

# WIPR Annual 2020 Business Brief: Greece

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Maria Athanassiadou and Fotini Kardiopoulis of Dr Helen G Papaconstantinou and Partners outline IP law in Greece.

## Patents

Inventions are protected in Greece by national or validated European patents, with a 20-year term and subject to payment of annual fees. Inventions concerning 3D objects which are novel and

industrially applicable, and capable of providing a solution to a technical problem, may be protected as a utility model, which has a maximum duration of seven years and is renewed annually.

Where the applicant is a Greek national, Patent Cooperation Treaty and European patent applications must be filed through the Greek Patent Office.

The duration of protection of pharmaceutical inventions as well as of inventions concerning plant protection products protected in Greece by a national or a European patent, may be extended by the grant of a supplementary protection certificate (SPC).

Information on existing patents in Greece can be found in the official bulletin issued by the Greek Patent Office as well as on the national patent register. Both are available online.

Upon detection of an infringing act, the patent owner may seek a temporary restraining order, which is filed concurrently with a petition for injunctions, requesting the cessation of the infringing act and removal of the infringing products from the market. With a main infringement action, the patent owner may also request compensation and moral damages.

Establishing an efficient watching system for detecting infringing products is key. Infringement actions can be brought before the competent courts by the patent owner and an exclusive licensee. Co-owners can bring infringement actions independently.

"The costs for enforcing and defending patents in Greece depend on several factors, such as complexity of the case."

The costs for enforcing and defending patents in Greece depend on several factors, such as complexity of the case, duration of proceedings, involvement of technical experts, translation costs. However, they are relatively low in comparison with other jurisdictions.

## Trademarks

Trademark rights are primarily obtained through registration. Three types of registration are available in Greece: national, EU, and international. Use of a sign in the course of trade may result in a non-registered sign, protected under the law of unfair competition.

Trademarks confer on their owners a positive right (right to use the mark) and a negative one (right to prevent unauthorised third parties from using the mark). Acting proactively (eg, by instituting market monitoring and customs surveillance procedures) is very important for deterring trademark infringement. Under the circumstances, cease-and-desist letters often offer a cost-efficient and effective alternative to court action.



Likewise, negotiations through experienced legal counsel can also lead to a speedier resolution of disputes, usually backed up with the execution of a relevant agreement.

Such action may entail injunctive relief and a main infringement action where compensation and moral damages may also be sought, depending on the circumstances.

Approximately one year after its public consultation, a long-anticipated new trademark law has finally come into

force. The aim of Law 4679/20-3-2020 is to implement Directive 2015/2436 and to efficiently approximate the treatment of the national mark to that of the EU trademark.

Major changes introduced by the aforementioned law include:

- Elimination of the requirement for “graphic representation” as an element of the notion of a trademark;
- Abolition of the *ex officio* examination of relative grounds
- Transfer of the competence to rule upon the validity of trademarks from the administrative to the civil courts. Although the Trademark Administrative Committee remains competent to hear both oppositions and invalidity/revocation actions, the committee’s decisions with respect to invalidity/revocation actions are now subject to appeal before the civil and not before the administrative courts;
- Introduction of invalidity/cancellation counter-claims of a national mark in the context of infringement proceedings before the civil courts;
- Introduction of lack of use as a defence in the context of infringement proceedings before the civil courts;
- Adoption of “certification marks” for the first time on a national level; and
- Possibility of voluntary mediation before the Greek Trademark Office.

Following enactment of the above law, Greece is finally compliant with the Directive—at least in theory—but it remains to be seen how successfully and smoothly its provisions will be applied by the judiciary.

## Counterfeiting

Counterfeiting is a significant problem in Greece, with the pharmaceutical industry being particularly vulnerable. Other sectors at threat are cosmetics, products for personal care, clothing, footwear, pesticides, smartphones, batteries, and tyres.

"An initial mediation session is now compulsory in legal disputes arising from patent, trademark and industrial design infringements."

For the most effective protection of their rights, IP owners must adopt preventive strategies, i.e., efficient monitoring systems. Establishing a customs watch system by filing an application for a customs watch action is highly recommended.



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Only a small portion of counterfeit goods imported into Greece are seized by customs. Consequently, rights owners should be vigilant in monitoring the internal market for counterfeit goods. Law 4155/2013 provides a simplified procedure with respect to the seizure and destruction of counterfeit goods by a number of enforcement agencies such as the customs, the economic task force, the police and the coastguard.

Since counterfeiting occurs increasingly online and through social media, rights owners must also monitor those areas.

## Copyright

In the copyright sphere, Greece does not appear to have fully addressed online piracy or end-user software piracy, in either the public or the private sectors. Unlicensed sharing of copyright-protected software among multiple computers is the largest problem for the software industry, while unlicensed file-sharing of music and movies on the internet is a major problem.

Copyright protection is not subject to any formality; the work is protected automatically upon its creation and there is no official register for copyright.

Law 4481/2017 also provides for a “time-stamping” service by the Hellenic Copyright Organization, in order for all authors to be capable of proving the date at which their work existed.

In cases of copyright infringement, civil and criminal proceedings are both available. Criminal prosecution takes place *ex officio* and potential sanctions are quite severe.

Until recently, the protection of copyright, particularly from infringement on the internet, has been inefficient. Law 4481/2017 includes a number of provisions enhancing the protection of copyright and related rights on the internet.

An important provision for the protection of IP rights on the internet, despite certain difficulties in its implementation, introduces a “notice and takedown procedure”.

## Other developments

With the application of Law 4640/2019, an initial mediation session is now compulsory in legal disputes arising from patent, trademark and industrial design infringements.

The session, along with proof of the attorney’s compliance to the obligation to inform the client in writing about the option of mediation, is now a prerequisite for the admissibility of a lawsuit.

It remains to be seen how this development will change the landscape in the Greek civil procedural system and whether it will effectively contribute to the long-wished-for reduction of the workload of the courts.



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