



## **Guidelines to the Fast Action Scheme**

### **Fast Action Scheme**

- The “Fast Action Scheme” (the Scheme) has been launched by the Customs and Excise Department (C&ED) in collaboration with the Hong Kong Brands Protection Alliance (HKBPA) since 2006 with an aim to step up the criminal law enforcement against intellectual property rights (IPR) infringement activities at large-scale exhibitions.
- Under the Scheme, the C&ED handles all complaints against suspected IPR infringement activities free of charge.

### **Mechanism of the Scheme**

#### *Setting up a Comprehensive Database*

- (1) The HKBPA has set up a committee whose specialised task is to establish a comprehensive database that conforms to the requirements of the Customs for keeping the information on members' registered trade marks and copyright in relation to their products.
- (2) The C&ED provides guidelines and assistance so that the information kept in the database conforms to the Customs' requirements for taking enforcement actions.

#### *Verification of Information on Brands and Copyrights*

- (3) In case any suspected infringement activities is detected during exhibitions, the committee shall transfer the relevant data from the database to the Customs for assessment.
- (4) Once the relevant information is received, the C&ED can promptly follow up and take actions based on the assessed information on trade marks and copyrights.

#### *Seeking Legal Advice*

- (5) As IPR often involves very complex legal issues, the C&ED needs to seek legal advice from the Department of Justice (DOJ) on a case-by-case basis which will take up additional time for handling the complaint.
- (6) To facilitate the seeking of legal advice, the C&ED has established a designated communication channel with the DOJ for clarifying the complex legal issues pertaining to the suspected infringement activity on a “fast track” basis.

#### *Taking Enforcement Actions*

- (7) Subject to the legal advice, the C&ED takes enforcement actions against the alleged infringers promptly.

### **Responsibilities of the HKBPA Members**

- As a pre-requisite for criminal investigation, the right owner has to prove the subsistence of copyright in the work alleged to have been infringed or that the trademark has been registered in Hong Kong; and furnish sufficient evidence to show that an infringement of such right has taken place.
- The right owner should, therefore, furnish the following information/documents to the HKBPA as soon as possible when reporting an infringing activity under the Scheme :

#### *For Copyright Infringement*

- (a) copyright and copyright owner's information;
- (b) sample of the copyright work and the infringing work;
- (c) in case the recordation is filed by a party other than the right owner, written authorization for the party to complete the recordation and assist in criminal prosecution or other legal action on the right owner's behalf is required;
- (d) appointment letter in regard to a competent examiner to conduct subsequent seizure identification and undertake to give evidence and testify in court;
- (e) affidavit evidence (required for initiating criminal prosecution); and
- (f) any other relevant information as required.

*For Trademark Counterfeiting*

- (a) relevant trade mark certificate as proof of the trade mark having been registered in Hong Kong;
- (b) sample of the genuine product and the offending goods;
- (c) in case the recordation is filed by a party other than the right owner, written authorization for the party to complete the recordation and assist in criminal prosecution or other legal action on the right owner's behalf is required;
- (d) appointment letter in regard to a competent examiner by the right holder to conduct subsequent seizure identification and undertake to give evidence and testify in court; and
- (e) any other relevant information as required.

**Enquiries**

- For any enquiries about this guideline or the Fast Action Scheme, please contact the Recordation Office of the Intellectual Property Investigation Bureau on 3759 3058.

**Customs and Excise Department**

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