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CAB/731/R

2008-03-20

INTERNATIONAL ELECTROTECHNICAL COMMISSION

CONFORMITY ASSESSMENT BOARD (CAB)

Meeting 23, Geneva, 2008-06-02

SUBJECT

Agenda item 5.4

Report of CAB WG 13, *Policy on product piracy*

ACTION

The CAB is invited to note and discuss the report, and agree on the Recommendations submitted.

**Report to the CAB on the results of the first meeting of CAB WG 13 on 21st and 22nd
February 2008 in Frankfurt (Germany)**

1 Participants

Arnhold, Thorsten (IECEEx)
Agius, Chris (IECQ, IECEEx)
Dreger, Gerhard (Observer)
Isnard, Jean Pierre (CAB)
Lawson, Mike, (IECEE)
Monks, Brian (IECEE)
Imgrund, Gerhard (Observer)
Sent apologies: Spindler (CAB), Chapman (IECQ)

2 Task

In accordance with the minutes of the CAB meeting held in Paris in October 2007, WG 13 understood the task as follows:

To address the problem of piracy by identifying means by which the schemes can help avoid certification of:

- counterfeit products (including their components);
- products (including their components) infringing IPR;
- refurbished/reclaimed products (including their components) presented as new.

3 Discussion

During the discussion the following items were noted.

- a) It is not the primary task of a certification body (CB) to identify counterfeit products. However, if a CB becomes aware of:
 - counterfeit products; or
 - products misusing patents; or
 - refurbished/reclaimed products presented as newthis CB shall take appropriate measures.
- b) It is the responsibility of anybody in the supply chain to identify:
 - counterfeit products;
 - infringement of IPR;
 - refurbished/reclaimed products presented as new.
- c) Usually market surveillance is carried out by authorities, certifiers and manufacturers. The meetings of the management committees of the schemes could be a useful means for information platform sharing.

4 Possible solutions

- a) Declaration of the applicant that his product (as far as relevant for the scheme)
 - does not infringe IPR;
 - is not a counterfeit product;
 - is not refurbished/reclaimed and presented as new;
 - does not contain any components falling into the three categories aboveas a fundamental condition for accepting the application for testing/certification.
- b) "Watchlists" published on the homepages of the affected certification body.

5 Recommendations to the CAB

- (a) Schemes shall be asked to insert in their rules the requirement that a declaration similar to the following shall be used by the CBs:

“The applicant confirms that it is in full possession of all necessary rights on the product to be tested (including its components), insofar as testing and/or certification is applied for.”

- (b) In addition IECEx shall be asked to introduce into its rules the requirement that a declaration similar to the following shall be used by the ExCBs:

***“We ((the applicant)) are aware of the fact that any offering, sampling or trading of products bearing the IECEx Mark prior to granting the IECEx Mark is regarded as a deliberate misuse of the IECEx Mark.
For the application, the general terms and conditions of the IECEx Mark system are valid i.e. IECEx OD 023.”***

- (c) As IECQ uses a different system for the IECQ component mark the requirement for such a statement should be considered by IECQ MC.
- (d) For the “EGG” mark and PV GAP mark run by the IECEE system the IECEE-CMC is asked to consider if such a statement is necessary.
- (e) The schemes shall be asked to check their rules to ensure that their appeal procedures adequately cover the aspects of certificates issued in error.
- (f) WG 13 also discussed the appropriateness of a “watchlist” for including suppliers and products infringing IPR(s) etc. WG 13 came to the conclusion that each certification body should be encouraged to publish such a “watchlist” under their own responsibility on their websites.
- (g) Each Member Body should be given the possibility to present coordinated information about identified infringements of IPR in their countries at meetings of the management committees of the respective schemes.
- (h) WG 13 should not be disbanded at this point in time because further coordination work may be necessary.
