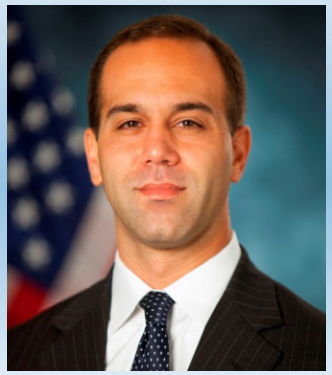
OFFICE OF THE UNITED STATES INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR

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Intellectual Property Spotlight



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Introduction

On behalf of the Office of the U.S. Intellectual Property Enforcement Coordinator, I am pleased to present the September–November 2013 issue of IP Spotlight, which features an update on patent reform, as well as several recent law enforcement actions involving theft of trade secrets and other intellectual property violations. Promoting innovation, improving our intellectual property protection systems and upholding U.S. intellectual property rights continue to be top priorities for the Administration.

On December 5, 2013, the House of Representatives approved H.R. 3309, the "Innovation Act," introduced by Judiciary Committee Chairman Goodlatte. The Innovation Act is intended to reduce costs and improve incentives for future innovation in high tech patents by helping to protect our innovators from frivolous patent litigation. The Administration will continue to work with Congress on this important issue.

In addition, U.S. law enforcement continues to develop significant cases to protect intellectual property right holders. In particular, IP Spotlight highlights three cases involving theft of trade secrets, one of which led to a sentence of imprisonment of over five years for a Texas man who gained unauthorized access into his former company's computer network in order to misappropriate confidential business information.

Theft of trade secrets leads to significant financial losses to U.S. companies. In the Administration's Strategy on Mitigating the Theft of U.S. Trade Secrets, the Administration committed to enhancing domestic law enforcement operations, and the U.S. Department of Justice has made the investigation and prosecution of corporate and state-sponsored trade secret theft a top priority.

This edition of IP Spotlight also highlights several successful law enforcement operations coordinated by the ICE-led National Intellectual Property Rights (IPR) Center. In Project Cyber Monday IV, ICE teamed with 10 foreign law enforcement agencies to seize hundreds of domain names selling counterfeit products online, and in Operation Team Player, U.S. law enforcement successfully targeted the multi-million dollar counterfeit sports apparel industry.

I am encouraged by the many accomplishments Federal agencies have achieved in strengthening intellectual property policy and enforcement throughout 2013. As we move forward into the new year, we look forward to making progress on a number of important legislative and executive branch intellectual property initiatives in support of American innovation and global competitiveness.

Alexander N.M. Niejelow
Chief of Staff, U.S. Intellectual Property Enforcement Coordinator
Executive Office of the President

Patent Reform

House Approves Bill to Address Abusive Patent Litigation

On December 5, the U.S. House of Representatives passed an amended version of H.R. 3309, the "Innovation Act," introduced by Judiciary Committee Chairman Goodlatte, by a 325-91 vote. The bill builds on a number of important reforms to the patent system contained in the Leahy-Smith "America Invents Act" (P.L. 112-29), which was enacted in September 2011, and successfully implemented by the United States Patent and Trademark Office (USPTO).



USPTO's Commissioner for Patents, Margaret "Peggy" Focarino said of the legislation, "We applaud Congressional efforts to move forward legislation that complements initiatives that the USPTO is undertaking to ensure high examination quality and limit abuses in the patent litigation system."

On June 4, 2013, the White House Task Force on High Tech Patent Issues recommended seven legislative measures and five executive actions designed to protect innovators from frivolous litigation and ensure the highest-quality patents. The Innovation Act, which includes many of these recommendations, is intended to reduce costs and improve incentives for future innovation in high tech patents by helping to protect our innovators from frivolous litigation and threats of litigation. The bill does so by requiring disclosures in patent infringement cases; limiting infringement actions against innocent downstream users of patented technology; and providing educational resources for small businesses and startups targeted by vague settlement demand letters.

The Administration is also taking a number of executive actions to address concerns related to abusive patent litigation. Specifically, USPTO has begun taking steps to increase consistency in patent examination, improve transparency in patent ownership information, and improve education and outreach.

The Administration will continue to work with Congress to advance this important bipartisan issue as the U.S. Senate takes up a companion bill introduced in the Senate by Judiciary Committee Chairman Leahy.

Trade Secret Theft Cases

Texas Man Sentenced to 63 Months in Prison for Corporate Hacking of Confidential Business Information

On September 5, 2013, Michael Musacchio, 62, of Plano, Texas, was sentenced to 63 months in prison after being convicted at trial for engaging in unauthorized access of his former employer's computer network. After four years as head of Exel Transportation Services, Musacchio left and formed a competing company, Total Transportation Services, and brought with him two employees from the Exel information technology (IT) department. From 2004-2006, Musacchio, joined by the IT employees, engaged in a scheme to hack into Exel's computer system for the purpose of obtaining confidential and proprietary business information and use it to benefit their new company and themselves as investors. (FBI, United States Attorney's Office (USAO), NDTX, U.S. Department of Justice, Computer Crime and Intellectual Property Section (DOJ-CCIPS)).

Former Employee of New York Company Charged with Stealing Trade Secrets

On October 24, 2013, the United States Attorney for the Western District of New York announced the indictment of Yi Liu, 40, of Lexington, South Carolina, on charges of stealing trade secrets from Sprung-brett RDI, a technology firm in Amherst, New York. According to the indictment, after Liu left Sprung-brett's employ in February 2011, he retained his company-issued laptop and, for the next seven months, allegedly used it to download Sprung-bett's trade secrets about "electric actuation system technology" which the company was developing for possible use in nuclear submarines and U.S. Air Force fighters. (FBI, USAO-WDNY).



"Protecting scientific and technological innovations developed by businesses and entrepreneurs is of primary importance not just to those who create the idea but to our region and country," said U.S. Attorney William J. Hochul, Western District of New York. "This office will protect the intellectual property of our residents and will vigorously prosecute those who attempt to steal it."

Colorado Corporation Settles Allegations of Trade Secret Theft

On September 13, 2013, a Colorado corporation, ADA-ES, Inc. and ADA Environmental Solutions LLC (ADA) entered into a non-prosecution agreement with the United States based on allegations of trade secret misappropriation. Between 2000 and 2006, ADA and another corporation agreed to jointly develop, test and market a product known as activated carbon, which is used to remove mercury emissions from waste gas created in manufacturing processes. ADA admitted that it inappropriately maintained possession of the confidential information belonging to its partner corporation. As part of the settlement, ADA agreed to maintain a compliance program and abide by the terms of the settlement with the partner corporation, which required a $40.5 million payment to the partner corporation, as well as royalty payments for sales of ADA's activated carbon until 2018. (FBI, USAO-EDTX).

Cracking Down on Counterfeiting and Piracy

Protecting Consumers and Businesses

Project Cyber Monday IV

Leading up to the holiday season, ICE teamed with 10 foreign law enforcement agencies to seize 706 domain names that were illegally selling counterfeit merchandise online to unsuspecting customers. During the investigation, Federal law enforcement officers made undercover purchases of a host of products including professional sports merchandise, luxury goods, jewelry, and DVD sets. Upon confirmation that the merchandise was counterfeit, law enforcement obtained seizure orders for the domain names of the websites that sold the goods. (ICE, IPR Center, USAO-D. Utah, W.D. Texas, S.D. Texas, N.D. Texas, D. Colorado, U.S. Dept. of Justice-Computer Crime and Intellectual Property Section, Belgium Economic Inspection, Belgium Customs, Denmark Police, Hungarian Customs, French Gendarmerie, French Customs, Romanian Police,Spanish Guardia Civil, City of London Police, Hong Kong Customs and Excise Department).

"Criminals who sell counterfeit products are economic parasites who harm legitimate businesses that pay taxes, create jobs and support our national economy," said Special Agent in Charge of HSI New Orleans Raymond R. Parmer Jr. "Anyone who thinks counterfeiting is a victimless crime should realize the profits of these black-market sales are routinely diverted to support further criminal activity such as drug trafficking, money laundering and even potential terrorism."

Operation Team Player

ICE announced two enforcement actions as part of Operation Team Player, a National Intellectual Property Rights (IPR) Center-led initiative targeting the sale and trafficking of counterfeit sports merchandise and apparel.

In the first operation, which took place on September 7, 2013, ICE, Alabama State Police and the Elmore County Sheriff's Department seized approximately 60,000 counterfeit items, including designer clothing, sportswear, handbags, shoes and electronics, from the Santuk Flea Market in Wetumpka, Alabama. The manufacturer's suggested retail price of the merchandise was more than $2.04 million. The trademarks of more than 30 different brands were infringed upon, including the NCAA, NFL, Nike, Louis Vuitton, Prada, and Coach. A link to the ICE press release is here.

In the second operation, on September 18, 2013, Brett Strothers, 32, of Egg Harbor Township, New Jersey, and his brother, Evan Strothers, 28, of Mays Landing, New Jersey, were arrested and charged with conspiracy to traffic in counterfeit goods. Two others, Joseph Cuozzo, 44, a U.S. citizen living in Thailand, and Haresh Aildasani, 27, an Indian citizen residing in China, were also charged in the criminal complaint. According to court documents, between 2010 and 2012, Brett and Evan Strothers purchased at least 16,700 counterfeit NBA and NFL jerseys from Cuozzo, who in turn purchased the merchandise from the manufacturer, Aildasani, in China. The Strothers used the jerseys as prizes in various basketball and football-tossing amusement park games they operated on the Wildwood and North Wildwood, New Jersey, boardwalk. The manufacturer's suggested retail price for authentic versions of the jerseys is approximately $4 million. A link to the ICE press release is here.

Prison Sentences in IP Infringement Cases

Sentencing of Seller of Counterfeit Airbags

On September 30, 2013, Igor Borodin was sentenced to seven years in federal prison for trafficking counterfeit airbags and transporting hazardous materials by airplane. Borodin, 27, made $1.7 million, of which about $1 million went to manufacturers in China that used airbags of unknown integrity, random bag folding methods, and sub-standard materials, according to prosecutors. Two airbags purchased from Borodin by Honda investigators failed to properly inflate when tested.

Fresno Man Sentenced to Prison for Criminal Copyright Infringement and Trafficking in Counterfeit Labels and Counterfeit Documentation and Packaging

On September 9, 2013, Jose Eduardo Jeronimo, 24, of Fresno, California, was sentenced to 2 ½ years in prison for selling counterfeit video and music DVDs and CDs. According to court documents, from July to September 2012, Jeronimo engaged in a scheme with co-conspirators to store and distribute thousands of counterfeit DVD movies and audio CDs, which Jeronimo sold from his residence. Following a probe by ICE, Jeronimo pleaded guilty to conspiracy to commit criminal copyright infringement and traffic in counterfeit labels and counterfeit documentation and packaging. (ICE, USAO-EDCA).

"Consumers need to remember, the sale of counterfeit items like these is not a victimless crime," said Mike Prado, resident agent in charge of HSI Fresno. "Counterfeiting robs Americans of jobs, stifles American innovation and promotes crime. The bottom line is, counterfeiters profit at the expense of American businesses and American workers."

Louisiana Man Sentenced to Prison for Selling Pirated Movies and Music

On September 20, 2013, Davis Norman III, of New Orleans, Louisiana, was sentenced to two years in prison for manufacturing and distributing copyrighted motion pictures and musical albums which he duplicated using a home DVD/CD burner. During the investigation, undercover ICE investigators purchased three DVDs from Norman containing illegal

copies of films that were still playing in movie theaters and were not available to the public on DVD. Law enforcement executed a search warrant on Norman's residence and recovered more than 1,000 pirated DVDs and CDs. (ICE, Louisiana Attorney General's Office, USAO-EDLA).

New Jersey Man Goes to Prison for International Counterfeit Sneakers Scheme

On October 22, 2013, Aref Abuhadba, 50, of Totowa, New Jersey, was sentenced to a year and day in prison for conspiracy to traffic in counterfeit goods. From 2003 to 2010, Abuhadba participated in a scheme to import counterfeit Nike sneakers and counterfeit Walt Disney-brand comforters and blankets from China for resale in the United States. Abuhadba sold the counterfeit goods to customers after the merchandise arrived from China, and wired the proceeds to co-conspirators. Abuhadba was also ordered to pay a $25,000 fine and forfeited $200,000 in ill-gotten gains he earned as a participant in the conspiracy. (FBI, USAO-D.NJ).

International Outreach & Training on Intellectual Property

On October 25, 2013, the U.S. Department of State, U.S. Embassy Athens, and ICE Homeland Security Investigations (HSI) conducted a one day IPR Training Workshop in Athens, Greece, focused on internet issues. Through approximately five hours of presentations, participants (including rights holders, Athens Information Technology (AIT) Center students, and other relevant stakeholders) learned of the legal, practical, transnational and investigative issues surrounding IPR violations on the internet.



Erik Barnett, ICE Attache to the European Union, delivers a presentation at the IPR Training Workshop in Athens, Greece, on October 25, 2013.

Funded by U.S. Embassy Athens in collaboration with the AIT Center, the workshop included an overview of the U.S. federal laws on IPR, U.S. common law courts, and the relationship between prosecutors and law enforcement agencies in the investigation of IPR violations. Additionally, the presentations discussed transnational criminal organizations engaged in online counterfeiting and piracy and the role of the international criminal justice system. This is an excellent example of intragovernmental cooperation between the U.S. Department of State and the U.S. Department of Homeland Security, and also of the U.S. Government's outreach on IPR to international stakeholders.

IP Training for Turkish Police

In September, 2013, the U.S. Patent and Trademark Office (USPTO) held a capacity building program at the Global Intellectual Property Academy for the Turkish National Police. The program addressed awareness of intellectual property protection, principles of the law in the context of effective enforcement, border protection, and the importance of law enforcement coordination during investigations.

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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.