



**Testimony of Underwriters Laboratories Inc.
to the
Senate Committee on Finance**

**Hearing On:
Authorizations of Customs and Trade Functions
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**Statement of
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Chairman Grassley and distinguished committee members, thank you for this opportunity to appear before you, to offer Underwriters Laboratories Inc.'s (UL) perspective on the critical role of Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) in the fight against counterfeiting. Counterfeiting threatens health and safety of people and property, undermines the economy, and funds organized crime and terrorism. Ensuring that appropriate resources are dedicated to CBP and ICE is critical because these agencies are our first and best line of defense in preventing unsafe counterfeit products from reaching the United States marketplace and in penalizing the counterfeiters. The following testimony aims to provide you with anecdotal evidence of how CBP's and ICE's efforts have kept tens of millions of dollars worth of products bearing counterfeit UL Marks off the market, and with general recommendations on how additional funding could enhance their work and further protect the American public.

Underwriters Laboratories Inc. in Brief

For 112 years, UL's mission has been the protection of human life and property from product risks and hazards. UL is an independent, not-for-profit product safety testing and certification organization. Founded in 1894, UL has earned a reputation as a global leader in product safety standards development, testing, and certification. UL evaluates tens of thousands of products, components, materials, and systems for compliance to specific requirements, and enables manufacturers and the public to benefit from products that meet standardized safety requirements. In 2005, an estimated 20 billion products entering the global marketplace carried the UL Mark

What is UL's Stake in Anti-Counterfeiting Enforcement?

Make no mistake – we are in a battle. Product counterfeiting threatens health and safety, undermines the economy and funds organized crime and terrorism. Electrical products bearing counterfeit safety certification Marks are particularly egregious because they lull consumers into a false sense of security. We cannot let the counterfeiters win. Consumers, local and federal authorities, and retailers all look for the UL Mark to see whether products have met the appropriate safety standards.

We aggressively protect the integrity of the UL Mark against counterfeiters. We maintain a strict zero-tolerance policy, which states:

"It is the policy of Underwriters Laboratories Inc. (UL) not to consent to the importation, exportation, or manipulation of merchandise that has been seized by Customs and Border Protection or any other international law enforcement agency for bearing counterfeit UL Certification Marks. This policy is uniformly applied and is considered reasonable and necessary in order to protect the integrity of UL's Registered Marks. UL does not compromise or negotiate with respect to this policy."

How Does CBP's Work Affect Our Anti-Counterfeiting Program?

More than a decade ago, UL launched a formal anti-counterfeiting program in recognition of the growing threat of counterfeits and the potential health and safety risks. Since that time, UL has worked closely with CBP and ICE (previously U.S. Customs) to eliminate trade in counterfeit goods and prosecute counterfeiters and distributors of counterfeits.

CBP officers are our first and best line of protection in this fight. Left unchecked, counterfeiters can and will flood the US market with poor quality, hazardous electrical products, endangering the lives and property of millions of consumers. Products like low-cost, high-volume extension cords can be purchased for under a dollar at discount stores across the country. Fortunately, the counterfeit one I have with me today never made it into the marketplace; someone trying to use this might have started a fire. To properly conduct current, an electrical cord requires wire of a certain thickness. The wire in these cords is so thin that there is no way they can properly conduct the current and will eventually overheat, melt and potentially catch fire. Why did this extension cord not make it to the marketplace? Because of CBP's vigilance; CBP determined that the product was counterfeit and seized this extension cord and the thousands of other cords like it. They make roughly 100 UL-related seizures each year, with an estimated value of millions of dollars. After a seizure has been completed, UL uses the information provided by CBP to determine the product's origin and to identify others in the supply chain in order to take appropriate legal action against the counterfeiters.

During a routine inspection at the San Francisco International Airport, a CBP officer detained an individual bringing in five suitcases containing "undeclared" goods. Examination revealed that the suitcases actually contained 1500 counterfeit circuit breakers. These breakers will not protect house wiring and pose a serious potential fire hazard. One average cargo container holds approximately 186,000 breakers. Stopping these products before they enter the stream of commerce is vital in the protection of consumer safety.

UL's anti-counterfeiting program has become among the most successful in the world. CBP's hard work and dedication have been a major factor in our success. They have welcomed our training initiatives and materials and have taken up our fight as their own. Over the last decade, they have seized more than 1,200 shipments of products bearing counterfeit UL Marks, or, put another way, literally millions of extension cords, power strips, nightlights and other poor quality electrical merchandise.

What Do We Need for CBP to Sustain (or Enhance) Its Effectiveness?

In 1995, before UL approached CBP for assistance, seizures of consumer electrical products were minimal. By 2000, seizures of consumer electronics had climbed to three percent of total seizures. Recently released statistics for 2005 reveal that seizures of consumer electronics jumped to comprise 9 percent of total seizures and are now the fifth most-seized product category. These numbers do not surprise UL, as they reflect CBP's increased vigilance and recognition of the clear and present threat

that counterfeit electrical products pose. We support the priority that CBP places on seizing counterfeit goods.

This vigilance must be maintained, and ideally increased. Why? Because counterfeiters believe that they can flood the American market with shoddy counterfeits with impunity. More criminals are turning to counterfeiting as the crime of choice – margins are high and risk is low. Counterfeiters know the profit potential of supplying consumer electronics and will exploit that potential until it is no longer lucrative.

This means an increase in the resources dedicated to CBP counterfeit seizures. Over the past 4 years, UL has seen a general decrease in the number of staff at ports dedicated to counterfeit surveillance. At a minimum, *UL would encourage that additional staff and resources be dedicated to ports*, particularly those ports known to be high counterfeit traffic zones. For UL, top priority ports include Terminal Island/Long Beach, California (23 percent of UL-related CBP seizures); Miami, Florida (at 22 percent); Anchorage, Alaska (at 10 percent); Dallas, Texas (at 10 percent); and Newark, New Jersey (at 8 percent).

UL also supports measures that would *help CBP keep pace with the sophistication of counterfeiters*. This means investing in training to help CBP staff understand changing authentication technologies and in equipment that helps them more readily assess the authenticity of products and Marks. Counterfeiters are becoming more and more savvy. They know our laws and our procedures and they know how to exploit loopholes. If we lower our guard, then counterfeiters will take advantage of that. They can make better-looking copies and can more successfully duplicate security features.

UL supports the Coalition Against Counterfeiting and Piracy (CACP) recommendation for increased risk-based modeling in cargo screening for trafficking of counterfeit goods. We support any technology-based solutions that make CBP processes more streamlined and effective. But because technology works to the benefit of counterfeiters as well, nothing can beat hands-on inspection of cargo as it crosses our borders.

How Does ICE's Work Affect Our Anti-Counterfeiting Program?

CBP works to prevent the entry of counterfeit goods. ICE's work in identifying criminal activities and eliminating vulnerabilities that pose threats to our nation's borders both complements and enhances the work done by the CBP. An ICE investigation normally begins with a seizure by CBP. These agencies are most effective against counterfeiters when they are able to work hand in glove.

Shipment seizure alone is not enough to deter these criminals. To some, a seized shipment is simply the cost of doing business. They write off the loss and ship to a different port. Prosecution and jail time, however, may pose risks they are not willing to take.

UL was recently involved in two cases that highlight just how effective CBP and ICE can be when working in tandem. Instigated by a 2003 CBP seizure, ICE conducted an investigation of XYZ Trading Corp. in Houston, TX. The investigation resulted in XYZ's owner, Zheng Xiao Yi, receiving convictions for six counts of trafficking and attempting to traffic in merchandise carrying counterfeit trademarks. Additionally, the jury found that Mr. Zheng had consciously and recklessly ignored the risk of serious bodily injury to the public. There is evidence to suggest that Mr. Zheng attempted to bribe his way to freedom after authorities learned that he was also the subject of an outstanding immigration warrant. Mr. Zheng was sentenced to 63 months in a federal prison and faces deportation upon his release.

Last year in Miami, a federal grand jury inducted five individuals on three separate charges involving the importation and sale of counterfeit goods. On December 13, 2005, ICE agents raided the defendant's homes, warehouses and the flea market booths where the products were sold. The merchandise seized, which included electrical cords, batteries, handbags, watches, clothing, footwear and other items, was valued at over \$24 million.

What Do We Need for ICE to Sustain (or Enhance) Its Effectiveness?

As the examples above demonstrate, CBP and ICE together make a stronger impact together than either working alone. With the proper funding, resources and direction to partner on these issues, we believe that many more successes of this kind can be achieved. These two cases send a clear message that trafficking in dangerous counterfeit goods will not be tolerated and that the penalties will match the crime. It is our hope that the combined efforts of CBP and ICE will act as a strong deterrent to counterfeiters while safeguarding the American public from the hazards associated with these products.

CBP and ICE as Models for Counterparts in Other Countries

Consideration should also be given to enhancing existing government-to-government cooperative endeavors with US trading partners by incorporating CBP's and ICE's anti-counterfeiting best practices into the mix, and appropriately funding them. Such cooperation is mutually beneficial, with both economic and public safety dividends.

In deciding which countries to prioritize for enhanced outreach, UL would recommend China as a top priority, followed by Canada. In 2005 alone, 80 percent of US Customs-seized counterfeits (related to UL) originated in China. With enhanced bilateral efforts underway to improve IPR enforcement, including that of the Joint Commission on Commerce and Trade, collaboration in this respect is relevant and practical. UL would welcome an opportunity to support expanded US-China collaboration in this area.

A Mission for Public Safety

Americans understand that the post-9/11 world is a different place. UL is certainly cognizant of this fact and we applaud CBP's and ICE's dedication to protecting the American public against terrorists and the instruments of terror. As the CBP mission states, they are the guardians of our Nation's borders; they are America's frontline. The mission of ICE is to protect America and to uphold public safety. For 112 years, UL has been dedicated to promoting safe living and working environments. We believe that we all share a common goal – the safety of the American public. It is our hope that CBP and ICE will be supported adequately to sustain vigilance of not only terrorist threats but also the more subtle threats of counterfeits that ultimately jeopardize the same values and seek to undermine the American way of life.

Thank you, again, Mr. Chairman for affording UL this opportunity to share our perspectives on this important issue. UL would be happy to serve as a resource to you and your distinguished Committee colleagues as you consider ways to strengthen CBP's and ICE's anti-counterfeiting efforts.