June 25, 2012

VIA WORLD WIDE WEB
http://www.regulations.gov, docket number USCBP 2012-0011

David V. Aguilar
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue NW
Washington, DC 20229

Timothy E. Skud
Deputy Assistant Secretary
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220


Dear Commissioner Aguilar and Deputy Assistant Secretary Skud:

The International AntiCounterfeiting Coalition, Inc. ("IACC") submits the following comments with respect to Customs and Border Protection's ("CBP") interim rule, docket number USCBP 2012-0011, titled "Disclosure of Information for Certain Intellectual Property Rights Enforced at the Border (the "Interim Rule").

The IACC is the world’s oldest and largest organization representing exclusively the interests of companies concerned with trademark counterfeiting and copyright piracy. Our members consist of over 200 corporations, trade associations, and professional firms across a broad cross-section of industries, and include many of the world’s best known companies in the apparel, automotive, consumer goods, entertainment, pharmaceutical, and other product
sectors. The IACC is committed to working with government and industry partners in the United States and elsewhere, to strengthen Intellectual Property Rights ("IPR") protection by encouraging improvements in the law and the allocation of greater political priority and resources, as well as by raising awareness regarding the enormous—and growing—harm caused by IPR violations.

The IACC has several concerns with the Interim Rule as published on April 24, 2012, as more fully addressed below.

I. Historical Background / CBP’s Interpretation of the Trade Secrets Act

Historically, the owners of intellectual property rights have provided invaluable assistance to those CBP personnel tasked with the enforcement of IPR at our nation’s borders. This assistance has been necessitated by a number of factors, including the overall volume of imports passing through U.S. ports, the variety of goods presented to CBP for inspection, and more recently, the increasing ability of counterfeiters to manufacture near-perfect copies of products and packaging. These, and other factors, have contributed to the difficulty faced by CBP officers in determining whether those goods before them were genuine or counterfeit. CBP officials could not, and should not, be expected to maintain the expertise required to make such determinations with the level of efficiency and accuracy necessary to achieve the agency’s twin goals of trade facilitation and IPR enforcement. The recognition of that fact is what drove the long-standing collaboration between CBP and rights-holders, until relatively recently.

On April 7, 2000, U.S. Customs published Customs Directive 2310-008A\(^1\) (hereafter, "the Directive"), advising personnel that the disclosure to rights-holders of certain information regarding shipments, prior to seizure of those goods, was impermissible, even when a disclosure was made for the limited purpose of obtaining assistance to determine whether the goods were genuine or counterfeit. Specifically, the Directive required CBP officers to "remove or obliterate any information indicating the name and/or address of the manufacturer, exporter, and/or importer, including all bar codes or other identifying marks," prior to the release of any sample to a trademark holder. Though issued in 2000, by most reports, the Directive, and the new procedures prescribed thereby, were not fully-implemented until 2007 - 2008. Once implemented however, the Directive posed a severe impediment to the public-private cooperation that, previously, had been the norm.

\(^{1}\) See, U.S. Customs & Border Protection - Customs Directive 2310-008A.
The basis for this change in policy appears to be tied to an overly-formalistic reading of the relevant regulatory code sections related to the sharing of information regarding, and samples of, suspect shipments, and a similar, overly-literal interpretation of the Trade Secrets Act, 18 U.S.C. 1905 ("the Trade Secrets Act"). The apparent conflict, as seen by CBP, is between CBP officers’ authority to seek assistance by providing a physical sample, or a digital image of those goods, to a trademark owner from the date the goods are presented for inspection, and the timing authorized for the disclosure of other information related to the shipment. While rights-holders have incorporated a variety of technologies to assist in the authentication of their legitimate goods, CBP’s position has been that, if those technologies or other information evident on the goods or their packaging might reveal to the trademark owner any information that would otherwise only be made available post-seizure, any such markings must be removed or redacted before providing the samples to the rights-holder. Likewise, if the provision of a sample, or photographic images of the goods in question, might reveal confidential or proprietary information purportedly belonging to the importer, such a disclosure would violate the Trade Secrets Act, and in turn expose CBP officers to criminal prosecution. The underlying assumptions were two-fold: (1) that anti-counterfeiting tools incorporated into the product and packaging would effectively result in the disclosure of information identifying the exporter or importer which would not normally be disclosed except in the case of a seizure, and (2) that the disclosure of that information would serve to impede legitimate grey market imports by revealing the source of the diversion of the goods outside the rights-holder’s normal distribution network. In either case, such disclosures were deemed inappropriate.

These underlying assumptions, however, do not hold up to closer scrutiny. First, to the extent that the manufacturer’s identity is revealed through the disclosure of an unredacted sample or image of goods which CBP has identified as potentially counterfeit, there are two possible outcomes. First, if the goods are

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2 See 19 CFR 133.25(c).

3 Compare 19 CFR 133.25(b), permitting the disclosure, from the time of presentation, of the date of importation, the port of entry, a description of the merchandise, the quantity involved, and the country of origin of the merchandise; to 19 CFR 133.21(c), authorizing the disclosure of the above information, as well as the identity of the manufacturer, exporter, and importer, subsequent to a seizure.
legitimate, the coding, serial numbers, or other anti-counterfeiting technologies incorporated will allow the trademark owner to quickly and easily determine that the goods are genuine. In such cases, the trademark owner is either the manufacturer itself, or the goods were produced by the trademark owners' authorized manufacturer. In either case, the revelation of this information is inconsequential, as the trademark owner already knows the identity of the manufacturer of its legitimate goods. On the other hand, if the goods in question do not include the anti-counterfeiting technologies that are included as a matter of course into authentic products and packaging, or as is often the case, include spurious codings, that fact will allow the rights-holder to confirm that the goods are counterfeit. In this latter case, the spurious or non-existent codes will not reveal any information related to the manufacturers', or other parties', identities. Moreover, if the goods are confirmed as counterfeit there can be no harm, as the goods will thereafter be seized, and the disclosure of information related to the identity of the manufacturer, exporter, and importer, and the provision of samples of the counterfeit goods, are already authorized under existing regulations.

Given the complexity of global supply chains, and the number of entities involved in the distribution of the products between the point of manufacture and their arrival on retail shelves, the contention that information related to the identity of the exporter or importer of the goods will be revealed by the provision of unredacted samples or images of the suspect goods is even less plausible. While an anti-counterfeiting system, including unique serial numbering at the lot or product level, may be indicative of the point of manufacture or the intended region of distribution, there are simply too many players involved, and too many opportunities for the diversion of goods, to support the idea that a rights-holder's access to unredacted samples and images of the goods would reveal the source of diversion. The identity of the importer, who is a further step removed as a result of the fact that their relationship with the exporter falls outside of the rights-holders' normal distribution chain, is likewise shielded. Existing regulations preclude the disclosure of the identity of the exporter or importer unless the goods have been seized for violating the manufacturer's IP rights. In the relatively rare case that a grey market shipment

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4 Counterfeiters frequently seek to emulate the security features incorporated into legitimate products, using random or copied serial numbers, fake holograms, and the like, as a means of further obscuring the illicit nature of their goods.

5 See 19 CFR 133.21(c).

6 Cf. 19 C.FR 133.21(c), 133.25
is thought by CBP to be a potential counterfeit shipment, and the mark owner is provided with a sample of the goods, the mark owner will see, at most, that legitimate product has been diverted for sale in the U.S. Such a revelation will come as no surprise to the mark owner. The existence of the grey market is well-known. The identities of the parties involved in that trade, however, will remain unknown.

Perhaps the most frustrating element of CBP’s policy under the Directive has been the contention that grey marketers have any legitimate, assertable trade secret or claim to proprietary or confidential information for which safeguards are appropriate or necessary. As made evident by the redaction requirement included in the Directive, the claimed secret at issue is tied entirely to the anti-counterfeiting technologies included by mark owners on their legitimate goods. CBP believes that those markings will allow the mark owners to identify parties within the distribution chain who have diverted goods, in violation of contractual agreements, to third parties for sale in the grey market. Such codes were applied to the goods by, or at the direction of, the mark owner. The grey market actors cannot interpret them, or decode them, and the codes exist entirely independent of, and incidental to, the relationship between the grey market exporter and importer. If the rights-holder chose not to incorporate anti-counterfeiting technologies into its products, thereby eliminating the purported risk of revealing the source of the goods, no claim to proprietary or confidential information would be implicated, and disclosure by CBP would cease to be problematic. Accordingly, the importer’s asserted right exists only because of the rights-holder’s efforts to provide safeguards against the trafficking of counterfeit goods. CBP regulations and directives should encourage manufacturers’ use of anti-counterfeiting technologies; instead, they render them significantly less useful.

The Directive likewise ignored the fact that the mandated redaction of product coding, serial numbers, and the like, while diminishing mark owners’ ability to provide assistance when necessary to CBP officers, fails entirely in achieving its claimed purpose. Once legitimate grey market goods have reached the consumer market, with their coding intact, they are freely viewable by any individual – including a rights-holder’s employee – who picks them up off a store’s shelf. If, as the grey market interests contend, the provision of unredacted samples at the time of the goods’ presentation for inspection would reveal the source of the goods, surely that same contention would hold true at the point of sale. In fact, taking these arguments as true, the availability of the codes for examination by the mark owner at the point of sale would reveal not only the source of the goods’ diversion, but also the final point in the grey market distribution chain. As such, the assertion that the information is confidential or proprietary to grey market participants is groundless. The Directive does not
serve, and has never served, as a means of safeguarding the relationship between
the grey market actors. The information will eventually become available to
mark owners, should they choose to seek it out. The Directive has, however,
served to frustrate the ability of mark owners to quickly and accurately
determine whether goods are authentic or counterfeit when CBP has sought the
rights-holders’ assistance. The best-case scenario is that determinations have
taken longer, and legitimate goods, including grey market goods, have been
delayed in reaching consumer markets, while mark owners are left to rely upon
more in-depth examination of the goods to make those determinations. The
worst-case scenario is that the mark owner is simply unable to determine
whether the goods are authentic, and absent the ability to conclusively make that
determination, CBP is left without sufficient grounds to seize what are, in fact,
counterfeit goods.

The Directive further frustrates legitimate grey market importers who wish to
quickly process their goods through CBP. Grey market distributors understand
that the value of their goods lies in the fact that they are authentic goods that
may be arbitraged to different geographic markets where they are either scarce
or where there is a higher local market price. Understanding this, grey market
importers want the quickest determination possible that their goods are in fact
genuine. As the rights-holder is always in the best position to make such a
determination, contacting the grey market importer first merely serves to delay
the process. Indeed, in many instances the grey marketer, once contacted by
CBP, will contact the trademark owner for assistance in verifying the authenticity
of the goods. The grey market importer knows that the best documentation it
can produce is source documentation from the mark owner to prove the
provenance of the goods, while only the rights-holder can say definitively that
the goods are not counterfeit.

With its enactment of the National Defense Authorization Act ("NDAA"),
Congress sought to remedy these policies that served only to impede CBP’s
efforts related to trade facilitation and IPR enforcement. The NDAA’s provisions
clarify that the Trade Secrets Act is not applicable in those instances where CBP
personnel are unable to conclusively determine whether goods presented for
inspection are authentic or counterfeit, and that CBP officers may consult with
mark owners to receive the assistance necessary to make those determinations
without putting themselves at risk of criminal prosecution for such disclosures.
Regrettably, the Interim Rule published by CBP ignores the heart of the
enactment by Congress, which was to remove the overly-burdensome constraints
that CBP had placed upon itself with the adoption of the Directive. While

Congress explicitly removed the obstruction posed by CBP’s interpretation of the Trade Secrets Act, the Interim Rule, as published, creates a new, but similar obstacle to the goals of trade facilitation and IPR enforcement. It does so using the same flawed reasoning upon which the Directive was based - an assertion that there is a need to prevent the disclosure of purported confidential information to safeguard the grey market. As discussed above, the assertion that the information is in any way proprietary is spurious. The adopted policies do nothing, in any case, to safeguard that information, but merely delay its availability while impeding mark owners from providing effective assistance to CBP.

As drafted, the Interim Rule includes a procedure “intended to achieve the policy goals of the NDAA in a manner consistent with maintaining the flow of information to the government, fostering competition, keeping prices low, and maintaining consumer choice.” The rule requires CBP to provide the importer of goods suspected of being counterfeit with an opportunity to demonstrate, within seven days (exclusive of weekends and holidays) of the issuance of a notice of detention, that the goods in question do not bear a counterfeit mark. “Only absent such a demonstration by the importer will information, images, or samples be shared with the right holder.” This formulation is problematic for a number of reasons.

First, the rule provides no guidance whatsoever regarding the form or substance of evidence that will be considered sufficient to demonstrate that the goods do not bear a counterfeit mark. Further, prior to the adoption of the Directive, CBP officers were permitted to seek assistance from third-parties (whether rights-holders or importers) from the time the goods were presented for inspection. The Interim Rule appears to preclude any such opportunity to seek assistance until after a notice of detention has been issued, or in the rights-holders’ case, no sooner than seven days after a notice of detention has been issued. The Interim Rule likewise provides no clear timeframe for CBP’s evaluation of the evidence provided by the importer. Current regulations allow CBP five days from the time of presentation to determine whether a shipment should be permitted entry, or if a notice of detention should be issued. The Interim Rule then allows for an additional five day window during which CBP will notify the importer of the detention. If, after seven days (exclusive of weekends and holidays), CBP is not satisfied with the importer’s efforts to demonstrate that the goods do not bear a counterfeit mark, then the officer may seek the assistance of the mark owner. At that point, the goods may have been sitting in the port for nearly three weeks before the mark owner has been contacted by CBP. Such a delay is unnecessary, undesirable, and runs contrary to CBP’s mission of trade facilitation. As such, the Interim Rule ignores the clear intent of Congress in enacting the relevant
provisions of the NDAA, and effectively perpetuates the burdens placed upon CBP personnel by the Directive.

II. Scope of the Rule

a. Application to All Goods With Suspected Counterfeit Marks

The IACC agrees with CBP's conclusion that the authority granted under the NDAA extends not only to registered trademarks, but also to "other marks noted under the Lanham Act (certification, collective, and service marks)." The IACC likewise supports CBP's affirmation that the grant of authority is not limited to those goods associated with military sales, but "extends to all imports." The removal of any ambiguity found in the statutory language, in regard to the former issue, is welcomed, because limiting the application of the Interim Rule to trademarks would serve no rational purpose, and furthermore, would serve to frustrate the clear intent of Congress in enacting the provisions of Section 818 of the NDAA.

The IACC is aware that some parties who are generally opposed to the newly enacted provisions have asserted that the legislative history of the NDAA supports a narrow reading that would permit CBP officers to share information, samples, and unredacted images of suspect goods, only in instances involving military hardware. The language of the statute as enacted, however, is unambiguous. It is worth noting that while opponents of the provisions seek to limit the scope of authority to counterfeit military hardware, or to counterfeit electronic parts used in military applications, Congress defined the term "electronic part" in Section 818(f), which immediately precedes the information sharing provisions of 818(g). Section 818(g), however, makes no use of that defined term, instead stating broadly, "If Customs and Border Protection suspects a product of being imported in violation of Section 42 of the Lanham Act ...", the sharing of information with rights-holders, including unredacted samples and photos, is permissible for the purpose of determining whether the goods are counterfeit or authentic [emphasis added].

While the discussion in Congress may have begun with the issue of counterfeiting in the military supply chain, the language adopted reflects Congress' recognition that the tool that they were providing to CBP and to rights-holders was one with broad utility regardless of the types of goods involved. Accordingly, the final text of the law includes no limitation on the types of goods for which CBP should be able to seek assistance from rights-holders without impediments. The Interim Rule properly reflects that fact.
b. Application to Copyrighted Works and Circumvention Devices

While the IACC applauds the scope of the Interim Rule with respect to registered marks, we are disappointed that CBP has failed to take this opportunity to review and update existing regulations and policies related to other areas of IPR enforcement - specifically with regard to the trafficking of pirated copyrighted works and circumvention devices.

First, § 133.21 defines a “counterfeit mark” as a mark that is identical or substantially indistinguishable from “a mark registered in the Principal Register of the U.S. Patent and Trademark Office.” While the IACC recognizes and appreciates the clarification of the Interim Rule to include disclosure of information with regard to certification, collective and service marks, the IACC remains concerned that the Interim Rule affords no clarification with regard to its procedures in cases involving works that are substantially similar to copyrighted works registered with the United States Copyright Office, and recorded with CBP.

The importation of pirated goods bearing replicas of federally registered copyrighted works is no different than the importation of counterfeit goods bearing federally registered trademarks. Indeed, CBP is authorized to prohibit the importation of such goods under 17 U.S.C. § 602. Further, 19 C.F.R. §§ 133.42-133.43 set out the procedure for CBP’s identification, detention, seizure and disclosure of the attempted importation of pirated goods. Given the importance of stopping the importation of both pirated and counterfeit goods, teamed with the fact that CBP is actively prohibiting the importation of pirated goods under existing statutory and regulatory authority, the IACC urges CBP to include in the Interim Rule protection for pirated goods that are identical or substantially similar to a copyrighted work registered with the U.S. Copyright Office.

The Interim Rule should likewise be expanded to explicitly acknowledge CBP’s authority to share information with parties whose rights are implicated by the illegal importation of circumvention devices, both in the pre- and post-seizure contexts. Title 17, Section 1201 of the U.S. Code, prohibits the importation of any device that “is primarily designed or produced for the purpose of circumventing a technological measure that effectively controls access to a work,” that “has only limited commercially significant purpose or use other than to circumvent a

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8 The IACC’s concerns with the procedures set out in 19 C.F.R. §§ 133.42-133.43 mirror its concerns with the Interim Rule’s detention and disclosure procedures, as discussed in greater detail below.
technological measure that effectively controls access to a work," or "is marketed by that person or another acting in concert with that person with that person's knowledge for use in circumventing a technological measure that effectively controls access to a work," protected under the Copyright Act. The law in this regard is clear, and to its credit, CBP actively enforces these provisions, seizing large numbers of illegal circumvention devices each year.

CBP has generally taken the position, however, that it has no statutory authority to disclose information to rights-holders harmed by the importation of circumvention devices, in violation of Section 1201. As in the case of counterfeit and pirated goods, the private sector should be permitted to provide CBP with the assistance and expertise necessary to carry out its IPR enforcement duties. In the pre-seizure context, this includes providing assistance to CBP in the identification of prohibited circumvention devices. The free flow of information post-seizure is equally important however. The inability of injured parties to obtain the same type of information related to CBP's seizures that is freely available those harmed by copyright and trademark violations prevents those injured parties from engaging in the sort of follow-up investigation and enforcement efforts that are readily available to other IPR owners. Such disclosures would afford injured parties, with standing to bring civil action or make criminal referrals, the opportunity to address the problems at their sources abroad, in collaboration with foreign law enforcement agencies, rather than simply relying on CBP and other law enforcement agencies in the U.S. to take action here. CBP's current policies in this area serve only to hinder the provision of assistance that can increase the effectiveness of enforcement actions.

III. Disclosure of Unredacted Samples

CBP concedes that the impetus for the Interim Rule is Section 818 of the NDAA. The Interim Rule does not, however, take full advantage of that grant of authority. Instead, the Interim Rule simply formalizes CBP's previous internal policy as set forth in the Directive. Prior to the Directive, and under previous iterations of the rules found at 19 C.F.R. Part 133, Subpart C, CBP routinely disclosed unredacted samples of suspected counterfeit goods to rights-holders prior to seizure. Such disclosures greatly aided CBP, and rights-holders, in their mutual efforts to identify and prevent the importation of counterfeit goods.

In communications with the IACC, as well as directly with IACC's rights-holding members, CBP has consistently taken the position that the policy was driven by concern over potential liabilities that might accrue to CBP and its personnel under the Trade Secrets Act. As discussed in the comments above, those concerns are misplaced and should not prevent the disclosure of unredacted
samples to rights-holders at any time after presentment of the goods for examination.

In any event, CBP’s concerns over liability stemming from the Trade Secrets Act have been mooted by Section 818(g) of the NDAA, which provides:

If United States Customs and Border Protection suspects a product of being imported in violation of section 42 of the Lanham Act, and subject to any applicable bonding requirements, the Secretary of the Treasury may share information appearing on, and unredacted samples of, products and their packaging and labels, or photographs of such products, packaging, and labels, with the rightholders of the trademarks suspected of being copied or simulated for purposes of determining whether the products are prohibited from importation pursuant to such section.

This express grant of Congressional authority to disclose unredacted samples of goods to rights-holders, in effect, exempts CBP and its personnel from potential liability under the Trade Secrets Act. Accordingly, CBP is no longer constrained by its interpretation of the Trade Secrets Act from disclosing unredacted samples to rights-holders prior to seizure. The IACC is strongly in favor of a rule that would permit disclosure of unredacted samples to rights-holders at any time after presentment.

Under the Interim Rule, CBP may detain goods that it suspects are counterfeit. Within five business days of the date of detention, CBP must give notice to the importer along with an opportunity, within an additional seven business days after the importer’s receipt of the notice of detention, to provide evidence showing that the goods are genuine. At no time during this process does CBP authorize the disclosure of unredacted samples of the goods to the rights-holder, even though such disclosure is explicitly authorized by the NDAA. Only where the importer fails to provide CBP with any evidence, or provides insufficient evidence, does the Interim Rule authorize disclosure of unredacted samples to rights-holders.

The IACC believes that it is imperative to allow rights-holders to make a determination as to whether the detained goods are indeed counterfeit prior to allowing an importer the opportunity to provide evidence that the goods are.

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genuine. A brand owner is unquestionably the party most qualified to make a
determination as to whether goods bearing its marks are genuine or counterfeit.
An importer - who is simply a downstream purchaser - lacks the resources to
make such a determination.

Further, if the goods in question are in fact counterfeit, an importer is likely to
provide CBP with false, insufficient or no documentation at all. This scenario
creates a delay and an additional burden upon CBP, which could likely lead to a
diminished number of seizures - a consequence from which only counterfeiters
would benefit. CBP can easily streamline its procedure by allowing rights-
holders to determine the nature of the goods before contacting the importer.

CBP justifies its less-than-robust implementation of the NDAA’s grant of
authority by implying that any earlier disclosures of unredacted samples to
rights-holders would reduce competition and consumer choice and result in
higher prices for goods in the United States. CBP does not cite, however, any
evidence in support of its conclusions. These rhetorical bogeymen, i.e., reduced
competition and consumer choice and higher prices, are, however, mainstays of
arguments advanced by importers of grey market goods, who routinely object to
CBP’s disclosure of import information to rights-holders, however scant.

The Interim Rule appears designed to placate the interests of grey market
importers at the expense of rights-holders by simply codifying the status quo, i.e.,
rights-holders may obtain unredacted samples only after CBP has determined
that the subject goods are counterfeit and has seized them or intends to seize
them. No other pre-seizure or pre-decisional disclosures will be permitted. This
result cannot be reconciled with the intent of Congress as expressed in the
NDAA, which specifically authorizes the disclosure of unredacted samples to aid
in the determination of whether goods are counterfeit in the first instance.

If CBP does not amend the Interim Rule to permit earlier disclosures of
unredacted samples, the IACC strongly urges CBP to establish, through formal
rulemaking with notice and opportunity to comment, objective minimum
standards governing the evidence submitted by importers to verify the
genuineness of the goods in issue. Examples would include, but not be limited
to, letters of authenticity and/or authority issued by the relevant rights-holders.

The IACC also strongly urges CBP to require the disclosure to rights-holders of
any such evidence submitted by importers. The IACC and a number of its
members are aware of instances where importers have provided fabricated or

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10 See 77 Fed.Reg. 24377, second column, first partial paragraph and first full paragraph.
otherwise false evidence to CBP as verification of the authenticity of the goods in question. Samples of such evidence, including three purported letters of authenticity reprinted on rights-holders’ letterhead, are attached hereto as Exhibit A. Individuals who can produce counterfeit goods that are difficult to distinguish from genuine may also produce – much more readily – counterfeit documents that are much more difficult to distinguish from genuine. Rights-holders are better situated than are CBP’s import specialists to evaluate the genuineness of much of the evidence counterfeit importers can be expected to submit in response to the Interim Rule.

The IACC also strongly urges CBP to amend the Interim Rule to require the retention of goods seized as counterfeit for at least 60 days after CBP has provided rights-holders with formal notice of the seizure as required by 19 CFR § 133.21(d). In far too many instances, CBP has already disposed of the goods before such notice is given, depriving rights-holders of the opportunity to request and obtain samples, as permitted by 19 CFR § 133.21(e).

While the IACC supports much of CBP’s Interim Rule, we have numerous concerns as outlined above. We urge CBP to consider the IACC’s suggestions and are available at any time for clarification or additional input. We appreciate this opportunity to comment on the Interim Rule.

Respectfully submitted,

Travis D. Johnson
Vice President, Director of Legislative Affairs & Policy
The International AntiCounterfeiting Coalition
1730 M Street NW, #1020
Washington, DC 20036
Exhibit A
To whom it may concern;

Nautilus Fitness Co., Ltd. (aka Nautilus, Inc.) grants conditional limited authorization for the U.S. Import and/or sale of Bowflex refurbished goods to the following parties:

Buyer: Zhejiang Baige Import & Export Co., Ltd.
No.32 Xue Road, Chengxi Industrial Park.
Yongkang, Zhejiang, China 321300
(authorization extends to all documented third party purchasers or resellers)

Sales agreement valid ONLY for the below specified items for the time period as per stated: 2009.03.31 until 2010.03.31

168 qty---------- Bowflex Selecttech 552 dumbbells (BFX 552) MPN: 12999 (discontinued)
30 qty---------- Bowflex Xtreme 2 SE home gym MPN: 100070 / MPN: 95146
* Refurbished items (discontinued or otherwise) are subject to Nautilus Inc. dealer pricing agreements and rules therein. Third party resales DO NOT qualify for Nautilus Inc. manufacturer's warranty. Nautilus Inc. reserves the right to amend, modify or change terms at their discretion. Bowflex is a registered trademark of Nautilus, Inc. All patents pending.

Michael Wang
Regional Sales Contact - Shanghai Office
+ 86 21 265 342 57 cell

Nautilus Fitness Co., Ltd./Nautilus, Inc.
Commercial, Retail and Direct Products
Asia-Pacific Division

Copyright © 2009. Nautilus, Inc. All Rights Reserved.
Confirmation of Authorization Letter

Here is to authorize Fulian LiFeng Footwear Co., Ltd at No.888 QinXi North-Street, Wutang Town, Putian City, Fujian, P.R.C to produce and export SHOES with NIKE trademarks.

This certificate is valid through Feb 4, 2006.

Steve Woodside
General Manager
NIKE INC., Guangzhou Liaison Office
Feb 4, 2005

for Steve Woodside
To Whom it may concern:

This will confirm that Procter & Gamble (Guangzhou) Ltd. is in a joint venture with Proctor and Gamble (P&G) under which our company is authorized to manufacture and sell products in China which have the P&G trademarks on them. The goods that we make and sell under this agreement have the following trademarks: Rejoice, Pantene, Head & Shoulders, VS Sassoon, Herbal Essences, Olay, Safeguard, Tide, Ariel, Pampers, Crest, Gillette, Oral-B, Lenore, Pringles, and Duracell. We are also authorized to select companies in China who can distribute these products. We have sold them a full line of P&G trademarked goods since 2003 and they are authorized to sell these products to their customers.

Date: 12/01/2011
Name: [redacted]
Title: Key Account Manager
Signature: [redacted]