

PUBLIC-PRIVATE PARTNERSHIPS TO COMBAT COUNTERFEITING

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Public-private partnerships (PPPs) have proven to be an effective tool for strengthening public policies, since they not only make possible the mobilization of resources from the private sector, both in financial and information terms, but it also allows both sectors to align and integrate their efforts to the proper implementation of policies.

Intellectual property is no stranger to this phenomenon, and many PPP have been created to improve the implementation of related policies. Considering the great social and economic impact of counterfeit products, and their constant increase despite the public policies established at national and international levels, most of the PPP related to intellectual property issues focus on the fight against counterfeit products. In this regard, an example of great impact was the International Medical Products Anti-Counterfeiting Taskforce (IMPACT) established under the World Health Organization, which was a voluntary coalition of stakeholders aimed at combating counterfeit medical products and protecting public health.

In Costa Rica, a 42% increase in the total number of products seized during the first half of 2020 (16,301,243 units seized), compared with same period in 2019 (11,468,375 units) evidences the lack of implementation of policies to combat counterfeiting. Being of common knowledge that much of this problem is due to the lack of government resources, it becomes necessary to exploit tools such as PPP.

An example of a type of PPP that does not involve a large investment but is capable of achieving large-scale and tangible results in this area, is for private companies and trademark holders, whose products are being counterfeited^[1], to conduct training seminars for customs authorities personnel.

These training sessions will provide customs officials first-hand key information to track and spot counterfeit products, such as the type of packaging and materials used in the genuine products, distributors and consignees authorized by the trademark holder, authorized transportation routes, distinctive features of the trademark and the form in which the products bear the trademarks, among others.

Additionally, trainings will also help strengthen collaborative relationships between the enforcement agency, right holders, and their representatives in the country. It is indisputable that good communication lines and coordination between the different agents is essential to act effectively and efficiently once suspect merchandise is seized. The latter since there are many stages of the customs enforcement proceeding in which by law it is necessary for agents to work side by side and coordinating efforts, for example, during the physical examination of the seized merchandise, the preparation of the technical report that confirms the counterfeit origin of the goods and supports the claim to initiate criminal proceedings, and even in judicial instances in which the trademark holders must ratify the criminal complaint filed by customs.

Finally, training sessions generate spaces for the agents involved to discuss the difficulties faced in the proceedings and to seek ways in which these can be addressed.

In conclusion, it is extremely important to exploit and keep in mind the possibilities that exist in our countries regarding PPP to avoid infringements and as an ideal modality to adequately protect intellectual property assets.

If you have any questions, do not hesitate to contact us.

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[1] <https://adiariocr.com/nacionales/contrabando-y-falsificacion-de-articulos-ha-aumentado-un-42/>