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## **AMIR 2.0 Achievement of Market-Friendly Initiatives and Results Program**

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### **Workshop on Border Enforcement of Intellectual Property**

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# **Workshop on Border Enforcement of Intellectual Property**

Final Report

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**Abstract**

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The Jordan Customs Department has important responsibilities to enforce intellectual property rights on goods entering and leaving the Kingdom. This requires the proper training of staff to be able to administer the law correctly. No detailed training program has existed in this area. The consultant was commissioned to develop training materials and to work with Customs to establish a training program that would meet the Department's needs.

This program was designed based on the new training materials format that was introduced as part of the structured, competency-based human resources management program currently being developed. The training on intellectual property rights was used as a test case to see whether the format for training materials would work.

The materials were discussed and appraised at a workshop in Amman in November 2004. As a result, a complete package of training materials was agreed upon and the new format for materials was approved. The workshop also provided an important opportunity for Customs staff to work with the National Library to further cooperation in enforcement of copyright protection.

**Abbreviations and Acronyms**

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AMIR	Achievement of Market-Friendly Initiatives and Results Program
CRM	Customs Reform and Modernization
HR	Human resources
IPR	Intellectual property rights
JCD	Jordan Customs Department

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**Executive Summary**

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Jordan Customs has important responsibilities to enforce intellectual property rights on goods entering and leaving the Kingdom. These powers are contained in Article 41 of the Customs Law. Customs recognizes that it has a role to play, and has introduced some capacity to deal with intellectual property right (IPR) matters. This capacity is limited, however. One shortcoming has been the lack of an effective training program in IPR enforcement. Consequently, the consultant was asked to develop suitable training materials to fill this gap and to conduct a train-the-trainer workshop in Amman to develop the capability of Customs staff to deliver the training.

As part of the new approach to staff management and development based on competencies, a new format was developed for training materials. This format is intended to introduce uniformity into the materials, and to establish a curriculum based on objective materials rather than the personalized work of individual trainers. The IPR training program provided an opportunity to “road test” this format.

By completion of the workshop, a full training package had been developed, and will shortly be available for Training Center staff to use. The package consists of five parts:

1. A comprehensive manual for the instructors, which sets out detailed lesson plans for the instructors to follow in course delivery as well as a series of case studies to use to illustrate issues and procedures.
2. A participant’s manual, which provides a mini text-book for the staff that are being trained in IPR enforcement.
3. A comprehensive set of reading materials providing the necessary legal instruments for staff to know.
4. An examination for the trainer to give staff upon completion of the training.
5. An evaluation questionnaire and methodology to assess the effectiveness of the training as applied in the workshop.

The workshop also recognized that the ability actually to detect pirated and counterfeit goods needed to be developed as part of the on-the-job development of staff.

In addition to completing the training package, the workshop also provided an opportunity for Customs staff to work with staff from the National Library, Police and National Intelligence to discuss ways of improving border enforcement of IPR rights.

As a result of those discussions, the workshop participants requested that the following recommendations be conveyed to the Customs Department:



**Recommendations**

- That cooperation between agencies engaged in border protection – particularly Customs and National Library - be enhanced by regular monthly meetings.
- That there be a better flow of information and intelligence between the agencies to assist Customs with risk management.
- That Customs advise responsible agencies (National Library, Ministry of Industry and Trade) of detentions of goods as well as any instances in which they may be about to release the goods.
- That Customs make a formal statement of the priority that it gives to IPR protection.
- That staff and material resources for IPR be increased from the three staff currently deployed at headquarters.
- That there be a regular program of staff training conducted by the Jordan Customs, with the first course to be held before February 2005.
- That there be closer cooperation by Customs with industry, particularly to encourage IPR holders to assert their rights through the court process.
- That there be closer cooperation by Customs with the judiciary to ensure that judges appreciate the importance of IPR protection and impose effective penalties under the law on persons who breach IPR.
- That there be continuing program of workshops and seminars sponsored whole or in part by Customs to raise greater awareness of the extent of IPR breaches and the importance of dealing with this threat to the national economic interest.
- That Article 41 of the Customs Law be reviewed to ensure that it is an effective provision in the fights against IPR breaches, and particularly to ensure that Customs has the power to detain goods even if the IPR rights holder has not so requested.

## **1. Background**

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The Jordan Customs Department (JCD) has in recent years taken on new responsibilities in relation to the border enforcement of intellectual property rights. To some extent, Customs is still coming to terms with this responsibility, which provides an additional workload and demands a high level of staff competence.

To assist with the development of Customs' capability, the consultant was asked to develop a training package for Customs to use to develop staff skills in this area. The training package was to be developed in accordance with a new format introduced to the Training Center in Customs as part of the move to a more structured form of competency-based human resource (HR) management and development strategy.

In October and the early part of November 2004, the consultant developed a draft training package in consultation with the AMIR Program HR consultants (Ruth Perrett and Ruba Afana) and the Customs Reform and Modernization (CRM) Manager (Walt Hekala). The draft package consisted of:

- An instructor's manual containing lesson plans for the instructors to use;
- A participant's manual for those staff undergoing the training;
- A package of required reading materials, including relevant international conventions and the domestic legislation;
- An examination to test students' understanding of the course; and
- An evaluation process to test the effectiveness of the training in the workshop.

This package of materials was used as the basis for the train-the-trainer workshop, which was established to do the following:

- Finalize the materials to create an agreed training resource, particularly by developing case studies that reflected the reality of IPR breaches in Jordan.
- Develop the understanding of Customs trainers so that they would be able to deliver the course.
- Verify that the new format for training materials met the needs of the Training Center.
- Look at ways of increasing the effectiveness of Customs operations in relation to IPR protection.

## **2. Workshop Conduct**

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The workshop was conducted at the AMIR Program premises November 22-24, 2004. Mark Harrison (the consultant) facilitated the workshop which was attended by the following six officers from Jordan Customs, all of whom contributed significantly to the outcomes:

- Dr Sakher Al-Juneidi, Deputy Director, Customs Training Center
- Ms. Wafa Hattar, Training Center
- Mr. Fawzi Al-Shatnawi, Head, Procedures Section, Tariff Directorate
- Mr. Mohammad Hamdi, Cases Directorate
- Mr. Badee' Shamoot, Amman Airport Clearance Section
- Mr. Mohammad Al-Manasrah, Jaber Border Station

These officers provided an excellent mix of training knowledge, legal and procedural knowledge, and operational knowledge. In addition, Mr. Jamal Olaimat and Ms. Ruba Afana from the AMIR program attended the workshop and contributed greatly to its facilitation. Mr. Rami Kyami provided his usual excellent organizational skills to make sure that the workshop proceeded smoothly.

For the first two days, the group met to review the various sets of materials and to develop case studies relating to trademarks in particular. As a result of these discussions, the materials were endorsed with some improvements, and the cases studies were added to the materials. The group endorsed the materials as being appropriate to the needs of Customs, but with the provision that there might be changes needed depending on the evaluations arising from the actual delivery of the course.

On the third day, the workshop expanded to include officers from the National Library, Police and National Intelligence. An intensive discussion was held over ways in which cooperation between Customs and other agencies could be improved, and about what was needed to increase the effectiveness of customs officers in implementing border controls on IPR goods. The discussion was led by Gen. Ahmed Fouly, Senior Consultant for the International Federation of Phonograph Industry (IFPI) and Mamoun Talhouni, Director General of the National Library. The expertise, knowledge, and passion of both men were outstanding, and generated a most interesting debate. The recommendations arising from that discussion have been listed in the Executive Summary of this report.

In addition to those recommendations, the workshop also identified the key procedural steps necessary for the effective cooperation between the National Library and Customs when dealing with specific instances of copyright breaches. These procedures were endorsed by the workshop and will be included in the final package of training materials.

On the afternoon of the third day, the original group of six reconvened to discuss the next steps, to endorse the workshop outcomes, and to receive certificates verifying their completion of the workshop.

**3. Workshop Outcomes**

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The outcomes of the workshop were:

- An agreed comprehensive package of training materials to be used by the Customs Training Center for the delivery of IPR training.
- Six officers of Customs with sufficient knowledge and understanding of the materials to be able to deliver the training themselves or to train others to deliver it.
- An improved level of cooperation between the National Library and Customs in particular in relation to the enforcement of copyright.
- Recommendations as to how to improve Customs' effectiveness in dealing with IPR issues.
- A format for training materials that has been tested and found to be effective.

#### **4. Next Steps**

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The workshop recognized that the Training Center would need to continue to work with the AMIR Program to produce and deliver the completed training package. To this end, the following next steps were agreed:

1. The new materials (case studies and procedures) will be added to the draft materials.
2. A full set of the required reading materials will be compiled in Arabic for inclusion in the overall package.
3. The exam will be finalized (in consultation with Procedures Section) and included in the package of materials.
4. The evaluation questionnaire will be included in the materials (after discussion with the HR consultant (Ruth Perrett)).
5. The final set of materials will be published as a complete training package.
6. The Training Center will try to deliver at least one IPR training course before the regional seminar on IPR convenes in Amman in February.

**Annexes**

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The workshop participants completed a set of training materials that include both a Participant Manual and an Instructor Manual. Both the English and Arabic versions have been completed and are retained in master copies by the Jordan Customs Training Center.

**The Hashemite Kingdom of Jordan**

**Ministry of Finance/Customs Department**

**Customs Training Center**

**BORDER ENFORCEMENT OF INTELLECTUAL  
PROPERTY RIGHTS**

**PARTICIPANT'S MANUAL**

This Manual has been prepared by Mark Harrison, Adjunct Professor, Centre for Customs and Excise Studies, University of Canberra, in collaboration with the Customs Training Center and the AMIR Program.

November 2004

# **BORDER ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS**

## **COURSE OBJECTIVES**

The objective of this course is to equip Jordanian Customs officers with the knowledge and skill to be able to enforce Jordan's laws on intellectual property as they apply to imported and exported goods. By the end of the course, participants will be able:

- To identify the various types of intellectual property
- To know the sources of international law rules relating to the protection of IPR in traded goods
- To identify relevant Jordanian legislation on IPR
- To understand the powers that Jordan Customs has to enforce IPR
- To understand the procedures that Jordan Customs uses to enforce IPR at the border.

## **KNOWLEDGE SKILL AND COMPETENCIES**

This course is designed for Customs staff who will be responsible for enforcing IPR at the border. Participants should therefore have undergone basic customs training and already have skills in relation to cargo clearance and inspection, investigation, and/or intelligence. These competencies should include, but not necessarily be limited to:

- Knowledge and understanding of rules and procedures governing selection of cargo for examination
- Container search
- Detention of goods
- Investigation report writing
- Legislation interpretation and application.

## **EVALUATION OF COURSE OBJECTIVES**

The training course will be evaluated through 3 stages as follows:

1. Before: The Training Center will evaluate the training needs of the trainee and decide his need for the course.
2. During: The Training Center will evaluate the course by giving a quiz, or by an evaluating visit. The person who will evaluate the course will be nominated depending on the course topic.
3. After: The evaluation will be conducted in 2 phases. First, at the end of the course, the Training Center will give the participants a questionnaire about the course. Participants will also undertake a written exam, and their results will be forwarded to



the Training Center. Second, an on-the-job evaluation will be conducted after the training course within 6-12 months. This evaluation will be done using one or more of the following methods:

- By evaluating the employee on his job;
- by conducting a meeting with the trainee's direct supervisor;
- by holding a meeting between the trainer, the direct supervisor and a representative from the Training Center;
- by preparing a questionnaire to be completed by the direct supervisor of the trainee.

### **COURSE OUTLINE (LESSON-BY-LESSON)**

The course consists of five lessons which will introduce the participant to the basic concepts of intellectual property and then work through the international and domestic law rules which officers are expected to know and enforce.

The five lessons are as follows:

- A general introduction to the course itself
- An introduction to intellectual property rights
- An understanding of the legal principles established by the World Trade Organisation, the World Intellectual Property Organisation and the bilateral Free Trade Agreement with the USA for the protection of IPR
- An understanding of how those legal principles have been included in Jordanian law
- An examination of the major IPR issues facing Jordan and of the powers and procedures under which Jordan Customs protects IPR.

The course is intended to take 15 hours:

- 5 hours introduces participants to the international law rules which govern intellectual property rights
- 5 hours introduces participants to the Jordanian legislation on IPR and to the role of the Customs Law in enforcing IPR
- 5 hours provides time for revision and assessment.

### **PARTICIPATION**

This will be an interactive course. Students learn more by asking questions and engaging in discussion and debate rather than by passive listening. Please make every effort to join in class discussion.

### **TERMS**

There will be a number of new and difficult terms discussed during the course. If some terms remain unclear make sure you consult a good dictionary of trade terms and always ask your instructor for further clarification.

### **EXERCISE**

There will be a number of case studies for you to look at and discuss during the course. Your instructors will be looking for you to give considered answers to the problems discussed, and you may find yourselves as part of a syndicate group. Please contribute to your group's discussion and search for answers.

### **ASSESSMENT**

You will be assessed on the basis of a test that you will be asked to complete on the last day of the course. You will be given time to revise the course materials the morning before the test. The questions have been designed to assess the extent to which you have understood the theory of IPR, the international norms and the Jordanian legislation. The test is not difficult, provided you have concentrated during the course.

You will also be assessed in light of your contribution during the course, particularly in syndicate discussions.

# **LESSON 1: INTRODUCTION TO THE COURSE**

## **LESSON OBJECTIVE**

At the end of this lesson you will be able to identify:

- The overall objectives of the training program
- How much you already know about intellectual property rights
- The effort and commitment which you will be expected to make as course participants
- The means by which you will be assessed
- The materials which you will be expected to learn
- How you will apply this learning when you return to the workplace.

## **EVALUATION OF OBJECTIVE**

You will have an opportunity to evaluate this lesson as part of the formal evaluation process at the end of the course.

## **LESSON ONE OUTLINE**

### **Welcome**

Welcome to this training course on intellectual property. Our first lesson will be a very introductory one, to give you all a chance to acclimatize to the work that we will be doing over the duration of the course.

### **About your Instructor**

Your Instructor will first provide you with some details about himself/herself, their background in Customs, and their familiarity with the subject matter for this course.

### **Course Structure**

The course is structured as follows:

- In the first lesson we will start with an introduction to what intellectual property is, and what intellectual property rights are. That will be lesson two.
- Then we will provide you with an overview of the international law rules which govern IPR. These rules are written in various international agreements, particularly the Agreement on Trade Related Aspects of Intellectual Property (or TRIPS).
- From this, we will provide an explanation of the legal obligations that Jordan has undertaken, both under TRIPS and under the bilateral Free Trade Agreement with the United States. That will be lesson three.
- Lesson 4 will provide an overview of the many Laws that Jordan has implemented to protect IPR. We shall also look at the provisions of the Customs Law as they relate to

- IPR goods.
- Finally, in lesson five, we will undertake an examination of the major IPR risks that Jordan faces and look at the way in which Jordan Customs uses its powers to enforce IPR at the border.
- We will conclude that lesson by looking at the role that you may be expected to play in IPR enforcement when you are back in the workplace

### **Assessment**

Upon completion of the course, we will ask you to undertake an examination to test your understanding of the materials that you have been given. This examination will be held on the third day of the course. You will also be given some time to review the materials that you have received and to ask questions to clarify any issues that require clarification. The exam will consist of short answer questions, designed to test your understanding of the concepts and of how to apply the law in certain circumstances.

### **Course Materials**

The instructor will then take you through the course materials. These are contained in the workbook that you have and include these lesson notes, the relevant international agreements, Jordanian national legislation and the supplementary reading materials. We will also be asking you to work through some case studies as part of the course. They are included in the Lesson notes.

### **About You**

The instructor will then ask you to tell the class a little about yourself. Please be ready to provide:

- Your name and current position in Customs (or other government agency if relevant)
- The extent to which you are already familiar with IPR issues
- The role that you will be playing in IPR enforcement on your return to the workplace
- The expectations you have about the course – including any aspects about which you are uncertain or anxious.

These expectations will be recorded so that the evaluation process can identify the extent to which these expectations have been met.

### **Class Participation**

It is very important that you participate actively in class. You will learn more if you ask questions, comment on statements by the Instructor, and contribute to group discussion of case studies. Your instructor will emphasise the importance of participation in class, because that will not only help you, but help others in the class as well.

### **Administrative matters**

The instructor will also go over administrative matters such as course timing, refreshment breaks, absence from class and the need for mobile phones to be switched off. Please note carefully the

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hours that the class will be in session. You are expected to be there. If you are uncertain about any of these arrangements, please ask for clarification.

### **PERFORMANCE CHECK**

There is no assessment for this lesson, although instructors will be monitoring your contribution to class discussion.

**END OF LESSON ONE**

## **LESSON 2: INTRODUCTION TO INTELLECTUAL PROPERTY RIGHTS**

### **LESSON OBJECTIVE**

At the end of this lesson you will be able to identify:

- The different types of intellectual property
- The rights which property holders enjoy
- The general ways in which those rights are protected
- The powers that Customs services are entitled to exercise in relation to IPR
- Other powers exercised by other agencies – the need for interagency cooperation

### **EVALUATION OF OBJECTIVES**

You will have an opportunity to evaluate this lesson as part of the formal evaluation process at the end of the course.

### **LESSON TWO OUTLINE**

#### **Structure**

This lesson will give you a general introduction to intellectual property rights. We shall:

- Introduce the problem as one on a global scale
- Define what we mean by intellectual property rights and give examples
- Establish the basic rights of those who own intellectual property
- Establish the ways in which those rights are enforced
- Identify the expectations that companies have of customs agencies to enforce IPR
- Look at a case study involving the Honda Motor Corporation and the way that its intellectual property is being misused.

#### **Materials**

You will need to refer to these materials in this lesson:

- These notes
- The PowerPoint materials which are also included in your materials and which look at the issues faced by Honda.

#### **Introduction**

In the amazing city of Shanghai, there is a market called the Fake Market. It is a major tourist attraction. Here you can buy Rolex and Cartier watches, Louis Vuitton bags, North Face backpacks, Dior perfumes, Bally shoes. The prices are low – and negotiable downwards. How can these items so expensive in the West be sold so cheaply in China? The answer is usually

because they are not the genuine article – they are fakes, pirated from the trade marks and copyright of companies which have not given permission for their brand name to be used in this way.

The companies themselves are demanding that something be done by the Chinese Government to stop this trade in pirated goods. What obligations are there on the Chinese Government to stop this trade, and how do they go about doing it? What happens if people import these fake goods from China in commercial quantities and try to sell them in their own market? These are the issues that we shall study in this course.

Our focus will be on the rules that apply in Jordan, and how Customs goes about enforcing them. But before we look at Jordan's own circumstances, it is important that we understand how Intellectual Property Rights are protected around the world. Jordan is one part of this global network of governments that are trying to enforce intellectual property rights, so it is important that we look in context at what Jordan is doing.

Later in this lesson we shall look at a PowerPoint presentation that highlights just how significant intellectual property breaches can be. We shall look at the way in which China is breaching the intellectual property of the Honda Corporation when it manufactures motor bikes, and how significant those breaches can be.

### **What are intellectual property rights?**

#### **Purpose**

In this section, we define intellectual property and intellectual property rights, list the seven types of intellectual property, and give examples.

It is important that we all understand very clearly what we mean by IPR. We need to consider two things – what is intellectual property? And what rights can people have in it?

Intellectual Property is defined in the Dictionary of International Trade as “an original work that can be copyrighted, patented or registered as a trade mark or service mark”. A blank CD is worth very little. A CD that has the music of Diana Karazon on it can sell for many more JDs than a blank disk. Why? Because Diana has added value to the disk through her original work. That work can be copyrighted, so that it is recognised as her work. Anybody who tries to pass off that CD as their own is in breach of Diana's copyright; anyone who copies her disk without permission is in breach of her copyright.

Intellectual Property Rights refer to the ownership of the right to possess or otherwise use or dispose of products created by human ingenuity. Thus Diana has rights which she can enforce against people who misuse her intellectual property. These rights include the right to sue for damages, the right to have the offending materials seized and destroyed, and the right to prevent a repetition of the breach. These are valuable rights. They are worth a lot of money.

In the globalised world of today, IPR holders – those who create original things – want to be able to protect their intellectual property. They might want to sell them for as much as possible, or to sell the rights to them for as much as possible. As global technologies become more and more sophisticated, so people are becoming more conscious of the need to protect their rights – and the types of rights are growing to reflect these new technologies. Let us look now at the various types of intellectual property. Let's divide them into two groups – the traditional rights, and the newly-developed rights.

### **Types of IPR**

There are seven types of intellectual property right recognised around the world. We need to know what each of these is, and to be able to recognise the type of right that we are dealing with. Please make sure that you can identify each right and give an example of one.

#### *Traditional Rights*

International Law has long recognised four IPRs. (We shall see in the next Lesson how these have been the subject of International Agreements in the past.)

#### Copyright

Copyright is an intangible right granted by law to the creator of a literary, musical or artistic production to prevent any other person from copying, publishing, and selling those works. A copyright owner holds the sole and exclusive privilege to copy, publish and sell the copyrighted work for the period specified by law. In general, copyright protection is available only after the work is fixed in a tangible medium, such as on paper, tape, disk, canvas or other materials from which the work can be seen, reproduced or otherwise communicated.

Diana's CD is a good example of a work that can be copyrighted. It is her own original work which has been "fixed in a tangible medium" and which is clearly valuable. Videos, CDs, DVDs, books, songs, poems and plays are all examples of copyright material.

#### Trade Mark

A trademark is the distinctive identification of a manufactured product or of a service taking the form of a name, logo, motto and so on. A trademarked brand has legal protection and only the owner can use the name.

The modern world is full of familiar trade marks. MacDonald's golden arches, the Nike tick, the Mercedes star on the front of the car are all examples of trade marks which no-one else can use. Sometimes, the trade mark of one company can be deliberately similar to that of a rival, such as Hyundai's italic version of Honda's H.

There are several other types of marks which come under the general heading of trade marks:

- A *service mark* is a mark used in sales or advertising to identify a service offered by an individual or legal entity and to distinguish that service from services offered by others. A service mark is distinguished from a trade mark in that the former identifies services while the latter identifies goods.
- A *collective mark* is a mark that a cooperative, association or other collective group uses in commerce.
- A *certification mark* certifies the nature or origin of the goods or services to which it has been applied. This includes, for example, region or location or origin, materials of construction, method or mode of manufacture or provision, quality assurance, accuracy of the goods or services or any definable characteristic of the goods or services. It can also certify manufacture or provision of services by members of a union or other organization to certain standards.



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(These three are mentioned here because they are also mentioned in Article 4 of the Jordan/US Free Trade Agreement.)

### **Patent**

The third traditional IPR is the patent. A patent is a grant by law to an inventor of a device of the right to exclude others from making, using or selling the device. The patent holder has the right to license to another person the right to make, use or sell the device. A patent is available only for devices that embody a new idea or principle and that involve a discovery.

Examples of patents are all around you. There are hundreds of different patents within a single photocopier as each device within the photocopier will be protected by the owner/inventor.

There has also been a specific agreement drafted in relation to plants, because modern gene technology enables people to create new plants, and there is a need for these new rights in plants to be protected.

### **Geographic Indications**

The TRIPS Agreement provides that a geographic indication is a right which can be protected. This means that a producer of goods cannot give the impression that those goods have originated in a certain region or country, when they have originated somewhere else. Thus, for example, Australian wine growers used to call their sparkling wines, Champagne. But Champagne is a region of France, and now only wines that come from that region can be called Champagne. Australian wine growers have had to find new names for their product – such as sparkling chardonnay, which refers to the grape type rather than to any particular region.

This is a contentious right. Some countries do not like to recognise it, and at times it can be hard to distinguish a general term from a particular name. Is an Idaho potato protected by the geographic indicator, or is it a common name for a type of potato?

These four rights have been protected under international convention for more than 100 years. The first two of them represent the rights which Customs has most often been called on to protect. But the negotiations for the TRIPS Agreement also saw the emergence of new intellectual property rights, which Customs agencies must be aware of, even if they are less likely to be involved in their enforcement.

### ***Newer Rights***

#### **Industrial Designs**

These rights protect industrial designs that are new or original (note that the requirement is that they be one of the two, not both new and original.) Designs that are dictated essentially by technical or functional consideration (such as spare parts) are not entitled to protection.

#### **Integrated Circuit Layouts**

The computer age has created a requirement for the intellectual property in computer hardware to be protected (software is protected under copyright). These rights have been recognised in the TRIPS Agreement.

### Trade Secrets

These rights operate to protect commercial know-how that falls outside other areas of intellectual property protection.

From here on, we shall concentrate on those rights most directly relevant to Customs, copyright and trade marks. But you need to be aware of the other rights because they too can be protected by border enforcement measures. We shall see later that Jordan has legislation to protect these rights.

### **What rights do right holders have?**

We shall see in the next lesson that the TRIPS Agreement establishes a particular framework for the protection of IPR, but, in general terms, there are certain rights which pertain to all IPR holders. These are:

- The right to be the registered holder of the rights in a certain piece of intellectual property
- The right to take action to prevent anyone using your intellectual property without your permission or to require them to cease the activity causing the damage (known as the right of primary injunctive relief)
- The right to damages as compensation for injury caused through the breach of your rights
- The right to recovery of profits and/or payments from the infringing act
- The right to have the authorities intervene to prevent the import or export of items breaching your IPR
- The right to have the offending goods destroyed, re-exported or otherwise disposed of by the authorities.

These rights are enforceable through the domestic legal system of the country. For the IPR holder to enjoy these rights, it is necessary that they be properly enshrined in the law of the country concerned. If the domestic law does not allow, for example, for the goods to be seized, the rights holder cannot require that they be seized.

Many IPR holders spend considerable time and resources in trying to stop breaches of their rights. They expect the authorities to cooperate actively with them. In particular, they will expect Customs to act quickly on information about suspect importations and intervene to detain the goods and prevent them being cleared for domestic use. We shall see in the next lesson that the TRIPS Agreement specifically provides that IPR holders can request the authorities to take action.

### **What rights do Governments have?**

In addition to the IPR holder being able to take action to prevent breaches of IPR, it is also possible for Governments to use their inherent powers to take action against breaches of IPR. These actions can take the following forms:

- Action to prevent the importation and/or exportation of goods that are prohibited by

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- reason of the fact that they are in breach of IPR laws
- Action to prevent the production of goods within the country that are in breach of IPR
- Action to prevent the sale of counterfeit or pirated goods in the country
- Imposition of criminal measures to penalise those committing sufficiently serious breaches of IPR laws.

This means that there are both administrative and criminal sanctions which can be imposed by Government. Normally, these will result from action instigated by the rights holder, but may also be the result of the Government deciding to act of its own volition.

A good example of a Customs agency which takes strong measures against copyright and trade mark breaches is Hong Kong Customs. Not only do they act to stop imports and exports of illegal goods, but they also take action to stop the manufacture of pirated and counterfeit goods in Hong Kong. The Hong Kong Customs therefore has a law enforcement role both at the border and internally within Hong Kong.

### **Activity:**

Visit the web site of the Hong Kong Customs and Excise Department at [http://www.info.gov.hk/customs/eng/content\\_e.html](http://www.info.gov.hk/customs/eng/content_e.html). Click on Major Responsibilities and then on Intellectual Property Rights. That will give you a good idea of how the Department goes about IPR enforcement – and how successful it has been in carrying out that responsibility.

### **Government co-ordination**

These are substantial powers vested in Governments. They require the proper coordination of regulatory and enforcement functions, and the cooperation of Government Ministries. In most countries the following authorities will be involved in IPR matters. The effective Governments are the ones that are able properly to coordinate their activities:

- Ministry of Industry and Trade
- Patent Office or similar IPR registry authority
- Police
- Customs
- Ministry responsible for consumer protection
- Justice Ministry (criminal prosecution)
- Concerned bodies such as National Library, Museums and other Government-funded bodies with rights to protect.

It is important therefore that in Jordan the full range of responsible agencies is identified, and that we understand how they work together and what the agreed role of Customs in IPR enforcement is.

### **Practical Work**

That ends our introduction to the theory of IPR. To be able to understand fully how important an issues this can be for companies (as well as Governments), we need to look at a practical example of IPR in action. So let us look at the problems faced by Honda in China. This presentation was

first presented by Honda to an international conference in Bangkok, Thailand, in 2001. The conference was hosted by Thai Customs to highlight the importance of proper IPR enforcement in that part of the world. But the lessons from Bangkok apply all around the world.

### **Case Study**

Let us turn now to the PowerPoint presentation on Honda.

After you have seen the presentation, discuss the following questions in class:

- What rights did Honda want protected?
- What did they see the responsibility of Customs being?
- Can you think of a similar case in Jordan?
- If Jordanian companies were misusing Honda's IPR to manufacture goods, what action do you think the Government should take?

### **Summary of Lesson 2**

Why do you think it is necessary for IPR to be protected? There is certainly an argument for saying that the world benefits from being able to use other people's ideas to make new goods without having to pay for them. But if people were not rewarded for their ideas, what would happen then?

The basic logic behind IPR is that companies will invest in research and expenditure if they know that they will be able to recoup that expenditure by being able to market their product or their idea with some degree of exclusivity. If they know that there will be a good return on their investment, they will continue to invest and new products and processes will result, to the general good of everybody. If those rights are not protected, people will either cease to invest in new research and ideas, or will only sell in markets where they can get a good return for their investment.

This is the reasoning behind the way in which the WTO has concluded the TRIPS Agreement, which we shall look at next. The objectives of the Treaty are set out in Article 7:

The protection and enforcement of IPR should contribute to the promotion of technological innovation and to the transfer and dissemination of technology to the mutual advantage of producers and users ... and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.

In other words, in return for having their intellectual property protected, the owners of that property have an obligation to share it with the rest of the world to the mutual advantage of both developed and developing countries. In the next lesson, we shall look at how this balance has been created through the Agreement on Trade Related Aspects of Intellectual Property.

## **END OF LESSON TWO**

## **LESSON 3: JORDAN'S OBLIGATIONS TO PROTECT IPR UNDER INTERNATIONAL LAW**

### **LESSON OBJECTIVE**

At the end of this lesson participants will be able to identify:

- The provisions of the TRIPS Agreement which authorize Customs agencies to undertake border enforcement and other measures in relation to IPR
- Other relevant international agreements relating to copyright and trade marks
- The requirements of the Jordan/USA Bilateral Agreement in relation to IPR enforcement
- The role of Customs in ensuring that Jordan meets its legal commitments to other countries.

### **EVALUATION OF OBJECTIVE**

You will have an opportunity to evaluate this lesson as part of the formal evaluation process at the end of the course.

### **LESSON THREE OUTLINE**

#### **Structure**

This lesson will give you an understanding of the international law rules on IPR which the Government of Jordan is required to comply with as a member of the WTO and as a partner with the USA in the Bilateral Free Trade Agreement. The lesson is in two parts. Part 1:

- begins with an overview of the TRIPS agreement;
- outlines the civil and administrative procedures available to rights holders to take action against breaches of their IPR,
- examines the border measures that Customs can take either as a result of a request from the IPR holder or through Customs acting on its own initiative. This includes an examination of the remedies available to the IPR holder.
- looks at the criminal procedures which the TRIPS agreement contains – and which may be enforced by Customs agencies as well as other law enforcement agencies.

Part 2 of the lesson concentrates on the obligations accepted by Jordan under the bilateral FTA, including the role to be carried out by Customs.

<b>Materials</b>
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You will need to refer to the following materials in this lesson:

- These notes
- The Agreement on Trade Related Aspects of Intellectual Property which is included in the reading materials.

Article 4 of the FTA and the associated Memorandum of Understanding On Issues Related to the Protection of Intellectual Property Rights are also enclosed.

Finally, the World Customs Organisation has adopted a draft model law on IPR. It demonstrates world's best practice legislation for the border enforcement of IPR. You can find this document on the WCO web site, [www.wcoomd.org](http://www.wcoomd.org).

### **Part 1: The Agreement on Trade – Related Aspects of Intellectual Property (TRIPS)**

Let us begin by looking at the TRIPS Agreement, which, as we saw in the previous lesson, is aimed at securing a balance between protecting the intellectual property rights of developed countries and ensuring the easy transferability of intellectual property to those in developing countries who need it for their economic development. The Agreement has a direct impact on Customs through its border protection provisions, but it is important that you have an overall understanding of how the Agreement works.

Before TRIPS was concluded in 1994, intellectual property was largely protected by a group of conventions administered by WIPO. These included The Paris Convention for the Protection of Industrial Property (which dealt with Trade Marks and Patents) and the Berne Convention for the Protection of Literary and Artistic Works (which dealt with copyright).

For various reasons, these were not successful, and the GATT system decided to conclude a “universal” agreement on TRIPS as part of the Uruguay Round of trade negotiations in the late 1980s. The TRIPS Agreement resulted, and came into force on 1 January 1995. Jordan, as a member of the World Trade Organisation is also a party to TRIPS..

#### **TRIPS Objectives**

The TRIPS Agreement was concluded to meet the following objectives:

- A common international standard for the protection of IPR
- Effective and adequate protection of IP rights, ensuring that such protections do not themselves distort and inhibit international trade
- Protection to be provided through administrative and judicial enforcement measures under domestic legal systems
- Compliance to be enforced through the WTO dispute settlement procedures, backed by trade sanctions in the event of a failure to meet the standard obligations; and
- Transfer and dissemination of technology through the protection afforded by TRIPS.

#### **Basic Principles**

## **Border Enforcement of Intellectual Property**

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Part I of the Agreement provides for a number of basic principles, as well as reinforcing the commitments of existing parties to the WIPO conventions. It allows parties to extend greater protection to IPRs than is contemplated in the Agreement.

Article 3 spells out that the national treatment principle applies to TRIPS. This means that a country must afford the same level of protection to IP goods produced in another country as it provides for goods produced in its own country. This is a principle which is found in the other IP Agreements (Paris and Berne) as well as being a fundamental principle of the General Agreement on Tariffs and Trade.

Article 4 applies the Most-Favoured Nation principle to IPR. This means that any rights which are granted to the goods of one country must be extended to the goods of all other countries which are parties to the Agreement. This is sometimes known as the principle of non-discrimination.

Article 8 allows members to adopt measures necessary to protect public health and nutrition and to promote the public interest in sectors of vital importance to their socio-economic and technological development. A good example of where this rule applies is in pharmaceuticals, where very great protection has been given to the big pharmaceutical companies for their intellectual property in drugs.

### **Key Provisions: Copyright, Trade Marks and Geographical Indications**

The best way to understand the Agreement is to read it closely and then to summarise the provisions as you understand them. The exercise below is to help you become familiar with the Agreement.

#### **Activity: Standards Concerning the Availability, Scope and Use of IPRs**

Part II of TRIPS sets out the basic standards that should apply to each of the seven categories of intellectual property. The Part is therefore divided into 7 sections. The exercise on the following page is designed to ensure that you summarise for yourselves the key provisions of the Convention as they apply to Copyright, Trade Marks and Geographical Indications. Please fill in the empty column on the right side of the page by reading the Convention and summarising in a few words your understanding of the provisions.

This exercise looks at the first three of the rights. You may wish to look at the provisions relating to the other rights in your own time.

**Summary Table of TRIPS provisions**

<b>Type of IPR</b>	<b>Article</b>	<b>Title of Article</b>	<b>Summary of the provision</b>
<b>Copyright</b>	9	Relation to the Berne Convention	
	10	Computer programs and compilation of data	
	11	Rental Rights	
	12	Term of Protection	
	13	Limitations and Exceptions	
	14	Protection of performers, producers of phonograms (sound recordings) and broadcasting organisations	
	<b>Trade Marks</b>	15	Protectable subject matter
16		Rights conferred	
17		Exceptions	
18		Term of Protection	
19		Requirement of Use	
20		Other requirements	
21		Licensing and Assignment	
<b>Geographical Indications</b>	22	Protection of geographical indications	
	23	Additional protection for wines and spirits	
	24	International negotiations; exceptions	



### **Enforcement of IPRs – Civil procedures**

Part III covers the Enforcement of Intellectual Property Rights. Article 41 sets out a fundamental obligation for all parties to the agreement: that they establish enforcement procedures “so as to permit effective action against any act of infringement of intellectual property rights...including expeditious remedies to prevent infringements.” As with all these provisions, however, there is the proviso that the procedures be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide safeguards against their abuse. Article 41 then goes on to emphasise the need for proper procedures, including judicial review of administrative decisions.

Part III then sets out in 4 more sections the obligations that members assume in relation to

- Civil and administrative procedures
- Provisional measures
- Border measures
- Criminal Procedures

### **Civil and Administrative Procedures**

These are important provisions and deserve more than the cursory look that we shall give them today. They set out important rights for the IPR holder, including the right to civil judicial procedures to enforce their IPR. They also set out rights for the defendant, such as written notice of the claims and the right to independent legal counsel (Article 42). Rules of evidence are established in Article 43 and the right of the judiciary to issue injunctions to protect IPR is set out in Article 44. Damages are available to the right holder whose rights have been infringed (Article 45). At the same time, the defendant is indemnified under Article 48 against action being improperly taken against him.

### **Provisional Measures**

The provisional measures envisaged under Article 50 allow authorities to prevent an infringement of an IPR and to preserve relevant evidence of an infringement. These provisional measures can be imposed even without the defendant first being heard by the court.

### **Enforcement of IPRs - Border Measures**

These provisions are directly relevant to the work of Jordanian Customs officers.

Section 4 of Part III of the Agreement contains the provisions relating to border enforcement of IP Rights. Article 51 contains the key provision. It requires parties to the agreement to establish in their domestic law procedures by which an IPR holder, who has valid grounds for suspecting that the importation of counterfeit trademark or pirated copyright goods may take place, can lodge an application for the suspension by customs of the release of the goods into free circulation. Similarly, authorities may also provide for similar measures to prevent the export of such goods.

Article 52 sets out the requirements that the IPR holder needs to fulfil in making this application to Customs. They must provide prima facie evidence that there is an infringement of the copyright or trade mark and supply a description of the goods so that Customs can recognise them easily. If the application is successful, it will normally last for a period as prescribed by the Customs.

Article 53 empowers the authorities to require securities from the applicant “to protect the defendant and the competent authorities and to prevent abuse”. Where Customs takes action, Article 54 requires the importer and the applicant to be notified promptly. Article 55 then provides that the release of the goods shall be suspended for no more than 10 days while the applicant takes legal action. If no action is taken other than by the defendant, Customs shall release the goods. Article 56 provides that the applicant may be required to pay compensation if the goods are wrongfully detained or released pursuant to Article 55. The right holder is entitled to inspect the goods under Article 57 to substantiate its claims.

Article 58 recognises that authorities may act *ex officio* rather than upon application by the IPR holder. Article 59 provides customs with the power to order the destruction or disposal of the offending goods. Counterfeit trade mark goods cannot normally be re-exported. Finally, Article 60 exempts from these provisions, de minimis amounts of goods, such as a single fake watch brought in by a traveller.

### **Criminal Measures**

Article 61 is very significant. It provides that:

Members shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity. In appropriate cases, remedies shall also include the seizure, forfeiture and destruction of the infringing goods and of any materials and implements the predominant use of which has been in the commission of the offence. Members may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, in particular where they are committed wilfully and on a commercial scale.

This is a very significant provision, as it provides a very powerful enforcement tool to those agencies responsible for IPR enforcement. Such a provision is unusual among the provisions of the WTO family of Agreements and reflects the determination of the drafters of TRIPS to eradicate “piracy” and counterfeiting.

In some customs territories, the Customs may be the authority responsible for bringing criminal prosecutions not only against importers of pirated goods but also against the manufacturers of imported goods. We saw in Lesson 2 that the Hong Kong Customs Department has long waged war against video, audio and other “pirates”.

### **Case Study**

In Australia, Trade Marks legislation gives a good example of how IPRs are protected. A trade mark owner can register the trade mark under the Act. When unauthorised goods are imported, using the trade mark illegally, the trade mark owner can ask Customs to seize the goods (or Customs can do so of its own volition), and the Trade Mark owner can then apply to the Court for the goods to be destroyed and for damages. The matter is then resolved by the Court.

**Part 2: The FTA with the USA**

Article 4 of the FTA applies specifically to IPR.

**Reading**

Please read Article 4, which is in your reading materials. In addition to the terms of the Agreement, there is also a Memorandum of Understanding on the Interpretation of Article 4. This also needs to be read and understood.

The Agreement applies many of the principles in TRIPS to the bilateral relationship, and extends some provisions. For example, it gives the rights holder the power to prohibit parallel importations of their goods. (Parallel importation is when goods are sold by the IPR holder in country to a purchaser in country B, and the goods are subsequently imported into country C). In some countries (such as Australia and New Zealand), the IPR holder in A is not allowed to enforce his IPR against the purchaser in country C. In other countries he may be able to. Article 11 gives the IPR copyright holder in either Jordan or the USA the power to prohibit any importations of his IPR goods in to the other party.

Paragraphs 24 to 28 in particular relate to enforcement of IPR. Three of these are particularly relevant to Customs border enforcement.

Paragraph 24	Each party is required to provide that its courts shall have the authority to require the infringer of IPR rights to pay compensation to the IPR holder “adequate to compensate for the injury the right holder has suffered as a result of the infringement”.
Paragraph 25	Each party shall ensure that its fines are high enough to deter future infringements. Each party shall also provide its competent authorities “ <i>the authority to order the seizure of all suspected pirated copyright and counterfeit trademark goods and related implements.</i> ”  The Memorandum of Understanding which supplements the agreement states that Jordan shall raise its criminal penalties to JD6,000, “so as to meet its obligations to ensure that statutory maximum fines are sufficiently high to deter future acts of infringement.”
Paragraph 26	Each party shall provide, at least in cases of copyright piracy or trademark counterfeiting, that its authorities may initiate criminal actions and border measure actions ex officio, without the need for a formal complaint by a private party or right holder.

These provisions have to be in force within three years of the conclusion of the agreement.

**Summary**

Jordan has accepted a number of enforcement obligations through its membership of the WTO and its bilateral agreement with the USA. These obligations require Jordan to take measures to respond to the complaints of IPR holders and to institute action against IPR breaches even where there is no complaint by the right holder.

## **LESSON 4: JORDAN'S IPR LEGISLATION**

### **LESSON OBJECTIVE**

At the end of this lesson participants will be able to identify the following:

- The basic approach under Jordanian Law to implementation of the international obligations discussed in Lesson 3
- Those provisions of the Trade Marks Law and Copyright Law which directly impact upon Customs.

### **EVALUATION OF OBJECTIVES**

You will have an opportunity to evaluate this lesson as part of the formal evaluation process at the end of the course.

### **LESSON 4 OUTLINE**

#### **Structure**

In this lesson we shall look at the laws that Jordan has enacted to give effect to the protection of IPR throughout the Kingdom. These notes have been taken from a lecture prepared for the Training Centre by Adnan Al-Momani, Customs Prosecutor General/Director of Customs Cases and Mohammad Al-Jalodi, Head of Consultancy and Legislations Section. (The second part of their essay, which looks at Border Enforcement by Customs in Jordan, will form the materials for lesson 5)

It is not possible, nor necessary, in a course such as this to look in depth at all the legislation that Jordan has introduced to protect IPR. So we shall begin with a general overview of that legislation, and then concentrate on the provisions of the Trade Marks Law and the Copyright Law which are of most relevance to Customs.

#### **Reading Materials**

There are now many Laws in Jordan relating to IPR. We do not expect you to know them all. In you materials we have included a copy of the Trade Marks Law and the Copyright Law. Please read them.

#### **Jordanian Laws of Intellectual Property Rights Protection:**

The Jordanian legislator has paid particular concern in recent years to intellectual property rights. In civil law, the rights are included under the term "moral rights" and defined as something that is intangible.

The following specialized laws have been enacted:

1. Goods marks law no. 14 for the year 1953  
(No amendments have been made to the articles of this law).
2. Trademarks law no. 30 for the year 1953  
(No amendments have been made to the articles of this law).
3. Jordanian Trade law no. 22 for the year 1966 (articles 45 – 50)  
(No amendments have been made to the articles of this law).
4. Author's right protection law no. 22 for the year 1992, amended by law no. 14 for the year 1998 and law no. 29 for the year 1998.
5. Patents and drawings privileges law no. 22 for the year 1952. It was amended with Patents law no. 32 for the year 1999.
6. Trademarks Law no. 33 for the year 1952. It was amended by Law no. 34 of the year 1999.
7. Geographic Indicators Law no. 8 for the year 2000.
8. Integrated Circuits Design Protection Law no. 10 for the year 2000.
9. Industrial Drawings and Industrial Patterns Law no. 14 for the year 2000.
10. Illegitimate Competition and Trade Secrets Law no. 15 for the year 2000.

It is necessary to identify the rights that are subject to protection in accordance with these laws and regulations through defining some related terms:

### **1. Trademark:**

Article 2 of Trademarks Law defines a trademark as any seen sign that is used or will be used by a person who wants to distinguish his goods, products or services from another's goods, products or services.

### **2. Famous Trademark:**

This is a trademark of international reputation that has extended beyond its original country of registration, and has obtained fame within a certain group of population in the Hashemite Kingdom of Jordan. (Article 2 of Trademarks Law).

### **3. Infringements of Trademarks:**

Counterfeiting or imitating a trademark for the purpose of deceit to show that the goods are manufactured by the original producer (owner of trademark). This includes trademarks registered in Jordan in addition to internationally known trademarks.

### **4. Classifications (Copyright):**

Article 3 of the Copyright Law defines items subject to copyright to include:

- a. Books, booklets and other printed materials.
- b. Verbal lectures, sermons and others.
- c. Theatrical performances, songs and musical plays, and gesture performance.
- d. Digital or non-digital musical classifications with or without words.
- e. Film, audio, video and broadcasting classifications.
- f. Painting, filming, sculpture, engrave, architecture, applied arts and ornamental works.
- g. Illustrative images, maps, designs, sketches, geography – related materialized models and surface maps of the globe.
- h. Computer software whether in the original language or the machine language.
- i. The title of the classification if it is innovative.
- j. Collections of literary or technical classifications; such as encyclopaedias, selected art works, collected data whether they can be read automatically or in any other form, and the contents constitute innovative intellectual works. In addition, the protection may include selected pieces of poetry, novel, music or other provided that the source of such works is mentioned.

**5. Non-protected classifications:**

Article 7 of the Author's right protection law identifies the classifications that are not included in protection (unless the collections of classifications are distinguished with personal innovative effort). They include:

- a. Laws, regulations, judicial verdicts, decisions of administrative bodies, international conventions and agreements, all official documents and official translations of such classifications or parts of them.
- b. Printed, broadcasted or publicly announced news.
- c. Classifications that are considered of public property such as folklore. In such a case, the Minister of Culture will act as the author's right in case of deformation, modification or harm the cultural reconciliation.

**6. Related rights:**

The Copyright Law also sets out the rights of persons who may be related in a commercial sense to the holders of the copyright. They include:

1. Rights of audio recordings producers.
2. Rights of performers (actors, dancers, singers).

**7. Infringement of Author's Rights:**

Copying, xeroxing, producing or distributing by a third person other than the author or an authorized person by the author.

**8. Patents:**

Patents are certificates issued to protect innovations (article 2 of Patents Law no. 32 for the year 1999).

Innovation is defined as being any creative idea related to a product or a manufacturing method in any technical field by which the innovator may lead to solve a certain problem in any field (article 2 of above referenced Patents Law).

The innovator has the right to protection of his innovation. Such a right is included in the protection rights in accordance with valid legislations. Patents certificates are not issued for innovations that may violate the public law and order and decency if used. In addition to that if used on a commercial basis they will harm human, animal and flora life and becomes necessary to protect sustainability of life and to avoid danger risks of environment.

### **9. Integrated Circuits Designs:**

It is the organization of specific components of the integrated circuit or that is manufactured to produce an integrated circuit. The integrated circuit is a product that has an electronic function and comprises of interconnected element- at least one of them is active – all elements will be considered one complete protect once completed in any stages of production.

### **10. Commercial Secrets:**

Any information that is normally unknown in its final stage, or in its fine components, or is inaccessible among dealers of such related information, or of commercial value due to its secrecy is considered a commercial secret. In addition the owner takes certain measures to maintain its secrecy in the current situation.

### **11. Industrial Drawings:**

The industrial drawing is any structure of lines coordination that gives the product a special shape whether is drawn manually or by a machine including the design of textiles.

### **12. Industrial Shapes:**

Any materialized shape that has a special appearance and can be used for industrial or professional purposes.

### **13. Geographic Indicators:**

The geographic indicator is an indicator that indicates a product's origin in a specific country, region or location of the country if the product's quality, fame or characteristics refer basically to that origin. Therefore it is prohibited to use any means in naming any product or exhibiting it in a way that suggests its geographic origin is different from its real origin.

## **The Trade Marks Law**

We shall look now at the Trade Marks Law in a little more detail and work through a case study of how the Trade Marks Law works in Jordan.

The Ministry of Trade is the Ministry responsible for administering the Trade Marks Law (Law No. 34 for the Year 1999). The Law provides that a trade mark holder may register the trade mark and obtain the benefits that come with being registered. Much of the first part of the Act deals with the way in which trade marks can be registered, what cannot be registered, how long registration lasts, renewal and cancellation of registration and so on. These are important provisions and need to be understood, but for our purposes here we shall focus on the rights of the Trade Mark holder, and the offences that are created under the Act. In Lesson 5 we shall see how the Customs Law empowers Customs to protect the rights of the IPR holder.

### *The Rights of the IPR Holder*

Article 26 of the Trade Marks Law establishes the rights of the IPR holder. In summary, these rights are:

- The right of exclusive use of the trade mark
- The right to prevent third parties from using confusingly identical or similar marks without his prior consent
- The right to ask the competent court to prevent third parties from using the trade mark
- The right to license third parties to use the mark.

Article 26 is set out in the box below.

#### **Article 26**

##### **Rights of the proprietor of a trademark**

1.
  - a. The right to use the duly registered trademark shall be limited to its owner and he shall have the right to prevent third parties from using confusingly identical or similar marks without his prior consent. Confusion shall be assumed if an identical trademark is used for identical goods.
  - b. If a trademark is well-known and if it is not registered, then its owner may demand the competent court to prevent third parties from using it on identical or like goods or services provided that such use indicates a connection between those goods or services and the well-known mark and provided that there is a likelihood of prejudice to the interests of the trademark owner because of such use. A likelihood of confusion shall be assumed if an identical well-known mark is used on identical goods.
  - c. If two or more registered persons of one trademark (or a mark confusingly similar) cover the same goods, none of them shall alone have the right to use it under the registration (except to the extent determined by the Registrar or the High Court of Justice). Otherwise, each of them shall have the self-same rights as if he were the only registered proprietor of the trademark.
2. The trademark owner may license one or more persons, under a notarized contract to be filed with the Registrar, to use the mark for all or some of the goods. Likewise, the trademark owner shall have the right to use it unless otherwise is agreed upon. The use license must not exceed the protection period of the registered mark.
3. The conditions under which the license contract may be recorded, renewed, enforced in the geographical area, rescinded, and struck off as well as any other relevant matters shall be governed by the implementing regulations to be issued by the Minister and to be published in



the Official Gazette.

*Offences*

Article 38 of the Trade Marks Law sets out the offences under the Act. Note that the penalties for these offences range from imprisonment for a period of from three months to one year, or a fine of from 100JD to 3000JD, or both. The offences are as follows:

- Counterfeiting a trade mark registered under the Law
- Imitating a registered trademark in any other way that misleads the public
- Affixing a counterfeit or imitation mark on the same goods for which the trade mark has been registered
- Illegally using a trade mark owned by another on the same class of goods for which that trademark is registered
- Selling goods bearing a trademark the use of which is an offence under the Act, if he was cognizant of that beforehand
- Possessing for the purpose of selling or offering for sale goods the use of which is an offence, if he was cognizant of that beforehand

Note that selling or possessing goods for the purpose of sale is also punishable by a lesser penalty regardless of the offender's state of knowledge. It is an offence to start any of the above acts or to aid and abet someone to perform them.

**Article 38**  
**Offences**

1. Whoever committed with the intention to cheat any of the following deeds shall be penalized by an imprisonment term of no less than three months and no more than one year, or a fine of no less than 100 Jordanian Dinars and of no more than 3000 Jordanian Dinars or by those two penalties:
  - a. Whoever counterfeited a trademark registered under this law, imitated it in any other way that misleads the public, or affixed a counterfeit or imitation mark on the same goods for which the trademark has been registered.
  - b. Whoever illegally used a trademark owned by another on the same class of goods or services for which that trademark is registered.
  - c. Whoever sold or possessed for the purpose of selling or offered for sale goods bearing a trademark whose use is regarded as an offense under paragraphs (A) and (B) of this Article if he was cognizant of that beforehand.
2. Notwithstanding what is mentioned in paragraph 1 of this Article, whoever sells, or offers for sale, or possesses for the purpose of selling goods bearing a trademark whose use is regarded as a contravention under the items (A) and (B) of paragraph 1 shall be penalized by a fine of no less than 50 Jordanian Dinars and no more than 500 Jordanian Dinars.
3. The provisions of paragraph 1 of this Article shall apply to whoever started to commit any of those acts provided for in this Article or aided or abetted another to commit it.

It is also noteworthy that the Trade Marks Law does not specifically refer to the importation or exportation of counterfeit goods into or out of the Kingdom. This is different from the Copyright Law, as we shall see shortly. Nevertheless, it may be possible to prosecute importers if they can be shown to be in possession of the goods intending to sell or offer them for sale in the Kingdom.

### *Rights of the Owner to seek intervention by the Courts*

Article 39 of the Law sets out the rights of the owner to take civil and/or criminal action against breaches of his rights in the trade mark. In short, the owner may apply to the court:

- To stop the infringement
- To make a provisional seizure of the goods
- To preserve the evidence relating to the infringement.

The owner will normally be required to file a security with the application.

The rights owner may ask the court to take preliminary measures before filing a civil or criminal claim and without the defendant first being notified if:

- It is proven that he is the owner of the trade mark
- His rights were infringed or the infringement is imminent, or that it is likely he will suffer irreparable damage or if it is feared that the evidence will be hidden or destroyed
- And the application is accompanied by a monetary guarantee.

The Defendant may appeal the court's decision within 8 days and if the trade mark owner does not file his application within 8 days, all measures taken by the court will be null and void. The defendant is entitled to damages if the plaintiff's lawsuit is not rightful or is not lodged within the 8 days.

Article 39 therefore gives effect to the rights and powers that were provided for in the Enforcement Provisions of TRIPS.

### *Conventions and Bilateral Agreements*

Finally, please note the provisions of Article 41, which provide for the protection of foreign registered trade marks under bilateral agreements and international conventions. This provision effectively provides the protection of Jordanian Law to Trade Mark goods from abroad.

## **The Copyright Law**

In this section we shall look briefly at the relevant provisions of the Copyright Law, Law No. 22 of the Year 1999. The Law is administered by the Ministry of Culture; the National Library is empowered to accept the filing of copyright and the staff of the Library are given the authority to be judicial police to implement the provisions of the Law (See Article 36).

Please read the relevant articles of the Law to establish the various rights of the copyright holders.

### *Powers of the National Library*

Article 36 sets out the rights of the National Library to enforce the Law. Where a violation of the law is suspected, the offices shall have the right:

- to search the business which prints, reproduces, produces or distributes works
- to seize the copies and all the materials used in committing the violations
- and refer the items and the offenders to the courts.

The Minister may also petition the court to close the business.

### *Rights of the IPR holder*

Article 46 sets out the rights of the IPR holder. He may request the court to intervene to:

- issue an order for the cessation of the infringement
- confiscate the work, its reproductions, its copies and any material used in the reproduction
- confiscate the proceeds of exploiting the work.

This application may be filed before, during or after filing the lawsuit. The Court may also take provisional measures to prevent any further breaches while the suit is being heard, and may do so without informing the defendant in certain circumstances. The right holder must lodge a security and the defendant is entitled to damages if the suit is not proven. As with Trade Marks, the complainant must act within 8 days or the provisional measures will lapse automatically.

### *Powers of the Court*

Article 47 provides that the Court may destroy the offending works or may order their confiscation. The Court ruling may be published under Article 50 at the expense of the offender.

### *Criminal Powers*

Of particular note is Article 51.

#### **Article 51**

A penalty of imprisonment for a period not less than three months and not exceeding three years and a fine not less than one thousand Dinars and not exceeding three thousand Dinars or one of these two sentences shall be issued against:

- A.
1. Any person who exercises without a legitimate reason any of the rights stipulated in the articles (8), (9), (10) and (23) of this law.
  2. Any person who offers for sale, circulation or rental any imitated work, or reproductions thereof, disseminated it to the public in any way, brings it into the Kingdom or takes it outside the kingdom while knowing that it was imitated.

In case of recidivism with respect to any of the crimes stipulated in paragraph (1) of this article the person who committed it shall be sentenced to the maximum term of imprisonment and the maximum fine. In such case the court may also issue a ruling for the closure of the establishment in which the crime was committed for a period not exceeding one year or the suspension of its license for a certain period of time or permanently.

Note in particular that Paragraph A.2 makes it a criminal offence to import into the Kingdom, or to export, any imitated work “while knowing that it was imitated”. The penalty is either

## **Border Enforcement of Intellectual Property**

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imprisonment for 3 months to 3 years, a fine of from 1000JD to 3000JD or both. Recidivists are to receive maximum penalties.

### **Summary**

Jordan has worked hard in recent years to establish a comprehensive framework of legislation to deal with intellectual property rights. There are many Government agencies with an interest in protecting IPR, and the issue is an important one for the Jordanian economy. Proper administration of the legislation depends upon effective cooperation between government agencies. Customs is a key agency in this.

## **LESSON 5: CUSTOMS' ROLE IN BORDER ENFORCEMENT OF IPR IN JORDAN**

### **LESSON OBJECTIVE**

At the end of this lesson participants will be able to identify the following:

- The major IPR risks faced by Customs
- The provisions of the Customs Law under which Customs can take enforcement action
- The role of the judicial authority
- The role of Customs
- The rights of the IPR holder and the importer.

### **EVALUATION OF OBJECTIVES**

You will have an opportunity to evaluate this lesson as part of the formal evaluation process at the end of the course.

### **LESSON 5 OUTLINE**

#### **Structure**

Having explained the basic term and characteristics of intellectual property that were issued in the various laws for the purpose of protection and non infringement of such rights, it is necessary to discuss the border measures for the protection of intellectual property rights as stated in the Customs Law.

In this last lesson we continue to look at the materials prepared by Adnan al-Momani and Mohammad Al-Jalodi. We shall do so in four parts:

- The general provisions relating to border enforcement
- The role of the judicial authority in protecting IPR holders against illegal importations
- The powers of Customs to intervene on behalf of IPR holders.

#### **IPR Risks to the Border**

Jordan faces many IPR risks. In terms of trade marks breaches, there have been examples involving vehicle parts, tobacco products, toiletries and shoes and clothing to name but some examples. In terms of copyright, there have been major breaches of copyright in relation to CDs and DVDs. All of these cases are damaging both to Jordan's economy and to its standing as an international trading partner. There is a great need for Customs to demonstrate that it regards IPR breaches as a high priority and that it will work with other key agencies to prevent IPR breaches occurring.

#### **Border Measures for the protection of Intellectual Property Rights:**

## **Border Enforcement of Intellectual Property**

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The Customs Law defines intellectual property as being copyright and other associated rights, trademarks, patents, integrated circuits designs, commercial secrets, industrial designs, industrial patterns and geographic indications.

The importance and protection of IP rights have increased as they lead to encouragement of legitimate competition, prohibiting illegitimate competition and all other cheating acts, combating fraud and forgery, encouragement of innovation, creativity and knowledge making, enhancing the nation to look forward to prosper through innovation rather than imitation and counterfeiting.

The Customs Department, through its several customs centres spread in all areas of the Kingdom is the first government body that deals with imported goods and transit goods sent to other countries. The Customs department has the authority of organizing customs operations and import and export operations, therefore goods are checked and inspected. As a response to Jordan's accession to the World Trade Organisation Agreement and in fulfilment of its obligations, along with national economic developments, the Customs Law no. 20 for the year 1998 was amended. Special articles have been included regarding the necessary border measures that should be taken to protect intellectual property rights in article 41 of Law no. 16 for the year 2000. Regulations no. 7 for the year 2000 were issued to define detailed measures and actions to implement Article 41.

### **Reading**

Participants should know the provisions of Article 41 as amended by law No 16 of 2000 and Regulations No 7 of the same year.

Article 41 states that "entry of imported goods that constitute infringement of any of the intellectual property rights that are protected through valid legislations is prohibited." Article 41 has entrusted the authority of ceasing clearance procedures to two parties:

- a. The judicial body
- b. The administrative body

### **The Judicial Authority**

Specialized ordinary courts practice this type of authority as defined in sub-article (h) of article 41 of the Customs Law as follows:

- 1) For the purposes of practising this authority, the following conditions shall be available:
  - a) A request is submitted by the owner to stop clearance procedures and release the goods.
  - b) Submission of a cash / bank guarantee accepted by the Court to show seriousness of request and to provide protection of goods owners in case the request is invalid ( no infringement ) and for the purposes of not abusing the rights mentioned in this article.
  - c) Availability of sufficient proof of infringement.
  - d) Detailed description of violations of goods.
- 2) The competent court shall issue the verdict regarding the request within three days of the request's date of submission. The applicant will be notified of the verdict within a suitable period of time. The respondent (goods owner) may plea the verdict to the Court of Appeal

within eight days of the date of notification of the verdict. The decision is absolute. (Sub-article (a) of article 41 of the Customs Law).

- 3) The applicant must notify Customs Department that he / she had initiated a claim against the importer or goods owner within eight days of the date of notification of clearance procedures ceasing decision and the release of goods. Has he not notified the department, the department is obliged to release goods after making sure that all imports' legal requirements are met. (Sub-article (b) of article 41 of the Customs Law).
- 4) Sub-article (c) of article 41 gives the competent court the right to order the applicant to reimburse appropriate amount for all damages occurred to the importer or goods owner as a result to ceasing clearance measures and goods release in the event that the application is illegible or the goods have been released in accordance with sub-article (b) of the same article. In such a case the Customs Department shall release the if no claim is initiated within eight days of the date of notifying the applicant of clearance procedures ceasing decision and the release of goods.

Note that the text has balanced the interests of : 1) the intellectual property right owner to protect against infringement and 2) the goods owner not to delay goods clearance procedures as no legal act exists for such delay.

### **The administrative Authority:**

It is the authority of the Director General of Customs Department or the delegated person in accordance with sub-article (d) of article 41 of the law to exercise powers in relation to IPR. Such authority is restricted of two conditions:

- 1- The authorized person is content that the infringement is clear, based on clear and visible evidence of infringement as suspicion is not sufficient.
- 2- Such authority is limited to infringement cases of intellectual property rights related to author's rights and trademarks, but does not include other rights, and provided that the defect is clear, as it is easy to discover infringement cases. With other intellectual property rights, specialized technical expertise is needed and we do not expect Customs officers to have that expertise.

Sub-article (d) of article 41 of the Customs Law defines the necessary measures that will be taken in the event that the Department issues a decision to cease clearance procedures. These are:

1. The Department shall notify the importer and IP right owner (if address is known) of the decision to cease clearance procedures and release of goods.
2. The IP right owner shall notify the Department that he / she has filed a law case with the competent court within eight days of his notification of clearance procedures cease and release of goods. If he / she does not do so, goods will be released after making sure that all import legal requirements are met.
3. The importer has the right to object to the decision taken to cease clearance procedures and goods release at the competent court within eight days of notification

of such a decision. He may also appeal the decision of the court within eight days of date of notification. The decision of the Court of Appeal is absolute.

### **The right of the Applicant to Inspect goods:**

Sub-article (e) allows the applicant to inspect goods where clearance procedures have been ceased and released in the customs center location and under the supervision of the Department, in order to verify his / her claim.

### **Exemptions not included in Border Measures:**

Sub-article (f) of article 41 of Customs Law exempts the following goods from the provisions of this article. The goods are:

1. Small quantity of non-commercial goods, passenger accompanied goods and presents or in small parcels.
2. Transit goods.
3. Goods that have been marketed in the markets of the import country by the right owner or with his / her approval.

It is noteworthy here that the right included in the protection is the right that enjoys protection under related laws and legislations such as author's right protection and trademarks law. Therefore if the importer has imported goods which have been marketed in the markets of the import country by the right's owner, such goods are considered exempt from border measures procedures.

Border measures are not meant to protect trade agents or to protect monopoly. The measures are concerned with classifications and goods that are subject to IP right infringement, and will not include original goods that do not have rights' infringement.

For the purpose of best implementation of tasks by the Department, sub-article (g) of article 41 states that the Department is not responsible for reimbursement of harm and damage to the importer or the owner of goods where clearance procedures have been ceased and not released in accordance with this article.

### **Regulations no. 7 for the year 2000**

These regulations include all detailed provisions and procedures that need to be taken by the customs centers and competent sections at the Department; i.e. the procedures section, as Article 1 of the regulations define it, in order to implement the mentioned provisions of Article 41 of Customs Law as follows:

1. Article 2 of the regulations shows the needed procedures to implement provisions of sub-articles (a) and (b) of article 41 as follows:
  - a. Upon receipt of the court verdict to cease clearance procedures and release of goods, the concerned section will address the concerned customs centre, if is specified, to execute the court verdict, or to issue a circular to all customs centres, if the centre is not specified.



b. All goods, for which a court verdict is issued to cease clearance procedures and be released, will be detained in customs warehouses and yards, but will be released in the following cases:

- 1) In the event that the applicant has not notified the Department that he had filed a law case at the Court.
- 2) In the event that a court verdict is issued to nullify the decision to cease clearance procedures and goods release.

In both cases, the Department shall clear the goods in accordance with Customs Law and valid related legislations.

2. Article (3) of the regulations deals with the implementation of sub-article (d) of article (41) regarding goods that have clear marks and signs whether in the shape or content of the product, that will lead the customs officer to believe that the goods is considered infringement of intellectual property right of author's right and trademarks. In such a case the following shall be followed:

- a. The customs officer shall prepare a list of goods indicating the status and all details.
- b. The customs centre chief shall study the list and inspect the goods himself.

If he is content that there is infringement of rights, he decides to cease clearance and release the goods within 24 hours of receipt of the list.

- c. The customs centre chief shall notify the importer in writing of the ceasing of clearance and release of goods.
- d. The customs centre chief shall notify the specialized section at the Department in writing on the same day of the ceasing of clearance and release of goods, with all information related to the goods and the reasons that led him think there is infringement of rights.
- e. The specialized section will verify the cease decision and coordinate with concerned bodies (trademarks registrar and National Library). In the event that the decision is correct, he will inform the right owner or his / her authorized representative in the Kingdom as soon as possible within a period not to exceed three days if the address is known. In the event that the cease decision violates related legislations, the customs centre will be informed for immediate cancellation.
- f. The regulations allow the specialized section that the IP right owner who claims an infringement on his rights to fill a specific form mentioning all details on violating goods in order to facilitate the work of the Department to perform its responsibilities set in sub-article (d) of article 41 on a case to case basis.
- g. In the event that the rights' owner has not notified that Department that he / she has filed a law case within eight days of date of notification of the clearance cease decision and goods release the goods will be released.

- h. In the event that the owner's address is not available at the Department, provisions of article (3) of the regulations will not applied.
- 3. Article (6) of the regulations has obliged the specialized section to keep and maintain the following registries:
  - a) A special registry to record addresses of notification for intellectual property rights owners who wish to register their addresses at the Department.
  - b) A special registry to record executed procedures to include information of retained goods, date of retention, date of notifying the right owner of the decision of the court or the Department, in addition to other taken procedures and duration.
  - c) Coordinate with Trademarks Registrar to maintain lists of registered trademarks.

For the purposes of optimal implementation of provisions of article 41 of the Customs Law:

- 1. The Customs Centres officials will participate in specialized training courses on needed tasks and methods of intellectual property rights infringement and violations related to author's rights and trademarks.
- 2. There will be close cooperation with specialized organizations especially the National Library concerning the intellectual property rights protection.

The Customs Department aims to:

- a. Have more cooperation among all concerned departments to ensure optimal protection of IP rights.
- b. Concentrate on continuous training of customs officers especially officers of border centers and employees of border IP rights measures protection.

**Case Studies – Trade Marks**

**Study #1**

Facts:

- 1. Arrival of counterfeit wallets in Aqaba customs centre. The sample submitted carried the trade mark “NIKEE”.
- 2. In this case there was a clear breach of the original trade mark.
- 3. Clearance procedures were terminated according to instructions no. (7) for the year 2000.
- 4. The rights holder was notified of the breach.
- 5. The goods were eventually released because there was no claim by the damaged party during the legal period within the 8 days specified in Regulation 7.

**Study #2**

**Facts:**

1. A merchant imported a container of MARLBORO cigarettes from a country (China).
2. The agent of MARLBORO in Jordan (Philip Morris) is the original owner of this trade mark that is registered at the Ministry of Industry and Trade (Trade Mark Registrar). Customs had been informed in writing through the Procedures Section about this trade mark, and all customs centres were informed of the ownership of this trade mark.
3. The trade mark owner was informed through intelligence information about the container that was expected to arrive in Aqaba port and that the trade mark was counterfeit.
4. The container was trailed through all ports by the trade mark owner. When the ship arrived in Aqaba port, the Customs manager was informed by the agent who gave him the number of the container and the manifest after arrival.
5. The container was checked at Aqaba customs and there was a belief that it was counterfeited.

**Legal ground**

1. Availability of a written request from the trade mark agent that it was counterfeited and a belief was established about that.
2. The procedures section had a registration of this trade mark.

**Practical procedures**

1. Termination of clearance procedures and detention of goods.
2. According to article (3) of Regulation (7) for the year 2000 regarding the protection of IPR, the inspector will prepare a report about the goods explaining all details (type of goods, country of origin, exporting country, name of importer and all evidences and marks found on the goods).
3. The report will be forwarded to the Center's manager to terminate the procedures within 24 hours if a belief was established that the goods are counterfeited.
4. The importer, or his representative, will be informed in writing about the termination of clearance procedures.
5. The customs centre will inform the procedures section in writing and on the same day of the incident.
6. The procedures section will study the decision of terminating the clearance procedures and organize with related departments (Trade Marks Registrar) to assure the availability of faked goods.
7. If faking is proved, the owner of the trade mark will be informed within three days.
8. The owner of the trade mark will submit a request in writing to procedures section to terminate clearance procedures.
9. The owner of the trade mark will submit what proves that he filed a suit in front of civil courts and informed the procedures section. Then Aqaba customs will be informed to continue the cessation of the goods until a

court order is issued, and bank guarantee is issued until this order is issued.

**Outcome of the situation**

1. This subject is still in court for violating IPR and the goods are still detained at Aqaba customs.
2. In case a court order is issued that there is a violation and that the goods are counterfeited, the following is undertaken:
  - a. The goods will be confiscated.
  - b. No fine is collected in this situation.
  - c. The bank guarantee is returned.
3. If a court order is issued that there is no violation, the goods are released and clearance procedures are continued as required.

**Cooperation with other Agencies – Copyright**

It is important that Customs follows correct procedure when enforcing IPR at the border. One aspect of that procedure is to ensure proper and effective liaison with the relevant Government agency. A good example is in the area of copyright.

The National Library and Customs are required to work together to enforce copyright law. When Customs detects a breach of copyright – for example, by finding a shipment of pirated DVDs – Customs must inform the National Library as well as the IPR holder within three days of the detection. The National Library will then advise Customs whether or not the goods are in breach of the Copyright law. The Library will not make recommendations to Customs as to what Customs should do with the goods, but it is important that Customs respects the advice of the Library.

Should Customs for any reason decide to release the goods into the Kingdom, it is incumbent on Customs to inform the Library before doing so. In most circumstances, however, if the Library advises that the goods are pirated, Customs has the option either to re-export the goods or to seize and destroy them.

**Procedures for dealing with copyright breaches**

1. Customs detects goods in breach of copyright.
2. Customs must notify:
  - a. The IPR holder (3 days)
  - b. National Library
3. IPR holder has to apply to court and respond to Customs in 8 days. (must present proof of case)
4. National Library makes recommendations whether goods are in breach of copyright law.
5. If not in breach, customs can release the goods provided the IPR holder does not take action or the court does not support the IPR holder's claim.
6. If goods are in breach, customs may:
  - a. Re-export
  - b. Seize & destroy

**Summary**

In light of all above, it is clear the tremendous role that the Customs Department plays in protecting the intellectual property rights through forbidding entry of any goods that may constitute an infringement on any protection – related rights in accordance with valid laws and legislations.

The role of Customs increases and becomes stronger with the cooperation and support of other concerned departments including rights' owners.

**The Hashemite Kingdom of Jordan  
Ministry of Finance/Customs Department  
Customs Training Center**

***BORDER PROTECTION OF INTELLECTUAL PROPERTY RIGHTS***

**INSTRUCTOR'S MANUAL**

This Manual has been prepared by Mark Harrison, Adjunct Professor, Centre for Customs and Excise Studies, University of Canberra, in collaboration with the Customs Training Center and the AMIR Program.

November 2004

# **INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT IN JORDAN**

## **TRAINING MATERIALS**

### **1. INTRODUCTORY REMARKS**

*The materials in the following pages form the basis of a training package on Customs aspects of the protection of intellectual property rights (IPR) in Jordan. The package is intended for delivery by trainers from Jordan Customs Department to departmental officers and to the officers of other agencies engaged in IPR protection and which work closely with Jordan Customs.*

*The materials include and expand on training materials already developed within Jordan Customs and delivered as part of a wider training package. These materials therefore provide a fuller course than has been previously available, and include materials which reflect the international commitments that Jordan has given to enforce IPR. These commitments flow from Jordan's membership of the World Trade Organisation and from the bilateral Free Trade Agreement with the United States.*

*The training recognizes that Jordan Customs officers are the frontline in IPR enforcement and that, as a result, Jordan depends on Customs officers to meet the international commitments that it has accepted. Officers must realize that others will scrutinize the way in which they do their job, and therefore it is important that they recognize the extent to which they are accountable.*

*The materials also recognize that Jordanian national law now has a detailed legislative framework for the protection of all IPR. This means that Jordan Customs cannot act in isolation, but must coordinate with other Government agencies which have overall responsibility for IPR in Jordan, particularly the Ministry of Industry and Trade and the National Library.*

*The course is intended to take 15 hours:*

- *5 hours introduces participants to the international law rules which govern intellectual property rights*
- *5 hours introduces participants to the Jordanian legislation on IPR and to the role of the Customs Law in enforcing IPR*
- *5 hours provides time for revision and assessment.*

*This package includes:*

- *Lesson plans for each of the five lessons in the course*
- *The manual for course participants, including case studies*
- *An examination designed to test trainees' understanding of the lessons, to be completed at the end of the course*

- Supplementary reading materials to assist trainees to understand each lesson
- Means of evaluation of the course as a whole.

*The five lessons are as follows:*

- A general introduction to the course itself
- An introduction to intellectual property rights
- An understanding of the legal principles established by the World Trade Organisation, the World Intellectual Property Organisation and the bilateral Free Trade Agreement with the USA for the protection of IPR
- An understanding of how those legal principles have been included in Jordanian law
- An examination of the major IPR issues facing Jordan and of the powers and procedures under which Jordan Customs protects IPR.

*These materials are intended to be used by instructors who already have a sound understanding of the ways in which Customs can deal with prohibited and restricted goods under the Customs Law and Regulations. These materials will help instructors to ensure that officers understand how their legal powers can best be used to deal with the risks posed by IPR goods.*

*The program therefore also assumes that both instructors and trainees have a sound understanding of risk management principles and can apply those principles to identify, assess and treat the risks posed by IPR goods. Proper application of risk management principles will ensure that Jordan Customs applies the appropriate priority to IPR issues as part of its overall approach to dealing with contraband and other goods entering the Kingdom.*

## **2. TRAINING PACKAGE**

*The Training Package has been prepared by the Training Center in cooperation with the trainer, and includes:*

1. Course material/ topics that will be discussed during the course.
2. Trainer and trainees instructions on how to use this training package.
3. Means of evaluation at the end of the course.
4. Exercises and solutions used during the course.
5. Training aids that include any outside documents or explanatory aids related to the content of the course.

*The materials in part 1 are the detailed notes for Instructors for each lesson.*

*The materials in part 2 constitute the participant's manual, the lesson materials for the five lessons which make up the course.*

*Part 3 contains the end of course test to be completed by each participant as the principal means of assessment.*



*Part 4 lists the reading materials that will be required and contains a hard copy version of the PowerPoint session on Honda in China. Other case studies and other activities are set out in the Participant's Manual*

*Part 5 contains the evaluation questionnaire which participants will be required to complete once they have finished the course.*

## COURSE OUTLINE

### ***BORDER ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS***

#### **1. COURSE OBJECTIVES**

*The objective of this course is to equip Jordanian Customs officers with the knowledge and skill to be able to enforce Jordan's laws on intellectual property as they apply to imported and exported goods. By the end of the course, participants will be able:*

- To identify the various types of intellectual property
- To know the sources of international law rules relating to the protection of IPR in traded goods
- To identify relevant Jordanian legislation on IPR
- To understand the powers that Jordan Customs has to enforce IPR
- To understand the procedures that Jordan Customs uses to enforce IPR at the border.
- 

#### **2. KNOWLEDGE SKILL AND COMPETENCIES**

*The course is designed for Customs staff who will be responsible for enforcing IPR at the border. Participants should therefore have undergone basic customs training and already have skills in relation to cargo clearance and inspection, investigation, and/or intelligence. These competencies should include, but not necessarily be limited to:*

- Knowledge and understanding of rules and procedures governing selection of cargo for examination
- Container search
- Detention of goods
- Investigation report writing
- Legislation interpretation and application.
- 

#### **3. EVALUATION OF COURSE OBJECTIVES**

*The training course will be evaluated through 3 stages as follows:*

1. Before: The Training Center, in conjunction with the trainee's supervisor, will evaluate the training needs of the trainee and decide his need for the course.
2. During: The Training Center will evaluate the course by giving a quiz, or by an evaluating visit. The person who will evaluate the course will be nominated depending on the course topic.
3. After: The evaluation will be conducted in 2 phases. First, at the end of the course, the Training Center will give the participants a questionnaire about the course. Participants will also undertake a written exam, and their results will be forwarded to the Training Center. Second, an on-the-job evaluation will be

conducted after the training course within 6-12 months. This evaluation will be done using one or more of the following methods:

- By evaluating the employee on his job;
- by conducting a meeting with the trainee's direct supervisor;
- by holding a meeting between the trainer, the direct supervisor and a representative from the Training Center;
- by preparing a questionnaire to be completed by the direct supervisor of the trainee.

#### **4. EVALUATION OF THE COURSE**

*Each student will be required to complete an evaluation form at the end of the course. (See Part 5 for the evaluation form.)*

#### **COURSE OUTLINE (LESSON-BY-LESSON)**

*The course consists of five lessons which will introduce the participant to the basic concepts of intellectual property and then work through the international and domestic law rules which officers are expected to know and enforce.*

*The five lessons are as follows:*

- A general introduction to the course itself
- An introduction to intellectual property rights
- An understanding of the legal principles established by the World Trade Organisation, the World Intellectual Property Organisation and the bilateral Free Trade Agreement with the USA for the protection of IPR
- An understanding of how those legal principles have been included in Jordanian law
- An examination of the major IPR issues facing Jordan and of the powers and procedures under which Jordan Customs protects IPR.

*It is anticipated that the first three lessons will be delivered on the first day of the course, and lessons 4 and 5 on the second day. The third day will be used for revision in the morning and for assessment in the afternoon. Each day is designed for 5 classroom hours/day, but these time frames may be altered to suit the availability of instructors and participants.*

#### **5. PARTICIPANT INVOLVEMENT**

*This will be an interactive course. Students learn more by asking questions and engaging in discussion and debate rather than by passive listening. Please make every effort to ensure that all students join in class discussion.*

#### **6. TERMS**

*There will be a number of new and difficult terms discussed during the course. Trainers will need to familiarize themselves with them. If some terms remain unclear make sure*

*you consult a good dictionary of trade terms. The participants will expect you to have a good understanding of these terms and to be able to answer your queries about them.*

### **7. EXERCISES**

*There will be a number of case studies for you to introduce and discuss during the course. Your role will be to explain the case studies and then to seek considered responses to the problems raised. The case studies are best conducted with the participants divided into syndicate groups. You should encourage discussion within the group, but also be ready to give your views on the best way to deal with the scenarios.*

### **8. ASSESSMENT**

*The materials (Part 3) include a test that is to be given to participants on the afternoon of the third day (after they have had an opportunity to revise the materials in the morning.) The test is designed to assess the extent to which participants have understood the theory of IPR, the international norms and the Jordanian legislation. The test is not difficult, provided the participants have concentrated during the course.*

*The marks in the assessment should also be viewed in light of the performance by the participant during the course, particularly in syndicate discussions.*

***PART 1***

***LESSON PLANS***

**Lesson Plan – Course Requirements**

*Code:*

**A) ITEMS REQUIRED BY INSTRUCTOR**

- Instructor’s Manual, including Lesson plans
- Participant’s Manual
- Reading Materials
- Assessment Materials
- Evaluation Materials
- Training Diary
- FTO Handbook

**B) FORMS AND BOOKLETS FOR PARTICIPANTS**

9. NUMBER
10. NAME
11. QUANTITY/PARTICIPANT

**C) BOOKS AND MANUALS**

12. NUMBER
13. NAME
14. QUANTITY/PARTICIPANT

**D) HARDWARE AND EQUIPMENT**

Overhead projector  
Lap top computer  
Flip chart  
Markers  
Data Show  
Bill Board

**LESSON PLAN – LESSON 1**

Number of Pages: 3  
2004

Date of Preparation: 24 November

**LESSON TITLE:**

**Introduction to the Course**

**DURATION:**

Total: 60 minutes

**PREREQUISITES:**

It is assumed that both the instructors and the trainees have a sound understanding of Customs operations at the border and of the powers of Customs to inspect and seize goods that come under Customs control (whether exports or imports). This course is not designed for new inductees or for trainers from other agencies (unless they already have that knowledge).

**PRE-READING REQUIRED:**

There are many materials provided for this course. It would be helpful if both instructors and trainees were familiar with them, but if there is not time to read all the materials in advance, then all should at least read the Customs Encyclopaedia pages 259-262 and Article 41 of the Customs Law together with Regulation 7 of 2000.

**REFERENCES FOR INSTRUCTORS:**

*This first lesson is very introductory. It is designed to make students focus on the job at hand, understand the way that the course is structured, understand the importance of their own participation, understand how they will be assessed and how the course will be evaluated, and identify how they will apply in the workplace the knowledge that they gain in the course. Instructors should therefore approach this lesson in a way which will engage the interest of the students and set the tone for the rest of the course.*

**LESSON ENABLING OBJECTIVES:**

*At the end of this lesson participants will be able to identify the following:*

- The overall objectives of the training program
- How much they already know about intellectual property rights
- The effort and commitment which they will be expected to make as course participants
- The means by which they will be assessed

- The materials which they will be expected to learn
- How they will apply this learning when they return to the workplace.

### LESSON OUTLINE

*This is a very introductory lesson, designed to ease the students into the subject matter and to make them feel comfortable in the classroom environment. Students who are not comfortable will neither absorb information nor contribute to discussion.*

*The lesson should follow the following steps:*

*1 The Instructor should introduce him or herself to the class in a way which establishes their expertise in the subject and explains their role in the classroom – as teacher and facilitator. (The course can be presented as a series of classroom lectures, or workshops or tutorials, depending on the number of students and their competence in the subject matter).*

*2. The trainer should then provide the students with an overview of the course itself, with an explanation of what will be covered in each lesson. The trainer will explain that the course will involve:*

- An introduction to what intellectual property is, and what intellectual property rights are
  - An overview of the international law rules which govern IPR
  - An explanation of the legal obligations that Jordan has undertaken
  - An overview of Jordan's domestic IPR law
  - The impact of these obligations on the Customs Law
  - An examination of the major IPR risks that Jordan faces
  - An examination of what powers Jordan Customs has to enforce IPR at the border
  - The role that they may be expected to play in IPR enforcement when they are back in the workplace
4. The instructor should then take the students through the materials that are available to them – the lesson notes, the legislation, the conventions and the supplementary reading materials.
5. The instructor should then ask the participants to identify:
- Their name and current position in Customs (or other government agency if relevant)
  - The extent to which they are already familiar with IPR issues
  - The role that they will be playing in IPR enforcement on their return to the workplace
  - The expectations they have about the course – including any aspects about which they are uncertain or anxious. These expectations should be recorded so that the



- evaluation process can identify the extent to which these expectations have been met.
6. The instructor should then explain the means of assessment to be used. This will consist of 2 parts:
    - The first is a written test to be completed on the afternoon of the third day
    - The second is an assessment by the instructor of the participant's performance in the classroom
  7. The instructor should emphasise the importance of participation in class, and the importance of asking questions if uncertain of anything.
  8. The instructor should go over administrative matters such as course timing, refreshment breaks, absence from class and the need for mobile phones to be switched off.
  9. Adequate time should be left for the participants to ask any questions that they may have.

**EVALUATION OF THE LESSON:**

*There is no requirement for this lesson to be evaluated.*

**END OF LESSON PLAN FOR LESSON ONE**

**LESSON PLAN – LESSON 2**

Number of Pages: 3  
2004

Date of Preparation: 24 November

**LESSON TITLE:**

**An Overview of Intellectual Property Rights**

**DURATION:** Theory: 60 minutes  
Practical: 60 minutes  
Total: 120 minutes

**PREREQUISITES:** *Lesson 1*

**PREREADING REQUIRED:**

Lesson 2 of the Participant's Manual  
*The PowerPoint materials on the Honda study.*

**REFERENCES FOR INSTRUCTORS:**

*Instructors need to understand the basic concepts of intellectual property rights. They should be familiar with the terms of the TRIPS Agreement, and fully understand the Lesson notes for this lesson.*

**LESSON ENABLING OBJECTIVE:**

*At the end of this lesson participants will be able to identify the following:*

- The different types of intellectual property
- The rights which property holders enjoy
- The general ways in which those rights are protected
- The powers that Customs services are entitled to exercise in relation to IPR
- Other powers exercised by other agencies – the need for interagency cooperation

## **LESSON OUTLINE**

IMPORTANT: These notes must be read together with the Lesson notes contained in the Participant's Manual. All Instructors should be ready to work through the lesson notes with the participants to make sure that they are fully understood. These notes are designed to highlight the key points that must be conveyed to the participants.

*The purpose of this session is to introduce participants to a number of concepts that are central to their understanding of intellectual property rights.*

1. The first step is to explain in simple terms what the various types of intellectual property are. Each of the seven types should be listed and demonstrated to the students by example (preferably an actual physical example in the classroom).

The seven types of IPR are:

- Copyright
- Trademark
- Geographical indications
- Industrial designs
- Patents
- Layout design and topographies
- Trade secrets.

*The participants should be encouraged to give examples of each type of IPR.*

2. The second step is to ensure that students understand the rights which property holders are entitled to have protected – essentially the right to exclusive use of their IPR, subject only to the extent to which those rights have been sold to others or have expired through operation of law. Their entitlement to prevent the unauthorized use of their IPR, and to damages for that unlawful use, should also be stressed.

3. The third step is to explain the role of Customs administrations in enforcing IPR on imported and exported goods::

- To intervene on behalf of the rights holder
- To intervene of its own volition at the border
- To take law enforcement action under criminal legislation if so empowered.

*It is important that all participants understand that a key role of Customs is to respond to requests from private companies to enforce their IPR on their behalf. It is also important that they understand that Customs also has the right to act of its own volition, if illegal importations or exportations are discovered.*

4. The fourth step is to explain the roles that other agencies may also have in IPR protection:

- Industry and Trade Ministry
- National Library
- Patents office
- Police

*The importance of cooperation with these agencies needs to be stressed.*

5. The theoretical part of the lesson should conclude with a general discussion about the agencies involved in IPR protection in Jordan and the way in which cooperation is currently handled.

6. Following the conclusion of the discussion of the theory of IPR, the instructor will then take the class through the PowerPoint presentation outlining the problems that Honda has with IPR infringements in China. This is designed to demonstrate the commercial implications of IPR breaches and to stimulate further discussion about breaches of IPR in Jordan.

7. Finally, the lesson should conclude with a summary of what has been discussed and with a quick look at the objectives of the Agreement on Trade Related Aspects of Intellectual Property.

**EVALUATION OF THE LESSON:**

*Students will be required to answer questions on this lesson as part of the end of course test.*

**END OF LESSON NOTES FOR LESSON 2**

**LESSON PLAN – LESSON 3**

Number of Pages: 3

Date of

Preparation: 24 November 2004

**LESSON TITLE:**

**Jordan's obligations to protect IPR under International Law**

**DURATION:** Total: 180 minutes

**PREREQUISITES:** Lesson 2

**15. PREREADING REQUIRED:**

Lesson 3 in the Participant's Manual

TRIPS Agreement

*Jordan/USA Bilateral Free Trade Agreement and Memorandum of Understanding on Article 4*

*(Instructors with good command of English may also want to look at the WCO Draft Model Law on IPR and the Paris and Berne Conventions referred to in Lesson 3).*

**REFERENCES FOR INSTRUCTORS:**

*This lesson examines the basis at international law for Customs to take action to enforce IPR. It focuses on the WTO Agreement on Trade Related Aspects of Intellectual Property and on the bilateral Free Trade Agreement between Jordan and the United States. Instructors will need to have a sound understanding of the requirements of both of these, as well as a general understanding of the Agreements administered by the World Intellectual Property Organisation. Instructors should also be aware of the WCO draft model law on IPR.*

**16. LESSON ENABLING OBJECTIVE:**

*At the end of this lesson participants will be able to identify the following:*

- The provisions of the TRIPS Agreement which authorize Customs agencies to undertake border enforcement and other measures in relation to IPR
- Other relevant international agreements relating to copyright and trade marks
- The requirements of the Jordan/USA Bilateral Agreement in relation to IPR enforcement
- The role of Customs in ensuring that Jordan meets its legal commitments to other countries.

## **LESSON OUTLINE**

IMPORTANT: These notes must be read together with the Lesson notes contained in the Participant's Manual. All Instructors should be ready to work through the lesson notes with the participants to make sure that they are fully understood. These notes are designed to highlight the key points that must be conveyed to the participants.

1. Part 1 of the Lesson begins with a general understanding of the TRIPS Agreement. Instructors should ensure that participants understand the overall objectives of TRIPS and the basic principles within TRIPS. Instructors should then assist participants to complete the activity in Lesson 3, which requires them to read and summarise the key provisions. This could be done in syndicate groups, with each group tackling one of the three types of IPR and then reporting back to the group as a whole. It is important, however, that the participants do this as an active exercise, rather than being passively told what the basic principles of TRIPS are.

2. The Instructor should then discuss with the participants the enforcement principles set out in Part III of TRIPS. This should begin with an examination of Article 41 and then proceed to look at each of:

- Civil and administrative procedures
- Provisional measures
- Border measures
- Criminal procedures

*In doing so, the instructor should examine carefully the border measures that Customs can take, either as a result of a request from the IPR holder or through Customs acting on its own initiative. This includes an examination of the remedies available to the IPR holder.*

*Then the instructor should look at the criminal procedures which the TRIPS agreement contains – and which may be enforced by Customs agencies as well as other law enforcement agencies.*

3. At this stage, the instructor should look at introducing a case study to demonstrate how these enforcement provisions work in practice. There is a good example under the Australian Trade Marks Act of how Customs can enforce the rights of an IPR holder on application from the holder. Instructors may, however, prefer to use other examples/case studies.

4. The second part of the lesson concentrates on the obligations accepted by Jordan under the bilateral FTA, including the role to be carried out by Customs. The instructor should introduce Article 4 of the Agreement to the participants and then concentrate their attention on Paragraphs 24 to 26.

5. It would be appropriate for the instructor to introduce a second case study here to demonstrate how the Agreement would apply, particularly to transactions involving US

exporters of goods to Jordan, and Jordanian exporters to the USA. (This case study to be developed in the workshop.)

6. The Lesson should conclude with a summary by the instructor of what has been taught during the lesson.

**EVALUATION OF THE LESSON:**

*Students will be required to answer questions on this lesson as part of the end of course test.*

**END OF LESSON NOTES FOR LESSON 3**

**LESSON PLAN – LESSON 4**

Number of Pages: 2  
Preparation: 24 November 2004

Date of

**LESSON TITLE:**

**Jordan's IPR Legislation**

**DURATION:** Total: 120 minutes

**PREREQUISITES:** Lesson 3

**PREREADING REQUIRED:**

*Instructors should study both the Copyright Law and the Trade Mark Law.*

**REFERENCES FOR INSTRUCTORS:**

*This lesson will require instructors to have a good working understanding of the Jordanian IPR Laws (of which there are at least 7.) In particular, they should be familiar with the Copyright Law and the Trade Mark Law. They should also understand the overall approach taken throughout the legislation in relation to registration of IPR rights, the duties and obligations of IPR holders, and the requirements of Government Departments to administer the Laws.*

**17. LESSON ENABLING OBJECTIVE :**

*At the end of this lesson participants will be able to identify the following:*

- The basic approach under Jordanian Law to implementation of the international obligations discussed in Lesson 3
- Those provisions of the Trade Marks and Copyright Laws which directly impact upon Customs



**LESSON OUTLINE**

IMPORTANT: These notes must be read together with the Lesson notes contained in the Participant's Manual. All Instructors should be ready to work through the lesson notes with the participants to make sure that they are fully understood. These notes are designed to highlight the key points that must be conveyed to the participants.

*Our first step will be to identify all of the relevant IPR laws that are in force in Jordan and to establish some key terms under the legislation.*

*Then we shall examine the Trade Marks Law, looking in particular at the rights of the IPR holder, offences under the Law, the rights of the IPR holder to seek intervention by the courts, and the provisions of the Law implementing the international agreements.*

*Then we shall look closely at the Copyright Law to see how it enforces copyright in Jordan. We shall look at the powers of the National Library, the rights of the copyright holder, the powers of the courts to enforce copyright and the criminal offences under the Law.*

**18. EVALUATION OF THE COURSE:**

*This lesson will be evaluated as part of the overall course evaluation.*

***END OF LESSON NOTES FOR LESSON 4***

19.

**LESSON PLAN – LESSON 5**

Number of Pages: 2  
24 November 2004

Date of Preparation:

**LESSON TITLE:**

**Customs Role in Border Enforcement of IPR in Jordan**

**DURATION:** Total: 240 minutes

**PREREQUISITES:** Lesson 4

**PREREADING REQUIRED:**

*The Customs Law and Regulations.*

**REFERENCES FOR INSTRUCTORS**

*This is the final lesson of the course before the revision period and the assessment test. It is designed to develop the participants' understanding of the role that Customs plays in IPR enforcement, and the actions that are available to Customs under the Customs Act. This should be a more practical lesson, with a risk management focus and case studies to illustrate where and how Customs might act. It is most important that instructors have a good understanding of the powers available to Customs under the Customs Law and regulations.*

**20. LESSON ENABLING OBJECTIVE:**

21. Upon completion of this lesson, participants will be able to identify:

- The major threats faced by Customs to compliance with the IPR Laws
- The powers available to Customs under the Customs law to enforce IPR and to impose sanctions for breaches of IPR
- The circumstances under which those powers can be exercised
- The rights of review of those powers available to offenders
- Organizational arrangements within Customs for the exercise of the powers

**22. LESSON OUTLINE**

**IMPORTANT:** These notes must be read together with the Lesson notes contained in the Participant's Manual. All Instructors should be ready to work through the lesson notes with the participants to make sure that they are fully understood. These notes are designed to highlight the key points that must be conveyed to the participants.

*This lesson will bring together the students knowledge and apply it to situations that they may face in the workplace. It should therefore be built around relevant case studies.*

*The first part of the lesson will address the threats that Jordan faces to breaches of the IPR Laws. It will identify the major problems currently faced as well as potential future threats. (These materials will be developed during the workshop from 22-24 November.)*

*It will then examine the powers available to Customs under Article 41 of the Customs Law and under Regulations Number 7 of 2000. It will examine the way in which an IPR holder can apply to the courts to require Customs to intervene to deal with these threats, how and when those powers can be exercised, and the rights of those parties against whom the powers are being exercised.*

*Then we will use case studies to demonstrate the way in which the Trade Marks Law has been applied in Jordan.*

*We shall then look at the agreed procedures for the enforcement of copyright by Customs and the National Library in Jordan.*

*The lesson is designed to take 4 hours altogether, but most of this time should be dedicated to case studies which demonstrate how Customs can act. Participants should be able to articulate the powers that Customs have and the way in which Customs should exercise those powers in response to a particular fact situation.*

**23. EVALUATION OF THE COURSE:**

*This lesson will be evaluated as part of the overall course evaluation.*

**END OF LESSON NOTES FOR LESSON 5**

***PART 2***

***PARTICIPANT'S MANUAL***

(To avoid duplication please see page 8)

***PART 3***

***ASSESSMENT***

**ASSESSMENT**

*Course Participants are required to answer all of the following questions to the best of their ability. These questions are all based on material which has been discussed over the previous two days of the course and during the revision session.*

1. Define intellectual property and list its types
2. Which section at the Customs Department is responsible for enforcing provisions for protecting IPR? And what are its responsibilities?
3. What are the legal procedures followed in registering trade marks at the Ministry of Industry and Trade and Customs Department for the purpose of protection?
4. What is the purpose of the customs department in applying legislation for protecting IPR?
5. What is the Court responsible for pursuing offences and violations arising from breaching legal rules that govern intellectual property rights?
6. What are the legal procedures followed in pursuing IPR violation cases set by Article (41) of customs law?
7. What are the administrative responsibilities to terminate clearance procedures and release of goods that are suspected to breach IPR?
8. What are the legal procedures that should be taken by the right-owner to terminate clearance procedures?
9. What are the penal and civil penalties arising from breaching IPR according to copyright law and trade marks law?
10. What is the legal period during which the right-owner whose IPR have been breached, can file a suit in the specialized court?
11. What is the legal period during which the right-owner whose IPR have been breached, can inform the department of termination of clearance procedures or any decision issued by court to terminate clearance procedures?
12. What is the legal time period before the IPR holder's rights expire in case of the death of author and in relation to patents?
13. What goods are excluded from the application of IPR legislation?
14. What international agreements to which Jordan is a party govern IPR??

15. What are the amendments that have been made to Jordanian laws to give effect to the international agreements that Jordan has signed?

***PART 4***

***READING MATERIALS***



**READING MATERIALS**

*The following materials have been identified as necessary for the course. There are many other materials available, but their inclusion in the course is not essential. The materials listed here should be part of the participants' knowledge, and should all be available in Arabic. The Training Section should be able to source them from the internet or other library resources.*

*WTO, 1994: Agreement on the Trade-Related Aspects of Intellectual Property Rights*

*Agreement between the United States and Jordan on the Establishment of a Free Trade Area: Article 4*

*Memorandum of Understanding on Issues Related to the Protection of IPR under the FTA Agreement*

*Trademarks Law: Law No 34 for the year 1999*

*Copyright Law, Law No 22 for the year 1992 and its amendments*

*Customs Law Article 41 and Customs Regulations Number 7 of the Year 2000.*

**Additional materials:**

*WCO, Model Provisions for National Legislation to Implement Fair and Effective Border Measures Consistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights, May, 2004.*

***PART 5***

**EVALUATION QUESTIONNAIRE**

**Evaluation Form**

We would like to thank you for participating in this course and hope you have benefited from it. In order to be able to improve the level of coming courses, we would like you to help us evaluate this course in a subjective way. Thanking your cooperation.

Course Name:

Course Date:

Course accredited hours:

Name of lecturer:

Name of Supervisor:

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No.		Excellent	V. Good	Good	Poor
	<b>Evaluation of Instructor by participant</b>				
1	Competency of the instructor in submitting the course material				
2	Usage of all supporting aides in explaining the material				
3	Explanation of the importance of the topic to participants				
4	Drawing the participants' interest in learning				
5	Allowance of subjective discussions				
6	Answering all raised questions				
7	Coverage of all training material				
8	Ideal management of time				
9	Logic chronology in submitting the material				
10	Clear explanation of material expressions				
11	Encouragement of participants to submit their ideas				
12	Instructor's interest in participants' needs and reactions				
13	Sufficient method in closing the course				
	<b>Evaluation of the Course by the participant</b>				
1	Maximum benefit from the course				
2	Preparation of training material daily				
3	Revision of training material daily				
4	Ability to explain to colleagues course material (on-the-job)				
5	Sufficiency of course material				
6	Sufficiency of training aides				
7	Suitability to continue conducting such a course				
8	Desire to participate in more courses of this kind				
9	Course timing was suitable				
10	Course venue was suitable				
11	Course time was suitable				
12	Course duration was sufficient				
13	Course material enriched the knowledge of participants in the field				

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	Evaluation of administrative services by the participant				
1	Training room was equipped with all necessary equipment				
2	Training room was comfortable and clean				
3	Availability of training aides when needed				
4	All expected services were available				
5	Hosting services was good				
6	Breaks were enough and hosting services were available				
7	Course supervisor answered all questions raised by participants				
8	Cooperation of course supervisor when needed				
9	Administration personnel were helpful				

Comments:

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Thank you for your cooperation