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INTELLECTUAL PROPERTY

U.S. Efforts Have Contributed to Strengthened Laws Overseas, but Challenges Remain

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Highlights

Highlights of [GAO-04-1093T](#), a testimony before the Committee on Government Reform, House of Representatives

Why GAO Did This Study

Although the U.S. government provides broad protection for intellectual property, intellectual property protection in parts of the world is inadequate. As a result, U.S. goods are subject to piracy and counterfeiting in many countries. A number of U.S. agencies are engaged in efforts to improve protection of U.S. intellectual property abroad. This testimony, based on a recent GAO report, describes U.S. agencies' efforts, the mechanisms used to coordinate these efforts, and the impact of these efforts and the challenges they face.

What GAO Recommends

GAO is not recommending executive action. However, the Congress may wish to review the National Intellectual Property Law Enforcement Coordination Council's authority, operating structure, membership, and mission.

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What GAO Found

U.S. agencies undertake policy initiatives, training and assistance activities, and law enforcement actions in an effort to improve protection of U.S. intellectual property abroad. Policy initiatives include assessing global intellectual property challenges and identifying countries with the most significant problems—an annual interagency process known as the “Special 301” review—and negotiating agreements that address intellectual property. In addition, many agencies engage in training and assistance activities, such as providing training for foreign officials. Finally, a small number of agencies carry out law enforcement actions, such as criminal investigations involving foreign parties and seizures of counterfeit merchandise.

Agencies use several mechanisms to coordinate their efforts, although the mechanisms' usefulness varies. Formal interagency meetings—part of the U.S. government's annual Special 301 review—allow agencies to discuss intellectual property policy concerns and are seen by government and industry sources as rigorous and effective. However, the National Intellectual Property Law Enforcement Coordination Council, established to coordinate domestic and international intellectual property law enforcement, has struggled to find a clear mission, has undertaken few activities, and is generally viewed as having little impact.

U.S. efforts have contributed to strengthened intellectual property legislation overseas, but enforcement in many countries remains weak, and further U.S. efforts face significant challenges. For example, competing U.S. policy objectives take precedence over protecting intellectual property in certain regions. Further, other countries' domestic policy objectives can affect their “political will” to address U.S. concerns. Finally, many economic factors, as well as the involvement of organized crime, hinder U.S. and foreign governments' efforts to protect U.S. intellectual property abroad.

Pirated DVDs from Brazil, China, and Ukraine



Source: GAO.

www.gao.gov/cgi-bin/getrpt?GAO-04-1093T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Loren Yager at (202) 512-4128 or yagerl@gao.gov.

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to discuss our work on U.S. efforts to protect U.S. intellectual property rights (IPR) overseas and our recent report on this topic.¹ As you know, the United States dominates the creation and export of intellectual property—creations of the mind. The U.S. government provides broad protection for intellectual property through means such as copyrights, patents, and trademarks. However, protection of intellectual property in many parts of the world is inadequate. As a result, U.S. goods are subject to substantial counterfeiting and piracy in many countries.

The U.S. government, through numerous agencies, is seeking better intellectual property protection overseas. To understand more fully how U.S. agencies have performed in this regard, you asked us to identify and review their activities. This testimony addresses (1) the specific efforts of U.S. agencies to improve intellectual property protection in other nations, (2) the means used to coordinate these efforts, and (3) challenges facing the enforcement efforts abroad.

To address these issues, we analyzed key U.S. government reports and documents from eight federal agencies and two offices. In addition to meeting with federal officials, we met with officials from key intellectual property industry groups and reviewed reports they had prepared. We also conducted field work in four countries where serious problems regarding the protection of intellectual property have been reported (Brazil, China, Russia, and Ukraine) and met with U.S. embassy and foreign government officials as well as representatives of U.S. companies and industry groups operating in those countries. We conducted our work from June 2003 through July 2004, in accordance with generally accepted government auditing standards.

Summary

U.S. agencies' efforts to improve protection of U.S. intellectual property in foreign nations fall into three categories—policy initiatives, training and assistance activities, and law enforcement actions. The Office of the U.S. Trade Representative (USTR) leads U.S. policy initiatives with an annual assessment known as the “Special 301” review, which results in an annual

¹GAO, *Intellectual Property: U.S. Efforts Have Contributed to Strengthened Laws Overseas, but Challenges Remain*, [GAO-04-912](#) (Washington, D.C.: Sept. 8, 2004).

report detailing global intellectual property challenges and identifying countries with the most significant problems. This report involves input from many U.S. agencies and industry. In addition to conducting policy initiatives, most agencies involved in intellectual property issues overseas also engage in training and assistance activities. Further, although counterterrorism is the overriding U.S. law enforcement concern, U.S. agencies such as the Departments of Justice and Homeland Security conduct law enforcement activities regarding IPR.

Several mechanisms exist to coordinate U.S. agencies' efforts to protect U.S. intellectual property overseas, although the level of activity and usefulness of these mechanisms vary. For example, on the policy side, formal interagency meetings are required each year as part of the U.S. government's annual Special 301 review. Government and industry sources view this effort as effective and thorough. Conversely, the National Intellectual Property Law Enforcement Coordination Council,² which was established to coordinate domestic and international intellectual property law enforcement among U.S. federal and foreign entities, has struggled to find a clear mission, has undertaken few activities, and is perceived by officials from the private sector and some U.S. agencies as having little impact.

U.S. efforts have contributed to strengthened foreign IPR laws, but enforcement overseas remains weak and U.S. efforts face numerous challenges. For example, competing U.S. policy objectives may take priority over protecting intellectual property in certain countries. In addition, the impact of U.S. activities overseas is affected by countries' domestic policy objectives and economic interests, which may complement or conflict with U.S. objectives. Further, economic factors, as well as the involvement of organized crime, pose additional challenges to U.S. and foreign governments' enforcement efforts, even in countries where the political will for protecting intellectual property exists. These economic factors include low barriers to producing counterfeit or pirated goods, potential high profits for producers of such goods, and large price differentials between legitimate and counterfeit products for consumers.

²NIPLECC was mandated under Section 653 of the Treasury and General Government Appropriations Act, 2000, Public Law 106-58 (15 U.S.C. 1128).

Background

Intellectual property is an important component of the U.S. economy, and the United States is an acknowledged global leader in the creation of intellectual property. However, industries estimate that annual losses stemming from violations of intellectual property rights overseas are substantial. Further, counterfeiting of products such as pharmaceuticals and food items fuels public health and safety concerns. USTR's Special 301 reports on the adequacy and effectiveness of intellectual property protection around the world demonstrate that, from a U.S. perspective, intellectual property protection is weak in developed as well as developing countries and that the willingness of countries to address intellectual property issues varies greatly.

Eight federal agencies, as well as the Federal Bureau of Investigation (FBI) and the U.S. Patent and Trademark Office (USPTO), undertake the primary U.S. government activities to protect and enforce U.S. intellectual property rights overseas. The agencies are the Departments of Commerce, State, Justice, and Homeland Security; USTR; the Copyright Office; the U.S. Agency for International Development (USAID); and the U.S. International Trade Commission.³

U.S. Agencies Undertake Three Types of IPR Efforts

The efforts of U.S. agencies to protect U.S. intellectual property overseas fall into three general categories—policy initiatives, training and technical assistance, and U.S. law enforcement actions.

Policy Initiatives

U.S. policy initiatives to increase intellectual property protection around the world are primarily led by USTR, in coordination with the Departments of State and Commerce, USPTO, and the Copyright Office, among other agencies. A centerpiece of policy activities is the annual Special 301 process.⁴ "Special 301" refers to certain provisions of the Trade Act of 1974, as amended, that require USTR to annually identify foreign

³Although the FBI is part of the Department of Justice and the USPTO is part of the Department of Commerce, their roles will be discussed separately because of their distinct responsibilities.

⁴Other policy actions include: use of trade preference programs for developing countries that require IPR protection, such as the Generalized System of Preferences; negotiation of agreements that address intellectual property; participation in international organizations that address IPR issues; and, diplomatic efforts with foreign governments.

countries that deny adequate and effective protection of intellectual property rights or fair and equitable market access for U.S. persons who rely on intellectual property protection. USTR identifies these countries with substantial assistance from industry and U.S. agencies and publishes the results of its reviews in an annual report. Once a pool of such countries has been determined, the USTR, in coordination with other agencies, is required to decide which, if any, of these countries should be designated as a Priority Foreign Country (PFC).⁵ If a trading partner is identified as a PFC, USTR must decide within 30 days whether to initiate an investigation of those acts, policies, and practices that were the basis for identifying the country as a PFC. Such an investigation can lead to actions such as negotiating separate intellectual property understandings or agreements between the United States and the PFC or implementing trade sanctions against the PFC if no satisfactory outcome is reached.

Between 1994 and 2004, the U.S. government designated three countries as PFCs—China, Paraguay, and Ukraine—as a result of intellectual property reviews. The U.S. government negotiated separate bilateral intellectual property agreements with China and Paraguay to address IPR problems. These agreements are subject to annual monitoring, with progress cited in each year’s Special 301 report. Ukraine, where optical media piracy was prevalent, was designated a PFC in 2001. The United States and Ukraine found no mutual solution to the IPR problems, and in January 2002, the U.S. government imposed trade sanctions in the form of prohibitive tariffs (100 percent) aimed at stopping \$75 million worth of certain imports from Ukraine over time.

Training and Technical Assistance

In addition, most of the agencies involved in efforts to promote or protect IPR overseas engage in some training or technical assistance activities. Key activities to develop and promote enhanced IPR protection in foreign countries are undertaken by the Departments of Commerce, Homeland Security, Justice, and State; the FBI; USPTO; the Copyright Office; and USAID. Training events sponsored by U.S. agencies to promote the enforcement of intellectual property rights have included enforcement programs for foreign police and customs officials, workshops on legal reform, and joint government-industry events. According to a State

⁵PFCs are those countries that (1) have the most onerous and egregious acts, policies, and practices with the greatest adverse impact (actual or potential) on the relevant U.S. products and (2) are not engaged in good-faith negotiations or making significant progress in negotiations to address these problems.

Department official, U.S. government agencies have conducted intellectual property training for a number of countries concerning bilateral and multilateral intellectual property commitments, including enforcement, during the past few years. For example, intellectual property training was conducted by numerous agencies over the last year in Poland, China, Morocco, Italy, Jordan, Turkey, and Mexico.

U.S. Law Enforcement Efforts

A small number of agencies are involved in enforcing U.S. intellectual property laws, and the nature of these activities differs from other U.S. government actions related to intellectual property protection. Working in an environment where counterterrorism is the central priority, the FBI and the Departments of Justice and Homeland Security take actions that include engaging in multicountry investigations involving intellectual property violations and seizing goods that violate intellectual property rights at U.S. ports of entry. For example, the Department of Justice has an office that directly addresses international IPR problems.⁶ Justice has been involved with international investigation and prosecution efforts and, according to a Justice official, has become more aggressive in recent years. For instance, Justice and the FBI recently coordinated an undercover IPR investigation, with the involvement of several foreign law enforcement agencies. The investigation focused on individuals and organizations, known as “warez” release groups, which specialize in the Internet distribution of pirated materials. In April 2004, these investigations resulted in 120 simultaneous searches worldwide (80 in the United States) by law enforcement entities from 10 foreign countries⁷ and the United States in an effort known as “Operation Fastlink.”

Although investigations can result in international actions such as those cited above, FBI officials told us that they cannot determine the number of past or present IPR cases with an international component because they do not track or categorize cases according to this factor. Department of Homeland Security (DHS) officials emphasized that their investigations

⁶The Computer Crime and Intellectual Property Section (CCIPS) addresses intellectual property issues (copyright, trademark, and trade secrets) within the Department of Justice’s Criminal Division. In April 2004, CCIPS appointed an International Coordinator for Intellectual Property.

⁷These foreign countries were Belgium, Denmark, France, Germany, Hungary, Israel, the Netherlands, Singapore, Sweden, and Great Britain and Northern Ireland. According to a Justice official, law enforcement officials in Spain subsequently took action against related targets in that country.

include an international component when counterfeit goods are brought into the United States. However, DHS does not track cases by a specific foreign connection. The overall number of IPR-oriented investigations that have been pursued by foreign authorities as a result of DHS efforts is unknown.

DHS does track seizures of goods that violate IPR and reports seizures that totaled more than \$90 million in fiscal year 2003. Seizures of IPR-infringing goods have involved imports primarily from Asia. In fiscal year 2003, goods from China accounted for about two-thirds of the value of all IPR seizures, many of which were shipments of cigarettes.⁸ Other seized goods from Asia that year originated in Hong Kong and Korea. A DHS official pointed out that providing protection against IPR-infringing imported goods for some U.S. companies—particularly entertainment companies—can be difficult, because companies often fail to record their trademarks and copyrights with DHS.⁹

Several Mechanisms Coordinate IPR Efforts, but Their Usefulness Varies

Several interagency mechanisms exist to coordinate overseas intellectual property policy initiatives, development and assistance activities, and law enforcement efforts, although these mechanisms' level of activity and usefulness varies.

Formal Interagency Coordination on Trade Policy

According to government and industry officials, an interagency trade policy mechanism established by the Congress in 1962 to assist USTR has operated effectively in reviewing IPR issues. The mechanism, which consists of tiers of committees as well as numerous subcommittees, constitutes the principle means for developing and coordinating U.S. government positions on international trade, including IPR. A specialized

⁸For information on cigarette smuggling, see GAO, *Cigarette Smuggling: Federal Law Enforcement Efforts and Seizures Increasing*, GAO-04-641 (Washington, D.C.: May 28, 2004).

⁹A DHS official noted that the Trade Secrets Act (18 U.S.C. 1905) precludes sharing information about specific imports, even where there is criminal activity. The Trade Secrets Act makes it a criminal offense for an employee of the United States, or one of its agencies, to disclose trade secrets and certain other forms of confidential commercial and financial information except where such disclosure is "authorized by law."

subcommittee is central to conducting the Special 301 review and determining the results of the review.

This interagency process is rigorous and effective, according to U.S. government and industry officials. A Commerce official told us that the Special 301 review is one of the best tools for interagency coordination in the government, while a Copyright Office official noted that coordination during the review is frequent and effective. A representative for copyright industries also told us that the process works well and is a solid interagency effort.

National Intellectual Property Law Enforcement Coordination Council

The National Intellectual Property Law Enforcement Coordination Council (NIPLECC), created by the Congress in 1999 to coordinate domestic and international intellectual property law enforcement among U.S. federal and foreign entities, seems to have had little impact. NIPLECC consists of (1) the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office; (2) the Assistant Attorney General, Criminal Division; (3) the Under Secretary of State for Economic and Agricultural Affairs; (4) the Deputy United States Trade Representative; (5) the Commissioner of Customs; and (6) the Under Secretary of Commerce for International Trade.¹⁰ NIPLECC's authorizing legislation did not include the FBI as a member of NIPLECC, despite its pivotal role in law enforcement. However, according to representatives of the FBI, USPTO, and Justice, the FBI should be a member. USPTO and Justice cochair NIPLECC, which has no independent staff or budget. In the council's nearly 4 years of existence, its primary output has been three annual reports to the Congress, which are required by statute.

According to interviews with industry officials and officials from its member agencies, and as evidenced by its own legislation and reports, NIPLECC continues to struggle to define its purpose and has had little discernable impact. Indeed, officials from more than half of the member agencies offered criticisms of NIPLECC, remarking that it is unfocused, ineffective, and "unwieldy." In official comments to the council's 2003 annual report, major IPR industry associations expressed a sense that NIPLECC is not undertaking any independent activities or effecting any

¹⁰NIPLECC is also required to consult with the Register of Copyrights on law enforcement matters relating to copyright and related rights and matters.

impact. One industry association representative stated that law enforcement needs to be made more central to U.S. IPR efforts and said that although he believes the council was created to deal with this issue, it has “totally failed.” The lack of communication regarding enforcement results in part from complications such as concerns regarding the sharing of sensitive law enforcement information and from the different missions of the various agencies involved in intellectual property actions overseas. According to an official from USPTO, NIPLECC is hampered primarily by its lack of independent staff and funding. According to a USTR official, NIPLECC needs to define a clear role in coordinating government policy. A Justice official stressed that, when considering coordination, it is important to avoid creating an additional layer of bureaucracy that may detract from efforts devoted to each agency’s primary mission.

Despite its difficulties thus far, we heard some positive comments regarding NIPLECC. For example, an official from USPTO noted that the IPR training database Web site resulted from NIPLECC efforts. Further, an official from the State Department commented that NIPLECC has had some “trickle-down” effects, such as helping to prioritize the funding and development of the intellectual property database at the State Department. Although the agency officials that constitute NIPLECC’s membership meet infrequently and NIPLECC has undertaken few concrete activities, this official noted that NIPLECC provides the only forum for bringing enforcement, policy, and foreign affairs agencies together at a high level to discuss intellectual property issues. A USPTO official stated that NIPLECC has potential but needs to be “energized.”

Other Coordination Mechanisms

Other coordination mechanisms include the National International Property Rights Coordination Center (IPR Center) and informal coordination.¹¹ The IPR Center in Washington, D.C., a joint effort between DHS and the FBI, began limited operations in 2000. According to a DHS official, the coordination between DHS, the FBI, and industry and trade associations makes the IPR Center unique. The IPR Center is intended to serve as a focal point for the collection of intelligence involving copyright and trademark infringement, signal theft, and theft of trade secrets. However, the center is not widely used by industry. An FBI official

¹¹ Another coordination mechanism is the IPR Training Coordination Group, led by the State Department. This voluntary, working-level group comprises representatives of U.S. agencies and industry associations involved in IPR programs and training and technical assistance efforts overseas or for foreign officials.

associated with the IPR Center estimated that about 10 percent of all FBI industry referrals come through the center rather than going directly to FBI field offices. DHS officials noted that “industry is not knocking the door down” and that the IPR Center is perceived as underutilized.

Policy agency officials noted the importance of informal but regular communication among staff at the various agencies involved in the promotion or protection of intellectual property overseas. Several officials at various policy-oriented agencies, such as USTR and the Department of Commerce, noted that the intellectual property community was small and that all involved were very familiar with the relevant policy officials at other agencies in Washington, D.C. Further, State Department officials at U.S. embassies regularly communicate with agencies in Washington, D.C., regarding IPR matters and U.S. government actions. Agency officials noted that this type of coordination is central to pursuing U.S. intellectual property goals overseas.

Although communication between policy and law enforcement agencies can occur through forums such as the NIPLECC, these agencies do not systematically share specific information about law enforcement activities. According to an FBI official, once a criminal investigation begins, case information stays within the law enforcement agencies and is not shared. A Justice official emphasized that criminal law enforcement is fundamentally different from the activities of policy agencies and that restrictions exist on Justice’s ability to share investigative information, even with other U.S. agencies.

Enforcement Overseas Remains Weak and Challenges Remain

U.S. efforts have contributed to strengthened foreign IPR laws, but enforcement overseas remains weak. The impact of U.S. activities is challenged by numerous factors. Industry representatives report that the situation may be worsening overall for some intellectual property sectors.

Weak Enforcement Overseas

The efforts of U.S. agencies have contributed to the establishment of strengthened intellectual property legislation in many foreign countries, however, the enforcement of intellectual property rights remains weak in many countries, and U.S. government and industry sources note that improving enforcement overseas is now a key priority. USTR’s most recent Special 301 report states that “although several countries have taken positive steps to improve their IPR regimes, the lack of IPR protection and

enforcement continues to be a global problem.” For example, although the Chinese government has improved its statutory IPR regime, USTR remains concerned about enforcement in that country. According to USTR, counterfeiting and piracy remain rampant in China and increasing amounts of counterfeit and pirated products are being exported from China.

Although U.S. law enforcement does undertake international cooperative activities to enforce intellectual property rights overseas, executing these efforts can prove difficult. For example, according to DHS and Justice officials, U.S. efforts to investigate IPR violations overseas are complicated by a lack of jurisdiction as well as by the fact that U.S. officials must convince foreign officials to take action. Further, a DHS official noted that in some cases, activities defined as criminal in the United States are not viewed as an infringement by other countries and that U.S. law enforcement agencies can therefore do nothing.

Challenges to U.S. Efforts

In addition, U.S. efforts confront numerous challenges. Because intellectual property protection is one of many U.S. government objectives pursued overseas, it is viewed internally in the context of broader U.S. foreign policy objectives that may receive higher priority at certain times in certain countries. Industry officials with whom we met noted, for example, their belief that policy priorities related to national security were limiting the extent to which the United States undertook activities or applied diplomatic pressure related to IPR issues in some countries. Further, the impact of U.S. activities is affected by a country’s own domestic policy objectives and economic interests, which may complement or conflict with U.S. objectives. U.S. efforts are more likely to be effective in encouraging government action or achieving impact in a foreign country where support for intellectual property protection exists. It is difficult for the U.S. government to achieve impact in locations where foreign governments lack the “political will” to enact IPR protections.

Many economic factors complicate and challenge U.S. and foreign governments’ efforts, even in countries with the political will to protect intellectual property. These factors include low barriers to entering the counterfeiting and piracy business and potentially high profits for producers. In addition, the low prices of counterfeit products are attractive to consumers. The economic incentives can be especially acute in countries where people have limited income. Technological advances allowing for high-quality inexpensive and accessible reproduction and distribution in some industries have exacerbated the problem. Moreover,

many government and industry officials believe that the chances of getting caught for counterfeiting and piracy, as well as the penalties when caught, are too low. The increasing involvement of organized crime in the production and distribution of pirated products further complicates enforcement efforts. Federal and foreign law enforcement officials have linked intellectual property crime to national and transnational organized criminal operations. Further, like other criminals, terrorists can trade any commodity in an illegal fashion, as evidenced by their reported involvement in trading a variety of counterfeit and other goods.¹²

Many of these challenges are evident in the optical media industry, which includes music, movies, software, and games. Even in countries where interests exist to protect domestic industries, such as the domestic music industry in Brazil or the domestic movie industry in China, economic and law enforcement challenges can be difficult to overcome. For example, the cost of reproduction technology and copying digital media is low, making piracy an attractive employment opportunity, especially in a country where formal employment is hard to obtain. The huge price differentials between pirated CDs and legitimate copies also create incentives on the consumer side. For example, when we visited a market in Brazil, we observed that the price for a legitimate DVD was approximately ten times the price for a pirated DVD. Even if consumers are willing to pay extra to purchase the legitimate product, they may not do so if the price differences are too great for similar products. Further, the potentially high profit makes optical media piracy an attractive venture for organized criminal groups. Industry and government officials have noted criminal involvement in optical media piracy and the resulting law enforcement challenges. Recent technological advances have also exacerbated optical media piracy. The mobility of the equipment makes it easy to transport it to another location, further complicating enforcement efforts. Likewise, the Internet provides a means to transmit and sell illegal software or music on a global scale. According to an industry representative, the ability of Internet pirates to hide their identities or operate from remote jurisdictions often makes it difficult for IPR holders to find them and hold them accountable.

¹²See GAO, *Terrorist Financing: U.S. Agencies Should Systematically Assess Terrorists' Use of Alternative Financing Mechanisms*, [GAO-04-163](#) (Washington, D.C.: Nov. 14, 2003).

Industry Concerns

Despite improvements such as strengthened foreign IPR legislation, international IPR protection may be worsening overall for some intellectual property sectors. For example, according to copyright industry estimates, losses due to piracy grew markedly in recent years. The entertainment and business software sectors, for example, which are very supportive of USTR and other agencies, face an environment in which their optical media products are increasingly easy to reproduce, and digitized products can be distributed around the world quickly and easily via the Internet. According to an intellectual property association representative, counterfeiting trademarks has also become more pervasive in recent years. Counterfeiting affects more than just luxury goods; it also affects various industrial goods.

Conclusions

The U.S. government has demonstrated a commitment to addressing IPR issues in foreign countries using multiple agencies. However, law enforcement actions are more restricted than other U.S. activities, owing to factors such as a lack of jurisdiction overseas to enforce U.S. law. Several IPR coordination mechanisms exist, with the interagency coordination that occurs during the Special 301 process standing out as the most significant and active. Conversely, the mechanism for coordinating intellectual property law enforcement, NIPLECC, has accomplished little that is concrete. Currently, there is a lack of compelling information to demonstrate a unique role for this group, bringing into question its effectiveness. In addition, it does not include the FBI, a primary law enforcement agency. Members, including NIPLECC leadership, have repeatedly acknowledged that the group continues to struggle to find an appropriate mission.

The effects of U.S. actions are most evident in strengthened foreign IPR legislation. U.S. efforts are now focused on enforcement, since effective enforcement is often the weak link in intellectual property protection overseas and the situation may be deteriorating for some industries. As agencies continue to pursue IPR improvements overseas, they will face daunting challenges. These challenges include the need to create political will overseas, recent technological advancements that facilitate the production and distribution of counterfeit and pirated goods, and powerful economic incentives for both producers and consumers, particularly in developing countries. Further, as the U.S. government focuses increasingly on enforcement, it will face different and complex factors, such as organized crime, that may prove quite difficult to address.

With a broad mandate under its authorizing legislation, NIPLECC has struggled to establish its purpose and unique role. If the Congress wishes to maintain NIPLECC and take action to increase its effectiveness, the Congress may wish to consider reviewing the council's authority, operating structure, membership, and mission. Such considerations could help NIPLECC identify appropriate activities and operate more effectively to coordinate intellectual property law enforcement issues.

Mr. Chairman, this concludes my prepared statement. I would be pleased to respond to any questions that you or other members of the committee may have at this time.

Contacts and Acknowledgments

Should you have any questions about this testimony, please contact me by e-mail at yagerl@gao.gov or Emil Friberg at friberge@gao.gov. We can also be reached at (202) 512-4128 and (202) 512-8990, respectively. Other major contributors to this testimony were Leslie Holen, Ming Chen, and Sharla Draemel.

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