

# APPENDIX C

## INTELLECTUAL PROPERTY REPORT-UNITED STATES ATTORNEYS' OFFICES, FY 2004

### **TITLE 18, UNITED STATES CODE, SECTION 2318\* - Trafficking in Counterfeit Labels for Phono Records and Copies of Motion Pictures or Other Audiovisual Works.**

Offense: knowingly trafficking in a counterfeit label affixed or designated to be affixed to a phono record or a copy of a motion picture or other audiovisual work.

FY 2004 - TOTALS (All Districts)

#### Referrals and Cases:

Number of Investigative Matters Received by U.S. Attorneys:	26
Number of Defendants:	34
Number of Cases Filed:	10
Number of Defendants:	22
Number of Cases Resolved/Terminated:	11
Number of Defendants:	12

#### Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pled Guilty:	4
Number of Defendants Who Were Tried and Found Guilty:	1
Number of Defendants Against Whom Charges Were Dismissed:	7
Number of Defendants Acquitted:	0
Other Terminated Defendants:	0

#### Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	4
1 to 12 Months Imprisonment:	1
13 to 24 Months:	0
25 to 36 Months:	0
37 to 60 Months:	0
61 + Months:	0

Total Dollar Value of All Criminal Fines Imposed: Not Available  
(fines can be assessed in lieu of or in addition to prison sentences)

\*This chart includes data on any and all criminal cases/defendants where 18 U.S.C. 2318 was brought as any charge against a defendant. Displayed defendant outcome information based upon defendants outcome on the individual charge. Defendants against whom charges were dismissed may have been convicted of other, related offenses. This chart may not include criminal cases or matters involving 18 U.S.C. 2318 where the lead charge, charges filed or charges of conviction include only a conspiracy to violate 18 U.S.C. 2318.

### **TITLE 18, UNITED STATES CODE, SECTION 2319, TITLE 17, UNITED STATES CODE, SECTION 506\* - Criminal Infringement of a Copyright.**

Offense: willful infringement of a copyright for purposes of commercial advantage or private financial gain, or through large-scale, unlawful reproduction or distribution of a protected, regardless of whether there was a profit motive.

FY 2004 - TOTALS (All Districts)

#### Referrals and Cases:

Number of Investigative Matters Received by U.S. Attorneys:	148
Number of Defendants:	167
Number of Cases Filed:	54
Number of Defendants:	70
Number of Cases Resolved/Terminated:	46
Number of Defendants:	48

#### Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pled Guilty:	36
Number of Defendants Who Were Tried and Found Guilty:	0
Number of Defendants Against Whom Charges Were Dismissed:	8
Number of Defendants Acquitted:	0

Other Terminated Defendants:	4
<b><u>Prison Sentencing for Convicted Defendants (# represents defendants):</u></b>	
No Imprisonment:	20
1 to 12 Months Imprisonment:	7
13 to 24 Months:	2
25 to 36 Months:	4
37 to 60 Months:	2
61 + Months:	1

\*This chart includes data on any and all criminal cases/defendants where 18 U.S.C. 2319 or 17 U.S.C. 506 was brought as any charge against a defendant. Displayed defendant outcome information based upon defendant's outcome on the individual charge. Defendants against whom charges were dismissed may have been convicted of other, related offenses. This chart may not include criminal cases or matters involving 18 U.S.C. 2319 where the lead charge, charges filed or charges of conviction include only a conspiracy to violate 18 U.S.C. 2319. The number of online copyright infringement cases, the number of cases in each category, and other information required by 18 U.S.C. 2320(f)(2), are detailed in the following two pages.

**TITLE 18, UNITED STATES CODE, SECTION 2319, TITLE 17, UNITED STATES CODE, SECTION 506\* - Criminal Infringement of a Copyright: Online Infringement and Infringement Category Detail.**

Online Infringement: where the infringer advertised or publicized the infringing work on the Internet or made the work available on the Internet for download, reproduction, performance or distribution by other persons.

FY 2004 - TOTALS (All Districts)

**Referrals and Cases:**

Number of Investigative Matters Received by U.S. Attorneys:	148
Number of Defendants:	167
Number of Defendants Investigated for Online Infringement:	70
Number of Defendants Investigated for Infringing <sup>†</sup> :	
Audiovisual (videos and films):	99
Audio (sound recordings):	83
Literary works (books and musical compositions):	5
Computer Programs:	59
Video Games:	38
Others:	12
Number of Cases Filed:	54
Number of Defendants:	70
Defendants Charged with Online Infringement <sup>†</sup> :	28
Number of Defendants Accused of Infringing <sup>†</sup> :	
Audiovisual (videos and films):	42
Audio (sound recordings):	29
Literary works (books and musical compositions):	0
Computer Programs:	25
Video Games:	4
Others:	4
Number of Cases Resolved/Terminated:	46
Number of Defendants:	48
Defendants Committing Online Infringement <sup>†</sup> :	27

**Disposition of Defendants in Concluded Cases:**

Number of Defendants Who Pleaded Guilty:	36
Number of Defendants Infringing <sup>†</sup> :	
Audiovisual (videos and films):	19
Audio (sound recordings):	19
Literary works (books and musical compositions):	0
Computer Programs:	19
Video Games:	6
Others:	2

**Fines for Convicted Defendants (# represents defendants):**

Less than \$500:	28
\$500 to less than \$1,000:	3

\$1,000 to \$4,999:	5
\$5,000 to \$9,999:	0
\$10,000 and above:	1

Total Dollar Value of All Criminal Fines Imposed: \$33,000

Total Dollar Value of All Restitution Ordered: \$4,398,562

\*Data regarding online infringement and infringement categories were not available for all matters and cases. For referrals, information was obtained for 145 out of 148 matters received and 164 out of 167 defendants. For cases filed, information was obtained for 53 out of 54 cases filed and 67 out of 70 defendants.

†In many matters and cases, a single defendant may be accused of infringing works in multiple categories. For example, a defendant may be accused of distributing movies, music, computer programs and video games over the Internet. Such a defendant is counted as having infringed works in multiple categories, which is why the sum total of the different types of infringed works exceeds the number of defendants.

**TITLE 18, UNITED STATES CODE, SECTION 2319A\* - Unauthorized Fixation of and Trafficking in Sound Recordings and Music Videos of Live Musical Performances.**

Offense: without the consent of the performer, knowingly and for the purposes of commercial advantage or private financial gain, fixing the sounds or sound and images of a live musical performance, reproducing copies of such a performance from an authorized fixation; transmitting the sounds or sounds and images to the public, or distributing, renting, selling, or trafficking (or attempting the preceding) in any copy of an authorized fixation.

FY 2004 - TOTALS (All Districts)

Referrals and Cases:

Number of Investigative Matters Received by U.S. Attorneys:	0
Number of Defendants:	0
Number of Cases Filed:	1
Number of Defendants:	1
Number of Cases Resolved/Terminated:	1
Number of Defendants:	1

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pleaded Guilty:	1
Number of Defendants Who Were Tried and Found Guilty:	0
Number of Defendants Against Whom Charges Were Dismissed:	0
Number of Defendants Acquitted:	0
Other Terminated Defendants:	0

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	1
1 to 12 Months Imprisonment:	0
13 to 24 Months:	0
25 to 36 Months:	0
37 to 60 Months:	0
61 + Months:	0

Total Dollar Value of All Criminal Fines Imposed: Not Available (fines can be assessed in lieu of or in addition to prison sentences.)

\*The chart above includes data on any and all criminal cases/defendants where 18 U.S.C. 2319A was brought as any charge against a defendant. Displayed defendant outcome information based upon defendants outcome on the individual charge. Defendants against whom charges were dismissed may have been convicted of other, related offenses. This chart may not include criminal cases or matters involving 18 U.S.C. 2319A where the lead charge, charges filed or charges of conviction include only a conspiracy to violate 18 U.S.C. 2319A.

**TITLE 18, UNITED STATES CODE, SECTION 2320\* - Trafficking in Counterfeit Goods or Services.**

Offense: intentionally trafficking or attempting to traffic in goods or services and knowingly using a counterfeit mark on or in connection with such goods or services.

FY 2004 - TOTALS (All Districts)

Referrals and Cases:

Number of Investigative Matters Received by U.S. Attorneys:	92
Number of Defendants:	133
Number of Cases Filed:	46
Number of Defendants:	63
Number of Cases Resolved/Terminated:	61

Number of Defendants: 89

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pleaded Guilty: 68  
 Number of Defendants Who Were Tried and Found Guilty: 5  
 Number of Defendants Against Whom Charges Were Dismissed: 15  
 Number of Defendants Acquitted: 1  
 Other Terminated Defendants: 0

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment: 32  
 1 to 12 Months Imprisonment: 17  
 13 to 24 Months: 10  
 25 to 36 Months: 5  
 37 to 60 Months: 5  
 61 + Months: 4

Total Dollar Value of All Criminal Fines Imposed: Not Available  
 (fines can be assessed in lieu of or in addition to prison sentences)

\*This chart includes data on any and all criminal cases/defendants where 18 U.S.C. 2320 was brought as any charge against a defendant. Displayed defendant outcome information based upon defendants outcome on the individual charge. Defendants against whom charges were dismissed may have been convicted of other, related offenses. This chart may not include criminal cases or matters involving 18 U.S.C. 2320 where the lead charge, charges filed or charges of conviction include only a conspiracy to violate 18 U.S.C. 2320.

**TITLE 18, UNITED STATES CODE, SECTIONS 2318, 2319, 2319A, 2320 OR TITLE 17, UNITED STATES CODE, SECTION 506\***

**All Districts - All Statutes**

Referrals and Cases:

	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>
Number of Investigative Matters Received:	191	169	229	269
Number of Defendants:	283	289	333	334
Number of Cases Filed:	84	78	100	101
Number of Defendants:	121	149	165	141
Number of Cases Resolved/Terminated:	81	82	65	107
Number of Defendants:	106	135	119	137

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pleaded Guilty:	83	103	87	114
Number of Defendants Who Were Tried and Found Guilty:	3	3	5	8
Number of Defendants Against Whom Charges Were Dismissed:	17	26	22	8
Number of Defendants Acquitted:	0	0	3	1
Other Terminated Defendants:	3	3	2	6

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	46	58	50	62
1 to 12 Months Imprisonment:	23	25	18	26
13 to 24 Months:	8	14	13	14
25 to 36 Months:	3	5	1	9
37 to 60 Months:	2	4	9	7
61 + Months:	4	0	1	4

\*This chart includes data on any and all criminal cases/defendants where 18 U.S.C. 2318, 18 U.S.C. 2319, 18 U.S.C. 2319A, 18 U.S.C. 2320, or 17 U.S.C. 506 was brought as any charge against a defendant. However, the statutes were run together to eliminate any double counting of cases/defendants where more than one of the statutes was charged against the same defendant. Displayed defendant outcome information based upon overall outcome of the defendant. This chart may not include criminal cases/defendants involving 18 U.S.C. 2318, 18 U.S.C. 2319, 18 U.S.C. 2319A, 18 U.S.C. 2320, or 17 U.S.C. 506, where the lead charge, charges filed or charges of conviction include only a conspiracy to violate any of the identified offenses. This chart does not include data on the investigation and prosecution of other intellectual property crimes, such as economic espionage, 18 U.S.C. 1831; theft of trade secrets, 18 U.S.C. 1832; signal piracy, 47 U.S.C. 553 and 605; and circumvention of copyright protection systems, 17 U.S.C. 1201 to 1205.