

ENT AND CONGRESS
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2008

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REPORT TO THE PRESIDENT AND CONGRESS ON COORDINATION OF INTELLECTUAL PROPERTY ENFORCEMENT AND PROTECTION

THE NATIONAL INTELLECTUAL PROPERTY LAW ENFORCEMENT COORDINATION COUNCIL

JANUARY 2008

UNITED STATES COORDINATOR FOR
INTERNATIONAL INTELLECTUAL PROPERTY ENFORCEMENT

UNITED STATES DEPARTMENT OF COMMERCE
UNITED STATES DEPARTMENT OF HOMELAND SECURITY
UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES DEPARTMENT OF STATE
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

UNITED STATES COPYRIGHT OFFICE (ADVISOR TO THE COUNCIL)

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Letter of Transmittal

To the President of the United States and to the Committees on Appropriations and the Judiciary of the Senate and House of Representatives:

This is the sixth annual report on the activities of the National Intellectual Property Law Enforcement Coordination Council ("NIPLECC" or "Council") submitted pursuant to 15 U.S.C. 1128(e). This report continues to build upon the improvements made in the 2006 report, which was the first submitted after Public Law 108-447 established the U.S. Coordinator for International Intellectual Property Enforcement (Coordinator) at the head of the Council and charged the Council with coordinating and overseeing the Federal Government's intellectual property protection and enforcement efforts.

The current report contains significantly more data and analysis, and establishes the precedent of submitting the report early in the calendar year so that we can provide the full results of our intellectual property (IP) enforcement efforts which have been typically reported by agencies on a fiscal year basis.

We have also attempted to provide greater detail on the full range of U.S. Government activities focused on IP enforcement and to analyze more fully the extensive interagency coordination that has supported substantial progress in the past year. This is done to demonstrate our commitment to a permanent and sustainable approach to IP enforcement that is focused on clear strategic goals.

The reasons for our efforts remain clear, but our task remains daunting.

Through the applied talents of American inventors, researchers, entrepreneurs, artists, and workers, we have achieved the most dynamic and sophisticated economy the world has ever witnessed. The world is a much better place due to these efforts. We have delivered life-saving drugs and products that make people more productive. We have developed entirely new industries and set loose the imaginative power of entrepreneurs everywhere. And, we set trends and market best-of-class products to nearly every country on earth.

Yet the global and pervasive theft of intellectual property puts this innovation and creativity in jeopardy. Rampant piracy remains all too common in major markets throughout the world, and IP theft continues to be a serious problem here at home. This is not a crime that affects only large corporations. Piracy and counterfeiting threaten individual artists and inventors as well as our small businesses and our most entrepreneurial industries. It also poses major health and safety risks to American consumers.

The Bush Administration has consistently made the promotion and protection of IP a major priority, and this attention is manifested most clearly in the Strategy Targeting Organized Piracy (STOP!) Initiative launched in 2004. The STOP! Initiative provides White House and Cabinet-level leadership, establishes a clear set of objectives, and enables the Federal Government to coordinate more closely and consistently to maximize its resources. STOP! has become the strategic plan for the activities of NIPLECC, and this report documents the efforts made in the past year to meet the objectives of STOP! and further American leadership on the critical issue of intellectual property enforcement.



Chris Israel

U.S. Coordinator for International Intellectual Property Enforcement

National Intellectual Property Law Enforcement Coordination Council

Executive Summary

The Strategy Targeting Organized Piracy, or STOP!, is the Bush Administration's landmark initiative for protecting intellectual property (IP) worldwide. Now in its fourth year, the STOP! Initiative has provided the guiding principles for the Administration to accomplish numerous goals on behalf of American rightsholders, both domestically and internationally. The Administration has made IP enforcement a major trade and economic priority.

Guided by STOP!, the agencies of the National Intellectual Property Law Enforcement Coordination Council (NIPLECC) are maintaining the commitment of senior Administration officials, achieving positive results, institutionalizing an unprecedented level of coordination within the Federal Government, and receiving attention around the world. The Bush Administration's message is that intellectual property enforcement is critical to the United States and that we will leverage the extensive resources and capabilities of the Federal Government to address the serious problem of counterfeiting and piracy. The Administration is working with its trading partners who have mutual interests to enhance our combined efforts in the global fight against counterfeiting and piracy.

Fiscal Year 2007 yielded record increases in IP-related investigations and prosecutions, enhanced border enforcement, increased emphasis on the annual Special 301 Review, expanded engagement within the World Trade Organization (WTO) in an attempt to resolve IP-related trade disputes, the launch of a major multilateral anti-counterfeiting initiative, deepened bilateral and multilateral relationships with foreign countries, and redoubled focus by all agencies on the public health and safety implications of counterfeit goods.

Even with increased focus and resources dedicated to the fight, counterfeiting and piracy continue to affect the United States and the global economy in profound ways. With that in mind, the NIPLECC agencies continue to identify new approaches to better protect our national and international interests—economic, health and safety, and security—from these illicit activities. This Report to the President and Congress on Coordination of Intellectual Property Enforcement and Protection details these efforts.

The structure of this Report reflects enhancements that have been made to clearly present individual and collective initiatives and accomplishments of the NIPLECC agencies, address lessons we have learned and analyze existing programs and policies. We have also considered how each can be improved and complemented to make the U.S. Government more effective domestically and internationally.

Finally, this Report lays out a comprehensive strategy for NIPLECC agencies in FY2008. Short and long-term goals are identified, with a specific focus on the priorities of the STOP! Initiative.

Introduction

History of NIPLECC

On September 29, 1999, Congress established the National Intellectual Property Law Enforcement Coordination Council (NIPLECC), via Public Law No. 106-58, section 633, as part of its Treasury/Postal Appropriations Bill. Per this statute, NIPLECC is an interagency council responsible for coordinating U.S. domestic and international IP enforcement activities. This has included coordinating official training and technical assistance programs, reaching out to U.S. industry, increasing public awareness, and serving as a law enforcement liaison.

Under 15 U.S.C. 1128(a), NIPLECC includes the following members: Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office; Assistant Attorney General, Criminal Division; the Under Secretary of State for Economic and Agricultural Affairs; the Deputy United States Trade Representative; the Commissioner of Customs; and the Under Secretary of Commerce for International Trade. The Council also consults with the Register of Copyrights on law enforcement matters relating to copyrights. The U.S. Department of Justice and the U.S. Patent and Trademark Office serve as the Council's co-chairs. Under 15 U.S.C. 1128(e), NIPLECC is required to report annually on its coordination activities to the President and to the Committees on Appropriations and the Judiciary of the Senate and the House of Representatives.

The NIPLECC statute was amended in 2004, when Congress created the Presidentially appointed Coordinator for International Intellectual Property Enforcement ("Coordinator"), via Public Law 108-447. The Coordinator was directed to be the head of NIPLECC with duties to include: (1) the establishment of

policies, objectives, and priorities concerning international intellectual property protection and enforcement; (2) the development of a strategy for protecting intellectual property overseas; and (3) the coordination and oversight of agency activities relating to the implementation of such policies and strategy to protect and enforce intellectual property rights. In July 2005, President Bush appointed Chris Israel to serve as the first IP Enforcement Coordinator and establish the office within the Office of the Secretary at the U.S. Department of Commerce.

History of STOP! Initiative

In October of 2004, the Bush Administration launched the Strategy Targeting Organized Piracy (STOP!), an unprecedented initiative to address the problem of counterfeiting and piracy. The White House-led STOP! Initiative brought together the NIPLECC agencies and the Food and Drug Administration to develop the most comprehensive initiative ever advanced to fight global piracy and counterfeiting. The goal was, and is, to preserve the competitiveness of the U.S. economy and to ensure the safety of Americans. STOP! is built on five key objectives:

1. Empower American innovators to better protect their rights at home and abroad
2. Increase efforts to seize counterfeit goods at our borders
3. Pursue criminal enterprises involved in piracy and counterfeiting
4. Work closely and creatively with U.S. industry
5. Aggressively engage our trading partners to join our efforts

Piracy and counterfeiting confront many industries, take place in many countries, and demand continuous attention by industry and governments. The Bush Administration remains committed to disrupting trade in pirated and counterfeit goods, and the STOP! Initiative is the Administration's road map.



President George W. Bush speaks to the APEC Business Summit on Sept. 7, 2007 in Sydney, Australia, at which leaders addressed intellectual property rights issues and multilateral initiatives. President Bush has made intellectual property enforcement and protection, both domestically and internationally, a priority for his Administration. (Source: The White House)

NIPLECC and STOP! Synergy

We continue to see NIPLECC and STOP! as fulfilling the critical requirements for advancing our overarching effort to promote and protect American intellectual property. NIPLECC provides the institutional and permanent framework that connects relevant U.S. Government agencies and makes them accountable to the President and Congress. Our approach has been to use the tools NIPLECC provides: a congressional mandate; empowerment of senior officials; accountability requirements; and, since FY2005, appropriated funds as a foundation to carry out the objectives articulated by the Bush Administration's STOP! Initiative. This has proven a very workable and effective approach. NIPLECC provides a well-understood structure while STOP! provides a strategic direction under the leadership of the White House and with a commitment from Cabinet officials.

Since the introduction of a Presidentially-appointed IP Enforcement Coordinator and annual funding, it is our view that NIPLECC has provided a valuable framework to continue to focus and improve U.S. IP enforcement efforts. What will be required is the ongoing commitment from Congress and subsequent administrations to maintain IP enforcement as a major policy priority. It will also be essential for future Congresses and administrations to have the flexibility to establish their own IP enforcement goals and strategies and be confident that they have an infrastructure to carry them out. A key objective for the coming year is to solidify the U.S. IP enforcement infrastructure in order to empower even stronger efforts in the future.

U.S. Coordinator for International Intellectual Property Enforcement

The Office of the U.S. Coordinator for International Intellectual Property Enforcement ("Office of the IP Coordinator" or "Coordinator's Office") works to leverage the capabilities and resources of the United States to promote effective, global enforcement of intellectual property rights.

As the statutory head of the National Intellectual Property Law Enforcement Coordination Council, the Coordinator is also empowered with the direct responsibility, among other critical tasks, to promulgate a strategy for protecting American intellectual property overseas. That strategy is STOP!. The Strategy Targeting Organized Piracy has been adopted by NIPLECC as the official strategy of the United States Government for combating counterfeiting and piracy. Under the umbrella of NIPLECC, U.S. Government agencies have been charged with the responsibility to carry out the goals of the STOP! Initiative in a concerted, comprehensive effort to attain real results against the global scourge of counterfeiting and piracy, which continues to threaten America's economic engines, and the health, safety, and security of its citizens.

NIPLECC Annual Report "Scorecard"

In September of 2006, the Office of the IP Coordinator released its first Annual Report to the President on the Coordination of Intellectual Property Enforcement and Protection. This report expanded on previous reports submitted by NIPLECC by detailing the Administration's collaborative interagency work in achieving the STOP! Initiative's goals. This year's report not only showcases agencies' individual and collaborative work; it assesses the success of the programs and proposes areas for additional effort by agencies and improved coordination through NIPLECC and the Office of the IP Coordinator.

In the 2006 Report, each NIPLECC agency identified goals for 2007. The following is a score card on the progress toward achieving those goals. In most cases, targeted initiatives have been launched and finite tasks completed. Those goals are marked "A" for "accomplished." In some cases, work has begun, but no firm commitment from partners has been obtained, or the project is expected to take additional time before being considered completed. In those cases, the goal is marked "P" for "progress ongoing."

Goals/Initiatives	Accomplished (A) or In Progress (P)
IP Enforcement Coordinator's Office	
▪ Execute on key elements of the US-EU and G8 intellectual property action strategies.	P
▪ Enhance coordination of U.S. IP training and capacity-building programs, building upon the work of the IPR Training Coordination Group.	P
▪ Work with the private sector to maximize government support for industry-led IP enforcement activities and to build a better understanding of technological approaches being deployed to protect IP.	A
▪ Support development of an expanded repository of information on global IP enforcement actions.	A

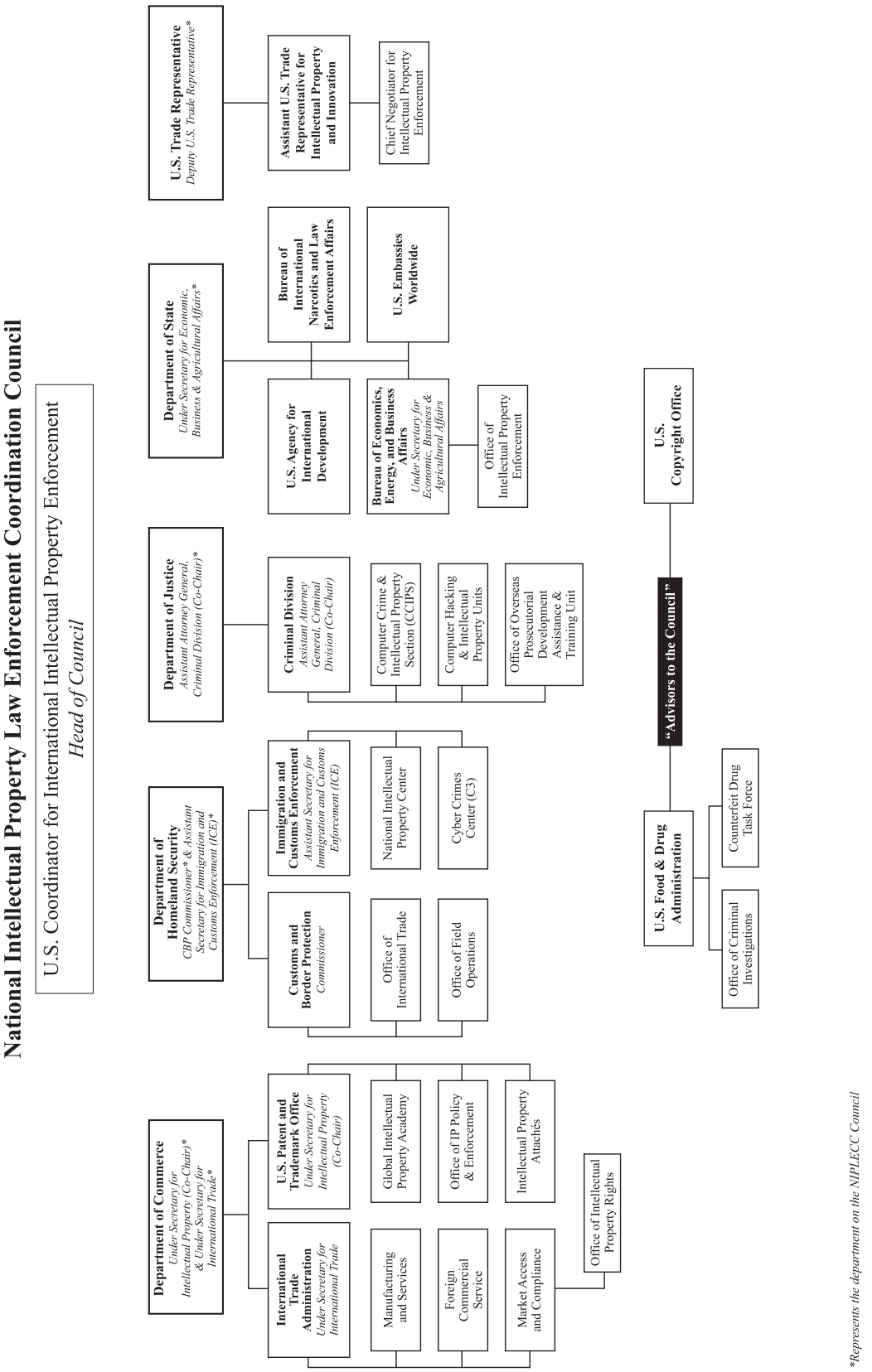
Goals/Initiatives	Accomplished (A) or In Progress (P)
Department of Commerce/U.S. Patent and Trademark Office	
▪ Pursue plans to post seven additional IP attachés abroad in late 2006: in Bangkok for the Asia region, in Sao Paolo for Latin America, in Cairo for the Middle East and Africa, in Moscow for Russia and the CIS, in New Delhi for India and South Asia, and two additional IP Attachés in China.	A
▪ Extend ongoing Global Intellectual Property Academy Programs for foreign officials at the USPTO training academy in Alexandria and provide IP training, trade capacity building, and technical assistance in the U.S. and abroad.	A
▪ Extend IP education outreach events for small and medium-sized businesses, including China- focused programs; increasing the USPTO presence at trade shows.	A
Department of Commerce/International Trade Administration	
▪ Build upon principles contained in IP cooperation agreements with Japan and the EU (developing best practices, sharing information, streamlining procedures and strengthen technical assistance efforts).	P
▪ Work with the Coalition Against Counterfeiting and Piracy to further develop the "No Trade in Fakes" program (voluntary guidelines for companies to protect their supply chains from counterfeit products).	A
▪ Create, in conjunction with the Small Business Administration, an IP chapter for the Globally Accessible Database for Small and Medium Enterprises to help educate and guide American businesses operating overseas on securing effective protection and enforcement of their IP.	A
▪ Promote protection of IP at domestic and international trade fairs through educational campaigns and official relationships.	A

Goals/Initiatives	Accomplished (A) or In Progress (P)
Department of Homeland Security/U.S. Customs and Border Protection	
▪ Continue improving CBP's Intellectual Property Rights e-Recordation (IPRR) system by adding an online recordation renewal feature.	P
▪ Create online infringement allegation forms for both rights holders and CBP field personnel to streamline Headquarters' review and response process.	P
▪ Work toward full implementation of the IPR risk-assessment model to enhance the identification of counterfeit and pirated goods at U.S. borders.	A
▪ Continue Post-entry Verifications ("IPR audits") to help rid supply chains of fakes and deprive counterfeiters and pirates of illicit profits.	A
▪ Establish a link from the U.S. Copyright Office website to the CBP's Intellectual Property Rights eRecordation system to make it easier for right owners to provide information on their rights to CBP.	A
▪ Enhance CBP's ability to detect counterfeit and pirated goods by promoting product identification training sessions with industry representatives.	A
Department of Homeland Security/U.S. Immigration and Customs Enforcement	
▪ Increase outreach efforts to industry and government partners to better identify vulnerabilities through which counterfeit goods can be trafficked.	A
▪ Continue to partner with foreign governments to enhance joint transnational IP investigative and enforcement activities, particularly focusing on foreign manufacturers and distributors of counterfeits.	A
▪ Enhance the use of the National IPR Coordination Center to initiate industry outreach presentations and to refer investigative leads to field offices.	P
▪ Support enhanced efforts of the ICE/Cyber Crimes Center (C3) in targeting criminal organizations responsible for producing, smuggling, and distributing counterfeit products via the Internet.	P

Goals/Initiatives	Accomplished (A) or In Progress (P)
Department of Justice	
▪ Support enactment of legislation and ratification of treaties protecting IP.	A
▪ Increase the deployment of domestic and foreign-based resources focused on IP investigations and prosecutions.	A
▪ Establish through the Asia IP Law Enforcement Coordinator an Intellectual Property Prosecution and Investigation Network.	A
▪ Launch the National Educational Prevention Teacher Training Initiative co-sponsored and co-funded by DOJ and USPTO.	P
Department of State	
▪ Support implementation of the G8 and US-EU Action Plans on IP Enforcement.	P
▪ Build upon the significantly expanded training of Embassy staffs in IP issues, to increase their effectiveness as first responders to U.S. industry, as implementers of other agencies' IP agendas, as advocates for enforcement improvements and as outreach specialists in building support for IP protection abroad.	A
▪ Stage additional IP regional training events for regional officers. In 2005, State staged two major IP training events for officers in Africa and Latin America, bringing them together with USG IP experts and U.S. industry representatives. New tactics were identified and enforcement partnerships formed. Recognizing the contribution these events have made to USG effectiveness on IP issues in the field, State has made this cycle of training events permanent. In late 2006, State conducted a training event for officers serving in the Middle East and Europe, and in the first half of 2008 will conduct another event for officers in the East Asia and Pacific regions.	A
▪ Institutionalize and expand the new "Musical Ambassadors for IPR" international program, which employs an existing public-diplomacy funded program for U.S. musicians touring abroad to deliver "protect IP and protect your local culture" message to international musicians and audiences.	P

Goals/Initiatives	Accomplished (A) or In Progress (P)
Office of the U.S. Trade Representative	
▪ Establish priorities of the new Intellectual Property office and the newly-created Chief Negotiator for Intellectual Property Enforcement; the new Chief Counsel for China Trade Enforcement and the newly-formed China Enforcement Task Force.	A
▪ Work closely with other U.S. Government agencies to deepen intellectual property alliances worldwide by means of positive engagement through bilateral trade dialogues (such as with the EU, Japan, and India, among others), and through the G8, APEC, the Security and Prosperity Partnership (Canada and Mexico) and other multilateral forums.	A
▪ Use the Special 301 process and other trade tools, including World Trade Organization (WTO) tools, as appropriate to seek resolution of U.S. concerns regarding IP protection and enforcement. Key activities will include Special 301 reviews of U.S. trading partners, the unprecedented special provincial review of China, and continued engagement with Russia through both bilateral and multilateral avenues.	A
▪ Ensure that the intellectual property provisions of U.S. trade agreements meet U.S. objectives in the field of intellectual property, such as reflecting a high standard of protection similar to U.S. law and providing for strong enforcement.	A
The Copyright Office	
▪ Continue its mission of providing useful education and training on copyright internationally by hosting semi-annual workshops in conjunction with WIPO. The workshops are attended by high-level officials from developing and newly industrialized countries and are designed to encourage the development of effective intellectual property laws and enforcement overseas.	A

The NIPLECC Agencies



*Represents the department on the NIPLECC Council

Head of Council

Office of the U.S. Coordinator for International Intellectual Property Enforcement

The Office of the IP Coordinator works to leverage the capabilities and resources of the U.S. Government to promote effective global protection and enforcement of intellectual property rights. Under the leadership of the White House, the IP Enforcement Coordinator directs inter-agency initiatives such as the Strategy Targeting Organized Piracy (STOP!) and coordinates outreach with both the private sector and international trading partners.

Council Co-Chairs

Department of Justice

The Department of Justice pursues a comprehensive, multi-dimensional approach to fight IP crime. This approach addresses many different, yet essential, aspects of intellectual property enforcement, including criminal, civil and antitrust; crime prevention; and global cooperation. The overall effort is determined by the Department's Task Force on Intellectual Property, led by the Attorney General, with substantial input from the U.S. Attorney's Offices; the Criminal, Civil, and Antitrust Divisions; and the Federal Bureau of Investigation (FBI).

The Criminal Division's Computer Crime and Intellectual Property Section (CCIPS)—together with the network of approximately 230 Computer Hacking and Intellectual Property (CHIP) Unit prosecutors in U.S. Attorneys' Offices across the country—lead the Department's implementation of its national and international criminal enforcement initiatives to better protect intellectual property rights worldwide.

U.S. Patent and Trademark Office

USPTO's Office of Intellectual Property Policy and Enforcement provides training for foreign government officials both in the U.S. and through various programs around the world. In conducting training, the USPTO partners with other government entities dealing with IP including the Departments of Homeland Security, Justice, and State; USTR; the Copyright Office; and other government agencies.

USPTO also works closely with USTR to assist in the negotiating and drafting of IP provisions of free trade and other international agreements. Additionally, the USPTO assists foreign governments by reviewing IP policies and standards, works with the World Intellectual Property Organization (WIPO), and participates in international cooperation meetings and multilateral conferences on IP issues.

Council Members

Department of Commerce

The International Trade Administration (ITA) within the Department of Commerce is charged with monitoring the compliance and implementation of bilateral and multilateral trade agreement obligations committed to by U.S. trading partners, including those related to IP protection and enforcement. ITA's various offices work together, and with other federal agencies, to promote the IP rights of U.S. companies abroad.

ITA advances the interests of U.S. business in forums at home and abroad that address the protection and enforcement of intellectual property rights. ITA also focuses on resolving IP-related market access and trade agreement compliance problems abroad through casework.

Department of Homeland Security – U.S. Customs and Border Protection

U.S. Customs and Border Protection (CBP) is a component agency within the U.S. Department of Homeland Security (DHS). CBP's primary mission is to detect and prevent terrorists and illegal weapons from entering the United States, while facilitating the orderly and efficient flow of legitimate trade and travel at and through our Nation's borders. CBP is vested with the authority and mandate to enforce a number of U.S. trade laws, including those related to the enforcement of intellectual property rights.

CBP's Trade Enforcement program is embodied in the agency's "National Trade Strategy," which directs actions and resources around several "Priority Trade Issues," including IP enforcement. IP enforcement is integrated into the work of several offices throughout CBP, and the agency provides considerable resources, diverse personnel, and focused training to its officers to enable them to respond to IP issues.

With respect to intellectual property rights, CBP enforces U.S. IP laws by detaining, seizing, forfeiting, and destroying counterfeit and pirated goods imported into the United States. CBP also excludes from entry into the United States goods that violate IP laws that are the subject of an Exclusion Order issued by the U.S. International Trade Commission (ITC).

CBP works closely with the DHS component organization Immigration and Customs Enforcement, to affect criminal IP enforcement actions, and works closely with other U.S. Government law enforcement and trade policy agencies on domestic and international IP border enforcement and policy matters.

Department of Homeland Security – Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE), the largest investigative arm of DHS, is responsible for eliminating vulnerabilities in the nation's border and in U.S. economic, transportation, and infrastructure security. ICE plays a leading role in targeting criminal organizations responsible for producing, smuggling, and distributing counterfeit products. ICE investigations focus not only on keeping

counterfeit products off U.S. streets, but also on dismantling the criminal organizations behind these activities.

ICE agents use a variety of assets and resources to combat the problems of counterfeiting and piracy including:

- National Intellectual Property Rights Coordination Center—created in 2000 and staffed with agents and analysts from ICE, CBP, and the FBI, the IPR Center assists in the U.S. Government's domestic and international efforts against IP violations. The center serves as a liaison between private industry and law enforcement in targeting IP crimes. ICE agents throughout the country rely upon the IPR Center for guidance in their investigations.

- ICE Cyber Crimes Center (C3)—ICE agents in the United States and abroad work closely with the ICE Cyber Crimes Center to combat the problem of piracy and related IP violations over the Internet. The C3 is ICE's state-of-the-art center for computer-based investigations, providing expertise and tools to help agents target Internet piracy. The Cyber Crimes Center works closely with the IPR Center.

- 51 ICE Attaché Offices overseas—ICE has attachés in roughly 39 countries around the globe that coordinate investigative efforts with the host government's law enforcement agencies. Since the majority of counterfeit goods in the United States are produced abroad, domestic ICE agents work closely with the ICE attachés to coordinate international investigations.

Federal Bureau of Investigation

The Federal Bureau of Investigation's (FBI) intellectual property enforcement program is managed by the Cyber Crime Fraud Unit (CCFU) in its Cyber Division in Washington, D.C. The CCFU provides administrative and operational support to field offices focusing on IP crimes affecting national and economic security, including theft of trade secrets, Internet piracy, trafficking in counterfeit goods and consumer protection related to IP theft.

In addition to overseeing and supporting the IP program in the 56 field offices nationwide, and legal attachés assigned to U.S. Embassies throughout the world, FBI-CCFU acts as the central coordination point for intellectual property undercover IP operations with multi-district or international targets. FBI-CCFU provides administrative oversight to the investigating field office, as well as additional resources to supplement the investigation such as funding and personnel. Finally, FBI-CCFU coordinates domestic and international efforts with other agencies and industry groups, and also works closely with the Department of Justice's Criminal Division to prosecute IP crimes at home and to address international enforcement challenges.

Department of State

The State Department, through its Office of Intellectual Property Enforcement (IPE) and the Crimes Program Division of the Bureau of International Narcotics and Law Enforcement Affairs (INL) promotes the protection and enforcement of IP. The Department works closely with other U.S. Government agencies on international IP policy formulation, enforcement efforts, bilateral and multilateral IP negotiations, and the delivery of criminal law enforcement training and technical assistance to foreign law enforcement partners. IPE and INL co-chair the U.S. Government's Training Coordination Group (TCG). The TCG is an interagency group that provides a forum for agencies and businesses engaged in IP enforcement training to identify funding and manage programs to maximize the efficiency and effectiveness of U.S. IP training efforts. The Department's Embassies and Missions abroad play a central role in supporting U.S. intellectual property enforcement objectives internationally. The Department is

also working with its Embassies and Missions overseas on global, public diplomacy campaigns to build understanding of the value of intellectual property and reducing the demand for pirated and counterfeit products.

Office of the U.S. Trade Representative

The Office of the U.S. Trade Representative—working in close cooperation with other federal agencies, U.S. rightsholders and foreign governments—uses the full range of trade policy tools on the multilateral and bilateral fronts to provide international leadership on IP enforcement issues. These tools include negotiation of free trade agreements (FTAs) and trade and investment framework agreements (TIFAs); WTO accession negotiations and bilateral discussions of IP issues. USTR also leads the Special 301 review process; U.S. trade preference programs; bilateral and multilateral dispute settlement mechanisms; and forges international alliances.

Additional U.S. Government Agencies

U.S. Copyright Office

The Copyright Office provides expert assistance to Congress, federal departments and agencies, and the Judiciary on domestic and international copyright and related matters. By statute (Public law No. 106-58, Section 653(c)), the Register of Copyrights serves in a consultative capacity to the NIPLECC.

Food and Drug Administration

The Food and Drug Administration (FDA) is actively involved in protecting intellectual property through its regulatory responsibilities for comestibles and pharmaceuticals. FDA investigates criminal activity regarding products it regulates through its Office of Criminal Investigations (OCI). In response to concerns of increased criminal violations of the Food Drug and Cosmetic Act (FDCA), OCI was established in March 1992 by the FDA Commissioner, with the urging of Congress. In relation to IP

enforcement, OCI investigates violations of U.S Criminal Code 18 USC 2320 and FDCA 21 USC 331(i). OCI routinely coordinates counterfeit investigations and intelligence with other federal law enforcement agencies, especially ICE, and with local and state authorities.

NIPLECC 2007 Year in Review

The preceding pages provide an overview of the leadership structure of NIPLECC and progress that has been made in 2007. The following sections detail the multifaceted actions taken by the United States and highlight examples of how effective coordination has resulted in stronger global IP enforcement over the past year.[1]

I. EMPOWERING AMERICAN INNOVATORS

The first step toward combating counterfeiting and piracy is to ensure that inventors, entrepreneurs, artists, and businesses are well-equipped to protect their own IP. The U.S. Government is actively working to educate the private sector, especially U.S. small and medium-sized enterprises (SMEs) on the various challenges they may face. This section showcases the resources and tools NIPLECC agencies have developed to enable U.S. rightsholders to assess their IP, make smart decisions about deploying it, and engage in enforcement-related self-help when necessary.

www.STOPfakes.gov

The Office of the IP Coordinator launched a redesigned Stopfakes.gov website on April 26, 2007—World Intellectual Property Day—bringing a renewed focus to gathering and disseminating information and

[1] The structure of this report follows the outline of the Bush Administration's STOP! Initiative to effectively present an extensive amount of information. It is important to note, however, that some of the efforts made by the U.S. Government to protect IP precede and extend beyond the framework laid out by STOP!.

updates from all involved federal agencies on events, initiatives, and results. The website provides all of the published resources below for easy access for all IP owners.

Stopfakes.gov has seen a steady increase in its online activity within the last year: in FY2007, the site had more than 75,000 visitors, up from 44,000 in FY2006.

Businesses are also able to file complaints about IP-related trade problems on Stopfakes.gov, which are processed by Department of Commerce staff. Commerce staff will in turn work with the complainant and relevant NIPLECC agencies to address the issue, helping businesses secure and enforce their IP.

IP Enforcement Hotline

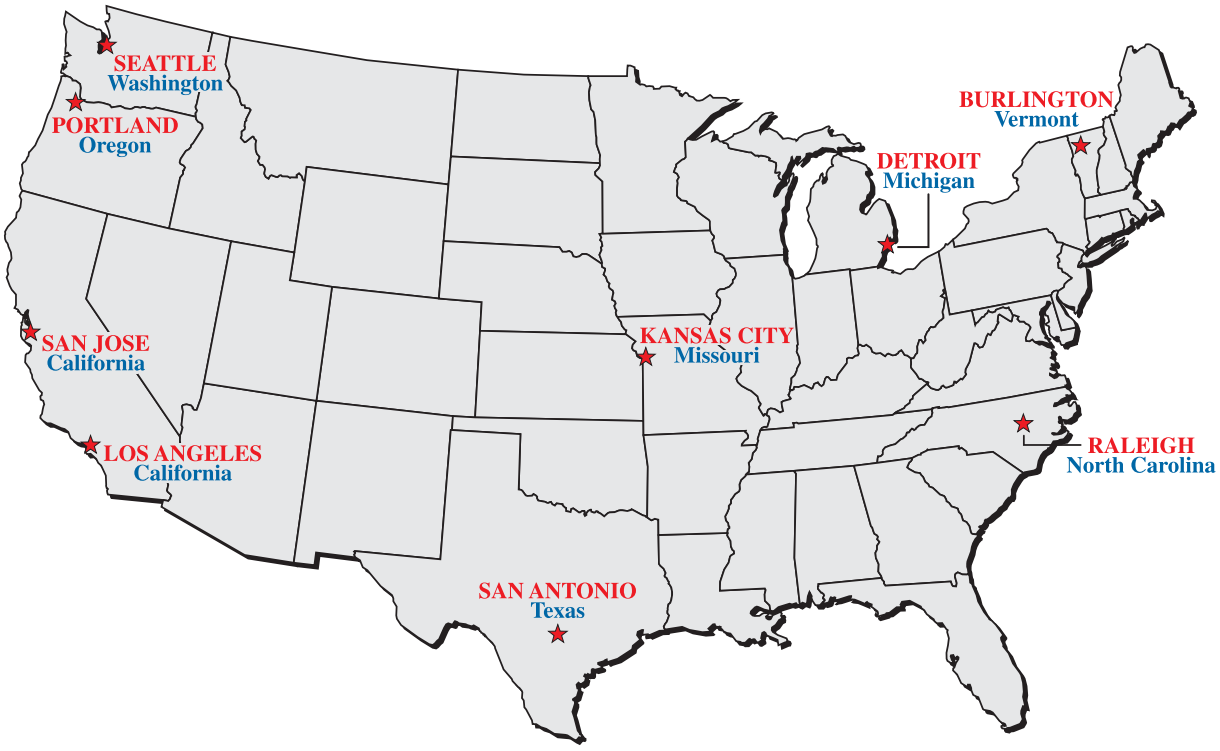
USPTO manages a hotline (1-866-999-HALT) that helps businesses leverage U.S. Government resources to protect their intellectual property rights in the United States and abroad. A staff of over three-dozen intellectual property attorneys at USPTO with expertise on how to secure patents, trademarks, and copyrights, and enforcement of these rights throughout the world is available to answer callers' questions.

Use of the IP Enforcement hotline has steadily grown each year since its inception in 2005. In 2005, the hotline received 955 calls; in 2006, 1460 calls; and in 2007, 1730 calls.

Reaching out to U.S. Businesses Nationwide

USPTO has reached hundreds of U.S. businesses through a series of conferences on intellectual property and the global marketplace. USPTO has partnered with the U.S. Chamber of Commerce to offer these conferences that provide the basics of patent, trademark, and copyrights and in-depth information on protecting and enforcing IP both domestically and abroad. In 2007, USPTO and the Chamber reached 1,300 individuals representing hundreds of SMEs in the following cities across the United States: Raleigh, Detroit, Burlington, Los Angeles, San Jose, Seattle, San Antonio, and Portland.

Locations of 2007 USPTO Road Shows



We will also soon place the information made available at these conferences on the USPTO website[2] to enable any company to benefit from useful content that the USPTO and the Chamber of Commerce have created.

Providing Rightsholders with Legal Advice

The Department of Commerce, in cooperation with the American Bar Association's (ABA) Section of International Law and the Coalition Against Counterfeiting and Piracy, re-launched the International Intellectual Property Rights Advisory Program in 2007. This program allows American SMEs to request a free, one-hour consultation with a volunteer attorney knowledgeable in both industry IP issues and a particular country's laws to learn how to protect and enforce their IP in that country. Expertise is now available for Brazil, Russia, India, China, Egypt, and Thailand.

[2] *www.uspto.gov/smallbusiness/*

U.S. Government Presence Overseas

In addition to the advisory materials and services available to IP owners, the NIPLECC agencies' internationally deployed personnel—stationed at Embassies in key countries around the globe—are yet another resource for American rightsholders. These specially trained officials are active within their respective countries to aid American businesses and entrepreneurs in protecting their IP in these important and often risky foreign markets.

The State Department has made a priority of training their diplomats to be "first responders" to IP issues in their respective countries. State has also developed consular information sheets on IP issues for 36 of the 43 countries listed in the Special 301 Report. These information sheets advise American citizens, particularly tourists, not to purchase counterfeit and pirated products. Additionally, the Commerce Department's Foreign and Commercial Service's (FCS) Commercial Officers serve a primary function as representatives of American industry to foreign governments on a daily basis. These Officers work with American businesses to address their concerns on an individual, case-by-case basis, helping them take their problems to the respective foreign agency.

The Departments of Homeland Security and Justice also have officials posted in embassies worldwide. These officials are primarily tasked with liaising with their foreign counterparts, but they are also actively working with American industry on law enforcement cases.

NIPLECC agencies' presence overseas—our Embassy and Consular officers, our enforcement agency attachés, and our IP Attachés—are a valuable asset for U.S. companies. They play a critical role, helping U.S. businesses resolve cases when their rights are violated.

U.S. International IP Attachés

In 2006, the Administration developed a new program to lead U.S. Embassies' efforts on IP enforcement. Deployed by the Commerce Department, this staff of IP attachés is dedicated solely to IP enforcement

issues, and they are key players in assisting American rightsholders in their assigned countries. There are currently eight U.S. IP Attachés serving in: China (3), Russia, Thailand, India, Egypt, and Brazil. Additional information on the IP Attachés is available on page 63 of this report.

IP Toolkits on Major Global Markets

The Commerce and State Departments have collaborated to create IP toolkits that help guide businesses in protecting and enforcing their intellectual property in key foreign markets. Toolkits for Brazil, Brunei, China, Italy, Korea, Malaysia, Mexico, Peru, Russia, and Taiwan have been developed and launched on their respective U.S. Embassy websites and can also be found on Stopfakes.gov. The toolkits provide detailed information about local IP laws and resources, as well as helpful local contact information. Additional toolkits for Bangladesh, Bhutan, Canada, Egypt, India, Maldives, Nepal, Pakistan, Paraguay, the Philippines, Sri Lanka, Thailand, and Vietnam are currently being developed.

Programs Focused on China

Our Government-wide efforts have also focused specifically on the challenge and opportunity that China presents for U.S. businesses of all sizes.

The Commerce Department regularly sponsors domestic outreach, seminars, and one-on-one counseling sessions with U.S. companies to discuss IP enforcement in China and share best practices. In 2007, Commerce presented eight programs at locations across the country, including New York, Boston, Los Angeles, Philadelphia, and Washington, D.C., to educate U.S. industry groups, U.S. congressional staffers, and U.S. Government colleagues on how to protect and enforce IP in China.



U.S. Senator Patrick Leahy of Vermont addresses students and business leaders at the University of Vermont on October 21, 2007 as a part of a U.S. Patent and Trademark Office "Road Show" in Burlington. (Source: United States Senate)

USPTO held programs in Philadelphia, Kansas City, and San Jose specifically designed for companies either looking to enter the Chinese market or already doing business there. Topics covered included a review of recent laws and regulations developed by the Chinese government that affect protection and enforcement of IP. USPTO expects to continue these programs through 2008.

The Commerce Department also hosts a free monthly "China Webinar Series" on IP issues in China that any interested party can access online. So far, these webinars have reached over 900 participants and the archived programs available on Stopfakes.gov have been downloaded over 7,000 times.

Educating Consumers through Public Awareness Programs

In April 2007, the USPTO, in conjunction with the Ad Council and National Inventors Hall of Fame Foundation, launched a public service campaign targeting America's youth. The national campaign, titled "Inspiring Invention," seeks to make invention and developing new ideas part of children's lives. Radio and TV commercials are now playing throughout the country with the message "Anything's possible. Keep

thinking." The commercials direct students to a website—***www.inventnow.org***—which not only inspires kids to be inventors and more creative, but also provide messages on IP education and enforcement. This campaign will continue into 2009.

Generally, NIPLECC agencies will be looking for additional opportunities to reach the current and next generation of authors, inventors, and consumers to educate them on the importance of IP to their creative futures. USPTO will continue the education initiative with the Ad Council, assessing students attitudes toward inventing and IP. USPTO also plans to produce another round of TV and radio advertisements to keep America's youth aware of—and keenly interested in—the benefits of intellectual property.

In addition to the Ad Council program, in 2008, USPTO will partner with the Department of Justice to launch a new IP education curriculum for students, which will be available to teachers and parents throughout the country for the next three years. This program will be aimed at middle school-aged students to educate them on the importance of protecting IP – and why it is illegal to commit piracy, and warn them of the dangers of purchasing counterfeit goods. This new initiative will enhance the basic curriculum currently available through USPTO, and go into even greater detail on the subject of IP theft.

The State Department is also using public diplomacy to influence consumer behavior overseas and reduce the demand for counterfeit and pirated products. On World Intellectual Property Day, in April 2007, State launched the first phase of a global public awareness campaign designed to highlight the importance of intellectual property protection for economic development and the public health and safety dangers of pirated and counterfeit goods. During this initial phase, editorials signed by U.S. Ambassadors were placed in leading newspapers in more than 20 developing countries. The campaign continued through release of public fact sheets addressing topics important to specific regions, through digital video conferences with foreign government and private sector officials, and through foreign press trips to the United States. State is developing the next phase of the IP public diplomacy campaign, which will continue to leverage the State Department's tools and resources to build and strengthen public support abroad for strong intellectual property enforcement.

II. INCREASING EFFORTS TO SEIZE GOODS AT THE BORDER

The Department of Homeland Security's Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) are charged with securing our borders. Their mission includes identifying, seizing, and forfeiting counterfeit and pirated goods and then investigating the criminals and criminal organizations who attempt to import these fake goods into the United States. This important function protects American businesses and consumers from the threat to legitimate commerce and consumer health and safety. This section showcases U.S. Government efforts to improve border enforcement, particularly highlighting the work to enlist private sector and trading partners' support for stronger border enforcement regimes world-wide.



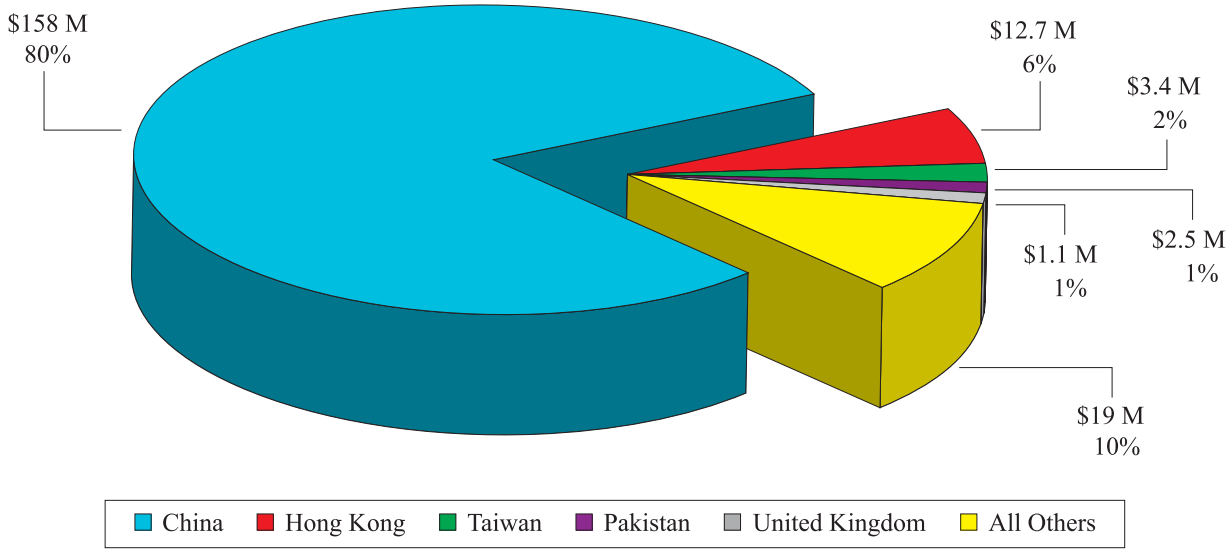
On November 15, 2007, Department of Homeland Security Secretary Michael Chertoff makes remarks at a luncheon during CBP's Trade Symposium 2007 at the Ronald Reagan building in Washington, D.C., at which border enforcement of intellectual property rights was an important priority. (Source: Department of Homeland Security)

As the primary U.S. border enforcement agency, CBP plays a critical role in pursuing the objectives of the STOP! Initiative and collaborates extensively with other U.S. industry and other government agencies. CBP has included diverse approaches to IP enforcement in its National IPR Trade Strategy, focusing on new techniques that complement traditional enforcement methods.

CBP's commitment to combating IP violations is evidenced in its annual IP seizure statistics. In FY2007, CBP processed nearly 14,000 seizures of counterfeit and pirated merchandise, representing a leveling off in the total number of seizures per year after five consecutive years of steady increases. However, the estimated value of the goods seized continued to rise, this year, by approximately 27%, up to approximately $200 million. More detailed statistics are available on CBP's website.[3]

[3] *www.cbp.gov*

U.S. Customs and Border Protection FY2007 Seizures of Pirated and Counterfeit Goods by Country of Origin



(Source: Department of Homeland Security)

CBP's extensive efforts focus on fighting the trade in fakes through improved risk analysis, identifying business practices linked to IP theft, depriving counterfeiters and pirates of illicit profits, and making it easier for rights holders to work with CBP to enforce their rights.

Risk Modeling

CBP's IP risk model is designed to enhance current efforts by customs officers to identify counterfeit and pirated goods at our borders. Through the use of innovative statistical analyses, CBP is using technology to assess risk and improve its ability to detect and intercept fakes at our borders. During FY2007, the risk model was successful in identifying containers with un-manifested and mis-described merchandise that violated IP laws.

In April a container of illuminating picture frames was selected for exam by the risk model. These frames contained a four inch space to allow for a fluorescent light bulb. Upon further examination, CBP discovered counterfeit handbags and wallets concealed within the space. In all, 663 cartons were seized valued at $54,450.

In another instance, a container of plastic food receptacles was selected for exam by the risk model. Examination of the container revealed counterfeit Nike sneakers concealed in plastic pails. In all, 380 cartons were seized valued at $142,400.

Post-entry Verification – "IPR audits"

With post-entry verification, or "IPR audits," CBP targets and subsequently audits companies at high-risk for importing counterfeit and pirated goods to prevent future infringing imports by these companies. CBP works with the companies to improve their internal controls and issues penalties for infringing goods uncovered in the audits.

In March, CBP completed an IPR audit on a prior violator. The audit team found four styles of shoes at the importer's warehouse infringing on the K-Swiss, Inc. (K-Swiss) registered and/or recorded trademarks. The domestic value of the audited merchandise was $105,720. CBP provided the importer with the following informed compliance publications related to IP: (1) Customs Administrative Enforcement Process: Fines, Penalties, Forfeitures, and Liquidated Damages, and (2) Customs Enforcement of Intellectual Property Rights. As a result of this audit, the company was issued a fine in the amount of $105,720. Since the audit completed, this company has had no more seizures for IP violations.

Streamlining CBP's IPR Recordation Process

CBP's online recordation system for trademarks and copyrights allows rights owners to electronically record their trademarks and copyrights with CBP. CBP personnel use the system daily to make IP infringement determinations. The IPR recordation system makes IP information relating to imported merchandise (such as images of trademarks and copyrights, contact information, countries of production, and licensees) readily available to CBP personnel as they are inspecting shipments at the ports of entry in real time. As of the end of FY2007, over 21,000 trademarks and copyrights were recorded with CBP. For more information on this tool or to register your trademark or copyright, visit CBP's e-recordation website.[4]

[4] *https://apps.cbp.gov/e-recordations/*

World Customs Organization

CBP is a member of the World Customs Organization (WCO) IP Standards to be Employed by Customs for Uniform Rights Enforcement (SECURE) Working Group. The SECURE Group combines the collective efforts of WCO member Customs officials with rightsholders to improve the efficiency and effectiveness of their organizations in combating IP violations. In 2007 the SECURE Group undertook efforts to improve IP Legislative and Regulatory enhancements in member countries; promote risk analysis techniques and intelligence sharing; and enhance capacity building and cooperation in IP enforcement.

At the October 2007 meeting of the Group in Brussels, CBP served as Chairman of the drafting committee tasked with developing the SECURE "Framework of Standards", a new set of standards to which WCO Members may employ to enhance the effectiveness and efficiency of their IP enforcement regime. The drafting group, led by CBP, devoted considerable efforts which included conducting two "virtual" drafting sessions in November 2007. CBP leadership enabled the group to substantially complete a final draft of the Framework of Standards which will be presented to the WCO Policy Meeting at its meeting in early 2008.

U.S.-EU Customs Cooperation

U.S. Customs and European customs officials have developed a comprehensive dialogue with their European Union (EU) counterparts. U.S. and EU customs organizations have engaged each other in a number of new initiatives developed to enhance the capabilities of Customs officers at the ports of entry for the respective U.S. and EU markets. These initiatives include the sharing of information, best practices, and exchanging personnel.

Customs officials have also discussed joint operational projects. This dialogue has contributed to a healthy relationship between the two organizations that will continue to develop in the future.

In addition, the U.S. and the EU have agreed to create a single set of uniform guidelines and requirements, to deliver to industry, so they may create a "Single" toolkit for customs officers to use to authenticate incoming goods at ports of entry.

U.S. International Trade Commission

The United States International Trade Commission (ITC) is an independent, quasi-judicial federal agency with broad investigative responsibilities on matters of international trade. The ITC administers U.S. trade remedy laws within its mandate; provides the President and Congress with analysis on matters of tariffs, international trade, and U.S. competitiveness, and maintains the Harmonized Tariff Schedule of the United States.

As an important part of its mission, the ITC investigates and adjudicates cases involving claimed infringement of intellectual property rights by imported goods. Through these proceedings under Section 337, the ITC facilitates a rules-based international trading system and serves as a key agency in the protection of intellectual property. Specifically, Section 337 investigations often involve allegations of patent and trademark infringement by imported goods, including both utility and design patents, as well as registered and common law trademarks. Additionally, the ITC handles other matters of unfair competition, including copyright infringement, misappropriation of trade secrets or trade dress, and false advertising.

The primary remedy available in Section 337 investigations is an exclusion order that directs the U.S. Customs and Border Protection to prevent infringing imports from entering the United States.

The ITC has issued nine exclusion orders in 2007. Five of those have been general exclusion orders. Of the remaining four limited exclusion orders, only one has downstream protection. More detailed information on ITC 337 proceedings and actions can be found at ITC's website.[5]

[5] *www.usitc.gov/trade_remedy/int_prop/pub3708.pdf*

III. PURSUING CRIMINAL ENTERPRISES

U.S. federal law enforcement aggressively investigates and prosecutes IP theft. The Department of Justice (DOJ), including the FBI, and Department of Homeland Security (DHS), particularly Immigration and Customs Enforcement, lead these important activities in the fight against counterfeiting and piracy. DOJ and DHS develop and execute enforcement strategies that result in increased criminal prosecutions in the U.S. and abroad.

The Department of Justice's efforts have already yielded substantial increases in federal investigations and prosecutions of IP violations. Through the dedicated efforts of U.S. Attorney's Offices, the Criminal Division, and law enforcement across the country, the Department filed 217 intellectual property cases in FY2007, representing a 7% increase over cases reported in FY2006 (204), and a 33% increase over cases reported in FY2005 (169). Also in FY2007, 287 defendants were sentenced for intellectual property crimes, representing a 35% increase over FY2006 (213) and a 92% increase over FY2005 (149).

The increase in FY2007 prosecutions reflects a continuing upward trend. For example, in FY2006, federal prosecutors convicted 187 defendants of criminal copyright and trademark offenses alone—an increase of 57% over the prior year. Thirty-nine (39) of those defendants received terms of imprisonment of 25 months or more, representing a 130% increase from the 17 sentenced to such terms in 2005. These recent figures follow significant increases in previous years as well. For example, in FY2005 the Department charged twice the number of defendants for intellectual property violations than it had in FY2004.

Many of DOJ's specific enforcement initiatives are set out in detail in the June 2006 *Progress Report of the Department of Justice's Task Force on Intellectual Property*. That Report announced implementation or ongoing implementation of thirty-one separate recommendations to improve the Department's IP enforcement efforts. In addition, the Justice Department is currently at the halfway point in a two-year plan to increase the enforcement of IP laws in the United States and around the world. The plan consists of strategic objectives derived from goals set by the Intellectual Property Task Force.

International Law Enforcement Engagement

The Justice Department also focuses significant resources in countries that are major manufacturers of counterfeit and pirated goods, or where the investment is likely to provide a greater long-term return in terms of increased protection of IP rights. Addressing these international enforcement challenges requires greater international cooperation and coordination on joint criminal investigations and prosecutions. Therefore, DOJ's Criminal Division conducts extensive training of foreign law enforcement on intellectual property crime. In fact, in 2006 alone, DOJ provided training and technical assistance to more than 3,300 foreign prosecutors, judges, and investigators from 107 countries.

The Justice Department has also actively engaged China on IP law enforcement initiatives. In March 2007, DOJ's Criminal Division hosted and chaired the inaugural meeting of the Intellectual Property Criminal Enforcement Working Group (IPCEWG) of the U.S.-China Joint Liaison Group for Law Enforcement Cooperation (JLG), which included 15 Chinese law enforcement officials and the Ministry of Public Security's (MPS) Vice Director General of the Economic Crimes Investigation Department, as well as officials from the FBI and U.S. Immigration and Customs Enforcement. The IPCEWG focuses on the development of more U.S.-China joint operations to combat transnational IP crime, in particular crimes committed by organized criminal groups and crimes that threaten public health and safety. This collaboration recently resulted in the largest ever joint FBI-MPS piracy investigation and prosecution, code-named "Operation Summer Solstice," which involved seizures of more than a half billion dollars in counterfeit software.

DOJ also led an initiative with members of the G8 industrialized nations to develop a framework for cooperation on intellectual property crime investigations. In November 2006, all members of the G8's Lyon-Roma anti-crime group approved the "Principles and Recommendations for Cooperative Investigation and Prosecution of Serious and Organized Intellectual Property Rights Crime," which set forth a foundation for future cooperation on criminal IP enforcement among the G8 members. In June 2007, the G8 Leaders endorsed the Principles and Recommendations at their annual summit in Germany.

In addition to working within the G8 framework, NIPLECC agencies have collaborated with the U.S. Chamber of Commerce and provided support to Interpol to establish an "Interpol Intellectual Property Crime Database." This new database will allow countries around the world to share information on counterfeiting and piracy to track IP crime and attempt to stop future criminal acts.

The database will provide an important new medium for information between countries. As it allows countries to share information they hold on counterfeiting and piracy, it also allows for information to be entered into the database from the individual companies who own the goods being stolen. By enhancing the intelligence provided to governments through this database, Interpol believes this new tool will allow countries to better track the source of pirated and counterfeit goods and also monitor the ports of transit for these fake products.

Law Enforcement Coordination

The Justice Department has also engaged their counterparts internationally through the work of IP Law Enforcement Coordinators (IPLEC) stationed overseas in our Embassies in Bulgaria and Thailand. The IPLECs work with U.S. industry and foreign law enforcement to coordinate outreach and IP enforcement efforts in their regions.

In October 2007, the IPLEC in Bangkok, Thailand, hosted a regional conference of approximately 60 key law enforcement officials from over a dozen nations in Asia, with the aim of launching an Intellectual Property Crimes Enforcement Network (IPCEN). The IPCEN is intended to operate as a forum to exchange investigation and prosecution strategies, and also to strengthen communication channels that promote coordinated, multinational prosecutions of the most serious IP offenses. IPCEN enhances law enforcement efforts by increasing communication, and targets large-scale IP crimes. This event was organized by DOJ and the IPLEC, in collaboration with other NIPLECC agencies and with significant assistance from the Association of Southeast Asian Nations (ASEAN).



From October 23-26, 2007, officials from the governments of the United States and the member countries of the Association of Southeast Asian Nations (ASEAN) met in Bangkok, Thailand for the Conference to Develop an Intellectual Property Crime Enforcement Network in Southeast Asia. This conference was co-hosted by the U.S. Department of Justice and the U.S. Patent and Trademark Office, along with ASEAN. (Source: Department of Justice)

In November 2007, DOJ placed a second IPLEC in Sofia, Bulgaria, dedicated to advancing the U.S. position, and regional IP goals. The IPLEC will work with regional law enforcement officials through training, outreach, and the coordination of investigations and operations throughout the region.

The first IPLEC was deployed to Bangkok in January 2006. Both positions are filled by skilled federal prosecutors with specialized experience in the prosecution of IP crimes.

The National IPR Center

The National Intellectual Property Rights Coordination Center (IPR Center) is a multi-agency center responsible for conducting a unified U.S. Government response regarding IP law enforcement issues. ICE and the FBI—two of the lead investigative agencies in the fight against both domestic and international IP crime—cooperate on law enforcement activities through the IPR Center. The Center identifies and addresses developing criminal IP violation issues and trends and advances that information through outreach and training with foreign governments. The IPR Center's responsibilities include:

- Serving as a collection point for intelligence provided by private industry, as well as a channel for law enforcement to obtain cooperation from private industry (in specific law enforcement situations);
- Integrating domestic and international law enforcement intelligence with private industry information relating to IP crime;
- Disseminating IP intelligence for use in the appropriate investigative and tactical use;
- Developing enhanced investigative, intelligence and interdiction capabilities; and
- Serving as a point of contact for IP-related law enforcement issues.

Between fiscal years 2002 and 2006, ICE agents arrested more than 700 individuals for IP violations and dismantled several complex, large scale criminal organizations that distributed counterfeit merchandise to nations around the globe. At the same time, ICE investigations into these networks resulted in 449 criminal indictments and 425 convictions. Together, ICE and CBP seized more than $750 million worth of counterfeit goods from fiscal year 1998 through fiscal year 2006. In FY2006 alone, ICE investigations resulted in 219 arrests, 134 indictments, and 170 convictions in intellectual property rights violations.

Selected Results of Criminal Enforcement Efforts

A. INTERNATIONAL COOPERATION FOR IP ENFORCEMENT

"Operation Summer Solstice"

On July 23, 2007, as a result of the largest ever joint investigation conducted by the FBI and the People's Republic of China, the MPS—China's Ministry of Public Security—arrested 25 individuals in China and seized more than a half billion dollars worth of counterfeit software. Microsoft publicly stated that this joint operation, code-named *"Operation Summer Solstice,"* dismantled a criminal syndicate—believed to be the largest of its kind in the world—that was responsible for producing more than $2 billion in counterfeit Microsoft and Symantec software.

Extradited Ringleader Sentenced for Software Piracy

On June 22, 2007, Hew Raymond Griffiths was sentenced to 51 months in prison for software piracy. This is the first extradition case in the U.S. for online software piracy crimes. Griffiths was the leader of one of the oldest and most renowned Internet software piracy groups worldwide, known as "DrinkOrDie." This organization was responsible for the illegal reproduction and distribution of more than $50 million worth of software, movies, games, and music.

B. MAJOR COUNTERFEIT TRAFFICKING ORGANIZATIONS

Massive Counterfeit Smuggling Ring Dismantled

On December 5, 2007, following an extensive investigation, ICE agents arrested ten individuals charged with offenses related to a massive scheme to illegally import and traffic in counterfeit goods.

The charges against the defendants allege that since 2006 the global ring smuggled and attempted to smuggle through Port Newark more than 100 steel shipping containers loaded with counterfeit merchandise—including counterfeit Nike shoes; Burberry and Chanel handbags; and Polo Ralph Lauren, and Baby Phat brand clothing. As part of this scheme, the defendants and their co-conspirators paid more than $500,000 in cash bribes to an undercover ICE agent. The ring routinely concealed these counterfeit goods in shipping containers with fraudulent bills of lading, falsely describing the cargo. For example, one bill of lading claimed a container held "noodles" when in fact it contained counterfeit Nike sneakers.

The investigation of this case was handled by ICE, and the case is being prosecuted by the U.S. Attorney's Office in the Southern District of New York.

Convictions for Trafficking in Counterfeit Consumer Merchandise

After a 32-month investigation, the FBI identified an organized criminal group of at least nine individuals who were importing counterfeit consumer merchandise and selling the illicit goods in storefronts across the eastern United States and through online auction sites. The group's leader was convicted and sentenced to 57 months' imprisonment for operating a wholesale clothing business in New York City that, according to its business records, sold more than $7 million worth of counterfeit clothing and personal accessories. Four co-defendants have also received sentences ranging from two years probation to 27 months imprisonment.

C. ECONOMIC ESPIONAGE AND PROTECTING TRADE SECRETS

Two Bay Area Men Indicted on Charges of Economic Espionage

On September 26, 2007, two Bay Area men were indicted on charges of economic espionage and theft of trade secrets, and a related conspiracy charge. The defendants allegedly conspired to steal trade secrets involving computer chip design and development from their employer and another company, and sought to obtain venture capital funding from the government of China.

Former Chinese National Convicted for International Economic Espionage

On August 2, 2007, Xiaodong Sheldon Meng was convicted of violating the Economic Espionage Act, the Arms Export Control Act, and the International Traffic in Arms Regulations. Meng possessed and exported a source code protected as a trade secret, belonging to Quantum 3D, knowing that it would benefit the China Navy Research Center. The source code was for a visual simulation software program used for training military fighter pilots. Meng is the first individual to be convicted for the illegal export of military source code in the history of the United States.

Two Sentenced for Conspiring to Steal Coca-Cola Trade Secrets

On May 23, 2007, Joya Williams and Ibrahim Dimson were sentenced to 8 years' and 5 years' imprisonment, respectively, for conspiring to steal and sell trade secrets of the Coca Cola Company. The convictions resulted from an FBI investigation that was initiated after PepsiCo contacted Federal authorities and provided them with evidence pertaining to the pair's crime.

D. ONLINE COPYRIGHT PIRACY

Convictions for Copyright Infringement over Peer-to-Peer (P2P) Network

On November 14, 2007, as a result of *"Operation D-Elite,"* a joint FBI and ICE investigation, Duc Do pleaded guilty to felony charges of conspiracy to commit criminal copyright infringement and copyright infringement in violation of the Family Entertainment Copyright Act. This is the seventh conviction arising from the nationwide federal enforcement operation against the illegal distribution of copyrighted movies, music, software and games over P2P networks employing the BitTorrent file-sharing technology.

Nine Convicted for Selling Counterfeit Software on eBay

On June 22, 2007, DOJ prosecutors obtained the eighth and ninth felony convictions involving eBay auction sales of counterfeit Rockwell Automation software. All nine defendants pled guilty in separate proceedings to felony copyright infringement. The software had a combined retail value of approximately $30 million. These convictions resulted from an FBI investigation and are part of a DOJ initiative to combat online auction piracy nationwide.

Over 100 Convictions in International Piracy Enforcement Actions

DOJ has continued to prosecute defendants from the two largest international online piracy enforcement actions undertaken to date, known as *"Operation FastLink"* and *"Operation SiteDown."* These international undercover operations conducted by the FBI in 2004 and 2005, respectively, resulted in a total of more than 200 search warrants executed in 15 countries; the confiscation of hundreds of computers and illegal online distribution hubs; and the removal of more than $100 million worth of pirated software, games, movies, and music. Together, *Operations FastLink* and *SiteDown* have resulted in over 100 felony convictions to date.

IV. WORKING CLOSELY AND CREATIVELY WITH U.S. INDUSTRY

All NIPLECC agencies have made a high priority of reaching out to the private sector to improve enforcement capabilities and collaborate on policy issues. The U.S. Government must be closely attuned to the needs of American industry to ensure it is effectively protecting these engines of economic growth. Many U.S. Government programs, particularly law enforcement activities, are considerably aided by the intelligence, expertise, and cooperation, which industry provides.



Secretary of Commerce Carlos Gutierrez and former Attorney General Alberto Gonzales discuss intellectual property rights at the U.S. Chamber of Commerce on May 14, 2007. Both the Department of Justice, through law enforcement, and the Department of Commerce, through trade diplomacy and industry outreach, are active on protecting and enforcing IP. (Source: Department of Commerce)

Additionally, rightsholders themselves play a critical role in supporting law enforcement efforts. NIPLECC enforcement agencies recognize that communication with industry is critical to the success of their work and are identifying ways to improve the flow of information.

Working with Industry Associations

The NIPLECC agencies regularly work closely with U.S. and international trade associations, including, but not limited to, the American Bar Association, American Chamber of Commerce in China, Business Software Alliance, Entertainment Software Association, International Chamber of Commerce, International Intellectual Property Alliance, International Federation of Phonographic Industries, International Trademark Association, Motion Picture Association of America, National Association of Manufacturers, the Pharmaceutical Research and Manufacturers of America, Quality Brands Protection Committee, Recording Industry Association of America, the U.S. Chamber of Commerce, and the U.S.-China Business Council.

One of the U.S. Government's closest industry partners is the Coalition Against Counterfeiting and Piracy (CACP), a U.S. Chamber of Commerce and National Association of Manufacturers led initiative. The CACP plays an important role in many of the U.S. Government's engagements with our trading partners. Particularly with the U.S.-EU IP Working Group and the Security and Prosperity Partnership with Mexico and Canada, CACP gathers industry leaders to engage these governments on IP enforcement issues.

Supply Chain Security

In 2005, U.S. manufacturers and retailers responded to the suggestion of Secretary of Commerce Gutierrez to develop broad principles for enhancing the security of private supply chains. The principles were developed and endorsed by the CACP and published in November 2005.

Since then, CACP has developed voluntary guidelines companies can use to ensure their supply and distribution chains are free of counterfeits. In January of 2007, the CACP launched a tool kit for implementing these guidelines, applicable to both SMEs and large companies in a broad range of industry sectors. Available at www.thetruecosts.org, the "Supply Chain Tool Kit" showcases strategies that companies use to protect their supply chains from counterfeiters. It contains recommendations that vary from low-tech, practical approaches (such as securing the legitimacy of inputs, customers, and distributors,

and working with local customs authorities) to high tech, more creative solutions (such as improved packaging, electronic tags, and patrolling the Internet). The Tool Kit also stresses the need for increased industry cooperation with law enforcement and regulatory officials. The CACP, with the help of the Commerce Department, has distributed the Tool Kit broadly, so U.S. companies will have the advantage of knowing what strategies work best to deter counterfeiting and piracy.

In addition to work being done with CACP, the Department of Justice has developed a series of conferences for companies that have been victimized by the crimes of counterfeiting and piracy. DOJ has convened three of these Victim Industry Conferences. Most recently, in November 2007, DOJ co-sponsored a victim industry conference in Miami with the U.S. Chamber of Commerce and the U.S. Secret Service. The one-day conference included more than 100 representatives of industry and law enforcement directly affected by intellectual property crime, particularly software and film companies harmed by copyright piracy. DOJ hosted a similar conference with the Business Software Alliance in San Jose, California, in May 2007.

SME Training Module

Small businesses create two out of every three new jobs in America and account for nearly half of our overall employment. However, only 15% of small businesses that do business overseas know that a U.S. patent or trademark provides protection only in the United States. Companies need to make sure that they register for intellectual property protection overseas, and the Administration has made a priority of reaching out to SMEs on issues of IP protection.

The Commerce Department, working with the Office of the IP Coordinator, ITA, USPTO, the Small Business Administration (SBA), and several SMEs, developed a web-based course that aims to help SMEs evaluate, protect, and enforce their IP both in the United States and overseas. The program was launched in December 2007, and is available on www.Stopfakes.gov to those interested in learning about IP issues that affect SMEs.

Protecting IP at Trade Fairs

National and international trade fairs are important venues for many American businesses, with many transactions occurring on site or due to activities conducted at the fairs. Protecting IP at trade fairs is crucial to increasing trade and competing in the global economy. At trade fairs, counterfeiting of trademarks and piracy of copyrighted works can magnify the damage to legitimate business because of the concentration of an industry's participants and the brief duration of many trade shows. Governments and industry need to work together to ensure that trade fairs consistently protect the IP of exhibitors.

The Commerce Department launched a program in 2006 to promote protection of IP at domestic and international trade fairs. The program includes educating trade fair attendees, exhibitors, and organizers about the value of IP, raising awareness of IP issues at trade fairs, and promoting IP protection at events that the Commerce Department operates, certifies, or supports.

Commerce is working with industry and trading partners to identify additional opportunities to help U.S. businesses guard against infringement at trade fairs at home and abroad. In 2008, Commerce will be discussing cooperation options with the European Commission regarding trade fairs conducted in the U.S., Europe, and China.

U.S. Customs Industry Outreach

U.S. Customs and Border Protection works with industry on an ongoing basis to combat IP infringement. CBP participates in various IP-focused events and collaborates with industry on IP enforcement training. CBP also meets with rightsholders individually to educate them and their representatives on working with CBP to enforce their rights, to provide information on IP enforcement efforts, and to discuss new initiatives. During FY 2007, CBP continued to work with industry to provide product identification training to its field officers. In this training, rightsholders educate customs officers and provide materials to help CBP detect and interdict counterfeit and pirated goods.

V. AGGRESSIVELY ENGAGING OUR TRADING PARTNERS

There are few areas of the Council's work that rival the expansive efforts its agency members undertake to pursue strong IP enforcement internationally. Our efforts are multi-faceted and involve every NIPLECC agency. Each agency possesses specialized capabilities pursuant to their mandate, which are not necessarily dedicated to the STOP! Initiative or NIPLECC, but are employed to best protect U.S. rightsholders worldwide.[6]

Working together, NIPLECC members have brought IP enforcement to the forefront of nearly all of our multilateral and bilateral relationships; worked with numerous international organizations to promote IP protection; developed an effective global IP training and capacity building program; and placed IP experts in U.S. Embassies around the world to aid U.S. rightsholders.

Multilateral Initiatives

Anti-Counterfeiting Trade Agreement (ACTA)

On October 23, 2007, U.S. Trade Representative Susan Schwab announced that the U.S. Government will seek to negotiate an Anti-Counterfeiting Trade Agreement (ACTA) with a leadership group of interested countries. This agreement will bring together countries that recognize the critical importance of strong IP enforcement for a prosperous economy. Trading partners currently engaged in discussions to develop the ACTA include: Canada, the European Union (with its 27 Member States), Japan, Korea, Mexico, New Zealand, and Switzerland.

[6] For more exhaustive information regarding NIPLECC Agencies activities and tools please see the individual agency appendices available on *www.stopfakes.gov*.



On October 23, 2007, U.S. Trade Representative Susan Schwab announces the Anti-Counterfeiting Trade Agreement on Capitol Hill. USTR Schwab is joined by U.S. Representatives (from left to right) Howard Berman, Mary Bono, Marsha Blackburn, Adam Schiff, and Bob Goodlatte. The United States is partnering with the European Union, Switzerland, Japan, Canada, Mexico, South Korea, and Australia to negotiate ACTA to improve enforcement of IPR worldwide. (Source: Office of the U.S. Trade Representative)

The ACTA is envisioned as a leadership effort among countries that value and maintain high standards of enforcement against piracy and counterfeiting. ACTA builds upon the cooperation NIPLECC agencies have established bilaterally and regionally since the Administration launched the STOP! Initiative. In the coming year, USTR and other NIPLECC agencies will work with a number of key trading partners who share our ambition and commitment to stronger IP enforcement. The envisioned ACTA will include commitments in three areas: (1) strengthening international cooperation; (2) improving enforcement practices; and (3) providing a strong legal framework for IP enforcement.

The ACTA is part of a wide range of efforts by USTR to use the full range of trade policy tools to better protect American industry from counterfeiting and piracy and ensure that the protection remains effective as the criminals become more sophisticated. These tools—more fully described in the USTR Appendix—include our free trade agreements, negotiations of TIFAs, WTO accession negotiations, bilateral discussions of IP issues, the Special 301 process, U.S. preference programs, and dispute settlement.

Security and Prosperity Partnership

The leaders of Canada, Mexico, and the United States launched the Security and Prosperity Partnership of North America (SPP) in 2005 to address issues related to economic competitiveness and regional security resulting from shifting patterns of trade and investment worldwide. The governments subsequently established an Intellectual Property Working Group under the SPP. The Department of Commerce and USTR jointly lead the U.S. delegation to the SPP IP Working Group.

NIPLECC agencies, working with their counterparts in Canada and Mexico, developed a trilateral Intellectual Property Rights Action Plan, which leaders announced at the SPP Summit in Montebello, Canada, in August 2007. The Action Plan constitutes a strategy for governments and the private sector to combat piracy and counterfeiting in North America. Canada, Mexico, and the United States have agreed to take action in three areas: (1) detecting and deterring trade in counterfeit and pirated goods; (2) increasing consumer awareness of the adverse effects of counterfeiting and piracy; and (3) measuring the depth and scope of counterfeiting and piracy. The group's efforts involve not only cooperation among the governments, but between the governments and our respective private sectors as well. Projects currently undertaken include joint public awareness efforts, sharing of border enforcement information and best practices, and joint law enforcement training programs.

U.S.-EU Intellectual Property Working Group

The U.S.-European Union Intellectual Property Working Group has enhanced international cooperation in our effort to protect IP around the globe. The strong partnership between the U.S. and the EU on IP enforcement is essential, as many of the victim companies and industries are based in the United States or Europe, and together, we are the target markets for much of the global production of counterfeit goods and pirated products. The IP Enforcement Coordinator leads the delegation for the U.S., which consists of most NIPLECC agencies. The Working Group meets and works closely with industry in the development of new initiatives. Key areas for work include third-country and multilateral cooperation; technical customs cooperation; and public-private partnerships on public awareness; training, and enforcement.

CBP and EU Customs officials shared IP best practices and enforcement information throughout FY2007. In September 2007, CBP met with its EU counterparts at a meeting of the interagency U.S.-EU IP Working Group as part of their ongoing joint initiatives. In the coming year, customs officials in the U.S. and Europe will collaborate to establish a set of common parameters for industry to use in providing product information to customs officials. This will focus the flow of information being presented to customs agencies in the U.S. and EU and make our interactions with industry more efficient.

U.S. and EU trade officials are cooperating closely in their efforts to address issues of mutual concern in third countries such as China, Russia and within multilateral dialogues. In addition, the Department of Commerce and the European Commission's Directorate for Enterprise have established programs to promote the protection of IP through public awareness efforts, trade fair cooperation, and small business education. The first half of 2008 will see joint efforts at trade fairs in Europe and China.

U.S. Leadership within the G8

At the June 2007 G8 Summit hosted by Germany, leaders identified IP protection as "the backbone of innovation" and affirmed the importance of combating counterfeiting and piracy. Based on the leadership of several NIPLECC agencies, the G8 reached consensus on working together to improve customs and border enforcement cooperation, and better coordinating technical assistance to developing countries. In addition, at their June 2007 Summit, G8 Leaders endorsed the "Principles and Recommendations for Cooperative Investigation and Prosecution of Serious and Organized Intellectual Property Rights Crime," which set forth a foundation for future cooperation on criminal IP enforcement among G8 members.

The U.S. is also leading work to focus on technical assistance pilot plans for developing countries; new results-oriented (business to business) collaborative approaches to promoting and protecting innovation; and better border enforcement, especially against hazardous counterfeit goods. The State Department leads U.S. participation in innovation and IP negotiations in the G8, with the active participation of other NIPLECC agencies.

Asia-Pacific Economic Cooperation Forum (APEC)

APEC Leaders recognized that intellectual property rights protection and enforcement are key factors for promoting foreign trade and investment, as well as for boosting economic development. In August 1997, the Intellectual Property Rights Experts Group (IPEG) was established, and works to implement a program that aims to:

- Expand the dialogue on intellectual property policy;
- Survey and exchange information on the current status of IP protection and administrative systems;
- Study measures for the effective enforcement of IP;
- Fully implement the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs);
- Facilitate technical cooperation to implement the WTO TRIPs Agreement.

Through efforts by the United States, APEC endorsed the "Anti-Counterfeiting and Piracy Initiative" which paved the way for the adoption of a number of U.S. led proposals. These initiatives include five Model Guidelines on reducing trade in counterfeit and pirated goods. These guidelines include: protecting against unauthorized copies; preventing the sale of counterfeit goods over the Internet; raising public awareness on IP protection and enforcement efforts and securing supply chains; developing a paper on innovative techniques for IP border enforcement; and making statements by leaders and ministers on the need for APEC economies to do more in combating signal theft, and addressing markets that knowingly sell counterfeit and pirated goods.

Bilateral Activities

The following section highlights some selected examples of bilateral engagement with trading partners on IP issues. These bilateral engagements with our trading partners include a wide range of issues and activities, from training and capacity building efforts to law enforcement cooperation.[7]

A. GOVERNMENT TO GOVERNMENT ENGAGEMENT

China

U.S. engagement with China through established channels, such as the Joint Commission on Commerce and Trade (JCCT), the U.S.-China Strategic Economic Dialogue (SED), and the JLG, has made inroads on the pervasive counterfeiting and piracy that exists in China. The Commerce Department and USTR co-lead the U.S. delegation to the JCCT, the State Department leads the innovation component of the SED, and the Departments of State and Justice lead the bilateral enforcement discussions within the JLG. Topics and priorities for each of these groups are developed through cooperative work by the NIPLECC agencies.

We have seen some progress made through these three dialogues with China. As a result of a JCCT commitment, the Chinese government has mandated that computers have legal operating software pre-installed. As a result of the SED commitments, in May 2007, CBP signed a Memorandum of Cooperation (MOC) with China Customs to strengthen enforcement of intellectual property rights laws in China. This important agreement provides for the exchange of nominal information relating to IP seizures in both countries with the requirement that specific actions be taken against entities involved in IP violations in each country. The MOC also calls for the sharing of both seizure information and best practices related to IP enforcement between CBP and China Customs.

[7] Additional information on the bilateral engagement efforts undertaken by the United States may be found in the individual agency appendices on www.stopfakes.gov and in other U.S. Government reports such as the 2007 Trade Policy Agenda and 2006 Annual Report, the 2007 National Trade Estimate Report on Foreign Trade Barriers, the 2007 Special 301 Report, and the 2007 Report to Congress on China's WTO Compliance.

Since 2001, Bush Administration officials have consistently pressed Beijing at the highest levels to substantially reduce piracy and counterfeiting with some success as noted above. However, we continue to be disappointed by consistent and widespread piracy and counterfeiting in China. This behavior has caused significant harm to many companies and industries doing business in China and threatens markets around the world. With over 80% of the goods seized by U.S. customs officials at our borders originating in China, it is clear that China must do more to address IP infringement.

In April 2007, the United States, after months of dialogue and negotiation, brought the first IP-related disputes against China in the WTO. The first of these cases focuses on the deficiencies in China's legal regime for enforcing IP on a wide range of products. These deficiencies include provisions of Chinese law that create a substantial "safe harbor" for counterfeiters and pirates in China. The second case aimed at further opening China's market to a range of copyright-intensive products and services, which currently face barriers to market access.

The discussion between the United States and China regarding IP enforcement in the WTO is part of a normal process of engagement between two significant and mature trading partners. The WTO is serving its designed function, and we look forward to constructive engagement with China on this matter and an effective resolution that strengthens the overall environment for IP protection in China.

Led by the NIPLECC agencies, the United States is also working to strengthen the ability of Chinese judges, prosecutors, and investigators to implement effective IP protections. This includes enhanced cooperation between U.S. and Chinese law enforcement authorities in the JLG. Further, we are assisting U.S. companies to develop successful strategies to protect their IP. Where appropriate we have raised specific cases of infringing activities with the Chinese Government under the Case Referral Mechanism outlined earlier in this report.

Finally, in October 2007, U.S. Ambassador to China Clark Randt held the Sixth Annual Ambassador's IP Roundtable in Beijing. This event brought together senior U.S. and Chinese officials and U.S. business representatives. The annual Roundtable gives U.S. rights holders the opportunity to discuss the problems they are facing and find the solutions that they need.

Russia

Work in connection with negotiations on Russia's accession to the WTO and the work of the U.S.-Russia IP Working Group remains a high priority, as the United States and Russia strive to address a number of IP-related issues and make improvements in IP protection and enforcement in Russia. In November 2006, Russia took one of these steps when the United States and Russia signed a bilateral IP agreement. Senior U.S. officials have continually raised the issue of intellectual property protection with their Russian counterparts, recognizing that IP enforcement is a shared responsibility within the Russian government. President Putin has issued statements that recognize IP protection is both an economic issue for the Russian government and a public health concern for the Russian people.

India

In March 2006 during President Bush's visit to India, the two governments released a joint statement, which laid out a vision for the U.S. and India to work together to promote innovation, creativity, and technological advancement by providing a vibrant intellectual property rights regime.

Building on President Bush's visit, the IP Enforcement Coordinator has led two missions to India to discuss issues of IP policy, enforcement, and trade. These delegations have met with Indian government officials—at both the Central and State Government levels—and engaged U.S. and Indian private-sector stakeholders, academics, and legal practitioners to continue our efforts to promote increased trade and economic development through effective IP protection.

While in India, the IP Enforcement Coordinator announced the Bush Administration's framework for engaging India on intellectual property and trade promotion. This plan revolves around three key areas, which include: bilateral cooperation, education, and engaging U.S. and Indian industry. Bilaterally, we are working with India on IP through our Trade Policy Forum, High Technology Cooperation Group, and the Commercial Dialogue. With the placement of an IP Attaché in New Delhi, we plan on continuing our capacity building and educational outreach efforts with the Indian government and industry.

Additionally, USPTO and the Indian Ministry of Commerce and Industry signed a Memorandum of Understanding (MOU) on Bilateral Cooperation between the United States and India on intellectual property issues, and DOJ and USPTO are heavily engaged with the judiciary in India to ensure timelier resolution of IP cases in the court system.

Overall, India has made some progress on IP enforcement, and NIPLECC agencies are committed to continuing to work with India as they bolster their IP legal framework and develop an effective system to enforce intellectual property rights.

Japan

During the April 2007 Summit, President Bush and former Prime Minister Abe affirmed the common position of the United States and Japan to enhance bilateral efforts to promote and protect intellectual property rights. Subsequently, a wide-ranging set of initiatives designed to establish higher standards for IP protection and enforcement and demonstrate through effective measures the benefits of transparency and rule of law to our trading partners have been underway. One component of this effort is the Department of Commerce and Japan's Ministry of Economy, Trade, and Industry (METI) Initiative for "Enhanced U.S.-Japan Cooperation on IP Protection and Enforcement and other Global Issues."

The agreement recognizes the importance of protecting and enforcing IP both domestically and abroad to foster innovation and the two parties agreed to expand and coordinate international cooperation in this sector as well as others. Under the DOC-METI Initiative, the United States and Japan have exchanged information and worked jointly on areas affecting our mutual business interests. In December 2007, Japan hosted a series of meetings, including a public-private roundtable to identify operational areas for cooperation under the DOC-METI Initiative and our broader bilateral IP relationship.

Mexico

Working closely with the United States, Mexico has taken steps to enhance the protection and enforcement of IP. The commitment of Mexico President Calderon to stronger enforcement of existing IP laws has

resulted in increased activity by federal law enforcement. With the support of NIPLECC agencies, U.S. Embassy officials in Mexico City, and Mexican Government officials, several training events on protection and enforcement of IP have been organized for Mexican judges, prosecutors, legislators, customs officials, state and local authorities, and officials from the Mexican Institute of Industrial Property.

B. SUPPORTING INTERNATIONAL OUTREACH

U.S. Embassy Efforts

The State Department's Embassies and Missions around the world play a central role in supporting the key international objectives of the U.S. laid out under the STOP! Initiative. Embassy and Mission officials—including those of the State Department as well as law enforcement, IP attachés, and commercial officers—serve as the front line of U.S. Government outreach in monitoring IP enforcement, legislation, and trade capacity building; conducting public diplomacy; assisting U.S. businesses; and advocating U.S. IP priorities to foreign government officials.

Additionally, through public diplomacy, the State Department is taking steps to change consumer behavior overseas. The Department is using newspaper and magazine articles, consular information sheets, and other forms of media to educate consumers and U.S. citizens traveling overseas that purchasing pirated and counterfeit products is not a victimless crime. By reducing the demand for such products, the State Department is trying to reduce the huge profits that attract producers, distributors, and sellers who deal in these illicit products. Through the public diplomacy program, State hopes to encourage the creation of foreign government policies promoting innovation and urging alternatives to the illegal markets of pirated and counterfeit products.

Trade Agreement Compliance Program

Within ITA's Market Access and Compliance unit, trade specialists in the Office of Intellectual Property Rights (OIPR) and country desk officers monitor the implementation of the intellectual property rights provisions of U.S. trade agreements. These include multilateral agreements such as WTO TRIPs, as well as

the World Intellectual Property Organization's Copyright Treaty (WCT) and Performances and Phonograms Treaty (WPPT). OIPR also monitors a number of bilateral agreements, such as existing FTAs, and the intellectual property MOUs Commerce has signed with Japan and Paraguay. ITA works closely with U.S. industry and other U.S. trade agencies, offering a unique perspective in the drafting and implementation of our trade agreements.

Commerce wide compliance teams—composed of country, industry, and legal expertise—monitor trade agreement compliance on a case-by-case basis to help individual companies receive fair treatment under our IP trade agreements. These teams analyze industry data to identify IP-based trade barriers, develop implementation strategies to resolve problems, raise concerns with our trading partners regarding IP legislation and enforcement measures, and counsel U.S. companies on the IP commitments of our trading partners under existing trade agreements to which the United States is a party. In this role, ITA has increased its exposure among SMEs to emphasize all of the resources available to protect their IP. These include the ability to file concerns about IP related trade barriers online at stopfakes.gov, or speaking with IP experts through the STOP! hotline.

Additionally, ITA has increased its public outreach. In FY2006, ITA conducted 16 outreach events in nine cities nationwide and held four online seminars, reaching an audience of over 650 participants. During FY2006, ITA staff worked on IP-related problems in over 35 countries, including Algeria, Bahrain, Bangladesh, Brazil, Bulgaria, Canada, China, Colombia, Czech Republic, Egypt, France, Georgia, Ghana, Greece, Guatemala, India, Jordan, Malaysia, Mexico, Morocco, Nigeria, Panama, Pakistan, Portugal, Russia, Singapore, South Africa, South Korea, Sweden, Taiwan, Thailand, Trinidad and Tobago, Turkey, Ukraine, and Vietnam.

Within ITA, OIPR works closely with ITA's Trade Compliance Center (TCC), which operates the Compliance Liaison Program. This program includes approximately 100 trade associations which have appointed a representative to serve as a liaison between their members and the TCC. The liaison solicits complaints from members on market access barriers and agreement compliance problems, including IP-related issues, and notifies the TCC and OIPR for action. For example, firms participating in this program include the Motion Picture Association of America, Recording Industry Association of America, Business

Software Alliance, American Film Marketing Association, Pharmaceutical Research and Manufacturers of Association, and the International Anti-Counterfeiting Coalition. Congressional offices and nationwide U.S. Export Assistance Centers are also active participants.

C. IP ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE PROGRAMS

The Global Intellectual Property Academy

The USPTO established the Global Intellectual Property Academy (GIPA) in 2006, and it continues to be an essential component of our effort to improve IP protection and enforcement practices around the world. GIPA offers a number of programs that bring foreign officials to the U.S. for training on patent, trademark, and copyright policy and best practices, as well as enforcement programs for judges, prosecutors, customs officers, and other government officials. In 2007 USPTO completed construction of permanent space for GIPA which includes a 20,000 square-foot training facility at its headquarters in Alexandria, Virginia. Through this newly dedicated space, USPTO can more efficiently deliver targeted training to foreign IP officials. In FY2007 alone, a total of 77 GIPA programs were conducted, of which 33 were held at the Alexandria campus, with the balance taking place internationally. In total 2,601 foreign government officials were trained.

Department of Justice – Law Enforcement and Prosecutorial Training Programs

Because effective protection of IP rights depends on strong international as well as domestic criminal enforcement regimes, the Department of Justice places special emphasis on improving its international outreach and capacity-building efforts. In 2006, prosecutors provided training and technical assistance on IP enforcement to over 3,300 foreign prosecutors, investigators, and judges from 107 countries—nearly a 50% increase from the previous year. Also in 2006 and 2007, the Department established the IPLEC positions in Bangkok, Thailand and Sofia, Bulgaria. To help address the exploding IP crime in Eastern Europe, the State Department funded the Department of Justice's IPLEC in Bulgaria for one year. These positions are filled by federal prosecutors dedicated to advancing regional IP goals through training, outreach, and the coordination of investigations and operations throughout these regions.

An example of the Department's international training programs occurred in the summer of 2007 when CCIPS, CCFU, and the Office of Overseas Prosecutorial Development Assistance and Training (OPDAT), along with private industry representatives, presented a weeklong training program on computer crime and intellectual property enforcement in Islamabad, Pakistan. The training was presented to Pakistan's Federal Investigative Agency, Ministry of Interior, regional investigators, and scholars from universities and technical institutes. Training included an overview of U.S. and Pakistani Intellectual Property laws, methods of identification of counterfeit items, basic computer and Internet investigative techniques, search and seizure techniques for digital evidence, and the importance of computer forensics for successful prosecutions. The training concluded with a best practices presentation highlighting an investigation of counterfeit merchandise from inception to prosecution, including the use of informants and sophisticated techniques U.S. law enforcement officers utilize to collect evidence of intellectual property crimes.

Department of Homeland Security – Law Enforcement Training Programs

U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) also conduct a number of training and outreach programs for their foreign counterparts. In collaboration with other U.S. Government agencies, ICE has participated in a number of border enforcement training programs for foreign government officials in 2007. These programs have reached officials in China, El Salvador, India, Mexico, Morocco, Paraguay, Peru, Russia, Slovakia, Thailand, Ukraine, and Vietnam.

State Department International Narcotics and Law Enforcement Training Programs

The State Department Crime Programs Division of INL and IPE developed a spending plan to deliver $3 million in funding for technical assistance and training programs in a number of developing countries in FY2007, with significant results. In Indonesia, two full-time U.S. advisors funded by the State Department helped the Indonesian government launch a string of IP-related enforcement actions. In July 2007, Indonesian police closed down two optical disk factories suspected of illegal production, and seized equipment and pirated product estimated at between $7.5 and $9 million. Also in July 2007, Indonesia conducted its largest counterfeit pharmaceutical raid ever, seizing 16 million counterfeit pharmaceutical

tablets valued up to $7 million. Other highlights included training and technical assistance for law enforcement in the ASEAN region, India, Mexico, Brazil, Ukraine and South Africa. The State Department program is in its fourth year and total spending from 2004 to date has been $11.5 million for fifty-five projects and programs.

Department of Commerce – Commercial Law Development Program

The Commercial Law Development Program (CLDP) located in the Department of Commerce's Office of the General Counsel, is uniquely tasked with providing technical assistance in the commercial law arena to the governments and private sectors of transitional countries in support of their economic development goals.

CLDP's programs are customized to address key issues that are high priorities for both the host government and the American firms interested in doing business in each country. Through these programs, CLDP actively helps to improve the legal and regulatory environment for U.S. businesses working in these transitional countries.

CLDP utilizes its unique ability to develop amenable and efficacious programs that integrate the expertise of various agencies of the U.S. Government, multilateral organizations, educational institutions, and the private sector. CLDP provides this assistance by conducting educational programs and consultative services for lawmakers, regulators, judges, lawyers, and educators from host countries. CLDP initiatives help develop practical, legal, and procedural reforms, that foster economic growth and international trade in these maturing countries.

The Office of the IP Coordinator has provided funding and support for a series of programs led by CLDP. These training programs, recently held in the Philippines, Nigeria, and Ukraine, focused on IP enforcement issues relevant to each of the respective governments. Other recent training programs produced by CLDP:

- In December 2007, CLDP sponsored the attendance of two Bosnia-Herzegovina Government IP officials at the GIPA Enforcement Program. This one-week GIPA Program provided IP enforcement training to foreign judges, prosecutors, customs officials and others involved in enforcing IP rights and meeting WTO obligations.

- In June 2007, CLDP worked with the Federal Judicial Academy (FJA), IPO Pakistan, and the Punjab High Court to develop and establish a reusable IP training module to sensitize judges to aspects of intellectual property and launched the program with a pilot seminar in Lahore. Punjabi judges and FJA personnel were centrally involved in the program to prepare them for a sustained IP capacity building efforts among the judiciary in the future. Also in June, as a part of continued capacity building with Pakistani Customs officials, CLDP sponsored the participation of a Customs official in the GIPA.

- Earlier in 2007, CLDP conducted a program designed to capitalize on the recently enacted Customs Codes for both Russia and Ukraine. These new regulations require protection of IP as called for in the WTO TRIPs Agreement. Working cooperatively with the Ukrainian and Russian Federal Customs Services, CLDP conducted a technical assistance program on the structure of efficient IP border enforcement, including risk management (targeting shipments), making infringement determinations, suspending release of goods, and the operational components of ex-officio authority. This program was designed to improve communication mechanisms between Russian and Ukrainian border officials and to explore the possibility of an information sharing agreement.

United States Agency for International Development

The United States Agency for International Development (USAID), as part of the State Department, is involved in a wide range of technical assistance and educational programs in developing countries, which relate to the protection and enforcement of IP.

For example, technical assistance activities conducted by USAID have included events and workshops on topics such as established international IP standards. Also, USAID can provide technical assistance if the

host country has requested assistance in a particular area. When asked by a host country, USAID has worked with NIPLECC members to develop training programs on IP enforcement and protection. For instance, in response to requests for assistance from Lebanon regarding its accession to the WTO, USAID funded a presentation for Lebanese officials on WTO TRIPs Agreement implementation.

Information about the full range of USAID's efforts regarding the protection and enforcement of intellectual property, as well as in other Trade Capacity Building efforts, can be found online.[8]

[8] *http://qesdb.usaid.gov/tcb/index.html*

Spotlight on: U.S. Intellectual Property Attachés

The Department of Commerce has posted dedicated IP specialists to address country-specific and regional issues involving intellectual property protection and enforcement. Started in 2005 with the U.S. Embassy in Beijing, the program supplemented an existing U.S. Government program of IP experts previously posted in the U.S. Mission to the WTO in Geneva, Switzerland. Since posting this first IP Attaché in Beijing, the Commerce program has expanded to include a total of eight attachés in six countries: China, Russia, India, Thailand, Egypt, and Brazil.

The IP Attaché offices provide technical level support and coordination on IP issues, leveraging the resources of the NIPLECC agencies. These attachés work closely with a USPTO country team consisting of patent, trademark, copyright, and enforcement officials, as well as with a local Embassy task force, U.S. Embassies, and Consulates worldwide.

Establishing the Office

Attachés arriving in country for the first time face numerous challenges. They must identify their constituencies—public and private sector—and understand and prioritize U.S. goals for the region and determine where they can add value beyond the work of the existing U.S. representatives and Embassy personnel in country. In addition, attachés often counsel U.S. companies with IP problems and are called upon to deliver a positive public message on the importance of IP enforcement.

New attachés must also establish their offices, which can include hiring and developing contacts within the embassy and consulates, with U.S. companies and counterparts in the relevant host government's ministries and in other branches of government, e.g., the courts.

If a multidisciplinary embassy-wide IP task force already exists, attachés are often called upon to serve as a coordinator. If there is no task force, they are asked to create one.
For example, the Brazil-based IP Attaché, Dorian Mazurkevich, has created an Interagency IP Working Group, which links together the U.S. Embassy in Brasilia with U.S. Consulates in Sao Paulo, Rio de Janeiro and Recife.

In Beijing, the IP Attaché office, led by Mark Cohen, supports an interagency IP Task Force of the U.S. Mission in China consisting of over 50 members. This task force involves nearly all sections of the Embassy, including State's Political and Economic Sections, Public Affairs and Community Liaison Offices, and the work of the Consulates; Commerce's Foreign Commercial Service and Trade Facilitation Office; USTR personnel; and both ICE and FBI Attachés. The office has also supported and developed interagency training programs for officials based in Washington, D.C.—including members of the legislative branch—and manages an interagency IP mailing list of over 200 Federal Government officials worldwide. Through this list, the attaché office delivers updates on specific cases as well as recent IP developments within China.

In New Delhi, the office of the IP Attaché, headed by Dominic Keating, is actively involved in supporting the interagency IP Working Group of the U.S. Mission in New Delhi. This working group consists of Department of State's Economic Section, Public Affairs Office and the INL, FBI and ICE Attachés. The IP Attaché's office in New Delhi has created an interagency mailing list which updates U.S. agencies about the latest IP developments of South Asia.

Building Relationships

Working with the NIPLECC law enforcement agencies, the IP Attachés support joint enforcement efforts between NIPLECC agencies and U.S. companies, and create and support information sharing platforms to improve enforcement. For example, the IP Attaché office in Brazil has worked collectively with the Senior Commercial Officer in Peru and U.S. officials in Chile in a transnational interagency IP enforcement matter that ultimately led to the seizure of 9,000 counterfeit athletic shoes originating from China, which were being transshipped through Peru to Chile.

In cases in which there exists a bilateral IP dialogue between the U.S. and the host government, the IP Attachés work with other embassy offices to ensure the success of the dialogue, sometimes even to preserve it amid economic and political tensions.

For example, the IP Attaché in Moscow, Tracy Perrelli, is working with NIPLECC agencies and the government of Russia to improve the effectiveness of the U.S.-Russia IP Bilateral Working Group. Additionally, the IP Attaché stationed in Bangkok, Jennifer Ness, worked to help NIPLECC agencies develop new bilateral relationships with key governments such as Vietnam, Thailand, Singapore, and the Philippines. The IP Attaché in India strengthened bilateral engagement with ministries and government officials not only in India but also in Pakistan, Sri Lanka, Bangladesh and Maldives. This office is also working on promoting regional co-operation on IP matters. Recently, the role of the IP Attachés based in China has become even more critical, as they provide a relatively open channel for discussion with the Chinese government while the formal bilateral channels, such as the JCCT, have become limited after the U.S. filed IP-related disputes against China.

IP Attachés may also be tasked to facilitate bilateral relationships between specific NIPLECC agencies and their foreign ministry counterparts, or multilateral relationships between government agencies or regional organizations.

The IP team in Beijing best demonstrates the multi-faceted tasks that are often asked of the IP Attachés. They have provided critical support for cooperative agreements and programs with China's patent,

trademark, and copyright offices; Ministry of Public Security; and Customs. This has been instrumental in furthering work on IP enforcement matters, training civil judges, promoting mutual legal assistance, and working with the growing foreign patent office presence in China (European, French, Japanese, Korean, and Swiss during 2007).

Intellectual property issues have also been a specific focus of the U.S.-Association of Southeast Asian Nations (ASEAN) relationship. NIPLECC agencies are seeking to expand our relationship with ASEAN members, which include Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. The U.S. Government has tremendous resources to leverage in ASEAN, from substantial technical assistance funding to officers and specialists on the front lines. Our IP Attaché in Bangkok has worked closely with Washington-based agencies, Embassy officials, foreign law enforcement officials, and ASEAN contacts to ensure that U.S. resources are efficiently and effectively utilized to advance our IP enforcement goals.

Providing Technical Assistance

The IP Attachés are also critical in NIPLECC agencies' training and technical assistance efforts abroad. The attachés are called upon to help develop, implement, and advance technical assistance programs on the ground and work toward greater host government participation in other IP programs, such as those held at the GIPA.

In Egypt, our Cairo-based IP Attaché, Minna Moezie, partners with USAID to regularly recruit and assist in sending Egyptian trademark, patent, copyright, and enforcement officials to the GIPA training programs in the United States and abroad. In addition to GIPA programs, Ms. Moezie successfully obtained the Egyptian government's participation in USPTO's first 8-month "Foreign Examiners in Residence" training program for patent examiners from select foreign countries.

In Brazil, Mr. Mazurkevich served as an instructor in a week-long training program led by ICE's IPR Center. The program was conducted at the International Law Enforcement Academy for Latin America and included law enforcement officials from Brazil, Paraguay, Argentina, and Peru.



Dorian Mazurkevich, IP Attaché based in Sao Paolo, Brazil, address government officials from Argentina, Brazil, Peru, and Paraguay and at a regional training program. (Source: U.S. Embassy Sao Paolo)

In Moscow, Ms. Perrelli supported a very well-received training seminar sponsored by USPTO with Russian Customs on "IPR and Border Enforcement." Russian Customs officials from varying regions participated, receiving training on IP substance and operational enforcement methods from USPTO, ICE and CBP.

In New Delhi, Mr. Keating has regularly recruited trademark, patent, copyright and enforcement officials (including a Delhi High Court judge) to the GIPA training programs in the U.S., secured active participation of the Indian government in USPTO's first 8-month "Foreign Examiners in Residence" training program for patent examiners, and conducted training, together with USPTO experts, for the Patent Office in New Delhi for biotechnology and chemical patent examiners. Additionally, the IP Attaché's office has also partnered with CBP, ICE and Indian Customs to train 130 Customs officials on IP issues throughout India.

Supporting Legislative Reforms

Many NIPLECC agency efforts abroad are aimed at improving foreign governments' IP enforcement legislation. Our Attachés are actively involved in reporting and commenting on newly proposed IP legislation and on implementation of any IP legislation that the government has adopted. For example, through our IP Attaché office in Moscow, we are closely monitoring Russia's new IP law, Part IV of the Civil Code, which takes effect on January 1, 2008. We will work with NIPLECC agencies and the Russian government to ensure that this new law is compliant with the WTO TRIPs Agreement. Also in Russia, our IP Attaché is consulting with industry regarding a draft law that would obligate Russia to establish an automated system to monitor the circulation of medicines, audio and video products, software, construction materials, cosmetics, and auto components. Although proponents of the draft law claim that it is intended to protect IP and Russian consumers from counterfeit products, industry has expressed some concerns about the current proposal. As a result, the Attaché office will work with all relevant stakeholders to ensure that this law protects consumers without unnecessarily damaging U.S. IP interests.

In Thailand, the Bangkok-based IP Attaché office works closely with the government of Singapore to ensure all IP sections of the U.S.-Singapore FTA are fully implemented and are compliant with the agreement.

In Egypt, our IP Attaché has worked to focus more attention from the Egyptian government on U.S. concerns regarding IP enforcement. Together, with Embassy colleagues, the IP Attaché has held in-person discussions and digital video conferences (DVC) related to Special 301 issues involving NIPLECC agencies, Egyptian officials, and IP. The meetings were organized and led on the Egyptian side by the Ministry of Trade and primarily served to clarify areas of concern and initiate deeper communication between the two governments' IP experts on Special 301 action plan items. Participating Egyptian officials represented a wide array of IP-related responsibilities, including copyright registration, software enforcement, and the judicial system. The IP Attaché anticipates more focused and substantive DVC sessions between IP experts in the area of enforcement to take place in early 2008, prior to the 2008 Special 301 Report.

Through the IP Attaché in India, the United States is providing guidance to the Indian government on IP legislative reforms that are in the pipeline. For example, comments were provided on the draft copyright and the trademark amendments to the government of India. In addition, the Attaché is closely monitoring new IP related legislation within India.

Working with Industry

The IP Attachés are developing strong relationships with industry associations and private sector intellectual property representatives based in their respective regions. They are continually reaching out to U.S. businesses directly and through the U.S. and Foreign Commercial Service, U.S. Chamber of Commerce, foreign Business Councils, and local American Chambers of Commerce. The IP Attachés also regularly serve as speakers when these organizations hold events and seminars, in order to raise IP enforcement issues important to U.S. rightsholders doing business abroad.

Our IP Attaché in Brazil has spoken at IP conferences and events hosted by American Chambers in Brazil, Argentina, and Peru, as well as with other industry organizations.

In Moscow, our IP Attaché participated in an American Chamber of Commerce event entitled "Customs IPR Enforcement Practice and Valuation of Imported Goods." Through this event, our Attaché and U.S. companies met with the Head of Customs for Sheremetyevo Airport in Moscow. The group discussed the implementation of border enforcement technologies for Russia's largest commercial, passenger, and cargo airport.

Recently, the Beijing-based Attaché office coordinated an industry meeting to promote better cooperation between business and foreign missions. This meeting involved a challenging enforcement matter, which included several different countries, global law enforcement activities, and patent and trademark filings. Additionally, the Beijing office supported and organized the highly successful Sixth Annual Ambassador's IPR roundtable, attended by over 250 officials and company representatives, to discuss emerging IP issues and practical solutions that the U.S. Embassy in Beijing can pursue to secure stronger IP protection and enforcement. This roundtable discussion included representatives from all of the NIPLECC agencies.

Our Attaché in India has been actively speaking at IP related conferences and roundtable discussions organized by industry partners. The office has also spoken at conferences organized by the U.S. Embassy in the Sri Lanka and Maldives. Additionally the office has also co-hosted dinner with industry partners for like-minded embassies to encourage co-operation on IP related matters. Furthermore, Mr. Keating, in collaboration with different industry partners has also organized IP Roadshows in various second tier cities in India to create public awareness.

In developing these relationships, the IP Attachés ensure that industry concerns form the basis for U.S. IP diplomatic and training efforts in the host country and throughout the region. This outreach has helped to ensure that U.S. interventions are timely, targeted, and effective.

Making a Difference

Public attitudes toward intellectual property protection and enforcement are a critical aspect of the problem in most countries. With the support of NIPLECC agencies, our IP Attachés are being asked to focus on their local SME community, and develop training programs throughout the region on the importance of IP for business development. These programs help to build a set of domestic stakeholders in the IP system, a powerful ally in achieving future improvements.

The IP Attachés in China, in coordination with the Public Affairs Section of the Embassy, have an active program to support better outreach in public diplomacy and public relations on IP. Fluent in Chinese, they have appeared on national radio and television, in print media, and also hosted events for industry and public relations officials to advise them on how to use the Chinese media more effectively.

In addition, over the coming year, the IP Attaché in Bangkok plans to make intellectual property educational materials available in local Southeast Asian languages and to work with host governments to develop public awareness and consumer protection materials appropriate for local cultures.

The IP Attaché program has enabled the U.S. Government and U.S. business to work with key trading partners and improve the global landscape for intellectual property rights. The program has resulted in

more timely and detailed information for NIPLECC officials based in Washington, which in turn allows them to quickly adjust U.S. policies and practices to meet IP-related challenges in these important markets. We are also in a better position to offer targeted and meaningful assistance and more likely to have a positive effect on IP protection and enforcement.

The U.S. Intellectual Property Attachés are:

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China . . . . . Mark Cohen

Todd Thurwachter

Conrad Wong (Guangzhou)

Egypt . . . . . Minna Moezie

India . . . . . Dominic Keating

Russia . . . . . Tracy Perrelli

Thailand . . . . . Jennifer Ness

Contact information for each of the Attachés can be found on page 89.

Spotlight on: Public Health & Safety

Counterfeit and pirated goods pose an ever-increasing threat to the health and safety of Americans and consumers around the world. Counterfeit consumer electronics, pharmaceuticals, and healthcare items are a particular concern. NIPLECC agencies regularly raise these issues with our trading partners, particularly with China. For example, China is a significant source for bulk chemicals of active pharmaceutical ingredients used in counterfeit drugs. NIPLECC agencies are working with the Chinese government to prevent these fake products from being used as the underlying source of many counterfeit drugs.

NIPLECC Agency Investigation and Prevention

CBP has made seizing imported products that threaten the health and safety of consumers a top priority. In FY2007, CBP initiated a number of special operations to interdict these products before they entered U.S. markets. These products include fake healthcare items, pharmaceuticals, and consumer electronics and rank among the top commodities seized by CBP with a health and safety concern.

Highlighting the critical importance NIPLECC agencies place on protecting the health and safety of consumers, DOJ is working with China's MPS, through the JLG, to generate more joint investigations involving counterfeit goods that threaten public health and safety, including counterfeit and adulterated pharmaceuticals. DOJ has also made health and safety cases in the U.S. a top prosecution priority, and within the past year alone, it has brought a number of significant prosecutions against importers and sellers of counterfeit and adulterated drugs.



A Customs and Border Protection officer inspects a container of toothpaste at a domestic port to ensure its products are legitimate. The Department of Homeland Security's border officers—both CBP and Immigration and Customs Enforcement—work together to systematically identify, seizure, forfeit, and investigate shipments of counterfeit and pirated goods. (Source: Department of Homeland Security)

Additionally, FBI-CCFU has also launched a health and safety initiative. Partnering with the U.S. Chamber of Commerce, FBI-CCFU works with industry to target counterfeit electronics, automotive and aircraft parts, and personal hygiene products attempting to enter the U.S. markets. Through this initiative, CCFU is developing new relationships with contacts in the electronic, automotive, and aircraft industries to identify areas of concern where counterfeit goods are having an adverse impact on consumer confidence.

Recognizing the illegality and inherent dangers posed by counterfeit drugs, the FDA has taken steps to educate the public about the potential fatal affects of counterfeit medicines. An FDA created Task Force is dedicated to this growing public health concern and is working with other NIPLECC agencies and the private sector to address these problems. As a result, the FDA created the "Counterfeit Alert Network," a coalition of health professional and consumer groups that works to educate the public and help protect the nation's drug supply from the threat of counterfeits. This network has three main goals:

- Disseminate alert messages to a wide audience about specific counterfeit drug incidents in the U.S. and advisable counter-measures to take to minimize exposure;

- Develop educational information about the roles and responsibilities that consumers, pharmacists and other health professionals, and wholesalers should play to identify counterfeit drugs, report suspect counterfeit drugs, and prevent them from entering the U.S. drug distribution system; and

- Develop a network of national organizations, consumer groups, and industry representatives to help distribute this information.

Additionally, through the OCI, FDA investigates criminal activity regarding products that it regulates. In response to concerns of increased criminal violations of the Food Drug and Cosmetic Act (FDCA), OCI was established in March 1992 by the FDA Commissioner, with the urging of Congress. OCI's mandate is to investigate suspected criminal violations of the FDCA; the Federal Anti-Tampering Act (FATA); and other statutes including applicable Title 18 violations; and to collect evidence to support successful prosecutorial actions through the federal or state court systems as appropriate. In relation to IP enforcement, OCI investigates violations of U.S Criminal Code 18 USC 2320 and FDCA 21 USC 331(i). OCI routinely coordinates counterfeit investigations and intelligence with other federal law enforcement agencies, especially ICE, and with local and state authorities.

In FY2008, OCI activities will be very focused on securing the drug supply chain. On September 27, 2007, as part of the Food and Drug Administration Amendments Act (FDAAA) of 2007 (HR 3580) signed into law, President Bush approved new FDA language and reauthorized some existing provisions. The FDAAA calls for increased security of pharmaceutical products, including "securing the drug supply chain against counterfeit, diverted, sub potent, substandard, adulterated, misbranded, or expired drugs." The FDAAA also directs the Secretary of Health and Human Services to expand and enhance the resources and facilities of the criminal and regulatory components of the FDA that are charged with performing activities to secure the drug supply chain. The act also directs the Secretary of Health and Human Services and the FDA to "undertake enhanced and joint enforcement activities with other Federal and State

agencies and establish regional capacities for the validation of prescription drugs and the inspection of the prescription drug supply chain."

Working Group on Import Safety: Action Plan Items Regarding IP Enforcement

The President formed the Working Group on Import Safety in July 2007 to promote the safety of imported products. In November 2007, the Working Group released its "Action Plan for Import Safety: A Roadmap for Continual Improvement." In the Action Plan, the Working Group noted the connection between the safety of imported goods and strong IP enforcement.

Over the past year, there have been several notable examples of counterfeit and dangerous imported products entering the legitimate supply-chain. While CBP and ICE have taken monumental steps to prevent these fake goods from being sold in legitimate markets, the Action Plan sets out additions specific recommendations to strengthen IP protection and thereby enhance consumer safety.

These include:

- Focus the work of the STOP! interagency group on import safety issues;
- Expand information sharing among relevant agencies to target fake goods with potential safety violations; and
- Encourage companies to record their IP with the Customs E-recordation System

As a result of these recommendations, the Office of the IP Coordinator has expanded the role of U.S. Government entities that previously played a smaller role within the STOP! Initiative. Pursuant to the Import Safety Working Group recommendations, STOP! members are now working with colleagues at the FDA, the Consumer Product Safety Commission (CPSC), and U.S. Department of Agriculture to develop the systemic lines of communication and collaboration assigned by the Import Safety Working Group.

Public Awareness and Educational Outreach to Consumers

Because of the serious health and safety hazards potentially posed by consumers using fake products, NIPLECC agencies have initiated a number of different public awareness activities to emphasize the dangers of using counterfeit products. In April 2007, Commerce hosted a Counterfeiting and Piracy Consumer Awareness Event. ITA worked with CPSC, the U.S. Chamber of Commerce, and the French Embassy in Washington, D.C. During the event, IP experts addressed the dangers presented by counterfeit and pirated goods to public safety and the global economy. Additionally, CPSC's Commissioner discussed the safety risks posed to consumers from counterfeit products, particularly electrical products, and the CPSC's joint efforts with China and other nations to identify unsafe products and improve safe manufacturing practices.

ITA and CPSC have also worked together and arranged information sharing meetings, including one between our IP Attaché office based in Beijing and CPSC's Acting Chairman. In FY2008, ITA and CPSC will continue to exchange information, and to further enhance this partnership, they have agreed to work more closely and complement each of their respective trade agreement compliance programs.

Outlook, Objectives, and Priorities for 2008

There is no doubt that through the concerted efforts of the NIPLECC agencies, extensive collaboration with industry, and congressional leadership, we have made progress in the fight against piracy and counterfeiting in 2007. However, we still have a long way to go and, in many ways, the challenge is growing.

For example, while we have seen significant increases in seizures of counterfeit goods at our borders due to the focused efforts of our customs and law enforcement authorities, this also indicates the vast scope of the problem and the increasing flow of illicit goods globally.

As we work with our trading partners to establish innovative approaches to IP enforcement like the Anti-Counterfeiting Trade Agreement, we also see IP protections questioned within influential international organizations and by countries which that fail to see how the promotion and protection of IP is the most viable strategy for competing in a sophisticated global economy.

We have seen an explosion of new technologies designed to allow rightsholders to better protect their IP, as well as many new and exciting services that provide consumers access to rich and diverse content. However, piracy continues to threaten our most dynamic industries, and far too few consumers understand the damage being done to creators, workers, innovators, and entrepreneurs.

Finally, and perhaps most concerning, counterfeit and substandard products pose a dramatic health and safety risk. Under President Bush's leadership, we have taken significant steps to safeguard American consumers through efforts such as the Import Safety Working Group. But, to be successful, we must

continue our sustained effort to keep pace with the increasingly complex and unpredictable threats.

To address these challenges, a number of ***objectives*** become clear:

- We must maintain and strengthen the best IP enforcement system domestically;
- We must develop and communicate a stronger sense of the value of IP globally;
- We have to maintain the global partnerships we have established and expand upon them to make IP enforcement an inclusive and effective international priority;
- Our coordinated efforts must surpass the sophistication and organization of global IP criminals;
- We must continue to build solid public and private-sector institutions that support an ongoing and strenuous effort against counterfeiting and piracy; and
- Ultimately, the United States must continue to lead.

Effectively, meeting these objectives will require a long-term commitment that builds upon our existing efforts and continues to leverage the significant assets of the U.S. Government. We have built a strong strategic framework under the Strategy Targeting Organized Piracy. It focuses our efforts and provides clarity to our partners as we try to meet our goal of eliminating global counterfeiting and piracy.

Over the coming year, our efforts to expand and strengthen IP enforcement through the STOP! Initiative and meet the objectives above will focus on the following specific ***priorities***:

I. EMPOWERING AMERICAN INNOVATORS

- Continue developing and marketing programs to help SMEs protect and enforce their IP at home and abroad;

- Identify sources to assist SMEs to finance foreign IP registrations and evaluate their assets through IPR Audits;

- Expand outreach to SMEs and the public through programs that address traditional economic IP issues as well as public safety issues related to IP counterfeiting;

- Continue to develop China-specific IP outreach programs for U.S. rightsholders;

- Expand the trade fair and supply chain integrity initiatives to include cooperation with trading partners;

- Continue to work with the U.S. Chamber of Commerce to provide more conferences for SME's around the country.

II. INCREASING EFFORTS TO SEIZE GOODS AT THE BORDER

- Continue to expand the use of the innovative techniques such as risk modeling and IPR audits to supplement our activities at the border as we employ a layered approach to IP enforcement;

- Continue to work internationally with like-minded partners to enforce IP globally;

- Focus our efforts on high-priority targets that have health and safety and security concerns;

- Continue to develop and expand investigative techniques to maximize international partnerships with foreign law enforcement counterparts;

- Increase the scope of IP investigations to include additional efforts to dismantle the financial networks that fund the production of counterfeit goods and launder profits derived from these goods;

- Continue joint efforts with U.S. Government enforcement agencies to focus on high priority targets that have health, safety and security concerns.

III. PURSUING CRIMINAL ENTERPRISES

- Continue to develop more multi-district and international IP prosecutions and investigations;

- Aggressively pursue organized international crime groups that traffic in stolen and counterfeit IP, especially those groups committing offenses that threaten public health and safety;

- Improve domestic protection of IP through participation as amicus in private civil enforcement actions;

- Reduce IP theft through increased support to, and coordination with, international trading partners. Focus efforts on targeted developing economies and on countries identified by the U.S. Government as posing especially strong challenges to U.S. business competitiveness;

- Maximize the use of available resources in the areas of prevention and education by coordinating efforts with victim industries and ensuring that prevention efforts are deployed efficiently and effectively to the victim communities;

- Continue to work with Congress to support new legislation that strengthens IP enforcement;

- Establish, train, coordinate, and utilize cyber crime task forces and working groups to enhance cyber crime and intellectual property investigations.

IV. WORKING CLOSELY AND CREATIVELY WITH INDUSTRY

- Continue to increase the activity and services of the STOP! Hotline;
- Conduct more outreach across the country to better inform businesses of all the Federal Government resources available for IP education and protection;
- Expand partnerships with industry to fulfill commitments made within the G8, U.S.-EU, JLG, and SPP forums focused on IP enforcement;
- Work with industry as an active partner in the continued development of the Anti-Counterfeiting Trade Agreement.

V. AGGRESSIVELY ENGAGING OUR TRADING PARTNERS

- Continue to work toward the completion of the Anti-Counterfeiting Trade Agreement;
- Execute and build upon the strong commitments to IP enforcement made within the G8, U.S.-EU, and SPP forums;
- Continue working to promote and improve IP protection and enforcement in key countries such as China and Russia;
- In the G8 context, work with other G8 members and WIPO to develop technical assistance pilot projects to combat trade in counterfeit and pirated goods and to strengthen IP enforcement in Indonesia, South Africa, the Tri-Border Region of South America, and other areas as appropriate;
- Help developing countries establish effective systems to protect and promote innovation, including strengthening customs and law enforcement; ensuring legal production of safe and effective medicines, foods, and consumer products; and improving critical government IP functions;

- Continue building upon current APEC initiatives to strengthen IP enforcement and protection in the APEC economies;

- Provide funding for government-to-government foreign law enforcement-related training and technical assistance projects to combat IP crime in selected developing countries;

- Increase the number of training programs for foreign IP officials at GIPA;

- Create a long-term strategic training plan to better leverage the U.S. Government IP training and capacity building resources and increase coordination among NIPLECC agencies;

- Continue to support domestic and foreign law enforcement agencies through the FBI by providing training on intellectual property enforcement and best practices used in investigating world wide counterfeiting and trafficking organizations;

- Expand the public diplomacy campaign to developing countries to demonstrate that the protection of intellectual property is in every country's national interests as an incentive for investment and a foundation for economic growth.

GLOSSARY OF ACRONYMS

ACTA . . . . . Anti-Counterfeiting Trade Agreement

APEC . . . . . Asia-Pacific Economic Cooperation Forum

ASEAN . . . . . Association of Southeast Asian Nations

C3 . . . . . Cyber Crimes Center

CACP . . . . . Coalition Against Counterfeiting and Piracy

CBP . . . . . U.S. Customs and Border Protection

CCFU . . . . . FBI's Cyber Crime Fraud Unit

CCIPS . . . . . Computer Crime and Intellectual Property Section

CHIP . . . . . Computer Hacking and Intellectual Property Units

CLDP . . . . . Commercial Law Development Program

CPSC . . . . . Consumer Product Safety Commission

CRM . . . . . Intellectual Property Case Referral Mechanism

DHS . . . . . United States Department of Homeland Security

DOJ . . . . . United States Department of Justice

DVC . . . . . Digital Video Conference

EU . . . . . European Union

FBI . . . . . Federal Bureau of Investigation

FCS . . . . . Foreign Commercial Service

FDA . . . . . Food and Drug Administration

FJA . . . . . Federal Judicial Academy

FTA . . . . . Free Trade Agreement

G8 . . . . . Group of Eight

GIPA . . . . . Global Intellectual Property Academy

ICE . . . . . U.S. Immigration and Customs Enforcement

INL . . . . . State's Bureau of International Narcotics and Law Enforcement Affairs

Interpol . . . . . International Criminal Police Organization

IPCEN . . . . . Intellectual Property Crimes Enforcement Network

IPCEWG . . . . . Intellectual Property Criminal Enforcement Working Group

IPE . . . . . States Department's Office of Intellectual Property Enforcement

IPEG . . . . . Intellectual Property Rights Experts Group

IPR Center . . . . . .ICE's National Intellectual Property Rights Coordination Center

IPLEC . . . . . Intellectual Property Law Enforcement Coordinator

ITA . . . . . International Trade Administration

ITC . . . . . International Trade Commission

JCCT . . . . . Joint Commission on Commerce and Trade

JLG . . . . . U.S.-China Joint Liaison Group for Law Enforcement Cooperation

METI . . . . . Japanese Ministry of Economy, Trade and Industry

MOC . . . . . Memorandum of Cooperation

MOU . . . . . Memorandum of Understanding

MPS . . . . . China's Ministry of Public Security

NIPLECC . . . . . .National Intellectual Property Law Enforcement Coordination Council

OCI . . . . . Office of Criminal Investigations

OIPR . . . . . Office of Intellectual Property Rights in ITA

OPDAT . . . . . .Office of Overseas Prosecutorial Development, Assistance and Training

SBA . . . . . Small Business Administration

SED . . . . . U.S.-China Strategic Economic Dialogue

SME . . . . . Small and Medium-sized Enterprise

SPP . . . . . Security and Prosperity Partnership of North America

STOP! . . . . . Strategy Targeting Organized Piracy

TCC . . . . . Trade Compliance Center

TCG . . . . . Training Coordination Group

TIFA . . . . . Trade and Investment Framework Agreement

TRIPs . . . . . Trade-Related Aspects of Intellectual Property Rights Agreement

USAID . . . . . .United States Agency for International Development

USPTO . . . . . .United States Patent and Trademark Office

USTR . . . . . United States Trade Representative

WCO . . . . . World Customs Organization

WCT . . . . . WIPO Copyright Treaty

WIPO . . . . . World Intellectual Property Organization

WPPT . . . . . WIPO Performances and Phonograms Treaty

WTO . . . . . World Trade Organization

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REPORT TO THE PRESIDENT AND CONGRESS ON COORDINATION OF INTELLECTUAL PROPERTY ENFORCEMENT AND PROTECTION

APPENDICES

JANUARY 2008

The National Intellectual Property Law
Enforcement Coordination Council

APPENDICES

U.S. DEPARTMENT OF COMMERCE

U. S. PATENT AND TRADEMARK OFFICE

Summary

The United States Patent and Trademark Office (USPTO) is responsible for promoting technological, scientific and industrial progress by, among other things, administering the United States' patent and trademark systems and advocating strong intellectual property (IP) protection, within the United States and around the world. USPTO is focused on strengthening the U.S. economy, by ensuring innovators and entrepreneurs are rewarded for their creative efforts through free and fair markets, and that citizens of the United States and countries around the world have the opportunities and benefits provided by new technologies and products.

Among other things, USPTO grants patents and registers trademarks, administers U.S. patent and trademark laws, advises the President of the United States, the Secretary of Commerce, and other U.S. Government agencies on IP policy, protection, and enforcement, and promotes stronger and more effective IP protection around the world.

USPTO promotes effective IP protection for U.S. innovators and entrepreneurs worldwide by working with the U.S. Trade Representative (USTR) to ensure strong IP provisions in free trade and other international agreements. It also provides training, education and capacity building programs designed to foster respect for IP and encourage the development of strong IP enforcement regimes by U.S. trading partners.

Protecting IP Protection Abroad

In support of USTR and other U.S. Government agencies, USPTO assists in the negotiation and drafting of IP provisions of free trade and other international agreements. These provisions generally require U.S. trading partners to provide stronger, more effective protection for IP than is required under the World Trade Organization's Trade Related Aspects of IP Rights (TRIPs) Agreement.

This past year, USPTO participated in Free Trade Agreement (FTA) negotiations and/or follow-up talks with Oman, Bahrain, Jordan, Morocco, and Costa Rica. This work consisted primarily of reviewing specific legislation (and proposed amendments thereto) from each of the aforementioned countries and providing substantive and formal comments and memoranda to USTR as part of ongoing FTA implementation processes. Additionally, USPTO gives guidance and recommendations to the USTR related to the Special 301 review as well as bilateral and multilateral negotiations.

USPTO's Office of IP Policy and Enforcement provides training for foreign government officials both in the U.S. and through various programs around the world. In 2007, USPTO conducted over 270 training and technical assistance programs for officials from 145 countries. In conducting the programs, USPTO partners with other government entities who work on IP protection including the Department of Justice, Homeland Security, USTR, the State Department, Copyright Office, and other government agencies.

Training and Capacity Building

USPTO coordinates, organizes and participates in IP training, IP trade capacity building, and IP technical assistance programs throughout the world. This past year, training was greatly expanded in Latin America to assist the participating governments in implementing the Central American Free Trade Agreement (CAFTA-DR) obligations.

While training is indicated below by location of the programs, other nations may have sent representatives to attend and participate. During the past year, USPTO has conducted training, capacity building, and technical assistance in the following countries:

China

- In October 2006, USPTO, Japan Patent Office, and European Patent Office hosted a conference in pharmaceutical patents for Chinese officials in China;

- In November 2006, USPTO organized and sponsored local law enforcement roundtables in Guangzhou, Shenzhen, Shanghai, Beijing, and Shenyang. The roundtables brought together a prosecutor and police officer from New York City to share experiences with their counterparts in China;

- Also, in November, USPTO participated in the Fifth Annual Ambassador's IP Roundtable Discussions in Beijing China;

- In January 2007 USPTO organized an industry sector IP roundtable and forum on the telecoms and high tech area in Shenzhen, China;

- USPTO organized industry sector IP roundtables and forums for the pharmaceutical industry and automotives industry in Shanghai in March;

- In March, USPTO also participated in TDA sponsored training for Chinese customs officials at the Shanghai Customs College;

- In March, USPTO spoke at the Global Forum on Intellectual Property Rights Protection and Innovation in Beijing, hosted by U.S. Chamber of Commerce and China Council for the Promotion of International Trade;

- In May, USPTO participated in a UNESCO conference on cultural and traditional knowledge in China;

- USPTO spoke at the China International High Technology Forum in Beijing, China in May;

- In May, USPTO conducted training for IP judges in Quindao, China;

- In May, USPTO spoke at a Brand Development Conference in Chengdu (Sichuan) on, "A U.S. Developmental Perspective Regarding Brand Development," stressing the intrinsic nature of IP as a private right. The conference was sponsored by the Administration for Quality Supervision Inspection and Quarantine (AQSIQ);

- In June, USPTO organized industry sector IP roundtables and forums for apparel, sporting goods, and golf equipment in Guangzhou;

- USPTO participated in a product ID training seminar for Guangdong Provincial Customs officials in Guangzhou in June;

- In June, USPTO participated in the International Symposium on Geographical Indications in Beijing, jointly organized by WIPO and China's State Administration for Industry and Commerce;

- In July, USPTO gave a presentation at the Consumer Electronics Association Conference in Qingdao;

- In July, USPTO participated in 2007 International Copyright Forum in Beijing;

- In July, USPTO participated in the 2007 China Forum on Criminal IP Protection in Shenzhen;

- In August, USPTO participated in a conference sponsored by the China Ministry of Commerce,

Ministry of Justice, and local authorities on Economic Development and IP in Northeastern China, hosted by the Jilin government for over 350 Chinese lawyers and rights holders; and

- USPTO assisted in organizing and speaking at AmCham Beijing IP events: Best Practices in Civil IP Litigation (June 2007) and Running a Low Cost IP Protection and Enforcement Program in September.

Asia (excluding China)

- In November 2006, USPTO and ASEAN conducted a workshop on IP Broadcasting and Effective Practices in Anti-Piracy Enforcement of Asian countries in Bangkok, Thailand;

- Participated in the Vietnam IP Enforcement Conference in Hanoi, Vietnam in November;

- In December, USPTO and ASEAN presented a Workshop on IP Protection and Enforcement in the Digital Environment for Asian government officials in Denpasar, Indonesia;

- In January, USPTO conducted a seminar for Enhancing IP in Relation to the U.S.-Malaysia FTA in Malaysia;

- USPTO and ASEAN presented a Seminar on Geographical Indications in Bangkok, Thailand in February;

- In March, USPTO conducted a training session for Vietnam Trademark Examiners on domain name disputes and trademark opposition and cancellation procedures in Hanoi, Vietnam;

- USPTO conduced a seminar at the National IP Office of Vietnam in March;

- In April, USPTO conducted a program on Targeted Risk Management on IP for Customs and Economic Police in Ho Chi Minh City, Vietnam;

- The Office sponsored a program for Vietnamese judges and public prosecutors in Hanoi, Vietnam in April;

- In May, USPTO participated in an APEC Seminar for SMEs in Bangkok, Thailand;

- In July, USPTO conducted a workshop with APEC on IP Enforcement in the Digital Era in Vietnam;

- USPTO and ASEAN performed a Workshop on IP Enforcement and Combating Trade in Counterfeit Goods in Bangkok, Thailand in July;

- In August, USPTO conducted a patent training program with Vietnam's National Office of IP;

- USPTO with the Vietnam Chamber of Commerce presented a program on IP awareness in Vietnam in August;

- In August, USPTO co-organized two APEC Regional Seminars on IP Enforcement in Papua, New Guinea;

- In September, USPTO and Vietnam Chamber of Commerce presented a seminar on IP protection for SMEs in Danang, Vietnam;

- USPTO participated in a conference with U.S.-Thai trade representatives in Thailand in September;

- USPTO partnered with CBP, ICE and Indian Customs to train 130 customs officials on IP issues in Kolkatta, Chennai, and Mumbai in April 2007;

- In May 2007, three patent examiners from the Indian patent office have been sent to the USPTO for an eight-month training on patent prosecution and examination under USPTO's Foreign Examiners-In-Residence Program;

- USPTO spoke at the conference organized by Confederation of Indian Industries regarding the importance of IP for SMEs in October 2007;

- USPTO spoke at the conference organized by Confederation of Indian Industries in Mumbai on anti-counterfeiting and piracy in August 2007;

- USPTO participated in the Business Software Alliance Roundtable study on "The means to compete: benchmarking IT industry competitiveness" in August 2007;

- USPTO spoke at an Association of Biotechnology Led Industries and Department of Biotechnology cosponsored program in Bangalore in October 2007;

- USPTO participated in CII National Committee of IP Owners in New Delhi in August 2007;

- USPTO led pharmaceutical trade delegation in New Delhi in September 2007;

- USPTO spoke at LPO-sponsored IP conferences in Delhi and Chandigarh.

- USPTO participated in a WIPO-sponsored IP management program in Goa in March 2007;

- USPTO spoke on nanotechnology and IP at Amity Law School in March 2007;

- USPO spoke on IP at conference at NALSAR University in Hyderabad in December 2006;

- USPTO spoke at OSAC meeting in Delhi in October 2007;

- USPTO participated in TPF meetings and DVCs in New Delhi;

- Participated in TIFA discussions in Islamabad in October 2006 and in Colombo in December 2006;

- USPTO visited Dhaka, Bangladesh in September 2007 and met with the Registrar of Copyrights, Controller General for Patents and Trademarks and Custom Officials;

- In October 2007, USPTO in collaboration with the Federation of Indian Chambers of Commerce and Industry (FICCI), conducted a three city IP road show in the cities of Ludhiana, Bhopal, and Raipur. The purpose of the road shows was to increase public awareness of the role of IP protection in promoting economic growth, innovation, and prosperity;

- In October 2007, USPTO co-hosted an IP awareness seminar in Chandigarh, in collaboration with a local industry partner;

- USPTO visited Sri Lanka and Maldives to meet with various government officials. They also conducted IP awareness seminars in Maldives for the general public and the law students. In Sri Lanka, the USPTO organized a seminar on latest IP developments for the public prosecutors in the Attorney General's office;

- In November 2007, USPTO participated in USIBC's "Importance of Drug Integrity" in New Delhi;

- USPTO co-hosted a dinner for various like-minded embassies along with Phrma in November 2007, in New Delhi;

- In November 2007, USPTO organized a 2-day workshop with Council for Scientific and Industrial Research on "U.S. Patent Law and Technology Transfer" at CSIR facility in Ghaziabad;

- USPTO organized a half-day workshop for Patent Office, New Delhi for patent examiners in the area of biotechnology and chemistry;

- In December 2007, USPTO co-hosted a dinner with ABIA for like-minded embassies and the private sector companies in New Delhi.

The Americas and Carribean

- In October 2006, USPTO/CARICOM conducted a regional training seminar on IP enforcement in Trinidad on enforcement for Caribbean Customs Officials;

- USPTO conducted a program in Mexico City on the Patentability of Pharmaceutical Invention in December 2006;

- In February 2007, USPTO conducted an IP Enforcement Program for government officials in Dominican Republic;

- USPTO participated in the International Congress of Sao Paulo Intellectual Property Association Workshop on IP in Emerging Countries in March;

- In March, USPTO conducted a program for government officials from around the world on Changes in Patent Design Laws in Argentina;

- In April, USPTO conducted a CAFTA workshop on the Enforcement of IP Rights for judges and prosecutors in Guatemala City, Guatemala;

- Also in April, USPTO provided technical assistance to the Guatemala Office of IP Registry in the country;

- USPTO presented a CAFTA workshop on enforcement of IP rights for judges and prosecutors in San Jose, Costa Rica in April;

- In April, USPTO provided technical assistance to the Belize IP Office and also conducted a training seminar for attorneys in Belize;

- USPTO participated in the International Community of Breeder's of Asexually Reproduced Ornamentally and Fruit Variety's Conference of America's program in Mexico;

- In May, USPTO conducted a Border Enforcement Conference for Central American countries in El Salvador;

- The Office participated in a U.S. Embassy/European Union Roundtable on IP Enforcement for customs officials from Paraguay and Brazil in Paraguay;

- USPTO participated in a training program sponsored by the American Chamber even in Sao Paulo, Brazil on IP enforcement in May;

- In June, USPTO participated in an Ambassador's Roundtable on Agriculture Biotechnology in Chile and also a program at the University of Santiago on "Promoting Innovation through Effective Patent Protection";

- In July, USPTO conducted a program with the Dominican Republic IP Office on sound and scent marks;

- In August, USPTO participated in a program with Immigration and Customs Enforcement on Criminal IP Investigation Training in Lima, Peru with officials from Peru, Argentina, Brazil, and Paraguay;

- In September, USPTO was involved in an American Chamber event in Argentina on IP;

- USPTO participated in a Chamber of Commerce program on enforcement with officials from Guatemala in September;

- In September, USPTO with USAID conducted a trademark seminar in Nicaragua for industry and also provided technical assistance to the Nicaraguan Intellectual Property Office on the Singapore Treaty, TLT, and provided an overview on USPTO's practice on examination of sound and scent marks.

Africa and the Middle East

- In October 2006, USPTO/INL conducted a program on counterfeit medicines for African countries in Dakar, Senegal;

- USPTO/MEPI conducted an IP enforcement workshop for 64 judges, prosecutors, and customs officials from Qatar in the country in October 2006;

- In November 2006, USPTO and IIPI conducted an IP program for Namibian officials in Windhoek, Namibia;

- In December, USPTO and MEPI conducted a workshop on IP enforcement best practices in Muscat, Oman;

- USPTO and IIPI conducted a program on copyrights in Gaborne, Botswana in December;

- In February, USPTO participated in two programs hosted by the U.S. Commercial Service on IP in Cairo, Egypt;

- USPTO participated in a program hosted by the U.S. Commercial Service on IP protection in Alexandria, Egypt in February;

- Also, in February USPTO provided technical assistance on automation issues to the Egyptian IP Office on trademarks;

- In April, USPTO and MEPI sponsored a Workshop on Protection of IP in Broadcasting in Manama, Bahrain;
- USPTO sponsored seminars for judges and attorneys on U.S. Court proceedings and Trademark Trial and Appeals Board proceedings for Moroccan officials in May in Fes, Marrakech, and Casablanca, Morocco;
- In June, USPTO participated in an IP public awareness program for over 100 participants in Amman, Jordan;
- USPTO presented an IP public awareness program in Yemen in June;
- In June, USPTO with the International Union for the Protection of Plant Varieties conducted a regional seminar in Africa on plant varieties in Kenya;
- USPTO presented IP public awareness events with officials in Doha, Qatar and Cairo, Egypt in June;
- In August, USPTO conducted a regional Global IP Academy program in South Africa for African government officials;
- In September, USPTO and the Business Software Alliance sponsored a workshop on cyber crime and IP in Cairo, Egypt.

Europe, Russia/CIS, and Central Asia

- In January, USPTO provided training for Pakistan patent examiners;
- USPTO conducted a program on patent claim interpretation at the Institute of IP in India in January;

- In January, USPTO conducted an IP workshop in Estonia;
- In March, USPTO presented a workshop on border enforcement for 48 government officials in Kalingrad, Russia;
- Also in March, the Office conducted a workshop on border enforcement in Kiev, Ukraine;
- USPTO participated in a workshop sponsored by the Business Software Alliance in India for business and organizations in March;
- In April USPTO participated in a customs programs in Calcutta, Chennai, and Mumbai, India;
- In May, USPTO performed a workshop on border enforcement of IP in Russia;
- In conjunction with the UK IP Office and the Slovak Patent and Trademark Office, USPTO participated in a Border Enforcement Training Program in Slovakia in May;
- In May, USPTO provided training for Indian scientists on patent law;
- USPTO conducted a workshop on criminal enforcement of IP for police, prosecutors, and judges in Kiev, Ukraine in June;
- In September, USPTO organized an enforcement program in Munich for Middle-Eastern countries;
- USPTO participated in the 11th Annual Ukrainian State Department of Intellectual Property Conference in September.

Global Intellectual Property Academy

Recently USPTO opened a dedicated space for the Global Intellectual Property Academy (GIPA) located at its headquarters in Alexandria, Virginia. The GIPA programs bring foreign officials to the U.S. for training on patent, trademark, and copyright policy and best practices as well as enforcement programs for judges, prosecutors, customs officers, and other government officials. This new space includes a 20,000 square-foot training facility, which includes training rooms, meeting spaces, an internet café, and translation facilities. Through this new dedicated space, USPTO can more efficiently deliver targeted training to foreign IP officials. In FY2007, GIPA trained more than 700 foreign officials. USPTO programs produced by the GIPA include:

- In October 2006, USPTO met with Taiwanese officials to discuss liability for Internet service providers;
- In October 2006 USPTO officials met with Brazil INPI officials regarding IT training tools;
- In October 2006, USPTO hosted a Global IP Academy workshop for officials from Albania, Brazil, Bulgaria, China, Croatia, Czech Republic, El Salvador, Ethiopia, Ghana, Hong Kong, Hungary, Kazakhstan, Lithuania, Madagascar, Moldova, Nepal, Pakistan, Saudi Arabia, Singapore, Taiwan, Tunisia, and Vietnam at USPTO headquarters;
- In November 2006, USPTO participated in the State Department's International Visitor Program for officials from Algeria;
- In November 2006, USPTO conducted a Global IP Academy Program for Saudi Arabian officials;
- Through the Global IP Academy in December 2006, USPTO trained foreign officials on IP enforcement. Countries participating included: Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, and Panama;

- In December 2006, USPTO hosted a Global IP Academy program for government officials from Belize, Brazil, Croatia, Egypt, El Salvador, Iraq, Kosovo, Malaysia, Mexico, Morocco, Mozambique, Nepal, Peru, Mauritius, Swaziland, UAE, and Vietnam;

- In December 2006, USPTO participated in the U.S.-Russia Innovation Council on High Technology;

- In December 2006, USPTO met with visiting IP officials from the Malaysian IP office for training;

- In December 2006, USPTO, along with USTR, hosted a two-day discussion of the U.S.-China JCCT IP working group in Alexandria, Virginia. In addition to the IPWG, USPTO organized presentations on forensic examination of optical disks; a panel discussion on changes to U.S. IP laws, such as the NET Act and the Digital Millennium Copyright Act, to meet the challenges of the Internet; and visits to the Cybercrime Center, and Federal District Court, for the Chinese delegation;

- In January 2007, USPTO conducted a Global IP Academy on Copyrights in the Digital Age with officials from Brazil, Bulgaria, Costa Rica, Czech Republic, Egypt, El Salvador, Estonia, Fiji, Hungary, Jordan, Lesotho, Lithuania, Madagascar, Malaysia, Mexico, Moldova, Nigeria, Peru, Sri Lanka, Tajikistan, Thailand, Turkey, and Vietnam;

- In February 2007, the Global IP Academy conducted an enforcement program for government officials from Brazil, Costa Rica, Dominican Republican, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, and Peru;

- In February 2007, the Global IP Academy had a program on Patent Law and Procedures inkling the countries of Albania, Costa Rica, Brazil, Bulgaria, Czech Republic, Egypt, El Salvador, Ethiopia, Georgia, Jordan, Lebanon, Malaysia, Nepal, Nigeria, Peru, Philippines, Saudi Arabia, Singapore, Slovenia, Tanzania, Tunisia, Ukraine, Uruguay, and Vietnam;

- USPTO participated in the State Department's International Visitor's Program in December 2006 – speaking to government officials from Kosovo;

- In March 2007, USPTO conducted a Global IP Academy program on Policy and Practice for Patents. Countries participated included Algeria, Egypt, Gambia, Ghana, Jordan, Mauritius, Mexico, Nigeria, Oman, Swaziland, Tanzania, Tunisia, Turkey, and Zambia;

- In March 2007, USPTO/ASEAN held a Global IP Academy Program on Enforcement for Armenia, Bermuda, Brunei, Bulgaria, Cambodia, Cameroon, Estonia, Indonesia, Jordan, Kazakhstan, Laos, Lithuania, Malaysia, Moldova, Oman, Pakistan, Peru, Philippines, Saudi Arabia, Thailand, Turkey, and Vietnam;

- In April 2007, USPTO participated in the State Department's International Visitors Program;

- Also in April 2007, USPTO hosted a Foreign Embassy Mission Program for embassy personnel from 49 countries;

- USPTO conducted enforcement training on "Recent Trends in Border Enforcement of IP Rights" in April 2007;

- In May 2007, USPTO and MEPI held a Global IP Academy Program for 26 judges from Algeria, Morocco, and Tunisia;

- In May 2007, USPTO hosted a multi-city U.S. training program throughout the country for Vietnamese judges, prosecutors, and law enforcement officers;

- USPTO participated in the State Department's International Visitors Leadership Program for Russian officials in May and August;

- In June, the USTPO hosted a Global IP Academy Trademark Program for 42 foreign officials;
- In June, USPTO hosted an Enforcement Program at the Global IP Academy for 46 foreign officials;
- Also, USPTO trained judges and customs and trademark officials from Morocco in June;
- In June, the Global IP Academy hosted Jordanian judges for training;
- In July, USPTO hosted 26 Chinese officials for training;
- In July, the Global IP Academy trained 16 Argentina officials for IP judicial training;
- In July, USPTO conducted training on plant patents for government officials from Sri Lanka;
- In August, the Global IP Academy hosted a program on copyright laws and policy for 47 foreign officials from around the world;
- USPTO hosted an enforcement training program in August for 18 officials from around the world;
- In August 2007, the Indian Copyright Registrar attended a four-day Copyright Program at USPTO's GIPA in August 2007;
- In September 2007, two GOI officials, the Controller General of Patents, Trade Marks and Designs and one of the Directors from the Department of Industry Policy and Promotion participated in a four-day GIPA program on the Madrid Protocol;
- In September 2007, a judge from the Delhi High Court attended the GIPA program on Intellectual Property Enforcement Issues including Civil, Criminal, and Administrative Enforcement;

- In September, the Global IP Academy conducted a training program for judges from the Middle East and Eastern Europe;

- USPTO conducted training for government officials on the U.S. Model for Implementing and Administering the Madrid Protocol for Trademarks in September;

- USPTO hosted two roundtable discussions with foreign officials on Border Enforcement in Miami and New York City in September;

- Beginning in May 2007, USPTO hosted an eight-month "Examiners in Residence Program" at the campus to train foreign examiners from China, Brazil, Egypt, Mexico, India, and Philippines.

IP Attaché Program

USPTO in conjunction with the Department of Commerce's U.S. and Foreign Commercial Service Office and the State Department, manages the IP attachés deployed at U.S. Embassies worldwide. Over the past year, USPTO deployed two new attachés, one to our Embassy in Moscow, Russia, and another to the U.S. Consulate General in Guangzhou, China. This brings the total number of IP attaches to eight as they are currently serving in: China (3), Russia, Thailand, India, Egypt, and Brazil.

Strengthening IP Protection Domestically

As part of the STOP! Initiative, USPTO continued reaching out to Small and Medium-sized enterprises (SMEs) through programs around the country on the basics of IP and IP protection at a meeting entitled Conference on Intellectual Property and the Global Marketplace. The program provides presentations on the basics of patent, trademark, and copyrights and in-depth information on protecting IP both domestically and abroad.

This past year, USPTO partnered with the U.S. Chamber of Commerce to bring these programs to more cities than ever before. At each location, a local Department of Justice Attorney spoke about IP enforcement and local U.S. Patent and Trademark Depository Library officials highlighted and explained tools available to assist businesses in each community. Throughout the year, training programs were held in Raleigh, North Carolina; Detroit, Michigan; Burlington, Vermont; Los Angeles, California; Seattle, Washington; San Antonio, Texas; and Portland, Oregon.

These conferences continued to set record attendance levels with over 1,300 participants. As a new education tool, USPTO expanded SME outreach by distributing more than 1500 CD-ROMs on IP protection. The discs contain key information that conference participants can take home with them or others who are unable to attend a conference can use the CD-ROM to learn more about IP.

Outreach to Businesses on IP Protection and Business in China

In addition to the national outreach to SMEs, USPTO continued efforts to educate businesses of all sizes on IP protection in China. Programs were held in U.S. cities for companies ranging from small business contemplating entering the Chinese market to large corporations with an established presence in China. Topics covered include a review of recent laws and regulations promulgated by the Chinese Government that affect IP protection and enforcement. This past year, these conferences were held in Philadelphia, Pennsylvania; Kansas City, Kansas; and San Jose, California, with more planned for the coming year.

The STOP! Hotline

Through the STOP! Initiative, USPTO also manages a hotline (1-866-999-HALT), which helps small and medium-sized businesses leverage U.S. Government resources to protect their IP rights in the United States and abroad. Callers receive information from a staff of over three-dozen IP attorneys at USPTO with expertise on how to secure patents, trademarks, and copyrights, and on enforcement of these rights throughout the world.

In FY2007, a new tracking procedure was implemented which allows the calls to be categorized by issue (i.e. patent, trademark, copyright, etc.), geographic area of the caller, and also the specific problem. In FY2007, the STOP! hotline received a total of 1,730 calls, an increase of 81% since being launched. USPTO will continue to publicize this valuable government resource for all U.S. businesses.

Outreach to Future Innovators, Creators, and Inventors

In April 2007, USPTO, in conjunction with the Ad Council and National Inventors Hall of Fame Foundation, launched a public service campaign targeting America's youth. The national campaign, titled "Inspiring Invention," seeks to make invention and developing new ideas part of children's lives. Radio and TV commercials are now playing throughout the country with the message "Anything's possible. Keep thinking." The commercials direct students to a website, inventnow.org, which inspires children to be inventors and more creative, and also provides messages on IP education and enforcement. This awareness campaign will continue to run into 2009.

Additionally, USPTO has joined with the Department of Justice (DOJ) to further expand the new IP curriculum to further reach America's youth. Through a DOJ grant, USPTO is working with Justice to expand on the current curriculum to teach middle schools student about the illegality of piracy and counterfeiting. This new supplemental curriculum will expand on USPTO's curriculum by teaching impressionable, middle-school students why it is not only illegal to commit IP theft but also the risks, hazards, and reasons why IP theft should be avoided by America's youth.

USPTO Going Forward

USPTO will continue to train foreign IP officials in even greater numbers in the coming years. For FY2008, the Global IP Academy will expand its training and conduct at least 34 programs at its USPTO campus. IP attorneys at USPTO will continue to provide more training and technical assistance with support from other U.S. agencies around the world. USPTO is also working on a long-range training plan to better leverage the resources available within the government.

Additionally, USPTO will expand its distance learning capabilities. In addition to bringing foreign officials to USPTO, the office intends to vastly expand its long distance training capabilities via the Internet and digital video conferencing. Through this new expanded training and technology, the office will be able to reach even more government officials and train them without bringing them to USPTO or conducting training within the country or region.

USPTO will continue to work with the U.S. Chamber of Commerce to provide more conferences for SMEs around the country. The China-specific programs will also continue with more programs and greater outreach.

The STOP! Hotline continues to grow each year and we expect even more calls in FY2008. One additional initiative USPTO is working on is increased outreach with state and local organizations to better inform businesses of all the Federal Government resources available for IP education and protection.

Training for youth will continue into the coming years as the education initiative with the Ad Council will continue to monitor students' attitudes toward inventing and IP as well as produce another round of TV and radio advertisements to keep kids interested. USPTO will also be launching a new IP education curriculum for students in the coming year that will be available to teachers and parents throughout the country.

Additionally, USPTO will work further with academia to not only to garner feed-back on efforts to stop counterfeiting and piracy, but also to seek input on how to better educate consumers on why they should not purchase pirated or counterfeit goods. It is the agency's goal to find better ways to reach the average consumer and educate them on the dangerous and harmful affects counterfeit and pirated products can have on their lives.

INTERNATIONAL TRADE ADMINISTRATION

Summary

The U.S. Department of Commerce's International Trade Administration (ITA) helps U.S. exporters overcome difficulties they may face when exporting goods and services because of foreign trade barriers, including the lack of adequate and effective intellectual property (IP) protection. To accomplish this objective, ITA monitors foreign governments' implementation of and compliance with international trade agreements pertaining to IP, seeks to raise awareness of the potential dangers associated with counterfeit products, and provides information to U.S. exporters to help them develop strategies to overcome inadequate and ineffective IP laws and enforcement that can be encountered when doing business abroad.

Intellectual Property Compliance and Monitoring

The Office of Intellectual Property Rights (OIPR) within ITA's Market Access and Compliance (MAC) unit manages ITA's response on multilateral and bilateral efforts to promote effective protection and enforcement of IP. The OIPR works closely with country specialists in MAC, and colleagues in the U.S. and Foreign Commercial Service (US&FCS), and Manufacturing and Services (MAS) units to promote effective worldwide protection and enforcement of IP. MAC country specialists provide in-depth national and regional analysis; US&FCS provides vital links through its domestic and overseas offices; while MAS provides important understanding and expertise of industry standards and structure. Together, ITA's three bureaus provide a broad and thorough response on behalf of the United States regarding IP protection and enforcement worldwide.

ITA works closely with the Office of the U.S. Trade Representative (USTR), the United States Patent and Trademark Office (USPTO), the U.S. State Department's Office of Intellectual Property Enforcement, the U.S. Copyright Office, other U.S. Government agencies, and the private sector to ensure a consistent and effective approach to improving IP protection and enforcement among our trading partners.

ITA helps to develop and implement bilateral and multilateral IP programs and initiatives. These efforts include the annual Special 301 Review, which reviews and assesses the adequacy and effectiveness of IP protection and enforcement by our international trading partners. OIPR is responsible for coordinating the development of the Commerce Department's position concerning the status of countries under Special 301. ITA staff participates in developing IP "action plans" outlining key elements for foreign governments to implement in order to improve their IP regimes. USTR has initiated or continued such "action plans" for the following countries: Egypt, Greece, Guatemala, Hungary, Italy, Kuwait, Lithuania, Mexico, Saudi Arabia, Spain, Turkey, and the Czech Republic. These action plans are designed to identify specific actions a foreign government can take to improve IP protection and enforcement. Steps can include enacting and enforcing meaningful deterrent penalties for criminal IP thefts, or enacting legislation that brings our trading partner's laws into conformity with established international trading norms.

In 2006, USTR began a Special 301 Initiative to help nearly all countries with action plans to identify the specific steps and concrete actions needed to improve IP protection and enforcement resulting in improvement in the following Special 301 Review. ITA has participated in the selection of countries and helped identify concrete steps available to our trading partners which would improve IP protection and enforcement. These countries included Egypt, Greece, Guatemala, Hungary, Italy, Kuwait, Lithuania, Mexico, Saudi Arabia, Spain, and Turkey.

As part of the ongoing Special 301 process, the Commerce Department also engages "Out-of-Cycle" reviews which are a mechanism to provide ongoing support and consultation with our trading partners to enhance protection of IP. In FY2007, OIPR participated in the Out-of-Cycle reviews for the following countries: Brazil, Canada, Chile, Czech Republic, Indonesia, Latvia, Pakistan, and Russia. These efforts include digital video conferences with the foreign government and other opportunities in bilateral

discussions to provide assistance and to consult with our trading partners on ways to enhance IP protection and enforcement.

OIPR and MAC's country specialists monitor worldwide implementation of several trade agreements, including the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) and bilateral IP Memoranda of Understanding (MOUs) such as those with India, Japan and Paraguay. MAC country compliance teams work with OIPR to monitor our Free Trade Agreement (FTA) partner's compliance with their FTA commitments and work to ensure that U.S. exporters receive fair treatment under these requirements. OIPR also monitors accession to and implementation of the World Intellectual Property Organization's Copyright Treaty (WCT) and Performances and Phonograms Treaty (WPPT). These multilateral treaties provide protection for copyright material in the digital environment.

OIPR also plays an important role in reviewing Generalized System of Preferences (GSP) petitions submitted by the private sector. OIPR is responsible for developing the Commerce Department's position regarding whether to accept or reject an IP country practice petition, and participates in bilateral discussions with countries under review. In FY2007, the U.S. Government reviewed IP country practice petitions in Russia, Lebanon, and Uzbekistan.

OIPR represents the Commerce Department as part of official government delegations at meetings of the World Trade Organization's TRIPS Council, which provides an opportunity to raise concerns with and obtain information on countries' efforts to comply with TRIPS obligations. In addition, ITA staff participates in and provides policy input for IP-related bilateral and regional negotiations and consultations, which include FTAs, bilateral investment treaties (BITs), and trade and investment framework agreements (TIFAs). ITA staff and senior officials raise these and other IP concerns during frequent bilateral consultations.

The OIPR leads ITA's efforts under the Bush Administration's Strategy Targeting Organized Piracy (STOP!) initiative. Announced in October 2004, STOP! brings together all Federal Government agencies to take comprehensive action in cracking down on piracy and counterfeiting. The initiative has enhanced

coordination among all relevant U.S. Government agencies, as well as with our trading partners to tackle this global problem.

In April 2007, OIPR hosted a Counterfeiting and Piracy Consumer Awareness Event, with participation from the private sector, U.S. Government officials, and Washington embassy representatives. The event highlighted the potential dangers to consumers and joint efforts with China and other nations to identify unsafe products and to improve manufacturing processes and secure supply chains.

OIPR has worked with other U.S. agencies to create downloadable "IP toolkits" to guide businesses through securing and enforcing their IP rights in key markets around the globe. These toolkits are available on the Stopfakes.gov website and cover key trading partners such as China, Russia, India, Mexico, Korea, Malaysia, and Taiwan.

Coordination with U.S. Industry

International compliance and enforcement of U.S. trade agreements are the highest priorities of ITA. ITA works with both small and medium enterprises (SMEs) and large U.S. companies and industry associations to ensure that trade problems related to IP are promptly and aggressively addressed. Through its compliance program, ITA works with industry in a variety of ways, including:

- Actively researching and analyzing information supplied by companies to ascertain IP problems facing industry;
- Applying expertise to develop an implementation strategy to resolve problems;
- Working with industry associations to raise concerns with our trading partners regarding proposed and existing IP legislation; and

- In conjunction with USPTO and the Department of Commerce's Office of the Chief Counsel for International Commerce, counseling U.S. companies on IP commitments undertook by our trading partners under existing trade agreements to which the United States is a party.

The Department of Commerce, in collaboration with the U.S. Government agencies with IP policy oversight, published a brochure, "Protect Your Intellectual Property: Stop Trade in Fakes!" with contact information to educate and assist U.S. firms in protecting and enforcing IP both in the U.S. and overseas. Commerce also established a special telephone and web address where SMEs can contact DOC experts for assistance when dealing with their international concerns. These resources function in conjunction with Commerce's Compliance Program. During FY2007, ITA staff has worked with companies with IP problems in Canada, Bangladesh, Brazil, China, Colombia, Egypt, France, Ghana, Guatemala, India, Malaysia, Mexico, Morocco, Nigeria, Panama, Pakistan, Portugal, Russia, Singapore, South Africa, South Korea, Taiwan, Thailand, Trinidad and Tobago, Turkey, and Vietnam. In addition to pressing our trading partners on a government-to-government basis to effectively implement and enforce their existing laws governing IP protection, ITA also regularly provides information to assist private entities that choose litigation to enforce their rights under the IP laws of the countries where infringement occurs.

As part of ITA's compliance initiative, OIPR's sister office, the Trade Compliance Center (TCC) operates the Compliance Liaison Program; approximately 100 trade associations have appointed a representative to serve as a liaison between their members and the TCC. The liaison solicits complaints on market access barriers and agreement compliance problems including IP-related issues, from members and notifies the TCC and OIPR for action. Such trade industry groups as the Motion Picture Association, Recording Industry Association of America, Business Software Alliance, American Film Marketing Association, Pharmaceutical Research Manufacturers Association, and the International Anti-Counterfeiting Coalition have appointed representatives to take part in the Compliance Liaison Program. Congressional and Senatorial offices and countrywide U.S. Export Assistance Centers (USEACs) also actively participate in the Compliance Liaison Program.

Industry Trade Advisory Committee on IP

One of the ways the Department of Commerce seeks input on various IP outreach activities is through the Industry Trade Advisory Committee on Intellectual Property Rights (ITAC 15). This committee is one of 16 Industry Trade Advisory Committees (ITACs) jointly administered by the Department of Commerce and USTR. ITAC 15 plays an active role in advising the U.S. Government on trade negotiating objectives and priorities regarding IP. Most recently, advice was sought during FTA negotiations with Colombia, Korea, Panama, Peru, and the WTO Doha Round of trade negotiations and for other bilateral and multilateral negotiations. Industry representatives serving on ITAC 15 provide advice and identify IP concerns in countries that are eligible beneficiaries under the Generalized System of Preferences (GSP) program. Advising U.S. trade negotiators on WTO members' implementation of and compliance with the WTO TRIPS Agreement is a priority issue of the Committee. In particular, the committee provides advice on WTO TRIPS Council compliance reviews and WTO dispute settlement cases. ITAC 15 also plays an essential role in channeling private sector advice into the annual Special 301 Review.

International IP Engagement and Programs

The Commerce Department through OIPR and in coordination with other agencies has participated in new multilateral initiatives to improve the global IP environment that will aid in disrupting the operations of pirates and counterfeiters. Key initiatives have gained endorsement and are undergoing implementation in the G-8, the U.S.-EU Summit, the Security and Prosperity Partnership (SPP) with Canada and Mexico, the Organization for Economic Cooperation and Development (OECD), and the Asia-Pacific Economic Cooperation (APEC) forum.

Group of Eight (G8)

In the G8, ITA supported interagency colleagues during the G8 Summit in June 2007. The G8 leaders issued a statement on "Growth and Responsibility in the World Economy" in which they identified "intellectual property protection as the backbone of innovation." The statement affirmed the importance

of (1) harmonizing the international patent system; (2) combating counterfeiting and piracy; (3) working with industry: (4) improving customs and border enforcement cooperation; (5) increasing technical assistance programs to developing countries; (6) prosecuting IP infringing criminals; (7) supporting the OECD study on the economic impact of counterfeiting and piracy; and (8) establishing an IP Task Force to focus on anti-counterfeiting and piracy.

U.S.-EU Intellectual Property Working Group

Under the U.S.-EU Framework, OIPR and the European Union's DG Enterprise have established programs to promote the protection of IP through public awareness efforts, trade fair cooperation, and small business education.

Security and Prosperity Partnership

The Department of Commerce through its Trade Agreements and Compliance unit co-chairs the Security and Prosperity Partnership (SPP) with USTR. The SPP leaders announced the IP Action Plan at the SPP Summit in Montebello, Canada in August 2007. The Action Plan constitutes a strategy for governments and the private sector to combat piracy and counterfeiting in North America. Canada, Mexico, and the United States have agreed to take action in three areas: detect and deter trade in counterfeit and pirated goods, increasing consumer awareness of the ill effects of counterfeiting and piracy, and measuring the depth and scope of counterfeiting and piracy.

Organization of Economic Cooperation and Development

The Department of Commerce through OIPR has improved its involvement with the Organization of Economic Cooperation and Development (OECD) in the IP area and helps both MAS's Office of Trade Policy and MAC's Office of Multilateral Affairs, coordinate Commerce's response to OECD work on IP. Additionally, ITA has been working closely with USPTO and other colleagues to encourage the OECD initiate work that recognizes the importance of IP in innovation, development, and economic growth.

China

Through the STOP! Initiative and related policy efforts, ITA assists U.S. companies, especially SMEs, with protecting and enforcing their IP in China.

- ITA participated in development of the United States' request for dispute settlement negotiations with China under the WTO TRIPs Agreement. The United States is pursuing a market access case and a case on China's lack of adequate enforcement of IP;

- ITA's China office participates in IP-related domestic programs and conducts many one-on-one consultations with companies. Many of these programs are done in conjunction with USPTO and the U.S. Foreign & Commercial Service's 'Doing Business in China' outreach seminars;

- ITA also continues the web-based seminar series on IP issues in China, which any interested party can access online through the stopfakes.gov website. In 2007, there were programs on Civil IP Litigation, IP Audits, and Negotiating License Agreements, Brand Protection Strategies in China, Hiring an Investigative Firm in China, and China's 2007 Action Plan. To date, there have been 16 online training seminars for U.S. industry, reaching over 900 online participants; and each session is made available for downloading on stopfakes.gov;

- ITA offices work closely with our IP attachés to develop and implement IP-related trade policies and to address IP market access and compliance cases. In China these attachés assist U.S. businesses with navigating China's IP regime and ensure China lives up to its international commitments;

- ITA is working through a variety of channels to promote the China IP Legal Advisory Program. In partnership with several private sector organizations, the program provides one hour of free legal counseling for SMEs on IP in China. Over 50 companies have participated in this program since it was launched. Following the success of the China advisory program ITA launched the International IP Advisory program. This program, which is separate from the China advisory program, has

expanded the list of countries covered to other major world markets, including: Brazil, Egypt, India, Russia, Thailand, and Turkey;

- ITA continues to utilize the "Case Referral Mechanism" (CRM) for bringing individual U.S. companies' IP complaints to the attention of China's Ministry of Commerce. To date, five cases have been submitted that demonstrate long-standing, serious IP problems experienced by U.S. companies. For the five American companies that have utilized the CRM, it has led to informative dialogues with relevant Chinese IP agencies and for some, positive progress on individual IP enforcement actions.

Russia

ITA continues to participate in periodic meetings of the U.S.-Russia IP Working Group which continues to meet in order to further discussions on necessary amendments to Russia's IP laws and on improving enforcement of IP in preparation for Russia's accession to the WTO. The bilateral accession agreement and side letter call for Russia to make changes to its legislation, improve enforcement, particularly against digital piracy and border enforcement, shut down illicit optical disk plants located on government or military owned property, and enhance protection for undisclosed test data for pharmaceutical products and agricultural chemicals.

In 2007, an IP attaché was stationed in the U.S. Embassy in Moscow. The attaché will work closely with USPTO Resident Legal Advisor in Moscow and the Commercial Law Development Program to provide technical assistance in an effort to bolster enforcement and protection of IP within Russia in preparation for accession to the WTO. Together they will focus on improving the domestic IP legal regime and enforcement for IP particularly customs authorities.

Engagement with Trading Partners

ITA officials and staff meet frequently with our trading partners to help advance U.S. IP interests overseas. For example, in FY2007, ITA engaged the following countries:

- Brazil, to encourage negotiations with interested stakeholders regarding compulsory licenses for pharmaceuticals and express concerns about the lack of data exclusivity for pharmaceutical and agricultural test data;

- Canada, to stress the importance of effective border enforcement, encourage legislation outlawing camcording in movie theatres and ratification and implementation of the WCT and WPPT, and encourage participation in the IP working group of the Security and Prosperity Partnership;

- Chile, to suggest revisions to draft copyright reform legislation;

- China, to improve its enforcement against pirated and counterfeit goods, and enhance access to its internal market for U.S. industry;

- Czech Republic, to improve enforcement against counterfeit and pirated goods at markets on the German and Austrian borders particularly concerning optical disk piracy;

- Egypt, to encourage improvement in enforcement and protection of IP in the pharmaceutical sector;

- Guatemala, to discuss ongoing enforcement efforts and the environment for innovative pharmaceutical companies;

- India, to encourage the Government of India to implement protection for pharmaceutical and agricultural test data, to improve enforcement against counterfeiting and piracy, to update copyright legislation for the digital age and to implement optical disc regulations;

- Indonesia, to encourage sustained enforcement in the area of digital piracy;

- Israel, to further discussion on Israel's protection for innovative pharmaceutical companies, and maintain national treatment in its copyright regime;

- Japan, to re-launch and enhance the Joint DOC/METI Initiative, recommitting efforts on patent harmonization, investigating a standardized patent application, and cooperation on IP enforcement in third countries;

- Latvia, to further enhance coordination with Latvian representatives in implementing the IP activity plan;

- Lebanon, to enhance and improve IP enforcement particularly as to copyright piracy and provide an adequate environment for innovative pharmaceutical companies;

- Malaysia, to continue enforcement activities against optical disk piracy;

- Mexico, to encourage participation in the SPP IP Working Group and improve the environment for protection of test data for pharmaceutical and agricultural chemical products;

- Pakistan, to address implementation of a data protection regime, to seek codification of a patent linkage system, and to improve enforcement against rampant book piracy;

- Paraguay, to seek continuation of the IP Memorandum of Understanding with the United States;

- Peru, to increase and improve IP enforcement and to see that Peru meets its commitments under the U.S.-Peru Free Trade Agreement;

- Philippines, to continue to push for improved enforcement and deterrent police actions and sentences for IP crimes;

- Russia, to help conclude a bilateral WTO accession agreement, which included an IP side letter containing specific commitments from the Russian Government to improve its IP regime;

- Saudi Arabia, to work closely with Saudi Arabia to address outstanding IP issues;

- South Korea, to support negotiation of the U.S. Korea Free Trade Agreement;

- Spain, to discuss copyright concerns and amendment of its copyright legislation;

- Thailand, to improve enforcement against IP infringement and encourage transparency when issuing compulsory licenses for pharmaceutical products and encourage fair and transparent negotiation with interested stakeholders in advance of issuing any compulsory licenses;

- Turkey, to address copyright piracy and particularly book and software piracy within the government sector;

- Ukraine, to encourage improvements of enforcement against optical disk transshipment, improve border protection, and address retail copyright infringement.

U.S. & Foreign Commercial Service IP Initiatives

The U.S. & Foreign Commercial Service (US&FCS) has also taken steps to promote protection of IP at national and international trade fairs. US&FCS has worked to promote protection of IP at domestic and international trade fairs by launching the "Trade Fair Initiative" program.

The program includes efforts to educate trade fair organizers, exhibitors, and attendees about IP and to help U.S. businesses guard against infringement at trade fairs. ITA will continue to explore opportunities to promote IP protection at trade fairs and pavilions that Commerce operates, certifies, or supports, and to demonstrate the U.S. commitment to protecting IP and respecting the rule of law.

US&FCS has also assigned four commercial service officers as IP Specialists posted across the country to work with internal specialists in ITA and USPTO to help U.S. exporters understand both international and national IP agreements. These specialists also promote and support IP-related training and education events for the tens of thousands of business clients served by US&FCS.

Commercial Law Development Program

The Department of Commerce's Commercial Law Development Program (CLDP) provides training and consultative services through a variety of mechanisms worldwide. These efforts include conferences, workshops, and other activities that focus on laws, administrative practices, and enforcement of IP. In particular, CLDP assists countries in their compliance efforts with the WTO TRIPS Agreement. In FY2007, CLDP organized the following IP activities:

African Global Competitiveness Initiative—Sub-Saharan Africa

As an integral part of the African Global Competitiveness Initiative (AGCI) the U.S. Department of Commerce, through the CLDP and USPTO and in consultation with ITA's Office of Africa, has agreed to assist the governments of identified Sub-Saharan African countries and regions to strengthen their intellectual property protection regimes.

The agreement enables CLDP to work in conjunction with the USAID regional missions in Sub-Saharan Africa, to strengthen the IP regimes in West Africa, through programs in Mali, Ghana, and Nigeria; in East/Central Africa, through Rwanda; and in Southern Africa, through South Africa. To date, CLDP has undertaken assessment visits to Mali, Ghana, and Nigeria.

The program envisions the reform and harmonization of legislation; the training of judges, IP officials, and customs officials; coordination of IP enforcement; and increase public awareness. The program also builds public/private partnerships with industry and affiliated IP organizations.

Angola

CLDP reviewed and improved curriculum and training materials related to CLDP's implementation of modern case management techniques at Angolan provincial courts. Additionally, CLDP produced an Implementation Audit Guide for the Angolan Justice Ministry officials to use when auditing the docket books at provincial courts. In April and June 2007, CLDP worked with the Portuguese and Angolan Ministries of Justice to train Angolan IT technicians on court management software. By December 2007, the Angolan Ministry of Justice will assume responsibility for building the capacity of Angolan

Russia/Ukraine

Workshop on the Coordination of IP Border Enforcement II Russia-Ukraine. Building upon the November 2006 workshop, CLDP conducted a follow-on workshop on the structure of efficient IP border enforcement for Ukrainian and Russian officials. This program improved communication mechanisms between each government's officials at the border between the two countries.

Ukraine

In Kiev, CLDP sponsored a program entitled "Instructors Workshop for IP Enforcement" for the Ukraine-specific Technical Guide for IP Enforcement. This workshop addressed technical assistance for IP enforcement activities.

Pakistan

IP Enforcement Training for Pakistani Customs

CLDP sponsored a Pakistani Customs official to travel to the U.S. and participate in the U.S. Patent and Trademark Office's Global Intellectual Property Academy.

Launching IP Capacity Building for Punjab's Judiciary

CLDP developed and established a re-usable IP module to educate Pakistani judges on the critical importance of IP protection and enforcement.

Intellectual Property and Pharmaceuticals Consultative Tour

Pakistani Ministry of Health (MoH) officials participated in a week-long capacity building program at the Food and Drug Administration's Center for Drug Evaluation and Research where they became familiar with the U.S. approach to drug evaluation and registration.

Patent Examiner Training

A joint CLDP/USPTO team visited Pakistan's Patent Office in Karachi to deliver customized capacity building to the staff and consult with the patent controller on policy and office administration. Examiners gained greater understanding of electronic search methods and strategies.

Algeria

The Law and Practice of Technology Licensing

In March and April 2007, CLDP organized Maghreb-wide program on 'The Law and Practice of Technology Licensing." Involving public technology transfer institutions and R&D labs from Algeria, Morocco and Tunisia, the program consisted of a workshop in Morocco (structured around case studies created by CLDP), followed by consultations in the U.S.

Tunisia

Decision-making for Technology Transfer

In early 2007, CLDP developed two decision-making methodologies for Tunisia Ministry of Research: One methodology created by CLDP to help decision-makers decide which discoveries are worth patenting; a second one to help decision-makers assess the commercial potential of new products/technologies.

Morocco

Combating Counterfeiting and Piracy

In September 2007, CLDP, in close coordination with U.S. Customs and Border Protection, organized a 3-day workshop in Rabat for Moroccan customs officials on combating counterfeiting and piracy.

Egypt

Trademark Registration Operation

CLDP supported USPTO efforts to meet with officials at the Trademark Registration Operation (TRO) of the Egyptian Ministry of Trade and Industry. USPTO provided advice on how the TRO might: (i) issue official letters ("office actions") advising trademark applicants of the legal determinations made regarding their applications, and (ii) encode trademarks comprised in whole or in part of designs (rather than words) so that those designs can be effectively searched via the TRO's database. And also advised which administrative/legal regime the TRO might adopt when it begins to register a particular type of trademark, namely, certification marks.

Vienna Trademark Classification System

CLDP supported USPTO efforts to work with officials from the Egyptian Trademark Office (ETO). USPTO traveled to Cairo and conducted multiple training sessions for ETO officials on the use of the Vienna trademark classification system.

U.S. DEPARTMENT OF STATE

OFFICE OF INTELLECTUAL PROPERTY ENFORCEMENT

Summary

The State Department, through its Office of Intellectual Property Enforcement (IPE), promotes protection and enforcement of intellectual property (IP). In that mission, the Department works closely with other U.S. Government agencies on international IP policy formulation, enforcement efforts, and bilateral and multilateral IP negotiations. The Department's priorities include: leading innovation and intellectual property talks in the G8 and the U.S.-China Strategic Economic Dialogue[1] (SED); participating in the Bush Administration's Strategy Targeting Organized Piracy initiative to combat trade in counterfeit and pirated goods worldwide; overseeing distribution of IP law enforcement training funds; and participating in U.S. Government delegations to international organization meetings. The State Department's Embassies and Missions abroad play a central role in supporting the Department's efforts, as well as the efforts of other agencies.

To counter international IP violations, the State Department is making efforts to address simultaneously the flows that fuel both supply and demand of counterfeit and pirated products. In so doing, the Department is collaborating with U.S. Government agencies and the private sector, both in developed and developing countries. The Department is emphasizing the risks to the public of counterfeiting and piracy, as well as the benefits of legitimate economic activity promoted and protected by IP.

[1] *http://www.whitehouse.gov/news/releases/2006/09/20060920.html*

State Department Priorities

The State Department contributes to U.S. Government efforts to promote IP protection and enforcement in many different forums and regions. The Department's priorities in FY2007 and 2008 include: (1) encouraging China and Russia to make institutional changes resulting in better IP protection and enforcement; (2) increasing cooperation on enforcement efforts through the G8; (3) using State Department resources abroad to encourage foreign government officials and local populations to take steps to reduce piracy and counterfeiting; (4) enhancing government enforcement capabilities by funding IP technical assistance and training programs in developing countries; and (5) reducing the demand and profit motive for buying and dealing in counterfeit and pirated products through public diplomacy.

Working in Bilateral and Multilateral Dialogues

Encouraging China and Russia to make institutional changes resulting in better IP protection and enforcement

China

The State Department leads the innovation component of the U.S.-China Strategic Economic Dialogue (SED). U.S. engagement with Beijing through established channels such as the Joint Commission on Commerce and Trade (JCCT) and the SED, have yielded recognizable inroads on the pervasive piracy that exists in China. For example, as a result of a JCCT commitment, the Chinese Government has mandated that all imported personal computers have legal operating software pre-installed. China also closed some of its notorious markets for infringing goods in some major cities. The State Department will continue to work with other agencies to press China at the highest levels to reduce piracy and counterfeiting – including through the JCCT and the SED. Through its Embassies and consulates in China, the Department also will continue to encourage progress on issues identified by American businesses whose IP rights have been violated.

In order to implement the accord between Presidents Hu and Bush to create a strategic framework for economic dialogue, their special representatives, Vice Premier Wu Yi and Treasury Secretary Henry Paulson launched and presided over the first U.S.-China Strategic Economic Dialogue (SED I) from December 14 to 15, 2006. The second Strategic Economic Dialogue (SED II) took place from May 22 to 23, 2007, and—at the drafting of this report—the third (SED III) is scheduled to take place on December 12-13, 2007. The State Department is supporting the Commerce Department's efforts to continue the SED dialogue on innovation by jointly hosting, with the Chinese Ministry of Science and Technology, an "innovation" conference to take place immediately preceding SED III on December 10, 2007. The conference is intended to provide an opportunity to pursue many of our broader objectives with regard to IP protection in China, and highlight the link between the development of innovative economies and the protection and enforcement of IP.

The United States Ambassador to China, Clark T. Randt, hosted the Sixth Annual Roundtable Discussion on Intellectual Property Rights in Beijing on October 23-24, 2007. Roundtable attendees had the opportunity to hear first hand from industry and trade association representatives with in-depth knowledge and experience about IP protection and enforcement issues in China. The Roundtable discussion also facilitated direct engagement between U.S. companies and senior U.S. officials from both Washington, D.C., and the Missions in China.

Russia

The State Department participates in meetings relating to the implementation of the 2006 U.S.-Russia bilateral IP Agreement on WTO accession, which calls for progress in enacting legislation and increasing enforcement efforts, especially with respect to optical disc and Internet piracy. The Department funded IP enforcement programs in Russia over the last year to improve Russia's capacity to implement the bilateral IP Agreement, and is supporting efforts to resolve outstanding multilateral issues related to WTO accession. In addition, the Department will continue to work with other agencies on the Out-of-Cycle Special 301 review of Russia.

Increasing Cooperation on Enforcement Efforts Through the G8

The State Department leads U.S. participation in innovation and IP negotiations in the G8. At the 2007 G8 Summit in June in Germany, leaders identified IP protection as "the backbone of innovation," and affirmed the importance of combating counterfeiting and piracy. Agreement was reached to improve customs and border enforcement cooperation, cooperation on combating serious and organized IP crime, and better coordinate and leverage technical assistance to developing countries.

The Department is leading an effort to develop focused technical assistance pilot plans for developing countries. Working with other U.S. Government agencies and WIPO, the Department is developing a technical assistance pilot plan to combat trade in counterfeit and pirated goods and to strengthen IP enforcement in Indonesia. Other G8 members volunteered to support pilot plans in South Africa, and the Tri-Border Region of South America.

The Department is working through the G8 (as well as other bilateral and multilateral mechanisms) to develop new results-oriented collaborative approaches to promoting and protecting innovation. Such efforts include helping developing countries to establish effective institutions to protect and promote innovation, including strengthening customs and law enforcement; ensuring legal production of safe and effective medicines, foods, and consumer products; and improving critical government IP functions.

The Department also is encouraging G8 (and other developed countries) to consider building upon APECs Model Guidelines to Secure Supply Chains Against Counterfeit and Pirated Goods to aid economies in limiting IP infringing products from entering chains of commerce.

International Engagement by Embassies & Consulates

Using State Department resources abroad to encourage foreign government officials and local populations to take steps to reduce piracy and counterfeiting

State Department officials at our Embassies and Missions regularly engage with foreign government officials to encourage them to improve IP protection and enforcement and to collaborate with private sector rights holders. Department personnel also are involved in implementing U.S. IP trade policy, IP-related trade capacity building, and other major IP efforts on the ground in host countries. Embassy and Mission officials serve as the front line of U.S. Government outreach in monitoring IP enforcement, legislation and regulation abroad, and advocating U.S. IP priorities to foreign government officials. Embassy and Mission officials monitor and promote implementation of IP-related provisions in Free Trade Agreements, Trade and Investment Framework Agreements, and WTO accession commitments.

A substantial proportion of the Department's engagement with foreign governments on IP issues takes place in the context of the Special 301 process, which can serve as an incentive for countries to improve their IP protection and enforcement. By improving enforcement efforts, Belize, Brazil, Bulgaria, and Latvia improved their position on the Special 301 lists in 2007. To encourage sustained progress on IP protection and enforcement, the Department is actively supporting four 2007 out-of-cycle reviews for Brazil, Czech Republic, Pakistan, and Russia. The Department also is working closely with ten additional countries from Asia, Europe, Latin America, and the Middle East before the start of the regular 2008 Special 301 review begins.

Technical Assistance and Capacity Building

Enhancing foreign government enforcement capabilities by funding IP technical assistance and training programs in developing countries

In order to better promote the rule of law and the protection of IP worldwide, the State Department is in its fifth year of formally funding IP criminal enforcement training and technical assistance programs in developing countries. To date, the Department has expended nearly $12-million on fifty-eight training and technical assistance initiatives. The Department's criminal enforcement training focus is designed specifically to complement private sector training initiatives by focusing on government-to-government

criminal enforcement assistance. This focus is particularly important as a result of the rise of dangerous transnational crime group involvement in IP crime.

The State Department chairs the U.S. Training and Coordination Group in order to coordinate various U.S. Government and private sector training efforts. The two State Department bureaus involved in funding State Department projects – the Bureau of International Narcotics and Law Enforcement Affairs and the Bureau of Economic, Energy and Business Affairs – consider input from the private sector, other federal agencies, the Department's overseas missions, and the U.S. Congress in the selection of priority programs.

In the upcoming year, the Department announced that it is funding thirteen IP government-to-government foreign law enforcement-related training and technical assistance programs to combat IP crime in selected developing countries using $3 million in FY2007 funds. In addition the Department's Bureau of International Narcotics and Law Enforcement Affairs also launched a Gift Fund for Law Enforcement Training, which is intended to use privately donated funds for training focused particularly on IP enforcement. These programs include:

- **Asia Pacific Economic Cooperation (APEC) – $348,800**, Seminars for enforcement officials focused on effective measures to implement the APEC Model Guidelines on supply chain integrity;

- **Association of Southeast Asian Nations (ASEAN) – $232,402**, Training for ASEAN customs and border officials in anticipation of ASEAN establishment of a customs union;

- **Brazil – $75,940**, IP criminal enforcement training to support the new Pernambuco Anti-Piracy Task Force;

- **Caribbean – $170,114**, IP criminal enforcement training for Bahamas, Jamaica and Trinidad and Tobago, with possible participation from Antigua;

- **Chile – $206,890**, Enforcement training for Chilean border and customs enforcement officials;

- **India – $315,516**, Judicial training focused on the Delhi and Bangalore high courts and regional trainings for police and judicial officials in New Delhi, Mumbai, Kolkata and Ahmedabad;

- **Indonesia – $640,000**, Continued funding for two full-time U.S. senior technical advisors to assist Indonesia in implementing new optical disc anti-piracy laws and combating counterfeiting and piracy;

- **Mexico – $327,189**, IP criminal enforcement training workshops in Monterey, Merida, Manzanillo, Guadalajara and Puebla/DF;

- **Nigeria – $47,780**, Training in support of the new Presidential-level IP initiative called the Strategic Action Against Piracy (STRAP);

- **Russian Federation – $115,788**, Two-week visits by customs officials from each of Russia's seven customs districts to U.S. ports of entry to observe practices and procedures;

- **South Africa – $346,986**, Training in combating high-tech IP crime in light of the expected expansion of high-speed Internet access prior to the next World Cup;

- **Turkey – $47,595**, Focused training for Turkish border and customs officials on implementation of new Turkish customs regulations; streamlining of the IP registration system for rights holders; training on detection techniques, seizure procedures; and coordination with other enforcement agencies;

- **Ukraine – $125,000**, Assistance to Ukraine in creating a sustainable Ukrainian IP enforcement training capability.

Awareness and Outreach through Public Diplomacy

Reducing the demand and profit motive for buying and dealing in counterfeit and pirated products through public diplomacy

Through public diplomacy, the State Department is taking steps to change consumer behavior in the United States and overseas. The Department is using op-eds, consular information sheets, and other forms of media to educate consumers in the United States and overseas that purchasing pirated and counterfeit products is not a victimless crime. The Department's strategy is to focus on demand side of the illicit trade equation. Consumers who are aware of the impact that illicit trade in counterfeit and pirated goods has on their lives are more likely to change their consumption habits. By reducing consumer demand for such products, the Department is trying to reduce the substantial profits that motivate producers, distributors, and sellers to deal in illicit products. Through the public diplomacy program, the Department also hopes to encourage foreign government policies that promote innovation and provide an alternative to illicit commerce in pirated or counterfeit products.

The Department launched its IP Public Diplomacy Initiative in early FY2007 to provide resources, information, and expertise to our embassies and consulates around the world for their use in promoting the importance of IP to foreign consumers. The initiative utilizes open editorials, media tours, digital video conferences (DVCs), and information fact sheets that provide information by region and topic. For example, between March and June 2007, open editorials were placed in over 20 foreign countries, often in several major newspapers in each country. Materials were also supplied for World IP Day 2007 publicity and events around the world, and the Department plans to increase public diplomacy and outreach for World IP Day 2008.

The Department also has used foreign press tours and dialogue-based DVCs between the United States and foreign public/private sectors to spread the pro-IP message. Educating foreign press about the importance of IP and its protection opens further inroads into spreading the pro-IP message to foreign consumers. DVCs are an effective means of supporting positive international discourse on IP issues; they not only serve to raise public awareness, but also encourage government and private sector collaborative action.

The State Department is in the process of developing the next phase of its IP Public Diplomacy Initiative, which will continue to implement innovative programs carrying the message that protecting IP is in every country's interest. The Initiative will seek to build on current efforts by increasing the use of web-based and multi-media resources and by augmenting collaborative efforts with other governments and U.S. and foreign industry, academia, and other stakeholders.

State Going Forward

The Department hopes to make continued progress on all of the specific fronts identified above, with the ultimate goal of developing fully-functioning IP systems wherever possible.

THE UNITED STATES TRADE REPRESENTATIVE

Summary

The Office of the U.S. Trade Representative (USTR), working in close cooperation with other agencies, is using the full range of trade policy tools on the multilateral and bilateral fronts—including in key countries such as China and Russia—to provide international leadership on IP enforcement issues.

USTR works to address a variety of problems that lead to U.S. IP rights being violated overseas, including that some governments have weak laws – that is, laws that are inadequate to deter piracy and counterfeiting, and that some governments do not give adequate priority to protection of IP. These challenges are compounded by the rapidly changing scale and scope of international piracy and counterfeiting, including the emergence of new technologies and sophisticated transnational criminal networks. USTR is also keenly aware that counterfeiting and piracy is an ever-increasing threat to the growth and prosperity of the U.S. economy, and that counterfeit goods often threaten consumer health and safety. For example, the issue of counterfeit pharmaceuticals has been of significant concern, particularly with trading partners such as China, that are significant source countries for active pharmaceutical ingredients.

To respond to these challenges, USTR uses a variety of tools, working in cooperation with other U.S. Government agencies, with our foreign trading partners, and with U.S. rights holders. These tools include negotiation of free trade agreements (FTAs) and trade and investment framework agreements (TIFAs); World Trade Organization (WTO) accession negotiations; bilateral discussions of IP issues; the Special 301

process; U.S. preference programs; dispute settlement; forging international alliances; and a host of bilateral, regional, and broader dialogues and cooperation structures.

In order to enhance USTR's response to IP challenges, Ambassador Schwab created a new Office of Intellectual Property and Innovation in 2006, with a staff that includes a Chief Negotiator for Intellectual Property Enforcement and five other IP specialists reporting to the Assistant U.S. Trade Representative for Intellectual Property and Innovation.

Anti-Counterfeiting Trade Agreement

On October 23, 2007, U.S. Trade Representative Susan C. Schwab further advanced U.S. leadership on IP enforcement issues when she announced that the United States will work with key trading partners to set a higher international standard for combating counterfeiting and piracy by negotiating an Anti-Counterfeiting Trade Agreement (ACTA). ACTA will bring together a group of countries who recognize, and are committed to strengthening, IP enforcement. ACTA builds on the cooperation that has already been established bilaterally and regionally since the Administration launched the STOP! Initiative in October 2004.

The ACTA is envisioned as a leadership agreement among countries that value and maintain high standards of enforcement against piracy and counterfeiting. The United States will be working with a number of key trading partners, large and small, who share our ambition and commitment to stronger IP enforcement. The envisioned ACTA will include commitments in three areas: (1) strengthening international cooperation; (2) improving enforcement practices; and (3) providing a strong legal framework for IP enforcement.

Trade Agreements

USTR devotes considerable resources to working with countries to strengthen their laws. One way we do this is through negotiation of free trade agreements (FTAs). Each of the FTAs negotiated contains a

comprehensive chapter on intellectual property. The IP chapters provide the international standard for rules to protect copyright, trademarks and patents, in line with U.S. law. The IP chapters also contain high standards for enforcement, including civil enforcement, criminal enforcement and border enforcement. After an FTA is negotiated, USTR works closely with our trading partners to ensure that the agreement is faithfully implemented.

For example, as a result of the United States-Australia FTA, Australia has strengthened its laws to combat Internet piracy and signal piracy. As a result of the United States-Singapore FTA, Singapore passed a law to criminalize end user piracy of software and then used that law to criminally prosecute software pirates for the first time. If the United-States Korea FTA is approved and goes into effect, Korea will make similar improvements in its laws.

USTR also works with countries on IP issues through our Trade and Investment Framework Agreement (TIFA) discussions. While a TIFA typically does not have detailed provisions as an FTA would, the TIFA discussions are a productive forum to discuss intellectual property. For instance, our TIFA dialogue helped persuade Taiwan to pass legislation to make peer-to-peer file sharing services illegal. Through our TIFA dialogue, we have also encouraged Taiwan to clamp down on counterfeit pharmaceuticals, leading to police shutting down 40 drug counterfeiting operations; pass legislation to create specialized IP courts; and create a task force to combat copyright infringement on university campuses.

The multilateral structure of WTO agreements provides further opportunities for continuing engagement with trading partners on IP issues. For example, as we have moved into the multilateral phase of the negotiations on Russia's accession to the WTO, we have continued to reinforce the importance that both the Administration and Congress place on full implementation of all the commitments in our November 2006 Bilateral IP Agreement, which calls for strengthening of Russia's laws and their enforcement. Similarly, one outcome of the negotiations on Vietnam's accession to the WTO, concluded in 2006, was that Vietnam will provide protections against criminal copyright and trademark violations where no such protections previously existed.

In appropriate cases, where bilateral dialogue has not resolved our concerns, USTR has taken the further step of filing WTO dispute settlement cases. In 2007, USTR initiated two cases against China that relate to our IP concerns, demonstrating that USTR does not hesitate to use dispute settlement when circumstances warrant that action.

Special 301 and other reviews

USTR uses the Special 301 process to encourage specific trading partners to place a higher priority on addressing identified IP problems. Each April USTR issues a Special 301 Report cataloguing specific IP problems in dozens of countries worldwide. A trading partner's ranking in the report sends a message to the world, including potential investors, about its commitment to IP protection. Special 301 also affords an opportunity to give credit where it is due, as in our decision to improve countries' standing when there are significant improvements in enforcement.

The Special 301 Report has been successful in encouraging countries to institute reforms or increase enforcement to avoid elevation on the list or to improve standing on the list. For example, Indonesia had been listed as a Priority Watch List country for a number of years and was interested in improving its standing. To address the concerns about illegal Indonesian OD factories, Indonesia significantly increased enforcement actions, in particular against manufacturers and retailers of illegal optical discs. These continued and sustained actions demonstrated that there was political will to do more on protecting IP and, therefore, Indonesia's standing was improved to Watch List.

China is a top enforcement priority. USTR conducted an unprecedented special provincial review of progress on IP issues in several key provinces and independent municipalities of China. USTR reported the results of that review at the end of the 2007 Special 301 report, spotlighting weaknesses at local levels, but also highlighting positive efforts.

Last year USTR started a new Special 301 Initiative to make the Special 301 process even more effective. Under the Special 301 Initiative, we have focused attention on a group of countries where we believe there

is a good possibility of progress through increased engagement. This has proved a success, yielding concrete results reflected in the 2007 Special 301 Report.

Similarly, USTR reviews IP issues in connection with Generalized System of Preferences (GSP) and other preference programs that afford developing countries with duty-free access to the U.S. market for certain products. One of the criteria for eligibility is adequate enforcement of IP rights. Review of a country's eligibility for GSP benefits, based on a petition from interested parties, is an available statutory tool for encouraging the improvement of intellectual property protection in GSP beneficiary countries, where IP protection is considered to be inadequate. In 2007, USTR maintained active country practice reviews regarding the protection of intellectual property in Lebanon, Russia, and Uzbekistan, based on petitions submitted by U.S. right-holder organizations.

Dialogues and Cooperation

USTR has worked to capitalize on opportunities to strengthen IP cooperation with trading partners through a wide variety of bilateral, regional, and broader dialogues and cooperation structures. IP is an element of bilateral trade policy dialogues with trading partners large and small, including, among many others, those with Brazil, China, the European Union, India, Japan, Russia, and Switzerland. U.S. FTAs all provide for ongoing trade dialogues, which provide a forum for resolving IP issues. On a regional level, IP has become a major part of ongoing regional cooperation with Canada and Mexico through the Security and Prosperity Partnership, and plays a major role in the Asia Pacific Economic Cooperation (APEC) forum.

For additional information on USTR, please visit www.ustr.gov.

UNITED STATES COPYRIGHT OFFICE

Summary

By statute (Public Law No. 106-58, Section 653(c)), the National Intellectual Property Law Enforcement Coordination Council (NIPLECC) is required to consult with the Register of Copyrights on law enforcement matters relating to copyrights and related matters. The mission of the Copyright Office is to promote creativity by administering and sustaining an effective national copyright system.

The Copyright Office provides expert assistance and advice to Congress, federal departments and agencies, and the Judiciary on domestic and international copyright and related matters.

In this capacity, the Copyright Office is often responsible for analyzing and assisting in drafting copyright legislation and legislative reports, mediating discussion between interested private parties, testifying in Congressional hearings, and undertaking congressionally requested studies on copyright and related questions. The Copyright Office also offers advice to Congress and other U.S. Government agencies on compliance with multilateral agreements, such as the Berne Convention for the Protection of Literary and Artistic works, and on the copyright and related rights obligations of bilateral Free Trade Agreements.

Internationally, the Copyright Office works with the State Department, the U.S. Trade Representative's Office (USTR), and the U.S. Patent and Trademark Office (USPTO) in providing technical expertise in negotiations for international intellectual property agreements, and provides technical assistance to other countries in developing their own copyright laws. Through its International Copyright Institute, the

Copyright Office promotes worldwide understanding and cooperation in providing protection for and enforcement of intellectual property.

The Copyright Office is also an office of record, and one of its primary and historical functions is to register claims to copyright, as well as documents relating to copyright such as assignments or transfers of rights. In addition, the Copyright Office provides information to the general public about copyright law, including the Office's procedures for making registration. Administratively, the Copyright Office sets copyright policy through rule making and the administration of compulsory licenses contained in the copyright statute.

In addition to the various administrative functions and duties described in the Copyright Act, the Copyright Office has a statutory mandate to:

- Advise Congress on national and international issues relating to copyright, other matters arising under title 17, United States Code, and related matters;

- Provide information and assistance to federal departments and agencies and the judiciary on national and international issues relating to copyright, other matters arising under title 17, and related matters;

- Participate in meetings of international intergovernmental organizations and meetings with foreign government officials relating to copyright, other matters arising under title 17, and related matters, including as a member of United States delegations as authorized by the appropriate executive branch authority;

- Conduct studies and programs regarding copyright, other matters arising under title 17, and related matters, the administration of the Copyright Office, or any function vested in the Copyright Office by law, including educational programs conducted cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

- Perform such other functions as Congress may direct, or as may be appropriate in furtherance of the functions and duties specifically set forth in title 17.

Domestic Enforcement Activities

Advice to Congress

One of the Copyright Office's primary domestic functions is to advise Congress on matters of copyright policy and related issues. As such, the Copyright Office provides expert counsel to Congress on legislation that would affect copyright enforcement. In the past year, the Copyright Office has worked closely with committee staffs and the staffs of individual members on a range of measures related to copyright enforcement and other copyright matters, including without limitation:

- Advised the Senate on S. 1957, the "Design Piracy Prohibition Act," which was introduced in the Senate on August 2, 2007, to provide protection to fashion design;

- Advised the House of Representatives on possible legislation to enhance remedies for violations of intellectual property laws;

- Advised the House of Representatives on H.R. 2033, the "Design Piracy Prohibition Act," which was introduced in the House on April 25, 2007, to provide protection to fashion design;

- Advised the Judiciary Committees of the House of Representatives and the Senate on the proposed Orphan Works Act of 2006[2] in the 109th Congress and on similar legislation being prepared for introduction in the 110th Congress;

[2] *http://thomas.loc.gov/cgi-bin/query/z?c109:H.R.5439:*

- Testified before the House Subcommittee on Courts, the Internet, and Intellectual Property of the House Committee on the Judiciary on "Ensuring Artists Fair Compensation: Updating the Performance Right and Platform Parity for the 21st Century" on July 31, 2007;

- Testified before the House Subcommittee on Legislative Branch, Committee on Appropriations on the "Future of Digital Libraries," March 27, 2007.

Liaison to Various Enforcement Agencies

The Copyright Office is not a law enforcement agency and has no direct role in law enforcement. However, many of the Office's obligations and responsibilities intersect with activities in the law enforcement arena, and the Office frequently provides counsel to the agencies charged directly with the enforcement of copyright law.

For instance, the Office works closely with the Federal Bureau of Investigation, the Department of Justice, and the Department of Homeland Security when necessary to provide information and documentation pertaining to a specific copyright claim that is the subject of an investigation by those agencies. The Copyright Office also advises and assists the Bureau of Customs and Border Protection in resolving issues and in developing new procedures related to border enforcement.

International Enforcement Activities

Assistance to U.S. Federal Agencies

Internationally, the Copyright Office actively participates in a number of activities related to the enforcement of copyright laws. The Office frequently provides USTR with assistance related to bilateral and multilateral trade agreements. In this role, during the past year the Office assisted and advised USTR in dozens of negotiations and discussions, including the following:

- Assisted and advised USTR on negotiation and implementation of the copyright and enforcement texts of bilateral Free Trade Agreements between the United States and Republic of Korea, Malaysia (not concluded), Australia, Bahrain, Chile, Costa Rica, Jordan, Oman, and Singapore, and several multilateral Free Trade Agreements, including the Central America Free Trade Agreement (DR-CAFTA), with a group of Andean nations;

- Engaged in bilateral discussions specifically regarding enforcement concerns and legislation with Canada, China, India, Israel, Japan, South Korea, Pakistan, Paraguay, Russia, Saudi Arabia, and Spain among others;

- Met with Mexican and Canadian government officials in connection with the Security and Prosperity Partnership, a partnership created to increase security and enhance prosperity between the countries through greater cooperation and information sharing. Action items were developed to implement a previously adopted Action Strategy Plan, and those Action Items were adopted by the leaders of all three governments at the North American Leaders' Summit in Montebello, Quebec on August 21, 2007; and

- Assisted in preparing a World Trade Organization (WTO) dispute settlement proceeding against China relating to intellectual property protection and enforcement in China, and participated in discussions with the Chinese Government in connection with that proceeding.

The Copyright Office also assists USTR with various other aspects of the United States' role in the World Trade Organization (WTO). In the last year the Office assisted USTR with the WTO Trade Policy Review process, developing questions to be posed to other WTO members with respect to their copyright and enforcement regimes, and also answering questions posed by other WTO members to the U.S. about copyright law. The Office has also assisted USTR on WTO accessions by several countries, including Iraq, Kazakhstan, Lebanon, Russia, Serbia and Montenegro, and Ukraine among others.

Further, the Copyright Office participated in the inter-agency Special 301 process led by USTR, which considers whether countries throughout the world are providing adequate protection to intellectual property, including copyright.

The Copyright Office also provides assistance to other U.S. Government agencies involved in enforcement efforts around the globe.

International Organization Activities

During the past year, the Copyright Office participated in activities of the World Intellectual Property Organization (WIPO) related to enforcement, in particular as a member of the WIPO advisory committee on enforcement. The Copyright Office also participates in the enforcement related activities of the WTO's TRIPs Council.

Further, during the past year the Copyright Office also met regularly with numerous visitors from numerous foreign governments regarding IP enforcement issues.

Other activities related to intergovernmental organizations included the following:

- Participation in the WIPO Intergovernmental Committee on Protection for Traditional Knowledge, Genetic Resources and Folklore/Traditional Cultural Expressions;

- Participation in the WIPO Intercessional Intergovernmental Meetings on the Development Agenda; and

- Participation on the U.S. delegation to two special sessions of the WIPO Standing Committee on Copyright and Related Rights in January and June, 2007, which continued discussion of the proposed treaty on the protection of broadcasters.

Programmatic Activities

Domestic Training and Education

Copyright Office staff routinely participates in domestic training and education programs about copyright law. Frequently, Copyright Office staff members attend and give presentations at seminars or other events organized by law enforcement agencies such as the Federal Bureau of Investigation, the Department of Justice, and the Department of Homeland Security. The Copyright Office also provides education on enforcement through seminars and events it organizes itself and through participation in numerous events held by industry groups, educational institutions, and various bar associations. In the last year, these activities included the following:

- Berkeley Center for Law and Technology, Berkeley, California, Panelist, "What Role Should the Government Plan in Enabling or Regulating DRM Technologies?"

- Duke University School of Law, Durham, NC, Lecture to copyright law class on "Copyright Office Law & Policy Activities";

- Law Seminars International, Bellevue, Washington, Copyright Counseling, Management and Litigation. Speaker on "New Developments on the Hill";

- Fordham Law School, New York, NY, Fordham Annual Conference on International Intellectual Property Law & Policy. Speaker on (1) "Copyright Issues in Online Music," (2) "Developments in the Copyright Office and Congress," and (3) "WIPO Broadcasting Treaty and the Politics of Intellectual Property" (moderator)";

- Future of Music Technology and IP Policy Day, Washington, DC, Keynote Speaker;

- Knowledge Ecology International (KEI), brownbag on the World Intellectual Property Organization (WIPO) and its Third Session of the Provisional Committee on Proposals related to a WIPO Development Agenda (PCDA);

- Guest Lecture, The Catholic University of America, Columbus School of Law, presentation on the functions of the U.S. Copyright Office;

- "Orphan Works: Problems and Potential Solutions," International Copyright Institute (ICI), U.S. Copyright Office;

- "What's So Controversial About Grokster?" Presentation to college class at George Mason University, Fairfax, Virginia;

- Presentation regarding a number of international copyright issues as well as Perfect 10 v. Google to a delegation of 30+ government officials and private sector participants from Taiwan, Washington;

- "The Functions of the U.S. Copyright Office," USPTO Global Intellectual Property Academy for U.S. Government Intellectual Property Specialists, Alexandria, Virginia;

- Panelist, "Finding Music: Dealing with Out of Print and Orphan Works," 7th Annual Future of Music Policy Summit, Washington, D.C.;

- Panel Discussion, "International Copyright: Perspectives from the U.S. Copyright Office," Annual Meeting of the American Association for the Advancement of Slavic Studies;

- International Copyright Institute (ICI), Symposium on Emerging Issues in Copyright and Related Rights for Developing Countries and Countries in Transition, U.S. Copyright Office;

- Panel Discussion, Traditional Cultural Expressions: Perspectives from the U.S. Government, American University Washington College of Law;

- Guest lecture, Copyright Issues Related to Traditional Cultural Expressions, in course on International Intellectual Property, American University Washington College of Law;

- Panel Discussion, "International Approaches," Copyright Utopia Symposium, University of Maryland University College, College Park, Maryland.

International Training and Education

Copyright Office staff also participates extensively in international training organized by other U.S. agencies, such as USPTO and the State Department, and international organizations, such as WIPO, on IP enforcement issues. In addition, the Copyright Office staff has developed and conducted training programs in connection with the negotiation of free trade agreements.

Unrelated to law enforcement training, the Copyright Office conducts and participates in a range of IP training and educational activities. In light of WTO member countries' obligations to comply with the TRIPs Agreement and the enforcement provisions therein, the Copyright Office has been actively engaged in training so that countries may meet their international obligations and U.S. interests are preserved. Specifically, the Copyright Office participates on training in the areas of (1) awareness of international standards and the U.S. legal and regulatory environment; (2) substantive legal training on both basic and complex areas of U.S. copyright law; and (3) legal reform and statutory drafting assistance.

The Copyright Office also hosts a well-regarded workshop semi-annually in conjunction with WIPO. The International Copyright Institute (ICI) was created within the Copyright Office by Congress in 1988 and provides training for high-level officials from developing and newly industrialized countries and encourages development of effective IP laws and enforcement overseas.

Other international training and educational activities in the past year include the following:

- Fordham Law School/Queen Mary College, University of London/Singapore Intellectual Property Academy Trialogue 2007, London, England. Panelist, "The Next Ten Years in Intellectual Property Law: What Should Happen? What Will Happen?"

- National Copyright Administration of China, Beijing, China, 2007 International Copyright Forum. Speaker on "Why Digital Is Different – and What to Do about it";

- Workshop on Digital Copyright and Copyright Collective Management, presenting on exceptions and limitations and OSP Liability to ASEAN member country representatives in Bangkok, Thailand;

- The Treatment of Digital Copyright Issues in U.S. Copyright Law, Presentation to the Taiwan Intellectual Property Office, Taipei;

- "Infringement Liability, and Safe Harbors, for Internet Service Providers," Seminar on Intellectual Property in the Global Marketplace, Cairo, Egypt; October City, Egypt; Alexandria, Egypt;

- "Copyright Liability for Intermediaries on the Internet," IP in IT & Development, The Egyptian Center for Intellectual Property and Information Technology, Cairo, Egypt;

- "Exceptions and Limitations to Copyright," USPTO Global Intellectual Property Academy, Johannesburg, South Africa;

- "Secondary Liability: Contributory and Vicarious Liability," USPTO Global Intellectual Property Academy, Johannesburg, South Africa;

- U.S. Government Speaker Program, Copyright Protection in a Globalized World, U.S. Embassy Dublin, Ireland, (guest lectures at University College Dublin and Dublin City University);

- Presentation, "Collective Management of Copyright and Related Rights," Conference on Actual Problematic Issues of Intellectual Property, hosted by Ukraine State Department of Intellectual Property, Yalta, Ukraine.

Public Awareness and Outreach

Public and industry outreach on copyright and related matters takes place on both a formal and informal basis. The Copyright Office regularly conducts public hearings on different IP subjects and maintains ongoing informal relationships with members of the IP community. The Office also maintains an extensive web site, ***http://www.copyright.gov,*** that includes news-alert services, copies of IP laws and regulations, information on legislation for the current Congressional session (as well as an archive of past legislation) and public information circulars.

Copyright Office Going Forward

As noted earlier, the Copyright Office hosts a well-regarded workshop semi-annually in conjunction with WIPO, the International Copyright Institute (ICI). ICI was created within the Copyright Office by Congress in 1988 and provides training for high-level officials from developing and newly industrialized countries and encourages development of effective intellectual property laws and enforcement overseas. The Office conducted an ICI from November 27 to December 1, 2006, with a program on emerging copyright issues for officials from developing and transitional countries and will continue to conduct such workshops in the future in order to continue its mission of providing useful education and training on copyright and enforcement internationally.

U.S. DEPARTMENT OF JUSTICE

Criminal Enforcement Highlights

Department of Justice—Task Force on Intellectual Property

The Department of Justice's Task Force on Intellectual Property (Task Force) has continued to assess and monitor the Department's overall intellectual property (IP) enforcement efforts during 2006-07. The Task Force developed an enforcement strategy for 2007-08 that set out a number of objectives, including:

- ***Continue to Coordinate the Department's Overall Strategy***

  The Task Force will continue to coordinate the Department's overall strategy to combat IP theft, including ongoing implementation of many of the recommendations in the Progress Report of the Department of Justice's Task Force on Intellectual Property (June 2006).

- ***Continue to Increase Multi-District and International Prosecutions and Domestic Protection***

  The Department will increase the number of multi-district and international IP prosecutions and investigations. It will also aggressively pursue international crime groups that traffic in stolen and counterfeit IP — especially those groups committing offenses that threaten public health and safety. In addition, the Department will improve domestic protection of IP rights through participation as amicus in private civil enforcement actions.

- ***Continue to Increase Cooperation with International Partners***

  The Department will reduce IP theft through increased support to and coordination with our international partners. The Department will focus its efforts on certain developing economies and on countries identified by the Bush Administration as posing especially strong challenges to U.S. business competitiveness.

- ***Continue to Increase Coordination with Victim Industries***

  The Department will maximize the use of available resources in the areas of prevention and education by coordinating its efforts with victim industries and ensuring that prevention efforts are deployed efficiently and effectively to the victim communities.

- ***Continue to Work with Congress to Strengthen IP Enforcement***

  The Department will continue to work with Congress to support new legislation that strengthens IP enforcement.

Federal Prosecutions

The Department's continued efforts to improve criminal IP enforcement have yielded, among other successes, substantial increases in federal investigations and prosecutions of IP violations. Through the dedicated efforts of U.S. Attorney's Offices, our Criminal Division, and law enforcement across the country, the Department filed 217 intellectual property cases in FY2007, representing a 7% increase over cases reported in FY2006 (204), and a 33% increase over cases reported in FY2005 (169). Also in FY2007, 287 defendants were convicted and sentenced on intellectual property charges, representing a 35% increase over FY2006 (213) and a 92% increase over FY2005 (149).

Within the past year alone, the Department has successfully prosecuted a number of significant IP cases, including but not limited to the following examples:

10 Charged in $200 Million Smuggling Ring

On December 5, 2007, following an extensive ICE investigation, ten individuals were arrested and charged with offenses related to a massive scheme to illegally import and traffic in counterfeit goods. The charges against the defendants allege that since 2006, the global ring smuggled and attempted to smuggle through Port Newark more than one hundred 40-foot-long steel shipping containers loaded with counterfeit merchandise—including counterfeit Nike shoes, Burberry and Chanel handbags, and Polo Ralph Lauren and Baby Phat brand clothing. The retail value of the genuine versions of this merchandise is estimated to be more than $200 million. As part of this scheme, the defendants and their co-conspirators paid more than $500,000 in cash bribes to an undercover ICE agent who posed as a corrupt longshoreman's union official.

7th Conviction in P2P Crackdown

On November 14, 2007, in the Eastern District of Pennsylvania, Duc Do, 25, of Orlando, Florida, pleaded guilty to a two-count felony information charging him with conspiracy to commit criminal copyright infringement and copyright infringement in violation of the Family Entertainment Copyright Act. Duc Do's conviction is the seventh in a series of convictions arising from Operation D-Elite, a nationwide federal enforcement operation against the illegal distribution of copyrighted movies, music, software and games over Peer-to-Peer (P2P) networks employing the BitTorrent file-sharing technology.

Counterfeit Trafficker Gets 57 Month Prison Term, $7 Million Forfeiture

10/12/07 (Alexandria, VA): On October 12, Abbas Chouman, 43, of Astoria, N.Y., was sentenced to serve 57 months in prison on one count of conspiracy to commit criminal copyright infringement by U.S. District Judge Henry E. Hudson of the Eastern District of Virginia. Chouman was also ordered to forfeit $7 million. Chouman pleaded guilty to conspiracy on July 3, 2007, for operating a store that sold more than $7 million worth of counterfeit clothing, and has remained in federal custody since his arrest in March 2007. Chouman was the fifth of seven defendants to be sentenced as a result of Operation Throwback, a multi-agency, multi-state federal enforcement operation targeting traffickers in counterfeit and pirated goods that resulted in arrests in four states during March of this year. The task force included

the Richmond office of the FBI, Virginia State Police, Defense Criminal Investigative Service, U.S. Secret Service, Internal Revenue Service, U.S. Marshals Service, Henrico County Police Department, Chesterfield County Police Department, and Richmond Police Department.

Two Bay Area Men Indicted on Charges of Economic Espionage

On September 26, 2007 in San Jose, CA, two Bay Area men were indicted on charges of economic espionage and theft of trade secrets and a related conspiracy charge. Defendants Lan Lee and Yuefi Ge allegedly conspired to steal trade secrets involving computer chip design and development from their employer and another company, and sought to obtain venture capital funding from the Government of China, in particular the 863 Program and the General Armaments Department. The 863 Program is a funding plan created and operated by the Government of the People's Republic of China, also known as the national High Technology Research Development Program.

Three Individuals Indicted for Conspiring to Sell More Than $5 Million in Counterfeit Software

On September 16, 2007 in Alexandria, VA, three Florida residents were charged with conspiring to sell more than $5 million in counterfeit software, including titles belonging to Adobe, Autodesk, and Macromedia. The counterfeit software was manufactured to include labels that featured trademarks and service marks of the legitimate software companies. The Internet websites used by this counterfeiting ring to distribute the counterfeit software included: BuysUSA.com, AmericanSoftwareSales.com, TheDealDepot.net, and BestValueShoppe.com.

Remaining Two Defendants Sentenced In Largest CD & DVD Manufacturing Piracy and Counterfeiting Scheme Prosecuted in the United States to Date

On August 6, 2007 in San Jose, CA, two co-defendants were each sentenced to 37 months in prison for conspiracy to commit copyright infringement and trafficking in counterfeit goods and labels. The defendants led piracy and counterfeiting schemes by using sophisticated replication machinery for the mass reproduction of copyrighted works. The sentences were the result of Operation Remaster, an extensive undercover investigation by the FBI in which agents seized approximately 494,000 pirated music, software, and movie CDs, and DVDs, and more than 6,135 stampers, from 13 different locations. This case is

believed to be the largest ever manufacturing case involving commercially duplicated, high-quality counterfeits that closely resemble authentic CDs in U.S. history.

Former Chinese National Convicted for Committing Economic Espionage To Benefit China Navy Research Center in Beijing and For Violating the Arms Export Control Act

On August 2, 2007 in Los Angeles, CA, as a part of a DOJ prosecution case, Xiaodong Sheldon Meng, a Chinese national, was convicted of violating the Economic Espionage Act, the Arms Export Control Act, and the International Traffic in Arms Regulations. Meng willingly violated the Economic Espionage Act by possessing a trade secret belonging to Quantum3D. Meng, knowing it would benefit the China Navy Research Center, exported source code for a visual simulation software program used for training military fighter pilots. This is the first conviction for the illegal export of military source code in US history.

Eighteen Charged with Racketeering in Internet Drug Distribution Network

On August 2, 2007 in San Diego, CA, a 313-count indictment charges 18 individuals with operating an online pharmaceutical distribution network known as Affpower. The Affpower organization received over 1 million Internet orders for controlled and non-controlled prescription pharmaceuticals from customers in all 50 states, and it generated more than $126 million in gross revenue. Affpower allegedly paid licensed doctors to issue prescriptions based only on answers to health questionnaires filled out over the Internet and requiring no mental or physical exams. The defendants have been charged with various crimes, including racketeering and conspiracy to commit racketeering, distribution and dispensing of controlled substances, mail and wire fraud, and conspiracy to dispense and dispensing of misbranded drugs with the intent to defraud and mislead.

ICE Executes Piracy Raids in 16 States in "Operation Tangled Web"

On August 1, 2007 in New York, NY, ICE agents from twenty-two districts executed 32 search warrants in 16 states following a year-long investigation into the sale and distribution of illegal modification chips and disc copyright circumvention devices. The investigation represents the largest national enforcement action of its kind targeting such illegal activity. The mod-chips and other devices allowed users to play counterfeit or pirated software on video game consoles made by Microsoft, Sony, and Nintendo, thereby depriving

software developers and copyright holders of billions of dollars in revenue from the some of their products. The investigation is being conducted by ICE and the USAO with coordination assistance from the Computer Crimes and Intellectual Property Section (CCIPS). The enforcement action code-named Operation Tangled Web, targeted retailers selling modification chips through the Internet for the Microsoft, Nintendo, and Sony game console systems.

Largest Ever Joint U.S.-China Criminal Enforcement Operation Nets 25 Arrests and Over $500 Million in Counterfeit Software

On July 23, 2007 in Los Angeles, CA, twenty-five Chinese nationals were arrested along with the seizure of more than half a billion dollars worth of counterfeit software as a result of the largest ever joint investigation conducted by the FBI and the People's Republic of China, code-named Operation Summer Solstice." China's Ministry of Public Security also searched multiple businesses and residential locations, seized more than $7 million in assets, and confiscated over 290,000 counterfeit software CDs and Certificates of Authenticity. Microsoft publicly stated that the MPS and FBI dismantled a criminal syndicate "believed to be the largest of its kind in the world," responsible for distributing more than $2 billion in counterfeit Microsoft software.

29 Defendants in Three States Charged with Conspiracy to Smuggle Counterfeits

On June 26, 2007 in Brooklyn, NY, twenty-nine defendants were charged in three separate complaints with conspiracy to smuggle over 950 shipments of merchandise into the United States through ports of entry at Newark; Houston; Long Beach; the New York Container Terminal in Staten Island; and John F. Kennedy International Airport. The counterfeit merchandise was principally from China. Four of the defendants were also charged with money laundering. The charges resulted from a 19-month coordinated initiative by ICE and Customs and Border Protection.

Nine Convictions for Selling $30 Million of Counterfeit Software on eBay

On June 22, 2007 in Milwaukee, WI, the DOJ obtained the eighth and ninth felony convictions involving the eBay auction sales of counterfeit Rockwell Automation software. All nine defendants pled guilty in separate proceedings to felony copyright infringement for selling counterfeit Rockwell Automation software

on eBay. The software had a combined retail value of approximately $30 million. These convictions are part of a larger Department initiative combating online auction piracy nationwide.

Extradited Australian Ringleader Gets 51 Months for Software Piracy

On June 22, 2007 in Alexandria, VA, Hew Raymond Griffiths was sentenced to 51 months in prison for crimes committed as leader of one of the oldest and most renowned Internet software piracy groups worldwide, known as "Drink Or Die." From his home in Australia, Griffiths violated the criminal copyright laws of the United States by leading this criminal group which caused the illegal reproduction and distribution of more than $50 million worth of software, movies, games and music. This was one of the first-ever extraditions for an intellectual property offense.

Ex-Employee of Coca Cola and Co-defendant Sentenced for Stealing Trade Secrets

On May 23, 2007 in Atlanta, GA, two defendants were sentenced after being charged with conspiring to steal and sell trade secrets of the Coca Cola Company. Joya Williams, a former employee of Coca-Cola, was sentenced to 8 years in prison, and Ibrahim Dimson was sentenced to 5 years in prison. The convictions resulted from an FBI investigation, which was initiated after PepsiCo provided the FBI with a copy of a letter from someone claiming to be a Coca-Cola employee and offering PepsiCo classified information about the Coca-Cola Company.

50th Conviction in Largest Online Software Piracy Enforcement Action

On May 14, 2007 in Alexandria, VA, the Department obtained the 50th conviction in Operation FastLink, the largest and most successful global online piracy enforcement initiative ever conducted. This Operation culminated in the execution of more than 120 searches and arrests in 12 countries, the seizure of more than 200 computers, the complete dismantlement of 30 Internet distribution sites, and the confiscation of hundreds of thousands of counterfeit software titles valued at more than $50 million. This 50th conviction represented a milestone never before achieved in an online piracy prosecution.

Four Sentenced in One of New England's Largest Ever Counterfeit Goods Trafficking Conspiracies

On April 9, 2007 in Boston, MA, in one of New England's largest counterfeit goods conspiracies, four

Massachusetts residents were sentenced to terms of imprisonment ranging from 24 to 36 months for money laundering and trafficking and conspiring to traffic in more than $1 million of counterfeit luxury handbags and wallets. The defendants admitted to using 13 self-storage units to hold approximately 12,231 counterfeit handbags; 7,651 counterfeit wallets; more than 17,000 generic handbags and wallets; and enough counterfeit labels and medallions to turn more than 50,000 generic handbags and wallets into counterfeits. These items copied Louis Vuitton, Kate Spade, Prada, Gucci, Fendi, Burberry, and Coach trademarks but were of lower price and quality. The defendants sold the counterfeit goods at flea markets and at smaller gatherings including approximately 230 "purse parties" throughout Massachusetts.

$9.4 Million in Restitution Order for Microsoft

On November 29, 2006 in Seattle, WA, a Washington man was sentenced to five years in prison and ordered to pay Microsoft $9.4 million in restitution for conspiracy to traffic in counterfeit Microsoft software and fraudulent licenses. The illegal business sold as much as $20 million worth of counterfeit labeled software and software licenses.

Eleven Indicted for Scheme to Import Adulterated Drugs for Sale on Internet

On September 20, 2006 in Atlanta, GA, eleven individuals and an Atlanta-based company were indicted on charges related to a scheme to sell adulterated and misbranded drugs over the internet. According to the indictment, the defendants marketed approximately 24 different drugs, including versions of Ambien, Valium, Lipitor, and Vioxx, through spam advertisements. Instead of buying safe and authentic generic versions of these vital drugs from Canada, customers were unwittingly buying adulterated fakes manufactured in an unsanitary house in Belize.

Texas Pharmacist Sentenced to Two Years in Prison for Selling Counterfeit Drugs

On September 25, 2006 in Houston, TX, a licensed pharmacist was sentenced to two years imprisonment for selling counterfeit and misbranded Cyalis and Viagra from China. The pharmacist was convicted by a jury's verdict in May 2006 after a two-day trial during which the United States proved he had ordered counterfeit and misbranded pharmaceuticals from China via the Internet and arranged for the drugs to be shipped to him at his home in Sugarland, Texas.

Website Distributor of Counterfeit Software Gets 7 Year Prison Term, Ordered to Pay $5.4 million Restitution

On September 8, 2006 in Alexandria, VA, a California man was sentenced to 87 months in prison and ordered to pay more that $5.4 million in restitution for operating a massive, for-profit software piracy website. The defendant was believed to be the most prolific online commercial distributor of pirated software ever convicted in the U.S.

Internet Distributor of Pirated Software Sentenced to 6 Years' Imprisonment and Ordered to Pay $4.1 Million in Restitution

On August 25, 2006 in Alexandria, VA, a Florida man was sentenced to six years in prison and ordered to pay $4.1 million in restitution for operating a for-profit piracy website known as BUYSUSA.com. The ordered forfeiture included a wide array of assets, including two Cessna airplanes, a helicopter, a Lamborghini, a 2005 Hummer, a 28 foot boat, and an ambulance.

Florida Men Sentenced to Terms of 7 and 8 Years' Imprisonment, respectively, for Massive Conspiracy to Sell Counterfeit Goods, Including Electrical Cords and Batteries

On August 25, 2007, two Florida men were sentenced to 97-month and 87-month prison terms for a massive conspiracy to sell counterfeit goods, including but not limited to electrical cords, batteries, and handbags bearing the counterfeit marks of Underwriters Laboratories, Duracell, and Louis Vuitton and Gucci, respectively.

Criminal Division Update

Computer Crime and Intellectual Property Section

The Department of Justice's nationwide anti-piracy and anti-counterfeiting efforts are anchored by the Criminal Division's Computer Crime and Intellectual Property Section (CCIPS). CCIPS consists of a specialized team of 40 prosecutors, 14 of whom are dedicated to the enforcement of IP criminal laws.

CCIPS has made the investigation and prosecution of large-scale, multi-national IP cases a top priority. As a result, its IP caseload increased by more than 800% from 2002-2006, and in FY2007, CCIPS charged 35% more defendants with IP crimes than in FY2006. In addition to prosecuting IP cases, CCIPS also helps develop and implement the Department of Justice's overall IP enforcement program and is available to agents and Assistant United States Attorneys (AUSAs) on a 24-hour basis to provide advice and guidance.

CCIPS also places a high priority on fostering international cooperation and coordination in its IP enforcement efforts. Building relationships between American law enforcement and our counterparts overseas is the most effective method of ensuring success in multi-national cases. These relationships are built through international casework as well as through training and outreach. For instance, in 2006, CCIPS attorneys met with more than 3,300 prosecutors, investigators, judges, and IP experts from 107 countries to provide training and technical assistance on IP enforcement.

To keep pace with ever-advancing technologies, CCIPS recently created an in-house Cyber Crime Laboratory (CCL) to assist CCIPS and CHIP attorneys in analyzing digital evidence and understanding how computers, electronic devices, and emerging communications technologies are used to commit or facilitate crimes, or to contain evidence of such crimes. Using a state-of-the-art computer forensics facility, the three expert technologists in the CCL are available to:

- Provide specialized computer and network analytical and forensic support to ongoing CCIPS and CHIP IP and computer crime investigations and prosecutions, including code analysis, network modeling, and electronic evidence management;

- Identify new and emerging technical issues and challenges at the intersection of technology and law;

- Support and advise senior Departmental decision-makers about technical matters related to policy issues, including legislation;

- Assist CCIPS, Criminal Division attorneys, and AUSAs in preparing to present technical issues at trial or in other litigation;

- Train CCIPS, Division attorneys, AUSAs, and law enforcement agents on technical issues related to the enforcement of criminal laws;

- Advise and support CCIPS in strengthening international enforcement capabilities; and

- Identify and engage other sources of technical support and expertise to support the CCIPS mission, including technologists in both the public and private sectors.

Computer Hacking and Intellectual Property Program

As part of the Department's Computer Hacking and Intellectual Property (CHIP) Program, the 93 United States Attorneys' Offices prosecute IP crimes across the country. Accordingly, the CHIP Program has placed at least one, and often several, experienced and highly-trained federal prosecutor in each of the U.S. Attorney's Offices nationwide, for a current total of more than 230 AUSAs.

These CHIP coordinators have four general areas of responsibility: (1) prosecuting computer crime and IP offenses; (2) serving as a technical advisor for other prosecutors and law enforcement agents; (3) assisting other CHIP Coordinators in multi-district investigations; and (4) providing training and community outreach regarding computer-related and IP enforcement issues.

In January 2007, the Deputy Attorney General (DAG) published a policy memorandum issued in July 2006, Guidance for CHIP Coordinators and CHIP Unit AUSAs, in the U.S. Attorneys' Manual (USAM) [USAM 9-50.000]. This policy memorandum clarified—and gave increased visibility and permanence to—the official duties of CHIP Coordinators in their respective U.S. Attorney's Offices. Among other things, the memorandum to all U.S. Attorneys Offices emphasizes the importance of IP enforcement and directs that, wherever possible, violations of the criminal IP statutes should be charged "to combat the burgeoning trade in counterfeit and infringing goods."

The nationwide network of CHIP prosecutors also includes specialty units of from 2-8 CHIP attorneys in certain districts in which the incidence of computer crime and/or IP offenses is greatest. Since June 2006, an additional seven CHIP Units have been established and become operational in the following districts: Austin, Texas; Baltimore, Maryland; Denver, Colorado; Detroit, Michigan; Newark, New Jersey; New Haven, Connecticut; and Philadelphia, Pennsylvania. This brings the total number of operational CHIP Units to 25.

In FY2007, CHIP Units successfully convicted and sentenced 199 defendants nationwide for IP offenses. **That represents an 80% increase over the 110 defendants convicted and sentenced by CHIP Units in 2006.**

International Outreach

Because effective protection of IP depends on strong international, as well as domestic, criminal enforcement regimes, the Department places special emphasis on improving its international outreach and capacity-building efforts. The Department continues to develop an international program to increase cooperation with other countries, to develop networks of enforcement officials who can share information, identify developing trends in IP crime, and increase our ability to address the growing role of organized criminal groups in the global trade in counterfeit and pirated goods.

In 2006, Criminal Division prosecutors provided training and technical assistance on IP enforcement to over 3,300 foreign prosecutors, investigators, and judges from 107 countries. For example, last summer, CCIPS joined with the FBI and the Office of Overseas Prosecutorial Development to present a weeklong training program on computer crime and IP enforcement in Islamabad, Pakistan. The training was presented to Pakistan's Federal Investigative Agency, Ministry of Interior, regional investigators, and scholars from universities and technical institutes.

In November 2007, the Department placed a second IP Law Enforcement Coordinator (IPLEC) in Sofia, Bulgaria, dedicated to advancing the Department's regional IP goals through training, outreach, and the

coordination of investigations and operations throughout the region. The first IPLEC was deployed to Bangkok, Thailand in January 2006. Both positions are filled by skilled federal prosecutors with specialized experience in the prosecution of IP crimes.

The Department's international training and outreach also focuses significant resources in countries that are major manufacturers of counterfeit goods, or where the investment is likely to provide a greater long-term return in terms of increased protection of IP. During the past year, the Department has, therefore, placed special emphasis on its work with China, South Africa, and India.

China

China remains a major production center for pirated and counterfeit goods, where much of the trade in fake goods involves organized crime. Any solution to this massive enforcement problem must begin with greater cooperation and coordination on joint criminal investigations and prosecutions. To that end, in March 2007, the Criminal Division hosted and chaired the inaugural meeting of the Intellectual Property Criminal Enforcement Working Group (IPCEWG) of the U.S.-China Joint Liaison Group for Law Enforcement Cooperation (JLG), which included 15 Chinese law enforcement officials and the Ministry of Public Security's Vice Director General of the Economic Crimes Investigation Department, as well as officials from the FBI and ICE. The IPCEWG met again alongside the annual JLG Plenary meeting in Beijing, China in June 2007. The working group's principal focus is on the development of more U.S.-China joint operations to combat transnational IP crime, in particular crimes committed by organized criminal groups and crimes that threaten public health and safety.

The collaboration between the U.S. and China in the IPCEWG is already yielding unprecedented results. On July 23, 2007, 25 Chinese nationals were arrested along with the seizure of more than half a billion dollars worth of counterfeit software, as a result of the largest ever joint investigation conducted by the FBI and the People's Republic of China. This operation, code-named "Operation Summer Solstice," was one of several cases nominated to the IPCEWG for joint investigation and prosecution. China's Ministry of Public Security (MPS) searched multiple businesses and residential locations, seized more than $7 million in assets, and confiscated over 290,000 counterfeit software CDs and Certificates of Authenticity.

Additionally, MPS and FBI dismantled a criminal syndicate that was believed to be the largest of its kind in the world responsible for distributing counterfeit Microsoft software estimated to be worth more than $2 billion.

Africa

The Criminal Division has worked closely with the State Department to engage the government of South Africa in identifying and addressing limitations in its ability to enforce IP laws. These difficulties include a limited understanding of IP rights enforcement by its police, prosecutors, and customs officers; a lack of cooperation and communication between the agencies responsible for IP enforcement; and the perception that IP violations are victimless or minor crimes, especially when compared with the number of violent crimes occurring in South Africa.

In June 2007, the Criminal Division, in conjunction with several ICE investigators, developed and presented an interactive workshop to address many of these issues, encourage cross-agency cooperation, and improve national IP enforcement efforts. The two-day seminar was repeated in Johannesburg, Pretoria, Cape Town, and Durban. They were attended by 250 government officials from eight of South Africa's nine regions, six border posts, and seven ports of entry. It also included commercial crime prosecutors from the National Prosecuting Authority, commercial crime investigators at the South African Police Service, customs border officials from the South African Revenue Service (SARS), SARS' anti-smuggling units, and investigators from DTI's Office of IP Enforcement.

The seminar was successful in raising awareness as to the seriousness of IP crimes, providing detailed investigative techniques for handling IP criminal cases from inception through prosecution. It engendered cooperation among the respective South African agencies and promoted good relations between IP interest groups and South African officials.

India

The Criminal Division has worked closely over the past 18 months with police, prosecutors, representatives from industry, and the Indian judicial system to address the court delays, which severely hamper efforts to enforce IP in India. In order to achieve appropriate structures for IP enforcement, the courts of Delhi and Bangalore are seeking to improve civil and criminal procedures. To this end, the Department has supported the development of mediation centers in Delhi and Bangalore, two major cities with rapidly developing technology and IP-based business communities, and where IP right holders report significant, multi-year backlogs in IP cases. Experts in mediation from the U.S., including federal judges, have provided intense, week-long training to the Indian mediators, who are then assigned to handle matters referred from the courts.

Working in parallel with the mediation center effort, the Department is also seeking to speed the process for adjudication of criminal IP violations. The Indian Government passed legislation in July 2006 permitting plea bargaining and guilty pleas in criminal matters—an option that had never previously been available for the resolution of cases in Indian courts. The Department is helping to develop an implementation plan for the new statute that will incorporate a "fast track" court for IP violations and other appropriate offenses to ensure that IP cases are tried or resolved by plea within 6 months, with the expectation that such a court will be in place early in 2008 in New Delhi. The Department will continue to work with Indian enforcement authorities and right holders in the coming year to develop the expertise necessary to effectively investigate and prosecute IP cases in a short period of time.

Legislative Update

In May 2007, the Attorney General transmitted to Congress the Intellectual Property Protection Act of 2007 (IPPA). The IPPA is a comprehensive IP legislative package designed to increase criminal penalties, expand IP protections, and equip law enforcement with the tools necessary to better protect IP and deter IP crime. Since May, the Department has worked diligently with Congress and industry to explain the need for this legislation and how it will assist federal prosecutors. Among other things, the IPPA would:

Toughen Penalties for Intellectual Property Crimes

- Provides tougher sentences for counterfeiting crimes that threaten the public health and safety [i.e., increases the maximum penalty in § 2320 offenses from 10 years to 20 years imprisonment where the defendant knowingly or recklessly causes or attempts to cause serious bodily injury, and increases the maximum penalty to life imprisonment where the defendant knowingly or recklessly causes or attempts to cause death.];

- Strengthens the repeat-offender penalties against copyright criminals;

- Implements stronger forfeiture provisions, including those that ensure the ability to forfeit property derived from or used in the commission of IP offenses;

- Strengthens restitution provisions for certain IP crimes (e.g., criminal copyright and DMCA offenses).

Expand Criminal Intellectual Property Protection

- Criminalizes the attempt to commit copyright infringement;

- Clarifies that registration of copyright is not a prerequisite to criminal prosecution;

- Ensures that the exportation and trans-shipment of pirated (copyright-infringing) goods violates criminal law, just as the exportation of counterfeit goods is now criminal pursuant to changes effected by the Stop Counterfeiting in Manufactured Goods Act (March 2006).

Add Investigative Tools for Criminal and Civil Enforcement

- Amends copyright law to parallel civil trademark law by permitting litigants to obtain ex parte seizure orders for records or evidence in civil copyright cases;

- Amends 18 U.S.C. § 2516 to include criminal copyright infringement and trafficking in counterfeit goods or services as predicate offenses for which a wire or oral intercept may be obtained.

U.S. DEPARTMENT OF HOMELAND SECURITY

CUSTOMS AND BORDER PROTECTION

Summary

U.S. Customs and Border Protection (CBP) is a component agency within the U.S. Department of Homeland Security (DHS). CBP's primary mission is to detect and prevent terrorists and terrorist weapons from entering the United States, while facilitating the orderly and efficient flow of legitimate trade and travel at and through our Nation's borders. However, CBP is also vested with the authority and mandate to enforce a number of U.S. trade laws, including several related to the enforcement of intellectual property rights (IP) law. With respect to IP, CBP enforces U.S. trademark and copyright laws by detaining, seizing, forfeiting, and destroying counterfeit and pirated goods imported into the United States. CBP also excludes from entry into the United States goods that violate IP rights, which are the subject of an Exclusion Order issued by the U.S. International Trade Commission (ITC).

As a competent authority under the WTO TRIPs Agreement, CBP utilizes significant resources to enforce federal statutory and regulatory authority by acting both independently (ex officio) and upon rights owner application, to take effective administrative action to combat the flow of counterfeit and piratical goods into the United States. In addition, CBP works closely with another DHS component organization, U.S. Immigration and Customs Enforcement (ICE) to effect criminal IP enforcement actions, and we coordinate our efforts with other U.S. government trade policy and law enforcement agencies.

National IP Trade Strategy

CBP's Trade Enforcement program is embodied in the agency's "National Trade Strategy" which directs actions and resources around several important trade issues, which are designated as "Priority Trade Issues" (PTIs), and IP enforcement is one of CBPs Priority Trade Issues. CBP's National IP Trade Strategy incorporates the Administration's Strategy for Targeting Organized Piracy (STOP!). As the primary U.S. border enforcement agency, CBP is a key player in "STOP!". Under STOP!, CBP has diversified its approaches to IP enforcement to include new techniques that complement traditional enforcement methods. CBP's STOP! initiatives focus on fighting trade in fakes through improved risk analysis, identifying business practices linked to IP theft, depriving counterfeiters and pirates of illicit profits, and making it easier for rights holders to work with CBP to enforce their rights. IP enforcement is integrated into the work of several offices throughout CBP, and the agency provides considerable resources, diverse personnel, and focused training to its officers to enable them to respond to IP issues.

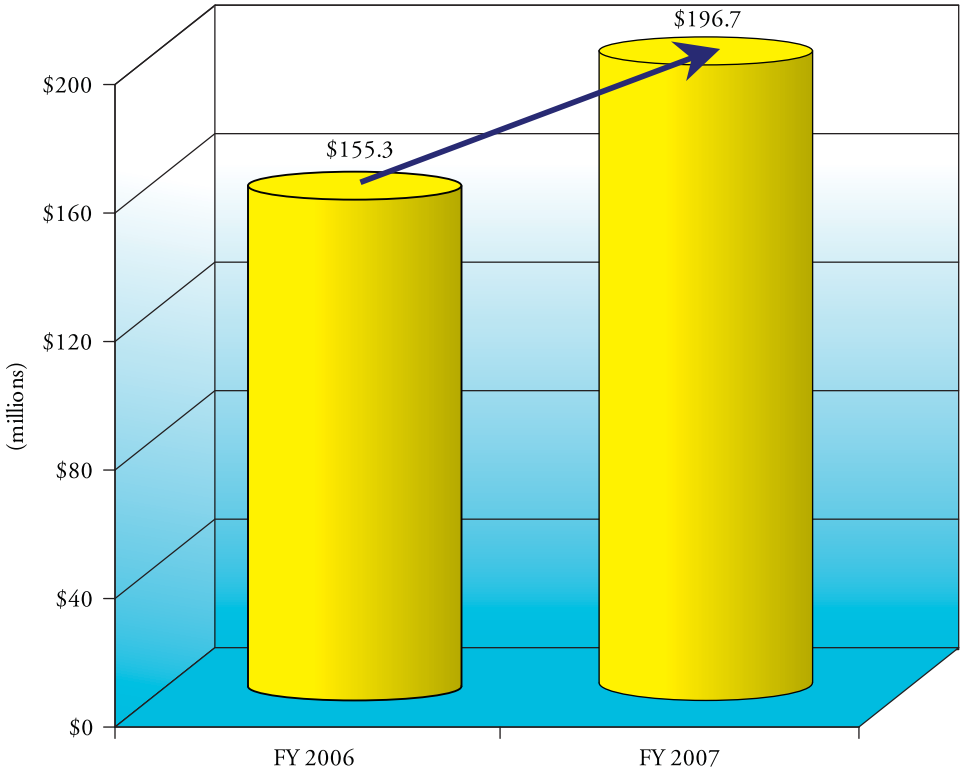
CBP internally coordinates IP strategy through an intra-agency PTI IP Working Group. This Working Group, which includes representatives from ICE, meets on a regular basis to focus the resources of offices throughout CBP on IP enforcement issues.

Statistics

CBP's commitment to combating IP violations is evidenced in its annual IP seizure statistics. In FY2006, CBP seized 14,675 shipments with a domestic value of approximately $155.3 million, an 83 percent increase in the volume of seizures, and a 67 percent increase in the value of seizures, over FY2005. At the midpoint of FY2007, CBP had already seized 7,245 shipments, a 22 percent increase in IP seizures from 5,940 in the first half of FY2006. The domestic value of IP seizures in the first half of FY2007 increased 141 percent to $ 110.2 million from $45.7 million in the first half of FY2006.

Figure 1: Intellectual Property Rights Seizures FY2006-FY2007

The value of IP seizures increased 27% from FY2006 to FY2007.



U.S. Customs and Border Protection

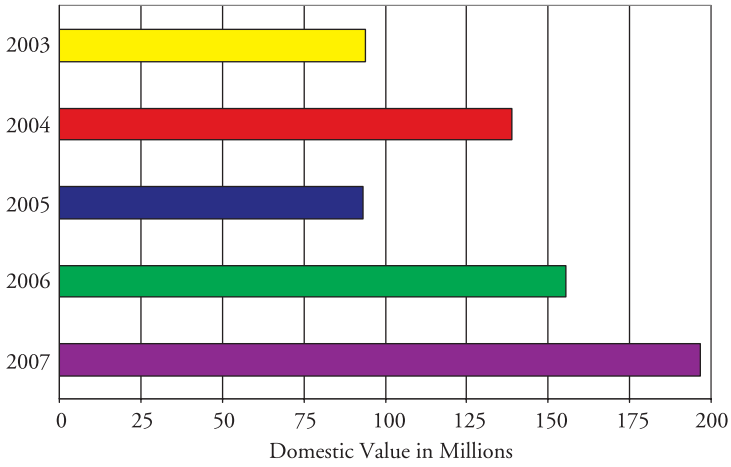
Disclaimer

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Figure 2: IP Seizures FY2003-FY2007

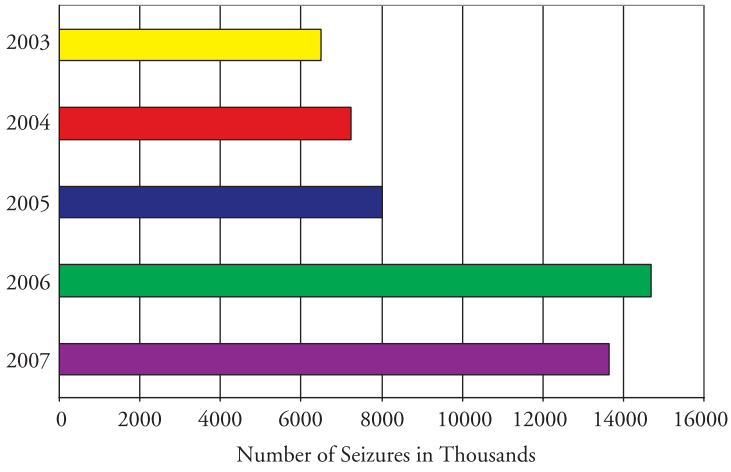
Fiscal Year	Overall Total Values (IPR)
2003	$ 94,019,227
2004	$ 138,767,885
2005	$ 93,234,510
2006	$ 155,369,236
2007	$ 196,754,377
Total	**$ 678,145,235**

Between Fiscal Years 2003 and 2007, the domestic value of seizures rose 109%.



Fiscal Year	Number of Seizures
2003	6,500
2004	7,255
2005	8,022
2006	14,675
2007	13,657
Total	**50,109**

Between Fiscal Years 2003 and 2007, the number of seizures rose 110%.



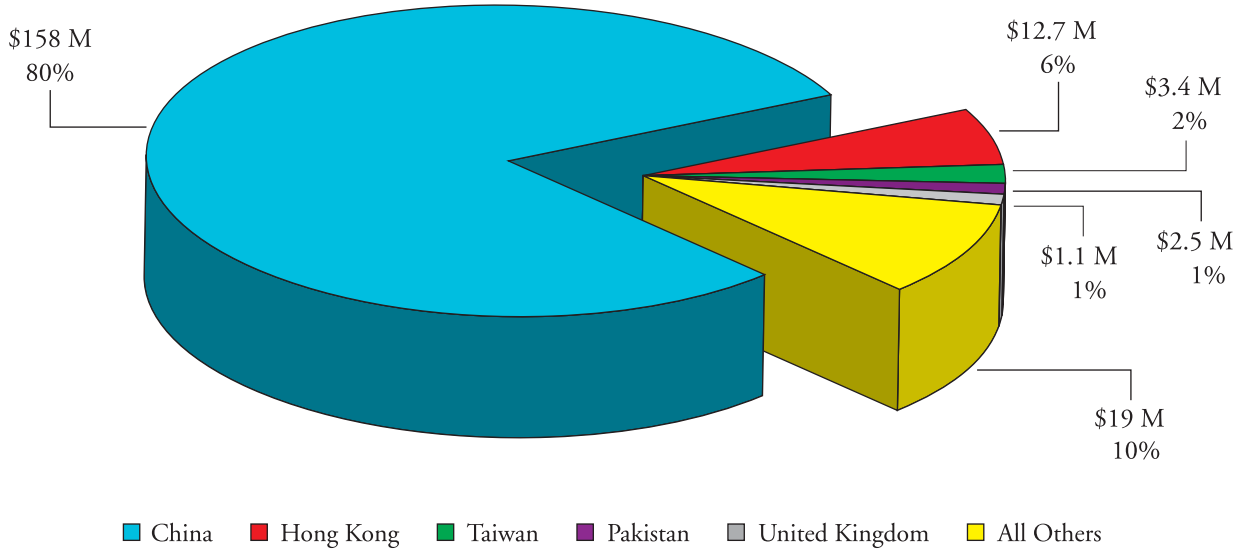
U.S. Customs and Border Protection

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In both FY2006 and mid-year FY2007, China was the largest source of IP seizures, constituting 81 percent of the value of all IP seizures.

Figure 3: Top Trading Partners



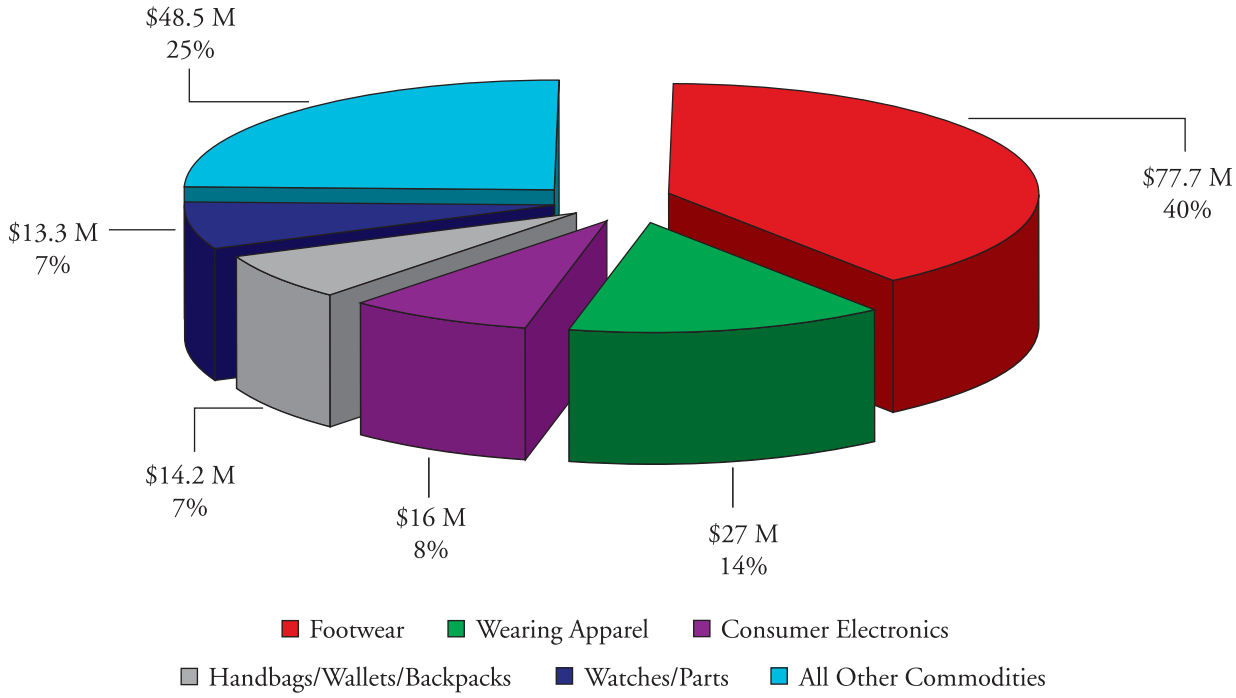
U.S. Customs and Border Protection

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Throughout these periods, footwear and wearing apparel were the largest categories of commodities seized for IP violations.

Figure 4: Top Commodities Seized



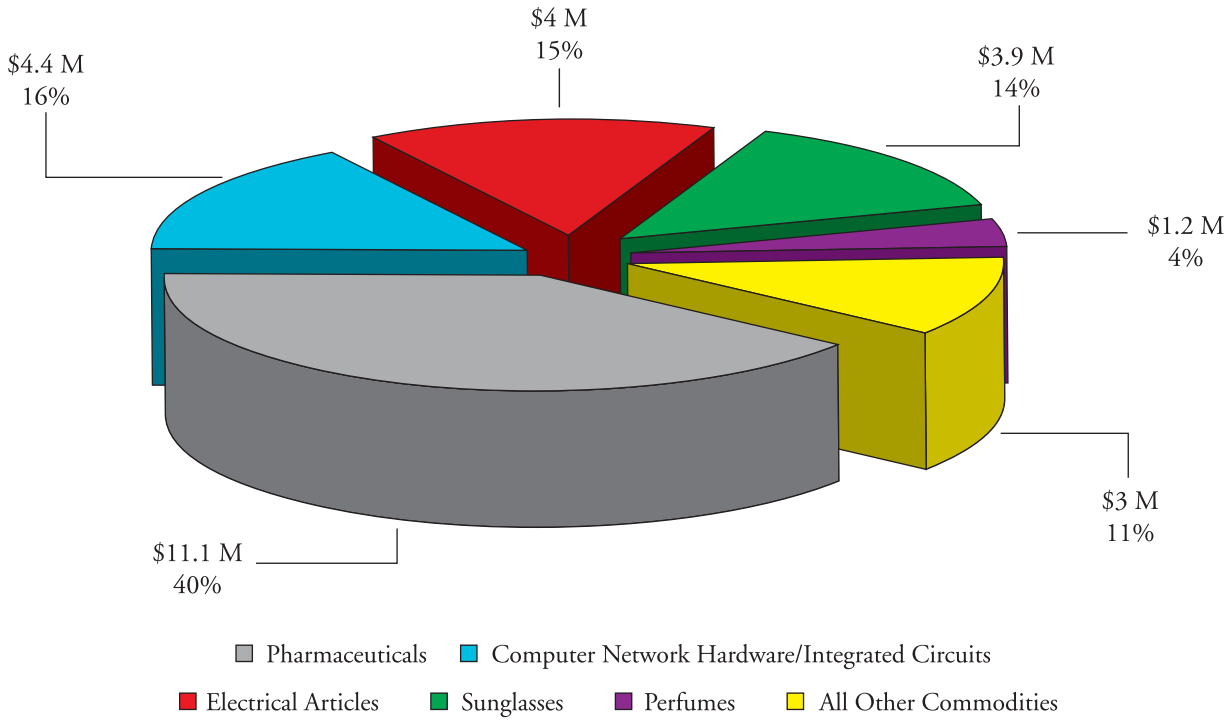
U.S. Customs and Border Protection

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Ensuring the safety of products imported to the U.S. is a top priority for CBP. This chart highlights seizures of illegal products that potentially pose health and safety risks.

Figure 5: Top Import Safety Commodities



U.S. Customs and Border Protection

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More detailed statistics are available at ***www.cbp.gov***.

CBP's major IP seizures in FY2007 include a CBP-ICE joint operation which resulted in the seizure of millions of dollars of counterfeit merchandise and the arrest of 29 individuals. The 29 individuals were charged with conspiracy to smuggle over 950 shipments of merchandise into the United States through five ports of entry across the United States, conspiracy to traffic in counterfeit goods, and/or money laundering.

Additionally, in FY2007, CBP devoted significant resources to enforcing exclusion orders issued by the ITC to exclude from entry into the United States goods that the ITC determined to infringe U.S. patents.

Major Program Activities

To fulfill the goals of the STOP! Initiative, CBP has developed and initiated the following programs:

Health and Safety Focus

A priority for CBP is seizing imported products that can harm the health and safety of consumers. Many such products also violate intellectual property rights. In FY2007, CBP initiated a number of special operations to interdict these products before they enter U.S. commerce. CBP's seizures of counterfeit personal care items that may contain harmful bacteria or caustic chemicals (e.g., fraudulent contact lens solution, cosmetics, razors, skin cream, soap, and toothpaste) jumped by over 150 percent from FY2006 to FY2007. In addition, CBP increased its seizures of counterfeit batteries and electrical products (e.g., fraudulent extension chords, surge protectors, Christmas lights, etc.) by over 45 percent. These products pose a potential fire hazard to unsuspecting consumers. CBP is also addressing IP-related health and safety issues through its role as a member of President Bush's Interagency Working Group on Import Safety.

Risk Modeling

CBP's IP risk model is designed to enhance current efforts by CBP officers to identify counterfeit and pirated goods at our borders. Through the use of innovative statistical analysis, CBP is using technology to assess risk and improve its ability to detect and intercept fakes at our borders. Unlike traditional approaches to risk assessment and targeting of imports for inspection, the model applies statistical analysis techniques and external information to assess IP risk.

CBP's IP risk model is executed through a computer-based program. The model is built on the basis of risk factors that are characteristic of IP infringing imports. These factors are drawn primarily from information provided to CBP when an importer presents goods for entry into the United States. The factors include data such as country of origin, port of entry, tariff number, and past import history related to these factors. The risk model further infuses other agency assessments on IP risk, including information

from the Office of the United States Trade Representative's Special 301 Report on the adequacy of IP protection in various countries throughout the world.

Each of the risk model's underlying factors is assigned its own statistically determined weight. The model then applies a mathematical formula to combine these factors and generate risk scores for imports. The risk score indicates relative IP infringement risk for imports into the U.S. market. CBP officers subsequently rely on this output to assist in the identification of inbound shipments which may merit particular attention, or which may represent a low risk and can consequently be processed for entry without physical inspection. During FY2007, the IP risk model successfully identified containers with unmanifested and misdescribed IP volatile merchandise.

Post-entry verification (IPR Audits)

With post-entry verification or "IPR audits," CBP audits companies at high-risk for importing counterfeit and pirated goods to prevent future infringing imports by these companies. IPR audits increase the effectiveness of IP enforcement by addressing counterfeiting and piracy at the level of the individual business organization. This enables an expansion of enforcement beyond examination and seizure at the border, broadening the scope of CBP's focus from individual shipments to businesses engaged in trade in IP-infringing goods.

In post-entry verifications, CBP auditors review documentation such as a company's purchase records, product specifications, ledgers, and payment records. These financial records hold key information that allows auditors to identify potential IP violations. CBP auditors also review the business practices, or system of controls, that a company uses to prevent it from importing counterfeit and pirated products. These reviews determine if there are weaknesses in the company's practices or systems that may lead to IP violations.

Based on the findings of these reviews, CBP works with the companies to improve their internal controls and procedures to prevent future IP violations. CBP also issues penalties for infringing goods uncovered in

the audits. Since the inception of IPR audits in FY2005, CBP has completed over 40 IPR audits and issued almost $6,000,000 in fines as a result of violations found during the IPR audits.

Streamlining the CBP IP Recordation Process

CBP's online recordation system for trademarks and copyrights allows rights owners to electronically record their trademarks and copyrights with CBP. CBP's IP recordation system has significantly reduced the time required to process paper applications. In addition, the IP recordation system makes IP information relating to imported merchandise readily available to CBP personnel and has significantly facilitated IP seizures by CBP. As of the end of FY2007, over 21,000 trademarks and copyrights were recorded with CBP. While CBP enforces both recorded and non-recorded trademarks and copyrights, enforcement of recorded trademarks and copyrights takes precedence over those that are not recorded with CBP.

International Training and Capacity Building

In collaboration with other U.S. Government agencies, CBP participated in FY2007 international IP border enforcement training programs in China, El Salvador, India, Mexico, Morocco, Paraguay, Peru, Russia, Slovakia, Thailand, Ukraine, and Vietnam. The programs included training on current regulatory and investigative strategies, best practices to interdict IP infringing goods, and trends in piracy and counterfeiting of products. Specifically, CBP participated in the following training programs:

- IP training for China Customs officers at the Shanghai Customs College conducted by the Global Alliance for Trade Efficiency and funded by the U.S. Trade and Development Agency;

- International Law Enforcement Academy (ILEA) IP course in Bangkok, Thailand sponsored by ICE where participants from 12 nations and special administrative regions were provided with an understanding of current regulatory and investigative strategies, tactics, and methodologies used to protect and regulate IP;

- A Customs-to-Customs Best Practices Conference held in Veracruz, Mexico sponsored by DOJ. Over 40 customs officials and other law enforcement personnel were trained on combating IP violations;

- International Law Enforcement Academy (ILEA) IP course in Lima, Peru hosted by ICE where instruction on IP issues was provided to 40 various disciplines from Peru, Argentina, Brazil, and Paraguay on CBP's IP enforcement role and processes;

- IP training in Rabat, Morocco where Moroccan customs officials were trained on the U.S. approach and experience in border enforcement and protection of IP;

- ICE IP Training Conference for Latin America in El Salvador where attendees included customs officers, police officers, judges, and attorneys from Guatemala, Belize, Costa Rica, Nicaragua, Panama, and El Salvador. CBP gave presentations on the role of CBP Officers in IP Enforcement including targeting, interdiction, seizures, and statistics;

- Workshops organized by the U.S. Patent and Trademark Office (USPTO) in India, Russia, the Ukraine, and Vietnam. Topics covered included "Trends in Piracy and Counterfeiting of Products," "Risk Assessment," "IP Border Enforcement: U.S. Practices and Experiences," and "Case Studies Relating to the Enforcement of IP;

- IP roundtable in Paraguay sponsored by the U.S. PTO and the U.S. Embassy in Paraguay in cooperation with the European Commission. The roundtable was a component of the joint European Union – U.S. Action Strategy for the Enforcement of IP. The round table brought representatives from Brazil and Paraguay together to discuss future, trilateral cooperation to combat the cross-border trafficking of IP infringing articles in the Tri-Border Region; and

- IP training held at the USPTO's Global Intellectual Property Rights Academy in Alexandria, Virginia, where 44 customs representatives from 27 countries were in attendance. CBP gave presentations on risk analysis, best practices, and government-industry partnerships.

Outreach with U.S. Industry

CBP works with industry on an ongoing basis to combat IP infringement. CBP participates in various IP events and coordinates with industry on IP training. CBP regularly participates in industry functions as well as meeting with rights holders individually to educate rights holders and their representatives on working with CBP to enforce their rights, to provide information on IP enforcement efforts, and to discuss new CBP initiatives. CBP participated in industry outreach activities in coordination with several industry groups this year, including the International Anti-Counterfeiting Coalition; the U.S. Chamber of Commerce; the Specialty Equipment Manufacturers Association; and the Semiconductor Industry Association Anti-Counterfeiting Task Force.

Also, during FY2007, CBP continued to coordinate with industry to provide product identification training to CBP field officers. In this training, rights holders educate CBP's officers and provide materials to help CBP detect and interdict counterfeit and pirated goods.

To help raise public awareness of the concerns of counterfeiting and piracy and inform the public of its IP enforcement efforts, CBP participated in several foreign press briefings, radio interviews, and news conferences in FY2007.

International Engagement

World Customs Organization

CBP is a member of the World Customs Organization (WCO) IP Standards Employed by Customs for Uniform Rights Enforcement (SECURE) Working Group. The SECURE Group combines the collective efforts of WCO member Customs officials with rights holders to improve the efficiency and effectiveness of their organizations in combating IP violations. In 2007 the SECURE Group undertook efforts to create SECURE Framework of Standards, which represents a collection of best practices and measures which customs administrations can undertake to increase the effectiveness of their IP enforcement regime. The

SECURE Framework of Standards has adopted a number of specific goals designed to:(1) improve IP legislative and regulatory enhancements in member countries, (2) promote risk analysis techniques and intelligence sharing, and (3) improve capacity building and cooperation in IP enforcement. In addition, the WCO SECURE Group has also begun work on a specific IP Action Plan, though which the SECURE Framework of Standards shall be implemented, as well as a draft "IPR Diagnostic Framework"—a tool that can be used to assess the relative strengths and weaknesses of a country's IP enforcement regime from which appropriate corrective measures can be developed.

Memorandum of Cooperation with China

In May 2007, CBP signed a Memorandum of Cooperation (MOC) with China Customs to strengthen IP enforcement laws in China. This landmark agreement provides for the exchanges of nominal information relating to IP-related seizures in both countries with the requirement that specific actions be taken against volatile entities in both countries. The MOC also calls for the sharing of both seizure information and best practices related to IP enforcement between CBP and China.

U.S.-EU Intellectual Property Working Group

CBP continued to play a key part in implementing the U.S.-European Union (EU) Intellectual Property (IP Action Strategy) through its participation in the interagency U.S.-EU IP Working Group and strong cooperation with EU Customs officials. The IP Action Strategy, which was adopted at the June 2006 U.S.-EU Summit in Vienna, launched a new program of cooperation on enforcement of intellectual property rights around the world. At the 2007 U.S.-EU Summit in Washington, D.C., the U.S. and EU reaffirmed their cooperation to fight global piracy and counterfeiting, and designated intellectual property rights as a priority project area.

CBP works closely with EU Customs officials on carrying out the customs and border control objectives of the IP Action Strategy. These objectives include:

- Exchange IP border enforcement practices and experiences;
- Exchange of operation staff;
- Exchange of enforcement information on IP seizures and trends;
- Identification of specific areas for cooperation; and
- Engagement in a joint IP border enforcement action.

Throughout FY2007, CBP and EU Customs officials shared best practices and enforcement information on IP-related activities, and identified specific areas for joint enforcement cooperation. In September 2007, CBP met with its EU counterparts at a meeting of the U.S.-EU IP Working Group as part of their ongoing joint initiatives.

Security and Prosperity Partnership of North America

CBP has an important role in the interagency U.S. Government dialogue on intellectual property (IP) with the governments of Canada and Mexico through the Security and Prosperity Partnership of North America (SPP). CBP participated as a member of the U.S. delegation to the meetings of the SPP's IP Working Group in FY2007. CBP also promoted U.S. objectives for IP enforcement that formed part of the resulting "IP Action Plan" adopted at the SPP summit in August 2007.

Under the SPP's IP Action Plan, CBP, along with ICE, are the lead U.S. Government agencies responsible for the IP border enforcement, detection and transnational investigations objective of the Action Plan. The specific goals of this objective are to exchange customs techniques for IP detection and risk management, best practices for training of customs officers, and information regarding suspect shipments; as well as the enforcement of suspect shipments.

CBP intends to closely work with customs officials in Canada and Mexico on the details of this trilateral initiative.

International Agreements and Dialogues

CBP supports USTR in the negotiation of free trade agreements and other bilateral discussions. CBP also actively participates in USTR's annual Special 301 review.

Group of 8 (G8) IP Experts Discussions

As a member of two State Department-led U.S. delegations to the G8 IP Experts Meetings, CBP successfully promoted U.S. objectives for improving IP enforcement in FY2007. The culmination of these efforts, the 2007 G8 Summit in Heiligendamm, Germany in June 2007, resulted in a declaration endorsing specific guidelines for Customs and border enforcement cooperation for IP. CBP's expertise in IP border enforcement contributed to the development of these guidelines.

Anti-Counterfeiting Trade Agreement

CBP is contributing to the negotiation and development of the Anti-Counterfeiting Trade Agreement. The purpose of ACTA is to establish a common standard for IP enforcement among nations committed to strong IP protection. The envisioned ACTA will include commitments in strengthening international cooperation, improving enforcement practices, and providing a strong legal framework for IP enforcement. CBP will provide expert advice on such areas as IP enforcement practices, border measures and related issues for the negotiations.

IMMIGRATION AND CUSTOMS ENFORCEMENT

Summary

Among the Department of Homeland Security (DHS) law enforcement agencies, Immigration and Customs Enforcement (ICE) has the most expansive investigative authority and the largest number of investigators. ICE's mission for the protection of intellectual property (IP) is to systematically disrupt and dismantle international and domestic operations that traffic in counterfeit merchandise, identify and seize assets and illicit proceeds, and identify systemic vulnerabilities which may be exploited by criminal elements to undermine border controls.

IP criminal activity represents a "triple threat" to our country and is a major focus of ICE. This threat undermines our national security by creating smuggling operations that expose point-of-entry vulnerabilities; threaten public safety because the products involved are not regulated and are sub-standard and dangerous; and threatens our economic security by siphoning profits away from legitimate patent, trademark and copyright holders. Experience has shown that it is not uncommon for those who traffic in counterfeit or pirated goods to be associated with criminal enterprises that may, in turn, seek to use their criminal proceeds to fund other, more deadly, operations.

National IPR Coordination Center

The National Intellectual Property Rights Coordination Center (IPR Center) in Washington, D.C., is led and operated by ICE agents. The IPR Center is a central point of contact for law enforcement agencies in

the fight against IP crimes and works to inhibit the flow of counterfeit goods into U.S. commerce. The IPR Center is a multi–agency facility responsible for managing a unified U.S. Government law enforcement response for IP violations. Particular emphasis is given to protecting the health and safety of U.S. consumers, investigating major criminal organizations engaged in transnational IP crime, and pursuing the illegal proceeds derived from sales of smuggled counterfeit merchandise.

With global counterfeiting operations costing American companies in excess of hundreds of billions of dollars per year, ICE, through the IPR Center, works to identify and address growing IP issues and criminal trends. The IPR Center distributes that information through outreach to industry, as well as federal, state and international law enforcement officials and prosecutors. ICE IP investigations are a clear demonstration that successes within the enforcement arena are closely tied to the outreach process and the relationships developed with fellow agencies charged with enforcing IP statutes.

To deal with this, the IPR Center advocates a four-pronged approach to taking down IP violators, a strategy based on interdiction, investigation, prosecution and intelligence forged from critical partnerships with IP owners.

In February 2008, the IPR Center will relocate to a new facility in Arlington, Virginia. The growth in transnational counterfeiting organizations has created the need to enhance law enforcement resources required in these complex multi-jurisdictional investigations. The new ICE IPR Center will allow interaction with all facets of the IP industry and provide ICE with the facility to lead industry outreach and training. The new IPR Center will also host space for our partners in this enforcement arena including the Food and Drug Administration's Criminal Investigations Division, the FBI, CBP, and the DOJ Computer Crimes and Intellectual Property Section.

The new Center will bring those enforcement resources under one roof, maximizing our joint efforts to fight this growing transnational problem. ICE has been and continues to be the lead investigative agency addressing the global threat of counterfeiting and piracy.

Investigations and Cases

The danger of IP crimes often extends far beyond the financial damage they cause. Past ICE investigations into IP crimes have found violators also involved in human smuggling, narcotics trafficking, money laundering, and crimes of violence. Our investigative efforts seek to deny these criminal organizations the opportunity to thrive. By cracking down on IP violators, we will steer transactions to legitimate businesses and individuals who rightfully own the IP of the products sold.

In this effort, four investigations worth noting highlight the importance of collaboration and cooperation between law enforcement agencies.

As previously noted, intelligence forged from partnerships with IP owners are critical to our enforcement efforts. As a result of these partnerships and others developed with fellow law enforcement officials, we have had two, landmark joint investigations with the People's Republic of China (PRC) entitled: *"Operations Spring"* and *"Ocean Crossing,"* these historic efforts clearly demonstrate the successful effect of partnership.

"Operation Spring" established the first joint U.S.-PRC case in which ICE investigators conducted undercover activity in Mainland China with the assistance of our PRC counterparts. This investigation targeting counterfeit DVDs resulted in convictions in the PRC, as well as subsequent convictions in the U.S.

"Operation Ocean Crossing" also took ICE agents back to China. During this investigation, ICE partnered with the PRC to target counterfeit Viagra and Cialis pharmaceutical products. At the time of the joint enforcement actions, "Operation Ocean Crossing" resulted in the largest seizure of counterfeit pharmaceuticals in the history of the PRC.

Accurate and timely intelligence is critical to successful law enforcement actions. This is evident from the recent investigation and arrests in New York. Armed with information provided to ICE by a concerned citizen, ICE arrested 29 individuals, including customs brokers, container freight station operators, cart

men, bonded warehouse operators, and other persons trafficking in counterfeit merchandise. These arrests culminated an 18-month investigation of three cases involving the exploitation of the customs in-bond system through several different schemes. These individuals were responsible for illegally entering over 950 containers of counterfeit merchandise during a two-year period. The resulting investigation produced the largest anti-counterfeiting effort in U.S. history. Public awareness and responsibility is vitally important, and will continue to form the basis for additional anti-counterfeiting efforts by ICE.

Additionally ICE was responsible for the investigation of AFFPOWER.COM. AFFPOWER and its associates, in conjunction with numerous conspiring U.S. physicians and pharmacists, were directly involved in the acquisition, marketing, and distribution of more than $126 million in misbranded, controlled, and prescription-only pharmaceuticals. This ICE led investigation has resulted in the first Racketeer Influenced and Corrupt Organizations (RICO) Act indictment targeting rogue Internet pharmacies and associates.

Outreach Activities and Inter-Agency Cooperation

ICE recognizes the expansive nature of counterfeiting and piracy and has taken steps to work with other U.S. law enforcement agencies and industry to address the growing efforts of these criminals. Through outreach and training ICE personnel educate law enforcement officials and industry new tactics, procedures, and requirements necessary to fight these global criminals.

Consequently, ICE has intensified its outreach efforts, conducting or participating in 95 IP Industry Outreach and/or IP Enforcement Training initiatives. Our FY2007 Outreach and/or IP Enforcement Training more than doubled from FY2006. These have included the ICE led Annual Pharmaceutical and Biotechnology Training Conference; IP Enforcement Training at the Special Agent in Charge offices in Los Angeles, Chicago, and Boston; as well as IP enforcement and best practices training at the International Law Enforcement Academies in Bangkok, Thailand and Lima, Peru.

ICE has also provided training to field offices focusing on investigative techniques and legal requirements necessary to successfully identify, investigate and prosecute IP criminals, with emphasis on large-scale, complex transnational conspiracies. In FY2007 ICE developed a pilot training program designed to enhance the working relationships between ICE and U.S. Customs and Border Protection (CBP) while simultaneously providing industry with specific training to identify infringing products.

ICE and CBP have since expanded this training program and developed an IP Best Practices Training module each tailored to a specific regions concern. The one-day training, focusing on best practice interdiction, investigation and prosecution is ongoing throughout the country.

ICE personnel are also participating members in the Security and Prosperity Partnership (SPP) and the U.S.-China Joint Liaison Group (JLG) and the Interpol Intellectual Property Crimes Action Group (IIPCAG). This year, ICE has provided critical input at the SPP Senior Law Enforcement Plenary in Mexico City, Mexico, as well as the JLG IP Crime Enforcement Working Group (IPCEWG) meetings in Washington, D.C.; Los Angeles, CA; and Beijing, China.

ICE has also expanded its international outreach and training efforts to assist the anti-counterfeiting initiatives of foreign law enforcement counterparts. ICE, partnering with the U.S. Chamber of Commerce, conducted the first Regional IP Enforcement Training for Central America. This program provided in depth IP investigative and enforcement training to investigators and prosecutors from Central American countries imparting best practice models based on U.S. successes, but directed at violations and commodities present in Central America. In early December 2007, ICE agents also provided critical IP enforcement best practices training in Rome at the first Interpol International Anti-counterfeiting Academy.

In addition, ICE personnel are regularly asked to speak and participate at IP Industry conferences, such as the nation's largest event, the Consumer Electronics Show and at various Pharmaceutical Industry and Anti-Counterfeiting Coalition Conferences.

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION—OFFICE OF CRIMINAL INVESTIGATIONS

Summary

The U.S. Food and Drug Administration (FDA) Office of Criminal Investigations (OCI) was established in March 1992, by the FDA Commissioner, with the urging of Congress, in response to concerns of increased criminal violations of the Food Drug and Cosmetic Act.

The mission of OCI is to investigate suspected criminal violations of the Federal Food, Drug, and Cosmetic Act (FDCA), the Federal Anti-Tampering Act (FATA), and other U.S. statutes—including applicable Title 18 violations—and to collect evidence to support successful prosecutorial actions through the federal or state court systems as appropriate.

In relation to the enforcement and protection of intellectual property, OCI investigates violations of U.S. Criminal Code 18 USC 2320 and FDCA 21 USC 331(i). OCI routinely coordinates counterfeit investigations and intelligence with other federal law enforcement agencies, especially ICE, and with local and state authorities.

Counterfeit Drug Related Initiatives

In FY2008, OCI activities will be focused on securing the drug supply chain. In September 2007, President Bush signed into law the most recent amendments and reauthorized some existing provisions in what is called the Food and Drug Administration Amendments Act (FDAAA) of 2007 (HR 3580). One section of the FDAAA calls for increased pharmaceutical security to include "securing the drug supply chain against counterfeit, diverted, subpotent, substandard, adulterated, misbranded, or expired drugs." FDAAA directs the Secretary of Health and Human Services (HHS) to expand and enhance the resources and facilities of the criminal and regulatory components of the FDA charged with performing activities that will secure the drug supply chain. The Act also directs HHS to "undertake enhanced and joint enforcement activities with other federal and state agencies and establish regional capacities for the validation of prescription drugs and the inspection of the prescription drug supply chain."

Office of Criminal Investigations—Staff

187 . . . . . Special Agents
9 . . . . . Technical Personnel (Analysts, Computer Technicians, Electronic Technicians)
36 . . . . . Support Personnel
232 . . . . . Total OCI Personnel (October 2007 estimate)

Office of Criminal Investigations—Investigations

OCI cases are generally categorized by the FDA regulated product that is the subject of the investigation. There are 5 Centers in the FDA that cover FDA regulated products:

- CDER (Center for Drug Evaluation & Research) – Drug products represent approximately 64% of OCI cases;

- CBER (Center for Biologics Evaluation & Research) – Biologic products represent approximately 3% of OCI cases;

- CFSAN (Center for Food Safety and Applied Nutrition) – Food products represent approximately 21% of OCI cases;

- CDRH (Center for Devices and Radiological Health) – Device products represent approximately 8% of OCI cases;

- CVM (Center for Veterinary Medicine) – Veterinary medicines represent approximately 3% of OCI cases;

- Other OCI cases that don't fall into an FDA center category – 1%.

Office of Criminal Investigations Statistics— Counterfeit Investigations

From the inception of OCI (1992) to the present, OCI has opened approximately 360 cases involving counterfeit FDA regulated products. To date, those cases have resulted in approximately 400 arrests, 255 convictions, and $46,416, 234 in fines and restitution.

In FY2007 OCI opened approximately 39 investigations involving counterfeit FDA regulated products. In FY2007 there were approximately 155 arrests, 54 convictions and $46,418,059 in fines and restitution for OCI counterfeit product investigations.

Counterfeit drug investigations make up the bulk of OCI counterfeit cases. In FY2007 OCI opened approximately 30 counterfeit drug investigations. In FY2007 there were approximately 71 arrests, 50 convictions and $26,576,021 in fines and restitution for OCI counterfeit drug investigations.

Examples of OCI Counterfeit Cases—FY2007

Recently, OCI has initiated several investigations involving counterfeit Colgate toothpaste from China and has coordinated with other components of FDA on counterfeit toothpaste from China containing diethylene glycol. These are joint OCI—ICE investigations and are ongoing. Examples of other cases investigated by OCI include:

- In November 2007, Joseph F. Flores pled guilty in Federal District Court to one count of conspiracy to distribute counterfeit drugs with intent to mislead or defraud. In July 2006, Flores was indicted along with eight other defendants and charged with conspiracy to distribute counterfeit drugs, mail fraud and trafficking in counterfeit goods. This case involves allegations that management officials employed by Animal Pharmaceuticals, Inc., conspired with foreign nationals to smuggle and distribute counterfeit animal antibiotics from Mexico. The drugs involved are high-end antibiotics for use upon beef and dairy cattle, and are suspected of being manufactured and labeled in Mexico. The multiple U.S. pharmaceutical companies have been affected by this counterfeiting operation. One of these companies estimates loss in excess of $100 million in lost sales as a result of this counterfeiting scheme. This investigation has documented more than $20 million in cattle deaths as a result of ineffective antibiotics, most of which lacked their active ingredients;

- In July 2007, Chinese citizen Kevin Xu was arrested after meeting in the U.S. with undercover agents. Xu has been charged with selling counterfeit medications such as Casodex, Plavix, Zyprexa, Aricept, and Tamiflu over the Internet. This is a joint OCI/ICE investigation and is ongoing;

- In May 2007, FDA warned consumers that 24 related websites were possibly involved in the distribution of counterfeit drugs. OCI received information that counterfeit versions of Xenical were obtained by consumers from two websites. None of the capsules ordered off these websites contained orlistat, the active ingredient in authentic Xenical. In fact, laboratory analysis confirmed that one capsule contained an active ingredient from a separate FDA-approved prescription drug manufactured by Abbott Laboratories. Four of these websites had previously been identified by

OCI as being associated with the distribution of counterfeit Tamiflu and counterfeit Cialis. OCI is continuing to investigate all of these websites;

- In May 2007, The United States Attorney's Office for the Western District of Missouri announced the sentencing of Alexander Nassar and Frank Anthony Ianeillo for their part in a conspiracy to sell stolen medication, and misbranded, counterfeit, and illegally imported Lipitor.

  Albert David Nassar, co-owner of Worldwide Pharmaceuticals, a firm that bought and sold pharmaceutical drugs in the secondary wholesale market, previously pled guilty to participating in a conspiracy to sell stolen pharmaceutical drugs and to defraud the United States by impeding the lawful functions of the FDA. Nassar was sentenced to four years incarceration.

  Frank Anthony Ianeillo, a secondary pharmaceutical wholesale salesman, previously pled guilty to buying and selling pharmaceuticals without required documentation. He was sentenced to one year and one day incarceration. Both Ianeillo and Nassar were also ordered to pay $680,000 in joint restitution.

  This case is part of a multi-million dollar scheme involving over 22 defendants to sell counterfeit and illegally imported medications that involved two basic schemes: In the first scheme, the defendants purchased genuine Lipitor intended for the South American market and illegally re-imported the medication back into the United States. In the second scheme, the defendants purchased equipment and chemicals that they used to manufacture counterfeit Lipitor, Bextra, Zocor, Plavix, and other medications in a Costa Rican lab. The defendants sold the illegally diverted medication and the counterfeit medication in the U.S. through the secondary wholesale market. This case is was investigated by the OCI;

- In January 2007, United States Attorney Patrick L. Meehan charged Mohammed Makada, with trafficking in counterfeit goods and introducing misbranded items into interstate commerce, in violation of Title 18, United States Code, Section 2320, and Title 21, United States Code, Section

331(a), respectively. The charges arise from the defendant's importation into the U.S. and sale of, counterfeit CHAPSTICK, the genuine product, which is owned and has a registered trademark by Wyeth Pharmaceuticals. Makada is charged with importing and selling the counterfeit CHAPSTICK from in or around February 2002 through in or around September 2003. If convicted the defendant faces a maximum possible sentence of 13 years imprisonment, a 3-year period of supervised release, a $2,250,000 fine, a $200 special assessment, and forfeiture of $92,900. The case was investigated by OCI and ICE;

- In January 2007, Niaja Kane was sentenced to 32 months incarceration for distribution of counterfeit drugs. Kane, the subject of an OCI case, sent samples of medications to a counterfeit pharmaceutical manufacturer in China to be made on her behalf. After the counterfeit medication was made, it was then shipped back to her in the U.S. for eventual sale on the internet and other venues. Kane is part of a larger counterfeit drug conspiracy that is one of multiple ongoing OCI cases.

  Kane was charged with possessing over 8,000 counterfeit tablets of Percocet; 1,200 counterfeit tables of Cialis; and 2,040 counterfeit tablets of Viagra, among others. She pled guilty in the Eastern District of Pennsylvania to these charges on October 18, 2006. This case was investigated by OCI, in conjunction with ICE, the Philadelphia Police Department, the Drug Enforcement Administration (DEA), and the U.S. Postal Inspection Service.