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Intellectual Property Spotlight



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Introduction

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

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

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

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

Securing Our Supply Chain

Health and Safety

There have been several successful law enforcement operations including:

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

Border Enforcement Highlights

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

Theft of Innovation

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

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

Quotes about the Prosecution

Ford Trade Secret Case



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

Software Cases

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

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

Online Enforcement

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

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

Sales to the Military and the U.S. Government

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

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

Quotes about the Prosecution



Counterfeit Network Equipment Conviction

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

Enforcing Our Rights Internationally

USTR Special 301 Report Called for Action

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

USTR Notorious Market List Continued to Influence

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

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

International Training

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

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

Federal, State and Local Law Enforcement Working Together

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

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

New Federal Initiatives and Campaigns Launched

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

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



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

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.