

G-n Vanco Kargov  
Carinska uprava na R. Makedonija  
Oddelenie za netarifni merki  
Sektor za carinski sistem  
Ul.Lazar Licenoski No.13  
1000 Skopje, MK

G-n Mite Kostov  
Drzaven Zavod za industriska sopstvenost  
Kordinativno telo za intelektualna sopstvenost  
Ul."11 Oktomvri" br. 25  
1000 Skopje, MK

**Date: July 10, 2012**

**Re: Comments regarding Article 6 on Customs Application Requirements and Article 19 on Liability of Rights Holder to Customs of the Law on Customs Measures for Protection of Intellectual Property Rights**

Dear Mr. Kargov and Mr. Kostov:

On behalf of the International Trademark Association (INTA), I would like to express our concern regarding the October 2011 amendments to the Macedonian Law on Customs Measures for Protection of Intellectual Property Rights (Law on Amendments and Additions to the Law on Customs Measures for Protection of Intellectual Property Rights). The new provisions in Article 6 and Article 19 have presented practical challenges for trademark owners in addressing counterfeiting in Macedonia.

INTA is a not-for-profit association of more than 5,900 trademark owners and professional firms from more than 190 countries, with 1,556 member organizations in Europe and five members in Macedonia. INTA members share common interests in the protection of trademarks and the development of trademark law, and they rely on INTA to represent and advocate for those interest with national governments and international organizations. INTA's diverse membership includes multinational corporations and other business enterprises of all sizes, intellectual property and general practice law firms, trademark agent firms, service firms, trademark consultants, and academic institutions.

We applaud the enforcement efforts of the Macedonian Customs, which has led to successful work in seizing counterfeit goods. Customs' efforts have been valuable to our members - not only in Macedonia, but also in all of Eastern Europe and in the European Union since many counterfeits are bound for other countries in the region.

The recent amendments to the customs law have improved the legislation in some ways; however, the language in Article 6 of the Law on Amendments and Additions to the Law on Customs Measures for Protection of Intellectual Property Rights has complicated the customs application process. Specifically, the practical application of Article 6(4) list of other data that brand owners may forward – such as the country of production, intended location of the goods, the identity of the importer, exporter and holder of the goods – has gone from an optional listing of information to a requirement to successfully register a customs application with Macedonian officials. This information is frequently not available to trademark owners, who, even when they have such information, may not want to reveal this information if they consider it to be a

trade secret. This challenging prerequisite has led to a decrease in customs applications, providing less coverage in Customs' battle against counterfeiters. We ask Customs to take these concerns under consideration when examining customs applications that cannot be fully completed to meet these new standards.

Our members doing business in Macedonia also have been struggling with Article 19 – specifically the provision in paragraph 3 giving Customs officers the right to cancel customs applications of those intellectual property rights holders who refuse to take action in Customs seizures of counterfeit goods. Suspending customs applications for one year when the trademark owner fails to act within the Article 13 required ten days of Customs' notification about counterfeit seizures will hamper the common anticounterfeiting battle of Customs and trademark owners. Trademark owners who take the initiative to protect their trademarks by complying with demanding requirements of Article 6(4) are clearly dedicated to working with Customs as best they can. However, fighting counterfeiting can be costly for trademark owners who cannot afford to prosecute every counterfeiter or proceed with the destruction of every counterfeit item. Trademark owners will choose to proceed based on types and quantity of goods as well as the legal fees involved. We urge you to be mindful of these resource concerns when determining whether to cancel applications under Article 19.

Counterfeiting is an international problem that affects all types of goods from luxury goods to consumer goods, medicines and electronics – all of which impact worldwide economies, pose health and safety risks to the public, and threaten international security. It is also a national problem since counterfeits infiltrate the market and supply chains. Recent reports estimate that the trade in counterfeit (and pirated) goods is as much as 650 billion in US dollars (31,759 billion Macedonian denar). INTA recognizes that customs officials are the gatekeepers of their countries' streams of commerce and are the best line of defense in keeping the dangers of counterfeits from the public.

For these reasons, INTA strongly believes that trademark owners should not be punished, if for sound business reasons or as a result of an inability to meet the ten-day deadline, they are unable to take action against a counterfeiter or to fully provide data in customs applications. Should there be an opportunity for us to further discuss these hardships, we would welcome it. Please do not hesitate to contact our member Milan Milojevic ([milan.milojevic@msa-iplaw.com](mailto:milan.milojevic@msa-iplaw.com); +381 11 414 09 99) or Candice Li, External Relations Manager for Anticounterfeiting ([cli@inta.org](mailto:cli@inta.org); +1(212)642-1739) if we can be of assistance.

Sincerely,



Gregg Marrazzo, President