OFFICE OF THE UNITED STATES INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR

NOVEMBER/DECEMBER 2012 EDITION

Intellectual Property Spotlight



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Introduction

On Friday, December 28, President Obama signed into law the Theft of Trade Secrets Clarification Act of 2012. The law clarifies the language of the Economic Espionage Act so that trade secret thieves can no longer take advantage of one court's narrow interpretation of the Act. This statutory change is in line with the objectives of the Administration's Intellectual Property Enforcement Strategy and priority focus on combating trade secret theft.

On December 13, U.S. Trade Representative Ron Kirk announced the results of the Special 301 Out-of-Cycle Review of Notorious Markets ("Notorious Markets List"). The Notorious Markets List identifies more than 30 Internet and physical marketplaces that have been the subject of enforcement actions connected with counterfeiting and piracy or that may merit further investigation for possible infringement of intellectual property rights. On December 21, Ambassador Kirk announced an important new intellectual property-focused agreement between the United States and the Russian Federation directed at enhancing the protection and enforcement of intellectual property in a number of priority areas, including combating IPR infringement carried out over the Internet.

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



President Barack Obama

Combating Trade Secret Theft

President Obama Signs Theft of Trade Secrets Clarification Act of 2012 Into Law

On Friday, December 28, President Obama signed into law the Theft of Trade Secrets Clarification Act of 2012. The law was first introduced as S. 3642 by Chairman Leahy of the Senate Judiciary Committee in response to a decision of the Second Circuit Court of Appeals in United States v. Aleynikov, in which the court overturned a jury verdict in a case involving the theft of valuable source code. The law clarifies the language of the Economic Espionage Act so that trade secret thieves can no longer take advantage of one court's narrow interpretation of the Act. This statutory change is in line with the objectives of the Administration's Intellectual Property Enforcement Strategy and priority focus on combating trade secret theft.

Enforcing Our Rights Internationally

USTR Releases Out-of-Cycle Review of Notorious Markets



U.S. Trade Representative Ron Kirk

On December 13, U.S. Trade Representative Ron Kirk announced the results of the Special 301 Out-of-Cycle Review of Notorious Markets ("Notorious Markets List"). The Notorious Markets List identifies more than 30 Internet and physical marketplaces that have been the subject of enforcement actions connected with counterfeiting and piracy or that may merit further investigation for possible infringement of intellectual property rights. The Notorious Markets List also noted several markets that were removed from the list as a result of 2012 law enforcement actions and those that were removed because of significant voluntary action taken by market operators to address the problems identified. The Notorious Markets List is available online here.

USTR Announces Agreement with Russian Federation on Intellectual Property Rights

On December 21, U.S. Trade Representative Ron Kirk announced an important new intellectual property-focused agreement between the United States and the Russian Federation. The Intellectual Property Rights (IPR) Action Plan is directed at enhancing the protection and enforcement of intellectual property in a number of priority areas, including combating IPR infringement carried out over the Internet. The complete IPR Action Plan can be viewed here.

Health & Safety

CBP Seizes Shipments of Counterfeit and Lead-Contaminated Toys: On November 14, 2012, CBP officers and Consumer Product Safety Commission investigators seized multiple shipments containing tens of thousands of toys that were counterfeit or contaminated with lead.. "Ensuring the safety of imported merchandise is a top priority for CBP," said Allen Gina, CBP's Assistant Commissioner for International Trade. "The concerted targeting efforts of the Commercial Analysis and Targeting Center and the vigilance of CBP officers at our ports of entry ensures that toys are safe for children and their families and add to the joy of the holiday season as intended."

Texas Man Sentenced in Counterfeit Circuit Breaker Scheme: On November 16, Elod Tamas Toldy was sentenced to 12 months and one day in federal prison for mail fraud and trafficking in counterfeit goods and services. He had used his electronics firm to market counterfeit circuit breakers on eBay. ICE-HSI special agents seized tens of thousands of counterfeit electronic products, circuit breakers, and labels. The manufacturer's suggested retail price for the genuine circuit breakers and electronic products was more than $4.7 million. (U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI), U.S. Attorney's Office (USAO) M.D.Fla.)

California Man Sentenced for Illegally Importing Counterfeit Exercise Equipment: On December 10, Stanley Kuo Jua Yang was sentenced to 30 months in federal prison for trafficking in counterfeit goods, including counterfeit exercise equipment. (ICE-HSI, U.S. Customs and Border Protection (CBP), USAO C.D.Cal.)

Significant Sentences in IP Crimes

Federal law enforcement obtained significant sentences against defendants charged with intellectual property crimes, including the following:

Three Members of Internet Piracy Group "IMAGiNE" Sentenced for Copyright Infringement Conspiracy, Fourth Member Pleads Guilty: Three members of 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, were sentenced for their roles in a criminal copyright infringement conspiracy. On November 2, Willie Lambert was sentenced to 30 months in federal prison and Sean M. Lovelady was sentenced to 23 months. On November 30, Gregory A. Cherwonik was sentenced to 40 months in prison, and that same day, Javier E. Ferrier pleaded guilty to conspiracy to commit criminal copyright infringement. (ICE-HSI, Department of Justice (DOJ) Computer Crime and Intellectual Property Section (CCIPS), USAO E.D.Va.)

San Jose Man Sentenced For Selling Counterfeit CDs and DVDs: Jose Alfredo Colorado Munoz was sentenced to 4 years in prison for conspiring to sell and distribute counterfeit music CDs and motion picture DVDs. He manufactured and sold thousands of counterfeit discs with an estimated retail value of over $2.6 million. (Federal Bureau of Investigation (FBI), Sacramento Valley Hi-Tech Crimes Task Force, USAO E.D.Cal.)

Virginia Man Sentenced for Selling Pirated Computer Software: On November 9, Quynh Trong Nguyen was sentenced to 36 months in federal prison for selling thousands of units of copyright infringing computer software online, with an estimated retail value of $2.5 million. (ICE-HSI, U.S. Postal Inspection Service (USPIS), USAO E.D.Va.)

Texas Man Sentenced for Selling Counterfeit Apparel: On December 14, LaKeith Fowler was sentenced to 33 months in prison for conspiracy to traffic in counterfeit goods. Fowler had operated a retail store in Dallas, Texas, where he sold 10,000 to 12,000 pairs of counterfeit sneakers purchased from a source in New York City. (ICE-HSI, USAO W.D.N.Y.)

Cyber Monday Operations

Cyber Monday Operations Result in Seizure of Websites Selling Counterfeit Goods Online:

For a third year, the IPR Center has targeted websites selling counterfeit products online in conjunction with Cyber Monday. ICE-HSI implemented Project Cyber Monday 3 to target websites selling infringing merchandise during the holiday shopping season. The merchandise included DVD movies, clothing, handbags, jewelry, baby carriers, sport wearing apparel, and software. Project Cyber Monday 3, part of Operation In Our Sites, also identified and seized PayPal accounts utilized by the infringing websites. Project Cyber Monday 3 resulted in the seizure of 101 domain names, with an additional 117 domain names seized during follow-on efforts in the United States. Recognizing the global nature of internet crime, the IPR Center expanded the Cyber Monday operation by partnering with Europol on Project TransAtlantic, together coordinating seizures of an additional 31 domain names of foreign-based websites illegally selling counterfeit merchandise online.



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.