Issues and Challenges Faced by IPR Owners Against Online Infringements?
Enforcement in Malaysia

- **Criminal Enforcement**
  - Lodging a complaint with the Enforcement Division of the Ministry of Domestic Trade and Consumer Affairs

- **Civil Enforcement**
  - Cease and desist letter and/or filing a civil suit
  - Gather evidence of infringement
    - Name (entity), address and sample purchase
Criminal Enforcement

- Enforcement Division of the Ministry of Domestic Trade and Consumer Affairs ("ED")
- Powers to enforce complaints regarding protection of intellectual property rights specifically in relation to counterfeiting or piracy issues
- Only in respect of trade mark and copyright matters.
  - Trademarks Act 2019 and Copyright Act 1987
Special Internet Forensics Unit

• ED + Malaysian Communications and Multimedia Commission (‘MCMC’)
  • Investigations
  • Search and seizure
  • Take down websites (.com.my)
Civil Enforcement

- Engage a law firm in Malaysia
- Issue cease and desist (demand) letters
- Filing a civil suit against the counterfeitters or pirates
- Trademarks Act 2019 and Copyright Act 1987
Challenges

- Ascertaining identity and details of infringers
- Statutory restrictions that e-commerce platforms have to e.g. Personal Data Protection Act
  - Some exemptions include disclosing personal data that is necessary for the purpose of or in connection with any order or judgment of a court shall be exempted from.
  - PDPA does not apply to the Federal and State Governments.
Challenges

- ED and MCMC also assists in takedowns for websites located in Malaysia
- There has been active collaboration between the ED, MCMC and brand owners to take down websites that are dealing with counterfeit or pirated products.
Who else to complain to?

- Malaysian Communications and Multimedia Commission (MCMC)
- Royal Malaysian Police
- Royal Malaysian Customs and Excise
- Respective platform complaints system.
THANK YOU!

Azrul Hamid azrulhamid@alico-law.com

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