

**Commercial Customs Operations Advisory
Committee (COAC)
Intelligent Enforcement Subcommittee
IPR Working Group
Draft Recommendations**

February 27, 2019



As discussed at the last COAC meeting on October 3, 2018, the IPR Working Group has been provided with five different white papers from CBP to develop recommendations. The IPR Working Group consists of stakeholders from different sectors including the express industry, brand/rights holders, importers, customs brokers, customs attorneys, and various trade associations representing different IPR industries. To address each of these white papers, the IPR Working Group broke into different teams and developed the following recommendations.

- 1) Additional Data Elements and Metrics: Building on the information already provided in CBP's annual IPR Enforcement Statistics, COAC recommends that CBP collect the following statistical data by mode and provide metrics regarding (1) seizures and (2) detentions which do not result in seizures,
 - a. types of IPR violations by mode
 - b. number of shipments by mode
 - c. country of origin for such shipments,
 - d. port of export for such shipments, and
 - e. type of commodity for such shipments.

- 2) Small Package: Whereas the small package arena has been noted by CBP publicly to be a concern for potentially containing illicit shipments of IPR infringing products, and whereas the express industry and rights holders have an interest in participating with CBP to explore avenues for better detection, interception, and prevention of each illicit shipments, COAC recommends:
 - a. CBP develop, with the partnership of rights holders, importers and/or consignees, the postal service, and the express industry, a mapping exercise that depicts the specific risks or concerns within the small package industry for IPR violations, which are different from traditional trade, so that those specific concerns can be prioritized and addressed.
 - b. Based on the mapping exercise, COAC recommends that CBP develop a specialized, efficient process for targeting, detaining, inspecting, seizing, destroying, and/or releasing small parcels, specifically related to the value and risk posed by the nature of the shipment. The process should be specific to counterfeit goods and take into account the resources available to customs, importers and/or consignees, and rights holders.
 - c. As rights holders have noted a deficiency in the type and amount of information available to them related specifically to the small package arena, COAC recommends that CBP, in partnership with relevant stakeholders, examine avenues for information exchange between rights holders, law enforcement, and CBP to facilitate dissemination of intelligence related to supply chains and trends in IPR infringing materials in the small package arena. CBP should consider establishing a separate channel such as a public communication and quarterly meetings with the stakeholders to facilitate reporting and information exchange on a consistent basis concerning small packages containing IPR infringing products. This will ensure that the proper stakeholders are engaged and aware of such trends and data, as rights holders can use this information to focus their resources depending on the trends shown.

- 3) Automation: As the current process for notification and information exchange is a paper/manual process, COAC recommends that CBP explore the establishment of an electronic means to notify and share as many data points as possible along with relevant documents at the time of shipment seizure or detention.
- 4) Regulatory: COAC recommends that CBP evaluate existing regulations related to counterfeits and suggest modifications that would streamline the process of seizure, forfeiture, detention, and abandonment for IPR enforcement.
- 5) Donation Program: COAC encourages collaboration between CBP and the private sector to enable the detection of counterfeit products and enforce IPR by allowing donations of hardware, software, equipment and similar technologies as well as accept training and other support services from the private sector for the purpose of enforcing IPR.
- 6) eRecordation: COAC recommends that CBP improve communication with rights holders who register their brand through the e-recordation process to avoid unnecessary detentions or seizures. This can be accomplished through the designated CBP Center to help manage the eRecordation process.