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Intellectual Property Spotlight



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Introduction

On July 25, the Administration released its Strategy to Combat Transnational Organized Crime (TOC) which includes addressing the link between intellectual property theft and organized crime. As part of TOC, President Obama's Executive Order provides new weapons to fight transnational criminal organizations, including the Camorra who derive over 10 percent of their approximately ***$25 billion*** annual profits from counterfeit and pirated merchandise. The TOC also includes legislative proposals that the IPEC recommends to strengthen penalties for intellectual property infringement tied to either funding organized crime or supplying the military.

Vice President Biden continued the Administration's engagement on intellectual property rights as part of his recent trip to China, pressing for better enforcement in several forums, including in his meetings with China's leaders and the Vice President's speech at Sichuan University on August 21. "We have welcomed the Chinese State Council's recent campaign to enforce intellectual property rights, a commitment that President Hu made when he visited and he's keeping," said Vice President Biden. "But the effort must be strengthened and extended."

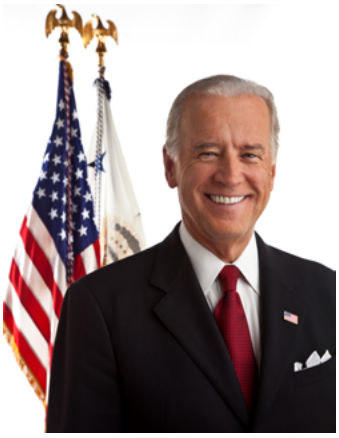
The Administration has vigorously pursued an approach to reducing online infringement that includes increased law enforcement, legislative reform, consumer education and encouraging voluntary non-regulatory private sector-driven agreements with technology companies and rightholders to efficiently and effectively reduce online infringement, consistent with the principles of due process, free speech and privacy. In December, we announced an agreement among American Express, Discover, eNom, GoDaddy, Google, Federal Express, MasterCard, Microsoft, PayPal, Visa and Yahoo! that is focused on fake online pharmacies. This summer, two additional agreements were concluded, one focused on all types of pirate and counterfeit goods and one focused on illegal music and movie downloading. First, at the end of June, payment processors – including American Express, Discover, MasterCard, PayPal and Visa – concluded a set of best practices to investigate complaints and stop processing transactions for sites that distribute counterfeit and pirated goods. On July 7, Internet service providers (Comcast, Cablevision, Verizon, Time Warner Cable and AT&T) and RIAA and A2IM recording companies and MPAA and IFTA movie studios reached a voluntary agreement to reduce online piracy.

On August 9, the IPEC also took aim at counterfeits in the United States Government supply chain by releasing a Federal Register Notice that seeks comment from the public on how the U.S. Government can prevent counterfeit products from entering its supply chain.

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

International Enforcement

Asia



Vice President Biden Pushes for Better Enforcement in China

Vice President Biden continued the Administration's engagement on intellectual property rights as part of his recent trip to China, pressing for better enforcement in several forums, including in his meetings with China's leaders and his speech at Sichuan University on August 21. "We have welcomed the Chinese State Council's recent campaign to enforce intellectual property rights, a commitment that President Hu made when he visited and he's keeping," ***said Vice President Biden***. "But the effort must be strengthened and extended." In meetings with Chinese leaders, Vice President Biden also raised challenges faced by U.S. companies in China, including intellectual property rights, barriers to market access, and other important economic and trade priorities. At a joint roundtable with U.S. and Chinese business executives on August 19, Chinese Vice President Xi Jinping affirmed China's commitment to intellectual property rights (IPR) enforcement, promising that China will "intensify IPR protection and treat all businesses as equals in terms of the accreditation of indigenous innovation products and government procurement."

Chinese Notorious Market Signs Licensing Deal

On July 19, Universal Music Group, the Warner Music Group and Sony BMG, reached a licensing agreement with ***Baidu***, China's leading search engine. Earlier this year, both the U.S. Trade Representative's "Special 301 Report" and first ever out-of-cycle "Notorious Markets List" named Baidu as one of the online markets that must become legitimate as its behavior exemplifies the challenges in the global fight against piracy and counterfeiting.

Philippines Symposium and Enforcement

On July 18-20, the IPR Center, with DOJ and other agency participation, organized an IPR criminal enforcement symposium in Manila, Philippines for law enforcement officers, prosecutors, and officials. ***Within two months*** of the symposium, Philippine federal law enforcement officers conducted two highly successful operations:

- On August 23, 2011, HSI Attaché Manila special agents assisted National Bureau of Investigation (NBI) agents in seizing counterfeit Oakley merchandise, worth approximately ***$1.2 million***, during the execution of six search warrants executed in Manila, Philippines. (ICE)
- On August 24, 2011, HSI Attaché Manila special agents assisted the Philippine Bureau of Customs (BOC) in seizing approximately 6,000 counterfeit luxury branded products, estimated at ***$17 million***, during the execution of a search warrant in Manila, Philippines. (ICE)

South America

Brazilian Raid Seizes Millions of Fake and Pirated Goods On June 7, ICE Attaché Brazil special agents participated with Brazilian authorities in operations against several complexes near a shopping district that led to the seizure of ***10 million items*** estimated to be worth the equivalent of approximately ***$255 million***. The Sao Paulo Mayor's office initiated the program and invited ICE Attaché Brazil special agents to participate in the operation which included 400 Federal, State, and city agents. (ICE)

Securing Our Supply Chain

IPEC Federal Register Notice Takes Aim at USG Supply Chain Counterfeits

On August 9, the IPEC also took aim at counterfeits in the United States Government supply chain by releasing a Federal Register Notice (FRN) that seeks comment from the public on how the U.S. Government can prevent counterfeit products from entering its supply chain. This FRN will inform the work of the IPEC-led U.S. Government anti-counterfeiting working group comprised of 14 governmental entities, including the Office of Federal Procurement Policy, National Security Council, Departments of Defense, Justice, Energy, Homeland Security, Commerce, Transportation, Health and Human Services, Environmental Protection Agency, National Aeronautics and Space Administration, General Services Administration, Small Business Administration, and the Nuclear Regulatory Commission. The working group is tasked with studying this issue in order to provide legislative, regulatory and policy recommendations to the IPEC and the President.

Online Enforcement

Payment Processors Agree on Best Practices to Stop Online Infringement

At the end of June, payment processors concluded a set of best practices to investigate complaints and stop processing transactions for sites that distribute counterfeit and pirated goods. Voluntary participants include American Express, Discover, MasterCard, PayPal and Visa. The best practices focus on strategies to cut off counterfeit/pirate sites conducting financial transactions through these processors. The practices also include mechanisms to investigate complaints and remove payment services from any site that continues to operate unlawfully.

Media and Internet Service Providers Unite Against Piracy

On July 7, Internet service providers (Comcast, Cablevision, Verizon, Time Warner Cable and AT&T) and RIAA and A2IM recording companies and MPAA and IFTA movie studios reached a voluntary agreement to reduce online piracy by notifying ISP subscribers, through a series of educational alerts, when their Internet service accounts are being misused for illegal downloads and, under certain circumstances, taking temporary mitigation measures. The methodologies used to detect infringement will be vetted by an independent third party for accuracy. There is an independent review process and no action will be taken until the review is resolved. The full agreement is publicly accessible here.

In Our Sites

Under Operation In Our Sites (OIOS), the Department of Justice (DOJ) and U.S. Immigration and Customs Enforcement, Homeland Security Investigations (ICE-HSI) have conducted six major operations since June 2010, resulting in the seizure of ***142 domain names***.

- In July of 2011, OIOS v. 6.0 – dubbed "Shoe Clerk" – seized 17 domain names dedicated to sales of counterfeit goods. (ICE-HSI, USAO D. Md., W.D.N.Y., D. Colo., E.D. Mich., S.D. Tex.)
- On July 21, during Shoe Clerk ICE agents in New York arrested an operator of one of the Shoe Clerk websites (ICE-HSI, USAO W.D.N.Y.).
- On August 23, ICE agents in New York arrested another defendant who operated two of the websites in a previous version of OIOS (v. 3.0). (ICE-HSI, USAO S.D.N.Y.)

Quotes about In Our Sites

Operation In Our Sites Arrests



"In today's age, the theft of another's property, to include one's ideas, is just as likely to occur over the internet as it is on the streets of a community," said ***William J. Hochul, Jr, U.S. Attorney for the Western District of New York***. "By using Court-ordered warrants to 'seize' a particular website or domain, our Office is using 21st-century techniques to combat criminals operating in the virtual world."



"Today's arrest sends a clear message to website operators who mistakenly believe it's worth the risk to take copyrighted programming and portray it as their own," said ***ICE Director John Morton***. "We are dedicated to protecting the jobs, the income and the tax revenue that disappear when organized criminals traffic in stolen content for their own profit."

Health and Safety

North Carolina Dangerous Electronics Seized

On August 5, North Carolina state law enforcement authorities seized ***$1.1 million*** in counterfeit UL-labeled stereo and audiovisual equipment, posing a ***shock and fire hazard*** to users. The DOJ Bureau of Justice Assistance grant program significantly funded this and other seizures associated with this case. (North Carolina Secretary of State, Asheville Police Dept.)

Tennessee Man Charged With Counterfeit Prescription Drug Sales

On August 22, criminal information charged a defendant in Tennessee with ordering online over ***77,000 tablets*** of prescription drugs with registered trademarks belonging to Eli Lilly® (Cialis) and Pfizer® (Viagra). (USAO M.D. Tenn., FDA-OCI, USPIS)

New York Perfume Counterfeiters Plead Guilty

On August 3 and August 5, two Chinese defendants admitted offering to supply counterfeit perfume to prospective buyers at a Las Vegas trade show after CBP officers seized a cargo shipment of over ***30,000 units*** of counterfeit perfume. (USAO E.D.N.Y., DOJ CCIPS, ICE-HSI, CBP)

Media

Georgia Counterfeit DVD and CD Ring Member Convicted

On July 28, a jury convicted a defendant for participating in a criminal enterprise that distributed counterfeit DVDs and CDs that, if genuine, would be worth over ***$12 million***. (USAO N.D.Ga., DOJ CCIPS, FBI, ICE-HSI, Atlanta Police Dept. Organized Crime Unit, Fulton County Sheriff's Office, College Park Police Dept., East Point Police Dept.)

Maryland DVD Counterfeiter Pleads Guilty

On July 14, a defendant admitted making over $630,000 since August 2006 from online sales of counterfeit DVDs worth between ***$1 – 2.5 million***. (USAO D. Md., FBI)

Theft of Trade Secrets and Innovative Technology

New York Sentencing of Corning Trade Secret Thief

On July 26, a Federal judge sentenced Danny Price to two years of probation for his role as a middle-man in stealing trade secrets tied to Corning's process for making special LCD glass. A Federal judge already handed down 48-month and 30-month prison terms, respectively, for the other two defendants involved in the conspiracy, Jonathan Sanders and Yeong C. Lin. (USAO W.D.N.Y., FBI)

Massachusetts Economic Espionage Defendant Pleads Guilty

On August 31, a defendant pled guilty to disclosing trade secrets to an undercover FBI agent covering his software company's sensitive business practices as well as the company's physical and computer security systems. (USAO D. Mass., FBI)

Counterfeit Network Equipment

Maryland Counterfeiter Sentenced

On August 18, a defendant reported on in the April/May/June Spotlight was sentenced to 30 months in prison for his part in a sophisticated operation to sell counterfeit Cisco computer networking equipment. He and another defendant forfeited bank accounts holding over ***$1.6 million*** in illegal proceeds, several luxury cars, and real property worth over ***$2.6 million***. (USAO E.D. Va., DOJ CCIPS, ICE-HSI, General Services Administration – Office of the Inspector General, Department of the Interior, CBP)



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.