

## **Stop Infringing and Counterfeit Goods at the Border**

Trademark and copyright piracy (i.e., the production and sale of counterfeit merchandise) is a multi-billion dollar global industry. According to US government reports, pirated and counterfeit products cost US companies up to \$250 billion annually and are directly responsible for the loss of 750,000 US jobs.

US law provides a number of remedies to owners of intellectual property (IP) such as trademarks, copyrights, trade names and patents. Unfortunately, US IP rights generally don't mean much outside the US. Even when a foreign country recognizes US IP rights, enforcement is nowhere near as predictable or effective as enforcement of IP rights in the US. As such, US IP owners are often out of luck when attempting to protect their IP in foreign countries. However, once counterfeit products land at an American port or border crossing, US IP owners can enlist the help of US Customs & Border Protection (CBP) to stop imports of counterfeit goods from entering the US market.

### **Register Your IP with the US**

The first step is to register the copyright or trademark with the US Copyright Office or USPTO. Trade names can also be recorded with CBP, but are not registered at the federal level.

### **Record Your IP Registration with CBP**

Once the trademarks or copyrights are registered, IP owners can record the registration with CBP via a relatively simple recordation process, plus a recordation fee of \$190 per copyright or trademark class of goods or services.

In October 2005, CBP initiated the [Intellectual Property Rights e-Recordation \(IPRR\)](#) system. This system allows IP owners to electronically file recordation applications, thus significantly reducing the amount of time normally required to process paper applications. However, IPRR can only be used for registered copyrights and trademarks, not trade names.

Once recorded, CBP will keep an eye out for any imports of products which appear to contain recorded copyrights, trademarks or trade names.

### **Allow CBP to do its job**

If counterfeit products are spotted by CBP, CBP will detain the goods and send the IP owner a letter informing them of the attempted importation of counterfeit goods. If the IP owner does not agree to allow the counterfeit goods to be released, they may be seized, forfeited and destroyed, and the importer can be subject to substantial fines. Moreover, the IP owner will have detailed information about who was involved in the importation so they can pursue legal action against all the parties involved in the counterfeit operation.

Note: US patents cannot be protected using these procedures. To stop imports of products that infringe on a US patent, patent owners can petition the International Trade Commission (ITC) to initiate Section 337 exclusion proceedings against imported products that infringe on their patent rights.