer and under customs supervision, or start a civil trial to confirm the infringement.

HOW TO PROCEED

● What initial steps are necessary?

In general it is necessary, that the owners of intellectual property rights (right holders) file an application for action by the customs authorities, according to Art. 5 of Council Regulation (EC) No 1383/2003, at the Central Bureau of Intellectual Property Rights (CBIPR) in Munich using a special form which is available at the national customs authorities.

The application must contain all available information (electronically, if possible) to allow the customs officers to distinguish original and fake goods (for example names and addresses of manufacturers of the original products, pictures of original products, information about special security features).

SIGNPOST

● What signposts exist?

For individual and detailed information please contact the team of the Central Bureau of Intellectual Property

Rights:
Bundesfinanzdirektion Südost
Central Bureau of Intellectual Property Rights
Sophienstraße 6
80333 Munich
Germany
Phone: +49 (0) 89 – 59 95 23 13
Fax: +49 (0) 89 – 59 95 23 17
Email: zgr@ofdm.bfinv.de
More information about the border seizure system is available at:
http://www.zoll.de/english_version/d0_protection_property/index.html

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

As soon as an infringement of property rights has been determined,

it is recommended to preserve evidence in the form of samples, catalogues and available material and arrange an inspection, accompanied by witnesses that are no legal representatives of the company of the right holder.
<http://www.messefrankfurt.com/content/corporate/frankfurt/de/messe/willkommen/produktpiraterie/>

[_jcr_content/rightParsys/rightteaserdownload/file.res/MFaC-Brosch%C3%BCre2010.pdf](http://www.patentanwalt.de)
<http://www.patentanwalt.de>





ENFORCEMENT FAQs FOR GERMANY

<http://www.brak.de/seiten/01.php>

<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>

www.innovaccess.eu





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
As proprietor of a registered design you may any time renounce the design right. Furthermore, the registration of your design may be cancelled after the conclusion of cancellation proceedings before the civil courts due to revocation of the design.
- Can I file an application for declaration of invalidity of someone else's design?
If the ground for the action is an alleged better right to the design, previous design, other IP-right, then the application can be filed only by the holder of this right. In other cases, e.g if the ground is the lack of novelty or individual character, anyone can file an application. Read §§ 9, 33-36 Designs Law.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
A request for cancellation can be filed at any time. A request for cancellation on grounds described in Sec. 9 (1) Designs Law can be filed within 3 years after the publication of the design.

SIGNPOST

- What signposts exist?
http://www.gesetze-im-internet.de/bundesrecht/geschmmg_2004/gesamt.pdf
http://www.dpma.de/docs/service/formulare_eng/geschmacksmuster_eng/r5704_1.pdf
<http://www.patentinformation.de>

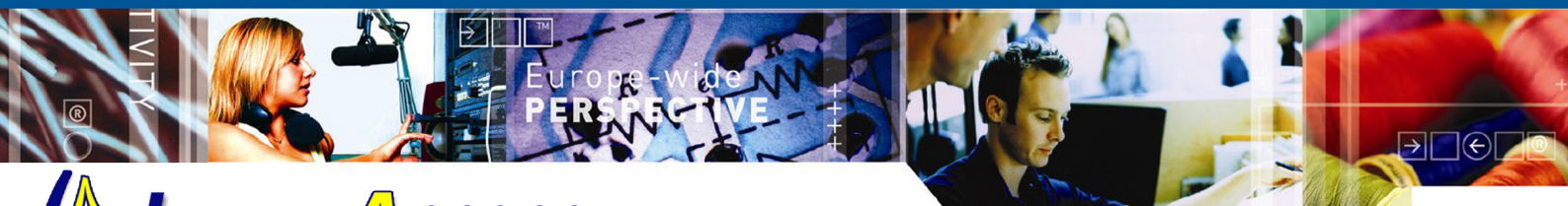
2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
http://www.brak.de/seiten/01_03.php
<http://www.patentanwalt.de>
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:094:0037:0037:EN:PDF>





<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>

<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?

http://www.brak.de/seiten/01_03.php

<http://www.patentanwalt.de>

<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:094:0037:0037:EN:PDF>

<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

According to Art. 9 (1) of Council Regulation (EC) No 1383/2003, the customs administration takes action if goods, which are suspected of infringing intellectual property rights, are imported into the EU. If, based on the available information, a customs office suspects incoming goods of infringing the intellectual property rights of an applicant, the goods will be detained.

The right holder, whose intellectual property rights are affected by the supposed infringement, will be informed about the measure of the customs office. He can also request to get the data of the importer and some examples of the goods in question. If the right holder confirms, after examination, that the goods are infringing his intellectual property right, he has a choice of two options. He can either have the goods destroyed, with the agreement of the importer and under customs supervision, or start a civil trial to confirm the infringement.

HOW TO PROCEED

- What initial steps are necessary?

In general it is necessary, that the owners of intellectual property rights (right holders) file an application for action by the customs authorities, according to Art. 5 of Council Regulation (EC) No 1383/2003, at the Central Bureau of Intellectual Property Rights (CBIPR) in Munich using a special form which is available at the national customs authorities.

The application must contain all available information (electronically, if possible) to allow the customs officers to distinguish original and fake goods (for example names and addresses of manufacturers of the original products, pictures of original products, information about special security features).

SIGNPOST

- What signposts exist?

For individual and detailed information please contact the team of the Central Bureau of Intellectual Property Rights:





Bundesfinanzdirektion Südost

Central Bureau of Intellectual Property Rights

Sophienstraße 6

80333 Munich

Germany

Phone: +49 (0) 89 – 59 95 23 13

Fax: +49 (0) 89 – 59 95 23 17

Email: zgr@ofdm.bfinv.de

More information about the border seizure system is available at:

http://www.zoll.de/english_version/d0_protection_property/index.html

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

🟡 What signposts exist?

<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>

<http://www.messefrankfurt.com/content/corporate/frankfurt/de/messe/willkommen/produktpiraterie/>

[_jcr_content/rightParsys/rightteaserdownload/file.res/MFaC-Brosch%C3%BCre2010.pdf](http://www.patentanwalt.de/_jcr_content/rightParsys/rightteaserdownload/file.res/MFaC-Brosch%C3%BCre2010.pdf)

<http://www.patentanwalt.de>

<http://www.brak.de/seiten/01.php>

As soon as an infringement of property rights has been determined, it is recommended to preserve evidence in the form of samples, catalogues and available material and arrange an inspection, accompanied by witnesses that are no legal representatives of the company of the right holder.

www.innovaccess.eu





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?

<http://www.gvu.de>

<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:094:0037:0037:EN:PDF>

<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?

<http://www.gvu.de>

<http://bundesrecht.juris.de/bundesrecht/urhG/gesamt.pdf>

<http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-Association-APM.html>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:094:0037:0037:EN:PDF>

<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>

CUSTOMS SEIZURE

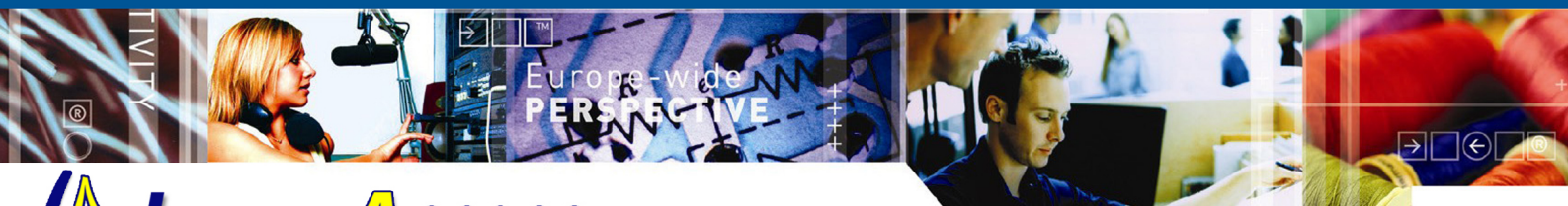
GENERAL INFORMATION

- What does customs seizure mean?

According to Art. 9 (1) of Council Regulation (EC) No 1383/2003, the customs administration takes action if goods, which are suspected of infringing intellectual property rights, are imported into the EU. If, based on the available information, a customs office suspects incoming goods of infringing the intellectual property rights of an applicant, the goods will be detained.

The right holder, whose intellectual property rights are affected by the supposed infringement, will be informed about the measure of the customs office. He can also request to get the data of the importer and some examples of the goods in question. If the right holder confirms, after examination, that the goods are infringing





his intellectual property right, he has a choice of two options. He can either have the goods destroyed, with the agreement of the importer and under customs supervision, or start a civil trial to confirm the infringement.

HOW TO PROCEED

What initial steps are necessary?

In general it is necessary, that the owners of intellectual property rights (right holders) file an application for action by the customs authorities, according to Art. 5 of Council Regulation (EC) No 1383/2003, at the Central Bureau of Intellectual Property Rights (CBIPR) in Munich using a special form which is available at the national customs authorities.

The application must contain all available information (electronically, if possible) to allow the customs officers to distinguish original and fake goods (for example names and addresses of manufacturers of the original products, pictures of original products, information about special security features).

SIGNPOST

What signposts exist?

For individual and detailed information please contact the team of the Central Bureau of Intellectual Property

Rights:
Bundesfinanzdirektion Südost
Central Bureau of Intellectual Property Rights
Sophienstraße 6
80333 Munich
Germany
Phone: +49 (0) 89 – 59 95 23 13
Fax: +49 (0) 89 – 59 95 23 17
Email: zgr@ofdm.bfinv.de

More information about the border seizure system is available at:
http://www.zoll.de/english_version/d0_protection_property/index.html

2. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

What signposts exist?

http://www.brak.de/seiten/01_03.php

<http://www.messefrankfurt.com/content/corporate/frankfurt/de/messe/willkommen/produktpiraterie/>

<http://www.bmj.bund.de/files/-/1727/RegE%20Durchsetzungsrichtlinie.pdf>

As soon as an infringement of property rights has been determined, it is recommended to preserve evidence in the form of samples, catalogues and available material and arrange an inspection, accompanied by witnesses that are no legal representatives of the company of the right holder.





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Who can file an objection against my patent?
Opposition proceedings are not available prior to the grant of a patent.

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Anyone having a legitimate interest to contest the validity of a patent can file a law suit against the owner of a patent. In addition, if the owner of a patent is not the inventor or the assignee or beneficiary, an action for the declaration of invalidity of a patent can be filed.
- Can I file an application for declaration of invalidity of someone else's patent?
Anyone having a legitimate interest to contest the validity of a patent can file a law suit against the owner of a patent. In addition, if the owner of a patent is not the inventor or the assignee or beneficiary, an action for the declaration of invalidity of a patent can be filed.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
No.

SIGNPOST

- What signposts exist?
<http://www.obj.gr/obj/?tabid=184>

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
[Law 146/1914](http://nomothesia.ependyseis.gr/eu-law/downloadsDetails.do?action=itemDetails&itemId=662)
<http://nomothesia.ependyseis.gr/eu-law/downloadsDetails.do?action=itemDetails&itemId=662>



ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
<http://www.obi.gr/obi/?tabid=184>

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
Goods suspected of infringing a patent can be detained or their release can be suspended by the customs authorities according to Council Regulations 1383/2003 and 1891/2004 as amended. According to REG(EC). 1383/2003 when the customs authorities, in the course of action and before an application has been lodged by a right holder or granted, have sufficient grounds for suspecting that goods infringe an intellectual property right they may detain them for a period of 3 working days from the moment of receipt of the notification by the right-holder and by the declarant or holder of the goods, if the latter are known, in order to enable the right holder to submit an application for action

HOW TO PROCEED

- What initial steps are necessary?
According to REG. (EC) 1383/2003, a right holder may apply in writing to the competent customs department for action by the customs authorities.
For example for Attica region, an application for action before the Attica Customs District located in Pireaus has to be filed.

SIGNPOST

- What signposts exist?
 - 1) www.e-oikonomia.gr
 - 2) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:196:0007:0014:EL:PDF>

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
Enactment of the implementing legislation of Directive 2004/38/EC is still pending.





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
Anyone having a legitimate interest to contest the validity of a utility model can file a law suit against the owner of a utility model. In addition, if the owner of a utility model is not the inventor or the assignee or beneficiary, an action for the declaration of invalidity of a utility model can be filed.
- Can I file a request for the cancellation of someone else's utility model?
Anyone having a legitimate interest to contest the validity of a utility model can file a law suit against the owner of a utility model. In addition, if the owner of a utility model is not the inventor or the assignee or beneficiary, an action for the declaration of invalidity of a utility model can be filed.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
No.
- Who will take a decision on the cancellation?
A judge of the competent civil court.

LINKS

- What signpost exists?
<http://www.obi.gr/obi/?tabid=184>

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signpost exists?
[Law 146/1914](http://nomothesia.ependyseis.gr/eu-law/downloadsDetails.do?action=itemDetails&itemId=662)
<http://nomothesia.ependyseis.gr/eu-law/downloadsDetails.do?action=itemDetails&itemId=662>

ACTION FOR DAMAGES

SIGNPOST





- What signpost exists?

<http://www.obi.gr/obi/?tabid=184>

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

Council Regulation 1383/2003 does not include utility models among the intellectual property rights for which detention of goods or suspension of release can be applied for.

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?

Enactment of the implementing legislation of Directive 2004/38/EC is still pending.





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
A third party which has a legal interest: i.e. someone who has a previous similar trademark, when the trademark has been accepted but not yet registered
- Can I file an opposition against a someone else's trade mark?
Yes, if I have a previous right: i.e. a similar trademark
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
There is a four month time limit starting on the 16th of the month that follows the date of the publication of the mark.
- Who will take a decision on the opposition?
The Administrative Trademark Committee

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
Someone who has legal interest, when the trademark has been registered. Sometimes the Chamber of Commerce and Industry can file a request for cancellation
- Can I file a request for the cancellation of someone else's trade mark?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
Usually the time limit is five years after the registration date. When the owner of the trademark was in bad faith there is no time limit. When the Trademark becomes generic because of the behaviour of its owner, the request for cancellation must be applied at least twenty years after the application of the Trademark.
- Who will take a decision on the cancellation?
The Administrative Trademarks Committee

LIMITATION



GENERAL INFORMATION

- Who can restrict my trade mark rights?
Someone who has a previous same/ similar trademark or right for the same products or services
- Can I restrict someone else's trade mark?
Yes, if I have a previous same/ similar trademark or right for the same products or services
- Are there specific deadlines/timeframes which I have to observe in connection with limitation?
Time limits depend on the remedy filed against the trademark. For example, a) there is a 3 day time limit before the examination of the mark by the Administrative Trademark Committee in case of an intervention, b) there is a 4 month time limit starting on the 16 th of the month that follows the publication of the mark in case of an opposition and c) there is a 5 year time limit after the registration of the mark in case of cancellation

2. PROACTIVE MEASURES

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
It is the prohibition of clearance for merchandise that bears counterfeit trademark.
According to REG.(EC). 1383/2003 when the customs authorities, in the course of action and before an application has been lodged by a right holder or granted, have sufficient grounds for suspecting that goods infringe an intellectual property right they may detain them for a period of 3 working days from the moment of receipt of the notification by the right-holder and by the declarant or holder of the goods, if the latter are known, in order to enable the right holder to submit an application for action

HOW TO PROCEED

- What initial steps are necessary?
According to REG. (EC) 1383/2003, a right holder may apply in writing to the competent customs department for action by the customs authorities.
The customs authorities notify the holder in case that the trademark does not appear to be authentic in order to conduct an examination on a sample. In case that the merchandise bears a counterfeit trademark it is being confiscated and destroyed.

SIGNPOST

- What signposts exist?
1) www.e-oikonomia.gr
2) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:196:0007:0014:EL:PDF>





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Anyone having a legitimate interest to contest the validity of a design can file a law suit against the owner of a design. In addition, if the owner of a design is not the designer or the successor or beneficiary, an action for the declaration of invalidity of a design can be filed.
- Can I file an application for declaration of invalidity of someone else's design?
Same answer as in previous question.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
No.

SIGNPOST

- What signposts exist?
<http://www.obi.gr/obi/?tabid=196>

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
[Law 146/1914](http://www.obi.gr/obi/?tabid=196)
<http://nomothesia.ependyseis.gr/eu-law/downloadsDetails.do?action=itemDetails&itemId=662>

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
<http://www.obi.gr/obi/?tabid=196>

CUSTOMS SEIZURE



GENERAL INFORMATION

What does customs seizure mean?

Goods suspected of infringing a design can be detained or their release can be suspended by the customs authorities according to Council Regulations 1383/2003 and 1891/2004 as amended. According to REG(EC). 1383/2003 when the customs authorities, in the course of action and before an application has been lodged by a right holder or granted, have sufficient grounds for suspecting that goods infringe an intellectual property right they may detain them for a period of 3 working days from the moment of receipt of the notification by the right-holder and by the declarant or holder of the goods, if the latter are known, in order to enable the right holder to submit an application for action

HOW TO PROCEED

What initial steps are necessary?

According to REG. (EC) 1383/2003, a right holder may apply in writing to the competent customs department for action by the customs authorities. For example for Attica region, an application for action before the Attica Customs District located in Pireaus has to be filed.

SIGNPOST

What signposts exist?

- 1) www.e-oikonomia.gr
- 2) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:196:0007:0014:EL:PDF>

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

What signposts exist?

Enactment of the implementing legislation of Directive 2004/38/EC is still pending.





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?

<http://www.epant.gr/main.php?Lang=en>

Hellenic Competition Commission (not exclusively information regarding copyright).

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?

<http://web.opi.gr/portal/page/portal/opi/info.html/faqs.html/faq10.html>

<http://web.opi.gr/portal/page/portal/opi/info.html/law2121.html/ch11a.html>

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

In cases where goods infringing copyright originate in or come from third countries, their introduction into the Community customs territory, including their transshipment, release for free circulation in the Community, placing under a suspensive procedure and placing in a free zone or warehouse, should be prohibited and a procedure set up to enable the customs authorities to enforce this prohibition as effectively as possible (Preamble 2 Regulation 1383/2003). Council Regulations 1383/2003 and 1891/2004 apply directly in Greece. According to REG(EC). 1383/2003 when the customs authorities, in the course of action and before an application has been lodged by a right holder or granted, have sufficient grounds for suspecting that goods infringe an intellectual property right they may detain them for a period of 3working days from the moment of receipt of the notification by the right-holder and by the declarant or holder of the goods, if the latter are known , in order to enable the right holder to submit an application for action

HOW TO PROCEED

- What initial steps are necessary?

According to REG. (EC) 1383/2003 , a right holder may apply in writing to the competent customs department for action by the customs authorities

[http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003R1383:EN:HTML \(art. 5 and 6\)](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003R1383:EN:HTML (art. 5 and 6))

SIGNPOST





● What signposts exist?

<http://www.gsis.gr>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003R1383:EN:HTML>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:328:0016:0049:EN:PDF>

<http://web.opi.gr/portal/page/portal/opi/info.html/lawelib?LLtype=1>

2. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

<http://web.opi.gr/portal/page/portal/opi/info.html/law2121.html/ch11a.html>









Patent


1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION


-  Who can file an objection against my patent?
According to Hungarian patent law, objection is not available in the case of Hungarian patent applications
-  Can I file an objection against a someone else's patent?
According to Hungarian patent law, objection is not available in the case of Hungarian patent applications
-  Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
According to Hungarian patent law, objection is not available in the case of Hungarian patent applications
-  Who will take a decision on the objection?
According to Hungarian patent law, objection is not available in the case of Hungarian patent applications

SIGNPOST


-  What signposts exist?
According to Hungarian patent law, objection is not available in the case of Hungarian patent applications

NULLITY ACTION (DECLARATION OF INVALIDITY)

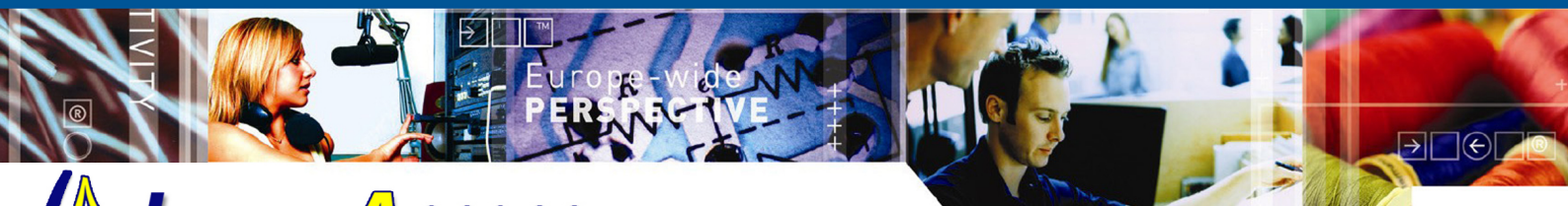
GENERAL INFORMATION

-  Who can file an application for declaration of invalidity of my patent?
Any person may institute proceedings for revocation of a patent against the patentee pursuant to Article 80(1) of the Hungarian Patent Act (Act XXXIII of 1995 on the protection of inventions by patents) in the event

 - (a) the subject matter of the patent does not satisfy the requirements laid down in Article 6(1)(a);
 - (b) the description does not disclose the invention in a clear and complete manner as required by the Act [Article 60(1)];
 - (c) the subject matter of the patent extends beyond the content of the application as filed at the accorded filing date or – in the case of division – beyond the content of the divisional application;

In the event that the patent has been granted to a person who is not entitled to it [Article 42(1)(d)], the revocation of the patent may be requested only by the person who is entitled to the patent.
-  Can I file an application for declaration of invalidity of someone else's patent?
Yes, pursuant to Article 42(1) of Hungarian Patent Act the patent shall be revoked from the outset:

 - (a) if the subject matter of the patent does not satisfy the requirements laid down in Article 6(1)(a);
 - (b) if the description does not disclose the invention in a clear and complete manner as required by this Act [Article 60(1)];
 - (c) if the subject matter of the patent extends beyond the content of the application as filed at the accorded filing date or – in the case of division – beyond the content of the divisional application;



(d) if the patent has been granted to a person who is not entitled to it under this Act.

- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
No.

SIGNPOST

- What signposts exist?
Hungarian Patent Office (www.hpo.hu)

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
The competent county court. (www.birosag.hu)

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
The competent court in accordance with the rules of the Code on Civil Procedure. (www.birosag.hu)

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
It means that goods suspected to infringe a patent right can be detained or their release can be suspended. It basically means that seized goods can not enter the market (their free circulation is prevented).

HOW TO PROCEED

- What initial steps are necessary?
An 'application for action by customs authorities' should be filed by submitting a uniform form to the designated customs office in any Member State indicating Hungary (in the case of Community protection) or directly at the Central Hungarian Regional Directorate of the Hungarian Customs and Finance Guard.

SIGNPOST

- What signposts exist?



The Central Hungarian Regional Directorate of the Hungarian Customs and Finance Guard. (1033 Budapest, Huszti út 42.; vpkmp.sztvo@vam.gov.hu; www.vam.hu)

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

The Metropolitan Court of Budapest. (www.fovarosi.birosag.hu)

www.innovaccess.eu





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
Any person may file a request for cancellation of utility models (with the exception of the right holder), in accordance with the rules defined in Hungarian Patent Act (Act XXXIII of 1995 on the protection of inventions by patents).
- Can I file a request for the cancellation of someone else's utility model?
Yes, pursuant to Article 24(1) of the Act on the Protection of Utility Models (Act XXXVIII of 1991) the utility model protection shall be revoked ex tunc if
(a) the subject matter of the utility model protection does not satisfy the requirements laid down in Article 5(1)
(a);
(b) the description does not satisfy the legal requirements (Article 32);
(c) the subject matter of the utility model protection extends beyond the content of the application as filed at the accorded filing date or – in the case of division – beyond the content of the divisional application.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
No.
- Who will take a decision on the cancellation?
Hungarian Patent Office (www.hpo.hu)

LINKS

- What signpost exists?
Hungarian Patent Office (www.hpo.hu)

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signpost exists?
The competent county court. (www.birosag.hu)

ACTION FOR DAMAGES





SIGNPOST

● What signpost exists?

The competent court in accordance with the rules of the Code on Civil Procedure. (www.birosag.hu)

CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

It means that goods suspected to infringe utility model rights can be detained or their release can be suspended. It basically means that seized goods can not enter the market (their free circulation is prevented).

HOW TO PROCEED

● What initial steps are necessary?

An 'application for action by customs authorities' should be filed by submitting a uniform form to the designated customs office in any Member State indicating Hungary (in the case of Community protection) or directly at the Central Hungarian Regional Directorate of the Hungarian Customs and Finance Guard.

SIGNPOST

● What signposts exist?

The Central Hungarian Regional Directorate of the Hungarian Customs and Finance Guard. (1033 Budapest, Huszti út 42.; vpkmrp.sztvo@vam.gov.hu; www.vam.hu)

3. INSTRUMENTS

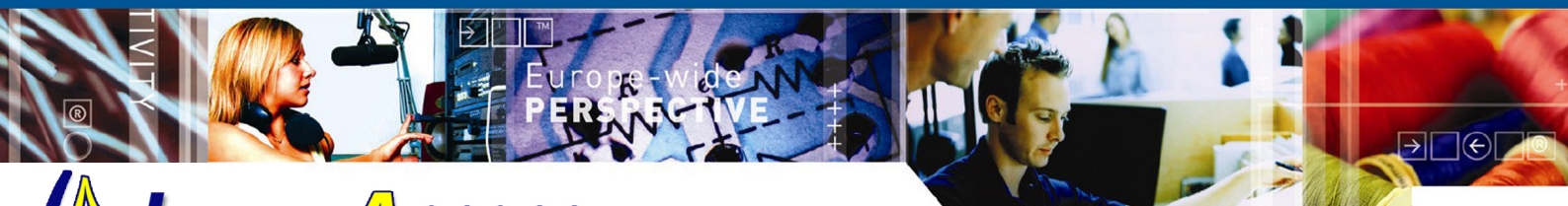
PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

The Metropolitan Court of Budapest. (www.fovarosi.birosag.hu)





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

 Who can file an opposition against my trade mark?


Pursuant to Hungarian Trademark Act (Act XI of 1997 on the Protection of Trademarks and Geographical Indications), a notice of opposition to registration of the trademark may be submitted on the grounds of Articles 4 to 6 (relative grounds for refusal):

- (a) by the holder of the earlier trademark and the licensee recorded in the trademark register thereof;
- (b) by the holder of the right referred to in Article 5(1) (earlier personal rights of others), in the case of an industrial property right the licensee recorded in the trademark register and in the case of copyright the person acquiring the right of use on the basis of a licensing agreement thereof;
- (c) by the prior user on the basis of Article 5(2)(a);
- (d) on the basis of Article 6 by the holder without whose authorization the agent or the representative has applied for the registration of a sign in his own name.

 Can I file an opposition against a someone else's trade mark?

Yes, if you are entitled to file an opposition based on a relative ground for refusal. Pursuant to Hungarian Trademark Act, a notice of opposition to registration of the trademark may be submitted on the grounds of Articles 4 to 6 (relative grounds for refusal):

- (a) by the holder of the earlier trademark and the licensee recorded in the trademark register thereof;
- (b) by the holder of the right referred to in Article 5(1) (earlier personal rights of others), in the case of an industrial property right the licensee recorded in the trademark register and in the case of copyright the person acquiring the right of use on the basis of a licensing agreement thereof;
- (c) by the prior user on the basis of Article 5(2)(a);
- (d) on the basis of Article 6 by the holder without whose authorization the agent or the representative has applied for the registration of a sign in his own name.

 Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?

An opposition shall be filed within a period of three months following the date of publication of a trademark application.

 Who will take a decision on the opposition?

The Hungarian Patent Office will decide on the opposition based on the written submissions of the parties. Parties may request an oral hearing.

SIGNPOST

 What signposts exist?

Hungarian Patent Office (www.hpo.hu)

CANCELLATION

GENERAL INFORMATION



Who can file a request for the cancellation of my trade mark?

Any person may institute proceedings for cancellation of a trademark against the holder under Article 33, except for the cases in paragraph (2).

(2) Under Articles 4 to 6 (relative grounds for refusal), only the holder of an earlier, conflicting right may request cancellation of a trademark. Pursuant to 33 (1) of Hungarian Trademark Act the trademark shall be cancelled

(a) if the subject matter of the trademark protection does not satisfy the registrability requirements laid down in Article 8(a);

(b) if the subject matter of the trademark protection differs from, or the list of goods or services extends beyond, the content of the application as filed at the accorded filing date or – in the case of division – the content of the divisional application;

(c) if the international trademark application has been filed by a person not entitled to it under the Madrid Agreement or the Protocol Relating to the Madrid Agreement [Article 76/I(1)(a)].

Can I file a request for the cancellation of someone else's trade mark?

Yes. Pursuant to 33 (1) of Hungarian Trademark Act the trademark shall be cancelled

(a) if the subject matter of the trademark protection does not satisfy the registrability requirements laid down in Article 8(a): i.e. capability of distinction, lack of absolute and relative grounds of refusal etc. ;

(b) if the subject matter of the trademark protection differs from, or the list of goods or services extends beyond, the content of the application as filed at the accorded filing date or – in the case of division – the content of the divisional application;

(c) if the international trademark application has been filed by a person not entitled to it under the Madrid Agreement or the Protocol Relating to the Madrid Agreement [Article 76/I(1)(a)].

Any person may institute proceedings for cancellation of a trademark against the holder under Article 33, except for the cases of relative grounds for refusal (Articles 4 to 6) where only the holder of an earlier, conflicting right may request cancellation of a trademark.

Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?

No.

Who will take a decision on the cancellation?

The Hungarian Patent Office will decide on the cancellation, following the written preparatory work, on an oral hearing.

LINKS

What signpost exists?

Hungarian Patent Office (www.hpo.hu)

LIMITATION

GENERAL INFORMATION

Who can restrict my trade mark rights?

Trademark rights may be restricted within the frame of an opposition or cancellation procedure.

Can I restrict someone else's trade mark?

Yes, if you are entitled to file an opposition or request the cancellation of a trademark.

Are there specific deadlines/timeframes which I have to observe in connection with limitation?



An opposition may be filed within a period of three months following the date of publication of a trademark application. There aren't any specific deadlines for requesting cancellation.

SIGNPOST

- What signposts exist?
Hungarian Patent Office. (www.hpo.hu)

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
The competent county court. (www.birosag.hu)

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
The competent court in accordance with the rules of the Code on Civil Procedure. (www.birosag.hu)

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
It means that goods suspected to infringe a trademark can be detained or their release can be suspended. It basically means that seized goods can not enter the market (their free circulation is prevented).

HOW TO PROCEED

- What initial steps are necessary?
An 'application for action by customs authorities' should be filed by submitting a uniform form to the designated customs office in any Member State indicating Hungary (in the case of Community protection) or directly at the Central Hungarian Regional Directorate of the Hungarian Customs and Finance Guard.

SIGNPOST

- What signposts exist?
The Central Hungarian Regional Directorate of the Hungarian Customs and Finance Guard. (1033 Budapest, Huszti út 42.; vpkmp.sztvo@vam.gov.hu; www.vam.hu)

www.innovaccess.eu





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

 Who can file an application for declaration of invalidity of my design?

According to Article 57(1) of Hungarian Design Act (Act XLVIII of 2001 on the legal protection of designs) any person may institute proceedings for invalidation of design right against the holder of the design right under Article 28, with the exception laid down in paragraph (2).


(2) Invalidation of design right may only be requested under Articles 9 and 10 by the holder of an earlier conflicting right, and under Article 28(1)(d) by the person entitled to design right. Pursuant to Article 28 (1) of Hungarian Design Act, a design right shall be declared invalid:

- (a) if the subject matter of the design right does not satisfy the requirements laid down in Articles 1 to 10;
- (b) if the representation deposited in the design register does not present the design in a manner prescribed by this Act (Article 39);
- (c) if the subject matter of the design right differs from the design presented in the application filed at the accorded date of filing or, in case of division, in the divisional application;
- (d) if the design right has been granted to a person not entitled to it under this Act;
- (e) if the international industrial design application has been filed by a person not entitled to it under the Hague Agreement (Article 60/F).

 Can I file an application for declaration of invalidity of someone else's design?

Yes. Pursuant to Article 28 (1) of Hungarian Design Act, a design right shall be declared invalid:

- (a) if the subject matter of the design right does not satisfy the requirements laid down in Articles 1 to 10;
- (b) if the representation deposited in the design register does not present the design in a manner prescribed by this Act (Article 39);
- (c) if the subject matter of the design right differs from the design presented in the application filed at the accorded date of filing or, in case of division, in the divisional application;
- (d) if the design right has been granted to a person not entitled to it under this Act;
- (e) if the international industrial design application has been filed by a person not entitled to it under the Hague Agreement (Article 60/F).

 Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?

No.

SIGNPOST

 What signposts exist?

Hungarian Patent Office (www.hpo.hu)

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW



SIGNPOST

What signposts exist?

The competent county court. (www.birosag.hu)

ACTION FOR DAMAGES

SIGNPOST

What signposts exist?

The competent court in accordance with the rules of the Code on Civil Procedure. (www.birosag.hu)

CUSTOMS SEIZURE

GENERAL INFORMATION

What does customs seizure mean?

It means that goods suspected to infringe a design right can be detained or their release can be suspended. It basically means that seized goods can not enter the market (their free circulation is prevented).

HOW TO PROCEED

What initial steps are necessary?

An 'application for action by customs authorities' should be filed by submitting a uniform form to the designated customs office in any Member State indicating Hungary (in the case of Community protection) or directly at the Central Hungarian Regional Directorate of the Hungarian Customs and Finance Guard.

SIGNPOST

What signposts exist?

The Central Hungarian Regional Directorate of the Hungarian Customs and Finance Guard. (1033 Budapest, Huszti út 42.; vpkmp.sztvo@vam.gov.hu; www.vam.hu)

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

What signposts exist?

The Metropolitan Court of Budapest. (www.fovarosi.birosag.hu)





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?

The competent county court. (www.birosag.hu)

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?

The competent court in accordance with the rules of the Code on Civil Procedure. (www.birosag.hu)

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

It means that goods suspected to infringe a copyright can be detained or their release can be suspended. It basically means that seized goods can not enter the market (their free circulation is prevented).

HOW TO PROCEED

- What initial steps are necessary?

An 'application for action by customs authorities' should be filed by submitting a uniform form to the designated customs office in any Member State indicating Hungary (in the case of Community protection) or directly at the Central Hungarian Regional Directorate of the Hungarian Customs and Finance Guard.

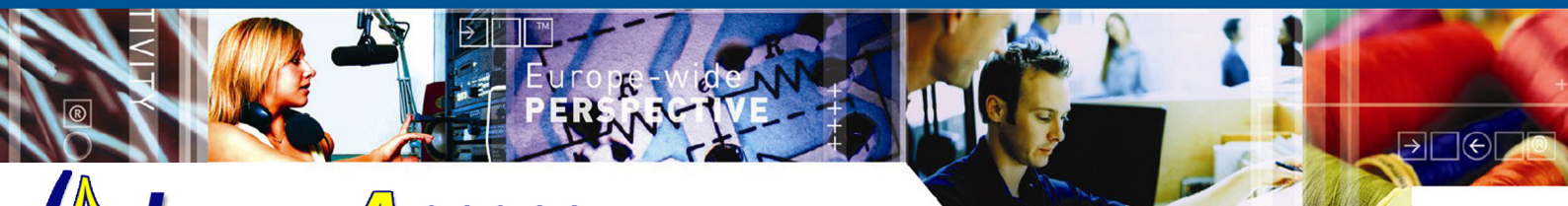
SIGNPOST

- What signposts exist?

The Central Hungarian Regional Directorate of the Hungarian Customs and Finance Guard. (1033 Budapest, Huszti út 42.; vpkmp.sztvo@vam.gov.hu; www.vam.hu)

2. INSTRUMENTS

PRESERVATION OF EVIDENCE



www.innovaccess.eu

SIGNPOST

● What signposts exist?

The Metropolitan Court of Budapest. (www.fovarosi.birosag.hu)









Patent


1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION



-  Who can file an objection against my patent?
The opposition to an Italian issued patent before the National Patent Office is not foreseen by the Italian Industrial Property Code
-  Can I file an objection against a someone else's patent?
The opposition to an Italian issued patent before the National Patent Office is not foreseen by the Italian Industrial Property Code
-  Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
The opposition to an Italian issued patent before the National Patent Office is not foreseen by the Italian Industrial Property Code
-  Who will take a decision on the objection?
The opposition to an Italian issued patent before the National Patent Office is not foreseen by the Italian Industrial Property Code

SIGNPOST

-  What signposts exist?
The opposition to an Italian issued patent before the National Patent Office is not foreseen by the Italian Industrial Property Code

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

-  Who can file an application for declaration of invalidity of my patent?
A declaration of invalidity of a issued patent could be request by anyone who is interested in and should be promoted by the national court even without a personal application. In the specific case of the patent granted to someone not entitled, the invalidity could be request from anyone who is interested in only after a period of 2 years from the grant publication and in this period of 2 years the entitled haven't applied a right transfer before the Civil Court..
-  Can I file an application for declaration of invalidity of someone else's patent?
Yes, only if you are interested in . See the answer on FAQ. Who can file an application for declaration of invalidity of my patent?



- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?

The action to obtain a declaration of invalidity of a issued patent could be request by anyone in every time except the specific case of a patent granted to someone who is not entitled to, whereby you are the subject who is not the right holder. In this specific case you must wait for a time period of 2 years from the publication of the decision to grant. See answer on the FAQ. Who can file an application for declaration of invalidity of my patent?

2. PROACTIVE MEASURES

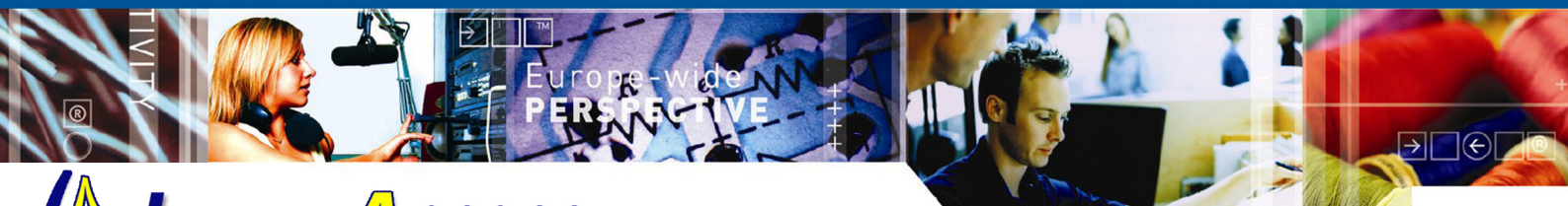
CUSTOMS SEIZURE

HOW TO PROCEED

- What initial steps are necessary?

To claim the action of the Custom authority, the right holder must deposit a written application according to the art. 5 of the Regulation (EC) 1383/2003





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
There is no specific procedure to cancel an issued utility model
- Can I file a request for the cancellation of someone else's utility model?
There is no specific procedure to cancel an issued utility model
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
There is no specific procedure to cancel an issued utility model
- Who will take a decision on the cancellation?
There is no specific procedure to cancel an issued utility model

LINKS

- What signpost exists?
There is no specific procedure to cancel an issued utility model

2. PROACTIVE MEASURES

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
To claim the action of the Custom authority, the right holder must deposit a written application according to the art. 5 of the Regulation (EC) 1383/2003

HOW TO PROCEED

- What initial steps are necessary?
To claim the action of the Custom authority, the right holder must deposit a written application according to the art. 5 of the Regulation (EC) 1383/2003



Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

 Who can file an opposition against my trade mark?

Sono legittimati all'opposizione: a) il titolare di un marchio già registrato nello Stato o con efficacia nello Stato da data anteriore; b) il soggetto che ha depositato nello Stato domanda di registrazione di un marchio in data anteriore o avente effetto nello Stato da data anteriore in forza di un diritto di priorità o di una valida rivendicazione di preesistenza; c) il licenziatario dell'uso esclusivo del marchio; d) le persone, gli enti e le associazioni di cui all'articolo 8 CPI. (I titolari del diritto al ritratto di persona, i titolari di nomi di persona diversi da quelli di chi chiede la registrazione nel caso di lesione della fama, il credito o il decoro di chi ha diritto a portare tali nomi, i titolari di segni notori). attenzione attualmente la procedura di opposizione non è stata ancora attivata

The legitimated subjects to file an opposition against an Italian trade mark are: a) the right holder of a trade mark registered in the proper country NPO or with a valid trademark before the opposition date; b) the subject that has applied in the country for registration form of a trade mark or with a valid trademark before the opposition date, on the basis of the priority right or a valid claim of the before existing of the registered right; c) the right holder for the exclusive use of the trade mark; d) the persons, the institutions and the accociations mentioned on the art. 8 Italian Industrial Property Code.(the copyright holders of the person portret, the owner of personal names which are different from those of the person who is asking to register it in the specific case of notoriety damage, of reputation or the dignity of the whom has the right to bear the names and the owners of the notorious distinctive signs).

attention the opposition procedure is not active at the moment.

 Can I file an opposition against a someone else's trade mark?

Se ti trovi nelle condizione di un legittimato sì. Vedi risposta alla FAQ Who can file an opposition against my trade mark? attenzione attualmente la procedura di opposizione non è stata ancora attivata
If you find yourself as a legitimated subject, Yes. See the answer on FAQ.


Who can file an opposition against my trade mark? attention the opposition procedure is not active at the moment.

 Who will take a decision on the opposition?

Under article 183 paragraph 1 Industrial Property Code, "the oppositions are decided by officials appointed for a period of two years with the General Manager's decree between the pertaining to the managing career directive or managerial of Italian Patent and trademark office, and provided with bachelor in jurisprudence". But if officials' number is inadequate, officials appointed between the pertaining to the staff of Ministero dello Sviluppo Economico at the same qualification and professional formation or expert people with well-known knowledge of discipline can be appointed too. (article 183 paragraph 3)

CANCELLATION

GENERAL INFORMATION

 Who can file a request for the cancellation of my trade mark?

Non esiste una specifica procedura per far cancellare un marchio
There is no specific procedure to cancel an issued trademark



- Can I file a request for the cancellation of someone else's trade mark?
Non esiste una specifica procedura per far cancellare un marchio
There is no specific procedure to cancel an issued trademark
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
Non esiste una specifica procedura per far cancellare un marchio
There is no specific procedure to cancel an issued trademark
- Who will take a decision on the cancellation?
Non esiste una specifica procedura per far cancellare un marchio
There is no specific procedure to cancel an issued trademark

LIMITATION

GENERAL INFORMATION

- Who can restrict my trade mark rights?
nessuno
no one
- Can I restrict someone else's trade mark?
no

2. PROACTIVE MEASURES

CUSTOMS SEIZURE

HOW TO PROCEED

- What initial steps are necessary?
To claim the action of the Custom authority, the right holder must deposit a written application according to the art. 5 of the Regulation (EC) 1383/2003





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Can I file an application for declaration of invalidity of someone else's design?

Sì, purché tu abbia un interesse, e nel caso di nullità di un disegno o modello per la sussistenza dei diritti anteriori o perché la registrazione è stata effettuata a nome del non avente diritto, tu sia il titolare dei diritti anteriori o il suo avente causa o l'avente diritto. Per il caso di utilizzazione impropria di uno degli elementi elencati nell'articolo 6-ter della Convenzione di Unione di Parigi quando tu hai abbia interesse all'utilizzazione.

Yes, but only if you are interested in, and in the case of the invalidity of a design or model, in order to guarantee the existence of rights in a previous date, or because the registration is concluded in the name of the untitled right holder, and you are the right holder in the previous date or its right entitled right holder. In the specific case of improper use of one of the distinctive elements listed in the art 6-ter of the Paris Convention, when you are interested in its use.

- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
No.

2. PROACTIVE MEASURES

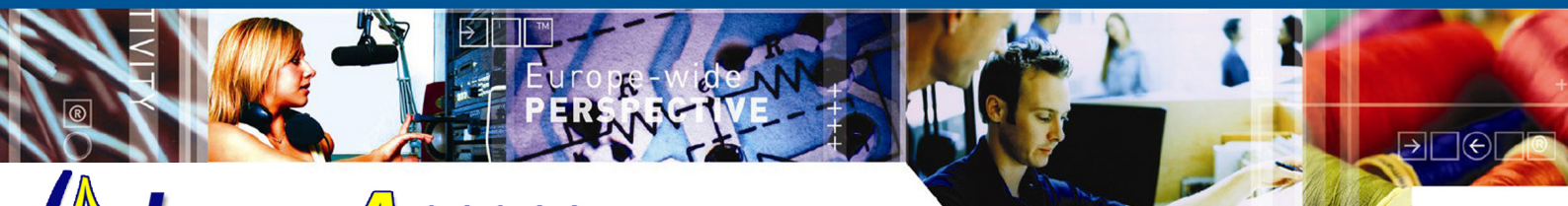
CUSTOMS SEIZURE

HOW TO PROCEED

- What initial steps are necessary?

To claim the action of the Custom authority, the right holder must deposit a written application according to the art. 5 of the Regulation (EC) 1383/2003





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Who can file an objection against my patent?
There is no patent opposition procedure in Luxembourg
- Can I file an objection against a someone else's patent?
There is no patent opposition procedure in Luxembourg
- Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
There is no patent opposition procedure in Luxembourg
- Who will take a decision on the objection?
There is no patent opposition procedure in Luxembourg

SIGNPOST

- What signposts exist?
See nullity action.

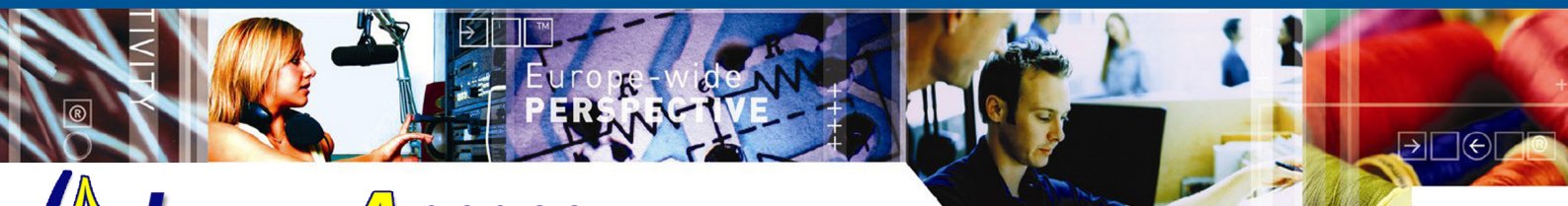
NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Anyone can request the invalidity of a patent
- Can I file an application for declaration of invalidity of someone else's patent?
Yes
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
A patent can be declared invalid at any moment of it's lifetime, and even retroactively after it has expired

SIGNPOST

- What signposts exist?
Only nullity action is possible. Contact Luxembourg Courts.



2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
Contact Luxembourg Courts.

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Contact Luxembourg Courts.

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
Customs seizure means taking of possession of goods by customs authorities in order to dispose of them. Luxembourg's customs' legislation in terms of violation of IPR is based upon Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs' action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights. This legislation does not foresee seizure, but a withholding of the suspected goods by customs during a limited period of time. This withholding is meant to allow the rightholder to form a request for the destruction of the withheld goods upon his own liability and on his own costs after prior and due information of the owner, if known, who can oppose to that request.

HOW TO PROCEED

- What initial steps are necessary?
According to the mentioned Regulation, an intervention from the customs can be requested by a rightholder in case of sufficient suspicions of infringement of his right. A written claim has to be sent in a special form with precise information to the customs authorities who then decide upon the admissibility of the requested withholding of the goods. In case of sufficient suspicion of an existing infringement without prior claim from a rightholder, customs can also proceed to a short-limited withholding in order to inform the rightholder and let him decide whether or not to make a request.

SIGNPOST

- What signposts exist?
Signpost: Customs Administration

3. INSTRUMENTS



PRESERVATION OF EVIDENCE

SIGNPOST

What signposts exist?

Preservation of evidence is possible according to articles 22 to 30 of the law from May 22nd, 2009, transposing the Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights. The provisions of these articles establish a special emergency proceeding before the judge in chambers in order to be granted certain rights for the preserving of evidence.
Signpost: Luxembourg Courts.





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
There is no utility model in Luxembourg.
- Can I file a request for the cancellation of someone else's utility model?
There is no utility model in Luxembourg.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
There is no utility model in Luxembourg.
- Who will take a decision on the cancellation?
There is no utility model in Luxembourg.

LINKS

- What signpost exists?
There is no utility model in Luxembourg.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

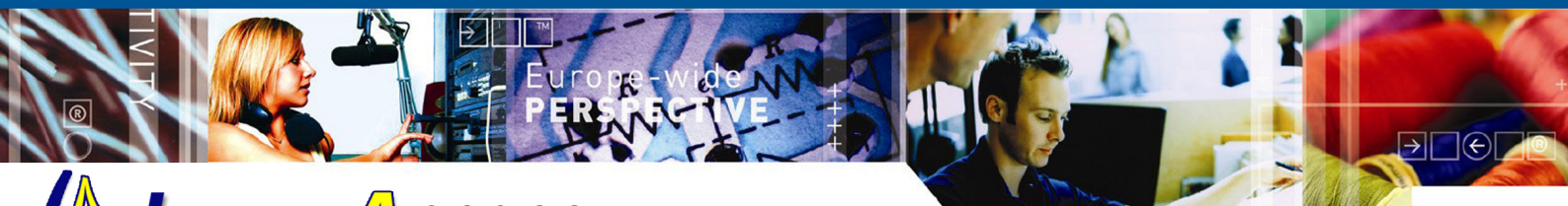
- What signpost exists?
There is no utility model in Luxembourg.

ACTION FOR DAMAGES

SIGNPOST

- What signpost exists?
There is no utility model in Luxembourg.





www.innovaccess.eu

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
There is no utility model in Luxembourg.

HOW TO PROCEED

- What initial steps are necessary?
There is no utility model in Luxembourg.

SIGNPOST

- What signposts exist?
There is no utility model in Luxembourg.

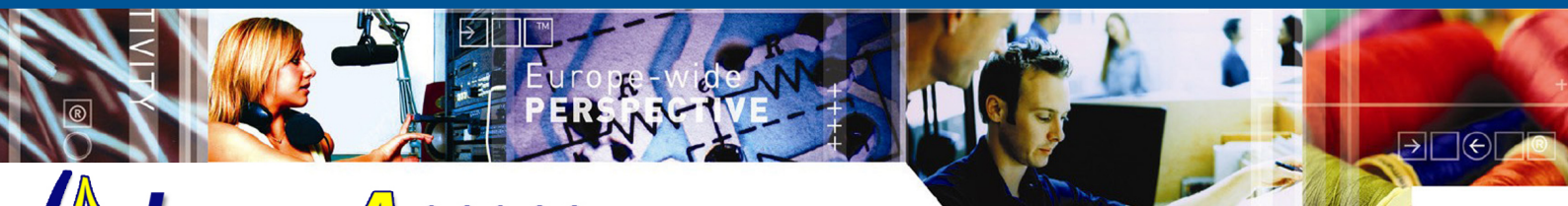
3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
There is no utility model in Luxembourg.





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
The owner of an earlier registered trademark or a well known mark within the meaning of art. 6bis of the Paris Convention.
- Can I file an opposition against a someone else's trade mark?
Same answer.
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
Two months, to be counted from the first day of the month following the publication of the application.
- Who will take a decision on the opposition?
The Benelux Office for Intellectual Property (BOIP)

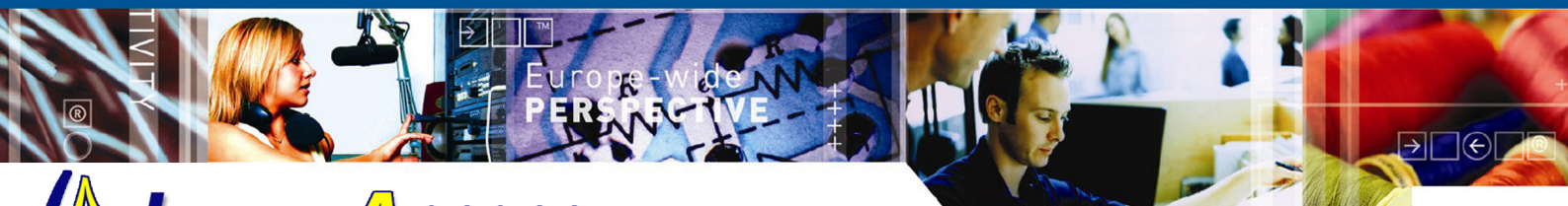
CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
This depends on the grounds that are invoked. Absolute grounds and revocation: any interested party, including (in some cases) the public prosecutor. Relative grounds: owners of prior rights (or, in some cases, their licensees).
- Can I file a request for the cancellation of someone else's trade mark?
Same answer.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
No, although there is an exception in case of acquiescence (cf. art. 9 of Directive 2008/95/EC).
- Who will take a decision on the cancellation?
The competent Court.

LIMITATION

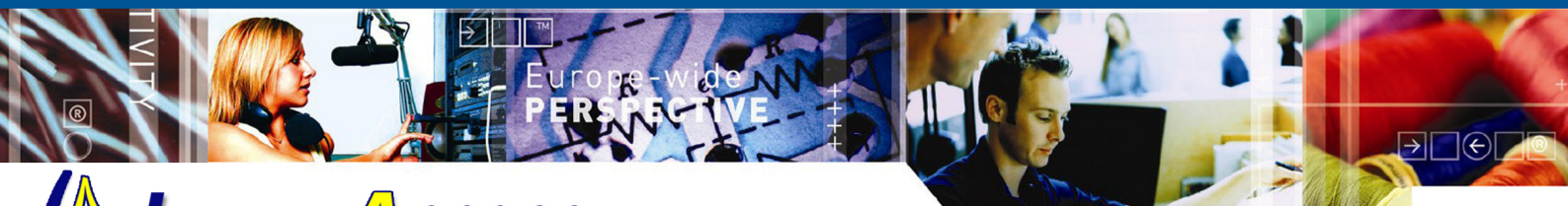
GENERAL INFORMATION



www.innovaccess.eu

- Who can restrict my trade mark rights?
Naturally, the owner can restrict his own mark. Further, a limitation is in fact a partial cancellation, so the answers given above apply here too.
- Can I restrict someone else's trade mark?
Same answer.
- Are there specific deadlines/timeframes which I have to observe in connection with limitation?
Same answer.





Design

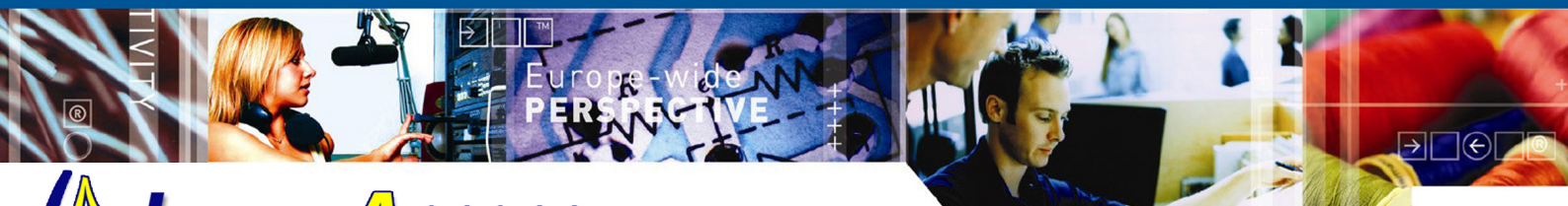
1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Any interested party, including (in some cases) the public prosecutor.
- Can I file an application for declaration of invalidity of someone else's design?
Same answer.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
No.





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

 What signposts exist?

Luxembourg's competition law does not foresee any specific action in terms of copyright. General competition law provisions could eventually be applicable e.g. in case of abuse of a dominant position.

Signpost: Conseil de la Concurrence / Inspection de la Concurrence.

ACTION FOR DAMAGES

SIGNPOST

 What signposts exist?

Actions for damages, and precisely civil actions, are specifically stipulated by articles 72 to 81 of the modified copyright, neighboring rights and databases law from April 18th, 2001. A plaintiff can also sue for damages against someone being tried in a criminal court.

Signpost: Luxembourg Courts.

CUSTOMS SEIZURE

GENERAL INFORMATION

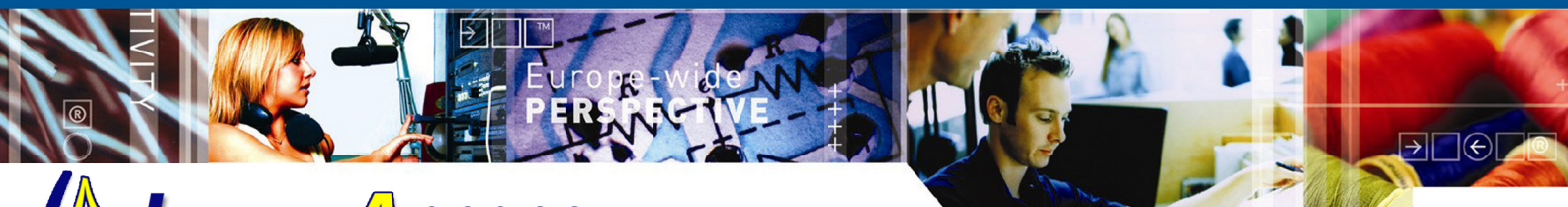
 What does customs seizure mean?

Customs seizure means taking of possession of goods by customs authorities in order to dispose of them. Luxembourg's customs' legislation in terms of violation of IPR is based upon Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs' action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights. This legislation does not foresee seizure, but a withholding of the suspected goods by customs during a limited period of time. This withholding is meant to allow the rightholder to form a request for the destruction of the withheld goods upon his own liability and on his own costs after prior and due information of the owner, if known, who can oppose to that request.

HOW TO PROCEED

 What initial steps are necessary?

According to the mentioned Regulation, an intervention from the customs can be requested by a rightholder in case of sufficient suspicions of infringement of his right. A written claim has to be sent in a special form with precise information to the customs authorities who then decide upon the admissibility of the requested withholding of the goods. In case of sufficient suspicion of an existing infringement without prior claim from a rightholder, customs can also proceed to a short-limited withholding in order to inform the rightholder and let him decide whether or not to make a request.



SIGNPOST

- What signposts exist?

Signpost: Customs Administration

2. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?

Preservation of evidence is possible according to articles 22 to 30 of the law from May 22nd, 2009, transposing the Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights. The provisions of these articles establish a special emergency proceeding before the judge in chambers in order to be granted certain rights for the preserving of evidence.

Signpost: Luxembourg Courts.





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Who can file an objection against my patent?
Any interested 3rd Party.
- Can I file an objection against a someone else's patent?
Any interested 3rd Party may file an Objection through the Courts against a granted Patent.
- Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
Currently a Civil Action procedure would have a time limit of 5 years to be instituted. In future other time frames will be established as a result of the amendments to be passed.
- Who will take a decision on the objection?
The Court at the moment although in future this would also be possible by the Comptroller of Industrial Property or the Patents Tribunal as the case may be, once the expected amendments are passed.

SIGNPOST

- What signposts exist?
These are available through the Enforcement Section of Malta's IP Portal as well as through the Justice's website regarding the laws of Malta and specific case law.

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Any interested 3rd Party.
- Can I file an application for declaration of invalidity of someone else's patent?
Any interested 3rd Party may file an Invalidity Claim through the Courts against a granted Patent.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
Currently a Civil Action procedure would have a time limit of 5 years to be instituted. In future other time frames will be established as a result of the amendments to be passed.

SIGNPOST





● What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal as well as through the Justice's website regarding the laws of Malta and specific case law.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

● What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal as well as through the Consumer & Competition Department's website regarding the competition laws, Office of Fair Competition and complaints.

CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

Confiscation of goods.

HOW TO PROCEED

● What initial steps are necessary?

Filing an application for customs action.

SIGNPOST

● What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal as well as through the Custom's website.

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal.





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
Utility Models are not available under Maltese legislation.





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
Opposition is not possible during the application stage, however it is possible only through the Courts through Revocation or Invalidation by any interested 3rd party.
- Can I file an opposition against a someone else's trade mark?
Any interested 3rd Party may file for Revocation or Invalidation through the Courts against a granted Trademark.
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
Currently a Civil Action procedure would have a time limit of 5 years to be instituted.
- Who will take a decision on the opposition?
The Court.

SIGNPOST

- What signposts exist?
These are available through the Enforcement Section of Malta's IP Portal as well as through the Justice's website regarding the laws of Malta and specific case law.

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
Cancellation is not possible during the application stage unless withdrawn by the Applicant or Refused by the Office, however Cancellation is possible following Grant only through the Courts through Revocation or Invalidation by any interested 3rd party.
- Can I file a request for the cancellation of someone else's trade mark?
Any interested 3rd Party may file for Revocation or Invalidation through the Courts against a granted Trademark.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
Currently a Civil Action procedure would have a time limit of 5 years to be instituted.
- Who will take a decision on the cancellation?
The Court.



LINKS

● What signpost exists?

These are available through the Enforcement Section of Malta's IP Portal as well as through the Justice's website regarding the laws of Malta and specific case law.

LIMITATION

GENERAL INFORMATION

● Who can restrict my trade mark rights?

The Court.

● Can I restrict someone else's trade mark?

Only if successfully argued in Court.

● Are there specific deadlines/timeframes which I have to observe in connection with limitation?

Currently a Civil Action procedure would have a time limit of 5 years to be instituted.

SIGNPOST

● What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal as well as through the Justice's website regarding the laws of Malta and specific case law.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

● What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal as well as through the Consumer & Competition Department's website regarding the competition laws, Office of Fair Competition and complaints.

ACTION FOR DAMAGES

SIGNPOST

● What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal.

CUSTOMS SEIZURE



GENERAL INFORMATION

- What does customs seizure mean?
Confiscation of goods.

HOW TO PROCEED

- What initial steps are necessary?
Filing an application for customs action.

SIGNPOST

- What signposts exist?
These are available through the Enforcement Section of Malta's IP Portal as well as through the Custom's website.

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
These are available through the Enforcement Section of Malta's IP Portal.





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Any interested 3rd Party
- Can I file an application for declaration of invalidity of someone else's design?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
Currently a Civil Action procedure would have a time limit of 5 years to be instituted. In future other time frames will be established as a result of the amendments to be passed.

SIGNPOST

- What signposts exist?
These are available through the Enforcement Section of Malta's IP Portal as well as through the Justice's website regarding the laws of Malta and specific case law.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
These are available through the Enforcement Section of Malta's IP Portal as well as through the Consumer & Competition Department's website regarding the competition laws, Office of Fair Competition and complaints.

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
These are available through the Enforcement Section of Malta's IP Portal.

CUSTOMS SEIZURE





GENERAL INFORMATION

- What does customs seizure mean?
Confiscation of goods.

HOW TO PROCEED

- What initial steps are necessary?
Filing an application for customs action.

SIGNPOST

- What signposts exist?
These are available through the Enforcement Section of Malta's IP Portal as well as through the Custom's website.

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
These are available through the Enforcement Section of Malta's IP Portal.





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

● What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal as well as through the Consumer & Competition Department's website regarding the competition laws, Office of Fair Competition and complaints.

ACTION FOR DAMAGES

SIGNPOST

● What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal.

CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

Confiscation of goods.

HOW TO PROCEED

● What initial steps are necessary?

Filing an application for customs action.

SIGNPOST

● What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal as well as through the Custom's website.

2. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST



ENFORCEMENT FAQs FOR MALTA

What signposts exist?

These are available through the Enforcement Section of Malta's IP Portal.

www.innovaccess.eu





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

 Who can file an objection against my patent?


1. Within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on the grant of a patent.

2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a patent may be invalidated.
(Industrial Property Law Article 246)

 Can I file an objection against a someone else's patent?

1. Within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on the grant of a patent.

2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a patent may be invalidated.
(Industrial Property Law Article 246)

 Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?

1. Within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on the grant of a patent.

2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a patent may be invalidated.
(Industrial Property Law Article 246)

 Who will take a decision on the objection?


1. The Patent Office shall immediately communicate the opposition referred to in Article 246 to the right holder and invite him to file his observations within a fixed time limit.

2. Where, following the communication of the Patent Office referred to in paragraph (1), the right holder claims the opposition to be unjustified, the case shall be submitted for examination in litigation proceedings. Otherwise, the Patent Office shall decide on reversal of the decision on the grant of a patent and discontinue the proceeding.
(Industrial Property Law Article 247)

Decisions made and orders issued by the Patent Office shall be subject to complaint to the administrative courts.
(Industrial Property Law Article 248)

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

 Who can file an application for declaration of invalidity of my patent?





1. A patent may be declared invalid in whole or in part at the request of any person having a legitimate interest therein, who is able to prove that the statutory requirements for the grant of a patent have not been satisfied.
2. The General Prosecutor of the Republic of Poland or the President of the Patent Office may, in the public interest, request that a patent be invalidated or intervene in an invalidation action already pending.
(Industrial Property Law Article 89)
The provisions of Articles 89, 91 and 92 shall apply accordingly to invalidation of European patents granted under the procedure established in the European Patent Convention.
(Industrial Property Law Article 921)

Can I file an application for declaration of invalidity of someone else's patent?

1. A patent may be declared invalid in whole or in part at the request of any person having a legitimate interest therein, who is able to prove that the statutory requirements for the grant of a patent have not been satisfied.
2. The General Prosecutor of the Republic of Poland or the President of the Patent Office may, in the public interest, request that a patent be invalidated or intervene in an invalidation action already pending.
(Industrial Property Law Article 89)
The provisions of Articles 89, 91 and 92 shall apply accordingly to invalidation of European patents granted under the procedure established in the European Patent Convention.
(Industrial Property Law Article 921)

Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
without time limit

2. PROACTIVE MEASURES

CUSTOMS SEIZURE

GENERAL INFORMATION

What does customs seizure mean?

Applicable Laws:
Council Regulation (EC) No.1383/2003
Commission Regulation (EC) No.1891/2004

HOW TO PROCEED

What initial steps are necessary?

Application for customs action:
The right holder may submit an application for customs action. There are 2 basic requirements concerning the application:

- 1. It has to contain a sufficiently accurate description to make selection and identification possible.
- 2. The right holder has to prove that s/he owns intellectual property right, or that s/he is the authorised user of the right.
 - Application is free of charge;
 - Applicant is notified of the customs decision within 30 working days of the receipt of the application;
 - If an application for action is granted, the competent customs department specifies the period during which the customs authorities are to take action (generally one year). This period may be extended upon request, at the latest 30 working days before the expiration of the initial application for action;
 - An application should be submitted on specific forms (model forms are annexed to Commission Regulation No.1891/2004).

Note: application for action may be taken both as a preventive measure and as a reaction to infringements.
The agency responsible for investigating these applications in Poland:
Customs Chamber in Warsaw
Erazma Ciołka 14 A





ENFORCEMENT FAQs FOR POLAND 

01-443 Warsaw
Poland
Tel.: +48 22 510 47 00
E-mail: IC440000@war.mofnet.gov.pl

www.innovaccess.eu







Utility Model



1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

-  Who can file a request for the cancellation of my utility model?


 1. A right of protection for a utility model may be declared invalid in whole or in part at the request of any person having a legitimate interest therein, who is able to prove that the statutory requirements for the grant of a right of protection for a utility model have not been satisfied.
 2. The General Prosecutor of the Republic of Poland or the President of the Patent Office may, in the public interest, request that a right of protection for a utility model be invalidated or intervene in an invalidation action already pending.
(Industrial Property Law Article 89 with reference to Article 100)
-  Can I file a request for the cancellation of someone else's utility model?


 1. A right of protection for a utility model may be declared invalid in whole or in part at the request of any person having a legitimate interest therein, who is able to prove that the statutory requirements for the grant of a right of protection for a utility model have not been satisfied.
 2. The General Prosecutor of the Republic of Poland or the President of the Patent Office may, in the public interest, request that a right of protection for a utility model be invalidated or intervene in an invalidation action already pending.
(Industrial Property Law Article 89 with reference to Article 100)
-  Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
without time limit
-  Who will take a decision on the cancellation?

 1. The Patent Office shall make a decision in litigation procedure:
 - (i) on invalidation of a right of protection.
(Industrial Property Law Article 255)

OPPOSITION

GENERAL INFORMATION

-  Who can file an objection against my utility model?

 1. Within six months from the publication in "Wiadomości Urzędu Patentowego" of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on a right of protection.
 2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a right of protection may be invalidated.
(Industrial Property Law Article 246)
-  Can I file an objection against a someone else's utility model?





1. Within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on a right of protection.
2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a right of protection may be invalidated.
(Industrial Property Law Article 246)

 Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?

1. Within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on a right of protection.
2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a right of protection may be invalidated.
(Industrial Property Law Article 246)

 Who will take a decision on the objection?

1. The Patent Office shall immediately communicate the opposition referred to in Article 246 to the right holder and invite him to file his observations within a fixed time limit.
2. Where, following the communication of the Patent Office referred to in paragraph (1), the right holder claims the opposition to be unjustified, the case shall be submitted for examination in litigation proceedings. Otherwise, the Patent Office shall decide on reversal of the decision on the grant of a right of protection and discontinue the proceeding.
(Industrial Property Law Article 247)
Decisions made and orders issued by the Patent Office shall be subject to complaint to the administrative courts.
(Industrial Property Law Article 248)






Trade Mark


1. DEFENSIVE ACTIONS

OPPOSITION


GENERAL INFORMATION

-  Who can file an opposition against my trade mark?


 1. Within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on the grant of a right of protection.
 2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a right of protection may be invalidated.
(Industrial Property Law Article 246)
 1. Anyone may file a justified opposition against the recognition on the territory of Poland of the protection of an international trademark registration. The provisions of Article 246 (1) and Article 247 shall, subject to paragraph 2, apply accordingly.
(Industrial Property Law Article 15211)

-  Can I file an opposition against a someone else's trade mark?

 1. Within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on the grant of a right of protection.
 2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a right of protection may be invalidated.
(Industrial Property Law Article 246)
 1. Anyone may file a justified opposition against the recognition on the territory of Poland of the protection of an international trademark registration. The provisions of Article 246 (1) and Article 247 shall, subject to paragraph 2, apply accordingly.
(Industrial Property Law Article 15211)

-  Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?

 1. Within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on the grant of a right of protection.
(Industrial Property Law Article 246)

-  Who will take a decision on the opposition?

 1. The Patent Office shall immediately communicate the opposition referred to in Article 246 to the right holder and invite him to file his observations within a fixed time limit.
 2. Where, following the communication of the Patent Office referred to in paragraph (1), the right holder claims the opposition to be unjustified, the case shall be submitted for examination in litigation proceedings. Otherwise, the Patent Office shall decide on reversal of the decision on the grant of a right of protection and discontinue the proceeding.
(Industrial Property Law Article 247)
Decisions made and orders issued by the Patent Office shall be subject to complaint to the administrative courts.
(Industrial Property Law Article 248)
 1. Anyone may file a justified opposition against the recognition on the territory of Poland of the protection of an international trademark registration. The provisions of Article 246 (1) and Article 247 shall, subject to paragraph 2, apply accordingly.




2. Where the holder of the international trademark registration fails to react on the opposition, referred to in paragraph 1, or he accepts the opposition, the Patent Office shall take a decision on revocation of the recognition on the territory of Poland of the protection of an international trademark registration in respect of all or certain goods only.

3. The Patent Office's decision referred to in paragraph 2, may be subject to a request for re-examination of the matter. The provisions of Article 244 (1) – (14) and (4) – (5) shall apply accordingly.
(Industrial Property Law Article 15211)

CANCELLATION

GENERAL INFORMATION

 Who can file a request for the cancellation of my trade mark?

The right of protection for a trademark may be invalidated in whole or in part at the request of any person having a legitimate interest therein, provided that that person is able to prove that the statutory requirements for the grant of that right have not been satisfied.

(Industrial Property Law Article 164)

The General Public Prosecutor of the Republic of Poland or the President of the Patent Office may, in the public interest, request that the right of protection for a trademark be invalidated or intervene in an invalidation action already pending.

(Industrial Property Law Article 167)

In respect of revocation of the recognition on the territory of Poland of the protection of an international trademark registration the provisions of Articles 164-167 shall apply accordingly.

(Industrial Property Law Article 15213)

 Can I file a request for the cancellation of someone else's trade mark?

The right of protection for a trademark may be invalidated in whole or in part at the request of any person having a legitimate interest therein, provided that that person is able to prove that the statutory requirements for the grant of that right have not been satisfied.


(Industrial Property Law Article 164)

The General Public Prosecutor of the Republic of Poland or the President of the Patent Office may, in the public interest, request that the right of protection for a trademark be invalidated or intervene in an invalidation action already pending.

(Industrial Property Law Article 167)

In respect of revocation of the recognition on the territory of Poland of the protection of an international trademark registration the provisions of Articles 164-167 shall apply accordingly.

(Industrial Property Law Article 15213)

 Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
without time limit

 Who will take a decision on the cancellation?

1. The Patent Office shall make a decision in litigation procedure:

(i) on invalidation of a right of protection;

(ii) on invalidation of the recognition of an international trademark registration on the territory of the Republic of Poland.

(Industrial Property Law Article 255)

LIMITATION

GENERAL INFORMATION



Who can restrict my trade mark rights?

1. The right of protection shall not entitle the right holder to prohibit third parties from using, in the course of trade:

- (i) their names or addresses,
- (ii) indications concerning, in particular, the features and characteristics of goods, the kind, quantity, quality, intended purpose, origin, the time of production or of expiration of usability period,
- (iii) a registered mark or a similar mark, if it is necessary to indicate the intended purpose of the product, in particular as far as offered spare parts, accessories or services are concerned,
- (iv) a registered geographical indication, if the use thereof by these parties is authorised under other provisions of this Law.

2. The use of the signs referred to in paragraph (1) shall only be permitted, where it satisfies reasonable needs of the user and of purchasers of the goods and is, at the same time, in accordance with honest practices in industrial or commercial business, or in services.

(Industrial Property Law Article 156)

The holder of a trademark registration shall not be entitled to prohibit a third party from using that mark or a mark similar thereto in the course of trade, if he has refrained from using that mark within the meaning of Article 169(1)(i), (4) and (5).

(Industrial Property Law Article 157)

1. The holder of a trademark registration shall not be entitled to prohibit a third party from using the name under which he runs his business activity, provided that said name is not used for marking the goods being the subject of that activity and no risk of misleading the public as to the origin of the goods exists, in particular owing to a different range of activities or the use of the name being limited to a particular locality.

2. Paragraph (1) shall not apply, where a third party, when using the name under which it runs its business activity, is in bad faith.

(Industrial Property Law Article 158)

1. Any person who, when running a business activity locally to a narrow extent, has used in good faith the mark subsequently registered as a trademark on behalf of another party, shall have the right to continue to use that mark free of payment to the same extent to which he had previously used it.

2. At the request of an interested party, the right referred to in paragraph (1) shall be recorded in the Trademark Register. The right may be assigned to another party only together with the enterprise.

(Industrial Property Law Article 160)

Can I restrict someone else's trade mark?

1. The right of protection shall not entitle the right holder to prohibit third parties from using, in the course of trade:

- (i) their names or addresses,
- (ii) indications concerning, in particular, the features and characteristics of goods, the kind, quantity, quality, intended purpose, origin, the time of production or of expiration of usability period,
- (iii) a registered mark or a similar mark, if it is necessary to indicate the intended purpose of the product, in particular as far as offered spare parts, accessories or services are concerned,
- (iv) a registered geographical indication, if the use thereof by these parties is authorised under other provisions of this Law.

2. The use of the signs referred to in paragraph (1) shall only be permitted, where it satisfies reasonable needs of the user and of purchasers of the goods and is, at the same time, in accordance with honest practices in industrial or commercial business, or in services.

(Industrial Property Law Article 156)

The holder of a trademark registration shall not be entitled to prohibit a third party from using that mark or a mark similar thereto in the course of trade, if he has refrained from using that mark within the meaning of Article 169(1)(i), (4) and (5).

(Industrial Property Law Article 157)

1. The holder of a trademark registration shall not be entitled to prohibit a third party from using the name under which he runs his business activity, provided that said name is not used for marking the goods being the subject of that activity and no risk of misleading the public as to the origin of the goods exists, in particular owing to a different range of activities or the use of the name being limited to a particular locality.

2. Paragraph (1) shall not apply, where a third party, when using the name under which it runs its business activity, is in bad faith.

(Industrial Property Law Article 158)

1. Any person who, when running a business activity locally to a narrow extent, has used in good faith the mark subsequently registered as a trademark on behalf of another party, shall have the right to continue to use that mark free of payment to the same extent to which he had previously used it.



2. At the request of an interested party, the right referred to in paragraph (1) shall be recorded in the Trademark Register. The right may be assigned to another party only together with the enterprise.
(Industrial Property Law Article 160)

● Are there specific deadlines/timeframes which I have to observe in connection with limitation?

1. Any person who, when running a business activity locally to a narrow extent, has used in good faith the mark subsequently registered as a trademark on behalf of another party, shall have the right to continue to use that mark free of payment to the same extent to which he had previously used it.

2. At the request of an interested party, the right referred to in paragraph (1) shall be recorded in the Trademark Register. The right may be assigned to another party only together with the enterprise.
(Industrial Property Law Article 160)

The following cases, in particular, shall be decided in civil law procedure in accordance with the general principles of law:

(viii) for ascertainment of the right to use, in a local-scale activity, a mark registered on behalf of a third party as a trademark.

(Industrial Property Law Article 284)

2. PROACTIVE MEASURES

CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

Applicable Laws:
Council Regulation (EC) No.1383/2003
Commission Regulation (EC) No.1891/2004

HOW TO PROCEED

● What initial steps are necessary?

Application for customs action:

The right holder may submit an application for customs action. There are 2 basic requirements concerning the application:

1. It has to contain a sufficiently accurate description to make selection and identification possible.
2. The right holder has to prove that s/he owns intellectual property right, or that s/he is the authorised user of the right.

- Application is free of charge;
- Applicant is notified of the customs decision within 30 working days of the receipt of the application;
- If an application for action is granted, the competent customs department specifies the period during which the customs authorities are to take action (generally one year). This period may be extended upon request, at the latest 30 working days before the expiration of the initial application for action;
- An application should be submitted on specific forms (model forms are annexed to Commission Regulation No.1891/2004).

Note: application for action may be taken both as a preventive measure and as a reaction to infringements.

The agency responsible for investigating these applications in Poland:

Customs Chamber in Warsaw
Erazma Ciołka 14 A
01-443 Warsaw
Poland
Tel.: +48 22 510 47 00
E-mail: IC440000@war.mofnet.gov.pl






Design


1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)


GENERAL INFORMATION

-  Who can file an application for declaration of invalidity of my design?

 1. A right in registration for an industrial design may be declared invalid in whole or in part at the request of any person having a legitimate interest therein, who is able to prove that the statutory requirements for the grant of a right in registration for an industrial design have not been satisfied.
 2. The General Prosecutor of the Republic of Poland or the President of the Patent Office may, in the public interest, request that a right in registration for an industrial design be invalidated or intervene in an invalidation action already pending.
(Industrial Property Law Article 89 with reference to Article 117 paragraph 1)
 2. The finding that the exploitation of the industrial design infringes third parties' personal or author's economic rights shall also constitute a ground for invalidation of the right in registration.
(Industrial Property Law Article 117)

-  Can I file an application for declaration of invalidity of someone else's design?


 1. A right in registration for an industrial design may be declared invalid in whole or in part at the request of any person having a legitimate interest therein, who is able to prove that the statutory requirements for the grant of a right in registration for an industrial design have not been satisfied.
 2. The General Prosecutor of the Republic of Poland or the President of the Patent Office may, in the public interest, request that a right in registration for an industrial design be invalidated or intervene in an invalidation action already pending.
(Industrial Property Law Article 89 with reference to Article 117 paragraph 1)
 2. The finding that the exploitation of the industrial design infringes third parties' personal or author's economic rights shall also constitute a ground for invalidation of the right in registration.
(Industrial Property Law Article 117)

-  Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?


without time limit

OPPOSITION

GENERAL INFORMATION

-  Who can file an objection against my design?

 1. Within six months from the publication in "Wiadomości Urzędu Patentowego" of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on a right in registration.
 2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a right in registration may be invalidated.
(Industrial Property Law Article 246)

-  Can I file an objection against a someone else's design?



1. Within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on a right in registration.
2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a right in registration may be invalidated.
(Industrial Property Law Article 246)

 Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?

1. Within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a title of protection, any person may give reasoned notice of opposition to a final decision of the Patent Office on a right in registration.
2. The opposition referred to in paragraph (1) may be filed on the same grounds, on which a right in registration may be invalidated.
(Industrial Property Law Article 246)

 Who will take a decision on the objection? Kto rozpatruje wniesiony sprzeciw?

1. The Patent Office shall immediately communicate the opposition referred to in Article 246 to the right holder and invite him to file his observations within a fixed time limit.
2. Where, following the communication of the Patent Office referred to in paragraph (1), the right holder claims the opposition to be unjustified, the case shall be submitted for examination in litigation proceedings. Otherwise, the Patent Office shall decide on reversal of the decision on the grant of a right in registration, and discontinue the proceeding.
(Industrial Property Law Article 247)
Decisions made and orders issued by the Patent Office shall be subject to complaint to the administrative courts. (Industrial Property Law Article 248)

2. PROACTIVE MEASURES

CUSTOMS SEIZURE

GENERAL INFORMATION

 What does customs seizure mean?

Applicable Laws:
Council Regulation (EC) No.1383/2003
Commission Regulation (EC) No.1891/2004

HOW TO PROCEED

 What initial steps are necessary?

Application for customs action:
The right holder may submit an application for customs action. There are 2 basic requirements concerning the application:

1. It has to contain a sufficiently accurate description to make selection and identification possible.
2. The right holder has to prove that s/he owns intellectual property right, or that s/he is the authorised user of the right.
 - Application is free of charge;
 - Applicant is notified of the customs decision within 30 working days of the receipt of the application;
 - If an application for action is granted, the competent customs department specifies the period during which the customs authorities are to take action (generally one year). This period may be extended upon request, at the latest 30 working days before the expiration of the initial application for action;
 - An application should be submitted on specific forms (model forms are annexed to Commission Regulation No.1891/2004).

Note: application for action may be taken both as a preventive measure and as a reaction to infringements.





ENFORCEMENT FAQs FOR POLAND

The agency responsible for investigating these applications in Poland:
Customs Chamber in Warsaw
Erazma Ciołka 14 A
01-443 Warsaw
Poland
Tel.: +48 22 510 47 00
E-mail: IC440000@war.mofnet.gov.pl

www.innovaccess.eu





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Who can file an objection against my patent?
Article 9.º Those who have any legal interest.
- Can I file an objection against a someone else's patent?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
Article 17.º Yes, two months from publication on Industrial Property Bulletin (IPB).
- Who will take a decision on the objection?
Trademarks and Patents Directorate.

SIGNPOST

- What signposts exist?
INPI (Portuguese Institute of Industrial Property).

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Articles 9.º: Those who have any legal interest.
- Can I file an application for declaration of invalidity of someone else's patent?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
Yes.

SIGNPOST

- What signposts exist?
INPI and Court.



2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
INPI and AdC (Competition Authority).

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
INPI and Court.

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
Customs have the power to seize goods even before any legal action taken by the IP rights owner.

HOW TO PROCEED

- What initial steps are necessary?
Police authorities must contact IP rights owners to confirm if the goods are counterfeit and if they intend to file a complaint.

SIGNPOST

- What signposts exist?
INPI, Authority for Food and Economic Safety (AFES), Customs.

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
INPI, Courts, AFES, Police Authorities.



Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
Article 9.º Those who have any legal interest.
- Can I file a request for the cancellation of someone else's utility model?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
Yes.
- Who will take a decision on the cancellation?
Declaration of Invalidity: The court.

LINKS

- What signpost exists?
INPI and Court.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signpost exists?
INPI and AdC (Competition Authority).

ACTION FOR DAMAGES

SIGNPOST

- What signpost exists?
INPI and Courts.



CUSTOMS SEIZURE

GENERAL INFORMATION

 What does customs seizure mean?

Customs have the power to seize goods even before any legal action taken by the IP rights owner.

HOW TO PROCEED

 What initial steps are necessary?

Police authorities must contact IP rights owners to confirm if the goods are counterfeit and if they intend to file a complaint.

SIGNPOST

 What signposts exist?

INPI, Authority for Food and Economic Safety (AFES), Customs

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

 What signposts exist?

INPI, Courts, AFES, Police Authorities





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
Article 9.º Those who have any legal interest.
- Can I file an opposition against a someone else's trade mark?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
Article 17.º Yes, two months from publication on Industrial Property Bulletin (IPB).
- Who will take a decision on the opposition?
Trademarks and Patents Directorate.

SIGNPOST

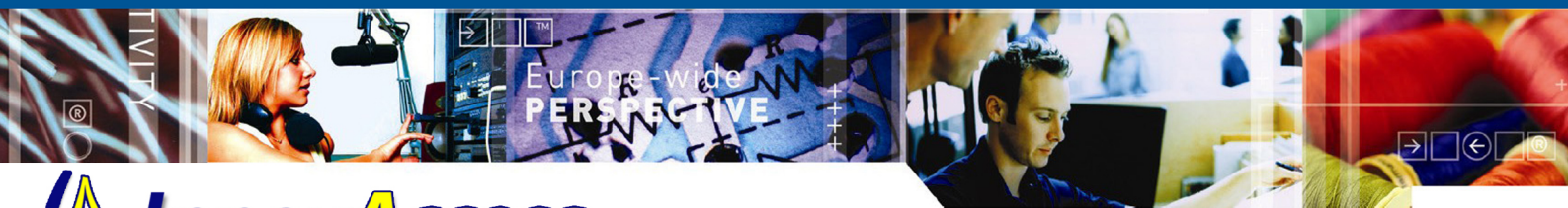
- What signposts exist?
INPI (Portuguese Institute of Industrial Property)

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
Article 9.º Those who have any legal interest.
- Can I file a request for the cancellation of someone else's trade mark?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
Yes.
- Who will take a decision on the cancellation?
Revocation - INPI and Declaration of Invalidity - The court.

LINKS



www.innovaccess.eu

- What signpost exists?
INPI and Court.

LIMITATION

GENERAL INFORMATION

- Who can restrict my trade mark rights?
The trademark holder.
- Can I restrict someone else's trade mark?
No.
- Are there specific deadlines/timeframes which I have to observe in connection with limitation?
No.

SIGNPOST

- What signposts exist?
INPI and WIPO.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
INPI and AdC (Competition Authority).

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
INPI and Courts.

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
Customs have the power to seize goods even before any legal action taken by the IP rights owner.





HOW TO PROCEED

● What initial steps are necessary?

Police authorities must contact IP rights owners to confirm if the goods are counterfeit and if they intend to file a complaint.

SIGNPOST

● What signposts exist?

INPI, Authority for Food and Economic Safety (AFES), Customs

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

INPI, Courts, AFES, Police Authorities





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Article 9.º. Those who have any legal interest.
- Can I file an application for declaration of invalidity of someone else's design?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
Yes.

SIGNPOST

- What signposts exist?
INPI, court.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
Court.

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Court.

CUSTOMS SEIZURE



GENERAL INFORMATION

- What does customs seizure mean?
Customs have the power to seize goods even before any legal action taken by the IP rights owner.

HOW TO PROCEED

- What initial steps are necessary?
The registered design owner can inform Customs that they suspect that counterfeit goods are entering the market.

SIGNPOST

- What signposts exist?
INPI, AFES, Police Authorities.

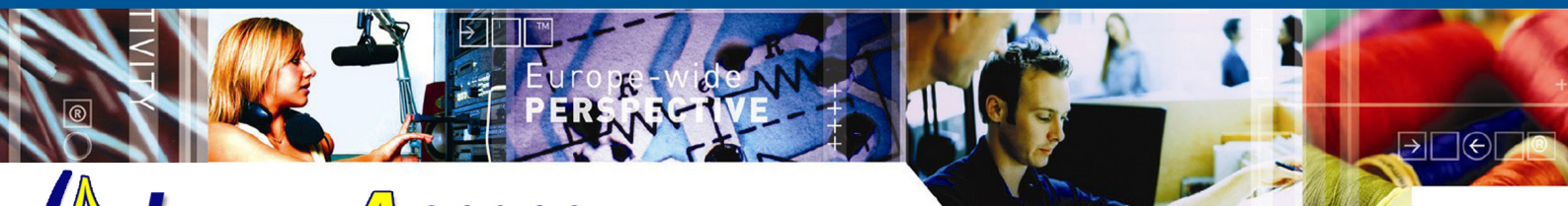
3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
INPI, AFES, Police Authorities, Court.





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
AdC (Competition Authority).

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
General Inspection of Cultural Activities (GICA), Courts.

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
Customs have the power to seize goods even before any legal action taken by the IP rights owner.

HOW TO PROCEED

- What initial steps are necessary?
Police authorities must contact IP rights owners to confirm if the goods are counterfeit and if they intend to file a complaint.

SIGNPOST

- What signposts exist?
GICA, Authority for Food and Economic Safety (AFES), Customs

2. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST



ENFORCEMENT FAQs FOR PORTUGAL



- What signposts exist?
GICA, Courts, AFES, Police Authorities.

www.innovaccess.eu





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Who can file an objection against my patent?
Any third party may request the Office to file an objection regarding the patent (appeal of the decision, wholly or in part).
- Can I file an objection against a someone else's patent?
Yes, provided the grounds for objection are related only to the failure to comply with the patentability conditions: novelty, inventive step, industrial application.
- Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
I have a deadline of 6 months from the decision publication date.
- Who will take a decision on the objection?
The appeals of the decisions requests are judged in the Office by a Reexamination Board.

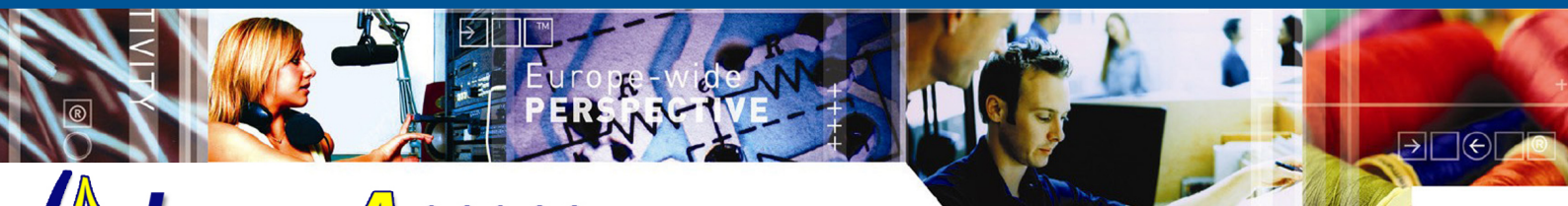
SIGNPOST

- What signposts exist?
http://www.osim.ro/index3_files/laws/trademark/lgmrcont.htm

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Any third party may request the Office to file an application for revocation regarding the patent.
- Can I file an application for declaration of invalidity of someone else's patent?
Yes, provided the grounds for objection are related only to the failure to comply with the patentability conditions: novelty, inventive step, industrial application.



www.innovaccess.eu

- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
No, this procedure is applying for the entire lifetime of the patent protection.

SIGNPOST

- What signposts exist?
www.osim.ro

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
http://www.osim.ro/index3_files/laws/patents/unfair.htm

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
http://www.osim.ro/index3_files/laws/patents/lgbrcont.htm

CUSTOMS SEIZURE

SIGNPOST

- What signposts exist?
<http://www.customs.ro/212/section.aspx> (for specific procedural details)

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
http://www.osim.ro/index3_files/laws/patents/lgbrcont.htm





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
Any third party may request the Office to cancel the utility model.
- Can I file a request for the cancellation of someone else's utility model?
Yes, provided the grounds for cancellation are related only to the failure to comply with the registration conditions.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
The cancellation request can be submitted on the entire lifetime of the utility model protection.
- Who will take a decision on the cancellation?
The cancellation requests are judged in the Office by a Reexamination Board.

LINKS

- What signpost exists?
http://www.osim.ro/index3_files/laws/patents/lgbrcont.htm

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

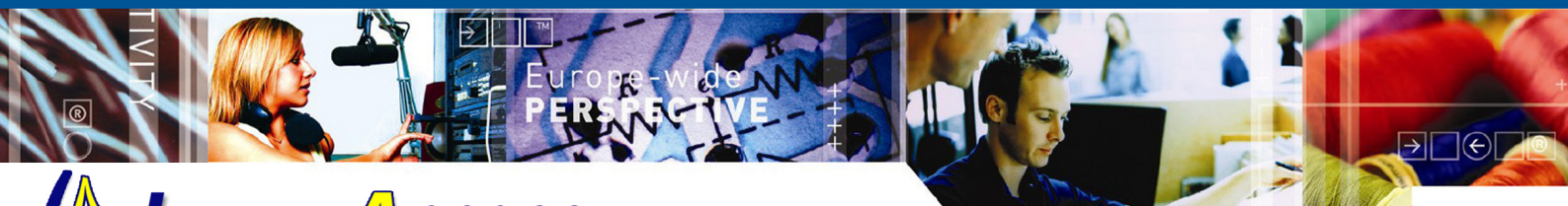
- What signpost exists?
http://www.osim.ro/index3_files/laws/patents/lgbrcont.htm

ACTION FOR DAMAGES

SIGNPOST

- What signpost exists?
http://www.osim.ro/index3_files/laws/patents/lgbrcont.htm





www.innovaccess.eu

CUSTOMS SEIZURE

SIGNPOST

● What signposts exist?

<http://www.customs.ro/212/section.aspx> (for specific procedural details)

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

http://www.osim.ro/index3_files/laws/patents/lgbrcont.htm





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
Any third party may file an opposition against a trade mark.
- Can I file an opposition against a someone else's trade mark?
Yes, provided that the opposition is based on the relative grounds of refusal.
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
The deadline for applying an opposition is of two months from the trade mark application publication date.
- Who will take a decision on the opposition?
The cancellations are judged by the Tribunal Bucharest.

SIGNPOST

- What signposts exist?
http://www.osim.ro/index3_files/laws/trademark/lgmrcont.htm

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
Any third party may request the Office to cancel the trade mark.
- Can I file a request for the cancellation of someone else's trade mark?
Yes, provided the grounds for cancellation are related only to the failure to comply with the registration conditions.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
The cancellation request can be submitted on the entire lifetime of the trade mark protection.
- Who will take a decision on the cancellation?
The oppositions are judged in the Office by an Examination Board.

LINKS



- What signpost exists?

http://www.osim.ro/index3_files/laws/trademark/lgmrcont.htm

LIMITATION

GENERAL INFORMATION

- Who can restrict my trade mark rights?

The limitation of trade mark rights, once granted, is not applicable in Romania.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?

http://www.osim.ro/index3_files/laws/trademark/lgmrcont.htm

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?

http://www.osim.ro/index3_files/laws/trademark/lgmrcont.htm

CUSTOMS SEIZURE

SIGNPOST

- What signposts exist?

<http://www.customs.ro/212/section.aspx> (for specific procedural details)

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?

http://www.osim.ro/index3_files/laws/trademark/lgmrcont.htm





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Invalidation may be requested by any interested party.
- Can I file an application for declaration of invalidity of someone else's design?
Yes, provided the grounds for cancellation are related only to the failure to comply with the registration conditions.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
The deadline is the entire lifetime of the design protection.

SIGNPOST

- What signposts exist?
http://www.osim.ro/index3_files/design/design.htm

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
http://www.osim.ro/index3_files/design/design.htm

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
http://www.osim.ro/index3_files/design/design.htm

CUSTOMS SEIZURE





SIGNPOST

● What signposts exist?

<http://www.customs.ro/212/section.aspx> (for specific procedural details)

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

http://www.osim.ro/index3_files/design/design.htm

www.innovaccess.eu





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

🟡 What signposts exist?

www.orda.ro

ACTION FOR DAMAGES

SIGNPOST

🟡 What signposts exist?

www.orda.ro

CUSTOMS SEIZURE

SIGNPOST

🟡 What signposts exist?

<http://www.customs.ro/212/section.aspx> (for specific procedural details)

2. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

🟡 What signposts exist?

www.orda.ro





Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION

- Who can file an objection against my patent?
Anybody who considers that the registration of the patent goes against his/her interests
- Can I file an objection against a someone else's patent?
Yes, if I have a previous right regarding the patent
- Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
Yes, in those cases in which the patent is applied through the process of previous examination. 2 months.
- Who will take a decision on the objection?
Spanish Patent and Trademark Office

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my patent?
Both anybody who considers that the patent is against his/her interests and the public administration
- Can I file an application for declaration of invalidity of someone else's patent?
Yes, if the patent damages my interests.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
No, since the declaration of invalidity can be applied throughout all the legal life of the patent and 5 years since the expiration of the patent.





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
Anybody who holds a legitimate interest and considers that the utility model does not meet the criteria contained in the law.
- Can I file a request for the cancellation of someone else's utility model?
Yes, if I meet the criteria written above.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
2 months since the publication of the application.
- Who will take a decision on the cancellation?
Spanish Patent and Trademark Office





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
Anybody who considers that the registration of the TM goes against his/her interests/ Public administrations, organizations, associations etcetera which are in charge of protecting consumers' interests.
- Can I file an opposition against a someone else's trade mark?
Yes, if I have a previous right regarding the trademark.
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
Yes. 2 months since the application of the trademark is published.
- Who will take a decision on the opposition?
Spanish Patent and Trademark Office

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
SPTO; any person or society or group that represent the interests of producers, vendors or consumers as long as they are affected or hold a legitimate interests. In some cases, holders of previous rights.
- Can I file a request for the cancellation of someone else's trade mark?
Yes if I meet the criteria written above.
- Who will take a decision on the cancellation?
The Courts

LIMITATION

GENERAL INFORMATION

- Who can restrict my trade mark rights?
If there is a cause of partial invalidation, SPTO; any person or society or group that represent the interests of producers, vendors or consumers as long as they are affected or hold a legitimate interests. In some cases, holders of previous rights



ENFORCEMENT FAQs FOR SPAIN 

- Can I restrict someone else's trade mark?
Yes, if I meet the criteria written above

www.innovaccess.eu





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Anybody who considers that the design does not meet the criteria contained in the law / Holders of previous rights or designs in other cases.
- Can I file an application for declaration of invalidity of someone else's design?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
2 months since the registration of the design is published.









Patent

1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION




-  Who can file an objection against my patent?
 Anyone may file an objection (opposition) to a granted patent (with the exception of the patent owner).
-  Can I file an objection against a someone else's patent?
 Yes, anyone can file an objection against someone else's patent.
-  Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
 The objection must be made within nine months from the day on which the patent was granted.
-  Who will take a decision on the objection?
 The decision is made by the Swedish Patent and Registration Office.

SIGNPOST

-  What signposts exist?
<http://www.prv.se/Patent/Forvalta-dina-patentintressen/Opponera-eller-forsvara-dig/Invandning/>

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

-  Who can file an application for declaration of invalidity of my patent?
 An application for declaration of invalidity can be filed by anyone who suffers damage from the patent and, if called for by the public interest, by the public authority designated by the Government. However, an action brought on the grounds that a patent has been granted to a party other than the one who is entitled to obtain the patent can only be brought by the one who claims to be so entitled.
-  Can I file an application for declaration of invalidity of someone else's patent?
 Yes, if you suffer damage from the patent or if you are the one entitled to the patent.
-  Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
 An action brought on the grounds that a patent has been granted to a party other than the one who is entitled to obtain the patent shall be brought within one year after obtaining knowledge of the grant of the patent and of other facts on which the action is based. If the proprietor of the patent was in good faith when the patent was granted or when it was assigned to him, the action cannot be brought later than three years after the grant of the patent. There are no timeframes for action brought on other grounds.



SIGNPOST

- What signposts exist?

<http://www.prv.se/Patent/Forvalta-dina-patentintressen/Opponera-eller-forsvara-dig/Ogiltighetstalan/>

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?

<http://www.kkv.se/upload/Filer/Trycksaker/Infomaterial/konkregl.pdf> (especially pages 5 and 8)

http://www.kkv.se/upload/Filer/Trycksaker/Infomaterial/tips_forfragningar.pdf (especially last page)

<http://www.marknadsdomstolen.se/> (especially "Frågor och svar", FAQ)

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?

http://www.wipo.int/clea/docs_new/pdf/en/se/se001en.pdf

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

The customs may take action and stop the import /export of counterfeit goods. Patent owner may request detainment of counterfeit goods.

HOW TO PROCEED

- What initial steps are necessary?

In order for a patent owner to request detainment, the patent owner must have an application filed and approved by the Customs Department.

SIGNPOST

- What signposts exist?

http://www.ehmer-delmar.com/index.php?option=com_content&view=article&id=109&Itemid=88&lang=en
(see the last paragraph - Customs seizure)

<http://www.tullverket.se/sokordao/i/immaterialratt.4.4ab1598c11632f3ba9280001086.html>;

http://www.tullverket.se/download/18.282f4f17116d10722aa80001553/1328_immaterialr%C3%A4tt_bil_1.pdf
(application for action)

http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/right_holders/1_national_model_application_action_en.pdf (application for action – in English)



http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/right_holders/manual_en.pdf (manual for lodging of applications for customs action)
http://ec.europa.eu/taxation_customs/customs/customs_controls/counterfeit_piracy/right_holders/index_en.htm (information site by EC)
http://www.brandeye.se/artiklar/bn209_hart.pdf (information on trademarks, some of it applicable for patent)

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

<http://www.brann.se/upload/Legala20-23.pdf>
<http://www.kronofogden.se/infotext/intrangundersokning.4.14db52b102ed4e5fe380005104.html>
<http://www.kronofogden.se/download/18.2132aba31199fa6713e800012792/KFM+901+utg%C3%A5va+5+Utm%C3%A4tning.pdf> (pages 361-363)
http://www.google.se/#hl=sv&q=henrik+norinder+%22%C3%A5tg%C3%A4rder+vid+immaterialr%C3%A4ttsintr%C3%A5ng%22+%a3f&aqi=&aql=&oq=&gs_rfai=&fp=172aa01bc9f28ca4 "Åtgärder vid immaterialrättsintrång"

www.innovaccess.eu





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
Anyone.
- Can I file an opposition against a someone else's trade mark?
Yes you can
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
The opposition must be filed within 2 months from when the trade mark's been registered and published.
- Who will take a decision on the opposition?
The opposition case is decided by the Patent Office

SIGNPOST

- What signposts exist?
www.prv.se

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
An action in a court of law for the cancellation of registration may be brought by anyone to whom the registration is detrimental.
- Can I file a request for the cancellation of someone else's trade mark?
Yes.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
No.
- Who will take a decision on the cancellation?
District court

LINKS



- What signpost exists?

www.prv.se

LIMITATION

GENERAL INFORMATION

- Who can restrict my trade mark rights?

Anyone, in connection with an action on cancellation in district court. Where grounds for invalidation exist only in respect of part of the goods for which a trademark has been registered, the registration shall be invalidated only as regards those goods.

- Can I restrict someone else's trade mark?

Yes, in connection with an action of cancellation by court.

- Are there specific deadlines/timeframes which I have to observe in connection with limitation?

No

SIGNPOST

- What signposts exist?

www.prv.se

2. PROACTIVE MEASURES

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?

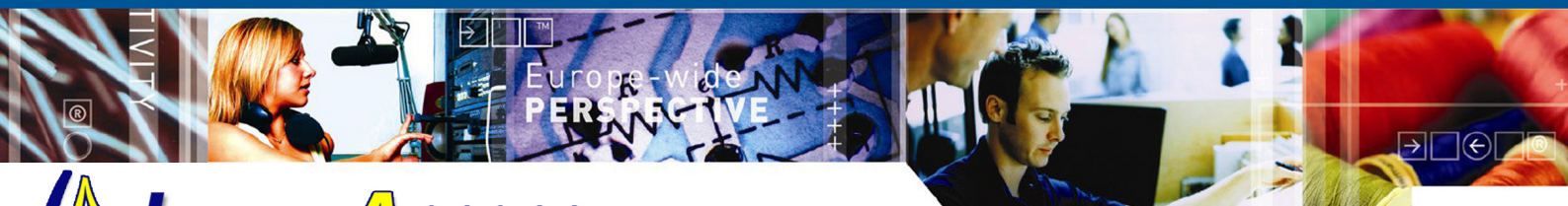
The Customs can temporary stop import of goods feared to be infringing in some one's IP-rights and thus giving the right holder a possibility to take legal actions against the importer.

SIGNPOST

- What signposts exist?

www.tullverket.se





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Invalidation (opposition or cancellation) can be filed by anyone. BUT! If the ground for the action is an alleged better right to the design, previous design, other IP-right, then the application can be done only by the asserted right holder. In other cases, e.g. if the ground is novelty, anyone can file an application. Read § 18 a and § 31 a in the Swedish Design Act.
- Can I file an application for declaration of invalidity of someone else's design?
Yes. Depending on the ground the right to file an application may have some restrictions. See answer to previous question.
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
Opposition may be filed to the Patent Office within 2 months after publishing a registration.

SIGNPOST

- What signposts exist?
www.prv.se

2. PROACTIVE MEASURES

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
The Customs can temporarily stop import of goods feared to be infringing in someone's IP-rights and thus giving the right holder a possibility to take legal actions against the importer.

SIGNPOST

- What signposts exist?
www.tullverket.se





Copyright

1. PROACTIVE MEASURES

CUSTOMS SEIZURE

GENERAL INFORMATION

● What does customs seizure mean?

The Customs can temporary stop import of goods feared to be infringing in some one's IP-rights and thus giving the right holder a possibility to take legal actions against the importer.

SIGNPOST

● What signposts exist?

www.tullverket.se









Patent


1. DEFENSIVE ACTIONS

OBJECTION

GENERAL INFORMATION




-  Who can file an objection against my patent?
Third parties can file an objection against your patent.
-  Can I file an objection against a someone else's patent?
Yes, you can file an objection against a someone else's patent.
-  Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
Within six months following the publication of the State-of-the-Art Search Report, third parties may, in the form set forth in the Regulation, file objections to the grant of the patent by putting forward the non compliance with the patentability requirements, including the lack of novelty or the inventive activity/step or the inadequacy of the description. Documentary evidence, in support thereof, shall be enclosed to the objections (to be) made in written form.
-  Who will take a decision on the objection?
Institute will take a decision on the objection.

SIGNPOST

-  What signposts exist?
Patent attorneys, lawyers and PATLIB exist

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

-  Who can file an application for declaration of invalidity of my patent?
Third parties can file an application for declaration of invalidity of anyone's patent.
-  Can I file an application for declaration of invalidity of someone else's patent?
Yes, you can file an application for declaration of invalidity of someone else's patent.
-  Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
The Court action for the invalidation of a patent may be instituted during the term of protection of same or within five years subsequent to the termination of patent right.

SIGNPOST



- What signposts exist?
Patent attorneys, lawyers and PATLIB exist

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
Patent attorneys, lawyers and PATLIB exist

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Patent attorneys, lawyers and PATLIB exist

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
The customs authorities can seize counterfeit goods during importation or exportation. The main infringement action is to be instituted before the Turkish court within 10 days from the notification of seizure by the customs in Turkey.

HOW TO PROCEED

- What initial steps are necessary?
In reference to the rights that must be protected under the legislation on intellectual and industrial rights, the Customs offices shall detain or suspend the customs procedures of the goods infringing the authorizations of the right holder, upon the request of the right holder or his representative. In cases where no request has yet been made at the Customs Office, and where solid evidence is available showing that the goods in question are in breach of intellectual and industrial property rights; with a view to ensure the valid application of the right holder, these goods may be subjected to ex officio customs detention for a duration of three business days or the Customs procedures of the goods may be suspended by the Customs offices. Where no interim injunction is imposed by the right holder within three business days for the perishable goods and within ten business days for other goods as from the notification of the suspension or detention decision of the Customs office to the right holder, the provisions of the customs procedure under which the declarant lodged his request, shall apply. In case of a justifiable excuse and upon the request of the right holder, the relevant customs office may grant an additional time up to ten business days.

3. INSTRUMENTS





ENFORCEMENT FAQs FOR TURKEY 

www.innovaccess.eu

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
 - Patent attorneys and lawyers





Utility Model

1. DEFENSIVE ACTIONS

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my utility model?
Third parties can file an objection against your utility model.
- Can I file a request for the cancellation of someone else's utility model?
Yes, you can file an objection against a someone else's patent.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
The invalidation of the utility model certificate may be requested, at any time, during its term of protection.
- Who will take a decision on the cancellation?
The court will take a decision on the cancellation.

LINKS

- What signpost exists?
Patent attorneys, lawyers and PATLIB exist

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signpost exists?
Patent attorneys, lawyers and PATLIB exist

ACTION FOR DAMAGES

SIGNPOST

- What signpost exists?
Patent attorneys, lawyers and PATLIB exist



CUSTOMS SEIZURE

GENERAL INFORMATION

What does customs seizure mean?

The customs authorities can seize counterfeit goods during importation or exportation. The main infringement action is to be instituted before the Turkish court within 10 days from the notification of seizure by the customs in Turkey.

SIGNPOST

What signposts exist?

Patent attorneys and lawyers

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

What signposts exist?

Patent attorneys and lawyers





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
Third parties can file an opposition against your trademark.
- Can I file an opposition against a someone else's trade mark?
Yes, you can file an opposition against a someone else's trade mark.
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
Notices of opposition to the registration of a trademark on the ground that it may not be registered under Article 7 or 8, and notices of opposition on the ground that there is evidence of bad faith in the application, shall be submitted within three months of the publication of the application.
- Who will take a decision on the opposition?
Institute will take a decision on the opposition.

SIGNPOST

- What signposts exist?
Trademark attorneys, lawyers and PATLIB exist

CANCELLATION

GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
Third parties can file a request for the cancellation of your trademark.
- Can I file a request for the cancellation of someone else's trade mark?
Yes, you can file a request for the cancellation of someone else's trade mark.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
Cancellation proceedings can be request at any time.
- Who will take a decision on the cancellation?
A registered trademark will be cancelled by the court



LINKS

- What signpost exists?
Trademark attorneys, lawyers and PATLIB exist.

LIMITATION

GENERAL INFORMATION

- Who can restrict my trade mark rights?
Institution decision or 3rd parties opposition can restrict your trade mark rights.
- Can I restrict someone else's trade mark?
Yes, you can restrict someones else's trade mark.
- Are there specific deadlines/timeframes which I have to observe in connection with limitation?
No, there are no specific deadline which you have to observe in connection with limitation.

SIGNPOST

- What signposts exist?
Trademark attorneys, lawyers and PATLIB exist.

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
Trademark attorneys, lawyers and PATLIB exist

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Trademark attorneys, lawyers and PATLIB exist

CUSTOMS SEIZURE

GENERAL INFORMATION





● What does customs seizure mean?

The customs authorities can seize counterfeit goods during importation or exportation. The main infringement action is to be instituted before the Turkish court within 10 days from the notification of seizure by the customs in Turkey.

SIGNPOST

● What signposts exist?

Trademark attorneys and lawyers

3. INSTRUMENTS

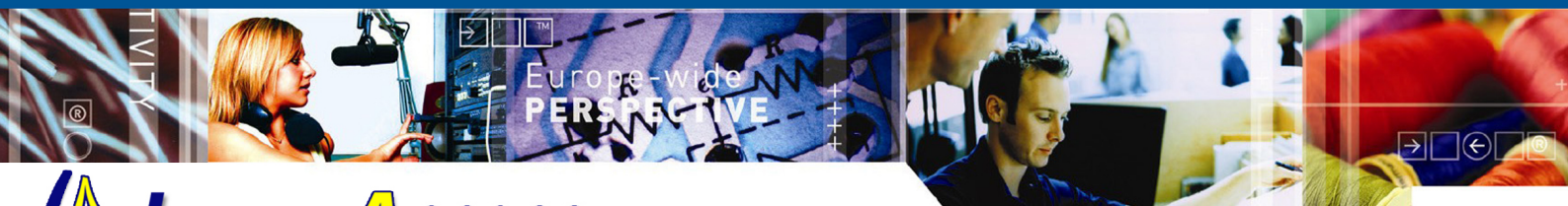
PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

Trademark attorneys and lawyers





Design

1. DEFENSIVE ACTIONS

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

- Who can file an application for declaration of invalidity of my design?
Third parties can file an application for declaration of your design.
- Can I file an application for declaration of invalidity of someone else's design?
Yes, you can file an application for declaration of invalidity of someone else's design
- Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
Declaration of invalidity may be requested during the period of protection or within five years following the termination of the right.

SIGNPOST

- What signposts exist?
Patent and trademark attorneys, lawyers and PATLIB exist

2. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
Patent and trademark attorneys, lawyers and PATLIB exist

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
Patent and trademark attorneys, lawyers and PATLIB exist

CUSTOMS SEIZURE





GENERAL INFORMATION

● What does customs seizure mean?

The customs authorities can seize counterfeit goods during importation or exportation. The main infringement action is to be instituted before the Turkish court within 10 days from the notification of seizure by the customs in Turkey.

SIGNPOST

● What signposts exist?

Patent and trademark attorneys and lawyers

3. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

● What signposts exist?

Patent and trademark attorneys and lawyers





Copyright

1. PROACTIVE MEASURES

ACTION UNDER COMPETITION LAW

SIGNPOST

- What signposts exist?
IP Lawyers

ACTION FOR DAMAGES

SIGNPOST

- What signposts exist?
IP Lawyers

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
The customs authorities can seize counterfeit goods during importation or exportation. The main infringement action is to be instituted before the Turkish court within 10 days from the notification of seizure by the customs in Turkey.

SIGNPOST

- What signposts exist?
IP Lawyers

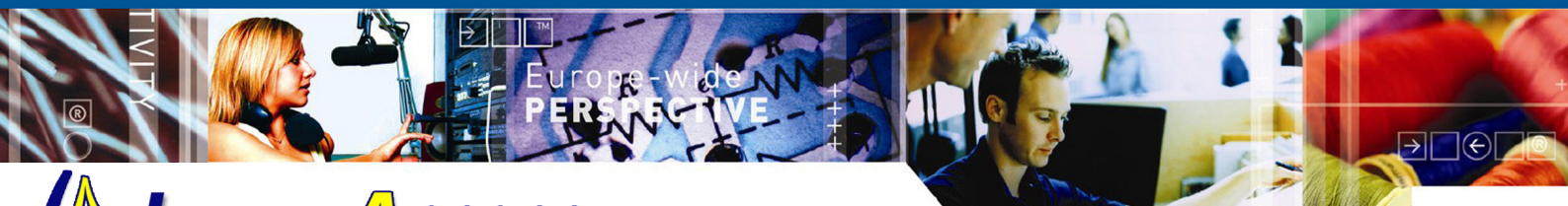
2. INSTRUMENTS

PRESERVATION OF EVIDENCE

SIGNPOST

- What signposts exist?
IP Lawyers









Patent

1. DEFENSIVE ACTIONS




OBJECTION

GENERAL INFORMATION

-  Who can file an objection against my patent?
Any interested party
-  Can I file an objection against a someone else's patent?
If you have any interest
-  Are there specific deadlines/timeframes which I have to observe in connection with objection proceedings?
Yes. s21 observations, for example, may be filed following publication but prior to grant of the patent in question. Opposition proceedings need to be filed within the period specified in the Patents Rules 2007. Revocation proceedings under s72 may be filed at any time; however s72(2) specifies a deadline where revocation proceedings are filed under the grounds set out in s72(1)(b).
-  Who will take a decision on the objection?
Hearing Officer

NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

-  Who can file an application for declaration of invalidity of my patent?
Any interested party
-  Can I file an application for declaration of invalidity of someone else's patent?
Yes
-  Are there specific deadlines/timeframes which I have to observe in connection with an application for declaration of invalidity?
Yes





Trade Mark

1. DEFENSIVE ACTIONS

OPPOSITION

GENERAL INFORMATION

- Who can file an opposition against my trade mark?
Any interested party if the trade mark application has been accepted by the Trade Mark Examiner.
- Can I file an opposition against a someone else's trade mark?
yes
- Are there specific deadlines/timeframes which I have to observe in connection with opposition proceedings?
Yes , this information is available from the IPO website.
- Who will take a decision on the opposition?
Hearings Officer

CANCELLATION

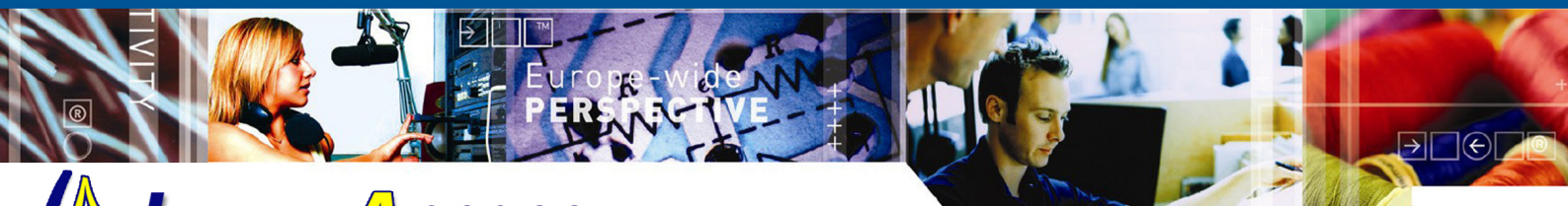
GENERAL INFORMATION

- Who can file a request for the cancellation of my trade mark?
ANY intrested party who can prove prior use
- Can I file a request for the cancellation of someone else's trade mark?
Any party who believes that they have grounds to support an application for invalidation.
- Are there specific deadlines/timeframes which I have to observe in connection with a request for cancellation / cancellation proceedings?
Two months after grant
- Who will take a decision on the cancellation?
HearingsOfficer

LIMITATION

GENERAL INFORMATION

- Who can restrict my trade mark rights?
Any interested party who can prove prior use



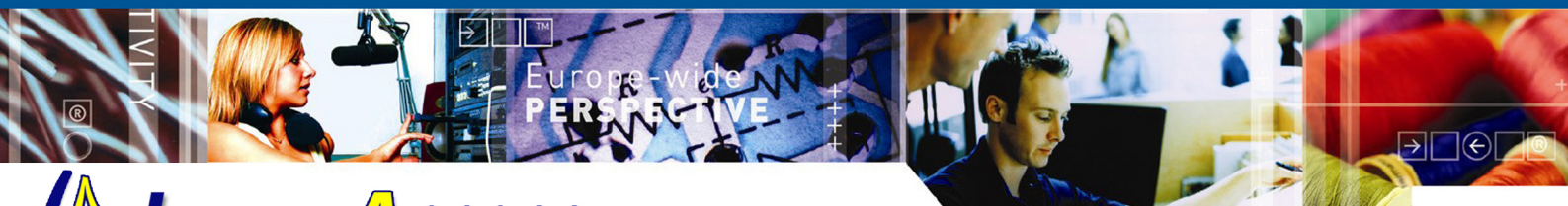
ENFORCEMENT FAQs FOR UNITED KINGDOM

www.innovaccess.eu

- Can I restrict someone else's trade mark?
Yes

- Are there specific deadlines/timeframes which I have to observe in connection with limitation?
Yes 2 months






www.innovaccess.eu


Design

1. DEFENSIVE ACTIONS

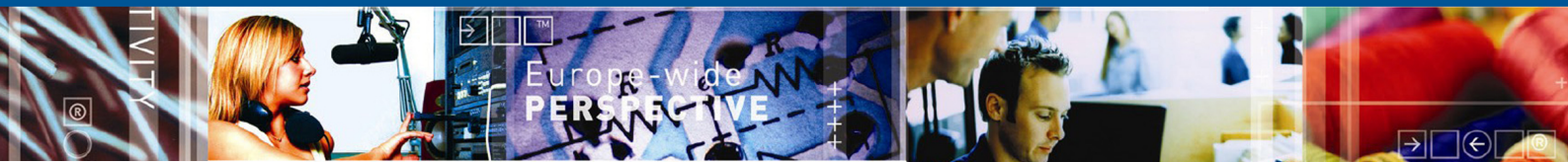
NULLITY ACTION (DECLARATION OF INVALIDITY)

GENERAL INFORMATION

-  Who can file an application for declaration of invalidity of my design?
Any interested party

-  Can I file an application for declaration of invalidity of someone else's design?
Yes





Copyright

1. PROACTIVE MEASURES

CUSTOMS SEIZURE

GENERAL INFORMATION

- What does customs seizure mean?
 - goods suspected of being counterfeits

HOW TO PROCEED

- What initial steps are necessary?
 - Suspicion of good being counterfeited and organising through Trading Standards and Customs and Excise.

