

Anti-Counterfeiting Action – Smart Phones infringement

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For many businesses, it is vitally important for brand owners to protect their intellectual property rights.

This article considers a recent example of the steps taken by the UAE authorities to enforce such rights.

On 17 May 2014 a raid was executed by the Commercial Compliance Section of the Dubai Department of Economic Development (the “DED”) in Souq Nayef in Dubai. This action (called an “Administration Action”) was taken on behalf of an entity set within Dubai Technology and Media Free Zone, commonly referred to as TECOM. The entity sought to protect its intellectual property rights in respect of its product being smart phones.

The DED assigned two DED inspectors and also another inspector from the Telecommunications & Regulatory Authority who inspected and then seized infringing goods bearing unauthorised reproductions of the smart phones from two apartments. An estimated **26,000 smart phones** were seized by the DED. In addition, the DED imposed a fine of AED **30,000 (USD 8,200)** against the offending retailer on the basis that this was the second recorded infringement this year. The estimated price of the seized goods was AED **13,000,000 (USD 3,550,000)**.

As noted by the above case, the involvement of the DED is an important method through which brand owners can protect their intellectual property rights. Administration Actions are routinely carried out in the UAE by the DED in Dubai, Sharjah and Abu Dhabi. In the other Emirates such efforts are coordinated through the Ministry of Economy rather than the DED. The DED enforcement actions are usually against outlets that sell the counterfeit goods rather than against major importers or distributors of counterfeit goods; as those latter will be subject to anti counterfeit actions through criminal actions conducted by Police.

Whilst the UAE operate Administration Actions, it is interesting to consider how other GCC countries operate enforcement of intellectual property rights. For example, in Saudi Arabia, the Anti-Commercial Fraud Department undertakes this responsibility which has proven an effective means of addressing the violation of such rights. In Kuwait, the Ministry of Trade, along with the police, coordinate in the fight against counterfeit goods with prosecutions being before the court.

Administration Actions generally result in the confiscation and destruction of the goods with a fine imposed against the offender. Unfortunately, the amount of the fine is often insufficient to act as a deterrent. However, the use of Administration Actions is generally both efficient and quick as compared to court actions.

The Intellectual Property Enforcement team at Al Tamimi & Company has been instrumental in supporting various businesses in a systematic drive against the infringement of their valuable rights and will continue to aid the authorities in doing so.