

Commercial Customs Operations Advisory Committee (COAC) Government Issue Paper: Intellectual Property Rights

June 2021



U.S. Customs and
Border Protection



INTELLECTUAL PROPERTY RIGHTS (IPR)

Action Required: Informational

Background:

- The Commercial Customs Operations Advisory Committee (COAC), through the Intelligent Enforcement Subcommittee Intellectual Property Rights Working Group (IPRWG), provides advice and recommendations on improving intellectual property rights (IPR) enforcement.
- Building on COAC recommendations made in late 2019, CBP worked with the IPRWG, in coordination with the 21st Century Customs Framework team, at an in-person meeting in Washington, D.C. to finalize a supply chain mapping exercise and to identify best practices companies are taking prior to importation to protect against trade in IPR-infringing goods.
- The IPRWG developed 29 recommendations that were adopted by the COAC at the April 2020 public meeting. These recommendations focused on eRecordation, Data Sharing, and action items in the January 24, 2020 DHS Report on Combatting Trafficking in Counterfeit and Pirated Goods (DHS Report).
- Following the April 2020 public meeting, the IPRWG created a third sub-group, Team 3, to discuss action items in the DHS Report. From April to September 2020, the three IPRWG sub-groups met regularly to discuss the recommendations on automation and improvements to the recordation system, data sharing and improvements to the seizure process, and the action items in the DHS Report.
- On May 26, 2021, CBP signed an 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 into the United States.

Issue:

- In late October 2020, CBP asked the 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 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.
- As of January 4, 2021, CBP began concurrently issuing the notice of seizure (NOS) and initiate publication of the notice of intent to forfeit on all seized shipments with a domestic value less than \$2,500. Although publication will be advanced, all interested parties will be afforded the same opportunity to respond to the NOS as they had under previously existing procedures.
- As of June 7, 2021, CBP will email notice of seizure to rights holders via the email addresses provided to CBP through the IPR e-Recordation program. Delivery of seizure notices via email will allow for instantaneous notification to the rights holder.

Next Steps:

- CBP is working with COAC to review and prioritize the current IPR recommendations presented in each Team's report to determine operational capacity, ability, and resource utilization to make recommended changes.