

Working with U.S. Customs and Border Protection (CBP) and Customs in the European Union (EU) to Protect Your Intellectual Property Rights (IPR)

Protecting IPR Globally



A SERIOUS PROBLEM

Growing global trade in pirated and counterfeit goods threatens the health and safety of people, their jobs, community competitiveness, trade, investment in research and innovation, and critical infrastructure and national security.

HOW CAN RIGHT HOLDERS PROTECT THEMSELVES FROM COUNTERFEITING AND PIRACY?

For maximum protection, right holders should:

- Identify their rights to Customs administrations by registering and recording their intellectual property in the US and registering their rights with the EU.
- Familiarize Customs officials with their intellectual property through product identification training guides and/or Customs officer training.
- Share intelligence on violators and suspect shipments with appropriate Customs officials.

REGISTRATION/ RECORDATION

United States

CBP focuses its border enforcement efforts on rights that are recorded. To be eligible for *recordation* with CBP, <http://www.cbp.gov/trademarks> must first be *registered* with the Principal Register in the U.S. Patent and Trademark Office, <http://www.uspto.gov/> of the U.S. Department of Commerce, and *copyrights* must be registered with the U.S. Copyright Office of the Library of Congress, <http://www.loc.gov/>. CBP enforcement actions relating to *patents* are limited. While CBP is without legal authority to determine patent infringement, CBP does enforce exclusion orders issued by the United States International Trade Commission against patent infringing goods, <http://www.itc.gov/>

European Union

Border enforcement by customs in the EU covers a broad range of intellectual property rights that have been nationally registered, notably trademarks and copyrights, as well as patents (<http://www.epo.org/>), plant variety rights (<http://www.cpvo.europa.eu/>), designations of origin and geographical indications, or that have been registered at the Community level, such as Community trademarks or design rights (<http://oami.europa.eu/>), geographical designations of origin or geographical indications .

In order for right holders to protect their registered rights, they must submit an application for action to customs. An application for action may be done at the national level for protection within one Member State of the EU or through a Community application which may cover several or all Member States of the EU for Community wide registered IPRs. Further information can be found at: http://ec.europa.eu/taxation_customs/customs/customs_controls/counterfeit_piracy/right_holders/index_en.htm.

PRODUCT IDENTIFICATION

United States

Since CBP has ex-officio authority, product identification training guides and training of CBP officers are the next steps of an effective IP enforcement program in the U.S. Product identification training materials from IPR holders should neither address CBP's legal authority nor offer legal opinions concerning the course of action that CBP officers should take in any particular situation. An effective manual should be brief and simple. If further information about preparing a guide and conducting port training is needed, contact ipr.helpdesk@dhs.gov.

European Union

The information submitted with applications for action contains the basic data for customs to protect intellectual property rights. Applications should include evidence concerning the ownership of the rights to be protected, as well as an undertaking by the right holder

to cover certain costs involved when IPR infringing goods are detained by customs. The applications should also include sufficient details about the products concerned, such as the physical characteristics and information on the manufacture and distribution, to enable customs to recognize more readily goods that may infringe an intellectual property right.

INTELLIGENCE ON VIOLATIONS

United States

Intelligence regarding suspected shipments of IPR infringing goods can be reported to ipr.helpdesk@dhs.gov or the CBP e-allegation system located at http://www.cbp.gov/xp/cgov/trade/trade_programs/e_allegations/. Examples of intelligence include but are not limited to name and address of alleged violator and foreign manufacturer, and country and date of export of the suspect goods.

European Union

Rights holders can submit further information to combat counterfeiters directly to customs at any stage. To facilitate this process, 'Red Alert' and 'General Trends' forms have been developed and are available on the website of the European Commission and of the national customs administrations, together with details of how customs can be contacted. Further information is on: http://ec.europa.eu/taxation_customs/customs/customs_controls/counterfeit_piracy/right_holders/index_en.htm

FURTHER QUESTIONS

United States:

Questions about CBP's IPR policies and programs can be directed to iprpolicyprograms@dhs.gov, legal questions related to CBP IPR enforcement can be directed to hciprbranch@dhs.gov, and general operational questions about CBP IPR enforcement can be directed to ipr.helpdesk@dhs.gov.

European Union

Legal questions related to EU IPR enforcement and general questions about EU IPR enforcement can be directed to either DG TAXUD or to national customs administrations in the Member States of the EU.

For more information see www.cbp.gov or www.ec.europa.eu