

IPR External Issue Paper

November 2016



U.S. Customs and
Border Protection



Advisory Committee on Commercial Operations

November 17, 2016

OVERVIEW:

- The Commercial Customs Operations Advisory Committee (COAC), through the Trade Enforcement and Revenue Collection Subcommittee (TERC) Intellectual Property Rights Working Group (IPRWG), provides advice and recommendations on improving intellectual property rights (IPR) enforcement.
- At the July 27, 2016, quarterly meeting, the COAC made the following recommendations:
 - (1) that the Known Importer Program initiative cannot be managed uniformly by all trade associations to pilot and/or implement the program at such time. As a result, the COAC recommends that the IPRWG continue to consider other approaches to developing a known IPR supply chain program that includes working with the National IPR Center to extend Trade Association participants to promote the “Report IP Theft” campaign and encourage real-time reporting of IPR violations through a newly established 800 Hotline.
 - (2) CBP investigate partnering with eCommerce stakeholders to develop an automated process for their on-line customers to complete a survey if they feel the shipment of product they received is not legitimate along with the opportunity to submit an allegation through the Report IP Theft Button. COAC also recommends that CBP establish an eCommerce Working Group to further explore this and other pressing eCommerce issues.
 - (3) that CBP should consult with the IPRWG to determine how to better facilitate cargo that arrives as “blanks” without a logo or trademark to distinguish the brand at the time of arrival to reduce resources CBP is expending on unnecessary seizures. The IPRWG should consider how this could be automated to manage known parties or entities to the transaction within the ACE Portal.
 - (4) that CBP take advantage of certain IPR best practices established by the Centers of Excellence and Expertise (Centers) to conduct webinars internally to allow Centers to gain knowledge of these successes, inform the trade of these successes, and inform industries of CBP’s efforts through these webinars and even CSMS messages.

Other Approaches to Developing a Known IPR Supply Chain Program

- On July 27, 2016, the COAC determined that a Known IPR Importer Program could not be managed uniformly by all trade associations at such time.
- CBP plays an integral role in the IPR Center, including its management, as CBP holds the Deputy Director position. In its role as a key member of the IPR Center, CBP will work with the IPRWG as it works with the IPR Center to consider other approaches to developing an IPR supply chain program.

Promotion of the “Report IP Theft” Campaign and Real-time Reporting of IPR Violations

- CBP will work with the IPRWG to promote the use of CBP’s e-Allegations system to report IPR related trade violations and to promote the use of the IPR Center’s “Report IP Theft” button.

- CBP will also work with the IPRWG to increase awareness of the IPR Helpdesk telephone number that can be used to report IPR violations.

Partnering with E-Commerce Stakeholders on an Automated Process for Submitting a Survey on Illegitimate Shipments

- CBP will explore how a survey process on e-Commerce shipments could work and work with the IPRWG on promoting the submission of information on trade violations via CBP's e-Allegations system and the IPR Center's "Report IP Theft" button.

Facilitation of Cargo that Arrives as "Blanks"

- CBP will work with the IPR Working Group on addressing issues regarding "blanks" and explore whether the submission of information on parties involved with such transactions could be automated using ACE.

Use of IPR Best Practices Regarding the Use of Webinars and CSMS Messaging

- CBP will continue to work with the Centers on the development and use of webinars and CSMS messaging, and on engagement with the private sector through meetings such as roundtables and educational seminars.

Trade Facilitation and Trade Enforcement Act of 2015

- The IPRWG is discussing IPR related topics and mandates included in Trade Facilitation and Trade Enforcement Act of 2015.

BACKGROUND

IPR Known Importer Program

- During the 13th term of COAC, the Intellectual Property Rights Working Group (IPRWG) suggested that the COAC explore whether an IPR "known" importer program would offer CBP improved targeting, while providing trade facilitation benefits.
- At the July 29, 2015, quarterly meeting, the TERC set forth a plan that during the 14th term of COAC, an IPRWG would be established to discuss and explore this topic and formulate a recommendation for the viability of an IPR "known" importer program.

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