1. Best Practices on IPR Customs Enforcement: Institutional and Operational Framework

FREDERICK VANNESTE | BANGKOK | 9/9/2019

www.ipkey.eu
Introduction
Evolution of selling counterfeit

• Physical Marketplace

• Online Marketplace
Counterfeit in Barcelona 2019
Counterfeit in Barcelona 2019
Evolution of selling medicines
Counterfeit

- Sender:
  - China
  - Hong Kong
  - Turkey

- Covering technics
  - NONE
Counterfeit
Fake medicines

- **Sender:** Mostly South America
  - China
  - Hong Kong
- **Covering technics**
Operation Pangea IX
Type of seizures Counterfeit EU 2017

Top categories by number of detained articles:

- Foodstuffs: 24%
- Toys: 11%
- Cigarettes: 9%
- Clothing: 7%
Top countries of provenance of seizures counterfeit 2017

- 73.04% China
- 10.29% Hong Kong, China
- 4.31% All other countries
- 4.26% Turkey
- 2.62% Vietnam
- 2.08% Syria
- 1.98% India
- 1.42% Egypt
Impact of fake

According to a 2018 World Health Organization report, 150,000 children die from fake antimalarials and 150,000 children die from fake antibiotics each year. This amounts to at least 300,000 children dying from counterfeit treatments.

Organized crime and terrorist groups make many of these pills in dirty labs. Children are treated with fake drugs containing insufficient, wrong, or no medicine.
Competent units against “online smuggling”

Investigation Units

Control Unit

Intelligence & Risk analysis unit
Police

- Focus on criminals
- MS territory
- All crimes, mainly national legislation
- Legal Mutual assistance

Customs

- Checking goods
- EU Border control
- EU regulations
- Mutual assistance for customs matter
Bridge between physical - digital
Evolution of E-commerce

US eCommerce Sales as a percentage of total Retail Sales

Source: US Census Bureau, May 2015

Direcr©d by the European Commission, IP Key South-east Asia is implemented by the European Union Intel]lectual Property Office (EUIPO)
The evolution to mobile computers
Do we have a problem in the EU?

Yes – around 96% of all internet pharmacies are illegal
Transport of Counterfeit

FREDERICK VANNESTE | BANGKOK | 9/9/2019
Transport

Too much capacity?
Smuggling

• The criminal offense bringing an item into (or out) a country/EU
  – without declaring it to customs officials
  – Without paying the correct associated duties or taxes
  – or bringing in (or out) a prohibited item into the country/EU
Relation Customs – Internet - Goods

- All goods bought outside Europe pass Customs
- GOODS COMING FROM 3rd COUNTRIES
- You have to pay taxes:
  - VAT if the value > €22
  - Import duty if the value >150€
  - Always excises (tobacco, alcohol, …)
- Customs check if goods are legal, so customs stop:
  - Counterfeit and IPR infringements
  - Medicines
  - Narcotics and psychotropic substances
  - Arms and ammunition
  - Cultural heritage
  - CITES – Convention on International Trade in Endangered Species
Evolutions as result of E-commerce

In the PORTS…
1 container with counterfeited products

= 1 infraction
= BIG quantity of goods

In the AIRPORTS…
1 parcel ordered on the internet with counterfeited goods

= 1 infraction
= SMALL quantity of goods

E-commerce Evolution in the domain of counterfeit

In EU: Stagnation of number of seizures
BUT reduction of the total amount of seized goods

Number of cases
Number of seizures
Seizures - Mean of transport

Number of cases

Number of articles
Parcels – Internet - Consumer

- Internet is one big market
- Market grows each year with 10% to 15%
- > 90% of all « not European » post parcels contain goods that are bought on the internet
- > 50% of those post parcels
  - Are wrongly declared to avoid duties
  - Contain illegal goods
- >100 000 parcels entering Belgium every day
- Customs can’t check them all
- Seized parcels give us a view on the Illegal Trade on the internet
Difference Post & Courier/Express

- Post (UPU)
- Belgian post
- China post
- Swedish post

- Courier
- DHL
- TNT
- UPS
- Fedex
- DPD
- DB Schenker
- ...
### Difference Post & Courier

**Post**
- Cheap
- Slow
- Under rules of Universal Postal Union
- Mail
  - Max 2kg
  - L+W+H=max 90cm
  - CN22 or CN23 for high value
- Big Parcels
  - >2kg
  - EMS (express mail service)

**Courier**
- Express service - FAST
- Expensive
Difference Post & Courier

**Post**
- Small items collected in bags
- No pre-arrival information (anonymous)
- Only information about the bag

**Courier**
- Separated parcels
- Structured
- Pre-arrival information
  - Not always correct
Differce Post & Courier - Transport

Post

Courier
Express/Courier

https://www.youtube.com/watch?v=P4OfPPwDW-s&list=PLiPHefzMv21WJqyJMiwWe7d3x7gZIU4My&index=2
European hubs of the couriers
Challenges with couriers

• Low value parcels are liberated at first point of entry (only 5 places in Europe)
• Low value parcels go, after liberation, sometimes directly to local distribution centers in other countries without possibility to have them checked by the customs of destination
• No access to pre-arrival data of low value parcels in most countries, because it’s only available in the country of the first point of entrance
• In the European hubs, high pressure on customs, too much parcels, mostly during night and very short time slot to check them
Post

https://www.youtube.com/watch?v=WX16-52bHvg&list=PLiPHtozLy21WJdyUMwWe7d3x7gZIU4Mv&index=4
Legal Framework Post

UPU

• Universal Postal Union
• Since 1874, Agency United Nations
• Standards for post
• Postal documents CN 22, CN 23, CN34, CP 83
• CN 22 and CN 23 are customs declarations
• Post secret?
  – If you doubt if there goods in → X-ray or dogs.
European national post hubs
Conclusion

• BE, UK, DE and FR customs are responsible for almost all small consignments of the couriers

• Every national hub of post is responsible for the small consignment from other countries.

• Once released, they can freely circulate throughout Europe.

• Fraudsters search the weakest link in the chain
• All data of seizures is put in a database
  - National database with nominal data
  - Export to copis
• Automatically generation of letters to the addressees
• Addressee answers us the information by email:
  - Name of the website
  - Name of the account of the seller
  - Price
Treasure Hunting
THANK YOU

@IPKey_EU