

REVIEW OF LEGISLATION ON ENFORCEMENT

GREECE¹

The present document reproduces the introductory statement of the delegation of Greece, the questions put to it and the responses given in the review of legislation on enforcement at the Council's meeting of 17-21 November 1997.²

I. INTRODUCTORY STATEMENT

Copyright and related rights

The main law dedicated to copyright in Greece is Law No. 2121/1993 on copyright and related rights (Official Journal A'25/1993) that came into force on 4 March 1993. Greece ratified the TRIPS Agreement by Law No. 2290/1995 (Official Journal A'28/1995). Greece notified the laws and regulations in the area of copyright and related rights under Article 63.2 of the TRIPS Agreement.³

A special judicial system was recently created in order to enforce copyright and related rights according to the provisions of Article 3, paragraph 26 of Law No. 2479/1997 (Official Journal A'67/6-5-1997) notified by Greece under Article 63.2 of the TRIPS Agreement by a communication dated 23 May 1997.⁴

The following statutes are also applicable to the general question of implementation of the law:

- Greek Civil Code
- Greek Criminal Code
- Greek Code of Civil Procedure
- Greek Code of Criminal Procedure
- Greek Competition Law

Administrative procedures are provided under the new Broadcast Law (Law No. 2328/1995 Official Journal A'159/3-8-1995). According to this law any act of infringement by private television stations of Law No. 2121/1993 entails the imposition of administrative sanctions of Article 4, paragraph 1 c) of the new Broadcast Law (fines, provisional supervision of the operation of the station, revocation of the licence). Moreover, Article 1, paragraph 24 of the new Broadcast Law provides that

¹ As regards laws and regulations relevant to the area under review and notified by Greece under Article 63.2 of the Agreement, reference is made to documents IP/N/GRC/E/1, IP/N/6/GRC/1, IP/N/6/GRC/1/Add. 1 and Add. 2

² The minutes of this meeting have been circulated as IP/C/M/16.

³ This notification has been circulated in document IP/N/1/GRC/C/1, dated 29 April 1996.

⁴ This notification has been circulated in document IP/N/GRC/E/1, dated 3 July 1997.

all private television channels must, prior to any broadcasting, submit to the Ministry of Press and Mass Media a declaration of the author or the right holder of the respective collecting society stating that the television channel has undertaken to pay the television rights for the broadcasting of each program. The television channel instead of the declaration may deposit contract of television rights' assignment. In the case the television channel fails to comply within thirty days with this request it is subject to all penalties of Article 4 of the new Broadcast Law. These penalties are additional to and independent from any other civil or penal liability of the television channel for any act of copyright infringement.

II. REPLIES TO QUESTIONS POSED BY JAPAN

1. Please indicate the "competent authorities" stipulated in Article 51 of the TRIPS Agreement.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁵ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

There are ten customs districts, as mentioned in the Annex.

2. Please explain whether "proceedings leading to a decision on the merits of the case" stipulated in Article 55 of the TRIPS Agreement, are judicial or administrative.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁵ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

These proceedings are judicial.

3. Are there any ways other than the application stipulated in Articles 51 and 52 of the TRIPS Agreement (hereafter referred to as "the Application") which enable a right holder to request the competent authorities to suspend the release of the goods which infringe intellectual property rights or which are suspected to infringe intellectual property rights?

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁵ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

Following the Community Regulation there are no other ways which enable a right holder to request the competent authorities to suspend the release of the goods which infringe intellectual property rights or which are suspected to infringe intellectual property rights.

⁵ Document IP/N/6/GRC/1/Add. 1.

4. Please explain what term your country regards as "a reasonable period within which the competent authorities shall inform the applicant whether or not they have accepted the Application" stipulated in Article 52 of the TRIPS Agreement.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁶ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

Council Regulation No. 3295/94 does not provide for any precise period. The maximum period within which the competent authorities shall inform the applicant is three days.

5. Please explain the term during which the Application is effective.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁶ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

The application is effective within a maximum period of three months and it is renewable.

6. Please explain whether a right holder is obliged to pay any fees to lodge the Application.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁶ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

The applicant has to pay a fee of Dr 10 000 (administrative cost) for each customs office of the district.

7. Please indicate provisions of laws and ordinances which prescribe the "proceedings leading to a decision on the merits of the case" stipulated in Article 55 of the TRIPS Agreement. And please summarize their contents.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁶ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

The provisions of the Civil Code concerning damages are applied.

⁶ Document IP/N/1/GRC/1/Add.1.

8. Please explain the specific procedure, if any, to be applied to the goods which are not evident whether or not they infringe intellectual property rights, in Article 55 of the TRIPS Agreement.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁷ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

There is no specific procedure. If the applicant has not initiated a proceeding on the merits in the appropriate judicial forum within the period of ten days the goods will be released.

9. Please explain the responsibility that the competent authorities and other related authorities take to the right holders when they fail to suspend the release into free circulation of goods which infringe intellectual property rights with regard to the suspension based on the Application or the Ex Officio Action stipulated in Article 58 of the TRIPS Agreement.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁷ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

The competent (customs) authorities do not take any responsibility to the right holders when they fail to suspend the release into free circulation of goods which infringe intellectual property rights.

10. Please explain the responsibility that the competent authorities and other related authorities take to the right holders when they examine goods which infringe intellectual property rights and nevertheless release them into free circulation with regard to the suspension based on the Application or the Ex Officio Action stipulated in Article 58 of the TRIPS Agreement.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁷ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

Please see the answer to question 9 above.

11. Please explain the responsibility that the competent authorities and other related authorities take to the importers when they suspend the release into free circulation of goods which do not infringe intellectual property rights with regard to the suspension based on the Application or the Ex Officio Action stipulated in Article 58 of the TRIPS Agreement.

⁷ Document IP/N/1/GRC/1/Add.1.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁸ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

Please see the answer to question 9 above.

12. Is the right holder informed of identities of the importers and consignors when the competent authorities "suspend" the goods which infringe on intellectual property rights or which are suspected to infringe intellectual property rights, as well as the case where the right holder is informed of identities of the importers and consignors stipulated in Article 57 of the TRIPS Agreement?

Industrial Property

Please see answer to question 15 the Checklist of Issues on Enforcement⁸ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

Yes, when he wants to initiate the proceedings leading to a decision on the merits.

13. Please explain the measures to protect confidential information in the course of the inspection stipulated in Article 57 of the TRIPS Agreement. And please indicate provisions of laws and ordinances which prescribe such measures.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁸ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

Without prejudice to the protection of commercial and fiscal secrets, the information concerning the identities of the importers and consignors can be given (Law No. 1839/51).

14. Please explain the procedures of detentions and seizures to be ordered by the competent authorities based on Articles 51 and 55 of the TRIPS Agreement.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁸ in reference to patents, utility models and registered topographies of semiconductor products.

⁸ Document IP/N/6/GRC/1/Add.1.

Customs

The national dispositions of the Customs Code concerning contraband (Article 111) are applied.

15. Please explain the procedures to appeal against any decisions ordered by the competent authorities based on Articles 51 and 55 of the TRIPS Agreement.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁹ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

An appeal to the judicial authorities.

16. Please explain the basis for calculating the security or equivalent assurance stipulated in Article 53 of the TRIPS Agreement that the competent authorities may require an applicant when they suspend the release into free circulation.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁹ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

The competent authorities have the authority to require from the applicant to provide a security or equivalent assurance sufficient to protect themselves (to ensure the payment of freight for the maintenance of goods under customs control).

17. Please explain who shall pay the cost of detentions based on Article 51 of the TRIPS Agreement or destruction stipulated in Article 59 of the TRIPS Agreement.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement⁹ in reference to patents, utility models and registered topographies of semiconductor products.

Customs

The right holder (generally the applicant) has to pay the cost of detention or destruction of goods.

18. Please explain what kind of cases are regarded as "the exceptional circumstances" in which the competent authorities may allow re-exportation of counterfeit trademark goods stipulated in Article 59 of the TRIPS Agreement.

⁹ Document IP/N/1/GRC/1/Add.1.

Customs

According to EC Regulation No. 3295/94, which we apply, the re-exportation of counterfeit or pirated goods does not result in the diminution of injury of the right holder

19. Please indicate which intellectual property rights are protected based on the Application by a right holder.

Industrial Property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement¹⁰ in reference to patents, utility models and registered topographies of semiconductor products. The release into free circulation of goods suspected of infringing an industrial design can be suspended by the customs authorities pursuant to EC Regulation No. 3295/94 of 22 December 1994 as incorporated in Greek legislation by circular letter No. T.10231/1781/A.0019 of 12 December 1995 of the Ministry of Finance.

Customs

Under Regulation No. 3295/94 trademarks, copyright and related rights, designs and models are protected.

20. Please explain kinds and contents of documents which shall be provided by the applicant to lodge the Application.

Customs

The required documents are those mentioned in Article 3, paragraph 2 of Regulation No. 3295/94 and Articles 2 and 3 of Regulation No. 1367/95.

21. Please explain the remedies which the judicial authorities orders regarding patents, industrial designs, trademarks and layout-designs (topographies) of integrated circuits, including injunctions, damages, expenses, destruction or other disposal of infringing goods and materials/implements for their production.¹¹

Industrial Property

Please see Greece's answer to question 5 of the Checklist of Issues on Enforcement¹⁰ in reference to patents, utility models and registered topographies of semiconductor products. The same remedies are available in case of infringement of an industrial design (Article 28, paragraphs 1 and 2 of Presidential Decree No. 259/1997).

22. Please explain whether the amount of damages which judicial authorities order the person who infringes intellectual property rights to pay the right holder is adequate compensation for the injury the right holder has suffered, and what criteria and the way for calculation to decide the amount for compensation. Does the expenses include appropriate attorney's fees?¹¹

¹⁰ Document IP/N/1/GRC/1/Add.1.

¹¹Reference is made to Greece's replies to the Checklist of Issues on Enforcement (document IP/N/6/GRC/1)

Copyright and related rights

Under Article 65, paragraph 2 of Greek Law No. 2121/1993, the author or the holder of related rights is entitled to recover damages in an amount not less than twice the legally required or normally payable remuneration for the form of exploitation which the infringing party has effected without licence. Instead of seeking damages the right holder may claim the profit the infringer made from the unauthorized use (Article 65, paragraph 3 of Greek Law No. 2121/1993).

Provisions of the Greek Civil Code are also applicable. Article 914 provides:

"A person who through his fault has caused in a manner contrary to the law prejudice to another shall be liable to compensation".

Court costs and attorney's fees are separate issues. Articles 173-193 of the Greek Code of Civil Procedure contain specific provisions concerning court costs. The costs of a proceeding vary accordingly to the level of jurisdiction and the value in dispute. The general rule is that the losing party has to bear all trial costs (Article 176 of the Greek Code of Civil Procedure). In cases of partial success or loss, the costs are compensated between the parties (Article 178 of the Code of Civil procedure). Legal aid is provided for by Articles 194-204 of the Code of Civil Procedure. Its availability depends on proven need.

The Code on Attorneys provides for the minimum level of fees depending on the amount of civil litigation and the type of procedure involved.

Industrial property

Please see Greece's answer to question 5(b) of the Checklist of Issues on Enforcement¹² in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs. It should be noted however, that design legislation (Presidential Decree No. 259/1997) has recently been enacted (19 September 1997). Thus, no decisions have been reported yet.

23. Please explain in what circumstances may the provisional judiciary measures be ordered *inaudita altera parte*. Please explain whether the Greek civil procedure is consistent with Article 50 of the TRIPS Agreement.¹³

Copyright and related rights

Provisional measures provided by Articles 682-738 of the Code of Civil Procedure have an increasingly practical importance in Greece. They are administered by the one-member district court. They provide for the possibility of provisional relief on each claim under the condition of an urgent need or in order to avoid an imminent danger (Article 682 of the Code of Civil Procedure). Provisional measures may even be granted on an application without prior summoning of the alleged infringer (Article 687, paragraph 1 of the Code of Civil Procedure) and. allow the court to issue immediately a provisional order upon the filing of the request (Article 691, paragraph 2 of the Code of Civil Procedure).

¹² Document IP/N/6/GRC/1/Add. 1.

¹³ Reference is made to Greece's replies to the Checklist of Issues on Enforcement (document IP/N/6/GRC/1).

Moreover, according to the specific provisions of Article 64 of the Greek Law No. 2121/1993 combined with the abovementioned Articles 687, paragraph 1 and 692, paragraph 2 of the Code of Civil Procedure. Provisional measures *inaudita altera parte* shall be ordered by the one-member district court.

Industrial property

Please see Greece's answer to question 11 of the Checklist of Issues on Enforcement¹⁴ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Customs

The provisional judiciary measures may be ordered after a right holder's application to the competent authority.

24. Please explain the criminal penalties including imprisonment and fines regarding patents, industrial designs, trademarks and layout-designs (topographies) of integrated circuits.

Industrial property

Please see Greece's answers to questions 21 and 24 of the Checklist of Issues on Enforcement¹⁴ in reference to patents, utility models and registered topographies of semiconductor products. No criminal penalties are provided for the infringement of industrial designs.

III. REPLIES TO QUESTIONS POSED BY THE UNITED STATES

General obligations

1. Articles 41.1 and 42 of the TRIPS Agreement require that procedures be available for the effective enforcement of the intellectual property rights covered by the Agreement. IP/N/6/GRC/1 provides appears to address primarily copyright law. Please describe the structure of the judicial and administrative¹⁵ procedures in Greece in which parties can enforce other forms of intellectual property rights included in Part II of the TRIPS Agreement, at local, provincial and national levels, indicating the jurisdiction of each type of court or administrative body and explaining the interrelationships, if any, of the various types of courts and administrative bodies. Cite the laws or other authorities establishing the structure, including each type of court and administrative body.

Industrial property

Please see Greece's answers to questions 1 and 9 of the Checklist of Issues on Enforcement¹⁴ in reference to patents, utility models and registered topographies of semiconductor products. The same answers apply to industrial designs.

¹⁴ Document IP/N/6/GRC/1/Add. 1.

¹⁵ These questions apply to both judicial and administrative enforcement of intellectual property rights because of Article 49 of the TRIPS Agreement.

Trademarks

Please see Greece's answers to question 1 and 9 of the Checklist of Issues on Enforcement.¹⁶

2. Please describe briefly the procedure that must be followed by a foreign party to initiate an enforcement procedure in each of the courts and administrative bodies identified in response to question 1 and cite the legal authorities establishing those procedures.

Industrial property

Foreign parties are entitled to the same rights as nationals of Greece. The procedure to be followed by a foreign party in case of infringement of a patent, utility model, registered topography of a semiconductor product or an industrial design, is the same as the one to be followed by a national of Greece having standing to assert the relevant right. Upon filing of an action for infringement or of a petition for an injunction before the Secretary of the competent Court, a date is set for the trial. Previous notice to the adverse party is a prerequisite (Article 229 of the Code of Civil Procedure). For a detailed description of the procedure provided regarding provisional measures please see Greece's answer to question 12 of the Checklist of Issues on Enforcement.¹⁶

Trademarks

Foreign parties are entitled to the same rights as nationals of Greece. The procedure to be followed by a foreign party in case of infringement of a trademark is the same to be followed by a national of Greece having standing to assert the relevant right. Upon filing of an action for infringement or a petition for an injunction before the Secretary of the competent Court, a date is set for the trial. Previous notice to the adverse party is a prerequisite (Article 229 of the Code of Civil Procedure). Regarding provisional measures please see Greece's answer to question 12 of the Checklist of Issues on Enforcement.¹⁶

3. Please identify any requirement that a foreign party must meet to initiate a proceeding in the courts and administrative bodies identified in answer to question 1 that is not required of a national or resident of Greece and cite the legal authorities providing for those differences.

Industrial property

There are no extra requirements provided for foreign parties having standing to assert a right on a patent, utility model, registered topography of a semiconductor product or an industrial design.

Trademarks

There are no extra requirements provided for foreign parties having standing to assert a right on a trademark.

4. Articles 41.1 and 48 of the TRIPS Agreement require establishment of safeguards against abuse of judicial and administrative enforcement procedures, including provision for adequate compensation for injury suffered because of such abuse. Please describe the means available under the law of Greece to prevent abuse of judicial and administrative procedures or to remedy damages suffered as a result of such abuse and cite the legal authorities for those means.

¹⁶ Document IP/N/6/GRC/1/Add. 1.

Copyright and related rights

The Greek Civil Code contains a wide scale of general clauses based on the principle of equity. There are explicit provisions for the prohibition of the abuse of right. Article 281 of the Greek Civil Code provides that:

"The exercise of a right shall be prohibited if such exercise obviously exceeds the limits imposed by good faith or morality or by the social or economic purpose of the right".

Moreover, under Article 914 of the Greek Civil Code:

"A person who through his fault has caused in a manner contrary to the law prejudice to another shall be liable to compensation".

In addition, Article 57 of the Greek Civil Code grants a general action for the protection of personality against any illegal infringement.

Industrial Property

Please see Greece's answer to question 7 of the Checklist of Issues on Enforcement¹⁷ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 7 of the Checklist of Issues on Enforcement.¹⁷

5. Article 41.2 addresses, among other things, the cost of judicial and administrative enforcement proceedings. Please describe any fees charged by judicial or administrative officials for filing legal actions involving intellectual property or for pursuing such actions once initiated, cite the legal authorities for such fees, and provide copies of the documents used to inform the public of such fees.

Copyright and related rights

Articles 173-193 of the Greek Code of Civil Procedure contain specific provisions concerning court costs. The costs of a proceeding vary according to the level of jurisdiction and the value in dispute. The general rule is that the losing party has to bear all trial costs (Article 176 of the Code of Civil Procedure). In case of partial success or loss, the costs are compensated between the parties (Article 178 of the Code of Civil Procedure). Legal aid is provided for by Articles 194-204 of the Code of Civil Procedure. Its availability depends on proven need. The Code on Attorneys provides for the minimum level of fees depending on the amount of civil litigation and the type of procedure involved. (Please see Greece's answer to question 8 of the Checklist of Issues on Enforcement.¹⁷

¹⁷ Document IP/N/6/GRC/1/Add. 1.

Industrial property

Please see Greece's answer to question 8 of the Checklist of Issues on Enforcement¹⁸ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 8 of the Checklist of Issues on Enforcement.¹⁸

6. Article 41.2 also addresses the timeliness of judicial and administrative enforcement proceedings. Please cite to the legal authorities establishing any time limits for judicial and administrative proceedings and, if it has not already been done, provide copies of the laws or regulations in question.

Copyright and related rights

Hearings before the court of first instance are concluded in one session (Article 270, paragraph 4 of the Code of Civil Procedure) unless the trial has to be continued in another day or there are specific issues to be determined by preliminary decisions.

Industrial property

Please see Greece's answer to question 8 of the Checklist of Issues on Enforcement¹⁸ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 8 of the Checklist of Issues on Enforcement.¹⁸

7. There have been reports of unwarranted delays in civil and criminal actions for the enforcement of intellectual property rights in Greece. Please explain any provisions in the enforcement system that ensure expeditious remedies. In addition, please explain what provisions are available to prevent deliberate delays by the parties to a proceeding and indicate the circumstances in which such provisions will be applied.

Copyright and related rights

It depends on the procedure followed by the parties. Provisional measures may be ordered without delay according to Articles 682 *et seq.* of the Code of Civil Procedure.

Under Article 64 of Greek Law No. 2121/1993 on copyright and related matters if there is a possibility that an infringement of copyright or related rights is occurring or may occur, the single-member court of the first can order as an interim measure the conservatory seizure of any item in the possession of the defendant which is manifestly a means to the effecting of the infringement or a product or evidence of the infringement. Alternatively, the court can order the drawing up of an inventory and the photographic record of these items. In these cases the court is alleged to give a provisional order pursuant to Articles 687, paragraph 1 and 691, paragraph 2 of the Code of Civil

¹⁸ Document IP/N/6/GRC/1/Add. 1.

Procedure until the hearing of the application in order to preserve the rights at risk. A provisional order is given in very short period.

Moreover, under Article 63, paragraph 1 of Greek Law No. 2121/1993, where a potential infringement of copyright is identified, such as where there is a clear intention to offer an unlawful public performance of a theatrical or cinematographic or a musical work, the competent local police authority shall prohibit the infringing act when requested to do so by the author or right holder. When requested, the prosecuting authorities shall grant the police authority any necessary mandate. The same shall apply when the public presentation of a work has been in progress for more than two days without payment of due remuneration.

This paragraph shall apply *mutatis mutandis* to infringements of the related rights referred to in Articles 46, 47 and 48 of Law No. 2121/1993.

The application of the flagrant procedure is also recommended according to the circulars of the Public Prosecutor of the Supreme Court (Circular 10/1365/15-4-97 concerning the criminal protection of copyright).

Please see also Greece's answers concerning civil and administrative procedures and remedies below.

Industrial property

Please see Greece's answer to question 8 of the Checklist of Issues on Enforcement¹⁹ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 8 of the Checklist of Issues on Enforcement.¹⁹

8. Article 41.3 of the TRIPS Agreement requires that decisions on the merits of a case preferably be in writing, the better to determine the reasoning on which the decision is based. Please state, with regard to each type of court and administrative body identified in question 1, whether judges or administrative officials must render their decisions in writing and cite the legal authorities requiring such written opinions.

Copyright and related rights

Decisions are always in writing and reasoned and they are available to parties or to any third person without undue delay (Articles 300 *et seqq.* of the Greek Code of Civil Procedure). This is a basic rule of the Greek judicial system (see also Article 559-19 of the Code of Civil Procedure concerning proceedings on causation).

Industrial property and trademarks

Decisions of civil courts are always in writing and have to be reasoned pursuant to Article 304 paragraph 1 of the Code of Civil Procedure.

¹⁹ Document IP/N/6/GRC/1/Add. 1.

9. Article 41.3 also requires that decisions on the merits of a case be based only on evidence in respect of which parties had an opportunity to be heard. Please state, with regard to each type of court and administrative body identified in question 1, what factors may be considered by a judge or administrative official in rendering a decision and cite the legal authorities establishing the basis on which judges and administrative officials may reach decisions.

Copyright and related rights

The law of evidence for civil proceedings is provided by Articles 335-465 of the Code of Civil Procedure. Only those facts contested by one party and relevant to the outcome of the litigation make-up the subject-matter of proof (Article 335 of the Code of Civil Procedure). The court takes judicial notice of the general teachings of human experience as well as of facts practically known to everyone (Article 336 of the Code of Civil Procedure). Matters of proof are extensively regulated in the Code of Civil Procedure in 130 articles (Articles 335-465). Each party has to prove the facts which are necessarily required to support his claim (Article 338 of the Code of Civil Procedure). Under Article 339 of the Code of Civil Procedure there are eight means of proof: confession, direct proof, expert reports, testimony, examination of parties, party-oath, documentary evidence and presumptions.

Industrial property and trademarks

Decisions of civil courts are based on evidence provided to the Court by the parties before the initiation of the trial as well as on evidence produced during the trial pursuant to Article 270, paragraph 6 of the Code of Civil Procedure. When rendering a decision, the Court is free to assess any evidence produced and to decide the truth of claims (Article 340 of the Code of Civil Procedure).

10. Article 41.4 obligates WTO Members to provide for judicial review of certain judicial and administrative decisions in intellectual property enforcement proceedings. Please describe what legal limitations, if any, are placed upon the ability of a party to an intellectual property enforcement proceeding to have both procedural rulings and final decisions reviewed by a separate judicial authority, and cite the legal authorities providing for such reviews.

Copyright and related rights

It is a general rule in Greek law that a party to litigation aggrieved by a judicial decision seeks to have the case reconsidered (Articles 495-590 of the Code of Civil Procedure). The same rule is available for criminal procedure (Articles 486-530 of the Code of Criminal Procedure).

Industrial property

As mentioned in Greece's answer to question 9 of the Checklist of Issues on Enforcement,²⁰ infringement of a patent or a utility model or a registered topography or an industrial design is a matter to be decided only by judicial authorities. Thus, administrative decisions cannot be issued,

Trademarks

Infringements of a trademark is a matter to be decided only by judicial authorities. Thus, administrative decisions cannot be issued.

²⁰ Document IP/N/6/GRC/1/Add. 1.

Civil and administrative procedures and remedies

11. Article 42 requires that defendants be notified of judicial and administrative intellectual property enforcement proceedings brought against them. Please describe the procedures followed by each type of court and administrative body identified in question 1 for notifying defending parties regarding proceedings that have been initiated against them, indicate the information provided regarding the proceeding and cite the legal authorities establishing these procedures.

Copyright and related rights

A copy of a civil action is served to the defendant on plaintiff's initiative (Article 229 of the Code of Civil Procedure). As it concerns provisional measures, the petition must be notified to the adverse party within a certain period determined by the judge (Article 686 of the Code of Civil Procedure).

Industrial property and trademarks

As mentioned in answer to question 2 above, notice to the adverse party of a filed law suit or of a petition for an injunction is a prerequisite for the case to be heard by the Court (Articles 229 and 686 of the Code of Civil Procedure), the only exception being, in the case of provisional measures ordered *inaudita altera parte*. The plaintiff or the petitioner is responsible for serving a copy of the law suit or of the petition for an injunction to the adverse party.

12. Article 42 also requires that parties to intellectual property enforcement proceedings must be able to be represented by counsel and must not be subject to overly burdensome requirements to appear personally. Please describe any limitations under Greece's laws on the ability of a party in such a proceeding to be represented by independent legal counsel and any requirements imposed on the party to appear personally in a proceeding. Please cite the legal authorities providing such limitations and imposing such requirements.

Copyright and related rights

Please see Greece's answer to question 2 of the Checklist of Issues on Enforcement.²¹

Industrial property

Please see Greece's answer to question 2 of the Checklist of Issues on Enforcement²¹ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 2 of the Checklist of Issues on Enforcement.²¹ The same applies to trademarks.

13. Under Article 42, parties are to be entitled to substantiate claims and present relevant evidence. Please describe any limitations under the law of Greece on a party's ability to substantiate a claim or to present relevant evidence and cite the legal authority providing such limitations.

²¹ Document IP/N/6/GRC/1/Add. 1.

Copyright and related rights

According to Greek law each party has to support his claim (Article 338 of the Code of Civil Procedure).

Industrial property and trademarks.

No limitations exist to the substantiation of claims. The presentation of evidence is subject to the rules of evidence provided in Articles 335-465 of the Code of Civil Procedure.

14. Article 42 requires, with one narrow exception, that there be a means to identify and protect confidential information during judicial and administrative intellectual property enforcement proceedings. Please describe the means provided under the law of Greece for parties to identify and have protected confidential information required to be presented in order to prove their claims and cite the legal authorities providing for such identification and protection.

Industrial property

Please see Greece's answer to question 4 of the Checklist of Issues on Enforcement²² in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 4 of the Checklist of Issues on Enforcement.²²

15. Article 43.1 of the TRIPS Agreement requires that judicial and administrative officials be able to order a party to an intellectual property enforcement proceeding to produce relevant evidence in that party's control identified by the opposing party when the latter party has presented reasonably available evidence in support of its claims. Please describe how and in what circumstances judges and administrative officials may order production of relevant evidence in intellectual property enforcement proceedings and cite the legal authorities providing for such orders.

Copyright and related rights

Rules concerning the production of evidence are provided in Articles 335-465 of the Code of Civil Procedure. The examination of documents within the control of the defendant may also be allowed when criminal procedures are pending.

Industrial property

Please see Greece's answer to question 3 of the Checklist of Issues on Enforcement²² in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

²² Document IP/N/6/GRC/1/Add. 1.

Trademarks

Please see Greece's answer to question 3 of the Checklist of Issues on Enforcement.²³

16. It has been reported that it is not possible in Greece for a right holder to obtain through such judicial or administrative order certain business records indicating the scope of a copyright pirate's profits, necessary to substantiate the right holder's claims with respect to damages. Please state whether that is the case and, if so, explain the manner in which Greek law conforms to the obligations of Article 43.1 of the TRIPS Agreement.

Copyright and related rights

A person who by intent or negligence infringes copyright or a related right of another person shall be liable for the payment of damages of not less than twice the legally required or normally payable remuneration for the form of exploitation which the infringing party has affected without licence (Article 65, paragraph 2 of Greek Law No. 2121/1993).

17. Information ordered to be produced, referred to in question 15, must be protected if it is confidential. Please describe the means provided under the law of Greece for protecting such information and cite the legal authority providing for such protection, if those means differ from those described in answer to question 14.

Industrial property

Please see Greece's answer to question 4 of the Checklist of Issues on Enforcement²³ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 4 of the Checklist of Issues on Enforcement.²³

18. Article 43.2 provides that, in the event a party refuses to provide information ordered by the judicial or administrative officials, those officials may be authorized to make preliminary and final determinations adverse to that party. Please describe what sanctions may be imposed on a party that refused to provide ordered information and under what circumstances those sanctions are imposed, citing the legal authority for those sanctions.

Copyright and related rights

Articles 904-1054 of the Code of Civil Procedure include methods and means of enforcement of judgments. Obligations based on the law, on juridical acts, or on court decisions, which, according to the provisions of substantive law, consist of the declaration of will - are enforced by execution.

Industrial property

Please see Greece's answer to question 3 of the Checklist of Issues on Enforcement²³ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

²³ Document IP/N/6/GRC/1/Add. 1.

Trademarks

Please see Greece's answer to question 3 of the Checklist of Issues on Enforcement.²⁴

19. Article 44.1 requires that judicial and administrative officials be able to enjoin or otherwise prevent infringing activity by a party, including by preventing the entry of infringing goods into the channels of commerce in their jurisdiction. Please describe authority of the judges and administrative officials identified in question 1 to order parties to stop infringements and to prevent infringing goods from entering the channels of commerce in their jurisdiction immediately after clearance of such goods through customs. In addition, please cite the legal authorities authorizing such actions.

Copyright and related rights

Under Article 3, paragraph 1(h) of Greek Law No. 2121/1993 the author has the right to prohibit the import of copies of the work produced abroad without the creator's consent. Producers of sound or visual or sound and visual recordings shall also have the right to prohibit the import of recordings produced in a foreign country without their consent.

Industrial property

Please see Greece's answer to question 5 (a) and (c) of the Checklist of Issues on Enforcement²⁴ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs (Article 28, paragraphs 1 and 2 of Presidential Decree No. 259/1997).

Trademarks

Please see Greece's answer to question 5 of the Checklist of Issues on Enforcement.²⁴

20. Article 44.2 provides an exception to the requirement in paragraph 1 for government use or use by third parties authorized by the government, limiting the remedy for infringement to payment of adequate remuneration as provided in Article 31(h). Please describe any such limitations on remedies in the laws of Greece and cite the legal authorities providing for those limitations.

Industrial property

The payment of remuneration to the patent holder is the only remedy available in case of use of an invention by the government without the authorization of the right holder (Article 14 of Law No. 1733/1987).

21. Article 45.1 requires that judicial and administrative officials be able to order an infringer to pay the right holder damages adequate to compensate for the injury caused by the infringement. Please describe the authority of the judges and administrative officials identified in question 1 to order a party found to be infringing to pay the right holder damages adequate to compensate for the injury caused by the infringement. Please explain the factors considered in establishing the amount of the compensation and cite the legal authorities authorizing such compensation orders.

²⁴ Document IP/N/6/GRC/1/Add. 1.

Copyright and related rights

Greek law is very progressive on damages. Under Article 65, paragraph 2 of Greek Law No. 2121/1993, the author or the right holder of the related rights are entitled to recover damages in an amount not less than twice the legally required or normally payable remuneration for the forms of exploitation which the infringing party has effected without licence. Instead of seeking damages the right holder may claim the profit the infringer made from the an unauthorized use (Article 65, paragraph 3 of Greek Law No. 2121/1993)

For each act of omission contributing to an infringement, the court may impose a fine of from Dr 300 000 to Dr 1 000 000 payable to the author or to the right holder of the related rights (Article 65, paragraph 4 of Greek Law No. 2121/1993).

Industrial property

Please see answer to question 5 point (b) of the Checklist of Issues on Enforcement²⁵ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs (Article 28, paragraph 2 of Presidential Decree No. 259/1997). It should be noted however, that design legislation (Presidential Decree No. 259/1997) has recently been enacted (19 September 1997). Thus, no decisions have been reported yet.

Trademarks

Please see Greece's answer to question 5 of the Checklist of Issues on Enforcement.²⁵

22. Article 45.2 requires that judges and administrative officials be authorized to order payment of a right holder's expenses, including legal fees. Please describe the authority of the judges and administrative officials identified in question 1 to order payment of right holders' expenses, the circumstances under which such an order will be given, the factors considered in establishing the expenses, and cite the legal authorities authorizing such payments.

Copyright and related rights

Judicial authorities are entitled to order the infringer to pay the right holder's expenses, which may include attorney's fees. (Please see the answer to question 5).

Industrial property

Please see Greece's answer to question 5 (b) of the Checklist of Issues on Enforcement²⁵ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 5 of the Checklist of Issues on Enforcement.²⁵

23. Article 46 requires that judges and administrative officials be authorized to order, in certain circumstances, other remedies, including disposal of goods outside commercial channels or destruction of goods and destruction of materials and implements the predominant use of which is the creation of infringing goods. Please describe the additional remedies

²⁵ Document IP/N/6/GRC/1/Add. 1.

available under the laws of Greece, the circumstances in which such authority will be exercised, the factors considered in determining the nature of the remedies provided, and cite the legal authorities providing for such remedies.

Copyright and related rights

Provisional measures shall be ordered according to the provisions of Articles 682-738 of the Code of Civil Procedure. Moreover, under Article 64 of Greek Law No. 2121/1993 if there is a possibility that an infringement of copyright or related rights is occurring or may occur, the single-member court of the first instance can order the conservatory seizure of any item in the possession of the defendant which is manifestly a means to the effecting of the infringement or a product or evidence of the infringement. Alternatively, the court can order the drawing up of an inventory and the photographic record of these items. Destruction of materials can be ordered by judicial authorities.

Industrial property

Please see Greece's answer to question 5 point (c) of the Checklist of Issues on Enforcement²⁶ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs (Article 28, paragraph 2 of Presidential Decree No. 259/1997).

Trademarks

Please see Greece's answer to question 5 of the Checklist of Issues on Enforcement.²⁶

24. Article 47 provides that WTO Members may authorize judges and administrative officials to order infringers to identify for right holders third parties involved in the production and distribution of infringing goods or services and their channels of distribution. Please describe any authority judges and administrative officials have under the laws of Greece to order infringers to identify for right holders third parties involved in the production and distribution of infringing goods or services and their channels of distribution and describe the circumstances in which this authority would be exercised. Please cite the legal authorities providing for such remedies.

Copyright and related rights

In Greece judicial authorities have this power provided by procedural rules, in particular by Code of Penal Procedure (Articles 251-304 of the Code of Penal Procedure).

Industrial property

Please see Greece's answer to question 6 of the Checklist of Issues on Enforcement²⁶ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 6 of the Checklist of Issues on Enforcement.²⁶

²⁶ Document IP/N/6/GRC/1/Add. 1.

25. Article 48.2 permits WTO Members to exempt public authorities and officials from liability from remedies only where their actions were taken or intended in good faith in carrying out their responsibilities under the law. Please explain any exemption provided public authorities and officials from liability for abuse of enforcement procedures, describe the circumstances in which such limitations would not apply, and cite the legal authorities granting such exemptions.

Copyright and related rights

It is noted that this question expresses the mentality of the American legal system. The Greek Civil Code follows as a rule the principle of liability for compensation in all cases that a person unlawfully causes damages to another. As an exception the Civil Code raises the element of unlawfulness in the cases of defence (Article 284) and private justice (Article 282).

Industrial property

Please see Greece's answer to question 7 of the Checklist of Issues on Enforcement²⁷ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 7 of the Checklist of Issues on Enforcement.²⁷

Provisional measures

26. Articles 50.1 and 50.8 require that judicial and administrative authorities have the authority to order prompt and effective provisional remedies to prevent an infringement of any intellectual property right. With respect to each intellectual property right identified in Article 1.2 of the TRIPS Agreement, please identify the provisional measures available to protect intellectual property rights. Please cite the relevant legal authority establishing those provisional remedies.

Copyright and related rights

Provisional measures are ordered under the provisions of the Code of Civil Procedure (Articles 682 -738) and the specific provisions of Greek Law No. 2121/1993.

In all cases of infringement the right holder is entitled to demand recognition of his right, suppression of the infringement and omission of the infringement in the future (Article 65, paragraph 1 of Law No. 2121/1993). For each act of omission contributing to an infringement, the court may impose a fine of from Dr 300 000 to Dr 1 000 000.

Moreover Article 63 of Greek Law No. 2121/1993 provides measures stopping an infringement of copyright or related rights.

²⁷ Document IP/N/6/GRC/1/Add. 1.

Industrial property

Please see Greece's answer to question 10 of the Checklist of Issues on Enforcement²⁸ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs (Article 28, paragraphs 1 and 2 of Presidential Decree No. 259/1997).

Trademarks

Please see Greece's answer to question 10 of the Checklist of Issues on Enforcement.²⁸

27. Articles 50.1 and 50.8 require that judicial and administrative authorities have the authority to order prompt and effective provisional remedies to preserve relevant evidence in regard to an alleged infringement. Please identify the provisional measures available to preserve relevant evidence in regard to an alleged infringement. Please cite the relevant legal authority establishing those provisional remedies.

Copyright and related rights

Provisional measures available to preserve relevant evidence in regard of an alleged infringement are provided by Greek Law No. 2121/1993 and by the Code of Civil Procedure. According to the above mentioned Article 64 of Greek Law No. 2121/1993 the single member court shall order the conservatory seizure of any item in the possession of the defendant. Instead of conservatory seizure, the court may order that a detailed inventory and photographic record be made of the items.

Conservatory seizure can be ordered according to Articles 707-724 of the Code of Civil Procedure. Custody is another conservatory measure provided by Articles 725-727 of the Code of Civil Procedure. Provisional measures are ordered by judicial authorities (one-member district court). Please see also the answers to questions 28 and 30.

Industrial property

The possibility to seize or take under custody of the Court of relevant evidence pertinent to an alleged infringement exists in reference to patents, utility models, registered topographies of semiconductor products and industrial designs (Article 17, paragraph 5 of Law No. 1733/1987, Article 19, paragraph 6 of Law No. 1733/1987, Article 17, paragraph 3 of Presidential Decree No. 45/1991, Article 28, paragraph 2 of Presidential Decree No. 259/1997, Articles 707-724 and 725-727 of the Code of Civil Procedure).

Trademarks

The possibility to seize or take under custody of the Court of relevant evidence pertinent to an alleged infringement exists in reference to trademarks (Article 27 of Law No. 2239/1994). See also Greece's answer to question 10 of the Checklist of Issues on Enforcement.²⁸

28. Articles 50.2 and 50.8 require Members to authorize judicial and administrative authorities to adopt provisional measures *inaudita altera parte*. With respect to each intellectual property right identified in Article 1.2 of the TRIPS Agreement, please describe briefly the circumstances in which the judicial and administrative authorities are empowered

²⁸ Document IP/N/6/GRC/1/Add. 1.

to adopt provisional measures *inaudita altera parte*. Please cite the relevant legal authority granting authorities this power.

Copyright and related rights

According to Article 64 of Greek Law No. 2121/1993 combined with Articles 687, paragraph 1 and 691, paragraph 2 of the Code of Civil Procedure provisional measures *inaudita altera parte* can be ordered under the conditions prescribed in the above mentioned Article 64 of Greek Law No. 2121/1993. They are administered by the one-member district court.

Industrial property

Please see Greece's answer to question 11 of the Checklist of Issues on Enforcement²⁹ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 11 of the Checklist of Issues on Enforcement.²⁹

29. Articles 50.2 and 50.8 require that judicial authorities and administrative bodies be authorized to grant provisional remedies when a delay is likely to cause "irreparable harm" to the right holder. Please describe briefly what is required by the authorities identified in answers to questions 25, 26 and 27 to establish "irreparable harm" to the right holder.

Copyright and related rights

Provisional measures are ordered under the condition of urgent need in order to avoid an imminent danger (Article 682, paragraph 1 of the Code of Civil Procedure).

Industrial property and trademarks

According to the Greek Code of Civil Procedure (Article 687, paragraph 1) the extreme urgency of a situation or the existence of an imminent danger to be avoided, is a prerequisite for a provisional measure to be ordered *inaudita altera parte*, to be decided on a case by case basis. Should notice to the adverse party prevent the execution of the provisional measure requested, the Court would find the situation to be extremely urgent. An imminent danger would be found present, if notice to the adverse party would prevent the petitioner from securing the execution of a provisional measure (e.g. if seized infringing goods were to be hidden or sold by the adverse party).

30. Articles 50.2 and 50.8 also require that judicial authorities and administrative bodies be authorized to grant provisional remedies when there is a "demonstrable risk of evidence being destroyed". Please describe briefly what factors are considered by the competent authorities in determining when there is a "demonstrable risk of evidence being destroyed".

Copyright and related rights

According to Article 64 of Greek Law No. 2121/1993, where there is reason to believe that an infringement of copyright or of the related rights referred to in Articles 46 to 48 and 51 of the present law is occurring or may occur, a single-member court of first instance shall order, as a cautionary

²⁹ Document IP/N/6/GRC/1/Add. 1.

measure, the conservatory seizure of any item in the possession of the defendant which is manifestly a means to the effecting of the infringement, or a product of or evidence of the infringement. Instead of conservatory seizure, the court may order that a detailed inventory and photographic record to be made of items. Each of the aforementioned actions shall be effected in accordance with Articles 687, paragraph 1 of the Code of Civil Procedure and a provisional order shall be obligatorily issued pursuant to Article 691, paragraph 2 of the Code of Civil Procedure.

Provisional measures provided by Articles 682-738 of the Code of Civil Procedure are very important. As a rule, they are administered by the one-member district court. Their scope is broad and they provide for the possibility of provisional relief on each claim under the condition of an urgent need or, in order to avoid an imminent danger, as risk of evidence being destroyed.

Provisional remedies may be granted on an application *ex parte* (Article 687 of the Code of Civil Procedure) and allow the court to issue immediately a provisional order upon the filing of the request (Article 691 of the Code of Civil Procedure).

They are generally available: whereas there is an urgent case and a substantive right needing provisional protection. These requirements need only to be shown as probable.

In Greece provisional relief has been enjoying increasing practical importance.

Industrial property and trademarks

Please see the answer to question 29 above.

31. Articles 50.1, 50.2, and 50.8 require that competent authorities be authorized to order prompt and effective measures to prevent an infringement of any intellectual property right and to preserve relevant evidence in regard to the alleged infringement. Is the authority to order prompt and effective remedies enforced without discrimination based on the nationality of the right holder. If not, please identify the differences pertaining to foreign parties seeking provisional remedies and cite accompanying legal authority.

Copyright and related rights

Foreign parties share the same rights as nationals of Greece. Thus, no discrimination is being exercised in the award of justice.

Industrial property and trademarks

As mentioned in the answer to question 2 above.

32. Articles 50.3 and 50.8 require that judicial and administrative authorities be authorized to require applicant to provide evidence to establish with a sufficient degree of certainty that the applicant is the right holder and that infringement has occurred or is imminent. With respect to each intellectual property right defined in Article 1.2 of the TRIPS Agreement, please describe the evidence required by right holders to establish ownership.

Copyright and related rights

According to Greek copyright law both individual copyright owners or right holders of related rights and collecting societies are allowed to initiate judicial procedures.

Greek Law No. 2121/1993 is favorable towards the copyright owners in relation to the evidence required to prove their ownership over the work. Article 10 introduces a presumption providing that the person whose name appears on a copy of a work in the manner usually used to indicate authorship shall be presumed to be the author of that work. In the cases of computer programs and audiovisual works, the natural or legal person whose name or title appears on a copy of the work in the manner usually used to indicate the right holder is presumed to be the right holder of the copyright.

Collecting societies established exclusively to engage in the functions of administering or/and protecting the economic right (Articles 54 to 58 of Law No. 2121/1993) are entitled to initiate judicial or extrajudicial action in their own name and to exercise in full legitimacy all rights transferred to them or for which they hold power of attorney. Greek law introduces a presumption providing that a collecting society is entitled to have the competence for the administration and/or protection of the right in respect of all the works or in respect of all the right holders concerning which or whom a declaration of transfer to the society has been effected in writing or for which it has been granted power of attorney (Article 55, paragraph 2 of Law No. 2121/1993). It is to be noted that in Greece a collecting society can be established exclusively to engage in the exclusive functions of protecting the economic rights of a right holder (Articles 54-58 of Greek Law No. 2121/1993). The operation of such a collecting society is approved by the Ministry of Culture for the protection of producers of audiovisual works.

Industrial property and trademarks

The Court may require any evidence related to the proof of ownership of a right holder.

33. Articles 50.3 and 50.8 require that judicial and administrative authorities be authorized to provide a security or equivalent assurance to protect the defendant. With respect to each intellectual property right identified in Article 1.2 of the TRIPS Agreement, please cite the legal authority establishing a security or equivalent assurance.

Copyright and related rights

Greek Code of Civil Procedure contains specific provisions concerning judicial security issued by the judge (Articles 704-705, 162-168 of the Code of Civil Procedure).

Industrial property

Please see Greece's answer to question 12 of the Checklist of Issues on Enforcement³⁰ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 12 of the Checklist of Issues on Enforcement.³⁰

34. Article 50.4 requires that parties be notified when provisional measures have been adopted *inaudita altera parte*. Please describe briefly the procedures followed by each authority able to adopt such measures for notifying affected parties and state the time within which such notice must take place.

³⁰ Document IP/N/6/GRC/1/Add. 1.

Notice to the adverse party of the decision granting a provisional measure is not a prerequisite for the decision to be executed. However, in the case of a decision ordering the adverse party to take or omit or tolerate a specific action, notice should take place before any execution of the decision, which cannot be enforced unless 24 hours have lapsed (Article 700, paragraph 2 of the Code of Civil Procedure).

35. Article 50.4 also requires that defendants be afforded a review process to determine whether provisional measures should be modified, confirmed, or revoked. Please describe briefly the procedures a defendant must follow to initiate review proceedings in each of the authorities able to adopt such measures and identify the period within which such proceedings must be initiated.

Copyright and related rights

A review of provisional measures may take place upon request of the defendant according to Article 696 of the Code of Civil Procedure.

Industrial property and trademarks

Pursuant to Article 696, paragraph 1 of the Code of Civil Procedure, an injunction issued in the absence or without previous notice to the adverse party, can be revoked or modified upon petition of the party enjoined. There is no limitation provided regarding the period within which review proceedings can take place.

36. Article 50.5 requires that competent authorities be authorized to require applicants to supply other information necessary for the identification of goods concerned by the authority that will execute the provisional measures. Please describe briefly what other information may be required by the authorities and cite the legal authority establishing the basis for this supplemental information.

Copyright and related rights

Within the scope of provisional measures the judge has a discretionary power to select the proper measure for each case without being bound to the requests of the parties (Article 692 of the Code of Civil Procedure).

Industrial property and trademarks

The Court may require any information related to the identification of goods. However, there is no provision in the Code of Civil Procedure determining the kind of information that may be requested.

37. Articles 50.6 and 50.8 provide that if proceedings leading to a decision on the merits are not initiated within a reasonable time, provisional remedies granted by competent authorities shall be revoked or otherwise cease to have effect, at the request of the defendant. Please identify the relevant provisions in Greek law authorizing the revocation or cessation of provisional measures if review proceedings are not initiated within a reasonable time and specify what constitutes a "reasonable time period" to initiate proceedings.

Copyright and related rights

The granting of provisional measures may be combined with an order specifying a time limit within which plaintiff must bring the principal action. In case of non-compliance, the provisional remedy expires automatically (Article 693 of Code of Civil Procedure).

The court before which the main litigation is pending always has the power to modify or to revoke provisional remedies (Article 697 of Code of Civil Procedure).

Industrial property

Please see Greece's answer to question 12 of the Checklist of Issues on Enforcement³¹ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 12 of the Checklist of Issues on Enforcement.³¹

38. Articles 50.7 and 50.8 provide that judicial and administrative authorities shall have the authority to order the applicant to provide the defendant appropriate compensation for any injury caused by the adoption of provisional measures when said measures are revoked, have lapsed, or when it has been determined that there has been no infringement or threat of infringement. Please describe how the competent authorities determine "appropriate compensation".

Copyright and related rights

Compensation is determined according to the provisions of Civil Code (Articles 914 *et seq.*). Compensation covers also reparation in money for the moral harm (Articles 299 and 932 of the Civil Code).

Industrial property

Please see Greece's answer to question 12 of the Checklist of Issues on Enforcement³¹ in reference to patents, utility models and registered topographies of semiconductor products. The same answer applies to industrial designs.

Trademarks

Please see Greece's answer to question 12 of the Checklist of Issues on Enforcement.³¹

Special requirements related to border measures

39. Article 51 of the TRIPS Agreement requires that countries adopt procedures that enable right holders to request suspension of the importation of counterfeit trademarked goods and pirated copyrighted works. IP/N/6/GRC/1 states that EC Regulations Nos. 3295/94 and 1367/95 have been implemented in Greece. Please identify the competent authority in Greece authorized to accept applications for a request to suspend release of suspected infringing goods and cite the relevant law or regulation governing such authority.

³¹ Document IP/N/6/GRC/1/Add. 1.

Customs

There are ten customs districts, as mentioned in the Annex.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³² in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³²

40. Please describe the procedures a right holder must follow to obtain border protection by the competent authorities, e.g., if there is a formal application that must be submitted to the competent authority, judicial or administrative, and the information required in the request for suspension and cite the law or regulations providing such procedures.

Customs

A simple form application to the competent administrative authority is needed (see the answer to question 39). Each competent authority communicates the application to the customs offices concerned and fixes the period of intervention.

The required information is mentioned in Article 3, paragraph 2 of Regulation No. 3295/94 and in Articles 2 and 3 of Regulation No. 1367/95.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³² in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³²

41. Please explain whether procedures, permissible under Article 51 of the TRIPS Agreement, are available to stop the export of goods suspected of infringing copyrights and/or trademarks, even if they are not considered counterfeit trademarked goods or piratical copyrighted works.

Customs

Yes, in application of Regulation No. 3295/94, but an application by the right holder is always needed.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³²

³² Document IP/N/6/GRC/1/Add. 1.

42. Article 52 of the TRIPS Agreement requires that rights holders wishing to stop importation of counterfeit trademarked goods or pirated copyrighted works present evidence to the competent authorities that there is *prima facie* infringement of their trademark or copyright. Please explain what evidence will constitute *prima facie* infringement in Greece.

Customs

Prima facie evidence is not required. The only requirement (in accordance also with Regulations Nos. 3295/94 and 1367/95) is a proof that the applicant or his representative is the right holder of a registered or unregistered trademark copyright and related rights.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³³

43. Article 52 also requires that the right holder provide a "sufficiently detailed description of the goods" to be stopped. Please explain what is required of the right holder in Greece for a description to be "sufficiently detailed".

Customs

What is required is indicated in Article 3, paragraph 2 of Regulation No. 3295/94.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³³ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³³

44. Article 52 requires that the competent authorities notify the right holder that his application is accepted within a reasonable time. Please explain within what period of time the competent authority responds to a request for suspension of release of goods and, if the application is accepted, the length of time during which enforcement action will be taken.

Customs

The Council Regulation does not provide for any precise period. The maximum period within which the competent authorities shall inform the applicant is three days.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³³ in reference to patents, utility models and registered topographies of semiconductor products.

³³ Document IP/N/6/GRC/1/Add. 1.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁴

45. Article 53.1 requires that the competent authorities have the authority to secure from an applicant a security or equivalent assurance sufficient to protect a defendant and to prevent abuse. Please verify that the competent authorities identified above are empowered to require security or equivalent assurance and provide citations to the provisions of law or regulation that grant them that authority.

Customs

The competent authorities have the authority to require from an applicant to provide a security or equivalent assurance sufficient to protect themselves (to ensure the payment of freight for the maintenance of goods under customs control).

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁴ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁴

46. Article 53.2 provides that the owner, importer, or consignee of goods involving industrial designs, patents, layout-designs or undisclosed information that have been suspended by customs authorities should be able, in certain circumstances, to have such goods released on payment of security sufficient to protect the right holder from infringement. Please identify forms of intellectual property other than trademarks and copyrights that are subject to provisions of Article 53.2 and cite to the relevant provisions of law or regulations.

Customs

Under Regulation No. 3295/94, Article 7, paragraph 2, the release for free circulation, on payment of security sufficient to protect the right holder from infringement, is provided only for industrial designs. For the other cases this procedure is not applied.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁴ in reference to patents, utility models and registered topographies of semiconductor products.

47. Article 54 requires that the importer and the applicant be notified promptly of the suspension or release of goods. Please identify the authority/authorities responsible for notifying the importer and applicant and cite to the law or regulations spelling out the procedure.

³⁴ Document IP/N/6/GRC/1/Add. 1.

Customs

Customs authorities are responsible for notifying the importer and applicant of the suspension of the release of goods.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁵ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁵

48. Please specify the period within which the competent authority to issue a notice that the release of goods has been suspended.

Customs

The importer and the applicant are promptly notified of the suspension of the release of goods during the accomplishment of customs procedures for the clearance of goods.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁵ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁵

49. Article 55 makes it clear that the right holder applying for suspension of infringing goods must initiate a proceeding on the merits in an appropriate forum within a reasonable period of time or the goods will be released. Please identify the fora in which an applicant/party may initiate proceedings on the merits that will allow customs authorities to hold the goods beyond ten working days.

Customs

The judicial authority.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁵ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁵

³⁵ Document IP/N/6/GRC/1/Add. 1.

50. Article 55 provides that a review is to take place within a reasonable time at the request of the defending party to determine if the suspension measures should be modified, revoked or confirmed pending the outcome of the proceeding on the merits. Please identify the forum that is authorized to conduct such a review and describe the procedure. Please cite the law or regulations providing for these procedures.

Customs

The judicial authority.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁶ in reference to patents, utility models and registered topographies of semiconductor products,

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁶

51. Article 56 requires that the authorities be able to require the applicant to compensate the defending party for any injury caused if the detention of goods was unfounded. Please identify the authorities that can order the applicant to pay the importer, consignee or owner compensation for injury caused by wrongful detention or through the detention of goods released pursuant to Article 55 and cite to the law or regulations providing that authority.

Customs

It depends on what the importer or any other person concerned may ask by the judicial authority. Generally the dispositions of the Civil Code may be applied.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁶ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁶

52. Article 57 requires that the competent authorities be able to authorize the right holder to inspect the detained goods in order to substantiate the claims. Please explain how right holders are provided an opportunity to inspect suspect goods that have been detained by customs authorities.

Customs

Without prejudice to the protection of fiscal and commercial secret, customs authorities give them the permission to inspect the goods.

³⁶ Document IP/N/6/GRC/1/Add. 1.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁷ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁷

53. Article 57 also requires that, where the decision on the merits favours the right holder, the competent authorities also may be given authority to give the right holder information regarding the importer, consignee or consignor. If competent authorities in Greece can provide information regarding the importer, consignee or consignor to the right holder, please explain how information regarding names and addresses of consignors, importers and consignees and quantities of goods are provided to the applicant after a positive decision of infringement is made, e.g., authorities automatically providing information or by submission of a written request from the right holder, etc. Please cite to the law or regulations providing such authority.

Customs

When the applicant (right holder) wants to initiate the proceedings leading to a decision on the merits, without prejudice to the protection of fiscal and commercial secret the customs authorities can give any information concerning the identities of the importers and consignors.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁷ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁷

54. Article 58 specifies procedures to be followed where the competent authorities can act ex officio. Please explain whether the competent authorities in Greece are empowered to act ex officio and, if so, please identify the intellectual property areas subject to ex officio action.

Customs

The customs authorities are empowered to act ex officio if they are certain that it is a matter of counterfeit goods. They act that way in all cases of copyright and related rights, trademarks, industrial designs and models.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁷ in reference to patents, utility models and registered topographies of semiconductor products. Industrial designs can be subject to ex officio action.

³⁷ Document IP/N/6/GRC/1/Add. 1.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁸

55. Article 59 identifies the remedies that are to be available, including destruction or disposal of infringing goods outside the stream of commerce. Please explain what the law in Greece permits regarding the disposition of infringing goods, i.e., does the law allow for destruction, disposal or both. Please cite to the law or regulations providing such authority.

Customs

Under Article 8 of Regulation No. 3295/94, the competent authorities take the necessary measures for the diminution of injury of the right holder and for this purpose the national dispositions are applied.

The national Customs Code permits both the destruction and the disposal of goods. But in the case of infringing goods, the customs authorities are not in position to decide about the future condition of the goods.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁸ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁸

56. Please identify:

- (a) the competent authority that decides the disposition of the goods, i.e., whether the goods will be destroyed or disposed of outside the stream of commerce; and**
- (b) the competent authority that carries out the destruction or disposal of the goods.**

Customs

- (a) The judicial authority.
- (b) The customs authority.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁸ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁸

³⁸ Document IP/N/6/GRC/1/Add. 1.

57. Article 60 permits Members to exclude from the provisions for border enforcement small quantities of goods of a non-commercial nature carried by passengers or sent in small consignments. Please describe what constitutes a *de minimis* import that is excluded from the border measures under the law of Greece.

Customs

According to Article 10 of Regulation No. 3295/94, the goods of a non-commercial nature contained in the personal luggage of passengers are excluded from the field of its application, up to the limits of customs exemption.

Industrial property

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement³⁹ in reference to patents, utility models and registered topographies of semiconductor products.

Trademarks

Please see Greece's answer to question 15 of the Checklist of Issues on Enforcement.³⁹

Criminal procedures

58. Article 61 of the TRIPS Agreement requires that Members have criminal procedures and penalties, including imprisonment and/or monetary fines sufficient to act as a deterrent, at least for cases of wilful trademark counterfeiting and copyright infringement on a commercial scale. IP/N/6/GRC/1 provides information regarding copyright and related rights. Please describe the provisions in the law of Greece that fulfill the obligations of Article 61 in relation to trademarks and provide legal citations.

Trademarks

According to Article 28 of Law No. 2239/1994:

- "(1) With at least three months in prison and a penalty amounting to Dr 200 000, or with one of these is punished:
- (a) Anyone altering a trademark or knowingly using an altered trademark.
 - (b) Anyone knowingly affixing to products of the undertaking or to objects of the latter's trade, a trademark not owned by him.
 - (c) Anyone imitating a trade mark, wholly or in part, without altering it with a view to mislead buyers or knowingly to use such a mark.
 - (d) Anyone knowingly selling or exposing for sale or distribution products or goods bearing the trademark which constitutes an alteration or imitation of another trademark.
 - (e) Anyone using as a trademark in violation of the provisions in Article 19.

³⁹ Document IP/N/6/GRC/1/Add. 1.

- (f) Anyone using as a trademark, the emblems and symbols of the Greek State and of every authority as well as religious symbols.

"(2) The provisions of paragraph 1 of the present article also apply to service marks."

No decisions for criminal penalties are available.

59. Article 61 also requires that remedies in appropriate cases include the seizure, forfeiture and destruction of infringing goods and any materials and implements the predominant use of which has been the commission of the offence. IP/N/6/GRC/1 provides information regarding copyright and related rights. Please explain the provisions in the law of Greece that provide for such remedies in relation to trademarks, describe the circumstances in which those remedies would be imposed and provide legal citations.

Trademarks

According to Article 31 of Law No. 2239/1194:

- "(1) The civil or criminal court orders in the case of alteration, the destruction of the products or goods which bear the altered trademark, in the case of imitation, the removal and destruction of the trademark or the destruction of the product.
- "(2) The removal or destruction of the trademark can be ordered by the court even in the case of acquittal of the accused, if it takes the view that there exists a likelihood of confusion."

No decisions for criminal penalties are available.

60. Article 61 also indicates that Members may provide for criminal procedures and penalties in cases of wilful infringement of other forms of intellectual property. Please describe any provisions in the law of Greece that provide for such procedures and remedies and provide legal citations.

Copyright and related rights

Greek Law No. 2121/1993 introduces a criminal law system by virtue of which criminal proceedings can be applied against all acts which constitute copyright/related rights' infringement (Article 66, paragraphs 1 and 2 of Law No. 2121/1993). According to Article 66 of Greek Law No. 2121/1993, the sanctions against copyright/related rights' infringement are imprisonment from one up to five years and a fine of Dr 1 000 000 to Dr 5 000 000. If the profit which the infringer was aiming to make or the damage caused by the right holders are particularly great the penalties are increased to at least two years imprisonment and to a fine of from Dr 2 000 000 to Dr 10 000 000.

If the infringer is a person who commits the infringement by way of standard practice or if the circumstances in connection with the perpetuation of the act indicate that the guilty party poses a serious threat to the protection of copyright or related rights, the sanction shall be imprisonment of up to ten years and a fine of from Dr 5 000 000 to Dr 20 000 000 together with withdrawal of the infringer's licence (Article 66, paragraph 3 of Greek Law No. 2121/1993).

According to the Greek Code of Criminal Procedure, search orders and seizures of pirated material can be ordered by the Prosecutors during penal proceedings (Articles 251-252, 261-269, 280

CCRP). Prosecutors have the authority to order searches in order to preserve evidence of copyright infringement (Articles 253-259 CCRP).

Industrial property

Please see Greece's answers to questions 21 and 24 of the Checklist of Issues on Enforcement⁴⁰ in reference to patents, utility models and registered topographies of semiconductor products. No criminal penalties are provided against the infringement of an industrial design.

61. Article 61 requires that criminal penalties be sufficient to provide a deterrent at least for wilful trademark counterfeiting and copyright piracy. Please explain how the penalties provided under Greek laws comply with that obligation.

Copyright and related rights

Sanctions are very severe and can act as deterrent to copyright and related rights infringement (Article 66 of Greek Law No. 2121/1993). The prosecuting authorities have the power to apply flagrant procedure according to Circular No. 10/1365/15-4-1997 of the Public Prosecutor of the Supreme Court.

Trademarks

The criminal penalties for trademarks are sufficient. Please also see the answer to question 58 above.

[Follow-up questions from the US]

1. Please provide statistical information related to civil copyright, trademark, geographical indication, industrial design, patent, integrated circuit layout-design, and trade secret enforcement for each of the years 1996 and 1997, including the number of cases filed; injunctions issued; infringing products seized; infringing equipment seized; cases resolved (including settlement); and the amount of damages awarded.

There are no official statistics available regarding copyright, patents, utility models, registered topographies of semiconductor products and industrial designs.

2. Please provide statistical information related to criminal enforcement in the area of copyright piracy and trademark infringement for each of the years 1996 and 1997, including the number of raids, prosecutions, convictions, and the amount of fines and/or jail terms (including whether the fines were paid and whether the jail term was actually served or was suspended) and any other information establishing that the criminal system operates effectively to deter copyright piracy and trademark counterfeiting.

Copyright and related rights

There are no statistics relating specifically to criminal enforcement in the area of copyright.

3. In IP/N/6/GRC/1, the Government of Greece states that it awards court costs but that "in practice award of such costs are low" and that Greek law does not permit recovery of investigation costs. In light of this description, please explain how Greek law and practice

⁴⁰ Document IP/N/6/GRC/1/Add. 1.

comply with Articles 41 and 45.2 regarding recovery of right holder expenses and the obligation to provide remedies that "constitute a deterrent to further infringement".

Copyright and related rights

Greek Law No. 2121/1993 does not contain provisions on court costs or investigation costs for copyright cases. Articles 173 – 193 of the Greek Code of Civil Procedure contain specific provisions concerning court costs. The costs of a proceeding vary according to the level of jurisdiction and the value in dispute. Award of court costs to the winning party is a standard practice of Greek courts. Expert's fees may be awarded according to Article 189 of the Code of Civil Procedure. The Code of Attorneys provides for the minimum level of fees depending on the amount of the litigation and the type of procedure involved. Under Article 41.2 of the TRIPS Agreement procedures concerning the enforcement of intellectual property rights may not be unnecessarily costly. Greek legislation is in broad conformity with that provision because the State-imposed costs are not high. It is to be noted that according to Greek law the author or the right holder of the related rights is entitled to recover damages in an amount not less than twice the legally required or normally payable remuneration for the forms of exploitation which the infringing party has effected without licence. Instead of seeking damages the right holder may claim the profit the infringer made from the unauthorised use. Provisions of the Greek Civil Code are also applicable. Article 914 provides:

"A person who through his fault has caused in a manner contrary to the law prejudice to another shall be liable to compensation".

4. Please explain how Greece complies with Article 50 regarding "prompt and effective provisional measures" by describing the manner and extent to which *ex parte* civil search procedures have been used in practice to prevent irreparable harm and to preserve evidence.

Industrial property

Compliance with Article 50 of the TRIPS Agreement is afforded by the availability of provisional measures as described in Greece's answers to questions 26, 27 and 28 of the Checklist of Issues on Enforcement⁴¹ in reference to patents, utility models, registered topographies of semiconductor products and industrial designs. Since there is no obligation to notify an injunction to the Industrial Property Organization, unless a specific request by the Court is being directed to the Patent Office, it is not possible to provide accurate information on the manner and extent to which *ex parte* civil search procedures are being applied in practice.

Copyright and related rights

According to Article 63, paragraph 3 of Greek Law No. 2121/1993 where there is a reason to believe that an infringement of copyright is occurring or may occur, a single-member court of first instance shall be empowered to invoice the safeguarding measures and to issue a prohibition order without the necessity of specifically designating the works thereby protected. According to Article 64 of Greek Law No. 2121/1993 combined with Articles 687, paragraph 1 and 691, paragraph 2 of the Code of Civil Procedure provisional measures can be ordered by the one-member district court. The single-member court of first instance can order the conservatory measure of any item of the infringement or product or evidence of the infringement. Alternatively, the court can order the drawing up of an inventory and the photographic record of those items. Provisional measures provided by Articles 682-738 of the Code of Civil Procedure are very important. Provisional measures can be granted on an application *ex parte* and allow the court to issue immediately a

⁴¹ Document IP/N/6/GRC/1/Add. 1.

provisional order upon the filing of a request. Conservatory seizure can be ordered by judicial authorities.

5. The United States Government has received reports that significant amounts of unauthorized CDs are being imported into Greece. Please describe the concrete steps that the Government of Greece is taking to ensure its compliance with the obligations in Articles 51-60 regarding border measures.

According to Greek Law No. 2121/1993 the author has the right to prohibit the import of copies of the work produced abroad without his consent. Producers of sound or visual or sound and visual recordings have also the right to prohibit the import of recordings produced in a foreign country without their consent. EC Regulations Nos. 3295/1994 and 1367/1995 have been implemented in Greece by virtue of Finance Circular letter N. T10231/1781/A 0019/12.12.1995 which incorporated them into the Greek legal system. Names of experts are notified to the competent Customs authorities. There has been created a specific Department in the Ministry of Finance as it concerns control of economic issues on copyright. During the last two years, 20 cases of a total number of 16,645 counterfeit CDs and LPs have been discovered by the Greek custom authorities.

6. The United States Government has received reports of widespread unauthorized broadcasts by television stations in Greece. Please describe the concrete steps that the Government of Greece is taking to ensure its compliance with Articles 41 to 61 regarding effective criminal, civil and administrative copyright enforcement.

Copyright and related rights

Apart from the measures taken by the Ministry of Mass Media provisional, civil and criminal measures are granted by judicial authorities. Administrative measures provided by the new Broadcast Law are ordered by the Radio/Television Council. Prosecuting authorities have the power to apply flagrant procedures and in general to see to the rapid hearing of such cases according to circulars of the Public Prosecutor of the Supreme Court. A special judicial system is created as it concerns civil procedures. Copyright cases are introduced to special chambers for the first instance cases in Athens, Piraeus and Thessaloniki, as it concerns the jurisdiction of three-member courts. Appeals against the decisions of these first instance courts are tried before the Special Chamber of the Court of Appeal in Athens. Provisional remedies are ordered by a single member court. Copyright law has been introduced as a separate issue in the program of the National school of judges. The teaching of copyright law has been introduced in the program of the faculties of law in Greece. Greek law permits the establishment of a collecting society exclusively to engage in the sole functions of protecting the economic rights of a right holder (Articles 54-58 of Greek Law No. 2121/1993). The operation of such a collecting society is approved by the Ministry of Culture for the protection of producers of audiovisual works. Members of this society are producers of audiovisual works and private television stations.

7. The United States Government has received reports of extensive delays – of up to nine years in some cases – in bringing copyright infringement cases to a hearing and final judgement. In light of such reports, please explain how Greece complies with its obligations to provide "expeditious" remedies, without unwarranted delays under Article 41.

Copyright and related rights

It is a general rule in Greek law that a party to litigation aggrieved by a judicial decision seeks to have the case reconsidered. The length of a proceeding depends on the nature of the case and whether the case is introduced at first or second instance. Provisional orders are issued immediately.

ANNEX

Competent authorities
to receive the application in the framework of
Article 3(8) of Regulation No. 3295/94

GREECE

CUSTOMS DISTRICTS

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|-----|-----------------------------|---|
| 1. | Attiki (Pireas) | Head of Customs Administration
Pl. Ag. Nikoleou – 18510 Pireas
Fax: + 30 1 4511009 |
| 2. | Thessaloniki (Thessaloniki) | Head of Thessaloniki Customs Administration
Limani – 54110 Thessaloniki
Fax: + 30 31-546485 |
| 3. | Patra (Patra) | Head of Patra Customs Office
Ktirio Limaniou- 26110 Patra
Fax: + 30 61-331658 |
| 4. | Kavala (Kavala) | Head of Kavala Customs Office
Limani – 65110 Kavala
Fax: + 30 51-222633 |
| 5. | Volos (Volos) | Head of Volos Customs Office
Limani – 38001 Volos
Fax: + 30 421-23376/27152 |
| 6. | Dodekanisa (Rodos) | Head of Rodos Customs Office
Limani – 85100 Rodos
Fax: + 30 241-22338 |
| 7. | Kerkira (Kerkira) | Head of Kerkira Customs Office
Ethn. Antistasis 1-49100 Kerkira
Fax: + 30 661-39602 |
| 8. | Iraklio (Iraklio) | Head of Iraklio Customs Office
N. Limani – 71110 Iraklio
Fax: + 30 81-221003 |
| 9. | Lesvos (Mitilini) | Head of Mitilini Customs Office
Limani – 81100 Mitilini
Fax: +30 251-43875 |
| 10. | Siros (Siros) | Head of Siros Customs Office
Ermoupoli – 84100 Siros
Fax: +30 281-22680 |
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