

Client Alert: Putting the Government to Work for Your Business

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Intellectual Property

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U.S. Customs and Border Control

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U.S. Customs and Border Control (CBC) is a powerful ally in the battle to prevent counterfeits from reaching the U.S. market. In 2015 an estimated 11 million maritime containers arrived on U.S. shores carrying imported products from all over the world. About 13 million more containers arrived by truck and rail. Many of the products in those containers are not genuine but rather counterfeits that undercut the sale of genuine products and the profits of legitimate business owners. In 2015^[1] the CBC conducted 1,300 seizures of counterfeit products that would have been worth an estimated 22 million dollars had they been genuine. The CBC also seized 550 shipments of labels and tags bearing trademarks intended to be applied to counterfeit products.

Many trademark and copyright owners are unaware they can enlist the CBC to help them combat counterfeits. Owners of *registered* trademarks and copyrights can harness this power for a relatively minimal fee by recording their trademark or copyright registrations with the CBC. In addition to recordation, trademark and copyright owners can also provide product identification guides or even conduct training sessions at ports of entry to assist CBC in identifying counterfeit products.

When suspicious product arrives at any of the over 300 U.S. land, air and sea ports, CBC will determine whether they may be counterfeits of a registered trademark or copyright that is *recorded* with CBC. If the CBC determines that the products are counterfeits of a recorded trademark or copyright registration, the products are subject to immediate seizure no matter the importer's intent. The products will then be destroyed, or, if the trademark or copyright owner consents and the products are not dangerous, the products can be donated to charity. The importer will be notified of the seizure and may also be monetarily penalized to deter future violations.

Another benefit to putting the CBC to work for your business is that when they seize counterfeits they will notify the trademark or copyright owner about the seizure. This notice contains information valuable to the trademark or copyright owner such as the name and address of the manufacturer and the exporter or importer. The trademark or copyright owner can then investigate further and take other actions as may be necessary to fully address the matter.

If you want the government to help fight your counterfeit battle, Vorys attorneys can record trademark and copyright registrations with the CBC and work with you to develop strategies to address the counterfeit issues your business encounters.

^[1] <https://www.cbp.gov/trade/priority-issues/ipr/statistics>