

Relationship between Parallel Import of Copyrighted Material and the Fair Trade Act

Yao, Wen-Cheng*

Wang, Ai-Yun

Abstract

When third world countries sought to catch up with progressive countries, the most effective method was through counterfeiting. But as all developing economies in Asia gradually mature, Europe and other advanced wealthy countries of course cannot sit idly by under the pressure of their rising labor costs and taking long-term loss while developing countries prospers from counterfeits. Therefore, Europe wants the Asian countries to take more responsibility. The result is exemplified by the U.S. policy to inject vitality into the economy by relying even more on native innovation on the one hand, while incorporated intellectual property rights into the core of their foreign policy on the other hand.

The U.S. government claims it would take retaliatory trade sanctions to deal with countries counterfeiting U.S. products, and would also oppose their induction into any global organizations such as the international General Agreement on Tariffs and Trade (GATT).

U.S. was the largest contributor to Taiwan's trade surplus in 1992, because our exports had exceeded foreign import by USD7.8 billion which accounted for about 29% of our total exports. Taiwan was pushing hard to enter GATT but while the trade relationship with the U.S. was expected to benefit the overall economy, we then had amended the copyright law in June which the "Parallel Importation" was a high controversial point.

Date submitted: March 21, 2011

Date accepted: September 30, 2011

* Yao, Wen-Cheng, Director of JIU PIN Law Firm; Adjunct Assistant Professor, Department of Banking and Finance, Chinese Culture University. Wang, Ai-Yun, lawyer; part-time Lecturer, Law department, Shih Hsin University.

During the meeting of Intellectual Property Right, the film and video delivery from the third party was discouraged by the American Officials and the Parallel Importation of copyrighted merchandise also became a polemic issue. After detailing the hows and whys, we focus on the justification of Parallel Importation to provide solution appropriately based on the theory and specific practical views; also, we deliberated on the problem of violation or monopolization or fair trade which the licensor and licensee may engage.

Keywords: Intellectual Property Right, Parallel Importation, Exhaustion Doctrine, The First Sale Theory, Violation, Monopolization, Fair Trade