

# Dominican Republic Anti-Counterfeiting Measures

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SANTO DOMINGO, DOMINICAN REPUBLIC, July 11, 2022 /EINPresswire.com/ -- The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) came into force in 1995, as part of the Agreement Establishing the World Trade Organization (WTO). TRIPS incorporates and builds upon the latest versions of the primary intellectual property agreements administered by the World Intellectual Property Organization (WIPO), the Paris Convention for the Protection of Industrial Property, and the Berne Convention for the Protection of Literary and Artistic Works, agreements that go back to the 1880s.

TRIPS is unique among these IPR accords because membership in the WTO is a "package deal," meaning that WTO members are not free to pick and choose among agreements. They are subject to all the WTO's multilateral agreements, including TRIPS.

TRIPS applies basic international trade principles to member states regarding intellectual property, including national treatment and most-favored-nation treatment. TRIPS establishes minimum standards for the availability, scope, and use of seven forms of intellectual property: copyrights, trademarks, geographical indications, industrial designs, patents, layout designs for integrated circuits, and undisclosed information (trade secrets). It spells out permissible limitations and exceptions in order to balance the interests of intellectual property with interests in other areas, such as public health and economic development. (For the complete text of the TRIPS Agreement, as well as an explanation of its provisions, see the WTO web site at [www.wto.org](http://www.wto.org) .)

Dominican Republic is a member to the Paris Convention and its modifications including the TRIPS. Furthermore the local [trademark law](#) 20-00 , made on the basis of TRIPS agreement and WTO and WIPO guidelines, provides imprisonment penalties to the counterfeiters, importers and retailers, owners of warehouses, and everyone involved in the commercialization or use of the product in Dominican Republic of a fake product and also provides the reimbursements of damages to the plaintiff.

In this case, we would basically start a process before the Intellectual Property Section of the District's Attorney Office in Santo Domingo filing all corresponding evidence justifying the lawful ownership of the trademark by the plaintiff and providing reasonable proof of the counterfeit. The District Attorney would request a judge to issue a restraining order to customs for not allowing the entrance of any counterfeit product bearing the trademark in question; the judicial

process should be started immediately against the parties involved and the plaintiff should deposit a bail as a guarantee in the event the suit is dismissed by the judge.

In the event the products are already in the country these can be seized and destroyed upon obtaining of a final decision from a court of law.

Simultaneously damages can be claimed before civil court in Dominican Republic; on this concern, you should be aware that the party is not held liable for damages until a final ruling is granted by the judge at the criminal jurisdiction.

In order to gather information and evidence to be used in a court of law we should use investigator's from outside the office; this investigator has previous experience on market research for counterfeiting cases.

We understand you do not have in hand the proper information about the names of parties involved in this case; thus the investigator will have the task to complete all reference information about:

Importer

Distributor

Retailers

It is hard to determine the timeframe for this investigation to be completed, it will pretty much depend on the locations of interest (capital city only or main cities throughout the country)

Is not a good idea to prosecute small retailers for they might be unaware of the illegitimacy of their actions and they are the only source of information as to the suppliers/importers/wholesalers. Once we have pertaining information in hand, the process will be followed as provided by the criminal process law on the basis of trademark Act, which provides felony penalties for infringement cases.

As regards to retailers, in order to start the process in an amicable way, we could send to small retailers (supermarkets, convenience stores, department stores) bailiff-served cease and desist letters including all legal provisions for such an infringement with a deadline for stopping the sell of the products. In the event your company wants such merchandise ceased, then it would be necessary an order from a judge and the process would be needed to be taken to the prosecutor's office for obtaining the order. This merchandise is not destroyed of course, until a final judge's ruling on the case is granted.

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