

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

**June 2024**



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

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**Office of Trade/Trade Policy and Programs  
Intelligent Enforcement Subcommittee  
Intellectual Property Rights Process Modernization Working Group  
June 2024**

**Action Required:** Informational

**Background:**

- In 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) Process Modernization 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 recommendations.
- The IPR Process Modernization Working Group reconvened as part of the 17th term of the COAC to identify opportunities to enhance trade and CBP practices, policies, and programs for interdicting violative counterfeit goods.
- Since reconvening, the IPR Process Modernization 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.
- At the September 2023 Public COAC meeting, the IPR Process Modernization 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.

**Issue:**

- During Fiscal Year 2023, CBP seized 23 million counterfeit items that, based on the manufacturer's suggested retail price, would have been valued over \$2.7 billion had they been genuine.
- To further progress on IPR enforcement, the IPR Process Modernization Working Group is focused on automating the detention process and improving communication between rights holders and CBP.

### **Current Status:**

- CBP and the IPR Process Modernization Working Group have worked together to collect more detailed feedback, with discussions on the feasibility of implementing the IPR Process Modernization Working Group's December 2022 public COAC meeting recommendations:
  - Create a single, bi-directional automated system for CBP's detention and seizure process with electronic notices of detention and a unique identifier as a reference number throughout the entire importation process.
  - Develop an account-based database for interested parties to track an intellectual property enforcement case and communicate with the involved CBP personnel. 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 and request manipulation or abandonment of goods.
- At the June 2024 Public COAC meeting, the IPR Process Modernization Working Group is expected to provide additional recommendations covering these issues:
  - Enhance the current Trade Seminars Mailbox. CBP would rename the mailbox and provide additional information on CBP.gov to facilitate the use of the mailbox; and
  - Expand CBP's e-Petition portal to allow access by non-petitioning parties such as rights holders and allow parties to indicate their positions on matters concerning the final disposition of the goods.

### **Next Steps:**

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

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