Commission Implementing Regulation (EU) 2020/1209 of 13 August 2020 amending Implementing Regulation (EU) No 1352/2013 establishing the forms provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1209

of 13 August 2020

amending Implementing Regulation (EU) No 1352/2013 establishing the forms provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 6(1) and Article 12(7) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) No 1352/2013[(2)] establishes the forms to be used to submit an application requesting that customs authorities take action with respect to goods suspected of infringing an intellectual property right, referred to in Article 6 of Regulation (EU) No 608/2013, and to submit a request for extension of the period during which the customs authorities are to take action, referred to in Article 12 of that Regulation ('the forms').

(2) The forms need to be adapted to take into account the introduction of the EU Customs Trader Portal for the electronic submission of the forms. In order to provide a secure access to that portal, it is important that the applicants and their representatives are identified in a unique manner. For that, the Economic Operators Registration and Identification (EORI) number will become a mandatory field in the box for the applicant and the representative in the forms.

(3) The EORI system already provides unique identification numbers for economic operators. It is appropriate to apply that system also to persons other than economic operators within the meaning of Article 6(1)(a) of Commission Delegated Regulation (EU) 2015/2446[(3)].

(4) Regulation (EU) No 386/2012 of the European Parliament and of the Council[(4)], and in particular Article 2(2)(b) thereof, assigns to the European Union Intellectual Property Office (EUIPO) the task to collect, analyse and disseminate relevant objective, comparable and reliable data regarding infringements of intellectual property rights.

(5) In accordance with Article 5(1)(b) of Regulation (EU) No 386/2012, the Commission forwards to the EUIPO any relevant information related to the suspension of the release

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/1209. (See end of Document for details)*

or the detention of goods suspected of infringing intellectual property rights that is provided by the Member States in accordance with Article 31(2) of Regulation (EU) No 608/2013.

(6) In order to enable a deeper analysis of the infringement data and to improve the understanding of the geographical scope and impact of the infringements, it is important that the suspension of the release and the detention of such goods can be attributedto the holder of the decision. It is also important that that person is informed, already when the forms are filed, of the fact that his or her personal data will be provided to the EUIPO and consents to that data transfer. Therefore the forms need to be adapted accordingly.

(7) Following the entry into application of Regulations (EU) 2016/679[(5)] and (EU) 2018/1725[(6)] of the European Parliament and of the Council, the references in the forms to the data protection provisions need to be updated.

(8) Taking into account that, in accordance with Article 31 of Regulation (EU) No 608/2013, all exchanges of data on decisions relating to applications and detentions between the Member States and the Commission are to be made via the central database of the Commission and that that database needs to be adjusted to the new forms, the amendments to Annexes I to III to Implementing Regulation (EU) No 1352/2013 should apply from 15 September 2020.

(9) Implementing Regulation (EU) No 1352/2013 should therefore be amended accordingly.

(10) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on 24 June 2020.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 1352/2013 is amended as follows:

(1) Annex I is replaced by the text in Annex I to this Regulation;

(2) Annex II is replaced by the text in Annex II to this Regulation;

(3) Annex III is amended in accordance with Annex III to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 15 September 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 August 2020.

For the Commission

The President

Ursula VON DER LEYEN

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/1209. (See end of Document for details)*

ANNEX I

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/1209. (See end of Document for details)*

ANNEX

EUROPEAN UNION – APPLICATION FOR ACTION

1

COPY FOR THE COMPETENT CUSTOMS DEPARTMENT

1. Applicant
Name*:
EORI-No*:
Address*:
Town*:
Postal Code:
Country*:
TIN No:
National registration No:
Telephone: (+)
Mobile: (+)
Fax: (+)
Email*:
Website:

For official use
Date of receipt
Registration number of application

INTELLECTUAL PROPERTY RIGHTS

APPLICATION FOR ACTION BY CUSTOMS AUTHORITIES

under Article 6 of Regulation (EU) No 608/2013

2*. Union application ☐
National application ☐
National application (cf. Article 5(3)) ☐

3*. Status of applicant

☐ Right-holder
☐ Person or entity authorised to use the IP right
☐ IP collective rights management body
☐ Professional defence body
☐ Group of producers of products with a Geographical Indication or representative of such group
☐ Operator entitled to use a Geographical Indication
☐ Inspection body or authority competent for a Geographical Indication
☐ Exclusive license holder covering two or more Member States

4. Representative submitting the application in the name of the applicant
Company:
Name*:
EORI-No*:
Address*:
Town*:
Postal Code:
Country*:
Telephone: (+)
Mobile: (+)
Fax: (+)
Email*:
Website:

☐ Evidence of the representatives power to act is enclosed

1

5*. Type of right to which the application refers

☐ National trademark (NTM)
☐ European Union trademark (EUTM)
☐ International registered trademark (ITM)
☐ Registered national design (ND)
☐ Registered Community design (CDR)
☐ International registered design (ICD)
☐ Unregistered Community design (CDU)
☐ Copyright and related right (NCPR)
☐ Trade name (NTN)
☐ Topography of semiconductor product (NTSP)
☐ Patent as provided for by national law (NPT)
☐ Patent as provided for by Union law (UPT)
☐ Utility model (NUM)

Geographical Indication/Designation of origin:
☐ for agricultural products and foodstuff (CGIP)
☐ for wine (CGIW)
☐ for aromatised drinks based on wine products (CGIA)
☐ for spirit drinks (CGIS)
☐ for other products (NGI)
☐ as listed in Agreements between the Union and third countries (CGIL)

Plant variety right:
☐ national (NPVR)
☐ Community (CPVR)

Supplementary protection certificate:
☐ for medicinal products (SPCM)
☐ for plant protection products (SPCP)

6*. Member State or, in the case of a Union application, Member States in which customs action is requested

☐ ALL MEMBER STATES ☐ BE ☐ BG ☐ CZ ☐ DK ☐ DE ☐ EE ☐ IE ☐ EL ☐ ES ☐ FR ☐ HR ☐ IT ☐ CY ☐ LV ☐ LT ☐ LU ☐ HU ☐ MT ☐ NL ☐ AT ☐ PL ☐ PT ☐ RO ☐ SI ☐ SK ☐ FI ☐ SE ☐ UK

7. Representative for legal matters
Company:
Name*:
Address*:
Town*:
Postal Code:
Country*:
Telephone: (+) Fax: (+)
Mobile: (+)
Email*:
Website:

8. Representative for technical matters
Company:
Name*:
Address*:
Town*:
Postal Code:
Country*:
Telephone: (+) Fax: (+)
Mobile: (+)
Email*:
Website:

9. In case of a Union application, the details of the designated representatives for legal and technical matters are included in annex no .....

10. I request the use of the procedure of Article 26 of Regulation (EU) No 608/2013 (small consignments) in the following Member State(s) and, where requested by the customs authorities, agree to cover the costs related to the destruction of goods under this procedure.

☐ ALL MEMBER STATES ☐ BE ☐ BG ☐ CZ ☐ DK ☐ DE ☐ EE ☐ IE ☐ EL ☐ ES ☐ FR ☐ HR ☐ IT ☐ CY ☐ LV ☐ LT ☐ LU ☐ HU ☐ MT ☐ NL ☐ AT ☐ PL ☐ PT ☐ RO ☐ SI ☐ SK ☐ FI ☐ SE ☐ UK

* these are mandatory fields and shall be filled in 1 (+) at least one of these fields shall be filled in