Footwear Policy Potpourri

Footwear Family Trade Therapy Session—an industry sounds off
TRUMP TARIFFS – RESPONSES

- Origin
  - Final Assembly
  - Exceptions
- Value
- Classification
- De Minimis
- Exclusions (a Fool’s Errand?)
Miscellaneous Tariff Bill (MTB) 2019
Athletic OR Nonathletic
Tariff Mitigation
Intellectual Property & Third-Party Platforms Pontification

Thomas Crockett, Director of Government & Regulatory Affairs, Footwear Distributors & Retailers of America (FDRA)
Past Few Years ... FDRA Expands IP Advocacy

- Special 301 Testimony to USTR (2016, 2017, 2018, 2019)
- U.S. Senate E-Commerce Investigation (2018)
- U.S. Customs 21st Century Customs Framework Hearing (2019)
- Senate Judiciary IP Subcommittee Hearing (2019)
Past Few Years ... FDRA Expands IP Advocacy
The Challenging IP Landscape in 2019

Feds seize $2.2 million worth of fake Nike shoes at Southern California seaport

UPDATED ON: OCTOBER 11, 2019 / 8:01 AM / CBS NEWS
The Challenging IP Landscape in 2019

- January 2018 GAO Report
- Investigators bought products from five popular e-commerce sites (choosing four categories of frequently counterfeit goods)
  - Of the 47 products purchased, 20 turned out to be counterfeit
- The report led to the U.S. Senate’s heightened focus on counterfeit sales on online platforms
The Challenging IP Landscape in 2019

Birkenstock quits Amazon in US after counterfeit surge

Amazon has finally admitted to investors that it has a counterfeit problem

Amazon touts effort to crack down on counterfeit goods amid complaints

U.S. Music Industry Accuses Amazon Of Selling 'Millions Of Fake CDs'

Amazon is shipping expired food – is it ever safe to eat?

With increasing numbers of Amazon customer complaints about rancid food, it's important to know whether expired food is safe to eat.
The Challenging IP Landscape in 2019
What does this have to do with...

301 Tariffs?
March 22, 2018
Section 301 Report

Section 301 of the Trade Act of 1974

- To invoke Section 301, the U.S. trade representative has to determine that a foreign country is infringing on U.S. trade rights or carrying out discriminatory trade practices against U.S. commerce.

- The President can then take various retaliatory actions, including the imposition of tariffs or other import restrictions.

- Section 301 measures do not have a built-in expiration date.
What does this have to do with 301 Tariffs?

March 22, 2018
Section 301 Report


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Mixed Messages: Tariffs for IP or Trade Deficits?

U.S. goods trade deficit with China, 1986-2019

As of July 2019
Most of the items included in the original document are fair game, including:

- Reducing China’s subsidies for its state industries
- Increasing China’s purchases of U.S. agricultural goods, energy and manufactured goods
- Creating new protections for U.S. intellectual property
- Ending forced technology transfers
- China’s currency manipulation
- Reducing non-tariff barriers to trade

China recently agreed to discuss:
- Cyber hacking of U.S. companies

China has yet to promise:
- A specific reduction in the trade deficit

How will compliance be enforced?
U.S. negotiators hope to create an enforcement mechanism, which would automatically raise tariffs if China fails to comply with the new agreement

Off the table
- Roughly 20% of the original items were deemed nonnegotiable by China for national security reasons

What about the existing tariffs?
China has urged the U.S. to lift its tariffs as part of the trade deal, but Trump has said previously he wants to leave tariffs for a “substantial period” as a way of ensuring compliance
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### Negotiations: Issues Based on May 2019 Document

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  - Ending forced technology transfers
  - China’s currency manipulation
  - Reducing non-tariff barriers to trade

#### Possibly on the table
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On the Horizon: 2019 Report on Counterfeits
FDRA’s Comments focused on three areas:

- platforms should take more proactive and preventative measures to limit consumers exposure

- consumers need clear seller identification and product display requirements to avoid unknowingly purchasing counterfeits, and

- CBP can do more to work with rights holders to stop infringing products from entering the U.S. market.

November 2019: Administration’s recommendations to the President to address the problem
The Science of Footwear Sustainability

Andy Polk, Senior Vice President, Footwear Distributors & Retailers of America (FDRA)
Erin Augustine, Director, Responsible Sourcing, Wolverine Worldwide
The Gridway Collection

BIG STYLE, SMALL IMPACT

SHOP NOW

<table>
<thead>
<tr>
<th>Gridway Knit</th>
<th>Gridway Leather</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% Recycled Knit Uppers &amp; Laces</td>
<td>100% Recycled EVA Footbeds</td>
</tr>
<tr>
<td>40% Recycled EVA Insoles</td>
<td>40% Recycled EVA Insoles</td>
</tr>
<tr>
<td>50% Recycled EVA Footbeds</td>
<td>50% Recycled EVA Footbeds</td>
</tr>
<tr>
<td>30% Recycled VI BRAM® Outsoles</td>
<td>30% Recycled VI BRAM® Outsoles</td>
</tr>
<tr>
<td></td>
<td>SuperLite Leather</td>
</tr>
</tbody>
</table>
- NO DYE -

saving 80% water & 50% energy*

+ RECYCLED, UNDYED LACES
+ RECYCLED, UNDYED MESH
+ RECYCLED, UNDYED TPU
+ UNDYED EVA IN DSOLE
+ UNDYED OUTSOLE

*On average, per men's size 9 upper, compared to traditional dyeing methods
Every minute 1 garbage truck of plastic is dumped into the oceans.

THE SPERRY BIONIC® COLLECTION

Each pair of Sperry BIONIC® shoes removes plastic from marine and coastal environments.

BIONIC & Waterkeeper Alliance have recovered the equivalent to 4,598,411 plastic water bottles from marine and coastal environments.

MEET OUR COLLABORATORS

We are proud to work with partners BIONIC® and Waterkeeper Alliance. Together, they’ve launched the Ocean Plastic Recovery Initiative, with plastic recovery facilities built to protect coastal and marine environments around the world.

WATERKEEPER® ALLIANCE

Waterkeeper Alliance has a simple goal: drinkable, fishable, swimmable water everywhere.

Learn more at: waterkeeper.org

BIONIC®

BIONIC® is a mission-driven material engineering company, addressing ocean plastic pollution in marine and coastal environments.

Learn more at: bionicyarn.com
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Still not working? Get help at pollev.com/app/help
or
Open poll in your web browser
Product Safety Updates You Absolutely Need Right Now

Bao Vu, Stoel Rives
Let’s Talk Footwear Customs From Here On Out

Critical Updates with Customs & Border Protection (CBP)

Eric Batt, Director, Apparel, Footwear & Textiles Center, Customs & Border Protection (CBP)
Centers of Excellence (Centers)

- Regulatory Authority
- Staffing/Realignment
- Systems / Processes
Centers of Excellence (Centers)

Regulatory Authority

- 10 Centers are fully operational as of March 23, 2016
- Federal Register Notice – Regulatory Implementation of Centers – effective 1/19/2017
Operational Status
Staffing / Realignment

- Center Directors
- Assistant Center Directors
- National Account Managers
- Import Specialists + Entry Specialists
- Drawback (TBD)
Operational Status – Where We are Now

- Multiple IORs Assignment to One Center = Account Based Approach
- ACE – Increased Functionality - Full Deployment
- External collaboration - Trade Stakeholders
- Internal collaboration - within CBP
AFT Profile
Top 5 Commodities

Women’s or Girl’s Pullovers $ 2.8 B
Sweaters, of man-made fibers
$ 2.6 B
Men’s or Boy’s Pullovers
$ 2.5 B
Brassieres, not of lace
$ 1.8 B
Footwear, Women
$ 1.8 B
AFT Profile

Top 5 Country of Origin

China $47.8 B
Vietnam $19.7 B
India $7.4 B
Indonesia $5.9 B
Mexico $5.6 B
AFT Profile

Top 3 Free Trade Agreements

CAFTA
$7 B

NAFTA (MX)
$5.1 B

NAFTA (CA)
$2 B
Going Forward

• ACE Trade Functionality - Core processing capabilities

• Mature the Center –
  – Increase Industry Knowledge
  – Training, Training, Training
  – Collaborative Efforts / Reinvigorate
Section 301

August 30, 2019 – Federal Register Notice (FRN)

• Formalizes the increase in the Section 301 additional duty rate from 10% to 15% for the trade remedy action on approximately $300 billion worth of products of Chinese origin.

• List 4A, effective September 1, 2019

• List 4B, effective December 15, 2019.
Let's Talk Footwear Customs From Here On Out

Interactive Sample Review

John Pellegrini, Customs Counsel, Footwear Distributors & Retailers of America (FDRA)
Stacey Kalkines, National Import Specialist, Footwear, Customs & Border Protection (CBP)
Aliya Grosfeld, Laboratory Directory, Tariff Solutions, LLC
Let’s Talk Footwear Customs From Here On Out

The John Pellegrini Footwear Customs Concepts Hour
Footwear Trade, Distribution & Customs
FTDC Conference

Customs Concepts

Long Beach, CA
October 29, 2019
TRUMP TARIFFS – RESPONSES

- Origin
  - Final Assembly
  - Exceptions

- Value

- Classification

- De Minimis

- Exclusions (a Fool’s Errand?)
TRUMP TARIFFS - PERILS

- Transshipment Schemes
- DDP is Not a Panacea
- False Claims Act
CLASSIFICATION

- Athletic – Still No Change – Marketing – Sensors
- Do we Want a Change?
- High Point Rule
- Artificial Raffia – Coated Textile
- Composition Leather
FLOCKING RULES

A. Textile
   ⚫ 6402 and 6404 Only
   ⚫ Limited Coverage in 6402
   ⚫ No Over the Ankle in 6402
   ⚫ No protective
   ⚫ No Over $12 footwear

B. Leather
   ⚫ R/P Uppers Primarily
   ⚫ Can Use on R/P Protective
   ⚫ No Advantage on Textile Uppers - 6404.20.60 (37.5%)
VALUE

✧ Cancellation Charges
✧ Materials
✧ Molds / Tooling - Planning Required
✧ Defective Merchandise
✧ First Sale – “Flash Title”
✧ Discounts
✧ Unbundling
✧ Any Value Questions?
FORCED LABOR

- Change in the Law – “Consumptive Demand” Eliminated
- “Available Reasonably But Not Conclusively”
- De Minimis?
- NGO’s – The Driving Force
- China – Muslim “Training Camps”
- North Korea – Presumption
ENFORCEMENT

- CEE Priority
- Will Transshipment Become an Issue?
- DDP Issues
FALSE CLAIMS ACT

- The New Customs Enforcement Tool
- Primarily Antidumping, but footwear classification is the subject of at least one current claim.
- False Claims Trolls (Customs Fraud Investigations, Inc.) in the business of finding misclassification, undervaluation, origin.
- Disgruntled Ex-Employee, CHB Employee
- Notations Consent Order – DDP Purchaser
MISCELLANEOUS

- MTB’s
- “Made In USA”
- North Korea – Sanctions
- De Minimis
- CROSS