OFFICE OF THE UNITED STATES INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR

JANUARY/FEBRUARY 2013 EDITION

Intellectual Property Spotlight



Contents

Introduction 1
Combating Trade Secret Theft 2
Health and Safety 2
Enforcing Our Rights Internationally 3
Significant Sentences in IP Crimes 3
Significant Law Enforcement Operations 4

Introduction

On February 20th we launched the Administration's Strategy on Mitigating the Theft of U.S. Trade Secrets. The theft of trade secrets from U.S. corporations can impact national security, undermine U.S. global competitiveness, diminish U.S. export prospects, and put American jobs at risk. The Administration is committed to continuing to be vigilant in addressing threats—including corporate and state sponsored trade secret theft—that jeopardize our status as the world's leader for innovation and creativity.

The Strategy coordinates and improves U.S. Government efforts to combat trade secrets theft. It is comprised of five main pillars: 1) international engagement, including diplomatic messaging and use of trade policy tools, 2) company-to-company sharing of best practices to reduce the risk of trade secret theft, 3) investigation and prosecution of trade secret theft and increased information sharing between law enforcement, the intelligence community, and companies, 4) a review of U.S. legislation, and 5) increasing public awareness of the risks of trade secret theft. As the Strategy lays out, we are taking a whole-of-government approach to stop the theft of trade secrets by foreign competitors or foreign governments by any means—cyber or otherwise.

On March 19th, my office published a Notice in the Federal Register soliciting public comment for an Administration legislative review related to economic espionage and trade secret theft. The Notice is accessible here. I encourage you to read, consider, and respond to it by April 22, 2013, as input from the public on these issues is vital to ensuring that thoughtful, efficient, and fair recommendations reach our lawmakers.

We look forward to working closely with the public, businesses of all sizes, Congress, and other governments on this comprehensive and multi-faceted effort.

Victoria A. Espinel

U.S. Intellectual Property Enforcement Coordinator

Combating Trade Secret Theft

Launch of the Administration's Strategy on Mitigating the Theft of U.S. Trade Secrets

On February 20th, U.S. Intellectual Property Enforcement Coordinator (IPEC) Victoria Espinel announced the Administration's Strategy on Mitigating the Theft of U.S. Trade Secrets. The Strategy coordinates and improves U.S. Government efforts to protect the innovation that drives the American economy and supports jobs in the United States.

Health and Safety

Puerto Rican Man Sentenced To Two Years In Prison For Distributing Counterfeit, Chinese-Made Pharmaceuticals Across United States

On January 28th, Ortiz Gonzalez was sentenced to two years in federal prison and ordered to pay $324,530 in restitution for being a key member of an organization that distributed large quantities of Chinese-made, counterfeit pharmaceuticals across the United States. Mr. Gonzalez packaged and shipped more than 140,000 counterfeit tablets during a seven-month period in 2009 while working as a "dropshipper" for a counterfeit drug ring allegedly headed by Bo Jiang, a Chinese national whose last known residence was in New Zealand. Investigators developed evidence that Gonzalez obtained the counterfeit pills from China and had shipped more than 140,000 of them to individuals throughout the United States. (USAO C.D. Cal., U.S. Immigration and Customs Enforcement-Homeland Security Investigations (ICE-HSI), the Food and Drug Administration, Office of Criminal Investigations (FDA/OCI), and the United States Postal Inspection Service (USPIS))

Virginia Man Sentenced For Trafficking Counterfeit Auto Diagnostic Equipment

On January 11th, Justin DeMatteo was sentenced in federal court to serve one year and one day in prison for selling counterfeit automotive diagnostic devices used by mechanics to identify problems with and assure the safety of motor vehicles. In addition to his prison term, Mr. DeMatteo, of Saxe, Va. was sentenced to three years of supervised release and ordered to pay restitution of $328,500. Mr. DeMatteo purchased the hand-held computers used to diagnose problems in vehicles that use electronic controls and interfaces from unauthorized manufacturers in the People's Republic of China (PRC) and in many cases had them drop-shipped directly from the PRC to U.S. customers. The case was investigated and prosecuted as part of "Operation Engine Newity," an international initiative targeting the production and distribution of counterfeit automotive products that impact the safety of the consumer. (USAO E.D.Va., DOJ Computer Crime and Intellectual Property Section, Federal Bureau of Investigation (FBI) IP Unit, FBI Richmond Division)

CBP Seizes Nearly $900K of Tablets with Fake Safety Markings on Adaptors

U.S. Customs and Border Protection (CBP) officers and import specialists assigned to the Los Angeles/Long Beach seaport complex seized 5,101 tablet computers (worth nearly $900,000) containing electrical adapters with counterfeit ETL Listed Mark (ETL) and Underwriters Laboratories (UL) safety markings in a shipment arriving from China. ETL and UL are independent product safety certification organizations which test and evaluate products for potential risk of fire, shock, and/or personal injury. Products are not certified until they meet established standards, and products bearing counterfeit ETL and UL certification marks have not undergone such a testing and certification process. (CBP-Los Angeles)

Pennsylvania Man Sentenced to 33 Months in Prison for Smuggling Counterfeit Pharmaceuticals

On February 20th, Randy Hucks of Philadelphia was sentenced to 33 months in prison for mail fraud and smuggling counterfeit pharmaceuticals. Mr. Hucks smuggled over 13,000 counterfeit tablets from factories in China into the United States via international mail and used the U.S. Postal System to further his scheme of obtaining the counterfeit pills for illegal sale to unsuspecting consumers in the United States. (USAO E.D. Pa., HSI Philadelphia, National IPR Center, USAO E.D.Pa)

North Carolina Man Sentenced to Two Years in Prison for Distributing Counterfeit Pharmaceuticals

On February 28th, Awni Shauaib Zayyad, of Wilson, N.C., was sentenced to two years in prison and ordered to pay a $10,000 fine for five federal offenses related to the possession and sale of counterfeit pharmaceuticals. (USAO W.D.NC, ICE-HSI, FDA, and the Charlotte-Mecklenburg Police Department)

Enforcing Our Rights Internationally

CBP, ICE Announce Fiscal Year 2012 Intellectual Property Rights Seizure Statistics

On January 17th, U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) announced the results of ongoing efforts to stop the trade of counterfeit and pirated goods in their annual Intellectual Property Rights (IPR) Fiscal Year 2012 Seizure Statistics Report. In FY2012, enforcement results of the Department of Homeland Security and its agencies include:

- The seizure of 22,848 shipments and 697 websites involved in trafficking these goods.
- The value of the seized shipments, measured by Manufacturer's Suggested Retail Price (MSRP), rose to $1.26 billion.
- China continues to be the number one source economy for counterfeit and pirated goods seized, accounting for 72 percent, or $906 million, of the total MSRP.
- Seizures of counterfeit automotive airbags increased to 65 shipments in FY2012 from 13 shipments in FY11, and counterfeit contact lenses emerged as a new threat to consumer safety with seizures increasing to 99 shipments from 11 shipments in FY 2011.

Significant Sentences in IP Crimes

Leader of Internet Piracy Group "IMAGiNE" Sentenced in Virginia to 60 Months in Prison for Criminal Copyright Conspiracy

The leader of the Internet piracy group "IMAGiNE", Jeramiah B. Perkins, was sentenced on January 3rd to serve 60 months in prison plus three years of supervised release, and ordered to pay $15,000 in restitution. Mr. Perkins directed and participated in a number of illegal acts for the IMAGiNE Group, an organized online piracy ring that sought to become the premier group to first release Internet copies of movies only showing in theaters. Three other members of IMAGiNE were sentenced to prison for terms ranging from 23 to 40 months, and a fifth member is scheduled for sentencing in March. (HSI Norfolk, USAO E.D.Va., DOJ CCIPS, CCIPS Cyber Crime Lab, DOJ Criminal Division Office of International Affairs)

CD and DVD Counterfeiter's 51 Month Sentence Affirmed

On February 25th, the U.S. Court of Appeals for the Eleventh Circuit affirmed a lower court's December 2011 conviction of Charles Ndhlovu for criminal copyright infringement and trafficking in counterfeit labels, and a sentence of 51 months. According to evidence at trial, Mr. Ndhlovu reproduced thousands of infringing CDs and DVDs per week for distribution, purchased corresponding counterfeit labels and packaging, and assembled the final product that he ultimately sold. (USAO N.D.Ga, DOJ CCIPS, FBI, ICE-HSI, and officers of the Atlanta Police Department Organized Crime Unit; Fulton County, Ga., Sheriff's Office; College Park, Ga., Police Department; and East Point, Ga., Police Department.)

Significant Law Enforcement Operations

'Operation Red Zone' Nabs $17.3 Million in Fake NFL Merchandise

The U.S. Immigration and Customs Enforcement (ICE) completed a five month long enforcement operation on February 6th targeting international shipments of counterfeit NFL merchandise as it entered the United States, and also focusing on warehouses, stores, flea markets, online vendors and street vendors. "Operation Red Zone" netted 196,333 items, with suggested retail price of more than $17.3 million, including counterfeit jerseys, ball caps, T-shirts, jackets and other souvenirs. In addition, 313 websites selling counterfeit merchandise were also seized as part of Operation In Our Sites, and 168 counterfeit Super Bowl tickets with a face value of more than $154,000 were identified and seized. Special agents from ICE's Homeland Security Investigations (HSI), U.S. Customs and Border Protection, U.S. Postal Inspection Service, and state and local police departments around the country worked in partnership with the NFL and other major sports leagues during the operation. (ICE-HSI National IPR Center, DOJ CCIPS, USAOs: D.Md., D.NJ, D.Colo., E.D.La., and D.Utah)



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.