

STATEMENT OF
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BEFORE THE

**Subcommittee on Government Management,
the Federal Workforce, and the District of Columbia
Committee on Homeland Security and Governmental Affairs
United States Senate**

**“STOP!: A Progress Report on Protecting and Enforcing Intellectual Property Here
and Abroad”**

July 26, 2006

Introduction

Chairman Voinovich, Ranking Member Akaka, and Members of the Subcommittee:

Thank you for inviting me to testify today. I want to thank you all for your leadership on the issue of intellectual property theft.

I appreciate this opportunity to discuss the progress we have made in promoting effective protection and enforcement of Americans' intellectual property rights here and abroad.

I am pleased to join my colleagues with whom we are united through the White House-led STOP! initiative to combat the growing problem of global piracy and counterfeiting. STOP! is a comprehensive government-wide initiative that brings together all the major players to protect the intellectual property assets of America's inventors, creators, entrepreneurs, and manufacturers.

Unlike some of our colleagues in this comprehensive effort, U.S. Patent and Trademark Office (USPTO) personnel do not carry a badge or a gun, and are not authorized to seize or destroy illicit merchandise or prosecute those who market such merchandise.

What USPTO brings to this initiative is expertise in domestic and international intellectual property law, policy and procedure. We consult, advise and otherwise share that expertise with the American public – including small and medium sized enterprises – other Federal agencies, the Congress, and foreign officials.

Because American intellectual property owners compete in a global marketplace, our efforts include the promotion of effective intellectual property protection internationally. We help provide American intellectual property owners with sufficient knowledge and legal tools to fight piracy and counterfeiting both home and abroad and assist them in their enforcement efforts overseas. We also provide foreign countries with technical assistance on drafting and implementing effective intellectual property laws and promoting the effective enforcement of intellectual property rights. I am pleased to describe our ongoing efforts in more detail.

Training and Capacity Building - Global Intellectual Property Academy

The USPTO coordinates, organizes and participates in intellectual property rights training, trade capacity building, and technical assistance programs throughout the world.

In the Fall of 2005, USPTO created the Global Intellectual Property Academy (GIPA), which greatly expands USPTO-led training and capacity building programs on intellectual property rights protection and enforcement. Through the GIPA, USPTO brings foreign government officials – including judges, prosecutors, police, customs officers, patent, trademark and copyright officials and policy makers – to the U.S. to learn, discuss and strategize about global IPR protection and enforcement. GIPA programs cover the gamut of patent, trademark, copyright and IPR enforcement issues facing the global economy, and are offered by USPTO acting in close cooperation with other U.S. federal government agencies, including the U.S. Department of Justice, the U.S. Customs and Border Protection, and U.S. Department of State.

By the end of FY 2006, the USPTO will have conducted 16 Global Intellectual Property Academy Programs for foreign officials at its headquarters in Alexandria. The USPTO will continue to provide IPR training, trade capacity building, and technical assistance in the U.S. and abroad. In 2007, the USPTO will conduct 21 such programs domestically as well as countless other programs around the world.

STOP! Hotline

The USPTO manages a hotline (1-866-999-HALT) that helps small-and medium-sized businesses leverage the resources of the U.S. Government to protect their intellectual property rights in the U.S. and abroad. Callers receive information from a staff of approximately 37 intellectual property attorneys at the USPTO with regional expertise on how to secure patents, trademarks, and copyrights, and on enforcement of these rights.

In fiscal year 2005, the Hotline received 955 calls. In fiscal year 2006, through July 5, 2006, we have received 1,048 calls through the Hotline.

Stopfakes.gov

The USPTO has established a link on its website to www.stopfakes.gov which provides in-depth details of the STOP! initiative. One key feature of the website is the country specific “Toolkits” that have been created by our embassies overseas to assist small- and medium-sized businesses with intellectual property rights issues in China, Korea, Mexico, Taiwan, Russia, Brazil, and Malaysia. STOP! also seeks to increase global awareness of the risks and consequences of intellectual property crimes through a section of its website, www.stopfakes.com/smallbusiness, that is specifically designed and operated by the USPTO to answer common questions of small businesses so they can better identify and address their intellectual property protection needs.

Outreach to Small Business - Public Awareness Campaign

While counterfeiting and piracy pose a serious threat to all American businesses, small businesses are particularly at risk since they often lack the knowledge and expertise to effectively combat it. Because small businesses typically do not have personnel or maintain large operations in other countries, theft of their intellectual property overseas can go undetected. As part of the STOP! initiative, in April of 2005 the USPTO launched an intensive national public awareness campaign to help educate small businesses on protecting their intellectual property both here and abroad.

According to the U.S. Small Business Administration, America is home to about 23 million diverse, geographically dispersed small businesses. As a result, the most significant challenge confronted by the campaign was developing a program that would appeal to – and reach – as many target smaller businesses as possible.

The campaign consists of market research, stakeholder outreach, earned media outreach, online outreach, and conferences. The market research we conducted overwhelmingly shows that small businesses are not aware that their intellectual property rights do not travel abroad, underscoring the need for the campaign.

We used this market research to design a campaign to educate small businesses on the information that is most critical to their success, and about which the most misinformation exists.

The USPTO conferences have been conducted throughout the country including Salt Lake City, Phoenix, Austin, Miami, San Diego, Northern Virginia, Columbus and Nashville. Since May 2005, USPTO has presented these eight programs to more than 1,400 attendees. Members of Congress have been very supportive of this program, and five U.S. Representatives have joined you, Chairman Voinovich, as guest speakers at previous conferences.

The USPTO will continue to hold small-business outreach seminars to give American businesses face-to-face contact with intellectual property experts.

Intellectual Property in the Global Marketplace Conferences

This is a 2-day program offered free of charge to the public designed to raise awareness of intellectual property in general, and increase awareness among small businesses of the new realities of counterfeiting and piracy of intellectual property. The program explains the government's role in enforcing IP rights and also the IP owners' responsibilities.

The conference consists of presentations by our attorney-advisors on patents, trademarks, copyright, the patent cooperation treaty, trade secrets, and the problems China poses specifically. We cover the basics of intellectual property protection – why to apply, how to apply, the difference between all kinds of intellectual property – as well as how to enforce your intellectual property rights.

Furthermore, we produce a handout workbook with all of the presentations for the conference attendees, and allow time for questions and answers. Additionally, this year we have added a new feature of our conference, which are the one-on-one consultations with our attorney-advisors. The small businesses have really taken advantage of this service.

Additionally, we gather written evaluations at each program, and modify the programs based on evaluations results.

China Conferences

We have also hosted special educational outreach conferences on China in several U.S. cities for companies ranging from small businesses contemplating entering the China market to large corporations with established presence in China. Topics have included a review of recent laws and regulations promulgated by the Chinese government that affect protection and enforcement of intellectual property, what the United States government is doing to improve intellectual property protection and enforcement in China, how to best protect business assets to avoid intellectual property problems, how to recognize product infringement, and the practical steps to take if it occurs.

Our China events have been held in Alexandria, Virginia, Baltimore, Detroit, Atlanta, Chicago and Seattle.

The USPTO has reached out to both government and non-government stakeholders to help publicize the conferences and the campaign. Some of the organizations that we have worked with to promote awareness of the conferences and of the issue of IP theft are: Small Business Administration, Minority Business Development Centers, U.S. Export Assistance Centers, U.S. Customs and Border Protection, American Intellectual Property Law Association, Intellectual Property Owners Association, U.S. Chamber of Commerce, National Association of Manufacturers, Service Core Of Retired Executives, National Federation of Independent Business, and United Inventors Association.

Results

In December 2005, six months into the small business education campaign, the USPTO conducted a second, follow-up survey to help measure the results of campaign efforts.

Overall, the survey showed significant and positive improvements between the target markets (those in which we conducted a conference), taken collectively, and the national sample. For example, respondents from the four target markets were more than twice as likely to have seen, read or heard something about IP protection for small businesses (31% in the target markets vs. 15% nationally). Respondents in the target markets were also more confident in their knowledge of IP terms (22% vs. 14%) and rights (59% vs. 39%) than those in the national sample.

Awareness that the best time to apply for IP protection is before the product is brought to market jumped from 19% before the campaign to 85%.

We found that people in the target markets were more likely to have applied for protection than the national sample. Respondents in the target markets were significantly more likely to say they have taken steps to ensure that they have patent, trademark, or copyright protection overseas (52% vs. 18%).

Almost one-fourth of small businesses in target markets said they had been in contact with USPTO, while only 10% nationally said so.

Attendees leave our conferences recognizing that IP protection is a business decision, and we have found that they take action as a direct result of our awareness campaign.

We have been in contact with one Ohio man in particular who illustrates this point well. He left our conference in Columbus and decided to take immediate action to apply for trademark protection abroad. He told us himself that our conference was critical in opening his eyes to the need to consider applying if you have any interest in exporting.

We found that intention to apply, and actual applications both increase as you look at our target markets, compared to the national sample. We found that 95% of respondents found the website useful and almost as many (85%) found it easy to use.

In survey after survey of our conferences, we see positive statements such as “the whole program shattered the myth of lazy, apathetic federal government workers,” and “the best program I’ve undertaken since beginning developing patents 15 years ago.”

In the last 4 conferences we have received a rating of “Excellent” or “Good” from more than 90% of our attendees. Businesses of all types – from mom and pop inventors to manufacturers to researchers to upstart technology companies – are all gaining a better understanding of IP rights, and the new realities of IP in the global market.

Educating Our Children

The USPTO also seeks to educate children on the value of ideas and creativity:

The USPTO Office of Public Affairs coordinates a school visitation and event – in conjunction with our IP in the Global Marketplace conferences – which is attended by either the Under Secretary or me. Some of the schools and students are already participating in special programs for children created and promoted by USPTO and the National Inventor's Hall of Fame, such as Camp Invention and Club Invention.

In January 2006, the USPTO launched a pilot intellectual property education initiative titled ©@ea™. The ©@ea™ program involves a curriculum and national IP competition aimed at increasing students' confidence in their abilities to explore, discover and create, while teaching them the importance of patents, trademarks, and copyrights in America's history and future.

The education curriculum is targeted for students in grades 2 through 12. Two weeks ago, nine contest finalists came to Washington for the ©@ea™ awards ceremony where they were recognized for their creations. This fall, the USPTO will expand on the pilot project with a launch of the full curriculum and competition. The full curriculum will be sent to at least 800 schools in all 50 states. The USPTO will be working with the private sector to increase awareness of the campaign and generate interest to an even wider audience.

USPTO and USCBP Cooperation

As part of STOP!, the USPTO began working with U.S. Customs and Border Protection (USCBP) to streamline the recordation process. The USCBP maintains a trademark recordation system for trademarks registered at the USPTO to prevent the importation of goods that infringe registered trademarks. The USPTO now mails notices to new trademark registrants directing them to the services that USCBP offers and has established a website link on the USPTO homepage which contains the USCBP form for recordation.

Posting of Intellectual Property Experts

In partnership with the Department of Commerce's U.S. and Foreign Commercial Service and the Department of State, the USPTO is working to post additional intellectual property experts in selected, high-profile countries where U.S. IP challenges are greatest. These countries include China, Brazil, India, Thailand, Russia and Egypt. The experts will advocate U.S. IP policy and interests, conduct training on IP rights matters, assist U.S. businesses and otherwise support the Embassy or Consulate action plan on IP rights. Arrangements are being made now for deployment this fall.

Promoting Strong IPR Enforcement In and Through International Agreements

Of note is the work the U.S. government has done in promoting free and fair markets for U.S. businesses abroad. This has been a prime focus of the federal government, especially since the beginning of the Bush Administration.

In support of the United States Trade Representative (USTR) and other U.S. Government agencies, the USPTO plays a key role in the negotiation and drafting of intellectual property provisions of free trade and other international agreements. These provisions generally require U.S. trading partners to provide stronger, more effective protection for intellectual property than the minimum that is required under the World Trade Organization's Trade Related Aspects of Intellectual Property Rights (TRIPs) Agreement.

We provide technical expertise in numerous negotiating rounds and the necessary implementation discussions for free trade agreements. Mostly recently the USPTO has provided assistance in negotiations with the Andean region, Morocco, Thailand, United Arab Emirates and Oman. Our efforts have included analysis of all intellectual property rights components, provisions and ramifications in international documents, including position papers or proposed policy statements of the World Health Organization, World Intellectual Property Organization, Asia-Pacific Economic Cooperation Forum, Association of Southeast Asian Nations, and Caribbean Community and Common Market.

Conclusion

Mr. Chairman, the USPTO, the Department of Commerce and the entire Administration recognize the increasing significance of effective intellectual property protection for American businesses and innovators. We have made combating piracy and counterfeiting a top priority and look forward to working with you and all interested parties to ensure that our efforts are successful.

Thank you.