

trade name owner, the owner shall, in lieu of return of the sample, certify to Customs that: “The sample described as [insert description] and provided pursuant to 19 CFR 133.25(c) was (damaged/destroyed/lost) during examination or testing for trademark infringement.”

(d) *Form of notice.* Notice of detention of articles found subject to the restrictions of § 133.22 or § 133.23 shall be given the importer in writing.

§ 133.26 Demand for redelivery of released merchandise.

If it is determined that merchandise which has been released from CBP custody is subject to the restrictions of § 133.22 or § 133.23 of this subpart, the port director shall promptly make demand for the redelivery of the merchandise under the terms of the bond on CBP Form 301, containing the bond conditions set forth in § 113.62 of this chapter, in accordance with § 141.113 of this chapter. If the merchandise is not redelivered to CBP custody, a claim for liquidated damages shall be made in accordance with § 141.113(h) of this chapter.

[T.D. 72-266, 37 FR 20678, Oct. 3, 1972, as amended by T.D. 99-64, 64 FR 43266, Aug. 10, 1999]

§ 133.27 Civil fines for those involved in the importation of merchandise bearing a counterfeit mark.

In addition to any other penalty or remedy authorized by law, CBP may impose a civil fine under 19 U.S.C. 1526(f) on any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise for sale or public distribution that bears a counterfeit mark resulting in a seizure of the merchandise under 19 U.S.C. 1526(e) (see § 133.21 of this subpart), as follows:

(a) *First violation.* For the first seizure of merchandise under this section, the fine imposed will not be more than the value the merchandise would have had if it were genuine, according to the manufacturer’s suggested retail price in the United States at the time of seizure.

(b) *Subsequent violations:* For the second and each subsequent seizure under this section, the fine imposed will not

be more than twice the value the merchandise would have had if it were genuine, according to the manufacturer’s suggested retail price in the United States at the time of seizure.

[CBP Dec. 03-12, 68 FR 43637, July 24, 2003]

Subpart D—Recordation of Copyrights

§ 133.31 Recordation of copyrighted works.

(a) *Eligible works.* Claims to copyright which have been registered in accordance with the Copyright Act of July 30, 1947, as amended, or the Copyright Act of 1976, as amended, may be recorded with Customs for import protection.

(b) *Persons eligible to record.* The copyright owner, including any person who has acquired copyright ownership through an exclusive license, assignment, or otherwise, and claims actual or potential injury because of actual or contemplated importations of copies (or phonorecords) of eligible works, may file an application to record a copyright. “Copyright owner,” with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

(c) *Notice of recordation and other action.* Applicants and recordants will be notified of the approval or denial of an application filed in accordance with § 133.32, § 133.35, § 133.36, or § 133.37.

[T.D. 72-266, 37 FR 20678, Oct. 3, 1972, as amended by T.D. 73-212, 38 FR 21397, Aug. 8, 1973; T.D. 87-40, 52 FR 9474, Mar. 25, 1987]

§ 133.32 Application to record copyright.

An application to record a copyright to secure customs protection against the importation of infringing copies or phonorecords shall be in writing addressed to the IPR & Restricted Merchandise Branch, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, Washington, DC 20229, and shall include the following information:

(a) The name and complete address of the copyright owner or owners;

(b) If the applicant is a person claiming actual or potential injury by reason of actual or contemplated importations of copies or phonorecords of the