

LAW OF UKRAINE

On Amendment of the Customs Code of Ukraine (in respect of Protection of Intellectual Property Rights during the Movement of Goods through the Customs Border of Ukraine)

The Supreme Rada of Ukraine hereby **r e s o l v e s**:

. To amend the Customs Code of Ukraine (Vidomosti Verkhovnoji Rady Ukrajinjy [Bulletin of the Supreme Rada of Ukraine], 2002, No. 38-39, page 288; 2003, No. 6, page 51; 2004, No. 19, page 276; 2005, No. 18-19, a nd page 267) as follows:

1. Clause 10 in Article 1 shall be restated as follows:

10) counterfeit goods shall mean such goods and/or packaging containing such goods, labels, tags, tabs, strips, brochures, use manuals, warrantee documents, any packaging materials or other items connected with goods, even if such items are presented separately from the goods, onto which goods is affixed such mark as is identical or similar to such extent that it may be confused with a trademark or a geographic indication, the rights to which trademark or geographic indication are protected in Ukraine for the same goods or related goods, without the consent of the holder of rights to the trademark, or the person who holds rights to use the geographic indication, or onto which goods is affixed such mark as is identical or similar to such extent that it may be confused with a commercial name .

“Article 256. The Customs Registry of Intellectual Property Items

A person, who holds proprietary rights to an intellectual property item under Ukrainian law and who has ground to believe that such person's rights to such intellectual property item are or may be infringed upon in the event of movement of goods through the customs border of Ukraine, shall be entitled to file an application requesting protection of intellectual property rights with the specially authorized central agency of executive power in the customs area.

The specially authorized central agency of executive power in the customs area shall maintain the Custom Registry of Intellectual Property Items specified in Part 1 of this Article.

Procedures applicable to the registration of intellectual property items, including the form of applications, the list of information and documents attached to an application, procedures for filing and review of applications, registry maintenance procedures, as well as the list of types of intellectual property items, for which the applications may be filed, shall be determined by the Cabinet of Ministers of Ukraine.

Upon registration of an item subject to an intellectual property right, customs authorities shall undertake measures aimed to prevent the movement of counterfeit goods and pirated goods through the customs border of Ukraine.

In order to ensure that intellectual property rights are protected in the course of customs control of goods being moved through the customs border of Ukraine, information on the registered intellectual property items shall be sent to all Ukrainian customs authorities .

7. Article 257 shall be restated as follows:

“Article 257. Suspension of Customs Clearance of Goods on the Basis of Data from the Registry of Intellectual Property Items

If on the basis of data from the Registry of Intellectual Property Items, which is maintained by the specially authorized central agency of executive power in the customs area, a customs authority discovers indications that goods presented for customs control and customs clearance are counterfeit, then the customs clearance of such goods shall be suspended, and the goods shall be placed at temporary storage warehouses of customs authorities.

The head of the customs authority or a person acting in his stead shall pass a decision to suspend the customs clearance of goods for a term of up to 15 calendar days. These persons shall be entitled to extend such term for not more than 15 calendar days.

Not later than on the next business day following the adoption of the decision to suspend the customs clearance of goods, the customs authority shall provide a notification to the person, who holds proprietary rights to the intellectual property item under Ukrainian law, about the fact that such goods have been presented for customs clearance, and shall

II. Final Provisions

1. This Law shall enter into force in 45 days as from the day of promulgation hereof.
2. The Cabinet of Ministers of Ukraine shall be required to bring its rules and regulations into conformity with this Law.