

# CBP Trade Enforcement Bulletin



U.S. Customs and Border Protection



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## Import Safety

### Miami Seaport Trade Enforcement Team Working with the U.S. Department of Transportation to Make Us Safe

In December 2016, the Miami Seaport Trade Enforcement Team (TET) inspected a shipment that was filed as consumption entry and was referred by the Advanced Targeting Unit arriving from Jiangsu, China, for possible Intellectual Property Rights infringements. During the inspection, 78 electric scooters were referred to the Import and Certification Division, Office of Vehicle Safety Compliance for the U.S. Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA) for possible safety violations. On December 12, 2016, CBP received a request from DOT recommending seizure. The cargo was seized on January 11, 2017.



*Electric Scooter*

In February 2017, another unrelated shipment of 74 electric scooters targeted by the TET arriving from Ningbo, China, was inspected and referred for possible DOT violations.

The DOT determined that both shipments were in violation of 49 U.S. Code § 30112 (a) (1), a law that relates to safety and prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment.

The TET's diligence and collaboration with other government agencies led to the seizure of both shipments. This resulted in the removal of a 152 scooters that DOT deemed unsafe, worth a combined total domestic value of \$125,793.

# Intellectual Property Rights

## Pharmaceutical Operation

On April 12, 2016, the Pharmaceutical, Health, and Chemical Center of Excellence and Expertise (PHC Center) assisted the U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) in simultaneously executing six search warrants.

The warrants concerned falsely manifested and illegally imported active pharmaceutical ingredients Sildenafil, Tadalafil, and Dapoxetine, which were used in the erectile dysfunction drugs Viagra and Cialis. Due to the dangerous interaction with other drugs, the unregulated prescription drugs pose significant health and safety issues.

The multi-agency operation included the ICE HSI; the Food and Drug Administration, Office of Criminal Investigations; the Los Angeles Police Department; and CBP.

On March 22, 2017, the importer pleaded guilty to one count of conspiring to bring drugs into the United States by means of false statements. The shipments were declared to CBP as “cooked powder and tools,” “Chinese bread baking mixture,” and other materials. CBP intercepted shipments, which had a cumulative value of nearly \$550,000. When sentenced, the importer will face a statutory maximum sentence of five years in federal prison. The importer also agreed to forfeit approximately \$105,000, which was seized from three bank accounts.

For more on this story, please visit: <https://www.justice.gov/usao-cdca/pr/diamond-bar-man-pleads-guilty-smuggling-ed-drugs-were-sold-herbal-enhancement-products>.

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## CBP Apparel, Footwear and Textiles Center Maintains Robust IPR Enforcement, Gears Up for NBA Finals

CBP’s Apparel, Footwear and Textiles Center of Excellence and Expertise (AFT Center) has recently posted significant interceptions of intellectual and property rights (IPR) violative wearing apparel infringing on NBA and related trademarks and remained vigilant during the Golden State Warriors and Cleveland Cavaliers NBA Finals series.

“Enforcing IPR laws is a priority trade issue for CBP and helps to protect America’s economic security and competitiveness,” said Director Eric Batt, AFT Center. “The significance of that mission is magnified even more during national sporting events such as the NBA Finals, and just as our recent seizure activity shows, we remain committed to ensuring that arriving merchandise adheres to federal IPR law. Shipments that infringe on registered trademarks will be targeted and seized.”

During April 2017, CBP officers and import specialists assigned to the AFT Center and stationed at ports of entry across the nation seized suspect merchandise that carried a combined manufacturers’ suggested retail price of more than \$22,000, including 128 counterfeit jerseys valued at \$19,269. Other seized merchandise included caps, rings, sweatshirts, shirts and shorts.

Products that infringe on U.S. trademarks, copyrights, and patents threaten the health and safety of American consumers, the economy, and national security. The AFT Center along with nine other Centers that represent the major imported commodities continue to work with Homeland Security Investigations and other law enforcement agencies to disrupt the flow of counterfeit goods entering the country in an effort to protect American consumers and brand holders.

CBP continues to target shipments that may include IPR violations. On a typical day in 2016, CBP officers seized [\\$3.8 million worth of products](#) with IPR violations. In the first half of fiscal year 2017, CBP operations led to the seizure of more than [\\$14 million in counterfeit goods](#).

If you have information about counterfeit merchandise being illegally imported into the United States, CBP encourages you to submit an anonymous report through [e-Allegations Online Trade Violation Reporting System](#).



*Jerseys with NBA team logos seized by CBP*

# Intellectual Property Rights (cont.)

## CBP Seizes Nearly \$500K in Electronics

CBP officers at the Dallas/Fort Worth International Airport intercepted a large amount of counterfeit merchandise on May 18, 2017, bearing brand names and company logos, valued at nearly \$500,000.

CBP officers discovered the counterfeit shipment of over 22,000 separate electronic items after its Anti-Terrorism Contraband Enforcement Team selected the shipment for examination. The shipment of 64 boxes contained various electronic adapters bearing a registered brand name. The shipment originated in Hong Kong and was destined for Laredo, Texas, before CBP intercepted it.

“Our officers work tirelessly to ensure commodities making entry to the United States are legitimate, abide by U.S. laws and regulations, and will not bring about harm to the American public or the economy,” said CBP Port Director Cleatus P. Hunt, Jr. “Our first responsibility is to the American people.”

Officers suspected the trademarked merchandise of Intellectual Property Rights (IPR) violations because the logos appeared to be of poor quality and markedly different compared with the company’s previously shipped products. Additionally, the plain, unmarked boxes suggested there was no affiliation with the popular brand names.

CBP import specialists sent two separate letters to the shipper requesting license information granting the importer permission to produce and ship the imported commodities; however, no response was received and the merchandise was subsequently seized for trademark violations.

Representatives for the rights holders confirmed that the adapters bearing their logos were in violation of the company’s protected trademark. The suggested retail value of the items totaled \$470,502.

Intellectual Property Rights enforcement is a CBP Priority Trade Issue and seeks to disrupt the importation of counterfeit and illegitimate goods which threaten America’s innovation, economy and the livelihoods of U.S. workers. In this instance, these substandard electronic adapters could pose a health and safety risk to potential consumers.

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*Counterfeit Electronics*

## Revenue

### Peeling Back the Layers of Luan Plywood Reveals Loss Of Revenue of \$1.5 Million

Based on an e-Allegation, witnesses documented and photographed a product intentionally labeled as birch plywood that was being shipped from a Chinese mill. The product was not birch plywood; it was misclassified and proved to be a significant revenue loss to CBP. An audit was initiated on the company for entries filed between March 31, 2012, through May 2, 2013. The audit revealed that plywood with Luan\* facing was being misclassified as birch under the Harmonized Tariff Schedule 4412.32.0540 at free duty rate. Luan plywood is correctly classified under 4412.32.3175 at 8 percent duty rate. The high import value and duty free provision contributed to risk for significant loss of revenue. A formal investigation commenced May 24, 2013. Due to the diligence of CBP personnel and years of persistence, enough evidence was gathered to initiate a 19 U.S.C. 1592 (a) Commercial Fraud Penalty for \$1,566,882, issued at two times the loss of revenue of \$783,441. This penalty was issued on March 22, 2017. In addition, a \$19 U.S.C. 1592(d) Deprivation of Lawful Duties, Taxes or Fees was initiated for payment of \$456,728, representing the actual loss of revenue of \$319,426 and potential loss of revenue of \$137,301.

The Industrial & Manufacturing Materials Center of Excellence and Expertise coordinated the penalty efforts with Office of Chief Counsel.



*\*Luan, also spelled Lauan is made from the wood of the Lauan tree from the South Pacific Rim. Lauan plywood is softer than most plywood. The veneers are glued together in layers to make a very soft plywood product with a smooth surface.*

# Trade Engagement

## CBP 2017 West Coast Trade Symposium: "Looking Ahead Together: What's Next for Trade?"

CBP's 2017 West Coast Trade Symposium, held in Scottsdale, Arizona on May 24-25, 2017, focused on partnerships between the U.S. government and private sector. The two-day event took a closer look at how the public and private sectors are working together to decide what's next on the horizon for U.S. trade.

The symposium opened with an on-stage interview between Acting Commissioner Kevin McAleenan and Vincent Iacopella, Executive Vice President of Growth and Strategy at Alba Wheels Up International Inc., a customs brokerage and freight forwarding company. The questions touched on many of the agency's top trade priorities: reducing supply chain barriers without slowing down the facilitation of cargo processing, leveraging new technologies such as blockchain, as well as CBP's recent engagement with Mexico and Canada on harmonizing the North America Single Window.



*The Driving Global Innovation panel*

Symposium panels, which addressed key trade issues, began with the Prioritizing American Prosperity session moderated by Brenda Smith, CBP's Executive Assistant Commissioner (EAC) for the Office of Trade. EAC Smith discussed changes in the global economy and the challenges with managing day-to-day operations, while also dealing with a complex trade environment, with Jerry Cook, Vice President of Government and Trade relations at Hanes Brands, Inc. John Leonard, CBP's Executive Director for Trade Policy and Programs, described how his office is in the process of creating a branch dedicated to addressing changing phenomena in the trade environment. Trade Remedy Law Enforcement executive director Troy Riley addressed his office's focused efforts around the mandates laid out in the Trade Facilitation and Trade Enforcement Act of 2015, while Eric Miller, President of the Rideau Potomac Strategy Group, a Washington, D.C.-based advisory firm, provided a "bird's eye" view of how his company deals with processes and technology.

Cynthia Whittenburg, Deputy Executive Assistant Commissioner of CBP's Office of Trade, moderated a panel on the Border Interagency Executive Council's vision, which discussed the interagency effort and the role of trade in this approach. Panel participants included Bruce Harsh, Director of the U.S. Department of Commerce's Office of Supply Chain; Robert Berczik, an International Issues Analyst at the U.S. Department of Agriculture's Food Safety and Inspection Service; and Hun Quach, Vice President of International Trade for the Retail Industry Leaders Association.

Deborah Augustin, Executive Director (XD) of CBP's Trade Transformation Office, formally known as the ACE Business Office, led a best practices discussion for the Driving Global Innovation panel. As the head of the office responsible for understanding and achieving best practices, XD Augustin discussed the innovations and methodologies aimed at minimizing processes with her panel members—Anil John, a Program Manager in the cyber security division of the Science and Technology Directorate at DHS; Tom Overacker, CBP's Assistant Director of Cargo Targeting; Jim McLaughlin, Executive Director of Targeting and Analysis Systems Program Directorate within CBP's Office of Information Technology; and Alan Cohn, Counsel at Steptoe & Johnson and a Principal at ADC/Strategy Works. The panel focused on how innovation benefits consumers, increases the availability of new products, and drives economic growth and development. Throughout the discussion, XD Augustin reiterated the government's responsibility in fostering and investing in innovation, overcoming barriers with respect to innovation, and ensuring that innovation contributes to public policy.

At the keynote luncheon, Executive Assistant Commissioner Smith and Deputy Executive Assistant Commissioner Whittenburg gave symposium participants an inside look at how CBP is using big data to drive trade policy and action. They emphasized how the agency is moving from a "collector of data" mindset to a "connector of data" mindset to predict and address the many risks involving trade. CBP unveiled an economic benefits model to underscore how the shift is helping to define and shape the agency's impact on the U.S. economy.

The Business of Small Business breakout session, moderated by Shaun Keller, Office of Trade's E-Commerce and Small Business Branch Chief, explored opportunities for small businesses to work with entities in the global supply chain. The panel included members of the trade community including Al Kaufman, Senior Vice President of Technical Affairs at The Toy Association, who discussed compliance issues concerning small businesses, and Rene Romero, President of AM-MEX International, who addressed the transportation and logistics of importing and exporting for small businesses. Megan Giblin, the Director of Customs and Trade Facilitation for the United States Council for International Business, addressed international and domestic business models, while Lisa Schimmelpfenning, Vice President of Import/Export, Compliance and Administration for Walmart Stores, Inc., discussed building relationships with businesses of all sizes, especially small businesses that are rapidly growing in the e-commerce arena.

Other areas of focus at this year's Trade Symposium breakout sessions included the Centers of Excellence and Expertise; enforcement, partnership, and compliance; the movement and security of e-commerce; CBP's authority to combat evasion; and a session on streamlining processes designed to solicit feedback from importers, brokers and other trade stakeholders.

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