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सी.सं. VIII/48/231/2007 Cus IPR Cell

दि तांज : 13.12.2007

### **PUBLIC NOTICE NO 79/2007**

Subject: Intellectual Property Rights (IPRs) regime —Board Circular No. 1/2007 — Customs dated 29.10.2007 — National IPR database & web-enabled applications - operational guidelines and instructions - reg.

Attention of all Intellectual Property Right (IPR) Holders, Importers, Custom House Agents (CHAs) and members of the Trade is invited to No. 47/2007 — Customs (NT) dated 8<sup>th</sup> May 2007, vide which the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 were notified and subsequent Circular No. 41/2007 - Customs dated 29<sup>th</sup> October 2007 vide which brief operational guidelines were issued by the Central Board of Excise and Customs (CBEC).

2.0 The Board announced that the right holders will be able to file intellectual property right (IPR) notices electronically and a user friendly web-enabled application form is being devised as a trade facilitation measure. In order to cater to trade expectations and departmental requirements, some measures have been initiated and the required infrastructure has been put in place. The IPR module has been hosted on <http://www.icegate.gov.in> as envisioned in the said circular, and can be accessed by following the link <http://220.227.154.183:82/IPR>. It can also be accessed by clicking on the link IPR main page <http://www.icegate.gov.in>. This module contains a web page which will serve as a ready reckoner of all relevant legal provisions enshrined in the Customs Act, 1962, the body of law governing different intellectual property rights that are required to be enforced by Customs, various notifications issued by the Board from time to time on this subject, formats of Bonds etc. This public version will also provide for filing notices through web-enabled application forms which can be filled on-line and submitted thereafter to the desired Customs formation.

3.0 Adherence to the following guidelines will ensure hassle-free submission of IPR notices on-line. Firstly, the applicants (the right holders or their authorized attorneys) must decide as to with which Commissioner of Customs in India they would prefer to file the notice for registration in terms of Rule 3 of the Intellectual Property Rights (Imported Goods) Rules, 2007. They have to draw a demand draft from any nationalized or schedule bank in favour of that Commissioner of Customs and payable at that location, where they want to file an application and keep the demand draft- ready before accessing the web-enabled application. At present, the facility of making on-line fee payments through Credit Cards is not made available and the Trade will be duly informed once such facility is put in place. Further, it is desirable that the soft copies of the all the documents like the Registration Certificate, Title Deed, Authorization, Power of Attorney, Copies or images of the genuine copies/goods, copies or images of the suspect infringing goods etc are kept ready for uploading into System as and when the details are sought to be uploaded into the various portions of the online application form. it may be noted that all document files such as

registration certificates, title deeds etc should be uploaded in '.pdf format and all relevant images should be uploaded in '.jpg', 'gif', '.png', 'gif' formats only.

4.0 The applicants are advised to log-in to the <http://220.227.154.183:82/IPR/index.jsp> only after they are ready to file the notice on-line as stated in pan 3 supra. After clicking on the recordation link, the applicants have to choose the Customs Location and choose proper application form separately provided for each of the intellectual property rights (copyright, trade mark, design, patent, geographical indications), that they want to register. For example if the applicant is desirous of registering a trade mark owned or held by him, he should choose the application for trade marks only. Making a wrong choice at this stage will vitiate entire registration formalities and hence due care may be exercised while choosing the customs location and intellectual property right. The applicants should also make sure that all mandatory fields are correctly filled in. If the applicant misses entering any mandatory details, a popup will appear asking him to fill the same details, when he tries to go to the next page, to enable complete data entry. Further, in the event of any failure to upload any of the mandatory files and upon moving to the next screen, a red ticker will appear on the top of the next screen prompting him to upload the required file. The Applicant, in this case, is advised to go back to the previous screen by using the 'back' (? ) button on the browser, upload the file and the blank fields, if any and then move to the next screen again. However, this feature will cease to be available once the "declaration to the effect that the details furnished are true", is accepted.

5.0 As compliance to the provisions of Rules 5(a) and 5(b) of the said Rules, the right holder seeking protection from Customs shall have to execute a general bond and an indemnity bond, at the time of making an application or submitting a notice. It may be noted that though on-line notices/applications can be filed by right owners or right holders or any other authorized persons, the general bond and indemnity bonds have to be executed only by the right holder seeking protection. However, for smooth process flow of the electronic document, the applicant, not being the owner or holder of the right, can also merely agree to furnish them along with the hard copy of the printed on-line application to the chosen Commissioner of Customs.

6.0 Trade might appreciate that applications devised are general in nature with particular reference to a particular intellectual property in question. The data elements required to be furnished are in line with the common terminology applicable for majority of the areas covered under the intellectual property rights. For example, copyrights protect several kinds of works viz., literary, dramatic, musical, artistic etc, which by themselves cover a series of works. Under these circumstances it is difficult to use terminology specific to the work for which the applicant is filing a notice. As far as possible, caution has been taken to avoid jargon. In so far as any reference to the term "recordation" in the entire module, the same may be construed as "registration" with the Customs. In case of any confusion, the IPR cell constituted in this regard by this Commissionerate may be consulted. The data sought from the applicants is meant for according appropriate protection. Therefore, it is advised to provide full and correct particulars for achieving desired results.

7.0 Provision has been made to enable checking and editing any incorrect data elements at the end. The Applicant will be prompted to verify the same before it is finally submitted to the System. After verifying all the details, the on-line application can be submitted to the System. On successful submission, a Unique Temporary Registration Number (UT RN) will be generated and the same will appear on the screen. This number should be noted and all further correspondence with Customs should be made invariably with reference to this UTRN, fill the Unique Permanent Registration Number (UPRN) is communicated. Both the UTRN and UPRN will also be communicated through e-mail of the applicant.

8.0 Once the UTRN is generated, System will prompt the applicant to take a printout of the application and submit the same to the Commissioner of Customs, chosen by the applicant, along with all accompanying documents, including Demand Draft, General Bond and Indemnity Bond. In case the applicant does not take the print out, facility has been provided to take a re print from the system by using the UTRN. Any other document or information sought by the office of the Commissioner of Customs, in this regard may also have to be submitted by the applicant.

9.0 It may be noted that incomplete applications may not be accepted by the system and hence it is advised that the applications complete and correct in all respects may only be submitted to the System. Also incorrect and incomplete submission may lead to rejection of the application. Due diligence may therefore be exercised in filing the on-line application.

10.0 These guidelines are compiled as Applicants' Guide and made available to all the applicants on line. It is also ensured that at the beginning of on-line filing of the notice, all the applicants will be compulsorily prompted to read all these instructions carefully, before attempting to file a notice, subject to the compliance of which only the notice will be allowed to be filed in the System.

11.0 In this context attention of Importers and CHAs is also invited towards one more pertinent and crucial issue of customs clearance process vis-à-vis enforcement of IPR regime viz., data quality. It may be appreciated that making adequate and appropriate disclosure of the imported goods, which includes its generic description, item-specific description brand name/grade/specifications and end use, while filing bills of entry is mandatory, which are required to be filed in the appropriate fields specified in the bill of entry. It is noticed that declaration of descriptions made by the importers/CHAs while importing goods is far from being satisfactory. Your Endeavour will help us a great deal in tackling the data quality issues that have a significant bearing on the Department's efforts to tackle import of counterfeits This will enable us serve you better. In view of this, it is hereby exhorted that due care and caution may be exercised while making data-entry so that complete and correct descriptions are filed.

12.0 For any clarifications in this regard, the applicants may contact Sri. M.M. Ravi Rajendran, Assistant Commissioner (IPR Cell) who can be contacted on Telefax 22864475.

(A.K.KAUSHAL)

COMMISSIONER OF CUSTOMS

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