

KSA Customs and Vision 2030

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The Vision 2030 of the Kingdom of Saudi Arabia, as announced on 25 April 2016, is the plan for the post-oil era with the rise of new energy efficient producing technologies. The Vision aims to usher the Kingdom into a new era of innovations and modernity in all aspects of life pertaining to the 21st Century. To this end, Vision 2030 strikes a fine balance between keeping with the Kingdom's tradition and heritage and emphasising the Kingdom's three strategies of progress, which are:

1. having a vital and prosperous society;
2. maintaining a continuously growing and sustainable economy in all sectors; and
3. attending to the ambitions and aspirations of the Kingdom's young generation.

Vision 2030 in this context strives to harmonise between the traditions and heritage and those three strategies. To achieve the vision's goals and maximize the benefits the Kingdom has sought to ensure that the three strategies are well integrated and consistent with each other. As such, the Kingdom's announcement of its new Vision has prompted the launch of several national transformation programs, which in turn have kick started developments in various official departments. These developments have in turn prompted a relook at the policies in place in respect of the enforcement of intellectual property rights (IPR) across the country. In this article, we will examine such developments in respect of the Saudi Customs.

In line with the goals of Vision 2030, Saudi Customs recently announced a number of important measures, which will simplify procedures and reduce customs clearance times. Viewed in the broader context of the Saudi government's ambitious Vision 2030, the Saudi Customs' introduction of these new measures reflects their desire to transform the Kingdom into an international logistical center. The key objective is to eliminate all obstacles, which impede the growth of the Kingdom as a regional and international transactional hub of commerce and trade. The Saudi Customs' new measures thus intend to contribute to the economic development of the Kingdom and directly call for a change in the Customs' border control policy to curb the influx of products which infringe local, regional and international entities' IPR. We will first examine the new measures which the Saudi Customs will be implementing and then assess the efforts which the Customs are undertaking to bring its IP protection programs up to speed with these new measures.

New Simplified Clearance Procedures

The new measures will streamline and simplify procedures in the clearance of goods through customs. The number of procedures required to clear goods will accordingly be reduced with a view to shortening the time required for such clearance from 14 days to 24 hours. The documents required to clear the goods will also be reduced from 12 to 5. The reduced list of documents will be limited to:

1. the invoice
2. the certificate of origin
3. the delivery order;
4. the bill of lading; and
5. a document proving the method of payment.

The Saudi Customs intend to implement the new measures gradually and progressively in all ports of entry (including airports). In addition, Mr. Ahmed Al-Hagbani, the Director General of the Saudi Customs issued a circular stating that a separate certificate of origin will no longer be required if the goods bear a fixed non-removable mark indicating their place of origin. If the goods do not bear a fixed non-removable mark

indicating their place of origin, a separate certificate of origin will continue to be required. These new measures will of course have a major impact on the Saudi Customs' efforts in the prevention of entry of counterfeit products. As the new measures aim to fast track the customs clearance of goods, in tandem, the Saudi Customs also recognise the necessity of streamlining IP enforcement at the ports of entry.

Trade Fraud and IP Infringing Goods

The Saudi Customs are always working to prevent trade fraud and in particular the importation of counterfeit goods into the Kingdom. The Saudi Customs' recent success in this area is reflected in the report issued by the World Customs Organisation (WCO). This report shows that in 2016 Saudi Customs seized goods, which infringed third party intellectual property rights more than any other customs authority of WTO member countries. Of the 146 million infringing items seized during 2016, 49 million of these were counterfeit.

To further streamline efforts with the announcement of its new measures for fast tracking customs clearance, Saudi Customs recently signed a Memorandum of Understanding (MOU) with Al Tamimi & Company, for exchanging expertise and information in the field of anti-commercial fraud. This MOU enables Al Tamimi to register its clients' trademarks with the Saudi Customs in order to monitor incoming shipments suspected of carrying counterfeit products. Pursuant to this registration, the Saudi Customs have also started working on a program that would enable officials to alert the concerned stakeholders of any consignment bearing one or more trademarks, which they own. Such an alert would provide the details of the consignment and allow a firm, such as Al Tamimi to check these details with the stakeholder to verify the authenticity of the products and take legal action where necessary. Such actions would entail responding to the Customs' alert by filing a complaint that would then lead to stopping the consignment, seizure of the products in question and an investigation of the concerned importer. Saudi Customs would then determine what further action to take against the importer (imposing of a fine, destruction of the products at the importer's cost and/or further escalation by referring the case to the public prosecution) pursuant to the results of their investigation.

The signing of the MOU with Saudi Customs on the above basis shows promising signs of better and more scrutinising border controls, which will hopefully align with the fast tracking customs clearance procedures. As a second phase, it is hope that the Saudi Customs will implement similar border control, registration and alerting procedures for patents, industrial designs and copyright.

Final Observations

The policy developments which the Saudi Customs are implementing in the realm of IPR, are without doubt in perfect harmony with Saudi Arabia's ambitious Vision 2030. The Saudi Customs recognise the importance of striking a balance between the streamlining of procedures in order to speed up clearance of goods, and providing adequate and effective IPR protection at all ports of entry. WCO reports and data clearly testify to the positive spillover these developments are already having. In light of these advances, and by virtue of the MOU recently undertaken by Al Tamimi and the Saudi Customs, Al Tamimi is very well placed to assist clients interested in protecting their IPR at Saudi ports of entry.

Al Tamimi's support for Saudi Customs

Al Tamimi & Co has the largest intellectual property practice in the Region and its dedicated IP team in the Kingdom regularly assists clients who are having difficulties clearing goods through Saudi Customs. In addition, Al Tamimi supports clients where their valuable intellectual property rights are being infringed by working with the relevant Saudi authorities to put an end to the infringement through, for example, the seizure of the counterfeit goods.