OFFICE OF THE UNITED STATES INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR

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Intellectual Property Spotlight



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Introduction

On Nov 12, ***President Obama*** continued the Administration's press for more American jobs at the Asia Pacific Economic Cooperation (APEC) leader's summit, by calling out China's record on intellectual property and saying that, "For an economy like the United States – where our biggest competitive advantage is our knowledge, our innovation, our patents, our copyrights – for us not to get the kind of protection we need in a large marketplace like China is not acceptable."

On Nov 21-22, at the 22nd Joint Commission on Commerce and Trade (JCCT) in Chengdu, China, Administration officials from the U.S. Trade Representative, and the Departments of Commerce and Agriculture secured important commitments from China on key intellectual property issues, including: the establishment of a State Council-level leadership structure to lead and coordinate intellectual property rights enforcement across China; the completion dates for the legalization of software at the provincial, municipal, and county level governments; and the elimination of any catalogues or other measures linking innovation policies to government procurement preferences at the provincial, municipality, and autonomous region levels.

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International Enforcement



President Obama Pushes for Stronger Intellectual Property Protection from China

On Nov 12, President Obama continued the Administration's press for more American jobs at the APEC leader's summit, by calling out China's record on intellectual property and saying that, "For an economy like the United States – where our biggest competitive advantage is our knowledge, our innovation, our patents, our copyrights – for us not to get the kind of protection we need in a large marketplace like China is not acceptable."

Administration Talks Produce New Intellectual Property Commitments from China

On Nov 21-22, at the 22nd JCCT in Chengdu, China, Administration officials from the U.S. Trade Representative (USTR), and the Departments of Commerce and Agriculture persuaded China to commit to several key intellectual property deliverables including: the establishment of a State Council-level intellectual property leadership structure; the completion dates for the legalization of software at the provincial, municipal, and county-level governments; and, at the provincial, municipality, and autonomous region levels, the elimination of measures linking innovation policies to government procurement preferences.

USTR Releases Out-of-Cycle Review of Notorious Markets

On Dec 20, USTR issued the Special 301 Out-of-Cycle Review of Notorious Markets ("Notorious Markets List"), which identifies more than 30 Internet and physical markets that exemplify the problem of marketplaces that deal in infringing goods and services, and that may merit further investigation for possible intellectual property rights infringement. The Notorious Markets List is the result of a separate, dedicated request for comments issued on September 22, 2011.

CBP Leads APEC Against Counterfeit Pharmaceuticals

In Nov 2011, U.S. Customs and Border Protection (CBP) finished its year-long initiative in the Asia Pacific Economic Cooperation targeting counterfeit pharmaceuticals shipped via international mail and express courier services. As part of the initiative, CBP conducted the United States' part of an international operation at multiple mail and express carrier facilities in June and July, seizing $231,136 worth of counterfeit pharmaceuticals. CBP and the other participating economies also developed a set of model practices to guide future collaborative work.

Quotes about the Prosecution



"Economic espionage and trade secret theft are serious crimes that, as today's sentence shows, must be punished severely," *said Assistant Attorney General Lanny A. Breuer.* "Protecting trade secrets is vital to our nation's economic success, and we will continue vigorously to enforce our trade secret and economic espionage statutes."

Securing Our Supply Chain

Theft of Trade Secrets for Innovative Technology

Indiana Economic Espionage Thief Sentenced

On Dec 21, a Chinese national defendant, reported on in the November Spotlight, was sentenced to 87 months in prison for economic espionage to benefit components of the Chinese government and theft of trade secrets worth between $7 – 20 million. (FBI, Department of Justice (DOJ) Computer Crime and Intellectual Property Section (CCIPS), U.S. Attorney's Office (USAO) S.D. Ind., D. Minn.)

Industrial Espionage Report Details Trends in Trade Secret Theft

On Nov 3, the National Counterintelligence Executive (ONCIX) released its report to Congress, Foreign Economic Collection & Industrial Espionage 2009-2011, which describes the threat to technologies that often cost millions of dollars to develop and robs trade secret victims of tens or hundreds of millions of dollars in potential profits. (ONCIX)

Health and Safety

There have been several successful law enforcement actions against individuals seeking to deal in products that not only rob innovators, but also pose a risk to American consumers' health and safety, including:

- **TEXAS Circuit Breakers:** On Dec 8, an individual pled guilty to trafficking in counterfeit circuit breakers, after Federal agents executed search warrants to find ***96,000 circuit breakers*** worth about ***$4.7 million*** (MSRP), which the individual had made in China after traveling there. (ICE-HSI, USAO M.D. Fla.)
- **CALIFORNIA Electric Santa Figurines:** On Dec 12, CBP seized 151 electric holiday decorations with counterfeit safety markings, worth $173,000 (MSRP). (CBP)
- **NEW YORK Pharmaceuticals:** On Nov 2, an importer pled guilty to importing over 700 tablets of pharmaceuticals bearing counterfeit trademarks belonging to Pfizer and Eli Lilly. (ICE-HSI, U.S. Food and Drug Administration Office of Criminal Investigations, USAO W.D.N.Y.)
- **NEW YORK Perfume:** On Dec 20, a Federal judge sentenced a Chinese importer to 12 months in prison for counterfeit perfume trafficking that included over ***37,000 units of perfume***. (CBP, ICE-HSI, USAO E.D.N.Y., DOJ CCIPS)
- **NEW YORK Perfume:** On Dec 5, two individuals were charged for trafficking in counterfeit perfume including ***three shipping containers of perfume*** and 4,600 fragrance boxes with counterfeit marks. (ICE-HSI, USAO E.D.N.Y.)

Operation Holiday Hoax

During a six-week operation from Nov 1 to Dec 16, the IPR Center coordinated several Federal agencies, state and local law enforcement, and the Government of Mexico to seize over *327,000* counterfeit items worth an estimated *$76.8 million*, which is nearly *200% greater* than the first iteration of Holiday Hoax in 2009 ($26 million). The operation spread across *66 U.S. cities*; 55 cities in Mexico; and Seoul, South Korea. Authorities have also arrested 33 people connected to the violations. (CBP, U.S. Immigration and Customs Enforcement-Homeland Security Investigations (ICE-HSI), U.S. Postal Inspection Service (USPIS), Consumer Product Safety Commission (CPSC))

Online Enforcement

In Our Sites Under Operation In Our Sites, DOJ and ICE-HSI have conducted seven major operations in 2011, resulting in the seizure of ***270 domain names*** (248 of which distributed counterfeit hard goods and 22 of which distributed copyrighted works via download or streaming).

- On Nov 28, the eighth version of Operation in Our Sites – dubbed "Cyber Monday" – seized 150 domain names dedicated to sales of counterfeit goods. (ICE-HSI, FBI, DOJ CCIPS)
- On Nov 30, two Washington men were charged with operating websites associated with two of the domain names seized in the below-referenced Operation In Our Sites v. 9.0. (ICE-HSI, DOJ CCIPS, USAO W.D. Wash.)
- On Dec 2, as part of Operation In Our Sites v. 6.0 ("Shoe Clerk"), a New York website operator was convicted for online sales of counterfeit Sons of Anarchy merchandise. (ICE-HSI, DOJ CCIPS, USAO W.D.N.Y.)
- On Dec 4, the ninth version of Operation in Our Sites seized 12 domain names for movies, television shows, software and workout DVDs intended for the Korean community in the United States. (ICE-HSI, DOJ CCIPS)

Electronics and Media

There have been several successful law enforcement actions against persons stealing creative works through illegal copying onto electronic media or counterfeiting trademarks for high tech goods including:

- **KANSAS Cisco equipment:** On Nov 7, a Federal judge sentenced an individual to 27 months in prison for selling ***$1 million*** in counterfeit Cisco products with fake labels the individual made with legitimate serial numbers from ***Cisco's confidential serial number verification website***. (ICE-HSI, FBI, USAO D. Kan.)
- **GEORGIA CD/DVDs:** On Dec 14, two individuals were sentenced to serve a ***combined 70 months*** in prison and pay a combined $40,000 for trafficking in counterfeit labels and copyright infringement using thousands of copyrighted DVDs and CDs, worth ***$3.7 million***. (FBI, ICE-HSI, Atlanta P.D. Org. Crime Unit, Fulton County Sheriff's Office, College Park P.D., East Point P.D., DOJ CCIPS, USAO N.D. Ga.)
- **MISSOURI CD/DVDs:** On Nov 10, an individual was sentenced to 57 months in prison for – in addition to failing to register as a sex offender – counterfeit movie making; authorities seized 6,400 such movies as part of the investigation. (ICE-HSI, USPIS, U.S. Marshals Service, St. Louis Metro P.D., USAO E.D. Mo.)
- **CALIFORNIA CD/DVDs:** On Nov 7, an individual pled guilty to counterfeit trafficking and criminal copyright infringement, including over ***10,000 counterfeit DVDs*** and over ***24,000 counterfeit music CDs***. (FBI, Sacramento Valley Hi-Tech Crimes Unit, USAO E.D. Cal.)

Stronger Intellectual Property Laws On Dec 31, ***President Obama*** signed into law the National Defense Authorization Act of 2012 (NDAA), which includes provisions that (1) increase penalties for infringing goods sold to, or for use by, the military, law enforcement, critical infrastructure or national security applications, and (2) provide DHS explicit authority to give rightholders more information to help determine if suspected fake products are genuine or not. These specific pieces of NDAA achieve key objectives in the Administration's White Paper on Intellectual Property Enforcement Legislative Recommendations.

Public Awareness

Administration Partners with National Crime Prevention Council on Awareness Campaign

On Nov 29, the IPEC, U.S. Attorney General Eric Holder, and other Administration officials announced the launch of a National Crime Prevention Council public awareness campaign to combat the purchase and sale of counterfeit and pirated products. The campaign will include a television PSA, materials delivered through social media, and radio, web, and print ads. (IPEC, DOJ, ICE, Dept. of Commerce)

Consumer Product Safety Commission Releases Holiday Online Shopping Guide

On Dec 12, CPSC – in conjunction with the U.S. Chamber of Commerce – released consumer guidelines for online holiday shopping to avoid purchasing counterfeit products. (CPSC)

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.