General Department of Customs and Excise of Cambodia

Intellectual Property Rights in Cambodia

Workshop on the Fight against counterfeited Product 19 September 2019

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1. INTRODUCTION TO INTELLECTUAL PROPERTY RIGHTS
What IS Intellectual Property

• Broadly Speaking, **Intellectual property** (IP) is the product of the human mind, whether creative, inventive, commercial or innovative.

• As society, we protect IP under the legal system to recognize the importance and contribution of authors and inventors and the value of IP to society and economies.
Trademarks

• A word, phrase, logo or other sensory symbol used by a manufacturer or seller to distinguish its products or services from those of others.
Trade Dress

• Overall appearance and image in the marketplace of a product or a commercial enterprise
  - On a product: Packing and labelling
  - Enterprise: Design, Lay out and decor
Industrial Design

• The shape, configuration, pattern, or ornament applied to a finished article of manufacture, often to distinguish the product’s appearance.
Copyright

• The right to copy specially, a property right in an original work of authorship fixed in a tangible medium of expression, giving the holder the exclusive right to reproduce, adapt, distribute, perform, and display the work.
Copyright (Cont’d)

• Usually covers:
  - Literary, musical, dramatic, choreographic, pictorial, graphic, sculptural and architectural works.
  - Motion pictures and other audiovisual works, and
  - Sound recording
Trade Secrets

• A formula, process, device, or other business information that is kept confidential to maintain and advantage over competitors

  1. Derives independent economic value from not being generally known

  2. Reasonable efforts to maintain its society.
Patents

• The right to exclude others from making, using, marketing, selling, offering for sale or importing an invention for a specified period (20 years from date of filing), granted by a government to the inventor

• Invention must be novel, useful (utility) and non obvious.
What is Counterfeiting

- Counterfeiting is the act of making, amending, or fraudulent distribution of a product of inferior quality than that of the original product.
What is Counterfeiting (Cont’d)

• The purpose of the counterfeiter is to create confusion between the original product and infringed product; to appropriate another’s reputation and enjoy the benefit of the investments made by the true owner of intellectual property right.
Why Protect Intellectual property

• Provides Incentives to invent and create
• Protects Innovators from unauthorized copying
• Facilities specialization in technology markets
• Creates a platform for financial investment
Economic Development

- IP protection is economically and socially beneficial.
  - Attracts foreign investment
  - Encourages development of local industries
  - Promote rule of law
  - Encourages growth of local culture
Who are the economic victims?

• Rights Holders
  - Loss of sales
  - Damage to reputation
  - No Job growth

• Distribution Chain
  - Fewer Jobs needed

• Local Citizens
  - Substandard goods
  - Links to crime
  - Lost tax revenue.
2. IP SYSTEMS IN CAMBODIA
Three IP Offices

1. Ministry of Commerce: **Department of Intellectual Property Rights and Secretariat of National Committee for Intellectual Property Rights (NCIPR).**

2. Ministry of Industry and Handicraft: **Department of Industrial Property.**

3. Ministry of Culture and Fine Art: **Department of Copyright and Related Rights.**
Responsible Ministries

Royal Government of Cambodia

Ministry of Commerce
  - Trademarks

Ministry of Industry, Mines, and Energy
  - Patents

Ministry of Culture and Fine Arts
  - Copyrights
Cooperation and Agreements

1. Cambodia became member of the World Intellectual Property Organization (WIPO) on July 25, 1995

2. Cambodia – US on Trade Relations and IPR protection in 1996.

3. The Memorandum of understanding on Intellectual Property Cooperation was signed with Thailand on March 05, 1997.

Cooperation and Agreements (Cont’d)


6. Trade Related Aspects of IP Rights (TRIPS) in 2004

7. ASEAN - China on IP Cooperation in 2009

8. ASEN – Australia - NZ FTA (IP Chapter) in 2010.

9. Cambodia – China on IP Cooperation in 2011
Cooperation and Agreements (Cont’d)

10. ASEAN – Japan on IP Cooperation in 2012

11. ASEAN – EU (EPO) on IP Cooperation in 2014


13. Cambodia – Korea on IP Cooperation on 1 Dec 2014
Cooperation and Agreements (Cont’d)


1. Law Concerning Marks, Trade Names, and Acts of Unfair Competition, 07 February 2002

2. Law on Patents, Utility Model Certificates and Industry Designs, 22 January 2003

3. Law on Copyright and related rights, 05 March 2003
IPRs Laws and Regulations (Cont’d)

4. Law on the Management of Quality and Safety of Products and Services
5. Law on Commercial Rules and Register.
6. Law on the Management of Pharmaceutical Products (Border and Market Enforcement)
7. Law on Customs (Border Measures). 2007
IPRs Laws and Regulations (Cont’d)

8. Law on Seed Management and Plant Breeders’ rights Protection on 12 May 2008


10. Sub decree on the implementation of the law concerning marks, trade names and acts of unfair competition of the Kingdom of Cambodia (2006).
4. Law Enforcement Bodies
Enforcement Bodies

- mediator for settling the dispute
- cooperate with relevant agencies
- Border Enforcement
- Dispute settlement

- Intellectual Property Division (MOC)
- Customs (GDCE)/Camcontrol
- Local Authority
- Court, Appeal Court, Supreme Court
5. Border Enforcement
Border Enforcement Procedures

• Two routes of border enforcement

  1. *Right holders initiates action*

     (Lodgement of Notice): Lodge a written notice to customs about a particular shipment for customs to detain the shipment

     (*Art. 35 of Law on Trade Marks.....*)
Lodgement of Notice
(Art. 35 to 42 of Law on Trade Marks)

1. Right S Holder (RH) lodges a Notice to DG of Customs
2. Customs contacts RH when shipment is detained.
3. Customs issues Notice of Seizure
4. RH initiates civil action within 10 working days.
5. Retention period extendable

Notice Lodged → Shipment detained, contact RH → Issue Notice of Seizure → RH initiates civil action within 10 working days → Retention period can be extendable
Border Enforcement Procedures

2. *Ex officio action*: Customs detains suspected IP infringing goods without the need for any notice from right holders.
Ex-officio Action
(Art. 43, Law on Trademarks)

1. Customs contacts Rights Holder (RH) when shipment is detained.

2. Customs issues Notice of Detention

   - Importer
     - RH to lodge Security Deposit and Documents with customs
     - RH initiates civil action within 10 working days

   - Exporter, Transshipment
     - HR to lodge Security Deposit and Documents with customs
     - RH initiates civil action within 10 working days and provide court order for further detention of goods
6. Current Progress
• GDCE has strong commitment to implement the IPR law.

• Recently, the GDCE has signed the approval to implement the “Standards Employed by Customs for Uniform Rights Enforcement-SECURE” for Intellectual Property Rights.
Current progress (Cont’d)

• The GDCE has put in place the combating of IPR violation in Strategic and Working Program on Customs Reform and Modernization 2019-2023.

• GDCE has participated in WCO Joint Action Operation against Counterfeit and Piracy for Asia and the Pacific Region.
➢ IPR National Seminar On “Intellectual Property Rights,
Phnom Penh 05 February 2016
7. NOTABLE CASES
Notable Cases

• As a result of our enforcement efforts, the GDCE has combated some imported infringed goods such as Cigarettes, Whisky, Beer, counterfeit medicines, etc.

• On 12th January 2015, **Siem Reap Airport** Customs seized mixed medicines 427Kgs and lotions 50Kgs.
Notable Cases (Cont’d)

• On 15\textsuperscript{th} January 2015, Department of Prevention and Suppression seized body shampoo 3, 830 Kgs and shoes glues 380Kgs.
Notable Cases (Cont’d)

- Counterfeit Energy drink imported thought Poi Pet border. The mix committee including Customs Police and Camcontrol seized in July 2015
Q & A Session

Thank You For Your Attention!!