



## **IPR Toolkit – Croatia**

### **Introduction**

#### Welcome

The United States Embassy in Croatia recognizes the imperative of strong intellectual property rights (IPR) protection for American business, and is working to help the Government of Croatia find ways to improve IPR enforcement in Croatia. Stolen, pirated, and counterfeit goods undermine investment opportunities and can significantly impact market share for U.S. companies. Croatia has made considerable efforts in recent years to improve IPR protection, although work remains, particularly in the areas of enforcement and judicial efficiency in addressing IPR violations. This IPR Toolkit was developed by the U.S. Embassy in Zagreb to provide background information to U.S. businesses on the current IPR environment and regulations in Croatia

#### Disclaimer

The information provided in this toolkit by no means constitutes legal advice and should not be a substitute for advice of counsel. Its intended purpose is to provide an overview of the Croatian IPR environment, available enforcement mechanisms and Croatian government offices sharing IPR jurisdiction. We recommend that U.S. companies seeking to do business in Croatia, or facing IPR infringement issues, retain qualified U.S. and/or Croatian legal counsel and pursue their rights through the Croatian IPR enforcement regime.

#### Current IPR Environment

As it moves toward accession into the European Union (EU), Croatia has promulgated legislation to address the protection of IPR and to align its rules and regulations with the EU. As part of this effort, Croatia has enacted a Patent Law, Trademark Law, Industrial Design Law, Law on the Geographical Indications of Products and Services, Law on the Protection of Layout Design of Integrated Circuits, and Law on Copyrights and Related Rights.

As a full World Trade Organization (WTO) member, Croatia is a party to the Uruguay Round Agreement on Trade-Related Intellectual Property Rights (TRIPS). A WTO/TRIPS Working Group in June 2001 accepted Croatia's IPR legislation. Texts of these laws are available on the website of the [State Intellectual Property Office \(www.dziv.hr\)](http://www.dziv.hr).

Croatia is also a member of the World Intellectual Property Organization (WIPO).

Although some areas of IPR protection remain problematic, Croatia is currently not on the U.S. Special 301 Watch List. Croatia is classified as a transit and consumer country of counterfeit goods. Problem areas continue to be concentrated in piracy of digital media and counterfeiting as well as the relative slowness and inefficiency of the judicial system in adjudicating cases of IPR infringement. There is a memorandum of understanding between the State Intellectual Property Office and the Croatian Agency for Medicinal Products and Medical Devices that was designed to ensure patent linkage for pharmaceutical products; however, there is a known case of a generic product being approved for marketing despite a valid patent by the right holder.

## **Copyrights**

### Introduction

In Croatia (as in most other nations of the world), the authors of works in the literary, scientific and artistic and other domains of creativity have the exclusive right to use or to authorize others to use their works. Such right of the author, as well as the system of legal instruments protecting such a right is called copyright.

The author may prohibit, or authorize under agreed conditions, reproduction, public performance, recording, broadcasting, translation or adaptation of his work. The authors frequently entrust the economic rights in their works to natural or legal persons that may commercially exploit them to the best possible extent, subject to payment of remunerations (royalties) that depend on the use of the work. However, moral rights of the author remain forever in his possession, irrespective of whether the author entrusted his economic rights.

Copyright does not protect an idea but a work, expressing the idea of the human mind, irrespective of the form or quality of the expression. Copyright in a work is conferred to its author by the mere act of creation of the work and, contrary to the majority of other forms of intellectual property, it is not subject to any administrative or registration procedure.

### Legislation

Copyright in Croatia is legislated by the [Copyright and Related Rights Act](#) of 2003 and as amended in 2007. Croatia is a signatory to the Berne Convention. For a complete list of international conventions,

treaties and contracts to which Croatia has signed please visit the World Intellectual Property Organization website at [www.wipo.int](http://www.wipo.int).

### Coverage

The category of works covered by copyright includes but is not limited to:

- Works of language (written works, oral works, computer programs)
- Musical works
- Dramatic or dramatic-musical works
- Choreographic works and works of pantomime
- Works of visual arts (in the field of painting, sculpture and graphics)
- Works of architecture
- Works of applied art and industrial design
- Photographic works and works produced by a process similar to photography
- Audiovisual works including cinematographic works
- Cartographic works
- Presentations of scientific or technical nature, such as drawings, plans, sketches, tables.

### Registration

Copyright in a work belongs to its author by the mere act of creation of the work (by virtue of Article 9 Para. 2 of the [Copyright and Related Rights Act](#)) with no formality to be complied with, such as registration or deposit of the work. Any deposit of the work is not required for the acquisition of copyright, however, in the event of postponed publication; it may serve as evidence of the creation date of a work.

## **Trademarks**

### Introduction

A word, phrase, symbol, design, or a combination of these signs or other distinctive features of a product and/or a service may be protected as a trademark. A trademark is a source indicator that serves to distinguish products and/or services of one person from products and/or services of other persons involved in trade.

In the majority of countries a trademark is acquired by registration, on the basis of examination carried out by the relevant competent authority (in the Republic of Croatia by the State Intellectual Property Office). To qualify as a trademark, a sign must be distinctive, not

descriptive or deceptive, and not likely to be confused with an earlier trademark.

Trademark protection represents an effective market instrument by which manufacturers and service providers protect their reputation and investments made in the promotion and marketing of their products and/or services.

### Legislation

Trademark registration and protection are prescribed in the [Trademarks Act](#) of 2003 and amended in 2007 and [Trademark Regulations](#) in force from November 2007. (The former Trademarks Act and the former Trademarks Regulations apply to trademark applications filed before January 1, 2004.) For a complete list of international conventions, treaties and contracts to which Croatia has signed, please visit the World Intellectual Property Organization website at [www.wipo.int](http://www.wipo.int).

### Coverage

Any sign capable of being represented graphically, particularly words, including personal names, designs, letters, numerals, the shape of goods or of their packaging, three-dimensional forms, colors, as well as the combinations of all the above indicated signs, may be protected as a trademark, provided that such signs are capable of distinguishing the goods or services of one undertaking from goods or services of another undertaking.

### Registration

The protection requirements are prescribed by the [Trademarks Act](#) and the [Trademark Regulations](#). A trademark application has to be filed on [Ž-1 Form](#), and has to be supported by evidence of payment of the prescribed administrative fee and examination charges.

## **Patents**

### Introduction

A patent is an exclusive right granted by a government to an inventor, for a limited period of time, which allows the inventor to exclude others from making, using, selling, offering for sale or importing his or her invention in exchange of a disclosure of the invention. A patent is a property the use of which may be authorized by the owner to other persons by granting license(s) or by transferring it in its entirety ("selling it"). Patent rights are territorial in nature and a patent obtained in Croatia is not enforceable in another country nor are foreign (including U.S.) patents enforceable in Croatia.

A patent is acquired in a granting process carried out by the authority competent for granting such a right (in the Republic of Croatia by the State Intellectual Property Office), on the basis of the examination of a patent application describing the invention concerned.

The main requirements to be complied with for the grant of a patent are:

- novelty with regard to the state of the art
- inventive step and
- industrial applicability.

The patent protection is an effective business instrument enabling patent owners to refund the investments made in research and development of new products and technologies, through a monopoly over the use of the protected technical solution during the term of the patent protection.

### Legislation

In the territory of the Republic of Croatia, the State Intellectual Property Office carries out a patent granting procedure in compliance with the [Patent Act](#) and the [Patent Regulations](#). (The former Patent Act and the former Patent Regulations apply to patent applications filed before January 1, 2004.)

Since April 1, 2004 the procedure for granting patents having effect in the territory of the Republic of Croatia may also be carried out through the European Patent Office, by filing a corresponding application directly to the European Patent Office designating Croatia.

For a complete list of international conventions, treaties and contracts to which Croatia has signed please visit the World Intellectual Property Organization website at [www.wipo.int](http://www.wipo.int).

## Coverage

As outlined in the Patent Act,

(1) a patent shall be granted for any invention, in any field of technology, which is new, which involves an inventive step and which is capable of industrial application.

(2) According to the conditions set out in paragraph (1) of this Article, a patent shall also be granted for an invention which concerns:

1. a product consisting of or containing biological material;
2. a process by means of which the biological material is produced, processed or used;
3. a biological material isolated from its natural environment or produced by means of a technical process, even if it previously occurred in nature.

(3) The biological material referred to in paragraph (2) of this Article shall be any material containing genetic information and capable of reproducing itself or being reproduced in a biological system.

(4) According to the conditions set out in paragraph (1) of this Article, an invention which concerns plants or animals shall be considered patentable if the technical feasibility of the invention is not confined to a particular plant or animal variety and if the process for carrying out the invention is not essentially biological.

(5) A process for the production of plants and animals referred to in paragraph (4) of this Article is essentially biological if it entirely consists of natural processes such as crossing or selection.

(6) The following in particular shall not be considered to be the inventions within the meaning of paragraph (1) of this Article:

1. discoveries, scientific theories and mathematical methods,
2. aesthetic creations,
3. rules, instructions or methods for performing mental activities, playing games or doing business,
4. presentation of information, and
5. computer programs.

## Registration

The patent granting procedure is instituted by filing an application consisting of:

- request for the grant of a patent ([P-1 Form](#))
- description of the invention
- claims

- drawings - where the invention is such that it is appropriate to be represented by drawings. The details on how to draw particular elements of an application may be found in the [Patent Regulations](#)
- abstract - a summary of the essence of the invention for the purpose of technical information.

After receipt of an application, the State Intellectual Property Office (SIPO) examines whether the prescribed elements of the application are fully filed and, if the application is correct, accords the filing date of the application, on the basis of which the applicant acquires the priority right. (The priority right means that if two inventors file an application for the same invention, the patent will be granted to the applicant who first filed the application, provided that it complies with all the necessary requirements).

The application is entered in the Register of Patent Applications and confirmation of payment of the administrative fees and procedural charges is made. After the accordance of the filing date of the application, the applicant may request, if he wishes and subject to payment of the corresponding charges, a certificate of the right of priority, as acquired on the date of filing the patent application with the SIPO.

In the next phase of the procedure the application is examined as to its compliance with the pre-requisites for the publication in the SIPO official gazette, since the publication of a patent application is a constituent part of the patent granting procedure. Compliant patent applications are published in the Office official gazette after the expiration of 18 months from the date of filing or the date of the granted priority right, respectively.

At a request of the applicant, the application may be published even earlier, but not before the expiration of three months from the date of its filing with the SIPO. The published patent application becomes available to the public, whereby it forms part of the state of the art and the text of such application may be inspected by any interested person.

Within a period of six months the applicant, if he wants to continue the patent granting procedure, must file one of the requests for examination of the requirements for the patent grant. The six months runs from the date of publication of the patent application. If, within the prescribed time limit, one of the specified requirements has not been filed and the corresponding fee and procedural charges have not been paid, the patent application will be considered to be withdrawn, and the SIPO will suspend the patent granting procedure.

## **Trade Secrets**

Protection of Industrial Property Rights in Croatia also extends to:

- Industrial Designs
- Geographic Indications and Appellations of Origin, and
- Topographies of Semiconductor Product

For specific information on these protections please refer to the Croatian [State Intellectual Property Office](#) (SIPO) website.

## **Enforcement**

### First Steps

As the responsible entity for granting rights, the State Intellectual Property Office (SIPO) is the initial point of contact for any disputes regarding the registration of rights and other administrative procedures. There are four additional legal procedures available to protect intellectual property rights, dependent on the type of infringement or action required.

Civil procedures related to IPR are handled in one of the four specialized commercial courts in Croatia (Zagreb, Rijeka, Osijek and Split) where the judges have received special training on IPR legislation.

Criminal procedures are handled in the municipal courts (there are no specialized IPR courts for criminal complaints).

Misdemeanor procedures are handled in one of the 110 Misdemeanor Courts in Croatia. The Misdemeanor Court is the court of reference for seizures of suspected counterfeit goods.

Customs procedures are handled by the Customs Administration. See below.

### Civil Actions

It is the responsibility of the rights' holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. Companies may wish to seek advice from local attorneys or IP consultants who are experts in Croatian law. The [U.S. Commercial Service](#) can provide a list of local lawyers upon request.

An application for preliminary measures can generally be resolved in between two to six weeks with the possibility of ex parte procedures. Cases being tried in courts of first instance typically last between one to three years and in the second instance approximately two years.

## Customs and Border Protection

Border enforcement of intellectual property rights in Croatia is carried out pursuant to the Decree in Customs Measures Relating to Goods Infringing Intellectual Property Rights of May 2006 and amended in 2007. The Decree is harmonized with both the Council Regulation (EC) No. 1383/2003 and the Commission Regulation No. 1891/2004. In addition to legislative harmonization, the Croatian Customs are making ongoing efforts to bring into line the implementation of the Decree with the practices adopted in EU member countries.

The Customs Administration can detain suspected counterfeit goods until a right holder makes a complaint and can destroy suspected counterfeit goods deemed a threat to public health even in the absence of a right holder complaint.

Right holders that wish to register with Croatian Customs need to find a legal representative in Croatia. It should be a lawyer or a law office. They should then file an Application for Action, which should be forwarded to Customs through the legal representative in two original copies along with the following documents:

- Power of Attorney;
- Statement according to Article 9. of Croatian Customs Regulation NN 52/06 and 82/07, signed by an authorized person, stamped, notarized and then apostilled;
- proof that the applicant is the owner of the rights (a listing from the relevant IPR database proving that the IPR is registered or recognized in Croatia).

Once they have received these documents, Customs will grant the application for action within one month (but often within a week). The validity period is one year, but the applicant can ask for an extension for another year. Customs can grant one-year extensions indefinitely.

Along with the required documents, Customs prefers to have on file other useful information regarding the original and potential counterfeit products (production sites, routes, distribution network, both legal and if known illegal, identity guides and "how to recognize fakes" information, etc.).

## Local and National Law Enforcement (Police)

Six Croatian government institutions have a role to play in the protection and enforcement of IPR:

The [Ministry of Economy, Labor and Entrepreneurship](http://www.mingorp.hr) ([www.mingorp.hr](http://www.mingorp.hr)) houses the State Intellectual Property Office (SIPO),

which is the administrative body responsible for granting industrial property rights. The SIPO also provides rights related professional services like patent and trademark searching.

The [Ministry of Interior](http://www.mup.hr) (www.mup.hr) oversees the Croatian Police, including the Economic Crime and Corruption Directorate, which is responsible for supervising the investigation of intellectual property infringements.

The [Ministry of Finance](http://www.mfin.hr) (www.mfin.hr) includes the Customs Administration, which is primarily responsible for controlling the import and export of goods at border points but also works within Croatia to detect and prevent Customs related offenses.

The [State Inspectorate of the Republic of Croatia](http://www.dih.hr) (www.dih.hr) is responsible for quality control in most sectors of the Croatian economy and its inspectors can seize suspected counterfeit goods and issue fines and/or court summons.

The [State Attorney's Office](http://www.dorh.hr) (www.dorh.hr) prosecutes criminal offenses including IP crimes.

The [Ministry of Justice](http://www.pravosudje.hr) (www.pravosudje.hr), which performs administrative tasks relating to the courts though it has no formal oversight of the courts.

## **LINKS**

### U.S. Government

- United States Department of State <http://www.state.gov/>
- United States Department of Commerce <http://www.doc.gov/>
- United States Trade Representative <http://www.ustr.gov/>
- United States Patent and Trademark Office <http://www.uspto.gov/>
- United States International Trade Commission <http://www.usitc.gov/>
- United States Strategy Targeting Organized Piracy (STOP!)  
<http://www.stopfakes.gov/>
- Department of Justice, Computer Crime and IP Section  
<http://www.cybercrime.gov/>
- DHS/Customs and Border Protection <http://www.cbp.gov/>
- Copyright Office, Library of Congress <http://www.copyright.gov/>
- U.S. Embassy – Croatia <http://zagreb.usembassy.gov/>
- U.S. Commercial Service – Croatia <http://www.buyusa.gov/croatia/>

## American Chamber of Commerce

The American Chamber of Commerce in Croatia has an active IPR Protection Committee. Members of the Committee are available to discuss IPR issues in Croatia. For a contact list of Committee members, please go to the following link:

<http://www.amcham.hr/committees/>

## Industry Organizations

- American Bar Association <http://www.abanet.org/>
- Association of American Publishers <http://www.publishers.org/>
- Biotechnology Industry Organization <http://www.bio.org/>
- Business Software Alliance (BSA) <http://www.bsa.org/>
- International Federation of the Phonographic Industry (IFPI) <http://www.ifpi.org/>
- International Research-Based Pharmaceutical Manufacturers Association (IRPMA) <http://www.irpma.org.tw/english/>
- Motion Picture Association <http://www.mpa.org>
- Music Publishers Association <http://www.mpa.org/>
- Pharmaceutical Research and Manufacturers of America (PhRMA) <http://www.phrma.org/>
- Entertainment Software Association <http://www.theesa.com/>
- International Trademark Association <http://www.inta.org/>
- International Anti-Counterfeiting Coalition <http://www.iacc.org/>

## International Organizations

- World Trade Organization's resources on TRIPS <http://www.wto.org/>
- World Intellectual Property Organization <http://www.wipo.int/>