

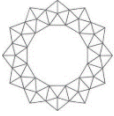
EUROPEAN
EXHIBITION
INDUSTRY
ALLIANCE

**I P R at Trade Fairs – experiences
with Art. 11 Exhibition Priority**

W I P O
Standing Committee on the Law of
Trademarks, Industrial Designs
and Geographical Indications

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November 2020

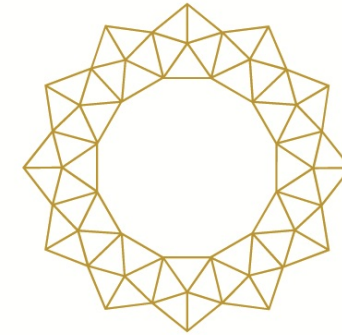


EUROPEAN
EXHIBITION
INDUSTRY
ALLIANCE

INTRODUCTION

EUROPEAN EXHIBITION INDUSTRY ALLIANCE

- > Cooperation between the European Major Exhibition Centres Association **EMECA** and the European Members of The Global Association of the Exhibition Industry **UFI**
 - > **EMECA:** European Major Exhibition Centres Association unites 24 leading exhibition venues/organisers in Europe
 - > **UFI:** Association representing 794 world's leading tradeshow organisers, fairground owners, major exhibition associations, partners of the exhibition industry
- > One voice to represent the exhibition industry in Europe towards the EU Institutions and other stakeholders

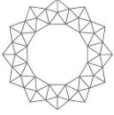


EUROPEAN
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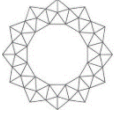
INTRODUCTION

TRADE FAIRS AND EXHIBITIONS IN EUROPE

- ...are leading globally especially with international B2B events
- ...offer highest quality trade fairs and often cater their communities 365/year
- ...facilitate trade at all levels and support all player's competitiveness
- ...offer one of the most effective marketing tools for companies, especially for SMEs
- ... serve as platforms for R&D, innovations and trends and as a showcase for all offers in a determined industry
- ... offer a comprehensive presentations of products, processes and services of today and of the future
- ...combine face-to-face conversations with the opportunity to examine real products



Images: Jaarbeurs Utrecht, Fieramilano, Kölnmesse



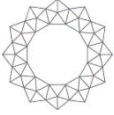
TRADE FAIRS: LEGAL BASIS AND DIFFERENCES

IPR TERRITORIAL LAW

- > Jurisdictional territory is the country where the exhibition is held
- > Legal situation varies by country, but is relatively similar within the EU

IPR AT TRADE FAIRS

- > The problem of counterfeiting may occur and become visible during the trade fairs as disclosure is an essential part of the process of selling goods and services
- > The danger of being copied and the conflict level varies substantially from one exhibition to the other
- > Determining factors:
 - > degree of internationality of the exhibition
 - > number of exhibitors and visitors
 - > sector
 - > IP rights mainly used in this sector
- > Trade fairs mirror the market: if the sector is concerned there will most likely be cases during the trade fair



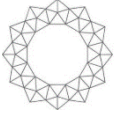
PROTECTION OF INTELLECTUAL PROPERTY

IMPORTANCE OF IPR PROTECTION

- > Appropriate protection of IP is key to the success of many companies, especially SMEs
- > Exhibition organisers strive for creating a **fair and safe business** environment where imitations do not stand a chance. They have a vital interest in protecting exhibitors from brand and product piracy
- > EEIA supports awareness raising of the value and importance of IPR by promoting the problem and solutions on a political level and cooperating with EU initiatives like IPR Helpdesks and Enterprise Europe Network
- > Exhibition companies run awareness raising campaigns, offer support to conflict resolution and actively encourage the enforcement of IPR during trade fairs



Image: Plagiarius



PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY

of March 20, 1883,
as revised at Brussels on December 14, 1900,
at Washington on June 2, 1911,
at The Hague on November 6, 1925,
at London on June 2, 1934,
at Lisbon on October 31, 1958,
and at Stockholm on July 14, 1967,
and as amended on September 28, 1979

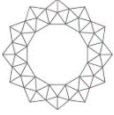
Article 11

Inventions, Utility Models, Industrial Designs, Marks: Temporary Protection at Certain International Exhibitions

(1) The countries of the Union shall, in conformity with their domestic legislation, grant temporary protection to patentable inventions, utility models, industrial designs, and trademarks, in respect of goods exhibited at **official or officially recognized international exhibitions** held in the territory of any of them.

(2) Such temporary protection shall not extend the periods provided by [Article 4](#). If, later, the right of priority is invoked, the authorities of any country may provide that the period shall start from the date of introduction of the goods into the exhibition.

(3) Each country may require, as proof of the identity of the article exhibited and of the date of its introduction, such documentary evidence as it considers necessary.



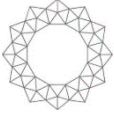
TRADE FAIRS: IPR, COUNTERFEITING AND PREVENTION

EXHIBITION PRIORITY CERTIFICATES

- > One effective tool, especially for SMEs, to protect their products and help prevent counterfeits at Trade Fairs is the Exhibition Priority Certificate.
- > Large international trade fairs issue “Exhibition Priority Certificates” to prove that a product has been displayed at an exhibition, novelty cannot be verified
- > Exhibition Priority Certificates are often used as proof for Unregistered Community Design in the EU, they are often applied for very fast turning products and are usually recognised before court
- > Exhibition Priority Certificates can be used within six months after the Trade Fair to register a design with the national authority with the date of the exhibition
- > EEIA advocates for the EU-wide recognition of Exhibition Priority Certificates also by EUIPO



Images: NürnbergMesse, Messe Frankfurt, Maison & Objet



TRADE FAIRS: IPR, COUNTERFEITING AND PREVENTION

EUROPEAN TRADE FAIR ORGANISERS' SUPPORT OF CLIENTS

Promotion for protecting IPR, awareness raising and support measures

- > **Legal provisions and IPR policy**
General Terms and Conditions and Stand Contract Clauses :
Most common IPR policy: exhibitors may only display their original products or products they are entitled to display; copied products must be taken off the stand and exhibitors may be excluded under certain conditions
- > **Conflicts:**
Few organisers experience *often* conflicts at international shows, many *sometimes* international events, less sometimes at national/regional exhibitions
- > **Controversies per year:**
most have >10, few up to 50, few up to 100
- > **Customer information, Tips:**
Most provide tips, mostly about how reduce the risk of counterfeiting, the Exhibition Priority, how to react and where to get help in case of an infringement, useful contacts
- > **Cooperation with experts:**
Many cooperate with IPR experts, mostly national Patent Offices, sector experts; some also with EU initiatives, WIPO, other organisations



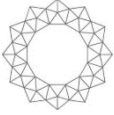
Images: Eurexpo Lyon, Koelnmesse



TRADE FAIRS' CONTRIBUTION TO IPR PROTECTION

- > **Exhibitors request:**
Mostly about legal advice and removal of products in question
- > **Services:**
Most offer services for free, very few charge for external or services
- > **Exhibition Priority Certificate:**
Most offer exhibition Priority Certificates, few charge service fee for it;
Most issue up to 50, 1 up to 500 Priority Certificates p.a.
- > **Enforcement:**
By police, customs, lawyers, bailiffs, external legal services;
Some offer mediation or alternative dispute resolution
- > **Media coverage and communication:**
Many report media coverage, mostly general or trade fair media, sector media
Most communicate actively, mostly by media releases or cooperation with sectors
- > **Training:**
only few offer specific training
- > **EEIA/EMECA/UFI Members IP experience:**
Many have experienced problems with trade mark/brand name: with exhibition concept, domain names, key visuals and the service initiative against copying





TRADE FAIRS: LEGAL BASIS AND DIFFERENCES

EU COUNCIL REGULATION 6/2002 ON COMMUNITY DESIGNS - REVIEW

- > Exhibition Priority Certificates issued by modern professional B2B Trade Fairs are not accepted by the European Union (EU) to register trademarks or designs. According to Art. 44 of EU Regulation 6/2002 only such Priority Certificates will be accepted that are falling under the **Convention on International Exhibitions signed in Paris in 1928**
 - > **World EXPOs** (such as in Milan 2015 and Dubai 2020) nowadays serve as platforms where individual/certain countries present themselves, but they do not play any significant role as B2B platforms – in contrary to professional B2B Trade Fairs
- **For this particular point the legislation does not work as originally intended.**



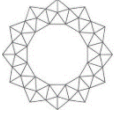
Images: EXPO 2020 Dubai



TRADE FAIRS: LEGAL BASIS AND DIFFERENCES

EU COUNCIL REGULATION 6/2002 ON COMMUNITY DESIGNS - REVIEW

- > EEIA suggests to adopt a modern common position on the notion of International Trade Fairs for Art. 44 of EU Regulation 6/2002, so that Priority Certificates can be accepted by EUIPO in the same way as by the national authorities.
- > This would make the legal protection of design rights in the EU **consistent** and would lead to a considerable facilitation for European companies - they would find the same conditions for designs registration on both national and European level.
- > EEIA proposes to replace the reference to the 1928 Paris Convention/World EXPOs with the **definition for International Trade Fairs by UFI**, the Global Association of the Exhibition Industry. It is widely accepted and used by other trade fairs associations and numerous national legislations and government actions around the globe.

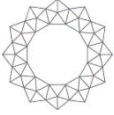


WIDELY RECOGNISED DEFINITION OF INTERNATIONAL TRADE FAIRS

DEFINITION OF “INTERNATIONAL TRADE FAIRS” by UFI, THE GLOBAL ASSOCIATION OF THE EXHIBITION INDUSTRY



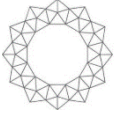
- > According to the UFI standards (UFI Auditing Rules Annex) an International Trade Fair must fulfil one of these conditions:
 - a) Either the number of direct **foreign exhibitors** and multinational exhibitors must be at least **10%** of the total number of exhibitors
 - b) Or the number of **foreign visits** or visitors must represent at least **5%** of the total number of visits or visitors, respectively. For public fairs, this percentage is to be counted on the basis of professional visits or visitors, if they are identified.
- > <https://www.ufi.org/wp-content/uploads/2017/01/Auditing-Rules-for-the-Statistics-of-UFI-Approved-Events-and-UFI-Approved-International-Events-January-2017.pdf>



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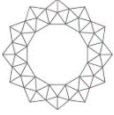
- > Usually, in order to be granted the right to issue Exhibition Priority Certificates by national authorities, the Trade Fairs have to **fulfil one or both internationality criteria** mentioned; in many cases an external **audit** of these figures is required.
- > National legislations going further than this definition or entitling more Trade Fair Organisers to issue Priority Certificates recognised by national authorities would remain unchanged by the adoption of this definition for the recognition of Priority Certificates according to Art. 44 of EU Regulation 6/2002.
- > **Practical example: Polish Act on Industrial Property Rights**
In 2007, when the Polish Industrial Property legislation was amended, the Exhibition Priority was repealed. Upon the initiative of the Polish entrepreneurs, who were convinced of the value of the Exhibition Priority, an assessment of the effects was made. The result was considered beneficial for the Polish economy. Therefore, in 2015, the Polish legislation was amended reintroducing the Exhibition Priorities as a protective mechanism.



CONCLUSIONS

LEARNINGS AND RECOMMENDATIONS

- > The existing system of Exhibition Priority Certificates is **working well on national level** in Europe
- > The review of the EU Regulation 6/2002 is an opportunity for both adapting an up-to-date definition of International Trade Fairs and for introducing the recognition of Exhibition Priority Certificates.
- > EU-wide registration of designs with EUIPO was intended to offer an accessible, effective and affordable tool to companies and SMEs in particular.
- > Closing the gap in the design protection would modernise and improve the way the registration works and would largely benefit all companies, especially start-ups or SMEs. Exhibitors could **protect their products more effectively across all EU Member States.**
- > The recognition of Exhibition Certificates by EUIPO would work as an additional **effective armour against piracy**
- > It would officially certify the value of Trade Fairs for European industries, the quality and relevance of the Trade Fair sector in Europe, and its contribution to the European economy in general – as it is the case on national level **thanks to Article 11**



CONCLUSIONS

LEARNINGS AND RECOMMENDATIONS

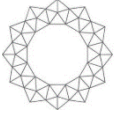
- > Information and awareness raising among companies is a continuous task and necessity
- > IPR support offers are standard at large international exhibitions
- > Cooperation with patent offices, sectorial initiatives and organizations is very beneficial
- > Information and registered IP reduces conflicts during the exhibitions
- > Seizure and other measures raise attention – positive and negative
- > Media coverage of seizures should be avoided while balanced media releases about the achievements contribute to prevention
- > Conflicts between parties on the showfloor should be avoided – to enable business – main aim of trade fair participation
- > Substantial drop in cases and conflicts can be achieved
- > Shift from seizures and other legal measures to ADR or individual solutions

- > **Registration of IPR is key and fundamental for any action, Exhibition Priority first step**
- > **Exhibitions create impact by reaching large number of companies, especially SMEs**

Q & A: THE FLOOR IS YOURS...

www.exhibition-alliance.eu





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