



## **IP Key – Latin America**

# **Intellectual Property, a Key to Sustainable Competitiveness**



Funded by the European Union



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### Intellectual Property, a Key to Sustainable Competitiveness

<b>Location of the action:</b>	<p>The project covers potentially all countries of Latin America but will focus more on the following:</p> <ul style="list-style-type: none"><li>▪ Andean Community Countries (Bolivia, Colombia, Ecuador, Peru);</li><li>▪ Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama);</li><li>▪ Chile</li><li>▪ MERCOSUR members (Argentina, Brazil, Paraguay, Uruguay)</li><li>▪ Mexico</li></ul>
<b>Duration:</b>	September 2017 – August 2021
<b>Executing Body:</b>	The European Union Intellectual Property Office (EUIPO)
<b>Funding</b>	European Union. Co-funded by EUIPO
<b>Overall Objective:</b>	The overall objective of the action is to promote a level playing field for European Union companies operating in Latin America by contributing to greater transparency and fair implementation of the IPR protection and enforcement system in this region.
<b>Specific Objectives:</b>	<ul style="list-style-type: none"><li>▪ To facilitate and support FTA negotiations in the region.</li><li>▪ To promote European Union standards in IPR legislation, protection and enforcement and the development of best practices.</li><li>▪ To support the interests of European Union innovators and right holders trading with or investing in Latin America.</li><li>▪ To increase political and public awareness of the importance of IPR protection.</li></ul>
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## **1. Context**

Due to its historical, cultural and economic ties with Latin America (LA), the EU maintains close cooperation and political dialogue with the region. The EU has become the second trading partner for LA countries, as a whole, at a similar level as China, only behind the United States.

As a result of the growing importance of the region, the EU has maintained structured dialogues with the regional groupings in Latin America (LA), Andean Community (CAN) , MERCOSUR and Central America (via the Secretariat for Economic Integration - SIECA ) on political and economic cooperation. The EU has actively supported regional integration in LA through interregional dialogues, funding for the development of institutions, and through EU programmes for MERCOSUR projects. The economic character of the EU relationship with LA countries has intensified in the past ten years.

This relationship is reinforced by a series of trade agreements between LA countries and the EU: Association Agreements (AA) have been in force, with Mexico and Chile since 2001 and 2003, respectively and efforts to extend the scope and modernise these agreements are underway. Central America and the EU entered into an Association Agreement, including a trade chapter, in 2013. The Agreement between the EU and Colombia and Peru has been partially and provisionally applied since 2013, and Ecuador ratified its accession to this Agreement in December 2016. Negotiations towards a free trade area with MERCOSUR is also in progress.

IP Key is designed to support European Union (EU) interests by helping countries address selected emerging challenges in the area of intellectual property (IP) in Latin America (LA). In addition to emerging opportunities arising from LA countries' own policy choices, a major driver for activities under IP Key LA is market access. Both the EU and LA countries have a common interest in facilitating trade and investment by removing obstacles that hinder their development.

## **2. Strategic challenges and responses**

The project will be consistent with the strategic indications of the EC, for example, as defined in the Communication by the Commission "Trade, growth and intellectual property - Strategy for the protection and enforcement of intellectual property rights in third countries." In this sense, it face the challenge of improving the protection and enforcement of IPRs in the region, while raising public awareness of the economic and other impacts of IPR-infringing goods and their detriment to innovation and also on health and safety.

To achieve this, IP Key Latin America will attempt to offer adequate responses in the relevant domains such as:

- Facilitating the conclusion/implementation of multilateral and bilateral trade agreements and the establishment of successful dialogues including on IPRs
- Providing technical assistance for the modernisation of IP institutions in LA Countries, in particular IPOs (Intellectual Property Offices).
- Providing assistance and improving the environment for EU right holders, including improved accessibility to IP information present in IPO data bases

- Improving stakeholder engagement, in particular, by promoting dialogue with key stakeholders on the importance of IPRs in LA countries from a social and economic point of view, and as an engine of development.
- Ensuring better data collection and awareness raising to sustain informed policy debate as well as awareness raising efforts. In this sense, the strategy is to extend EU experience, in particular the knowledge and experience accumulated by the European Observatory on Infringements of Intellectual Property Rights.

The IP Key Action in LA is designed to go beyond the conventional “technical assistance”, as it seeks to further enhance cooperation between the EU and LA in the field of IPR protection and enforcement, by tackling the identified challenges in the common interest of promoting a sustainable and healthy development of the trade relationship between the EU and LA.

### **3. EUIPO: Experience of the implementing agency**

**EUIPO** was created as a decentralized agency of the European Union, located in Alicante, Spain, to offer IP rights protection to businesses and innovators across the European Union (EU) and beyond. Since its foundation in 1994, it has been conceded the responsibility of administrating European Union Trade Marks and Registered Designs.

Another of EUIPOs core activities is the execution of International Cooperation actions. Over the past 5 years, considerable results have been achieved in relation to the creation of an effective network (**EUIPN**) among EU offices and the implementation of convergence of tools and procedures to administer IP rights throughout the EU.

EUIPO has also build on this success, extending **the benefits of its cooperation activities outside the EU**. In this line, one of the main goals of its Strategic Plan 2016-2020 is to “Build network convergence with global impact” which is a direct consequence of the increasing globalisation of trade. In Latin America, it has favored the convergence of practices and the integration of IPOs of Mexico, Brazil, Colombia and Peru for a selected array of trade mark and designs search tools and databases, in the endeavor of increasing benefits to users from the EU and from other countries, with accessibility to Trade Mark and Designs information, adding more efficiency and transparency of the IP system.

Since 2012, EUIPO has accumulated a considerable amount of experience in the execution of **EU-Funded Projects on IPRs**. EUIPO has become the Implementing Agency for EU-funded projects in China (IP Key), South-East Asia (ECAP III) and Russia (P4MIP), all of which have been completed successfully. It is also currently executing a project in India. Since September 2017 has been charged by DG Trade to execute three FPI-funded IP Key Projects (in China, South-East Asia and Latin America) and will soon be executing the Arise + IPR project, commissioned by DCI.

Moreover, the EUIPO also hosts the **European Observatory** on Infringements of Intellectual Property Rights (The Observatory). Since June 2012, the Observatory brings public and private stakeholders together in the fight against piracy and counterfeiting. Thanks to the Observatory, EUIPO stores experience in raising public awareness; in delivering specialised enforcement related training; in developing methodologies to gather, analyse, report and exchange key information on the scope and scale of and trends in counterfeiting and piracy in the European Union (EU) and to provide evidence-based data to enable EU policymakers to shape effective IP enforcement policies and to support innovation and creativity.

Furthermore, the Observatory is also the gateway to several databases related to the enforcement of IP rights such as ACRIS, which includes data relating to cases of intellectual property rights' infringements affecting EU companies in countries outside the EU, and ACIST, which holds information and data on counterfeit goods.

#### **4. Collaboration with other institutions**

In order to achieve the objectives and effectively generate impact on the policy and technical levels, the implementation methodology of IP Key encompasses thorough coordination with, and involvement of, all relevant stakeholders, from the EU, LA and International Organisations such as EPO and WIPO.

The project, through DG TRADE, will have regular consultation rounds with key European Union stakeholders in LA and in the EU, such as with industry, IP associations and law firms, Commission services dealing with IP in LA, EU Delegations in the host countries, the EPO, the EU-LA IPR SME Helpdesk, Member States' representations and chambers of commerce present in the countries. The project will also take special account of collaborations carried forward with EU national IPOs having experience cooperation in the region.

In Latin America this collaboration will include competent Ministries, IPOs Customs, judicial bodies or other relevant competent authorities, R&D institutions, academia and business associations, among other possible collaborators.

The project will seek synergies with existing regional secretariats (SIECA, CAN or Mercosur secretariats) and IPO networks such as IBEPI and PROSUR.

#### **5. Methodology**

The implementation of the project will be carried out by a Project Management Team (PMT) composed of three sub-teams: one based in EUIPO headquarters in Alicante (Spain), another in Buenos Aires and another in Mexico City.

The Project Manager will be based in Buenos Aires and will be supported by an Activity Coordinator. The Project Sub-Chief and another Activity Coordinator will be based in Mexico City. A part-time expert will be based in Lima and will serve in particular the countries of the Andean Community.

The offices of Buenos Aires and Mexico will be responsible for the preparation and implementation of the annual work plans (AWP) in consultation with the stakeholders concerned in the participating countries.

In each Latin American country, one or more focal points will be identified to maintain an official information and management channel in relation to the project activities. National focal points will be consulted for the purpose of defining annual work plans and assisting in coordinating their implementation, particularly when such activities involve local stakeholders.

Regional integration organizations (Andean Community, Mercosur, SIECA) and IP collaboration networks or programs (PROSUR, IBEPI) may also have focal points in relation to project activities involving those groups of countries .

The first annual work plan will be implemented during the year 2018. For the preparation of this work plan, consultations will be held with stakeholders as from September 2017.

## **6. Expected Results**

- R.1. Substantive support for the preparation and development of FTA negotiations
- R.2. Information collection and strategic analysis to prepare regional integration in Central America
- R.3. Effective Support for IP Dialogue and Sub-Committees and Implementation of FTAs
- R.4. Improved IP administration and enforcement practices including the increased usage of IP information technology tools and the establishment of an Enforcement Network
- R.5. Awareness raised on the importance of Intellectual Property, its protection and enforcement

## **7. Activities**

Studies (comparative analysis; surveys); organization of seminars, conferences, round tables; organization of workshops, training events, study visits; missions of experts; transfer of technology related workshops; exchange of data and development of databases and information and management networks; publications.

## **8. Calendar**

Inception Phase:	Six months (Sep 2017 - Feb 2018) <i>Set-up of management structure, fact-finding/networking missions, opening of project offices, focal point identification, draft of First Annual Workplan (AWP 2018)</i>
Implementation:	40 meses (Mar 2018 Jun 2021) <i>Planning and execution of project activities(AWPs); Reporting</i>
Closure:	2 meses (Jul-Aug 2021) <i>Final Report; Evaluation</i>

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## Example of activities to be executed

The following list, both as regards content and prioritization, are examples. The concrete activities will be incorporated into each AWP depending on the final approval of the PMB, DG Trade and the CA.

- Study of IPR provisions in the national laws of MERCOSUR countries in relation with the negotiations of FTAs with the EU
- Other studies on IPR systems in the region (description of the Legal framework, including incorporation / application of international agreements; statistics on the use of the IPR system (e.g., patent, trade mark and design applications and registrations; applications of EU origin etc.); IPR Stakeholders; evaluation of public awareness on the importance of IPRs; IPR enforcement, restrictions and obligations for EU business related with IP laws and enforcement etc.)
- IPR Survey in Central America
- Seminars, workshops, studies identified/generated by IP Dialogues and IP Subcommittees
- Improved IP administration and enforcement practices including the increased usage of IP information technology tools and the establishment of an Enforcement Network including:
  - Assistance for extension of IP Administration Tools;
  - Training for Examiners (patents, trade marks, designs)
  - EU based “development of best practices” (Examination Guidelines; Quality Manuals);
  - Development of Enforcement Networks
  - IP Enforcement Assistance Tools
  - Protection and management of Geographical Indications (GIs): promotion and exchange of best practices;
  - Collecting Societies: exchange of best practices
  - Plant Variety Protection: Exchange of Best Practices
- Support in the development for studies to increase awareness on IPRs
- Innovation Forum, including the importance of using IP Information and managing IP resources

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