



Bush Administration



**Strategy for  
Targeting  
Organized  
Piracy**



Accomplishments and  
Initiatives



September 2007



**EMPOWER AMERICAN INNOVATORS TO BETTER PROTECT THEIR RIGHTS AT HOME AND ABROAD**

*“We believe that successful 21st century economies will be those that unleash the power of private enterprise and innovation. Innovation is the most important resource in our increasingly knowledge-based economy. Global trade in pirated and counterfeit goods threatens innovation.”*

- Secretary of Commerce Carlos Gutierrez

**To help American innovators secure and enforce their rights across the globe, we have new federal services and assistance:**

We created a hotline (1-866-999-HALT)—staffed by specialized attorneys at the U.S. Patent and Trademark Office—and an online complaint form at [Stopfakes.gov](http://Stopfakes.gov)—monitored by the International Trade Administration’s trade compliance team—who counsel businesses on how to protect their intellectual property rights (IPR) and work with callers on how to best resolve problems. In FY 2006 the Hotline received over 1,400 calls, and 1,400 have already been received to date in FY 2007. ITA’s trade compliance team has received 160 formal inquiries from individuals or companies through the STOP! Fakes website.

The STOP! website ([www.stopfakes.gov](http://www.stopfakes.gov)), its online complaint form, and brochures provide resources such as one-on-one consultations and further information and guidance to rights holders on how to register and protect their IP in markets around the world. The Stopfakes.gov website had more than 75,000 visitors to date in FY 2007, up from 45,000 in FY 2006.

We created downloadable “IP toolkits” to guide businesses through securing and enforcing their rights in key markets around the globe. These toolkits are available at the Stopfakes.gov website and cover key trading partners such as China, Russia, India, Mexico, Korea, Malaysia, and Taiwan.

To date, the monthly China IPR webinar series held sixteen online training seminars for U.S. industry, reaching 900 online participants; and each session made available for downloading on a site.

In November 2005—along with our co-sponsors the American Bar Association, the National Association of Manufacturers, and the American Chamber of Commerce in China—we launched the China Advisory Program offering small and medium-sized U.S. businesses free IPR consultation with an attorney. The China Advisory program has been utilized by more than 50 companies since its inception. And, in September of 2006, the International IPR Advisory program was launched following the model of the China Advisory program. The International Advisory Program covers other major world markets, including Brazil, Egypt, India, Russia, Thailand, and Turkey.

We are continuing to expand our IP attaché program. IP attachés are stationed in embassies around the world to enhance our ability to work with local government officials to improve IP laws and enforcement procedures in assisting U.S. businesses to better understand the challenges of protecting and enforcing their IPR. In China, the program has been expanded to include attachés in Beijing and Guangzhou. Attachés have recently been deployed to posts in Brazil, Russia, India, Thailand, and the Middle East.

Also, we continue to provide training for U.S. embassy personnel to be first responders to IPR issues in order to identify problems abroad and assist rights holders before fakes enter the market and the supply chain.



We are working with our trading partners to share information and improve our capabilities to assess and anticipate risks. We are already seeing early results of this effort with the European Union through the information sharing that's begun on specific cases. We have followed up on the U.S./EU Economic Ministerial held last year, where leaders of both governments committed to expand information sharing of customs data and information. The U.S. and the European Union, as part of a bilateral IP working group, are implementing an action plan to strengthen IPR enforcement, which includes greater customs cooperation.

The Department of Homeland Security's Immigration and Customs Enforcement (ICE) and the Department of Justice's Federal Bureau of Investigation (FBI)—two of the lead investigative agencies in the fight against both domestic and international IPR crime—jointly run the National IPR Coordination Center. The Center identifies and addresses developing IPR issues and trends and advances that information through outreach and training with foreign governments. The FBI currently serves as the co-chair of Interpol's IPR international training subcommittee and in that role provides regular IPR enforcement training to officials overseas. Additionally, ICE agents from the IPR Coordination Center have shared best practices and provided IPR training to foreign government and law enforcement officials at the International Law Enforcement Academies (ILEA) in Bangkok, Lima, El Salvador, and Botswana, for example.

#### PURSUE CRIMINAL ENTERPRISES INVOLVED IN PIRACY AND COUNTERFEITING

*"The Department of Justice is committed to working very closely with its partners as this Administration wages an unprecedented effort to crack down on the growing global trade in counterfeit and pirated goods."*

- Attorney General Alberto Gonzales

#### **Law enforcement continues to play a leading role in dismantling criminal enterprises that steal intellectual property:**

U.S. law enforcement agencies are working closely with industry to gather information, develop cases, and bring convictions against criminals who steal their IP. We need to be as sophisticated and creative as the criminals. It is important that government and industry work together with coordinated efforts.

The Department of Justice (DOJ) plays a key role in dismantling criminal enterprises that steal IP, improving international enforcement efforts, and ensuring that there are strong legal regimes for the protection of IP throughout the world. To that end, as part of the STOP! Initiative, the Attorney General formed an Intellectual Property Task Force to examine how it could maximize its efforts to protect intellectual property rights through two primary programs, the Computer Crimes and Intellectual Property Section (CCIPS) and Computer Hacking and IP (CHIP) Units, in addition to the work of the FBI. In October 2004, the first Task Force Report was released, and it included a set of recommendations on steps that DOJ could take to better protect IPR. U.S. law enforcement agencies, the Justice Department in particular, have achieved significant results as discussed below, described in more detail in recent Task Force Reports including the latest in June of 2006.

#### **Increasing Criminal Prosecutions**

- Convicted 57% more defendants of criminal copyright and trademark offenses in 2006 than in 2005. 39 of those defendants received terms of imprisonment of 25 months or more, a 130% increase from the 17 sentenced to such terms in 2005. In 2005, charged twice as many defendants with intellectual property crimes – a 98% increase.



- Prohibits the trafficking of counterfeit labels, emblems, containers or similar labeling components that may be used to facilitate counterfeiting; provides for forfeiture of articles bearing or consisting of a counterfeit mark and proceeds of any property derived from proceeds of, or used in the commission of, a violation; expands the definition of "trafficking" for certain counterfeiting crimes and clarifying that trafficking in counterfeit goods or labels includes possession with intent to traffic in such items.
- *Family Entertainment and Copyright Act, S. 167 (April 2005)*
  - Outlaws cam cording in movie theaters and provides a new 3-year felony for the distribution of a pre-release work by making it available on a publicly-accessible computer network. Recognizes the premium value of copyrighted works before they are released to the public.
- *Anti-Counterfeiting Amendments of 2004, H.R. 3632 (December 2005)*
  - Allows law enforcement officials to seize material and equipment used to make counterfeit products and labels.
- *Intellectual Property Protection Act of 2005*
  - The Department of Justice transmitted to Congress the Administration's proposed legislation entitled the "Intellectual Property Protection Act of 2005," a comprehensive reform package that would toughen penalties for intellectual property crimes, expand criminal intellectual property protections, and add investigative tools for criminal and civil intellectual property rights enforcement. Portions of this bill were incorporated into the SCMGA.

#### WORK CLOSELY AND CREATIVELY WITH U.S. INDUSTRY

***"Protecting the ideas and technology of U.S. businesses is a critical task, and it is clearly on the front burner for the Bush Administration. We are devoting more time and resources to keep the pressure on the bad guys..."***

- Secretary of Commerce Carlos Gutierrez

***"Every day, we are using the tools of U.S. trade policy to build a critical infrastructure of market access, intellectual property protection... in markets around the world so that U.S. companies can fully harness the opportunities of growing markets."***

- U.S. Trade Representative Susan Schwab

We are conducting extensive outreach with U.S. industry and trade associations, and want to hear their stories. Companies need to be aggressive advocates of their own IP. We are working actively with the business community as we go forward. They are our eyes and ears on the ground and know better than anyone how inadequate IPR enforcement affects their businesses. We will continue to work together to find solutions and lead enforcement efforts.

We are working with U.S. and international trade associations such as 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, Motion Picture Association, National Association of Manufacturers, The Pharmaceutical Research and Manufacturers of America, Quality Brands Protection Committee, Recording Industry Association of American, U.S. Chamber of Commerce and the U.S.-China Business Council, to name just a few.

Additionally, we are working with the Coalition Against Counterfeiting and Piracy (CACPP), a U.S. Chamber of Commerce and National Association of Manufacturers led initiative on the "No Trade in Fakes" program



infringement on their computer networks, including over the Internet. We are currently working to implement and expand these model guidelines.

**FTAs:** Constant, high-level engagement to improve enforcement of IP has been a vital part of U.S. trade policy for many years. The importance of IP enforcement is reflected, for example, in the provisions of U.S. trade agreements and in the Administration's utilization of the "Special 301" provisions of U.S. trade law. The Bush Administration makes IPR a priority when negotiating new free trade agreements. Our free trade agreements (FTAs) provide cutting-edge protection for IP with strong rules to combat counterfeiting and piracy. This was seen in the recent Central America-Dominican Republic Free Trade Agreement (CAFTA-DR), as well as the recently concluded FTAs with Korea, Panama, Colombia, and Peru. Over the past year, we worked closely with our CAFTA-DR partners and the governments of Australia, Morocco, Singapore and Bahrain to bring their IP enforcement regimes up to the high standards required by our free trade agreements. FTAs are currently being negotiated with Thailand, Malaysia, and the United Arab Emirates (UAE); and IP enforcement is an important component of each agreement.

**OECD:** Additionally, we have commissioned a study by the Organization for Economic Cooperation and Development (OECD) to examine the impact of global counterfeiting and piracy. Our interagency team has held several meetings with OECD officials to follow-up and assist with this study. We are looking for sound, reliable, and accurate information to be produced, so that we may have accurate metrics that can be used effectively by senior government officials and industry to develop sound policy going forward.

**SPP:** The Administration has also launched a cooperative effort under the Security and Prosperity Partnership (SPP) with Canada and Mexico to develop a strategy for combating piracy and counterfeiting in North America. The Governments of the United States, Canada, and Mexico continue to review the draft Action Strategy and intend to finalize the strategy in 2007, as promised. The Action Strategy has three components: Detection and Deterrence, Public Awareness and Outreach, and Metrics/Measuring Success. The SPP IPR Working Group is tentatively planning to hold its next meeting in February in Mexico.

**European Union:** In January 2006, the Administration first met with European Union officials at the White House for a series of meetings to address global piracy. Subsequent rounds of the U.S.-EU Intellectual Property Working Group meetings have followed, the next of which is in September 2007. We are breaking new ground and have begun to expand our cooperation with the EU—focused initially on border enforcement; strategy development to address problems in third countries; international cooperation; and increased collaboration with the private sector.

**Japan:** Japan is one of our key international partners in the fight against counterfeiting and piracy. We continue to work with Japan under STOP!, especially on the APEC initiatives discussed above. For example, in March 2006, Secretary Gutierrez and Japan's Minister of Economy, Trade, and Industry announced expanded bilateral cooperation on IP protection and enforcement. This cooperation will allow the two countries to confront the growing problem of global piracy and counterfeiting together. Highlights of the new agreement include increasing assistance and education for SMEs; sharing information on IP enforcement activities; strengthening technical assistance to third countries; and streamlining the patent process. And, in January 2007, Secretary Gutierrez and Minister Akira Amari announced a patent cooperation program—to begin in July—which will streamline patent application procedures for our two countries

**India:** In March 2006 during President Bush's visit to India, a joint statement was released stating that the U.S. and India would work together to promote innovation, creativity, and technological advancement by providing a vibrant intellectual property rights regime; and cooperate in the field of intellectual property rights to include capacity building activities, human resource development, and public awareness programs.



legal regime for enforcing copyrights and trademarks on a wide range of products. The request focuses on provisions of Chinese law that create a substantial “safe harbor” for distributors or sellers of pirated and counterfeit products in China. A dispute resolution panel will be established to decide the case in the coming months.

However, the Administration continues cooperative consultation with the Chinese on IP enforcement. Summits of the Strategic Economic Dialogue (SED) have been held between cabinet-level officials of both governments to address many important issues for the U.S.-China trade and economic relationship. Led by Treasury Secretary Hank Paulson, the SED—as with the U.S.-China Joint Committee on Commerce and Trade (JCCT)—concentrates upon a number of important trade issues, of which IP enforcement is an important priority.

Additionally, Ambassador Clark Randt at our Embassy in Beijing holds an annual IPR Roundtable which brings together senior U.S. and Chinese officials and U.S. business representatives. The Roundtable gives U.S. rights holders the opportunity to discuss the problems they are facing and find the solutions that they need. Also, our Embassy and Consulate officers on the ground are a valuable asset for U.S. companies. They play a critical role as IPR “first responders,” helping U.S. businesses resolve cases when their rights are violated.

**Russia:** The U.S. and Russia recently signed a WTO accession agreement which brings Russia another step closer to WTO membership. Ambassador Schwab, along with other U.S. officials, have continually raised the issue of intellectual property protection with their Russian counterparts, stating that IP enforcement is a shared responsibility within the Russian government. Recent positive statements made by President Putin recognize that IP protection is both an economic issue for the Russian government and a public health concern for the Russian people. The Russian government needs to take steps to curb the high rates of piracy that exist in Russia and demonstrate that their enforcement efforts are providing deterrence and producing results, commensurate with their new WTO member status. Also, the work of the U.S.-Russia IP Working Group remains a high priority, as the United States, through USTR, and Russia work to address a number of IPR-related issues and steps that need to be taken.