



TRADE BEAT

MONTHLY NEWSLETTER OF THE INTERNATIONAL
LIAISON UNIT

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This issue will inform readers about .

Jamaica Intellectual Property Office (JIPO)

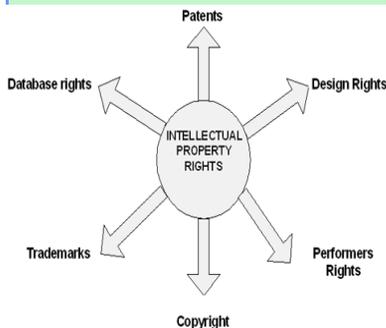
Bureau of Standards Jamaica (BSJ)

Organized Crime Investigative Division (OCID) of the Jamaica Constabulary Force

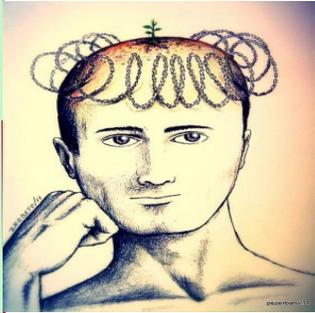
Jamaica Customs Agency (JCA)

WCO Interface Public-Members (IPM)

Guiding Legislation



Intellectual Property Rights (IPR) — Part 2



The protection of IPR is a critical focal point for any country that is serious about safeguarding its products and protecting the intellectual capacity of its citizens. In order to facilitate such an objective, an Intellectual Property (IP) System has to be in place to facilitate IPR protection. Through collaborative efforts between governmental agencies and right holders, supported by the guidance of appropriate legislation, a sound IP System is achievable.

The globalization of trade has resulted in an increase in the production of counterfeited or pirated products, which affects most countries of the world. The proliferation in production of these items may directly relate to the gains from trade, among other stimulants, and has the potential to increase threats to health and safety of countries. Recognizing this, international organizations negotiated treaties such as the WTO Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which sets out the minimum standards for IPR protection and its enforcement, while creating a forum for dispute settlements among WTO Members. Additionally, the WCO Interface Public-Members (IPM) is an interactive mechanism used by right holders and customs officials worldwide, to share information which facilitates the recognition of IPR infringing products, and guidance as to how to proceed.



As with most countries, Jamaica is not exempt from the issues relating to IPR infringements, and has established organizations charged with monitoring and administering the protection of IPR.

As discussed in our previous publication—IPR part I, the Jamaica Intellectual Property Office (JIPO) is the national IP office and covers copyright and industrial property protection. Jamaica has been a member of the World Intellectual Property Organization (WIPO) since 1978, and receives support in the field of IP through technical assistance and policy advice. Together with JIPO, other local institutions such as the Jamaica Customs Agency (JCA), the Bureau of Standards Jamaica (BSJ), and the Organized Crime Investigative Division (OCID) of the Jamaica Constabulary Force (JCF), serve to protect the interests of right holders and ensure the integrity of the IP System. These collaborative efforts, aid in signaling Jamaica as a country vigilant in upholding its commitments to IPR protection.

Governmental Agencies Concerned with Intellectual Property Protection

JAMAICA INTELLECTUAL PROPERTY OFFICE (JIPO)

The Jamaica Intellectual Property Office (JIPO), an agency of the Ministry of Industry, Investment and Commerce (MIIC), is a statutory body which acts as the national Intellectual Property office. JIPO is divided into three (3) IP Directorates which govern copyright and related rights; patents; and trade marks, geographical indications and industrial designs. It is headed by an Advisory Board with an Executive Director who handles the agency's day-to-day activities, and is supported by the Managers of the IP Directorates. Through these activities, right holders such as individual creators and innovators, micro, small and medium-sized enterprises (MSME's), corporations and institutions, are able to benefit and create wealth while enhancing their IP capacities, through guidance by JIPO in acquiring and maintaining their Intellectual Property. JIPO is also responsible for implementing IP strategies, providing legislative and policy advice, and facilitating training for border control officials and IP stakeholders, as part of its mandate in administering the following IP systems in Jamaica:

- **Copyrights and Related Right**
- **Trade Marks**
- **Geographical Indications (GIs)**
- **Industrial Designs**
- **Patents**
- **Layout-Designs (Topographies)**
- **New Plant Varieties**
- **Traditional Knowledge and Cultural Expressions**



BUREAU OF STANDARDS JAMAICA (BSJ)

The Bureau of Standards is an agency of the MIIC, with primary responsibilities for promoting and encouraging standards relating to commodities, processes and practices. In this capacity, the Bureau contributes to IPR protection by ensuring that products of inferior quality are kept outside Jamaica's borders. Established by the 1969 Standards Act, the BSJ is a statutory body and is governed by a fourteen member Standards Council. The work of the BSJ is also service oriented in terms of conformity assessment such as certification, inspection and testing as well as metrology (which is the science of measurement). Its main activities include: facilitating the development of standards and other requirements to which particular commodities, services, practices and processes must comply; monitoring for compliance; conducting tests and calibrating instruments; certifying products and management systems; providing industrial training and promoting research and education in standardization. The Bureau's portfolio includes ensuring compliance with The Standards Act (1968), The Processed Food Act (1959) and the Weights and Measures Act (1976). The mandate of the BSJ is also implemented under The Trade Act (1955), The Customs Act (1941), The Petroleum (Quality Control) Regulations (1990) and The CARICOM Regional Organization for Standards and Quality Act (2005).

ORGANIZED CRIME INVESTIGATION DIVISION OF THE JAMAICA CONSTABULARY FORCE (OCID)

OCID was formed in August 1990, to investigate an increase in financial and transnational criminal activities. The Organized Crime and Defence Unit of which OCID is a part, provides the Ministry of National Security with policy guidance and support in terms of managing decisions, addressing issues relating to regional and international security and their bearing on the national security agenda of the country. Proceeds from criminal activities are often derived from the profits of IPR infringing trade, and as such, the Intellectual Property Rights Unit forms part of OCID, with the charge of prosecuting all persons found profiting from the illicit trade of pirated and counterfeited items.



JAMAICA CUSTOMS AGENCY (JCA)

The Jamaica Customs Agency (JCA) is an executive agency of the Ministry of Finance and Planning (MoFP), and is guided by three (3) specific mandates which are the equitable collection of revenue, the protection of Jamaica's borders against illicit imports and the facilitation of trade. The protection of Intellectual Property falls under the mandate of border protection and as such IPR infringements are a matter of concern in terms of enforcement. In order to target and detect IPR infringing goods, relations with the trade community and Customs have been established and are guided by the use of effective intelligence in order to enhance the enforcement objectives. Customs is charged with developing strategies to identify and prevent the entry or exit of infringing goods, in collaboration with right holders, so as to effect appropriate solutions. Through the use of documentation and electronic systems, determinations are made to target potentially infringing goods to identify cargo possessing the most risk. The WCO offers guidelines for targeting and detecting IPR infringing goods, as well as access to its IPM mechanism that enables Customs officers to identify and educate themselves on protected products. This assists in the targeting of infringing products, which enhances the capacity of Customs and contributes to enforcement efforts and the overall mandate.



WCO INTERFACE PUBLIC-MEMBERS (IPM)

The WCO is an intergovernmental organization representing the interests of one hundred and seventy nine (179) customs administrations globally. IPM is the principal communication tool used to combat counterfeiting and piracy, and is at the core of the WCO's IPR strategy. This online tool was introduced in 2010 to serve as an interface between frontline Customs officers and the private sector, and now provides for the inclusion of legal stakeholders with an interest in IPR protection.

IPM is also a mobile application that enables right holders to provide Customs officers with real-time data on their products, and is the only global anti-counterfeiting tool which facilitates the identification of counterfeiting items. Customs officers can access this information anywhere in the world via a simple and secure interface available in their national language, and it serves as a permanent training tool through its e-learning facility which can be accessed at anytime to identify products, brands and the distinguishing features between counterfeit and genuine products.

IPM offers access to multiple databases provided by trusted sources of product information for identification purposes. The latest version of IPM allows product barcodes to be scanned by mobile devices, which enables automatic connection to any authentication service linked to the protected product. A global network of track & trace and authentication solution that interfaces with IPM has been established through '*IPM Connected*' which is a WCO IPM product. The product allows Customs officers to scan the barcode of products, and if it is secured by a track & trace or an authentication solution, IPM automatically launches the application, allowing the officer to instantly verify the authenticity of the product. IPM has proven to be a dynamic and essential tool that aids in the fight against piracy and counterfeiting, and remains relevant to serving and protecting the needs of right holders, while providing customs officials with an effective tool.

TYPICAL RISK INDICATORS FOR BORDER CONTROL

- Merchandise in non-standard sized or shaped packaging.
- Merchandise with inferior packaging, such as blurred or distorted print and merchandise with photocopied instruction manual.
- Merchandise missing lot numbers, factory codes, expiration dates, dates of manufacture, or other standard markings.
- Merchandise missing a copyright or trademark notice, especially on well-known copyrighted work or on goods bearing a well-known trademark.
- Merchandise imported at a port not usually used by the importer of the genuine merchandise.
- Merchandise imported by, or consigned to, someone not on a list of authorized licensees provided by the right holder.
- Merchandise that is substantially undervalued and/or underinsured for goods of that type.



LEGAL AUTHORITIES FOR IPR INFRINGEMENTS

Goods Prohibited to be imported

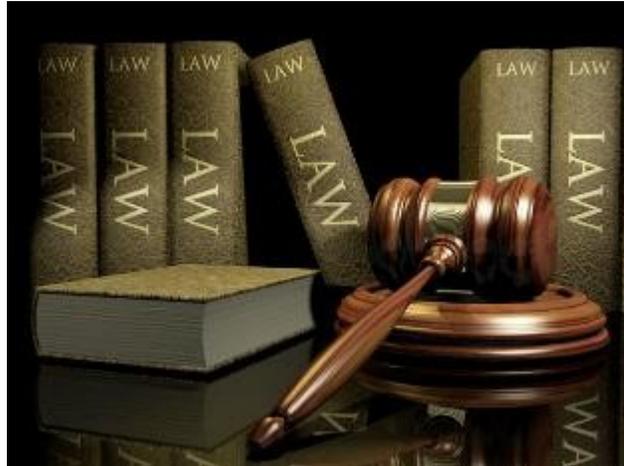
- Customs Act: Section 40 (ii)
- Merchandise Marks Act: Section 3 and Section 11

Disposal of Goods

- Customs Act: Section 216

Notice for Registered Trademarks or Copyrighted Materials

- Trademarks Act: Section 66 & 67
- Copyright Act Section 50
- Copyright Act Regulations: Section 3



Goods in Transit

- Customs Act: Section 43

Ex-officio Powers

- Customs Act Section 40 (ii)
- Copyright Act: Section 50

Penalty for Evading Customs Laws Regarding Imported or Exported Goods

- Customs Act: Section 210

General Provision as to Forfeiture

- Customs Act: Section 214



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