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### **Thai Customs Department has launched new IPR Recordation System(“TCIRs”)**

Whereas the Notification of Ministry of Commerce dated March 27, 2022 (B.E.2565) on any infringing trademark and copyright goods is prohibited for export, import, and transit the Kingdom of Thailand, the Thai Customs Department has issued **“Notification of Customs Department No. 106/2565 on the control of export, import, and transit for the infringing trademark and copyright goods dated July 27, 2022 (B.E. 2565)”**. This new notification of the Customs Department was published in Government Gazette on August 4, 2022, which is effective since July 29, 2022 (B.E. 2565). As a result, the Customs officers have power to inspect, consider, and decide whether the suspected infringing trademark or copyright goods is genuine or counterfeit (Ex-Officio).

Based on this New Notification of Customs Department, the New Thai Customs IPR Recordation System (“TCIRs”) has launched in September 2022. The core objective is to facilitate Customs officers to use these trademark and copyrights information as database and evidence to support Customs officers’ duty when they found any suspected infringing trademark or copyright goods. So that the Customs officers can inspect, consider, and decide whether the suspected infringing trademark or copyright goods is genuine or counterfeit without delay.

Concerning to the new practice, trademark and copyright owners can consider proceeding as follows:

#### **I. Recordal of trademark and copyright information in the TCIRs**

The trademark and copyright owners or their agent may submit application for recording their information of registered trademark or copyright in Thailand to Thai Customs Department directly.

#### **Term for using the recorded information in TCIRs:**

This information will be recorded in the TCIRs for 3 years from the date of receipt the application or upon the remaining term of protection of trademark or copyright (three years maximum).

The term for using the recorded information in the TCIRs can be extended for another 3 years or upon the remaining term of protection of trademark or copyright (three years maximum) by submitting an extension request with the Enforcement Division, Customs Department at least 30 days before the expiry date of the above period.

Recordal of change (if any):

It is recommended recording the updated information (if any) to the TCIRs as soon as possible, otherwise the Customs office will use the existing information (not up to date) for their action.

Customs practice after the information is recorded in the TCIRs:

After the information is recorded in the TCIRs, if Customs officers have a reasonable ground to suspect that the goods imported, exported, or transited through Thailand are infringing

trademark or copyright, the officer will seize the suspected goods and inform (1) an importer, exporter, transit person, or their agent, and (2) trademark and copyright owners or their agent.

If (1) the Customs officers cannot contact an importer, exporter, transit person or their agent; or (2) an importer, exporter, transit person or their agent (a) admits that the goods are infringing goods or (b) did not oppose that goods in question are not infringement together with its supporting evidence within 3 days after receiving notification from officer, it shall be deemed that such goods are infringing goods. After that the officer will record inspection, seizure, or arrest of the case and forward the same to litigation division of Customs Department for further action.

In case an importer, exporter, transit person or their agent opposes that goods in question are not infringement together with its supporting evidence within 3 days after receiving notification from officer. The trademark and copyright owners or their agent (1) may submit a confirmation letter together with a request for legal proceeding within 3 days after receiving notification from officer; or (2) request an extension of time (not later than 10 days) for submitting a confirmation letter. Otherwise, the officer will discharge/release such goods.

Kindly note that in case of requesting an extension of time, the Director of Customs Department or Head of Customhouse may order the trademark and copyright owners or their agent paying for security money for any damages arising from such extension request.

**II. Submitting an inspection request (case by case basis)**

Apart from I. in case the trademark and copyright owners or their agent has a reasonable ground to suspect that the goods imported, exported, or transited through Thailand are infringing trademark or copyright goods, they can submit a request (case by case basis) to the Thai Customs Department to inspect any suspected infringing trademark or copyright goods. If the officer has no question in the request and its supporting evidence, they will seize the suspected goods and inform an importer, exporter, transit person, or their agent. The trademark and copyright owners or their agent (1) shall co-inspect such goods with the officer within 24 hours after receiving notification from officer, and then (2) shall submit a confirmation letter together with a request for legal proceeding within 3 days after completion of the inspection process. Otherwise, the officer will discharge/release such goods.

If (1) the Customs officers cannot contact an importer, exporter, transit person or their agent; or (2) an importer, exporter, transit person or their agent (a) admits that the goods are infringing goods or (b) did not oppose that goods in question are not infringement 3 days after receiving notification from officer, the officer will record inspection, seizure, or arrest of the case and forward the same to litigation division of Customs Department for further action.

*Remark: It is important to note that any action under this new Notification/practice, the trademark and copyright owners or their agent will be responsible for any damages arising from the good faith actions of Customs officers in inspection of goods upon application or request to exporter, importer, transit person, or their agent, and Customs Department.*

Since all information recorded in the previous IPR system of the Customs Department have been cancelled, therefore if your organization or your clients concern in infringement issue in Thailand, we encourage recording your registered trademark or copyright information to the TCIRs. For those who have recorded the information for the Customs Department in the previous IPR system, please let us know if you would like to record the information in the new TCIRs. For more information, please feel free to contact us at [trademark@siasia.co.th](mailto:trademark@siasia.co.th) (Contact person: Satta Isrowuthakul (Ms.), Attorney-at-Law).

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