

## § 133.51

or restrictions of this subpart, the director of the port of entry shall promptly make demand for redelivery of the articles under the terms of the bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, in accordance with §141.113 of this chapter. If the articles are not redelivered to Customs 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. 73-175, 38 FR 17447, July 2, 1973; T.D. 74-227, 39 FR 32023, Sept. 4, 1974; T.D. 84-213, 49 FR 41183, Oct. 19, 1984; T.D. 99-64, 64 FR 43266, Aug. 10, 1999]

### Subpart F—Procedure Following Forfeiture or Assessment of Liquidated Damages

#### § 133.51 Relief from forfeiture or liquidated damages.

(a) *Petition for relief.* The importer may petition in accordance with parts 171 and 172 of this chapter for relief from, or cancellation of, a forfeiture incurred for violation of the trademark or copyright laws, or a claim for liquidated damages for failure to redeliver released merchandise incurred under the provisions of §133.24 or §133.46.

(b) *Conditioned relief.* In appropriate cases, except for articles bearing a counterfeit trademark, relief from a forfeiture may be granted pursuant to a petition for relief upon the following conditions and such other conditions as may be specified by the appropriate Customs authority:

(1) The unlawfully imported or prohibited articles are exported or destroyed under Customs supervision and at no expense to the Government;

(2) All offending trademarks or trade names are removed or obliterated prior to release of the articles;

(3) In the case of books or periodicals manufactured abroad contrary to the terms of the “American manufacturing clause” of the Copyright Act of 1976 (17 U.S.C. 602, 603):

(i) Satisfactory evidence is submitted that a statement of abandonment has been filed and recorded in the Copyright Office by the copyright owner in

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accordance with the procedures of the Copyright Office; and

(ii) The notice of copyright is completely obliterated prior to release of the books or periodicals.

[T.D. 72-266, 37 FR 20678, Oct. 3, 1972, as amended by T.D. 79-159, 44 FR 31968, June 4, 1979; T.D. 87-40, 52 FR 9476, Mar. 25, 1987]

#### § 133.52 Disposition of forfeited merchandise.

(a) *Trademark (other than counterfeit) or trade name violations.* Articles forfeited for violation of the trademark laws, other than articles bearing a counterfeit trademark, shall be disposed of in accordance with the procedures applicable to forfeitures for violation of the Customs laws, after the removal or obliteration of the name, mark, or trademark by reason of which the articles were seized.

(b) *Copyright violations.* Articles forfeited for violation of the copyright laws shall be destroyed.

(c) *Articles bearing a counterfeit trademark.* Merchandise forfeited for violation of the trademark laws shall be destroyed, unless it is determined that the merchandise is not unsafe or a hazard to health and the Commissioner of Customs or his designee has the written consent of the U.S. trademark owner, in which case the Commissioner of Customs or his designee may dispose of the merchandise, after obliteration of the trademark, where feasible, by:

(1) Delivery to any Federal, State, or local government agency that, in the opinion of the Commissioner or his designee, has established a need for the merchandise; or

(2) Gift to any charitable institution that, in the opinion of the Commissioner or his designee, has established a need for the merchandise; or

(3) Sale at public auction, if more than 90 days has passed since the forfeiture and Customs has determined that no need for the merchandise has been established under paragraph (c)(1) or (c)(2) of this section.

[T.D. 79-159, 44 FR 31969, June 4, 1969, as amended by T.D. 94-90, 59 FR 55997, Nov. 10, 1994; T.D. 97-91, 62 FR 61232, Nov. 17, 1997]

#### § 133.53 Refund of duty.

If a violation of the trademark or copyright laws is not discovered until