

Roadmap

for Intellectual Property Protection in China

Customs Enforcement in China

Suggested for use by IP right holders, particularly
new entrants to the Chinese marketplace

Updated August 2010

It is strongly emphasised that the information provided in this publication by no means constitutes legal advice and should not substitute for advice of counsel. The information contained in this brochure does not claim to be either complete or definitive but is intended merely as a guide. The relevant Chinese laws and other available sources should all be consulted when seeking protection for IP rights in China.

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Overview

BORDER PROTECTION FOR INTELLECTUAL PROPERTY RIGHTS

Chinese government agencies have been working actively since 2000 to bring intellectual property legislation up to international standard. Patent, copyright and trade mark laws and accompanying implementing regulations all underwent a radical overhaul in 2001 and 2002. In the field of customs enforcement, new legislation directed at the protection of IPRs came into effect in March 2004 and later amended in 2009 and 2010. However, IPR protection is a relatively new concept in China, and coordination amongst institutions is still in its infancy; in the midst of the IPR learning process, government agencies and IPR holders alike will undergo growing pains and frustrations as they try to protect IP rights in a large and fast developing country.

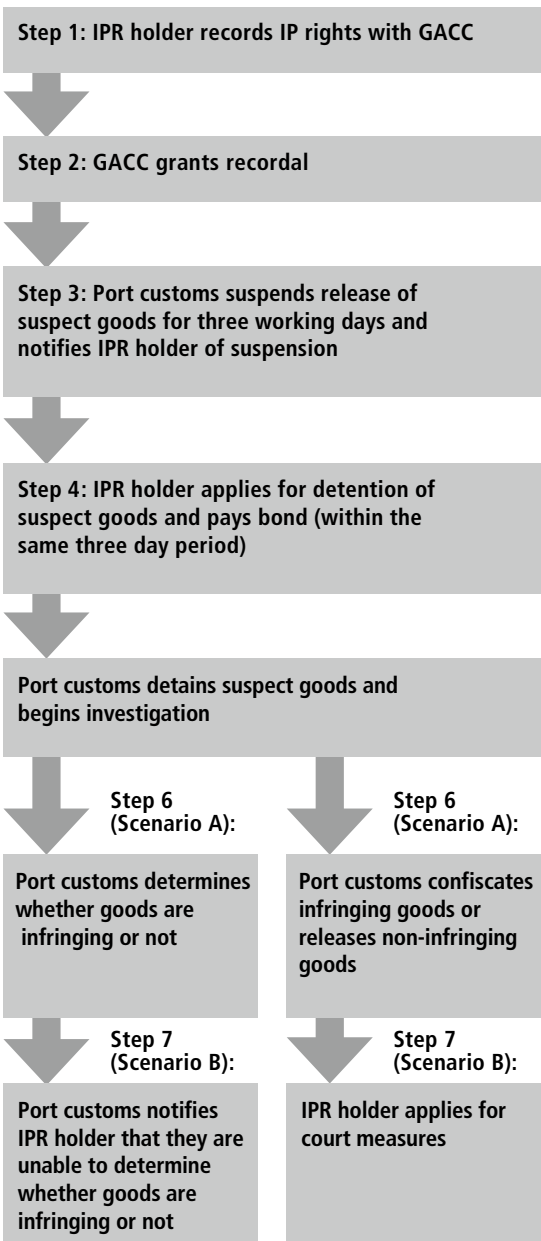
Perhaps this task is most difficult for the General Administration of Customs of China (GACC), as counterfeit products have many ports and borders through which they can flow, and techniques for disguising illegal shipments have become virtually a science.

In short, whether physically present in China or not, companies might experience infringement of their products in China and in their traditional markets by counterfeiters at some point. While there is no easy formula which guarantees 100% protection, companies should at least take all legal and practical measures available in China to reduce risks and possible losses. GACC is one stop on the path to more secure protection for your IPR in China and should be used to the full.

FLOWCHART OF BORDER MEASURES IN CHINA

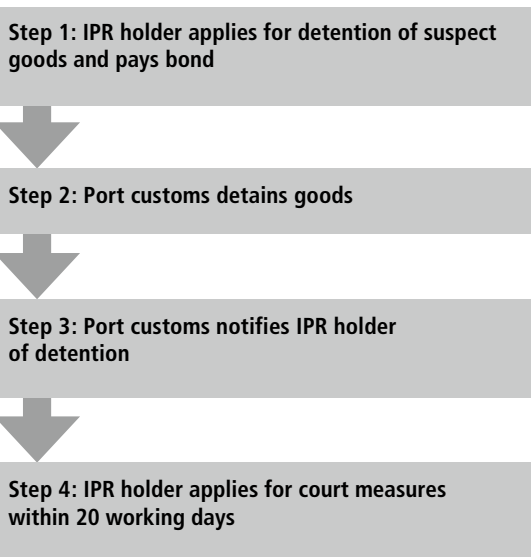
I) IP recordal measures:

IPR holder records IP rights with GACC in China



OR II) Direct application procedures:

IPR holder may go directly to port customs; IP recordal not required



Note:

It is worth noting that Chinese customs do not act on their own initiative for IP cases (as for the ex-officio procedure in the EU) if neither a recordal nor a specific request to make a seizure has been filed by the IPR holder.

I) IP Recordal measures and GACC ex-officio action

Customs IP recordal is valid for 10 years or if the protection term of the IPR is less than 10 years, then the customs recordal is adjusted to the term of the IPR. The customs recordal may be renewed for a further 10 years or the remaining term of the IPR if less than 10 years. An application for the renewal of the recordal may be filed within 6 months prior to its expiration. Customs has the power to revoke the recordal where the IPR holder fails to update its recordal with the GACC within 30 working days of when changes take place and such failure causes "serious effects on lawful imports or exports made by others".

STEP 1: RECORDAL OF IP RIGHTS WITH CUSTOMS

Recordal of IP rights with customs is optional in China. If IP rights are registered with the GACC the port customs can temporarily suspend the release of goods suspected of infringement for a period of three working days and notify the IPR holder of such suspension. If the IP rights are not recorded with the GACC, the port customs will not take such actions.

Alternatively, if an IPR holder has found an infringing consignment and through close surveillance has tracked it to a particular port, it can directly apply to port customs to detain the suspect goods without a prior IP recordal. The procedures for direct application for detention are set out in the Direct Application Procedures highlighted below.

Recordal of IP rights with the GACC

The holders of trade marks, copyrights (neighbouring rights included), and patents, which are under the legal protection of the laws and administrative regulations of China are entitled to record their rights with the GACC for the purpose of seeking border protection for their rights by port customs in China. Olympic and World Expo symbols are also entitled to customs protection. IPR Holders located outside of mainland China must file their recordal application through their representative office established in mainland China or entrust an agent established in mainland China to file the application on their behalf.

An application is first made online and includes the following information:

- (1) name, place of registration / nationality, address of the IPR Holder and name and contact information of a contact person (this person should be ready to receive and respond immediately to any customs detention notices);
- (2) particulars regarding the IP right(s) to be recorded such as trade mark class, validity period, etc.;
- (3) an image of the trade mark and at least 1 image of the products showing how the trade mark is used;
- (4) Bank account details of the remitter and the IP right to be recorded (recordal fee of RMB 800 should be made via bank transfer before the online application can be fully processed);
- (5) names of licensees, goods licensed, and other license information, i.e. name and origin of goods, the customs port of entry/exit, importer or exporter, main features, price, etc. of the IPR Holder's authentic goods.
- (6) manufacturer, importer or exporter, the customs port of entry/exit, main features, price, etc. of the goods known to the IPR Holder to infringe upon its IP rights.

Application online can be found at <http://202.127.48.151/applyrecord> (in Chinese only) on the GACC website.

In addition to a printed copy of the above application form, the following supplementary documents must be mailed to the GACC:

- (1) A copy of the related business licence or personal identification certificate of the IPR holder;
- (2) A copy of the Chinese registration certificate for trade marks, patents or copyrights with photographs of the works certified by the copyright registration authority (other evidence of copyright ownership may be accepted in place of the voluntary copyright registration certificate). If an invention patent is the subject of a customs recordal a copy of the patent register issued within six months prior to the application for customs recordal must be submitted to the GACC if the invention patent grant has been announced for more than one year. If a utility model or design patent (granted

after 1 October 2009) is the subject of a customs recordal, a patent right evaluation report made by the State Intellectual Property Office (SIPO) must also be submitted;

- (3) A copy of any license agreement or a document explaining the details of the license, scope, term of license, if no written agreement has been signed;
- (4) Photographs of the IPR Holder's relevant goods and their packaging;
- (5) Any evidence related to any known import or export of infringing goods (if available) or legal documents related to any ruling by the People's Court or competent IPR administrative authority on an infringement dispute;
- (6) A power of attorney, which is required when the applicant is based outside mainland China (which process must be facilitated through use of a local agent);
- (7) A copy of the bank slip showing the payment of the registration fee of RMB 800.

Documents in a foreign language must be accompanied by a Chinese translation.

The address for mailing is:

General Administration of Customs of China, Legal Affairs Department, Intellectual Property Division, 6 Jianguomen Nei Avenue, Beijing, 100730, The People's Republic of China.

Note

Port customs must release the suspected shipment if no petition from the IPR holder is delivered or the requisite bond payment (or in the limited cases where a bank guarantee is accepted as substitute for a bond) has not been deposited within three working days of it being notified of a temporary suspension of release. Customs must continue to detain the goods if the petition and bond payment (or guarantee) have been received.

In Practice...

Infringing goods seized by local port customs are almost all exports and mainly discovered by customs' own random spot check inspections rather than by discoveries made by the IPR holder and tracked to the port. When local port customs suspects a consignment of goods to be potentially infringing a recorded IP right, it has the authority to take

proactive action to temporarily suspend the release of the suspect goods.

Alternatively, if customs has been informed by an IPR holder about a particular container having a portion of infringing goods, and if this container can readily be identified (i.e. with reference to a container number and port location), it can take action to suspend the release of the goods under request of the specific IPR holder.

The procedures and requirements differ depending on the type of action to be taken. Because it is hard for an IPR holder to identify a particular container or to know when a suspect shipment is about to enter or leave China, IPR holders usually rely on customs to protect their IPRs at the border. Since the IPR holder must have first recorded its IPRs with the GACC for customs to take ex-officio action on behalf of the IPR holder, it is advisable to record IP rights with the GACC.

IPR Holder Cooperation

The GACC must balance the protection of IPR and the need to efficiently clear goods through customs. It is essential for IPR Holders to timely update the GACC of changes in IP recordal information, especially its list of authorised licensees. The GACC reserves the right to strike off the recordals of those IPR Holders who do not keep their records up-to-date and which result in "serious effects on lawful imports or exports made by others". Active cooperation by IPR holders is essential. The GACC has issued notices to IPR holders or their agents highlighting problems created when IPR holders who have recorded their IP rights with the GACC fail to respond to reports of suspect shipments or update/manage recordal database information on authorised suppliers. The GACC has already established an internal system to identify such non-compliant IPR holders who have recorded their IP rights with the GACC and local port customs may at their discretion stop reporting to the IPR Holder any future suspect shipments.

STEP 2: GACC GRANTS RECORDAL OF IP RIGHTS PROTECTION

The GACC decides either to grant or to refuse recordal of IP rights within 30 working days of receipt of an application and all required documents. Reasons must be given in support of a decision to refuse.

Recordal can take up to a period of two months. It is valid for 10 years and may be renewed for a further 10 years provided the relevant IP rights are effective during the

respective periods, e.g. the recordal for a trade mark lapses as the trade mark registration lapses.

STEP 3: GACC TEMPORARILY SUSPENDS RELEASE OF SUSPECT SHIPMENT(S)

STEP 4: IPR HOLDER APPLIES FOR DETENTION OF SHIPMENT AND PAYS THE SECURITY BOND

Once an IPR holder has successfully recorded its IP right with the GACC, basic information about its registered right becomes part of a database accessible by port customs to assist them in identifying suspect goods. The database contains basic information on the registered IP right, such as the name of the IPR holder, the type of right (e.g. trade mark and related class of goods), images of the trade mark or product, and authorised licensees and shippers. The local customs may take action if it suspects that a shipment contains infringing goods, and temporarily suspend the release (import) or shipment (export) of goods.

If an IPR holder has recorded its rights with the GACC, the port customs will notify the IPR holder (or its designated agent) of the suspected infringement. Within the three working days allowed by the GACC, the IPR holder must prepare an application for further detention and, with the exception of certain situations (see below - Bank Guarantee Letters) facilitate a bond payment (in local currency, RMB) of up to RMB100,000. If the IPR holder fails to submit an application and bond payment (within the three working days allowed by the GACC) customs will release the goods to the consignor (the trading company seeking to export) and the shipment will proceed, regardless of whether the goods are infringing or not.

Bond Payment

The most burdensome aspect of customs enforcement from the point of view of the IPR holder is the requirement to submit a security bond payment to the relevant port customs where the goods have been temporarily seized. This is to guarantee the other party against potential losses in the event that seizure by customs proves groundless.

The GACC has laid down the following rules for bond payments:

Declared value of seized goods	Required bond payment
Less than RMB 20,000 (approx. EURO 2,300)	100% of the declared value of consignment
RMB 20,000 – 200,000 (approx. EURO 2,300 - 23,000)	50% of the declared value of consignment but not less than RMB 20,000 (approx. EURO 2,300)
Over RMB 200K (approx. EURO 23,000)	RMB 100,000 (approx. EURO 11,500)

As with verification of seizure arrangements, it is very important that the IPR holder has a procedure in place for its designated agents or local business unit to handle payments of bonds as soon as positive verification has been made. These arrangements should not be left until a seizure has taken place, as it will usually mean the goods will be released as the three day period will have likely already expired.

BANK GUARANTEE LETTERS

IPR holders who have a recorded a **registered trade mark** with the GACC may submit a bank guarantee letter in lieu of having to make a cash bond payment following each seizure notice. The applicant is in any event is still liable for the storage and disposal costs.

Applications for the right to use Bank Guarantee should be made in writing to the GACC and accompanied by:

- a letter of guarantee from an authorised bank acting as a guarantor by agreement with the IPR holder, and undertaking the applicant’s related liability;
- if the authorised bank is a Foreign-Invested Bank, a statement from the Bank of China is needed. This Bank of China statement, or certificate, states that the authorised bank is allowed to handle finances in China. If a copy of this statement is provided, it should be chopped with the seal of the authorised bank.
- a checklist of the storage and disposal fees incurred and paid to customs in the previous 12 months after the IPR holder had formally requested the relevant port customs authority to detain goods suspected of infringement.

The liability for the guarantee must be equivalent to the total amount incurred for storage, preservation and disposal of goods suspected of infringement and which were detained in the previous year, but should not be less than RMB 200,000 (approx. EURO 23,000). If no such expenses were incurred in the previous year then the liability for the guarantee must be RMB 200,000 (approx. EURO 23,000). The letter of guarantee must be valid from the issue date to the 30th of June of the following year. However, the general guarantee facility may only be used in lieu of an otherwise required bond payment to detain any goods suspected of infringement for the period from the date the GACC approves the use of the general guaranty to the 31st of December of the same year. This means that the validity period of a guarantee letter will always be six months longer than that of the period that the general guarantee may be used as a substitute for the payment of a bond. In practice, IPR holders submit their guarantee applications to the GACC generally just before the period of use of the general guarantee is due to expire (e.g. 31st of December).

In Practice...

Effective use of the customs system requires IPR holders to have a system already in place to respond to detention notices issued by customs within three working days. According to GACC statistics, there is a high proportion of IPR holders that – although they have invested resources into the recording of their rights with customs – fail entirely to respond to seizure notices which are faxed or mailed (in Chinese) to that IPR holder (or their designated agent) or respond after the requisite three working days limit has expired. Moreover, IPR holders who consistently fail to give timely response to notices of temporary seizure from customs, whether to release or seize the goods, are also unlikely to be notified again in the future of any suspect shipments.

Therefore, it is recommended that, where customs notifies IPR holders with GACC records of suspect shipments – be it for a relatively small-monetary value, IPR holders adopt a zero tolerance attitude and respond to every such notification with a request for seizure and bond payment where it is clear they can verify the goods are infringing. In the event that they cannot verify the status of the goods, IPR holders should formally request customs to release the goods within the requisite three working days stating the reason for the release. Customs may eventually become discouraged from reporting suspect shipments in the knowledge that a particular IPR holder consistently fails to respond within the

requisite three working day period, which could result in the effective withdrawal of future cooperation with customs - unless active steps are taken to rectify the situation.

The ability of an IPR holder to respond to these formal notices of temporary seizure depends on having a streamlined and effective verification and bond payment system. Within the three working days to verify the nature of the goods, it may not be possible for an IPR holder to obtain an actual sample of suspected infringing goods (under the current regulations, the IPR holder does not have any explicit right to take a sample), so verification may often rely on information such as digital photographs and / or the name of the exporter being provided by customs or, if consented by customs, through a visit by the IPR holder or its agent to the particular customs port authority that temporarily seized the goods to inspect the goods. For this reason, it is important that the designated contact person that is provided by the IPR holder to the GACC is available and able to verify the nature of the goods and to facilitate the quick approval and payment of the bond to the designated customs bank account in RMB. Overseas IPR holders who do not have staff on the ground in China have the option to use specialist service providers or agents (usually a local law firm or an IP specialist agency in China), to act as the main liaison with customs and have access to funds in local currency that can be paid within the requisite three working day verification period.

Summary

- IPR holders must have a special budget and be prepared to invest and develop a strategy to coordinate their brand protection efforts.
- IP holders will need to be more organised in adopting internal and external procedures for dealing with notifications of temporary seizures from customs.
- Implement procedures for seizure verification and bond payment in advance.
- Keep IP recordal information up-to-date, especially list of authorised suppliers and commit to responding to every customs notice of temporary seizure or risk having customs recordal cancelled or not being notified of any future suspect shipments.
- An initial investment from the outset in this process can provide cost savings in the long run by interdicting infringing or counterfeit goods before they are exported from China.

STEP 5: CUSTOMS INVESTIGATES

Within 30 working days after a temporary seizure has been confirmed by the IPR holder and the requisite bond has been paid, customs has the authority to initiate and conclude an investigation into the attempted export of non authorised goods. Customs may seek assistance from the IPR holder and from relevant IPR authorities (such as the Administration of Industry and Commerce) during its investigation.

Opposition to Seizure by the Consignor

A consignee or consignor may present customs with a written explanation and evidence as to why its goods have not infringed any IP rights. However, unless the IP right is in relation to patents, the consignor or consignee provides a bond and customs is unable to determine whether the goods infringe the relevant patent right, customs is not obligated to release the goods upon the consignee or consignor's written request and the submission of a bond equivalent to the value of the goods.

In such a case, the relevant customs authority will normally immediately inform the IPR holder (or its agent) of the opposition to the seizure by the consignor of the shipment. If an amicable settlement cannot be reached between the parties, the IPR holder may apply for an injunction or other court measures.

Settlement between the Consignor and IPR holder

Under the new regulations, during the period of the investigation where the IPR holder reaches an agreement with the consignee or consignor regarding the detained goods, it may request customs to release the goods by filing a written application with the relevant agreement. Customs may then terminate the investigation unless it suspects criminal activity is involved.

In Practice...

Since the introduction of the measure on IP Customs Protection Regulations by GACC in 2004, trading companies with a license to import and export as well as customs clearance agents have been able to act as a protective buffer between the disclosure of the identity of the source producers of counterfeit/infringing goods and the IPR holder. Currently details of the source manufacturer are still not required for the purposes of recording relevant details of the shipment on the customs manifest. The new regulations also bring no changes to the IPR holder's right to the details of customs' investigative findings or shipping documents related to confiscated goods.

STEP 6 AND STEP 7 (SCENARIO A)

Goods are determined to be "infringing" or "not infringing" by customs

If a shipment is found by the relevant port customs to contain goods suspected of infringing the IP rights recorded with the GACC and there is no recorded information regarding the authorised use of the IPR by this importer or exporter, customs may require the consignee or consignor to provide proof or evidence of IP rights to the goods in question. If customs does not receive a reply from the consignee or consignor or it has reason to believe the goods are suspected of infringing an IPR recorded with the GACC, the port customs will suspend the release of the goods and notify the IPR holder. If the shipment is found by the port customs to contain non-infringing goods (i.e. where the IPR holder has issued a letter of release or not responded to a notice of temporary seizure), the goods will be released.

If the goods are determined to be infringing by customs, it issues a case conclusion decision and levies a fine on the consignor. The consignee or consignor of the shipment has the right to appeal the decision of the customs authorities to the administrative tribunal division of the Intermediate People's Courts for a determination.

Storage & Disposal of Infringing Goods

Confiscated infringing goods will usually be placed in storage (usually a third party warehouse contracted by customs) until the formal case conclusion decision has been furnished to both parties by customs, and the period for appeal of such decision (on the part of the consignor) has expired.

Once a case conclusion decision has been issued by customs and a fine levied on the consignor, the goods are generally released to customs and are disposed of according to their regulations in one of three ways in the following order of priority:

- Where the relevant goods can be used for charity (e.g. clothes, shoes, etc.) or the IPR Holder intends to purchase the goods, the goods will be donated to charity with the infringing marks not necessarily being removed or sold to the IPR Holder.
- If the seized goods are deemed unfit for donation due to their quality or nature of the product, and the IPR Holder does not exercise its option to purchase the goods, customs can auction the goods after their infringing features have been removed and customs has sought the

opinion of the IPR Holder prior to auctioning the infringing goods. Customs keeps the proceeds thereof to defer its own costs.

- If the infringing features cannot be removed from the seized goods, customs may entrust a third party to destroy or otherwise recycle the goods (at the IPR Holder's expense).

In Practice...

If a shipment has been determined by the IPR holder to be infringing, customs will proceed on that basis and impose a penalty on the consignor, which involves the serving of a notice outlining a monetary fine and the notification of the formal confiscation of the goods. The final investigation will in most cases not uncover the identity of the source manufacturer or consignee (buyer/recipient of the consignment), since shipments are consigned with only the identity of the consignor being revealed on the customs manifest.

For larger seizures, IPR holders are encouraged to invest resources in follow-up with the consignor to leverage its position to gain information on the source manufacturer and consignee. Threatening civil proceedings against the consignor may be necessary (and in the medium term be more cost effective) if the consignor refuses to cooperate voluntarily.

Disposal of goods

The disposal of seized goods is of great concern to IPR holders, especially if the goods can find its way back into commercial channels. The new rules promulgated in 2010 still allow customs to auction seized goods that were bound for export after removing their infringing features, but added the additional requirement that customs first seek the "opinion" of the IPR holder prior to auctioning the infringing goods. The rules do not obligate customs to adopt the opinion of the IPR holder if it opposes auctioning off the goods, however, it may open the way to more involvement of the IPR holder during the disposal process.

Criminal Investigations

In the event that a customs seizure involves a suspected criminal element, customs must transfer the case to the Public Security Authorities (PSB) for criminal prosecution where the declared value of the goods is deemed to meet the minimum threshold for criminal liability and enough evidence is obtained by the IPR holder (or its designated agent) to show that the exporter "knowingly" facilitated the

export of counterfeit or infringing goods. In practice, very few such cases have been referred to the PSB in such a manner.

Following the promulgation of the Interim Regulation on Strengthening IPR Enforcement Cooperation between Customs and Public Security Authorities (Interim Regulation) in 2006, a new collaboration between PSB and customs was formed to facilitate an easier transmittal of IP rights infringement cases to the PSB. The Interim Regulation sets out how the regional public security authorities and customs are to collaborate to combat IPR infringement. Customs is now required to immediately notify their regional public security authorities when they suspect that large quantities of counterfeit goods are being imported or exported. The Interim Regulation also establishes a system for holding joint meetings between PSB and customs when large cases arise, all with the intent of facilitating the efficient exchange of information between the two authorities. However, in practice, the level of collaboration and exchange of information between customs and the police may vary considerably depending on the location, and to date little information has been provided by the authorities on whether any such cases have been transferred successfully to PSB, resulting in a criminal sentence being given.

STEP 6 AND STEP 7 (SCENARIO B)

Port customs are unable to determine whether goods are "infringing" or "non-infringing"

Where a port customs cannot determine whether the suspect shipment contains "infringing" goods because they are technically unable to do so (i.e. typically in cases where a copyright or patent right is at issue), it will inform the IPR holder. The IPR holder has 50 working days from the date the suspected goods were detained to apply for an injunction or property preservation order from the relevant People's Court. If the application for injunction or property preservation order is approved and the order is presented to customs, the customs must provide assistance in the execution of the order. On the other hand if the application for injunction or property preservation order is denied, the detained goods will be released and the bond returned after the IPR holder pays off the related storage expenses.

II) Direct application procedure (no prior recordal with GACC)

Under the procedures outlined in the customs regulations that came into effect in March 2004 and amended in March 2010, IPR holders could apply for detention of a suspect shipment directly to the port customs authorities where the suspect goods are either being imported or exported. Direct application to the port customs does not require prior IP recordal with the GACC.

Upon receiving the complaint with evidence proving that the complaining party is indeed the IPR holder and infringement has occurred, customs will require the payment of a bond equivalent to the value of the goods. Once the relevant customs authority is satisfied that sufficient documentation has been provided by the IPR holder (or its designated agent), they can proceed with the seizure.

The port customs will, after having first been provided with specific information by the rights owner(s) leading to the exact location in the port of the container, identify and examine the shipment. It can then choose to detain the goods for a period of up to 20 working days. Customs will then formally notify the IPR holder and the consignor of the temporary seizure. After being notified by customs of the detention of the suspected goods, the IPR holder must apply to the People's Court for a preliminary injunction or property preservation measures because if customs does not receive any notification from the People's Court for assistance in execution of a court order within 20 working days from the date of the detention, customs will release the goods. On the other hand, if the application for an injunction or property preservation measures is approved, the customs authorities will transfer the goods into the custody of the court which will then make a final determination. If such an application is denied, customs will release the seized goods to the consignor.

In Practice...

In practice, it is rare for IPR holders to apply directly for detention of suspect shipments since it would require investing in costly investigative programmes – which includes close surveillance and tracking of container vehicles in order to gain sufficient information to uncover a specific container, or the timing of potential shipments of infringing goods in enough time – to notify customs and prepare for potential civil litigation to stop the goods being exported. If an IPR holder does learn of a forthcoming suspect shipment

that has a relatively high value to the consignee, it might only then consider notifying customs with a view to initiating a detention application using the procedures as described above. However, after applying for detention of the shipment, the IPR holder must file for a court order within 20 working days from the date of detention.

This has, unfortunately, made customs a less straightforward enforcement resource, and means that certain cases will require engaging local lawyers, hence considerably more costs. There is a very short time limit for filing an action with the People's Court. Twenty days is insufficient for overseas IPR holders to gather all the documents they would need to prepare for a court order and litigation since China imposes strict notarisation and legalisation requirements (in the case of the latter on evidence adduced outside of China) to be presented to the court. In practice, IPR holders would prepare the documents required for litigation in advance of notifying customs (if time permits), or more common, such cases are often settled by negotiation with the consignor directly under threat of litigation against them if they refuse to comply, thereby avoiding the need for court proceedings (although initiating court proceedings may motivate the goods' owner to negotiate).

Where the infringement concerns a patent or a copyright, application for detention may be the only way to stop the shipment of infringing goods. In practice, customs officers can rarely make an initial determination from an inspection as to whether a particular product is infringing, since such a determination is likely to be beyond their technical expertise. Regardless of whether the patent or copyright holder has recorded its rights with customs, no notice would ever be given to the IPR holder as officials would not be able to become suspicious of a product in order to form their initial determination. Therefore, holders of patents and copyrights need to be more innovative, invest more resources and be more proactive and vigilant than trade mark right holders.

Customs Training

After registering their rights with GACC, patent and copyright holders might consider pooling their resources with like-minded brand owners and train local customs on how to determine whether a particular product is likely to be genuine or counterfeit. Trade mark holders also benefit from training local customs on their products and brands. Such customs trainings are usually organised only a few times a year.

Such training activities are comprehensive and it is recommended that IPR holders engage a third party such as a consultancy that has developed a relationship with customs in order to make all the necessary arrangements between the IPR holder and customs.

China contact information

STATE INTELLECTUAL PROPERTY OFFICE (SIPO)

www.sipo.gov.cn (Chinese & English)

STATE ADMINISTRATION FOR INDUSTRY AND COMMERCE (SAIC)

www.saic.gov.cn (Chinese & English)

China Trademark Office (CTMO)

www.ctmo.gov.cn or <http://sbj.saic.gov.cn/> (Chinese & English)

NATIONAL COPYRIGHT ADMINISTRATION OF CHINA (NCAC)

www.ncac.gov.cn

GENERAL ADMINISTRATION OF CUSTOMS OF CHINA (GAGACC)

www.ncac.gov.cn (Chinese only)

Shanghai Customs

www.shcus.gov.cn/apec/index.jsp (Chinese only)

Guangzhou Customs

www.guangzhou.customs.gov.cn (Chinese & English)

Tianjin Customs

<http://tianjin.customs.gov.cn> (Chinese only)

GENERAL ADMINISTRATION OF QUALITY SUPERVISION INSPECTION AND QUARANTINE (AQSIQ)

www.aqsiq.gov.cn (Chinese & English)

MINISTRY OF PUBLIC SECURITY (MPS)

www.mps.gov.cn (Chinese only)

SUPREME PEOPLE'S COURT (SPC)

www.court.gov.cn (Chinese)

China IP Judicial Protection, IPR tribunal

www.chinaiprlaw.cn (Chinese & English)

SUPREME PEOPLE'S PROCURATORATE (SPP)

www.spp.gov.cn (Chinese only)

MINISTRY OF COMMERCE (MOFCOM)

<http://www.mofcom.gov.cn> (Chinese & English)

IP Protection in China

www.ipr.gov.cn (Chinese & English)

Service Centres for IPR Protection, Reporting and Complaints

jbts.ipr.gov.cn/tousu/eHome.html (English)

Acknowledgments

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This Roadmap for Intellectual Property Protection is part of a series of guides prepared under the EU-China Project on the Protection of Intellectual Property Rights (IPR2). The series aims to provide European and Chinese companies with up-to-date information on how to protect their intellectual capital in Europe and in China. For other guides, visit www.ipr2.org or contact IPR2 (info@ipr2.org).

IPR2 is a partnership project between the EU and the PRC on the protection of intellectual property rights in China. This is done by providing technical support to, and building the capacity of the Chinese legislative, judicial and administrative authorities in administering and enforcing intellectual property rights; improving access to information for users and officials; as well as reinforcing support to right holders. IPR2 targets the reliability, efficiency and accessibility of the IP protection system, aiming at establishing a sustainable environment for effective IPR enforcement in China.



IPR2 co-operates closely with the European Union's China IPR SME Helpdesk. The China IPR SME Helpdesk is a European Union initiative, which supports European small and medium-sized enterprises (SMEs) with free information, training and first-line advice about protecting and enforcing their intellectual property rights in China. The Helpdesk offers practical information, training and workshops in Europe and China in order to assist European SMEs to make the right business decisions with regard to their China IPR matters.

If you are a European SME or SME representative body, for further information contact the European Union's China IPR SME Helpdesk:

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中华人民共和国商务部

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