

Practical tools to overcome infringement: the example of the vegetable seed sector

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Marian Suelmann, Company Lawyer Rijk Zwaan

INFRINGEMENT



TURŞULUK HIYAR ÜRETİCİLERİ!
SAHTE OPERA RZ SATILMAKTADIR

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Özelliklerinizle Savcılarımıza:
Her bir tohum boyutu ve bu için kontrol
paketlerimiz, gerçek tohum
satın almalarıdır. Sahneyle ilgili raporların
uzununda önemli bir rolü.

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RiTO 
FARMACIA S.R.L.

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Tutti - Maastricht (NL)
Tel: +31 (0) 43 38 11 11
Fax: +31 (0) 43 38 11 12

PBR Infringement



Description

- Evidence-gathering procedure
- Allows bailiff and expert to enter the premises of the suspected infringer to collect evidence
- File a request at the competent court:
 - Description/pictures/samples?
 - Ex parte?
- Suspicion/presumption of infringement

- Appointment of bailiff and expert
- Instructions
- Descriptions/pictures/samples
- Court case within short period /pro forma
- Strongly recommended (not damaging)

Criminal Measures

EU statement:

“Criminal penalties also constitute, in appropriate cases, a means of enforcing intellectual property rights”

Penalties

Proposal for penalties for infringements that have been committed on a:

- Commercial scale, and
- Intentionally

- Imprisonment for natural persons (in case of criminal organisation max. 4 years)
- Fines (100.000 – 300.000 euro)
- Destruction of infringing goods
- Total or partial closure of establishment

- Permanent or temporary ban on engaging in commercial activities
- Placement under judicial supervision or judicial winding-up
- Ban on access to public assistance or subsidies
- Publication of judicial decision

Recommendations

- Own initiative from companies
- One competent court per country
- Action on own initiative of examination offices/authorities

- Description
- Extension of protection to directly obtained products
- Reversal burden of proof

Article 107.2 of the Italian Code on
Intellectual Property Rights:

“Use shall be presumed unauthorized
in the absence of proof to the contrary.”



Thank you for your attention