

040109-FARCL-IQ-02
January 9, 2004

Case No. [text deleted]

[text deleted]

[text deleted]

[text deleted]

Washington, D.C. [text deleted]

Dear [text deleted]:

This is in response to your letter dated [text deleted], requesting a written ruling and clarification on matters involving the protection and transfer of intellectual property rights under the Iraqi Sanctions Regulations, 31 C.F.R. Part 575 (the "Regulations").

As you know, effective as of May 23, 2003, OFAC amended the Regulations to add a general license (the "License"), which authorizes U.S. persons to engage in all transactions previously prohibited by the Regulations, except as provided in paragraph (b) of the License. See section 575.533 in 68 Fed. Reg. 38189 (June 27, 2003).

In your letter you suggest that pursuant to the License, applications to the Trademark and Patent Office in Iraq (the "TPO") for new trademarks and patents should be permitted, subject to the exception of section 575.533(b)(2) of the Regulations concerning goods or technology controlled by the Department of Commerce.

Please be advised, as of May 23, 2003, OFAC does not regard the TPO as being a specially designated national as defined in paragraph (b)(3)(i) of the License. Therefore, pursuant to the License U.S. persons may engage in all transactions with the TPO that were previously prohibited by the Regulations, including making payment to the TPO for the prosecution and maintenance of new intellectual property rights, subject to the exception of section 575.533(b)(2) of the Regulations.

OFAC regards patents and trademarks issued prior to May 23, 2003, by the TPO or any other political subdivision, agency, or instrumentality of the Government of Iraq as property in which the Government of Iraq had an interest and therefore blocked property still subject to the prohibitions of Subpart B of the Regulations. Consequently, transactions with the TPO, including but not limited to renewal applications and payment of maintenance fees, involving patents and trademarks issued before May 23, 2003, continue to require specific authorization from OFAC.

In response to an application, it is OFAC's policy to license all transactions, including but not limited to the provision of legal services, related to the renewal and maintenance of blocked intellectual property rights issued, obtained or received before the effective date of the Regulations or pursuant to previous OFAC specific authorization.

You also point out in your letter that there may be interest on the part of U.S. persons in trademarks and patents in Iraq abandoned since the inception of the Regulations. You should note that OFAC views such abandoned intellectual property rights as blocked property. However, if the TPO were to set up revival procedures OFAC would consider authorizing the participation of U.S. persons in that process, with the caution that the blocked patents and trademarks remain subject to the prohibitions of Subpart B of the Regulations.

The last issue you present in your letter asks whether U.S. persons can obtain or assign intellectual property rights under the Regulations without specific authorization. Before U.S. persons can accept assignment of or assign blocked intellectual property rights under the Regulations, they would need specific authorization from OFAC.

Please reference the Case No. [text deleted] in any future communications you have concerning this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard Newcomb".

R. Richard Newcomb
Director
Office of Foreign Assets Control