27.6.2012 A7-0046/114

Amendment 114
Anna Hedh, Evelyne Gebhardt on behalf of the S&D Group

Report A7-0046/2012
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 2 – paragraph 1 – point 1 – point m

Text proposed by the Commission

Amendment

(m) any other right that is established as an exclusive intellectual property right by Union legislation;

deleted

Or. en

Justification

It is not possible, nor desirable to anticipate what rights, in the future, may be subject to the proposed regulation and consequently it is not possible to assess whether they are suitable for customs intervention or not.
Amendment 115
Anna Hedh, Evelyne Gebhardt
on behalf of the S&D Group

Report
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 2 – paragraph 1 – point 5 – point a

Text proposed by the Commission

(a) goods which are subject of an action infringing a trade mark and bear without authorisation a trade mark identical to the trade mark validly registered in respect of the same type of goods, or which cannot be distinguished in its essential aspects from such a trade mark;

Amendment

(a) any goods, including packaging, bearing without authorisation a trade mark identical to the trade mark validly registered in respect of the same type of goods, or which cannot be distinguished in its essential aspects from such a trade mark, and which thereby infringes the rights of the owner of the trademark in question in the country of import;

Or. en

Justification

Changing the definition of counterfeit goods so that it is in line with the TRIPS Article 51, footnote 14.
27.6.2012  
A7-0046/116

Amendment 116
Anna Hedh, Evelyne Gebhardt 
on behalf of the S&D Group

Report  
Jürgen Creutzmann 
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 2 – paragraph 1 – point 7 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(7) ‘goods suspected of infringing an intellectual property right’ means goods with regard to which there is adequate evidence to satisfy customs authorities that, in the Member State where these goods are found, are prima facie:</td>
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<tr>
<td>(7) ‘goods suspected of infringing an intellectual property right’ means goods with regard to which there are adequate indications on the basis of applicable legal procedures to satisfy customs authorities that, in the Member State where these goods are found, are prima facie</td>
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</tbody>
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Or. en
27.6.2012

Amendment 117
Anna Hedh, Evelyne Gebhardt
on behalf of the S&D Group

Report
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 2 – paragraph 1 – point 17 a (new)

Text proposed by the Commission

(17a) 'small consignment' means a consignment that is not obviously imported for commercial business purposes.

Amendment

Or. en
Without prejudice to Article 8 of Regulation (EC) No 864/2007\textsuperscript{25}, the law of the Member State where the goods are found in one of the situations referred to in Article 1(1) shall apply for the purpose of determining whether the use of those goods gives rise to suspicion of infringement of an intellectual property right or has infringed an intellectual property right.

The law of the Member State may not be applied to goods-in-transit, unless there is clear and convincing evidence of imminent, intended entry into Union commerce, meaning intended sale to and consumption by Union residents. In no instance shall a Member State determine the intellectual property status of the challenged goods on the basis of the assumption that those goods were manufactured in that Member State (‘manufacturing fiction’).
27.6.2012 A7-0046/119

Amendment 119
Anna Hedh, Evelyne Gebhardt
on behalf of the S&D Group

Report
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 16 – paragraph 3

Text proposed by the Commission

3. Before adopting the decision of suspension of release or detention of the goods, the customs authorities shall communicate their intention to the declarant or, in cases where goods are to be detained, the holder of the goods. The declarant or the holder of the goods shall be given the opportunity to express his/her views within three working days of dispatch of that communication.

Amendment

3. Before adopting the decision of suspension of release or detention of the goods, the customs authorities shall communicate their intention to the declarant or, in cases where goods are to be detained, the holder of the goods before suspending the release or detaining the goods. The declarant or the holder of the goods shall be given the opportunity to express his/her views within five working days of receipt of that communication.

Or. en

Justification

More time for the declarant to respond must be given in order to ensure the rule of law.
3. Before adopting a decision to suspend the release of the goods or to detain them, the customs authorities shall communicate their intention to the declarant or, in cases where goods are to be detained, to the holder of the goods. The declarant or the holder of the goods shall be given the opportunity to express his/her views within

three working days of dispatch of that communication.

3. Before adopting a decision to suspend the release of the goods or to detain them, the customs authorities shall communicate their intention to the declarant or, in cases where goods are to be detained, to the holder of the goods. The declarant or the holder of the goods shall be given the opportunity to express his/her views within

five working days of dispatch of that communication.

Or. en
Article 37 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

By ... * the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Regulation, as well as an analysis of this Regulation's impact on the availability of generic medicines, in the Union as well as globally. If necessary, that report shall be accompanied by appropriate proposals and/or recommendations.

* OJ: please insert the date: 36 months after the entry into force of this Regulation.

Or. en