

Customs Rules 2001 amended to introduce new chapter on IP rights enforcement

April 24 2017 | Contributed by [Vellani & Vellani](#)

Regulation of imports

Infringing goods

Trademark and copyright infringement

A new chapter regarding IP rights enforcement has been added to the Customs Rules 2001. The chapter includes a number of notable features.

Regulation of imports

First, the chapter is intended to regulate imports only; parallel or grey market imports and *de minimis* imports have been specifically excluded. 'Parallel or grey mark imports' are defined as:

"non-counterfeit goods which carry genuine trademarks and are imported into the country without the permission and consent of the right holder or outside his specified distribution system, provided that all other conditions for importation have been complied with under Customs Act and other relevant laws."

'*De minimis* imports' are defined as "small quantities of goods of non-commercial nature contained in the traveller's personal baggage or sent through post or any other means of transmission".

As per the chapter, the database maintained by the Trademarks Registry, Copyright Office and Patent Office regarding the details of the IP rights registered or applied for by rights holders will be shared with the Directorate General of IP Rights (IPR) Enforcement.

Infringing goods

The new chapter provides a mechanism by which rights holders with valid grounds for suspicion that infringing goods are being imported into Pakistan can make an application (in the prescribed format) to the Directorate General of IPR Enforcement when the goods arrive at the notified customs station.

The rights holder must also submit:

- an undertaking (in the prescribed format) indemnifying Customs against liabilities; and
- a bank guarantee for an amount of PRs500,000 (approximately \$5,000) or 25% of the value of the suspected infringing goods, whichever is higher, to cover possible compensation for losses suffered by the owner of the suspected goods or expenses incurred by Customs on account of investigation, warehousing, maintenance or the disposal of goods after detention.

Along with the undertaking, the rights holder must provide the following information and documentation:

- a certified copy of the registration certificate;
- a copy of his or her electronic national identity card;
- a copy of his or her national tax certificate;
- a copy of his or her passport;

AUTHOR

[Sana Shaikh](#)



- an indemnity bond and bank guarantee;
- a certified copy of the power of attorney (in the case of an authorised representative);
- samples (if available); and
- a statement of grounds for detention of goods with evidence.

On receipt of an application, the Directorate General of IPR Enforcement must consult the database to verify the rights holder's particulars. Once verified, the directorate general must order the detention of the suspected goods and notify the applicant and owner of said goods about the detention. Both parties are asked to join the proceedings. Thereafter, the detained goods must be examined by a customs officer and an officer of the Directorate General of IPR Enforcement in the presence of both parties.

During such examination, if it is ascertained that the detained goods are infringing or spurious, they will be seized by the Directorate General of IPR Enforcement or, with prior consent of the rights holder, the infringing goods can be forfeited in favour of the federal government.

Trademark and copyright infringement

The new chapter of the Customs Rules 2001 also requires customs officers to inform the Directorate General of IPR Enforcement when they have valid reasons to believe that the goods which are being imported into Pakistan infringe the Trademarks Ordinance 2001 or the Copyright Act 1962. On receipt of such notice, the Directorate General of IPR Enforcement must consult the database to determine whether there has been any infringement of the rights registered with the Trademarks Register or the Copyright Office. If an infringement is verified through the database records, the Directorate General of IPR Enforcement will issue a notice to the rights holder seeking his or her consent to initiate an enforcement action against the infringer.

For further information on this topic please contact [Sana Shaikh](#) at Vellani & Vellani by telephone (+92 21 3580 1000) or email (sana.shaikh@vellani.com). The Vellani & Vellani website can be accessed at www.vellani.com.

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).