

IPR Center Report

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Partners in Action

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The IPR Center stands as a focal point in the U.S. government's fight against counterfeiting and the flow of counterfeit goods into the commerce of the U.S. The center employs a true task force model to optimize the roles and enforcement efforts of member agencies, while enhancing government-industry partnerships to support ongoing IPR enforcement initiatives.

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New Intellectual Property Rights Coordination Center Opens in Virginia



Julie L. Myers, Assistant Secretary of Homeland Security for ICE, launches the new facility in Virginia with, from right, Homeland Security Secretary Michael Chertoff, Commerce Secretary Carlos M. Guterrez and CEO of Underwriters Laboratories, Keith Williams.

The National Intellectual Property Rights Coordination Center (IPR Center), the federal government's top tool in the fight against intellectual property crime, relocated to a new home in July—a move that officials said will vastly improve coordination of investigations and enforcement efforts.

The IPR Center is a multi-agency partnership that includes representatives from U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection, the U.S. Department of Commerce Patent and Trademark Office, the U.S. Food and Drug Administration, the Department of Justice, the Federal Bureau of Investigation, the U.S. Postal Inspection Service, and other federal agencies. The partnership is an avenue for joining forces more effectively to combat counterfeiting, trademark piracy, and other intellectual property crimes.

At a July 10, 2008, open house to launch the new facility in the Crystal City neighborhood of Arlington, Va., Secretary of Homeland Security

Michael Chertoff, Secretary of Commerce Carlos M. Guterrez, Assistant Secretary of Homeland Security for ICE Julie L. Myers, business leaders, members of Congress, and law enforcement officials were on hand to highlight the global fight against intellectual property rights violations, which have grown in recent years into a multi-billion dollar criminal enterprise. Officials stressed that the substandard quality of many counterfeit goods, notably pharmaceuticals and other consumer products, poses a significant threat to public health and safety.

The IPR Center employs a three-pronged approach of investigation, interdiction, and outreach to industry and law enforcement partners in the fight against intellectual property crime. "The outreach function has been a key priority in the weeks since the opening of the new center," ICE's David Thompson, IPR Center Director said, "in order to build awareness and strengthen relationships with industry partners." ■

Operation Guardian Responds to Health and Safety Threats

In Spring 2007, pet owners in the U.S. were alarmed by headlines about animals dying of mysterious illnesses. It was not long before the Food and Drug Administration (FDA) targeted the pets' food as the likely cause. Investigators traced the source of pet food to China and discovered it contained contaminated wheat gluten. The U.S. government looked for a comprehensive response to public health and safety threats that were the subject of recent recalls - food, toys, paint, counterfeit drugs, aircraft or automobile parts, and many other products.

In July 2007, President Bush established by Executive Order an Interagency Working Group on Import Safety. As a result of its participation in this working group, U.S. Immigration and Customs Enforcement (ICE) envisioned a long-term response called Operation Guardian (Guardian).

Guardian is a comprehensive enforcement initiative to combat the increasing importation of substandard, tainted, and counterfeit prod-

ucts that pose a health and safety risk to consumers. Guardian grew to include the expertise of fellow Department of Homeland Security component U.S. Customs and Border Protection, the FDA Office of Criminal Investigation, the Federal Bureau of Investigation, the U.S. Postal Inspection Service, the Department of Justice Computer Crimes & Intellectual Property Section, and the Consumer Product Safety Commission. The collaborative targeting and investigative efforts of Guardian member agencies have led to the seizure of commodities that include pharmaceuticals, circuit breakers, extension cords, surge protectors, steel components, honey, shrimp, Christmas lights, and toys. The combined seizures under this operation have exceeded \$6 million.

The results are starting to show in the criminal courts as well:

- In February 2008, Randy Gonzales, a citizen of the Philippines, became the first foreign national extradited to the U.S. for conspiring to import and distribute counterfeit pharmaceutical drugs. He has pled guilty and is set to be sentenced on November 21, 2008.
- In July 2008, Kevin Xu was convicted by a federal jury in Houston of nine counts of conspiracy, trafficking in counterfeit pharmaceuticals, and introduction of misbranded and counterfeit pharmaceuticals into the United States. As a result of this investigation, there have been three Class 1 recalls of counterfeit Plavix, Casodex, and Zyprexa, in Europe, affecting in excess of \$9 million of these drugs. Xu faces a maximum sentence of five years in



In Operation Guardian, federal agencies pool their resources and investigative leads to shield the marketplace from counterfeit, substandard and tainted products that threaten public health and safety.

Operation Guardian Statistics*

Open Investigations	166
Arrests	74
Indictments	44
Convictions	19

*October 2007 through July 2008.

prison and a \$250,000 fine for the conspiracy charge. Each of the three misbranding counts carries a maximum sentence of three years imprisonment and a \$10,000 fine. Each of the five trafficking charges carries a maximum punishment of 10 years in prison and a \$2 million fine. Xu is scheduled to be sentenced in Fall 2008.

- In August 2008, Saifoulaye Diallo, Habib Bah, Mabass Inc., and Vidtape Inc. pled guilty in the Eastern District of New York to trafficking in counterfeit goods, specifically counterfeit toothpaste. Both Diallo and Habib face up to 10 years in prison and up to \$2 million dollars in fines. The companies may be fined up to \$15 million. Sentencing is tentatively scheduled for January 2009.

These cases illustrate the positive impact the Guardian initiative is having on combating emerging threats that pose health and safety risks to U.S. consumers. ■

Let's Hear from You

The IPR Center staff welcomes all of our law enforcement and business partners to submit articles to the quarterly *IPR Center Report*. Our editorial board will consider any article presented in an electronic format to IPRCenter@dhs.gov.

In the subject line, please write
IPR Center Report.



Federal Jury Convicts Web Site Administrator

On June 27, 2008, Acting Assistant Attorney General Matthew Friedrich announced that a federal jury in Big Stone Gap, Va., convicted Daniel Dove, 26, formerly of Clintwood, Va., on one count each of conspiracy and felony copyright infringement. Dove faces a maximum sentence of 10 years in prison.

Dove was an administrator for EliteTorrents.org, an Internet piracy site that, until May 25, 2005, was a source of infringing copyrighted works, specifically pre-release movies. Elite Torrents, a group that attracted more than 125,000 members and facilitated the illegal distri-

bution of approximately 700 movies, which were downloaded more than 1.1 million times, used BitTorrent peer-to-peer (P2P) technology to distribute pirated works to their members around the world.

The evidence showed that Dove recruited members who had very high-speed internet connections, to become "Uploaders," and that Dove operated a high-speed server, which he used to distribute pirated content to these "Uploaders." Massive



amounts of a wide variety of high-value software, video games and music were made available to members of the Elite Torrents group.

Dove's conviction is notable because it is the first criminal conviction after a jury trial for P2P copyright infringement, and the eighth conviction resulting from Operation D-Elite. D-Elite was a Federal Bureau of Investigation Undercover Operation that sought to crack down the illegal distribution of copyrighted movies, software, games and music over P2P networks employing the BitTorrent file distribution technology and targeted leading members of the Elite Torrents. ■

FDA Law Enforcers Protect Consumers' Health

The investigators of the Food and Drug Administration (FDA) Office of Criminal Investigations (OCI) protect consumers from companies and individuals who pose a danger to the public's health. OCI agents target criminals whose illegal acts involve pharmaceuticals, foods and other products regulated by the FDA. OCI focuses on criminal violations of Title 18 of the United States Code, the Federal Food, Drug and Cosmetic Act and the Federal Anti-Tampering Act.

Founded in 1992, OCI has six field offices and six resident offices located throughout the U.S. and Puerto Rico. Field offices are located in New York; Washington, D.C.; Miami; Kansas City, Kan.; Chicago; and Los Angeles. Resident offices are located in San Francisco; Austin, Texas; New Orleans; San Juan, P.R.; Atlanta; and Boston.



unapproved, or illegally diverted drugs; consumer product tampering and product substitution; fraudulent health treatments; and allegations of fraud in new drug applications and clinical trials.

Many times when OCI initiates an investigation, other federal law enforcement agencies with a jurisdictional interest will join the investigation. As many OCI cases have an international aspect, the OCI has developed good working relationships with many foreign law enforcement counterparts which aid in bringing criminals outside the U.S. to justice.

OCI Special Agents investigate many types of FDA-related crimes including counterfeit,

Field investigations are enhanced by OCI's skilled investigative analysts and technical specialists. In addition, the FDA's Forensic Chemistry Center in Cincinnati, OH, provides valuable forensic laboratory support by performing many different laboratory tests related to suspect products involved in OCI investigations.

On average, 200 criminal suspects are convicted each year as the result of OCI investigations. From 1993 to present, the OCI has made 4,593 arrests resulting in 3,546 convictions and more than \$5.7 billion in fines and restitutions. ■

IPR Center Partners Statistics*

Open IPR Investigations	708
Arrests	267
Convictions	141

*October 2007 through July 2008

UL Holographic Label Aims to Protect Consumers

As part of its century-long public safety mission, Underwriters Laboratories (UL), with its partners, is dedicated to combating counterfeiting and the criminals who manufacture counterfeit products. UL takes a zero-tolerance approach and works with law enforcement around the world to prevent products bearing a counterfeit UL mark from entering the stream of commerce. The UL policy against counterfeiters and counterfeit goods does not tolerate the import, export, or manipulation of merchandise bearing a counterfeit UL mark.

UL actively works with U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) to prevent counterfeit products from entering the U.S. market. Since 1995, there have been more than 1,500 seizures of counterfeit products at ports of entry in the United States.

In addition to CBP and ICE, UL works with a number of international crime prevention organizations and industry associations, including INTERPOL, the Royal Canadian Mounted Police (RCMP), the Federal Bureau of Investigation, the National Electrical Manufacturers Association, the Canadian Anti-Counterfeiting Coalition (CACN), the International Trademark Association, and the International Anti-Counterfeiting Coalition.

UL is working in partnership with INTERPOL and the RCMP to host the 2008 International Law Enforcement IP Crime Conference that will bring together an unprecedented consortium of law enforcement and



New UL holographic label.

intellectual property crime experts to discuss the threat of increased counterfeiting, share best practices, and develop new strategies and partnerships to more effectively combat IP crime.

In a separate effort with the RCMP and the Canadian Anti-Counterfeiting Network, UL recently participated in the CACN Canadian Reality Tour, a cross-Canada educational initiative to raise awareness and combat product counterfeiting and copyright piracy.

UL is continually working to stay ahead of counterfeiters and as part of that commitment, is introducing a new holographic label that will be required in 32 common consumer product areas prone to counterfeiting, including power supply cords, nightlights and ceiling fans.

The holographic label minimizes counterfeit UL marks because it incorporates cutting-edge technology, elevated security features, and a unique hologram design, making it easy to identify and validate, yet very difficult to replicate. Distinct features of the new hologram label include:

- Gold background to help ICE, CBP, and other law enforcement

agencies, distributors, retailers and consumers quickly identify the new label.

- Repeating pattern of floating UL symbols, a burst pattern around one of the floating UL symbols, detailed micro-printing and wavy lines.
- Color shifting ink similar to that in the new U.S. paper currency.
- Additional covert security features to assist with the authentication of a UL holographic label.

Additionally, UL has added another level of security via the UL Authenticator, a special credit card-size device that authorities can use to better identify counterfeit products. The new holographic label was made available this summer.

If you suspect a product may have a counterfeit UL Mark, contact UL immediately by e-mailing anticounterfeiting@us.ul.com or calling 877-ULHELPS (854-3577). For additional tips on how to identify a counterfeit label, visit www.ul.com/ace/fake.html. ■

Red Flags for Counterfeits

- The purchase is not from a reputable vendor or retailer.
- A vendor or retailer is selling the item significantly cheaper than most retailers.
- The vendor or retailer does not have a legitimate storefront.
- The manufacturing quality is poor.
- The commodity is being sold by an unauthorized vendor or retailer.
- The label appears to have been tampered with or is non-existent.

The Golden Rule for Identifying Counterfeit Products:

If the price is too good to be true... it probably is.