

CBP Trade Enforcement Bulletin



U.S. Customs and Border Protection



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Intellectual Property Rights (IPR)

Seized Knives Substantially Indistinguishable from Trademark

On January 12, 2017, the Miami Seaport Trade Enforcement Team (TET) inspected a shipment targeted and referred by the National Targeting and Analysis Group (NTAG). The examination of the cargo revealed kitchen knives having a similar appearance to a registered and recorded trademark.



Seized Knives

Pictures of the knives were submitted for review to an Import Specialist who determined that the knives bear a false, non-genuine trademark that

is identical or indistinguishable from the registered trademark. On January 19, 2017, a recommendation to seize was received from the Import Specialist, and on February 21, 2017, the product was seized by the Miami Seaport TET.

This was a substantial seizure that resulted in a total seized MSRP value of over \$2 million.

Pharmaceutical, Health and Chemical Center 'Delivers' Enforcement Results

A cornerstone of the enforcement strategy of the Pharmaceutical, Health and Chemical (PHC) Center of Excellence & Expertise (Center) involves blitzes at high-risk international mail facilities. The Center plays a key role in two enforcement blitzes: the Center-led Operation Bitter Pill and Homeland Security Investigations-led Operation Pangea. Both focus on interdicting counterfeit, controlled, and U.S. Food and Drug Administration-infringing pharmaceutical goods, primarily from online sources. The blitzes last two to three days and involve the examination of several hundred packages. Illicit pharmaceutical products are seized, analysis is performed, and, if warranted, investigative cases are initiated by CBP's partner agencies. In addition, Operation Pangea culminates in global takedowns of illicit websites.

These blitzes have been a highly successful component of the Center's strategy and the Center is on-track to have a record-setting year in terms of seizures of these illegal goods. In just two operations (in San Juan, Puerto Rico, and Chicago, Illinois), the Center enacted 342 seizures of 225,000 pills, already exceeding the seizure total for FY 2016.

The Center attributes this increase to the experience and knowledge of the CBP Officers and Import Specialists since the advent of the Center alongside enhanced collaboration between the Field Offices and the Center prior to implementation of these Operations. The Center looks forward to continued partnership to ensure a successful FY 2018.

Intellectual Property Rights (cont.)

Port of Buffalo, NY CBP Officers Join Forces with Multiple Centers Of Excellence and Expertise to Interdict a Shipment of Counterfeit Goods

In June 2017, a strong collaborative effort between the Port of Buffalo, New York, and the Centers of Excellence and Expertise (Center) demonstrated how maintaining an effective working relationship with key partners helped to disrupt the flow of counterfeit goods.

At the Peace Bridge in the Port of Buffalo, a commercial truck attempted entry into the U.S. with paperwork indicating that the cargo contained three shipments of duffle bags and shirts. The primary officer referred the shipment to the secondary warehouse for an Intellectual Property Rights (IPR) exam on the shirts.

At the secondary warehouse, it was determined that there was one shipment of Lacoste polo shirts and two shipments of Vera Bradley handbags. Both manufacturers were queried in Intellectual Property Rights Internal Search (IPRiS) to verify the merchandise and it was determined that there were concerns with the merchandise when it was compared to the trademarks represented in IPRiS. The shipments were held for a more thorough examination.



Counterfeit Handbags

A request was submitted to the Consumer Product and Mass Merchandising Center as well as to the Apparel, Footwear & Textiles (AFT) Center for IPR determinations on the products. Local Import Specialist representatives from both Centers were contacted for their expertise.

Additional examinations were conducted by multiple CBP Officers as well as Import Specialists. Examinations revealed several possible additional counterfeit indicators including: incorrect hang tags on some of the polo shirts; discrepancy between the market code and the size type on the hang tag (i.e. the market code was for U.S. but the tag displayed a European size); and adhesive on the packaging was different than what was described in the product identification manual from Lacoste. The Vera Bradley products had misspelled words on the plastic bags (e.g., “suffocation” was misspelled), poor stitch quality in many of the handbags, incorrect hang tags on the handbags, and font inconsistency for labeling on some boxes.

Both Lacoste and Vera Bradley were contacted about the authenticity of the items encountered. Lacoste responded stating that the goods were counterfeit Lacoste merchandise, indicating the reason for that determination as the incorrect price tag, the stitching, and the crocodile logo. Vera Bradley responded stating that the products encountered were counterfeit. Some of the indicators being: substandard stitching, discontinued patterns, illegitimate patterns, and misspelled words. All of the merchandise subsequently was inventoried and seized, and appraised to have a total MSRP value of over \$1 million.

Water Filters with Counterfeit PUR, General Electric Design and Every Drop by Whirlpool Trademark

On April 10, 2017, a CBP Officer assigned to the Los Angeles/Long Beach Seaport selected a shipment of water filters for a trade enforcement examination for a possible IPR/trade fraud violation. During the cargo inspection, the CBP Officer discovered water filters that infringed upon trademark names and designs for PUR, General Electric, and Every Drop by Whirlpool as recorded in the CBP Intellectual Property Rights Internal Search (IPRiS) database. Further analysis by an Import Specialist of the Machinery Center of Excellence and Expertise confirmed that the displayed trademark names on the water filters were considered counterfeit.

In the continuing effort to identify counterfeit merchandise entering the United States, CBP Officers seized these violative goods under U.S. law (19 U.S.C § 1526(e) pursuant to 19 CFR § 133.21) for importation of merchandise bearing, copying or simulating counterfeit trademark.

The total appraised value of the 234 cartons of merchandise declared as water filters was estimated to have an MSRP of approximately \$689,500.

Antidumping and Countervailing Duties (AD/CVD)

Antidumping and Countervailing Duty Enforcement Seminar

In May 2017, the Electronics Center of Excellence and Expertise hosted an Antidumping and Countervailing Duty (AD/CVD) Enforcement Seminar in Long Beach, California, which was attended by approximately twenty-five Electronic Center participants from various ports. The AD/CVD Enforcement Seminar provided staff an opportunity to collectively review the Electronic Center's assigned cases, AD/CVD statistics, and enforcement operations. In addition, the three-day comprehensive training focused on current enforcement trends, building 19 USC § 1592 cases, and developing future operations. The participants received presentations from Los Angeles Associate Chief Counsel attorneys, as well as attorneys representing the trade industry. The AD/CVD Enforcement Seminar provided detailed information on the use of several CBP systems that support the trade targeting efforts. The group visited CBP's Los Angeles laboratory, where they were provided with a presentation and a tour of the facility. The AD/CVD Enforcement Seminar participants made significant progress expanding their knowledge and skills to effectively pursue 19 USC § 1592 penalties involving AD/CVD evasion. The seminar attendees were able to effectively collaborate on the AD/CVD enforcement workflow and methods for creating and developing penalty actions against several specific companies that have been determined to be evading AD/CVD duties.



Broker Compliance

Whose Right for the Right to Make Entry?

In determining the overall compliance of a commercial transaction, it can be difficult to know where to start. The Port of Baltimore Entry Branch focused on transactions in determining whether the identified importer of record possessed the right to make entry, and during the Branch's review of the commercial invoice, bill of lading, bill for services (i.e., account receivable) and power(s) of attorney, additional unforeseen egregious and non-egregious errors were identified.

Due to the volume of household effects being imported through the Port of Baltimore, the Entry Branch, with the assistance of Field Analysis, targeted such shipments where the importer of record was a suspected freight forwarder, non-vessel operating common carrier, or warehouse proprietor (hereinafter collectively referred to as a nominal consignee) to determine whether the nominal consignee possessed the right to make entry. The Entry Branch discovered that the nominal consignee misrepresented himself or herself to the customs broker as the party with the right to make entry and injected himself or herself so far into the transaction that the "real" party with the legitimate right to make entry (the importer of record) had no knowledge of the customs broker and/or direct communication was restricted due to the nominal consignee's involvement. When the commercial sales documents demonstrated that the nominal consignee did not have the right to make entry, the Port of Baltimore issued to the alleged importer of record a "technical violation" penalty pursuant to 19 USC § 1592, as the nominal consignee entered, introduced or attempted to introduce merchandise into the United States by means of a statement which was material and false.

The Entry Branch also directed its attention towards the custom broker and focused beyond the bill of lading and commercial invoice - documents used in ascertaining the right to make entry - in identifying invalid powers of attorney and the unauthorized release of business and proprietary information to nominal consignees. Where instances of the aforementioned violations were recognized, we issued "informed compliance" notifications concerning the violations (e.g., 19 CFR § 111.24, 111.36, 141.11, 141.46) for the failure to "demonstrate responsible supervision and control" over their customs business.

Trade Fraud Enforcement

National Fraud Training Pilot Course Held in Miami

In response to the [Trade Facilitation and Trade Enforcement Act of 2015](#) and the President's recent Executive Order, [Establishing Enhanced Collection and Enforcement of Antidumping and Countervailing Duties and Violations of Trade and Customs Laws](#), the Office of Trade's (OT) Trade Remedy Law Enforcement Directorate Civil Enforcement Division developed and piloted a Trade Fraud Training course. The course was funded by the Antidumping and Countervailing Duty (AD/CVD) Policy and Programs Division, in support of CBP's continuing priority of AD/CVD enforcement. The pilot was rolled out to the Agriculture and Prepared Products (APP) Center of Excellence and Expertise (Center) in Miami, Florida, from June 27 through 29, 2017. Participants of the training course included employees representing the Partnership, Validation & Compliance, and Enforcement divisions of the Center. Others in attendance included Import Specialists from four other Centers with local representation in the Miami, Fines Penalties & Forfeitures (FP&F) Paralegal Specialists, Regulatory Audit Auditors, and Homeland Security Investigations (HSI) Special Agents.

Field personnel from FP&F Miami, the Automotive and Aerospace Center, and an International Trade Specialist, who are involved with the day-to-day trade interactions, developed and facilitated the training that focused on the need to bolster trade enforcement actions nationally while reemphasizing the role of the Import Specialists as frontline investigators. With unprecedented growth in world trade, it is critical that our Import Specialists maintain a strong enforcement posture. The three-day course included: roundtable discussions with Associate Chief Counsel, the Department of Justice, and HSI; overviews of the various enforcement tools with the National Targeting and Analysis Group; and team collaboration on current enforcement actions. Participants focused on: developing solid trade fraud case strategies, conducting in-person interviews, properly preparing for importer and broker visits, collecting and preserving evidence, articulating the facts of an alleged violation, collaborating with available CBP resources and our law enforcement partners, and prioritizing the timely processing of proposed enforcement actions.



National Fraud Course Participants

The course incorporated four current cases that are pending with the Center. These cases involve alleged AD/CVD evasion, undervaluation, and misclassification. This real world approach to training allowed the participants to apply concepts discussed and presented during the training to develop action plans to move the four cases forward for possible enforcement actions.

This course afforded participants the chance to gain real world knowledge of enforcement application skills and to share best practices. The Centers have transformed the way trade operates. It is important, now more than ever, that trade professionals across CBP provide consistency and predictability, while enhancing CBP's enforcement efforts. When OT approached APP Center Director Dina Amato about penalty training, she welcomed the opportunity. "Coming together, cohesively and strategically, is critical at this juncture in the world of trade operations", said Director Amato. "Working alongside individuals across CBP who have dedicated their careers to identifying and prosecuting companies that violate or circumvent trade laws for financial gain is of paramount importance. We must be on the same page and equipped with the knowledge to help protect our supply chain."

"The Trade Fraud Training course was developed in partnership with CBP offices that span CBP, along with law enforcement entities that include HSI and the Department of Justice", said Deputy FP&F Officer Amelia Castelli. "This course is being provided at a pivotal moment in trade history. As we continue to transform the way we do business, it is critical that we partner with as many organizations as we can – it will only make us stronger, more unified, and will ultimately protect our economy."