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March 7, 2017

The Honorable Nicanor E. Faeldon
Commissioner
Bureau of Customs
South Harbor, Gate 3
Port Area
Manila

Dear Commissioner Faeldon,

Re: Customs Recordal and Seizures

The International Trademark Association (INTA) is a global association of trademark owners and professionals dedicated to supporting trademarks and related intellectual property rights (IPRs) in order to protect consumers and to promote fair and effective commerce. Our membership includes more than 7000 trademark owners, professionals and academics from more than 190 countries, including 43 members in the Philippines. Our members across these countries benefit from INTA's global trademark research, policy development, education and training, and international network. Founded in 1878, INTA is headquartered in New York City, with offices in Brussels, China, Singapore and Washington, D.C., and representatives in Geneva and Mumbai.

A recent report from Frontier Economics¹, commissioned by INTA and the International Chamber of Commerce Business Action to Stop Counterfeiting and Piracy (ICC BASCAP), indicates that the global economic value of counterfeiting and piracy could reach US \$2.3 trillion by 2022. The report also estimates that counterfeiting and piracy will displace economic activity in investment, public fiscal losses and criminal enforcement, of nearly USD 1.9 trillion by 2022. This equates to a loss of nearly 5.4 million jobs globally.

Additionally, The Economist Intelligence Unit recently released the Illicit Trade Environment Index, research on the state of illicit trade in the Asia-Pacific region. The Philippines scored 50.4 on the index, ranking 12th out of 17 jurisdictions.² Factors taken into consideration for this index include customs environment and intellectual property protection.

Within the context of the growing threat from counterfeit goods to public health, fair competition and public health, INTA applauds the Philippines government's efforts to improve the legal framework for its customs regulation regarding products that infringe intellectual property rights.

¹ The Economic Impacts of Counterfeiting and Piracy (2017).

<http://www.inta.org/Communications/Pages/Impact-Studies.aspx>

² The Illicit Trade Environment Index (2016). <http://illicittradeindex.eiu.com/>

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The Philippines has been recognized over the past several years for major initiatives to improve IPR enforcement in the country. To continue leading the fight against criminal activity associated with the sale of counterfeit goods, we strongly encourage continued diligence and renewed focus on the most effective means for IPR enforcement. We would like to raise several issues for your consideration in relation to the operation of the Customs regime in the Philippines.

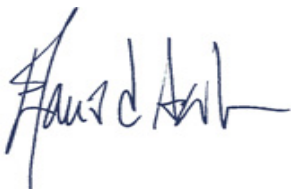
A trademark recordal system with Customs is essential to the operation of an IP border protection system. IP holders who record their trademarks under such a system are usually undertaking this because they have a problem with imported counterfeits. Through the recordal system, they commit to supporting seizures at port borders and providing all the information required. One challenge is that where there are no seizures, IP holders may not renew their recordal, if they do not perceive that the effort and cost expended on recordal does not lead to seizures. It is therefore a critical step that customs seizures for IP violation are for companies that do record their brands with Customs.

A second issue is that Customs should make the seizures at the border. It is a TRIPS requirement that goods that violate IUP do not enter free circulation. There has been a longstanding practice to let goods enter the market and then on some occasions Philippines Customs will seize them. There is a great deal of confusion around such inland seizures and so IP holders do not regard them as of the same value as a border seizure at a port. Our members report that Philippines Customs formerly made border seizures, but this practice has given way to more inland seizures. INTA urges border seizures to resume at ports before the goods enter the market.

INTA is a great supporter of the fine work done to improve the IP system in the Philippines and hopes to see an increase in border seizures for brands recorded with Custom in the coming months and years.

Additionally, we welcome the opportunity to engage customs agents on the details of our concerns and recommendation in the future.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Etienne Sanz de Acedo', written in a cursive style.

Etienne Sanz de Acedo
Chief Executive Officer
International Trademark Association

CC

1. Zsae Carrie C. De Guzman, Intellectual Property Unit (IIPD/IPU) - CIIS
2. Allan B. Gepty, Deputy Director General, Intellectual Property Office of the Philippines