



Intellectual Property Rights (IPR) Program

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About the Canada Border Services Agency

- Created in 2003, the CBSA has 13,000 employees, including over 7,000 uniformed staff that provide services at some 1,200 points across Canada.
- The CBSA administers over 100 acts, regulations and international agreements, including the *Customs Act*, *Customs Tariff* and *Special Import Measures Act*, which collectively impose duties and taxes on imports.
- 14 million commercial shipments released per year, 35 million courier shipments, 44 million mail items and 100 million travellers processed.
- Value of goods imported/year is approximately \$500B.



Statutory Authorities

- The *Combating Counterfeit Products Act* (CCPA) was introduced in 2015 and included border enforcement measures for counterfeit and/or pirated goods.
- The *Canada-European Union Comprehensive Economic and Trade Agreement Implementation Act*, introduced on September 21, 2017, expanded Canada's IPR Program to include counterfeit geographical indications.
- As a result of the Canada-Mexico-United States Agreement (CUSMA), introduced on July 1, 2020, Canada's IPR Program was expanded further to include goods that are transiting Canada.



How to File a Request for Assistance

Rights holders may file a Request for Assistance (RFA) with the CBSA to enforce their IPR for copyrights, trademarks and geographical indications:

Step 1: Ensure that your trademark or geographical indication is registered with the Canadian Intellectual Property Office (CIPO) and your information is up to date. CIPO registration of copyright is not mandatory, but is recommended.

Step 2: Complete the RFA form and file it with the CBSA for processing.

Step 3: Wait for confirmation of enrollment and an approval letter providing specific details about the IPR Program.



Rights Holders Are Key Players

- Provide a list of authorized importers and/or exporters
- Provide a list of known bad actors
- Rights holders are encouraged to provide “cheat sheets” for their trademarks and/or copyrights in their RFA
 - Cheat sheets act as a quick reference to frontline officers when making the referral for action under the IPR Program
 - They can include visual examples of authentic items compared intercepted fakes or counterfeits
 - Countries where authorized manufacturers are located



Detecting Counterfeit Goods

- The CBSA works with other government departments to interdict counterfeit goods that raise health, safety or security risks.
- If a shipment of counterfeit or pirated goods raises health, safety or security risks, those risks will be mitigated before the IPR Program is applied.
- Rights holders may convey information to the CBSA about shipments of “dangerous goods” that they suspect are counterfeit or pirated through the CBSA’s [Border Watch Line](#).
- CBSA’s IPR program does not extend to personal importations carried by travellers nor importations in the postal mode.



When a Suspected Shipment Is Encountered

- The CBSA may provide information about the detained shipment of suspected counterfeit or pirated goods to the rights holder who has filed an RFA.
- The CBSA may allow an opportunity for the rights holder to examine the detained shipment, upon request.
- The rights holders has an opportunity to pursue civil proceedings in court, based on information provided by the CBSA.



What Happens to the Goods?

- The CBSA shall continue to detain the goods until:
 - The conclusion of proceedings in civil court
 - The CBSA is ordered by a court to deliver them to the rights holder
 - The CBSA receives a signed undertaking ordering that the goods be destroyed
 - The CBSA has been advised that the rights holder does not pursue legal proceedings.



IPR Program Benefits

- Many rights holders have enrolled in the CBSA's IPR Program and, as a result, stopped suspected counterfeit or pirated goods from entering the Canadian marketplace and Canadian households.
- The IPR Program works very well; the majority of cases to date have been settled out of court at limited cost to rights holders.
- Small shipments of counterfeit or pirated goods may be addressed and destroyed in a matter of days, and at limited to no cost.
- The success of the IPR program is highly dependent on rights holders pursuing a legal remedy when contacted by the CBSA. Declining to do so will result in the goods being released, and may result in less priority for the interception of future imports of similar goods.