OFFICE OF THE UNITED STATES INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR

SEPTEMBER/OCTOBER 2011 EDITION

Intellectual Property Spotlight



Contents

Introduction	1
International Enforcement	2
Health and Safety	2
Sales to the Military and U.S. Government	3
Theft of Trade Secrets for Innovative Technology	3
Online Enforcement	3
Special Operation at the Border	4
Federal, State, and Local Law Enforcement Working Together	4

Introduction

On Oct 21, ***President Obama*** signed into law three new trade agreements with Colombia, Panama, and South Korea; each containing state of the art intellectual property protection. Also, on Oct 1, the United States and seven other countries signed the Anti-Counterfeiting Trade Agreement (ACTA), marking an important step forward in the international fight against trademark counterfeiting and copyright piracy.

On Sep 16, ***President Obama*** also signed into law the America Invents Act, an historic legislation that will help American entrepreneurs and businesses turn their ideas into new products and new jobs by – among other things – making it easier for rightholders to protect their intellectual property abroad with an American patent process that is harmonized with the rest of the world to make it more efficient and predictable.

Finally, in Sep and Oct the United States Government agencies engaged in several highly coordinated and successful activities that included international operations, domestic investigations, and high-level prosecutions against especially egregious offenders whose intellectual property theft activities directly threatened lives with illegal pharmaceuticals, dangerous consumer electronics, fakes sold to the military, and even human trafficking.

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

International Enforcement



President Obama Signs Trio of Intellectual Property-Supporting Trade Agreements On Oct 21, ***President Obama*** signed into law three new trade agreements with Colombia, Panama, and South Korea; each containing state of the art intellectual property protection, and requirements to join key multilateral intellectual property rights agreements. They also contain strong provisions to ensure that American intellectual property rights are efficiently and effectively protected in those countries.

United States Moves Closer to International Anti-Counterfeiting Agreement On Oct 1, the United States and seven other countries signed the Anti-Counterfeiting Trade Agreement (ACTA), marking an important step forward in the international fight against trademark counterfeiting and copyright piracy. The ACTA provides for: (1) enhanced international cooperation; (2) promotion of sound enforcement practices; and (3) a legal framework for intellectual property rights enforcement in the areas of criminal enforcement, enforcement at the border, civil and administrative actions, and distribution of intellectual property infringing material on the Internet.

PTO Seeks Input on China Intellectual Property Enforcement On Oct 17, the U.S. Patent & Trademark Office (PTO) published a notice seeking public comments on the state of China's patent enforcement system. Views are invited on any challenges faced when trying to enforce patents in Chinese courts or Chinese administrative agencies. This data collection is part of an initiative announced in the IPEC Annual Report, which announced patent enforcement in China as a new area of focus, including determining what steps the U.S. Government can take to improve the effectiveness of China's patent enforcement regime. Public comments were due Nov 4.

DOJ Addresses International Audience of Prosecutors, Investigators and Industry In Sep, Assistant Attorney General Lanny Breuer provided opening keynote remarks at the 5th International Law Enforcement Intellectual Property (IP) Crime Conference in Madrid, hosted by INTERPOL, EUROPOL, and the Cuerpo Nacional de Policia. The conference garnered over 500 attendees including investigators, prosecutors and industry representatives from over 50 countries. AAG Breuer emphasized the importance of criminal enforcement of intellectual property rights and broad international cooperation, noting that "[i]t is reflective of the international scope of the challenges we face in fighting intellectual property crime that this conference should be held in Asia one year and Europe the next, and that it continues to bring together members of law enforcement from so many countries around the world, as well as industry stakeholders, leaders and other international partners. Indeed, if there is one thing that we all recognize, it is that intellectual property crime is a problem of global dimension."

Quotes about the ACTA



"We are on the threshold of a landmark achievement in the enforcement of intellectual property rights, and the international alliance we are forging with parties representing half of global trade will be critical to fighting the theft of American jobs through trademark counterfeiting and copyright piracy" said *United States Trade Representative Ron Kirk*.

Health and Safety

U.S. Agencies Take Part in Largest Gathering of International Partners Against Illegal Pharmaceuticals In Sep, the largest international operation of its kind, Operation Pangea IV, gathered ***81 countries*** for a week of action against online illegal pharmaceuticals which led to – in addition to dozens of arrests – the seizure of 2.4 million possibly harmful medicines around the globe worth ***$6.3 million***.
(ICE, CBP, FDA, FBI)

International Operation Short Circuit Seizes Dangerous Products In Oct, the United States completed its three-month participation – led by the IPR Center – in an international operation that included 43 countries (in coordination with the World Customs Organization) and seized 388 shipments of over a million dangerous products, with the U.S. making 80 seizures to stop ***$5.8 million*** of potentially harmful counterfeit electronics. (ICE, CBP)

Maryland Pharmaceutical Trafficker Pleads Guilty On Sep 30, a defendant charged with trafficking in counterfeit pharmaceuticals pleaded guilty after federal agents seized over ***45,000 tablets*** from his home. (U.S. Postal Inspection Service (USPIS), FDA-Office of Criminal Investigations (FDA-OCI), DOJ CCIPS, USAO D. Md.)

California Fake Exercise Equipment Trafficker Sentenced On Sep 12, a federal judge sentenced a defendant to 30 months in prison for importing over 2,300 fake exercise machines from China. (ICE, CBP, USAO C.D. Cal.)

Ohio Counterfeit Pharmaceuticals Seized On Sep 23, CBP Officers seized 8,000 tablets of counterfeit tadalafil (also known as Cialis®) at a shipping facility in Cincinnati, OH. (CBP)

California Fake Sunglasses Seized On Oct 6, CBP seized 30,300 pairs of counterfeit Lacoste® sunglasses worth ***$4.5 million***, all possibly capable of failing to provide UV protection or causing injury by shattering. (CBP)

Sales to the Military and U.S. Government

Virginia Electronics Counterfeiter Sentenced On Sep 9, a defendant featured in the Apr/May/Jun Spotlight was sentenced to ***60 months*** in prison for her part in a complicated plot to sell counterfeit Cisco computer networking equipment, which CBP discovered by piecing common threads in hundreds of unrelated shipments that led to the Zhao operation. "This case illustrates how well government agencies are assisting each other in sharing information and expertise," said ***CBP Commissioner Alan Bersin***. "There could not be a successful prosecution like the Zhao case without extensive multi-agency cooperation and collaboration." (USAO E.D. Va., DOJ CCIPS, ICE-HSI, GSA – OIG, Dept. of the Interior, CBP)

Florida Military Grade Counterfeiter Sentenced On Oct 25, a federal judge sentenced a defendant to 38 months in prison for her part in a scheme in which she and others imported ***$15.8 million*** worth of counterfeit integrated circuits from China and Hong Kong and sold hundreds of thousands of them to the U.S. Navy, defense contractors and others, marketing some of the products as "military-grade." "This prosecution is a warning to people who would even consider selling phony hardware to our military and defense contractors," said ***U.S. Attorney Ronald C. Machen Jr.*** "They not only put health, safety, and our national security at risk, but also expose themselves to serious criminal consequences." Integrated circuits are high-tech switch devices that control the flow of electricity in goods or systems such as industrial products, medical devices and systems, spacecraft, and military applications. Malicious code in counterfeit integrated circuits can enable systems disablement, communications interception, and computer network intrusion. "This investigation was an excellent example of a partnership of multiple federal law enforcement agencies across the country, working together to shut down a counterfeit fraud conspiracy that affected national security," said ***Daniel S. Cortez, Inspector in Charge, Washington Division, USPIS***. (ICE, Naval Criminal Investigative Service, Dept. of Transportation – OIG, USPIS, Dept. of Defense, CBP, USAO D.D.C.)

Quotes about the Operation



"Besides cheating legitimate businesses, putting counterfeit electronics in sensitive computer networks, aircraft, and vehicles can threaten public safety and even undermine national security," said *CBP Commissioner Alan Bersin*. "This case is a prime example of the way CBP protects the public from unfair and unsafe imports."

Theft of Trade Secrets for Innovative Technology

Indiana Economic Espionage Thief Pleads Guilty On Oct 18, a Chinese national pleaded guilty to foreign economic espionage and to theft of trade secrets. He admitted sending trade secrets related to Dow's insecticide technology to a People's Republic of China (PRC) university via persons in Germany and the PRC and also sending food trade secrets owned by Cargill to a student at a PRC university. The aggregate loss of this criminal conduct is between ***$7 - 20 million***. This activity against the agriculture industry was ***Indiana's first case*** of trade secret theft intended to benefit a foreign government. (FBI, DOJ CCIPS, USAO S.D. Ind., D. Minn.)

Quotes about In Our Sites



"HSI and the IPR Center have made a major dent in these criminals' plans to profit from fan enthusiasm surrounding a very exciting seven-game World Series – both in U.S. cities and in cyberspace," said *ICE Director John Morton*. "Counterfeits products represent a triple threat by delivering shoddy and sometimes dangerous goods into commerce, by funding organized criminal activities, and by denying Americans good-paying jobs. Homeland Security Investigations and our partners at the IPR Center will continue to work together to keep all types of counterfeit products off our streets."

Online Enforcement

Under Operation In Our Sites, DOJ and U.S. Immigration and Customs Enforcement, Homeland Security Investigations (ICE-HSI) have conducted seven major operations since June 2010, resulting in the seizure of ***200 domain names***.

- In Oct, the seventh phase of Operation In Our Sites – dubbed "Strikeout" – seized 58 domain names dedicated to sales of counterfeit sports paraphernalia, in addition to seizing over 5,300 items worth over $134,000. (ICE-HSI, DOJ CCIPS, USAO S.D. Tex., D. Colo., E.D. Mich., W.D. Wash., W.D. Tex., D. Minn., D. Md.)
- In Sep and Oct, four persons tied to NinjaVideo.net – a website that provided pirated high quality online content for millions to download – pled guilty to their involvement with the website which the first phase of Operation In Our Sites seized. (ICE-HSI, DOJ CCIPS, USAO E.D. Va.)
- On Oct 22, a Texas operator of an illegal website was indicted for running a website whose domain name the third phase of Operation In Our Sites seized in Feb for streaming pirated broadcasts of sporting events. (ICE-HSI, DOJ CCIPS, USAO S.D.N.Y.)

Voluntary Best Practices – Anti-Counterfeiting Coalition Adds Structure to Fight Against Counterfeits On Oct 12, the International Anti-Counterfeiting Coalition (IACC) took action on the Administration's call for private sector voluntary activities to stop intellectual property infringement and rolled out their online portal program to collect complaints about counterfeit good-selling websites that will be reported to credit card and payment processor companies. The portal program will collect data to help the Administration assess this approach's effectiveness.

Special Operation at the Border

Operation Summers End In Sep, over a special 5-day operation at an express package hub in Ohio, CBP made 289 seizures to intercept hundreds of various counterfeit items worth over ***$5.3 million***. DHL coordinated with CBP Officers and Import Specialists to carry out the operation. (CBP)

ICE Seizes Over 60,000 items On Sep 30, ICE-HSI special agents executed five federal search warrants in an intellectual property rights investigation related to various counterfeit goods in Tampa, leading to seizures of counterfeit articles estimated to be worth ***nearly $28.4 million.*** (ICE-HSI)

Federal, State, and Local Law Enforcement Working Together

Coordinated efforts by federal, state and local law enforcement agencies have led to several successes for intellectual property protection in Sep and Oct, including:

- TEXAS: ICE-HSI, FBI, Texas Attorney General's Office, Harris County Sheriff's Office broke a ***human trafficking operation that forced people smuggled into the USA to sell pirated DVD/CDs with threats both to the victims and their families in Mexico***. The three operation conspirators, reported on in the Dec Spotlight, received jail sentences of 46, 50 and 57 months. (USAO S.D. Tex.)
- TEXAS: FBI, Longview Police Dept., Dallas County Sheriff's Office, Baytown Police Dept., Austin Police Dept. stopped a ***$5 million*** counterfeit cell phone scheme leading to two guilty pleas on Sep 9. (USAO E.D. Tex.)
- DISTRICT OF COLUMBIA: ICE-HSI and Washington, D.C. Metropolitan Police Dept. arrested 11 people – including one wanted by INTERPOL – on Oct 18 for counterfeit trafficking in items worth over ***$3 million***.
- CALIFORNIA: FBI, Sacramento Valley Hi-Tech Crimes Task Force, and Stanislaus County Sheriff's Dept. investigated an extensive seven-person counterfeit DVD/CD operation leading to an indictment on Sep 8. (USAO E.D. Cal.)

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.