



State Intellectual Property Office
of the People's Republic of China

THE INTELLECTUAL PROPERTY PROTECTION AND ENFORCEMENT IN CHINA

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Deputy Director-General

**Patent Affairs Administration Department,
SIPO, China**



Outline

- **Part I Overview of IP Protection and Enforcement in China**
- **Part II IP Enforcement and Relevant International Rules**
- **Part III Major Measures of Judicial IP Protection**
- **Part IV Major Measures of the Administrative Enforcement and Protection of IPRs**



Part I Overview of IP Protection and Enforcement in China

- General Introduction
- The Judicial IP Protection
- The Administrative IP Protection



1.1 General Introduction

- China has established an IP protection system that has particular characteristics and conforms to international rules. As the system provides for protection through both administrative and judicial ways, it has the advantages of both types of mechanisms while linking them in an organic way. In addition, the system is supplemented by approaches such as arbitration and mediation.



1.2 Judicial Protection

- **The duties of all of China's judicial authorities in the protection of IPRs are set out under the law. The Courts fully exercise their functions in civil and criminal trials to apply appropriate sanctions against IP infringement and counterfeiting.**



1.2 Judicial Protection

- Thereby, they actively support the administrative departments in complying with their legally defined duties to safeguard the legitimate interests of IPR holders. Procuratorates, the prosecution and investigation entities in China, are actively involved in investigating IP crime. The public security organs implement strong measures to combat all kinds of criminal networks deriving profits from the unauthorized use of IPRs.



1.3 Administrative Protection

- **Local IP Offices are administrative enforcement authorities, and responsible for handling and mediating patent infringement dispute, ordering the ceasing of infringement, and punishing act of passing off in the area of patents.**
- **If the parties and respondents are dissatisfied with the order of Local IP Offices, they may file a lawsuit with the court.**
- **SIPO guides the activities of local IP enforcement, makes policies for IP enforcement and protection, and organizes nationwide special campaigns.**



1.3 Administrative Protection

- At all levels, China's administration makes great efforts to fight IP infringement and counterfeiting to expedite the settlement of IP disputes, and to protect the legitimate interests of IPR holders and the general public.
- SIPO is also in charge of coordinating international affairs in IP protection.



1.3 Administrative Protection

- Over the years, SIPO and local IP Offices have vigorously promoted the institutional and systematic development of the administrative system of IP enforcement. This system has the advantage that it provides for simple procedures through which IP infringements can be investigated expeditiously.



Part II IP Enforcement and Relevant International Rules

2.1 Relevant International Rules

- China's IP enforcement mechanisms comply with relevant international rules, such as TRIPs, which provides for a variety of remedies for IP infringements.



2.2 The Legal Obligation of Governments to Protect Intellectual Property Rights

- All national governments are required to protect intellectual property rights, including patent rights, in accordance with international rules. Governments need to effectively protect patent right in exchange for the disclosure of patent information.
- The provision of effective mechanism to enforce patent rights, a responsibility that may be fulfilled in different ways, is therefore a question related to a government's credibility and essential for the functioning of the patent system.



Part III Major Measures of Judicial IP Protection

- The establishment of specialized IP courts in Beijing, Shanghai and Guangzhou has improved the efficiency of IP trials.
- It has also facilitated “three-in-one” trials that address civil, administrative and criminal IP measures.
- The introduction of IP courts has increased judges’ ability to identify and address the need for technical expertise and has resulted in a diversification of dispute settlement mechanisms in IP matters.



Part III Major Measures of Judicial IP Protection

- Enhanced efforts are made to guide, manage and supervise trials with a view to regulating IP decisions and building a management model suited to the characteristics of IP trial work.
- The publication of IP decisions additionally improved justice through transparency and helps to maintain an environment in which IPRs are protected by the judiciary.



Part IV Major Activities of the IP Administrative Enforcement in China

- Rules and Regulations for Administrative IP Enforcement**
- Various Types of Administrative IP Enforcement Mechanisms**
- Strengthening Abilities in the Area of Administrative IP Enforcement**
- Establishing A Social Credit Framework for the IP System**
- A Network for Reporting IP Infringements and Filing Complain**



4.1 Rules and Regulations for Administrative IP Enforcement

- Improvements have been made to the rules and regulations governing administrative IP enforcement. A revision of China's Patent Law and its Implementing Regulations is also actively being pursued. Furthermore, modifications to the practical guidelines for administrative patent enforcement have been finalized and stricter policies and measures for IP protection have been put in place.



4.2 Various Types of Administrative IP Enforcement Mechanisms

- Administrative IP enforcement measures have been enhanced, and innovative mechanisms are being introduced to fully exploit the benefits of administrative IP enforcement.
- As such, an advisory mechanism for the determination of IPR infringement, an expedited mediation mechanism for IP disputes, and an IP enforcement and protection mechanism for e-commerce have been established, in addition to cross-regional enforcement coordination.



4.3 Strengthening Abilities in the Area of Administrative IP Enforcement

- The abilities for administrative IP enforcement has been enhanced through expanded and intensified training and discussions of relevant cases.
- Likewise, the abilities and competence of investigators has been strengthened. The use of information technology for enforcement and protection has contributed to building a specialized, professional, standardized and information-based IP enforcement team.



4.4 A Social Credit Framework Has Been Established for IP protection

- A social credit framework has been established for the IP system in an orderly manner to enable the prompt sharing of information across sectors.
- Case information is published to provide an effective deterrent to patent infringement and passing off.



4.5 Building an IP Enforcement Assistance System for the Complaints from Right Holders

- A nationwide “12330” hotline has been implemented and a website has been launched to receive complaints from the public through phone, Internet and in writing, so as to transfer case information to the relevant administrative IP enforcement department.
- A network has been established for the reporting of IP infringements and for filing related complaints. 76 IP Enforcement Assistance Centers have been set up to handle complaints and reports of IP infringements.





Conclusion

- **SIPO has made vigorous efforts in recent years to promote the institutional development of IP enforcement mechanisms. Through such mechanisms, China has been able to achieve good results in IP enforcement and to counter IP infringements forcefully.**



Conclusion

- In the future, SIPO will continue to strengthen the protection of IP by actively building a working pattern for a more integrated IP protection, drafting policies and measures for stringent IP protection, and focusing on solving problems of IP protection in key areas.
- Through a sound IP enforcement system, right holders' confidence in the Government's efforts to enforce IPRs will be enhanced, there will be greater awareness of IP protection among all sectors of society, the creation and utilization of IPRs will be safeguarded, and a fair market environment will be fostered.



Thank you!





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WORLD INTELLECTUAL PROPERTY ORGANIZATION

XI SESSION OF THE ADVISORY COMMITTEE ON ENFORCEMENT WIPO GENEVA 2016

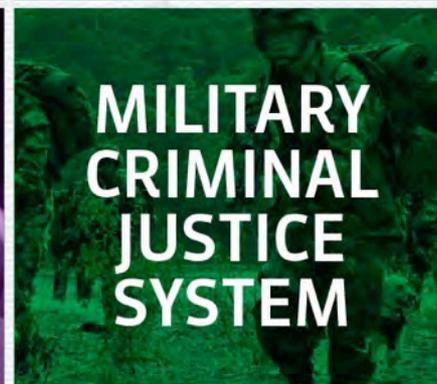
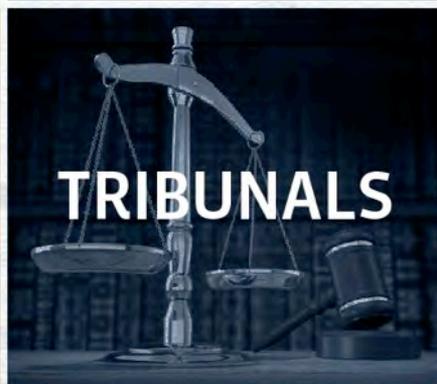
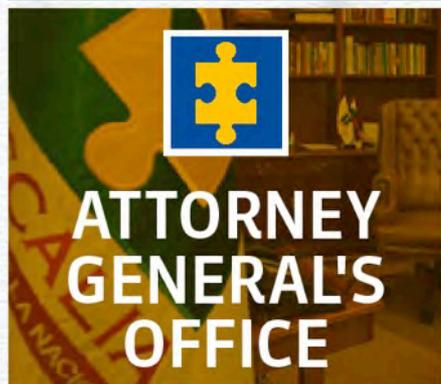
THE ENFORCEMENT OF INTELLECTUAL PROPERTY POLICIES IN COLOMBIA

F I D E L P U E N T E S S I L V A

Deputy Superintendent for Jurisdictional Issues
Superintendence of Industry and Commerce

Who administers justice in our country?

Art. 116 - Political Constitution of Colombia



Who administers justice in our country?

Art. 116 - Political Constitution of Colombia

SPECIAL CASES



THE CONGRESS



THE JURIES
in criminal cases



CONCILIATORS



ARBITRATORS agreed upon by the parties
to pronounce decisions in law or in equity

Who administers justice in our country?

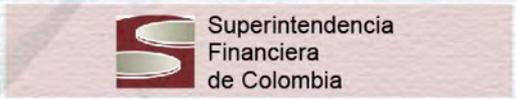
Art. 116 - Political Constitution of Colombia

ADMINISTRATIVE AUTHORITIES



ADMINISTRATIVE AUTHORITIES
with judicial powers.

ARTICLE 24 - CODE OF GENERAL PROCEDURE

TOPIC		ADMINISTRATIVE AUTHORITY
		
		
		
		
		
		
	MINJUSTICIA	>> UNCONSTITUTIONAL



SENTENCE C-156 OF 2013:



“Principle of efficient allocation of competences”





LEGAL ACTION AGAINST INFRINGEMENT OF INDUSTRIAL PROPERTY RIGHTS

Decision
486
of 2000

Civil circuit
judge



Industria y Comercio
SUPERINTENDENCIA



COPYRIGHT LAW

Law 23 of 1982. Copyright

Andean Decision 351 of 1993.
Common Provisions on
Copyright and Related Rights.

Decree 460 of 1995 regulating
the National Copyright Registry
and Legal Deposit.

Civil circuit
judge



**DIRECCIÓN NACIONAL
DE DERECHO DE AUTOR**

Unidad Administrativa Especial
Ministerio del Interior



LAW ABOUT THE RIGHTS OF BREEDERS OF NEW PLANT VARIETIES

Decision 345 of 1993: Common Regime on the Protection of the Rights of Breeders of New Plant Varieties.

Decree 533 of 1994: It regulates the Common Regime of plant breeder's rights.

ICA's Resolution 1893 of 1995 establishing the National Registry of Protected Plant Varieties.

Civil circuit judge



DO THE NATIONAL COPYRIGHT OFFICE AND THE ICA ACT AS SPECIALIZED JUDGES?



**“Principle of efficient
allocation of competences”**



GENERAL FEATURES

IMPLEMENTATION OF ORALITY

*Oral system and hearings.
Written application.*

ACCES TO JUSTICE

*Reasonable
Duration*

STRENGTHENING

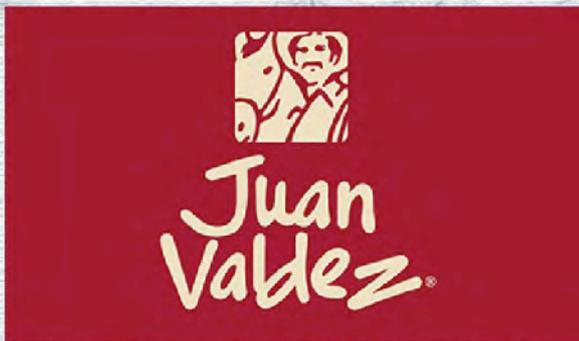
*Discretionary
provisional measures*

USE OF ICT

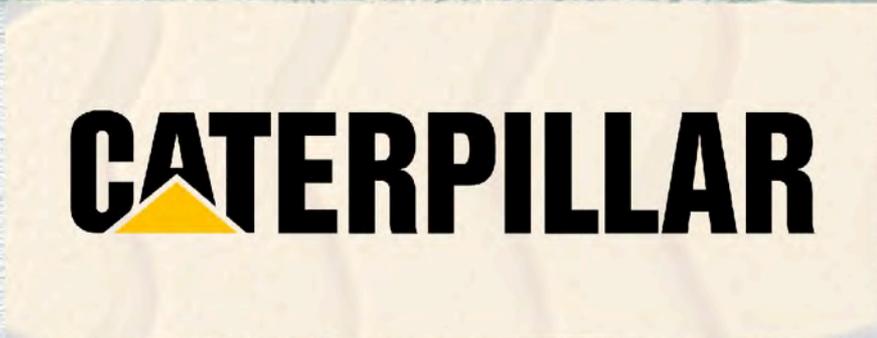
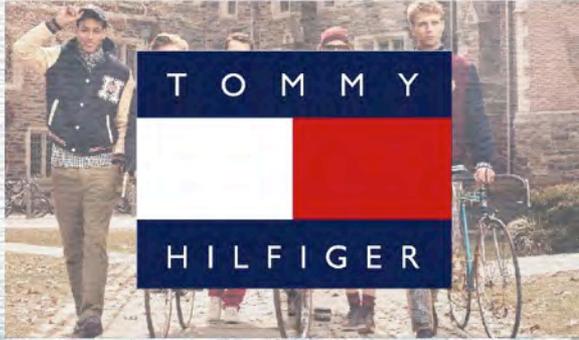
ORAL VERDICT as general rule

*Announcing the
objective of the ruling
as an exceptional rule*

RELEVANT CASES



RELEVANT CASES



RELEVANT CASES



DIRECCIÓN NACIONAL
DE DERECHO DE AUTOR
Unidad Administrativa Especial
Ministerio del Interior

DNDA
¡Promovemos la creación!

Case – Gabriel Calle Arango vs. Centro Comercial San Diego



BEFORE



AFTER

Photographs by the newspaper "El Colombiano". January 20, 2015. Available online:
<http://www.elcolombiano.com/antioquia/artista-pide-150-mil-lones-de-indemnizacion-por-obra-removida-del-centro-comercial-san-diego-BD1137762>

COMPENSATION OF DAMAGES ARISING FROM THE INFRINGEMENT OF INDUSTRIAL PROPERTY RIGHTS

General condition of extra contractual civil liability (Prove of losses and damages)

Article 243 of Decision 486 of 2000 contains criteria for the calculation of damages.

Preset Compensation for Trademark Cases (Decree 1074 of 2015, subject to the assessment of damages to be determined by the Judge from a fixed amount derived from the aforementioned regulation)

SIC DEVELOPMENTS IN THE COMPENSATION OF DAMAGES ARISING FROM THE INFRINGEMENT OF INDUSTRIAL PROPERTY RIGHTS.

FIRST STAGE

(requirement to prove damages)



SECOND STAGE

(the damage that is the logical result of the infringement)



THIRD STAGE

(a step towards the regulatory damages)



SIC'S INTERPRETATION OF ARTICLE 243 OF THE DECISION 486 OF 2000

“In this regard, if we analyze the aforementioned Article, we find that its header announces a list of criteria for the calculation of damages. These criteria are separated into three subparagraphs. The first of them relates to consequential damages and lost profits, which allows us to conclude that whenever the law uses the word ‘criteria’ it refers to typologies of damages and that in case of subparagraph a these are the traditional ones that already existed in the Civil Code.

(...) ➔



SIC'S INTERPRETATION OF ARTICLE 243 OF THE DECISION 486 OF 2000

This being so, it is logical that the other 'criteria' contained in subparagraphs b and c also relate to typologies of damages, which, despite not being those traditionally known, the legislator wanted to establish. Therefore, the profits obtained by the infringer, as well as the value of a hypothetical license, are themselves compensable damages in matters of special relevance such as those related to the protection of industrial property because the legislator so desired it.

(...) 



SIC'S INTERPRETATION OF ARTICLE 243 OF THE DECISION 486 OF 2000

It should be clarified that the criteria and damages of subparagraphs a, b and c must be demonstrated in any case as they cannot be presumed”



Industria y Comercio
SUPERINTENDENCIA

YOUR VALUES ARE OUR VALUES



DIRECCIÓN NACIONAL
**DE PROPIEDAD
INTELLECTUAL**

TETÁ REKUÁI
GOBIERNO NACIONAL
Jajapo nande raperá ko'aga guive
Construyendo el futuro hoy



DIRECCIÓN GENERAL
DE OBSERVANCIA

Héctor Balmaceda

Director General de Observancia



Dirección Nacional de Propiedad Intelectual (DINAPI)

Creada por la Ley N° 4798/12 y reglamentada por el Decreto N° 460/13, como persona jurídica de derecho público, con carácter autárquico y patrimonio propio, como órgano de ejecución de la Política Nacional de Propiedad Intelectual.



OBJETIVO INSTITUCIONAL

La protección de los Derechos de Propiedad Intelectual, de acuerdo con lo dispuesto en la Constitución Nacional, las leyes que rigen la materia y los tratados y convenios internacionales atinentes, suscriptos y ratificados por la República del Paraguay.



DIRECCIÓN GENERAL DE OBSERVANCIA (D.G.O.)

Creada por la Ley N° 4798/12 y tiene a su cargo la promoción y la defensa de los Derechos de Propiedad Intelectual en todas sus formas. Además, deberá desarrollar una actividad preventiva e investigativa a los efectos de reprimir los delitos de piratería y falsificación.



DIRECCIÓN DE LUCHA CONTRA LA PIRATERÍA Y LA FALSIFICACIÓN

Es dependiente de la “Dirección General de Observancia” de la DINAPI y se encarga de coordinar y ejecutar los planes, delineamientos y resoluciones dictadas en favor de la legalidad y en contra de la piratería y la falsificación en el Paraguay.



ACCIONES EN DEFENSA DE LA P.I.

La Dirección General de Observancia, en el marco de lo dispuesto en las normativas vigentes, ha desarrollado verificaciones de mercaderías en:

- Diferentes puertos del país.
- Aeropuertos.
- Allanamientos (Central – C.D.E.)

Además, ha realizado incautaciones en forma aleatoria en la vía pública de cualquier tipo de productos falsificados.



LOCAL

Aduana Terport

Importadora

Cordillera Trading S.A

MERCADERÍAS

Auriculares, baterías

Cargadores

Perfumes

MARCAS

Samsung, Sony

Apple, Versace

Dolce & Gabbana

Carolina Herrera

VALOR DE LOS PRODUCTOS INCAUTADOS:

USD 25.000.000



LOCAL

Shopping Lai Lai

Ciudad del Este

MERCADERÍAS

Productos HP

MARCAS

Hewlett-Packard

**VALOR DE LOS PRODUCTOS INCAUTADOS:
USD 1.550.374**





LOCAL

Aeropuerto Silvio
Pettirossi (trabajo
con la CAIA)
Vuelo Air Class

MERCADERÍAS

Celulares, tarjetas
de memoria,
relojes, lentes de
sol

MARCAS

Apple, Samsung
Sony, Motorola,
Chanel, Invicta,
Armani, Diesel,
Prada, Michael Kors

VALOR DE LOS PRODUCTOS INCAUTADOS:

USD 15.000.000





VALOR TOTAL DE LAS MERCADERIAS INCAUTADAS - 2015:

U\$S 85.476.035



**CANTIDAD DE PROCEDIMIENTOS
REALIZADOS EN EL 2015: 330**



ESTADÍSTICAS



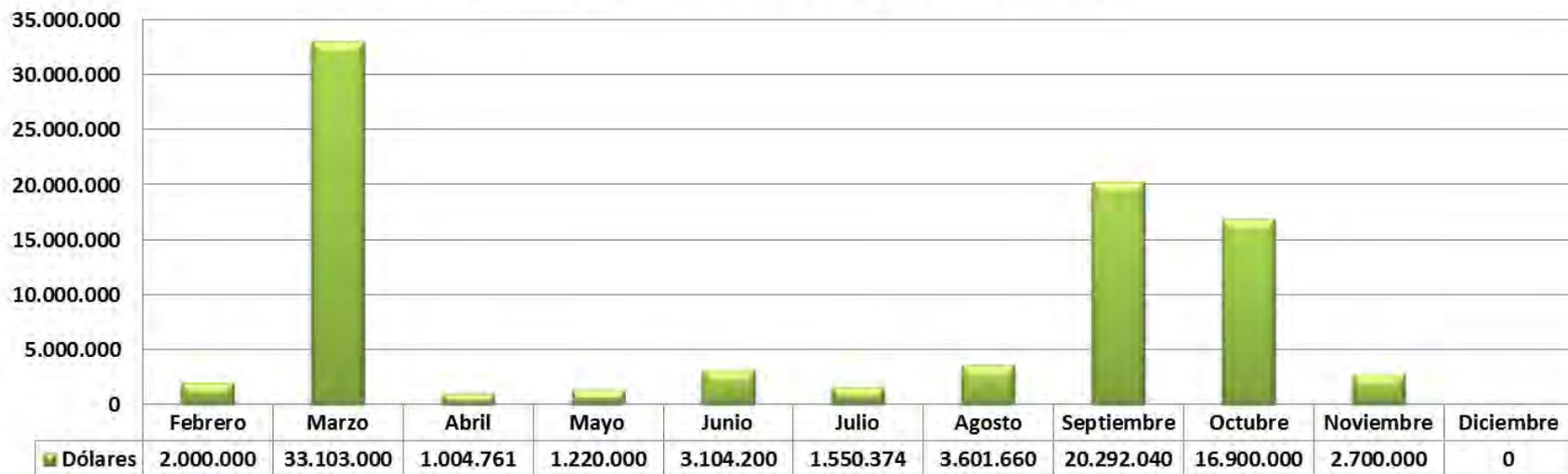
RESUMEN DE INTERVENCIONES D.G.O. (2015)

CANTIDAD DE PROCEDIMIENTOS



RESUMEN DE INTERVENCIONES D.G.O. (2015)

VALOR DE PRODUCTOS INCAUTADOS



RESUMEN DE INTERVENCIONES D.G.O. (2015) POR PRODUCTOS

Productos Incautados	2015
Electrónica	USD 12.069.175
Prendas/Calzados	USD 12.258.800
Accesorios	USD 32.462.860
Juguetes	USD 1.600.000
Fonogramas	USD 561.000
Perfumes/Lentes de sol	USD 26.524.200
TOTAL	USD 85.476.035



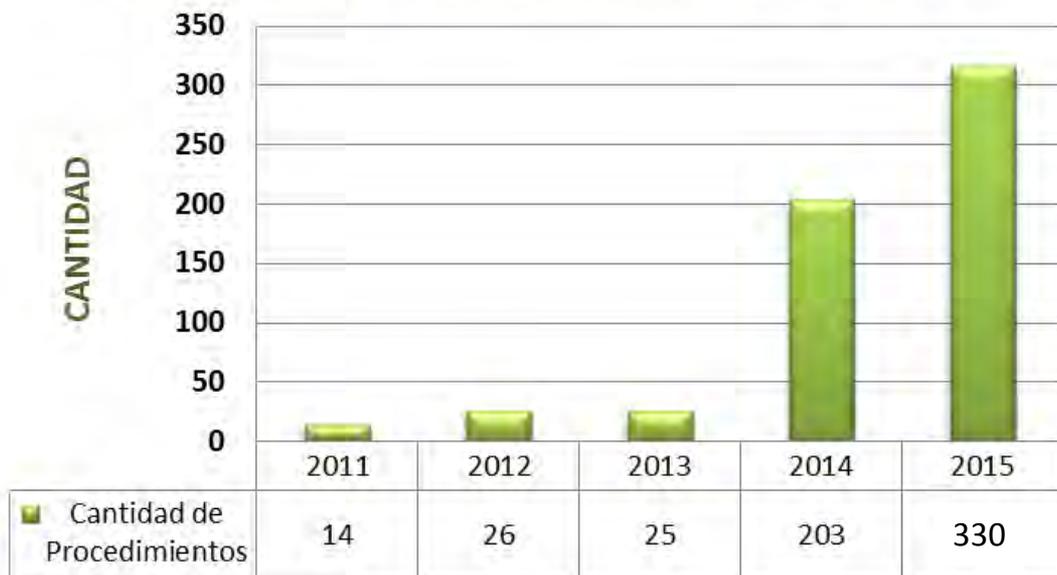
RESUMEN DE INTERVENCIONES D.G.O. (2015)

INCAUTACIONES POR PRODUCTOS



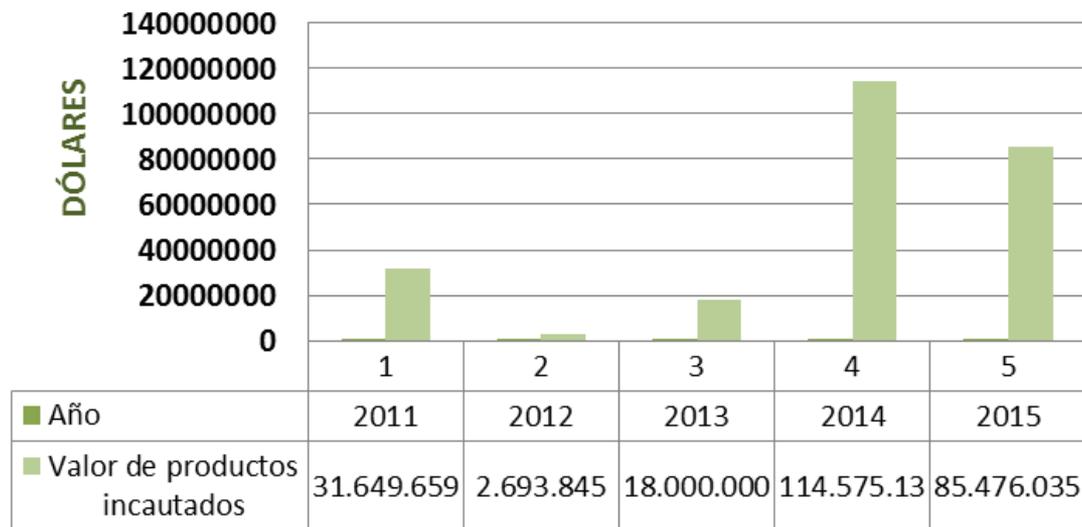
RESUMEN DE INTERVENCIONES D.G.O. (2011 - 2015)

CANTIDAD DE PROCEDIMIENTOS 2011 - 2015



RESUMEN DE INTERVENCIONES D.G.O. (2011 - 2015)

VALOR DE LOS PRODUCTOS INCAUTADOS (DÓLARES) 2011 - 2015



Periodo 2016



Intervenciones realizadas por la D.G.O Ene-Ago.

	Cantidad de Procedimientos	Valor de lo incautado (dólares)
Allanamientos/ Vía Publica:	13	4.079.702
Puertos y Aeropuertos:	252	19.722.140
Total	265	23.801.842









PARAGUAY FUERA DE LA LISTA NEGRA

LA NACIÓN
Independiente para todos

Política Negocios Deportes Espectáculos País Mundo Tendencias Edición impresa

Itaú

Paraguay, segundo país de Sudamérica en salir de lista de piratería

Paraguay se convirtió en el segundo país de Sudamérica en salir de la lista negra de piratería de Estados Unidos, luego de que Uruguay la hubiera hecho dos años, y esto representa "un gran cambio que genera una nueva imagen del país ante el mundo, destacando este logro a las autoridades de la Dirección Nacional de Propiedad Intelectual (Dinapi) y empresarios del sector privado."



En conferencia de prensa, las autoridades de la Dinapi y representantes del gremio empresarial se refirieron a la importancia de este hecho, que es resultado de un año y medio de negociaciones.

La directora de Dinapi, Patricia Stanley, manifestó que este importante logro se dio tras 18 meses de negociación, y que con esto vamos a salir garantando tanto los paraguayos como los americanos, ya que se trabajó de manera conjunta. Puntualizó que "esto va a beneficiar en la imagen país, pues salimos de una lista negra, para entrar en una lista de países que cumplen y respetan la propiedad intelectual".

abc Archivo Servicios Clasificados Fúnebres Redes Iniciar sesión Registrarse

15 de septiembre de 2015
ES SE (ACTUALIZADO HACER 3 HORAS) 28 °C
PAZ INCLUIDO

NOTICIAS EDICIÓN IMPRESA NACIONALES DEPORTES ESPECTÁCULOS ESPECIALES MULTIMEDIA

Inicio > Nacionales > Celebran salida de lista negra

31 DE AGOSTO DE 2015 15:00

Celebran salida de lista negra

En su informe de gestión de dos años, la Dirección Nacional de Propiedad Intelectual (Dinapi) destacó la salida del Paraguay de la lista de observancia 301 respecto a la lucha contra la piratería.

Me gusta 102 +1 0



Patricia Stanley, directora de la Dinapi durante la presentación de resultados de Paraguay.

PARAGUAY.com Acerca del país / About the country + El clima en Asunción: Temperatura (temperatura), Diferencia de hora (hora) | Buenos Aires: 21.50 | 5.90

Martes, 15 de Septiembre de 2015, 10:48 (13:48 GMT)

NACIONALES INTERNACIONALES FRANCISCO EN PARAGUAY DEPORTES ARTE

31 de Agosto, 2015 Nacionales

Paraguay está fuera de la lista de piratería

Patricia Stanley, directora DINAPI, presentó su informe de gestión a dos años de la creación de la institución, donde destacó la salida de Paraguay de la Lista Especial de Observancia.

Me gusta 20 +1 0

"Salir de la Lista 301, no significa que Paraguay no tiene piratería, sino que significa que Paraguay está haciendo sus deberes", detalló Patricia Stanley.

Paraguay firmó un Memorándum de Entendimiento con los EE.UU., lo cual ayudó a la salida de la Lista Negra de la Piratería.

"La 301 es la Lista de Observancia de los Estados Unidos de países que nos protegen la propiedad intelectual en una forma correcta, en una forma eficaz", afirmó la Directora Patricia Stanley.



Patricia Stanley, el presidente Horacio Cartes y el director paraguayo de Itaú, James Spalding. Foto: Dinapi



GRACIAS POR SU ATENCIÓN





**THE ENFORCEMENT FUNCTION OF THE
INTELLECTUAL PROPERTY OFFICE
OF THE PHILIPPINES:
BEST PRACTICES AND CHALLENGES**

ALLAN B. GEPTY

DEPUTY DIRECTOR GENERAL
INTELLECTUAL PROPERTY OFFICE OF THE PHILIPPINES

OUTLINE



I. INTRODUCTION

II. THE NEED FOR AN ENFORCEMENT FUNCTION

III. LEGAL BASIS

IV. IMPLEMENTATION PROCEDURE

V. CASES AND OBSERVATIONS

VI. CONCLUSION

I. INTRODUCTION

Challenges of IPR enforcement

- Nature of IPR as private rights
- Investigation and Prosecution
- Few cases are filed
- Globalization and changing business environment
- Need for legal and institutional reforms

II. THE NEED FOR AN ENFORCEMENT FUNCTION

General Rule: IPR enforcement has to be initiated by the right holder.

Exceptions: Regulated products

Challenges: Investigation and prosecution
Compromise agreements
Procedural issues

III. LEGAL BASIS

Republic Act No. 8293, as amended by **Republic Act No. 10372**.

SEC. 7. The Director General and Deputies Director General. - 7.1. Functions. - The Director General shall exercise the following powers and functions:

xxx xxx xxx

- c) Undertake enforcement functions supported by concerned agencies such as the Philippine National Police, the National Bureau of Investigation, the Bureau of Customs, the Optical Media Board, and the local government units, among others;
- d) Conduct visits during reasonable hours to establishments and businesses engaging in activities violating intellectual property rights and provisions of this Act based on report, information or complaint received by the office; and

CHALLENGES



- How to maintain neutrality?
- What will be the scope and limitations of the enforcement functions?
- What are the parameters to be observed in the implementation of a visitorial order?

IV. IMPLEMENTATION PROCEDURE

OFFICE ORDER NO. 13-170 series of 2013

RULES AND REGULATIONS IN THE EXERCISE OF ENFORCEMENT FUNCTIONS AND VISITORIAL POWER OF THE INTELLECTUAL PROPERTY OFFICE, AND CREATING THEREBY AN INTELLECTUAL PROPERTY RIGHTS (IPR) ENFORCEMENT OFFICE.

Effectivity Date: 15 October 2013

(RULE I) Section 2. Applicability. These Rules shall govern the procedure in the exercise of enforcement functions of the Intellectual Property Office of the Philippines (IPOPHL), and the exercise of visitorial power based on information, report, and complaint received by IPOPHL.

SCOPE AND LIMITATIONS

- Supported by law enforcement agencies;
- Enforcement actions must be based on report, information or complaint;
- **Covered Acts:** manufacturing, production, importation, exportation, distribution, trading, and offering for sale, including other preparatory steps necessary to carry out the sale of counterfeit and pirated goods provided that there is no pending case before any office, tribunal, quasi judicial body, or court involving the same issue/s or subject matter. (*Rule III, Section 3, Office Order 13-270*)

COUNTERFEIT GOODS VS. COLORABLE IMITATION

COUNTERFEIT GOODS shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation [**TRIPs Agreement**]

COLORABLE IMITATION. This term has been defined as "such a close or ingenious imitation as to be calculated to deceive ordinary purchasers, or such resemblance of the infringing mark to the original as to deceive an ordinary purchaser giving such attention as a purchaser usually gives, and to cause him to purchase the one supposing it to be the other." [**Emerald v. CA, G.R. No. 100098. December 29, 1995**]

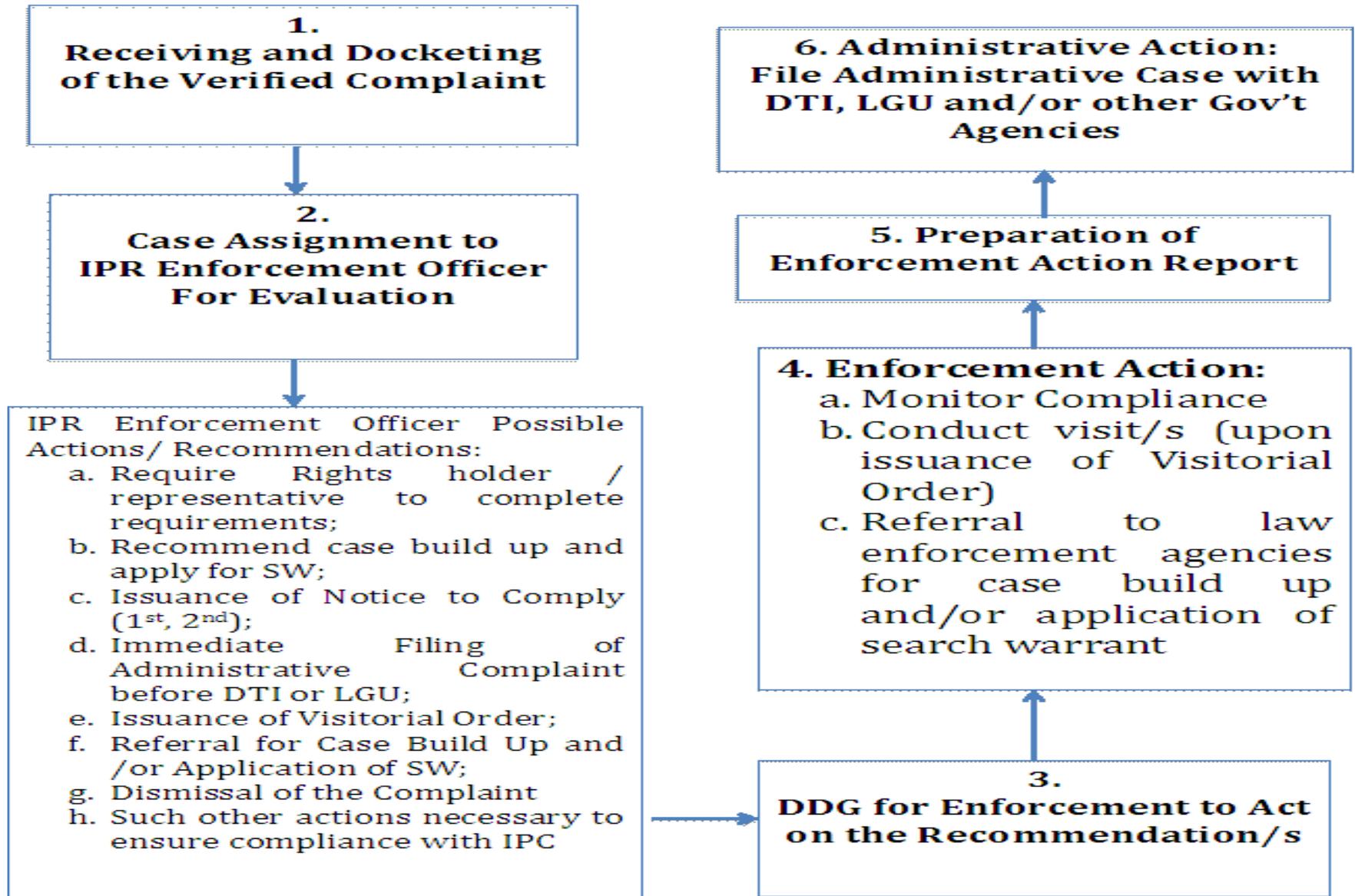
□ **Complaint vs. Report**

RULE I. Section 4.

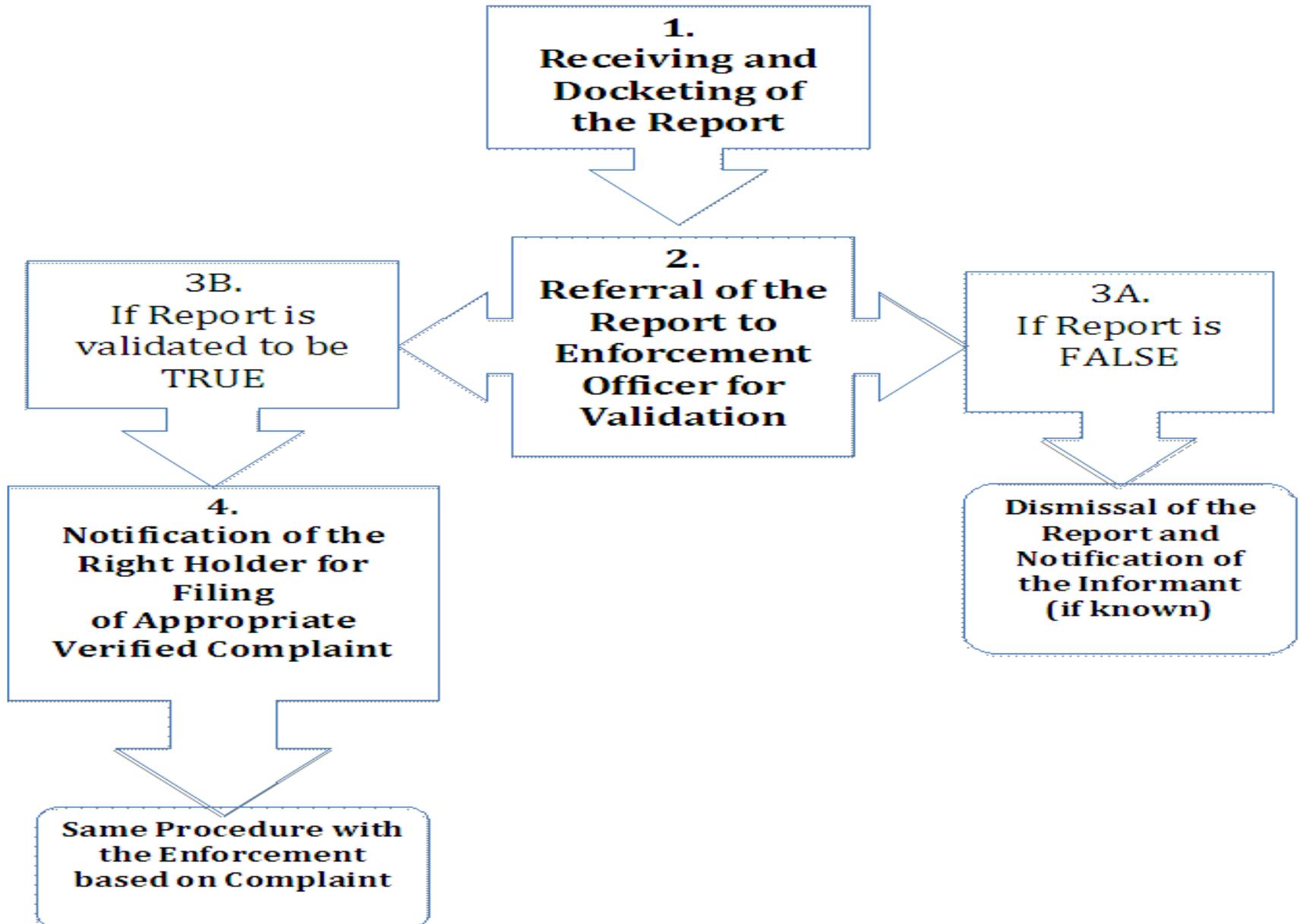
(b) Complaint – is a verified written document signed by a right holder or authorized representative setting forth the nature of the violation of intellectual property rights and the enforcement action requested as defined under these Rules.

(i) Report – is any information, written or verbal, received by IPOPHL pertaining to a violation of IPR.

ENFORCEMENT ACTION BASED ON A VERIFIED COMPLAINT



ENFORCEMENT ACTION BASED ON REPORTS



ENFORCEMENT ACTIONS

- a. Issuance of notice/warning to the respondent/s to observe compliance with the provisions of the IP Code, as amended;
- b. Issuance of visitorial order on the subject premises;
- c. Issuance of compliance order against the respondent/s;
- d. Immediate filing of administrative complaint before the local government unit concerned, and/or other government agencies or tribunals;
- e. Referral of the case to a law enforcement agency for case build-up;
- f. Recommendation of application for search warrant;
- g. Dismissal of the complaint;
- h. Referral of the case to other government agencies for filing of charges for violation of other laws, rules or regulations; or
- i. Such other actions necessary to ensure compliance with the provisions of the IP Code, as amended.

ADMINISTRATIVE ACTION VS. ENFORCEMENT ACTION

RULE I. Section 4.

(a) *Administrative Action* - is an official action taken by the Deputy Director General or an officer-in-charge for IPR Enforcement after the implementation of the visitorial order which may include, but not limited to, the issuance of compliance orders and/or filing of appropriate charges before the local government units concerned, or other government agencies or tribunals.

(d) *Enforcement Action* – is any action taken by the IEO relative to the complaint or report with the end view of ensuring compliance of the provisions of the Intellectual Property Code, as amended by Republic Act No. 10372.

V. CASES AND OBSERVATIONS

Case 1 : Sale of pirated books *via* Instagram
Payment through E-payment provided by a Telco Company

Action : Notice/Warning to the Telco Company
Merchant agreement was terminated

Case 2 : Sale of counterfeit goods *via* an online market

Action : Notice to the administrator of online market
Account of seller was cancelled

Case 3 : Assistance in case build up and investigation of cases

Case 4 : Conduct of visits and information campaign in malls

OBSERVATIONS

- For entities with genuine business considerations, there is a very high degree of compliance whenever an enforcement action is undertaken
- Enforcement action is also effective in curbing online infringement (N.B. compliance is bolstered by the secondary liability provision for copyright infringement)
- Exercise of enforcement functions helps deter IP violations
- Cost effective remedy to discourage trade of counterfeit and pirated products, and help promote use of genuine products

VI. CONCLUSION

With the increasing volume of international trade and the challenges of IPR enforcement in a borderless and complex market, it is believed that IP Offices may have to take a pro-active role in ensuring the enforcement of IPRs. While IP awareness and education should be a continuing program, the economic environment dictates a system where the enforcement of IPRs should not be entirely dependent on the right holders.

IP is a tool to generate trade and competitiveness in a free and fair market. However, businesses and companies in every country consist of at least 90 per cent of small and medium-sized enterprises (SMEs). They are unlikely to pursue aggressive IP enforcement as they may have financial constraints or be more focused on expanding their respective businesses. In order for SMEs to realize the benefits of IP, it is therefore necessary that IP Offices take a pro-active approach towards IPR enforcement.



THANK YOU.