



**THE INDEPENDENT VOICE OF TRUST**

# **Exploring Online Fraud and the Sale of Counterfeit Goods**

**Efforts to Combat Fraud and Counterfeiting in the United States**



*Date: 07 October 2020*



Shira Perlmutter  
Chief Policy Officer and  
Director for International  
Affairs  
USPTO





Alaina van Horn  
Chief  
Customs and Border Protection  
(CBP), Intellectual Property  
Rights Branch



U.S. Customs and  
Border Protection

# CBP's Intellectual Property Rights (IPR) Border Enforcement Regime





# ROADMAP

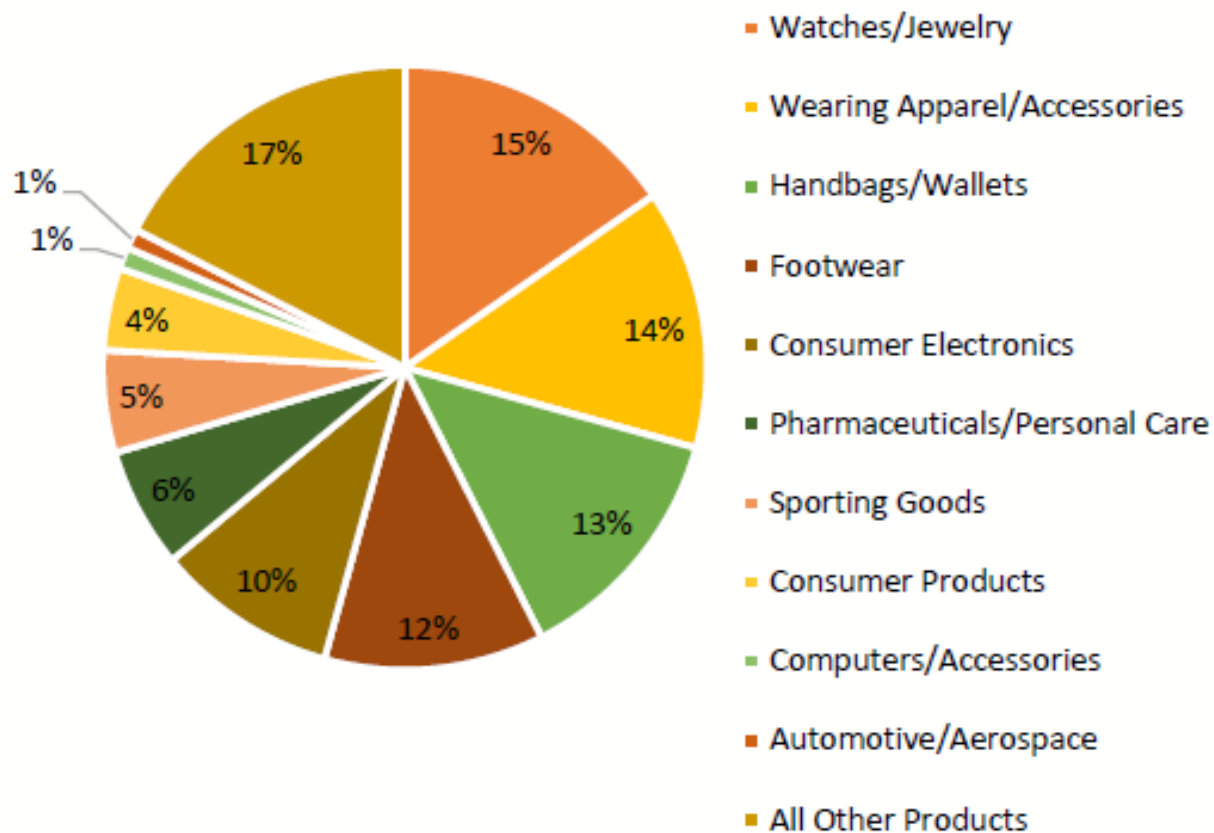
- Introduction to CBP's IPR Enforcement
- CBP e-Recordation Program
- Programs Available to Recordation Holders
- Legal Enforcement Authorities
- Questions
- Appendix

# CBP's Interest in IP Enforcement

- IPR is one of seven CBP Priority Trade Issues (PTIs)
- PTIs represent high-risk areas that:
  - cause significant revenue loss;
  - harm the U.S. economy; and/or
  - threaten the health and safety of the American people
- IPR infringement, specifically:
  - threatens US economic competitiveness and livelihood of U.S. workers
  - implicates national security
  - threatens the health and safety of unsuspecting consumers
  - funds criminal activity and transnational criminal organizations (TCO)

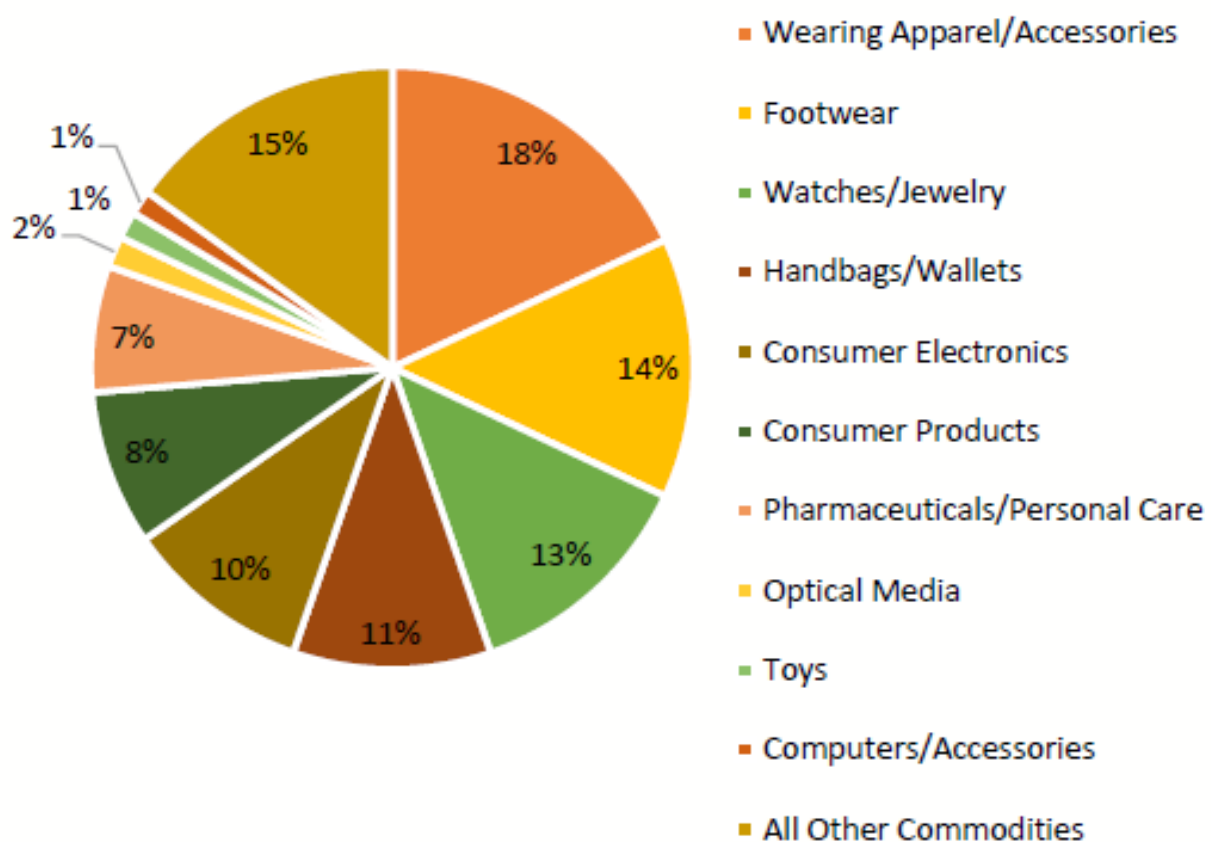
# IPR Seizure Statistics

**Fiscal Year 2019**



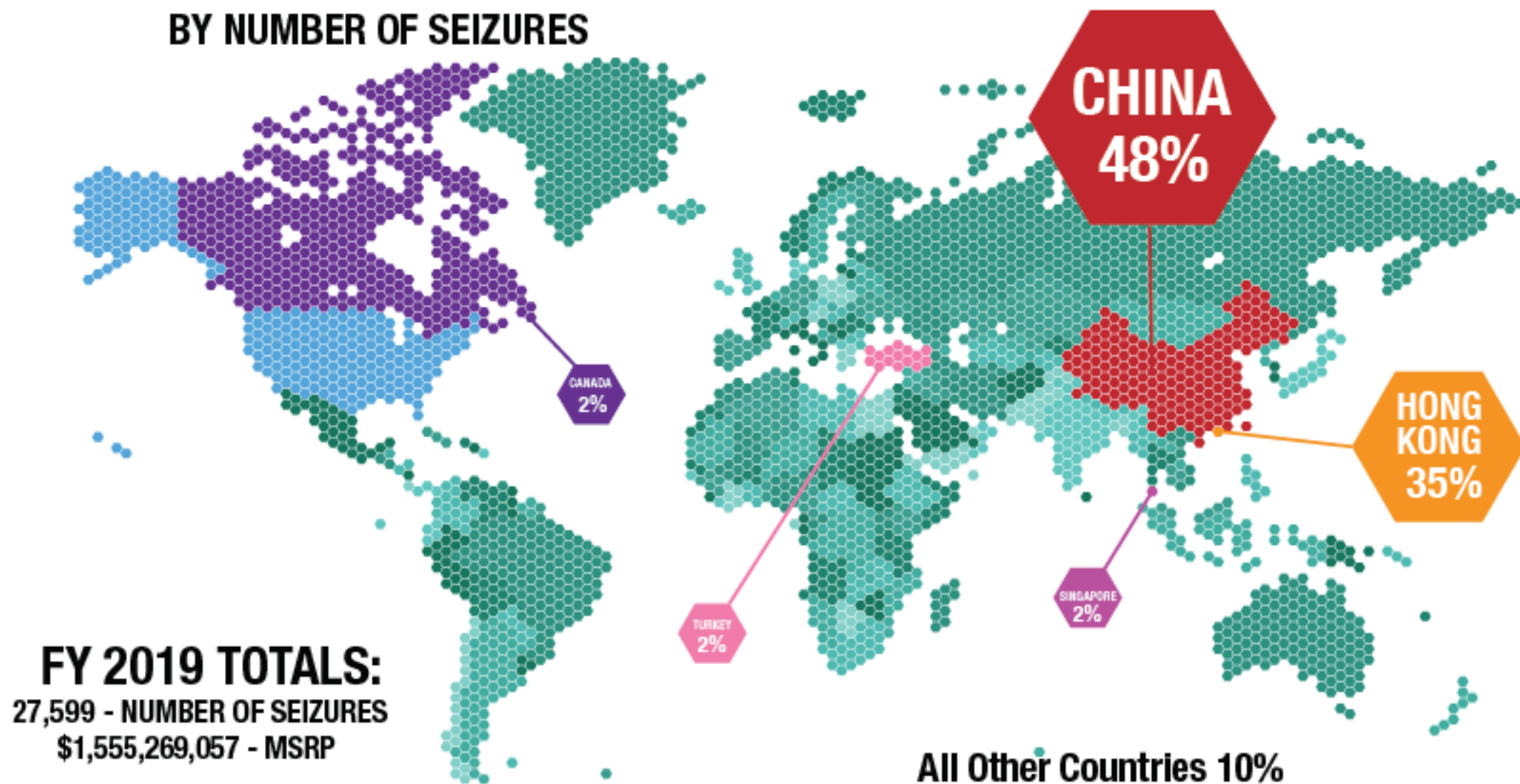
**Number of Seizures: 27,599**

**Fiscal Year 2018**

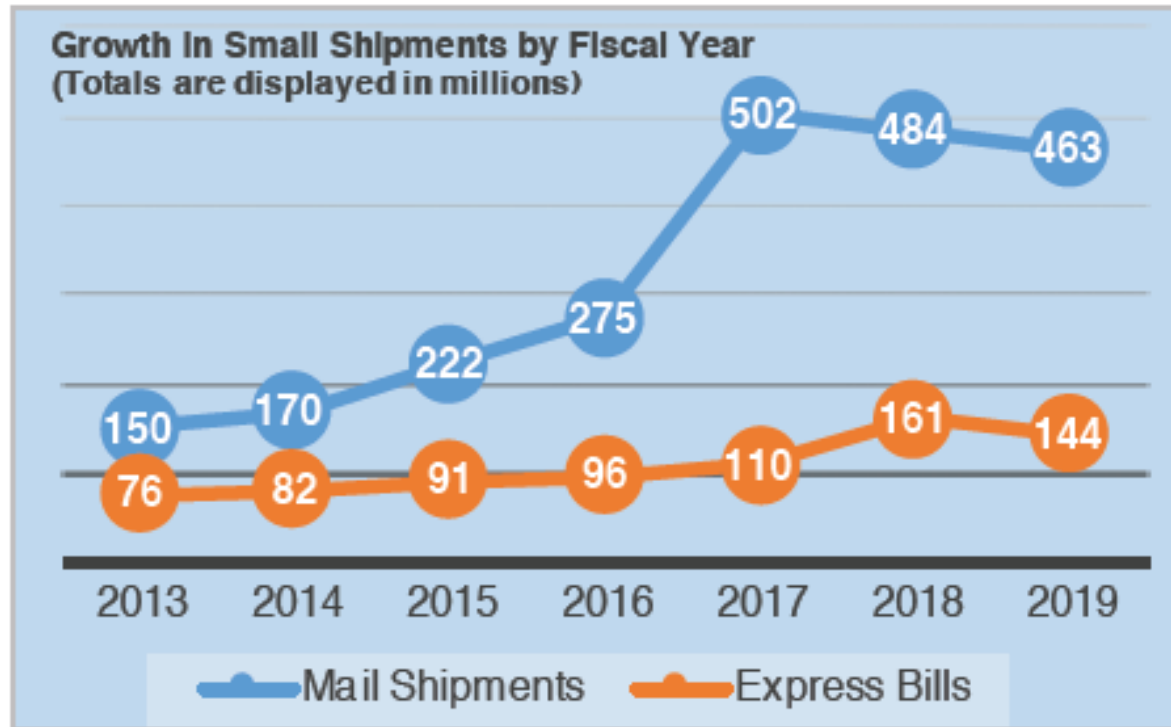


**Number of Seizures: 33,810**

## FISCAL YEAR 2019 IPR SEIZURE STATISTICS BY NUMBER OF SEIZURES



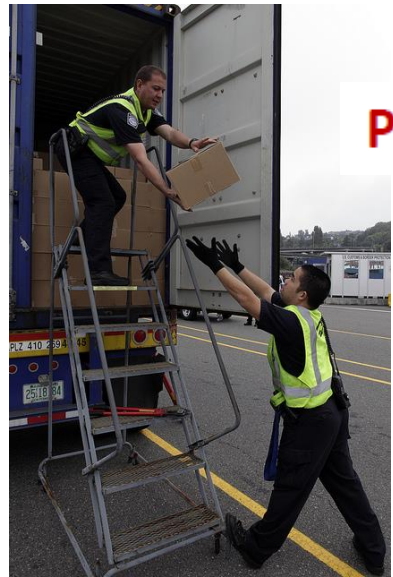




# CBP's IP Border Enforcement Authority

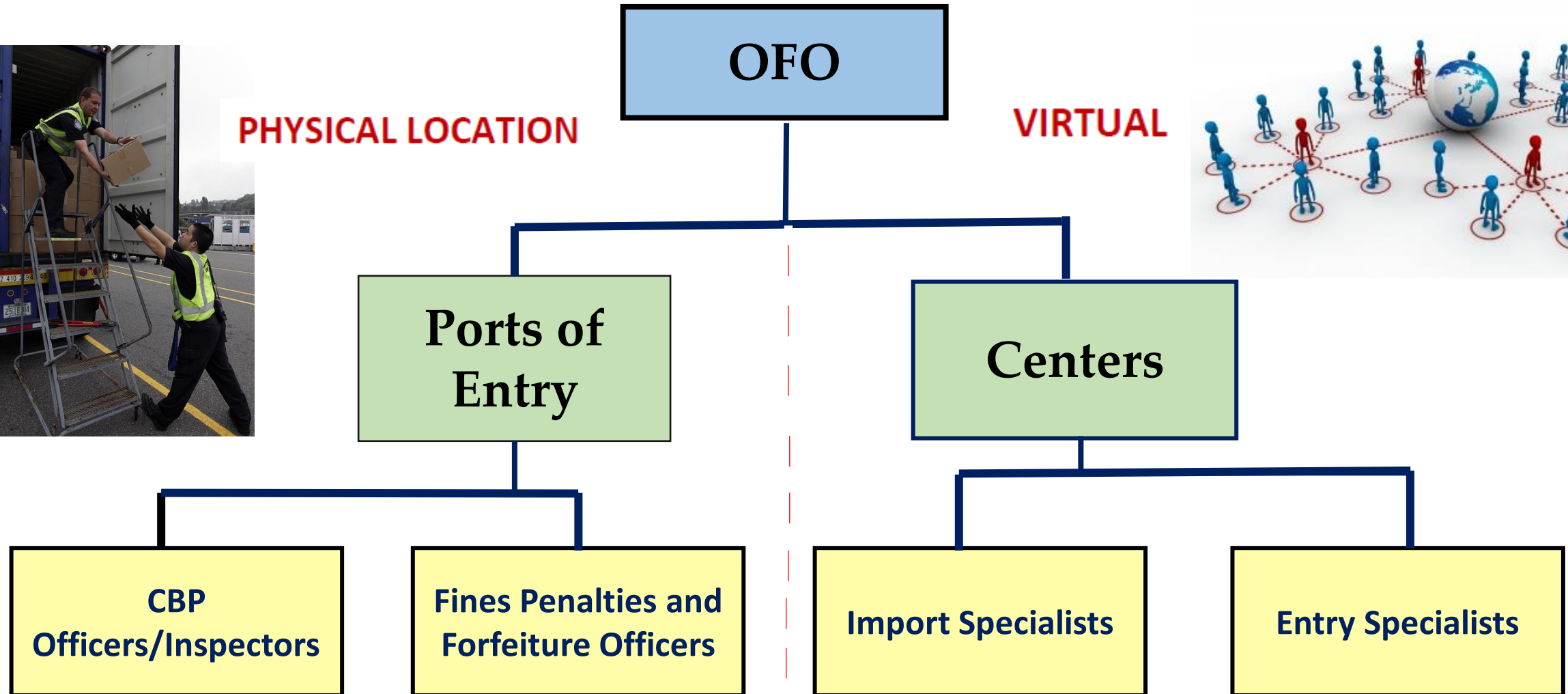
- CBP is the primary federal agency responsible for securing American's borders, enforcing nearly 500 laws on behalf of 49 other U.S. Government agencies
- CBP has independent authority (*ex officio*) to examine, detain, seize and/or exclude merchandise at US ports of entry that violate recorded trademarks and copyrights
- CBP enforces U.S. International Trade Commission Section 337 exclusion orders
- CBP has the authority to make infringement determinations, forfeit merchandise imported in violation of U.S. trade laws, impose penalties, and ultimately destroy infringing goods
- **RECORDATION** is the cornerstone of trademark and copyright protection at the border

# Office of Field Operations IP Enforcement Structure



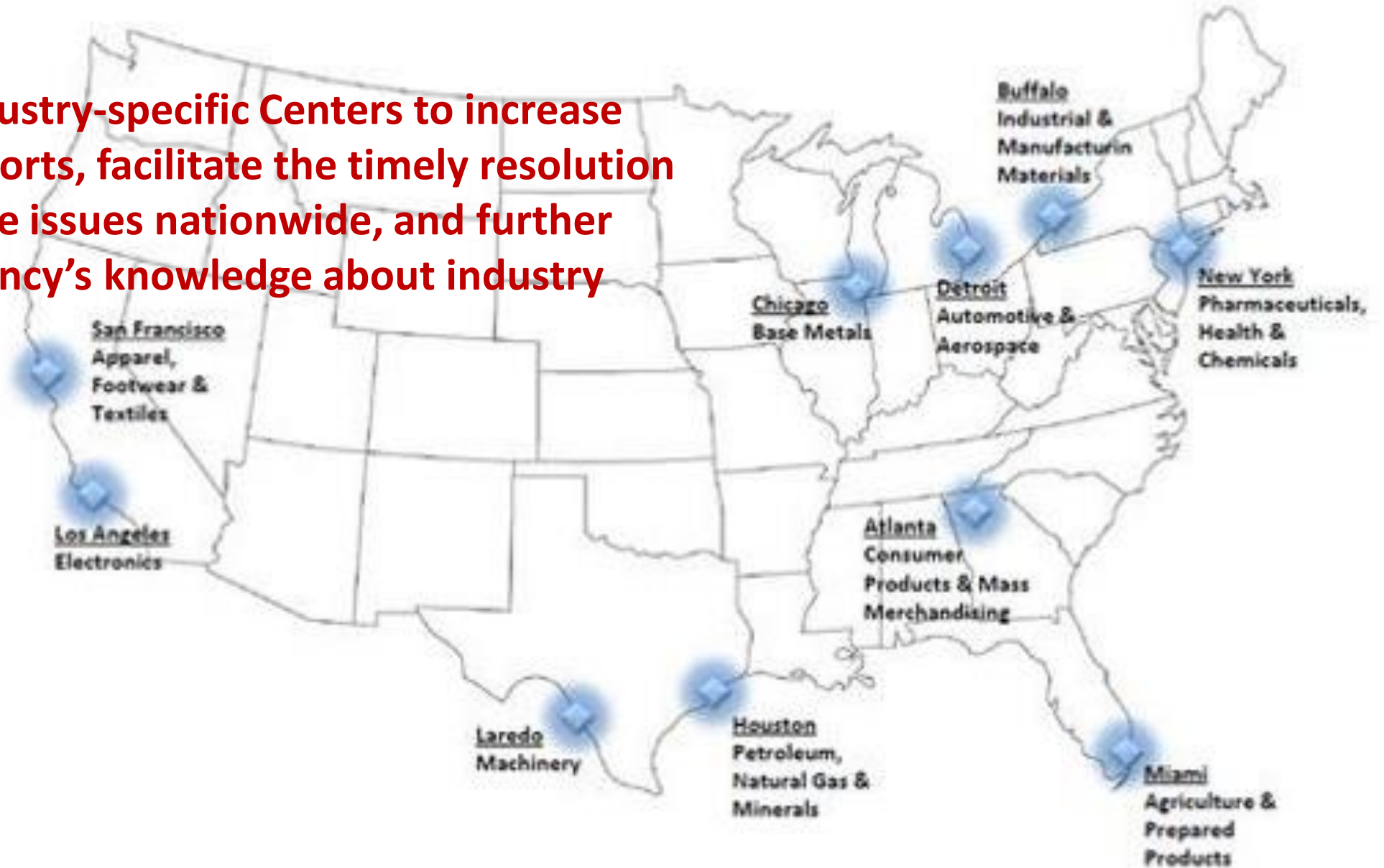
**PHYSICAL LOCATION**

**VIRTUAL**



# CENTERS OF EXCELLENCE & EXPERTISE

**CBP created 10 industry-specific Centers to increase uniformity at the ports, facilitate the timely resolution of trade compliance issues nationwide, and further strengthen the agency's knowledge about industry practices.**





# Regulations & Rulings Directorate

Divisions based in Washington, DC and New York, NY



- Commercial and Trade Facilitation Division\*
- Border Security and Trade Compliance Division\*
- Regulations and Disclosure Law Division

- National Commodity Specialist Division



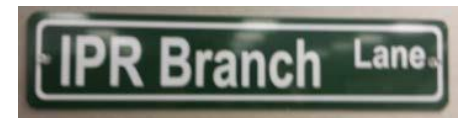
# IPR Branch, Regulations & Rulings, OT

- Issue binding rulings, renders pre-seizure infringement determinations, and adjudicates administrative petitions for relief concerning IP related seizures
- **Maintains IPRR, IPRS and IPRiS databases**
- Grants recordations; reviews applications for gray market protection and *Lever*-rule protection
- Provides advice to CBP field personnel on IP and trade enforcement issues
- Administers ITC exclusion orders
- Provides training to CBP personnel, international customs organizations and the trade community


[HQIPRBranch@cbp.dhs.gov](mailto:HQIPRBranch@cbp.dhs.gov)

[IPRRQuestions@cbp.dhs.gov](mailto:IPRRQuestions@cbp.dhs.gov)

[IPRBranch.ITC337.Admin@cbp.dhs.gov](mailto:IPRBranch.ITC337.Admin@cbp.dhs.gov)



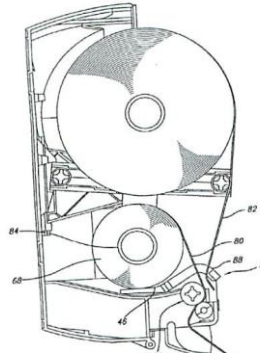
# What IP does CBP Enforce?

Trademark (ex officio) 

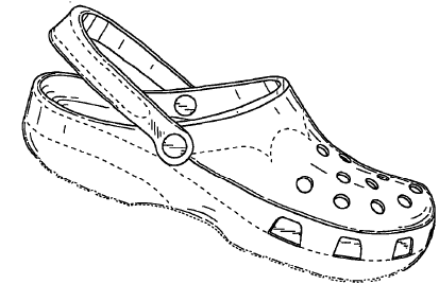


Copyright (ex officio)

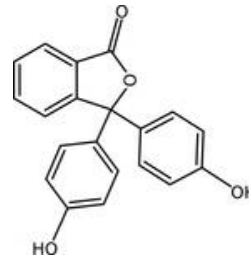
Utility Patent\*



Design Patent\*



Trade Secret\*



\* only pursuant to an ITC exclusion order

# IPR Recordation



***Intellectual Property  
Rights Branch***



# Registration v. Recordation

**Registration** relates to the official act of filing (1) a trademark with the U.S. Patent & Trademark office, or (2) a copyright with the U.S. Copyright Office for a federal registration.



**Recordation** refers to bringing a valid, federally registered right (trademark or copyright) to CBP (IPR Branch, R&R) in order to protect against the importation of infringing goods. 19 CFR § 133.1, *et seq.*

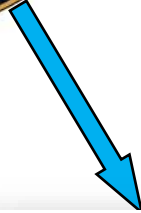


**Distinction:** Seizure is not always possible of goods that violate unrecorded rights.

# Importance of Recordation


- The longstanding CBP policy is to focus its IP enforcement efforts on recorded trademarks and copyrights
- The legal authorities for detaining, seizing and forfeiting merchandise are different depending on whether the trademark or copyright has been recorded with CBP
- Recorded trademarks and copyrights are afforded more protection than those that are unrecorded:
  - Enforcement against “confusingly similar” marks
  - Right holders receive notice of the name and address of the parties associated with the seized goods (disclosure of information post-seizure)
  - 19 CFR 133.21 pre-seizure exchange of information and images with CBP
  - §1526(f) penalty available to deter future violations

# Registration



Int. Cl.: 14  
Prior U.S. Cls.: 2, 27, 28, and 50  
United States Patent and Trademark Office  
Reg. No. 2,209,815  
Registered Dec. 8, 1998

TRADEMARK  
PRINCIPAL REGISTER



NIKE, INC. (OREGON CORPORATION)  
ONE BOWENMAN DRIVE  
BEAVERTON, OR 97005

OWNER OF U.S. REG. NOS. 1,237,469,  
1,593,356, AND OTHERS.

FOR: TIMEPIECES OF ALL TYPES,  
NAMELY, WATCHES AND CHRONOGRAPHS,  
IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).  
FIRST USE 8-26-1997; IN COMMERCE  
8-26-1997.

SN 75-977,827, FILED 10-24-1996.  
PRISCILLA MILTON, EXAMINING ATTOR-  
NEY



UNITED STATES COPYRIGHT OFFICE  
THE LIBRARY OF CONGRESS

THIS CERTIFICATE IS ISSUED UNDER THE SEAL OF THE COPYRIGHT OFFICE IN ACCORDANCE WITH 17 U.S.C. § 101 (Copyright Law Code), which states that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*My Sample Work*  
REGISTERED DATE OF REGISTRATION: *Sep 2 2007*

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE USE A SEPARATE CONTINUATION SHEET

1 TITLE OF THIS WORK  
*My Sample Work*

2 a AUTHOR & NATIONALITY OR DOMICILE  
NAME OF AUTHOR: *James Doe*  
CITIZENSHIP: *U.S.*  
NATIONALITY OR DOMICILE: *U.S.*  
DATE OF BIRTH AND DATE OF DEATH: *1950-01-01*  
DATE OF REGISTRATION: *2007-09-02*

3 a b c

4

# RECORDATION



Int. Cl.: 14  
Prior U.S. Cls.: 2, 27, 28, and 50  
United States Patent and Trademark Office  
TRADEMARK  
PRINCIPAL REGISTER

**NIKE**

NIKE, INC. (OREGON CORPORATION)  
ONE BOWERMAN DRIVE  
BEAVERTON, OR 97005

OWNER OF U.S. REG. NOS. 1,237,469,  
1,959,356, AND OTHERS.

FOR: TIMEPIECES OF ALL TYPES,  
NAMELY, WATCHES AND CHRONOGRAPHS,  
IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).  
FIRST USE: 8-26-1971, IN COMMERCE  
8-26-1971.

SN 75-977,827, FILED 10-24-1996.

PRISCILLA MILTON, EXAMINING ATTORNEY



Certificate of Registration  
FORM TX  
UNITED STATES COPYRIGHT OFFICE

This Certificate is issued under the seal of the Copyright Office in accordance with title 17, United States Code, which states that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*My Sample Work*  
Registered Copyright, United States of America

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1 TITLE OF THIS WORK  
My Sample Work

PREVIOUS OR ALTERNATIVE TITLES

PUBLICATION AS A CONTRIBUTION

2 NAME OF AUTHOR  
a Jane Doe

DATE OF BIRTH AND DEATH

3 NAME OF AUTHOR  
b

DATE OF BIRTH AND DEATH

4

**IPRiS** INTELLECTUAL PROPERTY  
RIGHTS *internal* SEARCH



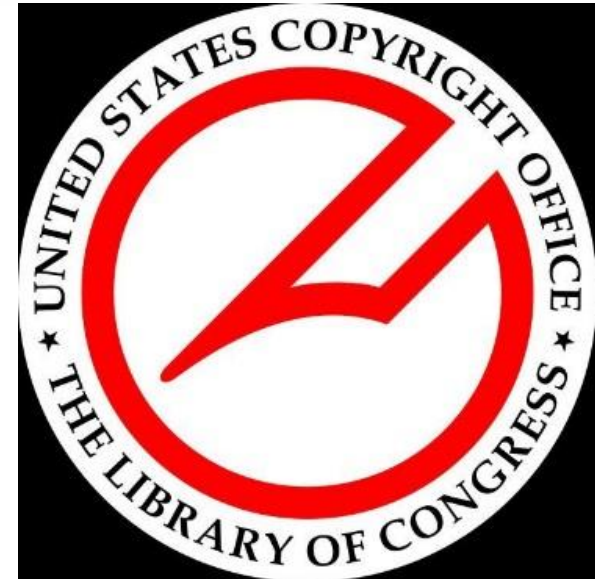
# U.S. Copyright Office Registration

## TFTEA Section 304: Enforcement by CBP of Pending Copyright Registrations

### **TEMPORARY RECORDATION OF UNREGISTERED COPYRIGHTS**

Temporary recordation of unregistered Copyrights is now available while your application for registration is pending at the U.S. Copyright Office (USCO). Upon request (email to [iprrquestions@cbp.dhs.gov](mailto:iprrquestions@cbp.dhs.gov)), you will receive instructions for submitting an application for recordation of your copyright with CBP for border enforcement purposes. Proof of application to register your Copyright at the USCO is required.

- Pending applications granted temporary recordation status for 6 months
- Such recordations are eligible for only one renewal period



# IPRR INTELLECTUAL PROPERTY RIGHTS e-RECORDATION

<https://iprr.cbp.gov/>

Welcome to the Intellectual Property Rights e-Recordation (IPRR) application.



The filing of this electronic application will begin the administrative recordation process with CBP. A separate application is required for each recordation sought. Applications will be processed in the order in which they are received. The recordation fee for copyrights is \$190. The recordation fee for trademarks is \$190 per International Class of goods.

**We recommend that you have the following materials and information readily available before you begin the application process:**

- U.S. Patent & Trademark Office Registration Number or the U.S. Copyright Office Registration Number
- Digital images of the protected mark/work in ".jpg," ".gif" or ".pdf" format that accurately depict the right to be protected. Individual image files are limited to 2MB.
- Evidence of a pending application for registration at the U.S. Copyright Office, if recording an unregistered copyright with CBP.

# Electronic Application Processing

Requests for assistance with the recordation application process should be directed to the Intellectual Property Rights Branch via email [iprrquestions@cbp.dhs.gov](mailto:iprrquestions@cbp.dhs.gov) or call (202)325-0020 .

**Instructions** The system will time-out after 30 minutes of inactivity. Proceeding through the application resets the 30-minute timer on each page. Please complete the application before exiting the system, as incomplete applications will not be processed. If your application times out, please contact [IPRRQUESTIONS@cbp.gov](mailto:IPRRQUESTIONS@cbp.gov) to delete the incomplete application before you can continue on. Please refrain from entering information just to "test" the system. Click [TRADEMARK TRADEMARK Renewal](#) or [COPYRIGHT COPYRIGHT Renewal](#) if you would like to view the application before you begin. Be sure to "screen print" each page as you move through the application process, and retain for your records.

[Instructions/FAQ's](#)

NEW RECORDATION

RENEWAL

CHANGE OF OWNERSHIP

CHECK STATUS

REQUEST 3 MONTHS EXTENSION

# What additional information does CBP ask for?

- Image of registration certificate
- Accurate image(s) of protected mark as used in commerce, in ".jpg," ".gif" or ".pdf" format
- Names of licensees or parties authorized to use the mark
- Country of manufacture
- **Point of contact, name, address, telephone and email**
- "Additional information"
- Product identification guide
- Credit card payment encouraged over payment by check

## Recordation Fees

New recordations:

- \$190 per class of goods, per trademark
- \$190 per copyright

Renewal:

- \$80 per previously recorded class of goods, per trademark
- \$80 per copyright

## Recordation Term

- The recordation will remain in force concurrently with the underlying USPTO registration, if renewed with CBP every time the USPTO registration is renewed
- The recordation will remain in force concurrently with the underlying copyright registration, if renewed with CBP every 20 years

## Expired recordations

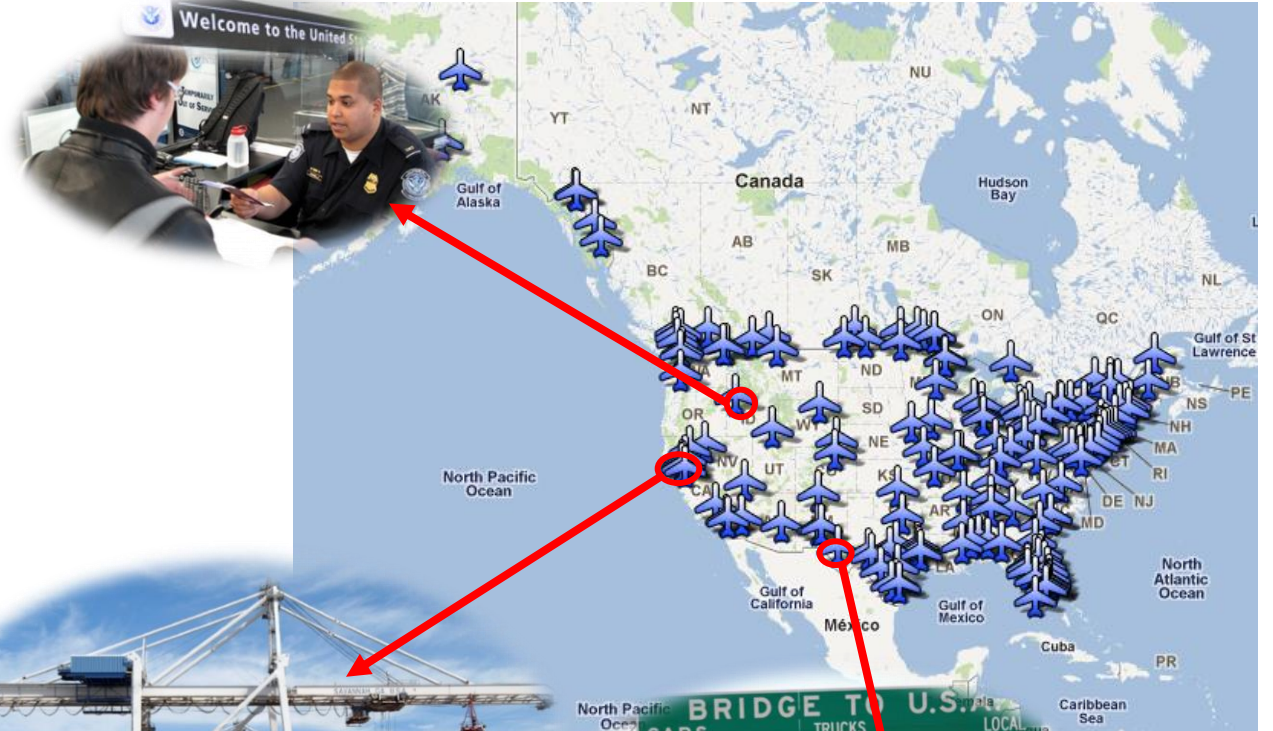
- The fees are the same as that for new recordations



# Registration



# Recordation



# **IPRR** INTELLECTUAL PROPERTY RIGHTS e-RECORDATION



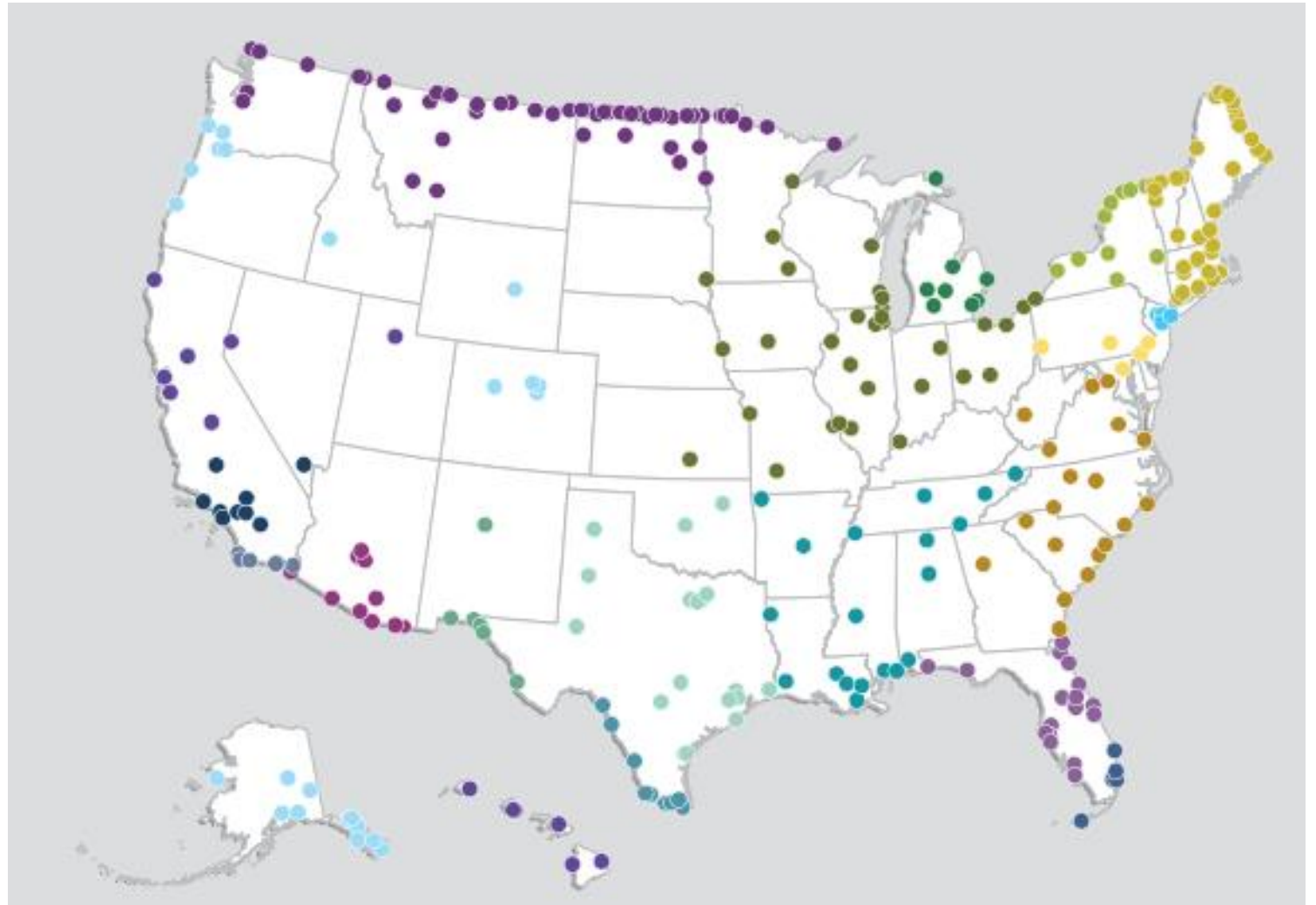
## **IPRS** INTELLECTUAL PROPERTY RIGHTS SEARCH



## **IPRiS** INTELLECTUAL PROPERTY RIGHTS *internal* SEARCH



Recordation data available  
to all 328 U.S. Ports of  
Entry, the moment a  
recordation is approved



# CUSTOMS BULLETIN AND DECISIONS

*Weekly Compilation of  
Decisions, Rulings, Regulations, Notices, and Abstracts  
Concerning Customs and Related Matters of the  
U.S. Customs and Border Protection  
U.S. Court of Appeals for the Federal Circuit  
and  
U.S. Court of International Trade*

*This issue contains:  
U.S. Customs and Border Protection  
General Notices  
U.S. Court of International Trade*

DEPARTMENT OF HOMELAND SECURITY  
U.S. CUSTOMS AND BORDER PROTECTION

## COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 11 2017)

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**SUMMARY:** The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in November 2017. The last notice was published in the CUSTOMS BULLETIN Vol. 51, No. 47, November 22, 2017.

Corrections or updates may be sent to: Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street, NE., 10th Floor, Washington, D.C. 20229-1177, or via email at [iprrquestions@cbp.dhs.gov](mailto:iprrquestions@cbp.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** LaVerne Watkins, Paralegal Specialist, Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade, at (202) 325-0095.

Dated: January 31, 2018

CHARLES R. STEUART

*Chief,*

*Intellectual Property Rights Branch  
Regulations and Rulings, Office of Trade*

**CBP IPR RECORDATION — NOVEMBER 2017**

<b>Recordation No.</b>	<b>Effective Date</b>	<b>Expiration Date</b>	<b>Name of Cop/Tmk/Tm</b>	<b>Owner Name</b>	<b>GM Restricted</b>
COP 17-00215	11/01/2017	11/01/2037	Emmy	National Academy of Television Arts and Sciences & Hollywood Academy of Television Arts and Sciences d.b.a. Academy of Television Arts and Sciences	No
COP 17-00217	11/08/2017	11/08/2037	GAME OF THRONES: THE IRON THRONE	HOME BOX OFFICE, INC.	No
COP 17-00218	11/18/2017	11/16/2037	CARTOON NETWORK ANTI-COUNTERFEITING GUIDE 2017	THE CARTOON NETWORK, INC.	No
COP 17-00219	11/29/2017	11/29/2037	Fingerlings Sloth Packaging (1L)	WowWee Group Limited	No
COP 17-00220	11/30/2017	11/30/2037	National Electrical Code, 2014 Edition.	NFPA	No
TMK 00-00133	11/16/2017	12/29/2027	DONNA KARAN NEW YORK	GABRIELLE STUDIO, INC.	No
TMK 00-00133	11/16/2017	12/29/2027	DONNA KARAN NEW YORK	GABRIELLE STUDIO, INC.	No
TMK 02-00050	11/18/2017	08/13/2027	LEGO and Design	LEGO JURIS A/S	No
TMK 02-00050	11/18/2017	08/13/2027	LEGO and Design	LEGO JURIS A/S	No
TMK 03-00534	11/30/2017	01/11/2019	JEAN PAUL GAULTIER (Stylized)	GAULME SOCIETE ANONYME	No
TMK 03-00534	11/30/2017	01/11/2019	JEAN PAUL GAULTIER (Stylized)	GAULME SOCIETE ANONYME	No
TMK 03-00536	11/30/2017	05/02/2018	JEAN PAUL GAULTIER (Stylized)	GAULME	No
TMK 03-00536	11/30/2017	05/02/2018	JEAN PAUL GAULTIER (Stylized)	GAULME	No
TMK 04-00723	11/02/2017	08/07/2026	WARMLITE	Altare International Corp.	No
TMK 04-00723	11/02/2017	08/07/2026	WARMLITE	Altare International Corp.	No
TMK 05-00272	11/17/2017	02/08/2025	Rams Helmet Design	THE LOS ANGELES RAMS, LLC	No
TMK 05-00272	11/17/2017	02/08/2025	Rams Helmet Design	THE LOS ANGELES RAMS, LLC	No
TMK 05-00820	11/30/2017	10/09/2022	R (Stylized)	THE LOS ANGELES RAMS, LLC	No
TMK 05-00820	11/30/2017	10/09/2022	R (Stylized)	THE LOS ANGELES RAMS, LLC	No



# IPRS Public Website Search

<https://iprs.cbp.gov/#/>



**U.S. Customs and Border Protection**  
Securing America's Borders

**IPRS Intellectual Property Rights Search**

Keyword:

GO

[Help](#) | [About](#) | [Print](#) |  
[Report Technical Concerns](#)

SEARCH:

All

Title

Product

Description

Owner

Contact Name

Firm Name

Recordation No.

Agency Registration No.

FILTER:

Show All

Trademarks

Copyrights

Tradenames

Exclusion Orders

Exclude Expired

Include Expired

## What's New

The total number of searchable IPR recordations in this database is 41049


## Recordations

In order to record a new recordation or to renew your existing recordation, please navigate to [e-Recordations](#). CBP's IPR e-Recordation program is administered by the Intellectual Property Rights Branch within the Regulations and Ruling Directorate, Office of Trade. For assistance please email: [iprrquestions@cbp.dhs.gov](mailto:iprrquestions@cbp.dhs.gov), or call .

## About the Intellectual Property Rights Search (IPRS)

IPRS is a searchable database containing public versions of U.S. Customs and Border Protection intellectual property rights recordations. Recordations can be retrieved based on simple or complex search characteristics using keywords and Boolean operators. IPRS has the added functionality of restricting searches to specific fields and record types. IPRS contains expired as well as current records and by default excludes expired records. For more information

# IPRS: Public Site

**U.S. Customs and Border Protection**  
*Securing America's Borders*

IPRIS Intellectual Property Rights  
Internal Search

Keyword:  X GO

[Help](#) | [About](#) | [Print](#) | [Product ID Manuals](#) | [Service Requests](#) | [Technical Concerns](#)

SEARCH: All Title Product Description Owner Contact Name Firm Name Recordation No. Agency Registration No.

FILTER: Show All Trademarks Copyrights Tradenames Exclusion Orders Exclude Expired Include Expired

1

1 - 5 of 5 items

Effective Date	Expirat Date	Title	Product	Description	Owner Name	Contact Name	Firm Name	Record Number	Agen Numl	Typ
8/8/2018	9/24/2028	<a href="#">DESIGN ONLY (AIR FORCE 1 OUTSOLE)</a>	IC 025. Footwear	The color(s) Color is not claimed as a feature of the mark. Is/are claimed as a feature of the mark. The mark consists of the design of the tread on the sole a shoe. The broken lines show the position of the mark on the goods and are not claimed as a part of the mark.	Nike, Inc.	Joe Pallett	Nike, Inc.	TMK 18-00812	34519...	TMK
8/8/2018	9/24/2028	<a href="#">DESIGN ONLY (AF1 HIGH</a>	IC 025. Footwear.	The color(s) Color is not claimed as a feature of the mark. Is/are claimed as a feature of the mark. The mark consists of the design of	Nike, Inc.	Joe Pallett	Nike, Inc.	TMK 18-00814	34519...	TMK

**Trademark**  
**Customs Recordation Number: TMK 18-00812**

**Effective Date: 8/8/2018**

**CBP Recordation Expiration Date: 9/24/2028**

**USPTO Registration Expiration Date: 6/24/2028**

[CLOSE](#)

[Print](#)

<b>Title</b>	DESIGN ONLY (AIR FORCE 1 OUTSOLE)
<b>Product</b>	IC 025. Footwear
<b>Description</b>	The color(s) Color is not claimed as a feature of the mark. is/are claimed as a feature of the mark. The mark consists of the design of the tread on the sole a shoe. The broken lines show the position of the mark on the goods and are not claimed as a part of the mark.
<b>Owner Name</b>	Nike, Inc.
<b>Gray Market Importations Restricted</b>	NO
<b>U.S. Patent and Trademark Office Registrati... Number</b>	3451904
<b>Firm Contact Name</b>	Nike, Inc. Joe Pallett One Bowerman Drive Beaverton, Oregon, 97005
<b>Phone</b>	.

# Programs Available to Recordation Holders

# Product Identification Guides

- Recordation holders have the ability to upload product identification guides, introducing their brand and providing information on how to identify genuine merchandise and distinguish it from others
- Product identification guides are posted on CBP's internal website, and used by CBP personnel to help evaluate suspect shipments
- Side-by-side comparisons of genuine vs. unauthorized goods may be provided
- All CBP personnel are governed by the Trade Secrets Act, 18 U.S.C. § 1905, and cannot disclose this proprietary information
- For more information, and a sample guide, visit:  
<https://www.cbp.gov/document/guidance/ipr-product-id-training-guide>



**Company Name**

# Product Identification Training Guide

**Company Website**

Date of Product Guide Submission to CBP

FOR LAW ENFORCEMENT USE ONLY

## GENUINE AND SUSPECT PRODUCT EXAMPLES

Genuine



Description(s) of physical  
characteristics of the Genuine  
product.

For example, a Genuine product of  
Company V incorporates blue  
labeling.

Suspect



Description(s) of physical  
characteristics of the Suspect product.

For example, the Suspect version is  
incorrectly labeled with improper  
placement, font, and font size.

FOR LAW ENFORCEMENT USE ONLY

# IPR Product Identification Webinars

- Right holders who conduct product identification trainings, either in-person or online, see heightened identification of counterfeit goods.
- Trainings can now be conducted online, maximizing the number of CBP attendees, and allowing for question and answer periods.
- The webinars are recorded, and available for future viewing by CBP personnel
- The IPR **MUST** be recorded with CBP, a product ID guide must be current, and all materials must be vetted prior to delivering the webinar
- To schedule online training events please contact the IPR Division at [IPRHELPDESK@cbp.dhs.gov](mailto:IPRHELPDESK@cbp.dhs.gov).
- For more information visit: <https://www.cbp.gov/trade/priority-issues/ipr/webinar>

# IP Authentication Technology

- Through the Donations Acceptance Program (DAP) CBP is authorized to accept trade tools from right holders, such as IP authentication technology
- If interested in exploring partnership opportunities with CBP or for more information, please contact the DAP at [dap@cbp.dhs.gov](mailto:dap@cbp.dhs.gov)
- The DAP is authorized by 6 U.S.C. § 301a, and consistent with 19 CFR 133.61 as mandated by Section 308(d) of the *Trade Facilitation and Trade Enforcement Act* of 2015

Utilize e-Allegations with actionable intelligence on illegal trade activity



<https://eallegations.cbp.gov/>



## e-ALLEGATIONS

You are entering an Official United States Government System, which may be used only for authorized purposes. The Government may monitor and audit usage of this system, and persons are hereby notified that use of this system constitutes consent to such monitoring and auditing. Unauthorized attempts to upload information and/or change information on this Web site are strictly prohibited and are subject to prosecution under the Computer Fraud and Abuse Act of 1986 and Title 18 U.S.C. Sec.1001 and 1030.

Thank you for visiting the U.S. Customs and Border Protection e-Allegations portal. Here you can report on suspected violations of U.S. Customs Law and related illicit trade activities. In making allegations, please be as specific, detailed, and concise as possible to help expedite your complaint.

### REPORT SUSPECTED CRIMINAL/ILLEGAL ACTIVITY

This button is to be used for reporting criminal and illegal activities for referral to Homeland Security Investigations.

- Immigration crime, human rights violations and human trafficking or smuggling
- Smuggling of weapons, narcotics, or other contraband
- Financial crimes, money laundering, bulk cash smuggling
- Cybercrime, website fraud
- International art and antiquity theft
- [En Español](#)

**REPORT SUSPECTED CRIMINAL/ILLEGAL ACTIVITY**

### REPORT TRADE VIOLATIONS

This button is to be used only to report illegal trade activity.

- Intellectual Property Rights infringement
- Textile or Free Trade Agreement violations
- Health and Safety issues
- Classification and Value violations
- Forced Labor Violations

**REPORT TRADE VIOLATIONS**



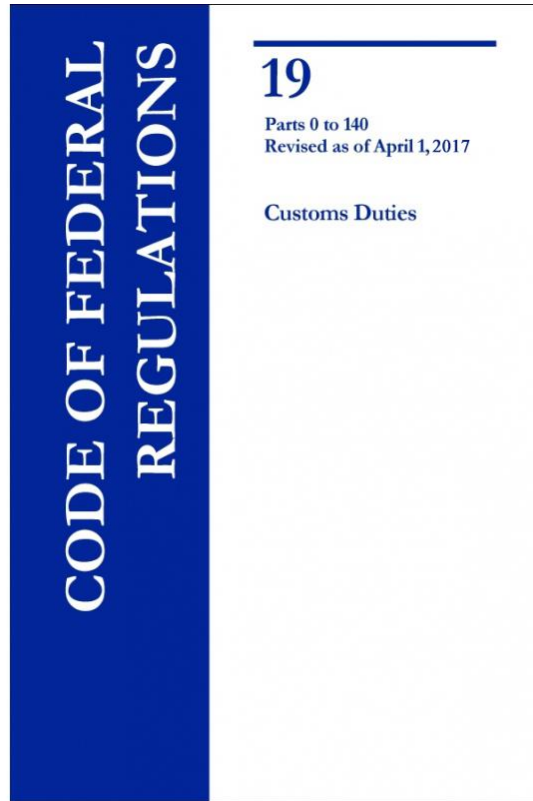
# Engage the Centers of Excellence and Expertise

- Suspected violations, as well as any questions about CBP operations should be directed to the appropriate Center of Excellence and Expertise.

<http://www.cbp.gov/trade/centers-excellence-expertise-information/cee-directory>

- Email [CEE@cbp.dhs.gov](mailto:CEE@cbp.dhs.gov) for assistance in determining which Center to contact.

# Legal enforcement authorities



# IP Violations & Legal Standards of Infringement

- Counterfeit violation: “identical with or substantially indistinguishable from” the registered and recorded trademark
- “Confusingly similar” violation: suspect mark copies or simulates the protected trademark
- Piratical copy: “substantially similar” to the protected work, such that it passes the “ordinary observer” test
- DMCA violative: Device primarily designed for circumventing copyright controls
- Lever-rule protected: trademark has been granted *Lever*-rule protection and the merchandise at issue is physically and/or materially different from that intended to be sold in the United States
- Gray market protected: trademark has been granted gray market protection and the merchandise at issue is genuine, foreign made, gray market merchandise
- Subject to exclusion: falls within the scope of a Limited or General ITC Exclusion Order
- Subject to SFO: subject to immediate seizure pursuant to an ITC Seizure & Forfeiture Order

# Main IPR Seizure Statutes

- **19 U.S.C. §1526(e)**  
Used only for goods bearing counterfeit marks
- **19 U.S.C. §1595a(c)**  
Used for almost everything else:
  - goods bearing “confusingly similar” marks
  - *Lever*-rule protected goods
  - §2320 trademark violations
  - piratical copyright violations
  - DMCA violations
- **19 U.S.C. §1526(b)**  
Used for restricted gray market goods
- **19 U.S.C. §1337(d)**  
Used to exclude merchandise subject to an exclusion order
- **19 U.S.C. §1337(i)**  
Used seize merchandise subject to an ITC Seizure and Forfeiture Order

# Important to Distinguish . . .

- Prohibited merchandise: shall not be permitted entry into the United States, including in-bond entries for T&E or IE, and is subject to seizure where and when the violation is discovered
- Restricted merchandise: may be permitted entry into the United States under certain conditions, as provided by law - type of entry is relevant to whether such goods are permitted entry

# Categories of Merchandise

## Prohibited Merchandise

- Counterfeit
- Piratical
- DMCA violative
- Subject to ITC Seizure & Forfeiture Order



## Restricted Merchandise

- Confusingly similar
- Gray market or *Lever*-rule protected



- Subject to exclusion per ITC LEO or GEO





# Counterfeit violation

- Detention authority

19 CFR § 133.21(b)

- Opportunity to obtain release

19 CFR § 133.21(b)(2)(i) [7 day period – proof of authorization]

- Seizure authority

19 U.S.C. § 1526(e)

- Post- seizure disclosure

19 CFR § 133.21(e)

Comprehensive importation information

- Penalty

19 U.S.C. § 1526(f)

# “Confusingly similar” trademark violation

- Detention authority

19 CFR § 133.22

- Opportunity to obtain release

19 CFR § 133.22(c) [obliteration/removal, right holder consent]

- Seizure authority

19 U.S.C. § 1595a(c)(2)(C) for an underlying violation of 15 U.S.C. § 1124

- Post- seizure disclosure

None

- Penalty

None

# Gray market restricted/*Lever*-rule protected

- Detention authority

19 CFR § 133.23

- Opportunity to obtain release

19 CFR § 133.23(d) [obliteration/removal, right holder consent]

19 CFR § 133.23(b) [*Lever*-rule labels, obliteration/removal, right holder consent]

- Seizure authority

19 U.S.C. § 1526(b) [restricted gray market]

19 U.S.C. § 1595a(C)(2)(c) for a violation of 15 U.S.C. § 1124 [*Lever*-rule restricted]

- Post- seizure disclosure

None

- Penalty

None

# Piratical Copyright violation

- Detention authority →

CBP NPRM *Enforcement of Copyrights and the Digital Millennium Copyright Act*  
(October 16, 2019) \*

- Opportunity for release →

- Seizure authority

19 U.S.C. § 1595a(c)(2)(C) for an underlying violation of 17 U.S.C. § 602

- Post- seizure disclosure

19 CFR § 133.42

Comprehensive import information

- Penalty

None

# Digital Millennium Copyright Act



Prohibits importation of devices primarily designed for circumventing copyright controls, and have no commercially significant purpose otherwise

- Seizure authority

19 U.S.C. § 1595a(c)(2)(C) for an underlying violation of  
17 U.S.C. § 1201

- Post- seizure disclosure

None \*

- Penalty

None



# ITC Exclusion Orders

If the U.S. International Trade Commission finds violation of 19 U.S.C. § 1337 (“Section 337”) it may issue an exclusion order

Two types of exclusion orders:

- Limited Exclusion Order (“LEO”): All goods of a certain description **imported by a certain company or companies** must be denied entry
- General Exclusion Order (“GEO”): **All goods of a certain description** must be denied entry, with specified exceptions

[www.usitc.gov](http://www.usitc.gov)

<https://edis.usitc.gov/external/>



# Exclusion

- Importer will receive a Notice of Exclusion indicating available remedies, such as exportation, entry into a FTZ, or bonded warehouse
- Right holder (“Complainant”) is not notified of the exclusion
- ITC may issue a Seizure & Forfeiture Order (SFO) against the importer applicable to future importations
- All SFOs are posted on the ITC website, accessible through the Electronic Document Information System (EDIS)
- EDIS accounts are free, and can be obtained at:

<https://edis.usitc.gov/external/register/registration.html>

# 19 CFR Part 177 Ruling Request

- CBP “will give full and careful consideration to written requests from importers and other interested parties for rulings or information setting forth, with respect to a specifically described transaction, a definitive interpretation of applicable law, or other appropriate information.”
- “Generally, a ruling may be requested under the provisions of this part only with respect to **prospective transactions** - that is, transactions which are not already pending,” or before an office of CBP.

[HQIPRBranch@cbp.dhs.gov](mailto:HQIPRBranch@cbp.dhs.gov)

[IPRBranch.ITC337.Admin@cbp.dhs.gov](mailto:IPRBranch.ITC337.Admin@cbp.dhs.gov)

# QUESTIONS?



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

# Intellectual Property Rights Branch

*Regulations & Rulings Directorate*

Office of Trade, Washington DC

- Branch Chief [Alaina.vanhorn@cbp.dhs.gov](mailto:Alaina.vanhorn@cbp.dhs.gov)
- Recordation Questions: [IPRRQuestions@cbp.dhs.gov](mailto:IPRRQuestions@cbp.dhs.gov)
- IP Enforcement Matters: [HQIPRBranch@cbp.dhs.gov](mailto:HQIPRBranch@cbp.dhs.gov)

# APPENDIX

# Web resources for IPR Recordation

FAQs on CBP recordation:

<https://iprr.cbp.gov/Content/Docs/instruction.pdf>

CBP Recordation application: <https://iprr.cbp.gov/>

IPR Search: <https://iprs.cbp.gov/#/>

Informed Compliance Publication, *CBP Enforcement of IPR*

[https://www.cbp.gov/sites/default/files/assets/documents/2017-Feb/enforce\\_ipr\\_3\\_0.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2017-Feb/enforce_ipr_3_0.pdf)



# How to update recordation information

- To update contact information, please submit a request on your firm/company's letterhead via email to [iprrquestions@cbp.dhs.gov](mailto:iprrquestions@cbp.dhs.gov)
- To change the ownership of a recordation, access the IPRR application at <https://iprr.cbp.gov> and use the *CHANGE OF OWNERSHIP* online application form/button.
- To makes changes to licensees, countries of manufacture and/or 'additional information,' please submit a request on your firm/company's letterhead, specifying the recordation number(s) you are seeking to modify, to [iprrquestions@cbp.dhs.gov](mailto:iprrquestions@cbp.dhs.gov)

# Applicable IPR Regulations

## 19 CFR Part 133 - TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

- § 133.0 Scope.
- Subpart A - Recordation of Trademarks (§§ 133.1 - 133.7)
- Subpart B - Recordation of Trade Names (§§ 133.11 - 133.15)
- Subpart C - Importations Bearing Recorded Marks or Trade Names (§§ 133.21 - 133.27)
- Subpart D - Recordation of Copyrights (§§ 133.31 - 133.37)
- Subpart E - Importations Violating Copyright Laws (§§ 133.41 - 133.46)
- Subpart F - Procedure Following Forfeiture or Assessment of Liquidated Damages (§§ 133.51 - 133.53)
- Subpart G [Reserved]
- Subpart H - Donations of Intellectual Property Rights Technology and Related Support Services (§ 133.61)

# *Enforcement of Copyrights and the Digital Millennium Copyright Act*

**Publication Date:** [10/16/2019](#)

**Comments Closed** on 12/16/2019

**Document Type:** Proposed Rule

**Document Citation:** 84 FR 55251

**Page:** 55251-55265 (15 pages)

**CFR:** 19 CFR 113; 19 CFR 133; 19 CFR 148; 19 CFR 151; 19 CFR 177

**Agency/Docket Number:** USCBP-2019-0037

**Document Number:** 2019-21980

Available at: <https://www.federalregister.gov/documents/2019/10/16/2019-21980/enforcement-of-copyrights-and-the-digital-millennium-copyright-act>

# Major CBP Publications

- *Federal Register* (daily) “Official Notice to Public”
  - Substantive and Procedural Rules (5 U.S.C. § 553)
  - Guidance: Statements of General Policy; Interpretations of General Applicability
  - General Announcements
- Customs Bulletin and Decisions (weekly)
  - Hard Copy Subscribers and Posted on [www.cbp.gov](http://www.cbp.gov)
  - Reprints CBP Documents Published in FR (Rulemakings and Notices)
  - Specific CBP Documents (Recordations; Quota; Currency Rates; Ruling Revocations under § 1625)
  - Slip Opinions—CIT, Federal Circuit Court of Appeals
- CROSS—Customs Rulings Online Search System (Over 200,000 Rulings)

# Resources

- Electronic (“FOIA”) Reading Room
  - Records Posted When Two or More Requests for the Same Document are Received
- PODS -- Internal Policy, Handbooks, and CBP Directives
- ICPs—Informed Compliance Publications
  - Restates Policy and Procedures Found in Other Official Publications:  
<https://www.cbp.gov/trade/rulings/informed-compliance-publications>
- [www.regulations.gov](http://www.regulations.gov)
  - Public Comments Submitted for Rulemakings





Jeff P. Hardy  
Director-General  
Transnational Alliance to  
Combat Illicit Trade (TRACIT)

# Presentation to TIC Council

## WEBINAR

### Exploring Online Fraud and the Sale of Counterfeit Goods

#### Panel III

**7 October 2020**

Jeff Hardy  
Director-General

# INTRODUCTION

## ABOUT TRACIT

# Why TRACIT?

- Aggregated approach
- Business can be a better, smarter partner to government
- Governments can be more effective through a more holistic approach



PETROLEUM



PHARMA



GEMSTONES &  
PRECIOUS METALS



TOBACCO



TRAFICKING  
IN PERSONS



TRAFICKING  
IN WILDLIFE



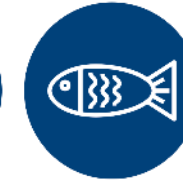
AGRI-FOOD



ALCOHOL



COUNTERFEITING



FISHERIES



FORESTRY



PESTICIDES

# Address common vulnerabilities

- Air, sea, land transport
- Express carriers
- Internet platforms
- Border control
- Corruption in customs
- Free trade zones
- Regulatory gaps



# OUR ROLE

COMBATTING ONLINE FRAUD AND  
COUNTERFEITING



# Consumer protection



Intergovernmental Group of  
Experts on Consumer Protection



Committee on Consumer Policy



The New Consumer Agenda: open  
public consultation

# Fraudulent Advertising Online

## *Emerging Risk and Consumer Fraud*



# WORKING WITH OTHER STAKEHOLDERS

# Collaboration



# Advocacy



[www.TRACIT.org](http://www.TRACIT.org)



@TRACIT\_org



@Transnational Alliance to Combat Illicit Trade





Brian Weinhaus  
Unit Chief  
Intellectual Property Rights Unit  
Homeland Security  
Investigations (HSI)





# NATIONAL IPR CENTER



U.S. Immigration  
and Customs  
Enforcement





# IPR Center - 25 Domestic and International Partners

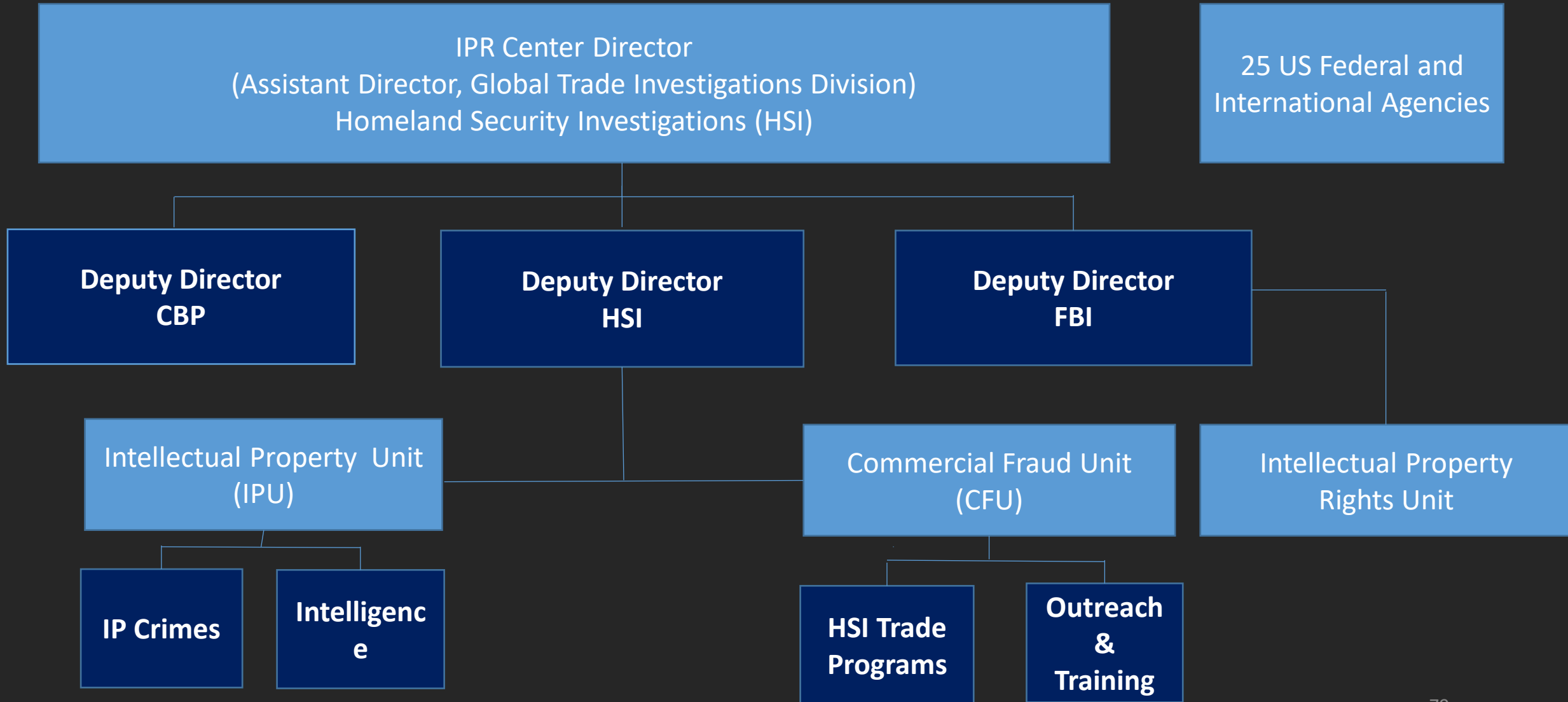


The IPR Center Mission: To promote national security by protecting the public's health and safety, the U.S. economy, our war fighters, and to stop predatory and illegal trade practices that threaten the U.S. and global economies.



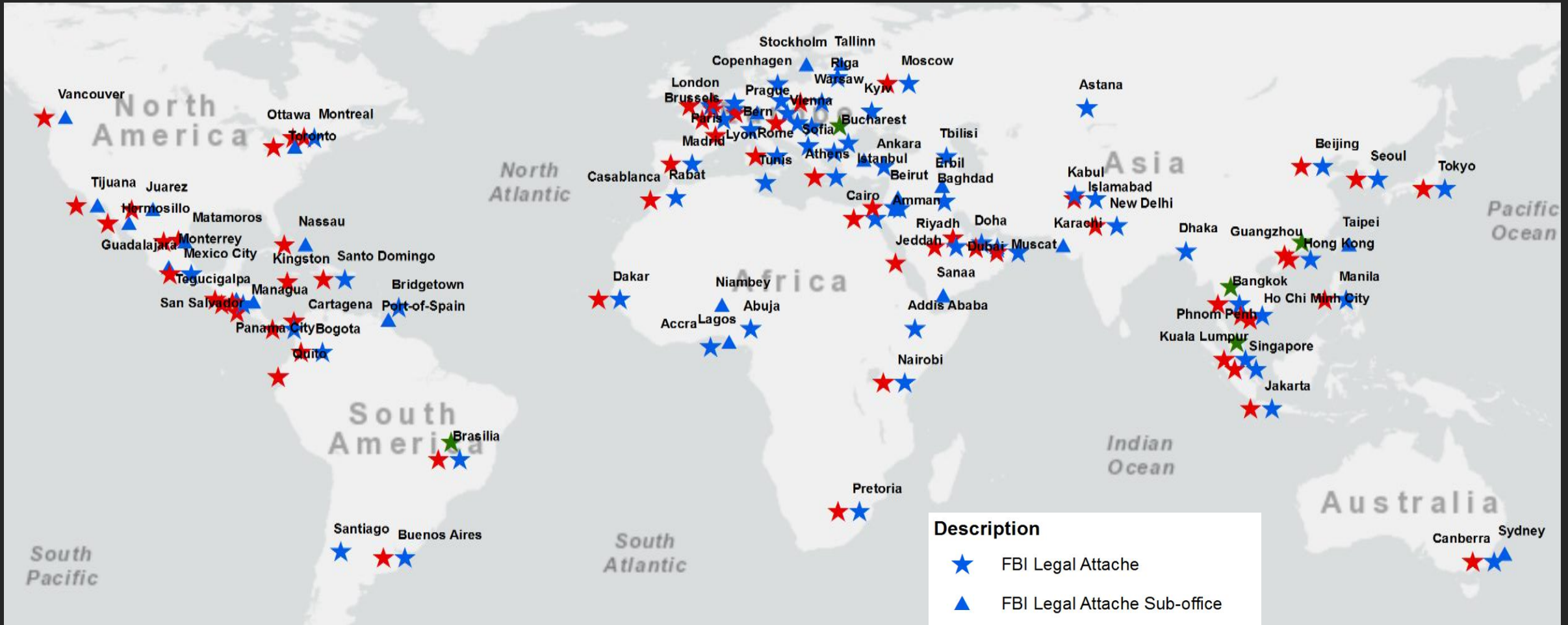


# IPR Center Organizational Chart





# Global Footprint



- 130+ Attaché Offices
- 8 DOD Liaisons
- Coverage in 180 countries, territories, and islands





## IT'S A MATTER OF NATIONAL SECURITY



**Public Health & Safety**



**Warfighters**



**U.S. Economy**





## DID YOU KNOW?

**\*\*The current estimate of \$461 billion in international trade in counterfeit and pirated products is projected to reach \$991 billion in total counterfeit goods by 2022.**

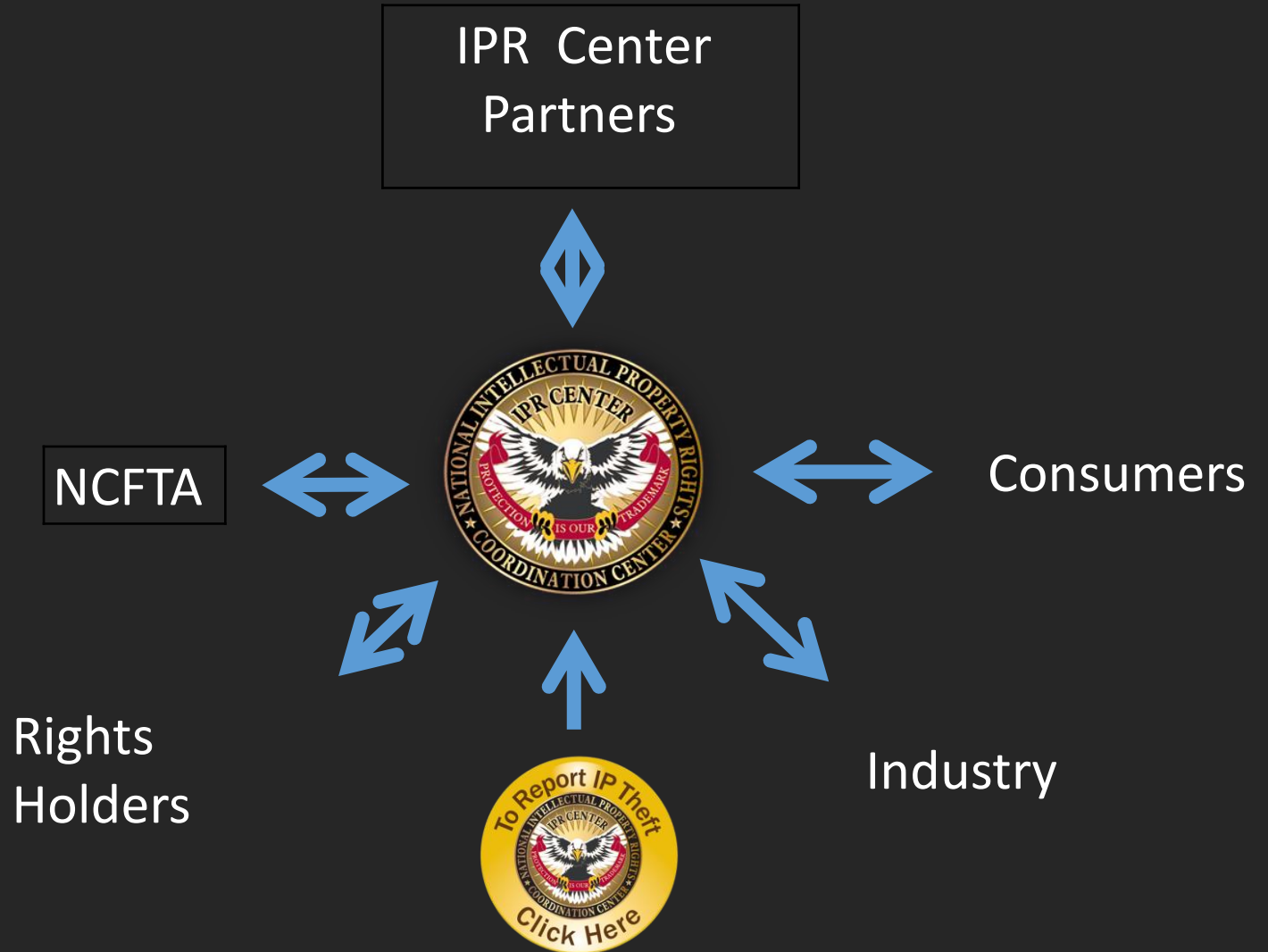
Crime	For each \$1,000 invested, here's the return on investment
Counterfeit Money <small>*Source- Secret Service</small>	\$3,000 = 300%
Credit Card Fraud <small>*Source- MC, Visa, Discover</small>	\$6,700 = 570%
Heroin <small>*Source- DEA</small>	\$19,860 = 1,886%
Tobacco Smuggling <small>* Source- Major Tobacco Companies (2)</small>	\$43,000 = 4,200%
Software Piracy <small>*Microsoft</small>	\$40,000 - \$100k = 3,900% - 9,900%
Fake Pharmaceuticals <small>*Manufacturing prices of obtaining bulk</small>	\$300,000 = 29,900%

**\*\*Source:** *International Chambers of Commerce (ICC) in a report prepared for Business Action to Stop Counterfeiting and Piracy (BASCAP) and the International Trademark Association (INTA). The 2016 report is entitled The Economic Impacts of Counterfeiting and Piracy.*



## LEAD INTAKE AND COORDINATION

- Lead Intake, Deconfliction, and Validation
  - IPRC Partners
  - Industry Stakeholders
  - Public
- Intelligence
  - ATS Analysis
  - Open Source Analysis (NCFTA)
- Operational Coordination
  - POE Blitz Operations
  - CBP National Targeting Center
  - International Partners
  - Industry Support
- Industry Engagement
  - Brand POC's
  - Trend Analysis





## OPERATION SURGE PROTECTOR

- Cell Phones / Tablets
- Batteries
- Charging Cables and Adapters
- Emerging Technology



FAKE CHARGERS COULD BE DISASTROUS IF BOUGHT



TECH

### Laptop explosions caught on video spur new concerns about batteries

by Jeff Rossen and Lindsey Berman / Feb. 09, 2017 / 1:26 PM ET / Source: TODAY

Dramatic video shows a laptop exploding and catching fire four times. The suspected cause is the computer's lithium-ion battery.

With rare access to Underwriters Laboratories in Chicago, TODAY national investigative correspondent Jeff Rossen shares an up-close look at what happens when these batteries explode.



**UPDATE:** Since this report aired, Dell issued this updated statement to NBC News:

"We have concluded our full investigation. The battery involved was not manufactured by Dell and was not an authentic Dell battery. Dell batteries contain Dell intellectual property that helps ensure safety. Remember, it is important to follow the manufacturer's safety instructions for all electronic devices. Incompatible, counterfeit or third-party batteries may increase the risk of a safety related incident.

For additional information, please see the [updated Direct2Dell blog.](#)"





## OPERATION CHAIN REACTION

- OCR targets counterfeit items entering the supply chain of the Department of Defense (DOD) and other U.S. government agencies
- Sixteen (16) Federal Agencies participate in OCR

Chinese/Hong Kong companies  
Involved in counterfeit integrated  
circuits trafficking



U.S. importers from  
Identified CN/HK companies



DOD prime contractors  
Identified domestically







## OPERATION ENGINE NEWITY



Addresses the threat to health and safety posed by counterfeit products:

- Automotive
- Heavy Industry components





## OPERATION APOTHECARY

- Counterfeit pharmaceuticals
- Counterfeit health & beauty products
- Counterfeit medical devices

FOX 9 Sections News Weather Sports Morning Investigators Contests Recipe Box Contact Us TV Listings About Us 59° Privacy Policy Terms of Service Ad Choices Public File

Live Video News Weather School closings Sports Contests The Jason Show TV Listings Contact Fox 9

### Counterfeit Xanax laced with deadly fentanyl becoming popular party drug

Popular Recent

Xanax Anarchy

By: Bill Melugin

POSTED: FEB 12 2018 10:48PM CST  
VIDEO POSTED: FEB 13 2018 01:13PM CST  
UPDATED: FEB 13 2018 12:51AM CST

LOS ANGELES, CA (FOX 11) - A FOX 11 investigation is taking you into the world of "xans" and "bars",

One of these medicines is fake.  
Can you tell which?

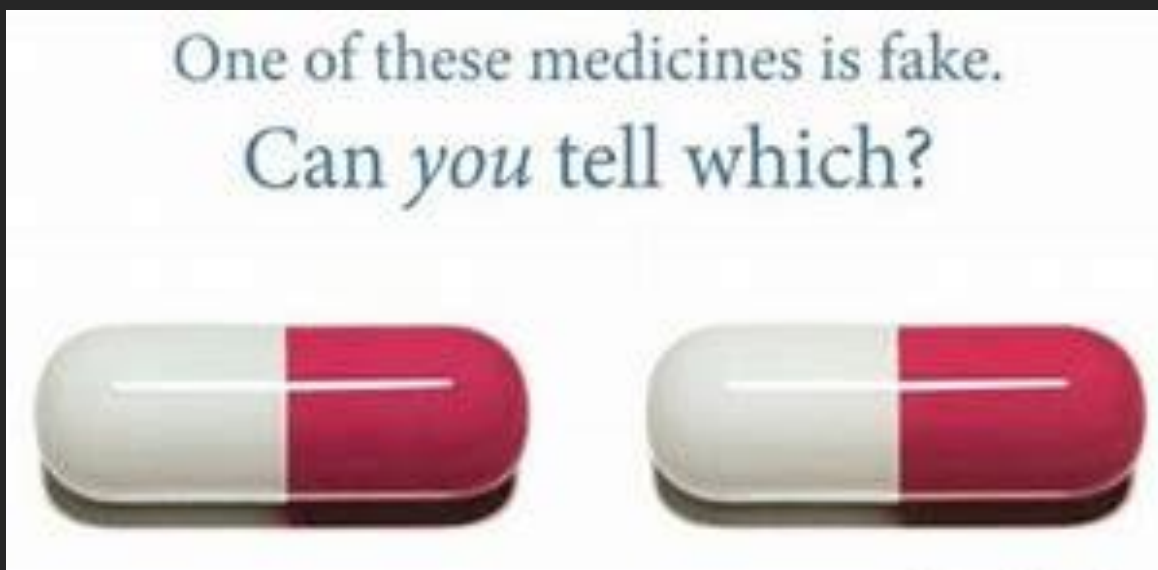
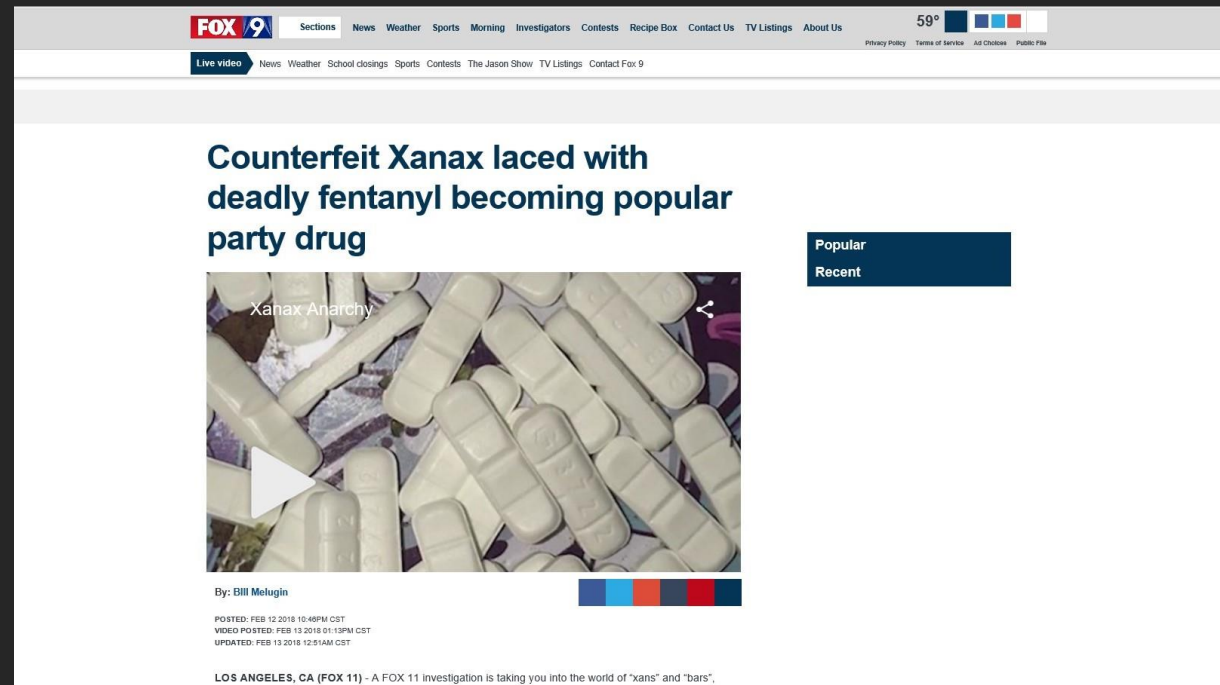






## OPERATION APOTHECARY

- Counterfeit Pharmaceuticals
- May contain the wrong active ingredient, the incorrect amount of the active ingredient, or dangerous ingredients
- Some counterfeits are laced with fentanyl or other opioids







## OPERATION TEAM PLAYER

- Counterfeit sporting equipment and sports branded apparel and merchandise
- Law Enforcement Cooperation
- Public Outreach



TOP STORY

INTELLECTUAL PROPERTY RIGHTS

02/01/2018

### 'Operation Team Player' nets over \$15 million in fake sports merchandise



MINNEAPOLIS – U.S. Immigration and Customs Enforcement (ICE) representatives announced today that enforcement actions led by Homeland Security Investigations (HSI) and U.S. Customs and Border Protection resulted in the seizure of over 171,926 counterfeit sports- and entertainment-related items worth an estimated \$15.69 million, and joint investigative efforts led to 65 arrests with 24 convictions.

The results from Operation Team Player, a year-round effort developed by the HSI-led National Intellectual Property Rights Coordination Center (IPR Center) to crackdown on the illegal importation of counterfeit sports apparel and entertainment merchandise, were revealed at a press conference hosted by the NFL with participation from ICE, CBP and the Minneapolis Police Department (MPD).



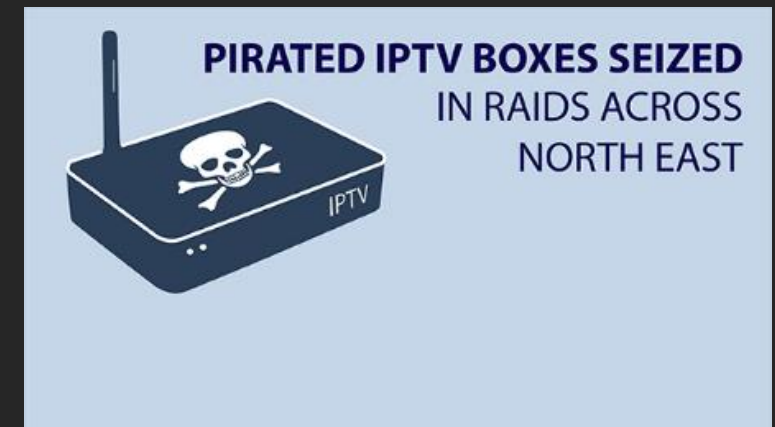


## COPYRIGHT INFRINGEMENT & ILLICIT STREAMING

- Copyright Infringement accounts for \$250 billion in damages per year in the U.S. alone
  - Hackers increasingly target US copyrighted works for sophisticated computer intrusions and pre-release ransoms
- Illicit Streaming Devices illegally obtain copyrighted content
  - Funds criminal organization
  - Trojan Horse: opens consumers up to malware and identify theft



Megaupload \$175 Million in criminal proceeds





## E-COMMERCE



- Targets entities and assets of infringing websites or social media links
- Educating the consumer
- Operations:
- In Our Sites – Disruption and Consumer Education
- Transatlantic – International coordination with EUROPOL

**Viewed more than 150 Million Times**

E-Commerce Strategy – IPR Center has taken a partnership versus adversarial approach with third party groups

- Online Marketplaces
- Payment Processors
- Express Consignment

**Educate the consumer  
Push Out the Border**







## OPERATION BODY ARMOR




- Counterfeit Health & Beauty Products
- These types of counterfeits can pose a significant health and safety risk due to fact that products are often made of dangerous/substandard materials in unsanitary conditions.

**CNN** Health | Food | Fitness | Wellness | Parenting | Vital Signs Live TV U.S. Edition

### Police find animal waste in counterfeit makeup -- so it's not such a bargain after all

By **Amanda Jackson**, CNN  
Updated 4:31 PM ET, Sun April 15, 2018



**Content by LendingTree**

- How to pay off your house ASAP (It's so simple)
- Need \$50k for a renovation? Try a cash-out refi
- Forget your 401k if you own a home (Do This)
- Reverse Mortgages: Worth the risk?
- Rates now at 3.93% APR - \$225k mortgage for \$1,650/mo

**Content by CompareCards**

- 9 cards charging 0% interest until 2020
- These are the best credit cards of September 2018
- Fly practically free with these 4 travel cards
- "Game Changer" for Americans in debt: 0% intro APR until 2020
- 7 cards that generate serious amounts of cash back

Police find animal waste in bootleg makeup 01:04

**(CNN)** — Buyers beware! Sometimes when you spot a good makeup deal, it's too good to be true.





The Los Angeles Police Department says it confiscated counterfeit makeup that tested positive for high levels of bacteria and animal waste.



## THE “BUTTON”



A growing number of internet websites are featuring the “Report IP Theft” button to not only report IP theft but also to help deter it.



### About WQA


The Water Quality Association (WQA) is a not-for-profit international trade association representing the residential, commercial and industrial water treatment industry. [Learn More](#)

### Water Quality Association


International Headquarters & Laboratory  
4151 Naperville Road  
Lisle, IL 60532-3696 USA

Tel: 630-505-0160  
Fax: 630-505-9637

### Help stop counterfeit water filters




The Water Quality Association is calling attention to the growing problem of counterfeit water filters by joining forces with the National Intellectual Property Rights Coordination Center (IPR Center). Click on the above button to report a counterfeit filter. Thank you!



### Water Quality Association

Like Page 6.3K likes

## What can we do about nitrate in drinking water?



### Water Quality Association

54 minutes ago

An Environmental Working Group study released today indicates widespread nitrate pollution of U.S. drinking water, at levels linked to increased cancer risk. WQA recommends home testing and talking with a certified water quality professional.  
<http://ow.ly/KKaH30m4gxV>

1 Like 2 Comments

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[Contact Us](#) | [Terms Of Use](#) | [Privacy Statement](#) | [wqa@wqa.org](mailto:wqa@wqa.org)

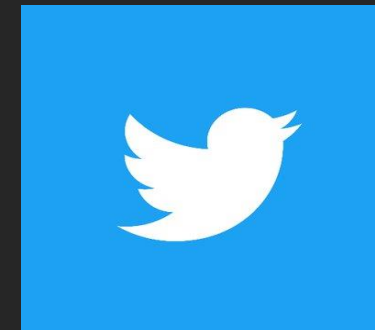


We encourage you to visit our website:

[www.iprcenter.gov](http://www.iprcenter.gov)

...and follow us on Twitter:

**@IPR Center**





# Questions?



Shira  
Perlmutter  
USPTO



Alaina  
van Horn  
CBP



Jeff  
P. Hardy  
TRACIT



Brian  
Weinhaus  
HSI





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Wikipedia page:  
Testing, inspection and certification

**TIC-Council.org**

