

Report on Combating Trafficking in Counterfeit and Pirated Goods

Implementation Plan

Following the release of the U.S. Department of Homeland Security's (DHS) Report on Combating Trafficking in Counterfeit and Pirated Goods (the Report), the Office of Strategy, Policy, and Plans (PLCY) was tasked with developing and executing a unified strategy to implement the Report's recommended actions. This strategy details an interagency approach to complete the Report's immediate and near-term milestones, while laying the foundation for more time-intensive regulatory and statutory changes.

- ⇒ In April of 2019, PLCY established and chaired an Interagency Executive Steering Committee (ESC) to coordinate the development and release of the Report. Following the release, the scope of the ESC was expanded to oversee the timely implementation of the Report's recommendations. Through the ESC, unique milestones and objectives were defined to measure progress of the implementation.
- ⇒ To ensure understanding of its private sector impact, this Implementation Plan was shared with members of the Commercial Customs Operations Advisory Committee's (COAC) Intellectual Property Rights Working Group. PLCY expects to continue coordinating with the COAC as implementation efforts continue.
- ⇒ The initial milestones described below focus on immediate actions and short-term deliverables that will create the building blocks for more time-intensive action that may require legislative or regulatory changes. ESC working groups will continue monitoring progress and establish new milestones periodically to reflect current status, completed deliverables, and new focus areas.

ACTION	MILESTONES	ESTIMATED TIMELINES
1. Ensure Entities with Financial Interests in Imports Bear Responsibility	Determine whether promulgating new regulations is necessary to better define and enforce Section 321 provisions.	July 2020
	Initiate USG discussions and private sector consultations regarding bulk abandonment, destruction, or other disposition of contraband goods.	July 2020
	Prepare administrative guidance and/or notice of proposed rulemaking on responsible parties.	Oct. 2020
2. Increase Scrutiny of Section 321 Environment	CBP will administer the Section 321 Advance Data Pilot.	Ongoing
	Using data from its Pilot Programs, CBP will develop a strategy to clarify section 321 requirements and to identify how to update relevant statutes and regulations, as appropriate. This strategy will be updated and revised as the Pilot continues.	Oct. 2020
3. Suspend and Debar Repeat Offenders; Act Against Non-Compliant International Postal Operators	CBP will complete a regulatory worksheet in furtherance of notice of proposed rulemaking that will exclude suspended and debarred individuals from participating in the Importer of Record Program.	Aug. 2020
	CBP will complete its analysis for implementing an international mail compliance metric.	Aug. 2020
	CBP will transmit its report on options for enforcing an international mail compliance metric to the President.	Aug. 2020
4. Apply Civil Fines, Penalties, and Injunctive Actions for Violative Imported Products	Build support for partnerships with federal, state, and local law enforcement with the goal of prosecuting intellectual property crime at all levels of government through, among other vehicles, the task forces established by federal law enforcement with the support of DHS and the Department of Justice.	Oct. 2020
	DHS will refocus efforts to review seizure data and data received from third parties to identify potential criminal and civil violators.	Oct. 2020
	The ICE/HSI-led IPR Center will use its Outreach and Training Unit, in cooperation with other relevant Departments and Agencies, to find increased ways to work closely with brand owners and third-party intermediaries to educate industry and the general public as to the resources available for enforcing IP laws.	Oct. 2020
	ICE/HSI will look to increase staffing at the ICE/HSI-led National IPR Center	Oct. 2020

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	<p>for both special agent and intelligence analyst positions.</p> <p>ICE/HSI will leverage known and emerging nexuses with other areas of ICE/HSI authority—such as efforts to include the disruption and dismantlement of illicit websites and dark web online marketplaces—to attack the points of sale and payment processes for illicit sites that deal in counterfeits. ICE/HSI will continue to refine investigative techniques and strategies to attack IP crime throughout the supply chain process.</p> <p>Prioritize investigations into intellectual property-based crimes regardless of size and make referrals for such investigations where appropriate.</p>	<p>Oct. 2020</p> <p>Oct. 2020</p>
5. Leverage Advance Electronic Data for Mail Mode	<p>CBP and the USPS will continue to work internationally toward the UPU development of its “item check” function that could allow for the removal of prohibited or inadmissible (including counterfeit) items prior to departure from a foreign country.</p> <p>USPS and CBP continue to work closely on using AED to target counterfeit shipments.</p> <p>USPS and CBP will continue to utilize the current Letter of Intent executed by both agencies to collaborate on specific operations to target counterfeit goods.</p>	<p>Nov. 2020</p> <p>Aug. 2020</p> <p>Aug. 2020</p>
6. Plan for ACTION	<p>Develop a list of proposed ACTION Members.</p> <p>ICE/HSI will hold an inaugural meeting of ACTION.</p> <p>ICE/HSI will establish a framework allowing ACTION Members to enter non-binding memoranda of understanding with the IPR Center to further facilitate the sharing of information and to allow for better coordination of IPR enforcement.</p>	<p>Completed</p> <p>Aug. 2020</p> <p>Aug. 2020</p>
7. Analyze Enforcement Resources	<p>CBP will transmit its report on the sufficiency of fees to cover operations for processing small parcels to the President by August 2020.</p>	<p>Aug. 2020</p>
8. Create Modernized E-Commerce Enforcement Framework	<p>Explore opportunities to streamline seizure processes.</p> <p>Explore statutory options to grant the authority to treat IPR infringing goods as summarily forfeited upon discovery by CBP or ICE.</p> <p>Explore options, both those presently legally available, those legally available if existing regulations are modified, and those that will require statutory change to allow for better information sharing with the private sector.</p>	<p>July 2020</p> <p>July 2020</p> <p>July 2020</p>
9. Assess Contributory Trademark Infringement Liability for E-Commerce	<p>Complete update of analysis of current legal framework specific to secondary liability for trademark infringement in the e-commerce environment.</p> <p>Seek public input through a Federal Register Notice request for comments on secondary liability for trademark infringement in the e-commerce environment. Comments will then be used to further inform conclusions and recommendations for additional action.</p>	<p>July 2020</p> <p>Oct. 2020</p>
10. Examine the Legal Framework Surrounding Non-Resident Importers	<p>Finalize opinion on non-resident importer legal framework and proposal for improvements (statutory/regulatory change, etc.).</p>	<p>Oct. 2020</p>
11. Establish a National Consumer Awareness Campaign	<p>Coordinate with USG agencies and public-private entities to identify and assess existing public awareness activities and capabilities.</p> <p>Seek public input while developing the campaign, which be critical to its success. USPTO will draft a Federal Register Notice requesting comments from the public on developing and implementing a public awareness campaign suited to the goals of reducing the market for counterfeit and pirated goods.</p> <p>Organize small “listening” sessions with stakeholders through channels such as the COAC, ITAC, and related associations.</p>	<p>July 2020</p> <p>Oct. 2020</p> <p>Oct. 2020</p>