

**2nd Annual Global Forum
On
Innovation, Creativity & Intellectual Property
26th-27th February 2008**

**International Law Enforcement :
Working with Brand Owners to Protect IP
(Indian Customs Perspective)**



**K. Balaji Majumdar, I.R.S.
Joint commissioner of Customs
Risk Management Division**

Overview of the Presentation

- Brand Owners & Customs brush with each other at Borders
- How Indian Customs used to tackle counterfeit imports
- Current strategy – Legal framework, Systems infrastructure, Enforcement machinery
- General profile of counterfeit goods
- Areas of common interest for IP owners and enforcement
- Certain flash points for IPR enforcement at Borders
- Road-map ahead
- International Customs initiatives

Customs Exposure to Counterfeits

- Imported goods
 - Cargo mode – FCL/LCL
 - Palleted Cargo
 - Passenger baggage (cabin/check-in)
 - Unaccompanied baggage
 - Courier Cargo
- Goods meant for Export
- Goods under Transit
- Goods under Transshipment
- Presence at Seaports, Airports, In-land Container Depots, Container Freight Stations, Land Customs Stations & Rail Fronts

General Profile of Counterfeit Goods Encountered by Customs

- **Life-style items:**
 - **Cosmetics & Perfumes** - Revlon, L'Oreal, Dove, Denim, Nivea, Playboy
 - **Watches** - Rado, Rolex, Pierre Cardin, Citizen, Tag Heuer, Gucci, Omega
 - **Consumer (Designer) goods** - Trolley bags, wallets, handbags (Louis Vuitton, Prada etc), sunglasses etc. having logos of reputed international brands like GUCCI, BOSS, ARMANI, CARTIER, EXLOOP, MONTBLANC, VERSACE, DUNHILL, CROCODILE
 - **Gadgets** – Mobile phones
 - **Footware** – Shoes/sandals
- **Consumer Durables:** DVD players, Music systems, Speakers, Cameras etc
- **Motor vehicle/auto parts** – Mercedes Benz, AC Delco, ATP, Flag Diesel Germany, JACL Germany
- **Compact Discs / Optical Discs**
- **Cigarettes** - Benson & Hedges, Marlboro Red, 555, Miramar, Super kings
- **Bearings** – SKF, TIMKEN, ZKL, KBC, GPZ, IKO, FAG, FLT
- **Garments**

Conventional Way of Tackling Counterfeits

- Scrutiny of Declarations
 - Descriptions
 - Origin & destination – route of consignment
 - Importer Address
 - Inco-terms (Invoice and Commercial Terms)
 - Value of goods
- Examination of goods
- Suspicion
 - Quality of goods per se
 - Substandard packaging, labeling etc
 - Mixed or combined imports of several brands
 - Possible impersonations

Note: Characterised by shortcomings /deficiencies in Legal, System and Administrative Infrastructure

**THE YEAR 2007
USHERED IN
DRAMATIC CHANGES
IN IPR REGIME OF
INDIAN CUSTOMS**

3/10/2008

Risk Management Division
Mumbai

CURRENT STRATEGY OF CUSTOMS (1/2)

■ Revised legal framework:

- Goods infringing any IPR are deemed to be prohibited in terms of section 11
- Several Notifications issued
- Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007
- Circular issued

■ Automated Recordation & Targeting System (ARTS):

- Web-enabled submission of notices for recordation of IPRs
- On-line recordation by the Customs after verification
- National Targeting of suspect consignments on the basis of information furnished by right holders by Risk Management Division
- Communication of instructions to the field officers dealing with the suspect consignments interdicted
- National database of IPRs recorded along with the details and digital images of genuine as well as counterfeit goods

CURRENT STRATEGY OF CUSTOMS (2/2)

■ Enforcement Machinery:

- Risk Management Division (RMD)
- Directorate General of Revenue Intelligence (DGRI)
- IPR Cells created in each Customs formation
- Roles, responsibilities of officers clearly laid down
- Provides for Suo motto (on our own initiative) cognizance of suspect infringement
- Protection and indemnification provided

**IN A SCENARIO WHERE CUSTOMS
AND CUSTOMS CLEARANCE
PROCEDURES ARE INCREASINGLY
SEEN AS BARRIERS IN
INTERNATIONAL TRADE, EFFECTIVE
AND MEANINGFUL COMBAT AGAINST
COUNTERFEITING AND PIRACY CAN
NOT BE ENVISAGED WITHOUT
ACTIVE, DYNAMIC AND
WELL-ORCHESTRATED EFFORTS OF
INTELLECTUAL PROPERTY OWNERS
AND CUSTOMS**

Risk Management Division
Mumbai

3/10/2008

Customs & Right Owners' Partnership

- Recordation with Customs
- Provide full and complete information at the time of recordation
- Dynamic sharing of intelligence on
 - Importers /Suppliers of counterfeits
 - COO/POS/Carriers
 - Suspect trade channels etc
- Assist in precise interdiction of suspect consignments
- Product identification training
- Building Profiles (database/knowledgebase)
- Adherence to strict time lines



3/10/2008

Risk Management Division
Mumbai

Certain Flash Points

- Export goods & Transiting goods – problem of jurisdiction & interpretation
- Parallel imports
- Original jurisdiction of Customs vis a vis parent IP enactments – expression “leading to a decision on merits” in Rule 7
- Free Trade Zones Vs IPR infringements

ROAD-MAP AHEAD

- Popularize IPR recordation
- Liaison with IP Office & integrating databases
- Encouraging dynamic sharing of intelligence on trends of imports
- On-line payment of fees through credit card
- Internal Capacity Building
- Public outreach activities in collaboration with IP owners & other enforcement agencies

Cooperation at International Level

- WCO Asia Pacific Regional Intelligence Liaison Office in Beijing (CEN)
- Customs to Customs – Bilateral Treaties, MoUs
- Sharing of best customs practices and border measures by member countries
- Strengthening Customs Overseas Intelligence Network (COIN)
- Liaison with RMD and DGRI which collects, collates and disseminates customs intelligence and target suspect consignments

**THANKS FOR
THE ATTENTION**

3/10/2008

Risk Management Division
Mumbai