

**CUSTOM RULES  
AGAINST  
COUNTERFEIT  
OF PANAMA**



**PATENT & TRADEMARK DEPARTMENT**

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**REPUBLIC OF PANAMA**

is pleased to introduce,  
here under, the present Decree  
enacted by the Panamanian  
authorities with the objective  
of prevent the Counterfeit  
and protect the copyrights and the  
Industrial Property Rights.

**EXECUTIVE DECREE No.123  
(OF NOVEMBER 26, 1966)**

DECREES  
CHAPTER 1  
GENERAL PROVISIONS

**ARTICLE 1: Protected right.** For the purposes of these regulations all the intellectual property rights protected by the provisions in force on the subject in the Republic Of Panama will be covered. --

The term "intellectual property" will be understood to comprise the rights originating from industrial property as well as copyrights and associated rights. All of which, in the Republic of Panama are regulated by Law 15 of August 8, 1994, on Copyrights, and Law 35 of May 10, 1996, on Industrial Property, including its regulations and/or any other later provision that modifies the same. --

**ARTICLE 2: Definitions.** For the purposes of these regulations the following definitions are adopted: --

**Proxy:** Natural or juridical person designated by the principal of the intellectual property right to represent the same at the customs supervising process at the border.-

**Intellectual Property Right.** Comprises the industrial property rights as well as copyrights and associated rights.--

**Protected Industrial Property Right.** Licensed and protected rights by virtue of Law 35 of May 10, 1996, its regulations and any other later provisions that modifies the same. --

**Copyright.** Licensed and protected rights by virtue of Law 35 of May 10, 1996, its regulations and any other later provisions that modifies the same. --

**License.** Private document executed by the owner of the intellectual property right protected in Panama, by which a third party is

authorized to use said intellectual property right.  
**Licensee.** Authorized holder of license or voluntary authorization issued by the owner of record of the protected intellectual property right authorizing the use of said right. --

**Owner of protected intellectual property right.**

Owner of record of the intellectual property rights protected by the legal provisions in force in the Republic of Panama. --

**Detention.** Temporary with holding of goods to which a customs destination is not authorized for alleged violation pertaining to the intellectual property. --

**ARTICLE 3: Centralized records.** The General Directorate of Customs (acronym in Spanish, DGA) shall have a centralized record of the owners of record of the protected rights. Until such centralized record is implemented, the files of the General Directorate for Registration of the Industrial Property of the Ministry of Commerce and Industries (acronym in Spanish, DIGERPI) and those of the National Directorate of Copyright of the Ministry of Education shall constitute the basis to determine the owners of record of the intellectual property rights. --

The registration at Customs will be maintained at the request of the owner of the protected right, for the same term than the original registration. The registration at customs may be renewed for the same period that the registration is renewed at the DIGERPI. --

Anyone registering its rights with Customs must, in addition, register the name, general information and domicile of the attorney-in-fact in the country, as well as the names and addresses of its licensees and authorized distributors. --

The owners of record of the copyrights and intellectual property rights protected by law in the Republic of Panama that are not registered, may request the General Directorate of Customs their inclusion in the centralized records. --

The Directorate General of Customs will have a term of two (2) years to develop this center. --

**ARTICLE 4: Scope of the application.** The Directorate General of Customs will be empowered to inspect and/or detain, at custom in all of the national territory, goods in process, subject to any customs destination, which may be violating legal provisions of the laws

industrial property and copyrights and associated rights. Customs will carry on its inspections at its discretion and at random. For the purpose of the inspection, the Directorate General of Customs may take into account factors such as: goods consigned to company names that appear in the list of presumed counterfeiters, provided by the owners of record of the affected rights or its registered proxies; precedents of consignees of counterfeited goods, recurrence of said behavior and/or any other factor that the rendering of the service and commercial practices indicate. --

**ARTICLE 5. Intellectual Property Department.** Creates an Intellectual Property Department within the Directorate General of Customs. This department shall be made up of officers and inspectors qualified on the subject and the same shall have its headquarters at the main offices of the Directorate General of Customs. The functions and internal organization of the Department, including representation of specialized personnel at the regional customs offices, shall be regulated by a resolution issued by the Directorate General of Customs. --

**ARTICLE 6. Deposit of samples.** For the purpose of making the inspection easier, the owners of record of the rights may provide original samples of the goods to the Intellectual Property Department of the Directorate General of Customs, to serve as reference for the inspectors while exercising the control that is regulated by this Decree. Said samples must be made useless to the extent that the nature of the same allow it, trying not to affect the essential characteristics that make the identification of the same as originals possible. Within the scope of its resources, the Directorate General of Customs will diligently take care of the samples, but shall not be economically responsible for the same. --

**ARTICLE 7. Licenses.** For the purpose of making the procedure easier, the owner of the protected right may authorize, in writing, the use of the intellectual property right it owns. This authorization or license may be granted by a private document duly legalized. --  
The licensees may be registered at the Directorate General of Customs. Only the owner of the protected right may register its licensees, these shall not be able to register themselves. The licenses shall be voluntary and shall be

deemed as primary evidence of the assumption of legality of the goods. --

The same shall serve to relieve the goods immediately after presentation, at any time or phase of the investigation, but before the payment of the bond by the protected owner of record of the right. In the case of licenses or authorizations not registered in the country, these must be submitted authenticated or with the Apostille seal as the case may be. --

The licenses previously registered with the Directorate General for the Registration of Industrial Property or the National Directorate of Copyrights shall be valid with the Directorate General of Customs. --

**ARTICLE 8. Customs fees and tariffs.** The provisions of these regulations do not impair compliance with the legal provisions that regulate the fiscal obligations that are derived from the application of the provisions pertaining to customs regulations. --

## **CHAPTER II PROCEDURE**

**ARTICLE 9. Actions.** The Directorate General of Customs may act officially on his own following the orders of a competent authority and at the request of the owner of the protected Intellectual property right. --

### **A. First Section. Official Actions of Customs.**

**ARTICLE 10.** At the time goods in process are retained at the Directorate General of Customs, it shall have five (5) working days, starting as of the time of detention, to notify: --

1. The owner of the protected right or its attorney-in-fact registered at the Directorate and according to the information registered at customs

2. The consignee of the goods--

Notice shall be given by edict, and the notice will be deemed served as of the time the same is removed. Said notification edict will be posted for five (5) working days, at the offices of the Intellectual Property Department and the offices of Customs where the detention was effective. A

copy of the same shall also be posted, at the Directorate General for the Registration of Industrial Property of the Ministry of Commerce and Industries and/or at the National Directorate of Copyrights of the Ministry of Education,

depending on the nature of the right that is allegedly violated.

Third parties shall be notified by a publication in a newspaper of national circulation. The publication will be made for two consecutive days, as of the day immediately following the posting of the edict. --

**ARTICLE 11.** Once notified, the owner of the protected right or its agent may express the desire to see samples of the goods. If the nature of the same allows it, the Regional Administration of the Directorate General of Customs of the zone in which the detention was made may send or personally deliver to the interested party or the person designated by the same, the samples, accompanied by an Inventory and appraisal of the goods retained and the amount of the bond to consign, evidencing the delivery of the samples. The delivery of the samples will be carried out in a period of three (3) working days following the requirement of the same. --

**ARTICLE 12.** In a period of five (5) working days, after receiving the samples, the owner of the protected right, or its agent, may file a brief in which it expresses the facts on which it bases opposition to the processing of the goods in Customs. This brief must express in a summarized and simple manner the basis for said opposition. If no opposition is filed, the Directorate General of Customs will immediately relieve the detained goods. --

When the owner of the protected right does not request samples, the term of five (5) working days for the filing of the opposition brief shall begin as of the day following the expiration of the term for the notification edict. --

The opposition brief shall be filed at the Regional Administration of Customs of the place where the detention was carried out. -

**ARTICLE 13.** Should the owner of the protected right oppose the processing of the goods It must deposit a bond, in favor of the National Treasury, as per the parameters provided in Article 171 of law 35 of may 10, 1996, to wit, not greater than 50% of the appraisal of the detained goods. The bond must be consigned with the opposition brief and it may be a banking, insurance, title of public indebtedness of the State or certificate of guaranty. Monetary or cash bonds shall be unacceptable. --

**ARTICLE 14.** Once the bond is consigned, the Regional Administration of Customs shall formally notify the Public Ministry, in a term of three (3) working days, of the detention of the goods for the alleged violation of intellectual property, there in forwarding the file to perform the summary proceedings, along with the goods the bond and other documents held under the custody of the customs service. --

**ARTICLE 15.** If no opposition is filed to the introduction of the goods, within the legal term provided, the Regional Administration of the Customs zone, shall notify the Public Ministry of the alleged violation and shall proceed to immediately relieve the goods. --

**ARTICLE 16.** During the proceedings, the Regional Administration of Customs may certify if the person is a registered licensee. If not, the original license must be submitted, authenticated or with the apostille seal, for the liberation of the goods. --

**B. Second Section. Actions under orders of competent authority.**

**ARTICLE 17.** At the time the detention of goods is made, the customs authorities will record a memorandum of action which shall evidence the following: --

- a. Identification of the authority that carries out the action
- b. Resolution or official letter ordering the detention of the goods
- c. The description, nature, inventory and other characteristics that make the identification of the goods possible
- d. information on the consignee

**ARTICLE 18.** Once the goods are detained, the Directorate General of customs shall place it at the disposal of the competent authority together with the file and copy of the official letter. --

**ARTICLE 19.** The goods shall be deposited at the place said authority indicates for such purpose. --

**C. Third Section: Action under private report**

**ARTICLE 20.** The Directorate General of Customs shall inspect and/or detain goods in these cases, after the person reporting provided information relative to the description of the goods, information on the consignee, container, port of entry/departure of the country

and/or any other information that makes the identification of the same possible. --

**ARTICLE 21.** The petitioner must consign a bond of B/.2,000.00 at the time of the application and prior to the detention of the goods. Once the goods are detained and the appraisal has been performed, said bond must be adjusted in a term no greater than three (3) working day, so as to be in accordance with the provisions of Article 171 of Law 35 of May 10, 1996. --

**ARTICLE 22.** In such cases when the information provided by the person reporting is false, the initial bond (B/.2,000.00) will be retained for a period of three (3) months, so as to cover the possible damages caused to the consignee, in case that such claim is presented. If no claim is filed in this period, the initial bond shall be returned to the person reporting. This shall be without impairment to the legal actions that the consignee is entitled to under the judicial course.

**ARTICLE 23.** With the goods detained, the Directorate General of Customs shall notify the consignee by edict and publication in a newspaper of national circulation, to safeguard the rights of third parties. -. The notification edict shall be posted for five working days while the publication in newspaper with national circulation will appear for two (2) consecutive days, as of the day immediately following the posting of the edict.—

**ARTICLE 24.** The report may be initiated against a registered licensee, in which case the owner of the protected right may request its withdrawal all from the customs register. --

**ARTICLE 25.** Once the bond is consigned, the Directorate General of customs shall formally notify the Public Ministry, in a term of three (3) working days, forwarding the file to carry on the preliminary proceedings, the goods and the bond for safekeeping. --

**ARTICLE 26.** The provisions contemplated in these regulations shall be effective as of the time Law NO.35 of may 10, 1996 is in force. -

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