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## Keys for Successful Raid Actions in Vietnam

Infringement of intellectual property rights (IPRs) continues to be a major area of concern for international brand owners operating in Vietnam. In their fight against fake goods in the country, IPR holders often need to carry out administrative raids which can be very effective in suppressing counterfeit products, but are also fraught with potential hurdles. IPR holders therefore need to carefully plan their raid actions to minimize risk and maximize the suppression effect in the market. The following tips provide the basis for carrying out effective raid actions in Vietnam.

### Collect Evidence

When IPR holders suspect counterfeiting, they should first conduct a thorough investigation to confirm the existence and extent of the counterfeiting. IPR holders will not be able to challenge any putative infringers without clear, concrete evidence. The evidence can take the form of photos of the fake goods on display, details of the scope and location of the infringement, and other relevant background information, which can only be collected through a serious investigation.

### Choose the Right Enforcement Body

Vietnam has quite an extensive variety of authorities that are entitled to suppress counterfeiting. These include the Inspectorate of the Ministry of Science and Technology, the Inspectorate of the Ministry of Culture, the police, Market Control Force, and Customs. Unlike legal actions against copycats, these authorities can take actions against counterfeit goods on an ex officio basis without any request from the IPR holder.

With so many options, IPR holders must identify the most suitable authority to tackle each case. Typically, if the infringement is committed on a large scale and in a complex manner, enforcement bodies at the central (national) level should be chosen. These authorities are more interested in raiding major counterfeiters (manufacturers, importers, distributors, etc.) than small-scale shops. In lower-profile cases, authorities at the provincial level are the most suitable choice.

IPR holders should also try to determine whether the authority or the officials who are likely to handle the case have any relationship with the suspected infringers. In practice, some administrative raids fall flat due to leakage of information on the raids, which may be the result of those relationships.

### Verify the Counterfeits

It is essential for IPR holders to prepare all necessary documents relating to the verification of fake goods during the enforcement actions. Usually, such documents are declarations by IPR holders stating that the goods found in the raid are indeed fake. However, in complex cases which involve a large quantity of counterfeits or where the differences between counterfeits and genuine goods cannot easily be recognized by the naked eye, IPR holders should dispatch at least one expert on their products to oversee the raid and help the authorities verify the goods on the spot.

### Prepare for Countermeasures

IPR holders need to prepare themselves for any countermeasures that the infringers may employ. Infringers are usually poised with different counteractions intended to make life difficult for the IPR owner, such as an invalidation of the trademark registration or a counterattack based on any errors or oversights made by the IPR holder or the competent authority in the course of enforcing rights.

### Support the Authorities

IPR holders should be ready to cover certain costs and expenses (transportation and storage of seized goods, etc.), which may arise during the raid or the case follow-up. As statutorily provided, IPR holders have the right to assist the competent authority in legal actions at their own expense. While this is not required, it is of great importance in rendering a smooth resolution of the case.

### Expect the Unexpected

While some counterfeiters are simply ignorant of the law, most are fully aware that their actions are illegal and could lead to punishment. It is not in their interest to cooperate with an IPR holder's investigation or raid, and they may even have a well-developed list of emergency measures to thwart the IPR holder's efforts.

This is particularly evident with computer software. In practice, infringers of software hardly ever store the unlicensed copies in large quantities. They only write the software from a computer to blank disks upon the orders of customers, in which case the competent authorities fail to seize any software as the infringer permanently deletes it from their computers right at the time of the raid. Sometimes software dealers, particularly end users, will even interrupt the raid with a planned power cut, resulting in a fiasco. IPR holders therefore need to plan for all possible contingencies ahead of the raid.

### Launch a PR Campaign

When a case comes to a conclusion, the brand owner may launch a public relations campaign not only to raise customer awareness, but also to deter potential infringers from targeting the brand. PR actions are particularly effective in cases where infringement is widespread (for example, in computer software infringement), or where the infringer has a large and well-known operation.

### Monitor the Market

One successful raid does not mean that the battle against counterfeiters comes to an end. In fact, brand owners must keep an eye on the market to identify any recidivism committed by the sanctioned infringer or new entrants into the counterfeits market. By virtue of this market monitoring, the brand owner can take immediate action to address new infringement before it spreads.

### Summary

Counterfeits take a toll on IPR holders' and the public's legitimate rights and interests, and thus have always been severely punished. During the administrative resolution of the case, if the act of counterfeiting is found to constitute a crime, counterfeiters in Vietnam can be criminally prosecuted.

Although the methods above do not guarantee successful enforcement, they work well and place IPR holders in a better position to overcome obstacles that may arise during enforcement actions. Ultimately, IPR holders need to be thorough, well prepared, and keep an even keel in any situation. ⚖️