

A word from our Editor-in-Chief

REGARDING THE THE UNIQUE MARKET REALIZATION OF INTELLECTUAL PROPERTY IN THE FIELD OF NONCONVENTIONAL TECHNOLOGIES

Here is a subject as delicate as so disputed.

In the alignment process with the international and European provisions, the south-eastern Europe countries have aligned their IP national laws respecting the promoted principles by international bodies. As it is known, in April 2004, the European Parliament issues the Directive 2004/48/EC on the enforcement of intellectual property rights, the document published in the Official Journal of the EU being presented as a "text with SEE relevance".

When drafting the Directive, the European Parliament took note that *"the completion of the internal market implies the restrictions removal on free movement and competition distortions, while creating a favorable environment for innovation and investment."* In this context, the protection of intellectual property is an essential element for the internal market success. Intellectual property protection is important not only for promoting innovation and creativity but also for employment developing and competitiveness improving. T

he protection of intellectual property should allow the inventor or creator to derive a legitimate profit from his invention or creation. It should also allow the widest possible dissemination of new works, ideas and skills. At the same time, the protection of intellectual property should not be an obstacle to the expression freedom neither the information circulation or the personal data protection, including on the Internet. In this regard, it is mentioned that *"without effective means that are capable to enforcing the intellectual property rights, innovation and creativity are discouraged, and the investment are reduced."* In the document developing of real support for the SEE countries, it was considered necessary to ensure that the material right of intellectual property, regulated by the *acquis communautaire*, is effectively enforced in the Community. In this respect, the means of enforcing intellectual property rights are of crucial importance to the success of the internal market. Internationally, all Member States and the European Community itself, in matters where they are competent, are bound by the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), approved in the Uruguay Round multilateral negotiations, by Council Decision 94/800/EC and concluded within the framework of the World Trade Organization. The TRIPS Agreement in particular, includes the means provisions of enforcing intellectual property rights, which are applicable common rules at the international level and are implemented in all Member States. The Directive refers to the fact that there are international conventions to which all Member States are parties and which also contain means provisions of enforcing intellectual property rights.

Particularly this is the case of the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works and the Rome Convention on the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. The Directive was issued considering that there are still significant means disparities of enforcing the intellectual property rights. The Directive covers the measures, procedures and necessary remedies to ensure the enforcement of intellectual property rights. The following persons are recognized as entitled to request the measures application, procedures and remedies: the holders of intellectual property rights in accordance with the provisions of applicable law; all other authorized persons to use those rights, in particular licensees, to the extent permitted by and in accordance with the applicable law; the collective management bodies of the intellectual property rights by law recognized as having the capacity to represent the holders of intellectual property rights, insofar as the applicable law provisions allow this and are in accordance with them; professional protection bodies recognized by law as having the capacity to represent the holders of intellectual property

rights, to the extent that the applicable law provisions allow and are in accordance with them. The development and implementation of this 2004 directive has led to an amplification of the legislative measures taken by the SEE countries in order to comply with the European Strategy outlining the needed actions to establish a unitary system of high-quality industrial property rights capable of enabling Europe to benefit of its potential in facing the economic globalization challenges. To the support of SEE countries, the Commission set this purpose criteria of: the system must be of high quality, characterized by stricter examination standards; affordable, costs offsetting by quality and legal certainty; coherent, with a common laws interpretation; capable of a balance ensuring between rewarding valuable intellectual creation and ensuring a good circulation of ideas and innovations. Thus, at the European level in general and at the SEE countries level, the legal rules were provided, strategies with regulated development of methodologies, working methods and institutional coordination have been laid down: improving the joint activities coordination of the institutions dealing with the protection of IP rights, reviewing the legal framework and procedures of IPR protection, developing and approving methodologies to estimate the piracy rate and counterfeiting. The most recent documents refer to the establishment of the Unified Patent Court and the provisions of the EU Single European Patent Regulation.

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