

SUPPORTING STATEMENT A
ALLEGATION OF COUNTERFEITING AND PIRACY
OMB No. 1653-NEW

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The National Intellectual Property Rights Coordination Center (IPR Center) is the U.S. government's clearinghouse for investigations and other enforcement efforts combatting counterfeiting and piracy — violations which may threaten the public's health and safety, the U.S. economy, and our warfighters. The “Allegation of Counterfeiting and Piracy” electronic form (hereinafter, the “Form”) is specifically requested by U.S. Immigration and Customs Enforcement’s (ICE) Homeland Security Investigations (HSI) which leads the IPR Center. The legal authorities to collect this information are based on those of HSI, including 19 U.S.C. § 1589a (Enforcement Authorities of Customs Officers); and 19 U.S.C. § 1509 (Examination of Books and Witnesses). The U.S. Department of Homeland Security is authorized to maintain documentation of the enforcement activities undertaken by its components under 44 U.S.C. § 3101 (Records Management by Agency Heads; General Duties). Information obtained, used, and disseminated by DHS and its component agencies, including ICE, through the use of this form may be subject to the Privacy Act of 1974, 5 U.S.C. § 552a, as well as the Uniform Trade Secrets Act of 1979, as amended, 18 U.S.C. § 1905. Additionally, information obtained via the Form may be considered “confidential commercial information” as defined by, and subject to, 19 C.F.R. § 103.35. Information provided via the Form may relate to laws enforced by HSI as well as other IPR Center partner agencies, including: 17 U.S.C. § 506 and 18 U.S.C. § 2319 (Copyright infringement); 18 U.S.C. § 2319A (“Bootlegging”); 18 U.S.C. § 2319B (“Camcording”); and 18 U.S.C. § 2320 (Criminal Trademark Infringement).

As part of the IPR Center’s outreach activities, it will encourage members of the general public, industry, trade associations, law enforcement and government agencies to report violations of intellectual property rights, via the Form, which will be linked to the IPR Center’s “Report IP Theft” button located on various websites. This multi-use form is designed as a mechanism to accept online allegations from actual victims, witnesses, public and private sector organizations, as well as to receive investigative leads for deconfliction by the IPR Center’s partners. The information provided is reviewed promptly by HSI officials within the IPR Center and

disseminated for investigative response, deconfliction, and tactical use to IPR Center partners, as appropriate.

As this is a multi-use intake/deconfliction form, it is anticipated that this new capability will substantially reduce the amount of time required to analyze, process, and/or deconflict information received. The Form will serve as an integral tool to identify perpetrators of counterfeiting, piracy, and other commercial trade fraud crimes. Expedited approval and implementation of this form will immediately facilitate a more efficient and effective means for law enforcement and regulatory agencies to pursue allegations involving intellectual property (IP) infringement, thus providing an opportunity for those agencies to better protect the general public, industry, trade associations, and law enforcement and government agencies from being victimized by perpetrators of crimes which may implicate risks to public health and safety. Simultaneously, use of this form for deconfliction purposes will reduce the duplication of federal law enforcement efforts and expenditure of resources as well as enhancing interagency communication.

Review, approval, and use of the Form should be expedited in order to protect the general public, U.S. Government personnel, and others from potential health and safety risks, as well as potential evidentiary destruction risks, that could otherwise occur using the existing, time-consuming, and labor-intensive approach. The expedited process will better protect the public, government personnel, and others. The existing time-consuming and labor-intensive approach requires reporting parties to determine on their own how and what information to report. They must decide what information is significant or relevant and should be included in their report to the IPR Center. The current voicemail, email and Report IP Theft Button referral form do not offer guidelines, prompts, or a suggested order to assist these reporting parties. This present, burdensome process may cause the reporting party to expend an inordinate amount of time to provide an effective report. The existing system has the reporting parties compose their report information, in whatever detail or order they deem appropriate, in an email, letter, voicemail or into the referral form of the Report IP Theft Button. The average time burden for these respondents is between 15-30 minutes depending on the method of reporting. The new form average reporting time burden is 30 minutes. This is longer than the current referral mechanism. However, the new Form requests very specific information, which will lead to more viable (actionable) intelligence/information being collected. Additionally, the new form will expedite the notification process to such agencies as the U.S. Department of Homeland Security, the U.S. Department of Justice, U.S. Consumer Product Safety Commission, the U.S. Nuclear Regulatory Commission, the National Aeronautics and Space Administration, the U.S. Food and Drug Administration, and the U.S. Department of Defense, whose combined missions include protecting public health and safety. Implementation of this form would allow these agencies, as well as other IPR Center partners, to act with greater speed in taking action to recall counterfeit products (including counterfeit and adulterated pharmaceuticals), deploy government inspection teams to locations where counterfeit merchandise is being housed, and

to generally ensure that such merchandise is not released to the public or entered into the government supply chain.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The information may be collected from members of the public (including industry right-holders and trade associations), as well as federal, state, local and tribal law enforcement and government agencies. Such information is to be provided on a voluntary basis and through the use of an electronic, “fill-in-the-blank” form accessible via clicking the “Report IP Theft” button located on multiple websites, including the WWW.IPRCENTER.GOV website (this IPR collection is PRA exempt due to 5 CFR 1220.3(h)(4) – General solicitations). Once completed, the Form will be electronically transmitted to the IPR Center for review, analysis and deconfliction among the IPR Center partner agencies, as appropriate. If the submitted form contains information relevant to entities outside of the IPR Center, the information would be provided to the applicable agency for review and action, as appropriate and in accordance with any applicable laws, regulations, directives, policies, or procedures applicable to information sharing.

Both IPR Center partners and non-partners who receive the Form will query their respective databases, analyze the results, and respond to the IPR Center as to whether they have a potential matching record to deconflict and/or jurisdictional interest in the matter.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

The Form will be utilized as part of an automated allegation and deconfliction program. The form is completed and submitted electronically. In addition to permitting IPR Center partners to review potential leads involving IP infringement expeditiously, the Form will reduce and minimize any burden to members of the public because it is done electronically and it is part of an automated referral process to the IPR Center; in essence, members of the public will be able to utilize one, user-friendly, means to provide leads to all relevant law enforcement and administrative agencies within the IPR Center.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

It is anticipated that the IPR Center reporting capability, which will be electronic with the use of the Form, will eliminate the need for other programmatic reporting tools currently available on the internet. This reporting capability will provide an electronic, centralized portal to the public (including victims and/or witnesses) and the IPR Center's law enforcement partners to report allegations of crimes involving IP infringement and other related violations enforced by HSI and its IPR Center partners. Although the IPR Center's toll free phone number will remain in use, it is anticipated that the internet-based reporting system, through the Form, will decrease the burden on the public to report crimes and will also make it more efficient for the IPR Center and its partners to use the information to protect our national security, warfighters, public health and safety.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.

The use of the Form will not have a significant economic impact on small businesses or other small entities. The Form will be utilized as part of an automated allegation and deconfliction program. The Form is completed and submitted electronically as part of the IPR Center's automated program. In addition to permitting IPR Center partners to review potential leads involving IP infringement expeditiously, the Form and automated program will greatly reduce and minimize any burden to members of the public or private entities because it is done electronically and it is part of an automated referral process to the IPR Center; in essence, members of the public will be able to utilize one, user-friendly, means to provide leads to all relevant law enforcement and administrative agencies within the IPR Center.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the proposed information collection is not conducted, HSI and its IPR Center partner agencies will continue to employ the labor-intensive process of vetting leads and deconfliction. The current process requires a minimum of six HSI employees and at least one representative of the 23 IPR Center partner agencies to perform the intake, vetting, development, de-confliction and referral of investigative lead information intended for the purpose of initiating or resolving criminal and/or civil investigations and actions involving IP infringement violations. The new leads are manually collected by IPR Center HSI staff from the DHS Tip Line, HSI Tip Line, Report

IP Theft Button, IPR Center Email Address, the National Cyber Forensics Training Alliance (NCFTA), IPR Center partner agencies, IPR Center HSI Units, HSI field and Attaché offices, foreign law enforcement, IPR Center voicemail, and other means of conveying leads and tips to the IPR Center by private industry. Each lead received is individually reviewed for investigative value by HSI IPR Information Sharing (IPRIS) personnel. Leads deemed to have value are indexed and tagged for further research, while the other leads are indexed and recorded for future reference. Leads that do not meet the threshold for a criminal investigation may, at this stage, be forwarded directly to private industry for civil action or further development. The leads deemed to have value are forwarded to IPR Center HSI and partner agency analysts for further investigative research and checks of their respective databases/systems. Once the checks and investigative research are done a separate de-confliction message is drafted and sent to all 23 partner agency representatives to determine whether or not their agency has equities or open cases involving the targets contained within the leads. If only one agency has equity or an open case related to a lead, that agency will be issued the lead. If more than one agency has interest in a lead de-confliction protocols are followed. Once a lead is claimed, issued, or determined ready for referral, informational products are prepared for those leads and these products are forwarded field offices, IPR Center Units, or private industry. In FY 2012, the IPR Center processed 1,443 new leads through this labor intensive manual process. In FY 2013, that number rose, incredibly, to 8,529 and in FY 2014, the number of new leads again increased to 12,988 This labor-intensive process means that federal law enforcement agencies are less agile to: provide expedient responses to IP infringement violations presenting threats to national security and our warfighters; prevent counterfeit merchandise from entering the government supply chain; protect the public against counterfeit merchandise posing a risk of serious injury or death; and investigate violations involving the theft of right holders' IP. In addition, without the Form, victims of counterfeiting and piracy will not have a modern, cost and time effective mechanism to report alleged violations of IP rights and trade law to an electronic, centralized location accessible by all federal law enforcement officials with jurisdiction over such violations. Instead, as elaborated upon in Response 1 above, a greater burden will remain on the victims as they continue to use the current process.

The proposed information collection will allow DHS and its IPR Center partners to more effectively accomplish their missions of protecting the public's health and safety, the U.S. economy, and our warfighters. Since this is an electronic form, and the use of the Form is completely voluntary, there are no known technical or legal obstacles to its deployment.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **Requiring respondents to report information to the agency more often than quarterly;**

- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

Not applicable; the use of the Form is completely voluntary and there are no mandatory requirements in the response.

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be

recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On 11/05/2014, ICE published a notice in the Federal Register at 79 FR 65694, soliciting public review and comment for a 60-day period on this new information collection. ICE received no comments during this period. On 01/16/2015, ICE published a follow up notice in the Federal Register at 80 FR 2435 soliciting public review and comment for an additional 30-day period. ICE received no comments during that 30-day period.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

The information provided on the form is voluntary; ICE does not provide payments or gifts to respondents in exchange for the provision of this information.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The SharePoint site, which will replace the use of a shared drive may contain the SPII of complainants, victims, witnesses, and alleged violators; as well as the PII of ICE personnel who may access the site, as appropriate. The SharePoint site will comport with the requirements for SharePoint as established by OCIO. This collection of information will be covered by the National Intellectual Property Rights Coordination Center Privacy Impact Assessment and the existing DHS/ICE-009 External Investigations System of Records Notice.

The Form will include an ICE-approved Privacy Act Statement (see below), which is similar to the Privacy Act Statement currently utilized in the DHS Tip Line:

Privacy Act Statement – IPR Center Reporting Allegations of Counterfeiting and Intellectual Piracy Form

Authority: 5 U.S.C. § 301; 5 U.S.C. § 552a; 19 U.S.C. § 1509; 19 U.S.C. § 1589a; and 44 U.S.C. § 3101 authorize U.S. Immigration

and Customs Enforcement (ICE) to collect your information requested in this web form.

Purpose(s): The information being requested is collected and controlled by the ICE-led National Intellectual Property Rights Coordination Center (IPR Center) for the purpose of evaluating and further developing information in support of law enforcement investigations. The IPR Center may also use your information to contact you for additional and/or clarifying information about your report.

Routine Use(s): Your information and the information you provide regarding suspicious or suspected criminal activity and/or violation of law may be shared internally within the Department of Homeland Security (DHS) for any appropriate law enforcement action. The information you provide may also be shared with other federal, state, local, tribal, territorial, or foreign agencies in order to refer reports of suspicious activity, tips, potential violations of law and other relevant information to those agencies with appropriate jurisdiction, authorities, and/or need-to-know concerning the matter(s) you report. The information you provide may also be disclosed as generally permitted under 5 U.S.C. § 552a(b) of the Privacy Act of 1974, as amended, and pursuant to the routine uses published in the DHS System of Records Notice, DHS/ICE-009 External Investigations.

Disclosure: Use of this form and the disclosure of your contact information when submitting this form are completely voluntary. Should you wish to submit an anonymous report verbally, you may call the IPR Center Hotline at 1-866-IPR-2060 or 1-866-477-2060.

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to person's form whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions in this collection of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

Estimated Annual Reporting and Cost Burden to Respondents (New Form)

Estimated Annual Hour and Cost Burden to Respondents							
Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Total No. of Responses	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Allegation of Counterfeiting and Intellectual Piracy	12,000	1	12,000	.5 (30min)	6000	\$28.86 (based on BLS average wage for	\$173,160.00

						Wholesale Trade (Sep 4, 2015)	
Total	12,000		12,000		6000		\$173,160.00

New Form

By automating the IPR Center’s new Allegation of Counterfeiting and Intellectual Piracy form, the time required to process lead information, determine the viability of each lead, and then deconflict the viable leads with all 23 partner agencies will be greatly reduced. As shown in the table above in question 12, the average time burden for respondents to complete a lead submission will be approximately 30 minutes per lead. This is longer than the current referral mechanism. However, the new Form requests very specific information, which will lead to more viable (actionable) intelligence/information being collected. This will enable the IPR Center’s law enforcement partners to respond in a more timely manner and make more informed decisions when vetting leads. The structure of the new form will also help the respondent provide more specific and appropriate information. The current referral mechanism is a blank box for the respondent to type in what they think is pertinent to law enforcement. It is vital that the form include information that will enable the IPR Center to quickly determine if the lead is viable.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of**

purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.

There are no record keeping, capital, start-up or maintenance costs associated with this information collection.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Annualized Cost Analysis (New Form):

a. Printing Cost (#13):	\$0
b. Collecting and Processing (#14):	\$244,400.00
c. Total Cost to Program (#14):	\$244,400.00
d. Fee Charge (#13):	\$0
e. Total Annual Cost to Government (#14):	\$244,400.00
f. Total Annual Respondent Cost (#12):	\$173,160.00
g. Total Annual Cost:	\$417,560.00

Annualized Government Cost Explanation:

New Form

The implementation of the IPR Center's newly automated Allegation of Counterfeiting and Piracy Form, the time required to process lead information, determine the viability of each lead, and then deconflict the viable leads with all 23 IPR Center partner agencies will be greatly reduced. In addition, the number and rate of pay of HSI IPR Center employees needed to perform lead processing, vetting, deconfliction and dissemination can also be reduced. The Form is succinctly organized and will require an estimated twenty (20) minutes to fully process and deconflict the average lead, versus 45 minutes for the current practice. Instead of the six (6) employees with an average grade and step of GS-14 step 7, the automated Form will allow this process to be managed and operated by one (1) employee (collateral duty) with an average grade and step of GS-14 step 7 (average grade and step of the current HSI IPR Center/ Intelligence Section workforce), which is currently \$61.10/hour. Thus, using these lower inputs to perform the calculations for determining the total cost to the government will produce a much lower total cost. The estimated cost of the new form to the Government is calculated by determining the estimated number of leads (12,000) and then multiplying the number leads by the number of minutes (20) needed to fully process and deconflict the average lead to determine the total number of work minutes (240,000). These work minutes are then divided by 60 in order to determine the total number of work hours (4000). 4000 work hours x \$61.10/hour = total cost to government of \$240,440.00. The time it takes each IPRC partner to deconflict the leads will vary greatly. The leads with significant amounts of information will provide the agents and analysts with more data to conduct their searches. Additionally, each agency has access to varying internal and open source databases. Therefore, the amount of time a partner will spend on each lead received can vary from five minutes to 20 minutes.

- 15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.**

This is a request for a new collection.

- 16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

ICE does not intend to employ the use of statistics or the publication thereof for this information collection.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

ICE will display the expiration date for OMB approval of this information collection.

- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.**

ICE does not request an exception to the certification of this information collection.