OFFICE OF THE UNITED STATES INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR

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Intellectual Property Spotlight



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Introduction

On March 30, the IPEC sent to Congress the 2011 Annual Report on Intellectual Property Enforcement. This is the second annual report outlining our significant progress in implementing the Joint Strategic Plan on Intellectual Property Enforcement, which set out 33 specific actions that we committed to undertake to improve intellectual property enforcement thereby protecting U.S. rightholders and, more importantly, protecting U.S. jobs. The 2011 Annual Report highlights our progress and success in the areas of law enforcement, legislative reform, voluntary private sector actions, and international enforcement, as well as other areas.

On April 11, the U.S. Department of Commerce, working with the President's Council of Economic Advisors and the chief economists of the Office of the U.S. Trade Representative, Department of Labor, and other Federal agencies, released a report titled Intellectual Property and the U.S. Economy: Industries in Focus. This report, the first of its kind, analyzes the nature and impact of intellectual property across the entire American economy.

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

Theft of Innovation

Twenty-Nine Charged in International Schemes to Import Counterfeit Goods and Narcotics; Two Further Charged with Conspiring to Export Sensitive U.S. Military Technology to China

In March, federal agencies and law enforcement disrupted massive international conspiracies to import and distribute approximately **$300 million** worth of counterfeit goods into the U.S.

The conspirators allegedly devised methods to compromise port security and import more than 135 containers of counterfeit luxury goods and apparel. They used counterfeit labels, falsified paperwork, fraudulent personal identification documents, and stolen corporate identities to smuggle the goods. Additionally, certain defendants allegedly planned to import 50 kilograms of crystal methamphetamine.

"The cost of counterfeit goods is not limited to massive financial harm to American businesses and consumers," said U.S. Attorney Paul Fishman. "Criminals can exploit the same channels to import other material that threatens our health and safety."

As a result of the counterfeit investigation, federal agents uncovered a plot to smuggle sensitive defense articles out of the U.S. that included unmanned aerial vehicles – commonly known as drones – E-2C Hawkeye surveillance airplanes and stealth technology relating to F-22 fighter planes. Two of the defendants were charged for seeking to export U.S. military technology to China. (ICE-HSI, CBP, FBI, DOJ Organized Crime and Gangs Section, Office of Enforcement Operation and Office of International Affairs, USAO D.N.J.)

Two Chinese Nationals Charged with Software Piracy and Exporting Technology to China

On April 18, two defendants were indicted for a variety of charges, including software piracy and illegally exporting technology to China. They were allegedly engaged in criminal conduct relating to the unauthorized access to, reproduction, and distribution of copyrighted software from over 150 manufacturers, mostly American. "Counterfeiting and intellectual property theft are seriously undermining U.S. business and innovation – more than $100 million in lost revenue in this one case alone," said ICE Director John Morton. He affirmed that "Homeland Security Investigations is committed to protecting American industry and U.S. jobs." (ICE-HSI, USAO D.Del.)

Intellectual Property and the U.S. Economy

On April 11, the U.S. Department of Commerce, working with the President's Council of Economic Advisors and the chief economists of the Office of the U.S. Trade Representative, Department of Labor, and other Federal agencies, released an economic report identifying the full range of sectors that generate intellectual property, as well as the jobs, exports, and wage premiums those sectors support. The report, Intellectual Property and the U.S. Economy: Industries in Focus, is the first of its kind and makes clear that intellectual property is a key driver of our economy. **IP-intensive industries create 27.1 million jobs and indirectly support another 12.9 million jobs – 40.0 million jobs in total**. All told, **nearly 30 percent of all U.S. jobs** are directly or indirectly attributable to IP-intensive industries. IP-intensive jobs are clustered in three places in the U.S.: on the West Coast, primarily in California; on the East Coast, primarily to the north; and in the upper central Midwest. The most IP-intensive states are California, Minnesota, Wisconsin, New Jersey, Massachusetts, Connecticut, Rhode Island, Vermont, and New Hampshire. Goods from IP-intensive industries account for **over 60% of all US exports**. In 2010 alone, IP-intensive industries accounted for about **$5.06 trillion** in value added, or **nearly 35 percent of U.S. GDP**.

Secretary of Commerce John Bryson, Deputy Secretary of Commerce Rebecca Blank, USPTO Director David Kappos, U.S. Chamber of Commerce President Tom Donohue, and President of the AFL-CIO Rich Trumka joined the IPEC in a White House event to herald the release of the report. The White House blog post about the report is available here. The Commerce Department's press release and blog post are also available online.

Federal Agents Seize Nearly $900,000 in Proceeds from Counterfeit Goods Manufactured in China

In April, as a part of Operation In Our Sites, U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and the Department of Justice (DOJ) seized nearly $900,000 in proceeds from Bank of China and PayPal accounts from the sale of counterfeit sports apparel. Federal agents also seized seven domain names engaged in the sale of fake sports apparel.

"We are working hard to protect American businesses and consumers from the damaging effects of intellectual property crime," said Assistant Attorney General Lanny Breuer. "The Justice Department, together with our partners at ICE, will continue to do all that we can to punish and deter the sale and distribution of counterfeit goods."

"Those who traffic in counterfeit goods harm the American economy as well as the consumers who purchase the substandard merchandise," said U.S. Attorney Ronald Machen. "Seizing the domain names of these unscrupulous operators was one big step, and seizing their ill-gotten proceeds should send them another message that these counterfeit sales will not be tolerated." (ICE-HSI, DOJ Asset Forfeiture and Money Laundering Section, DOJ Computer Crime and Intellectual Property Section (CCIPS), USAO DC)

Health and Safety

Senate Counterfeit Drug Penalty Enhancement Act

In March, the U.S. Senate took an important step toward protecting American consumers from counterfeit drugs — dangerous products that bear a falsified mark — that can potentially contain harmful chemicals or lack key ingredients. The Senate passed the Counterfeit Drug Penalty Enhancement Act (S. 1886), which will increase penalties for violators who manufacture, sell, or traffic counterfeit drugs and is in line with the Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations and Counterfeit Pharmaceutical Inter-Agency Working Group Report.

Defendants Sentenced for Smuggling Counterfeit and Misbranded Pharmaceuticals

On April 24, two men pleaded guilty and were sentenced for smuggling counterfeit and misbranded pharmaceuticals into the U.S. Both men operated an Internet business in Israel that used multiple websites to illegally sell large amounts of prescription drugs to U.S. purchasers. In total, they sent about 9,000 separate drug shipments to U.S. purchasers, generating over **$1.4 million** in gross proceeds.

Defendant Arrested for Smuggling 40,000 Counterfeit Drugs

On March 7, a defendant was arrested for attempting to smuggle nearly **40,000** counterfeit drugs worth over $700,000 through Los Angeles International Airport. Lab tests revealed that ***none*** of the drugs matched the ingredients contained in the genuine products.

Implementation of CBP Trade Secret Information Sharing

On April 24, Customs and Border Protection (CBP) published an Interim Final Rule in the Federal Register implementing Section 818(g) of the National Defense Authorization Act of 2012. The rule amends 19 CFR 133.21 and permits CBP to share unredacted images and samples with trademark holders of items detained at the border

Concurrently, CBP issued guidance to its field offices, ports, and personnel on implementation of the Interim Final Rule. This new authority enables CBP to work more effectively with trademark holders to obtain information that will assist CBP in making independent infringement determinations and provides a badly needed mechanism that will assist in weeding out fake products with counterfeit marks. This was one of items in the Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations to Congress.

Counterfeit Goods

- In April, ICE-HSI special agents, in the largest-ever counterfeit seizure at a flea market, seized nearly 220,000 fake items with an MSRP of over **$47 million**. (ICE-HSI, Maryland State Police, Baltimore P.D.)
- On March 12, a defendant was sentenced to two years in prison for trafficking in counterfeit merchandise, including more than 11,000 counterfeit items with an MSRP of over **$3 million**. "Counterfeiting is not a harmless crime," said Susan McCormick, Special Agent in Charge for HSI Tampa. "Counterfeiting costs U.S. businesses more than $200 billion each year and accounts for the loss of more than 750,000 American jobs." (ICE-HSI, USAO M.D. Fla.)
- On April 25, two defendants pleaded guilty to conspiracy to traffic in counterfeit goods. ICE-HSI special agents recovered more than 15,000 counterfeit items with an MSRP of nearly **$1.6 million**. (ICE-HSI, US Postal Inspection Service, Bloomington (Ill.) P.D., USAO C.D.Ill.)
- In April, ICE-HSI special agents executed a search warrant in Sacramento, California, that yielded one of the largest seizures of counterfeit apparel ever made in the area. The counterfeit items were mostly athletic apparel and had an MSRP of over **$4 million**. (ICE-HSI, CBP, Sacramento P.D.)

Training and Outreach

- During March and April, the U.S. Patent and Trademark Office (USPTO) engaged with law enforcement authorities in several Brazilian cities and conducted or supported several training operations, including training for over 200 police officers in Rio de Janeiro to increase IPR enforcement awareness for the 2014 FIFA World Cup and 2016 Summer Olympic Games.
- From March 12-16, USPTO organized a week-long seminar at its Global IP Academy on "Investigating and Prosecuting IP Crimes" for police, investigators, and prosecutors from the Association of Southeast Asian Nations (ASEAN). This program was organized with assistance from the Department of State Bureau for International Narcotics and Law Enforcement and presentations from ICE, CBP, FBI, and DOJ CCIPS. More than 30 IP enforcement officials representing nearly all of the ASEAN countries participated.
- In April, the Department of State approved twelve projects totaling $2.6 million in anticrime funds that will enable U.S. law enforcement agencies and diplomatic missions to collaborate on the delivery of IPR criminal enforcement training and technical assistance programs for foreign law enforcement partners. The trainings covered a wide variety of countries and regions, including Brazil, Chile, Colombia, Mexico, Philippines, Thailand, Turkey, South Asia, Southeast Asian nations, and African regions.



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.