2012 U.S. INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR JOINT STRATEGIC PLAN

TWO YEAR ANNIVERSARY

JUNE 2012

Table of Contents

Fact Sheet ii

Introduction 1

Increase in Law Enforcement 1

Voluntary Agreements and Best Practices 1

Legislative Recommendations 2

Ensuring Efficiency and Coordination 2

Enforcing U.S. Intellectual Property Rights Internationally 3

Report on Intellectual Property and the U.S. Economy 4

New Joint Strategic Plan on Intellectual Property Enforcement 4

Fact Sheet

Two years ago today, on June 22, 2010, we issued the Administration's Joint Strategic Plan on Intellectual Property Enforcement. Since then, the U.S. Government has made significant progress in improving protection of American technology, creative works, and brands.

Increase in Law Enforcement: U.S. law enforcement continues to aggressively fight counterfeiters, pirates, and those who seek to steal American innovation. Between FY 2009 and FY 2011:

- U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) increased seizures from 14,841 in FY 2009 to 24,792 in FY 2011, an increase of 67 percent. Seizures of fake consumer safety and critical technology merchandise rose by 183 percent, and counterfeit pharmaceutical seizures rose nearly 600 percent.
- ICE reported a 66 percent increase in opened intellectual property cases, 116 percent increase in arrests, 206 percent increase in indictments, and 77 percent increase in convictions.
- The Federal Bureau of Investigation (FBI) increased intellectual property investigations by 56 percent.

Voluntary Agreements and Best Practices: The Administration believes that voluntary approaches to combating online infringement can have a significant impact on reducing online piracy and counterfeiting, including illegal online fake "pharmacies." We have facilitated voluntary agreements to "quarantine" sites engaged in counterfeiting and piracy by working cooperatively with credit card companies, domain name registrars, and online advertisers.

Legislative Recommendations: In March 2011, IPEC issued the Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations that set forth a number of legislative recommendations. Two were signed into law as part of the National Defense Authorization Act of 2012:

- Increased penalties for counterfeit goods or services sold to or for use by the military or national security applications, and
- Grant of explicit authority to CBP to share information to help determine if suspected counterfeit semiconductors, electronics, or other products are genuine.

Ensuring Efficiency and Coordination: There has been significant progress in agency coordination and ensuring that we are using our resources in the most efficient manner. In FY 2010, law enforcement turned a modest 5 percent increase in intellectual property enforcement spending into a 33 percent increase in seizures of counterfeit and pirated merchandise. In FY 2011, ICE, CBP, and FBI collectively increased spending on intellectual property enforcement by less than 9 percent, but significantly increased seizures, investigations, arrests, and indictments over FY 2010, including a nearly 200 percent increase in counterfeit pharmaceuticals seizures.

Enforcing U.S. Intellectual Property Rights Internationally: President Obama, Vice President Biden, Secretaries Clinton, Geithner, and Bryson, Attorney General Holder, Ambassadors Kirk and Locke, and other senior Administration officials have directly and repeatedly pressed our trading partners to significantly improve its intellectual property enforcement. We have seen recent law enforcement successes working with foreign countries, and China has made new recent commitments to improve enforcement.

Report on Intellectual Property and the U.S. Economy: On April 11, 2012, the U.S. Department of Commerce released an economic report demonstrating the importance of intellectual property to the country's economy. The report, Intellectual Property and the U.S. Economy: Industries in Focus, is the first of its kind and makes clear that intellectual property is a key driver of our economy. In fact, nearly 30 percent of all U.S. jobs are directly or indirectly attributable to IP-intensive industries.

Introduction

It has been two years since my office issued the Joint Strategic Plan on Intellectual Property Enforcement, which set forth thirty-three action items organized under six overarching principles that contribute to protecting innovation, strengthening the economy, supporting American jobs, and promoting exports in intellectual property-related sectors. I am pleased to share highlights of our successes over the past two years. The accomplishments detailed here underscore the Administration's continued focus on and dedication to strong intellectual property enforcement.

Increase in Law Enforcement

U.S. law enforcement continues to aggressively fight counterfeiters, pirates, and those who seek to steal American innovation to gain an upper hand in the global marketplace. Highlights over the past two years include:

- U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) increased seizures of counterfeit pharmaceuticals by almost 600 percent, from 181 in FY 2009 to 1,239 in FY 2011; fake consumer safety and critical technology merchandise by 183 percent; and overall seizures by 67 percent in that same time period.
- ICE Homeland Security Investigations increased the number of new intellectual property investigations by 66 percent, arrests by 116 percent, indictments by 206 percent, and convictions by 77 percent from FY 2009 to FY 2011.
- In FY 2011, the FBI increased new trade secret theft investigations by 29 percent, health and safety investigations by 87 percent, and pending health and safety intellectual property cases by 96 percent over FY 2010. Overall, the FBI increased intellectual property investigations by 56 percent.
- Department of Justice increased its focus on economic espionage and trade secret theft. In FY 2011 intellectual property cases, the number of sentences of 60+ months and 37-60 months have doubled and tripled, respectively, over FY 2010.
- "Operation in Our Sites" is the first ever coordinated and sustained law enforcement effort to target websites that distribute counterfeit and pirated goods. In 2010, two operations were conducted, resulting in the seizure of 136 domain names of infringing websites. In 2011, six operations were conducted, resulting in the seizure of 270 domain names, of which 248 were seized for distributing counterfeit hard goods and 22 for illegal distribution of copyrighted content.

Voluntary Agreements and Best Practices

As an Administration, we have adopted the approach of encouraging the private sector to reach cooperative voluntary agreements to reduce infringement that are practical, effective, and consistent with our commitment to broader Internet policy principles such as due process, free speech, and privacy. Examples of the voluntary agreements encouraged and facilitated by the Administration include the following:

- In December 2010, as a result of the Administration's strategy to combat illegal online pharmacies, American Express, Discover, eNom, GoDaddy, Google, MasterCard, Microsoft (Bing), Network Solutions, PayPal, Visa, and Yahoo! announced that they would form a non-profit group — later named the Center for Safe Internet Pharmacies — to combat illegal fake online "pharmacies."

- In June 2011, American Express, Discover, MasterCard, PayPal and Visa — major credit card companies and payment processors — reached an agreement to develop voluntary best practices to withdraw payment services for sites selling counterfeit and pirated goods.
- In July 2011, a voluntary agreement was finalized among several ISPs — AT&T, Comcast, Cablevision, Verizon, and Time Warner Cable — and major and independent music labels and movie studios to reduce online piracy.
- In May 2012, the Association of National Advertisers and the American Association of Advertising Agencies issued a joint statement of best practices to address online infringement.

Legislative Recommendations

In March 2011, IPEC issued the Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations that set forth 20 legislative recommendations designed to strengthen intellectual property enforcement. In the 2011 session of Congress, eleven bills were introduced that incorporated recommendations from the Administration's White Paper, and two of the recommendations have been enacted into law. On December 31, 2011, President Obama signed into law the National Defense Authorization Act of 2012, which includes provisions that (1) increase penalties for counterfeit goods or services sold to or for use by the military or national security applications, and (2) grant CBP explicit authority to share information to help determine if suspected counterfeit semiconductors, electronics, or other products are genuine. These specific pieces achieve key objectives in the Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations.

Ensuring Efficiency and Coordination

There has been significant progress in agency coordination and ensuring that we are using our resources in the most efficient manner.

- In FY 2010, law enforcement turned a modest 5 percent increase in spending on intellectual property enforcement into a 33 percent increase in seizures of counterfeit and pirated merchandise.
- In FY 2011, ICE, CBP, and FBI collectively increased spending on intellectual property enforcement by less than 9 percent. Yet ICE and CBP increased intellectual property seizures of counterfeit pharmaceuticals by nearly 200 percent, fake consumer safety and critical technology merchandise by 44 percent, and overall seizures by 24 percent compared to FY 2010. FBI also increased investigations, arrests, and indictments over FY 2010.
- The Department of Justice's Bureau of Justice Assistance grant program increased coordination in FY 2011 among federal, state, and local authorities to enforce intellectual property rights. The program has been a significant success with state and local law enforcement grantees having seized at least $202 million worth of infringing merchandise since October 2009 — over 18 times the value of the grants ($10.9 million) distributed as of December 2011.
- The National Intellectual Property Rights Coordination Center, a multi-agency task force that coordinates intellectual property enforcement of member agencies, continued to maximize precious resources by "de-conflicting" cases: vetting investigatory activities throughout the law enforcement community to ensure that resources are not duplicated and wasted. The number of cases de-conflicted increased from 544 in FY 2010 to 2,877 in FY 2011, an increase of 429 percent.

Enforcing U.S. Intellectual Property Rights Internationally

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

- President Obama and Vice President Biden have repeatedly pressed China's leaders in several forums for better intellectual property enforcement, including meetings with Chinese President Hu Jintao and Vice President Xi Jinping. The Administration's continued push at the highest levels has resulted in new recent commitments by China to improve its enforcement efforts.
- Secretaries Clinton, Geithner, and Bryson, Attorney General Holder, U.S. Trade Representative Ron Kirk, Ambassador Locke, ICE Director John Morton, Under Secretary of State Robert Hormats, and other senior Administration officials have directly and repeatedly pressed China and other countries to do much more to combat intellectual property theft.
- During this year's U.S.-China Strategic and Economic Dialogue, China recognized the importance of increasing the sales of legitimate IP-intensive products and services within its borders, and it committed to promote the use of legal software by Chinese enterprises. China further agreed to increase enforcement against thieves who would steal trade secrets from foreign companies, and it committed to treat intellectual property owned or developed in other countries the same as that developed in China.
- In May 2012, President Obama and the other members of the G8 leadership released a Joint Statement firmly declaring the pressing need for diligent protection and enforcement of intellectual property rights. The statement has a strong expression of support for voluntary best practices, and we will work with our trading partners to encourage additional action to protect intellectual property.
- In February 2011, the Office of the U.S. Trade Representative (USTR) released its first-ever Special 301 Out-of-Cycle Review of Notorious Markets. The report increased public awareness of and guided trade-related enforcement actions markets that exemplify the problem of global piracy and counterfeiting. In December 2011, USTR released its second Out-of-Cycle Review of Notorious Markets, which reflected the landmark licensing agreement between Baidu, a leading Chinese search engine listed in the report, and U.S. music companies.
- As an example of international enforcement efforts, the National Intellectual Property Rights Coordination Center carried out Operation Pangea III in 2010 and Operation Pangea IV in 2011, a global law enforcement initiative focused on websites supplying illegal and dangerous medicines. The level of international participation has dramatically increased, from 24 countries in 2009 to 45 countries in 2010 and ultimately 81 countries in 2011.
- The Anti-Counterfeiting Trade Agreement (ACTA), signed on October 1, 2011 by the United States and seven other countries, is a first-of-its-kind alliance of trading partners. ACTA represents a considerable improvement in international trade norms for effectively combating the global proliferation of commercial-scale counterfeiting and piracy in the 21st Century.

Report on Intellectual Property and the U.S. Economy

On April 11, 2012, the U.S. Department of Commerce, working with the President's Council of Economic Advisors and the chief economists of the Office of the U.S. Trade Representative, Department of Labor, and other Federal agencies, released an economic report identifying the full range of sectors that generate intellectual property, as well as the jobs, exports, and wage premiums those sectors support. The report, Intellectual Property and the U.S. Economy: Industries in Focus, was prepared by the Economic and Statistics Administration and the U.S. Patent and Trademark Office. It is the first of its kind and makes clear that intellectual property is a key driver of our economy:

- IP-intensive industries create 27.1 million jobs and indirectly support another 12.9 million jobs – 40.0 million jobs in total. Nearly 30 percent of all U.S. jobs are directly or indirectly attributable to IP-intensive industries.
- The average weekly wage in IP-intensive industries overall was 42 percent higher in 2010 than in other non IP-intensive private industries. Wage premiums stood at 73 percent for patent industry jobs and 77 percent for copyright industry jobs.
- Goods from IP-intensive industries account for over 60 percent of all US exports.
- In 2010 alone, IP-intensive industries accounted for about $5.06 trillion in value added, or nearly 35 percent of U.S. GDP.
- IP-intensive jobs are clustered in three areas: on the West Coast, primarily in California; on the East Coast, primarily to the north; and in the upper central Midwest. The most IP-intensive states are California, Minnesota, Wisconsin, New Jersey, Massachusetts, Connecticut, Rhode Island, Vermont, and New Hampshire.

New Joint Strategic Plan on Intellectual Property Enforcement

We are beginning the process of developing the Administration's new Joint Strategic Plan on Intellectual Property Enforcement for submission to the President and Congress. The Joint Strategic Plan will govern and drive the Administration's efforts for the next three years. IPEC strongly believes public participation in the process is an important component of developing an effective strategy. Accordingly, IPEC will engage in a number of public outreach efforts to assist with developing the Joint Strategic Plan, and a Federal Register Notice is forthcoming.