

MEMO ON CUSTOM SUPERVISION FOR IPR PROTECTION IN VIETNAM

(Updated January 01, 2022 remain unchanged from 2019)

An IPR holder has the right to file a request for applying customs supervision measure for 2-year term with Customs Management Supervision Department (General Department of Vietnam Customs). This measure is implemented at all Vietnamese border gates to detect the infringing goods imported into Vietnam under supervision of the Customs Management Supervision Department so that the IPR holder can exercise the right to request for the temporary suspension of customs procedure.

1. Requirements for Customs Supervision Request

(i) Mandatory Documents:

1. A Request Application (under form)
2. A copy of the IPR Registration Certificate
3. A signed Power of Attorney (under our form)
4. Documents relating to the goods bearing the IP rights requested for inspection, customs supervision, including
 - a detailed description of goods infringing intellectual property rights, photos, characteristics to distinguish genuine goods with goods infringing intellectual property rights.
 - List of lawful exporters, importers of goods requested for customs supervision; list of people who may export and import of goods infringing intellectual property rights.

(ii) Supporting Documents:

The applicant should submit the following supporting documents (if any):

- Information on estimated time and venue of import and export;
- Expert opinions on the infringing goods; and
- Sanctioning decisions by enforcement agencies in similar cases of infringement upon the rights to the subject matters in question.

Note: All of the above-mentioned documents must be in Vietnamese.

2. Time frame

A Notification of acceptance or refusal of the request for customs supervision must be issued by the Customs Management Supervision Department within 20 working days from the date of receipt of all required documents.

The time limit for a registered customs supervision request is 2 years from the acceptance day. This time limit can be extended for another 2 years but must not exceed the protection term of the concerned IP subject matter in accordance with the IP Law.

3. Cost

We, in principle, will charge the service fee for the above-mentioned action on the time cost basis, at the hourly rates applicable to the lawyers to be involved in the works, which vary from US\$100-200/1 lawyer hour. Accordingly, please give us your detailed information and requirements so that we can give you our specific advice and estimation costs involved for each case.

MEMO ON TEMPORARY SUSPENSION OF CUSTOMS PROCEDURE FOR IPR PROTECTION IN VIETNAM

(Effective as of January 01, 2019)

An IPR holder has the right to file a request for applying a suspension of customs procedure over the infringing goods to be imported into Vietnam with Customs Branch that is handling customs procedure for such goods.

1. Requirements for Request for Customs Suspension

(i) Mandatory Documents:

1. A Request Application (under form);
2. A Certified/notarized copy of the IPR Registration Certificate;
3. A Notarized & legalized Power of Attorney (under form);
4. Documents relating to the goods bearing the IP rights requested for inspection, customs supervision, include: (i) a sheet to distinguish between the genuine goods and the fake goods requested for inspection, customs supervision; (ii) images of the genuine goods; (iii) documents to prove the origin of the genuine goods; (iv) List of exporters, importers of lawful goods; (v) mode of importing, exporting the genuine goods bearing the IP rights requested for inspection, customs supervision.
5. Receipt of a deposit, an amount equivalent to 20% of total value of the alleged fake/infringing goods or 20 million VND (approx. US\$1,000) if it is not possible to determine the value of the alleged fake/infringing goods.

(ii) Supporting Documents:

The applicant should submit the following supporting documents (if any):

- Expert opinions on the infringing goods;
- Information on estimated time and venue of import and export; and
- The sanctioning decisions issued by enforcement agencies in similar cases of infringement upon the rights to the subject matters in question.

Note: *All of the above-mentioned documents must be in Vietnamese.*

2. Time frame

A Decision on refusal or temporary suspension of customs procedure over the lot of infringing goods imported into Vietnam counted must be issued within 02 working hours from the filing date of the request and a deposit.

The time limit for suspension of customs procedure is 10 working days from the day the applicant (IP holder) receives the Decision on suspension of customs and can be extended. The suspension period can be extended once for another 10 working days upon request from the requester and an additional deposit, but the time limit for suspension of customs procedure must not exceed 20 working days.