

The Many Layers Of Best Practices In The Fight Against Counterfeiting, Piracy

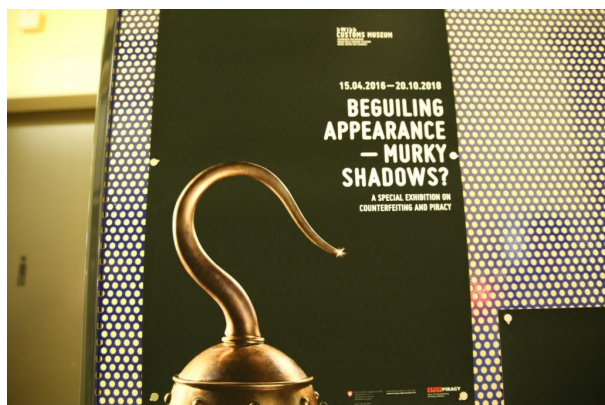
14/09/2017 BY PETER KENNY FOR INTELLECTUAL PROPERTY WATCH — [LEAVE A COMMENT](#)

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Landlocked Switzerland never had to face pirates in seafaring days, but these days Stop Piracy – the Bern-based Swiss anti-counterfeiting and piracy platform – is actively united in fighting this 21st century threat that lurks in cyberspace everywhere. At a recent conference in Neuchâtel, a range of experts, including from the European Union IP Office, explored the issues.

Modern “piracy” knows no borders, speakers said at a one-day conference on “Best practices in the fight against counterfeiting and piracy – the role and responsibility of advertising, logistics and financial service providers,” held at the University of Neuchâtel, Switzerland.



The conference was organised on 8 September by Stop Piracy and the Centre for Innovation and Intellectual Property of the University of Neuchâtel's law faculty, examining technological tools and how people can use them as well as highlighting the pitfalls. The event agenda is [here](#) [pdf].

The day before the conference, the recording industry group IFPI announced that YouTube-mp3.org, formerly the world's largest site dedicated to offering illegally 'stream ripped' music, had ceased to operate following legal action from record companies in the US and UK.

The Germany-based site, which had 60 million visitors a month from around the world, has shut down globally and its operator has agreed not to infringe the rights of artists and record companies in the future, according to IFPI.

At the conference, speakers had no 'silver bullets' to counter these new online impediments, but outlined how technology, policing, smart agreements, customs management and other rigorous trade practices can help to rein them in.

Stop Piracy cites the Organization for Economic Co-Operation and Development (OECD) in its latest survey estimates that annual trade in counterfeiting and piracy amounts to around US\$461 billion, which is equivalent to 2.5 percent of world trade.

Unauthorised Copying of Works

Piracy these days is the unauthorised copying of works, entailing the unlicensed exploitation of works and performances protected by copyright or related rights such as films, pieces of music, books, pictures, computer programs and suchlike, says the Swiss platform.

A counterfeit or fake is the unauthorised imitation of the genuine article and counterfeiters try to imitate the original or the characteristics, materials or look of a legally-protected product in order to benefit from the reputation of the original product. It resides on a trademark or an indication of source, such as "Swiss Made" on a design or a patent.

Attendees at the conference included academics, private companies such as consumer and luxury goods companies, watchmakers and the pharmaceutical industry, a representative of the Swiss federal customs authority, and the federal Intellectual Property Institute.

They are all actively united against counterfeiting and piracy using different methods and actions.

One speaker was Alexandra Poch, a German lawyer with the [European Observatory on Infringements of Intellectual Property](#) at EUIPO, the European Union Intellectual Property Office in Alicante, Spain. She spoke about the EU unit's approach to IP infringement using self-regulatory initiatives with the aid of memoranda of understanding (MOUs) with stakeholders.

She spoke on online infringement of IP rights such a business models, infringements online and the monitoring of new technologies with their potential impact on intellectual property rights enforcement in a telecast presentation.

Blockchain Technology

Prof. Daniel Kraus, the moderator and a law professor at the University of Neuchâtel, asked her about blockchain technology.

"The potential impact of blockchain technology is huge," said Poch, but it is still a nascent technology, "which is a transparent letter that cannot be rewritten," and therefore it can be beneficial to the supply chain as it allows digital information to be distributed but not copied.



Prof. Daniel Kraus

Poch also noted, "The UK has a minister of IP and it is very helpful to have such a person at a high level," who she said could help, say, get search engine companies to voluntarily sign up to a code of conduct.

She was asked why the agreement in the UK is voluntary and not legally binding, and agreed in answering that the latter makes for stronger agreements. "But the law is sometimes slow to react ... and one of the big advantages of voluntary agreements is that they are easier to adapt to," said Poch.

Police IP Crime Unit

Detective Sergeant Kevin Ives, of the Police Intellectual Property Crime Unit (PIPCU) funded by the UK Intellectual Property Office and run by the City of London Police, outlined how his unit works to combat criminality through piracy.

Introducing Ives, Kraus said, "This is a unit every country would dream of having."

"Our team is free to focus on IP crime," said Ives whose talk stimulated plenty of questions.

The team, which is part of the City of London Police Economic Crime Directorate, is recognised as the national policing lead for fraud and is dedicated to preventing and investigating fraud at all levels.

It leads the national law enforcement response to economic crime and runs independently funded police units tackling insurance fraud, corruption and bribery and card payment fraud.

"Criminals move their stuff around and law enforcement works in jurisdictions," Ives said, noting that his unit cooperates with police in India, the United States, China and other countries.

PIPCU has an agreement with companies where experts from, say, website companies can come in for a day a week and work with the unit in a public-private partnership.

"We have an IP crime directory which is a website that is a private public partnership that enables the spotting of counterfeit goods," said Ives, noting that IP crime is not near the top of the agenda of the average police unit. "We are mainly concentrated on the digital entertainment and fashion industries."

More than 27,000 counterfeit websites have been suspended since PIPCU's inception in 2013 and 5,318 counterfeit websites were suspended on the .uk domain tree between December 2016 to April 2017.

It also operates a "unique partnership" between PIPCU and the UK advertising industry that includes the suspension of illegal sites, advert replacement and disrupting advertising revenues of pirate businesses.

Misplacement of Digital Ads

Daniel Hünebeck, one of Switzerland's leading experts in digital marketing, spoke on Misplacement of digital ads: The role of the various players of the advertising.

He said companies need deep digital knowledge, a critical awareness of brand safety and visibility.

"Goals need to be clear. Agency and client need to be on same page," said Hünebeck, warning that shady websites the ad networks they work with will use masked and false URLs to get through blacklists.

In his talk titled "Plastica pecunia non olet: Role of payment services in the value chain," Alain Morf, senior relationship manager at SIX Payment Services, outlined how different credit card companies position on illegal activity.

He said, "Transactions must be legal in both the cardholder's country of jurisdiction and the merchant's outlets country of jurisdiction," while outlining some of the tricks counterfeit groups use.

He noted that Mastercard has aggressive programs to detect illegal actions and non-compliance can result in the acquirers being subject to corporate risk reduction measures, and merchants can be fined \$200,000 per URL. Visa, meanwhile, has a fine of €25,000 per URL and merchant.

Of course, in piracy and counterfeiting, vehicles or ships are needed to move goods. Focussed on this topic was Laurent Audaz, head of P&I Insurance, Legal and Claims of MSC Mediterranean Shipping Company Sa, the second largest worldwide shipping company, based in Geneva.

His talk was titled: "Straight to your door: Shipment companies as part of the distribution chain – challenges in the fight against counterfeiting."

He said a carrier needs to take care in part to ensure the financial stability of its lawful customers, to avoid the troubles linked to carriage of fraudulent goods and do the right thing.

"Organisations behind fraudulent shipments rely on the poor level of wages, high level of corruption in a certain place and the variable level of customs capacities," said Audaz.

He said smuggling of fraudulent cargo is rarely organised by companies appearing directly on the transport documents, and that is why a good customs regimen is key in this area.

"Their role is primordial," he said. "They are the bodies around which the entire concept of the fight against counterfeiting in international trade should be based upon."

"They must have access to the proper level of technical and staff support as the mafias adapt themselves very quickly," said Audaz.

After the conference Kraus told *Intellectual Property Watch*, "There is a need for strong collaboration between intermediaries. Follow up measures that could be taken include, in particular, centralizing destruction operations in order to reduce costs; collecting information from whistleblowers; and allowing for the exchange of information through neutral platforms."

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Peter Kenny may be reached at info@ip-watch.ch.



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