

Recordation of Trademarks with U.S. Customs and Border Protection

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Did you know that you can record your trademark with U.S. Customs & Border Protection? U.S. Customs & Border Protection (“Customs”), a bureau of the Department of Homeland Security, maintains a trademark recordation system for marks registered at the United States Patent and Trademark Office. Trademark owners who register their marks on the Principal Register may record these marks with Customs to assist Customs in its efforts to prevent the importation of goods that infringe registered marks. The recordation database includes information regarding all recorded marks, and includes images of these marks. Customs officers monitor imports to prevent the importation of goods bearing infringing marks, and can access the recordation database at each of the more than 300 ports of entry. Customs has the legal authority to make infringement determinations relating to trademark infringement, and it is empowered to detain and seize, and even forfeit, infringing goods.

A few important points include that a trademark on the supplemental register is not eligible for recordation. 19 C.F.R. § 133.1(a). A separate application is required for each recordation sought. The application fee for trademarks is \$190.00 per International Class of goods, per trademark. A check or money order shall be made payable to the United States Customs Service. 19 C.F.R. § 133.3(b). Recordation is effective on the date the recordation is approved, as shown on the recordation notice issued by Customs. 19 C.F.R. § 133.4(a). Applications for recordation are processed in the order in which they are received. Applicants and recordants will be notified of the approval or denial of an application. 19 C.F.R. §133.1(b). Recordation runs concurrently with the remaining duration of the underlying trademark registration (i.e. up to ten years for registrations issued on or after November 16, 1989). Recordation must be renewed when the trademark registration is renewed, and recordation with Customs is canceled if the registration is canceled or revoked. 19 C.F.R. § 133.4.

Although there is a paper recordation application, in October 2005, Customs released the Intellectual Property Rights e-Recordation (“IPRR”) system. The IPRR System allows trademark holders to electronically file recordation applications. According to Customs, this will “greatly decrease the amount of time and paperwork normally required, thus providing more timely enforcement of your intellectual property rights.”