



**Testimony of Jim Joholske  
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**Hearing on  
Protecting E-Commerce Consumers from Counterfeits**

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Chairman Hatch, Ranking Member Wyden, and distinguished Members of the Committee, thank you for inviting me to discuss the U.S. Consumer Product Safety Commission's (CPSC) important role in protecting consumers from health and safety hazards involving imports and counterfeit goods. Before I begin, I should note that these comments are those of CPSC staff, and they have not been reviewed or approved by, and may not necessarily reflect the views of, the Commission.

I especially appreciate the opportunity to appear before you today, as this year marks the 10<sup>th</sup> anniversary of the creation of CPSC's import surveillance program.

The CPSC was established by Congress in 1972, and is the federal regulatory body charged with protecting the public from unreasonable risk of injuries or death associated with consumer products. We are a relatively small agency, with 545 full-time equivalents, and a \$125 million annual budget. However, we have jurisdiction over thousands of consumer products, a vast majority of which are imported into the United States. I joined CPSC's Office of Import Surveillance when it was created in 2008, and I became its Director in March 2017. Before that time, I spent 8 years in the agency's Office of Compliance and Field Operations, where I worked on enforcement of mandatory regulations governing products under CPSC's jurisdiction. Our Office of Compliance and Field Operations performs a vital role within the agency, by investigating incidents involving consumer products and working with importers and manufacturers to implement recalls, if necessary.

Since passage of the Consumer Product Safety Improvement Act of 2008, CPSC has strengthened its relationship with U.S. Customs and Border Protection (CBP) and closely coordinates with CBP to interdict potentially noncompliant, unsafe

imported products. As part of our efforts, CPSC has placed investigators at the largest ports of entry to work side-by-side with CBP staff. Currently, we have 30 investigators stationed at 20 of the largest ports in the country. Despite our relatively small size, in Fiscal Year 2017, CPSC investigators at the ports screened more than 38,000 distinct products arriving in the United States, and stopped approximately 4 million noncompliant or hazardous units from reaching consumers.

To prioritize and target high-risk shipments, CPSC has developed our own targeting system, called RAM or “Risk Assessment Methodology.” RAM leverages a feed of entry data received from CBP, which is combined with CPSC data to risk-score shipments under CPSC’s jurisdiction. We also have CPSC staff stationed at CBP’s Commercial Targeting and Analysis Center (CTAC) to coordinate with CBP and other government agencies to address import safety issues through commercial trade targeting. At CTAC, we implement our national targeting programs using CBP’s Automated Targeting System to identify potentially violative shipments. CPSC also has a part-time presence at the U.S. Immigration and Customs Enforcement’s (ICE) Homeland Security Investigations (HSI) National Intellectual Property Rights Coordination Center (IPR Center). At the IPR Center, we are able to exchange information with 22 partner agencies that

may help us target potentially non-complying and hazardous products. As an agency with limited resources, we would not be able to do the critical work of intercepting high-risk products before they reach consumers without the assistance and support of DHS and CBP.

Although CPSC's primary focus is targeting products that violate CPSC requirements, we do encounter Intellectual Property Rights (IPR) violations. As part of the work done at CTAC, CBP and CPSC staff target entities in the supply chain that are known IPR violators for possible health and safety issues. Many of CPSC's investigators are former CBP officers and import specialists and have been trained to identify IPR issues. CPSC investigators have also attended CBP's IPR Instructor-Led and rights-holder training at several ports, which has led to greater interagency referrals and collaboration. Consequently, although not our primary focus, CPSC staff is often able to identify possible IPR violations in the course of their normal duties.

When CPSC identifies a potential IPR issue, we refer the shipment to CBP because they have authority to efficiently seize the products. On a case-by-case basis, we will also test products that are IPR violative for compliance with CPSC mandatory safety standards, or to determine whether they are otherwise hazardous.

A recent example of our successful partnership is illustrated by a shipment of counterfeit toys seized by CBP in January at the Port of Los Angeles. As a result of CPSC and CBP's collaboration, CTAC identified a high-risk shipment from China, imported by a manufacturer that previously attempted to import noncompliant products. CTAC flagged the shipment, which was then examined by CBP and CPSC, and found that it contained toys bearing counterfeit trademarks of popular children's toys. CPSC determined that the products also contained excessive lead and small parts, in violation of CPSC regulations and the Federal Hazardous Substance Act. This coordination between our agencies resulted in the confiscation of nearly 2,800 unsafe and fraudulent toys at the port, keeping them from reaching America's children.

CPSC and CBP have similarly collaborated on many other shipments where a potential IPR violation and a safety violation were found. Examples include: holiday lights, cell phone wall chargers, lithium-ion batteries used in hoverboards, laptops, and cellphones, children's backpacks, and numerous toys.

Although CPSC's import surveillance activities have prioritized large ports of entry, like many agencies, we are facing challenges in regulating products

imported through direct-to-consumer sales over e-commerce platforms. The volume of these shipments, and the limited amount of data required when the shipment arrives in the United States make targeting difficult. With CPSC's small size and limited resources, we currently do not have investigators stationed at locations where these small packages arrive, other than at one location at JFK airport. However, CPSC will continue to evaluate its staffing model to identify efficient ways to target and examine potentially unsafe products shipped directly to e-commerce consumers.

Thank you for the opportunity to share my remarks. I am happy to answer any questions you may have.