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Headline

Intellectual property training for members of IPR enforcement institutions of the Republic of Serbia

A key prerequisite for efficiency in the suppression of piracy and counterfeiting is adequate training and specialisation of administrative and judicial authorities involved in IPR enforcement, in addition to enhanced co-operation and co-ordination between all such bodies. Despite the existence of a sound legal framework for IP protection, one that has been harmonised with high international standards, there is still a need for improvement, primarily in the field of education. Apart from enhancing co-operation with the relevant state authorities in the sphere of education and training, namely, the police, customs and various inspectorate units, the Intellectual Property Office (IPO) has embarked upon a partnership programme with the Judicial Academy, leading to the signing of a Memorandum of Understanding between representatives of the IPO and the Judicial Academy on October 2010.

Following the establishment of a training curriculum on the basis of an appropriate analysis of needs, the first training cycle for the Market Inspectorate, judges and prosecutors was held on 7 September 2011. The three-day course, which covered both theoretical and practical aspects, attracted a high level of interest from participants. They were particularly eager for

clarification on certain procedures applied by the IPO, such as international registrations, different issues regarding copyright and related rights, and the like. Other topics discussed were the international misdemeanours procedure, corporate offences and criminal procedure in the case of trade mark infringement, as well as issues in the recovery of damages.

During the training sessions provided for the Market Inspectorate and Customs, participants paid tribute to the successful co-operation they have had with the IPO and confirmed the significance of such co-operation.

Branka Bilen Katić, Assistant Director, Intellectual Property Office of the Republic of Serbia

The participants were satisfied with the selection of right holder representatives, who play a crucial role in the IPR enforcement procedure, as well as with the foreign experts who presented their experiences. A hugely significant aspect of the training course was the excellent co-operation the IPO representatives established with the participants as this will be extremely useful for the organisers in further improving the course.

The next training session took place on 24-27 October 2011 and was intended for the representatives of the Police.



Interview

EPO and Serbia co-operate on developing the European patent system



In his first official visit to Serbia since the country joined the European Patent Organisation, EPO President Benoît Battistelli met Serbian Deputy Prime Minister for Education and Science Žarko Obradović to discuss how to further strengthen the country's intellectual property system.

Among the topics addressed were the role of patents in supporting innovation, the harmonisation of intellectual property laws within the framework of EU integration and the EPO's co-operation with Serbia, which became a member of the Organisation in October 2010.

"Co-operation between the European Patent Office and the Intellectual Property Office of Serbia supports the development of a knowledge-based economy and stimulates research and development activities in Serbia," said President Battistelli. "This means more economic growth and social development." He added: "Close collaboration between the EPO and the national patent offices in Europe is also key to ensuring that we continue to improve the quality and efficiency of patent protection in Europe."

During the two-day visit, the EPO President also met the Director of the Intellectual Property Office of the

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Republic of Serbia Branka Totić as well as representatives from industry and academia.

Addressing an audience in the ceremonial hall of the Rectorate of the University of Belgrade, President Battistelli highlighted the importance of patents as intangible assets and as a source of technical knowledge.

"Patent information is a fundamental tool for the economic system," he said. "Its effective use and understanding stimulates innovation."

That is why I consider that for a patent office, the wide dissemination of the technological information contained in patent applications is as important as its role in granting patent protection."

The EPO is currently implementing a EUR 2.2 million EU-funded project in Serbia aimed at strengthening IP protection in the country. Under the project, support to an Education and Information Centre was set up in the Serbian IP Office in January 2010.

The centre works to raise awareness of the importance of IP among universities and industry, and to enhance IP knowledge among enforcement bodies such as customs and the courts.



Montevideo, God Bless You



If you have a premium RapidShare account that allows you to download different content (films, music, games, software, etc.), the same option will also be available if you are a member of a forum that allows

you to upload content. In addition, you will be able to download content not available on your hard disk that was uploaded by other forum members.

This applies, in particular, to certain local forums which have links for downloading films currently being screened in cinemas, as happened with the film Montevideo, God Bless You!

In this case, a certain Goran C. from New Belgrade uploaded, provided and otherwise exchanged and made public over a lengthy period of time, 2000 copyrighted works in electronic format, i.e. more than 50 GB of content, including movies produced by local and foreign authors, software, computer games, and music.

On 23 February 2011, he also posted links on the internet site www.zurkaforum.com to a free download of the locally made film Montevideo, God Bless You!, having first uploaded it to the internet site www.multiupload.com. In doing so, he damaged Intermedia Network, the film copyright holder in Belgrade, in the amount of about RSD 20million, the value of the claim. Posting under the name "Hawk", Goran C. had VIP membership status on the forum and had obtained the largest number of acknowledgments - 10580 - for links posted to download content.

His 5-star VIP membership status on the www.zurkaforum.com forum had been gained by acquiring one star for every 10 GB uploaded onto the site, meaning he had uploaded more than 50 GB of content in electronic format onto the site for its users.

Mikailo Tijanić, Head of the IPR crime department

Following a hearing, the judge at the Belgrade Higher Court issued an eight-day detention measure against Goran C., the first detention measure to be issued against a person for this type criminal offence in the past three years.

Apart from Goran C., the police identified another two persons who had subsequently posted the above film on the sites www.youtube.com and www.fileserve.com.

One of these was Milan S. from Temerin, who had illegally posted different copyrighted works on his "mick-eythug91" channel on www.youtube.com over the past three years, including mainly locally produced movies such as We Are Not Angels, When I Grow up I'll Be a Kangaroo, and many others.

The other person was Veselin S. from Klek (Zrenjanin), who was the first to download the film Montevideo, God Bless You!, posting a link to free downloads on the internet site www.warez-db.org under the username "veso90", after transferring the whole video record of the film to the internet site www.fileserve.com using the Rapidleech script. ■

Jens Feilberg, former President of the Maritime and Commercial Court in Denmark

The Arsenal judgement

Judgment of the European Court of Justice (12 November 2002, case C-206/01) in a case referred by the High Court of Justice (England and Wales) concerning an interpretation of Article 5(1)(a) of the Trade Mark Directive.

The facts:

Mr Reed, a stallholder, sold a number of items on his stalls, including scarves carrying the word "Arsenal", a sign registered as a trade mark by Arsenal FC for such goods. Mr Reed stated that the logo he sold did indicate any relationship with Arsenal. Arsenal claimed that Mr Reed's sale of the scarves contravened the provision in the UK Trade Marks Act corresponding to Article 5(1)(a) of the Directive, which states that unauthorised use of identical

trade marks for identical goods on the request of the owner shall be prevented.

The question: Essentially, the High Court asked the Court of Justice if Mr Reed had a defence on the ground that his use of "Arsenal" did not indicate trade origin.

The findings of the Court:

i. Article 5(1) embodies a complete harmonisation of the relevant rule and defines the exclusive rights of the trade mark owner concerning the use of the mark in the course of trade.

ii. The proprietor must be protected against competitors wishing to take unfair advantage of the status and reputation of the mark by selling products illegally bearing it.

iii. The protection is absolute in the case of identity between the mark and the sign and between the goods and those for which the mark is registered.

iv. The proprietor may not prohibit the use of a sign if that use cannot affect his own interests, for instance in the case of use for purely descriptive purposes. In the present case, the use of the sign was obviously not intended for purely descriptive purposes.

v. It was not relevant that Mr Reed stated that the goods sold on his stalls were not Arsenal products. Further, it was not material that use of the sign was perceived as support for or loyalty to Arsenal.

vi. Consequently, Mr Reed's use of "Arsenal" could be prevented by Arsenal. ■





Vladimir Marić, Assistant director for copyright and related rights and international co-operation, Intellectual Property Office of the Republic of Serbia

Law on optical discs

Optical disks are currently the most frequently used medium in our country for illegally copying copyrighted works and subject matters of related rights. With piracy levels in Serbia among the highest in Europe, our country, in an attempt to tackle this problem, enacted the Law on Optical Discs and their Production Parts in July this year. The basic objective in passing this law is to ensure the efficiency of activities undertaken to combat IPR infringement, primarily in the area of copyright and related rights, and to reduce the level of physical piracy in Serbia.

Once the law takes effect, the production of optical discs will be allowed only for those legal entities or entrepreneurs who have been licensed by the Intellectual Property Office. The Law on Optical Discs does not regulate the production of and trading in "blank" optical discs, but solely the production of and trading in optical discs with recorded content. This includes music, films, educational content, and so on. The law imposes the obligation to mark optical discs carrying recorded content with producer codes.

The purpose of producer codes is to provide information to interested parties about where the optical disc was produced and copied. Producer codes will facilitate officials from the Market Inspectorate, Customs

Administration, the police and other authorities in distinguishing between legal and illegal optical discs. The Law on Optical Discs establishes co-operation between Customs Administration and the Market Inspectorate regarding import-related inspection of optical discs and equipment used in their production. Each import of optical discs and production components will be subject to a mandatory entry in the records of the customs authorities, including notification of the Market

Inspectorate within the prescribed deadline. The Market Inspectorate will then conduct an additional inspection of the imported goods within a statutorily prescribed deadline. This will provide for a dual inspection of imported optical discs by Customs Administration and the Market Inspectorate. The objective is self-explanatory: to minimise the potential for importing illegal optical discs with recorded content. ■



Biljana Ramović, advisor, Intellectual Property Office of the Republic of Serbia

Who to contact in the event of IP infringement



Intellectual property rights infringement means any unauthorised use of a legally protected intellectual asset (patent, trade mark, indication of geographical origin, trade secret, etc.). The two most frequent types of infringement are counterfeiting (unauthorised production of and trading in goods whose outward appearance and trade name are identical or similar to a protected proprietary design or trade mark) and piracy (unauthorised use of the works of authorship

and subject matters of related rights, particularly by copying them to CDs, DVDs, or other electric record carriers and trading in them, as well as their unauthorised disclosure on the internet).

Protection in the event of intellectual property infringement (IPR enforcement) is provided by the procedures implemented by the competent public authorities who are entitled to take appropriate action, including preventive actions, against any IPR infringement.

In the Republic of Serbia, the authorities having jurisdiction for implementing intellectual property rights are public administration bodies (the police, Customs Administration, inspectorates operating within the framework of the competent ministries, and the Republic Radio Broadcasting Agency), courts and prosecution offices.

The majority of these authorities are entitled to institute ex officio proceedings. Nevertheless, timely referral to the relevant authority including the submission of a request and the provision of assistance as well as technical expertise (for instance, submission of photos of the original goods, samples of suspicious goods, etc.) will certainly contribute to the greater efficiency and cost-effectiveness of the procedure. The rights holder can do a great deal in preventing the infringement of his rights and incur reducing

the scope of damage caused in such situations. Some of the options available are:

- submitting a request to the competent authority for inspection surveillance in the field of IP protection (market, tax, tourist inspectorates)
- submitting a request to Customs Administration for measures to be taken for the protection of IPRs at border crossings (IPR Department)
- submitting a complaint to the Republic Radio Broadcasting Agency if unauthorised broadcasting and/or re-broadcasting of a copyrighted work infringes a copyright or a related right
- submitting a criminal report to the competent Public Prosecutor's Office (where the infringement constitutes a criminal offence)
- filing charges on the ground of infringement of rights to the competent court (higher court if natural persons are involved, commercial court in the case of legal entities).

In the criminal legal protection of intellectual property, the police have a very important role. The departments concerned with anti-fraud and intellectual property protection and the suppression of IPR crime functioning within the framework of the Criminal Police Directorate of the Republic of Serbia have been vested with special jurisdiction with regard to infringement of these rights. ■

Saša Zdravković, advisor,
Intellectual Property Office of the Republic of Serbia

Counterfeiting and piracy - statistics

The number of detentions of counterfeit objects as well as the number of objects forfeited on the ground of copyright infringement and in accordance with the measures implemented by certain institutions competent for IPR enforcement is shown in the graphs in terms of absolute numbers for the period 2008-2010. The type of objects detained by Customs Administration varies; the largest number of items detained is in the category clothing and footwear, followed by cosmetic and hygiene products, and toys. The other categories account for a much smaller percentage.

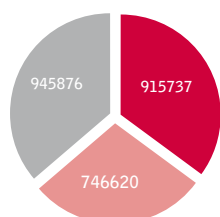
Among the goods detained by the Market Inspectorate, the predominant items are CDs/DVDs, followed by foodstuffs and beverages, and finally clothing and footwear. In the actions taken by the police, the departments concerned with the suppression of IPR crime and the suppression of corporate and IPR fraud have confiscated goods on the basis of 781 criminal offences involving unauthorised exploitation of copy-

righted works, mainly CDs/DVDs and printed publications.

In the same period, the tax administration department performed 6 055 inspections to assess the legality of computer program and database usage by business entities, filing 175 reports with the competent prosecutor's office for illegal exploitation of computer programs.

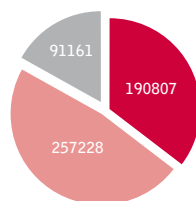
A marked decline in the volume of illegal software used by business companies has been noted, from 8% in 2008 to roughly above 1% in 2009 and 2010. ■

Customs



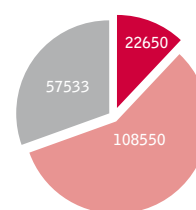
● 2008
● 2009
● 2010

Ministry of Interior
(Police)



● 2008
● 2009
● 2010

Market inspection



● 2008
● 2009
● 2010

News

Nikola Radovanović, advisor,
Intellectual Property Office of the Republic of Serbia

Serbia, the new Chair of the World Intellectual Property Organization's (WIPO) General Assembly

Last October, the Serbian Ambassador to the United Nations in Geneva, Uglješa Zvekić, PhD, was elected, by acclamation, Chair of the WIPO General Assembly for the period 2011-2013. This was the first time in 30 years for a representative of a country from Eastern or Central Europe (including the Baltic region) to be appointed to this significant and honourable position. ■



Training takes place for IP enforcement authorities

In September and October 2011, comprehensive training was provided for the representatives of public authorities dealing with IPR enforcement, including the courts and prosecutor's offices, the Market Inspectorate, Customs Administration and the Police. The representatives of all the above institutions attended basic and advanced training levels, expanding their knowledge and experience through specialised lectures on intellectual property and practical case studies from other European countries, in order to enhance the efficiency of IPR enforcement and establish closer co-operation between the different authorities. ■

Interregional symposium on IPR enforcement

On 6 and 7 September, the Zira Hotel Belgrade was the venue of an international symposium on IPR enforcement, organised jointly by WIPO, the United States Patent and Trademark Office and the Intellectual Property Office of the Republic of Serbia.

This prestigious event attracted a large number of representatives from both the host organisations and all key institutions from Serbia involved in IPR enforcement, as well as those from foreign countries. ■



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