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THAI CUSTOMS: FRONT-RUNNERS OF IP ENFORCEMENT

Over the past 20 years, Thailand has become a major hub for transportation and transition of goods in Southeast Asia. This role can be attributed to the country's strategic geographical position and improvements to its Customs Department that have made it significantly more efficient in recent years, including the implementation of e-Customs. While trying to develop and facilitate trade through faster, less complicated, and even more environmentally friendly procedures, the Customs Department has maintained its vigilant intellectual property protection. As clearly stated in its new vision statement, "World-Class Customs for National Competitiveness and Social Safety," anticounterfeiting and public safety continue to be high priorities among the responsibilities of the Customs Department.

Raising standards

Customs regulations in many countries are becoming ever more compliant with international standards as globalization intensifies. Thailand's Customs Department has raised its bar in the protection of intellectual property rights up to the international level set by the World Trade Organization, the Agreement on Trade-Related Aspects of Intellectual Property Rights, and the World Intellectual Property Organization. In addition, Thailand has been participating in the World Customs Organization to study and implement appropriate border controls against intellectual property right violations.

In the past few years, the Customs Department has strengthened its partnership with other related government agencies and the private sector to form a task force combating import and export of counterfeit goods. Procedures for detaining shipments, reporting to and coordinating with brand owners and their representatives, identifying suspected counterfeit goods, and enforcing the laws have undergone thorough testing and practical adjustments. It is not an exaggeration to state that the anticounterfeiting measures applied by the Thai Customs Department are among the most convenient and effective compared with the systems and procedures available in other countries.

Official monitoring

To ensure that Customs officers are actively monitoring for infringing or pirated products, trademark or copyright owners are required to formally notify Thailand's Customs Department of their intellectual property rights. This can be done by filing an application for Customs Recordal with the Department of Intellectual Property (DIP) or filing a notification to participate in the Customs Watch List directly with the Customs Department. Once processed via either means, the information of the intellectual property owner will be posted

on the "Prevention and Suppression Against Intellectual Property Infringement" database of the Customs Department, and this data can be retrieved from both the Customs intranet and the Internet. Thus, Customs officers at all locations can access brand owner and/or representative contact information along with the primary product inspection guides.

International comparisons

The procedures and requirements for detaining suspect shipments and seizing counterfeit goods in Thailand differ in important ways from neighboring and nearby jurisdictions. According to border measure regulations in Malaysia, after receiving approval of their applications, trademark owners have to provide a security deposit to the Registrar for any liability or expense that may incur as a result of seizure. The amount of deposit requested is under the consideration of the Registrar. In China, the intellectual property right owners must provide the Customs authorities a monetary guaranty based on the value of the seized goods. They are also required to pay for relevant fees for storage and disposal of the counterfeit goods. However, Thailand does not ask for such a deposit or guaranty in relation to Customs' seizures, there is no government fee for filing an application for the Customs Recordal or notification to participate in the Customs Watch List, and there is no cost for keeping the seized goods in the Customs warehouse. In practice, the expenses for destruction of the seized goods are conveniently shared among the intellectual property right owners whose counterfeit goods are destroyed at each event and reimbursed to the Customs Department.

In Vietnam, once Customs authorities accept and approve the application for the Customs Recordal, they will commence monitoring of imports and exports at the border and monitor infringing goods for a period of one year from the filing date of the application. This Customs Recordal is renewable many times within the IP protection term upon the request of the applicant. In Hong Kong, the term of the Customs Recordal of intellectual property rights is ten years. This term can be renewed within six months prior to the expiration date of the original term. In Thailand, neither the Customs Recordal nor the Customs Watch List requires any

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periodic renewal. In case the trademark or copyright owners need to update or change any relevant information, they can simply submit a notification to the DIP or the Customs Department to inform the officials about the updated information at any time.

These developments demonstrate that Thailand's Customs Department clearly recognizes that its role has evolved beyond simply being a revenue collector to include that of an international trade promoter and guardian of social responsibility, including protecting intellectual property rights. Thai Customs officers have developed user-friendly and cost-effective methods for gathering intelligence, detaining and inspecting suspected shipments, and coordinating with government agencies and the private sector. As these methods continue to be refined and improved, it is expected that the anticounterfeiting initiatives of the Customs Department will result in still more favorable outcomes for intellectual property rights owners. 🏛️