

Advancements in Kuwait's vow to Protect Brand Owners

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Intellectual Property Protection Committee

A new Intellectual Property Protection Committee (the "IPPC") has been recently established at the Kuwait Trademark Office (the "TMO") which is now the competent authority to receive all complaints related to trademark infringement. The IPPC has amongst its members the Commercial Control Department ("CCD"), which carries out the raids against the suspected shops, and the Criminal Evidence Department (the "CED") which prepares and issues expertise reports on whether confiscated goods are counterfeit or not.

The procedures for filing complaints before the IPPC have simplified matters procedurally. Complaints used to be filed before the Undersecretary Commercial Control at the Ministry of Commerce and Industry (the "MOCI"), and it took a long time for the complaints to reach the competent CCD. The previous procedures involved formal letters exchanged by the several departments. The procedure now is now more streamlined, with the complaint being filed with the IPPC. Once filed, the IPPC will immediately liaise with the relevant CCD department and provide guidance on how to proceed with the complaint. It is also possible for the plaintiff to follow up with the relevant CCD department directly without having to wait for official correspondence between the different authorities and departments. The committee members also coordinate with each other in several ways including creating a group on the "Whatsapp" application through which they plan to secure fast and effective coordinated actions.

The requirements for filing a complaint before the IPPC are simple and only the following documents must be enclosed along with the complaint itself:

- Copies of TM registration certificates;
- One sample of the counterfeit products and the receipt of purchase;
- The address of the infringer;
- One sample of genuine products; and
- Power of Attorney

Further, for expensive products, the IPPC is considering excusing the plaintiffs from providing samples of the genuine product. However, one sample of such products will have to be submitted at a later stage to the CED so that they may compile their expert report.

The new measures are an indication of the TMO and associated governmental agencies giving importance to the fight against counterfeiting, and it is expected that these measures will evolve in the near future to increase effectiveness and efficiencies and deter counterfeiters. The current procedures are much improved from the previous procedures, which involved complicated steps. In the older procedures, the initial step was filing the complaint before the MOCI notwithstanding that its only function was to accept the complaint and send the file to the competent CCD through formal and lengthy procedures and then receive the file back from the CCD to arrange to send it to the Public Prosecutor. With the current procedures, the process is much faster as the complaint is now filed before the IPPC, in which the CCD is a member. After the filing of the complaint, the CCD is able to begin its work with regards to the complaint almost immediately.