

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

September 2023



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

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**Office of Trade/Trade Policy and Programs
Intelligent Enforcement Subcommittee
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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 (IPR WG) met regularly starting in October 2020 to discuss implementing solutions to the recommendations and, in early 2021, went on hiatus to reorganize and allow CBP to implement some of its recommendations.
- The IPR WG 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 goods 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 WG is focusing on automating the detention process and improving communication between rights holders and CBP.

Current Status:

- Since reconvening, the IPR WG 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 WG have worked together to collect more detailed feedback. Discussions continue on how CBP can implement the following recommendations from the IPR WG at the December 2022 public COAC meeting:
 - Create a single, bidirectional 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 enhanced 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 or request manipulation or abandonment of goods.
- At the September 2023 Public COAC meeting, the IPR WG will provide additional recommendations that expand on their December 2022 recommendations.
- These recommendations include additional guidance on:

- Automating the detention and seizure process;
- Enhancing communication between CBP, the trade community, rights holders, and other parties relevant to the import process; and
- Creating alternatives to seizure (i.e., manipulation) for potentially infringing detained goods.

Next Steps:

- CBP will continue to advise the IPR WG of updates to the automation of detention.
- CBP will continue to discuss IPR enforcement processes and communication tools.

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