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A Study of Border Measures Provisions against IPR Infringement among Japan, China and Taiwan: An Application of a Right Holder

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Abstract

Under the World Trade Organization (WTO) system, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) provides for border measures under Article 51 and thereafter, which mandates the introduction of such measures specifically for the protection of trademarks and copyrights. In the case of counterfeiting, additional procedures and remedies, including border measure, must be made available. Special requirements related to border measures are contained in Section 4 (Article 51-Article 60) of the enforcement part of the TRIPs Agreement. According to Article 51, Parties must provide border enforcement procedures for goods bearing a counterfeit. This paper tries to compare the regulations of border measures among Japan, China and Taiwan. This article explains the history of the Customs Tariff Law in Japan, Customs Law of the People's Republic of China, and attempts to examine how the border measures provisions of IPR might be incorporated into the existing custom regulations of the three countries. This article also explains the relationship between border measures provisions and Trade Policy.

Keywords: border measures, IPR, TRIPs, FTA, trademark law