

Customs Import or Export Suspension Procedures

～ Effective and efficient anti-counterfeiting and piracy measures～

Customs import suspension procedure is a system whereby the holder of a patent right, utility model right, design right, trademark right, copyright, neighboring rights, or breeder's right, or the claimant of an unfair competition injunction, requests the customs director to suspend importation of goods that are found to infringe their rights and to initiate a verification procedure of them.

◆輸入差止めが多い物品・差止めが増加した物品		
ハンドバッグ(商標権)	サンダル(商標権)	靴下(著作権)
メモリーカード(商標権)	インクカートリッジ(特許権)	ゲーム機周辺機器(商標権)
キーホルダー(商標権)	財布(意匠権)	シール(著作権)

[Source: Press release issued by the Ministry of Finance on September 10, 2021]

1. Three advantages of import suspension of infringing goods at customs

1) Stop infringing goods before they spread

Once infringing goods from abroad enter the country, it takes a great deal of time, effort, and expense to investigate and stop advertisement or sales. In particular, when items are sold on auction sites on the internet, even if they are removed from the auction site by sending a warning letter or requesting removal, they may soon be sold on another auction site, and the right holder and the infringer may play a cat-and-mouse game. However, if the importation can be stopped by customs, the spread of infringing goods can be stopped because they will not enter Japan. Furthermore, since Customs publishes the status of receipt and acceptance of suspension applications on its website and information is exchanged among importers, it can be expected to deter not only importers of the infringing goods in question, but also potential importer of infringing goods.

In order to constitute trademark infringement or design infringement, it was necessary to import the infringing goods “in the course of business”.

However, under the revised Trademark Act and Design Act of 2021, the act of “import” now includes “the act of a person in a foreign country causing another person to bring into Japan from a foreign country” (Article 4, Section 7 of the new Trademark Act and Article 2 Section 2 paragraph 1 of the new Design Act), which allows for suspension at Customs, even if the person importing the goods is doing so for personal use.

2) Information on importers etc. can be obtained from Customs

In the course of the Customs import suspension procedure, the address (location) and name (company name) of the importer and exporter of the infringing goods are known by a notification from Customs. The importer’s information is very useful in order to take further action, such as sending a warning letter or other contact, and possibly filing a lawsuit.

3) Customs offices across the country deal with a suspension

When filing a lawsuit to seek an injunction, it is necessary to file a lawsuit for each individual case, which is costly and time-consuming, and there is also the issue of jurisdiction of the court. On the other hand, if a petition for Customs suspension is filed, the infringing goods will be enjoined at all Customs offices nationwide (Hakodate Customs, Tokyo Customs, Yokohama Customs, Osaka Customs, Nagoya Customs, Kobe Customs, Moji Customs, and Nagasaki Customs as major Customs offices). Therefore, it can be said that the time period is shorter and than litigation and the cost is lower. It is also a very efficient measure against infringing goods since the customs injunction procedure covers not only ship cargo but also cargo imported by air.

2. Our experience

Our firm represents clients in petitions for suspension based on trademark infringement, copyright infringement, and design infringement. We have frequently received reports of suspensions granted by customs, and we have seen a high degree of effectiveness. Specifically, in one year, we executed approximately 80 suspension proceedings of more than 20,000 goods. Moreover, in cases where the number of infringing goods imported is extremely large, the frequency of imports is high, or sales do not stop even after a warning letter is sent, we have handled such cases as a criminal case, which have even resulted in prosecution and conviction.



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