§ 133.14

(1) The applicant has used the trade name in connection with the class or kind of merchandise described in the application for at least 6 months;

(2) The trade name is not identical or confusingly similar to any other trade name or registered trademark used in connection with such class or kind of merchandise; and

(3) The applicant has the sole and exclusive right to the use of such trade name in connection with the merchandise of that class or kind.

(b) Fee. The application shall be accompanied by a fee of $190 for each trade name to be recorded. A check or money order shall be made payable to the U.S. Customs and Border Protection.


§ 133.14 Publication of trade name recordation.

(a) Notice of tentative recordation. Notice of tentative recordation of a trade name shall be published in the Federal Register and the Customs Bulletin. The notice shall specify a procedure and a time period within which interested parties may oppose the recordation.

(b) Notice of final action. After consideration of any claims, rebuttals, and other relevant evidence, notice of final approval or disapproval of the application shall be published in the Federal Register and the Customs Bulletin.

§ 133.15 Term of CBP trade name recordation.

Protection for a recorded trade name shall remain in force as long as the trade name is used. The recordation shall be canceled upon request of the recordant or upon evidence of disuse. From time to time, the IPR & Restricted Merchandise Branch may request the trade name owner to advise whether the name is still in use. The failure of a trade name owner to respond to such a request shall be regarded as evidence of disuse.


§ 133.21 Articles bearing counterfeit trademarks.

(a) Counterfeit trademark defined. A "counterfeit trademark" is a spurious trademark that is identical to, or substantially indistinguishable from, a registered trademark.

(b) Seizure. 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.

(c) Notice to trademark owner. When merchandise is seized under this section, Customs shall disclose to the owner of the trademark the following information, if available, within 30 days, excluding weekends and holidays, of the date of the notice of seizure:

(1) The date of importation;

(2) The port of entry;

(3) A description of the merchandise;

(4) The quantity involved;

(5) The name and address of the manufacturer;

(6) The country of origin of the merchandise;

(7) The name and address of the exporter; and

(8) The name and address of the importer.

(d) Samples available to the trademark owner. At any time following seizure of the merchandise, Customs may provide a sample of the suspect merchandise to the owner of the trademark for examination, testing, or other use in pursuit of a related private civil remedy for trademark infringement. To obtain a sample under this section, the trademark/trade name owner must furnish Customs a bond in the form and amount specified by the port director, conditioned to hold the United States, its officers and employees, and the importer or owner of the imported article harmless from any loss or damage resulting from the furnishing of a sample by Customs to the trademark owner.

§ 133.23 Restrictions on importation of gray market articles.

(a) Restricted gray market articles defined. “Restricted gray market articles” are foreign-made articles 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 and imported without the authorization of the U.S. owner. “Restricted