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Customs Recordal Procedure in China

Clients who source products from, or sell into, China increasingly understand the benefits of registering their patents, trade marks, designs and copyright with the relevant Chinese authorities. Following recent changes in local practices governing customs procedures, however, the Chinese authorities are now encouraging the owners of registered intellectual property rights ("IPR") to record these rights with Chinese Customs. This is an effective way to ensure the smooth passage of your genuine products into and out of China and to prevent counterfeit products being exported from or imported into China.

Why is Customs Recordal Important?

It can be very difficult to prevent the export and import of infringing products in China if your IPR is not recorded with Customs. In order to record your IPR, it is necessary supply Customs with the following:

- a copy of your Certificate of Incorporation;
- a copy of the certificate of registration, renewal certificates and any assignment documents relating to your IPR;
- a power of attorney;
- and photographs or samples of your products.

If you manufacture products in China it is advisable to provide a complete list of authorised suppliers to Customs. If you do not, Customs may detain genuine products. If you frequently change suppliers, it is advisable to provide details of the new suppliers to Customs along with details of the period of time for which the supplier is authorised to manufacture your products.

What Happens to Suspected Infringing Goods?

Upon receipt of a notification from Customs, the IPR owner has 3 days to respond to indicate if the products are genuine or counterfeit; and whether they should be detained. In order to detain the products, Customs will require the payment of a bond which is usually equivalent to the value of the

consignment. The bond needs to be paid in Renminbi.

As the period to respond to Customs is very short and any bonds need to be paid in local currency, it is advisable to appoint a local representative to act on your behalf if you do not have an office in China. UDL works with a network of trusted Chinese attorneys and are happy to suggest a local representative to you if you do not have a local office.

Our local attorneys will usually be able to arrange to provide training to the Customs authorities to enable them to identify genuine and counterfeit products.

What Will Customs do With Infringing Goods?

If the IPR owner confirms that the detained goods are counterfeit, Customs have the power to:

- confiscate the goods;
- pass the confiscated goods to institutes where the goods can be used;
- transfer the goods to the IPR owner on receipt of a payment;
- remove the infringing mark and auction the unbranded goods; or
- destroy the goods.

If the IPR owner is not prepared to purchase the goods, they have no say as to how Customs should deal with the infringing goods.

For further advice or more information on this subject, please speak to your usual contact at UDL.

Gareth Price

Hot Topic



Contact Us

These notes are provided for guidance only, and do not deal with specific problems. For further information, please visit our website at www.udl.co.uk or contact one of our offices:

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