

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

December 2023



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

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**Office of Trade/Trade Policy and Programs
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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 on, and align three previous recommendations: Sharing Detention Information, Photographic Standards Guide, and Data-Driven CBP Seizures Process.
- The Intellectual Property Rights (IPR) Working Group began meeting regularly in October 2020 to discuss implementing solutions to the recommendations. In early 2021, the group went on hiatus to reorganize and allow CBP to implement some recommendations.
- The IPR Working Group reconvened as part of the 16th term of the COAC to identify opportunities to enhance trade and CBP practices, policies, and programs for interdicting violative counterfeit goods.

Issue:

- During Fiscal Year 2022, CBP seized nearly 25 million counterfeit items that, based on the manufacturer's suggested retail price, would have been valued at nearly \$3 billion had they been genuine.
- To further progress in the IPR space, the IPR Working Group is focused on automating the detention process and improving communication between rights holders and CBP.

Current Status:

- Since reconvening, the IPR Working Group has met regularly to discuss pragmatic and practical recommendations for improving communications among CBP, rights holders, and importers and to develop strategies for streamlining the seizure process.
- CBP and the IPR Working Group have worked together to collect more detailed feedback. Discussions continue on the feasibility of implementing the following recommendations from the IPR Working Group at the December 2022 public COAC meeting:
 - Create a single, bi-directional automated system for CBP's detention and seizure process that would allow electronic notices of detention and include a unique identifier to act as a reference number throughout the entire importation process.
 - Develop an additional communication capability for interested parties to enable direct and confidential communications with CBP. This capability would include:
 - Password-protected accounts that allow access to notifications, images, and information exchange;
 - A search mechanism using a unique identifier for importers and other interested parties to track CBP actions through the entire enforcement process; and
 - The ability for appropriate parties to provide permission, request manipulation, or abandonment of goods.

- At the September 2023 Public COAC meeting, the IPR Working Group provided seven additional recommendations that expanded on the December 2022 recommendations, which covered topics such as:
 - Engagement between CBP and the trade community on the automation of the detention and seizure process;
 - Review of unique identifiers throughout CBP’s administrative enforcement actions;
 - Revision of CBP Form 5106;
 - Clarifications on the previous recommendation to create an IPR Portal;
 - Funding for the IPR Portal;
 - Voluntary program and standards for parallel imports and used/recycled goods; and
 - Alternatives to seizure.

Next Steps:

- CBP will continue to advise the IPR Working Group of updates on the automation of the detention and seizure process.
- CBP will work with the IPR Working Group to gather more detailed feedback and further discuss the feasibility of CBP implementing the recommendations above.

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