

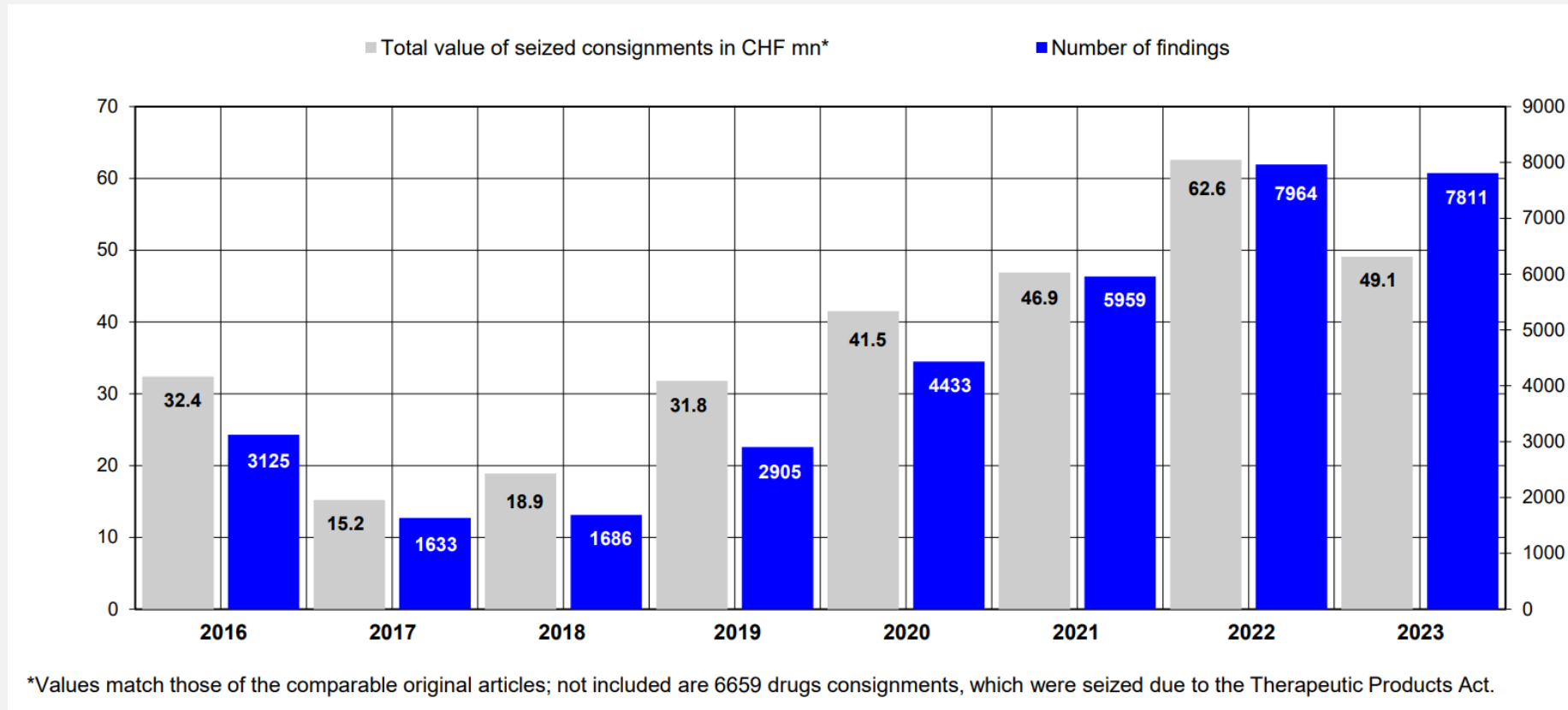
SIMPLIFIED PROCEDURE FOR THE DESTRUCTION OF IP INFRINGING GOODS IN SMALL CONSIGNMENTS

Revamping Switzerland's Border Measures

Advisory Committee on Enforcement, 17th 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

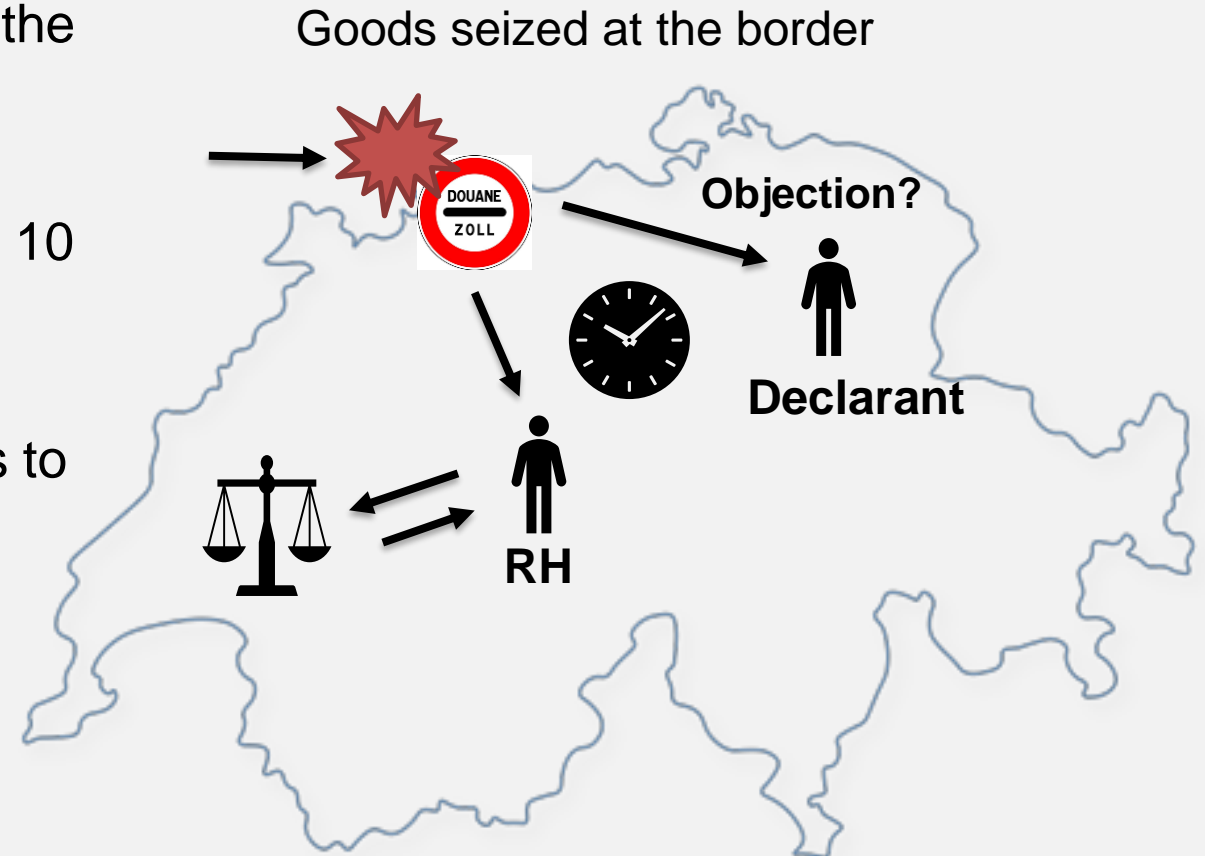


Today's procedure is complicated and burdensome

- 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

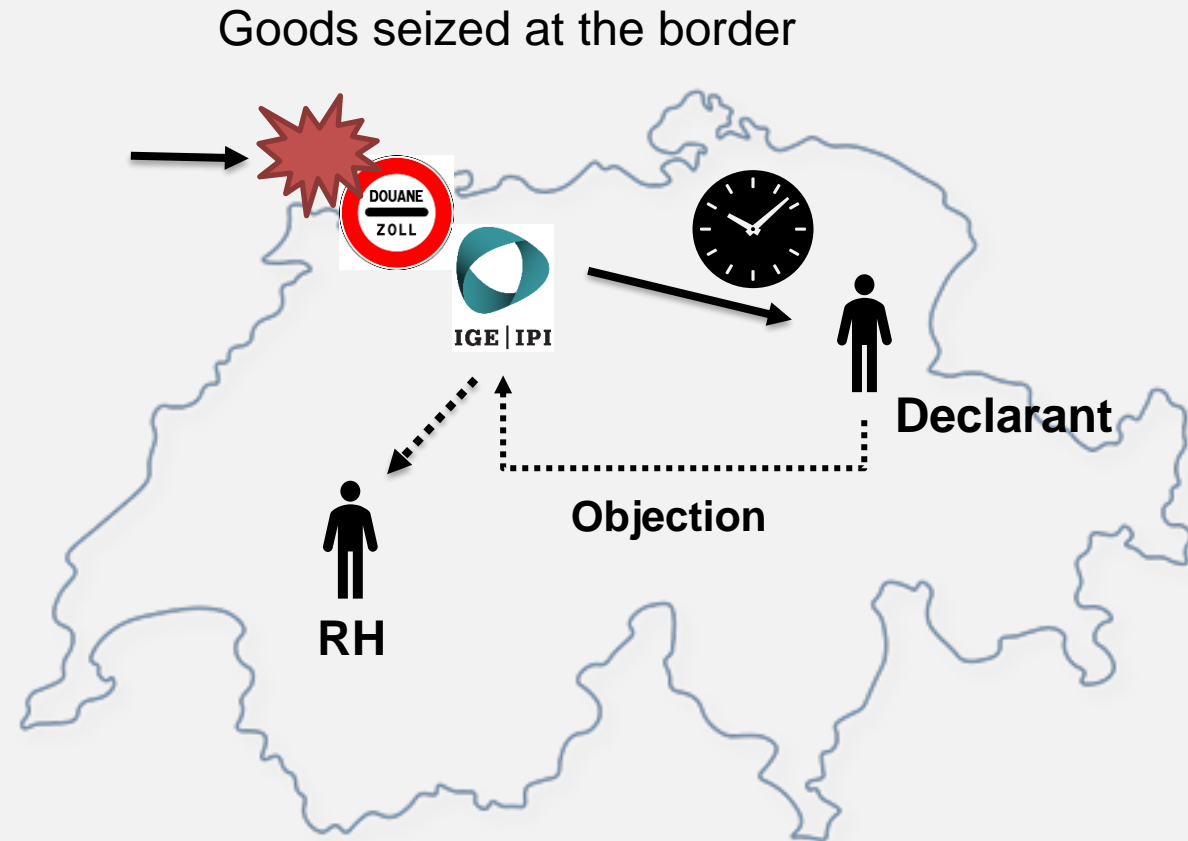
→ RH is forced to take all precautions immediately after being notified of the seizure

- 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 consignments⁵

- 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

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.



특허청

Korean Intellectual Property Office

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.

	Red Notice To seek the location and arrest of wanted persons with a view to extradition or similar lawful action.		Yellow Notice To help locate missing persons, often minors, or to help identify persons who are unable to identify themselves.
	Blue Notice To collect additional information about a person's identity, location or activities in relation to a crime.		Black Notice To seek information on unidentified bodies.
	Green Notice To provide warnings and intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries.		Orange Notice To warn of an event, a person, an object or a process representing a serious and imminent threat to public safety.
	INTERPOL–United Nations Security Council Special Notice Issued for groups and individuals who are the targets of UN Security Council Sanctions Committees.		Purple Notice 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) – 17th 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

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

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



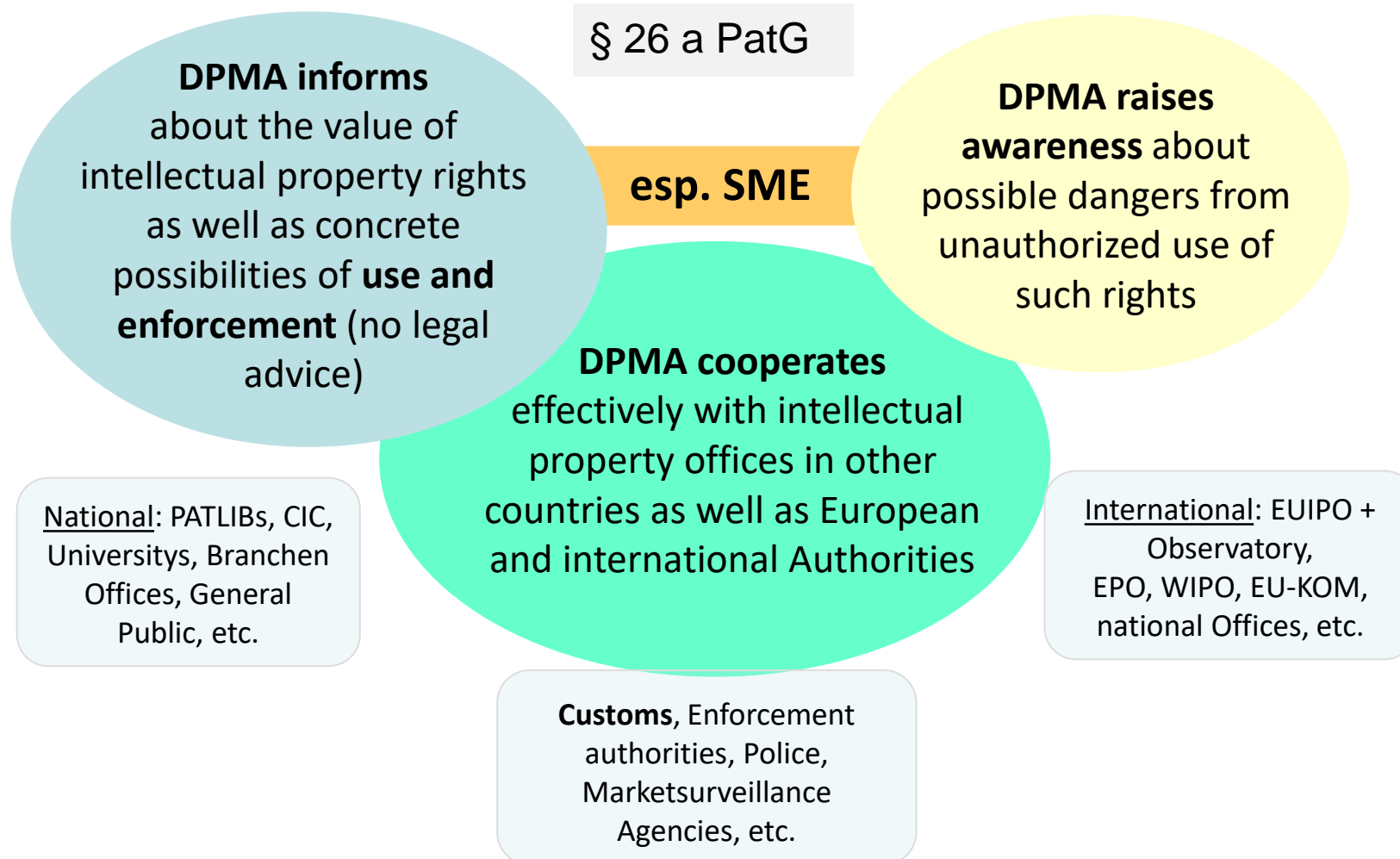
Founded In 1877 as *Kaiserliches Patentamt* (Imperial Patent Office) in Berlin

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

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

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

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

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

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**

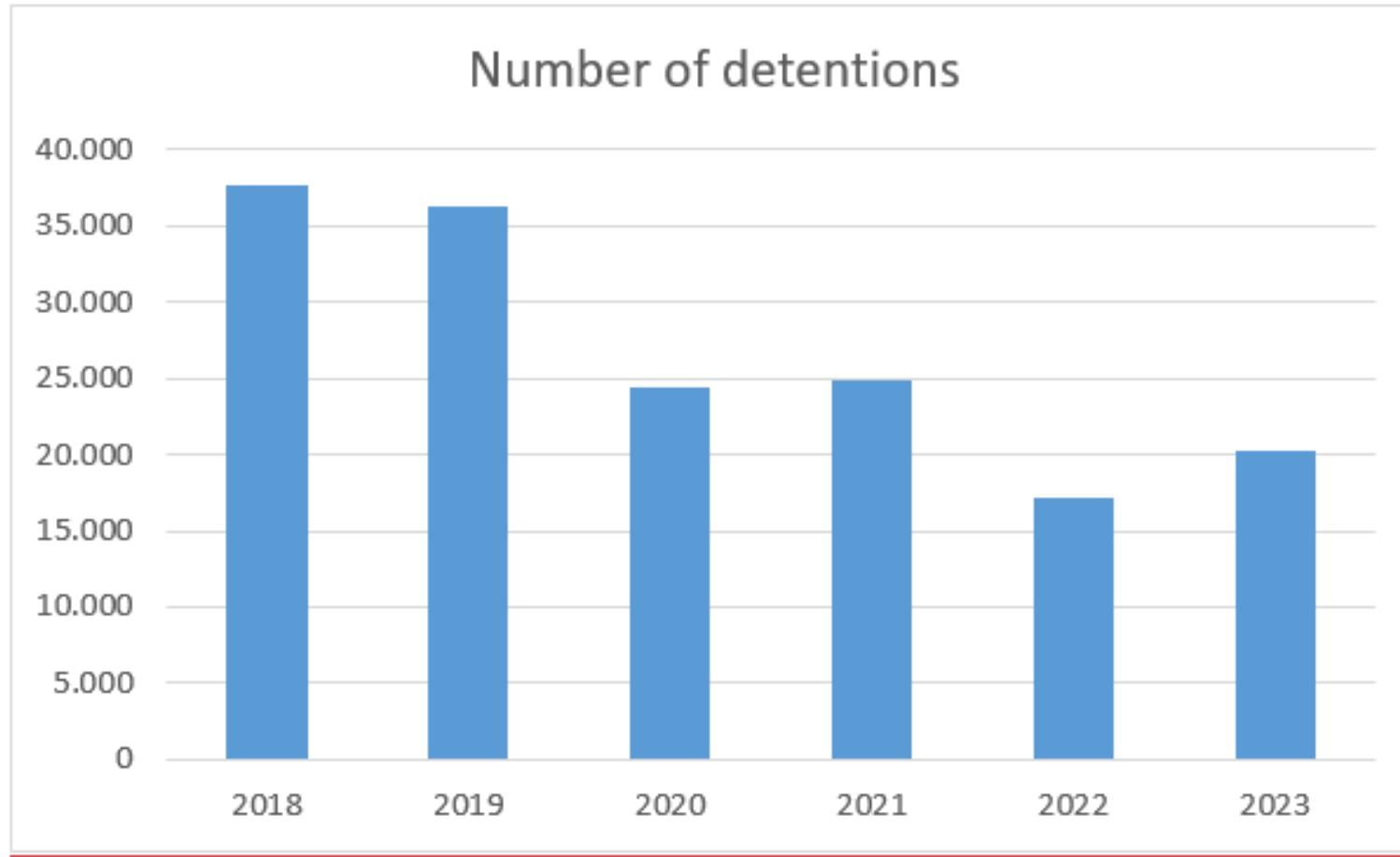
In Germany any application for action (AFA) can and must be filed online with the Central Office for the Protection of Industrial Property (ZGR) of German Customs.

Annual statistics by German Customs

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

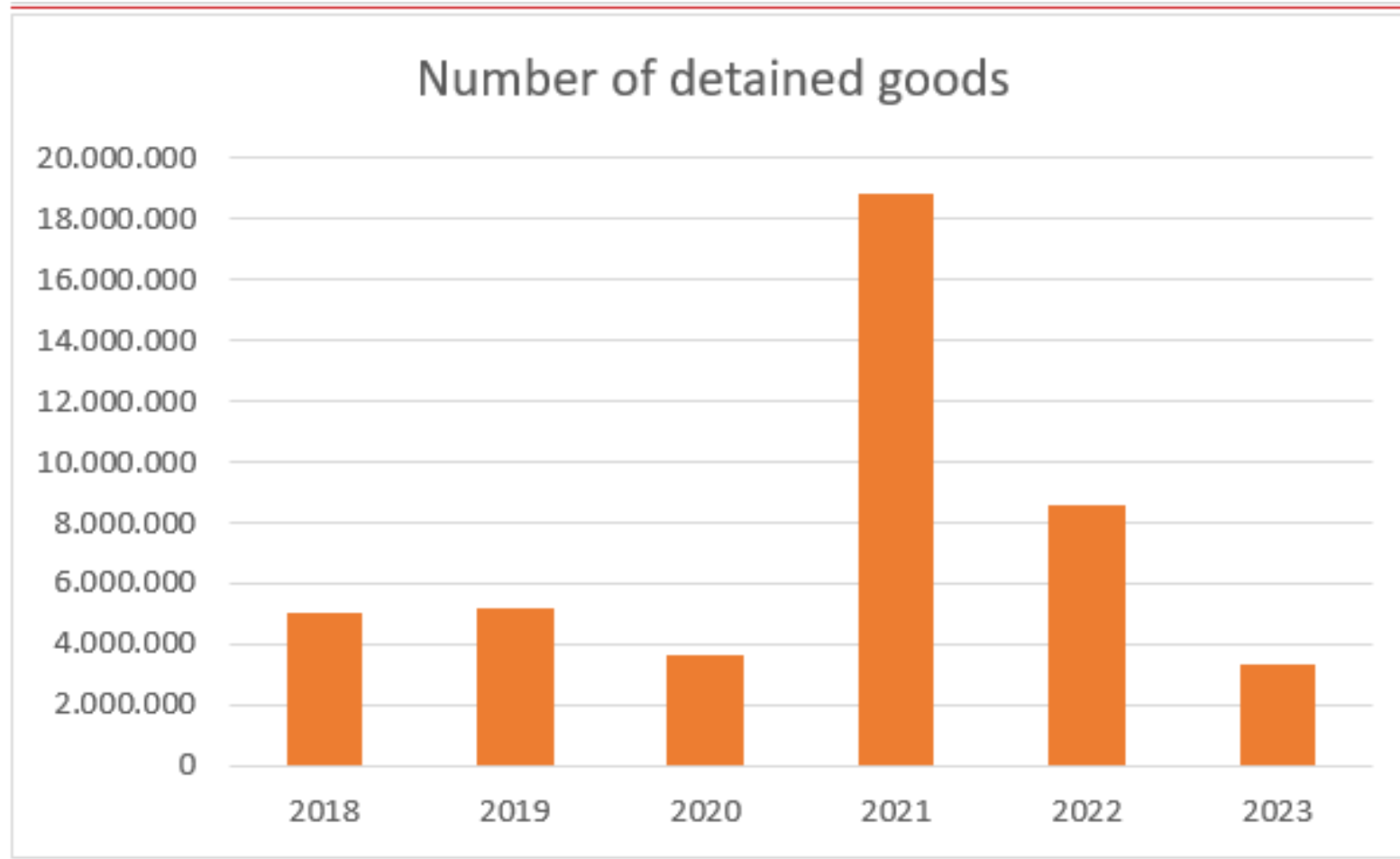
- No significant increase in detentions was identified for the period 2021-2023 in Germany.
- Number of detentions has decreased in the time period from 2021-2023, both in terms of the quantity and value of the goods seized.
- Ninety-five percent of the detentions concern trademarks and designs, and 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



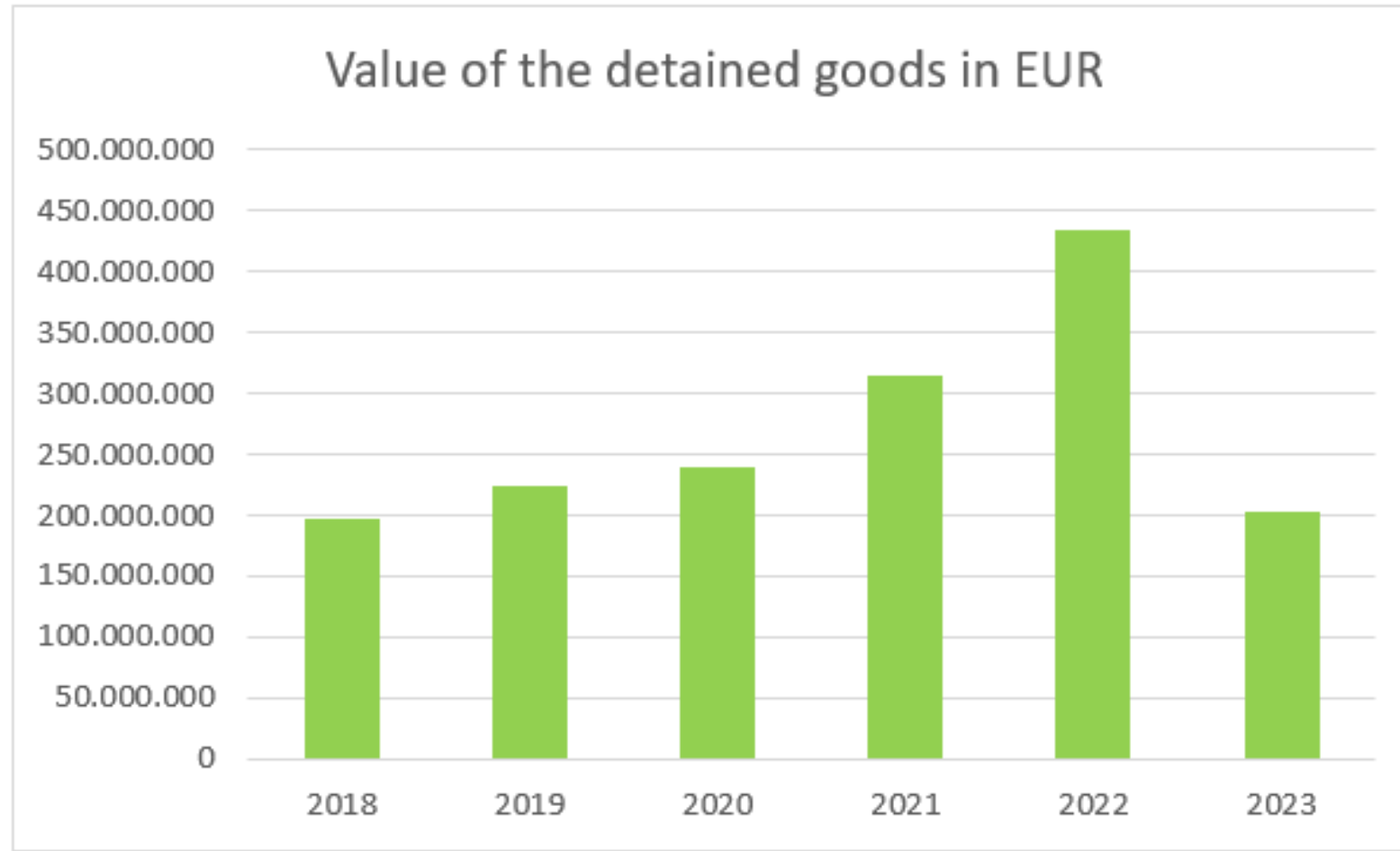
Source: Zentralstelle Gewerblicher Rechtsschutz, ZGR, 2020, 2023

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

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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