



IPR ENFORCEMENT GUIDELINES FOR POLICE



PREPARED

By

**INTELLECTUAL PROPERTY ORGANIZATION OF PAKISTAN
(IPO-PAKISTAN)**

CONTENTS

Sr. No.	SECTION	Page No.
1	INTRODUCTION	3
2	CHECKLIST OF ACTIONS FOR IPR ENFORCEMENT	3
3	FLOW CHART FOR IPR ENFORCEMENT ACTIONS	4
4	IMPORTANT CONTACT NUMBERS IPO-PAKISTAN	5
5	ADDRESSES AND CONTACT DETAILS OF IP TRIBUNALS WITH JURISDICTIONS	5
ANNEXURES		
1	ANNEX-I: RELEVANT PROVISIONS OF IPO ACT, 2012	6
2	ANNEX-II: COPYRIGHT LAW PROVISIONS (COPYRIGHT ORDINANCE, 1962 (AMENDED IN 2000))	7
3	ANNEX-III: RELEVANT PROVISIONS OF POLICE ORDER, 2000	8
4	ANNEX-IV: Sections 478, 479, 480, 481, 482, 483, 485, 486, 487, 488 and 489 of Pakistan Penal Code (Act XLV of 1860)	8
5	ANNEX-V: Section 173 of Code of Criminal Procedure, 1898 (Act V of 1998)	10

INTRODUCTION:-

Intellectual Property Rights (IPRs) are set of exclusive rights granted by government for a specific time to protect the creations of human mind. Examples of IPRs are Patent, Trademark, Copyright, Layout Designs of Integrated Circuits and Industrial Designs etc. In Pakistan IPRs are protected under a set of IP Laws. Following IP Laws are in force in Pakistan for protection of Intellectual Property Rights;

- i. Intellectual Property Organization of Pakistan Act, 2012;
- ii. Patents Ordinance 2000 (amended in 2002 and 2006);
- iii. Trade Marks Ordinance 2001;
- iv. Copyright Ordinance 1962 (amended in 2000);
- v. Registered Designs Ordinance, 2000;
- vi. Registered Layout-Designs of Integrated Circuits Ordinance, 2000;
- vii. Pakistan Penal Code, 1860 (Sections 478, 479, 480, 481, 482, 483, 485, 486, 487, 488 and 489).

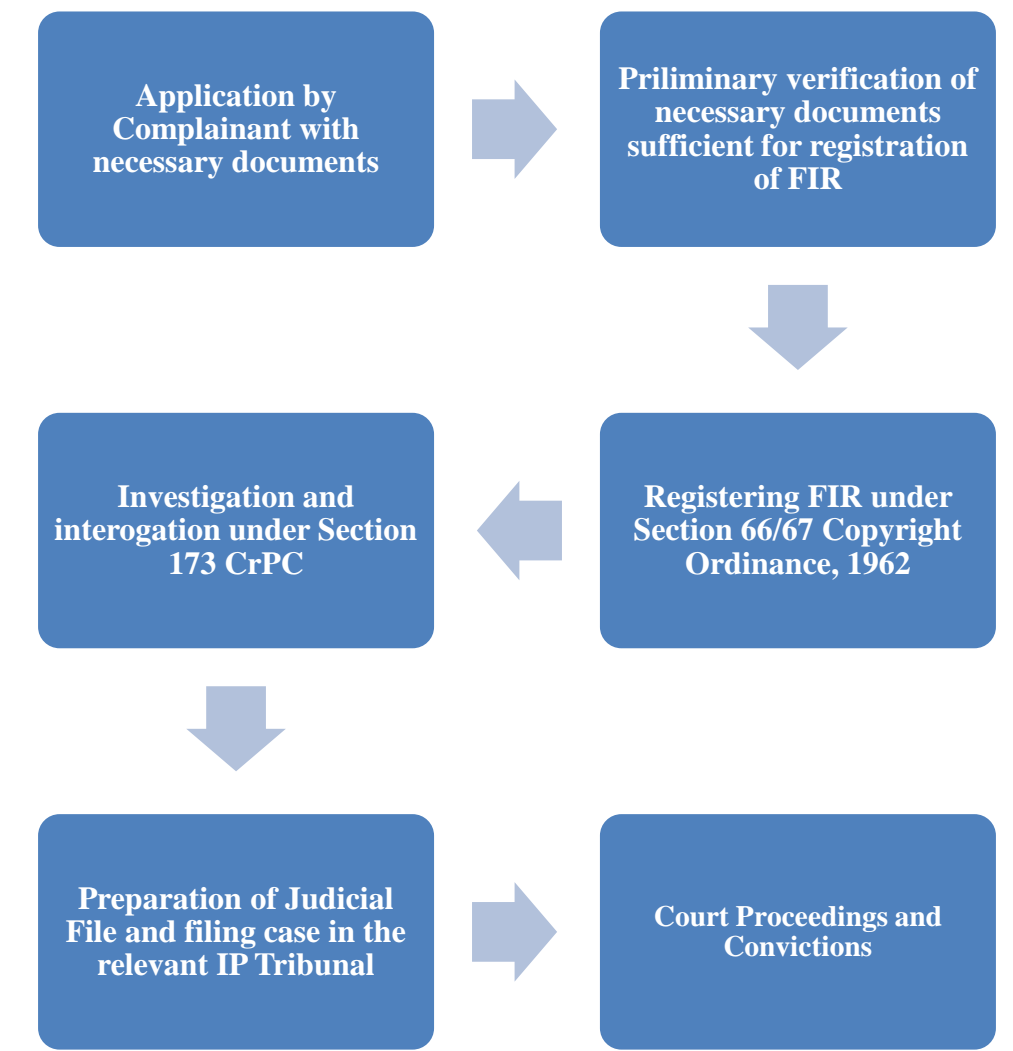
CHECKLIST FOR IPR ENFORCEMENT ACTIONS BY POLICE:-

Action will be taken only on the basis of complaint filed by complainant. FIR will be registered under the relevant sections (66/67) of law pertaining to that offence committed under Copyright Ordinance, 1962 (Amended in 2000). Before registering FIR following things should be assured by FIR registering Officer;

- (i) Written complaint against alleged/violator of copyright;
- (ii) Proof of Copyright ownership i.e. Copyright Registration Certificate/or any other proof of ownership,
- (iii) In case of other than right owner, relation with the copyright owner and its proof,
- (iv) Proof of economic loss;
- (v) Address and contact numbers, CNIC etc. of complainant;
- (vi) Name and Address of alleged copyright violator;
- (vii) Description of physical assets;
- (viii) Allegation in the written complaint should be specific;
- (ix) After receiving all details from the complainant FIR will be registered and an inquiry will be conducted.

- (x) After conclusion of inquiry, if allegation stands established, accused shall be arrested immediately, he/they shall be interrogated with reference to the Charge sheet on the analogy of the other cases.
- (xi) The investigation shall be finalized according to the legal provisions of the CrPC for submission of challan within mandatory period as prescribed under Section 173 CrPC.
- (xii) Original record shall be made part of the judicial file for prosecution if original record is not available then photocopy shall be attested by the custodian of the record.
- (xiii) The recovery/seizure memo shall be signed by the Investigation Officer and PWs (Prosecution Witness) at least two persons.
- (xiv) Case will be filed in relevant Intellectual Property Tribunal.

FLOW CHART FOR IPR ENFORCEMENT ACTIONS



IMPORTANT CONTACT NUMBERS OF IPO-PAKISTAN:-

- i. Mr. Muhammad Qazafi Rind, Registrar Copyright Office. Plot # ST 1 & 2, New Broad Casting House (Ground Floor), Behind KDA Civic Center, Block -14, Gulshan-e-Iqbal, Karachi- 75300, Pakistan. Tel: +92-21-99230140, Fax: +92-21-99230140, Email: copyright@ipo.gov.pk
- ii. Mr. Muhammad Rafiq, In-Charge, IPO Regional Office, 15-E-1, Gulburg-III, Shahrah-e-Imam Hussain, Lahore, Ph: 042-99231981, Fax: 042-99231984, E-mail: Lahore@ipo.gov.pk
- iii. Mr. Muhammad Ismail, Director (IPR Enforcement) IPO-Headquarters: 3rd Floor, NTC Building, G-5/2, Ataturk Avenue (East), Islamabad. Tele. 051-9245892, Fax. 051-9245874 E-mail. Muhhammad.ismail@ipo.gov.pk;
- iv. Mr. Saifullah Khan, Deputy Director (Copyrights) IPO-Headquarters: 3rd Floor, NTC Building, G-5/2, Ataturk Avenue (East), Islamabad. Tele. 051-9245932, Fax. 051-9245874 E-mail. saifullah.khan@ipo.gov.pk.

ADDRESSES AND CONTACT DETAILS OF IP TRIBUNALS WITH JURISDICTIONS:-

Sr.	IP Tribunal	Headquarters	Territorial Jurisdiction	Address and Contact Information
1.	Presiding Officer	Lahore	Province of the Punjab	Old Sessions Court Building, New Judicial Complex, C-2, 2 nd Floor, Lahore. Ph: 042-99214363-4
2.	Presiding Officer	Karachi	Provinces of Sindh and Balochistan	Intellectual Property Tribunal, 4 th Floor, State Life Insurance Corporation Building No. 3, Dr. Zia-ud-Din Ahmad Road, Karachi. Ph: 021-32400941
3.	Presiding Officer	Islamabad	Islamabad Capital Territory and Province of Khyber Pakhtunkhwa	Federal Judicial Complex Building, Sector G-11/1, Islamabad. Ph: 051-9320240

ANNEXURE-I

RELEVANT PROVISIONS OF IPO Act, 2012

13. Powers and functions of the Organization.---

(xviii) initiate and monitor the enforcement and protection of intellectual property rights through designated law enforcement agencies of the Government, Federal or Provincial. and collect related data and information;

(xix) initiate and conduct inquiries, investigations and proceedings related to offences in the prescribed manner;

(xx) refer matters and complaints, related to offences under the laws specified in the Schedule, to the concerned law enforcement agencies and authorities as may be necessary for the purposes of this Act.

15. Trial of offences.-- Notwithstanding anything contained in any other law for the time being in force, an accused shall be tried and prosecuted for an offence in the Tribunal and the case shall be heard from day to day and shall be disposed of within ninety days.

17. Powers of the Tribunals--- (1) Subject to the provisions of the Act, the Tribunal shall,-- (a) in the exercise of its civil jurisdiction, have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908); (b) in the exercise of its criminal jurisdiction, try offences made punishable under this Act and shall, for this purpose have the same powers as are vested in a Court of Sessions under the Code of Criminal Procedure, 1898 (Act V of 1898);

(2) The Tribunal shall in all matters with respect to which the procedure has not been provided for in this Act, follow the procedure laid down in the Code.

(3) All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning or sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

(4) Subject to sub-section (5), no court other than a Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of the Tribunal extends under this Act.

(5) Nothing in sub-section (4) shall be deemed to affect any proceedings pending before such court immediately before the coming into force of this Act.

(6) All suits and proceedings pending in any court instituted under intellectual property laws shall stand transferred to, and be heard and disposed of by, the Tribunal having jurisdiction under this Act. On transfer of proceedings under this sub-section, the parties shall appear before the Tribunal concerned on the date previously fixed.

(7) In respect of proceedings transferred to the Tribunal under sub-section (6), the Court shall proceed from the stage which the proceedings had reached immediately prior to the

transfer and shall not be bound to recall and re-hear any witness and may act on the evidence already recorded or produced before a court from which the proceedings were transferred.

18. Jurisdiction of the Tribunals.--- (1) All suits and other civil proceedings regarding infringement of intellectual property laws shall be instituted and tried in the Tribunal.

(2) Notwithstanding anything contained in any other law for the time being in force, the Tribunal shall have exclusive jurisdiction to try any offence under intellectual property laws.

19. Appeals from Court.--- Any person aggrieved by the final judgment and order of the Tribunal under this Act may, within thirty days of the final judgment or order of the Tribunal, prefer an appeal to the High Court having territorial jurisdiction over the Tribunal.

39. Act to override other laws.--The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

ANNEXURE-II

COPYRIGHT LAW PROVISIONS (COPYRIGHT ORDINANCE, 1962 (AMENDED IN 2000)):-

65A. Prohibition, -- *No infringing copies of any work, whether themselves or depicted or applied to any article or goods or in any form, shall be allowed to be imported into or exported out of Pakistan either by sea, air, land or through any other means of channel of communication.*

65B. Jurisdiction of Officers of customs, -- (1) *An officer of custom functioning under the Custom Act, 1969 (IV of 1969), may, upon an application by the owner of copyright in the work or any other person having an interest in the copyright in the work, detain any consignment intended to be imported into or exported out of Pakistan which is suspected to contain infringing copies of any work. (2) A consignment detained under subsection (1), shall be examined by an officer of customs in the presence of parties and upon determination that such consignment contains infringing copies of any work the same shall be ordered to be confiscated and the importer or exporter thereof, as the case may be, shall be liable to such penalties as provided in this behalf in the Customs Act, 1969 (IV of 1969) Provided that all the process of detention and examination of the consignment as provided in this section shall be completed ordinarily within a period of fifteen days of the filing of the application by the aforesaid person : Provided further that an order passed by any officer of customs under this section shall be deemed to be an order passed under the Customs Act, 1969 (IV of 1969), and shall be appealable as such.*

65C. Release of detained consignment, -- *in case where the consignment intended to be imported into or exported out of Pakistan has been detained by an officer of customs*

under section 65B and requirements of the first proviso to that section are not completed, the importer or exporter of such consignment, as the case may be, may apply to the concerned custom authorities for release of such goods subject to furnishing such security as may be deemed appropriate by the officer of customs.

ANNEXURE-III

RELEVANT PROVISIONS OF POLICE ORDER, 2002

4. Duties of police. –

(1) Subject to law, it shall be the duty of every police officer to -

- a) protect life, property and liberty of citizens;
- b) preserve and promote public peace;
- c) ensure that the rights and privileges, under the law, of a person taken in custody, are protected;
- d) prevent the commission of offences and public nuisance;

(3) It shall be the duty of a police officer to lay information before a competent court and to apply for a summons, warrant, search warrant or such other legal process as may, by law, be issued against any person suspected of committing an offence.

ANNEXTURE-IV

RELEVANT PROVISIONS OF PAKISTAN PENAL CODE, 1860

478. Trade mark: A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression "trade mark" includes any trademark which is registered in the register of trade marks kept under the Trade Marks Act, 1940 (V of 1940).

479. Property mark: A mark used for denoting that movable property belongs to a particular person is called a property mark.

480. Using a false trade mark: Whoever marks any goods or any case, packages or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

481. Using a false property mark: Whoever marks any movable property or goods or any case, package or other receptacle containing movable property or goods, or uses any case package or other receptacle having any mark thereon, in a manner reasonably

calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

482. Punishment for using a false trade-mark or property mark: Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

483. Counterfeiting a trademark or property mark used by another: Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

484. Counterfeiting a mark used by a public servant: Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

485. Making or possession of any instrument for counterfeiting a trade mark or property mark: Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

486. Selling goods marked with a counterfeit trade mark or property mark: Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or thing with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves:- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark and (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or (c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

487. Making a false mark upon any receptacle containing goods: Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he

acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

488. Punishment for making use of any such false mark: Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

489. Tampering with property mark with intent to cause injury: Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either, description for a term which may extend to one year, or with fine or with both.

ANNEXURE-V

SECTION 173 OF CODE OF CRIMINAL PROCEDURE, 1898

173. Report of police officer: (1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer incharge of the police-station shall [through the Public Prosecutor]--(a) forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the Provincial Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond, and, if so, whether with or without sureties, and

(2) Where a superior officer of police has been appointed under Section 158, the report shall, in any cases in which the Provincial Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer incharge of the police-station to make further investigation.

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(4) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial:
Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost.

[(5) Where the officer incharge of a police station forwards a report under sub-section (1), he shall along with the report produce the witnesses in the case, except the public servants, and the Magistrate shall bind such witnesses for appearance before him or some other Court on the date fixed for trial.]

(6) communicate, in such manner as may be prescribed by the Provincial Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given :

[provided that, where investigation is not completed within a period of fourteen days from the date of recording of the first information report under Section 154, the officer incharge of the police station shall, within three days of the expiration of such period, forward to the Magistrate through the Public Prosecutor, an interim report in the form prescribed by the Provincial Government stating therein the result of the investigation made until then and the Court shall commence the trial on the basis of such interim report, unless, for reasons to be recorded, the Court decides that the trial should not so commence]
