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IMPROVING CUSTOMS PRACTICE OF IDENTIFICATION OF GOODS IN DETECTION OF VIOLATIONS RELATED TO INTELLECTUAL PROPERTY RIGHTS

Abstract. The article analyzes the activities of the customs authorities of the Republic of Uzbekistan in recent years to protect the rights to intellectual property objects and provides facts of identifying cases related to illegal trafficking in counterfeit products. The author investigated the issue of identifying goods in detection of violations related to the right of intellectual property and proposed methodological as well as practical measures to improve customs practice in the context of the integration of the national economy into the world economy.

Keywords: customs authorities, intellectual property objects, protection of intellectual property rights, ex-officio, the Customs Register of intellectual property objects, identification of goods, automated risk management system.

I. Introduction

The protection of intellectual property is becoming increasingly important around the world. Because in ensuring the safety of human health, the quality of the goods produced and the prevention of their counterfeiting is of great importance. Of course, the protection of the interests of entrepreneurs and the use of opportunities in accordance with the law, as well as the observance of the legitimate interests of authors and entities, related rights will serve to further liberalize the investment environment and material support for the activities of private business and small businesses.

The protection of rights to intellectual property objects by customs authorities is carried out on the basis of the requirements of chapter 56 of the Customs Code of the Republic of Uzbekistan [1] and Resolution of the President of the Republic of Uzbekistan “On additional measures for the further development of the sphere of intellectual property” [2].

Customs authorities, within their competence, take measures to protect the rights to intellectual property objects. To ensure the protection of the rights to intellectual property objects imported into the customs territory and under customs control, the customs authorities may suspend the release of goods containing signs of violation of the rights to intellectual property objects for a period of 10 days, as well as cancel the decision to suspend the release of goods containing intellectual property objects. The suspension of the release of goods containing signs of violation of the rights to intellectual property objects is carried out in order to appeal to the copyright holder or his authorized representative to the judicial authorities and provide the customs authorities with a court ruling on the appointment of the case to the trial. Intellectual property objects, in respect of which a decision has been made to apply measures to protect the rights to intellectual property objects, are entered by the customs authority into the Customs Register of intellectual property objects [1].

To date, goods with signs of violation of intellectual property rights are identified during customs control and registration, as well as using an automated risk management system.

II. Literature Review

Based on the norms of international treaties in the field of intellectual property and the norms of the Agreement on Trade Aspects of Intellectual Property Rights (TRIPS), a draft regulatory document on the introduction of the “ex officio” procedure into customs legislation has been prepared regulating the legal protection of intellectual property within the framework of the WTO.

Thus, the term *ex-officio* means “by duty (of a court or other official), regardless of the request of the parties”. This means that customs officials, on their own initiative, take measures to protect intellectual property rights, in particular the suspension of customs clearance of goods, regardless of whether there is an application with a request from the copyright holder or not. Procedure *ex-officio* is provided for by the main international documents aimed at protecting the rights of intellectual property [3]. Thus, article 58 of TRIPS, which was the result of the desire of developed countries to tighten the struggle with piracy and counterfeiting, recognizes the legitimacy of the actions of the customs authorities to suspend the processing of goods on its own initiative, but only if they have *prima facie* evidence that the right of intellectual property is violated [4].

III. Analysis and Results

Between May 2016, a total of 472 trademarks were entered into the Customs Register of intellectual property objects [5]. Active activities of customs authorities in the field of protection of rights to intellectual property objects prove the following facts of identification of cases related to illegal trafficking of counterfeit goods:

During 2022, customs authorities identified 1685 cases related to the import of counterfeit products unsuitable for use, in the amount of 40.8 billion sums

(of which 20.6 billion sums of detected cases are associated with the turnover of medicines and medical products, 1.0 billion sums — food products, 4.8 billion sums — tobacco products, 0.7 billion sums of alcoholic products and 13.7 billion sums of other types of products), at the same time, the products were destroyed in accordance with the law, and part of them was re-exported [6].

Large-scale operational measures were taken to identify and preventing the sale of goods “secret shops” intended for the manufacture of counterfeit products manually using trademarks (brands). Counterfeit detergents, cleaning products, perfume products, as well as raw materials and equipment used in their manufacture in the amount of 1.3 billion sums of 20 items were seized and destroyed.

During the customs inspection of the vehicle, the total amount of goods not reflected in the shipping documents amounted to 48.8 million soums, namely, 10,635 units of goods of 8 types of names were found “SR”, 5505 units of goods of the name “AS”, 9719 units of the name “Tide stis Innovatsion in 1996”, 9924 units of goods of the name “Stepano Ricci”, 5245 units of goods of the name “Prada Milano dal 1913 MA”, 5000 units of goods of the name “Prada”, 15981 units of goods of the name “Armani” and 15129 units of other goods similar to the trademarks of foreign enterprises.

These goods received as the subject of the offense were destroyed in an appropriate manner, which was obtained as counterfeit goods. Also, in 2022, customs authorities carried out 19 propaganda measures to comply with intellectual property rights among participants in foreign economic activity. In addition, every year customs authorities also take part in round tables, conferences led by the World Intellectual Property Organization (WIPO), trainings, international events in order to improve the knowledge and skills of customs officials in the field of intellectual property rights protection.

Uzbekistan has now joined 14 WIPO Treaties. For example, in February 2019, country joined two

WIPO Treaties — on copyright and on performances and phonograms. Uzbekistan has six laws (Laws of the Republic of Uzbekistan “On inventions, utility models and industrial designs”, “On the legal protection of computer programs and databases”, “On selection achievements”, “On trademarks, service marks and names of places of origin of goods”, “On the legal protection of integrated circuit topologies”, “On copyright and related rights”) governing intellectual property relations.

Based on WIPO standards, the country is consistently implementing comprehensive measures to improve the mechanisms for introducing innovations in the economic sector, ensuring its competitiveness, creating conditions for the development of active entrepreneurship and innovation, and ensuring reliable legal protection of intellectual property.

A study in the field of identification of goods in detection of violations related to intellectual property rights made it possible to draw attention to the fact that areas of increased risk for customs control should be identified, consisting of such types of risk as loss of tax revenues for the country, security threats, safety violations, indirect contributions to organized crime, drug transportation, environmental pollution and other emerging risks.

The economic side of this issue requires attention to the following risks: loss of investment in the local economy; serious threat to health and safety; social and ethical costs. Moreover, violations related to intellectual property rights are in close contact with other crimes, such as human trafficking; drug trafficking; “money laundering”; corruption; terrorism and others. The identification of goods in detection of violations related to intellectual property rights provides for a risk assessment based on the inspection of the goods. Since, it is certain risk identifiers that allow you to determine the characteristics of a particular article.

In the field of identification of goods in detection of violations related to intellectual property rights

in recent years, the following general trends are observed in international customs practice:

- transportation in personal luggage;
- logos of brands, trademarks are sent separately from the product;
- sending small batches;
- unauthorized border crossing.

Thus, in our opinion, we should pay attention and examine the following indicators when identifying goods in order to identify counterfeit goods:

- price;
- trading channel;
- printout (printing methods used, printing errors, content)
- font used;
- images;
- spelling errors;
- packing (printing instead of embossing; color differences; absence of “gloss”, etc.)

IV. Conclusion and Discussions

The above results of the study and analysis of the activities of customs authorities in the field of identification of goods in detection of violations related to intellectual property rights made it possible to develop a number of methodological and practical proposals for improving customs practice in the context of the integration of the national economy into the world economy, the intensification of foreign economic activity and the development of international trade:

1. Cooperation of the customs authorities with the copyright holders of intellectual property rights.
2. Studying the range of prices for a specific assortment line of branded goods according to catalogs announced by the owning manufacturers in the media.
3. Organization of trainings in order to increase the skills of customs officials in the field of intellectual property rights protection.
4. Update existing risk profiles of the automated risk management system during customs control and registration of goods.

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