

Keynote Speech of Ambassador Eckart
GUTH, European Commission

**Third Global Congress on Combating
Counterfeiting and Piracy, Geneva**

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Excellencies, Ladies and Gentlemen,

It is a privilege to address such a distinguished audience. On behalf of Commissioner McCreevy I would particularly like to express the European Commission's appreciation to WIPO for organising this congress.

WIPO has a long and distinguished history of serving the international community in the area of intellectual property. Users of industrial property rights have of course a long experience of the advantages of the "one-stop shop" systems of international registration of patents, trademarks and designs administered by WIPO under the PCT, the Madrid system and the Hague Agreement respectively.

WIPO has also been in the forefront of updating intellectual property law to cover the emergence of new digital technologies and the Internet with the notable outstanding successes of the so-called 'Internet Treaties', the WCT and WPPT.

Counterfeiting and piracy, and infringements of intellectual property in general, are an ever-growing problem with a strong global dimension.

Although it is, by its very nature, extremely difficult to put a figure on illegal activity of this kind, estimates of the scale of the phenomenon range from 3-9% of total international trade, which comes to a staggering €120-370 *billion* every

year. A recent study estimated that more than a third of all software used in computers is pirated! There is increasing counterfeiting of not only traditionally profitable luxury brands but also of everyday items such as CDs and DVDs, food and cosmetics products, clothing, medicines, mobile telephones, batteries, banknotes and even service stations!

Companies which invest large sums of money in R&D may experience substantial loss of turnover or market share. However, such infringements not only harm rightholders, they also constitute a threat to national economies and the health and safety of our societies. Indeed, it is probably not hyperbole to state that the EU's whole strategy to "make Europe, by 2010, the most competitive and the most dynamic knowledge-based economy in the world" will be at risk if this threat is not headed off.

One area where piracy is a growing phenomenon is broadcasting. Pirates deflect a broadcasting organisation's signal onto their own platform, usually the Internet, and retransmit the broadcasters coverage "live" and thus simultaneous to the broadcast itself. Signal theft and unauthorised retransmission on the Internet is especially rampant with respect to sports programming. The EU has been a driving force behind the WIPO Broadcasters Treaty which makes a commendable effort at protecting broadcasting organisations against international signal theft. We fully support the work done by the WIPO Standing Committee on Copyright to formulate an international instrument that effectively protects against global signal theft and the often considerable free-riding that is done on broadcasters investment. And it is not just the economic investments we care about. Protecting broadcasting organisations against signal piracy is the

only way to ensure that they can continue to fulfil their essential role as vectors of knowledge and culture.

The situation I have painted may appear bleak but it is not irreversible.

In the EU, the enforcement directive was adopted by the European Parliament and Council after fifteen months of negotiations, by the way almost a record time in the EU's co-decision legislative procedure, on 29 April 2004. The swiftness with which the directive passed into the Community statute books is a tribute to the high level of political consensus about the seriousness of this issue.

The directive covers measures and procedures needed to ensure that intellectual property rights are respected throughout the EU.

It goes beyond TRIPs in places, introducing so-called 'TRIPs plus' measures. These 'value-added' provisions are based on 'best practices' in certain EU Member States. What this means is that the Commission has taken existing national provisions which have been found to be particularly effective and should be applied across the EU as a whole.

We are now in a period of consolidation. For just like any other piece of legislation, the effect it will have is not just a question of getting words into the statute book, the Member States themselves must make a positive effort to "fill with life" the directive, to ensure that it is the *spirit* of the law which is put into place, as well as the letter.

Counterfeiting and piracy do not stop at the EU's external borders. Far from it. In 2004, for example, more than a hundred million counterfeited products destined for EU markets were intercepted by EU customs forces. As another key part of its IPR enforcement strategy, the Commission therefore updated its customs

legislation in 2004. The new customs set-up is more straightforward, more efficient and cheaper to use.

Customs measures are of course well and good, and clearly an essential plank of any EU IPR enforcement strategy, but in the best of all worlds it would be possible to stem the production of pirated and counterfeit goods at source, i.e. both *outside* as well as within the European Union.

With this in mind, the Commission has been working in close collaboration with a number of the EU's key trading partners to ensure that IPRs are respected also in third countries. On 10 November 2004, the Commission published its "Strategy for the Enforcement of Intellectual Property Rights in Third Countries" which, among other things, identified priority countries in which the problem needed to be tackled, means of increasing awareness of the issue in both bi- and multi-lateral agreements between the EU and third parties, and external initiatives involving technical assistance, private-public partnerships, and the dissemination of best practice.

This perhaps brings us to the realisation that, in the fight against counterfeiting and piracy, no country is an island. Even in our newly-enlarged European Union of twenty-seven states and 500 million people, we cannot afford to put our heads in the sand and ignore the rest of the world.

That means that international cooperation is the keystone to the fight against counterfeiting and piracy. That is why cooperation in IPR enforcement forms a crucial part of the strategy of the German Presidency of both the G8 group of advanced economies and of the European Union itself – hence the Transatlantic Economic Partnership proposed between the EU and the US. And of course,

that is why WIPO performs such a key role in ensuring that players in what is increasingly a global marketplace play by globally agreed rules.

And international cooperation is *par excellence* what this conference is all about. I am convinced that, through events such as this one, bringing together both private and public sectors, law enforcers and law users, representatives of all parts of the globe north and south, we can achieve further steps to achieve our goals.

In conclusion, I hope I have made it clear that we have a *substantial* task ahead of us in the enforcement of intellectual property rights, at national, European *and* international level. This task is not always easy but, to quote an old saying, 'where there is a will there is a way'.

We will need more will on the way to a better IPR enforcement in the months and years to come. Thank you very much.