

INTELLECTUAL PROPERTY RIGHTS

MRA Customs is the primary agency responsible for safeguarding the Mauritian borders against counterfeiting and piracy. Tackling the problem of counterfeiting and piracy falls within the sphere of 'Protection of Intellectual Property Rights' and is considered as prime importance in safeguarding the country against the devastating effects of counterfeiting and piracy not only on fair trade, economic investments but more specifically on the health and safety of the Mauritian consumers.

ENFORCEMENT

Section 66A-E of the Customs Act provides for the protection of intellectual property rights by MRA Customs. The procedure set forth in this section enables right holders to apply in writing and subject to the approval of the Director-General - MRA, for Customs to suspend clearance and detain on the local market goods suspected of infringing intellectual property rights.

The written request for intervention by Customs is an essential document that allows Customs to suspend the release of imported/exported goods that infringe IPRs. In addition, the request for intervention also provides Mauritian Customs with a sufficiently detailed description of the goods to which the intellectual property right applies, and with the particulars needed to contact the right holder at any time.

WHICH KIND OF INTELLECTUAL PROPERTY RIGHTS ARE CONCERNED

Applications for customs action may be based on:

- Mark, Collective Mark
- Patent
- Industrial design
- Copyright
- Utility Model
- Layout - Design
- Breeder's Right
- Geographical Indication

SCOPE OF ACTION

The holder of such rights may request MRA Customs to suspend clearance of suspected IPR infringing goods at importation/ Exportation and goods found on the local market.

The MRA Customs may also on his own initiative suspend/ detain any IPR infringing goods imported/ Exported or found on the local market for famous counterfeited brands.

EXCLUSION FROM SUSPENSION / DETENTION

- small quantities of goods of a non-commercial nature, intended for personal use, sent in small consignments or contained in the luggage of a passenger, master or crew, excluding spare parts for vehicles;
- goods ordered or shipped before the date of a public notice issued under section 66BA of the Customs Act, provided the goods are imported and cleared within 3 months from the date of the public notice;
- goods which have already been imported and are under customs control prior to the public notice; and
- goods which have already been manufactured in Mauritius for home consumption or export prior to the public notice.

The above concerned goods shall be authentic and genuine and the authenticity and genuineness of the goods shall be justified by the economic operator.

For the purpose of public notice, the date when an application is granted is published on the MRA IPR list of trademarks/ Designs of the MRA Website. The list may be consulted from the following link: <https://www.mra.mu/download/IPRList.pdf>

WHO MAY APPLY

- The holder/owner of the right
- Authorised user
- Nominated Representative of the right-holder

REQUIREMENTS FOR APPLICATION

- Proof of ownership or authorisation
- Certificate of registration of the IPR valid within the territory of Mauritius granted by the Industrial Property Office (Ministry of Foreign Affairs, Regional Integration and International Trade), the organisation responsible for registration of collective mark, mark, patent and industrial design.
- In the case of Copyrights which are non-registered rights, the right-holders have to demonstrate credibly that a claim to that right may be made (e.g. affidavit, proof of acquisition).
- Power of attorney (*procuration/pouvoir*), duly registered in Mauritius under the Registration Duty Act, in case applicant is not the **owner** of the right.
- A minimum bank security amounting to 20,000 Mauritian rupees (500€)
- Any catalogue, pictures or samples of genuine products for identification purposes.

CUSTOMS SUSPENDS THE RELEASE OF GOODS

When MRA Customs identifies goods suspected of infringing intellectual property rights for which an application for customs action has been filed, it suspends the release of the goods and detains them. The right holder is informed of the suspension and invited to inspect the suspect goods.

The term of the suspension/ detention is of 10 working days, and may be extended by another 10 working days maximum if necessary. In the case of refrigerated goods, the term is of 3 working days only.

Within these terms, the right holder must assess whether or not the suspect goods infringe his intellectual property rights, inform in writing the Director-General, MRA Customs confirming the infringement and take the necessary legal action.

Where no written objection is submitted within the prescribed delays, MRA Customs may release the detained goods.

DURATION OF APPLICATION

The validity period of an application for suspension is for a maximum of two years.

APPLICATION FEES

There are **NO** administrative costs to pay for an application.

Can an application be filed without knowledge of the possible existence of counterfeit goods?

An application can be filed also as a preventive measure or where the applicant has reason to believe that his intellectual property right or rights have been or are likely to be infringed.

HOW TO APPLY?

The application for action shall be made on the IPR form downloadable from the MRA website from the following link:
<https://www.mra.mu/download/IPRAApplicationForm.pdf>

Necessary additional sheets can be attached together with the required documents for submission; they will form an integral part of the application.

How does the MRA Customs decide on applications?

MRA Customs will process the application and notify the applicant in writing of its decision for approval or rejection within 7 working days of its receipt. When granting an application for action.

CONTACT

For further inquiry and information, you may contact the:

MRA-Customs Department, Custom House, Mer Rouge;
Phone no: + 230 202 0500, Fax:+ 230 216 4361, e-mail: customs@mra.mu