

«FIGHTING COUNTERFEITING AND REVIVING THE ECONOMY»

Éléments de langage intervention de M. Coen  
(5 minutes)

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Between ultraliberals asking for more freedom of trade and anti-liberals arguing that intellectual property protection constitutes an attack to freedom, we can definitely say that IP is going through difficult times.

Everyone knows that market economy needs some rules in order to properly work.

That is why, today more than ever, intellectual property needs to be defended at different levels. We need to kill off the misleading arguments raised by “*antilP*” and highlight not only the real danger of counterfeiting, but the benefits of an effective IP protection for all our society.

**We all do know what counterfeiting really means for our society. The moment has come to efficaciously spread the message that counterfeiting is, of course, an important economic loss for private companies, but also a huge hole in States’ economy, a danger for consumers, as well as a real threat for employment and even for environment.**

Every country and every economic field is hit by counterfeiting.

Counterfeiting represents, according to the *International chamber of commerce*, between 5 and 10 % of world trade, which is to say, more than 400 trillion Euros. This figure might triplicate in upcoming years.

Another study lead by *Frontier Economics*, reveals that counterfeiting would cost, only to the G20 member countries, more than 70 trillion Euros per year:

50 trillion in uncollected tax, 12 trillion in operational expenses to sustain the fight of counterfeiting networks, and 8 trillion in reason of health expenses due to injuries caused by counterfeited items.

The impact on private companies is, in terms of innovation expenses and jobs, even more worrying. Member countries of the G20, would lose, because of counterfeiting-related activities, somewhere around 1,2 million of jobs.

Unifab interviewed French companies concerning this matter: one out of two considers that counterfeiting directly threatens their employment policy.

Other impressive data concerns seizures of counterfeited products: only in France, every year, around 7 million of items are seized, while at the border of 27 EU member states, those reach the impressive quantity of 180 million.

**This is the reason why, we cannot fail at fighting it, the consequences are too dangerous and our responsibility too high.**

Moreover, the de-materialization of counterfeiting activities brings new threats to our economy and new challenges for all of us.

The efficiency of campaigns and policies against internet counterfeiting cannot be flagged as “high”. We know we haven’t been able so far to stop the flux of counterfeited products via the internet, nor to break the widespread of illegal streaming and downloading of pirate content.

For instance, there are still roughly 150 million active users using BitTorrent, the world’s first peer-to-peer file sharing website.

Just in France, more than 4 million people regularly use illegal streaming and downloading.

In order to face such big figures, we need to provide a collective answer involving all different internet players.

We may bring as example of the efficiency of team work the “European MOU”, a Code of practice for the fight against the trade of counterfeited goods over the internet, as well as French “*Charters of fight against counterfeiting on the Internet*” (“*Charte de lutte contre la contrefaçon sur internet*”), signed by different intermediaries, like e-commerce platforms, internet advertising operators and postal services.

In the meantime, new dangers arise, such as, for instance, new 3D Printing technology.

We are barely aware of the functioning of such machines, but we can easily imagine how counterfeiting will be impacted. The possibility to manufacture at home its own products via a downloadable blueprint is a dream, a great opportunity...and a huge threat. How to regulate it? How to protect our companies? How to give them the opportunity to take advantage from this new technology?

Likely, 3D printers will be in every home in Europe in less than ten years; we should not wait for the explosion of this phenomenon before evaluating its impact on counterfeiting. We should start studying if technical adjustments may be taken into account, we should think how and in which conditions 3D printing would be covered by copyright exceptions, and we must avoid mistakes made in the past, combining an effective repression of counterfeiting with a parallel legal offer of 3D blueprint models.

Going back to our main subject, the question we all need to ask ourselves is: **how can we improve the fight against counterfeiting?**

We don't pretend to have a magical recipe, but we are convinced that we can do better, by:

- Finding solutions at European level;
- Acting together and learn from each other practices;
- Better raising awareness of all actors and public opinion;
- Reinforcing the legislative framework.

### **1. FINDING SOLUTIONS AT EUROPEAN LEVEL**

Counterfeiters are clever, and they understood how to take great advantage from globalization. Nowadays counterfeiting has become a worldwide phenomenon, it no longer has borders.

**Since the problem is international, it is crucial that the answer we bring, becomes multinational too.**

That is why we are convinced that we have to encourage the international harmonization of national initiatives, in order to build efficient European answers. Only solutions at such level will be efficient at tackling counterfeiting.

### **2. ACTING TOGETHER AND LEARNING FROM EACH OTHER**

**Nothing would make more sense than strengthening the procedures for cooperation and exchange of information and good practices.** This is really where lays the key to successfully combat counterfeiting.

In other words, the development of European collaboration must be a number one priority. Therefore any initiative to reinforce cooperation between national authorities shall always be encouraged.

All the actors shall be gathered around the table. If it is true in terms of members states, it is also true for actors involved in the chain, such as the technical operators (for instance, postal and payment services).

In that sight, **developing new tools of exchanging knowledge, experiences and best practices is fundamental.**

We have many good examples of this kind of collaboration at European level which we shall really encourage. We could notably mention the very good work carried out by our European counterparts, like the German, Spanish and Italian associations, APM, Andema and Indicam. And we can't resist to the temptation of congratulating Indicam for its commitment to the cause, especially its great contribution to the new system of domain names seizure procedures.

We would also like to highlight the great job done by the European Observatory on Infringements of Intellectual Property Rights.

We would also like here to shed the light on the essential improvement of cooperation between European Customs. We conceive Europe as a whole, interlinked marketplace, and our customs need to work together to assure an effective protection from the invasion of counterfeited goods.

Our customs should improve the way they communicate, as to share more and more relevant information and organize conjunct seizure operations.

As underlined by the Commission's 2012 Report on EU Customs Enforcement of Intellectual Property Rights, also the strengthening of cooperation between customs and right holders has primary importance.

The current report procedure has marked impressive results in last years: the number of applications lodged by right holders has constantly increased, from 1600 in 2002 to over 23.000 in 2012. But we should keep on informing right holders that customs are ready to listen them and to act consistently.

### **3. RAISING AWARENESS**

Another key element of our fight is awareness. It is crucial when conducting awareness campaigns, to target all actors. **That is why we need to remind to politicians, economists, law makers and consumers how dangerous counterfeiting is and of how many damages may be brought to our economic tissue by any softening of the legal framework concerning it.**

If it is quite reductive to consider that there would be no buyer if there were no counterfeited goods, **raising awareness among the general public**, is without a doubt, a crucial part.

Unifab commits to this cause, and it carries out a variety of activities, such as temporary exhibitions at its Counterfeiting Museum, ("*Le Musée de la Contrefaçon*" welcoming more than 10.000 visitors each year), or information campaigns held in summer for consumers in the south of France.

Our organization is also a proud promoter of initiatives concerning intellectual property protection at an international level, such as those carried out concerning Chinese New Trademark Law and the Russian "temptation" to legalize Parallel Trade.

But there are many other similar actions carried out by our European partners, for which we are very thankful, **such as the European Commission communication campaign, EUStopfakes, launched by Vice-President Antonio Tajani and Commissioner Michel Barnier**

and aiming to draw attention to the problem across Member States, raising the awareness of citizens and authorities at the highest levels about counterfeiting.

Of course, it is also important to **raise awareness among companies**. To do so, we need to build up a climate of trust and confidence in IP and reduce the wrong feeling that some companies sometimes have, that IP protection is expensive and superfluous, and that public authorities are no longer interested in intellectual property owners as soon as they finish spending their money to register their rights.

It is important to reinforce information towards companies so that they can be fully aware of all the practical tools available to help them in getting consistent protection and fighting against counterfeiting.

On that aspect, Unifab greatly helps companies, notably by organizing trainings with authorities in charge.

Finally, we believe that the awareness raising efforts shall also target **policy makers and judges**, so that they can better understand all the economic issues, notably regarding the key question of compensating full damages.

#### **4. REINFORCING THE LEGISLATIVE FRAMEWORK**

The fight against counterfeiting goes indeed through the reinforcement of legal mechanisms.

One simple question helps to understand the major problem behind counterfeiting: **why are there so many counterfeited goods?**

**The answer is easy: very big profits and very low risk.** A counterfeiter can make more money than a drug dealer, but yet with a considerably lower risk.

Therefore, why should he not give it a try? This reasoning needs to be changed. **Sanctions must become really dissuasive.**

This is why we welcome the new bill being discussed by French National Assembly for the strengthening of law. If voted, the new law will reinforce civil damages to victims of counterfeiting and strengthen custom's powers.

We would also like to seize this occasion to remind here that we all should monitor any softening of law concerning copyright exceptions.

**The undergoing revision of the European trademark system shall follow this spirit. On that aspect, we would like to thank the European Commission for its courageous positions notably on crucial points such as the "transit issue".**

At Unifab, in collaboration with our European partners, we make everything we can to convince lawmakers that the "Nokia-Philips situation" needs to be changed and that allowing again customs agents to control transiting items is an absolute necessity.

The revision of the trademark system gives Europe an occasion to demonstrate its will to defend companies on its territory and to show it strongly wants to protect consumers within and outside EU borders.

On this issue, as well as on others, it is essential for Europe to be ambitious and to adopt courageous texts. Only such an attitude will enable EU to reach the goals of promoting IP, protecting innovation, reinforcing the single market policy, and intensifying European companies' competitiveness abroad.

**This will be one of the many hot topics that will be debated at the EUROPEAN INTELLECTUAL PROPERTY FORUM organized by UNIFAB; next February 13th & 14th 2014**

#### **CONCLUSION**

We strongly believe our future relies upon the effective defense of innovation, and that the protection of intellectual properties constitutes the key for giving our economies a new life.

This is why we need to put back the fight against counterfeiting at the core of all our concerns. Only a conjunct action of all our organizations will assure that due attention on this issue is raised, both in public and private sector.

We are sure that through our joint effort we will ensure the safeguard of creativity, jobs and economy in Europe.

## ANNEXES

### 1. USEFULL WEBSITES :

- EUROPEAN COMMISSION: [www.ec.europa.eu/index\\_fr.htm](http://www.ec.europa.eu/index_fr.htm)
- EU OBSERVATORY : [www.oami.europa.eu/ohimportal/en/web/observatory/home](http://www.oami.europa.eu/ohimportal/en/web/observatory/home)
- EUROPOL: [www.europol.europa.eu/](http://www.europol.europa.eu/)
- OHIM: [www.oami.europa.eu/ohimportal/en/](http://www.oami.europa.eu/ohimportal/en/)
- OMD: [www.wcoomd.org/fr/](http://www.wcoomd.org/fr/)
- INTERPOL: [www.interpol.int/fr/](http://www.interpol.int/fr/)
- WIPO: [www.wipo.int/portal/en/index.html](http://www.wipo.int/portal/en/index.html)
- ECTA: [www.ecta.org](http://www.ecta.org)
- ACG : [www.a-cg.org/](http://www.a-cg.org/)
- GACG: [www.gacg.org](http://www.gacg.org)
- APM: [www.markenpiraterie-apm.de/index.php](http://www.markenpiraterie-apm.de/index.php)
- INDICAM: [www.indicam.it](http://www.indicam.it)
- ANDEMA: [www.andema.camaras.org/](http://www.andema.camaras.org/)
- CNAC: [www.contrefacon-danger.com/](http://www.contrefacon-danger.com/)
- UNIFAB : [www.unifab.com](http://www.unifab.com)

- EUROPEAN INTELLECTUAL PROPERTY FORUM; February 13th & 14th 2014:  
[http://www.unifab.com/images/FEPI\\_Programme\\_2014\\_web\\_11.pdf](http://www.unifab.com/images/FEPI_Programme_2014_web_11.pdf)

- UNIFAB STUDY: IMPACT OF COUNTERFEIT ON COMPANIES  
<http://www.unifab.com/images/Avril2010rapport.pdf>

### 2. ILLUSTRATIONS

#### A) . UNIFAB



#### B) AWARENESS CAMPAIGN MATERIAL



# LES CONTREFACTEURS SONT DES GENS FORMIDABLES :

LES FAUX NE NUISENT PAS A LA SANTÉ ET À LA SÉCURITÉ DU CONSOMMATEUR  
ILS FABRIQUENT DANS LES MÊMES USINES QUE LES VRAIS PRODUITS  
ILS RESPECTENT TOUJOURS LES NORMES DE FABRICATION  
ILS SONT ATTENTIFS À L'ENVIRONNEMENT  
ILS RESPECTENT LE DROIT SOCIAL  
ILS DOPENT L'ÉCONOMIE



## ARRÊTEZ D'AVALER N'IMPORTE QUOI !

**LA CONTREFAÇON MET EN DANGER  
VOTRE SANTÉ ET VOTRE SÉCURITÉ**



union des  
fabricants **unifab**

### C) MUSEUM OF COUNTERFEITING

