

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

June 2024



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Intelligent Enforcement Subcommittee
Intellectual Property Rights (IPR) Process Modernization Working Group
Recommendations**

This is the COAC Intellectual Property Rights Working Group's (IPRWG) first set of recommendations for the 17th term:

A. ENHANCEMENTS TO THE CURRENT "TRADE SEMINARS MAILBOX"

1. COAC recommends CBP rebrand the "Trade Seminars Mailbox" (the "mailbox"). The mailbox is intended as a tool to allow rights holders to provide training materials to CBP regarding the enforcement of their marks. A name incorporating a phrase, such as "Brand Protection," would better convey the intended purpose of the mailbox and drive wider use of the tool.
2. COAC recommends CBP publish fact sheets and additional information and instructions on its website to facilitate use of the mailbox.
3. COAC recommends CBP ensure that the mailbox has sufficient bandwidth to allow rights holders to upload large data files. Rights holders often upload large data files when providing CBP with training videos and/or manuals. If the mailbox data limits are not sufficient to allow transmission of such files, then CBP should use the mailbox to provide the rights holders with a solution or mechanism that will allow for larger uploads.

B. EXPANSIONS TO THE PETITION PORTAL OR FUTURE TOOL

4. COAC recommends CBP expand the capabilities of its Petition Portal or future tool to allow for two-way communications. Currently, the CBP Petition Portal only allows a petition filer to transmit an electronic petition and obtain confirmation of receipt. The Portal does not allow for two-way communications between CBP and the relevant parties regarding the substance of the claims being asserted and/or the status of the petition.
5. COAC recommends CBP expand access to its Petition Portal or future tool to allow for two-way communications with rights holders, customs brokers, carriers, sureties, platforms, and other parties impacted by enforcement actions that do not currently have access to the Petition Portal.
6. COAC recommends CBP expand the Petition Portal's capabilities (or that of a future tool) to allow for two-way communications during exam and detention. CBP has no single mechanism/tool that allows for integrated communications with the Ports and the Centers during exams and detentions.

Such a mechanism/tool is important. The lack of such a mechanism/tool creates confusion and substantial burdens on the trade and CBP. Detentions, such as those for

IPR and UFLPA, require time-sensitive and coordinated communications with the detaining officers at the Ports and the responsible Import Specialists at the Centers. Use of the postal service for time-sensitive communications has deprived importers of a meaningful opportunity to be advised of and respond to CBP's concerns. This is especially so for importers of goods held for alleged IPR enforcement, who, under 19 C.F.R. § 133.21(b)(2), only have 7 business-days to provide CBP with information needed to avoid prolonged administrative procedures and unneeded disclosures of confidential information.

7. COAC reiterates its recommendation that CBP establish and adopt the use of a unique identifier as a reference number throughout all its administrative enforcement actions. A unique identifier would serve as a single reference point for all interested parties throughout the administrative enforcement process and would allow the Ports, the Centers, importers, rights holders, and other interested parties to more easily and reliably track and monitor enforcement actions from inception to resolution.
8. COAC recommends CBP ensure that the COAC is consulted throughout all phases of the agency's expansion of the Petition Portal or future tool, its creation of a unique identifier, and the recommended enhancements to the Trade Seminars Mailbox.
9. COAC recommends Congress and the White House ensure CBP receives sufficient resources to allow for this robust expansion of the Petition Portal or future tool, the creation of a unique identifier, and the recommended enhancements to the Trade Seminars Mailbox.