



Running a tight ship: IPR in Greece

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The country has updated its legal framework to tackle rights infringement, a tidal wave of counterfeit goods and online copyright, say Maria Athanassiadou and Fotini Kardiopoulis of Dr Helen Papaconstantinou & Partners.

This article examines the options for protecting intellectual property in Greece, recent updates to the law and what foreign companies should be aware of.

Patents

Inventions are protected in Greece by national or European patents, with a 20-year duration, and subject to payment of annual fees. Inventions concerning novel and industrially-applicable 3D objects, which provide a solution to a technical problem, may be protected as a utility model, with a maximum duration of seven years.

Where the applicant is a Greek national, Patent Cooperation Treaty and European patent applications must be filed through the Industrial Property Organisation (OBI). The duration of protection of pharmaceutical inventions, as well as of inventions concerning plant protection products protected in Greece by a national or a European patent, may be extended by the grant of a supplementary protection certificate (SPC). Information on existing patents in Greece can be found in the official bulletin issued by the OBI as well as on the national patent register. Both are available online.

As a defence against an infringing act, the patent owner may seek a temporary restraining order, which is filed concurrently with a petition for injunctions, requesting the cessation of the infringing act and removal of the infringing products from the market. With a main infringement action, the patent owner may also request compensation and moral damages.

Establishing an efficient watching system for detecting infringing products is key.

Infringement actions can be brought before the competent courts by the patent owner and an exclusive licensee. Co-owners can bring infringement actions independently. The costs for enforcing and defending patents in Greece depend on several factors, such as complexity of the case, duration of proceedings, involvement of technical experts, and translation costs.

Greek patent law was amended on March 9, 2021 to allow the applicant to expedite the patent examination procedure. Under the new law, applicants can waive their right to make use of the four-month period after filing, which otherwise allows for the late submission of the Greek translation and other supporting documents, provided they have fulfilled all necessary requirements upon filing.

A further amendment now provides patent applicants the right to amend the claims of their applications by limiting the scope of the patent, within a three-month term from receipt of the notification of the search report.

Trademarks

Trademark rights are typically obtained through registration. Three types of registration are available in Greece: national, EU and international. Unregistered signs are protected under the law of unfair competition and may constitute relative grounds for refusal. Trademark protection lasts 10 years as of the filing date and can be renewed indefinitely.

Law 4679/2020 has transposed Directive (EU) 2015/2436 in Greece and efficiently approximated the treatment of the national trademark to that of the EU trademark.

The requirement for trademarks to be represented graphically has been abolished. Due to this change, a wider variety of signs are now available for registration, such as 3D, pattern, sound, motion, position, hologram and audiovisual marks.

Ex officio examination of trademark applications only covers absolute grounds.

In case of trademark infringement, the trademark owner may seek protection before the Civil Courts, and, if applicable, the Criminal Courts. Criminal prosecution does not take place *ex officio* but

following the filing of a related criminal complaint by the rights holder.

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The trademark owner may also seek protection of their marks through administrative proceedings. The Trademark Committee, a quasi-judicial administrative body, is primarily responsible for examining oppositions, revocation or invalidity actions and recourses against the rejecting decisions of the Examiner. It is worth noting that while the Administrative Courts are competent for appeals relating to oppositions, appeals relating to invalidity/revocation actions are dealt by the civil courts, which are also empowered to hear counterclaims for revocation or invalidity of national trademarks.

The opposition term is three months as of the next day of the publication of the accepting decision on the website of the OBI. Both absolute and relative grounds of refusal may be raised. Proof of use is provided as a defense during opposition and invalidity proceedings. The respondent in infringement proceedings is also entitled to request that the plaintiff proves that the earlier trademark has been put to genuine use or that there are proper reasons for non-use during the five-year period preceding the filing of the action or the petition of injunction. Failure to meet these requirements will result in the rejection of the legal means concerned. Non-use of a registered trademark renders it vulnerable to a revocation action.

Trademark rights are adequately protected by law. Difficulties foreign companies face in practice are related to capturing the intricacies of the business environment, the Greek public sector and bureaucracy. The most cited complaints against the national system are unduly long procedures.

Copyright

Entitlement and exercise of author’s rights in Greece are not subject to any formality.

The most common practices to secure proof of the actual date of creation for the author’s protection are:

1. **a)** Deposit of the intellectual work to a notary.
2. **b)** Postage of a registered letter whose sender and recipient is the author itself (or a third person). The author must keep the sealed and stamped envelope, which will be unsealed by a judge before the court that will confirm its content in case of a dispute.

The Hellenic Copyright Organization has recently launched and developed a “timestamping” online service for the purpose of facilitating all authors to obtain a certain date as regards the existence of their work. On the other hand, the question of whether a work possesses the essential elements to be protected under Greek Copyright Law will be decided and ruled by the Courts.

In cases of copyright infringement, both civil and criminal proceedings are available. Criminal prosecution takes place *ex officio* and potential sanctions are quite severe.

Until recently, the protection of copyright, particularly from infringement on the internet and on the digital environment, has been inefficient. Article 66e of the Greek Copyright Law, which came into

practice in 2018, established a new, fast, extrajudicial process against online copyright infringement—a kind of administrative ‘notice and takedown’ procedure for online copyright infringement. Under this provision, any primary or secondary rights holder, including collective management organisations, whose rights have been infringed, may submit an application before a committee set up *ad hoc* for this purpose, namely the Committee for the Notification of Copyright and Related Rights Infringement on the Internet. If the committee finds that copyright infringement is indeed taking place, it invites the notification recipients (ie, the internet access providers and, possibly, the hosting provider and the administrators or owners of the website) to either remove the infringing content or to disable access to said content, as described in the application, by using the most appropriate technical means, depending on the features of the infringement at issue.

Moreover, rights holders may address to the Committee cases where a large-scale violation of rights is imminent as related to events of either national or global viewing which are going to be transmitted simultaneously with their conduct, such as sports and cultural events.

Counterfeiting

Greece is a key destination for illicit trade in counterfeit and pirated goods both because of its geographical position and because of its long tourist season, receiving a significant number of visitors.

Greece is one of five member states of the European Union accounting for more than 90% of the total detentions of suspected counterfeit goods in the EU internal market and appears in both the top rankings of detentions by number of items and estimated value of items detained.

EU Customs Regulation 608/2013 is directly applicable in Greece and, since no national border law exists, the regulation sets out the domestic customs intervention procedure.

Protection of IP rights and the fight against counterfeiting demand both defence at the borders and surveillance within the national territory.

Law 4712/2020 has laid down a consolidated and strong control mechanism through the creation of an interagency structure for controlling the internal market (an interdepartmental market control unit, known as DIMEA).

The control bodies of this interagency unit (ie, the police, the municipal police, the Financial and Economic Crime Unit of the Ministry of Finance, the coastguard and customs authorities) may seize and immediately destroy counterfeit or pirated goods that have entered the Greek market through any available means, provided that the holder of the goods consents to their seizure and destruction.

The interagency market control unit is authorised to impose administrative fines of up to €100,000 on the infringers, depending on the quantity of the seized items. The unit has proved to be a valuable ally in tackling counterfeiting. For the year 2021, the numbers were indeed impressive, since more than 285,000 counterfeit items were seized and destroyed, while the fines imposed for counterfeiting amounted to around €2.8 million.

Other changes

Law 4796/2021 provides for the transfer of the responsibilities regarding trademarks from the Directorate of the General Secretariat for Trademarks of the Ministry of Development and Investments to the OBI.

According to the aforementioned law, the OBI is now responsible for the awarding of national trademarks, the maintenance of the physical and electronic register of trademarks and the exercise of all responsibilities related to trademarks, in general.

The details of the transfer were confirmed by Ministerial Decision Number 48793/2022.

This transfer is aimed at the creation of a unified national policy for all industrial property rights, in harmonisation with the practice of other countries.

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