



# Intellectual Property Spotlight



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## Introduction

This month marks the one-year anniversary of my being confirmed by the Senate as the U.S. Intellectual Property Enforcement Coordinator. Six months ago, we submitted to Congress the Administration's first strategy on intellectual property enforcement. Since that time, we have been hard at work implementing the strategy. We have taken some exciting steps.

I want to highlight one of those recent steps. Working with agencies across the U.S. Government, my office hosted a series of meetings with private companies that provide services to online pharmacies to help increase cooperation among them and with law enforcement to take voluntary action against illegal online pharmacies. On Dec. 14, at the White House Intellectual Property Health and Safety Forum, a group of private sector partners—American Express, eNom, GoDaddy, Google, MasterCard, Microsoft, Paypal, Neustar, Visa, and Yahoo!—announced that they will work to form a new nonprofit entity with other private sector participants to take appropriate voluntary action against illegal pharmaceutical websites. This effort is the first of its kind to combat illegal online pharmacies and it is an important first step in our efforts to facilitate voluntary and cooperative efforts in the private sector. With this announcement, the U.S. Government sent an important signal to governments and the global marketplace by demonstrating an approach that combines aggressive enforcement of rights with working closely and cooperatively with the private sector on effective voluntary enforcement efforts.

I look forward to continuing to work with the federal agencies, the public, and Congress in 2011.

A handwritten signature in black ink that reads "Victoria A. Espinel".

Victoria A. Espinel  
U.S. Intellectual Property Enforcement Coordinator

## Securing Our Supply Chain

### Online Piracy

[Operation In Our Sites v. 2.0](#): On Nov. 29 (Cyber Monday), U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and the U.S. Department of Justice (DOJ) announced the second operation under Operation in Our Sites. ICE HSI and DOJ targeted websites selling counterfeit products that consumers may have otherwise bought as holiday gifts, including sports equipment, athletic apparel, handbags, and sunglasses, seizing the domain names of 82 websites. As was done with the previous Operation in Our Sites, potential customers who entered the domain name for the seized websites saw the following banner:



**Banner Appearing on Seized Websites**

The Operation was led by the IPR Center and involved DOJ's Computer Crime and Intellectual Property Section (CCIPS) and Asset Forfeiture and Money Laundering Section. Nine U.S. Attorneys' Offices worked on the Operation: the Central District of California, Colorado, the District of Columbia, the Middle District of Florida, New Jersey, the Northern District of Ohio, the Southern District of New York, the Southern District of Texas, and the Western District of Washington.

### Health and Safety

[Conviction for Selling Counterfeit Integrated Circuits for Use by U.S. Military](#): In the [October Spotlight](#), we highlighted the indictment of two defendants for trafficking in counterfeit integrated circuits, including those for use by the military. On Nov. 19, one of the defendants pleaded guilty, agreeing to cooperate. The case is being prosecuted by the

U.S. Attorney's Office for the District of Columbia and was investigated by six agencies. **Ronald C. Machen Jr., U.S. Attorney for the District of Columbia**, said: "All counterfeiting threatens our economy, but this case is especially serious because counterfeiting of sophisticated components used by our military can endanger lives, threaten the success of missions, and degrade our systems and result in costly repairs and untimely system failures. We will continue to target anyone who seeks to profit selling counterfeit goods to our military and other industry sectors." **Brian Toohey, President, Semiconductor Industry Association** emphasized: "Counterfeit semiconductors embedded in critical electronic systems and infrastructure such as aircraft, medical equipment, and the nation's power grid, are a ticking time bomb that can fail at an inopportune time with tragic consequences. The industry wants to work closely with law enforcement to stop counterfeits from entering the country and prosecute those who traffic in counterfeit semiconductors."

[Operation Network Raider](#): As noted in the [October Spotlight](#), DOJ announced Operation Network Raider, a combined effort by DOJ, the Federal Bureau of Investigation (FBI), U.S. Customs and Border Protection (CBP), and ICE HSI to combat counterfeit computer network hardware from China. As part of that Operation, two defendants (and their companies) who were convicted of selling counterfeit Cisco products to the U.S. government in the Southern District of Texas were recently added to [GSA's Excluded Parties List System](#), preventing them from obtaining U.S. government contracts. And, on [Nov. 8](#) and [Dec. 9](#), the latest Operation Network Raider defendants pleaded guilty to selling more than \$1 million worth of counterfeit Cisco products that they imported from China and sold over the Internet. The case was investigated by the FBI and ICE HSI and prosecuted by the U.S. Attorney's Office for the District of Kansas. In total, Operation Network Raider has resulted in more than 30 convictions and the seizure

### Quotes about the Prosecution



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**U.S. Attorney General Eric H. Holder, Jr.** said: "For far too long, the theft of innovative ideas or sale of counterfeit, defective, and dangerous goods has been perceived as 'business as usual.' Not anymore. IP crimes threaten economic opportunities and financial stability. They destroy jobs. They suppress innovation. And they can jeopardize the health and safety of the men and woman we are sworn to protect. With today's seizures, we are disrupting the sale of thousands of counterfeit items. We are cutting off funds to those looking to profit from the sale of illegal goods and exploit the ingenuity of others."

"Many of the sites selling counterfeit goods were outright fraud designed to dupe the online shopper into believing that the site was authorized and that the goods being sold were real," emphasized **ICE Director John Morton**. "The sale of counterfeit U.S. brands on the Internet steals the creative work of others, costs our economy jobs and revenue and can threaten the health and safety of American consumers. The protection of intellectual property is a top priority for [HSI] and the [IPR Center]."

of more than \$143 million in counterfeit goods. **FBI Assistant Director Gordon M. Snow** said: “Individuals who break the law by attempting to profit from counterfeit technology do the marketplace great harm. This case illustrates how effectively the private sector and law enforcement organizations work together to combat fraudulent goods and preserve the integrity of U.S. computer networks and infrastructure.”

#### 26-Month Prison Sentence for Selling Electronic Equipment with Counterfeit “UL” Safety Stamp:

On Nov. 22, a federal judge sentenced a defendant to serve 26 months in prison, in part, for the sale of counterfeit goods. As a result of the investigation, authorities seized more than \$7 million worth of counterfeit goods, including dangerous and substandard electronic power strips containing counterfeit Underwriter Laboratories (UL) trademarks (a trademark associated with the safety of electronic equipment). The case was prosecuted by the U.S. Attorney's Office for the Eastern District of California and investigated by the U.S. Secret Service (USSS), the Internal Revenue Service, the Placer County Sheriff's Office, the Galt Police Department, and the Sacramento Police and Sheriff Departments. Said **Chris Gangemi, Senior Vice President and General Counsel, UL**: “There are no simple answers to the complexities of organized counterfeiting, but this is another example of how the coordinated efforts of industry, federal agencies, and local law enforcement can be an effective deterrent against IP crime.” He praised the work of the law enforcement agencies involved in the case and emphasized that “[t]ogether, they've helped protect the safety of consumers from the potential hazards associated with goods bearing counterfeit UL Marks.” **Kenneth Jenkins, Special Agent in Charge, USSS, Criminal Investigation Division (CID)** added: “The Secret Service, through its participation on various task forces, strongly supports the investigation of intellectual property violations.”

#### **Three Defendants Were Sentenced for Trafficking in Counterfeit and Dangerous**

**Products:** Recently, three defendants were sentenced for a scheme to trafficking in dangerous counterfeit goods. On Nov. 5, a federal judge sentenced two warehouse operators to serve 24 months in prison and 18 months in prison for trafficking in counterfeit UL products (such as outlet power strips and extension cords). UL tested the counterfeit products, determining that, with a normal amount of electricity, the insulation could melt in short order, causing a fire (Previously, on Aug. 11, a man connected to the warehouse operators was sentenced to serve 37 months in prison for trafficking in counterfeit Trojan condoms; that defendant had over one million counterfeit conducts, which failed testing, and were determined by the FDA to be dangerous). Three additional defendants await sentencing: Two have admitted to trafficking in counterfeit condoms and one admitted to trafficking in counterfeit UL products. Another defendant, who was indicted for trafficking in counterfeit condoms and UL products, remains a fugitive and is believed to be in China. In total, \$5 million in counterfeit goods has been seized, including 2.7 million counterfeit condoms and 45,000 counterfeit power strips and extension cords. The case was investigated by ICE HSI and the FDA and prosecuted by the U.S. Attorney's Office for the Eastern District of New York.

#### **Use of Forced Labor**

Defendants Charged With Using Forced Labor to Traffic in Counterfeit Goods: On Nov. 17, three defendants were charged with, among other offenses, smuggling aliens into the U.S., harboring them, and forcing them to sell pirated CDs and DVDs. The indictment alleges that the defendants used verbal and physical abuse and threats of force to compel the aliens to sell pirated goods until their debts for smuggling them into the U.S. had been paid. The case was investigated by the ICE HSI, the FBI, the U.S. Department of State–Diplomatic Security Service, the Harris County Sheriff's Office, and the Texas Attorney General's Office. The case is being prosecuted by the U.S. Attorney's Office for the Southern District of Texas. **José Angel Moreno, U.S. Attorney for the Southern District of Texas**, said: “Driven by greed, these defendants mistreated and abused the victims of human trafficking after enticing them to come to Houston with promises of employment and a better life. Forced to sell counterfeit goods to repay their smuggling fees and earn their freedom, bootleg CDs and DVDs became the shackles of the victims of this modern day slavery.”

#### Quotes about the Prosecution

##### Three Defendants Sentenced for Trafficking in Counterfeit and Dangerous Products



“Prosecuting those who would traffic in counterfeit goods is vital to protecting the health and safety of the community. We remain dedicated to vigorously enforcing intellectual property laws,” said **Loretta E. Lynch, U.S. Attorney for the Eastern District of New York**.

Said **Mark Dragonetti, Special Agent in Charge, FDA Office of Criminal Investigations, New York**: The FDA “will continue to work together with other government entities to aggressively target those individuals who put the public's health at risk by selling counterfeit products for their own personal profit, and we commend the United States Attorney's Office for their prosecution of this matter.”

“Individuals who engage in trafficking of counterfeit goods are on notice that [HSI] agents will use all the investigative tools at our disposal to arrest them and bring them to justice,” emphasized **James T. Hayes, Jr., Special Agent in Charge, ICE HSI, New York**.

**Gangemi, Senior Vice President and General Counsel, UL** stated: “UL is grateful for the diligent and effective efforts of the U.S. Attorney's Office, ICE HSI and the FDA. Without their consistent efforts, UL would not have been able to stop the distribution of these counterfeit and sub-standard products into the country. These efforts not only are an important part of supporting our intellectual property rights, but also in keeping potentially dangerous counterfeit products from getting into consumer hands.”



## Theft and Attempted Theft of Innovation

**Transfer of American Automobile Technology to a Chinese Company:** On Nov. 17, a former employee of Ford Motor Company pleaded guilty to two counts of stealing trade secrets. The defendant, a Chinese national, worked as a product engineer for Ford for 10 years. In 2006, he accepted a position at the China branch of a U.S. company. The defendant copied 4,000 Ford documents onto an external hard drive, including sensitive design documents. Later, in November 2008, the defendant began working for Beijing Automotive Company, a direct competitor of Ford. The defendant was arrested after returning to the U.S. in October 2009, and a search of his company laptop revealed 41 Ford design specification trade secrets, all of which defendant had accessed during his employment with Beijing Automotive Company. As part of a plea agreement, the defendant agreed that he caused Ford between \$50 to \$100 million worth of harm. Under that agreement, the defendant faces a sentence of between 63-78 months in prison. The case was investigated by the FBI and prosecuted by the U.S. Attorney's Office for the Eastern District of Michigan.

**Law Enforcement Stops Transfer of American Pharmaceutical Trade Secrets to India:** On Nov. 5, a former employee of Bristol-Myers Squibb pleaded guilty to theft of trade secrets. The defendant, who was employed in Bristol Myers' management training program, stole trade secrets from the company to advance a competing venture he had created in his native India. He communicated with an individual he believed was an investor, and brought the trade secrets to a meeting with that person, leading to the defendant's arrest. The case was investigated by the FBI and ICE HSI and prosecuted by the U.S. Attorney's Office for the Northern District of New York. **Richard Hartunian, U.S. Attorney for the Northern District of New York** said: "Thefts of trade secrets seriously threaten the substantial investments, innovations and ideas of entrepreneurs and businesses. Such thefts present a special danger where the stolen property will unfairly benefit foreign competitors. This case demonstrates our commitment to vigorously prosecute individuals who steal valuable trade secrets and undermine intellectual property rights."

**Transfer of American Source Code to China:** On Nov. 10, three defendants were charged with conspiracy to possess stolen trade secrets. One defendant served as the director of software development for SiRF Technology, Inc., one was a software engineer for the same company, and one was a senior field applications engineer. SiRF designed and developed software source code for use in location-based services (for cell phones and other products). The defendants were charged with using the trade secrets stolen from SiRF to start a rival company in the U.S. and China. The case was investigated by the USSS and is being prosecuted by the U.S. Attorney's Office for the Northern District of California. "The Secret Service has a long history of partnering with other law enforcement and the private sector to investigate and prevent this kind of criminal activity," said **Jenkins, Special Agent in Charge, USSS CID**. "The theft of intellectual property, such as trade secrets, corporate ideas and legitimate products, can have a significant impact on the nation's financial systems."

**Theft of High-Volume Trading Code:** On Nov. 19, a jury found a former trader at Societe Generale in New York guilty of stealing trade secrets and interstate transportation of stolen property. Societe Generale—one of France's largest banks—spent millions of dollars developing a computer system and associated code to allow it to engage in high-volume trading. As a result of a promotion to the high-volume trading group, the defendant obtained access to some of the code and printed out hundreds of pages of it. Around that time, the defendant accepted an offer of employment with a competing company and gave the computer code to the competitor. The case was investigated by the FBI, and prosecuted by the U.S. Attorney's Office for the Southern District of New York. **Preet Bharara, U.S. Attorney for the Southern District of New York**, said: The defendant "was a thief who hoped to make a small fortune by stealing and copying sophisticated computer code that was the equivalent of gold bullion to his former employers. Today's verdict sends a clear message that this Office and the FBI will investigate and prosecute the theft of valuable trade secrets for the serious crime that it is." **FBI Assistant Director Snow** added: "The FBI will continue to aggressively investigate and prosecute individuals, to include insiders who steal proprietary information from their employers and attempt to sell it to competitors."

## Quotes about the Prosecution

### Transfer of American Automobile Technology to a Chinese Company



"We will vigilantly protect the intellectual property of our U.S. automakers, who invest millions of dollars and decades of time in research and development to compete in a global economy," said **Barbara L. McQuade, the U.S. Attorney for the Eastern District of Michigan**.

**Special Agent In Charge, FBI, Detroit, Andrew G. Arena** added: "Michigan, as well as the rest of the United States, is significantly impacted by the auto industry. Theft of trade secrets is a threat to national security and investigating allegations involving theft of trade secrets is a priority for the FBI. The FBI will continue to aggressively pursue these cases."

"The protection of trade secrets, patents and other forms of intellectual property is vital to investment, production and job creation here in the U.S.," emphasized **Leo Gerard, International President, United Steelworkers**. "This case is just but one example of the need for vigilance and strong enforcement of IPR. If companies are going to make large investments to compete in the global economy, they need to know that their ideas and processes are protected. IPR theft robs both workers and industries of their competitive advantage. **Quite simply, strong IPR enforcement is a jobs issue.**"

**David Hirschmann, President and CEO, Global Intellectual Property Center, U.S. Chamber of Commerce** agreed: "Intellectual property theft—including the theft of trade secrets—is detrimental to America's economic growth. **Protecting intellectual property and job creation go hand in hand and in this economic downturn, we simply cannot afford to allow these crimes to stall our economic recovery.** We applaud the Justice Department for standing up for the American workers by its continued commitment to IP enforcement."

## Counterfeit Good and Piracy Sentencings

In October and November, a number of defendants were sentenced to serve time in prison for intellectual property crimes including:

- [48-Month Prison Sentence](#): On Oct. 19, a federal judge sentenced a defendant to serve 48 months in prison for camcording movies at theaters and distributing pirated DVDs in his store. The case was investigated by ICE HSI and prosecuted by the U.S. Attorney's Office for the Eastern District of Virginia.
- [41-Month Prison Sentence](#): In the [August Spotlight](#), we highlighted a conviction for the sale of counterfeit exercise equipment and bribery resulting from Operation Treadmill at the Long Beach/Los Angeles sea port. On Oct. 25, a federal judge sentenced the defendant to serve 41 months in prison. The case was investigated by CBP and ICE HSI and prosecuted by the U.S. Attorney's Office for the Central District of California.
- [37-Month Prison Sentence](#): On Oct. 1, a federal judge sentenced a defendant to serve 37 months in prison for selling counterfeit goods in his store in Iowa. The case was investigated by ICE HSI and the Clinton Police Department and prosecuted by the U.S. Attorney's Office for the Southern District of Iowa.

## Federal Coordination with International Organizations to Fight Intellectual Property Crime

The IPR Center initiated two recent cross-border enforcement actions through the World Customs Organization (WCO) and INTERPOL:

- [Operation Pangea III](#): Between Oct. 5 and 12, **more than 40 countries** participated in Operation Pangea III, targeting counterfeit pharmaceuticals sold over the Internet. INTERPOL, the WCO, and other international organizations coordinated the Operation. Participation increased from 24 countries last year to 45 countries this year and included Canada, China and Hong Kong, Mexico, Russia, and the U.S. The Operation resulted in the seizure of more than **one million counterfeit drugs, worth more than \$2.5 million, and the takedown of almost 300 websites.**
- [Operation Global Hoax](#): In October, the IPR Center announced the results of Operation Global Hoax, a **42-country Operation** coordinated through the WCO. The Operation targeted counterfeit goods shipped through international mail and courier facilities and resulted in the seizure of more than 142,000 counterfeit DVDs, 28,000 counterfeit CDs, and 271,000 other counterfeit items. **Kunio Mikuriya, Secretary General of the WCO** said: "Using postal and express courier channels to move tens of thousands of counterfeit and pirated goods across the world is increasingly being exploited by criminal traders. Operation Global Hoax, which targeted the use of this means of transport for illegal goods yielded outstanding results, and is a clear demonstration of the Customs community's resolve to fight these global gangsters in partnership with all our key stakeholders." Added **ICE Director Morton**: "We thank the WCO for agreeing to coordinate this operation and facilitate the cooperation of so many member countries."

### Quotes about the Prosecution

#### Operation Pangea III



**ICE Director Morton** said: "Operations like this highlight why international partnerships are such an essential weapon in the fight against trafficking of counterfeit pharmaceuticals."

**CBP Commissioner Alan Bersin** said that this Operation "is a testament to what partnership can accomplish."

## Federal Coordination with State and Local Law Enforcement

[Operation Knock Out Knock-Offs](#): With the help of funding from DOJ's Bureau of Justice Assistance (BJA), the Mississippi Attorney General's Office launched Operation Knock Out Knock-Offs, which involved the creation of a state intellectual property task force and education campaign. As a result of the task force, on Nov. 18, more than 100 federal, state, and local agents executed more than 30 search warrants in Mississippi for counterfeit drugs, including the sale of counterfeit prescription pain medication, antibiotics, and birth control. The Operation involved the U.S. Attorneys' Offices for the Northern and Southern Districts of Mississippi, ICE HSI, the FDA, the Mississippi Attorney General's Office, and others. Said **Mississippi Attorney General Jim Hood**: "By partnering with federal and local officials, we can help protect consumers from dangerous fakes."

**Houston IPTET Seizes More than \$2.5 Million of Counterfeit Goods**: In the [August](#) and [October](#) Spotlights, we cited the work of the Houston Intellectual Property Theft Enforcement Team (IPTET), consisting of ICE HSI agents and Houston Police Department officers. On Oct. 29, that IPTET launched another significant action, searching three businesses, seizing more than \$2.5 million of counterfeit goods, and arresting seven suspects.

**State and Local Law Enforcement Trainings**: BJA, the National White Collar Crime Center (NW3C), and the National Association of Attorneys General (NAAG) recently kicked off a series of intellectual property trainings for state and local law enforcement. Future trainings are scheduled for Jan. 20 in Austin, Texas, and Feb. 16 in Baldwin Park, California.



In October, Attorney General Holder met in China with officials to press them on intellectual property enforcement.



## Counterfeit Pharmaceuticals

- **Voluntary Action by the Private Sector to Combat Illegal Online Pharmacies:** After meetings hosted by the IPEC, American Express, eNom, GoDaddy, Google, MasterCard, Microsoft, Paypal, Neustar, Visa, and Yahoo! announced that they will work to form a nonprofit with other private sector participants to take appropriate voluntary action against illegal online pharmacies.
- **White House IP Health and Safety Forum:** On Dec. 14, the IPEC held a White House intellectual property health and safety forum featuring, among others, the IPEC, Attorney General Holder, DHS Secretary Janet Napolitano, ICE Director Morton, and private sector representatives from across industries.
- **Campaign Against Counterfeit Medicines:** The U.S. Department of State (DOS) has launched its “Campaign Against Counterfeit Medicines.” On Oct. 18 & 21, the U.S. Embassies in Sri Lanka and Kenya conducted the first two in a series of workshops as part of this campaign.
- **Fighting Fake Drugs in Guatemala:** With funding from DOS, from Nov. 16-17, DOJ hosted the first in a series of Latin American workshops in Guatemala on counterfeit drugs. The workshop resulted in a public-private working group to combat counterfeit drugs in Guatemala by streamlining the process for testing suspect medicines, developing prosecutorial and judicial handbooks for use in counterfeit drug cases, and pooling information collected on suspected contraband.

## Enforcing Our Rights Internationally

- **ACTA Text Finalized:** USTR, with the assistance of other federal agencies, concluded the final ACTA negotiations on Nov. 15, and the text of ACTA was finalized on Dec. 3. To review that text, click on the link above.
- **Special 301 Process for Philippines and Thailand:** In November, USTR initiated a special review of the status of intellectual property protection and enforcement in the Philippines and Thailand under the “Special 301” process.

## China

- **Attorney General and IPEC Met with Officials in China about IP Enforcement:** During the week of October 18, Attorney General Holder and the IPEC met with officials in China about intellectual property enforcement.
- **JLG-Related IP Meeting in China:** From Nov. 28 to Dec. 2, U.S. and Chinese officials gathered in Beijing for a meeting of the Intellectual Property Criminal Enforcement Working Group, as part of the Joint Liaison Group for Law Enforcement Cooperation.

## Russia and Eastern Europe

- **Russian Duma Passes Customs Law:** On Nov. 19, the Russian Duma passed its new customs law, giving ex officio authority to customs officials. This change in law was negotiated as part of the 2006 U.S./Russia Bilateral Agreement on IPR.
- **IP Trainings and Conferences:** In October and November, USPTO held a conference in Moscow on the “Commercialization and Enforcement of IP,” a workshop on intellectual property enforcement in Moscow—with participants from Russia, Armenia, and Ukraine—and an intellectual property training for 33 Eastern European and Commonwealth of Independent States countries.

If you feel that you have been the victim of an intellectual property crime, you can report the crime by clicking on the button to the left, calling the IPR Center at 1-866-IPR-2060, or contacting a [field office of the FBI](#). To help you determine what to do when reporting an intellectual property crime, see DOJ’s [“Reporting Intellectual Property Crime: A Guide for Victims of Counterfeiting, Copyright Infringement, and Theft of Trade Secrets.”](#) DOJ also has created [forms/checklists](#) that identify the information you will need to provide when referring [copyright infringement and trademark offenses](#) and [theft of trade secrets](#).

If you would like to subscribe to the newsletter in the future, email [IntellectualProperty@omb.eop.gov](mailto:IntellectualProperty@omb.eop.gov). If you would like more information about the Office of the IPEC, including a copy of the 2010 Joint Strategic Plan on Intellectual Property Enforcement, please visit our [website](#).