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CUSTOMS AUTHORITIES' MOBILE CONTROL GROUP IN ACTION AGAINST PRODUCT PIRATES

reported by Jürgen Strass

This was not how a Chinese exhibitor had imagined his start at the IAA International Motor Show in Frankfurt. As early as on the second press day, which is even before the trade days and the public days, a group of customs officers in uniform, accompanied by two patent attorneys, cleared the newly set-up trade fair stand, seizing counterfeits of windscreen wipers and packagings, which, to all appearances, infringe patents held by a French automotive supplier.

During this action, which attracted a lot of attention, a mobile customs group having special powers was employed at the IAA for the first time. This unit had been requested especially for checking exhibitors from non-EU countries. Surprisingly, only one single company had its rights enforced at the IAA, despite the current commotion in connection with market damage caused by illegal imitations from the Far East. Patent attorneys Jürgen Strass and Bernhard Fuchs of the Munich law firm Prinz & Partner, who had prepared and successfully carried out the seizure on behalf of their client, pointed out that the new possibilities of preserving evidence within the framework of criminal proceedings, which were introduced especially for trade fairs, are still largely unknown among patent owners. One customs officer added "The reason is definitely not that there are no other counterfeits at the IAA".

In contrast to clearly apparent imitations of known branded products, an infringement of technical property rights (patents and utility models) cannot be assessed without the relevant technical knowledge. Therefore, customs authorities

increasingly depend on the assistance of the injured companies and their patent attorneys. In response to specific clues given by the property rights owner, the customs' mobile control group will inspect the stands of any suspect exhibitors. Upon affirmation by the technically and legally qualified attorneys on the spot, the property rights infringing goods will be seized then and there. Criminal proceedings will be instituted against the responsible persons.

The patent attorneys of Prinz & Partner praised the simplified rules of procedure, which were elaborated by the competent principal customs office of Darmstadt in coordination with the Frankfurt public prosecutor's office and are referred to by the customs internally as the "Darmstadt model", saying, "Besides the known procedures under civil law, companies at trade fairs now have a straightforward, very effective instrument against suppliers of counterfeit products at their disposal."

Though the responsible persons of the exhibitor accused at the IAA need not really fear serious criminal prosecution by the German public prosecutor in China, for them the trade fair is over: All of the seized goods and related catalog pages will be destroyed.



QUESTIONS?

If you have any questions regarding this topic, please feel free to get in touch with your personal contact or Jürgen Strass at j.strass@prinz.eu.

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