

知识产权行政执法助力 企业创新发展的地方实践

LOCAL PRACTICES OF INTELLECTUAL PROPERTY ADMINISTRATIVE
ENFORCEMENT SUPPORTING THE INNOVATIVE DEVELOPMENT OF ENTERPRISES

中国浙江省知识产权局局长 谢小云

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Zhejiang Provincial Intellectual Property Office, China

February 4, 2025 *Geneva, Switzerland*

浙江省地处中国东南沿海

Zhejiang is located on the southeast coast of China.



全省生产总值
GDP

8.26万亿元

\$1.14 trillion USD

全省进出口总额

The total import and export trade volume

4.90万亿元

\$0.68 trillion USD



全省常住人口
Resident population

6627万人

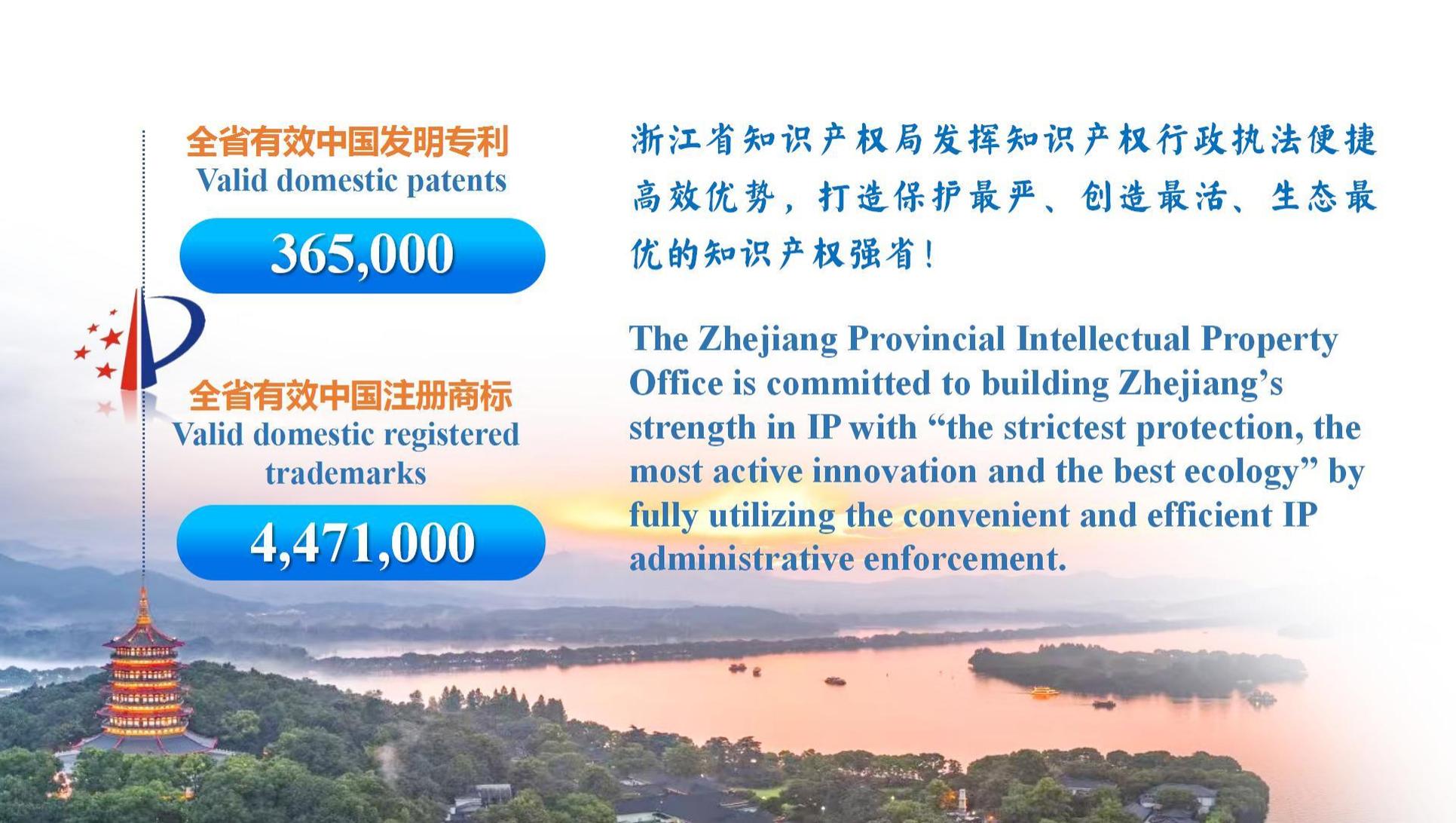
66.27 million

全省市场主体
Market entities

超过1000万家

More than 10 million





全省有效中国发明专利
Valid domestic patents

365,000



全省有效中国注册商标
Valid domestic registered
trademarks

4,471,000

浙江省知识产权局发挥知识产权行政执法便捷
高效优势，打造保护最严、创造最活、生态最
优的知识产权强省！

The Zhejiang Provincial Intellectual Property
Office is committed to building Zhejiang's
strength in IP with “the strictest protection, the
most active innovation and the best ecology” by
fully utilizing the convenient and efficient IP
administrative enforcement.

目录

Contents

- 01 开展知识产权行政执法
Administrative enforcement in IP
- 02 推进知识产权行政执法与司法保护的高效协同
Effective synergy between administrative and
judicial enforcement in IP
- 03 建立与各相关方的执法合作
Enforcement cooperation with all relevant parties



01

开展知识产权行政执法
Administrative enforcement in IP

关于知识产权行政执法
About IP administrative enforcement



浙江省知识产权局
Zhejiang Provincial Intellectual Property Office

浙江省知识产权局

浙江省市场监督管理局

商标行政执法
Trademark administrative enforcement

第一种途径

由商标权利人或者利害关系人提交相应证据，请求立案查处。

The first way, the trademark holder or interested party submits relevant evidence and requests to the authority to initiate a case for investigation and prosecution.

第二种途径

主动开展执法检查。

The second way, takes the initiative to conduct enforcement inspections ex officio.





浙江省知识产权系统积极维护“博世 BOSCH”注册商标专用权，有力的知识产权执法保护，促进在浙江的博世电动工具发展成为全球两大研发中心和三大制造中心之一。

The IP authorities of Zhejiang Province actively protects the exclusive rights of the registered trademark “BOSCH”, providing strong enforcement of IP rights and promoting the development of Bosch power tools company in Zhejiang as one of the two major research and development centers and three major manufacturing centers globally.

专利侵权纠纷行政裁决

Administrative adjudication of patent infringement disputes

- 专利权人或者利害关系人可就专利侵权纠纷，申请司法保护，也可以选择向浙江省各地知识产权局申请行政裁决。

- Patent holders or interested parties may seek judicial protection to resolve patent infringement disputes or apply for administrative adjudication at the IP authorities throughout Zhejiang Province.



Oral proceedings
in administrative adjudication

01

开展知识产权行政执法 Administrative enforcement in IP

我省下辖温岭市知识产权局依法维护浙江中马园林机器股份有限公司“汽油链锯”专利权，其专利相关产品产值从2021年的1400万元增加到2023年的5600万元，“带空气通道的化油器”专利荣获第二十四届中国专利奖。



China Patent Award

The IP Office of Wenling City, legally protects the “gasoline chainsaw” patent rights of Zhejiang Zhongma Garden Machinery Co., Ltd. The output value of its related patented products increased from 14 million yuan (est. \$1.9 million USD) in 2021 to 56 million yuan (est. \$7.6 million USD) in 2023. The patent related to “carburetor with air passage” was awarded the 24th China Patent Award.



建立行政执法与司法保护衔接机制

Establishing a referral mechanism between administrative enforcement and judicial enforcement



Case referral framework agreements between IP authorities and judicial institutions

根据专利权人意愿，专利侵权纠纷案件可在知识产权局和法院之间双向流转。浙江省知识产权局的这项做法，于2021年2月被全国推广。

Patent infringement disputes can be transferred in both directions between the IP authorities and the courts at the request of the patentees. The practice of the Zhejiang Provincial Intellectual Property Office was promoted nationwide in February 2021.

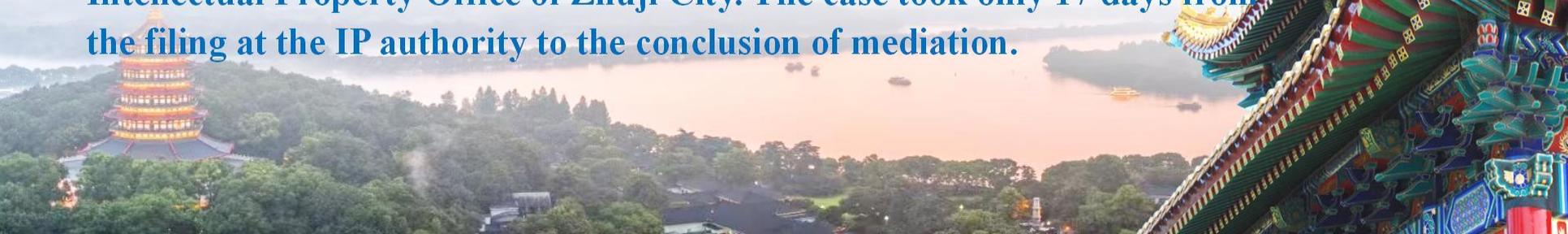


Conference on the Coordinated Protection of IP in Administration and Judiciary



北京一文化创意有限公司就其外观设计专利侵权纠纷，拟向我省下辖法院起诉，后通过专利保护行政司法对接机制，转为向我省下辖诸暨市知识产权局提交行政裁决请求，仅用时17天结案。

A Beijing cultural and creative company intends to file a lawsuit regarding its design patent infringement dispute. Subsequently, through the administrative and judicial connection mechanism for patent protection, it has shifted to submitting a request for administrative adjudication to the Intellectual Property Office of Zhuji City. The case took only 17 days from the filing at the IP authority to the conclusion of mediation.



实行共享的技术事实调查机制

Establishing a joint technical fact-finding mechanism

浙江省知识产权局、省法院、省检察院、省公安厅等共同建立知识产权技术调查、检验检测、鉴定“多位一体”的技术事实调查机制。

An “all-in-one” technical fact-finding mechanism has been jointly established by the Zhejiang Provincial Intellectual Property Office, the provincial court, the provincial procuratorate and the provincial public security department, integrating IP technical investigation, inspection, testing, and appraisal.

浙江知识产权在线 一窗口统办 一平台交易 一链条保护 一站式管理 一体化服务 进入老年模式



首页 / 一站式管理 / 知识产权技术调查官

姓名	擅长领域	聘任单位
安东吉	新能源汽车	温州市中级人民法院
孙行	化学	宁波市市场监督管理局
朱巧兴	专利代理	丽水市市场监管局
吴诗强	软件工程	杭州市检察院
孔向东	机器人及智能制造	台州市市场监管局
华修宇	通信技术	杭州市中级人民法院
邵颖颖	一般的物理或化学的方法或装置, 有机化学	台州市市场监管局

02

推进知识产权行政执法与司法保护的高效协同

Effective synergy between administrative and judicial enforcement in IP

专利侵权

245

Technical
Investigators

351

Administrative
adjudication
cases

例如，2023年，我省下辖杭州市知识产权局办理的一起药品发明专利侵权纠纷案，该案引入3名技术调查官，最终促成双方达成和解，低成本化解了纠纷。



Technical fact-finding of cases

For example, in 2023, the IP Office of Hangzhou handled a pharmaceutical patent infringement dispute, three technical investigators participated, ultimately facilitating a settlement between the parties and resolving the infringement dispute at a low cost.

加强与电商平台的执法协作

Strengthened enforcement cooperation with e-commerce platforms



03

建立与各相关方的执法合作

Enforcement cooperation with all relevant parties

开展知识产权保护国际合作交流

International cooperation and exchanges on IP enforcement



Director General XIE Xiaoyun accepted an interview with Zhejiang Satellite TV



驻华知识产权官员浙江行圆桌交流会
Roundtable discussion of IP officials from embassies,
consulates in China held in Zhejiang





总结

Conclusion

展望未来，浙江省知识产权局将持续做好知识产权行政执法工作，依法平等保护内外资企业的知识产权，为全球人士到浙江投资创业提供最佳创新环境和营商环境。

Looking ahead, the Zhejiang Provincial Intellectual Property Office will continue to work on IP administrative enforcement, protect the IP rights of domestic and foreign-funded enterprises equally in accordance with the law, and provide the best innovation and business environment for the global enterprises to invest and do business in Zhejiang.



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THE OECD-EUIPO EVIDENCE ON RISKS OF ILLICIT TRADE IN COUNTERFEITS TO SMALL AND MEDIUM-SIZED FIRMS

Jaroslaw Mrowiec, Trade Policy Analyst, OECD

Introduction



Motivation and objectives



Scope and methods (how to identify SMEs in IP-related databases? What can be measured?)



Key results

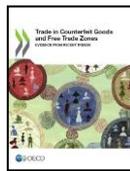
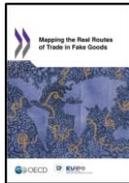
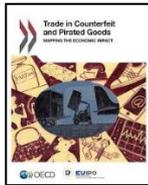
MOTIVATION and OBJECTIVES

- OECD-EUIPO co-operation: to enhance factual evidence on trade in counterfeit goods.
- EUIPO – EU agency for IP; part of its mandate is to “enhance evidence on IP infringements”
- Illicit activities (data are hard to find) hard to provide evidence.
- Our joint reports – based on customs data + qualitative interviews + other data

MOTIVATION and OBJECTIVES

Findings so far:

- Scale of illicit trade in fakes is massive. \$460 bn per year
- Fake goods originate from virtually all economies on all continents.
- Virtually every trademark-protected good can be faked.
- Effects are damaging: lost jobs, lost profits, foregone taxes
- Modern logistical solutions are misused: FTZs, small parcels, container ships, etc.



MOTIVATION and OBJECTIVES

This study

- Economic damages are huge – virtually all industries and all tm-protected goods are affected.
- There is evidence that SMEs are hurt.
If it happens – damages can be fatal.
- Lack of systematic, quantitative analysis regarding the scale of infringement of SMEs and its effects.

MOTIVATION and OBJECTIVES

EUIPO-OECD joint study to enhance evidence:

- Provide rigorous analysis focused on counterfeit products that infringe IP of small and medium firms;
- Analysis of composition of this groups of products, trade flows, trade modes abused and key trade routes.
- Check of potential impacts.

SCOPES and METHODS

How to identify small and medium enterprises in counterfeiting-related datasets?

1. Enforcement database (OECD/EUIPO)
2. Survey database (EUIPO SME Scoreboard)

Enforcement database

EC DG Taxud + US CBP + WCO

Customs seizures of fake goods.

Global scope, relatively long time span (since 2013)

brand infringed → right holder

Difficulties:

Data incomplete

Coming from various sources

Indirect identification of SMEs

Survey database (EUIPO SME Scoreboard)

EU focused survey of companies (two cohorts)

Questions related to IP (use and infringement)

Precise identification of SMEs

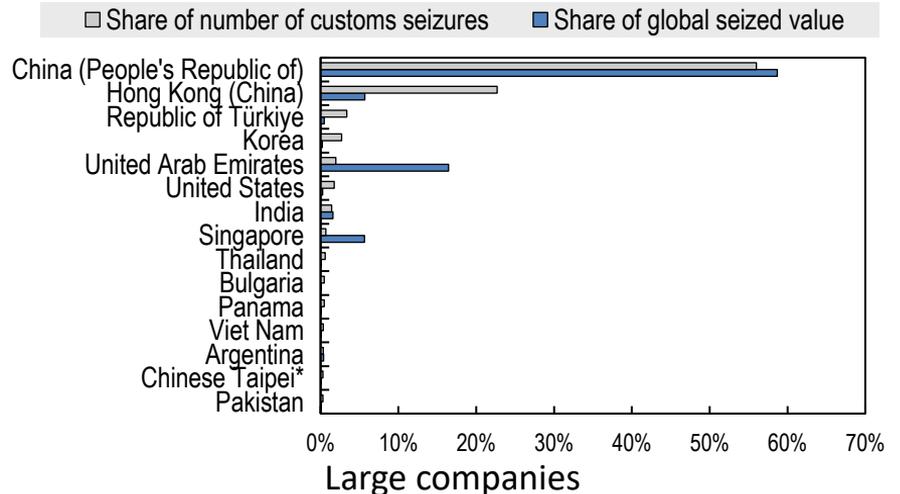
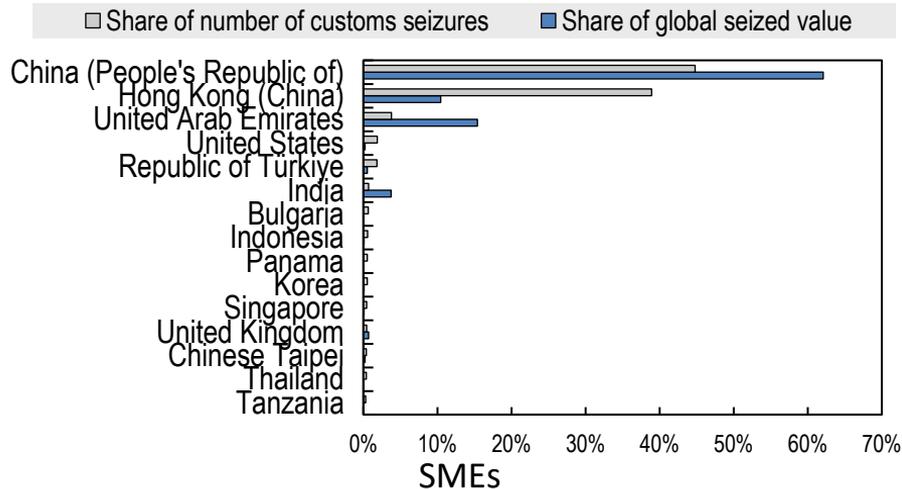
Difficulties:

EU focus

Self-reporting

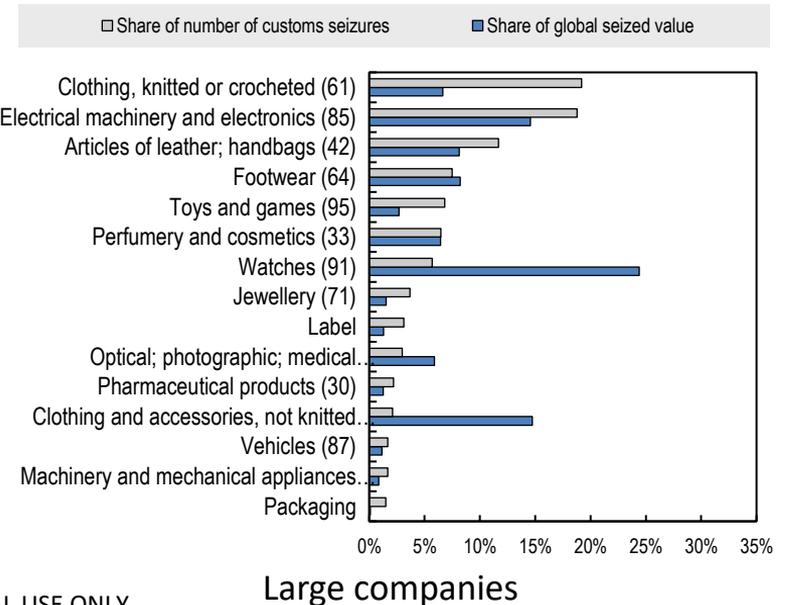
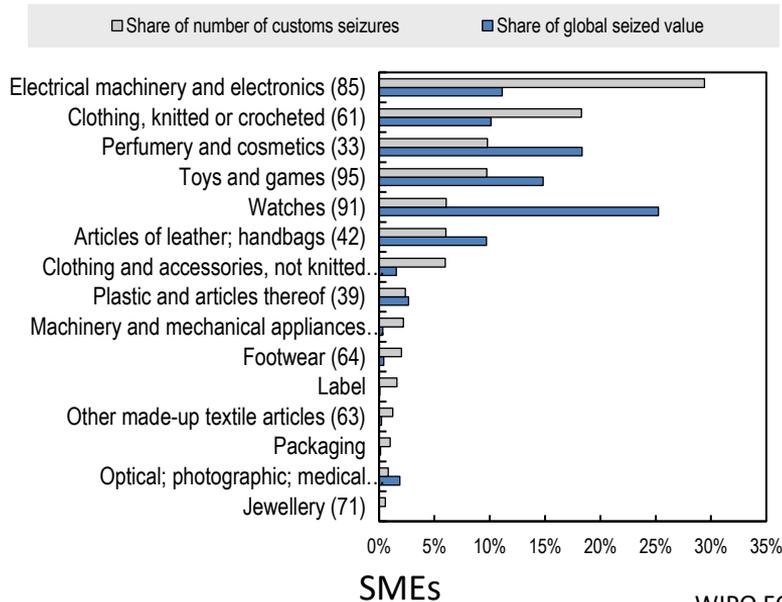
Results

- **Concentration of Seizures:** Goods infringing SMEs' IPR: 84% seized from China and Hong Kong (China), against 79% for Large companies
- **Role of Illicit Trade Hubs:** Hubs like the Republic of Türkiye and Singapore are less prominent for goods infringing on SMEs' IPR than for large companies.



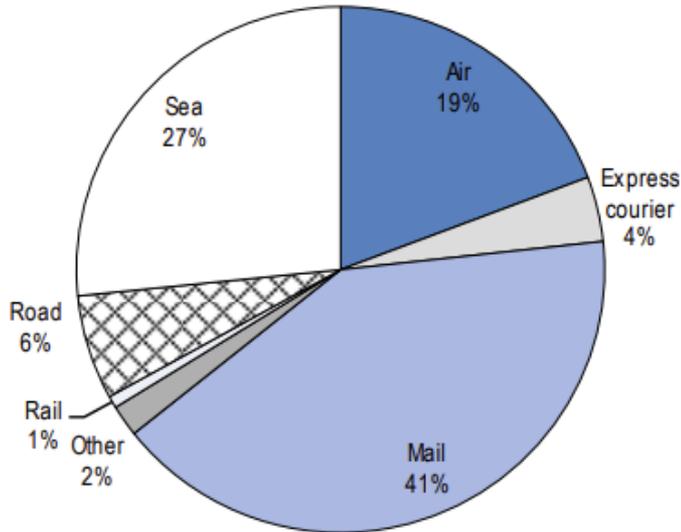
Results

- Wide range of product categories. **Most frequently targeted:** electrical machinery and electronics (30%), clothing (18%), perfumery and cosmetics (10%), and toys and games (10%).
- Generally – distribution **less skewed than for larger firms**



Results

- **Global Customs Seizure Data Insights:** Conveyance methods used by counterfeiters: Shipped by post: 42%; Shipped by sea: 27%; Shipped by air: 19%

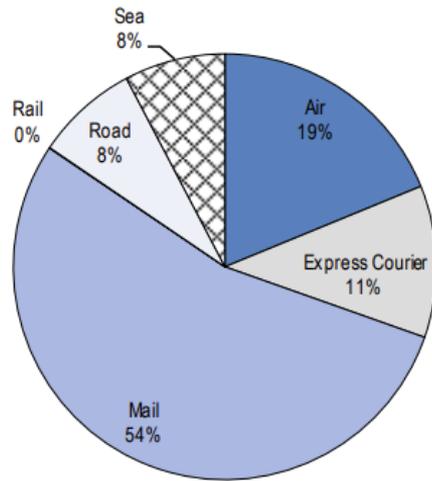


- **Key Differences** in Conveyance Modes:

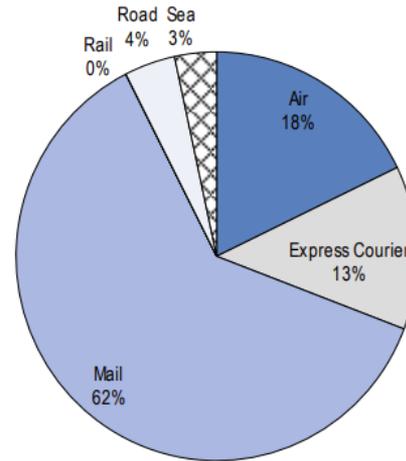
- **SMEs:** Greater use of sea and air transport for counterfeit goods.
- **Larger Companies:** More reliance on express mail and post for counterfeit goods.

Results

Conveyance methods for counterfeit and pirated products – Focus on the EU



SMEs

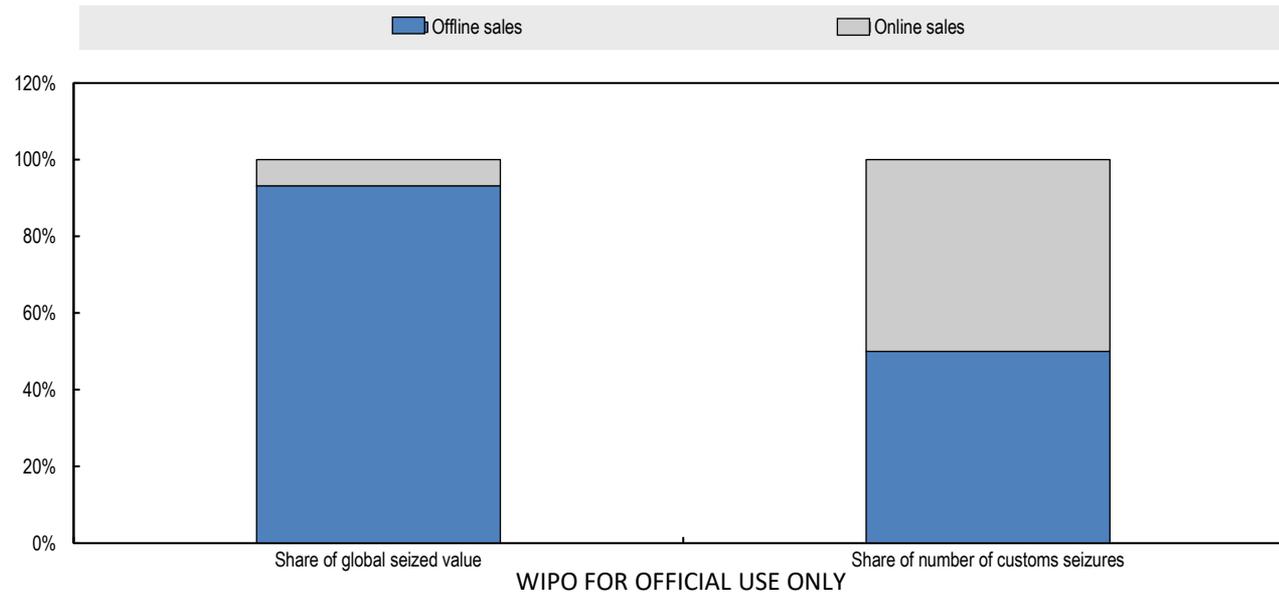


Large companies

Results

Fakes ordered on-line (EU focus):

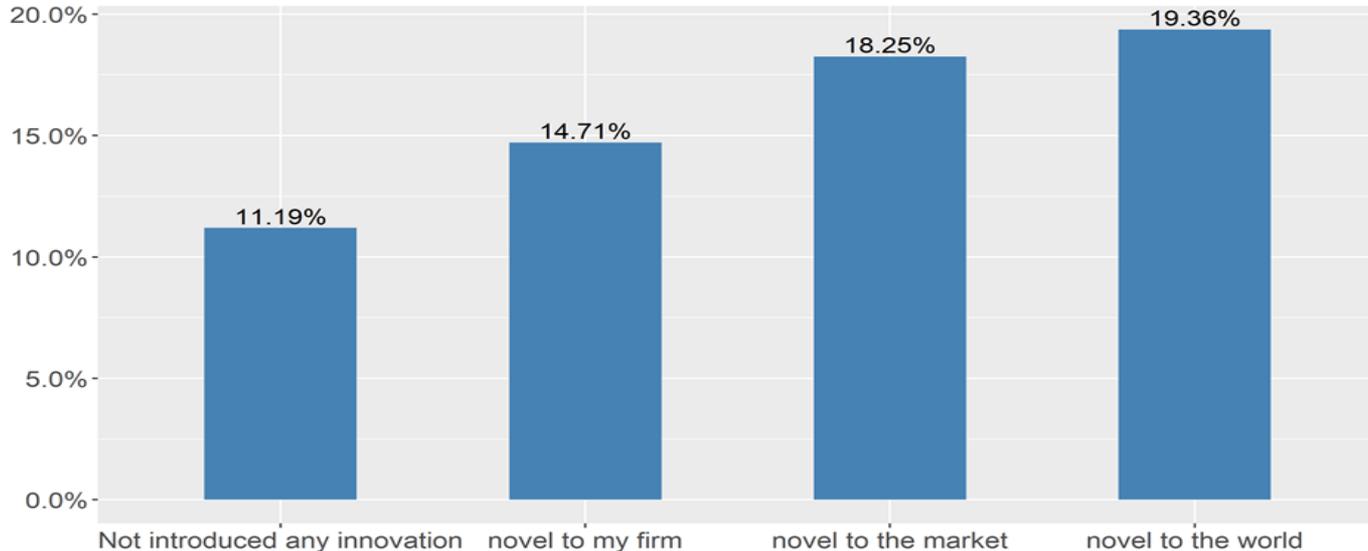
- Half of the seizures of fakes infringing SMEs IP were purchased online
- Online sales only accounted for a small share (7%) of seizures by value.



Results

Survey results:

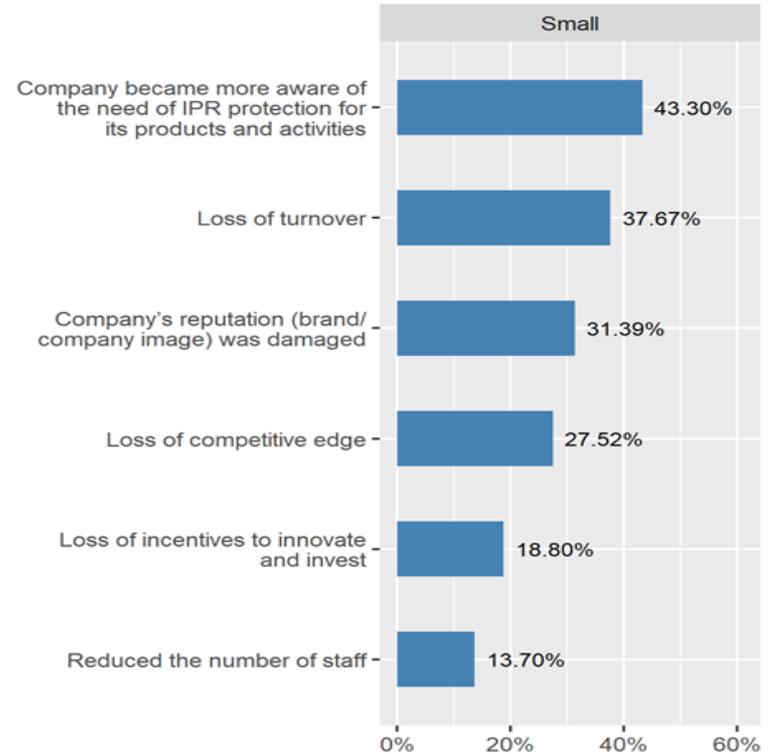
- Among SMEs which have registered intellectual property rights, 15% have experienced an infringement of any type of IPR they own.
- The infringement rate is related to their degree of innovation overall



Results

Reported effects of IP infringement:

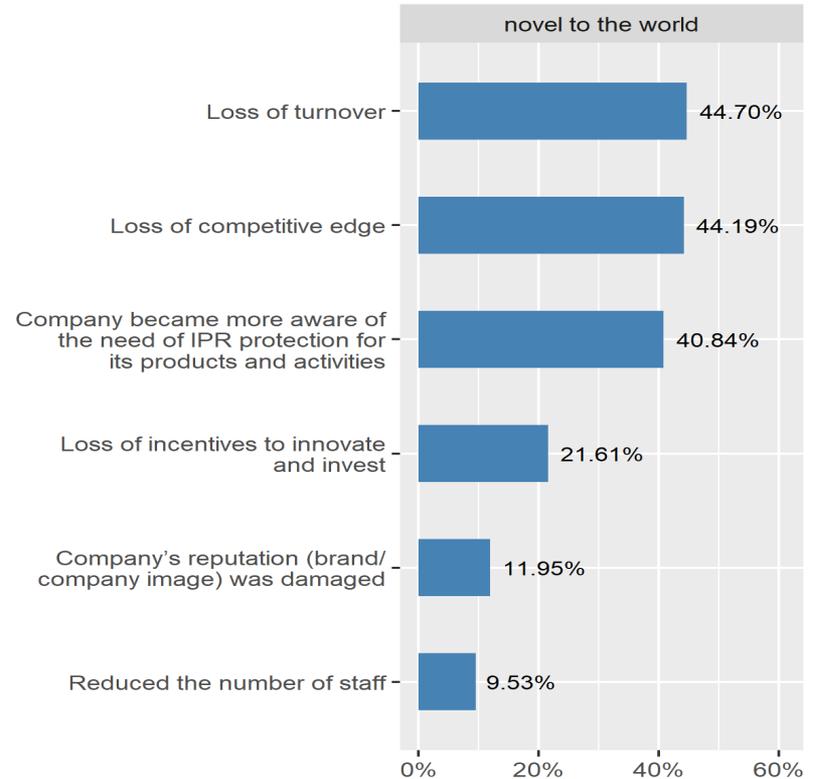
- greater awareness of the need to protect IPR
- loss of turnover but (4th among medium-sized SMEs)
- reputational damage
- loss of their competitive edge



Results

For innovative companies:

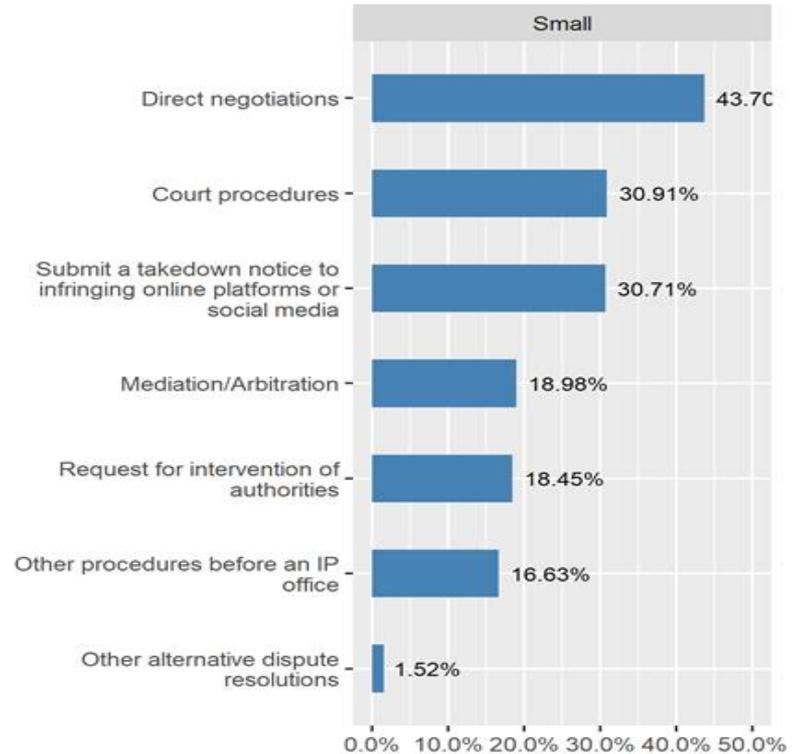
- Loss of turnover
- Loss of competitive edge



Results

Enforcement methods:

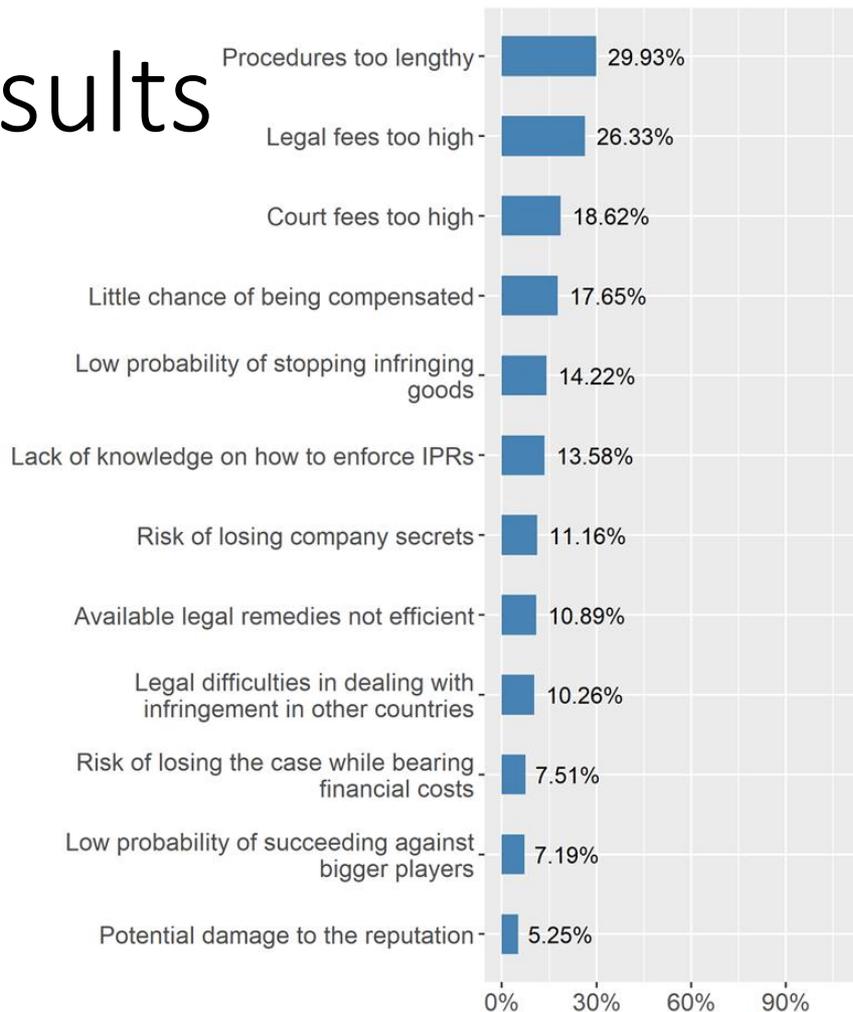
- Direct negotiations
- Submitting takedown notices to Internet platforms
- Court procedures.



11% of firms whose IPR has been infringed do not enforce their rights.

Why?

Results



Results

Question: Does IP infringement push SMEs out of the market?

Method:

- Merge SME Scoreboard data (IP infringement) and ORBIS database (survival rate; 6 year time lag)
- Check if those companies that reported IP infringement have survived?
- Control sample (all kind of companies): size, age, innovativeness, sector, location, dependence

Results:

- SME whose IPRs are infringed has 34% lower odds of survival than SMEs that did not experience infringement.
- The odds of survival are even lower for independent SMEs



THANK YOU

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