



**MINISTRY OF FINANCE OF THE REPUBLIC OF INDONESIA
DIRECTORATE GENERAL OF CUSTOMS AND EXCISE
DIRECTORATE OF INTERNATIONAL AND PUBLIC AFFAIRS**

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**Customs and Excise Seized Fake/ Counterfeited Import Goods
as a Commitment to Protect Intellectual Property Rights**

Tanjung Perak, 09 January 2020 – Kicking off the year 2020, the Government, specifically Directorate General of Customs and Excise, Ministry of Finance, successfully seized fake/ counterfeited goods imported by PT PAM at Tanjung Perak Seaport in Surabaya. The enforcement activity was conducted synergically with the Ministry of Law and Human Rights, Supreme Court, Indonesia National police, and the Attorney General towards a container containing 858,240 ballpoints with the brand of Standard AE7 Alfa Tip 0.5 Made in Indonesia estimated to be worth Rp 1,019,160,000 imported via Tanjung Perak Seaport in Surabaya on 6 December 2019.

Despite of the relatively small quantity and value of the goods, this enforcement on goods infringing intellectual property rights (IPR) is the first ex-officio enforcement to be conducted synergically since the implementation of Law Number 10 of 1995 as amended by Law Number 17 of 2006 on Customs because the legal framework and border measure system have only been available recently. The legal frameworks include the Government Regulation Number 20 of 2017, Minister of Finance Regulation Number 40/PMK.04/2018, and Supreme Court Regulation Number 06 of 2019. The border measure system currently in place refers to the customs automated system of goods with IPR which integrates IPR control by Customs and Excise, Supreme Court, Directorate General of Intellectual Property, and Commercial Court, which results in a shorter and more efficient bureaucracy.

This successful enforcement is also contributed by the fact that the trademark owner/ holder has registered/ recorded its trademark into the automated system for goods with IPR. This recordation system has been implemented by Customs and Excise since 21 June 2018 with 7 trademarks and 2 copyrights have been recorded since. This system enables Customs and Excise to notify trademark owner/ holder if there is any indication of illegal import/ export of goods infringing IPR.

This case itself began as a result of import transaction analysis conducted by Customs and Excise against importation by PT PAM which was suspected to infringe IPR. Customs and Excise notified trademark owner, PT Standardpen Industries (PT SI) because the trademark had been recorded in the customs automated system of goods with IPR. PT SI provided confirmation and approval for temporary suspension to the Commercial Court by submitting bank guarantee to Customs and Excise Office of Tanjung Perak, after which the goods would be jointly inspected to ensure that the goods are not counterfeits. The joint inspection was conducted by a Judge of Commercial Court, clerk of a court, Customs and Excise officers, expert witness, applicant (PT SI), and the respondent (PT PAM). The inspection result served as the basis to determine if the goods are counterfeits through processes at the Commercial Court.

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PT SI as the trademark owner/ holder had three follow up options. First option was to report the IPR infringement to Civil Servant Investigator (PPNS) of Directorate General of Intellectual Property or Investigator of the Indonesia National Police in accordance with Article 99 of Law Number 20 of 2016 on Brand and Geographical Indications with the maximum criminal penalty of 5 years in prison and/ or Rp 2 billion fine. Second option is through civil resolution by reporting to the Commercial Court of Surabaya, and the third option is through alternative dispute resolution between trademark owner/ holder with the importer or the perpetrator of the IPR infringement.

SI is the domestic industry manufacturing pen with the brand Standard AE7. With the existence of counterfeit products of this brand, the company does not only suffer from material loss but also greater non-material losses. Among them is the decrease of customers' trust caused by the bad quality of such counterfeit products, and promotion costs that are increasing each year to build and maintain the company's image. In addition, such counterfeits also disrupt the market as the customers get lower prices from the companies producing counterfeit products, and they also cause the reducing of number of workers because of the production capacity that continues to decrease as well. These, in the end, cause the company's future investment development plans become uncertain.

With regards to the abovementioned matters, the enforcement of imported/exported goods which violate IPR is important to protect domestic industries, especially owners/holders of trademarks/ copyrights, as well as creative industries in the country so that they are able to grow and have competitiveness as well as contribute to the country through tax payments. Not only to the industrial sector, IPR infringements also adversely affect consumer's health (e.g.: counterfeit cosmetics and drugs), as consumer's safety (e.g.: counterfeit spare parts), and it can even serve as a source of funding for organized crime and terrorism. Moreover, this also proves that Indonesia is very much concerned about the protection of IPR that hopefully will be able to increase the international trust to Indonesia and contribute to Indonesia's effort to be crossed out of the Priority Watch List of the United States Trade Representatives (USTR) on the issue of IPR protection.

This synergy between Ministries/ Institutions and law enforcement agencies is the evidence that the government is committed to protect IPR. Support and active participation from the public, especially trademark/ copyright owner/ holder, by recording their trademark/ copyright to Customs and Excise are also vital to ensure that Customs and Excise is able to take ex-officio action without having to wait for report from trademark/ copyright owner/ holder.

Director,

signed

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