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Case Study: Raid Action Process in Lao PDR

Part and parcel of protecting and enforcing brand owners' intellectual property is preventing counterfeit goods that infringe their rights from ever reaching consumers. One way in which this can be accomplished is through conducting raid actions, which eliminate counterfeit products from the market and deter further violations by infringers. Removing counterfeit products from the market also protects consumers, who may be unaware of their counterfeit nature, and who may fall victim to the potentially hazardous side effects of goods produced without appropriate levels of quality control. Given the importance of this issue to brand owners, the general public, and government authorities, this article will shed light on the raid action process in Lao PDR.

Preliminary Steps

In August 2013, Tilleke & Gibbins began the process of conducting administrative raids against shops and hawkers selling counterfeit instant coffee products bearing our client's world renowned trademark in Savansai Market, Savannakhet Province. The first step was to organize a consultation meeting with the Department of Intellectual Property (DIP) in Vientiane, and then file with them a complaint along with all supporting documents and evidence. The DIP officials agreed to launch anti-counterfeiting administrative proceedings, as was requested. They stated that they would work in collaboration with the Science and Technology Department of Savannakhet to carry out the administrative proceedings.

Two weeks after the initial consultation meeting, the DIP officials submitted a detailed plan of the market sweep and a full submission of the associated government fees and expenses to carry out the actions. To ensure transparency and compliance, the DIP also gave reassurance that they would issue an official receipt for the government fees and the expenses after they receive payment.

The Raids

On the day of the raids, Tilleke & Gibbins held a meeting with the Head of the Department of Science and Technology Department of Savannakhet, in addition to two DIP officers who had traveled from Vientiane, and 14 local officers who came from various government agencies such as the Food and Drug Administration, the Police Department, the Tax Department, the Ministry of Health, and the Ministry of Industry and Commerce, among others. Tilleke

& Gibbins spoke directly to the officials, and began by giving an overview of the client's case and their concerns about intellectual property rights violations and the potential risks to the public who may unwittingly consume harmful counterfeit foods and beverages.

Before carrying out the administrative proceedings, Tilleke & Gibbins provided product identification training to the officials, in order to better familiarize them with our client's products. This allowed the officials to differentiate between counterfeit and genuine products.

The brand owner had previously worked with local Food and Drug Administration officials to issue warning letters to the infringing vendors in Savansai Market, which is a required first step before taking further actions. Because these letters had already been issued, the government officials decided that sending additional warning notices was unnecessary at this stage. Instead, the officials proceeded to immediately conduct a search of Savansai Market and to seize all counterfeit instant coffee products bearing our client's trademark.

The Outcome

Savansai Market is a medium-sized market that consists of roughly 100 to 150 small shops and hawkers. The market is extremely busy, because it is a major distribution center for food and consumer products from Vientiane and the southern provinces of Lao PDR, as well as imported products from Thailand. The officials began the raid by requesting to enter each of the infringers' premises. They then inspected the goods on display, the goods in boxes, and the goods stored in more discrete areas such as cabinets or back

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rooms. The vendors, for the most part, passively agreed and accepted the officials' request to search for counterfeit goods.

At the raid scene, the officials prepared their search and seizure reports and they asked the shop owners and/or shopkeepers to sign documents that confirmed both the numbers of and types of counterfeit goods found in their shops. This document can then be used against the infringer(s) during a civil or criminal lawsuit if the government officials or brand owners find that they are selling counterfeit goods again.

As a result of this market sweep, counterfeit instant coffee products were found and removed from seven shops and hawkers. Tilleke & Gibbins plans to carry out a follow-up market survey in the near future, as suggested by the officials. ⚖️