

## **The strategy of the Directorate-General for the fight against counterfeiting - Italian Patent and Trademark Office in anticounterfeiting matters**

In the light of the latest facts on the diffusion of counterfeiting and on the gravity of its impact both at macro-economic (national economic system) and micro-economic (productive sectors) level, the anticounterfeiting strategy pursued by the Directorate-General is grounded on the industrial strategy outlined by the Ministry for Economic Development. The policy for the fight against counterfeiting is thus a central element of the industrial policy, an important pillar in supporting the competitiveness and innovation of Italian businesses.

Support is tangible and effective. The Directorate-General, by means of the different information and education initiatives, aims at awakening businesses to carry out preventive strategies for the defense from counterfeiting by spurring them to protect their intangible assets through Intellectual Property Rights (IPRs). To this goal, a financial tool has been introduced, the so called "innovation packet", which provides for facilitating measures on behalf of micro, small and medium-sized enterprises for the diffusion and exploitation of patents and design. The same strategic goal drives the boost given by the Directorate-General to the IPR Desks activity, the Intellectual Property Rights Desks hosted by 10 offices of the Italian Institute for Foreign Trade in 7 countries outside the EU, assisting enterprises going international on matters of IPRs protection and exploitation, as well as on the prevention, defense and fight against counterfeiting.

Being fully aware that anticounterfeiting initiatives are most effective when carried out through a systemic approach, the Directorate-General considers institutional coordination an important lever of its strategy, once again on a two-fold level:

- at national level, through the settlement of a series of negotiating tables with Police Forces, the Custom Authority, businesses, traders and consumers' associations; internet providers; representatives of particularly sensitive sectors, such as tobacco, medicines and agro-alimentary products;
- at international level, through the participation in international negotiations such as the negotiation for the Anti-Counterfeiting Trade Agreement (ACTA) or the negotiation for the starting of the EU patent; the strengthening of the initiative carried out by Italian diplomats within the United Nations aimed at approaching counterfeiting as a criminal phenomenon; collaboration with mixed Chambers of Commerce or Italian Chambers of Commerce located abroad for the support of national enterprises willing to internationalize in those areas where there are no IPR Desks.

Institutional coordination is also the mission of the National Anticounterfeiting Council (CNAC), whose General Secretariat is hosted by the Directorate-General's Division IV (Policies for the fight against counterfeiting). The Directorate-General tries to enhance institutional coordination as a strategic lever in the context of CNAC's activities by supporting the implementation of CNAC President's action plan. Interinstitutional linking is among others strengthened within the National Anticounterfeiting Council through the establishment, under the impulse of the CNAC President, of two Permanent Consulting Commissions: one made up by Italian anticounterfeiting enforcement agencies, and one made up by consumers and businesses' associations.

The Directorate-General also believes that anticounterfeiting policies must ground on sound information bases. This is why one of the Directorate-General's main activity lines is measuring the incidence of counterfeiting using different approaches and measuring techniques: statistics on seizures of counterfeit goods by enforcement authorities, sample-based surveys on consumption and number of consumers, impact analysis on enterprises and national economy.

One last, but not least, field of strategic intervention of the Directorate-General to fight counterfeiting: information and communication campaigns to raise citizens' awareness on counterfeiting consequences. Initiatives carried out in this field aim at different targets: from university students (with the "Giulio Natta Degree Award" and the introduction of Intellectual Property in teaching programmes) to primary and secondary schools students ("Small and Great Inventors Grow Up" initiative); from consumers (through information campaigns carried out in collaboration with consumers associations) to citizens at large (through institutional communication campaigns carried out at national and local level).

A summary of the Directorate-General' activities are presented here following for each of the above mentioned strategic fields.

### **Measuring counterfeiting activity in Italy**

The Directorate-General, following the strategic lines defined by the European Commission Directorate-General Single Market in its 2002 report (*COUNTING COUNTERFEITS: Defining a method to collect, analyse and compare data on counterfeiting and piracy in the Single Market*), has identified the following methodologies in order to measure counterfeiting activity in Italy and determine its impact on the Italian economic system:

- ✓ collecting data from enforcement agencies related to: number of seizures, number of seized items and value of seized items. These information - appropriately re-organized by sectors and normalized to minimize redundancy - feeds a database called IPERICO (Intellectual Property – Elaborated Report of the Investigation on COunterfeiting), managed by the Directorate-General;
- ✓ measuring consumption of counterfeit goods and impact at micro-economic level (sectorial impact): consumers surveys are carried out to estimate the number of consumers, the value of consumption, consumers' attitudes towards counterfeiting and consumers' perception of government's activity to fight against it. Surveys on manufacturers in specific sectors are also carried out, in order to estimate loss in turnover and identify defensive strategies implemented by affected enterprises;
- ✓ Measuring macro-economic impact (in terms of loss in turnover, employment and fiscal revenues)

Thanks to a collaboration with the United Nations Interregional Crime and Justice Research Institute (UNICRI), the Directorate-General is also acquiring information and data on the involvement of organized crime, both Italian and transnational, in the illicit commerce of counterfeit goods.

## Preventing counterfeiting and raising public awareness

A few measures have been designed and implemented by the Directorate-General to raise awareness among enterprises on the necessity to protect their intangible assets through IPRs. Among these measures:

- ✓ the so called "innovation packet" (total amount of funding: about 89 million euro), created to support micro, small and medium-sized enterprises in exploiting and protecting their IPRs. The Innovation Packet's funding runs along 7 tracks (of which the first two are already under implementation and consist of facilitating measures for the diffusion and exploitation of patents and design), created with the involvement of qualified partners (Invitalia, Fondazione Valore Italia, the National Centre for Biological Resources, the Conference of Deans of Italian Universities, Unioncamere-the association of Italian Chambers of Commerce) which can give, through their competences and organizational support, a valuable contribution to an effective implementation and achievement of the packet's goals;
- ✓ the establishment of a public-private task-force to monitor and react to the *Italian Sounding* phenomenon: as a result of the task-force's work, a project aimed at fighting this phenomenon through promotional initiatives is being carried out in Canada (this project has been elaborated by the Italian Institute for Foreign Trade in collaboration with Federalimentare, the confederation of food association, in the framework of an agreement with the Directorate-General);
- ✓ the implementation of a project in collaboration with Rome University "La Sapienza" to identify the best traceability systems in terms of products and sectors (a similar initiative is under implementation in partnership with the State Mint and Polygraphic Institute)
- ✓ information and training programs especially addressed to enterprises, such as for instance seminars organized in collaboration with the World Intellectual Property Organization (WIPO), held throughout Italy;
- ✓ a MoU with trade exhibition organizers, aimed at carrying out raising awareness activities on counterfeiting during the most important exhibition initiatives.

Raising awareness initiatives on counterfeiting consequences are also carried out by the Directorate-General, aiming at the public at large, as well as specific targets:

- ✓ University students, through the introduction of Intellectual Property in teaching programmes and the *Giulio Natta Degree Award*, granted for distinguished research activities in IPRs and their protection)
- ✓ primary and secondary school students ("*Small and Great inventors grow up*" initiative, seminars carried out in primary and secondary schools to teach the value of creativity and of protection of intellectual work)
- ✓ consumers (a MoU has been sign with 8 national consumers' associations for an awareness and information project dedicated to consumers)

## **Institutional coordination**

At national level it is carried out through:

- ✓ the establishment of negotiating tables gathering Police Forces, Customs Authorities, businesses, traders and consumers' associations, internet providers, representatives of particularly sensitive sectors, such as tobacco, medicines and agro-alimentary products;
- ✓ the collaboration with the following institutions:
  - Ministry of Agricultural, Food and Forestry Policies (preparation of an interministerial draft regulation for the establishment of a national system for the protection of geographical indications and origin denominations besides the Community system);
  - Italian Medicines Agency (Agenzia Italiana del Farmaco) - AIFA (operating actions aimed at fighting online medicines illegal purchases and transferring information - through web seminars - to customs authority and Police Forces agents);
  - Chambers of Commerce (involvement in initiatives at local level);
  - Indicam - *Centromarca Institute for the Fight against Counterfeiting* (production of an informative/educational video addressed to Local Police - 117 Local Police headquarters identified for the project area testing).

The repression strategy against counterfeiting is another activity integrated in the framework of institutional cooperation, expressing itself in the collaboration established with supervisory and police authorities involved in territorial operations. A dedicated coordination table has been established. In this context, a continuous and intense exchange activity among operating offices of the *Guardia di Finanza* and *Agenzia delle Dogane* allows to tackle and solve different and sometimes complex operational overlapping cases and to provide for unambiguous action policies or shared interpretation for sectorial rules: just think of the recent and complex case of stratification of regulations on Made in Italy protection. As of today, initiatives, also of legal nature, are under consideration. They aim at rationalizing the problem of the destination of seized counterfeit goods, also with a specific reference to finished tobacco products.

The same participatory approach is reflected at international level through:

- ✓ boosting the activity of IPR Desks (Intellectual Property Rights Desks), hosted by 10 offices of the Italian Institute for Foreign Trade, with a consulting role to Italian businesses in matters of protection and exploitation of Industrial Property Rights;
- ✓ starting the collaboration with Mixed Chambers of Commerce and Italian Chambers of Commerce abroad in order to provide support to Italian businesses going international on those markets where IPR Desks are not present;
- ✓ participating in the European Observatory on Counterfeiting and Piracy, within which the Directorate-General's involvement is especially focused on the identification of transnational anticounterfeiting policies;
- ✓ collaborating on a continuous and proactive basis with international institutions (EPO, OECD, OHIM, UNICRI, UPOV, WTO, WIPO);
- ✓ entering into bilateral agreements (for ex. with China, South Korea, France, Russia, Spain, United States, etc.) aimed at strengthening international collaboration in anticounterfeiting;

- ✓ participating in international negotiations (ACTA negotiations, for the defense of IPR equality with particular reference to geographic indications and design; negotiations for the start-up of the EU patent for the defense of an equal linguistic dignity; TRIPS negotiations within the World Trade Organization, for the establishment of a multilateral register for geographical indications for wines and spirits);
- ✓ strengthening of the diplomatic initiative carried out by Italy within UNODC (United Nations Office on Drugs and Crime) in order to include counterfeiting in the agenda of the Twentieth session of the Commission on Crime Prevention and Criminal Justice (April 2011), claiming for the first time within a UN meeting the necessity to envisage counterfeiting not only as a commercial but also as a criminal phenomenon.

### **Special Projects**

- ✓ Exhibition: "*Disegno e Design - Brevetti e Creatività Italiani*" (Rome, Ara Pacis, November 5, 2009 - January 31, 2010). Organized by Fondazione Valore Italia in collaboration with the Italian Ministry of Cultural Heritage and Activities - Directorate-General of Archives, and the Municipality of Rome - Department for Cultural Policies and Communication, with the support of other important institutions and business associations. The exhibition's main theme was the role of creativity serving industrial production, with a special focus on the design aspects preceding the production of an object.
- ✓ Exhibition: "*Il Falso non ha Senso*" (Rome, Palazzo Ruspoli, January 13-February 6, 2011). Organized by the Directorate-General for the fight against counterfeiting in collaboration with Unioncamere (the Association gathering all the Chambers of Commerce), this exhibition featured the best known Made in Italy brands. Its aim was to help fight against counterfeiting of high quality Italian products/brands using Art as an analogy, since artistic forms of expression are often subject to falsification;
- ✓ a special project in collaboration with the National Association of Italian Municipalities (ANCI) in the framework of a MoU signed by the Italian Minister for Economic Development and ANCI's President. The collaboration with ANCI provides for the implementation of a tender-based incentives programme benefiting those municipalities which apply for financial support to implement effective projects in combating counterfeiting and illegal commerce in their area.