

Seizure of counterfeit branded cigars imported in air freight.

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In August 2011, a unique consignment shipped through air to Dubai was put on hold for inspection after the relevant information was passed to inspectors on duty, who promptly investigated the notification and held off the releasing process of the shipment. The consignment, which comprised of around 700KG of cigars, was arriving from a European country, heading to Dubai and was allegedly targeted for re-export to one of the Arab countries in Asia. Despite the fact that the routing of the shipment and transporter's identify was untraditional in the counterfeit import trend, normally used by counterfeit traders, the officials did not hesitate to consider the information with high level of seriousness and investigate the issue further.

After implementing the temporary seizure, expert from brand owners assessed samples and initially confirmed that the consignment comprised counterfeit. Therefore, Al Tamimi & Company lodged the official complaint before the IPR section and the examination of case merits started. The seized products were subject to forensic examination attained by Criminal intelligence Laboratory at Dubai Police. The counterfeit was proven and therefore, the Customs Authority issued a decision to permanently seize and destruct the goods on the sole expenses of the consignment/goods owner. The nominal fine was also imposed for smuggling illegal products and based on GCC customs regulations, a monetary fine of AED 397,625 (equivalent to USD108,350) was imposed against the trader.

Customs Action

The shipment comprised cigars that were falsely branded with various registered trademarks owned by one of the most pioneering cigar companies in the world. Al Tamimi took the lead and represented the company in this action, managing to track the shipment upon arrival to Dubai International Airport, convey the notification to the responsible officials at Dubai customs and sought, on behalf of the brands owner, to seize and investigate the shipment.

The customs complaints were officially lodged in August 2011 and the preliminary works on this case promptly progressed from this date. The customs recordal of the trademarks was an added value to expedite the process of considering the complaints and the case progressed accordingly. After filing the complaints however, the cases went through further proceedings within the customs authority and technical support was provided, from time to time, until the final decision was passed on March 4, 2012..

IMPORTANT TRADEMARK AND ANTI-COUNTERFEITING PRECEDENT

This case establishes an important precedent to trademark owners to encourage them to pursue preliminary protection and action from the Dubai customs / IPR unit. It is important to note that Dubai customs have considerably improved in their handling of trademark counterfeiting cases and in this case, they took the initiative to impose a substantial fine against the importer which was calculated based on the actual value of goods and nominal customs tariff thereof.

One more objective that was accomplished in this precedent was that Dubai customs demonstrated their willingness to work closely with the brand owners to temporarily block any suspicious consignments until the counterfeit forensic examination is proven.

We are keen to leverage on this precedent to reduce the volume of tobacco illicit trade; which makes up over 30 per cent of counterfeit products around the world.

Dubai customs proved again that the authority will not hesitate to undertake the necessary action and impose substantial sanctions against counterfeit traders. We strongly suggest our clients become more proactive in their borders protection efforts, complete the recording of their trademarks and participate in the awareness programs that the Customs Authority organises for brand owners.

Munir Suboh, Senior Associate within the firm's Intellectual Property department, took the lead on this case and represented the brand owner before the Customs Authority from the time of the seizure until the final decision was issued. Please feel free to direct any of your enquiries to Munir Suboh at m.suboh@tamimi.com.