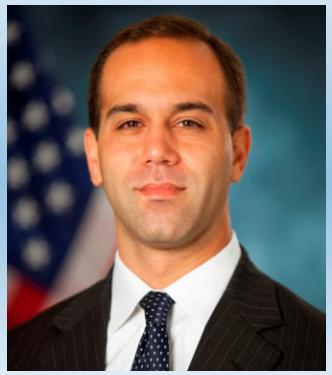
OFFICE OF THE UNITED STATES INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR

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# Intellectual Property Spotlight



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## Introduction

This edition of Intellectual Property Spotlight highlights the importance of international norms of behavior for the protection of intellectual property. On May 19, 2014, the U.S. announced its first-ever indictment of five Chinese officers of the Third Department of the People's Liberation Army for hacking into computers of U.S. entities and stealing trade secrets, internal emails, and sensitive propriety business information. The 31-count indictment, filed in the Western District of Pennsylvania, sends a strong message that the United States will use a wide variety of tools at our disposal, including criminal prosecutions, to protect U.S. intellectual property.

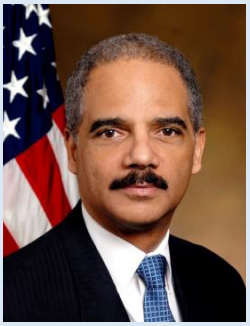
In addition to strong law enforcement efforts, diplomatic tools play a key role in protecting U.S. intellectual property and America's innovation advantage. On April 30, 2014, the United States Trade Representative released its 2014 Special 301 Report on the adequacy and effectiveness of U.S. trading partners' protection and enforcement of Intellectual Property Rights.

The U.S. Special 301 Report underscores the value that the U.S. places on strong intellectual property protection around the world. We are committed to ensuring that U.S. innovators and creators can share their works and enjoy the fruits of their labor without having their intellectual property stolen.

The Report reviewed 82 trading partners, ten of which were placed on the Priority Watch List and 27 of which were placed on the Watch List. Those on the Priority Watch List present the most significant concerns regarding insufficient intellectual property protection or enforcement, or otherwise limited market access for those relying on intellectual property protection. The U.S. values intellectual property protection. We will employ diplomacy, capacity-building, enforcement, private sector outreach and public education to raise intellectual property standards at home and abroad.

Alexander N.M. Niejelow
Chief of Staff, U.S. Intellectual Property Enforcement Coordinator
The White House

## U.S. Department of Justice Indicts Five Chinese Military Operatives for Trade Secret Theft and Computer Hacking



*"This is a case alleging economic espionage by members of the Chinese military and represents the first ever charges against a state actor for this type of hacking," U.S. Attorney General Eric Holder said. "This Administration will not tolerate actions by any nation that seeks to illegally sabotage American companies and undermine the integrity of fair competition in the operation of the free market."*

On May 19, 2014, the U.S. Department of Justice announced the first-ever indictment of five Chinese military operatives for hacking into U.S. entities and stealing trade secrets and confidential business information. The 31-count indictment, filed in the Western District of Pennsylvania, alleges that five officers in the Third Department of the Chinese People's Liberation Army hacked or attempted to hack into six U.S. entities. The defendants, who are charged with economic espionage, theft of trade secrets, unauthorized computer intrusion, and aggravated identity theft, allegedly stole confidential business information from U.S. corporations and a labor union that were involved in business negotiations and/or trade disputes with China and/or Chinese state owned enterprises.

The victims include Westinghouse Electric Co.; U.S. subsidiaries of SolarWorld AG; United States Steel Corp.; Allegheny Technologies, Inc.; the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; and Alcoa, Inc. A link to the Department of Justice press release is here.

This indictment highlights the importance that the U.S. places on protecting U.S. trade secrets. In its Strategy on Mitigating the Theft of U.S. Trade Secrets, the Administration made a commitment to enhance domestic law enforcement operations to strengthen trade secret protection. Criminal prosecutions are but one element in a five part strategy designed to protect U.S. trade secrets.



*"USTR is fully committed to unlocking opportunity for those Americans to share their inventions and creations with people all over the world without their work being infringed or misappropriated," said Ambassador Michael Froman.*

## USTR Releases Annual Special 301 Report on Intellectual Property Rights

On April 30, 2014, the United States Trade Representative (USTR) released its annual Special 301 Report on the global state of intellectual property rights protection and enforcement. USTR reviewed 82 trading partners and placed 10 of them on the Priority Watch List and 27 on the Watch List.

Trading partners on the Priority Watch List present the most significant concerns regarding insufficient IPR protection or enforcement, or otherwise limited market access for persons relying on intellectual property protection. Algeria, Argentina, Chile, China, India, Indonesia, Pakistan, Russia, Thailand, and Venezuela were placed on the Priority Watch List.

Significant elements of the Special 301 Report include the following:

- USTR highlights growing concerns with respect to the environment for IPR protection and enforcement in India, and ongoing, serious concerns about protection and enforcement of trade secrets with respect to China.
- USTR removed Italy and the Philippines from the Watch List in recognition of their IPR protection-related accomplishments, and as an indication of support for their commitment to continued progress.

- USTR will conduct Out-of-Cycle reviews to promote engagement and progress on IPR challenges identified in this year's reviews of India, Kuwait, Paraguay and Spain.

A link to the USTR press release on this year's Special 301 Report is here.

## IPR Center Celebrates World Intellectual Property Day

On April 26, 2014, the IPR Center joined international organizations, government and law enforcement officials around the world in celebrating World Intellectual Property (IP) Day. World IP Day was started by the World Intellectual Property Organization (WIPO) to promote discussion of the role of intellectual property in encouraging innovation and creativity. April 26 is the day on which the WIPO Convention came into force in 1970.

*"Every day is World IP Day at the IPR Center," said Lev Kubiak, director of the IPR Center. "But days like this and the outreach events we participate in around the world throughout the year give us the opportunity to educate the public about the very real dangers that IP crimes pose."*

To commemorate World IP Day, representatives from the IPR Center participated in a series of events during the third week of April, including a briefing on intellectual property theft at the Rayburn House Office Building in Washington, D.C., and an IP Champions Conference hosted by the U.S. Chamber of Commerce's Global Intellectual Property Center, where U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), the Federal Bureau of Investigation (FBI), and Mexican Customs were honored for cases worked over the year. A link to the IPR Center press release is here.

## FDA Proposes Drug Destruction Regulation for Illegal Pharmaceutical Imports

On May 6, 2014, the U.S. Food and Drug Administration (FDA) released a proposed rule implementing Section 708 of the Food and Drug Administration Safety and Innovation Act, which authorized FDA to destroy a pharmaceutical drug valued at less than $2,500 that has been refused admission because the drug was found to be misbranded, adulterated, or unapproved under the Food, Drug and Cosmetic Act. Previously, FDA was authorized to refuse admission of such drugs, but rather than destroy them, FDA was required to return the refused drugs to the sender.

The proposed rule affords the owner or consignee of a drug that has been refused admission under the Food, Drug and Cosmetic Act written notice that FDA intends to destroy the drug, and an opportunity to present testimony challenging the FDA's action before the drug is destroyed. The public has until July 7, 2014 to submit comments. A link to the proposed rule is here.

## FDA Launches "Most Wanted Fugitives" Site

The FDA's Office of Criminal Investigations (FDA-OCI) recently launched a Most Wanted Fugitives page on its website to single out the worst offenders. Several of the fugitives are wanted for distributing counterfeit pharmaceuticals. The link to the site is here.

## CBP Enhances IP e-Recordation System

The owners of federally registered trademarks and copyrights who have recorded their rights with CBP for border protection are now able to renew their recordations on-line through the newly-revised Intellectual Property Rights e-Recordation application, available at https://apps.cbp.gov/e-recordations/. In addition, the revised system allows for payment of

required fees for recordation by credit card through Pay.gov and can be used by trademark and copyright owners to update ownership information, request extensions of time for submitting renewals, as well as to check on the status of pending applications.

For more information, please contact the Intellectual Property Rights Branch, Regulations and Rulings, Office of International Trade, at iprrquestions@cbp.dhs.gov or call (202) 325-0020.

## Enforcement Actions Protect the Public from Counterfeit Goods

### *Operation Blurred Sight Targets Counterfeit Contact Lens Traffickers*

On April 23, 2014, ICE's Homeland Security Investigations (HSI) in Puerto Rico announced seven arrests in an on-going investigation of trafficking in counterfeit contact lenses. Charging documents allege that the scheme involved over 4,000 boxes of counterfeit contact lenses. In addition to ICE-HSI, other agencies participating in the investigation included U.S. Customs and Border Protection, FDA, the Puerto Rico Police Department, the San Juan Police Department and the Puerto Rico Department of Health's Office of Investigations. The National Intellectual Property Rights Coordination Center (IPR Center) supported the investigation. A link to the ICE press release is here.

*"To people who think designer knockoffs are a harmless way to beat the system and get a great deal — buyer beware," said Angel M. Melendez, special agent in charge of HSI San Juan. "As this case shows, when you purchase counterfeit decorative contact lenses, you can easily get something you hadn't bargained for, something that could put you at risk by damaging your eyes or even blind you."*

### *Savannah CBP Seizes Counterfeit Sports Apparel*

On April 11, 2014, CBP in Savannah, Georgia, seized 390 cartons containing counterfeit soccer t-shirts and sports apparel bearing patches of professional soccer clubs. The manufacturer's suggested retail price of the shipment exceeded $1 million. The counterfeit apparel was manufactured in China and was intended for delivery to an address in Chamblee, Georgia. A link to the CBP press release is here.

*"CBP is on the forefront of protecting the American economy and trademark holders," said Robert E. Perez, director of CBP's New York Field Operations. "Enforcing intellectual property rights (IPR) remains a priority for U.S. Customs and Border Protection."*

### *New Jersey CBP Officers Foil Importation of Counterfeit Guitars*

On May 5, 2014, CBP announced that CBP officers in the Jersey City, New Jersey International and Bulk Mail Center intercepted 185 counterfeit guitars bearing the trademarks of Gibson, Les Paul, Paul Reed Smith, and Martin. The guitars had an estimated retail value of more than $1 million.

Within the packaging of the counterfeit guitars, CBP officers found paperwork indicating that the merchandise could be purchased from China through a website for $200 to $500, while the authentic guitars range from $2,000 to over $50,000 for signature models. A link to the CBP press release is here.

## Convictions and Prison Sentences for Counterfeiters

### *Conviction in Counterfeit Computer Cable Importer Case*

On April 7, 2014, a jury in the Western District of Washington found Lance Wilder, the sales manager for a Washington company called Connectzone, guilty of one count of conspiracy to traffic in counterfeit goods, two counts of mail fraud and four counts of trafficking in counterfeit goods. Wilder spent nearly a decade importing into the United States

counterfeit computer cables bearing Cisco logos and undercutting the market for real Cisco cables. Evidence at trial showed he was responsible for over $1.2 million in sales of counterfeit Cisco goods between 2008 and 2012. Wilder is scheduled for sentencing on June 27, 2014. Connectzone and its owner, Daniel Oberholtzer, previously pleaded guilty to one count of conspiracy to traffic in counterfeit goods and are scheduled for sentencing on July 11, 2014.

### *International Counterfeiting Defendant Sentenced to Prison*

On March 24, 2014, Ning Guo, 40, a Chinese national, was sentenced in Federal Court in Newark, New Jersey, to more than three years in prison for his role in an international counterfeiting conspiracy. Guo had pleaded guilty to one count of conspiracy to traffic in counterfeit goods and one count of money laundering conspiracy.

Court documents indicated that from August 2008 to February 2012, Guo participated in a scheme to import and distribute more than 35 containers of counterfeit goods – primarily cigarettes, handbags and sneakers – worth an estimated retail value of more than $300 million, from China into the United States. Guo's role was to transport and store the imported counterfeit merchandise after it arrived at Port Newark in New Jersey. He also was involved in laundering the proceeds of the counterfeit goods smuggling scheme.

ICE-HSI and FBI investigated the case, which was prosecuted by the U.S. Attorney's Office in the District of New Jersey. A link to the ICE press release is here.

### *Laredo Merchant Sentenced to 18 months for Selling Counterfeit Goods*

On April 29, 2014, Yi Hui Chen, 47, of Taiwan, a permanent resident of Laredo, Texas, was sentenced to 18 months in Federal prison for trafficking in counterfeit goods. He was ordered to pay more than $400,000 in restitution to trademark holders, of which $265,836 was to be paid to Coach.

According to court documents, Chen owned a store in downtown Laredo and sold counterfeit handbags, wallets, shirts and luggage to undercover HSI investigators at the store. During the investigation, agents seized 5,722 counterfeit items, including items bearing counterfeit brand names Burberry, Cartier, Chanel, Coach, Gucci, Louis Vuitton, Nike, Polo, Prada and Rolex.

*"Intellectual property theft is not a victimless crime and should concern every American," said Special Agent in Charge Janice Ayala, HSI San Antonio. "Enforcing our nation's counterfeiting laws protects our economy, shields unwitting consumer[s] from sub-par and/or unsafe merchandise, and upholds the intellectual property rights of those who play by the rules."*

ICE-HSI investigated the case, which was prosecuted by the U.S. Attorney's Office for the Southern District of Texas. A link to the ICE press release is here.

### *Southern California Man Sentenced for Importing Counterfeits*

On May 8, 2014, Kevin "Peter" Wang, a San Gabriel Valley businessman, was sentenced to 31 months in Federal prison following a guilty plea to trafficking in counterfeit goods. Wang, who coordinated the importation of 11 containers of counterfeit apparel worth more than $2.3 million, admitted in court that he helped Chinese exporters bring counterfeit goods – including fake Nike shoes (labeled as "garment hangers"); counterfeit Coach, Gucci, and Louis Vuitton handbags (labeled as "toilet paper"); and bogus NFL, NBA, and NHL jerseys – into the United States. According to court documents, from 2008 to 2012, the counterfeit goods were smuggled in shipping containers through the ports of Los Angeles and Long Beach.

The case against Wang was investigated by ICE's HSI and was prosecuted by the U.S. Attorney's Office for the Central District of California. The DOJ press release may be found here.

*"Distributing counterfeit and misbranded drugs puts the health of the public at risk," said Resident Agent in Charge Tommy R. Hennesy of the U.S. Food and Drug Administration's Office of Criminal Investigations. "The FDA will continue to work with our law enforcement partners to protect unsuspecting consumers from unsafe and illegal products."*

## *Pakistani Man Sentenced in Counterfeit Viagra® and Cialis® Case*

On May 2, 2014, Mohammad Jamal Rashid, a legal permanent resident originally from Pakistan and residing in Houston, Texas, was ordered to serve 27 months in prison for his role in a conspiracy to import and traffic in counterfeit and misbranded Viagra® and Cialis,® and receive and deliver misbranded drugs. In arriving at the sentence, the Judge noted the serious risks posed by the illegal importation of counterfeit prescription medications and Rashid's direct and personal role in having the drugs sent to his home.

The investigation was conducted by ICE's HSI and FDA-OCI, and was prosecuted by the U.S. Attorney's Office for the Southern District of Texas. A DOJ press release may be found here.

## French Embassy Hosts Conference on Counterfeit Pharmaceuticals

On May 28, 2014, the Embassy of France in Washington, D.C., hosted a day-long seminar for the international law enforcement community and private sector stakeholders on the trafficking of counterfeit and substandard pharmaceuticals. After a welcome address by the French Ambassador to the United States, Mr. Francois Delattre, the conference featured keynote addresses by Alan Bersin, Assistant Secretary for International Affairs, U.S. Department of Homeland Security; Emile Perez, Director of the International Cooperation Department at the French Ministry of Interior; and Vincent Talucci, Executive Director of the International Association of Chiefs of Police.



*Stephen Sola, Senior Advisor for Enforcement at the White House Office of the U.S. Intellectual Property Enforcement Coordinator, delivers remarks to conference participants on the importance of international law enforcement cooperation.*

Conference panelists – law enforcement, regulatory officials, and private sector speakers – discussed methods of detecting fake medicines, global trafficking trends, investigating cyber traffickers, and prevention methods. IPEC Senior Advisor Stephen Sola participated in a leadership roundtable with Interpol President Mireille Ballestrazzi, French Ambassador at Large Michele Ramis, elected member of the International Narcotics Control Board Bernard Leroy, and European Institute President Joelle Attinger (moderator). More than 200 people attended the event.

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 U.S. Office of the Intellectual Property Enforcement Coordinator, including a copy of IPEC strategies, reports, and past editions of IP Spotlight, please visit our website.

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.