

Federal Board of Revenue unveils rules for improved IP enforcement

September 05 2016 | Contributed by [Vellani & Vellani](#)

Introduction

Memorandum of understanding

New IP rights rules

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In its continued effort to improve the protection of IP rights, the Pakistan Intellectual Property Organisation closely collaborates with the Federal Board of Revenue to control the import and export of infringing products at Pakistan's borders. Through Pakistan Customs, the Federal Board of Revenue is responsible for border measures to combat the trafficking of contraband goods – including the illegal trade in pirated and counterfeit goods and products – into and out of Pakistan. On October 27 2015 the Intellectual Property Organisation announced that it has signed a memorandum of understanding with the Federal Board of Revenue for "data sharing and further cooperation".

Memorandum of understanding

The memorandum of understanding marks a major collaboration with the Federal Board of Review's IP rights enforcement agencies and aims to address the violation of IP rights and issues of piracy and counterfeiting in Pakistan. The Intellectual Property Organisation and the Federal Board of Review understand the need for mutual cooperation and coordination to protect and enforce IP rights. In this regard, the Directorate General of Intellectual Property Rights (Pakistan Customs) will be allowed to use data that the Intellectual Property Organisation maintains. It is hoped that the initiative will:

- help to distinguish between genuine and fake border-trade consignments and limit smuggling;
- create public awareness of IP rights; and
- provide an opportunity for genuine exporters and importers in the relevant market to register with Customs to protect their business in Pakistan.

New IP rights rules

It has recently been reported that the Federal Board of Revenue is in the process of finalising a set of new IP rights rules (the Trade-Related Intellectual Property Rights (Import and Export Goods) Enforcement Rules), which will be officially announced in 2016. According to press reports, the rules relate to the import and export of goods which infringe IP rights registered or protected in Pakistan, including:

- trademarks;
- copyrights;
- patents;
- industrial designs; and
- layout designs of integrated circuits.

Further, IP rights acquired from the Intellectual Property Organisation will be recorded by the

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Directorate General of Intellectual Property Rights. Rights holders or their authorised representatives will be able to apply online to the Directorate General for the recordation or renewal of recordation or to change the particulars of the recordation of their registered intellectual property. The proposed IP rights rules include the following:

- The Directorate General of Intellectual Property Rights will be responsible for the recordation of IP rights and the authorisation or suspension of clearance of any import or export consignment on the basis of a rights infringement complaint lodged by a rights holder.
- Imported or exported goods found to infringe IP rights will be seized and the accused infringer could face court proceedings.
- If the detained goods are counterfeit, pirated or infringe IP rights, they will be destroyed under official supervision – the re-exportation of the counterfeit or pirated goods, whether altered or unaltered, will not be allowed.
- In the case of a violation of trademarks, patents, industrial designs and layout designs of integrated circuits, the Directorate General of Intellectual Property Rights will issue a notice to the registered rights holder to start a court action for infringement regarding the detained goods within 10 working days from the date of notice. The notice issued by the Directorate General of Intellectual Property Rights to the rights holder may also mention that the IP rights enforcement action under the draft rules could cease to apply if the rights holder fails to bring an action for infringement within the specified time.
- At any point before the rights holder begins an action for infringement, the Directorate General of Intellectual Property Rights will confiscate the goods on receipt of written consent from the owner of the seized goods.
- If the rights holder fails to initiate a court action for infringement before a district court, join the enforcement action or inform the Directorate General of Intellectual Property Rights of the action within the stipulated time, the directorate may reject the enforcement action and no longer hold the seized goods in custody.

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