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The Honorable John Conyers, Jr.
Chairman
The Honorable Lamar S. Smith
Ranking Member
Committee on Judiciary
House of Representatives

The Honorable Howard L. Berman
House of Representatives

The Honorable Howard Coble
House of Representatives

Subject: *Overseas U.S. Government Personnel Involved in Efforts to Protect and Enforce Intellectual Property Rights*

Intellectual property (IP) plays a significant role in the U.S. economy, and the United States is an acknowledged leader in its creation. IP is a category of legal rights that grant owners certain exclusive rights to intangible assets or products of the human intellect, such as inventions; literary and artistic works; and symbols, names, images, and designs.¹ In its June 2008 testimony, GAO reported that U.S. intellectual property rights holders must compete with the global illicit market that is being spurred by economic incentives such as low barriers to entry into counterfeiting and piracy, high profits, and limited legal sanctions if caught. GAO further noted that technology has facilitated the reproduction and distribution of some IP-violating products.² Moreover, intellectual property protection in parts of the world is inadequate. As a result, U.S. goods are subject to widespread piracy and counterfeiting in many countries, resulting in significant economic losses. In addition, many

¹Patents, copyrights, and trademarks are the most common forms of intellectual property protection. A patent is an exclusive right granted for a fixed period of time to someone who invents or discovers a new and useful process, article, composition of matter, or improvement of such items. A copyright is the exclusive right to reproduce, publish, sell, or distribute, for a certain period of time, the expressible form of an idea or information that is substantive and concrete, such as a literary, musical, or artistic work. A trademark is a distinctive sign or indicator, such as a word, phrase, symbol, logo, design, image, or combination thereof that is used by an individual, business organization, or other legal entity to identify uniquely the source of its products or services and to distinguish them from those of other individuals or entities.

²See GAO, *Intellectual Property: Leadership and Accountability Needed to Strengthen Federal Protection and Enforcement*, [GAO-08-921T](#) (Washington, D.C.: June 17, 2008).

IP-violating products, such as counterfeit pharmaceuticals or auto parts, have the potential to threaten public health and safety in the United States and abroad.

A wide range of federal agencies are involved in efforts to protect and enforce intellectual property rights with personnel posted domestically and overseas. In order to improve the coordination of the U.S. government's IP activities, Congress passed the Prioritizing Resources and Organization for Intellectual Property Act of 2008. Title III of that legislation created a new interagency intellectual property enforcement advisory committee composed of representatives of specified departments and agencies involved in IP enforcement. It authorizes the President to appoint an Intellectual Property Enforcement Coordinator (IPEC) position within the Executive Office of the President to chair the new advisory committee.³ Among other things, the IPEC is to lead the committee in the development of a Joint Strategic Plan to reduce counterfeiting and other types of IP infringement in the United States and overseas, and to assist in the implementation of the Joint Strategic Plan when requested by advisory committee members.

To help the new Coordinator assess the resources available to promote and protect IP rights overseas, the House Judiciary Committee asked GAO to provide information on U.S. government personnel overseas who play a role in efforts to improve the protection and enforcement of IP rights abroad. This report describes the federal agencies that have personnel posted overseas who conduct activities related to IP enforcement and protection and their respective roles and responsibilities.

To address these objectives, we obtained and reviewed documentation on overseas personnel from the Departments of Commerce (Commerce), Health and Human Services (HHS), Homeland Security (DHS), Justice (DOJ) and State (State), and from the Office of the United States Trade Representative (USTR) and the United States Agency for International Development (USAID). Each of these agencies has U.S. government personnel overseas who are involved in intellectual property efforts.⁴ To gain further information on the types of U.S. government personnel overseas involved in IP activities and their respective roles, we also interviewed knowledgeable officials from Commerce, HHS, DHS, DOJ, State, and USTR. Additionally, we obtained and reviewed reports from the National Intellectual Property Law Enforcement Coordination Council (NIPLECC) and the Bush administration's Strategy for Targeting Organized Piracy (STOP), a presidential initiative, to gain further information on U.S. government agencies involved in IP efforts and the personnel these agencies have overseas who support these efforts. We solicited technical comments from all the agencies discussed in this report and incorporated their comments as appropriate. We conducted this engagement from August 2008 to February 2009.

As part of the same request from the House Judiciary Committee, we plan to complete an additional report on the U.S. government's efforts to encourage the protection and enforcement of IP rights overseas in the fall of 2009. This report will provide a detailed assessment of the U.S. government's IP-related activities in three case study countries that have historically had significant IP problems.

³Under the legislation, the IPEC replaces the interagency National Intellectual Property Law Enforcement Coordination Council, which Congress created in 1999.

⁴Given the cross-cutting nature of IP there may be other U.S. government personnel overseas who also play a role in efforts to protect and enforce IP that are not discussed in the report.

Multiple U.S. Government Agencies Have Personnel Overseas Involved in IP Activities, but the Extent to Which They Focus on IP Varies Widely

Multiple U.S. government agencies have personnel posted overseas who play a role in protecting and enforcing intellectual property rights, as shown in table 1. However, the extent to which these personnel are focused on IP varies widely because of a variety of factors. The number of personnel at the overseas offices in table 1 varies from agency to agency and also varies from office to office within an agency.

Table 1: Federal Agencies with U.S. Government Personnel Overseas Involved in IP Activities, as of the End of Fiscal Year 2008

Agency / division	Overseas office	Types of personnel with IP duties	Number of overseas offices	Number of countries with offices
Department of Commerce (Commerce)				
United States Patent and Trademark Office (USPTO)	IP Attaché offices	IP Attachés	6	5
International Trade Administration (ITA)	Foreign Commercial Service offices	Foreign Commercial Service officers	126	77
Department of Justice (DOJ)				
Criminal Division	Intellectual Property Law Enforcement Coordinators (IPLECs)	Attorneys	2	2
	DOJ Attaché offices	Attorneys	10 ^a	10 ^a
	International Criminal Investigative Training Assistance Program (ICITAP) field offices	Program managers	17	17
	Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) Resident Legal Advisers	Attorneys	48	28
Federal Bureau of Investigation (FBI)	Legal Attaché offices	Agents	75	65
Office of the United States Trade Representative (USTR)				
Department wide	USTR field office	Attorneys and trade specialists	1	1
	USTR Representatives	USTR Representatives	2	2
Department of State (State)				
Department wide	Embassies/consulates	Economic, political, and public affairs officers	253	168
Department of Homeland Security (DHS)				
Customs and Border Protection (CBP)	CBP Attaché offices	Officers, trade specialists, border patrol agents	20	20
Immigration and Customs Enforcement (ICE)	ICE Attaché offices	Agents and intelligence research specialists	54	42
United States Agency for International Development (USAID)				
Department wide	Field missions	Foreign Service officers	84	81
Department of Health and Human Services (HHS)				
Food and Drug Administration (FDA)	FDA field offices	Inspectors, technical experts	0 ^b	0 ^b

Source: GAO analysis of agency data.

Key: Overseas offices with positions that have IP protection and enforcement as their primary mission are in bold type.

^aThe IPLEC in Thailand also serves as a DOJ Attaché. Thus, this person is counted twice in the table.

^bFDA did not have any offices open as the end of fiscal year 2008, but as of February 1, 2009, FDA had opened offices in four countries.

Two of the agencies listed in table 1, USPTO and the DOJ, have established specific positions overseas that have IP protection and enforcement as their primary mission, and two other agencies, USTR and State, have staff members in Geneva who specialize in IP protection.

- USPTO created IP Attaché positions specifically to address IP issues in their host countries and regions. The attachés are responsible for working on a range of IP activities in coordination with other federal agencies, U.S. industry, and foreign counterparts.
- DOJ has appointed two federal prosecutors with IP expertise to serve as IPLECs in Thailand and Bulgaria. The two IPLECs are tasked with advancing DOJ's IP goals in their respective regions through a combination of training, technical assistance, and outreach. Although IP is a central part of the mission of the IPLEC in Thailand, this person also serves as a DOJ Attaché and is responsible for a range of DOJ functions beyond IP.
- USTR has a staff member on detail from USPTO who works exclusively on IP issues at the World Trade Organization in Geneva, Switzerland.⁵
- State has a staff member on detail from USPTO as well, who works exclusively on IP issues at the World Intellectual Property Organization in Geneva.⁶

For the majority of the types of U.S. government personnel shown in table 1, IP activities are just one part of a diverse portfolio of responsibilities. For instance, agents at ICE's attaché offices may participate in IP-related investigations, but are also responsible for investigating national security threats, human trafficking, narcotics smuggling, child pornography/exploitation, and immigration fraud. As another example, Foreign Commercial Service officers are responsible for promoting and protecting U.S. commercial interests abroad and assisting U.S. companies as they seek to expand into foreign markets. Thus, assistance with intellectual property issues is just one of a range of services that Foreign Commercial Service officers provide to U.S. companies.

Several factors influence the amount of time spent on IP activities among personnel overseas who have a range of responsibilities that extend beyond IP, according to officials we interviewed from various agencies.

- *The extent to which IP has been designated as a priority by their agencies.* Depending on the other responsibilities agencies' overseas personnel have, IP is assigned differing levels of priority. For instance, law enforcement agencies such as ICE and FBI have competing priorities such as protecting national security that generally take precedence over IP.

⁵The World Trade Organization, which was established in 1995, administers rules for international trade, provides a mechanism for settling disputes, and offers a forum for conducting trade negotiations.

⁶The World Intellectual Property Organization, which was established in 1967, is a specialized United Nations agency that promotes the use and protection of IP.

- *The extent to which the U.S. ambassador in a country has made IP a priority.* Each ambassador outlines the U.S. government goals and priorities in the post's Mission Strategic Plan for their country, setting expectations for all U.S. government personnel there. Thus, personnel will typically place more focus on IP if it has been made a priority at their post.
- *The extent to which the United States has identified a country as having serious IP problems.* If IP has historically been an area of concern in a country, as it has in China or Russia, personnel there are more likely to spend a larger share of their time on IP.
- *The extent to which personnel in a location have knowledge of and experience with IP issues.* Overseas agency personnel do not necessarily receive specific training on IP, so they may focus more or less on IP activities depending on their background. For instance, CBP officials stated that the CBP attaché in Thailand has a strong background in IP, so he has been more involved in IP efforts than some of the other CBP attachés in other countries.
- *The composition of U.S. government personnel in a country.* Specific roles often shift from country to country depending on the composition of agency personnel at each post. For instance, in countries with USPTO IP attachés, these personnel perform certain IP work that might have otherwise been the responsibility of State Economic officers or Foreign Commercial Service officers.

Because of these factors, some of the types of U.S. personnel in table 1 may be heavily involved in IP issues in some countries and do little or no IP-related work in other countries. Since the extent of IP effort varies across personnel, countries, and agencies, we were not able to identify the total resources each agency has allocated to IP activities overseas.

Overseas U.S. Government Personnel Are Involved in a Range of IP-Related Activities

Overseas U.S. government personnel are involved in a wide range of IP-related activities, as shown in figure 1.

Figure 1: Key IP Responsibilities of U.S. Government Personnel Overseas

Key IP responsibilities of U.S. government personnel overseas	Lead U.S. government agencies/divisions overseas	Examples of key activities
Advancement of U.S. IP policy	USTR, State, USPTO, ITA	<ul style="list-style-type: none"> Negotiating new bilateral and multilateral IP agreements Monitoring foreign countries' implementation of existing IP agreements Assessing and reporting on weaknesses in foreign countries' IP protection and enforcement regimes
Dialogue with foreign counterparts on IP issues	USTR, State, USPTO, ITA, DOJ (IPLECs), CBP, ICE, FDA, FBI	<ul style="list-style-type: none"> Participating in bilateral working groups, such as the United States-China Strategic Economic Dialogue Participating in international organizations such as the World Customs Organization or the World Trade Organization Conducting ongoing discussions with foreign counterparts
Training and technical assistance for foreign counterparts	USPTO, State, USAID, DOJ (ICITAP, OPDAT, IPLECs), ICE, CBP, FBI	<ul style="list-style-type: none"> Holding seminars and workshops for foreign counterparts to instruct them on IP protection and enforcement matters Advising foreign governments on the drafting of strengthened IP laws and regulations Educating foreign counterparts on the U.S. system for protecting and enforcing IP Conducting longer-term programs to build capacity among foreign counterparts to protect and enforce IP laws
Support for U.S. companies	USPTO, ITA, State	<ul style="list-style-type: none"> Counseling individual companies on options available to protect their intellectual property overseas Producing materials, such as IPR Toolkits, to educate companies on steps they need to take to protect their IP in countries Conducting seminars and workshops to educate companies on the steps they need to take to protect their IP in countries Raising U.S. industry IP concerns with foreign governments
Enforcement of IP laws and regulations	ICE, CBP, FBI, DOJ (DOJ Attaches), USTR	<ul style="list-style-type: none"> Gathering information in support of U.S.-based IP investigations Working with foreign law enforcement officials to generate investigative leads concerning suspected IP violators Assisting foreign law enforcement officials conduct operations against IP violators Helping foreign counterparts target shipments suspected to contain IP-violating goods Preparing international litigation against countries violating IP agreements
Public awareness of IP issues	State, USPTO, ITA	<ul style="list-style-type: none"> Working to increase awareness of the harms associated with IP-violating goods among the public in foreign countries Educating foreign companies on how strong IP protections in their countries benefit them

Source: GAO analysis of agency data.

We have included an enclosure that provides more details, by agency, on the roles and responsibilities of U.S. government personnel overseas involved in IP protection and enforcement activities.

We are sending copies of this report to interested congressional committees; the Secretaries of the Departments of Commerce, Health and Human Services, Homeland Security, and State; the Attorney General; and the U.S. Trade Representative. We will provide copies to others on request. This report will also be available at no charge on GAO's Web site at <http://www.gao.gov>.

We will send copies of this report to other interested parties. If you or your staffs have any questions about this report, please contact me at (202) 512-4347 or yagerl@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Other GAO staff who made key contributions to this report are Christine Broderick (Assistant Director), Karen Deans, Martin de Alteriis, Ernie Jackson, Nina Pfeiffer, and Ryan Vaughan.

A handwritten signature in black ink that reads "Loren Yager". The signature is written in a cursive style with a large initial "L".

Loren Yager
Director, International Affairs and Trade

Enclosure

Enclosure 1: Roles and Responsibilities of U.S. Government Personnel Overseas Involved in Intellectual Property Protection and Enforcement Activities, By Agency

This enclosure provides information, by department and agency, on the roles and responsibilities of U.S. government personnel overseas involved in intellectual property (IP) protection and enforcement activities.

Department of Commerce

United States Patent and Trademark Office IP Attachés

The United States Patent and Trademark Office (USPTO) created its IP Attaché program to address country-specific and regional IP problems in key parts of the world.⁷ USPTO's first IP Attaché was posted in Beijing, China, in 2004. USPTO placed an additional attaché in Beijing in 2006 and an attaché in Guangzhou, China, in 2007. During 2006 and 2007, USPTO also expanded the program to five other countries: Egypt, Thailand, Russia, Brazil, and India. As of February 1, 2009, both attaché positions in Beijing were vacant.⁸ USPTO officials told us they are in the process of filling both slots. Additionally, the U.S. mission in Egypt did not reauthorize the attaché position there, so that position ended in September 2008. USPTO officials told us they are currently seeking a different site in the Middle East to post an IP attaché. As of February 1, 2009, there were five IP attachés stationed overseas.⁹

USPTO has established a range of IP responsibilities for the attachés. One of these is to serve as liaisons with foreign counterparts and work to engage these counterparts in an ongoing dialogue about IP issues. Along with this, the attachés perform and help organize IP-related training and technical assistance for host country officials. Additionally, the attachés work with foreign counterparts to encourage strengthened IP laws and regulations and monitor the implementation of existing IP protections. For example, the attaché in Russia has worked closely with the Russian government to ensure that its laws are consistent with international agreements on IP. The IP attachés are also tasked with establishing and leading interagency IP working groups with their U.S. government colleagues at their post in order to better coordinate U.S. government IP activities in their host country. For instance, the former attaché in Beijing established an IP task force at the embassy that included personnel from multiple agencies including ICE, FBI, USTR, and State. In addition, the IP attachés are intended to serve as advisors to other federal agencies on their host countries' IP systems. For instance, the attaché in India has developed an interagency mailing list that provides updates on emerging IP issues in Southeast Asia. According to USPTO officials, another IP attaché responsibility is to ensure that systemic issues in a country's IP rights regime are brought to the attention of appropriate U.S. and

⁷Although the IP Attaché program is managed by USPTO, the attachés are posted overseas as Foreign Commercial Service officers (their official title is IPR Commercial Officer) and report to the Senior Commercial Officer at their respective posts. For each attaché position, USPTO has entered into a memorandum of understanding with the International Trade Administration, U.S. & Foreign Commercial Service (ITA/USFCS), to outline certain roles and responsibilities associated with the position.

⁸The first Beijing IP attaché left in August 2008 and the second in November 2008.

⁹USPTO also has foreign service nationals in Shanghai, China and Cairo, Egypt who are responsible for IP issues. These locations were not counted in table 1 of this report.

host government officials. The IP attaché is also a resource for U.S. rights holders, periodically raising issues with the host country government on behalf of U.S. companies, and educating them on the IP environment in the host country. Finally, the attachés seek to communicate to the public and domestic industry in their host countries about the importance of protecting intellectual property rights.

International Trade Administration Foreign Commercial Service Officers

According to International Trade Administration (ITA) officials, ITA had 126 Foreign Commercial Service offices overseas in 77 countries at the end of fiscal year 2008. ITA officials stated that 40 of these offices have at least 2 officers posted at them, with the largest Foreign Commercial Service presence in China, Mexico, India, and Brazil. Foreign Commercial Service officers are responsible for promoting and protecting U.S. commercial interests abroad and assisting U.S. companies as they seek to expand into foreign markets.

According to ITA officials, the priority given to IP issues depends on the post and the need; however, the officials stated that Foreign Commercial Service officers are becoming increasingly involved in IP efforts, particularly in the United States' top 20 export markets. ITA officials also noted that since ITA's Office of Intellectual Property Rights was created, in 2004 it has worked closely with Foreign Commercial Service officers to ensure that there is more focus on monitoring countries' compliance with IP-related provisions in trade agreements. Foreign Commercial Service officers are also responsible for assisting businesses in their efforts to ensure that their IP is protected overseas. For instance, some Foreign Commercial Service offices have assisted in developing IP toolkits for key export markets and have also performed outreach seminars with prospective exporters in order to educate them on the steps they need to take to protect their IP rights. ITA officials told us that if U.S. companies are experiencing problems with IP violations in a country, Foreign Commercial Service officers will also work with the companies to determine possible courses of action, assess whether U.S. government action is warranted, and in some cases raise the issue with host governments. As part of their responsibilities, Foreign Commercial Service officers also work with trade show organizers, exhibitors, and attendees to promote IP protection in their host countries.

Department of Justice

Intellectual Property Law Enforcement Coordinators

The Department of Justice's (DOJ) two Intellectual Property Law Enforcement Coordinator (IPLEC) positions in Thailand and Bulgaria, respectively, were created in response to a recommendation in DOJ's 2004 intellectual property task force report.¹⁰ DOJ appointed the first IPLEC in Thailand in 2006 and posted the second IPLEC in Bulgaria a year later. According to DOJ, the agency did not actually post an additional person overseas in Thailand, but capitalized on the fact that the newly appointed DOJ Attaché already in Bangkok was an experienced IP crimes prosecutor. Thus, DOJ took advantage of the existing resource and designated this person as the IPLEC. The IPLEC in Thailand continues to have attaché duties that extend beyond IP.

¹⁰Department of Justice, *Report of the Department of Justice's Task Force on Intellectual Property* (Washington, D.C.: October 2004).

The two IPLECs are tasked with advancing DOJ's IP goals in their respective regions. According to DOJ officials, the two IPLECs' roles are somewhat different because the IPLEC in Bulgaria is currently funded by State's Bureau of International Narcotics and Law Enforcement Affairs. DOJ officials stated that because of this, the IPLEC in Bulgaria is focused on training, technical assistance, and outreach, since these are the focus of the Bureau of International Narcotics and Law Enforcement Affairs. DOJ officials told us that unlike the IPLEC in Bulgaria, the IPLEC in Thailand provides investigative support for some IP cases in addition to his training, technical assistance, and outreach responsibilities. According to DOJ officials, since the creation of the program, the two IPLECs have traveled extensively throughout their regions, speaking at conferences and building relationships with overseas counterparts that work on IP issues. For example, in October 2007, the IPLEC in Thailand hosted a conference that included over 60 law enforcement officials from 12 Southeast Asian countries. The goal of the conference was to create an Intellectual Property Crimes Enforcement Network (IPCEN) that would serve as a forum for cooperation on IP issues. The IPLEC in Bulgaria has been involved in technical assistance activities such as participating in a Bulgarian government working group seeking to draft improvements in IP laws. In addition to their work with foreign counterparts, the IPLECs are responsible for performing outreach with U.S. industry representatives in their regions to build awareness of DOJ IP activities and to promote greater cooperation on IP protection and enforcement activities.

Department of Justice Attachés

At the end of fiscal year 2008, DOJ had attachés posted in 10 locations: Rome, Mexico City, Brussels, San Salvador, Paris, London, Manila, Cairo, Bogotá, and Bangkok.¹¹ These attachés are DOJ attorneys. DOJ officials stated that while intellectual property is an area of emphasis for the attachés, it is just one of many areas in which they spend their time. Thus, DOJ officials stated that all the DOJ attachés are available to do IP work, but the extent to which they actually perform IP casework depends on the IP cases that arise in the country and how they are weighed against other priorities.

According to DOJ officials, the DOJ attachés work with U.S. and foreign law enforcement officials, prosecutors, and judges on a range of criminal cases and investigations, including those related to IP violations. DOJ officials stated that among other things, attachés are responsible for collecting evidence, locating fugitives, and working to extradite suspects. DOJ officials also stated that a key part of the attachés' job is to build relationships with their foreign counterparts and to provide advice and assistance on investigative matters. In addition, DOJ officials told us the attachés are responsible for developing a working understanding of the legal systems in the countries in their region. Thus, they are able to help inform their U.S. colleagues about important legal issues and can put them in touch with key people in their host countries' government.

¹¹As noted in the discussion of the IPLECs, the IPLEC in Bangkok is also a DOJ attaché.

International Criminal Investigative Training Assistance Program Field Offices

The International Criminal Investigative Training Assistance Program (ICITAP) had 17 field offices around the world at the end of fiscal year 2008.¹² ICITAP's field offices work with host countries to develop and implement training and technical assistance programs designed to increase the capacity of countries' law enforcement agencies and institutions. While all the field offices are staffed by DOJ employees who serve as program managers, much of the day-to-day delivery of the ICITAP field offices' programs is done by contractor personnel. ICITAP has identified 13 areas in which it has subject matter expertise, including transnational crime. Intellectual property crimes are one type of transnational crime that ICITAP has identified as a programmatic focus.

DOJ officials stated that to this point, ICITAP has been responsible for two programs specifically focused on IP. The first of these is in Ukraine. Through this program, ICITAP has provided training to Ukraine's State Department of Intellectual Property on investigative techniques for IP cases. In addition, ICITAP has provided Ukraine with equipment such as computers and camcorders to assist in IP investigations. ICITAP's second IP-specific program is in Indonesia. Through this program, ICITAP has worked with the Indonesian National Police to improve their capabilities to gather forensic evidence and to train them in other investigative techniques. Additionally, ICITAP has been working with the Ministry of Industry to implement new optical disc regulations with stronger IP protections. Beyond these two programs, DOJ officials said that IP is at times a component of larger programs that deal with organized crime in countries such as Colombia and Bosnia.

Office of Overseas Prosecutorial Development, Assistance and Training Resident Legal Advisors

The Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) had 48 Resident Legal Advisors placed in 28 countries at the end of fiscal year 2008. Resident Legal Advisors, who are typically DOJ attorneys, are posted overseas for at least one year to assist in developing the skills of foreign prosecutors, investigators, and judges. The Resident Legal Advisors also work with their foreign counterparts on legislative and judicial reform and seek to help promote respect for the rule of law. Additionally, Resident Legal Advisors seek to build positive working relationships with foreign counterparts in an effort to facilitate cooperation between the United States and their host countries on law enforcement matters.

OPDAT has identified cyber and intellectual property crime as one of its seven core areas of focus that are critical to the mission of DOJ's Criminal Division and that represent serious international crime threats. Resident Legal Advisors have been responsible for providing IP training in several countries around the world. For instance, according to DOJ, the Resident Legal Advisor in Brazil has worked with other U.S. government colleagues to conduct seminars for 300 Brazilian investigators, prosecutors, and judges on the investigation and prosecution of intellectual property crimes. In Russia, OPDAT's two Resident Legal Advisors have worked with Russian prosecutors to improve their ability to prosecute complex crimes, including those involving IP violations.

¹²ICITAP's field offices are located in Albania, Azerbaijan, Bosnia-Herzegovina, Colombia, Indonesia, Iraq, Kosovo, Kyrgyzstan, Macedonia, Moldova, Nepal, Pakistan, the Philippines, Serbia, Tajikistan, Thailand, and Ukraine.

At the end of fiscal year 2008, the Federal Bureau of Investigation (FBI) had 61 Legal Attaché offices (Legats) and an additional 14 suboffices throughout the world. According to the FBI, the core mission of the Legats is to serve as liaisons with law enforcement and security services in their host countries. Through the Legal Attaché program, the FBI hopes to facilitate the exchange of information between foreign counterparts and U.S. law enforcement and intelligence agencies. To this end, the Legats are responsible for coordinating requests for foreign law enforcement assistance in support of U.S.-based investigations and also assist foreign law enforcement with requests for investigative assistance in the United States. According to the FBI, another element of the Legats' mission is to provide international training. The FBI states that this training is designed to improve foreign law enforcement officials' skills in both basic and advanced investigative techniques and principles, to assist with evidence collection, and to help build a spirit of cooperation.

According to FBI officials, Legats do participate in cases involving IP violations; however, the Legats have a broad range of investigative responsibilities, of which IP is just one component. Officials from FBI's Cyber Crime Fraud Unit, which is the FBI headquarters unit that handles IP cases, stated that they are often in contact with the Legats and rely on them to assist in following up on IP-related leads with foreign counterparts. The Cyber Crime Fraud Unit officials said that the Legats also generate some IP leads that are forwarded to their unit. At times, the Legats also work to follow up on IP leads that have been forwarded from industry. Some Legats have also helped provide IP-related training overseas. For instance, the Legat in Brazil has worked with law enforcement officials there to instruct them on how to do searches and seizures of IP-violating goods.

Office of the United States Trade Representative

At the end of fiscal year 2008, the Office of the United States Trade Representative (USTR) had individual representatives stationed in China and Belgium and personnel stationed in a field office in Geneva, Switzerland. USTR personnel have been in place in Geneva and Belgium since the early 1980s, with the representative to China first stationed there in 2007. According to USTR, its representatives in China and Belgium are responsible for a variety of bilateral trade issues that include IP. USTR officials told us that in the Geneva office there is one staff person who is on detail from USPTO who works exclusively on IP issues at the World Trade Organization (WTO). In addition, USTR officials told us that there are other USTR attorneys and trade specialists at the Geneva office who spend a substantial amount of time on IP issues.

These various USTR personnel have a variety of IP-related responsibilities. In Geneva, USTR staff are responsible for representing the United States at the World Trade Organization's Trade-related Aspects of Intellectual Property Rights (TRIPS) Council and TRIPS Council Special Session.¹³ For example, staff in the office were responsible for working to put together the WTO litigation challenging China's implementation of the TRIPS agreement. Additionally, staff in the Geneva office support the State Department in representing the United States at the United Nations' World Intellectual Property

¹³TRIPS came into force in 1995. Under TRIPS, all WTO member countries are obligated to establish a minimum standard of laws and regulations protecting copyrights, trademarks, patents, and other forms of IP rights.

Organization. USTR officials told us that in both Belgium and China the representatives are responsible for engaging their host governments on IP issues. For instance, the representative in China is responsible for doing preparation and follow-up for the United States-China IP Working Group. In addition, these representatives are responsible for monitoring IP developments in their host countries and for gathering information on IP issues in support of USTR's Special 301 Process.¹⁴ For example, the representative in China also supported USTR's development of its TRIPS litigation against China at the World Trade Organization.

Department of State

The Department of State (State) has a presence in almost every country in the world, with embassies in 168 countries as of the end of fiscal year 2008. As the U.S. government's lead foreign policy and diplomatic agency, State and its overseas personnel are responsible for a variety of activities designed to improve the protection and enforcement of IP around the globe. According to State officials, the level of priority given to IP issues depends on the post. Goals and priorities are outlined by the ambassador in the post's Mission Strategic Plan for the country, which may make IP protection and enforcement a priority. Various State personnel at its embassies, consulates, and other missions overseas are involved in IP activities, including economic, political, and public affairs officers. According to State, each of its overseas posts has an officer assigned to take the lead on IP issues. State told us that there is some variation among posts, but that this role is typically filled by an economic officer. According to State, the amount of time that this person will spend on IP varies from post to post. This can depend on the individual's portfolio as well as other factors such as the composition of agency personnel represented at the post and post priorities.

Among their various IP responsibilities, State personnel overseas are responsible for engaging foreign counterparts in ongoing dialogues on IP issues and also participate in various bilateral and multilateral groups that address IP issues. For instance, State's Mission to the United Nations in Geneva participates in the activities of the World Intellectual Property Organization (WIPO). As part of these efforts, State has an official on detail from USPTO, who works exclusively on WIPO issues. Additionally, State personnel are responsible for monitoring and reporting on host countries' IP problems and the implementation of IP-related agreements. According to State, its overseas personnel also help arrange IP training and technical assistance for foreign counterparts and provide input on how to improve regulatory and legal protections for IP. Overseas State personnel also engage in public diplomacy efforts designed to increase awareness about the importance of IP among the public in their host country.

¹⁴Special 301 refers to certain provisions of the Trade Act of 1974, as amended, that require USTR to annually identify foreign 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.

Department of Homeland Security

Customs and Border Protection Attachés

Customs and Border Protection (CBP) initiated its attaché program in 2004 and as of the end of fiscal year 2008 had established 20 attaché offices around the world.¹⁵ The majority of these offices have a single CBP official posted to them, with the largest office, in Mexico City, having five CBP officials. CBP attachés work with foreign counterparts on a variety of CBP programs and initiatives, such as the Visa Waiver Program, the Immigration Advisory Program and the Customs-Trade Partnership Against Terrorism.

CBP has identified IP as one of its seven “priority trade issues” and it also cites it as one of the programmatic areas of focus for the attaché offices. However, since the attaché offices are responsible for supporting all of CBP’s functions, IP is just one of a range of subjects that the attachés must address. CBP attachés are responsible for various IP-related activities, including providing training and technical assistance on IP, assisting host countries in targeting shipments suspected of containing IP-infringing goods, and working with host countries on improving laws and regulations protecting IP. According to CBP officials, the amount of time that the attachés spend on IP varies from region to region. In places, such as China, where the U.S. government has significant concerns related to IP, the CBP attachés make it a key focus.

Immigration and Customs Enforcement Attachés

Immigration and Customs Enforcement (ICE) had 54 attaché offices and suboffices in 42 countries around the world at the end of fiscal year 2008. According to ICE, these offices range in size from 1 to 18 staff members, with the largest offices in Mexico City, Manila, and Rome. Each of ICE’s attaché offices is responsible for supporting a diverse portfolio of international investigations that include national security threats, financial and smuggling violations, commercial fraud, human trafficking, narcotics smuggling, child pornography/exploitation, and immigration fraud.

ICE officials stated that the extent to which IP cases are a focus at attaché offices varies and is contingent on the extent to which IP violations occur in the country in which the office is located. According to ICE officials, the attaché offices do not have agents who are specifically dedicated to IP cases. Like the offices as a whole, each agent posted overseas has a variety of cases on which he or she is working. According to ICE officials, the attaché offices act as extensions of domestic field offices and the National Intellectual Property Rights Coordination Center¹⁶ on IP cases. In this capacity, the attaché offices will often receive requests for assistance from domestic field offices on IP cases. When such requests are received, the attaché offices will work with foreign counterparts to gather information in support of the investigation. At other times, the attaché offices work with their foreign

¹⁵The CBP attachés are also known as CBP Representatives. The CBP attachés are located in Belgium, Brazil, Canada, China, the Dominican Republic, Egypt, Germany, Hong Kong, India, Italy, Japan, Kenya, Korea, Mexico, Panama, Singapore, South Africa, Thailand, the Netherlands, and the United Kingdom.

¹⁶The ICE-led National Intellectual Property Rights Coordination Center was established to help coordinate the federal government’s efforts to fight against IP rights violators and the flow of counterfeit goods into the commerce of the United States. According to ICE officials, the IPR Center has a three-pronged strategy in the fight against intellectual property crime: investigation, interdiction, and outreach/training.

counterparts to assist in host country investigations or generate leads for U.S. cases. Other leads may be generated through outreach with U.S. companies and industry associations or as the result of CBP seizures at U.S. ports of entry. ICE officials said that in addition to their casework, ICE attachés are also responsible for providing training and technical assistance to their foreign counterparts, including on IP.

United States Agency for International Development

The United States Agency for International Development (USAID) had 84 field missions in 81 countries as of the end of fiscal year 2008. These missions range in size from 1 to over 50 Foreign Service officers, with the average mission having 11 Foreign Service officers. USAID's overseas personnel at its field missions are responsible for administering a variety of programs designed to foster economic growth, improve public health, encourage democracy and provide disaster relief among other things.

USAID has undertaken IP activities as part of some of its programs overseas. According to USAID officials, USAID provides technical assistance relating to trade agreements. In some cases, USAID has been responsible for working with foreign governments to reform their IP regulatory and legal regimes. For instance, USAID worked with Jordan to improve its IP laws in support of its membership in the WTO. Overseas USAID personnel have also been responsible for working with countries to increase enforcement of existing IP laws and regulations.

Food and Drug Administration

Historically, the Food and Drug Administration (FDA) has not had staff permanently posted overseas, but as part of its Beyond our Borders initiative it has begun to open a series of offices. The first of FDA's offices opened in China in November 2008. As of February 1, 2009, FDA had also opened offices in Belgium, India, and Costa Rica. Other offices are planned for Europe, Latin America, and the Middle East. By the end of fiscal year 2010, FDA plans to have hired 43 U.S. government officials to staff these offices. The offices will have a mix of inspectors and technical experts. According to FDA officials, the key mission of the new offices will be to improve the safety of food and medical products imported into the United States.¹⁷ Among other things, FDA officials report that the offices will be responsible for providing technical advice to counterparts, gathering additional information about how host countries produce and transport food and medical devices, communicating U.S. expectations to foreign governments and industry, conducting additional inspections, and combating counterfeiting and the intentional adulteration of products.

In regard to IP-related activities, FDA officials stated that the field offices may be tasked with providing input to FDA headquarters on IP problems in their host countries related to FDA-regulated products and that the offices may also play a role in working with other federal agencies to address those IP issues that have been identified. The offices will also potentially play a role in helping implement FDA agreements with foreign governments that

¹⁷IP enforcement is not part of FDA's mission or its enforcement priorities; however, FDA carries out IP-related enforcement actions in fulfilling its mission to protect public health and safety, such as investigation of criminals that traffic in counterfeit pharmaceuticals.

have IP-related components.¹⁸ According to FDA officials, the offices are not intended to be used to support criminal investigations conducted by FDA's Office of Criminal Investigations. However, FDA officials stated that there may be times when the overseas offices will be called on to gather information in support of a case.

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¹⁸For instance, FDA officials stated that the field office in China will help implement a November 2007 memorandum of understanding with China's State Food and Drug Administration that has a section on increased collaboration between the two countries on combating counterfeit pharmaceuticals.

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