



# General Department of Customs and Excise of Cambodia

## **Intellectual Property Rights in Cambodia**

**Workshop on the Fight against counterfeited  
Product 19 September 2019**

Presented by Roeun Socheat, Deputy Director of the  
Department of International Customs Cooperation





# 1. INTRODUCTION TO INTELLECTUAL PROPERTY RIGHTS



# What IS Intellectual Property

- Broadly Speaking, **Intellectual property** (IP) is the product of the human mind, whether creative, inventive, commercial or innovative.
- As society, we protect IP under the legal system to recognize the importance and contribution of authors and inventors and the value of IP to society and economies.



# Trademarks

- A word, phrase, logo or other sensory symbol used by a manufacturer or seller to distinguish its products or services from those of others.





# Trade Dress

- Overall appearance and image in the marketplace of a product or a commercial enterprise
  - On a product: Packing and labelling
  - Enterprise: Design, Lay out and decor





# Industrial Design

- The shape, configuration, pattern, or ornament applied to a finished article of manufacture, often to distinguish the product's appearance.





# Copyright

- The right to copy specially, a property right in an original work of authorship fixed in a tangible medium of expression, giving the holder the exclusive right to reproduce, adapt, distribute, perform, and display the work.







# Copyright (Cont'd)

- Usually covers:
  - Literary, musical, dramatic, choreographic, pictorial, graphic, sculptural and architectural works.
  - Motion pictures and other audiovisual works, and
  - Sound recording



# Trade Secrets

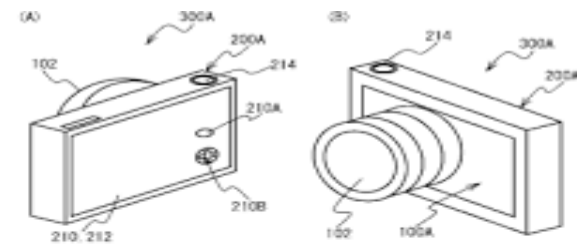
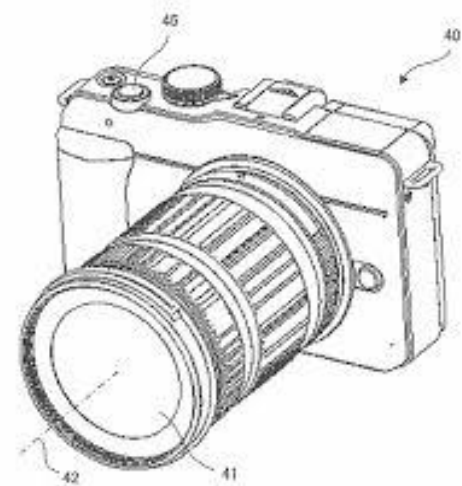
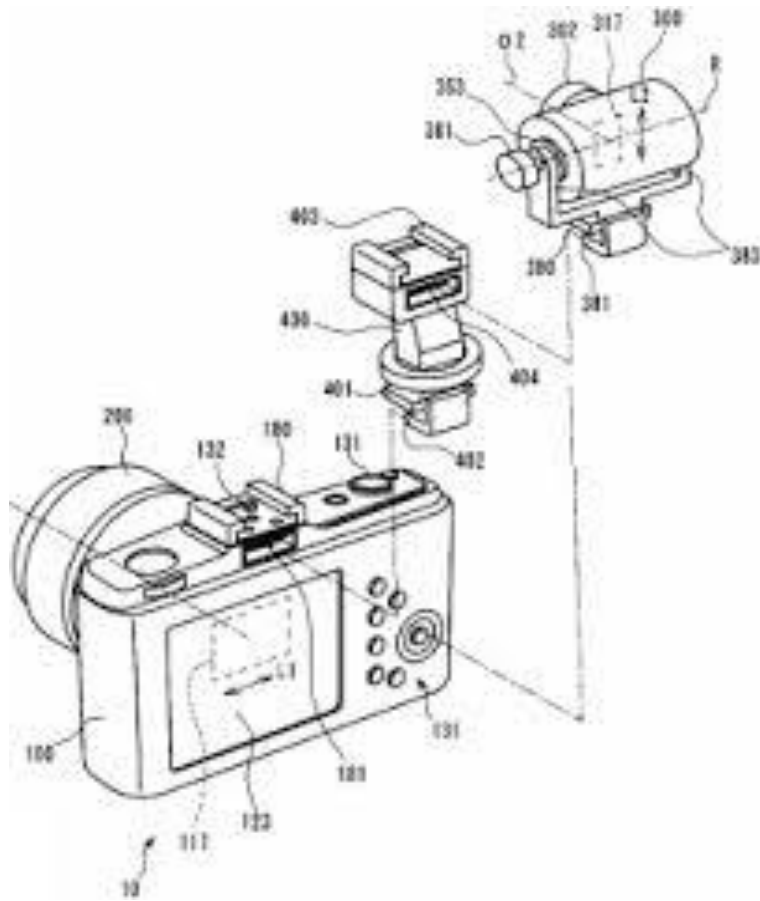
- A formula, process, device, or other business information that is kept confidential to maintain an advantage over competitors
  1. Derives independent economic value from not being generally known
  2. Reasonable efforts to maintain its secrecy.



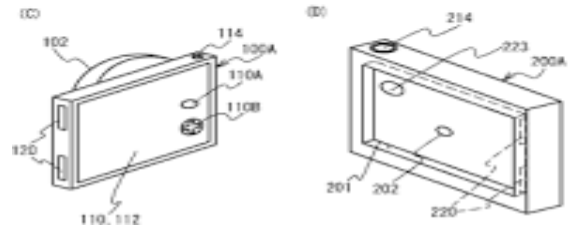


# Patents

- The right to exclude others from making, using, marketing, selling, offering for sale or importing an invention for a specified period (20 years from date of filing), granted by a government to the inventor
- Invention must be novel, useful (utility) and non obvious.



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# What is Counterfeiting

- Counterfeiting is the act of making, amending, or fraudulent distribution of a product of inferior quality than that of the original product.





# What is Counterfeiting (Cont'd)

- The purpose of the counterfeiter is to **create confusion** between the original product and infringed product; to **appropriate another's reputation** and **enjoy the benefit** of the investments made by the true owner of intellectual property right.



# Why Protect Intellectual property

- Provides Incentives to invent and create
- Protects Innovators from unauthorized copying
- Facilitates specialization in technology markets
- Creates a platform for financial investment



# Economic Development

- IP protection is economically and socially beneficial.
  - Attracts foreign investment
  - Encourages development of local industries
  - Promote rule of law
  - Encourages growth of local culture





# Who are the economic victims?

- Rights Holders
  - Loss of sales
  - Damage to reputation
  - No Job growth
- Distribution Chain
  - Fewer Jobs needed
- Local Citizens
  - Substandard goods
  - Links to crime
  - Lost tax revenue.



## 2. IP SYSTEMS IN CAMBODIA



# Three IP Offices

1. Ministry of Commerce: **Department of Intellectual Property Rights** and Secretariat of *National Committee for Intellectual Property Rights* (NCIPR).
2. Ministry of Industry and Handicraft : **Department of Industrial Property.**
3. Ministry of Culture and Fine Art: **Department of Copyright and Related Rights.**

# Responsible Ministries

Royal Government of Cambodia

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graph TD; A[Royal Government of Cambodia] --> B[Ministry of Commerce]; A --> C[Ministry of Industry, Mines, and Energy]; A --> D[Ministry of Culture and Fine Arts]; B --> E[Trademarks]; C --> F[Patents]; D --> G[Copyrights];
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Ministry of Commerce

Trademarks

Ministry of Industry,  
Mines, and Energy

Patents

Ministry of Culture  
and Fine Arts

Copyrights



# Cooperation and Agreements

1. Cambodia became member of the World Intellectual Property Organization (WIPO) on July 25, 1995
2. Cambodia – US on Trade Relations and IPR protection in 1996.
3. The Memorandum of understanding on Intellectual Property Cooperation was signed with Thailand on March 05, 1997.
4. Joint the Paris Convention for the Protection of Industrial Property on September 22, 1998.



# Cooperation and Agreements (Cont'd)

5. Joint the ASEAN Framework Agreement on Intellectual Property Cooperation on April 30, 1999.
6. Trade Related Aspects of IP Rights (TRIPS) in 2004
7. ASEAN - China on IP Cooperation in 2009
8. ASEN – Australia - NZ FTA (IP Chapter) in 2010.
9. Cambodia – China on IP Cooperation in 2011



# Cooperation and Agreements (Cont'd)

10. ASEAN – Japan on IP Cooperation in 2012
  
11. ASEAN – EU (EPO) on IP Cooperation in 2014
  
12. Cambodia- Japan on IP Cooperation on 27  
Nov 2014.
  
13. Cambodia – Korea on IP Cooperation on 1  
Dec 2014



# Cooperation and Agreements (Cont'd)

14. Cambodia- Singapore on IP Cooperation on 20 January 2015.
  
15. Madrid Protocol for International Registration on Marks on 5 March 2015.





## **3. Legal Aspects of IPRs in Cambodia**



# IPRs Laws and Regulations

1. Law Concerning Marks, Trade Names, and Acts of Unfair Competition, 07 February 2002
2. Law on Patents, Utility Model Certificates and Industry Designs, 22 January 2003
3. Law on Copyright and related rights, 05 March 2003





# IPRs Laws and Regulations (Cont'd)

4. Law on the Management of Quality and Safety of Products and Services
5. Law on Commercial Rules and Register.
6. Law on the Management of Pharmaceutical Products (Border and Market Enforcement
7. Law on Customs (Border Measures). 2007





# IPRs Laws and Regulations (Cont'd)

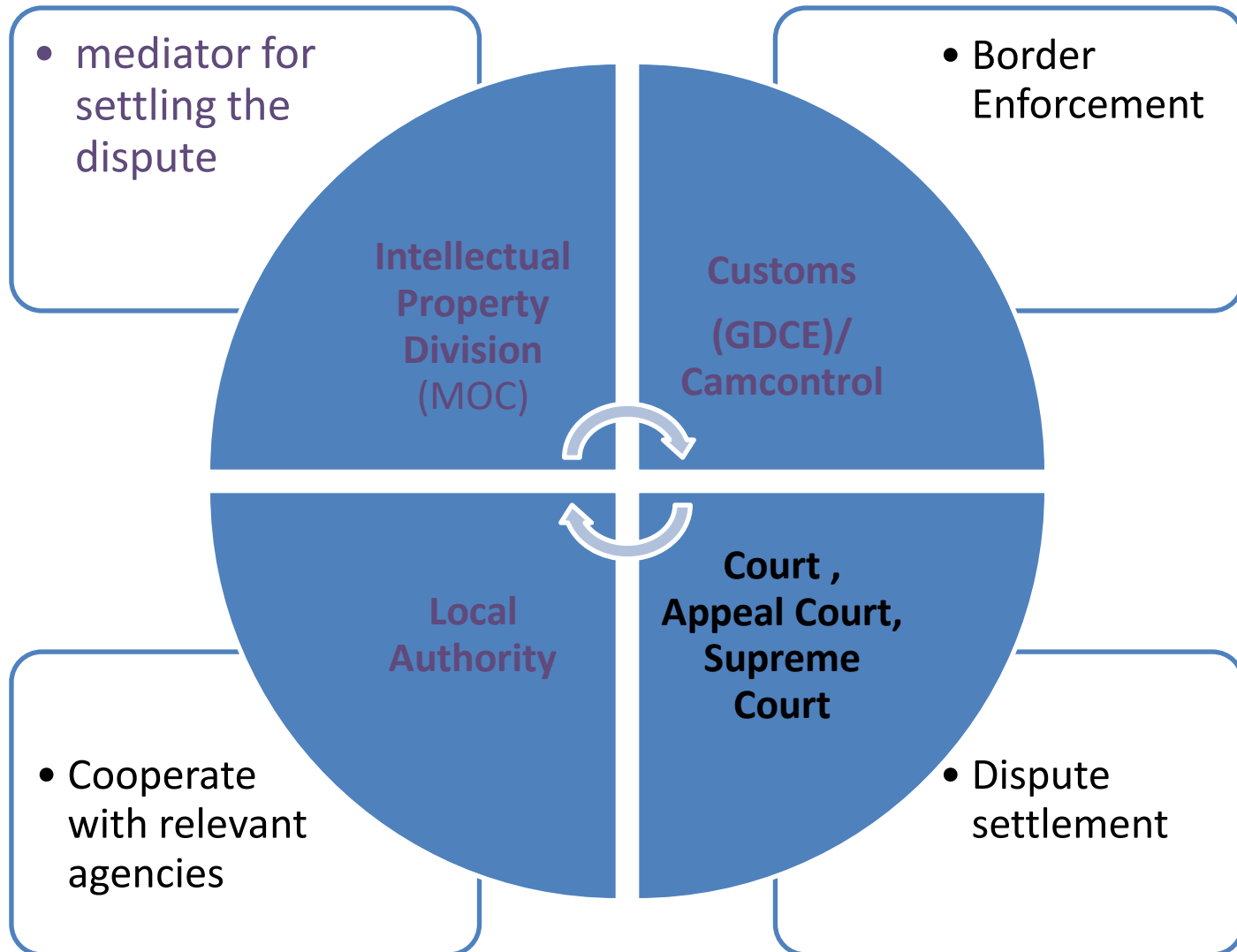
8. Law on Seed Management and Plant Breeders' rights Protection on 12 May 2008
9. Law on Geographical Indicators on 20 January 2014.
10. Sub decree on the implementation of the law concerning marks, trade names and acts of unfair competition of the Kingdom of Cambodia (2006).





## 4. Law Enforcement Bodies

# Enforcement Bodies





## 5. Border Enforcement



# Border Enforcement Procedures

- Two routes of border enforcement

## **1. Right holders initiates action**

(Lodgement of Notice): Lodge a written notice to customs about a particular shipment for customs to detain the shipment  
*(Art. 35 of Law on Trade Marks.....)*



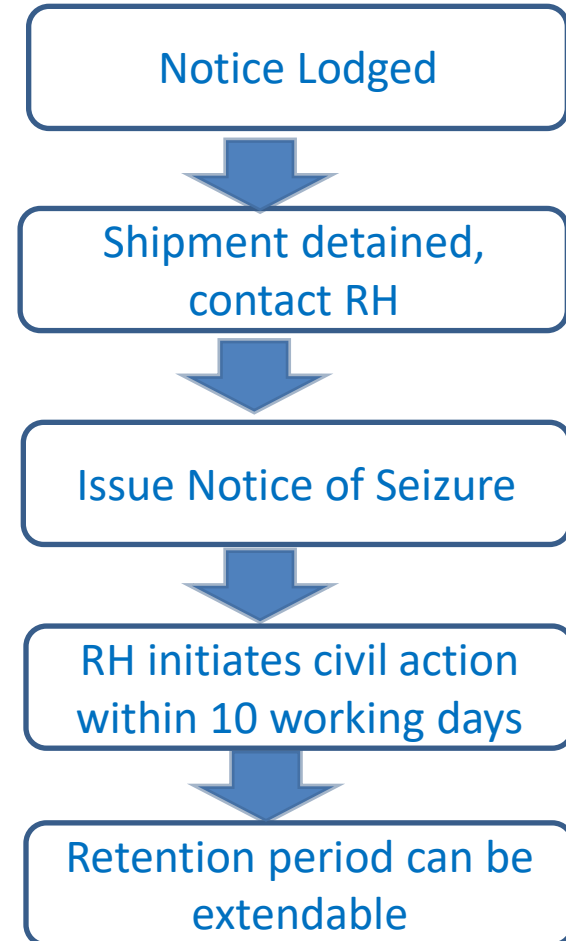




# Lodgement of Notice

*( Art. 35 to 42 of Law on Trade Marks)*

1. Right S Holder (RH) lodges a Notice to DG of Customs
2. Customs contacts RH when shipment is detained.
3. Customs issues Notice of Seizure
4. RH initiates civil action within 10 working days.
5. Retention period extendable





# Border Enforcement Procedures

**2. Ex officio action:** Customs detains suspected IP infringing goods without the need for any notice from right holders.



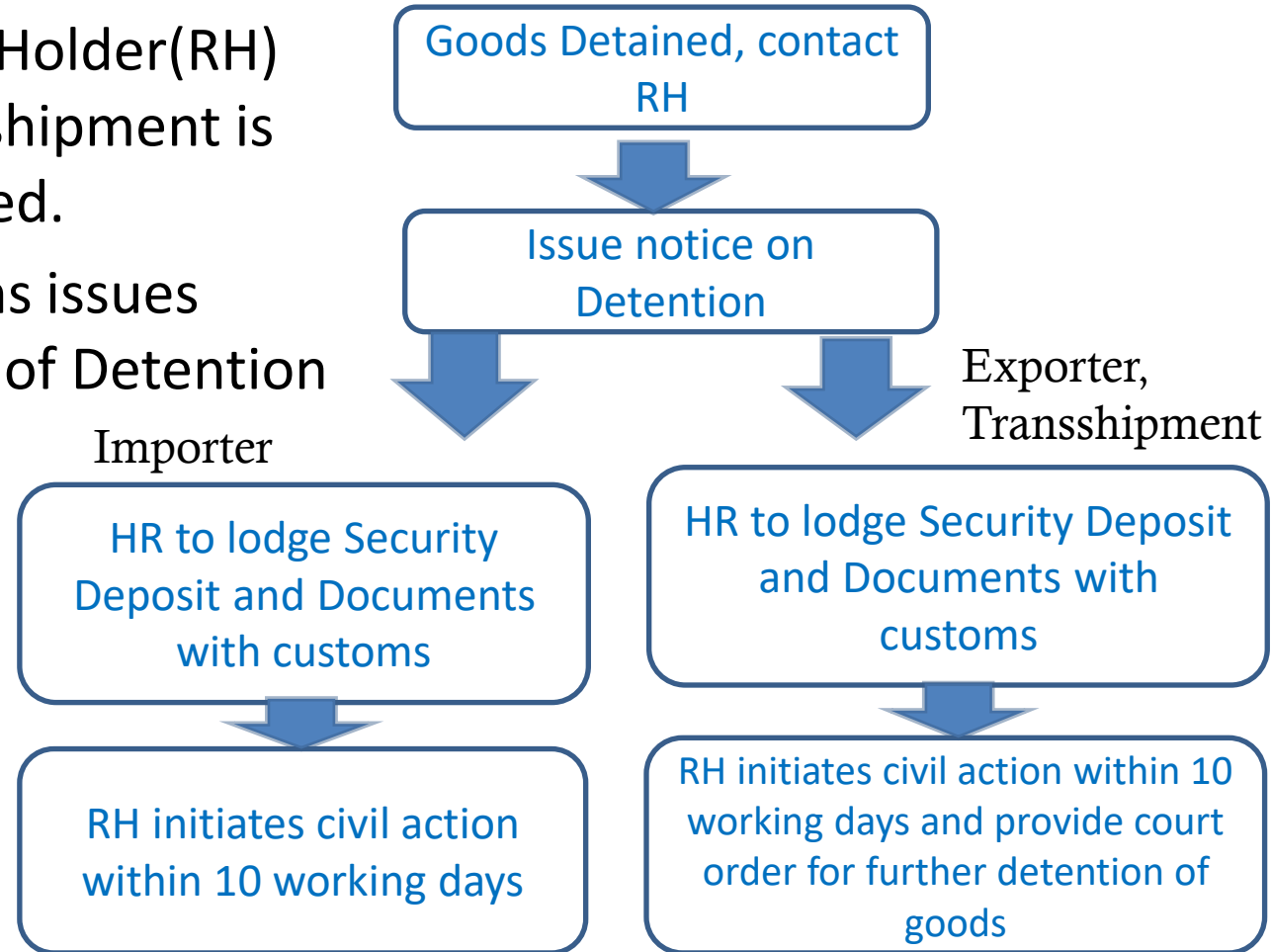


# Ex-officio Action

( Art.43, Law on Trademarks)

1. Customs contacts Rights Holder(RH) when shipment is detained.

2. Customs issues Notice of Detention





## 6. Current Progress



# Current Progress

- GDCE has strong commitment to implement the IPR law.
- Recently, the GDCE has signed the approval to implement the “Standards Employed by Customs for Uniform Rights Enforcement-SECURE” for Intellectual Property Rights.



# Current progress (Cont'd)

- The GDCE has put in place the combating of IPR violation in Strategic and Working Program on Customs Reform and Modernization 2019-2023.
- GDCE has participated in WCO Joint Action Operation against Counterfeit and Piracy for Asia and the Pacific Region.



## ➤ IPR National Seminar On “Intellectual Property Rights, Phnom Penh 05 February 2016





## 7. NOTABLE CASES





# Notable Cases

- As a result of our enforcement efforts, the GDCE has combated some imported infringed goods such as Cigarettes, Whisky, Beer, counterfeit medicines, etc.
- On 12<sup>th</sup> January 2015, **Siem Reap Airport** Customs seized mixed medicines 427Kgs and lotions 50Kgs.



# Notable Cases (Cont'd)

- On 15<sup>th</sup> January 2015, Department of Prevention and Suppression seized body shampoo 3, 830 Kgs and shoes glues 380Kgs.



# Notable Cases (Cont'd)

- Counterfeit Energy drink imported through Poi Pet border. The mix committee including Customs Police and Camcontrol seized in July 2015





# Q & A Session

**Thank You For Your  
Attention!!**