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BRIEF N°8

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Application for intervention and retention by the customs authorities

What is an application for action?

An application for action can be used as a preventive measure aimed at enabling customs authorities to retain products suspected of infringing intellectual property rights during a limited period. An application for action can be made for the French territory and/or for the European Union territory (in case of European Union titles). The application remains valid for a period of one year once customs have granted the application and can be renewed upon written request.

What are the advantages of an application for action?

An application for action can be an efficient means for protecting intellectual property rights in the frame of a defensive strategy.

The Union application for action enables customs authorities to retain goods before their being introduced on the European Union territory, i.e. at the borders of the European Union member states. The national application for action enables the customs authorities to retain goods that already crossed the French borders, on the whole French territory, and under certain conditions, to destroy the goods.

Once the goods suspected of infringement are retained, customs authorities inform the right-holder – or its representative – who can initiate criminal or civil proceedings to obtain measures prohibiting dissemination of infringing products, the withdrawal of the said products from distribution circuits, compensation for the damages suffered etc.

National applications for action and Union applications for action cover a wide range of intellectual property rights such as copyrights and related rights, trademarks, designs and models and patents.



Who can submit an application for action?

An application for action can be submitted by rights-holders but also, under certain conditions, by holders of licenses authorising the use of intellectual property rights.

How to submit an application for action?

The application for action must be addressed to French Customs authorities, in particular to the French customs and indirect taxation authorities, for an action on the French territory and on the territory of several member states in the event of a Union application for action.

The application for action must be accompanied by documents providing information that are necessary for the customs authorities to carry out an effective control.

The application for action can be submitted prior to the introduction of goods suspected of infringement on the territory concerned by the application, or following a customs control establishing the existence of a risk of infringement.

Experts from the firm IPSIDE remain at your disposal to advise you in the setting-up of such measures.

The team of IPSIDE AVOCATS



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