

Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003

CHAPTER II

APPLICATIONS

SECTION I

Submission of applications

Article 3

Entitlement to submit an application

The following persons and entities shall, to the extent they are entitled to initiate proceedings, in order to determine whether an intellectual property right has been infringed, in the Member State or Member States where the customs authorities are requested to take action, be entitled to submit:

- (1) a national or a Union application:
 - (a) right-holders;
 - (b) intellectual property collective rights management bodies as referred to in point (c) of Article 4(1) of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights⁽¹⁾;
 - (c) professional defence bodies as referred to in point (d) of Article 4(1) of Directive 2004/48/EC;
 - (d) groups within the meaning of point (2) of Article 3, and Article 49(1) of Regulation (EU) No 1151/2012, groups of producers within the meaning of Article 118e of Regulation (EC) No 1234/2007 or similar groups of producers provided for in Union law governing geographical indications representing producers of products with a geographical indication or representatives of such groups, in particular Regulations (EEC) No 1601/91 and (EC) No 110/2008 and operators entitled to use a geographical indication as well as inspection bodies or authorities competent for such a geographical indication;
- (2) a national application:
 - (a) persons or entities authorised to use intellectual property rights, which have been authorised formally by the right-holder to initiate proceedings in order to determine whether the intellectual property right has been infringed;
 - (b) groups of producers provided for in the legislation of the Member States governing geographical indications representing producers of products with

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geographical indications or representatives of such groups and operators entitled to use a geographical indication, as well as inspection bodies or authorities competent for such a geographical indication;

- (3) a Union application: holders of exclusive licenses covering the entire territory of two or more Member States, where those licence holders have been authorised formally in those Member States by the right-holder to initiate proceedings in order to determine whether the intellectual property right has been infringed.

Article 4

Intellectual property rights covered by Union applications

A Union application may be submitted only with respect to intellectual property rights based on Union law producing effects throughout the Union.

Article 5

Submission of applications

1 Each Member State shall designate the customs department competent to receive and process applications ('competent customs department'). The Member State shall inform the Commission accordingly and the Commission shall make public a list of competent customs departments designated by the Member States.

2 Applications shall be submitted to the competent customs department. The applications shall be completed using the form referred to in Article 6 and shall contain the information required therein.

3 Where an application is submitted after notification by the customs authorities of the suspension of the release or detention of the goods in accordance with Article 18(3), that application shall comply with the following:

- a it is submitted to the competent customs department within four working days of the notification of the suspension of the release or detention of the goods;
- b it is a national application;
- c it contains the information referred to in Article 6(3). The applicant may, however, omit the information referred to in point (g), (h) or (i) of that paragraph.

4 Except in the circumstances referred to in point (3) of Article 3, only one national application and one Union application may be submitted per Member State for the same intellectual property right protected in that Member State. In the circumstances referred to in point (3) of Article 3, more than one Union application shall be allowed.

5 Where a Union application is granted for a Member State already covered by another Union application granted to the same applicant and for the same intellectual property right, the customs authorities of that Member State shall take action on the basis of the Union application first granted. They shall inform the competent customs department of the Member State where any subsequent Union application was granted, which shall, amend or revoke the decision granting that subsequent Union application.

6 Where computerised systems are available for the purpose of receiving and processing applications, applications as well as attachments shall be submitted using electronic data-processing techniques. Member States and the Commission shall develop, maintain and employ

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such systems in accordance with the multi-annual strategic plan referred to in Article 8(2) of Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless customs environment for customs and trade⁽²⁾.

Article 6

Application form

- 1 The Commission shall establish an application form by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 34(2).
- 2 The application form shall specify the information that has to be provided to the data subject pursuant to Regulation (EC) No 45/2001 and national laws implementing Directive 95/46/EC.
- 3 The Commission shall ensure that the following information is required of the applicant in the application form:
 - a details concerning the applicant;
 - b the status, within the meaning of Article 3, of the applicant;
 - c documents providing evidence to satisfy the competent customs department that the applicant is entitled to submit the application;
 - d where the applicant submits the application by means of a representative, details of the person representing him and evidence of that person's powers to act as representative, in accordance with the legislation of the Member State in which the application is submitted;
 - e the intellectual property right or rights to be enforced;
 - f in the case of a Union application, the Member States in which customs action is requested;
 - g specific and technical data on the authentic goods, including markings such as bar-coding and images where appropriate;
 - h the information needed to enable the customs authorities to readily identify the goods in question;
 - i information relevant to the customs authorities' analysis and assessment of the risk of infringement of the intellectual property right or the intellectual property rights concerned, such as the authorised distributors;
 - j whether information provided in accordance with point (g), (h) or (i) of this paragraph is to be marked for restricted handling in accordance with Article 31(5);
 - k the details of any representative designated by the applicant to take charge of legal and technical matters;
 - l an undertaking by the applicant to notify the competent customs department of any of the situations laid down in Article 15;
 - m an undertaking by the applicant to forward and update any information relevant to the customs authorities' analysis and assessment of the risk of infringement of the intellectual property right(s) concerned;
 - n an undertaking by the applicant to assume liability under the conditions laid down in Article 28;
 - o an undertaking by the applicant to bear the costs referred to in Article 29 under the conditions laid down in that Article;

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- p an agreement by the applicant that the data provided by him may be processed by the Commission and by the Member States;
- q whether the applicant requests the use of the procedure referred to in Article 26 and, where requested by the customs authorities, agrees to cover the costs related to destruction of goods under that procedure.

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- (1) [OJ L 157, 30.4.2004, p. 45.](#)
- (2) [OJ L 23, 26.1.2008, p. 21.](#)

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Changes and effects yet to be applied to :

- Regulation applied (with modifications) by S.I. 2023/959 reg. 4(a)Sch. 1

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Signature words omitted by S.I. 2019/514 reg. 27
- Art. 1(1)(b) words substituted by S.I. 2019/514 reg. 3(a)(ii)
- Art. 2(A1) inserted by S.I. 2019/514 reg. 4(2)
- Art. 2(1)(c) words omitted by S.I. 2019/514 reg. 4(3)(a)
- Art. 2(1)(e) words omitted by S.I. 2019/514 reg. 4(3)(b)
- Art. 2(1)(f) words substituted by S.I. 2019/514 reg. 4(3)(c)
- Art. 2(1)(g) words substituted by S.I. 2019/514 reg. 4(3)(d)
- Art. 2(1)(h) omitted by S.I. 2019/514 reg. 4(3)(e)
- Art. 2(1)(i) words substituted by S.I. 2019/514 reg. 4(3)(g)
- Art. 2(1)(j) words omitted by S.I. 2019/514 reg. 4(3)(h)
- Art. 2(1)(k) omitted by S.I. 2019/514 reg. 4(3)(f)
- Art. 2(1)(l) words omitted by S.I. 2019/514 reg. 4(3)(h)
- Art. 2(2)(3) substituted by S.I. 2019/514 reg. 4(4)
- Art. 2(4) substituted by S.I. 2019/514 reg. 4(5)
- Art. 2(5)(a) words substituted by S.I. 2019/514 reg. 4(6)
- Art. 2(5)(b) words substituted by S.I. 2019/514 reg. 4(6)
- Art. 2(6) words substituted by S.I. 2019/514 reg. 4(7)
- Art. 2(7) words substituted by S.I. 2019/514 reg. 4(8)(a)
- Art. 2(7)(a) words omitted by S.I. 2019/514 reg. 4(8)(b)
- Art. 2(7)(b) words omitted by S.I. 2019/514 reg. 4(8)(b)
- Art. 2(7)(c) words omitted by S.I. 2019/514 reg. 4(8)(b)
- Art. 2(10) words substituted by S.I. 2019/514 reg. 4(9)
- Art. 2(11) omitted by S.I. 2019/514 reg. 4(10)
- Art. 2(15) words substituted by S.I. 2019/514 reg. 4(11)
- Art. 2(17) omitted by S.I. 2019/514 reg. 4(12)
- Art. 2(18) words substituted by S.I. 2019/514 reg. 4(13)
- Art. 2(19) words substituted by S.I. 2019/514 reg. 4(14)(a)
- Art. 2(19) words substituted by S.I. 2019/514 reg. 4(14)(b)
- Art. 3(1)-(3) substituted by S.I. 2019/514 reg. 5(b)
- Art. 5(3)(b) omitted by S.I. 2019/514 reg. 7(b)
- Art. 6(3)(d) words substituted by S.I. 2019/514 reg. 8(c)(ii)
- Art. 6(3)(f) omitted by S.I. 2019/514 reg. 8(c)(iii)
- Art. 6(3)(j) words omitted by S.I. 2019/514 reg. 8(c)(iv)
- Art. 6(3)(p) words substituted by S.I. 2019/514 reg. 8(c)(v)
- Art. 16(1)(a) word substituted by S.I. 2019/514 reg. 13(a)(ii)
- Art. 16(1)(b) omitted by S.I. 2019/514 reg. 13(a)(iii)
- Art. 21(b) words substituted by S.I. 2019/514 reg. 14
- Art. 25(1)(b) words substituted by S.I. 2019/514 reg. 18