

# CBP Trade Enforcement Bulletin



U.S. Customs and Border Protection



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## Intellectual Property Rights

### CBP San Juan Seizes 20 Counterfeit Luxury Watches

In January, U.S. Customs and Border Protection (CBP) San Juan Field Office announced the seizure of 20 counterfeit luxury watches, estimated at a total manufacturer's suggested retail price (MSRP) of \$2.6 million. The watches were found in two separate shipments, both illegally imported into Puerto Rico from China via international courier.

CBP Officers detained the shipments evaluating that the low quality of the products, low value, packaging, and delivery method were not common for such high end original merchandise.

CBP Import Specialists appraised the imported merchandise determining that the shipments violated the intellectual property rights (IPR) of the manufacturers of the luxury watch companies' products.

"Consumers purchase products for the intrinsic value and quality that the recognized brand provides, which is then used by counterfeiters to make a profit with a low quality version," said Edward Ryan, Assistant Director of Trade for Puerto Rico and the U.S. Virgin Islands. "We remain committed to protect legitimate businesses and consumers from intellectual property thieves," said Ryan.

Counterfeit and pirated products threaten our economic security and undermine legitimate businesses that invest significant resources into manufacturing safe, quality products.

CBP protects businesses and consumers every day through an aggressive IPR enforcement program. CBP targets and seizes imports of counterfeit and pirated goods, and enforce exclusion orders on patent-infringing and other IPR-violative goods.

If you have information about counterfeit merchandise being illegally imported into the United States, CBP encourages you to submit an e-Allegation. The e-Allegation provides a means for the public to anonymously report to CBP any suspected violations of trade laws or regulations related to goods into the United States.

To submit your trade allegation, please visit the [e-Allegations Online Trade Violation Reporting System](#).



*Counterfeit watches with poor quality materials*

# Intellectual Property Rights (cont.)

## The Lights Went Out in Savannah, Georgia

During the first quarter of Fiscal Year 2017, U.S. Customs and Border Protection (CBP), Office of Field Operations at the Area Port of Savannah, Georgia, seized more than 13,500 counterfeit light fixtures. In total, these light fixtures had a manufacturer's suggested retail price (MSRP) of \$2.1 million. The counterfeit goods were imported under twelve different shipments and all originated in China. The shipments violated several trademarks, using Underwriters Laboratories and/or Electrical Testing Laboratories marks showing the goods had been safety tested, inspected, and certified. "Counterfeit goods pose a potentially serious safety threat to consumers and economic loss to U.S. businesses," said Lisa Beth Brown, Area Port Director in Savannah, Georgia. "Enforcing intellectual property rights remains a top trade priority for CBP."



*Samples of seized counterfeit light fixtures*

## Building a Better Mousetrap

The CBP Air Cargo Special Operations Team (SOT) at JFK Airport had been in existence for a little less than a year when it snared its first catch in June 2012. Three individuals were arrested after an extensive investigation in a case initiated by the SOT. The subsequent dismantling of the counterfeit trafficking ring resulted in the seizure of more than 32,000 bogus cell phones and other electronics with a manufacturer's suggested retail price (MSRP) of over \$2 million and \$54 million in forfeited assets.

Other SOT successes followed. In Fiscal Year 2016, the SOT initiated and/or played a significant role in nine separate criminal trade enforcement cases resulting in the arrest of 19 individuals. Goods seized in the execution of search warrants included more than 11,000 counterfeit cellphones, 24,000 counterfeit perfume boxes, 20,000 counterfeit high-end electronic products, 8,000 counterfeit designer clothing products, and 750,000 counterfeit designer handbags and labels. The total MSRP exceeded \$218 million and seized assets valued at more than \$330,000.



*Counterfeit Apparel*

The SOT is comprised of law enforcement officers dedicated to supporting U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) to disrupt and dismantle transnational entities engaged in intellectual property rights (IPR) violations, as well as those smuggling synthetic narcotics.

Challenged by the significant volume of air express cargo entering the port each day, the team handles interdictions "cradle to grave" with total ownership for their product. To ensure continued success, the team is "ringed fenced", allowing them to concentrate all of their time on developing high-risk targets and following through on case preparation. The team is able to improve their targeting success through the direct feedback by performing their own examinations and post-seizure analysis. The SOT successfully refers potential targets for further investigation and the team continues to play a critical role in working seamlessly with HSI to push investigations to their fruitful conclusion in the execution of search and arrest warrants.

# Intellectual Property Rights (cont.)

## China Joint Intellectual Property Rights Enforcement Operation

U.S. Customs and Border Protection (CBP) and the General Administration of Customs of the People's Republic of China (GACC) conducted their second joint intellectual property rights (IPR) enforcement operation in April. The month-long operation resulted in the seizure of over 1,400 shipments of counterfeit automobile parts, electronics, identification tags and labels, certain pharmaceutical products, bags, shoes, and other apparel products.

During the operation, both CBP and the GACC focused on stopping shipments of IPR infringing goods from entering the commerce of the United States, through CBP making seizures at the U.S. border and the GACC interdicting exports of counterfeit goods destined to the United States.

The Office of Trade's IPR Trade Policy & Programs Director, Mr. Michael Walsh, explained, "The United States and China have a lot of enforcement concerns in common, and being able to talk about them and to work in collaboration is a big step in the right direction. We are confident that this meeting has helped to expand the working relationship between our two countries."

CBP will continue to work closely with the GACC to tackle IPR issues, as China remains the top exporting country for counterfeit and pirated goods to the United States. The two customs agencies will continue to share information and seizure data to effectively target shipments of IPR infringing goods.

Intellectual Property Rights is a CBP Priority Trade Issue. This joint operation is an example of how CBP works with international partners to accomplish a common goal of deterring and disrupting illegal trade in IPR infringing products. For additional information on CBP's IPR enforcement efforts, please visit [www.cbp.gov/trade/priority-issues/ipr](http://www.cbp.gov/trade/priority-issues/ipr)

If you have any suspicion of or information regarding suspected fraud or illegal trade activity, please contact CBP through the online [e-Allegations website](#) or by calling 1-800-BE-ALERT.

## Revenue

### Special Trade Operation Results in Million Dollar Penalty Collected

During Fiscal Year 2014, import specialists at the Port of Miami International Airport ran a trade operation targeting misclassification of turbojet, turboprop, and other gas turbine parts. From one particular importer, the team identified 62 entries for review. After reviewing responses to CBP Form 28 (Requests for Information), patent information explaining the functions of the parts, as well as diagrams and schematics for various gas turbines for which the imported parts were suited, it was determined that the parts for non-aircraft industrial gas turbines were all misclassified under a specific provision of the Harmonized Tariff Schedule (HTS). The provision provides for parts made of cast-iron, not advanced beyond cleaning, and machined only for the removal of fins, gates, sprues, and risers, or to permit location in finishing machinery without charging a duty. As the merchandise was not made of cast-iron nor used for the purposes previously described, the imported parts were properly reclassified and duties were recalculated. These material false statements resulted in \$332,743 in lost revenue. Based upon the evidence, the import specialists presented a Commercial Enforcement Analysis Response (CEAR) referral recommending a pre-penalty pursuant to 19 USC § 1592 at a negligence level for failing to exercise reasonable care in ensuring the imported merchandise was properly classified.

After consulting Associate Chief Counsel (ACC) Miami for legal advice in an early legal review of the case, the import specialist determined that an argument could be made to support the pre-penalty at a heightened culpability level of gross negligence. In each response to the CBP Form 28 issued, the importer claimed indicated that the imported parts were not made of cast iron, which is the very first requirement to use the HTS classification. It is imperative for a company which specializes in gas turbine parts to know the material with which the parts are made. As such, not only did the misclassifications demonstrate a failure of reasonable care, but the importer acted wanton disregard for relevant facts and with indifference to or disregarded for its obligation under the statute. As a result of this comprehensive review conducted by the ACC and the import specialist, CBP Miami took an aggressive stance and proposed a pre-penalty in the amount of \$1.33 million.

The Fines, Penalties, and Forfeitures Office paralegal specialist worked diligently alongside both ACC and the import specialist ensuring case sufficiency and issued the pre-penalty notice to the violator. In response to the notice, a response from the violator was received and thoroughly reviewed. Considering all the arguments, the facts and circumstances of the case, and applying CBP's Mitigation Guidelines, the paralegal specialist issued a sound, fair decision on the pre-penalty. The penalty was ultimately issued at \$1.08 million and subsequently paid in full with no further petition filed by the violator.

The subject case demonstrates outstanding enforcement, communication, and collaboration amongst the various offices to advance the CBP's efforts in deterring noncompliance. It highlights the importance of technical expertise throughout the entire civil penalty process and solidifies the importance of pursuing commercial fraud enforcement to protect national economic security. The success of this civil enforcement endeavor is highlighted to promote efficacy of future enforcement actions.

# Import Safety

## U.S. Environmental Protection Agency and CBP Joint Operations at Southern California Ports Result in Fines and Seizure of Illegal Engines and Pesticides

On January 19, 2017, the U.S. Environmental Protection Agency and U.S. Customs and Border Protection announced \$217,998 in fines and more than 5,325 items seized or denied entry to the United States. These are the latest results of continued joint operations at the ports of Los Angeles and Long Beach targeting foreign-made engines, including scooters, ATVs, chainsaws and construction equipment without proper emission controls, as well as pesticides that violate federal law.

“EPA and Customs have been working closely together to ensure imported engines meet air quality requirements,” said Alexis Strauss, EPA’s Acting Regional Administrator for the Pacific Southwest. “The enforcement cases announced today will prevent more than 1.5 million pounds of harmful air pollutants from being emitted into our air annually.”

Under the joint initiative, EPA has been conducting regular inspections with CBP at California ports of entry since 2014. With more than 40 percent of containerized goods coming into the United States through Los Angeles and Long Beach, the focus has been on engines, vehicles and pesticides. Mobile sources, such as on-road and off-road vehicles, are one the largest sources of air pollution in California and account for approximately twenty percent of PM2.5 (fine particulate matter up to 2.5 microns in diameter) and eighty-three percent of nitrogen oxide emissions.

Several companies were found to have imported vehicles and engines without controls emit excess carbon monoxide, hydrocarbons, and nitrogen oxides, which can cause respiratory illnesses, aggravate asthma and lead to the formation of ground level ozone or smog. These inspections also targeted companies attempting to import unregistered or improperly labeled pesticides. Pesticide labels contain critical safety information that help prevent harm to human health and the environment.

In total, from December 2015 through December 2016, seventeen companies paid approximately \$203,000 in civil penalties for federal Clean Air Act violations. EPA and CBP also prevented fifteen shipments of pesticides from entering the country and brought a Federal Insecticide, Fungicide, and Rodenticide Act enforcement action against one company. The company imported 216 bags of the pesticide glyphosate technical FH from China. The pesticide, used to kill weeds, was produced in a facility in China, not in a U.S. facility as described by the company. The company fixed the paperwork violations and paid a \$15,000 civil penalty.

The Clean Air Act prohibits the importation or sale of any new engines or vehicles unless they are certified by EPA to meet federal emission standards. An EPA-issued certificate of conformity must cover every vehicle and engine sold in the United States. To obtain a certificate of conformity, manufacturers or importers must submit an application to EPA that describes the engine or vehicle, including its emission control system. The application must also provide emissions data demonstrating that the engines and vehicles will meet federal emission standards. For more information about importing vehicles and engines into the United States, please visit: [www.epa.gov/importing-vehicles-and-engines](http://www.epa.gov/importing-vehicles-and-engines)

The Federal Insecticide, Fungicide, and Rodenticide Act requires that registered pesticides imported into the United States must be produced in an EPA-registered establishment and the product labels must bear an EPA registration number. Consumers should follow pesticide label directions and should look for the EPA registration number printed on product labels. For more information on importing and exporting pesticides and devices, please visit: [www.epa.gov/compliance/importing-and-exporting-pesticides-and-devices](http://www.epa.gov/compliance/importing-and-exporting-pesticides-and-devices)

Watch a [new four-minute video](#) about EPA’s work at the ports, including a deeper look on how inspections, including laboratory testing, are conducted.



*CBP Officer inspects vehicle engine for import violations*