

Commercial Customs Operations Advisory Committee (COAC)

Government Issue Paper: Intellectual Property Rights (IPR)

July 2018



U.S. Customs and
Border Protection



INTELLECTUAL PROPERTY RIGHTS (IPR)

Action Required: Informational

Background:

- The Commercial Customs Operations Advisory Committee (COAC), through the Trade Enforcement and Revenue Collection Subcommittee (TERC) Intellectual Property Rights Working Group (IPRWG), provides advice and recommendations on improving intellectual property rights (IPR) enforcement.
- At the July 27, 2016, quarterly meeting, the COAC made four recommendations to collaboratively address current challenges in IPR enforcement. CBP continues to work within the IPRWG to explore and work through the recommendations:
 - (1) that the IPRWG continue to consider other approaches to developing a known IPR supply chain program that includes working with the National IPR Center to extend Trade Association participants to promote the “Report IP Theft” campaign and encourage real-time reporting of IPR violations through a newly established 800 Hotline.
 - (2) that CBP investigate partnering with e-commerce stakeholders to develop an automated process for their on-line customers to complete a survey if they feel the shipment of a product they received is not legitimate along with the opportunity to submit an allegation through the Report IP Theft Button. COAC also recommends that CBP establish an e-commerce working group to further explore this and other pressing e-commerce issues.
 - (3) that CBP should consult with the IPRWG to determine how to better facilitate cargo that arrives as “blanks” without a logo or trademark to distinguish the brand at the time of arrival to reduce resources CBP is expending on unnecessary seizures. The IPRWG should consider how this could be automated to manage known parties or entities to the transaction within the ACE Portal.
 - (4) that CBP take advantage of certain IPR best practices established by the Centers of Excellence and Expertise (Centers) to conduct webinars internally to allow Centers to gain knowledge of these successes, inform the trade of these successes, and inform industries of CBP’s efforts through these webinars and CSMS messages.
- The IPRWG expanded discussion to include the voluntary abandonment pilot program, the IPR Public Awareness Campaign, e-commerce, and Executive Order 13785. The IPRWG is also discussing IPR-related topics and mandates in Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), including provisions requiring the drafting of regulations.
- CBP officially concluded the pilot phase of the IPR Voluntary Abandonment pilot program in February 2018.
- On March 6, 2018, CBP issued its E-Commerce Strategy, which focuses on creating a more agile CBP that can adapt to challenges in the e-commerce environment.
- In response to a request from Senator Wyden during EAC Smith’s March 6, 2018 hearing before the Senate Finance Committee, CBP provided the Committee with recommendations on the types of authorities that would help CBP address e-commerce, IPR, and import safety challenges.
- The third phase of the “The Truth Behind Counterfeits,” IPR awareness campaign is currently running at six airports from June 25 to August 18, 2018, and several online travel sites, potentially reaching an estimated 88 million travelers.

Issues and Next Steps:

- The working group members are interested further briefings and discussions on the implementation of Executive Order 13785 and the E-Commerce Strategic Plan.

- CBP and the IPRWG members have identified potential areas of interest for future partnership. The topics include IPR enforcement regarding small packages, bi-directional conversation on IPR threats, recordation, destruction, and IPR supply chain cooperation.
- Through the IPRWG, CBP solicited stakeholder input to develop the response for Senator Wyden on additional authorities required to effectively enforce IPR and import safety laws.
- CBP is developing a blockchain proof of concept to test the potential use of blockchain in the IPR environment.
- CBP will work with the IPRWG on identifying private sector participants in the IPR blockchain proof of concept.
- CBP will provide further briefings with IPRWG members on the implementation of Executive Order 13785, the E-Commerce Strategy, and additional authorities required to effectively enforce IPR laws.

Prepared by: IPR & E-Commerce Division, Office of Trade
Date: July 17, 2018