

# Border Enforcement of Intellectual Property Rights: The U.S. Approach and Beyond



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Office of Enforcement



HAT  
\$20

SHADES  
\$40

GAP  
SHIRT  
\$30

SKATE  
BOARD  
\$85

CD  
PLAYER  
\$65

SNEAKERS  
\$100

JEANS  
\$45

MAN,  
I COULDN'T  
AFFORD  
MUSIC IF I  
DIDN'T STEAL  
IT FROM THE  
INTERNET.



1. Motorola original has a narrow slot around the volume buttons, the fake has a wide slot.
2. Motorola original grooves are not as deep or wide as the fake.
3. Motorola original has more detail.





## On A Typical Day, CBP Processes:

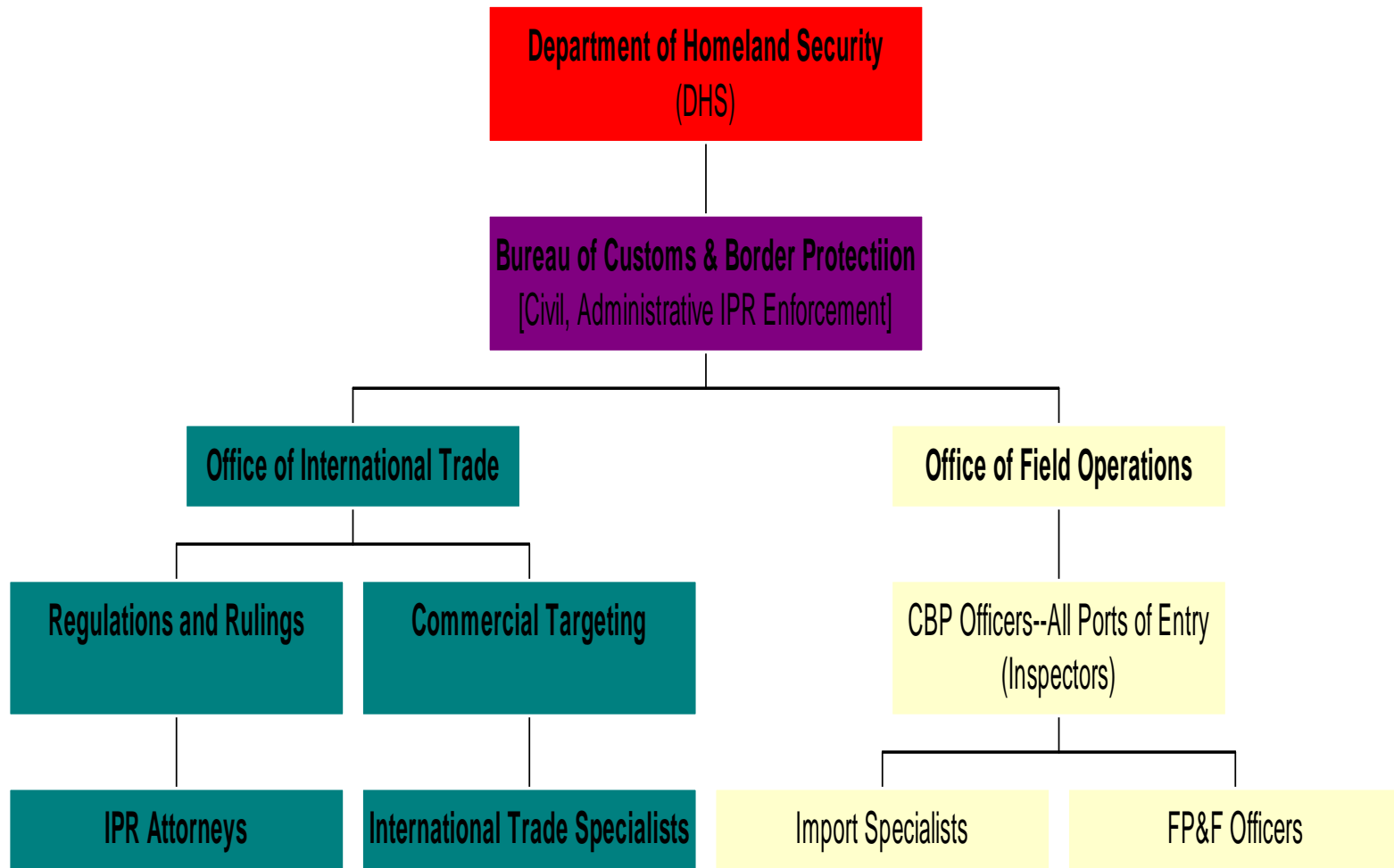
- 1.1 million passengers and pedestrians
- 70,900 truck, rail and sea containers
- 240,737 international air passengers
- 71,151 ship passengers
- 327,042 privately owned vehicles
- \$84,400,000 in duties and fees



# *CBP*

## *IPR Border Enforcement Structure*

OFFICE OF EXTERNAL AFFAIRS





# Two Tracks of CBP IPR Enforcement

- Civil Administrative Seizure and Forfeiture
  - Title 19 U.S.C. § 1526 / 19 U.S.C § 1595a
- Criminal Case Development
  - Title 18 violations



# Structure of CBP IPR Enforcement

- Four Principle Components:
  - Legal Department (IPR Branch, Office of Regulations & Rulings)
  - Office of International Trade Specialist (Los Angeles Strategic Trade Center)
  - Office of Field Operations
    - Inspectors (Examination)
    - Import Specialists (Examination/Appraise)
    - Paralegal Specialists (Process cases)
  - IPR Center (Criminal Investigators)



# Laws and Regulations

- Counterfeit trademarks -  
Seizure Authority  
19 U.S.C. § 1526  
19 U.S.C. § 1595a(c)  
Violation Citation  
18 U.S.C. § 2320
- Confusingly similar trademarks –  
Seizure Authority  
19 U.S.C. § 1595a(c)  
Violation Citation  
15 U.S.C. § 1124
- Piratical Copyrights –  
Seizure Authority  
19 U.S.C. § 1595a(c)  
Violation Citation  
17 U.S.C. § 602
- Exports –  
Seizure Authority  
19 U.S.C. § 1595a(d)



# Laws and Regulations

## Copyrights

Piratical Copies – Actual or substantially similar copies of a registered copyrighted work, produced and imported in contravention of the rights of the copyright owner.

- **Clearly Piratical** – Overwhelming and substantial similarity between the copyrighted elements of the protected work and the imported item so as to clearly indicate that one work is based upon the other.

Seizure under 19 U.S.C. § 1595a(c) for violation of 17 U.S.C. § 602 or 17 U.S.C. § 501, as appropriate.



# Laws and Regulations

## Trademarks

**Counterfeit** – A spurious (false, non-genuine) trademark which is identical to, or substantially indistinguishable from, a federally registered U.S. trademark.

Seizure under 19 U.S.C. § 1526 and 19 U.S.C. § 1595a(c) for Violation of 18 U.S.C. § 2320

**Confusingly similar trademarks** – A mark which is similar to the genuine trademark such that it is likely to cause confusion as to source or sponsorship.

Seizure under 19 U.S.C. § 1595a(c) for violation of 15 U.S.C. § 1124



# Challenges to Enforcement

- Significant and increasing threat
- Organized crime syndicates / Transnational crime
- Changing landscape
- Mission shift
- Manpower
- Funding



# Anti-Counterfeiting Trade Agreement ACTA

- Goals
- Challenges
- Effects



# Technological Resources

[www.cbp.gov](http://www.cbp.gov)

OFFICE OF EXTERNAL AFFAIRS

- Intellectual Property Rights e-Recordation (IPRR)
- Intellectual Property Rights Search (IPRS)



# Technological Resources

## Intellectual Property Rights Recordation (IPRR)

- Allows right holders to electronically file IPR recordation applications
- Able to upload images of the protected work or trademark
- Information accessible by CBP field personnel
- Before recording with CBP the rights holder must have a U.S. Patent & Trademark Office Registration Number or the U.S. Copyright Office Registration Number



## import

Antidumping and Countervailing Duties (ADCVD)

Broker Management

Cargo Control

Cargo Summary

Carriers

**Commercial Enforcement**

Communications to Trade

Duty Rates/HTS

Informed Compliance

Infrequent Importer/Traveler

International Agreements

Operations Support

Strategic Trade Initiatives/Regulatory Audit

Textiles and Quotas

[Home](#) / [Import](#) / [Commercial Enforcement](#) /

## Intellectual Property Rights



U.S. Customs and Border Protection maintains an aggressive IPR enforcement program which devotes substantial resources to target, intercept, detain, seize and forfeit shipments of IPR-violative goods. Our enforcement is accomplished through the cooperative efforts of our trained enforcement officers, other government agencies, and the trade community.

Search *Intellectual Property Rights* for:

**section sitemap for**  
*Intellectual Property Rights*

- [Intellectual Property Rights e-Recordation \(IPRR\) online system](#)
- [Intellectual Property Rights Search \(IPRS\)](#)  
IPR data, formerly available via the Customs Electronic Bulletin Board (CEBB), has been migrated to the Intellectual Property Rights Search application (IPRS). IPRS is a searchable database containing public versions of U.S. Customs and Border Protection intellectual property rights recordations.
- [U.S. Customs and Border Protection \(CBP\) Copyright Recordation Application Template](#)  
 doc - 41 KB.
- [U.S. Customs and Border Protection \(CBP\) Trademark Recordation Application Template](#)  
 doc - 52 KB.
- [U.S. Customs & Border Protection \(CBP\) IPR](#)

### see also:

- ▶ **in Commercial Enforcement:**
  - [Enforcement of TSA Requirements for SAFETEA-LU](#)
  - [Bioterrorism](#)
  - [Wood Packaging Materials \(WPM\)](#)
  - [Customs-Trade Partnership Against Terrorism \(C-TPAT\): Partnership to Secure the Supply Chain](#)
  - [Protecting the Food Supply: Agriculture Inspections](#)
  - [Expired/Archived Commercial Enforcement Programs](#)
  - [...more](#)



Welcome to the Intellectual Property Rights e-Recordation (IPRR) application.

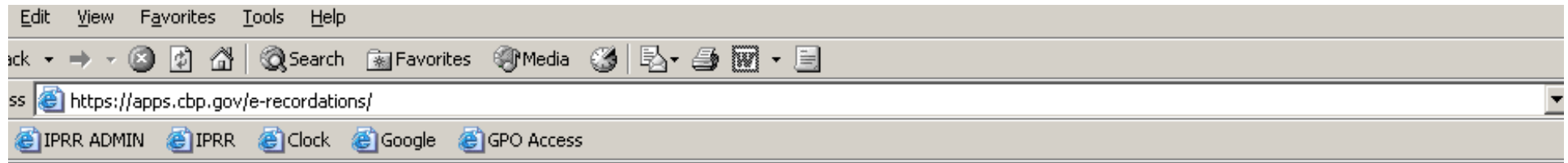


This new method for filing initial trademark and copyright recordation applications will greatly decrease the amount of time and paperwork normally required, thus providing more timely enforcement of your intellectual property rights. (\* Please note: An electronic application for trademark and copyright "renewals" and "tradename" recordations is not yet available. For additional information, please review the "Renewals" and "Tradename" sections at the bottom of this page.)

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. By submitting this application on-line, you agree to supply the documents specified in [19 CFR 133.3](#) for trademarks, and [19 CFR 133.33](#) for copyrights, upon request by CBP. Failure to do so will result in your recordation being suspended pending receipt of the documents.

**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" or ".gif" format that accurately depict the right to be protected. Individual image files are limited to 2MB.
- ✓ Familiarization with the applicable regulations
  - ▶ [Trademarks: 19 CFR 133.1 et seq.](#)
  - ▶ [Copyrights: 19 CFR 133.31 et seq.](#)



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

**RENEWALS OF EXISTING TRADEMARK AND COPYRIGHT RECORDATIONS**

To renew your existing trademark or copyright recordation, please submit an e-mail message to [iprr.questions@dhs.gov](mailto:iprr.questions@dhs.gov) containing the information provided for in [19 CFR 133.7](#) and [19 CFR 133.37](#), respectively. You will be contacted by a representative of the IPR Branch regarding payment of the recordation fee and, if applicable, for additional required information. Note that credit card payment for renewals is not yet available.

**TRADENAME RECORDATIONS**

To apply for a tradename recordation, please submit an e-mail message to [iprr.questions@dhs.gov](mailto:iprr.questions@dhs.gov) containing the information provided for in [19 CFR 133.11 et seq.](#) You will be contacted by a representative of the IPR Branch regarding payment of the recordation fee and, if applicable, for additional required information. Note that credit card payment for renewal is not yet available.

**\* Please note: The system is set to 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. Incomplete applications will not be processed.**

Begin Application

**IPRR** INTELLECTUAL PROPERTY RIGHTS e-RECORDATION

**Trademark** 

[Proceed with Trademark Recordation](#)

*Copyright* 

[Proceed with Copyright Recordation](#)

**S. Patent and Trademark Office Registration Number**  e.g.,(0,000,000)

Proceed

**S. Patent and Trademark Office Registration Number**  e.g.,(0,000,000)

Proceed

**S. Patent and Trademark Office Registration Number**  e.g.,(0,000,000)

Proceed

searching 

**What is the Trademark you wish to record?**

<b>Registered Mark</b>	MULTI-CHEM PRODUCTION CHEMICALS
<b>Goods and Services</b>	IC 001. US 001 005 006 010 026 046. G & S: Chemicals used in oil and gas drilling. FIRST USE: 19930900. FIRST USE IN COMMERCE: 19930900
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	071102 140507 190501 190721 191325
<b>Serial Number</b>	76578982
<b>Filing Date</b>	March 3, 2004
<b>Priority Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	July 5, 2005
<b>Registration Number</b>	2999954
<b>Registration Date</b>	September 27, 2005
<b>Applicant</b>	(REGISTRANT) MULTI-CHEM GROUP, LLC LIMITED LIABILITY CORPORATION TEXAS P.O. Box 1377 704 Glasscock Sonora TEXAS 76950
<b>Attorney of Record</b>	Cline H. White
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PRODUCTIONCHEMICALS" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	TRADEMARK
<b>Registration Basis</b>	PRINCIPAL
<b>Revoked/Dead Indicator</b>	LIVE

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**IPRR** INTELLECTUAL PROPERTY RIGHTS e-RECORDATION

Fields marked with an Asterisk ( \* ) are required

Description of trademark registered with the U.S. Patent & Trademark Office	<input type="text"/>	*
Supplemental Information	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS	
Name of trademark owner(s)	<input type="text"/>	*
Address	<input type="text"/>	*
City	<input type="text"/>	*
State	Select State <input type="text"/>	*
Zip Code	<input type="text"/>	*
Is the applicant the trademark owner(s)? If not, what is the applicant's name and relationship to the trademark owner?	Yes <input type="radio"/> No <input type="radio"/> <input type="text"/>	*
Contact first name	<input type="text"/>	*
Contact last name	<input type="text"/>	*

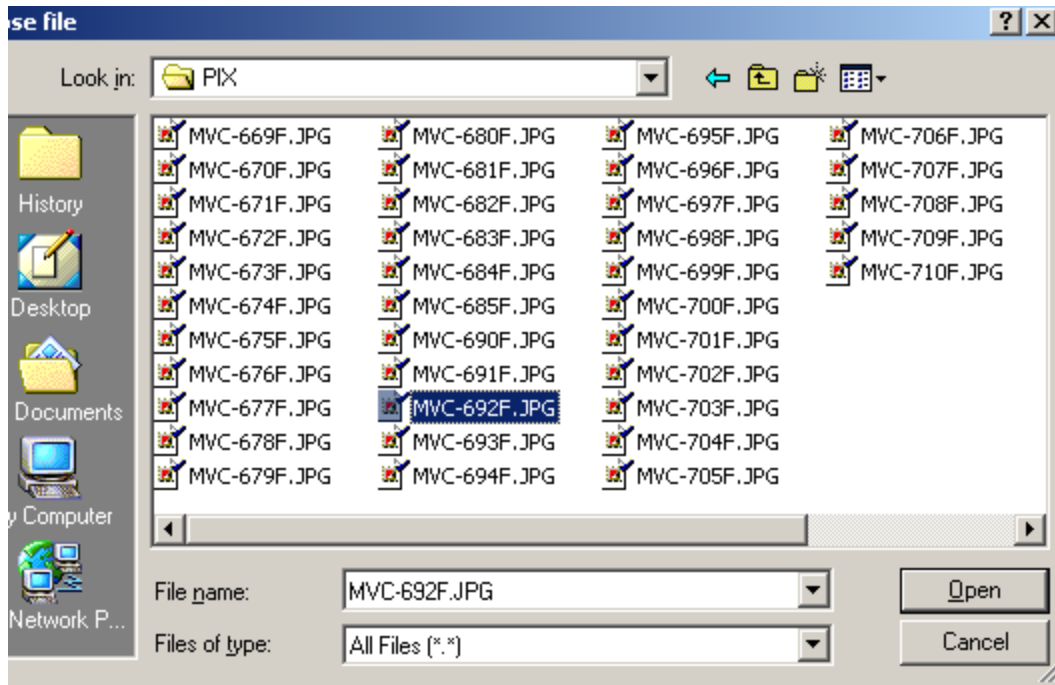


**IPRR** INTELLECTUAL PROPERTY RIGHTS e-RECORDATION

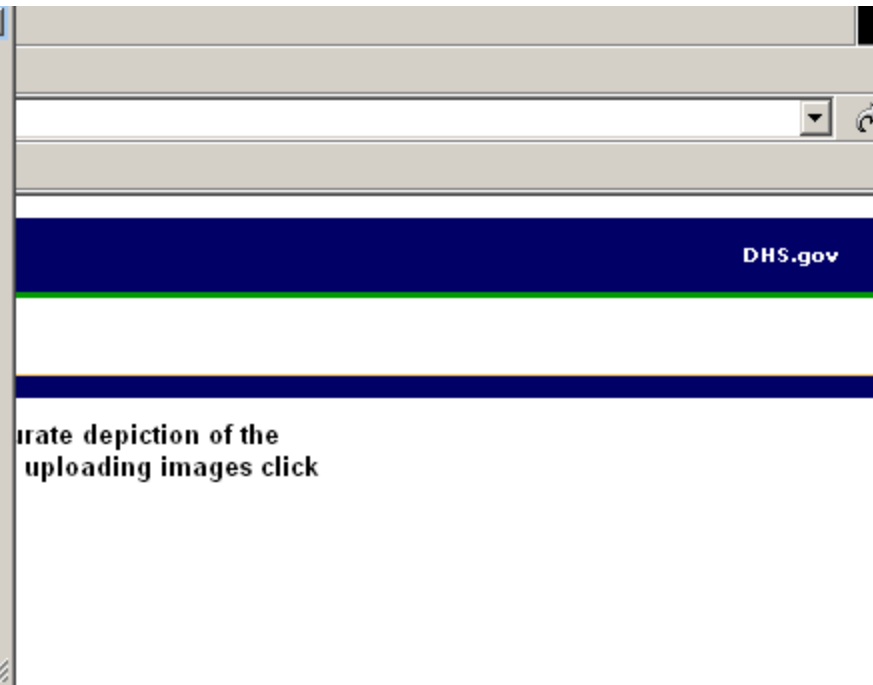
Initial images of the protected mark must be in .jpg or .gif format, and must be an accurate depiction of the mark. Only five images may be uploaded, with each image limited to 2MB. When done uploading images click Proceed.

**Note: Do not submit images of infringing merchandise through this application.**

Image Upload	
<input type="text"/>	<input type="button" value="Browse..."/>
<input type="button" value="Upload"/>	



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**IPRR** INTELLECTUAL PROPERTY RIGHTS e-RECORDATION

Payment Method	
Amount	\$190.00
Credit Card	<a href="#">Click Here To Pay With A Credit Card</a>
Check	<a href="#">Click Here To Pay With A Check Or Money Order</a>

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Inline Payment

[Return to your originating application](#)

Step 1: Enter Payment Information

1 | 2

Pay Via Plastic Card (PC) (ex: American Express, Diners Club, Discover, Mastercard, VISA)

Required fields are indicated with a red asterisk \*

Account Holder Name:  \*

Payment Amount: \$190.00

Billing Address:  \*

Billing Address 2:

City:

State / Province:

Zip / Postal Code:

Country:  \*

Card Type:



Card Number:  \* (Card number value should not contain spaces or dashes)

Expiration Date:  \* /  \*

Select the "Continue with Plastic Card Payment" button to continue to the next step in the Plastic Card Payment Process.

Please avoid navigating the site using your browser's Back Button - this may lead to incomplete data being transmitted



# Thank You

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Questions? Comments?

[Todd.Reves@uspto.gov](mailto:Todd.Reves@uspto.gov)