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## Thailand's New Customs Department Software Program

Recently, the Intellectual Property Rights Coordination Center (IPR Center), under the supervision of Division III of the Investigation and Suppression Bureau, Royal Thai Customs Department (Customs), has developed an iteration of the software program that brand owners can use to record their marks for monitoring. In this article, we will discuss the new software program, cooperation with Customs, and Customs recordation with the Department of Intellectual Property (DIP).

### New Customs Software Program

In the past, Customs allowed brand owners to record the brands/trademarks they would like Customs to directly monitor. Customs also allowed brand owners to record detailed trademark information and the names of authorized importers. Customs would then make this information available through their internal systems to enable Customs inspectors to easily find the contact details of brand owners or their representatives if they encountered goods that were suspected to be counterfeits of the brand owner's products.

This system was operated efficiently by Customs, and brand owners did not have to sign a letter of consent to bear responsibility for seized goods. Under the new system, however, the IPR Center requires brand owners to act in accordance with the regulation concerning the importation and exportation of goods into and out of Thailand, and brand owners who would like Customs to continue monitoring their brands must file for customs recordation with the DIP.

A new software program has therefore been created by the IPR Center to shift filing recordations of trademarks to the DIP. The database will provide the most up-to-date contact details for trademark owners or their representatives, as well as information about the trademarks registered with the DIP.

### Cooperation with Customs

Customs expects and urges that brand owners who have completed recordation with the DIP ought to fully cooperate with Customs to verify the authenticity of seized goods within 24 hours after they have been contacted and informed of the seizure, no matter the amount of the seized suspicious counterfeits. According to a 2013 Memorandum of Understanding, normally, goods can be detained for up to ten days. However, if the goods sustain any damage during a detention that was made at the request of the brand owner, the brand owner will be held responsible for the damage. Therefore, brand owners are encouraged to verify

the seized goods within 24 hours upon being informed by Customs.

### Customs Recordation with the DIP

A trademark owner can first establish his or her legal rights under the Notification of the Ministry of Commerce 1987 by filing an application with the trademark registrar. Such an application must be submitted to the competent authorities at the DIP, and the trademark registrar must be notified of the trademark owner's request to prohibit the importation/exportation of products bearing a counterfeit mark.

A trademark owner must submit the following documentary evidence together with the application:

1. a certified copy of the trademark registration certificate or certified copy of the trademark registration official record, which can be obtained from the DIP;
2. an original/certified true copy of the power of attorney, when authorizing a person to act on behalf of the trademark owner;
3. an original/certified true copy of the juristic person certificate, issued not more than six months from the date of issuance of the certificate, when the owner of the trademark is a juristic person;
4. a letter of consent to bear liability from the trademark owner assuming responsibility for any damages that may arise due to the application for protection; and
5. a sample of the actual trademark label used with the trademark owner's products.

The filing of an application with the DIP is the official method outlined in the Notification of the Ministry of Commerce, and is useful in terms of having an official record of the mark with the DIP.



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After the trademark owner has notified the DIP by submitting all of the evidence prescribed by the Notification, the registrar will officially forward the request and all supporting documents to Customs for its records. Once the details of the trademarks are recorded in the relevant Customs systems, they will be accessible to Customs agents throughout Thailand.

At this stage, customs recordation with the DIP is strongly recommended, because the Thai Customs authorities have been very active in seizing counterfeit goods imported into or exported out of Thailand. Stopping counterfeit goods at the border is a very effective tool to tackle the problem of counterfeit goods. 🏠