

Trade Mark Cluttering - Evidence from EU Enlargement

February 2013

 Trade Mark
 Cluttering -
 Evidence from
 EU Enlargement

BACKGROUND

- Since the mid-1990s, medical regulators in the United States and Europe regulate the names of those drugs that are only available on prescription. The aim is to protect consumers from medication errors that result from drug name confusion.
- The producers of these drugs may submit between three and four invented names per drug to medical regulators to reduce the chance of rejection. But unused registered trade marks clutter the trade mark register, raising search costs for other trade mark applicants who must establish whether trade marks on the register are in use.
- Enlargement of the European Union increased regulatory uncertainty for pharmaceutical firms because the number of medical regulators that had to approve invented names for pharmaceutical products increased sharply at the time.

METHODOLOGY

- The author exploits enlargement of the European Union in 2004 as a natural experiment to provide evidence for cluttering of the trade mark register in Europe.
- The effects of regulatory shock on pharmaceutical firms' trade mark application strategies are studied using Difference-in-Differences and bias adjusted matching estimators.

KEY FINDINGS

- The analysis shows that enlargement of the European Union had a significant and quantitatively important effect on pharmaceutical firms' incentives to clutter trade mark registers with trade marks they are unlikely to use.
- Using conservative assumptions, the lower bound of the costs of creating surplus invented names is estimated to lie in the range of US \$21 - 49 million per year.

POLICY ISSUES

- While manufacturers of drugs will always seek to insure against failure to obtain a name acceptable to medical regulators and trade mark offices, the extent to which surplus marks clutter trade mark registers could be reduced, if medical regulators and trade mark offices cooperated effectively.
- If the costs identified in this paper are substantiated by further study, it may be worthwhile persevering in the effort to find ways to remove unneeded pharmaceutical marks from trade mark registers swiftly.

CCP Policy Briefings

 W: www.competitionpolicy.ac.uk

T: +44 (0)1603 593715

A: UEA, Norwich, NR4 7TJ

February 2013

Trade Mark
Cluttering -
Evidence from
EU Enlargement

CCP Policy Briefings

THE CCP

The ESRC Centre for Competition Policy (CCP), at the University of East Anglia, undertakes competition policy research, incorporating economic, legal, management and political science perspectives, that has real-world policy relevance without compromising academic rigour.

FOR MORE INFORMATION

The full working paper 13-2 and more information about CCP and its research is available from our website: www.competitionpolicy.ac.uk

ABOUT THE AUTHORS

- Dr Georg von Graevenitz is Senior Lecturer at Norwich Business School and a member of the ESRC Centre for Competition Policy.

W: www.competitionpolicy.ac.uk
T: +44 (0)1603 593715
A: UEA, Norwich, NR4 7TJ