



REPORT TO THE PRESIDENT AND CONGRESS ON COORDINATION OF INTELLECTUAL PROPERTY ENFORCEMENT AND PROTECTION

JANUARY 2008

The National Intellectual Property Law
Enforcement Coordination Council

REPORT TO THE PRESIDENT AND CONGRESS ON
COORDINATION OF INTELLECTUAL PROPERTY
ENFORCEMENT AND PROTECTION

THE NATIONAL INTELLECTUAL PROPERTY LAW
ENFORCEMENT COORDINATION COUNCIL

JANUARY 2008

UNITED STATES COORDINATOR FOR
INTERNATIONAL INTELLECTUAL PROPERTY ENFORCEMENT

UNITED STATES DEPARTMENT OF COMMERCE
UNITED STATES DEPARTMENT OF HOMELAND SECURITY
UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES DEPARTMENT OF STATE
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

UNITED STATES COPYRIGHT OFFICE (ADVISOR TO THE COUNCIL)

National Intellectual Property Law Enforcement Coordination Council

Principals

Chris S. Israel

U.S. Coordinator for International Intellectual Property Enforcement

W. Ralph Basham

Commissioner of Customs, U.S. Customs and Border Protection

United States Department of Homeland Security

John K. Veroneau

Deputy United States Trade Representative

Office of the United States Trade Representative

Jon W. Dudas

Under Secretary of Commerce for Intellectual Property and

Director of the United States Patent and Trademark Office

United States Department of Commerce

Alice S. Fisher

Assistant Attorney General for the Criminal Division

United States Department of Justice

Reuben Jeffrey III

Under Secretary of State for Economic, Energy and Agricultural Affairs

United States Department of State

Julie L. Myers

Assistant Secretary, United States Immigration and Customs Enforcement

United States Department of Homeland Security

Christopher A. Padilla

Under Secretary of Commerce for International Trade

United States Department of Commerce

Table of Contents

| | |
|---|-----|
| Table of Contents | v |
| Letter of Transmittal | vii |
| Executive Summary | 1 |
| Introduction | 3 |
| History of NIPLECC | 3 |
| History of STOP! Initiative | 4 |
| NIPLECC and STOP! Synergy | 5 |
| U.S. Coordinator for International IP Enforcement | 6 |
| NIPLECC Annual Report “Scorecard” | 7 |
| The NIPLECC Agencies | 12 |
| Head of Council | 13 |
| Council Co-Chairs | 13 |
| Council Members | 14 |
| Additional U.S. Government Agencies | 18 |
| NIPLECC 2007 Year in Review | 21 |
| I. Empowering American Innovators | 21 |
| II. Increasing Efforts to Seize Goods at the Border | 28 |
| III. Pursuing Criminal Enterprises | 33 |
| Selected Results of Criminal Enforcement Efforts | 38 |
| IV. Working Closely and Creatively with U.S. Industry | 42 |
| V. Aggressively Engaging our Trading Partners | 46 |
| Multilateral Initiatives | 46 |
| Bilateral Activities | 51 |

Spotlight on: U.S. Intellectual Property Attachés 63

Spotlight on: Public Health & Safety 73

Outlook, Objectives, and Priorities for 2008 79

Glossary of Acronyms 85

IP Attaché Contact Information 89

** Individual NIPLECC Agency Appendices are available online at www.stopfakes.gov*

Letter of Transmittal

To the President of the United States and to the Committees on Appropriations and the Judiciary of the Senate and House of Representatives:

This is the sixth annual report on the activities of the National Intellectual Property Law Enforcement Coordination Council (“NIPLECC” or “Council”) submitted pursuant to 15 U.S.C. 1128(e). This report continues to build upon the improvements made in the 2006 report, which was the first submitted after Public Law 108-447 established the U.S. Coordinator for International Intellectual Property Enforcement (Coordinator) at the head of the Council and charged the Council with coordinating and overseeing the Federal Government’s intellectual property protection and enforcement efforts.

The current report contains significantly more data and analysis, and establishes the precedent of submitting the report early in the calendar year so that we can provide the full results of our intellectual property (IP) enforcement efforts which have been typically reported by agencies on a fiscal year basis.

We have also attempted to provide greater detail on the full range of U.S. Government activities focused on IP enforcement and to analyze more fully the extensive interagency coordination that has supported substantial progress in the past year. This is done to demonstrate our commitment to a permanent and sustainable approach to IP enforcement that is focused on clear strategic goals.

The reasons for our efforts remain clear, but our task remains daunting.

Through the applied talents of American inventors, researchers, entrepreneurs, artists, and workers, we have achieved the most dynamic and sophisticated economy the world has ever witnessed. The world is a much better place due to these efforts. We have delivered life-saving drugs and products that make people more productive. We have developed entirely new industries and set loose the imaginative power of entrepreneurs everywhere. And, we set trends and market best-of-class products to nearly every country on earth.

Yet the global and pervasive theft of intellectual property puts this innovation and creativity in jeopardy. Rampant piracy remains all too common in major markets throughout the world, and IP theft continues to be a serious problem here at home. This is not a crime that affects only large corporations. Piracy and counterfeiting threaten individual artists and inventors as well as our small businesses and our most entrepreneurial industries. It also poses major health and safety risks to American consumers.

The Bush Administration has consistently made the promotion and protection of IP a major priority, and this attention is manifested most clearly in the Strategy Targeting Organized Piracy (STOP!) Initiative launched in 2004. The STOP! Initiative provides White House and Cabinet-level leadership, establishes a clear set of objectives, and enables the Federal Government to coordinate more closely and consistently to maximize its resources. STOP! has become the strategic plan for the activities of NIPLECC, and this report documents the efforts made in the past year to meet the objectives of STOP! and further American leadership on the critical issue of intellectual property enforcement.



Chris Israel

U.S. Coordinator for International Intellectual Property Enforcement

National Intellectual Property Law Enforcement Coordination Council

Executive Summary

The Strategy Targeting Organized Piracy, or STOP!, is the Bush Administration's landmark initiative for protecting intellectual property (IP) worldwide. Now in its fourth year, the STOP! Initiative has provided the guiding principles for the Administration to accomplish numerous goals on behalf of American rightsholders, both domestically and internationally. The Administration has made IP enforcement a major trade and economic priority.

Guided by STOP!, the agencies of the National Intellectual Property Law Enforcement Coordination Council (NIPLECC) are maintaining the commitment of senior Administration officials, achieving positive results, institutionalizing an unprecedented level of coordination within the Federal Government, and receiving attention around the world. The Bush Administration's message is that intellectual property enforcement is critical to the United States and that we will leverage the extensive resources and capabilities of the Federal Government to address the serious problem of counterfeiting and piracy. The Administration is working with its trading partners who have mutual interests to enhance our combined efforts in the global fight against counterfeiting and piracy.

Fiscal Year 2007 yielded record increases in IP-related investigations and prosecutions, enhanced border enforcement, increased emphasis on the annual Special 301 Review, expanded engagement within the World Trade Organization (WTO) in an attempt to resolve IP-related trade disputes, the launch of a major multilateral anti-counterfeiting initiative, deepened bilateral and multilateral relationships with foreign countries, and redoubled focus by all agencies on the public health and safety implications of counterfeit goods.

Even with increased focus and resources dedicated to the fight, counterfeiting and piracy continue to affect the United States and the global economy in profound ways. With that in mind, the NIPLECC agencies continue to identify new approaches to better protect our national and international interests—economic, health and safety, and security—from these illicit activities. This Report to the President and Congress on Coordination of Intellectual Property Enforcement and Protection details these efforts.

The structure of this Report reflects enhancements that have been made to clearly present individual and collective initiatives and accomplishments of the NIPLECC agencies, address lessons we have learned and analyze existing programs and policies. We have also considered how each can be improved and complemented to make the U.S. Government more effective domestically and internationally.

Finally, this Report lays out a comprehensive strategy for NIPLECC agencies in FY2008. Short and long-term goals are identified, with a specific focus on the priorities of the STOP! Initiative.

Introduction

History of NIPLECC

On September 29, 1999, Congress established the National Intellectual Property Law Enforcement Coordination Council (NIPLECC), via Public Law No. 106-58, section 633, as part of its Treasury/Postal Appropriations Bill. Per this statute, NIPLECC is an interagency council responsible for coordinating U.S. domestic and international IP enforcement activities. This has included coordinating official training and technical assistance programs, reaching out to U.S. industry, increasing public awareness, and serving as a law enforcement liaison.

Under 15 U.S.C. 1128(a), NIPLECC includes the following members: Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office; Assistant Attorney General, Criminal Division; the Under Secretary of State for Economic and Agricultural Affairs; the Deputy United States Trade Representative; the Commissioner of Customs; and the Under Secretary of Commerce for International Trade. The Council also consults with the Register of Copyrights on law enforcement matters relating to copyrights. The U.S. Department of Justice and the U.S. Patent and Trademark Office serve as the Council's co-chairs. Under 15 U.S.C. 1128(e), NIPLECC is required to report annually on its coordination activities to the President and to the Committees on Appropriations and the Judiciary of the Senate and the House of Representatives.

The NIPLECC statute was amended in 2004, when Congress created the Presidentially appointed Coordinator for International Intellectual Property Enforcement (“Coordinator”), via Public Law 108-447. The Coordinator was directed to be the head of NIPLECC with duties to include: (1) the establishment of

policies, objectives, and priorities concerning international intellectual property protection and enforcement; (2) the development of a strategy for protecting intellectual property overseas; and (3) the coordination and oversight of agency activities relating to the implementation of such policies and strategy to protect and enforce intellectual property rights. In July 2005, President Bush appointed Chris Israel to serve as the first IP Enforcement Coordinator and establish the office within the Office of the Secretary at the U.S. Department of Commerce.

History of STOP! Initiative

In October of 2004, the Bush Administration launched the Strategy Targeting Organized Piracy (STOP!), an unprecedented initiative to address the problem of counterfeiting and piracy. The White House-led STOP! Initiative brought together the NIPLECC agencies and the Food and Drug Administration to develop the most comprehensive initiative ever advanced to fight global piracy and counterfeiting. The goal was, and is, to preserve the competitiveness of the U.S. economy and to ensure the safety of Americans. STOP! is built on five key objectives:

1. Empower American innovators to better protect their rights at home and abroad
2. Increase efforts to seize counterfeit goods at our borders
3. Pursue criminal enterprises involved in piracy and counterfeiting
4. Work closely and creatively with U.S. industry
5. Aggressively engage our trading partners to join our efforts

Piracy and counterfeiting confront many industries, take place in many countries, and demand continuous attention by industry and governments. The Bush Administration remains committed to disrupting trade in pirated and counterfeit goods, and the STOP! Initiative is the Administration's road map.



President George W. Bush speaks to the APEC Business Summit on Sept. 7, 2007 in Sydney, Australia, at which leaders addressed intellectual property rights issues and multilateral initiatives. President Bush has made intellectual property enforcement and protection, both domestically and internationally, a priority for his Administration. (Source: The White House)

NIPLECC and STOP! Synergy

We continue to see NIPLECC and STOP! as fulfilling the critical requirements for advancing our overarching effort to promote and protect American intellectual property. NIPLECC provides the institutional and permanent framework that connects relevant U.S. Government agencies and makes them accountable to the President and Congress. Our approach has been to use the tools NIPLECC provides: a congressional mandate; empowerment of senior officials; accountability requirements; and, since FY2005, appropriated funds as a foundation to carry out the objectives articulated by the Bush Administration's STOP! Initiative. This has proven a very workable and effective approach. NIPLECC provides a well-understood structure while STOP! provides a strategic direction under the leadership of the White House and with a commitment from Cabinet officials.

Since the introduction of a Presidentially-appointed IP Enforcement Coordinator and annual funding, it is our view that NIPLECC has provided a valuable framework to continue to focus and improve U.S. IP enforcement efforts. What will be required is the ongoing commitment from Congress and subsequent administrations to maintain IP enforcement as a major policy priority. It will also be essential for future Congresses and administrations to have the flexibility to establish their own IP enforcement goals and strategies and be confident that they have an infrastructure to carry them out. A key objective for the coming year is to solidify the U.S. IP enforcement infrastructure in order to empower even stronger efforts in the future.

U.S. Coordinator for International Intellectual Property Enforcement

The Office of the U.S. Coordinator for International Intellectual Property Enforcement (“Office of the IP Coordinator” or “Coordinator’s Office”) works to leverage the capabilities and resources of the United States to promote effective, global enforcement of intellectual property rights.

As the statutory head of the National Intellectual Property Law Enforcement Coordination Council, the Coordinator is also empowered with the direct responsibility, among other critical tasks, to promulgate a strategy for protecting American intellectual property overseas. That strategy is STOP!. The Strategy Targeting Organized Piracy has been adopted by NIPLECC as the official strategy of the United States Government for combating counterfeiting and piracy. Under the umbrella of NIPLECC, U.S. Government agencies have been charged with the responsibility to carry out the goals of the STOP! Initiative in a concerted, comprehensive effort to attain real results against the global scourge of counterfeiting and piracy, which continues to threaten America’s economic engines, and the health, safety, and security of its citizens.

NIPLECC Annual Report “Scorecard”

In September of 2006, the Office of the IP Coordinator released its first Annual Report to the President on the Coordination of Intellectual Property Enforcement and Protection. This report expanded on previous reports submitted by NIPLECC by detailing the Administration’s collaborative interagency work in achieving the STOP! Initiative’s goals. This year’s report not only showcases agencies’ individual and collaborative work; it assesses the success of the programs and proposes areas for additional effort by agencies and improved coordination through NIPLECC and the Office of the IP Coordinator.

In the 2006 Report, each NIPLECC agency identified goals for 2007. The following is a score card on the progress toward achieving those goals. In most cases, targeted initiatives have been launched and finite tasks completed. Those goals are marked “A” for “accomplished.” In some cases, work has begun, but no firm commitment from partners has been obtained, or the project is expected to take additional time before being considered completed. In those cases, the goal is marked “P” for “progress ongoing.”

| Goals/Initiatives | Accomplished (A) or In Progress (P) |
|--|--|
| IP Enforcement Coordinator’s Office | |
| ■ Execute on key elements of the US-EU and G8 intellectual property action strategies. | P |
| ■ Enhance coordination of U.S. IP training and capacity-building programs, building upon the work of the IPR Training Coordination Group. | P |
| ■ Work with the private sector to maximize government support for industry-led IP enforcement activities and to build a better understanding of technological approaches being deployed to protect IP. | A |
| ■ Support development of an expanded repository of information on global IP enforcement actions. | A |

| Goals/Initiatives | Accomplished (A) or In Progress (P) |
|--------------------------|--|
|--------------------------|--|

Department of Commerce/U.S. Patent and Trademark Office

- | | |
|---|---|
| <ul style="list-style-type: none"> ■ Pursue plans to post seven additional IP attachés abroad in late 2006: in Bangkok for the Asia region, in Sao Paolo for Latin America, in Cairo for the Middle East and Africa, in Moscow for Russia and the CIS, in New Delhi for India and South Asia, and two additional IP Attachés in China. | A |
| <ul style="list-style-type: none"> ■ Extend ongoing Global Intellectual Property Academy Programs for foreign officials at the USPTO training academy in Alexandria and provide IP training, trade capacity building, and technical assistance in the U.S. and abroad. | A |
| <ul style="list-style-type: none"> ■ Extend IP education outreach events for small and medium-sized businesses, including China- focused programs; increasing the USPTO presence at trade shows. | A |

Department of Commerce/International Trade Administration

- | | |
|---|---|
| <ul style="list-style-type: none"> ■ Build upon principles contained in IP cooperation agreements with Japan and the EU (developing best practices, sharing information, streamlining procedures and strengthen technical assistance efforts). | P |
| <ul style="list-style-type: none"> ■ Work with the Coalition Against Counterfeiting and Piracy to further develop the “No Trade in Fakes” program (voluntary guidelines for companies to protect their supply chains from counterfeit products). | A |
| <ul style="list-style-type: none"> ■ Create, in conjunction with the Small Business Administration, an IP chapter for the Globally Accessible Database for Small and Medium Enterprises to help educate and guide American businesses operating overseas on securing effective protection and enforcement of their IP. | A |
| <ul style="list-style-type: none"> ■ Promote protection of IP at domestic and international trade fairs through educational campaigns and official relationships. | A |

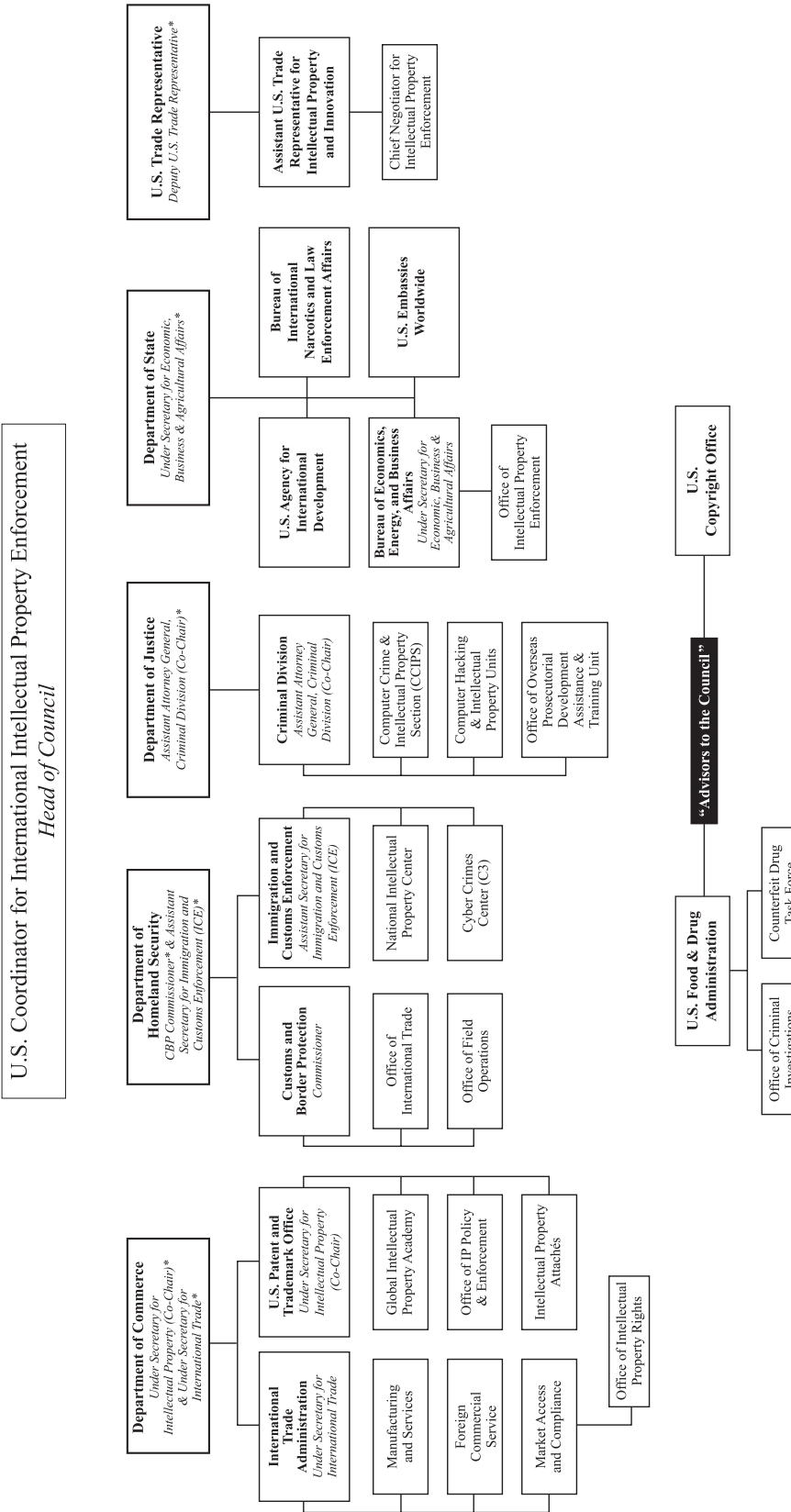
| Goals/Initiatives | Accomplished (A) or In Progress (P) |
|---|--|
| Department of Homeland Security/U.S. Customs and Border Protection | |
| ■ Continue improving CBP's Intellectual Property Rights e-Recordation (IPRR) system by adding an online recordation renewal feature. | P |
| ■ Create online infringement allegation forms for both rights holders and CBP field personnel to streamline Headquarters' review and response process. | P |
| ■ Work toward full implementation of the IPR risk-assessment model to enhance the identification of counterfeit and pirated goods at U.S. borders. | A |
| ■ Continue Post-entry Verifications ("IPR audits") to help rid supply chains of fakes and deprive counterfeiters and pirates of illicit profits. | A |
| ■ Establish a link from the U.S. Copyright Office website to the CBP's Intellectual Property Rights eRecordation system to make it easier for right owners to provide information on their rights to CBP. | A |
| ■ Enhance CBP's ability to detect counterfeit and pirated goods by promoting product identification training sessions with industry representatives. | A |
| Department of Homeland Security/U.S. Immigration and Customs Enforcement | |
| ■ Increase outreach efforts to industry and government partners to better identify vulnerabilities through which counterfeit goods can be trafficked. | A |
| ■ Continue to partner with foreign governments to enhance joint transnational IP investigative and enforcement activities, particularly focusing on foreign manufacturers and distributors of counterfeits. | A |
| ■ Enhance the use of the National IPR Coordination Center to initiate industry outreach presentations and to refer investigative leads to field offices. | P |
| ■ Support enhanced efforts of the ICE/Cyber Crimes Center (C3) in targeting criminal organizations responsible for producing, smuggling, and distributing counterfeit products via the Internet. | P |

| Goals/Initiatives | Accomplished (A) or In Progress (P) |
|--|--|
| Department of Justice | |
| ■ Support enactment of legislation and ratification of treaties protecting IP. | A |
| ■ Increase the deployment of domestic and foreign-based resources focused on IP investigations and prosecutions. | A |
| ■ Establish through the Asia IP Law Enforcement Coordinator an Intellectual Property Prosecution and Investigation Network. | A |
| ■ Launch the National Educational Prevention Teacher Training Initiative co-sponsored and co-funded by DOJ and USPTO. | P |
| Department of State | |
| ■ Support implementation of the G8 and US-EU Action Plans on IP Enforcement. | P |
| ■ Build upon the significantly expanded training of Embassy staffs in IP issues, to increase their effectiveness as first responders to U.S. industry, as implementers of other agencies' IP agendas, as advocates for enforcement improvements and as outreach specialists in building support for IP protection abroad. | A |
| ■ Stage additional IP regional training events for regional officers. In 2005, State staged two major IP training events for officers in Africa and Latin America, bringing them together with USG IP experts and U.S. industry representatives. New tactics were identified and enforcement partnerships formed. Recognizing the contribution these events have made to USG effectiveness on IP issues in the field, State has made this cycle of training events permanent. In late 2006, State conducted a training event for officers serving in the Middle East and Europe, and in the first half of 2008 will conduct another event for officers in the East Asia and Pacific regions. | A |
| ■ Institutionalize and expand the new “Musical Ambassadors for IPR” international program, which employs an existing public-diplomacy funded program for U.S. musicians touring abroad to deliver “protect IP and protect your local culture” message to international musicians and audiences. | P |

| Goals/Initiatives | Accomplished (A) or In Progress (P) |
|--|--|
| Office of the U.S. Trade Representative | |
| <ul style="list-style-type: none"> ■ Establish priorities of the new Intellectual Property office and the newly-created Chief Negotiator for Intellectual Property Enforcement; the new Chief Counsel for China Trade Enforcement and the newly-formed China Enforcement Task Force. | A |
| <ul style="list-style-type: none"> ■ Work closely with other U.S. Government agencies to deepen intellectual property alliances worldwide by means of positive engagement through bilateral trade dialogues (such as with the EU, Japan, and India, among others), and through the G8, APEC, the Security and Prosperity Partnership (Canada and Mexico) and other multilateral forums. | A |
| <ul style="list-style-type: none"> ■ Use the Special 301 process and other trade tools, including World Trade Organization (WTO) tools, as appropriate to seek resolution of U.S. concerns regarding IP protection and enforcement. Key activities will include Special 301 reviews of U.S. trading partners, the unprecedented special provincial review of China, and continued engagement with Russia through both bilateral and multilateral avenues. | A |
| <ul style="list-style-type: none"> ■ Ensure that the intellectual property provisions of U.S. trade agreements meet U.S. objectives in the field of intellectual property, such as reflecting a high standard of protection similar to U.S. law and providing for strong enforcement. | A |
| The Copyright Office | |
| <ul style="list-style-type: none"> ■ Continue its mission of providing useful education and training on copyright internationally by hosting semi-annual workshops in conjunction with WIPO. The workshops are attended by high-level officials from developing and newly industrialized countries and are designed to encourage the development of effective intellectual property laws and enforcement overseas. | A |

The NIPLECC Agencies

National Intellectual Property Law Enforcement Coordination Council



*Represents the department on the NIPLECC Council

Head of Council

Office of the U.S. Coordinator for International Intellectual Property Enforcement

The Office of the IP Coordinator works to leverage the capabilities and resources of the U.S. Government to promote effective global protection and enforcement of intellectual property rights. Under the leadership of the White House, the IP Enforcement Coordinator directs inter-agency initiatives such as the Strategy Targeting Organized Piracy (STOP!) and coordinates outreach with both the private sector and international trading partners.

Council Co-Chairs

Department of Justice

The Department of Justice pursues a comprehensive, multi-dimensional approach to fight IP crime. This approach addresses many different, yet essential, aspects of intellectual property enforcement, including criminal, civil and antitrust; crime prevention; and global cooperation. The overall effort is determined by the Department's Task Force on Intellectual Property, led by the Attorney General, with substantial input from the U.S. Attorney's Offices; the Criminal, Civil, and Antitrust Divisions; and the Federal Bureau of Investigation (FBI).

The Criminal Division's Computer Crime and Intellectual Property Section (CCIPS)—together with the network of approximately 230 Computer Hacking and Intellectual Property (CHIP) Unit prosecutors in U.S. Attorneys' Offices across the country—lead the Department's implementation of its national and international criminal enforcement initiatives to better protect intellectual property rights worldwide.

U.S. Patent and Trademark Office

USPTO's Office of Intellectual Property Policy and Enforcement provides training for foreign government officials both in the U.S. and through various programs around the world. In conducting training, the USPTO partners with other government entities dealing with IP including the Departments of Homeland Security, Justice, and State; USTR; the Copyright Office; and other government agencies.

USPTO also works closely with USTR to assist in the negotiating and drafting of IP provisions of free trade and other international agreements. Additionally, the USPTO assists foreign governments by reviewing IP policies and standards, works with the World Intellectual Property Organization (WIPO), and participates in international cooperation meetings and multilateral conferences on IP issues.

Council Members

Department of Commerce

The International Trade Administration (ITA) within the Department of Commerce is charged with monitoring the compliance and implementation of bilateral and multilateral trade agreement obligations committed to by U.S. trading partners, including those related to IP protection and enforcement. ITA's various offices work together, and with other federal agencies, to promote the IP rights of U.S. companies abroad.

ITA advances the interests of U.S. business in forums at home and abroad that address the protection and enforcement of intellectual property rights. ITA also focuses on resolving IP-related market access and trade agreement compliance problems abroad through casework.

Department of Homeland Security – U.S. Customs and Border Protection

U.S. Customs and Border Protection (CBP) is a component agency within the U.S. Department of Homeland Security (DHS). CBP's primary mission is to detect and prevent terrorists and illegal weapons from entering the United States, while facilitating the orderly and efficient flow of legitimate trade and travel at and through our Nation's borders. CBP is vested with the authority and mandate to enforce a number of U.S. trade laws, including those related to the enforcement of intellectual property rights.

CBP's Trade Enforcement program is embodied in the agency's "National Trade Strategy," which directs actions and resources around several "Priority Trade Issues," including IP enforcement. IP enforcement is integrated into the work of several offices throughout CBP, and the agency provides considerable resources, diverse personnel, and focused training to its officers to enable them to respond to IP issues.

With respect to intellectual property rights, CBP enforces U.S. IP laws by detaining, seizing, forfeiting, and destroying counterfeit and pirated goods imported into the United States. CBP also excludes from entry into the United States goods that violate IP laws that are the subject of an Exclusion Order issued by the U.S. International Trade Commission (ITC).

CBP works closely with the DHS component organization Immigration and Customs Enforcement, to affect criminal IP enforcement actions, and works closely with other U.S. Government law enforcement and trade policy agencies on domestic and international IP border enforcement and policy matters.

Department of Homeland Security – Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE), the largest investigative arm of DHS, is responsible for eliminating vulnerabilities in the nation's border and in U.S. economic, transportation, and infrastructure security. ICE plays a leading role in targeting criminal organizations responsible for producing, smuggling, and distributing counterfeit products. ICE investigations focus not only on keeping

counterfeit products off U.S. streets, but also on dismantling the criminal organizations behind these activities.

ICE agents use a variety of assets and resources to combat the problems of counterfeiting and piracy including:

- National Intellectual Property Rights Coordination Center—created in 2000 and staffed with agents and analysts from ICE, CBP, and the FBI, the IPR Center assists in the U.S. Government’s domestic and international efforts against IP violations. The center serves as a liaison between private industry and law enforcement in targeting IP crimes. ICE agents throughout the country rely upon the IPR Center for guidance in their investigations.
- ICE Cyber Crimes Center (C3)—ICE agents in the United States and abroad work closely with the ICE Cyber Crimes Center to combat the problem of piracy and related IP violations over the Internet. The C3 is ICE’s state-of-the-art center for computer-based investigations, providing expertise and tools to help agents target Internet piracy. The Cyber Crimes Center works closely with the IPR Center.
- 51 ICE Attaché Offices overseas—ICE has attachés in roughly 39 countries around the globe that coordinate investigative efforts with the host government’s law enforcement agencies. Since the majority of counterfeit goods in the United States are produced abroad, domestic ICE agents work closely with the ICE attachés to coordinate international investigations.

Federal Bureau of Investigation

The Federal Bureau of Investigation's (FBI) intellectual property enforcement program is managed by the Cyber Crime Fraud Unit (CCFU) in its Cyber Division in Washington, D.C. The CCFU provides administrative and operational support to field offices focusing on IP crimes affecting national and economic security, including theft of trade secrets, Internet piracy, trafficking in counterfeit goods and consumer protection related to IP theft.

In addition to overseeing and supporting the IP program in the 56 field offices nationwide, and legal attachés assigned to U.S. Embassies throughout the world, FBI-CCFU acts as the central coordination point for intellectual property undercover IP operations with multi-district or international targets. FBI-CCFU provides administrative oversight to the investigating field office, as well as additional resources to supplement the investigation such as funding and personnel. Finally, FBI-CCFU coordinates domestic and international efforts with other agencies and industry groups, and also works closely with the Department of Justice's Criminal Division to prosecute IP crimes at home and to address international enforcement challenges.

Department of State

The State Department, through its Office of Intellectual Property Enforcement (IPE) and the Crimes Program Division of the Bureau of International Narcotics and Law Enforcement Affairs (INL) promotes the protection and enforcement of IP. The Department works closely with other U.S. Government agencies on international IP policy formulation, enforcement efforts, bilateral and multilateral IP negotiations, and the delivery of criminal law enforcement training and technical assistance to foreign law enforcement partners. IPE and INL co-chair the U.S. Government's Training Coordination Group (TCG). The TCG is an interagency group that provides a forum for agencies and businesses engaged in IP enforcement training to identify funding and manage programs to maximize the efficiency and effectiveness of U.S. IP training efforts. The Department's Embassies and Missions abroad play a central role in supporting U.S. intellectual property enforcement objectives internationally. The Department is

also working with its Embassies and Missions overseas on global, public diplomacy campaigns to build understanding of the value of intellectual property and reducing the demand for pirated and counterfeit products.

Office of the U.S. Trade Representative

The Office of the U.S. Trade Representative—working in close cooperation with other federal agencies, U.S. rightsholders and foreign governments—uses the full range of trade policy tools on the multilateral and bilateral fronts to provide international leadership on IP enforcement issues. These tools include negotiation of free trade agreements (FTAs) and trade and investment framework agreements (TIFAs); WTO accession negotiations and bilateral discussions of IP issues. USTR also leads the Special 301 review process; U.S. trade preference programs; bilateral and multilateral dispute settlement mechanisms; and forges international alliances.

Additional U.S. Government Agencies

U.S. Copyright Office

The Copyright Office provides expert assistance to Congress, federal departments and agencies, and the Judiciary on domestic and international copyright and related matters. By statute (Public law No. 106-58, Section 653(c)), the Register of Copyrights serves in a consultative capacity to the NIPLECC.

Food and Drug Administration

The Food and Drug Administration (FDA) is actively involved in protecting intellectual property through its regulatory responsibilities for comestibles and pharmaceuticals. FDA investigates criminal activity regarding products it regulates through its Office of Criminal Investigations (OCI). In response to concerns of increased criminal violations of the Food Drug and Cosmetic Act (FDCA), OCI was established in March 1992 by the FDA Commissioner, with the urging of Congress. In relation to IP

enforcement, OCI investigates violations of U.S Criminal Code 18 USC 2320 and FDCA 21 USC 331(i). OCI routinely coordinates counterfeit investigations and intelligence with other federal law enforcement agencies, especially ICE, and with local and state authorities.

NIPLECC 2007 Year in Review

The preceding pages provide an overview of the leadership structure of NIPLECC and progress that has been made in 2007. The following sections detail the multifaceted actions taken by the United States and highlight examples of how effective coordination has resulted in stronger global IP enforcement over the past year.¹

I. EMPOWERING AMERICAN INNOVATORS

The first step toward combating counterfeiting and piracy is to ensure that inventors, entrepreneurs, artists, and businesses are well-equipped to protect their own IP. The U.S. Government is actively working to educate the private sector, especially U.S. small and medium-sized enterprises (SMEs) on the various challenges they may face. This section showcases the resources and tools NIPLECC agencies have developed to enable U.S. rightsholders to assess their IP, make smart decisions about deploying it, and engage in enforcement-related self-help when necessary.

www.STOPfakes.gov

The Office of the IP Coordinator launched a redesigned Stopfakes.gov website on April 26, 2007—World Intellectual Property Day—bringing a renewed focus to gathering and disseminating information and

¹ The structure of this report follows the outline of the Bush Administration's STOP! Initiative to effectively present an extensive amount of information. It is important to note, however, that some of the efforts made by the U.S. Government to protect IP precede and extend beyond the framework laid out by STOP!.

updates from all involved federal agencies on events, initiatives, and results. The website provides all of the published resources below for easy access for all IP owners.

Stopfakes.gov has seen a steady increase in its online activity within the last year: in FY2007, the site had more than 75,000 visitors, up from 44,000 in FY2006.

Businesses are also able to file complaints about IP-related trade problems on Stopfakes.gov, which are processed by Department of Commerce staff. Commerce staff will in turn work with the complainant and relevant NIPLECC agencies to address the issue, helping businesses secure and enforce their IP.

IP Enforcement Hotline

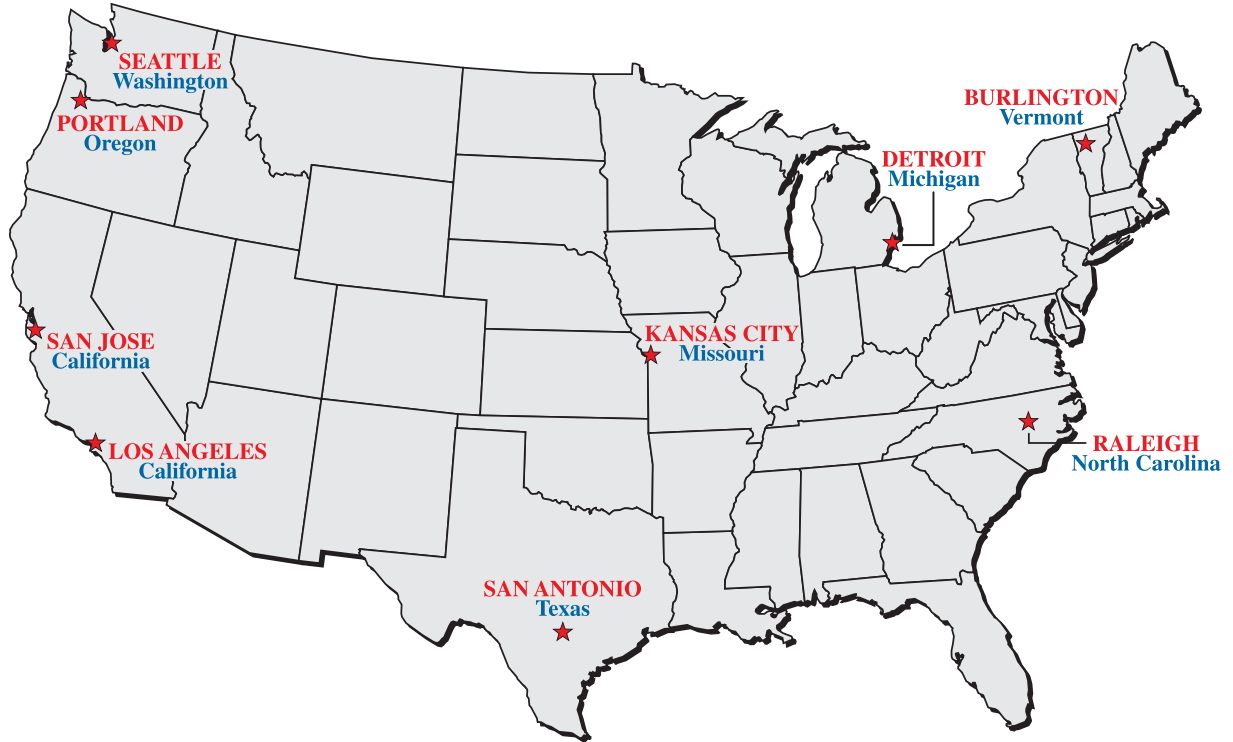
USPTO manages a hotline (1-866-999-HALT) that helps businesses leverage U.S. Government resources to protect their intellectual property rights in the United States and abroad. A staff of over three-dozen intellectual property attorneys at USPTO with expertise on how to secure patents, trademarks, and copyrights, and enforcement of these rights throughout the world is available to answer callers' questions.

Use of the IP Enforcement hotline has steadily grown each year since its inception in 2005. In 2005, the hotline received 955 calls; in 2006, 1460 calls; and in 2007, 1730 calls.

Reaching out to U.S. Businesses Nationwide

USPTO has reached hundreds of U.S. businesses through a series of conferences on intellectual property and the global marketplace. USPTO has partnered with the U.S. Chamber of Commerce to offer these conferences that provide the basics of patent, trademark, and copyrights and in-depth information on protecting and enforcing IP both domestically and abroad. In 2007, USPTO and the Chamber reached 1,300 individuals representing hundreds of SMEs in the following cities across the United States: Raleigh, Detroit, Burlington, Los Angeles, San Jose, Seattle, San Antonio, and Portland.

Locations of 2007 USPTO Road Shows



We will also soon place the information made available at these conferences on the USPTO website² to enable any company to benefit from useful content that the USPTO and the Chamber of Commerce have created.

Providing Rightsholders with Legal Advice

The Department of Commerce, in cooperation with the American Bar Association's (ABA) Section of International Law and the Coalition Against Counterfeiting and Piracy, re-launched the International Intellectual Property Rights Advisory Program in 2007. This program allows American SMEs to request a free, one-hour consultation with a volunteer attorney knowledgeable in both industry IP issues and a particular country's laws to learn how to protect and enforce their IP in that country. Expertise is now available for Brazil, Russia, India, China, Egypt, and Thailand.

² www.uspto.gov/smallbusiness/

U.S. Government Presence Overseas

In addition to the advisory materials and services available to IP owners, the NIPLECC agencies' internationally deployed personnel—stationed at Embassies in key countries around the globe—are yet another resource for American rightsholders. These specially trained officials are active within their respective countries to aid American businesses and entrepreneurs in protecting their IP in these important and often risky foreign markets.

The State Department has made a priority of training their diplomats to be “first responders” to IP issues in their respective countries. State has also developed consular information sheets on IP issues for 36 of the 43 countries listed in the Special 301 Report. These information sheets advise American citizens, particularly tourists, not to purchase counterfeit and pirated products. Additionally, the Commerce Department's Foreign and Commercial Service's (FCS) Commercial Officers serve a primary function as representatives of American industry to foreign governments on a daily basis. These Officers work with American businesses to address their concerns on an individual, case-by-case basis, helping them take their problems to the respective foreign agency.

The Departments of Homeland Security and Justice also have officials posted in embassies worldwide. These officials are primarily tasked with liaising with their foreign counterparts, but they are also actively working with American industry on law enforcement cases.

NIPLECC agencies' presence overseas—our Embassy and Consular officers, our enforcement agency attachés, and our IP Attachés—are a valuable asset for U.S. companies. They play a critical role, helping U.S. businesses resolve cases when their rights are violated.

U.S. International IP Attachés

In 2006, the Administration developed a new program to lead U.S. Embassies' efforts on IP enforcement. Deployed by the Commerce Department, this staff of IP attachés is dedicated solely to IP enforcement

issues, and they are key players in assisting American rightsholders in their assigned countries. There are currently eight U.S. IP Attachés serving in: China (3), Russia, Thailand, India, Egypt, and Brazil. Additional information on the IP Attachés is available on page 63 of this report.

IP Toolkits on Major Global Markets

The Commerce and State Departments have collaborated to create IP toolkits that help guide businesses in protecting and enforcing their intellectual property in key foreign markets. Toolkits for Brazil, Brunei, China, Italy, Korea, Malaysia, Mexico, Peru, Russia, and Taiwan have been developed and launched on their respective U.S. Embassy websites and can also be found on Stopfakes.gov. The toolkits provide detailed information about local IP laws and resources, as well as helpful local contact information. Additional toolkits for Bangladesh, Bhutan, Canada, Egypt, India, Maldives, Nepal, Pakistan, Paraguay, the Philippines, Sri Lanka, Thailand, and Vietnam are currently being developed.

Programs Focused on China

Our Government-wide efforts have also focused specifically on the challenge and opportunity that China presents for U.S. businesses of all sizes.

The Commerce Department regularly sponsors domestic outreach, seminars, and one-on-one counseling sessions with U.S. companies to discuss IP enforcement in China and share best practices. In 2007, Commerce presented eight programs at locations across the country, including New York, Boston, Los Angeles, Philadelphia, and Washington, D.C., to educate U.S. industry groups, U.S. congressional staffers, and U.S. Government colleagues on how to protect and enforce IP in China.



U.S. Senator Patrick Leahy of Vermont addresses students and business leaders at the University of Vermont on October 21, 2007 as a part of a U.S. Patent and Trademark Office “Road Show” in Burlington. (Source: United States Senate)

USPTO held programs in Philadelphia, Kansas City, and San Jose specifically designed for companies either looking to enter the Chinese market or already doing business there. Topics covered included a review of recent laws and regulations developed by the Chinese government that affect protection and enforcement of IP. USPTO expects to continue these programs through 2008.

The Commerce Department also hosts a free monthly “China Webinar Series” on IP issues in China that any interested party can access online. So far, these webinars have reached over 900 participants and the archived programs available on Stopfakes.gov have been downloaded over 7,000 times.

Educating Consumers through Public Awareness Programs

In April 2007, the USPTO, in conjunction with the Ad Council and National Inventors Hall of Fame Foundation, launched a public service campaign targeting America’s youth. The national campaign, titled “Inspiring Invention,” seeks to make invention and developing new ideas part of children’s lives. Radio and TV commercials are now playing throughout the country with the message “Anything’s possible. Keep

thinking.” The commercials direct students to a website—www.inventnow.org—which not only inspires kids to be inventors and more creative, but also provide messages on IP education and enforcement. This campaign will continue into 2009.

Generally, NIPLECC agencies will be looking for additional opportunities to reach the current and next generation of authors, inventors, and consumers to educate them on the importance of IP to their creative futures. USPTO will continue the education initiative with the Ad Council, assessing students attitudes toward inventing and IP. USPTO also plans to produce another round of TV and radio advertisements to keep America’s youth aware of—and keenly interested in—the benefits of intellectual property.

In addition to the Ad Council program, in 2008, USPTO will partner with the Department of Justice to launch a new IP education curriculum for students, which will be available to teachers and parents throughout the country for the next three years. This program will be aimed at middle school-aged students to educate them on the importance of protecting IP – and why it is illegal to commit piracy, and warn them of the dangers of purchasing counterfeit goods. This new initiative will enhance the basic curriculum currently available through USPTO, and go into even greater detail on the subject of IP theft.

The State Department is also using public diplomacy to influence consumer behavior overseas and reduce the demand for counterfeit and pirated products. On World Intellectual Property Day, in April 2007, State launched the first phase of a global public awareness campaign designed to highlight the importance of intellectual property protection for economic development and the public health and safety dangers of pirated and counterfeit goods. During this initial phase, editorials signed by U.S. Ambassadors were placed in leading newspapers in more than 20 developing countries. The campaign continued through release of public fact sheets addressing topics important to specific regions, through digital video conferences with foreign government and private sector officials, and through foreign press trips to the United States. State is developing the next phase of the IP public diplomacy campaign, which will continue to leverage the State Department’s tools and resources to build and strengthen public support abroad for strong intellectual property enforcement.

II. INCREASING EFFORTS TO SEIZE GOODS AT THE BORDER

The Department of Homeland Security's Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) are charged with securing our borders. Their mission includes identifying, seizing, and forfeiting counterfeit and pirated goods and then investigating the criminals and criminal



On November 15, 2007, Department of Homeland Security Secretary Michael Chertoff makes remarks at a luncheon during CBP's Trade Symposium 2007 at the Ronald Reagan building in Washington, D.C., at which border enforcement of intellectual property rights was an important priority. (Source: Department of Homeland Security)

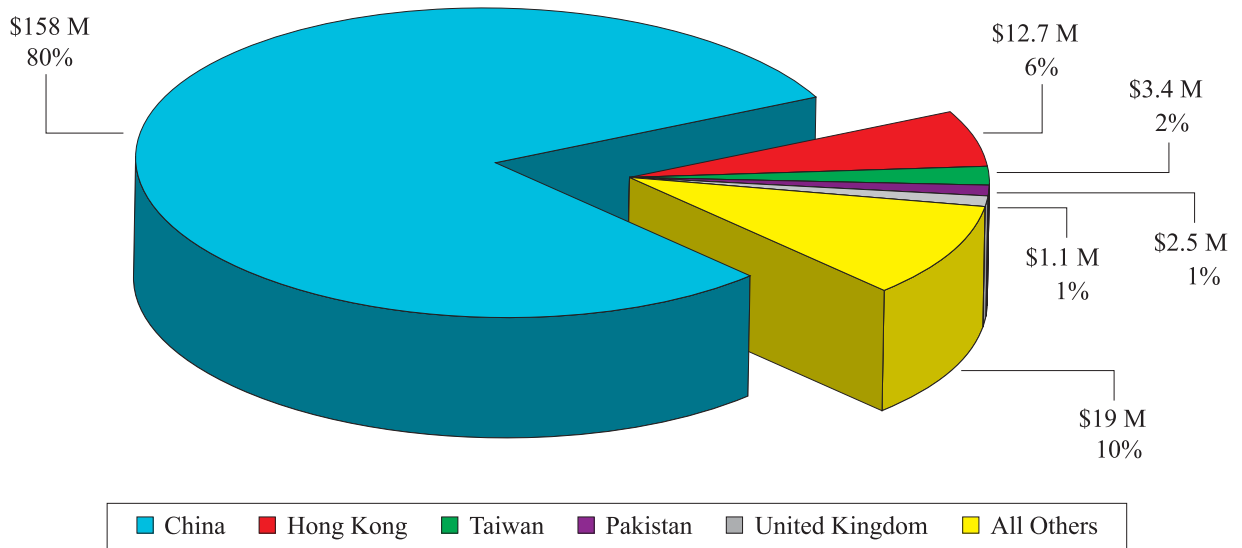
organizations who attempt to import these fake goods into the United States. This important function protects American businesses and consumers from the threat to legitimate commerce and consumer health and safety. This section showcases U.S. Government efforts to improve border enforcement, particularly highlighting the work to enlist private sector and trading partners' support for stronger border enforcement regimes world-wide.

As the primary U.S. border enforcement agency, CBP plays a critical role in pursuing the objectives of the STOP! Initiative and collaborates extensively with other U.S. industry and other government agencies. CBP has included diverse approaches to IP enforcement in its National IPR Trade Strategy, focusing on new techniques that complement traditional enforcement methods.

CBP's commitment to combating IP violations is evidenced in its annual IP seizure statistics. In FY2007, CBP processed nearly 14,000 seizures of counterfeit and pirated merchandise, representing a leveling off in the total number of seizures per year after five consecutive years of steady increases. However, the estimated value of the goods seized continued to rise, this year, by approximately 27%, up to approximately \$200 million. More detailed statistics are available on CBP's website.³

³ www.cbp.gov

U.S. Customs and Border Protection FY2007 Seizures of Pirated and Counterfeit Goods by Country of Origin



(Source: Department of Homeland Security)

CBP’s extensive efforts focus on fighting the trade in fakes through improved risk analysis, identifying business practices linked to IP theft, depriving counterfeiters and pirates of illicit profits, and making it easier for rights holders to work with CBP to enforce their rights.

Risk Modeling

CBP’s IP risk model is designed to enhance current efforts by customs officers to identify counterfeit and pirated goods at our borders. Through the use of innovative statistical analyses, CBP is using technology to assess risk and improve its ability to detect and intercept fakes at our borders. During FY2007, the risk model was successful in identifying containers with un-manifested and mis-described merchandise that violated IP laws.

In April a container of illuminating picture frames was selected for exam by the risk model. These frames contained a four inch space to allow for a fluorescent light bulb. Upon further examination, CBP discovered counterfeit handbags and wallets concealed within the space. In all, 663 cartons were seized valued at \$54,450.

In another instance, a container of plastic food receptacles was selected for exam by the risk model. Examination of the container revealed counterfeit Nike sneakers concealed in plastic pails. In all, 380 cartons were seized valued at \$142,400.

Post-entry Verification – “IPR audits”

With post-entry verification, or “IPR audits,” CBP targets and subsequently audits companies at high-risk for importing counterfeit and pirated goods to prevent future infringing imports by these companies. CBP works with the companies to improve their internal controls and issues penalties for infringing goods uncovered in the audits.

In March, CBP completed an IPR audit on a prior violator. The audit team found four styles of shoes at the importer’s warehouse infringing on the K-Swiss, Inc. (K-Swiss) registered and/or recorded trademarks. The domestic value of the audited merchandise was \$105,720. CBP provided the importer with the following informed compliance publications related to IP: (1) Customs Administrative Enforcement Process: Fines, Penalties, Forfeitures, and Liquidated Damages, and (2) Customs Enforcement of Intellectual Property Rights. As a result of this audit, the company was issued a fine in the amount of \$105,720. Since the audit completed, this company has had no more seizures for IP violations.

Streamlining CBP’s IPR Recordation Process

CBP’s online recordation system for trademarks and copyrights allows rights owners to electronically record their trademarks and copyrights with CBP. CBP personnel use the system daily to make IP infringement determinations. The IPR recordation system makes IP information relating to imported merchandise (such as images of trademarks and copyrights, contact information, countries of production, and licensees) readily available to CBP personnel as they are inspecting shipments at the ports of entry in real time. As of the end of FY2007, over 21,000 trademarks and copyrights were recorded with CBP. For more information on this tool or to register your trademark or copyright, visit CBP’s e-recordation website.⁴

⁴ <https://apps.cbp.gov/e-recordations/>

World Customs Organization

CBP is a member of the World Customs Organization (WCO) IP Standards to be Employed by Customs for Uniform Rights Enforcement (SECURE) Working Group. The SECURE Group combines the collective efforts of WCO member Customs officials with rightsholders to improve the efficiency and effectiveness of their organizations in combating IP violations. In 2007 the SECURE Group undertook efforts to improve IP Legislative and Regulatory enhancements in member countries; promote risk analysis techniques and intelligence sharing; and enhance capacity building and cooperation in IP enforcement.

At the October 2007 meeting of the Group in Brussels, CBP served as Chairman of the drafting committee tasked with developing the SECURE “Framework of Standards”, a new set of standards to which WCO Members may employ to enhance the effectiveness and efficiency of their IP enforcement regime. The drafting group, led by CBP, devoted considerable efforts which included conducting two “virtual” drafting sessions in November 2007. CBP leadership enabled the group to substantially complete a final draft of the Framework of Standards which will be presented to the WCO Policy Meeting at its meeting in early 2008.

U.S.-EU Customs Cooperation

U.S. Customs and European customs officials have developed a comprehensive dialogue with their European Union (EU) counterparts. U.S. and EU customs organizations have engaged each other in a number of new initiatives developed to enhance the capabilities of Customs officers at the ports of entry for the respective U.S. and EU markets. These initiatives include the sharing of information, best practices, and exchanging personnel.

Customs officials have also discussed joint operational projects. This dialogue has contributed to a healthy relationship between the two organizations that will continue to develop in the future.

In addition, the U.S. and the EU have agreed to create a single set of uniform guidelines and requirements, to deliver to industry, so they may create a “Single” toolkit for customs officers to use to authenticate incoming goods at ports of entry.

U.S. International Trade Commission

The United States International Trade Commission (ITC) is an independent, quasi-judicial federal agency with broad investigative responsibilities on matters of international trade. The ITC administers U.S. trade remedy laws within its mandate; provides the President and Congress with analysis on matters of tariffs, international trade, and U.S. competitiveness, and maintains the Harmonized Tariff Schedule of the United States.

As an important part of its mission, the ITC investigates and adjudicates cases involving claimed infringement of intellectual property rights by imported goods. Through these proceedings under Section 337, the ITC facilitates a rules-based international trading system and serves as a key agency in the protection of intellectual property. Specifically, Section 337 investigations often involve allegations of patent and trademark infringement by imported goods, including both utility and design patents, as well as registered and common law trademarks. Additionally, the ITC handles other matters of unfair competition, including copyright infringement, misappropriation of trade secrets or trade dress, and false advertising.

The primary remedy available in Section 337 investigations is an exclusion order that directs the U.S. Customs and Border Protection to prevent infringing imports from entering the United States.

The ITC has issued nine exclusion orders in 2007. Five of those have been general exclusion orders. Of the remaining four limited exclusion orders, only one has downstream protection. More detailed information on ITC 337 proceedings and actions can be found at ITC’s website.⁵

⁵ www.usitc.gov/trade_remedy/int_prop/pub3708.pdf

III. PURSUING CRIMINAL ENTERPRISES

U.S. federal law enforcement aggressively investigates and prosecutes IP theft. The Department of Justice (DOJ), including the FBI, and Department of Homeland Security (DHS), particularly Immigration and Customs Enforcement, lead these important activities in the fight against counterfeiting and piracy. DOJ and DHS develop and execute enforcement strategies that result in increased criminal prosecutions in the U.S. and abroad.

The Department of Justice's efforts have already yielded substantial increases in federal investigations and prosecutions of IP violations. Through the dedicated efforts of U.S. Attorney's Offices, the Criminal Division, and law enforcement across the country, the Department filed 217 intellectual property cases in FY2007, representing a 7% increase over cases reported in FY2006 (204), and a 33% increase over cases reported in FY2005 (169). Also in FY2007, 287 defendants were sentenced for intellectual property crimes, representing a 35% increase over FY2006 (213) and a 92% increase over FY2005 (149).

The increase in FY2007 prosecutions reflects a continuing upward trend. For example, in FY2006, federal prosecutors convicted 187 defendants of criminal copyright and trademark offenses alone—an increase of 57% over the prior year. Thirty-nine (39) of those defendants received terms of imprisonment of 25 months or more, representing a 130% increase from the 17 sentenced to such terms in 2005. These recent figures follow significant increases in previous years as well. For example, in FY2005 the Department charged twice the number of defendants for intellectual property violations than it had in FY2004.

Many of DOJ's specific enforcement initiatives are set out in detail in the June 2006 *Progress Report of the Department of Justice's Task Force on Intellectual Property*. That Report announced implementation or ongoing implementation of thirty-one separate recommendations to improve the Department's IP enforcement efforts. In addition, the Justice Department is currently at the halfway point in a two-year plan to increase the enforcement of IP laws in the United States and around the world. The plan consists of strategic objectives derived from goals set by the Intellectual Property Task Force.

International Law Enforcement Engagement

The Justice Department also focuses significant resources in countries that are major manufacturers of counterfeit and pirated goods, or where the investment is likely to provide a greater long-term return in terms of increased protection of IP rights. Addressing these international enforcement challenges requires greater international cooperation and coordination on joint criminal investigations and prosecutions. Therefore, DOJ's Criminal Division conducts extensive training of foreign law enforcement on intellectual property crime. In fact, in 2006 alone, DOJ provided training and technical assistance to more than 3,300 foreign prosecutors, judges, and investigators from 107 countries.

The Justice Department has also actively engaged China on IP law enforcement initiatives. In March 2007, DOJ's Criminal Division hosted and chaired the inaugural meeting of the Intellectual Property Criminal Enforcement Working Group (IPCEWG) of the U.S.-China Joint Liaison Group for Law Enforcement Cooperation (JLG), which included 15 Chinese law enforcement officials and the Ministry of Public Security's (MPS) Vice Director General of the Economic Crimes Investigation Department, as well as officials from the FBI and U.S. Immigration and Customs Enforcement. The IPCEWG focuses on the development of more U.S.-China joint operations to combat transnational IP crime, in particular crimes committed by organized criminal groups and crimes that threaten public health and safety. This collaboration recently resulted in the largest ever joint FBI-MPS piracy investigation and prosecution, code-named "Operation Summer Solstice," which involved seizures of more than a half billion dollars in counterfeit software.

DOJ also led an initiative with members of the G8 industrialized nations to develop a framework for cooperation on intellectual property crime investigations. In November 2006, all members of the G8's Lyon-Roma anti-crime group approved the "Principles and Recommendations for Cooperative Investigation and Prosecution of Serious and Organized Intellectual Property Rights Crime," which set forth a foundation for future cooperation on criminal IP enforcement among the G8 members. In June 2007, the G8 Leaders endorsed the Principles and Recommendations at their annual summit in Germany.

In addition to working within the G8 framework, NIPLECC agencies have collaborated with the U.S. Chamber of Commerce and provided support to Interpol to establish an “Interpol Intellectual Property Crime Database.” This new database will allow countries around the world to share information on counterfeiting and piracy to track IP crime and attempt to stop future criminal acts.

The database will provide an important new medium for information between countries. As it allows countries to share information they hold on counterfeiting and piracy, it also allows for information to be entered into the database from the individual companies who own the goods being stolen. By enhancing the intelligence provided to governments through this database, Interpol believes this new tool will allow countries to better track the source of pirated and counterfeit goods and also monitor the ports of transit for these fake products.

Law Enforcement Coordination

The Justice Department has also engaged their counterparts internationally through the work of IP Law Enforcement Coordinators (IPLEC) stationed overseas in our Embassies in Bulgaria and Thailand. The IPLECs work with U.S. industry and foreign law enforcement to coordinate outreach and IP enforcement efforts in their regions.

In October 2007, the IPLEC in Bangkok, Thailand, hosted a regional conference of approximately 60 key law enforcement officials from over a dozen nations in Asia, with the aim of launching an Intellectual Property Crimes Enforcement Network (IPCEN). The IPCEN is intended to operate as a forum to exchange investigation and prosecution strategies, and also to strengthen communication channels that promote coordinated, multinational prosecutions of the most serious IP offenses. IPCEN enhances law enforcement efforts by increasing communication, and targets large-scale IP crimes. This event was organized by DOJ and the IPLEC, in collaboration with other NIPLECC agencies and with significant assistance from the Association of Southeast Asian Nations (ASEAN).



**USDOJ - ASEAN - USPTO
CONFERENCE TO DEVELOP AN INTELLECTUAL PROPERTY CRIME
ENFORCEMENT NETWORK (IPCEN)
GRAND HYATT ERAWAN, BANGKOK, THAILAND 23-26 OCTOBER 2007**

From October 23-26, 2007, officials from the governments of the United States and the member countries of the Association of Southeast Asian Nations (ASEAN) met in Bangkok, Thailand for the Conference to Develop an Intellectual Property Crime Enforcement Network in Southeast Asia. This conference was co-hosted by the U.S. Department of Justice and the U.S. Patent and Trademark Office, along with ASEAN. (Source: Department of Justice)

In November 2007, DOJ placed a second IPLEC in Sofia, Bulgaria, dedicated to advancing the U.S. position, and regional IP goals. The IPLEC will work with regional law enforcement officials through training, outreach, and the coordination of investigations and operations throughout the region.

The first IPLEC was deployed to Bangkok in January 2006. Both positions are filled by skilled federal prosecutors with specialized experience in the prosecution of IP crimes.

The National IPR Center

The National Intellectual Property Rights Coordination Center (IPR Center) is a multi-agency center responsible for conducting a unified U.S. Government response regarding IP law enforcement issues. ICE and the FBI—two of the lead investigative agencies in the fight against both domestic and international IP crime—cooperate on law enforcement activities through the IPR Center. The Center identifies and addresses developing criminal IP violation issues and trends and advances that information through outreach and training with foreign governments. The IPR Center's responsibilities include:

- Serving as a collection point for intelligence provided by private industry, as well as a channel for law enforcement to obtain cooperation from private industry (in specific law enforcement situations);
- Integrating domestic and international law enforcement intelligence with private industry information relating to IP crime;
- Disseminating IP intelligence for use in the appropriate investigative and tactical use;
- Developing enhanced investigative, intelligence and interdiction capabilities; and
- Serving as a point of contact for IP-related law enforcement issues.

Between fiscal years 2002 and 2006, ICE agents arrested more than 700 individuals for IP violations and dismantled several complex, large scale criminal organizations that distributed counterfeit merchandise to nations around the globe. At the same time, ICE investigations into these networks resulted in 449 criminal indictments and 425 convictions. Together, ICE and CBP seized more than \$750 million worth of counterfeit goods from fiscal year 1998 through fiscal year 2006. In FY2006 alone, ICE investigations resulted in 219 arrests, 134 indictments, and 170 convictions in intellectual property rights violations.

Selected Results of Criminal Enforcement Efforts

A. INTERNATIONAL COOPERATION FOR IP ENFORCEMENT

“Operation Summer Solstice”

On July 23, 2007, as a result of the largest ever joint investigation conducted by the FBI and the People’s Republic of China, the MPS—China’s Ministry of Public Security—arrested 25 individuals in China and seized more than a half billion dollars worth of counterfeit software. Microsoft publicly stated that this joint operation, code-named “*Operation Summer Solstice*,” dismantled a criminal syndicate—believed to be the largest of its kind in the world—that was responsible for producing more than \$2 billion in counterfeit Microsoft and Symantec software.

Extradited Ringleader Sentenced for Software Piracy

On June 22, 2007, Hew Raymond Griffiths was sentenced to 51 months in prison for software piracy. This is the first extradition case in the U.S. for online software piracy crimes. Griffiths was the leader of one of the oldest and most renowned Internet software piracy groups worldwide, known as “DrinkOrDie.” This organization was responsible for the illegal reproduction and distribution of more than \$50 million worth of software, movies, games, and music.

B. MAJOR COUNTERFEIT TRAFFICKING ORGANIZATIONS

Massive Counterfeit Smuggling Ring Dismantled

On December 5, 2007, following an extensive investigation, ICE agents arrested ten individuals charged with offenses related to a massive scheme to illegally import and traffic in counterfeit goods.

The charges against the defendants allege that since 2006 the global ring smuggled and attempted to smuggle through Port Newark more than 100 steel shipping containers loaded with counterfeit merchandise—including counterfeit Nike shoes; Burberry and Chanel handbags; and Polo Ralph Lauren, and Baby Phat brand clothing. As part of this scheme, the defendants and their co-conspirators paid more than \$500,000 in cash bribes to an undercover ICE agent. The ring routinely concealed these counterfeit goods in shipping containers with fraudulent bills of lading, falsely describing the cargo. For example, one bill of lading claimed a container held “noodles” when in fact it contained counterfeit Nike sneakers.

The investigation of this case was handled by ICE, and the case is being prosecuted by the U.S. Attorney’s Office in the Southern District of New York.

Convictions for Trafficking in Counterfeit Consumer Merchandise

After a 32-month investigation, the FBI identified an organized criminal group of at least nine individuals who were importing counterfeit consumer merchandise and selling the illicit goods in storefronts across the eastern United States and through online auction sites. The group’s leader was convicted and sentenced to 57 months’ imprisonment for operating a wholesale clothing business in New York City that, according to its business records, sold more than \$7 million worth of counterfeit clothing and personal accessories. Four co-defendants have also received sentences ranging from two years probation to 27 months imprisonment.

C. ECONOMIC ESPIONAGE AND PROTECTING TRADE SECRETS

Two Bay Area Men Indicted on Charges of Economic Espionage

On September 26, 2007, two Bay Area men were indicted on charges of economic espionage and theft of trade secrets, and a related conspiracy charge. The defendants allegedly conspired to steal trade secrets involving computer chip design and development from their employer and another company, and sought to obtain venture capital funding from the government of China.

Former Chinese National Convicted for International Economic Espionage

On August 2, 2007, Xiaodong Sheldon Meng was convicted of violating the Economic Espionage Act, the Arms Export Control Act, and the International Traffic in Arms Regulations. Meng possessed and exported a source code protected as a trade secret, belonging to Quantum 3D, knowing that it would benefit the China Navy Research Center. The source code was for a visual simulation software program used for training military fighter pilots. Meng is the first individual to be convicted for the illegal export of military source code in the history of the United States.

Two Sentenced for Conspiring to Steal Coca-Cola Trade Secrets

On May 23, 2007, Joya Williams and Ibrahim Dimson were sentenced to 8 years' and 5 years' imprisonment, respectively, for conspiring to steal and sell trade secrets of the Coca Cola Company. The convictions resulted from an FBI investigation that was initiated after PepsiCo contacted Federal authorities and provided them with evidence pertaining to the pair's crime.

D. ONLINE COPYRIGHT PIRACY

Convictions for Copyright Infringement over Peer-to-Peer (P2P) Network

On November 14, 2007, as a result of "*Operation D-Elite*," a joint FBI and ICE investigation, Duc Do pleaded guilty to felony charges of conspiracy to commit criminal copyright infringement and copyright infringement in violation of the Family Entertainment Copyright Act. This is the seventh conviction arising from the nationwide federal enforcement operation against the illegal distribution of copyrighted movies, music, software and games over P2P networks employing the BitTorrent file-sharing technology.

Nine Convicted for Selling Counterfeit Software on eBay

On June 22, 2007, DOJ prosecutors obtained the eighth and ninth felony convictions involving eBay auction sales of counterfeit Rockwell Automation software. All nine defendants pled guilty in separate proceedings to felony copyright infringement. The software had a combined retail value of approximately \$30 million. These convictions resulted from an FBI investigation and are part of a DOJ initiative to combat online auction piracy nationwide.

Over 100 Convictions in International Piracy Enforcement Actions

DOJ has continued to prosecute defendants from the two largest international online piracy enforcement actions undertaken to date, known as “*Operation FastLink*” and “*Operation SiteDown*.” These international undercover operations conducted by the FBI in 2004 and 2005, respectively, resulted in a total of more than 200 search warrants executed in 15 countries; the confiscation of hundreds of computers and illegal online distribution hubs; and the removal of more than \$100 million worth of pirated software, games, movies, and music. Together, *Operations FastLink* and *SiteDown* have resulted in over 100 felony convictions to date.

IV. WORKING CLOSELY AND CREATIVELY WITH U.S. INDUSTRY

All NIPLECC agencies have made a high priority of reaching out to the private sector to improve enforcement capabilities and collaborate on policy issues. The U.S. Government must be closely attuned to the needs of American industry to ensure it is effectively protecting these engines of economic growth. Many U.S. Government programs, particularly law enforcement activities, are considerably aided by the intelligence, expertise, and cooperation, which industry provides.



Secretary of Commerce Carlos Gutierrez and former Attorney General Alberto Gonzales discuss intellectual property rights at the U.S. Chamber of Commerce on May 14, 2007. Both the Department of Justice, through law enforcement, and the Department of Commerce, through trade diplomacy and industry outreach, are active on protecting and enforcing IP. (Source: Department of Commerce)

Additionally, rightsholders themselves play a critical role in supporting law enforcement efforts. NIPLECC enforcement agencies recognize that communication with industry is critical to the success of their work and are identifying ways to improve the flow of information.

Working with Industry Associations

The NIPLECC agencies regularly work closely with U.S. and international trade associations, including, but not limited to, the American Bar Association, American Chamber of Commerce in China, Business Software Alliance, Entertainment Software Association, International Chamber of Commerce, International Intellectual Property Alliance, International Federation of Phonographic Industries, International Trademark Association, Motion Picture Association of America, National Association of Manufacturers, the Pharmaceutical Research and Manufacturers of America, Quality Brands Protection Committee, Recording Industry Association of America, the U.S. Chamber of Commerce, and the U.S.-China Business Council.

One of the U.S. Government's closest industry partners is the Coalition Against Counterfeiting and Piracy (CACP), a U.S. Chamber of Commerce and National Association of Manufacturers led initiative. The CACP plays an important role in many of the U.S. Government's engagements with our trading partners. Particularly with the U.S.-EU IP Working Group and the Security and Prosperity Partnership with Mexico and Canada, CACP gathers industry leaders to engage these governments on IP enforcement issues.

Supply Chain Security

In 2005, U.S. manufacturers and retailers responded to the suggestion of Secretary of Commerce Gutierrez to develop broad principles for enhancing the security of private supply chains. The principles were developed and endorsed by the CACP and published in November 2005.

Since then, CACP has developed voluntary guidelines companies can use to ensure their supply and distribution chains are free of counterfeits. In January of 2007, the CACP launched a tool kit for implementing these guidelines, applicable to both SMEs and large companies in a broad range of industry sectors. Available at www.thetruecosts.org, the "Supply Chain Tool Kit" showcases strategies that companies use to protect their supply chains from counterfeiters. It contains recommendations that vary from low-tech, practical approaches (such as securing the legitimacy of inputs, customers, and distributors,

and working with local customs authorities) to high tech, more creative solutions (such as improved packaging, electronic tags, and patrolling the Internet). The Tool Kit also stresses the need for increased industry cooperation with law enforcement and regulatory officials. The CACP, with the help of the Commerce Department, has distributed the Tool Kit broadly, so U.S. companies will have the advantage of knowing what strategies work best to deter counterfeiting and piracy.

In addition to work being done with CACP, the Department of Justice has developed a series of conferences for companies that have been victimized by the crimes of counterfeiting and piracy. DOJ has convened three of these Victim Industry Conferences. Most recently, in November 2007, DOJ co-sponsored a victim industry conference in Miami with the U.S. Chamber of Commerce and the U.S. Secret Service. The one-day conference included more than 100 representatives of industry and law enforcement directly affected by intellectual property crime, particularly software and film companies harmed by copyright piracy. DOJ hosted a similar conference with the Business Software Alliance in San Jose, California, in May 2007.

SME Training Module

Small businesses create two out of every three new jobs in America and account for nearly half of our overall employment. However, only 15% of small businesses that do business overseas know that a U.S. patent or trademark provides protection only in the United States. Companies need to make sure that they register for intellectual property protection overseas, and the Administration has made a priority of reaching out to SMEs on issues of IP protection.

The Commerce Department, working with the Office of the IP Coordinator, ITA, USPTO, the Small Business Administration (SBA), and several SMEs, developed a web-based course that aims to help SMEs evaluate, protect, and enforce their IP both in the United States and overseas. The program was launched in December 2007, and is available on www.Stopfakes.gov to those interested in learning about IP issues that affect SMEs.

Protecting IP at Trade Fairs

National and international trade fairs are important venues for many American businesses, with many transactions occurring on site or due to activities conducted at the fairs. Protecting IP at trade fairs is crucial to increasing trade and competing in the global economy. At trade fairs, counterfeiting of trademarks and piracy of copyrighted works can magnify the damage to legitimate business because of the concentration of an industry's participants and the brief duration of many trade shows. Governments and industry need to work together to ensure that trade fairs consistently protect the IP of exhibitors.

The Commerce Department launched a program in 2006 to promote protection of IP at domestic and international trade fairs. The program includes educating trade fair attendees, exhibitors, and organizers about the value of IP, raising awareness of IP issues at trade fairs, and promoting IP protection at events that the Commerce Department operates, certifies, or supports.

Commerce is working with industry and trading partners to identify additional opportunities to help U.S. businesses guard against infringement at trade fairs at home and abroad. In 2008, Commerce will be discussing cooperation options with the European Commission regarding trade fairs conducted in the U.S., Europe, and China.

U.S. Customs Industry Outreach

U.S. Customs and Border Protection works with industry on an ongoing basis to combat IP infringement. CBP participates in various IP-focused events and collaborates with industry on IP enforcement training. CBP also meets with rightsholders individually to educate them and their representatives on working with CBP to enforce their rights, to provide information on IP enforcement efforts, and to discuss new initiatives. During FY 2007, CBP continued to work with industry to provide product identification training to its field officers. In this training, rightsholders educate customs officers and provide materials to help CBP detect and interdict counterfeit and pirated goods.

V. AGGRESSIVELY ENGAGING OUR TRADING PARTNERS

There are few areas of the Council's work that rival the expansive efforts its agency members undertake to pursue strong IP enforcement internationally. Our efforts are multi-faceted and involve every NIPLECC agency. Each agency possesses specialized capabilities pursuant to their mandate, which are not necessarily dedicated to the STOP! Initiative or NIPLECC, but are employed to best protect U.S. rightsholders worldwide.⁶

Working together, NIPLECC members have brought IP enforcement to the forefront of nearly all of our multilateral and bilateral relationships; worked with numerous international organizations to promote IP protection; developed an effective global IP training and capacity building program; and placed IP experts in U.S. Embassies around the world to aid U.S. rightsholders.

Multilateral Initiatives

Anti-Counterfeiting Trade Agreement (ACTA)

On October 23, 2007, U.S. Trade Representative Susan Schwab announced that the U.S. Government will seek to negotiate an Anti-Counterfeiting Trade Agreement (ACTA) with a leadership group of interested countries. This agreement will bring together countries that recognize the critical importance of strong IP enforcement for a prosperous economy. Trading partners currently engaged in discussions to develop the ACTA include: Canada, the European Union (with its 27 Member States), Japan, Korea, Mexico, New Zealand, and Switzerland.

⁶ For more exhaustive information regarding NIPLECC Agencies activities and tools please see the individual agency appendices available on www.stopfakes.gov.



On October 23, 2007, U.S. Trade Representative Susan Schwab announces the Anti-Counterfeiting Trade Agreement on Capitol Hill. USTR Schwab is joined by U.S. Representatives (from left to right) Howard Berman, Mary Bono, Marsha Blackburn, Adam Schiff, and Bob Goodlatte. The United States is partnering with the European Union, Switzerland, Japan, Canada, Mexico, South Korea, and Australia to negotiate ACTA to improve enforcement of IPR worldwide. (Source: Office of the U.S. Trade Representative)

The ACTA is envisioned as a leadership effort among countries that value and maintain high standards of enforcement against piracy and counterfeiting. ACTA builds upon the cooperation NIPLECC agencies have established bilaterally and regionally since the Administration launched the STOP! Initiative. In the coming year, USTR and other NIPLECC agencies will work with a number of key trading partners who share our ambition and commitment to stronger IP enforcement. The envisioned ACTA will include commitments in three areas: (1) strengthening international cooperation; (2) improving enforcement practices; and (3) providing a strong legal framework for IP enforcement.

The ACTA is part of a wide range of efforts by USTR to use the full range of trade policy tools to better protect American industry from counterfeiting and piracy and ensure that the protection remains effective as the criminals become more sophisticated. These tools—more fully described in the USTR Appendix—include our free trade agreements, negotiations of TIFAs, WTO accession negotiations, bilateral discussions of IP issues, the Special 301 process, U.S. preference programs, and dispute settlement.

Security and Prosperity Partnership

The leaders of Canada, Mexico, and the United States launched the Security and Prosperity Partnership of North America (SPP) in 2005 to address issues related to economic competitiveness and regional security resulting from shifting patterns of trade and investment worldwide. The governments subsequently established an Intellectual Property Working Group under the SPP. The Department of Commerce and USTR jointly lead the U.S. delegation to the SPP IP Working Group.

NIPLECC agencies, working with their counterparts in Canada and Mexico, developed a trilateral Intellectual Property Rights Action Plan, which leaders announced at the SPP Summit in Montebello, Canada, in August 2007. The Action Plan constitutes a strategy for governments and the private sector to combat piracy and counterfeiting in North America. Canada, Mexico, and the United States have agreed to take action in three areas: (1) detecting and deterring trade in counterfeit and pirated goods; (2) increasing consumer awareness of the adverse effects of counterfeiting and piracy; and (3) measuring the depth and scope of counterfeiting and piracy. The group's efforts involve not only cooperation among the governments, but between the governments and our respective private sectors as well. Projects currently undertaken include joint public awareness efforts, sharing of border enforcement information and best practices, and joint law enforcement training programs.

U.S.-EU Intellectual Property Working Group

The U.S.-European Union Intellectual Property Working Group has enhanced international cooperation in our effort to protect IP around the globe. The strong partnership between the U.S. and the EU on IP enforcement is essential, as many of the victim companies and industries are based in the United States or Europe, and together, we are the target markets for much of the global production of counterfeit goods and pirated products. The IP Enforcement Coordinator leads the delegation for the U.S., which consists of most NIPLECC agencies. The Working Group meets and works closely with industry in the development of new initiatives. Key areas for work include third-country and multilateral cooperation; technical customs cooperation; and public-private partnerships on public awareness; training, and enforcement.

CBP and EU Customs officials shared IP best practices and enforcement information throughout FY2007. In September 2007, CBP met with its EU counterparts at a meeting of the interagency U.S.-EU IP Working Group as part of their ongoing joint initiatives. In the coming year, customs officials in the U.S. and Europe will collaborate to establish a set of common parameters for industry to use in providing product information to customs officials. This will focus the flow of information being presented to customs agencies in the U.S. and EU and make our interactions with industry more efficient.

U.S. and EU trade officials are cooperating closely in their efforts to address issues of mutual concern in third countries such as China, Russia and within multilateral dialogues. In addition, the Department of Commerce and the European Commission's Directorate for Enterprise have established programs to promote the protection of IP through public awareness efforts, trade fair cooperation, and small business education. The first half of 2008 will see joint efforts at trade fairs in Europe and China.

U.S. Leadership within the G8

At the June 2007 G8 Summit hosted by Germany, leaders identified IP protection as "the backbone of innovation" and affirmed the importance of combating counterfeiting and piracy. Based on the leadership of several NIPLECC agencies, the G8 reached consensus on working together to improve customs and border enforcement cooperation, and better coordinating technical assistance to developing countries. In addition, at their June 2007 Summit, G8 Leaders endorsed the "Principles and Recommendations for Cooperative Investigation and Prosecution of Serious and Organized Intellectual Property Rights Crime," which set forth a foundation for future cooperation on criminal IP enforcement among G8 members.

The U.S. is also leading work to focus on technical assistance pilot plans for developing countries; new results-oriented (business to business) collaborative approaches to promoting and protecting innovation; and better border enforcement, especially against hazardous counterfeit goods. The State Department leads U.S. participation in innovation and IP negotiations in the G8, with the active participation of other NIPLECC agencies.

Asia-Pacific Economic Cooperation Forum (APEC)

APEC Leaders recognized that intellectual property rights protection and enforcement are key factors for promoting foreign trade and investment, as well as for boosting economic development. In August 1997, the Intellectual Property Rights Experts Group (IPEG) was established, and works to implement a program that aims to:

- Expand the dialogue on intellectual property policy;
- Survey and exchange information on the current status of IP protection and administrative systems;
- Study measures for the effective enforcement of IP;
- Fully implement the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs);
- Facilitate technical cooperation to implement the WTO TRIPs Agreement.

Through efforts by the United States, APEC endorsed the “Anti-Counterfeiting and Piracy Initiative” which paved the way for the adoption of a number of U.S. led proposals. These initiatives include five Model Guidelines on reducing trade in counterfeit and pirated goods. These guidelines include: protecting against unauthorized copies; preventing the sale of counterfeit goods over the Internet; raising public awareness on IP protection and enforcement efforts and securing supply chains; developing a paper on innovative techniques for IP border enforcement; and making statements by leaders and ministers on the need for APEC economies to do more in combating signal theft, and addressing markets that knowingly sell counterfeit and pirated goods.

Bilateral Activities

The following section highlights some selected examples of bilateral engagement with trading partners on IP issues. These bilateral engagements with our trading partners include a wide range of issues and activities, from training and capacity building efforts to law enforcement cooperation.⁷

A. GOVERNMENT TO GOVERNMENT ENGAGEMENT

China

U.S. engagement with China through established channels, such as the Joint Commission on Commerce and Trade (JCCT), the U.S.-China Strategic Economic Dialogue (SED), and the JLG, has made inroads on the pervasive counterfeiting and piracy that exists in China. The Commerce Department and USTR co-lead the U.S. delegation to the JCCT, the State Department leads the innovation component of the SED, and the Departments of State and Justice lead the bilateral enforcement discussions within the JLG. Topics and priorities for each of these groups are developed through cooperative work by the NIPLECC agencies.

We have seen some progress made through these three dialogues with China. As a result of a JCCT commitment, the Chinese government has mandated that computers have legal operating software pre-installed. As a result of the SED commitments, in May 2007, CBP signed a Memorandum of Cooperation (MOC) with China Customs to strengthen enforcement of intellectual property rights laws in China. This important agreement provides for the exchange of nominal information relating to IP seizures in both countries with the requirement that specific actions be taken against entities involved in IP violations in each country. The MOC also calls for the sharing of both seizure information and best practices related to IP enforcement between CBP and China Customs.

⁷ Additional information on the bilateral engagement efforts undertaken by the United States may be found in the individual agency appendices on www.stopfakes.gov and in other U.S. Government reports such as the 2007 Trade Policy Agenda and 2006 Annual Report, the 2007 National Trade Estimate Report on Foreign Trade Barriers, the 2007 Special 301 Report, and the 2007 Report to Congress on China's WTO Compliance.

Since 2001, Bush Administration officials have consistently pressed Beijing at the highest levels to substantially reduce piracy and counterfeiting with some success as noted above. However, we continue to be disappointed by consistent and widespread piracy and counterfeiting in China. This behavior has caused significant harm to many companies and industries doing business in China and threatens markets around the world. With over 80% of the goods seized by U.S. customs officials at our borders originating in China, it is clear that China must do more to address IP infringement.

In April 2007, the United States, after months of dialogue and negotiation, brought the first IP-related disputes against China in the WTO. The first of these cases focuses on the deficiencies in China's legal regime for enforcing IP on a wide range of products. These deficiencies include provisions of Chinese law that create a substantial "safe harbor" for counterfeiters and pirates in China. The second case aimed at further opening China's market to a range of copyright-intensive products and services, which currently face barriers to market access.

The discussion between the United States and China regarding IP enforcement in the WTO is part of a normal process of engagement between two significant and mature trading partners. The WTO is serving its designed function, and we look forward to constructive engagement with China on this matter and an effective resolution that strengthens the overall environment for IP protection in China.

Led by the NIPLECC agencies, the United States is also working to strengthen the ability of Chinese judges, prosecutors, and investigators to implement effective IP protections. This includes enhanced cooperation between U.S. and Chinese law enforcement authorities in the JLG. Further, we are assisting U.S. companies to develop successful strategies to protect their IP. Where appropriate we have raised specific cases of infringing activities with the Chinese Government under the Case Referral Mechanism outlined earlier in this report.

Finally, in October 2007, U.S. Ambassador to China Clark Randt held the Sixth Annual Ambassador's IP Roundtable in Beijing. This event brought together senior U.S. and Chinese officials and U.S. business representatives. The annual Roundtable gives U.S. rights holders the opportunity to discuss the problems they are facing and find the solutions that they need.

Russia

Work in connection with negotiations on Russia's accession to the WTO and the work of the U.S.-Russia IP Working Group remains a high priority, as the United States and Russia strive to address a number of IP-related issues and make improvements in IP protection and enforcement in Russia. In November 2006, Russia took one of these steps when the United States and Russia signed a bilateral IP agreement. Senior U.S. officials have continually raised the issue of intellectual property protection with their Russian counterparts, recognizing that IP enforcement is a shared responsibility within the Russian government. President Putin has issued statements that recognize IP protection is both an economic issue for the Russian government and a public health concern for the Russian people.

India

In March 2006 during President Bush's visit to India, the two governments released a joint statement, which laid out a vision for the U.S. and India to work together to promote innovation, creativity, and technological advancement by providing a vibrant intellectual property rights regime.

Building on President Bush's visit, the IP Enforcement Coordinator has led two missions to India to discuss issues of IP policy, enforcement, and trade. These delegations have met with Indian government officials—at both the Central and State Government levels—and engaged U.S. and Indian private-sector stakeholders, academics, and legal practitioners to continue our efforts to promote increased trade and economic development through effective IP protection.

While in India, the IP Enforcement Coordinator announced the Bush Administration's framework for engaging India on intellectual property and trade promotion. This plan revolves around three key areas, which include: bilateral cooperation, education, and engaging U.S. and Indian industry. Bilaterally, we are working with India on IP through our Trade Policy Forum, High Technology Cooperation Group, and the Commercial Dialogue. With the placement of an IP Attaché in New Delhi, we plan on continuing our capacity building and educational outreach efforts with the Indian government and industry.

Additionally, USPTO and the Indian Ministry of Commerce and Industry signed a Memorandum of Understanding (MOU) on Bilateral Cooperation between the United States and India on intellectual property issues, and DOJ and USPTO are heavily engaged with the judiciary in India to ensure timelier resolution of IP cases in the court system.

Overall, India has made some progress on IP enforcement, and NIPLECC agencies are committed to continuing to work with India as they bolster their IP legal framework and develop an effective system to enforce intellectual property rights.

Japan

During the April 2007 Summit, President Bush and former Prime Minister Abe affirmed the common position of the United States and Japan to enhance bilateral efforts to promote and protect intellectual property rights. Subsequently, a wide-ranging set of initiatives designed to establish higher standards for IP protection and enforcement and demonstrate through effective measures the benefits of transparency and rule of law to our trading partners have been underway. One component of this effort is the Department of Commerce and Japan's Ministry of Economy, Trade, and Industry (METI) Initiative for "Enhanced U.S.-Japan Cooperation on IP Protection and Enforcement and other Global Issues."

The agreement recognizes the importance of protecting and enforcing IP both domestically and abroad to foster innovation and the two parties agreed to expand and coordinate international cooperation in this sector as well as others. Under the DOC-METI Initiative, the United States and Japan have exchanged information and worked jointly on areas affecting our mutual business interests. In December 2007, Japan hosted a series of meetings, including a public-private roundtable to identify operational areas for cooperation under the DOC-METI Initiative and our broader bilateral IP relationship.

Mexico

Working closely with the United States, Mexico has taken steps to enhance the protection and enforcement of IP. The commitment of Mexico President Calderon to stronger enforcement of existing IP laws has

resulted in increased activity by federal law enforcement. With the support of NIPLECC agencies, U.S. Embassy officials in Mexico City, and Mexican Government officials, several training events on protection and enforcement of IP have been organized for Mexican judges, prosecutors, legislators, customs officials, state and local authorities, and officials from the Mexican Institute of Industrial Property.

B. SUPPORTING INTERNATIONAL OUTREACH

U.S. Embassy Efforts

The State Department's Embassies and Missions around the world play a central role in supporting the key international objectives of the U.S. laid out under the STOP! Initiative. Embassy and Mission officials—including those of the State Department as well as law enforcement, IP attachés, and commercial officers—serve as the front line of U.S. Government outreach in monitoring IP enforcement, legislation, and trade capacity building; conducting public diplomacy; assisting U.S. businesses; and advocating U.S. IP priorities to foreign government officials.

Additionally, through public diplomacy, the State Department is taking steps to change consumer behavior overseas. The Department is using newspaper and magazine articles, consular information sheets, and other forms of media to educate consumers and U.S. citizens traveling overseas that purchasing pirated and counterfeit products is not a victimless crime. By reducing the demand for such products, the State Department is trying to reduce the huge profits that attract producers, distributors, and sellers who deal in these illicit products. Through the public diplomacy program, State hopes to encourage the creation of foreign government policies promoting innovation and urging alternatives to the illegal markets of pirated and counterfeit products.

Trade Agreement Compliance Program

Within ITA's Market Access and Compliance unit, trade specialists in the Office of Intellectual Property Rights (OIPR) and country desk officers monitor the implementation of the intellectual property rights provisions of U.S. trade agreements. These include multilateral agreements such as WTO TRIPs, as well as

the World Intellectual Property Organization's Copyright Treaty (WCT) and Performances and Phonograms Treaty (WPPT). OIPR also monitors a number of bilateral agreements, such as existing FTAs, and the intellectual property MOUs Commerce has signed with Japan and Paraguay. ITA works closely with U.S. industry and other U.S. trade agencies, offering a unique perspective in the drafting and implementation of our trade agreements.

Commerce wide compliance teams—composed of country, industry, and legal expertise—monitor trade agreement compliance on a case-by-case basis to help individual companies receive fair treatment under our IP trade agreements. These teams analyze industry data to identify IP-based trade barriers, develop implementation strategies to resolve problems, raise concerns with our trading partners regarding IP legislation and enforcement measures, and counsel U.S. companies on the IP commitments of our trading partners under existing trade agreements to which the United States is a party. In this role, ITA has increased its exposure among SMEs to emphasize all of the resources available to protect their IP. These include the ability to file concerns about IP related trade barriers online at stopfakes.gov, or speaking with IP experts through the STOP! hotline.

Additionally, ITA has increased its public outreach. In FY2006, ITA conducted 16 outreach events in nine cities nationwide and held four online seminars, reaching an audience of over 650 participants. During FY2006, ITA staff worked on IP-related problems in over 35 countries, including Algeria, Bahrain, Bangladesh, Brazil, Bulgaria, Canada, China, Colombia, Czech Republic, Egypt, France, Georgia, Ghana, Greece, Guatemala, India, Jordan, Malaysia, Mexico, Morocco, Nigeria, Panama, Pakistan, Portugal, Russia, Singapore, South Africa, South Korea, Sweden, Taiwan, Thailand, Trinidad and Tobago, Turkey, Ukraine, and Vietnam.

Within ITA, OIPR works closely with ITA's Trade Compliance Center (TCC), which operates the Compliance Liaison Program. This program includes approximately 100 trade associations which have appointed a representative to serve as a liaison between their members and the TCC. The liaison solicits complaints from members on market access barriers and agreement compliance problems, including IP-related issues, and notifies the TCC and OIPR for action. For example, firms participating in this program include the Motion Picture Association of America, Recording Industry Association of America, Business

Software Alliance, American Film Marketing Association, Pharmaceutical Research and Manufacturers of Association, and the International Anti-Counterfeiting Coalition. Congressional offices and nationwide U.S. Export Assistance Centers are also active participants.

C. IP ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE PROGRAMS

The Global Intellectual Property Academy

The USPTO established the Global Intellectual Property Academy (GIPA) in 2006, and it continues to be an essential component of our effort to improve IP protection and enforcement practices around the world. GIPA offers a number of programs that bring foreign officials to the U.S. for training on patent, trademark, and copyright policy and best practices, as well as enforcement programs for judges, prosecutors, customs officers, and other government officials. In 2007 USPTO completed construction of permanent space for GIPA which includes a 20,000 square-foot training facility at its headquarters in Alexandria, Virginia. Through this newly dedicated space, USPTO can more efficiently deliver targeted training to foreign IP officials. In FY2007 alone, a total of 77 GIPA programs were conducted, of which 33 were held at the Alexandria campus, with the balance taking place internationally. In total 2,601 foreign government officials were trained.

Department of Justice – Law Enforcement and Prosecutorial Training Programs

Because effective protection of IP rights depends on strong international as well as domestic criminal enforcement regimes, the Department of Justice places special emphasis on improving its international outreach and capacity-building efforts. In 2006, prosecutors provided training and technical assistance on IP enforcement to over 3,300 foreign prosecutors, investigators, and judges from 107 countries—nearly a 50% increase from the previous year. Also in 2006 and 2007, the Department established the IPLEC positions in Bangkok, Thailand and Sofia, Bulgaria. To help address the exploding IP crime in Eastern Europe, the State Department funded the Department of Justice’s IPLEC in Bulgaria for one year. These positions are filled by federal prosecutors dedicated to advancing regional IP goals through training, outreach, and the coordination of investigations and operations throughout these regions.

An example of the Department's international training programs occurred in the summer of 2007 when CCIPS, CCFU, and the Office of Overseas Prosecutorial Development Assistance and Training (OPDAT), along with private industry representatives, presented a weeklong training program on computer crime and intellectual property enforcement in Islamabad, Pakistan. The training was presented to Pakistan's Federal Investigative Agency, Ministry of Interior, regional investigators, and scholars from universities and technical institutes. Training included an overview of U.S. and Pakistani Intellectual Property laws, methods of identification of counterfeit items, basic computer and Internet investigative techniques, search and seizure techniques for digital evidence, and the importance of computer forensics for successful prosecutions. The training concluded with a best practices presentation highlighting an investigation of counterfeit merchandise from inception to prosecution, including the use of informants and sophisticated techniques U.S. law enforcement officers utilize to collect evidence of intellectual property crimes.

Department of Homeland Security – Law Enforcement Training Programs

U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) also conduct a number of training and outreach programs for their foreign counterparts. In collaboration with other U.S. Government agencies, ICE has participated in a number of border enforcement training programs for foreign government officials in 2007. These programs have reached officials in China, El Salvador, India, Mexico, Morocco, Paraguay, Peru, Russia, Slovakia, Thailand, Ukraine, and Vietnam.

State Department International Narcotics and Law Enforcement Training Programs

The State Department Crime Programs Division of INL and IPE developed a spending plan to deliver \$3 million in funding for technical assistance and training programs in a number of developing countries in FY2007, with significant results. In Indonesia, two full-time U.S. advisors funded by the State Department helped the Indonesian government launch a string of IP-related enforcement actions. In July 2007, Indonesian police closed down two optical disk factories suspected of illegal production, and seized equipment and pirated product estimated at between \$7.5 and \$9 million. Also in July 2007, Indonesia conducted its largest counterfeit pharmaceutical raid ever, seizing 16 million counterfeit pharmaceutical

tablets valued up to \$7 million. Other highlights included training and technical assistance for law enforcement in the ASEAN region, India, Mexico, Brazil, Ukraine and South Africa. The State Department program is in its fourth year and total spending from 2004 to date has been \$11.5 million for fifty-five projects and programs.

Department of Commerce – Commercial Law Development Program

The Commercial Law Development Program (CLDP) located in the Department of Commerce's Office of the General Counsel, is uniquely tasked with providing technical assistance in the commercial law arena to the governments and private sectors of transitional countries in support of their economic development goals.

CLDP's programs are customized to address key issues that are high priorities for both the host government and the American firms interested in doing business in each country. Through these programs, CLDP actively helps to improve the legal and regulatory environment for U.S. businesses working in these transitional countries.

CLDP utilizes its unique ability to develop amenable and efficacious programs that integrate the expertise of various agencies of the U.S. Government, multilateral organizations, educational institutions, and the private sector. CLDP provides this assistance by conducting educational programs and consultative services for lawmakers, regulators, judges, lawyers, and educators from host countries. CLDP initiatives help develop practical, legal, and procedural reforms, that foster economic growth and international trade in these maturing countries.

The Office of the IP Coordinator has provided funding and support for a series of programs led by CLDP. These training programs, recently held in the Philippines, Nigeria, and Ukraine, focused on IP enforcement issues relevant to each of the respective governments. Other recent training programs produced by CLDP:

- In December 2007, CLDP sponsored the attendance of two Bosnia-Herzegovina Government IP officials at the GIPA Enforcement Program. This one-week GIPA Program provided IP enforcement training to foreign judges, prosecutors, customs officials and others involved in enforcing IP rights and meeting WTO obligations.

- In June 2007, CLDP worked with the Federal Judicial Academy (FJA), IPO Pakistan, and the Punjab High Court to develop and establish a reusable IP training module to sensitize judges to aspects of intellectual property and launched the program with a pilot seminar in Lahore. Punjabi judges and FJA personnel were centrally involved in the program to prepare them for a sustained IP capacity building efforts among the judiciary in the future. Also in June, as a part of continued capacity building with Pakistani Customs officials, CLDP sponsored the participation of a Customs official in the GIPA.

- Earlier in 2007, CLDP conducted a program designed to capitalize on the recently enacted Customs Codes for both Russia and Ukraine. These new regulations require protection of IP as called for in the WTO TRIPs Agreement. Working cooperatively with the Ukrainian and Russian Federal Customs Services, CLDP conducted a technical assistance program on the structure of efficient IP border enforcement, including risk management (targeting shipments), making infringement determinations, suspending release of goods, and the operational components of ex-officio authority. This program was designed to improve communication mechanisms between Russian and Ukrainian border officials and to explore the possibility of an information sharing agreement.

United States Agency for International Development

The United States Agency for International Development (USAID), as part of the State Department, is involved in a wide range of technical assistance and educational programs in developing countries, which relate to the protection and enforcement of IP.

For example, technical assistance activities conducted by USAID have included events and workshops on topics such as established international IP standards. Also, USAID can provide technical assistance if the

host country has requested assistance in a particular area. When asked by a host country, USAID has worked with NIPLECC members to develop training programs on IP enforcement and protection. For instance, in response to requests for assistance from Lebanon regarding its accession to the WTO, USAID funded a presentation for Lebanese officials on WTO TRIPs Agreement implementation.

Information about the full range of USAID's efforts regarding the protection and enforcement of intellectual property, as well as in other Trade Capacity Building efforts, can be found online.⁸

⁸ <http://quesdb.usaid.gov/tcb/index.html>

Spotlight on: U.S. Intellectual Property Attachés

The Department of Commerce has posted dedicated IP specialists to address country-specific and regional issues involving intellectual property protection and enforcement. Started in 2005 with the U.S. Embassy in Beijing, the program supplemented an existing U.S. Government program of IP experts previously posted in the U.S. Mission to the WTO in Geneva, Switzerland. Since posting this first IP Attaché in Beijing, the Commerce program has expanded to include a total of eight attachés in six countries: China, Russia, India, Thailand, Egypt, and Brazil.

The IP Attaché offices provide technical level support and coordination on IP issues, leveraging the resources of the NIPLECC agencies. These attachés work closely with a USPTO country team consisting of patent, trademark, copyright, and enforcement officials, as well as with a local Embassy task force, U.S. Embassies, and Consulates worldwide.

Establishing the Office

Attachés arriving in country for the first time face numerous challenges. They must identify their constituencies—public and private sector—and understand and prioritize U.S. goals for the region and determine where they can add value beyond the work of the existing U.S. representatives and Embassy personnel in country. In addition, attachés often counsel U.S. companies with IP problems and are called upon to deliver a positive public message on the importance of IP enforcement.

New attachés must also establish their offices, which can include hiring and developing contacts within the embassy and consulates, with U.S. companies and counterparts in the relevant host government's ministries and in other branches of government, e.g., the courts.

If a multidisciplinary embassy-wide IP task force already exists, attachés are often called upon to serve as a coordinator. If there is no task force, they are asked to create one.

For example, the Brazil-based IP Attaché, Dorian Mazurkevich, has created an Interagency IP Working Group, which links together the U.S. Embassy in Brasilia with U.S. Consulates in Sao Paulo, Rio de Janeiro and Recife.

In Beijing, the IP Attaché office, led by Mark Cohen, supports an interagency IP Task Force of the U.S. Mission in China consisting of over 50 members. This task force involves nearly all sections of the Embassy, including State's Political and Economic Sections, Public Affairs and Community Liaison Offices, and the work of the Consulates; Commerce's Foreign Commercial Service and Trade Facilitation Office; USTR personnel; and both ICE and FBI Attachés. The office has also supported and developed interagency training programs for officials based in Washington, D.C.—including members of the legislative branch—and manages an interagency IP mailing list of over 200 Federal Government officials worldwide. Through this list, the attaché office delivers updates on specific cases as well as recent IP developments within China.

In New Delhi, the office of the IP Attaché, headed by Dominic Keating, is actively involved in supporting the interagency IP Working Group of the U.S. Mission in New Delhi. This working group consists of Department of State's Economic Section, Public Affairs Office and the INL, FBI and ICE Attachés. The IP Attaché's office in New Delhi has created an interagency mailing list which updates U.S. agencies about the latest IP developments of South Asia.

Building Relationships

Working with the NIPLECC law enforcement agencies, the IP Attachés support joint enforcement efforts between NIPLECC agencies and U.S. companies, and create and support information sharing platforms to improve enforcement. For example, the IP Attaché office in Brazil has worked collectively with the Senior Commercial Officer in Peru and U.S. officials in Chile in a transnational interagency IP enforcement matter that ultimately led to the seizure of 9,000 counterfeit athletic shoes originating from China, which were being transhipped through Peru to Chile.

In cases in which there exists a bilateral IP dialogue between the U.S. and the host government, the IP Attachés work with other embassy offices to ensure the success of the dialogue, sometimes even to preserve it amid economic and political tensions.

For example, the IP Attaché in Moscow, Tracy Perrelli, is working with NIPLECC agencies and the government of Russia to improve the effectiveness of the U.S.-Russia IP Bilateral Working Group. Additionally, the IP Attaché stationed in Bangkok, Jennifer Ness, worked to help NIPLECC agencies develop new bilateral relationships with key governments such as Vietnam, Thailand, Singapore, and the Philippines. The IP Attaché in India strengthened bilateral engagement with ministries and government officials not only in India but also in Pakistan, Sri Lanka, Bangladesh and Maldives. This office is also working on promoting regional co-operation on IP matters. Recently, the role of the IP Attachés based in China has become even more critical, as they provide a relatively open channel for discussion with the Chinese government while the formal bilateral channels, such as the JCCT, have become limited after the U.S. filed IP-related disputes against China.

IP Attachés may also be tasked to facilitate bilateral relationships between specific NIPLECC agencies and their foreign ministry counterparts, or multilateral relationships between government agencies or regional organizations.

The IP team in Beijing best demonstrates the multi-faceted tasks that are often asked of the IP Attachés. They have provided critical support for cooperative agreements and programs with China's patent,

trademark, and copyright offices; Ministry of Public Security; and Customs. This has been instrumental in furthering work on IP enforcement matters, training civil judges, promoting mutual legal assistance, and working with the growing foreign patent office presence in China (European, French, Japanese, Korean, and Swiss during 2007).

Intellectual property issues have also been a specific focus of the U.S.-Association of Southeast Asian Nations (ASEAN) relationship. NIPLECC agencies are seeking to expand our relationship with ASEAN members, which include Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. The U.S. Government has tremendous resources to leverage in ASEAN, from substantial technical assistance funding to officers and specialists on the front lines. Our IP Attaché in Bangkok has worked closely with Washington-based agencies, Embassy officials, foreign law enforcement officials, and ASEAN contacts to ensure that U.S. resources are efficiently and effectively utilized to advance our IP enforcement goals.

Providing Technical Assistance

The IP Attachés are also critical in NIPLECC agencies' training and technical assistance efforts abroad. The attachés are called upon to help develop, implement, and advance technical assistance programs on the ground and work toward greater host government participation in other IP programs, such as those held at the GIPA.

In Egypt, our Cairo-based IP Attaché, Minna Moezie, partners with USAID to regularly recruit and assist in sending Egyptian trademark, patent, copyright, and enforcement officials to the GIPA training programs in the United States and abroad. In addition to GIPA programs, Ms. Moezie successfully obtained the Egyptian government's participation in USPTO's first 8-month "Foreign Examiners in Residence" training program for patent examiners from select foreign countries.

In Brazil, Mr. Mazurkevich served as an instructor in a week-long training program led by ICE's IPR Center. The program was conducted at the International Law Enforcement Academy for Latin America and included law enforcement officials from Brazil, Paraguay, Argentina, and Peru.



Dorian Mazurkevich, IP Attaché based in Sao Paulo, Brazil, address government officials from Argentina, Brazil, Peru, and Paraguay and at a regional training program. (Source: U.S. Embassy Sao Paulo)

In Moscow, Ms. Perrelli supported a very well-received training seminar sponsored by USPTO with Russian Customs on “IPR and Border Enforcement.” Russian Customs officials from varying regions participated, receiving training on IP substance and operational enforcement methods from USPTO, ICE and CBP.

In New Delhi, Mr. Keating has regularly recruited trademark, patent, copyright and enforcement officials (including a Delhi High Court judge) to the GIPA training programs in the U.S., secured active participation of the Indian government in USPTO’s first 8-month “Foreign Examiners in Residence” training program for patent examiners, and conducted training, together with USPTO experts, for the Patent Office in New Delhi for biotechnology and chemical patent examiners. Additionally, the IP Attaché’s office has also partnered with CBP, ICE and Indian Customs to train 130 Customs officials on IP issues throughout India.

Supporting Legislative Reforms

Many NIPLECC agency efforts abroad are aimed at improving foreign governments' IP enforcement legislation. Our Attachés are actively involved in reporting and commenting on newly proposed IP legislation and on implementation of any IP legislation that the government has adopted. For example, through our IP Attaché office in Moscow, we are closely monitoring Russia's new IP law, Part IV of the Civil Code, which takes effect on January 1, 2008. We will work with NIPLECC agencies and the Russian government to ensure that this new law is compliant with the WTO TRIPs Agreement. Also in Russia, our IP Attaché is consulting with industry regarding a draft law that would obligate Russia to establish an automated system to monitor the circulation of medicines, audio and video products, software, construction materials, cosmetics, and auto components. Although proponents of the draft law claim that it is intended to protect IP and Russian consumers from counterfeit products, industry has expressed some concerns about the current proposal. As a result, the Attaché office will work with all relevant stakeholders to ensure that this law protects consumers without unnecessarily damaging U.S. IP interests.

In Thailand, the Bangkok-based IP Attaché office works closely with the government of Singapore to ensure all IP sections of the U.S.-Singapore FTA are fully implemented and are compliant with the agreement.

In Egypt, our IP Attaché has worked to focus more attention from the Egyptian government on U.S. concerns regarding IP enforcement. Together, with Embassy colleagues, the IP Attaché has held in-person discussions and digital video conferences (DVC) related to Special 301 issues involving NIPLECC agencies, Egyptian officials, and IP. The meetings were organized and led on the Egyptian side by the Ministry of Trade and primarily served to clarify areas of concern and initiate deeper communication between the two governments' IP experts on Special 301 action plan items. Participating Egyptian officials represented a wide array of IP-related responsibilities, including copyright registration, software enforcement, and the judicial system. The IP Attaché anticipates more focused and substantive DVC sessions between IP experts in the area of enforcement to take place in early 2008, prior to the 2008 Special 301 Report.

Through the IP Attaché in India, the United States is providing guidance to the Indian government on IP legislative reforms that are in the pipeline. For example, comments were provided on the draft copyright and the trademark amendments to the government of India. In addition, the Attaché is closely monitoring new IP related legislation within India.

Working with Industry

The IP Attachés are developing strong relationships with industry associations and private sector intellectual property representatives based in their respective regions. They are continually reaching out to U.S. businesses directly and through the U.S. and Foreign Commercial Service, U.S. Chamber of Commerce, foreign Business Councils, and local American Chambers of Commerce. The IP Attachés also regularly serve as speakers when these organizations hold events and seminars, in order to raise IP enforcement issues important to U.S. rightsholders doing business abroad.

Our IP Attaché in Brazil has spoken at IP conferences and events hosted by American Chambers in Brazil, Argentina, and Peru, as well as with other industry organizations.

In Moscow, our IP Attaché participated in an American Chamber of Commerce event entitled “Customs IPR Enforcement Practice and Valuation of Imported Goods.” Through this event, our Attaché and U.S. companies met with the Head of Customs for Sheremetyevo Airport in Moscow. The group discussed the implementation of border enforcement technologies for Russia’s largest commercial, passenger, and cargo airport.

Recently, the Beijing-based Attaché office coordinated an industry meeting to promote better cooperation between business and foreign missions. This meeting involved a challenging enforcement matter, which included several different countries, global law enforcement activities, and patent and trademark filings. Additionally, the Beijing office supported and organized the highly successful Sixth Annual Ambassador’s IPR roundtable, attended by over 250 officials and company representatives, to discuss emerging IP issues and practical solutions that the U.S. Embassy in Beijing can pursue to secure stronger IP protection and enforcement. This roundtable discussion included representatives from all of the NIPLECC agencies.

Our Attaché in India has been actively speaking at IP related conferences and roundtable discussions organized by industry partners. The office has also spoken at conferences organized by the U.S. Embassy in the Sri Lanka and Maldives. Additionally the office has also co-hosted dinner with industry partners for like-minded embassies to encourage co-operation on IP related matters. Furthermore, Mr. Keating, in collaboration with different industry partners has also organized IP Roadshows in various second tier cities in India to create public awareness.

In developing these relationships, the IP Attachés ensure that industry concerns form the basis for U.S. IP diplomatic and training efforts in the host country and throughout the region. This outreach has helped to ensure that U.S. interventions are timely, targeted, and effective.

Making a Difference

Public attitudes toward intellectual property protection and enforcement are a critical aspect of the problem in most countries. With the support of NIPLECC agencies, our IP Attachés are being asked to focus on their local SME community, and develop training programs throughout the region on the importance of IP for business development. These programs help to build a set of domestic stakeholders in the IP system, a powerful ally in achieving future improvements.

The IP Attachés in China, in coordination with the Public Affairs Section of the Embassy, have an active program to support better outreach in public diplomacy and public relations on IP. Fluent in Chinese, they have appeared on national radio and television, in print media, and also hosted events for industry and public relations officials to advise them on how to use the Chinese media more effectively.

In addition, over the coming year, the IP Attaché in Bangkok plans to make intellectual property educational materials available in local Southeast Asian languages and to work with host governments to develop public awareness and consumer protection materials appropriate for local cultures.

The IP Attaché program has enabled the U.S. Government and U.S. business to work with key trading partners and improve the global landscape for intellectual property rights. The program has resulted in

more timely and detailed information for NIPLECC officials based in Washington, which in turn allows them to quickly adjust U.S. policies and practices to meet IP-related challenges in these important markets. We are also in a better position to offer targeted and meaningful assistance and more likely to have a positive effect on IP protection and enforcement.

The U.S. Intellectual Property Attachés are:

- Brazil Dorian Mazurkevich
- China Mark Cohen
 - Todd Thurwachter
 - Conrad Wong (Guangzhou)
- Egypt Minna Moezie
- India Dominic Keating
- Russia Tracy Perrelli
- Thailand Jennifer Ness

Contact information for each of the Attachés can be found on page 89.

Spotlight on: Public Health & Safety

Counterfeit and pirated goods pose an ever-increasing threat to the health and safety of Americans and consumers around the world. Counterfeit consumer electronics, pharmaceuticals, and healthcare items are a particular concern. NIPLECC agencies regularly raise these issues with our trading partners, particularly with China. For example, China is a significant source for bulk chemicals of active pharmaceutical ingredients used in counterfeit drugs. NIPLECC agencies are working with the Chinese government to prevent these fake products from being used as the underlying source of many counterfeit drugs.

NIPLECC Agency Investigation and Prevention

CBP has made seizing imported products that threaten the health and safety of consumers a top priority. In FY2007, CBP initiated a number of special operations to interdict these products before they entered U.S. markets. These products include fake healthcare items, pharmaceuticals, and consumer electronics and rank among the top commodities seized by CBP with a health and safety concern.

Highlighting the critical importance NIPLECC agencies place on protecting the health and safety of consumers, DOJ is working with China's MPS, through the JLG, to generate more joint investigations involving counterfeit goods that threaten public health and safety, including counterfeit and adulterated pharmaceuticals. DOJ has also made health and safety cases in the U.S. a top prosecution priority, and within the past year alone, it has brought a number of significant prosecutions against importers and sellers of counterfeit and adulterated drugs.



A Customs and Border Protection officer inspects a container of toothpaste at a domestic port to ensure its products are legitimate. The Department of Homeland Security's border officers—both CBP and Immigration and Customs Enforcement—work together to systematically identify, seizure, forfeit, and investigate shipments of counterfeit and pirated goods. (Source: Department of Homeland Security)

Additionally, FBI-CCFU has also launched a health and safety initiative. Partnering with the U.S. Chamber of Commerce, FBI-CCFU works with industry to target counterfeit electronics, automotive and aircraft parts, and personal hygiene products attempting to enter the U.S. markets. Through this initiative, CCFU is developing new relationships with contacts in the electronic, automotive, and aircraft industries to identify areas of concern where counterfeit goods are having an adverse impact on consumer confidence.

Recognizing the illegality and inherent dangers posed by counterfeit drugs, the FDA has taken steps to educate the public about the potential fatal affects of counterfeit medicines. An FDA created Task Force is dedicated to this growing public health concern and is working with other NIPLECC agencies and the private sector to address these problems. As a result, the FDA created the “Counterfeit Alert Network,” a coalition of health professional and consumer groups that works to educate the public and help protect the nation’s drug supply from the threat of counterfeits. This network has three main goals:

- Disseminate alert messages to a wide audience about specific counterfeit drug incidents in the U.S. and advisable counter-measures to take to minimize exposure;
- Develop educational information about the roles and responsibilities that consumers, pharmacists and other health professionals, and wholesalers should play to identify counterfeit drugs, report suspect counterfeit drugs, and prevent them from entering the U.S. drug distribution system; and
- Develop a network of national organizations, consumer groups, and industry representatives to help distribute this information.

Additionally, through the OCI, FDA investigates criminal activity regarding products that it regulates. In response to concerns of increased criminal violations of the Food Drug and Cosmetic Act (FDCA), OCI was established in March 1992 by the FDA Commissioner, with the urging of Congress. OCI's mandate is to investigate suspected criminal violations of the FDCA; the Federal Anti-Tampering Act (FATA); and other statutes including applicable Title 18 violations; and to collect evidence to support successful prosecutorial actions through the federal or state court systems as appropriate. In relation to IP enforcement, OCI investigates violations of U.S Criminal Code 18 USC 2320 and FDCA 21 USC 331(i). OCI routinely coordinates counterfeit investigations and intelligence with other federal law enforcement agencies, especially ICE, and with local and state authorities.

In FY2008, OCI activities will be very focused on securing the drug supply chain. On September 27, 2007, as part of the Food and Drug Administration Amendments Act (FDAAA) of 2007 (HR 3580) signed into law, President Bush approved new FDA language and reauthorized some existing provisions. The FDAAA calls for increased security of pharmaceutical products, including "securing the drug supply chain against counterfeit, diverted, sub potent, substandard, adulterated, misbranded, or expired drugs." The FDAAA also directs the Secretary of Health and Human Services to expand and enhance the resources and facilities of the criminal and regulatory components of the FDA that are charged with performing activities to secure the drug supply chain. The act also directs the Secretary of Health and Human Services and the FDA to "undertake enhanced and joint enforcement activities with other Federal and State

agencies and establish regional capacities for the validation of prescription drugs and the inspection of the prescription drug supply chain.”

Working Group on Import Safety: Action Plan Items Regarding IP Enforcement

The President formed the Working Group on Import Safety in July 2007 to promote the safety of imported products. In November 2007, the Working Group released its “Action Plan for Import Safety: A Roadmap for Continual Improvement.” In the Action Plan, the Working Group noted the connection between the safety of imported goods and strong IP enforcement.

Over the past year, there have been several notable examples of counterfeit and dangerous imported products entering the legitimate supply-chain. While CBP and ICE have taken monumental steps to prevent these fake goods from being sold in legitimate markets, the Action Plan sets out additions specific recommendations to strengthen IP protection and thereby enhance consumer safety.

These include:

- Focus the work of the STOP! interagency group on import safety issues;
- Expand information sharing among relevant agencies to target fake goods with potential safety violations; and
- Encourage companies to record their IP with the Customs E-recording System

As a result of these recommendations, the Office of the IP Coordinator has expanded the role of U.S. Government entities that previously played a smaller role within the STOP! Initiative. Pursuant to the Import Safety Working Group recommendations, STOP! members are now working with colleagues at the FDA, the Consumer Product Safety Commission (CPSC), and U.S. Department of Agriculture to develop the systemic lines of communication and collaboration assigned by the Import Safety Working Group.

Public Awareness and Educational Outreach to Consumers

Because of the serious health and safety hazards potentially posed by consumers using fake products, NIPLECC agencies have initiated a number of different public awareness activities to emphasize the dangers of using counterfeit products. In April 2007, Commerce hosted a Counterfeiting and Piracy Consumer Awareness Event. ITA worked with CPSC, the U.S. Chamber of Commerce, and the French Embassy in Washington, D.C. During the event, IP experts addressed the dangers presented by counterfeit and pirated goods to public safety and the global economy. Additionally, CPSC's Commissioner discussed the safety risks posed to consumers from counterfeit products, particularly electrical products, and the CPSC's joint efforts with China and other nations to identify unsafe products and improve safe manufacturing practices.

ITA and CPSC have also worked together and arranged information sharing meetings, including one between our IP Attaché office based in Beijing and CPSC's Acting Chairman. In FY2008, ITA and CPSC will continue to exchange information, and to further enhance this partnership, they have agreed to work more closely and complement each of their respective trade agreement compliance programs.

Outlook, Objectives, and Priorities for 2008

There is no doubt that through the concerted efforts of the NIPLECC agencies, extensive collaboration with industry, and congressional leadership, we have made progress in the fight against piracy and counterfeiting in 2007. However, we still have a long way to go and, in many ways, the challenge is growing.

For example, while we have seen significant increases in seizures of counterfeit goods at our borders due to the focused efforts of our customs and law enforcement authorities, this also indicates the vast scope of the problem and the increasing flow of illicit goods globally.

As we work with our trading partners to establish innovative approaches to IP enforcement like the Anti-Counterfeiting Trade Agreement, we also see IP protections questioned within influential international organizations and by countries which fail to see how the promotion and protection of IP is the most viable strategy for competing in a sophisticated global economy.

We have seen an explosion of new technologies designed to allow rightsholders to better protect their IP, as well as many new and exciting services that provide consumers access to rich and diverse content.

However, piracy continues to threaten our most dynamic industries, and far too few consumers understand the damage being done to creators, workers, innovators, and entrepreneurs.

Finally, and perhaps most concerning, counterfeit and substandard products pose a dramatic health and safety risk. Under President Bush's leadership, we have taken significant steps to safeguard American consumers through efforts such as the Import Safety Working Group. But, to be successful, we must

continue our sustained effort to keep pace with the increasingly complex and unpredictable threats.

To address these challenges, a number of *objectives* become clear:

- We must maintain and strengthen the best IP enforcement system domestically;
- We must develop and communicate a stronger sense of the value of IP globally;
- We have to maintain the global partnerships we have established and expand upon them to make IP enforcement an inclusive and effective international priority;
- Our coordinated efforts must surpass the sophistication and organization of global IP criminals;
- We must continue to build solid public and private-sector institutions that support an ongoing and strenuous effort against counterfeiting and piracy; and
- Ultimately, the United States must continue to lead.

Effectively, meeting these objectives will require a long-term commitment that builds upon our existing efforts and continues to leverage the significant assets of the U.S. Government. We have built a strong strategic framework under the Strategy Targeting Organized Piracy. It focuses our efforts and provides clarity to our partners as we try to meet our goal of eliminating global counterfeiting and piracy.

Over the coming year, our efforts to expand and strengthen IP enforcement through the STOP! Initiative and meet the objectives above will focus on the following specific *priorities*:

I. EMPOWERING AMERICAN INNOVATORS

- Continue developing and marketing programs to help SMEs protect and enforce their IP at home and abroad;
- Identify sources to assist SMEs to finance foreign IP registrations and evaluate their assets through IPR Audits;
- Expand outreach to SMEs and the public through programs that address traditional economic IP issues as well as public safety issues related to IP counterfeiting;
- Continue to develop China-specific IP outreach programs for U.S. rightsholders;
- Expand the trade fair and supply chain integrity initiatives to include cooperation with trading partners;
- Continue to work with the U.S. Chamber of Commerce to provide more conferences for SME's around the country.

II. INCREASING EFFORTS TO SEIZE GOODS AT THE BORDER

- Continue to expand the use of the innovative techniques such as risk modeling and IPR audits to supplement our activities at the border as we employ a layered approach to IP enforcement;
- Continue to work internationally with like-minded partners to enforce IP globally;
- Focus our efforts on high-priority targets that have health and safety and security concerns;
- Continue to develop and expand investigative techniques to maximize international partnerships with foreign law enforcement counterparts;

- Increase the scope of IP investigations to include additional efforts to dismantle the financial networks that fund the production of counterfeit goods and launder profits derived from these goods;
- Continue joint efforts with U.S. Government enforcement agencies to focus on high priority targets that have health, safety and security concerns.

III. PURSUING CRIMINAL ENTERPRISES

- Continue to develop more multi-district and international IP prosecutions and investigations;
- Aggressively pursue organized international crime groups that traffic in stolen and counterfeit IP, especially those groups committing offenses that threaten public health and safety;
- Improve domestic protection of IP through participation as amicus in private civil enforcement actions;
- Reduce IP theft through increased support to, and coordination with, international trading partners. Focus efforts on targeted developing economies and on countries identified by the U.S. Government as posing especially strong challenges to U.S. business competitiveness;
- Maximize the use of available resources in the areas of prevention and education by coordinating efforts with victim industries and ensuring that prevention efforts are deployed efficiently and effectively to the victim communities;
- Continue to work with Congress to support new legislation that strengthens IP enforcement;
- Establish, train, coordinate, and utilize cyber crime task forces and working groups to enhance cyber crime and intellectual property investigations.

IV. WORKING CLOSELY AND CREATIVELY WITH INDUSTRY

- Continue to increase the activity and services of the STOP! Hotline;
- Conduct more outreach across the country to better inform businesses of all the Federal Government resources available for IP education and protection;
- Expand partnerships with industry to fulfill commitments made within the G8, U.S.-EU, JLG, and SPP forums focused on IP enforcement;
- Work with industry as an active partner in the continued development of the Anti-Counterfeiting Trade Agreement.

V. AGGRESSIVELY ENGAGING OUR TRADING PARTNERS

- Continue to work toward the completion of the Anti-Counterfeiting Trade Agreement;
- Execute and build upon the strong commitments to IP enforcement made within the G8, U.S.-EU, and SPP forums;
- Continue working to promote and improve IP protection and enforcement in key countries such as China and Russia;
- In the G8 context, work with other G8 members and WIPO to develop technical assistance pilot projects to combat trade in counterfeit and pirated goods and to strengthen IP enforcement in Indonesia, South Africa, the Tri-Border Region of South America, and other areas as appropriate;
- Help developing countries establish effective systems to protect and promote innovation, including strengthening customs and law enforcement; ensuring legal production of safe and effective medicines, foods, and consumer products; and improving critical government IP functions;

- Continue building upon current APEC initiatives to strengthen IP enforcement and protection in the APEC economies;
- Provide funding for government-to-government foreign law enforcement-related training and technical assistance projects to combat IP crime in selected developing countries;
- Increase the number of training programs for foreign IP officials at GIPA;
- Create a long-term strategic training plan to better leverage the U.S. Government IP training and capacity building resources and increase coordination among NIPLECC agencies;
- Continue to support domestic and foreign law enforcement agencies through the FBI by providing training on intellectual property enforcement and best practices used in investigating world wide counterfeiting and trafficking organizations;
- Expand the public diplomacy campaign to developing countries to demonstrate that the protection of intellectual property is in every country's national interests as an incentive for investment and a foundation for economic growth.

GLOSSARY OF ACRONYMS

| | |
|--------------|--|
| ACTA | Anti-Counterfeiting Trade Agreement |
| APEC | Asia-Pacific Economic Cooperation Forum |
| ASEAN | Association of Southeast Asian Nations |
| C3 | Cyber Crimes Center |
| CACP | Coalition Against Counterfeiting and Piracy |
| CBP | U.S. Customs and Border Protection |
| CCFU | FBI's Cyber Crime Fraud Unit |
| CCIPS | Computer Crime and Intellectual Property Section |
| CHIP | Computer Hacking and Intellectual Property Units |
| CLDP | Commercial Law Development Program |
| CPSC | Consumer Product Safety Commission |
| CRM | Intellectual Property Case Referral Mechanism |
| DHS | United States Department of Homeland Security |
| DOJ | United States Department of Justice |
| DVC | Digital Video Conference |
| EU | European Union |
| FBI | Federal Bureau of Investigation |
| FCS | Foreign Commercial Service |
| FDA | Food and Drug Administration |
| FJA | Federal Judicial Academy |
| FTA | Free Trade Agreement |
| G8 | Group of Eight |

| | |
|-------------------|---|
| GIPA | Global Intellectual Property Academy |
| ICE | U.S. Immigration and Customs Enforcement |
| INL | State's Bureau of International Narcotics and Law Enforcement Affairs |
| Interpol | International Criminal Police Organization |
| IPCEN | Intellectual Property Crimes Enforcement Network |
| IPCEWG | Intellectual Property Criminal Enforcement Working Group |
| IPE | States Department's Office of Intellectual Property Enforcement |
| IPEG | Intellectual Property Rights Experts Group |
| IPR Center | ICE's National Intellectual Property Rights Coordination Center |
| IPLEC | Intellectual Property Law Enforcement Coordinator |
| ITA | International Trade Administration |
| ITC | International Trade Commission |
| JCCT | Joint Commission on Commerce and Trade |
| JLG | U.S.-China Joint Liaison Group for Law Enforcement Cooperation |
| METI | Japanese Ministry of Economy, Trade and Industry |
| MOC | Memorandum of Cooperation |
| MOU | Memorandum of Understanding |
| MPS | China's Ministry of Public Security |
| NIPLECC | National Intellectual Property Law Enforcement Coordination Council |
| OCI | Office of Criminal Investigations |
| OIPR | Office of Intellectual Property Rights in ITA |
| OPDAT | Office of Overseas Prosecutorial Development, Assistance and Training |
| SBA | Small Business Administration |
| SED | U.S.-China Strategic Economic Dialogue |
| SME | Small and Medium-sized Enterprise |
| SPP | Security and Prosperity Partnership of North America |
| STOP! | Strategy Targeting Organized Piracy |
| TCC | Trade Compliance Center |

TCG Training Coordination Group

TIFA Trade and Investment Framework Agreement

TRIPs Trade-Related Aspects of Intellectual Property Rights Agreement

USAID United States Agency for International Development

USPTO United States Patent and Trademark Office

USTR United States Trade Representative

WCO World Customs Organization

WCT WIPO Copyright Treaty

WIPO World Intellectual Property Organization

WPPT WIPO Performances and Phonograms Treaty

WTO World Trade Organization

IP Attaché Contact Information

BRAZIL

Dorian Mazurkevich

Mailing Address

AmConGen Sao Paulo
U.S. Commercial Service
Unit 3502
APO AA 34030
Phone: 55-11-5186-7338
Email: *dorian.mazurkevich@mail.doc.gov*

Office Location

U.S. Commercial Service Sao Paulo
Rua Henri Dunant, 700
Chacara Santo Antonio
04709-110 - Sao Paulo - SP - Brazil
Fax: 55-11-5186-7382

CHINA

Mark Cohen

Mailing Address

Mark A. Cohen
c/o U.S. Embassy - Econ Section
PSC 461 Box 50
FPO AP 96521
Phone: 86-10-6532-3831

Office Location

U.S. Embassy
3 Xiu Shui Bei Jie
Searls Building, 105
Beijing, China 100600
Fax: 86-10-6532-6645

Todd Thurwachter

Mailing Address

U.S. Embassy/Beijing,
USPTO Office/FCS
PSC 461, Box 50, PTO;
FPO AP 96521-0002
Phone: 86-10-6532-3302
Email: *Todd.Thurwachter@mail.doc.gov*

Office Location

U.S. Embassy
#3 Xiu Shui Bei Jie;
Beijing 100600 China
Fax: 86-10-6532-7663

Conrad Wong—Guangzhou

Mailing Address

United States Consulate General
 USPTO, 14/F, Office Tower
 China Hotel
 Liu Hua Lu
 Guangzhou, China 510015
Phone: 86-20-8669-0220
Email: *conrad.wong@mail.doc.gov*

Office Location

14th Floor, Office Tower
 China Hotel
 Liu Hua Lu
 Guangzhou, China 510015
Fax: 86-20-8667-7681

EGYPT

Minna Moezie

Mailing Address

U.S. Embassy- Cairo
 Unit 64900, Box 11
 APO AE 09839
Phone: (20-2) 797-2607
Email: *minna.moezie@mail.doc.gov*

Office Location

8 Kamal El Din Salah St.
 Garden City, Cairo
 Egypt
Fax: (20-2) 795-8368

INDIA

Dominic Keating

Mailing Address

U.S. Department of State
 Commercial Service FCS
 9000 New Delhi Place
 Washington, D.C. 20521-9000
Phone: 011-91-11-2331-6841

Office Location

American Center
 24, Kasturba Gandhi Marg
 New Delhi - 110001

Email: *Dominic.Keating@mail.doc.gov*

RUSSIA

Tracy Perrelli

Mailing Address

U.S. Embassy Moscow- FCS
 PSC - 77 (FCS)
 APO AE 09721
Phone: 7-495-737-5014
Email: *tracy.perrelli@mail.doc.gov*

Office Location

USFCS
 Bolshaya Molchanovka 23/38, Ent. 2
 Moscow, Russia 121069
Fax: 7-495-737-5033

THAILAND

Jennifer Ness

Mailing Address

U.S. Embassy Bangkok

Commercial Section

Box 51

APO AP 96546

Phone: (011) 66-2-205-5913

Office Location

Diethelm Tower A

Suite 30292

1 Wireless Road

Pathumwan

Email: *Jennifer.ness@mail.doc.gov*

UNITED STATES COORDINATOR FOR
INTERNATIONAL INTELLECTUAL PROPERTY ENFORCEMENT

UNITED STATES DEPARTMENT OF COMMERCE
UNITED STATES DEPARTMENT OF HOMELAND SECURITY
UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES DEPARTMENT OF STATE
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE