Collaboration in the fight against counterfeiting in Hungary

Dr. Miklós Bendzsel
President of the Hungarian Patent Office
Vice-President of the National Board Against Counterfeiting

Joint Plenary Meeting of the
EU Observatory on Counterfeiting and Piracy
Madrid, June 10th, 2010
Cooperation of the public and the private sector

Establishment of the **National Board Against Counterfeiting** (NBAC) in 2008

- Consultative and advisory body
- Mission of the NBAC: *promote effective cooperation* between public bodies and social and economic interest organisations in the field of intellectual property protection
- Secretariat of the NBAC: Hungarian Patent Office
National Strategy Against Counterfeiting

- **Duration**
  - for the years 2008–2010

- **Adopted**
  - by the **Hungarian Government** on 1 October, 2008

- **Objective**
  - To reduce the rate of IPR infringement
  - Develop more effective measures against infringements
  - Raise public awareness

- **Main pillars of the Strategy:**
  - Statistics (measurement issues)
  - Awareness raising
  - Enforcement of IPRs

- **Industries** of paramount importance:
  - Food industry
  - Pharmaceutical and insecticide industries
  - Creative and IT industries

- **Next strategy** for the years 2011–2015
Activity of the NBAC

Statistics (measurement issues)

The NBAC is the national catalyst of statistical methodological R&D activities related to counterfeiting

- **Methodology**
  - Study on measurement methods of the magnitude, scope and the economic impact of counterfeiting and piracy basis for the Hungarian methodology

- **Official data sources**
  - Collection and systematisation of the judicial statistical data
  - Analysis of the data with the cooperation of the National Institute of Criminology

- **Consumer surveys**
  - 2009 – on consumer attitudes towards counterfeiting
  - 2010 – on consumer attitudes and concrete behaviour
  - 2010 – online, regarding medicine counterfeiting, buying medicine via Internet
IPR Infringement – in view of the judicial statistics

- Judicial statistics (enforcement information, seizure statistics) – “tip of the iceberg”
- Working Group of the NBAC on Statistics: Selection and collection of judicial statistical data related to the infringement of IPR in Hungary for the period 2002-2009;
- Criminal Statistical Analysis prepared by the National Institute of Criminology and six criminal offences examined
- Objectives:
  - Collect information about IPR infringement trends in Hungary
  - Submit proposals on the development of the judicial statistical data reporting system
Changes in the total number of criminal offences and in the number of criminal offences involving the infringement of IPR, 2002-2009

Source: Unified System of Criminal Statistics of the Investigative Authorities and of Public Prosecution (ENYÜBS), National Institute of Criminology (OKRI)
Number of IPR infringements discovered by the Hungarian Customs and Finance Guard („Seizure statistics”), 2002-2009

<table>
<thead>
<tr>
<th>No. of infringements</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>False Marking of Goods – criminal offences</td>
<td>1,839</td>
<td>565</td>
<td>338</td>
<td>1,266</td>
<td>735</td>
<td>401</td>
<td>582</td>
<td>1,129</td>
</tr>
<tr>
<td>False Marking of Goods – administrative criminal offences</td>
<td>no data available</td>
<td>no data available</td>
<td>no data available</td>
<td>no data available</td>
<td>2,965</td>
<td>2,328</td>
<td>1,849</td>
<td>1,753</td>
</tr>
<tr>
<td>Infringement of Copyright – criminal offences</td>
<td>214</td>
<td>503</td>
<td>164</td>
<td>276</td>
<td>245</td>
<td>457</td>
<td>450</td>
<td>2,140</td>
</tr>
<tr>
<td>Total</td>
<td>2,053</td>
<td>1,068</td>
<td>502</td>
<td>1,542</td>
<td>3,945</td>
<td>3,186</td>
<td>2,881</td>
<td>5,022</td>
</tr>
</tbody>
</table>
Hungarian Consumer surveys – 2009, 2010

- Consumer survey on counterfeiting and piracy initiated by the NBAC
- Pioneering project in Hungary
- Involvement of TÁRKI, an independent Social Research Institute.
- The representative nationwide survey based on a review of 1000 Hungarian consumers was conducted for the first time in Hungary
  - What kind of counterfeit products do Hungarian consumers buy?
  - What do they think of counterfeits?
  - What motivate them to buy counterfeits?
  - How much do they know about the social impacts of counterfeiting?
  - What do they think about the punishments inflicted for counterfeiting?
## Consumer attitudes in Hungary (2009)

Which fake products are bought by the Hungarian consumers? (%)

<table>
<thead>
<tr>
<th>Product</th>
<th>Yes, at any time</th>
<th>Maybe</th>
<th>No</th>
<th>Don't know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clothing</td>
<td>29</td>
<td>38</td>
<td>32</td>
<td>1</td>
</tr>
<tr>
<td>Cosmetics</td>
<td>15</td>
<td>25</td>
<td>59</td>
<td>1</td>
</tr>
<tr>
<td>CD/DVD</td>
<td>15</td>
<td>25</td>
<td>59</td>
<td>1</td>
</tr>
<tr>
<td>Software</td>
<td>12</td>
<td>21</td>
<td>64</td>
<td>3</td>
</tr>
<tr>
<td>Foodstuff</td>
<td>2</td>
<td>10</td>
<td>87</td>
<td>0</td>
</tr>
<tr>
<td>Medicines</td>
<td>1</td>
<td>6</td>
<td>92</td>
<td>0</td>
</tr>
</tbody>
</table>
Consumer attitudes towards Counterfeiting

Fake products are of the same quality as the original one

- Agree: 17
- Is hesitant: 29
- Disagree: 51
- Don't know: 3

It's worth buying original products in the long term

- Agree: 71
- Is hesitant: 19
- Disagree: 7
- Don't know: 3

The consumers make good use of fake products, only the manufacturers suffer loss

- Agree: 42
- Is hesitant: 30
- Disagree: 25
- Don't know: 3

Fake products could be harmful to health

- Agree: 67
- Is hesitant: 23
- Disagree: 7
- Don't know: 2
Enforcement

- Training of the staff of law enforcement bodies
  - „Cooperation of enforcement bodies in criminal proceeding relating to copyright infringement” one-day conference both in 2009 and 2010
  - Education of Intellectual property protection in the Police College from 2009
  - Training sessions on copyright for police officers in each county of Hungary

- Fight against Internet Piracy
- Copyright Database
- Fight against Medicine Counterfeiting
  - Drug database of the National Institute was supplemented with photos of the pharmaceuticals
- Fight against counterfeiting of pesticides and veterinary medicinal products
Awareness raising

- **Daily newsletters** on the topic of counterfeiting and piracy;

- **Distribution of flyers and labels at retailers of consumer electronics** against illegal downloading;

- **Applied art competition for secondary school students**;

- **Online campaign addressing the youth**

- **Campaign on the risks of medicine counterfeiting**
  - Both in 2009 and 2010
  - new homepage against medicine counterfeiting ([www.hamisgyogyszer.hu](http://www.hamisgyogyszer.hu)) – March 2009
  - Leaflets, posters placed in doctor’s surgeries, pharmacies, health portals, TV ad
Awareness raising - exhibition

- „Fake promises, real dangers“ - Exhibition against counterfeiting – in cooperation with the Hungarian Customs and Finance Guard in December, 2009 in Budapest
- Anti-counterfeiting roadshow; locations:
  - Veszprém, Pécs, Székesfehérvár, Győr, Sopron, Debrecen, etc.
First results of the activities of the NBAC

Special 301 Report 2010

Since 2003 the first time Hungary is being removed from the Special 301 Watch List prepared by the Office of the United States Trade Representative

Positive Developments:

- significant improvement on enforcement and other actions
- proactive steps against Internet piracy,
- development of officials ability to identify infringing products,
- effective measures to protect IPR (public awareness raising campaigns, training and educational seminars for police, prosecutors, judges)

All these actions were coordinated by the NBAC.
First results of the activities of the NBAC – Software Piracy Rates decrease –

Seventh Annual BSA/IDC Global Software 09 PIRACY STUDY

PC Software Piracy Rates in Hungary – a decrease of 1 %
Commercial Value of Unlicensed Software in Hungary – a decrease of 29%

<table>
<thead>
<tr>
<th></th>
<th>Piracy Rates (%)</th>
<th>Commercial Value of Unlicensed Software ($M)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2006</td>
<td>2007</td>
</tr>
<tr>
<td>Hungary</td>
<td>42</td>
<td>42</td>
</tr>
<tr>
<td>European Union</td>
<td>36</td>
<td>35</td>
</tr>
<tr>
<td>TOTAL WORLDWIDE</td>
<td>35</td>
<td>38</td>
</tr>
</tbody>
</table>

Source: BSA/IDC 09 Piracy Study
First results of the activities of the NBAC – publications –

1st NBAC Annual Report 2009 published by the Secretariat of the National Board Against Counterfeiting and the Hungarian Patent Office in Hungarian and English

New series of publications: „NBAC brochures“, starting in June 2010:

No. 1: Measuring the scale and economic impact of counterfeiting and piracy – study on the international „good practices“ of measurement

No. 2: Repertory of information and statistical data on counterfeiting and piracy in Hungary
National report on the implementation of the Enforcement Directive

- Article 18(1) of Directive 2004/48/EC requires Member States to prepare a national report on the implementation of the rules and the experience gathered (deadline: 29 April 2009)

- The national reports will form the basis of a Commission report on the various effects of the Directive, with a possible eventual initiative to amend it

- Hungary fulfilled this obligation by preparing a document based on answers received to annual questionnaires sent out to stakeholders and public authorities (courts, police, etc.)

- The Hungarian questionnaire was broader than the ones in the Commission methodology (additional questions concerning criminal law experiences, insights about expert bodies, etc.)

- The national report is available on the HPO’s website (in English)
Some of the report’s conclusions

- Evaluation is premature (not enough experience with the new measures, few closed cases)
- The Directive and the amendments of national law have sent out a positive message for IP rightholders
- The amendments introduced measures that strengthen the rightholders' position, but some fine-tuning may be needed to differentiate between the forms of IP protection
- The criticism about the efficiency of enforcement measures concern principally the inherent – and horizontal – deficiencies of civil court proceedings (delays, low level of damages, execution issues, etc), not the new measures
- The two most welcome types of measures are provisional measures (in their amended form) and new rules relating to the right to information
Possible IPR enforcement items on the Hungarian Presidency’s agenda

- Amendment of the Enforcement Directive based on the COM’s report to be finalised by October 2010

- Harmonization of criminal IP law
  ongoing work on a study on the effects of harmonization

- ACTA negotiations
  9th round in Luzern (late June 2010)
  plans to sign the Agreement in 2010
Outlook - other EU strategies

- The Stockholm Programme – the Swedish Presidency’s document
  - Economic crime and corruption
  - Geographical priorities and international organisations
Outlook - other EU strategies

- EUROPE 2020
  - Flagship Initiative: „Innovation Union”
  - Flagship Initiative: „An industrial policy for the globalisation era”
Outlook - other EU strategies

- Communication from the Commission: A digital agenda for Europe
- Green Paper - Unlocking the potential of cultural and creative industries
- A new strategy for the single market at the service of Europe's economy and society, the report to the President of the European Commission José Manuel Barroso by Mario Monti
Thank you for your attention!

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