



## Goods infringing intellectual property rights will be sanctioned



*Customs officers of Binh Duong Customs inspect imported raw materials.*

### **VCN- The General Department of Vietnam Customs will sanction firms involved with goods infringing intellectual property rights for problems related to handling confiscated goods according to administrative procedures by Binh Duong Customs Department for CHAMPION trademark.**

According to Binh Duong Customs Department, when handling confiscated goods according to administrative procedures, there is a case of H.Seven Textile Co., Ltd storing import and export goods without legal documents in Customs operation areas, violating the provisions at Point a, Clause 2, Article 12 of Decree 127/2013/ND-CP that has been amended and supplemented in Clause 9, Article 1 of Decree 45/2016/ND-CP.

For this violation, based on the regulations on sanctioning competence, Binh Duong Customs Department transferred the case to Binh Duong Provincial People's Committee to issue a decision to sanction administrative violations. Accordingly, Binh Duong People's Committee issued Decision 3631/QD-XPVPHC to sanction H.Seven Textile Co., Ltd with a fine of VND 50 million and confiscated all infringing goods with a total value of more than VND 5 billion.

On April 17, Binh Duong Provincial People's Committee issued an official dispatch to request Binh Duong Customs Department to resolve petitions by Hanesbrands, Inc (HBI) on administrative sanction for H.seven Textile Co., Ltd.

HBI said "Goods confiscated in Decision 3631/QD-XPVPHC includes textile products and materials with the trademark owned and used by HBI. H.Seven Textile Co., Ltd is only a processor and does not have legal ownership of the trademark printed textile products and materials used to produce the above confiscated goods. Therefore, the auction of the above goods without permission from HBI or the owner of the trademark infringes intellectual property right under Vietnamese law. The use of these goods will seriously affect HBI's legal interests and rights in Vietnam. HBI also expects that H.Seven Textile Co., Ltd shall be allowed to buy the confiscated goods."

According to Binh Duong Customs Department, the violated shipment of H.Seven Textile Co., Ltd includes finished goods with "Champion" logo and trademark and raw materials without logo and trademark.

Binh Duong Customs Department inspected and identified the trademark ownership as declaration by HBI. As a result, "Champion" trademark was protected via intellectual property rights by the General Department of Vietnam Customs for its ownership as HBI Branded Apparel Enterprises, LLC (US) but not HBI.

According to Binh Duong Customs Department, to protect the legal ownership for "Champion" trademark printed on textile products and copyrighted materials of HBI, as per Article 123 of the Law

on Intellectual Property Right, the confiscated goods must be removed from the infringing factor before being auctioned. However, because the number of confiscated goods for auction includes various (all clothes are printed with Champion trademark), the removing of the infringing factor will increase costs, human resources and time.

Binh Duong Customs Department proposed preserving the infringing factor on trademark of the goods, conducting surveys and revaluating the shipment as the starting price for auction in line with market price at the time of auction and implement the auction. If H.seven Textile Co., Ltd wins the auction, the infringing factor will be removed and the entire shipment will be resold to it.

If the winner is not H.seven Textile Co., Ltd, it is necessary to classify and recover all goods infringing on trademark for destruction. The value of remaining goods shall be the auction winning value minus the value of recovered goods. The winner shall coordinate with relevant units to destroy the goods infringing on the trademark witnessed by the owner of the trademark.

The General Department of Vietnam Customs said that Champion trademark belongs to intellectual property rights of HBI Branded Apparel Enterprises, LLC (US), headquartered in the United States, which has been accepted to **apply** customs inspection and supervision measures for import and export goods that require intellectual property protection and has a legal representative of T&G Law Company Limited.

The General Department of Vietnam Customs requested Binh Duong Customs Department to ask H.Seven Textile Co., Ltd to submit documents and clarify the relationship between the HBI Branded Apparel Enterprises, LLC and Hanersbrands, Inc (HBI) for confiscated shipments under Decision 3631/QD-XPVPHC of Binh Duong Province People's Committee.

In case of absence of the relationship between HBI Branded Apparel Enterprises, LLC and Hanersbrands, Inc (HBI), the identification of goods infringing intellectual property rights will be dealt with in accordance with Decree 99/2013 / ND-CP on administrative sanctions in the field of industrial property.

In this case, Hanersbrands, Inc (HBI) has the right to own/use the trademark, so provisions of Clause 2, Article 18 and Point c, Clause 1, Article 19 of the Government's Decree 29/2018/ND-CP, and Clause 4, Article 12 of Circular 57/2018/TT-BTC guiding articles to implement Decree 29/2018/ ND-CP will be applied.

The General Department of Customs also requested Binh Duong Customs develop a handling plan to submit to the Binh Duong Provincial People's Committee for consideration and approval.

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