

**SUPPORTING STATEMENT A**  
**ALLEGATION OF COUNTERFEITING AND PIRACY**  
OMB No. 1653-0053

**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 is specifically requested by U.S. Immigration and Customs Enforcement (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 authority of customs officers); and 19 U.S.C. § 1509 (Examination of books and witnesses). The U.S. Department of Homeland Security (DHS) 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 (Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances, “Bootlegging”); 18 U.S.C. § 2319B (Unauthorized recording of Motion pictures in a Motion picture exhibition facility, “Camcording”); and 18 U.S.C. § 2320 (Trafficking in Counterfeit goods or services).

As part of the IPR Center’s outreach activities, it encourages members of the general public, industry, trade associations, law enforcement and government agencies to report violations of intellectual property rights, via 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.

The Form serves as an integral tool to identify perpetrators of counterfeiting, piracy, and other commercial trade fraud crimes. The Form also facilitates 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 reduces the duplication of federal law enforcement efforts and expenditure of resources as well as enhancing interagency communication.

- 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 is 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 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](http://WWW.IPRCENTER.GOV) website. Once completed, the Form is 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 is 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 information from the Form 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 is used 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 reduces and minimizes 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 are able to use 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.**

The IPR Center reporting capability, which is electronic with the use of the Form, eliminates the need for other programmatic reporting tools currently available on the internet. This reporting capability provides 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. The Form, decreases the burden on the public to report crimes and makes 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-I), describe any methods used to minimize burden.**

The use of the Form does not have a significant economic impact on small businesses or other small entities. The Form is used 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 greatly reduces and minimizes 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 are able to use 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.**

The information collection allows DHS and the IPR Center partners to more effectively accomplish the mission of promoting national security by protecting the public's health and safety, the U.S. economy, U.S. warfighters, and to stop predatory and unfair trade practices that threaten the U.S. global economies. If the information is not collected, HSI's ability to provide a

comprehensive and coordinated response to intellectual property rights crimes would be severely limited.

**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.**

The special circumstances contained in item 7 of the supporting statement are not applicable to this information collection.

**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 August 10, 2018, USICE published a notice in the Federal Register at 83 FR 39771, soliciting public review and comment for a 60-day period on the proposed extension of the approval of this information collection. USICE received no comments during this 60-day period. On October 19, 2018, USICE published a follow up notice in the Federal Register at 83 FR 53072, soliciting public review and comment for an additional 30-day period on the proposed extension of the approval of this information collection with instructions that any comments should be sent directly to the Office of Management and Budget.

**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; HSI 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 may contain the Sensitive Personally Identifiable Information (SPII) of complainants, victims, witnesses, and alleged violators; as well as the Personally Identifiable Information (PII) of ICE personnel who may access the site, as appropriate. The SharePoint site will comport with the requirements for SharePoint as established by the ICE Office of Chief Information Officer (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.

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 (Form)**

Form Name /	No. of	No. of	Total	Avg.	Total	Avg.	Total Annual
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Form Number	Respondents	Responses per Respondent	No. of Responses	Burden per Response (in hours)	Annual Burden (in hours)	Hourly Loaded Wage Rate	Respondent Cost
Allegation of Counterfeiting and Intellectual Piracy	21,711	1	21,711	0.5 (30min)	10,855	\$52.81	\$573,253

As shown in the table above, the average time burden for respondents to complete a lead submission will be approximately 30 minutes per lead. The Form requests very specific information, which leads to actionable intelligence/information being collected. This enables the IPR Center’s law enforcement partners to respond in a timely manner and make informed decisions when vetting leads.

The annualized cost to respondents is estimated at \$573,253. This figure is estimated by multiplying the annual reporting burden hours (10,855) by the average hourly loaded wage for business and financial operation occupations (\$52.81).

The average hourly wage rate for business and financial operations occupations represents industry right-holders that may submit the form. See Bureau of Labor Statistics, Occupational Employment and Wages, Business and Financial Operations Occupations (Major Group), May 2017 <https://www.bls.gov/oes/2017/may/oes130000.htm>, \$36.70. The average hourly loaded wage rate is calculated using the percentage of wages and salaries to total compensation, found in Bureau of Labor Statistics, Employer Costs for Employee Compensation, June 8, 2018, Table 5: Employer costs per hour worked for employee compensation and costs as a percent of total compensation: private industry workers, by major occupational group and bargaining unit status, March 2018, <https://www.bls.gov/news.release/ecec.t05.htm>. Wages and salaries are 69.5 percent of total compensation.  $\$52.81 = \$36.70 / 0.695$ .

**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 capital or start-up 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.	
b. Total Annual Cost to Government (#14):	\$699,167
c. Total Annual Respondent Cost (#12):	\$573,253
<b>d. Total Annual Cost:</b>	<b>\$1,272,420</b>



### **Annualized Government Cost Explanation:**

The IPR Center processes lead information, determines the viability of each lead, and then deconflict the viable leads with all 23 IPR Center partner agencies. The Form is succinctly organized and requires an estimated twenty (20) minutes to fully process and deconflict the average lead. The automated Form allows 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 \$96.61/hour.<sup>1</sup>

The fully loaded average hourly wage is based on the GS-14 step 7 salary table and the Bureau of Labor Statistics, Employer costs per hour worked for employee compensation and costs as a percent of total compensation: civilian workers, by major occupational and industry group, March 2018<sup>2</sup>, which shows that wages and salaries are 68.2 percent of total compensation ( $\$65.89 / 0.682 = \$96.61$ ).

The estimated cost of the form to the Government is calculated by determining the estimated number of leads (21,711) 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 (434,220). These work minutes are then divided by 60 in order to determine the total number of work hours (7,237). 7,237 work hours x \$96.61/hour = total cost to government of \$699,167.

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.**

There are no program changes or adjustments.

**16. For collections of information whose results will be published, outline plans for**

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1 Office of Personnel Management Salary Table 2018, Locality Pay Area of Washington-Baltimore-Arlington, DC-MD-VA-WV-PA, [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB_h.pdf)

2 <https://www.bls.gov/news.release/ecec.t01.htm>

**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 does not seek exception.

- 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.