



www.kk-advocates.com

For further information
please contact:

office@kk-advocates.com

K&K Advocates - Intellectual
Property, KMO Building, 5th floor,
Suite 502 Jl. Kyai Maja No. 1,
Kebayoran Baru RT03/RW08,
Jakarta Selatan DKI Jakarta 12120

Tel: +62 21 29023331
Fax: +62 21 29023107


IMPLEMENTING RULES OF GOVERNMENT REGULATION ON CUSTOMS RECORDATION AND CUSTOMS AUTHORITY

Indonesia has applied strict rules that hinder import and export of suspected goods that violate of prevailing Indonesian IP law, within the context of providing protection for the legal producers or manufacturers holding IP rights.

The Government Regulation No.20 of 2017 concerning Control on Imported or Exported Goods That Allegedly or Result of Intellectual Property Infringement provides the necessary umbrella to stop any import or export against counterfeit products. This gives the Indonesian Customs the authority to identify and stop any movement of counterfeit and/or infringed products into as well as out of Indonesia.

However, the Customs under applicable bureaucratic systems is not able to effectively implement this authority as it may come into conflict with other existing implementing rules. To overcome this bureaucratic dilemma, the Indonesian Ministry of Finance Regulation No. 40 of 2018 has been issued on 16 April 2018. This regulation sets the implementing rules that provide the Customs to be able to decide with full authority on its decision to conduct customs recordation, border control (penegahan) and customs temporary confiscation on all import and export traffic of goods that are protected by IP Laws. This Ministry of Finance Regulation includes the procedure of requesting the customs to act, conduct physical examination, and to what extent the legal producers must officially be charged.

To be able to apply for customs recordation as mentioned above, the manufactures of such IP-protected products must have established a local entity in Indonesia. This rule clearly provides only the local entity to submit such recordation process and not merely a license holder to submit for customs recordation. Whilst this particular requirement might pose as an obstacle on the implementation of the recordation, there remains the



possibility for the trademark owner to seek practical guideline and way out from Customs office related to this requirement.

The regulation itself is fully enforced after 60 (sixty) days since its issuance. In the meantime, we shall be updating you once the regulation has been made accessible to the public.