

**GRAYROBINSON**  
ATTORNEYS | LOBBYISTS | CONSULTANTS

**2021 ABPA Annual Meeting- Nashville, TN**  
**“CBP Detentions & Seizures of Imported Merchandise**  
**for Alleged Counterfeiting & International Supply Chain Disruptions”**  
September 23, 2021/ 9:30am – 10:30am



## **Peter Quinter, Attorney**

**U.S. Customs & International Trade Law Group**

**GrayRobinson, P.A.**

Mobile (954) 270-1864

Office (305) 416-6960

[Peter.Quinter@Gray-Robinson.com](mailto:Peter.Quinter@Gray-Robinson.com)

Skype: Peter.Quinter1



Recognized as one of the  
“Best Lawyers in America” in the area of  
Customs Law: 2009 to 2021

Listed in Chambers USA in the area of  
International Trade Law  
2012 to 2021

# QUESTIONS



Executive Order 14017

February 24, 2021

**America's Supply Chains**

It is the policy of my Administration to strengthen the resilience of America's supply chains.

President Biden

The White House

June 8, 2021

**Supply Chain Disruption Task Force**

Co-Chairs: Transportation, Agriculture and Commerce Secretaries

Mission: Address near term supply chain challenges with a focus on alleviating bottlenecks and supply constraints in the transportation section, particularly for ports, rail, and trucking.



# FEDERAL MARITIME COMMISSION

COMPETITION AND INTEGRITY FOR AMERICA'S OCEAN SUPPLY CHAIN

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[Home](#) » [News & Events](#) » FMC Establishes Ocean Carriers Audit Program

## | FMC Establishes Ocean Carriers Audit Program

Posted July 20, 2021

The Federal Maritime Commission has established a new audit program and dedicated audit team to assess carrier compliance with the Agency's rule on detention and demurrage as well as to provide additional information beneficial to the regular monitoring of the marketplace for ocean cargo services.

The "Vessel-Operating Common Carrier Audit Program" was established Monday at the direction of Chairman Daniel B. Maffei and launched immediately.

The Audit Program will analyze the top nine carriers by market share for compliance with the Commission rule interpreting 46 USC 41102(c) as it applies to detention and demurrage practices in the United States. The Commission will work with companies to address their application of the rule and clarify any questions or ambiguities. Information supplied by carriers may be used to establish industry best practices.

Other focus areas of the audit process may include practices of companies related to billing, appeals procedures, penalties assessed by the lines, and any other restrictive practices.

"The Federal Maritime Commission is committed to making certain the law is followed and that shippers do not suffer from unfair disadvantages. The work of the audit team will enable the Commission to monitor trends in demurrage and detention practices and revenue, as well as to establish ongoing dialog between staff and carriers on challenges facing the supply chain. Of course, if the audit team uncovers prohibited activities, the Commission will take appropriate action. Furthermore, the information gathered by the audit process might lead to changes in FMC regulations and industry guidance if warranted," said Chairman Maffei.

The Audit Program will begin with an information request establishing a database of quarterly reports allowing the Commission to assess how detention and demurrage is administered. Responses will be followed by individual interviews with the carriers. Each of the nine largest carriers by market share will be audited irrespective of whether a formal or informal complaint has been filed at the Commission.

Introduced August 10, 2021

# H. R. 4996

## **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Ocean Shipping Reform Act of 2021”.

## **SEC. 7. COMMON CARRIERS.**

...

“(g) DEMURRAGE AND DETENTION PRACTICES AND CHARGES.—Notwithstanding any other provision of law and not later than 30 days of the date of enactment of this subsection, a common carrier or marine terminal operator, shall—

“(1) act in a manner consistent with—

“(A) the findings of the final rule published on May 18, 2020, titled ‘Interpretive Rule on Demurrage and Detention Under the Shipping Act’ (85 Fed. Reg. 29638); and

“(B) any subsequent rules or regulations concerning demurrage or detention which may be issued by the Commission; and

“(2) maintain all records supporting the assessment of any demurrage or detention charges for a period of 5 years and provide such records to the invoiced party or to the Commission on request; and

“(3) bear the burden of establishing the reasonableness of any demurrage or detention charges which are the subject of any complaint proceeding challenging a common carrier or marine terminal operator demurrage or detention charges as unjust and unreasonable.

Federal Register, September 16, 2021

Department of Transportation

**America's Supply Chains and the Transportation Industrial Base**

The DOT seeks information from the public on the current challenges faced within the freight and logistics sector, including:

1. Identification of major infrastructure or operational bottlenecks and chokepoints
2. Shortages of cargo handling equipment.
3. Warehouse capacity limitations
4. Regulatory barriers that inhibit supply chain performance.



## Trade Stats/Seizures – Protecting the American Consumer

In Fiscal Year 2021 to date, CBP has processed approximately \$2.6 trillion of imports, an increase of nearly 15 percent compared to the same period in Fiscal Year 2020. **CBP has also seized 77,416 shipments for trade violations in the current fiscal year.** In August alone, CBP processed more than 3 million entry summaries valued at more than \$262 billion, identifying estimated duties of nearly \$8.5 billion to be collected by the U.S. government. Trade via the ocean accounted for more than 40 percent of the total import value, followed by air, truck, and rail.

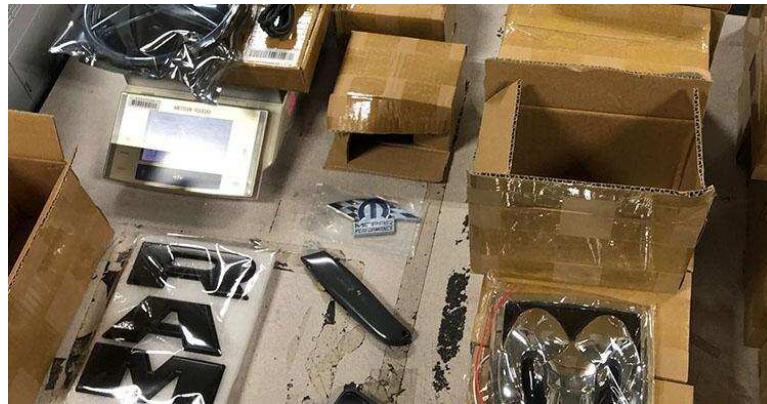
- Intellectual property rights violations continue to put America's innovation economy at risk. Trade in [counterfeit and pirated goods](#) threatens the competitiveness of U.S. businesses, the livelihoods of American workers, and the health and safety of consumers.
- **In August 2021, CBP seized 2,186 shipments that contained more than \$300 million of counterfeit goods. WT#\$%!**

# Counterfeiting Perceptions



<https://www.ice.gov/news/releases/ice-hsi-san-francisco-intercepted-counterfeit-products-attempting-penetrate-bay-area>

## ICE HSI San Francisco intercepted counterfeit products attempting to penetrate the Bay Area consumer market



Homeland Security Investigations agents from the San Francisco Field Office conducted a three-day operation to intercept counterfeit pharmaceuticals, auto parts, and electronics. This surge initiative in the Bay Area is in furtherance of an HSI-led National Intellectual Property Rights Coordination Center (IPR Center) strategy for targeting the importation, smuggling, and trafficking of counterfeit goods. The goal of this operation is to identify and interdict counterfeit products entering the US at International Mail Facilities and Express Consignment Hubs.

The HSI-led IPR Center is one of the U.S. government's key weapons in the fight against criminal counterfeiting and piracy. Working in close coordination with the Department of Justice Task Force on Intellectual Property, the IPR Center uses the expertise of its 25 member agencies to share information, develop initiatives, coordinate enforcement actions and conduct investigations related to intellectual property theft.

APRIL 21, 2016 • DETROIT, MI • INTELLECTUAL PROPERTY RIGHTS AND COMMERCIAL FRAUD

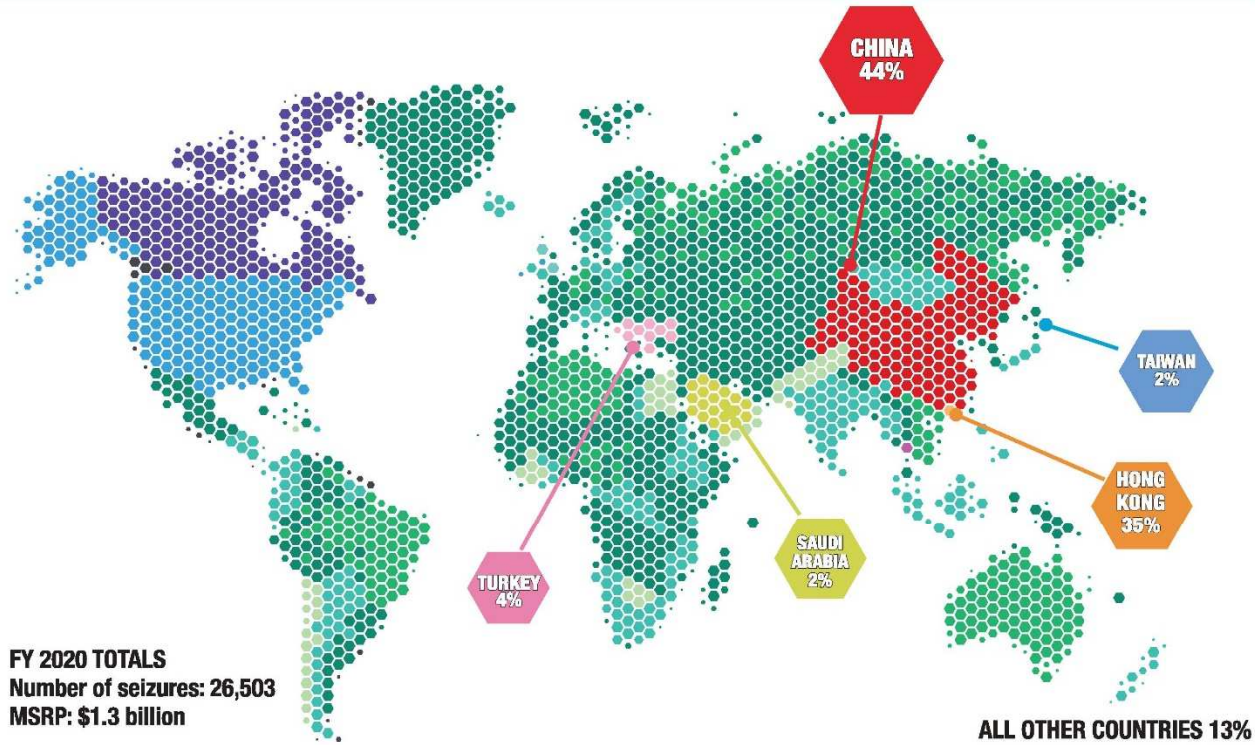
## Florida-based websites seized for selling trademark-infringing auto parts



DETROIT — U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) Detroit announced Thursday the seizure of two Florida-based websites allegedly selling trademark-infringing automotive parts.

Fiscal Year 2020 IPR Seizures Statistics  
By Number Of Seizures

Seizure World Map

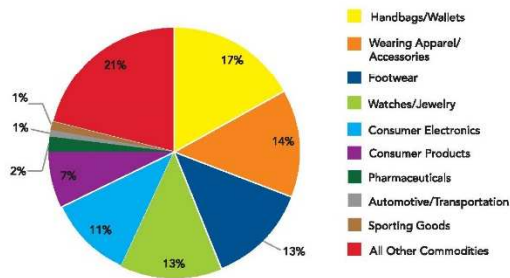


**FY 2020 TOTALS**  
Number of seizures: 26,503  
MSRP: \$1.3 billion

## Number of Seizures

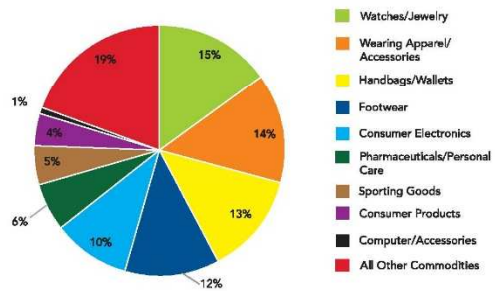
## Number of Seizures

Fiscal Year 2020



Number of Seizures: 26,503

Fiscal Year 2019



Number of Seizures: 27,599

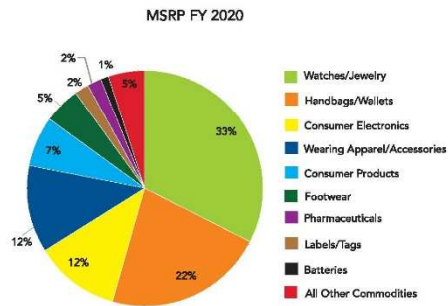
| 2020                        |               |             |
|-----------------------------|---------------|-------------|
| Products                    | Seizures      | % of Total* |
| Handbags/Wallets            | 4,597         | 17%         |
| Wearing Apparel/Accessories | 3,592         | 14%         |
| Footwear                    | 3,460         | 13%         |
| Watches/Jewelry             | 3,460         | 13%         |
| Consumer Electronics        | 3,024         | 11%         |
| Consumer Products           | 1,932         | 7%          |
| Pharmaceuticals             | 495           | 2%          |
| Automotive/Transportation   | 299           | 1%          |
| Sporting Goods              | 206           | 1%          |
| All Other Commodities       | 5,438         | 21%         |
| <b>Number of Seizures</b>   | <b>26,503</b> | <b>100%</b> |

| 2019                          |               |             |
|-------------------------------|---------------|-------------|
| Products                      | Seizures      | % of Total* |
| Watches/Jewelry               | 4,242         | 15%         |
| Wearing Apparel/Accessories   | 3,841         | 14%         |
| Handbags/Wallets              | 3,653         | 13%         |
| Footwear                      | 3,249         | 12%         |
| Consumer Electronics          | 2,681         | 10%         |
| Pharmaceuticals/Personal Care | 1,779         | 6%          |
| Sporting Goods                | 1,510         | 5%          |
| Consumer Products             | 1,219         | 4%          |
| Computers/Accessories         | 318           | 1%          |
| All Other Commodities         | 5,107         | 19%         |
| <b>Number of Seizures</b>     | <b>27,599</b> | <b>100%</b> |

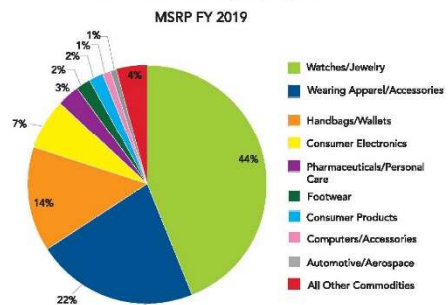
\*Seizures involving multiple product categories are included in the "All Others" category. Because the individual percentage figures are rounded, in some cases, the sum of the rounded percentages for a given fiscal year is slightly higher or lower than 100 percent.

## Products Seized by MSRP

## Products Seized by MSRP



Total FY 2020 MSRP \$1,309,156,510



Total FY 2019 MSRP \$1,555,269,057

| FY 2020                     |                         |             |
|-----------------------------|-------------------------|-------------|
| Products                    | MSRP                    | % of Total* |
| Watches/Jewelry             | \$ 435,249,467          | 33%         |
| Handbags/Wallets            | \$ 282,702,448          | 22%         |
| Consumer Electronics        | \$ 162,234,924          | 12%         |
| Wearing Apparel/Accessories | \$ 157,226,661          | 12%         |
| Consumer Products           | \$ 85,470,866           | 7%          |
| Footwear                    | \$ 63,146,456           | 5%          |
| Pharmaceuticals             | \$ 20,414,897           | 2%          |
| Labels/Tags                 | \$ 19,823,791           | 2%          |
| Batteries                   | \$ 14,432,379           | 1%          |
| All Other Commodities       | \$ 68,454,621           | 5%          |
| <b>Total FY 2020 MSRP</b>   | <b>\$ 1,309,156,510</b> | <b>100%</b> |
| <b>Number of Seizures</b>   | <b>26,503</b>           | <b>100%</b> |

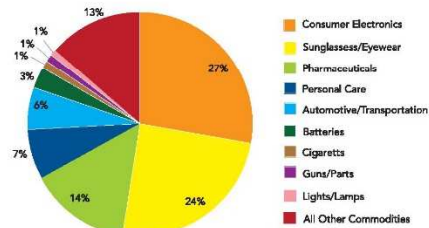
| FY 2019                       |                         |             |
|-------------------------------|-------------------------|-------------|
| Products                      | MSRP                    | % of Total* |
| Watches/Jewelry               | \$ 687,167,057          | 44%         |
| Wearing Apparel/Accessories   | \$ 343,732,063          | 22%         |
| Handbags/Wallets              | \$ 212,781,760          | 14%         |
| Consumer Electronics          | \$ 105,957,198          | 7%          |
| Pharmaceuticals/Personal Care | \$ 48,771,870           | 3%          |
| Footwear                      | \$ 37,994,046           | 2%          |
| Consumer Products             | \$ 27,907,721           | 2%          |
| Computers/Accessories         | \$ 13,216,628           | 1%          |
| Automotive/Aerospace          | \$ 12,142,621           | 1%          |
| All Other Commodities         | \$ 65,598,093           | 4%          |
| <b>Total FY 2019 MSRP</b>     | <b>\$ 1,555,269,057</b> | <b>100%</b> |
| <b>Number of Seizures</b>     | <b>27,599</b>           | <b>100%</b> |

\*Seizures involving multiple product categories are included in the "All Others" category. Because the individual percentage figures are rounded, in some cases, the sum of the rounded percentages for a given fiscal year is slightly higher or lower than 100 percent.

## Health, Safety, and Security

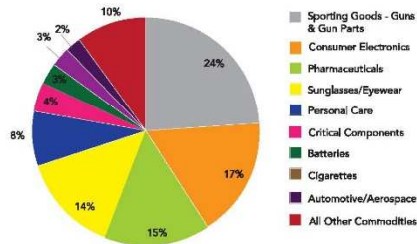
## Health, Safety, and Security

Health, Safety, and Security FY 2020



Number of Seizures: 3,487

Health, Safety, and Security FY 2019



Number of Seizures: 5,859

| FY 2020                      |              |             |
|------------------------------|--------------|-------------|
| Health, Safety, and Security | Seizures     | % of Total* |
| Consumer Electronics         | 944          | 27%         |
| Sunglasses/Eyewear           | 844          | 24%         |
| Pharmaceuticals              | 501          | 14%         |
| Personal Care                | 236          | 7%          |
| Automotive/Transportation    | 216          | 6%          |
| Batteries                    | 88           | 3%          |
| Cigarettes                   | 82           | 2%          |
| Guns/Parts                   | 71           | 2%          |
| Lights/Lamps                 | 58           | 2%          |
| All Other Commodities        | 447          | 13%         |
| <b>Number of Seizures</b>    | <b>3,487</b> | <b>100%</b> |

| FY 2019                           |              |             |
|-----------------------------------|--------------|-------------|
| Health, Safety, and Security      | Seizures     | % of Total* |
| Sporting Goods - Guns & Gun Parts | 1,428        | 24%         |
| Consumer Electronics              | 989          | 17%         |
| Pharmaceuticals                   | 858          | 15%         |
| Sunglasses/Eyewear                | 818          | 14%         |
| Personal Care                     | 490          | 8%          |
| Critical Components               | 216          | 4%          |
| Batteries                         | 186          | 3%          |
| Cigarettes                        | 163          | 3%          |
| Automotive/Aerospace              | 149          | 3%          |
| All Other Commodities             | 562          | 10%         |
| <b>Number of Seizures</b>         | <b>5,859</b> | <b>100%</b> |

\*Shipments with multiple types of products are included in the "All others" category. Because the individual percentage figures are rounded, in some cases, the sum of the rounded percentages for a given fiscal year is slightly higher or lower than 100 percent.



## Intellectual Property Rights

- Is your merchandise or its packaging using any trademark, copyright or patent?
- If so, do you have the legal right to import those items into, and/or use those items in, the United States?
- Permission?
- License?



"Need I remind you, Doctor, that you signed over intellectual property rights to the lab?"

# 1. Counterfeit Marks

Pursuant to Title 15, United States Code, section 1127 (15 U.S.C. § 1127), a counterfeit mark is defined as a spurious mark that is identical with, or substantially indistinguishable from, a federally registered and recorded trademark. Merchandise imported into the United States bearing marks “counterfeit” of a federally registered trademark recorded with CBP shall be seized and forfeiture proceedings instituted pursuant to Section 526(e) of the Tariff Act of 1930 (19 U.S.C. §1526(e)), as implemented by 19 CFR § 133.21. Such merchandise shall be seized and, absent the trademark owner’s written consent to import the merchandise, forfeited for violation of customs laws.

## 2. Copying or Simulating Marks

In addition, pursuant to 15 U.S.C. § 1124, as implemented by 19 CFR § 133.22, a copying or simulating mark or trade name is one that so resembles a recorded mark or name as to be likely to cause the public to associate the copying or simulating mark or name with the recorded mark or name. Merchandise bearing a copying or simulating mark is subject to detention and possible seizure.

### 3. Restricted Gray Market Articles (“Parallel Imports”)

Gray market goods are defined as foreign-manufactured goods bearing a genuine trademark or trade name identical with, or substantially indistinguishable from, one owned and recorded by a citizen of the United States or a corporation or association created or organized within the United States which are imported into the U.S. without the authorization of the U.S. trademark owner. In other words, gray market goods are genuine products bearing a trademark/name which has been applied with the approval of the right owner for use in a country other than the United States. Goods bearing counterfeit marks, on the other hand, are never genuine as these are marks (identical to

or substantially indistinguishable from the genuine trademark) which have been applied

without the authority of the trademark/trade name owner.

## Recordation With Customs

- Only \$190 –
  - CBP is YOUR POLICEMAN!!!!
- IPR Branch
- Copyright/Trademark Application Template



## Trademark Recordation Application Template

- The names and principal business addresses of any business entities, foreign or domestic, who use the trademark and a description as to those use(s).
- Provide the name, address, telephone number, facsimile number, and email address of the contact person to whom CBP should send inquires regarding potentially infringing merchandise and notices of detention and seizure pursuant to 19 CFR 133.24.



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.
- Familiarization with the applicable regulations: [Trademarks: 19 CFR 133.1 et seq.](#) [Copyrights: 19 CFR 133.31 et seq.](#)

#### FORM OF PAYMENT

The recordation fee may be made either by credit card or check. Please be advised that applications paid for by check could be delayed up to six weeks. All incoming mail is processed through CBP's mailroom at the Ronald Reagan Building, which includes irradiation and sorting. It is then transferred to the Office of Trade, Regulations & Rulings, where it is sorted again for final delivery to the IPR Branch. We apologize in advance for any delay this may cause in providing enforcement. On the other hand, applications paid for on-line with a credit card are generally processed within three (3) business days.

#### RENEWALS OF EXISTING TRADEMARK AND COPYRIGHT RECORDATIONS

A separate recordation application is required for each recordation renewal sought. Applications will be processed in the order in which they are received. The renewal fee for an unexpired copyright recordation is \$80 and \$190 for an expired copyright. For unexpired trademark recordations, the renewal fee is \$80 per previously recorded International Class (IC) of goods and \$190 for any additional IC's added to a renewal not previously recorded. For expired trademark recordations, the fee is \$190 per International Class of goods.

#### 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.

**Time Zone:** Please note that all online applications are processed in our system on the Eastern Standard Time (EST) zone.

Once your recordation application has been approved, you may view your CBP recordation using the Intellectual Property Rights Search (IPRS) database at: [IPRS](#)

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 202-325-0216

**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.dhs.gov](mailto:IPRRQUESTIONS@cbp.dhs.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

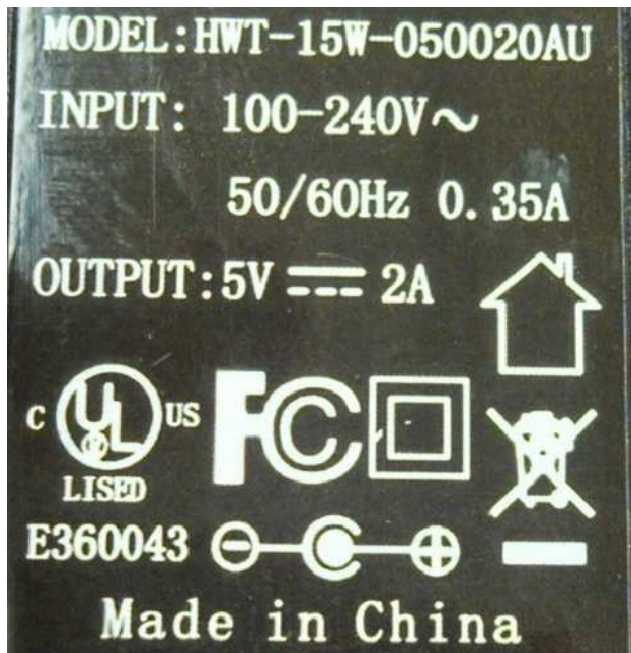
CHECK STATUS

REQUEST 3 MONTHS EXTENSION

**Paperwork Reduction Act Statement:** An agency may not conduct or sponsor an information collection and a person is not required to respond to this information unless it displays a current valid OMB control number and an expiration date. The control number for this collection is 1651-0123. The estimated average time to complete this application is 2 hours per respondent. If you have any comments regarding the burden estimate you can write to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Intellectual Property Rights Branch, 90 K Street, N.E., 10th Floor, Washington, D.C. 20229-1177.



# UL Trademark



# Trademark Recordation

Intellectual Property Rights (IPR) search - cpb.gov

Page 1 of 4

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

DHS.gov

**PRS** INTELLECTUAL PROPERTY RIGHTS SEARCH Keyword: peter+quinter  [HELP](#) | [ABOUT](#) | [PRINT](#)

Search  |  |  |  |  |  |  |  |  |

Filter  |  |  |  |  |  |

Results [1 - 10] of 22 records | Search took 0.06 Seconds

| Effective Expiration  | Title Product   | Description  | Owner                | Contact Name        | Firm Name                           | Recordation No. Agency No.     | Type      |
|-----------------------|---|--|----------------------|---------------------|-------------------------------------|--------------------------------|-----------|
| 7/24/2013<br>5/5/2019 | <a href="#">DESIGN (PEACE SIGN, HEART, SMILEY FACE)</a> | DESIGN ONLY - PEACE SIGN, HEART, SMILEY FACE - THE MARK CONSISTS OF A HAND-DRAWN PEACE SYMBOL, WHICH IS ADJACENT TO A HAND-DRAWN HEART SYMBOL, WHICH IS FURTHER ADJACENT TO A HAND-DRAWN SMILING FACE. | PEACE LOVE WORLD LLC | PETER QUINTER, ESQ. | GRAYROBINSON, P.A. / REPRESENTATIVE | <b>TMK 13-00730</b><br>3615946 | Trademark |

## Seizure Authority

- **U.S. Customs Statutory authority for seizure & forfeiture:**
  - Title 19 U.S.C. § 1595a(c)
    - Merchandise introduced contrary to U.S. law.



03/12/2014 09:30 30553 66735

3330 CBP

PAGE 01



Customs and Border Protection  
Notice of Detention

3/12/13  
RECEIVED

Port Code 5201 Port Name Miami Seaport  
Date of Detention 03/12/2014 Entry Number \_\_\_\_\_  
Broker / Importer \_\_\_\_\_  
Description of Merchandise Tablet PC & Spare Parts  
Reason for Detention IPR Review  
Tests or Inquiries to be Conducted SIA  
Additional Information / Action N/A  
Requested of Importer \_\_\_\_\_  
Requested by Date N/A  
Name of Detaining Officer CBP OFFICER FUENTES  
US Customs Point of Contact CBP OFFICER FUENTES  
POC Phone Number 305-836-8731 EXT. 8006  
Date of Conditional Release and Location of Goods N/A  
Additional Remarks DETAINED UNDER CBP FORM 6051D: 883488  
FAXED TO (305) 477-6615

\*Vehicles may be detained for up to 30 days unless statutory authority or interagency agreement mandates that a longer period of time is required, or the importer/broker requests a longer detention period through the Port Director.

Agreement to Redeliver Merchandise: If merchandise is released conditionally from Customs custody to the principal before all required evidence is produced, before its quantity and value are determined, or before its right of admission into the U.S. is determined, the principal agrees to timely redelivery, on demand by Customs, the merchandise released if it fails to comply with the laws and regulations governing admission into the U.S. (Section 12.62(a)(7) Customs Regulations)

# CBP Detention Notice

- 19 C.F.R. 151.16
  - (e) “A final determination with respect to admissibility of detained merchandise will be made within 30 days from the date the merchandise is presented for Customs examination”
  - (f) “*Effect of failure to make a determination.* The failure by Customs to make a final determination with respect to the admissibility of detained merchandise within 30 days after the merchandise has been presented for Customs examination, or such longer period if specifically authorized by law, **shall be treated as a decision by Customs to exclude the merchandise** for purposes of section 514(a)(4)”

## How a Typical Seizure Case Commences with U.S. Customs and Border Protection:

- U.S. Customs finds a violation, and places the merchandise on hold for “intensive examination”.

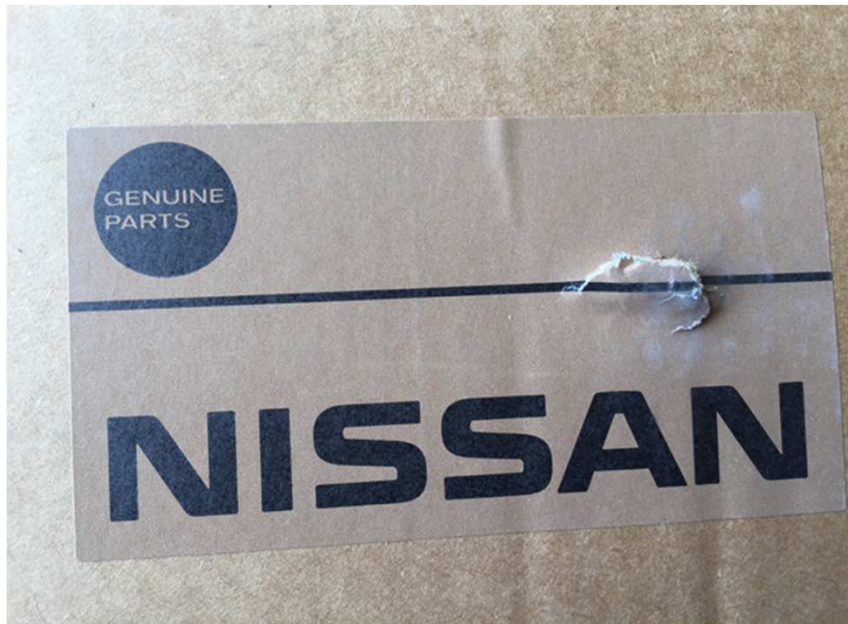


## What Should be Done Upon Receipt of a Detention Notice or Seizure Notice?

- During the detention process, establishing proof of compliance with U.S. law avoids seizure of the merchandise, administrative delays, and related costs.
- Critical stage to get **legal counsel** involved.
- Administrative petition process for seizures can take months to resolve before medical devices returned.









# How a Typical Seizure Case Commences with CBP:

- U.S. Customs (Fines, Penalties & Forfeitures Office) issues a Seizure Notice
- When, where, why, what
- How, where, and when to respond

## FP&F Seizure Process

- If merchandise is seized, case is transferred to the Fines, Penalties & Forfeitures (FP&F) Office
- Case assigned to Paralegal Specialist at FP&F
- Paralegal Specialist issues Seizure Notice
- FP&F Officer is empowered to remit or mitigate on such terms and conditions as, under the law and factual circumstances, he or she deems appropriate.

Our record supports that the seized goods bear a false, non-genuine trademark which is identical to, or substantially indistinguishable from Bluetooth trademark, a federally registered U.S. trademark. We find that the use of this design without consent from the trademark holder constitutes a violation of the regulations. Section 133.21(b) of the Customs Regulations specifically states that any article of domestic or foreign manufacture imported into the United States bearing a counterfeit trademark shall be seized and, in the absence of the written consent of the trademark owner, forfeited for violation of the customs laws.

The trademark holder verified in an email that the documentation provided was not from Bluetooth. Petitioner has failed to supply such written consent by the trademark owner in the time allotted. Accordingly, your supplemental petition is hereby **denied** and administrative forfeiture will commence.

## FP&F Seizure Process

- Petition must be filed within 30 days (of date of Seizure Notice), establishing merchandise entered or exported consistent with U.S. law (factual & legal arguments)
- Oral argument to FP&F in 19 U.S.C.1592 cases
- Supplemental Petition may be filed within 30 days of adverse decision based upon presentation of new facts or law

# FP&F Refers certain cases to CBP's Headquarters

- **Cases are sent to Chief, Penalties Branch, Regulations & Rulings, Office of International Trade**
- Value of the merchandise is over \$100,000.
- Novel or complex issues concerning a Ruling, policy or procedure.
- HQ Recommendation sent to FP&F and Final Decision issued by FP&F.



## Petition for Relief is Granted:

- Decision providing for remittance is valid for **30 days**.
- Execution and submission of **Hold Harmless Agreement** by Petitioner.
- Payment of assessed **penalty**, if any.
- Provide contact name and information of designated authorized agent to retrieve goods.
- Payment of **storage fees**.





# Petition Denied and Fine by CBP

- In accordance with 19 CFR § 133.27, CBP, as authorized by 19 U.S.C. § 1526(f), may impose a civil fine relative to seizures effected for merchandise bearing counterfeit marks pursuant to 19 U.S. § 1526(e). For the first seizure of such merchandise, the fine shall be no more than the domestic value the merchandise would have had if it were genuine, based upon the manufacturer's suggested retail price (MSRP) at the time of seizure. For second and subsequent violations, the fine shall not be more than twice such value.

# GRAYROBINSON

ATTORNEYS | LOBBYISTS | CONSULTANTS

**2021 ABPA Annual Meeting- Nashville, TN**  
**“CBP Detentions & Seizures of Imported Merchandise  
for Alleged Counterfeiting & International Supply Chain Disruptions”**  
**September 23, 2021 / 9:30am – 10:30am**



**Peter Quinter, Attorney**  
**U.S. Customs & International Trade Law Group**

**GrayRobinson, P.A.**

Mobile (954) 270-1864

Office (305) 416-6960

[Peter.Quinter@Gray-Robinson.com](mailto:Peter.Quinter@Gray-Robinson.com)

Skype: Peter.Quinter1