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Chinese customs IP statistics 2014

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The Chinese Customs recently published their 2014 IP enforcement statistics. These are very interesting, revealing that the Chinese Customs is very active in IP protection. However, the Chinese Customs is quite often neglected by non-Chinese entities when designing their IP strategies, particularly in small and medium enterprises. The purpose of this article is to introduce the above statistics to raise awareness of using Chinese Customs more effectively in protecting one's IP rights in China.

Involvement of Customs in IP protection is not a new concept. Customs in many countries prevent infringing goods from entrance. One notable example in Europe is Germany.

Interestingly, the main responsibility of the Chinese Customs is not to prevent infringing goods from entering China, but to prevent infringing goods from being exported out of China. This will be apparent from the statistics below.

Detainment of goods mainly started by the Chinese Customs

Among the 24,000 detained shipments involving 92 million items, 23,000 of these involving more than 90 million items were detained based on own initiative of the Chinese Customs, respectively being 99.9 % and 98 % of the detained shipments and goods in 2014.

Mainly trademarks

Among the 92 million items detained, more than 89 million items or 96.9 % were involved in trademark infringement.

Mainly export

Among the detained 24,000 shipments, over 23,000 shipments or 96.5 % were exports from China, involving 91 million items or 99.6 % of the detained goods in 2014. Annual increase in comparison to 2013, for number of shipments is 16.33 %, while for number of items is 21.24 %.

Mainly by mail

Nearly 20,000 shipments of suspected infringement were detained at mailing, accounting for 80.2 % of the annual detained shipments, increased by 33 % by year.

Mainly by sea

Nearly 89 million items of suspected of infringement were detained at sea freight, accounting for 96.3 % of the detained goods.

Mainly tobacco products

Tobacco products ranked top, followed by light industrial products, cosmetics and personal care products, clothes, hardware mechanical products, and shoes.

Comparing to 2013, the numbers of detained goods of tobacco, cosmetics and personal care products, storage medium, jewelries and medical equipment increased substantially. On the other hand, the numbers of detained goods of hardware mechanical products, foods and beverage, suitcases, bags, and leatherware, communication devices, toys, hats, and medicines (not shown in the table above as number is insignificant) declined significantly.

The report did not explain what products



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constituted the category “Others”,
unfortunately.

Types of goods seized are shown in the table
below:

Goods Type	Goods Number	Percentage
Tobacco	40,493,850	44.03 %
Others	22,648,898	24.63 %
Other light industrial products	10,019,557	10.89 %
Cosmetics and personal care products	7,632,429	8.30 %
Clothes	2,939,996	3.20 %
Hardware mechanical products	2,383,334	2.59 %
Other electromechanical products	1,361,271	1.48 %
Shoes	1,226,648	1.33 %
Vehicles, motorcycles	636,862	0.69 %
Food & Beverages	485,305	0.53 %
Suitcases, bags, and leatherware	375,282	0.41 %
Communication devices	371,278	0.40 %
Storage medium	367,375	0.40 %
Drugs	307,500	0.33 %
Toys	254,236	0.28 %
Hats	178,532	0.19 %
Watches	154,987	0.17 %
Sports apparatus	103,752	0.11 %
Jewelries	21,539	0.02 %
Medical equipment	2,917	0.00 %

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Various jurisdictions

The following table shows the top five jurisdictions based on number of batches, number of goods, and value:

Jurisdiction	No. of batches
Brazil	3,653
Spain	2,881
Russia	2,168
UK	1,643
USA	1,533

Jurisdiction	No. of goods
Iran	10,038,133
Saudi Arabia	9,636,395
Singapore	9,584,677
UAE	7,535,785
Egypt	7,009,680

Jurisdiction	Value (RMB)
Hong Kong	27,722,705
USA	14,725,435
Iraq	13,238,796
Iran	13,114,642
UAE	12,386,507

Many detained infringing goods that were to be exported to Middle East bear significant values.

Observations

As can be seen from the above figures, the Chinese Customs deserves compliments for effectively preventing such large amount (no matter the amount is in terms of batches, number of goods, or value) of infringing goods from being exported from China. Take the UK as an example, 1,643 batches of infringing goods were stopped even before they could get onto the transport to reach the UK's shore.

Having said so, although a lot of results have been achieved on the trademark side, it is apparent that the Chinese Customs is not very useful in stopping patent infringement. This is understandable, as it is difficult to imagine that a Customs official could readily determine probability of patent infringement on the spot. Trademark infringement is comparatively more easily to deal with from an operational point of view.

On the other hand, it should be noted that patents in China also include design patents, for which infringement determination is mainly based on visual comparison, much like trademark. Therefore, Chinese IP owners are encouraged to engage the Chinese Customs with more design patent. However, as comparatively very few Chinese design patents are granted to foreigners, this would not be easy until foreigners catch up with their Chinese design patent filing programs.

Interestingly, the value of infringing goods to Hong Kong ranked top, despite that Hong Kong has a small territory. These goods may not be consumed in Hong Kong, but using Hong Kong as an intermediate port (the value of infringing goods to Hong Kong is almost double of that to the US. Hong Kong people are not that wealthy). Therefore, it may still be worthwhile to obtain IP protection in Hong Kong to stop infringing export from Hong Kong. The Hong Kong Customs is very active in anti-counterfeiting.

One trend the Customs report 2014 recognized is the increase in use of post-delivery in sending infringing goods due to electronic commerce. Local customs have tightened up on this. For example, Nanjing Customs seized 7860 shipments of exported infringing goods in total in 2014, which were sent through post-delivery.

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