

Regulations concerning the notice-and-takedown procedure published i-DEPOT

The Director General of the Benelux Office for Intellectual Property,

Considering his competence laid down in Rule 4.11 of the Implementing Regulations under the Benelux Convention on Intellectual Property to establish rules on the published i-DEPOT notice-and-takedown-procedure (NTD procedure),

Has established the following regulation:

Article 1 - Instituting a notice-and-take down procedure (NTD)

1. When instituting a NTD procedure, the complainant shall indicate on which of the following grounds his notification is based:
 - a. the publication constitutes a criminal offence, or
 - b. the publication infringes his rights.
2. If the notification is based on paragraph 1(b), it can only be done by using the tool made available for that purpose on the Office's website ("NTD introduction tool").
3. For both grounds mentioned in paragraph 1, the complainant using the NTD introduction tool must furnish his contact details, a description of the criminal offence or the infringement and the explicit declaration that he is aware of the contents of Rule 4.11, paragraph 2, of the Implementing Regulations. If the notification is based on paragraph 1(b), the complainant must also furnish documents proving his identity and the rights he claims to have been infringed, and pay the fees due laid down in the Implementing Regulations.
4. The notification shall only be deemed to have been instituted when it complies with paragraphs 1 to 3.

Article 2 - Conduct of the NTD procedure

1. The NTD procedure shall be conducted as follows:
 - a. when a notification that complies with Article 1 has been made and except in case the notification is manifestly unfounded, the Office suspends the publication of the i-DEPOT;
 - b. the Office informs the party that submitted the i-DEPOT of the institution of the NTD and transmits the notification to him;
 - c. the party that submitted the i-DEPOT will be granted a period of one month to furnish documents proving his identity and to indicate whether he agrees with or opposes to the notification;
 - d. if the party that submitted the i-DEPOT does not comply with point c or indicates that he agrees with the notification, the publication of the i-DEPOT will be terminated. If possible, the Office informs the complainant thereof;
 - e. if the party that submitted the i-DEPOT does comply with point c and indicates that he opposes the notification, the Office shall send, if possible, his reaction and the documents referred to in point c to the complainant;
 - f. in relevant cases, the complainant will be granted a period of one month to prove that:
 - i. if the notification is based on Article 1 (1) (a), the competent authorities have been notified or that a criminal complaint has been filed;
 - ii. if the notification is based on Article 1 (1) (b), the complainant initiated legal proceedings or arbitration on the legality of the publication against the party that submitted the i-DEPOT;
 - g. if the complainant complies with point f, the publication remains suspended until a decision is taken by the competent authority that is no longer subject to any appeal. When being informed of such decision, the Office will apply it;
 - h. if the complainant does not comply with point f or if he withdraws his notification, the NTD will be closed and the i-DEPOT will be remade public.

2. The expiry of the retention period pursuant to Rule 4.7 of the Implementing Regulations shall entail the closure of the NTD.
3. Rule 3.9 of the Implementing Regulations applies mutatis mutandis.