

§ 12.39a

the Semiconductor Chip Protection Act of 1984 (17 U.S.C. 901 through 904).

[T.D. 79-231, 44 FR 49247, Aug. 22, 1979, as amended by T.D. 84-213, 49 FR 41167, Oct. 19, 1984; T.D. 87-132, 52 FR 39221, Oct. 21, 1987; T.D. 95-87, 60 FR 54941, Oct. 27, 1995; T.D. 99-27, 64 FR 13675, Mar. 22, 1999; T.D. 00-87, 65 FR 77815, Dec. 13, 2000; 65 FR 80497, Dec. 21, 2000]

§ 12.39a Registered patent owners; import survey.

(a) When the owner of a patent registered in the United States believes that merchandise is being imported into the United States which infringes such patent, an application for a survey to assist the patent owner in taking appropriate action may be made. The purpose of the survey is to provide the patent owner with the names and addresses of importers of merchandise which appears to infringe the registered patent.

(b) The application may be made by letter addressed to the Commissioner of Customs, U.S. Customs Service, Washington, DC 20229. It shall state the name and address of the patent owner; and if available, a description of the merchandise believed to infringe the registered patent and the country of manufacture of the merchandise. A certified copy of the patent registration issued by the Patent and Trademark Office showing ownership to be in the name as claimed, 3 additional copies of the patent registration for Customs files, and a check or money order to cover the fee prescribed by § 24.12(a)(3) of this chapter for the survey selected shall be submitted with the application.

(c) Surveys will be made for periods of 2, 4 or 6 months at the option of the applicant.

[T.D. 56137, 29 FR 4720, Apr. 2, 1964, as amended by T.D. 84-133, 49 FR 26571, June 28, 1984]

IMMORAL ARTICLES

§ 12.40 Seizure; disposition of seized articles; reports to United States attorney.

(a) Any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the

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United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, seized under section 305, Tariff Act of 1930, shall be transmitted to the United States attorney for his consideration and action.

(b) Upon the seizure of articles or matter prohibited entry by section 305, Tariff Act of 1930 (with the exception of the matter described in paragraph (a) of this section), a notice of the seizure of such articles or matter shall be sent to the consignee or addressee.

(c) When articles of the class covered by paragraph (b) of this section are of small value and no criminal intent is apparent, a blank assent to forfeiture, Customs Form 4607, shall be sent with the notice of seizure. Upon receipt of the assent to forfeiture duly executed, the articles shall be destroyed if not needed for official use and the case closed.

(d) In the case of a repeated offender or when the facts indicate that the importation was made deliberately with intent to evade the law, the facts and evidence shall be submitted to the United States attorney for consideration of prosecution of the offender as well as an action in rem under section 305 for condemnation of the articles.

(e) All cases in which articles have been seized pursuant to 19 U.S.C. 1305(a) should be referred to the U.S. Attorney, for possible institution of condemnation proceedings, within 4 days, but in no event more than 14 days, after the date of Customs initial examination. The referral to the U.S. Attorney should be initiated simultaneously with the mailing to the importer of the seizure notice and the assent to forfeiture form. If the importer declines to execute an assent to forfeiture of the articles other than those mentioned in paragraph (a) of this section and fails to submit, within 30 days after being notified of his privilege to do so, a petition under section 618, Tariff Act of 1930 (19 U.S.C. 1618), for remission of the forfeiture and permission to export the seized articles, then the U.S. Attorney, who has already received information concerning the seizure pursuant to this paragraph, may proceed with the condemnation action.

(f) If seizure is made of books or other articles which do not contain obscene matter but contain information or advertisements relative to means of causing unlawful abortion, the procedure outlined in paragraphs (b), (c), (d), and (e) of this section shall be followed.

(g) In any case when a book is seized as being obscene and the importer declines to execute an assent to forfeiture on the ground that the book is a classic, or of recognized and established literary or scientific merit, a petition addressed to the Secretary of the Treasury with evidence to support the claim may be filed by the importer for release of the book. Mere unsupported statements or allegations will not be considered. If the ruling is favorable, release of such book shall be made only to the ultimate consignee.

(h) Whenever it clearly appears from information, instructions, advertisements enclosed with or appearing on any drug or medicine or its immediate or other container, or otherwise that such drug or medicine is intended for inducing unlawful abortion, such drug or medicine shall be detained or seized.

[28 FR 14710, Dec. 31, 1963, as amended by T.D. 71-165, 36 FR 12209, June 29, 1971; T.D. 76-261, 41 FR 39022, Sept. 14, 1976; T.D. 82-145, 47 FR 35477, Aug. 16, 1982; T.D. 85-186, 50 FR 47207, Nov. 15, 1985; T.D. 93-66, 58 FR 44130, Aug. 19, 1993]

§ 12.41 Prohibited films.

(a) Importers of films, shall certify on Customs Form 3291 that the imported films contain no obscene or immoral matter, nor any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, nor any threat to take the life or inflict bodily harm upon any person in the United States. When imported films are claimed to be free of duty as American goods returned, this certification may be made on Customs Form 3311 in the space designated "Remarks" in lieu of on Form 3291.

(b) Films exposed abroad by a foreign concern or individual shall be previewed by a qualified employee of the Customs Service before release. In case such films are imported as undeveloped negatives exposed abroad, the approximate number of feet shall be

ascertained by weighing before they are allowed to be developed and printed and such film shall be previewed by a qualified employee of the Customs Service after having been developed and printed.

(c) Any objectionable film shall be detained pending instructions from Headquarters, U.S. Customs Service or a decision of the court as to its final disposition.

MERCHANDISE PRODUCED BY CONVICT, FORCED, OR INDENTURED LABOR

§ 12.42 Findings of Commissioner of Customs.

(a) If any port director or other principal Customs officer has reason to believe that any class of merchandise that is being, or is likely to be, imported into the United States is being produced, whether by mining, manufacture, or other means, in any foreign locality with the use of convict labor, forced labor, or indentured labor under penal sanctions, including forced child labor or indentured child labor under penal sanctions, so as to come within the purview of section 307, Tariff Act of 1930, he shall communicate his belief to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in paragraph (b) of this section, if in the possession of the port director or other officer or readily available to him.

(b) Any person outside the Customs Service who has reason to believe that merchandise produced in the circumstances mentioned in paragraph (a) of this section is being, or is likely to be, imported into the United States and, if the production is with the use of forced labor or indentured labor under penal sanctions, that merchandise of the same class is being produced in the United States in such quantities as to meet the consumptive demands of the United States may communicate his belief to any port director or the Commissioner of Customs. Every such communication shall contain, or be accompanied by, (1) a full statement of the reasons for the belief, (2) a detailed description or sample of the merchandise, and (3) all pertinent facts obtainable as