



### **THE LATEST UPDATE ON CUSTOMS RECORDAL FOR TRADEMARK AND COPYRIGHT PROTECTION**

Thailand's Customs Department takes another step to enhance intellectual property protection against counterfeit and/or pirated goods exported, imported and in transit to and from the country. According to the Customs Department's Announcement on Control of Export, Import, Transit of Goods Infringing Trademark and Copyright released and effective on July 29, 2022, trademark and/or copyright owners may now file an application for Customs Recordal directly with the Enforcement Division of the Customs Department for more robust and efficient border control measures.

In the past, trademark and/or copyright owners were required to file an application for Customs Recordal at the Department of Intellectual Property (DIP). The DIP would then coordinate with the Customs Department and transfer the relevant information to the Customs Department. Although the previous Customs Recordal has proven useful over the years, this new system offers a more direct and interactive channel between trademark and/or copyright owners and the Customs Department.

Under this new system, in cases of Customs ex-officio action where the involved exporter, importer or shipping agent argues that the goods do not infringe any trademark or copyright of others, the trademark and/or copyright owners will have a time limit of three days from the date they receive the report from the Customs Department to submit a statement confirming their rights, and insist the Customs Department to pursue the case. A request for an extension of time for 10 days is available, however the Customs Department may demand a bond for possible damages.

In a different situation, where trademark and/or copyright owners receive some information from reliable sources regarding a particular exporter, importer or shipping agent and/or a particular vessel or shipment, they may convince the Customs Department to take action by submitting a request to the Customs Department to proceed with necessary inspections. Thereafter, upon receiving the report from the Customs Department notifying that a suspected shipment has been detained for identification, the trademark and/or copyright owners will be required to jointly examine the suspected counterfeit and/or pirated goods within 24 hours. If the involved exporter, importer or shipping agent argues that the goods do not infringe any trademark or copyright of others, there is a three-day time limit for submitting a statement confirming their rights and insisting the Customs Department to pursue the case.

It is clearly stated in this Announcement that under this new system, trademark and/or copyright owners must accept liability for any damages to the exporter, importer or shipping agents caused by the Customs Department's actions conducted in good faith.

# NEWSLETTER

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advocates  
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In addition to what is highlighted here, this Announcement provides many other requirements, scenarios, timelines and consequences for inspection and seizure of counterfeit and/or pirated goods exported, imported and in transit. However, it will take time to determine how burdensome some of these specific rules might end up being.

Regardless of any existing Customs Recordal that trademark and/or copyright owners have filed with the DIP, we recommend filing a new application for Customs Recordal under this new system to properly protect their valued intellectual property rights based on the latest practice. For further inquiries about this, please contact our attorneys who you currently work with, or [ipgroup@ilct.co.th](mailto:ipgroup@ilct.co.th).

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