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**ENFORCEMENT OF INDUSTRIAL PROPERTY RIGHTS: EXPERIENCE OF THE SPANISH
PATENT AND TRADEMARK OFFICE (OEPM)**

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ABSTACT

The Spanish Patent and Trademark Office (OEPM) encourages and supports economic and technological development by affording legal protection to the various forms of industrial property. One of its main objectives is to raise awareness of the importance of intangible assets to Spain's business environment and the disadvantages of counterfeits. In the past few years, it has made significant outreach efforts on this issue through studies, dedicated days and campaigns. The most recent campaign was on the theme "Don't Be Complicit in Counterfeiting", which highlighted the adverse effects of counterfeits and called for consumer responsibility as a key tool for eradicating counterfeiting. In addition to posters with powerful messages, the campaign produced a video of the testimony of a man who used to be residing illegally in Spain, devoting his time to "*top-manta*" (the selling of counterfeit goods on the street, usually on a blanket).

* The views expressed in this document are those of the author and do not necessarily those of the Secretariat or of the Member States of WIPO.

I. INTRODUCTION

1. The OEPM is an autonomous organization under the Ministry of Industry, Energy and Tourism that encourages and supports economic and technological development by affording legal protection to various forms of industrial property through the granting of patents, utility models, industrial designs, trademarks and trade names.
2. The OEPM also represents Spain in international industrial property meetings and organizations.
3. In addition, the OEPM disseminates information on the various forms of industrial property protection. One of its main objectives is to raise awareness of the importance of intangible assets to Spain's business environment and of the adverse effects of counterfeiting on society.
4. Accordingly, the strategy for 2012-2014 adopted by the OEPM sets out a strategic approach intended to encourage compliance with industrial property rights. This approach had a success rate of 93% and encompassed activities such as training and coordinating police and customs services, training and coordinating members of the judiciary, providing information and guidance to businesses whose industrial property rights had been infringed, organizing early learning activities on counterfeiting for consumers, publishing articles on industrial property rights, etc.¹ This strategic approach was not a one-time initiative, since compliance with IP rights is a key element of the OEPM's strategy.
5. Spain has pioneered the creation of a coordinated institutional framework to combat counterfeiting, both at the national and the European Union (EU) levels.
6. At the national level, in the light of the growing phenomenon of counterfeiting, an Inter-ministerial Commission was established in 2000 to combat infringements of intellectual property rights. The Director General of the OEPM was a member of the Commission, whose main task was to coordinate the activities of the ministries involved in combating counterfeiting in Spain and to provide appropriate practical solutions to the problem. Exclusively composed of members of the State administration, this Commission was replaced by the Inter-Sectoral Commission to Combat the Infringement of Industrial Property Rights (CAPRI) in 2005. As the continuation and growth in counterfeiting activities highlighted the importance of cooperation and collaboration between public and private stakeholders, the membership of the new Inter-Sectoral Commission incorporated representatives of autonomous communities, local bodies, industrial property protection organizations and representatives of the Consumers Council and Users.
7. In 2014, CAPRI was reorganized and vested with new functions, mainly geared towards creating linkages with international organizations combating infringements of industrial property rights, primarily the European Observatory on Infringements of Intellectual Property Rights. Since it was also necessary to galvanize CAPRI's activities, its mode of operation was amended by creating working groups that were much more responsive in terms of proposing solutions. Three working groups were created:
 - Legal: to advance existing legislation in order to better protect IP rights;
 - Statistical: to compile data on industrial property rights and conduct studies; and

¹ More information on the results of the campaign may be found at: http://www.oepm.es/export/sites/oepm/comun/documentos_relacionados/Noticias/2015/2015_02_10_Informe_Evaluacion_Estrategia_2012-2014.pdf

- Outreach: to devise campaigns for increasing awareness in this field.

8. At the EU level, the establishment of the European Observatory on Infringements of Intellectual Property Rights was proposed in 2003 when Spain held the presidency of the Council of the European Union. Seven years later, in 2010 and again during a Spanish presidency of the Council of the European Union, the structure and powers of the Observatory were further developed. Since its creation in 2011, the OEPM has participated actively in the five working groups of the Observatory.

9. Within this framework of work coordination, the OEPM has undertaken considerable efforts to raise awareness of the problem of counterfeiting and its adverse effects through studies, campaigns and dedicated days.

II. STUDIES

10. Together with the National Trademark Protection Association (ANDEMA), the OEPM has devised a series of studies to provide effective guidance to awareness-raising and outreach campaigns.

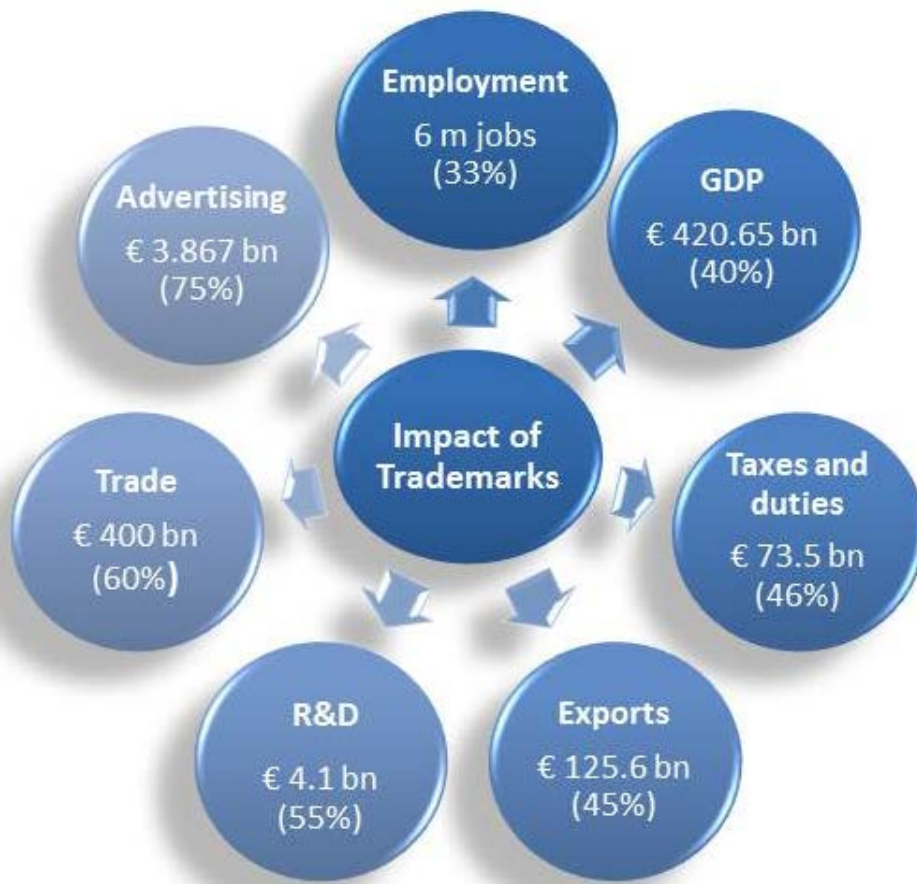
A. IMPACT OF TRADEMARKS ON THE SPANISH ECONOMY AND SOCIETY

11. In 2012, the University of Alicante was commissioned to conduct a study with a view to determining and quantifying the contribution of trademarks to the growth of the Spanish economy.

12. The following variables were examined: employment, gross domestic product (GDP), taxes and levies, exports, research and development (R&D), trade and advertising.

13. The main findings of the study were:

- Trademarks are key both in domestic trade, generating a turnover in excess of 400 billion euros (60% of the entire turnover), as well as foreign trade, raising the value of exports attributable to trademarks to over 125.6 billion euros (45% of all Spanish exports);
- The share of advertising spending by trademark owners was 3.867 billion euros (over 75% of the entire advertising spending);
- Trademarks play a crucial role in driving R&D, with a total spending of about 4.1 billion euros (55% of R&D) and a contribution of over 400 billion euros to GDP (40% of the Spanish GDP);
- Trademarks generate 73.5 billion euros in tax revenues (46% of the total tax revenue) and 70.5 billion euros in social security contributions from businesses and workers;
- In the area of employment, trademarks provide jobs for more than 6 million people (33% of the total employment).



B. CONSUMER ATTITUDES TOWARDS COUNTERFEITING

14. With a view to developing effective outreach campaigns, the Studies Service of the Supreme Council of Chambers of Commerce was commissioned in 2013 to conduct a study on consumer attitudes towards counterfeiting.

15. The study shows that in Spain, consumers who purchase counterfeit goods are young (18 to 29 years), live in large population centers of more than 500,000 inhabitants, usually make the decisions about household purchases, have a lesser degree of consumer brand loyalty and are less aware of the harmful effects of counterfeiting.

16. When consumers buy counterfeits, they are seeking prestige but they do not expect the product to meet their expectations. The study finds that the consumer's environment (influenced by, e.g., accessibility of counterfeits, perceived risks associated with counterfeits and institutional and cultural factors) and price are key elements in the purchase decision.



17. The most commonly bought counterfeits are articles of clothing, perfumes and cosmetics, leather goods and accessories, sports items and sportswear, shoes, watches and jewelry. They are most commonly found in markets and *top-manta* (sold in the street, usually on a blanket)

18. In terms of relevant data, the study found that:

- 12.4% of consumers admitted that they had bought counterfeit goods, while 34% knew people who had consumed counterfeits;
- In general, people were aware of the adverse effects of consuming counterfeit products; and
- One-third of the consumers of counterfeits intended to continue doing so.

III. OUTREACH ACTION AND CAMPAIGNS

A. THE “STOP COUNTERFEITING” MICROSITE

19. The OEPM regularly updates a microsite dedicated to combating infringements of industrial property rights with the following information:

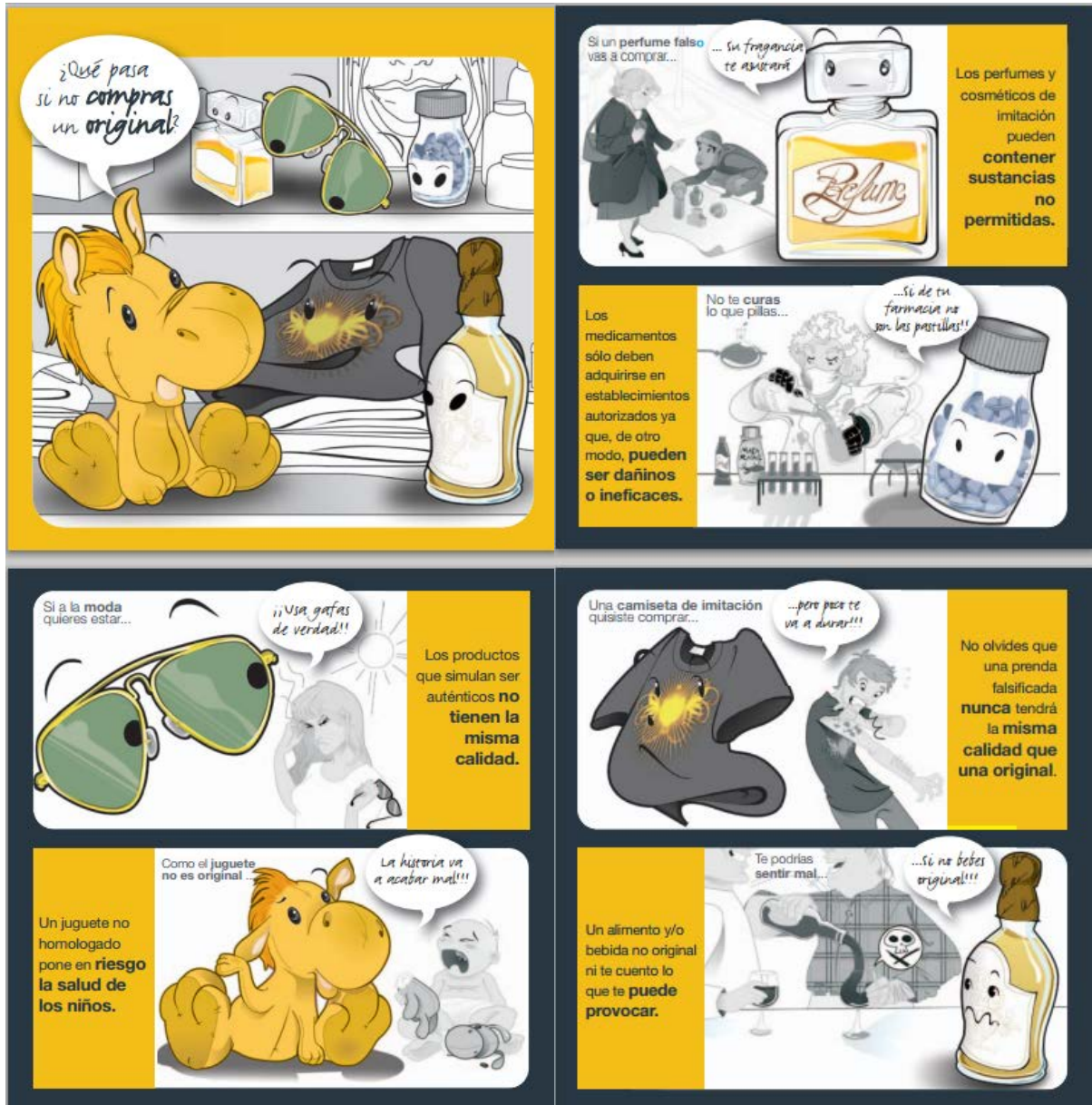
- News of industrial property rights infringements;
- Statistics and publications on the fight against counterfeiting;
- Information on the applicable legislation in the area;
- Frequently asked questions;
- Useful addresses;
- A contact point through which the general public and businesses can make enquiries; and
- Campaigns and brochures.



The screenshot displays the OEPM microsite 'stopfalsificaciones.es'. The header includes the OEPM logo, navigation links (Accesibilidad, Inicio, Mapa Web, Contacto), language selection (Español), and a search bar. A main banner features two stuffed horses (one orange, one black) with the text: '¿Está usted seguro de comprar este juguete?' and 'Un juguete falsificado puede contener piezas de mala calidad o mal ensambladas que podrían producir accidentes en niños. Por tus hijos.' Below the banner, there are two main sections: 'Destacamos' (Highlighted) and 'Portales OEPM' (OEPM Portals). The 'Destacamos' section lists 'Noticias' (News), 'Preguntas frecuentes' (Frequently asked questions), 'Folletos' (Brochures), and 'Direcciones y enlaces' (Addresses and links). The 'Portales OEPM' section lists 'Oficina Española de Patentes y Marcas', 'Información Tecnológica', 'Calidad', 'Archivo Histórico y Museo', 'CEV', and 'OEPM/IME'.

B. THE "I AM ORIGINAL" CAMPAIGN

20. In 2009, an outreach campaign was organized to raise consumer awareness. Brochures, pins and stickers were distributed in at least 82 cities in Spain, reaching over 100,000 people.



21. Given the success of the campaign, a decision was made to continue it on social media. Since 2012, "I Am Original" has been active on Facebook and Twitter, with a view to reaching out to various categories of consumers and to promoting a change of attitude among consumers who voluntarily buy counterfeit products.



- The campaign has 1,714 followers on Facebook and provides news on the topic of infringements of industrial property rights and counterfeiting.
- The campaign's Twitter identity is @YoSoyOriginal_, with more than 1,268 followers. Fifteen new followers sign up each week. The tweets seek to raise awareness of the adverse effects of counterfeiting in order to reduce the exploitation of people, illegal trafficking, the destruction of Spain's business environment and other adverse effects of purchasing counterfeit goods.

22. In 2014, the campaign created a website, www.yosoyoriginal.es, which included an interactive map of all operations and news bulletins from customs, the police, the *guardia civil* and other institutions and bodies combating counterfeiting.



C. WORLD ANTI-COUNTERFEITING DAY

23. Since 2010, the OEPM and the ANDEMA have been jointly organizing events on World Anti-Counterfeiting Day, with the cooperation of the Tax Administration Agency (Department of Customs) and other national law enforcement agencies.

24. The events are intended to raise awareness of the value generated by various industrial property titles (trademarks, patents and industrial designs) for Spanish businesses and the harm and dangers caused by infringement.

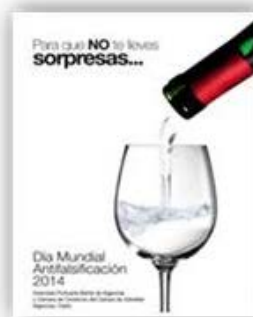
25. Each year, the event is organized in a strategic enclave in the fight against counterfeiting in Spain. Specific ports and airports have been targeted, such as the ports of Valencia, Las Palmas and Algeciras and the airport of Madrid. In 2015, the event was organized in Vigo (Pontevedra) to coincide with a large-scale anti-counterfeiting operation in Pedra market.

26. Two specific activities celebrated World Anti-Counterfeiting Day in 2015. The first was a press conference hosted by law enforcement agencies and the tax authority (AEAT), which reviewed the key indicators for understanding the social and economic aspects of counterfeiting in Spain. The second was a round-table of national and international public bodies and businesses to share best practices. Spanish authorities shared their experiences, as did the European Observatory on Infringements of Intellectual Property Rights and the National Industrial Property Institute of Portugal (INPI), thereby illustrating the international scale of the problem. In the ensuing debate views were exchanged on the societal and economic risks of counterfeiting and coordinated measures were proposed. The event is a clear example of the increasingly fruitful institutional cooperation between the public and the private sector in the fight against counterfeiting.

27. In addition, every year a poster competition is organized to select the best designed poster with an original catchphrase related to the fight against counterfeiting, which will then become the emblem of World Anti-Counterfeiting Day.



Cartel ganador Día Mundial Antifalsificación 2013
Autora: Ana Valderrama



Cartel ganador Día Mundial Antifalsificación 2014
Autora: Susana Ibañez



Cartel ganador Día Mundial Antifalsificación 2015
Autor: Alfredo León

28. To raise awareness of the scale and dangers posed by counterfeiting and to build respect for industrial property rights, a nationwide traveling exhibition was created showcasing the finalist and winning posters as well as other entries authorized for display.

D. THE “TRADEMARKS, YOUR FUTURE” OUTREACH CAMPAIGN

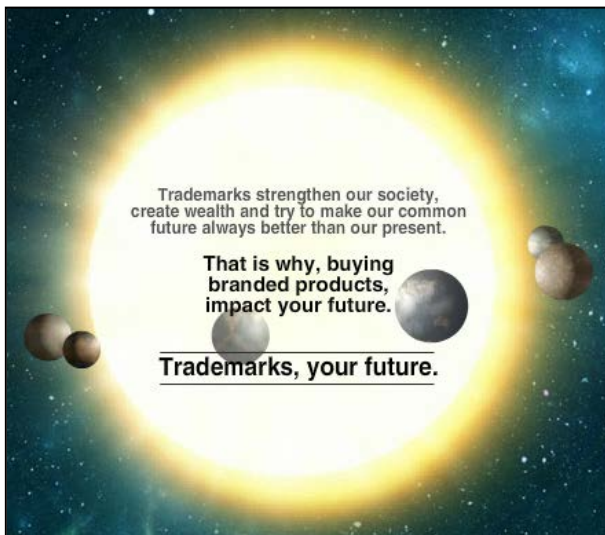
29. In 2012, the OEPM and the ANDEMA launched the “Trademarks, Your Future” campaign to raise consumer awareness of the importance of trademarks.

30. Over 140 businesses and institutions supported the “first eclipse in the history of the web”. The web pages of the participating businesses and public and private institutions opened with the same message to consumers: the importance of trademarks to the business environment, the economy, employment and society. All web pages were masked with a page displaying a solar eclipse, around which the associated trademarks orbited. The screen redirected to the campaign website, www.marcastufuturo.com, which showed the solar eclipse surrounded by planets, each bearing a key message about the underpinning of trademarks. The planets then aligned around the sun to remove the eclipse from a world without trademarks.

31. The intention was to explain what trademarks give to society: they create thousands of jobs, contribute to tax revenues, improve the trade balance through exports, allow for investment in R&D and above all, are responsible for healthy and safe consumption, a fact of which consumers are not always aware.

32. The campaign website had 100 hits per minute. 85% of the visitors were from Spain and the rest came from England, France, Australia, Canada, the United States, India, Colombia, Peru, Argentina, Brazil and Russia.

33. This campaign had an enormous impact in the media and was referenced on social networks and blogs.



E. WORLD IP DAY: THE *MARCATHLON*

34. In 2014 and 2015, the “trademark race” *Marcathlon* was organized in Madrid to celebrate World IP Day.



35. The *Marcathlon* involved the following activities:

- An educational treasure hunt, where, through four different challenges, children learned about the importance of trademarks and innovation and the dangers of counterfeiting. The children designed their own trademarks on a T-shirt, understood what an invention was and solved technical problems with inventions, learned how trademarks contribute to the economy and society of the country and, with the help of the police, discovered the harmful effects of counterfeiting;
- A dog show with the special dog unit of the Police; and
- A general 5 km adult race.





36. Winners of the race received gifts from the sponsoring brands. All runners received a T-shirt with the *Marcathlon* logo and a bag of products donated by the trademark owners. A special prize was also awarded to the national police force for its dedication to the fight against counterfeiting.

37. Over 75 trademark owners, associations, foundations and institutions supported the initiative in 2015, with a significant impact on social media:

- over 14,000 hits on the *Marcathlon* website, the daily average being 120;
- over 10,000 print requests and over 340 conversations on Twitter;
- over 3,000 people reached, 40 shares and over 80 “likes” on Facebook.



F. “BE AUTHENTIC, CONSUME ORIGINALS” CAMPAIGN

38. With the support of the ANDEMA and the OEPM, the General Consumer Association (ASGECO) launched the “Be Authentic, Consume Originals” campaign in 2014 to raise consumer and user awareness of the personal and socio-economic risks of counterfeiting. The campaign tools included a video posted on the OEPM’s Youtube channel, which emphasized the double face of counterfeiting and the dangers it conceals for products like medicine or vehicle spare parts. Other videos of the campaign, together with consumer guides for the detection and the consequences of counterfeit products and a complete study of such products, can be found at www.asgeco.org/consumeoriginal.



G. “DON’T BE COMPLICIT IN COUNTERFEITING” CAMPAIGN

39. In 2015, the “Don’t Be Complicit in Counterfeiting” campaign was launched to highlight the adverse effects of counterfeiting and to call for consumer responsibility, with a view to eliminating these offenses. The campaign conveys the message that counterfeiting does not only affect the economy; it also affects society as a whole. It causes serious difficulty to Spanish businesses and SMEs leading to job losses and cuts in research and innovation spending. It deceives consumers and poses a grave health and safety risk to the public. Counterfeiting is directly linked to labor exploitation, the trafficking of illegal immigrants and organized crime.

40. The campaign uses messages and concrete evidence drawn from the consumption of counterfeit products, such as:

- Job losses and business closures;
- The financing of activities of the mafia or organized criminals; and
- The risk to the health and safety of consumers.



41. The campaign also produced a video documentary which contains the testimony of Ousmane Seck, currently living in Torre Vieja (Spain), who entered Spain illegally in 2009 and became engaged in the *top-manta* sale of counterfeit products until, thanks to his perseverance and the aid of an NGO, he decided to stop selling counterfeits.



IV. INFORMATION EVENTS AND SEMINARS

42. The OEPM is involved in intensive outreach through events and seminars that may be summarized as follows:

- Information days to communicate the danger of buying counterfeit products in Spain;
- The celebration of international anti-counterfeiting days;
- The training and coordination with members of the judiciary, in particular through a Regional Seminar on IP for Latin American Judges, organized every year since 2002;
- The training and coordination of customs and other law enforcement officers, with specific courses on, for example, the analysis of data from the trademark and patent registers that can be obtained free of charge through OEPM's databases.

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