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1. Overview: IPR and enforcement in South-East Asia

1.1. IPR in South-East Asia

Intellectual Property Rights (“IPR”) refer generally to the collection of rights that the owners of intellectual property (“IP”) are entitled to enjoy. IP exists in many forms such as a company logo, an advertising slogan, a unique process or a way of doing things, a new music score, a new drug composition, or a creative piece of furniture design, amongst others. All these various forms of IP share a common characteristic – they are creations of the mind and feature **unique and distinguishing characteristics** that differentiates them from other IP.

In the business world, this uniqueness is economically valuable. Inventions, for example, typically enjoy a natural monopoly because inventions are, by nature, different from existing technology, and can potentially secure newfound profits for the owner. A new song can propel a musician from obscurity to stardom or a newly patented technology can be the pivotal step for a start-up to scale up and become the next leader in its market segment. Because IP is both unique and valuable and is a key component for growth of businesses, owners of IP should take care to protect their IPR, restricting or excluding the use of their IP by others. Enforcement of IPR achieves this need and is an important aspect of IP strategy for EU SMEs.

Due to the territorial nature of IPR, enforcement without registrations in advance in the countries of interest is generally not possible. Most countries, including the European Union (“EU”) Member States and partners in South-East Asia have accepted and adopted the same international treaties and agreements relating to IP, meaning that common types IP such as trade marks, invention patents, utility patents, industrial designs, copyrights are recognised and protectable. IPR tend to be in principle consistent from country to country, although some variations in implementation should be expected.

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Particularly, the development of IP laws across the South-East Asia region has been uneven and IP laws in many South-East Asia countries are still being developed and revised to be in alignment with international standards.

Table 1 below provides a summary of the status of accession of South-East Asia countries to key international IP Treaties and Agreements in relation to the ten countries of the ASEAN Economic Community.

Table 1: Status of Accession of South-East Asia Countries to key International IP Treaties and Agreements

Country	Accession to the Berne Convention ¹	Accession to the Paris Convention ²	Accession to the Trade Related Aspects of IP Rights (TRIPS) ³
Brunei	✓	✓	✓
Cambodia	✗	✓	✓
Indonesia	✓	✓	✓
Laos	✓	✓	✓
Malaysia	✓	✓	✓
Myanmar	✗	✗	✓
Philippines	✓	✓	✓
Singapore	✓	✓	✓
Thailand	✓	✓	✓
Vietnam	✓	✓	✓

Unlike the EU, which has a unified instrument directing IPR enforcement⁴, South-East Asian countries do not yet share the same level of cooperation, resulting in comparatively fragmented IPR enforcement laws and regulations. Implementation of IPR laws across South-East Asia also tend to vary from one country to another, owing in part to the diversity of culture, history and laws in the region. The Association of South-East Asian Nations (“ASEAN”) however has established the ASEAN Working Group on Intellectual Property Cooperation (AWGIPC)⁵ which aims to align and streamline IP rights and practices across the region, and more changes should be expected from this collaboration.

1.2. IPR enforcement in South-East Asia

Noting that the South-East Asia region is a strong global manufacturing hub and a dynamic growing consumer market, it is not unusual for companies to encounter locally or regionally produced counterfeit goods which affect the IP owner’s ability to derive proprietary benefits. Counterfeit cases are typically reported by the IP owner’s own sales channels, market study reports, e-commerce, and now even more increasingly, social media accounts, and reports by IP owner’s customers.

Addressing IP infringement requires sustained vigilance and proactive monitoring from EU SMEs. A successful IP protection

strategy therefore necessarily includes a careful selection of effective legal tools and business partners in order to make sure the infringers are continuously kept at bay from being able to harm the IP owner, its valuable assets and its customers. When it comes to IP enforcement avenues for EU SMEs, resorting immediately to domestic legal action, for example, may not be the sole - or most cost effective - first response in all cases, and knowing the available remedies for the locale is critical to a successful IP protection strategy in South-East Asia.

Entering a new market and protecting IPR shall imply being ready to enforce or defend rights in order to ensure that business objectives are met.

1.3. Dedicated Legal Framework for IPR Enforcement in South-East Asia

The laws that govern IPR are continuously evolving and might be complex, and the technologies protected by those laws can be even more complex. For example, courts may require extensive input from the IP owner in order to demonstrate the difference between legally valid software license activation and unauthorised “crack” activation of software and mis-appreciating the key technical differences between the two can result in an unsuccessful application for a search warrant.

To assure timely processing of IP cases with accurate and consistent application of IP law, many countries have established a dedicated legal framework specifically for IPR Enforcement, which typically involves the establishment of both a specialised court having competency in dealing with IP, and specialised procedural rules to be observed by such courts. Below is summary of countries in South-East Asia where such specialised IP courts or specialised IP court procedures within civil litigation are available:

Country	Special IP Courts Available	Special IP Rules Available
Brunei	✗	✗
Cambodia	✗	✗
Indonesia	✓	✓
Laos	✗	✗
Malaysia	✓	✓
Myanmar	✗	✗
Philippines	✓	✓
Singapore	✓	✓
Thailand	✓	✓
Vietnam	✗	✗

IPR owners that initiate enforcement proceedings in South-East Asian countries with specialised IP courts can expect their cases to be trialed by a dedicated court with better familiarity in the type of required evidence and shorter court procedures which, in turn, usually result in shorter litigation periods and lower legal costs.

¹ Source http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15; The Berne Convention deals with the protection of creative works, and the rights of their authors, and is administered by the World Intellectual Property Organization (“WIPO”).

² Source http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=2; The Paris Convention deals with industrial property, covering patents, trademarks, industrial designs and utility models. It is also administered by the WIPO.

³ Source https://www.wto.org/english/tratop_e/trips_e/amendment_e.htm; The TRIPS is an agreement that is part of the establishment of the World Trade Organization (“WTO”), and which regulates intellectual property standards for all WTO member states.

⁴ One example of this is DIRECTIVE 2004/48/EC on the enforcement of IPR

⁵ See <https://www.aseanip.org/> for additional information

2. What to do before starting an enforcement proceeding?

2.1. Secure IP Ownership and Obtain Valid Proof

As always, the first step is to ensure that the IP rights your company wishes to protect have been registered in the country. A basic but easily overlooked issue in an IP protection strategy is proof of ownership of the IP, including the physical documentation and records. Some important questions to bear in mind during initial registration include:

- Is the ownership of the IP recognised by the local authorities?
- Are the documents proving ownership particularly for non-registrable forms of IP readily available?
- If the IP rights had previously been assigned or licenced, have such transactions been registered with the relevant authorities in accordance with local requirements?

It might take several months or even over a year to obtain the relevant documentation, therefore proper documents management is very important for EU SMEs seeking protection and enforcement of IPR.

These preliminary considerations are critical in the event that litigation is pursued against a third-party, because failure to prove ownership means the consequent failure to call on any rights to the IP which is generally available only to the owner of the IP.

2.2. Commence Investigation and Obtain Valid Evidence

After the above preliminary check, securing valid evidence of infringement of your IP rights comes next. It is also important to be able to make a careful and systematic investigation of the activities of the infringer to identify the source (where the goods are being made) and the extent (areas where the infringing

goods are being sold) of the infringement, in order to address the problem effectively.

Infringing items that are manufactured locally, for example, are best addressed at the factory, not at the retail stores, which can require more resources and effort to effectively address. Similarly, imported items are ideally controlled at the border, rather than at the local retail channels. Digital commodities may alternatively be controlled by technological means (i.e. online activation, etc.), rather than dealing with fly-by-night street vendors.

The ability to obtain evidence that is admissible in court or any legal proceeding is crucial during the investigation stage. An in-depth investigation, which may uncover a factually conclusive account of the infringement, will be useless if illegally obtained, and is therefore also less useful at the negotiation table. It is also generally recommended to engage a third party service provider for investigation – this makes it possible to later call on the investigator for an “uninterested witness testimony” relating to the infringement, if necessary. A number of investigative firms exist in South-East Asia for this purpose, and reliable IP legal service providers are usually within arms-reach of credible IP investigation partners.

2.3. Notarization and Legalization of Documents

In relation to the preparation of valid evidence, every jurisdiction adheres to its own set of rules which determine whether a particular piece of evidence will be admissible in the proceedings. Particularly for documentary evidence, a recurring rule across jurisdictions in South-East Asia (as well as in other parts of the world) is to determine the authenticity and due execution of documents – authenticity refers to whether the document is what it purports to be, while due execution deals with whether the documents are actually issued by the parties in whose name the documents are issued.



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To ensure that a document is authentic and duly executed and thereby admissible in court, some countries in South-East Asia require as a rule that the document is notarised and legalised in the country where the document was issued or executed. Notarisation rules vary from country to country, but typically requires the in-person execution of the document before a specially-authorized person (a notary public). Legalisation is essentially a process undertaken by a foreign state through its local embassy or consulate (where available), through which a document, if so certified, is confirmed to have been executed according to the rules of the local country where it is located and that the certified document should therefore be acceptable as such in the embassy or consulate's home country.

In the context of IPR enforcement, care should be taken to make sure that foreign documents presented as evidence are appropriately executed, that is properly notarised and legalised, to ensure that the legal effects intended under the documents are appropriately carried out. Power of Attorneys allowing local counsel to act on behalf of the foreign IPR owner, for example, are sometimes required to be notarised and legalised to have legal effect, and failure to comply with this preliminary procedural step may spell the difference between a successful action or unnecessary delay.

2.4. Obtain Preliminary Assessment on whether an infringement has taken place

In some occasions, it is not always immediately evident that an infringement has taken place or it would be necessary to identify the element of the infringement occurred. For example, can the owner of a copyrighted work seek compensation from third parties that produced parodies from the copyrighted work? Or are trade mark logos similar to your registered logo infringement of your IP rights?

Patent infringement analysis in particular, should be conducted by professionals as it requires interpreting the claims of a patent in relation to the infringing product/process. A preliminary patent infringement analysis is also useful to gauge the risk of third parties bringing a retaliatory action against the patent owner for groundless threat of infringement proceedings.

IP owners are advised to request for a preliminary infringement assessment from IP legal service providers before embarking on actual enforcement proceedings.



3. What are your Enforcement options in South-East Asia?

3.1. Negotiations and Mediation (voluntary remedy)

At the heart of most IP legal controversies usually lies conflicting commercial interests – after all, the IP right was infringed likely for financial gain of the infringer which affected the commercial interest of a right owner. It is therefore natural to “talk business” at the first instance, rather than resort directly to legal action.

It is typical therefore that IPR enforcement begins with a notice, usually by way of a letter, instructing the infringing party to stop the activity. In some case, particularly where the injury of infringement is severe (like for example, where the sale of the counterfeit goods has been undetected for a long time and therefore has affected the IP owner's business significantly), the letter can include a demand to negotiate a settlement for past infringement. Failing which, the injured party may then proceed to a more aggressive approach, such as the filing of a case before the court.

Negotiating is best when dealing with small-medium companies involved in limited-volume infringement, keeping in mind that such offenders may either be not aware that their actions are illegal, or simply considering that a large monetary award given by a court or tribunal may be too much for them to comply with anyway, and forcing them to comply via legal means will not only be costly, but also be resource consuming for the IP owner. Negotiating may, however, not be very effective to the most hardened offenders, who tend to respond only to stern legal warnings.

Negotiations further leave channels clear to allow legitimate business to be undertaken between the parties, which would otherwise be generally strained (if not eliminated) in straight-out litigation action.

It must be noted that negotiations and mediations should be differentiated from arbitration and other alternative dispute resolutions that are also available to parties, although these usually available by parties to a contract (i.e. a principal and a distributor) or to parties voluntarily submitting to arbitration, which is not very common for parties who are not parties to a contract or to ongoing litigation.

3.2. Arbitration (voluntary remedy)

Arbitration refers to an alternative dispute resolution framework other than the voluntary negotiation of parties as well as remedies provided by law. This usually involves the voluntary submission of the parties to the dispute to a private yet disinterested body of individuals for resolution. Arbitration, as a dispute resolution option, is generally available to a wide scope of disputes, including those relating to IPRs.

Arbitration as a legal remedy is very flexible and rules can be adapted to address the specific concerns and circumstances of the parties. The proceedings, for example, can be ad-hoc (i.e. rules are determined by the parties) or institutional (i.e. parties have agreed to be subject to pre-determined rules), provided however that both

parties must agree to be bound by the decision of the tribunal attending to the case. This usually means that proceedings should be faster, more transparent, and unhindered by the usual procedures that can prolong the dispute resolution process, such as those heard by a traditional court. As such, the arbitration route can be useful for EU SMEs in situations where, for example, an IP dispute is sought to be settled with the same adverse party for a dispute that spans several jurisdictions. For a case where an infringing product is being distributed in several countries in South-East Asia, it may be worthwhile to call the principal licensor of the products to arbitration and resolve the multi-jurisdiction dispute in a single procedure, rather than institute actions in each of the countries where the products are being distributed.

Arbitration is especially recommended to EU SMEs in relation to contracts subject to the applicable law and jurisdiction for those countries which present challenges for enforcement. By inserting an arbitration clause in your contracts with local partners you will agree to devolve the competence to the arbitration centre of your choice.

Below is an indicative and non-exclusive list of established arbitration centres in South-East Asia:

Worldwide (IP-Specialized)	WIPO Arbitration and Mediation Center
Brunei	Brunei Darussalam Arbitration Center
Indonesia	BANI Arbitration Center (Indonesia National Board of Arbitration)
Malaysia	Kuala Lumpur Regional Centre for Arbitration
Philippines	Philippine Dispute Resolution Center
Singapore	Singapore International Arbitration Centre
Thailand	Thailand Arbitration Center
Vietnam	Vietnam International Arbitration Centre

In situations where mediation is called for, counterparties in IP-specific disputes may benefit from the services of the WIPO Arbitration and Mediation Center which offers an Expedited Arbitration procedure under which parties are given a reduced time frame to adduce their arguments, and where a final arbitral award can be ready within one (1) month from closure of the proceedings⁶, not to mention the benefit of having a selection of experienced mediators with IP expertise to appreciate the nuances of the case. Domain name disputes in particular, which is a common source of dispute, can be brought under the Uniform Domain Name Dispute Resolution Policy and the resolution procedure administered by the WIPO Arbitration and Mediation Center.

3.3. Overview of Legal IPR Enforcement Options

There are generally four avenues for IP enforcement available to EU SMEs in South-East Asia.

An overview of the various legal options for IPR Enforcement (meaning those provided for by law, as distinguished from voluntary remedies between the parties explained above) available

in the ten countries in South-East Asia is provided in the following table:

Table 2: Summary of Available IPR Enforcement Actions In South-East Asia

Country	Administrative Action	Civil Action	Criminal Action	Customs Seizure
Brunei	✓	✓	✓	✓
Cambodia	✓	✓	✓	✗
Indonesia	✓	✓	✓	✗ ⁷ Option is legally possible, but not commonly used in practice
Laos	✓	✓	✓	✓
Malaysia	✗	✓	✓	✓
Myanmar	✗	✓	✓	✓
Philippines	✓	✓	✓	✓
Singapore	✗	✓	✓	✓ ⁸ Option is legally possible by way of a special notice issued by the IP owner to the customs office, but they do not keep a database of registered marks or goods
Thailand	✗	✓	✓	✓
Vietnam	✓	✓	✓	✓



Entering a new market and protecting IPR shall imply being ready to enforce or defend rights in order to ensure that business objectives are met.

⁶ Please see: <http://www.wipo.int/amc/en/arbitration/expedited-rules/compared.html>

⁷ Option is legally possible, but not commonly used in practice

⁸ Option is legally possible by way of a special notice issued by the IP owner to the customs office, but they do not keep a database of registered marks or goods

3.3.1. Administrative Actions

AVAILABLE in: Brunei, Cambodia, Indonesia, Laos, Philippines, and Vietnam

NOT Available in: Malaysia, Myanmar, Singapore and Thailand

Administrative actions are filed with an administrative body rather than a court law enforcement having jurisdiction over the enforcement of IPRs.

In the majority of countries in South-East Asia, administrative actions have proven suitable for IP issues that may not be immediately understandable or appreciated by the regular courts (for instance novel issues or complicated technicalities). Trade marks and patents disputes, for example, might be best resolved in this level if possible in order to properly weigh the respective rights of the parties, and appreciate the evidence available. Administrative IP cases are also covered under separate rules of procedure, which should make the proceedings more streamlined than usual court cases, with the view to conclude earlier.

In countries where administrative offices have also been given investigative or pseudo-law enforcement powers (such as Malaysia and the Philippines), administrative enforcement actions can also be both cost-effective and quick by using a law enforcement force that is specifically trained to handle IP issues on the field.

Administrative actions may not be the best option to address the more stubborn, and typically long-established or larger-volume infringers whom have the tendency not to take notices seriously, except for when it is issued by law enforcement or the courts.

In some countries such as Indonesia, Thailand, and Vietnam, administrative measures might generally be seen as ineffective due to a lack of sufficient resources (both financial and human) and proper training of the enforcement agencies, as well as non-deterrent punishments imposed on infringers.

In some cases, administrative actions, which typically involve a more amicable approach, are seen as preparatory actions which, if unsuccessful, can escalate into a full-blown civil or criminal litigation – this makes the evidence gathering process even more important because evidence gathered during the investigation stage should be reliable, admissible and usable throughout the course of legal remedies available to the IPR owner. In select cases, administrative actions can also involve a mandatory inspection or audit to be made by the administrative tribunal or office as part of the proceedings, in which case and unless otherwise specifically excluded by law, evidence collected in this manner may also be useful where the case is later escalated into a civil or criminal case.

Reliefs available:

The reliefs which the administrative body may grant in administrative proceedings include the grant of an injunction, an award for monetary damages and the disposal of the infringing goods (if goods were seized in relation to the case).

Injunctions in general are orders which either prohibit a person from doing an act, or alternatively, requires a person to do an act. In the context of IPR enforcement, an injunction for example may prohibit an offender from further infringing the IPR of the prevailing party and be required to either surrender or voluntarily dispose or destroy its remaining stock of goods bearing the infringement. Injunctions for administrative actions are typically granted at the conclusion of the case, as part of the judgment passed down by the administrative tribunal.

In addition to injunctions, monetary awards or damages may be granted in favour of the prevailing party for the injury caused by the respondent. Damages may be calculated based on unrealised profits as a result of the infringement (called actual damages), or based on a fixed computation or formula as may be provided for by law or the applicable regulations (called statutory damages).

For information on Administrative Actions in specific countries South-East Asia, please see the Enforcement Section (Paragraph 5) of the relevant IP Country Factsheets of reference available at <http://www.southeastasia-iprhelpdesk.eu/en/country-factsheets>

3.3.2. Civil Litigation

AVAILABLE in: All countries in South-East Asia

Civil litigation generally refers to legal action filed in court where the IP owner seeks compensation for the infringement committed by a third-party. Civil actions are generally more cost and effort intensive, and are therefore best reserved for where the commercial damage sought to be collected is substantial (so as to offset the litigation costs), and where there is indication that the adverse party has the ability to compensate the IP owner at the amount which the IP owner seeks to be compensated. Therefore, it is typically used for larger-scale infringers which have significant commercial operations.

Because civil litigation involves court procedures, it is less likely to be ignored by “big time” infringers and where negotiation or administrative actions have failed, civil litigation may finally force the offended party to come into light, and even negotiate a settlement. Further, it may be possible to institute legal actions to allow the court to take custody of the infringing items, thereby making sure that the counterfeit items are not introduced to the market while the case is pending. However, as a case filed in court, it must be noted the actual resolution of the case may take time, and may inevitably involve all the complications that may occur in usual civil court actions.

In general, civil litigation proceedings may be instituted for patent, copyright or trade mark infringements, and breach of contracts involving trade secrets and confidential information.

In Myanmar, due to the not yet developed IP protection system, only trade mark protection is currently recognised. A trade mark owner can launch a civil suit against an infringer in Myanmar for trade mark infringement (under Section 54 of the Specific Relief Act) to obtain a permanent injunction. In addition, the owner may claim damages caused by such infringement. Under the Civil

Procedure Code, when a complaint is filed and the accused does not expressly deny the allegation, this is deemed an admission (unless the accusation is made against a disabled person).

Reliefs available:

Similar to Administrative Actions, the reliefs which may be granted in civil proceedings include the grant of an injunction, an award for damages, and the disposal of the infringing goods (if goods were seized in relation to the civil case). The difference being, orders are issued by a court rather than an administrative tribunal, and as such, in most cases, the orders themselves represent a significantly more persuasive legal force, which can lead to serious legal consequences.

Also, in addition to injunctions issued after the litigation process, in some jurisdictions, injunctions are also available as interim remedies (sometimes called preliminary injunctions) even before the case is finally decided. Such injunctions are intended to be temporary remedies used to prevent immediate and irreparable injuries to the IPR owner should the offender be allowed to continue to use the IPR in question while litigation is pending.

Upon hearing the merit of the case, a court can thereafter award damages (similar to Administrative Cases, this may be actual or statutory) as it deems fit to the prevailing party, and further the court can impose a permanent injunction, or lift the preliminary injunction, as the case may be.

For information on Civil Litigation in specific countries South-East Asia, please see the Enforcement Section (Paragraph 5) of the relevant IP Country Factsheets of reference available at <http://www.southeastasia-iprhelpdesk.eu/en/country-factsheets>

3.3.3. Criminal Actions

Available in all jurisdictions in South-East Asia

Criminal sanctions for litigation is generally considered as the most severe and aggressive approach that an IP owner can take, as it involves the participation of law enforcement and, in some cases, the use of necessary force. This is typically done by way of a "raid" or any similar enforcement action requiring forceful entry to the premises of the suspected infringer, which itself usually requires securing the necessary legal clearances to effect, such as a warrant.

After a successful raid, infringing items found at the premises will be taken, and on account of which, the infringers may be held liable for criminal penalties. These typically involve the combination of the payment of a fine or imprisonment, or in some cases both, to the discretion of the court or body passing judgment. Criminal cases are instituted in different ways in South-East Asia, and thus developing a country-specific strategy for criminal actions will be necessary.

While effective, in such a way that that infringers subject to criminal actions are forced to come into light, it must be noted that the legal work in preparation of a legal action is generally

more intensive, as it will involve participation and coordination with law enforcement, and must typically be based on very strong evidence of infringement. Costs can therefore be expected to be generally higher than administrative and civil cases.

Criminal legal actions are generally used as a last resort in the majority of countries in South-East Asia, and where they are absolutely needed, such actions are best instituted against recurrent infringers who have refused to respond to milder efforts of IPR enforcement, and also where the infringing products are harmful to the public (like for example, counterfeit medicine, mislabelled food or potentially harmful counterfeit consumer goods).

Criminal legal actions however, which carries with it the long hand of law enforcement, can also be effective in putting the parties at the table and effect a settlement, provided that a settlement can still be made, and this usually depends on which stage of the proceedings the invitation to settle may come.

Although available in all the countries of the ASEAN, it must be noted that while criminal actions as a remedy is available, the action rests heavily upon the faithful cooperation of law enforcement elements. It is always therefore best to seek advice from a local service provider for appropriate guidance and to know what to expect from law enforcement, how to manage the forcefulness of the approach, and how to address the situation adequately.

An exception, among the countries in South-East Asia is that criminal prosecutions are usually considered as the most cost-effective enforcement route available to IP right holders in Thailand. However, search warrants necessary to conduct a raid action are also very difficult to obtain, as the standard of evidence of the alleged infringement required is very high.

For information on Criminal Actions in specific countries South-East Asia, please see the Enforcement Section (Paragraph 5) of the relevant IP Country Factsheets of reference available at <http://www.southeastasia-iprhelpdesk.eu/en/country-factsheets>

3.3.4. Customs Seizures

Available in all jurisdictions in South-East Asia

Customs seizures refer to the practice of holding imported (or exported) goods at border control where the goods sought to be transported are determined, or suspected, to be counterfeit. Customs seizures involves coordination with the border control or customs authorities, and will usually involve the registration of goods or products that the border control officers will be monitoring.

Customs seizures in the context of IPR enforcement are generally classified into two kinds:

- 1) Actions undertaken by the border control authorities in an ex officio capacity, meaning those which the border control authorities have undertaken by themselves in their official

authority (much like how customs officials automatically screen passengers arriving at international airports without directing their efforts towards any particular person); and

- 2) Actions in response to a complaint raised by a concerned party such as an IPR owner, in which case the law enforcement is directed against a specific shipment, cargo, shipper, or cargo recipient. The desired effect in either case is similar – that the infringing goods should not be allowed to enter the jurisdiction's borders and be made available for sale in the local market.

Customs seizures are effective for counterfeit items that are already known to be sourced from outside the country or exported to another country, having the ability to seize counterfeit goods in bulk and from the source, prior to distribution.

Customs measures, however, have their limitations, and are generally limited to the vigilance of border control law enforcement in the country. Further, customs measures are generally limited only to counterfeit items (i.e. fake items made to appear as that of the original manufacturer), but will not apply to parallel imports (i.e. genuine items imported by an unauthorised importer) or goods that are meant to be passed-off as that of another (i.e. fake items that are made to appear closely similar but not identical to, a genuine product), and as such has varying returns as a long-term campaign. Investigation is helpful particularly where the source and shipment is known, in which cases the enforcement action will likely be successful. Otherwise, sustained and regular inspections of goods can tend to return mixed results.

IP Recordal with Customs

In a number of countries in South-East Asia, it is also possible to record your IP with the local Customs. Remember that only IP validly registered in the country can be further recorded with customs, while IP registrations in third countries are not accepted. The recordal is available on a voluntarily basis, as the IP owner shall undertake a specific procedure. Voluntarily customs recordal is available in Myanmar, the Philippines, Thailand and Vietnam.

For information on Customs Seizures in specific countries South-East Asia, please see the Customs Section (Paragraph 4) of the relevant IP Country Factsheets of reference available at <http://www.southeastasia-iprhelpdesk.eu/en/country-factsheets>

For information on trade marks recordal with customs in specific countries South-East Asia, please see the Guide How to record Trade Marks with Customs available at <http://www.southeastasia-iprhelpdesk.eu/en/helpdesk-guides>

Remember that only IP validly registered in the country can be further recorded with customs, while IP registrations in third countries are not accepted.

3.3.5. Measures in case of Online Infringement

It may also be possible for parties to resort to technological measures for IP enforcement, although this is generally limited to software and other digital media, such as videos, songs, movies and TV shows.

For example, where an offensive website is using a country-code top level domain (“ccTLD”) located in ASEAN, it may be possible to make use of the legal procedures available locally to “take-down” the offending URL from the official ccTLD registrar, effectively disabling access to the website worldwide. This may also be useful for controlling the trade of counterfeit, or even illegal, goods and services online.

Take-down notices are also largely available with major e-commerce websites and network service providers in South-East Asia.

In practice, any “take-down” action can involve a number of legal steps that may vary from one jurisdiction to another, but which usually depends on the set in place by the official ccTLD registrar. The first step to take usually involves sending a notification, such as a letter, to the ccTLD registrar to inform them about the alleged infringement perpetrated by one of their registrants. This letter usually involves a request for the registrar’s cooperation in investigating the matter, or additionally, a demand to take the site offline.

Upon receiving the notice, the registrar may either comply immediately (this is more likely to happen if the registrar has set out specific rules regarding the service which specifically allows a take-down), or the registrar can postpone any action until receipt of an order from a court, tribunal or law enforcement officer or agency requiring the registrar to take-down the site. In which case, the IPR owner can avail of the available legal remedies to force a take-down, and in doing so, it is generally recommended to approach specialised law-enforcement units (like a “cybercrime” police or investigative unit) where available – they should have the proper tools to investigate, record admissible evidence, and are generally more reliable witnesses in court, considering their specialisation.



4. SME Case studies

SME Case Study 1

Background

A manufacturer of consumer goods aimed at children, covering toys, shoes, clothing, and other similar items discovered a large distribution of counterfeits of their products in the Philippines, some of which are of questionable quality to be safely used by children.

Advice

The Company was advised to secure the services of an investigator to determine the source, scope and extent of the infringement, and to determine how to best proceed to address the infringement.

Outcome

In partnership of a local investigator and legal service provider, the company was able to devise a multi-tiered approach for IPR enforcement, such that:

- a. After identifying that a large percentage of counterfeit items were imported from China (by parties other than the Company's licensed distributors), the Company used border control measures to seize large amounts of counterfeit goods at the border. The Company was also able to identify and pursue legal actions against the manufacturer of the items overseas, based partly on evidence gathered in the Philippines;
- b. The Company was also able to identify a number of large-volume manufacturers, and has decided to reserve criminal legal actions only for such manufacturers. Some of such manufacturers subsequently ended up settling the criminal case for an undisclosed amount, and the machines used for manufacturing were ordered destroyed by the court.
- c. Efforts were also made to educate select retailers (in identified retail areas, like shopping malls) for the smaller-scale infringement, such that they were put on notice that if the items sold by the individual retailers were found to be counterfeit, the items may be seized and the sellers may be subject to legal action.



Lessons Learned

- Knowing the source and scope of the infringement is critical to a brand protection strategy, it allows the IP owner to respond to threats effectively and quickly;
- Legal action may not always be the best and most effective course of action, particularly in South-East Asia where laws, regulations, culture and practices vary differently from country to country;
- Criminal legal action is also an effective way of arriving at a favorable out-of-court settlement, where settlement is still available in the legal process.

SME Case Study 2

Background

A computer software company wanted to respond to demands of its customers regarding the rising use of counterfeit versions of their software in South-East Asia which has come with the rise of business outsourcing to the region. The company's customers were demanding action, as they claimed that the use of counterfeit software significantly reduced the overhead of their competitors.

Advice

The company was advised to partner with regional service providers having specific expertise in software IPR enforcement to address the issue.

Outcome

With the help of regional partners in South Korea, Indonesia, Thailand, Vietnam and the Philippines, the company was able to conduct periodic investigations of suspected infringers, and was able to establish a tiered-approach to enforcement most effective for the country, in the interest of cost-efficiency and effectivity.

Some legal actions were stalled by the complex legal processes where they were filed, and a select few progressed to judgment but guilty parties were unable to satisfy payment ordered by the court. However, the effectiveness of this campaign was measured not only based on success of enforcement (i.e. the amount settled) but also in the increase in sales, which in any case should be the direct result of a successful IPR enforcement campaign. The company thus worked with its respective sales teams to make sure that the potential customers are given adequate channels to purchase the software.

Lessons Learned

- The success of legal actions may not always be measured by the immediate effect of enforcement, but also by the subsequent effect of awareness which will later lead to understanding, sales and maybe even further, brand loyalty.
- Establishing competent partners in South-East Asia is critical in understanding the appropriate actions and establishing control over the overall enforcement operation. In any such regional IPR enforcement endeavor, effective communication of the expected results and understanding of the local situation is key.



5. Take-away Messages

South-East Asia, being comprised of developing economies and changing laws, and being a prolific global manufacturing hub, is currently a challenging arena for IPR enforcement. EU SMEs seeking to protect their IP rights in the South-East Asian region shall consult with legal service providers with local expertise who would be able to navigate the legal and operational considerations in place in the country in order to best serve their needs for enforcement. Understanding of local practice is also very important to achieve successful results in IPR enforcement.

Each EU SME will have different IPR enforcement needs, and the efficient communication of these needs, a clear understanding of both the legal and commercial outcome sought by the company, and quick access to updates on the region's changing laws, will be key in protecting IP in South-East Asia.

6. Glossary of Terms

ADR: Alternative Dispute Resolution mechanisms

ASEAN: Association of Southeast Asian Nations

ccTLD: Country code top level domain. Example: '.sg' (Singapore)

EU: The European Union

SME: Small-and-Medium Enterprises

WIPO: World Intellectual Property Organization

7. Related links and additional information

- Visit the country factsheets of South-East Asia countries – <http://www.southeastasia-iprhelpdesk.eu/en/country-factsheets>
- Visit other publications at South-East Asia IPR SME Helpdesk website – www.ipr-hub.eu
- Visit the Helpdesk blog <http://www.yourIPinsider.eu> for related articles on IP in South-East Asia and China
- Visit the ASEAN Intellectual Property Portal at <https://www.aseanip.org/>
- Visit the Arbitration and Mediation Center - WIPO at <http://www.wipo.int/amc/en/>

8. South-East Asia IPR SME Helpdesk Tear-Out Forms

SUMMARY AND INTRODUCTION

This file includes a compiled summary of the information gathered among the network of the External Experts of the South-East Asia IPR SME Helpdesk ('SEA HD') in Q3 of year 2017 in relation to enforcement forms available to build a database of official forms that are required to initiate enforcement actions in South-East Asian countries (for administrative, criminal, and customs actions) This will enable SMEs to understand what is required to enforce their IP rights locally and how to be prepared should the need arise for them to act in a timely manner.

Based on input provided, it is understood that not all 10 countries within South-East Asia have standard official forms made publicly available by their local authorities, while 'ad hoc' forms would need to be drafted by local lawyers in the course of the mandate for legal assistance (not only for civil actions, but in some countries, also for criminal actions). While the SEA HD is not in a position to collect such 'ad hoc' forms which are a result of the provision of legal services under specific mandates with SMEs in the contest of attorney-client relationship, a comprehensive check has been conducted during 2017 Q3 to identify the official forms available in each country. Translations of such available forms have been made by the SEA HD to provide a wider access to this information and enable SMEs to become familiar with enforcement forms required in South-East Asian countries. The forms collected will be included as tear-out part attached to the Enforcement Guide during 2017 Q4.

The documents summarise enforcement avenues available in each of the 10 countries of South-East Asia and indicate whether official enforcement forms shall be used in specific actions.

The document is updated up to September 2017.

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BRUNEI DARUSSALAM

In the case of IP assets being infringed in Brunei Darussalam, there are two (2) main avenues of enforcement which SMEs can consider; civil litigation and criminal prosecution. Although judicial proceedings in IP are uncommon in Brunei Darussalam, a private settlement reached via legal professionals is more practically effective and should be considered as a viable option.

Civil Litigation

To initiate a lawsuit, SMEs will need to file a writ endorsed with a Statement of Claim alleging the infringing act and claiming for the remedy. Before filing the court action, a letter to the infringer to cease and desist should be deployed.

The mentioned documents would need to be drafted on 'ad hoc' basis by lawyers licensed to represent clients in Brunei Darussalam.

Criminal Prosecution

To file a prosecution, a police report must first be created. The police force will then conduct investigations and depending on their findings, they may conduct raids. Lastly, the police will report to a public prosecutor of the Attorney General Chambers about whether or not to prosecute the offender.

The police report shall be done at the police station directly.

Customs Enforcement

No official forms are available according to the inputs received by local External Experts and no forms are available on the official website of the Ministry of Finance of Brunei Darussalam – Royal Customs and Excise Department (<http://www.mof.gov.bn/index.php/about-royal-customs-a-excise-dept>).



CAMBODIA

When IP assets are being infringed in Cambodia, there are three (3) avenues of enforcement which can be pursued: administrative proceedings through the Department of Intellectual Property Rights (DIPR), civil litigation in courts, or criminal prosecution.

Border control measures from Customs are only available to trade mark and copyright owners and are regulated by the Law on Marks, Trade Name and Acts of Unfair Competition. The law does not provide a procedure for suspension of customs clearance for goods that infringe patents, utility model certificates or industrial design certificates.

Based on the inputs received by the SEA HD local External Experts, currently there are no official forms requested by Cambodian authorities to file a case of criminal and civil enforcement, DIPR

administrative proceedings and of customs seizures of infringing goods. However, it is worth noting:

(i) With regard to the civil or criminal complaint to be filed with Cambodian court, article 75 of the Civil Code of Cambodia prescribes that it shall be in writing. The complaint shall basically contain the name and address of the parties and of their lawful representative, claims and supporting facts and law.

(ii) With regard to complaints or petitions to other competent authorities, including the DIPR and Customs, as matter of practice, they are in writing and contain the name and address of the parties and of the company's lawful representative, claims and supporting facts and law, as well as other necessary information as prescribed by the applicable law and regulations.



INDONESIA

In Indonesia there are two (2) main IP enforcement routes: civil and criminal enforcement. However, in many cases private mediation via legal professionals could be more effective and should be considered as a viable option; particularly for SMEs with budget constraints.

Civil Litigation

The relevant documents to initiate a lawsuit in Indonesia would need to be drafted on an 'ad hoc' basis by lawyers licensed to represent clients in the country.

Criminal Prosecution

The Thai Police is the main competent authority for criminal prosecution enforcement.

Within the Directorate General of Intellectual Property, Civil Service Investigation Officers (PPNS) has been set up as supplement to the police units in carrying out enforcement since March 2011.

No official forms are available according to the inputs received by local External Experts and no forms are available in English from the website of the Directorate General of Intellectual Property for such a procedure.

Customs Enforcement

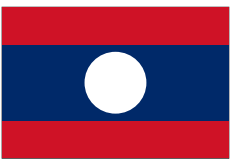
No official forms are available according to the inputs received by local External Experts and no forms are available on the official website of the Ministry of Finance of Indonesia – Directorate General of Customs and Excise (<http://www.beacukai.go.id/websitenew/index.html>).

Effective from 2 August 2017, the Indonesian Government has issued Regulation No. 20 of 2017 on Controls of Import and Export Goods Constituting or Deriving from Intellectual Property Rights Infringement ("Regulation"). The Regulations state the provisions to introduce an IP recordal system with Customs in Indonesia for the first time.

With the new Regulation, the following actions would be possible:

- Preliminary Restraint of Goods
- Suspension Request to Court
- Execution of Suspension Order

At the time of drafting of the present document, specific additional procedures shall be set out in a government regulation from the Ministry of Finance including possible creation of official forms for the actions listed above.



LAOS

In the case where your IP assets are being infringed in Laos, there are (2) two main avenues of enforcement that can be considered: civil litigation and criminal prosecution. In many cases, however, private mediation via legal professionals should be considered as a viable option for EU SMEs. Other methods of dispute resolution are also available in the country and could bring effective results.

Civil Litigation

The People's Court at the district or provincial level are competent to enforce IP rights by means of civil litigation. The District/Provincial Court's decision may be appealed to the Appeal Courts and the Supreme People's Court. The relevant documents to initiate a lawsuit in Laos would need to be drafted on 'ad hoc' basis by lawyers licensed to represent clients in the country.

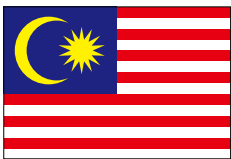
Criminal Prosecution

Criminal prosecution may be initiated through the Lao police force (economic division), who refer the case to a public prosecutor for criminal court action. The competent court is the People's Court at the provincial level (and the Appeal Court and the Supreme People's Court for appeals). No official forms are available according to the inputs received by local External Experts.

Customs Enforcement

If an IPR owner knows of a shipment containing counterfeit goods, he or she may inform Customs, file a motion by submitting an application form and pay a bond or deposit.

No official forms are available according to the inputs received by local External Experts and no forms are available on the official website of the Lao PDR Customs Department (<http://www.laotradeportal.gov.la/index.php?r=SearchForms/index>).



MALAYSIA

In the case of IP assets being infringed in Malaysia, there are two (2) main avenues of enforcement. They are criminal enforcement, which are complaints lodged with the Enforcement Division of the Ministry of Domestic Trade, Cooperatives and Consumerism (ED), and civil litigation.

In many cases, however, private mediation via legal professionals is more effective and should be considered as a viable option, particularly for SMEs who may have budget limitations.

Civil Litigation

In 2007 the judiciary introduced dedicated IP courts that consist of fifteen (15) 'Sessions Courts' that sit in each state, and six (6) 'High Courts' that sit in certain states (i.e. Kuala Lumpur, Johor, Perak, Selangor, Sabah and Sarawak). The relevant documents to initiate a civil lawsuit in Malaysia would need to be drafted on an 'ad hoc' basis by lawyers licensed to represent clients in the country.

Criminal Prosecution

In Malaysia, complaints can be lodged with the Enforcement Division of the Ministry of Domestic Trade, Co-operatives and Consumerism

(ED) for cases in relation to counterfeiting or piracy. The ED has the power to seize products and prosecute offenders/ counterfeiters. The IP right owner would have to provide the ED with documents to prove their rights, an investigation report to show the infringing activity, and also a letter of complaint. The relevant documents would need to be drafted on an 'ad hoc' basis by lawyers licensed to represent clients in Malaysia.

Customs Enforcement

The competent authority for the enforcement of intellectual property rights in Malaysia is the Ministry of Domestic Trade and Consumer Affairs. The Royal Malaysian Customs enforces IPR under the ex-officio capacity as provided under the Trade Marks Act 1976 – section 70C to 700. Customs are authorised to detain goods (suspicious of infringing or counterfeit), only when a complaint is lodged to the Registrar of Trade Marks under the Ministry of Domestic Trade and Consumer Affairs.

THE OFFICIAL APPLICATION FORM TO RESTRICT IMPORTATION OF COUNTERFEIT TRADE MARKS GOODS IS ATTACHED

INTELLECTUAL PROPERTY CORPORATION OF MALAYSIA

TRADE MARKS REGISTRY

TM 30

TRADE MARKS ACT 1976

TRADE MARKS REGULATION 1997

APPLICATION TO RESTRICT IMPORTATION OF COUNTERFEIT
TRADE MARKS GOODS

(Regulation 83A)

FOR OFFICIAL USE

Application Date :

Fee :

* Cheque/ Postal Order/ money Order / Cash / Draft No:

Registrar's Remark:

Notice remain in force from until
(Not more than 60 days)

Security Deposit :
(as required under Section 70E of the Trade Marks Act 1976)

Place of storage of seized goods:
(as required under Section 70F of the Trade Marks Act 1976)

I. Applicant:
(Proprietor of a registered mark or agent having the power)

Name:

Address:

.....

	Nationality : Telephone:
2.	Trade Mark No:
3.	Class:
4.	Representation of mark:
5.	Specification of goods:
6.	Particulars of importers of counterfeit trade mark goods: (i) Name and address of the importer: (ii) Name and registration number of the ship, aircraft, vehicle, etc : (iii) Name of the place of the counterfeit trade mark goods expected to be imported: (iv) Expected date and time of arrival: (v) Company of origin:
7.	Interest of the application in the mark, if any:
Signature: Name of signatory (in block letters): Date :	



MYANMAR

There are two (2) main avenues for enforcement in Myanmar: criminal enforcement and civil enforcement. In Myanmar, intellectual property rights are not subject to special codified legislation, and are resembled to general property rights. The enforcement avenues reflect the current system. Currently, IPR infringement cases are handled through a rather complicated judicial system with no less than 5 (five) judiciary levels: the Township, District, State or Regional Courts and the Supreme Court. It explains why disputes are usually amicably solved by negotiations or conciliations.

Civil Litigation

IPR infringement cases are handled by the Township, District, State or Regional Courts and the Supreme Court according to the amount requested for compensation. The relevant documents to initiate a civil lawsuit in Myanmar would need to be drafted on an 'ad hoc' basis by lawyers licensed to represent clients in the country.

Criminal Prosecution

The relevant documents would need to be drafted on an 'ad hoc' basis by lawyers licensed to represent clients in Myanmar.

Customs Enforcement

The Myanmar Customs Department is competent for complaints in relation to a shipment containing counterfeit goods upon request. No official forms are available according to the inputs received by local External Experts and no forms are available on the official website of the Myanmar Customs Department, however, the official website has a specific page with a "Contact Us" form (<http://www.mof.gov.mm/en/contact>) through which SMEs can leave a specific message to liaise with the local Customs and receive advice on necessary steps according to the local regulations. The service is available in English.



PHILIPPINES

In the case of IP assets being infringed in the Philippines, there are three (3) avenues to enforce intellectual property rights: administrative actions, civil litigation and criminal prosecution. In many cases, however, negotiations between the parties, if possible, are more cost effective and should be considered as a viable option.

Administrative Actions

The Bureau of Legal Affairs of the Intellectual Property Department has jurisdiction over administrative complaints for IP violations, provided the total damages claim, as indicated in the complaint, is over approximately EUR 3,076 (in local currency).

The procedure is similar to a simplified civil action procedure, with parties exchanging a complaint and replying to the evidence upon which a decision is made. This is initiated by the filing of a required pleading. There are no enforcement forms/templates, although lawyers have to observe certain formalities, this would need to be drafted on 'ad hoc' basis by lawyers under specific mandate.

Civil Litigation

The relevant documents to initiate a civil lawsuit in the Philippines would need to be drafted on an 'ad hoc' basis by lawyers licensed to represent clients in the country.

Criminal Prosecution

The IP holder should request the enforcement agencies, particularly the Philippine National Police ("PNP") or the National Bureau of Investigation ("NBI"), to file a complaint with the District Court that has jurisdiction over the crime committed (usually the court in the area where the infringement occurred). No official standard forms are publicly available.

Customs Enforcement

Upon registration of IPRs with the Bureau of Customs of the

Philippines (BOC), a trade mark holder who has valid grounds for suspecting that counterfeit trade mark or pirated copyright goods have been imported may lodge an application in writing with the Commissioner of the BOC for the issuance of a hold order on the release of such goods.

The IP owner or agent shall request in writing from the Commissioner of Customs the issuance of a hold order on suspected counterfeit goods, providing as much detail as possible regarding the shipment, e.g., date the shipment is coming in, on what ship, from what port, etc. No official standard forms are publicly available for this application and SMEs shall be assisted by local lawyers.

In addition to the information on enforcement avenues available above, and based on the input received by the SEA HD local External Experts, only the following two official forms are available for the Philippines for the actions as described below.

- DTI Complaint Form
 - o This is submitted by consumers, individuals and/or entities seeking the assistance of the Department of Trade and Industry (DTI). The complaint may involve a consumer complaint or a request for revocation of an infringing business name registered with the DTI.
 - o The complaint form must be supported by letters, photos, registration copies and/or affidavits, as necessary.
- DOJ Investigation Data Form
 - o This is submitted together with the complaint-affidavit and supporting documents in initiating a criminal complaint against infringers to the Department of Justice (DOJ).

TWO FORMS ATTACHED:

- 1. DTI COMPLAINT FORM;**
- 2. DOJ INVESTIGATION DATA FORMS**

1



COMPLAINT

THE UNDERSIGNED COMPLAINANT/S TO THIS HONORABLE OFFICE, MOST RESPECTFULLY ALLEGE/S THAT:

- | | | | |
|----|--------------------------|-------|--------|
| 1. | NAME/S OF COMPLAINANT/S: | AGE | STATUS |
| | Name: _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | Tel No: _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | Email Add: _____ | _____ | _____ |
| | _____ | _____ | _____ |
2. ADDRESS: _____

3. NAME/S OF RESPONDENT/S:
- Company Name: _____
Tel No: _____
Email Add: _____
4. ADDRESS: _____

5. OWNER/MANAGER: _____
6. CAUSE/S OF ACTION:
- () VIOLATION OF THE CONSUMER ACT OF THE PHILIPPINES (R.A. 7394) , MORE PARTICULARLY:
 - () PROVISIONS ON CONSUMER PRODUCT QUALITY & SAFETY
 - () PROVISION ON DECEPTIVE, UNFAIR AND UNCONSCIONABLE ACTS/PRACTICES
 - () PROVISIONS ON CONSUMER PRODUCT AND SERVICE WARRANTIES
 - () PROVISIONS ON LABELING AND FAIR PACKAGING

8. RELIEF: COMPLAINANT/S PRAY FOR THE FOLLOWING:

- () REFUND
- () REPLACEMENT
- () OTHERS:

IN WITNESS WHEREOF, I HAVE HERUNTO SET MY HAND THIS ____ DAY
OF _____, 200____, IN _____.

COMPLAINANT

VERIFICATION/CERTIFICATION

THE COMPLAINANT/S, UNDER OATH, HEREBY DEPOSE/S AND SAY/S:

- A) THAT HE/SHE/THEY IS/ARE THE COMPLAINANT/S IN THE INSTANT CASE:
- B) THAT HE/SHE/THEY HAS/HAVE READ AND UNDERSTOOD THE CONTENTS THEREOF:
- C) THAT THE ALLEGATIONS THEREIN ARE TRUE AND CORRECT OF HIS/HER/THEIR OWN PERSONAL KNOWLEDGE AND BELIEF
- D) THAT FURTHER HE/SHE/THEY CERTIFY THAT AS OF THIS DATE, HE/SHE/THEY HAS/HAVE NOT FILED IN ANY COURT, TRIBUNAL, OR QUASI-JUDICIAL AGENCY, OTHER ACTION/S OR CLAIMS INVOLVING THE SAME PARTIES AND THE SAME ISSUES. SHOULD HE/SHE/THEY FIND/S THEREAFTER THAT A SIMILAR ACTION OR CLAIM IS FILED OR PENDING IN ANY OTHER COURT, TRIBUNAL, OR QUASI-JUDICIAL AGENCY, HE/SHE/THEY SHALL REPORT THE SAME WITHIN FIVE (5) DAYS THEREFROM TO THIS HONORABLE OFFICE.

COMPLAINANT

SUBSCRIBED AND SWORN TO THIS ____ DAY OF _____, AFFAINT/S
HAVING EXHIBITED TO ME HIS/HER/THEIR COMMUNITY TAX CERTIFICATE
NO. _____ ISSUED ON _____ AT _____ AND
HIS/HER/THEIR GOVERNMENT-ISSUED IDENTIFICATION CARD NO.
_____, AS FOLLOWS:

NAME	CTC DETAILS.	I.D. DETAILS
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

ADJUDICATION OFFICER

Republic of the Philippines
Department of Justice
NATIONAL PROSECUTION SERVICE
OFFICE OF THE CITY PROSECUTOR
Manila

INVESTIGATION DATA FORM

To be accomplished by the Office

DATE RECEIVED : (stamped and initialed) _____ Time Received: _____ Receiving Staff: _____	NPS DOCKET NO. : XV - 07 - INV _____ Assigned to : _____ Date Assigned: _____
--	--

To be accomplished by the complainant / counsel / law enforcer.
(Use back portion if space is not sufficient)

COMPLAINANT/s: Name, Sex, Age & Address _____ _____ _____ _____ _____	RESPONDENT/s: Name, Sex, Age & Address _____ _____ _____ _____ _____
OFFENSE/s COMMITTED / LAW/s VIOLATED: _____ _____ _____ _____	WITNESS/es: Name & Address _____ _____ _____ _____
DATE & TIME of COMMISSION: _____ _____	PLACE of COMMISSION: _____ _____

- | | |
|---|---|
| 1. Has a similar complaint been filed before any other office? ^a | YES ___ NO ___ |
| 2. Is this complaint in the nature of a counter - charge? ^a | YES ___ NO ___ If yes, indicate details below |
| 3. Is this complaint related to another case before this office? ^a | YES ___ NO ___ If yes, indicate details below |

IS. / NPS Docket No. _____
 Handling Prosecutor _____

CERTIFICATION^a

I CERTIFY, under oath, that all the information on this sheet are true and correct to the best of my knowledge and belief, that I have not commenced any action or filed any claim involving the same issues in any court, tribunal, or quasi-judicial agency, and that if I should thereafter learn that a similar action has been filed and/or is pending, I shall report that fact to this Honorable Office within five (5) days from knowledge thereof.

 (Signature over printed name)

SUBSCRIBED AND SWORN TO before me this _____ day of _____ 20____
 in _____

 Administering Officer / Prosecutor

^a1,2,3 and CERTIFICATION need not be accomplished for inquest cases



SINGAPORE

In the case of IP assets being infringed in Singapore, there are two other main avenues of enforcement, civil litigation and criminal prosecution. In many cases however, private mediation via legal professionals is more effective and should be considered as a viable option, particularly for SMEs which often are faced with budgetary constraints. Unlike in most South-East Asian countries, there are no administrative actions available in Singapore.

Civil Litigation

Civil suits under the Trade marks, Patents and Registered Designs Acts are required to be commenced at the High Court of Singapore. Copyright, passing off and breach of confidential information civil suits may be commenced at either the High Court or the Subordinate Courts dependent on the value of the claim. Decisions of a lower court may be appealed to a higher court with the Court of Appeal being the final appellate court.

The relevant documents to initiate a civil lawsuit in Singapore would need to be drafted on an 'ad hoc' basis by lawyers licensed to represent clients in the country.

Criminal Prosecution

A proprietor may commence criminal proceedings against an infringer for offences under the Trade marks and Copyright Acts under a fiat from the Attorney-General's chambers.

An IPR owner may initiate private criminal prosecution against an infringer for such offences. Alternatively, the Intellectual Property Rights Branch of the Criminal Investigation Department may prosecute the infringer on its own initiative.

No official standard forms are publicly available.

Customs Enforcement

Should the SMEs already have details about a suspected illegal shipment in advance, it would be possible to activate border enforcement by giving written notice to Customs of a suspected import of IPR-infringing goods. Border enforcement can be only activated for IP that is registered in Singapore.

Relevant official forms are listed and included below.

FORMS ATTACHED:

1. Notice under Section 140B(1) of the Copyright Act (in respect of copyrighted materials);
2. Notice under Section 140B(1) read with Section 254B;
3. Notice (to network service providers) to remove or disable access to electronic copy of material on network under Sections 193C or 193D of the Copyright Act;
4. Notice for the purposes of Sections 34(b and 105A(b) of the Copyright Act (in respect of infringing copies made on machines installed in libraries and archives);
5. Take-down Notice under Sections 193DDB or 252CDB of the Copyright Act (in respect of "flagrantly infringing online location" that has been used to flagrantly commit or facilitate infringement of copyrighted materials);
6. Notice under Section 82(1) of the Trade Marks Act (in respect of importation of infringing goods);
7. Annex 2 Bank Guarantee Template (Trade Marks);
8. Annex 3 Letter of Undertaking (Trade Marks).

1

THE SCHEDULE

FORM 1

Regulation 3(1)(a)

Notice Under Section 140b(1) Of
The Copyright Act (chapter 63)
In Respect Of Copyright Material

Please read these notes before completing the notice

1. This notice may only be given by the owner or licensee of the copyright in a literary, dramatic, musical or artistic work, a sound recording, a cinematograph film, a published edition of a work or a television or sound broadcast.

2. Unless otherwise indicated, the notice must contain sufficient particulars of all matters specified therein and in Appendices 1 and 2 to enable the Director-General of Customs to act on it. Please follow the instructions in the Explanatory Notes below when filling up the notice.

3. A statutory declaration that the contents of the notice are true is to be enclosed with the notice.

4. A fee of \$200 is payable on giving the notice.

5. Where more than one copyright material is involved, the information in Appendix 1 must be given in respect of each copyright material.

6. You are required to provide the Director-General of Customs with security (whether by way of deposit of money, an instrument of guarantee or otherwise) that is sufficient to —

- (a) reimburse the Government for any liability or expense which it may incur as a result of seizing the goods; and
- (b) compensate any person suffering damage as a result of the seizure,

in accordance with section 140C of the Copyright Act. Please note that you will be responsible for any liability or expense which exceeds the amount of the security.

7. Please note that the notice lapses within 60 days commencing on the day of the giving of the notice, or at the end of the period for which copyright in the copyright material is to subsist, whichever is the earlier.

NOTICE

To the Director-General of Customs:

1. I, _____⁽¹⁾, hereby give you notice that —
 - (a) copyright in the copyright material(s) mentioned in Appendix 1 to this Notice now subsists under the Copyright Act (Cap. 63); and
 - (b) _____⁽²⁾ *the owner/*licensee of the copyright in the copyright material(s) object(s) to the import into Singapore of copies of the copyright material(s) as described in Appendix 2 to this Notice.
2. To the best of my knowledge and belief —
 - (a) the importer of the goods is _____⁽³⁾; and
 - (b) the particulars of the time when, and place where, the copies of the copyright material(s) are expected to be imported into Singapore are as follows⁽⁴⁾:

3. The said copies are copies of the copyright material(s) to which section 140B of the Copyright Act applies because —

- (a) they are copies made, wholly or partly, outside Singapore the making of which was without the consent of the owner of the copyright within the meaning of section 25(3) of the Copyright Act; and
- (b) they are not goods in transit within the meaning of section 140A of the Copyright Act.

4. I hereby request that the said copies be dealt with in accordance with Division 6 of Part V of the Copyright Act.

Date:

Signature:

Designation⁽⁵⁾:

*Delete whichever is inapplicable.

Explanatory Notes

(1) State the name and address of the person giving the notice.

(2) If the notice is given by the owner or licensee of the copyright, insert “I am”; if given by an agent, insert the name of the owner or licensee and the word “is”.

(3) Insert the full name and address of the importer.

(4) State —

- (a) the estimated date of arrival of the copies of the copyright material(s);
- (b) the name of the port, airport or checkpoint by which the copies of the copyright material(s) are expected to be imported into Singapore;
- (c) the name of the ship, the flight number of the aircraft or the vehicle registration number of the motor vehicle by which the copies of the copyright material(s) are expected to be imported into Singapore; and
- (d) where available —
 - (i) the country of origin of the copies of the copyright material(s); and
 - (ii) any other information which may indicate the actual time when and place where the copies of the copyright material(s) will be imported into Singapore.

(5) State the designation of the person giving the notice, i.e. “copyright owner”, “licensee”, “agent of copyright owner” or “agent of licensee”. If the notice is given on behalf of a company, insert the name of the company and the designation within the company of the person giving the notice.

APPENDIX 1

Type of copyright material(s): (literary work/dramatic work/musical work/artistic work/sound recording/cinematograph film/published edition of a work/television broadcast/sound broadcast)

Description of copyright material(s):

Full name of *owner/*licensee of copyright in the copyright material(s):

Date of expiry of copyright:

*Delete whichever is inapplicable.

APPENDIX 2

Provide sufficient information to describe and identify the copies of the copyright material, including, where available, particulars of —

- (a) the quantity and value of the copies;

- (b) the number of packages;
- (c) any mark used;
- (d) any relevant bill of lading or airway bill; and
- (e) any relevant consignment reference number.

FORM 2

Regulation 3(1)(b)

2

NOTICE UNDER SECTION 140B(1) REaD WITH
Section 254b Of The Copyright Act (chapter 63)
In Respect Of Unauthorised Recording Of Performance

Please read these notes before completing the notice

1. This notice may only be given by the performer of a performance embodied in an unauthorised recording.
2. Unless otherwise indicated, the notice must contain sufficient particulars of all matters specified therein and in Appendices 1 and 2 to enable the Director-General of Customs to act on it. Please follow the instructions in the Explanatory Notes below when filling up the notice.
3. A statutory declaration that the contents of the notice are true is to be enclosed with the notice.
4. A fee of \$200 is payable on giving the notice.
5. Where more than one performance is embodied in an unauthorised recording, the information in Appendix 1 must be given in respect of each performance so embodied.
6. You are required to provide the Director-General of Customs with security (whether by way of deposit of money, an instrument of guarantee or otherwise) that is sufficient to —
 - (a) reimburse the Government for any liability or expense which it may incur as a result of seizing the goods; and
 - (b) compensate any person suffering damage as a result of the seizure,
 in accordance with section 140C read with section 254B of the Copyright Act. Please note that you will be responsible for any liability or expense which exceeds the amount of the security.
7. Please note that the notice lapses within 60 days commencing on the day of the giving of the notice, or at the end of the protection period for the performance, whichever is the earlier.

NOTICE

To the Director-General of Customs:

1. I, _____⁽¹⁾, hereby give you notice that —
 - (a) the performance(s) mentioned in Appendix 1 to this Notice is protected under Part XII of the Copyright Act (Cap. 63) and the protection period in respect of the performance has not expired; and
 - (b) _____⁽²⁾ the performer of the performance object(s) to the import into Singapore of copies of the unauthorised recording of the performance(s) as described in Appendix 2 to this Notice.
2. To the best of my knowledge and belief —
 - (a) the importer of the copies of unauthorised recording of the performance(s) is _____⁽³⁾; and
 - (b) the particulars of the time when and place where the copies of the unauthorised recording of the performance(s) are expected to be imported into Singapore are as follows⁽⁴⁾:

3. The said copies are copies of an unauthorised recording of the performance(s) to which section 140B read with section 254B of the Copyright Act applies because —

- (a) they are copies made, wholly or partly, outside Singapore the making of which was without the authority of the performer of the performance embodied in the recording; and
- (b) they are not goods in transit within the meaning of section 140A of the Copyright Act.

4. I hereby request that the said copies be dealt with in accordance with Division 6 of Part V read with section 254B of the Copyright Act.

Date:

Signature:

Designation⁽⁵⁾:

*Delete whichever is inapplicable.

Explanatory Notes

⁽¹⁾State the name and address of the person giving the notice.

⁽²⁾If the notice is given by the performer, insert “I am”; if given by an agent, insert the name of the performer and the word “is”.

⁽³⁾Insert the full name and address of the importer.

⁽⁴⁾State —

- (a) the estimated date of arrival of the copies of the unauthorised recording of the performance(s);
- (b) the name of the port, airport or checkpoint by which the copies of the unauthorised recording of the performance(s) are expected to be imported into Singapore;
- (c) the name of the ship, the flight number of the aircraft or the vehicle registration number of the motor vehicle by which the copies of the unauthorised recording of the performance(s) are expected to be imported into Singapore; and
- (d) where available —
 - (i) the country of origin of the copies of the unauthorised recording of the performance(s); and
 - (ii) any other information which may indicate the actual time when and place where the copies of the unauthorised recording of the performance(s) will be imported into Singapore.

⁽⁵⁾State the designation of the person giving the notice, i.e. “the performer”, or “agent of performer”. If the notice is given on behalf of a company, insert the name of the company and the designation within the company of the person giving the notice.

APPENDIX 1

Description of performance(s):

Full name(s) of performer(s) in the performance(s):

Date of expiry of protection period of performance(s):

APPENDIX 2

Provide sufficient information to describe and identify the copies of the unauthorised recording, including, where available, particulars of —

- (a) the quantity and value of the copies;
- (b) the number of packages;

- (c) any mark used;
- (d) any relevant bill of lading or airway bill; and
- (e) any relevant consignment reference number.

THE SCHEDULE

FORM A

Regulation 3(2)

COPYRIGHT ACT
(CHAPTER 63)COPYRIGHT
(NETWORK SERVICE PROVIDER)
REGULATIONSNOTICE TO REMOVE OR DISABLE ACCESS TO
ELECTRONIC COPY OF MATERIAL ON NETWORK

To: [Name of network service provider]

1. This notice is furnished under section 193C(2)(b)/193D(2)(b)(iii)/193D(4)(b)(iii)⁽¹⁾ of the Copyright Act.

2. The particulars of the person furnishing this notice (the complainant) are as follows:

- (a) Name:
- (b) Address:
- (c) Address for service in Singapore⁽²⁾:
- (d) Telephone number:
- (e) Facsimile number (if any):
- (f) Electronic mail address:

3. The particulars of the copyright owner/exclusive licensee⁽³⁾ of the material referred to in paragraph 4, on whose behalf this notice is furnished, are as follows:

- (a) Name:
- (b) Address:

4. The particulars of the material in respect of which copyright is alleged to have been infringed are as follows⁽⁴⁾:

5. The particulars of the electronic copy alleged to be an infringing copy of the material referred to in paragraph 4 are as follows⁽⁵⁾:

6. The particulars of the means by which you are alleged to have referred or linked a user of a network to the online location of the electronic copy referred to in paragraph 5 are as follows⁽⁶⁾:

7. The complainant requires you to remove or disable access to the electronic copy referred to in paragraph 5⁽⁷⁾.

8. The complainant, in good faith, believes that the electronic copy referred to in paragraph 5 is an infringing copy of the material referred to in paragraph 4.

9. Another electronic copy of the material referred to in paragraph 4 (referred to in this paragraph as the originating electronic copy) was made available on a network (referred to in this paragraph as the originating network). The electronic copy referred to in paragraph 5 is a cached copy of the originating electronic copy. The originating electronic copy has been removed from the originating network or access to the originating electronic copy on the originating network has been disabled/A court has ordered that the originating electronic copy be removed from the originating network or that access to the originating electronic copy on the originating network be disabled⁽⁸⁾, ⁽⁹⁾

10. The information in this notice is accurate.

11. The complainant —

(a) is the owner or exclusive licensee of the copyright in the material referred to in paragraph 4.

(b) is authorised to act on behalf of the owner or exclusive licensee of the copyright in the material referred to in paragraph 4⁽¹⁰⁾.

12. The complainant submits to the jurisdiction of the courts in Singapore for the purposes of any proceedings relating to any offence under section 193DD(1)(a) of the Copyright Act or any liability under section 193DD(1)(b) of that Act.

Date:

Signature:

Notes

⁽¹⁾Delete as appropriate.

⁽²⁾Omit this paragraph if the complainant is resident in Singapore.

⁽³⁾Delete “owner” or “exclusive licensee” as appropriate.

⁽⁴⁾Provide sufficient particulars to identify the material in respect of which copyright is alleged to have been infringed.

⁽⁵⁾Provide sufficient particulars to identify and locate the electronic copy alleged to be an infringing copy of the material referred to in paragraph 4, including the online location of that electronic copy.

⁽⁶⁾Provide sufficient particulars to identify and locate those means of referring or linking the user to the online location. Omit this paragraph if the notice is not a notice under section 193D(4)(b)(iii) of the Copyright Act.

⁽⁷⁾Delete the words “remove or” if the electronic copy is on a network other than the primary network of the network service provider to whom this notice is addressed.

⁽⁸⁾Delete “The originating electronic copy has been removed from the originating network or access to the originating electronic copy on the originating network has been disabled” or “A court has ordered that the originating electronic copy be removed from the originating network or that access to the originating electronic copy on the originating network be disabled” as appropriate.

⁽⁹⁾Omit this paragraph if the notice is not a notice under section 193C(2)(b) of the Copyright Act.

⁽¹⁰⁾Delete sub-paragraph (a) or (b) as appropriate.

FORM B

Regulation 6(3)

COPYRIGHT ACT
(CHAPTER 63)COPYRIGHT
(NETWORK SERVICE PROVIDER)
REGULATIONSNOTICE TO RESTORE ELECTRONIC COPY
OF MATERIAL ON NETWORK

To: [Name of network service provider]

1. This notice is furnished under section 193DA(2)(b) of the Copyright Act.
2. The particulars of the person furnishing this notice (the respondent) are as follows:
 - (a) Name:
 - (b) Address:
 - (c) Address for service in Singapore⁽¹⁾:
 - (d) Telephone number:
 - (e) Facsimile number (if any):
 - (f) Electronic mail address:
3. The particulars of the electronic copy of material that has been removed / to which access has been disabled are as follows⁽²⁾:
4. The respondent, in good faith, believes that —
 - (a) the electronic copy referred to in paragraph 3 was removed/access to the electronic copy referred to in paragraph 3 was disabled⁽³⁾ as a result of mistake or misidentification.
 - (b) the electronic copy referred to in paragraph 3 does not infringe the copyright in any material⁽⁴⁾.
5. The respondent submits to the jurisdiction of the courts in Singapore for the purposes of any proceedings relating to the electronic copy referred to in paragraph 3.
6. The information in this notice is accurate.
7. The respondent submits to the jurisdiction of the courts in Singapore for the purposes of any proceedings relating to any offence under section 193DD(1)(a) of the Copyright Act or any liability under section 193DD(1)(b) of that Act.

Date:

Signature:

Notes

- ⁽¹⁾Omit this paragraph if the respondent is resident in Singapore.
- ⁽²⁾Delete “that has been removed” or “to which access has been disabled” as appropriate. Provide sufficient particulars to identify that electronic copy and the online location of that electronic copy before it was removed or access to it was disabled.
- ⁽³⁾Delete “the electronic copy referred to in paragraph 3 was removed” or “access to the electronic copy referred to in paragraph 3 was disabled” as appropriate.
- ⁽⁴⁾Delete sub-paragraph (a) or (b) as appropriate.

FORM C

COPYRIGHT ACT
(CHAPTER 63)

COPYRIGHT
(NETWORK SERVICE PROVIDER)
REGULATIONS

NOTICE TO REMOVE OR DISABLE ACCESS TO
ELECTRONIC RECORDING OF PERFORMANCE ON NETWORK

To: [Name of network service provider]

1. This notice is furnished under section 252B(2)(b)/252C(2)(b)(iii)/252C(4)(b)(iii)⁽¹⁾ of the Copyright Act.

2. The particulars of the person furnishing this notice (the complainant) are as follows:

- (a) Name:
- (b) Address:
- (c) Address for service in Singapore⁽²⁾:
- (d) Telephone number:
- (e) Facsimile number (if any):
- (f) Electronic mail address:

3. The particulars of the performer of the performance referred to in paragraph 4, on whose behalf this notice is furnished, are as follows:

- (a) Name:
- (b) Address:

4. The particulars of the performance in respect of which an unauthorised use is alleged to have been made are as follows⁽³⁾:

5. The particulars of the electronic recording alleged to be an unauthorised recording of the performance referred to in paragraph 4 are as follows⁽⁴⁾:

6. The particulars of the means by which you are alleged to have referred or linked a user of a network to the online location of the electronic recording referred to in paragraph 5 are as follows⁽⁵⁾:

7. The complainant requires you to remove or disable access to the electronic recording referred to in paragraph 5⁽⁶⁾.

8. The complainant, in good faith, believes that the electronic recording referred to in paragraph 5 is an unauthorised recording of the performance referred to in paragraph 4.

9. Another electronic recording of the performance referred to in paragraph 4 (referred to in this paragraph as the originating electronic recording) was made available on a network (referred to in this paragraph as the originating network). The electronic recording referred to in paragraph 5 is a cached copy of the originating electronic recording. The originating electronic recording has been removed from the originating network or access to the originating electronic recording on the originating network has been disabled/A court has ordered that the originating electronic recording be removed from the originating network or that access to the originating electronic recording on the originating network be disabled⁽⁷⁾, ⁽⁸⁾

10. The information in this notice is accurate.

11. The complainant —

(a) is the performer of the performance referred to in paragraph 4.

(b) is authorised to act on behalf of the performer of the performance referred to in paragraph 4⁽⁹⁾.

12. The complainant submits to the jurisdiction of the courts in Singapore for the purposes of any proceedings relating to any offence under section 252CD(1)(a) of the Copyright Act or any liability under section 252CD(1)(b) of that Act.

Date:

Signature:

Notes

⁽¹⁾Delete as appropriate.

⁽²⁾Omit this paragraph if the complainant is resident in Singapore.

⁽³⁾Provide sufficient particulars to identify the performance in respect of which an unauthorised use is alleged to have been made.

⁽⁴⁾Provide sufficient particulars to identify and locate the electronic recording alleged to be an unauthorised recording of the performance referred to in paragraph 4, including the online location of that electronic recording.

⁽⁵⁾Provide sufficient particulars to identify and locate those means of referring or linking the user to the online location. Omit this paragraph if the notice is not a notice under section 252C(4)(b)(iii) of the Copyright Act.

⁽⁶⁾Delete the words “remove or” if the electronic recording is on a network other than the primary network of the network service provider to whom this notice is addressed.

⁽⁷⁾Delete “The originating electronic recording has been removed from the originating network or access to the originating electronic recording on the originating network has been disabled” or “A court has ordered that the originating electronic recording be removed from the originating network or that access to the originating electronic recording on the originating network be disabled” as appropriate.

⁽⁸⁾Omit this paragraph if the notice is not a notice under section 252B(2)(b) of the Copyright Act.

⁽⁹⁾Delete sub-paragraph (a) or (b) as appropriate.

FORM D

COPYRIGHT ACT
(CHAPTER 63)

COPYRIGHT
(NETWORK SERVICE PROVIDER)
REGULATIONS

NOTICE TO RESTORE ELECTRONIC RECORDING OF
PERFORMANCE ON NETWORK

To: [Name of network service provider]

1. This notice is furnished under section 252CA(2)(b) of the Copyright Act.
2. The particulars of the person furnishing this notice (the respondent) are as follows:
 - (a) Name:
 - (b) Address:
 - (c) Address for service in Singapore⁽¹⁾:
 - (d) Telephone number:
 - (e) Facsimile number (if any):
 - (f) Electronic mail address:
3. The particulars of the electronic recording of a performance that has been removed/to which access has been disabled are as follows⁽²⁾:
 4. The respondent, in good faith, believes that —
 - (a) the electronic recording referred to in paragraph 3 was removed/access to the electronic recording referred to in paragraph 3 was disabled⁽³⁾ as a result of mistake or misidentification.
 - (b) the electronic recording referred to in paragraph 3 is not an unauthorised recording of any performance⁽⁴⁾.
 5. The respondent submits to the jurisdiction of the courts in Singapore for the purposes of any proceedings relating to the electronic recording referred to in paragraph 3.
 6. The information in this notice is accurate.
 7. The respondent submits to the jurisdiction of the courts in Singapore for the purposes of any proceedings relating to any offence under section 252CD(1)(a) of the Copyright Act or any liability under section 252CD(1)(b) of that Act.

Date:

Signature:

Notes

- ⁽¹⁾Omit this paragraph if the respondent is resident in Singapore.
- ⁽²⁾Delete “that has been removed” or “to which access has been disabled” as appropriate. Provide sufficient particulars to identify that electronic recording and the online location of that electronic recording before it was removed or access to it was disabled.
- ⁽³⁾Delete “the electronic recording referred to in paragraph 3 was removed” or “access to the electronic recording referred to in paragraph 3 was disabled” as appropriate.
- ⁽⁴⁾Delete sub-paragraph (a) or (b) as appropriate.

THIRD SCHEDULE

Regulation 5

FORM OF NOTICE FOR PURPOSES OF
SECTIONS 34(B) AND 105A(b)COPYRIGHT ACT
(CHAPTER 63)
COPYRIGHT REGULATIONS

WARNING

A copyright owner is entitled to take legal action against a person who infringes his copyright. Unless otherwise permitted by the Copyright Act, unauthorised copying of a work in which copyright subsists may infringe the copyright in that work.

Where making a copy of a work is a fair dealing under section 35 of the Copyright Act, making that copy is not an infringement of the copyright in the work. Where making a copy of an audio-visual item is a fair dealing under section 109 of the Copyright Act, making that copy is not an infringement of the copyright in the item or in any work or other audio-visual item included in the item.

It is a fair dealing to make a copy, for the purpose of research or study, of one or more articles on the same subject-matter in a periodical publication or, in the case of any other work, of a reasonable portion of a work. In the case of a published work that is not less than 10 pages and is not an artistic work, 10% of the total number of pages, or one chapter, is a reasonable portion. In the case of an electronic version of a published work that is not divided into pages and is not an artistic work, each of the following is a reasonable portion:

- (a) 10% of the total number of bytes in that edition;
- (b) 10% of the total number of words in that edition or, where it is not practicable to use the total number of words as a measure, 10% of the contents of that edition; or
- (c) one chapter of the work.

More extensive copying may also constitute a fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in sections 35 and 109 of the Copyright Act.

THE SCHEDULE

FORM A

Regulation 4(1)

COPYRIGHT ACT
(CHAPTER 63)COPYRIGHT (FLAGRANTLY INFRINGING
ONLINE LOCATION) REGULATIONS 2014

TAKE-DOWN NOTICE

To: [Owner of online location]

1. This notice is sent under section 193DDB(1)(a)/252CDB(1)(a)¹ of the Copyright Act (Cap. 63). The particulars of the person sending this notice (the complainant) are as follows:

¹ Delete as appropriate.

- (a) Name:
- (b) Address:
- (c) Address for service in Singapore²:

² Omit this sub-paragraph if the complainant is resident in Singapore.

- (d) Telephone number:
- (e) Facsimile number (if any):
- (f) Electronic mail address:

2. The complainant represents the owner/exclusive licensee¹ of the copyright in the materials/the performer of the performances³ listed in paragraph 5. The owner/exclusive licensee/performer¹ is:

³ Delete “the owner/exclusive licensee¹ of the copyright in the materials” or “the performer of the performances” as appropriate.

- (a) Name:
- (b) Address:

3. The owner/exclusive licensee/performer¹ believes, in good faith that the online location described in paragraph 4 is a flagrantly infringing online location and has been or is being used to flagrantly commit or facilitate infringement of the copyright in the materials/to flagrantly make or facilitate unauthorised use of the performances⁴, including the materials/performances¹ listed in paragraph 5.

⁴ Delete “to flagrantly commit or facilitate infringement of the copyright in the materials” or “to flagrantly make or facilitate unauthorised use of the performances” as appropriate.

4. The particulars of the online location (the specified online location) referred to in paragraph 3 are as follows:

- (a) Universal Resource Locator (URL)⁵:

⁵ The specified URL should belong to the home page of the online location and include both the protocol used (e.g. HTTP) and the domain name of the specified online location (e.g.

<http://www.example.com/>).

(b) Internet Protocol (IP) address/address¹:

(c) Date and time accessed from Singapore:

5. The titles and descriptions of the materials/performances¹ referred to in paragraph 3 are as follows⁶:

⁶ Provide sufficient particulars to identify the materials or performances in respect of which copyright infringements or unauthorised performances are alleged to have occurred or are occurring.

[State the titles and descriptions of the materials for which copyright infringements have been committed or the performances for which unauthorised performances have been made.]

6. The following is a non-exhaustive list of the materials, links or references that is in the specified online location which enables infringement of the copyright in the materials to be committed or facilitated/unauthorised use of the performances to be made or facilitated⁷:

⁷ Delete “infringement of the copyright in the materials to be committed or facilitated” or “unauthorised use of the performances to be made or facilitated” as appropriate.

[For each title and description of the material or performance described in paragraph 5, give examples of the materials, links or references that have been or are being used to flagrantly commit or facilitate infringement of copyright in the materials/to make or facilitate an unauthorised use of the performances.]

7. The information in this notice is accurate as of the date of this notice.

8. Within 14 days after the date of this notice, the owner/exclusive licensee/performer¹ requires you to cease the use of the specified online location to commit or facilitate infringement of copyright in the materials/unauthorised use of the performances.¹ If you fail to do so, the owner/exclusive licensee/performer¹ may apply for an order with the courts under section 193DDA/252CDA¹ of the Copyright Act (Cap. 63) to disable access to the specified online location.

Signature of complainant:

Name of complainant:

Date of notice:

FORM B

Regulation 4(2)

COPYRIGHT ACT (CHAPTER 63)

COPYRIGHT (FLAGRANTLY INFRINGING ONLINE LOCATION) REGULATIONS 2014

NOTICE OF INTENTION TO APPLY FOR ORDER TO DISABLE ACCESS TO ONLINE LOCATION

To: [Name of network service provider]

1. This notice is sent under section 193DDB(1)(b)/252CDB(1)(b)¹ of the Copyright Act (Cap. 63). The particulars of the person sending this notice (the complainant) are as follows:

¹ Delete as appropriate.

(a) Name:

(b) Address:

(c) Address for service in Singapore²:

² Omit this sub-paragraph if the complainant is resident in Singapore.

(d) Telephone number:

(e) Facsimile number (if any):

(f) Electronic mail address:

2. The complainant represents the owner/exclusive licensee¹ of the copyright in the materials/performer of the performances³ listed in paragraph 5. The owner/exclusive licensee/performer¹ is:

³ Delete “owner/exclusive licensee¹ of the copyright in the materials” or “performer of the performances” as appropriate.

(a) Name:

(b) Address:

3. The owner/exclusive licensee/performer¹ believes, in good faith, that the online location described in paragraph 4 is a flagrantly infringing online location and has been or is being used to flagrantly commit or facilitate infringement of the copyright in the materials/to flagrantly make or facilitate unauthorised use of the performances⁴, including the materials/performances¹ listed in paragraph 5.

⁴ Delete “to flagrantly commit or facilitate infringement of the copyright in the materials” or “to flagrantly make or facilitate unauthorised use of the performances” as appropriate.

4. The particulars of the online location (the specified online location) referred to in paragraph 3 are as follows:

(a) Universal Resource Locator (URL)⁵:

⁵ The specified URL should belong to the home page of the online location and include both the protocol used (e.g. HTTP) and the domain name of the specified online location (e.g. <http://www.example.com/>).

(b) Internet Protocol (IP) address/addresses¹:

(c) Date and time accessed from Singapore:

5. The titles and descriptions of the materials/performances¹ referred to in paragraph 3 are as follows⁶:

⁶ Provide sufficient particulars to identify the materials or performance in respect of which copyright infringement or unauthorised performance is alleged.

[State the titles and descriptions of the materials for which copyright infringements have been committed or the performances for which unauthorised performances have been made.]

6. The following is a non-exhaustive list of the materials, links or references that is in the specified online location which enables infringement of the copyright in the materials to be committed or facilitated/unauthorised use of the performances to be made or facilitated⁷:

⁷ Delete “infringement of the copyright in the materials to be committed or facilitated” or “unauthorised use of the performances to be made or facilitated” as appropriate.

[For each title and description of the materials or performances described in paragraph 5, give examples of the materials, links or references that have been or are being used to flagrantly commit or facilitate infringement of copyright in the materials/to make or facilitate an unauthorised use of the performances.]

7. The information in this notice is accurate as of the date of this notice.

8. Within 14 days after the date this notice, the owner/exclusive licensee/performer¹ may apply for an order with the courts under section 193DDA/252CDA¹ of the Copyright Act (Cap. 63) to disable access to the specified online location.

Signature of complainant:

Name of complainant:

Date of notice:

THE SCHEDULE

Rule 3

NOTICE UNDER SECTION 82(1)
OF THE TRADE MARKS ACT*Please read these instructions before completing the notice*

1. This notice may only be given by the proprietor or licensee of a registered trade mark.
2. Unless otherwise indicated, the notice must provide sufficient particulars of all matters specified therein and in Appendices 1 and 2 to enable the Director-General of Customs to act on it. Please follow the instructions in the Explanatory Notes below when filling up the notice.
3. A statutory declaration that the contents of the notice are true is to be enclosed with the notice.
4. A fee of \$200 is payable on giving the notice.
5. A copy of the certificate of registration for the trade mark, as well as the certificate of renewal (where applicable), is to be enclosed with the notice.
6. You are required to provide the Director-General of Customs with security (whether by way of deposit of money, an instrument of guarantee or otherwise) that is sufficient to —
 - (a) reimburse the Government for any liability or expense which it may incur as a result of seizing the goods; and
 - (b) compensate any person suffering damage as a result of the seizure,

in accordance with section 83 of the Trade Marks Act. Please note that you will be responsible for any liability or expense which exceeds the amount of the security.
7. Please note that the notice lapses within 60 days commencing on the day of the giving of the notice.

 NOTICE

To the Director-General of Customs:

1. I, _____⁽¹⁾, hereby give you notice that _____⁽²⁾ —
 - (a) is the _____⁽³⁾ of a trade mark registered in Singapore, a representation of which is set out in Appendix 1; and
 - (b) objects to the import into Singapore of the goods described in Appendix 2.
2. To the best of my knowledge and belief —
 - (a) the importer of the goods is _____⁽⁴⁾; and
 - (b) the particulars of the time when and place where the goods are expected to be imported into Singapore are as follows:⁽⁵⁾
3. The goods are infringing goods because _____⁽⁶⁾.
4. The goods are not goods in transit because _____⁽⁷⁾.
5. I hereby request that the said goods be dealt with in accordance with Part X of the Trade Marks Act.

Date:

Signature:

Designation: ⁽⁸⁾

Explanatory Notes

- (1) State the name and address of the person giving the notice.
- (2) State the name and address of the proprietor or licensee on whose behalf the notice is given.
- (3) State “proprietor” or “licensee”, as applicable.
- (4) State the name and address of the importer.
- (5) State —
 - (a) the estimated date of arrival of the goods;
 - (b) the name of the port, airport or checkpoint by which the goods are expected to be imported into Singapore;
 - (c) the name of the ship, the flight number of the aircraft or the vehicle registration number of the motor vehicle by which the goods are expected to be imported into Singapore; and
 - (d) where available —
 - (i) the country of origin of the goods; and
 - (ii) any other information which may indicate the actual time when and place where the goods will be imported into Singapore.
- (6) State the grounds on which it is claimed that the goods are infringing goods within the meaning of section 3 of the Trade Marks Act read with sections 27, 28 and 29 of that Act.
- (7) State the grounds on which it is claimed that the goods are not goods in transit within the meaning of section 81 of the Trade Marks Act.
- (8) State the designation of the person giving the notice, i.e. “proprietor”, “licensee”, “agent of proprietor” or “agent of licensee”. If the notice is given on behalf of a company, insert the name of the company and the designation within the company of the person giving the notice.

APPENDIX 1

Representation of Registered Trade Mark.

APPENDIX 2

Provide sufficient information to describe and identify the goods, including, where available, particulars of —

- (a) the quantity and value of the goods;
- (b) the number of packages;
- (c) any mark used;
- (d) any relevant bill of lading or air waybill; and
- (e) any relevant consignment reference number.

[S 371/2004 wef 01/07/2004]

Bank Guarantee Template (Trademarks Sect 83)

Date:

The Government of the Republic of Singapore
c/o Director-General
Singapore Customs
55 Newton Road
#10-01 Revenue House
Singapore 307987

Dear Sir

**LETTER OF GUARANTEE NO. _____ FURNISHED UNDER
SECTION 83 OF THE TRADE MARKS ACT**

In consideration of your agreement:

- (a) to exercise the power of seizure pursuant to section 82(4) of the Trade Marks Act (hereinafter referred to as “the Act”) at the request of _____ (Name & Address of Company/Firm/Persons) (UEN: _____) (hereinafter referred to as “the Principal”); and
- (b) to accept an unconditional guarantee in lieu of a cash deposit referred to in section 83 of the Act,

we (at the request of the Principal) hereby agree as follows.

2 We shall pay you on demand such sum that in your opinion is sufficient to:

- (a) reimburse the Government for any liability or expense it has incurred and/or is likely to incur as a result of such seizure; and
- (b) pay such compensation as may be ordered by the Court under section 89(2) or 90(6) of the Act

up to a maximum aggregate sum of Singapore Dollars _____ (\$_____).

3 This Guarantee shall take effect from _____ [date] and shall remain in full force and effect for a period of one year until _____ [date]. Without being called upon to do so, we shall on or before the expiry of this Guarantee issue to you a fresh Guarantee on the same terms and conditions as this Letter of Guarantee including this covenant for renewal. You shall be entitled to any number of renewals of this Guarantee each for a period of one year until final disposal of this matter or until further order.

4 You may make more than one claim on, or direction under, this Guarantee PROVIDED the aggregate amount specified in all such claims and directions does not exceed the maximum aggregate sum stated in paragraph 2 above. We shall not concern ourselves with whether any sums claimed are properly payable to you or whether any event or

transaction giving rise to any claims actually occurred within the validity period of this Guarantee.

5 Our liability under this Guarantee shall not be affected by your giving time or any other indulgence to the Principal or any arrangement made between yourself and the Principal with or without our consent.

6 This guarantee shall be governed by the laws of the Republic of Singapore.

Yours faithfully

(Name and Designation)
For and on behalf of
(Name of Bank/Finance Company)

Letter of Undertaking - Expenses (Trademarks)

Company's Letterhead

Date:

Director-General
Singapore Customs
55 Newton Road
#10-01 Revenue House
Singapore 307987

Dear

**LETTER OF UNDERTAKING FOR PAYMENT OF TRANSPORTATION,
STORAGE, DESTRUCTION AND RELATED EXPENSES ARISING FROM THE
SEIZURE OF INFRINGING MATERIALS UNDER SECTION 82 OF THE TRADE
MARKS ACT**

[I/We] refer to [my/our] notice under section 82(1) of the Trade Marks Act dated

_____.

2 In consideration of your agreement to [my/our] request in the notice, [I/we] undertake to:

- (a) reimburse and indemnify the Government of Singapore for any liability and expenses the Government has incurred and/or is likely to incur as a result of the Government seizing the goods specified in the notice (including but not limited to transporting, storing and destroying such goods);
- (b) pay any fees incurred under the Fees (Trade Marks Act – Border Enforcement Measures) Order; and
- (c) pay such compensation as may be ordered by the Court under section 89(2) or section 90(6) of the Trade Marks Act.

Yours faithfully

(Name and Designation)
For and on behalf of (Company Name)

(The signatory shall be a Director of the company)



THAILAND

In the case of IP assets being infringed in Thailand, there are two (2) main avenues of enforcement: civil litigation and criminal prosecution.

Civil Litigation

The relevant documents to initiate a civil lawsuit in Thailand would need to be drafted on an 'ad hoc' basis by lawyers licensed to represent clients in the country. The "Complaint for the Court" form is available below. The document is provided to serve as a general example.

Criminal Prosecution

Criminal prosecutions are usually considered as the most cost-effective enforcement route available to IP right holders in Thailand. No official standard forms are publicly available.

Customs Enforcement

IP holders can register their IP rights with the Customs Department of Thailand. The official form "Memorandum of Inspection of Goods with Customs" is listed and included below.

FORMS ATTACHED:

- 1. Complaint for the Court (Thai language);**
- 1a. Complaint for the Court (English translation);**
- 2. Memorandum of Inspection of Goods with Customs (Thai and English language)**

1a

(๔) / (4)

คำฟ้อง/Indictment

คดีหมายเลขดำที่ /Undecided case no...../๒๕/25.....

ศาล/Court.....

วันที่/Date.....เดือน/Month.....พุทธศักราช ๒๕/BE 25.....

ความ/Title.....

ระหว่าง/
Between

..... โจทก์/
Plaintiff

..... จำเลย/
Defendant

ข้อหาหรือฐานความผิด

/Offence

จำนวนทุนทรัพย์

/Amount in dispute (...Baht...Satang)

ข้าพเจ้า/ I am

เลขประจำตัวประชาชน/ ID No. ____ - ____ - ____ - ____ - ____ โจทก์/Plaintiff

เชื้อชาติ/Race.....อาชีพ/Occupation.....อายุ/Age.....

อยู่บ้านเลขที่/address no. หมู่ที่/Moo.....

ถนน/Road.....ตรอก/ซอย/Soi.....ตำบล/แขวง.....

อำเภอ/เขต/District.....จังหวัด/Province.....

รหัสไปรษณีย์/Post code..... โทรศัพท์/Tel.

โทรสาร/Fax.....ไปรษณีย์อิเล็กทรอนิกส์/E-mail.....

ขอยื่นฟ้อง/Institute a case to.....

เลขประจำตัวประชาชน/ ID No. ____ - ____ - ____ - ____ - ____ โจทก์/Plaintiff

เชื้อชาติ/Race.....อาชีพ/Occupation.....อายุ/Age.....

อยู่บ้านเลขที่/address no. หมู่ที่/Moo.....

บันทึกตรวจสอบสินค้า
/Memorandum of Inspection for goods

บันทึกนี้ทำขึ้น สืบเนื่องมาจากเมื่อวันที่ _____ เวลาประมาณ
น.เจ้าหน้าที่ศุลกากร
ได้ร่วมกันอายัดสินค้าตามใบขนสินค้าขาเข้าเลขที่ _____

/This record is created due to the pursuant on the date _____ Time _____ hours.

Issued by (Customs Administration)

นำเข้าโดยเรือ _____ วันนำเข้า _____ ใบตราส่งเลขที่ _____
/Imported by ship _____ Date of import _____ Number of import document _____

เนื่องจากสงสัยว่าเป็นสินค้าที่นำเข้ามาโดยสำแดงเท็จหลีกเลี่ยงอากร ข้อห้าม ข้อจำกัด
และตามคำร้องขอของตัวแทนของเจ้าของเครื่องหมายการค้าที่ได้จดทะเบียนแล้วในราชอาณาจักร/
*The undersigned kindly requests Customs Administration to temporarily suspend Customs procedure for the
shipment due to the suspicious goods that may violate Intellectual Property Rights as requested by the
Intellectual Properties' registered owner within the country.*

วันนี้ _____ ตัวแทนเจ้าของเครื่องหมายการค้า
แห่ง _____

ผู้รับมอบอำนาจจาก ซึ่งเป็นเจ้าของเครื่องหมายการค้า ตามหนังสือมอบอำนาจ ลงวันที่
(เอกสารแนบ) ได้ทำการตรวจสอบสินค้าดังนี้

*/Today _____ representative of these goods' Intellectual Property Rights from
_____ (Company name) the owner of the Intellectual Property according to
the Intellectual Property Rights document date _____
(Document attached) had inspected the goods as listed below.*

**ผลการตรวจสอบสินค้าที่อายัด มีรายละเอียดดังนี้/
The result of freeze goods as details below**

ลำดับ/ Number	เลขใบขนสินค้า/ Shipment number	ของกลาง/ Goods	ปริมาณ/ Quantity	เป็นสินค้าที่มีเครื่องหมายปลอมเครื่องหมายการค้าของบริษัท/ The goods violate intellectual property rights
1				

กรณีดังกล่าวเป็นความผิดตาม พ.ร.บ. เครื่องหมายการค้า พ.ศ. 2534 มาตรา 108 ถึง มาตรา 110 (1) และบริษัท ประสงค์จะให้เจ้าหน้าที่ศุลกากรดำเนินการตรวจสอบจับกุม เพื่อลงโทษตามหลักเกณฑ์ที่กรมฯ กำหนดต่อไป/ *In case the suspended goods are defined to violate intellectual property rights, Por.Ror.Bor. Intellectual Property Rights BE2534 section 108 to section 110 (1) and company. We kindly request Customs Administration to handle the infringement in accordance with relevant laws and regulation.*

ในการตรวจสอบสินค้าครั้งนี้ ข้าพเจ้า _____ ตัวแทนบริษัท
ซึ่งเป็นเจ้าของเครื่องหมายการค้าได้ตรวจสอบสินค้า
และขอยืนยันว่าเป็นสินค้าที่ปลอมเครื่องหมายการค้าของบริษัทฯ จริง
ในการดำเนินการหากปรากฏว่าเกิดเสียหายโดยประการใดๆ
บริษัทยินยอมชดใช้ค่าเสียหายให้แก่ผู้ส่งออกและกรมศุลกากร ทุกประการ จึงลงลายมือชื่อไว้เป็นหลักฐาน/ *In this inspection, I am _____ the representative of the company that owns this Intellectual Property has inspected and confirmed that these goods are counterfeit/violated the companys' Intellectual Property Rights. We commit to pay compensation for any damages and other costs rising from wrong temporary suspension of doing Customs procedure to the goods owner in accordance with relevant laws and regulation.*

ลงชื่อ.....ผู้รับมอบอำนาจ

()

/Full name, Signature of the applicant or representative and Seal (if any)

ลงชื่อ.....เจ้าหน้าที่/Officer

ลงชื่อ.....เจ้าหน้าที่/ Officer

(.....) (.....)

ลงชื่อ.....เจ้าหน้าที่/ Officer

ลงชื่อ.....เจ้าหน้าที่/Officer

(.....) (.....)

ลงชื่อ.....พยาน/Witness

ลงชื่อ.....พยาน/Witness

(.....) (.....)



VIETNAM

In the case of IP assets being infringed in Vietnam, there are three (3) main avenues of enforcement: administrative actions, civil litigation, and criminal prosecution. In many cases, however, private mediation via legal professionals is more effective and should be considered a viable option.

Administrative Actions

Depending on the value and nature of the case, different governmental bodies may be involved in the action, such as the Inspectorate of Science and Technology, the Police, the Market Control Force, Vietnam Customs, the Vietnam Competition Authority, etc., and will be able to issue different penalties, such as issuing cease and desist orders, revoking business licenses, issuing monetary fines, or the confiscation and destruction of infringing goods. Illegal profits recovered will go to the State Treasury.

Upon receipt of a complaint, the authority will determine whether the complaint suffices or not. When they find the complaint and its accompanying documents satisfactory, they will then carry out raids and seize infringing goods without prior notice to the infringer. If they expressly find infringement and/or counterfeiting, the

competent authority will impose sanctions upon the infringer.

There are no official forms issued by the competent authorities. If the IPR holders want to take the administrative action to deal with the infringement, they will prepare a complaint then submit it to the competent authorities. Under the Article 24 of the Decree No. 99/2013/ND-CP and the Article 22 of the Decree No. 105/2006/ND-CP, a complaint must include at least a standard minimum content.

A general template of the Complaint for administrative actions is listed below (file 1). The document is provided to serve as a general example.

Civil Litigation

The relevant documents to initiate a civil lawsuit in Vietnam would need to be drafted on an 'ad hoc' basis by lawyers licensed to represent clients in the country. The forms of "Complaint for the Court" (file 2.1) and "Request for application of injunction" (file 2.2) are available below. These forms are addressed to People's Court at the district or provincial level. The documents are provided to serve as a general example.

Criminal Prosecution

Criminal action can be taken against copyright infringement and trade mark counterfeiting only. So far, Vietnam law has not set forth any regulations regarding the request form of handling violation through criminal measure.

The form for the “Petition” (file 3) is listed below and attached. This form is addressed to Economic Police or Prosecutor to propose to open criminal case against act of violating intellectual property right. The document is provided to serve as a general example.

Customs Enforcement

During Customs monitoring, Customs will temporarily suspend suspicious shipments and notify the IPR holder of the suspension. In the notification letter, Customs will require the IP holder to decide whether or not to officially call for seizure of the products. At this step, Customs may provide the holder with certain information about the shipments for the trade mark owner to make up its mind.

If the holder decides to call for an official seizure of the products, the holder must lodge a written request for the same and post a bond to secure the request. If the trade mark owner does not decide on the seizure, Customs will release the products.

Form 4.1 listed below is addressed to Customs Management Supervision Department of General Department of Customs to request the Customs to inspect and supervise the import and export of goods to detect goods having signs of infringing intellectual property right.

Form 4.2 listed below is addressed to Sub-department of Customs where the customs procedures are carried out for the batches of exported/imported goods to request the customs to suspend the customs procedures of a certain consignment suspected to infringe intellectual property right.

FORMS ATTACHED:

- 1. Administrative actions - Complaint for administrative actions (Vietnamese & English);**
- 1.2. VIPRI – Assessment for infringing upon industrial property rights– Sample Declaration Form (Vietnamese & English);**
- 2.1 Civil actions - Complaint to Court (Vietnamese & English);**
- 2.2. Civil actions - Request for application of injunction (Vietnamese & English);**
- 3. Criminal Prosecution - Petition to the Economic Police or Prosecutor (Vietnamese & English);**
- 4.1 Customs - Application of request for control and supervision on import - export goods requested to protection on intellectual property;**
- 4.2 Customs - Application of request for temporary suspension of doing customs procedure (Vietnamese & English).**



1

CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
 Độc lập - Tự do - Hạnh phúc
SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness
 ----o0o----

Ngày/Date Tháng/Month Năm/Year ...

ĐƠN YÊU CẦU XỬ LÝ VI PHẠM
 (Đối với hành vi xâm phạm quyền sở hữu trí tuệ)
COMPLAINT
 (Against infringement upon intellectual property rights)

Kính gửi/To:

I. BÊN YÊU CẦU XỬ LÝ VI PHẠM/ COMPLAINANT

Bên yêu cầu/ Name:

Trụ sở tại/ Address:

Đại diện bởi/ Representative:

Trụ sở tại/ Address:

Điện thoại/ Tel.:

II. BÊN XÂM PHẠM QUYỀN/ INFRINGING PARTY

Bên xâm phạm quyền/ Name:

Địa chỉ/ Address:

III. ĐỐI TƯỢNG SỞ HỮU CÔNG NGHIỆP LIÊN QUAN/ INDUSTRIAL PROPERTY OBJECTS:

STT No	Đối tượng SHCN Object	Số Giấy Chứng Nhận Registration No.	Ngày cấp bằng Registration Date	Ngày hết hạn Expiry Date
1
...

IV. HÀNH VI XÂM PHẠM/ INFRINGEMENT:

.....

.....

.....

V. KIẾN NGHỊ/ REQUEST

Trên cơ sở các thông tin nêu trên, chúng tôi xin kính đề nghị Quý Cơ quan xem xét vụ việc và có hình thức xử lý thích đáng đối với các hành vi vi phạm của Bên xâm phạm quyền nêu trên. Cụ thể, chúng tôi xin được đề nghị Quý Cơ quan tiến hành các hoạt động sau/ Based on the information stated above, we would like to request your Agency to consider the case and apply following measures to handle the infringement of the above-mentioned infringing party:

.....

.....

.....

Trân trọng/ Regards.

Người yêu cầu/ Complainant

Tài liệu kèm theo/ The attached documents include:

.....

.....

.....

1.2

GIÁM ĐỊNH SỞ HỮU CÔNG NGHIỆP – MẪU TỜ KHAI
INDUSTRIAL PROPERTY ASSESSMENT – SAMPLE DECLARATION FORM

<p style="text-align: center;">TỜ KHAI YÊU CẦU GIÁM ĐỊNH SỞ HỮU CÔNG NGHIỆP DECLARATION FORM REQUEST FOR INDUSTRIAL PROPERTY ASSESSMENT</p> <p style="text-align: center;">Kính gửi: Viện Khoa học sở hữu trí tuệ Số 21, ngõ 67, phố Đỗ Quang, quận Cầu Giấy, Hà Nội To: Vietnam Intellectual Property Research Institute No. 21, Lane 67, Do Quang street, Cau Giay, Hanoi</p>	<p style="text-align: center;">Dấu nhận đơn/ Filing receipt <i>(Dành cho Viện Khoa học sở hữu trí tuệ/ For Vietnam Intellectual Property Research Institute)</i></p>
<p>NGƯỜI YÊU CẦU GIÁM ĐỊNH/ REQUESTER</p> <ul style="list-style-type: none"> • Tên (Họ tên)/ Name (Full name): • Địa chỉ (Trụ sở)/ Address: • Yêu cầu giám định với tư cách là/ Request for assessment in the position of: <ul style="list-style-type: none"> <input type="checkbox"/> Chủ thể quyền sở hữu công nghiệp/ Owner of industrial property rights <input type="checkbox"/> Người bị xử lý/ bị khiếu nại, tố cáo vì xâm phạm quyền sở hữu công nghiệp/ Persons who are handled/ complained against or denounced for infringing upon industrial property rights <input type="checkbox"/> Người có quyền, lợi ích liên quan/ Persons with related rights and interests • Người đại diện/ Representative: <ul style="list-style-type: none"> Tên đầy đủ/ Full name: Địa chỉ/ Address: Điện thoại/ Tel.: Fax/ Fax: Email/ Email: 	
<p style="text-align: center;">ĐỐI TƯỢNG GIÁM ĐỊNH/ ASSESSMENT OBJECT</p> <ul style="list-style-type: none"> • Tên đối tượng giám định/ Name of assessment object: • Đối tượng được bảo hộ tương ứng/ Type of assessment object: <ul style="list-style-type: none"> <li style="width: 50%;"><input type="checkbox"/> Sáng chế/ Giải pháp hữu ích <i>Patent/ Utility model</i> <li style="width: 50%;"><input type="checkbox"/> Nhãn hiệu <i>Trade mark</i> <li style="width: 50%;"><input type="checkbox"/> Thiết kế bố trí mạch tích hợp <i>Integrated Circuits Layout-Design</i> <li style="width: 50%;"><input type="checkbox"/> Chỉ dẫn địa lý <i>Geographical Indication</i> <li style="width: 50%;"><input type="checkbox"/> Kiểu dáng công nghiệp <i>Industrial design</i> <li style="width: 50%;"><input type="checkbox"/> Tên thương mại <i>Trade name</i> <li style="width: 100%;"><input type="checkbox"/> Khác, cụ thể là/ Others, specifically: • Dạng thể hiện của đối tượng giám định/ Form of the assessment object: <ul style="list-style-type: none"> <li style="width: 50%;"><input type="checkbox"/> Tài liệu dạng giấy/ Paper document <li style="width: 50%;"><input type="checkbox"/> Video, CD, DVD/ Video, CD, DVD <li style="width: 50%;"><input type="checkbox"/> Ảnh chụp/ Photograph <li style="width: 50%;"><input type="checkbox"/> Mẫu vật/ Sample <li style="width: 100%;"><input type="checkbox"/> Dạng khác, cụ thể là/ Others, specifically: 	

MỤC ĐÍCH GIÁM ĐỊNH/ ASSESSMENT PURPOSE

- Xử lý hành vi xâm phạm quyền sở hữu công nghiệp do người thứ ba thực hiện, cụ thể là/ *To handle the infringement of industrial property rights carried out by a third party, specifically:*
 - Người bị nghi ngờ thực hiện hành vi xâm phạm/ *Suspected infringing party:*
 - Hành vi bị nghi ngờ xâm phạm/ *Suspected infringement:*

- Phản đối cáo buộc của người khác về việc xâm phạm quyền sở hữu công nghiệp, cụ thể là/ *To oppose other people's allegation of infringement of industrial property rights, specifically:*
 - Người cáo buộc (họ tên, địa chỉ)/ *The accuser (full name, address):*
 - Tóm tắt cáo buộc (xâm phạm cái gì, hành vi nào bị coi là xâm phạm)/ *Summary of the allegation (what object is infringed? what act is considered infringement?):*

- Xem xét hiệu lực hoặc phạm vi bảo hộ của quyền sở hữu công nghiệp được xác lập/ *To assess the effect or scope of protection of established industrial property rights*

- Mục đích khác, cụ thể là/ *Other purpose, specifically:*

NỘI DUNG YÊU CẦU GIÁM ĐỊNH/ CONTENT OF ASSESSMENT REQUEST

- Xác định phạm vi bảo hộ quyền sở hữu công nghiệp, cụ thể là/ *Define the scope of protection of industrial property rights, specifically:*
- Đánh giá tính tương tự, cụ thể là/ *Evaluate the similarity, specifically:*
- Xác định yếu tố xâm phạm, cụ thể là/ *Identify the infringing factors, specifically:*
- Xác định giá trị thiệt hại, cụ thể là/ *Determine the value of the damage, specifically:*

THỜI HẠN GIÁM ĐỊNH/ ASSESSMENT TIME

<p>Tài liệu, mẫu vật kèm theo/ Attached documents and samples</p> <p><input type="checkbox"/> Tờ khai yêu cầu giám định/ <i>Assessment request</i></p> <p><input type="checkbox"/> Giấy uỷ quyền/ <i>Power of attorney</i></p> <p><input type="checkbox"/> Tài liệu thể hiện căn cứ xác lập quyền sở hữu công nghiệp (Văn bằng bảo hộ, Giấy chứng nhận li-xăng,...)/ <i>Documents showing grounds for establishment of industrial property rights (protection certificates, license certificates, etc.)</i></p> <p><input type="checkbox"/> Tài liệu thể hiện đối tượng giám định (tài liệu mô tả, ảnh chụp, bản vẽ,...)/ <i>Documents showing the assessment object (descriptive documents, photographs, drawings, ...)</i></p> <p><input type="checkbox"/> Phí nộp đơn giám định/ <i>Fee for submitting assessment request</i></p> <p><input type="checkbox"/> Tài liệu khác, cụ thể là/ <i>Other documents, specifically:</i></p> <p><input type="checkbox"/> Mẫu vật, số lượng/ <i>Samples, quantity</i></p>	<p>....., ngày/ <i>date</i> ... tháng/ <i>month</i> ... năm/ <i>year</i></p> <p>Người yêu cầu giám định/ Requester <i>Họ tên, chữ ký, dấu nếu có</i> <i>Full name, signature, stamp (if any)</i></p>
---	---

2.1

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..., ngày/ date tháng/ month năm/ year

ĐƠN KHỞI KIỆN
COMPLAINT

Kính gửi/ To: Toà án nhân dân/ *People's Court of*

Họ và tên người khởi kiện/ *Complainant:*

Họ và tên người bị kiện/ *Respondent:*

Địa chỉ đăng ký/ *Registered Address:*

Địa chỉ kinh doanh/ *Trading Address:*

Yêu cầu Toà án giải quyết những vấn đề sau đây đối với Bị đơn/ *Respectfully ask the Court to address the following issues concerning the Respondent:*

I. Yêu cầu/ *Petition requested:*

Đề nghị Tòa án buộc Bị đơn do do hành vi này bị xem là hành vi xâm phạm....., căn cứ:
The Court is respectfully requested to order the Respondent to as such act constitutes, pursuant to:

- a) Điểm... Khoản... Điều... , Luật...
Article ... of the ... Law
- b) Điểm... Khoản... Điều... , Luật...
Article ... of the ... Law

II. Các tình tiết của vụ việc/ *Factual background:*

- Giới thiệu về Nguyên đơn/ *Introduction to the Complainant -*

.....
.....
.....

- Vi phạm của Bị đơn/ *Infringement by the Respondent -*

.....
.....
.....

III. Cơ sở khởi kiện cụ thể/ Legal basis:

- Hành vi xâm phạm –
- *Act of infringing* –

.....
.....
.....

IV. Kết luận/ Conclusion:

Các chứng cứ và lập luận nêu trên đã chứng minh rõ hành vi của Bị đơn là hành vi xâm phạm quyền của Nguyên đơn đối với đã được đăng ký bảo hộ theo quy định tại Điều, Khoản, Điều, Luật

It is sufficiently proved that the act of constitutes an act of infringing the Complainant's which has been registered and protected, pursuant to Article of the Law;

Vì vậy, Nguyên đơn kính đề nghị Quý Tòa theo quy định tại Điều, Khoản, Điều, Luật....

Therefore, we respectfully request the Court to pursuant to Article of the Law.

Họ và tên người làm chứng/ Name of the witness:

.....
.....
.....

Những tài liệu, chứng kèm theo đơn khởi kiện gồm có/ Documents attached to this Complaint include:

.....
.....
.....

Người khởi kiện/ Complainant

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CỘNG HOÀ XÃ HỘI CHỦ NGHĨA VIỆT NAM
Độc lập - Tự do - Hạnh phúc
SOCIALIST REPUBLIC OF VIETNAM
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....., ngày/ date tháng/ month năm/ year

ĐƠN YÊU CẦU
ÁP DỤNG BIỆN PHÁP KHẨN CẤP TẠM THỜI
REQUEST FOR
APPLICATION OF PRELIMINARY INJUNCTION

Kính gửi/ To: Toà án nhân dân/ *People's Court of*

(1) **Người yêu cầu áp dụng biện pháp tạm thời/ Applicants for preliminary injunction:**

[Tên/ Name]

Địa chỉ/ Address:

Người đại diện theo pháp luật/ Legal Representative:

Người đại diện theo ủy quyền/ Authorized Representative:

(2) **Họ và tên người bị yêu cầu áp dụng/ Respondent:**

[Tên/ Name]

Địa chỉ đăng ký/ Registered Address:

Địa chỉ kinh doanh/ Trading Address:

(3) **Nội dung của vụ việc/ Summary of the dispute:**

.....
.....
.....

Tình tiết liên quan đến vi phạm của Bị đơn/ Background

.....
.....
.....

Quyền và lợi ích hợp pháp của Nguyên đơn bị xâm hại/ Infringement of the rights and legitimate interests of the Applicant

.....
.....
.....

(4) **Quyền SHCN của Nguyên đơn được công nhận/ Recognition of the Applicant's rights**

.....
.....

.....

(5) Lý do cần phải áp dụng biện pháp khẩn cấp tạm thời/ *Reasons for application of preliminary injunction*

Các chứng cứ và lập luận nêu trên đã chứng minh rõ việc sử dụng dấu hiệu của Bị đơn là hành vi xâm phạm quyền SHCN của Nguyên đơn đối với đã được đăng ký bảo hộ theo quy định tại Điều ..., Khoản ..., Điều ..., Luật Sở hữu trí tuệ.

The above mentioned evidence is sufficient to prove that the act of by the Respondent constitutes an act of infringing the Applicant's.... pursuant to Article ... of the Intellectual Property Law.

Như vậy, nếu Bị đơn vẫn tiếp tục thực hiện hành vi vi phạm trong khi không có bất kỳ biện pháp khẩn cấp tạm thời nào được áp dụng, thì không những Nguyên đơn sẽ có nguy cơ phải gánh chịu hậu quả khôn lường mà trình tự tố tụng (quá trình xét xử) của vụ án sẽ không thể được diễn ra được bình thường./ *Therefore, if the Respondent continues its infringing acts without being applied any preliminary injunction, not only will the Applicant suffer irreparable harm, but the proceedings to settle the dispute will also be adversely affected.*

.....
.....
.....

(6) Thiệt hại/ *Damage*

.....
.....
.....

(7) Các biện pháp khẩn cấp tạm thời cần áp dụng/ *Applicable preliminary injunction*

.....
.....
.....

(8) Cam kết/ *Cross undertakings*

.....
.....
.....

Người yêu cầu/ *Applicant*

Các tài liệu và chứng cứ nộp kèm/ *The attached documents include:*

.....
.....
.....

V.v.: Kiến nghị khởi tố hành vi sản xuất và kinh doanh sản phẩm giả mạo nhãn hiệu của....

Re.: Proposal to open criminal case against act of manufacturing and trading in products counterfeiting trademarks of

CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM

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...., ngày/ date ... tháng/ month ... năm/ year ...

Kính gửi/ To:[*Cơ quan có thẩm quyền/ State body*]

Chúng tôi xin được gửi lời chào trân trọng tới Quý cơ quan./*Best regards to your agencies.*

Chúng tôi, đại diện theo ủy quyền của [*Chủ thể quyền*], xin được trình bày với Quý Cơ quan việc như sau/ *On behalf of [Right holder], we would like to present our case as follow:*

Chúng tôi được biết [*Cơ quan có thẩm quyền*] đã phát hiện và thu giữ các hàng hóa sau của [*Tổ chức/Cá nhân*]/ *We were notified by..... [State body] that they discovered and seized the following items of [Organization/Individual]:*

1.
2.
3.

Sau khi xem xét số vật phẩm, chúng tôi xin được xác nhận toàn bộ các mẫu vật phẩm đều không phải là hàng hóa do [*Chủ thể quyền*] sản xuất hoặc ủy quyền sản xuất. Chúng tôi xin khẳng định tất cả các mẫu vật phẩm đều là hàng hóa giả mạo nhãn hiệu./ *After reviewing the samples, we conclude that all products were not produced by or under the authorization of [Right holder]. All of them are trademark counterfeit products.*

Dựa vào các chứng cứ nêu trên, có thể kết luận rằng..... [*Tổ chức/Cá nhân*] đã thực hiện hành vi sản xuất và buôn bán hàng hóa giả mạo nhãn hiệu, xâm phạm nghiêm trọng tới quyền sở hữu trí tuệ của [*Chủ thể quyền*] đã được bảo hộ tại Việt Nam, có dấu hiệu của tội “.....” theo Điều ..., Khoản ..., Điều ... Bộ luật Hình sự./ *Based on the evidence stated above, it is reasonable to conclude that [Organization/Individual] had manufactured and traded products with counterfeiting trademarks, infringed[Right holder]’s Intellectual property rights being protected in Vietnam, having the signs of the criminal offense: “.....” under Article of the Criminal Code.*

Hành vi của [*Tổ chức/Cá nhân*] không những ảnh hưởng đến danh tiếng và lợi ích hợp pháp của [*Chủ thể quyền*] mà còn ảnh hưởng đến quyền lợi của người tiêu dùng./ *The behavior of [Organization/Individual] not only affects the reputation and benefit of[Right holder] but also customers’ right and the transparency of the market.*

Bằng công văn này, đại diện cho [*Chủ thể quyền*], chúng tôi kính đề nghị Quý Cơ quan tiến hành điều tra và khởi tố hành vi “.....” theo Điều ..., Khoản ..., Điều ... Bộ luật Hình sự để bảo vệ quyền và lợi ích hợp pháp của [*Chủ thể quyền*] và người tiêu dùng./ *By this official letter, for and on behalf of[Right holder], we would like to request that you carry out the criminal investigation and prosecution against the criminal offence “.....” under Article of the Criminal Code to protect the right and benefit of[Right holder] and customers.*

Trân trọng/ *Yours sincerely.*

Đại diện của/ Representative of

4.1

CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
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....., ngày/date... tháng/month ... năm/year 201...

ĐƠN ĐỀ NGHỊ KIỂM TRA, GIÁM SÁT HÀNG HÓA XUẤT KHẨU, NHẬP KHẨU
CÓ YÊU CẦU BẢO HỘ QUYỀN SỞ HỮU TRÍ TUỆ
(APPLICATION OF REQUEST FOR CONTROL AND SUPERVISION ON IMPORT
- EXPORT GOODS REQUESTED TO PROTECTION ON INTELLECTUAL
PROPERTY)

Kính gửi/To:

Căn cứ quy định tại Điều 216, 217, 219 Luật Sở hữu trí tuệ số 50/2005/QH11 ngày 29 tháng 11 năm 2005 *Pursuant to regulation at Articles 216, 217, 219 of Law 50/2005/QH10 on Intellectual Property dated 29 November 2005;*

Căn cứ quy định tại Điều 73, Điều 74, Luật Hải quan số 54/2014/QH13 ngày 23 tháng 06 năm 2014 */Pursuant to regulation at Articles 73 and 74 of Law 54/2014/QH13 on Customs dated 23 June 2005;*

Căn cứ Thông tư số 13/2015/TT-BTC ngày 30 tháng 01 năm 2015 của Bộ Tài chính Quy định về kiểm tra, giám sát, tạm dừng làm thủ tục hải quan đối với hàng hóa xuất khẩu, nhập khẩu có yêu cầu bảo vệ quyền sở hữu trí tuệ; kiểm soát hàng giả và hàng hóa xâm phạm quyền sở hữu trí tuệ/ *Pursuant to Circular N° 13/2015/TT-BTC dated 30/01/2015 of Ministry of Finance promulgating control, supervision and temporary suspension of doing customs procedures for export and import goods already requested for IP Protection; anti-counterfeit and goods violating IP Rights;*

Người ký tên dưới đây đề nghị cơ quan Hải quan tiến hành các biện pháp kiểm tra, giám sát hàng hóa xuất khẩu, nhập khẩu theo quy định của Luật Sở hữu trí tuệ đối với lô hàng bị nghi ngờ xâm phạm quyền sở hữu trí tuệ theo các nội dung sau: *The undersigned requests Customs Administration to, under the Law on Intellectual Property, implement the measures of examining and supervising import goods and export goods of the shipment being suspected of violating Intellectual Property Rights including the following content:*

1. Người nộp đơn/Applicant:

- Tên/Full name:

- Số chứng minh thư/hộ chiếu (nếu là cá nhân)/ID/passport No. (in case of individual)

- Địa chỉ/Address:

- Điện thoại/Telephone: Fax: - E-mail/Website:

2. Chủ sở hữu quyền/IP owner:

- Tên/Full name:
- Số chứng minh thư/hộ chiếu (nếu là cá nhân): ID/passport No. (in case of individual)
- Địa chỉ/Address:
- Điện thoại/Telephone: Fax: - E-mail/Website:

3. Quyền Sở hữu trí tuệ có yêu cầu bảo hộ (ghi rõ là: quyền tác giả/quyền liên quan đến quyền tác giả/nhãn hiệu/chỉ dẫn địa lý...):

IP rights for protection (clearly indicate: copyrights/related rights/trademarks/geographic indicators, etc):

- Tên văn bằng bảo hộ/Name of IP Right Certificate:
- Số/No: Ngày cấp văn bằng bảo hộ/Date of issue:
- Cơ quan cấp văn bằng bảo hộ/Office of issue:
- Thời hạn có hiệu lực của văn bằng bảo hộ/Expiration:

4. Phạm vi yêu cầu bảo hộ (ghi rõ là trong phạm vi toàn quốc hay tại đơn vị Hải quan cụ thể) **Area for IP protection** (clearly indicate: throughout the country or at specific Customs Administration):

5. Danh mục hàng hóa có yêu cầu bảo hộ (người nộp đơn tự xác định và cung cấp để hỗ trợ cho cơ quan Hải quan trong quá trình phối hợp. Lưu ý: Đây là yêu cầu không bắt buộc):

List of goods for IP protection (applicant himself to identify and provide in order to assist Customs Administration in the process of co-operation. Note: not obligatory):

- Tên hàng/Name of goods:
- Mã HS (8 số)/HS code (08 digits):

6. Tài liệu gửi kèm (Đánh dấu x vào loại giấy tờ nộp kèm): **Accompanied documents** (mark x at the accompanied document submitted)

- Văn bằng bảo hộ/Intellectual Property Right Certificate;
- Danh sách người xuất khẩu, nhập khẩu hợp pháp hàng hóa/List of legal goods importer(s) and/or export(s);
- Phương thức xuất khẩu, nhập khẩu; bản phân biệt hàng thật - hàng giả/Mode of import and/or export; the differences between the genuine and the counterfeit;
- Tài liệu chứng minh xuất xứ của hàng thật/ Document to prove the origin of the genuine;

- Giấy ủy quyền hoặc hợp đồng ủy quyền nộp đơn/*Power of Attorney or Contract of Attorney;*
- Hợp đồng chuyển nhượng/sử dụng đối tượng quyền sở hữu trí tuệ hoặc văn bản xác nhận quyền thừa kế, quyền kế thừa đối tượng quyền sở hữu trí tuệ/*Contract of Transfer/Using Intellectual Property Rights or relevant document to prove the rights of inheritance;*
- Thông tin dự đoán về thời gian và địa điểm làm thủ tục xuất khẩu, nhập khẩu hàng hóa/*Information of forecast on when and where related shipment(s) going to be done Customs procedure;*
- Kết quả giám định của tổ chức giám định sở hữu trí tuệ/*the assess result made by Intellectual Property assess unit.*

Họ tên, chữ ký của người nộp đơn và đóng dấu (nếu có)
Full name, signature of the applicant and seal (if any)

4.2

CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
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....., ngày/date... tháng/month ... năm/year 20....

ĐƠN ĐỀ NGHỊ TẠM DỪNG LÀM THỦ TỤC HẢI QUAN
APPLICATION OF REQUEST FOR TEMPORARY SUSPENSION OF DOING
CUSTOMS PROCEDURE

Kính gửi/To:

(Cơ quan Hải quan nơi ra thông báo tạm thời dừng làm thủ tục hải quan)/(Customs Administration issued the Announcement on temporary suspension of doing Customs procedure)

Căn cứ quy định tại điều 216, 217 Luật Sở hữu trí tuệ số 50/2005/QH10 ngày 29 tháng 11 năm 2005/Pursuant to the regulation at Article 216, Article 217 of Law No 50/2005/QH10 on Intellectual Property dated November 29th 2005;

Căn cứ quy định tại Điều 73, Điều 74, Luật Hải quan số 54/2014/QH13 ngày 23 tháng 06 năm 2014 /Pursuant to regulation at Articles 73 and 74 of Law 54/2014/QH13 on Customs dated 23 June 2005;

Căn cứ văn bản (số/ngày) của (cơ quan Hải quan) về việc chấp nhận bảo hộ hàng hóa xuất khẩu, nhập khẩu liên quan đến sở hữu trí tuệ theo Đơn đề nghị kiểm tra, giám sát hàng hóa xuất khẩu, nhập khẩu liên quan đến sở hữu trí tuệ (số/ngày) do (tên của người nộp đơn) (nếu có) /Pursuant to the document (number/date) issued by (Customs Administration) about the acceptance on intellectual property protection for import and export goods with regard to the Application of Request for Control on import, export goods relating to Intellectual Property (number/date) submitted by (name of the applicant) (if any).

Trên cơ sở Chứng thư bảo lãnh (số/ngày) của (tổ chức tín dụng) hoặc khoản bảo đảm đã nộp cho cơ quan Hải quan theo (giấy nộp tiền số/ngày/tại Ngân hàng...)/With the guarantee deposited at Customs Administration (Number of Cash Deposit Note/date/Bank...)

Người ký tên dưới đây yêu cầu cơ quan Hải quan tạm dừng làm thủ tục hải quan đối với lô hàng theo (thông báo số: ... ngày... tháng... năm... của cơ quan Hải quan)/The undersigned kindly requests Customs Administration to temporarily suspend Customs procedure for the shipment (regarding the Announcement Number... dated ... issued by the Customs Administration).

Trường hợp xác định hàng hóa bị tạm dừng làm thủ tục hải quan là hàng xâm phạm quyền sở hữu trí tuệ, chúng tôi đề nghị cơ quan Hải quan tiến hành việc xử lý hành vi vi phạm đối với (người vi phạm) theo thẩm quyền quy định của pháp luật /In case the suspended goods are defined to violate intellectual property rights, we kindly request Customs Administration to handle the infringement in accordance with relevant laws and regulation.

Chúng tôi cam kết bồi thường thiệt hại và các chi phí phát sinh theo quy định của pháp luật cho chủ hàng hóa xuất khẩu, nhập khẩu do việc đề nghị tạm dừng làm thủ tục hải quan không đúng gây ra. *We commit to pay compensation for any damages and other costs arising from wrong temporary suspension of doing Customs procedure to the good owner in accordance with relevant laws and regulation.*

Họ tên, chữ ký của người nộp đơn và đóng dấu (nếu có)
Full name, signature of the applicant and seal (if any)

Co-funded by:



For more information please contact the Helpdesk:

15th Floor, The Landmark, 5B Ton Duc Thang Street,
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T +84 28 3825 8116
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E-mail: question@southeastasia-iprhelpdesk.eu

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