

**From:** [REDACTED]  
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Please find IIPi's submission attached.

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March 24, 2010

International Intellectual Property Institute  
2301 M St NW  
Suite 420  
Washington, DC 20037

The Honorable Victoria A. Espinel  
United States Intellectual Property Enforcement Coordinator  
Office of Management and Budget

Dear Coordinator Espinel:

The International Intellectual Property Institute (IUPI) applauds the Federal Government's efforts to develop a more efficient and effective enforcement strategy to combat intellectual property (IP) infringement both in the United States and abroad. IUPI is a nonprofit, nonpartisan international development agency located in Washington, D.C. For over 10 years IUPI has assisted countries in creating jobs and achieving sustainable economic growth through effective use of their IP assets.

The following recommendations apply to multiple, overlapping objectives of the Joint Strategic Plan and are articulated through IUPI's own experiences promoting IP rights.

### ***The Benefits of IP Enforcement***

The key to building effective IP regimes around the world hinges on each country's willingness and dedication to protect IP. IUPI encourages this commitment by increasing awareness and understanding of the link between IP protection and economic development. When countries see and understand the economic benefits that come with strong IP protection, they are more inclined to protect not only their own intellectual assets, but also those of other countries, including our own.

Events designed to raise awareness of IP matters and provide the tools for private sector, government and judicial leaders to build infrastructure to combat piracy and stimulate the growth of domestic, knowledge-based industries are the most effective means of encouraging and developing increased IP protection.

One of the best ways to help countries understand the benefits of IP protection is to work directly with them. IUPI has had success teaching countries about the economic benefits of IP by hosting forums with policymakers, industry leaders, artisans and scientists to help them understand the power of IP.

For example, at our International Conference on Technology Transfer, Intellectual Property Rights and Business Policy, we taught Brazilian policy-makers how to apply the lessons learned from legislative changes in other countries to Brazil's economic legal environment. As an incentive to making such legislative changes, the conference highlighted international examples of growth through increased IP protection and demonstrated that these economic tools could help Brazil tap into the innovative capacity of its scientific and technological sectors. These workshops articulate the importance of IP in improving the lives of a country's population

through real-world examples of economic development and also show countries how to adjust and apply such policies to their specific legal frameworks.

To encourage enforcement of IP rights, it is essential that countries appreciate how piracy and counterfeit products harm their own economic growth. Many countries see IP protection as benefiting only a handful of rich countries, so they do little to enforce IP laws that could also help them become wealthier.

In an effort to change this view, IUPI, the United States Patent and Trademark Office (USPTO), the Association of Southeast Asian Nations (ASEAN) Secretariat, and the Kenan Institute Asia hosted the ASEAN Seminar on Capacity-Building in Bangkok, Thailand. At this event attendees learned how to identify, leverage and exploit IP rights as *entrepreneurial assets*. The recognition of the importance of IP rights in trade and investment and IP cooperation among the ASEAN member countries made the participants more receptive to efforts to help them increase their enforcement measures. IUPI worked with them to formulate administrative, border, and civil and criminal enforcement strategies for protecting both the intellectual assets of participant countries and those of other nations.

Information technology industries are fast becoming a significant source of economic growth. Though private companies are ultimately responsible for bringing technology to the marketplace, a large part of most developing countries' research capacity is in public organizations. By strengthening their public-to-private technology transfers, developing countries create more jobs and wealth from their R&D and bolster their global competitiveness.

IP rights protect the significant investments that go into information technology products and guarantee future technological developments in this field. Programs aimed at educating government and business leaders on the relationship between IP, technology development, and economic growth will aid in this technology transfer by showing that IP enforcement is essential to the growth of information technology.

For example, IUPI hosted a workshop on national innovation policy and technology transfer in Botswana with the Botswana Ministry of Communication, Science & Technology, and the Southern African Research & Innovation Management Association in 2006. The workshop is the type of program that shows how technology transfer and a clear innovation policy can facilitate economic growth and development. The workshop covered government and university IP ownership rights, educated participants about services for the transfer of technology, encouraged a stronger entrepreneurial spirit among university inventors, and provided the opportunity to make connections between private industry and university-based technology researchers. Speakers focused on setting up technology transfer offices and identifying key technology and good prospects for marketability.

### ***Specialized Trainings***

Specialized training for judges, lawyers and other individuals engaged in enforcement is essential to ensuring that enforcement measures are effective. By addressing the distinct needs of each profession, these training sessions uncover profession-specific barriers to IP enforcement. IUPI used this technique in our Intellectual Property Law, Policy and Administration Workshops in Vietnam, held conjunction with the STAR project in Vietnam and with support from the USPTO. Even with proper legislation in place, IP enforcement will be ineffective unless judges and government officials have a comprehensive understanding of IP

laws and policies. An increase in the number of these training sessions will better guarantee that enforcement provisions are properly executed by participant countries.

Trainings should include a focus on how local and state law enforcement authorities can more effectively participate in IP enforcement. In the U.S. - Russia Federation Workshop On the Border Enforcement of Intellectual Property Rights, IPI, the USPTO, and the Russian Customs Office brought members of the U.S. and Russian customs offices together to discuss the latest techniques of targeting and detecting infringing goods. Providing law enforcement authorities with the skills to detect counterfeit goods allows them to take action on their own and reduces administrative barriers to enforcement. Additionally, the workshop presented an opportunity for representatives from companies to have.

### ***Private Sector Participation***

It is also imperative that local business and industries understand how IP protection can help them. A failure to develop, exploit and protect local IP assets can waste business potential and investment. This is particularly true for indigenous cultural products, which are a highly prized commodity in the international marketplace. However, in the absence of proper IP protection, counterfeit goods flood the market, depriving original creators of any economic benefits and demeaning their cultural heritage. At the Namibia Intellectual Property Conference - Supporting Culture Based Industries, IPI addressed artists and small business owners whose business models could be enhanced or complemented with IP protection. IPI also spoke to government officials, police and customs officers about the ways in which IP protection can lead to the production and distribution of these products in local, regional and international markets. Bringing public and private sectors together permits them to pool their vast resources in pursuit of a common interest – IP enforcement.

### ***Promotion of Artists' Rights***

IP rights and their enforcement are essential to the promotion of the arts. Piracy remains the most significant impediment to music industry growth in developing countries. If local artists cannot flourish, a community will lose an important part of its cultural identity.

Enforcing these artists' rights depends on not only modern IP legal protections and efficiently managed national IP offices, but also collection societies that facilitate the transfer of benefits to creators and performers. Through national branding and licensing, these societies generate revenue from distribution in international markets that fosters the creative industries of emerging economies. However, many countries need help creating these organizations. In Botswana, IPI compiled a report for use by government and business leaders in the establishment of national collecting societies. The royalties distributed by these societies will help artists support themselves.

### ***Continuing Education***

Workshops and trainings are a key factor in the improvement of IP enforcement in other countries, but it is critical that participant education not stop after these events. Relationships must continue to be developed to ensure that participants achieve results. Follow-ups and trainer trainings are necessary.

As an example, IPI conducted a workshop on combating music piracy with a delegation from South Africa. We covered methods for training government and private sector members on

effective enforcement tactics. In this way, the lessons learned from the workshop will be passed on through future workshops and training activities led by participants.

***Conclusion***

IPI has proven that promoting awareness and understanding of the ways in which IP can act as a tool for economic development encourages countries to do a better job of enforcing these rights. The types of programs described above incentivize IP enforcement while also providing the tools necessary for implementing enforcement measures successfully. The establishment of these programs requires adequate financing, but there is no question that the commitment is worth it. By devoting the necessary resources, the United States can encourage economic development and better protect American IP.

Thank you for the opportunity to provide these comments.

Sincerely,

Andrew Jaynes  
General Counsel  
International Intellectual Property Institute