

**STATEMENT OF
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COUNCIL**

BEFORE THE

**SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT,
THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

PRESENTED ON

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Introduction:

Chairman Voinovich, Ranking Member Akaka, and Members of the Subcommittee, thank you for the opportunity to discuss the Department of Justice's contribution to the Administration's Strategy Targeting Organized Piracy ("STOP!") Initiative and the Department of Justice's additional efforts to protect and enforce intellectual property rights.

One of the Department's most important contributions toward protecting intellectual property rights is the prosecution of organized criminal networks that steal the creative works of U.S. businesses, both large and small. This is also one of the Department's core missions in support of the STOP! Initiative. To fulfill this mission, the Department executes an aggressive and creative prosecution strategy that is grounded in practical experience from actual investigations and prosecutions of intellectual property crimes and is constantly evaluated for potential improvement.

Out of this practical experience and continual reassessment comes the Department's principal contribution to the STOP! Initiative: the Department of Justice's Intellectual Property Task Force ("IP Task Force"). In October 2004, the IP Task Force issued a wide-ranging and exhaustive report detailing numerous recommendations on a number of fronts, which the Department then spent the next year-and-a-half implementing. I am proud to announce that as of June 2006, when the Task Force issued its Progress Report, the Department implemented all of the recommendations contained in the 2004 Report, including:

- Increasing the number of intellectual property prosecutors in the field by creating five additional Computer Hacking and Intellectual Property (“CHIP”) Units in:
 - the District of Columbia
 - Nashville, Tennessee
 - Orlando, Florida
 - Pittsburgh, Pennsylvania
 - Sacramento, California
- Deploying an experienced federal prosecutor as an Intellectual Property Law Enforcement Coordinator (“IPLEC”) to southeast Asia and obtaining funding for an IPLEC in Eastern Europe to handle regional efforts to enforce and protect intellectual property;
- Dismantling international criminal organizations that commit intellectual property offenses;
- Expanding international training and technical assistance efforts;
- Increasing the number of extradition and mutual legal assistance treaties that include intellectual property offenses;
- Prosecuting intellectual property cases involving a threat to public health and safety;
- Carefully monitoring and vigorously protecting the right of victims to pursue intellectual property cases in civil courts;
- Organizing victims’ conferences on intellectual property awareness; and
- Creating innovative intellectual property educational programs for America’s youth.

The Department of Justice did not stop at simply implementing the recommendations of the Task Force. Instead, the Department of Justice went well beyond the recommendations by taking these additional steps:

- Creating seven additional CHIP Units in:
 - Austin, Texas
 - Baltimore, Maryland
 - Denver, Colorado
 - Detroit, Michigan
 - Newark, New Jersey
 - New Haven, Connecticut
 - Philadelphia, Pennsylvania
- Increasing the number of defendants prosecuted for intellectual property offenses by 98 percent;

- Transmitting to Congress the President’s Intellectual Property Protection Act of 2005;
- Providing training and technical assistance to over 2,000 foreign prosecutors, investigators, and judges regarding intellectual property investigations and prosecutions;
- Working with the United States Trade Representative to improve language regarding intellectual property protections in Free Trade Agreements and other international treaties;
- Publishing a nearly 400-page comprehensive resource manual on prosecuting intellectual property crimes;
- Filing 13 amicus, or “friend of the court,” briefs in the Supreme Court in cases involving intellectual property disputes; and
- Partnering with the United States Patent & Trademark Office to dedicate \$900,000 over three years for piracy prevention efforts with non-profit educational institutions.

In addition to these important accomplishments, the Department also participates in the interagency collaboration and international outreach that is fundamental to the STOP! Initiative’s mission. Department officials are working with other agencies to increase public awareness of the harms of intellectual property theft and to help U.S. businesses work with foreign law enforcement to protect intellectual property rights.

My remarks today are intended to describe in more detail the Department’s prosecution strategy and some of its recent successes, as well as to provide an overview of the Department’s contributions to other aspects of the STOP! Initiative.

1. Prosecuting Organized Crime Groups Engaged in Intellectual Property Theft

a. Training and Retaining Expert Intellectual Property Prosecutors

A large part of the Department’s success stems from its efforts to marshal the right people to do the job the right way. In doing so, the Department has implemented a three-part approach.

First, the Department of Justice’s anti-piracy and anti-counterfeiting enforcement is anchored by the Criminal Division’s Computer Crime and Intellectual Property Section (“CCIPS”), a team of highly specialized prosecutors focused on computer crime and intellectual property crime. With the support of Congress, CCIPS has nearly doubled in size over the past six years and it now devotes 14 of its 35 attorneys to criminal intellectual property enforcement. These attorneys prosecute intellectual property cases, assist prosecutors in the field, and then use this experience to help develop and implement the Department’s and Administration’s overall IP

strategy and legislative priorities. As the complexity and frequency of intellectual property crimes have increased, so have CCIPS's accomplishments: in the past four years, CCIPS's own caseload has increased eight-fold, even as it has continued its training; its on-call, 24/7 legal guidance to agents and prosecutors in the field; and its technical assistance on legislative issues.

In addition to working on intellectual property matters domestically, CCIPS also places a high priority on fostering international cooperation. 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 fostered through international casework, as well as through international training and outreach. In the last year, CCIPS attorneys have provided training and technical assistance on IP enforcement to more than 2,000 prosecutors, investigators, judges, and intellectual property experts from 94 countries, and it expects to continue these efforts in the years to come.

As with all federal crime, primary responsibility for prosecuting federal IP offenses falls to the 94 U.S. Attorneys' Offices across the United States and its territories. Thus, the second component of the Department's approach is the placement of Computer Hacking and Intellectual Property ("CHIP") Coordinators in every U.S. Attorney's Office in the country. CHIP Coordinators are Assistant U.S. Attorneys who are given specialized training in intellectual property and certain types of computer crime every year, and who serve as subject-matter experts within their districts. Each district has at least one CHIP Coordinator; many have two or more. Placing a CHIP Coordinator in each District ensures that a prosecutor with training and experience in intellectual property crimes is available wherever and whenever an offense occurs. In addition, a number of components within the Department of Justice, such as the Tax Division, have also designated their own CHIP Coordinators. Many of the current CHIP Coordinators have been part of the program since the creation of its predecessor program in 1995.

The third component of the Department's approach is the placement of CHIP Units, generally in districts where the incidence of intellectual property and hi-tech crimes is higher and more likely to affect the national economy significantly. Each CHIP Unit consists of a concentrated number of trained CHIP prosecutors in a specific U.S. Attorney's Office. Former Attorney General Ashcroft created 13 CHIP Units and, in conjunction with the first Intellectual Property Task Force Report, created another 5 CHIP Units and provided additional funding to two already-existing Units. Because providing districts with CHIP Units has dramatically increased the number of defendants charged with IP offenses in the past, the Department has expanded the program once again in June of this year by creating 7 more CHIP Units in Austin, Baltimore, Denver, Detroit, Newark, New Haven, and Philadelphia, for a total of 25 CHIP Units across the country.

CCIPS provides this network of CHIP Units and Coordinators regular training and support. Last December, CCIPS provided CHIP attorneys across the country a 4-1/2 day seminar on computer and intellectual property crime, and it is planning another such conference for next June. In June 2006, the Department of Justice also published a comprehensive resource manual on prosecuting intellectual property crimes. This nearly 400-page manual is an

invaluable training resource for federal prosecutors and agents nationwide. It presents comprehensive descriptions and analysis on all the federal criminal intellectual property laws, including copyright, trademark, theft of trade secrets, and counterfeit labeling. It improves on earlier versions by adding broader and more in-depth coverage of all areas; fully identifying recent changes to the case law, statutes, and sentencing guidelines; and adding new chapters on the Digital Millennium Copyright Act, patent law, and victim issues. As Congress has given prosecutors new tools to fight IP crime, the Department has guided the field on how to use them.

In addition, CHIP AUSAs have been encouraged to conduct in-office legal training to keep other AUSAs apprised of critical search-and-seizure law applicable to obtaining electronic evidence and conducting electronic surveillance. Finally, CHIP prosecutors, especially those in CHIP Units, have been directed to enhance regional training on intellectual property enforcement for federal and state agents, and to continue their outreach to the high-tech industry and rights-holder sector to foster the sharing of information critical to effective prosecutions.

Through this three-part approach, the Department has developed a highly-motivated and effective nationwide network of more than 230 skilled federal prosecutors who can handle the complex intellectual property investigations and prosecutions that are central to the Department's overall prosecution strategy.

b. Prosecuting Organized Crime Networks

In the IP Task Force's 2006 Progress Report, the Department conveyed the principles that should apply to intellectual property enforcement:

- The laws protecting intellectual property rights must be enforced;
- The federal government and intellectual property owners have a collective responsibility to take action against violations of federal intellectual property laws;
- The Department of Justice should take a leading role in the prosecution of the most serious violations of the laws protecting copyrights, marks, and trade secrets;
- The federal government should punish the misappropriation of innovative technologies rather than innovation itself; and,
- Intellectual property enforcement must include the coordinated and cooperative efforts of foreign governments.

The Department has given special priority to the online groups that are the original source or supply for pirated and counterfeit goods, as well as to novel prosecutions that are likely to have the greatest deterrent effect on intellectual property criminals and the general public. As I'll discuss below, focusing on these principles has increased the number and quality of intellectual property cases prosecuted dramatically.

Copyright Piracy

The Department has developed a number of successful undercover investigations and prosecutions targeting the Internet piracy groups that steal digital works, strip away or circumvent embedded copyright protections, and distribute those works worldwide on the Internet --- often before the movie, game, music CD, or software is released for commercial sale to the public.

Organized Crime

In April 2006, the Department of Justice obtained convictions against two Chinese nationals as part of a crackdown against a violent criminal group in New York known as the Yi Ging Organization. These defendants had been included, along with 39 others, in a September 2005 indictment charging racketeering offenses, including extortion, witness tampering, trafficking in counterfeit DVDs and CDs, money laundering, operating a large-scale illegal gambling business, and drug trafficking. The Yi Ging Organization allegedly generated millions of dollars in profits from their counterfeit DVD and CD business. Gang members traveled to China to obtain illegal copies of American and Chinese DVDs, which they then smuggled into the United States, copied, and sold along with pirated music CDs at stores the gang controlled in Manhattan and other parts of New York City.

Operation Remaster

On April 3, 2006, the Department of Justice obtained convictions against two California men who pleaded guilty to conspiracy to mass-produce pirated music and software CDs. The two men were among five arrested as part of an undercover investigation targeting large-scale suppliers of pirated music and software. Agents seized nearly half a million pirated CDs and 5,500 high-speed, high-quality stampers used to make bootleg products. The recording industry called Operation Remaster the largest music manufacturing piracy seizure in United States history.

Operation D-Elite

On May 25, 2005, FBI and U.S. Immigration and Customs Enforcement (ICE) agents executed search warrants at 10 locations across the United States as part of this ongoing investigation. Those targeted included the leading members of an international P2P network known as Elite Torrents, which used the new BitTorrent file-sharing technology to allow its 133,794 members to distribute copyrighted software, movies, and music. As part of this effort, federal agents seized the Elite Torrents main computer server and replaced the publicly accessible web page with a strongly worded law enforcement message saying:

This site has been permanently shut down by the Federal Bureau of Investigation and U.S. Immigration and Customs Enforcement. Individuals involved in the operation and use of the Elite Torrents network are under investigation for criminal copyright infringement.

In the first week, this message was read by more than 500,000 visitors to the Elite Torrents network.

Building on the success of Operation Gridlock, a similar takedown in 2004 that led to the felony convictions of four P2P copyright thieves, Operation D-Elite targeted the administrators and “first providers” or suppliers of copyrighted content to the Elite Torrents network. Through BitTorrent, the newest generation of P2P technology, Elite Torrents members could download even the largest files – such as those associated with movies and software – far faster than was possible using more traditional P2P technology. The content available on the Elite Torrents network was virtually unlimited and often included illegal copies of copyrighted works before they were available in retail stores or movie theaters. For example, the final entry in the Star Wars series, “Episode III: Revenge of the Sith,” was available on the network for downloading more than six hours before it was first shown in theaters, and was downloaded from the network over 10,000 in the next day.

On July 19, 2006, an active member of Elite Torrents pled guilty to a two-count information charging him with conspiracy to commit copyright infringement and violating the provisions of the Family Entertainment Copyright Act by uploading a pre-release copyrighted work onto a publicly available computer network. The defendant faces a maximum of 5 years in prison and a \$250,000 fine.

Apocalypse Crew

On May 19, 2006, the Department of Justice obtained sentences of up to 15 months for three members of pre-release music piracy groups. Two belonged to the Internet piracy group Apocalypse Crew and the third belonged to the group Chromance. Both groups sought to acquire digital copies of songs and albums before their commercial release in the United States, which they would then prepare for distribution to secure computer servers throughout the world. The stolen songs were then distributed globally and, within hours, filtered down to peer-to-peer and other public file-sharing networks.

www.buyusa.com

On June 16, 2006, a Florida man pleaded guilty in Alexandria, Virginia, to one count of conspiracy and one count of criminal copyright infringement for selling pirated software through the mail, and agreed to forfeit numerous airplanes, a helicopter, boats and cars, which he had purchased with the profits from his illegal enterprise, including: a Cessna 152; a Cessna 172RG; a Model TS-11 ISKRA aircraft; a RotorWay International helicopter; a 1992 Lamborghini; a 2005 Hummer; a 2002 Chevrolet Corvette; two 2005 Chevrolet Corvettes; a 2005 Lincoln Navigator; an IGATE G500 LE Flight Simulator; a 1984 twenty-eight foot Marinette hardtop express boat; and an ambulance. Beginning in late 2002 and continuing until its shutdown by the FBI last October, the man and his associates operated the www.BUYSUSA.com website, which sold copies of copyrighted business software at prices substantially below the suggested retail price. The software purchased on the website were reproduced on CDs and distributed through the mail, along with a serial number that allowed the purchaser to activate and use the product. Over the course of its operation, www.BUYSUSA.com illegally sold more than \$2.47 million of

copyrighted software, causing the copyright-owners losses of nearly \$20 million. The defendant now faces a maximum sentence of ten years in prison and a \$500,000 fine.

Operation Copycat

On April 6, 2006, the Department of Justice obtained charges against five individuals who were “first-providers” of stolen movies on the Internet. Operation Copycat, a San Jose-based FBI undercover investigation, was one of three investigations contributing to Operation Site Down. The Department of Justice has obtained charges against 36 individuals and convicted 28, including the first convictions under the newly-enacted Family Entertainment and Copyright Act for camcording movies and distributing pre-release works on the Internet.

Operation Western Pirates

On November 23, 2005, two men were convicted by a Puerto Rico jury for copyright infringement and trafficking in pirated motion pictures. The convictions resulted from Operation Western Pirates, an FBI movie piracy investigation in which approximately 50,000 pirated motion pictures in DVD and VHS format were seized from more than 25 locations in western Puerto Rico, including 23 video rental stores and 3 laboratories where employees manufactured the pirated movies. Agents also seized more than \$125,000 in currency and approximately 450 pieces of computer and other electronic equipment.

Pre-Release Music

On March 8, 2006, the Internet posting of unreleased copyrighted music led to the federal indictment of two men who obtained and made portions of the musical album “Jacksonville City Nights” available to the public prior for copying prior to its legitimate commercial release, by posting the songs on an Internet website frequented by Ryan Adams fans. If convicted on all counts, the defendants each face a potential of 11 years’ imprisonment.

Operations FastLink and Site Down

The Department of Justice led the largest ever international enforcement efforts against organized online piracy in Operations FastLink and Site Down. Each of these undercover operations by the FBI involved coordinated law enforcement action among 12 countries and targeted elite, criminal organizations, known as “warez release groups,” which are the first to provide pirated works on the Internet. Law enforcement agents conducted more than 200 searches and arrested numerous people worldwide, seized hundreds of thousands of pirated works conservatively valued at more than \$100 million, and eliminated more than 20 major online distribution centers. To date, these operations have yielded 60 criminal copyright convictions in the United States.

Counterfeit Goods

Terrorist Financing

In March 2006, a federal indictment was unsealed in Detroit charging 19 individuals

with operating a racketeering enterprise that supported the terrorist organization Hizballah. The defendants are alleged to have financed their criminal enterprise by trafficking in counterfeit Viagra, counterfeit Zig-Zag papers, and contraband cigarettes, and by producing counterfeit cigarette tax stamps.

Counterfeit Cholesterol Medication

In 2006, the Department of Justice obtained convictions against 8 people for selling counterfeit Lipitor tablets, a drug widely used to reduce cholesterol, and 13 people are awaiting trial in Kansas City, Missouri for their alleged participation in a \$42 million conspiracy to sell counterfeit, illegally imported, and misbranded Lipitor and other drugs. More than \$2.2 million has been forfeited.

U.S. v. Luong & Vu

On June 19, 2006, two Massachusetts residents pleaded guilty to money laundering and trafficking and conspiring to traffic in more than \$1.4 million of counterfeit luxury handbags and wallets, as well as the materials needed to make these counterfeits. They admitted that they and two others used thirteen self-storage units as their counterfeiting operation's home base. Ten of the storage units were used for storage; two were configured to display items in the open, like showrooms; and one held a work-table and tools that could be used to turn the generic wallets and handbags into counterfeits. When raided by law enforcement officers last year, these storage units held 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 luxury brand trademarks, but were of lower price and quality and were sold at a flea market and to smaller gatherings at approximately 230 "purse parties" throughout Massachusetts. All together, the counterfeit and generic handbags and wallets were worth approximately \$1.4 million at average counterfeit prices.

Viagra and Cialis

In February 2006, the Department of Justice obtained a conviction in Houston against a United States citizen for importing from China counterfeit pharmaceuticals bearing the Viagra and Cialis trademarks. ICE Special Agents conducted an undercover operation in Beijing, China, involving the Internet site bestonlineviagra.com, which the defendant owned and used to distribute bulk quantities of counterfeit Viagra and Cialis manufactured in China. Chinese officials cooperated in the investigation, and 11 additional individuals in China were arrested by Chinese authorities for manufacturing and distributing counterfeit drugs. Chinese officials seized 600,000 counterfeit Viagra labels and packaging, 440,000 counterfeit Viagra and Cialis tablets, and 260 kilograms of raw materials used to manufacture counterfeit pharmaceuticals.

Hazardous Counterfeit Batteries and Electrical Extension Cords

On December 22, 2005, a federal grand jury in Miami, Florida, indicted five individuals on charges of conspiring to traffic in counterfeit goods, trafficking in counterfeit goods, and concealing and selling imported counterfeit goods, namely electrical cords, batteries, handbags,

wallets, suitcases, shoes, hats, sunglasses, watches, key holders, umbrellas, and different items of clothing and accessories bearing counterfeit trademarks of Underwriters Laboratories, Duracell, and other brands. The indictments also allege that after the defendants imported counterfeit goods from China, they then sold the counterfeits directly from the warehouses and at a flea market. When federal and local law enforcement officers arrested the defendants, they seized enough counterfeit items to fill several tractor trailers with not only counterfeit clothing and clothing accessories, but also untested and hazardous electrical cords and batteries. In addition, illegal toy Glock pistols were seized from two defendants. The maximum statutory sentences are five years in prison and a \$2 million fine for each count of conspiracy to traffic in counterfeit goods; ten years in prison and a \$2 million fine for each count of trafficking in counterfeit goods; and five years in prison and a \$250,000 fine for each count of illegally concealing and selling counterfeit goods.

Protecting Business Trade Secrets

The Department's prosecution strategy also prioritizes cases involving trade secret theft, particularly those cases in which U.S. businesses are threatened by unscrupulous foreign competition.

Coca Cola Trade Secrets

On July 11, 2006, the Department of Justice obtained indictments against three people on a charge of conspiring to steal and to sell The Coca Cola Company's trade secrets. According to the pleadings filed in the case, these individuals tried to take Coca Cola's trade secrets and market them to PepsiCo, including a sample of a new Coca Cola product being developed by the company. In an undercover sting, an FBI undercover agent paid for and received certain Coca Cola trade secrets and offered to buy additional trade secrets for more than \$1.5 million. The defendants were arrested the day the \$1.5 million deal was to take place.

Metaldyne

On July 5, 2006, a federal grand jury indictment was unsealed in Detroit charging one former vice president and two former senior employees of Metaldyne Corporation with plotting to steal and stealing Metaldyne Corporation's secret process for manufacturing heavy automotive parts from powdered metal, and providing this information to a Chinese competitor. Metaldyne Corporation is one of only two automotive parts manufacturers in the world to have developed a process to successfully fabricate powdered metal into large, heavy-duty automotive parts, such as connecting rods. The indictment also alleges the theft of confidential information belonging to GKN Sinter Metals, the other company that manufactures powdered metal parts, which was given to one co-conspirator and another Chinese auto parts manufacturer. The defendants now face numerous counts of trade secret theft, wire fraud, computer fraud and abuse, interstate transportation of stolen property, and conspiracy.

Software Trade Secrets

On December 7, 2005, the CEO of a software company pleaded guilty to conspiracy to steal and download the trade secrets and to interstate transportation of stolen property, all from

the company's chief competitor, a publicly-traded company that had twenty offices in the United States and overseas. The CEO admitted that he conspired with other executives from his firm to illegally access the competitor's computer network and applications repeatedly over a 10-month period, to steal and download its trade secrets, and to transmit the trade secrets to others within his firm to secure a competitive advantage. Two other executives previously pleaded guilty to conspiring in the same scheme.

c. Statistical Accomplishments

The breadth of the Department of Justice's success in criminal prosecution is borne out by the numbers. As I mentioned earlier, CCIPS's own caseload has increased more than eight-fold in the last four years. Between fiscal years 2003 and 2005, the FBI's intellectual property enforcement program increased the number of open intellectual property investigations 22 percent --- from 304 to 372 investigations per year --- and the number of undercover investigations increased 87 percent. During the same period, the number of indictments filed from IP investigations increased 38 percent, from 92 to 127. During fiscal year 2005, the number of defendants charged with intellectual property offenses nearly doubled from 177 in fiscal year 2004 to 350 in fiscal year 2005.

As a result of increased investigations, indictments, and prosecutions, the Department is confident that intellectual property violators are learning that their crimes will not go undetected or unpunished.

2. The Department of Justice's Contributions to the STOP! Initiative

In addition to the contributions set forth above, the Department has also contributed to the STOP! Initiative in other important ways, including its legislative efforts.

Legislation

Of course, in order to accomplish the Department's mission of criminal intellectual property rights enforcement, the Department needs not only the right people and training, but also the right laws. In this regard, the Department has been extremely active.

Intellectual Property Protection Act

Consistent with Congress's recent IP legislation, such as the Family Entertainment and Copyright Act and the Stop Counterfeiting in Manufactured Goods Act, the Department of Justice has developed its own legislation, known as the Intellectual Property Protection Act of 2005. This proposed legislation is designed to advance three general objectives. First, it would toughen penalties for intellectual property crimes by:

- Strengthening the repeat-offender penalties against copyright criminals;
- Implementing broad forfeiture reforms that, among other things, ensure the ability to seize and obtain forfeiture of property derived from or used in the commission of intellectual property offenses; and

- Strengthening a victim’s ability to recover losses for certain intellectual property crimes.

Second, the bill would expand the criminal laws to increase intellectual property protection by:

- Clarifying that registration of a copyright is not a prerequisite to criminal prosecution;
- Criminalizing the attempt to commit copyright infringement --- not one who merely *thinks* about committing an IP crime, but rather one who takes a substantial step towards committing the type of IP crime we already prosecute; and
- Clarifying that both the exportation and importation of infringing items is illegal, even if the export or import is not to a third party (such as when the shipment is from one party to itself).

Third, the bill would add needed investigative tools for criminal and civil enforcement by:

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

The Intellectual Property Protection Act is an important legislative effort that builds upon Congress’s past legislative successes. For example, it would expand the forfeiture remedies that Congress passed in the Stop Counterfeiting in Manufactured Goods Act from trademark offenses to all intellectual property offenses. Doing so would not only deprive criminal IP defendants of their ill-gotten gains, but it would also protect the rights of innocent owners of assets used by IP criminals. The Department of Justice’s Task Force recommends that the Congress enact the Intellectual Property Protection Act at its earliest opportunity.

Family Entertainment and Copyright Act and Stop Counterfeiting in Manufactured Goods Act

In 2005, Congress enacted the Family Entertainment and Copyright Act of 2005 (S. 167), which, among other things, amended the federal criminal code to prohibit camcording motion pictures in a movie theater without authorization, and to prohibit willful copyright infringement through distribution of certain pre-release works by making them available on a computer network accessible to the public. In 2006, Congress enacted the Stop Counterfeiting in Manufactured Goods Act, which, among other things, prohibited trafficking in labels, documents, and packaging that bear counterfeit marks intended for goods or services and expanded the definition of “trafficking” to include distribution for a wider variety of commercial purposes than was covered previously. Both acts also reformed certain forfeiture remedies in beneficial ways.

The Administration and the Department of Justice supported passage of both bills and provided Congress technical assistance. Moreover, the Department’s newly-published criminal

IP manual instructs AUSAs on how these new provisions work so the government can prosecute the criminals these bills were intended to ensnare.

Sentencing Guidelines

During 2005, in response to Congress's guidance in the Family Entertainment and Copyright Act, the Sentencing Commission amended the Sentencing Guidelines for IP crimes to account for the special harm that occurs when criminals unlawfully make copyrighted works available to the public before the copyright owners have their own chance to do so. The Department aided the Sentencing Commission in these efforts and at the same time assisted with clarifications regarding peer-to-peer file-sharing and prosecutors' ability to use financial records to estimate the quantity of infringement.

This year, in response to Congress's guidance in the Stop Counterfeiting in Manufactured Goods Act, the Sentencing Commission is considering whether the guidelines adequately account for the value of labels, documents, and packaging with counterfeit trademarks or for counterfeit copyrighted works. Again, the Department is eagerly lending whatever technical assistance it can.

We are confident that this work will result in fairer and more just sentences.

Education

Education is a key tool in Department of Justice's mission to promote intellectual property protection. Protecting intellectual property is a collective effort of all citizens and therefore the public must be aware of their individual responsibilities. Therefore, the Department constantly explores opportunities to educate the public about intellectual property laws and the role that the Department plays in enforcing those laws. In addition, the Department continues to form partnerships with victims of intellectual property theft in common educational initiatives. The Department has forged important, long-term partnerships with federal agencies, nonprofit educational institutions, and network television, with the goal of educating students and adults about the importance of protecting creativity through the development of educational programs and materials for classroom use.

In a joint venture, the USPTO and the Department of Justice are funding a three-year, \$300,000 annual program with three national nonprofit educational organizations: Street Law, i-Safe, and the Constitutional Rights Foundation. The program will focus on training teachers (who in turn will train other teachers) about intellectual property, the laws protecting it, and the responsibilities of citizens to respect it. The program will select major cities across the country to develop teacher-training seminars where teachers will be instructed about intellectual property by education experts, a network of local professional volunteer lawyers, federal investigators; federal prosecutors, and curriculum developers. Teachers will take their experience and knowledge back into the classroom and, with the curriculum developed by the nonprofit educational organization i-Safe, students will be taught about intellectual property and the importance of respecting it. The program also contemplates developing a website with free downloadable materials, games, and links to other Department of Justice intellectual property educational and outreach activities.

In October 2005, Attorney General Gonzales joined Commerce Secretary Carlos Gutierrez, Senator John Cornyn, and Congressman Lamar Smith at the University of Texas Law School in Austin, Texas, to discuss intellectual property with legal scholars and high-tech industry leaders. The panelists discussed the importance of the criminal and civil enforcement of intellectual property for future economic growth and innovation. This event was filmed by Court TV and incorporated into its educational programming that aired as part of its “Choices and Consequences” series. Copies of the program will be disseminated in conjunction with the Department of Justice’s educational package for classrooms.

In partnership with the United States Chamber of Commerce’s Coalition Against Counterfeiting and Piracy (“CACP”), the Department of Justice has developed a working group of federal, State, and local prosecutors, investigators, and law enforcement officials to address the problems facing intellectual property enforcement and the importance of intellectual property victim-industry referrals. This working group participated in two conferences and invited intellectual property victim-industry members to attend. The purpose of the conferences was to explain the various aspects of intellectual property investigations for federal, state, and local enforcement and develop a better understanding among intellectual property victims of how to refer an intellectual property theft to law enforcement.

Finally, the Department of Justice has heavily promoted the use of the FBI’s Anti-Piracy Seal to industry associations. Currently, the FBI has written agreements with the Motion Picture Association of America, the Recording Industry Association of America, the Software Information Industry Association, and the Entertainment Software Association, which use the Anti-Piracy Seal on copyrighted works to serve as a visible warning of the consequences of committing intellectual property crimes. The Department of Justice will continue to promote the use of the Anti-Piracy Seal with industry association representatives.