

\* The following case is hypothetical.

**[CASE]**

**- Administrative Enforcement Actions against Infringing and Counterfeit Products -**

1) The right holder, Company A, has its headquarters in your country and has registered the following trademark for clothes as designated goods in your country. Many T-shirts made by Company A have the trademark on the left chest.

**The trademark:**

**AREEEA**

**Company A's goods:**



2) An employee of Company A learned that two types of T-shirts with marks similar to Company A's trademark are sold without the permission of Company A at a certain market in the capital of your country. These are the products of Company B, which is headquartered in your country.

Company B's mark 1:

**AREEEA**

Company B's goods 1:



Company B's mark 2:

**AREEEN**

Company B's goods 2:



- 3) An employee of Company A was surfing the Internet and found that Company B's goods were also being sold on the e-commerce site "E-lulu Shopper!", which is a large online marketplace with more than 100 million products and more than 200 thousand shops, without the permission of Company A.

## **【Questions】**

[Q1: Organization to contact]

What is the most common route for right holders to take action against counterfeiting? In other words, which is the most appropriate organization to contact first to report counterfeit products?

In the case, upon discovering that Company B's goods might infringe Company A's trademark rights, which organizations should Company A go to first for advice?

(1.1): Besides the police or the court, is there any other administrative organization that investigates (including conducting visits, searches and seizures) counterfeit products?

(1.2): What can the above administrative organization do for investigation of counterfeit products? In other words, what kind of authority does the organization have to investigate counterfeit products?

\* **“Investigation” includes conducting visits, searches and seizures. You may use the terms “administrative action”, “raid action” or “crackdown” in your country.**

[Q2: Organizations that support infringement decisions]

Who makes the initial decision on whether a right holder's trademark has been infringed? Does the administrative organization in charge of the decision obtain/rely on the support of external experts or organizations to guide the investigation?

Under the facts of this case, does the organization identified in Q1 (police or other administrative organization) that received the information from Company A make the infringement decision by itself or with the support of other external experts or organizations? If so, which experts or organizations provide support?

[Q3: Documents to be submitted]

When the right holder submits a request for investigation of counterfeit products, what documents and other items (including sample goods) are required to be submitted?

In this case, what kind of documents and other items does Company A need to submit?

[Q4: Procedure from a request for investigation to a remedy or relief]

What is the procedure from a request for the administration to conduct an investigation to the imposition of a remedy or other relief (fine, disposal of counterfeit goods, criminal prosecution, etc.)?

Under the facts of this case, from the standpoint of Company A, what procedures should be followed, and what is the average term required to complete the procedure?

(4.1): Are there any cases where the right holder and the infringer reached a settlement before the administrative remedy or relief?

(4.2): What is the approximate percentage of cases where the right holder and the infringer reached a settlement?

[Q5: Fines and other sanctions]

What kind of sanctions will be imposed on the infringer upon a decision of infringement? If a fine is imposed, how will the amount of the fine be determined (calculation criteria, aggravated punishment for a second or further repeated infringement, etc.)? Also, which organization (police or other administrative organization) will order payment of the fine?

Under the facts of this case, if the administrative organization finds trademark infringement occurred, what kind of sanctions will be imposed on Company B?

[Q6: Burden of expenses]

What expenses must the right holder bear despite obtaining a decision in its favor?

Under the facts of this case, does Company A have to bear, for example, the cost of chartering a truck to transport the counterfeit goods (Company B's goods), the cost of storage (warehouse), and the cost of disposal? Also, how will the amount be calculated?

[Q7: e-Commerce sites]

(7.1) How can counterfeit goods listed on a website be deleted?

(7.2) If the sales of counterfeit goods on a website are not suspended, is it possible for the right holder to obtain damages from the site operator ("E-lulu Shopper!" in this case)?

(7.3) What can the right holder do to hold the seller of counterfeit goods on the Internet civilly or criminally liable? Also, as a precondition for that, how can the right holder obtain information on the identity of the seller, such as the seller's name and address?

(7.4) Are there any official systems to monitor the sales of counterfeit goods on e-commerce sites, for example, by the police or government organizations? In addition, please indicate the legislation, regulations or other rules (organization functions etc.) authorizing those procedures.