§ 133.0 Scope.

This part provides for the recordation of trademarks, trade names, and copyrights with the U.S. Customs and Border Protection for the purpose of prohibiting the importation of certain articles. It also sets forth the procedures for the disposition of articles bearing prohibited marks or names, and copyrighted or piratical articles, including release to the importer in appropriate circumstances.

Subpart A—Recordation of Trademarks

133.1 Recordation of trademarks.
133.2 Application to record trademark.
133.3 Documents and fee to accompany application.
133.4 Effective date, term, and cancellation of trademark recordation and renewals.
133.5 Change of ownership of recorded trademark.
133.6 Change in name of owner of recorded trademark.
133.7 Renewal of trademark recordation.

Subpart B—Recordation of Trade Names

133.11 Trade names eligible for recordation.
133.12 Application to record a trade name.
133.13 Documents and fee to accompany application.
133.14 Publication of trade name recordation.
133.15 Term of CBP trade name recordation.

Subpart C—Imports Bearing Recorded Marks or Trade Names

133.21 Articles bearing counterfeit trademarks.
133.22 Restrictions on importation of articles bearing copying or simulating trademarks.
133.23 Restrictions on importation of gray market articles.
133.24 Restrictions on articles accompanying importer and mail importations.
133.25 Procedure on detention of articles subject to restriction.
133.26 Demand for redelivery of released merchandise.
133.27 Civil fines for those involved in the importation of merchandise bearing a counterfeit mark.

Subpart D—Recordation of Copyrights

133.31 Recordation of copyrighted works.
133.32 Application to record copyright.
133.33 Documents and fee to accompany application.
133.34 Effective date, term, and cancellation of recordation.
133.35 Change of ownership of recorded copyright.
133.36 Change in name of owner of recorded copyright.
133.37 Renewal of copyright recordation.

Subpart E—Imports Violating Copyright Laws

133.41 [Reserved]
133.42 Infringing copies or phonorecords.
133.43 Procedure on suspicion of infringing copies.
133.44 Decision of disputed claim of infringement.
133.45 [Reserved]

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133.46 Demand for redelivery of released articles.

Subpart F—Procedure Following Forfeiture or Assessment of Liquidated Damages

133.51 Relief from forfeiture or liquidated damages.
133.52 Disposition of forfeited merchandise.
133.53 Refund of duty.


Section 133.1 also issued under 15 U.S.C. 1096, 1124; Sections 133.2 through 133.7, 133.11 through 133.13, and 133.15 also issued under 15 U.S.C. 1124; Sections 133.21 through 133.25 also issued under 18 U.S.C. 1905; Sec. 818(g), Pub. L. 112–81; Sections 133.26 and 133.46 also issued under 19 U.S.C. 1623; Sections 133.27 and 133.52 also issued under 19 U.S.C. 1526; Section 133.53 also issued under 19 U.S.C. 1558(a).

§ 133.2 Application to record trademark.

An application to record one or more trademarks shall be in writing, addressed to the Intellectual Property Rights (IPR) & Restricted Merchandise Branch, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and shall include the following information:

(a) The name, complete business address, and citizenship of the trademark owner or owners (if a partnership, the citizenship of each partner; if an association or corporation the State, country, or other political jurisdiction within which it was organized, incorporated, or created);

(b) The places of manufacture of goods bearing the recorded trademark;

(c) The name and principal business address of each foreign person or business entity authorized or licensed to use the trademark and a statement as to the use authorized; and

(d) The identity of any parent or subsidiary company or other foreign company under common ownership or control which uses the trademark abroad. For this purpose:

(1) Common ownership means individual or aggregate ownership of more than 50 percent of the business entity; and

(2) Common control means effective control in policy and operations and is not necessarily synonymous with common ownership.

(e) Lever-rule protection. For owners of U.S. trademarks who desire protection against gray market articles on the basis of physical and material differences (see Lever Bros. Co. v. United States, 961 F.2d 1330 (D.C. Cir. 1993)), a description of any physical and material differences between the specific articles authorized for importation or sale in the United States and those not so authorized. In each instance, owners who assert that physical and material differences exist must state the basis for such a claim with particularity, and must support such assertions by competent evidence and provide summaries of physical and material differences for publication. CBP determination of physical and material differences may include, but is not limited to, considerations of:

(1) The specific composition of both the authorized and gray market product(s) (including chemical composition);

(2) Formulation, product construction, structure, or composite product components, of both the authorized and gray market product;

(3) Performance and/or operational characteristics of both the authorized and gray market product;

(4) Differences resulting from legal or regulatory requirements, certification, etc.;

(5) Other distinguishing and explicitly defined factors that would likely result in consumer deception or confusion as proscribed under applicable law.

(f) CBP will publish in the Customs Bulletin a notice listing any trademark(s) and the specific products for which gray market protection for physically and materially different products has been requested. CBP will examine the request(s) before issuing a determination whether gray market protection is granted. For parties requesting protection, the application for trademark protection will not take effect until CBP has made and issued this determination. If protection is granted, CBP will publish in the Customs Bulletin a notice that a trademark will receive Lever-rule protection with regard to a specific product.


§ 133.3 Documents and fee to accompany application.

(a) Documents. The application shall be accompanied by:

(1) A status copy of the certificate of registration certified by the U.S. Patent and Trademark Office showing title to be presently in the name of the applicant; and

(2) Five copies of this certificate, or of a U.S. Patent and Trademark Office facsimile. The copies may be reproduced privately and shall be on paper