2010 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 transmit the 2010 U.S. Intellectual Property Enforcement Coordinator Annual Report on Intellectual Property Enforcement.

A little over a year ago, I was confirmed by the U.S. Senate as the first U.S. Intellectual Property Enforcement Coordinator (IPEC).

A little over six months ago, my office submitted to you the inaugural Joint Strategic Plan on Intellectual Property Enforcement (Strategy). That Strategy was developed as a result of significant public input (including more than 1,600 public comments) and the coordinated efforts of the Federal agencies, including the U.S. Departments of Agriculture, Commerce (DOC), Health and Human Services, Homeland Security (DHS), Justice (DOJ) and State, the Office of the U.S. Trade Representative (USTR) and the U.S. Copyright Office. It included 33 action items to improve intellectual property enforcement, falling into six categories:

1. We will lead by example and work to ensure that the U.S. Government does not purchase or use infringing products.
2. We will be transparent, in our policymaking and in our enforcement.
3. We will improve the coordination of law enforcement at the Federal, state and local level, of overseas personnel and of our international training efforts.
4. We will enforce our rights internationally, ensuring that we are effectively working with foreign governments.
5. We will work to secure our supply chain, thereby attempting to limit the infringing products entering the U.S. That includes working with Internet service providers, credit card companies, domain name registrars and registries, advertising services, search engines and others to help combat the damage done by websites that distribute or provide access to infringing products. Our efforts focus on combating significant acts of infringement, protecting legitimate uses of the Internet and respecting principles of free speech and fair process.
6. We will build a data-driven government and ensure that our policies are as well informed as possible, by improving our data collection on intellectual property enforcement efforts, by measuring the economic impact of intellectual property industries and by continuing to assess our laws to make certain they allow us to effectively protect and enforce intellectual property rights.

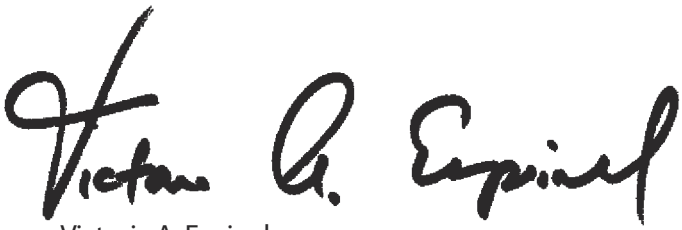
Since we issued the Strategy, the U.S. Government has been hard at work implementing the action items and taking concrete steps to improve enforcement. I want to highlight a few of our important steps:

- In the Strategy, we emphasized the benefit of private industry working together to voluntarily fight infringement. To that end, my office hosted meetings with the Federal agencies and private companies to encourage voluntary efforts to combat illegal online pharmacies. On December

14, I hosted a White House Intellectual Property Health and Safety Forum and announced that a group of private sector leaders—American Express, eNom, GoDaddy, Google, MasterCard, Microsoft, PayPal, Neustar, Visa and Yahoo!—will form a new nonprofit organization with other private sector participants to take voluntary action against illegal online pharmacies. This first-of-its-kind effort will have a dramatic impact on combating illegal online pharmacies and send an important signal to governments and the global marketplace that we will combine aggressive enforcement with voluntary private sector action.

- In the Strategy, we committed to increase criminal enforcement. Among the major law enforcement actions: U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI), DOJ and the National Intellectual Property Rights Coordination Center (IPR Center) launched Operation In Our Sites and obtained court orders to seize the domain names of more than 90 infringing websites. ICE HSI also had two of the largest counterfeit good cases in U.S. history, each involving more than $100 million in counterfeit goods, and the U.S. has been a leader at the World Customs Organization (WCO), participating in three global law enforcement sweeps, each involving over 30 countries acting in concert.
- In the Strategy, we committed to promote enforcement of U.S. intellectual property rights through trade policy. On November 15, USTR concluded negotiations on the Anti-Counterfeiting Trade Agreement (ACTA) and the text of the agreement was finalized on December 3. ACTA is a first-of-its-kind agreement and, once it enters into force, ACTA will aid rightholders and the U.S. Government to combat infringement.
- In the Strategy, we committed to reviewing existing laws to determine if legislative changes were needed to improve enforcement. As a result of this review, in the near future, we expect to submit to Congress a White Paper of legislative proposals to improve intellectual property enforcement.

I am honored to have been chosen to serve as the first IPEC. I have been heartened by what we have accomplished in such a short time and I have been impressed by the commitment demonstrated by the Federal agencies, Congress and the public to fight intellectual property infringement. I look forward to continuing to work with you, with the Federal agencies and with the public to improve enforcement of intellectual property rights.



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

Introduction

As described in the Joint Strategic Plan, the U.S. Government supports strengthened intellectual property enforcement in order to grow the U.S. economy; create jobs for American workers and support for U.S. exports; promote innovation and the security of America's comparative advantage in the global economy; protect consumer trust and safety; protect national and economic security; and validate rights protected under our Constitution. I want to re-emphasize our commitment to these purposes and what we have been doing, and will do, to support them.

Economic Growth and Exports, Job Creation and Protection of American Innovation

America's greatest export has been, and remains, the creativity, ingenuity and innovation of the American People. As the President said in the State of the Union address on January 25, "[w]e're the nation that put cars in driveways and computers in offices; the nation of Edison and the Wright brothers; of Google and Facebook. In America, innovation doesn't just change our lives. It is how we make a living." It is that innovation and ingenuity and, the products that spring from it, that people generally call "intellectual property." Our Founding Fathers showed tremendous foresight in providing for the creation of intellectual property rights in the Constitution, which has helped spur our emergence as a global economic power and creator of products the world craves. But creating intellectual property rights, without effective enforcement of those rights, is meaningless and leads to stifling of innovation and growth.

An innovator who develops the next revolutionary technology that would otherwise drive our economy in the 21st Century cannot compete against a foreign company that steals the technology, unfairly creates their own competing product and then markets it for less because they did not bear the cost of creating the technology in the first place. Our efforts to enforce intellectual property rights must make sure that the companies that create innovation are the ones that reap the economic reward resulting from the innovation, both for reasons of fundamental fairness and to ensure an incentive for others to continue to innovate.

The growth resulting from the protection and effective enforcement of intellectual property rights benefits not only companies that make the innovative products, but creates the jobs that will lead our economy and our people to a better tomorrow. These are jobs that we want to create and support, with high wages and strong benefits. At the June 23, 2010, Senate Judiciary Committee hearing on the release of the Joint Strategic Plan, the U.S. Chamber of Commerce and the AFL-CIO stood together in support of strengthened intellectual property enforcement and they have continued to express strong support for the Administration's efforts.

In the Strategy, we committed to measuring the economic contribution of the intellectual property-intensive industries, which will help us more accurately understand what is at stake. DOC is leading an interagency initiative to measure the economic contributions of intellectual property-intensive industries, bringing together senior economists from the Office of Management and Budget (OMB), the National Economic Council, the Council of Economic Advisors, the Office of Science and Technology Policy (OSTP), the National Science Foundation, the Bureau of Labor Statistics, USTR, the U.S. Department of the Treasury and DOJ.

The Federal law enforcement agencies have continued to target crimes that impact the economic vitality of American industry. DOJ and ICE HSI, along with the IPR Center, have sought to disrupt the practices of those who unlawfully distribute American intellectual property. In June 2010, they launched Operation In Our Sites, seizing the domain names of websites providing access to infringing products, making it more difficult and more costly for infringers to harm U.S. rightholders. The Operation also directed visitors attempting to access the websites to seizure banners, alerting nearly 30 million people that the domain names had been seized because of criminal intellectual property violations. USTR is preparing a report to focus attention on the threat posed by foreign-based infringing websites. The report is designed to guide U.S. diplomatic efforts and to increase public awareness of websites that are distributing or providing access to infringing products.

Over the last six months, we have heard repeated concerns about enforcement of patents and trade secrets, particularly in China. This year, DOJ and the Federal Bureau of Investigation (FBI) have increased their investigations and prosecutions of corporate and state-sponsored trade secret theft. For example, in July, two defendants were indicted for stealing General Motors hybrid-vehicle technology trade secrets that caused more than $40 million of harm to GM and, in November, a defendant was convicted of stealing Ford trade secrets that caused between $50 to $100 million of harm to Ford (for more information on significant trade secret and economic espionage cases, see Appendix 1). This focus will continue. In addition, the U.S. Patent and Trademark Office (USPTO) will lead an effort this year to thoroughly assess the patent enforcement landscape in China and recommend steps that the U.S. Government can take to improve patent enforcement there.

Protection of Public Health

Intellectual property crimes impair not only the economic health of our nation, but put the health of our citizens at risk.

In December, we announced that a group of private-sector partners—American Express, eNom, GoDaddy, Google, MasterCard, Microsoft, PayPal, Neustar, Visa and Yahoo!—will form a new nonprofit organization with other private sector participants to take voluntary action against illegal online pharmacies. The IPEC has also established an interagency working group on counterfeit pharmaceuticals, which will issue a report to the Vice President laying out new initiatives for action. We are considering several proposed legislative changes to combat the sale of counterfeit pharmaceuticals, including increased criminal penalties for those who pose a risk to health, including by selling counterfeit drugs. The IPR Center has participated in cross-border enforcement actions designed to combat the import of counterfeit drugs, including Operation Mercury II (35 countries) and Operation Pangea III (45 countries), the latter of which involved taking down nearly 300 websites selling counterfeit drugs. DOJ, the Food and Drug Administration (FDA), U.S. Secret Service (USSS), ICE HSI, and state and local law enforcement have obtained convictions and sentences in two significant cases for trafficking in products bearing counterfeit Underwriters Laboratories (UL) marks. That mark identifies the safety of electronic products and products with counterfeit UL marks present an unacceptable risk of fire and other harm. DOJ, the FDA, ICE HSI, the U.S. Postal Inspection Service (USPIS), U.S. Customs and Border Protection (CBP) and the FBI have obtained convictions of individuals for selling counterfeit drugs, including the sale of

counterfeit prescription medicine that contained a substance used to make sheetrock and counterfeit cancer drugs that did not contain the ingredients to fight cancer.

Protection of Public Safety

Counterfeit products have been sold for use in U.S. defense and weapon systems. This is particularly dangerous because of the heightened risk that such products will fail if called on to perform under fire.

We must ensure that the U.S. Government is not purchasing counterfeit products. To that end, we are working quickly within the U.S. Government to study the problem and identify ways to combat it. We must also stop and deter those who would seek to personally profit at the expense of public safety. To help do so, we are considering proposals to significantly enhance criminal penalties for these types of crimes. The FBI, ICE HSI, the IPR Center and DOJ have continued to make combating, investigating and prosecuting such crimes a priority. In May, a business owner was sentenced to serve 51 months in prison for importing and selling counterfeit Cisco products that were intended for use in a computer network that relayed troop movement and intelligence and maintained security on a U.S. Marine Corps base near Fallujah, Iraq. In September, a defendant was sentenced to serve 30 months in prison for selling counterfeit Cisco products to, among others, the Federal Aviation Administration, the U.S. Marine Corps and the U.S. Air Force. And, also in September, two defendants were charged with selling counterfeit integrated circuits and military-grade integrated circuits for use in U.S. military systems.

Enforcement in the Online Environment

There is extensive debate about the government's role in Internet policy in general and the enforcement of intellectual property rights in the online context in particular. Given this debate, we take this opportunity to lay out clearly our approach to online enforcement and the reasons behind it.

The digital environment has provided extraordinary opportunities for businesses and consumers, for governments and citizens and for communities and families. These opportunities, notably the creation of global and readily accessible distribution systems facilitated by the Internet, also present enormous challenges to these affected groups, particularly as new technologies and platforms disrupt traditional business models, means of governance and modes of private communication and expression.

The digital environment is at its core an economy of intellectual property. Digitalization of goods, services, data, ideas and conversations creates intrinsically new assets, often built on or derived from assets for which there are existing protections. The application of intellectual property rules to the digital environment are therefore essential to enabling creators to be rewarded for their work. Lack of intellectual property enforcement in the digital environment, by contrast, threatens to destabilize rule-of-law norms, with severe effects on jobs and economic growth. Undermining respect for rule-of-law values impacts a range of other policy goals affected by the Internet (e.g., privacy). In short, criminal laws and intellectual property laws that apply in the physical world are based on a tradition of rules, checks and balances that must be applied to and tailored to the digital world.

The debate over the proper role of government in the online environment extends to the issue of intellectual property enforcement: that is, reducing the distribution of pirated or counterfeit goods

online or via the Internet, including digital products distributed directly over the Internet or physical products advertised or ordered via the Internet. The choices made in the area of intellectual property enforcement can have spillover effects for government action, regulation or intervention in other areas. Therefore, this office has given considerable thought to the best approach towards enforcement in the online environment. As outlined below, we believe the right approach is one that combines forceful criminal law enforcement with voluntary and cooperative action by the private sector consistent with principles of transparency and fair process.

The Internet is appropriately viewed as a boon to consumers and to businesses. It allows families to communicate over long distances, reduces barriers to entry for small businesses and allows companies to respond to customer preferences more quickly and expand their global reach. But proliferation of infringing content will hamper consumer trust. A lack of respect for the rule of law or widespread violations of intellectual property law will prevent the establishment of a safe and predictable environment for businesses and consumers alike. If stakeholders fail to effectively address these enforcement challenges, the ensuing loss of consumer and business trust could invite unwelcome government action to address them. Of course, in the area of intellectual property, there are additional reasons to act to reduce infringement. Piracy and counterfeiting online damage our economy, commit fraud on consumers and pose health and safety risks to U.S. citizens and citizens around the world.

We believe the necessary approach combines increased and coordinated law enforcement efforts, increased and coordinated efforts by the private sector and increased education to the public about legal values and the harm caused by infringement. It is appropriate for law enforcement to act against significant acts of infringement; and we will. But the sheer volume of infringing content online calls for private sector involvement in order to effectively address the threat and to ensure that legitimate companies are not inadvertently creating safe havens for infringing activity. And we must make sure that the public is aware of the rules of the road and how infringement harms them and all of us.

In the Strategy, this Administration committed to facilitate voluntary actions by the private sector that were practical and efficient and took into account the need to protect legitimate uses of the Internet, privacy rights and principles of fair process. We have done so and will continue to do so. For example, on December 14, 2010, we announced that a number of market leaders had agreed to take steps together to reduce illegal online pharmacies.

In the Strategy, this Administration committed to increased law enforcement activity. We have done so and will continue to do so. Under Operation In Our Sites, DOJ, ICE HSI and the IPR Center are working together to seize the domain names of websites that were selling counterfeit goods and providing access to infringing content.

In the Strategy, this Administration committed to reviewing existing laws to ensure that they were effectively enforcing intellectual property rights. We look forward to working with Congress on efforts to address the enforcement challenges in the online environment.

Individuals and entities that view infringement as a money-making venture are a particular focus of our efforts. We will continue to take steps, both through law enforcement and working with the private sector, to reduce the financial incentives for theft of intellectual property and eliminate infringement as a quick and easy way of making money at the expense of legitimate businesses and trusting consumers.

Due to the global scope of online infringement, it is critical that we have the close cooperation of our trading partners. We will continue to push our foreign law enforcement counterparts to do more—through actions such as bilateral cross-border enforcement actions, coordinated global sweeps with the WCO and the International Criminal Police Organization (INTERPOL) and increased cooperation through trade tools such as ACTA.

With respect to consumers, we need to increase awareness of the legal rules that apply to the online environment and of the risks posed by infringing products. DOJ has committed to funding public awareness campaigns on the risk of counterfeiting, the online pharmacy initiative includes education and public awareness as one of its four guiding principles and USTR is preparing a report on physical and online overseas markets that traffic in infringing products. We will continue to work with private sector companies and other organizations to find opportunities for education and public awareness.

Lastly, without mandating business models, we believe it is important to encourage the development of alternatives for consumers that meet their legitimate needs and preferences. We note some activity in the marketplace to develop new and more flexible methods of distribution and will look for opportunities to support those efforts.

The U.S. Government should be an example to our citizens and to governments around the world. We must continue to lead by example. We are at our best when we work together—with our industry, our individual citizens and our trading partners—to develop creative, practical and efficient solutions to online enforcement that protect innovation and the foundation that enables the Internet to fulfill its promise.

Next Steps

While we have accomplished much over the past six months, there is much left to do. In some areas, we have already seen major accomplishments and will continue to push forward. Law enforcement efforts have increased in the past year and will continue to do so. Combating online infringement, protecting health and safety and preventing theft of trade secrets for innovative technology will continue to be a priority. We have seen increased voluntary cooperation from the private sector—including rightholders and Internet intermediaries—to reduce online infringement and we will continue to expand our voluntary protocol initiatives to include other Internet intermediaries and additional categories of victims of intellectual property theft.

There are a number of areas in which we should see major progress during 2011. Fighting the scourge of counterfeit drugs will be a priority for law enforcement and for our training offered to foreign governments. U.S. personnel stationed overseas will be more coordinated and more effective in helping to protect the intellectual property rights of U.S. businesses overseas and our training and capacity building efforts will be more efficient and effective. We will continue to assess our laws and to work with Congress to make certain that the Executive Branch has the enforcement tools that it needs to effectively combat intellectual property theft. We will continue to highlight the importance of intellectual property enforcement to our economic growth and hope to release the first comprehensive study by the U.S. Government in 2011. We are intent on ensuring that counterfeits are not going into our military or critical infrastructure supply chains and will be issuing recommendations to prevent this

from happening. One new area of focus for 2011 will be patent enforcement in China and determining what the U.S. Government can do to improve the situation in China for U.S. innovators.

Our economic prosperity as a nation, the health of our people, and the safety of our citizens depend on effective enforcement of intellectual property laws. In June, we released an ambitious Joint Strategic Plan identifying 33 action items across six categories that were targeted to allow us to more effectively enforce intellectual property rights. In the pages that follow, this report describes in more detail what we have accomplished.

Implementation of Enforcement Strategy Action Items

Leading By Example

- Establishment of a U.S. Government-Wide Working Group to Prevent the U.S. Government Purchase of Counterfeit Products
- Use of Legal Software by Federal Contractors

Establishment of a U.S. Government-Wide Working Group to Prevent the U.S. Government Purchase of Counterfeit Products

The IPEC has been working with OMB, the National Aeronautics and Space Administration (NASA), the General Services Administration (GSA) and the Department of Defense (DoD) to develop a strategy to secure the U.S. Government's supply chain from counterfeit goods. DoD and NASA both have experienced problems with, and have significant concerns about, counterfeits entering the supply chain. These problems could compromise the health and safety of our troops, astronauts and numerous other U.S. Government personnel. Both agencies have been assessing their issues internally, have taken steps to develop procedures and practices to identify, detect, prevent, report and safeguard against the purchase of counterfeit products and agree that a U.S. Government-wide approach to addressing this problem is warranted.

As a result, the IPEC, OMB, DoD, NASA and GSA have partnered to identify areas of common interest and compare progress and best practices to ultimately eliminate counterfeits in their supply chains. The objective of this partnership is to develop a framework which will form a consistent government-wide approach for reducing the U.S. Government's vulnerability to counterfeits that is flexible enough to accommodate the wide variety of missions across Federal agencies. As part of this collaboration, DoD, NASA, GSA and other agencies, as appropriate, will form a working group to identify any gaps in legal authority, regulation, policy and guidance that preclude an optimal U.S. Government procurement approach. The working group shall:

- Establish procedures for program managers to identify items at risk for counterfeiting or requiring authentication of legitimacy. These procedures will, to the greatest extent practicable, utilize current industry standards.
- Examine whether regulations are needed to require suppliers to take stronger anti-counterfeiting measures.
- Examine when prime contractors and their suppliers should ensure that at-risk items can be traced to the original manufacturer and how that production authority can be confirmed.
- Consider when products and their packaging should be marked to designated industry standards, enable traceability and verify authenticity.

- Examine government/industry evaluation capabilities and determine whether improvement is needed.
- Establish an anti-counterfeiting training and outreach strategy for the Federal workforce.
- Examine whether additional measures are needed to protect the rights and interests of the U.S., recoup costs and prosecute offenders.

In addition, law enforcement agencies have made, and will continue to make, the sale of counterfeit goods to the military an enforcement priority.

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. The IPEC anticipates concluding this review in the near future.

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.

Increasing Transparency

- Improve Transparency in Intellectual Property Policymaking and International Negotiations
- Increase Information Sharing with Rightholders
- Law Enforcement Communication with Victims
- Report on Best Practices of Our Trading Partners
- Identify Foreign Pirate Websites as Part of the Special 301 Process
- Track and Report Enforcement Activities
- Share ITC Exclusion Order Enforcement Data
- Enhance Communications to Strengthen Section 337 Enforcement

Improve Transparency in Intellectual Property Policymaking and International Negotiations

The U.S. Government agencies responsible for intellectual property enforcement solicit the input of other relevant U.S. Government agencies, stakeholders and the public on their intellectual property enforcement activities to ensure that such activities are undertaken with the broadest possible range of stakeholder concerns in mind. Of late, U.S. Government agencies have improved their outreach efforts on intellectual property policymaking and international negotiations by holding frequent meetings with stakeholders and relevant agencies, having frequent consultations with Congress, making more effective use of the Internet and news media and issuing requests for public input on key activities in the form of Federal Register Notices including, for example:

- On September 30, 2010, DOC's International Trade Administration (ITA) issued a Federal Register Notice for comments on the challenges U.S. industries face in protecting their intellectual property in difficult markets, how effective the U.S. Government is in supporting U.S. businesses overseas and suggestions on how to improve U.S. Government support of U.S. businesses in those markets.
- On October 1, 2010, USTR issued a Federal Register Notice seeking written submissions from the public identifying Internet and physical markets outside of the U.S. that deal in infringing goods and help sustain global piracy and counterfeiting, and USTR expects to soon issue an out-of-cycle report of websites and markets that exemplify the significant harm caused by infringement.
- On October 5, 2010, DOC's Internet Policy Task Force issued a notice soliciting input on the relationship between the availability and protection of online copyrighted works and innovation in the Internet economy.

The IPEC has dedicated significant resources to soliciting a wide range of public input in developing policies and in ensuring that the public is well informed about our activities:

- Over the past year, the IPEC has met with hundreds of companies, non-governmental organizations, academics and other stakeholders. They range from technology companies, tractor manufacturers, the music industry (including recording studios, publishers, composers, songwriters and performers), book publishers, the semiconductor industry, the apparel industry, cement manufacturers, videogame developers, product safety certifiers, pharmaceutical companies, the aerospace industry, labor unions, the movie industry, telecommunication companies, software companies, steelworkers, electronics manufacturers, textile manufacturers, car part suppliers, Internet auction sites and biotech companies. The IPEC also met with those who want strong defenses and exceptions to intellectual property liability, including academics and advocacy groups.
- The IPEC has conducted listening tours to Los Angeles, New York, Silicon Valley and Illinois, in order to meet with the people who live with these issues day-to-day, including small business owners confronting intellectual property theft for the first time and large companies dealing with intellectual property theft on a regular basis. These meetings with, and input from, the public helped shape the Strategy and helped inform its implementation.

- Since issuing the Strategy, the IPEC has issued periodic reports on the intellectual property enforcement activities of the Administration. The reports are known as the "IPEC Spotlight" and copies are available on the IPEC website and through free e-mail subscription. Copies of the three IPEC Spotlights issued in 2010 (August, October and December) are attached as Appendix 3.
- USPTO is developing a new searchable training database, much of which will be made available to the public. As part of that database, the public will be able to view the locations and types of international intellectual property enforcement training offered by the U.S. Government.

Increase Information Sharing with Rightholders

Sharing information and samples with rightholders to help DHS determine whether goods are infringing or devices are circumvention devices benefits law enforcement because rightholders—with their superior knowledge of their own products—are in the best position to provide information to help DHS make that determination. The IPEC is considering a legislative proposal to allow increased information sharing with rightholders.

Law Enforcement Communication with Victims

Victims of intellectual property crimes need to know how to report crimes to law enforcement and what information they should provide when referring a case. It is also important for the U.S. Government to have ongoing communication with victims, as permitted by legal, ethical and law enforcement obligations.

- To make it easier to report crimes, the IPR Center added an easily identifiable button to its website (http://www.ice.gov/iprcenter/) to allow the public to report intellectual property crimes. The IPR Center is working with other agencies, stakeholders and the U.S. embassies to add the button to their websites and the IPEC added the button to its periodic newsletter (the IPEC Spotlight). These efforts will help ensure victims know where to report intellectual property crimes.
- Just before the release of the Joint Strategic Plan, DOJ and its Computer Crime and Intellectual Property Section (CCIPS) held its Fourth Annual Law Enforcement/Industry Conference, which included opening remarks by the U.S. Attorney General, Eric H. Holder, Jr. Since the release of the Strategy, DOJ has participated in a number of domestic industry outreach events and the IPR Center and ICE have participated in 41 domestic industry outreach events, all of which are designed to help rightholders know where and how to report intellectual property crimes. DOJ, the FBI and ICE will continue to hold and participate in outreach events to increase and facilitate communication among and between Federal law enforcement and potential intellectual property crime victims.
- DOJ's cyber and intellectual property crime website—http://www.cybercrime.gov/reporting.htm#ip—contains a guide to help victims understand how to report intellectual property crimes and checklists for trade secret cases and copyright and trademark cases, which identify the information that would be helpful for victims to provide to DOJ when reporting such crimes.

The IPEC also links to these materials in its periodic newsletter, the IPEC Spotlight. The IPR Center is also working on a checklist to aid victims of intellectual property crimes and anticipates that it will be published in early 2011.

- DOJ has a victim/witness coordinator located at each U.S. Attorney's Office and prosecuting component, as well as an integrated computer database of open cases, both of which are designed to ensure victims are notified about court proceedings. The IPR Center has dedicated staff members to ensure that victims of intellectual property crimes receive timely alerts about enforcement actions related to their intellectual property. The FBI included training on communication with victims at their September 2010 annual comprehensive training for intellectual property-dedicated special agents and ICE provides similar training, both a basic training on all investigative areas, including intellectual property investigations, for new hires and an advanced training for special agents. DOJ, the FBI and ICE will continue to convey to prosecutors and agents the importance of communication with victims.

Report on Best Practices of Our Trading Partners

The U.S. Government has continued its work to promote best practices for intellectual property enforcement. A key accomplishment in this area was the conclusion of ACTA negotiations in November 2010. ACTA will be the first agreement of its kind, by requiring both strong laws on the books and by promoting key practices that make those laws effective in practice. For example, ACTA will call on parties to encourage the development of specialized expertise within, and coordination among, their enforcement authorities, as in the U.S. USTR will also use the 2011 Special 301 report, which is due out at the end of April, to highlight best practices by trading partners.

Identify Foreign Pirate Websites as Part of the Special 301 Process

Infringing products distributed or made available via foreign based and foreign controlled websites are a significant priority because of the economic damage they cause and the health and safety risk they pose. We need to ensure that we provide the public with the information it needs to avoid potential risks. We also need to ensure that trade-related diplomatic efforts with respect to foreign based and controlled websites are coordinated.

Each year, USTR issues a report on the state of intellectual property protection and enforcement around the world, known as the "Special 301" report. The report is designed to encourage our trading partners to establish and maintain robust intellectual property protection and effective enforcement efforts.

This year, USTR initiated an interagency process to explore using the Special 301 process to highlight foreign based and controlled websites of particular concern. On October 1, 2010, USTR issued a Federal Register Notice seeking written submissions from the public identifying online and physical markets outside of the U.S. that prominently deal in infringing goods and, thereby, help sustain global piracy and counterfeiting. Based on that information, and working in conjunction with the relevant agencies, USTR is preparing a standalone out–of-cycle Special 301 review to increase public awareness of the threats posed by these sites, reduce sales of infringing products and guide related trade enforcement actions.

Track and Report of Enforcement Activities

This year, the U.S. Government will begin reporting on enforcement activities related to circumvention devices to provide comprehensive information about the scope of enforcement activities. The information for Fiscal Year (FY) 2010 for DOJ and CBP is included in the performance data section of this report.

Share ITC Exclusion Order Enforcement Data

Under 19 U.S.C. § 1337, the U.S. International Trade Commission (ITC) investigates allegations of unfair trading practices, including intellectual property infringement. If the ITC issues an order excluding infringing products, DHS is responsible for enforcing the order at the border. Sharing information with rightholders about goods seized or excluded by DHS pursuant to such an ITC order helps rightholders investigate infringement and bring a civil suit, if appropriate. The IPEC is considering a legislative proposal to allow increased information sharing with rightholders.

Enhance Communications to Strengthen Enforcement of ITC Orders

Part of the enforcement of ITC orders includes a determination by CBP about whether a good falls within an exclusion order, including whether it has been re-designed to eliminate the infringement. Participation of the rightholders would help CBP make accurate determinations about whether a good is barred, but currently they do not participate in this process. CBP is studying whether it can allow the rightholders to participate by adopting a new regulation. CBP is also studying ways to enhance communication with the ITC in such cases.

Ensuring Efficiency and Coordination

- Coordination of National Law Enforcement Efforts
- Coordination of Federal, State and Local Law Enforcement
- Coordination of Training for State and Local Law Enforcement
- Improve the Effectiveness of Personnel Stationed Overseas to Combat Intellectual Property Infringement
- Coordination of International Capacity Building and Training
- Establishment of a Counterfeit Pharmaceutical Interagency Working Group

Coordination of National Law Enforcement Efforts

Law enforcement activity has increased this year as Federal agents have focused on intellectual property crimes. In FY 2010, ICE HSI intellectual property investigations increased by more than 41% and ICE HSI arrests increased by more than 37% from FY 2009. Recent operations included two of the largest counterfeit good cases in U.S. history, each involving $100 million worth of counterfeit goods, and Operation In Our Sites, which led to the seizure of more than 90 domain names for websites that sold counterfeit goods or provided access to infringing content. As a result of the first operation in late June under the Operation In Our Sites initiative, rather than seeing infringing content, nearly 30 million visitors to the

websites saw notices that the domain names had been seized because of criminal intellectual property offenses. In addition, as of the end of 2010, the FBI had placed and trained 51 agents, dedicated to intellectual property enforcement, in 21 major cities across the U.S. and created enhanced intellectual property squads in four of those cities.

Coordination of Federal Law Enforcement Efforts

It is essential to have broad and robust cooperation among law enforcement agencies nationwide. When we issued the Strategy, the IPR Center had 11 partners: CBP, the Defense Criminal Investigative Service, DOC (ITA and USPTO), the FBI, the FDA—Office of Criminal Investigations (OCI), GSA—Office of Inspector General, ICE HSI, the Naval Criminal Investigative Service, USPIS, and the Government of Mexico—Tax Administration Service. The IPR Center has continued to expand, increasing the scope and effectiveness of its coordinated efforts:

- The IPR Center added four federal partners: the State Department, the Consumer Product Safety Commission, the Army Criminal Investigation Command—Major Procurement Fraud Unit, and the Defense Logistics Agency—Investigations Division. The State Department was the most recent Federal partner, joining in early 2011.
- The IPR Center added its second foreign government partner (the Royal Canadian Mounted Police) and its first international organization (INTERPOL). The Royal Canadian Mounted Police was the most recent international partner, joining in early 2011.

De-confliction

De-confliction—checking to see whether another agency (or office of the same agency) is already investigating a case—(1) allows the U.S. Government to avoid wasting resources by having two agencies independently investigating the same case; (2) maximizes resources by helping agencies to work together to investigate a case (taking advantage of each agency's expertise); and (3) allows agencies to identify and share intellectual property crime trends.

- The IPR Center works with its partner agencies to serve as the primary method of de-confliction for Federal intellectual property investigations. The IPR Center tracks leads received from the public and its partner agencies. The IPR Center de-conflicts all investigations directly referred to it. It also de-conflicts investigations opened by field offices of some of its partner agencies, including the field offices of both ICE HSI and the FBI. Because the IPR Center partners include most of the Federal agencies responsible for intellectual property enforcement and it de-conflicts field office investigations of the two agencies involved in most intellectual property investigations (ICE HSI and the FBI), the IPR Center de-confliction process now covers almost all Federal intellectual property investigations.

Identify links to organized crime

- DOJ maintains a database which is used to identify organized crime links. The FBI and DHS are contributing intellectual property data to the database and DOJ is using this database to find links between intellectual property crimes and organized crime cases.

- At DOJ's annual Computer Hacking and Intellectual Property Conference—which is designed for DOJ attorneys prosecuting intellectual property crimes—there will be a presentation on organized crime, and on how to use this database effectively. DOJ's Organized Crime and Racketeering Section (OCRS) will also provide training to its members about intellectual property and organized crime.
- OCRS and CCIPS regularly conduct case reviews to determine whether further coordination is appropriate.

Coordination of Federal, State and Local Law Enforcement

To capitalize on the differing expertise of various Federal, state and local law enforcement and to avoid duplication and waste that can come from multiple entities investigating the same case, it is important for Federal, state and local law enforcement to cooperate.

- In April 2010, ICE HSI established 22 Intellectual Property Theft Enforcement Teams ("IPTETs") throughout the U.S. that consist of ICE HSI offices, other Federal agencies and state and local law enforcement. ICE HSI has established a new IPTET (El Paso, Texas) and has added Federal, state and/or local partners to five existing IPTETs.
- As noted, the FBI has developed four enhanced intellectual property squads—consisting of multiple intellectual property-dedicated special agents—in Los Angeles, New York, San Francisco and Washington, D.C. Each of these squads has established Federal, state and local law enforcement working groups.
- DOJ's Office of Justice Programs (OJP) awarded $4 million in grants to state and local law enforcement in September under its Intellectual Property Crime Enforcement Program, about $2 million of which was intended, in part, to aid efforts of state and local law enforcement to participate in task forces.
- The IPEC is working with the DOJ, the FBI and ICE to ensure that the local working groups are coordinated and not duplicative.

These cooperative efforts have produced tangible results. Some examples include:

- The Houston IPTET had three significant enforcement actions over a four-month period. In July, it seized nearly a half million dollars worth of counterfeit goods at a local boutique; in September, it seized more than $1 million of pirated DVDs at a local flea market; and, in October, it seized $2.5 million of counterfeit goods at three local businesses.
- The Mississippi Attorney General's Office used funds from OJP to launch Operation Knock Out Knock-Offs, which created a state intellectual property task force. As a result, in November, more than 100 Federal, state and local agents executed more than 30 search warrants in Mississippi for counterfeit drugs.

Coordination of Training for State and Local Law Enforcement

Providing training to state and local law enforcement is important, so that they understand the scope and impact of intellectual property crime (such as the health and safety risks) and effective ways to combat these crimes.

- DOJ has worked cooperatively with the National White Collar Crime Center (NW3C) and the National Association of Attorneys General (NAAG) to start a monthly series of trainings across the country, with recent ICE participation. For a full list of the four held in 2010 and planned trainings for 2011, see Appendix 2. In addition, DOJ organized two intellectual property trainings for state and local law enforcement that involved multiple participants, including NW3C, NAAG and ICE.
- ICE conducted 16 intellectual property trainings for state and local law enforcement centered around its IPTET program and the IPR Center. For a full list, see Appendix 2.

Improve the Effectiveness of Personnel Stationetd Overseas to Combat Intellectual Property Infringement

The IPEC established an interagency working group that put in place procedures that will improve the effectiveness of overseas personnel involved in the effort to combat intellectual property infringement. The interagency working group is led by the 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), DOC (USPTO, ITA and the Commercial Law Development Program (CLDP)), USTR and a senior representative of the U.S. Copyright Office.

The IPEC interagency working group developed a list of factors for identifying which countries require enhanced effort by our overseas officials to improve intellectual property enforcement in those countries. Based on that criteria, the IPEC interagency working group identified 17 countries in which U.S. personnel in the embassies could more effectively assist the host country in their efforts to combat intellectual property theft, including: China, Brazil, India, Russia, Thailand, Canada, Chile, Egypt, Colombia, Mexico, Ukraine, Spain, Saudi Arabia, Israel, Peru, Turkey and Nigeria. The embassies in the 17 identified countries were instructed to establish embassy working groups comprised of the agency personnel stationed there who have a role in intellectual property enforcement. The embassy working groups will meet regularly to share information and will ensure that the Ambassador and other key embassy officials are aware of significant issues and activities that relate to intellectual property enforcement, including training and capacity building, public outreach, commercial advocacy and related issues.

Next, the interagency working group instructed the 17 embassies to draft and adopt comprehensive work plans to guide the efforts of the working group operating within each embassy in the coming year. Each embassy working group has, with guidance from the IPEC interagency working group, drafted comprehensive intellectual property enforcement work plans. Each plan identifies and is tailored to the specific enforcement issues present in that country, is designed to implement overall policy guidance developed and coordinated in Washington, D.C. with respect to that country and provides detailed

descriptions of the efforts the working group will undertake to achieve specific short term deliverables and to meet long term goals. While the activities each embassy working group will undertake vary depending on the issues found in each country, the following are representative of the types of efforts they have committed to:

- Conduct judicial training programs;
- Conduct training programs for prosecutors and law enforcement;
- Commit to one or more meetings between the Ambassador and other senior embassy staff and local senior level government officials to press U.S. intellectual property enforcement interests with the host government to:
  - Encourage compliance with existing treaty obligations related to intellectual property enforcement;
  - Encourage the passage of effective intellectual property laws, to the extent necessary;
  - Encourage enhanced enforcement of existing intellectual property laws;
  - Encourage timely legal proceedings to enforce intellectual property laws;
  - Encourage the establishment of strong relationships between enforcement agency counterparts;
  - Encourage robust information sharing between enforcement agency counterparts; and
  - Stress the need to address Special 301 action items, if applicable.
- Work with relevant ministries and local law enforcement officials to encourage collaboration with U.S. law enforcement;
- Meet regularly with stakeholders to stay current on the different challenges they face;
- Conduct roundtables to bring relevant government officials together with stakeholders to discuss the issues of top concern and steps the government can take to reduce the harm caused by infringement;
- Host seminars to reach researchers, students, small businesses and intellectual property professionals to provide guidance on the reasons and means for protecting their intellectual property;
- Bring judges, prosecutors, law enforcement, customs officials and others to the U.S. to receive training from their U.S. counterparts;
- Engage local agencies to promote public education on the economic harms caused by infringement and threats to health and safety posed by counterfeits; and
- Highlight the economic importance of intellectual property as well as the health and safety risks posed by counterfeit products, especially counterfeit pharmaceuticals.

In addition, the IPEC is working with the agencies and within OMB to identify resources to station additional intellectual property specialists, including law enforcement personnel, in priority locations throughout the world. We are on track to create additional positions for full-time DOJ intellectual

property specialists in 2012. Based on the FBI's 2010 intellectual property threat assessment on China, the FBI is preparing to send an intellectual property trained agent to China in 2011 to work full time on intellectual property matters. Additionally, USPTO has requested funding for two additional attachés in 2012. ICE designated its assistant attaché in Guangzhou as its point of contact on intellectual property matters in China in September 2010 and, if ICE receives additional funding, is considering stationing one intellectual property specialist in Europe and one in South Asia in 2011. Once those resources are committed, the IPEC will work with the Department of State and the other agencies involved to prioritize placement of personnel.

Coordination of International Capacity Building and Training

The IPEC established an interagency working group to improve interagency coordination of international capacity building and training. The working group is led by the IPEC and consists of representatives from DOC (USPTO, ITA and CLDP), the State Department (EEB, INL and USAID), the Department of the Treasury, DOJ (CCIPS, the FBI and Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT)), DHS (CBP and ICE), USTR and a senior representative of the U.S. Copyright Office.

Strategic plans for training

Among other activities, the interagency working group compiled a list of all intellectual property enforcement capacity building and training programs conducted by member agencies in the last two years to identify the types of training provided to each country and region and help coordinate future training efforts. The interagency working group also developed criteria for prioritizing future training efforts to identify where the government as a whole needs to focus the dedication of these limited resources going forward. Based on that information, the member agencies that conduct intellectual property capacity building and training have each developed an agency-specific strategic plan for prioritizing their individual training efforts, both by region and the training needs of the recipients. The agency strategic plans include such efforts as:

- conduct training programs that bring U.S. and international agencies and organizations together to deliver intellectual property enforcement training and share information with law enforcement counterparts;
- educate judges, investigators, prosecutors, customs and other enforcement officials regarding the economic harms and health and safety risks posed by infringement;
- provide training to investigators on conducting online intellectual property enforcement investigations;
- provide training to investigators on tracking transshipment of counterfeit goods;
- provide training to investigators on obtaining and interpreting financial forensics;
- provide training to prosecutors on building successful intellectual property enforcement cases;
- provide training to judges; and
- include appropriate subject matter experts in U.S. Government organized enforcement programs.

Database

USPTO is developing a new searchable training database which will greatly improve coordination of training activities, reduce redundancy, allow the government and the public to track all Federal Government training programs and allow the agencies to share training materials. A quick search of the database will allow agencies to identify training that has already been conducted and, thereby, avoid duplication. The sharing of training materials will conserve resources by allowing agencies to avoid re-creating similar training materials. Sharing of training materials, along with guidance from the working group, will also help to ensure that training and capacity building efforts are consistent with U.S. intellectual property laws and policy goals. To facilitate better cooperation between agencies and stakeholders and to ensure that the public has information about U.S. Government training activities, the database will be available to the public. USPTO anticipates launching the database in the first quarter of 2011.

Establishment of a Counterfeit Pharmaceutical Interagency Working Group

The IPEC established an interagency working group on counterfeit pharmaceuticals. This group will report to Congress under separate cover with its findings and recommendations in early 2011. The working group will report 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.

Enforcing Our Rights Internationally

- Combat Foreign-Based and Foreign-Controlled Websites that Are Used to Infringe American Intellectual Property Rights
- Enhance Foreign Law Enforcement Cooperation
- Promote Enforcement of U.S. Intellectual Property Rights through Trade Policy Tools
- Special 301 Action Plans
- Strengthen Intellectual Property Enforcement through International Organizations
- Support U.S. Businesses in Overseas Markets

Combat Foreign-Based and Foreign-Controlled Websites that Are Used to Infringe American Intellectual Property Rights

The Administration is moving swiftly to combat infringing and illegal foreign-based or foreign-controlled websites or web services through a variety of means:

- Under Operation In Our Sites, DOJ, ICE HSI and the IPR Center have conducted two sweeps that included seizing the domain names of more than 90 websites that were run by individual overseas and worked with foreign law enforcement to seize a server overseas.
- The IPR Center is working with the WCO, INTERPOL and other international organizations to conduct coordinated multilateral operations among international customs and law enforcement agencies to seize counterfeit products bought online.
- The IPEC is working with Congress to determine if there are ways to provide law enforcement with additional authorities to act against foreign websites used to infringe U.S. intellectual property rights.
- The IPEC has been promoting voluntary cooperative efforts with the private sector which are intended to help reduce the ability of foreign websites to reach U.S. consumers.
- USTR is in the process of drafting a special report that will include foreign websites to increase public awareness, ensure that all agencies are raising the same websites of particular concern with our trading partners and encourage countries to take action against those websites.

Enhance Foreign Law Enforcement Cooperation

International law enforcement cooperation is vital to combating intellectual property crime. Intellectual property crime knows no borders and effective efforts to combat infringement must involve cooperative law enforcement efforts with foreign governments.

- **Operation In Our Sites:** In June, in association with Operation In Our Sites, the IPR Center, the U.S. Attorney's Office for the Eastern District of Virginia, CCIPS and DOJ's Office of International Affairs worked cooperatively with Dutch law enforcement authorities to seize and image a server in the Netherlands being used to facilitate the unauthorized reproduction and distribution of copyrighted material.
- **Operation Safe Summer:** Operation Safe Summer was a joint operation between the U.S. (led by ICE and CBP) and Mexico (a new IPR Center partner) targeting health and safety-related items smuggled through international mail branches and express courier facilities in both countries. In Mexico, the Operation resulted in the seizure of more than 300 tons of counterfeit goods and, in the U.S., it resulted in the seizure of more than $23 million worth of goods.
- **Extradition Agreement Results in Prison Sentence:** In April of 2009, a new extradition treaty between the U.S. and Latvia went into effect. On August 20, 2010, the first person extradited under that treaty was sentenced to serve 24 months in prison for conspiring to make and sell counterfeit slot machines and computer programs, showing the importance of formal cooperative agreements to enforcement efforts.

- **Bilateral Law Enforcement Agreements:** In September, ICE signed a Letter of Intent with the Chinese Ministry of Public Security, and a Memorandum of Understanding with South Korea's Supreme Prosecution Service. Both agreements focused, in part, on cooperative intellectual property enforcement. In November, CBP and China Customs agreed to amend their Intellectual Property Rights Memorandum of Cooperation to provide for increased exchanges of enforcement information.
- **Law Enforcement Engagement with China**
  - **Meetings in China to Press for More Enforcement:** In October, the U.S. Attorney General visited China to stress the importance of intellectual property enforcement and bilateral cooperation between the U.S. and China. The Attorney General is the highest ranking U.S. law enforcement official to visit China during the Obama Administration. In September, ICE Director Morton likewise traveled to China to stress enforcement and cooperation. He was the first head of ICE to travel to mainland China.
  - **JLG Intellectual Property Criminal Enforcement Working Group Meeting in China:** During the December meeting of the Intellectual Property Criminal Enforcement Working Group of the U.S.-China Joint Liaison Group for Law Enforcement Cooperation (JLG), both sides agreed to increase the number of criminal intellectual property matters for cooperation and joint law enforcement efforts over the next year. The working group co-chairs will meet again in six months.

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

The U.S. Government continues to improve enforcement of intellectual property rights through trade policy tools. Significant trade policy steps taken by the Administration since June include:

- the successful conclusion of the ACTA negotiations and the publication of the final text of the agreement:
  - ACTA was developed by countries representing more than 50% of world trade and is a significant step forward in international cooperation. It will strengthen enforcement of intellectual property rights by providing a global framework for effectively combating global proliferation of commercial-scale counterfeiting and piracy.
  - ACTA will be the first agreement of its kind to not only require strong laws on the books, but to also promote key practices that make those laws effective in practice. For example, ACTA will call on parties to encourage cooperative efforts within the business community to combat infringement.
  - ACTA requires, among other things, that signatories establish effective intellectual property enforcement legal frameworks, including obligations to:
    - establish criminal procedures and penalties for willful trademark counterfeiting or copyright piracy, or importation or use, on a commercial scale, and aiding and abetting criminal conduct, and authorizes criminalizing camcording;

- establish laws that impose imprisonment and destruction as penalties for criminal violations of enforcement laws;
- establish civil enforcement laws that enhance the tools available to rightholders to crack down on counterfeiting and piracy, including by providing for meaningful damages for rightholders, the destruction of counterfeit goods and also including appropriate safeguards against abuse and to protect privacy as appropriate;
- ensure that civil and criminal enforcement laws are equally applicable to copyright infringement occurring online; and
- establish anti-circumvention laws to protect the use of technological protection measures (digital locks).

In addition, USTR, with the other Federal agencies, is continuing robust bilateral engagement with China, India and numerous other trading partners on intellectual property enforcement issues. Examples of significant accomplishments include:

- a successful meeting of the Joint Commission on Commerce and Trade (JCCT) in December 2010, at which the Chinese Government agreed to:
  - improve intellectual rights enforcement consistent with its recently announced State Council Special Campaign against counterfeiting and piracy including increased purchase and use of legal software, taking steps to eradicate the piracy of electronic journals, clarifying the liability of those who facilitate online infringement and a crack down on landlords who rent space to counterfeiters in China;
  - ensure that China would not discriminate in government procurement based on the origin of intellectual property or to use discriminatory criteria to select industrial equipment; and
  - establish rules that apply to the telecommunications market, including 3G and future technologies, that are technology neutral.
- enactment by Russia in 2010 of several pieces of legislation required under its September 2006 bilateral intellectual property rights agreement with the U.S., including pharmaceutical data protection and *ex officio* authority for border enforcement of intellectual property;
  - the Administration continues to press Russia for stronger action on key issues such as Internet piracy;
- final enactment by Mexico of criminal *ex officio* intellectual property enforcement legislation to correct a shortcoming identified in the Special 301 process; and the launch of three Special 301 out-of-cycle reviews (OCRs) including a review of Thailand, the Philippines and the first-ever OCR to identify physical and online "notorious markets."

Treasury, in coordination with USTR, DOJ, OSTP and others, held a successful economic track meeting of the U.S.-China Strategic and Economic Dialogue in May 2010, at which the Chinese government agreed:

- that its innovation policies will be consistent with the principles of nondiscrimination, market competition, open trade and investment and strong enforcement of intellectual property rights;

and that the terms and conditions of technology transfer, production processes and other proprietary information will be left to agreement between individual enterprises;

- to continue to engage in intensive expert and high-level discussions that began in the Summer of 2010 about innovation issues that include all relevant U.S. and Chinese agencies; and
- to take into account the results of these discussions when formulating and implementing its innovation measures.

On October 19, 2010, China's State Council announced a special six-month campaign on intellectual property enforcement, which the Chinese government describes as combating infringement through increased supervision over manufacturing, greater inspection of goods in physical marketplaces and on the Internet, enhanced customs efforts, escalation in intellectual property-related investigations, requiring government agencies to use legal software and publicizing the efforts by the government to combat infringement. The IPEC will conduct a review of these efforts.

Special 301 Action Plans

USTR conducts annual reviews of intellectual property protection and enforcement, and works with trading partners identified through that process, as appropriate, to develop action plans for improvement. USTR is working with the Trade Policy Staff Committee Subcommittee for Special 301 to improve the effectiveness of Special 301 action plans, and anticipates developing recommendations by the first quarter of 2011.

Strengthen Intellectual Property Enforcement through International Organizations

Working with international organizations raises awareness of intellectual property enforcement and increases collaboration among countries. The U.S. Government, particularly the IPR Center, has been a leader on coordinated international law enforcement operations with international organizations, particularly with the WCO and INTERPOL (as noted, INTERPOL is now an IPR Center partner):

- **Operation Mercury II:** The IPR Center worked with the WCO on Operation Mercury II, a five-day surge in June focusing on counterfeit drugs. Thirty-five countries participated, including Mexico, Russia, China (Hong Kong), Germany, Sweden, South Africa, France, Mozambique, Uganda and New Zealand.
- **Operation Global Hoax:** Between May 1 and July 31, in an operation coordinated through the WCO, the IPR Center and INTERPOL, 42 countries targeted counterfeit products shipped through international mail branches and express courier facilities.
- **Operation Pangea III:** Between October 5-12, 45 countries participated in Operation Pangea III, targeting counterfeit pharmaceuticals sold over the Internet. The Operation was coordinated by the IPR Center, INTERPOL, the WCO and other international organizations. Participation increased from 24 countries last year to 45 countries this year and participating countries included Canada, China and Hong Kong, France, Germany, Mexico, Russia, Singapore, Spain, Thailand and the U.S.

Support U.S. Businesses in Overseas Markets

A key component in the National Export Initiative is the protection of intellectual property rights and the promotion of innovation. We are currently conducting an assessment of current U.S. Government efforts to assist U.S. business exports in the face of intellectual property challenges. Our next steps are to build on current tools and thereby increase the scope and effectiveness of our existing efforts.

As a first step, DOC's ITA compiled a list of existing U.S. Government tools for assisting U.S. businesses to overcome intellectual property barriers in overseas markets. On September 30, 2010, it issued a Federal Register Notice seeking public input on, among other things:

- the challenges U.S. industries face in protecting their innovations and creative works and in enforcing their rights;
- the effectiveness of the U.S. Government in supporting U.S. businesses overseas; and
- suggestions for improving those efforts.

The deadline for submitting comments was November 29, 2010. DOC, the IPEC and other relevant agencies are currently reviewing the submissions.

In addition, on December 17, 2010, ITA and the European Commission's Directorate General for Industry and Entrepreneurship announced the launch of a jointly developed TransAtlantic Intellectual Property Rights Resource Portal, which expands the resources available to U.S. small and medium-size businesses (SMEs) by including access to materials and tools developed by the European Union (EU). This portal is intended to assist SMEs protect their intellectual property in markets around the world, by serving as a resource of information and points of contact. For example, businesses can access a "country toolkit" to receive an overview of the scope of intellectual property laws in effect and the extent of enforcement. They can also find help to locate a local lawyer and learn how to report theft of their intellectual property. The portal is accessible through www.stopfakes.gov.

Securing Our Supply Chain

- Notification When Importers and Manufacturers Discover Counterfeit Drugs and Medical Products
- Adoption of a Track-and-Trace System
- Increase Enforcement Efforts to Guard Against the Proliferation of Counterfeit Pharmaceuticals and Medical Devices
- Relief for Voluntary Disclosure
- Penalize Exporters of Infringing Goods
- Streamline Bonding Requirements for Circumvention Devices
- Facilitate Cooperation to Reduce Intellectual Property Infringement Occurring Over the Internet
- Establish and Implement Voluntary Protocols to Help Reduce Illegal Internet Pharmacies

Notification When Importers and Manufacturers Discover Counterfeit Drugs and Medical Products

Counterfeit drugs threaten public health and, when they are discovered by importers or manufacturers, the FDA should know about the discovery, as well as any known potential health risks, thereby allowing the FDA to take action. The IPEC is considering including a proposal to provide for notification to the FDA and other relevant agencies when importers and manufacturers discover counterfeit drugs and medical products in a White Paper on legislative recommendations that the IPEC expects to submit to Congress in the near future.

Adoption of a Track-and-Trace System

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 a product is located. The IPEC is considering including a proposal to provide for adoption of a track-and-trace system in a White Paper on legislative recommendations that the IPEC expects to submit to Congress in the near future.

Increase Enforcement Efforts to Guard against the Proliferation of Counterfeit Pharmaceuticals and Medical Devices

The Administration is increasing enforcement efforts to address the proliferation of counterfeit pharmaceuticals on multiple fronts, including:

- The IPR Center works with the WCO and INTERPOL to drive global enforcement actions. Last year, two operations focused on counterfeit drugs: Mercury II (five-day surge focusing on mail and express shipments) with 35 countries participating resulting in the seizure of more than 1,300 parcels, and Operation Pangea III (targeting counterfeit pharmaceuticals sold over the Internet) with 45 countries participating, resulting in global seizures of 2.3 million counterfeit pills and nearly 300 websites taken down around the world.
- The IPEC is considering submitting legislative recommendations to Congress, including a notification requirement for counterfeit pharmaceuticals and other medical products, and mandated use of a "track-and-trace" system for pharmaceuticals and medical products.
- CBP launched its Pharmaceutical Center of Excellence and Expertise (CEE) pilot on November 1. The CEE's mission includes working with industry to share information and build CBP's industry knowledge base, creating a central source of pharmaceuticals expertise, driving uniform practices in ports of entry and working with the FDA to improve targeting of illegal pharmaceuticals.
- The IPEC continues to work with CBP to determine what is needed to enhance enforcement efforts at express mail facilities, and at our ports and borders.
- The IPEC hosted a health and safety forum at the White House on December 14, 2010, that brought together industry, law enforcement, associations, non-profits and academics to discuss the problems associated with counterfeit trademarks and their effect on health and safety. The IPEC, U.S. Attorney General, Secretary of DHS and Director of ICE provided opening remarks.

In addition, the Assistant Attorney General for DOJ's Criminal and Civil Divisions, respectively, moderated the two forum panel discussions.

- DOC and the State Department are allocating resources to help other countries, particularly in Africa, address counterfeit drugs. DOJ's Civil Division (through the Office of Consumer Litigation) has stood up a counterfeit pharmaceuticals and medical devices team of attorneys to focus on enforcement in this area.

Relief for Voluntary Disclosure

Encouraging those who unknowingly and unintentionally acquire counterfeit goods to report them to CBP is beneficial: It increases the destruction of counterfeit and pirated goods and potentially aids investigation into the source of those goods. There is, however, no existing procedure that encourages such disclosure by providing relief from CBP seizures, penalties and/or other enforcement actions for the disclosing party. The IPEC is considering including a proposal to allow relief for voluntary disclosure in a White Paper on legislative recommendations that the IPEC expects to submit to Congress in the near future.

Penalize Exporters of Infringing Goods

CBP has the authority to seize and forfeit infringing exports, but not to issue administrative penalties. Authorizing administrative penalties would help serve as an effective deterrent to those exporting infringing items. Moreover, authorizing such penalties for exporting infringing goods from the U.S. would improve the U.S. Government's ability to advocate for other countries to impose penalties on those exporting infringing goods into the U.S. The IPEC is considering including a proposal to allow CBP to issue administrative penalties for infringing exports in a White Paper on legislative recommendations that the IPEC expects to submit to Congress in the near future.

Streamline Bonding Requirements for Circumvention Devices

Streamlining bonds for circumvention devices to allow a continuous bond for those who interact with CBP on a consistent basis—rather than requiring a separate bond each time they obtain a sample—aids enforcement. CBP, however, has not yet obtained authority to share samples of circumvention devices. Because CBP has not yet obtained that authority, there is not yet an ability to streamline the bond requirements for such samples, but the Administration is committed to taking that action.

Facilitate Cooperation to Reduce Intellectual Property Infringement Occurring Over the Internet

Since the release of the Strategy, the IPEC has facilitated and encouraged dialogue among the different private sector Internet intermediaries that contribute to the dynamic nature and functioning of the Internet, including payment processors, search engines and domain name registrars and registries. These entities are uniquely positioned to enhance efforts of rightholders and law enforcement to combat infringing activity and help reduce the distribution of infringing content in a manner consistent with our commitment to the principles of fair process, freedom of expression and other important public policy concerns. We believe that most companies share the view that providing services to infringing sites

is inconsistent with good corporate business practice and we are beginning to see several companies take the lead in pursuing voluntary cooperative action.

For example, earlier this year, MasterCard withdrew services from Limewire, a well-known file-sharing site. In addition, MasterCard has done an internal assessment of its processes to address infringing sites and has begun a number of cooperative discussions with rightholders. Microsoft/Bing and Yahoo! joined Google in taking significant new steps to block advertising on illegal Internet pharmacies. eNom, the second-largest domain name registrar, also decided to take steps to more carefully scrutinize Internet pharmacies. On December 2, 2010, Google announced a number of steps it will take to make its response time to complaints more rapid, to limit the ability of websites used to sell infringing goods to obtain ad revenue and to increase access to legitimate sites. On December 14, 2010, a number of leading companies came together to announce a new initiative to reduce illegal online pharmacies (see below).

We need to eliminate financial gain derived from infringement. While some products are sold directly, other sites obtain revenue from advertising. The IPEC is in the process of gathering information about the online advertising business to see if there are means to limit illegal sites from using ad revenue as a business model.

Establish and Implement Voluntary Protocols to Help Reduce Illegal Internet Pharmacies

On December 14, 2010, the IPEC announced that American Express, eNom, GoDaddy, Google, MasterCard, Microsoft, Network Solutions, Neustar, PayPal, Visa and Yahoo! have agreed to support a non-profit group that will start taking voluntary action against illegal Internet pharmacies. The non-profit will be stood up in 2011.

Last fall, the IPEC challenged the private sector to voluntarily address the health and safety issues presented by rogue online pharmacies. The IPEC reached out to a broad array of private sector companies who are involved in issues relating to illegal online pharmacies: Internet registries and registrars who provide domains, which can be subsequently used for illegal purposes by rogue Internet pharmacies, search engines that provide ad space to those companies, payment processors who process the payments for those products, overnight shippers who transport the products and a cross-section of governmental and non-profit entities also invested in this issue. These discussions culminated in a well-attended, cross-industry meeting at the White House on November 9, 2010. At that meeting, GoDaddy and Google took the lead on proposing the formation of a private sector Section 501(c)(3) nonprofit organization that would be dedicated to promoting information sharing, education and more efficient law enforcement of rogue Internet pharmacies. The nonprofit organization will be based around four operating principles:

- **Information Sharing:** Organization members will share information about rogue websites selling pharmaceuticals in violation of Federal law. The primary purpose of the information sharing principle is to allow members to take advantage of information that others have amassed about rogue pharmacies and to reduce the likelihood that bad actors will simply forum shop if they are not successful in attempting to sell pharmaceuticals through particular mediums.
- **Education:** The group intends to fund educational campaigns that underscore the dangers of purchasing drugs online from unauthorized pharmacies.

- **Expanded White Lists:** The organization's information sharing mechanism will support an expansion of the National Association of Boards of Pharmacies' Verified Internet Pharmacy Practice Sites ("VIPPS") list. This expanded "White List" of legitimate on-line pharmacies will allow search engines and others to know which pharmacies are operating in compliance with Federal law and can therefore lawfully advertise on their space.
- **Enforcement:** The organization's members agree to share information with law enforcement about unlawful Internet pharmacies where appropriate, accept information about Internet pharmacies operating illegally and take voluntary enforcement action (stop payment, shut down the site, etc.) where appropriate.

Building a Data-Driven Government

- U.S. Government Resources Spent on Intellectual Property Enforcement
- Assess the Economic Impact of Intellectual Property-Intensive Industries
- Comprehensive Review of Existing Laws to Determine Needed Legislative Changes

U.S. Government Resources Spent on Intellectual Property Enforcement

Multiple agencies spend money on intellectual property enforcement. To know how much the U.S. Government is spending now and how we should spend money in the future, the IPEC is collecting data on the amount of money Federal agencies spend on intellectual property enforcement. In 2010, the IPEC collected this information for the first time. The IPEC will request and obtain the data on an ongoing basis.

Assess the Economic Impact of Intellectual Property-Intensive Industries

Improved measures of intellectual property intensity across the economy of the U.S., linked with measures of economic performance, such as numbers of jobs and levels of exports, will help inform policy and resource decisions. The Economics and Statistics Administration (ESA) within DOC, in coordination with the IPEC, has established an interagency working group and has been working internally to establish a methodology and framework for conducting this work. Once the framework is established, ESA will test the feasibility of developing improved intellectual property measures and linking those to measures of economic performance. We anticipate being in a position to publish the resulting datasets and economic analysis in the first half of 2011.

Comprehensive Review of Existing Laws to Determine Needed Legislative Changes

The U.S. Government must ensure that intellectual property laws keep pace with changes in technology and the practices of infringers. As part of a process initiated by the IPEC, Federal agencies reviewed existing laws to determine if changes were needed to make intellectual property enforcement more effective. The initial review began shortly after the release of the Joint Strategic Plan and was completed within 120 days. The IPEC will include legislative proposals identified in that review in a White Paper on legislative recommendations that the IPEC expects to submit to Congress in the near future.

Performance Data

Law Enforcement Investigations

- **ICE HSI:** In FY 2010, ICE HSI opened 1,033 intellectual property investigations, and had 365 arrests, 216 indictments/informations and 170 convictions (including both federal and state cases). In FY 2009, ICE HSI opened 730 intellectual property investigations, and had 266 arrests, 116 indictments/informations and 164 convictions (including both federal and state cases).
- **FBI:** In FY 2010, the FBI opened 218 investigations, and had 66 arrests, 75 indictments/ informations and 83 convictions (including both federal and state cases). In FY 2009, the FBI opened 151 investigations, and had 100 arrests, 133 indictments/informations and 95 convictions (including both federal and state cases).
- **IPR Center:** In FY 2010, the IPR Center vetted 240 leads directly referred to it and de-conflicted 544 investigations opened by field offices of partner agencies. In FY 2009, the IPR Center vetted 182 leads directly referred to it. In FY 2009, the IPR Center did not track the number of cases de-conflicted that were opened by field offices of partner agencies.

In FY 2010, ICE HSI intellectual property investigations increased by more than 41% and ICE HSI arrests increased by more than 37% from FY 2009.

In FY 2010, FBI intellectual property investigations increased by more than 44% from FY 2009.

DOJ Prosecutions

- **Charges:** In FY 2010, Assistant U.S. Attorneys (AUSAs) received 402 intellectual property investigative referrals, and they charged 177 cases with 259 defendants. In FY 2009, AUSAs received 285 intellectual property investigative referrals, and they charged 173 cases with 235 defendants.
- **Sentencings:** In FY 2010, courts sentenced 207 intellectual property defendants. More than half—121—received no prison term, 38 received sentences of 1-12 months in prison, 27 received sentences of 13-24 months in prison, 10 received sentences of 25-36 months in prison, 7 received sentences of 37-60 months in prison and 4 received sentences of more than 60 months in prison. In FY 2009, courts sentenced 223 intellectual property defendants. More than half—126—received no prison term, 35 received sentences of 1-12 months in prison, 29 received sentences of 13-24 months in prison, 6 received sentences of 25-36 months in prison, 18 received sentences of 37-60 months in prison and 9 received sentences of more than 60 months in prison.

CBP and ICE HSI Intellectual Property Seizures

CBP and ICE HSI had 19,959 intellectual property seizures in FY 2010. The domestic value of the seized goods—i.e., the value of the infringing goods, not the manufacturer's suggested retail price (MSRP) for legitimate product—was $188.1 million. The estimated MSRP of the seized goods—i.e., the value the infringing goods would have had if they had been genuine—was $1.4 billion.[1] In FY 2009, CBP and ICE HSI had 14,841 intellectual property seizures with a domestic value of $260.7 million and an MSRP of over $2 billion. This decrease in value of the seized goods between FY 2010 and 2009 was primarily due to an increase in high-volume, low-value express consignment/mail and consolidated shipment seizures.

In FY 2010, CBP and ICE HSI intellectual property seizures increased by more than 34% from FY 2009 and consumer safety and critical technology seizures increased by 97%.

CBP Civil Fines/Penalties

During FY 2010, CBP assessed 237 civil fines/penalties totaling $62,282,575.

Circumvention Devices

In FY 2010, CBP made 46 seizures involving circumvention devices, and DOJ prosecuted 4 cases involving circumvention devices.

International Outreach and Training

In FY 2010, the agencies that conduct, participate in or sponsor international intellectual property enforcement capacity building and training—which include the State Department (including USAID), DOJ, DHS (including ICE and CBP), DOC (including USPTO, ITA and CLDP), the IPR Center and USTR—conducted, participated in or sponsored 121 separate capacity building and training programs.

1. CBP estimated the MSRP for FY 2009 and 2010 intellectual property seizures based on broad categories of products seized. In FY 2011, CBP will determine the MSRP for individual seizures.

Agencies' 2010 Major Intellectual Property Enforcement Activities

Below are the Federal agencies' major intellectual property enforcement activities for 2010. Because the Joint Strategic Plan detailed the significant 2010 activities up to that point, the following has a particular emphasis on those activities since the issuance of the Plan (June 2010).

Department of Commerce

International Trade Administration

With the launch of the President's National Export Initiative, ITA is working with other Federal agencies to support U.S. businesses that are entering or doing business in overseas markets. ITA is working to reduce intellectual property barriers to entry into overseas markets by providing U.S. companies with information they need to obtain and protect their intellectual property and assisting them to overcome specific intellectual property barriers in foreign markets that impede commercial transactions.

Enhancing Intellectual Property Education to SMEs

ITA's Office of Intellectual Property Rights (OIPR) is expanding the number of its tools to ensure that SMEs understand how to protect and enforce their intellectual property rights internationally. ITA has worked diligently since the release of the Joint Strategic Plan in June 2010 to expand its outreach to, and collaboration with, U.S. businesses:

- **Outreach:** Since June 2010, OIPR has participated in 21 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 at larger events.
- **Anti-Counterfeiting Awareness with the U.S. Electrical Industry:** In June 2010, OIPR completed its 6th anti-counterfeiting cooperation roundtable with the National Electrical Manufacturers Association in Peru. The roundtables highlight the dangers of counterfeit electrical products to various groups in the electrical industry supply chain, such as government officials, regulators, distributors, consumer safety officials, engineers and construction industry representatives.
- **SME Module Roll-Out in Peru:** OIPR and the Market Access and Compliance (MAC's) Office of South America have been rolling out its Spanish-language Intellectual Property SME Module to chambers of commerce and government bodies in Peru as a pilot for the region. As part of this process, the Lima Chamber of Commerce has placed the Spanish Module on its website and is informing its members, who visit the chamber for counseling, of the availability of the link and the benefits of intellectual property rights.

Since June 2010, ITA has made the following enhancements to its tools and services available to U.S. businesses on its website, www.stopfakes.gov:

- **U.S.-EU Portal:** As part of ongoing efforts to expand the number of resources available to assist U.S. companies, OIPR and the European Commission's Directorate General for Enterprise and Industry launched the TransAtlantic Intellectual Property Rights Resource Portal in December 2010. This jointly-created web portal makes it easier for U.S. and EU SMEs to find and use the resources that the U.S. and the EU have developed to protect and enforce intellectual property rights. As a result of this cooperative project, U.S. rightholders now have access to a wealth of information that the EU has developed on the protection and enforcement of intellectual property rights around the world, including key markets such as China. The portal is accessible through www.stopfakes.gov.

Country Toolkits: There are now 18 country toolkits, posted on embassy websites and on www.StopFakes.gov, that contain detailed information on protecting intellectual property rights. Since June 2010, ITA added new toolkits for Ghana and Pakistan.

- **SME Module:** OIPR is marketing its translated online intellectual property SME Module to broaden domestic and foreign outreach with this tool.
- **Free Attorney Consultation:** In partnership with the American Bar Association, ITA expanded the International Intellectual Property Rights Advisory Program, where American SMEs can request a free, one-hour consultation with an attorney knowledgeable in intellectual property issues. Since June 2010, the following countries were added to the program: Angola, Argentina, Colombia, Ghana, Indonesia, Kenya, Mexico, Mozambique, Nigeria, Saudi Arabia, Senegal, South Africa, Turkey and Vietnam.
- **Small Business Tools Federal Register Notice:** To provide additional services for U.S. businesses, ITA issued a Federal Register Notice on September 30, 2010, requesting written submissions concerning government programs, tools and services designed to help U.S. businesses protect and enforce their intellectual property rights abroad. ITA is conducting a comprehensive review of public comments.

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 intellectual property 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 and raise particular concerns with foreign governments.

- **Case Successes:** ITA assisted a U.S. biopharmaceutical company with its efforts in Brazil to appeal a nullified patent for its product. ITA, both at home and in-country, worked to advise and support the U.S. company through facilitating contact with Brazilian officials, and helping it

understand and navigate the Brazilian judicial system, resulting in a November 2010 court decision reinstating the patent. ITA also worked with a U.S. pharmaceutical company in its efforts to have the Nicaraguan government to follow its regulatory procedures to provide patent linkage and protect the test data of the company's products as they underwent the regulatory process to obtain marketing authorizations.

- **Case Work:** Since June 2010, OIPR initiated 30 cases on behalf of U.S. rightholders. Of those cases, 16 were on behalf of U.S. SMEs.

Commercial Law Development Program

CLDP is as program of DOC's Office of General Counsel that is tasked with providing technical assistance in the commercial law arena to the governments and private sectors of developing and transitional countries in support of their economic development goals. Examples of two CLDP programs conducted since June 2010 include:

- **CLDP Judicial Capacity Building in Intellectual Property Enforcement in Pakistan:** To address the lack of effective enforcement of intellectual property rights in Pakistan, CLDP, in close coordination with USPTO, designed consultations in the U.S. for a delegation of Pakistani justices. As a first result of this program, Pakistan's Supreme Court is now planning to give exclusive jurisdiction for all intellectual property cases to a specialized court. This would ensure prompt, consistent and predictable adjudication of intellectual property cases.
- **Regional and Interagency Coordination of Intellectual Property Enforcement in Central and Eastern Europe:** CLDP partnered with the government of Ukraine to bring together intellectual property and enforcement officials from Ukraine and neighboring countries to determine ways to better coordinate intellectual property enforcement in the region. The workshop took place in June in Ukraine, with dozens of participants from the governments and private sector. U.S. Government participants included intellectual property and enforcement experts from DOJ, CBP and ITA.

U.S. Patent and Trademark Office

Domestic Enforcement

- **Certified Copies of Trademark Registration Certificates for Prosecutors:** USPTO launched a website for Federal, state and local prosecutors to request copies of trademark registration certificates for use in litigation, free of charge with expedited handling.

Enforcement Technical Advice to Other Agencies

- **USPTO Provides Technical Advice to ACTA Negotiators:** USPTO provided technical advice on the enforcement of intellectual property rights to USTR in support of the negotiating rounds held in Washington, D.C., Tokyo and Sydney.
- **USPTO Participated in the APEC Intellectual Property Experts Group:** As part of an interagency delegation, USPTO continued to provide expert technical and policy advice on issues of intellectual property enforcement, including U.S. Government proposed initiatives on anti-

camcording legislation and public education efforts, and law enforcement and public education efforts against signal piracy theft, at the Asia-Pacific Economic Cooperative Forum (APEC) meeting in Sendai, Japan, on September 6-9, 2010.

- **USPTO Provides Technical Advice to USTR on TPP:** USPTO provided technical advice on the enforcement of intellectual property rights to USTR in support of the negotiating rounds of the Trans-Pacific Partnership (TPP) Agreement, held in Brunei, Darussalam in October 2010, and in Auckland, New Zealand, in December 2010.

Enhancing International Cooperation and Training:

China:

- Intellectual property attaché and USPTO Guangzhou staff provided support to members of the ITC, who were in Guangzhou and Dongguan, to present a seminar in Guangzhou on the agency's Section 337 patent-infringement remedy before more than 120 participants, mostly Chinese, from government, industry and law firms.
- Intellectual property attaché (Beijing) and USPTO attorney-advisor Timothy Browning participated as speakers at the 4th Annual Internet Industry Forum hosted by Microsoft, giving a speech on "Innovation, Online IPR Enforcement, and Standards" and participating on a panel discussion of the same topics, as to the development of cloud computing and Internet.
- Intellectual property attaché (Beijing), USPTO attorney-advisor Timothy Browning, and Guangzhou attaché, Conrad Wong, attended the Ambassador's Intellectual Property Rights Dialogue in Beijing, on "IPR Best Practices in Public Awareness and Enforcement," hosted by Beijing AmCham and organized by the embassy's economic section.

Russia:

- **Judicial Education:** On July 9-12, 2010, USPTO hosted two workshops on adjudication of intellectual property cases in cooperation with the Supreme Arbitration Court in Moscow and Irkutsk, Russia.
- **USPTO Conducts Training Program on Border Enforcement of Intellectual Property for Russian and Chinese Customs:** Given the 2,600 mile border shared by Russia and China and the need for greater coordination between their respective customs authorities to improve transborder enforcement, USPTO organized a joint training program with Russian Federal Customs Service and the Chinese Customs Service, as part of the annual Russian Customs Conference on Intellectual Property in Blagoveschensk, Russia.

Latin America and the Caribbean:

- **USPTO Works with INTERPOL in Regional Trainings for Latin America:** In September 2010, INTERPOL's intellectual property program coordinated with USPTO's regional intellectual property attaché in Brazil, in conducting a four-day training in Colombia, with representatives from law enforcement, customs and prosecutors from Brazil, Chile, Colombia, Guyana, Panama, Peru and Venezuela participating. This was the third training conducted by INTERPOL in cooperation

with USPTO in the Latin American region in 2010, with previous regional programs conducted in Peru and Paraguay.

- **USPTO Partners with CARICOM to Focus on Combating Counterfeits Impacting Health and Safety:** On September 13-15, 2010, USPTO organized a technical assistance program on combating counterfeits that impact health and safety for enforcement officials from the Caribbean Community (CARICOM), attracting participants from 12 countries in the region, including customs officers, police, prosecutors, judges, health officials and representatives from intellectual property offices in the region.
- **Latin American Judicial Education Program:** In partnership with the International Judicial Academy, on October 13, 2010, USPTO conducted an intellectual property seminar for 53 judges from Argentina, Bolivia, Chile, Colombia, Ecuador, Peru, Uruguay and Venezuela, with a focus on providing judicial capacity development in the area of patent, trademark and copyright protections and enforcement.
- **Latin American Judicial Study Program:** From October 25 to November 5, 2010, USPTO conducted an Intellectual Property Right Enforcement Seminar and Study Tour for 15 judges from Chile, Costa Rica, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua.

ASEAN and Asia/Pacific:

- **Korea:** USPTO conducted an intellectual property enforcement program in cooperation with the Korean Intellectual Property Office (KIPO) for 22 officials from KIPO, the Korean Fair Trade Commission, the Korean Food and Drug Administration, the Prime Minister's Office, the Ministry of the Knowledge Economy and the Ministry of Education Science and Technology. The program, held in Alexandria, VA, and Washington, D.C., covered general intellectual property rights, as well as border enforcement issues and investigation and prosecution of intellectual property crimes.
- **Thailand:** In coordination with the Royal Thai Embassy and the Central Intellectual Property and International Trade Court in Bangkok, USPTO organized an advanced study program from August 8-20, 2010, for 15 judges of the Thai Central Intellectual Property and International Trade Court and the Thai Supreme Court. The participants visited Federal and state courts and intellectual property-focused organizations in Washington, D.C., Memphis, New York and San Francisco, with a focus on the role of the judiciary in the adjudication and enforcement of intellectual property disputes, both civil and criminal, particularly as to copyright and trademark matters. Partly as a result of this program, the Central Intellectual Property and International Trade Court subsequently held a public consultation with members of the bar and legal representatives of rightholders about concerns expressed as to the lack of consistency under current procedures and possible revisions to the Court's procedures for considering search and seizure motions and *ex parte* applications for temporary restraining orders.
- **Thailand:** USPTO conducted an intellectual property roundtable discussion at the Thai Central Intellectual Property and International Trade Court in Bangkok, Thailand on October 12, 2010.

- **Vietnam:** On October 13, 2010, USPTO presented and participated in an AmCham Roundtable Discussion on Intellectual Property Enforcement in Ho Chi Minh City, Vietnam, and spoke at a meeting of the Intellectual Property Enforcement Task Force in Ho Chi Minh City.

Africa:

- **USPTO Participated in a Regional Workshop on the Enforcement of Intellectual Property Rights in Senegal:** USPTO participated in a training program on September 21-23, 2010, in Dakar, Senegal, co-organized by CLDP and DOJ and in partnership with the Senegal Judicial Training Center, focusing on the role of the judiciary and public prosecutors in the criminal enforcement of intellectual property rights, with an emphasis on the commercial-scale counterfeiting of trademark protected hard goods, which represent a public health and safety concern.
- **Joint USPTO/WIPO North African Regional Border Enforcement Training:** On October 5-7, 2010, USPTO, in partnership with the World Intellectual Property Organization (WIPO) and the Moroccan Intellectual Property Office, conducted a regional intellectual property border enforcement workshop in Casablanca, Morocco, with customs officials from Algeria, Egypt, Mauritania, Morocco and Tunisia, covering *ex officio* actions, risk analysis, regional cooperation, targeting, storage and destruction and coordination with rightholders.

Europe and Central Asia:

- On November 2-3, 2010, USPTO, in partnership with WIPO and the Czech Republic Industrial Property Office, conducted a regional intellectual property enforcement workshop in Prague, Czech Republic, attended by representatives from 33 Eastern European and Commonwealth of Independent State countries, on regional cooperation, border enforcement, criminal enforcement, market inspection, recovery of assets derived from illegal activity and storage and destruction.

India and South Asia:

- The intellectual property attaché and intellectual property specialist based in New Delhi participated in a seminar organized by the State Department, U.S. Embassy Colombo, AmCham Sri Lanka and the Sri Lanka Chamber of the Pharmaceutical Industry on counterfeit medicines, attended by approximately 200 people, including pharmacists, police officials, customs officials and industry representatives.

Department of Homeland Security

DHS has conducted a number of intellectual property enforcement activities in 2010:

- **QHSR:** In February 2010, DHS presented the Quadrennial Homeland Security Review (QHSR) to Congress, which identified safeguarding lawful trade as one of its key goals.
- **ACTA:** DHS served as a subject matter expert to USTR at the ACTA negotiating rounds in New Zealand, Washington, D.C. and Tokyo.

- **TPP:** DHS served as a subject matter expert to USTR at the TPP negotiating rounds in New Zealand, Brunei and San Francisco.
- **Special 301 Report:** DHS provided input and subject matter expertise to the interagency review—led by USTR—to publish the 2010 Special 301 Report on April 30, 2010.

U.S. Customs and Border Protection

- **Number of Intellectual Property Seizures Reach All Time High:** In FY 2010, cooperative efforts by CBP and ICE, including joint operations such as Operation Guardian, resulted in 19,959 seizures, an all time high. This is a 34 percent increase from 14,841 in FY 2009. The domestic value of intellectual property seizures decreased 27% from $260.6 million to $188.1 million, primarily due to an increase in high-volume/low-value express consignment/mail seizures and consolidated shipment seizures. The estimated MSRP of these seizures was $1.4 billion in FY 2010 and over $2 billion in FY 2009. Consumer safety and critical technology seizures rose dramatically due to an increased emphasis on enforcement in this area. The number of consumer safety and critical technology intellectual property seizures soared 97% while the value increased by 30% compared to FY 2009 totals. In FY 2010, CBP made 46 seizures of circumvention devices in violation of the Digital Millennium Copyright Act.
- **Almost $65,000,000 in Intellectual Property Civil Penalties Assessed in Six Months:** From June 2010 through November 2010, CBP hit 179 counterfeiters with penalties totaling $64,992,891.
- **New Pharmaceutical Center of Excellence and Expertise:** On November 1, 2010, CBP launched its CEE pilot, which brings together pharmaceutical expertise and works to expand the industry knowledge base in CBP. Through this endeavor, CBP works with industry stakeholders to better understand business practices and to garner information generated through their brand protection programs to improve targeting of counterfeit, substandard and unapproved drugs. This enhanced targeting is valuable for raising the awareness of trends in counterfeit pharmaceuticals at CBP's ports of entry, collaborating with ICE and the FDA on criminal investigations and increasing the success of CBP's special operations designed for the express carrier and mail environments, such as Operation Safeguard. In an effort to deter repeat violators, the CEE is also exploring options for stiff civil penalties to be levied against individuals bringing in counterfeit pharmaceuticals through the express and mail environments. As the CEE focuses to improve CBP's enforcement efforts, it will share best practices with partners in foreign governments to increase global collaboration on detecting and interdicting counterfeit and substandard pharmaceuticals.
- **Criminal Case Referral to IPR Center Yields Conviction:** As a result of its targeting and interdiction successes, including targeting and interdiction for the IPR Center Operation Guardian, CBP continues to be the leading source of referrals to ICE HSI for possible criminal investigations. On September 7, 2010, a Federal judge in Houston, Texas sentenced the owner of Syren Technology to two and a half years in Federal prison for trafficking in counterfeit Cisco networking equipment. The case originated with CBP coordinated targeting and communication with

two FedEx ports and the interdiction of three shipments totaling 2,700 counterfeit Cisco boxes and 8,000 counterfeit Cisco labels.

- **Foreign Training and Capacity Building:** This year, CBP lent its intellectual property border enforcement expertise to regional training and capacity-building programs sponsored by the U.S. Government in Ukraine, Uganda, Kenya, Trinidad & Tobago and Morocco.
- **China Engagement:** CBP engaged with China this year on expanding implementation of the Memorandum of Cooperation (MOC) between CBP and the General Administration of China Customs. This engagement culminated in agreement to amend the MOC to expand exchanges on cases, and to form a working group and develop an action plan to fully implement the MOC.
- **Outreach to the Private Sector:** CBP increased its private sector outreach through webinars, speaking engagements and participation in trade shows. CBP engaged its Federal advisory committee, the Commercial Operations Advisory Committee, on intellectual property issues, and created working groups with the U.S. Chamber of Commerce's Coalition Against Counterfeiting and Piracy on legislative/regulatory/resource issues and on trade intelligence.
- **Product Identification Guides:** CBP launched a new program to allow rightholders to provide product identification guides electronically to CBP. This makes the guides readily available to CBP's frontline officers in ports throughout the country for use in identifying counterfeit and pirated goods.
- **Recordation Applications for Intellectual Property Enforcement:** Since July 1, 2010, CBP has approved 822 applications, known as recordations, from trademark and copyright owners for CBP to protect their rights against counterfeit and pirated goods.
- **Technical Analyses of Suspect Counterfeit Goods:** CBP's scientists analyzed approximately 370 samples of goods suspected of intellectual property infringement since June 2010, resulting in seizures of products such as clothing, chemicals and computer software and hardware. In addition, CBP's labs organize and provide primary laboratory analytical support for Operation Safeguard, a three-day operation conducted monthly in cooperation with ICE, the FDA and the Drug Enforcement Administration (DEA), and focused on interdicting counterfeit pharmaceuticals.

U.S. Immigration and Customs Enforcement

- **Increase in Number of Intellectual Property Cases Initiated by ICE HSI:** In FY 2010, ICE HSI initiated 1,033 intellectual property infringement cases—a 42 percent increase over FY 2009—and achieved 365 arrests, 216 indictments and 170 convictions. In FY 2010, criminal charges flowing from HSI-initiated intellectual property investigations increased by 86 percent over the previous year. These figures include both federal and state prosecutions.
- **New IPR Center Partners:** In 2010, the IPR Center nearly doubled its membership, expanding from 8 to 15 partner agencies. New members include the military investigative components from the Army, Navy and Defense Departments, as well as GSA—Office of Inspector General; the U.S. Consumer Product Safety Commission; and the Defense Logistics Agency—Investigations

Division. The addition of the military investigative components reflects the importance to the IPR Center of protecting the war fighters and their supply chain. INTERPOL also joined the IPR Center in 2010. As the world's largest international police organization with 188 members, INTERPOL's partnership at the IPR Center has led to enhanced opportunities to access its databases for case de-confliction and to conduct training to foreign law enforcement counterparts. In 2011, the IPR Center added the State Department and the Royal Canadian Mounted Police, bringing total membership to 17, and it expects to increase domestic and international membership through continued efforts to explore partnerships with other key U.S. agencies and international partners.

- **IPTETs:** In 2010, ICE HSI announced partnerships with state and local law enforcement, resulting in the formation of 22 IPTETs. The teams built on the best practices identified by the IPR Center using an informal task force approach to enhance coordination of intellectual property investigations at the state and local level. IPTET partners include local law enforcement, field offices of Federal agencies and local, state and Federal prosecutors' offices. Since their creation, five IPTETs have welcomed new members and one new IPTET has been established.
- **Operation Network Raider:** In May 2010, ICE HSI, the FBI, CBP and DOJ announced the results of Operation Network Raider, a joint investigation targeting the illegal distribution of counterfeit computer network equipment, including a case involving counterfeit Cisco products sold to the U.S. Marine Corps in Iraq for use to transmit troop movements, relay intelligence and maintain security. The Operation has resulted in more than 30 felony convictions and more than 700 seizures of counterfeit network hardware and labels with an estimated MSRP of more than $143 million. On November 8 and December 9, the latest defendants pleaded guilty in the District of Kansas to selling more than $1 million of counterfeit Cisco products. Other individuals are awaiting trial and sentencing.
- **Operation Global Hoax:** In June 2010, the IPR Center, through the WCO, initiated Operation Global Hoax to target the smuggling of CDs and DVDs. The first-ever worldwide enforcement action targeting shipments of counterfeit DVDs and CDs involved 42 WCO member countries and INTERPOL. The five-day surge operation at mail and express courier facilities resulted in the seizures of more than 140,000 pirated DVDs, 28,000 CDs, and over 270,000 other counterfeit items worldwide. Domestically, ICE HSI and CBP seized 22,371 pirated DVDs, 2,658 pirated DVD box sets, 133 pirated CDs and 8,556 other counterfeit items worth a total MSRP of approximately $5.3 million.
- **Operation Mercury II:** Conducted in June 2010, this Operation involved 35 WCO member nations and targeted the importation and distribution of substandard and counterfeit pharmaceuticals. Seized drugs included antibiotics, steroids, human growth hormones, heart medications, psychiatric medications, endocrine system medications and lifestyle medications. In total, 1,309 parcels were seized.
- **Operation In Our Sites v. 1.0 and 2.0:** In June 2010, the IPR Center initiated Operation In Our Sites to target the sale of illicit items distributed through the Internet. In the first part of the initiative, the IPR Center and the ICE HSI Office in New York executed 20 search warrants and 25

seizure warrants related to people, places, websites and proceeds used to engage in the illicit distribution of first-run pirated movies. The Operation resulted in the seizure of 59 domain names (50 of which were parked/unused sites related to one of the other seized domain names) and over $84,000. On November 29, 2010, ICE HSI and DOJ announced the results of Operation In Our Sites v. 2.0. The Operation targeted online retailers of counterfeit hard goods that consumers may have otherwise bought as holiday gifts, including sports equipment, shoes, handbags, athletic apparel and sunglasses, as well as illegal copies of copyrighted DVD boxed sets, music and software. ICE HSI and DOJ seized the domain names of 77 websites selling counterfeit hard goods, five websites selling pirated movies, music and software and one server. The Operation was spearheaded by the IPR Center, in coordination with CCIPS, nine ICE HSI field offices, and multiple U.S. Attorneys' Offices.

- **Operation Fire Sale:** During the week of August 23, 2010, ICE HSI offices in Los Angeles, Miami, New York, Philadelphia and Las Vegas targeted illegal aliens engaged in the sale of counterfeit goods at numerous marketplaces. Spearheaded by the IPR Center, the Operation resulted in the seizure of over 96,300 counterfeit items with an MSRP of over $16 million, 32 criminal arrests and seven administrative arrests.
- **Operation Safe Summer:** On September 18, 2010, ICE HSI and CBP concluded Operation Safe Summer. ICE HSI, CBP and the Mexican Tax Administration Service initiated this Operation to target, interdict and investigate the importation of infringing items through the mail and express couriers, focusing on those that threaten public health and safety. To date, approximately 800 seizures have been made, including counterfeit automobile airbags, rifle sites, cellular phones and chargers and health and beauty products. Mexican authorities seized 306 tons of counterfeit merchandise at mail facilities and land, air and sea ports of entry.
- **Operation Pangea III:** Operation Pangea III, conducted in October 2010, was the largest Internet-based action of its kind coordinated by the WCO, INTERPOL, international organizations, industry and online payment systems providers in support of the International Medical Products Anti-Counterfeiting Taskforce. The annual week of action involved 45 countries and focused on the online sale of counterfeit and illegal medicines to raise awareness of the associated health risks. The global Operation targeted Internet service providers, payment systems and delivery services. The U.S. Operation, managed by the IPR Center, included ICE HSI, CBP, the FDA OCI, USPIS, and DEA and was conducted at mail facilities in several U.S. cities. Internet monitoring revealed more than 820 websites engaged in illegal activity, including those offering controlled or prescription-only drugs, of which, nearly 300 websites have been taken down. Participants inspected over 278,000 packages, seizing nearly 11,000 packages which contained more than 2.3 million illicit and counterfeit pills worth more than $56.7 million. Globally, 130 search warrants were executed and 87 individuals were arrested or are under investigation for a range of offenses.
- **Operation Season's Cheatings:** From December 1 to 8, 2010, the IPR Center initiated Operation Season's Cheatings to combat the Internet sale of hard goods from a variety of industries. Following Operation In Our Sites v. 2.0, Season's Cheatings combined the specific areas of exper-

tise of CBP, ICE HSI and the USPIS to target, interdict and investigate the illegal importation of counterfeit merchandise into the U.S. via the China Post Express Mail Service. Preliminary results indicate approximately 350 seizures of counterfeit DVDs, handbags, cell phones, electronics, pharmaceuticals, cosmetics, apparel and jewelry. In addition, approximately 281 packages have been detained for further examination.

- **Operation Apothecary:** This operation addresses, measures 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 2010, HSI conducted 12 Apothecary enforcement surges in conjunction with CBP, the FDA OCI and USPIS at international mail facilities and express consignment courier facilities. Apothecary surges have resulted in the examination of approximately 8,125 parcels, 842 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.
- **Outreach and Training:** In FY 2010, the IPR Center's Outreach and Training Unit conducted 120 outreach events to over 10,000 people and 105 training events to over 4,500 people from public and private sectors, both domestic and internationally.
- **International Efforts:**
  - During the week of September 14, 2010, ICE Director Morton traveled to Beijing, Shanghai and Guangzhou to meet with China ministry level representatives. Director Morton and the Ministry of Public Security (MPS) Director General Meng signed a Letter of Intent to enhance law enforcement cooperation between the agencies in the area of intellectual property and other investigations. Director Morton also met with the General Administration of Customs Vice Minister Sun Yibiao to discuss the timely sharing of information on intellectual property and other investigations. ICE has also met with the MPS representative in Washington and shared intellectual property seizure information for action in China. ICE named its assistant attaché in Guangzhou as the point of contact on all intellectual property matters in China. Through the assistant attaché, ICE has agreed to provide MPS with regular seizure data with a nexus to China and with actionable information from ICE investigations and operations in order to further investigations in both countries.
  - ICE also signed an agreement with the Republic of Korea's Supreme Prosecution Service emphasizing the importance of conducting joint investigations, including intellectual property investigations.

U.S. Secret Service

Silicon Valley Engineer Arrested for Theft and Transfer of Trade Secrets to China: In July 2009, a technology company's chief legal counsel contacted the San Jose Resident Office of the USSS requesting investigative assistance in an ongoing theft of company trade secrets. An initial investigation identified three suspects and determined there was over $60 million in loss. The U.S. Attorney's Office Computer Hacking and Intellectual Property Section requested that the San Jose USSS Office investigate this

case for Federal prosecution. The agents discovered that a former employee established multiple businesses in order to develop and sell Global Positioning System (GPS) applications for mobile phones. The employee also recruited two other employees, Chinese Nationals, to integrate the stolen software source code into his products. The suspect also acquired at least one investor and attempted to recruit others in order to advance the interests of his businesses in the U.S. and China. On November 10, 2010, the three suspects were indicted for conspiracy, theft of trade secrets, possession of trade secrets and foreign transportation of stolen property. On November 16, 2010, San Jose USSS special agents arrested the former employee for the above listed charges.

Department of Justice

DOJ, including the FBI, are committed to implementing the Administration's Joint Strategic Plan and have taken a number of significant steps to improve coordination and enhance intellectual property enforcement efforts since its release. A detailed overview of DOJ's overall activities related to intellectual property enforcement can be found in the DOJ and FBI 2010 Annual PRO-IP Act Reports (available at http://www.justice.gov/dag/iptaskforce/proipact), which covers intellectual property enforcement activities through FY 2010. A brief summary of some of DOJ's activities specifically related to the implementation of the Joint Strategic Plan, including activities through December 2010, is also included below.

Ensuring Efficiency and Coordination, Enforcing our Rights Internationally and Securing Our Supply Chain

Outreach to Foreign Law Enforcement

DOJ continues to lead and participate in development and training programs with foreign law enforcement to build capacity overseas to combat intellectual property crime. Highlights include:

- **May 2010:** DOJ sponsored customs officials from South Africa and Mexico to receive training at a WCO conference. The Criminal Division has previously worked closely with South African and Mexican law enforcement, providing a number of increasingly advanced capacity building and training programs. Using skills they received from these programs, Mexico and South Africa were two of only three countries out 18 to have their delegations accredited as WCO experts at the conclusion of the WCO conference. As WCO accredited, South African and Mexican officials will be recognized by all 175 WCO member countries as worldwide authorities on customs and intellectual property issues, and they can provide training and speak on WCO's behalf on customs issues related to intellectual property, among other things. The South African officials assisted DOJ in a program in Zambia in December and will continue to assist DOJ in future trainings.
- **September 2010:** The FBI provided training for Brazilian law enforcement officers from the largest cities in Brazil at the U.S. mission conference in Brazil. The FBI presented at two panels focusing on the "U.S. Experience in the Enforcement of IPR" and "IP Crimes in the Digital Environment."
- **September 2010:** The FBI provided training during the 6th INTERPOL and Korea Copyright Commission Conference in Seoul, South Korea. It was the first to be held in the INTERPOL Asia and Pacific Region and was delivered with the support of the INTERPOL Liaison Office Bangkok

for Asia and the Pacific Region. The target audience was regional police middle managers with responsibility for investigating transnational organized intellectual property crime. The training provided attendees with a common understanding of the nature and extent of regional and increasingly global transnational organized intellectual property crime and investigative best practices techniques. It illustrated the benefits of working together with intellectual property crime-affected industries.

- **September 15-18, 2010:** The Chief of CCIPS visited Budapest, Romania, and met with the Prosecutor General and head of the national police to stress the importance of international cooperation to combat intellectual property crime. He also participated in the IPLEC for Eastern Europe's groundbreaking two-day videoconference (held September 16-17) that trained all 200 specialized intellectual property police officers and prosecutors in Romania how to conduct Internet piracy cases. The workshop is believed to be the first-ever U.S. Government-sponsored videoconference training for all of the police and prosecutors in an entire country on a particular subject matter.
- **October 19-21, 2010:** The U.S. Attorney General delivered the keynote address at the Fourth Annual International Law Enforcement Intellectual Property Crime Conference in Hong Kong, hosted by INTERPOL and Hong Kong Customs. In attendance were more than 500 law enforcement agents, prosecutors and industry representatives from approximately 40 countries at the three-day conference. In his remarks to the conference, the Attorney General emphasized the need for transnational cooperation in the investigation and prosecution of intellectual property crimes.
- **October 20-21, 2010:** The Attorney General visited China to stress the importance of intellectual property enforcement and bilateral cooperation between the U.S. and China.
- **December 6-9, 2010:** DOJ, with the support of the Organized Crime Intelligence and Operations Center (IOC-2), organized and led the first African training program in Lusaka, Zambia on investigating organized crime linked to intellectual property crime. The innovative training used practical simulated search exercises to develop skills for all aspects of investigating such crimes including searching premises and analyzing all types of evidence, such as in complex crimes involving financial documents and digital evidence. The training also sought to increase regional cooperation among law enforcement officials from Zambia, Botswana, Tanzania and Malawi, and among the different agencies involved in organized crime, including customs, financial/tax investigators, intellectual property investigators, prosecutors and computer forensics specialists.
- **December 12, 2010:** DOJ participated in the First Conference on Organized Crime in Africa in Courmayeur, Italy, organized by the International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme and the National Institutes of Justice, about intellectual property perpetrated by organized criminal groups operating out of Africa. Also participating were representatives from IOC-2.
- **FY 2010:** OPDAT, in conjunction with CCIPS, conducted 57 technical assistance and training programs on intellectual property and cyber crime for overseas law enforcement counterparts.

Industry Outreach/Training

DOJ provided or participated in a number of intellectual property industry outreach and training programs. Highlights include:

- **June 8, 2010:** The U.S. Attorney's Office for the District of New Jersey and the Rutgers School of Law—Newark hosted a Cyber and Intellectual Property Crime Symposium in Newark, New Jersey. The day-long conference focused upon the importance of cooperation between Federal law enforcement and private industry in combating theft of trade secrets and criminal trademark infringement. Over 130 representatives from private industry attended.
- **June 16, 2010:** The Attorney General provided opening remarks for CCIPS' 4th Annual Law Enforcement/Industry Conference, which brought together senior U.S. Government law enforcement officials (e.g., DOJ, ICE, the FBI, the IPR Center, CBP and the FDA) and leading representatives from the intellectual property business community to discuss ways to improve intellectual property enforcement in the U.S. and abroad. Attended by nearly 90 people, the meeting included 40 industry representatives from trade associations and companies associated with pharmaceuticals, software, luxury goods, electronics, apparel, motion pictures, recording, certification mark, personal hygiene and automobiles. Other senior U.S. Government officials making remarks included Assistant Attorney General Lanny Breuer of DOJ's Criminal Division and ICE Director Morton.
- **June 2010:** The FBI provided subject matter expertise and training during the Unapproved Aircraft Parts Task Force Conferences, including the Surface Mount Technology Association Center for Advanced Lifecycle Engineering and Aerospace Industries Association. The FBI's participation also established points of contact with industry for case referrals.
- **June 2010:** The FBI and CCIPS participated in the 2010 Certification Industry Against Counterfeiting (CIAC) North American Summit at the IPR Center. The CIAC was formed in cooperation with INTERPOL and brought together 11 of the world's major certification companies to stop the international proliferation of products bearing counterfeit certification marks.
- **June 2010:** CCIPS, OCRS and the FBI participated in the IPR Center Symposium, "IP Theft and International Organized Crime and Terrorism—The Emerging Threat," and discussed DOJ's current efforts to address the links between intellectual property crime and organized crime. Close to 80 copyright and trademark holders as well as Federal, state and local law enforcement officials and academics participated in the Symposium.
- **October 14, 2010:** Deputy Assistant Attorney General Jason Weinstein provided keynote remarks at the International Anti-Counterfeiting Coalition's annual fall conference that touched on communications between law enforcement and industry victims. The conference brought together over 150 brand owners, private investigators, private counsel and U.S. Government personnel from the U.S. and internationally to gain a perspective on the trade in counterfeit products; to share best practices on how to effectively combat this illegal trade; and to provide a forum for networking and partnership development.

- **December 7, 2010:** The U.S. Attorney's Office for the Western District of North Carolina hosted a regional conference entitled "2010 IP and Computer Crimes Seminar," instructing industry victims on how to refer cases to federal law enforcement, risk mitigation, strategic issues in intellectual property investigations and prosecuting Economic Espionage Act and theft of trade secret cases. The seminar included speakers from the FBI, ICE, CCIPS, USSS, the Federal Trade Commission, the U.S. Attorney's Office and industry.

State and Local Law Enforcement Outreach/Training

- DOJ-sponsored national series of intellectual property trainings:
  - NW3C, NAAG and DOJ's Bureau of Justice Assistance (BJA) began a national series of one-day training events for state and local law enforcement agencies on September 14 in suburban Baltimore, Maryland. The second event was held October 19 in Durham, North Carolina.
  - The goal of these training events is to increase the quantity and quality of investigations and prosecutions by state and local agencies of intellectual property crime. This will be accomplished by raising the awareness level of attendees regarding intellectual property crime issues. Further, these trainings provide instruction on investigation, prosecution and intellectual property task force creation.
  - These training events will continue throughout FY 2011, and the sites will be selected in conjunction with existing BJA intellectual property enforcement grantees. The next training event is on February 16, 2011, in Baldwin Park, California, followed by events in Washington, Colorado and across the nation.
- DOJ-sponsored intellectual property summit in Pasadena, CA:
  - BJA partnered with NW3C to hold a one-day, intellectual property crime enforcement summit on September 30, 2010. The 253 attendees included state and law enforcement, as well as many Federal law enforcement officers. The event was also attended by private company representatives and individuals from academia.
  - Speakers for this event included André Birotte Jr., U.S. Attorney for the Central District of California; Ann Ravel, Deputy Assistant Attorney General for Torts and the Office of Consumer Litigation, Civil Division; Tyler Newby, CCIPS; and Ronald Cheng, Assistant U.S. Attorney and CHIPS Prosecutor, Central District of California. In addition, Mississippi Attorney General Jim Hood provided the keynote address. Attorney General Hood co-chairs the Intellectual Property Crime Committee of NAAG. Also participating were representatives of ICE HSI and the FBI, as well as representatives from state and local law enforcement, the private sector and non-profit organizations.
- National Crime Prevention Council (NCPC) outreach activities:
  - BJA partnered with the NCPC to research and begin the development of communication media for public awareness and education on intellectual property crimes.

  - In September, NCPC held several focus groups for the purposes of delving deeper into the understanding of, and perceptions and attitudes on, intellectual property theft. The focus groups were composed of teens, adults and business owners. NCPC then conducted an online survey to gain a more detailed understanding of attitudes and behaviors related to intellectual property crime involving the following populations: adults, teens and youth/children.
  - NCPC plans to formally launch its public education campaign in spring 2011.

- OJP/BJA held a half day Intellectual Property Forum in conjunction with the BJA National Conference on December 8, 2010, entitled "Buying Fake Bags, Medicine, and Music: Good Bargain or Deadly Investment? What You Need to Know About Intellectual Property Crime." The forum was attended by state and local law enforcement agency personnel, industry representatives and national organizations. The forum addressed various aspects of intellectual property crime and the importance of coordination between Federal, state and local law enforcement on aggressive intellectual property enforcement. Participants described the damaging effects of intellectual property crime on the economy, the variety of health and safety risks, as well as the relationship between those who perpetrate intellectual property crime and gangs and organized crime groups. The IPEC, as well as several senior DOJ officials, participated in the forum.
- On December 8, 2010, BJA announced the release of the FY 2011 *Intellectual Property Crimes Enforcement Program*. This BJA-administered grant program solicitation is open to law enforcement agencies and is aimed at increasing enforcement, prosecution and education efforts around intellectual property crime. As part of the program, grantees under this solicitation must establish and maintain effective collaboration and coordination between state and local law enforcement, Federal agencies and local U.S. Attorneys' Offices. The closing date for this solicitation is February 10, 2011.

Grants Awards:

- On September 30, 2010, OJP/BJA announced that it had awarded approximately $4 million in grants to 14 state and local law enforcement agencies and three non-profit organizations in support of the FY 2010 Intellectual Property Enforcement Program. These grant awards will enable BJA to continue to improve coordination between Federal, state and local law enforcement in the response to intellectual property crime in accordance with the goals established by the Joint Strategic Plan.
- The following FY 2010 awards to state and local jurisdictions total $2,135,230, and cover expenses related to performing criminal enforcement operations; educating the public to prevent, deter and identify criminal violations of intellectual property laws; establishing task forces exclusively to conduct investigations and forensic analyses and prosecutions; and in acquiring equipment to conduct investigations and forensic analysis of evidence:

Grantee	Funding Amount
Attorney General's Office, Mississippi	$166,365
City of San Antonio	$200,000
County of Sacramento	$200,000
North Carolina Department of the Secretary of State	$199,978
Los Angeles County Sheriff's Department	$200,000
Chesterfield County, VA	$200,000
Virginia Department of State Police	$149,907
Miami Shores Village	$64,885
County of Fresno	$49,992
The New York County District Attorney's Office	$199,800
Bronx County District Attorney	$113,103
New York City	$192,200
Houston Police Department	$200,000

- In addition, the City of Los Angeles Police Department received $400,000 to supplement its ongoing efforts in intellectual property enforcement in partnership with the Los Angeles County Prosecutor's Office, which has resulted in an increase in arrests, search warrants, property recovered and investigations initiated in the area of intellectual property crime.
- Finally, OJP awarded supplemental funding to the following entities in order to enhance training, technical assistance and outreach initiatives to state, local and tribal law enforcement agencies to enhance their capacity to respond to intellectual property crime.
  - NAAG ($300,000)
  - NW3C ($563,770)
  - NCPC ($600,000)

DOJ Enforcement/Prosecution Initiatives

For a detailed description of some of DOJ's notable intellectual property prosecutions and investigations in FY 2010 (e.g., through October 2010), both domestically and abroad, please see the DOJ and FBI Annual PRO-IP Act Reports (available at http://www.justice.gov/dag/iptaskforce/proipact).

- Recent work involving large-scale operations includes:
  - On November 29, 2010, DOJ, along with its Federal law enforcement partners at IPR Center, announced the results of Operation in Our Sites v.2.0, a nationwide operation that resulted in the seizure of 82 domain names of commercial websites engaged in the illegal sale and distribution of counterfeit goods and copyrighted works. The coordinated Federal law enforcement operation targeted online retailers of a diverse array of counterfeit goods, including sports equipment, shoes, handbags, athletic apparel and sunglasses, as well as illegal copies of copyrighted DVD boxed sets, music and software.
  - In November and December 2010, respectively, two Kansas men pleaded guilty to conspiracy to smuggle goods into the U.S., to do so by false statements, and to trafficking in counterfeit goods for their roles in importing counterfeit Cisco computer hardware from China. These pleas build on Operation Network Raider, a domestic and international enforcement initiative targeting the illegal distribution of counterfeit network hardware. In May 2010, DOJ and DHS announced that Operation Network Raider resulted in 30 felony convictions and more than 700 seizures of counterfeit computer network hardware and labels manufactured in China with an estimated MSRP of more than $143 million. Also as part of the Operation, a Saudi citizen who resided in Sugarland, Texas, was sentenced to 51 months in prison for attempting to sell counterfeit Cisco products, purchased from a Chinese online vendor, to DoD for use by U.S. Marine Corps personnel operating in Iraq. The counterfeit Cisco products would have been used in a computer network designed to transmit troop movement, relay intelligence and maintain military base security. Operation Network Raider is a joint initiative by the FBI, ICE HSI and CBP working with U.S. Attorneys' Offices around the country, CCIPS and the IPR Center.
- DOJ continues to strengthen its relationship with the IPR Center and, in November 2010, a team from the Civil Division met with the leadership of the IPR Center to discuss joint initiatives with the Office of Consumer Litigation, which handles cases concerning counterfeit pharmaceuticals and medical devices.
- The Civil Division, in conjunction with CBP, is developing an initiative to enhance civil enforcement of intellectual property laws at the border. The Civil Division and CBP have had several discussions, and are in the process of outlining a framework to improve the use of civil penalties as an enforcement tool. In addition, CBP has invited the Civil Division to be involved in its Commercial Targeting and Analysis Center, which serves as a fusion center for law enforcement addressing import safety.
- In December 2010, DOJ's Civil Division established a counterfeit pharmaceuticals team within its Office of Consumer Litigation to aggressively target the sale of counterfeit pharmaceuticals

and medical devices. The members of the team will be supported by investigators within the Office, and will work closely with their counterparts within the Criminal Division, as well as with investigative agencies, including the FDA.

Department of State

Foreign Government Capacity Building: *Government-to-Government Enforcement Training:* The State Department, using foreign assistance anti-crime funds managed by INL, in collaboration with EEB, has a long-standing program to provide capacity-building training and technical assistance to foreign law enforcement to combat intellectual property crime. We are bringing a new focus to combating counterfeit medicines. In FY 2011, the State Department will use approximately $1.3 million—equal to about 31 percent of the total $4 million in anti-crime intellectual property training and capacity building funds—in programs aimed squarely at combating counterfeit medicines. These programs were designed and will be implemented by DOJ, DHS and USPTO in close cooperation with relevant U.S. missions. Assuming positive outcomes, the State Department will fund similar proposals in FY 2011, which may focus on, but need not be limited to, funding and training for infrastructure, regulatory frameworks, adjudicating intellectual property cases and a prosecutors' handbook for building intellectual property cases. One example of the type of programs funded was a November workshop in Guatemala assembled by OPDAT and which brought together, for two days, key private and governmental stakeholders to identify obstacles to combating counterfeit medications, notably including the need to promulgate clear protocols and enhance the usage of technical capacity to test suspected contraband.

Counterfeit Medicines Initiatives: *Public Outreach Campaigns in 2010:* In the past year, the State Department has devoted over $200,000 in public diplomacy funds toward increasing public awareness around the world about the dangerous public health and safety consequences of counterfeit medicines. As part of its international "Campaign against Counterfeit Medicines," EEB funded 14 proposals submitted by the State Department's embassies and consulates. Several of these projects have already been implemented and others will take place in the coming months. The campaign has featured programs such as television and radio public service announcement campaigns (Bolivia), seminars among pharmacy students and practitioners (Brazil) and a series of countrywide public town hall meetings (Kenya). Additionally, the State Department provided a grant to WIPO to produce a customizable public outreach toolkit on intellectual property-related public health and safety issues, including counterfeit medicines. In conjunction, WIPO will work with State and the U.S. Embassies in Kenya, Egypt and the Philippines to organize pilot workshops that will illustrate how the toolkit can be used to mount a nationwide public outreach campaign, with a strong emphasis on public-private stakeholder outreach coordination. The State Department and WIPO will evaluate the results of the workshops and plan to collaborate on additional workshops in the future. Expanding upon public outreach activities, the State Department's Office of Intellectual Property Enforcement (IPE) is working with the State Department's INL and interested U.S. Government agencies on key initiatives to address counterfeit medicines with APEC partners during 2011, the U.S. host year.

Special 301 Contributions: IPE provided extensive support to USTR and Post in preparations for the U.S.-Ukraine Trade and Investments Framework Agreement, where IPE developed, with interagency

and Post input, an Intellectual Property Action Plan to promote progress on stalled intellectual property issues.

Training State Employees: IPE, along with USPTO, held its annual intellectual property 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. IPE organized a training program in Atlanta for officers from the Western Hemisphere Bureau with the focus being on an interactive discussion between those economic officers and copyright industry representatives of intellectual property challenges posed by growing regional use of the Internet. A similar program was held in Budapest in October 2010 for European-based Economic Officers, on U.S. Government policies and initiatives to address copyright piracy and trademark counterfeiting, including on the Internet, attended by 30 Posts and 15 private sector representatives. This Conference resulted in enhanced collaboration among Posts in the region and increased intellectual property activities including training programs, by various Posts with host governments and in collaboration with the INL-funded IPLEC in Sofia. The results of such training included investigations and the shutting down of websites promoting high volumes of infringing activity in several countries such as Ukraine, Bulgaria, Hungary, Moldova and Romania, among others. IPE also held a training program for officers based in the Middle East, in Dubai, that focused on business software piracy and intellectual property enforcement and the use of tax legislation as a policy tool within Near East and Asia countries to audit software noncompliance and to criminalize noncompliance. Another regional training program was held in Johannesburg, South Africa, in October 2010, for economic officers based throughout sub-Saharan Africa. Officers from 34 U.S. embassies attended this three-day trade and investment training, which included a focus on intellectual property enforcement in Africa, including a panel on counterfeiting and piracy with speakers drawn from the U.S. private sector and U.S. law enforcement agencies.

The State Department is actively engaging foreign governments in improving their intellectual property regimes and no country comes under more scrutiny than China. Under the direction of Ambassador Huntsman, Mission China is building 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. Ambassador Huntsman has chaired a series of Intellectual Property Rights Dialogues involving U.S. and Chinese public and private sector leaders in Shanghai, Shenzhen and Beijing to discuss best practices in intellectual property enforcement and how to promulgate such practices throughout China. Ambassador Huntsman, Under Secretary of State for EEB Robert Hormats and other high ranking officials regularly raise the importance of intellectual property rights protection with their interlocutors at all levels of the Chinese government. Ambassador Huntsman has spoken on numerous occasions to audiences of Chinese officials, companies and the Chinese public, and published an op-ed on World Intellectual Property Day, stressing the role intellectual property plays in promoting innovation. Beginning in 2008, the China Mission has convened a monthly intellectual property task force consisting of all relevant agencies at Post to coordinate intellectual property activities.

U.S. Trade Representative

President Obama has said that, to grow the jobs that Americans need and get our economy back on track, we have to invent, discover, create and build the best products and sell them all over the world.

Ambassador Ronald Kirk, the U.S. Trade Representative, is helping to create jobs by opening world markets to U.S. exports—and keeping them open; by maintaining a level playing field for American workers in the global marketplace; and by making sure that two-way trade benefits Americans as workers and as consumers.

Critical to this effort is the protection and enforcement of intellectual property rights. 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 2010, USTR aggressively pursued market-opening opportunities in every part of the world for intellectual property-intensive American businesses and workers. Along with agencies across the Obama Administration, we empowered more American workers and businesses to compete in the global marketplace.

Winning a Better Deal for American Businesses and Workers in the U.S.-Korea Trade Agreement: On December 3, 2010, President Obama announced that USTR had successfully negotiated a better deal for America's automotive sector as part of an effort to advance the pending U.S.-Korea trade agreement. Its provisions on intellectual property protection and enforcement represent a major win for U.S. exporters in creative and innovative industries. USTR will work closely with Congress to secure approval of this landmark trade agreement, which could support tens of thousands of new U.S. jobs.

Fighting Piracy and Counterfeiting to Protect American Jobs and Innovation: This year, USTR and partner countries, representing more than half of global trade, finalized the text of ACTA. The agreement is an important new tool to fight the global scourge of counterfeiting and piracy, which threatens jobs that depend on innovation—including those here in the U.S. Consistent with the Administration's strategy for intellectual property enforcement, the ACTA negotiations have stepped up the fight against global proliferation of commercial-scale counterfeiting and piracy in the 21st century. The agreement includes innovative provisions to deepen international cooperation, promote strong enforcement practices and ultimately help sustain American jobs in innovative and creative industries. In December 2010, USTR published a notice seeking public comments in connection with consideration of U.S. signature of the agreement. Some of ACTA's key features include commitments to:

- support and enhance approaches to criminal enforcement through stronger requirements for criminal remedies, highlighting the importance of combating unlawful camcording in theaters and enhancing seizure and destruction of fake goods, seizure of the equipment and materials used in their manufacture and criminal proceeds;
- 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 ability to act against import and export shipments as well as to cooperate on in-transit shipments;
- strengthen civil enforcement provisions dealing with damages, provisional measures, recovery of costs and attorneys' fees and destruction of infringing goods;
- create cooperation and information-sharing mechanisms among ACTA parties to assist in enforcement efforts; and
- promote strong enforcement practices that lead to meaningful implementation of laws on the books.

Opening Asia-Pacific Markets: Talks in the 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—moved forward quickly in 2010. USTR will use these negotiations to further advance the protection and enforcement of U.S. intellectual property rights in the Asia-Pacific region.

Enforcing America's Trade Rights, Preserving American Jobs

This year, USTR ensured that more Americans saw the benefits promised by our trade agreements through the vigorous enforcement of our rights under those pacts. This is helping American intellectual property-intensive industries remain globally competitive even in today's difficult economic environment.

Improving Intellectual Property Enforcement through Special 301: Each April, USTR issues a comprehensive report on intellectual property protection and enforcement by U.S. trading partners. In 2010, the Czech Republic, Hungary, Poland and Saudi Arabia were all removed from the Special 301 Watch List due to actions each of these countries took to shut down illegitimate trade in counterfeit and pirated goods, which threatens thousands of U.S. jobs that depend on innovation. Improving enforcement of intellectual property rights in these countries makes them more attractive markets for U.S. exports that support American jobs.

Protecting Intellectual Property for U.S. Pharmaceuticals: After more than five years of consultation and negotiation, the U.S. and Israel reached an understanding that, once implemented, will enable U.S. manufacturers to sell medicine in Israel with assurances that their clinical test data is secure and their intellectual property is recognized and respected to a degree appropriate for a country at Israel's advanced level of development.

Advancing U.S. Interests with Partners Around the World

USTR continued to work with trading partners around the world to grow economic opportunities for American workers and businesses, tackling issues together—from market access, to environmental and regulatory concerns.

Improving Trade with China: Through this year's U.S./China JCCT, USTR made progress on issues of concern to intellectual property-intensive industries doing business with China. The U.S. won wide-ranging commitments from China including to:

- Implement new measures to enforce intellectual property rights that will protect American jobs through increased purchase and use of legal software, steps to address piracy of electronic journals, more effective rules for addressing Internet piracy and a crack down on landlords who rent space to counterfeiters in China.
- Eliminate discriminatory "indigenous innovation" criteria used to select industrial equipment for preferential treatment, ensuring access to China's market for American machinery manufacturers, as well as commit to open and neutral standards for 3G and future technologies in one of the world's largest telecommunications markets.
- Provide openness, non-discrimination and transparency in China's smart grid market, and cooperation on smart grid standards, creating more opportunities in a market that is estimated to be worth $600 billion.
- 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, and a commitment to accelerate China's accession to the WTO's Government Procurement Agreement—which will help America's innovators and entrepreneurs continue to support American jobs by selling to the Chinese Government.

Helping Russia Advance its Efforts to Join the WTO: Following direction from Presidents Obama and Medvedev, respectively, USTR and Russian government officials worked to resolve key bilateral issues related to the World Trade Organization (WTO) accession process, including encouraging Russia to enact certain legislation critical to protecting intellectual property. These efforts have added significant momentum to Russia's effort to join the WTO, which will create new market opportunities for U.S. exports of goods and services.

Stopping Harmful Trade Retaliation by Brazil: USTR averted the imposition by Brazil of more than $800 million in retaliatory measures—including possible countermeasures on U.S. intellectual property—by finding a path forward in the WTO dispute involving export credit guarantees for U.S. agricultural exports and domestic supports for upland cotton.

Continuing a Serious Conversation about Trade at Home

In 2010, USTR focused more intently on domestic outreach than ever before, engaging in a serious conversation with the American people about how to expand the job-building benefits of trade. Ambassador Kirk talked with trade skeptics as well as supporters all across the U.S., building broad support for the export-boosting, job-supporting trade policies that America needs.

Winning Recognition for Enhanced Transparency in Trade Policy and Negotiations: In March, USTR was recognized by DOJ for outstanding efforts to provide transparency, especially as to public requests for information through the Freedom of Information Act. In addition, the USTR website, www.ustr.gov, has been completely re-designed and updated to provide the latest USTR news and features that illustrate the impact of trade on communities around the country—all to uphold the high standards for transparency and public communication set by President Obama. In the negotiating arena, USTR included Congress and stakeholders in every step of TPP activities this year, from inviting

stakeholders to make presentations at the San Francisco round of talks, to a field hearing in Seattle with key environmental stakeholders and webinars for small business owners and others. USTR also worked closely with a broad range of stakeholders during the ACTA negotiations, releasing multiple texts and seeking public input.

Bringing New Voices into the Conversation: This year, the President's Advisory Committee on Trade Policy and Negotiations (ACTPN) was reconstituted to include more representatives from non-governmental organizations, state and local government, public health, consumer interest, labor and environmental groups. These new ACTPN members are already informing USTR's efforts to develop trade policy that works for all Americans.

"This year we made solid progress toward rebuilding America's economy through trade policies that are responsible and responsive to Americans' goals and concerns," said *Ambassador Kirk*. "Now we look forward to working with Congress, the American people, and our trading partners in 2011 to promote a job-rich, robust recovery here in America and balanced economic growth around the world."

U.S. Copyright Office

The Copyright Office 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. See 17 U.S.C. §701. The Copyright Office does not have enforcement duties but supports the copyright enforcement activities of the U.S. Government in a number of ways. The Office plays a substantive role on the U.S. delegations to international organizations such as WIPO, and working with the State Department, USPTO and other interested agencies to establish and implement U.S. copyright initiatives.

Copyright issues also frequently arise in the context of trade, and the Copyright Office works very closely with USTR and other agencies to address copyright enforcement concerns in the legal systems of our trading partners. In 2010, the Copyright Office lent its technical expertise to negotiation of ACTA, and is playing a similar role with respect to TPP.

The Copyright Office always contributes to the Special 301 process and 2010 was no exception. The Office's contribution included detailing an attorney from the Office of Policy and International Affairs to USTR to be the Special 301 Coordinator.

The Copyright Office also engages in training, education and outreach programs. For example, in cooperation with WIPO, the Copyright Office hosted a week-long training program entitled "International Training for Developing Countries and Countries in Transition on Emerging Issues in Copyright and Related Rights and Issues Pertaining to Blind and Visually Impaired Persons." On April 21, the Copyright Office co-sponsored the "Internet Intermediary/Joint Liability Roundtable" in Beijing, China along with USPTO, the National Copyright Administration of China and China's Ministry of Commerce.

In addition, Copyright Office attorneys are frequent speakers at training programs and conferences, many of which include significant discussion of enforcement issues. Among the recent programs at which Copyright Office attorneys spoke are the following:

- a program for the New York State Bar Association called the "Copyright Office Comes to NY" in New York, NY on May 25;
- a panel entitled "Copyright's F-Word: Reconsidering the Role of Formalities in Copyright" at the 2010 Annual Meeting of the Copyright Society of the U.S. in Hamburg, New Jersey from June 13 to 15;
- a presentation about the proposed Google Book Settlement at the Practicing Law Institute's Understanding Copyright Law 2010 seminar in Chicago, Illinois on June 17;
- a roundtable discussion with Thai Intellectual Property and Supreme Court Justices regarding current copyright and digital rights issues at the USPTO GIPA in Washington, D.C. on August 10;
- a presentation at the Second Global Symposium of Intellectual Property Authorities at WIPO in Geneva, Switzerland from September 15 to 17;
- a panel entitled "The Terminator: The Brewing Battle over Copyright Termination and Transfer" at the Future of Music Policy Summit In Washington, D.C. on October 4;
- a keynote speech at the USC Gould School of Law Entertainment Law Institute in Los Angeles, CA, on October 23;
- a seminar entitled "The Practice and Politics of Licensing" hosted by the Copyright Clearance Center in Danvers, Massachusetts on October 25;
- a presentation entitled "Copyright Law and Policy in the Digital Era" for the International Federation of Scientific Societies Foundation at the Technological Institute of Santo Domingo in Santo Domingo, Dominican Republic on November 23; and
- a presentation on developments in U.S. copyright law at the Tenth Annual International Copyright Law Conference in London, England, on December 7.

APPENDIX 1

SIGNIFICANT ECONOMIC ESPIONAGE AND TRADE SECRET CASES

Trade secret theft and economic espionage harm our economy. Since the issuance of the Joint Strategic Plan, law enforcement agencies have had a number of significant cases:

- **U.S. v. Huang (USAO S.D. Ind. & CCIPS; FBI):** On July 13, Mr. Huang was charged with economic espionage. The indictment alleges that, when working at Dow, he stole trade secrets related to organic insect products, published an article containing Dow's trade secrets through Hunan Normal University (HNU), a foreign instrumentality of China, and directed people at HNU to conduct research using Dow's trade secrets.
- **U.S. v. Aleynikov (USAO S.D.N.Y.; FBI):** Mr. Aleynikov developed computer programs for Goldman Sachs' high-frequency trading system. He accepted a job with a competitor and transferred substantial parts of the code to himself. The FBI arrested Aleynikov on his way to meet with the new company and, on Dec.10, he was convicted of trade secret theft.
- **U.S. v. Roberts et al. (USAO E.D. Tenn. & CCIPS; FBI):** 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 went to Goodyear to service Wyko equipment and took cell phone photos of Goodyear's equipment.
- **U.S. v. Agrawal (USAO S.D.N.Y.; FBI):** On Nov. 19, a jury convicted Mr. Agrawal, a former trader at Societe Generale, in part, with stealing trade secrets. Societe Generale had developed a high-volume trading computer system and code. Agrawal printed out hundreds of pages of the code and transferred it to a competitor.
- **U.S. v. Yu (USAO E.D. Mich.; FBI):** In 2006, when working for Ford, Mr. Yu 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. Yu agreed he caused $50-$100 million of harm and, on Nov. 17, he pleaded guilty to stealing trade secrets.
- **U.S. v. Zhang et al. (USAO N.D. Cal.; USSS):** On Nov. 10, three former employees of SiRF Technology, Inc.—a company that develops software source code for location-based services—were charged with conspiracy to possess SiRF's trade secrets in order to start competing companies to sell location-based services in the U.S. and China.
- **U.S. v. Jhaveri (USAO N.D.N.Y.; FBI & ICE HSI):** While employed at Bristol-Myers, Mr. Jhaveri stole trade secrets to advance a competing venture he had created in India. He brought the trade secrets to a meeting with an individual he believed was an investor, leading to Jhaveri's arrest. On Nov. 5, he pleaded guilty to theft of trade secrets.

- **U.S. v. Lee (USAO N.D. Ill.; FBI):** While working for Valspar, Mr. Lee accepted a position with Nippon Paint to work in China. Lee did not inform Valspar of the new job; instead, he used his access to download Valspar's trade secrets, which were valued between $7-$20 million. Lee purchased a plane ticket to China, but the FBI arrested him before he could leave. On Dec. 8, a federal judge sentenced him to 18 months in prison.
- **U.S. v. Qin et al. (USAO E.D. Mich.; FBI):** On July 22, a former GM employee and her husband were charged with taking GM trade secrets relating to hybrid-vehicle technology and using the information to benefit their own company and Chery Automobile, a Chinese competitor of GM. GM estimated that the trade secrets were worth more than $40 million.

APPENDIX 2

TRAINING FOR STATE AND LOCAL LAW ENFORCEMENT

DOJ/NAAG/NW3C Monthly Intellectual Property Trainings		
Sept. 14, 2010	Hunt Valley	Maryland
Oct. 19, 2010	Durham	North Carolina
Nov. 19, 2010	Jackson	Mississippi
Dec. 8, 2010	Miami	Florida
Jan. 20, 2011	Austin	Texas
Feb. 16, 2011	Baldwin Park	California
March 1, 2011	Tacoma	Washington
April 5, 2011	Golden	Colorado
May 19, 2011	Rye Brook	New York
June 2011	Providence	Rhode Island

DOJ, NAAG and NW3C have developed coordinated materials for their series of monthly intellectual property trainings for state and local law enforcement, although the materials used at each training vary at least slightly to focus on the city or region where the training occurs.

ICE IPTET-Based Recurring Intellectual Property Trainings		
June 22, 2010	Pearl	Mississippi
July 7-8, 2010	New Orleans	Louisiana
July 13, 2010	Atlanta	Georgia
July 15, 2010	Charlotte	North Carolina
July 28, 2010	Dallas	Texas
July 30, 2010	Baltimore	Maryland
Aug. 9, 2010	Philadelphia	Pennsylvania
Aug. 11, 2010	Harrisburg	Pennsylvania
Aug. 13, 2010	Pittsburg	Pennsylvania
Aug. 24, 2010	El Paso	Texas
Aug. 27, 2010	Denver	Colorado
Sept. 2, 2010	Albany	New York
Sept. 22, 2010	Springfield	Illinois
Sept. 23, 2010	Honolulu	Hawaii
Sept. 28, 2010	Cleveland	Ohio
Sept. 28, 2010	Seattle	Washington

ICE's trainings are coordinated through the IPR Center, but each presenter prepares their own materials. ICE has suspended these trainings until a budget for FY 2011 is passed.

Additional Intellectual Property Trainings		
Sep. 30, 2010	Pasadena	California

DOJ, the U.S. Attorney's Office in Los Angeles and NW3C held a one-day intellectual property crime summit entitled "Real Crime—Real American Jobs, Why You Should Care About Intellectual Property Rights." The summit was designed for state and local law enforcement and involved presentations on intellectual property enforcement by DOJ, the FBI, ICE HSI, the Los Angeles Police Department, the Los Angeles County Sheriff's Department, NW3C and the co-chair of NAAG's intellectual property committee.

Dec. 8, 2010	Washington	District of Columbia

DOJ's BJA held its annual national conference for state and local law enforcement and, for the first time, included a half-day intellectual property forum as part of that national conference. The forum was entitled: "Buying Fake Bags, Medicine, and Music: Good Bargain or Deadly Investment? What You Need to Know About Intellectual Property Crime."

APPENDIX 3

Intellectual Property Spotlight



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Introduction

On June 22, 2010, the Obama Administration released the first Joint Strategic Plan on Intellectual Property Enforcement. The strategy was announced by Vice President Biden, with myself, Attorney General Holder, Secretary Napolitano, Secretary Locke, and Ambassador Kirk. The release was also attended by Alan Bersin (Commissioner of U.S. Customs and Border Protection), Margaret Hamburg (Commissioner of the Food and Drug Administration), Robert Hormats (Undersecretary for Economic, Energy, and Agriculture Affairs, U.S. Department of State), and John Morton (Director of U.S. Immigration and Customs Enforcement). On June 23, 2010, the Senate Judiciary Committee held an oversight hearing on the Office of the U.S. Intellectual Property Enforcement Coordinator and the Joint Strategic Plan.

The Obama Administration has committed to act to strengthen enforcement. We will lead by example and ensure that the U.S. Government respects intellectual property rights in our policies and our actions. We will be transparent in our development of enforcement policy, information sharing, and reporting of law enforcement activities at home and abroad. We will improve the coordination (and thereby the effectiveness) of law enforcement efforts at the Federal, state and local level, of personnel stationed overseas and of our international training efforts. We will enforce American intellectual property rights abroad by working with our trading partners and with international organizations. We will secure our supply chain. We will use information and data to make policy decisions and focus our activities.

As mentioned above, one of our priorities is transparency and information sharing. To that end, we want to highlight the significant work that the U.S. Government is doing to combat infringement. As this U.S. Intellectual Property Enforcement Coordinator (IPEC) Intellectual Property Spotlight should demonstrate, we—the U.S. Government—are committed to aggressively protecting American intellectual property rights.

I look forward to continuing to work with Federal agencies, Congress, and the public as we find new and creative ways to implement the Joint Strategic Plan. And I look forward to continuing to share what we are doing in the IPEC Intellectual Property Spotlight.

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



"[W]e're going to aggressively protect our intellectual property. Our single greatest asset is the innovation and the ingenuity and creativity of the American people. It is essential to our prosperity and it will only become more so in this century."

—President Barack Obama (March 11, 2010)

Securing Our Supply Chain

Online Piracy

ICE Announced "Operation In Our Sites," a New Initiative Targeting Pirate and Infringing Websites:

U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and the National Intellectual Property Rights Coordination Center (IPR Center) recently announced Operation in Our Sites, a large-scale initiative targeting all forms of Internet piracy and counterfeiting.

As part of that Operation, on June 30, 2010, the U.S. Attorney's Office for the Southern District of New York obtained seizure warrants for the domain names of multiple popular web sites, all of which were allegedly involved in the illegal distribution of first run and other copyright-protected movies and television shows over the Internet. These websites were allegedly illegally making available movies such as "The Karate Kid," "Prince of Persia," and "Sex and The City 2," among other popular copyrighted movies that were then in theaters. The government will ask for the forfeiture of the domain names.

Millions of post-seizure visitors to the sites saw the following banner notifying them that the sites had been seized:



Banner Appearing on Seized Websites

Quotes about the Prosecution



"Criminal copyright infringement occurs on a massive scale over the Internet," said **Preet Bharara, U.S. Attorney for the Southern District of New York.** "That translates into lost jobs and real hardships for ordinary working people. That's why we took today's action. If your business model is movie piracy, your story will not have a happy ending."

"We commend the action of ICE and the IPR Center in striking a significant blow against those who seek to profit from the copyrighted, intellectual property of others," said **Matthew D. Loeb, President of the International Alliance of Theatrical Stage Employees.** "The stealing of digital content is not a victimless crime; it's also the theft of tens of thousands of American jobs."

"We are facing a dramatic rise in the number of foreign and domestic Web sites that are in the business of making films and television shows—created by our members—available for illegal download or streaming," said **Kathy Garmezy, Associate Executive Director, Government & International Affairs, Directors Guild of America.** "If left unchecked, this illegal activity threatens the very ability of filmmakers to both earn a living and create the content that is enjoyed by billions around the world."

"U.S. business is under assault from those who pirate copyrighted material and produce counterfeit trademarked goods," said **ICE Director John Morton.** "Operation In Our Sites is a first-of-its-kind aggressive and strategic offensive that methodically targets counterfeiters on the Internet and those who pirate any copyrighted material."

At Our Borders

June and July saw two of the biggest cases involving counterfeit goods in U.S. history.

$100 Million in Counterfeit Goods from China: On June 10, 2010, two defendants were convicted of smuggling more than 300,000 fake luxury handbags and wallets from China bearing counterfeit trademarks of Coach, Burberry, Louis Vuitton, Gucci, Fendi, and Chanel. The defendants controlled 13 companies and operated eight factories in China and the counterfeit goods had an estimated value of more than $100 million. The defendants face a maximum of 30 years in prison and $4.75 million in fines. The case was investigated by ICE HSI and prosecuted by the U.S. Attorney's Office for the Eastern District of Virginia and the U.S. Department of Justice (DOJ's) Computer Crimes and Intellectual Property Section (CCIPS).

$100 Million in Counterfeit Goods from China; 11 arrests and 230,000 seized items: A crackdown on shops at Fisherman's Wharf in San Francisco generated $100 million in counterfeit seizures and resulted in 11 people indicted and 230,000 counterfeit items seized. On July 22, 2010, a federal grand jury charged eight shop owners with importing and selling fake designer apparel and accessories bearing the counterfeit trademarks of more than 70 companies, including Coach, Oakley, Nike, and Kate Spade. The investigation lasted over two years and began when U.S. Customs and Border Protection (CBP) intercepted a container from China at the Port of Oakland that contained 50,000 allegedly counterfeit designer accessories worth more than $22 million. In total, the investigation has led to the seizure of approximately $100 million worth of allegedly counterfeit merchandise imported from China. The defendants face a maximum of 20 years in prison for each smuggling count, 10 years in prison for each count of trafficking in counterfeit goods, and five years in prison for conspiracy. The case was investigated by ICE HSI and is being prosecuted by the U.S. Attorney's Office for the Northern District of California. The **U.S. Attorney for the Northern District of California, Melinda Haag,** said: "My office takes Intellectual Property theft seriously and will do everything in its power to bring to justice individuals who commit these crimes."

Port of Los Angeles/Long Beach Operation to Stop Counterfeit Exercise-Related Products: The Los Angeles Field Office for CBP has been conducting Operation Treadmill, targeting counterfeit exercise equipment entering the country through the sea port in Long Beach/Los Angeles, California (the nation's largest sea port). The Operation thus far has resulted in 25 seizures worth about $1.3 million. In connection with that Operation, on July 15, 2010, the U.S. Attorney's Office for the Central District of California obtained a conviction of a defendant for trafficking in counterfeit exercise equipment and for bribery. The defendant imported counterfeit exercise equipment (including that of Nautilus, Inc.) from China and attempted to bribe an ICE Special Agent, posing as a CBP Officer, to release the exercise equipment after it was seized. The defendant faces a maximum 90-year prison term and fines up to $12.5 million. The **U.S. Attorney for the Central District of California, André Birotte, Jr.**, emphasized that "[i]ntellectual property violators pose a threat to the jobs of American citizens, and those who try to smuggle their counterfeit goods through our ports will be prosecuted to the full extent of the law." **Special Agent in Charge of ICE HSI's Los Angeles Office, Claude Arnold**, echoed that point, stating: "This verdict should serve as a warning to those engaged in product counterfeiting and other types of commercial piracy." He further added that "[i]ntellectual property crimes like these not only result in the loss of untold U.S. jobs and revenues, but the importation of substandard or tainted products also poses a serious threat to consumers' health and safety." **CBP Acting Director of Field Operations for Long Beach/Los Angeles, Carlos Martel**, highlighted the collaborative work involved in Operation Treadmill: "Great teamwork made this operation a success. Operation Treadmill is a fine example of CBP leveraging internal and external partnerships to combat intellectual property rights violations." **Bill McMahon, a Senior Vice President at Nautilus, Inc.**, also emphasized that: "Nautilus is extremely grateful for the diligent and effective efforts of CBP and ICE personnel at the Long Beach/Los Angeles ports. Without their consistent efforts Nautilus would not have been able to stop the importation of these counterfeit and sub-standard products into the country. These efforts not only are an important part of supporting our intellectual property rights, but also in protecting the jobs of our employees whose positions depend on selling legitimate Nautilus products."

Quotes about the Prosecution

June 2010 Conviction for Counterfeit Luxury Handbags and Wallets

"The defendants convicted . . . led a massive counterfeit goods operation that stretched from China to New York," said **Assistant Attorney General Lanny A. Breuer.** "The Department of Justice will continue aggressively to prosecute intellectual property crimes and to protect business and consumers alike from those looking to cheat their way to a quick profit."

"This case is about economic identity theft and blatant disregard of the law," said **Neil H. MacBride, U.S. Attorney for the Eastern District of Virginia.** "These convictions reinforce the integrity of our nation's intellectual property laws that the Eastern District of Virginia is committed to enforcing."

"This landmark conviction represents the latest success of ICE in targeting intellectual property thieves," said **ICE Director Morton.** "Through the National Intellectual Property Rights Coordination Center, ICE will continue working to stem the flow of counterfeit goods into the commerce of the United States."

"Investigations and prosecutions by our federal law enforcement agencies are essential in protecting not only the intellectual property of brands, such as Coach, but in safeguarding America," said **Todd Kahn, General Counsel, Coach, Inc.** "Coach is well aware of the serious economic, health and safety risks that counterfeit goods pose to the American public. We are deeply grateful to the law enforcement agencies that pursue and stop counterfeiters."

Preventing American Innovation from Being Stolen and Used Overseas

Transfer of American Hybrid Vehicle Technology to a Chinese Company: On July 22, 2010, a former General Motors (GM) employee and her husband were arrested for trade secret violations and wire fraud. The indictment accused the defendants of taking GM trade secrets relating to hybrid-vehicle technology and using the information both to benefit their own company, and to provide the information to Chery Automobile, a Chinese automotive manufacturer and a competitor of GM. GM estimated the value of the trade secrets to be more than $40 million. The case was investigated by the Federal Bureau of Investigation (FBI) and is being prosecuted by the U.S. Attorney's Office for the Eastern District of Michigan. The **U.S. Attorney for the Eastern District of Michigan, Barbara L. McQuade**, said: "As our auto industry works to find new areas of innovation, such as hybrid technology, we will not tolerate the theft of our trade secrets from foreign competitors." She went on to emphasize: "We will aggressively prosecute people who steal from the investment that our auto industry has made in research and development."

Attempt to Transfer American Television Technology to China: On June 8, 2010, a former research chemist for DuPont pleaded guilty to trade secret theft. The defendant worked on Organic Light Emitting Diodes at DuPont. In 2009, when still working for DuPont, the defendant accepted a position at Peking University College of Engineering, Department of Nanotechnology, in China and then attempted to send documents detailing a proprietary chemical process and samples of chemical compounds to himself at the University. The case was investigated by the FBI and prosecuted by the U.S. Attorney's Office for the District of Delaware. The **U.S. Attorney for the District of Delaware, David C. Weiss**, stated: "We will continue to vigilantly enforce intellectual property offenses, particularly when such offenses involve the possible transmittal of sensitive trade secret information outside of the United States." The defendant faces a maximum prison term of 10 years and a fine of up to $250,000.

Quotes about the Prosecution

Trade Secret Cases

"Our attention to intellectual property law enforcement is central to protecting our nation's ability to remain at the forefront of technological advancement, business development, and job creation," said **Acting Deputy Attorney General Gary Grindler, Chair of the DOJ Task Force on Intellectual Property.** "Through enforcement actions such as these, and by working closely with federal, state and local partners to pursue an array of other IP crimes, the Justice Department will continue to protect our nation's economic vitality and public welfare."

"We remain committed to investigating and prosecuting individuals who exploit U.S. technologies for their own gain," said **Special Agent in Charge of the FBI for Delaware, Richard A. McFeely.**

Business Research and Development Survey indicates that, in 2008, U.S. R&D companies employed 27 million workers worldwide. 77% of the employees doing R&D work were employed in the U.S.

Building A Data-Driven Government

- The U.S. Department of Commerce Bureau of Economic Analysis Survey shows that royalty and licensing fees paid to America's innovators from overseas is on pace to reach $100 billion in 2010. Royalty and licensing fees paid to Americans doubled from 2003-2008 (from $48 billion to $93 billion).
- Exports in other intellectual property-intensive industries nearly doubled from 2003-2008. Income from exports of IT-related services, such as research and development and computer and database services, rose from $17.7 billion to just under $30 billion. Exports of medicines and pharmaceuticals rose from just over $20 billion to just over $40 billion.
- Business Research and Development Survey, developed by the National Science Foundation and the U.S. Census Bureau, reported that, in 2008, U.S. research and development companies employed 27 million total workers worldwide. The majority of employees doing research and development work (77%) were located in the U.S. National Science Foundation (July 8, 2010).

BEA
BUREAU OF ECONOMIC ANALYSIS
U.S. DEPARTMENT OF COMMERCE

Global Competitiveness:

- American innovators on pace to receive more than $100 billion in royalty and licensing fees in 2010 from overseas.
- From 2003-2008, exports of IT-related services and medicines and pharmaceuticals nearly doubled.

Transparency

Release of Joint Strategic Plan on Intellectual Property Enforcement

On June 22, 2010, the Obama Administration released the first Joint Strategic Plan on Intellectual Property Enforcement. The strategy was released at an event with Vice President Biden, IPEC Espinel, Attorney General Holder, Secretary Napolitano, Secretary Locke, Ambassador Kirk, CBP Commissioner Bersin, FDA Commissioner Hamburg, Undersecretary of State Hormats, and ICE Director Morton.

After announcing the release of the Joint Strategic Plan and after comments by the Vice President and IPEC Espinel, the Vice President met with the members of the cabinet and other attendees to discuss implementation of the Joint Strategic Plan.



Official White House Photo by David Lienemann

Congressional Testimony

- Senate Judiciary Committee Hearing about the Office of the IPEC and the Joint Strategic Plan: On June 23, 2010, IPEC Espinel testified before the Senate Judiciary Committee about the Joint Strategic Plan on Intellectual Property Enforcement, which the IPEC had released the previous day.
- House Foreign Affairs Committee Hearing about "Protecting U.S. Intellectual Property Overseas: The Joint Strategic Plan and Beyond:" On July 21, 2010, IPEC Espinel and ICE Director Morton testified about ways to protect U.S. intellectual property rights from international infringement.

Public Awareness

Counterfeit Pharmaceuticals

- **Counterfeit Drug Public Awareness Campaign and Public Service Ads (Tanzania):** In June and July 2010, the U.S. Embassy organized a high-profile awareness campaign on counterfeit medicines in partnership with the Tanzanian Fair Competition Commission at Tanzania's largest annual trade show, which included a related public service ad campaign.
- **Counterfeit Drug Public Awareness Program (Sudan):** On June 6, 2010, the U.S. Embassy hosted this program, attended by over 35 leading Sudanese doctors, pharmacists, pharmaceutical company officials, hospital authorities, university faculty members, international non-governmental organizations, law enforcement officials, and members of Sudan's Ministry of Health, as well as Sudanese radio and print journalists.

Organized Crime and Terrorism

- **IP Theft and International Organized Crime and Terrorism Symposium (U.S.):** On June 3, 2010, the IPR Center held the symposium, with presentations made by INTERPOL, ICE HSI, DOJ, Michigan State University, the RAND Corporation, the National Cyber Forensics and Training Alliance, the New York Police Department, and the City of London Police.

Internet Piracy

- **Meeting on Copyright Policy, Creativity, and Innovation in our Internet Economy (U.S.):** On July 1, 2010, the U.S. Patent and Trademark Office (USPTO) and the National Telecommunications and Information Administration held an all-day public meeting on copyright law in our internet economy, with speakers from the U.S. Government (including the IPEC) and private industry.

Industry Outreach

- **DOJ's 4th Annual IP Industry and Law Enforcement Conference (U.S.):** On June 16, 2010, DOJ held its fourth annual intellectual property conference, bringing together a broad range of intellectual property industries (pharmaceuticals, software, luxury goods, electronics, apparel, motion pictures, music, certification mark, consumer goods, and automobiles) to communicate with law enforcement agents and prosecutors responsible for intellectual property enforcement. Attorney General Holder, Assistant Attorney General (Criminal Division) Breuer, ICE Director Morton, FBI Deputy Assistant Director Jeff Troy, CBP Assistant Commissioner Daniel Baldwin, among others, spoke and more than 90 industry representatives participated.
- **Cyber and IP Crime Symposium (U.S.):** On June 8, 2010, the U.S. Attorney's Office for the District of New Jersey held a cyber and intellectual property crime symposium with Rutgers Law School. The symposium highlighted the importance of cooperation between law enforcement and private industry in fighting the theft of trade secrets and counterfeit trademarks and attracted over 180 attendees from private industry.

Ensuring Efficiency And Coordination

Coordination of Federal, State and Local Law Enforcement

- **LAPD Increases IP Arrests by Nearly 200%:** By June 2010, the efforts of the Los Angeles Police Department (LAPD's) Piracy Unit had resulted in 70 intellectual property crime-related arrests, which is a 192% percent increase over last year's total of 24 arrests year to date (YTD). DOJ, through Bureau of Justice Assistance (BJA), provided grants to the LAPD, which aided the Piracy Unit's efforts.
- **Virginia Cracks Down on the Sale of Counterfeit Goods:** In June 2010, Virginia's Intellectual Property Task Force executed 77 search warrants, made 15 arrests and seized 18,298 counterfeit items, worth more than $2.5 million at a local flea market. The intelligence from the investigation had a nexus with federal cases involving overseas and out-of-state crime groups. DOJ, through BJA, provided grants to the Task Force, which aided the Task Force's efforts.



LAPD arrests for IP offenses up nearly 200% so far this year.

- **North Carolina Increases Its Use of Technology to Fight Infringement:** In June 2010, North Carolina's Intellectual Property Task Force launched an initiative to provide new technology to local law enforcement. Task Force members across the state are now able to download the contents of suspects' cell phones in the field. This seized data (which might include contact lists, calls made and received, text messages, and pictures) are then fed into a database and analyzed in order to detect criminal enterprises and networks. Since June 1, 2010, this technology initiative has led to the seizure and analysis of 18 handheld communication devices and over $1.1 million worth of counterfeit goods from 49 suspects. The funding for this new initiative was made possible by a grant from the DOJ/BJA.
- **ICE Special Agents in Houston and Houston's Police Department Work Together to Target the Sale of Counterfeit Goods:** In April 2010, ICE established 22 Intellectual Property Theft Enforcement Teams (IPTETs) to help coordinate the efforts of federal, state, and local law enforcement. On July 22, 2010, an IPTET in Houston, Texas, comprised of ICE HSI agents and the Houston Police Department, conducted undercover operations at a boutique in Spring, Texas, resulting in the arrest of the owner on state charges. A total of 1,148 units of fake goods bearing counterfeit trademarks such as Coach, Nike, Prada, Dolce & Gabbana, Chanel, Versace, Juicy Couture, and Tiffany & Co. were seized and had a retail value of $400,976.

Enforcing Our Rights Internationally

- **ICE-Proposed Global Surge Against Counterfeit Drugs Organized Through the WCO:** ICE has been working successfully with the World Customs Organization (WCO) to focus attention on intellectual property enforcement. In June 2010, as a result of an ICE proposal, 38 countries agreed to coordinate a global surge against substandard and counterfeit pharmaceuticals distributed internationally, called Operation Mercury II. The countries participating included **Mexico, Russia, China (Hong Kong), Germany, Sweden, South Africa, France, Mozambique, Uganda and New Zealand.** The U.S. efforts were coordinated by the IPR Center.
- **U.S. Trains Mexican Officials on Using Technology to Crack Down on Intellectual Property Offenses:** From June 15-18, 2010, the U.S. Embassy and CCIPS held a seminar about criminal law for cyber crimes and intellectual property offenses, as well as basic technological concepts, including electronic evidence and online investigations.
- **Mexico Increases IP Enforcement Powers at the Border:** On June 28, 2010, the President of Mexico signed into law an expansion of ex officio authority for intellectual property enforcement. This new law will significantly increase Mexican intellectual property law enforcement powers at the border and will allow customs officials to seize counterfeit and pirate goods on their own authority. Lack of enforcement authority at the border had been a significant concern for the U.S. for many years as highlighted in the U.S. Trade Representative's Special 301 Report and the Anti-Counterfeiting Trade Agreement negotiations.

If you would like to subscribe to this newsletter in the future, please e-mail the Office of the IPEC at IntellectualProperty@omb.eop.gov. If you would like more information about the Office of IPEC, including a copy of the 2010 Joint Strategic Plan on Intellectual Property Enforcement, please visit our website at http://www.whitehouse.gov/omb/intellectualproperty.

OCTOBER 2010 EDITION

Intellectual Property Spotlight



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Introduction

I want to welcome you to our second IPEC IP Spotlight, highlighting the significant work of the U.S. Government in August and September. As you can see, it has been a busy two months. We are working hard to implement the Joint Strategic Plan on Intellectual Property Enforcement and to find innovative ways to fight infringement.

We also need your help and input. President Obama has set a goal to double exports in five years. Our ability to increase exports depends on Americans being able to fairly compete overseas. The U.S. Department of Commerce (DOC) is asking the public, including exporters and potential exporters, for their views about: (1) the challenges in protecting their innovation or enforcing their intellectual property rights overseas; (2) how well the U.S. Government is doing to support our businesses' intellectual property; and (3) what the U.S. Government can do better.

The Internet has helped drive our economic growth. Lowering barriers to entry and creating global distribution channels, the Internet has opened markets and opportunities for American companies, including small-and-medium sized businesses, allowing them to reach consumers across the globe. The Internet, however, has also allowed piracy and counterfeiting to occur on an unprecedented and global scale. DOC's Internet Policy Task Force is analyzing the relationship between the availability and protection of online copyrighted works and innovation in the Internet economy. As part of those efforts, DOC wants input from the public, including as to: (1) rightholders' experiences detecting or preventing infringement; (2) rightholders' experiences with intermediaries; and (3) Internet users experiences and awareness of infringement. The U.S. Trade Representative (USTR) also wants input from the public for its 2010 Special 301 Out of Cycle Review of Notorious Markets. Notorious markets are those where counterfeit or pirated products are prevalent, and include not only physical markets, but also Internet markets.

Finally, USTR recently concluded the final round of Anti-Counterfeiting Trade Agreement (ACTA) negotiations, and is close to having a historic agreement in place. We congratulate USTR on their efforts and encourage you to take a look at the current draft ACTA language, a link to which is embedded in this paragraph.

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

Building a Data-Driven Government

Kickoff Economic Analysis Interagency Meeting: Under the 2010 Joint Strategic Plan on Intellectual Property Enforcement – which we released in June – the U.S. Government committed to analyze the economic contributions of intellectual property industries, including the number of jobs and exports supported by those industries. On September 13, the IPEC and DOC Chief Economist Mark Doms led the first interagency meeting to discuss measuring those contributions. Participants included senior economists from the Office of Management and Budget, National Economic Council, the Council of Economic Advisors, Office of Science and Technology Policy, the National Science Foundation, the Bureau of Labor Statistics, USTR, DOC, U.S. Department of the Treasury, and the U.S. Department of Justice (DOJ).

Securing Our Supply Chain

Health and Safety

Defendants Charged with Selling Counterfeit Integrated Circuits for Use by U.S. Military: On September 14, two defendants were arrested for trafficking in counterfeit integrated circuits, including military-grade integrated circuits. One of the defendants owned, and the other helped run, VisionTech Components (www.visiontechcomponents.com), which allegedly sold counterfeit integrated circuits, including military-grade circuits. Integrated circuits control the flow of electricity. Military-grade integrated circuits are higher priced circuits subject to more testing and required to withstand extreme temperatures and/or vibration. According to the indictment, the defendants smuggled counterfeit integrated circuits and military-grade circuits from China for three years, selling more than $15 million worth, including those for use by the U.S. military. For example, the defendants allegedly sold 1,500 counterfeit integrated circuits meant for a missile system and 75 counterfeit integrated circuits meant for antenna equipment for a naval aircraft identification system. The case is being prosecuted by the U.S. Attorney's Office for the District of Columbia and was investigated by U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI), U.S. Naval Criminal Investigative Service (NCIS), the U.S. Postal Inspection Service (USPIS), the Internal Revenue Service–Criminal Investigation, the U.S. Department of Transportation–Office of the Inspector General, and General Services Administration–Office of the Inspector General.

Joint Operation to Stop Counterfeit Network Hardware from Being Imported from China: Earlier this year, DOJ announced Operation Network Raider, a combined effort by DOJ, the Federal Bureau of Investigation (FBI), U.S. Customs and Border Protection (CBP), and ICE HSI to combat the sale and importation of counterfeit computer network hardware from China. The Operation resulted in more than **30 convictions** and the seizure of more than **$143 million** in counterfeit goods. The Southern District of Texas obtained two of those convictions. In the most recent case, the defendant, using the business name Syren Technology, imported and sold purported Cisco products to, among others, the Federal Aviation Administration, the U.S. Marine Corps, the U.S. Air Force, and the Federal Bureau of Prisons. On September 7, the court sentenced him to serve 30 months in prison. The case was investigated by CBP and ICE HSI. **José Angel Moreno, United States Attorney for the Southern District of Texas** said: "Importation of counterfeit technology products from China and elsewhere victimizes both the companies which developed the intellectual property that is being counterfeited and the end users, particularly our men and women in uniform, who receive the inferior counterfeit products which can threaten entire computer networks and our national security. We will continue our efforts to investigate and prosecute these cases in order to protect American companies, workers and consumers." **Acting Special Agent in Charge, ICE HSI Houston, John Connolly**, added: "The importation and introduction into the mainstream economy of counterfeit computer network hardware is a direct threat to our national security and infrastructure." **Mark Chandler, Senior Vice President, General Counsel, and Secretary of Cisco** said that Cisco was grateful to the U.S. law enforcement agencies "for their relentless dedication to protecting the innovation of American workers and businesses. Counterfeiting is a serious crime that impacts the global high-tech industry, its customers and partners. The success of this case sends a strong message that the U.S. government and our industry remain steadfast in our collective efforts to detect, deter and dismantle the manufacturing, distribution and trafficking of counterfeit goods."

33-Month Prison Sentence for the Sale of Counterfeit Cancer Drugs: On August 25, the court sentenced a defendant to 33 months in prison for selling counterfeit cancer drugs. Using the website DCAdvice.com, the defendant sold counterfeit pills of the experimental cancer drug sodium dichloroacetate to at least 65 victims in the U.S and elsewhere. The case was investigated by the FBI and prosecuted by the U.S. Attorney's Office

Quotes about the Prosecution

Defendants Charged with Selling Counterfeit Integrated Circuits for Use by U.S. Military

U.S. Attorney for the District of Columbia, Ronald Machen, Jr. said: "Product counterfeiting, particularly of the sophisticated kind of equipment used by our armed forces, puts lives and property at risk. This case shows our determination to work in coordination with our law enforcement partners and the private sector to aggressively prosecute those who traffic in counterfeit parts."

"Selling counterfeit components marketed as 'military-grade' to the U.S. Department of Defense and its contractors endanger the lives of our military personnel," said **ICE Director John Morton**. "VisionTech was more interested in lining their own pockets than protecting our troops." ICE HSI remains "vigilant in the protection of the U.S. public and particularly our warfighters."

"NCIS continues to aggressively pursue individuals who sell counterfeit goods to the Department of the Navy, as it undermines the Navy's ability to defend the nation," said **Sandy MacIsaac, Special Agent in Charge, NCIS Washington D.C. Office**. "This case represents how close coordination and partnership between NCIS, ICE and [DOJ] can achieve success in thwarting defective material from entering the Navy's supply chain."

for the District of Arizona and DOJ's Computer Crime and Intellectual Property Section (CCIPS). **Dennis Burke, U.S. Attorney for the District of Arizona**, noted that the defendant "used the Internet to victimize people already suffering from the effects of cancer. Now he will go to prison for this bogus business and heartless fraud." Added **Nathan Gray, Special Agent in Charge, FBI Phoenix Division**: "Today's sentencing illustrates international law enforcement partners working together to send a message not to use the Internet to perpetuate fraud, especially against those afflicted with a serious medical condition."

Conviction for Smuggling Counterfeit Pills Containing Substance Used to Make Sheetrock: On September 2, a jury convicted a defendant of conspiring with people in China to traffic in counterfeit medicine. In early 2010, CBP discovered 6,500 counterfeit Viagra pills in two packages at a mail facility in San Francisco that were being sent to the defendant's address. After further investigation and the defendant's arrest, the pills were tested and found to contain a substance used to manufacture sheetrock. The case was investigated by CBP, ICE HSI, the Food and Drug Administration (FDA), and the USPIS and prosecuted by the U.S. Attorney's Office for the Southern District of Texas. **Moreno, United States Attorney for the Southern District of Texas** said: "Counterfeit pharmaceuticals place the public at risk and this case is an example of law enforcement coming together to protect consumers." **Gary Barksdale, Inspector in Charge, Houston Division, USPIS** stated: "Counterfeit pharmaceuticals threaten public safety because consumers can't be certain what they're getting." He added that this conviction "demonstrates how law enforcement agencies working together can and do provide a safe environment for the American public." **Connolly, Acting Special Agent in Charge, ICE HSI Houston**, agreed: "The investigation into this type of criminal activities is an example of U.S. law enforcement coming together to combat the illicit counterfeit pharmaceutical industry." **John Clark, Vice President and Chief Security Officer for Pfizer** added: "Law enforcement is a key partner in our global efforts to dismantle counterfeiting operations. We applaud the outstanding work and collaboration by various law enforcement agencies that worked together to successfully investigate and prosecute" this case.

Conviction for the Sale of Counterfeit Pet Flea and Tick Pesticides: On August 31, a defendant pleaded guilty to trafficking in counterfeit pesticides over the internet. Merial Corporation manufactures "Frontline" and "Frontline Plus," flea and tick pesticides for dogs and cats. A customer bought purported Frontline products from the defendant's eBay store, Catsmartplus, but reported the case to authorities after one of her cats got sick. The investigation revealed that, over two years, the defendant sold 3,759 counterfeit Frontline products for more than $170,000. The case was investigated by the Environmental Protection Agency (EPA) and prosecuted by the U.S. Attorneys' Offices for the Central District of California and the District of Rhode Island. **André Birotte Jr., U.S. Attorney for the Central District of California**, said: "Counterfeit products like these pose a danger not only to our beloved cats and dogs, who are often like family members for us, but also pose a danger to people that come in contact with them." **Nick Torres, Special Agent in Charge, EPA's Office of Criminal Enforcement, Pacific Southwest Region** echoed that point: "Pesticides contain toxic chemicals that are subject to rigorous testing and registration designed to ensure their safe use." Because of the serious injury that counterfeit pesticides can cause, he stated that "individuals who knowingly sell and distribute counterfeit pesticides will be vigorously prosecuted."

Preventing American Innovation from Being Stolen and Used Overseas

Indictment for Economic Espionage Involving U.S. Agricultural Secrets Transferred to China: On August 31, a defendant made his initial appearance on charges of economic espionage involving the theft of trade secrets from Dow AgroSciences (a subsidiary of Dow Chemical Company). According to the indictment, since 1989, Dow spent a substantial amount researching and developing organic insect control and management products that are sold throughout the world. From 2003 until February 2008, the defendant, a Chinese national, was employed as a research scientist by Dow in Indiana. The indictment alleges that, when working at Dow, the defendant stole 12 trade secrets related to these organic insect products. According to the indictment, after leaving Dow, the defendant published an article containing Dow's trade secrets through Hunan Normal University (HNU) in China, the research for which was funded by the National Natural Science Foundation of China (NSFC). Both HNU and NFSC are foreign instrumentalities of the People's Republic of China. The indictment alleges that the defendant also directed individuals at HNU to conduct research using Dow's trade secrets, which was also funded by the NFSC. The case was investigated by the FBI and is being prosecuted by the U.S. Attorney's Office for the Southern District of Indiana and CCIPS.

Conviction for the Attempted Transfer of Trade Secrets to China: On September 1, a former chemist at Valpsar Corporation pleaded guilty to stealing trade secrets. Since 2006, the defendant worked as a Technical Director at Valspar in Illinois. Between September 2008 and February 2009, he negotiated employment with Nippon Paint to work in Shanghai, China and ultimately accepted a position as Vice President of Technology and Administrator of Research and Development. The defendant did not inform Valspar of his new position; instead, during and after his negotiations, the defendant used his access to Valspar's secured computers to download 160 secret formulas for paints and coatings, as well as

Quotes about the Prosecution

Indictment for Economic Espionage Involving U.S. Agricultural Secrets Transferred to China

Assistant Attorney General Lanny Breuer said: "Economic espionage robs our businesses and inventors of hard-earned, protected research, and is particularly harmful when the theft of these ideas is meant to benefit a foreign government. The protection of our trade secrets and all intellectual property is vital to the economic success of our country, and our leadership in innovation."

Daniel Cloyd, FBI Assistant Director, Counterintelligence Division, added: "The FBI dedicates resources to uncover and bring to justice those who commit economic espionage. Individuals who misappropriate trade secrets with the intent to benefit foreign governments or their instrumentalities are priority targets."

chemical formulas and calculations, sales and cost data, product research, and other information. Valspar valued the trade secrets between $7 million to $20 million. The defendant purchased a plane ticket to China, but the FBI arrested him before he could leave the Chicago airport. The case was investigated by the FBI and prosecuted by the U.S. Attorney's Office for the Northern District of Illinois. **Cloyd, FBI Assistant Director, Counterintelligence Division**, said: "As evidenced by this successful prosecution, the FBI vigorously investigates theft of trade secrets cases to safeguard innovation and intellectual property." Said **Andrew Ubel, Chief Intellectual Property Counsel, Valspar**: "We are extremely grateful to the FBI for quickly responding to Valspar and taking decisive action to prevent our valuable trade secrets from being illegally transported to China by our former employee. We also commend the actions of the United States Attorney's Office and appreciate the staff's efforts in successfully prosecuting this crime and securing a conviction."

Federal Coordination with State and Local Law Enforcement

Arrests for Conspiracy to Import More than 1 Million Counterfeit Goods from China: On September 30, authorities arrested seven defendants for trafficking in counterfeit goods, including those bearing fake trademarks of Coach, Prada, and Gucci. The arrests took place after **authorities executed 11 federal and state search warrants** over 36 hours in New York and Rochester, New York and Secaucus, New Jersey, resulting in the seizure of 23 tractor trailer loads of suspected counterfeit goods. ICE HSI estimates that the conspiracy involved the importation of more than 1 million counterfeit goods from China over the last year. The case was investigated by ICE HSI (New York and New Jersey) and the New York State Police and is being prosecuted by the U.S. Attorney's Office for the Western District of New York. **Lev Kubiak, Special Agent in Charge, ICE HSI Buffalo** said: "[I]ndividuals who engage in trafficking of counterfeit goods are on notice that [HSI] agents will use all of the investigative tools at our disposal to arrest and bring them to justice."

ICE HSI and Local Police in Los Angeles Join to Crack Down on Counterfeit Goods: ICE has been conducting Operation Fire Sale, targeting the sale of counterfeit goods in several major U.S. cities. On August 31, as part of that Operation, federal and local law enforcement concluded a week-long sweep to crack down on counterfeit goods in Los Angeles, which resulted in the **arrests of more than 32 people, the seizure of more than 96,000 counterfeit goods and products worth more than $16 million**, and the seizure of equipment used to manufacture counterfeit apparel. The sweep involved the coordinated efforts of ICE HSI, the Los Angeles County Sheriff's Department, the Los Angeles, Garden Grove, and Torrance Police Departments, and investigators from the Riverside District Attorney's Office. The goods seized bore the counterfeit trademarks of more than 30 well-known companies, including Ray Ban, Nike, and Chanel. A search of a warehouse in Santee Alley resulted in the largest single seizure, with nearly $9.8 million in counterfeit goods discovered.

Quotes about the Prosecution

ICE HSI and Local Police in Los Angeles Join to Crack Down on Counterfeit Goods





Claude Arnold, Special Agent in Charge, ICE HSI Los Angeles, said: "Commercial piracy and counterfeiting undermine the U.S. economy, rob America of jobs, stifle American innovation, and promote other types of crime."

Los Angeles County Sheriff Lee Baca added: "By conducting these sweeps, we hope to increase global awareness of the negative impact of organized intellectual property crimes. These criminals cost society billions of dollars in lost government revenues, foreign investment and local business profit."

Houston IPTET Seizes $1.13 Million in Pirated DVDs: In the last Spotlight, we highlighted the seizure of counterfeit goods by an Intellectual Property Theft Enforcement Team (IPTET) in Houston, Texas, comprised of ICE HSI agents and Houston Police Department officers. In September, that same IPTET conducted a joint operation at a local flea market, resulting in the arrest of four defendants and the seizure of approximately $1.13 million of pirated DVDs.

NW3C and DOJ Join for IP Summit in Pasadena: On September 30, DOJ, the U.S. Attorney's Office for the Central District of California, and the National White Collar Crime Center (NW3C) held a one-day Intellectual Property Crime Summit entitled: **Real Crime-Real American Jobs: Why You Should Care About Intellectual Property Rights.** The Summit was held in Pasadena, CA, brought together state and local law enforcement and industry representatives, and was designed to provide information about intellectual property crime and enforcement, including its damaging effects on the economy, the health and safety risks it poses, and its relationship with gangs, organized crime, and terrorism. At the Summit, DOJ announced that it awarded $4 million in grants to state and local government for intellectual property enforcement during Fiscal Year 2010.

USPTO Provides Free Certified Copies of Trademark Registration Certificates: The U.S. Patent and Trademark Office (USPTO) has launched a website for federal, state and local prosecutors to request free and expedited certified copies of trademark registration certificates.

Mississippi IP PSAs: With the assistance of grants from DOJ's Bureau of Justice Assistance, in September, the Mississippi Attorney General's Office launched a series of statewide televised public service announcements about the economic harm and safety risks of counterfeit goods.

Transparency

Public Awareness

Counterfeit Pharmaceuticals

- **Brazil Seminar on Counterfeit Medicines:** On September 13-14, the U.S. Embassy in Brazil organized a counterfeit medicines seminar with the University of Sao Paulo and the Brazilian Federal Council of Pharmacy (licensing body for pharmacists), focusing on the health and safety threats posed by counterfeit pharmaceuticals.
- **Guinea Seminar on Counterfeit Medicines:** On September 13, the U.S. Embassy partnered with Guinea to host a seminar to increase public awareness about counterfeit drugs. Attendees included those from pharmaceutical associations, medical professionals, and customs officials.
- **USPTO Partners with CARICOM to Protect Health and Safety:** On September 13-15, USPTO organized an assistance program in Trinidad on combating counterfeits that impact health and safety (including drugs) for officials from the Caribbean Community (CARICOM).

Internet Piracy

- **IPLEC Holds Two-Day Videoconference Training in Romania:** Intellectual Property Law Enforcement Coordinator (IPLEC) Matthew Lamberti held a two-day internet piracy video training for more than 200 intellectual property police officers and prosecutors in Bucharest.
- **APEC Intellectual Property Meeting in Japan:** From September 6-9, USPTO provided advice on the enforcement of intellectual property rights, including as to illegal camcording and signal piracy. USPTO also commissioned a study on the connection between camcording and Internet and DVD piracy in Asia-Pacific Economic Cooperation (APEC) economies.

Small and Medium Sized Businesses

- **DOC ITA Expands Assistance to Small-and-Medium-Sized Businesses:** In September 2010, DOC's International Trade Administration, in partnership with the American Bar Association, expanded its international intellectual property advisory program by adding Kenya, Ghana, Mozambique, Angola, Senegal, Nigeria, Colombia, Mexico, Indonesia, Vietnam, Turkey, Saudi Arabia, and South Africa. The program allows American small-and-medium-sized businesses to consult for free with an attorney about protecting and enforcing their intellectual property rights.

Industry Outreach

- **FBI Los Angeles Partners with Private Sector:** On September 16, the FBI's Los Angeles Field Office hosted the inaugural meeting of its Intellectual Property Loss Mitigation Program (IPLM Program), which is designed to address the concerns and needs of rightholders and law enforcement agencies in Southern California, including in areas affecting health, safety and exploitation by organized criminal groups. The next general meeting is planned for January 20.

DOC provides free consultations with attorneys for small-and-medium-sized businesses to help them protect and enforce their intellectual property rights in 19 countries.

Enforcing Our Rights Internationally

Extraditions

Extradition from Latvia: On August 20, two defendants were each sentenced to 24 months in prison for conspiring to make and sell counterfeit slot machines and computer programs. One of the defendants, a Cuban national, was arrested on June 8, 2009, in Latvia. On October 23, 2009, he became the first person extradited under a new extradition treaty between the U.S. and Latvia, which became effective that April.

Extradition from Germany: As noted above, on August 25, the court sentenced a defendant from Canada to 33 months in prison for selling counterfeit cancer drugs. Although a Canadian citizen, the defendant was arrested in Germany and extradited to the U.S. under the U.S. extradition treaty with Germany.

Foreign Cooperative Agreements

ICE Director Morton Enters into Agreement with China: After lengthy negotiations with the Chinese Ministry of Public Security (MPS), on September 14, ICE Director Morton and MPS Director General Meng Qing-fing signed a Letter of Intent to enhance cooperation between the two agencies to combat intellectual property crime and money laundering.

ICE Director Morton Enters into Agreement with Korea: On September 13, ICE Director Morton signed a Memorandum of Understanding (MOU) with Prosecutor General Joon Gyu Kim of the Republic of Korea. The MOU emphasized the importance of conducting joint investigations, including for intellectual property crimes.

Cooperative Law Enforcement Efforts

U.S./Mexico Operation Targets Illicit Health and Safety-Related Items: On September 18, DHS concluded Operation Safe Summer, a joint Operation between DHS and Mexican officials, which was coordinated by the National Intellectual Property Rights Coordination Center (IPR Center). The Operation targeted health and safety-related items smuggled through international mail branches and express courier facilities in both countries. In the U.S., the Operation resulted in more than 800 seizures worth an estimated millions of dollars and, in Mexico, it resulted in the seizure of **more than 300 tons of counterfeit goods.**

Cooperation and Outreach

China: During September, the U.S. Government met with Chinese officials, held roundtables and seminars in China, and provided training to Chinese officials, including:

- From August 28 to September 4, Rep. Hank Johnson (GA), Rep. Jerrold Nadler (NY), Rep. Jim Sensenbrenner (WI), Rep. Marsha Blackburn (TN) and USPTO officials, including Deputy Director Sharon Barner, held meetings in Shanghai, Shenzhen, and Beijing.
- On September 7, the U.S. Embassy in Guangzhou, China trained senior police officials from nine countries at the Sixth INTERPOL and Korea Copyright Commission Intellectual-Property-Crime Training Seminar in Seoul, South Korea.
- On September 8, Undersecretary of State (Economics, Energy, and Agriculture), Robert Hormats, held a roundtable on intellectual property enforcement in China with the American Chamber of Commerce.
- From September 7-11, the Director and Deputy Director of the IPR Center traveled to Hong Kong to discuss intellectual property enforcement with the U.S. Embassy and Hong Kong law enforcement.
- On September 13, USPTO, the U.S. Chamber of Commerce, and the State Intellectual Property Office (the Chinese equivalent of USPTO) held a roundtable on Chinese patent law.
- From September 13-18, the head of ICE, Director Morton, traveled to China to meet with his counterparts. Director Morton's visit to China was the first time the head of ICE had traveled to Mainland China.
- On September 14-15, USPTO and USTR met with Chinese officials to discuss progress on a variety of intellectual property-related matters in preparation for the next session of the Intellectual Property Rights Working Group and its associated Vice Ministerial meeting. The US-China Joint Commission on Commerce and Trade (JCCT), meets annually at the Secretarial level (U.S.) and Ministerial level (China).
- On September 20, USPTO, along with Chinese and European Union groups, held a workshop on bad faith trademark registration issues in China.
- On September 28-29, USPTO collaborated with the Russian Federal Customs Service, as part of their annual Russia Customs Conference on intellectual property. Over 100 Russian and Chinese customs officials were trained on best practices for border enforcement of intellectual property.



In September, **ICE Director Morton** became the first head of ICE to travel to Mainland China. During that trip, he entered an agreement with the Chinese Ministry of Public Security to enhance cooperation between the two agencies to combat intellectual property crimes.

Working with INTERPOL, USPTO Provides Training for Latin America: In September, INTERPOL coordinated with USPTO's intellectual property attaché to conduct a four-day training in Colombia, which brought together police, customs, and prosecutors from Latin America, as part of INTERPOL's ongoing Operation Jupiter. On October 1, INTERPOL announced that Operation Jupiter resulted in more than **600 arrests** and the seizure of more than **$50 million in counterfeit goods** over the last six months.

Thailand Conference on Conducting IP Investigations: From August 30 to September 2, the U.S. Embassy in Bangkok hosted an intellectual property investigations training conference for 45 attendees from Thai Police and Customs agencies on best practices.

Latin American Copyright Program: USPTO held a Latin America Copyright Legal and Policy Seminar, bringing together senior and mid-level government officials from the Dominican Republic, Guatemala, Nicaragua, Honduras, El Salvador, Costa Rica, Chile and Peru.

GIPA Hosts Study Tour for Thai Judges: The Global Intellectual Property Academy (GIPA), in coordination with the Royal Embassy of Thailand in Washington, D.C., and the Central Intellectual Property and International Trade Court in Bangkok, organized a two-week program in August for 15 judges of the Thai Central Intellectual Property and International Trade Court and the Thai Supreme Court. The program focused on the role of the judiciary in intellectual property disputes, both civil and criminal, with an emphasis on copyright and trademark matters.

If you would like to subscribe to this newsletter in the future, please e-mail the Office of the IPEC at IntellectualProperty@omb.eop.gov. If you would like more information about the Office of IPEC, including a copy of the 2010 Joint Strategic Plan on Intellectual Property Enforcement, please visit our website at http://www.whitehouse.gov/omb/intellectualproperty.

DECEMBER 2010 EDITION

Intellectual Property Spotlight



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Introduction

This month marks the one-year anniversary of my being confirmed by the Senate as the U.S. Intellectual Property Enforcement Coordinator. Six months ago, we submitted to Congress the Administration's first strategy on intellectual property enforcement. Since that time, we have been hard at work implementing the strategy. We have taken some exciting steps.

I want to highlight one of those recent steps. Working with agencies across the U.S. Government, my office hosted a series of meetings with private companies that provide services to online pharmacies to help increase cooperation among them and with law enforcement to take voluntary action against illegal online pharmacies. On Dec. 14, at the White House Intellectual Property Health and Safety Forum, a group of private sector partners —American Express, eNom, GoDaddy, Google, MasterCard, Microsoft, Paypal, Neustar, Visa, and Yahoo!—announced that they will work to form a new nonprofit entity with other private sector participants to take appropriate voluntary action against illegal pharmaceutical websites. This effort is the first of its kind to combat illegal online pharmacies and it is an important first step in our efforts to facilitate voluntary and cooperative efforts in the private sector. With this announcement, the U.S. Government sent an important signal to governments and the global marketplace by demonstrating an approach that combines aggressive enforcement of rights with working closely and cooperatively with the private sector on effective voluntary enforcement efforts.

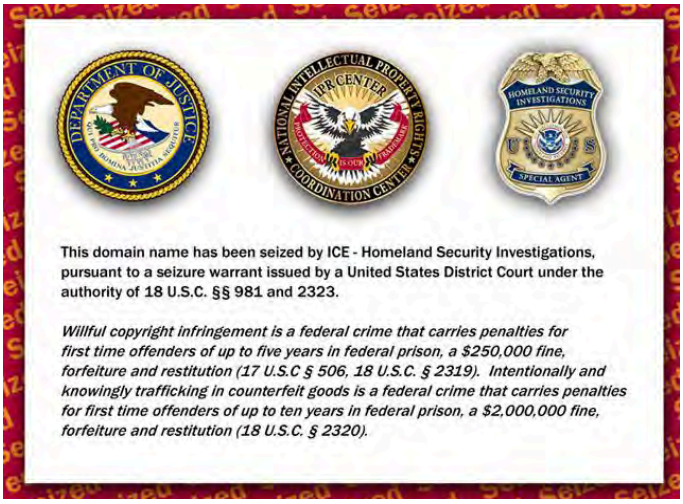
I look forward to continuing to work with the federal agencies, the public, and Congress in 2011.

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

Securing Our Supply Chain

Online Piracy

Operation In Our Sites v. 2.0: On Nov. 29 (Cyber Monday), U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and the U.S. Department of Justice (DOJ) announced the second operation under Operation in Our Sites. ICE HSI and DOJ targeted websites selling counterfeit products that consumers may have otherwise bought as holiday gifts, including sports equipment, athletic apparel, handbags, and sunglasses, seizing the domain names of 82 websites. As was done with the previous Operation in Our Sites, potential customers who entered the domain name for the seized websites saw the following banner:



Banner Appearing on Seized Websites

The Operation was led by the IPR Center and involved DOJ's Computer Crime and Intellectual Property Section (CCIPS) and Asset Forfeiture and Money Laundering Section. Nine U.S. Attorneys' Offices worked on the Operation: the Central District of California, Colorado, the District of Columbia, the Middle District of Florida, New Jersey, the Northern District of Ohio, the Southern District of New York, the Southern District of Texas, and the Western District of Washington.

Health and Safety

Conviction for Selling Counterfeit Integrated Circuits for Use by U.S. Military: In the October Spotlight, we highlighted the indictment of two defendants for trafficking in counterfeit integrated circuits, including those for use by the military. On Nov. 19, one of the defendants pleaded guilty, agreeing to cooperate. The case is being prosecuted by the U.S. Attorney's Office for the District of Columbia and was investigated by six agencies. **Ronald C. Machen Jr., U.S. Attorney for the District of Columbia,** said: "All counterfeiting threatens our economy, but this case is especially serious because counterfeiting of sophisticated components used by our military can endanger lives, threaten the success of missions, and degrade our systems and result in costly repairs and untimely system failures. We will continue to target anyone who seeks to profit selling counterfeit goods to our military and other industry sectors." **Brian Toohey, President, Semiconductor Industry Association** emphasized: "Counterfeit semiconductors embedded in critical electronic systems and infrastructure such as aircraft, medical equipment, and the nation's power grid, are a ticking time bomb that can fail at an inopportune time with tragic consequences. The industry wants to work closely with law enforcement to stop counterfeits from entering the country and prosecute those who traffic in counterfeit semiconductors."

Operation Network Raider: As noted in the October Spotlight, DOJ announced Operation Network Raider, a combined effort by DOJ, the Federal Bureau of Investigation (FBI), U.S. Customs and Border Protection (CBP), and ICE HSI to combat counterfeit computer network hardware from China. As part of that Operation, two defendants (and their companies) who were convicted of selling counterfeit Cisco products to the U.S. government in the Southern District of Texas were recently added to GSA's Excluded Parties List System, preventing them from obtaining U.S. government contracts. And, on Nov. 8 and Dec. 9, the latest Operation Network Raider defendants pleaded guilty to selling more than $1 million worth of counterfeit Cisco products that they imported from China and sold over the Internet. The case was investigated by the FBI and ICE HSI and prosecuted by the U.S. Attorney's Office for the District of Kansas. In total, Operation Network Raider has resulted in more than 30 convictions and the seizure

Quotes about the Prosecution



Version 2.0

U.S. Attorney General Eric H. Holder, Jr. said: "For far too long, the theft of innovative ideas or sale of counterfeit, defective, and dangerous goods has been perceived as 'business as usual.' Not anymore. IP crimes threaten economic opportunities and financial stability. They destroy jobs. They suppress innovation. And they can jeopardize the health and safety of the men and woman we are sworn to protect. With today's seizures, we are disrupting the sale of thousands of counterfeit items. We are cutting off funds to those looking to profit from the sale of illegal goods and exploit the ingenuity of others."

"Many of the sites selling counterfeit goods were outright fraud designed to dupe the online shopper into believing that the site was authorized and that the goods being sold were real," emphasized **ICE Director John Morton.** "The sale of counterfeit U.S. brands on the Internet steals the creative work of others, costs our economy jobs and revenue and can threaten the health and safety of American consumers. The protection of intellectual property is a top priority for [HSI] and the [IPR Center]."

of more than $143 million in counterfeit goods. **FBI Assistant Director Gordon M. Snow** said: "Individuals who break the law by attempting to profit from counterfeit technology do the marketplace great harm. This case illustrates how effectively the private sector and law enforcement organizations work together to combat fraudulent goods and preserve the integrity of U.S. computer networks and infrastructure."

26-Month Prison Sentence for Selling Electronic Equipment with Counterfeit "UL" Safety Stamp: On Nov. 22, a federal judge sentenced a defendant to serve 26 months in prison, in part, for the sale of counterfeit goods. As a result of the investigation, authorities seized more than $7 million worth of counterfeit goods, including dangerous and substandard electronic power strips containing counterfeit Underwriter Laboratories (UL) trademarks (a trademark associated with the safety of electronic equipment). The case was prosecuted by the U.S. Attorney's Office for the Eastern District of California and investigated by the U.S. Secret Service (USSS), the Internal Revenue Service, the Placer County Sheriff's Office, the Galt Police Department, and the Sacramento Police and Sheriff Departments. Said **Chris Gangemi, Senior Vice President and General Counsel, UL:** "There are no simple answers to the complexities of organized counterfeiting, but this is another example of how the coordinated efforts of industry, federal agencies, and local law enforcement can be an effective deterrent against IP crime." He praised the work of the law enforcement agencies involved in the case and emphasized that "[t]ogether, they've helped protect the safety of consumers from the potential hazards associated with goods bearing counterfeit UL Marks." **Kenneth Jenkins, Special Agent in Charge, USSS, Criminal Investigation Division (CID)** added: "The Secret Service, through it's participation on various task forces, strongly supports the investigation of intellectual property violations."

Three Defendants Were Sentenced for Trafficking in Counterfeit and Dangerous Products: Recently, three defendants were sentenced for a scheme to trafficking in dangerous counterfeit goods. On Nov. 5, a federal judge sentenced two warehouse operators to serve 24 months in prison and 18 months in prison for trafficking in counterfeit UL products (such as outlet power strips and extension cords). UL tested the counterfeit products, determining that, with a normal amount of electricity, the insulation could melt in short order, causing a fire (Previously, on Aug. 11, a man connected to the warehouse operators was sentenced to serve 37 months in prison for trafficking in counterfeit Trojan condoms; that defendant had over one million counterfeit conducts, which failed testing, and were determined by the FDA to be dangerous). Three additional defendants await sentencing: Two have admitted to trafficking in counterfeit condoms and one admitted to trafficking in counterfeit UL products. Another defendant, who was indicted for trafficking in counterfeit condoms and UL products, remains a fugitive and is believed to be in China. In total, $5 million in counterfeit goods has been seized, including 2.7 million counterfeit condoms and 45,000 counterfeit power strips and extension cords. The case was investigated by ICE HSI and the FDA and prosecuted by the U.S. Attorney's Office for the Eastern District of New York.

Quotes about the Prosecution

Three Defendants Sentenced for Trafficking in Counterfeit and Dangerous Products

"Prosecuting those who would traffic in counterfeit goods is vital to protecting the health and safety of the community. We remain dedicated to vigorously enforcing intellectual property laws," said **Loretta E. Lynch, U.S. Attorney for the Eastern District of New York.**

Said **Mark Dragonetti, Special Agent in Charge, FDA Office of Criminal Investigations, New York:** The FDA "will continue to work together with other government entities to aggressively target those individuals who put the public's health at risk by selling counterfeit products for their own personal profit, and we commend the United States Attorney's Office for their prosecution of this matter."

"Individuals who engage in trafficking of counterfeit goods are on notice that [HSI] agents will use all the investigative tools at our disposal to arrest them and bring them to justice," emphasized **James T. Hayes, Jr., Special Agent in Charge, ICE HSI, New York.**

Gangemi, Senior Vice President and General Counsel, UL stated: "UL is grateful for the diligent and effective efforts of the U.S. Attorney's Office, ICE HSI and the FDA. Without their consistent efforts, UL would not have been able to stop the distribution of these counterfeit and sub-standard products into the country. These efforts not only are an important part of supporting our intellectual property rights, but also in keeping potentially dangerous counterfeit products from getting into consumer hands."

Use of Forced Labor

Defendants Charged With Using Forced Labor to Traffic in Counterfeit Goods: On Nov. 17, three defendants were charged with, among other offenses, smuggling aliens into the U.S., harboring them, and forcing them to sell pirated CDs and DVDs. The indictment alleges that the defendants used verbal and physical abuse and threats of force to compel the aliens to sell pirated goods until their debts for smuggling them into the U.S. had been paid. The case was investigated by the ICE HSI, the FBI, the U.S. Department of State–Diplomatic Security Service, the Harris County Sheriff's Office, and the Texas Attorney General's Office. The case is being prosecuted by the U.S. Attorney's Office for the Southern District of Texas. **José Angel Moreno, U.S. Attorney for the Southern District of Texas,** said: "Driven by greed, these defendants mistreated and abused the victims of human trafficking after enticing them to come to Houston with promises of employment and a better life. Forced to sell counterfeit goods to repay their smuggling fees and earn their freedom, bootleg CDs and DVDs became the shackles of the victims of this modern day slavery."

Theft and Attempted Theft of Innovation

Transfer of American Automobile Technology to a Chinese Company: On Nov. 17, a former employee of Ford Motor Company pleaded guilty to two counts of stealing trade secrets. The defendant, a Chinese national, worked as a product engineer for Ford for 10 years. In 2006, he accepted a position at the China branch of a U.S. company. The defendant copied 4,000 Ford documents onto an external hard drive, including sensitive design documents. Later, in November 2008, the defendant began working for Beijing Automotive Company, a direct competitor of Ford. The defendant was arrested after returning to the U.S. in October 2009, and a search of his company laptop revealed 41 Ford design specification trade secrets, all of which defendant had accessed during his employment with Beijing Automotive Company. As part of a plea agreement, the defendant agreed that he caused Ford between $50 to $100 million worth of harm. Under that agreement, the defendant faces a sentence of between 63-78 months in prison. The case was investigated by the FBI and prosecuted by the U.S. Attorney's Office for the Eastern District of Michigan.

Law Enforcement Stops Transfer of American Pharmaceutical Trade Secrets to India: On Nov. 5, a former employee of Bristol-Myers Squibb pleaded guilty to theft of trade secrets. The defendant, who was employed in Bristol Myers' management training program, stole trade secrets from the company to advance a competing venture he had created in his native India. He communicated with an individual he believed was an investor, and brought the trade secrets to a meeting with that person, leading to the defendant's arrest. The case was investigated by the FBI and ICE HSI and prosecuted by the U.S. Attorney's Office for the Northern District of New York. **Richard Hartunian, U.S. Attorney for the Northern District of New York** said: "Thefts of trade secrets seriously threaten the substantial investments, innovations and ideas of entrepreneurs and businesses. Such thefts present a special danger where the stolen property will unfairly benefit foreign competitors. This case demonstrates our commitment to vigorously prosecute individuals who steal valuable trade secrets and undermine intellectual property rights."

Transfer of American Source Code to China: On Nov. 10, three defendants were charged with conspiracy to possess stolen trade secrets. One defendant served as the director of software development for SiRF Technology, Inc., one was a software engineer for the same company, and one was a senior field applications engineer. SiRF designed and developed software source code for use in location-based services (for cell phones and other products). The defendants were charged with using the trade secrets stolen from SiRF to start a rival company in the U.S. and China. The case was investigated by the USSS and is being prosecuted by the U.S. Attorney's Office for the Northern District of California. "The Secret Service has a long history of partnering with other law enforcement and the private sector to investigate and prevent this kind of criminal activity," said **Jenkins, Special Agent in Charge, USSS CID.** "The theft of intellectual property, such as trade secrets, corporate ideas and legitimate products, can have a significant impact on the nation's financial systems."

Theft of High-Volume Trading Code: On Nov. 19, a jury found a former trader at Societe Generale in New York guilty of stealing trade secrets and interstate transportation of stolen property. Societe Generale—one of France's largest banks—spent millions of dollars developing a computer system and associated code to allow it to engage in high-volume trading. As a result of a promotion to the high-volume trading group, the defendant obtained access to some of the code and printed out hundreds of pages of it. Around that time, the defendant accepted on offer of employment with a competing company and gave the computer code to the competitor. The case was investigated by the FBI, and prosecuted by the U.S. Attorney's Office for the Southern District of New York. **Preet Bharara, U.S. Attorney for the Southern District of New York,** said: The defendant "was a thief who hoped to make a small fortune by stealing and copying sophisticated computer code that was the equivalent of gold bullion to his former employers. Today's verdict sends a clear message that this Office and the FBI will investigate and prosecute the theft of valuable trade secrets for the serious crime that it is." **FBI Assistant Director Snow** added: "The FBI will continue to aggressively investigate and prosecute individuals, to include insiders who steal proprietary information from their employers and attempt to sell it to competitors."

Quotes about the Prosecution

Transfer of American Automobile Technology to a Chinese Company

"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, the U.S. Attorney for the Eastern District of Michigan.**

Special Agent In Charge, FBI, Detroit, Andrew G. Arena added: "Michigan, as well as the rest of the United States, is significantly impacted by the auto industry. Theft of trade secrets is a threat to national security and investigating allegations involving theft of trade secrets is a priority for the FBI. The FBI will continue to aggressively pursue these cases."

"The protection of trade secrets, patents and other forms of intellectual property is vital to investment, production and job creation here in the U.S.," emphasized **Leo Gerard, International President, United Steelworkers. "**This case is just but one example of the need for vigilance and strong enforcement of IPR. If companies are going to make large investments to compete in the global economy, they need to know that their ideas and processes are protected. IPR theft robs both workers and industries of their competitive advantage. **Quite simply, strong IPR enforcement is a jobs issue.**"

David Hirschmann, President and CEO, Global Intellectual Property Center, U.S. Chamber of Commerce agreed: "Intellectual property theft—including the theft of trade secrets—is detrimental to America's economic growth. **Protecting intellectual property and job creation go hand in hand and in this economic downturn, we simply cannot afford to allow these crimes to stall our economic recovery.** We applaud the Justice Department for standing up for the American workers by its continued commitment to IP enforcement."

Counterfeit Good and Piracy Sentencings

In October and November, a number of defendants were sentenced to serve time in prison for intellectual property crimes including:

- 48-Month Prison Sentence: On Oct. 19, a federal judge sentenced a defendant to serve 48 months in prison for camcording movies at theaters and distributing pirated DVDs in his store. The case was investigated by ICE HSI and prosecuted by the U.S. Attorney's Office for the Eastern District of Virginia.
- 41-Month Prison Sentence: In the August Spotlight, we highlighted a conviction for the sale of counterfeit exercise equipment and bribery resulting from Operation Treadmill at the Long Beach/Los Angeles sea port. On Oct. 25, a federal judge sentenced the defendant to serve 41 months in prison. The case was investigated by CBP and ICE HSI and prosecuted by the U.S. Attorney's Office for the Central District of California.
- 37-Month Prison Sentence: On Oct. 1, a federal judge sentenced a defendant to serve 37 months in prison for selling counterfeit goods in his store in Iowa. The case was investigated by ICE HSI and the Clinton Police Department and prosecuted by the U.S. Attorney's Office for the Southern District of Iowa.

Federal Coordination with International Organizations to Fight Intellectual Property Crime

The IPR Center initiated two recent cross-border enforcement actions through the World Customs Organization (WCO) and INTERPOL:

- Operation Pangea III: Between Oct. 5 and 12, **more than 40 countries** participated in Operation Pangea III, targeting counterfeit pharmaceuticals sold over the Internet. INTERPOL, the WCO, and other international organizations coordinated the Operation. Participation increased from 24 countries last year to 45 countries this year and included Canada, China and Hong Kong, Mexico, Russia, and the U.S. The Operation resulted in the seizure of more than **one million counterfeit drugs, worth more than $2.5 million,** and **the takedown of almost 300 websites.**
- Operation Global Hoax: In October, the IPR Center announced the results of Operation Global Hoax, a **42-country Operation** coordinated through the WCO. The Operation targeted counterfeit goods shipped through international mail and courier facilities and resulted in the seizure of more than 142,000 counterfeit DVDs, 28,000 counterfeit CDs, and 271,000 other counterfeit items. **Kunio Mikuriya, Secretary General of the WCO** said: "Using postal and express courier channels to move tens of thousands of counterfeit and pirated goods across the world is increasingly being exploited by criminal traders. Operation Global Hoax, which targeted the use of this means of transport for illegal goods yielded outstanding results, and is a clear demonstration of the Customs community's resolve to fight these global gangsters in partnership with all our key stakeholders." Added **ICE Director Morton:** "We thank the WCO for agreeing to coordinate this operation and facilitate the cooperation of so many member countries."

Quotes about the Prosecution

Operation Pangea III



ICE Director Morton said: "Operations like this highlight why international partnerships are such an essential weapon in the fight against trafficking of counterfeit pharmaceuticals."

CBP Commissioner Alan Bersin said that this Operation "is a testament to what partnership can accomplish."

Federal Coordination with State and Local Law Enforcement

Operation Knock Out Knock-Offs: With the help of funding from DOJ's Bureau of Justice Assistance (BJA), the Mississippi Attorney General's Office launched Operation Knock Out Knock-Offs, which involved the creation of a state intellectual property task force and education campaign. As a result of the task force, on Nov. 18, more than 100 federal, state, and local agents executed more than 30 search warrants in Mississippi for counterfeit drugs, including the sale of counterfeit prescription pain medication, antibiotics, and birth control. The Operation involved the U.S. Attorneys' Offices for the Northern and Southern Districts of Mississippi, ICE HSI, the FDA, the Mississippi Attorney General's Office, and others. Said **Mississippi Attorney General Jim Hood:** "By partnering with federal and local officials, we can help protect consumers from dangerous fakes."

Houston IPTET Seizes More than $2.5 Million of Counterfeit Goods: In the August and October Spotlights, we cited the work of the Houston Intellectual Property Theft Enforcement Team (IPTET), consisting of ICE HSI agents and Houston Police Department officers. On Oct. 29, that IPTET launched another significant action, searching three businesses, seizing more than $2.5 million of counterfeit goods, and arresting seven suspects.

State and Local Law Enforcement Trainings: BJA, the National White Collar Crime Center (NW3C), and the National Association of Attorneys General (NAAG) recently kicked off a series of intellectual property trainings for state and local law enforcement. Future trainings are scheduled for Jan. 20 in Austin, Texas, and Feb. 16 in Baldwin Park, California.



In October, Attorney General Holder met in China with officials to press them on intellectual property enforcement.

Counterfeit Pharmaceuticals

- **Voluntary Action by the Private Sector to Combat Illegal Online Pharmacies:** After meetings hosted by the IPEC, American Express, eNom, GoDaddy, Google, MasterCard, Microsoft, Paypal, Neustar, Visa, and Yahoo! announced that they will work to form a nonprofit with other private sector participants to take appropriate voluntary action against illegal online pharmacies.
- **White House IP Health and Safety Forum:** On Dec. 14, the IPEC held a White House intellectual property health and safety forum featuring, among others, the IPEC, Attorney General Holder, DHS Secretary Janet Napolitano, ICE Director Morton, and private sector representatives from across industries.
- **Campaign Against Counterfeit Medicines:** The U.S. Department of State (DOS) has launched its "Campaign Against Counterfeit Medicines." On Oct. 18 & 21, the U.S. Embassies in Sri Lanka and Kenya conducted the first two in a series of workshops as part of this campaign.
- **Fighting Fake Drugs in Guatemala:** With funding from DOS, from Nov. 16-17, DOJ hosted the first in a series of Latin American workshops in Guatemala on counterfeit drugs. The workshop resulted in a public-private working group to combat counterfeit drugs in Guatemala by streamlining the process for testing suspect medicines, developing prosecutorial and judicial handbooks for use in counterfeit drug cases, and pooling information collected on suspected contraband.

Enforcing Our Rights Internationally

- ACTA Text Finalized: USTR, with the assistance of other federal agencies, concluded the final ACTA negotiations on Nov. 15, and the text of ACTA was finalized on Dec. 3. To review that text, click on the link above.
- **Special 301 Process for Philippines and Thailand:** In November, USTR initiated a special review of the status of intellectual property protection and enforcement in the Philippines and Thailand under the "Special 301" process.

China

- **Attorney General and IPEC Met with Officials in China about IP Enforcement:** During the week of October 18, Attorney General Holder and the IPEC met with officials in China about intellectual property enforcement.
- **JLG-Related IP Meeting in China:** From Nov. 28 to Dec. 2, U.S. and Chinese officials gathered in Beijing for a meeting of the Intellectual Property Criminal Enforcement Working Group, as part of the Joint Liaison Group for Law Enforcement Cooperation.

Russia and Eastern Europe

- **Russian Duma Passes Customs Law:** On Nov. 19, the Russian Duma passed its new customs law, giving ex officio authority to customs officials. This change in law was negotiated as part of the 2006 U.S./Russia Bilateral Agreement on IPR.
- **IP Trainings and Conferences:** In October and November, USPTO held a conference in Moscow on the "Commercialization and Enforcement of IP," a workshop on intellectual property enforcement in Moscow—with participants from Russia, Armenia, and Ukraine—and an intellectual property training for 33 Eastern European and Commonwealth of Independent States countries.



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.

APPENDIX 4

LIST OF ACRONYMS

ACT	Anti-Corruption and Transparency, Asia-Pacific Economic Cooperation Forum
ACTA	Anti-Counterfeiting Trade Agreement
ACTPN	President's Advisory Committee on Trade Policy and Negotiations
APEC	Asia-Pacific Economic Cooperation Forum
AUSA	Assistant U.S. Attorney
BJA	Bureau of Justice Assistance, U.S. Department of Justice
CARICOM	Caribbean Community
CBP	U.S. Customs and Border Protection, U.S. Department of Homeland Security
CCIPS	Computer Crime and Intellectual Property Section, U.S. Department of Justice
CEE	Pharmaceutical Center of Excellence and Expertise, U.S. Customs and Border Protection
CIAC	Certification Industry Against Counterfeiting
CLDP	Commercial Law Development Program, U.S. Department of Commerce
DEA	Drug Enforcement Administration
DHS	U.S. Department of Homeland Security
DOC	U.S. Department of Commerce
DoD	U.S. Department of Defense
DOJ	U.S. Department of Justice
EEB	Bureau of Economic, Energy and Business Affairs, U.S. Department of State
ESA	Economic and Statistics Administration, U.S. Department of Commerce
EU	European Union
FBI	Federal Bureau of Investigation
FDA	Food and Drug Administration
FY	Fiscal Year
GIPA	Global Intellectual Property Academy
GPS	Global Positioning System
GSA	General Services Administration

HSI	Homeland Security Investigations, U.S. Immigration and Customs Enforcement
ICE	U.S. Immigration and Customs Enforcement
INL	Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State
INTERPOL	International Criminal Police Organization
IOC-2	Organized Crime Intelligence and Operations Center
IPE	Office of International Intellectual Property Enforcement, U.S. Department of State
IPEC	Intellectual Property Enforcement Coordinator, Executive Office of the President
IPLEC	Intellectual Property Law Enforcement Coordinator
IPR Center	National Intellectual Property Rights Coordination Center
IPTET	Intellectual Property Theft Enforcement Teams, U.S. Immigration and Customs Enforcement
IT	Information Technology
ITA	International Trade Administration, U.S. Department of Commerce
ITC	U.S. International Trade Commission
JCCT	U.S.- China Joint Commission on Commerce and Trade
JLG	U.S.- China Joint Liaison Group for Law Enforcement Cooperation
KIPO	Korean Intellectual Property Office
MAC	Market Access and Compliance
MOC	Memorandum of Cooperation
MPS	Ministry of Public Security, People's Republic of China
MSRP	Manufacturer's Suggested Retail Price
NAAG	National Association of Attorneys General
NASA	National Aeronautics and Space Administration
NCPC	National Crime Prevention Council
NW3C	National White Collar Crime Center
OCI	Office of Criminal Investigations, Food and Drug Administration
OCR	Out of Cycle Review, Special 301 Process
OCRS	Organized Crime and Racketeering Section, U.S. Department of Justice
OIPR	Office of Intellectual Property Rights, U.S. Department of Commerce
OJP	Office of Justice Programs, U.S. Department of Justice

OMB	Office of Management and Budget, Executive Office the President
OPDAT	Office of Overseas Prosecutorial Development, Assistance and Training, U.S. Department of Justice
OSTP	Office of Science and Technology Policy, Executive Office of the President
PRO-IP Act	Prioritizing Resources & Organization for Intellectual Property Act (2008)
QHSR	Quadrennial Homeland Security Review
SME	Small and Medium Sized Enterprise
TPP	Trans-Pacific Partnership Agreement
UL	Underwriters Laboratories, Inc.
USAID	U.S. Agency for International Development, U.S. Department of State
USPIS	U.S. Postal Inspection Service
USPTO	U.S. Patent and Trademark Office
USSS	U.S. Secret Service
USTR	U.S. Trade Representative, Executive Office of the President
VIPPS	Verified Internet Pharmacy Practice Sites, National Association of Boards of Pharmacies
WCO	World Customs Organization
WIPO	World Intellectual Property Organization
WTO	World Trade Organization