

**Commercial Customs Operations Advisory Committee (COAC)
Government Issue Paper:
Intelligent Enforcement Subcommittee
Intellectual Property Rights Process Modernization Working Group**

June 2022



**U.S. Customs and
Border Protection**

INTELLECTUAL PROPERTY RIGHTS (IPR)

Action Required: Informational

Background:

- In late October 2020, U.S. Customs and Border Protection (CBP) asked the Commercial Customs Operations Advisory Committee (COAC) to further develop, expand upon, and align three previous recommendations pertaining to Sharing of Detention Information, Photographic Standards Guide, and Data-Driven CBP Seizures Process. Specifically, the Intellectual Property Rights Process Modernization Working Group (IPRWG) focused on developing a model that appropriately accounts for and incorporates:
 - A cost-sharing framework that reduces the burden of 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.
- Since October 2020, the IPRWG has met regularly to discuss implementation solutions to the identified recommendations mentioned above.
- In late January 2021, the IPRWG met, and each team presented its written report on a designated recommendation focus area. CBP is currently reviewing the recommendations.
- In early 2021, the IPRWG went on hiatus to reorganize and allow CBP the opportunity to implement some of the recommendations provided to CBP.
- On Jan. 4, 2021, CBP began concurrently issuing the notice of seizure (NOS) and initiating publication of the notice of intent to forfeit on all seized shipments with a domestic value less than \$2,500. Although publications are advanced, all interested parties are afforded the same opportunity to respond to the NOS as they had under previously existing procedures.
- On June 7, 2021, CBP began to email NOS to rights holders via the email addresses provided to CBP through the IPR e-Recordation program. Delivery of seizure notices via email allows for instantaneous notification to the rights holder.
- On May 26, 2021, CBP signed a Memorandum of Understanding (MOU) with the U.S Chamber of Commerce to increase cooperation in protecting intellectual property rights. The MOU outlines general terms for future information sharing that will help stem the tide of counterfeit goods entering the U.S.

Issue:

- In the 2022 term of the COAC, CBP reactivated the IPRWG of the Intelligent Enforcement Subcommittee to identify opportunities to enhance trade and CBP practices, policies, and programs in relation to the interdiction of violative counterfeit goods.
- Since reactivation, the IPRWG has begun holding regular meetings to discuss pragmatic and practical recommendations for improving communications with CBP, rights holders, and importers in an effort to develop strategies for streamlining the seizure process.
- Toward this effort, the IPRWG held three separate meetings in February, April, and May to discuss areas of improvement and CBP provided a presentation on the seizure process.
- Based on the discussions, the group narrowed their focus to three items:
 - Reviewing the IPR webpage;
 - The creation of an electronic notice of detention; and
 - The ability to manipulate shipments so that they do not violate CBP's admissibility standards.

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Date: May 27, 2022

Next Steps:

- CBP will continue to meet with the IPRWG to discuss working group priorities and gather trade community input.
- Based on the feedback, CBP is conducting an internal review of all COAC IPR recommendations and is working to prioritize the implementation of the existing recommendations.