

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

September 2023

**COAC**

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COMMERCIAL CUSTOMS OPERATIONS  
ADVISORY COMMITTEE

**COAC Intellectual Property Rights (IPR) Process Modernization  
Working Group  
COAC Recommendations**

**AUTOMATION OF THE ADMINISTRATIVE ENFORCEMENT PROCESSES**

1. The COAC recommends CBP pair its ACE and SEACATS systems, so that the two can function together as a single automated system to address CBP enforcement priorities and that CBP continue to work collaboratively with the trade, rights holders, and other interested parties before finalizing any such system. To the extent that automation of the detention and seizure process is part of a broader automation of administrative enforcement processes, the COAC recommends that CBP also engage with other relevant members of the trade.
2. The COAC recommends that CBP expand its review of the benefit of using unique identifiers throughout its administrative enforcement actions. In December 2022, the COAC recommended that as a part of a single automated system, CBP establish and adopt the use of a unique identifier, which is not subject to the restrictions of the Trade Secrets Act, that can serve as a single reference point for all interested parties throughout various administrative enforcement processes. A unique identifier would also allow the Ports, the Centers, importers, rights holders, and other interested parties to more easily and consistently track and monitor enforcement actions from inception to resolution. The COAC understands that use of a unique identifier throughout various CBP enforcement actions – including, detentions, seizures, liquidated damages, and penalty actions - may facilitate broader automation of the administrative enforcement processes.
3. The COAC recommends that CBP modify the CBP importer identity form 5106 to facilitate communication within this single automated system. The existing form provides for only one email address. The form 5106 should be revised to allow additional, optional, focused email addresses, which could be used for IPR specific issues, enforcement matters, and contacts at separate divisions within the importing entity.

**CREATE A PORTAL AS AN ENHANCEMENT TO ACE**

4. The COAC clarifies its December 2022 recommendation that CBP develop a “Portal” that can be accessed via the IPR priority trade issue (PTI) website (Intellectual Property Rights | U.S. Customs and Border Protection Preview (cbp.gov)) to allow for direct and confidential communications between CBP and interested parties such as rights holders, importers, shippers, and others. After further discussions with CBP, the COAC is clarifying that such a “Portal” should not be a stand-alone system, but an application that functions as an enhancement to the ACE web portal.
5. The COAC recommends that CBP pair the existing ACE and SEACATS systems, so that they can function together as a single automated system to address all CBP enforcement priorities. Thereafter, CBP should identify, and pair other systems found to be related (e.g., IPRS, eRecordation, Revenue, etc.), to allow for one window through which data provided by

importers and rights holders can be accessed, utilized, and tracked by CBP in its enforcement efforts.

### **PARALLEL AND USED/RECYCLED GOODS – GREEN TRADE**

6. The COAC recommends that CBP work with the trade and outside industry groups to develop a voluntary program for establishing trusted known parallel importers and importers of used/recycled goods.
7. The COAC recommends that CBP work with the trade, rights holders, and outside industry groups to develop standards that can be used to demonstrate that parallel and used/recycled goods are genuine. The COAC understands that while some sectors, including, for example, pharmaceuticals, automotive, and aerospace, may present health and safety hurdles that require heightened protections, CBP should move forward with those sectors that do not present those hurdles.

### **ALTERNATIVES TO SEIZURE**

8. The COAC recommends that CBP continue to work with the Ports, the Centers, the trade, and rights holders to develop uniform internal policies that support alternatives to seizure such as manipulation and abandonment for goods detained as potentially infringing, while maintaining information and statistics concerning such actions.

### **FUNDING**

9. The COAC recommends that CBP engage with the rights holders to evaluate a means to generate funds to help build and support the creation of the recommended enhancements to the ACE web portal. While creation of these enhancements will benefit trade broadly, certain benefits are unique to rights holders that record their marks with CBP. Importers already pay duty, taxes, and fees which support CBP's automated services. Rights holders will be major beneficiaries and users of these enhancements and CBP should engage with rights holders to develop an appropriate fee structure commensurate with the expanded account-based access that is offered.