

**Commercial Customs Operations
Advisory Committee (COAC)
Intelligent Enforcement Subcommittee
Intellectual Property Rights Process Modernization
Working Group Recommendations**

March 2021



COAC Intellectual Property Rights (IPR) Process Modernization Working Group

On October 27, 2020, the COAC IPR Process Modernization Working Group kicked off a deep dive to develop a business model that builds on recommendations #010434, #010435, #010436 from the April 2020 COAC meeting. Our goal was to further develop, expand upon, and align three previous recommendations as a baseline for a proposed end-to-end business model:

- #010434 - Sharing of Detention Information
- #010435 - Photographic Standards Guide
- #010436 - Data-Driven CBP Seizure Process

Specifically, the IPR Process Modernization Working Group was tasked to develop a model that appropriately accounts for and incorporates the following:

- A cost sharing framework that reduces the burden for storage, detention, seizure, and/or destruction of IPR violative goods;
- A tiered approach for the disposal, detention and/or seizure of shipments, based on key shipment characteristics (e.g. parcel size, quantity or value);
- The effective use of new or emerging technologies for the enforcement of IPR;
- Information sharing needs; and
- Current laws that should be amended to enable the implementation of new processes.

This report includes actionable recommendations based upon industry knowledge of the IPR space and other information provided by CBP. The recommendations are forward-leaning and not be limited to the current scope of authorities governing CBP.

The COAC IPR Process Modernization Working Group consists of participants from government and industry, including current members of the COAC, rights holders, carriers and additional subject matter expert representatives of the industries and entities most concerned with IPR violations. The IPR Working Group was split into three (3) teams based on the prioritized recommendations from the April 2020 COAC Meeting to review and provide additional recommendations and implementation strategies as follows:

Team 1

To further support of recommendation #010434 to support sharing of detention information:

- COAC recommends that when CBP has suspicions of IPR violations triggered by something seen on the goods or their packaging, the image(s) should be shared with the importer of record prior to detention or with the notice of detention.
- COAC recommends that CBP should adopt consistent procedures to make images readily available and transmitted to the rights holder quickly after receipt of a request, especially when images were produced at the time of inspection while CBP is making decisions.
- COAC recommends that CBP notify the rights holder of its decision when redacted images are shared with the rights holder prior to the seizure.

Team 2

In further support of recommendation #010435 to develop a “photographic standards guide:

- COAC recommends the “Photographic Standards Guide” define specific requirements relating to image file type(s), such as minimum standards for product, interior and exterior packaging and label photos (as allowed by regulations) and acceptable delivery methods via electronic means. COAC also recommends expediting the distribution of the guide in PDF format to be posted on cbp.gov for all parties to access.
- COAC recommends that CBP develop a web application that guides the photo taking process, verifies quality, and creates standard formats for the images to simplify information sharing with importers and rights holders.

Team 3

To further support recommendation #010436 to have a more data-driven CBP seizure process:

- COAC recommends that CBP integrate technology within the seizure process by furnishing appropriate mobile hardware and software to officers and import specialists to support swift decision making.
- COAC recommends that CBP use a single reference number (e.g. entry number) to consistently track shipments through the entire exam, detention, and seizure process.
- COAC recommends that CBP address the significant increase in small parcel shipments by supplementing CBP officials, as appropriate, specifically at International Mail Facilities to inspect packages.