Introduction

I want to welcome you to our second IPEC IP Spotlight, highlighting the significant work of the U.S. Government in August and September. As you can see, it has been a busy two months. We are working hard to implement the Joint Strategic Plan on Intellectual Property Enforcement and to find innovative ways to fight infringement.

We also need your help and input. President Obama has set a goal to double exports in five years. Our ability to increase exports depends on Americans being able to fairly compete overseas. The U.S. Department of Commerce (DOC) is asking the public, including exporters and potential exporters, for their views about: (1) the challenges in protecting their innovation or enforcing their intellectual property rights overseas; (2) how well the U.S. Government is doing to support our businesses’ intellectual property; and (3) what the U.S. Government can do better.

The Internet has helped drive our economic growth. Lowering barriers to entry and creating global distribution channels, the Internet has opened markets and opportunities for American companies, including small-and-medium sized businesses, allowing them to reach consumers across the globe. The Internet, however, has also allowed piracy and counterfeiting to occur on an unprecedented and global scale. DOC’s Internet Policy Task Force is analyzing the relationship between the availability and protection of online copyrighted works and innovation in the Internet economy. As part of those efforts, DOC wants input from the public, including as to: (1) rightholders’ experiences detecting or preventing infringement; (2) rightholders’ experiences with intermediaries; and (3) Internet users experiences and awareness of infringement. The U.S. Trade Representative (USTR) also wants input from the public for its 2010 Special 301 Out of Cycle Review of Notorious Markets. Notorious markets are those where counterfeit or pirated products are prevalent, and include not only physical markets, but also Internet markets.

Finally, USTR recently concluded the final round of Anti-Counterfeiting Trade Agreement (ACTA) negotiations, and is close to having a historic agreement in place. We congratulate USTR on their efforts and encourage you to take a look at the current draft ACTA language, a link to which is embedded in this paragraph.

Victoria A. Espinel
U.S. Intellectual Property Enforcement Coordinator
Building a Data-Driven Government

Kickoff Economic Analysis Interagency Meeting: Under the 2010 Joint Strategic Plan on Intellectual Property Enforcement – which we released in June – the U.S. Government committed to analyze the economic contributions of intellectual property industries, including the number of jobs and exports supported by those industries. On September 13, the IPEC and DOC Chief Economist Mark Doms led the first interagency meeting to discuss measuring those contributions. Participants included senior economists from the Office of Management and Budget, National Economic Council, the Council of Economic Advisors, Office of Science and Technology Policy, the National Science Foundation, the Bureau of Labor Statistics, USTR, DOC, U.S. Department of the Treasury, and the U.S. Department of Justice (DOJ).

Securing Our Supply Chain

Health and Safety

Defendants Charged with Selling Counterfeit Integrated Circuits for Use by U.S. Military: On September 14, two defendants were arrested for trafficking in counterfeit integrated circuits, including military-grade integrated circuits. One of the defendants owned, and the other helped run, VisionTech Components (www.visiontechcomponents.com), which allegedly sold counterfeit integrated circuits, including military-grade circuits. Integrated circuits control the flow of electricity. Military-grade integrated circuits are higher priced circuits subject to more testing and required to withstand extreme temperatures and/or vibration. According to the indictment, the defendants smuggled counterfeit integrated circuits and military-grade circuits from China for three years, selling more than $15 million worth, including those for use by the U.S. military. For example, the defendants allegedly sold 1,500 counterfeit integrated circuits meant for a missile system and 75 counterfeit integrated circuits meant for antenna equipment for a naval aircraft identification system. The case is being prosecuted by the U.S. Attorney’s Office for the District of Columbia and was investigated by U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI), U.S. Naval Criminal Investigative Service (NCIS), the U.S. Postal Inspection Service (USPIS), the Internal Revenue Service– Criminal Investigation, the U.S. Department of Transportation–Office of the Inspector General, and General Services Administration–Office of the Inspector General.

Joint Operation to Stop Counterfeit Network Hardware from Being Imported from China: Earlier this year, 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 the sale and importation of counterfeit computer network hardware from China. The Operation resulted in more than 30 convictions and the seizure of more than $143 million in counterfeit goods. The Southern District of Texas obtained two of those convictions. In the most recent case, the defendant, using the business name Syren Technology, imported and sold purported Cisco products to, among others, the Federal Aviation Administration, the U.S. Marine Corps, the U.S. Air Force, and the Federal Bureau of Prisons. On September 7, the court sentenced him to serve 30 months in prison. The case was investigated by CBP and ICE HSI. José Angel Moreno, United States Attorney for the Southern District of Texas said: “Importation of counterfeit technology products from China and elsewhere victimizes both the companies which developed the intellectual property that is being counterfeited and the end users, particularly our men and women in uniform, who receive the inferior counterfeit products which can threaten entire computer networks and our national security. We will continue our efforts to investigate and prosecute these cases in order to protect American companies, workers and consumers.” Acting Special Agent in Charge, ICE HSI Houston, John Connolly, added: “The importation and introduction into the mainstream economy of counterfeit computer network hardware is a direct threat to our national security and infrastructure.” Mark Chandler, Senior Vice President, General Counsel, and Secretary of Cisco said that Cisco was grateful to the U.S. law enforcement agencies “for their relentless dedication to protecting the innovation of American workers and businesses. Counterfeiting is a serious crime that impacts the global high-tech industry, its customers and partners. The success of this case sends a strong message that the U.S. government and our industry remain steadfast in our collective efforts to detect, deter and dismantle the manufacturing, distribution and trafficking of counterfeit goods.”

33-Month Prison Sentence for the Sale of Counterfeit Cancer Drugs: On August 25, the court sentenced a defendant to 33 months in prison for selling counterfeit cancer drugs. Using the website DCAdvice.com, the defendant sold counterfeit pills of the experimental cancer drug sodium dichloroacetate to at least 65 victims in the U.S and elsewhere. The case was investigated by the FBI and prosecuted by the U.S. Attorney’s Office

Quotes about the Prosecution

Defendants Charged with Selling Counterfeit Integrated Circuits for Use by U.S. Military

U.S. Attorney for the District of Columbia, Ronald Machen, Jr. said: “Product counterfeiting, particularly of the sophisticated kind of equipment used by our armed forces, puts lives and property at risk. This case shows our determination to work in coordination with our law enforcement partners and the private sector to aggressively prosecute those who traffic in counterfeit parts.”

“Selling counterfeit components marketed as ‘military-grade’ to the U.S. Department of Defense and its contractors endanger the lives of our military personnel,” said ICE Director John Morton. “VisionTech was more interested in lining their own pockets than protecting our troops.”

ICE HSI remains “vigilant in the protection of the U.S. public and particularly our warfighters.”

“NCIS continues to aggressively pursue individuals who sell counterfeit goods to the Department of the Navy, as it undermines the Navy’s ability to defend the nation,” said Sandy MacIsaac, Special Agent in Charge. NCIS Washington D.C. Office. “This case represents how close coordination and partnership between NCIS, ICE and [DOJ] can achieve success in thwarting defective material from entering the Navy’s supply chain.”
for the District of Arizona and DOJ's Computer Crime and Intellectual Property Section (CCIPS). Dennis Burke, U.S. Attorney for the District of Arizona, noted that the defendant “used the Internet to victimize people already suffering from the effects of cancer. Now he will go to prison for this bogus business and heartless fraud.” Added Nathan Gray, Special Agent in Charge, FBI Phoenix Division: “Today's sentencing illustrates international law enforcement partners working together to send a message not to use the Internet to perpetuate fraud, especially against those afflicted with a serious medical condition.”

Conviction for Smuggling Counterfeit Pills Containing Substance Used to Make Sheetrock: On September 2, a jury convicted a defendant of conspiring with people in China to traffic in counterfeit medicine. In early 2010, CBP discovered 6,500 counterfeit Viagra pills in two packages at a mail facility in San Francisco that were being sent to the defendant's address. After further investigation and the defendant's arrest, the pills were tested and found to contain a substance used to manufacture sheetrock. The case was investigated by CBP, ICE HSI, the Food and Drug Administration (FDA), and the USPS and prosecuted by the U.S. Attorney's Office for the Southern District of Texas. Moreno, United States Attorney for the Southern District of Texas said: "Counterfeit pharmaceuticals place the public at risk and this case is an example of law enforcement coming together to protect consumers." Gary Barksdale, Inspector in Charge, Houston Division, USPS stated: "Counterfeit pharmaceuticals threaten public safety because consumers can't be certain what they're getting.” He added that this conviction “demonstrates how law enforcement agencies working together can and do provide a safe environment for the American public.” Connolly, Acting Special Agent in Charge, ICE HSI Houston, agreed: “The investigation into this type of criminal activities is an example of U.S. law enforcement coming together to combat the illicit counterfeit pharmaceutical industry.” John Clark, Vice President and Chief Security Officer for Pfizer added: “Law enforcement is a key partner in our global efforts to dismantle counterfeiting operations. We applaud the outstanding work and collaboration by various law enforcement agencies that worked together to successfully investigate and prosecute” this case.

Conviction for the Sale of Counterfeit Pet Flea and Tick Pesticides: On August 31, a defendant pleaded guilty to trafficking in counterfeit pesticides over the internet. Merial Corporation manufactures “Frontline” and “Frontline Plus,” flea and tick pesticides for dogs and cats. A customer bought purported Frontline products from the defendant's eBay store, Catsmartplus, but reported the case to authorities after one of her cats got sick. The investigation revealed that, over two years, the defendant sold 3,759 counterfeit Frontline products for more than $170,000. The case was investigated by the Environmental Protection Agency (EPA) and prosecuted by the U.S. Attorneys’ Offices for the Central District of California and the District of Rhode Island. André Birotte Jr., U.S. Attorney for the Central District of California, said: “Counterfeit products like these pose a danger not only to our beloved cats and dogs, who are often like family members for us, but also pose a danger to people that come in contact with them.” Nick Torres, Special Agent in Charge, EPA's Office of Criminal Enforcement, Pacific Southwest Region echoed that point: “Pesticides contain toxic chemicals that are subject to rigorous testing and registration designed to ensure their safe use.” Because of the serious injury that counterfeit pesticides can cause, he stated that “individuals who knowingly sell and distribute counterfeit pesticides will be vigorously prosecuted.”

Preventing American Innovation from Being Stolen and Used Overseas

Indictment for Economic Espionage Involving U.S. Agricultural Secrets Transferred to China: On August 31, a defendant made his initial appearance on charges of economic espionage involving the theft of trade secrets from Dow AgroSciences (a subsidiary of Dow Chemical Company). According to the indictment, since 1989, Dow spent a substantial amount researching and developing organic insect control and management products that are sold throughout the world. From 2003 until February 2008, the defendant, a Chinese national, was employed as a research scientist by Dow in Indiana. The indictment alleges that, when working at Dow, the defendant stole 12 trade secrets related to these organic insect products. According to the indictment, after leaving Dow, the defendant published an article containing Dow's trade secrets through Hunan Normal University (HNU) in China, the research for which was funded by the National Natural Science Foundation of China (NSFC). Both HNU and NFSC are foreign instrumentalities of the People's Republic of China. The indictment alleges that the defendant also directed individuals at HNU to conduct research using Dow's trade secrets, which was also funded by the NFSC. The case was investigated by the FBI and is being prosecuted by the U.S. Attorney's Office for the Southern District of Indiana and CCIPS.

Conviction for the Attempted Transfer of Trade Secrets to China: On September 1, a former chemist at Valspar Corporation pleaded guilty to stealing trade secrets. Since 2006, the defendant worked as a Technical Director at Valspar in Illinois. Between September 2008 and February 2009, he negotiated employment with Nippon Paint to work in Shanghai, China and ultimately accepted a position as Vice President of Technology and Administrator of Research and Development. The defendant did not inform Valspar of his new position; instead, during and after his negotiations, the defendant used his access to Valspar's secured computers to download 160 secret formulas for paints and coatings, as well as
chemical formulas and calculations, sales and cost data, product research, and other information. Valspar valued the trade secrets between $7 million to $20 million. The defendant purchased a plane ticket to China, but the FBI arrested him before he could leave the Chicago airport. The case was investigated by the FBI and prosecuted by the U.S. Attorney's Office for the Northern District of Illinois. Cloyd, FBI Assistant Director, Counterintelligence Division, said: “As evidenced by this successful prosecution, the FBI vigorously investigates theft of trade secrets cases to safeguard innovation and intellectual property.” Said Andrew Ubel, Chief Intellectual Property Counsel, Valspar: “We are extremely grateful to the FBI for quickly responding to Valspar and taking decisive action to prevent our valuable trade secrets from being illegally transported to China by our former employee. We also commend the actions of the United States Attorney's Office and appreciate the staff’s efforts in successfully prosecuting this crime and securing a conviction.”

**Federal Coordination with State and Local Law Enforcement**

**Arrests for Conspiracy to Import More than 1 Million Counterfeit Goods from China:** On September 30, authorities arrested seven defendants for trafficking in counterfeit goods, including those bearing fake trademarks of Coach, Prada, and Gucci. The arrests took place after authorities executed 11 federal and state search warrants over 36 hours in New York and Rochester, New York and Secaucus, New Jersey, resulting in the seizure of 23 tractor trailer loads of suspected counterfeit goods. ICE HSI estimates that the conspiracy involved the importation of more than 1 million counterfeit goods from China over the last year. The case was investigated by ICE HSI (New York and New Jersey) and the New York State Police and is being prosecuted by the U.S. Attorney's Office for the Western District of New York. Lev Kubiak, Special Agent in Charge, ICE HSI Buffalo said: “[Individuals who engage in trafficking of counterfeit goods are on notice that] HSI agents will use all of the investigative tools at our disposal to arrest and bring them to justice.”

**ICE HSI and Local Police in Los Angeles Join to Crack Down on Counterfeit Goods:** ICE has been conducting Operation Fire Sale, targeting the sale of counterfeit goods in several major U.S. cities. On August 31, as part of that Operation, federal and local law enforcement concluded a week-long sweep to crack down on counterfeit goods in Los Angeles, which resulted in the arrests of more than 32 people, the seizure of more than 96,000 counterfeit goods and products worth more than $16 million, and the seizure of equipment used to manufacture counterfeit apparel. The sweep involved the coordinated efforts of ICE HSI, the Los Angeles County Sheriff’s Department, the Los Angeles, Garden Grove, and Torrance Police Departments, and investigators from the Riverside District Attorney’s Office. The goods seized bore the counterfeit trademarks of more than 30 well-known companies, including Ray Ban, Nike, and Chanel. A search of a warehouse in Santee Alley resulted in the largest single seizure, with nearly $9.8 million in counterfeit goods discovered.

**Houston IPTET Seizes $1.13 Million in Pirated DVDs:** In the last Spotlight, we highlighted the seizure of counterfeit goods by an Intellectual Property Theft Enforcement Team (IPTET) in Houston, Texas, comprised of ICE HSI agents and Houston Police Department officers. In September, that same IPTET conducted a joint operation at a local flea market, resulting in the arrest of four defendants and the seizure of approximately $1.13 million of pirated DVDs.

**NW3C and DOJ Join for IP Summit in Pasadena:** On September 30, DOJ, the U.S. Attorney's Office for the Central District of California, and the National White Collar Crime Center (NW3C) held a one-day Intellectual Property Crime Summit entitled: Real Crime-Real American Jobs: Why You Should Care About Intellectual Property Rights. The Summit was held in Pasadena, CA, brought together state and local law enforcement and industry representatives, and was designed to provide information about intellectual property crime and enforcement, including its damaging effects on the economy, the health and safety risks it poses, and its relationship with gangs, organized crime, and terrorism. At the Summit, DOJ announced that it awarded $4 million in grants to state and local government for intellectual property enforcement during Fiscal Year 2010.

**USPTO Provides Free Certified Copies of Trademark Registration Certificates:** The U.S. Patent and Trademark Office (USPTO) has launched a website for federal, state and local prosecutors to request free and expedited certified copies of trademark registration certificates.

**Mississippi IP PSAs:** With the assistance of grants from DOJ's Bureau of Justice Assistance, in September, the Mississippi Attorney General's Office launched a series of statewide televised public service announcements about the economic harm and safety risks of counterfeit goods.
Transparency

Public Awareness

Counterfeit Pharmaceuticals

- **Brazil Seminar on Counterfeit Medicines**: On September 13-14, the U.S. Embassy in Brazil organized a counterfeit medicines seminar with the University of Sao Paulo and the Brazilian Federal Council of Pharmacy (licensing body for pharmacists), focusing on the health and safety threats posed by counterfeit pharmaceuticals.

- **Guinea Seminar on Counterfeit Medicines**: On September 13, the U.S. Embassy partnered with Guinea to host a seminar to increase public awareness about counterfeit drugs. Attendees included those from pharmaceutical associations, medical professionals, and customs officials.

- **USPTO Partners with CARICOM to Protect Health and Safety**: On September 13-15, USPTO organized an assistance program in Trinidad on combating counterfeits that impact health and safety (including drugs) for officials from the Caribbean Community (CARICOM).

Internet Piracy

- **IPLEC Holds Two-Day Videoconference Training in Romania**: Intellectual Property Law Enforcement Coordinator (IPLEC) Matthew Lamberti held a two-day internet piracy video training for more than 200 intellectual property police officers and prosecutors in Bucharest.

- **APEC Intellectual Property Meeting in Japan**: From September 6-9, USPTO provided advice on the enforcement of intellectual property rights, including as to illegal camcording and signal piracy. USPTO also commissioned a study on the connection between camcording and Internet and DVD piracy in Asia-Pacific Economic Cooperation (APEC) economies.

Small and Medium Sized Businesses

- **DOC ITA Expands Assistance to Small-and-Medium-Sized Businesses**: In September 2010, DOC’s International Trade Administration, in partnership with the American Bar Association, expanded its international intellectual property advisory program by adding Kenya, Ghana, Mozambique, Angola, Senegal, Nigeria, Colombia, Mexico, Indonesia, Vietnam, Turkey, Saudi Arabia, and South Africa. The program allows American small-and-medium-sized businesses to consult for free with an attorney about protecting and enforcing their intellectual property rights.

Industry Outreach

- **FBI Los Angeles Partners with Private Sector**: On September 16, the FBI’s Los Angeles Field Office hosted the inaugural meeting of its Intellectual Property Loss Mitigation Program (IPLM Program), which is designed to address the concerns and needs of rightholders and law enforcement agencies in Southern California, including in areas affecting health, safety and exploitation by organized criminal groups. The next general meeting is planned for January 20.

**DOC provides free consultations with attorneys for small-and-medium-sized businesses to help them protect and enforce their intellectual property rights in 19 countries.**

Enforcing Our Rights Internationally

Extraditions

- **Extradition from Latvia**: On August 20, two defendants were each sentenced to 24 months in prison for conspiring to make and sell counterfeit slot machines and computer programs. One of the defendants, a Cuban national, was arrested on June 8, 2009, in Latvia. On October 23, 2009, he became the first person extradited under a new extradition treaty between the U.S. and Latvia, which became effective that April.

- **Extradition from Germany**: As noted above, on August 25, the court sentenced a defendant from Canada to 33 months in prison for selling counterfeit cancer drugs. Although a Canadian citizen, the defendant was arrested in Germany and extradited to the U.S. under the U.S. extradition treaty with Germany.
Foreign Cooperative Agreements

ICE Director Morton Enters into Agreement with China: After lengthy negotiations with the Chinese Ministry of Public Security (MPS), on September 14, ICE Director Morton and MPS Director General Meng Qing-fing signed a Letter of Intent to enhance cooperation between the two agencies to combat intellectual property crime and money laundering.

ICE Director Morton Enters into Agreement with Korea: On September 13, ICE Director Morton signed a Memorandum of Understanding (MOU) with Prosecutor General Joon Gyu Kim of the Republic of Korea. The MOU emphasized the importance of conducting joint investigations, including for intellectual property crimes.

Cooperative Law Enforcement Efforts

U.S./Mexico Operation Targets Illicit Health and Safety-Related Items: On September 18, DHS concluded Operation Safe Summer, a joint Operation between DHS and Mexican officials, which was coordinated by the National Intellectual Property Rights Coordination Center (IPR Center). The Operation targeted health and safety-related items smuggled through international mail branches and express courier facilities in both countries. In the U.S., the Operation resulted in more than 800 seizures worth an estimated millions of dollars and, in Mexico, it resulted in the seizure of more than 300 tons of counterfeit goods.

Cooperation and Outreach

China: During September, the U.S. Government met with Chinese officials, held roundtables and seminars in China, and provided training to Chinese officials, including:

- On September 7, the U.S. Embassy in Guangzhou, China trained senior police officials from nine countries at the Sixth INTERPOL and Korea Copyright Commission Intellectual-Property-Crime Training Seminar in Seoul, South Korea.
- On September 8, Undersecretary of State (Economics, Energy, and Agriculture), Robert Hormats, held a roundtable on intellectual property enforcement in China with the American Chamber of Commerce.
- From September 7-11, the Director and Deputy Director of the IPR Center traveled to Hong Kong to discuss intellectual property enforcement with the U.S. Embassy and Hong Kong law enforcement.
- On September 13, USPTO, the U.S. Chamber of Commerce, and the State Intellectual Property Office (the Chinese equivalent of USPTO) held a roundtable on Chinese patent law.
- From September 13-18, the head of ICE, Director Morton, traveled to China to meet with his counterparts. Director Morton’s visit to China was the first time the head of ICE had traveled to Mainland China.
- On September 14-15, USPTO and USTR met with Chinese officials to discuss progress on a variety of intellectual property-related matters in preparation for the next session of the Intellectual Property Rights Working Group and its associated Vice Ministerial meeting. The US-China Joint Commission on Commerce and Trade (JCCT), meets annually at the Secretarial level (U.S.) and Ministerial level (China).
- On September 20, USPTO, along with Chinese and European Union groups, held a workshop on bad faith trademark registration issues in China.
- On September 28-29, USPTO collaborated with the Russian Federal Customs Service, as part of their annual Russia Customs Conference on intellectual property. Over 100 Russian and Chinese customs officials were trained on best practices for border enforcement of intellectual property.

In September, ICE Director Morton became the first head of ICE to travel to Mainland China. During that trip, he entered an agreement with the Chinese Ministry of Public Security to enhance cooperation between the two agencies to combat intellectual property crimes.
Working with INTERPOL, USPTO Provides Training for Latin America: In September, INTERPOL coordinated with USPTO's intellectual property attaché to conduct a four-day training in Colombia, which brought together police, customs, and prosecutors from Latin America, as part of INTERPOL's ongoing Operation Jupiter. On October 1, INTERPOL announced that Operation Jupiter resulted in more than 600 arrests and the seizure of more than $50 million in counterfeit goods over the last six months.

Thailand Conference on Conducting IP Investigations: From August 30 to September 2, the U.S. Embassy in Bangkok hosted an intellectual property investigations training conference for 45 attendees from Thai Police and Customs agencies on best practices.

Latin American Copyright Program: USPTO held a Latin America Copyright Legal and Policy Seminar, bringing together senior and mid-level government officials from the Dominican Republic, Guatemala, Nicaragua, Honduras, El Salvador, Costa Rica, Chile and Peru.

GIPA Hosts Study Tour for Thai Judges: The Global Intellectual Property Academy (GIPA), in coordination with the Royal Embassy of Thailand in Washington, D.C., and the Central Intellectual Property and International Trade Court in Bangkok, organized a two-week program in August for 15 judges of the Thai Central Intellectual Property and International Trade Court and the Thai Supreme Court. The program focused on the role of the judiciary in intellectual property disputes, both civil and criminal, with an emphasis on copyright and trademark matters.

If you would like to subscribe to this newsletter in the future, please e-mail the Office of the IPEC at IntellectualProperty@omb.eop.gov. If you would like more information about the Office of IPEC, including a copy of the 2010 Joint Strategic Plan on Intellectual Property Enforcement, please visit our website at http://www.whitehouse.gov/omb/intellectualproperty.