

## SEVERE SANCTIONS IN TRADEMARK CASES: CORRECTIVE MEASURES

May 2012

*“Administrative sanctions, in contrast to criminal sanctions, are limited to fines, so it is vital that fines are large enough to deter infringing behavior.”*



The control exercised by the administration in relation to the improper use of registered trademarks is very important, because it is a key component in the regulation and inspection of the proper operation of the market.

This is vital for enforcing trademark rights and guaranteeing that third parties will not use a trademark without a prior consent. All this can be achieved by having adequate sanctions whenever a third party makes an unauthorized use.

On some occasions, sanctions have been limited to warnings or amounts less than \$500, so providing no deterrent for companies that import counterfeit good. Counterfeiting remained a profitable option for offenders who avoided the costs of requesting authorizations or purchasing original merchandise.

As an example, we would like to quote two cases in which fines of 18 and 11 Applicable Tax Units (\$24,000 and \$15,000 respectively) were imposed on companies that imported fake ball bearings from China under trademark of a Sweden-based company (and client of ours). In these cases, due to the huge quantity of imported merchandise and taking into account the threat to our client's interests, the Government body imposed these fines. If actions had not been initiated, the offenders would have obtained large profits at the expense of someone else's trademark.

We believe it is very important for the Government body to act this way, because it favors the proper development of the market for the benefit of consumers, especially in relation to the business origin of goods. Furthermore, infringement behaviors will be held back and these fines will serve as a lesson for those who try to import and market counterfeits.

**Author Fayssy C. Delion - Founder  
partner and vice-president at Estudio  
Delion**