

THE ACTIONS OF THE NATIONAL COUNCIL ON COMBATING PIRACY AND INTELLECTUAL PROPERTY CRIMES IN BRAZIL

Luciano Benetti Timm

President of the National Council on Combating Piracy and
Intellectual Property (CNCP) and National Secretary for Consumer
Affairs

CONTEXT

Data from Brazil's National Forum Against Piracy and Illegality shows that in 2018 alone, Brazil lost approximately USD 48 billion as a result of piracy and the illicit trade in counterfeit products in 13 industrial sectors, including lost taxation .

Annually , Brazil loses 58 thousand jobs because of piracy.

BRL 721 million (aprox . USD 185 million) is lost just in taxes

Impact of BRL 2 billion (aprox . USD 500 million) on the Brazilian GDP

Source: Ipsos/Oxford Research from 2013

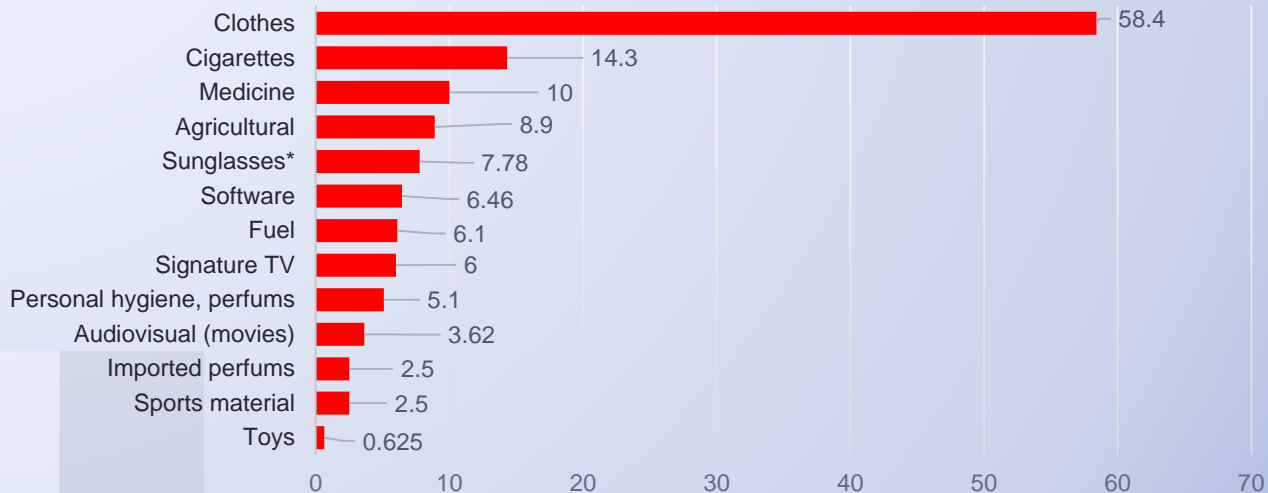
CONTEXT

Between December 2015 and May 2016, the biggest piracy and counterfeit websites were accessed **1,7 billion times** .

These sites are accessed **20 x more** than the most accessed website of the Brazilian government (the Brazilian Public Revenue site) and **8 x more** than Netflix Brazil .

A large, stylized, 3D red letter 'N' is positioned on the right side of the slide. It has a slight shadow and is set against a background of a light gray grid.

LOSSES CAUSED BY ILLICIT TRADE BY SECTOR, IN BRL BILLIONS



Source: National Forum Against Piracy and Illegality. Data from 2018.

* The data regarding the losses in the sunglasses sector is from 2017.

DATA FROM THE OECD*

Global customs seizures of fake goods
that infringe Brazilian IP rights (2014-2016)

Between 2011 and 2013, Brazilian brands
were ranked as **23rd** most affected by
counterfeiting .

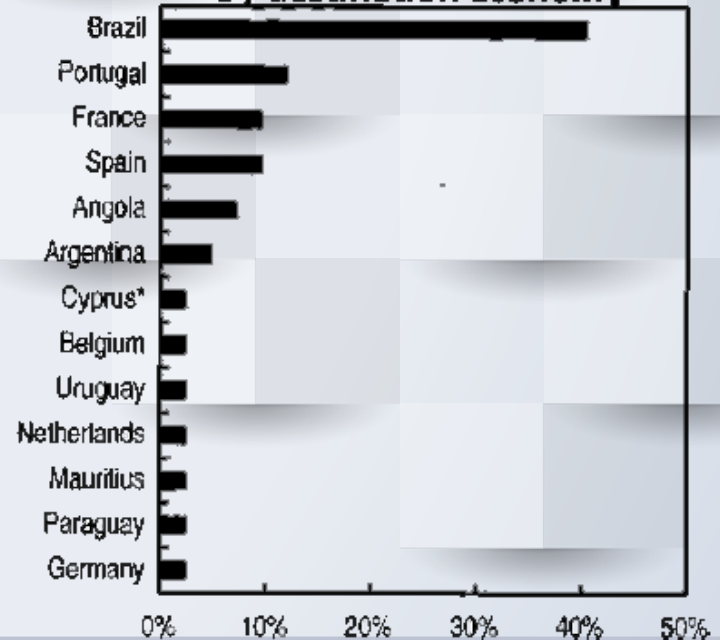
Between 2014 and 2016, Brazil was ranked
16th .

The products mostly come from Asia .

Brazil also exports fake products, ranking
50th (data from 2016).

*CNCP has received this study in 2019 from the OECD Task Force
on Countering Illicit Trade, but it has not been published yet.

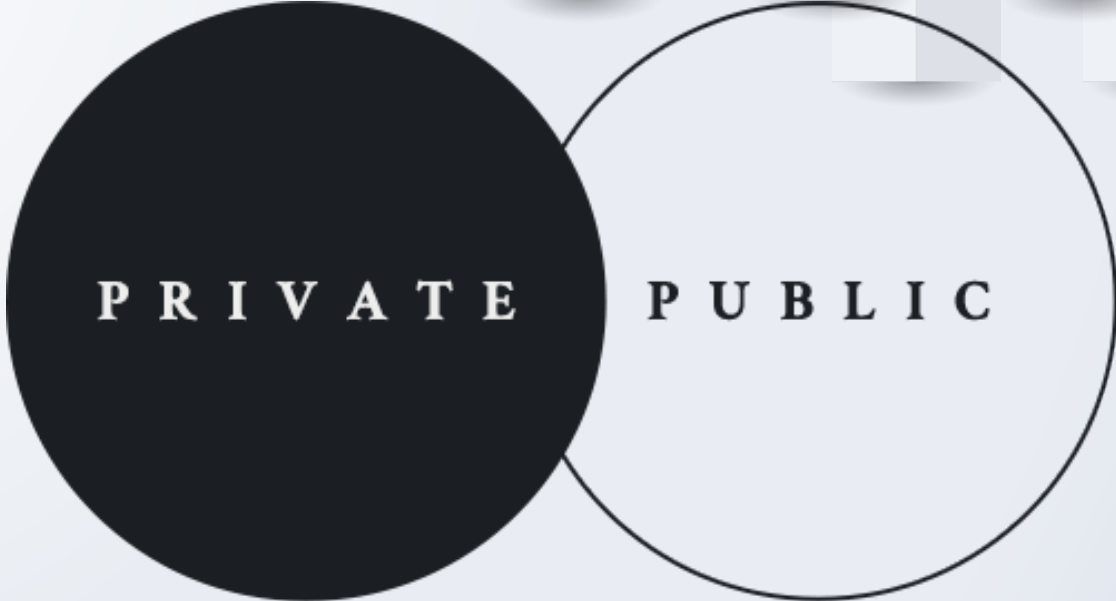
By destination



THE NATIONAL COUNCIL AGAINST PIRACY AND INTELLECTUAL PROPERTY CRIMES (CNCP)

- ❑ Created in 2004 by presidential Decree n.5,244/04.
- ❑ Since 2019, the current National Secretary for Consumer Affairs, Luciano Benetti Timm, has presided over the CNCP.

COMPOSITION



Necessary to fight piracy and counterfeiting

The **government** is represented by members of the:

- Ministry of Justice and Public Safety;
- Federal Police;
- Federal Highway Police;
- Secretary of Public Safety;
- Federal Revenue Service;
- Ministry of Economy;
- Ministry of Foreign Affairs;
- Ministry of Science and Technology, Innovations and Communications;
- Ministry of Citizenship;
- Chamber of Deputies;
- Federal Senate;
- National Telecommunications Agency;
- National Agency for Sanitary Surveillance;
- National Cinema Agency;
- National Institute of Metrology;
- National Institute of Industrial Property.



First Meeting of 2019:
February 27, 2019



MEETINGS

The **private sector** is represented by associations covering sectors including



- Software;
- Textiles;
- Sports;
- Video games;
- Commerce and services;
- Glass and tobacco;
- Audiovisual;
- Medicines and medical equipment for human and animal health;
- Orthoses, and beverages.



The CNCP president may invite collaborators to participate in the Collaborators Panel.

Important meetings in 2019

II National Encounter of Fighting Piracy and related crimes

Venue: Ministry of Justice and Public Safety

June 5

Meeting about online movie piracy at the Technical Chamber on Fighting Piracy from the Nacional Movie Agency (ANCINE) April 4, Rio de Janeiro

CONSELHO NACIONAL DE COMBATE À PIRATARIA E DELITOS CONTRA A PROPRIEDADE INTELECTUAL - CNCP

II ENCONTRO NACIONAL DE COMBATE À PIRATARIA E A CRIMES CORRELATOS

DIA 5 DE JUNHO DE 2019

PALÁCIO DA JUSTIÇA, AUDITÓRIO TANCREDO NEVES BRASÍLIA - DF

Agente

APIC

PRF

DEBEMAZAR BRASIL



PURPOSE AND ACTIVITIES

THE FIGHT AGAINST PIRACY CONCERNS ALL AND SHOULD INVOLVE MUNICIPAL, STATE AND FEDERAL GOVERNMENTS AND SOCIETY .

- Examine and propose measures and actions against piracy and IP crimes in Brazil .
- Initiates, assists in and promotes the training of public workers.
- Develop and propose public policies on combating piracy and related crimes.
- Negotiate agreements with e-commerce platforms and the issuers of electronic payment means (such as credit cards) and develop a public database .
- Support innovation management and entrepreneurship under three areas: education, repression and economic incentives.

CNCP ACTIONS AND PURPOSE

THE FIGHT AGAINST PIRACY CONCERNS ALL AND SHOULD INVOLVE MUNICIPAL, STATE AND FEDERAL GOVERNMENTS AND SOCIETY.

Legislative

Possibility to propose legislative amendments through the National Secretariat for Consumer Affairs.



Repressive

Promote coordination between several players, such as the Federal Revenue, Local and Federal Police, Food and Drug regulators.



Educational

Economic incentives
Develop studies and ways to promote the formal economy and reduce the informal markets in which IP-infringing products are sold.

Promote training of public workers involved in operations.

Promote awareness regarding consumer safety.

Studies on fighting piracy and counterfeit goods in digital market places.

Special Committees

There are 5 working committees:

1) Electronic commerce: focus on measures against counterfeit products sold online.

Main activity so far: MOU negotiation with the British Government

2) Payment methods and digital publicity.



Meeting with online publicity market agents

August 6

Mechanisms to prevent/stop publicity actions from websites and e-commerce platforms which sell counterfeit products

Special Committees



3) Hardware

- Activities with the Brazilian Telecommunications Agency (Anatel)
- Legal cell phone project

4) Medications

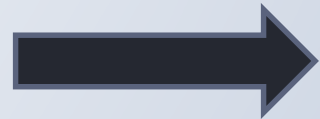
- Activities with the Brazilian Health Agency (Anvisa)

May 2019

- Operation with Anvisa at São Paulo apprehended 30 pieces of travel luggage with medical equipment.
- Similar operation undertaken in June at Goiania.

5) Contraband:

- Identification of the criminal organizations and articulation with the police.



ACTIVITIES TO FIGHT CONTRABAND and PIRACY

- **Operation Labarus – 2019**
- ✓ 666,095 vehicles and 598,697 people were inspected
- ✓ 18.37 tons of marijuana / 2.11 tons of cocaine / 10.7 million packs of cigarettes / 155 guns



Operation Horus - 2019

- **Operation Horus – 2019**
- ✓ 5 million packs of cigarettes
- ✓ Avoided prejudice of BRL 35 million in loss of tributes, but it could go as far as BRL 1,75 billion
- ✓ 43 vehicles
- ✓ 22 boats
- ✓ 19 criminals arrested
- ✓ 15 search warrants issued



Operation Labarus - 2019

DATA FROM THE BRAZILIAN REVENUE SERVICE

January to march 2019					
Description	Amount	Measure	Value	Total so far	% of total
Cigarettes and similars	60	kg	12.829,27	279.975.727,18	40,24%
	56.424.847	pack	279.962.897,91		
Apparel industry	353.939	kg	28.391.686,76	62.538.397,26	8,99%
	2.667.433	units	34.146.710,50		
Eletronic devices	500.589	units	47.075.569,05	47.476.838,24	6,71%
	30.505	kg	401.269,19		
Toys	816.460	units	11.996.080,73	22.198.042,02	3,19%
	102.773	kg	10.201.961,29		
Total of main itens				412.189.004,70	59,13%
Others				283.557.594,14	40,87%
TOTAL				695.746.598,84	100,00%

CONCLUSION

- There is a cultural challenge due to the perception that those who sell illegal and counterfeit products are workers and are trying to survive.
- Paying a cheaper price for illegal and counterfeit products is often regarded as acceptable, even though producers of these products do not pay taxes and the products present a risk to consumers' health.
- Consumers' limited purchasing power correlates with a lack of full understanding of how the purchase of such illegal and counterfeit products help to finance organized crime.
- Illegal and counterfeit products present an important challenge to different entities and bodies of government, for which they should collaborate internally and with border countries.

THANK YOU

Luciano Benetti Timm

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Vasileios Mastrogiannis
Spyridon Peristeris

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade (SYKEAAP)

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade

- Established in 2012, as the Coordinating Authority Against Illicit Trade (SYKAP)
- The responsibility of Market Supervision was added in 2017.
- **Illicit trade:** all kinds of trade not supported by legal documentation (invoices, shipping documents etc.).
- **Infringements of IP rights** are also considered as illicit trade.

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade

- **SYKEAAP's mission is to:**

- develop a common strategy to tackle illicit trade, including IP rights infringements,
- ensure the implementation of the relevant legislation for the handling of goods and services in the market,
- safeguard the orderly and legitimate functioning of the market in the interests of consumer health and safety.

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade

- **SYKEAAP's vision** is to optimize the efficiency and readiness of the market control by developing a culture of cooperation among competent enforcement authorities and providing a single response to any occurrences of illicit trade while continually providing high-level services.

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade

- **SYKEAAP's responsibilities comprise:**

- coordinating actions to clamp down on the trafficking and control the movement of goods and services;
- organizing action plans at local, regional and national level to set up joint task forces;
- dealing with complaints and information brought before it by any appropriate means;
- coordinating meetings with representatives of the central government, regional and local authorities;
- collecting and analyzing information and data derived from controls carried out by each competent authority.

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade

- **SYKEAAP consists** of representatives from both the public and the private sector. **Its Board consists of:**
 - The General Secretary for Trade and Consumer Protection (as chair),
 - the Executive Director,
 - a representative of the General Secretariat for Trade and Consumer Protection,
 - a representative of the Greek Police,
 - a representative of the Greek Coast Guard,

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade consists of (2)

- a representative of the Special Secretariat for the Financial and Economic Crime Unit,
- a representative of the General Directorate of Customs,
- a representative of the Central Union of Greek Municipalities
- a representative of the Union of Regions,
- a representative of the General Secretariat of Industry,
- a representative of the General Secretariat of Agricultural Development,
- a representative of the Transport Directorate,

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade consists of (3)

- a representative of the Central Union of Greek Chambers,
 - a representative of the Greek Confederation of Trade and Entrepreneurship,
 - a representative of the General Confederation of Professional Craft Traders in Greece.
-
- SYKEAAP has its **own market control team**.
 - It is envisaged to create a **control body** that would consist of market controllers from all the enforcement authorities involved.

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade

- **SYKEAAP'S OPERATING MECHANISM**

- The most important tool for SYKEAAP is intelligence.
- The representatives of all relative enforcement authorities draw up an action plan.
- Action plan will be implemented directly, without delay or bureaucratic barriers.

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade

- **SYKEAAP'S OPERATING MECHANISM – EXAMPLE:**
In March 2019, SYKEAAP received anonymous information concerning imported counterfeited goods in Rhodes.
- The Board of Representatives took the following action:
 - ✓ The representative of the General Secretariat for Trade and Consumer Protection sought more information about the company.
 - ✓ The representative of the General Directorate of Customs requested the customs authorities of Piraeus and Rhodes to conduct controls on containers imported on behalf of the company,

SYKEAAP'S OPERATING MECHANISM – EXAMPLE:

- ✓ The representative of the Greek Police requested the police authorities to carry out controls on the warehouses of the company in Rhodes.
- ✓ The representative of the Special Secretariat for the Financial and Economic Crime Unit requested colleagues in Rhodes to audit the registered offices of the company.
- **Results:** 15,000 items of counterfeit goods were seized, fines of thousands Euros were imposed, criminal proceedings followed.

Achievements of the Greek IPR Enforcement Authorities

2018	CONTROLS	TOTAL SEIZED GOODS	Counterfeited Goods		
			Clothing/ Footwear	Accessories etc.	Electrical/ Electronic devices
Domestic Market Authorities	70.963	2.298.271 items (illicit trade)	884.071 items	1.112.292 items	5.491 items
Customs	6.455	23.956.224 items Counterfeit items	287.339 items	213.812 items	4.948 items

Achievements of the Greek IPR Enforcement Authorities

2017	CONTROLS	TOTAL SEIZED GOODS			
			Clothing/ Footwear	Accessories etc.	Electrical/ Electronic devices
Domestic Market Authorities	82.813	2.246.912 items (illicit trade)	213.341 items	1.058.917 items	24.234 items
Customs	236	22.113.175 items Counterfeit items	238.576 items	1.367.365 items	7.218 items

Achievements of the Greek IPR Enforcement Authorities

2016	CONTROLS	TOTAL SEIZED GOODS			
			Clothing/ Footwear	Accessories etc.	Electrical/ Electronic devices
Domestic Market Authorities	95.305	1.994.288 items (illicit trade)	61.735 items	272.314 items	10.004 items
Customs	219	28.876.426 items Counterfeit items	49.495 items	12.231.006 items	439 items

Achievements of the Greek IPR Enforcement Authorities

2015	CONTROLS	TOTAL SEIZED GOODS			
			Clothing/ Footwear	Accessories etc.	Electrical/ Electronic devices
Domestic Market Authorities	29.244	266.606 items (illicit trade)	9.953 items	42.735 items	3.043 items
Customs	4.003	10.358.016 items Counterfeit items	73.003 items	410.572 items	757 items

Comparing the achievements in the Domestic Market for the years 2017 and 2016

2017	CONTROLS	TOTAL SEIZED GOODS			
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International Collaboration on the Enforcement of Intellectual Property Rights

- SYKEAAP established a cross-border cooperation with the **Bulgarian authorities**.
- A delegation from the State Intellectual Property Office of China (now renamed **China National Intellectual Property Administration**) visited SYKEAAP in 2016 to exchange views on addressing IP rights infringements.
- SYKEAAP attended meetings with the Consulate of France in Athens in 2017 and with members of the Embassy of the United States of America in 2019.

Conclusions

- Combating IP rights infringements and illicit trade requires a **holistic approach**.
- **Coordination of all enforcement authorities is key** to victory in this battle.
- **SYKEAAP is a good example**, not only in the specific battle against IP rights infringements, but also for other aspects of public administration.

THANK YOU FOR YOUR ATTENTION!!!





OFFICE MAROCAIN DE LA PROPRIÉTÉ
INDUSTRIELLE ET COMMERCIALE

SYSTÈME DE LABELLISATION DES CIRCUITS DE DISTRIBUTION DES PIÈCES DE RECHANGE AUTOMOBILES AU MAROC : LA MARQUE COLLECTIVE DE CERTIFICATION “SALAMATOUNA” POUR LA LUTTE CONTRE LA CONTREFAÇON



- Genève, 2 septembre 2019 -

Contexte

Construction automobile au MAROC

Secteur stratégique dans la politique industrielle nationale, depuis les années 2000 l'automobile dégage une **croissance annuelle à deux chiffres** à l'égard de la création d'emploi et de l'exportation.



Contexte

Marché des pièces de rechange Automobile au MAROC

Valeur du marché intérieur de **15 milliards** de DH en 2017.

2^{ème} secteur le plus touché par la contrefaçon.

La contrefaçon est estimée à près de **700 millions** de dirhams.

Distribution informelle significative favorisant la mise sur le marché de produits contrefaits, qui contribuent au bilan affligeant des accidents de la route.

Enjeux

Sécurité du citoyen et protection du consommateur

Consolidation de l'offre PDR automobile au Maroc

Croissance du secteur de la construction automobile au Maroc

Le label SALAMATOUNA



Effet fédérateur

- **Fruit de collaboration Publique/Privée** initiée dans le cadre du Comité National de la Propriété Industrielle et Anti-Contrefaçon (CONPIAC).
- **Concertations avec les professionnels** du secteur (AMICA, AIVAM, GIPAM) et les associations de consommateurs.

Le label SALAMATOUNA



Systeme de Labellisation du circuit de distribution des piéces de rechange Automobile (PDR)

Objectifs:

- Lutte contre la mise en circulation de PDR contrefaites qui peuvent mettre en danger la sécurité du consommateur.
- Renforcement de la traçabilité des PDR depuis leur mise sur le marché initiale jusqu'au consommateur final.
- Organisation du marché intérieur des PDR.

Le label SALAMATOUNA

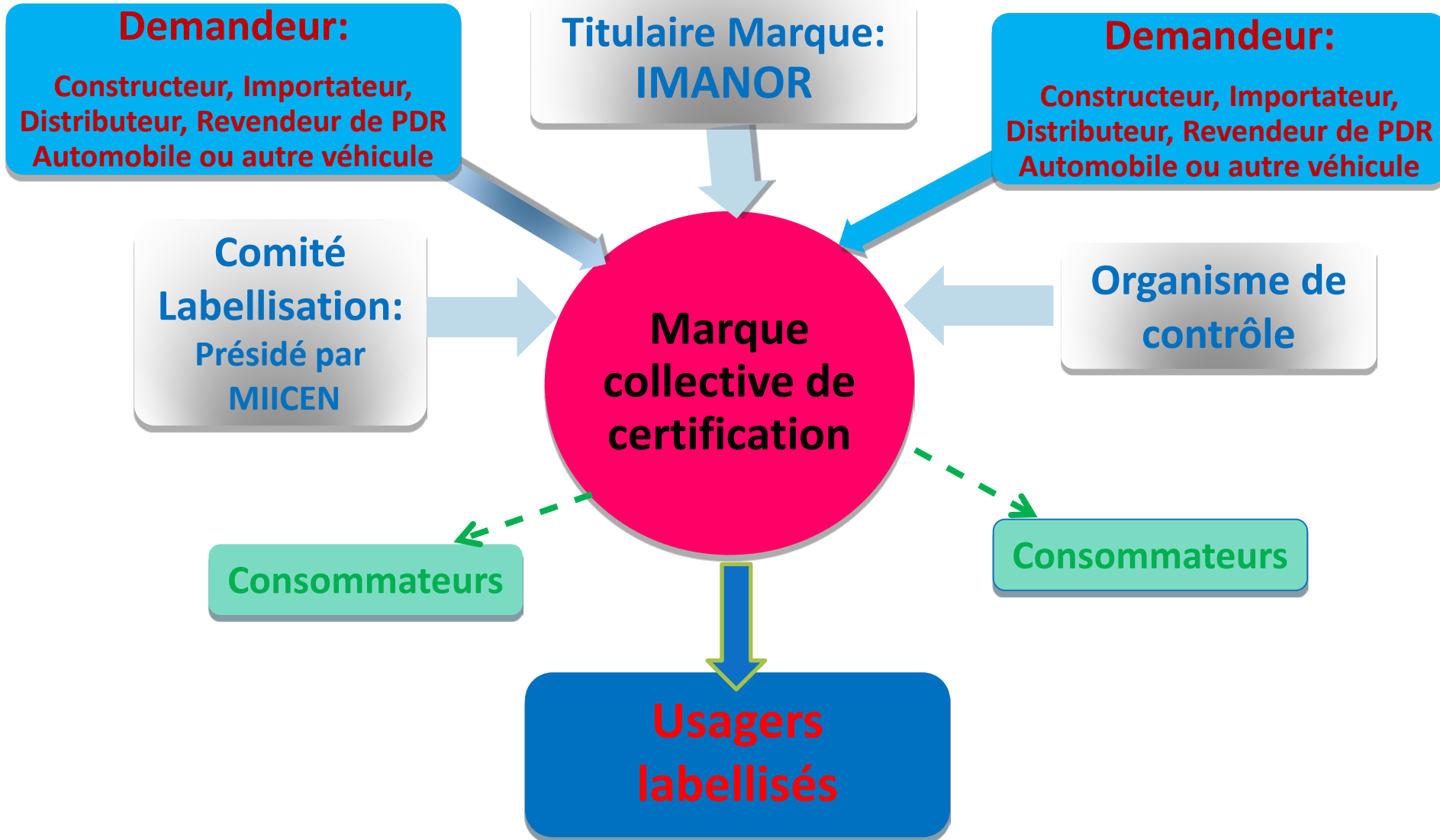


Marque collective de certification

Fondée sur un Règlement d'usage:

- Règlement d'usage basé sur le respect de la **traçabilité** et de la **conformité** des pièces commercialisées aux **normes** de qualité.
- S'applique aux constructeurs, importateurs, distributeurs, revendeurs grossistes et détaillants commercialisant des PDR.

Intervenants dans le système de labellisation



Comité de labellisation

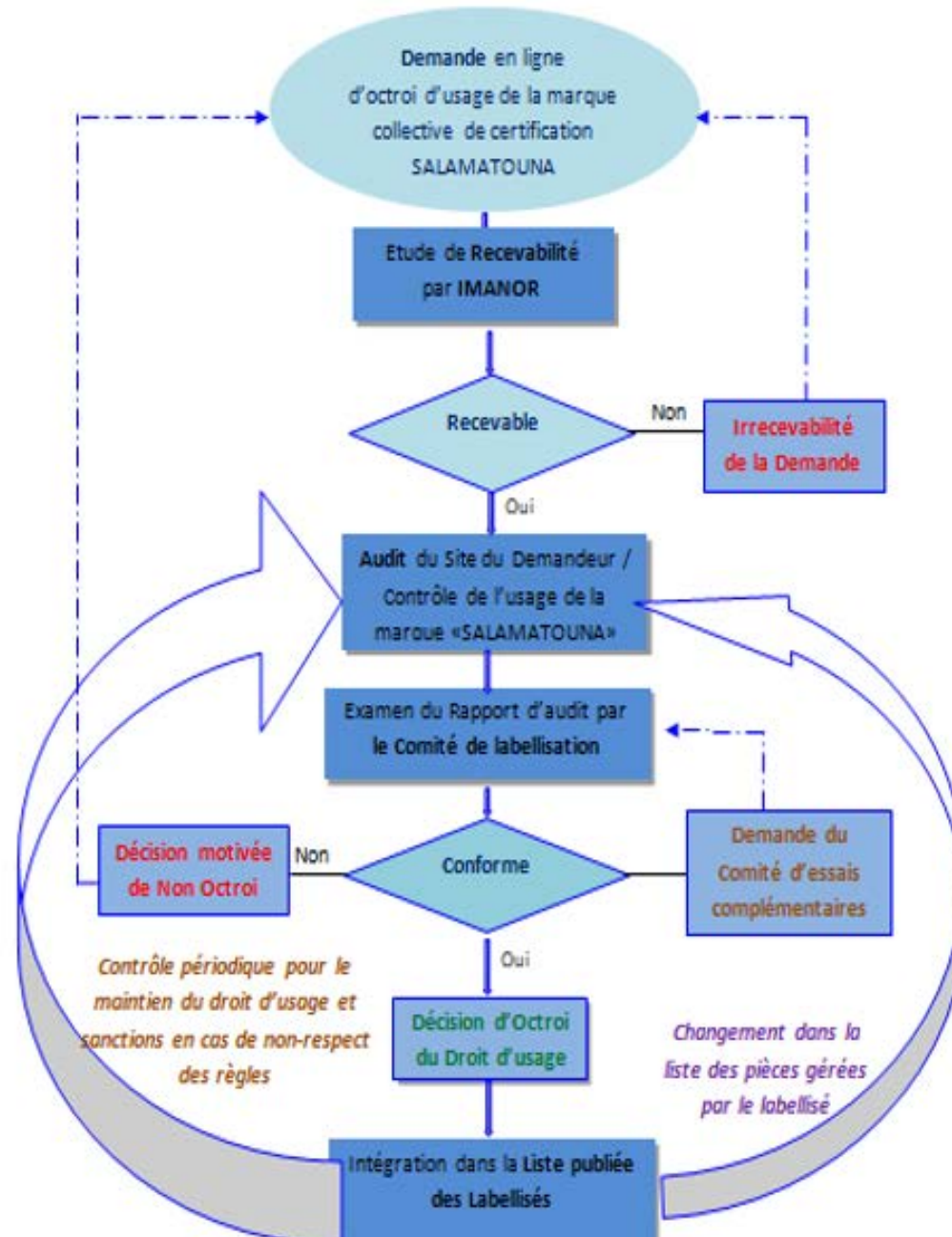


Présidé par le Directeur de la Protection des Consommateurs, de la Surveillance du Marché et de la Qualité (MIICEN).

Membres :

- Institut Marocain de Normalisation (IMANOR);
- Comité National de Prévention des Accidents de la Circulation (CNPAC);
- Institut de Formation aux Métiers de l'Industrie Automobile (IFMIA);
- Organisations professionnelles du secteur Automobile;
- Organisations de protection des consommateurs;
- OMPIC.

Processus de Labellisation



Processus de labellisation



Demande de labellisation via la plateforme gérée par l'OMPIC
www.salamatouna.ma

Examen de recevabilité effectué par l'IMANOR

**Audit initial pour s'assurer de la traçabilité et de la conformité
des pièces aux normes de qualité**

**Octroi du label SALAMATOUNA par le Comité de labellisation,
présidé par le Ministère de l'Industrie**

Processus automatisé via la plateforme

www.salamatouna.ma



Espace partenaires | Espace clients | Contact | FR | العربية

Système de **labellisation des services de distribution des pièces de rechange automobiles** permettant de distinguer les produits **authentiques** des produits de contrefaçon



LE LABEL SALAMATOUNA

OBTENIR LE LABEL SALAMATOUNA

LES MAGASINS LABELLISÉS

MÉDIAS



Trouver un magasin labellisé

Retrouvez ici l'ensemble des magasins labellisés SALAMATOUNA



Obtenir le label SALAMATOUNA

Vous êtes constructeur, importateur, distributeur, revendeur en gros ou revendeur en détail de pièces de rechange automobiles, demandez en ligne l'octroi d'usage de SALAMATOUNA

Espace clients des professionnels de pièces de rechange automobiles

Login

Espace Professionnels des pièces de rechange pour déposer et suivre en ligne les demandes de labellisation

DEMANDE D'OCTROI D'USAGE DE MCC PAR L'USAGER

Accueil > Demande d'octroi d'usage de mcc par l'utilisateur

Formulaire de demande d'octroi d'usage DE MCC

Conformément à l'article 5 du Règlement d'usage de la marque collective «SALAMATOUNA», la demande de labellisation est soumise par constructeur/importateur, distributeur/revendeur en gros revendeur en détail pièces de rechange automobile

Nom*

Prénom*

Qualité*

Dénomination sociale/Organisme*

RC*

Espace Comité de labellisation pour la gestion et le traitement des demandes (recevabilité, audits et contrôles, octroi du label)

Espace Partenaire

- Mon compte
- Tableau de bord
- Gestion des utilisateurs
- Toutes les demandes
- Liste des labellisés
- Configuration des emails
- Messagerie
- Statistiques
- Paramétrage rappels
- Contrôles hors demande
- Magasins labellisés
- Gestion de contenu

Demandes MCC

Demande saisie (En cours d'examen de Recevabilité) IMANOR	Demande non recevable IMANOR	Demande recevable (En cours d'audit) Organisme d'Audit/Contrôle
Demandeur Audité (En cours d'examen de Labellisation) Comité de Labellisation	Labellisation accordée Organisme d'Audit/Contrôle	Labellisation refusée Comité de Labellisation

Contrôle-Suspension-Retrait du label

Labellisé Contrôlé Comité de Labellisation	Labellisation suspendue (suite au contrôle de suivi) Comité de Labellisation	Labellisation retirée (suite au contrôle de suivi) Comité de Labellisation
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Espace Consommateurs avec un service de géolocalisation des magasins labellisés sur tout le Maroc

Site des Labels Salamatouna

www.salamatouna.ma/ma/ma_labellises/page-1

Systeme de Labellisation des services de distribution des pièces de rechange automobiles permettant de distinguer les produits authentiques des produits de contrefaçon

LE LABEL SALAMATOUNA OBTENIR LE LABEL SALAMATOUNA LES MAGASINS LABELLISÉS MEDIAS

LISTE DES LABELLISÉS

Accueil > Les magasins labellisés > Liste des Labellisés Salamatouna

Liste des Labellisés

Dénomination sociale	Adresse
Motax-auto	9 Rue Bachir Louali VAL FLEURI 20390
FORAMAG	10 rue Raphael Marcial, an borg 20320

Rechercher un magasin labellisé

Retrouvez et comparez les magasins Labellisés SALAMATOUNA

Obtenir le Label

Cartographie des magasins labell

Choisissez une entreprise labellisée

Choisissez

Afficher le réseau des points de vente

Réinitialiser la carte

Entreprise Labellisée

Point de vente

SALAMATOUNA

Demandez en ligne l'octroi d'usage de SALAMATOUNA

DÉPOSEZ VOTRE DEMANDE

Espace clients

Des professionnels de pièces de rechange automobiles

Log in

Mot de passe

Se connecter

Nouveau ? Inscrivez-vous

Mot de passe oublié ?

Cartographie des magasins labellisés

Choisissez une entreprise labellisée

Choisissez

Afficher le réseau des points de vente

Réinitialiser la carte

Obtenir le Label SALAMATOUNA

Demandez en ligne l'octroi d'usage de SALAMATOUNA

DÉPOSEZ VOTRE DEMANDE

Espace clients

Des professionnels de pièces de rechange automobiles

Log in

Mot de passe

Se connecter

Nouveau ? Inscrivez-vous

Mot de passe oublié ?

Aucune nouvelle notification

Avantages du Label



Pour le labellisé SALAMATOUNA

Il peut se distinguer des entreprises qui commercialisent des pièces de rechange non authentiques, voire de contrefaçon.

- Publication de la liste actualisée des labellisés;
- Affichage du logo du Label sur Lieu de vente;
- Mention du logo de Label sur les documents de livraison et de correspondance;
- Compostage du logo du Label sur les emballages de livraison;
- Utilisation du logo du Label sur les moyens de transport et supports de COM.

Pour le secteur Automobile

Un **“circuit vert”** au cours de la chaîne d’approvisionnement, notamment l’importation et par conséquent contribue à l’essor du secteur.

Avantages du Label



Pour le consommateur

Alternative pour mieux identifier les lieux de commerce de pièces de rechange authentiques

Les magasins labellisés SALAMATOUNA sont des « **clean shops** » auprès desquels le consommateur peut s'approvisionner en pièces de rechange qui ne mettent pas en danger sa **sécurité**.

Pour les acteurs d'application des droits

Enclenchement d'office d'actions coercitives civiles et pénales prévus par la loi relative à la protection de la propriété industrielle en cas de contrefaçon de la marque SALAMATOUNA, vu que la sécurité du consommateur est concernée.

Cérémonie de remise des premiers labels

Cérémonie présidée par M. Moulay Hafid Elalamy, Ministre de l'Industrie, de l'Investissement, du Commerce et de l'Economie numérique: **15 Novembre 2018**

Premières entreprises labellisées: 17



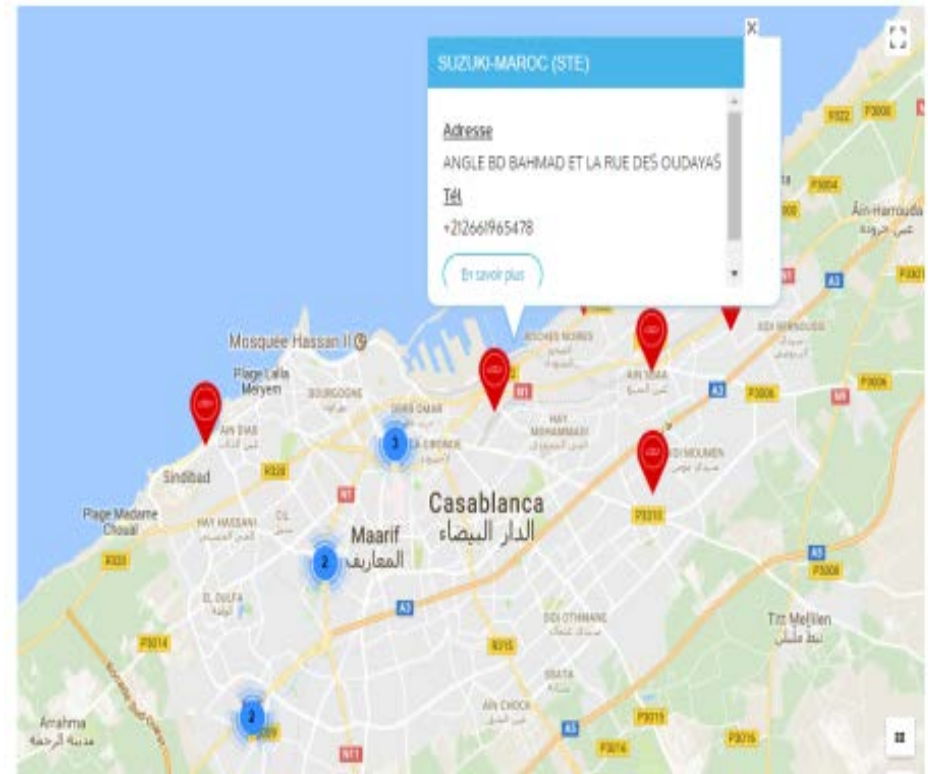
Entreprises Labellisées



26 entreprises labellisées

48 points de vente directe

Géolocalisation des entreprises et magasins labellisés sur tout le Maroc



Perspectives



- ❑ Renforcement de la communication autour du Label 'SALAMATOUNA'.
- ❑ Etude de l'impact de l'usage du Label sur la lutte contre la contrefaçon dans le secteur des pièces de rechange Automobile.
- ❑ Elargissement de l'approche de labellisation à d'autres secteurs touchés par la contrefaçon (Ex. Secteur Electrique, ...).



MERCI POUR VOTRE ATTENTION

**Larbi Benrazzouk, Directeur Général,
Office marocain de la propriété
industrielle et commerciale (OMPIC)
benrazzouk@ompic.ma**

Recent Legislative Amendments to Strengthen the Protection of Industrial Property in the Republic of Korea

September 2, 2019

Cho, Sangheum

Deputy Director, Intellectual Property Protection
Policy Division

Korean Intellectual Property Office



Korean Intellectual
Property Office



CONTENTS

- 01** Introducing Punitive Damages
- 02** Enhancing the Protection of Trade Secrets
- 03** Extending the Competences of the Special Judicial Police
- 04** Future Plans

a. Background

Previous Definition of “Damages”

Damages(=monetary compensation) **shall not exceed amount of the actual damage** incurred by the right holder as calculated in Article 128(3) *(The Patent Act)*

Concerns

- ☞ Meager payment
- ☞ Recurring intentional IP infringement
- ☞ IP devalued and innovation discouraged

Necessary to consider **an increase in the amount of compensation for damage and to deter intentional infringements of IP**

b. Patent Act Amendment

Introduction of Punitive Damages

❑ Article 128(8)

[Newly inserted in January 2019]

Where patent infringement is found to be intentional, damages may be awarded for an amount up to **three times the damage incurred**

(The Patent Act)

❑ Article 128(9)

[Newly inserted in January 2019]

The court shall **consider the following factors** when determining damages under the provision of Article 128(8) : [Next slide]

b. Patent Act Amendment

Unfairly taking advantage of a superior position

Degree of intent or degree of perceived possibility of causing loss

Severity of damage

Financial gains obtained from infringement

Imposed fines & penalties

Infringement duration & frequency

Financial standing of the infringer

Efforts to remedy the damage

b. Patent Act Amendment

Burden of Proof

□ Article 126-2

[Newly inserted in January 2019]

In litigation involving the infringement of a patent or violation of an exclusive license, **the suspected infringer must clarify the specific circumstances of their own action** to deny the assertion of infringement brought by the right holder

(The Patent Act)

c. Trade Secret Protection Act Amendment

Introduction of Punitive Damages

□ Article 14-2(6)

[Newly inserted in January 2019]

Where a trade secret infringement is found to be intentional, damages may be awarded for an amount up to **three times the damage incurred**

(Unfair Competition Prevention and Trade Secret Protection Act)

□ Article 14-2(7)

[Newly inserted in January 2019]

The court shall **consider the following factors** when determining damages under the provision of Article 14-2(6)

☞ Same criteria as Article 128(9) of the *Patent Act*

a. Broadening the Definition of Trade Secrets

Previous Definition of “Trade Secret”

Trade secret defined as information... that is not publicly known [and] is the subject of **“reasonable efforts to maintain its secrecy”**
(Article 2.2 of the *Unfair Competition Prevention and Trade Secret Protection Act*)

Concerns

- ☞ **Ambiguity of “reasonable effort”**
- ☞ **Strict application by courts**
- ☞ SMEs at a disadvantage (i.e. infrastructure, personnel, policies, etc.)

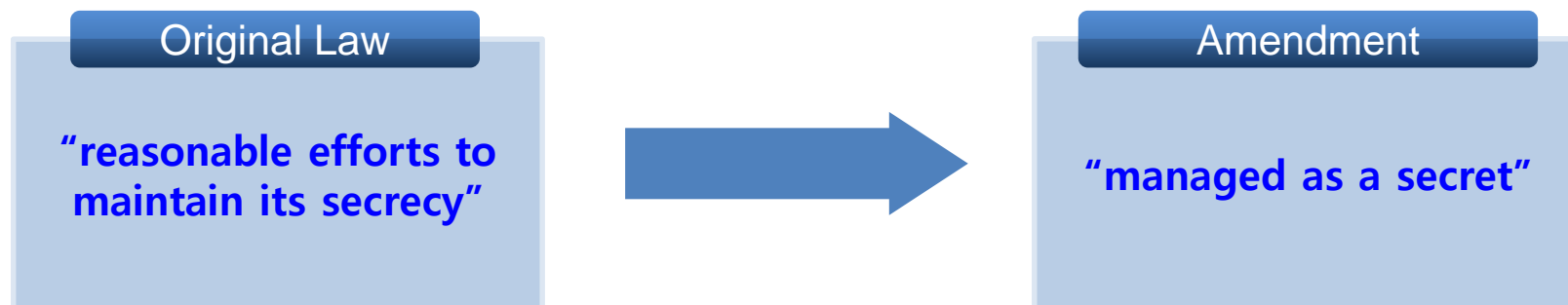
a. Broadening the Definition of Trade Secrets

□ Article 2(2)

[Amended in January 2019]

“Trade Secret” means information, including a production method, sale method, useful technical or business information for business activities, that is not known publicly, is **managed as a secret**, and has independent economic value.

(Unfair Competition Prevention and Trade Secret Protection Act)



b. Extending the Scope of Criminal Liability

□ Article 18(1)

[Amended in January 2019]

1. An act of **using or disclosing trade secrets** to obtain improper benefits or to damage the owner of the trade secrets;
2. (added) An act of **unauthorized taking trade secrets out of designated place** to obtain improper benefits or to damage the owner of the trade secrets;
3. (added) An act of **continuing to possess trade secrets** even though there were request for removal or return to obtain improper benefits or to damage the owner of the trade secrets;
4. (added) An act of **acquiring trade secrets by theft, deception, coercion, or other improper means, or subsequently using** the trade secrets improperly acquired; and
5. (added) An act of **acquiring or using trade secrets knowing that an act under the aforementioned 1~4 was involved**

(Unfair Competition Prevention and Trade Secret Protection Act)

c. Increasing the Severity of the Criminal Penalty

□ Article 18(1), 18(2)

[Amended in January 2019]

Category	Imprisonment		Fine	
	Domestic	Overseas	Domestic	Overseas
Original Law	5 years	10 years	KRW 50 million	KRW 100 million
Amendment	10 years	15 years	KRW 500 million	KRW 1.5 billion

(Unfair Competition Prevention and Trade Secret Protection Act)

a. Background

KIPO's Special Judicial Police (SJP)

Established in 2010 for the purpose of trademark enforcement, the SJP takes action against the manufacturing, distribution and sale of counterfeit goods

👉 To date, **2,800 arrests and 5.1 million counterfeit goods confiscated** in total

Successful performance and the necessary **high level of technical knowledge and expertise in IP** led to a broadening in the scope of the SJP authority **against other IP crimes**

b. The Act on the persons performing the duties of Judicial Police Officers

Extending the Scope of Investigation of the SJP

□ Article 6(35-2)

[Amended in December 2018]

Category	Scope of Enforcement
Original Law	Offenses of unfair competition defined in Article 2(1)(a) of the <i>Unfair Competition Prevention and Trade Secret Protection Act</i> such as using a person's name, trade name, trademark, etc
	Infringements of exclusive use rights prescribed under the <i>Trademark Act</i>
Amendment	Unauthorized acquisition, use or disclosure of trade secrets
	Unfair competition activities that copy the form of another product
	Infringements of patents and/or exclusive use rights
	Infringements of designs and/or exclusive use rights

(Act on the Persons Performing the Duties of Judicial Police Officers and the Scope of their Duties)

KIPO Plans to...

The Punitive Damages

...make an effort to extend the scope of the punitive damages **to also cover trademark and design infringements**

The Protection of Trade Secrets

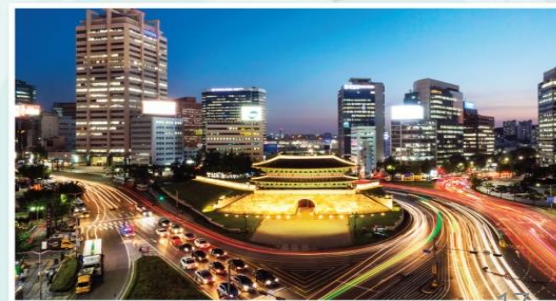
...expand support programs such as **providing education and consultations on trade secret protection, in particular for SMEs**

In the Field of Enforcement

...**establish a cooperative arrangement** with the police and prosecutors to combine enforcement expertise of IP and investigation

THANK YOU

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ACTUACIÓN NACIONAL E INTEGRAL DE LUCHA CONTRA LA VENTA DE PRODUCTOS FALSIFICADOS Y PARA LA OBSERVANCIA DE LOS DERECHOS DE PROPIEDAD INDUSTRIAL EN ESPAÑA

La Oficina Española de Patentes y Marcas



Antecedentes

- Comisión Interministerial para actuar contra las actividades vulneradoras de los derechos de Propiedad Industrial e Intelectual.
- Comisión Intersectorial.
- Grupos de trabajo.
- Real Decreto 114/2000; RD 1228/2005; RD 54/2014.
- Más: 1998: Libro Verde de Lucha contra la usurpación de marca y la piratería en el mercado interior.

Misión y principios inspiradores

Respuesta coordinada.

Principios inspiradores:

1. Visión integral.
2. Colaboración.
3. Eficacia y eficiencia.
4. Nuevas realidades digitales.
5. Garantía de la observancia.

Actores involucrados

- Sector público
 - Administración General del Estado.
 - Administración de las Comunidades Autónomas.
 - Administración Local.
- Sector privado y Tercer Sector
- Actores fuera de España

Ejes y líneas de acción

1. Eje de regulación
2. Eje de coordinación
3. Eje de análisis
4. Eje de formación y concienciación

Ejes y líneas de acción

1. Eje de regulación

- Adecuar la regulación española a las nuevas realidades del mercado.
- Adaptar la regulación española al marco europeo.
- Potenciar la colaboración a nivel internacional.

Ejes y líneas de acción

Primera jornada de debate para una actuación integral contra la falsificación en España.

9 y 10 de abril de 2019

Ejes y líneas de acción



Ejes y líneas de acción

2. Eje de coordinación

- Apoyar la acción aduanera.
- Mejorar y adecuar las herramientas existentes.
- Acciones comunes con el Servicio de Aduanas y las Fuerzas y Cuerpos de Seguridad del Estado.
- Potenciar la colaboración a nivel nacional, comunitario e internacional para la persecución de las infracciones.
- Intensificar el intercambio de información con Juzgados y Tribunales.
- Potenciar el conocimiento de la jurisprudencia.
- Formación de jueces en materia de Propiedad Industrial.

Ejes y líneas de acción



Estás en : Sobre la OEPM / Noticias /

Noticias

< Volver a la lista de noticias

15-04-2019

La Oficina Española de Patentes y Marcas O.A. y el Consejo General del Poder Judicial firman un Convenio para el apoyo a la labor judicial en Propiedad Industrial

La Oficina Española de Patentes y Marcas O.A. y el Consejo General del Poder Judicial firman un Convenio para el apoyo a la labor judicial en Propiedad Industrial.

- El Convenio se ha publicado en el BOE de hoy, 15 de abril de 2019.
- Entre los objetivos del Convenio, coadyuvar a la agilización del acceso telemático de juzgados y tribunales a documentos necesarios para la tramitación de los procedimientos judiciales, actualizar las Bases de Datos de Jurisprudencia en Propiedad Industrial tanto nacionales como las que son frutos de acuerdos UE o internacionales.
- Se persigue igualmente consolidar la formación en Propiedad Industrial en el ámbito del programa de Formación continua del Consejo General del Poder Judicial.

Madrid, 15 de abril de 2019. -

BOPI
Boletín Oficial de la Propiedad Industrial

Ayudas y subvenciones

Perfil del contratante

Otras informaciones

- Protección de Datos Personales
- Estadísticas
- Centros Regionales de Información de PI
- Empleo
- Aula de Propiedad Industrial
- Internacionalización
- Transferencia de Tecnología
- Enlaces y direcciones de interés
- Recursos apoyo y prevención ante violencia género (WRAP)

Portales OEPM

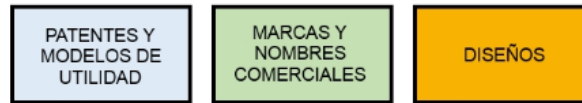
CIBEPYME

Ejes y líneas de acción

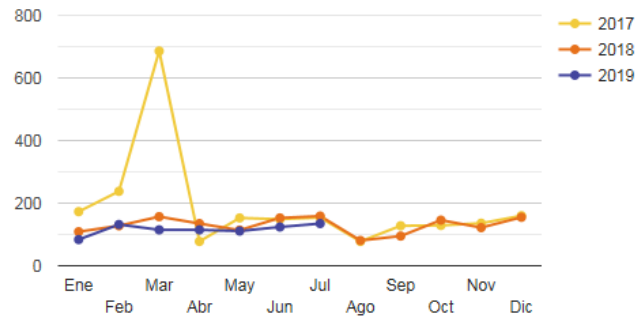
3. Eje de análisis

- Mejorar la elaboración y la presentación de datos estadísticos.
- Obtener datos judiciales concretos en materia de Propiedad Industrial.
- Cooperar a nivel nacional, comunitario e internacional.

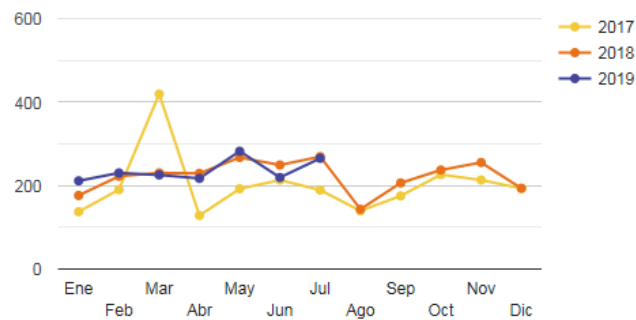
Ejes y líneas de acción



Patentes (nº de solicitudes)



Modelos de Utilidad (nº de solicitudes)



Ejes y líneas de acción

4. Eje de formación y concienciación

- Analizar la decisión de compra de productos falsificados.
- Organizar ciclos formativos.
- Realizar acciones de sensibilización.
- Fomentar sinergias.

Ejes y líneas de acción

OEPM

Módulos de aprendizaje "Propiedad Industrial"

El inventario industrial

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En la nueva edición del Curso de la @eoi podrás formarte sobre independencia y oportunidad y apuntar a oepm.es/es/sob-

No valores

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Jornadas de estudio y actualización en materia de patentes "Los Lunes de Patentes"

Studying & Updating Days on Patent Issues "The Patent Mondays"

Lunes, 16 de septiembre de 2019 Barcelona
Monday, 16 September 2019

UNIVERSITAT DE BARCELONA
Centre de Patents

MINISTERIO DE INDUSTRIA, COMERCIO Y TURISMO
Oficina Española de Patentes y Marcas

Duración y actualización

2020-2023.

Vocación de continuidad de las medidas necesarias.

Impulso y seguimiento del Plan.



¡Muchas gracias por su atención!

MARTA.MILLAN@OEPM.ES

Oficina Española de Patentes y Marcas, O.A. (OEPM)

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Enforcing IP rights in foreign trade zones

Susan Wilson

Intellectual Property Attaché to the EU

United States Mission to the EU

UNITED STATES
PATENT AND TRADEMARK OFFICE



Overview

- Background and history
- Legal frameworks related to IP enforcement in FTZs
- Illegal activities in FTZs
- Enforcement best practices and technological approaches

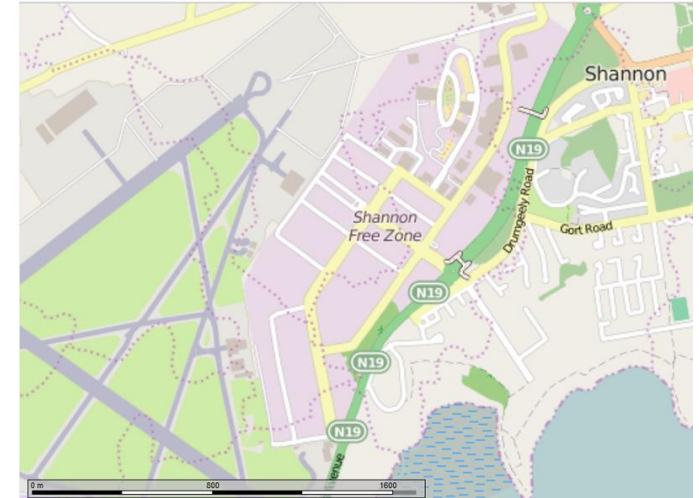
Background and history

Definition

- Free trade zones (also called foreign trade zones) are geographic areas of a country or economy where any goods introduced are generally regarded insofar as import duties are concerned, as being outside the customs territory.
- Common misunderstanding: FTZs are not extraterritorial to the nation and thus are still subject to the host economy's laws.

Background and history

- World's first free zone:
Shannon, Ireland
- 7 million sq. ft. of
development buildings for
manufacturing, distribution
and offices
- 100 companies across a range
of sectors



Credit: Creative Commons (CCASA4.0) via Wikimedia Commons

Today's FTZs



Credit: National Association of Foreign-Trade Zones via GAO-17-649 report

- Activities include production, manufacturing, warehousing and distribution operations.
- Assembly of the final product may take place in the FTZ thereby minimizing or eliminating duty payments on component parts.
- FTZs may also house other businesses including shopping centers, technology centers and logistics centers.

Today's FTZs

- 3,500 FTZs worldwide in 130 economies that collectively employ 55 million workers,
- Generating USD 500 billion in direct trade-related value added
- In the United States of America alone, every state has at least one FTZ and there are 191 active FTZs in all 50 states and Puerto Rico with more than 3,200 companies employing 450,000 workers.



Credit: Creative Commons

Benefits and criticisms of FTZs

Benefits

- Reduced duty payments
- Attracting foreign investment
- Creating jobs
- Enhancing export performance

Criticisms

- Reduced revenues normally accruing to the host economy
- Attracting and promoting illegal and criminal activities

Legal frameworks related to IP enforcement in FTZs

Legal frameworks

- International agreements and conventions play a part in strong enforcement of intellectual property (IP) rights in FTZs . . .

but suffer limitations in that the minimum requirements or non-mandatory nature of some provisions of the agreements result in overall weak enforcement.

Revised Kyoto Convention

Paragraph 6 of Chapter 2 of Annex D

- Recommended Practice
- Admission to a free zone of goods brought from abroad should not be refused solely on the grounds that the goods are liable to prohibitions or restrictions other than those imposed on grounds of:
 - public morality or order, public security, public hygiene or health, or for veterinary or phytosanitary considerations;
or
 - the protection of patents, trademarks and copyrights.
- Irrespective of country of origin, country from which arrived or country of destination
- Goods which constitute a hazard, which are likely to affect other goods or which require special installations should be admitted only to free zones specially designed to receive them.

TRIPS

Art. 51 Suspension of Release by Customs Authorities

Members shall, in conformity with the provisions set out below, adopt procedures to enable a right holder, who has valid grounds for suspecting that the importation of counterfeit trademark or pirated copyright goods may take place, to lodge an application in writing with competent authorities, administrative or judicial, for the suspension by the customs authorities of the release into free circulation of such goods. Members may enable such an application to be made in respect of goods which involve other infringements of intellectual property rights, provided that the requirements of this Section are met. Members may also provide for corresponding procedures concerning the suspension by the customs authorities of the release of infringing goods destined for exportation from their territories.

Illegal activities in FTZs

Counterfeits

- Legitimate activities in FTZs may lend themselves to counterfeiters to create their illegal goods.
- Additionally, transshipment of counterfeit goods may use FTZs by disguising the country of origin and country of destination of counterfeit goods through transit via multiple ports and FTZs



Credit: U.S. Immigrations and Customs Enforcement

Threats to health and safety and organized crime

- Counterfeit pharmaceutical goods, pose a health and safety concern.
 - Inspectors have found that the counterfeiters relabeled and repackaged the items to be sold.
- Money laundering, counterfeiting and piracy have also been prosecuted in the United States.

**Enforcement best practices and
technological approaches**

US FTZ risk-based audit system

- Operator files with the Customs and Border Protection Agency (CBP) an application for Activation and Procedures and Operations Manual.
- Application describes internal compliance processes and goods moving through the zone or subzone.
- Risk-based audit system that does not require a permanent on-site supervision system though access to zones at any time is permitted by CBP.



Other best practices

- Improving awareness and understanding that FTZs are not extraterritorial to the nation and thus subject to the host economy's laws
- National customs authority should enjoy legal authority to control the admission of merchandise into the zone, the handling and disposition of merchandise in the zone and the removal of merchandise from the zone.
- Giving customs agents ex-officio authority to detain goods suspected of infringing IP rights in FTZs
- Improving and fostering a cooperative relationship between customs authorities and private industry in a transparent manner would also improve the rule of law to allow for the regulation of FTZ.

Technological approaches

- Radio-frequency identification (RFID) technologies coupled with securing shipping manifests using blockchain technologies in a distributed ledger system, have the potential to prevent manufacturing, shipping origin and general supply chain fraud to take place.
- Note that none of these technologies are endorsed by the US government or the speaker.



Credit: Creative Commons



Thank you!

Susan Wilson

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