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March 17, 2025

Mr. Robert Altneu  
U.S. Customs & Border Protection  
Office of Trade – Regulations & Rulings  
Via Regulations.gov

Re: Entry of Low-Value Shipments – Docket Number USCBP—2025—0002

Dear Director Altneu:

The International AntiCounterfeiting Coalition, Inc. (“IACC”) is pleased to provide these comments in response to the request published by your office in the Federal Register on January 14, 2025.

Founded in 1979, the IACC is the world’s oldest and largest organization representing exclusively the interests of companies concerned with trademark counterfeiting and copyright piracy. Our members – including companies both small and large – represent a broad cross-section of industries, and include many of the world’s best-known brands in the apparel, automotive, consumer goods, electronics, entertainment, personal care, pharmaceutical, and other product sectors. The IACC is committed to working with government and industry partners around the world, to encourage the adoption and implementation of effective legal regimes for the protection and enforcement of intellectual property rights.

Safeguarding American consumers and legitimate businesses at over 300 ports across the nation is a monumental task, and we commend U.S. Customs and Border Protection (“CBP”) for its ongoing efforts aimed at modernizing the regulatory framework in furtherance of its trade enforcement mission.

The explosive growth in the volume of small, low-value consignments passing through U.S. ports of entry en route to consumers, largely correlated with the concurrent rise of e-commerce, has presented significant challenges to both CBP and to rights-holders concerned with illicit imports of counterfeit and pirated goods in violation of their intellectual property rights. The de minimis exemption, which has historically been available in connection with the entry of low-value shipments, rests upon the rationale that the costs associated with ensuring compliance with trade laws and the collection of duties and tariffs in the small package context, exceed the value of undertaking that type of oversight. In short, the de minimis exemption is intended to enable CBP to focus its resources on those enforcement activities that will have the greatest impact – both with respect to revenue collection and safeguarding the domestic market from contraband and unfair competition. Unfortunately, in recent years, bad actors have increasingly sought to exploit the exemption to import illicit goods with the expectation that those shipments will receive less scrutiny from Customs, and as a result, be more likely to avoid detection and interdiction at the border.

As in countless other areas, the legal regimes governing trade facilitation and trade enforcement have lagged behind the practical realities of the global marketplace; this is particularly so in the context of IP enforcement at the border. The overall volume of counterfeit and pirated goods entering the country has dramatically increased in recent decades; according to CBP’s most recently published full-year statistics, the total number of goods seized for IP violations has doubled over the past four years, while the value of those seized goods has quadrupled.<sup>1</sup> As noted in that same report, “The vast majority of IPR seizures continue to take place within the express consignment and mail shipping methods. In FY 2024, 97% of IPR seizures in the cargo environment occurred in the de minimis shipments.”<sup>2</sup> It should come as no surprise then that the IACC’s members, and rights-holders more broadly, have expressed strong support for the adoption of innovative approaches aimed at increasing the efficiency and effectiveness of Customs’ enforcement efforts in the small-package context.

While stakeholders have explored a variety of initiatives aimed at achieving that shared goal, most of these efforts have focused on leveraging data and/or expanding collaboration among public- and private-sector actors. Identifying and interdicting shipments of counterfeits among the incredible volume of goods moving through U.S. ports is often characterized in terms of finding the proverbial “needle in a haystack.” And while better targeting can effectively shrink that haystack, the siloing of data among the many parties in the trade ecosystem has historically served to impede meaningful

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<sup>1</sup><https://www.cbp.gov/sites/default/files/2025-01/IntellectualPropertyRightsSeizureStatisticsFiscalYear2024%20FINAL.pdf>

<sup>2</sup> *Id.*

progress in this regard. Accordingly, we welcome CBP's current undertaking to facilitate enhanced enforcement in the small-package environment, as well as other ongoing initiatives by Customs to ensure that the agency has access to a greater range of data concerning goods entering the country, and sufficient authority to leverage that data, as necessary, in collaboration with their counterparts in the private sector.

While some commenters will undoubtedly bemoan the proposed regulatory amendments as an undue burden, or suggest that the revised rules will lead to increased costs or longer timelines for the clearance and entry of goods, we believe that the new procedures will have the opposite effect; that more optimistic view is supported by the outcomes and lessons learned over the course of CBP's 321 Data Pilot and Entry Type 86 Test in recent years. Those programs underscore that every participant in the distribution chain can and should play a role in the facilitation of legitimate trade, while also sharing the burden of enforcement against those bad actors who seek to exploit our global trading system in furtherance of nefarious ends. The current proposals outlined in the NPRM – and other similar initiatives developed as part of the agency's 21<sup>st</sup> Century Customs Framework or under consideration by Congress and the Administration – present significant opportunities to address longstanding obstacles to both more effective enforcement of IP rights at the border and the facilitation of legitimate trade. We welcome further engagement with CBP and other stakeholders in pursuit of those goals.

For the sake of clarity, and as requested in the Notice of Proposed Rulemaking, the comments below summarize the feedback we've received in connection with the proposed amendments on a section-by-section basis.

## **19 CFR Part 10**

CBP's stated intention in amendment Part 10 is "to clarify the parameters of these exemptions and more closely align the language in the regulations with the statutory text."

IACC members offered support for the proposed amendments to Sections 10.151, 10.152, and 10.153, and agreed that the proposed language provides necessary clarity regarding the availability of the exemption, to whom the exemption may be available, and CBP's discretion to require formal entry even where a low-value shipment may otherwise be eligible for the exemption.

## **19 CFR Part 101**

IACC members were, likewise, generally supportive of the proposed amendment to the current definition of the term “Shipment,” in Section 101.1, and viewed the proposed changes as enhancing transparency concerning the identity of the party (or parties) responsible for a particular shipment’s importation, which should in turn offer greater clarity with respect to availability (or unavailability) of the exemption.

## **19 CFR Part 128**

Rights-holders offered positive feedback in connection with the proposed amendment of Part 128. Respondents during our consultations in connection with the NPRM concurred with both the revisions outlined by CBP, and the rationale set forth for those amendments in the accompanying materials.

## **19 CFR Part 143**

The proposed amendments to Part 143 include significant changes to the current regulatory framework, laying out requirements for the entry of low-value shipments under either the “basic” or “enhanced” entry process, including value thresholds, documentation, and other legal requirements for such entries. The amendments likewise detail when certain importations may, or may not, be entered under the basic entry process, or the newly created enhanced procedures.

IACC members’ feedback with respect to the Part 143 amendments was largely focused on comparing and contrasting the current proposals with the existing “release from manifest” process. Some rights-holders shared frustrations regarding the present framework, describing that process as “haphazard,” and “time- and resource-intensive;” others characterized it as “insufficient to handle the ever-increasing volume of small consignments arriving in U.S. ports.” Most of those who shared their views though, expressed familiarity with, and offered more positive comments regarding, CBP’s long-running 321 Data Pilot and Entry Type 86 Test. Not surprisingly, those brands tended to express optimism regarding the proposed amendments, given their genesis in lessons learned from those programs.

The clarification of existing requirements, and the expansion of those requirements were generally welcomed; it’s believed that the proposed amendments will enhance

CBP's capabilities with respect to targeting illicit imports, thereby increasing the overall efficiency of the examination and clearance process. Some respondents offered additional positive feedback which highlighted their expectation that the enhanced entry process will foster greater collaboration among the various stakeholders in the trade ecosystem, in turn offering the potential for significant improvements in trade compliance and enforcement.

## **19 CFR Part 145**

Rights-holders offered minimal feedback with respect to the proposed amendments to Part 145, though some expressed support for clarifications provided regarding the availability of the enhanced entry process to mail shipments, and the amendments' underscoring of CBP's discretion to require formal entry for any low-value shipment.

We thank you for your consideration of these comments, and we look forward to your continued partnership in protecting American consumers and legitimate businesses.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Travis D. Johnson', with a stylized, cursive script.

Travis D. Johnson  
Vice President – Legislative Affairs, Senior Counsel