

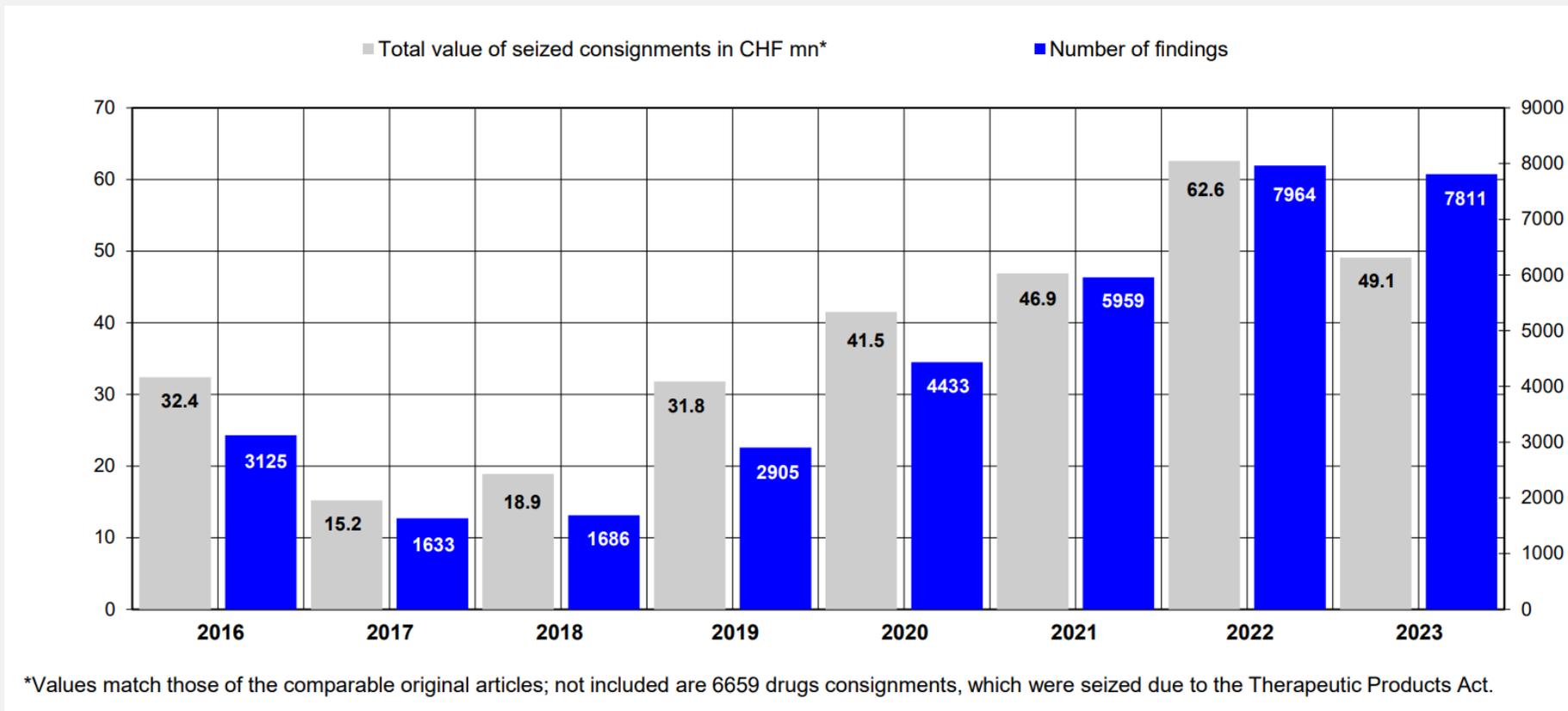
# SIMPLIFIED PROCEDURE FOR THE DESTRUCTION OF IP INFRINGING GOODS IN SMALL CONSIGNMENTS

## Revamping Switzerland's Border Measures

Advisory Committee on Enforcement, 17<sup>th</sup> session  
Geneva, 4 to 6 February 2025

Tim Werner, Legal Adviser, Swiss Federal Institute of Intellectual Property

# A growing problem...



## Seizures of suspected counterfeit goods in Switzerland, 2016 – 2023

(source: Federal Office for Customs and Border Security)

# Over 90 % of counterfeit goods arrive in small consignments

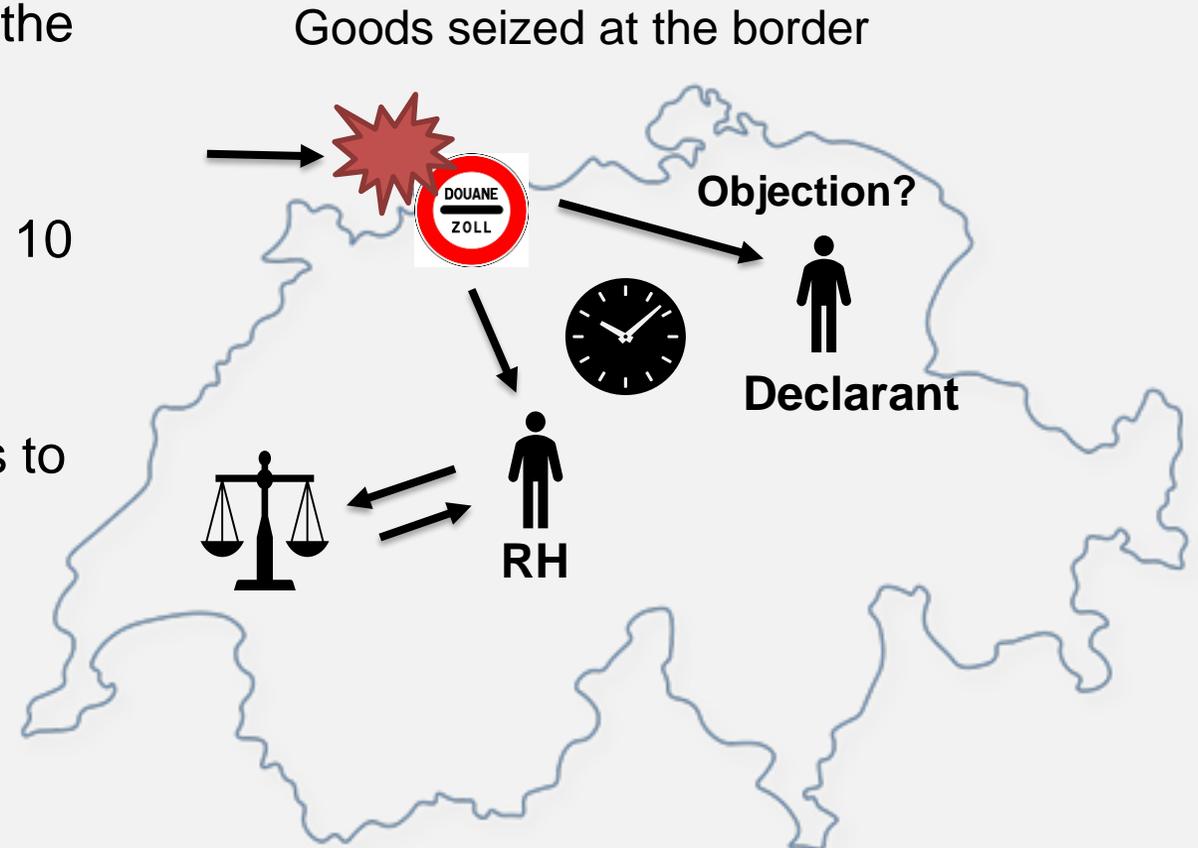


# Today's procedure is complicated and burdensome

- The right holder (RH) and the declarant (i.e. the person ordering the goods) are notified of the seizure at the same time
- The declarant can object the destruction within 10 working days
- If the declarant objects the destruction, RH has to obtain provisional court measures within the same 10 working days

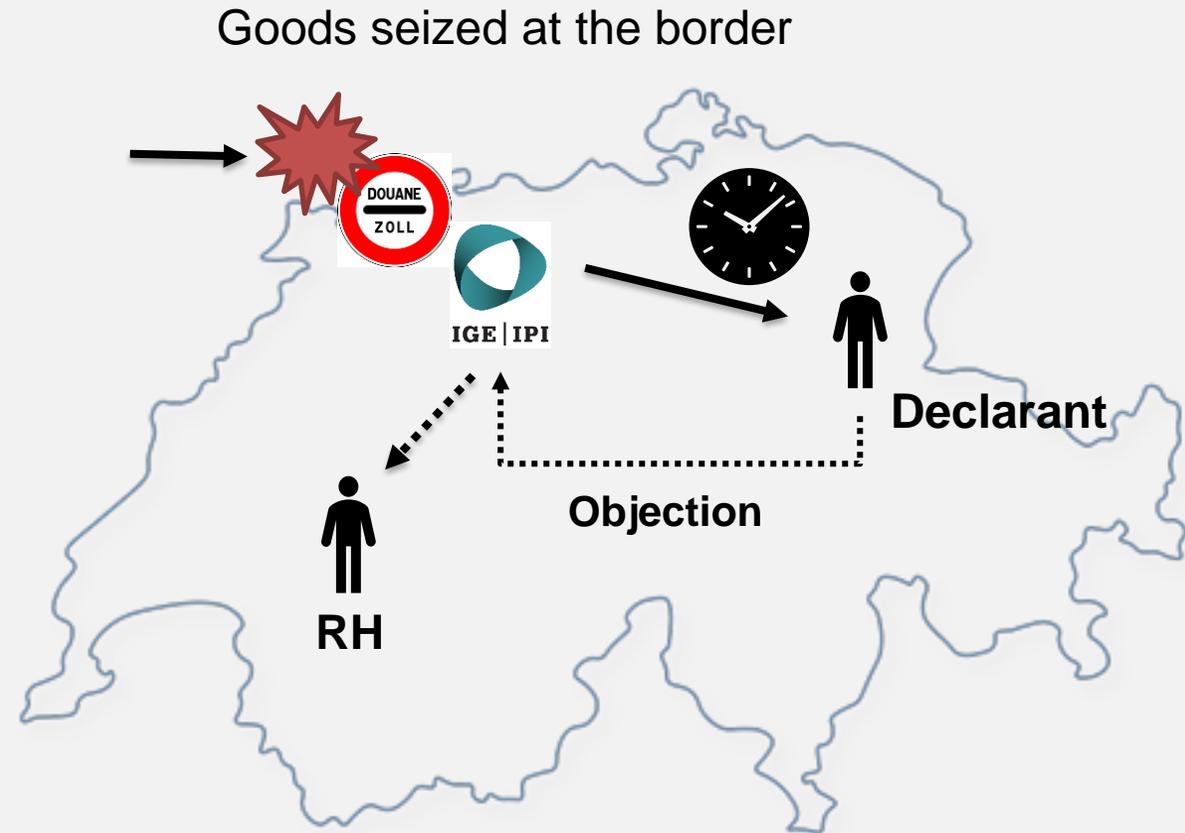
→ RH is forced to take all precautions immediately after being notified of the seizure

- But: Objections occur in less than 5 % of cases → Significant and unnecessary burden to customs officials and RH



# Simplified procedure for the destruction of IP infringing goods in small consignments

- Declarant is notified and has 10 working days to oppose the destruction
- RH is only notified if the declarant objects the destruction
- If the declarant explicitly consents to the destruction or remains silent, the goods are destroyed
- IPI carries out the administrative procedure



→ The simplified procedure is optional: Right holders can still opt for the ordinary procedure

## Key Differences

- RH will only be **notified** of the detention **if the declarant objects** the destruction
- If there is no objection, any potential **damage claims** by the RH will be explicitly **excluded** by law
- RH will receive consolidated **updates at regular intervals** following the destruction, which will include details about the quantity and type of goods destroyed, as well as information about the senders
  - This will further reduce the administrative burden on the competent authority
- In addition, the proposal allows for the possibility that the administrative procedure following the detention of **small consignments** may be **processed by the IPI** instead of the Federal Office of Customs and Border Security (FOCBS).

## A new role for the Swiss IP Office



- The administrative procedure following the detention of small parcels will be carried out by the IPI instead of the Federal Office for Customs and Border Security.
  - Reason: Unburden the customs authorities by transferring administrative tasks to the competent Federal Offices.
- The idea is to enable the customs officials to focus more on inspections.

# Outsourcing storage and destruction



# State of play – Next steps

- The Council of States discussed the bill on 12 December 2023 and adopted it unanimously, followed by the National Council that adopted it on 19 December 2023
  - parliamentary debate on the revision of the law is concluded
- The internal implementation and revision of the relevant ordinances are to follow
- **The initiative is planned to enter into force on July 1, 2025**

# Thank you!

## Questions or comments?

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# The Republic of Korea's approach to Enhancing IP Enforcement through International Cooperation

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Investigative Consultant (Public Prosecutor)  
Korean Intellectual Property Office (KIPO)

# Contents

- THE ESSENTIAL ROLE OF INTERNATIONAL COOPERATION IN IP ENFORCEMENT
- CASE STUDY: COLLABORATIVE EFFORTS ON ENFORCEMENT AGAINST CROSS-BORDER COUNTERFEITING NETWORKS
- INTELLIGENCE SHARING WITH INTERPOL
- ENHANCEMENT OF BORDER MEASURES WITH DOMESTIC AND GLOBAL PARTNERSHIPS
- OPPORTUNITIES FOR INTERNATIONAL COLLABORATION ON IP ENFORCEMENT

# Key Challenges in IP Enforcement

- Increased scale and complexity of cross-border IP crimes.
- Rise of e-commerce platforms enabling global distribution of counterfeits.
- Limited jurisdictional reach of individual countries.

# The Role of Domestic and International Cooperation

- Facilitates information sharing and coordinated enforcement.
- Builds global best practices for tackling IP crimes.
- Ensures collective action against transnational challenges.

# Case Study: Counterfeit Starbucks Merchandise

- Collaboration with HSI, Seoul Police, and Starbucks.
- Identification of counterfeit components during customs inspections.
- Highlights importance of public-private partnerships.

# Detailed Investigation Steps

- Tracking supply chains and assembly sites within Korea.
- Collaboration between KIPO, HSI, and local authorities for arrests.
- Seizure of 33,000 counterfeit items worth \$905,000.



# Intelligence Sharing with INTERPOL

- Purple Notice issued to alert global law enforcement.
- Recognition for innovative approaches at the 2024 IP Crime Conference.
- Ongoing efforts to address emerging counterfeit tactics.

	<b>Red Notice</b> To seek the location and arrest of wanted persons with a view to extradition or similar lawful action.		<b>Yellow Notice</b> To help locate missing persons, often minors, or to help identify persons who are unable to identify themselves.
	<b>Blue Notice</b> To collect additional information about a person's identity, location or activities in relation to a crime.		<b>Black Notice</b> To seek information on unidentified bodies.
	<b>Green Notice</b> To provide warnings and intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries.		<b>Orange Notice</b> To warn of an event, a person, an object or a process representing a serious and imminent threat to public safety.
	<b>INTERPOL–United Nations Security Council Special Notice</b> Issued for groups and individuals who are the targets of UN Security Council Sanctions Committees.		<b>Purple Notice</b> To seek or provide information on modus operandi, objects, devices and concealment methods used by criminals.

# Enhancing Border Measures

- Collaboration with Korea Customs Service (KCS).
- Integration of IP monitoring systems with customs inspections.
- Targeted enforcement of high-risk shipments.



# Case Example: Success in Border Measures

- Seizure of over 2,300 counterfeit items in targeted operations.
- Collaboration with customs authorities in the US, EU, and China.
- Proactive measures to safeguard supply chains.



# Training and Capacity Building



# Opportunities for Collaboration

- Strengthen global intelligence-sharing networks.
- Enhance legal interoperability across jurisdictions.
- Build capacity through training and aligned standards.



National Affairs: Korea.net : The official we...  
National Affairs: Korea.net : The ...



www.kipo.go.kr  
WIPO Korea Funds-in-Trust



The Korea Herald  
Global IP alliances propel Korea's ...



연합뉴스  
MOU entre KIPO y OMPI | 연합뉴스

# Addressing Digital IP Challenges



Rising threats from online platforms.

Developing tools for digital IP enforcement.

Advocating for multilateral treaties on digital IP crimes.

# Strategic Vision

Foster  
stronger  
global  
partnerships.

Prioritize  
real-time  
enforcement  
actions.

Promote  
innovation  
and protect  
consumer trust.

# Conclusion

- International cooperation is critical for effective IP enforcement.
- KIPO continues to lead global efforts against IP crimes.
- Collective actions protect rights holders, consumers, and markets.

# Thank you

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# WIPO Advisory Committee on Enforcement (ACE) – 17<sup>th</sup> Session

“LESSONS LEARNED FROM THE COVID-19 PANDEMIC: INCREASE IN  
COUNTERFEITING AND PIRACY AND THE EFFECT OF ECONOMIC PRESSURE ON  
CONSUMERS' ATTITUDES TOWARDS COUNTERFEITS”

Geneva/On-line

February 2025

Roger A. Hildebrandt

German Patent and Trade Mark Office

# Agenda

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1. DPMA
2. Application for action
3. Annual statistics by German Customs
4. Lessons learned

# The German Patent and Trade Mark Office



**Berlin**



**Jena**



**Munich**

Source: DPMA annual report 2023

# The German Patent and Trade Mark Office

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## Legal form

Higher federal authority within the portfolio of the Federal Ministry of Justice



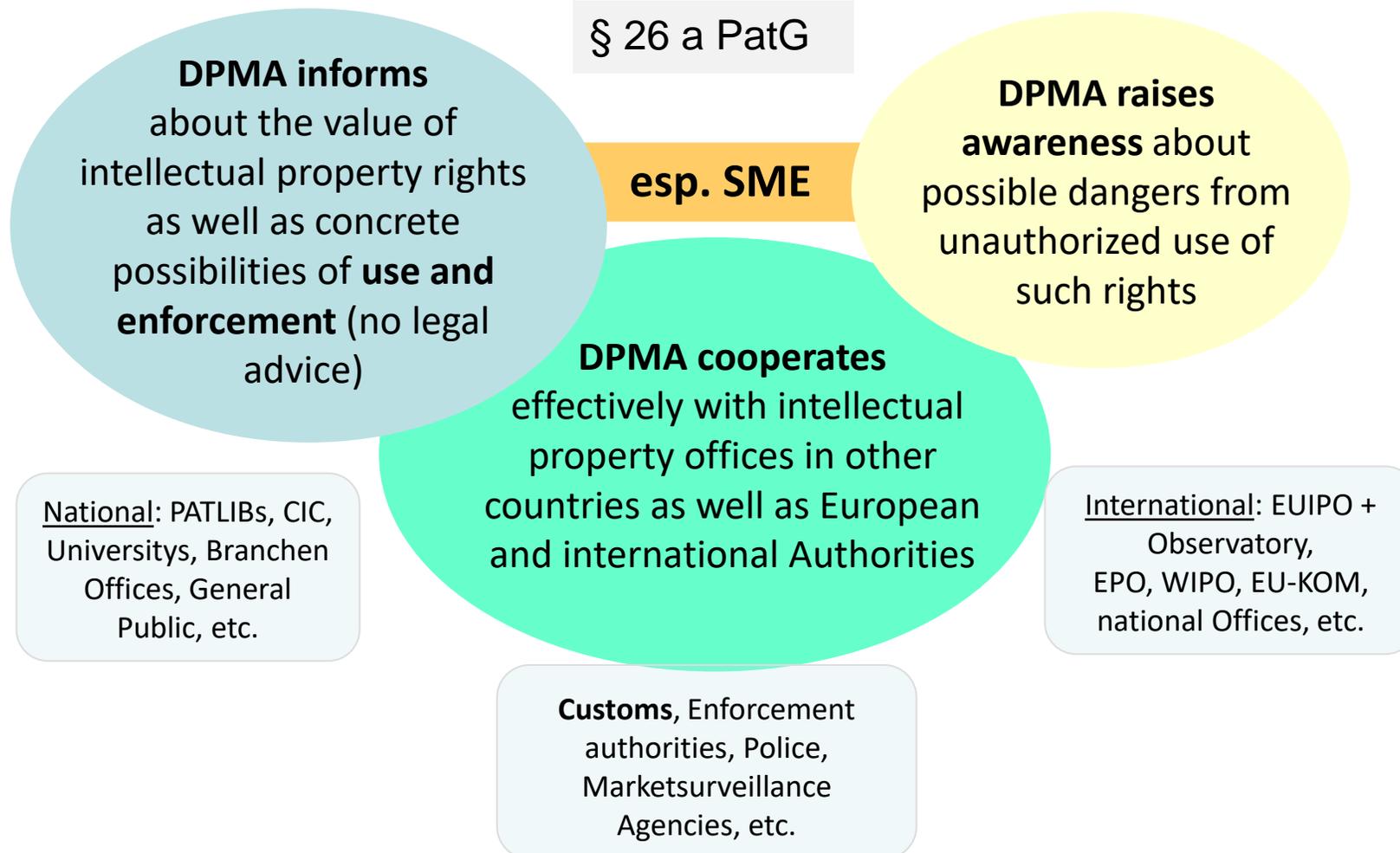
## Founded

In 1877 as *Kaiserliches Patentamt* (Imperial Patent Office) in Berlin

## Duties

- granting, registering and administering IP rights
- providing information to the public about IP rights  
new: **§26 a PatG**
- supervision under the Collective Management Organisations Act (CMO Act, *Verwertungsgesellschaftengesetz - VGG*)

# The German Patent and Trade Mark Office



## Application for action

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Customs administrations are in the frontline to enforce intellectual property rights at the borders. In order to effectively carry out their task, customs need the active engagement of the right-holders themselves. Right holders therefore can ask the customs authorities to detain goods suspected of infringing their IPR.

In order to do so, the right holders have to lodge an **application for action (AFA)** with the competent customs department requesting them to take action.

## Application for action

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### Regulation (EU) No. 608/2013

- Except in the case of the ex officio procedure, customs enforcement of an IPR may be carried out only where an AFA has been granted.
- Whoever is entitled to institute court proceedings to determine whether an intellectual property right has been infringed can submit an application
- In all cases it is, in principle, possible to settle a case without instituting civil proceedings.

## Application for action

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### Regulation (EU) No. 608/2013

- The Regulation applies to goods that are under customs supervision or in a free zone. Exceptions:
  - parallel imports and production over-runs,
  - goods that have been released for free circulation pursuant to the "end-use" regime;
  - non-commercial goods that are being transported in travellers' private luggage

## Application for action

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AFA's can be either national or (EU) Union applications.

A **national application** is an application requesting the authorities of a Member State to take action against infringements of a specified IPR in that Member State only.

A **Union application** requests the customs authorities of one or more Member States to take action in their respective jurisdictions against infringements of a specified IPR.

## Application for action

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Right holders wishing to submit an AFA should connect to the IPEP Trader Portal for COPIS or to the national portal in the following Member States of the EU:

- **Germany**
- **Italy**
- **Spain**

In Germany any application for action (AFA) can and must be filed online with the Central Office for the Protection of Industrial Property (ZGR) of German Customs.

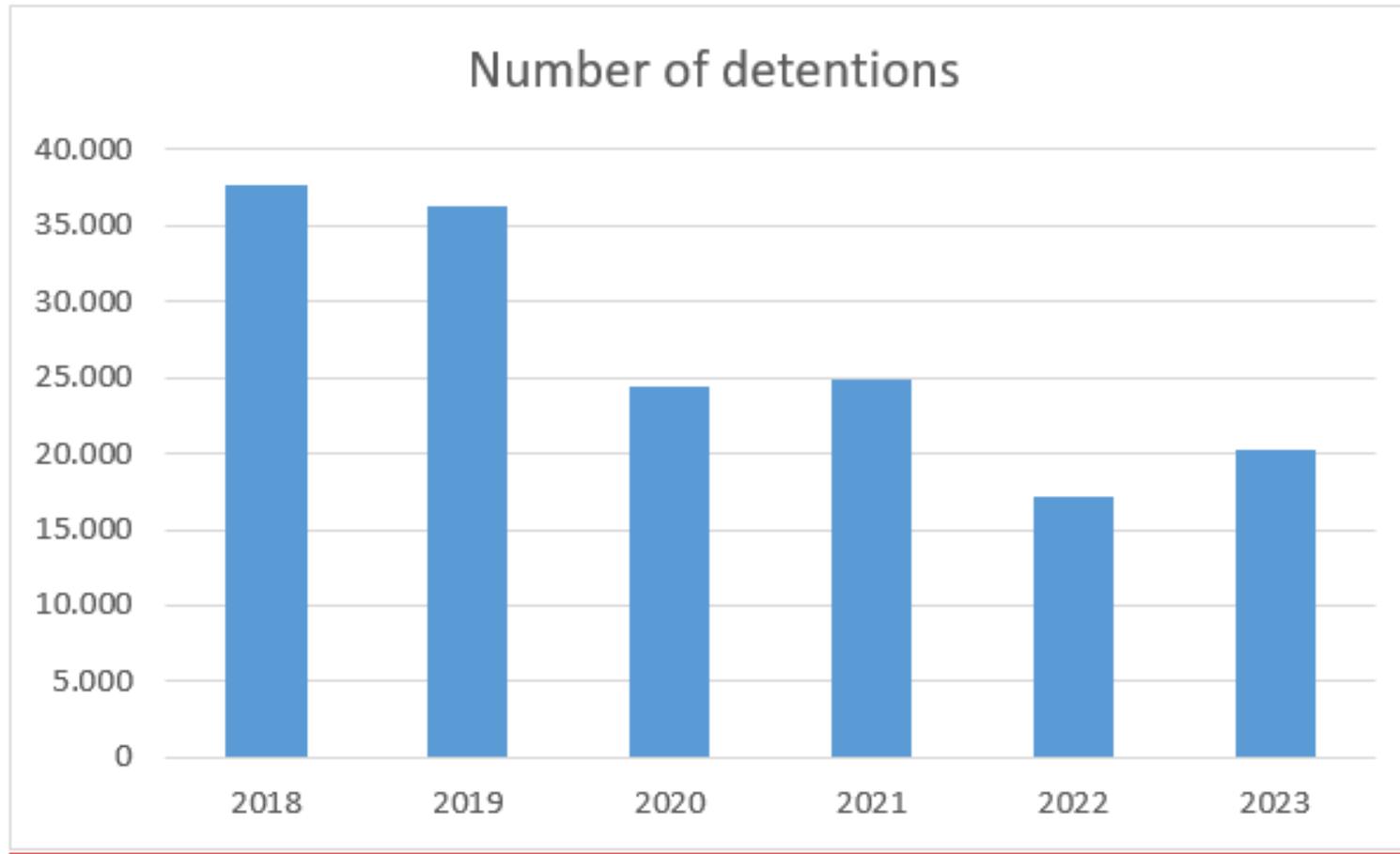
# Annual statistics by German Customs

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## **2023 detentions statistics** (Source: Zentralstelle Gewerblicher Rechtsschutz, ZGR, 2023)

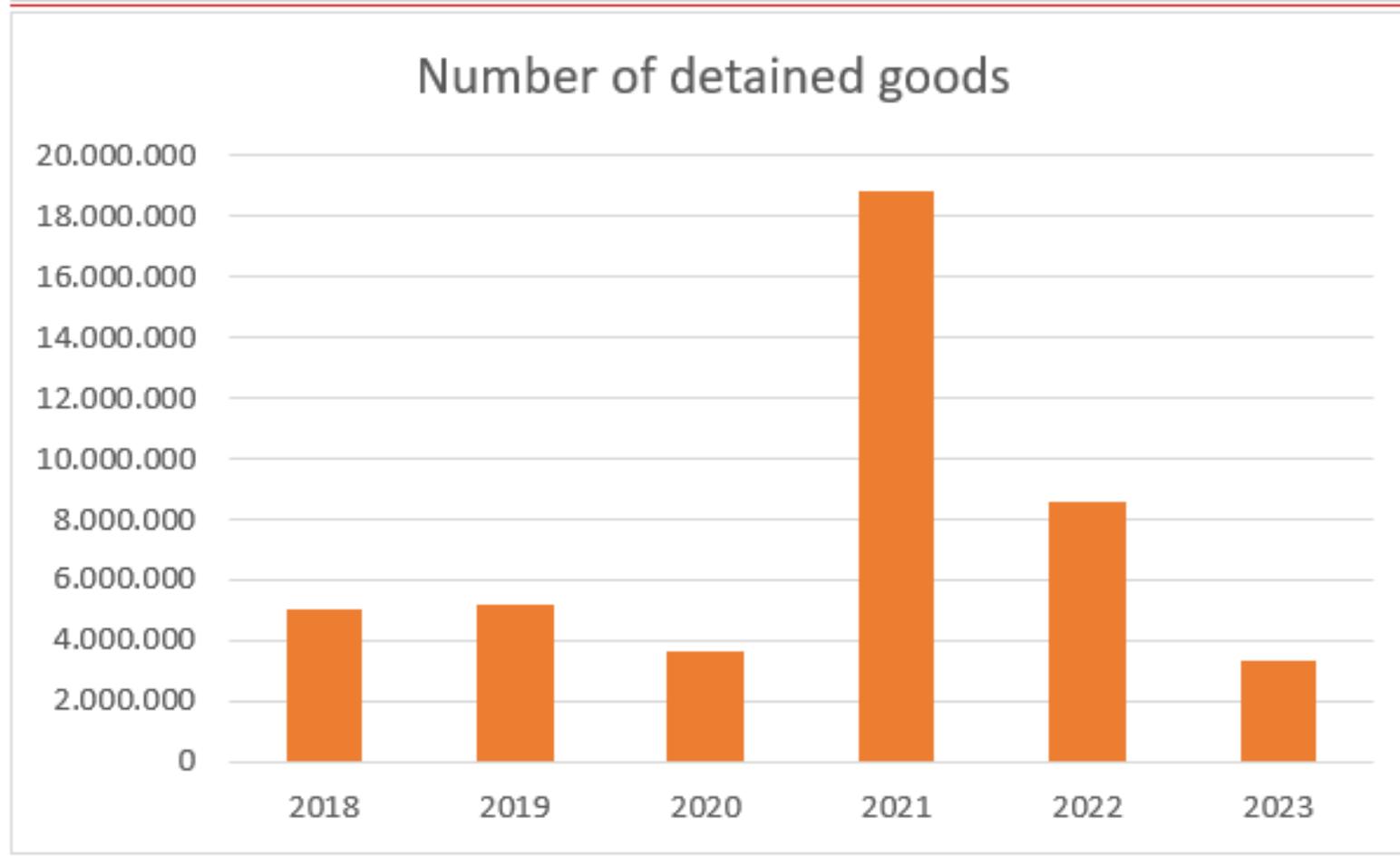
- No significant increase in detentions was identified for the period 2021-2023 in Germany.
- Number of detentions has decreased in the time period from 2021-2023, both in terms of the quantity and value of the goods seized.
- Ninety-five percent of the detentions concern trademarks and designs, and detentions involving copyright infringement account for less than two percent.
- Postal traffic and air traffic are the most relevant means of transportation for counterfeit goods.

## Annual statistics by German Customs



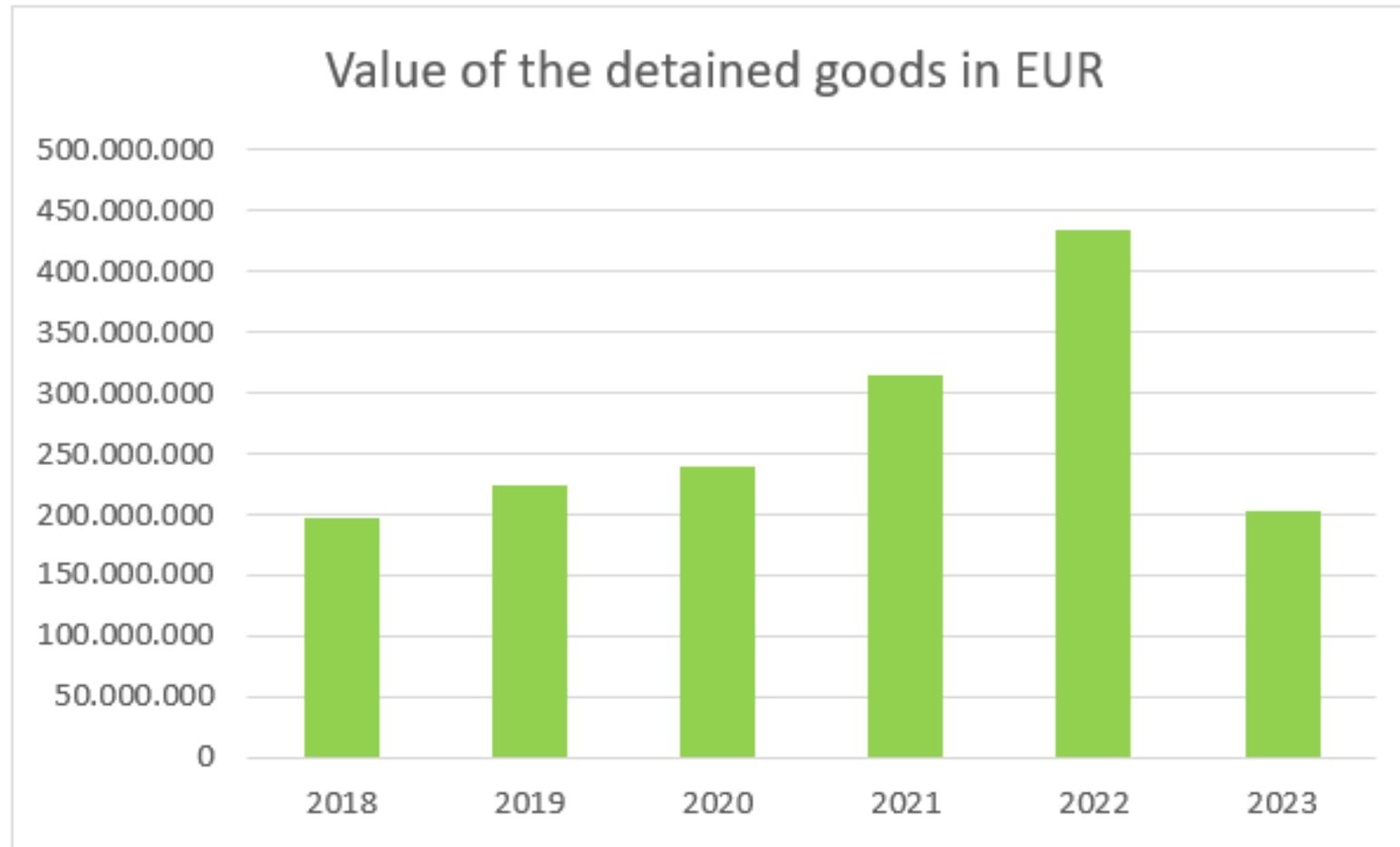
Source: Zentralstelle Gewerblicher Rechtsschutz, ZGR, 2020, 2023

# Annual statistics by German Customs



Source: Zentralstelle Gewerblicher Rechtsschutz, ZGR, 2020, 2023

## Annual statistics by German Customs



Source: Zentralstelle Gewerblicher Rechtsschutz, ZGR, 2020, 2023

## Lessons learned

Future actions should continue to concentrate on the following **key areas**:

- 1. Increasing education, awareness and building respect for IP.**

Working with various private and public sector partners to build respect for IP and to encourage consumers to choose legitimate options over illegal sources.

# Lessons learned

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## 2. Fostering the knowledge about the legal framework

Increasing the understanding of how the court system and the AFA system works and what elements make for a successful outcome

Helping businesses and individuals to enforce their IP rights in a way that is cost effective. Raising awareness of the IP Mediation Services



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