OFFICE OF THE UNITED STATES INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR

JULY/AUGUST 2012 EDITION

Intellectual Property Spotlight



Contents

Introduction 1
Health and Safety 2
Theft of Innovation 3
Securing Our Supply Chain 3

Introduction

Several events in July and August featured proposals from the Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations:

On July 9, President Obama signed into law the Food and Drug Administration Safety and Innovation Act, which includes provisions that enhance penalties for trafficking in counterfeit drugs and allows the Food and Drug Administration (FDA) to destroy, without the opportunity to export, counterfeit drugs distributed in small packages.

On August 1, the U.S. House of Representatives approved The Foreign and Economic Espionage Penalty Enhancement Act of 2012 (H.R. 6029), a bill that would bolster criminal penalties for economic espionage.

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

Health and Safety



President Obama Signs Food and Drug Administration Safety and Innovation Act Into Law

On July 9, President Obama signed into law the Food and Drug Administration Safety and Innovation Act. It incorporates several of the legislative recommendations from the Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations. The Act enhances penalties for trafficking in counterfeit drugs, and it directs the U.S. Sentencing Commission to review and amend, if appropriate, its guidelines and policy statements related to counterfeit drugs. The Act also allows the FDA to require that companies notify the Agency if their drug has been counterfeited or stolen, and it permits the FDA to destroy, without the opportunity to export, counterfeit drugs distributed in small packages (valued at $2,500 or less).

Center for Safe Internet Pharmacies Holds Launch Event

On July 23, the Center for Safe Internet Pharmacies (CSIP) launched at a formal event held in Washington, D.C. CSIP is the non-profit group formed to combat illegal fake online "pharmacies" — criminals masquerading as legitimate pharmacies. CSIP's founding member companies include American Express, Discover, eNom, GoDaddy, Google, MasterCard, Microsoft, Neustar, PayPal, Visa, and Yahoo! Recently, CSIP added Facebook as a member company.

A variety of speakers from the Federal government and member companies participated in the July launch event, including Robert Hormats, Under Secretary of State for Economic Growth, Energy, and the Environment; John Roth, Director, FDA Office of Criminal Investigations; Noah Hanft, General Counsel, Corporate Secretary, and Chief Integrity Officer, MasterCard; Mary Snapp, Corporate Vice President and Deputy General Counsel, Microsoft; and Scott Blake Harris, General Counsel, Neustar. The event highlighted CSIP's mission: to promote and encourage safe online pharmacies through education, enforcement, and information sharing. CSIP also took the opportunity to debut its public service announcement video, titled "Be Safe, Buy Smart."

ICE-HSI and FDA Partner with Local Puerto Rico Law Enforcement to Seize $18M in Counterfeit Contact Lenses and Merchandise

Special agents with U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and officers from the FDA, the Puerto Rico Police Department, the San Juan Police Department, and the Puerto Rico Department of Health's Office of Investigations seized more than $18 million in counterfeit contact lenses and merchandise during the execution of 17 federal search warrants in eight different municipalities of Puerto Rico.

Major Overseas Supplier of Counterfeit Pharmaceuticals Pleads Guilty to Federal Charges

On July 19, a notorious counterfeit pharmaceutical offender pleaded guilty to supplying counterfeit erectile dysfunction pills and now faces up to 30 years in prison and $6 million in fines. The individual — a New Zealand physician based in China — was originally indicted in December 2007, but remained at large until March 29, 2012. He was taken into custody at San Francisco International Airport by CBP officers following his arrival on a flight from Hong Kong. The original investigation was spearheaded by ICE, in conjunction with the FDA.

(ICE-HSI, CBP, FDA, USAO C.D. Cal.)

Theft of Innovation

House Passes Foreign and Economic Espionage Penalty Enhancement Act of 2012

On August 1, the U.S. House of Representatives approved the Foreign and Economic Espionage Penalty Enhancement Act of 2012 (H.R. 6029), a bill that would bolster criminal penalties for economic espionage.

This bill incorporates a number of White Paper recommendations that the Administration sent to Congress last year. Those recommendations included 1) increasing the statutory maximum for economic espionage and the theft of trade secrets for the benefit of a foreign entity from 15 years to 20 years; 2) raising the fine that can be imposed from $500,000 to a maximum fine of $5 million and 3) criminal penalty enhancements for passing trade secret information that would benefit a foreign government. These reflect the seriousness of such offenses and the potential damage that they wreak on the economic security of the United States.

The Senate has a companion bill (S. 678) with similar language as H.R. 6029.

Securing Our Supply Chain

Google Updates Its Search Algorithms

On August 10, Google announced that it will incorporate valid copyright removal notices into its search algorithms, moving infringing sites down in search results. This voluntary measure should make it harder to find pirated content online and should improve the online ecosystem for both consumers and for legitimate purveyors of intellectual property-intensive content and products. We believe that this is a positive step and that such efforts can have a significant impact on reducing online piracy and counterfeiting.

It is critical that such efforts be undertaken in a manner that is consistent with all applicable laws and policy principles, including privacy, free speech, competition, and due process. We encourage Google to continue to work with all interested stakeholders, including consumer advocacy groups, to ensure that the changes it implements are as effective as possible.

The Administration is committed to reducing infringement of American intellectual property. We will continue to pursue comprehensive solutions to the problems associated with infringement, including increased law enforcement, educational awareness, and increased cooperation with our trading partners in order to promote innovation, support jobs, increase exports, and maintain our global competitiveness.

Three Website Domains Involved in Distributing Pirated Android Cell Phone Apps Seized

Federal law enforcement seized three website domain names engaged in the illegal distribution of copies of copyrighted Android cell phone apps pursuant to court orders. The three seized domain names — applanet.net, appbucket.net, and snappzmarket.com — are in the custody of the Federal government following court orders. Visitors to the sites will now find a seizure banner that notifies them that the domain names have been seized by federal authorities and that educates them that willful copyright infringement is a federal crime.

Nuclear Regulatory Commission Joins the IPR Center

On July 11, the Nuclear Regulatory Commission (NRC) joined the National Intellectual Property Rights Coordination Center (IPR Center), becoming the Center's 21st partner agency. "I'm excited that the NRC is joining the IPR Center, which as of today represents 21 agencies that have partnered together to leverage our combined resources, skills and authorities to better combat intellectual property theft and identify and dismantle the criminal organizations that seek to profit from the manufacturing, importation and sale of counterfeit items," said IPR Center Director Lev Kubiak. "This important interagency partnership will play a critical role in the NRC's formal, proactive efforts to address the potential threat that counterfeit parts pose to the global supply chain, which will reduce vulnerabilities as they relate to NRC-regulated activities," said Cheryl McCrary, Director of the NRC's Office of Investigations.

The seizures were the result of a comprehensive enforcement action taken to prevent the infringement of copyrighted mobile device apps. The operation was coordinated with international law enforcement, including Dutch and French law enforcement officials. This was the first time website domains involving cell phone app marketplaces had been seized.

(Federal Bureau of Investigation (FBI), DOJ Computer Crime and Intellectual Property Section (CCIPS), DOJ Office of international Affairs, USAO N.D. Ga., USAO S.D. Miss., USAO M.D. Fla., USAO W.D. Mich., S.D. Ind., USAO D. R.I., USAO N.D. Tex.)

IPR Center Seizes 70 Websites Engaged in Illegal Sales of Counterfeit Merchandise

The IPR Center, led by ICE-HSI, seized 70 websites that were illegally selling counterfeit merchandise. Federal law enforcement officers made undercover purchases of a variety of clothing, jewelry, luxury goods, and other products from online retailers who were suspected of selling counterfeit products. In most cases, the goods were shipped directly into the United States from suppliers in other countries. If the copyright holders confirmed that the purchased products were counterfeit or otherwise illegal, seizure orders for the domain names of the websites that sold the goods were obtained from federal magistrate judges.

The seized websites are part of Project Copy Cat, an iteration of Operation In Our Sites (IOS), a sustained law enforcement initiative that began two years ago to protect consumers by targeting the sale of counterfeit merchandise on the Internet. These 70 domain name seizures bring the total number of IOS domain names seized in the last two years to 839.

(ICE-HSI, USAO W.D. Tex., USAO S.D. Tex., USAO D. N.J., USAO D. Colo., USAO D. Utah)

Two Members of Internet Piracy Group "IMAGiNE" — Including Group's Leader —Plead Guilty to Copyright Infringement Conspiracy

On July 11 and August 29, a New York man and a Virginia man — members of the "IMAGiNE" group — respectively pleaded guilty to conspiracy to commit criminal copyright infringement. The organization had sought to become the premier group to distribute copies of pre-release movies online. The individuals admitted to conspiring to willfully reproduce and distribute tens of thousands of infringing copies of copyrighted works.

(ICE-HSI, DOJ CCIPS, DOJ Office of International Affairs, USAO E.D.Va.)



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.