27.6.2012  

**Amendment 143**  
**Christian Engström**  
on behalf of the Verts/ALE Group  

**Report**  
**Jürgen Creutzmann**  
Customs enforcement of intellectual property rights  

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 7 – point b**  

**Text proposed by the Commission**  

(b) devices, products or components *which* circumvent any technology, device or component that, in the normal course of *its* operation, prevents or restricts acts in respect of works *which are not authorised* by the right-holder of any copyright or right related to copyright *and* which infringe an intellectual property right under the law of that Member state;  

**Amendment**  

(b) *particular* devices, products or components designed to circumvent technological protection measures (TPMs) *in* any technology, device or component that, in the normal course of *their* operation, perform acts in respect of works protected by copyright or rights related to copyright which infringe an intellectual property right under the law of that Member state;  

Or. en
Amendment 144
Christian Engström
on behalf of the Verts/ALE Group

Report
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 2 – paragraph 1 – point 7 – point c

Text proposed by the Commission
(c) any mould or matrix which is specifically designed or adapted for the manufacture of goods infringing an intellectual property right, if such moulds or matrices infringe the right-holder's rights under Union law or the law of that Member State;

Amendment
(c) any mould or matrix which is specifically designed or adapted for the manufacture of counterfeit trademark goods or pirated copyright goods, if such moulds or matrices infringe the right-holder's rights under Union law or the law of that Member State;

Or. en
27.6.2012 A7-0046/145

Amendment 145
Christian Engström
on behalf of the Verts/ALE Group

Report A7-0046/2012
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
Amendment 146
Christian Engström
on behalf of the Verts/ALE Group

Report
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission

Without prejudice to Article 8 of Regulation (EC) No 864/2007, 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.

Amendment

Without prejudice to Article 8 of Regulation (EC) No 864/2007, 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’).

Or. en

Justification

No manufacturing fiction (as defined for example under Dutch law) should be allowed
27.6.2012

Amendment 147
Christian Engström
on behalf of the Verts/ALE Group

Report
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 16 – paragraph 3

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>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.</td>
<td>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 <strong>before suspending the release or detaining the goods</strong>. 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.</td>
</tr>
</tbody>
</table>

Or. en

Justification

*More time for the declarant to respond must be given in order to ensure the rule of law.*
27.6.2012

Amendment 148
Christian Engström
on behalf of the Verts/ALE Group

Report
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 17 – paragraph 3

Text proposed by the Commission

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.

Amendment

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
Amendment 149
Christian Engström
on behalf of the Verts/ALE Group

Report
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 21 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. Where the customs authorities have been notified of the initiation of proceedings to determine whether a design, patent, utility model or plant variety right has been infringed and the period provided for in Article 20 has expired, the declarant or holder of the goods may request the customs authorities to release the goods or put an end to their detention.

Amendment

1. Where the customs authorities have been notified of the initiation of proceedings to determine whether a right has been infringed and the period provided for in Article 20 has expired, the declarant or holder of the goods may request the customs authorities to release the goods or put an end to their detention.

Or. en
27.6.2012

Amendment 150
Christian Engström
on behalf of the Verts/ALE Group

Report
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
Article 28 a (new)

Text proposed by the Commission

Amendment

Article 28a

Applicants who repeatedly submit applications

Applicants who repeatedly submit applications concerning the alleged intellectual property rights violations that prove to be false in the majority of cases over a period of two years shall lose the right to submit applications for a fixed period. Member States shall lay down rules on penalties applicable to these applicants. The penalties provided for must be effective, proportionate and dissuasive.

Or. en
Amendment 151
Christian Engström
on behalf of the Verts/ALE Group

Report
Jürgen Creutzmann
Customs enforcement of intellectual property rights

Proposal for a regulation
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 enter the date 36 months after the entry into force of this Regulation.

Or. en

Justification

It is necessary to have an analysis of the regulation’s impact on the access to generic medicines in the EU, as well as globally