

February 2014

**CUSTOMS ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS IN THE EU
MANUAL FOR THE COMPLETION OF APPLICATIONS FOR ACTION AND
EXTENSION REQUESTS**

**Regulation (EU) No. 608/2013 of the European Parliament and of the Council of
21 June 2013**

Commission Implementing Regulation (EU) No. 1352/2013 of 4 December 2013

DISCLAIMER:

Only the provisions in the Regulations mentioned above are legally binding.

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INTRODUCTION

Customs enforcement of intellectual property rights (IPR) at the border is governed in the EU by Regulation (EU) No 608/2013¹. The customs authorities in the EU may detain goods under their control which are suspected of infringing an IPR. The intervention of the customs authorities usually takes place upon prior request by the right holders, though customs also may detain those goods if no request has been made beforehand, in order to give right holders the opportunity to make such a request.

The applicant requests the customs authorities to take action with respect to goods suspected of infringing an intellectual property right. The request is called an “*application*”. When granting the application the customs authorities specify the period during which they are going to take action, which shall be no more than one year. The applicant will be called the holder of the decision once customs have granted the application. The request to extend the period of validity of an application on its expiry is called “*extension request*”.

Both the application and the extension request must be completed using official forms and must be submitted to the competent customs authorities in accordance with Regulation (EU) No 608/2013. These forms have been established by Regulation (EU) No 1352/2013.²

Please note that in Member States where computerised systems for filing the application are present, it is mandatory to submit the application using these systems (Art. 5(6) Regulation (EU) No 608/2013).

The purpose of this manual is to assist you in the completion of application and extension request forms.

¹ Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003(OJ L 181, 29.6.2013, p. 15.)

² Commission Implementing Regulation (EU) No 1352/2013 of 4 December 2013 establishing the forms provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights (OJ L 341, 18.12.2013, p. 10.)

APPLICATIONS FOR ACTION

TO WHOM THE APPLICATION MUST BE SUBMITTED?

The applications must be submitted to the competent customs department designated by the Member States. The **list of competent customs departments** is published on the website of the Commission:

http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/right_holders/contactlist_intervention_en.pdf

TYPES OF APPLICATION

There are two types of applications:

- National application: an application submitted in a Member State requesting its customs authorities to take action in that Member State.
- Union application: an application submitted in a Member State requesting the customs authorities of that Member State and the customs authorities of one or more other Member States to take action in their respective territories.

PERSONS ENTITLED TO SUBMIT AN APPLICATION FOR ACTION.

The persons and entities entitled to submit an application are those mentioned in Article 3 of Regulation (EU) No 608/2013.

Those persons and entities are entitled to submit an application requesting action of the customs authorities of a Member State only when they are entitled to initiate proceedings in order to determine whether an intellectual property right has been infringed in that Member State. A person who is not entitled to initiate legal proceedings for the formal determination of an IPR infringement is not entitled to request the customs authorities to take action on goods suspected of being involved in an IPR infringement.

Article 3 of Regulation (EU) No 608/2013 lists the persons and entities that may submit an application, as well as the kind of applications they may submit, as follows:

| | National application | Union application |
|---|----------------------|-------------------|
| Right-holders | X | X |
| Intellectual property collective rights management bodies of Article 4(1)(c) Directive 2004/48/EC ³ | X | X |
| Professional defence bodies Article 4(1)(d) Directive 2004/48/EC ⁴ | X | X |
| Groups of producers of products with a geographical indication provided for in Union law or representatives of such groups, operators entitled to use a geographical indication as well as inspection bodies or authorities competent for such a geographical indication | X | X |
| Persons or entities authorised to use intellectual property rights, formally authorised by the right-holder to initiate proceedings in order to determine whether the intellectual property right has been infringed | X | |
| Groups of producers of products with a geographical indication provided for in National law or representatives of such groups, operators entitled to use a geographical indication as well as inspection bodies or authorities competent for such a geographical indication | X | |
| Holders of exclusive licenses covering the entire territory of two or more Member States, formally authorised formally in those Member States by the right-holder to initiate proceedings in order to determine whether the intellectual property right has been infringed | X | X |

The application must be accompanied by documents providing evidence to satisfy the competent customs department that the applicant is entitled to submit the application. Documents can be written, printed or electronic documents.

³ Intellectual property collective rights-management bodies which are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by and in accordance with the provisions of the applicable law;

⁴ professional defence bodies which are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by and in accordance with the provisions of the applicable law.

Applicants are required to provide evidence of their entitlement, for example by providing certified roll extracts, register extracts or copies of the rights in question, in case they are not available online at the different trademark offices etc. In the case of copyrights, related rights or design rights which are not registered the right-holders have to demonstrate credibly that a claim to a right may be made (e.g. affidavit, declarations concerning the authorship, where available certificates of registration of copyrights).

If the applicant is not the owner of the rights, but a person authorized to use the rights, then the applicant must prove his or her authorization to use the rights. This can generally be done by submitting the appropriate contracts. It is also possible to submit a separate proxy from the right-holder without the use of any special form.

SUBMISSION OF AN APPLICATION BY MEANS OF A REPRESENTATIVE

A person or entity entitled to submit an application may submit it directly in his own name. Obviously, a person or entity entitled to submit an application may also empower a representative to submit the application in the name of that person. The applicant is, in both cases, the person or entity in whose name the application is submitted.

APPLICATION FORMS: COPIES, CONTENT AND ATTACHMENTS

As mentioned before, the form in which applications have to be submitted has been established by Regulation (EU) No 1352/2013. The form can be found on the website of Directorate General Taxation and Customs Union at the following place:

http://ec.europa.eu/taxation_customs/customs/customs_controls/counterfeit_piracy/right_holders/forms_en.htm.

This form has been established without prejudice to the obligation to submit the application and its attachments using electronic data processing techniques where computerised systems are available for the purposes of receiving and processing such application. For the moment such a system exists in Germany and Spain (Italy from 1-7-2014) and applications have to be submitted according to their national provisions.

The forms provided on the website can be used for the other Member States and there is also no objection that applicants submit applications using versions of the application form they have produced themselves, provided that these forms are identical in both layout and content to the forms established by Regulation (EU) No 1352/2013. It is reminded that in all other Member States than Germany, Spain and Italy (from 1-7-2014) any electronically produced application must always be accompanied by a signed paper version of the form.

The application and its attachments must be submitted in both the copy for the competent customs department and the copy for the applicant in one of the languages of the Union which is acceptable to the customs authorities of the Member State where the application is submitted. In case of a Union application a translation can be asked for by any of the Member States indicated in box 6. Be aware that implementation of the decision in those Member States may depend on the availability of the translation.

Where annexes (photos, documents, excel or PDF files, etc.) to the application form are filed electronically, the size of each separate attachment must not be greater than 1.5 MB. The applicant should split bigger files into separate files not exceeding this size in order for the information to be uploaded in the central database (COPIS).

In summary, the information that should be provided within the application is as follows:

- a) Details concerning the applicant (box 1);
- b) The status of the applicant which entitles him to submit the application (box 3);
- c) Documents providing evidence to satisfy the competent customs department that the applicant is entitled to submit the application;
- d) Where the applicant submits the application by means of a representative, details of the person representing him and evidence of that person's powers to act as representative, in accordance with the legislation of the Member State in which the application is submitted (box 4);
- e) The intellectual property right or rights to be enforced (boxes 5 and 11);
- f) In the case of a Union application, the Member States in which customs action is requested (box 6);
- g) Specific and technical data on the authentic goods, including markings such as bar-coding and images where appropriate (boxes 12 to 19 and 28);
- h) The information needed to enable the customs authorities to readily identify the goods in question (boxes 12 to 19 with regards to authentic goods and boxes 20 to 27 with regards to IPR infringing goods);
- i) Information relevant to the customs authorities' analysis and assessment of the risk of infringement of the intellectual property right or the intellectual property rights concerned, such as the authorised distributors (boxes 12 to 19 and 28 with regards to authentic goods and boxes 20 to 27 with regards to IPR infringing goods);
- j) Whether information provided in accordance with point (g), (h) or (i) above is to be marked for restricted handling and, therefore, must be considered restricted to the customs authorities of the Member States where action is requested (sub-boxes within boxes 11 to 28) ;
- k) The details of any representative designated by the applicant to take charge of legal and technical matters (boxes 7 and 8 or 9);

- l) Whether the applicant requests the use of the procedure for the destruction of goods in small consignments referred to in Article 26 of the Regulation 608/2013 and, where requested by the customs authorities, agrees to cover the costs related to destruction of goods under that procedure (box 10).

Subsequently, you will find detailed information relating to the completion of each single [box](#) in the form.

UNDERTAKINGS BY THE APPLICANT (BOX 29)

By signing the application the applicant commits to a number of undertakings, which are listed in box 29. Those undertakings are as follows:

a) Notification obligations of the holder of a decision

The applicant undertakes to immediately notify the competent customs department after the granting of the application of any of the following situations:

1. an intellectual property right covered by the application ceases to have effect;
2. the holder of the decision ceases for other reasons to be entitled to submit the application;
3. modifications to the information included in the application.

b) Obligation of the holder of the decision to update information relevant to risk analysis.

The applicant undertakes to forward and update any information relevant to the customs authorities' analysis and assessment of the risk of infringement of the intellectual property right(s) concerned;

c) Liability of the holder of a decision.

The applicant undertakes to assume liability in the following cases:

1. a procedure duly initiated is discontinued owing to an act or omission on the part of the holder of the decision,
2. samples handled over to the holder of the decision in the framework of a detention's procedure are either not returned in due time or are damaged and beyond use owing to an act or omission on the part of the holder of the decision, or
3. where the goods duly detained on the basis of a granted application are subsequently found not to infringe an intellectual property right.

In the cases listed above, the holder of the decision shall be liable towards any holder of the goods or declarant who has suffered damage, in accordance with the specific applicable legislation.

d) Costs

The applicant undertakes to bear the following costs:

1. Where requested by the customs authorities, the holder of the decision shall reimburse the costs incurred by the customs authorities, or other parties acting on behalf of customs authorities, from the moment of detention or suspension of the release of the goods, including but not necessarily limited to:
 - costs for storage and handling of the goods detained by the customs authorities in connection with the decision granting this application,
 - costs for providing of samples of the goods detained to the holder of the decision granting this application, and
 - costs for the destruction (including, where appropriate, recycling or disposal of goods outside commercial channels) of goods detained following an agreement in accordance with Article 23, concerning the standard procedure of destruction of goods, and Article 26, concerning the procedure for destruction of small consignments, of the Regulation (EU) No 608/2013.

This undertaking shall be without prejudice to the right of the holder of the decision to seek compensation from the infringer or other persons in accordance with the legislation applicable in the Member State where the goods were detained.

2. Cost of translations: the holder of a decision granting a Union application shall provide and pay for any translation required by the customs authorities which are to take action concerning the goods suspected of infringing an intellectual property right.

In case the holder of the decision does not fulfil his obligations, the competent customs department can suspend the period during which the customs authorities of that Member State are to take action.

USE OF INFORMATION BY THE HOLDER OF THE DECISION

Where the holder of the decision uses the information provided by the customs authorities for purposes other than mentioned here below, the competent customs department of the Member States where the information was provided or misused may revoke the decision or suspend it.

The received information may be disclosed or used for the following purposes:

- (a) to initiate proceedings to determine whether an intellectual property right has been infringed and in the course of such proceedings;

- (b) in connection with criminal investigations related to the infringement of an intellectual property right and undertaken by public authorities in the Member State where the goods are found;
- (c) to initiate criminal proceedings and in the course of such proceedings;
- (d) to seek compensation from the infringer or other persons;
- (e) to agree with the declarant or the holder of the goods that the goods be destroyed in accordance with Article 23(1);
- (f) to agree with the declarant or the holder of the goods of the amount of the guarantee referred to in point (a) of Article 24(2).

PERSONAL DATA PROTECTION ISSUES

Customs enforcement of intellectual property rights entails the exchange of data on decisions relating to applications. Such processing of data covers also personal data and shall be carried out in accordance with Union law, as set out in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data.

The exchange of information relating to decisions on applications shall be made via a central electronic database (COPIS).

The applicant should be aware of the following:

2. By signing the application, the applicant agrees that the data provided by him may be processed by the Commission and by the Member States (box 29)
3. The application form contains information related to data protection (see page 5) which should be read carefully:

INCOMPLETE APPLICATIONS

Where, on receipt of an application, the competent customs department considers that the application does not contain all the information required by Regulation (EU) No 608/2013, the competent customs department shall request the applicant to supply the missing information within 10 working days of notification. The time-limit of 30 working days for the competent customs department to grant or reject the application shall be suspended until the relevant information is received.

Where the applicant does not provide the missing information within that period of 10 working days, the competent customs department shall reject the application and notify the applicant accordingly.

HOW THE APPLICATION WILL BE PROCESSED

The competent customs department shall notify the applicant of its decision granting or rejecting the application within 30 working days of the receipt of the application.

In case the application cannot be granted for all intellectual property rights identified within it, the competent customs department shall grant the application only for those intellectual property rights that fulfil all conditions. In case of partial granting a list of intellectual property rights for which the application is granted will be included in the decision.

In case of partial or complete rejection, information on the grounds of the rejection and on the appeal procedure will be provided by the competent customs department.

A decision granting a national application shall take effect from the day following the date of adoption.

A decision granting a Union application shall take effect as follows:

- a) in the Member State in which the application was submitted, on the day following the date of adoption;
- b) in all other Member States where action by the customs authorities is requested, on the day following the date on which the customs authorities are notified of such decision in accordance with the Regulation, provided that the holder of the decision has fulfilled his obligations with regard to translation requests.

The competent customs department to which a Union application has been submitted shall forward the decision granting the application to the competent customs department of the Member State or Member States indicated in the Union application.

When granting an application, the competent customs department shall specify the period during which the customs authorities are to take action.

That period shall begin on the day the decision granting the application takes effect and shall not be more than one year from the day following the date of adoption. The period can be extended, in principle an unlimited number of times, as long as all conditions remain fulfilled.

The request for extension of the period during which customs are to take action should be submitted at least 30 working days before the period expires, otherwise the competent customs department may refuse that request. Once the period has expired the application cannot be extended anymore and a new application for action must be submitted.

PROCEDURE FOR "EX OFFICIO" ACTION

When customs detain goods suspected of infringing an IPR that are not covered by a valid application, they will try to locate the person or entity entitled to submit an application ("*ex officio action*"). Once the person or entity is notified the following shall apply:

- a) the application must be submitted to the competent customs department within four working days of the notification;
- b) the application must be a national application;
- c) the application must contain the information referred to in this manual. However, the information relating to boxes 12 to 18 and 20 to 27 may be omitted in the application.

The competent customs department shall notify the applicant of its decision granting or rejecting the application within two working days of the receipt of the application.

In cases where the information of boxes 12 to 18 and 20 to 27 is not submitted, the application will only be granted in connection with the particular case of detention of goods notified by customs. Should the applicant wish his application to be valid for the standard 12-month period, the information regarding those boxes must be supplied within 10 working days following the notification by the customs authorities.

EXPLANATIONS OF THE BOXES TO BE FILLED IN THE APPLICATION FORM

Optional and mandatory fields: It is mandatory to fill in all fields in the boxes marked with an asterisk (*). Where within a given box several fields are marked with the sign (+), at least one of them shall be filled in.

Do not enter data in the boxes marked "for official use".

Box 1. Applicant

| |
|---------------------------|
| 1. Applicant |
| Name*: |
| Address*: |
| Town*: |
| Postal Code: |
| Country*: |
| EORI-No: |
| TIN No: |
| National registration No: |
| Telephone: (+) |
| Mobile: (+) |
| Fax: (+) |
| Email: |
| Website: |

Details concerning the applicant shall be entered in this box.

It shall contain information on the name and complete address of the applicant and his telephone, mobile telephone or fax number.

It is recommended, but not required, that information on Taxpayer Identification Number, any other national registration number or Economic Operator Registration and Identification Number (EORI-No) of the applicant is entered.

The EORI number is a number, unique throughout the Union, assigned by the customs authorities of a Member State to economic operators involved in customs activities.

It is also recommended, but not required, that information on the email address and website address is given.

The applicant is the person or entity in whose name the application is submitted. Where the application is submitted by a representative acting in the name of the applicant, box 1 should contain the information concerning the applicant in whose name the application is submitted and box 4 should contain the information of the representative.

Box 2: Union/National Application

| | | |
|---|--|--|
| 2*. Union application National application | <input type="checkbox"/> <input type="checkbox"/> | |
|---|--|--|

The appropriate sub-box shall be ticked to indicate whether the application is a National or a Union application.

- National application: an application submitted in a Member State requesting its customs authorities to take action in that Member State.
- Union application: an application submitted in a Member State requesting the customs authorities of that Member State and the customs authorities of one or more other Member States to take action in their respective territories.

Union applications, which are intended to apply in more than one Member State, may be submitted only with respect to intellectual property rights based on Union law applicable throughout the Union, such as the Community trade mark or the Community design. National applications, which apply only in the Member State where they are submitted, may be submitted both with respect to intellectual property rights based on Union law applicable throughout the Union and with respect to other intellectual property rights based on law applicable throughout that Member State.

Box 3: Status of the applicant

| | |
|--|--|
| 3*. Status of applicant | |
| <input type="checkbox"/> Right-holder <input type="checkbox"/> Person or entity authorised to use the IP right <input type="checkbox"/> IP collective rights management body <input type="checkbox"/> Professional defence body | <input type="checkbox"/> Group of producers of products with a Geographical Indication or representative of such group <input type="checkbox"/> Operator entitled to use a Geographical Indication <input type="checkbox"/> Inspection body or authority competent for a Geographical Indication <input type="checkbox"/> Exclusive license holder covering two or more Member States |

The appropriate box shall be ticked to indicate the status of the applicant within the meaning of Article 3 of Regulation (EU) No 608/2013. The application shall include documents providing evidence to satisfy the competent customs department that the applicant is entitled to submit an application.

The persons and entities entitled to submit an application are those mentioned in Article 3 of Regulation (EU) No 608/2013.

Box 4: Representative submitting the application in the name of the applicant

| | |
|---|---|
| 4. Representative submitting the application in the name of the applicant | |
| Company: | |
| Name*: | |
| Address*: | |
| Town*: | |
| Postal Code: | |
| Country*: | |
| Telephone: (+) | |
| Mobile: (+) | <input type="checkbox"/> Evidence of the representatives power to act is enclosed |
| Fax: (+) | |

Where the application is submitted by the applicant by means of a representative, details concerning that representative shall be entered in this box. The application shall include evidence of his powers to act as a representative in accordance with the legislation of the Member State in which the application is submitted and the corresponding box shall be ticked.

It shall contain information on the name and complete address of the applicant and his telephone, mobile telephone or fax number.

Please be aware that the representative (box 4) submitting the application in the name of the applicant and the representatives designated in the application to take charge of legal and technical matters (boxes 7, 8 and 9) may be different. The representative in box 4 is the one submitting the application in the name of the applicant and who is duly empowered beforehand by the applicant; the representatives in boxes 7 and 8 or 9 in charge of legal or technical matters become representatives of the applicant by virtue of the application submitted and have the role of contact persons for the customs administrations with regard to detentions of goods under the decision granting an application in which they have been designated as representatives.

Box 5: Type of right to which the application refers

| | |
|---|---|
| 5*. Type of right to which the application refers | |
| <input type="checkbox"/> National trademark (NTM) | Geographical Indication/Designation of origin: |
| <input type="checkbox"/> Community trademark (CTM) | <input type="checkbox"/> for agricultural products and foodstuff (CGIP) |
| <input type="checkbox"/> International registered trademark (ITM) | <input type="checkbox"/> for wine (CGIW) |
| <input type="checkbox"/> Registered national design (ND) | <input type="checkbox"/> for aromatised drinks based on wine products (CGIA) |
| <input type="checkbox"/> Registered Community design (CDR) | <input type="checkbox"/> for spirit drinks (CGIS) |
| <input type="checkbox"/> International registered design (ICD) | <input type="checkbox"/> for other products (NGI) |
| <input type="checkbox"/> Unregistered Community design (CDU) | <input type="checkbox"/> as listed in Agreements between the Union and third countries (CGIL) |
| <input type="checkbox"/> Copyright and related right (NCPR) | Plant variety right: |
| <input type="checkbox"/> Trade name (NTN) | <input type="checkbox"/> national (NPVR) |
| <input type="checkbox"/> Topography of semiconductor product (NTSP) | <input type="checkbox"/> Community (CPVR) |
| <input type="checkbox"/> Patent as provided for by national law (NPT) | Supplementary protection certificate: |
| <input type="checkbox"/> Patent as provided for by Union law (UPT) | <input type="checkbox"/> for medicinal products (SPCM) |
| <input type="checkbox"/> Utility model (NUM) | <input type="checkbox"/> for plant protection products (SPCP) |

In box 5 the types of rights applicable must be ticked. In one application more than one right can be ticked. However in a Union application only rights based on Union law applicable throughout the Union can be ticked.

Community rights based on Union law applicable throughout the Union are currently:

- Community trade marks (CTM)
- Trade marks registered under international arrangements which have effect in the Union
- Registered Community design
- Designs registered under international arrangements which have effect in the Union
- Non-registered Community designs
- Geographical indications or designations of origin protected for agricultural products and foodstuff
- Designations of origin or geographical indications for wine
- Geographical designations for aromatised drinks based on wine products
- Geographical indications of spirit drinks
- Community plant variety rights

Box 6: Member State or, in the case of a Union application, Member States in which customs action is requested

| | | | | | | | | | | | | | | | |
|---|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|--|
| 6*. Member State or, in the case of a Union application, Member States in which customs action is requested | | | | | | | | | | | | | | | |
| <input type="checkbox"/> ALL MEMBER STATES | <input type="checkbox"/> BE | <input type="checkbox"/> BG | <input type="checkbox"/> CZ | <input type="checkbox"/> DK | <input type="checkbox"/> DE | <input type="checkbox"/> EE | <input type="checkbox"/> IE | <input type="checkbox"/> EL | <input type="checkbox"/> ES | <input type="checkbox"/> FR | <input type="checkbox"/> HR | <input type="checkbox"/> IT | <input type="checkbox"/> CY | <input type="checkbox"/> LV | |
| | <input type="checkbox"/> LT | <input type="checkbox"/> LU | <input type="checkbox"/> HU | <input type="checkbox"/> MT | <input type="checkbox"/> NL | <input type="checkbox"/> AT | <input type="checkbox"/> PL | <input type="checkbox"/> PT | <input type="checkbox"/> RO | <input type="checkbox"/> SI | <input type="checkbox"/> SK | <input type="checkbox"/> FI | <input type="checkbox"/> SE | <input type="checkbox"/> UK | |

In the case of a national application, only one sub-box must be ticked: the sub-box corresponding to the Member State where the application is submitted and in which customs action is requested.

In the case of a Union application:

- Tick the sub-box corresponding to “all Member States” if customs action is requested in all Member States or
- Tick the sub-box corresponding to the Member State where the application is submitted and in which customs action is requested, and the sub-box(es) of the other Member State(s) in which customs action is also requested.

Box 7: Representative for legal matters

| |
|-------------------------------------|
| 7. Representative for legal matters |
| Company: |
| Name*: |
| Address*: |
| Town*: |
| Postal Code: |
| Country*: |
| Telephone: (+) |
| Mobile: (+) |
| Fax: (+) |
| Email: |
| Website: |

In box 7 details of any representative designated by the applicant to take charge of legal matters must be entered.

When suspect goods are detained, the customs authorities will contact the representative for legal matters concerning the legal obligations and rights of the holder of the decision granting the application and, in particular, concerning the legal aspects of the administrative procedures for detention of suspected goods. The representative for legal aspects shall be considered by the customs authorities as entitled to act on behalf of the holder of the decision. The representative for legal aspects must be easily contactable at short notice and should be able to speak the language(s) of the Member State in which the request for customs action is made. Furthermore the person should be accessible, at least, during the normal working hours of that country. However, it is not required that the representative is established in the Member States where customs action is requested but establishment inside the Union is highly recommended.

Box 7 of the application shall contain information on the name and complete address of the representative and his telephone, mobile telephone or fax number.

It is recommended, but not required, to include information on the following:

- Where the representative for legal matters works for a company, identification of the Company.
- Information on the email address and website address of the representative for legal matters..

Box 8: Representative for technical matters

| |
|---|
| 8. Representative for technical matters |
| Company: |
| Name*: |
| Address*: |
| Town*: |
| Postal Code: |
| Country*: |
| Telephone: (+) |
| Mobile: (+) |
| Fax: (+) |
| Email: |
| Website: |

In box 8 details of any representative designated by the applicant to take charge of technical matters must be entered.

The representative for legal matters and the representative for technical matters may be the same person.

When goods are subject to customs control for the purpose of IPR enforcement, the customs authorities may contact the representative for technical matters concerning information on specific and technical data on the authentic goods, information needed to enable the customs authorities to identify infringing goods and information relevant to the customs authorities' analysis and assessment of the risk of infringement of the intellectual property right or the intellectual property rights concerned. In particular, the customs authorities may contact the representative for technical matters before detaining goods in cases where more information is needed from the holder of a decision to assess a potential infringement of his IPR. The representative for technical aspects shall be considered by the customs authorities as entitled to act on behalf of the holder of the decision.

The representative for technical aspects must be easily contactable at short notice and should be able to speak the language(s) of the Member State in which the request for customs action is made. Furthermore the person should be accessible, at least, during the normal working hours of that Member State. However, it is not required that the representative is established in the Member State where customs action is requested but establishment inside the Union is highly recommended.

Box 8 of the application shall contain information on the name and complete address of the representative and his telephone, mobile telephone or fax number.

It is recommended, but not required, that it includes information on the following:

- Where the representative for technical matters works for a company, identification of the Company.
- Information on the email address and website address of the representative for technical matters.

Box 9: Representatives for legal and technical matters in Union applications.

9. In case of a Union application, the details of the designated representatives for legal and technical matters are included in annex no

In case of a Union application, the details of the representative or representatives designated by the applicant to take charge of technical and legal matters in the Member States indicated in box 6 shall be provided in a separate annex which shall contain the elements of information requested in boxes 7 and 8. In case a representative has been designated for more than one Member State, it shall be clearly indicated for which Member States he has been designated.

Box 10: Small consignment procedure.

10. Small consignment procedure



I request the use of the procedure in Article 26 of Regulation (EU) No 608/2013 and, where requested by the customs authorities, agree to cover the costs related to the destruction of goods under this procedure.

Where the applicant wishes to request the use of the procedure for destruction of goods in small consignments set out in Article 26 of Regulation (EU) No 608/2013, this box shall be ticked.

The specific procedure for small consignments of counterfeit and pirated goods has been introduced in order to reduce the administrative burdens and costs to a minimum both for the customs authorities and the right holders. The procedure allows for such goods to be destroyed without the explicit agreement of the applicant in each case.

The procedure for the destruction of goods in small consignments applies only when all the following conditions are met:

- a) the goods are suspected of being counterfeit or pirated goods;
- b) the goods are not perishable goods;
- c) the goods are covered by a decision granting an application;
- d) the holder of the decision has requested the use of the procedure set out in this Article in the application;

- e) the goods are transported in small consignments as defined in Article 2 (19) of Regulation (EU) No 608/2013.

This box 10 relates to the condition under letter c) above, allowing the applicant to request the small consignments procedure. Requesting it incorporates the undertaking from the applicant to bear the costs related to the destruction of goods under this procedure, where requested by the customs authorities.

In case of a Union application, where the applicant does not want to request the small consignment procedure to be used in all Member States indicated in box 6, two separate Union applications must be produced; one with all Member States where the small consignment procedure is requested and one with all Member States where the small consignment procedure is not requested. In such case, each application must be submitted in one of the Member States indicated in box 6.

Where the applicant does not request the use of the procedure in his application, the customs authorities will use the standard procedure with regard to goods contained in small consignments.

Sub-box “restricted handling” in boxes 11 to 28

| 11*. List of rights to which the application refers | | | | | |
|---|---------------|---------------------|----------------------|-------------|--|
| No | Type of right | Registration number | Date of registration | Expiry date | List of goods to which the right refers |
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| | | | | | |
| For further rights see annex no | | | | | <input type="checkbox"/> Restricted handling |
| Authentic goods | | | | | |
| 12. Goods details* | | | | | <input type="checkbox"/> Restricted handling |
| IP right no: | | | | | |
| Goods description*: | | | | | |
| | | | | | |
| | | | | | |
| CN tariff number: | | | | | |
| Customs value: | | | | | |
| European average market value: | | | | | |
| National market value: | | | | | |
| | | | | | <input type="checkbox"/> See enclosed annex no |

According to Regulation (EU) No 608/2013, the decisions concerning applications (granting, extending the period during which the customs authorities are to take action, revoking, amending and suspending of a decision) shall be notified by the competent customs departments of the Member States to the Commission. The transmission of that information and all exchanges of data concerning applications

between the customs authorities of the Member States shall be made via a central data base of the Commission (COPIS). The information and data shall be stored in COPIS.

The customs authorities of the Member States and the Commission shall have access to the information contained in COPIS.

Nevertheless, the applicant may ask by ticking the sub-box "restricted handling" in boxes 11 to 28 that information, including attachments, within those boxes is only visible to the customs authorities of the Member States where action is requested, that is, those ticked in box 6 by the applicant.

Box 11: List of rights to which the application refers.

| 11*. List of rights to which the application refers | | | | | |
|---|---------------|---------------------|----------------------|-------------|--|
| No | Type of right | Registration number | Date of registration | Expiry date | List of goods to which the right refers |
| | | | | | |
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| | | | | | |
| | | | | | |
| For further rights see annex no | | | | | <input type="checkbox"/> Restricted handling |

Information on the right or rights to be enforced shall be entered in this box.

In the column "No", sequential numbers shall be entered for each of the intellectual property rights to which the application refers.

In the column "Type of right", the type of IPR shall be indicated by using the appropriate abbreviations which appear in box 5 in brackets.

In the column "Registration number", the reference number of a registered intellectual property right in an IP register.

In the column "Date of registration", date of registration of an intellectual property right in an IP register.

In the column "Expiry date", the date in which the intellectual property right ceases to have effect.

In the column "list of goods to which the right refers", the type of goods which are covered by the relevant IPR and with regard to which the applicant wishes to request customs enforcement shall be entered. If an intellectual property right has been granted for several categories of goods, the applicant may include in this column all

Regulation (EU) No 608/2013. Without providing such detailed information, the application may be rejected.

This mandatory information must be updated where there is any change, according to Article 15 of Regulation (EU) No 608/2013 and the corresponding undertaking by the applicant within this application.

Providing detailed information is particularly relevant in cases where the applicant requests the procedure for the destruction of goods in small consignments.

Various types of information should be entered in these boxes to help improve customs intelligence on related products.

The relevant information on authentic goods must be comprehensive and be contained in the application; it may not be enough if replaced by:

- a reference to a public internet address;
- a general ordering catalogue without further technical description;
- Images without further technical description.

Information on authentic goods (boxes 12 to 19)

Box 12: Goods details (authentic goods)

| | |
|--------------------------------|--|
| 12. Goods details* | <input type="checkbox"/> Restricted handling |
| IP right no: | |
| Goods description*: | |
| | |
| CN tariff number: | |
| Customs value: | |
| European average market value: | |
| National market value: | <input type="checkbox"/> See enclosed annex no |

Box 12 must contain product-related information about the authentic goods. Give a description of the goods and explain what they look like. Add pictures of the authentic goods, where appropriate.

If there is more than one type of goods (e.g. clothes, shoes) or different assortments of goods, please describe them separately.

It is especially important to give the code of the combined nomenclature⁵ and information on the different values of the goods to facilitate the use of IT tools for risk analysis and targeting by the customs authorities.

Box 13: Goods distinctive features (authentic goods)

| | |
|---------------------------------|--|
| 13. Goods distinctive features* | <input type="checkbox"/> Restricted handling |
| Position on the goods*: | |
| Description*: | |
| | <input type="checkbox"/> See enclosed annex no |

Enter information on the specific features of the authentic goods e.g. labels, security threads, holograms, buttons, hangtags, etc.

Explain where the exact position of the features on the goods is and what they look like.

Provide pictures of the goods and their distinctive features.

Box 14: Place of production (authentic goods)

| | |
|--------------------------|--|
| 14. Place of production* | <input type="checkbox"/> Restricted handling |
| Country: | |
| Company: | |
| Address: | |
| Town: | <input type="checkbox"/> See enclosed annex no |

Enter information on where the authentic goods are produced.

Box 15: Involved companies (authentic goods)

| | |
|-------------------------|--|
| 15. Involved companies* | <input type="checkbox"/> Restricted handling |
| Role: | |
| Name*: | |
| Address: | |
| Town: | <input type="checkbox"/> See enclosed annex no |

Enter information on any authorised importers, suppliers, manufacturers, carriers, consignees or exporters, and for which goods they are authorised.

5

http://ec.europa.eu/taxation_customs/customs/customs_duties/tariff_aspects/combined_nomenclature/index_en.htm

Box 16: Traders (authentic goods)

| | |
|--------------|--|
| 16. Traders* | <input type="checkbox"/> Restricted handling |
| | <input type="checkbox"/> See enclosed annex no |

Enter information on persons or entities authorised to trade in products involving the use of the IPR(s) for which enforcement is sought. The information shall refer to name, address and registration numbers, such as EORI number, of those persons or entities. Likewise, the information shall comprise information on how licensees may demonstrate their authorisation to use the IPR(s) in question.

Box 17: Goods clearance details and distribution information (authentic goods)

| | |
|--|--|
| 17. Goods clearance details and distribution information | <input type="checkbox"/> Restricted handling |
| | <input type="checkbox"/> See enclosed annex no |

If the customs clearance of authentic goods is carried out only at certain customs offices, list the offices concerned.

Enter information on specific customs procedures (e.g. simplified customs procedures, customs warehousing, etc.) that the authentic goods are cleared under, if that is known.

Enter information on any specific channels of distribution (e.g. general agencies, central warehouses, dispatch departments).

Enter information on traffic routes like countries and places of provenance, transit and entry. Which means of transport are being used?

Box 18: Packages (authentic goods)

| | |
|---|--|
| 18. Packages | <input type="checkbox"/> Restricted handling |
| Kind of packages: | |
| Number of items per package: | |
| Description (incl. distinctive features): | |
| | <input type="checkbox"/> See enclosed annex no |

Explain how the authentic goods are packaged (in single packages, on boards, in bulk, palletised?) and what the packages look like. If possible, add pictures of the packages.

Where the packaging of the authentic goods shows specific features e.g. particular identification markings (name of the manufacturer, order number, colour, etc.), or where there are special package designs (colour, mould), or labels, security threads, holograms, enter the appropriate information concerning the exact position on the goods and what the features look like.

Box 19: Accompanying documents (authentic goods)

| | |
|----------------------------|--|
| 19. Accompanying documents | <input type="checkbox"/> Restricted handling |
| Type of document: | |
| Description: | |
| | <input type="checkbox"/> See enclosed annex no |

Provide details of any specific documents accompanying the authentic goods, such as enclosures, letters of guarantee, package instructions or instructions for use.

Information on infringing goods (boxes 20 to 27)

Box 20: Goods details (infringing goods)

| | |
|--------------------|--|
| 20. Goods details | <input type="checkbox"/> Restricted handling |
| IP right no: | |
| Goods description: | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| CN tariff number: | |
| Minimum value: | <input type="checkbox"/> See enclosed annex no |

Box 20 must contain any known product-related information about the infringing goods.

Give a description of the goods and explain what they look like. Add pictures of the infringing goods, where appropriate.

If there is more than one type of goods (e.g. clothes, shoes) or different assortments of goods, please describe them separately.

Please enter the code of the combined nomenclature and information on the value of the goods to facilitate the use of IT tools for risk analysis and targeting by the customs authorities and the collection of statistics.

Box 21: Goods distinctive features (infringing goods)

| | |
|--------------------------------|--|
| 21. Goods distinctive features | <input type="checkbox"/> Restricted handling |
| Position on the goods: | |
| Description: | |
| | <input type="checkbox"/> See enclosed annex no |

Enter information, if known, on the specific features of the infringing goods e.g. labels, security threads, holograms, buttons, hangtags, etc.

Explain where the exact position of the features on the goods is and what they look like. Add pictures of the features on the goods, where appropriate.

Box 22: Place of production (infringing goods)

| | |
|-------------------------|--|
| 22. Place of production | <input type="checkbox"/> Restricted handling |
| Country: | |
| Company: | |
| Address: | |
| Town: | |
| | <input type="checkbox"/> See enclosed annex no |

Enter information, if known, on where the infringing goods are produced.

Box 23: Involved companies (infringing goods)

| | |
|------------------------|--|
| 23. Involved companies | <input type="checkbox"/> Restricted handling |
| Role: | |
| Name: | |
| Address: | |
| Town: | |
| | <input type="checkbox"/> See enclosed annex no |

Enter information (names and addresses) on any known importers, suppliers, manufacturers, carriers, consignees or exporters who have been identified in the past as infringers or are suspected of being involved in infringements concerning your IPRs.

Box 24: Traders (infringing goods)

| | |
|-------------|--|
| 24. Traders | <input type="checkbox"/> Restricted handling |
| | |
| | <input type="checkbox"/> See enclosed annex no |

Enter information on persons or entities not authorised to trade in products involving the use of the IPR(s) for which enforcement is sought and who have been trading in the products in the Union in the past.

Box 25: Goods clearance details and distribution information (infringing goods)

| | |
|------------------------------------|--|
| 25. Goods distribution information | <input type="checkbox"/> Restricted handling |
| | <input type="checkbox"/> See enclosed annex no |

Enter any known information about the distribution channels of the infringing goods e.g. how and where do the goods enter the EU, what means of transport are being used.

If the customs clearance of infringing goods is carried out at certain customs offices in particular, list the offices concerned. Enter information on specific customs procedures (e.g. simplified customs procedures, customs warehousing, etc.) that the infringing goods are cleared under, if known.

Should you have any information concerning planned deliveries (name of the ship, name and address of importers, suppliers, manufacturers, carriers, consignees or exporters, container numbers, shipping companies, airlines, flight numbers, forwarding departments, registration plate number of the lorries, international customs pass numbers, etc.), please, in addition to entering the information here, provide that information by using [a red alert or new trend form](#) and send it directly to the relevant customs authorities.

Box 26: Packages (infringing goods)

| | |
|---|--|
| 26. Packages | <input type="checkbox"/> Restricted handling |
| Kind of packages: | |
| Number of items per package: | |
| Description (incl. distinctive features): | |
| | <input type="checkbox"/> See enclosed annex no |

Explain, if known, how the infringing goods are packaged (in single packages, on boards, in bulk, palletised?) and what the packages look like. If possible, add pictures of the packages.

Where the packages of the infringing goods show specific features e.g. particular identification markings (name of the manufacturer, numbers, colour, etc.), special package designs (colour, mould), or labels, security threads, holograms, enter the appropriate information concerning the exact position on the goods and what the features look like.

Box 27: Accompanying documents (infringing goods)

| | |
|----------------------------|--|
| 27. Accompanying documents | <input type="checkbox"/> Restricted handling |
| Type of document: | |
| Description: | |
| | <input type="checkbox"/> See enclosed annex no |

Provide details of any specific documents accompanying the infringing goods, such as enclosures, letters of guarantee, package instructions or instructions for use and if such documents contain specific mistakes.

Box 28: Additional information.

| | |
|----------------------------|--|
| 28. Additional information | <input type="checkbox"/> Restricted handling |
| <input type="checkbox"/> | |
| | <input type="checkbox"/> See enclosed annex no |

Please enter any other information you consider relevant for the purposes of your application.

Box 29: Undertakings.

| |
|---|
| <p>29. Undertakings</p> <p>By signing I undertake to:</p> <ul style="list-style-type: none">• notify immediately the competent customs department that granted this application of any change in the information provided by me within this application or attachments in accordance with Article 15 of Regulation (EU) No 608/2013.• forward to the competent customs department that granted this application any update on the information as referred to in point (g), (h) or (i) of Article 6(3) of Regulation (EU) No 608/2013 that are relevant to customs authorities' analysis and assessment of the risk of infringement of the intellectual property right(s) included in this application.• assume liability under the conditions laid down in Article 28 of Regulation (EU) No 608/2013 and bear the costs as referred to in Article 29 of Regulation (EU) No 608/2013. <p>I agree that all the data submitted with this application may be processed by the European Commission and by the Member States.</p> |
|---|

Do not enter any information in this box. The [undertakings](#) in box 29 that the applicant is committing to by signing the application are explained earlier in this manual.

Box 30: Signature.

| | |
|-------------------|-----------------------|
| 30. Signature* | |
| Date (DD/MM/YYYY) | Applicant's signature |
| Place | Name (Block capitals) |

Applicants must enter the place and date of signing the application and sign it. In the case of an application submitted by means of a representative, the application must be signed by the representative. The signatory should add after his signature his full name in block capitals and the capacity in which he is signing.

REQUEST FOR AMENDING THE DECISION WITH REGARD TO INTELLECTUAL PROPERTY RIGHTS UPON REQUEST BY THE HOLDER OF THE DECISION;

According to Article 13 of Regulation (EU) No 608/2013, the holder of a decision granting an application may request the modification of the list of intellectual property rights in that decision (box 11 of the application form).

Modification of a Union application can only be requested with respect to intellectual property rights based on Union law applicable throughout the Union.

Where the holder of the decision requests the addition of an IPR to the list in Box 11, the request must contain the following information:

- documents providing evidence to satisfy the competent customs department that the applicant is entitled to submit an application with regard to the new IPR, in case they are not available online.
- information on the new IPR as requested in box 11 of the application form:

“No”, sequential numbers shall be entered for each of the intellectual property rights to which the request refers.

“Type of right”, the type of IPR shall be indicated by using the appropriate abbreviations which appear in box 5 of the application form in brackets.

“Registration number”, the reference number of a registered intellectual property right in an IP register.

“Date of registration”, date of registration of an intellectual property right in an IP register.

“Expiry date”, the date on which the intellectual property right ceases to have effect.

“list of goods to which the right refers”, the type of goods which are covered by the relevant IPR and with regard to which the applicant wishes to request customs enforcement shall be entered.

The request must contain specific and technical data on the authentic goods, information needed to enable the customs authorities to readily identify goods suspected of infringing intellectual property rights and information relevant to the customs authorities' analysis and assessment of the risk of infringement of the intellectual property right or the intellectual property rights concerned.

That means that the request must include, with regards to the new IPR, the information required in boxes 12 to 27 of the application form, which are intended for specific and accurate information which enables the customs authorities to target suspected shipments for the purposes of enforcing intellectual property rights using risk analysis techniques, thus identifying the suspected infringing goods correctly and avoiding unnecessary detentions of goods which are not infringing intellectual property rights or do not fall under the scope of Regulation (EU) No 608/2013. Without providing such detailed information, the request may be rejected.

Note that in those Member States where computerised systems for the submission of applications (DE, ES and from 1-7-2014 IT) exist, the request to amend the decision have to be submitted according to their national provisions.

EXTENSION REQUESTS

EXTENSION OF THE PERIOD DURING WHICH THE CUSTOMS AUTHORITIES ARE TO TAKE ACTION

When granting an application, the competent customs department specifies the period during which the customs authorities are to take action within a box reserved for official use in the bottom of page 4 of the application form. The competent customs department which granted the decision may, at the request of the holder of the decision, extend that period.

The extension must be requested by using the official form approved by Regulation (EU) No 1352/2013. The form can be found on the website of Directorate General Taxation and Customs Union at the following place:

http://ec.europa.eu/taxation_customs/customs/customs_controls/counterfeit_piracy/ri_gh_t_holders/forms_en.htm.

This form has been established without prejudice to the obligation to submit the extension request using electronic data processing techniques where computerised systems are available for the purposes of receiving and processing applications. For the moment such a system exists in Germany and Spain (Italy from 1-7-2014) and extension requests have to be submitted according to their national provisions.

As the form provided on the Europa website at the link above cannot be filled in electronically, there is no objection to applicants submitting extension requests using versions of the extension request form they have produced themselves which can be filled in electronically, provided that these forms are identical in both layout and content to the forms established by Regulation (EU) No 1352/2013.

In this section you will find information on the completion of the boxes of the extension request form.

The extension request should reach the competent customs department 30 working days before the end of the period to be extended. Otherwise, if the extension request is received by the competent customs department less than 30 working days before the end of the period to be extended, it may refuse the extension request.

The competent customs department shall notify its decision on the extension to the holder of the decision within 30 working days of the receipt of the request.

The competent customs department shall specify the period during which the customs authorities are to take action.

The extended period during which the customs authorities are to take action shall run from the day following the date of expiry of the previous period and shall not be more than one year.

EXPLANATIONS OF THE BOXES TO BE FILLED IN IN THE EXTENSION REQUEST FORM.

Optional and mandatory fields: it is mandatory to fill in all fields in the boxes marked with an asterisk (*). Where within a given box several fields are marked with the sign (+), at least one of them shall be filled in.

Do not enter data in the boxes marked "for official use".

Box 1: Holder of the decision.

| |
|---------------------------|
| 1. Holder of the decision |
| Name*: |
| Address*: |
| Town*: |
| Postal Code: |
| Country*: |
| Telephone: (+) |
| Mobile: (+) |
| Fax: (+) |
| Email: |

Details concerning the holder of the decision shall be entered in this box.

It shall contain information on the name and complete address of the holder of the decision and his telephone, mobile telephone or fax number.

It is also recommended, but not required, that information on the email address is given.

Box 2: Request of extension of the period during which the customs authorities are to take action.

2*. I request the extension of the period during which the customs authorities are to take action in respect of the following application

Registration number of application: /

I confirm, that there are no changes in the information concerning the application for action and its annexes.

I provide the following information concerning the application for action.

See enclosed annex no

Any request for extension of the period that customs authorities are to take action should be received by the competent customs department at the latest 30 working days before the expiry date.

Enter the registration number of the decision granting the application to which the extension request refers to.

If the information, including annexes, concerning the decision to which the extension request refers to is up to date and no changes are to be notified to the customs authorities, tick the sub-box “I confirm that there are no changes in the information concerning the application and its annexes”.

Otherwise, tick the sub-box “I provide the following information concerning the application for action” and enter the modifications to the information.

Box 3: Signature.

3. Signature*

| | |
|-------------------|---|
| Date (DD/MM/YYYY) | Signature of the holder of the decision |
| Place | Name (Block capitals) |

Enter the place and date of signing the request and sign it. In the case of a request submitted by means of a representative, the request must be signed by the representative. The signatory should add after his signature his full name in block capitals and the capacity in which he is signing.