2011 U.S. INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR ANNUAL REPORT ON INTELLECTUAL PROPERTY ENFORCEMENT

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Letter to the President of the United States and to the Congress of the United States

I am pleased to present the 2011 U.S. Intellectual Property Enforcement Coordinator's ("IPEC") Annual Report on Intellectual Property Enforcement. It has been over a year and a half since my office issued the Joint Strategic Plan on Intellectual Property Enforcement ("Strategy") with significant public input and the coordinated efforts of Federal agencies including the U.S. Departments of Agriculture ("USDA"), Commerce ("DOC"), Health and Human Services ("HHS"), Homeland Security ("DHS"), Justice ("DOJ"), State, and the Treasury, the U.S. Trade Representative ("USTR") and the U.S. Copyright Office. The Strategy set forth thirty-three action items organized under six overarching principles designed to improve intellectual property enforcement thereby protecting innovation, strengthening the economy, supporting American jobs, and promoting exports in intellectual property-related sectors by increasing intellectual property enforcement.

In 2011, the U.S. Government made great strides toward implementing the Strategy. The efforts by the Administration continue to be coordinated and collaborative as we take concrete steps to improve intellectual property enforcement. I would like to highlight a few of our important steps:

- Voluntary best practices by the private sector can reduce infringement online. My office has worked hard to help facilitate and encourage dialogue among a broad range of private sector entities to help curb the sale of counterfeit goods and reduce online piracy. The major achievements on this front include:
  - In June 2011, American Express, Discover, MasterCard, PayPal and Visa—major credit card companies and payment processors—reached an agreement to develop voluntary best practices to withdraw payment services for sites selling counterfeit and pirated goods.
  - In July 2011, a voluntary agreement was finalized among several internet service providers (ISPs)—AT&T, Comcast, Cablevision, Verizon, and Time Warner Cable—and major and independent music labels and movie studios to reduce online piracy. Under the agreement, ISPs will notify subscribers, through a series of alerts, when their Internet service account appears to be misused for infringement on peer-to-peer networks.
  - In December 2010, as a result of the Administration's strategy to combat illegal online pharmacies, American Express, Discover, eNom, GoDaddy, Google, MasterCard, Microsoft (Bing), Network Solutions, PayPal, Visa, and Yahoo!, announced that they would form a non-profit group to combat illegal fake online "pharmacies"—criminals masquerading as legitimate pharmacies.
- U.S. law enforcement continues to aggressively fight counterfeiters, pirates, and those who seek to steal American innovation to gain an upper hand in the global marketplace. In FY 2011:
  - DHS agencies—Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE)—increased seizures of counterfeit pharmaceuticals by almost 200

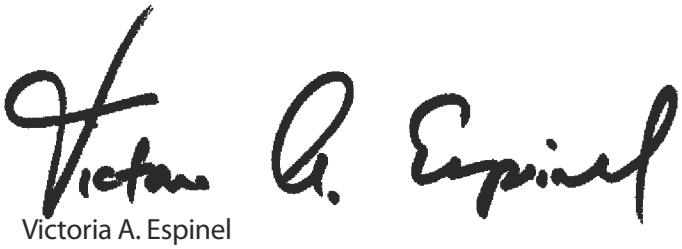
percent, increased fake safety and critical technology goods seizures by 44 percent, and increased overall seizures by 24 percent in comparison to FY 2010 (an overall increase of 67 percent in comparison to FY 2009).

- ICE Homeland Security Investigations (HSI) enforcement activities substantially increased in comparison to FY 2010: the number of investigations increased by more than 17 percent (66 percent in comparison to FY 2009); arrests increased by more than 57 percent (115 percent in comparison to FY 2009); and convictions increased 71 percent.
- FBI investigations of new trade secret cases are up 29 percent and investigations of health and safety cases are up 87 percent over FY 2010.
- DOJ prosecutions have resulted in significantly higher sentences, reflecting the gravity of the cases pursued. The number of sentences of 60+ months and 37-60 months have doubled and tripled, respectively, over FY 2010.

- There has been significant progress in agency coordination and ensuring that we are using our resources in the most efficient manner.
  - In FY 2010, law enforcement operations increased by over a third with only a 5 percent projected spending increase in comparison to FY 2009.
  - The Department of Justice's (DOJ) Bureau of Justice Assistance (BJA) grant program has increased coordination among federal, state, and local authorities to enforce intellectual property rights. The program has been a significant success with state and local law enforcement grantees having seized at least $202 million worth of infringing merchandise since October of 2009—over 18 times the value of the grants ($10.9 million) distributed as of December 2011.
  - The National Intellectual Property Rights Coordination Center ("IPR Center"), a multi-agency task force that coordinates intellectual property enforcement of member agencies, continued to maximize precious resources by de-conflicting cases. De-confliction is the process of vetting investigatory activities throughout the law enforcement community to ensure law enforcement resources are not duplicated and wasted. The number of cases de-conflicted increased to 2,877—a 429 percent increase in comparison to 2010.
  - U.S. Government personnel stationed overseas are more coordinated as a result of the IPEC-led interagency working group that set country-specific objectives and activities to address critical intellectual property enforcement issues in key countries.
- In March 2011, IPEC issued the *Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations* that set forth 20 legislative recommendations designed to strengthen intellectual property enforcement. These legislative recommendations would enhance penalties for certain egregious intellectual property offenses (such as sales to the military, health and safety violations, and gang activity), provide enforcement agencies with additional tools to combat infringement and curb the sale of counterfeit pharmaceuticals, and amend the laws to keep up with technology by making illegal distribution by streaming a felony,

as is the case for physical distribution methods. In the 2011 session of Congress, eleven bills were introduced that incorporated recommendations from the Administration's White Paper, and two of the recommendations have been enacted into law. I look forward to working closely with Congress on these legislative proposals that seek to strengthen U.S. intellectual property rights.

I am encouraged by our accomplishments in 2011 in strengthening intellectual property enforcement. With the continued leadership of the Obama Administration and the support of Congress, we can ensure that U.S. innovation and creativity are protected around the world and allow Americans to do what they do best—out-innovate, out-compete, and continue to lead in the global marketplace in this decade and beyond. Protecting America's innovation and creativity is a critical part of being competitive in the global economy. Protecting what we invent, create and produce is always important, but at this time, when every job matters, it is especially important that we stop theft that harms our businesses and threatens jobs here at home.



Victoria A. Espinel
U.S. Intellectual Property Enforcement Coordinator

Introduction

In June 2010, the Administration, through the IPEC's Joint Strategic Plan, emphasized the protection and enforcement of U.S. intellectual property rights. These rights drive the economy, create jobs for American workers, promote innovation, and secure America's position as the world's leader for creativity and ingenuity. The 2011 Annual Report provides an illustration of the coordinated efforts that the U.S. Government is undertaking to address the challenges of enforcing intellectual property of U.S. rightholders abroad, securing supply chains, pursuing sources of counterfeit and pirated goods, and meeting the challenges posed by emerging criminal trends such as the online sales of counterfeit pharmaceuticals, economic espionage, and targeted theft of trade secrets.

The 2011 Annual Report is the second report in a three-year reporting cycle. While there is more work to be done, the accomplishments highlighted in this report represent a holistic and coordinated U.S. Government approach in identifying and implementing strategies to enforce U.S. intellectual property rights. This work is the product of joint efforts within the Executive Branch as well as partnerships between Federal agencies, state and local governments, private industry, labor unions, and foreign governments.

Leading by Example

The U.S. Government is leading by example by taking pro-active measures to ensure that the Federal government itself does not purchase and use counterfeit goods. In 2011, the IPEC convened and chaired an interagency working group comprised of subject matter experts from fourteen Federal agencies to develop a government-wide anti-counterfeiting framework to ensure supply chain integrity throughout the Federal government.

- The interagency working group, whose leadership includes the National Aeronautics and Space Administration ("NASA"), the Department of Defense ("DOD"), DOJ, and the Office of Federal Procurement Policy ("OFPP"), is in the process of finalizing a strategy to ensure that the U.S. government does not purchase and use counterfeit or pirated goods. The group is examining existing tools as well as the need for the creation of new tools to maintain the integrity of the U.S. Government supply chain.

Securing Supply Chains

The IPEC continues to facilitate and encourage dialogue among the different private sector entities that make the Internet function. As an Administration, we have adopted the approach of encouraging the private sector (including ISPs, credit card companies, and online advertisers) to reach cooperative voluntary agreements to reduce infringement that are practical, effective, and consistent with protecting the legitimate uses of the Internet and our commitment to principles of due process, free speech, fair use, and privacy. Together with law enforcement efforts, private sector voluntary actions can dramatically reduce online infringement and change the enforcement paradigm.

- In December 2010, eleven market leaders—American Express, Discover, eNom, GoDaddy, Google, MasterCard, Microsoft (Bing), Network Solutions, PayPal, Visa and Yahoo!—agreed to

form a nonprofit organization to combat illegal online pharmacies—criminals masquerading as "pharmacies"—through education and voluntary enforcement, including de-registering domain names, withdrawing payment services from fake pharmacies, and refusing to advertise on fake pharmacy sites. During 2011, the group took concrete steps towards their commitment to form a nonprofit—now called the Center for Safe Internet Pharmacies ("CSIP"). We expect to see CSIP operational by early 2012.

- In June 2011, major credit card companies and payment processors reached an agreement on voluntary best practices to reduce sales of counterfeit and pirated goods. Voluntary participants include American Express, Discover, MasterCard, PayPal and Visa. The best practices are designed to cut off sites distributing infringing goods from conducting financial transactions through these processors, and include mechanisms to investigate complaints and remove payment services from sites that continue to operate unlawfully. The best practices contain appeal mechanisms during and after the investigation phase and both before and after any action is taken.
- In July 2011, a voluntary agreement was finalized among several ISPs—AT&T, Comcast, Cablevision, Verizon, and Time Warner Cable—and major and independent music labels and movie studios to reduce online piracy. Under the agreement, ISPs will notify subscribers, through a series of alerts, when their Internet service accounts appear to be misused for infringement on peer-to-peer networks. After the sixth alert, the ISP will take some action to temporarily affect the user experience in a manner that is reasonably tailored to educate the subscriber, discourage infringing activity consistent with the Federal Communication Commission ("FCC") Open Internet Order and in a manner sensitive to the legitimate needs of subscribers of an Internet connection.
  - The methodologies used to detect infringement will be vetted by an independent third party for accuracy. There is an independent review process and no action will be taken until the appeal is resolved. The process will be managed by a nonprofit that will advise the participants on how to implement the agreement and, as necessary, modify, and improve the process. The nonprofit will also educate the public on copyright law and on how to avoid violating the law.
- The IPEC continues to encourage adoption of best practice agreements by Internet advertisers, ad agencies, internet ad brokers, and ad exchanges. These voluntary best practices should both prevent sites distributing pirated or counterfeit goods from receiving advertising revenue from legitimate companies and create the appearance of legality by carrying advertisements from legitimate companies.
- The private sector arrangements that have been negotiated in the United States can serve as a positive example for Internet policies of other countries. Working together with the relevant Federal agencies, the IPEC intends to encourage trading partners to take similar steps to develop voluntary agreements that will result in reducing infringement in international and domestic supply chains, as one important part of an overall strategy to reduce online infringement.
- Voluntary agreements and best practices can also be effective tools to address infringement in the physical world. Over the next year, IPEC, in coordination with other Federal agencies, will

be working with companies from a range of sectors on voluntary means to keep global supply chains free of pirated and counterfeit goods and reduce the risk of theft of trade secrets.

Review of Intellectual Property Laws to Determine Needed Legislative Changes

In March 2011, IPEC issued the *Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations* that set forth 20 legislative recommendations to strengthen intellectual property enforcement. Since March, eleven bills have been introduced by Congress that include recommendations from the Administration's White Paper. Two of the recommendations have already been enacted. President Obama, on December 31, 2011, signed into law the National Defense Authorization Act (NDAA) for Fiscal Year 2012. As a result:

- Penalties have been increased for infringing goods that are sold to, or are for use by, the military, law enforcement, critical infrastructure or national security applications; and
- DHS now has the explicit authority to give rightholders more information that will help them in determining whether suspected fake products are genuine or not.

Combating Counterfeit Pharmaceuticals

The IPEC continues to monitor and strive for more coordination and enforcement against counterfeit pharmaceuticals. Manufacturers and importers play a critical role in combating counterfeit pharmaceuticals and the serious public health risks that these counterfeits present. The increasing threat of counterfeit pharmaceuticals demands a strong response, including better and more efficient tools to prevent their entry into the U.S. supply chain, remove them from the supply chain, and investigate and prosecute offenders.

- In March 2011, the IPEC sent to Vice President Biden and to Congress a pharmaceutical strategy that set out concrete steps the Administration will take to fight counterfeit drugs sold on the Internet, smuggled into the United States, and distributed in cities nationwide and overseas, including increased law enforcement, voluntary agreements with the private sector to not provide services to fake "pharmacies," legislative recommendations to improve enforcement tools, increased public awareness, increased international cooperation and targeted capacity building and training. The strategy was developed by the interagency working group on counterfeit pharmaceuticals established by IPEC, which includes U.S. Food and Drug Administration (FDA), CBP, ICE, DOJ, State, DOC, and the U.S. Agency for International Development, and is available at: http://www.whitehouse.gov/sites/default/files/omb/IPEC/Pharma_Report_Final.pdf.
- Also in March 2011, the Administration sent to Congress a White Paper with legislative recommendations. These legislative proposals include requiring manufacturers and importers to notify the FDA upon discovery of a known counterfeit of any pharmaceutical or medical product including any known potential health risks of the counterfeit product. The Administration also recommended that Congress increase criminal penalties, provide civil and criminal forfeiture authority for counterfeit drug offenses, and adopt a track-and-trace system for pharmaceuticals.
- Coordinated law enforcement efforts have also increased to protect the health and safety of consumers. Several high profile cases (discussed in more detail in this report) are the result of

effective coordination. One such example was the successful prosecution of Shengyang Zhou, a Chinese national, for trafficking in counterfeit pharmaceuticals. Zhou operated an online pharmacy that sold a counterfeit version of the FDA approved weight loss drug Alli®. One user of the counterfeit Alli® sold online by Zhou suffered a stroke after taking the medication. A joint investigation by ICE HSI, FDA Office of Criminal Investigations, U.S. Postal Inspection Service, and the DOJ led to Zhou's conviction and a sentence of 87 months in federal prison.

Increasing Transparency

The IPEC continues to encourage improved transparency in intellectual property policy making. The IPEC maintains an open door policy and meets with hundreds of stakeholders, large and small, across a broad range of sectors in developing and implementing the Administration's strategy for intellectual property enforcement. The Administration solicits and receives input on implementation of the strategy through formal mechanisms including Federal Register Notices. All comments received in response to Federal Register Notices are publicly available. The IPEC issues a periodic report to the public, called the Intellectual Property Spotlight, which is also available on the IPEC website.

Critical to improving transparency is also ensuring that law enforcement maintain communication with victims and share pertinent information with rightholders. The 2011 report provides information on several mechanisms implemented to increase transparency. The IPR Center continues to provide information to victims and rightholders through its outreach program known as Operation Joint Venture. The IPR Center launched a new website, www.iprcenter.gov, which provides information and links concerning intellectual property enforcement activity undertaken by all IPR Center partners. The IPR Center also has created a reporting mechanism that links to its website for the public to use to report intellectual property theft. The link is also on the website of several U.S. embassies located in countries where intellectual property crimes are rampant.

Ensuring Efficiency and Coordination

There has been significant progress in improving agency coordination and increasing the efficiency and effectiveness of law enforcement efforts at the Federal, state and local level, of personnel stationed overseas, and of the U.S. Government's international training efforts. In February 2011, President Obama created a significant tool to improve coordination by issuing Executive Order 13565 which established a Cabinet-level advisory committee, chaired by IPEC, comprised of the heads of the departments responsible for intellectual property enforcement, namely the USDA, DOC, HHS, DHS, DOJ, State, USTR, Treasury, and the Office of Management and Budget.

U.S. law enforcement authorities continue to maximize their limited resources in a coordinated and efficient manner to fight the tide of infringing and potentially dangerous products entering the U.S. and the global market. It is critical that we aggressively combat the theft of our technology and innovation by counterfeiting and piracy, by patent infringement, and by trade secret theft.

- DHS agencies—CBP and ICE combined—increased seizures of counterfeit pharmaceuticals by almost 200 percent, increased fake consumer safety and critical technology merchandise

seizures by 44 percent, and increased overall seizures by 24 percent in comparison to FY 2010 (an overall increase of 67 percent in comparison to FY 2009).

- ICE HSI reported significant benchmark increases due to its enforcement activities, including a 17 percent increase in new investigations, a 57 percent increase in arrests, a 64 percent increase in indictments, and a 71 percent increase in convictions in comparison to 2010.
- The IPR Center also maximized precious resources by de-conflicting cases to ensure investigative resources are not duplicated and wasted. The number of cases de-conflicted increased to 2,877—a 429 percent increase in comparison to 2010.
- The FBI increased its number of new trade secret investigations by 29 percent and its number of health and safety investigations by 87 percent over FY 2010.
- DOJ prosecutions have resulted in significantly higher sentences, reflecting the gravity of the cases brought. The number of sentences of 60+ months and 37-60 months has doubled and tripled, respectively, over FY 2010. DOJ has also increased its focus on economic espionage and trade secret theft. In December, former Cargill and Dow Chemical employee and confessed economic spy Kexue Huang was sentenced to 87 months in federal prison—the strongest possible sentence—for passing agribusiness and agrichemical trade secrets to a Chinese university conducting research on behalf of the Chinese government.

Internationally, this year marked the first time that U.S. embassies in 17 key countries—China, Brazil, India, Russia, Thailand, Canada, Chile, Egypt, Colombia, Mexico, Ukraine, Spain, Saudi Arabia, Israel, Peru, Turkey, and Nigeria—each have a formal interagency team of U.S. Government personnel stationed there to help improve the host country's protection and enforcement of intellectual property rights.

To help facilitate coordination of the U.S. Government's international training efforts, the United States Patent and Trademark Office ("USPTO") this year launched a searchable database (www.usipr.gov) where all relevant U.S. Government agencies now post information on the intellectual property enforcement trainings they conduct. In 2011 alone, the database listed over 100 training programs conducted by 7 U.S. Government agencies in 36 countries.

Enforcing U.S. Intellectual Property Rights Internationally

Fighting intellectual property rights infringement in other countries is a critical component of enforcing intellectual property rights.

China is the number one source of infringing products seized at the U.S. border and is a major focus of the Administration's increased attention to the problems of inadequate protection and enforcement of intellectual property rights in foreign countries. President Obama, Vice President Biden, Secretaries Clinton, Geithner and Bryson, Attorney General Holder, Ambassadors Kirk and Locke, and other senior Administration officials have directly and repeatedly pressed China to significantly improve its intellectual property enforcement. The 2011 report contains a special section highlighting the U.S. Government's focus on China's intellectual property rights enforcement.

- In January 2011, President Obama raised the issue of intellectual property directly with President Hu Jintao during his State Visit to Washington, D.C. This engagement resulted in President Hu's

commitment that China will not link its innovation policies to the provision of government procurement preferences, as well as a commitment to conduct audits to ensure that Chinese government agencies at all levels use only legitimate software.

- In August 2011, Vice President Biden continued the Administration's engagement on intellectual property rights as part of his trip to China. During his visit, he pressed for better enforcement in several forums, including in meetings with China's Vice President, Xi Jinping, who promised that China will "intensify IPR protection and treat all businesses as equals in terms of the accreditation of indigenous innovation products and government procurement."
- At the November 2011 U.S.-China Joint Commission on Commerce and Trade (JCCT), coordinated by Secretary Bryson and Ambassador Kirk, China agreed to establish, for the first time, a permanent State Council-level leadership structure, headed by a Vice Premier, to lead and coordinate intellectual property enforcement across all of China. China also agreed to eliminate by December 1, 2011 any "indigenous innovation" product accreditation catalogues or other measures linking innovation policies to government procurement preferences.

Chinese companies have been implicated as intended beneficiaries in several recent trade secret and economic espionage cases prosecuted by DOJ.

- In March 2011, in response to the growing threat of economic espionage and trade secret theft, the IPEC released the Administration's recommendation that Congress increase the statutory maximum prison sentence for economic espionage to 20 years or more. The IPEC also recommended that Congress direct the U.S. Sentencing Commission to increase penalties through sentencing enhancements based on the defendant's criminal conduct.

The 2011 report provides a further examination of the Administration's focus on combatting economic espionage and the theft of trade secrets.

A Data-Driven Government

While law enforcement seizures and activities have increased, funding for these operations has remained relatively flat. Agencies have turned a small budgetary increase into large enforcement results.

- By efficiently spending their limited resources for intellectual property enforcement, law enforcement has taken a modest 5 percent increase in projected spending and turned it into a more than 33 percent increase in seizures, arrests, and investigations of counterfeit and pirated merchandise in FY 2010.
- The DOJ's BJA grant program has increased coordination between federal, state, and local authorities to enforce intellectual property rights. The program has been a major success with grantees having seized at least $202 million worth of infringing merchandise since October of 2009—over 18 times the value of the grants ($10.9 million) distributed as of December 2011.
- At the request of the IPEC, the U.S. Government is for the first time conducting an economic analysis, led by DOC, the Economic and Statistics Administration ("ESA"), and the USPTO, working with chief economists across the Federal government, to identify the industries that most intensively produce intellectual property and to measure the importance of those industries

to the U.S. economy. This broad study will examine all sectors of our economy. We believe that improved measurement of intellectual property linked to measurements of economic performance will help the U.S. Government understand the role and breadth of intellectual property in the American economy and will inform policy and resource decisions related to intellectual property enforcement.

Next Steps

The accomplishments and milestones detailed in this report will serve as the starting point for the benchmarks that the IPEC will strive to achieve over the next year. The IPEC will work to ensure that law enforcement efforts continue to increase. Combating online infringement, protecting consumers' health and safety, and preventing the theft of innovative technology, including trade secret theft, will remain priorities of the highest order.

There are a number of areas in which IPEC will seek to make significant progress in 2012. For instance, we will encourage the expansion of voluntary best practices for online advertising to cut off revenue to websites distributing counterfeit and pirated goods. We will continue to assess Federal laws and work with Congress to make certain that Federal agencies have the necessary enforcement tools they need to effectively combat intellectual property theft and we are focused on increasing international cooperation and enhancing capacity building through training, deployment of U.S. personnel overseas and diplomatic engagement with foreign nations.

These approaches serve as examples to our citizens and to the international community and make clear that the U.S. Government will be vigorous in protecting intellectual property. America's greatest export has been, and will always remain, the creativity, ingenuity, and innovation of the American people. That innovation is essential to growing the economy and creating jobs. This strategy and the aggressive enforcement of intellectual property rights ensure that America leads, America innovates, and America protects its workers, creators, and innovators.

2011 Implementation of Enforcement Strategy Action Items

Leading by Example

Establish U.S. Government-Wide Working Group to Prevent U.S. Government Purchase of Counterfeit Products

As the purchaser of over $500 billion in goods and services per year, the U.S. Government must ensure that it does not purchase counterfeit goods, secure its supply chain, and take the necessary steps to combat the evolving tactics of counterfeiters. The Joint Strategic Plan established a government-wide working group to prevent the purchase and use of counterfeit products. Over the last year, the IPEC convened an interagency group consisting of subject matter experts to develop an anti-counterfeiting framework that is flexible enough to accommodate the wide variety of missions across the government and their different systems of procurement. The Office of Federal Procurement Policy (OFPP), Department of Defense (DOD), DOJ, and NASA have assumed leadership roles within the working group based on their vast expertise with U.S. Government procurement and anti-counterfeiting practices. Other members include the DOC, Department of Energy, HHS, DHS, and Department of Transportation, the Environmental Protection Agency, the Missile Defense Agency, the General Services Administration, the Small Business Administration, the Nuclear Regulatory Commission, and the National Reconnaissance Office.

The main focus of this interagency working group is to ensure that the U.S. Government has the necessary tools to ensure that it does not purchase or use counterfeit products. The working group is examining legislative authority, regulations, procurement policy and guidance, industry studies and reports, and international anti-counterfeiting standards in order to identify areas where risk to the security of U.S. Government supply chain from counterfeit parts can be reduced. The working group developed six objectives to focus the group's efforts to identify legislative, regulatory, or policy gaps and propose solutions to fill those gaps. The six objectives are:

- Counterfeit Risk Assessment
- Supplier Requirements
- Traceability
- Testing and Evaluation of Goods
- Counterfeit Training and Outreach
- Enforcement Remedies

The group is developing a government-wide strategy using tools that are already at the U.S. Government's disposal and creating new tools to combat the purchase or use of counterfeit goods by the U.S. Government. The strategy will focus on reducing the risk of counterfeit items entering the supply chain, dealing efficiently with any suspected counterfeit items that do enter the supply chain, and strengthening remedies against those who provide counterfeit items to the U.S. Government.

Use of Legal Software by Federal Contractors

The IPEC has been working with Federal agencies to review the U.S. Government's practices and policies regarding the use of software by Federal contractors and to promote the use of only legal software. Building upon Executive Order 13103, which requires that Federal agencies take steps to ensure that they use only legal copies of software, we are currently reviewing our policies with respect to use of software by Federal contractors to establish appropriate procedures to ensure that any software they use in performance of a contract with a Federal agency is properly acquired and used.

In reviewing practices, we decided it would be valuable to remind agency Information Technology (IT) and procurement officials of the Administration's policy of making IT procurement decisions in a technology-neutral way. On January 7, 2011, the U.S. Chief Information Officer, the Administrator for Federal Procurement Policy and the IPEC issued a joint statement to Senior Procurement Executives and Chief Information Officers reminding them of the Administration's policy of making IT procurement decisions based on performance and value, and free of preconceived preferences based on how the technology is developed, licensed or distributed. The statement explained that, in the context of acquiring software, agencies should generally analyze all suitable alternatives, including proprietary, open source and mixed source technologies to allow the U.S. Government to pursue the best strategy to meet its needs. It also reminded these officials that all technology used must be properly licensed in accordance with applicable law.

The joint statement on technology-neutral and properly licensed procurement practices is publicly available at: http://www.cio.gov/documents/Technology-Neutrality.pdf.

Increasing Transparency

Improved Transparency in Intellectual Property Policy-Making and International Negotiations

The Administration is strongly committed to transparency in the development of intellectual property policy and in international negotiations, as well as information sharing and reporting on law enforcement activities at home and abroad.

In developing and implementing the enforcement policy for the Administration, the IPEC meets with hundreds of stakeholders, large and small, across a broad range of sectors, including: chemical manufacturers, the fragrance industry, video game companies, biofuel companies, authors, song writers, toy manufacturers, defense contractors, software developers, pharmaceutical manufacturers, movie studios, aerospace companies, automobile companies, industrial equipment manufacturers, book publishers, electronic component manufacturers, apparel companies, music labels, the biotech industry, green technology innovators, telecommunications companies, textile manufacturers, jewelers, semiconductor companies, farm equipment manufacturers, artists, independent inventors, Internet service providers, Internet search companies, Internet auction companies, online advertisers, ad brokers, credit card companies, payment processors, think tanks, consumer advocacy groups, labor unions, students, and academics.

The IPEC will continue to maintain an open door policy and actively seek input from a wide range of stakeholders in developing and implementing the Administration's strategy for intellectual property enforcement.

The Administration solicits and receives input through more formal mechanisms, such as Federal Register Notices. In 2011, the Administration sought public input on a range of intellectual property enforcement issues:

- On December 30, 2010, USTR issued a Federal Register Notice and held a public hearing on March 2, 2011, to identify countries that deny adequate and effective protection of intellectual property rights as part of **USTR's annual Special 301 review**.
- On August 9, 2011, IPEC issued a Federal Register Notice soliciting public comments on **ways to prevent counterfeit products from entering the U.S. Government supply chain**.
- On August 12, 2011, USTR issued a Federal Register Notice requesting public comments regarding **China's compliance with World Trade Organization ("WTO") commitments**, including China's commitments to protect and enforce intellectual property rights.
- On September 22, 2011, USTR issued a Federal Register Notice to identify **online and physical foreign markets that deal in infringing goods** as part of USTR's Out-of-Cycle Review of Notorious Markets.
- On October 7, 2011, USPTO issued a Federal Register Notice seeking input on how the USPTO, in coordination with other agencies, can best **help small businesses obtain international patent protection**.
- On October 17, 2011, USPTO issued a Federal Register Notice requesting public comments on the state of **China's patent enforcement system**, including any challenges companies have faced when attempting to enforce patents in China.

All the responses received to these Federal Register Notices are available to the public.

The IPEC issues periodic reports, called the *Intellectual Property Spotlight*, highlighting the Administration's recent steps to improve intellectual property enforcement. Copies of the Spotlight are sent to the public through a free email subscription, are posted on the IPEC website, and are attached as Appendix D of this report. If you wish to receive the *Spotlight*, please send an email to *intellectualproperty@omb.eop.gov*.

Increased Information Sharing with Rightholders to Identify Counterfeit Goods

Until recently, sharing certain information on an import or its packaging with a rightholder was a potential violation of the Trade Secrets Act, 18 U.S.C. § 1905. This lack of clarity presented challenges to DHS's ability to communicate with rightholders to determine the authenticity of goods. To address this concern, the Administration recommended legislation in March 2011 expressly granting DHS authority to share information pre-seizure, with appropriate safeguards for importers of legitimate products. In July 2011, the Administration sent a legislative proposal to Congress reflecting that recommendation. In December 2011, Senator Levin and Senator McCain introduced legislation as an amendment to the NDAA for Fiscal Year 2012 to allow information disclosure to rightholders when needed to make an

infringement determination. On December 31, President Obama signed the provision into law, providing CBP the authority it needs to communicate with rightholders and more effectively stop fake products with counterfeit marks that rob innovators and threaten the health and safety of the American people, while providing the appropriate safeguards for importers of legitimate products.

During 2011, Congress was very active in trying to address the Administration's recommendation to fix this problem. First, in May 2011, Senator Leahy introduced legislation—as part of the "Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act" ("PROTECT IP Act")—to allow trade secret information disclosure to rightholders when DHS needs the disclosure to make a pre-seizure infringement determination. Also, in October, Senator Coons and Senator Grassley proposed an amendment—co-sponsored by Senator Hatch and Senator Rubio—to the Currency Exchange Rate Oversight Reform Act which would also provide the same disclosure authority to DHS. In November 2011, Senator Coons and Senator Rubio introduced another bill for DHS disclosure authority in the proposed American Growth, Recovery, Empowerment and Entrepreneurship Act ("AGREE Act"). In December 2011, Representative Poe introduced legislation as an amendment to the Stop Online Piracy Act ("SOPA") to allow disclosure authority for CBP. Also in December, Senator Wyden and Representative Issa introduced legislation to allow DHS to disclose information as part of their Online Protection and Enforcement of Digital Trade Act ("OPEN Act"). The IPEC commends Congress for its leadership on this issue.

Rightholders are an excellent resource for information regarding their own products and it is important that the Federal government and rightholders work together to more efficiently protect intellectual property rights. Obtaining the assistance of rightholders to help determine whether goods are infringing is critical. The IPEC will continue to support and encourage communication and information sharing efforts between enforcement agencies and rightholders.

Communication with Victims/Rightholders

Regular and ongoing communication with intellectual property rightholders and infringement victims is extremely important in order to gain a better understanding of the issues that these persons face and how best to use government resources to strengthen enforcement. The IPR Center has led an outreach initiative to increase information sharing with victims of intellectual property rights violations in the public and private sectors.

As noted above, in August, the IPR Center launched a new website, www.iprcenter.gov, to serve as a portal for the public and private sectors to gain access to information and contacts for IPR Center member agencies dedicated to intellectual property enforcement.

- Through Operation Joint Venture, the IPR Center has focused on communicating with victims in an effort to combat the illegal importation and distribution of counterfeit, substandard, and tainted goods. In FY 2011, Operation Joint Venture conducted 351 outreach and training events to 17,037 individuals, an increase of 16 percent over FY 2010.
- To make it easier for victims to report crimes, the IPR Center launched an easily identifiable reporting mechanism at its website (http://www.iprcenter.gov) to allow the public to report intellectual property crimes. A link to the reporting mechanism is highlighted in the Intellectual

Property Spotlight and also on the websites of U.S. Embassies located in countries where intellectual property crimes are rampant.

- ICE HSI has staff nationwide to ensure that victims of intellectual property crimes receive alerts about enforcement actions related to intellectual property.
- The DOJ's Computer Crime & Intellectual Property Section (CCIPS) has a dedicated website (http://www.justice.gov/criminal/cybercrime/reporting.html#C5), which contains a guide to help victims understand how to report intellectual property crimes. The website also contains checklists for trade secret cases and copyright and trademark cases, which identify the information that would be helpful for victims to provide when reporting such crimes to the DOJ or other law enforcement officials. The IPEC also links to these materials in the Intellectual Property Spotlight.

Law enforcement agencies continue to do outreach, including:

- On June 12, 2011, the IPR Center in partnership with UL (formerly Underwriters Laboratories) held a Law Enforcement Intellectual Property Crime Workshop that brought together over 148 attendees from the private sector and law enforcement from around the world to discuss best practices, government and industry initiatives, and how law enforcement and customs can integrate their efforts to attack intellectual property crimes.
- In July 2011, Attorney General Eric Holder and Assistant Attorney General Lanny Breuer along with senior DOJ officials from the CCIPS hosted the 5th annual law enforcement and industry meeting on intellectual property. The event brought together senior law enforcement officials and representatives from trade associations and businesses that frequently fall victim to intellectual property rights crimes. The meeting's attendees discussed strategies and approaches to address intellectual property crimes in industries such as pharmaceuticals, business and entertainment software, luxury goods, electronics, apparel, motion pictures, music, sports, certification marks, consumer goods, and automakers and their suppliers.
- In September 2011, Assistant Attorney General Lanny Breuer provided keynote remarks on the first day of the 2011 International Law Enforcement Intellectual Property Crime Conference held in Madrid, Spain. The conference, entitled "Transforming Regional Success into Global Action," brought together over 400 law enforcement and customs personnel as well as industry representatives from 50 countries to gain an international perspective on the trade in counterfeit and pirated products, to share international best practices on how to effectively combat this illegal trade, and to provide a global forum for networking and partnership development.
- On September 16, 2011, the IPR Center hosted its annual symposium. The event was entitled "Online IP Theft in the 21st Century" and was attended by more than 125 participants from the intellectual property community. The symposium centered on actions taken by both the U.S. Government and those in intellectual property-related industries to combat online intellectual property theft.

Reporting on Best Practices of Our Trading Partners

The U.S. Government continues to promote and highlight international best practices for intellectual property enforcement. Examples from 2011 include:

- **ACTA:** The Anti-Counterfeiting Trade Agreement (ACTA), signed on October 1, 2011 by the United States and seven other countries, is a first-of-its-kind alliance of trading partners. ACTA represents a considerable improvement in international trade norms for effectively combating the global proliferation of commercial-scale counterfeiting and piracy in the 21st Century. Representatives of Australia, Canada, Japan, Republic of Korea, Morocco, New Zealand, Singapore, and the United States signed the ACTA. Representatives of the European Union, Mexico, and Switzerland attended the signing ceremony and confirmed their continuing strong support for and preparations to sign the ACTA as soon as practicable. The ACTA negotiating parties have expressed their hope that other trading partners will seek to join the agreement.
- **Special 301:** USTR's 2011 Special 301 report contains a section highlighting best practices by trading partners in the area of intellectual property enforcement, including:
  - Improved cooperation and stakeholder engagement by Argentina, Canada, Guatemala, Italy, Malaysia, Mexico, and Pakistan;
  - Positive efforts by China in tackling the serious problem of counterfeit drugs available through online advertisements and fake Internet "pharmacies" by working across ministries to target websites that knowingly violate local intellectual property laws; and
  - Positive reports regarding Russia's efforts to combat counterfeit medicines through a Memorandum of Understanding between the Ministry of Health and the Federal Service for Intellectual Property.

Identify Foreign Pirate Websites as Part of the Special 301 Process

In February 2011, USTR released its first-ever Special 301 Out-of-Cycle Review of Notorious Markets (Notorious Markets List), following a dedicated request for comments and separate review of online and physical foreign markets that deal in infringing products.

As a standalone report published separately from USTR's annual Special 301 report, the February 2011 Notorious Markets List increased public awareness of, and guided trade-related enforcement actions against, markets that exemplify the problem of global piracy and counterfeiting. As a result of the increased attention to these markets, Baidu, a leading Chinese search engine listed in the report, signed a music licensing agreement with One-Stop China, a joint venture between the Universal Music Group, the Warner Music Group, and Sony BMG. Taobao, China's leading business-to-consumer website listed in the Notorious Markets List, launched a campaign to address the availability of infringing products through its website. The report is publicly available here: http://www.ustr.gov/about-us/press-office/reports-and-publications/2011/2011-special-301-report.

In December 2011, USTR released its second out-of-cycle Notorious Markets List following a dedicated request for comments that began on September 22, 2011. In addition to listing markets that are reportedly engaged in piracy and counterfeiting, the List also highlighted positive developments

since the previous review. For example, the December 2011 Notorious Markets List noted Baidu's landmark licensing agreement with U.S. and other rights holders mentioned above, as well as action taken by Hong Kong's local customs officials at the Ladies Market to remove allegedly infringing goods from the premises. These authorities reported a commitment to continue to undertake enforcement actions at the market. In addition, the List noted that at the Savelovskiy Market in Russia, management implemented an action plan to stop the distribution of infringing goods. Accordingly, Baidu, the Ladies Market, and the Savelovskiy Market—which were previously listed in February 2011—were removed from the Notorious Markets List in December 2011. Taobao, which appears to have made efforts to address intellectual property infringement at its site, reportedly continues to offer infringing products and therefore remains on the Notorious Markets List. The List is publicly available here: http://www.ustr.gov/webfm_send/2595.

Tracking and Reporting of Enforcement Activities

This year, through the committed efforts of Federal agents and officers from DHS and DOJ and their component agencies, intellectual property seizures and enforcement activities increased in FY 2011. The information for FY 2011 seizures and enforcement activities of DOJ and DHS are included in more detail in the performance data section of this report. [See pages 51-53].

FY 2011 Enforcement Highlights

- DHS seizures—from CBP and ICE combined—for counterfeit pharmaceuticals rose nearly 200 percent to 1,239.
- The overall number of DHS IPR seizures rose 24 percent to 24,792.
- Counterfeit and pirated goods seized via express carrier services increased by 16 percent over FY 2010 and 65 percent over FY 2009.
- Counterfeit consumer safety and critical technology merchandise seizures rose 44 percent in FY 2011 to more than $60 million.
- FBI initiated 235 IPR investigations, made 93 arrests, secured 79 indictments, and obtained 79 convictions. The Bureau increased its number of new theft of trade secrets cases by 29%, its number of new health and safety investigations by 87 percent, and its number of pending health and safety IPR cases by 96 percent over FY 2010.
- DOJ saw sentences resulting from its prosecutions of IPR crimes increase in severity, with a doubling in the number of sentences of 60+ months and a tripling of sentences of 37-60 months.
- ICE HSI increased opened intellectual property cases to 1,212, an increase of 17 percent from FY 2010 (66 percent in comparison to FY 2009). Arrests increased to 574, an increase of 57 percent from FY 2010 (115 percent in comparison to FY 2009), and convictions increased to 291, an increase of 71 percent from FY 2010 (77 percent in comparison to FY 2009).
- Nine partner agencies including criminal investigative agencies from the DOD and NASA as well as the FBI, ICE HSI, and CBP launched Operation Chain Reaction. This is a coordinated and comprehensive initiative targeted to curtailing the flow of counterfeit items into the U.S. Government supply chain.

- CBP led a year-long initiative within the Asia Pacific Economic Cooperation (APEC) targeting counterfeit pharmaceuticals shipped via international mail and express couriers. The initiative lead to enforcement action against over 1,200 shipments in the Asia Pacific region and seizures of $231,136 worth of counterfeit pharmaceuticals.
- In September, the IPR Center in coordination with INTERPOL, the World Customs Organization ("WCO"), and law enforcement in 81 countries successfully carried out Operation Pangea IV. This global enforcement effort focused on websites supplying illegal and dangerous medicines to consumers in the U.S. and abroad. The operation is the largest Internet-based action of its kind.

The DOJ and FBI have also transmitted to Congress their PRO IP Act Reports for 2011, describing in greater depth the criminal investigations and prosecutions of intellectual property offenses for FY 2011.

Share ITC Exclusion Order Enforcement Data

Under Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337), the U.S. International Trade Commission (ITC) issues exclusion orders to CBP to stop importation of products that use unfair methods of competition, or unfair acts in violation of the Act, including stolen intellectual property (most often patents). Under current law, only ITC informs a rightholder of CBP's exclusion or seizure of an import violating the order, as there is no authority for CBP to directly disclose its enforcement to a rightholder. However, it would be useful for CBP to inform rightholders of exclusions and seizures because more robust information sharing would enhance CBP's effective enforcement of exclusion orders, as well as provide transparency to rightholders. While ITC eventually provides this information, allowing CBP to do so earlier would enable a rightholder to take faster action against violators through a variety of judicial and administrative actions.

To solve that problem, in March 2011, the Administration recommended legislation providing DHS with authority to notify rightholders that infringing goods have been excluded or seized pursuant to an ITC order. In July 2011, the Administration sent a legislative proposal to Congress reflecting that recommendation. We urge the Congress to act on this recommendation in order to better empower rightholders who seek to protect their intellectual property through ITC authority and CBP enforcement.

Enhanced Communications to Strengthen Section 337 Enforcement

Once ITC finds a violation of Section 337 (see "Share ITC Exclusion Order Enforcement Data") and issues an exclusion order barring the importation of infringing goods, CBP and ITC have different responsibilities for determining if imported articles fall within the scope of the exclusion order. Because of these shared responsibilities, both ITC and CBP need to ensure clear communication on what the order means to improve the order's enforcement and prevent importation of infringing products. ITC must understand what CBP can do to enforce an order, and CBP must be clear on what ITC intends in carrying out the enforcement of the order.

ITC exclusion orders should provide clear and realistic direction for CBP to carry out its enforcement of barred goods against parties identified by the exclusion order, including enforcement against newly identified products that were not part of the original investigation but may still fall within the scope of the exclusion order. In 2011, ITC and CBP both took steps to improve their communication in the following ways:

- ITC began immediately sharing draft exclusion order language for potential orders with CBP so that if ITC issued an exclusion order, CBP would be better prepared to enforce the order.
- ITC and CBP representatives now periodically meet in person to discuss procedural issues in general and to ensure clear communication between CBP and ITC regarding the meaning of exclusion orders.
- ITC has developed a way to electronically transmit exclusion orders and the many confidential documents associated with the investigation for streamlined and more efficient review of Section 337 cases.
- To better inform CBP's determination of redesigned products (products that have been redesigned to be non-infringing), CBP is preparing a Notice for Proposed Rule Making ("NPRM") for a dual-party process which would allow the parties in interest to inform CBP's determination at the same time. CBP plans to release this NPRM in 2012.

Raising Public Awareness

A significant component of an effective intellectual property enforcement strategy is to change the public's attitude towards infringing activities. It is essential to inform the public of the far-reaching implications that counterfeiting and other intellectual property crimes have on jobs, the economy and the health and safety of consumers. In 2011, the Administration made great strides in getting the message out with a variety of effective public awareness campaigns and other activities.

- On November 29, 2011, Attorney General Eric Holder, IPEC Victoria Espinel, Acting Deputy Secretary of Commerce Rebecca Blank, ICE Director John Morton, and the President of the National Crime Prevention Council, Ann Harkins, unveiled the first comprehensive public awareness campaign to inform the public about the dangers of counterfeits and piracy. The campaign includes a television ad, new media ads, radio ads, and posters. Information about the campaign can be found at: http://www.ncpc.org/topics/intellectual-property-theft.
- In April 2011, during the observance of World Intellectual Property Day, ICE HSI worked with the film industry to launch a new public service announcement ("PSA") highlighting how intellectual property theft hurts American jobs. The PSA sought to educate consumers about the economic impact of intellectual property theft. ICE HSI also signed agreements with four major movie studios to place a new anti-piracy warning with the IPR Center logo and ICE HSI badge on shows streamed in various pay-per-view and on-demand formats. The warnings explain that theft of intellectual property is a crime, not only in traditional media, but also when done digitally.

Improving Efficiency of Intellectual Property Enforcement—Using Our Resources as Effectively as Possible

Part of IPEC's mission is to make the U.S. Government's efforts more efficient and effective in protecting people and companies that innovate and create. In 2011, the U.S. Government made great strides in enhancing efficiency and increasing the effectiveness of enforcement efforts without significant increase in resources.

Law Enforcement Efficiencies

Law enforcement has maximized the use of its limited resources by turning a **modest 5 percent increase in spending into a 33 percent increase in seizures of counterfeit and pirated merchandise**. [See pages 2, 10 and 47].

Grants provided to state and local law enforcement agencies by DOJ - BJA have resulted in seizures of a value far beyond the amount of the grants. Since October 2009, the program grantees had seized over $202 million worth of infringing merchandise—over 22 times the value of the grants ($8.92 million) [See pages 2, 10, 26 and 48].

Examples of operational efficiencies put in place by law enforcement to maximize use of resources include:

- **De-confliction:** The IPR Center brings together 19 partner agencies in a de-confliction process to ensure that precious government resources are not being duplicated and wasted. The agencies work cooperatively on investigations using their agency-specific expertise to develop cases with one another. In FY 2011, the IPR Center vetted 178 leads directly referred to it and de-conflicted 2,877 investigations opened by field offices of partner agencies—an increase of 429 percent in comparison to FY 2010 [See pages 2 and 23 for more information].
- **Intelligence Gathering:** The FBI improved coordination of intelligence on global intellectual property threats through its Intelligence Fusion Group (IFG). The IFG and IPR Center partners examine and define the threats, share intelligence, issue intelligence reports, and develop strategies for addressing intellectual property crimes.
- **Law Enforcement Teams/Task Forces:** There are 26 ICE HSI-led IPTETs and 4 FBI-led Intellectual Property Task Forces that operate nationwide in partnership with state and local law enforcement that have led to more efficient use of resources and several major operations. [See page 25 for more information].

Overseas Personnel Efficiencies

- Key overseas U.S. embassies have in place annual interagency work plans that set country-specific objectives and activities to address the country's critical intellectual property issues. These work plans ensure that resources are used in a focused and efficient manner. The work plans were developed in coordination with the IPEC interagency working group established to improve the effectiveness and efficiency of overseas personnel to combat infringement in priority locations around the world. [See pages 26-27 for more information].

Training Efficiencies

- As a result of the IPEC interagency working group to improve efficiency and results of the training and capacity building, the USPTO launched a searchable database (www.usipr.gov) where agencies now post information on their enforcement training. This publicly available database will allow resources

to be used more efficiently by sharing training materials among agencies and avoiding duplicative programs. [See page 28 for more information].

Information Sharing Efficiencies

- CBP instituted a pilot program—the Centers for Excellence and Expertise (CEE)—that focuses on forming closer partnerships with pharmaceutical companies to better understand the industry's practice, and to leverage this information into more efficient and effective enforcement. After a successful pilot, this program was made a permanent component of CBP and renamed the Industry Integration Center ("IIC"). A second IIC focusing on electronics was also opened. [See page 43 for more information].
- ITC and CBP are working closely to strengthen Section 337 enforcement by sharing information early in the Section 337 proceedings in order to streamline the process, avoid confusion, and efficiently enforce ITC orders. [See pages 20-21 for more information]. CBP is working collaboratively with the trade community to implement a distribution chain management program to enable CBP to focus inspection resources on high risk shipments.
- In coordination with the IPR Center, USPTO worked to make more efficient the process for law enforcement to obtain certified copies of trademark registrations.

Ensuring Efficiency and Coordination

Coordination of National Law Enforcement Efforts to Avoid Duplication and Waste

The IPR Center stands at the forefront of U.S. law enforcement's response to global intellectual property crime. By utilizing a task force model, the IPR Center draws on the expertise of its member agencies to share information, develop initiatives, coordinate enforcement actions, and conduct investigations related to intellectual property theft. The IPR Center has also increased its investigative reach by entering into strategic alliances with international investigative agencies.

- Through the use of de-confliction meetings, the IPR Center brings together 19 partner agencies to ensure that precious government resources are not being wasted because of a duplication of efforts by investigating agencies. [For a complete list of IPR Center partners, see Appendix B.]
  - The de-confliction process has been collaborative and complementary, using each agency's comparative advantage to most efficiently conduct the investigation. The agencies have cooperatively worked on investigations using their agency-specific expertise to develop cases with one another. This includes FDA pharmaceutical testing, Consumer Product Safety Commission (CPSC) product safety analysis, IRS financial audits, Postal Service package inspections, CBP import targeting, ICE HSI undercover operations, and many other activities.
  - The IPR Center's vast partner network of Federal agencies responsible for intellectual property enforcement—including ICE HSI and the FBI—allows its de-confliction process to cover the overwhelming majority of Federal intellectual property investigations. In FY 2011, the IPR Center vetted 178 leads directly referred to it and de-conflicted 2,877 investigations opened by field offices of partner agencies—**a 429 percent increase in comparison to FY 2010**.

- **"Operation in Our Sites"** is the first ever coordinated and sustained law enforcement effort to target websites that distribute counterfeit and pirated goods. In 2011, six operations were conducted by DOJ and ICE HSI, resulting in the seizure of 270 domain names of infringing websites.

  Of sites seized in 2011, 248 were seized for distributing counterfeit hard goods and 22 were seized for illegal distribution of copyrighted content.

  – In February 2011, *Operation In Our Sites v. 3.0*, which coincided with the NFL's Super Bowl, resulted in the seizure of 10 domain names of websites that provided access to pirated streaming telecasts of the National Football League, the National Basketball Association, the National Hockey League, World Wrestling Entertainment, and the Ultimate Fighting Championship. Prosecution was led by the U.S. Attorney's Office for the Eastern District of New York. In March, ICE HSI arrested an operator of one of the seized sites, who is now facing charges in New York. In August 2011, ICE HSI arrested an operator of a second seized site, who is also facing charges in New York.

  – Also in February 2011, *Operation In Our Sites v. 4.0* resulted in the seizure of 18 domain names used to sell luxury counterfeit goods. Prosecution was conducted by the U.S. Attorney's Offices for the Southern District of New York and the Southern District of Texas.

  – In May 2011, *Operation In Our Sites v. 5.0* resulted in the seizure of five more domain names—three dedicated to sales of counterfeit goods and two for pirated content.

  – In July 2011, *Operation In Our Sites v. 6.0*—dubbed "Shoe Clerk"—seized 17 domain names dedicated to sales of counterfeit goods. Prosecution was conducted by the U.S. Attorney's Offices for the District of Maryland, Western District of New York, District of Colorado, Eastern District of Michigan and the Southern District of Texas. One of the domain name operators was arrested, and is facing prosecution in New York, for selling counterfeit goods related to a popular television show.

  – In October 2011, *Operation In Our Sites v. 7.0*—dubbed "Operation Strike Out"—ICE HSI concluded a one month investigative operation directed at interdicting the sale and distribution of counterfeit sports memorabilia. This operation resulted in the seizure of 5,347 counterfeit sports memorabilia items with an MSRP of $134,862. Additionally, ICE HSI lawfully seized 58 domain names belonging to commercial websites that were engaged in the illegal sale or distribution of counterfeit sports paraphernalia. The seized counterfeit items infringed on the copyrights or trademarks owned by Major League Baseball, the National Basketball Association, the National Football League, and the National Hockey League.

  – In November 2011, *Operation In Our Sites v. 8.0* was conducted to coincide with "Cyber Monday." This joint operation by ICE HSI, FBI, and the DOJ resulted in the seizure of 150 domain names that were engaged in the criminal sale and distribution of counterfeit merchandise. This was the second "Cyber Monday" operation aimed at thwarting the illegal ventures online during what is widely considered to be the busiest online shopping day annually. Compared to 2010's "Cyber Monday" operation, this operation marked an 80 percent increase in the number of online sites lawfully seized.

  - Most recently, in December 2011, *Operation In Our Sites v. 9.0* resulted in the seizure of 12 domain names and two arrests. The websites were selling pirated copies of movies, television shows, software, and workout DVDs that were being marketed to the Korean community in the United States. The two men arrested were associated with two of the domain names, and they will be prosecuted in the Western District of Washington.

In July 2011, the Administration unveiled the *Transnational Organized Crime Strategy*, and the President signed Executive Order 13581 authorizing the Treasury Department to designate the Camorra as a transnational crime organization. An estimated 10 percent of the Camorra's $25 billion in revenue comes from the distribution of counterfeit and pirated goods.

- The Camorra organization operates a prolific criminal enterprise that focuses on the targeted theft and counterfeiting of intellectual property from the media sector as well as the luxury goods and clothing industries.
- As a result of the designation, the U.S. Government may now employ sanctions against the Camorra organization as well as individuals and entities that support their pirate and counterfeit enterprises.

Coordination of Federal, State, & Local Law Enforcement

State and local law enforcement serve critical functions in the enforcement of intellectual property rights through their daily contacts with businesses and citizens located in their jurisdictions. Often, law enforcement are "first responders" to rightholders and these interactions can lead to investigative leads in the form of information development of locations and identities of persons distributing or manufacturing counterfeit and pirated items. The efficient coordination of Federal, state, and local law enforcement allows investigators to work in unison to jointly investigate and combat intellectual property crimes throughout the country.

- Nationwide there are now 26 ICE HSI-led Intellectual Property Theft Enforcement Teams (IPTETs) and 4 FBI-led Intellectual Property Task Forces. These teams and task forces are partnerships with state and local law enforcement built on the best practices identified by the IPR Center and DOJ. The teams and task forces have led to more efficient use of law enforcement resources and several major law enforcement operations.
- Notable examples of Federal, state, and local law enforcement include:
  - In March 2011, a joint investigation by ICE HSI, Anaheim (CA) Police Department, and the Orange County District Attorney's Office resulted in the arrest of two men for their role in selling 700 counterfeit high-tech rifle sights and 200 magnifier systems, worth $475,000.
  - In October 2011, the U.S. Attorney's Office of the Southern District of Texas led the prosecution which resulted in a Federal judge sentencing three human traffickers to prison terms of 46, 50, and 57 months. These sentences came after investigatory cooperation between local, state, and Federal law enforcement broke an operation that forced individuals smuggled into the United States to sell pirated DVD/CDs with threats to both the victims and their

families in Mexico. ICE, FBI, the Texas Attorney General's Office, and the Harris County Sheriff's Office all worked on the investigation.

DOJ's BJA continues to provide grant funding to state and local law enforcement agencies seeking to pursue investigations centered on intellectual property rights violations. The BJA grant program has bolstered the efforts of state and local authorities to enforce intellectual property rights.

- Taken together, the program grantees have seized at least $202 million worth of infringing merchandise since October of 2009—over 18 times the value of the grants ($10.9 million) distributed as of December 2011. In 2011 alone, program grantees seized nearly $64 million worth of infringing merchandise. Seizure numbers may be even higher, as standardized data collection procedures to fully capture seizure statistics were not instituted until 2011.
- In August, the Mississippi Attorney General's Office used funding from a BJA grant to establish the Mississippi Intellectual Property Rights Center. That Center provides investigative and prosecutorial support statewide to law enforcement and district attorneys conducting intellectual property rights investigations and coordinates its activities with ICE HSI and the National IPR Center. It is the first state-established center in the United States.
- There were a number of notable cases this year resulting from BJA grants, including in August, when North Carolina state law enforcement authorities seized $1.1 million in counterfeit UL-labeled stereo and audiovisual equipment that posed a shock and fire hazard to users.

Coordination of Training for State & Local Law Enforcement & Prosecutors

Training at the state and local level can have a dramatic impact on intellectual property rights enforcement because it provides law enforcement officials the opportunity to understand the scope and impact of intellectual property crime and effective ways to combat these crimes. Federal organizations such as the BJA, the National White Collar Crime Center (NW3C), and the National Association of Attorneys General (NAAG) provide law enforcement personnel and prosecutors training seminars on intellectual property theft. The forum emphasizes the importance of coordination among Federal, state, and local law enforcement agencies in aggressive intellectual property law enforcement. A list of 2011 seminars can be found in Appendix A of this report.

The IPR Center also supports and coordinates training through its state and local engagement initiative that provides the ICE HSI-led IPTETs with specific training on combating intellectual property theft. A list of IPTET training for 2011 can be found in Appendix A.

Improve Effectiveness of Personnel Stationed Overseas to Combat Intellectual Property Infringement

2011 marked the first time that 17 key overseas U.S. embassies have in place annual interagency work plans that set objectives and activities to address the host country's critical intellectual property issues identified by the United States. These embassy work plans were developed in coordination with the IPEC interagency working group that was established last year to improve the effectiveness and efficiency of overseas personnel involved in the effort to combat intellectual property infringement in priority locations around the world.

The interagency working group was led by IPEC and the State Department's Bureau of Economic, Energy and Business Affairs (EEB) and includes representatives from the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) and the U.S. Agency for International Development (USAID), the Department of the Treasury, DOJ (CCIPS and the FBI), DHS (CBP and ICE HSI), DOC (USPTO, ITA and the Commercial Law Development Program (CLDP)), USTR, and a senior representative of the U.S. Copyright Office.

U.S. embassies in 17 countries—China, Brazil, India, Russia, Thailand, Canada, Chile, Egypt, Colombia, Mexico, Ukraine, Spain, Saudi Arabia, Israel, Peru, Turkey, and Nigeria—now each have a formal interagency team of U.S. Government personnel stationed there to help improve the host country's protection and enforcement of intellectual property rights.

All U.S. embassy work plans were finalized in April 2011, with reporting to Washington occurring on a quarterly basis on each team's implementation of their intellectual property work plans. Notable accomplishments in 2011 include:

- **Brazil:** ICE HSI participated with Brazilian authorities in operations against several complexes near a shopping district that led to the **seizure of 10 million items estimated to be worth the equivalent of approximately $255 million**. The Sao Paulo Mayor's office initiated the program and invited ICE Attaché Brazil special agents to participate in the operation which included 400 Federal, state, and city agents.
- **China:** U.S. Embassy Beijing, in coordination with Washington, has closely monitored China's "Special Campaign" against intellectual property infringement, and actively encouraged Chinese officials to make permanent the positive aspects of China's Special Campaign, including the campaign's temporary State Council-level leadership structure, headed by a Vice Premier, which resulted in improved coordination among the various intellectual property enforcement authorities in China at the central, provincial, and local levels. In response to these U.S. requests and encouragement, China agreed at the 2011 plenary session of the U.S.-China Joint Commission on Commerce and Trade (JCCT) to make this State Council-level leadership structure permanent.
- **Ukraine:** In October 2011, Ukraine adopted a new law making the manufacture or distribution of counterfeit medicines a crime. This legislation resulted from a legislative recommendation put forward at a May 2011 workshop on counterfeit medicines put on by U.S. Embassy Kyiv and the U.S. Commercial Law Development Program (CLDP), which was conducted with Ukraine's health and safety enforcement agencies.

IPEC also works with the agencies and within OMB to identify resources to station additional U.S. personnel specializing in intellectual property in priority locations around the world.

- **FBI** has posted an intellectual property-trained agent in Beijing, China in September 2011 to work full time on intellectual property crime.
- **USPTO** will expand its international intellectual property attaché program by posting attachés in both Mexico City, Mexico and Shanghai, China.

- **DOJ** would place up to six International Computer Hacking and Intellectual Property ("ICHIP") attorneys, if funded as called for in the President's FY 2012 budget, in strategic global locations to strengthen international enforcement.

Coordination of International Capacity Building and Training

IPEC established an interagency working group last year to improve the efficiency and coordination of international intellectual property enforcement capacity-building and training, and to ensure the U.S. Government makes the best possible use of its limited training resources by focusing on Administration priorities, such as training foreign law enforcement officials to tackle counterfeit drugs, conducting online enforcement, and developing new techniques to combat intellectual property crime.

To help facilitate the group's coordination and oversight of all training activities, the USPTO in 2011 launched a searchable database (www.usipr.gov) where all relevant U.S. Government agencies now post information on the intellectual property enforcement trainings they conduct. The publicly available database is intended to (1) **use resources more efficiently** by sharing training materials between U.S. Government agencies and avoiding duplicative programs; (2) **improve results** by building on past programs and targeting U.S. Government efforts on countries and topics where more training is needed; (3) **increase transparency** by allowing the public to see how the U.S. Government is allocating resources on intellectual property training; and (4) **increase public participation** by identifying upcoming training events that are open to the public.

In 2011 alone, the database lists over 100 training programs conducted by 7 U.S. Government agencies in 36 countries. Notable programs conducted in 2011 include:

- **Philippines:** The IPR Center and ICE Attaché Manila organized an IPR Criminal Enforcement Symposium in Manila on July 18-20, 2011 for law enforcement officers, customs officials, and prosecutors. Within two months of receiving this training, Philippine authorities conducted two highly successful enforcement operations, resulting in the seizure of counterfeit goods worth over $18 million.
- **Africa:** USPTO and CLDP, in collaboration with DOJ, State, and ICE, provided a 5-day workshop on August 1-5, 2011 at USPTO in Alexandria, VA with government officials from Ghana, Kenya, Liberia, and Nigeria, meeting with U.S. industry and culminating in officials from each country drafting an action plan to facilitate an interagency approach to intellectual property enforcement in their home country.
- **Ukraine:** CLDP and U.S. Embassy Kyiv conducted a workshop on counterfeit medicines for Ukraine's health and safety enforcement agencies in May 2011, where U.S. officials put forward a key legislative recommendation for Ukraine to make the manufacture or distribution of counterfeit medicines a crime. This legislative recommendation was adopted by the Government of Ukraine in October 2011, which passed a new law making it a crime to manufacture or distribute counterfeit medicines.
- **Mexico:** DOJ worked with several other groups, including the World Customs Organization, U.S. and Mexican rightholders, and customs and intellectual property-related agencies within

the Mexican government to provide a new generation of Mexican officials with the skills necessary to identify counterfeit products, to refer cases for criminal prosecution, and to continue to establish prosecutors at the major ports in Mexico. Based on the success of previous joint programs, the Mexican Navy requested to participate to increase interagency cooperation on enforcement. This training resulted in the identification of containers of counterfeit products and the initiation of new criminal prosecutions.

Establishment of a Counterfeit Pharmaceutical Interagency Committee

In 2010, the IPEC established an interagency working group on counterfeit pharmaceuticals to bring together the expertise of numerous Federal agencies whose authorities deeply impact pharmaceutical enforcement. The working group was convened by IPEC and includes FDA, CBP, ICE HSI, DOJ, State, Commerce, and the Agency for International Development.

Based on the efforts of that working group, the IPEC issued a strategy to Vice President Biden and Congress in March 2011 that described in detail how the U.S. Government will work to fight counterfeit drugs sold on the Internet, smuggled into the U.S., and sold in cities nationwide. The report is publicly available at: http://www.whitehouse.gov/sites/default/files/omb/IPEC/Pharma_Report_Final.pdf.

The working group strategy reported on:

- Issues faced by express courier and U.S. mail facilities in identifying, inspecting and destroying counterfeit/illegal pharmaceuticals.
- Tackling the proliferation of illegal Internet pharmacies through voluntary cooperative efforts.
- How we can better work internationally to address the counterfeit pharmaceutical problem worldwide.
- How we can increase public awareness and training.
- Possible legislative recommendations

For more details see "Increased Enforcement Efforts to Guard Against the Proliferation of Counterfeit Pharmaceuticals and Medical Devices."

Economic Espionage & Trade Secret Theft

Economic espionage and the theft of trade secrets represent a significant cost to victim companies and threaten the economic security of the U.S. Economic espionage and trade secret theft inflicts costs on companies such as loss of unique intellectual property, loss of expenditures related to research and development, and loss of future revenues and profits. Many companies are unaware when their sensitive data is pilfered, and those that find out are often reluctant to report the loss, fearing potential damage to their reputation with investors, customers, and employees.

The pace of foreign economic collection of information and industrial espionage activities against major U.S. corporations is accelerating. Foreign competitors of U.S. corporations with ties to companies owned by foreign governments have increased their efforts to steal trade secret information and intellectual property. The loss of this information and intellectual property can have serious repercussions for the victim company. As noted:

- Many victims of economic espionage are unaware of the crime until years after loss of the information. Even when a company knows its sensitive information has been stolen by an insider or that its computer networks have been penetrated, it may choose not to report the event to law enforcement agencies.
- A company also may not want to publicly accuse a corporate rival or foreign government of stealing its secrets from fear of offending potential customers or business partners. Moreover, the victim company may be reluctant to accuse the foreign government for fear of losing market access.

For FY 2011, DOJ and the FBI saw an increase of 29 percent in economic espionage and trade secret theft investigation compared to FY 2010. [See pages 2, 9, 19 and 51].

As a result of recent Federal investigations and prosecutions, evidence suggests that economic espionage and trade secret theft on behalf of companies located in China is an emerging trend. Chinese leaders consider the first two decades of the 21st century to be a window of strategic opportunity for their country to focus on economic growth, independent innovation, scientific and technical advancement, and growth of the renewable energy sector. China's intelligence services, as well as private companies and other entities, frequently seek to exploit Chinese citizens or persons with family ties to China who can use their insider access to corporate networks to steal trade secrets using removable media devices or email.

In FY 2010, six out of the seven cases that were adjudicated under the Economic Espionage Act—both Title 18 USC § 1831 and § 1832—involved a link to China. U.S. corporations and cyber security specialists also have reported an onslaught of computer network intrusions originating from Internet Protocol (IP) addresses in China, which private sector specialists call "advanced persistent threats." Some of these reports have alleged a Chinese corporate or government sponsor of the activity. However, law enforcement and the intelligence community have not been able to attribute many of these private sector data breaches to a state sponsor. Attribution is especially difficult when the event occurs weeks or months before the victims request law enforcement help. Below are some notable cases with a nexus to China:

- In October 2011, Kexue Huang, a former employee of both Cargill and Dow Chemical, pled guilty to committing economic espionage. Huang passed trade secret information from both companies to a Chinese university that was developing organic pesticides on behalf of China's government. Huang formerly worked as a Biotechnologist at Cargill and then for Dow researching organic pesticides. Financial losses to both companies from his criminal acts exceed $7 million. In December, after many months of hard work by FBI agents, CCIPS prosecutors and the U.S. Attorneys' Offices in Indiana and Minnesota, a

federal judge sentenced Huang to 87 months in prison—the strongest sentence possible. [See page 9 for more information].

- In April 2011, Yu Xiang Dong was sentenced to 70 months in federal prison for theft of trade secrets and economic espionage. Yu was a former Ford Motor Company employee. He copied 4,000 Ford documents onto an external hard drive, which he took to China. Later, Yu began working for Beijing Automotive Company, a Ford competitor. Yu was arrested in the U.S. and a search of his company laptop revealed 41 Ford trade secrets, which Yu had accessed while working for Beijing Automotive Company. Ford valued the loss of the trade secrets at $50 million dollars.
- In February 2011, a defendant was convicted by a jury of trade secret theft for stealing confidential and proprietary business information—which he then sent to China—for a database system with environmental uses, including hazardous waste management.
- In November, CBP agents at Chicago's O'Hare Airport stopped Hanjuan Jin, a former Motorola software engineer, while she was allegedly carrying 1,000 sensitive Motorola documents, $30,000 in cash, and a one-way ticket to China. Jin was in the process of traveling to China to turn over stolen trade secret information relating to mobile telecommunications to Kai Sun News Technology Co., also known as SunKaisens, and to the Chinese military.

In March, in response to the growing trend of economic espionage and trade secret theft, IPEC released the Administration's Legislative Recommendations. In the White Paper, IPEC recommended that Congress increase the statutory maximum prison sentence for economic espionage to 20 years or more. IPEC also recommended that Congress direct the U.S. Sentencing Commission to increase the offense level for economic espionage and trade secret theft, as well as increased penalties through sentencing enhancements based on the defendant's criminal conduct. The White Paper is available publicly here: http://www.whitehouse.gov/sites/default/files/ip_white_paper.pdf.

These legislative recommendations, combined with IPEC's Joint Strategic Plan to improve the coordination of law enforcement efforts are aimed at thwarting the growing trend of economic espionage and trade secret theft. The FBI has been intensifying its efforts. The IPEC is bringing together and encouraging the broad participation of U.S. law enforcement, reinforced by recommendations from the intelligence community, with the goal of increasing the effectiveness of investigations and improving prosecutions.

ENFORCING OUR RIGHTS INTERNATIONALLY

The Administration's commitment to the strong enforcement of intellectual property rights of American companies—particularly in China—is demonstrated at the highest levels of the Administration:

- **President Obama** has repeatedly pressed intellectual property enforcement with China's president, Hu Jintao, including during his state visit to Washington in January 2011, resulting in a commitment that "China will continue to strengthen its efforts to protect IPR, including by conducting audits to ensure that government agencies at all levels use legitimate software," and that "China will not link its innovation polices to the provision of government procurement preferences."
- **Vice President Biden** continued the Administration's engagement on intellectual property rights as part of his trip to China in August 2011, including in his meetings with China's vice

president, Xi Jinping, who promised that China "will intensify IPR protection and treat all businesses as equals in terms of the accreditation of indigenous innovation products and government procurement."

- **Senior Administration officials**, including Secretaries Clinton, Geithner, and Bryson, Attorney General Holder, U.S. Trade Representative Ron Kirk, Ambassador Locke, ICE Director John Morton, CBP Commissioner Alan Bersin, Under Secretary of State Robert Hormats, and other senior Administration officials have directly and repeatedly pressed China and other countries to do much more to combat intellectual property theft.

The United States has also demonstrated international leadership in multilateral efforts to raise the global standard of intellectual property protection and enforcement. The Group of Eight (G8) countries, which include the United States, issued a declaration at the Deauville Summit in May 2011, committing "to ensuring effective action against violations of intellectual property rights in the digital arena, including action that addresses present and future infringements." The declaration specifically highlights "the importance of enforcement in order to incentivize innovation" and "the need to have national laws and frameworks for improved enforcement." **This is the strongest statement on intellectual property enforcement ever issued by the G8, and its issuance is due to the leadership of the United States and its allies**.

Combat Foreign-Based and Foreign-Controlled Websites that Infringe U.S. Intellectual Property Rights

The U.S. Government is pursuing an innovative and multi-pronged strategy to combat infringing foreign-based and foreign-controlled websites. Specific elements of the strategy include:

- **Law Enforcement**
  - **Operation In Our Sites** is the first coordinated and sustained law enforcement effort to target websites that distribute counterfeit and pirated goods and has led to six operations conducted by DOJ and ICE HSI, resulting in the seizure of 270 domain names of infringing websites [See pages 24-25 for more details].
    - ◊ **NinjaVideo:** In September 2011, the founder of NinjaVideo.net, a website offering pirated movies and television programs to millions of users, pleaded guilty to conspiracy and criminal copyright infringement. NinjaVideo.net was operated by a group of individuals from around the world, and the infringing content was hosted on servers located in the Netherlands and France. To date, there have been a total of five guilty pleas by defendants in this case with sentencing scheduled for early 2012.
  - **Operation Pangea IV** involved a record 81 participating countries, including the United States, in a global law enforcement effort focused on websites supplying illegal and dangerous medicines. **As a result, 2.4 million illicit and counterfeit pills worth $6.3 million have been confiscated; 13,495 websites have been shut down; and 55 individuals are currently under investigation or under arrest, according to INTERPOL**.

  - In June 2011, a Belgian citizen was sentenced to 48 months in prison and ordered to forfeit $850,000 in illegal proceeds for his role in operating an illegal Internet pharmacy that sold $1.4 million worth of counterfeit and misbranded drugs (along with controlled substances). He operated a customer call center in the Philippines, received payments from customers using a credit card processor in the Netherlands, and paid employees using Western Union in the Philippines, Costa Rica, and the U.S. He was arrested in Costa Rica and extradited to the U.S. for prosecution.

- **Voluntary best practices** by the private sector, facilitated by the IPEC, are intended to help reduce the ability of foreign websites to target U.S. consumers. The IPEC is reaching out to foreign governments to explain and encourage similar efforts.
  - **Center for Safe Internet Pharmacies** ("CSIP") is a new organization formed by American Express, eNom, Google, GoDaddy, MasterCard, Microsoft, Network Solutions, Neustar, Pay Pal, Visa, and Yahoo! to combat illegal online fake "pharmacies" through education and voluntary enforcement, including de-registering domain names, withdrawing payment services from fake pharmacies, and refusing to advertise fake pharmacies.
  - **Credit card companies**, including American Express, Discover, MasterCard, PayPal and Visa, have agreed to a set of best practices, including maintaining an identifiable complaint mechanism and procedures for withdrawing payment services from websites selling counterfeit and pirated goods.
  - **Internet Service Providers**, including AT&T, Comcast, Cablevision, Verizon, and Time Warner Cable, and major and independent music labels and movie studios entered into a voluntary agreement to reduce online piracy. Under the agreement, ISPs will notify subscribers, through a series of alerts, when their Internet service accounts appear to be misused for infringement on peer-to-peer networks.
  - **Ad Networks and Exchanges** are being encouraged to establish best practices in order to ensure that they do not place any advertisements on infringing websites, and to remove such websites from their ad networks.
- **USTR's Notorious Markets List** identifies foreign websites offering pirated and counterfeit products as part of its annual review of physical and online markets that deal in copyright and trademark infringing goods. As a standalone report released in 2011, the Notorious Markets List has increased public awareness of, and guided trade-related enforcement actions against, markets exemplifying the problem of global piracy and counterfeiting [See pages 18-19 for more details].
- **Additional U.S. law enforcement overseas** will facilitate cooperation with foreign law enforcement against intellectual property infringement, including foreign infringing websites.
  - The FBI posted an intellectual property-trained agent in Beijing, China as of September 2011 to work full time on intellectual property crime, and DOJ would post up to six additional ICHIP attorneys, if funded as called for in the President's FY 2012 budget, in strategic global locations to strengthen international enforcement.

- **International Leadership** by the United States and its allies has raised the international standard for intellectual property protection in the online environment.
  - **G8 Declaration** in May 2011 specifically highlights the "digital arena" as an area for "effective action against violations of intellectual property rights." The Deauville Declaration is the strongest statement on intellectual property enforcement ever issued by the G8.
  - President Obama's **International Strategy for Cyberspace**, released in May 2011, recognizes that the same global cyber networks that power innovation can also be used to steal intellectual property and conduct economic espionage. Stolen information and technology can equal billions of dollars in lost revenue. The strategy calls on nations to live up to their international obligations in cyberspace, one of which is respect for intellectual property: "States should in their undertaking and through domestic laws respect intellectual property rights, including patents, trade secrets, trademarks, and copyrights." And in cases of intellectual property theft, the "United States will take measures to identify and respond to such actions to help build an international environment that recognizes such acts as unlawful and impermissible, and hold such actors accountable."

The Administration is closely following legislation introduced in 2011 that would increase law enforcement's authority to combat websites that distribute and provide access to infringing products. The **PROTECT IP Act**, introduced by the Senate, and the **Stop Online Piracy Act and the OPEN Act**, introduced by the House, are examples of recent attempts by Congress to address the issues of counterfeiting and piracy online.

We believe that new legislative and non-legislative tools are needed to address offshore infringement and counterfeiting and call on all stakeholders to work cooperatively together. On January 15, we released a statement in response to a We the People petition setting out the Administration's position.

The response recognizes that online piracy is a serious problem, but also makes it clear that the Administration will not support legislation that reduces freedom of expression, increases cybersecurity risk (including authority to tamper with the DNS system), or undermines the dynamic, innovative global Internet.

The Administration is interested in working with Congress to ensure that these issues are addressed in a manner that takes into account the challenges and opportunities of the Internet and that is consistent with the Administration's goals and public policy principles.

Enhance Foreign Law Enforcement Cooperation

Federal law enforcement officials continue to pursue cooperation and assistance from foreign counterparts in an effort to combat intellectual property rights infringement occurring outside the territorial boundaries of the United States.

The deployment of U.S. Government personnel abroad cultivates foreign law enforcement cooperation and expands the capabilities of foreign partners to enforce intellectual property rights. These personnel signal the commitment of the U.S. Government in protecting U.S. intellectual property rights abroad. IPEC also works with the agencies and within OMB to identify resources to station additional U.S. per-

sonnel specializing in intellectual property in priority locations around the world to enhance foreign law enforcement cooperation.

- ICE Attachés are assigned to 70 international offices located in 47 countries. This includes countries identified as having weak intellectual property rights protection. ICE Attachés continue to coordinate investigations with foreign law enforcement counterparts and provide domestic offices and the IPR Center with investigative case support and information related to cross-border criminal activities involving the counterfeiting and pirating of goods and technology.
- In September, the FBI assigned a Special Agent to Beijing, China specifically for the purposes of liaison and to gain assistance from Chinese authorities in pursuing intellectual property rights violations.
- **USPTO** will expand its international intellectual property attaché program by posting attachés in both Mexico City, Mexico and Shanghai, China.
- **DOJ** would post up to six ICHIP attorneys, if funded as called for in the President's FY 2012 budget, in strategic global locations to strengthen international enforcement.

The IPR Center continues to increase its network of international partners in furtherance of pursuing criminal investigations of intellectual property rights crimes. This expansion greatly increases the center's coordination and de-confliction efforts.

- Representatives from Mexican Customs and the Royal Canadian Mounted Police now serve at the IPR Center in a liaison capacity. This allows the direct exchange of information on significant cases affecting the Northern and Southern borders.
- The IPR Center is working to include representation from other foreign law enforcement partners.

Individuals engaged in committing intellectual property crimes in the United States and who flee or are located outside U.S. borders are actively pursued. DOJ and U.S. federal law enforcement continue to receive the cooperation of foreign law enforcement on investigating intellectual property rights cases and locating offenders and fugitives abroad.

- In February 2011, Ali Moussa Hamdan was extradited from Paraguay back to the U.S. Hamdan had been indicted in the Eastern District of Pennsylvania for his role in the trafficking of counterfeit merchandise and using profits from sales for material support to Hezbollah.
- In June 2011, a Belgian citizen was sentenced to 48 months in prison and ordered to forfeit $850,000 in illegal proceeds for his role in operating an illegal Internet pharmacy that sold $1.4 million worth of counterfeit and misbranded drugs (along with controlled substances). The defendant used multiple websites to sell more than 40 prescription drugs. He operated a customer call center in the Philippines, received payments from customers using a credit card processor in the Netherlands, and paid employees using Western Union in the Philippines, Costa Rica, and the U.S. He was arrested in Costa Rica and extradited to the U.S. for prosecution.

The IPR Center and ICE HSI continue to coordinate large scale global enforcement operations. These operations specifically target websites and their operators that distribute counterfeit and pirated items

over the Internet, including counterfeit pharmaceuticals and pirated movies, television shows, music, software, electronics, and other merchandise, as well as products that threaten public health and safety. These enforcement operations are ongoing and continue to be successful through the partnerships between foreign and U.S. law enforcement.

- From July through September 2011, the IPR Center in partnership with the World Customs Organization and law enforcement from 43 countries successfully carried out Operation Short Circuit. This operation resulted in the seizure of more than 1 million counterfeit electrical goods that could have posed serious hazards to U.S. consumers.
- In September 2011, the IPR Center in coordination with INTERPOL, the WCO and law enforcement in 81 countries successfully carried out Operation Pangea IV. This global enforcement effort focused on websites supplying illegal and dangerous medicines to consumers in the U.S. and abroad. The operation was the largest Internet-based action of its kind.
- In June 2011, Brazilian law enforcement authorities, in partnership with ICE, seized 10 million counterfeit items, including watches, sunglasses, handbags, shoes, clothing, and electronics with an estimated value of $255 million. This seizure was initiated by the Sao Paulo Mayor's office and included ICE HSI Special Agents along with 400 federal, state and city Brazilian officials.

Promote Enforcement of U.S. Intellectual Property Rights through Trade Policy Tools

2011 was a banner year for the promotion of intellectual property rights through trade policy tools and was marked by the following significant accomplishments:

- ACTA, the highest standard ever achieved concerning the enforcement of intellectual property rights, was signed on October 1, 2011 by the United States and seven other countries. ACTA represents a considerable improvement in international trade norms for effectively combating the global proliferation of commercial-scale counterfeiting and piracy in the 21st Century. ACTA provides for:
  - enhanced international cooperation;
  - promotion of sound enforcement practices; and
  - a strengthened legal framework for IPR enforcement in the areas of criminal enforcement, enforcement at the border, civil and administrative actions, and distribution of copyrighted material on the Internet.

  Together, these provisions will help to defend American jobs in innovative and creative industries against intellectual property theft.
- **Free Trade Agreements** with Colombia, Panama, and South Korea were overwhelmingly approved by Congress on October 12, 2011 and signed by President Obama on October 21, 2011. Each of these trade agreements ("FTAs") contains a chapter dedicated to intellectual property rights, with state-of-the-art protections spanning all types of intellectual property, and requirements to join key multilateral intellectual property rights agreements. They also contain strong provisions to ensure that intellectual property rights are efficiently and effectively protected in those countries. The key intellectual property elements include:

  - protection for copyrighted works in the digital economy;
  - tough penalties for piracy and counterfeiting;
  - robust patent and data protection; and
  - state-of-the-art protection for trademarks.

- **S&ED:** The third round of the U.S.-China Strategic and Economic Dialogue (S&ED) was held in Washington, DC on May 9-10, 2011, at which China agreed to eliminate all "indigenous innovation" government procurement catalogues and to revise its regulations in a way that delinks indigenous innovation products from the provision of government procurement preferences. China also pledged to improve on the high-level, long-term mechanism of intellectual property protection and enforcement, building on the Special Campaign, and to strengthen inspections of software on government computers.
- **JCCT:** The 22nd session of the U.S.-China Joint Commission on Commerce and Trade (JCCT) was held in Chengdu, China on November 20-21, 2011, at which China agreed to:
  - make permanent, for the first time, a State Council-level leadership structure, headed by a Vice Premier, to lead and coordinate intellectual property enforcement across all of China;
  - ensure that Chinese government agencies at all levels use only legitimate software and that all types of software used by government agencies are licensed; and
  - eliminate by December 1, 2011 any "indigenous innovation" product accreditation catalogues or other measures linking innovation policies to government procurement preferences at the provincial, municipal, and regional level.

Special 301 "Action Plans"

USTR conducts an annual Special 301 review of intellectual property protection and market access practices in foreign countries, and lists countries of concern on a "Priority Watch List" or "Watch List." USTR also develops "action plans" to encourage countries appearing on a Special 301 list to make improvements to their intellectual property regimes, thereby increasing the likelihood that they may be removed from the Special 301 list.

In 2011, in order to increase the effectiveness and strengthen implementation of Special 301 action plans, USTR announced a new initiative during the 2011 review, inviting any trading partner appearing on the Special 301 Priority Watch List or Watch List to negotiate a mutually agreed action plan designed to lead to that trading partner's removal from the list.

Strengthen Intellectual Property Enforcement Through International Organizations

The Administration continues to monitor and encourage the enforcement of intellectual property rights owned by Americans through cooperative efforts of international organizations like the WCO , INTERPOL, and EUROPOL. The IPR Center continues to work very effectively within WCO resulting in major global law enforcement operations.

- **Operation Pangea IV** was launched by INTERPOL and the WCO in September 2011, involving 81 participating countries, in a global law enforcement effort focused on websites supplying illegal and dangerous medicines. As a result, 2.4 million illicit and counterfeit pills worth $6.3 million have been confiscated, 13,495 websites have been shut down, and 55 individuals are currently under investigation or under arrest, according to INTERPOL.
- **Operation APEC** was a CBP-led Asia Pacific Economic Cooperation ("APEC") Mutual IPR Enforcement Operation. The operation targeted counterfeit pharmaceuticals by developing model practices for intellectual property enforcement in international postal and express courier facilities. This is the first time a joint law enforcement operation has ever been conducted through the auspices of APEC. The United States and ten other countries participated in the operation which had enforcement actions ranging from detentions to seizures taken on over 1,200 shipments. The United States' side of the operation was conducted by CBP and seized $231,136 worth of counterfeit pharmaceuticals.
- **Operation Short Circuit** was the culmination of a three-month operation conducted by 43 countries and led to the seizure of more than one million counterfeit electrical goods. This operation was spearheaded in the United States by the IPR Center and conducted on an internal level in coordination with the WCO. This operation resulted in the seizure of counterfeit electrical goods that posed a significant risk to public safety.

Supporting U.S. Businesses in Overseas Markets

The U.S. Government continues to provide assistance to U.S. businesses seeking to export goods and services to overseas markets, including:

- **Focusing on China's Patent Enforcement:** Due to growing concerns over China's administrative and judicial systems of patent enforcement, the IPEC this year launched a new initiative to hear from U.S. companies about any challenges they have faced when enforcing their patents in China. IPEC and USPTO have conducted roundtables in Washington, Beijing, Shanghai, and Guangzhou to hear from companies with first-hand experience litigating in China. Public comments were widely solicited through a Federal Register Notice in October 2011. The public has identified the lack of effective discovery, low damages awards, unexamined utility model patents, and enforceability of judicial orders as major concerns. The Administration is currently assessing how it can help improve the situation for U.S. companies.
- **Removing Barriers:** ITA's Office of Intellectual Property Rights continues to work with other U.S. Government agencies to help U.S. businesses by suggesting strategies they can take to resolve intellectual property-related barriers encountered abroad. Since January 1, 2011, ITA initiated 38 intellectual property-related cases on behalf of U.S. rights holders. Of those, 15 cases were on behalf of U.S. small and medium-sized businesses. The Office of Intellectual Property Rights (OIPR)'s efforts resulted in the removal of 16 intellectual property-related trade barriers in 13 countries.
  - **Case success:** Dolby Laboratories, headquartered in California, and Eminence, headquartered in Kentucky were able to address their counterfeiting problem in Kenya after

presenting their companies' issues directly to 70 Kenyan enforcement officials during a public-private workshop organized by ITA and CLDP in Nairobi, Kenya in May 2011 entitled *Enforcement of IP Rights in Kenya: An Interagency Approach with Private Sector Coordination*.

- **Pro Bono Assistance for SMEs:** DOC, in cooperation with the American Bar Association, established an *International Intellectual Property Rights Advisory Program* that allows U.S. small and medium size enterprises (SMEs) to receive a free, one-hour consultation with an experienced volunteer attorney on how to protect and enforce their intellectual property rights in a particular foreign country, including: Brazil, Russia, India, China, Egypt, Thailand, Kenya, Ghana, Mozambique, Angola, Senegal, Nigeria, Colombia, Mexico, Indonesia, Vietnam, Turkey, Saudi Arabia, Argentina, and South Africa. In 2011 alone, more than 15 SMEs were assisted through this program. SMEs can request a free, one-hour consultation at http://apps.americanbar.org/intlaw/intlproj/iprprogram.html.

  Also in June, the USPTO announced the launch of a first-of-its-kind program to connect independent inventors and small businesses in the Minnesota area with pro bono attorneys who will help them obtain patent protection, including in foreign countries. There are already seven SMEs in this program, and the USPTO plans to launch five more such programs across the country in 2012.

- **Educating U.S. Companies:** ITA and USPTO continue to educate U.S. small- and medium-sized companies regarding intellectual property issues in China. ITA's Office of China Economic Area hosts a China IPR webinar series, free of charge, on the website www.stopfakes.gov, with 15 webinars conducted in 2011, on topics such as Chinese bad-faith trademark squatting, intellectual property protection at Chinese trade fairs, and intellectual property licensing in China. On April 6-7, 2011, USPTO hosted its annual free two-day seminar entitled, "Protecting Against Intellectual Property Theft in China," which included sessions on each type of intellectual property right in China and ways to take preventative measures against theft of intellectual property.

- **Obtaining Patents Abroad:** USPTO conducted a study on how the USPTO, in coordination with other agencies, can best help small businesses obtain international patent protection, including whether a loan or grant program should be established to help small businesses cover the costs of filing, maintaining, and enforcing patents overseas. A Federal Register Notice was published on October 7, 2011, and public hearings were held on October 27, 2011 in Alexandria, VA and on November 1, 2011 in Los Angeles, CA. The study findings were submitted to Congress on January 13, 2012.

- **Overseas Personnel:** USPTO is adding two more intellectual property attachés to assist U.S. businesses in foreign countries, by creating new posts in Mexico City, Mexico and Shanghai, China. FBI has posted an intellectual property-trained agent in Beijing, China as of September 2011 to work full time on intellectual property crime. DOJ would post up to six additional ICHIP attorneys, as called for in the President's FY 2012 budget, in strategic global locations to strengthen international enforcement. In addition, ICE HSI added a liaison to the European Union in Brussels, Belgium.

Administration's Focus on China

China—the number one source of infringing products seized at the U.S. border—is a major focus of the Administration's increased attention to the problems of inadequate protection and enforcement of intellectual property rights, as well as market access barriers for persons relying on intellectual property protection. In 2011, the Administration's efforts and engagements with China included the following.

President Obama and President Hu Jintao Joint Statement

President Obama has repeatedly raised intellectual property enforcement with China's president, Hu Jintao, including during his State Visit to Washington D.C. in January. The engagement resulted in a commitment that "China will continue to strengthen its efforts to protect IPR, including by conducting audits to ensure that government agencies at all levels use legitimate software," and that "China will not link its innovation polices to the provision of government procurement preferences."

Vice President Biden Presses for Better Enforcement in China

Vice President Biden continued the Administration's engagement on intellectual property rights as part of his trip to China in August, pressing for better enforcement in several forums, including in meetings with China's vice president, Xi Jinping, who affirmed China's commitment to intellectual property enforcement by promising that China will "intensify IPR protection and treat all businesses as equals in terms of the accreditation of indigenous innovation products and government procurement."

Senior Administration Officials Press China for Better Intellectual Property Theft Enforcement

Secretaries Clinton, Geithner, and Bryson, Attorney General Holder, U.S. Trade Representative Ron Kirk, Ambassador Locke, ICE Director John Morton, CBP Commissioner Alan Bersin, Under Secretary of State Robert Hormats, and other senior Administration officials have directly and repeatedly pressed China and other countries to do much more to combat intellectual property theft.

U.S.-China Trade Dialogues Achieve Major Intellectual Property Commitments

China made several important commitments in 2011 as part of our ongoing bilateral trade dialogues. At this year's S&ED meeting in May, China agreed to eliminate all indigenous innovation government procurement catalogues and to strengthen inspections of software on government computers. At this year's JCCT meeting in November, China agreed, for the first time, to establish a permanent State Council-led leadership structure to enforce intellectual property rights, which will enhance China's ability to crack down on intellectual property infringement throughout the country. The Administration is focused on seeing measurable progress on these commitments in the coming year.

More U.S. Personnel in China Dedicated to Intellectual Property Enforcement

Last year, ICE designated its assistant attaché in Guangzhou to be its first "IP Attaché" and point of contact for all intellectual property matters involving China. In September 2011, FBI posted an intellectual property-trained agent in Beijing to work full time on intellectual property crime. USPTO, adding to its two Intellectual Property Attachés in Beijing and Guangzhou, will station a third in Shanghai.

Vigorous Prosecution Against Trade Secret Theft

U.S. law enforcement agencies are committed to prosecuting individuals who steal trade secrets or commit economic espionage against U.S. innovators. In April, a former employee of Ford Motor Company was sentenced to 70 months in federal prison after he attempted to steal 4,000 documents containing $50 million worth of Ford's trade secrets and attempting to sell them to a Chinese competitor.

In October, Kexue Huang, a former employee of both Cargill and Dow Chemical, pled guilty to committing economic espionage. Huang passed trade secret information from both companies to a Chinese university that was developing organic pesticides on behalf of China's government. Huang formerly worked as a Biotechnologist at Cargill and then for Dow researching organic pesticides. Financial losses to both companies from his criminal acts exceed $7 million. In December, after many months of hard work by FBI agents, CCIPS prosecutors, and the U.S. Attorneys' Offices in Indiana and Minnesota, a federal judge sentenced Huang to 87 months in prison—the strongest sentence possible.

Enhanced Cooperation with Chinese Law Enforcement

In May 2011, ICE Director Morton signed a Memorandum of Understanding with China's General Administration of Customs (GACC) to enhance cooperation on law enforcement, including intellectual property theft. This agreement follows Director Morton's trip to China last year that resulted in a Letter of Intent with China's Ministry of Public Security (MPS) to cooperate on joint intellectual property investigations. CBP also signed during the May 2011 S&ED a Memorandum of Understanding with MPS to increase information-sharing and enforcement.

Highlighting China's Notorious Markets

USTR released its first-ever out-of-cycle Notorious Markets List in February 2011, listing more than 30 online and physical foreign markets that deal in infringing goods, including several markets based in China. As a result of the increased attention to these markets, Taobao, China's leading business-to-consumer website listed in the Notorious Markets List, launched a campaign to address the availability of infringing goods through its website. Baidu, a leading Chinese search engine listed in the report, signed a music licensing agreement with One-Stop China, a joint venture between the Universal Music Group, the Warner Music Group, and Sony BMG. USTR released a second out-of-cycle Notorious Markets List in December 2011. Baidu was removed from the Notorious Markets List as a result of its landmark licensing agreement with U.S. and other rights holders. Taobao, which appears to have made efforts to address intellectual property rights infringement at its site, reportedly continues to offer infringing products and therefore remains on the Notorious Markets List.

New Focus on China's Patent Enforcement

Due to growing concerns over China's administrative and judicial systems of patent enforcement, IPEC this year launched an initiative to hear from U.S. companies about any challenges they have faced when enforcing their patents in China. IPEC and USPTO have conducted roundtables in Washington, Beijing, Shanghai, and Guangzhou as part of a new focus this year on China's patent enforcement system. Public comments were solicited through a Federal Register Notice in October 2011. The U.S. Government is looking for ways to address companies' concerns, including the lack of effective discovery, low damages awards, unexamined utility model patents, and enforceability of judicial orders.

Educating U.S. SME's about China's Intellectual Property Issues

ITA and USPTO continue to educate U.S. small- and medium-sized companies regarding intellectual property issues in China. ITA's Office of China Economic Area hosts a China IPR webinar series, free of charge, on the website www.stopfakes.gov, with 15 webinars conducted in 2011, on topics such as Chinese bad-faith trademark squatting, protection of intellectual property at Chinese trade fairs, and intellectual property licensing in China. On April 6-7, 2011, USPTO hosted its annual free two-day seminar entitled, "Protecting Against Intellectual Property Theft in China," which included sessions on each type of intellectual property right in China and ways to take preventative measures against theft of intellectual property.

Securing Our Supply Chain

FDA Notification Requirement for Counterfeit Pharmaceuticals and Other Medical Products

Manufacturers and importers are key players to help prevent the serious risk to public health that comes from counterfeit pharmaceuticals. In March 2011, the Administration recommended to Congress that manufacturers and importers be required to notify the FDA upon discovery of a known counterfeit of any pharmaceutical and other medical product. The Administration also recommended that the required notification specify any known potential health risks of the counterfeit product. This recommendation is publicly available at: http://www.whitehouse.gov/sites/default/files/ip_white_paper.pdf.

In April 2011, in line with this recommendation, Representative Dingell, along with Representatives Waxman, Pallone and DeGette, and later joined by Representatives Capps, Clarke, McGovern, Stark, and Slaughter, introduced the Drug Safety Enhancement Act of 2011, which included counterfeit drug notification requirements.

Mandated Use of Track-and-Trace for Pharmaceuticals and Medical Products

The increasing threat of counterfeit pharmaceuticals in the U.S. market demands a strong response including better and more efficient tools to prevent their entry, to remove them from the supply chain, and to investigate and prosecute offenders. Effective track-and-trace systems can make it more difficult to introduce counterfeit drugs into the U.S. market, make it easier to identify those responsible for making a product unsafe and facilitate the recall of unsafe products by more quickly identifying where products are located. In March, the Administration recommended that Congress adopt a track-and-trace system for pharmaceuticals and related products. http://www.whitehouse.gov/sites/default/files/ip_white_paper.pdf.

Increased Enforcement Efforts to Guard Against the Proliferation of Counterfeit Pharmaceuticals and Medical Devices

In March 2011, the IPEC sent to Vice President Biden and to the Congress a pharmaceutical strategy that described in detail the steps the Administration will take to fight counterfeit drugs sold on the Internet, smuggled into the U.S., and sold in cities nationwide. The strategy was developed by the interagency working group on counterfeit pharmaceuticals established by IPEC, which includes FDA, CBP, ICE, DOJ, State, Commerce, and the Agency for International Development. The strategy is publicly available at: http://www.whitehouse.gov/sites/default/files/omb/IPEC/Pharma_Report_Final.pdf.

In 2011, the Administration took action on several fronts to implement the strategy and combat the proliferation of counterfeit pharmaceuticals and medical devices:

- **Increased Law Enforcement**
  - Several domestic cases involving dangerous illegal pharmaceuticals led to successful prosecutions. For example, in June 2011, a federal judge sentenced Shengyang Zhou to an 87-month prison sentence for trafficking in fake weight loss drugs with one of the victims of the fake drugs (a physician) suffering a mild stroke after taking the medication. Also, in April, a federal judge sentenced a fugitive Chinese national named En Wang, *in absentia*, to

33 months in prison for selling counterfeit pills that contained a substance used in sheetrock manufacturing. In June a Belgian citizen was sentenced to 48 months in prison and ordered to forfeit $850,000 in illegal proceeds for his role in operating an illegal Internet pharmacy that sold $1.4 million worth of counterfeit and misbranded drugs, including pharmaceuticals used to treat heart conditions and psychiatric disorders as well as controlled substances. These cases are just a few examples of the over 20 successful prosecutions based on the investigatory work of U.S. Government agencies—and their state and local partners—dedicated to stopping illegal pharmaceuticals.

- **Operation Pangea IV** was launched by INTERPOL and the WCO in September 2011, involving a record 81 participating countries, including the United States, in a global law enforcement effort focused on websites supplying illegal and dangerous medicines. **As a result, 2.4 million illicit and counterfeit pills worth $6.3 million have been confiscated, 13,495 websites have been shut down, and 55 individuals are currently under investigation or under arrest, according to INTERPOL**.
- In June, CBP led the APEC Mutual IPR Enforcement Operation—the first of its kind at APEC—targeting pharmaceuticals in over 1,200 enforcement actions, with the United States seizing $231,136 worth of fake medications.
- In FY 2011, CBP instituted a pilot program on pharmaceuticals, the Centers for Excellence and Expertise (CEE), which ran from November 2010 through September 2011. In 2011, CEE focused on developing the infrastructure at CBP to better understand the pharmaceutical industry's practices, segment risk for different shipments of medication, and leverage this information into more efficient and effective enforcement. This work includes developing closer partnerships with legitimate pharmaceutical companies, comprehensive reviews of their pharmaceutical importation practices, and pharmaceutical enforcement blitzes. This effort has been successful, leading to a nearly 200 percent increase in seizures between FY 2011 and FY 2010. As part of this increase in fake pharmaceutical seizures, CEE has also led to a 200 percent increase in fake pharmaceuticals seized from China between FY 2011 and FY 2010. CEE success has led to CBP permanently instituting the CEE, now known as the Industry Integration Center (IIC), and opening a second IIC focusing on electronics.
- FDA is moving forward against illegal pharmaceuticals through its Import Operations Strategic Plan which began its implementation in January. The FDA strategy includes 19 initiatives, 6 of which were selected as priorities for the first wave of implementation, including enforcement actions.

- **Voluntary Best Practices by the Private Sector**

The IPEC continues to facilitate and encourage dialogue among different private sector entities that make the Internet function. As an Administration, we have adopted the approach of encouraging the private sector (including ISPs, credit card companies, and online advertisers) to reach cooperative voluntary agreements to reduce infringement that are practical, effective, and consistent with our commitment to principles of due process, free speech, fair use, and

privacy. The private sector arrangements that have been negotiated in the United States can serve as a positive example for Internet policies of other countries.

Together with law enforcement efforts, private sector voluntary actions can dramatically reduce online infringement and change the enforcement paradigm. In December 2010, market leaders agreed to form a nonprofit organization now called CSIP to combat illegal online pharmacies—criminals masquerading as "pharmacies"—by education and voluntary enforcement.

- **Legislative Change**

  As noted above, in March 2011, the Administration sent several legislative recommendations to Congress to give the Administration better tools to further enforcement against illegal pharmaceuticals further. The White Paper can be accessed here: http://www.whitehouse.gov/sites/default/files/ip_white_paper.pdf. The Administration recommended that Congress:

  – Require importers and manufacturers to notify FDA and other relevant agencies if they find counterfeit pharmaceuticals or medical products, including the known health risks associated with those products;

  – Extend the Ryan Haight Act's definition of "valid prescription" to the Federal Food, Drug and Cosmetic Act ("FFDCA") to drugs that do not contain controlled substances (and incorporate an exemption for prescriptions issued through the legitimate practice of telemedicine);

  – Adopt a track-and-trace system for pharmaceuticals and related products;

  – Provide civil and criminal forfeiture authority to the U.S. Government under the FFDCA, particularly for counterfeit drug offenses;

  – Increase the statutory maxima for sentences under the FFDCA, particularly for counterfeit pharmaceutical offenses; and

  – Direct the U.S. Sentencing Commission to consider increasing the U.S. Sentencing Guideline range for counterfeit drug offenses, including a further enhanced penalty for such offenses involving the conscious or reckless risk of death or serious bodily injury.

- **International Capacity-Building and Training**

  In 2011, the State Department renewed its focus in combating counterfeit pharmaceuticals and devoted one third of its international intellectual property training funds to help other countries build capacity to combat counterfeit drugs, funding training conducted by DOJ, DHS, and USPTO.

- **Public Awareness**

  State Department-allocated public diplomacy funds in 2011 to increase public awareness of the dangers of counterfeit pharmaceuticals, products, and Internet piracy through media, meetings, workshops, and other outreach efforts. The public awareness outreach campaign included 22 programs that covered a diverse geographical area including Africa, Asia, the Middle East, Europe, and South America.

In November 2011, DOJ, IPEC, Commerce, ICE and the National Crime Prevention Council unveiled a comprehensive public awareness campaign that will educate the public on different aspects of intellectual property theft, including the health and safety dangers involved with counterfeit pharmaceuticals.

Penalty Relief for Voluntary Disclosure

No procedure exists for an importer or other party who unknowingly and unintentionally imported or acquired infringing products to voluntarily inform CBP without being subject to seizure, penalties, and/or other enforcement actions. Allowing importers and other parties to inform CBP of unwittingly imported infringing articles increases the likelihood that the infringing products will be destroyed and will potentially provide additional information for targeting counterfeit and pirated goods.

To support these outcomes, in March 2011 the Administration recommended that Congress enact legislation to permit relief when someone who unknowingly and unintentionally acquires infringing products voluntarily discloses them to CBP before becoming aware of any CBP enforcement action (or a law enforcement investigation). This recommendation is publicly available at: http://www.whitehouse.gov/sites/default/files/omb/IPEC/Pharma_Report_Final.pdf.

Penalize Exporters of Infringing Goods

CBP is not authorized to issue administrative penalties for infringing exports (although CBP can seize them and have them forfeited). Such administrative penalties would help deter those exporting infringing products. Also, providing for penalties against infringing exports would send an important message to trading partners overseas and improve the U.S. Government's ability to encourage countries to penalize infringing exports headed to the United States.

Accordingly, the Administration in March 2011 recommended that Congress pass legislation to give CBP authority to issue penalties for infringing exports. This recommendation is publicly available at: http://www.whitehouse.gov/sites/default/files/omb/IPEC/Pharma_Report_Final.pdf.

Streamline Bonding Requirement for Circumvention Devices

DHS is committed to establishing a smooth process for providing samples to rightholders who can advise when a suspected circumvention device has been imported. However, after DHS has seized a circumvention device, current law does not explicitly authorize DHS to share that information with rightholders or to provide a sample of the device. Expressly authorizing DHS to do both would help rightholders protect their copyrighted work by: (1) improving their technological controls to render circumvention devices ineffective; (2) assisting investigations of infringement of their intellectual property rights; and (3) assisting in bringing civil actions to enforce their intellectual property rights.

In March, the Administration recommended that Congress explicitly authorize DHS to inform rightholders when circumvention devices are seized and to provide samples of such devices (subject to any DHS bonding requirement). Once DHS has explicit authority to share circumvention device information, DHS can follow up on its commitment to streamlining the bonding process for sharing samples suspected of being circumvention devices. For more information, please see "Increased Information Sharing With Rightholders to Identify Counterfeit Goods" [See pages 15-16].

Facilitating Cooperation to Reduce Intellectual Property Infringement Occurring over the Internet

The Administration continues to facilitate and encourage dialogue among the different private sector entities that make the Internet function, including payment processors, ISPs, search engines, advertising services, and Domain Name Registrars (DNRs) and registries. These companies have the potential to act as check points for infringing activity and reduce the distribution of infringing content. We believe it is essential that they do so in a manner that is practical and consistent with our commitment to due process, free speech, fair use, privacy, cybersecurity, and other important public policy concerns. The following private sector arrangements that have been negotiated in the United States can serve as a positive example for Internet policies of other countries.

- **Illegal Internet Pharmacies:** In December 2010, market leaders agreed to form a nonprofit organization to combat illegal online pharmacies. See *"Establish and Implement Voluntary Protocols to Help Reduce Illegal Internet Pharmacies"* on page 47 for more details.

- **Payment Processors:** In June 2011, an agreement among major credit card companies and major payment processors was reached on voluntary best practices to reduce sales of counterfeit and pirated goods. These unprecedented and voluntary agreements include best practices that focus on strategies to stop sites distributing counterfeit and pirated goods from conducting financial transactions through payment processors. Participants include American Express, Discover, MasterCard, PayPal, and Visa.

  The best practices also include mechanisms to investigate complaints and remove payment services from any site that continues to operate unlawfully. Sites designated as operating unlawfully may also appeal their designation through a due process procedure. IPEC continues to discuss data collection with the participants and is planning a review to assess effectiveness of these voluntary agreements.

- **ISPs and Content Providers:** In July 2011, a voluntary agreement was finalized among several ISPs (AT&T, Comcast, Cablevision, Verizon, and Time Warner Cable) and major and independent music labels and movie studios to reduce online piracy. Under the agreement, ISPs will notify subscribers, through a series of alerts, when their Internet accounts appear to be being misused for infringement on peer-to-peer networks. After the sixth alert, the ISP will take some action to temporarily affect the user experience in a manner that is reasonably tailored to educate the subscriber and discourage infringing activity consistent with the FCC's Open Internet Order and in a manner sensitive to the legitimate needs of subscribers of an Internet connection. The methodologies used to detect infringement will be vetted by an independent third party for accuracy. There is an independent review process, and no action will be taken until the appeal is resolved. The process will be managed by a nonprofit organization that will advise the participants on how to implement the agreement and, as necessary, modify and improve the process. The nonprofit organization will also educate the public on copyright law and on how to avoid violating the law.

- **Ad Networks and Exchanges:** Ad networks and exchanges, including Google, Microsoft (Bing), Yahoo!, AOL are being encouraged to develop best practices for online advertising networks

and exchanges, in order to ensure that they do not place any advertisements on infringing websites, and to remove such websites from their ad networks.

Over the next year, IPEC will be working with companies from a range of sectors developing voluntary means to keep global supply chains free of pirated and counterfeit goods and reduce the risk of theft of trade secrets.

Establish and Implement Voluntary Protocols to Help Reduce Illegal Internet Pharmacies

Counterfeit pharmaceuticals are a global health problem. Using the voluntary best practices approach, IPEC has encouraged the private sector to participate in the effort to address fake online "pharmacies." The private sector responded by forming a non-profit group which will educate the public and start taking voluntary enforcement action against illegal internet pharmacies. This cooperation can serve as a positive example for Internet policies of other countries. Along with CSIP, the IPEC is working with FDA on a joint cooperative program with CSIP to facilitate both FDA's and CSIP's efforts against illegal pharmaceuticals.

In December 2010, American Express, Discover, eNom, GoDaddy, NeuStar, Google, MasterCard, Microsoft (Bing), Network Solutions, PayPal, Visa, and Yahoo! agreed to form a nonprofit organization to combat illegal online pharmacies—criminals masquerading as "pharmacies"—by education and voluntary enforcement, including de-registering domain names, withdrawing payment services from fake pharmacies, and refusing to advertise on fake pharmacy sites. In April, the group took concrete steps towards their commitment to form a nonprofit, now called CSIP. The Board of Directors consists of co-chairs: Google and GoDaddy, Treasurer: NeuStar, and Secretary: American Express. IPEC expects to see CSIP operational by early 2012. To bolster CSIP's efforts, the IPEC is working with FDA on a joint cooperative program with CSIP to facilitate both FDA's and CSIP's efforts against illegal pharmaceuticals.

The European Commission (DG Internal Markets) has informed IPEC that they are interested in pursuing a similar voluntary approach to combat fake online pharmacies in Europe. DG Internal Markets has sought the input of IPEC and asked for suggestions on how to move this initiative forward.

Building a Data-Driven Government

U.S. Government Resources Spent on Intellectual Property Enforcement

To know how much U.S. Government agencies are spending on intellectual property enforcement, and how we should best spend money in the future, IPEC collected data in April on the amount of money Federal agencies spent on intellectual property enforcement in FY 2010. FY 2010 was the second time the IPEC collected this information (the first being FY 2009).

Overall, U.S. Government intellectual property enforcement spending achieved several efficiencies in FY 2010. Based on the metrics in their report, the level of enforcement dramatically increased by over a third across the board and this increase in law enforcement operations occurred with only a 5 percent increase in projected spending.

Specifically, from fiscal year 2009 to 2010, ICE HSI opened 41 percent more investigations and made 37 percent more arrests, DHS seizures were up more than 34 percent, and the FBI opened 44 percent

more investigations. In fiscal year 2010, CBP and ICE HSI intellectual property seizures of consumer safety and critical technology increased by 97 percent.

Further, agencies have turned this overall small spending increase into large enforcement results by efficiently spending their limited resources for intellectual property enforcement. For example, the DOJ's BJA grant program has bolstered the coordination efforts of state and local authorities to enforce intellectual property rights. Taken together, the program grantees have seized at least $202 million worth of infringing merchandise since October of 2009—over 18 times the value of the grants ($10.9 million) distributed as of December 2011. In FY 2011 alone, BJA grantees seized over $63 million worth of infringing goods. These figures are likely greater as data collection procedures to more fully capture seizure statistics were not instituted until 2011. This is an excellent example of Federal, state, and local authorities working together to make a significant impact on intellectual property enforcement and we expect to see similar success in the future.

Assessing the Economic Impact of Intellectual Property-Intensive Industries

IPEC, in coordination with the Department of Commerce, the White House Council of Economic Advisors, and the chief economists of many Federal agencies, is conducting an economic analysis to identify the industries that most intensively produce intellectual property and to measure the importance of those industries to the U.S. economy. This will be the first time that the U.S. Government has conducted a broad study of this sort across all sectors of our economy. We believe that improved measurements of intellectual property linked to measurements of economic performance will help the Administration understand the role and breadth of intellectual property in the American economy and will inform policy and resource decisions related to intellectual property enforcement. On June 15, 2011, IPEC and Commerce met with a broad range of outside stakeholders to discuss the methodology of the report.

Comprehensive Review of Existing Intellectual Property Laws to Determine Needed Legislative Changes

In March 2011, IPEC issued the Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations that set forth 20 legislative recommendations designed to strengthen intellectual property enforcement. These legislative recommendations seek to provide enhanced penalties for offenses involving the misappropriation of trade secrets, economic espionage, and intellectual property offenses involving organized crime, repeat offenders, counterfeit drugs and sales of infringing products to the military and law enforcement. The recommendations also outline legislative changes that will provide enforcement agencies with additional tools to combat infringement and curb the sale of counterfeit pharmaceuticals. Finally, the White Paper recommends that Congress amend the laws to keep up with technology by making illegal distribution by streaming a felony, as is the case with physical distribution methods. The White Paper is available publicly here: http://www.whitehouse.gov/sites/default/files/ip_white_paper.pdf.

Understanding that intellectual property infringement is a lure to transnational organized criminal enterprises, the Administration also included the IPEC White Paper recommendations as part of the Transnational Organized Crime Strategy released on July 25, 2011. Information is publicly available at http://www.whitehouse.gov/sites/default/files/Strategy_to_Combat_Transnational_Organized_Crime_July_2011.pdf.

The recommendations have been well-received by Congress. Throughout 2011, Congress has shown leadership on these issues.

Two of the recommendations are now law—increased penalties for infringing goods sold to, or for use by, the military, law enforcement, critical infrastructure or national security applications, and providing DHS explicit authority to give rightholders more information to help determine if suspected fake products are genuine or not—as part of the NDAA for Fiscal Year 2012, signed by President Obama on December 31, 2011. Other bills that have been introduced that incorporate the Administration's White Paper recommendations include:

- **Increase criminal penalties for trade secret violations and economic espionage—***Economic Espionage Penalty Enhancement Act*, introduced by Senator Kohl and co-sponsored by Senators Coons and Whitehouse; and *Stop Online Piracy Act*, introduced by Representative Lamar Smith and co-sponsored by Representatives Amodei, Baca, Barrow, Bass, Berman, Blackburn, Mack, Carter, Chabot, Chu, Conyers, Cooper, Deutch, Gallegly, Goodlatte, Griffin, Holden, King, Larson, Lujan, Marino, Nunnelee, Owens, Quayle, Ross, Scalise, Schiff, Sherman, Terry, Wasserman Schultz, and Watt.
- **Increase criminal penalties for infringing goods sold to, or for use by, the military, law enforcement, critical infrastructure or national security applications—***Combating Military Counterfeits Act of 2011*, introduced by Senator Whitehouse and co-sponsored by Senators Coons, Graham and McCain; and *Stop Online Piracy Act* (see sponsors and co-sponsors listed above).
- **Increase criminal penalties for counterfeit drug offenses—***Counterfeit Drug Penalty Enhancement Act of 2011*, introduced in the Senate by Senator Leahy and co-sponsored by Senators Bennet, Blumenthal, Coons, Feinstein, Grassley, Klobuchar, Kyl and Whitehouse. A substantially identical House version, also called the *Counterfeit Drug Penalty Enhancement Act of 2011*, was introduced by Representative Meehan and co-sponsored by Representative Sanchez; *Drug Safety Enhancement Act*, introduced by Representative Dingell and co-sponsored by Representatives Waxman, Pallone and DeGette, and later joined by Representatives Capps, Clarke, McGovern, Stark, and Slaughter; and *Stop Online Piracy Act* (see sponsors and co-sponsors listed above).
- **Increase criminal penalties for intellectual property offenses involving organized criminal enterprises—***Stop Online Piracy Act* (see sponsors and co-sponsors listed above).
- **Require importers and manufacturers to notify relevant Federal agencies when they discover counterfeit drugs—***Drug Safety Enhancement Act* (see sponsors and co-sponsors listed above).
- **Provide civil and criminal forfeiture authority to the U.S. Government for counterfeit drug offenses—***Drug Safety Enhancement Act* (see sponsors and co-sponsors listed above).
- **Amend laws to clarify that infringement by streaming, or other similar new technology, is a felony in appropriate circumstances—***S.978*, introduced by Senator Klobuchar and co-sponsored by Senators Coons and Cornyn; *Stop Online Piracy Act* (see sponsors and co-sponsors listed above).

- **Provide DHS the explicit authority to disclose information to rightholders when needed to make an infringement determination—***Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act*, introduced by Senator Leahy and co-sponsored by Senators Alexander, Ayotte, Bennet, Bingaman, Blumenthal, Blunt, Boozman, Boxer, Brown, Cardin, Casey, Chambliss, Cochran, Coons, Corker, Durbin, Enzi, Feinstein, Franken, Gillibrand, Graham, Grassley, Hagan, Hatch, Isakson, Johnson, Klobuchar, Kohl, Landrieu, Lieberman, McCain, Menendez, Nelson, Risch, Rubio, Schumer, Shaheen, Udall, Vitter, Whitehouse; *Online Protection and Enforcement of Digital Trade Act*, introduced by Senator Wyden and Representative Issa ; and *AGREE ACT*, introduced by Senator Coons and co-sponsored by Senator Rubio and later joined by Senators Gillibrand, Blunt, Casey, Begich, Wicker, Lee, Schumer, Risch, Brown, and Boozman.

The IPEC looks forward to continuing to work closely with Congress on the White Paper recommendations.

Performance Data

Law Enforcement Investigation

- **ICE HSI:** In FY 2011, ICE HSI opened 1,212 intellectual property investigations and had 574 arrests, 355 indictments and 291 convictions. In FY 2010, ICE HSI opened 1,033 intellectual property investigations and had 365 arrests, 216 indictments, and 170 convictions. In FY 2009, ICE HSI opened 730 intellectual property investigations and had 266 arrests, 116 indictments, and 164 convictions.
  - **ICE HSI reported significant benchmark increases due to its enforcement activities, including a 17 percent increase in opened intellectual property cases, a 57 percent increase in arrests, a 64 percent increase in indictments, and a 71 percent increase in convictions in comparison to 2010.**
- **FBI:** In FY 2011, the FBI initiated 235 investigations and made 93 arrests, secured 79 indictments, and obtained 79 convictions. In FY 2010, the FBI opened 218 investigations and had 66 arrests, 75 indictments, and 83 convictions. In FY 2009, the FBI opened 151 investigations and had 100 arrests, 133 indictments, and 95 convictions.
  - **The FBI reported a 29 percent increase in its number of new trade secrets cases, an 87 percent increase in health and safety intellectual property investigations, and a 96 percent increase in pending health and safety intellectual property cases over FY 2010.**
- **IPR Center:** In FY 2011, the IPR Center vetted 178 leads directly referred to it and de-conflicted 2,877 investigations opened by field offices of partner agencies. In FY 2010, the IPR Center vetted 240 leads directly referred to and de-conflicted 544 investigations opened by field offices of partner agencies. In addition, the IPR Center, in coordination with INTERPOL, the World Customs Organization, and law enforcement authorities in 81 countries successfully carried out Operation Pangea IV, focusing on websites supplying illegal and dangerous medicines to consumers in the U.S. and abroad. The operation was the largest Internet-based action of its kind.
  - **In FY 2011, ICE HSI intellectual property investigations increased by more than 17 percent in comparison to FY 2010 and 66 percent in comparison to FY 2009. ICE HSI arrests increased by more than 57 percent in comparison to FY 2010 and 115 percent in comparison to FY 2009.**
  - **In FY 2010, FBI investigations increased by more than 44 percent from FY 2009.**
  - **In FY 2011, the IPR Center's number of leads de-conflicted increased by 429 percent.**

DOJ Prosecutions

- **Charges:** In FY 2011, Assistant U.S. Attorneys (AUSAs) received 387 intellectual property referrals, and they charged 168 cases with 215 defendants. In FY 2010, AUSAs received 402 intellectual

property referrals, and they charged 177 cases with 259 defendants. In FY 2009 AUSAs received 285 intellectual property referrals, and they charged 173 cases with 235 defendants.

- **Sentencing:** In FY 2011, courts sentenced 208 intellectual property defendants. Of these, 102 received no prison term, 27 received sentences of 1-12 months, 33 received sentences of 13-24 months, 17 received sentences of 25-36 months, 21 received sentences of 37-60 months, and 8 received sentences of more than 60 months in prison. In FY 2010, courts sentenced 207 intellectual property defendants. Of these, 121 received no prison term, 38 received sentences of 1-12 months, 27 received sentences of 13-24 months, 10 received sentences of 25-36 months, 7 received sentences of 37-60 months, and 4 received sentences of more than 60 months in prison. In FY 2009, courts sentenced 223 intellectual property defendants. Of these, 126 received no prison term, 35 received sentences of 1-12 months, 29 received sentences of 13-24 months, 6 received sentences of 25-36 months, 18 received sentences of 37-60 months, and 9 received sentences of more than 60 months in prison.

District Totals	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Investigative Matters Received by AUSAs	426	365	285	402	387
Defendants Charged	290	259	235	259	215
Cases Charged	217	197	173	177	168
Defendants Sentenced	287	242	223	207	208
No Prison Term	148	107	126	121	102
1-12 Months	52	48	35	38	27
13-24 Months	37	45	29	27	33
25-36 Months	20	20	6	10	17
37-60 Months	14	19	18	7	21
60+ Months	16	3	9	4	8

DOJ and FBI have also transmitted to Congress their PRO IP Act Reports for 2011, describing in greater depth the criminal investigations and prosecutions of intellectual property offenses for FY 2011.

Department of Homeland Security Intellectual Property Seizures

In FY 2011, the number of seizures by CBP and ICE HSI increased by 24 percent to 24,792 with a Domestic Value—i.e., the value of the infringing goods—of $178.9 million. The MSRP—i.e., the value the infringing goods would have had if they had been genuine—was over $1.1 billion. In FY 2011, CBP saw a continued increase in the use of express carrier services for shipping counterfeit and pirated goods where the number of seizures increased by 16 percent over FY 2010 and 66 percent over FY 2009. There was also a 44 percent increase in the number of counterfeit consumer safety and critical technology merchandise seizures in FY 2011. The value of the seized counterfeit consumer safety and critical technology merchandise increased to over $60 million.

DHS agencies—CBP and ICE combined—increased seizures of counterfeit pharmaceuticals by almost 200 percent, increased fake consumer safety and critical technology merchandise seizures by 44 percent and increased overall seizures by 24 percent in comparison to FY 2010 (an overall increase of 67 percent in comparison to FY 2009).

Nine partner agencies including criminal investigative agencies from the DOD and NASA as well as the FBI, ICE HSI, and CBP launched Operation Chain Reaction. This is a coordinated and comprehensive initiative targeted to curtailing the flow of counterfeit items into the U.S. Government supply chain.

CBP led a year-long initiative within the Asia Pacific Economic Cooperation (APEC) targeting counterfeit pharmaceuticals shipped via international mail and express couriers. The initiative led to enforcement action against over 1,200 shipments in the Asia Pacific region and seizures of $231,136 worth of counterfeit pharmaceuticals.

- **Circumvention Devices:** CBP made 29 seizures of devices designed to circumvent technological measures intended to protect copyrighted works such as game software. The domestic value of the seizures was $58,000.

CBP Civil Fines

In FY 2011, CBP implemented new procedures for issuing IPR penalties concurrently with seizure and to expand the scope of parties against whom penalties are issued to the full extent of the law. The number of IPR penalties assessed in FY 2011 was 167 with a total assessment value of $71,614,950. The amount collected for IPR penalties in FY 2011 was $135,067.

Appendix A: Training for State and Local Law Enforcement IPTET Trainings

Location	Date
San Diego, CA	February 23, 2011
San Jose, CA	February 25, 2011
Blaine, WA	March 8, 2011
Detroit, MI	March 14, 2011
San Antonio, TX	April 12, 2011
San Juan, PR	April 13, 2011
St. Paul, MN	March 13, 2011
Portland, OR	March 25, 2011
Houston, TX Beaumont, TX	June 28, 2011
Tampa, FL	August 24, 2011

NW3C/NAAG

The NW3C and the NAAG developed a training curriculum designed to educate state and local law enforcement personnel on the subject of intellectual property-related crime and provide them with best practices and investigatory strategies to address it in their communities. The goals of these trainings were to raise participants' awareness of the issue, increase their knowledge of its significance and impact, and educate them about promising investigative strategies and resources.

Location	Date
Austin, TX	January 2011
Baldwin Park, CA	February 2011
Tacoma, WA	March 2011
Golden, CO	April 2011
Rye Brook, NY	May 2011
Providence, RI	June 2011
Schaumburg, IL	September 2011
St. Louis, MO	September 2011
Dearborn, MI	October 2011
Newtown, PA	December 2011

Appendix B: IPR Center Participants

Partner agencies embedded at the IPR Center include:

- U.S. Immigration and Customs Enforcement
- U.S. Customs and Border Protection
- Federal Bureau of Investigation
- U.S. Postal Inspection Service
- Food and Drug Administration, Office of Criminal Investigations
- Department of Commerce, International Trade Administration
- Naval Criminal Investigative Service
- Defense Criminal Investigative Service
- U.S. Army Criminal Investigative Command, Major Procurement Fraud Unit
- Defense Logistics Agency, Office of Inspector General
- Air Force Office of Special Investigations
- U.S. Patent and Trademark Office
- General Services Administration, Office of Inspector General
- Consumer Product Safety Commission
- National Aeronautics and Space Administration, Office of Inspector General
- U.S. Department of State, Office of International Intellectual Property Enforcement
- INTERPOL
- Mexican Revenue Service
- Royal Canadian Mounted Police

Appendix C: Agencies 2011 Major Intellectual Property Enforcement Activities

Department of Commerce

United States Patent and Trademark Office

A leader in the shaping of domestic IP policy and improving the protection and enforcement of IP throughout the world, the USPTO continued its intensive outreach and capacity-building activities in 2011. The USPTO organized and participated in numerous programs through the USPTO's Global Intellectual Property Academy (GIPA) and in coordination with other agencies. These programs were developed to further increase IP expertise among judges, prosecutors, attorneys, and law enforcement officials in other countries and focused on such topics as: strengthening border enforcement, battling digital piracy and the sale of counterfeit goods and pharmaceuticals, assisting developing countries with creating action plans and improving inter-agency coordination, and consulting with the judiciary on the handling of IP cases.

The USPTO provided advice to countries developing or amending their IP laws. For example, the USPTO led U. S. Government efforts to submit comments to China's Trademark Law that is currently being revised. USPTO also hosted working sessions with delegations from China's National People's Congress and State Administration for Industry and Commerce to assist them with revising China's trademark law as part of ITA's annual commercial rule of law exchange Program. Enforcement issues addressed included secondary liability, seizure and destruction of implements and statutory damages.

USPTO connected ITA and US companies to Mexican customs authorities in a boost to Mexico's efforts to launch a trademark recordation database. As a result of its work with ITA and Mexican customs, several US companies were able to register their marks to ensure they will be protected at the border. USPTO worked to engage with SMEs on intellectual property rights protection and enforcement. SME program topics were arrayed across the spectrum of intellectual property practice areas, including patents, trademarks, copyright, and IPR enforcement. USPTO conducted over thirty IPR training and outreach programs to SMEs. A sampling of specific topics includes protecting IP in the global marketplace, IP and green technology innovation, IP and humanitarian outreach, anti-counterfeiting for medical devices, a roadshow on Chinese IP systems, IP protection and enforcement for researchers, and a border enforcement counterfeit product showcase. Programs were delivered at the USPTO campus, law schools, and conference centers across the United States. In support of the creation of tools to assist U. S. businesses, the USPTO provided technical advice relating to the development of the first IPR toolkit for Sub-Saharan Africa for Ghana, which is posted on the embassy website and at www.stopfakes.gov.

USPTO also continued to staff a telephone hotline—**1-866-999-HALT**—to provide resource information to callers on protecting and enforcing intellectual property rights. Within the United States, USPTO participated in a number of domestic enforcement programs for states and local law enforcement, which were led by the IPR Center. USPTO participation focused on IPR awareness and educating law enforce-

ment on the fundamentals of IP protection and enforcement in the U.S. The USPTO also highlighted recent efforts to cooperate with law enforcement and the ability to easily obtain trademark registration information for counterfeit case prosecutions.

Capacity Building Programs in 2011

Multilateral Border Enforcement: In January, USPTO conducted, in coordination with CBP and ICE, an IPR Border Enforcement program at the Global Intellectual Property Academy for customs officials from Canada, the Dominican Republic, El Salvador, Ethiopia, Ghana, Hong Kong, India, Jordan, Kenya, Mexico, Peru, Saudi Arabia, Spain, Swaziland, Uganda and Vietnam. This advanced customs workshop addressed: issues in operating customs recordation systems, targeting and document review, product identification, investigating intellectual property crime at the border, inter-agency coordination, exportations and in-transit movements, international cooperation and case studies. By focusing on the intersection of targeted enforcement techniques and the crucial role of inter-agency coordination, tools were provided to customs officials from around the globe to combat the movement of counterfeit and piratical goods across their borders.

Global IPR Enforcement: In February, USPTO held a program on General Intellectual Property Rights Enforcement at the Global Intellectual Property Academy. The program brought together officials from 12 different countries and included discussions on the fundamentals of copyright, trademarks, and patent protection, as well as on the impact of IP enforcement on economic development and public health and safety, international standards of intellectual property protection, border enforcement measures, and enforcement of intellectual property-related crimes.

Middle East Judicial Program: In March, USPTO, in coordination with the Institute of Training and Judicial Studies, held a judicial roundtable on intellectual property rights in the United Arab Emirates. Participants in the program included judges and officials from customs, police departments, and the public prosecutors' office. The roundtable included discussions on the importance of intellectual property protection, comparison of U.S. and UAE civil enforcement and judicial systems, trademark and copyright cases involving infringement analysis and civil remedies, trademark and copyright criminal cases, and judicial administration and case management. This roundtable discussion provided a valuable mechanism for the sharing of experiences among jurists in adjudicating intellectual property cases and the efficient movement of intellectual property cases through the courts.

Russian Copyright Program: In March, the USPTO organized a capacity building workshop in partnership with the Investigative Committee of the Russian Federation on Copyright Infringement in the Digital Environment in Moscow, Russia. The program featured U.S. experts from the FBI and the DOJ working with officials from the Investigative Committee on best practices for investigation of digital piracy cases. Representatives from the private sector also participated and discussed with the Russian participants the importance of working with industry in effectively investigating digital piracy cases.

ASEAN-USPTO Advanced Workshop on Digital Copyright Enforcement and Internet Piracy: In March, in Bangkok, Thailand, USPTO cooperated on a workshop attended by approximately 55 enforcement officials and policy-makers from the ASEAN region. Case studies and discussions on camcording and Internet illegal downloading during this particular workshop lead to the strengthening of then pending

copyright legislation in Malaysia and the Philippines, and a heightened awareness of the issues by other ASEAN countries which are in the process of drafting legislative revisions to current copyright laws.

South Asia Border Enforcement: In April, in Mumbai, India, USPTO brought together customs officials from India, Pakistan, Sri Lanka, Bangladesh, Bhutan, Nepal, Maldives, and the United States, along with representatives from the private sector, for a regional anti-counterfeiting and anti-piracy capacity-building program. Nearly 60 border enforcement officials from throughout South Asia exchanged views on intellectual property enforcement issues related to counterfeit and pirated goods during the three-day program. Participants focused on the tools necessary for border enforcement officials to detect the movement of counterfeit and pirated goods, experiences in working effectively with rights holders, best practices in border enforcement, and the importance of actions relating to exports and in-transit movements. The program also promoted cooperation and information-sharing among the regional customs offices relating to examination of trademark and copyright-related merchandise.

Jordan Counterfeit Medicines Program: In May, USPTO participated in a conference on combating counterfeit medicines in Jordan organized by the Jordan Food and Drug Administration. Participation in the conference provided an opportunity to share with Jordanian officials effective approaches to combating counterfeit medicines.

Africa IPR Enforcement: In May, USPTO in coordination with CLDP and the DOJ, participated in the Regional Workshop on Enforcement of Intellectual Property Rights in Kenya: An Interagency Approach with Private Sector Coordination. Participants included officials from Kenya, Burundi, Rwanda, Tanzania and Uganda. The program addressed topics including: an overview of IPR and their importance in fostering economic and technological development; impact of counterfeiting and piracy in Kenya, international standards for the enforcement of IPR, the role and mandate of the Kenya Anti-counterfeiting Agency, impediments to intellectual property enforcement in Kenya, border enforcement, investigations and adjudication best practices, and national and regional cooperation on intellectual property enforcement. By bringing together enforcement agencies and intellectual property offices, the program provided a valuable forum in which to highlight the importance of inter-agency coordination and the role of the Kenya Anti-counterfeiting Agency.

IPR Enforcement in the Digital Environment—Lithuania: In May, the USPTO in coordination with the U.S. Embassy Vilnius organized a two-day capacity building workshop on Criminal Enforcement in the Digital Environment in Vilnius, Lithuania. Seventy six participants from Lithuania, Latvia, Estonia, Finland, Sweden, and Russia participated in panels moderated by representatives from the U.S. DOJ, USPTO, and ICE HSI. The participants noted the difficulties they faced in investigating and prosecuting IPR crime in the digital environment. The workshop resulted in suggestions for training, outreach, and cooperation to address existing challenges. The conference served as one way to enhance regional cooperation in combating this increasingly common and international IPR crime.

Ukraine Combating Counterfeit Drugs Program: In May, USPTO in coordination with CLDP organized a Workshop on Identification and Interdiction of Counterfeit Medicines in Ukraine, which utilized expertise from the US Government, international organizations, NGOs and the private sector. The workshop aimed to increase the understanding of Ukraine's officials, specifically those in its law enforcement and regulatory agencies, of the most effective methods and techniques to combat the trade in counterfeit

medicines. The focus of the capacity building workshop on tools and techniques and the importance of coordination with stakeholders provided information to key officials to effectively combat counterfeit medicines in Ukraine.

South America Border Enforcement Program: In June, the USPTO's Intellectual Property Attaché in Brazil worked with the World Intellectual Property Organization (WIPO) in developing a regional intellectual property border enforcement program in Cuidad del Este, Paraguay. The program was attended by government officials from Paraguay, Brazil, Peru, Chile and Ecuador, with special breakout sessions for judges, police and prosecutors, and customs officials. The program also included training on risk assessment, targeting, and disposal of infringing goods led by ICE Attaché Embassy Buenos Aires.

Africa Judicial Program: In June, the USPTO, in conjunction with the Department of Commerce and CLDP, organized a three-day conference on Intellectual Property Fundamentals and Trial Practice for judges representing eight different countries in East Africa held in Kigali, Rwanda. Representatives from DOJ, CLDP, USPTO, and the U.S. Federal Judiciary gave presentations on intellectual property issues and concerns focused on developing economy issues in East Africa.

Ukraine Combating Digital Piracy Program: The USPTO in coordination with the State Intellectual Property Service of Ukraine organized a technical assistance program on copyright infringement in the digital environment. Speakers from FBI, DOJ, and the USPTO worked with officials from the Ministry of Internal Affairs of Ukraine, the State Department of IP, the Security Service of Ukraine, as well as various other stakeholders to discuss strategies for combating copyright infringement in the digital environment and techniques for investigating and prosecuting internet piracy crimes. Using information gained from this program, Ukrainian enforcement officials initiated an investigation and took down a website featuring piratical content.

Outreach on China's Judicial System: In July, a series of meetings were held in the United States and in China for businesses to express their issues and concerns with the civil IP litigation system in China and more specifically that of patent litigation. The initial program with the IPEC Office was co-led by the IPEC Coordinator Victoria Espinel and USPTO DUS Terry Rea.

India Anti-Counterfeiting Drug Program: In July, USPTO collaborated on a roundtable on 'Innovation in Anti-Counterfeiting Technologies for Drugs' in Delhi. Representatives from Industry, the U.S. Government, and the Indian Government discussed the scope of the 'spurious' drugs problem in India, the pending legislation and guidelines under consideration by the Government of India, and the various technologies being employed to ensure the supply of safe and effective drugs.

General IP Enforcement: In July, USPTO held a program on General Intellectual Property Rights Enforcement at the Global Intellectual Property Academy. The program brought officials from 14 different countries and included discussions on the fundamentals of copyright, trademarks, and patent protection, as well as on the impact of IP enforcement on economic development and public health and safety, international standards of IP protection, border enforcement measures, and criminal IP enforcement. The impact of the enforcement program in terms of productivity and deliverables for a participating country were noted by one participant.

Africa IPR Enforcement Program: In August, the USPTO, in coordination with CLDP, DOJ and DOS, held consultations at the Global Intellectual Property Academy on an interagency approach to the enforcement of intellectual property rights. Participating countries included Ghana, Kenya, Liberia and Nigeria. The program included discussions on: intellectual property enforcement task forces, protecting and enforcing local cultural works and works of authors, country experiences in the role and mandate of interagency task forces, prosecuting intellectual property cases, targeting importations and risk analysis, intellectual property rights investigations and border enforcement, the role of the IPEC, asset forfeiture, overview of IPR Center, and discussion of the development of regional intellectual property task force coordination action plans. The workshop included a discussion with rights holders on the challenges and solutions in enforcing IPR in the region. To leverage resources and utilize and promote the use of technology in USPTO programs, in coordination with the International Trade Administration, rights holders were present at the Global Intellectual Property Academy and participated by teleconference from the region. USPTO is working to increasingly utilize technology in the delivery of technical assistance programs. This program resulted in the drafting of interagency enforcement action plans by the participating countries to facilitate an interagency approach to intellectual property enforcement.

Iraq Judicial Program: In August, USPTO coordinated with CLDP to conduct a workshop at the Global Intellectual Property Academy on intellectual property rights and enforcement for the Iraq judiciary and law professors. The program focused on intellectual property protection, infringement determinations, injunctive relief, seizures, and damages.

India Border Enforcement Program: In August, USPTO collaborated on three workshops with the National Academy of Customs, Excise and Narcotics for Indian customs officers in Kanpur, Patna and Bangalore. The programs focused on raising IPR awareness and discussing best practices in IPR border enforcement. Customs officials also heard presentations from various industry sectors and participated in hands-on product identification exercises.

India IPR Enforcement Program: In September, USPTO held capacity-building programs in three cities in India (Delhi, Kolkata, and Mumbai), all directly relating to ongoing policy concerns the U.S. Government has with India's regime for enforcement of IPR. Two of the programs were focused on copyright piracy in the digital environment, and featured a speaker from DOJ's CCIPS Cybercrime Lab, who shared best practices in utilizing digital forensics techniques for intellectual property enforcement cases, as well as U.S. prosecutors specializing in computer crime.

ASEAN Border Enforcement Program: In September, the ASEAN-USPTO Advanced Workshop and Study Visit for Customs Officials on IPR Border Enforcement was held in the U.S. The program focused on cutting edge issues in the enforcement of IPR at the border. Approximately 20 officials from nine ASEAN countries participated in the classroom program and study visit to a variety of CBP facilities in the United States, including the CBP forensic testing laboratory, and various port and border-crossing facilities in California.

Greece Enforcement Program: In September, USPTO organized a Workshop on Inspection and Investigation of Counterfeit Products in Greece in coordination with Embassy Athens. Speakers included representatives from USPTO, DOJ, FBI, CBP, and the private sector. The participants were Greek police and customs officers; and the workshop focused on best practices for the interdiction and control of

counterfeit goods at the border, investigating and prosecuting intellectual property crimes, and coordination with the private sector.

Serbia Enforcement Program: In September, USPTO partnered with WIPO and the Intellectual Property Office of Serbia to organize an Inter-Regional Symposium on Enforcement of Intellectual Property Rights in Belgrade, Serbia. The participants included representatives from over 20 countries and the workshop focused on trends and best practices for effective enforcement of IPR.

Eurasia Customs Enforcement Workshop: In October, USPTO participated along with ITA and CBP in a CLDP organized regional program—the Eurasia Intellectual Property Customs Enforcement and Coordination workshop in Georgia. Participating countries included Georgia, Armenia, and Turkey. The program included discussions on IP border enforcement challenges in Armenia, Georgia, and Turkey, risk analysis and targeting, enhancing regional and international coordination, cooperation and communication, identification, investigation and prosecution of criminal IPR infringement cases, and the role of rightholders. The workshop resulted in officials from these countries sharing experiences in border enforcement with officials from the United States and the World Customs Organization. In addition to providing tools on the identification and interdiction of counterfeit and piratical goods, the workshop provided a valuable forum for regional cooperation.

South American Border Enforcement Program: In November, USPTO worked with the IPR Attaché in Brazil and a private sector group on a 2-day border enforcement program in the Tri-Border Area for government officials and industry members in the region. The program was designed to encourage discussion of ways to improve policies against piracy, counterfeiting, and trafficking in the region and well as to improve cooperation between the countries in the area, particularly with regards to border measures. The program included officials from Peru, Chile, Brazil, Argentina, Paraguay, and Uruguay.

International Trade Administration

Under the auspices of the President's National Export Initiative (NEI), the International Trade Administration (ITA) is working with other U.S. Government agencies to support U.S. businesses that are entering or doing business in overseas markets. ITA is working to reduce intellectual property rights barriers to entry into overseas markets by providing U.S. companies with information they need to obtain and protect their IPR and assisting them in overcoming specific IPR barriers in foreign markets that impede commercial transactions.

Enhancing IPR Education to SMEs

ITA's OIPR continues to enhance its tools to ensure that U.S. businesses, particularly U.S. small-and medium-sized enterprises (SMEs), understand how to protect and enforce their IPR internationally, so that exporting is a sustainable activity. ITA offices more broadly have worked diligently since the launch of the Joint Strategic Plan in June 2010 to expand outreach to and collaboration with U.S. businesses. Outreach highlights include:

- **Traditional Outreach:** In 2011, ITA participated in 56 outreach/education/capacity building meetings and events focusing on intellectual property rights, reaching over 1,000 U.S. and foreign industry, government representatives, and consumers. Training is conducted in person,

through webinars, digital video conference, and by telephone, both as stand-alone trainings or on the margins of larger events.

As part of its overall outreach efforts, OIPR has launched two new initiatives:

- **China Trade Mission IPR Webinars:** OIPR has developed several IPR webinars featured in ITA's U.S. Export Assistant Center (USEAC) organized programs focusing on trade missions to China. OIPR's webinars provide SMEs with practical advice on how to protect and enforce their IPR in China and information on U.S. government resources. Since February 2011, OIPR's webinars have provided IPR resources to more than 100 U.S. SMEs.
- **Outreach to U.S. Government Colleagues:** OIPR is increasingly seeking opportunities to reach out to other U.S. government colleagues to provide an overview of available IPR-related tools and contacts for them and for SMEs that approach them. One of the primary ways in which OIPR is achieving this goal is through presentations at the TPSC Inter-Agency Trade Officer Course.

China IPR Webinar Series: Additionally, ITA's Market Access and Compliance Office of China and Mongolia, as part of the Agency's overall IPR-outreach related activities, continued its highly successful China Webinar Series. These webinars offer U.S. SMEs the opportunity to discuss current IPR issues with attorneys practicing in China. After a 30-minute presentation, the attorney then takes questions from U.S. companies for another 30 minutes. In 2011, 15 webinars were conducted. Audio recordings of the webinars are available on www.STOPfakes.gov.

- **Outreach in Support for the Implementation of a Mexican Customs Trademark Registration System:** OIPR partnered with the USPTO and CBP to encourage U.S. businesses to participate in a pilot stage of Mexico's customs trademark registration system. It is hoped that the new system will improve the ability of Mexico customs to identify counterfeits and prevent entry of counterfeits into the Mexican market.

IPR Policy Engagement with the Chinese Government

- **Joint Commission on Commerce and Trade (JCCT):** As part of the JCCT Intellectual Property Rights Working Group (IPRWG), ITA's Office of China and Mongolia and OIPR have achieved significant policy outcomes on priority issues facing U.S. companies. The achievements include the following:
  - China agreed to make a significant systemic change to its enforcement of intellectual property rights. Through a high-level central government enforcement structure led by Vice Premier Wang Qishan, China will make its 2010 Special IPR Campaign permanent. This structure will continue China's high-level involvement in IPR enforcement efforts that will enhance its ability to address intellectual property rights infringement throughout the country.
  - China announced a new high-level central government mandate requiring provincial and local governments to eliminate any policies that are not consistent with President Hu's commitment to sever the link between China's innovation policies and government procurement by December 1, 2011.

  - China's leadership committed to increased political accountability—the performance of provincial level officials will be measured in part based on enforcement of intellectual property rights in their regions.
  - Vice Premier Wang Qishan personally committed to continue China's software legalization program. Specifically, he committed to ensure that the legalization efforts would be completed by the middle of 2012 at the provincial level and at the local and municipal levels by the end of 2013.
  - The Chinese government agreed to continue working to develop solutions to combat the sale of infringing goods on the Internet, while at the same time moving forward to develop additional protections for legitimate trademarks. All of China's commitments on intellectual property rights will enhance the protection of U.S. innovative products and promote job creation in the United States.

- **Revisions to China's Trademark Law:** ITA and USPTO led an interagency effort within the JCCT process to revise China's Trademark Law so that landlords can be held liable when tenants sell infringing goods. As the intellectual property law experts, USPTO played an integral part in providing assistance with revisions. ITA provided to both China's Trademark Office within the State Administration for Industry and Commerce and to China's State Council Legislative Affairs Office the proposed revisions to China's Trademark Law (in Chinese). ITA submitted recent court decisions issued by District- and Intermediate-level courts to counter the SAIC's assertion that such secondary liability is "implicit" in the law and therefore no further amendments are needed. Also, when delegates to China's National People's Congress (NPC) came to the United States as part of the annual commercial rule of law exchange program, ITA organized meetings with New York State trademark attorneys specializing in landlord liability cases as well as with an attorney working for the City of New York (City) who tries such cases on behalf of the City, who, using the New York State example, explained the legal significance for the revised language. In addition, ITA organized a meeting with the U.S. Chamber of Commerce and the U.S. China Business Council to collect industry's comments to revisions to the trademark law. The draft law will soon be sent to the NPC for ratification. The USPTO hosted parallel day-long sessions with the delegation in further support of the effort.

In 2011, ITA has enhanced its tools and services available to U.S. businesses on its www.stopfakes.gov website. The following enhancements have been made:

- **Country Toolkits:** There are now 19 country toolkits, posted on embassy websites and on www.stopfakes.gov that contain detailed country-specific information on protecting IPR. In 2011, ITA added a new toolkit for Colombia.
- **Podcasts:** In cooperation with the Small Business Administration, ITA produced two podcasts to inform SMEs about IPR protection and enforcement, and promote awareness about U.S. government IPR assistance tools. The podcasts remain available for on-demand playback on SBA's website and are in the process of being added to STOPfakes.gov.
- **Transatlantic IPR Resource Portal:** In the area of public-private partnership, cooperation between OIPR and the European Union's Directorate General for Enterprise continued to be

strong in 2011. The two agencies continue to expand the resources found on the Transatlantic IPR Resource Portal, which was launched in December 2010. The Portal is an ongoing cooperative effort to build the awareness and capacity of transatlantic businesses to protect and enforce their intellectual property rights when exporting to foreign markets. The goal of the Portal is to help companies and small business owners on both sides of the Atlantic fully utilize all the intellectual property-related resources and tools developed by both governments. The Portal is accessible through www.STOPfakes.gov.

Overcoming Trade Barriers through the Trade Agreements and Compliance Program

To improve the overall trade environment for U.S. businesses, OIPR monitors foreign governments' compliance with international trade agreements and actively engages with trading partners bilaterally and multilaterally. OIPR also assists U.S. businesses overcome IPR trade barriers through the MAC Trade Agreements and Compliance Program. OIPR works with ITA's regional and country experts to assemble teams of experts from across ITA and other U.S. Government agencies. This team develops action plans and strategies for the resolution of the trade barrier and relies on expertise abroad from personnel at Embassies and Missions to better understand particular concerns and raise these concerns with foreign governments.

- **Case Success:** Since January 2011, 16 barriers in 13 countries were removed successfully.
- **Case Work:** Since January 2011, OIPR has initiated 38 cases on behalf of U.S. rights holders. Of those, 38 cases 15 were on behalf of U.S. SMEs.

In-Country Expertise Provided by the U.S. Commercial Service

The U.S. Commercial Service provides an array of client-based export promotion products and services designed to provide SMEs with worldwide market-entry strategies and boost the number of U.S. firms that export. Commercial Service officers posted in U.S. Embassies and Consulates around the world provide U.S. companies with invaluable assistance navigating the complexities of protecting and enforcing IPR abroad. Commercial Officers also advocate for stronger IPR enforcement and protection with foreign governments, and participate in a wide array of both formal and informal dialogues in which IPR-related issues are discussed.

Commercial Law Development Program (CLDP)

Bosnia-Herzegovina

- A delegation of eight Bosnia-Herzegovina judges took part in CLDP consultations in Memphis, Tennessee, May 23-27. Planned in coordination with the U.S. District Court for the Western District of Tennessee, these consultations built on past IPR trainings and worked to improve the skills necessary to fairly, efficiently, and effectively adjudicate intellectual property civil and criminal infringement cases.
- CLDP hosted a workshop on the Development of a Judicial Intellectual Property Benchbook in Sarajevo in September 2011. The benchbook will provide valuable guidance to judges and prosecutors dealing with intellectual property infringement cases and can be used for training

purposes by the Judicial and Prosecutorial Training Centers in FBiH, Republika Srpska and Brčko District.

Economic Community Of West African States

- CLDP is supporting a legislative advisor who assists the Economic Community of West African States' legal and trade offices to produce a draft IP Policy and guidelines harmonizing IP protection among the ECOWAS member states that will meet at a minimum, the standards of the WTO Agreement on Trade Related Aspects of Intellectual Property Rights and the WIPO Internet Treaties.

Georgia

- CLDP organized the Eurasia Intellectual Property Customs Enforcement and Coordination Workshop Tbilisi, Georgia to promote dialogue between customs authorities of Armenia, Georgia and Turkey on concrete steps that could be taken to improve regional coordination and interdiction of counterfeit and pirated goods crossing their common borders;

Iraq

- Mastering Intellectual Property Law—CLDP completed the first phase of a program meant to ensure that, within two years, there will be at least one professor able to teach IP law in each of Iraq's 23 law schools (18 in Iraq proper; 5 in Kurdistan). In order to do so, CLDP has been working with the Dean of Baghdad University's law school, who is also the chair of the conference of deans of Iraqi law schools. The Dean selected 12 law professors representing law schools from different provinces. CLDP organized a three-week program of consultations in the US for these professors and a retired judge representing Iraq's Chief Justice.
- The Role of the Judiciary in Enforcing IP Rights—CLDP, in close collaboration with the Iraqi Judicial Development Institute, conducted a workshop on "The Role of the Judiciary in Enforcing Intellectual Property Rights" in Baghdad, Iraq. The four-day program aimed to build Iraqi judges'capacity to enforce intellectual property rights. The program took place in Baghdad at the Higher Judicial Council from September 19 to 22 and was led by the Honorable Judge Morrison England from the Eastern District of California and the Honorable Judge Marvin Garbis from the District of Maryland.

Kenya

- USDOC supported a four-day workshop in May 2011 on the Enforcement of Intellectual Property Rights in Kenya: An Interagency Approach with Private Sector Coordination. The workshop exposed approximately 100 IP administrative and enforcement officials from Kenya as well as private sector stakeholders from across the region to best practices in interagency collaboration on IPR enforcement. Officials from the governments of Burundi, Rwanda, Tanzania, Uganda, and the East African Community also participated in the program as observers.

Kyrgyzstan

- CLDP initiated cooperation with the State Intellectual Property Service of Kyrgyzstan (Kyrgyzpatent) by co-organizing a 2-day workshop in Bishkek, Kyrgyzstan on the role of intellectual property in economic development. The workshop, which was attended by a mix of

participants from business, government and universities, focused on topics relevant to the private sector of Kyrgyzstan, including IP management for small and medium-sized enterprises, IP licensing and assignment, and technology transfer, among others.

Mali

- Joint CLDP/USAID workshop brought together 150 Malian judges, attorneys, customs officials, prosecutors and other law enforcement agents to discuss, understand and develop best practices to resolve the challenges West African nations in general and Mali in particular face in terms of public health, food safety and environment as a result of counterfeiting.
- Geographic Indicator—Working in partnership with USPTO, CLDP has been providing technical legal assistance on the development of a Geographic Mark for Malian shallots. By linking the characteristics of a product to its geographic origin, this form of intellectual property protection has become a proven asset to economic growth and food security.
- Workshop for Malian Customs focusing on "targeting" techniques to prevent the entry of counterfeits in the country—This program builds upon the consultations that have already taken place in Bamako over the last three years to remedy the inadequacy of IPR protection in Mali. The program, organized jointly by CLDP, French Customs and the International Institute Against Counterfeited Medicines focused on a practical exercise over a four day period exposing 50 customs officials to the "targeting" techniques used to identify problematic shipments which are likely to include counterfeited and the importance of intellectual property protection.
- CLDP sponsored Malian Participation in Regional Workshop on Geographic Indicators—In continuation of CLDP's assistance to the Government of Mali in the development and implementation of Geographic Indications for Malian products, CLDP sponsored the participation of three Malian representatives in a Central and West Africa regional workshop on Geographic Indications in Yaoundé, Cameroon.

Pakistan

- In 2011, CLDP conducted a Judicial Enforcement of Intellectual Property Rights Workshop for 30 District Sessions and Additional District Sessions judges in close coordination with the Pakistan Supreme Court's Federal Judicial Academy (FJA) and in conjunction with the Supreme Court's National Judicial Conference.

Rwanda (East Africa)

- The Role of the Judiciary in the Protection and Enforcement of Intellectual Property (IP) in East Africa Workshop: USDOC leveraged resources with those of the DOJ, USPTO to organize a high-level workshop for judiciary members of EAC countries (EAC, Rwanda, Burundi, Kenya, Tanzania, Uganda, Mauritius) and officials from the host country's court of justices, relevant ministries and enforcement agencies, that focused on increasing their skills and knowledge in trademarks, copyrights and electronic evidence to adjudicate more fairly, consistently, and efficiently IP cases, and their awareness of the benefits of enhanced IP enforcement in East Africa region. The workshop produced recommendations for cooperation and policies on a regional basis.

Regional Consultations

- CLDP, in collaboration with GIPA of the USPTO, DOJ, State, and ICE HSI organized a program from August 1-5, 2011, entitled "US Consultations on the Interagency Approach to the Enforcement of Intellectual Property Rights for a group of government officials from Ghana, Kenya, Liberia and Nigeria".

Ukraine

- CLDP, in close cooperation with Ukraine's Customs Service and Ukraine's private industry, held a two-day workshop on identification and interdiction of counterfeit and pirated products. The participants were Ukrainian customs officials and presenters included Chanel, Nike, Puma, Adidas, BIC, European Business Association, DuPont and Stihl AG. The workshop focused on practical problems of enforcement, covering issues of identification as well as institutional and legislative impediments. While the private sector companies discussed the technical aspects of identification of authentic versus counterfeit products—often using actual products—the workshop also included for interactive case studies that highlighted institutional and legislative impediments to enforcement of counterfeit and pirated products. At the conclusion of the workshop, the participants discussed recommendations and next steps in order to establish better communication channels between private industry and the State Customs Service of Ukraine and identify possible solutions to institutional and legislative impediments to efficient IPR enforcement.
- CLDP and USPTO, in cooperation with the U.S. Embassy in Ukraine, held a three-day workshop, on Identification and Interdiction of Counterfeit Medicines in Kyiv. The workshop aimed to increase the understanding of Ukraine's officials, specifically its law enforcement and regulatory agencies, of the most effective methods and techniques to combat the trade in counterfeit medicines. Ukrainian participants included investigators, prosecutors, judges, customs officials, government regulators, NGOs, and private sector representatives.

Department of Homeland Security

DHS has conducted a number of intellectual property enforcement activities in 2011:

U.S. Customs and Border Protection

- **Increases in Border Enforcement of Intellectual Property Rights (IPR):** In FY 2011, the number of seizures by CBP and ICE for counterfeit pharmaceuticals rose nearly 200 percent to 1,239. Also, the overall numbers of DHS IPR seizures increased by 24 percent to 24,792 with a Domestic Value of $178.9 million and an MSRP of $1.1 billion. CBP saw an increase in the use of express carrier services for shipping counterfeit and pirated goods where the number of seizures increased by 16 percent over FY 2010 and 65 percent over FY 2009. There was also a 44 percent increase in the number of counterfeit consumer safety and critical technology merchandise seizures in FY 2011. The value of the seized counterfeit consumer safety and critical technology merchandise increased 41 percent to $60 million compared to FY 2010.

- **Leading the Fight against Counterfeit Medicines in the Asia Pacific Region:** As the 2011 Chair of the APEC Sub-Committee on Customs Procedures (SCCP), CBP led a year-long project to enhance IPR enforcement in international mail and express courier facilities throughout the Asia Pacific Region. This project included a mutual enforcement operation and development of model effective practices. CBP conducted Operation APEC in June and July 2011 at select express carrier and international mail facilities. As a result of the 10-day operation, CBP seized 441 shipments of illegal pharmaceuticals, 99 of which were counterfeit. The domestic value of the counterfeit pharmaceuticals CBP seized was $191,425 and the MSRP was $231,136. With seven other APEC customs authorities participating, enforcement actions were taken against more than 1,000 shipments over a ten day period. Following the operation, CBP and the participating APEC customs authorities developed model effective practices for enforcing IPR in mail and express carrier facilities.
- **Enforcing the Digital Millennium Copyright Act:** CBP made 29 seizures of devices designed to circumvent technological measures intended to protect copyrighted works such as game software. The domestic value of the seizures was $58,000.
- **Enhancing Enforcement Cooperation with China:** In May 2011, CBP amended its Memorandum of Cooperation on IPR enforcement with the General Administration of China Customs (GACC) to strengthen collaboration on IPR enforcement. In an effort to facilitate and increase information sharing between the two agencies, CBP and GACC agreed to remove the limitation on the number of specific seizure cases that can be shared. CBP also signed a Memorandum of Understanding with China's Ministry of Public Security in May 2011 that specifically provides for sharing information on IPR enforcement.
- **Special Operations Lead to Criminal Convictions:** In 2011 CBP's targeting and interdiction of counterfeit goods led to serious criminal convictions. CBP's IPR National Targeting and Analysis Group conducted Operation Cisco Raider in 2008 targeting shipments of counterfeit Cisco components that uncovered a sophisticated conspiracy to import counterfeit goods led by Chun-Yu Zhao with help from her co-conspirators in China. CBP referred this case to ICE HSI and supported the investigation through additional targeting and auditing of Zhao's records. Zhao was sentenced in September 2011 to 60 months in jail for conspiracy to import and sell fake Cisco computer networking equipment.
- **Protecting Government and Defense Supply Chains Leads to Convictions:** CBP's Operation Infrastructure, which was conducted in 2008, identified MVP Micro and VisionTech as companies involved in conspiracies to import counterfeit semiconductors for sale to the U.S. Department of Defense (DOD). CBP seized more than 30 shipments from both companies, referred the cases to ICE HSI, and provided additional targeting and analysis to support the ensuing investigations. In October 2011, Stephanie McCloskey, from Vision Tech, was sentenced to 39 months in jail for conspiracy to import counterfeit integrated circuits from China and attempting to sell them to the U.S. Navy. Neil Felahy, from MVP Micro, pled guilty earlier in 2011 to trafficking in counterfeit goods and attempting to sell these fake goods to the Navy. These investigations were performed by ICE HIS under the auspices of Operation Chain Reaction.

- **Legislative Proposal Submitted to Congress:** In collaboration with the IPEC, CBP provided Congress with a legislative proposal authorizing CBP to share samples, which may include information protected by the Trade Secrets Act, with rights holders prior to seizure, if the importer is unable to establish that the merchandise is not infringing. Currently CBP is not authorized to share unredacted samples of suspect merchandise with rights holders prior to seizure, which impedes efficient infringement determinations. Resolving this issue is of utmost importance to rights holders and CBP.
- **Improving Facilitation of Legitimate Trade:** CBP is conferring with the private sector to implement a distribution chain management program to enable CBP to increase the number of shipments segmented into a low risk category for expedited release, allowing CBP to focus inspection resources on high risk shipments. CBP envisions a process in which each shipment is accompanied by a unique identifier that is transmitted to CBP prior to arrival. This would enable CBP to authenticate an entire shipment prior to or immediately upon arrival without examining the goods.
- **Acquisition of Modernized Authentication Tools:** CBP is modernizing its authentication tools to expedite identification of genuine and counterfeit products. In collaboration with the pharmaceutical industry, CBP acquired portable scanners to enable officers to make on-the-spot determinations on whether pharmaceuticals are real or fake. CBP's Laboratories and Scientific Services and its new Pharmaceutical Center for Excellence and Expertise coordinated with the pharmaceutical industry to obtain widespread industry support and test this tool.
- **Integrated IPR Field Training Goes Live:** To better equip officers to enforce IPR, CBP launched an Integrated IPR Field Training program, which provides an overview of policy considerations along with in depth training on the legal and operational components of IPR enforcement. CBP held 30 sessions for more than 550 CBP officers at high-risk ports. The training was exceptionally well received with numerous requests for additional training in FY 2012.
- **Deepening Partnerships with Industry:** CBP expanded its outreach to industry by coordinating with rights holders to provide product identification training guides and product identification training sessions at the ports. Rightholders have provided CBP 122 product identification guides covering 1,225 recorded trademarks and copyrights, which are posted to a secure intranet and are accessible by CBP employees to increase the information available to identify suspect goods and for infringement determinations. CBP instituted a program to track training sessions delivered by rightholders at U.S. ports of entry, which shows right holders delivered almost 5,600 hours of training to 2,161 CBP employees and 183 employees of other government agencies during FY 2011.
- **International Engagement and Capacity Building:** CBP participated in numerous capacity building programs for customs officials from: Belize, China, El Salvador, Guatemala, Hong Kong, India, Indonesia, Laos, Macao, Malaysia, Mexico, Pakistan, Panama, Philippines, Singapore, Thailand, Timor-Leste, and Vietnam. To enable its Attachés to better engage on IPR issues in their host countries, CBP conducted IPR training for 20 of its Attachés and advisors posted overseas.

- **Gauging IPR Compliance in International Mail:** CBP implemented an Admissibility Compliance Measurement (ACM) program at International Mail Facilities to assess the degree to which imports comply with U.S. laws, including laws governing IPR. The ACM is scheduled to be expanded to express consignment facilities during FY 2012, followed by ocean cargo at a later point.
- **Improved Penalty Procedures:** In FY 2011, CBP implemented new procedures for issuing IPR penalties concurrently with seizure and to expand the scope of parties against whom penalties are issued to the full extent of the law. The number of IPR penalties assessed in FY 2011 was 167, with a total assessment value of $71,614,950. The amount collected for IPR penalties in FY 2011 was $135,067.
- **Technical Analyses of Suspect Counterfeit Goods:** CBP's scientists analyzed approximately 1,624 samples of goods suspected of intellectual property infringement in FY 2011 (over four times the samples analyzed in FY 2010) and issued 277 reports, resulting in seizures of products such as clothing, chemicals and computer software and hardware.
- **Recordation Applications for Intellectual Property Enforcement:** In FY 2011, CBP approved 2,087 applications, known as recordations, from trademark and copyright owners for CBP to protect their rights against counterfeit and pirated goods.

U.S. Immigration and Customs Enforcement

- **Increases in Intellectual Property Enforcement Efforts by ICE Homeland Security Investigations:** In FY 2011, ICE HSI achieved 574 arrests, 355 indictments, and 291 convictions. These enforcement results represent a 57 percent increase in arrests; a 64 percent increase in indictments; and a 71 percent increase in convictions from FY 2010. These figures include both federal and state enforcement results.
- **New National Intellectual Property Rights Coordination Center Partners:** In 2011, the IPR Center expanded its membership from 15 to 19 partner agencies. New members include the State Department, the Royal Canadian Mounted Police, the U.S. Air Force—Office of Special Investigations, and the National Aeronautics and Space Administration—Office of Inspector General. The IPR Center expects to continue to increase its membership through continued efforts to explore new partnerships with other key U.S. agencies and international partners.
- **Operation Apothecary:** This operation addresses and attacks potential vulnerabilities in the entry process that might allow for the smuggling of commercial quantities of counterfeit, unapproved and/or adulterated drugs through the Internet, international mail facilities, express courier hubs, and land borders. In FY 2011, ICE HSI conducted 12 Apothecary enforcement surges in conjunction with CBP, the FDA—Office of Criminal Investigations (OCI), and the U.S. Postal Inspection Service (USPIS) at international mail facilities and express consignment courier facilities. Apothecary surges have resulted in the examination of approximately 7,006 parcels, 738 of which were either detained or seized by CBP, the FDA, the U.S. Department of Agriculture, U.S. Fish and Wildlife Service, or the National Oceanic and Atmospheric Administration. During

FY 2011, Apothecary surges also resulted in 22 criminal arrests, 10 indictments, 10 convictions, and 177 seizure incidents with a domestic value of more than $22 million.

- **Operation Strike Out:** At the conclusion of Major League Baseball's 2011 World Series, ICE HSI and the IPR Center announced the conclusion of Operation Strike Out. This one-month operation, which commenced at the beginning of the American League and National League Championship Series, resulted in the seizure of 5,347 counterfeit items with an estimated MSRP of $134,862 and the seizure of 58 domain names belonging to commercial websites that were engaged in the illegal sale or distribution of counterfeit sports paraphernalia. The seized counterfeit items infringed on the copyrights or trademarks owned by Major League Baseball, the National Basketball Association, the National Football League (NFL), and the National Hockey League.
- **Operation Interception:** From January 1 to February 6, 2011, ICE HSI, CBP, and other law enforcement agencies partnered with the NFL to establish enforcement teams in a nationwide effort to identify vendors selling counterfeit NFL trademarked items. The targeted venues were locations of the Super Bowl game, the Pro Bowl game, and the cities of Pittsburgh, Pennsylvania, and Green Bay, Wisconsin. The operation was coordinated by the IPR Center and involved the participation from the ICE HSI offices where the events were held—Dallas, Honolulu, Chicago, and Philadelphia—and 10 additional ICE HSI offices. The operation resulted in the seizure of 40,375 items of counterfeit NFL merchandise with an estimated MSRP of $3.72 million.
- **Operation Pangea IV:** The WCO, the World Health Organization (WHO), International Medical Products Anti-Counterfeiting Taskforce, the Permanent Forum on International Pharmaceutical Crime, and INTERPOL conducted Operation PANGEA IV - International Internet Week of Action from September 20-27, 2011. The goal of the operation was to raise public awareness about the health and safety risks associated with purchasing adulterated and/or counterfeit medicines, and medical products via the Internet. Fifty-three countries reported results as part of their participation in the operation. **As a result, 2.4 million illicit and counterfeit pills worth $6.3 million have been confiscated; 13,495 websites have been shut down; and 55 individuals are currently under investigation or under arrest, according to INTERPOL.**
- **Operation Short Circuit:** In March 2011, the WCO approved an ICE HSI-sponsored global initiative called Operation Short Circuit. Operation Short Circuit requested participating customs administrations to increase their targeting, inspection, interdiction, and investigation of imports containing substandard and counterfeit electrical items. Targeted during the operation were power supplies, power adaptors, chargers, surge protectors, extension cords, holiday lights, and batteries. The global operation was conducted from July through September 2011. Over 43 countries participated and seized 4,760 boxes of holiday lights, 359 boxes of surge protectors, 3,736 boxes of extension cords, 791,936 individual batteries, 17,873 boxes of batteries, 41,621 power supplies, 33,680 power adaptors, and 115,117 chargers.
- **Operation Chain Reaction:** In June 2011, the IPR Center launched Operation Chain Reaction, a new comprehensive initiative targeting counterfeit and substandard items entering the supply chains of DoD and other U.S. Government agencies. This operation includes 15 federal law

enforcement investigative agencies involved in overseeing fraud-related matters relating to procurement and acquisitions performed on behalf of U.S. Government entities.

- **Operation In Our Sites:** In June 2010, the IPR Center initiated Operation In Our Sites, an innovative approach to target the sale of illicit items distributed through the Internet. Since 2010, 362 domain names and $435,579 in illicit profits have been seized under this operation. ICE HSI has also made ten criminal arrests and has an Interpol Red Notice outstanding for the arrest of a Greek citizen. One-hundred twelve seized domain names have been forfeited to the Federal government. Operation In Our Sites also serves as an educational tool for the online consumer. As part of the court-issued seizure order, an individual attempting to access a domain name that has been seized is redirected by ICE HSI to a seizure banner announcing that the website has been seized, and under what legal authority the seizure was effectuated. To date, this banner has received over 80 million hits. Additionally, ICE HSI redirects sites that have been forfeited to the U.S. to a public service announcement that aims to educate the consumer about the threat of intellectual property theft to the U.S. economy. To date, the public service announcement has been viewed over 211,000 times. ICE HSI, the IPR Center, and Operation In Our Sites have received recognition from various industry partners, trade associations, and the International Association of Chiefs of Police.
- **Operation Guardian:** The IPR Center initiated Operation Guardian in 2007 to target, interdict, and investigate substandard, tainted, and counterfeit products being imported into the United States that pose a health and safety risk to consumers. Operation Guardian combines the expertise of ICE HSI, CBP, FDA OCI and the Division of Import Operations, USPIS, the DOJ's CCIPS, FBI Consumer Product Safety Commission, and the U.S. Department of Agriculture. Examples of the imports targeted under Guardian include counterfeit toothpaste containing anti-freeze; counterfeit drugs containing too little, too much, or none of the active ingredient at all; tainted animal food containing melamine, a product contained in plastics, cleaning products, countertops, glues, inks, and fertilizers, that led to the death or injury of pets in U.S. households; counterfeit circuit breakers that could explode, cause fires, or otherwise fail; and contaminated food products containing antibiotic residues that are not permitted in food. During FY 2011, ICE HSI's enforcement efforts resulted in 43 arrests, 34 indictments, and 34 convictions.
- **Outreach and Training:** In FY 2011, ICE HSI conducted 357 IPR and commercial fraud focused outreach and training events in FY 2011, a 56 percent increase over FY 2010. These included 109 international events. The outreach and training reached 17,037 people, a 16 percent increase over FY 2010.
- **Philippines Training and Enforcement Efforts:** During the week of July 18-20, 2011, the IPR Center, with DOJ and other agency participation, organized an IPR criminal enforcement symposium in Manila, Philippines, for law enforcement officers, prosecutors, and officials. Within two months of the symposium, Philippine authorities conducted two highly successful operations:
  - On August 23, 2011, ICE Attaché Manila special agents assisted the National Bureau of Investigation agents in seizing counterfeit Oakley merchandise, worth approximately $1.2 million, during the execution of six search warrants executed in Manila, Philippines.

  - On August 24, 2011, ICE Attaché Manila special agents assisted the Philippine Bureau of Customs in seizing approximately 6,000 counterfeit luxury branded products, estimated at $17 million, during the execution of a search warrant in Manila, Philippines.

- **Brazilian Raid Seizes Millions of Fake and Pirated Goods:** On June 7, 2011, ICE Attaché Brasilla special agents participated with Brazilian authorities in operations against several complexes near a shopping district that led to the seizure of 10 million items estimated to be worth the equivalent of approximately $255 million. The Sao Paulo Mayor's office initiated the program and invited ICE Attaché Brasilia special agents to participate in the operation, which included 400 federal, state, and city agents.

Department of Justice

Intellectual Property Theft Public Awareness Campaign

Throughout 2011, BJA and the National Crime Prevention Council (NCPC) collaborated to produce a comprehensive, research-based Intellectual Property Theft Public Awareness Campaign. The campaign's strategy is intended to:

- Raise awareness of the impact of counterfeit and pirated products and increase understanding of the consequences of purchasing them;
- Change the widely-accepted belief that purchasing counterfeit and pirated products does not harm anyone;
- Change behaviors through education so that theft of intellectual property is no longer viewed as an acceptable practice, thereby reducing the number of individuals who knowingly purchase counterfeit or pirated products.

The campaign focuses on health and safety topics (the dangers of counterfeit electrical hardware and counterfeit pharmaceuticals, as well as intellectual property theft's connection with gang activity), as well as economic impact topics (job loss; counterfeit fashion and footwear; visual/music media piracy). BJA and NCPC collected input from federal and state agencies, affected industries, and relevant constituent stakeholder group to inform the content and direction of the awareness campaign.

The campaign was formally launched on November 29, 2011 at a White House press event featuring Attorney General Eric Holder, IPEC Victoria Espinel, Acting Deputy Secretary of Commerce Rebecca Blank, ICE Director John Morton and NCPC President and CEO Ann Harkins as main speakers.

State and Local Law Enforcement Outreach/Trainings

The NW3C and the NAAG developed a training curriculum designed to educate state and local law enforcement personnel on the subject of intellectual property crime and provide them with best practices and investigatory strategies to address it in their communities.

- The goals of these trainings were to raise participants' awareness of the issue, increase their knowledge of its significance and impact, and educate them about promising investigative strategies and resources.

- According to the aggregate quantitative data collected from training participants:
  - 80 percent either "agree" or "strongly agree" that their knowledge of intellectual property investigative techniques and prosecutorial theories increased as a direct result of this training program.
  - 89 percent of participants rated the overall quality of the training course as either "good" or "excellent."

A list of FY 2011 NW3C and NAAG training can be found in Appendix A.

BJA Intellectual Property Enforcement Grant Program

- The Intellectual Property Enforcement Grant Program Solicitation closed on February 10, 2011.
- BJA received 49 applications, which is a 170 percent increase in comparison with the number of applications received in FY 2010.
- This dramatic increase may be due to the ongoing Intellectual Property trainings by NW3C/NAAG, as well as intense outreach efforts launched by other federal partners.
- 13 new applications were selected for funding. These successful applicants had not previously received funding support under this program.
- In addition, eight supplemental site-based awards were made to previously competed projects due to their demonstrated need and success in addressing intellectual property crime through effective use of Intellectual Property Enforcement Grant Program resources.
- To support continued outreach and education efforts, BJA supplemented the previously competed TTA awards to NW3C ($410,432) and NAAG ($250,000), as well as NCPC's outreach campaign activities ($250,000).
- The total amount of funding awarded in 2011 to support site-based, TTA, and Awareness Campaign activities in FY 2011 is $4,920,000.

World Intellectual Property Day

DOJ participated in the 2011 World Intellectual Property Day by publishing an Op-Ed piece by Deputy Attorney General James Cole in the National Law Journal on April 26th entitled "Protecting America's Intellectual Property Assets," which highlighted the Department's collective efforts to combat intellectual property crime. This Op-Ed was a result of the collaborative efforts of the Office of the Deputy Attorney General, Criminal Division, Civil Division, and Office of Justice Programs.

Department of State

Foreign Government Capacity Building

Government-to-Government Enforcement Training: The DOS, using foreign assistance anti-crime funds managed by the Bureau of International Narcotics and Law (INL) Enforcement Affairs, in collaboration with the Economic Bureau (EB), has a long-standing program to provide capacity-building training and technical assistance to foreign law enforcement to combat intellectual property rights crime. The

DOS plans to enable U.S. government law enforcement interagency training teams to prioritize assistance to less developed countries in Latin America, Africa and the Asia Pacific who are on the Special 301 list and who face health and human safety risks associated with counterfeit medicines as well as growing digital piracy.

Embassy Lima and the U.S. DOJ's Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) program carried out a November 2011 two-day workshop to develop a manual of prosecutorial strategies against fake medicines. Over 60 Peruvian prosecutors, judges, police officers, pharmaceutical agency officials, pharmaceutical company representatives, and regional governmental health officials worked together for the first time. Additionally, in August 2011, Embassy Lima in partnership with the International Judicial Academy (IJA) and the National Association of Pharmaceutical Laboratories (ALAFARPE) sponsored pharmaceutical IPR training for 81 judges and prosecutors using State Department Office of Intellectual Property Enforcement funding.

Embassy Mexico undertook several initiatives in 2011, such as a roundtable for judges, and a workshop for prosecutors and investigators on computer forensics and electronic evidence. The Embassy also focused on enhancing interagency cooperation on the border, the integration of a Government of Mexico representative into the work of the U.S. IPR Coordination Center, and the sharing of prosecutorial expertise on the involvement of organized crime in the commission of intellectual property-related offenses. Customs training that took place in July, as part of ongoing cooperation with Mexican customs sponsored by DOJ and INL, focused on detection methods for counterfeit shipments and included two practice exercises at the port of Manzanillo.

Counterfeit Medicines Initiatives: During 2011, DOS devoted over $200,000 in public diplomacy funds toward increasing public awareness around the world about the dangers of counterfeit medicines to public health and safety. As part of its international "Campaign against Counterfeit Medicines," EB provided seed money to support public awareness campaigns developed by the DOS' embassies and consulates in 16 countries in Africa, Asia, Europe, the Middle East and South America. All of the projects involved partnerships with the host governments and other public and private sector partners, whose contributions in many cases dwarfed that provided by DOS.

Kenya: Embassy Nairobi partnered with the Kenyan Association of Pharmaceutical Industries and the Kenyan Medical Association to build awareness among relevant stakeholders, government officials and academic communities about the dangers of counterfeit medicines.

Tanzania: Embassy Dar es Salaam conducted a high-profile public awareness campaign in cooperation with the Tanzanian Fair Competition Commission at Tanzania's largest annual trade show.

Jordan: Embassy Amman worked with PhRMA, Jordan's Food and Drug Administration and the Jordanian Association of Pharmaceutical Manufacturers to host a conference on counterfeit medicines targeting pharmacists, students, and the media.

Embassies in Congo, Sudan and Guinea also conducted comprehensive outreach programs that raised awareness about counterfeit drugs.

Ukraine: Embassy Kyiv led a seven month public outreach campaign that included media interaction, outreach through the Embassy's website and Facebook page, local speaker programs, symposiums and

meetings at medical schools. The Ukraine program culminated in a Commercial Law and Development Program (CDLP) sponsored regional public-private conference on counterfeit medicines.

WIPO: The largest programs in 2011 were done in cooperation with the WIPO and government agencies in the Philippines, Kenya and Morocco. In the three countries DOS helped support regional conferences that educated government officials, the private sector, and the media about the dangers of counterfeits and provided workshop participants with the tools to develop their own anti-counterfeiting campaigns.

These awareness campaigns initiated by DOS are playing a catalytic role in mobilizing governments to educate their populations about counterfeits, improve their legislation concerning intellectual property and consumer protection and better enforce intellectual property rights.

Counterfeit Medicines and Internet Piracy

In 2012, using FY 2011 funding, DOS will support 26 campaigns against counterfeit medicines and internet piracy in 29 countries. Many of these campaigns build upon successes from 2011. Others incorporate new approaches to change behaviors, specifically targeting young audiences through use of smartphone applications, Facebook, and essay and poster contests in schools. One of the more innovative campaigns was launched by the U.S. Ambassador to Laos, who attracted enormous media coverage and goodwill by performing a rap song against counterfeits.

Cameroon: Embassy Yaoundé will issue a small grant to a grassroots NGO that will conduct pharmaceutical IPR outreach in the Southwest region of Cameroon, particularly among rural communities, where HIV/AIDS prevalence is high and where there is a serious proliferation of counterfeit medicine.

Vietnam: Embassy Hanoi, in collaboration with Vietnam's National Drug Quality Authority and U.S.-based Partnership for Safe Medicines, will launch "Deter, Detect, and Distinguish: Keeping Families Safe from Counterfeit Drugs," a public diplomacy outreach campaign targeting northern Vietnam.

Malta: Embassy Rabat will partner with the Government of Morocco, the American Chamber of Commerce (AmCham) and private sector stakeholders to host a national public-private roundtable to promote public diplomacy outreach on counterfeit medicines and hygiene products; this will kick off a series of industry-funded public outreach events targeting the general public and private sector groups.

Guatemala: In partnership with the Government of Guatemala, the local AmCham, and the regional pharmaceutical trade organization (FEDEFARMA), Embassy Guatemala will conduct a national outreach campaign highlighting the dangers of purchasing counterfeit drugs. The program, which will target women's groups and local media, will feature an outreach campaign in three indigenous regions, as well as educational events targeting University pharmaceutical students, and a print outreach campaign in the principal indigenous languages of the three regions.

Multilateral Engagement: As part of the United States hosting APEC in 2011, DOS assisted in the development and implementation of two key events on fighting counterfeit medicines. The first was a seminar in March 2011 on counterfeit medicines held in Washington, D.C. with interagency and industry support and the second was a seminar on detection technologies held in Beijing in September 2011 with key support of industry, the interagency team, and the U.S. embassy in China. DOS was also an active participant in ACTA negotiations, and worked on promoting intellectual property rights protection and

enforcement in the three FTAs with Colombia, Panama, and South Korea passed by Congress this year. DOS continues to work with the interagency team on intellectual property-related matters as part of the Trans Pacific Partnership negotiations. The DOS has also reached out to international organizations in Geneva (the U.N. Conference on Trade and Development and the International Trade Center) to increase their awareness of the role of intellectual property rights in promoting development and innovation and encouraged those organizations to more actively promote registration, and enforcement, of intellectual property rights as part of their development agendas.

Standing Committee on Copyrights and Related Rights (SCCR): IPE is a member of the interagency SCCR team and sends a representative to SCCR meetings. The U.S. government has been successful in negotiating an audiovisual treaty which will be concluded at a diplomatic conference in Beijing tentatively scheduled for June 20-30, 2012. The treaty will benefit actors, especially in their ability to collect on residual rights and fills a void in the international copyright system. Musicians have had similar rights as result of the 1996 "Internet treaties." The U. S. Government is also participating in negotiations of an instrument for visually impaired persons (VIPs), including provisions addressing the cross-border flows of accessible access copies for VIPs. The United States also participates actively on discussions on library exceptions and broadcasting.

Special 301 Contributions: IPE provided extensive support to the U.S. Trade Representative (USTR) and the interagency team as part of 2011's Special 301 process. 77 Posts submitted detailed analysis on the state of intellectual property rights protection and enforcement as part of the 2011 review.

Training State Employees: IPE, along with USPTO, held its annual IPR course at the Global Intellectual Property Academy (GIPA) for Foreign Service officers that will have intellectual property as part of their portfolio at an overseas Post. The course equips Foreign Service officers to actively engage their host governments to improve intellectual property-related legislation and enforcement and raise public awareness about the role of intellectual property rights in the economy and the danger of counterfeits.

Additional Engagement: DOS actively engaged foreign governments in improving their intellectual property regimes and no country came under more scrutiny than China. Under the direction of Ambassador Locke, the U.S. embassy in China built coalitions among U.S. and Chinese government officials, businesses and educators to strengthen intellectual property protection and enforcement and highlight how such protections enhance economic development and innovation in both our countries. Under Secretary of State for Economics, Energy and Agricultural Affairs Robert Hormats systematically raised the importance of intellectual property rights protection with his interlocutors at all levels of the Chinese government. Under Secretary Hormats and Ambassador Locke spoke at a joint PhRMA-Sino-PhIRDA conference in October, 2011 on intellectual property rights protection in the pharmaceutical industry. Since 2008, Mission China has convened a monthly intellectual property task force consisting of all relevant agencies at Post to coordinate intellectual property activities.

U.S. Trade Representative

Ambassador Ronald Kirk, the U.S. Trade Representative, continues USTR's work to help create jobs by opening markets to U.S. exports—and keeping them open; by creating and maintaining a level playing field for American workers in the global marketplace; and by making sure that two-way trade benefits American workers, businesses, and consumers.

Protection and enforcement of intellectual property rights is critical to this effort. These rights protect the value added—the creativity, innovation and brand value—that helps to make American goods and services competitive in global markets.

Opening Global Markets, Creating Better U.S. Jobs

In 2011, the Office of the U.S. Trade Representative (USTR) aggressively pursued market-opening opportunities in every part of the world for intellectual property-intensive American businesses and workers. Along with other agencies across the Obama Administration, USTR empowered more American workers and businesses to compete in the global marketplace.

Supporting American Businesses and Workers through FTAs

On October 21, 2011, President Obama signed legislation approving FTAs with Korea, Colombia, and Panama. The three FTAs will provide new export and investment opportunities and support U.S. jobs.

- All three trade agreements contain enhanced provisions on intellectual property protection and enforcement, which represent a major win for U.S. exporters in creative and innovative industries. USTR will work closely with these trading partners to ensure proper implementation of the agreements before they enter into effect.
- USTR achieved significant progress on the implementation of existing trade agreements in 2011. Positive actions included Costa Rica's adoption of regulations in regarding limitations on liability for internet service providers that respond appropriately to notices of claims of IPR infringement. A number of FTA partners also joined intellectual property treaties as called for in their bilateral FTAs. USTR continues to closely monitor implementation of IPR provisions of existing FTAs with these and other partners.

Fighting Piracy and Counterfeiting to Support American Jobs and Innovation

In 2011, USTR and partner countries Australia, Canada, Japan, Republic of Korea, Morocco, New Zealand, and Singapore signed ACTA on October 1, 2011, in Tokyo, Japan. The European Union, Mexico, and Switzerland announced that they are making preparations to sign the agreement as soon as possible. The agreement is an important new tool to fight the global counterfeiting and piracy, which threatens jobs that depend on innovation—including those here in the United States Consistent with the Administration's strategy for intellectual property enforcement, ACTA will advance U.S. aims in the fight against global proliferation of commercial-scale counterfeiting and piracy for the 21st century. The agreement includes innovative provisions to deepen international cooperation and promote strong enforcement practices, which will help sustain American jobs in innovative and creative industries. Some of ACTA's key features include the parties' commitments to:

- support and enhance approaches to criminal enforcement through strong requirements for criminal remedies, including regarding seizure and destruction of fake goods, seizure of the equipment and materials used in their manufacture and criminal proceeds, and highlighting the importance of combating unlawful camcording in theaters;
- combat Internet piracy through a balanced framework that addresses widespread distribution of pirated copyrighted works and preserves fundamental principles such as freedom of expression, fair process and privacy;

- provide customs authorities with the authority to act on their own initiative against import and export shipments;
- provide for strong civil enforcement with respect to matters such as damages, provisional measures, recovery of costs and attorneys' fees, and destruction of infringing goods;
- undertake cooperation and information-sharing among ACTA parties to assist in enforcement efforts; and
- promote strong enforcement practices that lead to meaningful implementation of laws on the books.

In November 2011, the ACTA negotiating partners described their accomplishments at a meeting of the WTO Council for Trade-Related Aspects of Intellectual Property Rights.

Opening Asia-Pacific Markets

Talks in the TransPacific Partnership (TPP)—an effort to create a regional trade agreement that gives American businesses and workers better access to the growing markets of the Asia-Pacific region—moved forward significantly in 2011.

- In November, the Leaders of Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, United States, and Vietnam, announced the broad outlines of a TPP agreement. TPP countries agreed to reinforce and build upon existing WTO TRIPS agreement provisions to ensure an effective and balanced approach to intellectual property rights among the TPP countries. TPP countries also agreed to reflect in a shared commitment to the Doha Declaration on TRIPS and Public Health.
- In September, USTR issued a White Paper outlining a new strategic initiative entitled "Trade Enhancing Access to Medicines (TEAM)." TEAM is designed to deploy the tools of trade policy to promote trade and reduce obstacles to access to both innovative and generic medicines, while supporting the innovation that is vital to developing new medicines and achieving other medical breakthroughs.

Improving Intellectual Property Enforcement through Special 301

USTR issued its comprehensive "Special 301" Report on intellectual property protection and enforcement by U.S. trading partners on May 1, 2011.

- For the first time, the Report included an invitation to all trading partners listed in the report to develop action plans to resolve intellectual property rights issues that are of concern to the United States. In the past, successful completion of such action plans has led to changes in trading partners; listing under Special 301. USTR has begun to work with several trading partners on developing and implementing such action plans.
- In addition, USTR published the first Out-of-Cycle Review of Notorious Markets in February 2011. The Notorious Markets List, previously included in the annual Special 301 report, will now be published separately, in an effort to expand public awareness and guide related trade enforcement efforts. The February 2011 Notorious Markets List identified 34 Internet and physical markets that exemplify key challenges in the global struggle against piracy and counterfeiting. Following publication of the Notorious Markets List, several identified markets or local officials

took actions intended to curtail distribution of pirated and/or counterfeit goods. Actions by markets included the website Baidu, which reached a precedent-setting licensing agreement with U.S. and international rights holders in the recording industry. Actions by officials include those taken by Hong Kong Customs' authorities to remove infringing goods from the Ladies Market, which is a popular open market in Hong Kong.

Advancing U.S. Interests with Partners Around the World

USTR continued to work with trading partners around the world to expand economic opportunities for American workers and businesses, tackling issues ranging from market access, to environmental and regulatory concerns, to IPR protection and enforcement. USTR led IPR-related efforts in the WTO, and participated actively in other multilateral discussions, including in the OECD and at several UN bodies. For example, efforts in the APEC forum produced agreement in November on effective practices for fighting unauthorized camcording. Bilateral engagement also encouraged significant progress, including the passage of a new antipiracy law in Spain, the elimination of a local manufacturing requirement for pharmaceuticals in Mexico, and enhanced protection of digital security technologies used by copyright owners in Japan. In addition, Israel passed legislation regarding protection of pharmaceutical test data, pursuant to one element of an understanding on IPR concluded with the United States. And, following a request from USTR, Korea clarified several issues related to geographical indications in a June 20, 2011 letter to Ambassador Kirk. Other examples of bilateral progress are noted in the Special 301 report.

Improving IPR Protection in China

Through 2011's U.S.—China Joint Commission on Commerce and Trade (JCCT), USTR, along with the U.S. Department of Commerce and the Patent and Trademark Office, made progress on issues of concern to intellectual property-intensive industries doing business with China. Achievements include the following:

- China agreed to make a significant systemic change to its enforcement of intellectual property rights. Through a high-level central government enforcement structure led by Vice Premier Wang Qishan, China will make its 2010 Special IPR Campaign permanent. This structure will continue China's high-level involvement in IPR enforcement efforts that will enhance its ability to address intellectual property rights infringement throughout the country.
- China announced a new high-level central government mandate requiring provincial and local governments to eliminate any policies that are not consistent with President Hu's commitment to sever the link between China's innovation policies and government procurement by December 1, 2011.
- China's leadership committed to increased political accountability—the performance of provincial level officials will be measured in part based on enforcement of intellectual property rights in their regions.
- Vice Premier Wang Qishan personally committed to continue the China's software legalization program. Specifically, he committed to ensure that the legalization efforts would be completed by the middle of 2012 at the provincial level and at the local and municipal levels by the end of 2013.

- The Chinese government agreed to continue working to develop solutions to combat the sale of infringing goods on the Internet, while at the same time moving forward to develop additional protections for legitimate trademarks. All of China's commitments on intellectual property rights will enhance the protection of U.S. innovative products and promote job creation in the United States.

Russia's Accession to the WTO

In November, the Working Party on the Accession of the Russian Federation to the WTO approved the terms and conditions for Russia's accession to the WTO. In December 2011 at the Eighth Ministerial Conference in Geneva, Switzerland WTO ministers formally invited the Russian Federation to become a member of the WTO. Russia will become a WTO Member after its legislature ratifies these terms for WTO membership. WTO Membership will bring Russia into a rules-based system that will provide a means to ensure that Russia complies with its WTO commitments, including WTO rules on protection of intellectual property rights. The United States negotiated many specific and targeted commitments as to how Russia will implement the terms of the WTO TRIPS Agreement, including with regard to enforcement. Russia has amended its domestic legal regime to implement the TRIPS Agreement and to improve the protection and enforcement of intellectual property rights in its territory.

Department of Health and Human Services

U.S. Food and Drug Administration

Track and Trace Public Workshop

On February 15, and 16, 2011, FDA held a public workshop titled "Determination of System Attributes for the Tracking and Tracing of Prescription Drugs," which explored approaches for achieving an effective and feasible track and trace system for finished prescription drugs to improve the security of the drug supply chain from counterfeit and other substandard drugs. FDA presented system goals and potential system attributes for discussion. There were approximately 120 workshop participants who represented many stakeholder categories including manufacturer, wholesale distributors, pharmacy, common carriers, solution providers, governmental agencies, and standards organizations. Following the workshop, FDA published a Federal Register notice and opened a public docket to solicit feedback from supply chain stakeholders and other interested entities. Comments received are currently being considered as FDA continues to develop standards for authentication and track and trace systems.

Asia-Pacific Economic Cooperation (APEC)

On March 2, 2011, FDA Commissioner Margaret A. Hamburg, M.D., addressed the "APEC Dialogue on Corruption and Illicit Trade: Combating Counterfeit Medicines and Strengthening Supply Chain Integrity" in Washington, D.C. Commissioner Hamburg's speech highlighted the public health impact of counterfeit or falsified medicines. Commissioner Hamburg encouraged all APEC economies to band together, share information, leverage resources and implement coordinated international actions to protect people and promote the global public health. Also at the Dialogue, FDA coordinated a panel of experts to further explore and highlight this topic.

Pathway to Global Product Safety and Quality

The safety of America's food and medical products is under serious challenge in the current era of global supply chains, international trade, and the foreign sourcing and manufacture of regulated products. On June 20, 2011, FDA released a special report, "Pathway to Global Product Safety and Quality," that outlines a strategy to protect the health of Americans by assuring the safety and quality of FDA-regulated products in an era of ever-increasing globalization. The report notes that one of the most serious challenges on the horizon for FDA is that growing access to the global marketplace will also expose Americans to a set of economically–motivated harms including counterfeiting, fraud and other intentional adulteration. The Agency is developing a new, more international operating model that relies on strengthened collaboration, improved information sharing and gathering, data-driven risk analytics, and partnerships with counterpart regulatory agencies, other government entities, international organizations, and other key stakeholders, including industry.

International Internet Week of Action

Together with other regulatory and international partners, FDA completed the International Internet Week of Action (OPERATION PANGEA IV), a cooperative effort to curb online sales and distribution of counterfeit and illegal medical products, in September of 2011. FDA's Office of Criminal Investigations, in conjunction with its Center for Drug Evaluation and Research and Office of Enforcement, targeted 997 websites that were engaged in the illegal sale of unapproved and/or misbranded medicines to U.S. consumers.

FDA focused its efforts on websites selling unapproved drugs, such as drugs containing human growth hormone (HGH), sildenafil citrate, or isotretinoin, that can be detrimental to public health. Although some drugs containing these active ingredients are approved by FDA for use under the supervision of a licensed medical practitioner, the drugs offered for sale on these websites were not FDA approved, and were offered for sale without requiring a valid prescription. Improper use of HGH can lead to side effects, including an increased risk of cancer, nerve pain, and elevated cholesterol or glucose levels. Sildenafil citrate tablets are used to treat erectile dysfunction and should not be used in some consumers with heart problems.

FDA sent Warning Letters to the operators of the identified websites, all of which appeared to be associated with the same individuals and corporate entities located outside of the United States. As a follow up, the agency sent notices to the Internet Corporation for Assigned Names and Numbers, Registries, ISPs, and DNRs informing them that these websites were selling products in violation of U.S. law. In many cases, conducting illegal activities also violates ISP and DNR policies and agreements, giving the hosting companies the opportunity to terminate the websites and suspend the use of the domain names. Of the 717 websites addressed in the Warning Letters, in excess of 600 have been suspended or no longer offer pharmaceuticals for sale. The FDA is working with its foreign counterparts to address the remaining websites, which continue to offer unapproved or misbranded prescription medicines to U.S. consumers.

Counterfeit Drug Public Health Alerts

FDA issued two public health alerts warning consumers about a counterfeit product, ExtenZe, a dietary supplement for male sexual enhancement, and a suspect counterfeit product, Evital, an emergency birth

control medicine. The counterfeit ExtenZe contained the undeclared active ingredients and presented potential health risks to consumers. The suspected counterfeit versions of Evital may not be safe or effective in preventing pregnancy. In addition, FDA disseminated Actavis' public health notice regarding counterfeit versions of Actavis Phentermine tablets found in the United States. Phentermine is an appetitive suppressant, and Actavis has not distributed its product in the United States since 2008 and does not intend to market Phentermine HCL Tablets (USP 37.5mg) until at least 2012.

Industry Outreach

FDA has conducted outreach activities on counterfeiting by presenting and participating at various stakeholder meetings such as the Partnership for Safe Medicines 2011 Interchange, the International Drug Regulatory Authorities Meeting, the Pew Charitable Trusts/Pew Health Group Roundtable on Ensuring the Safety of the U.S. Drug Supply, the National Coalition of Pharmacy Distributors Annual Meeting, the Biotechnology International Convention, Parenteral Drug Association/FDA Pharmaceutical Supply Chain Conference, the National Community Pharmacist Association Legislative Conference, the Healthcare Distribution Management Association Track and Trace Seminar, Global GS1 Healthcare Conference, California State Board of Pharmacy Public Meeting, and the American Pharmacists Association Annual Meeting.

FDA/WHO Cooperative Agreement

FDA and WHO recently completed the first full year of a collaborative agreement to build global rapid alert surveillance/monitoring system(s) for combating counterfeit and falsified medicines and risks to drug supply chain security. A global monitoring system will assist in identifying areas of public health risk, including such challenges and threats as diversion, intentional adulteration, and the increasing complexity and reduced transparency of the supply chain due to globalization and limited regulatory capacity (such as in resource-constrained countries and/or countries where regulatory infrastructures lack robustness). The goals of this effort are to 1) generate sound and reliable evidence of where incidence of sub-standard, spurious, falsified, falsely-labeled, counterfeit (SSFFC) medicines is most serious; 2) promote exchange of information (e.g., case reports and description of actions taken) and expertise between countries to stimulate action (including alerts); and 3) make a system available to be used for collecting and disseminating information based upon requirements shared by all partners.

This effort is well underway, and key milestones passed include 1) a consultative meeting with national regulatory authorities was held where great interest and willingness to participate was expressed; 2) pilot countries in specific regions were identified based on established criteria for selection; 3) a review of existing data systems and business processes was conducted; 4) a preliminary data reporting format was developed; and 5) requirements for proposed systems, defining functional and non-functional requirements, solution design and implementation, were finalized. In the near future, pilot countries from three WHO regions (Europe, Western Pacific Regional Office and Southeast Asia Regional Office) will meet, be trained on the functionality of the system, and begin testing it and analyzing shared data.

U.S. Copyright Office

The U.S. Copyright Office administers the Copyright Act for the Nation, including registering hundreds of thousands of copyrights a year and recording licenses and other transfers of copyright ownership. Together, these systems play an important role in both commerce and enforcement involving American authorship and innovation. On the one hand, they provide the world's largest database of copyright information for those seeking licenses to use copyrighted works, and on the other hand, provide copyright owners with certain protections and benefits under the law, such as the availability of statutory damages in certain instances of infringement.

The Copyright Office provides leadership and impartial expertise on questions of copyright law and policy, advises Congress on national and international issues relating to copyright, and provides information and assistance to federal departments and agencies and the judiciary on national and international issues relating to copyright. Congress has directed the Office to participate in meetings of international intergovernmental organizations and meetings with foreign government officials on copyright matters.

On June 1, 2011, Dr. James H. Billington, Librarian of Congress, appointed Maria A. Pallante as the 12th Register of Copyrights and Director of the U.S. Copyright Office. In October, following consultations with the copyright community, the Register announced her two-year work plan comprised of 17 priorities in the area of copyright policy (protections as well as exceptions) and administrative practice (including improvements to registration) as well as 10 new projects designed to improve the quality and efficiency of the U.S. Copyright Office's services in the 21st century. A full discussion of the priorities and special projects is available on the Copyright Office's website at www.copyright.gov/docs/priorities.pdf.

Copyright Protection

The Copyright Office does not have enforcement powers, but its work within the United States government touches a broad range of policy questions, including copyright protection, exceptions and limitations to copyright, and effective enforcement of the exclusive rights of authors and other copyright owners. In 2011 the Register testified on three occasions before the House of Representatives on issues relating to rogue websites and illegal streaming of copyrighted works over the Internet. The Office also prepared and delivered three reports during the year, on the following topics: (1) marketplace alternatives to statutory licensing for cable and satellite programming; (2) issues relating to the intersection of copyright law and the mass digitization of books; and (3) the desirability and means of bringing pre-1972 sound recordings into federal protection. See www.copyright.gov.

International Activities

In 2011, the Copyright Office supported a number of domestic and international copyright goals of the United States, including ongoing work in connection with the Trans-Pacific Partnership negotiations. The Office also continued its participation in the annual Special 301 process. In addition, the Office regularly analyzed pending and current copyright legislation of other countries, and participated in bilateral technical discussions with countries on their legal reform and enforcement efforts. The Office contributed to the development of U.S. government positions in other copyright- and enforcement-related activities of multilateral organizations such as the Organisation for Economic Co-operation and

Development (OECD), as well as ongoing trade policy reviews of countries' intellectual property laws at the World Trade Organization (WTO).

The Register of Copyrights and other senior leaders in the Office regularly participate in conferences and symposia sponsored by the World Intellectual Property Organization (WIPO) in Geneva and in other WIPO-sponsored meetings throughout the world. In 2011, the Copyright Office participated on U.S. delegations and continued to work with other agencies on various copyright issues at WIPO. In 2011 the Standing Committee on Copyright and Related Rights (SCCR) considered (1) text for a proposed treaty to protect audiovisual performers, which will be the subject of a Diplomatic Conference in China in June 2012; (2) possible international instruments for the national and cross-border provision of accessible versions of copyrighted works pursuant to copyright exceptions for blind, visually impaired, and print disabled persons; (3) possible international instruments for the protection of broadcast signals; and (4) issues related to limitations and exceptions for libraries and archives. The Office is also working with Library of Congress staff and U.S. publishers on U.S. participation in the WIPO Trusted Intermediary Global Accessible Resources Project (TIGAR), a voluntary pilot project involving cross-border licensing of accessible works for visually impaired persons. Copyright Office experts also serve on the U.S. WIPO Intergovernmental Committee delegation and participate in deliberations on possible international recognition of and protection for traditional cultural expressions (folklore).

Training Programs

The Copyright Office also engages in training, education and outreach programs. For example:

- In September 2011, the Copyright Office and the PTO jointly organized an international training program entitled "Copyright in the Digital Age." The week-long program brought together 48 delegates from 19 countries to discuss numerous legal and business issues related to copyright law and enforcement.
- The Office coordinated intensive training on the U.S. registration system for visiting government copyright officials from Peru, Korea and Malaysia.
- The Office of Policy and International Affairs hosted numerous international visitors to the Copyright Office to discuss and exchange information on the U.S. copyright system and international copyright issues; for example, visitors came from Argentina, China, Egypt, Ghana, Iraq,Japan, Kenya, Liberia, Malaysia, Mexico, Nigeria, Peru, and South Korea.

Speaking Engagements

The Register and her senior staff regularly sponsor or participate in programs and conferences on issues relating to domestic and international copyright law, which often include significant discussion of enforcement issues. These programs have taken place within the United States and abroad and involve a diverse array of copyright constituencies, including private sector and government audiences.

Appendix D: Intellectual Property Spotlights

Intellectual Property Spotlight



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Introduction

In January, President Obama met with the President of China, Hu Jintao, and raised intellectual property enforcement. President Obama and President Hu issued a joint statement, agreeing that China will strengthen its efforts to protect intellectual property rights, including not linking its innovation polices to the provision of government procurement preferences and audits to ensure that government agencies at all levels use legitimate software.

On January 7, the U.S. Chief Information Officer, the Administrator for Federal Procurement Policy, and I issued a joint statement setting out the Administration's policy to be "technology neutral" in procurement, and that all technology must be properly licensed. On January 28, the Vice President held a meeting on intellectual property enforcement with U.S. Attorney General Eric Holder, U.S. Commerce Secretary Gary Locke, Office of Management and Budget Director Jack Lew, U.S. Immigration and Customs Enforcement (ICE) Director John Morton, U.S. Department of State Ambassador Philip Verveer, Senior Advisor to the President Valerie Jarrett, and myself and the Chief Executive Officers of Autodesk, Concord Records, Eli Lilly and Co., Fox Filmed Entertainment, MasterCard, and Verizon, and the heads of the AFL-CIO Department of Professional Employees and Public Knowledge. On February 7, the Administration issued our inaugural annual report to Congress on the Administration's efforts to implement the Joint Strategic Plan, describing the concrete steps that we have taken since we released the Strategy to fight infringement. On February 8, the President issued an Executive Order establishing two interagency intellectual property enforcement committees that I chair: the first is a cabinet-level advisory committee and the second is made up of senior Senate-confirmed individuals.

We expect more significant events on the horizon including, on March 1, a hearing before the House Judiciary Committee, Subcommittee on Intellectual Property, Competition, and the Internet, and the release of a strategy about how we will combat counterfeit drugs.

Victoria A. Espinel
U.S. Intellectual Property Enforcement Coordinator

China

China Commits to Take Important Steps as Part of December JCCT Meeting: In December, at the U.S./China Joint Commission on Commerce and Trade (JCCT) meeting, the U.S. Trade Representative won commitments from China, including that China would: (1) increase the purchase and use of legal software, take steps to address piracy of electronic journals, and crack down on landlords who rent space to counterfeiters; (2) commit to eliminate discriminatory "indigenous innovation" criteria used to select industrial equipment for preferential treatment, ensuring access to China's market for American business; and (3) ensure there is no discrimination in government procurement decisions based on where the intellectual property component of the products was developed, as well as no discrimination against innovative products made by foreign suppliers operating in China.

Securing Our Supply Chain

Health & Safety

Sale of Counterfeit Drugs Over the Internet that Posed Serious Health Risk: On Jan. 24 and 27, two defendants pleaded guilty to trafficking in counterfeit and/or unapproved weight-loss drugs. One of the defendants—a Chinese national—manufactured a counterfeit version of the weight-loss drug "Alli," and both defendants used the Internet to distribute that product and other, unapproved weight-loss drugs, all of which were imported from China. The Food and Drug Administration (FDA) issued warnings that the products "posed a very serious health risk" because the drugs contained undeclared ingredients, including Sibutramine, a controlled substance which can cause high-blood pressure, seizure, heart attack, or stroke. A number of consumers reported feeling ill from the counterfeit Alli, including one person who suffered a mild stroke. The case was investigated by ICE Homeland Security Investigations (HSI), the FDA Office of Criminal Investigations (OCI), and the U.S. Postal Inspection Service (USPIS). The case was prosecuted by the U.S. Attorney's Office for the District of Colorado.

Guilty Plea for Operating Illegal Internet Pharmacy: On Jan. 21, a citizen of Belgium pleaded guilty to operating an illegal Internet pharmacy that sold $1.4 million worth of counterfeit and misbranded drugs (along with controlled substances). The defendant used multiple websites to sell more than 40 prescription drugs. He operated a customer call center in the Philippines, received payments from customers using a credit card processor in the Netherlands, and paid employees using Western Union in the Philippines, Costa Rica, and the U.S. The defendant was arrested in Costa Rica and extradited to the U.S. under an agreement with that country. As part of his plea, the defendant agreed to pay a judgment of $1.4 million. A co-defendant, who is a citizen of Canada, remains a fugitive. The case was investigated by the FDA OCI and prosecuted by the U.S. Attorney's Office for the District of Kansas, with assistance from the Department of Justice's (DOJ's) Office of Consumer Litigation. **Assistant Attorney General Tony West** said: "Prosecuting IP crimes that pose a risk to public health and safety is a top priority. This prosecution—which involved a complex, international Internet operation—highlights how the Justice Department, in coordination with our sister agencies, is able to effectively tackle today's cutting-edge law enforcement challenges." **Holland, Special Agent in Charge, FDA OCI** said: "Americans must have confidence that drugs introduced into and distributed throughout the United States are genuine." He emphasized that "[t]he FDA will aggressively pursue all foreign and domestic perpetrators of illegal drug distribution schemes."

Counterfeit Cialis & Viagra: On Dec. 16, a defendant was arrested on charges of trafficking in, and conspiracy to traffic in, counterfeit drugs, specifically, more than 1,300 pills with the counterfeit trademarks of Eli Lilly and Co. (Cialis) and Pfizer, Inc. (Viagra). The case was investigated by ICE HSI and the Charlotte-Mecklenburg Police Department and is being prosecuted by the U.S. Attorney's Office for the Western District of North Carolina. The **U.S. Attorney for the Western District of North Carolina, Anne Tompkins,** said: "Counterfeit drug products are manufactured and distributed with no quality control whatsoever and are dispensed without any medical

Quotes about the Prosecution

Counterfeit Weight-Loss Drug Case

Deputy Attorney General James Cole, Chair of the Justice Department's Task Force on Intellectual Property, said: "These cases send a clear message that [DOJ] will not tolerate criminals who seek to make a quick profit by risking the health and safety of consumers. These crimes not only undermine our economic security, but pose real and serious dangers to American consumers who are entitled to expect and receive safe and legitimate goods. We will continue to make IP crimes that risk the health and safety of our nation's citizens a top priority as we aggressively pursue all intellectual property crime."

Said **ICE Director Morton:** "Since these pharmaceutical counterfeiters frequently operate overseas, it's especially critical that our federal law enforcement agencies work together to identify, investigate and prosecute these criminals. This case demonstrates how our agents pooled their experience, expertise, and law enforcement authorities to shut down this criminal enterprise, and help protect the public."

The **U.S. Attorney for the District of Colorado, John Walsh,** added: "In this era of worldwide internet communication, threats to the health and safety of the American people arise in far-flung corners of the world. As the success in this case shows, combating these global health threats requires the close coordination of U.S. government regulatory and law enforcement agencies."

Patrick J. Holland, Special Agent in Charge, FDA OCI said: "As this case so clearly demonstrates, unscrupulous drug distributors may attempt to hide behind international borders and the anonymity offered by the internet to deceive and defraud American consumers. The products they distribute can pose a significant health threat, and therefore, will remain an urgent priority of our investigative and enforcement efforts."

or pharmaceutical supervision." She emphasized that, as such, "[c]ounterfeit prescription drug products pose a serious health risk to American consumers. The U.S. Attorney's Office for the Western District of North Carolina . . . will vigorously prosecute those who illegally manufacturer, import or distribute counterfeit prescription drugs." **Rajiv Gulati, Senior Director, Lilly Anti-Counterfeiting Operations** added, "Lilly is committed to patient safety and to helping combat pharmaceutical counterfeiting. We greatly appreciate the U.S. government and law enforcement's work to investigate and prosecute counterfeit operations—thereby protecting patients."

Theft and Attempted Theft of Innovation

Theft of Tire-Making Technology: On Dec. 9, a jury convicted two engineers that worked for Wyko Tire Technology of stealing trade secrets from Goodyear. In 2007, Wyko secured a contract to supply tire building equipment to a Chinese tire manufacturer, but was having difficulty making the equipment. The defendants used Wyko's access to a Goodyear plant in Topeka, Kansas to take cell phone photos of Goodyear's equipment, thereby allowing Wyko to make the equipment for the Chinese manufacturer. The case was investigated by the Federal Bureau of Investigation (FBI) and prosecuted by the U.S. Attorney's Office for the Eastern District of Tennessee and DOJ's Computer Crime and Intellectual Property Section (CCIPS).

Theft of Airplane Technology: On Dec. 13, a federal judge sentenced a defendant to serve 36 months in prison for stealing trade secrets of Turbine Engine Components Technologies Corporation (TECT). TECT manufactured and sold engine blades for use in military aircraft engines, among other products. The government and the defendant agreed that he caused TECT up to $14 million worth of harm from his theft of TECT's trade secrets. The case was investigated by the FBI and ICE HSI and prosecuted by the U.S. Attorney's Office for the Middle District of Georgia. Said the **U.S. Attorney for the Middle District of Georgia, Michael Moore:** "This type of industrial espionage is a serious matter, especially when it involves the production of parts for our military aircraft."

Preventing Transfer of High-Frequency Trading Code to a Competitor: On Dec. 10, a jury convicted a former computer programmer at Goldman Sachs, in part, with theft of trade secrets. The defendant developed computer programs for Goldman Sachs' high-frequency trading system. He accepted a job with a competitor and, on his last day, transferred substantial parts of the code to himself. The FBI arrested the defendant on his way to meet with the new company with the trade secrets. The case was investigated by the FBI and prosecuted by the U.S. Attorney's Office for the Southern District of New York. The **U.S. Attorney for the Southern District of New York, Preet Bharara** emphasized that the guilty verdict demonstrates that "we will use the full force of the federal law to prosecute those who steal valuable and proprietary information from their employers, whether those firms are on Wall Street or Main Street." He added that "[w]e will continue working with our law enforcement partners to investigate and prosecute corrupt professionals who exploit their access to employer's secrets."

Quotes about the Prosecution

Theft of Tire-Making Technology

Said **Assistant Attorney General Lanny Breuer:** "Unable to create an effective design on their own, these engineers stole trade secrets from a competitor in order to fulfill a contract. We will not allow the hard work and resources businesses put into product development to be compromised by individuals who unlawfully obtain protected trade secrets."

"This case sends a message that investigating the theft of trade secrets is a priority for the FBI," said **FBI Assistant Director Gordon Snow.** "We will not stand idly by and watch as one company gains an unfair business advantage by stealing the proprietary information and know-how of another company."

Online Piracy

Trafficking in Millions of Dollars of Pirated Software Using the Internet: On Jan. 13, a defendant was charged with using the Internet to sell pirated commercial software of Microsoft, Adobe, Apple, and others. The defendant is alleged to have sold pirated software worth millions of dollars. He is a fugitive and is believed to be in Pakistan. The case was investigated by ICE HSI, the FBI, and the USPIS, and is being prosecuted by the U.S. Attorney's Office for the District of Maryland. Said the **ICE HSI Special Agent in Charge, Baltimore, William Winter:** "Investigating those who produce, sell and distribute counterfeit products, including computer software, is an important role of ICE HSI." He added that "[c]ounterfeiters cost legitimate businesses billions in lost revenue."

30-Month Sentence for Selling Pirated Video Games Using the Internet: On Dec. 29, a federal judge sentenced a defendant to serve 30 months in prison for selling pirated video games using the Internet and for committing aggravated identity theft. The defendant sold more than 35,000 copies of pirated video games of more than 60 different companies. The defendant agreed to forfeit the tools and proceeds of his crime, including $367,669 in cash, his home, and his car. The case was investigated by the FBI and the USPIS and prosecuted by the U.S. Attorney's Office for the Southern District of Ohio.

Counterfeit Goods

60-Month Sentence for Attempting to Smuggle Counterfeit Goods into U.S.: On Jan. 6, a federal judge sentenced a defendant to serve 60 months in prison for conspiracy to traffic in counterfeit goods, as well as to bribe U.S. Customs and Border Protection (CBP) officials to smuggle those counterfeit goods into the U.S. The defendant paid more than $700,000 to an undercover law enforcement agent in an attempt to ensure that 15 shipping containers of counterfeit goods were not seized or detained by CBP. The case was investigated by ICE HSI, with the assistance of CBP, and prosecuted by the U.S. Attorney's Office for the District of New Jersey. **Peter Edge, Special Agent in Charge, ICE HSI, Newark, New Jersey**, said that this "sentence should serve as a warning to those engaged in product counterfeiting. Products that are produced and sold illegally do harm to trademark holders, may be smuggled into the country and distributed by organized crime groups and then sold to the detriment of local businesses and communities who derive no financial gain from the illegal sales."

Three Defendants Plead Guilty to Smuggling Counterfeit Goods into the U.S.: In late November and early December, three defendants, including a Chinese citizen, pleaded guilty to trafficking in counterfeit goods. The defendants conspired to smuggle counterfeit Coach bags made in China (and elsewhere) through the Port of Baltimore for sale throughout the U.S. As part of their pleas, the defendants admitted to trafficking in counterfeit goods worth between $400,000 and $1 million. The case was investigated by ICE HSI and prosecuted by the U.S. Attorney's Office for the District of Maryland. Said **ICE Director Morton**. "Counterfeits represent a triple threat by delivering shoddy, and sometimes dangerous, goods into commerce, by funding organized criminal activities and by denying Americans good-paying jobs. Both ICE's Homeland Security Investigations and the IPR Center are committed to an aggressive approach towards enforcing the nation's intellectual property rights laws."

Operation Season's Cheatings: From Dec. 1-8, the IPR Center launched Operation Season's Cheatings to combat the Internet sale of counterfeit hard goods. The Operation combined the expertise of CBP, ICE HSI and the USPIS to target, interdict, and investigate the importation of counterfeit merchandise into the U.S. by suspects using the China Post Express Mail Service. Preliminary results indicated approximately 350 seizures of counterfeit DVDs, handbags, cell phones, electronics, pharmaceuticals, cosmetics, apparel and jewelry, with 281 packages detained for further examination.

Coordination with State and Local Law Enforcement

Operation Fire Sale: Last September, ICE HSI seized $16 million worth of counterfeit goods in major cities across the U.S. as part of Operation Fire Sale, a coordinated effort organized by the IPR Center. In early December, ICE HSI continued that Operation, seizing $350,000 worth of counterfeit goods in Las Vegas and $250,000 worth of counterfeit goods in New Orleans. The Nevada Department of Investigations assisted in the Las Vegas effort and CBP and the Louisiana State Police assisted in the New Orleans effort.

ICE HSI and Abilene Police Seize More than $100,000 of Counterfeit Goods: On Dec. 9, ICE HSI and the Abilene Police Department seized counterfeit clothing being sold at three local businesses, which were worth more than $100,000. Said the **ICE HSI Special Agent in Charge in Dallas, John Chakwin:** "These counterfeits cause legitimate U.S. industries to lose billions in revenue annually which deny Americans good-paying jobs."

DOJ Intellectual Property Forum for State and Local Law Enforcement: On Dec. 8, DOJ's Bureau of Justice Assistance held its annual national conference for state and local law enforcement and, for the first time, included a half-day intellectual property forum to emphasize the importance of state and local law enforcement being more active in pursuing intellectual property crimes.

DOJ, NAAG, and NW3C Intellectual Property Trainings: On Dec. 8 (Miami, FL) and Jan. 20 (Austin, TX), DOJ, the National Association of Attorneys General, and the National White Collar Crime Center, with ICE HSI participation, trained state and local law enforcement on intellectual property enforcement. The next training is set for March 1 in Tacoma, Washington.

IACC and ICE Intellectual Property Training: On Dec. 16, in coordination with the International Anti-Counterfeiting Coalition, ICE HSI provided training in Tampa for state and local law enforcement personnel located in west and central Florida.

Quotes about the Prosecution



Operation Fire Sale

ICE HSI Special Agent in Charge for Las Vegas, Claude Arnold said: "The next time you're tempted to save a few bucks by buying a product you know is counterfeit, remember—you're a party to economic sabotage. Counterfeiting undermines the U.S. economy, robs Americans of jobs, stifles American innovation, and promotes other types of crime. They only ones who benefit from schemes like this are the counterfeiters themselves, and they are getting rich at America's expense."

Transparency

Public Awareness

- **State Department International Outreach:** In December and January, the U.S. Department of State conducted more than 25 international outreach programs emphasizing intellectual property enforcement, including programs in Canada, China, and Russia.
- **Intellectual Property Seminar:** On Dec. 7, the U.S. Attorney's Office for the Western District of North Carolina hosted a regional seminar, designed, in part, to help potential victims of intellectual property crimes to know how to report them.

Enforcing Our Rights Internationally

Supporting U.S. Businesses in Overseas Markets

- **U.S./EU Portal to Help SMEs:** On Dec. 17, the Department of Commerce's International Trade Administration and the European Commission's Directorate General for Industry and Entrepreneurship announced the launch of a jointly developed TransAtlantic Intellectual Property Rights Resource Portal. The Portal expands the resources available to U.S. small and medium-size enterprises (SMEs) by including materials and tools developed by the European Union (EU). The Portal is intended to help SMEs to protect their intellectual property in markets around the world, serving as a resource of information and containing points of contact. For example, businesses can access a "country toolkit" to receive an overview of the scope of intellectual property laws in a country and the extent of enforcement. They can also locate a local lawyer in that country and learn how to report intellectual property theft there. The Portal is accessible through www.stopfakes.gov.

Working with Law Enforcement Officials Overseas

- **Intellectual Property Organized Crime Trainings:** In December, DOJ organized or participated in two conferences focusing on intellectual property crimes by organized criminal groups in Africa.
- **Intellectual Property Border Enforcement Workshop:** From Jan. 11-14, CBP, ICE, and USPTO conducted an intellectual property workshop for border enforcement officials from 15 countries, including Canada, Hong Kong, and India. The workshop focused on risk analysis, rightholder outreach, and criminal investigations.



If you feel that you have been the victim of an intellectual property crime, you can report the crime by clicking on the button to the left, calling the IPR Center at 1-866-IPR-2060, or contacting a field office of the FBI. To help you determine what to do when reporting an intellectual property crime, see DOJ's "Reporting Intellectual Property Crime: A Guide for Victims of Counterfeiting, Copyright Infringement, and Theft of Trade Secrets." DOJ also has created forms/checklists that identify the information you will need to provide when referring copyright infringement and trademark offenses and theft of trade secrets.

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FEBRUARY/MARCH 2011 EDITION

Intellectual Property Spotlight



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Introduction

On February 8, President Obama signed an Executive Order establishing two intellectual property advisory committees chaired by the IPEC, a Cabinet-level committee comprised of the heads of the departments responsible for intellectual property enforcement and a committee comprised of Senate-confirmed government officials from those departments. The Executive Order was well received, as reflected in the statements of Senate Judiciary Committee Chairman Patrick J. Leahy, House Judiciary Committee Chairman Lamar Smith and Ranking Member John Conyers, the U.S. Chamber of Commerce, and the AFL-CIO.

On February 7, the IPEC sent to Congress the first Annual Report on Intellectual Property Enforcement, a follow-up to last June's Joint Strategic Plan on IP Enforcement detailing the Administration's progress over the last half year.

On March 15, the IPEC transmitted to Congress 20 legislative recommendations designed to improve intellectual property enforcement. The legislative recommendations set out in the White Paper sent to Congress exemplify the Administration's commitment to protect and grow jobs and exports, as well as to safeguard the health and safety of our people.

On March 1, the IPEC issued the Administration's strategy to fight counterfeit drugs to the Vice President and to Congress. The strategy sets out in detail the Administration's plan to aggressively combat counterfeit drugs.

Also on March 1, the House Judiciary Sub-Committee on Intellectual Property, Competition, and the Internet held an oversight hearing on the Administration's efforts to coordinate intellectual property enforcement. The IPEC was the sole witness, and described to the committee the progress the Administration has made on intellectual property enforcement since the strategy was released in June.

Victoria A. Espinel
U.S. Intellectual Property Enforcement Coordinator

Federal Coordination of Intellectual Property Enforcement Efforts

Federal Law Enforcement Coordination with State and Local Law Enforcement

Defendant Extradited to Face Charges for the Sale of Counterfeit Goods to Support Hezbollah: On Feb. 24, pursuant to an extradition agreement, U.S. Marshals took a defendant into custody in Paraguay to return him to the U.S. to face charges, including the sale of counterfeit goods. The defendant is alleged to have committed his crimes to raise money for the terrorist group Hezbollah. The case involves the coordinated efforts of federal, state and local law enforcement. "The allegations contained in this complaint demonstrate how terrorist organizations rely on a variety of underlying criminal activities to fund and arm themselves," said **David Kris, then-Assistant Attorney General for the National Security Division**. "I applaud the many agents, analysts, and prosecutors who worked tirelessly to bring about these charges and arrests." The case was investigated by the Federal Bureau of Investigation (FBI), U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI), the New Jersey State Police, the Internal Revenue Service, the U.S. Secret Service, Defense Criminal Investigative Services, the Department of Commerce, the U.S. State Department, U.S. Customs and Border Protection (CBP), the Bureau of Alcohol, Tobacco, and Firearms and Explosives, Federal Air Marshals, Pennsylvania State Police, and the Philadelphia Police Department. The case is being prosecuted by the U.S. Attorney's Office for the Eastern District of Pennsylvania and the Department of Justice's (DOJ's) National Security Division.

Counterfeit Rifle Sights Arrests: On Mar. 23, two men were arrested while another is still wanted for their role in selling 700 counterfeit high-tech rifle sights and 200 magnifier systems, worth $475,000. The magnifiers and gun sights, which were shipped by way of China, help weapon users' aim and fire at targets with greater accuracy and speed. The case was jointly investigated by ICE HSI and the Anaheim Police Department. The Orange County District Attorney's Office is prosecuting.

Enforcing Our Rights Internationally

USTR Out-of-Cycle Notorious Markets Report: On Feb. 28, the U.S. Trade Representative issued a report identifying 30 online and physical markets – including China's search engine, **Baidu**, and e-commerce platform, **Taobao** – as "notorious markets" tied to sales of pirated and fake goods. The report will help guide the Administration's trade-related enforcement efforts. We have already seen voluntary action from sites listed in the special report, such as Taobao's announcement that it will increase efforts to crack down on counterfeit products being sold through its system.

Quotes about Notorious Markets



"Piracy and counterfeiting undermine the innovation and creativity that is vital to our global competitiveness. These notorious markets not only hurt American workers and businesses, but are threats to entrepreneurs and industries around the world," said **United States Trade Representative Ron Kirk**. "The review we are announcing today shines a light on examples of many offending markets, and highlights an opportunity to work together with our trading partners to curb illicit trade and expand legitimate commerce in creative and innovative industries."

Securing Our Supply Chain

Online Piracy

Operation In Our Sites: Under Operation In Our Sites, DOJ and ICE HSI have conducted four major operations since June 2010, resulting in the seizure of **over 100 domain names**. In February, 2011, Operation In Our Sites v. 3.0, which coincided with the Super Bowl, resulted in the seizure of 10 domain names of websites that provided access to pirated telecasts of the National Football League, the National Basketball Association, the National Hockey League, World Wrestling Entertainment, and the Ultimate Fighting Championship. Prosecution was conducted by the U.S. Attorney's Office for the Eastern District of New York. On March 3, ICE arrested an operator of one of the seized sites, who is now facing charges in New York. On Valentine's Day, Operation In Our Sites v. 4.0 resulted in the seizure of 18 domain names used to sell luxury counterfeit goods. Prosecution was conducted by the U.S. Attorney's Offices for the Southern District of New York and the Southern District of Texas.

Accused Movie Pirate Pleads Guilty: On Mar. 14, a New York man pled guilty to releasing an internet copy of the blockbuster *X-Men Origins: Wolverine* a **month before the movie's release** date. He is scheduled to be sentenced in September where he could get up to three years in prison and a $250,000 fine. The FBI investigated the case, and DOJ CCIPS is prosecuting.

Theft of Innovation

Financial Computer Code Thief Gets 97 Months in Prison: On Mar. 18, a former Goldman Sachs computer programmer received 97 months in prison and a $12,500 fine for stealing his employer's **$500 million** proprietary computer code used for high-frequency trading of commodities and equities. The case was investigated by the FBI and prosecuted by the U.S. Attorney's Office for the Southern District of New York.

Financial Computer Code Thief Gets 36 Months in Prison: On Feb. 28, a federal judge issued a 36-month prison sentence to Mr. Samarth Agrawal, a defendant convicted of stealing a high-frequency trading platform's trade secrets at Societe Generale in New York, as we highlighted in the December Spotlight. The case was investigated by the FBI and prosecuted by the U.S. Attorney's Office for the Southern District of New York.

LCD Technology Thief Gets 30 Months in Prison: On Feb. 8, a defendant who acted for a Taiwanese corporation received 30 months in prison for conspiring over three years to steal liquid crystal display trade secrets from Corning, Inc. The FBI investigated the case, and the U.S. Attorney's Office for the Western District of New York prosecuted.

Industrial Technology Thief Convicted: On Feb. 7, a jury convicted a scientist of stealing trade secrets from Dow Chemical Company. After working on an industrial use plastic, the defendant conspired with other former Dow employees to steal the plastic's trade secrets, traveled to China to market the information, lied under oath on arranging for a co-conspirator to go to China, and bribed a Dow employee for information. The case was investigated by the FBI's New Orleans Division and prosecuted by the Senior Deputy Criminal Chief, the U.S. Attorney's Office for the Middle District of Louisiana, and DOJ Computer Crime and Intellectual Property Section (CCIPS).

Health and Safety

Counterfeit Drug Seller Gets 46 Months in Prison: On Feb. 9, a defendant was sentenced to 46 months in prison and ordered to pay restitution for illegal importation and sale of counterfeit and misbranded drugs. The defendant had been charged in an investigation involving over 11,000 doses with the counterfeit trademarks of Eli Lilly and Co. (Cialis) and Pfizer, Inc. (Viagra), worth over $120,000. The case was investigated by ICE HSI, CBP, and the Postal Inspection Service, with the assistance of the Food and Drug Administration's Office of Criminal Investigations, and was prosecuted by the Eastern District of Missouri.

Nearly 20,000 Counterfeit Drugs Seized: On Feb. 18, CBP officers at JFK International Airport seized 20,000 erectile dysfunction pills with counterfeit trademarks belonging to Pfizer, Inc. (Viagra), Eli Lilly & Co. (Cialis), and Bayer Pharmaceuticals Corp. (Levitra). CBP estimates the value of the pills at over $220,000.

Retired Dentist and Son Sentenced for Selling Counterfeit Drugs: On Feb. 14, a father and son – both living in Canada – were sentenced for selling and dispensing counterfeit Viagra and Cialis. Over the course of a year, 22 packages with counterfeit drugs arrived from China and India at a mail box in Blaine, Washington, near the U.S.-Canada border. The son received a year and a day in prison, two years of supervised release, and a $5,000 fine. The father received a $30,000 fine and one year of supervised release. The case was investigated by the FDA Office of Criminal Investigations, the U.S. Postal Inspection Service, and CBP, and was prosecuted by the U.S. Attorney's Office for the Western District of Washington.

Quotes about the Prosecution

Societe General Trade Secret Case



"Aggressive protection of intellectual property is essential to America's current economic prosperity and future success," said **Preet Bharara, U.S. Attorney for the Southern District of New York**. "Today's sentence confirms that theft of intellectual property by people like [defendant, Samarth] Agrawal is a serious, federal offense that can lead to substantial jail time."

LCD Technology Trade Secret Case

"As we go forward into the Twenty-First Century, the value of the unique and creative ideas of a person or company will often times become the difference between those who succeed commercially, and those who fail," said **William J. Hochul Jr., U.S. Attorney for the Western District of New York**. "For these and other reasons, this Office is committed to protecting the hard work and intellectual property of all of who call our region home."

Counterfeit Goods

Operation Interception: From January 1 through Super Bowl weekend, ICE HSI, CBP, local police departments, and the NFL coordinated to target various physical venues selling 36,273 counterfeit game-related sportswear items nationwide resulting in a **record-breaking** $3.56 million (MSRP) in seizures.

DVD and CD Counterfeiters get 50-Month and 60-Month Prison Terms: On Feb. 24, two individuals received 50 and 60 month prison terms for their roles in a counterfeit DVD and CD ring worth over $2 million (MSRP). The FBI and ICE HSI investigated the case, along with the Atlanta Police Department Organized Crime Unit, the College Park, GA Police Department, and East Point, GA Police Department. The U.S. Attorney's Office for the Northern District of Georgia as well as DOJ CCIPS prosecuted the case.

33 Months in Prison for Counterfeit Good Sales: On Feb. 8, a defendant received 33 months in prison for selling a broad array of goods with counterfeit trademarks including Nike, Chanel, and Polo. The defendant was also ordered to forfeit nearly $30,000 in cash as well as personal property connected to the illegal sales. The St. Louis Police Department initiated the case and carried out the investigation along with ICE HSI. The U.S. Attorney's Office for the Eastern District of Missouri prosecuted the case.

U.S. Customs and Border Protection **U.S. Immigration and-Customs Enforcement**

CBP and ICE Release IPR Seizure Report**:** On Mar. 16, CBP and ICE released their 2010 report on IPR seizures of goods violating trademarks and copyrights. The report shows a sharp rise in seizures, including a 97% increase in seizures affecting public safety.



If you feel that you have been the victim of an intellectual property crime, you can report the crime by clicking on the button to the left, calling the IPR Center at 1-866-IPR-2060, or contacting a field office of the FBI. To help you determine what to do when reporting an intellectual property crime, see DOJ's "Reporting Intellectual Property Crime: A Guide for Victims of Counterfeiting, Copyright Infringement, and Theft of Trade Secrets." DOJ also has created forms/checklists that identify the information you will need to provide when referring copyright infringement and trademark offenses and theft of trade secrets.

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APRIL/MAY/JUNE 2011 EDITION

Intellectual Property Spotlight



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Introduction

On May 27, the Group of Eight—G8—released their final declaration, entitled "*Renewed Commitment for Freedom and Democracy*." The G8 Leaders Statement committed to protect intellectual property and to take effective action against intellectual property violations, including a renewed commitment "to ensuring effective action against violations of intellectual property rights in the digital arena, including action that addresses present and future infringements." The G8 declaration specifically highlighted "the importance of enforcement in order to incentivize innovation and protect innovation once developed," and recognized "the need to have national laws and frameworks for improved enforcement."

Throughout April, May, and June Congress has acted on many of the 20 legislation recommendations we issued last March in our White Paper, including bills to punish economic espionage, fight counterfeit drugs, clarify that commercial streaming is a felony, improve disclosure authority, and increase penalties for sales of counterfeits to our troops. We will continue to work closely with Congress on these current legislative proposals and other proposals contained in our White Paper.

On June 22, The Senate Committee on the Judiciary held an oversight hearing on the Administration's progress in coordinating intellectual property law enforcement efforts, with the IPEC and representatives from the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE). The same day, the IPEC also released a brief overview report on progress the Administration has made on the intellectual property enforcement since the strategy was issued on June 22, 2010.

Victoria A. Espinel
U.S. Intellectual Property Enforcement Coordinator

Securing Our Supply Chain

Health and Safety

There have been several successful law enforcement operations including:

- On June 3, an 87-month Prison Sentence for Trafficking in Fake Weight Loss Drugs; one of the victims of the fake drugs **suffered a mild stroke**. (USAO District of Colorado, FDA OCI, ICE, USPIS)
- Also on June 3, a 48-month Prison Sentence for an Operator of Illegal Internet Pharmacy which sold counterfeit and misbranded drugs to treat conditions including **heart disease and psychiatric disorders. The defendant was apprehended in Costa Rica and extradited to the United States**. (USAO District of Kansas, DOJ Civil Division's Office of Consumer Protection Litigation, FDA OCI)
- On April 4, a 33-month Prison Sentence for a Fugitive Seller of Counterfeit Pills that contained a **substance used in sheetrock** manufacturing. (USAO Southern District of Texas, ICE HSI, FDA OCI, CBP)
- On May 9, two 37-month Prison Sentences and one 30-month Prison Sentence for Hazardous Counterfeit Lead Jewelry with **over 20 times the lead** deemed safe by the Consumer Products Safety Commission. (USAO Central District of California, ICE HSI, CBP, FDIC OIG)
- Also, on May 9, a **Guilty Plea** for trafficking in over 2,000 counterfeit exercise equipment machines. (USAO Central District of California, ICE HSI)
- A **Seizure** of 30,000 cans of counterfeit sardines in June. (CBP)
- **Guilty pleas** for defendants who sold over 300,000 counterfeit drug tablets worth $2.5 million on May 16, and another defendant, on May 26, who trafficked in over 45,000 counterfeit drug tablets worth $119,000. (USAOs Districts of New Jersey and Maryland, CCIPS, FBI, FDA OCI, USPIS)
- **Indictments** for two cases of counterfeit pills (one for over 10,000 counterfeit drug tablets on June 9, and another on June 23 for over 4,500) in the same district. (USAO Eastern District Pennsylvania, FDA OCI, ICE HSI)
- On May 17, an **Indictment** for selling 6,000 units of counterfeit diabetic test strips. (USAO EDPA, FDA OCI)

Border Enforcement Highlights

- CBP seized more than 100,000 baseball caps and remote-controlled toy cars for intellectual property rights violations that arrived at the Otay Mesa port of entry in April.
- CBP seized 47,184 pieces of counterfeit designer clothing worth $14.3 million that came in three shipments arriving from China at the Los Angeles/Long Beach seaport in April, May, and June.
- CBP seized over $3 million in a variety of intellectual property violations at a UPS hub over a several-day operation conducted last April.

Theft of Innovation

Chinese National Sentenced for Stealing Ford Motor Co. Trade Secrets On April 12, 2011, a Chinese national we reported on in the December Spotlight was sentenced to 70 months in federal prison and ordered to pay a fine for misappropriating sensitive valuable design documents owned by Ford Motor Co. worth between **$50 – 100 million**. The defendant will be deported after he completes his sentence. This case was prosecuted by the U.S. Attorney's Office for the Eastern District of Michigan and was investigated by the FBI.

Conviction in Theft of Computer Code for Environmental Management On April 6, a defendant was convicted of stealing confidential and proprietary business information—which he sent to China—for a database system with environmental uses, including **hazardous waste management**. The FBI investigated the case which was prosecuted by the U.S. Attorney's Office for the District of New Jersey, and the DOJ Counterespionage Section.

Quotes about the Prosecution

Ford Trade Secret Case



"We will vigilantly protect the intellectual property of our U.S. automakers, who invest millions of dollars and decades of time in research and development to compete in a global economy," said **Barbara L. McQuade, U.S. Attorney for the Eastern District of Michigan**. "Those who do not play by the rules will be brought to justice."

Software Cases

Successful coordinated law enforcement operations have led to a number of successes including:

- On June 9, a **nearly $15 million seizure** from the Swiss account of a fugitive anti-virus software counterfeiter, investigated by one of ICE's Intellectual Property Theft Enforcement Teams (IPTETs). This case was prosecuted by the U.S. Attorney's Offices for the Southern District of New York and the Northern District of California.
- A **$2.4 million seizure** of two digital receiver/decoder shipments with counterfeit software by CBP last June.
- On June 7, a **Guilty Plea** for selling counterfeit Intuit tax preparation software through the online auction site eBay. This case is being prosecuted by the U.S. Attorney's Office for the Southern District of Ohio and DOJ's Computer Crime and Intellectual Property Section (CCIPS), and was investigated by the IRS-CI, USPIS, and the FBI.
- On June 16, a **Guilty Plea** for selling counterfeit Adobe, Microsoft, and Autodesk, Inc. software through at least six websites. This case is being prosecuted by the U.S. Attorney's Office for the Northern District of Texas, and was investigated by ICE HSI, the FBI and the Wichita Falls Police Department.
- On April 20, a **Guilty Plea** for selling counterfeit Microsoft, Adobe, Intuit, and Symantec software. The case is being prosecuted by the U.S. Attorney's Office for the Eastern District of Michigan and CCIPS, and was investigated by ICE HSI and the IPR Center.
- On April 25, **15-Month and 8-month Prison Sentences** for counterfeit Microsoft product sales over the Internet. This case is being prosecuted by the U.S. Attorney's Office for the Southern District of California, and was investigated by USPIS and ICE HSI.

Online Enforcement

Operation In Our Sites Under Operation In Our Sites, DOJ and ICE HSI have conducted five major operations since June 2010, resulting in the seizure of **125 domain names**. In May of 2011, Operation In Our Sites v. 5.0, seized five more domain names dedicated to sales of counterfeit goods and/or pirated content.

Counterfeit Online Coupon Counterfeiter Charged On May 11, a defendant was charged with trafficking in counterfeit goods based on Internet sales of fake discount coupons sold since July 2010. The FBI is investigating and the U.S. Attorney's Office for the Southern District of New York is prosecuting the case.

Sales to the Military and the U.S. Government

Jury Conviction for Importing and Selling Counterfeit Computer Networking Equipment On May 26, a jury convicted two defendants for importing and selling counterfeit Cisco computer network equipment imported from China. The defendants are also required to **forfeit bank accounts holding over $1.6 million in illegal proceeds, several luxury cars, and real property worth over $2.6 million**. This case is being prosecuted by the U.S. Attorney's Office for the Eastern District of Virginia and DOJ CCIPS and was investigated by ICE HSI, GSA, Department of the Interior and CBP.

Operation Chain Reaction On June 14, the National Intellectual Property Rights Coordination Center (IPR Center) announced Operation Chain Reaction which will target counterfeits in the Department of Defense and U.S. Government supply chains. IPR Center participants will include ICE HSI, CBP, FBI, Naval Criminal Investigative Service, Defense Criminal Investigative Service, U.S. Army Criminal Investigative Command Major Procurement Fraud Unit, General Services Administration Office of Inspector General, Defense Logistics Agency Office of Inspector General and the U.S. Air Force Office of Special Investigations.

Quotes about the Prosecution



Counterfeit Network Equipment Conviction

"Zhao and her co-conspirators trafficked in counterfeit networking equipment, to the detriment of consumers and of Cisco," said **Assistant Attorney General Breuer**. "Intellectual property crime is a serious threat, and one that we are working hard with our law enforcement partners to fight. These guilty verdicts are strong signals to would-be counterfeiters and other intellectual property criminals that fighting these crimes is a priority for this Justice Department."

Enforcing Our Rights Internationally

USTR Special 301 Report Called for Action

On May 2, the U.S. Trade Representative (USTR) released its annual Special 301 Report on the adequacy and effectiveness of U.S. trading partners' protection of intellectual property rights. This year, for the first time, USTR openly invited all trading partners listed in the report to cooperatively develop action plans to resolve IPR issues of concern. In the past, successful completion of action plans has led to the removal of trading partners from Special 301 lists.

USTR Notorious Market List Continued to Influence

Our February/March Spotlight highlighted USTR's out-of-cycle report identifying 34 online and physical markets—including Baidu and Taobao—as "notorious markets" tied to sales of pirated and fake goods. We noted the report's early effect as shown in March by Taobao's announcement of increased enforcement efforts, and events continue to confirm the importance of spotlighting notorious markets. For example:

- On May 12, a Chinese court fined Baidu over $84,000 for violating copyrights for five novels, and
- In June Hong Kong Customs conducted raids on the Ladies' Market, another notorious venue for counterfeit goods.

International Training

CBP sent subject matter experts to provide IPR border enforcement training at regional training programs in El Salvador and Thailand; and the IPR Center co-hosted an IPR Symposium in Hong Kong with the HSI attaché in Hong Kong for 84 law enforcement and customs representatives from China, Hong Kong, Macau and Malaysia (DOJ CCIPS, USPTO, and CBP also participated).

ITC Report Estimated Economy and Employment Losses from Chinese Infringement On May 18, the U.S. International Trade Commission issued its second report on China's IPR and Indigenous Innovation policies. Based on survey information, the report estimated that China's intellectual property infringement cost the U.S. economy **$48.2 billion** in 2009. U.S. firms in the IP-intensive economy also reported that China's adoption of intellectual property protections similar to the United States could create approximately **923,000 American jobs**.

Federal, State and Local Law Enforcement Working Together

Coordinated efforts by federal, state and local law enforcement agencies have led to several successes for intellectual property protection in the past several months, including:

- HSI, Anaheim Police Dept, and Orange County District Attorney's Office whose investigation into $2 million worth of **counterfeit Disney pins** led to two people getting indicted on May 12.
- FBI, West Seneca NY Police Dept whose efforts led to a guilty plea for trafficking in counterfeit goods and access device fraud on June 3. (USAO Western District of New York)
- FBI IP Task Force whose multi-year efforts led, on May 2, to a guilty plea by an Internet pirate for his illegal **pre-release distribution** of works over the internet, which he did for five years. (USAOs Central District of California and Eastern District of Virginia, CCIPS)
- FBI, Social Security Administration, and Carter County TN Sheriff's Office who coordinated an investigation that, on May 16, led to an indictment against several DVD-pirating defendants. (USAO Eastern District of Tennessee)
- HSI, Maryland State Police, and Baltimore County Police Dept whose efforts, on June 20, led to a 30-month prison sentence for a counterfeiter operating three apparel and accessory stores. (USAO District of Maryland)
- HSI, FBI, Atlanta Police Dept, College Park Police Dept, and East Point Police Dept whose joint efforts led to a 38-month prison sentence on June 17, for trafficking in pirated goods. (USAO Northern District of Georgia, CCIPS)
- The IPR Center coordinated training for the local IPTET partners, on June 28 and 29, in Houston and Beaumont, Texas. The IPTETs are partnerships with state and local law enforcement built on the best practices identified by the IPR Center.

New Federal Initiatives and Campaigns Launched

Several federal agencies have launched a wide variety of programs, tools, and publications that increase the efficiency and effectiveness of coordinated operations to enforce intellectual property rights, including:

- The CBP-led APEC Mutual IPR Enforcement Operation began on June 1, 2011. The operation will target counterfeit pharmaceuticals and develop model practices for intellectual property enforcement in international postal and express courier facilities. This is the first time a joint enforcement operation has ever been conducted at APEC.
- An IPR Center initiative to target counterfeits in the U.S. Government Supply Chain was launched on June 14 as Operation Chain Reaction. The operation will include the efforts of nine IPR Center partners particularly well-suited to investigate the trafficking of counterfeit goods to federal agencies.
- A U.S. Patent and Trademark Office Training and Capacity Building Database, launched in May as a tool to provide information on intellectual property enforcement training programs that the U.S. Government conducts around the world. The database will:
  - **increase transparency**, by allowing the public to see how the U.S. Government is allocating resources on intellectual property training;
  - **increase public participation**, by identifying upcoming training events that are open to the public;
  - **use resources more efficiently**, by sharing training materials between U.S. Government agencies and avoiding duplicative programs;
  - **improve results**, by building on past programs and targeting U.S. Government efforts on countries and topics where more training is needed.
- We invite you to use the database immediately—www.usipr.gov.
- The Special 301 Report by USTR, released on May 2, which issued an open invitation for all trading partners listed in the report to cooperatively develop action plans to resolve IPR issues.
- The CBP Admissibility Compliance Measurement Program began collecting data at international mail facilities in April in to better grasp the frequency of intellectual property violations, forming a baseline to use in CBP's future enforcement efforts.



If you feel that you have been the victim of an intellectual property crime, you can report the crime by clicking on the button to the left, calling the IPR Center at 1-866-IPR-2060, or contacting a field office of the FBI. To help you determine what to do when reporting an intellectual property crime, see DOJ's "Reporting Intellectual Property Crime: A Guide for Victims of Counterfeiting, Copyright Infringement, and Theft of Trade Secrets." DOJ also has created forms/checklists that identify the information you will need to provide when referring copyright infringement and trademark offenses and theft of trade secrets.

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JULY/AUGUST 2011 EDITION

Intellectual Property Spotlight



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Introduction

On July 25, the Administration released its Strategy to Combat Transnational Organized Crime (TOC) which includes addressing the link between intellectual property theft and organized crime. As part of TOC, President Obama's Executive Order provides new weapons to fight transnational criminal organizations, including the Camorra who derive over 10 percent of their approximately ***$25 billion*** annual profits from counterfeit and pirated merchandise. The TOC also includes legislative proposals that the IPEC recommends to strengthen penalties for intellectual property infringement tied to either funding organized crime or supplying the military.

Vice President Biden continued the Administration's engagement on intellectual property rights as part of his recent trip to China, pressing for better enforcement in several forums, including in his meetings with China's leaders and the Vice President's speech at Sichuan University on August 21. "We have welcomed the Chinese State Council's recent campaign to enforce intellectual property rights, a commitment that President Hu made when he visited and he's keeping," said Vice President Biden. "But the effort must be strengthened and extended."

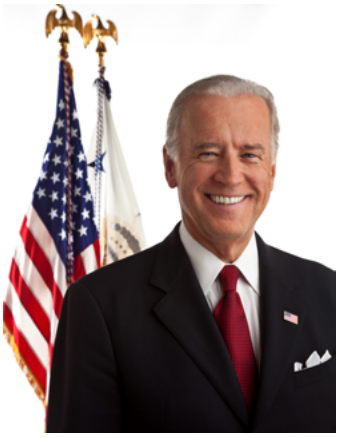
The Administration has vigorously pursued an approach to reducing online infringement that includes increased law enforcement, legislative reform, consumer education and encouraging voluntary non-regulatory private sector-driven agreements with technology companies and rightholders to efficiently and effectively reduce online infringement, consistent with the principles of due process, free speech and privacy. In December, we announced an agreement among American Express, Discover, eNom, GoDaddy, Google, Federal Express, MasterCard, Microsoft, PayPal, Visa and Yahoo! that is focused on fake online pharmacies. This summer, two additional agreements were concluded, one focused on all types of pirate and counterfeit goods and one focused on illegal music and movie downloading. First, at the end of June, payment processors – including American Express, Discover, MasterCard, PayPal and Visa – concluded a set of best practices to investigate complaints and stop processing transactions for sites that distribute counterfeit and pirated goods. On July 7, Internet service providers (Comcast, Cablevision, Verizon, Time Warner Cable and AT&T) and RIAA and A2IM recording companies and MPAA and IFTA movie studios reached a voluntary agreement to reduce online piracy.

On August 9, the IPEC also took aim at counterfeits in the United States Government supply chain by releasing a Federal Register Notice that seeks comment from the public on how the U.S. Government can prevent counterfeit products from entering its supply chain.

Victoria A. Espinel
U.S. Intellectual Property Enforcement Coordinator

International Enforcement

Asia



Vice President Biden Pushes for Better Enforcement in China

Vice President Biden continued the Administration's engagement on intellectual property rights as part of his recent trip to China, pressing for better enforcement in several forums, including in his meetings with China's leaders and his speech at Sichuan University on August 21. "We have welcomed the Chinese State Council's recent campaign to enforce intellectual property rights, a commitment that President Hu made when he visited and he's keeping," ***said Vice President Biden***. "But the effort must be strengthened and extended." In meetings with Chinese leaders, Vice President Biden also raised challenges faced by U.S. companies in China, including intellectual property rights, barriers to market access, and other important economic and trade priorities. At a joint roundtable with U.S. and Chinese business executives on August 19, Chinese Vice President Xi Jinping affirmed China's commitment to intellectual property rights (IPR) enforcement, promising that China will "intensify IPR protection and treat all businesses as equals in terms of the accreditation of indigenous innovation products and government procurement."

Chinese Notorious Market Signs Licensing Deal

On July 19, Universal Music Group, the Warner Music Group and Sony BMG, reached a licensing agreement with ***Baidu***, China's leading search engine. Earlier this year, both the U.S. Trade Representative's "Special 301 Report" and first ever out-of-cycle "Notorious Markets List" named Baidu as one of the online markets that must become legitimate as its behavior exemplifies the challenges in the global fight against piracy and counterfeiting.

Philippines Symposium and Enforcement

On July 18-20, the IPR Center, with DOJ and other agency participation, organized an IPR criminal enforcement symposium in Manila, Philippines for law enforcement officers, prosecutors, and officials. ***Within two months*** of the symposium, Philippine federal law enforcement officers conducted two highly successful operations:

- On August 23, 2011, HSI Attaché Manila special agents assisted National Bureau of Investigation (NBI) agents in seizing counterfeit Oakley merchandise, worth approximately ***$1.2 million***, during the execution of six search warrants executed in Manila, Philippines. (ICE)
- On August 24, 2011, HSI Attaché Manila special agents assisted the Philippine Bureau of Customs (BOC) in seizing approximately 6,000 counterfeit luxury branded products, estimated at ***$17 million***, during the execution of a search warrant in Manila, Philippines. (ICE)

South America

Securing Our Supply Chain

IPEC Federal Register Notice Takes Aim at USG Supply Chain Counterfeits

On August 9, the IPEC also took aim at counterfeits in the United States Government supply chain by releasing a Federal Register Notice (FRN) that seeks comment from the public on how the U.S. Government can prevent counterfeit products from entering its supply chain. This FRN will inform the work of the IPEC-led U.S. Government anti-counterfeiting working group comprised of 14 governmental entities, including the Office of Federal Procurement Policy, National Security Council, Departments of Defense, Justice, Energy, Homeland Security, Commerce, Transportation, Health and Human Services, Environmental Protection Agency, National Aeronautics and Space Administration, General Services Administration, Small Business Administration, and the Nuclear Regulatory Commission. The working group is tasked with studying this issue in order to provide legislative, regulatory and policy recommendations to the IPEC and the President.

Online Enforcement

Payment Processors Agree on Best Practices to Stop Online Infringement

At the end of June, payment processors concluded a set of best practices to investigate complaints and stop processing transactions for sites that distribute counterfeit and pirated goods. Voluntary participants include American Express, Discover, MasterCard, PayPal and Visa. The best practices focus on strategies to cut off counterfeit/pirate sites conducting financial transactions through these processors. The practices also include mechanisms to investigate complaints and remove payment services from any site that continues to operate unlawfully.

Media and Internet Service Providers Unite Against Piracy

On July 7, Internet service providers (Comcast, Cablevision, Verizon, Time Warner Cable and AT&T) and RIAA and A2IM recording companies and MPAA and IFTA movie studios reached a voluntary agreement to reduce online piracy by notifying ISP subscribers, through a series of educational alerts, when their Internet service accounts are being misused for illegal downloads and, under certain circumstances, taking temporary mitigation measures. The methodologies used to detect infringement will be vetted by an independent third party for accuracy. There is an independent review process and no action will be taken until the review is resolved. The full agreement is publicly accessible here.

In Our Sites

Under Operation In Our Sites (OIOS), the Department of Justice (DOJ) and U.S. Immigration and Customs Enforcement, Homeland Security Investigations (ICE-HSI) have conducted six major operations since June 2010, resulting in the seizure of ***142 domain names***.

- In July of 2011, OIOS v. 6.0 – dubbed "Shoe Clerk" – seized 17 domain names dedicated to sales of counterfeit goods. (ICE-HSI, USAO D. Md., W.D.N.Y., D. Colo., E.D. Mich., S.D. Tex.)
- On July 21, during Shoe Clerk ICE agents in New York arrested an operator of one of the Shoe Clerk websites (ICE-HSI, USAO W.D.N.Y.).
- On August 23, ICE agents in New York arrested another defendant who operated two of the websites in a previous version of OIOS (v. 3.0). (ICE-HSI, USAO S.D.N.Y.)

Quotes about In Our Sites

Operation In Our Sites Arrests



"In today's age, the theft of another's property, to include one's ideas, is just as likely to occur over the internet as it is on the streets of a community," said ***William J. Hochul, Jr, U.S. Attorney for the Western District of New York***. "By using Court-ordered warrants to 'seize' a particular website or domain, our Office is using 21st-century techniques to combat criminals operating in the virtual world."



"Today's arrest sends a clear message to website operators who mistakenly believe it's worth the risk to take copyrighted programming and portray it as their own," said ***ICE Director John Morton***. "We are dedicated to protecting the jobs, the income and the tax revenue that disappear when organized criminals traffic in stolen content for their own profit."

Health and Safety

North Carolina Dangerous Electronics Seized

On August 5, North Carolina state law enforcement authorities seized ***$1.1 million*** in counterfeit UL-labeled stereo and audiovisual equipment, posing a ***shock and fire hazard*** to users. The DOJ Bureau of Justice Assistance grant program significantly funded this and other seizures associated with this case. (North Carolina Secretary of State, Asheville Police Dept.)

Tennessee Man Charged With Counterfeit Prescription Drug Sales

On August 22, criminal information charged a defendant in Tennessee with ordering online over ***77,000 tablets*** of prescription drugs with registered trademarks belonging to Eli Lilly® (Cialis) and Pfizer® (Viagra). (USAO M.D. Tenn., FDA-OCI, USPIS)

New York Perfume Counterfeiters Plead Guilty

On August 3 and August 5, two Chinese defendants admitted offering to supply counterfeit perfume to prospective buyers at a Las Vegas trade show after CBP officers seized a cargo shipment of over ***30,000 units*** of counterfeit perfume. (USAO E.D.N.Y., DOJ CCIPS, ICE-HSI, CBP)

Media

Georgia Counterfeit DVD and CD Ring Member Convicted

On July 28, a jury convicted a defendant for participating in a criminal enterprise that distributed counterfeit DVDs and CDs that, if genuine, would be worth over ***$12 million***. (USAO N.D.Ga., DOJ CCIPS, FBI, ICE-HSI, Atlanta Police Dept. Organized Crime Unit, Fulton County Sheriff's Office, College Park Police Dept., East Point Police Dept.)

Maryland DVD Counterfeiter Pleads Guilty

On July 14, a defendant admitted making over $630,000 since August 2006 from online sales of counterfeit DVDs worth between ***$1 – 2.5 million***. (USAO D. Md., FBI)

Theft of Trade Secrets and Innovative Technology

New York Sentencing of Corning Trade Secret Thief

On July 26, a Federal judge sentenced Danny Price to two years of probation for his role as a middle-man in stealing trade secrets tied to Corning's process for making special LCD glass. A Federal judge already handed down 48-month and 30-month prison terms, respectively, for the other two defendants involved in the conspiracy, Jonathan Sanders and Yeong C. Lin. (USAO W.D.N.Y., FBI)

Massachusetts Economic Espionage Defendant Pleads Guilty

On August 31, a defendant pled guilty to disclosing trade secrets to an undercover FBI agent covering his software company's sensitive business practices as well as the company's physical and computer security systems. (USAO D. Mass., FBI)

Counterfeit Network Equipment

Maryland Counterfeiter Sentenced

On August 18, a defendant reported on in the April/May/June Spotlight was sentenced to 30 months in prison for his part in a sophisticated operation to sell counterfeit Cisco computer networking equipment. He and another defendant forfeited bank accounts holding over ***$1.6 million*** in illegal proceeds, several luxury cars, and real property worth over ***$2.6 million***. (USAO E.D. Va., DOJ CCIPS, ICE-HSI, General Services Administration – Office of the Inspector General, Department of the Interior, CBP)



If you feel that you have been the victim of an intellectual property crime, you can report the crime by clicking on the button to the left, calling the IPR Center at 1-866-IPR-2060, or contacting a field office of the FBI. To help you determine what to do when reporting an intellectual property crime, see DOJ's "Reporting Intellectual Property Crime: A Guide for Victims of Counterfeiting, Copyright Infringement, and Theft of Trade Secrets." DOJ also has created forms/checklists that identify the information you will need to provide when referring copyright infringement and trademark offenses and theft of trade secrets.

If you would like to subscribe to the newsletter in the future, email IntellectualProperty@omb.eop.gov. If you would like more information about the Office of the IPEC, including a copy of the 2010 Joint Strategic Plan on Intellectual Property Enforcement. Please visit our website.

Intellectual Property Spotlight



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Introduction

On Oct 21, ***President Obama*** signed into law three new trade agreements with Colombia, Panama, and South Korea; each containing state of the art intellectual property protection. Also, on Oct 1, the United States and seven other countries signed the Anti-Counterfeiting Trade Agreement (ACTA), marking an important step forward in the international fight against trademark counterfeiting and copyright piracy.

On Sep 16, ***President Obama*** also signed into law the America Invents Act, an historic legislation that will help American entrepreneurs and businesses turn their ideas into new products and new jobs by – among other things – making it easier for rightholders to protect their intellectual property abroad with an American patent process that is harmonized with the rest of the world to make it more efficient and predictable.

Finally, in Sep and Oct the United States Government agencies engaged in several highly coordinated and successful activities that included international operations, domestic investigations, and high-level prosecutions against especially egregious offenders whose intellectual property theft activities directly threatened lives with illegal pharmaceuticals, dangerous consumer electronics, fakes sold to the military, and even human trafficking.

Victoria A. Espinel
U.S. Intellectual Property Enforcement Coordinator

International Enforcement



President Obama Signs Trio of Intellectual Property-Supporting Trade Agreements On Oct 21, ***President Obama*** signed into law three new trade agreements with Colombia, Panama, and South Korea; each containing state of the art intellectual property protection, and requirements to join key multilateral intellectual property rights agreements. They also contain strong provisions to ensure that American intellectual property rights are efficiently and effectively protected in those countries.

United States Moves Closer to International Anti-Counterfeiting Agreement On Oct 1, the United States and seven other countries signed the Anti-Counterfeiting Trade Agreement (ACTA), marking an important step forward in the international fight against trademark counterfeiting and copyright piracy. The ACTA provides for: (1) enhanced international cooperation; (2) promotion of sound enforcement practices; and (3) a legal framework for intellectual property rights enforcement in the areas of criminal enforcement, enforcement at the border, civil and administrative actions, and distribution of intellectual property infringing material on the Internet.

PTO Seeks Input on China Intellectual Property Enforcement On Oct 17, the U.S. Patent & Trademark Office (PTO) published a notice seeking public comments on the state of China's patent enforcement system. Views are invited on any challenges faced when trying to enforce patents in Chinese courts or Chinese administrative agencies. This data collection is part of an initiative announced in the IPEC Annual Report, which announced patent enforcement in China as a new area of focus, including determining what steps the U.S. Government can take to improve the effectiveness of China's patent enforcement regime. Public comments were due Nov 4.

DOJ Addresses International Audience of Prosecutors, Investigators and Industry In Sep, Assistant Attorney General Lanny Breuer provided opening keynote remarks at the 5th International Law Enforcement Intellectual Property (IP) Crime Conference in Madrid, hosted by INTERPOL, EUROPOL, and the Cuerpo Nacional de Policia. The conference garnered over 500 attendees including investigators, prosecutors and industry representatives from over 50 countries. AAG Breuer emphasized the importance of criminal enforcement of intellectual property rights and broad international cooperation, noting that "[i]t is reflective of the international scope of the challenges we face in fighting intellectual property crime that this conference should be held in Asia one year and Europe the next, and that it continues to bring together members of law enforcement from so many countries around the world, as well as industry stakeholders, leaders and other international partners. Indeed, if there is one thing that we all recognize, it is that intellectual property crime is a problem of global dimension."

Quotes about the ACTA



"We are on the threshold of a landmark achievement in the enforcement of intellectual property rights, and the international alliance we are forging with parties representing half of global trade will be critical to fighting the theft of American jobs through trademark counterfeiting and copyright piracy" said *United States Trade Representative Ron Kirk*.

Health and Safety

U.S. Agencies Take Part in Largest Gathering of International Partners Against Illegal Pharmaceuticals In Sep, the largest international operation of its kind, Operation Pangea IV, gathered ***81 countries*** for a week of action against online illegal pharmaceuticals which led to – in addition to dozens of arrests – the seizure of 2.4 million possibly harmful medicines around the globe worth ***$6.3 million***.
(ICE, CBP, FDA, FBI)

International Operation Short Circuit Seizes Dangerous Products In Oct, the United States completed its three-month participation – led by the IPR Center – in an international operation that included 43 countries (in coordination with the World Customs Organization) and seized 388 shipments of over a million dangerous products, with the U.S. making 80 seizures to stop ***$5.8 million*** of potentially harmful counterfeit electronics. (ICE, CBP)

Maryland Pharmaceutical Trafficker Pleads Guilty On Sep 30, a defendant charged with trafficking in counterfeit pharmaceuticals pleaded guilty after federal agents seized over ***45,000 tablets*** from his home. (U.S. Postal Inspection Service (USPIS), FDA-Office of Criminal Investigations (FDA-OCI), DOJ CCIPS, USAO D. Md.)

California Fake Exercise Equipment Trafficker Sentenced On Sep 12, a federal judge sentenced a defendant to 30 months in prison for importing over 2,300 fake exercise machines from China. (ICE, CBP, USAO C.D. Cal.)

Ohio Counterfeit Pharmaceuticals Seized On Sep 23, CBP Officers seized 8,000 tablets of counterfeit tadalafil (also known as Cialis®) at a shipping facility in Cincinnati, OH. (CBP)

California Fake Sunglasses Seized On Oct 6, CBP seized 30,300 pairs of counterfeit Lacoste® sunglasses worth ***$4.5 million***, all possibly capable of failing to provide UV protection or causing injury by shattering. (CBP)

Sales to the Military and U.S. Government

Virginia Electronics Counterfeiter Sentenced On Sep 9, a defendant featured in the Apr/May/Jun Spotlight was sentenced to ***60 months*** in prison for her part in a complicated plot to sell counterfeit Cisco computer networking equipment, which CBP discovered by piecing common threads in hundreds of unrelated shipments that led to the Zhao operation. "This case illustrates how well government agencies are assisting each other in sharing information and expertise," said ***CBP Commissioner Alan Bersin***. "There could not be a successful prosecution like the Zhao case without extensive multi-agency cooperation and collaboration." (USAO E.D. Va., DOJ CCIPS, ICE-HSI, GSA – OIG, Dept. of the Interior, CBP)

Florida Military Grade Counterfeiter Sentenced On Oct 25, a federal judge sentenced a defendant to 38 months in prison for her part in a scheme in which she and others imported ***$15.8 million*** worth of counterfeit integrated circuits from China and Hong Kong and sold hundreds of thousands of them to the U.S. Navy, defense contractors and others, marketing some of the products as "military-grade." "This prosecution is a warning to people who would even consider selling phony hardware to our military and defense contractors," said ***U.S. Attorney Ronald C. Machen Jr.*** "They not only put health, safety, and our national security at risk, but also expose themselves to serious criminal consequences." Integrated circuits are high-tech switch devices that control the flow of electricity in goods or systems such as industrial products, medical devices and systems, spacecraft, and military applications. Malicious code in counterfeit integrated circuits can enable systems disablement, communications interception, and computer network intrusion. "This investigation was an excellent example of a partnership of multiple federal law enforcement agencies across the country, working together to shut down a counterfeit fraud conspiracy that affected national security," said ***Daniel S. Cortez, Inspector in Charge, Washington Division, USPIS***. (ICE, Naval Criminal Investigative Service, Dept. of Transportation – OIG, USPIS, Dept. of Defense, CBP, USAO D.D.C.)

Quotes about the Operation



"Besides cheating legitimate businesses, putting counterfeit electronics in sensitive computer networks, aircraft, and vehicles can threaten public safety and even undermine national security," said *CBP Commissioner Alan Bersin*. "This case is a prime example of the way CBP protects the public from unfair and unsafe imports."

Theft of Trade Secrets for Innovative Technology

Indiana Economic Espionage Thief Pleads Guilty On Oct 18, a Chinese national pleaded guilty to foreign economic espionage and to theft of trade secrets. He admitted sending trade secrets related to Dow's insecticide technology to a People's Republic of China (PRC) university via persons in Germany and the PRC and also sending food trade secrets owned by Cargill to a student at a PRC university. The aggregate loss of this criminal conduct is between ***$7 - 20 million***. This activity against the agriculture industry was ***Indiana's first case*** of trade secret theft intended to benefit a foreign government. (FBI, DOJ CCIPS, USAO S.D. Ind., D. Minn.)

Quotes about In Our Sites



"HSI and the IPR Center have made a major dent in these criminals' plans to profit from fan enthusiasm surrounding a very exciting seven-game World Series – both in U.S. cities and in cyberspace," said *ICE Director John Morton*. "Counterfeits products represent a triple threat by delivering shoddy and sometimes dangerous goods into commerce, by funding organized criminal activities, and by denying Americans good-paying jobs. Homeland Security Investigations and our partners at the IPR Center will continue to work together to keep all types of counterfeit products off our streets."

Online Enforcement

Under Operation In Our Sites, DOJ and U.S. Immigration and Customs Enforcement, Homeland Security Investigations (ICE-HSI) have conducted seven major operations since June 2010, resulting in the seizure of ***200 domain names***.

- In Oct, the seventh phase of Operation In Our Sites – dubbed "Strikeout" – seized 58 domain names dedicated to sales of counterfeit sports paraphernalia, in addition to seizing over 5,300 items worth over $134,000. (ICE-HSI, DOJ CCIPS, USAO S.D. Tex., D. Colo., E.D. Mich., W.D. Wash., W.D. Tex., D. Minn., D. Md.)
- In Sep and Oct, four persons tied to NinjaVideo.net – a website that provided pirated high quality online content for millions to download – pled guilty to their involvement with the website which the first phase of Operation In Our Sites seized. (ICE-HSI, DOJ CCIPS, USAO E.D. Va.)
- On Oct 22, a Texas operator of an illegal website was indicted for running a website whose domain name the third phase of Operation In Our Sites seized in Feb for streaming pirated broadcasts of sporting events. (ICE-HSI, DOJ CCIPS, USAO S.D.N.Y.)

Voluntary Best Practices – Anti-Counterfeiting Coalition Adds Structure to Fight Against Counterfeits On Oct 12, the International Anti-Counterfeiting Coalition (IACC) took action on the Administration's call for private sector voluntary activities to stop intellectual property infringement and rolled out their online portal program to collect complaints about counterfeit good-selling websites that will be reported to credit card and payment processor companies. The portal program will collect data to help the Administration assess this approach's effectiveness.

Special Operation at the Border

Operation Summers End In Sep, over a special 5-day operation at an express package hub in Ohio, CBP made 289 seizures to intercept hundreds of various counterfeit items worth over ***$5.3 million***. DHL coordinated with CBP Officers and Import Specialists to carry out the operation. (CBP)

ICE Seizes Over 60,000 items On Sep 30, ICE-HSI special agents executed five federal search warrants in an intellectual property rights investigation related to various counterfeit goods in Tampa, leading to seizures of counterfeit articles estimated to be worth ***nearly $28.4 million.*** (ICE-HSI)

Federal, State, and Local Law Enforcement Working Together

Coordinated efforts by federal, state and local law enforcement agencies have led to several successes for intellectual property protection in Sep and Oct, including:

- TEXAS: ICE-HSI, FBI, Texas Attorney General's Office, Harris County Sheriff's Office broke a ***human trafficking operation that forced people smuggled into the USA to sell pirated DVD/CDs with threats both to the victims and their families in Mexico***. The three operation conspirators, reported on in the Dec Spotlight, received jail sentences of 46, 50 and 57 months. (USAO S.D. Tex.)
- TEXAS: FBI, Longview Police Dept., Dallas County Sheriff's Office, Baytown Police Dept., Austin Police Dept. stopped a ***$5 million*** counterfeit cell phone scheme leading to two guilty pleas on Sep 9. (USAO E.D. Tex.)
- DISTRICT OF COLUMBIA: ICE-HSI and Washington, D.C. Metropolitan Police Dept. arrested 11 people – including one wanted by INTERPOL – on Oct 18 for counterfeit trafficking in items worth over ***$3 million***.
- CALIFORNIA: FBI, Sacramento Valley Hi-Tech Crimes Task Force, and Stanislaus County Sheriff's Dept. investigated an extensive seven-person counterfeit DVD/CD operation leading to an indictment on Sep 8. (USAO E.D. Cal.)

If you feel that you have been the victim of an intellectual property crime, you can report the crime by clicking on the button to the left, calling the IPR Center at 1-866-IPR-2060, or contacting a field office of the FBI. To help you determine what to do when reporting an intellectual property crime, see DOJ's "Reporting Intellectual Property Crime: A Guide for Victims of Counterfeiting, Copyright Infringement, and Theft of Trade Secrets." DOJ also has created forms/checklists that identify the information you will need to provide when referring copyright infringement and trademark offenses and theft of trade secrets.

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OFFICE OF THE UNITED STATES INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR

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Intellectual Property Spotlight



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Introduction

On Nov 12, ***President Obama*** continued the Administration's press for more American jobs at the Asia Pacific Economic Cooperation (APEC) leader's summit, by calling out China's record on intellectual property and saying that, "For an economy like the United States – where our biggest competitive advantage is our knowledge, our innovation, our patents, our copyrights – for us not to get the kind of protection we need in a large marketplace like China is not acceptable."

On Nov 21-22, at the 22nd Joint Commission on Commerce and Trade (JCCT) in Chengdu, China, Administration officials from the U.S. Trade Representative, and the Departments of Commerce and Agriculture secured important commitments from China on key intellectual property issues, including: the establishment of a State Council-level leadership structure to lead and coordinate intellectual property rights enforcement across China; the completion dates for the legalization of software at the provincial, municipal, and county level governments; and the elimination of any catalogues or other measures linking innovation policies to government procurement preferences at the provincial, municipality, and autonomous region levels.

Victoria A. Espinel
U.S. Intellectual Property Enforcement Coordinator

International Enforcement



President Obama Pushes for Stronger Intellectual Property Protection from China

On Nov 12, President Obama continued the Administration's press for more American jobs at the APEC leader's summit, by calling out China's record on intellectual property and saying that, "For an economy like the United States – where our biggest competitive advantage is our knowledge, our innovation, our patents, our copyrights – for us not to get the kind of protection we need in a large marketplace like China is not acceptable."

Administration Talks Produce New Intellectual Property Commitments from China

On Nov 21-22, at the 22nd JCCT in Chengdu, China, Administration officials from the U.S. Trade Representative (USTR), and the Departments of Commerce and Agriculture persuaded China to commit to several key intellectual property deliverables including: the establishment of a State Council-level intellectual property leadership structure; the completion dates for the legalization of software at the provincial, municipal, and county-level governments; and, at the provincial, municipality, and autonomous region levels, the elimination of measures linking innovation policies to government procurement preferences.

USTR Releases Out-of-Cycle Review of Notorious Markets

On Dec 20, USTR issued the Special 301 Out-of-Cycle Review of Notorious Markets ("Notorious Markets List"), which identifies more than 30 Internet and physical markets that exemplify the problem of marketplaces that deal in infringing goods and services, and that may merit further investigation for possible intellectual property rights infringement. The Notorious Markets List is the result of a separate, dedicated request for comments issued on September 22, 2011.

CBP Leads APEC Against Counterfeit Pharmaceuticals

In Nov 2011, U.S. Customs and Border Protection (CBP) finished its year-long initiative in the Asia Pacific Economic Cooperation targeting counterfeit pharmaceuticals shipped via international mail and express courier services. As part of the initiative, CBP conducted the United States' part of an international operation at multiple mail and express carrier facilities in June and July, seizing $231,136 worth of counterfeit pharmaceuticals. CBP and the other participating economies also developed a set of model practices to guide future collaborative work.

Quotes about the Prosecution



"Economic espionage and trade secret theft are serious crimes that, as today's sentence shows, must be punished severely," *said Assistant Attorney General Lanny A. Breuer.* "Protecting trade secrets is vital to our nation's economic success, and we will continue vigorously to enforce our trade secret and economic espionage statutes."

Securing Our Supply Chain

Theft of Trade Secrets for Innovative Technology

Indiana Economic Espionage Thief Sentenced

On Dec 21, a Chinese national defendant, reported on in the November Spotlight, was sentenced to 87 months in prison for economic espionage to benefit components of the Chinese government and theft of trade secrets worth between $7 – 20 million. (FBI, Department of Justice (DOJ) Computer Crime and Intellectual Property Section (CCIPS), U.S. Attorney's Office (USAO) S.D. Ind., D. Minn.)

Industrial Espionage Report Details Trends in Trade Secret Theft

On Nov 3, the National Counterintelligence Executive (ONCIX) released its report to Congress, Foreign Economic Collection & Industrial Espionage 2009-2011, which describes the threat to technologies that often cost millions of dollars to develop and robs trade secret victims of tens or hundreds of millions of dollars in potential profits. (ONCIX)

Health and Safety

There have been several successful law enforcement actions against individuals seeking to deal in products that not only rob innovators, but also pose a risk to American consumers' health and safety, including:

- **TEXAS Circuit Breakers:** On Dec 8, an individual pled guilty to trafficking in counterfeit circuit breakers, after Federal agents executed search warrants to find ***96,000 circuit breakers*** worth about ***$4.7 million*** (MSRP), which the individual had made in China after traveling there. (ICE-HSI, USAO M.D. Fla.)
- **CALIFORNIA Electric Santa Figurines:** On Dec 12, CBP seized 151 electric holiday decorations with counterfeit safety markings, worth $173,000 (MSRP). (CBP)
- **NEW YORK Pharmaceuticals:** On Nov 2, an importer pled guilty to importing over 700 tablets of pharmaceuticals bearing counterfeit trademarks belonging to Pfizer and Eli Lilly. (ICE-HSI, U.S. Food and Drug Administration Office of Criminal Investigations, USAO W.D.N.Y.)
- **NEW YORK Perfume:** On Dec 20, a Federal judge sentenced a Chinese importer to 12 months in prison for counterfeit perfume trafficking that included over ***37,000 units of perfume***. (CBP, ICE-HSI, USAO E.D.N.Y., DOJ CCIPS)
- **NEW YORK Perfume:** On Dec 5, two individuals were charged for trafficking in counterfeit perfume including ***three shipping containers of perfume*** and 4,600 fragrance boxes with counterfeit marks. (ICE-HSI, USAO E.D.N.Y.)

Operation Holiday Hoax

During a six-week operation from Nov 1 to Dec 16, the IPR Center coordinated several Federal agencies, state and local law enforcement, and the Government of Mexico to seize over *327,000* counterfeit items worth an estimated *$76.8 million*, which is nearly *200% greater* than the first iteration of Holiday Hoax in 2009 ($26 million). The operation spread across *66 U.S. cities*; 55 cities in Mexico; and Seoul, South Korea. Authorities have also arrested 33 people connected to the violations. (CBP, U.S. Immigration and Customs Enforcement-Homeland Security Investigations (ICE-HSI), U.S. Postal Inspection Service (USPIS), Consumer Product Safety Commission (CPSC))

Online Enforcement

In Our Sites Under Operation In Our Sites, DOJ and ICE-HSI have conducted seven major operations in 2011, resulting in the seizure of ***270 domain names*** (248 of which distributed counterfeit hard goods and 22 of which distributed copyrighted works via download or streaming).

- On Nov 28, the eighth version of Operation in Our Sites – dubbed "Cyber Monday" – seized 150 domain names dedicated to sales of counterfeit goods. (ICE-HSI, FBI, DOJ CCIPS)
- On Nov 30, two Washington men were charged with operating websites associated with two of the domain names seized in the below-referenced Operation In Our Sites v. 9.0. (ICE-HSI, DOJ CCIPS, USAO W.D. Wash.)
- On Dec 2, as part of Operation In Our Sites v. 6.0 ("Shoe Clerk"), a New York website operator was convicted for online sales of counterfeit Sons of Anarchy merchandise. (ICE-HSI, DOJ CCIPS, USAO W.D.N.Y.)
- On Dec 4, the ninth version of Operation in Our Sites seized 12 domain names for movies, television shows, software and workout DVDs intended for the Korean community in the United States. (ICE-HSI, DOJ CCIPS)

Electronics and Media

There have been several successful law enforcement actions against persons stealing creative works through illegal copying onto electronic media or counterfeiting trademarks for high tech goods including:

- **KANSAS Cisco equipment:** On Nov 7, a Federal judge sentenced an individual to 27 months in prison for selling ***$1 million*** in counterfeit Cisco products with fake labels the individual made with legitimate serial numbers from ***Cisco's confidential serial number verification website***. (ICE-HSI, FBI, USAO D. Kan.)
- **GEORGIA CD/DVDs:** On Dec 14, two individuals were sentenced to serve a ***combined 70 months*** in prison and pay a combined $40,000 for trafficking in counterfeit labels and copyright infringement using thousands of copyrighted DVDs and CDs, worth ***$3.7 million***. (FBI, ICE-HSI, Atlanta P.D. Org. Crime Unit, Fulton County Sheriff's Office, College Park P.D., East Point P.D., DOJ CCIPS, USAO N.D. Ga.)
- **MISSOURI CD/DVDs:** On Nov 10, an individual was sentenced to 57 months in prison for – in addition to failing to register as a sex offender – counterfeit movie making; authorities seized 6,400 such movies as part of the investigation. (ICE-HSI, USPIS, U.S. Marshals Service, St. Louis Metro P.D., USAO E.D. Mo.)
- **CALIFORNIA CD/DVDs:** On Nov 7, an individual pled guilty to counterfeit trafficking and criminal copyright infringement, including over ***10,000 counterfeit DVDs*** and over ***24,000 counterfeit music CDs***. (FBI, Sacramento Valley Hi-Tech Crimes Unit, USAO E.D. Cal.)

Stronger Intellectual Property Laws On Dec 31, ***President Obama*** signed into law the National Defense Authorization Act of 2012 (NDAA), which includes provisions that (1) increase penalties for infringing goods sold to, or for use by, the military, law enforcement, critical infrastructure or national security applications, and (2) provide DHS explicit authority to give rightholders more information to help determine if suspected fake products are genuine or not. These specific pieces of NDAA achieve key objectives in the Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations.

Public Awareness

Administration Partners with National Crime Prevention Council on Awareness Campaign

On Nov 29, the IPEC, U.S. Attorney General Eric Holder, and other Administration officials announced the launch of a National Crime Prevention Council public awareness campaign to combat the purchase and sale of counterfeit and pirated products. The campaign will include a television PSA, materials delivered through social media, and radio, web, and print ads. (IPEC, DOJ, ICE, Dept. of Commerce)

Consumer Product Safety Commission Releases Holiday Online Shopping Guide

On Dec 12, CPSC – in conjunction with the U.S. Chamber of Commerce – released consumer guidelines for online holiday shopping to avoid purchasing counterfeit products. (CPSC)

If you feel that you have been the victim of an intellectual property crime, you can report the crime by clicking on the button to the left, calling the IPR Center at 1-866-IPR-2060, or contacting a field office of the FBI. To help you determine what to do when reporting an intellectual property crime, see DOJ's "Reporting Intellectual Property Crime: A Guide for Victims of Counterfeiting, Copyright Infringement, and Theft of Trade Secrets." DOJ also has created forms/checklists that identify the information you will need to provide when referring copyright infringement and trademark offenses and theft of trade secrets.



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