

ANNUAL INTELLECTUAL PROPERTY REPORT TO CONGRESS

March 2020



UNITED STATES
INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR



IPEC ANNUAL INTELLECTUAL PROPERTY REPORT TO CONGRESS:

This report is submitted pursuant to *15 U.S.C. §8114*.

During the past three years, President Trump and his Administration have worked to promote strong intellectual property rights protection and enforcement, both domestically and abroad. As part of an integrated approach, the Trump Administration views our intellectual property strategy, policy and enforcement efforts, together, as key to helping secure the future of our innovative economy and to maintaining our competitive advantage.

The Trump Administration's Annual Intellectual Property Report to Congress, developed by the Office of the U.S. Intellectual Property Enforcement Coordinator, brings together the combined and coordinated efforts of the White House, the Departments of Commerce, Justice, Homeland Security, State, Treasury, Defense, Health and Human Services, and Agriculture, the Office of the U.S. Trade Representative, and the U.S. Copyright Office. This report was originally mandated to be submitted by the U.S. Intellectual Property Enforcement Coordinator over a decade ago by the Prioritizing Resources and Organization for Intellectual Property Act of 2008, and builds upon that framework to provide an overview of the Trump Administration's intellectual property enforcement strategy and policy efforts. For the United States' approach to intellectual property and innovation policy to be successful, it must continue to be a combined effort that includes all branches of government, the private sector, and our international partners.

The Trump Administration continues to build on past strategic efforts in all areas of intellectual property policy, including patents, copyrights, trademarks and trade secrets, both domestically and abroad. But the Administration also recognizes that for the United States to maintain its future economic competitiveness, we need to think strategically and shift the paradigm to one where we not only place America First, but regard America's inventive and creative capacity as something that we must protect, promote and prioritize.



UNITED STATES INTELLECTUAL PROPERTY STRATEGY



“In order to maintain our competitive edge in an increasingly global and technology-driven economy, we must protect the advancements and breakthroughs in industry that are vital to sustaining recent successes and accelerating growth. That is why we will continue working to put an end to intellectual property theft and other abusive practices through strong enforcement of our trade laws and efforts to strengthen our cyber infrastructure.”

- President Donald J. Trump¹

Article I, Section 8, Clause 8 of the Constitution recognizes the fundamental importance of intellectual property and its protection to the United States. Intellectual Property (IP) underpins nearly every aspect of our economy – it supports good paying jobs, it supports the arts, sciences and technology, and it creates a framework that allows new industries and innovations to flourish.

President Trump is the first President to formally recognize World IP Day and in his second proclamation on April 25, 2019 stated that “[o]n World Intellectual Property Day, we celebrate the essential role of innovation in the strength and expansion of our economy. Our free market continues to unleash the imagination of our Nation’s talented creators, inventors, and entrepreneurs, enabling them to develop products that improve and elevate lives across our country and around the world.” For this reason, the President stated that “[t]o maintain and reinforce our economic competitiveness, we must protect intellectual property and related technologies so that new industries and innovations can flourish.”²

Under the Trump Administration, the Office of the U.S. Intellectual Property Enforcement Coordinator³ (IPEC) along with other White House offices, in coordination with executive branch departments and agencies, works to advance pro-growth policies, to promote and protect our great competitive advantage – our nation’s innovative economy.

Our efforts have focused on coordinating and developing the United States’ overall intellectual property enforcement policy and strategy, to promote innovation and creativity, and to ensure effective intellectual property protection and enforcement, domestically and abroad.

¹ President Trump Proclaims October 4, 2019, as National Manufacturing Day (October 3, 2019) - <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-national-manufacturing-day-2019/>

² President Trump Proclaims April 25, 2019, as World Intellectual Property Day (April 25, 2019) - <https://www.whitehouse.gov/presidential-actions/proclamation-world-intellectual-property-day-2019/>

³ U.S. Code: Title 15 (Commerce and Trade), Chapter 107 (Protection of Intellectual Property Rights) - 15 U.S.C §8111. The IPEC Office is affiliated with the National Economic Council in the Executive Office of the President.



The United States' intellectual property strategy involves a broad range of executive branch agencies and departments to ensure that the government's efforts are focused and well-coordinated.

Over the past three years, the Trump Administration has taken significant actions to promote and protect intellectual property.

The Administration's four-part strategic approach includes:

- engagement with our trading partners;
- effective use of all our legal authorities, including our trade tools;
- expanded law enforcement action and cooperation; and
- engagement and partnership with the private sector and other stakeholders.

The United States government is taking a targeted, practical, and comprehensive approach toward addressing intellectual property policy and strategy.⁴ The goal is to ensure a level playing field for American innovators and creators, where their innovations and creations are respected and protected, and for systems to be in place that allow American businesses to operate in a free, fair and open marketplace.

To that end, IPEC established the White House Intellectual Property Strategy Group that regularly brings together the National Economic Council (NEC), National Security Council (NSC), Office of Science and Technology Policy (OSTP), Council of Economic Advisors (CEA), Office of the Vice President (OVP), Office of the U.S. Trade Representative (USTR), other relevant White House Offices, and Departments and Agencies. Because intellectual property policy in the international and domestic contexts affects multiple departments and agencies, the White House manages the collaborative policy development process to determine courses of action and make Presidential recommendations to ensure that all views are properly presented and considered.

The Administration's overall efforts involve a multitude of executive branch departments and agencies, that each handle both different and overlapping aspects of the federal government's intellectual property strategy and policy. These efforts include senior officials from the Departments of Commerce, Justice, Treasury, Homeland Security, State, Defense, Agriculture, and Health and Human Services, and the U.S. Copyright Office. Additionally, by statute, the executive branch has three Presidentially-appointed and Senate-confirmed positions focused on IP, which are the Intellectual Property Enforcement Coordinator in the Executive Office of the President; the Undersecretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office (USPTO) at the Department of Commerce; and the Chief Innovation and Intellectual Property Negotiator at USTR.

⁴ This includes implementation, of areas in line with Presidential policies and priorities, of the Joint Strategic Plan, submitted under 15 U.S.C. §8113, for FY2017 to FY2019.



Across the Administration, federal departments have vital roles over intellectual property policy and strategy. The Secretary of Commerce leads several agencies that have important intellectual property responsibilities and serves as a leading voice shaping intellectual property policy both in the United States and abroad. Chief among the Commerce Department agencies is the USPTO, with statutory authority to advise “the President, through the Secretary of Commerce, on national and certain international intellectual property issues” and advise “Federal departments and agencies on matters of intellectual property in the United States and intellectual property protection in other countries.” 35 U.S.C. §2(b) (8)-(13). Other Commerce Department agencies that work on intellectual property issues include the International Trade Administration (ITA), the National Telecommunications and Information Administration (NTIA), and the Bureau of Industry and Security (BIS).

The Administration is working to ensure that the federal government’s intellectual property efforts are focused and well-coordinated and that resources are being used effectively and efficiently. As the Administration works to achieve meaningful progress, there are three important questions that should always be considered – What are we doing well? What isn’t working? And what should we be doing?

The Administration has made clear that our intellectual property enforcement policy includes all areas of intellectual property and innovation policy – copyrights, patents, trademarks, and trade secrets – and involves nearly every sector of our economy. Our strategic approach makes clear that our economic prosperity relies upon our leadership in technology and creativity, and we must protect our innovative economy from those who steal intellectual property and unfairly exploit the innovations of free societies.

As the United States government works to advance American economic interests overseas, a significant component of our enforcement and protection efforts includes addressing trade enforcement, market access, competition, digital trade, cybersecurity, and rule of law concerns in the intellectual property space, around the world. On digital trade, President Trump has stated that “American success in the digital economy is based on free flow of data, strong privacy and intellectual property protection, access to capital, and innovation. The United States is committed to sustaining this approach to digital trade long into the future.”⁵ Additionally, American innovators and creators must be able to operate in foreign markets that provide them with clear paths to secure and use their IP. Countries and foreign companies should not be allowed to profit off of the theft or misappropriation of American intellectual property, including, for example, by trade secret theft, IP infringement, piracy, forced technology transfers or localization requirements. Additionally, American brand holders must have full and fair ability to market and sell their products and use their properly registered trademarks across the globe, without undue restrictions.

On the domestic front, the Administration will work to ensure that our intellectual property laws are kept up to date, and that they promote American innovation and creativity.

⁵ Remarks by President Trump at G20 Leaders' Special Event on the Digital Economy, Osaka, Japan (June 28, 2019) - <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-g20-leaders-special-event-digital-economy-osaka-japan/>



Intellectual property is integral to our nation’s economic competitiveness and the growth of our innovative economy. For instance, copyrights are not only economically important, but a key part of our culture and society. A well-functioning copyright system is essential. The U.S. copyright system is grounded in our Constitution, and built on centuries of extensive jurisprudence, statutes and regulations. In 2018, Congress considered and passed the Orrin G. Hatch–Bob Goodlatte Music Modernization Act, which the President signed into law on October 11, 2018. As President Trump explained, this “landmark legislation” – which had bipartisan sponsorship and was unanimously passed by both the Senate and the House – “provides critical updates to copyright law to reflect the realities of music licensing in the digital age and to better reward artists and producers for the online use of their music.”⁶

Additionally, a well-functioning patent system is important for our economy. The Administration is working to promote innovation and to ensure that we have strong and reliable patents, that the process for granting them is thorough, yet expeditious, and that any subsequent reviews by the courts or administrative agency is done fairly. The Supreme Court has ruled on a number of significant intellectual property cases in recent years. The Administration is monitoring how those decisions are being implemented by lower courts and executive branch agencies.

The Administration also continues to explore opportunities to engage with stakeholders on existing industry-led voluntary initiatives to protect American intellectual property, and to look at new areas for cooperation.

We are at a defining moment in this new century, and that is why this Administration is advancing pro-growth policies, to protect our continued economic and innovative competitiveness, promote new engines of growth, and prioritize America’s innovative and creative capacity.



⁶ Statement by the President on signing H.R. 1551, the Orrin G. Hatch–Bob Goodlatte Music Modernization Act (October 11, 2018) - <https://www.whitehouse.gov/briefings-statements/statement-by-the-president-7/>



ENGAGEMENT WITH OUR TRADING PARTNERS



“America has also finally turned the page on decades of unfair trade deals that sacrificed our prosperity and shipped away our companies, our jobs, and our Nation’s wealth. The era of economic surrender is over. From now on, we expect trading relationships to be fair and to be reciprocal. We will work to fix bad trade deals and negotiate new ones. And we will protect American workers and American intellectual property, through strong enforcement of our trade rules.”

- President Donald J. Trump⁷

During the past three years President Trump has met with world leaders across the globe, consistently raising intellectual property issues with our trading partners. The President and his Administration have advocated strongly for free, fair and reciprocal trade.

The Trump Administration is continuing to counter unfair trade practices, utilizing all appropriate means from dialogue to enforcement tools, and “work with like-minded partners to preserve and modernize the rules of a fair and reciprocal economic order” and “emphasize fair trade enforcement actions when necessary, as well as multinational efforts to ensure transparency and adherence to international standards within trade and investment projects.”⁸

In China, President Trump “...discussed with President Xi the chronic imbalance in our relationship as it pertains to trade, and the concrete steps that [the U.S. and China] will jointly take to solve the problem of the massive trade distortion. This includes addressing China’s market access restrictions and technology transfer requirements, which prevent American companies from being able to fairly compete within China. The United States is committed to protecting the intellectual property of our companies and providing a level playing field for our workers.”⁹ As part of the United States’ continuing response to China’s theft of American intellectual property and forced transfer of American technology, and at the direction of President Trump, the U.S. has imposed several rounds of tariffs on Chinese goods. On January 15, 2020, the United States and China signed an historic and enforceable agreement on a Phase One trade deal that requires structural reforms and other changes to China’s economic and trade regime in the areas of intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange. In explaining this deal, USTR stated that, “President Trump has focused on concluding a Phase One agreement that achieves meaningful, fully-enforceable

⁷ President Donald J. Trump’s State of the Union Address (January 30, 2018) - <https://www.whitehouse.gov/briefings-statements/president-donald-j-trumps-state-union-address/>

⁸ National Security Strategy, December 18, 2017 (page 20) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

⁹ Remarks by President Trump and President Xi of China in Joint Press Statement (November 9, 2017) - <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-president-xi-china-joint-press-statement-beijing-china/>



structural changes and begins rebalancing the U.S.-China trade relationship. This unprecedented agreement accomplishes those very significant goals and would not have been possible without the President's strong leadership."¹⁰

In September 2018, under the leadership of President Trump, the United States, Mexico and Canada reached an agreement to modernize the 24-year-old NAFTA into a 21st century, high-standard agreement. The United States-Mexico-Canada Agreement (USMCA) will support mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America. And the President has stated that “[t]he USMCA includes the strongest and most comprehensive intellectual property standards of any prior free trade agreement. Congress approved the agreement on January 16, 2020 and then on January 29, 2020, the President signed the USMCA Implementation Act. The USMCA will deliver comprehensive protections against misappropriation of trade secrets, robust border enforcement, and enhanced trademark, copyright, and patent provisions that are critical to driving innovation, creating economic growth, and supporting American jobs.”¹¹

And, in October 2018, USTR announced that, “[u]nder President Trump's leadership, we will continue to expand U.S. trade and investment by negotiating trade agreements with Japan, the EU and the United Kingdom. Today's announcement is an important milestone in that process. We are committed to concluding these negotiations with timely and substantive results for American workers, farmers, ranchers, and businesses.”¹² As an initial outcome from the negotiations with Japan, United States Trade Representative Lighthizer and Ambassador Sugiyama on October 7, 2019, signed a new U.S.-Japan Trade Agreement and the U.S.-Japan Digital Trade Agreement.¹³ The agreement on digital trade “will benefit trade in innovative products and services where the United States is a worldwide leader, and will ensure that American businesses have a level playing field in areas like video, music, e-books, and software.”¹⁴

The Administration is also advancing intellectual property issues in multiple international organizations, including the Organization for Economic Cooperation and Development (OECD), World Intellectual Property Organization (WIPO), World Trade Organization (WTO), Asia-Pacific Economic Cooperation (APEC) Forum, the World Health Organization (WHO) and other international bodies.

¹⁰ USTR, United States and China Reach Phase One Trade Agreement (December 13, 2019) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/december/united-states-and-china-reach>

¹¹ President Trump Proclaims April 25, 2019, as World Intellectual Property Day (April 25, 2019) - <https://www.whitehouse.gov/presidential-actions/proclamation-world-intellectual-property-day-2019/>

¹² Press Release: Trump Administration Announces Intent to Negotiate Trade Agreements with Japan, the European Union and the United Kingdom (October 16, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/october/trump-administration-announces>

¹³ Remarks by President Trump at Signing of the U.S.-Japan Trade Agreement and U.S.-Japan Digital Trade Agreement (October 7, 2019) - <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-signing-u-s-japan-trade-agreement-u-s-japan-digital-trade-agreement/>

¹⁴ President Donald J. Trump Has Secured a Tremendous Victory For American Farmers and Businesses With New Japan Trade Agreements (October 7, 2019) - <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-secured-tremendous-victory-american-farmers-businesses-new-japan-trade-agreements/>



OECD is a 36-member international organization that provides a forum for governments to cooperate on a wide range of economic and social issues, and also provides analysis and data on global economic and trade developments, including intellectual property systems, among other issues. In June 2019, the U.S. Intellectual Property Enforcement Coordinator provided a keynote address at the OECD's International Forum on Intellectual Property Enforcement in Paris, France.¹⁵ In March 2019, the OECD issued its latest study examining the value, scope and trends in trade in counterfeit and pirated goods. The study concluded that the trend in fake goods is now 3.3% of world trade and rising.¹⁶

In 2018, the White House hosted an IP Roundtable focused on illicit streaming devices (ISDs). During the event, a broad range of stakeholders and government officials came together to examine piracy-enabled set-top boxes or illicit streaming devices that deliver pirated television, movies, and sports, with ease. Global sales and use of ISDs is growing and poses a direct threat to content creators, sports leagues, and live performances, as well as legitimate streaming, on-demand, and over-the-top media service providers. Because of the global nature of the problem, the Administration continues to advocate for increased IPR enforcement efforts with important trading partners across the world.

The U.S. government continues to engage our partners in other countries on a range of intellectual property and related trade and law enforcement issues. In support of these efforts, over the past year, the U.S. Intellectual Property Enforcement Coordinator has led multiple U.S. inter-agency delegations to South America, Asia, the Middle East and Europe to address such issues. These delegations have included representatives from the National Economic Council, the National Security Council, the Department of Homeland Security, the Department of Justice, the Department of State, and the Commerce Department, among others. The U.S. will continue to address these and other issues with those countries through bilateral engagements, including, for example, through the Trade and Investment Framework Agreements.

For example, in Colombia, U.S. officials have worked with their counterparts to resolve U.S. concerns related to pharmaceuticals and enforcement of IPR violations. Similarly, in Peru, the USG has urged progress on concerns related to statutory damages for copyright and trademark infringement, and offered support for Peru's ongoing efforts to improve IPR enforcement.

The USG has also continued to engage on similar IPR and related trade and law enforcement issues in Southeast Asia, the Middle East and Europe. In Southeast Asia, the USG has raised various IP enforcement concerns with Malaysia, Indonesia, and Vietnam, including those related to counterfeits and transshipment of such goods, online piracy, and enhancing cooperation with the U.S. to address these issues. In the Middle East and Europe, the USG has continued to engage with respective senior government officials to discuss ways to improve IPR enforcement, and enhance cooperation with the U.S. Particular ongoing concerns in many countries relate to

¹⁵ OECD International Forum on Intellectual Property Enforcement (June 12-13, 2019) - <https://www.oecd.org/newsroom/international-forum-on-intellectual-property-enforcement-2019-12-13-june-oecd-conference-centre-open-to-media.htm>

¹⁶ The OECD-EUIPO report – “Trends in Trade in Counterfeit and Pirated Goods” (2019) – is available at <http://www.oecd.org/gov/risk/trends-in-trade-in-counterfeit-and-pirated-goods-g2g9f533-en.htm>



pharmaceutical issues and increasing enforcement efforts against IPR violations related to online piracy and counterfeits.

On October 17, 2018, the Administration announced that it was submitting a notice of withdrawal from the Universal Postal Union (UPU).¹⁷ As the Chairman of the Postal Regulatory Commission explained, “[t]he UPU continues to promulgate agreements that require posts to undercharge for delivery of inbound mail, to insulate postal shipments from full application of national customs laws, and to promote a different legal regime for postal operators and competing private carriers.”¹⁸ As the President explained in his memorandum of August 23, 2018, the current UPU system “distorts the flow of small packages around the world by incentivizing the shipping of goods from foreign countries that benefit from artificially low reimbursement rates”; as a result, “in many cases” – including when packages are shipped by air from China to the U.S. – the postal charges “are less than comparable domestic postage rates” for packages that are shipped entirely within the United States.¹⁹ For example, a small package is charged less to be shipped by air from China to the United States than when it is shipped entirely within the US. In addition to other negative impacts, this artificially low postage has significantly contributed to the rapid growth in recent years of counterfeits being shipped from China to the United States. The Administration’s notice of withdrawal was intended to address this and other problems. As the Postal Regulatory Commission’s Chairman explained, the Administration’s decision “is a tremendous step towards finally addressing these distortions on behalf of our fellow Americans – particularly U.S. merchants, U.S. mailers, and U.S. private-sector carriers who are trying to compete fairly in these global markets.”

Negotiations between the U.S. and other countries occurred throughout FY 2019. As a result of these negotiations, the member countries of the UPU agreed on September 25, 2019, to a significant change in the terminal dues system, allowing the United States to start setting its own postal fees in July 2020. This successful outcome “is aimed at eliminating economic distortions for the distribution of goods, by establishing parity with comparable domestic services for inbound packet volumes,” and “will also enable the Postal Service to support infrastructure development abroad that builds capacity for advance electronic customs data transmission and improvements in postal security” including through “concrete steps to ensure that the world’s posts will be better positioned to provide data from their customers that will help to reduce the use of the international mail system to transport dangerous contraband and counterfeit goods into the United States.”²⁰

¹⁷ Statement from the White House Press Secretary (October 17, 2018) - <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-38/>

¹⁸ Statement of Chairman Robert G. Taub, Postal Regulatory Commission (October 17, 2018) - https://www.prc.gov/sites/default/files/pr/Chairman%20Taub%20Statement%20on%20UPU_0.pdf

¹⁹ Presidential Memorandum of August 23, 2018, on “Modernizing the Monetary Reimbursement Model for the Delivery of Goods Through the International Postal System and Enhancing the Security and Safety of International Mail” - <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-treasury-secretary-homeland-security-postmaster-general-chairman-postal-regulatory-commission/>

²⁰ Postmaster General Statement on the Universal Postal Union Agreement (September 25, 2019) - <https://about.usps.com/newsroom/statements/0925-postmaster-general-statement-on-the-universal-postal-union-agreement.htm>



In September/October 2019, USPTO participated in the 59th assemblies of the member states of the WIPO. There the Administration engaged with WIPO officials and participated in bilateral discussions on intellectual property with a number of trading partners.

The United States conducts a number of international capacity building and training programs that leverage the resources of executive branch agencies and our embassies overseas. As the United States conducts these programs, it will be important for them to be designed toward achieving meaningful results on IP concerns raised, for example, in places such as the Annual USTR Special 301 Report.²¹

The State Department supports deployment of a Global Network of regional International Computer Hacking and Intellectual Property advisors – ICHIPs (formerly known as Intellectual Property Law Enforcement Coordinators – IPLECs), experienced Department of Justice prosecutors with responsibilities to strengthen U.S. law enforcement coordination and deliver capacity building assistance to key foreign law enforcement partners. The ICHIPs focus on combatting the growing role of transnational crime organizations in IP theft and cybercrime of all kinds, such as Dark Web markets where criminals use cryptocurrencies to hide their illicit gains.

In 2019, the USPTO’s Global Intellectual Property Academy (GIPA) developed and provided capacity building programs that addressed a full range of IP protection and enforcement matters, including enforcement of IP rights at national borders, Internet piracy, express mail shipments, trade secrets, copyright policy, and patent and trademark examination. During the last year, the programs cumulatively included just under 3,000 government officials, judges and prosecutors, from 123 countries.²²

In 2019, U.S. Embassies around the world continued to make IPR an integral part of their bilateral policy dialogues with host governments. For example, U.S. diplomatic posts around the world celebrated World Intellectual Property Day on April 26, 2019, highlighting IP’s importance in fostering innovation and economic growth. The theme in 2019 was “Reach for Gold: IP and Sports.” To celebrate the occasion, U.S. Embassies and consulates hosted IP-focused panel discussions, contests, and workshops.

The United States’ inter-agency IP training and capacity building efforts involve a multitude of Federal agencies. For example, a June 2019 regional workshop in Dakar developed by the Abuja-based ICHIP in coordination with the U.S. Embassy and USPTO brought together 11 West African governments, U.S. IP stakeholders and private sector experts to identify ways to jointly combat counterfeit medicines and pesticides, threats that kill tens of thousands of people

²¹ 2019 Special 301 Report – Annual Review of the state of IP protection and enforcement in U.S. trading partners around the world, which the Office of the U.S. Trade Representative conducts pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988, the Uruguay Round Agreements Act, and the Trade Facilitation and Trade Enforcement Act of 2015 (19 USC §2242). The 301 Report identifies foreign countries and exposes their laws, policies, and practices that fail to provide adequate and effective IP protection and enforcement. (https://ustr.gov/sites/default/files/2019_Special_301_Report.pdf)

²² For a comprehensive list of the types of programs conducted by Executive Branch agencies in 2019, please see the appendices.



each year in Africa. This workshop, the first in West Africa to cover both counterfeit pesticides and medicines, was lauded by participants as laying the foundation for future collaboration in these areas between the United States and West African Nations.





EFFECTIVE USE OF ALL OUR LEGAL AUTHORITIES, INCLUDING OUR TRADE TOOLS



"We cannot have free and open trade if some countries exploit the system at the expense of others. We support free trade, but it needs to be fair and it needs to be reciprocal. Because, in the end, unfair trade undermines us all. The United States will no longer turn a blind eye to unfair economic practices, including massive intellectual property theft...These and other predatory behaviors are distorting the global markets and harming businesses and workers, not just in the U.S., but around the globe."

- President Donald J. Trump²³

President Trump and his Administration are standing strong against the theft of American IP and are committed to protecting our innovative economy. President Trump has expressed that we need to address the unfair trade practices that drive, not only our trade deficit, but the barriers to market access. "We really have to look at access, forced technology transfer, and the theft of intellectual property, which just, by and of itself, is costing the United States and its companies at least \$300 billion a year."²⁴

IP theft not only damages American companies, but it also threatens our national security. Promoting American prosperity is a pillar of the Administration's National Security Strategy (NSS). The NSS states that "America will no longer tolerate chronic trade abuses and will pursue free, fair, and reciprocal economic relationships. To succeed in this 21st century geopolitical competition, America must lead in research, technology, and innovation. We will protect our national security innovation base from those who steal our intellectual property and unfairly exploit the innovation of free societies."²⁵

The NSS highlights that "[e]very year, competitors such as China steal U.S. intellectual property valued at hundreds of billions of dollars. Stealing proprietary technology and early-stage ideas allows competitors to unfairly tap into the innovation of free societies."²⁶ The NSS lists the protection of intellectual property as a priority action. "The United States will reduce the illicit

²³ Remarks by President Trump to the World Economic Forum (January 26, 2018) -

<https://www.whitehouse.gov/briefings-statements/remarks-president-trump-world-economic-forum/>

²⁴ Remarks by President Trump at Business Event with President Xi of China (November 9, 2017) -

<https://www.whitehouse.gov/briefings-statements/remarks-president-trump-business-event-president-xi-china-beijing-china/>

²⁵ President Donald J. Trump Announces a National Security Strategy to Advance America's Interests (December 18, 2017) - <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-announces-national-security-strategy-advance-americas-interests/>

²⁶ National Security Strategy (December 18, 2017) (page 21) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>



appropriation of U.S. public and private sector technology and technical knowledge by hostile foreign competitors. While maintaining an investor-friendly climate, this Administration will work with the Congress to strengthen the Committee on Foreign Investment in the United States (CFIUS) to ensure it addresses current and future national security risks. The United States will prioritize counterintelligence and law enforcement activities to curtail intellectual property theft by all sources and will explore new legal and regulatory mechanisms to prevent and prosecute violations.”²⁷

In August 2017, President Trump directed the United States Trade Representative to investigate China’s laws, policies, practices, and actions that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technology development. On August 18, 2017, the Trade Representative initiated an investigation under section 301 of the Trade Act of 1974 (19 U.S.C. 2411).²⁸

In March 2018, USTR released the findings of its exhaustive investigation; USTR found that China’s acts, policies, and practices related to technology transfer, intellectual property and innovation are unreasonable and discriminatory and burden or restrict U.S. commerce.²⁹ Based on these findings, the President issued a memorandum that directed the U.S. Trade Representative to take all appropriate action under Section 301, including considering increased tariffs on goods from China and pursuing dispute settlement proceedings in the WTO.³⁰ Initially the U.S. imposed a 25 percent duty that affected \$34 billion in Chinese imports. That was followed by a second round of tariffs on \$16 billion in Chinese goods. Starting September 24, 2018, and in response to China’s refusal to eliminate its acts, policies, and practices, tariffs on another \$200 billion in Chinese imports went into effect initially set at a rate of 10 percent.³¹ The rate was initially scheduled to increase to 25 percent effective January 1, 2019. At the direction of the President, the Trade Representative postponed the increase in the rate of additional duty for this third tranche of products in light of progress in discussions with China, but, on May 10, 2019, increased the level to 25 percent after China retreated from specific commitments agreed to in earlier rounds of negotiations. In May 2019, USTR requested comment and, in June 2019, held a public hearing on a proposed tariff modification to add an *ad valorem* duty of up to 25 percent on additional products of China with an annual trade value of approximately \$300 billion. In August 2019, the Trade Representative, at the direction of the President, determined to modify the action being taken in the investigation by imposing an additional 10 percent *ad valorem* duty, which was subsequently increased to 15 percent, on

²⁷ National Security Strategy, December 18, 2017 (pages 21-22) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

²⁸ Presidential Memorandum to U.S. Trade Representative (August 14, 2017) -

<https://www.whitehouse.gov/presidential-actions/presidential-memorandum-united-states-trade-representative/>

²⁹ USTR, Findings Of The Investigation Into China’s Acts, Policies, And Practices Related To Technology Transfer, Intellectual Property, and Innovation Under Section 301 of the Trade Act of 1974 (March 22, 2018) - <https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF>

³⁰ Presidential Memorandum on the Actions by the United States Related to the Section 301 Investigation (March 22, 2018) - <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-actions-united-states-related-section-301-investigation/>

³¹ Press Release: USTR Finalizes Tariffs on \$200 Billion of Chinese Imports in Response to China’s Unfair Trade Practices (September 19, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/september/ustr-finalizes-tariffs-200>



products of China with an annual aggregate trade value of approximately \$300 billion. The Trade Representative also received public comments regarding a proposed modification to increase the rate of additional duty from 25 percent *ad valorem* to 30 percent *ad valorem* on goods of China covered by the three prior tariff actions, with an approximate annual trade value of \$250 billion.³²

USTR explained the need to take these tariff actions, in response to China's unfair trade practices:

“We must take strong defensive actions to protect America's leadership in technology and innovation against the unprecedented threat posed by China's theft of our intellectual property, the forced transfer of American technology, and its cyber-attacks on our computer networks. China's government is aggressively working to undermine America's high-tech industries and our economic leadership through unfair trade practices and industrial policies like ‘Made in China 2025.’ Technology and innovation are America's greatest economic assets and President Trump rightfully recognizes that if we want our country to have a prosperous future, we must take a stand now to uphold fair trade and protect American competitiveness.”³³

On January 15, 2020, the United States and China signed a Phase One trade agreement that requires structural reforms and other changes to China's economic and trade regime in the areas of intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange. In light of progress in the negotiations with China, and at the direction of the President, the Trade Representative determined to suspend indefinitely the imposition of the additional duties of 15 percent on \$160 billion of Chinese goods that had been scheduled for December 15, 2019. In addition, the United States will be reducing from 15 percent to 7.5 percent the tariffs that it imposed on \$120 billion of Chinese goods on September 1, 2019.³⁴

The Trump Administration is committed to promoting free, fair, and reciprocal economic relationships. “The United States will pursue bilateral trade and investment agreements with countries that commit to fair and reciprocal trade and will modernize existing agreements to

³² USTR, Notice of Modification of Section 301 Action: China's Acts, Policies, And Practices Related To Technology Transfer, Intellectual Property, and Innovation, 84 FR 43304 (August 20, 2019) - <https://www.govinfo.gov/content/pkg/FR-2019-08-20/pdf/2019-17865.pdf>; USTR, Notice of Modification of Section 301 Action: China's Acts, Policies, And Practices Related To Technology Transfer, Intellectual Property, and Innovation, 84 FR 45821 (August 30, 2019) - <https://www.govinfo.gov/content/pkg/FR-2019-08-30/pdf/2019-18838.pdf>; USTR, Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, And Practices Related To Technology Transfer, Intellectual Property, and Innovation, 84 FR 46212 (September 3, 2019) - <https://www.govinfo.gov/content/pkg/FR-2019-09-03/pdf/2019-18946.pdf>

³³ Press Release: USTR Issues Tariffs on Chinese Products in Response to Unfair Trade Practices (June 15, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/june/ustr-issues-tariffs-chinese-products>

³⁴ USTR, United States and China Reach Phase One Trade Agreement (December 13, 2019) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/december/united-states-and-china-reach>; USTR, Notice of Modification of Section 301 Action: China's Acts, Policies, And Practices Related To Technology Transfer, Intellectual Property, and Innovation, 84 FR 69447 (December 18, 2019) - <https://www.govinfo.gov/content/pkg/FR-2019-12-18/pdf/2019-27306.pdf>



ensure they are consistent with those principles. Agreements must adhere to high standards in intellectual property, digital trade, agriculture, labor, and the environment.”³⁵

USTR engages closely with the Office of the U.S. Intellectual Property Enforcement Coordinator and other U.S. government agencies on intellectual property matters. USTR continues to lead trade agreement negotiations; reviews under U.S. trade preference programs such as the Generalized System of Preferences (GSP) and the Africa Growth and Opportunity Act (AGOA); on trade policy reviews undertaken at the World Trade Organization; and in highlighting intellectual property enforcement deficiencies in foreign markets, and notorious e-commerce and physical markets trafficking in counterfeit and pirated goods.

USTR also works closely with executive branch departments and agencies to prepare the Annual Special 301 report that identifies U.S. trading partners that do not adequately protect intellectual property rights, and to compile the annual Notorious Markets list, that highlights prominent online and physical marketplaces, outside the United States, that engage in and facilitate substantial piracy and counterfeiting. The Annual Special 301 report provides a review of the state of IP protection and enforcement in U.S. trading partners around the world. The report calls out foreign countries and exposes the laws, policies, and practices that fail to provide adequate and effective IP protection and enforcement for U.S. inventors, creators, brands, manufacturers, and service providers.³⁶ The Out of Cycle Review of Notorious Markets highlights prominent examples of foreign “online and physical marketplaces that reportedly engage in, facilitate, turn a blind eye to, or benefit from substantial piracy and counterfeiting.”³⁷ The list includes a number of foreign e-commerce sites and physical markets where pirated or counterfeit goods are available.

The International Trade Commission (ITC) is an independent quasi-judicial federal agency with broad investigative responsibilities on matters of trade. Section 337 of the Tariff Act of 1930 provides for relief against unfair acts and unfair methods of competition in the importation of articles, including articles that infringe a U.S. patent or a U.S. trademark. A complainant in a Section 337 action may seek an order to exclude from entry into the United States infringing imported articles found to violate section 337.

The ITC is authorized to issue remedial orders in the form of exclusion orders and cease-and-desist orders. The USTR, under authority delegated by the President, may disapprove such exclusion orders for policy reasons. The ITC handles a significant number of patent disputes pursuant to Section 337 and the Commission’s procedural rules.³⁸

The World Trade Organization provides a forum for enforcing U.S. rights under various WTO agreements to ensure that the United States receives the full benefits of WTO membership.

³⁵ National Security Strategy, December 18, 2017 (page 20) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

³⁶ 2018 Special 301 Report (April 25, 2019) - <https://ustr.gov/sites/default/files/files/Press/Reports/2018%20Special%20301.pdf>

³⁷ 2018 Out of Cycle Review of Notorious Markets (April 25, 2019) - https://ustr.gov/sites/default/files/2018_Notorious_Markets_List.pdf

³⁸ 19 CFR Part 210



These WTO agreements also provide a foundation for high-standard U.S. bilateral and regional agreements that make a positive contribution to a free, fair and open global trading system based on the rule of law. In regards to intellectual property rights, the WTO provides a venue for the United States to engage with trading partners on key IP issues, including through accession negotiations for prospective Members, the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council), and by bringing IPR-related cases before the WTO's Dispute Settlement Body. On March 23, 2018, the United States initiated dispute settlement proceedings against China concerning its discriminatory technology licensing requirements.³⁹ In its request for consultations, the United States identified breaches by China of WTO rules, harming the intellectual property rights of U.S. companies and innovators. On October 18, 2018, the United States requested that the WTO establish a panel to examine the U.S. complaint after consultations did not resolve the matter.⁴⁰ The WTO composed the dispute settlement panel on January 16, 2019.

As noted, above, the National Security Strategy – issued in December 2017 – stated that “this Administration will work with the Congress to strengthen the Committee on Foreign Investment in the United States (CFIUS) to ensure it addresses current and future national security risks.”⁴¹ CFIUS is an interagency committee authorized to review certain transactions in order to determine the effect of such transactions on the national security of the United States. A CFIUS review can be initiated voluntarily when parties to a transaction that might raise national security concerns file a voluntary notice with CFIUS, or involuntarily, when CFIUS unilaterally initiates review. If CFIUS determines that the transaction presents national security risks that cannot be adequately resolved by other laws or by mitigation measures agreed or imposed by CFIUS, then CFIUS may refer the transaction to the President. The President may suspend or prohibit the transaction. In 2018, President Trump blocked the acquisition of U.S. chipmaker Qualcomm by its Asian competitor, Broadcom. As the Treasury Secretary explained, President Trump assessed that the transaction posed a risk to the national security of the United States.⁴²

In 2018, Congress passed the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), which the President signed into law on August 13, 2018. As the President explained, “[t]his new authority will enhance our ability to protect cutting-edge American technology and intellectual property vital to our national security. . . . I’m pleased this new legislation provides the Committee on Foreign Investment in the United States greater authority

³⁹ Press Release: Following President Trump’s Section 301 Decisions, USTR Launches New WTO Challenge Against China (March 23, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/march/following-president-trump%E2%80%99s-section>.

⁴⁰ Request for the Establishment of a Panel by the United States, *China – Certain Measures Concerning the Protection of Intellectual Property Rights* (WT/DS542/8) - https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds542_e.htm

⁴¹ National Security Strategy, December 18, 2017 (page 22) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

⁴² Statement by Secretary Mnuchin on the President’s Decision Regarding Broadcom’s Takeover Attempt of Qualcomm (March 12, 2018) - <https://home.treasury.gov/news/press-releases/sm0309>



when it comes to reviewing foreign ownership of American firms with critical technology and intellectual property.”⁴³



⁴³ Remarks by President Trump at a Roundtable on the Foreign Investment Risk Review Modernization Act (FIRRMA) (August 23, 2018) - <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-roundtable-foreign-investment-risk-review-modernization-act-firma/>



EXPANDED LAW ENFORCEMENT ACTION AND COOPERATION



“The theft of intellectual property by foreign countries costs our Nation millions of jobs and billions and billions of dollars each and every year. For too long, this wealth has been drained from our country... Washington will turn a blind eye no longer.”

- President Donald J. Trump⁴⁴

United States law enforcement agencies are taking strong action against criminal enterprises that engage in IP theft, and improving both international and domestic enforcement efforts. The Trump Administration’s intellectual property enforcement efforts bring together the Department of Justice, Department of Homeland Security, the Department of Health and Human Services’ Food and Drug Administration (FDA), and other executive branch law enforcement agencies, to protect American innovation and intellectual property.

The Department of Justice (DOJ) investigates and prosecutes a wide range of IP crimes, including those involving copyright piracy, trademark counterfeiting, and trade secret theft. Primary investigative and prosecutorial responsibility within the Department rests with the Federal Bureau of Investigation (FBI), the United States Attorneys’ Offices, the Computer Crime and Intellectual Property Section (CCIPS) in the Criminal Division, the Counterintelligence and Export Control Section (CES) in the National Security Division, and, with regard to offenses arising under the Food, Drug, and Cosmetic Act, the Consumer Protection Branch of the Civil Division. DOJ also has a network of 270 specially trained federal prosecutors who make up the Department’s Computer Hacking and Intellectual Property (CHIP) program.

DOJ’s Civil Division brings affirmative cases when United States’ IP is infringed. The Civil Division initiates civil actions to recover various penalties or customs duties arising from negligent or fraudulent import transactions, which include counterfeit goods; defends U.S. Customs and Border Protection (CBP) enforcement of the International Trade Commission’s (ITC) Section 337 exclusion orders at the Court of International Trade (these orders are a key patent enforcement tool); conducts civil and criminal litigation under the Food, Drug, and Cosmetic Act, including prosecuting counterfeit drug and medical device offenses; and assists Assistant United States Attorneys (AUSAs) throughout the country with their counterfeit pharmaceutical and device cases.

⁴⁴ Remarks by the President on Signing a Memorandum on Addressing China’s Laws, Policies, Practices, and Actions Related to Intellectual Property, Innovation, and Technology (August 14, 2017) - <https://www.govinfo.gov/content/pkg/DCPD-201700571/pdf/DCPD-201700571.pdf>



The National Intellectual Property Rights Coordination Center⁴⁵ (IPR Center), a joint enforcement collaboration led by the Department of Homeland Security, brings government agencies together to share information, leverage resources, and train investigators, prosecutors, and the public on IP. The IPR Center also conducts an aggressive international program to promote cooperative enforcement efforts with our trading partners and to improve substantive laws and enforcement regimes in other countries. Additionally, the IPR Center continues to engage industry in an open and on-going dialogue. Through this approach, the IPR Center utilizes both law enforcement efforts and private industry collaboration to effectively combat intellectual property crimes. The IPR Center has developed numerous initiatives and interdiction efforts to combat the infiltration of counterfeits. These efforts are focused on counterfeits that pose a risk to the health and safety of the consumer, counterfeits entering the U.S. Department of Defense (DOD) and U.S. Government supply chains, and the protection of the U.S. economy.

The United States government has engaged in a number of training programs for federal, state, and local prosecutors and agents investigating IP crimes. These training courses cover a range of IP enforcement issues and are designed to increase coordination between prosecutors and investigators as well as coordination among federal, state, and local law enforcement agencies.

In FY2019, the IPR Center reached out to 7,253 people at 183 outreach and training events. In addition to these efforts, DHS law enforcement agencies that support IP enforcement had numerous other engagements with stakeholders in 2019. For example, Project Trade Watch is Immigration and Customs Enforcement (ICE) Homeland Security Investigations (ICE-HSI) and CBP's outreach campaign to the importing community to facilitate informed compliance by private industry and to enhance public awareness of law enforcement efforts within the trade community. The IPR Center collaborates with industry and other government agencies for training and engagement. For example, in support of Operation Engine Newity, ICE-HSI and the Automotive Anti-Counterfeiting Council (A2C2) worked together to provide training to ICE-HSI and CBP field offices to train personnel on how to identify counterfeits.

The growth of e-commerce has led to an exponential increase in the volume of cargo being sent as small packages, a significant percentage of which is counterfeit or illicit. In the face of this immense challenge, our customs officers are on the frontlines monitoring, targeting, and seizing illicit and counterfeit goods at our international mail facilities and other ports of entry.

⁴⁵ The federal member agencies of the IPR Center include: U.S. Customs and Border Protection, the Federal Bureau of Investigation, INTERPOL Washington-the U.S. National Central Bureau (USNCB), the United States Postal Inspection Service, the Food and Drug Administration's Office of Criminal Investigations, the Department of Commerce's International Trade Administration, the Naval Criminal Investigative Service, the Defense Criminal Investigative Service, the Defense Logistics Agency's Office of Inspector General, U.S. Immigration and Customs Enforcement's Homeland Security Investigations, the United States Nuclear Regulatory Commission, the United States Patent and Trademark Office, the General Service Administration's Office of Inspector General, the Consumer Product Safety Commission, the National Aeronautics and Space Administration's Office of Inspector General, the Department of State's Office of International Intellectual Property Enforcement, the Army Criminal Investigation Command's Major Procurement Fraud Unit, the Air Force Office of Special Investigations, the U.S. Postal Service Office of Inspector General, and the Federal Maritime Commission. The four international members of the IPR Center are Europol, the Mexican Revenue Service, the Royal Canadian Mounted Police, and the City of London Police.



In FY 2019, CBP and ICE made 27,599 IPR seizures. The total estimated manufacturer's suggested retail price (MSRP) of the seized goods, had they been genuine, increased to over \$1.5 billion.

DOJ has awarded grants to support state and local IP law enforcement task forces and local IP training and technical assistance. The Intellectual Property Enforcement Program (IPEP) is designed to provide national support and improve the capacity of state and local criminal justice systems to address criminal IP enforcement, including prosecution, prevention, training, and technical assistance. Under the program, grant recipients establish and maintain effective collaboration and coordination between state and local law enforcement, including prosecutors, multi-jurisdictional task forces, and appropriate federal agencies, including the FBI and United States Attorneys' Offices.

From July 1, 2018 to June 30, 2019, local law enforcement grantees:⁴⁶

- Arrested 305 individuals for violations of IP laws;
- Served 138 state and local IP search warrants; and
- Disrupted or dismantled 407 piracy/counterfeiting organizations.

DOJ's Bureau of Justice Assistance has supported training programs for state and local law enforcement, that have cumulatively, supported: 110 trainings for 2,609 attendees from 1,301 agencies; 16 seminars for 538 attendees from 185 agencies; and 39 technical assistance visits for 568 attendees from 130 agencies.

To ensure that U.S. government prosecutorial and law enforcement resources are used efficiently and effectively, and are not duplicative, the IPR Center also serves as an investigation clearinghouse for the FBI, ICE-HSI, CBP, FDA, and other agencies.

At the end of FY 2019, the FBI had 195 pending IPR investigations. The largest number of investigations deal with the theft of trade secrets (64), copyright infringement (46), and trademark infringement (55). During FY 2019, the FBI initiated 47 new investigations, made 23 arrests, obtained 3 convictions, forfeitures totaling \$192,058, and restitutions totaling \$529.

In FY 2019, ICE-HSI initiated 501 intellectual property investigations and had 256 arrests, 197 indictments, and 157 convictions, and 2,244 seizures worth \$287,951,429 (MSRP).

In FY 2019, the IPR Center vetted 36,527 investigative leads; of these 20,911 were referred to law enforcement partners. Additionally, the IPR Center de-conflicted 10,426 investigative targets for partner agencies and industry. While performing these de-conflicts, the IPR Center identified 55 situations where two or more entities were investigating the same target. Finally, the IPR Center referred 330 leads to private industry for follow-up.

DOJ continues to prioritize IP investigations and prosecutions that involve (1) health and safety, (2) trade secret theft or economic espionage, and (3) large-scale commercial counterfeiting and

⁴⁶ See Appendix (Department of Justice)



online piracy. They have also increased focus on IP crimes that are committed or facilitated by use of the Internet or perpetrated by organized criminal networks.

The health and safety initiative brings together private, state, and federal enforcement resources to address the proliferation of counterfeit goods posing a danger to consumers, including counterfeit and illegally prescribed pharmaceuticals, automotive parts, and military goods.⁴⁷ DOJ prosecutors and the FBI have continued to emphasize the investigation and prosecution of commercial and state-sponsored trade secret theft. This has led to the investigation and prosecution of numerous trade secret thefts and economic espionage cases.⁴⁸ DOJ continues to pursue significant, large-scale piracy and counterfeiting operations.⁴⁹

Global IP crime, from the manufacture and worldwide distribution of counterfeit goods, to the sprawling online businesses designed to reap profits from the illegal distribution of copyrighted works, continues to grow and change in an effort to stay ahead of law enforcement. The United States is working actively to develop training and technical assistance programs to assist other countries in effectively enforcing IP laws and reducing the trafficking of counterfeit and pirated goods.

Executive Branch agencies, including DOJ, Commerce, State and Homeland Security have provided training to foreign officials on effective enforcement of IP laws. IP trainings are designed to increase cooperation between various law enforcement agencies with responsibility for IP offenses; to utilize various types of charges, including economic and organized crime statutes to combat IP crime; and to increase awareness amongst enforcement officials and the judiciary of the importance of reducing counterfeiting and piracy.⁵⁰

ICE-HSI Attachés establish strong working relationships with host country counterparts. These relationships strengthen ICE's capacity to conduct successful domestic, international, and multilateral operations. ICE-HSI Attachés are located in over 50 countries.

DOJ, in coordination with other federal investigatory agencies, is working with the International Organized Crime Intelligence and Operations Center to provide data to the Center to address intelligence gaps as they relate to IP. The Center has provided operational, intelligence, and financial support to investigations where international organized crime groups are involved in IP offenses.

The Global Law Enforcement Network of International Computer Hacking and Intellectual Property (ICHIP) advisors (formerly known as the IP Law Enforcement Coordinator – IPLEC – program), funded by the Department of State and operated by the Department of Justice, is improving the effectiveness of U.S. personnel serving abroad by training local prosecutors, judges and police.⁵¹ Such training has resulted in multiple overseas prosecutions of trademark

⁴⁷ See Appendix (Department of Justice) for FY 2019 significant prosecutions

⁴⁸ See Appendix (Department of Justice) for FY 2019 significant prosecutions

⁴⁹ See Appendix (Department of Justice) for FY 2019 significant prosecutions

⁵⁰ See Appendices for detailed examples on U.S. government training and capacity building programs

⁵¹ Global Cyber and Intellectual Property Crimes, U.S. Department of Justice - <https://www.justice.gov/criminal-opdat/global-cyber-and-intellectual-property-crimes>



counterfeiting and copyright piracy. The program first created under the Bush Administration in 2006 with a single office in Thailand, has now been expanded under the Trump Administration with the creation of the new Global Law Enforcement Network (GLEN). When the Network is fully deployed, the United States will have twelve ICHIPs (one funded by DOJ) working collaboratively within and across their regions to mitigate threats to IP protections, including that which supports transnational organized crime. In addition to two ICHIPs who are deployed in Washington DC, ICHIPs will be stationed in (1) Hong Kong, China SAR; (2) São Paulo, Brazil; (3) Bucharest, Romania; (4) Bangkok, Thailand; (5) Abuja, Nigeria; (6) Kuala Lumpur, Malaysia; (7) The Hague, Netherlands; (8) Zagreb, Croatia; (9) Addis Ababa, Ethiopia; and (10) Panama City, Panama.

As one example of the impact of the ICHIP program, long-term assistance provided by the São Paulo-based ICHIP prompted a multi-stakeholder group of São Paulo officials, U.S. rights-holders, and Brazilian police to conduct Operação Comércio Legal (Operation Legal Commerce). From January to July 2019, a series of raids led to seizures of contraband that included the largest seizure of counterfeit watches in Brazilian history - approximately 500,000 counterfeit watches valued at USD 12.6 million that required ten trucks to haul away. The Sao Paulo operations have served as a model for ways to partner in targeting transnational criminal organizations.

The IPR Center's Operation Team Player targets the sale and trafficking of counterfeit sports merchandise, apparel and tickets. During 2019, ICE-HSI, under the auspices of Operation Team Player, seized nearly 285,000 counterfeit sports-related items worth an estimated \$24.2 million, and joint investigative efforts led to 28 arrests with 21 convictions.⁵² Throughout the year, the IPR Center led coordinated efforts with major sporting leagues to target contraband that harms the economy, provides financing that supports other criminal activities, and poses potential public health and safety hazards.

Also, in 2018 Congress considered and passed the Synthetics Trafficking and Overdose Prevention (STOP) Act, which the President signed into law on October 24, 2018. While the STOP Act is focused on stopping the importation of dangerous synthetic drugs through the mail, the Act's provisions – which require the collection of advance electronic information from postal international shippers, and provide for the reimbursement of costs that the U.S. Postal Service and CBP incur in their processing of inbound express mail service – will also assist CBP in identifying counterfeit shipments and preventing them from entering US commerce.

⁵² News Release: ICE, CBP operation nets over \$24 million in fake sports-related merchandise (January 31, 2019) - <https://www.ice.gov/news/releases/ice-cbp-operation-nets-over-24-million-fake-sports-related-merchandise>



The protection of intellectual property is especially critical for maintaining U.S. competitiveness in this digital age. As the Administration explained in the National Cyber Strategy that the White House issued on September 20, 2018, “[f]ostering and protecting American invention and innovation is critical to maintaining the United States’ strategic advantage in cyberspace”:

“Strong intellectual property protections ensure continued economic growth and innovation in the digital age. The United States Government has fostered and will continue to help foster a global intellectual property rights system that provides incentives for innovation through the protection and enforcement of intellectual property rights such as patents, trademarks, and copyrights.”⁵³

Cyber-enabled theft of intellectual property, particularly trade secrets, inflicts a significant cost to the U.S. economy, in addition to the immeasurable harm the theft of IP may cause individual companies. The Administration is committed to combatting the cyber-enabled theft of trade secrets and other confidential business information. As the National Cyber Strategy states:

“The United States Government will also promote protection of sensitive emerging technologies and trade secrets, and we will work to prevent adversarial nation states from gaining unfair advantage at the expense of American research and development. . . . For more than a decade, malicious actors have conducted cyber intrusions into United States commercial networks, targeting confidential business information held by American firms. Malicious cyber actors from other nations have stolen troves of trade secrets, technical data, and sensitive proprietary internal communications. The United States Government will work against the illicit appropriation of public and private sector technology and technical knowledge by foreign competitors, while maintaining an investor-friendly climate.”⁵⁴

The Department of Justice is committed to aggressively investigating and prosecuting individuals and corporations who undermine American competitiveness by stealing what they did not themselves create.

In particular, during FY 2019, the Justice Department continued to focus its investigative and prosecutorial efforts on combatting the theft of the trade secrets of U.S. businesses.

On November 1, 2018, the Attorney General announced the creation of a China Initiative led by the National Security Division’s Assistant Attorney General, and composed of a senior FBI executive, five United States Attorneys, and several other Department of Justice leaders and officials, including the Criminal Division’s Assistant Attorney General. As the Attorney General explained, “[t]his Initiative will identify priority Chinese trade theft cases, ensure that we have enough resources dedicated to them, and make sure that we bring them to an appropriate conclusion quickly and effectively.”⁵⁵

⁵³ White House, National Cyber Strategy of the United States of America (September 2018) (page 16) - <https://www.whitehouse.gov/wp-content/uploads/2018/09/National-Cyber-Strategy.pdf>

⁵⁴ Id. (pages 16-17)

⁵⁵ Press Release: Attorney General Jeff Sessions Announces New Initiative to Combat Chinese Economic Espionage” (November 1, 2018) - <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-announces-new-initiative-combat-chinese-economic-espionage>. See also “Attorney General Jeff Session’s China Initiative Fact



During the past year, the Department of Justice brought several prosecutions for trade secret theft, including the following cases.

On October 10, 2018, the Justice Department announced that an operative of the Chinese Ministry of State Security (MSS) was arrested and charged with conspiring and attempting to commit economic espionage and steal trade secrets from multiple US aviation and aerospace companies. The MSS operative was arrested in Belgium, pursuant to a federal complaint, indicted by a federal grand jury in the Southern District of Ohio, and then extradited to the US.⁵⁶

On October 30, 2018, the Justice Department announced the indictment of two Chinese intelligence officers, and the hackers and co-opted company insiders who worked under their direction, for conspiring to steal intellectual property and confidential business information, including information related to a turbofan engine used in commercial airliners.⁵⁷

On November 1, 2018, the Justice Department announced indictments against a Chinese state-owned enterprise, a Taiwan company, and three individuals, for their conspiracy to steal, convey, and possess stolen trade secrets of an American semiconductor company (Micron Technology, Inc.) for the benefit of a company controlled by the Chinese government. The Justice Department also filed a civil lawsuit to enjoin the further transfer of the stolen trade secrets and to enjoin certain defendants from exporting to the United States any products manufactured by the indicted companies that were created using the trade secrets (in another action to prevent the Chinese company from profiting from the stolen technology, the Commerce Department added the company to the Entity List, which will prevent it from buying goods and services in the United States).⁵⁸

Sheet” (November 1, 2018) - <https://www.justice.gov/opa/speech/file/1107256/download>; “Assistant Attorney General for National Security John C. Demers Delivers Remarks Regarding Economic Espionage by the People’s Republic of China” (November 1, 2018) - <https://www.justice.gov/opa/speech/assistant-attorney-general-national-security-john-c-demers-delivers-remarks-regarding>; “Assistant Attorney General Brian A. Benczkowski of the Criminal Division Delivers Remarks Regarding Chinese Economic Espionage” (November 1, 2018) - <https://www.justice.gov/opa/speech/assistant-attorney-general-brian-benczkowski-criminal-division-delivers-remarks-regarding>; and Remarks by FBI Director Wray, “Keeping Our Financial Systems Secure: A Whole-of-Society Response” (November 1, 2018) - <https://www.fbi.gov/news/speeches/keeping-our-financial-systems-secure-a-whole-of-society-response>.

⁵⁶ Press Release: Chinese Intelligence Officer Charged with Economic Espionage Involving Theft of Trade Secrets from Leading U.S. Aviation Companies (October 10, 2018) - <https://www.justice.gov/opa/pr/chinese-intelligence-officer-charged-economic-espionage-involving-theft-trade-secrets-leading>

⁵⁷ Press Release: Chinese Intelligence Officers and Their Recruited Hackers and Insiders Conspired to Steal Sensitive Commercial Aviation and Technological Data for Years (October 30, 2018) – <https://www.justice.gov/opa/pr/chinese-intelligence-officers-and-their-recruited-hackers-and-insiders-conspired-steal>

⁵⁸ Press Release: PRC State-Owned Company, Taiwan Company, and Three Individuals Charged with Economic Espionage (November 1, 2018) - <https://www.justice.gov/opa/pr/prc-state-owned-company-taiwan-company-and-three-individuals-charged-economic-espionage>



On December 20, 2018, the Justice Department announced the unsealing of an indictment charging two Chinese nationals with conducting global campaigns of computer intrusions targeting, among other data, intellectual property and confidential business and technological information at managed service providers (MSPs).⁵⁹

On December 21, 2018, the Justice Department announced that a Chinese national and U.S. legal permanent resident was arrested and charged with theft of trade secrets. According to the criminal complaint, the individual allegedly stole trade secrets from a U.S.-based petroleum company regarding the manufacture of a “research and development downstream energy market product.”⁶⁰ Subsequently, on November 12, 2019, the defendant pleaded guilty to committing theft of trade secrets.⁶¹

On January 28, 2019, the Justice Department announced an indictment against a Chinese company and its U.S. affiliate for their attempted theft of trade secrets of an American telecommunications company (T-Mobile USA).⁶²

On February 14, 2019, the Justice Department announced that one American and one Chinese national were indicted for conspiracy to steal trade secrets related to formulations for bisphenol-A-free (BPA-free) coatings. According to the complaint, the two individuals and a third co-conspirator planned to steal the trade secrets and provide the information to a Chinese company that one of them managed, which would manufacture and profit from products developed using the stolen trade secrets.⁶³

On April 23, 2019, the Justice Department announced the unsealing of an indictment charging a former General Electric (GE) engineer and Chinese businessman with economic espionage and conspiring to steal GE’s trade secrets surrounding turbine technologies, knowing and intending that those stolen trade secrets would be used to benefit the People’s Republic of China. The defendants allegedly received financial and other support from the Chinese government and

⁵⁹ Press Releases: Two Chinese Hackers Associated With the Ministry of State Security Charged with Global Computer Intrusion Campaigns Targeting Intellectual Property and Confidential Business Information (December 20, 2018) – <https://www.justice.gov/opa/pr/two-chinese-hackers-associated-ministry-state-security-charged-global-computer-intrusion> – and Deputy Attorney General Rod J. Rosenstein Announces Charges Against Chinese Hackers (December 20, 2018) – <https://www.justice.gov/opa/speech/deputy-attorney-general-rod-j-rosenstein-announces-charges-against-chinese-hackers>

⁶⁰ Press Release: Chinese National Charged with Committing Theft of Trade Secrets (December 21, 2018) – <https://www.justice.gov/opa/pr/chinese-national-charged-committing-theft-trade-secrets>

⁶¹ Press Release: Chinese National Pleads Guilty to Committing Theft of Trade Secrets (November 12, 2019) – <https://www.justice.gov/opa/pr/chinese-national-pleads-guilty-committing-theft-trade-secrets>

⁶² Press Release: Chinese Telecommunications Device Manufacturer and its U.S. Affiliate Indicted for Theft of Trade Secrets, Wire Fraud, and Obstruction Of Justice (January 28, 2019) – <https://www.justice.gov/opa/pr/chinese-telecommunications-device-manufacturer-and-its-us-affiliate-indicted-theft-trade>

⁶³ Press Release: One American and One Chinese National Indicted in Tennessee for Conspiracy to Commit Theft of Trade Secrets and Wire Fraud (February 14, 2019) - <https://www.justice.gov/opa/pr/one-american-and-one-chinese-national-indicted-tennessee-conspiracy-commit-theft-trade>; Press Release: One Chinese National and One American Indicted in East Tennessee for Conspiracy to Commit Theft of Trade Secrets and Wire Fraud (February 14, 2019) - <https://www.justice.gov/usao-edtn/pr/one-chinese-national-and-one-american-indicted-east-tennessee-conspiracy-commit-theft>



coordinated with Chinese government officials to enter into research agreements with Chinese state-owned institutions to develop turbine technologies.⁶⁴

On June 14, 2019, the Justice Department announced that a Chinese born naturalized U.S. citizen and a company that he and his wife established were charged with trade secret theft in connection with stealing proprietary information from his former employer, Analog Devices, Inc. (ADI), a semiconductor company.⁶⁵

On July 10, 2019, the Justice Department announced the unsealing of an indictment charging a software engineer at a suburban Chicago locomotive manufacturer with trade secret theft for stealing proprietary information from the company and taking it to China, where he is believed to be residing.⁶⁶

On July 29, 2019, the Justice Department announced that, following a nine-day trial, an individual was convicted of one count of conspiracy to commit theft of trade secrets. Evidence introduced at trial established that the defendant conspired with others to steal trade secrets from a Houston-based company, Trelleborg Offshore, relating to syntactic foam, a strong, lightweight material with commercial and military uses that is essential for deep-sea oil and gas drilling. In public statements of its national priorities, China has made clear its desire to develop this technology. The defendant sought to obtain information about syntactic foam for the benefit of CBM-Future New Material Science and Technology Co. Ltd. (CBMF), a Chinese company based in Taizhou, and for the ultimate benefit of the People's Republic of China. Four codefendants—some of whom worked at Trelleborg—had pleaded guilty to conspiring to steal trade secrets, and two testified as cooperating witnesses at trial. From 2014 to 2017, CBMF sent the defendant's company in Houston approximately \$3.1 million from China in order to promote the defendant's activity in the United States.⁶⁷



⁶⁴ Press Release: Former GE Engineer and Chinese Businessman Charged with Economic Espionage and Theft of GE's Trade Secrets (April 23, 2019) - <https://www.justice.gov/opa/pr/former-ge-engineer-and-chinese-businessman-charged-economic-espionage-and-theft-ge-s-trade>

⁶⁵ Press Release: Lexington Man and Semiconductor Company Indicted for Theft of Trade Secrets - <https://www.justice.gov/usao-ma/pr/lexington-man-and-semiconductor-company-indicted-theft-trade-secrets>

⁶⁶ Press Release: Newly Unsealed Federal Indictment Charges Software Engineer with Theft of Trade Secrets (July 11, 2019) - <https://www.justice.gov/usao-ndil/pr/newly-unsealed-federal-indictment-charges-software-engineer-theft-trade-secrets>

⁶⁷ Press Release: Texas Man Convicted of Conspiracy to Commit Theft of Trade Secrets (July 29, 2019) - <https://www.justice.gov/opa/pr/texas-man-convicted-conspiracy-commit-theft-trade-secrets>



ENGAGEMENT AND PARTNERSHIP WITH THE PRIVATE SECTOR AND OTHER STAKEHOLDERS



“We will stand up to any country that unlawfully forces American companies to transfer their valuable technology as a condition of market access. We will combat the counterfeiting and piracy that destroys American jobs, we will enforce the rules of fair and reciprocal trade that form the foundation of responsible commerce...”

- President Donald J. Trump⁶⁸

The Trump Administration is working closely with a broad range of U.S. industry stakeholders, covering small, medium and large sized enterprises, to address the full scope of intellectual property policy, enforcement and protection issues. Working together to find new solutions and creative ways to address intellectual property issues will be key.

That engagement has included training and capacity building programs conducted by Executive Branch agencies with the public. It has also included engagement by the Administration on hot button issues and policy priorities, to develop strategies for action on important areas of intellectual property policy.

Throughout 2019, the Administration engaged with a variety of stakeholders in support of enhancing the protection and enforcement of intellectual property rights. These efforts involved departments and agencies across the Executive Branch, engaging with representatives of the private sector, trade associations, think tanks, academia, and other entities. These discussions also extended to foreign government officials, international governmental institutions (such as INTERPOL, Europol, and WIPO), and private-sector associations and groups in other countries.

In these engagements, the Administration has underscored the importance of domestic and foreign actors undertaking initiatives to promote and reinforce a robust IP environment that reduces counterfeiting, copyright piracy, trade secret theft, and patent infringement, and that provides government agencies, rights holders, and other stakeholders with effective legal tools for addressing these illicit activities. In this regard, the Administration emphasizes, *inter alia*, the importance of strengthening the “rule of law”; of enhancing collaboration (within and between governments, between the public and private sectors, and within the private sector) in combatting illicit activities that undermine the integrity of global supply chains, and thereby in supporting legitimate commerce and trade; and of governments considering the adoption of the “Whole of Government” approaches for strengthening the government’s effectiveness in IPR protection and enforcement.

⁶⁸ Remarks by the President on Signing a Memorandum on Addressing China’s Laws, Policies, Practices, and Actions Related to Intellectual Property, Innovation, and Technology (August 14, 2017) - <https://www.govinfo.gov/content/pkg/DCPD-201700571/pdf/DCPD-201700571.pdf>



Coordinating efforts across the government is critical to successfully tackling IP enforcement. The White House has convened a number of roundtables bringing together industry representatives, interested stakeholders, Members of Congress, Cabinet and other government officials to examine pressing IP issues impacting our economy to develop new initiatives, examine legislative priorities, and find real world solutions.

In line with WIPO's World IP Day theme "Reach for Gold: IP and Sports," the White House hosted an IP Roundtable on intellectual property challenges in sports. Roundtable participants included representatives from the major sports leagues, manufacturers, sporting goods companies, e-commerce, and social media platforms as well as various government officials. Representatives from the sports industry noted challenges with enforcement in China, emphasized the impact of illicit streaming devices, and stressed the need for better consumer protection on e-commerce and social media. The sports leagues commended continued government cooperation on initiatives such as "Operation Team Player." Participants from e-commerce and social media companies shared their efforts to address counterfeiting and piracy on their platforms.

Later, in the spring, the White House brought together stakeholders from both copyright- and trademark- focused industries to discuss recent changes to European law and practice. Participants expressed concern about the impact that the European Union's General Data Protection Regulation (GDPR) has had on the WHOIS database and their ability to obtain information about bad actors online. Discussions also concentrated on the EU Copyright Directive and its potential impact on American companies.

In April, President Trump signed a Presidential Memorandum (PM) on combating trafficking in counterfeit and pirated goods, specifically in third party online marketplaces. The President stated that it is the policy of his Administration to protect American businesses, intellectual property rights holders, consumers, national and economic security, and the American public from the dangers and negative effects of counterfeit and pirated goods, including those that are imported through online third-party marketplaces and other third-party intermediaries.

Following the release of the PM, a Cabinet-level White House IP Roundtable took place to discuss challenges rights holders face in addressing the proliferation of counterfeits and pirated goods on e-commerce platforms and the potential harm to consumers who unknowingly purchase illicit goods. Government officials expressed the need for greater information sharing, accountability, and enhanced scrutiny regarding commercial goods being sent to retailers or distributors from online marketplace sellers.

This PM, for the first time, places a spotlight on counterfeit and pirated hard goods being sold on e-commerce online marketplaces, and looks to address this growing problem. At the direction of the President, the Department of Homeland Security, with input from across the USG, released a report on January 24, 2020 analyzing online third-party marketplaces, examining the illicit goods being trafficked on them, and most importantly, identifying practical solutions, best practices, and potential legislative and administrative changes that will address this important problem. In conjunction with the release of the report, on January 31, 2020, the President issued Executive



Order 13904 on “Ensuring Safe and Lawful E-Commerce for United States Consumers, Businesses, Government Supply Chains, and Intellectual Property Rights Holders.”

The intellectual property issues surrounding the online sale of goods and services are well-documented. Many stakeholders, including online sales platforms, payment processing companies and advertising networks, have formed collaborative partnerships to address these concerns, while encouraging innovation in the digital environment. Still, certain issues remain outstanding, and rapid advances in internet-enabled commerce – including entirely new business models – have brought new problems that need to be addressed. The Administration continues to seek the input of key stakeholders to help develop new partnerships and creative solutions for addressing outstanding IPR-related issues in the e-commerce and social media space, and will continue expanding its efforts in the future.

The Commerce Department’s IP Attaché program, established during the Bush Administration and operated by the USPTO, continues to promote U.S. economic interests and further U.S. government IP policy abroad. The IP Attaché program helps secure high standards in international agreements and host country laws and encourages effective IP protection by U.S.-trading partners for the benefit of U.S. stakeholders. IP Attachés engage regularly with the private sector and other stakeholders to understand their concerns and develop strategies to address them. Their work includes: raising issues with foreign government officials; providing training on IP law, enforcement, and administration; conducting public awareness programs; and presenting and explaining U.S. government positions. The Attachés also help U.S. stakeholders enter foreign markets and conduct business abroad. They inform U.S. stakeholders about foreign laws, policies and regulations and help them protect and enforce their IP abroad. IP Attachés serve at U.S. missions throughout the world, including in China, Mexico, Brazil, Peru, Belgium, India, Thailand, Kuwait, Ukraine and Switzerland.

In 2019, the Global IP Academy (GIPA) at the USPTO organized China IP Road Shows that took place in Durham, Pittsburgh, Los Angeles, Princeton and Atlanta. These road shows were designed to help SMEs and their IP attorneys understand how to obtain and enforce IP rights in China. In general, GIPA provides IP education programming, a distance learning program for U.S. small-and-medium businesses (SMEs), including a continuing quarterly webinar initiative to provide comprehensive IP education to awardees of the Small Business Administration’s SBIR-STTR programs, as well as IP education programming for domestic attorneys general, and webinars. Additionally, GIPA produces and hosts 31 free IPR e-Learning modules that are available to the public. This content covers six different areas of intellectual property, and is available in five languages: Arabic, English, French, Russian, and Spanish. By late 2019, the e-learning products had received over 100,000 hits since content was made available in 2010.

During FY19, the Commerce Department’s International Trade Administration (ITA) – with the support of many USG agencies – completed 11 STOPfakes.gov Roadshows in Philadelphia, Kansas City, St Louis, Chicago, Milwaukee, Houston, Huntsville, Richmond, Raleigh, Salt Lake City, and Denver. These Roadshows, which have given increased attention to SMEs, deliver critically important information about intellectual property to audiences that need it most – startups, entrepreneurs, small and medium-sized businesses, independent creators, and inventors.



To increase enforcement cooperation and raise awareness about IP theft, the Department of Homeland Security's IPR Center continued to conduct international outreach and training events. During 2019, the IPR Center conducted 52 such events.

The State Department and the USPTO have also conducted in-person training programs and updated distance-learning IP training to prepare Foreign Service Officers embarking on overseas assignments on the fundamentals of intellectual property, U.S. government positions on current debates such as access-to-medicines, and U.S. industry priorities. As a result, these U.S. officials are better equipped to advocate for U.S. rights-holders overseas; provide useful field reporting to inform interagency discussions and deliberations regarding the Special 301 Annual Report to Congress, Notorious Markets, and other IP-related reports and policy discussions; and articulate U.S. government policy positions in bilateral discussions and in international fora.

The Administration also continues to examine opportunities to engage with stakeholders on important areas of IP policy, that includes existing industry-led voluntary initiatives to protect American intellectual property, and new areas for greater cooperation. IPEC will continue to hold White House IP roundtables in 2020, to better engage with stakeholders, develop new initiatives, examine legislative priorities, and find creative solutions. As we look forward, we will build on past roundtables and look to examine new areas of importance to the U.S. economy, stakeholders, and policymakers.

The Trump Administration has been developing a new 3-year Joint Strategic Plan on Intellectual Property Enforcement. On September 13, 2018, the U.S. Intellectual Property Enforcement Coordinator issued a Federal Register notice requesting public comments for the development of this 3-year strategic plan.⁶⁹ These comments have been received and reviewed, and we have continued to engage with interested stakeholders and Congress. We anticipate that the Strategic Plan will be announced in the next few months.

The Administration will continue to engage with stakeholders on these and other important intellectual property issues to ensure that we are promoting and protecting American creativity and innovation.



⁶⁹ IPEC, Request of the U.S. Intellectual Property Enforcement Coordinator for Public Comments: Development of the Joint Strategic Plan on Intellectual Property Enforcement, 83 FR 46522 (September 13, 2018) - <https://www.gpo.gov/fdsys/pkg/FR-2018-09-13/pdf/2018-19863.pdf>



LOOKING FORWARD



“America is the place to do business. So come to America, where you can innovate, create, and build. I believe in America. As President of the United States, I will always put America first, just like the leaders of other countries should put their country first also. But America first does not mean America alone. When the United States grows, so does the world. American prosperity has created countless jobs all around the globe, and the drive for excellence, creativity, and innovation in the U.S. has led to important discoveries that help people everywhere live more prosperous and far healthier lives.”

- President Donald J. Trump⁷⁰

Promoting strong intellectual property and innovation in the United States will be key to our nation’s continued economic competitiveness in the decades to come.

To grow our economy, drive innovation, protect American IP, and put America first will require not only effective coordination efforts within the United States government, but working together with Congress, the private sector, and the public. We must all work cooperatively to ensure that the United States’ overall intellectual property strategy takes into account both domestic and international policy and its effect. We should no longer view an action taken in one arena as separate from others. The work that the United States does to keep our intellectual property laws modernized and up to date domestically, and the way these laws are enforced, has an effect on international discussions and negotiations. And the actions that trading partners and competitors take overseas has a direct effect on the value of American IP, job creation and growth in the United States. The Office of the U.S. Intellectual Property Enforcement Coordinator (IPEC) works to promote innovation and creativity by ensuring effective intellectual property protection and enforcement, domestically and abroad.

We must work to address intellectual property issues, including protection and enforcement, at their source. We must also work with like-minded nations to ensure that foreign entities that engage in intellectual property theft are no longer able to profit from their ill-gotten gains.

President Trump and his Administration are making clear that America’s intellectual property policies must be coordinated effectively, and include an even broader range of Executive Branch agencies, and stakeholders.

⁷⁰ Remarks by President Trump at the World Economic Forum (January 26, 2018)

– <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-world-economic-forum/>



As part of the Trump Administration’s approach we recognize that we must change the paradigm. Of course, we will continue to build upon the work of previous Administrations to continue programs and policies that are working well. And the Administration is working to ensure that the United States’ efforts are focused and well-coordinated and that resources are being used effectively and efficiently. But there are clearly approaches that have failed to bear fruit. And, in those areas that are not working, or achieving meaningful results, we must ask ourselves “what can we do differently?”

The road that we take will define the course of freedom, innovation, and prosperity – for decades to come. And that is why we must be committed to advancing pro-growth policies to protect our continued economic and innovative competitiveness, promote new engines of growth, and prioritize America’s innovative and creative capacity.





INTELLECTUAL PROPERTY: FACTS AND STATS



INTELLECTUAL PROPERTY AND THE ECONOMY:

- The Department of Commerce (2016) designated 81 industries (out of 313 total, more than 25 percent) as IP-intensive in 2014, collectively accounting for \$6.6 trillion value added in 2014, or 38.2 percent of U.S. GDP. IP-intensive industries directly accounted for 27.9 million jobs and indirectly supported an additional 17.6 million jobs, representing almost one in three jobs in the United States. IP-intensive industries also pay well; compared to non-IP intensive industries, workers in IP-intensive industries earn 46 percent higher weekly wages.⁷¹
- The Department of Commerce reported that technological innovation is linked to roughly three-quarters of U.S. growth since the mid-1940s.⁷²
- Trademark-intensive industries accounted for 23.7 million jobs in 2014; copyright-intensive industries accounted for 5.6 million jobs in 2014; and patent-intensive industries accounted for 3.9 million jobs.⁷³
- In 2014, workers in IP industries received an average weekly wage of \$1,312, compared to a weekly average of \$896 in non-IP-intensive industries; a 46 percent difference.⁷⁴
- Share of workers in IP industries with a bachelor's degree or higher fell from 42.4 percent in 2010 to 39.8 percent in 2015, while the share of workers with a bachelor's degree or higher in non-IP industries increased from 34.2 percent in 2010 to 38.9 percent in 2015.⁷⁵
- Merchandise exports of IP industries grew to \$842 billion in 2014, up from \$775 billion in 2010; an 8.6 percent increase.⁷⁶
- Exports of service-providing IP industries totaled nearly \$81 billion in 2012, which accounted for about 12.3 percent of total U.S. private services exported that year.⁷⁷

⁷¹ U.S. Patent and Trademark Office and Economics and Statistics Administration (2016). *Intellectual Property and the U.S. Economy*. pp.1-28. <https://www.uspto.gov/sites/default/files/documents/IPandtheUSEconomySept2016.pdf>

⁷² Rai, Arti, Stuart Graham, and Mark Doms. 2010. Patent Reform: Unleashing Innovation, Promoting Economic Growth, and Producing High-Paying Jobs. White Paper. Department of Commerce. https://2010-2014.commerce.gov/sites/default/files/documents/migrated/Patent_Reform-paper.pdf

⁷³ U.S. Patent and Trademark Office and Economics and Statistics Administration (2016). *Intellectual Property and the U.S. Economy*, pp.1-28. <https://www.uspto.gov/sites/default/files/documents/IPandtheUSEconomySept2016.pdf>

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.



THE ECONOMIC COSTS OF IP THEFT:

- A report by the OECD and EUIPO estimates that trade in counterfeit and pirated goods stands at 3.3 percent of global trade.⁷⁸
- The IP Commission estimates that counterfeit goods, pirated software, and theft of trade secrets, which includes cyber-enabled trade secrets, directly cost the U.S. economy \$225 to \$600 billion annually, or 1 to 3 percent of GDP in 2016.⁷⁹
- The estimated low-end cost of trade secret theft to U.S. firms is \$180 billion, or 1% of U.S. GDP. The high-end estimate is \$540 billion, amounting to 3% of GDP.⁸⁰
- CBP reported seizing nearly \$1.4 billion of counterfeit goods in FY 2018 (valued using the total manufacturer's suggested retail price),⁸¹ but the IP commission estimates that CBP seized only about 1.2-2.3 percent of the projected total value of counterfeit goods entering the United States (in 2015). (Note that the CBP seizure figure includes labels and tags which historically has been one of the top ten products seized. Counterfeiters often evade seizure of finished goods by affixing labels to generic goods and/or assembly of finished goods after importation). The IP commission attributes this low share of seized goods to the fact that counterfeit goods mostly travel by postal service and often in small shipments of ten items or fewer. Given that the MSRP value of seized counterfeit goods from China and Hong Kong was valued at \$1.2 billion in FY 2018,⁸² that implies that the total value of counterfeit goods arriving from China and Hong Kong, based on the manufacturer suggested retail price of the infringed good, is estimated at \$52.17-\$100 billion in 2018, 0.25-0.48 percent of 2018 GDP.
- In 2018, CBP reports that \$761.1 million (54 percent) of seized goods originated in China and \$440.3 million (31 percent) originated in Hong Kong.⁸³
- Between 2013 and 2017, total inbound international package mail to the U.S. tripled.⁸⁴ There was a sharp rise in seized goods after the United States Postal Service (USPS) entered into deals with postal services in China (in 2010), Hong Kong (2011), Singapore (2012), and Korea (2013) to provide—for a small premium—tracking and delivery confirmation, an essential feature for e-commerce transactions at popular online retailers. The service, called “ePacket” led to large increases in the number of packages shipped to

⁷⁸ OECD-EUIPO. 2019. “Trends in Trade in Counterfeit and Pirated Goods.”

<https://www.oecd.org/newsroom/trade-in-fake-goods-is-now-33-of-world-trade-and-rising.htm>;
<https://euipo.europa.eu/ohimportal/en/news/-/action/view/5031024>

⁷⁹ IP Commission. 2017. “Update to the Report of the Commission on the Theft of American Intellectual Property.”

⁸⁰ IP Commission. 2017. “Update to the Report of the Commission on the Theft of American Intellectual Property.”
http://www.ipcommission.org/report/IP_Commission_Report_Update_2017.pdf

⁸¹ U.S Customs and Border Protection Office of Trade (2018). *Intellectual Property Rights: Fiscal Year 2018 Seizure Statistics*. [online] Washington: U.S. Department of Homeland Security, p. 24. Available at:
https://www.cbp.gov/sites/default/files/assets/documents/2019-Aug/IPR_Annual-Report-FY-2018.pdf

⁸² Ibid.

⁸³ Ibid.

⁸⁴ United States Senate Permanent Subcommittee on Investigations (2018). *Combating the Opioid Crisis: Exploiting Vulnerabilities in International Mail*. Washington: United States Senate Committee on Homeland Security and Governmental Affairs, p.21. (http://www.hsgac.senate.gov/download/psi-report_-combating-the-opioid-crisis)



the U.S. from Asia; between fiscal years 2011 and 2012, the number from China alone nearly tripled, from 9.5 million to 26.8 million.⁸⁵



⁸⁵ Guo, Jeff (September 12, 2014). The Postal Service is losing millions a year to help you buy cheap stuff from China. Washington Post. https://www.washingtonpost.com/news/storyline/wp/2014/09/12/the-postal-service-is-losing-millions-a-year-to-help-you-buy-cheap-stuff-from-china/?utm_term=.77dc1ca94bc3.

Office of Inspector General, U.S. Postal Service (February 25, 2014): Inbound China ePacket Costing Methodology Audit Report - <https://www.uspsog.gov/sites/default/files/document-library-files/2015/ms-ar-14-002.pdf>

APPENDICES

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DEPARTMENT OF AGRICULTURE

DEPARTMENT OF AGRICULTURE

Department of Agriculture Appendix for FY 19 Annual Report

Geographical Indications (GIs)

Overview

Article 22(1) of the Agreement on Trade-Related Aspects of Intellectual Property Rights provides that “[g]eographical indications are, for purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.”

USDA’s GI related activities during FY 2019

The Foreign Agricultural Service (FAS) of the Department of Agriculture actively works with other Federal agencies, particularly the lead agencies USTR and USPTO, to monitor and directly engage with countries on the issue of GIs. USDA’s main goal is to ensure GI protections do not disadvantage U.S. producers by unfairly granting protection to products with common names, which could ultimately result in a loss of market access.

During FY 2019, USDA engaged at the most senior levels with key foreign country counterparts to emphasize concerns and counter harmful GI policies, such as those of the European Union (EU), emphasizing transparency, adherence with internationally recognized standards, seeking an opportunity to comment on any proposed GIs through comment period and requesting the countries be fair in the evaluations. USDA engaged with a number of countries that were negotiating Free Trade Agreements (FTAs) with the EU – including Mexico, Chile, Japan, and the MERCOSUR countries – to raise the importance of preserving common terms for food products.

USDA worked with USTR to raise concerns over the EU providing Geographical Indication protection to havarti and danbo cheese, which have Codex Alimentarius international standards pointing to their genericness. USTR and USDA raised the concerns in multiple WTO Technical Barriers to Trade committee meetings, which covers standards related trade barriers. Secretary Perdue also wrote letters to EU counterparts advocating for a less trade restrictive.

Plant Variety Protection

USDA plant variety protection certificates are recognized worldwide and expedite foreign plant variety protection application filing. The Plant Variety Protection Office (PVPO) of USDA’s Agricultural Marketing Service (AMS) works actively with members of the International Union for the Protection of New Varieties of Plants to promote cooperation on the standards for variety examination. Once plant variety protection is granted, the certificate owners have exclusive legal rights to market and to exclude others from selling their varieties. This legal protection for breeders and inventors promotes the development of new varieties that can increase yield and

crop productivity, increase farmer income, and expand trade opportunities. Other benefits of plant variety protection include provisional protection upon application receipt, priority when filing in another country, user-friendly filing without the need for an attorney, no annual maintenance fees, and applicant-conducted field trials.

USDA Plant Variety Protection Activities in FY 2019

During FY 2019, PVPO published a proposed rule to add asexually reproduced varieties to the program as a result of the 2018 Farm Bill. The final rule will be published near the end of the year or early 2020. With the addition of asexually reproduced varieties the program will provide plant variety protection certificates for sexually propagated, tuber propagated, and asexually reproduced varieties. This provides the seed and horticulture industry with additional options to protect their new varieties of plants.

The PVPO staff provided presentations on the program, electronic Plant Variety Protection system, and examination procedures to delegations from the European Union, China, AmericanHort, American Seed Trade Association, and the U.S. Patent and Trademark Office. The presentations highlighted the benefits of the electronic system, an overview of PVPO examination procedures, and how the addition of asexually reproduced varieties will be managed by the program. The PVPO also received the first seed propagated hemp varieties for protection, which are now eligible for a plant variety protection certificate.

AMS provides intellectual property rights protection through the PVPO, which provides protection to breeders of varieties of seed and tuber (potatoes) propagated plants, and soon to be added asexually reproduced plants; that are new, distinct, uniform, and stable. Authorized by the Plant Variety Protection Act, the PVPO examines new variety characteristics in order to grant certificates that protect varieties for 20 years (25 years for vines and trees).

In addition, FAS worked with AMS, the Agricultural Research Service (ARS) and other U.S. government agencies and stakeholders to promote international rules-based approaches for the uses and trade of protected agricultural innovations, including seeds. Examples of such USDA efforts in FY2019 included USDA's engagements in expert and technical meetings of the International Treaty on Plant Genetic Resources for Food and Agriculture and, separately, implementation of a FAS-led project to build seed sector capacities and promote policies that will enhance seed trade among Lower Mekong Initiative partner countries.

The Agricultural Research Service's Protection of USDA's own IP

USDA's Agricultural Research Service (ARS) has a comprehensive program to protect US Government-owned intellectual property (IP). In addition to IP protection, ARS delivers a comprehensive training program on IP. The program has four components: (1) training scientists on DURC (Dual Use Research of Concern), TT (Technology Transfer) and insiders' threats; (2) training TT Staff on U.S. Department of Commerce regulations; (3) Export Control Reviews; and (4) entrance and exit procedures for agency employees to minimize insider threats.

ARS has also participated and led IP and TT education and training internationally:

- In September 2018, ARS led a US-Egypt Technology Transfer 3-day Workshop under U.S. - Egypt Science and Technology Joint Fund, established under a 1995 agreement between the United States of America and the Arab Republic of Egypt to strengthen scientific and technological capabilities and cooperation. The objectives of this cooperation are to help Egypt and the U.S. utilize science & apply technology by providing opportunities to exchange ideas, information, skills and techniques, and to collaborate on scientific and technological endeavors of mutual interest. Recruited speakers from USDA, USPTO, NIH, DOE, NIST, NASA, DOC, DOT, University of Maryland, Johns Hopkins University, University of Georgia, Kauffman Foundation, and economic development entities. Collaborated with State Department, Office of International Research Programs, Office of National Programs to bring together experts and Egyptian colleagues.
- In the second phase of a Department of Commerce Commercial Law Development Program (CLDP) program, hosted and trained an Armenian Scientist about TT in the US and provided feedback for the formation of an Armenian Office of TT and Commercialization that has since been established. Previously, had served as the USG expert on TT along with TT professionals from GWU and Univ. of Md. to run a TT workshop in Armenia per Department of Commerce's invitation.
- Served as a technology transfer expert and conducted a workshop along with two university TT professionals for the S&T delegation from Morocco, Algeria, Sri Lanka & Tunisia in Phoenix, Arizona.

DEPARTMENT OF COMMERCE

DEPARTMENT OF COMMERCE

Department of Commerce Appendix for FY 19 Annual Report

This appendix discusses the FY 2019 activities of the Commerce Department, through the Commercial Law Development Program (CLDP), the National Telecommunications and Information Administration (NTIA), the International Trade Administration (ITA), and the U.S. Patent and Trademark Office (USPTO).

COMMERCIAL LAW DEVELOPMENT PROGRAM

The Commerce Department's Commercial Law Development Program (CLDP) creates a level playing field for U.S. firms overseas, in particular by building the capacity of foreign countries to improve the protection and enforcement of intellectual property (IP) and intellectual property rights (IPR).

As the Office of the General Counsel's technical assistance arm, CLDP upholds the Department of Commerce's mission, as stated in its 2018-2022 strategic plan, to "Accelerate American Leadership." Strategic Objective 1.3 is: "Strengthen Intellectual Property Protection." One of the strategies listed in the plan to do so is to "strengthen the protection of intellectual property" abroad.

CLDP helps strengthen IPR protection overseas through two types of technical assistance programs: programs that help countries develop an effective IPR enforcement environment, and programs encouraging private sector actors to create their own IP, which gives them a vested interest in protecting IPR. Conducted in close cooperation with USPTO, with other Commerce bureaus, with USTR, and with other Federal agencies, CLDP's activities include trainings, seminars, and meetings that address topics such as IPR border enforcement, innovation and the role of IP in the economy, technology transfer, judicial training in adjudicating IP infringement cases, capacity building for government institutions and IP enforcement systems, copyright and trademark protection, copyright management, public awareness of IP issues, and IP enforcement in the digital sphere.

In FY 2019, these CLDP activities were conducted for the following countries: Afghanistan, Algeria, Bahrain, Egypt, Georgia, Kyrgyzstan, Mali, Morocco, Pakistan, Sri Lanka, Tajikistan, Tunisia, Ukraine, and Uzbekistan, as well as in the West Bank. In addition, regional programs were conducted for the Central Asian and Maghreb countries.

As outlined below, CLDP's FY 19 activities mainly fell into three categories: Judicial Capacity Building in IPR Enforcement; Capacity Building for Institutions that Enforce IPR; and Development of Innovation Ecosystems in particular through Technology Transfer.

I. ACTIVITIES OVERVIEW

The following are notable CLDP programs during FY 2019 (*more detailed descriptions are presented in section II below*).

Judicial Capacity Building in IPR Enforcement

Georgia

CLDP organized a workshop for Georgian judges on the adjudication of civil IP infringement cases, July 2019.

Pakistan:

CLDP, in close cooperation with USPTO, organized a workshop on IPR for Pakistan judges that serve or will serve on IP tribunals, December 2018.

Ukraine:

CLDP made it possible for the Deputy Chairman of the Supreme Court and Chairman of the Cassation Court to take part in the inaugural WIPO Intellectual Property Judges Forum, November 2018.

Capacity Building for Institutions that Enforce IPR

Afghanistan

CLDP in partnership with USPTO held a multi-day workshop for Afghanistan trademark (TM) examiners focusing on best practices in TM examination, August 2019.

Central Asia Region:

CLDP, in partnership with USTR, organized the inaugural meeting of the Central Asia Expert Level Working Group on Intellectual Property Rights, September 2019.

Egypt:

CLDP joined the IPEC delegation visiting Egypt to discuss IPR enforcement, April 2019.

Georgia:

CLDP co-hosted the International Conference Against Counterfeiting and Piracy, July 2019.

Kyrgyz Republic and Tajikistan:

CLDP, in partnership with USPTO, organized a workshop in Tajikistan for Kyrgyz and Tajik government officials regarding U.S. and international best practices in trademark examination, July 2019.

Mali:

CLDP organized a workshop with USAID Mali and the Government of Mali to implement best practices in the prevention of counterfeited agricultural and pharmaceutical products, July 2019.

Pakistan:

CLDP in partnership with USPTO and USTR, took part in video-conferences to review proposed updates of Pakistan's major IP laws, June 2019.

Uzbekistan:

CLDP, in partnership with USPTO, organized a workshop for Uzbek government officials regarding U.S. and international best practices in trademark examination, July 2019.

Development of Innovation Ecosystems in Particular Through Technology Transfer**Bahrain:**

CLDP provided support for the creation of a regional center for technology transfer and innovation, through a workshop on Technology Transfer, December 2018.

Maghreb Region:

CLDP organized in Tunis a regional workshop (Algeria, Morocco, Tunisia) on the commercialization of technology, October 2018.

CLDP made it possible for a delegation of managers of technology incubators from Algeria, Morocco, and Tunisia, to attend a two-week program, at U.C. Davis in Intellectual Property and Technology Transfer, June 2019.

Algeria:

CLDP organized technology licensing consultations and a workshop in the US for the managers of the technology incubator of Algeria's premier engineering school.

Morocco:

CLDP organized a technology transfer workshop in Fes, for government officials, researchers, and academics; the workshop focused on best practices in technology transfer, April 2019.

Sri Lanka:

CLDP organized consultations and a workshop in the US, on technology licensing, for the directors of 15 university technology transfer offices, June 2019.

West Bank:

CLDP made it possible for key experts to give presentations at the Global Entrepreneurship Week, November 2018.

II. PROGRAM DESCRIPTIONS

Judicial Capacity Building in IPR Enforcement

Georgia:

IPR Workshop for Judges

On July 20-21, 2019, in Batumi, Georgia, CLDP facilitated a two-day workshop for Georgian judges on the adjudication of civil IP infringement cases. Thirty-two judges from trial and appellate level courts throughout Georgia attended the workshop, including judges from the Tbilisi City Court, Tbilisi Court of Appeals, and Kutaisi Court of Appeals. CLDP planned the workshop in close coordination with the High School of Justice of Georgia, the Georgian Copyright Association (GCA), and Sakpatenti, the National Intellectual Property Center of Georgia. U.S. District Court Judge David Carter, Central District of California, and U.S. Magistrate Judge Becky Thorson, District of Minnesota, served as expert advisors for the workshop and facilitated discussions on best practices in the adjudication of IP cases. Judge Carter and Judge Thorson outlined the international conventions that govern respectively patents, copyrights, trademarks, and trade secrets. They then offered the Georgia judges the opportunity to make decisions about case studies that raised critical questions related to IP law.

In Georgia, the protection and enforcement of IPR are critical as the country moves to increase opportunities for creativity, innovation, and investment. Training for judges that handle IP cases has become increasingly important since much of the judiciary remains unfamiliar with IP law despite an increase in the number of IP infringement cases being heard in the courts. At the CLDP workshop, the participating Georgian judges gained experience analyzing IP issues and providing the legal bases for their decisions. This experience will promote reasoned decision-making in IP cases and will contribute to a more consistent approach to the adjudication of IP disputes in Georgia's courts.

Pakistan:

IPR Workshop for Judges

Several years ago, as a result of CLDP programs, Pakistan created a specialized IP Tribunal to adjudicate IP disputes. On December 3-7, 2018 in Washington, D.C., CLDP, in close cooperation with USPTO and the Continuing Legal Education Institute of Pakistan (CLEIP), conducted the third in a series of workshops focused on enhancing the IP knowledge and analytical skills of the IP Tribunal judges and of select judges likely to be appointed to IP Tribunals. During this week-long workshop, participating judges and officials interacted with U.S. (e.g., USPTO, DOJ, judges, private lawyers) and Pakistani (e.g., private legal practitioners)

experts in trademark, copyright, trade secret, and patent law, including civil and criminal prosecution and deterrent sentencing. The workshop was a mix of subject matter lectures, and case studies; it included a visit to the U.S. Court of Appeals for the Federal Circuit. In addition, representatives of U.S. industry and an economist met with the judges to discuss the benefits and challenges of enforcing IP rights locally, nationally, regionally, and worldwide. The Pakistan Ambassador to the United States, as well as the Trade Minister, met with the delegation and discussed the importance of an effective IP rights enforcement regime on (1) creating and sustaining an innovation ecosystem in Pakistan, (2) international trade and investment, and (3) economic development and job creation in Pakistan.

Ukraine:

On November 7–9, 2018, CLDP sponsored the participation of Judge Lvov, Deputy Chairman of the Supreme Court, Chairman of the Cassation Court of Ukraine, in the Inaugural WIPO Intellectual Property Judges Forum at the WIPO Headquarters that took place in Geneva, Switzerland. The Forum was hosted by the World Intellectual Property Organization and discussed pressing issues for Ukraine such as the ability of courts to issue decisions on narrowly technical matters or on a vital economic problem, and ways to adapt judicial systems to cope with the increase in the caseload of IP cases. Judge Lvov expressed his hope that the Forum will “...grow into a platform for sharing information, practices and experience among judges from all over the world, including Ukraine, and among different national judicial systems of the WIPO member countries. Such information, practices and experience would concern the most pressing issues connected with IP that arise in the course of the accelerated development of innovations and transborder use of the IP.”

Capacity Building for Institutions that Enforce IPR

[REDACTED]

[REDACTED]

[REDACTED]

Central Asia:

First meeting of the Central Asia Expert Level Working Group on Intellectual Property Rights

On September 17-19, 2019, in Almaty, Kazakhstan, CLDP brought together government officials from Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan with advisors from the United States Trade Representative's Office (USTR), the U.S Patent and Trademark Office and the Department of Commerce's International Trade Administration for the first meeting of the Central Asia Expert Level Working Group on IPR. The program began with presentations from each country's delegation on recent developments in laws and regulations promoting IPR protection in the delegation's country. The program thereafter focused on the "Special 301 Report," highlighting the process by which USTR prepares the Report, and underscoring weaknesses in IPR protections in Central Asia, according to input from U.S. and foreign firms. The areas highlighted at the meeting were lack of enforcement, gaps in copyright law, damages from counterfeit trade, and the risks posed by governments' use of unlicensed software. Outcomes from the meeting included recommendations that CLDP will convey at the October 2019 meeting of the U.S.-Central Asia Trade and Investment Framework Agreement (TIFA) Council regarding (1) ways in which Central Asian governments can participate in the Special 301 Report process going forward; and (2) the need to focus, at the Group's next meeting, on interagency and public-private cooperation in furthering IPR protections.

Egypt:

IPR Enforcement

On April 1-2, 2019, CLDP joined the IPEC delegation visiting Cairo to discuss the IPR enforcement regime in Egypt with government and non-government organizations. The discussions focused on the challenges facing the private and public sectors, and on how IPR fosters an ecosystem of innovation and benefits the economy. The discussions made it possible to identify areas of concern that should be addressed through an updated assessment of Egypt's IPR technical assistance needs.

Georgia:

Combating Counterfeiting

On July 18-19, 2019, CLDP partnered with the National Intellectual Property Center of Georgia (Sakpatenti) to host the Fifth Annual "Georgia Against Counterfeiting and Piracy" International Conference in Batumi, Georgia. This annual event is a platform for national and international experts to present developments in the global fight against counterfeiting and piracy. More than 130 participants attended this year's conference, with a large number coming from Georgia's private sector. Georgia government officials also attended the conference and were joined by regional participants from Albania, Armenia, Azerbaijan, Bulgaria, Turkey, and Ukraine.

The conference was divided into four general topic areas: global trends and challenges; protecting public health and safety; regional customs challenges and solutions; and coordination and enforcement. Experts from the U.S. Patent and Trademark Office (USPTO), the U.S. National Intellectual Property Rights Coordination Center, the World Intellectual Property Organization (WIPO), the International Chamber of Commerce - Business Action to Stop Counterfeiting and Piracy (BASCAP), REACT presented on global trends and best practices. Two U.S. federal judges who were in Georgia for another CLDP program, U.S. District Court Judge David Carter, Central District of California, and U.S. Magistrate Judge Becky Thorson, District of Minnesota, provided a judicial perspective on ways to fight counterfeiting and IP piracy. Sakpatenti, the Georgia Copyright Association, the Customs Department of the Georgia Revenue Service, the Investigation Services of the Ministry of Finance of Georgia, and members of Georgia's private sector also led workshop sessions that focused on overcoming challenges specific to Georgia. Finally, regional customs experts shared strategies to combat counterfeiting at borders and in free trade zones.

Kyrgyz Republic and Tajikistan:

Trademark Examination and Registration

On July 28-29, 2019, in Dushanbe, Tajikistan, CLDP facilitated a workshop on trademark examination and registration for officials from Tajikistan and from Kyrgyzstan. This workshop was conducted by advisors from the U.S. Patent and Trademark Office. The workshop was well-received: in addition to actively participating in case studies prepared by USPTO, participants asked numerous questions and were eager to share their approach to the topics presented. The participating governments sent delegates not only from their Intellectual Property offices, but from other agencies as well. In addition to KyrgyzPatent, the agency directly charged with trademark examination, the Kyrgyz government nominated participants from the Innovation and Investment Promotion Agency, the Customs Service, and the Financial Police. In addition to the National Patent Center of Tajikistan, the Tajik government nominated participants from the Chamber of Commerce, the Customs Service, the Ministry of Culture, the Tax Committee, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Economic Development and Trade, the Standards Agency, and the Ministry of Industry. The broad representation present at the workshop highlights the interest in, and the need for, such training in the region. Participants requested that CLDP return to lead training on anti-counterfeit/enforcement rules and practice.

Mali:

Combating Counterfeiting

In order to protect the rural and agricultural communities being affected by counterfeit products, CLDP has been working with USAID Mali and the Government of Mali to implement best practices in the prevention of the movement and use of counterfeited agricultural and pharmaceutical products and to raise public awareness of the dangers of fake products. This has been done: a) through the extensive training of stakeholders including Mali's Customs, its judiciary, police and gendarmerie; b) through consumer education; and, c) through the

introduction of Mobile Product Authentication (MPA™) technology at the point of purchase, which will reduce the prevalence of counterfeit products in the marketplace and reduce their impact on agriculture and health of both livestock and human alike.

In this context, on July 15-19, 2019, CLDP organized a workshop in Bamako, Mali, to discuss, among other topics, the implementation of a national database administered jointly by Mali's Customs, Mali's Intellectual Property Office (CEMAPI) and Mali's Copyright Office (BUMDA), a database in which producers and importers can register marks to facilitate the seizure of counterfeited products.

Prevention of Counterfeits

On September 3rd, 2019, CLDP organized and facilitated a one-day meeting to build consensus among public and private sector stakeholders on an upcoming communication campaign aiming to prevent the use of counterfeits. Among the government agencies that took part in the meeting were Mali's Ministry of Health, Mali's Ministry of Agriculture, Mali's Patent and Trademark Office, Mali's Copyright Office, and Mali's Customs. CLDP is now working with those stakeholders, on a national campaign, including culturally appropriate marketing material, through billboards, radio, and television, to raise public awareness of the danger of counterfeits and to showcase new technologies best suited to fight counterfeiting.

Pakistan:

Review of IP Laws

On June 11-13, 2019, CLDP in partnership with USPTO and USTR, participated in video conferences with the Intellectual Property Office of Pakistan (IPO) to review USG comments and suggestions to proposed updates of Pakistan's major IP laws (*e.g., Patent, Trademark, and Copyright*) published by IPO for public comment earlier this year. Senior official from IPO participating in the DVC included Executive Directors Naseer and Arif, Director Ismail, and Deputy Director Zahid, as well as Deputy Directors for Copyright (Mr. Saifullah Khan), Trademark (Ms. Umme Salma) and Assistant Controller Mr. Ghulam Mjtaba for Patents. USTR led the overall discussion each day, with USPTO leading the detailed discussion on each day's specific subject matter. As a result of these discussions, it is anticipated that IPO will revise and republish proposed legislative updates for another round of public comments.

Uzbekistan:

Trademark Examination and Registration

On July 25-26, 2019 in Tashkent, Uzbekistan, CLDP facilitated a workshop on trademark examination and registration, conducted by advisors from the US Patent and Trademark Office. The workshop was well-received: in addition to actively participating in case studies prepared by USPTO, participants posed a number of questions and were eager to share their approach to the topics presented. Uzbekistan sent delegates not only from its Intellectual Property offices, but also from other agencies, underscoring the interest in, and need for, such training. Participants

requested that CLDP return to lead training on patents, trade secrets, and anti-counterfeit/enforcement rules and practice.

Development of Innovation Ecosystems, in Particular Through Technology Transfer

Bahrain:

With support from the Arab League, Bahrain plans to create a center for technology transfer and innovation. This center will assist universities and industries with the commercialization of new technologies; it will do so initially in Bahrain, and, later, throughout the Gulf. In support of this initiative, on December 2-3, CLDP led a workshop on “Technology Transfer and University-Industry Partnerships.” The workshop was organized in coordination with Bahrain’s SME Society, the Ministry of Industry, Commerce and Tourism (MOICT), Bahrain’s Chamber of Commerce and Industry, and Tamkeen, a public authority tasked with supporting Bahrain’s private sector development. The participants in the workshop came from academia and from industry. Two U.S. experts, managers of technology transfer offices at their universities, discussed the role of technology innovation centers at universities as well as the importance of strengthening IP regimes to promote entrepreneurship. The program included a panel that discussed funding opportunities in Bahrain, including building venture capitalist and angel investor networks. After the workshop, CLDP met with local partners as well as with MOICT to discuss raising awareness on IP registration and development. By strengthening Bahrain’s IP regime, CLDP is helping level the IPR enforcement playing field for U.S. companies.

Maghreb Region:

Regional Workshop on the Commercialization of Technology

On October 30-November 1, 2018, CLDP, in coordination with the Tunisian Agency for the Promotion of Scientific Research (ANPR), organized a regional workshop in Tunis, Tunisia, on the commercialization of technology for the Middle East and North Africa region. The workshop promoted technology-based entrepreneurship and strengthened local capacity by bringing together government officials and technology transfer stakeholders to discuss technology management. A total of 50 participants from government and universities attended the workshop. Subject-matter experts from the U.S. Department of Agriculture’s Office of Technology Transfer, Stanford University, and Carnegie Mellon University focused on practical case studies and management skills such as commercialization metrics, valuation of technology, licensing and assignments, negotiation, and marketing strategies.

Regional Delegation Taking Part in Technology Licensing Academy

On June 17-29, 2019, CLDP sponsored a delegation of six technology transfer professionals from Algeria, Morocco, and Tunisia, who took part in a two-week program on IP and technology transfer hosted by PIPRA (Public Intellectual Property Resource for Agriculture) and the UC Davis School of Law. Participants learned strategies and tactics for managing IP that maximize the commercial success and public benefit of their research and development investments. Such

strategies and tactics will foster an innovation and entrepreneurship ecosystem for technology-based economic development and job creation in Algeria, Morocco, and Tunisia.

Algeria:

In November 2018, as part of a partnership fostered by CLDP between a U.S. center of excellence in technology transfer (the International Technology Transfer Institute (ITTI) of New Hampshire U's law school) and an Algerian center of excellence (Ecole Polytechnique d'Alger (ENP)), CLDP organized a two-week study-tour in Washington D.C, Atlanta, GA and Concord, NH for the managers of ENP's technology incubator. The focus of the tour was on developing technology entrepreneurship and technology licensing. During the first week of the program, the delegation visited technology incubators at Georgia Tech to learn more about their innovation ecosystem and strategies to effectively support start-ups. During the second week, the delegation worked with ITTI on IP skills required for technology transfer, including conducting patent landscape analysis and negotiating licensing agreement.

Morocco:

On April 16-18, 2019, CLDP, in coordination with the Morocco's Ministry of National Education Vocational Training, Higher Education and Scientific Research, organized a technology transfer workshop in Fes, Morocco, for 30 government officials, researchers, and academics from Morocco. The workshop aimed to strengthen the participants' capacity in technology transfer and to help them adopt model IP policies for Moroccan universities. Subject-matter experts from the University of California Davis, the World Intellectual Property Organization and the USG facilitated case studies and focused on key IP and technology transfer skills, including establishing and operating technology transfer offices, understanding the Bayh-Dole Act, and developing IP policies. Participants also had the opportunity to visit the Innovation Center at the University of Fès to learn more about its ongoing innovation and commercialization efforts.

Sri Lanka:

From June 10-21, 2019, CLDP organized a two-week program for 15 directors of Sri Lankan universities' TTOs. The first week, spent in D.C., started with a two-day program at USPTO on IP fundamentals, followed by consultations with Georgetown University's Office of Technology Commercialization, with NSF (I-Corps) and with CLDP staff with expertise in academia-to-industry technology transfer. The second week, spent at New Hampshire University's law school, consisted in a workshop on technology licensing, with as a capstone, a two-day simulated negotiation of a technology license agreement.

West Bank:

The Global Entrepreneurship Week (GEW) is "the world's largest celebration of the innovators and job creators who launch startups that bring ideas to life, drive economic growth and expand human welfare. Each November, nearly 10 million people in over 170 countries participate in

more than 35,000 activities, events, and competitions designed to connect them to potential collaborators, mentors, and even investors.”

For five years prior to 2018, the West Bank authorities organized special events in the West Bank at the time of GEW. This was the case, too, in November 2018. On November 12-18, CLDP, in collaboration with the U.S. Consulate General in Jerusalem, supported the 6th Annual GEW in the West Bank. In particular, CLDP sponsored the travel of two renowned entrepreneurship experts, Ms. Erin Keeley of Hitachi GST and Mr. Ewan Gaffney of the Global Entrepreneurship Network (GEN UK), who provided keynote remarks and presentations throughout the week.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (NTIA)

Protect Intellectual Property at ICANN

The National Telecommunications and Information Administration (NTIA), USPTO, and other Federal agencies, including the Federal Trade Commission and the Department of Justice, continue to engage within the Internet Corporation for Assigned Names and Numbers (ICANN) and the Governmental Advisory Committee (GAC), highlighting the importance of timely access to domain name registration information (known as WHOIS) for IP rights holders, to combat infringement online. In response to the European Data Protection Regulation (GDPR), which went into effect during FY2018, crucial domain name registration information details are no longer publicly provided. The US Government is playing an active role in the ongoing ICANN policy development process discussions to establish a sustainable access and accreditation model as soon as possible, so that IP rights holders and other legitimate interests can access non-public WHOIS information for enforcement and security purposes. The US Government will continue to work through the GAC to ensure that intellectual property rights are respected in the ICANN policy processes.

In addition, USG agencies are closely monitoring the ongoing review, underway at ICANN, of the new rights protection mechanisms (RPMs), such as the Trademark Clearinghouse, Trademark Claims Service, and the Uniform Rapid Suspension System, that were created to address intellectual property concerns in response to the introduction of new top level domains. NTIA, USPTO, IPEC, and other interagency colleagues will continue to focus on the effectiveness of these new RPMs. USG also will be closely following the review of the Uniform Domain Name Dispute-Resolution Policy (UDRP), which may begin sometime in 2020. Since its introduction in 1999, the UDRP has been a successful tool in assisting trademark right holders to combat cybersquatting, and the review of the UDRP is not without controversy.

INTERNATIONAL TRADE ADMINISTRATION (ITA)

STOPfakes.gov

The International Trade Administration's Office of Standards and Intellectual Property (OSIP) manages the STOPfakes.gov website. STOPfakes.gov hosts several resources to educate and assist businesses, consumers, government officials, and the general public.

Industry Specific IP Toolkits

These toolkits focus on IP as it relates to a particular industry and provide guidance to U.S. companies seeking to acquire and protect copyrights, patents, trademarks, and trade secrets in overseas markets. Current industries covered include: Sporting Goods, Marine Technology, Pleasure Boats, Medical Devices, Auto Parts, and Building Products.

IP Snapshots

IP Snapshots are one-page documents that provide IP information about a foreign country. The following information is included on each IP Snapshot: contact information for local IP Offices, country membership in important IP treaties, Special 301 rankings for the prior 3 years, and contact information for the IP attaché in the region. Seventy-two (72) IP Snapshots are currently available on STOPfakes.gov.

Country IP Toolkits

Country Toolkits are more in-depth documents to assist U.S. entrepreneurs in understanding the ins and outs of IP protections in foreign markets. Available toolkits include China (new), Singapore, Malaysia, Vietnam, Brunei, Brazil, Colombia, Egypt, European Union, Italy, and Peru.

STOPfakes Roadshows

The STOPfakes Roadshows deliver critically important information about IP to the audiences that need it most – start-ups, entrepreneurs, small and medium-sized businesses, independent creators, and inventors. The information is presented by experts from multiple government agencies whose missions advance stakeholders' IP interests.

Participants receive information on a range of topics, including: how to identify and protect the various IP assets; mechanisms for obtaining IP protection in overseas markets; strategies for determining where to seek protection; and the value of copyright and trade secrets protection to their businesses. In addition, on-site help is available to assist with the copyright registration process and the Custom's recordation application process. Participants also can meet one-on-one with the presenters to discuss IP issues of primary concern.

Eleven (11) roadshows were completed in FY19: Philadelphia, Kansas City, St Louis, Chicago, Milwaukee, Houston, Huntsville, Richmond, Raleigh, Salt Lake City, and Denver.

Combatting Trafficking in Counterfeit and Pirated Goods

OSIP undertook a critical role in the reporting process initiated by the President's April 3 Memorandum on Combating Trafficking in Counterfeit and Pirated Goods by coordinating interagency efforts on stakeholder consultations. OSIP led the interagency effort to collect and disseminate 93 substantive submissions received in response to a Federal Register Notice seeking stakeholder views on the issue of counterfeit and pirated goods. OSIP further coordinated several meetings with stakeholders, including the International Anti-Counterfeiting Coalition (IACC), National Association of Manufacturers (NAM), and Amazon. OSIP also participated in several high-level discussions hosted by the U.S. Department of Homeland Security (DHS), briefed participants on stakeholder outreach efforts, and arranged for briefings to Industry Trade Advisory Committees (ITACs) interested in the issue.

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

The Director of the USPTO has the responsibility of, among other things, advising “the President, through the Secretary of Commerce, on national and certain international intellectual property policy issues” and advising “Federal departments and agencies on matters of intellectual property policy in the United States and intellectual property protection in other countries.” 35 U.S.C. § 2(b) (8)-(13).

Consistent with this responsibility, the USPTO provides expert legal and policy advice to the Administration on issues related to the protection and enforcement of patents, industrial designs, trademarks and geographical indications, copyright, plant varieties, and trade secrets, including regulatory test data. The USPTO represents the United States at the World Intellectual Property Organization (WIPO) and in other international intergovernmental organizations discussing IP-related matters. In addition, the Department of Commerce, including the USPTO, provides advice to the Office of the United States Trade Representative (USTR) through extensive input into the annual Special 301 review of global IP regimes, and the Notorious Markets Review, as well as the Section 301 investigations when intellectual property issues are involved. Additionally, USPTO participates in the APEC Intellectual Property Experts Group (IPEG) meetings and advises USTR on IP enforcement-related issues in the context of APEC initiatives. We provide advice on initiatives, reports, proposed programs, and developments related to IP enforcement made or produced by other APEC economies. USPTO also organizes and conducts IP enforcement-related programs/seminars for APEC economies.

Strengthen Intellectual Property Enforcement through International Organizations

Throughout 2019, the USPTO continued to provide leadership and obtained stakeholder views to shape negotiating positions for a whole-of-government (State, DOJ, USTR, US Copyright Office, NTIA) effort to advocate for the exclusion of IP from the scope of the draft Hague Convention on the Recognition and Enforcement of Foreign Judgments, proposed by The Hague Conference on Private International Law. The USPTO also continues to lead the U.S. delegation to the WIPO Advisory Committee on Enforcement (ACE). ACE provides a multilateral forum for exchanging information and best practices on combatting trademark counterfeiting and copyright piracy. In September 2019, USPTO gave a presentation on “IP Enforcement Topics in

Foreign Trade Zones” at the 14th Session of the WIPO/ACE. USPTO also continued to provide leadership and obtained stakeholder views to shape negotiating positions for a whole-of-government (State, WH/CEQ, NOAA, NSF, USN, USCG, MARAD, USTR) effort to advocate for the exclusion from scope of IP in the UN Intergovernmental Conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

The USPTO also entered into a number of arrangements with intergovernmental organizations. For example, USPTO’s Memorandum of Understanding (MOU) with INTERPOL’s Illicit Goods and Global Health Programme was renewed in 2018. Under the arrangement, USPTO and INTERPOL intend to cooperate on training and capacity building programs to promote effective intellectual property enforcement internationally. And, in FY 2019, USPTO entered into an MOU with the Oceania Customs Organization (OCO), which is composed of 23 national and territorial customs administrations in the Pacific region. The MOU provides that the OCO and USPTO intend to cooperate on training and capacity-building programs to promote effective intellectual property enforcement in the region.

Promote Enforcement of U.S. Intellectual Property Rights through Trade Policy Tools

Throughout FY 2019, USPTO provided policy advice and technical expertise on domestic and international IP matters to multiple other federal agencies. These included USTR, IPEC, and other bureaus of the Commerce Department. USPTO advised USTR in the negotiation of trade agreements, reviews under U.S. trade preference programs such as the Generalized System of Preferences and the African Growth and Opportunity Act (AGOA), on Trade Policy Reviews undertaken at the World Trade Organization (WTO), and on accessions underway at the WTO. In addition, USPTO assisted USTR in the preparation of its annual review of global developments on trade and IP, the Special 301 Report, and the Section 301 Report. The Special 301 Report identifies U.S. trading partners in which IP protection and enforcement has deteriorated or remained at inadequate levels and where U.S. persons who rely on IP protection have difficulty with fair and equitable market access. USPTO assisted in its preparation by providing extensive information on the state of IP protection and enforcement in many countries. USPTO likewise provided USTR with information in connection with its compilation of the annual Notorious Markets List. The list highlights prominent online and physical marketplaces that reportedly engage in and facilitate substantial copyright piracy and trademark counterfeiting. USPTO participated in briefing the Industry Trade Advisory Committee (ITAC) and other stakeholders including small and medium size businesses, on progress on promoting enforcement of U.S. intellectual property rights through trade policy tools.

Support U.S. Small and Medium-Size Enterprises (SMEs) In Foreign Markets

The USPTO’s Global Intellectual Property Academy (GIPA), a component of the Office of Policy and International Affairs, offers basic- and advanced-topic programming for U.S. Small and Medium Sized Enterprises (SMEs) doing business abroad. These in-depth programs cover best practices in domestic and international IP protection and enforcement and, are delivered through face-to-face, and distance learning modes, both from the USPTO’s headquarters in

Alexandria, VA, and around the country in cooperation with USPTO's regional offices. GIPA collaborates with USPTO's IP Attachés, Regional Offices, other USG agencies, and the Federal Judiciary. In FY2019, GIPA provided IP awareness and education programming to over 6,800 U.S. SME representatives, U.S. government officials, and other U.S. stakeholders. About 39% of GIPA's more than 140 programs in FY 2019 targeted this domestic audience of IP rights owners, users and policymakers.

In FY2019, USPTO supported the interagency STOPFakes.gov Initiative, which includes staffing the Road Shows and development of an updated China IP Toolkit. In-person programming through OPIA/GIPA included IP education programming for U.S. attorneys general and China IP Road Shows for U.S. SMEs, as well as a joint series of four copyright programs for creative industries, produced with the USPTO Detroit Regional Office and the Copyright Office. FY2019 GIPA Distance Learning programming for U.S. SMEs included a continuing webinar initiative to provide comprehensive IP education to grantees of the Small Business Administration's SBIR-STTR programs; copyright webinars for U.S. SMEs in cooperation with USPTO regional offices; and broadcasts of programs from USPTO headquarters.

For FY 2018, USPTO conducted China IP Roadshows in eleven locales across the U.S., including Austin, Texas, Kansas City, Missouri, Las Vegas, Nevada, Louisville, Kentucky, and New Orleans, Louisiana with audiences ranging from 50 to over 100 participants. Attendees included company representatives, legal professionals, and industry-sector officials. For FY2019, USPTO conducted China IP Roadshows in four locations, including Durham, North Carolina, Pittsburgh, Pennsylvania, Los Angeles, California and Atlanta, Georgia, with audiences ranging from 75 to more than 100 participants.

Assess the Economic Impact of Intellectual Property-Intensive Industries

In response to the IPEC Joint Strategic Plan on Intellectual Property Enforcement for FYs2017-2019, the USPTO Office of the Chief Economist led a multiyear, interagency effort to encourage empirically based research on IP enforcement, particularly in the areas of illicit trade in counterfeit goods, patents, commercial scale piracy, and trade secret theft. In FY2019, the interagency group developed a publicly available online library of resources for scholars, policymakers and others interested in researching topics relevant to intellectual property (IP) enforcement. This library contains links to bilateral and multilateral trade agreements with IP provisions, annual and periodic reports from Federal IP enforcement agencies, white papers, and data resources. The online library is publicly available on the USPTO's website through the Open Data Portal under the "Data can be beautiful" visualization link.

The USPTO also completed two landscape studies on IP enforcement. These studies survey existing and emerging research relevant to intellectual property rights enforcement in the areas of illicit trade in counterfeit goods and commercial-scale piracy. In addition, they document the state of the evidence and understanding on key issues relevant to each topic, identify critical gaps in knowledge, and recommend future research priorities, along with providing a solid foundation for evidence based policymaking.

Raise Public Awareness of International Intellectual Property Protection and Enforcement

USPTO engages in many outreach activities to raise public awareness of IP. Knowledge is shared through libraries and resource centers, universities, regional offices, Face-to-Face and Distance Learning educational programs and as a presence at trade shows. Additionally, content covering all areas of IP is available on the [USPTO's website](#) and promoted through the USPTO's social media platforms.

In November 2018, USPTO organized a Roundtable on Intellectual Property and Consumer Behavior, in Alexandria, Virginia. In December 2018, USPTO participated and spoke on the Protection and Enforcement of IP in the Indo-Pacific Region at a U.S. Department of Commerce Discover Global Markets Conference in Salt Lake City, Utah.

In March 2019, USPTO participated in a panel discussion on "Intellectual Property in the TRIPS-Plus World" at the Texas A&M School of Law's "TRIPS Agreement at 25" Symposium in Fort Worth, Texas.

In March 2019, USPTO organized and presented an enforcement-oriented program that focused on China and counterfeit auto parts for the Automotive Anti-Counterfeiting Council (A2C2) representatives and ICE/HSI agents. The briefings focused on the state of IP in China, including patents, trademarks, trade secrets, and enforcement.

In May 2019, USPTO participated in a panel discussion on "Protecting Intellectual Property Rights in the Region" as part of a Panel Session on Border Security at the 21st Annual Conference of the Oceania Customs Organization in Saipan, Commonwealth of the Northern Mariana Islands. In addition, in May 2019, USPTO participated as a Table Topic Moderator on "Changing Attitudes and Behavior: Can Governments Get Consumers to Stop Buying Counterfeits?" at the 141st Annual Meeting of the International Trademark Association (INTA) in Boston, Massachusetts.

In June 2019, USPTO organized and presented, in cooperation with the McCarthy Institute, a Forum on Brand Protection and Anti-Counterfeiting Strategies to explore with brand owners and law enforcement agencies the challenges faced by brand owners and the approaches used against counterfeits in a global and online environment. The program was held in Alexandria, Virginia, with the in-person and online participation of more than 200 people.

In September 2019, the IP Attaché for the ASEAN region launched a campaign "Safe Meds, Save Lives". The campaign aimed to alert the public of the danger of buying medicine from unlicensed vendors and promote the efforts of government agencies to combat the illegal sale of medicine without a license. The campaign was launched in collaboration with the Minister Counselor for Commercial Affairs, the Thai Department of Intellectual Property, Royal Thai Police, Thai Customs, U.S. Embassy Bangkok, and the Food and Drug Administration.

USPTO GIPA produces and hosts 31 free IPR e-Learning modules and products available to the public. This content cover six different areas of Intellectual Property, and is available in five languages: Arabic, English, French, Russian, and Spanish. By late FY2019, the e-learning video products had received nearly 100,000 hits, by viewers all over the world. In FY2018, GIPA produced an updated [Patents video](#) (see also USPTO GIPA’s YouTube Playlist at <http://bit.ly/USPTOGIPA>). In addition to video content, USPTO GIPA provides free, on-demand written content to U.S. stakeholders, including educational brochures and toolkits, on its website at www.uspto.gov/GIPA and at www.uspto.gov/IPToolkit. In FY2019 these resources received over 500 hits and downloads.

In celebration of WIPO’s World Intellectual Property Day (April 26), IP Attachés in cooperation with U.S. Agencies and local IP Offices hosted a number of events to commemorate the global theme “IP and Sports”:

- The IP Attaché in Bangkok, Thailand participated in the World IP Day 2019 program with the theme “Reach for Gold: IP and Sports,” which featured exhibitions and showcases provided by the USPTO, European IP Office, Japan Trade Organization, and Sports Authority of Thailand. At the USPTO exhibition, the IP Attaché and Senior IP Specialist in Bangkok, Thailand provided information on IP and U.S. innovation. Approximately 300 people attended the program.
- The IP Attaché in Brussels, Belgium sponsored a program for World IP Day that focused on the value of IP and the impact of infringements in the sports industries. The event, co-hosted by the American Chamber of Commerce to the EU and the Federation of the European Sporting Goods Industry, brought together 75 attendees to hear from officials and leaders in IP and sports. The IP Attaché from Brussels, Belgium moderated a discussion between representatives of a prominent U.S. brand of athletic wear and equipment, a European Commission representative, an OECD economist, an IP-intensive SME, and the Spanish Sport Association.
- The IP Attaché in Shanghai, China presented a discussion at a World IP Day event conducted by the Shanghai American Center. The discussion covered how companies protect, enforce, and commercialize IP in China and U.S. – China trade issues. Over 50 people attended the program.
- The IP Attaché in Kuwait City, Kuwait spoke on IP issues in the sports industries at the World IP Day event in Muscat, Oman, conducted by the Oman Government and Gulf Cooperation Council. Approximately 70 individuals attended the event.
- The IP Attaché in Kuwait City, Kuwait spoke at the World IP Day celebration event in Qatar held by the Qatar Ministry of Commerce and Industry. The IP Attaché spoke on a panel about sports broadcast piracy and shared information about the U.S. 2019 Special 301 Report and Notorious Markets Report. Approximately 85 people attended the event.

USPTO's Global Intellectual Property Academy (GIPA)

In FY 2019, USPTO's GIPA continued to develop and provide capacity-building programs to help improve IP systems in key countries and regions. As detailed above, the programs addressed a full range of IP protection and enforcement matters, including enforcement of IP rights at national borders, Internet piracy, IP infringement involving express mail deliveries, trade secrets, copyright policy, and patent and trademark examination. Participants included officials with IP-related responsibilities, such as judges, prosecutors, patent and trademark examiners, and IP office administrators. In FY2019, GIPA conducted 140 IP programs covering all areas of IP. About 61% of these programs targeted foreign officials with IP portfolios, engaging nearly 3,000 officials from 123 countries. A complete list of all countries represented at GIPA trainings in FY 2019, is available online at the USPTO Data Visualization Center (<https://www.uspto.gov/dashboards/externalaffairs/main.dashxml>). Programs are delivered from GIPA's headquarters in Alexandria, VA and around the world, through Face-to-Face and Distance Learning modes.

In the interest of further ensuring efficiency and coordination, GIPA also presented programs for U.S. officials and policymakers, providing updates on domestic and IP law and policy. USPTO once again collaborated with the Department of State's Foreign Service Institute (FSI) to provide IP training for outbound Foreign Service officers, and to provide subject matter expertise in developing an update to FSI's IP distance learning products. Finally, to increase the effectiveness of interagency coordination of capacity building and training, GIPA reviewed the capabilities of the www.usipr.uspto.gov IPR education database and piloted an enhanced impact survey tool.

Other USPTO Activities Related to IP Enforcement

During FY 2019, USPTO continued to work closely with the Administrative Office of the Courts and the International Judicial Relations Committee of the U.S. Courts to coordinate the participation of Federal judges in foreign and domestic training programs and capacity-building and public outreach activities overseas. These programs and activities addressed various issues in IP enforcement, as well as best practices in case management, rule of law, and transparency in decision-making in the context of civil and criminal cases.

USPTO continued its cooperation with INTERPOL's Illicit Goods and Global Health Programme, in order to promote effective IP enforcement internationally. In December 2018 and April 2019, USPTO participated as a speaker/panelist for two Interpol Global Health and Illicit Goods seminars in Manila, Philippines and Phnom Penh, Cambodia.

In October 2018, the USPTO and State Department organized an International Visitors Leadership Program: Nigeria - Intellectual Property Rights. Topics of discussion included enforcement of all types of IP (patent, trademark, copyright, trade secrets).

In October 2018, USPTO spoke at the National Association of Attorneys General's (NAAG) 2018 Consumer Protection Fall Conference on a panel titled "The Impact of Counterfeit Goods on Consumers and Legitimate Businesses." The program was held in Houston, Texas and was attended by approximately 150 officials from various State and City Attorney Generals offices, as well as representatives of the private sector.

In October 2018, the IP Attaché in Kuwait City, Kuwait spoke at the 7th Regional Cybersecurity Summit on Kuwait on a panel titled "The Advent of Hacking and Privacy Disruption as a Critical Hurdle." The discussion focused on the impact of cybersecurity breaches, counterfeit, and software piracy on businesses and the importance of promoting the purchase of legitimate products. Approximately 40 representatives of U.S. companies attended the panel along with 30 government officials, and an additional 70 attendees.

In November 2018, USPTO conducted an IP Enforcement Overview webinar for the National District Attorneys' Association in partnership with the U.S. Department of Justice in Alexandria, Virginia.

In December 2018, the IP Attaché in Kuwait City, Kuwait conducted programs on the connection between IP crime and organized crime and terrorism and the proliferation of counterfeit and pirated goods in sensitive supply chains for the Kuwait National Committee for Anti-Money Laundering and Combating Financing for Terrorism (AML/CFT).

In February 2019, the IP Attaché at the IP Attaché Office in Kuwait City, Kuwait conducted a public outreach program on the role of IP rights in the defense sector on the margins of the International Defence Exhibition & Conference (IDEX). The outreach program covered the following topics: identifying and protecting IP in the region, IP diffusion and trade secret theft, and the dangers posed by counterfeit goods entering the defense industry supply chain. Approximately 50 people, including representatives from 15 U.S. companies and 5 foreign government officials, attended the program.

In April 2019, the IP Attaché and IP Advisor in Rio de Janeiro, Brazil spoke at a workshop on IP enforcement in Santos, Brazil. The workshop was organized by the IPR Center, HSI Brazil, HSI Argentina, and the International Computer Hacking and Intellectual Property (ICHIP) Brazil office. The IP Attaché presented on IP protection in the U.S., the USPTO, and the role of the IP Attaché Program.

In April 2019, the IP Attaché and IP Advisor in Rio de Janeiro, Brazil spoke at a workshop on IP enforcement in Buenos Aires, Argentina. The workshop was conducted in connection with staff from OPIA and HSI Argentina. The IP Attaché presented on the role of the IP Attaché Program and moderated an industry panel with representatives from several U.S. companies.

In April 2019, pursuant to a Joint Project Agreement (JPA), USPTO NAAG's Consumer Protection Training and Research Institute, co-organized a Workshop on IP and Consumer Protection, held at the USPTO Regional Office in Dallas, Texas, for approximately 30 State Attorney General officers from the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.

In May 2019, USPTO participated in the NAAG Consumer Protection Spring Conference in Washington, D.C. The three-day workshop focused on addressing pressing and issues in the area of consumer protection. The USPTO provided an overview of health and safety concerns related to the sale of counterfeit goods.

In May 2019, IP Attachés and IP Specialists from Rio de Janeiro, Brussels, Kuwait City, Beijing, and New Delhi participated in a panel discussion at the 2019 Annual Spring Conference for the International Anti-Counterfeiting Coalition (IACC) to discuss IP enforcement issues in their respective regions. Approximately 100 individuals attended the IACC panel discussion. In addition, the IP Attachés and IP Specialists met with 21 inventors and professors from Northeastern University associated with the Global Resilience Center and participated in a roundtable discussion at the 2019 Annual Meeting for the International Trademark Association (INTA), which was attended by approximately 135 legal practitioners.

In June 2019, in cooperation with the McCarthy Institute, the USPTO held a public Forum on Brand Protection and Anti-Counterfeiting Strategies. The one-day program provided an opportunity for discussion among major IP stakeholders and interested parties on the latest developments in trademark and brand protection, both globally and online, and the strategies and technologies being deployed against counterfeiters and to protect consumers.

In September 2019, USPTO hosted its third trade secret symposium. Open to the public, the event featured six panels with topics ranging from a comparison of trade secrets and patent protection to criminal and civil issues in trade secret cases.

In September 2019, USPTO participated in a session on “Challenges & Opportunities for Small and Medium Size Enterprises with Counterfeits,” at the Annual MSU Anti-counterfeiting and Product Protection, Brand Protection Strategy Summit for Small-Medium Enterprises, which was attended by approximately 150 individuals, and organized a “Spark Table” providing some handouts and pamphlets to showcase the USPTO and offer the resources available relevant to brand protection professionals in their efforts to combat counterfeiting and IP infringements.

Capacity-Building and Training

The Commerce Department continues to engage in training and capacity building programs to strengthen intellectual property awareness and enforcement internationally. USPTO’s Global Intellectual Property Academy (GIPA) and the Department’s Commercial Law Development Program (CLDP) conduct these programs.

Africa

In October 2018, USPTO participated in an International Conference in South Africa entitled Respect for IP – Growing from the Tip of Africa, organized by the Companies and Intellectual Property Commission (CIPC) of South Africa, the World Intellectual Property Organization (WIPO), the International Criminal Police Organization (INTERPOL), the World Customs Organization (WCO) and the World Trade Organization (WTO) to discuss building respect for IP and supporting an effective and balanced IP enforcement system.

In April 2019, USPTO participated in a judicial capacity-building program for African Regional Intellectual Property Office (ARIPO) Members and Observer States in Gaborone, Botswana. Approximately 30 judges across 14 Member and Observer States of ARIPO (Botswana, Gambia, Kenya, Kingdom of Eswatini, Lesotho, Liberia, Malawi, Mozambique, Namibia, Nigeria, Sao Tome and Principe, Sierra Leone, Tanzania, Zambia) participated in a program on IP Enforcement Training for Judicial Instructors. The US Ambassador to Botswana, and the Attorney General of Botswana, provided opening and keynote remarks, respectively. A U.S. Federal District Court Judge and a U.S. Federal Circuit Court Appellate Judge, as well as staff from USPTO/OPIA and USDOJ/ICHIP & CCIPS, facilitated sessions tailored for the judicial participants. Topics included overviews of IP enforcement in sub-Saharan Africa and the USA, impact of IP counterfeits and pirated goods on public health in Africa, discussion and materials on IP counterfeit and piracy criminal and civil cases, collection and handling of electronic evidence, expert testimony, valuation and asset forfeiture, sentencing, judicial administration and case management, civil and administrative remedies for patent, trademark, copyright, and trade secret infringement, discussion of current IP challenges for the judiciary in sub-Saharan Africa, and building an IP case repository for sub-Saharan Africa.

In June 2019, USPTO participated as a speaker/panelist during a session at a US iCHIP-U.S. Embassy sponsored Workshop in Dakar, Senegal to build enforcement capacity and improve coordination in coordinating combatting pharmaceutical crimes and illicit pesticides involving 44 participants from 11 West African countries.

In April and July 2019, USPTO led separate digital video conferences with Kenyan and South African IP officials. The discussions focused on different types of IP enforcement regimes, including criminal, civil, administrative, and border enforcement.

Eurasia

In May 2019, USPTO conducted a regional Judicial Dialogue on the Protection of Intellectual Property Rights in Nur-Sultan, Kazakhstan. Participants included judges from Kazakhstan, Kyrgyz Republic, Tajikistan and Turkmenistan and representatives of the Ministry of Justice/Kazpatent. Most sessions were structured as group discussions, case studies and exercises. The delegations provided presentations on their legal system and IP laws. In July 2019, USPTO coordinated with INTERPOL on a regional IP enforcement training for Central Asia, which was held in Tashkent, Uzbekistan, for law enforcement officials from Kazakhstan, Uzbekistan, Tajikistan, Turkmenistan, Pakistan, Georgia, Armenia, and Azerbaijan.

In July 2019, USPTO spoke at the Fifth Annual Georgia Against Counterfeiting and Piracy International Conference in Batumi, Georgia. The conference was hosted by the National Intellectual Property Centre of Georgia (SAKPATENTI) and CLDP. The conference included the following topics: Global Trends and Challenges, Combatting Counterfeiting to Protect Health and Safety, Regional Customs Challenges and Solutions, and Coordination and Enforcement on Counterfeits.

Latin America and Caribbean

In March 2019, the USPTO hosted a regional workshop for Latin American judges from Guatemala, Honduras, El Salvador, Costa Rica, Panama, Mexico and the Dominican Republic. Topics included online piracy, trademark counterfeiting and social media, and electronic evidence.

The USPTO conducted, in collaboration with the World Intellectual Property Organization (WIPO) and the World Customs Organization (WCO), a regional enforcement program in Panama City, Panama in April 2019. The program included the following topics: Part III of the TRIPS Agreement; enforcement in free trade zones; general overview of trademark and copyright law; border enforcement, particularly risk analysis and targeting; criminal investigations and prosecutions; and measuring consumer attitudes and awareness. The Department of Justice's Computer Crimes and Intellectual Property Section (CCIPS) also participated.

In April 2019, the USPTO conducted a workshop on the "Investigation and Prosecution of IP Crime in Argentina" with the assistance and participation of the IPR Attaché and staff, DOJ and FBI from DC, and HSI based in Argentina. The program included police, prosecutors and judges to provide training on investigation and prosecution of IP crimes and support the establishment of a special investigative unit that would focus on counterfeit products and IP enforcement within the Autonomous City of Buenos Aires.

In May 2019, USPTO conducted a workshop on "Best Practices in Investigating and Prosecuting Digital Crimes" in Bogota, Colombia. The program provided police and prosecutors in the Andean region training on digital IP investigation and prosecution, securing and working with digital evidence on social media, e-commerce and web platforms, how to build the best cases and presentation of case/evidence to a prosecutor or judge. The program was delivered in cooperation with the regional DOJ iCHIP.

In May 2019, the IP Attaché for the Mercosur Region hosted a U.S. District Court judge's participation in WIPO's International Course on Emerging Topics in IP for Judges and Public Attorneys in Rio de Janeiro, Brazil. The program was co-hosted by the Ministry of Foreign Affairs of Brazil (MRE), the School of Federal Judges from the Second Region (EMARF) and the Association of Federal Judges (AJUFE) under the auspices of the National Institute of Industrial Property (INPI) of Brazil, the Center of Juridical Studies of the Federal Justice Counsel (CEJ), and the Federal Regional Tribunal of the Second Region (TRF2)

In May 2019, the IP Attaché for the Andean Region hosted a one-day program for prosecutors in Quito, Ecuador. The program focused on investigating and prosecuting online infringements.

In July 2019, USPTO participated as a presenter describing the "Roles, Responsibilities and Resources Available at USPTO for Law Enforcement" at an Intellectual Property Rights Enforcement Training, organized by the IPR Center and hosted by the Cayman Islands

Government and the Intellectual Property Caribbean Association. The attendees included approximately 75 officials from various IP offices in the Caribbean, police, prosecutors and customs and border control officers.

In August 2019, the IP Specialist for the Andean Region spoke at IP seminars organized by the Peruvian Commission for the Fight Against Customs Crimes and Piracy. The seminars were attended by more than 80 Peruvian customs agents, police, and administrative staff at SUNAT, the Peruvian Customs Agency.

In September 2019, the USPTO, in collaboration with the USPTO IPR Attaché in Brazil, DOJ CCIPS, DOJ ICHIP, and FBI, organized and participated in an IP enforcement workshop, focused on combatting digital and broadcast piracy, in Rio de Janeiro for approximately 60 police, prosecutors, customs officials and high-ranking staff of the Ministry of Citizenship, SDAPI, CNCP, IMPI and the Ministry of Justice. Topics covered include enforcement of copyright in the digital environment, forms of digital piracy, the WCT and WPPT, Brazil's laws addressing digital and cable signal piracy, practical strategies for investigating street-level copyright crimes, online forensic techniques, gathering intelligence and identifying and investigating criminal networks.

South Asia

In October 2018, USPTO conducted a two-day IPR Border Enforcement Workshop in Amman, Jordan. Thirty-seven officials attended the program from Police and Customs, including the heads of both office's IP departments.

In December 2018, in partnership with CLDP, USPTO conducted a three-day IPR Judicial Workshop for Pakistani Judges. The program was held at GIPA and hosted 10 District and Session Judges and one Pakistan IPO Official.

In April 2019, the IP Attaché Office in New Delhi, India took a delegation of custom and police officials from Bangladesh, Nepal, Pakistan, Sri Lanka, Bhutan and India to participate in the Asia Regional Workshop on trade in counterfeit food, beverages and fast-moving consumer goods in Ho Chi Minh City, Vietnam.

In June 2019, in partnership with the Federation of Indian Chambers of Commerce International (FICCI) and Confederation of Indian Industry (CII), USPTO gave presentations to Indian Customs and Police officials in five different cities; New Delhi, Vizag, Chennai, Mumbai, and Mysore.

In July 2019, the IP Attaché Office in New Delhi, India conducted a series of public awareness programs for police and customs officials in collaboration with the Confederation of Indian Industry (CII). The training programs for police were conducted in Vizag, Mysore, Chennai, Shillong and Delhi city. The training programs for customs officials were conducted in Chennai, Mumbai and Shillong. Approximately 30 officials attended each training program.

In July 2019, the IP Attaché Office in New Delhi, India conducted a one-day training program for senior customs officials in Dhaka, Bangladesh. Thirty customs officials attended the program.

In August 2019, USPTO organized and conducted a three-day IPR Border Enforcement workshop for Bangladesh Customs, which included expertise from U.S. DOJ, U.S. CBP, HSI and FDA-OCI. The program was held at USPTO Headquarters and hosted 18 delegates from Bangladesh Customs, including the head of the nascent IPR unit.

South East Asia

In November 2018, the USPTO organized an ASEAN-USPTO workshop on “IP Enforcement and Consumer Behavior,” in Bangkok, Thailand. Attendees included 30 government officials from ASEAN member countries.

In January 2019, USPTO spoke at an Interpol Area Regional OPSON VIII Workshop and Meeting held in Bangkok, Thailand and attended by 30 law enforcement and regulatory officials from several Asia countries. The focus of the program was on enforcement against counterfeit and substandard food and beverages.

In January 2019, the USPTO organized an ASEAN-USPTO Judicial Colloquium on Intellectual Property Protection and Enforcement held in Bangkok, Thailand, and attended by 30 trial and appellate judges from ASEAN member countries. The focus of the program was on civil and criminal case management.

In March 2019, the IP Attaché in Bangkok, Thailand and two experts from U.S. Customs and Border Protection provided training on customs recordation at the Ministry of Commerce and Customs in Phnom Penh, Cambodia. The program was attended by 18 local IP and customs officials.

In April 2019, the USPTO co-organized, along with the U.S. Department of Justice ICHIP/Hong Kong, and other U.S. law enforcement and regulatory agencies, as well as the ASEAN Secretariat, EUIPO, and the Vietnamese Ministry of Science and Technology, an Asia Regional Workshop on Enforcement Against Trade in Counterfeit Foods, Beverages, Cosmetics and Fast-Moving Consumer Goods in Ho Chi Minh City, Vietnam. The workshop discussed enforcement strategies to combat trade in counterfeit consumables, consumer products, and cosmetics, and was attended by approximately 150 law enforcement officers, food and drugs administrative officers, and consumer protection authorities from 28 Asia Pacific countries.

In June 2019, the IP Attaché Office in Bangkok, Thailand participated in and provided support for the ASEAN Workshop for Public Prosecutors on IP Criminal Enforcement. The USPTO, U.S. Department of Justice, and ASEAN Secretariat co-organized the program. The workshop was attended by 30 public prosecutors and other IP enforcement officers from ASEAN member countries.

In July 2019, USPTO co-organized with the International Trademark Association (INTA) and the Pharmaceutical Security Institute (PSI), a training program workshop on border enforcement against counterfeit goods for Myanmar Customs in Yangon, Myanmar, attended by more than 80 customs officers.

In July 2019, the USPTO co-organized a workshop on brand protection and IP border enforcement for Myanmar Customs. The IP Attaché in Bangkok, Thailand moderated two panel discussions on “Anti-Counterfeiting and Consumer Protection: Need for Public Awareness and Education” and “Open Discussions on Next Steps Going Forward”. The workshop was attended by approximately 70 Myanmar Customs officials.

In August 2019, the IP Specialists at the IP Attaché Office in Bangkok, Thailand moderated panel discussions at the “Workshop on the Prosecution of IP Cases” in Udon Thani, a province in the northeastern region of Thailand. The capacity-building program provided participants with information on how to criminally prosecute IPR violations. The workshop was attended by a total of 40 prosecutors in the region.

In September 2019, the USPTO participated in a session on “The Role of the USPTO in IP Protection and Enforcement” at a Workshop on IP Enforcement organized by the National Intellectual Property Rights Coordination Center and the U.S. Department of Homeland Security in Bangkok, Thailand, attended by 40 law enforcement officers from Cambodia, Laos, Myanmar, Thailand, and Vietnam.

In September 2019, the USPTO co-organized, along with the U.S. Department of Justice ICHIP/Hong Kong, and other U.S. law enforcement and regulatory agencies, as well as the ASEAN Secretariat, an Asia Regional Workshop on Enforcement Against Trade in Counterfeit Goods in Bangkok, Thailand. The workshop discussed counterfeiting trends, challenges, approaches by brand owners, and enforcement strategies to combat transnational trade in counterfeit goods, with a focus on automotive parts, electronics, medical devices, and agricultural and veterinary products. It was attended by more than 100 customs and law enforcement officers, national intellectual property offices, regulatory and consumer protection authorities, judges, public prosecutors, and brand owners and private sector representatives from 26 Asia Pacific countries.

Indo Pacific

In May 2019, the USPTO co-organized with the Oceania Customs Organization a Northern Sub regional Financial Crimes Workshop in Guam, which focused on border security enforcement, anti-money laundering and other financial crimes, including counterfeiting of intellectual property, attended by 30 customs officers from various OCO member territories.

Asian Pacific Economic Cooperation (APEC)

In February 2019, USPTO participated and presented on the completion of a series of USPTO-organized Workshops on Trademark Infringement Determinations in the Border Enforcement

Context, at the 48th Meeting of the APEC Intellectual Property Experts Group (IPEG) in Santiago, Chile, attended by officials from a number of APEC economies.

Middle East/North Africa

In March 2019, the IP Attaché in Kuwait City, Kuwait hosted and chaired the first 2019 meeting of the MENA Anti-Piracy Coalition in Kuwait. Several content producers and broadcast companies that operate in the region attended in person and by phone.

In March 2019, USPTO coordinated a series of meetings for UAE Enforcement Officials on best practices related to IP Enforcement. USPTO also hosted the delegation at GIPA and leveraged expertise from Virginia State Police.

In June 2019, USPTO coordinated a series of meetings for Saudi Enforcement Officials, including the Saudi Authority on IP, on best practices related to IP enforcement. USPTO also hosted the delegation at GIPA with interagency cooperation from the IPEC's office to discuss enforcement policy.

East Asia

In November 2018, the IP Specialist in Guangzhou, China participated in the Asia Video Industry Association policy roundtable at its annual conference in Hong Kong. The roundtable discussed copyright challenges posed by online piracy and illegal streaming devices and developments in the video industry. Government officials and industry representatives attended from 17 countries and regions.

In April 2019, the IP Attaché in Shanghai, China participated in workshops in Taiwan on digital piracy and trade secret enforcement. The workshops featured experts from the U.S., including two federal district court judges, prosecutors, and representatives from the FBI, Department of Justice, and the USPTO. The workshops had over 150 participants from law enforcement, the prosecutors' office, and the courts.

In April 2019, USPTO participated in a digital piracy and trade secrets workshops in Taipei, Taiwan for 150-180 Taiwanese police, prosecutors, investigators and judges.

In April 2019, the IP Attaché in Shanghai, China moderated two panel discussions and delivered a keynote speech at the USPTO's China IPR Roundtable at Duke University in Durham, North Carolina. The discussions covered local business interests in China and experiences with protecting and enforcing IP rights in China.

In May 2019, the IP Attaché at the IP Attaché Office in Shanghai, China led an IPR roundtable event at AmCham Shanghai, which was organized by the USPTO Shanghai Office. The roundtable discussed IP issues in China, including trademark infringement, China's enforcement measures, and proposed reforms to China's patent and trademark laws. The roundtable was

attended by 31 representatives from 21 U.S. companies and stakeholders. In late May, the USPTO Shanghai Office held a second IP roundtable in Nanjing Jiangsu Province.

In September 2019, USPTO participated as a speaker and panelist at a DOJ Asian ICHIP and US Embassy organized series of workshops for Mongolian judges, prosecutors, police, investigators and customs officials on IPR enforcement. The workshops attracted more than 60 Mongolian judges.

European Union

In FY 2019, the IP Attaché to the European Union, based in Brussels, Belgium, stressed the importance of sustained, comprehensive and cooperative “whole of government” approaches to modern and pervasive IP theft, supporting the IPEC on multiple missions in the region in the process. For example, in April 2019, the Attaché and Embassies Athens and Bucharest supported IPEC on mission to Athens and Bucharest for meetings with private sector stakeholders and national government officials, including cabinet ministers, parliamentarians, top officials from the ministries of justice and foreign affairs, prosecutors, police, and border forces.

In June 2019, the Attaché and Embassy Paris organized and supported an extensive program of meetings and speaking engagements for the IPEC and the Director of USPTO’s Office of Policy and International Affairs (OPIA) in Paris, Brussels, and Malaga, capitalizing on the OECD/EUIPO International Forum on IP Enforcement and the 2019 EUROPOL IP Crime Conference. In Paris, IPEC, OPIA Director and the Attaché and an interagency team engaged the Presidential adviser on IP, the Prime Minister’s office, the Ministry of Culture, Court of Auditors, Customs, the National IP Institute, HADOPI, industry associations and chambers of commerce. In Belgium and Spain, IP enforcement-related engagement continued with Europol leadership, Belgian, Spanish, and other EU Member State officials and with multiple U.S. stakeholders.

In various programs, including in Brussels, Bucharest, Budapest, Athens, Ankara, the Hague, Paris, London, Rome, and Berlin, the Attaché highlighted U.S. enforcement priorities and policies, pressed for more robust and coordinated responses to existing IP infringement threats, advocated for strategic, global approaches to IP theft, and warned of the coming economic and public safety challenges that China’s One Belt, One Road strategy presents in the EU. For example, the IP Attaché Office for the European Union organized several training in Bucharest and Budapest in spring 2019, in conjunction with DOJ IPEC Bucharest, on regional enforcement, which was attended by approximately 400 government officials, including prosecutors, police and customs forces. The programs highlighted latest trends in the significant expansion of trade in a wide variety of counterfeit goods in the region, as well as the intersection of counterfeiting with organized crime financing and the use of cryptocurrencies. The Attaché also supported joint operations with other USG agencies’ criminal investigative officers targeting illicit trade in medicines, and pushed for coordinated approaches to illicit streaming of copyright-protected content and rogue ad networks that support online piracy.

In Brussels, the IP Attaché hosted multiple meetings with the European Commission, Member State representations, Europol, OECD, and WCO representatives, among others, on issues such as pharmaceutical counterfeiting, IP and terrorist financing, cyber IP crime. The purpose of the meetings was to enhance understanding of the intricacies of the various IP crime trends and emerging challenges so that U.S. and EU governments and stakeholders can develop more effective and cooperative responses. Future meetings and briefings will focus on confronting evolving trends in illicit trade, particularly counterfeit goods that present public safety dangers.

Engagements with local governments and IP stakeholders

In December 2018, IP Attachés and IP Specialists in Bangkok, New Delhi, Brussels, Mexico City, and Shanghai participated in regional outreach programs in Chicago to meet with American stakeholders about IP issues in their respective regions. The stakeholders included 25 small investors and representatives from startup companies at a business incubator, and members of their legal and leadership teams.

In January and February 2019, a delegation of three U.S. judges visited Thailand to participate in the ASEAN Judicial Colloquium on Civil and Criminal Infringement of Intellectual Property. The program was co-organized by the USPTO and ASEAN Secretariat. The IP Attaché Office in Bangkok, Thailand arranged and accompanied the delegation to meetings with the U.S. Embassy Bangkok, Court of Appeal for Specialized Cases, and the Central Intellectual Property and International Trade Court. In the meetings, the delegation discussed the adjudication of IP cases and updates on Thailand and the IP environment in the region. The IP Attaché also participated in roundtable discussions with the delegation and USPTO Senior Counsel on the adjudication of civil and criminal IP cases. The roundtable discussion was attended by 26 judges and officials from ASEAN member states.

In May 2019, IP Attachés and IP in Rio de Janeiro, Brussels, Kuwait City, Beijing, and New Delhi participated in regional outreach programs in the greater Philadelphia and Boston areas to meet with American stakeholders about IP issues in their respective regions. In the Philadelphia area, the IP Attaché and IP Specialists met with members of the leadership and legal teams for several rights holders. In the Boston area, the IP Attaché and IP Specialists met with the Inventors Association of New England (IANE), members of the Boston American Inn of Court, and the legal team for Raytheon. In addition, the IP Attachés and IP Specialists met with the legal and leadership teams for several companies on the margin of the 2019 INTA Annual Meeting.

In May 2019, the IP Attaché Office in Bangkok, Thailand, in cooperation with the IP Division of Thai Attorney General Office, organized and conducted a training program in Pattaya, Thailand on IP prosecution. The IP Attaché and Senior IP Specialist in Bangkok, Thailand and the Attaché from the U.S. Department of Justice presented at the program which was attended by 40 Thai public prosecutors from eight central provinces.

Capacity Building for Institutions that Protect IP Rights

Additionally, USPTO staff and IP Attachés participated in a number of non-enforcement programs that focused on promoting IP protection. For example:

In October 2018, the IP Attaché in Bangkok, Thailand spoke at the ASEAN – USPTO Workshop on Promoting Excellence of Collective Management Organizations (CMOs) in Bangkok, Thailand.

In October 2018, the IP Attaché in Kuwait City, Kuwait attended the annual MENA American Chamber of Commerce Regional Conference – “Commercialization of Innovation: A Driver for Growth in MENA.” The IP attaché moderated a keynote panel titled “Policies and Strategies that Encourage Spinouts: the U.S. Model.”

In November 2018, the IP Attaché in Kuwait City, Kuwait conducted an IPR workshop for FCS Officers and Specialists as part of 2018 FCS All Hands North Africa and Levant. The workshop included an introduction to IP basics, regional IP issues, and how IP trends in the region may impact U.S. companies. Approximately 45 U.S. government officials attended the workshop.

In April 2019, the IP Attaché in Bangkok, Thailand and senior counsel from OPIA made a presentation on U.S. systems of plant variety protection and recent developments in that field at the International Plant Variety Seminar in Beijing, China. Over 100 people attended the seminar, including Chinese stakeholders and representatives from IP and PVP Offices of ASEAN member countries, Japan, Korea, China, Germany, Netherlands, Argentina, and France.

In July 2019, the IP Attaché in Kuwait City, Kuwait hosted a seminar on copyright management for Gulf Coast countries, in connection with the USPTO copyright team and the IP Attaché in Lima, Peru. The workshop provided 15 government officials from 6 countries with information about best practices for collective management systems and how to support local artists and creators.

In September 2019, the IP Attaché in Bangkok, Thailand and the USPTO Education Program Adviser provided training at the “Train the Trainer Educational IP Conference” in Bandar Seri Begawan, Brunei. The program was co-organized by USPTO and the Brunei IP Office to provide training on techniques and best practices for creating outreach and educational programs on IP. The program was attended by 24 academic researchers and professors from the University of Brunei Darussalam and officials from the Brunei IP Office.

Throughout the year, the IP Attaché Office in Brussels, Belgium worked to increase public awareness on the value of IP. For example, the IP Attaché supported Foreign Commercial Services’ efforts to reach SMEs on the need to protect their IP, and liaised with the Commission and the EUIPO on SME-related programming.

DEPARTMENT OF DEFENSE

Department of Defense

Input for Appendix to IPEC FY 2019 Annual Report

I. Section 813 Panel

The Government-Industry Advisory Panel on technical data rights (Section 813 Panel), established pursuant to section 813 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, submitted its Final Report on November 13, 2018. The Section 813 Panel reviewed sections 2320 and 2321 of Title 10, U.S. Code (U.S.C.), and the parts of the Defense Federal Acquisition Regulation Supplement (DFARS) implementing those sections, to ensure that the requirements contained therein are best structured to serve the interests of the taxpayer and the national defense. Sections 2320 and 2321 provide the statutory framework for technical data rights and the validation of proprietary data restrictions with respect to DoD contracts. In its Final Report, the Section 813 Panel made recommendations and detailed the tension points between DoD and industry.

During the Section 813 Panel's deliberations, DFARS rulemaking efforts on technical data rights were paused to allow time for the Panel to make its recommendations and for DoD to assess the impact of those recommendations on the various rulemaking efforts. One of the Section 813 Panel's recommendations was that DoD should invite industry to participate in the drafting of DFARS rules concerning technical data rights. Therefore, for each DFARS rulemaking effort, or "case," on technical data rights, DoD anticipates publication of advance notices of proposed rulemaking, including initial drafts of amendments to the DFARS to be discussed at public meetings. DoD plans to use this approach for DFARS cases implementing several sections of National Defense Authorization Acts (NDAAs).

II. DFARS Implementation of NDAAs

Currently DoD is working on the DFARS implementation of sections provided in four NDAAs. In order to engage industry as quickly as possible, DoD developed a strategic approach to start first with the NDAA sections that are anticipated to be implemented with relatively short and straightforward changes to the DFARS. This approach also provides an opportunity for DoD and industry to gain valuable experience working together to draft rules, before beginning work on the NDAA sections that will require more complex changes to the DFARS.

DFARS case 2018-D069, Validation of Proprietary and Technical Data, implements section 865 of the NDAA for FY 2019. Section 865 provides for a presumption of development exclusively at private expense under a contract for commercial items, unless DoD demonstrates the item was not developed exclusively at private expense. DoD published an advance notice of proposed rulemaking in the *Federal Register* on September 13, 2019 (84 FR 48513). This case was discussed at a public meeting on November 15, 2019.

DFARS case 2018-D071, Negotiation of Price for Technical Data and Preference for Specially Negotiated Licenses, implements section 835 of the NDAA for FY 2018 and section 867 of the NDAA for FY 2019. Section 835 added 10 U.S.C. 2439, which requires DoD to negotiate a

price for technical data prior to development or production of major weapon systems. Section 835 also amended 10 U.S.C. 2320 to establish a preference for specially negotiated licenses. Section 867 of the NDAA for FY 2019 amended 10 U.S.C. 2439 to require DoD to negotiate a price for technical data before selecting a contractor for production or sustainment of major weapon systems. This case was discussed in the second public meeting on November 20, 2019, with further discussion scheduled for the third public meeting on December 20, 2019.

DFARS case 2018-D018, Noncommercial Computer Software, implements section 871 of the NDAA for FY 2018. Section 871 added 10 U.S.C. 2322a, which requires that, as part of any negotiation for acquisition of noncommercial computer software, DoD consider all the noncommercial and related materials necessary to meet the needs of the agency. As a result, any noncommercial computer software or related materials identified should be acquired to the extent appropriate. Public meeting date(s) for discussion of this case are not scheduled yet.

DFARS case 2019-D042, Proprietary Data Restrictions, implements subsections (a), (b), and (d) of section 809 of the NDAA for FY 2017. These subsections address rights relating to items or processes developed exclusively at private expense. This case also implements subsection (b) of section 815 of the NDAA for FY 2012, which provides that DoD may not challenge a contractor's proprietary data restrictions more than six years after the date of final payment on a contract or delivery of the technical data. Public meeting date(s) for discussion of this case are not scheduled yet.

DFARS case 2019-D044, Rights in Technical Data, implements subsection (c) of section 809 of the NDAA for FY 2017 and subsection (a) of section 815 of the NDAA for FY 2012. These subsections address deferred ordering of technical data. Section 809(c) provides that DoD has until six years after DoD accepts the last item (other than technical data) under a contract or until six years after the date of contract termination, whichever is later, to require a contractor to delivery technical data generated in performance of a contract. Section 815(a) provides criteria for deferred ordering of technical data. Public meeting date(s) for discussion of this case are not scheduled yet.

III. Other Statutory Implementation

DoD is implementing the requirements of section 802 of the NDAA for FY 2018, which requires DoD to develop policy on the acquisition or licensing of intellectual property and to establish a cadre of intellectual property experts. DoD issued a new IP policy, DoD Instruction 5010.44, "Intellectual Property (IP) Acquisition and Licensing," which also established the DoD IP Cadre within the Office of the Under Secretary of Defense for Acquisition and Sustainment, on October 16, 2019.

IV. Policy implementation

DFARS case 2019-D043, Small Business Innovation Research Program Data Rights, implements changes related to data rights in the Small Business Administration's Policy Directive for the Small Business Innovation Research (SBIR) Program, published in the Federal Register on April 2, 2019 (84 FR 12794). These changes include lengthening the protection period for SBIR data from five years to 20 years. Public meeting date(s) for discussion of this case are not scheduled yet.

**DEPARTMENT OF HEALTH AND HUMAN
SERVICES**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration (FDA) Appendix for FY 2019 Annual Report

Drug counterfeiting and adulteration are serious threats to public health. Counterfeit drugs raise significant public health concerns because their safety and effectiveness are unknown. In the United States, a relatively comprehensive system of laws, regulations, and enforcement by Federal and state authorities has kept drug counterfeiting incidents relatively rare, and the FDA works to ensure that Americans can have a high degree of confidence in the drugs that they obtain through legal channels. FDA has made it a priority to investigate reports of counterfeit products and works with U.S. drug supply chain stakeholders to improve our ability to prevent, detect, and respond to threats of counterfeit and substandard drugs. FDA also educates consumers and the health care community about the risks of, and minimizing exposure to, counterfeit and substandard drug products through recalls, public awareness campaigns, and other steps. Additionally, FDA reaches beyond U.S. borders and works with our foreign counterparts to identify global supply chain vulnerabilities as well as identify and implement realistic solutions, nationally and internationally.

Protecting the Integrity of the Public Health Supply Chain

Drug Track and Trace

FDA continues to implement provisions of the Drug Supply Chain Security Act (DSCSA) (Title II of the Drug Quality and Security Act) that was enacted on November 27, 2013. The DSCSA helps to improve the security of the pharmaceutical distribution supply chain by building an electronic, interoperable system to identify and trace certain prescription drugs that are distributed in the United States by 2023, in addition to developing national standards for licensure of wholesale distributors and third-party logistics providers. The DSCSA aims to facilitate the exchange of information to verify product legitimacy, enhance detection and notification of an illegitimate product, and facilitate product recalls.

In FY 2019, the Agency worked on revising and finalizing draft guidances that provide stakeholder clarity on determining suspect and illegitimate product for verification and system requirements for enhanced drug distribution security, targeting publication in FY 2020. To support the development of the electronic, interoperable tracing of products at the package level by 2023, FDA launched its DSCSA Pilot Project Program in February 2019. In April 2019, the Agency selected 20 pilot projects that are led by entities that reflect the diversity of the supply chain. The pilot projects will examine a variety of topics including: interoperability, processes for serialization, product tracing and verification, innovative technologies, barcode readability and implementation challenges. After completion of the pilot projects, FDA intends to publish a final program report that will summarize the learnings from each of the pilot projects and share the information to all stakeholders by posting it on the FDA website. The Agency continues to develop enhanced drug distribution security needs for package level product tracing in 2023 and

engage stakeholders. For updates about DSCSA implementation and copies of the guidance documents¹.

Engagement with Other Countries

Asia Pacific Economic Cooperation (APEC) Global Medical Product Quality and Supply Chain Security Efforts

FDA is the global lead for the APEC Supply Chain Security Toolkit (Toolkit), which is a comprehensive resource that addresses prevention, detection, and response with regards to vulnerabilities in the medical product supply chain. It covers the entire supply chain and life cycle of medical products. As part of this effort, FDA helped organize the APEC Harmonization Center (AHC) for its Global Supply Chain Integrity Training in Seoul, Korea, from August 28-30, 2018. FDA also presented on topics including Good Manufacturing Practices and Internet Sales, and led a case study exercise highlighting the utility of the Toolkit in preventing, detecting, and responding to breaches in the medical product supply chain. In addition, FDA leads the APEC Medical Product Supply Chain Security Steering Committee, which oversees the selection and strategic direction of Centers of Excellence that provide expert and quality trainings in securing the global medical product supply chain.

Global Surveillance and Monitoring System

FDA was also instrumental in developing two global reports published in November 2017: the World Health Organization (WHO) Global Surveillance and Monitoring System <http://www.who.int/medicines/regulation/ssffc/publications/gsms-report-sf/en/> and a Study on the Public Health and Socioeconomic Impact of Substandard and Falsified Medical Products <http://www.who.int/medicines/regulation/ssffc/publications/se-study-sf/en/>. FDA has supported the WHO to establish the Global Surveillance and Monitoring System (GSMS) for Substandard and Falsified Medical Products, launched in 2013. The GSMS provides national medicines regulatory authorities (MRAs) with an information portal to which they can report suspect medical products, and which they can consult to check if similar products have been found elsewhere around the globe. If similar products have been found, the WHO works with MRAs to investigate suspect cases and issue alerts as necessary. The GSMS portal is available in English, French, Spanish, and Portuguese. The online portal, search facility, and access to the photo library have also enhanced participation.

The release of these two reports was followed by a special side event during the 2018 World Health Assembly entitled “The critical role of regulators in combatting substandard and falsified medical products”. With 120 attendees, the event was a structured panel discussion of MRAs and other experts around: 1) the critical role of MRAs, and 2) the challenges MRAs face to better prevent, detect, and respond to substandard and falsified medical products problems.

¹<http://www.fda.gov/Drugs/DrugSafety/DrugIntegrityandSupplyChainSecurity/DrugSupplyChainSecurityAct/default.htm>

Illegal Opioids and Consumer Education

Illegal Opioid Online and Warning Letters Issued

Opioid addiction is an immense public health crisis and addressing it is one of FDA's highest priorities. The illegal online marketing of unapproved opioids is contributing to the nation's opioid crisis. In addition, opioids bought online may be counterfeit and could contain other dangerous substances. As part of its continued efforts to address this public health concern, between October 1, 2018 and June 30, 2019, FDA issued warning letters to six networks, operating 317 websites, illegally marketing potentially dangerous, unapproved, and misbranded versions of opioids, including tramadol and oxycodone. These warning letters are part of the Agency's comprehensive campaign to minimize the illegal sale of unapproved opioids.

In conjunction with these warning letters, FDA sent abuse complaints to registrars responsible for the domain name registrations associated with websites that offer any unapproved drugs or uncleared devices, or potentially counterfeit, controlled, adulterated or misbranded products to U.S. consumers in violation of U.S. law. These registrars have received an abuse complaint submitted under Section 3.18.2 of the 2013 ICANN Registrar Accreditation Agreement (RAA) regarding the use of domain names for illegal purposes. These complaints are posted on the FDA website: <https://www.fda.gov/consumers/health-fraud-scams/registrar-and-registry-abuse-complaints>

In February 2019, FDA posted 12 warning letters and five advisory letters to foreign and domestic companies that were illegally selling more than 58 products, which are unapproved new drugs and/or misbranded drugs that claim to prevent, treat or cure Alzheimer's disease and a number of other serious diseases and health conditions. As part of these actions, FDA issued consumer education materials to inform consumers about the dangers of unapproved products promoted to treat or cure Alzheimer's disease or cure other serious diseases. This initiative was a collaboration with the Federal Trade Commission (FTC). In May 2017, the U.S. Government Accountability Office (GAO) published a report "Clarifying FDA and FTC Roles Could Strengthen Oversight and Enhance Consumer Awareness," which included recommendations for improved collaboration to address violations of labeling and advertising claim violations with respect to dietary supplements marketed to improve or enhance memory. GAO recommended both agencies share guidance with consumers about how to report issues similar to those found in the GAO report. Both recommendations from GAO have been implemented and are closed. <https://www.gao.gov/products/GAO-17-416>

Consumer Education

The FDA/CDER's ongoing BeSafeRx: Know Your Online Pharmacy campaign focuses on fraudulent web-based pharmacies. The purpose of the campaign is to raise awareness about the dangers of purchasing medications from fake and fraudulent websites, how to recognize them, and how to find legitimate websites.

Between October 2017 and September 2018, the BeSafeRx public service announcement (PSA) aired 9,381 times on television stations and networks across the country. The TV PSA has

yielded 72 million impressions. During the same time period, print ads for the campaign have appeared in various publications distributed in physicians' offices. These placements resulted in a combined circulation of 1,330,000 total copies, yielding an estimate of 9.5 million impressions.

In addition, a partner in the Public Service Network donated airings of the BeSafe video PSA in their nationwide network. Since May 2018, the video aired 6,428,295 times, yielding 15 million impressions. In total, during FY 2018, the BeSafeRx campaign has received 7,767,676 airings/placements, yielding over 96 million impressions.

Also, in November 2018, FDA issued a warning to consumer not to purchase or use Rhino male enhancement products, due to a recent rise in reported health issues. Since 2007, the FDA has identified more than 25 products marketed with variations of the name "Rhino" that contained hidden drug ingredient(s), such as sildenafil and tadalafil, which are the ingredients in the FDA-approved prescription drugs, Viagra and Cialis, respectively, to treat erectile dysfunction. These products continue to be sold at gas stations and convenience stores, as well as online. More recently, these unapproved products have been discovered in international mail shipments to the U.S.

Outreach to Health Care Providers

Between February 9, 2019 and April 25, 2019, FDA conducted outreach to increase awareness among healthcare professionals and students of the patient health risks and serious legal consequences of purchasing drugs from rogue wholesale drug distributors. As part of this effort, the Agency presented at the American Medical Spa Association's Medical Spa Show, the National Student Nurses' Association, and the National Academy of Dermatology Nurse Practitioners.

FDA provides various online courses to inform healthcare professionals and provide them continuing education opportunities. One of these courses, Tainted Products Marketed as Dietary Supplements, is available for access through the FDA website. The course focuses the prevalence of adulterated and misbranded products masquerading as dietary supplements sold in convenience stores, retail establishments and online. These products continue to be the source of adverse event reports submitted to the agency. The webinar outlines how healthcare professionals can help protect consumers and patients from these products, how adverse events can be reported to FDA, and what measures FDA is taking to protect consumers and patients.

Using Advanced Technology to Identify Suspect Products: CDx (handheld Counterfeit Detection devices)

In September 2012, FDA unveiled a handheld Counterfeit Detection (CDx) device, developed by FDA scientists, which can be used to rapidly screen suspected products and packaging, by visualizing differences between suspect and authentic products and to provide preliminary findings in the field. The current CDx technology is used at the International Mail Facilities (IMFs) and Express Courier Hubs (ECHs) to screen incoming packages. With the assistance of the FDA CDx review team, the device enabled the team to assess approximately 150,000 finished dosage form pharmaceuticals that were offered for entry.

In FY 2017, FDA awarded the contract to a small engineering company that best met the requirements listed in the solicitation, to refine the design and manufacture devices with additional capabilities and improved ruggedness. The goal is to provide affordable tools for identifying counterfeit pharmaceutical products in the hands of global regulatory, law enforcement, and public health officials.

In FY 2018, the vendor provided a CD5 prototype device (pre-production devices) that was evaluated by FDA scientists. Through their feedback, the vendor made further modifications and refinements to the device. In FY2019, FDA received additional CD5 prototypes. A training program was developed and presented to Import CSOs in 4Q19 in preparation for a six-month pilot program at the Chicago, Los Angeles, Miami and New York IMFs. This pilot, to begin 4Q19, is designed to evaluate the CD5 prototype's effectiveness and usefulness in the field for screening suspected counterfeit pharmaceuticals. Information gathered during this pilot study will be used to finalize the device production units and to refine the training program and materials to support its use.

Additional Field-Deployable Tools for Detection of Counterfeit Pharmaceuticals

FDA/ORA evaluated and initiated procurement of handheld and portable tools, including assessment of the needs/capabilities for each of the International Mail Facilities by the end of FY19, to assist in the identification of illicit FDA-regulated products, such as counterfeit pharmaceuticals including opioids and adulterated supplements. Handheld Raman devices were received in March 2019 and FTIR instruments were received in June 2019. These will be used in the field for screening unknown products. Documents were prepared that outline the pilot programs for screening unknowns at the IMFs. Training for ORA/ORS/OMP chemists on the use of these instruments will occur in September prior to a six-month pilot at the Chicago IMF. The pilot will be conducted in a mobile laboratory placed at the Chicago IMF, which will serve as a satellite laboratory to support FDA and CBP efforts until permanent laboratory space is constructed within the facility.

Collaboration with CBP at international mail facilities (IMFs)

As part of FDA's Import Operation Strategy, FDA personnel – assigned to import operations – work daily with U.S. Customs and Border Protection (CBP) personnel at international mail facilities (IMFs) and ports of entry. FDA regulatory investigators determine admissibility of FDA-regulated products. All parcels reviewed which contain pharmaceuticals, regardless of detention status, are documented and processed. FDA collects daily data from all 9 IMFs regarding the seizure or detention of all suspected counterfeit pharmaceuticals and products marketed as foods and/or dietary supplements containing undeclared drug ingredients. This data is shared within FDA and CBP. FDA also shares technology with CBP. For example, FDA and CBP personnel collaborate to utilize FDA's handheld Counterfeit Detector v3 (i.e. CD3) and portable Ion Mobility Spectrometry (IMS) devices to identify counterfeit pharmaceuticals and dietary supplements tainted with approved API at IMFs. FDA/Division of Import Operations (DIO) is currently working to expand the use of both the CD3 and portable IMS to identify more potential counterfeit pharmaceuticals.

The Commissioners of FDA and CBP signed a Letter of Intent to increase collaboration to maximize inspection and detection capabilities in order to prevent illegal and harmful products entering the U.S. through the nation's International Mail Facilities (IMFs) and Ports of Entry that pose a threat to public health. Through this joint effort, each agency will work toward enhancing knowledge-transfer to increase efficiency, reduce duplication of efforts and facilitate mission responsibilities.

International Capacity Building and Training: FDA Capacity Building and Training

Below are examples of FDA's Office of Criminal Investigations (OCI) capacity building and training activities with foreign countries.

In October 2018, FDA's Office of Criminal Investigations (OCI) conducted Operation Lascar II, in the United Kingdom (U.K.), under its ongoing bilateral initiative to disrupt the largescale flow of illicit medicines to the U.S. from and through the U.K. Operation Lascar II included coordinated activities at two international mail facilities (IMF) and Heathrow International Airport. Additionally, parallel senior-level meetings were held with counterpart U.K. agencies such as Border Force (BF), Her Majesty's Revenue and Customs (HMRC), and the Intellectual Property Office. Operational Lascar II included direct participation by the U.S. Patent and Trademark Office (PTO). The FDA delegation was led by the Associate Commissioner for Regulatory Affairs and the activity concluded with a formal out briefing to the U.S. Ambassador for the U.K. Directly related to this initiative, in December 2018 FDA received approval from the U.S. Department of State to place an OCI Special Agent within the U.S. Embassy in London, U.K.

In December 2018, FDA/OCI's Import Operations Program (IOP) provided training to the Bahamas Customs Service (BCS) in Nassau, Bahamas. This training was requested by BCS following the determination that violative FDA-regulated tobacco products had been transshipped through the Bahamas to the U.S.

In March 2019, representatives from FDA/OCI participated in the "7th Meeting of the Task Force on Countering Illicit Trade" held by the Organization for Economic Co-Operation and Development (OECD). The workshop was held at the OECD Headquarters in Paris, France. Attendees included government representatives from: Argentina, Australia, Canada, Chile, France, Germany, Greece, Italy, Japan, Lithuania, Mexico, Poland, Portugal, Sweden, Switzerland, Turkey, U.S. and U.K.

In March 2019, FDA/OCI hosted representatives from HMRC, BF, and India's Directorate of Revenue Intelligence at its Special Agent Training Program. This training program took place at the Federal Law Enforcement Training Center, Charleston, South Carolina, and focused upon combating FDA related crime.

In March 2019, FDA/OCI executed Operation Lascar III at the IMF at John F. Kennedy International Airport, New York, New York. Operation Lascar III focused upon inbound shipments of violative FDA-regulated products from the U.K. The participants included ORA's

Division of Northeast Imports, U.S. Customs and Border Protection (CBP), BF, HMRC, and PTO.

In April 2019, a representative from FDA/OCI was a featured speaker at a regional workshop in Ho Chi Min City, Vietnam, titled “Asia Regional Workshop on Enforcement Against Trade in Counterfeit Food, Beverages, Cosmetics, and Fast Moving Consumer Goods.” Attendees included representatives from: China, Mongolia, Pakistan, Papua New Guinea, Philippines, Thailand, Bhutan, India, Nepal, Qatar, Saudi Arabia, Sri Lanka, Vanuatu, Fiji, Cambodia, Indonesia, Malaysia, Myanmar, Timor Leste, Vietnam and Laos. This event was sponsored by PTO and the U.S. Department of Justice (DOJ).

In April 2019, a representative from FDA attended a conference in Dubai, United Arab Emirates, titled “The Third Emirates International Conference on Falsified and Substandard Medical Products.” Attendees included representatives from the World Health Organization, World Customs Organization, INTERPOL, Jordan, France, Germany, Egypt, Belgium, Saudi Arabia, and the U.K.

In May 2019, FDA/OCI hosted a representative from BF at its IOP training program, at the IMF at John F. Kennedy International Airport, New York, New York.

In May 2019, a representative from FDA/OCI attended the 2019 Annual Meeting of the Permanent Forum on International Pharmaceutical Crime, Dublin, Ireland. Attendees included representatives from INTERPOL, the World Health Organization, International Narcotics Control Board, Australia, Canada, Belgium, Germany, India, Ireland, Israel, Italy, the Netherlands, Singapore, and the U.K. The PFIPC is comprised of entities around the world involved in criminally investigating FDA related crime. During the meeting, the FDA/OCI delegate was elected as the new PFIPC chairperson.

In June 2019, a representative from FDA/OCI was a featured speaker at a regional workshop in Bangkok, Thailand, titled “Workshop for Public Prosecutors on Intellectual Property Criminal Enforcement.” Attendees included representatives from Brunei, Cambodia, Laos, Malaysia, Myanmar, Thailand, Vietnam, and the Philippines. This event was sponsored by PTO and DOJ.

Laboratory/Analytical Capacity Building through Domestic Partnerships

In 2019 FDA/ORA continued to build upon a collaboration with CBP at the International Mail Facilities (IMFs) and evaluate the impact of the participation of on-site laboratory personnel in package screening to improve the quality and speed of counterfeit pharmaceutical and tainted supplement detection. ORS/FCC continued to expand collaborative efforts with Federal partners in the fight against illegal/unapproved pharmaceuticals by establishing partnerships with CBP’s Laboratories and Scientific Services (LSS) and through participation in the HHS Opioids Technology Innovation Workgroup. FDA and CBP formalized a relationship in a LOI to increase/add scientific presence at selected IMFs. ORA’s FCC participated in a joint operation with OCI, CBP, USPS and OIO at the Port of Tampa and DHL Tampa April 30-May 2, 2019, as well as the SFO IMF portion of DWCI's Operation Buyer Beware, from May 21-23, 2019.

Laboratory/Analytical Capacity Building through International Collaboration

The International Laboratory Forum on Counterfeit Medicines (ILFCM) is comprised of scientific experts from National Regulatory Control Laboratories. It began in 1999 with a bilateral agreement between FDA and Medicines and Healthcare products Regulatory Agency (MHRA) in the United Kingdom and developed into a partnership with global regulatory counterparts from Europe, North America, Asia and Australia to maximize the benefits of a scientific network and exchange information on emerging issues related to counterfeit and illegal medicines. The ILFCM also focuses on issues related to falsified/ substandard medicines, adulterated dietary supplements and other important public health topics. The ILFCM is closely aligned with the Permanent Forum on International Pharmaceutical Crime (PFIPC) and provides scientific guidance and laboratory support.

In 2019, the PFIPC/ILFCM annual meeting was hosted by Ireland's Health Products Regulatory Authority (HPRA). The PFIPC meeting was entitled "Protecting Public Health through Intelligence-led Operations." The forum focused on the following product areas: cannabis, field analysis and field portable instrumentation, current trends in adulterated dietary supplements, counterfeit, unapproved and illicit medicines and medical devices. The ILFCM meeting included multiple presentations and extended discussions on the above topics from each of the laboratory organizations attending the meeting. A representative from the United Nations International Narcotics Control Board (INCB) presented an overview of the INCB and information on their IONICS (Ion Incident Communications System) project. The Members of the ILFCM gave several presentations at the joint PFIPC-ILFCM session on Thursday afternoon including a presentation by SwissMedic Enforcement and Laboratory members involving their investigation into the counterfeit product *Iclusig*.

Enforcement Activities

FDA/OCI's Cybercrime Investigation Unit (CciU)

FDA/OCI's Internet-related criminal investigations are led by its Cybercrime Investigations Unit (CciU), which strategically targets online transnational criminal networks that threaten the public health of Americans. CciU currently has 12 Special Agents dedicated as cybercrime specialists and 1 Intelligence Research Specialist, whose activities are overseen by a Senior Operations Manager. This September, CciU is hosting an intensive cybercrime training seminar that will combine international counterparts from Canada, India and the U.K. with experts from the online ecosystem and OCI's cybercrime specialists.

FDA/OCI's Port of Entry Program

FDA/OCI's Import Operations Program (IOP), intended to detect violative shipments of FDA-regulated products entering our domestic ports and facilities, is led by 2 Senior Operations Managers and consists of 13 fulltime and 4 part time IOP Special Agents. IOP's priorities include responding to international mail facilities, fast parcel carriers, sea and land ports, and mail hubs. IOP Special Agents routinely conduct joint enforcement activities, including internationally, and serve as a critical component within the FDA's support of the overall U.S.

government wide effort to combat cross-border crime. IOP also frequently provides training to its foreign law enforcement counterparts, U.S. government partner agencies, local and state level law enforcement personnel and regulated industry.

FDA/OCI Enforcement Actions

FDA/OCI has a leadership role in combating counterfeit pharmaceuticals and medical devices. Below are notable examples of FDA/OCI's enforcement activities. Additional FDA enforcement cases are discussed further below.

Operation Safeguard

Operation Safeguard mail blitzes are conducted by FDA, CBP and other partner government agencies (PGAs) on a regular, rotating schedule at IMFs. Beginning in March, 2007, these blitzes have been conducted monthly, with few exceptions. The format for each blitz is based on the same premise: for each of three days, CBP reviews up to 100 mail parcels each day which are suspected to contain pharmaceuticals. This format provides an idea of the wide variety of pharmaceutical products that pass through each IMF. FDA participates by providing technical assistance to CBP and conducting an FDA admissibility review of each of the parcels referred as FDA-regulated articles. Upon review and examination, some parcels are subsequently referred to other PGAs as being articles under their jurisdiction, such as controlled substances to Drug Enforcement Administration (DEA). For those articles found to be subject to FDA jurisdiction and found to be violative, the articles are generally refused admission into the U.S. and returned to the sender, unless evidence is provided to overcome the violation. On December 20, 2018, FDA received a memorandum from CBP concluding *Operation Safeguard* blitzes.

Operation PANGEA

Operation PANGEA is a global cooperative effort, led by Interpol, to combat the unlawful sale and distribution of illegal and potentially counterfeit medical products sold on the internet. In Oct 2018, The U.S. Food and Drug Administration, in partnership with international regulatory and law enforcement agencies, acted to target 465 websites that illegally sell potentially dangerous, unapproved versions of opioid, oncology and antiviral prescription drugs to U.S. consumers. This year's *Operation Pangea* also took place at three of the nine international mail facilities (IMFs) in the U.S., as well as at other facilities around the world.

Food and Drug Administration Safety and Innovation Act (FDASIA) 708

FDA has implemented the enforcement tool provided by section 708 of the Food and Drug Administration Safety and Innovation Act (FDASIA) to combat illegal drug importation. Section 708 gives FDA the authority to administratively destroy refused drugs that are valued at \$2500 or less. This authority was implemented nationwide in FY

2017. Congress passed the SUPPORT (Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment [SUPPORT] for Patients and Communities) Act, which became law on October 24, 2018. The SUPPORT Act grants FDA additional imports authorities to help the Agency advance efforts to stop illegal and unsafe drugs from being imported into the United States. For instance, section 3022(d) of the SUPPORT Act added section 801(u) to the Federal Food, Drug, and Cosmetic Act (FD&C Act or Act). Section 801(u) of the FD&C Act authorizes FDA to treat certain imported articles as “drugs,” if among other requirements, the article is an ingredient “that presents significant public health concern.” This provision enhances FDA’s ability under its importation authorities in section 801 of the Act to detain, refuse and/or destroy articles imported in the IMFs, even if an article has little to no explicit evidence of intended use. FDA developed policies and procedures for the section 801(u) authority and began using this new authority on March 4, 2019. As of June 30, 2019, FDA has destroyed over ten thousand lines of drug products that are not in compliance with U.S. requirements.

Operation Opson

Through the assignment of an Attaché at Europol, FDA/OCI continues to participate in the annual Operation Opson, which is a joint operation lead by Europol and INTERPOL that targets counterfeit and substandard food and beverages.

Other FDA Enforcement Actions

In addition to the operations discussed above, FDA led enforcement cases during FY 2019 include the following prosecutions.

‘The Drug Llama’ Pleads guilty to distributing Fentanyl on the Dark Web. Brandon Arias, a resident of San Diego, California, as part of plea agreement, admitted on July 17, 2019 to being one of two individuals known on the dark web as “The Drug Llama,” and knowingly distributing misbranded fentanyl pills throughout the U.S. from October 2016 to August 2018. During the investigation, information was obtained indicating Mr. Arias was responsible for distributing more than 50,000 counterfeit oxycodone tablets containing fentanyl. <https://www.justice.gov/usao-sdil/pr/drug-llama-pleads-guilty-distributing-fentanyl-dark-web>

Justice Department Obtains \$1.4 Billion From Reckitt Benckiser Group in Largest Recovery in a Case Concerning an Opioid Drug in United States History. Reckitt Benckiser Group (RBG), a global consumer goods conglomerate, on July 11, 2019, agreed to pay \$1.4 billion to resolve potential criminal and civil liability regarding an alleged nationwide scheme to increase prescriptions of Suboxone. Suboxone is approved by the FDA for use by recovering opioid addicts to avoid or reduce withdrawal symptoms while they undergo treatment. Suboxone and its active ingredient, buprenorphine, are powerful and addictive opioids. Under a separate agreement with the Federal Trade Commission, RBG agreed to pay \$50 million to resolve claims that it violated the Federal Trade Commission Act. <https://www.justice.gov/usao-wdva/pr/justice-department->

[obtains-14-billion-reckitt-benckiser-group-largest-recovery-case](#)

DEPARTMENT OF HOMELAND SECURITY

Department of Homeland Security

Department of DHS Appendix for FY 19 Annual Report

This appendix discusses the FY 2019 activities of the Department of Homeland Security. As outlined below, DHS's activities including protecting public and private acquisition supply chains from counterfeits; conducting law enforcement operations; engaging with stakeholders; educating the public; cooperating with foreign law enforcement; enhancing IP enforcement through international organizations; and providing capacity building and training to support IP enforcement in other countries.

Protecting Public and Private Acquisition Supply Chains from Counterfeits

Counterfeiting is a significant challenge that can impair supply chains for both the public and private sectors. In the context of the U.S. Government, acquiring products or services from sellers with inadequate integrity, security, resilience, and quality assurance controls create significant risks, from a national security and mission assurance perspective as well as from an economic standpoint (due to the increased costs to American taxpayers). Counterfeiting can have particularly significant consequences for the Department of Defense (DoD) supply chain, by negatively affecting missions, the reliability of weapon systems, the safety of the warfighter, and the integrity of sensitive data and secure networks.

The goal is to reduce the risk of counterfeits entering the supply chain; quickly and collectively address those that do enter the supply chain; and strengthen remedies against those who provide counterfeit items.

DHS Training for Acquisition Professionals

Buyers in the public and private sectors need better visibility into and understanding of (1) how the products, services, and solutions they buy are developed, integrated, and deployed, and (2) the processes, procedures, and practices used to ensure the integrity, security, resilience, and quality of those products and services. This requires understanding the threat that counterfeits pose, mitigating their purchase and distribution, and identifying counterfeits and reporting them.

To address the systemic threat from counterfeits, the U.S. Immigration and Customs Enforcement (ICE)-led National Intellectual Property Rights Coordination Center (IPR Center) provides educational opportunities for public and private acquisition professionals. The IPR Center has posted on its website free training that is designed to provide acquisition professionals with the knowledge and skills they need to combat the counterfeit threat. The training – “Acquisition Professional Training: Counterfeit Awareness, Mitigation, Identification, and Reporting” – is at:

<https://www.iprcenter.gov/file-repository/acquisition-professional-training-1.pdf/view>

Law Enforcement Efforts to Secure the USG Supply Chain (Operation Chain Reaction)

In addition to the steps taken to secure the front end of the U.S. Government's supply chain (through Federal procurement regulations, supplier requirements, and acquisition training), the U.S. Government is also committed to protecting its vital interests by taking robust enforcement measures against those who sell counterfeit goods to the U.S. Government.

Operation Chain Reaction (OCR) targets counterfeit items entering the military and U.S. Government supply chains, and is an IPR Center-coordinated effort led by ICE Homeland Security Investigations (HSI) and consists of 17 Federal law enforcement agencies (including ICE, U.S. Customs and Border Protection (CBP), and DoD's criminal investigative offices). In FY 2019, under **Operation Chain Reaction**, HSI initiated 15 criminal investigations, conducted 6 criminal arrests, and helped secure 6 indictments and 12 convictions, as well as 48 seizure incidents of counterfeit goods with a total Manufacturer's Suggested Retail Price (MSRP) of approximately \$ 4,428,085.

Other notable OCR activities during FY 2019 included the following.

- In October, 2018, Operation Chain Reaction personnel presented at the 9th NASA Supply Chain Quality Assurance Conference, at NASA Goddard Space Flight Center (GSFC). The conference theme was Innovative Approaches for Supply Chain Risk Management. The OCR personnel spoke on a panel titled, "Counterfeit Products in DoD and NASA Supply Chains." Since its start in 2007, the conference has become established as a highly-rated, multidisciplinary event focused on fostering successful space missions. The conference brings together leaders and practitioners from the space industry and related suppliers, universities, NASA, and other federal agencies. It is managed and produced by [GSFC's Safety and Mission Assurance Directorate](#). Speakers throughout the event presented on topics such as management of supply chain and supplier risks, cyber threats, strategies for health, safety and quality and analytic tools. The total number of registered attendees for the conference was 360.
- On November 15, 2018, members of the National Intellectual Property Rights Coordination Center (IPR Center) Operation Chain Reaction (OCR) Task Force co-hosted the Counterfeit Microelectronics Working Group (CMWG) led by DOJ, Computer Crimes and Intellectual Property Section (CCIPS). Attendees included industry representatives, law enforcement, and Assistant United States Attorneys (AUSA)s. The focus of the meeting was on enhancing communication between law enforcement and industry. The topics for presentation were: CBP seizure updates; an Underwriters Laboratories presentation; IPR Center/OCR update; Bitcoin 101; China Briefing; This was the tenth session that the IPR Center has co-hosted with CCIPS. There were approximately 66 representatives in attendance.
- On May 09, 2019, members of the National Intellectual Property Rights Coordination Center (IPR Center) Operation Chain Reaction (OCR) Task Force co-hosted the Counterfeit Microelectronics Working Group (CMWG) led by DOJ, Computer Crimes and Intellectual Property Section (CCIPS). The CMWG hosted the Intellectual Property

Enforcement Coordinator, Vishal Amin, as the keynote speaker. Attendees included industry representatives, law enforcement, and Assistant United States Attorneys (AUSAs). The focus of the meeting was on enhancing communication between law enforcement and industry. This was the tenth session that the IPR Center has co-hosted with CCIPS, with participation from approximately 74 attendees.

Law Enforcement Operations

Protection and enforcement of IPR is a national priority, and U.S. law enforcement stands at the forefront of these efforts.

In Fiscal Year (FY) 2019, CBP and ICE made 27,599 IPR seizures. The total estimated manufacturer's suggested retail price (MSRP) of the seized goods, had they been genuine, increased to over \$1.5 billion. And CBP seized 372 shipments pursuant to seizure and forfeiture orders issued by the United States International Trade Commission (ITC).

In addition to ***Operation Chain Reaction*** (discussed above), the DHS law enforcement efforts during FY 2019 included the following operations.

- ***Operation Apothecary*** is the IPR Center's public health and safety initiative that addresses, analyzes, and attacks potential vulnerabilities in the entry process that might allow for the smuggling of commercial quantities of counterfeit, unapproved, and/or adulterated drugs through international mail facilities, express courier hubs, and land borders. During FY 2019, ***Operation Apothecary***, HSI initiated 78 criminal investigations, 86 arrests, 66 indictments, and 44 convictions, as well as 350 seizure incidents of counterfeit items.
- ***E-Commerce/Operation in Our Sites***.
 - i. The E-Commerce Program is an on-going HSI initiative targeting entities that sell counterfeit products through the Internet. This program consists of the well-known operation, ***Operation in Our Sites*** (IOS), which was initiated in 2010 as a method to disrupt this activity online. The E-Commerce initiative focuses on developing long term investigations that identify targets, assets, and financial schemes used in operating infringing websites devoted to trafficking in infringing materials. It also emphasizes working in partnership with third-party entities, such as online marketplaces, payment processors and the express consignment industry. Additionally, the IPR Center coordinates with rights holders, who utilize civil and administrative remedies to shutdown infringing sites.
 - ii. In recognition of the wide-reach of e-commerce into many of its programmatic areas, HSI promulgated a single agency strategy on February 14, 2018. The HSI E-Commerce Strategy emphasizes an agency approach that leverages collaboration between private industry and law enforcement partners in an effort to act as a force-multiplier in a cooperative enforcement approach to identify and dismantle those organizations and prosecute those persons or entities that traffic

in all manners of dangerous and illicit goods utilizing various e-commerce outlets including open-net websites, the dark web, point-to-point sales platforms, social media and a variety of payment processors and shipping methods.

- iii. In FY 2019, in furtherance of the E-Commerce Strategy, IPR Center personnel conducted several meetings with representatives from online platforms, payment processors, and the shipping industry for the purpose of furthering dialogue about how it might be possible to share information for the purpose of stopping the sale of counterfeit goods online.
 - iv. In FY 2019 under *E-Commerce/IOS*, HSI initiated 9 criminal investigations, conducted 22 arrests, and helped secure 16 indictments and 8 convictions. These investigations are initiated and developed by HSI field offices through IPR Center leads, seizures, informants, complaints, industry leads, and/or other investigative techniques.
- Under *IOS Cyber Monday/Project Transatlantic*, the IPR Center – through HSI – partners with Europol, leveraged its member countries to launch multilateral enforcement actions against targeted websites and their operators illegally selling counterfeit merchandise. The operation involves the execution of coordinated seizures of domestic and foreign-based Internet domain name registrations in the United States and Europe. In November 2018 the IPR Center and Europol concluded *Operation IOS Cyber Monday/Project TransAtlantic IX* in collaboration with INTERPOL. Over 30,500 infringing domain name registrations were seized.
<https://www.europol.europa.eu/newsroom/news/30-506-internet-domain-names-shut-down-for-intellectual-property-infringement>
 - *Operation Engine Newity*
 - i. Operation Engine Newity (OEN) is an HSI-led, IPR Center initiative that focuses on securing the supply chains of automotive and other heavy industry from counterfeit components. The proliferation of counterfeit parts - including critical components such as airbags, bearings, brake pads, accelerator arms, and windshields - has grown exponentially over the last several years and now poses a significant health and safety threat to end users and an economic cost to businesses and consumers through lost revenue, downtime, and replacement costs.
 - ii. In FY 2019, OEN personnel worked closely with automotive original equipment manufacturers (OEMs), aftermarket parts manufacturers and suppliers and other automotive parts and equipment companies, including members of the Automotive Anti-Counterfeiting Council (A2C2) and the Automotive Aftermarket Suppliers Association (AASA) Intellectual Property Council to support criminal investigations by providing case support and product authentication.
 - iii. In FY 2019, OEN personnel supported and participated in numerous A2C2 Operation Crash Course II Training Sessions, an outreach and training initiative

for CBP, HSI and State/Local Partners to educate law enforcement how to determine genuine vs counterfeit auto parts. In FY19, this training has been conducted in eleven different cities.

- iv. On October 15, 2018, A2C2 along with an OEN representative, met with the Intellectual Property Enforcement Coordinator (IPEC), Vishal Amin, to discuss activity updates, efforts and successes since March 2018 in combating challenges associated to the importation, distribution and installation of counterfeit and substandard automotive products.
- v. On October 17, 2018, A2C2 along with an OEN representative, met with a staff member of Senate Finance Committee Chairman Orrin Hatch's (R-Utah) Office to discuss information pertaining to a recent Government Accountability Office (GAO) report that uncovered challenges facing consumers, businesses and the U.S. agencies that enforce intellectual property rights. Senator Hatch's office was preparing a white paper report to reflect on the current state of the counterfeit problem in the U.S., to include automotive products.
- vi. On October 23, 2018, OEN representatives met with Daimler (Germany) Brand Protection representatives, which included a workshop and discussion of Daimler's U.S. brand protection efforts.
- vii. Between October 30-November 2, 2018, OEN representatives traveled to Las Vegas, NV to participate in events associated with the Automotive Aftermarket Product Expo/Specialty Equipment Market Association (AAPEX/SEMA) shows. Working closely with industry partners, HSI was able to identify and gather intelligence on the counterfeiters, initiate potential investigations of suspected counterfeiters, conduct outreach to the automotive aftermarket community about HSI capabilities in counterfeiting, and raise public awareness of the health and safety issues presented by counterfeit automotive parts.
- viii. On March 5-7, 2019, in support of OEN, the IPR Center hosted numerous events relating to A2C2 CY19 Q1 meetings, including the A2C2 Q1 Business Meeting, A2C2 Meeting with Law Enforcement/Government Executives, Meeting/Training with the U.S. Patent and Trademark Office (USPTO)/Office of Policy and International Affairs (OPIA) China Team, and a Tour of the CBP K-9 Training Facility.
- ix. On March 20-21, 2019, OEN representatives attended a two-day IPR Mobile App Workshop hosted by CBP's IPR & E-Commerce Divisions, along with their IPR Donation Acceptance Program Group. The aim of the workshop was to test the effectiveness of a smart-phone based application tool currently being used and sponsored by Ford Motor Company, in hopes to ultimately utilize the application tool for broader IPR authentication and enforcement use.

- x. On April 24, 2019, OEN representatives conducted a joint panel presentation with A2C2 and the Computer Crime and Intellectual Property Section (CCIPS) at the National Advocacy Center (NAC) during a DOJ IP Seminar focusing on the investigation and prosecution of counterfeit automotive parts, sharing the perspectives from all three sides; victim, investigator and prosecutor.
- xi. On May 6-7, 2019, an OEN representative traveled to New York, NY to participate in a meeting with A2C2 and Mark Monitor (MM) to discuss the results of a project in which MM will provide the IPR Center with potential targets located during online enforcement for A2C2 members. In addition, the OEN representative co-presented on a panel at a MM IP Summit to discuss the results of the project.
- xii. On May 8, 2019, A2C2 along with an OEN representative, met with the following representatives and their staff members to discuss the health and safety risks associated with the installation of counterfeit and substandard automotive parts and A2C2's combat missions: Congressman Andy Biggs (R-AZ-05); Congresswoman Martha Roby (R-AL-02) – House Judiciary Committee/IP Subcommittee; Senator Lindsey Graham (R-SC); Senator Thom Tillis (R-NC) – Senate Committee on Judiciary IP Subcommittee and Senator Chris Coons (D-DE) - Senate Committee on Judiciary IP Subcommittee Counsel, Ranking Member.
- xiii. Between May 20-22, 2019, an OEN representative participated in numerous events relating to A2C2 CY19 Q2 meetings, including the A2C2 Q2 Business Meeting, meetings with Amazon, Mercado Libre, INTA (International Trademark Association) and a representative of Venable LLP regarding the possibility of the creation of an A2C2 White Paper.
- xiv. On June 5, 2019, A2C2 along with an OEN representative, co-presented a presentation at the North Central Regional Chapter and Southeast Regional Chapter of the International Association of Auto Theft Investigators (IAATI) Seminar in Lexington, KY, which included participants from various law enforcement agencies and the National Insurance Crime Bureau (NICB).
- xv. Between July 16-17, 2019, an OEN representative participated in a joint HSI/CBP operation at the International Mail Facility in San Francisco, CA targeting counterfeit automotive products.
- xvi. On August 15, 2019, in support of OEN, an IPR Center representative gave a keynote address at the Automotive Aftermarket Suppliers Association (AASA) inaugural Aftermarket IP Forum in Dearborn, MI. Participants included legal counsel, brand managers, product managers and other professionals engaged in protecting IPR for automotive aftermarket companies.

- xvii. In FY 2019, under OEN, HSI initiated 36 criminal investigations, conducted 13 criminal arrests, and helped secure 26 indictments and 15 convictions, as well as 44 counterfeit goods seizures incidents with a MSRP of approximately \$4,285,417.
- ***Operation Surge Protector***
 - i. Operation Surge Protector (OSP) was initiated by the IPR Center in December 2016 to target the sale and trafficking of counterfeit consumer electronics and technology products, such as batteries, chargers, smartphones and charging cords. OSP combines the expertise of HSI, CBP and the Consumer Product Safety Commission (CPSC).
 - ii. On November 13-17, 2018, a representative of OSP worked in conjunction with CBP on an enforcement operation in Louisville, KY that focused on interdicting counterfeit consumer technology.
 - iii. On July 22-26, 2019, a representative of OSP worked in conjunction with CBP on an enforcement operation in Ontario, CA that focused on interdicting counterfeit consumer technology.
 - iv. In FY 2019, under OSP, HSI initiated 31 criminal cases, conducted 24 arrests, helped secure 14 indictments and 6 convictions, and seized approximately \$16,125,757 in counterfeit products.
 - ***Operation Body Armor (formerly Plastic Beauty)*** was initiated by the IPR Center in January 2015, to combat the sale of counterfeit personal healthcare and beauty products. Through ***Operation Body Armor*** (which combines the expertise of HSI, CBP, and FDA-OCI), the IPR Center partners with industry and other entities associated with the healthcare and beauty product community. In FY 2019, under ***Operation Body Armor***, HSI initiated 7 criminal cases, conducted 1 arrest, helped secure 1 indictment and 1 conviction, and seized \$9,816,241 MSRP in counterfeit products.
 - ***Operation Team Player***
 - i. Operation Team Player (OTP) targets the sale and trafficking of counterfeit sports merchandise, apparel and tickets, a multi-million-dollar criminal industry. The culmination of the sports season—playoffs and finals games—are events that stimulate the sale of counterfeit items. HSI Special Agents and CBP Officers worked with sports leagues and law enforcement agencies throughout the nation to identify shipments of counterfeit sports merchandise being imported to the United States or being sold by vendors. In FY 2019, the IPR Center continued coordinating enforcement actions at multiple high-profile sporting events, including the National Football League (NFL) Pro Bowl and Super Bowl, Major League Baseball (MLB) World Series, National Hockey League (NHL) Winter Classic; MLB, and National Hockey League (NHL) and National Basketball Association (NBA) All-Star games; NHL and NBA Championship series; and the 2019 NHL Stadium Series.

- ii. On November 12-14, 2018, an OTP representative traveled to Doha, Qatar to participate in the Interpol Project Stadia 5th Sports Legislation Experts Working Group. The representative presented information on successes, best practices at large sporting events with an emphasis on pre-planning, and continuity of efforts.
 - iii. On January 25 – February 5, 2019, OTP representatives traveled to Atlanta, GA to coordinate Operation Team Player enforcement operations targeting the importation and trafficking of counterfeit sports merchandise and media activities related to Super Bowl LIII. The operations were conducted by teams comprised of HSI Atlanta, IPR Center representatives, Atlanta Police Department, Georgia Department of Revenue, and representatives from the National Football League.
 - iv. On May 16-17, 2019, a representative of OTP traveled to Nashville, TN for a presentation to the Nashville Bar association for World IP Day. The IPR Center representative conducted an IPR Center Operation Team Player presentation at an audience of 30 IP law industry representatives from the Nashville Bar Association.
 - v. On June 3-6, 2019, a representative of OTP traveled to Pittsburgh, PA for a presentation at the 2019 NCFTA Cyber Crime Forum. The IPR Center representative conducted an IPR Center Operation Team Player presentation at an audience of 25 attendees of the NCFTA Cyber Crime Forum.
 - vi. On July 8-12, 2019, a representative of OTP traveled to Cincinnati, OH to conduct a joint enforcement interdiction operation with CBP targeting counterfeit sports apparel and merchandise.
 - vii. On July 29-30, 2019, a representative of OTP traveled to Miami, FL to meet with HSI Miami, HSI Tampa, CBP, law enforcement partners, and industry representatives from the NFL, NHL, NBA, MLB, and National Collegiate Athletic Association (NCAA). The OTP representative provided training on the IPR Center and OTP at the Super Bowl LIV Law Enforcement Training event hosted by the NFL. In attendance were 70 representatives of federal, state, and local law enforcement, as well as 10 industry representatives from the sports brand industry.
 - viii. In FY 2019, under OTP, HSI seized more than 545,974 items counterfeit sports merchandise worth \$20,960,171 and arrested 26 individuals.
- ***Operation Pangea*** is a coordinated global effort led by INTERPOL as a means of further reducing the advertisement, sale, and supply of counterfeit, unapproved, and substandard medicines and medical devices. Websites providing counterfeit pharmaceuticals are a significant and growing global problem both from a public health and safety standpoint, as well as from an intellectual property protection standpoint. In FY 2019, HSI, working in conjunction with CBP and FDA/OCI, conducted Pangea related enforcement

operations. INTERPOL is conducting Pangea enforcement operation in FY2020 and will release statistics subsequent to the conclusion of the operations.

DHS's law enforcement activities during FY 2019 also included the following activities:

- In FY 2019, CBP conducted 20 national level and 116 local IPR Trade Special Operations. These trade special operations targeted high-risk shipments at seaports, airports, international mail facilities and express carrier hubs across the United States. HSI investigates IP violations involving the illegal production, smuggling, and distribution of counterfeit merchandise and pirated works. Since the majority of infringing and dangerous products are produced overseas and either shipped directly to the United States or via a third country, ICE's long-term goals are to increase overseas IP investigations through collaboration with its foreign law enforcement and customs counterparts, and to work with host nations in interdicting such exports before they reach the United States. HSI Special Agents play a significant role in the enforcement of IP violations through their traditional customs authorities and expertise regarding the illicit importation and exportation of merchandise. HSI Attachés establish strong working relationships with host country counterparts. These relationships strengthen ICE's capacity to conduct successful domestic, international, and multilateral operations. HSI Attachés are located in 51 countries, and they work closely with host government counterparts and participate in IP working groups at post.
- In FY 2019, HSI initiated 501 intellectual property investigations and was involved in 256 arrests, 197 indictments, and 157 convictions.
- In FY 2019, the IPR Center vetted 36,527 investigative leads; of these, 20,911 were referred to law enforcement partners. Additionally, the IPR Center de-conflicted 10,426 investigative targets for partner agencies and industry. While performing these de-conflictions, the IPR Center identified 55 "blue on blue" situations where two or more entities were investigating the same target. Finally, the IPR Center referred 330 leads to private industry for follow-up.
- In FY 2019, the IPR Center hosted four Intellectual Property and Trade Enforcement Investigations (IPTEI) training courses. The courses were held in October, of 2018 as well as in March, June and August of 2019. The IPTEI course offers two weeks of advanced training with a specific focus on commercial fraud and IP theft. Trainers for the course came from both the private sector and the government. Students were from HSI, CBP, Food and Drug Administration Office of Criminal Investigations (FDA-OCI) and Naval Criminal Investigative Service (NCIS).

Engaging with Stakeholders

The IPR Center forms the communications hub around which much of the interaction between private sector stakeholders and the law enforcement and regulatory communities takes place.

Operation Joint Venture and Project Trade Watch

Through the IPR Center's Outreach and Training Section HSI engages in partnerships with the public and private sectors to combat IP infringement through its ***Operation Joint Venture*** (OJV) initiative. This IPR Center-led outreach initiative is designed to increase information sharing with public and private sectors to combat the illegal importation and distribution of counterfeit, substandard and tainted goods, as well as the evasion of duties. The initiative is aimed at fostering commercial fraud, public health and safety, and IP investigations. Through OJV, the IPR Center engages with rights holders, manufacturers, importers, customs brokers, freight forwarders, bonded facilities, carriers, and others to discuss the IPR Center's priorities of protecting public health and safety, the economy, and securing the Government's supply chain. Through outreach and public engagement, the IPR Center raises the public's awareness of the dangers of commercial fraud violations, such as IP, while serving as a public point of contact for investigative leads. The IPR Center's audience includes a broad spectrum of industries and government agencies, including but not limited to the pharmaceutical, entertainment, wearing apparel, sports, electronic, and automobile industries, as well as customs bonded entities, importers, and law enforcement officials.

Project Trade Watch is HSI and CBP's outreach campaign to the importing community to facilitate informed compliance by private industry and to enhance public awareness of law enforcement efforts within the trade community. This campaign exists under the IPR Center's broader OJV initiative. Through ***Project Trade Watch***, ICE and CBP field personnel provide information and red flag indicators of potential import fraud and importer identity theft.

Other Engagements

CBP is supporting the DHS-led report that is due at the end of October 2019 to address the issues noted in the Presidential Memorandum on "Combatting Trafficking of Counterfeit and Pirated Goods" that was issued on April 3, 2019.

DHS law enforcement agencies which support IP enforcement had numerous other engagements with stakeholders in 2019. Some of these public education and outreach efforts are described below.

The IPR Center has a unique role within ICE by serving as a one-stop shop for IP enforcement efforts. In this role, the IPR Center has regular contact with the international community, the media, Members of Congress, trade organizations, industry leaders, and the general public. In FY 2019, the IPR Center conducted 183 outreach and training events with 7,253 attendees.

In FY 2019, the IPR Center continued the monthly publication of the *IPRC Connections* newsletter to keep stakeholders up to date on the most significant IPR Center enforcement efforts and outreach activities. Additionally, the IPR Center collects, tabulates, and catalogs victim impact accounts of brand holders and consumers with the aim to show more clearly the full effect of IP infringement and trade fraud on the U.S. and global economies, public health and safety, and any related threat to government supply chains.

Throughout FY 2019, HSI – through its leadership at the IPR Center – collaborated with industry and other government agencies to present training and foster communication. Examples of this include:

- In November 2018 and May 2019, DOJ/CCIPS and the IPR Center co-hosted meetings of the CMWG to foster direct communication between industry representatives and the prosecutors, law enforcement agents, and other government officials working to combat counterfeit microelectronics in the supply chain. Approximately 140 people attended the two events.
- During FY 2019, the IPR Center’s Outreach and Training Section assisted with the coordination of approximately 30 meetings with industries and coalitions including the Licensing Industry Merchandisers Association, the U.S. Council for International Business, the U.S. Chamber of Commerce Global Innovation Policy Center, Louis Vuitton, Johnson & Johnson, Intertek, Polaris, and Mark Monitor. The section also assisted with organizing meetings with government officials from the U.S. Department of Veterans Affairs (VA) and the City of London Police which cleared the way for them to join the growing list of IPR Center partner agencies, bringing the total to 25.
- The IPR Center HSI personnel assigned to the National Cyber-Forensics and Training Alliance (NCFTA) leverage the resources and analytical tools of the NCFTA to identify domain names and networks affiliated with infringing activity in support of criminal investigations or potential civil enforcement action. (The NCFTA is a non-profit corporation that conducts real-time information sharing and analysis with subject matter experts in the public and private sectors and academia.)
- CBP’s multi-faceted communication with IP stakeholders includes daily interaction with industry regarding enforcement activities, formal meetings involving both trade facilitation and enforcement efforts, and participation in numerous national trade events. CBP’s stakeholder engagement includes:
 - Regular conference calls with the IPR working group of the Commercial Customs Operations Advisory Committee (COAC) and quarterly public meetings with COAC members;
 - Daily interaction with stakeholders affected by CBP’s IP enforcement efforts at the ports of entry, and nationally through CBP’s ten industry-aligned Centers of Excellence and Expertise (Centers), the IP-focused staff at headquarters, the IPR Center in the Washington D.C. metro area;
 - Participation in national and local trade events, industry meetings, speaking engagements, and rights holder and industry-specific right holder roundtables.

Throughout FY 2019, CBP collaborated with industry in the form of an e-commerce task force to identify and address the complexities and challenges associated with the increases in small packages due to the worldwide proliferation of online and mobile technologies.

The DHS Private Sector Office (PSO) continues to coordinate U.S. government-wide efforts to catalyze and support private sector and non-governmental-based counter-illicit trade activities. On the international stage, PSO seeks to coordinate conferences and workshops in key global locations, e.g. Asia, Eastern Europe, Western Hemisphere, to collaborate on U.S. and international government efforts to detect and disrupt illicit trade activities through the sharing of best practices, approaches, and to bolster enforcement efforts. The U.S. Department of State is key to this effort as their respective Missions work with host governments to strengthen their enforcement regimes.

Educating the Public

Changing public attitudes toward infringing activities remains essential to an effective intellectual property enforcement strategy. DHS activities during FY 2019 included:

- CBP's Centers of Excellence and Expertise have been heavily involved in the development and implementation of the trade intelligence concept, a CBP effort to establish formal linkages with the private sector to develop actionable intelligence. As part of these efforts, the Centers engage in continual dialogue, information sharing, and trend analysis (e.g., with the pharmaceutical industry) in order to safeguard the American public from substandard, counterfeit, or otherwise illegal products. CBP proactively and frequently issues national and local press releases, and social media notifications to educate the public on counterfeiting. In FY 2019, CBP issued 32 IPR-related press releases.
- In FY 2019, CBP continued the *Truth Behind Counterfeits* IPR Public Awareness Campaign to educate the public of the many harms associated with the purchase of counterfeit goods. The goal of the campaign is to increase consumer conscientiousness by making people aware that buying counterfeits is not a victimless crime and to encourage them to shop from reputable sources. The fourth and fifth phases of the campaign ran at major U.S. airports (Atlanta, Detroit, Chicago (2), Raleigh, San Antonio, Tampa, Boston, New York, Fort Lauderdale, Dallas, Las Vegas, Baltimore, Pittsburgh), during the busy 2018 holiday and 2019 summer travel times. At these 14 airports, ads were placed on the electronic bulletin boards. In addition, the campaign included ads on several travel websites. The campaign and its messages about responsible consumer behavior were viewed over 200 million times during these two phases.
- To supplement the messages of the IPR awareness campaign CBP organized and facilitated five *Truth Behind Counterfeits* road shows. These events took place during the summer of 2019 at the Boston, New York, Dallas, Chicago, and Fort Lauderdale airports and consisted of relevant personnel having conversations with the traveling public about the many hazardous impacts that often come from the purchase of counterfeit goods.

Cooperating with Foreign Law Enforcement

As discussed above, DHS law enforcement agencies regularly cooperate with other Federal law enforcement agencies and with law enforcement offices in other countries. Below are especially notable examples of DHS cooperation with foreign law enforcement.

In FY 2019, as discussed above, U.S. law enforcement and Federal agencies – including the IPR Center through HSI, CBP, and FDA – participated in *Operation Pangea*, a global enforcement effort led by INTERPOL that is aimed at disrupting organized crime networks behind the illicit online sale of fake drugs. The majority of Pangea participants will conduct their respective enforcement operations in 2020.

As also discussed above, in November 2018, the IPR Center and Europol concluded Operation IOS Cyber Monday/Project TransAtlantic IX in collaboration with INTERPOL. Over 33,654 infringing domains were seized.

Through the U.S.-China Joint Liaison Group's IP Criminal Enforcement Working Group, DOJ and U.S. law enforcement (including HSI and FBI) maintain a steady exchange of information and case leads with Chinese law enforcement, resulting in successful operations to disrupt the manufacture of counterfeit items, such as airbags, pharmaceuticals, batteries, electronic components, and luxury items. In FY 2019, successful collaboration between the Ministry of Public Security (MPS) of the People's Republic of China and HSI through the ICE Attaché office in Beijing continued on a number of health and safety-related investigations. One example of this collaboration was the successful joint investigation into the manufacturing and distribution of counterfeit automotive parts.

During FY2019, the IPR Center continued to host numerous foreign government officials with an interest in IP enforcement. Among the many international delegations were representatives from Italy, The United Kingdom, Japan, Kazakhstan, Mexico, South Africa, Saudi Arabia, Egypt and Spain.

On November 8, 2018, CBP and Japan Customs signed a Letter of Intent regarding strengthening Bilateral Intellectual Property Rights Enforcement on a Pilot Basis (LOI). The two customs agencies have exchanged IPR seizure data of shipments from China for August and September 2018.

Enhancing IP Enforcement through International Organizations

The U.S. Government continues its efforts to improve enforcement of IPR through a number of international organizations. A summary of key DHS accomplishments during FY 2019 include:

- During FY 2019, CBP and the State Department continued to support the further development and deployment of the WCO Cargo Targeting System (CTS), which was successfully piloted in 2013. The CTS has the potential to enhance cooperation between the United States and foreign partners through targeting efforts to identify and interdict counterfeit products. It allows foreign customs administrations to receive electronic cargo manifest data to identify high-risk shipments at import, export, and transshipment across the full range of customs threats, including trade in counterfeit products. Attachés at the WCO continue to train and support customs administrations in CTS operation.
- In August 2019, at the Asia Pacific Economic Cooperation (APEC) Subcommittee on Customs Procedures (SCCP) meetings held in Chile, CBP presented the updates to the 2017 APEC SCCP IPR Enforcement Compendium of guidelines and practices. This

document assists economies with the identification, interdiction, and deterrence of IP violations through examples provided by economies of engagement, education, and enforcement practices. Through both iterations of the compendium, twelve economies have provided input (Australia, Chinese Taipei, Hong Kong, Japan, Mexico, New Zealand, Peru, the Philippines, Singapore, Thailand, the United States, and Vietnam). CBP personnel also attended and participated in the APEC Intellectual Property Experts Group meetings.

Capacity Building and Training

DHS engages in training and capacity building programs to strengthen intellectual property awareness and enforcement internationally.

CBP provided trainers for Dept. of Justice and ICE-HSI led regional international forums on IP enforcement for foreign governments, participating on delegations in Brazil, Vienna, Kenya and Thailand, ultimately training and consulting over 20 countries on "Customs Enforcement of IP at the Border."

In August 2019, CBP participated in capacity building training for Bangladesh Customs officials at the USPTO in Alexandria, Virginia, discussing trade targeting and risk Management.

The IPR Center works closely with partner agencies, overseas attachés, and U.S. embassies to deliver training and support capacity building through such venues as the interagency International Law Enforcement Academy (ILEA) program; training events delivered by the USPTO and INTERPOL; and the country-specific and regional programs that are funded by the State Department's Bureau of International Narcotics and Law Enforcement Affairs (State INL) and DOJ International Computer Hacking and Intellectual Property Section (formerly Intellectual Property Law Enforcement Coordinator - IPLEC) in conjunction with HSI Attaché offices directs, organizes and delivers regional IPR training in the form of lectures and presentations to foreign customs, police, prosecutors, and magistrates. The IPR Center training programs are usually 3-5 days in length and focus on IPR enforcement, in particular on investigation and prosecution of IPR violations and associated crimes, such as smuggling and money laundering. The training programs are interactive workshops led by subject matter experts and focus particular on health and safety counterfeited items such as pharmaceuticals, electronics, automotive parts, and health and beauty products. With the growing number of e-Commerce market places, the training programs have an Internet-investigations focus as well. Private sector representatives or associations are also invited to participate in many of the training programs to highlight the challenges their industry sector may face in a particular region and to highlight the necessity of government and industry cooperation.

In FY 2019, the IPR Center participated in 52 international training and outreaches in support of these programs. HSI continues to work closely with its law enforcement counterparts, particularly those who received training in IP enforcement. The following are examples of events that HSI either organized or supported via this program.

- **Cybercrime and Intellectual Property Rights Enforcement Workshop – Singapore**
From October 15-19, 2018, HSI supported the U.S. Department of Justice, Office of Overseas Prosecutorial Development, Assistance and Training (DOJ/OPDAT) and the U.S. Department of State sponsored the Workshop on Southeast Asia Regional Cybercrime and Intellectual Property Rights Enforcement. This course provided the participants with a basic knowledge of the methods to combat transnational cyber-enabled IP crime, prove criminal trademark infringement, and the tools available to take their investigations and prosecutions beyond borders.
- **DOJ/IPLEC Pharmaceutical Crime Workshop – Gaborone, Botswana**
From November 13-15, 2018, the IPR Center provided support of the DOJ/IPLEC sponsored Pharmaceutical Workshop in Gaborone, Botswana. Police, customs and prosecutors from Kenya, South Africa, Botswana, Namibia, Tanzania, Uganda, Rwanda, Malawi, and Zambia were in attendance. An HSI special agent delivered a case study presentation on counterfeit pharmaceuticals.
- **Pharmaceutical Security Institute (PSI) Workshop**
On November 15-16, 2018, HSI participated in a regional meeting hosted by the Pharmaceutical Security Institute (PSI). This year's meeting took place at Interpol's Global Center for Innovation (IGCI) in Singapore, November 15-16, 2018. The HSI SME delivered a presentation showcasing how HSI is helping to stop the flow of counterfeit medical products.
- **DOJ/IPLEC Regional IPR Enforcement Training – Bucharest, Romania**
From November 27-28, 2018, HSI personnel assigned to the IPR Center provided support of the DOJ/IPLEC sponsored workshop on combatting IP theft through increased container security for investigators and prosecutors from 11 South Eastern Law Enforcement Center (SELEC) member countries: Albania, Bosnia and Herzegovina, Bulgaria, Greece, Hungary, Macedonia, Moldova, Montenegro, Romania, Serbia, and Turkey, and three non-member countries: Cyprus, Georgia and Ukraine. The 2-day workshop consisted of one day in the classroom with interactive presentations focused on container training, identification and interdiction of counterfeit goods, new technology used to track containers around the world, investigation and prosecution of these cases, and one day at the Constanta Port on the Black Sea for practical exercises involving counterfeit goods, and containers. This training is meant to offer the participants practical skills and tools they can apply in their day-to-day work.
- **World Customs Organization Presentation**
On December 6, 2018 HSI Personnel assigned to the IPR Center provided a presentation on Organized Criminal Networks within IP Infringement to the World Customs Organization in Brussels, Belgium.

- Association of Southeast Asian Nations (ASEAN) Workshop**
 On February 25-26, 2019, HSI personnel assigned to the IPR Center participated in a workshop organized by the US-ASEAN Business Council. The workshop consisted of a series of individual organization presentations, moderated panel discussions and breakout sessions centering on the tools, procedures entities and frameworks potentially available to ASEAN member nations and rights owners to protect brands and enforce IPR. The HSI Singapore Attaché and Deputy Attaché participated in this workshop, as well as an IPR Center representative who provided an IPR Center overview and fielded discussion questions as part of a moderated panel. Throughout the event, the IPR Center and HSI were held up as effective examples of how ASEAN nations might collaborate and join forces across agency and national boundaries to combat illicit trade and IPR crime.
- Ho Chi Minh City, Vietnam (April 2-5, 2019)**
 From April 2-5, 2019, USDOJ and USPTO co-sponsored a four-day workshop capacity-building/training event featuring case studies and "Davos"-style panel discussions on various investigative topics. HSI participated on 7 panels and presented the "Honeygate" investigation to a global audience of investigators, prosecutors and private industry participants from nearly 30 Asian and South Pacific countries, ranging from Saudi Arabia to Fiji to Mainland China. The workshop received support from HSI/IPR Center, FDA, and the European Union Intellectual Property Office.
- Intellectual Property Rights Enforcement Training (Santos, Brazil)**
 From April 9-12, 2019, the HSI personnel assigned to the IPR Center organized intellectual property enforcement training to customs officials, police investigators, and prosecutors from Argentina, Brazil, Chile, Paraguay and Uruguay. With DoS INL funding, support of HSI Brasilia, DOJ ICHIP-Sao Paulo and USPTO, this training was combined into a regional training for all countries in Sao Paulo, Santos, Brazil. A total of 59 participants attended the training workshop, which featured online investigations presentations, as well as pharmaceutical and tobacco case studies. The training focused on interdictions, investigations and enforcement operations and emphasized the health and safety issues related to IP crime and its connection to transnational criminal organizations.

Industry representatives from British American Tobacco (BAT), The Software Alliance (BSA), Nike, Pfizer, Syngenta and FNCP (Brazil national forum against piracy and illegality) provided presentations outlining their enforcement efforts and collaboration with law enforcement to combat counterfeiting and illicit trade. Participants also visited the Port of Santos (largest container port in Latin America) and were given a tour of the Customs house where they received a brief presentation on the origins of the port.
- Taipei, Taiwan (April 8-12, 2019)**
 From April 8-12, 2019, HSI personnel assigned to the IPR Center supported a USDOJ sponsored workshop on best practices for stemming digital piracy in Taiwan. IPR Center representatives met with law enforcement personnel and partners at the National Central Library and shared best practices in this investigative discipline. HSI Hong Kong

personnel also met with executive leadership and investigators from the Taiwan Ministry of Justice, Intellectual Properties Court, American Institute in Taiwan, to discuss future collaboration in the areas of cybercrime, theft of trade secrets and intellectual property investigations. Taiwan authorities presented their ongoing initiatives and current capabilities and requested the assistance of U.S. DOJ, DHS in the development of their investigative capabilities.

- **USPTO / HSI Buenos Aires**

From April 15-17, 2019, USPTO with HSI Buenos Aires assistance, led a three-day training workshop for Argentine police, customs, prosecutors, and judges. Training was provided by HSI Buenos Aires, FBI Buenos Aires, USDOJ, USPTO, Virginia State Police, and private industry stakeholders.

- **Bogota, Colombia (May 21-23, 2019)**

From May 21-23, 2019, HSI personnel assigned to the IPR Center supported a DOJ-sponsored training (Digital Piracy: Challenges and Best Practices for Prosecutors and Police) in Bogota, Colombia regarding best practices for online investigations and digital piracy. There were 50 participants who attended the training.

- **Intellectual Property Rights Enforcement Training (Vienna, Austria)**

From June 4-7, 2019, HSI personnel assigned to the IPR Center organized, in collaboration with HSI attaché offices from Vienna and Ankara, provided intellectual property (IP) enforcement training to customs officials, police investigators, prosecutors and regulatory officials from Bosnia & Herzegovina, The Kyrgyzstan Republic, Serbia, Tajikistan and Turkey. With INL support, this training was combined into a regional training for all countries in Vienna, Austria. Robin Dunnigan, Chargé d'affaires, U.S. Embassy, Vienna, delivered opening remarks and welcome to the participants. The training workshop featured HSI case study presentations on pharmaceuticals, cosmetics, luxury goods and cellular telephones, as well as an online investigations presentation by an HSI cyber-crimes subject matter expert (SME). EUROPOL also provided an SME to speak on the topic of International Partnership Against IP Crime. The training focused on interdictions, investigations and enforcement operations and emphasized the health and safety issues related to IP crime and its connection to transnational criminal organizations. Industry presentations were provided by representatives from Adidas, Apple, Louis Vuitton, MPAA, Pfizer, Philip Morris International, and Underwriters Laboratories.

- **Dakar, Senegal (June 11-14, 2019)**

From June 11-14, 2019, the IPR Center HSI Special Agents supported a DOJ-sponsored workshop, Combatting Pharmaceutical Crimes & Illicit Pesticides, in Dakar, Senegal. There were approximately 60 participants (prosecutors, judges and law enforcement) from 11 West African countries.

- Bangkok, Thailand (June 18-21, 2019)**
 From June 18-21, 2019, the IPR Center HSI Special Agents supported a USPTO/DOJ-sponsored criminal enforcement workshop for the Association of Southeast Asian Nations (ASEAN) in Bangkok, Thailand. There were 40 participants who attended the training.
- Berlin, Germany (June 24-26, 2019)**
 From June 24-26, 2019, an HSI Special Agent spoke at a conference in Berlin, Germany. The conference, hosted by the European Union, featured speakers on the subject matter of online sale and regulation of food sold over the Internet. The conference was attended by government, law enforcement, private industry, and NGO's who work for authorities of consumer protection, food safety and regulation. There were approximately 250 attendees.
- Intellectual Property Rights Enforcement Training (Cayman Islands)**
 From July 23-26, 2019, HSI personnel assigned to the IPR Center, in collaboration with HSIs Caribbean and Kingston offices, provided intellectual property (IP) enforcement training to customs officials, police investigators, prosecutors, regulatory officials and judges from Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Costa Rica, Dominican Republic, Guatemala, Honduras, Jamaica, Panama, St. Lucia and Trinidad. With INL funding and support from CBP, DOJ, and USPTO, this training was combined into a regional training for all countries in Grand Cayman, Cayman Islands. Ms. Tara Rivers, Minister of Financial Services and Home Affairs and Dr. Dax Basdeo, Chief Officer, Financial Services, delivered opening and closing remarks, respectively.

The training workshop featured HSI case study presentations on pharmaceuticals, tobacco, household consumer products, cellular telephones, as well as an online IP investigations practical exercise. The training focused on interdictions, investigations and enforcement operations and emphasized the health and safety issues related to IP crime and its connection to transnational criminal organizations. Industry presentations were provided by Apple, Colgate-Palmolive, HBO Latin America, Merck, Nike, Pfizer, Philip Morris International and Underwriters Laboratories.

- Asuncion, Paraguay (August 5-9, 2019)**
 HSI personnel assigned to the IPR Center supported a DOJ-sponsored financial investigations training course for law enforcement, financial regulators and banking private sector professionals. The training, which was attended by approximately 100 participants, was held in Asuncion, Paraguay and focused on organized crime and terrorist financing.

D. Major Enforcement Activities (DHS and FDA)

DHS:

Operation Team Player. This targets the sale and trafficking of counterfeit sports merchandise, apparel and tickets, a multimillion-dollar criminal industry. The culmination of the sports

season—playoffs and finals games—are events that stimulate the sale of counterfeit items. HSI Special Agents and CBP Officers worked with sports leagues and law enforcement agencies throughout the nation to identify shipments of counterfeit sports merchandise being imported to the United States or being sold by vendors. In FY 2019 HSI seized more than 545,974 items counterfeit sports merchandise worth \$20,960,171 and arrested 26 individuals under ***Operation Team Player***. In FY 2019, the IPR Center continued coordinating enforcement actions at multiple high-profile sporting events, including the National Football League (NFL) Pro Bowl and Super Bowl, Major League Baseball (MLB) World Series, National Hockey League (NHL) Winter Classic; MLB, and National Hockey League (NHL) and National Basketball Association (NBA) All-Star games; NHL and NBA Championship series; and the 2019 NHL Stadium Series.

Operation Chain Reaction. This is an IPR Center coordinated effort led by HSI and consisting of 17 Federal law enforcement agencies including CBP and DoD’s criminal investigative offices that work to target counterfeit items entering the military and U.S. Government supply chains. In FY 2019, under ***Operation Chain Reaction***, HSI initiated 15 criminal investigations, conducted 6 criminal arrests, and helped secure 6 indictments and 12 convictions, as well as 48 counterfeit goods seizure incidents with a Manufacturer’s Suggested Retail Price (MSRP) of approximately \$4,428,085.

Operation Engine Newity. This is an IPR Center and HSI-led initiative that focuses on securing the supply chains of automotive and other heavy industry from counterfeit components. The proliferation of counterfeit parts - including critical components such as airbags, bearings, brake pads, accelerator arms, and windshields - has grown exponentially over the last several years and now poses a significant health and safety threat to end users and an economic cost to businesses and consumers through lost revenue, downtime, and replacement costs. In FY 2019, under ***Operation Engine Newity***, HSI initiated 36 criminal investigations, conducted 13 criminal arrests, and helped secure 26 indictments and 15 convictions, as well as 44 counterfeit goods seizures incidents with a MSRP of approximately \$4,285,417.

Operation Apothecary. This is an IPR Center led subset of ***Operation Guardian*** that addresses, analyzes, and attacks potential vulnerabilities in the entry process that might allow for the smuggling of commercial quantities of counterfeit, unapproved, and/or adulterated drugs through international mail facilities, express courier hubs, and land borders. In FY 2019, under ***Operation Apothecary***, HSI investigations resulted in the initiation of 78 cases, the arrest of 86 individuals, the indictment of 66 individuals, and the conviction of 44 persons, as well as 350 seizure incidents of counterfeit items.

E-Commerce - Operation in Our Sites. The E-Commerce Program is an on-going HSI initiative targeting entities that sell counterfeit products through the Internet. The E-Commerce Program consists of a well-known operation dubbed ***Operation in Our Sites*** (IOS) which was initiated in 2010 as a method to disrupt this activity online. HSI has evolved this strategy to focus on developing long term investigations that identify targets, assets, and financial schemes used in operating websites devoted to trafficking in infringing materials. Through IOS, the IPR Center also coordinates with rights holders, who utilize civil and administrative remedies to shutdown infringing sites. In FY 2018, HSI promulgated an agency-wide E-Commerce Strategy. In FY 2019, under ***E-Commerce/In Our Sites***, HSI initiated 9 investigations, conducted 22

arrests, and helped secure 16 indictments and 8 convictions. These investigations are initiated and developed by ICE HSI field offices through IPR Center leads, seizures, informants, complaints, industry leads, and/or other investigative techniques.

Operation Surge Protector. The IPR Center initiated Operation Surge Protector in December 2016 to target the sale and trafficking of counterfeit consumer electronics and technology products, such as batteries, chargers, smartphones and charging cords. Operation Surge Protector combines the expertise of HSI, CBP and the Consumer Product Safety Commission (CPSC). In FY 2019, under ***Operation Surge Protector***, HSI initiated 31 criminal cases, conducted 24 arrests, helped secure 14 indictments and 6 convictions, and seized approximately \$16,125,757 in counterfeit products.

Operation Body Armor (formerly Plastic Beauty). In January 2015, the IPR Center initiated *Operation Plastic Beauty*, now *Body Armor*, to combat the sale of counterfeit personal healthcare and beauty products. Through *Operation Body Armor* (which combines the expertise of HSI, CBP, and FDA-OCI), the IPR Center partners with industry and other entities associated with the healthcare and beauty product community. In FY 2019, under ***Operation Body Armor***, HSI initiated 7 cases, conducted 1 arrest, helped secure 1 indictment and 1 conviction, and seized \$9,816,241 MSRP in counterfeit products.

DEPARTMENT OF JUSTICE

DEPARTMENT OF JUSTICE

The Department of Justice (the “Department” or “DOJ”)² submits this Fiscal Year 2019 (“FY 2019”) annual report to the United States Congress pursuant to Section 404 of the *Prioritizing Resources and Organization for Intellectual Property Act of 2008* (“PRO IP Act” or “Act”), Pub. L. No. 110-403. The Act imposes a number of annual reporting requirements on the Attorney General, including actions the Department has taken to implement Title IV of the Act (“Department of Justice Programs”) and “a summary of the efforts, activities, and resources the [Department] has allocated to the enforcement, investigation, and prosecution of intellectual property crimes.” The Act requires similar reporting by the Director of the Federal Bureau of Investigation (“FBI”) on its intellectual property (“IP”) enforcement efforts pursuant to Title IV of the Act.

To the extent a particular request seeks information maintained by the FBI, the Department respectfully refers Congress to the FBI Fiscal Year 2019 Report to Congress on Intellectual Property Enforcement (“FBI’s Annual Report”).

Section 404(a) of the PRO IP Act requires the Attorney General to report annually to Congress on the Department’s efforts to implement eight specified provisions of Title IV during the prior fiscal year. Those provisions and the Department’s efforts to implement them during FY 2019 (*i.e.*, October 1, 2018 through September 30, 2019) are set forth below.

In addition, working closely with the Office of the Intellectual Property Enforcement Coordinator (“IPEC”), the Department contributed to the FY 2017-2019 Joint Strategic Plan on Intellectual Property Enforcement, as it did with the 2013 Joint Strategic Plan on Intellectual Property Enforcement (June 2013), the Administration’s Strategy on Mitigating the Theft of U.S. Trade Secrets (February 2013), the Administration’s White Paper on Intellectual Property Enforcement Legislative Recommendations (March 2011), and the IPEC’s annual reports, among other things. The Department continues to participate in a number of IPEC-led working groups.

² Appendix A (in this section) contains a glossary of acronyms referenced throughout this report.

(a)(1) State and Local Law Enforcement Grants

“(1) With respect to grants issued under Section 401, the number and identity of State and local law enforcement grant applicants, the number of grants issued, the dollar value of each grant, including a breakdown of such value showing how the recipient used the funds, the specific purpose of each grant, and the reports from recipients of the grants on the efficacy of the program supported by the grant. The Department of Justice shall use the information provided by the grant recipients to produce a statement for each individual grant. Such statement shall state whether each grantee has accomplished the purposes of the grant as established in Section 401(b). Those grantees not in compliance with the requirements of this title shall be subject, but not limited to, sanctions as described in the Financial Guide issued by the Office of Justice Programs at the Department of Justice.”

In FY 2019, the Office of Justice Programs (“OJP”) awarded grants to support state and local IP law enforcement task forces under statutory authority provided by the Consolidated Appropriations Act, 2019, Public Law No. 116-6, 133 Stat. 13, 113, and as informed by Section 401 of the PRO IP Act. The Intellectual Property Enforcement Program (“IPEP”), as the grant program is known, is designed to provide national support through training and technical assistance and improve the capacity of state and local criminal justice systems to address criminal IP enforcement, including prosecution, prevention, training, and technical assistance. Under the program, grant recipients establish and maintain effective collaboration and coordination between state and local law enforcement, including prosecutors, multi-jurisdictional task forces, and appropriate federal agencies, including the FBI and United States Attorneys’ Offices. The information shared under the program includes information about the investigation, analysis, and prosecution of matters involving IP offenses as they relate to violations of state and local criminal statutes. The program is administered by the Bureau of Justice Assistance (“BJA”), a component of OJP.

In FY 2019, OJP was able to grant six awards totaling \$2,254,345 to local and state law enforcement and prosecutorial agencies. The following FY 2019 new awards cover expenses related to: performing criminal enforcement operations; educating the public to prevent, deter, and identify criminal violations of IP laws; establishing task forces to conduct investigations, forensic analyses, and prosecutions; and acquiring equipment to conduct investigations and forensic analyses of evidence.

| Award Number | Grantee | Amount |
|------------------|---|--------------|
| 2019-H3269-IL-IP | Cook County State's Attorney's Office | \$400,000.00 |
| 2019-H3242-CA-IP | City of Los Angeles | \$352,000.00 |
| 2019-H3235-NC-IP | North Carolina Department of the Secretary of State | \$352,000.00 |
| 2019-H3250-NJ-IP | Essex County Prosecutor's Office | \$350,345.00 |
| 2019-H3261-PA-IP | Pennsylvania State Police | \$400,000.00 |
| 2019-H3252-MO-IP | City of Saint Louis Metropolitan Police Department | \$400,000.00 |

Since the inception of the program, OJP has awarded over \$30 million in grants to support state and local law enforcement agencies, training and technical assistance providers, and an IP public education campaign. Of this total amount of funding, state and local law enforcement agencies have received over \$23 million. Throughout the duration of the program, these agencies have made seizures totaling over \$850 million, which includes counterfeit merchandise and other property as well as currency.

During a one – year period July 1, 2018 – June 30, 2019, grantees reported seizures totaling \$179,721,197 (\$178,562,461.40 in counterfeit merchandise and other property, and \$1,158,735.95 in currency). Over this same one-year period, grantees engaged in the following law enforcement activities:

- 305 individuals were arrested for violations of IP laws;
- 138 state and local IP search warrants were served; and
- 407 piracy/counterfeiting organizations were disrupted or dismantled.

This data comes from the Bureau of Justices Assistance's Performance Measurement Tool (PMT) for recipients of IPEP awards.

Examples of how state and local law enforcement used prior IPEP grants include:

- The Essex County Prosecutors Office IP Unit/Task Force conducted an investigation in conjunction with the New Jersey Department of the Treasury Division of Taxation Office of Criminal Investigation. The Department of Homeland Security also assisted in this investigation. This investigation targeted numerous individuals and businesses that were suspected of selling smuggled cigarettes into New Jersey with counterfeit New Jersey tax stamps affixed to them. This investigation resulted in the execution of seven search warrants, the arrest of four individuals, the seizure of numerous bank accounts, the seizure of

over \$100,000.00 is U.S. currency, and the seizure of over 500 counterfeit tax stamps. These charges are pending prosecution in Essex County Superior Court.

- The Virginia State Police had several major accomplishments during this reporting period. The Virginia State Police continues to work with Pfizer on a very large prescription fraud drug ring within Virginia. The Virginia State Police are working several counterfeit credit card cases that have resulted in leads in other states involving the same suspects. These cases are still under investigation. The Virginia State Police also continued to utilize shared databases to work with other agencies to provide intelligence regarding its investigation. The liaison activity established by the Virginia State Police has allowed them to be more specialized in assisting and educating other law enforcement agencies about the fight against intellectual property crimes in Virginia. The agents trained also have conducted training to make civilians and other law enforcement agencies aware of intellectual property crimes. Six agents have attained the status of Certified Fraud Examiner. The Virginia State Police also were able to utilize its funds to purchase equipment and supplies to aid in their investigations.

BJA continues to support one-day training events on IP rights for state and local law enforcement agencies across the country through cooperative agreements with the National White Collar Crime Center (NW3C). Between October 1, 2018 and September 30, 2019, NW3C conducted these training sessions for 212 attendees from 85 agencies in 6 locations. During this time, NW3C also conducted technical assistance for five IPEP Grantee task forces. Additional technical assistance was provided by request to two other law enforcement agencies. NW3C's online IP resource to improve investigative and prosecutorial approaches to the problem of IP theft was utilized by 159 students.

Since the inception of the program, BJA has supported the following:

- 110 trainings for 2,609 attendees from 1,301 agencies
- 16 seminars for 538 attendees from 185 agencies
- 39 technical assistance visits for 568 attendees from 130 agencies
- 295 students representing 277 agencies have accessed the online IP resource

NW3C launched the website IPTheft.org to provide a common place for IPEP grantees and law enforcement to find training, resources, and technical assistance that will aid in their intellectual property theft investigations. The website also contains legal resources for prosecutors and judges as well as resources for the general public. In the coming year, NW3C plans to promote the website through its communication platforms and grow the site in terms of available training and resources.

Examples of how attendees utilized the training and technical assistance include:

- NW3C instructors performed a technical assistance visit with multiple law enforcement agencies in Louisville, Kentucky. Louisville Metro Police executed a search warrant and seized over \$1.5 million worth of counterfeit goods. This was a misdemeanor offense under Kentucky laws. After discussing the penalties imposed for similar offenses in other states with the NW3C instructors, the Kentucky law enforcement officials began pursuing legislative changes to the intellectual property rights statutes in the state of Kentucky to increase the penalties for these types of crimes.
- During a technical assistance visit to the North Carolina Secretary of State’s IP task force, an NW3C IP Instructor facilitated collaboration between Homeland Security Investigations agents in Roanoke, Virginia and North Carolina law enforcement officials to investigate intellectual property rights violations discovered at a mailing facility in North Carolina with counterfeit items also going to Western Virginia. These investigations developed evidence of probable cause, leading to multiple search warrants, arrests, and thousands of dollars of counterfeit goods seized, as well as an ongoing collaborative relationship between Virginia and North Carolina to combat intellectual property crime.

(a)(2) Additional Agents of FBI

“(2) With respect to the additional agents of the Federal Bureau of Investigation authorized under paragraphs (1) and (2) of section 402(a), the number of investigations and actions in which such agents were engaged, the type of each action, the resolution of each action, and any penalties imposed in each action.”

Please see the FBI’s Annual Report, which will be submitted separately pursuant to Section 404(c) of the PRO IP Act.

(a)(3) FBI Training

“(3) With respect to the training program authorized under section 402(a)(4), the number of agents of the Federal Bureau of Investigation participating in such program, the elements of the training program, and the subject matters covered by the program.”

Please see the FBI’s Annual Report, which will be submitted separately pursuant to Section 404(c) of the PRO IP Act.

(a)(4) Organized Crime Plan

“(4) With respect to the organized crime plan authorized under section 402(b), the number of organized crime investigations and prosecutions resulting from such plan.”

As in FY 2009 through FY 2018, Congress did not appropriate funds to support Section 402(b) of the PRO IP Act in FY 2019.³ Nevertheless, the Department has continued to take a number of actions in an effort to implement this provision. The actions, described below, include (1) increased information sharing and coordination and (2) training and outreach. However, the Department will not be able to provide a specific number of prosecutions directly resulting from these increased efforts for at least two reasons. First, the Department can retrieve statistical information from its database based on the statute charged but not based on the type of defendant or group that committed the offense. Second, it is difficult to determine whether prosecutions involving organized crime groups have resulted directly from these organized crime plan efforts or other ongoing efforts.

In addition to the ongoing activities detailed in PRO IP Act Reports for fiscal years 2009 through 2019, the Department has taken the following additional actions to address this important issue:

³ Section 402(b) provides that “[s]ubject to the availability of appropriations to carry out this subsection, and not later than 180 days after the date of the enactment of this Act, the Attorney General, through the United States Attorneys’ Offices, the Computer Crime and Intellectual Property section, and the Organized Crime and Racketeering section of the Department of Justice, and in consultation with the Federal Bureau of Investigation and other Federal law enforcement agencies, such as the Department of Homeland Security, shall create and implement a comprehensive, long-range plan to investigate and prosecute international organized crime syndicates engaging in or supporting crimes relating to the theft of intellectual property.”

Increased Information Sharing and Coordination

The Department, through the Criminal Division, is continuing to coordinate with federal investigatory agencies to work with the International Organized Crime Intelligence and Operations Center in an ongoing effort to develop and implement a mechanism to both contribute data to the Center to address intelligence gaps as they relate to IP, among other things. The Center has provided operational, intelligence, and financial support to investigations where international organized crime groups are involved in IP offenses.

Training and Outreach

In FY 2019, the Computer Crime and Intellectual Property Section (“CCIPS”) of the DOJ’s Criminal Division has continued to strengthen the Department’s ability to combat organized IP crime through training and outreach with international counterparts and organizations, which often encounter IP crime committed by organized crime groups. These training and outreach activities are described in section (a)(7)(B) of this Report.

Executive Order

On February 9, 2017, President Trump issued an Executive Order on Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking. DOJ is working together in partnership with the Department of State, Department of Homeland Security, and the Office of the Director of National Intelligence to implement Executive Order 13773. As part of this implementation, DOJ will continue to address the links between transnational criminal organizations and IP crime.

(a)(5) Authorized Funds Under Section 403

“(5) With respect to the authorizations under section 403—

- (A) the number of law enforcement officers hired and the number trained;*
- (B) the number and type of investigations and prosecutions resulting from the hiring and training of such law enforcement officers;*
- (C) the defendants involved in any such prosecutions;*
- (D) any penalties imposed in each such successful prosecution;*
- (E) the advanced tools of forensic science procured to investigate, prosecute, and study computer hacking or intellectual property crimes; and*
- (F) the number and type of investigations and prosecutions in which such tools were used.”*

Section 403 related to funds appropriated during FY 2009-2013. No funds were appropriated under this section or expended during FY 2019 based on funds previously appropriated under this section. Information about the cases, defendants, and types of investigations carried out by the Department may be found in greater detail below.

Please see the FBI's Annual Report, provided separately under Section 404(c) of the PRO IP Act, for details on FBI allocation of resources.

(a)(6) Other Relevant Information

The Department did not receive any authorizations under Sections 402 and 403 of the PRO IP Act in FY 2019.

(a)(7) Efforts, Activities and Resources Allocated to the Enforcement of IP Crimes

“(7) A summary of the efforts, activities, and resources the Department of Justice has allocated to the enforcement, investigation, and prosecution of intellectual property crimes, including –

- (A) a review of the policies and efforts of the Department of Justice related to the prevention and investigation of intellectual property crimes, including efforts at the Office of Justice Programs, the Criminal Division of the Department of Justice, the Executive Office of United States Attorneys, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of Legal Policy, and any other agency or bureau of the Department of Justice whose activities relate to intellectual property;*
- (B) a summary of the overall successes and failures of such policies and efforts;*
- (C) a review of the investigative and prosecution activity of the Department of Justice with respect to intellectual property crimes, including –*
 - (i) the number of investigations initiated related to such crimes;*
 - (ii) the number of arrests related to such crimes; and*
 - (iii) the number of prosecutions for such crimes, including—*
 - (I) the number of defendants involved in such prosecutions;*
 - (II) whether the prosecution resulted in a conviction; and*
 - (III) the sentence and the statutory maximum for such crime, as well as the average sentence imposed for such crime; and*
- (D) a Department-wide assessment of the staff, financial resources, and other resources (such as time, technology, and training) devoted to the enforcement, investigation, and prosecution of intellectual property crimes, including the number of investigators, prosecutors, and forensic specialists dedicated to investigating and prosecuting intellectual property crimes.”*

(a)(7)(A) Review of the Department’s Policies and Efforts Relating to the Prevention and Investigation of IP Crimes

The Department investigates and prosecutes a wide range of IP crimes, including those involving copyrighted works, trademarks, and trade secrets. Primary investigative and prosecutorial responsibility within the Department rests with the FBI, the United States Attorneys’ Offices, CCIPS in the Criminal Division, the Counterintelligence and Export Control Section (“CES”) in the National Security Division (“NSD”), and, with regard to offenses arising under the Food, Drug, and Cosmetic Act, the Consumer Protection Branch of the Civil Division. Each of these components is described briefly below.

In addition to enforcing existing criminal laws protecting IP, the Department has continued its tradition of contributing to major legislative developments updating criminal IP laws, including: the Defend Trade Secrets Act of 2016, which was notable not only for creating a federal civil cause of action for misappropriation of trade secrets, but also increased criminal fines for organizational defendants who steal commercial trade secrets, and allowed prosecutors to bring racketeering charges based on the theft of trade secrets; the Foreign and Economic Espionage Penalty Enhancement Act of 2012, which increased fines for theft of trade secrets committed with the intent to benefit a foreign entity; the Theft of Trade Secrets Clarification Act of 2012, which clarified that the Economic Espionage Act applies to trade secrets that are “related to a product or service used or intended for use in interstate or foreign commerce”; the National Defense Authorization Act for FY 2012, which enhanced penalties for certain offenses involving counterfeit military goods; the Food and Drug Administration Safety and Innovation Act, which created a new offense for trafficking in counterfeit drugs; the PRO IP Act of 2008; the Family Entertainment and Copyright Act of 2005, which criminalized “camcording” (the illegal copying of movies in a theater) and unauthorized distribution of pre-release works over the Internet; the No Electronic Theft Act of 1997, which criminalized the unauthorized reproduction and distribution of copyrighted works even without a commercial purpose or financial gain; and the Economic Espionage Act of 1996, which criminalized the theft of trade secrets, including economic espionage.⁴

The Department made substantial contributions to the criminal enforcement proposals contained in the Administration’s White Paper on Intellectual Property Enforcement Legislative Recommendations (March 2011), the majority of which (described above) were enacted into law, with the exception of felony penalties for copyright infringement by online streaming. The Department looks forward to working with Congress as it considers additional proposals.

The Department coordinates closely with IPEC in addressing the Administration’s priorities on IP enforcement and implementing the IPEC’s FY 2017-2019 Joint Strategic Plan (“JSP”) on Intellectual Property Enforcement. As part of the JSP implementation, the Department participates in a variety of interagency working groups designed to address topics including engagement with private stakeholders; money laundering / criminal financing;

⁴ For an overview of the Department’s policies and efforts in the five years prior to the enactment of the PRO IP Act in October 2008, the Department’s PRO IP Act First Annual Report 2008-2009 may be found online at <https://www.justice.gov/ip/f/pro-ip-act-reports>. The Department’s FY 2010-FY 2018 PRO IP Reports are available at the same location.

engagement with other countries; domestic application of the “Whole of Government” and “Specialized Office” approaches to IPR protection and enforcement; storage, destruction, and disposal of seized counterfeit goods; trade secrets / cybersecurity; and advancing the JSP’s “Calls for Research.”

CCIPS and CHIP Program

The Department carries out its overall IP criminal prosecution mission through the United States Attorneys’ Offices and CCIPS, which works closely with a network of over 270 specially-trained federal prosecutors who make up the Department’s Computer Hacking and Intellectual Property (“CHIP”) program.

CCIPS is a section within the Criminal Division consisting of a specialized team of forty prosecutors who are devoted to enforcing laws related to computer and IP crimes. Fifteen CCIPS attorneys are assigned exclusively to IP enforcement. These attorneys prosecute criminal cases, assist prosecutors and investigative agents in the field, and help develop and implement the Department’s overall IP enforcement strategy and legislative priorities. CCIPS attorneys are available to provide advice and guidance to agents and prosecutors on a 24/7 basis. CCIPS attorneys also provide training on criminal enforcement of IP laws to prosecutors and investigative agents both domestically and abroad.

CCIPS also houses the Cybercrime Lab, which provides support in evaluating digital evidence in IP cases. The Lab is currently staffed with nine computer forensics experts. In addition to evaluating digital evidence, the Lab’s experts have provided extensive training on the use of digital forensics tools in IP cases to law enforcement audiences around the world.

CCIPS continues to place a high priority on fostering international cooperation and coordination of criminal IP enforcement efforts. The Section has developed relationships with foreign law enforcement through international casework as well as through training and outreach. An important component of the Department’s international enforcement efforts is the U.S. Transnational and High Tech Crime Global Law Enforcement Network (“GLEN”) of regional International Computer Hacking and Intellectual Property (“ICHIP”) attorneys (formerly, the Intellectual Property Law Enforcement Coordinator (“IPLEC”) program). With the support of the State Department, DOJ has posted ICHIPs in Bucharest, Romania; Hong Kong; Sao Paulo, Brazil; Abuja, Nigeria; Bangkok, Thailand; Kuala Lumpur, Malaysia; and The Hague, Netherlands. The GLEN also now includes two ICHIPs based in Washington, D.C. to assist the regional ICHIP Advisors with the subject matter areas of Global Dark Web and Cryptocurrency issues and Global Internet Based Fraud and Public Health issues, and a Global Cyber Forensic Advisor also based in Washington, D.C. In 2020, the Network will expand to include regional ICHIPs based in Panama City, Panama; Zagreb, Croatia; and Addis Ababa, Ethiopia.

The CHIP program is a network of experienced and specially-trained federal prosecutors who aggressively pursue computer crime and IP offenses. Each of the 94 United States Attorneys’ Offices has one or more CHIP coordinator. In addition, 25 United States Attorneys’

Offices have CHIP Units, with two or more CHIP attorneys.⁵ CHIP attorneys have four major areas of responsibility including: (1) prosecuting computer crime and IP offenses; (2) serving as the district’s legal counsel on matters relating to those offenses and the collection of electronic evidence; (3) training prosecutors and law enforcement personnel in the region; and (4) conducting public and industry outreach and awareness activities.

CES and the NSCS Network

Within NSD, CES—one of NSD’s principal litigating components—is responsible for coordinating and conducting investigations and prosecutions of a wide variety of national security offenses, including economic espionage.⁶ In June 2015, NSD, recognizing the increasingly acute and costly threat that economic espionage poses to the U.S. national and economic security, released its “Strategic Plan for Countering the Economic Espionage Threat.” This plan aims to heighten awareness of the threat in order to deter and mitigate economic espionage. The plan also seeks to coordinate efforts within the government to counter the threat, including through operational disruption, increased and improved training, and the provision of technical advice and expertise. In January 2017, CES released its “Strategic Plan for Countering the National Security Cyber Threat,” which recognizes that our nation’s adversaries are also stealing intellectual property through cyber-enabled means and proposes a strategy specifically designed to disrupt such efforts. NSD is currently in the process of implementing both plans.

In 2012, the Department established the National Security Cyber Specialists (“NSCS”) Network to create a “one-stop-shop” for attorneys, investigators, and members of the private sector looking to combat national security cyber thefts—including economic espionage and trade secret theft—with all appropriate legal tools. Each U.S. Attorney’s Office has at least one representative to the NSCS Network, and in each of the last six years NSCS Network representatives have convened in the D.C. area for specialized training focusing on legal and other issues at the intersection of national security and cybersecurity. The NSCS representative provides technical and specialized assistance to his or her colleagues within the relevant U.S. Attorney’s Office, and serves as a point of contact for coordination with the Department’s headquarters. At headquarters, all NSD components, CCIPS, and other relevant sections of the Criminal Division are members of the Network. The Department relies on the NSCS Network to disseminate intelligence and other information to the field, to train prosecutors on investigating national security cybercrimes, and to coordinate and de-conflict national security cyber investigations.

⁵ CHIP Units are currently located in Alexandria, Virginia; Atlanta, Georgia; Austin, Texas; Baltimore, Maryland; Boston, Massachusetts; Brooklyn, New York; Chicago, Illinois; Dallas, Texas; Denver, Colorado; Detroit, Michigan; Kansas City, Missouri; Los Angeles, California; Miami, Florida; Nashville, Tennessee; Newark, New Jersey; New Haven, Connecticut; New York, New York; Orlando, Florida; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Sacramento, California; San Diego, California; San Jose, California; Seattle, Washington; and Washington, D.C.

⁶ In 2015, CES changed its name from the “Counterespionage Section” to better reflect the scope of its work.

Interagency Coordination

In addition to investigating and prosecuting IP crime, the Department has worked closely with other federal agencies directly, and through the National Intellectual Property Rights Coordination Center (“IPR Center”), to improve IP enforcement domestically and overseas.⁷ These activities have included training investigators and prosecutors in the investigation and prosecution of IP crimes; contributing to the Office of the United States Trade Representative’s Special 301 process of evaluating the adequacy of our trading partners’ criminal IP laws and enforcement regimes; helping to catalogue and review the United States government’s IP training programs abroad; and implementing an aggressive international program to promote cooperative enforcement efforts with our trading partners and to improve substantive laws and enforcement regimes in other countries.

(a)(7)(B) Summary of Overall Successes and Failures of Such Policies and Efforts

The Department achieved notable success in FY 2019 both domestically and abroad. Some of these efforts are highlighted below:

Prosecution Initiatives

The Department continues to prioritize IP investigations and prosecutions that involve (1) health and safety, (2) trade secret theft or economic espionage, and (3) large-scale commercial counterfeiting and online piracy. The Department has also increased its focus on IP crimes that are committed or facilitated by use of the Internet or perpetrated by organized criminal networks.

(1) Health and Safety

The Department’s health and safety initiative brings together private, state, and federal enforcement resources to address the proliferation of counterfeit goods posing a danger to consumers, including counterfeit and illegally prescribed pharmaceuticals, automotive parts, and military goods. In FY 2019, this initiative resulted in a number of significant prosecutions, including those set forth below:

⁷ These federal agencies include Customs and Border Protection (“CBP”), the Federal Bureau of Investigation (“FBI”), the United States Postal Inspection Service, the Food and Drug Administration’s Office of Criminal Investigations, the Department of Commerce’s International Trade Administration, the Naval Criminal Investigative Service, the Defense Criminal Investigative Service, the Defense Logistics Agency’s Office of Inspector General, Immigration and Customs Enforcement’s Homeland Security Investigations (“ICE-HSI”), the United States Nuclear Regulatory Commission, the United States Patent and Trademark Office (“USPTO”), the General Service Administration’s Office of Inspector General, the Consumer Product Safety Commission, the National Aeronautics and Space Administration’s Office of Inspector General, the Department of State’s Office of International Intellectual Property Enforcement, the Army Criminal Investigation Command’s Major Procurement Fraud Unit, the Air Force Office of Special Investigations, the U.S. Postal Service Office of Inspector General, the Federal Maritime Commission, and the Department of Veterans Affairs Office of Inspector General.

- *San Francisco Resident Sentenced to 10 Years in Prison for Manufacturing Counterfeit Adderall Pills Containing Methamphetamine.* On November 27, 2018, Gino Carl von Eckstein, of Brisbane, California, was sentenced to 10 years in prison for possessing with intent to distribute methamphetamine. Eckstein pleaded guilty on September 5, 2018. He admitted that he possessed counterfeit “Adderall” pills, or pills that appeared to be Adderall, but in fact contained methamphetamine. Eckstein admitted he stored the pills in his car, at three locations in San Francisco’s Richmond District, in Brisbane, and in San Leandro. Eckstein further admitted he possessed the equipment and ingredients necessary to manufacture counterfeit Adderall pills. In total, agents allegedly found over 1,000 grams of suspected methamphetamine.
- *Stamford Men Charged with Trafficking Counterfeit Oxycodone Pills Containing Fentanyl Analogues.* On April 24, 2019, an indictment was unsealed charging Vincent Decaro, Arber Isaku, and David Reichard, all of Stamford, Connecticut, with offenses related to the trafficking of fentanyl analogues. Decaro and Isaku purchased fentanyl analogues from suppliers in China and, working out of Decaro’s residence at 77 West Hill Circle in Stamford, pressed the drug into counterfeit oxycodone pills, which they sold to customers on dark web markets. Reichard was arrested on a federal criminal complaint on April 13, 2018. He previously entered a plea of not guilty to the charges in the indictment.
- *Champaign Man Pleaded Guilty to Charges for Trafficking Counterfeit Xanax, Money Laundering.* On April 29, 2019, Stephan Caamano, of Champaign, Illinois, entered guilty pleas to charges that he trafficked quantities of pills containing alprazolam, marked as ‘Xanax,’ and laundered proceeds of the alleged drug trafficking. The superseding indictment returned by the grand jury on October 2, 2018 alleged that from March 2017 to May 2018, Caamano trafficked quantities of pills containing alprazolam, marked as ‘Xanax,’ knowing it was not the drug Xanax manufactured by Pfizer. In addition, Caamano was charged with two counts of distribution of alprazolam, a Schedule IV controlled substance, and four counts of money laundering related to monetary transactions involving proceeds of the alleged drug trafficking. The charged money laundering transactions involved payment of Bitcoin in exchange for gold bullion on two occasions - April 12, 2017 and June 9, 2017; a wire transfer in the amount of \$235,500 on or about July 31, 2017; and, the transfer of funds on August 30, 2017, by personal check to a car dealership in the amount of \$25,936. Caamano’s sentencing hearing is scheduled for January 6, 2020.
- *Two Mexican Nationals Indicted for Transporting Approximately 14,800 Counterfeit Oxycodone Pills Containing Fentanyl.* On May 23, 2019, a two-count indictment against Ivan Lopez, of Mexico, and Erick Olivas Lopez, of Mexico, charged them with conspiracy and possession with intent to distribute at least 400 grams of a substance containing fentanyl. According to court documents, on April 25, 2019, the defendants were found in possession of approximately 14,799 fentanyl-laced counterfeit oxycodone pills, weighing approximately 1.6 kilograms, during a traffic stop in Sacramento.

- Long Beach Man Sentenced to Almost Four Years in Prison for Trafficking Counterfeit Prescription Drugs.* On May 24, 2019, Robert Ashton Kerns, of Long Beach, Mississippi, was sentenced to 46 months in federal prison, followed by 3 years of supervised release, for possession with intent to distribute fentanyl and fentanyl analogues. On June 12, 2018, Kerns was charged in a federal criminal indictment. He pled guilty on March 1, 2019 to one count of possession with intent to distribute fentanyl and fentanyl analogues.
- Two Sentenced for Buying and Selling Counterfeit Airbags.* On May 9, 2019, Raymond Whelan was sentenced to serve 24 months in prison for conspiracy to traffic in air bags. On May 28, 2019, his codefendant, David Nichols, was sentenced to serve 12 months in prison for conspiracy to traffic in counterfeit air bags. Both defendants also were ordered to pay \$75,846 in restitution. According to charging documents filed in the Western District of New York, between June 2015 and March 2016, Whelan, of Cheektowaga, New York and Nichols of Marysville, Ohio, imported and sold counterfeit automobile air bags from China. Whelan contacted Nichols and ordered numerous airbags bearing counterfeit trademarks of Honda, Toyota, Nissan, Subaru, Mazda, Hyundai, Acura, and Mitsubishi. Nichols then located manufacturers in China to supply the requested airbags. In order to avoid detection during importation, the airbags were purposefully mislabeled. Once imported into the United States, Whelan sold the airbags as genuine used airbags on eBay utilizing the name Rayscarparts71. Whelan imported and sold approximately 360 counterfeit automobile airbags, with an average manufacturer's retail price of \$650.00. The total infringement amount was \$236,600. Nichols entered a plea of guilty in January of 2018. Whelan entered a plea of guilty in August of 2018.
- Large-Scale Counterfeit Fentanyl Pill Dealer Convicted at Trial.* On June 5, 2019, Dion Gregory Fisher, formerly of Seminole, Florida, was found guilty of conspiring to manufacture and distribute fentanyl and fentanyl analogue, and money laundering. In addition to the conspiracy count, the jury found Fisher guilty of five counts of fentanyl distribution and manufacturing and eight counts of committing money laundering transactions involving more than \$10,000 of narcotics proceeds. Fisher was charged with his co-defendant, Sam Huffman, who had used the pill presses and materials provided by Fisher to press fentanyl pills at his automotive business in Pinellas Park, Florida. Fisher also stored fentanyl and fentanyl analogue in a work bay in Clearwater. In January and February 2018, large quantities of fentanyl and fentanyl analogue were seized from both locations, as well as from Fisher's residence in Seminole, and McKinney's residence and work bay. More than three kilograms of fentanyl and fentanyl analogue were admitted into evidence during the seven-day trial. Fisher laundered the proceeds from his fentanyl pill sales with Konrad Guzewicz, who owned and operated automotive and tire-and-rim companies in Pinellas County. Fisher purchased several high-end luxury vehicles, including an Aston Martin, a Bentley, a Maserati, a BMW, and an Audi R8, with fentanyl proceeds. Guzewicz also laundered fentanyl cash proceeds for Fisher. On four occasions, Fisher provided Guzewicz with \$35,000 in cash he had obtained from selling fentanyl pills, and Guzewicz in turn wrote Fisher a \$30,000 check from his business and personal accounts. On October 31, 2019, Fisher was sentenced to 30 years in federal prison, and on July 2, 2019, Guzewicz was sentenced to 15 months in federal prison.

- *Wholesaler Admits to Conspiracy to Manufacture and Sell Counterfeit Goods to the U.S. Military & Government.* On June 13, 2019, Ramin Kohanbash, pleaded guilty to conspiracy to commit wire fraud and trafficking in counterfeit goods in the District of Rhode Island. Kohanbash and others had arranged to counterfeit 200 military parkas of a type used by U.S. Air Force personnel stationed in Afghanistan. These parkas were falsely represented to be genuine Multicam®, a fabric which incorporates specialized near-infrared management technology designed to make the wearer more difficult to detect with equipment such as night-vision goggles. The goods were shipped from China to Kohanbash and sold to other wholesalers who ultimately marketed and sold the knock-off products to military and government buyers as genuine, American-made products. In order to sell the counterfeit goods, Kohanbash provided wholesalers who did business with the government with false certification letters claiming that the goods were made in the U.S., and therefore complied with the Berry Amendment. In other instances, Kohanbash falsely represented that the goods met Trade Agreement Act requirements.
- *Dominican National Sentenced for Fentanyl Conspiracy Including the Distribution of Counterfeit Pain Pills.* On July 11, 2019, Santiago Pena was sentenced to serve 24 months in prison for his role in a conspiracy to distribute fentanyl. On December 20, 2017, Pena was charged with conspiracy to distribute 40 grams or more of fentanyl. The charge stemmed from Pena’s participation in a large-scale fentanyl and heroin trafficking ring that was dismantled in August 2017. Pena was the seventh defendant related to the drug trafficking operation to be charged in federal court; approximately 10 other defendants were charged in state court. A lengthy wiretap investigation revealed that James Ramirez, an individual charged separately, supplied large-quantities of fentanyl and heroin to drug dealers on Cape Cod. According to the indictment, Pena brokered fentanyl pill deals on Ramirez’s behalf, helping to connect Ramirez with a fentanyl pill supplier. Pena pleaded guilty on March 19, 2018.
- *Two Mexican Nationals Sentenced to Five Years’ Probation for Trafficking in Counterfeit Goods by Operating Counterfeit Airbag Business in Albuquerque.* On August 13, 2019, two Mexican nationals were sentenced to serve five years each for operating a counterfeit airbag business out of their residence in Albuquerque, New Mexico. Dina Gonzalez-Marquez and Emilio Gonzalez-Marquez were indicted in April of 2017 on charges that they conspired to traffic in counterfeit goods from January 2015 to March 2017, by operating a business that sold counterfeit airbag modules and airbag covers out of their Albuquerque residence. According to the indictment, they facilitated the conspiracy by listing and selling counterfeit airbag modules and airbag covers online, shipping the counterfeit goods to purchasers, and conducting in-person sales of the counterfeit goods.
- *Orange County Man Sentenced to 17½ Years in Federal Prison for Selling Counterfeit Opioid Pills Laced with Fentanyl.* On August 26, 2019, Wyatt Pasek, of Santa Ana, California, who admitted his role in a scheme that used fentanyl and other synthetic opioids to manufacture and sell counterfeit pharmaceutical pills designed to look like brand-name oxycodone pills, was sentenced to 210 months in federal prison. Pasek used the moniker “oxygod” when soliciting customers in online marketplaces, and posted

images and videos of himself to social media platforms under the moniker Yung10x. He pleaded guilty in November of 2018 to participating in a narcotics-trafficking conspiracy, being a convicted felon in possession of a firearm, and money laundering. On August 29, 2019, Pasek filed an appeal on his final judgement to U.S. Court of Appeals for the Ninth Circuit.

- *Lead Defendant Admits Trafficking in Counterfeit Goods.* On September 10, 2019, Carlos Enrique Velázquez-Gines pleaded guilty to three counts of trafficking in counterfeit goods. On March 7, 2018, Velázquez-Gines, Mayra Evelise Gines-Otero, Noriam Ivette Flores-Deleon, and Vanessa Marrero-Hernández, were charged in the District of Puerto Rico with mail and wire fraud conspiracy, mail fraud, trafficking in counterfeit goods, introducing misbranded articles into interstate commerce, distribution of a controlled substance, international money laundering, and smuggling. According to the indictment, from at least on or about October 3, 2013, defendants purchased from overseas suppliers located in China, and imported into the United States, dietary supplements, latex condoms, and cosmetics that were counterfeit and/or misbranded under the Federal Food, Drug, and Cosmetic Act. Defendants marketed and sold the products through “online stores” on platforms such as eBay.com and Bonanza.com. Marrero-Hernández pleaded guilty on October 2, 2018, and Flores-Deleon pleaded guilty on October 18, 2018.

(2) Protecting American Business from Commercial and State-Sponsored Trade Secret Theft

In FY 2019, Department prosecutors and the FBI have continued to emphasize the investigation and prosecution of commercial and state-sponsored trade secret theft. This continuing focus has led to the investigation and prosecution of numerous trade secret thefts and economic espionage cases. Recent cases include:

- *Third Defendant Pleads Guilty in Case Charging a Theft of Trade Secrets from GlaxoSmithKline to Benefit Chinese Pharmaceutical Company.* On October 22, 2018, Tian Xue pleaded guilty to a conspiracy to commit money laundering involving the proceeds of a scheme to steal trade secrets from GlaxoSmithKline (“GSK”) for the benefit of a Chinese pharmaceutical company named Renopharma. According to an indictment returned in May of 2017, Dr. Tao Li and two of his friends, Dr. Yu Xue and Dr. Yan Mei, created Renopharma in Nanjing, China, supposedly to research and develop anti-cancer drugs. In reality, Renopharma was used as a repository of stolen information from GSK. The data contained information regarding multiple biopharmaceutical products under development, GSK research data, and GSK processes regarding the research, development, and manufacturing of biopharmaceutical products. On January 5, 2016, the FBI arrested Li and seized his computer on which they found a number of GSK documents containing trade secret and confidential information which he had received from Dr. Yu Xue. Dr. Yu Xue pleaded guilty on August 31, 2018 to a conspiracy to steal

trade secrets. Dr. Tao Li pleaded guilty on September 17, 2018 to a conspiracy to steal trade secrets. Charges against Dr. Yan Mei and his spouse, Lucy Xi, are still pending.

- *Former Genentech Employees Charged With Theft Of Trade Secrets.* On October 25, 2018, Xanthe Lam, Allen Lam, John Chan, and James Quach were indicted in the Northern District of California for stealing trade secrets from Genentech and related charges. The indictment alleges that the defendants stole confidential Genentech information to help a company in Taiwan create and sell drugs similar to those that were created by Genentech. Xanthe Lam also allegedly secretly consulted for JHL while still employed at Genentech. The indictment also alleges that Xanthe Lam conspired with former Genentech employee James Quach to illegally use her computer credentials. Specifically, she allowed Quach to gain access to Genentech's secure document repository and, once he had access to the repository, Quach stole the company's proprietary manufacturing protocols.
- *PRC State-Owned Company, Taiwan Company, and Three Individuals Charged with Economic Espionage.* On November 1, 2018, an indictment in the Northern District of California was unsealed charging a state-owned enterprise of the People's Republic of China (PRC) with crimes related to a conspiracy to steal, convey, and possess stolen trade secrets of an American semiconductor company for the benefit of a company controlled by the PRC government. All of the defendants are charged with a conspiracy to commit economic espionage, among other crimes. The criminal defendants are United Microelectronics Corporation ("UMC"), a Taiwan semiconductor foundry; Fujian Jinhua Integrated Circuit, Co., Ltd. ("Jinhua"), a state-owned enterprise of the PRC; and three Taiwan nationals: Chen Zhengkun, a.k.a. Stephen Chen, He Jianting, a.k.a. J.T. Ho; and Wang Yungming, a.k.a. Kenny Wang.
- *Chinese National Who Stole Trade Secrets while Working for Medical Device Companies Sentenced to Federal Prison.* On January 28, 2019, Wenfeng Lu, an Irvine, California engineer who stole trade secrets belonging to two former employers, both of which develop and manufacture medical devices used to treat cardiac and vascular ailments, was sentenced to 27 months in federal prison. Lu pleaded guilty in May 2018 to six counts of unauthorized possession and attempted possession of trade secrets. Lu admitted that he stole confidential and proprietary trade secrets from two different medical device companies with research facilities in Irvine, where Lu worked from January 2009 until he was arrested in this case in 2012. According to court documents, while he was working for the companies, Lu travelled to the People's Republic of China (PRC) multiple times – sometimes soon after stealing the trade secrets from his employers. Lu was arrested as he prepared to board a plane to the PRC in November 2012, which prevented him from implementing his business plan and causing significant harm to the victim companies in the United States.
- *Chinese Telecommunications Device Manufacturer and its U.S. Affiliate Indicted for Theft of Trade Secrets, Wire Fraud, and Obstruction of Justice.* On January 28, 2019, a 10-count indictment in the Western District of Washington was unsealed charging Huawei Device Co., Ltd. and Huawei Device Co. USA with theft of trade secrets

conspiracy, attempted theft of trade secrets, seven counts of wire fraud, and one count of obstruction of justice. The indictment details Huawei's efforts to steal trade secrets from Bellevue, Washington based T-Mobile USA and then obstruct justice when T-Mobile threatened to sue Huawei in U.S. District Court in Seattle. As emails obtained in the course of the investigation reveal, the conspiracy to steal secrets from T-Mobile was a company-wide effort involving many engineers and employees within the two charged companies. As part of its investigation, FBI obtained emails revealing that in July 2013, Huawei offered bonuses to employees based on the value of information they stole from other companies around the world, and provided to Huawei via an encrypted email address.

- *One American and One Chinese National Indicted in Tennessee for Conspiracy to Commit Theft of Trade Secrets and Wire Fraud.* On February 12, 2019, Xiaorong You, a/k/a Shannon You, of Lansing, Michigan, and Liu Xiangchen, of Shandong Province, China, were indicted for conspiracy to steal trade secrets related to formulations for bisphenol-A-free (BPA-free) coatings. You was also indicted on seven counts of theft of trade secrets and one count of wire fraud. The BPA-free trade secrets allegedly stolen by these individuals belonged to multiple owners and cost an estimated total of at least \$119,600,000 to develop.
- *Former DuPont Employee Sentenced to 42 Months in Prison for Stealing Trade Secrets and Lying to the FBI.* On April 17, 2019, Josh Harry Isler was sentenced to serve 42 months imprisonment for one count of trade secret theft and one count of making a false statement or representation to the FBI. As part of his guilty plea in July of 2018, Isler admitted that during August 2013, while employed with DuPont, but after having accepted an offer of employment from a competitor, he stole trade secrets of DuPont. In a plea agreement, Isler admitted that after he accepted employment with a competitor of DuPont in the ethanol fuel enzyme business, he transferred hundreds of DuPont's electronic files to an external device. Isler also admitted that when he was interviewed by the FBI in November 2013, he falsely denied he had downloaded files containing proprietary information.
- *Former GE Engineer and Chinese Businessman Charged with Economic Espionage and Theft of GE's Trade Secrets.* On April 23, 2019, an indictment in the Northern District of New York was unsealed charging Xiaoqing Zheng, of Niskayuna, New York, and Zhaoxi Zhang, of Liaoning Province, China, with economic espionage and conspiring to steal General Electric's (GE's) trade secrets surrounding turbine technologies, knowing and intending that those stolen trade secrets would be used to benefit the People's Republic of China. According to the 14-count indictment, Zheng, while employed at GE Power & Water in Schenectady, New York as an engineer specializing in sealing technology, exploited his access to GE's files by stealing multiple electronic files, including proprietary files involving design models, engineering drawings, configuration files, and material specifications having to do with various components and testing systems associated with GE gas and steam turbines. The defendants, through LTAT and NTAT, received financial and other support from the Chinese government and coordinated with

Chinese government officials to enter into research agreements with Chinese state-owned institutions to develop turbine technologies.

- *Three Indicted for Conspiracy to Steal Trade Secrets from Aircraft Companies.* On May 8, 2019, Gilbert Basaldua, Joseph Pascua, and Craig German were indicted for Conspiracy to Steal Trade Secrets, while Basaldua also has been indicted for Interstate Transportation of Stolen Property. The indictment alleged that all three men agreed to work on developing a product for a competitor company in return for a share of profits. In order to obtain FAA certification for the product, however, an icing wind tunnel testing plan needed to be developed. To shortcut the process of developing this plan, the indictment alleged that all three men agreed to steal trade secrets, including aircraft wing schematics and anti-ice testing documents, from aircraft companies in and outside of the Southern District of Georgia. On September 12, 2019, Craig German pleaded guilty to Conspiracy to Steal Trade Secrets. On November 7, 2019, a superseding indictment was returned adding a fourth defendant, Juan Martinez, to the charge of Conspiracy to Steal Trade Secrets.
- *Massachusetts Man and Semiconductor Company Indicted for Theft of Trade Secrets.* On June 14, 2019, an indictment was unsealed charging Haoyang Yu, a Chinese born naturalized U.S. citizen living in Lexington, Massachusetts, and a company, Tricon MMIC LLC, that Yu and his wife had established, in connection with stealing proprietary information from Yu's former employer, Analog Devices, Inc. (ADI), a semiconductor company headquartered in Norwood, Massachusetts. Yu was indicted on four counts of theft of trade secrets; four counts of copying, uploading, downloading, and attempted copying, uploading, and downloading of a trade secret; four counts of possession and attempted possession of a trade secret; and three counts of smuggling. Tricon MMIC LLC was also indicted on three counts of smuggling.
- *Federal Indictment Charges Software Engineer with Theft of Trade Secrets.* On July 10, 2019, an indictment returned in the Northern District of Illinois was unsealed charging a software engineer at a suburban Chicago locomotive manufacturer who stole proprietary information from the company and took it to China. Xudong Yao, also known as "William Yao," was charged with nine counts of theft of trade secrets. Yao has not yet been arrested. He is believed to be residing in China.
- *Texas Man Convicted of Conspiracy to Commit Theft of Trade Secrets.* On July 29, 2019, following a nine-day trial, Shan Shi, of Houston, Texas, was convicted of one count of conspiracy to commit theft of trade secrets. Shi originally was indicted in June 2017 for conspiracy to commit theft of trade secrets. A superseding indictment returned in April of 2018 added one count of conspiracy to commit economic espionage and one count of conspiracy to commit money laundering. Shi was acquitted on the latter two charges. Evidence introduced at trial established that Shi conspired with others to steal trade secrets from a Houston-based company, Trelleborg Offshore US, Inc., relating to syntactic foam, a strong, lightweight material with commercial and military uses that is essential for deep-sea oil and gas drilling. Four of Shi's codefendants—some of whom worked at Trelleborg—had pleaded guilty to conspiring to steal trade secrets, and two

testified as cooperating witnesses at trial. Shi sought to obtain information about syntactic foam for the benefit of CBM-Future New Material Science and Technology Co. Ltd. (CBMF), a Chinese company based in Taizhou, and for the ultimate benefit of the People's Republic of China. From 2014 to 2017, CBMF sent Shi's company in Houston approximately \$3.1 million from China in order to promote Shi's activity in the United States.

- *Former Uber Self-Driving Car Executive Indicted for Alleged Theft of Trade Secrets from Google.* Anthony Scott Levandowski of Marin County, California has been indicted on theft of trade secrets charges. The indictment was returned on August 15, 2019, and unsealed on August 26, 2019. The indictment alleges that Levandowski was a Google engineer and one of the founding members of the group that worked on Google's self-driving car project. Levandowski worked on the project from 2009 until he resigned from Google without notice on January 27, 2016. The indictment charges Levandowski with 33 counts of theft and attempted theft of trade secrets.
- *Russian and Italian Nationals Charged with Conspiring to Steal Trade Secrets From American Aviation Company.* On September 5, 2019, a criminal complaint was unsealed in the Southern District of Ohio, charging a Russian national and an Italian national with conspiring and attempting to steal trade secrets from an American aviation company. Alexander Yuryevich Korshunov, and Maurizio Paolo Bianchi, were charged by a criminal complaint on August 21, 2019. Korshunov was arrested on August 30, 2019 at Naples International Airport in Italy.

(3) Large-Scale Commercial Counterfeiting and Online Piracy

The Department continues to pursue significant, large-scale piracy and counterfeiting operations. In FY 2019, the Department has had a number of significant prosecutions, including those set forth below:

- *California Man Sentenced for Copyright Infringement.* On October 15, 2018, Craig M. Vincent, of Stockton, California, was sentenced to serve three years on federal probation for unlawfully selling copyrighted aviation data updates. On July 23, 2018, Vincent pleaded guilty in the District of Kansas to one count of criminal infringement of a copyright. In his plea, Vincent admitted he used eBay to resell aviation navigational database updates in violation of Jeppesen Company's licensing agreement for a trademarked product called NavData. Jeppesen is a Boeing subsidiary. Jeppesen's NavData includes airport information, runway characteristics, waypoints, arrival routes, departure routes, terminal procedures and general information that a Global Positioning System or flight management computer needs to navigate an airplane to final destination. Jeppesen sold NavData subscriptions to Kansas-based Garmin, Inc. Garmin received a commission from the sales of Jeppesen data sets. Doing business as Merlin Enterprises, Vincent sold NavData cards and required customers to return old data cards to him.
- *New York Woman Sentenced for Trafficking Over \$3 Million In Counterfeit Footwear And Handbags Through Port Of Newark.* On October 22, 2018, Xiao Xia Zhao, was

sentenced to 18 months imprisonment and three years of supervised release. Zhao had pleaded guilty, on May 23, 2018, to trafficking in counterfeit goods. In total, Zhao trafficked in thousands of pairs of fake Nike footwear, Louis Vuitton handbags, and other counterfeit items, with a total estimated retail value of over \$3 million. Zhao also paid individuals over \$75,000 in exchange for the delivery of the containers.

- *Queens Resident Sentenced to 30 Months' Imprisonment for Smuggling Counterfeit Apparel into the United States from China.* On November 2, 2018, Su Ming Ling, a resident of Queens, New York, was sentenced to 30 months' imprisonment and ordered to pay \$12,905.67 in restitution for one count of fraudulent importation and transportation of goods and one count of conspiracy to traffic in counterfeit goods. The charges arose out of Ling's participation in a scheme to import more than 200 shipping containers of counterfeit brand-name apparel from the People's Republic of China. In aggregate, the counterfeit apparel imported by the defendant and his co-conspirators between May 2013 and January 2017, if sold in the United States as genuine, would have retailed for an estimated \$297 million. Ling pleaded guilty to the charge on January 5, 2018. The 211 shipping containers Ling smuggled into the United States included counterfeit goods, such as Nike shoes, UGG boots and NFL jerseys. Ling also hired CBP-licensed customs brokers to file customs entry forms on behalf of the businesses whose identities he had stolen and provided those customs brokers with falsified shipping documents. The counterfeit goods were distributed to locations in Brooklyn, Queens and New Jersey, among other areas.
- *Three Puerto Rican Men Arrested on Federal Charges in Dish Network Services Piracy Scheme.* On November 2, 2018, an indictment was unsealed charging three Puerto Rican men after their arrest for their roles in a conspiracy to provide pirated DISH Network (DISH) services to thousands of Puerto Ricans. The three-count indictment charges Arnaldo Vazquez, aka "Naldo," aka "naldo.dish;" Awildo Jimenez, aka "Wildo," "joselo626," and "wildo20;" and Higinio Lamboy, aka "Ingi," with one count of conspiracy to circumvent protective systems, infringe copyrights and traffic in satellite decryption devices, one substantive count of trafficking in technology designed to circumvent technology copyright protection systems and one substantive count of circumventing a technological measure that protects a copyrighted work. The indictment alleges that the defendants used online chat forums to discuss their criminal enterprise, resolve technical problems related to their DISH piracy, and facilitate the payment for their criminal deeds and purchase of equipment needed to further their scheme.
- *Members of International Movie Piracy Ring Indicted in Scheme to Steal and Sell Pre-Release Hollywood Films and TV Shows.* On December 12, 2018, five men in four countries were charged alleging they distributed or offered for sale stolen digital versions of hundreds of motion pictures and television shows – including "Fifty Shades of Grey," "The Expendables 3," and "The Walking Dead" – prior to their official release. The charged defendants are: Malik Luqman Farooq, a resident of the United Kingdom; Aditya Raj, believed to reside in India; Sam Nhance, believed to reside in Dubai, United Arab Emirates; Ghobhirajah Selvarajah, believed to reside in Malaysia, and; Jitesh Jadhav, also believed to reside in India. The defendants used a shared PayPal account to receive and

distribute money from the sale of the pirated motion pictures, the indictment states. In February 2015, one of the defendants allegedly told a prospective buyer that the ring would be offering copies of the films “Kingsman: The Secret Service” and “Fifty Shades of Grey” for sale on the same day as their U.S. theatrical release. The co-conspirators are also alleged to have previously operated a website used to distribute pirated “Bollywood” films, known as “BollyTNT.”.

- *Chinese National Sentenced for Selling Counterfeit Computer Parts.* On February 15, 2019, Ruiyang Li, a Beijing, China, man was sentenced to federal prison for directing the shipment of counterfeit computer-networking equipment into the Southern District of Texas. Li was sentenced to serve 54 months in federal prison. The court also ordered restitution to the victims of Li’s trademark counterfeiting—including \$812,000 to Cisco Systems Inc., \$2,170,000 to the Hewlett-Packard Company and \$12,955.91 to Intel Corporation. Because Li is not a U.S. citizen, he is expected to face deportation proceedings after serving his prison sentence. Because counterfeit parts are often not subject to stringent manufacturing requirements, they present a significant health and safety risk to communities across the United States.
- *United States Files Complaint Seeking Forfeiture of Thousands of “Fashion Dolls” That Infringe on Mattel’s “Barbie” Copyright.* On April 25, 2019, it was announced that a civil forfeiture complaint was filed seeking to forfeit and recover approximately 21,852 fashion dolls that infringe a registered copyright owned by Mattel, Inc. According to the forfeiture complaint, the importer, Greenbrier International Inc. d/b/a Dollar Tree Inc., and Dollar Tree Distribution (“Greenbrier”) listed the contents of the shipping container as “Other Toys” on its manifest. Representatives of Mattel reviewed photographs of the fashion dolls and confirmed that they were unauthorized copies that infringed the “CEO Barbie” doll head copyright owned by Mattel, Inc. As alleged in the forfeiture complaint, in 2016, Greenbrier attempted to import 13,296 Mermaid fashion dolls that were seized at the border by CBP for infringement of the CEO Barbie head sculpt. In both instances, the counterfeit dolls originated from the same exporter/shipper located in Hong Kong.
- *Three Individuals Indicted in Conspiracy to Sell Counterfeit Apparel and Accessories.* On June 6, 2019, Zi Yu Zheng, Xiao Ling Wei, and Ling Wu Wei, all from Maryland, were indicted for trafficking in counterfeit goods through their operation of a retail store and warehouse used to sell apparel and accessories under unauthorized trademarks. The indictment alleges that the three individuals openly displayed the counterfeit merchandise in the retail store, while engaging in various security and counter-surveillance measures to prevent detection by law enforcement, including limiting access to their warehouse to individuals and customers they knew, prohibiting cell phones in the warehouse, and maintaining a secret showroom of counterfeit merchandise behind a false emergency door. According to the indictment, law enforcement penetrated the conspiracy through controlled purchases executed by confidential sources and an undercover agent.
- *New Orleans Man Sentenced To 3 Years’ Probation after Previously Pleading Guilty To Trafficking In \$193,980 Worth of Counterfeit Goods.* On June 25, 2019, Maher Salim, age a resident of New Orleans, Louisiana, was sentenced to three years of probation after

previously pleading guilty to trafficking in counterfeit goods, on February 12, 2019. According to court documents, Salim owned and operated BRANDS 4 LESS, a business located at 4200 Washington Avenue, Unit A, in New Orleans. During the search, agents seized numerous counterfeit goods Salim was selling that bore the false marks of makers of clothing and luxury goods, including True Religion, Rock Revival, Michael Kors, Coach, Louis Vuitton, Polo, Timberland, New Era, Nike, Adidas, Dolce & Gabbana, Mitchell & Ness, and North Face. The collective fair market value of all the items was approximately \$193,980.

- *Florida Attorney Sentenced to 60 Months in Prison for Multi-Million Dollar Pornography Film Copyright Fraud Scheme.* On July 9, 2019, John L. Steele, a Florida attorney was sentenced to 60 months in prison followed by two years of supervised release for his role in a multi-million dollar fraud scheme to obtain payments from extortion victims to settle sham copyright infringement lawsuits by lying to state and federal courts throughout the country. Steele, who pleaded guilty on March 6, 2017, was also ordered to pay restitution in the amount of \$1,541,527.37. According to his guilty plea and documents filed in court, between 2011 and 2014, Steele and his co-defendant Paul R. Hansmeier, both practicing lawyers, executed a scheme to obtain millions of dollars by threatening copyright lawsuits against individuals who allegedly downloaded pornographic movies from file-sharing websites. In total, Steele and Hansmeier obtained approximately \$3 million from the fraudulent copyright lawsuits.
- *Chinese National Sentenced to Over Three Years in Prison for Trafficking Counterfeit Apple Goods into the United States.* On July 30, 2019, a Chinese national living in the United States on a student visa was sentenced to 37 months in prison followed by one year of supervised release for his role in a scheme to traffic and smuggle counterfeit Apple products, including phony iPhones and iPads, from China into the United States. Jianhua “Jeff” Li, previously pleaded guilty in the District of New Jersey to one count of conspiracy to traffic in counterfeit goods and labels and smuggle goods into the United States and one count of trafficking in counterfeit goods. Over \$1.1 million in sales proceeds were wired from U.S. accounts into accounts Li controlled overseas. LaMarca, Becerra, and Volpe previously pleaded guilty to their respective roles in the scheme. LaMarca was sentenced July 21, 2017, to serve 37 months in prison. Becerra and Volpe were sentenced Oct. 15, 2018, to serve three years’ probation and 22 months in prison, respectively.
- *Eight Defendants Charged with Running Two of the Biggest Illegal Television Show And Movie Streaming Sites in the United States.* On August 27, 2019 a federal grand jury indicted eight defendants—Kristopher Lee Dallmann, Darryl Julius Polo a/k/a djppimp, Douglas M. Courson, Felipe Garcia, Jared Edward Jaurequi a/k/a Jared Edwards, Peter H. Huber, Yoany Vaillant a/k/a Yoany Vaillant Fajardo, and Luis Angel Villarino—for conspiracy to commit criminal copyright infringement. In addition, the grand jury charged Dallmann and Polo each with two counts of criminal copyright infringement by reproduction or distribution, two counts of criminal copyright infringement by public performance, and four counts of money laundering, and Polo with two additional counts of criminal copyright infringement by distributing a copyrighted work being prepared for

commercial distribution. The eight defendants ran a site called Jetflix, an online, subscription-based service headquartered in Las Vegas, Nevada that permitted users to stream and, at times, download copyrighted TV programs without the permission of the relevant copyright owners. On December 12, 2019, Polo pleaded guilty to multiple criminal copyright and money laundering charges, and on December 13, 2019, Villarino pleaded guilty to one count of conspiracy to commit copyright infringement.

- *Five Defendants Plead Guilty in Manhattan Federal Court to Multimillion-Dollar Counterfeiting Scheme.* On October 4, 2019, the last of five defendants pleaded guilty to a counterfeit goods conspiracy. On August 7, 2018, defendants Miyuki Suen, Jian Min Huang, Kin Lui Chen, Songhua Qu, and Fangrang Qu were arrested on charges of importing hundreds of thousands of athletic shoes from China into the United States. The defendants are each charged with one count of conspiring to traffic in counterfeit goods, and one count of trafficking in counterfeit goods. From at least in or about January 2016 up to and including in or about July 2018, the defendants imported at least 42 shipping containers holding an estimated more than 380,000 pairs of sneakers from China. Once these shoes arrived, the defendants added trademarked logos to the shoes, rendering them counterfeit. The estimated loss attributable to the defendants' efforts amounts to more than \$70 million. All five defendants entered pleas of guilty to the conspiracy count; Fangrang Qu on August 30, 2019; Suen on September 19, 2019; Songhua Qu on September 20, 2019; Huang on September 24, 2019; and Chen on October 4, 2019.
- *Fifteen Defendants Plead Guilty in Scheme to Smuggle Millions of Dollars of Counterfeit Luxury Goods From China Into the United States.* As of December 2019, fifteen defendants charged with smuggling millions of dollars in counterfeit luxury goods pleaded guilty in federal court. On August 16, 2018, six indictments and one criminal complaint were unsealed in federal court, charging a total of 22 defendants with illegally bringing into the United States millions of dollars of Chinese-manufactured goods by smuggling them through ports of entry on the East and West Coasts. All twenty-two defendants were arrested on charges, including conspiracy to traffic, and trafficking, in counterfeit goods; conspiracy to smuggle, and smuggling, counterfeit goods into the United States; money laundering conspiracy; immigration fraud and unlawful procurement of naturalization. The defendants played various roles in the trafficking of counterfeit goods manufactured in China, brought by ocean-going ships to the United States in 40-foot shipping containers, smuggled through ports of entry disguised as legitimate imports and distributed throughout the country. The counterfeit goods included items such as fake Louis Vuitton and Tory Burch handbags, Michael Kors wallets, Hermes belts and Chanel perfume. An additional eleven defendants were referred to the Queen's County District Attorney's Office for prosecution and were convicted in state court of related offenses.

Domestic Training

During the past fiscal year, the Department provided a number of training programs for federal, state, and local prosecutors and agents investigating IP crimes. These training courses covered a range of IP enforcement issues and were designed to increase coordination between

prosecutors and investigators as well as coordination among federal, state, and local law enforcement agencies. Examples of such training included:

- In October 2018, CCIPS presented at an Intellectual Property and Trade Enforcement Investigations course at the IPR Center in Arlington, Virginia, to approximately 30 HSI and CBP agents. The presentation covered relevant law and policy, provided practical guidance in counterfeit trademark investigations, and included a case study of *U.S. v. Peter Picone*, in which a defendant was convicted of selling counterfeit integrated circuits to the U.S. Navy for use in a nuclear submarine.
- In October 2018, NSD, with support from CCIPS, organized and led the annual NSCS Training in McLean, Virginia. The NSCS training builds on the technical skills covered by the annual CHIP conference to address the added complexity of working with classified information and issues related to the investigation, prosecution, and disruption of crimes impacting national security.
- In November 2018, CCIPS presented at a webinar arranged by and held at the U.S. Patent and Trademark Office for state prosecutors with the National District Attorneys Association (NDAA). The webinar provided an overview of criminal intellectual property laws, and CCIPS presented on best practices for criminal investigations and prosecutions of trademark violations.
- In March 2019, at the National Advocacy Center in Columbia, South Carolina, CCIPS hosted its annual conference and training for the Computer Hacking and Intellectual Property prosecutors (CHIPs) in each of the 93 U.S. Attorneys Offices and Main Justice Components. The conference provided CHIP prosecutors with the latest guidance on issues of electronic evidence gathering, digital forensics, computer crime, intellectual property crime, and related issues. More than 150 CHIPs attended the four day conference.
- In April 2019, CCIPS presented at an Intellectual Property and Trade Enforcement Investigations (IPTEI) course at the IPR Center in Arlington, Virginia, to approximately 30 HSI and CBP agents. The presentation covered relevant law and policy, provided practical guidance in counterfeit trademark investigations, and included a case study of *U.S. v. Peter Picone*, a defendant convicted of selling counterfeit integrated circuits to the U.S. Navy for use in a nuclear submarine.
- In April 2019, CCIPS presented its Intellectual Property Crimes Seminar at the National Advocacy Center to an audience of 80 prosecutors and federal agents. The Seminar provided in-depth instruction on investigating and prosecuting trafficking of counterfeit goods and services, criminal copyright infringement, and theft of trade secrets, along with electronic evidence gathering for IP cases. The IP Seminar was organized by CCIPS.
- In May 2019, CCIPS Attorneys addressed approximately 20 participants at the DOJ/OPDAT Resident Legal Advisor (“RLA”) School in Washington, DC. CCIPS’ and DOJ’s work on cybercrime, intellectual property, and electronic evidence issues in the United States and around the world were discussed.

- In June 2019, CCIPS presented at an Intellectual Property and Trade Enforcement Investigations (IPTEI) course at the IPR Center in Arlington, Virginia, to approximately 30 HSI and CBP agents. The presentation covered relevant law and policy, provide practical guidance in counterfeit trademark investigations, and include a case study of *U.S. v. Peter Picone*, a defendant convicted of selling counterfeit integrated circuits to the U.S. Navy for use in a nuclear submarine.
- In July 2019, at the U.S. Patent and Trademark Office in Alexandria, Virginia, CCIPS gave a presentation about dealing with trade secrets and economic espionage issues overseas at the annual State Department Foreign Service Institute intellectual property rights training course for Foreign Service officers and other State Department employees. The course included about a dozen officers assigned to posts in Egypt, Colombia, Romania, Azerbaijan, Suriname, and the U.S.
- On August 2019, CCIPS and an AUSA presented on the “Prosecutor’s Perspective” of intellectual property investigations and prosecutions to special agents with the Federal Bureau of Investigation. The presentation was part of the FBI’s Intellectual Property Rights Operations Public-Private Coordination Meeting in Chicago, Illinois.
- In August 2019, CCIPS presented at an Intellectual Property and Trade Enforcement Investigations (IPTEI) course at the IPR Center in Arlington, Virginia, to approximately 30 HSI and CBP agents. The presentation covered relevant law and policy, provide practical guidance in counterfeit trademark investigations, and include case studies of *U.S. v. Peter Picone* and *U.S. v. Rogelio Vasquez*, who were convicted of selling counterfeit integrated circuits to the military.
- During FY 2019, CCIPS addressed participants at multiple sessions of the DOJ/OPDAT Resident Legal Advisor (“RLA”) School in Washington, D.C. CCIPS spoke regarding CCIPS’ and DOJ’s work on cybercrime, intellectual property, and electronic evidence issues in the U.S. and around the world as well as the ICHIP Network.

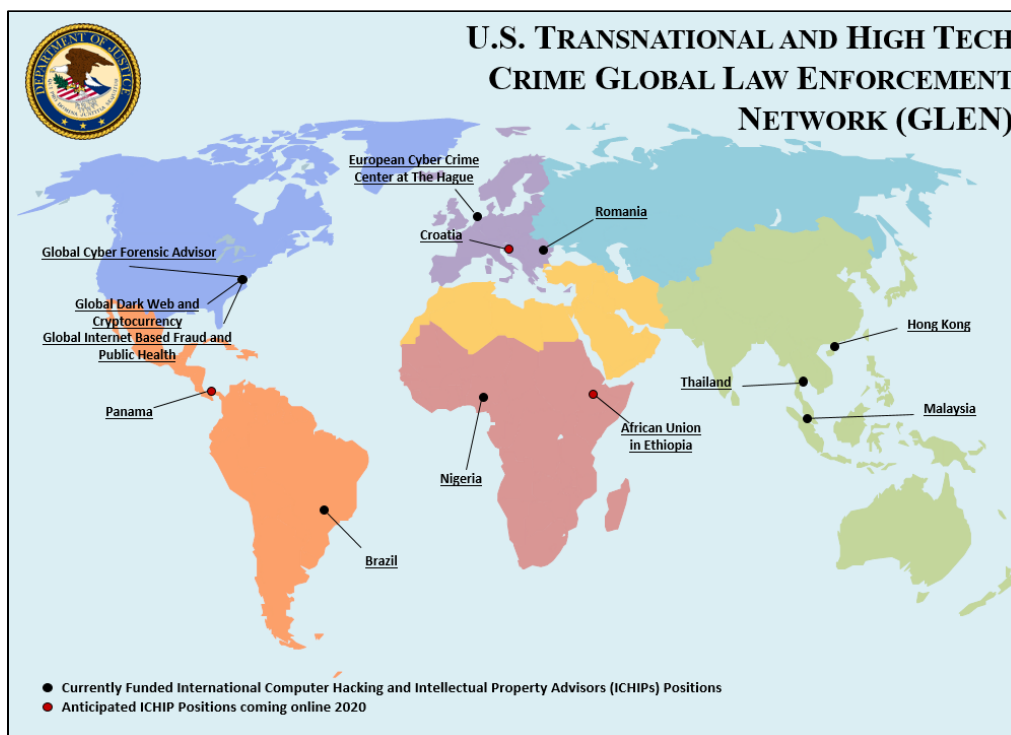
International Outreach and Training

Global IP crime, from the manufacture and worldwide distribution of counterfeit goods, to the sprawling online businesses designed to reap profits from the distribution of copyrighted works, continues to grow and change in an effort to stay ahead of law enforcement. As a world leader in efforts to combat criminal IP infringement, the Department actively seeks to develop training and technical assistance programs to assist other countries in effectively enforcing IP laws and reducing the trafficking of counterfeit and pirated goods. Despite budgetary constraints, in FY 2019, the Department worked extensively with its law enforcement counterparts around the world. The Department sought to engage foreign law enforcement through meetings of officials, ranging from the Attorney General to line attorneys and agents.

CCIPS and DOJ’s Office of Overseas Prosecutorial Development, Assistance and Training (“OPDAT”) worked with State Department grants and in cooperation with other United States agencies in FY 2019 to provide training to foreign officials on effective enforcement of IP

laws. The Department’s IP trainings are designed to increase cooperation between various law enforcement agencies with responsibility for IP offenses; to utilize various types of charges, including economic and organized crime statutes to combat IP crime; and to increase awareness amongst enforcement officials and the judiciary of the importance of reducing counterfeiting and piracy.

In FY 2019, the Department, with assistance from the State Department, continued to expand the U.S. Transnational and High Tech Crime Global Law Enforcement Network (“GLEN”) of International Computer Hacking and Intellectual Property (“ICHIP”) attorneys (formerly, the Intellectual Property Law Enforcement Coordinator (“IPLEC”) program). DOJ has now posted experienced prosecutors in Bucharest, Romania; Hong Kong; Sao Paulo, Brazil; Abuja, Nigeria; Bangkok, Thailand; Kuala Lumpur, Malaysia; and The Hague, Netherlands. The GLEN also now includes two ICHIPs based in Washington, D.C. to assist the regional ICHIPs with the subject matter areas of Global Dark Web and Cryptocurrency issues and Global Internet Based Fraud and Public Health issues. The GLEN also now includes a Global Cyber Forensic Advisor also based in Washington, D.C. In 2020, the GLEN will expand to include regional ICHIPs based in Panama City, Panama; Zagreb, Croatia; and Addis Ababa, Ethiopia.⁸



⁸ For more information about CCIPS’ international outreach, see <https://www.justice.gov/criminal-ccips/overseas-work>.

Examples of DOJ's international engagement regarding criminal IP enforcement include:

ASIA

Intellectual Property Training in Vietnam. In October 2018, CCIPS, along with the Hong Kong ICHIP; U.S. District Court Judge Berg; and DHS, participated in judicial exchange and training workshops in Hanoi and Ho Chi Minh City, Vietnam, focusing on criminal enforcement of intellectual property laws. Vietnam's national legislature enacted significant amendments to strengthen the country's criminal intellectual property laws. The program, organized by the Hong Kong ICHIP, is designed to assist Vietnam's Supreme People's Court in developing guidance for lower courts to implement these new changes to Vietnam's criminal laws, and to share best practices on IP enforcement with Vietnamese prosecutors, judges, and other officials.

Workshop for the Association of Southeast Asian Nations ("ASEAN") Members on Cyber-Enabled IPR. In October 2018, the Hong Kong ICHIP, in collaboration with the Kuala Lumpur ICHIP, presented a workshop in Singapore on cyber-enabled IPR crime for 32 police, prosecutors and IPR administrative officials from the ASEAN member states and Timor-Leste. The Singapore IP Academy, the Singapore IP Office, collaborated on the workshop under the auspices of the Third Country Training Programme, a joint initiative of Singapore and the U.S. to conduct capacity-building activities in Southeast Asia. CCIPS and HSI representatives also served as instructors at the workshop.

Follow-Up Meeting with Kazakhstan Minister of Justice. In November 2018, CCIPS and other U.S. government representatives met at the IPR Center in Arlington, Virginia with the Kazakhstan Minister of Justice to discuss intellectual property issues. This meeting followed up a previous discussion CCIPS had with the Minister last April on software piracy issues as well as other conversations with Ministry of Justice staff last spring and summer.

Presentation at USPTO's Pakistan Intellectual Property Judicial Exchange. In December 2018, CCIPS presented at the U.S. Patent and Trademark Office's Pakistan Intellectual Property Judicial Exchange. The audience consisted of 14 judges and attorneys who will be assigned to IP Tribunals in Pakistan. The five-day program, held at the Global Intellectual Property Academy in Alexandria, Virginia, is designed to provide a comprehensive overview of U.S. intellectual property law. CCIPS presented background, case studies and sentencing issues related to criminal copyright, trademark and trade secret investigations and prosecutions.

Colloquium on Civil and Criminal IP Infringement. In January and February 2019, the Bangkok ICHIP and the Hong Kong ICHIP participated as instructors at a "Judicial Colloquium on Civil and Criminal Infringement of Intellectual Property," for approximately 30 judges handling IPR cases from the Association of Southeast Nations (ASEAN) member states in Bangkok, Thailand. The USPTO Global Intellectual Property Academy (GIPA) and the ASEAN Secretariat co-sponsored the program. Three U.S. federal judges also participated as instructors. The ICHIPS led a discussion of the primary recurring issues in IP criminal prosecutions, such as proving a defendant's mental state, valuing IP-infringing goods and content, and protecting trade secrets during litigation.

Meetings with Chinese Officials on IPR Enforcement. In March 2019, the Hong Kong ICHIP traveled to Shanghai and Beijing, China for a series of meetings with government officials focused on IPR enforcement and private stakeholders. In Shanghai, the ICHIP attended an IPR forum organized by the Beijing-based DHH (Shanghai) law firm, and presented on criminal enforcement of trade secrets protection. In Beijing, the ICHIP and OPDAT China RLA met with prosecutors from the Haidian District Procuratorate, including the chief prosecutors from both its IPR and cybercrime sections. Also in Beijing, the ICHIP, RLA, and USPTO Beijing IP Attaché met with three prosecutors from the Supreme People’s Procuratorate.

Asia Regional Workshop Against Trade in Counterfeit Food, Beverages, Cosmetics and Fast Moving Consumer Goods. In April 2019, the Hong Kong ICHIP staged the “Asia Regional Workshop on Enforcement Against Trade in Counterfeit Food, Beverages, Cosmetics and Fast Moving Consumer Goods,” with primary co-sponsors USPTO and the Vietnam Ministry of Science and Technology, in Ho Chi Minh City, Vietnam. The workshop brought together approximately 75 police officers, prosecutors, customs officials and IPR policy-makers from Bhutan, Cambodia, China, the Commonwealth of the Northern Mariana Islands, Fiji, India, Indonesia, Laos, Malaysia, Mongolia, Myanmar, Nepal, Pakistan, Papua New Guinea, the Philippines, Qatar, Saudi Arabia, Sri Lanka, Thailand, Timor-Leste, Vanuatu and Vietnam – and over 50 presenters from Vietnam and the rest of Asia, the U.S., and Europe. The workshop included sessions on statutory approaches to IPR enforcement, tackling online trafficking of counterfeit goods, gathering intelligence and conducting IPR investigations, transnational cooperation to fight IPR crime, and several case studies from law enforcement and industry of international investigations and prosecutions involving counterfeit ingestibles and topicals. CCIPS participated in a number of panels, including ones tailored to combatting organized crime in counterfeiting, facilitating cooperation in the tackling of largescale counterfeit actors, and implementing deterrence-based strategies. The workshop culminated in a discussion of a whole-of-government approach to combatting counterfeit goods. In addition to participation from the Department of Justice and USPTO, representatives from the State Department, FBI, FDA, CBP, and DHS also contributed to the workshop.

Participation in International IP-Protection Workshops in Taiwan. In April 2019, Hong Kong ICHIP and CCIPS joined representatives from the U.S. judiciary, USPTO, DHS, and FBI in two day-long IP workshops in Taipei, Taiwan: Best Practices for Stemming Digital Piracy and Best Practices for Enforcement of Trade Secret Protection. The U.S. delegates joined representatives from the Taiwan Ministry of Justice, the American Institute in Taiwan, and members of the Taiwan Intellectual Property Court to discuss international best practices for protecting intellectual property. In advance of the workshops, the U.S. delegates spent three days meeting with various Taiwanese law enforcement and industry stakeholders to discuss pressing issues related to digital piracy and trade secret theft.

Cyber and IP Meeting with Kazakhstan Officials. In May 2019, CCIPS met in Washington, D.C., with six officials from Kazakhstan regarding combating cyber and intellectual property offenses. The officials came from the Prosecutor General’s Office, Ministry of Internal Affairs, Ministry of Defense, and Committee for National Security. Topics included cybercrime, cybersecurity, software piracy, and international cooperation.

Meeting with Law Enforcement Representatives from Taiwan. In May 2019, CCIPS and the Office of International Affairs (“OIA”) met at OIA’s offices with representatives of Taiwan’s law enforcement based in Washington to discuss common challenges faced in investigating and prosecuting intellectual property cases, and potential cooperation regarding investigation of online piracy.

Meeting with Delegation from Myanmar Regarding Electronic Evidence and IP Issues. In May 2019, CCIPS met with ten prosecutors from Myanmar to discuss cyber and intellectual property crimes, with a focus on how to investigate and prosecute cybercrime and best practices for organizing, storing, and sharing electronic evidence in court.

Regional Judicial Training Conference for Judges from Kazakhstan, the Kyrgyz Republic, Tajikistan, and Turkmenistan. In May 2019, CCIPS participated in a three-day training conference in Nur-Sultan, Kazakhstan for judges from four countries in Central Asia: Kazakhstan, the Kyrgyz Republic, Tajikistan, and Turkmenistan focusing on protection of IPR. USPTO organized the conference for approximately 20 judges in conjunction with the U.S. Embassy in Nur-Sultan and DOJ. CCIPS gave five presentations on various issues; led a discussion of a case study; played the prosecutor in a mock sentencing hearing; and also participated in additional panels and discussions. Other presenters included U.S. federal judges, and the U.S. Ambassador to Kazakhstan and Vice Minister of Justice of Kazakhstan also spoke at the conference.

Participation in Bangladeshi IP Roundtable. In May 2019, the Hong Kong ICHIP participated in a roundtable on IP issues and concerns in Dhaka, Bangladesh, organized by the USPTO Office of South Asia, and headlined by visiting U.S. Assistant Secretary of Commerce and Director General of the U.S. Foreign Commercial Service Ian Steff. The ICHIP offered suggestions on strengthen criminal enforcement of IP rights in Bangladesh.

Regional Workshop for ASEAN Member States. In June 2019, the Hong Kong ICHIP traveled to Bangkok, Thailand, where, along with the Bangkok Asia ICHIP and USPTO, he staged a regional workshop on IPR enforcement for prosecutors, attended by seven ASEAN member states. The Hong Kong Asia ICHIP moderated panels on IPR investigative methods, the nexus between IPR and organized crime, and statutory approaches to IPR enforcement. The Hong Kong ICHIP also created an interactive electronic evidence scenario which the participants used for mock evidentiary hearings.

Cyber/Digital Evidence Program for Thai Judges. In June 2019, the Kuala Lumpur ICHIP assisted with the organization and implementation of a Cyber/Digital Evidence program for 35 members of the Thai Judiciary co-organized with and hosted by the University of California, Berkeley, School of Law. The program was designed to strengthen the participant’s knowledge of cybercrime, intellectual property, digital evidence, and cybersecurity through lectures, site visits, and group discussions with U.S. judges.

Presentation to Visiting Chinese Delegation on IPR: In July 2019, CCIPS addressed a visiting group of Chinese government officials as well as private sector lawyers in Washington, D.C., on U.S. criminal enforcement of IP rights. The presentation was a part of the U.S. State Department's International Visitor Leadership Program.

Presentation to Mongolian Delegation on Criminal IP Issues. In September 2019, CCIPS addressed a Mongolian delegation from the Judicial General Council of Mongolia. CCIPS presented on DOJ's role in IP enforcement and on investigating and prosecuting IP crimes in the United States, and the group discussed the potential for future training opportunities.

NORTH AFRICA AND THE MIDDLE EAST

Meeting with United Arab Emirates Delegation on Intellectual Property and Other Issues. In March 2019, CCIPS met with a delegation from the United Arab Emirates ("UAE") headed by a Major General from the Dubai Police. The group included the leaders of the Emirates Intellectual Property Association; director of the UAE Trademarks Department; head of the UAE Brand Owners' Protection Group; head of Louis Vuitton Middle East; and an official from the UAE Embassy to the U.S. Discussion topics included UAE's implementation of the 2016 Combating Commercial Fraud law (which provides new powers to UAE authorities to seize and destroy illicit goods even within FTZs), customs best practices, internet piracy, sentencing in IPR cases, cybercrime and cybersecurity, and international law enforcement cooperation.

CENTRAL AND SOUTH AMERICA

Participation in International Anti-Counterfeiting Coalition Latin America Summit. In October 2018, the Brazil ICHIP participated in the second International Anti-Counterfeiting Coalition ("IACC") Latin America regional brand protection summit in Orlando, Florida. The Brazil ICHIP discussed trending issues in online and hard goods IPR enforcement as well as cross-border collaboration on cases and investigations with police, prosecutors, rights-holders, and customs agents from Argentina, Brazil, Uruguay, Paraguay, Honduras, Guatemala, El Salvador, Barbados, Trinidad, Suriname, Peru, and Costa Rica.

Presentation on Criminal Copyright Issues in Caribbean. In December 2019, the Brazil ICHIP Foreign Service National ("FSN") presented on criminal copyright infringement statutes and trends in digital piracy at the Caribbean College of Justice's annual conference in Kingston, Jamaica. The FSN addressed approximately 100 participants, mainly judicial officers, regarding the elements of criminal copyright statutes in the United States and trends in digital piracy, such as the growth of pirated Internet Protocol television (IPTV) devices, camcording, and websites that support illicit streaming.

"Going Dark" Conference in Brazil. In February 2019, the Brazil ICHIP and other DOJ colleagues attended the first-ever Going Dark conference in Brasilia. The conference focused on addressing emerging challenges to law enforcement posed by the growing use of encryption technologies to hinder the investigation and prosecution of a variety of crimes, particularly complex cyberattacks, terrorism, drug trafficking, online trademark and copyright infringement, and other transnational organized crime activity. Approximately 40 participants from Brazilian

local and federal law enforcement agencies attended the program as well as enforcement officials from other countries, including Australia, Belgium, France, Colombia, India, and Poland.

Training for Central American Judges. In March 2019, On March 4-6, the Brazil ICHIP trained approximately 40 judges drawn from around Central America in Tegucigalpa, Honduras, at a USPTO-sponsored regional enforcement program on best practices in presiding over civil and criminal IP litigation. The ICHIP covered the elements and penalties for trademark and copyright infringement in the U.S. and how police and prosecutors investigated these crimes and gathered powerful electronic evidence in these cases to present to judges and juries. The ICHIP also explained the criteria prosecutors use to arrive at deterrent but fair sentences in these cases and also highlighted the value of additional charges like conspiracy and money laundering in these cases.

IP Training Conference for Argentinian Law Enforcement Officials. In April 2019, CCIPS participated in a three-day USPTO-sponsored training conference in Buenos Aires, Argentina, for approximately 65 Argentinian judges, prosecutors, police, gendarmerie, customs officers, airport police, coast guard officers, intelligence analysts, and other officials focusing on protection of intellectual property rights. Other speakers included the U.S. ambassador to Argentina, the national director of investigations at the Argentinian Ministry of Security, the national director of international cooperation at the Ministry of Security, and experts from the USPTO, DHS, FBI, Virginia State Police, and the Argentinian private sector.

Participation in USPTO Regional IPR Workshop in Panama. In April 2019, CCIPS participated at a USPTO-sponsored IPR seminar in Panama City, Panama. The seminar was co-sponsored by various Panamanian ministries and the World Customs Organization. In two sessions, CCIPS spoke on criminal enforcement of intellectual property rights in the United States and on the use of electronic evidence for valuation in IP cases.

Regional Training Program on Digital Piracy. In May 2019, the Brazil ICHIP, CCIPS, and the USPTO trained approximately 50 prosecutors and police from Colombia, Chile, and Peru, at a regional program on digital piracy in Bogota, Colombia. The Motion Picture Association of America and the Recording Industry Association of America led industry presentations during the program. Presenters described different internet platforms used to facilitate digital piracy, including peer-to-peer networks and pirate apps and services available for download to Internet Protocol Television set top boxes (IPTV). Participants learned how to use different open source tools to investigate pirate websites as well as to preserve and analyze electronic evidence from digital devices. Foreign counterparts also provided case studies detailing their successes and challenges in investigating and prosecuting cases of digital IPR crime.

Latin American Workshop on Cyber-Enabled IPR Crime. In May 2019, CCIPS participated in a Digital Piracy Workshop on Challenges and Best Practices for Prosecutors and Police in Bogota, Colombia. The workshop was organized by the Brazil ICHIP and the USPTO. The workshop trained police and prosecutors from various Latin American countries on a variety of topics, including general IP enforcement, methods for valuation, IP crimes committed through online forums, investigative techniques, undercover operations, and digital forensics. Various rights

holders and regional stakeholders also addressed how to more effectively work with industry to protect IP rights.

Electronic Evidence Training for Cyber-Enabled IP Crime. In June 2019, at a program in Santiago, Chile, the Brazil ICHIP and CCIPS trained approximately 60 Chilean police and prosecutors on the handling of electronic evidence in cybercrime investigations, including cyber-enabled IP crime. Representatives from Facebook/Instagram and Uber participated in a panel for providers to share their insights on collaboration with law enforcement, especially on requests for overseas data. The program included a practical tabletop exercise on locating a target of a crime using open source applications, third-party data, and traditional methods of investigation.

Meeting with Delegation from Latin America on IP, Trade, and Investment Issues. In June 2019, CCIPS met in Washington, D.C., with 11 government officials and private sector representatives from Bolivia, Colombia, Ecuador, Guatemala, Honduras, Mexico, and Uruguay regarding intellectual property, trade, and investment issues in the United States and Latin America. The delegation learned about the U.S. perspective on a number of trade issues as part of the State Department's International Visitor Leadership Program.

EUROPE

Meetings with Delegation from Austrian Ministry of Justice. In November 2018, CCIPS spoke with a delegation from the Austrian Minister of Justice as one of several presenters discussing the role of the Criminal Division and specific components. CCIPS discussed how CCIPS functions in conjunction with the USAOs, other DOJ sections, and international counterparts to combat cyber and intellectual property crime. The meetings was hosted by Deputy Assistant Attorney General Bruce Swartz and also included presentations from the Money Laundering and Asset Recovery Section and Fraud Section.

Container Security Workshop for European Countries. In November 2018, the Romania ICHIP, in partnership with Southeast European Law Enforcement Center, organized a container security workshop for law enforcement from Albania, Bosnia and Herzegovina, Bulgaria, Greece, Hungary, Macedonia, Moldova, Montenegro, Romania, Serbia, Turkey, Cyprus, Georgia and Ukraine. The first day of the program consisted of classroom activities with interactive presentations focused on container training, identification and interdiction of counterfeit goods, new technology used to track containers around the world, investigation and prosecution of IPR cases. In addition to the ICHIP, the instructors included personnel from HSI, CBP, Michigan State University, and industry representatives. On the second day, representatives from Romanian Customs and Romanian Police representatives delivered presentations, and attendees visited the Romanian Border Police Headquarters where the General Inspector of the Romanian Border Police spoke to the group. Following the presentation, attendees viewed a live demonstration at their center for border surveillance of the System for Surveillance and Control of the Maritime Traffic on the Black Sea (SCOMAR) and several databases and tools used in their daily activities.

IP Criminal Enforcement Training for Romanian Police Academy. In March 2019, the Romania ICHIP organized a two-day “Introduction to IP Criminal Enforcement” training for students at the Romanian Police Academy. The audience consisted of 600 future police officers who will be deployed across Romania after graduating from the Academy. The program was designed to increase awareness and enthusiasm for identifying and investigating intellectual property crimes, and included case studies by the Romania ICHIP as well as a Romanian prosecutor-investigator team specializing in complex internet piracy cases. In addition, EUIPO and USPTO presenters addressed the importance of intellectual property rights and the policy reasons behind robust intellectual property enforcement.

Europol Anti-Piracy Seminar in The Hague. In March 2019, the Romania ICHIP presented at the Anti-Piracy Seminar organized by Europol and the International Federation of the Phonographic Industry in The Hague, Netherlands. The seminar covered all aspects of modern piracy prevention and enforcement, including new technologies in the arenas of torrent sites, cyber lockers, linking or referral sites, and stream ripping. The Romania ICHIP addressed cooperation between law enforcement and industry as well as open source investigative methods available to resource-strapped law enforcement actors.

Regional Workshops on Cyber-Enabled IP Crime. In May 2019, the Romania ICHIP team organized back-to-back workshops in Romania and Hungary. The workshops, entitled “New Developments in Computer-Facilitated Intellectual Property Crimes” convened law enforcement and judiciary representatives from across the two countries. The program addressed IP crime trends, cryptocurrency issues, financial investigations, international legal assistance and cooperation, and electronic evidence issues. The Romania ICHIP team and USPTO Brussels had a follow-up meeting with the Romanian Vice Prime Minister on the development of a National IP Strategy. The Romania ICHIP team also organized in partnership with the Romanian Football Federation (FRF), a half-day conference “Reach for Gold: IP and Sports” at the FRF Headquarters to celebrate World Intellectual Property Day. High-level Romanian officials participated in the program, which highlighted the positive role that IP enforcement plays with respect to the sports industry and also addressed the continued challenge of making IP enforcement a priority in Romania.

SUB-SAHARAN AFRICA

IP Meeting with Nigerian Officials. In October 2018, CCIPS met with a seven-person delegation from Nigeria (including officials from their food & drug agency, consumer protection council, trademark office, and a prosecutor) in Washington, D.C. to discuss U.S. criminal enforcement of Intellectual Property rights. OPDAT facilitated the meeting, which was a part of the U.S. State Department’s International Visitor Leadership Program.

Meeting with IPR Stakeholders. In October 2018, the Nigeria ICHIP traveled to Kenya and Botswana for numerous meetings. In Kenya, the ICHIP met with several IPR stakeholders, including representatives from the Kenya Copyright Board; Anti-Counterfeit Agency, a dynamic interagency IP enforcement group in Kenya; Kenya Pharmacy and Poisons Board; INTERPOL; Office of the Attorney General and Department of Justice; and Office of the Director of Public Prosecutions. In Botswana, the ICHIP met with representatives from the Botswana Medicines

Regulatory Authority; Narcotics Bureau of the Botswana Police; Botswana Companies and Intellectual Property Authority; Department of Public Prosecutions; Customs Department; and local and international pharmaceutical companies as well as U.S. Embassy officials and International Law Enforcement Academy (“ILEA”) staff.

Eastern and Southern Africa Workshop on Pharmaceutical Crimes. In November 2018, the Nigeria ICHIP organized the Eastern and Southern Africa Workshop to Build Enforcement Capacity and Improve Regional Coordination in Combatting Pharmaceutical Crimes, held at the ILEA in Gaborone, Botswana. Representatives from Botswana, Zambia, Namibia, Kenya, Tanzania, Malawi, Rwanda, and Uganda attended the program, and participants included police, prosecutors, health regulatory officials, gendarmerie, investigative magistrates, and customs officials. In addition to the ICHIP team, workshop instructors included personnel from HSI, the Southern District of Florida, a prosecutor’s office in Kenya, INTERPOL, and the pharmaceutical industry.

USPTO IPR Program for Sub-Saharan Africa. In April 2019, the Nigeria ICHIP, together with two U.S. Federal Judges; USPTO; the Africa Regional Intellectual Property Organization (ARIPO); and Embassy Gaborone, organized and led a USPTO-sponsored Intellectual Property Rights (IPR) capacity-building program for judges and lawyers from 13 sub-Saharan Africa nations. This workshop sparked judges’ eagerness to acquire more IPR education and prompted from them numerous ideas and suggestions for next steps. The ICHIP, USPTO, and ARIPO will assist the development of a regional IPR judicial resource/toolkit/manual for sub-Saharan Africa, create a repository for decided IPR cases in sub-Saharan Africa to be lodged with ARIPO, and aid in developing a formal IPR network of judges. This collaborative workshop served to raise IPR awareness, begin a definitive process for enhancing IPR capacity among sub-Saharan African judges, and start the process of developing a cohort of African judges competent in IPR enforcement.

World Intellectual Property Day Event. In May 2019, the Nigeria ICHIP worked with the Embassy’s Public Affairs Section to highlight the importance of IP enforcement in Nigeria and the United States. The Rosa Parks American Center, in collaboration with the Economic Section, hosted approximately 70 young Nigerian entrepreneurs in honor of World Intellectual Property Rights Day. The program commenced with a film screening entitled “The First 20 Million Is Easy.” After the movie, a Nigerian entrepreneur led a discussion on how intellectual property impacts entrepreneurs. The Nigeria ICHIP advised the group of pending legislation in Nigeria to strengthen IP enforcement and, as part of the discussion, also highlighted the importance of IP to the United States.

Regional IP Workshop for Prosecutors and Law Enforcement. In May 2019, the Nigeria ICHIP organized the “Regional Train-the-Trainers Intellectual Property Enforcement Workshop for Police Instructors and Prosecutors” at the ILEA in Gaborone, Botswana. The ICHIP coordinated with the World Intellectual Property Organization (WIPO), the African Regional Intellectual Property Organization (ARIPO), and CCIPS in conducting the program. Law enforcement and prosecution representatives from Lesotho, Sierra Leone, Liberia, Malawi, the Gambia, Zambia, Mozambique, Botswana, and Nigeria attended and participated actively in the program.

Presentation at Botswana-based International Law Enforcement Academy. In May 2019, the Africa ICHIP organized the “Regional Train-the-Trainers Intellectual Property Enforcement Workshop for Police Instructors and Prosecutors” at the ILEA in Gaborone, Botswana, in coordination with the World Intellectual Property Organization (WIPO) and the African Regional Intellectual Property Organization (ARIPO). CCIPS participated in the program, and presented on the following topics: overview of the United States’ approach to IP enforcement; elements of trademark counterfeiting and copyright/internet piracy; charging considerations and prosecutorial decisions; introduction to computer crimes and digital evidence; and collection and preservation of digital evidence.

ICHIP Conference on Counterfeit Pharmaceuticals and Pesticides. In June 2019, the Africa ICHIP organized the “Workshop to Build Enforcement Capacity and Improve Coordination in Combatting Pharmaceutical Crimes & Illicit Pesticides.” The program took place in Dakar, Senegal and included law enforcement officials from francophone nations including Senegal, the Republic of Congo, Chad, Burundi, Guinea, Côte D’Ivoire, Democratic Republic of the Congo, Gabon, Mali, Mauritania, and Morocco. Presenters, including a CCIPS attorney, discussed regional legal challenges to enforcement, identification of counterfeit products, and models to better combat the trade in counterfeit and illicit pharmaceuticals and pesticides.

Presentation at Intellectual Property Symposium. In September 2019, the Africa ICHIP organized the “Intellectual Property Symposium: The Bane of Counterfeit Pharmaceuticals and Piracy,” hosted in Lagos, Nigeria, which was sponsored by the Nigerian National Agency for Food and Drug Administration and Control (NAFDAC) in coordination with the United States Embassy – Nigeria and the Africa ICHIP. The symposium’s theme was building respect for intellectual property rights as a strategic resource for economic growth, and the symposium focused on the threats of fake drugs on the continent of Africa and the financial impact of copyright piracy on both the national economy and innovators. CCIPS participated in the event, and presented on U.S. counterfeit medicine case scenarios and facilitated a panel discussion on best practices for investigating and prosecuting counterfeit drug cases as well as collaborating with both industry and law enforcement partners.

Presentation at African Regional Workshop. In September 2019, the Africa ICHIP organized the “African Regional Workshop on Cybercrime, National Cyber Security, and Internet Piracy,” hosted in Lagos, Nigeria, and sponsored by U.S. Department of State’s Bureau of International Narcotics and Law Enforcement.. The workshop addressed building an understanding of online crimes and electronic evidence, the development of national cyber security policy and strategies, internet piracy investigations, and the Budapest Convention. CCIPS participated in the workshop, and presented on internet piracy criminal enforcement, digital evidence in piracy prosecutions, cybercrime, and cyber self-defense.

Outreach to the Private Sector

The Department continues to reach out to the victims of IP crimes in a wide variety of ways, including during the operational stages of cases and through more formal training programs and conferences. For example, in FY 2019, CCIPS organized and planned its Twelfth Annual IP Industry and Law Enforcement Meeting held in Washington, D.C, in October 2018. The yearly meeting provides representatives from a broad range of industries with an opportunity to communicate directly with the law enforcement agents and prosecutors most responsible for federal criminal enforcement of IP law at the national level. This year, Assistant Attorney General Brian Benczkowski provided keynote remarks, and several senior DOJ and law enforcement officials participated in the meeting. Approximately 100 government and industry representatives attended the meeting, including senior representatives from a broad range of industries such as pharmaceuticals, software, luxury goods, electronics, apparel, motion pictures, music, consumer goods, and automobiles.

In the past year, the Criminal Division's high-level officials and CCIPS attorneys, as well as the Civil Division's Consumer Protection Branch attorneys, have also presented at a variety of domestic and international conferences, symposia, workshops, and events attended by IP rights holders and law enforcement officials. These events included, among others:

- In October 2018, CCIPS presented at Michigan State University's Center for Anti-Counterfeiting and Product Protection (A-CAPP) Brand Protection Strategy Summit on a panel entitled "What Everyone Ought to Know about the Relationship of Counterfeiting with Other Crimes." The panelists discussed the overlap between intellectual property crimes and other crimes such as fraud, forced labor, and human trafficking, in addition to the role that intellectual property crimes play in financing transnational organized crime and terrorist networks. National IPR Center, Western Union, and Michigan State University representatives also served on the panel.
- In October 2018, CCIPS and the District of Connecticut U.S. Attorney's Office provided a trade secret theft and economic espionage briefing for Raytheon Company in Waltham, Connecticut. The attendees included Raytheon's in-house counsel, outside counsel, IT specialists, and engineers. The briefing addressed various topics including the elements of the criminal trade secret theft and economic espionage statutes, how to satisfy the statutes' reasonable measures prong, best practices for protection of trade secrets when collaborating with other military contractors, and data rights ownership when military contractors are working with the government. Defense Criminal Investigative Service and the District of Massachusetts' CHIP AUSA participated in the program as well.
- In October 2018, CCIPS took part in a panel discussion in New York City addressing the U.S. government's role in copyright enforcement. CCIPS joined representatives of DOJ's Civil Division and the U.S. Copyright Office to address an audience of approximately 400 representatives of the entertainment and copyright content industries. CCIPS addressed the role of CCIPS and the CHIP Network and the process of investigating and prosecuting criminal copyright cases.

- In November 2018, CCIPS and the IPR Center co-hosted a half-day meeting of the Counterfeit Microelectronics Working Group to discuss ways to detect and prevent distribution of counterfeit microelectronics in the U.S. supply chain. The meeting included speakers from CBP – Office of Trade, Underwriters Laboratories, the Air Force Office of Special Investigations, and a presentation from a CCIPS Attorney. Approximately 60 industry, government, and law enforcement representatives attended.
- In November 2018, CCIPS presented at the Annual Meeting of the IP Law Section of the California Lawyers Association, known as the 43rd Annual Intellectual Property Institute in San Jose, California. CCIPS addressed *United States v. Sinovel* and working with Department of Justice to fight cybercrime and intellectual property crime. More than 200 intellectual property attorneys were in attendance.
- In December 2018, CCIPS spoke at an event hosted by the International Trademark Association and Global Intellectual Property Center, entitled “What You Need to Know about Counterfeit Products During the Holiday Shopping Season: A Congressional Briefing and Conversation over Lunch.” CCIPS’ presentation focused on how CCIPS works with prosecutors, agents, rights holders, and other stakeholders to deter trafficking in counterfeit goods and services. Approximately 70 members of the public attended the briefing.
- In March 2019, CCIPS participated in a panel discussion in Washington, D.C., at the Federal Circuit Bar Association’s event entitled “Key Issues Shaping the U.S. IP Landscape.” The panel focused on U.S. government agencies’ views regarding IP as a driver for innovation, and CCIPS specifically addressed DOJ’s efforts and priorities with respect to IP criminal enforcement. Other panelists included USPTO and Federal Trade Commission (FTC) representatives.
- In April 2019, CCIPS presented at a round table discussion at the University of California Berkeley Law School entitled “Tech, Trade and China: A Progress Report One Year Into the Trade War.” CCIPS discussed the Department’s China Initiative, and efforts to address trade secret theft and trafficking in counterfeit goods through criminal enforcement and international engagement. Presenters included representatives of U.S. agencies, U.S. and Chinese legal practitioners, and experts in technology and international trade.
- In April 2019, CCIPS participated in a working group convened as part of Operation Body Armor at the National IPR Coordination Center in Crystal City, Virginia. The working group included representatives from several major companies in the personal care products industry and federal law enforcement agents from around the country. This day-long meeting sought to foster communication between industry and law enforcement and encourage cooperation within and among the industries. CCIPS gave the working group an overview of DOJ’s role in this and similar efforts, including an explanation of CCIPS’ interaction with U.S. Attorney’s Offices around the country and law enforcement around the world, the primary criminal IP offenses CCIPS prosecutes, and the criminal referral process as well as resources for victims of IP crimes.

- In May 2019, CCIPS presented at an annual meeting of the Michigan IP Law Association. The presentation provided an overview of the latest cyber and IP threats. The presentation also covered the importance of attorneys developing relationships with law enforcement in advance of a cyber incident or IP theft, as well as the importance of alerting law enforcement as soon as possible after an incident does occur. In addition, the presentation addressed common concerns and misconceptions associated with involving law enforcement in these matters.
- In May 2019, CCIPS and the IPR Center co-hosted a one-day meeting of the Counterfeit Microelectronics Working Group at the IPR Center, to discuss ways to detect and prevent distribution of counterfeit microelectronics in the U.S. supply chain. CCIPS, in conjunction with the IPR Center and industry partners, organized the meeting. The IPEC provided keynote remarks, and the meeting included speakers from Customs and Border Protection – Office of Trade, the U.S. Postal Service, the Cybersecurity and Infrastructure Agency, as well as presentations from NSD CES. Approximately 75 industry, government, and law enforcement representatives attended.
- In July 2019, CCIPS presented at the Symposium on Counterfeit Parts and Materials in College Park, Maryland. The Symposium, organized by the Surface Mount Technology Association (SMTA) and the Center for Advanced Life Cycle Engineering (CALCE), included an audience of over 90 representatives in academia, manufacturing, technology, law, government and military. CCIPS presented a case study of *United States v. Rogelio Vasquez* and discussed the challenges faced in federal prosecutions involving counterfeit integrated circuits.
- In July 2019, CCIPS participated on a panel entitled “Where Did All the Files Go?: Investigating, Prosecuting, Defending Data Theft Cases.” An NSD CES attorney and two private sector employees served as co-panelists. The panel addressed U.S. laws currently in place to protect trade secret information, trade secret and economic espionage enforcement priorities and trends, and best practices for reporting trade secret theft to U.S. law enforcement.
- In August 2019, CCIPS presented at an international security conference hosted by ASIS International in Sunnyvale, California. CCIPS’ presentation focused on working with the Department of Justice to prevent, respond to, and deter theft of trade secrets and cybercrime. More than 250 business leaders and cybersecurity professionals attended the conference.
- In September 2019, CCIPS presented at the 24th Annual Fraud and Anti-Counterfeiting Conference in Toronto, Canada. CCIPS participated on a panel discussing and promoting cooperation between government and industry, and addressed the role of CCIPS, the ICHIP attorneys and the CHIP Network in combatting counterfeit goods. The conference included approximately 150 attendees from industry, law enforcement and other government personnel.

- In September 2019, CCIPS presented at the USPTO symposium “Trending Issues in Trade Secrets: 2019.” CCIPS, NSD CES, and FBI addressed selected issues in criminal trade secret prosecutions. CCIPS and the District of Kansas discussed notable trade secret theft cases they have prosecuted. Approximately 80 in-person attendees and approximately 300 remote attendees, consisting primarily of law firm and in-house practitioners and subject-matter experts, participated in the symposium.
- In September 2019, CCIPS presented on a panel discussion alongside FBI and HSI representatives entitled “Counterfeits and the Dark Web Distribution and Supply Chain,” at Michigan State University’s (MSU’s) Brand Protection Strategy Summit. The panelists provided an overview of the role of dark web markets as a means to buy and sell counterfeit products among other illicit goods and services. CCIPS also participated in a “Spark Table,” which was designed to showcase the U.S. federal, state and local government resources available relevant to brand protection professionals’ efforts to combat counterfeiting.
- In September 2019, CCIPS spoke at the 23rd Annual Conference of the Bar Association of the Eastern District of Texas. CCIPS participated on two panels – one addressing the relevant factors when considering federal prosecution for trademark infringement, and another on best practices for defining and protecting trade secrets in civil and criminal litigation. The conference included over 500 attendees from industry, government and private practice.
- Throughout FY 2019, DOJ CHIP AUSAs presented at multiple China IP Road Shows across the U.S., sponsored by the USPTO. With the China IP Road Shows, the USPTO is partnering with a variety of organizations across the country — including universities, USPTO regional offices, business groups, state and local governments, and other federal agencies — to present a series of one-day events that delve into the details of how to better protect IP in China. These one-day events bring to local businesses and stakeholders the expertise and knowledge of the USPTO’s China specialists as well as that of special invited guests, and have been tailored to address the needs of the specific locale in which it is held.

The Department maintains two websites that, among other things, provide the public with information on the Department’s IP enforcement efforts, assist victims in understanding where and how to report an IP crime, and provide guidance on case referrals. Those sites can be found at <https://www.justice.gov/iprf> and <https://www.cybercrime.gov>. The National IPR Center also has a website where the public can report IP theft. That site can be found at <https://www.iprcenter.gov>.

Several years ago, NSD placed additional focus on the protection of national assets from the threats of nation states, including economic espionage and trade secret theft. These changes included creating a new Deputy Assistant Attorney General position focusing on protecting national assets. Pursuant to this increased focus over the last several years, NSD leadership and other attorneys have reached out to senior managers and counsel at hundreds of companies over the last year to educate them about the Department’s resources and efforts to combat economic

espionage and trade secret theft and other national security threats. These outreach efforts have included presentations at universities and think tanks, cybersecurity summits and roundtable discussions, as well as one-on-one meetings with senior executives at Fortune 500 and other companies. The NSCS Network also periodically disseminated talking points and other resources to its members nationwide to facilitate their outreach to companies and other organizations in their home districts and facilitated FBI field offices' efforts to educate AUSAs on the national security threats in their districts and to include them in FBI's outreach efforts in their districts.

China Initiative

On November 1, 2018, former Attorney General Sessions announced the Department-wide China Initiative in order to emphasize the Department's strategic priority of countering Chinese national security threats, consistent with the Administration's national security strategy. The Initiative is comprised of the Assistant Attorney General (AAG) for National Security, the AAG for the Criminal Division, five United States Attorneys, and the Executive Assistant Director of the Federal Bureau of Investigation's (FBI's) National Security Branch, who collectively form the Initiative Steering Committee ("the Committee"). The AAG for National Security serves as Chair of the Committee.

The goal of the Initiative is to disrupt and deter Chinese "economic aggression," a government-sponsored effort that employs both licit and illicit tactics to obtain and transfer U.S. intellectual property for the benefit of Chinese commercial and military interests. To respond to Chinese economic aggression, the Initiative members were tasked with: (1) identifying priority economic espionage and trade secret theft cases, ensuring that the cases are adequately resourced, and bringing them to fruition in a timely manner, consistent with the facts and the law; (2) developing an enforcement strategy concerning Non-Traditional Collectors (i.e. researchers in labs, universities, government contractors, etc.) that are being coopted into transferring technology from the United States; (3) supporting outreach efforts by U.S. Attorney's offices throughout the country, to inform corporations and research institutions in their districts about the risk posed to U.S. intellectual property; (4) addressing supply chain and other threats to critical infrastructure, with a particular emphasis on telecommunications/5G, including by ensuring the effective implementation of the Foreign Investment Risk Review Modernization Act of 2018; (5) disrupting soft power influence efforts on university campuses and elsewhere, both through the application of the Foreign Agents Registration Act, where feasible, and through outreach to civil society and academia; and (6) evaluating whether there is a need for additional legislative, administrative, law enforcement, or other tools to protect national assets.

(a)(7)(C) Investigative and Prosecution Activity of the Department with Respect to IP Crimes

In addition to the examples of successful prosecutions listed above, there are of course numerous of other worthy cases that could be cited. As demonstrated by the cases highlighted above, the Department has sought to increase the quality and scope of its investigations and prosecutions over the past years. Numerical statistics do not adequately convey the quality or complexity of these prosecutions, but they provide some insight into the effectiveness and impact

of the Department’s prosecution efforts. Accordingly, we have provided the chart below that contains statistics for FY 2019, listing the number of defendants and cases charged, the number of defendants sentenced, and the length of those sentences.⁹ Section 404(b) of the PRO IP Act also requests statistics on the number of arrests made. Please see the Annual Report of the Federal Bureau of Investigation, provided pursuant to Section 404(c) of the PRO IP Act, for an accounting of arrest statistics.

| District Totals | FY 2019 |
|--|---------|
| Investigative Matters Received by AUSAs | 162 |
| Defendants Charged | 89 |
| Cases Charged | 57 |
| Defendants Sentenced | 55 |
| No Prison Term | 26 |
| 1-12 Months | 14 |
| 13-24 Months | 4 |
| 25-36 Months | 5 |
| 37-60 Months | 5 |
| 60 + Months | 1 |

⁹ Case statistics were compiled by the EOUSA. The chart includes data on criminal cases/defendants where the following charges were brought as any charge against a defendant: 17 U.S.C. § 506 (criminal copyright infringement); 17 U.S.C. §§ 1201 to 1205 (circumvention of copyright protection systems); 18 U.S.C. §§ 1831 (economic espionage) & 1832 (theft of trade secrets); 18 U.S.C. § 2318 (counterfeit labeling); 18 U.S.C. § 2319 (criminal copyright infringement); 18 U.S.C. § 2319A (live musical performance infringement); 18 U.S.C. § 2319B (unauthorized recording of motion pictures); 18 U.S.C. § 2320 (trafficking in counterfeit goods); and 47 U.S.C. §§ 553 & 605 (signal piracy). The statutes were grouped together to eliminate double-counting of cases and/or defendants where more than one statute was charged against the same defendant. However, this chart may not include cases or defendants if only a conspiracy to violate one of these offenses was charged.

In addition, the chart below details FY 2019 statistics for criminal IP cases broken down by type of charge.¹⁰

| Charge | Cases charged | Percentage |
|--|---------------|-------------|
| Trademark <i>Trafficking in counterfeit goods, 18 U.S.C. § 2320</i> | 31 | 48% |
| Copyright <i>Criminal copyright infringement, 17 U.S.C. § 506; 18 U.S.C. § 2319</i> | 14 | 22% |
| <i>Counterfeit labels, 18 U.S.C. § 2318</i> | 1 | 2% |
| <i>DMCA, 17 U.S.C. § 1201</i> | 2 | 3% |
| Economic Espionage Act <i>Economic espionage, 18 U.S.C. § 1831</i> | 2 | 3% |
| <i>Theft of trade secrets, 18 U.S.C. § 1832</i> | 14 | 22% |
| Total | 64 | 100% |

(a)(7)(D) Department-Wide Assessment of the Resources Devoted to Enforcement of IP Crimes

The Criminal Division currently devotes fourteen full-time attorneys, along with paralegals and support staff, in CCIPS to IP issues. CCIPS also provides substantial support to the IPR Center, assigning at least one attorney, and sometimes more, to help identify and de-conflict investigative leads, as well as develop and execute national enforcement initiatives.

The CHIP Network consists of AUSAs who are specially trained in the investigation and prosecution of IP and computer crimes. Every U.S. Attorney’s Office has at least one CHIP attorney, and those districts that have historically faced the highest concentration of IP and high-tech crimes tend to have multiple CHIP attorneys.

Over the last year, more than twenty NSD attorneys have worked on hacking investigations (most of which involve the theft of information, including but not limited to trade secrets) and economic espionage investigations. As described above, the NSCS Network consists of more than 100 AUSAs and attorneys at Department headquarters who receive specialized annual training in the investigation and prosecution of national security cyber offenses, including the theft of IP and other information.

Under the ICHIP program (formerly known as the IPLEC program), DOJ has had a Department attorney stationed in Bangkok, Thailand, since January 2006 to handle IP issues in

¹⁰ EOUSA compiled the statistics for number of cases charged broken down by IP statute. These statistics may not reflect cases where only a conspiracy to violate one of these offenses was charged, and there may be double-counting of cases where more than one statute was charged in the same case.

Asia. Between November 2007 and March 2011, a separate DOJ attorney was stationed in Sofia, Bulgaria, in order to handle IP issues in Eastern Europe. While funding for this position expired in 2011, DOJ has worked with the Department of State to post a DOJ attorney in Bucharest, Romania since 2015 to continue to handle IP issues in that region. DOJ also expanded its ICHIP program in FY 2015 by placing a DOJ attorney in Brasilia, Brazil, for a six-month term. With the assistance of the State Department, DOJ expanded the ICHIP program in FY 2016 by posting new regional ICHIPS in Hong Kong and Sao Paulo, Brazil. In FY 2017, the State Department and DOJ prepared to field a new ICHIP position in Abuja, Nigeria. The Nigeria ICHIP deployed in October 2017. Most recently, in FY 2019, the State Department and DOJ added new regional ICHIP positions in Kuala Lumpur, Malaysia, and The Hague, Netherlands, two new ICHIP Advisors based in Washington, D.C. with the subject matter expertise in Global Dark Web and Cryptocurrency issues and Global Internet Based Fraud and Public Health issues, and a Global Cyber Forensic Advisor also based in Washington, D.C. In 2020, the ICHIP Network will expand to include regional ICHIPS in Panama City, Panama; Zagreb, Croatia; and Addis Ababa, Ethiopia. This will bring the total number of ICHIPS to twelve, plus one Global Cyber Forensic Advisor.

In addition to evaluating digital evidence, the CCIPS Cybercrime Lab technicians have provided extensive training on the use of digital forensics tools in IP cases to law enforcement audiences around the world.

IP enforcement is also an integral part of the mission of four sections of the Department's Civil Division: the Intellectual Property Section, the National Courts Section, the Consumer Protection Branch, and the Civil Appellate Staff. Through the Civil Division's Intellectual Property Section, the Department brings affirmative cases when United States' IP is infringed, including Uniform Domain-Name Dispute-Resolution Policy proceedings where domain owners have used trademarks owned by the United States in a manner that is likely to confuse the public. The National Courts Section initiates civil actions to recover various penalties or customs duties arising from negligent or fraudulent import transactions, many of which include importation of counterfeit goods. The National Courts Section also defends CBP enforcement of the ITC's Section 337 exclusion orders at the Court of International Trade; these orders are an important tool for patent enforcement. The Consumer Protection Branch conducts civil and criminal litigation under the Food, Drug, and Cosmetic Act, including prosecuting counterfeit drug and medical device offenses and assisting AUSAs throughout the country with their counterfeit pharmaceutical and device cases. Finally, the Civil Appellate Staff represents the United States in copyright and trademark cases in the courts of appeals, including participating as an amicus or intervenor in private IP litigation involving important government interests and defending decisions of the Copyright Office and the U.S. Patent and Trademark Office against constitutional and statutory challenges.

(a)(8) Efforts to Increase Efficiency

“(8) A summary of the efforts, activities, and resources that the Department of Justice has taken to—

(A) minimize duplicating the efforts, materials, facilities, and procedures of any other Federal agency responsible for the enforcement, investigation, or prosecution of intellectual property crimes; and

(B) enhance the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute intellectual property crimes, including the extent to which the Department has utilized existing personnel, materials, technologies, and facilities.”

The Department works hard to ensure the effective use of limited resources devoted to fighting IP crime. One of the most important ways to reduce duplication of effort is to ensure that law enforcement agencies are pursuing unique case leads, and that prosecutors are not following prosecution strategies that duplicate those in other districts. To that end, CCIPS continues to provide ongoing support to the IPR Center in Arlington, Virginia. Among other things, the IPR Center serves as an investigation clearinghouse for FBI, ICE-HSI, CBP, FDA, and other agencies. CCIPS also works closely with the CHIP Network to assist in coordinating national prosecution initiatives. Along similar lines, NSD works closely with the NSCS Network to assist in coordinating national prosecution initiatives designed to counter the national security cyber threat. Department attorneys will continue to work with the IPR Center and the National Cyber Investigative Joint Task Force to identify and de-conflict investigative leads, as well as assist the CHIP and NSCS Networks to ensure that investigations and prosecutions are streamlined, not duplicated, and that charges are brought in the appropriate venue.

INTELLECTUAL PROPERTY CASES FY2019

COPYRIGHT / PRE-RELEASE / CAMCORDING / COUNTERFEIT LABELS (17 U.S.C. § 506, 18 U.S.C. §§ 2319, 2318)

- ***Eight Defendants Charged with Running Two of the Largest Illegal Television Show and Movie Streaming Services in the United States.*** On August 27, 2019, eight individuals were charged with conspiring to violate federal criminal copyright law by running two of the largest unauthorized streaming services in the United States, resulting in the loss of millions of dollars by television program and motion picture copyright owners. According to the indictment, Kristopher Lee Dallmann, 36; Darryl Julius Polo, aka djppimp, 36; Douglas M. Courson, 59; Felipe Garcia, 37; Jared Edward Jaurequi, aka Jared Edwards, 38; Peter H. Huber, 61; Yoany Vaillant, aka Yoany Vaillant Fajardo, 38; and Luis Angel Villarino, 40, allegedly ran an entity called Jetflixs, an online subscription-based service headquartered in Las Vegas, Nevada, that permitted users to stream and, at times, download copyrighted television programs without the permission of the relevant copyright owners. The defendants reproduced tens of thousands of copyrighted television episodes without authorization, and distributed the infringing programs to tens of thousands of paid subscribers located throughout the U.S. One of the defendants, Polo, left Jetflixs and created a competing site based in Las Vegas called iStreamItAll (ISIA) that at one point claimed to have 115,849 different television episodes and 10,511 individual movies. Like Jetflixs, ISIA offered content for a regular subscription fee to viewers around the United States, and ISIA publicly asserted that it had more content than Netflix, Hulu, Vudu and Amazon Prime. (EDVA, CCIPS, FBI)
<https://www.justice.gov/opa/pr/eight-defendants-charged-running-two-largest-illegal-television-show-and-movie-streaming>
- ***Members of International Movie Piracy Ring Indicted in Scheme to Steal and Sell Pre-Release Hollywood Films and TV Shows.*** On December 12, 2018, five men in four countries were charged alleging they distributed or offered for sale stolen digital versions of hundreds of motion pictures and television shows – including “Fifty Shades of Grey,” “The Expendables 3,” and “The Walking Dead” – prior to their official release. The charged defendants are: Malik Luqman Farooq, 30, a resident of the United Kingdom; Aditya Raj, believed to reside in India; Sam Nhance, believed to reside in Dubai, United Arab Emirates; Ghobhirajah Selvarajah, believed to reside in Malaysia, and; Jitesh Jadhav, also believed to reside in India. According to the indictment, members of the hacking conspiracy broke into computer systems used by Hollywood film production companies and stole digital files, including feature films, trailers, television series episodes, and audio tracks. The ring allegedly put the stolen files on a server in France, which contained more than 25,000 motion picture-related files. The defendants also illicitly acquired copies of films by other means, including recording cinema screenings and obtaining copies of motion pictures distributed to movie industry professionals, according to the indictment, which outlines criminal conduct beginning in early 2013 and continuing into the spring of 2015. Once they obtained the movies and other content, the defendants allegedly altered the properties of the computer files to make them easier to distribute online. The co-conspirators are also alleged to have

previously operated a website used to distribute pirated “Bollywood” films, known as “BollyTNT.” (CDCA, HSI, Police IP Crime Unit – London)

<https://www.justice.gov/usao-cdca/pr/members-international-movie-piracy-ring-indicted-scheme-steal-and-sell-pre-release>

- ***Pennsylvania Woman Charged with Copyright Infringement for Reproducing and Selling Copies of TV Shows and Movies.*** On October 23, 2018, Sherry Collingwood, 60, of New Kensington, Pennsylvania, was charged on one-count of copyright infringement. According to the indictment, from January 2014, and continuing thereafter until March 2017, the defendant willfully infringed the copyright of one or more copyrighted works, including "Blue Bloods," "Vikings," "Dexter," "True Blood," "Breaking Bad," and "Californication," and other television shows and motion pictures that have been released for sale to the public. (WDPA, HSI)
<https://www.justice.gov/usao-wdpa/pr/new-kensington-woman-charged-copyright-infringement-reproducing-and-selling-copies-tv>
- ***California Man Sentenced for Copyright Infringement.*** On October 15, 2018, Craig M. Vincent, 51, of Stockton, California, was sentenced to serve three years on federal probation for unlawfully selling copyrighted aviation data updates. On July 23, 2018, Vincent pleaded guilty in the District of Kansas to one count of criminal infringement of a copyright. In his plea, Vincent admitted he used eBay to resell aviation navigational database updates in violation of Jeppesen Company’s licensing agreement for a trademarked product called NavData. Jeppesen is a Boeing subsidiary. Jeppesen’s NavData included airport information, runway characteristics, waypoints, arrival routes, departure routes, terminal procedures and general information that a Global Positioning System or flight management computer needs to navigate an airplane to final destination. Jeppesen sold NavData subscriptions to Kansas-based Garmin, Inc. Garmin received a commission from the sales of Jeppesen data sets. Doing business as Merlin Enterprises, Vincent sold NavData cards and required customers to return old data cards to him. (DKS, FBI)
<https://www.justice.gov/usao-ks/pr/california-man-pleads-guilty-copyright-infringement>
<https://www.justice.gov/usao-ks/pr/california-man-sentenced-copyright-infringement>

DIGITAL MILLENNIUM COPYRIGHT ACT (17 U.S.C. §§ 1201, 1204)

- ***Three Puerto Rican Men Arrested on Federal Charges in Dish Network Services Piracy Scheme.*** On November 2, 2018, an indictment was unsealed charging three Puerto Rican men after their arrest for their roles in a conspiracy to provide pirated DISH Network (DISH) services to thousands of Puerto Ricans. The three-count indictment charges Arnaldo Vazquez, 41, aka “Naldo,” aka “naldo.dish;” Awildo Jimenez, 36, aka “Wildo,” “joselo626,” and “wildo20;” and Higinio Lamboy, 46, aka “Ingi,” with one count of conspiracy to circumvent protective systems, infringe copyrights and traffic in satellite decryption devices, one substantive count of trafficking in technology designed to circumvent technology copyright protection systems and one substantive count of circumventing a technological measure that protects a copyrighted work. The indictment describes Vazquez and Jimenez as owners and operators of a company that provided the pirated services to customers who paid a monthly cash fee to receive copyrighted content delivered from DISH satellites and

identifies Lamboy as their salesman and repairman for the hardware that they provided to their customers. The indictment further describes a complex scheme to steal the copyrighted content for financial gain through the interception of encrypted DISH signals that were distributed to paying DISH customers and decrypted through DISH-issued hardware. (DPR, CCIPS, FBI)

<https://www.justice.gov/opa/pr/three-puerto-rican-men-arrested-federal-charges-dish-network-services-piracy-scheme>

TRAFFICKING IN COUNTERFEIT GOODS (18 U.S.C. § 2320)

- ***Fifteen Defendants Plead Guilty in Scheme to Smuggle Millions of Dollars of Counterfeit Luxury Goods From China Into the United States.*** As of December 2019, fifteen defendants charged with smuggling millions of dollars in counterfeit luxury goods pleaded guilty in federal court. On August 16, 2018, six indictments and one criminal complaint were unsealed in federal court, charging a total of 22 defendants with illegally bringing into the United States millions of dollars of Chinese-manufactured goods by smuggling them through ports of entry on the East and West Coasts. All twenty-two defendants were arrested on charges, including conspiracy to traffic, and trafficking, in counterfeit goods; conspiracy to smuggle, and smuggling, counterfeit goods into the United States; money laundering conspiracy; immigration fraud and unlawful procurement of naturalization. The defendants played various roles in the trafficking of counterfeit goods manufactured in China, brought by ocean-going ships to the United States in 40-foot shipping containers, smuggled through ports of entry disguised as legitimate imports and distributed throughout the country. The counterfeit goods included items such as fake Louis Vuitton and Tory Burch handbags, Michael Kors wallets, Hermes belts and Chanel perfume. An additional eleven defendants were referred to the Queen’s County District Attorney’s Office for prosecution and were convicted in state court of related offenses.

(EDNY, CCIPS, HSI, CBP, NYPD, DA)

<https://www.justice.gov/opa/pr/22-charged-smuggling-millions-dollars-counterfeit-luxury-goods-china-united-states>

- ***Pinellas County Man Pleads Guilty to Trafficking in Counterfeit Sports Jerseys.*** On October 29, 2019, Thomas Walker, 74, of Clearwater pleaded guilty to trafficking in counterfeit sports jerseys. According to the plea agreement and facts presented at the plea hearing, Walker owned and operated a business called “Tim’s Sports Cards Plus,” which he operated from a booth at the Oldsmar Flea Market. Among the items sold were numerous sports jerseys bearing the counterfeit trademarks of sports leagues, including the National Football League (NFL), the National Hockey League (NHL), and Major League Baseball (MLB). On January 27, 2017, federal law enforcement agents went to Walker’s booth at the Oldsmar Flea Market, spoke with him, and seized 699 jerseys that were for sale and bearing counterfeit NFL marks. The agents also went to Walker’s home and seized over 1,500 additional counterfeit jerseys from all three purported sports leagues. During an interview with agents, Walker admitted that he had purchased the counterfeit jerseys from a supplier located in China. (MDFL, HSI)

<https://www.justice.gov/usao-mdfl/pr/pinellas-county-man-pleads-guilty-trafficking-counterfeit-sports-jerseys-0>

- ***Lead Defendant Admits Trafficking in Counterfeit Goods.*** On September 10, 2019, Carlos Enrique Velázquez-Gines pleaded guilty to three counts of trafficking in counterfeit goods. On March 7, 2018, Velázquez-Gines, Mayra Evelise Gines-Otero, Noriam Ivette Flores-Deleon, and Vanessa Marrero-Hernández, were charged in the District of Puerto Rico with mail and wire fraud conspiracy, mail fraud, trafficking in counterfeit goods, introducing misbranded articles into interstate commerce, distribution of a controlled substance, international money laundering, and smuggling. According to the indictment, from at least on or about October 3, 2013, defendants purchased from overseas suppliers located in China, and imported into the United States, dietary supplements, latex condoms, and cosmetics that were counterfeit and/or misbranded under the Federal Food, Drug, and Cosmetic Act. Defendants marketed and sold the products through “online stores” on platforms such as eBay.com and Bonanzo.com. Marrero-Hernández pleaded guilty on October 2, 2018, and Flores-Deleon pleaded guilty on October 18, 2018. (DPR, FDA, ICE-HSI, USPIS, CBP, PR-Treasury Dept.)
<https://www.justice.gov/usao-pr/pr/four-individuals-indicted-trafficking-counterfit-goods>
- ***Revere Man Sentenced For Trafficking Counterfeit Goods.*** On August 13, 2019, Paul G. Adri, 34, was sentenced to three months of home confinement, two years of supervised release, and ordered to pay a \$7,500 fine. In April 2019, Adri pleaded guilty to trafficking in counterfeit goods bearing counterfeit trademarks of, among others, Adidas, Nike, MLB, NFL, and NBA. He was charged in December of 2018. Adri imported counterfeit goods from Hong Kong and China and sold them on eBay. Adri ignored two separate notices from U.S. Customs and Border Protection relating to his illegal counterfeiting activities. (DMASS, HSI)
<https://www.justice.gov/usao-ma/pr/revere-man-charged-counterfeit-goods-and-services>
<https://www.justice.gov/usao-ma/pr/revere-man-pleads-guilty-trafficking-counterfeit-goods-0>
<https://www.justice.gov/usao-ma/pr/revere-man-sentenced-trafficking-counterfeit-goods>
- ***Two Mexican Nationals Sentenced to Five Years’ Probation for Trafficking in Counterfeit Goods by Operating Counterfeit Airbag Business in Albuquerque.*** On August 13, 2019, two Mexican nationals were sentenced to serve five years each for operating a counterfeit airbag business out of their residence in Albuquerque, New Mexico. Dina Gonzalez-Marquez, 24, and Emilio Gonzalez-Marquez, 22, were indicted in April of 2017 on charges that they conspired to traffic in counterfeit goods from January 2015 to March 2017, by operating a business that sold counterfeit airbag modules and airbag covers out of their Albuquerque residence. According to the indictment, they facilitated the conspiracy by listing and selling counterfeit airbag modules and airbag covers online, shipping the counterfeit goods to purchasers, and conducting in-person sales of the counterfeit goods. (DNM, HSI)
<https://www.justice.gov/usao-nm/pr/mexican-nationals-plead-guilty-trafficking-counterfeit-goods-operating-counterfeit-airbag>
- ***Chinese National Sentenced to Over Three Years in Prison for Trafficking Counterfeit Apple Goods into the United States.*** On July 30, 2019, a Chinese national living in the United States on a student visa was sentenced to 37 months in prison followed by one year of

supervised release for his role in a scheme to traffic and smuggle counterfeit Apple products, including phony iPhones and iPads, from China into the United States. Jianhua “Jeff” Li, 44, previously pleaded guilty in the District of New Jersey to one count of conspiracy to traffic in counterfeit goods and labels and smuggle goods into the United States and one count of trafficking in counterfeit goods. According to documents filed in this case and statements made in court, from July 2009 through February 2014, Li, working through his company Dream Digitals, conspired with Andreina Becerra, Roberto Volpe, Rosario LaMarca and others to smuggle and traffic into the United States from China more than 40,000 electronic devices and accessories, including iPads and iPhones, along with labels and packaging bearing counterfeit Apple trademarks. Li shipped the devices separately from the labels to avoid detection by U.S. Customs and Border Protection officials. The devices were then shipped to conspirators all over the United States. Proceeds were funneled back to conspirator accounts in Florida and New Jersey via structured cash deposits and then a portion was transferred to conspirators in Italy, further disguising the source of the funds. Over \$1.1 million in sales proceeds were wired from U.S. accounts into accounts Li controlled overseas. LaMarca, Becerra, and Volpe previously pleaded guilty to their respective roles in the scheme. LaMarca was sentenced July 21, 2017, to serve 37 months in prison. Becerra and Volpe were sentenced Oct. 15, 2018, to serve three years’ probation and 22 months in prison, respectively. (DNJ, CCIPS, HSI)

<https://www.justice.gov/opa/pr/four-individuals-charged-importing-and-trafficking-counterfeit-apple-and-sony-technology>

<https://www.justice.gov/opa/pr/member-conspiracy-import-and-traffic-counterfeit-electronic-products-sentenced> <https://www.justice.gov/opa/pr/chinese-national-pleads-guilty-conspiracy-and-trafficking-counterfeit-apple-goods-united>

<https://www.justice.gov/opa/pr/chinese-national-pleads-guilty-conspiracy-and-trafficking-counterfeit-apple-goods-united>

<https://www.justice.gov/opa/pr/chinese-national-sentenced-over-three-years-prison-trafficking-counterfeit-apple-goods-united>

- ***New Orleans Man Sentenced To 3 Years Probation after Previously Pleading Guilty To Trafficking In \$193,980 Worth of Counterfeit Goods.*** On June 25, 2019, Maher Salim, age 41, a resident of New Orleans, Louisiana, was sentenced to three years of probation after previously pleading guilty to trafficking in counterfeit goods, on February 12, 2019. According to court documents, Salim owned and operated BRANDS 4 LESS, a business located at 4200 Washington Avenue, Unit A, in New Orleans. On about November 9, 2016, HSI agents conducted a cargo inspection of a suspicious package addressed to Salim at the DHL Express facility in Kenner, Louisiana. The package contained 32 pairs of Nike shoes that were determined to be counterfeit. Thereafter, a Nike representative entered BRANDS 4 LESS during its business hours and purchased another pair of counterfeit Nike shoes. Based on this information, HSI agents executed a federal search warrant on BRANDS 4 LESS on January 19, 2017. During the search, agents seized numerous counterfeit goods Salim was selling that bore the false marks of makers of clothing and luxury goods. The collective fair market value of all the items was approximately \$193,980. (EDLA, HSI)
<https://www.justice.gov/usao-edla/pr/new-orleans-man-charged-trafficking-counterfeit-goods>
<https://www.justice.gov/usao-edla/pr/new-orleans-man-pleads-guilty-trafficking-193980-worth-counterfeit-goods>

<https://www.justice.gov/usao-edla/pr/new-orleans-man-sentenced-3-years-probation-after-previously-pleading-guilty>

- ***U.S. District Judge Issues Arrest Warrant for Fugitive Charged with Smuggling Counterfeit Goods into The U.S.*** On June 24, 2019, a federal arrest warrant was issued for the arrest of Lixiong Chen, also known as John Chen, a defendant in an eighteen-count superseding indictment who failed to appear at what was supposed to be the first day of a jury trial. On April 25, 2019, a federal grand jury returned a superseding indictment charging Chen, 45, a citizen of China, with conspiracy, trafficking in counterfeit goods, and smuggling goods into the United States. According to court documents, the government intended to prove that over the course of at least six years, the defendant illegally imported and sold small electronics, such as power adapters, that bore counterfeit trademarks. The criminal trial in Chen's case was scheduled to begin on June 24. Nevertheless, on Sunday, June 23, Chen's counsel filed a document with the Court stating, "defense counsel has just learned that Defendant Lixiong Chen will not be present for Court tomorrow morning, June 24, 2019, at 9 am." Documents submitted to the court in anticipation of the trial describe the case against Chen. While residing in China, Chen operated businesses, known as CBK Auto, CBK Holdings, CBK Wholesale, CBK USA, bestcompu.com, and Silicon Electronics, among other names, through employees in the United States. Chen's various businesses sold millions of dollars in electronic goods each year through online platforms such as Amazon and eBay. The government alleges that a significant percentage of Chen's business involved the sale of counterfeit goods. (NDCA, CBP, HSI)
<https://www.justice.gov/usao-ndca/pr/us-district-judge-issues-arrest-warrant-fugitive-charged-smuggling-counterfeit-goods-us>
- ***Wholesaler Admits to Conspiracy to Manufacture and Sell Counterfeit Goods to The U.S. Military & Government.*** On June 13, 2019, Ramin Kohanbash, 49, pleaded guilty to charges related to his participation in a conspiracy that sold more than twenty million dollars worth of Chinese-made counterfeit goods to the United States military, government purchasers, and companies that supply the U.S. Government. Among the items that Kohanbash and others arranged to counterfeit were 200 military parkas of a type used by U.S. Air Force personnel stationed in Afghanistan. These parkas were falsely represented to be genuine Multicam®, a fabric which incorporates specialized near-infrared management technology designed to make the wearer more difficult to detect with equipment such as night-vision goggles. Other items carried labels that made explicit, and false, representations about the product's safety. In one case, labels on counterfeit hoods intended for military and law enforcement personnel stated that the items were "permanently flame resistant," and that they met a specific industry standard for flame-resistant attire. In reality, the counterfeit hoods were not flame resistant. Kohanbash admitted to the Court that he and others provided, reviewed, and approved photographs, descriptions, and samples of tags and labels to be attached to the knockoff products, so that the counterfeit versions appeared legitimate. Trademarks and brand names of actual U.S.-made products were added to the foreign counterfeit versions to make them appear legitimate. The goods were shipped from China to Kohanbash and sold to other wholesalers who ultimately marketed and sold the knock-off products to military and government buyers as genuine, American-made products. Under two U.S. laws known as The Berry Amendment and the Trade Agreements Act ("TAA"), goods sold to the military

and certain other government buyers are required to be manufactured in the United States and certain other designated countries; China is not one of those countries. In order to sell the counterfeit goods, Kohanbash provided wholesalers who did business with the government with false certification letters claiming that the goods were made in the U.S., and therefore complied with the Berry Amendment. In other instances, Kohanbash falsely represented that the goods met TAA requirements. (DRI, GSA, DCIS, Army-CID, AF-OSI)

<https://www.justice.gov/usao-ri/pr/wholesaler-admits-conspiracy-manufacture-and-sell-counterfeit-goods-us-military>

- ***Indictment: Counterfeit Oxycodone Pills Contained Fentanyl Instead.*** On June 12, 2019, a federal indictment was unsealed charging Anthony Stokes, 32, from South Deerfield, Massachusetts with five counts of distributing fentanyl and five counts of selling counterfeit drugs. The indictment alleges the crimes took place during December 2018 through February 2019 in Wyandotte County, Kansas. The indictment alleges Stokes sold 114 tablets with counterfeit identifying marks belonging to Mallinckrodt Pharmaceuticals. The tablets contained more than 14.6 grams of fentanyl. (DKS, FDA, USPIS, DEA, local police departments)
<https://www.justice.gov/usao-ks/pr/indictment-counterfeit-oxycodone-pills-contained-fentanyl-instead>
- ***Three Individuals Indicted In Conspiracy to Sell Counterfeit Apparel and Accessories.*** On June 6, 2019, Zi Yu Zheng, 57, Xiao Ling Wei, 56, and Ling Wu Wei, 50, all from Maryland, were indicted for trafficking in counterfeit goods through their operation of a retail store and warehouse used to sell apparel and accessories under unauthorized trademarks. According to the indictment, the three individuals operated a retail store, The Guang Da Group, and a warehouse in Northeast, D.C., from which they sold counterfeit clothing, shoes, jewelry, handbags, and other accessories that were virtually indistinguishable from legitimate merchandise produced by designer companies such as Burberry, Chanel, Gucci, Louis Vuitton, Michael Kors, Nike, Polo, Ralph Lauren, Rolex, North Face, and Timberland. The defendants kept a filing cabinet of logos trademarked by these companies, which they attached to apparel and accessories sold from their warehouse and The Guang Da Group retail store. The indictment alleges that the three individuals openly displayed the counterfeit merchandise in the retail store, while engaging in various security and counter-surveillance measures to prevent detection by law enforcement, including limiting access to their warehouse to individuals and customers they knew, prohibiting cell phones in the warehouse, and maintaining a secret showroom of counterfeit merchandise behind a false emergency door. According to the indictment, law enforcement penetrated the conspiracy through controlled purchases executed by confidential sources and an undercover agent. (DDC, HSI)
<https://www.justice.gov/usao-dc/pr/three-individuals-indicted-conspiracy-sell-counterfeit-apparel-and-accessories>
- ***Two Sentenced for Buying and Selling Counterfeit Airbags.*** On May 28, 2019, David Nichols, 69, of Marysville, OH, convicted of conspiracy to traffic in counterfeit air bags, was sentenced to serve one year in prison and ordered to pay \$75,846 in restitution. Previously, on May 9, 2019, co-defendant Raymond Whelan, 49, of Cheektowaga, NY, was sentenced to serve 24 months in prison for conspiracy to traffic in air bags. From August 2015 through

March 2016, Nichols and Raymond imported and sold counterfeit automobile air bags from China. Since Nichols lived in China at the time, he was responsible for locating manufacturers that would produce the counterfeit air bags at the lowest cost. Nichols imported approximately 364 counterfeit automobile air bags from China that were subsequently sold as a genuine air bags to unsuspecting customers over the internet. On May 9, 2019, Whelan who was convicted of conspiracy to traffic in counterfeit goods, was sentenced to serve 24 months in prison. Between June 2015 and March 2016 Whelan operated an online automobile parts business known as Rayscarparts71.com. From this website Whelan sold counterfeit automobile air bags bearing counterfeit trademarks of Honda, Toyota, Nissan, Subaru, Mazda, Hyundai, Acura, and Mitsubishi. The counterfeit air bags Whelan sold were obtained from co-defendant Nichols. In order to avoid detection during importation, the airbags were mislabeled or arrived unassembled. Whelan would then assemble the air bags before selling them even though he had little to no knowledge on how to do so. The air bags were listed on eBay as genuine used airbags designed to fit Honda, Toyota, Nissan, Subaru, Mazda, Hyundai, Acura, and Mitsubishi. During the investigation, multiple undercover purchases were made from Rayscarparts71 and airbags were seized from the defendant's business. Whelan imported and sold more, approximately 360 counterfeit automobile airbags, with an average manufacturer's retail price of \$650.00. The total infringement amount was \$236,600. (WDNY, HSI, CBP)

<https://www.justice.gov/usao-wdny/pr/two-men-charged-importing-and-selling-counterfeit-airbags>

<https://www.justice.gov/usao-wdny/pr/cheektowaga-man-pleads-guilty-buying-and-selling-counterfeit-airbags>

<https://www.justice.gov/usao-wdny/pr/cheektowaga-man-sentenced-buying-and-selling-counterfeit-airbags>

<https://www.justice.gov/usao-wdny/pr/counterfeit-airbag-supplier-sentenced-prison>

- ***Two Chinese Nationals Facing Federal Indictment for Conspiracy to Traffic in Counterfeit Goods and Mail Fraud.*** On April 23, 2019, Xiaoying Xu, age 34, a Chinese citizen, and Yiwen Zhu, age 34, a Chinese citizen and legal permanent resident of the United States, both residing in Covina, California were indicted on a federal conspiracy charge, mail fraud, and trafficking in counterfeit goods. The defendants were arrested on April 24, 2019. According to the 13-count indictment, from about August 2016 until approximately April 2019, Xu and Zhu conspired with others to defraud e-commerce customers by importing and selling counterfeit consumer goods, specifically Pandora jewelry and Ray-Ban sunglasses. The indictment alleges that the defendants used their residence and offices in El Monte and Alhambra, California, as destination points for shipments of counterfeit goods shipped from Hong Kong and China. Xu and Zhu allegedly repackaged the counterfeit goods, then mailed them to unsuspecting customers throughout the United States who believed they had purchased authentic goods. The defendants allegedly used fraudulent accounts set up with e-commerce marketplace companies to sell the counterfeit goods, misrepresenting to customers that they were authentic. Xu and Zhu obtained funds from the victims of the counterfeit scheme through fraudulently acquired customer accounts opened in the names of other people at a global online payment company. The online payment company sent the victims' money to Xu and Zhu by electronic transfer to bank accounts or by check, which the defendants then cashed at ATMs. The indictment alleges that the defendants then transferred

the proceeds of the scheme from their bank accounts to other bank accounts opened in the names of other Chinese nationals. (DMD, FBI, HSI, USPIS, CPB)

<https://www.justice.gov/usao-md/pr/two-chinese-nationals-facing-federal-indictment-conspiracy-traffick-counterfeit-goods-and>

- ***Chinese National Sentenced for Selling Counterfeit Computer Parts.*** On February 15, 2019, Ruiyang Li, 40, a Beijing, China, man was sentenced to 54 months in federal prison for directing the shipment of counterfeit computer-networking equipment into the Southern District of Texas. The court also ordered restitution to the victims of Li's trademark counterfeiting—including \$812,000 to Cisco Systems Inc., \$2,170,000 to the Hewlett-Packard Company and \$12,955.91 to Intel Corporation. From at least 2007 until in or about June 2017, Li directed the shipment of counterfeit computer-networking equipment into the Southern District of Texas, first when selling to a retailer in Magnolia and eventually when selling to law enforcement acting in an undercover capacity. Over this time period, Li sold counterfeit networking products through several business entities, often hiding behind layers of personal and corporate aliases to evade law enforcement detection. Li also used various means to conceal his unlawful conduct, including by sending and receiving payments using accounts that did not appear connected, at least publicly, to companies trafficking in illicit products. Li and his customers would also agree to mislabel packages, break up shipments into separate components, alter destination addresses and use multiple forwarding companies based in the United States. (SDTX, CCIPS, HSI, CBP)
<https://www.justice.gov/usao-sdtx/pr/chinese-national-sentenced-selling-counterfeit-computer-parts>
- ***Queens Resident Sentenced to 30 Months' Imprisonment for Smuggling Counterfeit Apparel into the United States from China.*** On November 2, 2018, Su Ming Ling, a resident of Queens, New York, was sentenced to 30 months' imprisonment and ordered to pay \$12,905.67 in restitution for one count of fraudulent importation and transportation of goods and one count of conspiracy to traffic in counterfeit goods. The charges arose out of Ling's participation in a scheme to import more than 200 shipping containers of counterfeit brand-name apparel from the People's Republic of China. In aggregate, the counterfeit apparel imported by the defendant and his co-conspirators between May 2013 and January 2017, if sold in the United States as genuine, would have retailed for an estimated \$297 million. Ling pleaded guilty to the charge on January 5, 2018. The 211 shipping containers Ling smuggled into the United States included counterfeit goods, such as Nike shoes, UGG boots and NFL jerseys. As part of the scheme, Ling used aliases to register and create numerous Internet domain names and email addresses that resembled the Internet domain names of real U.S. businesses. Ling also hired CBP-licensed customs brokers to file customs entry forms on behalf of the businesses whose identities he had stolen and provided those customs brokers with falsified shipping documents. The counterfeit goods were distributed to locations in Brooklyn, Queens and New Jersey, among other areas. (EDNY, HSI, CBP)
<https://www.justice.gov/usao-edny/pr/former-queens-ny-resident-arrested-smuggling-millions-dollars-worth-counterfeit-brand>
<https://www.justice.gov/usao-edny/pr/queens-resident-sentenced-30-months-imprisonment-smuggling-counterfeit-apparel-united>

- New York Woman Sentenced for Trafficking Over \$3 Million In Counterfeit Footwear And Handbags Through Port Of Newark.*** On October 22, 2018, Xiao Xia Zhao, 41, was sentenced to 18 months imprisonment and three years of supervised release. Zhao had pleaded guilty, on May 23, 2018, to trafficking in counterfeit goods. According to documents filed in this case and statements made in court, from November 2013 through February 2017, Zhao received certain shipping container numbers from an individual overseas that identified at least three containers containing counterfeit merchandise. Zhao asked individuals working at the Port of Newark to remove the containers from the port before they could be examined by U.S. Customs and Border Protection. Once the containers were removed, Zhao directed that they be delivered to other individuals, who would then distribute the merchandise in New Jersey and elsewhere. Law enforcement intercepted the containers before Zhao could distribute the goods. In total, Zhao trafficked in thousands of pairs of fake Nike footwear, Louis Vuitton handbags, and other counterfeit items, with a total estimated retail value of over \$3 million. Zhao also paid individuals over \$75,000 in exchange for the delivery of the containers. (DNJ, CBP, HSI)
<https://www.justice.gov/usao-nj/pr/new-york-woman-pleads-guilty-trafficking-over-3-million-counterfeit-footwear-and-handbags>
- Five Defendants Plead Guilty in Manhattan Federal Court to Multimillion-Dollar Counterfeiting Scheme.*** On October 4, 2019, the last of five defendants pleaded guilty to a counterfeit goods conspiracy. On August 7, 2018, defendants Miyuki Suen, Jian Min Huang, Kin Lui Chen, Songhua Qu, and Fangrang Qu were arrested on charges of importing hundreds of thousands of athletic shoes from China into the United States. The defendants are each charged with one count of conspiring to traffic in counterfeit goods, and one count of trafficking in counterfeit goods. From at least in or about January 2016 up to and including in or about July 2018, the defendants imported at least 42 shipping containers holding an estimated more than 380,000 pairs of sneakers from China. Once these shoes arrived, the defendants added trademarked logos to the shoes, rendering them counterfeit. The estimated loss attributable to the defendants' efforts amounts to more than \$70 million. All five defendants entered pleas of guilty to the conspiracy count; Fangrang Qu on August 30, 2019; Suen on September 19, 2019; Songhua Qu on September 20, 2019; Huang on September 24, 2019; and Chen on October 4, 2019. (SDNY, HSI, NYPD, CBP)
<https://www.justice.gov/usao-sdny/pr/5-defendants-charged-manhattan-federal-court-multimillion-dollar-counterfeiting-scheme>

TRADE SECRET THEFT (18 U.S.C. § 1832)

- Businessman Sentenced to a Year in Prison for Stealing Employer's Trade Secrets While Planning New Job in China.*** On October 9, 2019, Robert O'Rourke, 59, of Lake Geneva, Wisconsin, a 30-year employee of a McHenry County, Illinois manufacturing firm, was sentenced to a year and a day in federal prison for stealing trade secret information while planning to work for a rival company in China. He was convicted earlier this year on seven counts of theft of trade secrets. In addition to the prison term, O'Rourke was fined \$100,000. According to evidence at trial, O'Rourke, since 1984, worked for Dura-Bar, a Woodstock-based manufacturer of continuous cast-iron products. O'Rourke held the positions of plant metallurgist, quality assurance manager and salesperson, and helped the company develop

business in China and other locations. In late 2013, O'Rourke began several months of negotiations to take a similar job with a rival firm in Jiangsu, China. In September 2015, while still employed at Dura-Bar, O'Rourke accepted the job offer in China. He then downloaded electronic data and documents belonging to Dura-Bar without authorization two days before officially leaving the company. The following week, he packed up the proprietary information and went to O'Hare International Airport in Chicago to board a flight to China. Federal authorities intervened at the airport and seized the stolen trade secrets from O'Rourke before he could travel to China. (NDILL, FBI)

<https://www.justice.gov/usao-ndil/pr/businessman-indicted-allegedly-stealing-employer-s-trade-secrets-while-planning-new-job>

<https://www.justice.gov/usao-ndil/pr/businessman-convicted-stealing-employer-s-trade-secrets-while-planning-new-job-chinese>

<https://www.justice.gov/usao-ndil/pr/businessman-sentenced-year-prison-stealing-employer-s-trade-secrets-while-planning-new>

- ***Second Defendant Arrested in Case Alleging Theft of Trade Secrets from American Aviation Company.*** On October 2, 2019, an Italian national was arrested in Marino, Italy, pursuant to a provisional arrest request from the United States in a case involving two defendants charged with conspiring to steal trade secrets from an American aviation company. Alexander Yuryevich Korshunov, 57, and Maurizio Paolo Bianchi, 59, were charged by a criminal complaint in the Southern District of Ohio on August 21, 2019. Korshunov was arrested on August 30 at Naples International Airport in Italy. The pair were indicted on September 11 with conspiracy to commit theft of trade secrets and attempted theft of trade secrets. The indictment was unsealed on October 4, 2019. According to the indictment, Korshunov was an employee of a Russian state-owned company and had previously been a Russian public official whose service included the Ministry of Foreign Affairs. Bianchi was a former director at Avio S.p.A, an Italian aerospace company until 2012. GE Aviation purchased the aerospace business from Avio S.p.A. in 2013 and operates the business as Avio Aero with its headquarters in Turin, Italy. GE Aviation is one of the world's top aircraft engine suppliers and is headquartered in the Southern District of Ohio. After leaving Avio S.p.A, Bianchi went to work for a company called Aernova in Forli, Italy. Korshunov was employed at United Engine Corp (UEC), which included a subsidiary named Aviadvigatel (a branch of the Russian state-owned company), which had been "entity listed" by the U.S. Department of Commerce in September 2018 for acting contrary to the national security or foreign policy interests of the United States. Aernova and Aviadvigatel had a contract during the time of the alleged conduct. It is alleged that between 2013 and 2018, Bianchi – on behalf of Korshunov – hired current or former employees of GE Aviation's Italian subsidiary to do consulting work related to jet engine accessory gearboxes for Bianchi and Korshunov. The employees' statements of work typically stated that "the holders of patent and intellectual property obtained as a result of the work are...the Ministry of Industry and Trade of the Russian Federation." Throughout the consulting, employees allegedly used trade secrets owned by GE Aviation to create the technical report. The effort focused on accessory gearboxes made by Avio Aero, which are external engine components that provide power to systems such as hydraulic pumps, generators and fuel pumps. The affidavit details that Korshunov arranged and paid for employees to meet with him in June 2013 at the Paris

Air Show in Le-Bourget, France, and in 2014 in Milan, Italy, to discuss and revise the technical report. (SDOH, NSD-CES, FBI)

<https://www.justice.gov/opa/pr/russian-and-italian-nationals-charged-conspiring-steal-trade-secrets-american-aviation>

<https://www.justice.gov/usao-sdoh/pr/russian-and-italian-nationals-charged-conspiring-steal-trade-secrets-american-aviation>

<https://www.justice.gov/opa/pr/second-defendant-arrested-case-alleging-theft-trade-secrets-american-aviation-company>

- ***Former Uber Self-Driving Car Executive Indicted for Alleged Theft of Trade Secrets from Google.*** In an indictment returned on August 15, 2019, Anthony Scott Levandowski 39, of Marin County, was indicted on theft of trade secrets charges. The indictment was unsealed on August 26, 2019. The indictment alleges that Levandowski was a Google engineer and one of the founding members of the group that worked on Google’s self-driving car project. Levandowski worked on the project from 2009 until he resigned from Google without notice on January 27, 2016. At the time of his resignation, Levandowski was the lead of Google’s Light Detecting and Ranging (LiDAR) engineering team. The indictment alleges that in the months before his departure, Levandowski downloaded, from secure Google repositories, numerous engineering, manufacturing, and business files related to Google’s custom LiDAR and self-driving car technology. The files downloaded included circuit board schematics, instructions for installing and testing LiDAR, and an internal tracking document. The indictment also alleges that at the time he took the files, Levandowski was involved with two companies competing with Google in the self-driving space: Tyto LiDAR LLC and 280 Systems, Inc., the latter of which would become Ottomotto. Ottomotto acquired Tyto in May 2016, shortly after Uber Technologies, Inc. agreed to acquire Ottomotto and hire Levandowski. The indictment charges Levandowski with 33 counts of theft and attempted theft of trade secrets. (NDCA, FBI)
<https://www.justice.gov/usao-ndca/pr/former-uber-self-driving-car-executive-indicted-alleged-theft-trade-secrets-google>
- ***Texas Man Convicted of Conspiracy to Commit Theft of Trade Secrets.*** On July 29, 2019, following a nine-day trial, Shan Shi, 54, of Houston, Texas, was convicted of one count of conspiracy to commit theft of trade secrets. Shi was originally indicted in June 2017 for conspiracy to commit theft of trade secrets, and a superseding indictment containing one count of conspiracy to commit economic espionage and one count of conspiracy to commit money laundering charges issued in April 2018. Shi was acquitted on the other charges. Evidence introduced at trial established that Shi conspired with others to steal trade secrets from a Houston-based company, Trelleborg Offshore, relating to syntactic foam, a strong, lightweight material with commercial and military uses that is essential for deep-sea oil and gas drilling. In public statements of its national priorities, China has made clear its desire to develop this technology. Shi sought to obtain information about syntactic foam for the benefit of CBM-Future New Material Science and Technology Co. Ltd. (CBMF), a Chinese company based in Taizhou, and for the ultimate benefit of the People’s Republic of China. Four of Shi’s codefendants—some of whom worked at Trelleborg—had pleaded guilty to conspiring to steal trade secrets, and two testified as cooperating witnesses at trial. From 2014 to 2017, CBMF sent Shi’s company in Houston approximately \$3.1 million

from China in order to promote Shi's activity in the United States. (DDC, CCIPS, FBI, NSD-CES)

<https://www.justice.gov/usao-dc/pr/seven-people-charged-conspiring-steal-trade-secrets-benefit-chinese-manufacturing-company>

<https://www.justice.gov/opa/pr/two-businessmen-charged-conspiring-commit-economic-espionage-benefit-chinese-manufacturing>

<https://www.justice.gov/opa/pr/texas-man-convicted-conspiracy-commit-theft-trade-secrets>

- ***Newly Unsealed Federal Indictment Charges Software Engineer with Theft of Trade Secrets.*** On July 10, 2019, an indictment was unsealed in the Northern District of Illinois charging a software engineer at a suburban Chicago locomotive manufacturer with nine counts of theft of trade secrets. Xudong Yao, also known as "William Yao," 57, is alleged to have stolen proprietary information and taken it to China. Yao has not yet been arrested. He is believed to be residing in China. According to the indictment, Yao began working for the locomotive manufacturer in August 2014. Within two weeks, Yao downloaded more than 3,000 unique electronic files containing proprietary and trade secret information relating to the system that operates the manufacturer's locomotives, the indictment states. Over the next six months, Yao downloaded numerous other electronic files containing proprietary and trade secret information, including technical documents and software source code, the indictment states. During that time, Yao allegedly sought, negotiated, and accepted employment with a business in China that provided automotive telematics service systems. The suburban locomotive manufacturer terminated Yao in February 2015 for reasons unrelated to the alleged theft, which at that time had not been discovered. The indictment alleges that, shortly thereafter, Yao made copies of the stolen trade secret information. He allegedly traveled to China in July 2015 and began working for the Chinese company. On Nov. 18, 2015, Yao traveled from China to O'Hare International Airport in Chicago, according to the indictment. At the time, he had in his possession the stolen trade secret information, including nine complete copies of the locomotive company's control system source code and the systems specifications that explained how the code worked. Yao returned to China at some point thereafter. The indictment was returned in December 2017. (NDILL, FBI) <https://www.justice.gov/usao-ndil/pr/newly-unsealed-federal-indictment-charges-software-engineer-theft-trade-secrets>
- ***Massachusetts Man and Semiconductor Company Indicted for Theft of Trade Secrets.*** On June 14, 2019, an indictment was unsealed charging Haoyang Yu, a Chinese born naturalized U.S. citizen living in Lexington, Massachusetts, and a company, Tricon MMIC LLC, that Yu and his wife had established, in connection with stealing proprietary information from Yu's former employer, Analog Devices, Inc. (ADI), a semiconductor company. Yu was indicted on four counts of theft of trade secrets; four counts of copying, uploading, downloading, and attempted copying, uploading, and downloading of a trade secret; four counts of possession and attempted possession of a trade secret; and three counts of smuggling. Tricon MMIC LLC was also indicted on three counts of smuggling. On July 31, 2017, Yu resigned from ADI and signed an agreement affirming that he had surrendered all proprietary information or data. Nevertheless, in December 2018, Yu allegedly had propriety ADI files in his possession. Furthermore, since creating Tricon in March 2017, Yu marketed and sold approximately 20 ADI designs as his own, and even used the same semiconductor

fabrication plant as ADI. Yu used the Tricon website to target ADI customers, claiming that Tricon could better serve customers because ADI “has hit many customers by sudden announcements of obsolete parts.” For each purported obsolete part, Tricon listed a replacement part on its website. These replacement parts contained specifications identical to or substantially similar to ADI. It is alleged that since leaving ADI, from August 2017 to June 2019, Yu has been working at a cleared defense contractor while simultaneously operating Tricon and selling parts that are identical to, or substantially similar, to ADI products and which incorporate ADI’s stolen trade secrets. Yu has also allegedly used Tricon to illegally export several parts to Spain by concealing both his name and the export control classification number of the parts being exported on the shipping documents. (DMASS, DOC, HSI, NCIS, FBI, CBP, USCG, local police departments)

<https://www.justice.gov/usao-ma/pr/lexington-man-and-semiconductor-company-indicted-theft-trade-secrets>

- ***Former GE Engineer Pleads Guilty to Conspiring to Steal Trade Secrets.*** On May 15, 2019, Miguel Sernas, age 40, of Mexico City, Mexico, pleaded guilty to conspiring to steal trade secrets from the General Electric Company (GE). As part of his plea, Sernas, a former engineer with GE, admitted that he conspired with his business partner and co-defendant, Jean Patrice Delia, age 43, of Montreal, Canada, to compete against GE using trade secrets Delia stole from GE while employed by GE in Schenectady, New York. Sernas admitted that he and Delia, operating as ThermoGen Power Services, used the stolen trade secrets, as well as stolen marketing data, pricing information, and other confidential GE documents, to compete against GE around the world. The indictment was unsealed on March 22, 2019, charging Sernas and Delia with conspiring to steal trade secrets belonging to GE. (NDNY, FBI)

<https://www.justice.gov/usao-ndny/pr/former-ge-engineers-charged-conspiring-steal-trade-secrets>

<https://www.justice.gov/usao-ndny/pr/former-ge-engineer-pleads-guilty-conspiring-steal-trade-secrets>

- ***Three indicted for conspiracy to steal trade secrets from aircraft companies.*** On May 8, 2019, Gilbert Basaldua, Joseph Pascua, and Craig German were indicted for conspiracy to steal trade secrets, and Basaldua also was indicted for interstate transportation of stolen property. The indictment alleged that all three men agreed to work on developing a product for a competitor company in return for a share of profits. In order to obtain FAA certification for the product, however, an icing wind tunnel testing plan needed to be developed. To shortcut the process of developing this plan, the indictment alleged that all three men agreed to steal trade secrets, including aircraft wing schematics and anti-ice testing documents, from aircraft companies in and outside of the Southern District of Georgia. On September 16, 2019, German pleaded guilty to conspiring to steal trade secrets. On November 7, 2019, a superseding indictment was returned adding a fourth defendant, Juan Martinez, to the charge of conspiracy to steal trade secrets. (SDGA, FBI)

<https://www.justice.gov/usao-sdga/pr/three-indicted-conspiracy-steal-trade-secrets-aircraft-companies>

<https://www.justice.gov/usao-sdga/pr/defendant-pleads-guilty-conspiracy-steal-trade-secrets-aircraft-manufacturers>

- Former GE Engineer and Chinese Businessman Charged with Economic Espionage and Theft of GE's Trade Secrets.*** On April 23, 2019, an indictment was unsealed in the Northern District of New York charging Xiaoqing Zheng, 56, of Niskayuna, New York, and Zhaoxi Zhang, 47, of Liaoning Province, China, with economic espionage and conspiring to steal GE's trade secrets surrounding turbine technologies, knowing and intending that those stolen trade secrets would be used to benefit the People's Republic of China. According to the 14-count indictment, Zheng, while employed at GE Power & Water in Schenectady, New York as an engineer specializing in sealing technology, exploited his access to GE's files by stealing multiple electronic files, including proprietary files involving design models, engineering drawings, configuration files, and material specifications having to do with various components and testing systems associated with GE gas and steam turbines. Zheng e-mailed and transferred many of the stolen GE files to his business partner, Chinese businessman Zhaoxi Zhang, who was located in China. Zheng and Zhang used the stolen GE trade secrets to advance their own business interests in two Chinese companies - Liaoning Tianyi Aviation Technology Co., Ltd. (LTAT) and Nanjing Tianyi Avi Tech Co. Ltd. (NTAT), companies which research, develop, and manufacture parts for turbines. The indictment also alleges that Zheng and Zhang conspired to commit economic espionage, as the thefts of GE's trade secrets surrounding various turbine technologies were done knowing and intending that the thefts would benefit the People's Republic of China and one or more foreign instrumentalities, including LTAT, NTAT, Shenyang Aerospace University, Shenyang Aeroengine Research Institute, and Huaihai Institute of Technology. The defendants, through LTAT and NTAT, received financial and other support from the Chinese government and coordinated with Chinese government officials to enter into research agreements with Chinese state-owned institutions to develop turbine technologies. (NDNY, NSD-CES, FBI)

<https://www.justice.gov/opa/pr/former-ge-engineer-and-chinese-businessman-charged-economic-espionage-and-theft-ge-s-trade>
- Former DuPont Employee Sentenced to 42 Months in Prison for Stealing Trade Secrets and Lying to the FBI.*** On April 17, 2019, Josh Harry Isler was sentenced to serve 42 months imprisonment for one count of trade secret theft and one count of making a false statement or representation to the FBI. As part of his guilty plea in July of 2018, Isler admitted that during August 2013, while employed with DuPont, but after having accepted an offer of employment from a competitor, he stole trade secrets of DuPont. In a plea agreement, Isler admitted that after he accepted employment with a competitor of DuPont in the ethanol fuel enzyme business, he transferred hundreds of DuPont's electronic files to an external device. Isler also admitted that when he was interviewed by the FBI in November 2013, he falsely denied he had downloaded files containing proprietary information. (NDIA, FBI)

<https://www.justice.gov/usao-ndia/pr/former-dupont-employee-charged-theft-trade-secrets-and-lying-fbi>

<https://www.justice.gov/usao-ndia/pr/former-dupont-employee-pleads-guilty-stealing-trade-secrets-and-lying-fbi>

<https://www.justice.gov/usao-ndia/pr/former-dupont-employee-sentenced-over-three-years-prison-stealing-trade-secrets-and>

- Mobile Man Federally Indicted for Cyber Intrusion and Theft of Trade Secrets from Pensacola Company.*** On April 9, 2019, Timothy J. Smith, 42, of Mobile, Alabama, was arraigned in the Northern District of Florida after the indictment was unsealed on the same day, charging him with computer fraud, theft of trade secrets, and interstate threatening communications. The indictment alleges that Smith was a software engineer in Mobile, Alabama. StrikeLines, LLC, the alleged victim in the indictment, is a Pensacola based company that uses commercial side scan sonar equipment to locate fishing reefs in the Gulf of Mexico and sells coordinates using an interactive map on their website. Between April and November 2018, Smith allegedly obtained information valued at more than \$5,000 from a protected computer without authorization, stole sonar coordinates of reefs in the Gulf of Mexico, and transmitted a threat to injure the property and reputation of StrikeLines. On December 3, Smith was found guilty of charges of theft of trade secrets and interstate extortionate communications. (NDFL, FBI, FL Dept. of LE, Escambia County Sheriff's office)

<https://www.justice.gov/usao-ndfl/pr/mobile-man-federally-indicted-cyber-intrusion-and-theft-trade-secrets-pensacola-company>

<https://www.justice.gov/usao-ndfl/pr/pensacola-jury-convicts-man-federal-theft-trade-secrets-and-online-extortion-local>
- One American and One Chinese National Indicted in Tennessee for Conspiracy to Commit Theft of Trade Secrets and Wire Fraud.*** On February 12, 2019, Xiaorong You, a/k/a Shannon You, 56, of Lansing, Michigan, and Liu Xiangchen, 61, of Shandong Province, China, were indicted for conspiracy to steal trade secrets related to formulations for bisphenol-A-free (BPA-free) coatings. You was also indicted on seven counts of theft of trade secrets and one count of wire fraud. The BPA-free trade secrets allegedly stolen by these individuals belonged to multiple owners and cost an estimated total of at least \$119,600,000 to develop. Until recently, bisphenol-A (BPA) was used to coat the inside of cans and other food and beverage containers to help minimize flavor loss, and prevent the container from corroding or reacting with the food or beverage contained therein. However, due to the discovered potential harmful effects of BPA, companies began searching for BPA-free alternatives. These alternatives are difficult and expensive to develop. From December 2012 through August 31, 2017, You was employed as Principal Engineer for Global Research by a company in Atlanta, which had agreements with numerous companies to conduct research and development, testing, analysis and review of various BPA-free technologies. Due to her extensive education and experience with BPA and BPA-free coating technologies, she was one of a limited number of employees with access to trade secrets belonging to the various owners. From approximately September 2017 through June 2018, You was employed as a packaging application development manager for a company in Kingsport, Tennessee, where she was one of a limited number of employees with access to trade secrets belonging to that company. The indictment alleges that You, Liu, and a third co-conspirator formulated a plan in which You would exploit her employment with the two American employers to steal trade secrets and provide the information, for the economic benefit of trade secrets, to the Chinese company that Liu managed, which would manufacture and profit from products developed using the stolen trade secrets. In exchange, Liu would cause the Chinese company to reward You for her theft, by helping her receive the Thousand Talent and another financial award, based on the trade secrets she stole, and by giving You

an ownership share of a new company that would “own” the stolen trade secrets in China. The conspirators also agreed to compete with U.S. and foreign companies, including some of the owners of the stolen trade secrets, in China and elsewhere, by selling products designed, developed and manufactured using the stolen trade secrets. (EDTN, NSD-CES, FBI)

<https://www.justice.gov/opa/pr/one-american-and-one-chinese-national-indicted-tennessee-conspiracy-commit-theft-trade>

<https://www.justice.gov/usao-edtn/pr/one-chinese-national-and-one-american-indicted-east-tennessee-conspiracy-commit-theft>

- ***Chinese Telecommunications Device Manufacturer and its U.S. Affiliate Indicted for Theft of Trade Secrets, Wire Fraud, and Obstruction of Justice.*** On January 28, 2019, a 10-count indictment in the Western District of Washington was unsealed charging Huawei Device Co., Ltd. and Huawei Device Co. USA with theft of trade secrets conspiracy, attempted theft of trade secrets, seven counts of wire fraud, and one count of obstruction of justice. The indictment details Huawei’s efforts to steal trade secrets from Bellevue, Washington based T-Mobile USA and then obstruct justice when T-Mobile threatened to sue Huawei in U.S. District Court in Seattle. The alleged conduct described in the indictment occurred from 2012 to 2014, and includes an internal Huawei announcement that the company was offering bonuses to employees who succeeded in stealing confidential information from other companies. According to the indictment, in 2012 Huawei began a concerted effort to steal information on a T-Mobile phone-testing robot dubbed “Tappy.” In an effort to build their own robot to test phones before they were shipped to T-Mobile and other wireless carriers, Huawei engineers violated confidentiality and non-disclosure agreements with T-Mobile by secretly taking photos of “Tappy,” taking measurements of parts of the robot, and in one instance, stealing a piece of the robot so that the Huawei engineers in China could try to replicate it. After T-Mobile discovered and interrupted these criminal activities, and then threatened to sue, Huawei produced a report falsely claiming that the theft was the work of rogue actors within the company and not a concerted effort by Huawei corporate entities in the United States and China. As emails obtained in the course of the investigation reveal, the conspiracy to steal secrets from T-Mobile was a company-wide effort involving many engineers and employees within the two charged companies. As part of its investigation, FBI obtained emails revealing that in July 2013, Huawei offered bonuses to employees based on the value of information they stole from other companies around the world, and provided to Huawei via an encrypted email address.

(WDWA, NSD-CES, FBI)

<https://www.justice.gov/usao-wdwa/pr/chinese-telecommunications-device-manufacturer-and-its-us-affiliate-indicted-theft>

- ***Chinese National Who Stole Trade Secrets while Working for Medical Device Companies Sentenced to Federal Prison.*** On January 28, 2019, Wenfeng Lu, 46, an Irvine, California engineer who stole trade secrets belonging to two former employers, both of which develop and manufacture medical devices used to treat cardiac and vascular ailments, was sentenced to 27 months in federal prison. Lu pleaded guilty in May 2018 to six counts of unauthorized possession and attempted possession of trade secrets. Lu admitted that he stole confidential and proprietary trade secrets from two different medical device companies with research facilities in Irvine, where Lu worked from January 2009 until he was arrested in this case in

2012. Lu first worked at ev3 (which later became part of Covidien, and then Medtronic), and later at Edwards Lifesciences Corporation. Notwithstanding signing employment agreements in which he acknowledged that proprietary technology developed at the companies was the sole property of the companies, Lu copied numerous documents belonging to both of his employers that contained technical information and trade secrets, took them home, and placed them on his personal laptop computer. According to court documents, while he was working for the companies, Lu travelled to the People's Republic of China (PRC) multiple times – sometimes soon after stealing the trade secrets from his employers. Lu had obtained financing and was preparing to open a company in the PRC that would manufacture devices used to treat vascular problems and would use technology he had stolen from his American employers. Lu was arrested as he prepared to board a plane to the PRC in November 2012, which prevented him from implementing his business plan and causing significant harm to the victim companies in the United States. (CDCA, FBI)

<https://www.justice.gov/usao-cdca/pr/chinese-national-who-stole-trade-secrets-while-working-medical-device-companies>

- ***Chinese National Charged with Committing Theft of Trade Secrets.*** On December 20, 2018, Hongjin Tan, a 35 year old Chinese national and U.S. legal permanent resident, was arrested and charged with theft of trade secrets. According to the criminal complaint, Tan allegedly stole trade secrets from a U.S.-based petroleum company regarding the manufacture of a “research and development downstream energy market product.” The company’s methods of developing the product are of great value, both economically and to competitors. Until recently, Tan worked for the petroleum company and allegedly downloaded hundreds of files, including files related to the manufacture of the product. Investigators allege that Tan was offered a job at a company in China where he planned to use these files to benefit his new employer. Tan has been residing in the United States for the past 12 years. On November 12, 2019, Tan pleaded guilty to committing theft of trade secrets. (NDOK, CCIPS, CES, CCIPS)
<https://www.justice.gov/opa/pr/chinese-national-charged-committing-theft-trade-secrets>
<https://www.justice.gov/opa/pr/chinese-national-pleads-guilty-committing-theft-trade-secrets>
- ***Former Genentech Employees Charged With Theft Of Trade Secrets.*** On October 25, 2018, Xanthe Lam, Allen Lam, John Chan, and James Quach were indicted in the Northern District of California for stealing trade secrets from Genentech and related charges. The indictment alleges that the defendants stole confidential Genentech information to help a company in Taiwan create and sell drugs similar to those that were created by Genentech. According to the indictment, Xanthe Lam worked for Genentech as a Principal Scientist from 1986 until 2017. Her husband, Allen Lam, and James Quach, both were former Genentech employees who, along with John Chan, became consultants for JHL Biotech, Inc. JHL is a company based in Zhubei, Taiwan, that develops “biosimilars.” Biosimilars are roughly the equivalent of a “generic” chemical drug, i.e., designed to have properties similar to a biopharmaceutical that previously was approved by a regulatory agency, such as the Food and Drug Administration. The indictment alleges Xanthe Lam conspired with Allen Lam and John Chan to steal the company’s trade secrets related to biopharmaceuticals Pulmozyme, Rituxan, Herceptin, and Avastin. Xanthe Lam allegedly downloaded, collected, and transferred to Allen Lam and others at JHL certain confidential Genentech documents

relating to the processes by which the company formulated drugs and managed raw materials. Xanthe Lam also allegedly secretly consulted for JHL while still employed at Genentech. The indictment also alleges that Xanthe Lam conspired with former Genentech employee James Quach to illegally use her computer credentials. Specifically, she allowed Quach to gain access to Genentech's secure document repository and, once he had access to the repository, Quach stole the company's proprietary manufacturing protocols. (NDCA, FBI)

<https://www.justice.gov/usao-ndca/pr/former-genentech-employees-charged-theft-trade-secrets>

- ***Third Defendant Pleads Guilty in Case Charging a Theft of Trade Secrets from GlaxoSmithKline to Benefit Chinese Pharmaceutical Company.*** On October 22, 2018, Tian Xue pleaded guilty to a conspiracy to commit money laundering involving the proceeds of a scheme to steal trade secrets from GlaxoSmithKline (GSK) for the benefit of a Chinese pharmaceutical company named Renopharma. According to an indictment returned in May of 2017, Dr. Tao Li and two of his friends, Dr. Yu Xue and Dr. Yan Mei, created Renopharma in Nanjing, China, supposedly to research and develop anti-cancer drugs. In reality, Renopharma was used as a repository of stolen information from GSK. The data contained information regarding multiple biopharmaceutical products under development, GSK research data, and GSK processes regarding the research, development, and manufacturing of biopharmaceutical products. On January 5, 2016, the FBI arrested Li and seized his computer on which they found a number of GSK documents containing trade secret and confidential information which he had received from Dr. Yu Xue. Dr. Yu Xue pleaded guilty on August 31, 2018 to a conspiracy to steal trade secrets. Dr. Tao Li pleaded guilty on September 17, 2018 to a conspiracy to steal trade secrets. Charges against Dr. Yan Mei and his spouse, Lucy Xi, are still pending. (EDPA, FBI)
<https://www.justice.gov/usao-edpa/pr/scientists-indicted-allegedly-stealing-biopharmaceutical-trade-secrets>
<https://www.justice.gov/usao-edpa/pr/former-glaxosmithkline-scientist-pleads-guilty-stealing-trade-secrets-benefit-chinese>
<https://www.justice.gov/usao-edpa/pr/second-former-glaxosmithkline-scientist-pleads-guilty-stealing-trade-secrets-benefit>

ECONOMIC ESPIONAGE (18 U.S.C. § 1831)

- ***PRC State-Owned Company, Taiwan Company, and Three Individuals Charged With Economic Espionage.*** On November 1, 2018, an indictment was unsealed in the Northern District of California charging a state-owned enterprise of the People's Republic of China (PRC) with crimes related to a conspiracy to steal, convey, and possess stolen trade secrets of an American semiconductor company for the benefit of a company controlled by the PRC government. All of the defendants are charged with a conspiracy to commit economic espionage, among other crimes. The criminal defendants are United Microelectronics Corporation ("UMC"), a Taiwan semiconductor foundry; Fujian Jinhua Integrated Circuit, Co., Ltd. ("Jinhua"), a state-owned enterprise of the PRC; and three Taiwan nationals: Chen Zhengkun, a.k.a. Stephen Chen, age 55; He Jianting, a.k.a. J.T. Ho, age 42; and Wang Yungming, a.k.a. Kenny Wang, age 44. UMC is a publicly listed semiconductor foundry

company traded on the New York Stock Exchange; is headquartered in Taiwan; and has offices worldwide, including in Sunnyvale, California. UMC mass produces integrated-circuit logic products based on designs and technology developed and provided by its customers. Jinhua is a state-owned enterprise of the PRC, funded entirely by the Chinese government, and established in February 2016 for the sole purpose of designing, developing, and manufacturing dynamic random-access memory (DRAM) technology. Prior to the events described in the indictment, the PRC did not possess DRAM, and the Central Government and State Council of the PRC publicly identified the development of DRAM and other microelectronics technology as a national economic priority. In addition, the United States filed a civil lawsuit seeking to enjoin the further transfer of the stolen trade secrets and to enjoin certain defendants from exporting to the United States any products manufactured by UMC or Jinhua that were created using the trade secrets at issue. According to the indictment, the defendants were engaged in a conspiracy to steal the trade secrets of Micron Technology, Inc. (Micron), a leader in the global semiconductor industry specializing in the advanced research, development, and manufacturing of memory products, DRAM. DRAM is a leading-edge memory storage device used in computer electronics. Micron is the only United States-based company that manufactures DRAM. According to the indictment, Micron maintains a significant competitive advantage in this field due in large part from its intellectual property, including its trade secrets that include detailed, confidential information pertaining to the design, development, and manufacturing of advanced DRAM products. According to the indictment, Chen was a General Manager and Chairman of an electronics corporation that Micron acquired in 2013. Chen then became the president of a Micron subsidiary in Taiwan, Micron Memory Taiwan (“MMT”), responsible for manufacturing at least one of Micron’s DRAM chips. Chen resigned from MMT in July 2015 and began working at UMC almost immediately. While at UMC, Chen arranged a cooperation agreement between UMC and Fujian Jinhua whereby, with funding from Fujian Jinhua, UMC would transfer DRAM technology to Fujian Jinhua to mass-produce. The technology would be jointly shared by both UMC and Fujian Jinhua. Chen later became the President of Jinhua and was put in charge of its DRAM production facility. While at UMC, Chen recruited numerous MMT employees, including Ho and Wang, to join him at UMC. Prior to leaving MMT, Ho and Wang both stole and brought to UMC several Micron trade secrets related to the design and manufacture of DRAM. Wang downloaded over 900 Micron confidential and proprietary files before he left MMT and stored them on USB external hard drives or in personal cloud storage, from where he could access the technology while working at UMC. (NDCA, FBI, NSD-CES)

<https://www.justice.gov/opa/pr/prc-state-owned-company-taiwan-company-and-three-individuals-charged-economic-espionage>

- ***Chinese Intelligence Officer Charged with Economic Espionage Involving Theft of Trade Secrets from Leading U.S. Aviation Companies.*** A Chinese Ministry of State Security (MSS) operative, Yanjun Xu, aka Qu Hui, aka Zhang Hui, has been arrested and charged with conspiring and attempting to commit economic espionage and steal trade secrets from multiple U.S. aviation and aerospace companies. Xu was extradited to the United States on October 9, 2018 and charges were announced on October 10, 2018. Xu is a Deputy Division

Director with the MSS's Jiangsu State Security Department, Sixth Bureau. The MSS is the intelligence and security agency for China and is responsible for counter-intelligence, foreign intelligence and political security. MSS has broad powers in China to conduct espionage both domestically and abroad. Xu was arrested in Belgium on April 1, pursuant to a federal complaint, and then indicted by a federal grand jury in the Southern District of Ohio. According to the indictment, beginning in at least December 2013 and continuing until his arrest, Xu targeted certain companies inside and outside the United States that are recognized as leaders in the aviation field. This included GE Aviation. He identified experts who worked for these companies and recruited them to travel to China, often initially under the guise of asking them to deliver a university presentation. Xu and others paid the experts' travel costs and provided stipends. (SDOH, NSD-CES, OIA, FBI)
<https://www.justice.gov/opa/pr/chinese-intelligence-officer-charged-economic-espionage-involving-theft-trade-secrets-leading>

ALTERNATIVE CHARGES

- ***Large-Scale Counterfeit Fentanyl Pill Dealer Sentenced to 30 Years in Prison.*** On October 31, 2019, Dion Gregory Fisher, 33, formerly of Seminole, Florida, was sentenced to 30 years in federal prison for conspiring to manufacture and distribute fentanyl and fentanyl analogue, and money laundering. Fisher was also ordered to forfeit several high-end vehicles, including an Aston Martin and Audi R8, and a forfeiture money order of nearly \$800,000 was entered against him. A federal jury had found Fisher guilty on June 5, 2019. According to testimony and evidence presented during the seven-day trial, Fisher and others, including co-defendant Christopher McKinney, manufactured and distributed hundreds of thousands of counterfeit oxycodone 30 mg pills that were made with fentanyl that Fisher had ordered from China. Fisher also ordered pill presses from China, some of which were seized by Homeland Security. He also purchased binding and cutting agents used in the manufacturing process. Another co-defendant, Samuel Huffman, used the pill presses and materials supplied by Fisher to press fentanyl pills out of his automotive business in Pinellas Park. Huffman pleaded guilty to the fentanyl conspiracy on October 9, 2018, testified against Fisher at trial, and was sentenced to 33 months in federal prison on June 24, 2019. Fisher also stored fentanyl and fentanyl analogue in a work bay in Clearwater. In January and February 2018, large quantities of fentanyl and fentanyl analogue were seized from these locations, as well as from Fisher's residence in Seminole, and McKinney's residence and work bay. More than three kilograms of fentanyl and fentanyl analogue were admitted into evidence during the trial. On July 2, 2018, Christopher McKinney pleaded guilty to conspiring to distribute and manufacture fentanyl and fentanyl analogue. McKinney forfeited \$1.4 million in cash, two residences, and several high-end vehicles/motorcycle. McKinney testified against Fisher at trial, and was sentenced to 2 years in federal prison on June 28, 2019. Fisher and McKinney sold hundreds of thousands of counterfeit oxycodone pills, mostly via the U.S. Mail, to Phil Morose in Boston. Morose then distributed the pills. Morose was charged with conspiring to distribute and manufacture fentanyl and fentanyl analogue. He pleaded guilty to these charges and was sentenced on July 8, 2019, to 10 years in Federal prison. In addition, Fisher laundered the proceeds from his fentanyl pill sales with Konrad Guzewicz, who owned and operated automotive and tire-and-rim companies in Pinellas County. Fisher purchased several high-end luxury vehicles, including an Aston Martin, a Bentley, a Maserati, a BMW,

and an Audi R8, using fentanyl proceeds. Guzewicz also laundered fentanyl cash proceeds for Fisher. On four occasions, Fisher provided Guzewicz with \$35,000 in cash that he had obtained from selling fentanyl pills, and Guzewicz, in turn, wrote Fisher a check for \$30,000 from his business and personal accounts. Guzewicz pleaded guilty to money laundering charges on June 28, 2018, testified against Fisher at trial, and was sentenced to 15 months in federal prison on July 2, 2019. (MDFL, DEA, USPIS, IRS, local police departments)

<https://www.justice.gov/usao-mdfl/pr/national-healthcare-fraud-takedown-results-charges-against-601-individuals-responsible>

<https://www.justice.gov/usao-mdfl/pr/large-scale-counterfeit-fentanyl-pill-dealer-convicted-trial>

<https://www.justice.gov/usao-mdfl/pr/large-scale-counterfeit-fentanyl-pill-dealer-sentenced-30-years-prison>

- ***South Portland Man Sentenced to Prison for Trafficking in Counterfeit Pills and Illegally Possessing a Firearm.*** On October 29, 2019, Colin Harle, 23, was sentenced to five years in prison and three years of supervised release for holding for sale a counterfeit drug and possessing a firearm in furtherance of drug trafficking. Harle pleaded guilty on July 15, 2019. According to court records, on August 27, 2018, law enforcement officers arrested Harle in South Portland following his attempted sale of counterfeit alprazolam (commonly sold under the brand name Xanax) pills. After Harle’s arrest, officers learned that he had a safe under his control. Officers located the safe in Westbrook and found about 20,000 counterfeit pills, \$5,480 in U.S. currency, and a 9 mm pistol with two full magazines. (DME, FDA)
<https://www.justice.gov/usao-me/pr/south-portland-man-sentenced-prison-trafficking-counterfeit-pills-and-illegally>
- ***Online Drug Dealer Sentenced to 15 Years for Distributing Counterfeit Pills Containing Fentanyl that Caused Overdose Death.*** On October 16, 2019, drug dealer Trevon Antone Lucas was sentenced in federal court to 15 years in prison for selling the counterfeit oxycodone pills containing deadly fentanyl that caused the overdose death of a La Jolla resident in June of 2018. Lucas, a resident of Highland, California, pleaded guilty in June to Distribution of Fentanyl Resulting in Death. In his plea, he admitted that he posted online advertisements for the illegal sale of prescription pills. The investigation revealed that Lucas was warned about the danger of the pills he was selling on two separate occasions. In late 2017, Lucas was warned that the pills he was selling were counterfeit and contained fentanyl that was much stronger than oxycodone pills. Then, just two months prior to the victim’s death in mid-2018, Lucas was explicitly warned that counterfeit pills containing fentanyl had caused the overdose of a San Diego resident. Lucas was undeterred and continued to sell the counterfeit pills. According to Lucas’ plea agreement, on the evening of June 29, 2018, Lucas met the victim and sold him nine “blues,” a slang term for prescription oxycodone pills, for \$240. The “blues” purchased from Lucas were counterfeit and contained deadly fentanyl—the same pills that Lucas had previously been warned about selling. The victim died after consuming the pills. The victim’s mother found him dead in his room the following morning. Three other individuals, Cenclair Marie Fields, Kevin Vandale Chandler and Donovan Adontas Carter were charged in the same indictment with conspiring with

Lucas to distribute prescription hydrocodone pills. All three have since pleaded guilty and been sentenced. (SDCA, DEA, HSI, FBI, San Diego Police, Dept. of Health, DA's Office)
<https://www.justice.gov/usao-sdca/pr/suspected-online-drug-dealer-indicted-fentanyl-overdose-death>
<https://www.justice.gov/usao-sdca/pr/online-drug-dealer-pleads-guilty-fentanyl-overdose-death>
<https://www.justice.gov/usao-sdca/pr/online-drug-dealer-sentenced-15-years-distributing-counterfeit-pills-containing>

- ***Orange County Man Sentenced to 17½ Years in Federal Prison for Selling Counterfeit Opioid Pills Laced with Fentanyl.*** On August 26, 2019, Wyatt Pasek, 22, of Santa Ana, California, who admitted his role in a scheme that used fentanyl and other synthetic opioids to manufacture and sell counterfeit pharmaceutical pills designed to look like brand-name oxycodone pills, was sentenced to 210 months in federal prison. Pasek used the moniker “oxygod” when soliciting customers in online marketplaces, and posted images and videos of himself to social media platforms under the moniker Yung10x. He pleaded guilty in November of 2018 to participating in a narcotics-trafficking conspiracy, being a convicted felon in possession of a firearm, and money laundering. According to court documents, Pasek and two co-defendants obtained fentanyl and a similar drug called cyclopropyl fentanyl through the internet from Chinese suppliers, used a pill press to make counterfeit pills, and distributed the narcotics through the mails, often arranging sales through a darknet marketplace. Pasek also sold the counterfeit pills in hand-to-hand transactions. The other two defendants in this case, Duc Cao, 22, of Orange, and Isaiah Suarez, 23, of Newport Beach, also pleaded guilty and were sentenced earlier this year to 87 months and 37 months in federal prison, respectively. When the three defendants were arrested in April 2018, authorities seized a pill press lab in Suarez’s apartment, along with bags that contained nearly 100,000 counterfeit oxycodone pills, hundreds of bogus Xanax pills, nearly six kilograms of fentanyl and fentanyl analogues, and bundles of cash. (CDCA, DEA, IRS-CI, Cosa Mesa Police Dept.)
<https://www.justice.gov/usao-cdca/pr/three-oc-men-face-federal-narcotics-charges-allege-distribution-counterfeit-opioid>
<https://www.justice.gov/usao-cdca/pr/orange-county-man-sentenced-17-years-federal-prison-selling-counterfeit-opioid-pills>
- ***Dominican National Sentenced for Fentanyl Conspiracy Including the Distribution of Counterfeit Pain Pills.*** On July 11, 2019, Santiago Pena, 49, a Dominican national residing in Roxbury, Massachusetts, was sentenced to serve 24 months in prison for his role in a conspiracy to distribute fentanyl. On December 20, 2017, Pena was charged with conspiracy to distribute 40 grams or more of fentanyl. The charge stemmed from Pena’s participation in a large-scale fentanyl and heroin trafficking ring that was dismantled in August 2017. Pena was the seventh defendant related to the drug trafficking operation to be charged in federal court; approximately 10 other defendants were charged in state court. A lengthy wiretap investigation revealed that James Ramirez, an individual charged separately, supplied large-quantities of fentanyl and heroin to drug dealers on Cape Cod. According to the indictment, Pena brokered fentanyl pill deals on Ramirez’s behalf, helping to connect Ramirez with a

fentanyl pill supplier. Pena pleaded guilty on March 19, 2018. (DMASS, DEA, BATF, IRS, DA's Office and State Police)

<https://www.justice.gov/usao-ma/pr/dominican-national-sentenced-fentanyl-conspiracy-including-distribution-counterfeit-pain>

- ***Florida Attorney Sentenced to 60 Months in Prison for Multi-Million Dollar Pornography Film Copyright Fraud Scheme.*** On July 9, 2019, John L. Steele, 48, a Florida attorney was sentenced to 60 months in prison followed by two years of supervised release for his role in a multi-million dollar fraud scheme to obtain payments from extortion victims to settle sham copyright infringement lawsuits by lying to state and federal courts throughout the country. Steele, who pleaded guilty on March 6, 2017, was also ordered to pay restitution in the amount of \$1,541,527.37. According to his guilty plea and documents filed in court, between 2011 and 2014, Steele and his co-defendant Paul R. Hansmeier, both practicing lawyers, executed a scheme to obtain millions of dollars by threatening copyright lawsuits against individuals who allegedly downloaded pornographic movies from file-sharing websites. Steele admitted in court during his plea that he and Hansmeier created a series of sham entities, which they surreptitiously controlled, to obtain copyrights to pornographic movies – some of which they filmed themselves – and then uploaded those movies to file-sharing websites like “The Pirate Bay” in order to lure people to download the movies. Steele and Hansmeier then filed bogus copyright infringement lawsuits that concealed both their role in distributing the movies, and their personal stake in the outcome of the litigation. After filing the lawsuits, the defendants gained authority from the courts to subpoena internet service providers for identification information of the subscriber who controlled the IP address used to download the movie. With that information, the defendants used extortionate tactics such as letters and phone calls to threaten victims with enormous financial penalties and public embarrassment unless they agreed to pay a \$3,000 settlement fee. According to the indictment, the plea agreement and other court documents, in November 2011, in order to distance themselves from the specious lawsuits and any potential fallout, Steele and Hansmeier created and used Prenda Law, among other law firms, to pursue their fraudulent lawsuits. Steele acknowledged at his plea hearing that he and Hansmeier exerted de facto control over Prenda Law throughout the scheme, but recruited a now-deceased Illinois attorney to pretend to own and control the law firm. In October 2012, the defendants changed their tactics and began filing lawsuits falsely alleging that computer systems belonging to their sham clients had been hacked. To facilitate their phony “hacking” lawsuits, the defendants recruited individuals who had been caught downloading pornography from a file-sharing website, to act as ruse “defendants.” These ruse defendants agreed to be sued and permit Steele and Hansmeier to conduct early discovery against their supposed “co-conspirators” in exchange for Steele and Hansmeier waiving their settlement fees. During his plea hearing, Steele admitted that the allegations of “hacking” in these complaints were made up. In total, Steele and Hansmeier obtained approximately \$3 million from the fraudulent copyright lawsuits. (DMN, CCIPS, FBI, IRS-CI)
<https://www.justice.gov/opa/pr/attorney-pleads-guilty-role-multi-million-dollar-scheme-fraudulently-obtain-copyright>
<https://www.justice.gov/usao-mn/pr/minnesota-attorney-pleads-guilty-federal-charges-connection-multi-million-dollar>

<https://www.justice.gov/usao-mn/pr/minnesota-attorney-sentenced-168-months-prison-multi-million-dollar-pornography-film>

<https://www.justice.gov/opa/pr/florida-attorney-sentenced-60-months-prison-multi-million-dollar-pornography-film-copyright>

- ***Long Beach Man Sentenced to Almost Four Years in Prison for Trafficking Counterfeit Prescription Drugs.*** On May 24, 2019, Robert Ashton Kerns, 23, of Long Beach, Mississippi, was sentenced to 46 months in federal prison, followed by 3 years of supervised release, for possession with intent to distribute fentanyl and fentanyl analogues. On April 17, 2018, officers with the Gulfport Police Department were dispatched to a Sonic Drive-In after a report of a man passed out in the driver's seat of a running vehicle. The man was Kerns and he was in possession of approximately 300 dosage units of oxycodone, an opiate painkiller, and over 1,500 dosage units of Xanax, a benzodiazepine. After lab testing, it was determined that the substances were counterfeit and contained fentanyl and fentanyl analogues, a powerful opiate which is deadly in relatively small amounts. On June 12, 2018, Kerns was charged in a federal criminal indictment. He pleaded guilty on March 1, 2019 to one count of possession with intent to distribute fentanyl and fentanyl analogues. (SDMS, DEA, Gulfport Police)
<https://www.justice.gov/usao-sdms/pr/long-beach-man-sentenced-almost-four-years-prison-trafficking-counterfeit-prescription>
- ***Two Mexican Nationals Indicted For Transporting Approximately 14,800 Counterfeit Oxycodone Pills Containing Fentanyl.*** On May 23, 2019, a two-count indictment against Ivan Lopez, 34, of Mexico, and Erick Olivas Lopez, 39, of Mexico, charged them with conspiracy and possession with intent to distribute at least 400 grams of a substance containing fentanyl. According to court documents, on April 25, 2019, the defendants were found in possession of approximately 14,799 fentanyl-laced counterfeit oxycodone pills, weighing approximately 1.6 kilograms, during a traffic stop in Sacramento. (EDCA, DEA, Tri-County Drug Enforcement Team, California Highway Patrol)
<https://www.justice.gov/usao-edca/pr/two-mexican-nationals-indicted-transporting-approximately-14800-counterfeit-oxycodone>
- ***Stamford Men Charged with Trafficking Counterfeit Oxycodone Pills Containing Fentanyl Analogues.*** On April 24, 2019, an indictment was unsealed charging Vincent Decaro, 29, Arber Isaku, 29 and David Reichard, 30, all of Stamford, Connecticut, with offenses related to the trafficking of fentanyl analogues. The three-count indictment was returned on August 7, 2018. Decaro and Isaku, who were extradited from Albania, entered pleas of not guilty to the charges. They are detained pending trial. As alleged in court documents and statements made in court, Decaro and Isaku purchased fentanyl analogues from suppliers in China and, working out of Decaro's residence at 77 West Hill Circle in Stamford, pressed the drug into counterfeit oxycodone pills, which they sold to customers on dark web markets. Reichard, who lived a short time at Decaro's residence, helped Decaro and Isaku press pills and mail the pills to customers. On April 3, 2018, a court-authorized search of Decaro's Stamford residence revealed numerous pills containing approximately 330 grams of fentanyl and acetyl fentanyl, approximately 40 grams of fentanyl analogues in powder form, three pill presses, instructions on how to prepare the fentanyl analogue

Carfentanil, a hazardous material suit, a gas/respirator-type mask, and numerous U.S. Postal mail envelopes. Prior to that date, on August 23, 2017, Isaku was arrested by the Connecticut State Police after he accepted delivery of a package containing approximately 160 grams of fentanyl at his residence in Stamford. At the time of the search of Decaro's home in April 2018, Decaro and Isaku were in Europe. They have been detained since September 21, 2018, when they were arrested by Albanian State Police as they were attempting to cross the border from Albania into Kosovo. A search of an apartment in Tirana where they had been staying revealed alprazolam, fentanyl and other controlled substances; tools and dies for pressing pills, and instructions for synthesizing fentanyl. Reichard was arrested on a federal criminal complaint on April 13, 2018. He previously entered a plea of not guilty to the charges in the indictment. (DCT, OIA, USPIS, DEA, CT State & Stamford Police, Albania State Police)

<https://www.justice.gov/usao-ct/pr/stamford-men-charged-trafficking-counterfeit-oxycodone-pills-containing-fentanyl>

- ***Two Chinese Hackers Associated With the Ministry of State Security Charged with Global Computer Intrusion Campaigns Targeting Intellectual Property and Confidential Business Information.*** On December 20, 2018, an indictment was unsealed charging Zhu Hua, (aka Afwar, aka CVNX, aka Alayos, aka Godkiller) and Zhang Shilong, (aka Baobeilong, aka Zhang Jianguo, aka Atreexp), both nationals of the People's Republic of China (China), with conspiracy to commit computer intrusions, conspiracy to commit wire fraud, and aggravated identity theft. Zhu and Zhang were members of a hacking group operating in China known within the cyber security community as Advanced Persistent Threat 10 (the APT10 Group). The defendants worked for a company in China called Huaying Haitai Science and Technology Development Company (Huaying Haitai) and acted in association with the Chinese Ministry of State Security's Tianjin State Security Bureau. Through their involvement with the APT10 Group, from at least in or about 2006 up to and including in or about 2018, Zhu and Zhang conducted global campaigns of computer intrusions targeting, among other data, intellectual property and confidential business and technological information at managed service providers (MSPs), which are companies that remotely manage the information technology infrastructure of businesses and governments around the world, more than 45 technology companies in at least a dozen U.S. states, and U.S. government agencies. The APT10 Group targeted a diverse array of commercial activity, industries and technologies, including aviation, satellite and maritime technology, industrial factory automation, automotive supplies, laboratory instruments, banking and finance, telecommunications and consumer electronics, computer processor technology, information technology services, packaging, consulting, medical equipment, healthcare, biotechnology, pharmaceutical manufacturing, mining, and oil and gas exploration and production. Among other things, Zhu and Zhang registered IT infrastructure that the APT10 Group used for its intrusions and engaged in illegal hacking operations. (SDNY, NSD-CES, FBI)
<https://www.justice.gov/opa/pr/two-chinese-hackers-associated-ministry-state-security-charged-global-computer-intrusion>
- ***San Francisco Resident Sentenced to 10 Years In Prison for Manufacturing Counterfeit Adderall Pills Containing Methamphetamine.*** On November 27, 2018, Gino Carl von Eckstein, 25, of Brisbane, California, was sentenced to 10 years in prison for possessing with

intent to distribute methamphetamine. Eckstein pleaded guilty on September 5, 2018. He admitted that he possessed counterfeit “Adderall” pills, or pills that appeared to be Adderall, but in fact contained methamphetamine. Eckstein admitted he stored the pills in his car, at three locations in San Francisco’s Richmond District, in Brisbane, and in San Leandro. Eckstein further admitted he possessed the equipment and ingredients necessary to manufacture counterfeit Adderall pills. In total, agents allegedly found over 1,000 grams of suspected methamphetamine. (NDCA, DEA, CBP, FBI, IRS-CI, San Francisco Police) <https://www.justice.gov/usao-ndca/pr/san-francisco-resident-sentenced-10-years-prison-manufacturing-counterfeit-adderall>

- **Chinese Intelligence Officers and Their Recruited Hackers and Insiders Conspired to Steal Sensitive Commercial Aviation and Technological Data for Years.** On October 30, 2018, charges were announced for the Chinese intelligence officers and those working under their direction, which included hackers and co-opted company insiders, who conducted or otherwise enabled repeated intrusions into private companies’ computer systems in the United States and abroad for over five years. The conspirators’ ultimate goal was to steal, among other data, intellectual property and confidential business information, including information related to a turbofan engine used in commercial airliners. The charged intelligence officers, Zha Rong and Chai Meng, and other co-conspirators, worked for the Jiangsu Province Ministry of State Security (“JSSD”), headquartered in Nanjing, which is a provincial foreign intelligence arm of the People’s Republic of China’s Ministry of State Security (“MSS”). The MSS, and by extension the JSSD, is primarily responsible for domestic counter-intelligence, non-military foreign intelligence, and aspects of political and domestic security. From at least January 2010 to May 2015, JSSD intelligence officers and their team of hackers, including Zhang Zhang-Gui, Liu Chunliang, Gao Hong Kun, Zhuang Xiaowei, and Ma Zhiqi, focused on the theft of technology underlying a turbofan engine used in U.S. and European commercial airliners. This engine was being developed through a partnership between a French aerospace manufacturer with an office in Suzhou, Jiangsu province, China, and a company based in the United States. Members of the conspiracy, assisted and enabled by JSSD-recruited insiders, Gu Gen and Tian Xi, hacked the French aerospace manufacturer. The hackers also conducted intrusions into other companies that manufactured parts for the turbofan jet engine, including aerospace companies based in Arizona, Massachusetts, and Oregon. At the time of the intrusions, a Chinese state-owned aerospace company was working to develop a comparable engine for use in commercial aircraft manufactured in China and elsewhere. Defendant Zhang Zhang-Gui is also charged, along with Chinese national Li Xiao, in a separate hacking conspiracy, which asserts that Zhang Zhang-Gui and Li Xiao leveraged the JSSD-directed conspiracy’s intrusions, including the hack of a San Diego-based technology company, for their own criminal ends. On October 10, the Department of Justice announced that a JSSD intelligence officer was extradited to the Southern District of Ohio, on charges that he attempted to steal trade secrets related to jet aircraft engines, and in September, in the Northern District of Illinois, a U.S. Army recruit was charged with working as an agent of a JSSD intelligence officer, without notification to the Attorney General. As the indictment in the Southern District of California describes in detail, China’s JSSD intelligence officers and hackers working at their direction masterminded a series of intrusions in order to facilitate intrusions and steal non-public commercial and other data. The hackers used a range of techniques, including spear

phishing, sowing multiple different strains of malware into company computer systems, using the victim companies' own websites as "watering holes" to compromise website visitors' computers, and domain hijacking through the compromise of domain registrars. The first alleged hack began no later January 8, 2010, when members of the conspiracy infiltrated Capstone Turbine, a Los-Angeles-based gas turbine manufacturer, in order to steal data and use the Capstone Turbine website as a "watering hole." Chinese actors used not only hacking methods to conduct computer intrusions and steal commercial information, they also coopted victim company employees. From at least November 2013 through February 2014, two Chinese nationals working at the direction of the JSSD, Tian Xi and Gu Gen, were employed in the French aerospace company's Suzhou office. On January 25, 2014, after receiving malware from an identified JSSD officer acting as his handler, Tian infected one of the French company's computers with malware at the JSSD officer's direction. One month later, on February 26, 2014, Gu, the French company's head of Information Technology and Security in Suzhou, warned the conspirators when foreign law enforcement notified the company of the existence of malware on company systems. That same day, leveraging that tip-off, conspirators Chai Meng and Liu Chunliang tried to minimize JSSD's exposure by causing the deletion of the domain linking the malware to an account controlled by members of the conspiracy. The group's hacking attempts continued through at least May of 2015, when an Oregon-based company, which, like many of the other targeted companies, built parts for the turbofan jet engine used in commercial airliners, identified and removed the conspiracy's malware from its computer systems. (SDCA, NSD-CES, OIA, FBI, France – DGSI)

<https://www.justice.gov/opa/pr/chinese-intelligence-officers-and-their-recruited-hackers-and-insiders-conspired-steal>

- ***Champaign Man Charged with Allegedly Trafficking Counterfeit Xanax and Money Laundering.*** On October 4, 2018, Stephan Caamano, 23, of Champaign, Illinois, was arraigned on charges that he allegedly trafficked quantities of pills containing alprazolam, marked as 'Xanax,' and laundered proceeds of the alleged drug trafficking. The superseding indictment returned by the grand jury on October 2 alleges that from March 2017 to May 2018, Caamano trafficked quantities of pills containing alprazolam, marked as 'Xanax,' knowing it was not the drug Xanax manufactured by Pfizer. In addition, Caamano is charged with two counts of distribution of alprazolam, a Schedule IV controlled substance, and four counts of money laundering related to monetary transactions involving proceeds of the alleged drug trafficking. The charged transactions involved payment of Bitcoin in exchange for gold bullion on two occasions - April 12, 2017 and June 9, 2017; a wire transfer in the amount of \$235,500 on or about July 31, 2017; and, the transfer of funds on August 30, 2017, by personal check to a car dealership in the amount of \$25,936. Caamano pleaded guilty on April 29, 2019. (CDIL, CBP-HSI, USPI, DEA-Springfield, Champaign Police and Sheriff's Offices)

<https://www.justice.gov/usao-cdil/pr/trial-scheduled-champaign-man-charged-allegedly-trafficking-counterfeit-xanax-money>

The Antitrust Division Engages with Foreign Counterparts to Promote the Proper Application of Competition Laws to Intellectual Property Rights.

The Antitrust Division promotes principled application of the antitrust laws to intellectual property rights. As another part of its mission, the Antitrust Division often engages with foreign competition enforcers on the intersection of antitrust and IP rights, through international organizations, bilateral meetings, or other fora or communications. In June 2019, the Antitrust Division, along with the FTC, explained in a submission to the Organisation for Economic Co-operation and Development (OECD) the Agencies' approach to analyzing IP licensing agreements.¹¹

¹¹ Organisation for Economic Co-operation and Development, Roundtable on the Licensing of IP Rights and Competition Law, Note by the United States (June 2019), [https://one.oecd.org/document/DAF/COMP/WD\(2019\)58/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2019)58/en/pdf).

Appendix A – Glossary

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|----------------------------|--|
| AUSA | Assistant U.S. Attorney |
| BJA | Bureau of Justice Assistance |
| CBP | Customs and Border Protection |
| CCIPS | Computer Crime and Intellectual Property Section |
| CES | Counterintelligence and Export Control Section |
| CHIP | Computer Hacking and Intellectual Property |
| DMCA | <i>Digital Millennium Copyright Act</i> |
| DOJ | Department of Justice |
| EOUSA | Executive Office for United States Attorneys |
| FBI | Federal Bureau of Investigation |
| FDA | Food and Drug Administration |
| FBI’s Annual Report | FBI Fiscal Year 2017 Report to Congress on Intellectual Property Enforcement |
| FSN | Foreign Service National |
| FTC | Federal Trade Commission |
| FY | Fiscal Year |
| ICE-HSI | Immigration and Customs Enforcement’s Homeland Security Investigations |
| ICHIP | International Computer Hacking and Intellectual Property |
| IP | Intellectual property |
| IPR | Intellectual property rights |
| IPEC | Intellectual Property Enforcement Coordinator |
| IPEP | Intellectual Property Enforcement Program |
| IPLEC | Intellectual Property Law Enforcement Coordinator |
| IPR Center | National Intellectual Property Rights Coordination Center |
| NSCS | National Security Cyber Specialists |
| NSD | National Security Division |
| NW3C | National White Collar Crime Center |
| OIA | Office of International Affairs |
| OJP | Office of Justice Programs |
| OPDAT | Office of Overseas Prosecutorial Development, Assistance and Training |
| PRC | People’s Republic of China |
| PRO IP Act | <i>Prioritizing Resources and Organization for Intellectual Property Act of 2008</i> |
| USPTO | U.S. Patent and Trademark Office |

DEPARTMENT OF STATE

DEPARTMENT OF STATE

State Department Appendix for Annual Report October 1, 2018 through September 30, 2019

Bilateral and Multilateral Engagement

During the period October 1, 2018 through September 30, 2019, the Department of State (State), including U.S. Embassies around the world, continued to make intellectual property (IP) rights a priority in policy dialogues with host governments and multilateral institutions. Areas in which U.S. embassies work with their host governments include increasing political will for strengthening copyright, patent, trademark, and other IP protections, as well as combatting online piracy and counterfeit goods sale and production. Embassy economic sections typically lead such engagement, along with support from USPTO IP Attachés and State-funded Department of Justice International Computer Hacking and Intellectual Property (ICHIP) advisors, with the support and direction of Ambassadors and Deputy Chiefs of Mission.

A small sampling of bilateral engagement include:

- Counterfeit Goods: U.S. Consulate General Dubai and the regional Intellectual Property Attaché worked with the Dubai Police and local officials to seize and destroy 5,000 counterfeit Nike sneakers.
- Pharmaceuticals: U.S. Embassy Kuala Lumpur engaged host government officials regularly concerning patent and pharmaceutical issues on behalf of U.S. innovative medicines firms.
- Science and Technology Agreement (STA): The United States signed an STA with India in September 2019. The STA's IP provisions had been in negotiations for almost two years previously.
- ICHIP: A new ICHIP advisor was approved and selected to be assigned in Bucharest, Romania. The State Department Bureau of International Narcotics and Law Enforcement Affairs Office of Global Programs and Policy (INL/GPP) funds the bulk of the ICHIP program, which is part of an expanding U.S. Transnational and High-Tech Crime Global Enforcement Network (GLEN), designed to strengthen international coordination and deliver capacity building.

The Department of State raises IP awareness internationally through public diplomacy events, such as World IP Day in countries around the world. In April 2019, State provided funding for World IP Day programming in seven countries around the world consistent with this year's theme of "Reach for Gold: IP and Sports." State also used social media to amplify the importance of IP protections to its overseas and domestic audiences.

International Organizations

The State Department participates in U.S. delegations to multilateral forums and international organizations where we advance global intellectual property rights protections including: the World Trade Organization's (WTO) Trade Related Aspects of Intellectual Property Rights (TRIPS) Council, the Organization for Economic Co-operation and Development (OECD) Taskforce on Countering Illicit Trade, the World Intellectual Property Organization (WIPO), the Asia-Pacific Economic Cooperation (APEC) Forum, the World Health Organization (WHO), and various other U.N. bodies. In addition, Department of State representatives requested that U.S. international development and trade agency partners educate their program recipients about the importance of IP to support business development, entrepreneurship, and innovation.

Report Pursuant to Article 66.2 of TRIPS: The United States reports on its incentives to promote and encourage technology transfer to least-developed country (LDC) WTO members in the annual Article 66.2 Report. The Department of State's Office of Intellectual Property Enforcement (EB/IPE) receives input from missions overseas, regional and functional bureaus, and interagency partners on the range of USG technology transfer and capacity building activities around the world. IPE submits the Article 66.2 Report to the WTO TRIPS Council every autumn. The broad range of activities covered in this report, including laboratory-based scientific collaboration, capacity building and education, and IP enforcement activities, highlight the United States' efforts to promote effective and voluntary transfer of technology to LDC members.

The U.S. Transnational and High Tech Crime Global Law Enforcement Network (GLEN) International Computer Hacking and Intellectual Property Advisor (ICHIP) Program

The GLEN consists of ICHIPs, experienced Department of Justice (DOJ) prosecutors posted at U.S. Missions to strengthen regional enforcement coordination and deliver capacity building, as well as Global Cyber Forensics Advisors (GCFA) to deliver law enforcement investigative training in digital forensics. The GLEN is funded by the Department of State INL/GPP and carried out by Department of Justice personnel, working with foreign countries to strengthen IPR protection and enforcement leading to more effective investigation and prosecution of IPR offenses. INL/GPP consults closely with EB/IPE in program development and implementation.

The ICHIP officers have regional responsibilities to: (1) assess the capacity of law enforcement authorities throughout the region to enforce intellectual property rights, (2) develop and deliver training and other capacity building formats designed to enhance the capacity of justice sector personnel to enforce intellectual property rights, (3) assist in developing or strengthening institutions dedicated to enforcing intellectual property rights, (4) monitor regional trends in intellectual property protection and computer crimes, and (5) provide expert assistance in support of USG intellectual property and computer crimes policies and initiatives in the region.

Building on early successes, State has worked closely with the Justice Department to expand the ICHIP program into a global network. The GLEN deploys twelve ICHIPs, eleven supported by INL funds (one is DOJ funded), that work collaboratively within and across their regions, stationed in Panama City, Panama; Zagreb, Croatia; Addis Ababa, Ethiopia; The Hague,

Netherlands; Hong Kong, China SAR; Sao Paulo, Brazil; Bucharest, Romania; Abuja, Nigeria; Bangkok, Thailand, plus two ICHIPs deployed out of Washington, D.C., to specifically address dark market/cryptocurrency and online consumer protection-related aspects of cybercrime and IP theft.

Contributions to USTR's Special 301 and Notorious Markets reports

During the reporting period, EB/IPE provided extensive support to USTR and the interagency team for the 2019 Special 301 process. At the request of EB/IPE, Posts from around the world submitted detailed analysis on the state of IPR protection and enforcement as part of the review. EB/IPE also obtained input from several Posts that offered significant contributions to the Notorious Markets Report. Post insights on the “on-the-ground” events deepened U.S. departments’ and agencies’ knowledge of IP protections in host countries.

Following the issuance of the Special 301 Report by USTR, EB/IPE, working with U.S. Embassies and Consulates around the world, engages with U.S. stakeholders and foreign governments to ensure that the U.S. Government’s position is informed by the full range of views on the pertinent issues, and to encourage trading partners to engage fully, and with the greatest degree of transparency, with the full range of stakeholders on IP matters. In conjunction with USTR and Posts, EB/IPE helps to develop action plans with benchmarks for each country that has been on the Priority Watch List for at least one year to encourage progress on high-priority IP concerns and identify, where possible, appropriate ways in which the U.S. Government can be of assistance.

Capacity Building and Training

The Department of State, using foreign assistance anti-crime funds managed by the Bureau of International Narcotics and Law Enforcement (INL), has a longstanding program to provide U.S. Government capacity-building training and technical assistance to foreign law enforcement partners to combat IPR crime and to deter widespread commercial-scale pirated and counterfeit goods and services. State works with other agencies to prioritize assistance to developing countries that are named in USTR’s Special 301 Report as countries of concern.

As an example of bilateral training successes:

- From January to July 2019, long-term assistance provided by the São Paulo based ICHIP prompted a multi-stakeholder group of São Paulo officials, U.S. rights-holders, and Brazilian police to conduct Operação Comércio Legal (Operation Legal Commerce), a series of raids which led to seizures of contraband that included the largest seizure of counterfeit watches in Brazilian history - approximately 500,000 counterfeit watches valued at USD 12.6 million that required ten trucks to haul away. The Sao Paulo operations have served as a model for ways to partner in targeting transnational criminal organizations.

- A June 2019 regional workshop in Dakar developed by the Abuja based ICHIP in coordination with the US Embassy and USPTO brought together 11 West African governments, U.S. IP stakeholders and private sector experts to identify ways to jointly combat counterfeit medicines and pesticides, threats that kill tens of thousands of people each year in Africa. This workshop, the first in West Africa to cover both counterfeit pesticides and medicines, was lauded by participants as laying the foundation for future collaboration in these areas between the United States and West African Nations.

On a global level, the Department of State's nearly 1,500 economic officers, together with 12 Commerce Department Intellectual Property (IP) Attachés, secured the participation of representatives from foreign ministries and law enforcement officials in training programs that bolster IP law and enforcement efforts. The Department of State organized International Visitor Leadership Program (IVLP) visits for IP policy and enforcement stakeholders from Cambodia, China, Egypt, France, Nigeria, Uzbekistan, and South Africa, among others. The Department also gave presentations to IP officials and private sector stakeholders from China, Bulgaria, Czech Republic, Germany, India, Indonesia, Lebanon, Pakistan, Peru, Ukraine, and Vietnam, among others, who were in the United States as part of various international visitor programs.

The Department also engaged with British, French, Colombian, Egyptian, Saudi, and Spanish IP enforcement officials through the National IPR Coordination Center in Alexandria, Virginia, and took part in an IPR Center Symposium on the influence of social media on IP issues. These engagements, plus meetings with numerous other U.S. business associations and companies, enabled the Department to better understand key IP enforcement concerns around the world and share best practices with international IP professionals.

At the invitation of the Office of the Intellectual Property Enforcement Coordinator (IPEC), the Department also participated in meetings between industry and U.S. government representatives, including a roundtable on IP Challenges in Sports, as well as accompanying the IPEC on several international visits, including to the Middle East, Southeast Asia and Europe. The Department also played an integral part in the interagency process to appropriately respond to the Presidential Memorandum on combatting trafficking in counterfeit and pirated goods.

In addition, EB/IPE – in partnership with USPTO's Global IP Academy (GIPA) – coordinated a two-day training course on IPR for U.S. government officials. Most participants were Foreign Service Officers preparing for onward assignments, and the training also included civil servants and U.S. Embassy locally employed staff. Experts and stakeholders briefed attendees on the fundamentals of intellectual property, U.S. government positions on current IP "hot topics," and U.S. industry priorities. These officials are now better equipped to advocate for U.S. rights-holders overseas and articulate USG policy positions in bilateral discussions and in international fora. In addition, EB/IPE regularly briefed visiting foreign IP officials on U.S. government policy positions and IP promotion and protection activities.

EB/IPE also delivered training to classes of Foreign Service Officers and representatives from various USG agencies at the Foreign Service Institute's Political-Economic and Commercial Tradecraft classes. IPE training gives officers and local staff the latest policy perspectives on

debates in international IP and enables and empowers American officers to better advocate for U.S. rights-holders overseas.

Department representatives provided external presentations, in response to numerous organization requests, including to representatives of the U.S. Council for International Business, American Association for the Advancement of Science, and local area teachers.

The Department joined with the U.S. Department of Commerce “StopFakes” roadshows in numerous domestic locations during the reporting period, including Philadelphia, Pennsylvania; Minneapolis, Minnesota; Kansas City, Missouri; St. Louis, Missouri; Chicago, Illinois; Milwaukee, Wisconsin; Houston, Texas; and Huntsville, Alabama. StopFakes roadshows bring start-ups, entrepreneurs, and small to medium-sized businesses, together with USG officials to learn how to identify and protect various intellectual property assets. They also learn about mechanisms for obtaining IP protection in overseas markets, strategies for determining where to seek protection, and the value of copyright and trade secrets protection to their businesses. IPE presented information on the State Department role in helping U.S. companies overseas protect their IP rights, and provided the hundreds of attendees with points of contact in Washington and overseas. Presentations also addressed how to combat counterfeits on international e-commerce sites and what additional government resources are available to help U.S. business bolster intellectual property protections.

DEPARTMENT OF TREASURY

DEPARTMENT OF TREASURY

Department of the Treasury Appendix for FY19 Annual Report

Treasury IP-related efforts on Customs

Treasury authority for border enforcement of intellectual property laws, along with certain other customs revenue functions, has been delegated to DHS and is carried out by CBP and ICE (see Treasury Order 100-16 and 6 U.S.C. §§ 212, 215). Under the delegation, Treasury retains the sole authority to approve any regulations concerning copyright and trademark enforcement at the border, and works closely on these with CBP and ICE.

Treasury efforts to identify and address certain IP-related risks to national security through the CFIUS process

The Secretary of the Treasury serves as Chairperson of the Committee on Foreign Investment in the United States (CFIUS). CFIUS is an interagency committee authorized to review certain transactions that could result in control by a foreign person over a U.S. business in order to determine the effect of such transactions on the national security of the United States. Pursuant to the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), which was signed into law on August 13, 2018, and subject to implementing regulations, CFIUS also has the authority, among others, to review certain non-controlling investments by foreign persons in U.S. businesses that produce, design, test, manufacture, fabricate, or develop critical technologies, which could include aspects of intellectual property. The Department of Treasury published proposed regulations to implement FIRRMA, including this authority, in September 2019 with a 30-day public comment period. Additionally, utilizing authority provided under FIRRMA to conduct one or more pilot programs to implement any authority provided by FIRRMA that did not immediately become effective upon enactment, last fall the Department of the Treasury published an interim rule setting forth the scope of, and procedures for, a pilot program covering certain investments by foreign persons in certain U.S. businesses with critical technologies and establishing a mandatory declaration requirement. This pilot program went into effect on November 10, 2018 and will conclude by the time the final regulations implementing FIRRMA go into effect in February 2020.

CFIUS does not enforce intellectual property laws. If, however, during its review of a transaction CFIUS identifies a risk to U.S. national security arising from a foreign person's acquisition of, or access to, the intellectual property of the U.S. business, and if other authorities are not adequate or appropriate to address the identified risk, CFIUS will seek to mitigate such risk. Mitigation measures could take a variety of forms, including but not limited to: placing the intellectual property in escrow; controlling the foreign person's access to the intellectual property; requiring mechanisms to monitor and enforce such access controls; and ensuring U.S. Government access to, or insight into, the intellectual property. If CFIUS determines that the identified risk cannot be resolved through mitigation, it will refer the transaction to the President, who can suspend or prohibit the transaction.

Treasury authority to impose sanctions under Executive Order 13694, as amended, in response to certain malicious cyber-enabled activities, including the theft of trade secrets for commercial or competitive advantage or private financial gain.

Treasury continues to encourage referrals from relevant departments and agencies, including law enforcement and intelligence agencies, regarding targets for potential designation by the Office of Foreign Assets Control (OFAC) pursuant to Executive Order (E.O.) 13694, as amended by E.O. 13757. The Executive Order authorizes the imposition of sanctions on individuals and entities determined to be responsible for or complicit in, or to have engaged in, certain malicious cyber-enabled activities, including “causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain.”

OFFICE OF THE U.S. TRADE REPRESENTATIVE

OFFICE OF THE U.S. TRADE REPRESENTATIVE

USTR Appendix for FY 2019 Annual Report

One avenue to promote intellectual property (IP) protection and enforcement abroad is through engagement with our trading partners. Through such engagement, the Administration advocates for strong IP protection and enforcement in other countries for, *inter alia*, creative works, brands, designs, trade secrets and inventions by U.S. creators, inventors, artists and businesses. Through direct engagement with foreign counterparts, the Office of the U.S. Trade Representative (USTR) emphasizes the importance that the U.S. government places on protecting and enforcing IP, and presses for concrete action by trading partners to protect and enforce IP rights, including those owned by Americans.

To advance the Administration's objectives, USTR uses a broad range of trade policy tools to promote strong IP rights protection and enforcement, including Section 301 of the Trade Act; the annual Special 301 review of IP protection and enforcement and related market access issues; trade agreement negotiations; monitoring and enforcement of those agreements; trade and investment framework agreements; participation in the TRIPS Council at the World Trade Organization; and high-level engagement in multilateral and bilateral meetings.

Given the international competitiveness of U.S. innovative and creative industries, the United States considers strong and effective protection and enforcement of IP rights as critical to U.S. economic growth and American jobs. According to the U.S. Department of Commerce, 45.5 million American jobs in 2014 were directly or indirectly supported by "IP-intensive" industries, and these jobs paid higher wages to their workers. In addition, in 2014, these IP-intensive industries accounted for \$6.6 trillion in value added and 38.2 percent of the U.S. GDP. (See Department of Commerce, *Intellectual Property and the U.S. Economy: 2016 Update*, at <https://www.uspto.gov/sites/default/files/documents/IPandtheUSEconomySept2016.pdf>.) Innovation and creativity are key export strengths for the United States. To help ensure that American innovators and creators compete on a level playing field around the world, the U.S. Government uses all the tools at its disposal to promote effective IP rights protection and enforcement by its trading partners. The USTR initiatives that have advanced IP rights protection include the following.

Section 301 Investigation into China's Technology Transfer, Intellectual Property and Innovation Law, Policies, Practices and Actions

On August 14, 2017, the President of the United States issued a Memorandum instructing the Trade Representative to determine whether to investigate under section 301 of the Trade Act of 1974 (the Trade Act) (19 U.S.C. § 2411), laws, policies, practices, or actions of the government of China that may be unreasonable or discriminatory and that may be harming American IP rights, innovation, or technology development. See 82 FR 39007. After consultation with the appropriate advisory committees and the inter-agency Section 301 Committee, on August 18, 2017, USTR initiated an investigation into certain acts, policies, and practices of China related to technology transfer, IP, and innovation. See 82 FR 40213. The investigation included a public hearing on October 10, 2017, and two rounds of public written comments from interested

members of the public. On March 22, 2018, based on the investigation in response to the Presidential Memorandum, the Trade Representative issued a detailed report determining that China's acts, policies, and practices that force or pressure U.S. right holders to transfer technology and IP are unreasonable or discriminatory and burden or restrict U.S. commerce, and are thus actionable under Section 301(b) of the 1974 Trade Act. In a notice published in the Federal Register on April 6, 2018, the Trade Representative found:

- China uses foreign ownership restrictions, such as joint venture requirements and foreign equity limitations, and various administrative review and licensing processes, to require or pressure technology transfer from U.S. companies;
- China's regime of technology regulations forces U.S. companies seeking to license technologies to Chinese entities to do so on non-market-based terms that favor Chinese recipients;
- China directs and unfairly facilitates the systematic investment in, and acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generate the transfer of technology to Chinese companies; and
- China conducts and supports unauthorized intrusions into, and theft from, the computer networks of U.S. companies to access their sensitive commercial information and trade secrets.

The President directed the Trade Representative to take all appropriate action under Section 301, including considering increased tariffs on goods from China.

On April 6, 2018, USTR published a proposed list of products imported from China, worth approximately \$50 billion in imports that could be subject to additional tariffs. After hearings and the receipt of numerous written comments, the USTR imposed additional tariffs of 25 percent on approximately \$34 billion worth of imports from China, effective July 6, 2018. After a subsequent round of hearings and submissions, the USTR imposed additional tariffs of 25 percent on approximately \$16 billion worth of imports from China, effective August 23, 2018.

On September 24, 2018, USTR announced the imposition of tariffs of 10 percent on approximately \$200 billion worth of imports from China, rising to a rate of 25 percent effective January 1, 2019. At the direction of the President, the Trade Representative postponed the increase in the rate of additional duty for this third tranche of products in light of progress in discussions with China, but, on May 10, 2019, increased the level to 25 percent after China retreated from specific commitments from earlier rounds of negotiations. In May 2019, USTR requested comment and, in June 2019, held a public hearing on a proposed tariff modification adding an *ad valorem* duty of up to 25 percent on additional products of China with an annual trade value of approximately \$300 billion.

On November 20, 2018, USTR released a report updating information on its Section 301 investigation of China's acts, policies and practices related to technology transfer, intellectual property and innovation.¹² USTR Robert Lighthizer indicated that "[t]his update shows that China has not fundamentally altered its unfair, unreasonable, and market-distorting practices that were the subject of the March 2018 report on our Section 301 investigation."¹³

On March 23, 2018, the United States requested consultations with China under the WTO Dispute Resolution Understanding (in matter DS542). Consultations on DS542 were held in July 2018 but they did not resolve the dispute. On October 18, 2018, the United States requested that the WTO Dispute Settlement Body establish a panel to examine the U.S. complaint. After China blocked the first U.S. request for a WTO dispute settlement panel as provided for in the rules for dispute settlement proceedings, the United States repeated its request to establish a WTO dispute settlement panel and a panel was established at the November 21, 2018 meeting of the Dispute Settlement Body.

In August 2019, the Trade Representative, at the direction of the President, determined to modify the action being taken in the investigation by issuing a notice imposing an additional duty of 15 percent on \$120 billion of Chinese goods effective September 1, 2019, and an additional duty of 15 percent on \$160 billion of Chinese goods effective December 15, 2019. The Trade Representative also received public comments regarding a proposed modification to increase the rate of additional duty from 25 percent *ad valorem* to 30 percent *ad valorem* on goods of China covered by the three prior tariff actions, with an approximate annual trade value of \$250 billion.

On January 15, 2020, the United States and China signed a Phase One trade agreement that requires structural reforms and other changes to China's economic and trade regime in the areas of intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange. In light of progress in the negotiations with China, and at the direction of the President, the Trade Representative determined to suspend indefinitely the imposition of the additional duties of 15 percent on \$160 billion of Chinese goods that had been scheduled for December 15, 2019. In addition, the United States will be reducing from 15 percent to 7.5 percent the tariffs that it imposed on \$120 billion of Chinese goods on September 1, 2019.

NAFTA and the United States, Mexico, and Canada Agreement (USMCA)

On May 18, 2017, USTR notified Congress of the Administration's intent to initiate NAFTA renegotiations. Securing effective protection and enforcement of IP for U.S. rights holders is a key element of all trade engagement, including these negotiations. The Administration notified Congress of its intent to sign a trade deal in August 2018. That outcome included strong IP provisions related to copyright, patents, trademarks, geographical indications, enforcement (including civil, criminal, border, administrative), trade secrets and other IP priorities.

¹² <https://ustr.gov/sites/default/files/enforcement/301Investigations/301%20Report%20Update.pdf>

¹³ <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/november/ustr-updates-section-301>

In November 2018, under the leadership of President Trump, the United States, Mexico and Canada reached an agreement to modernize the 24-year-old NAFTA into a 21st century, high-standard agreement. The United State-Mexico-Canada Agreement (USMCA) will support mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America. The USMCA includes a modernized, high-standard IP chapter, which breaks new ground in U.S. trade and IP policy. It contains comprehensive protections against misappropriation of trade secrets, including by state-owned enterprises. It provides the most robust border enforcement mechanisms of any prior FTA. In addition, strong copyright protection and enforcement, more transparency in the grant of Geographical Indications (GI) protection or recognition, and full national treatment also promote the strong and effective protection and enforcement of IP rights that is critical to driving innovation, creating economic growth, and supporting American jobs.¹⁴

U.S.-Korea Free Trade Agreement (KORUS)

In 2018, Ambassador Lighthizer completed negotiations to amend and modify KORUS. In these negotiations, the United States achieved steps to improve the large trade deficit in industrial goods and to address KORUS implementation concerns that have hindered U.S. export growth. In the realm of pharmaceutical reimbursements, the USTR secured Korea's commitment to, within 2018, amend its Premium Pricing Policy for Global Innovative Drugs to make it consistent with Korea's commitments under KORUS on ensuring non-discriminatory treatment for U.S. pharmaceutical exports.¹⁵ In FY 2019, USTR also led discussions of the KORUS Committee on Medicines and Medical Devices in Seoul to address Korea's implementation of KORUS's pharmaceutical pricing provisions.

Ongoing Trade Agreement Implementation and Enforcement

In FY 2018, the U.S. continued to engage with Free Trade Agreement (FTA) partners (including Australia, Chile, Colombia, Costa Rica, Dominican Republic, and Morocco) to ensure that FTA obligations, including those related to IPR, are being implemented.

USTR Special 301 Report

Each year, pursuant to statute, USTR issues the Special 301 Report on the adequacy and effectiveness of protection and enforcement of IP by our trading partners. The Special 301 Report is an important tool to engage with our trading partners to promote strong protection for U.S. creative and innovative industries, as well as to promote compliance with trade commitments. USTR actively employs the Special 301 process to identify and address key IP challenges for American businesses and to document and encourage continued progress in countries that undertake legislative and enforcement reforms following engagement under Special 301.

¹⁴ United States–Mexico–Canada Trade Fact Sheet: Modernizing NAFTA into a 21st Century Trade Agreement (October 1, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2018/october/united-states%E2%80%93mexico%E2%80%93canada-trade-fa-1>

¹⁵ <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2018/march/new-us-trade-policy-and-national-https://ustr.gov/sites/default/files/files/Press/Releases/KORUS%20Texts%20Outcomes.pdf>

USTR released the 2019 Special 301 Report in April 2019. (The 2019 Report is at https://ustr.gov/sites/default/files/2019_Special_301_Report.pdf, and the related press release is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/april/ustr-releases-annual-special-301t>.) In the report, USTR highlighted serious and ongoing concerns with respect to the environment for IP rights protection and enforcement in China, India, Indonesia, Russia, Saudi Arabia, Ukraine and other markets. In addition, USTR announced that it would conduct an Out-of-Cycle Review (OCR) for Malaysia.

The Special 301 Report reflects the Administration's continued resolve to encourage adequate and effective IP protection and IP rights enforcement worldwide. The 2019 Special 301 Report identified a wide range of concerns, including: (a) the deterioration in IP protection and IP rights enforcement in a number of trading partners; (b) discriminatory and/or non-transparent measures that act as market access barriers to U.S. pharmaceutical products and medical devices; (c) unresolved inadequacies in trade secret protection in China, India, and elsewhere; (d) troubling "indigenous innovation," technology transfer, and localization policies that may unfairly disadvantage U.S. right holders in markets abroad; (e) the continuing challenges of online copyright piracy; (f) measures that impede market access for U.S. products embodying IP and U.S. entities that rely upon IP protection; and (g) other ongoing, systemic IP rights enforcement issues in many trading partners around the world.

A Special 301 Out-of-Cycle Review is a tool that USTR uses to encourage progress on IP issues of concern. Out-of-Cycle Reviews provide an opportunity to address and remedy such issues through heightened engagement and cooperation with trading partners and other stakeholders. Out-of-Cycle Reviews focus on identified IP challenges in specific trading partner markets. Successful resolution of specific IP issues of concern can lead to a positive change in a trading partner's Special 301 status outside of the typical period for the annual review. Conversely, failure to address identified IP concerns, or further deterioration as to an IP-related concern within the specified Out-of-Cycle Review period, can lead to an adverse change in status. As of the end of FY 2019, an out-of-cycle review was proceeding on Malaysia.

Notorious Markets List

The Notorious Markets List (NML) highlights select online and physical marketplaces that reportedly engage in or facilitate substantial copyright piracy or trademark counterfeiting. USTR has identified notorious markets in the Special 301 Report since 2006. In 2010, USTR announced that it would begin publishing the NML separately from the annual Special 301 Report, pursuant to an Out-of-Cycle Review. USTR first separately published the 2010 NML in February 2011, and has published an NML for every year since.

In the NML, USTR highlights markets not only because they exemplify global concerns about counterfeiting and piracy, but also because the scale of infringing activity in such markets can cause significant economic harm to U.S. IP right holders. Some of the identified markets reportedly are host to a combination of legitimate and unauthorized activities. Others reportedly exist solely to engage in or facilitate unauthorized activity. The NML does not purport to be an exhaustive list of all physical and online markets worldwide in which IP rights infringement takes place.

A goal of the NML is to motivate appropriate action by the private sector and governments to reduce piracy and counterfeiting. The operators of several websites identified in past NMLs have begun to work with right holders to address counterfeiting and piracy. Several markets have also ceased operations or have been the focus of government enforcement efforts.

The 2018 Notorious Markets List was issued in April 2019. (The NML is at https://ustr.gov/sites/default/files/2018_Notorious_Markets_List.pdf, and the related press release is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/april/ustr-releases-annual-special-301>.) The 2018 NML includes a focus on free trade zones. As of the close of FY2019, the 2019 NML is expected to be issued in the coming months.

India

The U.S. maintains bilateral engagement with India on IP issues through the High-Level IP Working Group under the United States–India Trade Policy Forum (TPF). USTR, working with its interagency partners (USPTO, U.S. Copyright Office, ITA, DOJ, Health and Human Services, FTC, and others), seeks to revitalize the on-going engagement with Indian government counterparts during FY 2019, including continued exchanges and activities centered on the robust protection of IP and enforcement of IP rights, with a focus on areas such as copyright, trade secrets, patents, and promoting innovation and creativity through high-level government policies.

World Trade Organization Council on Trade-Related Aspects of Intellectual Property Rights (TRIPS Council)

The World Trade Organization (WTO) provides an additional venue for USTR to lead engagement with trading partners on IP rights issues, including through accession negotiations for prospective Members, the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council), and the Dispute Settlement Body.

In FY 2019, the United States advanced its IP and Innovation agenda in the TRIPS Council through a series of initiatives designed to facilitate greater understanding of the critical role that IP plays in promoting innovation, entitled “Public-Private Collaborations in Innovation.” The United States co-sponsored three submissions under this year-long theme with member states including, Australia, the European Union, Japan, Chinese Taipei, The Republic of Korea, and Switzerland, examining how IP protection and enforcement promote innovation and creativity to meet societal challenges and needs. We advanced discussion among member states at TRIPS Council meetings this year on how the public sector and the private sector possess different resources, expertise, and risk profiles that can complement each other to create IP and deliver useful innovative solutions to benefit society.

World Trade Organization Accession

Governments in the process of negotiating the terms for accession to the WTO work with WTO Members, including the United States, to appropriately update and strengthen their IP regimes as

well as to expand trade and enhance the investment climate for innovative and creative industries.

Other Fora

In addition to the WTO (which is the principal forum for addressing trade-related aspects of intellectual property), the United States also advanced these issues in other fora during FY 2019, including the OECD, WIPO, APEC forum and various U.N. bodies.

In the APEC Intellectual Property Experts Group (IPEG), the United States held a seminar highlighting the benefits of patent grace period harmonization for research institutions, universities, and SMEs, bringing together speakers ranging from IP industry experts to government officials from patent offices of various APEC economies. The United States also presented on evidence of genericness in trademark and geographical indications analysis, and efforts by the USPTO to address fraudulent filings in trademark applications.

Examples of Additional Areas of IP Rights Engagement

In October 2018, during the U.S.-Algeria Trade and Investment Framework Agreement (TIFA) meeting, USTR continued to lead discussions pertaining to IP-related market access barriers in Algeria. Also in October of 2018, the U.S.-Ukraine Trade and Investment Council meeting provided an opportunity for USTR to continue engagement with Ukraine and voice concerns regarding longstanding IP protection and enforcement issues.

In December 2018, the U.S.-Moldova Joint Commercial Commission meeting facilitated discussions in which USTR stressed the need for effective enforcement of IP rights in order to support the innovative and creative industries and encourage investment in Moldova.

In June 2019, USTR led a delegation of officials to Argentina for a meeting of the bilateral Innovation and Creativity Forum for Economic Development, an IP working group under the U.S.-Argentina TIFA to address longstanding IP concerns. Discussions were on a wide range of IP topics, including enforcement, patent-related concerns, and copyright-related issues.

In July 2019, USTR led a delegation of officials to Thailand for discussions on a range of trade and investment issues under the U.S.-Thailand TIFA. Key IP issues that were discussed include patents and pharmaceuticals, copyright and related rights, and enforcement.

USTR led the U.S. delegation in meetings with the United Kingdom (UK) under the U.S.-UK Trade and Investment Working Group in July 2019. The Working Group, established in July 2017, is focused on laying the groundwork for a future trade agreement as well as providing commercial continuity for U.S. and UK businesses once the UK leaves the EU. In addition, the Working Group is exploring ways to strengthen trade and investment. Lastly, USTR has continued to discuss how the United States and UK can demonstrate global leadership in IP enforcement and collaborate to promote open markets around the world.

In September 2019, the US - Central Asia IP Working Group, organized under the US - Central Asia TIFA, met for the first time in Kazakhstan, Almaty. The working group facilitated robust discussions around the implementation of the WIPO Internet Treaties, enforcement of IP rights for hard goods and in the digital environment, and the use of unlicensed software by government authorities.

Engagement with Stakeholders and the Public

USTR frequently seeks public input from all sectors of society, including private citizens, non-governmental organizations, academia, consumer groups, small and medium-size businesses, and the business community (including innovators, content providers, and technology and other service providers).

To this end, USTR holds public hearings; seeks written comments regarding negotiation objectives through Federal Register notices; chairs regular sessions with designated public advisory committees; and disseminates trade policy materials such as press releases, factsheets, and statements on the USTR website. These dialogues are critical at every stage of USTR's work, including in connection with the process of negotiating, implementing, and enforcing trade rules.

USTR also seeks public input for the annual Special 301 and Notorious Markets List processes. The annual Special 301 Report identifies countries that fail to adequately and effectively protect or enforce IP rights or use unfair barriers to limit market access for U.S. businesses that rely on IP. The Notorious Markets List highlights prominent online and physical marketplaces that reportedly engage in or facilitate substantial copyright piracy or trademark counterfeiting. USTR publishes requests for public comment in the *Federal Register* that provide opportunities for public input and rebuttals, and the submitted comments are available online. In addition, USTR holds a public hearing for the Special 301 process. In addition to requesting comments from the public and holding a public hearing on IP matters, IP trade policy figured heavily in USTR's broader stakeholder and Congressional outreach, including in a range of domestic and international fora.

COPYRIGHT OFFICE

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Appendix for FY19 Annual Report (through 3rd Quarter)

This appendix summarizes some of the key activities taken by the United States Copyright Office in FY 2019.

Overview

On March 27, 2019, Librarian of Congress Dr. Carla Hayden appointed Karyn A. Temple, to serve as the 13th Register of Copyrights and the Director of the U.S. Copyright Office. Register Temple had served in an acting capacity since October 2016. She leads a 400-person workforce and directs the administration of important provisions of the United States Copyright Act, Title 17. Register Temple appeared in oversight hearings before the House Judiciary Committee in June 2019 and the Senate Judiciary IP subcommittee in July 2019. Her testimony provides many details on the work and initiatives of the Copyright Office; see <https://www.copyright.gov/laws/hearings/>.

In April 2019, the Office also issued a new Strategic Plan, identifying the Office's strategic framework for the five years covering 2019–2023, see <https://www.copyright.gov/reports/strategic-plan/>. During FY 2019, the Office also continued its work to modernize the office; the webpage for this effort is <https://www.copyright.gov/copyright-modernization/>. The Office examined and registered hundreds of thousands of copyright registration claims, recorded transfers of ownership, and administered statutory licenses. The Office also provided law and policy advice to Congress, provided expert advice to the federal courts and executive branch agencies on domestic and international copyright matters, and conducted public outreach efforts.

Please visit www.copyright.gov for more information on all the Office's activities.

Implementation of the Orrin G. Hatch–Bob Goodlatte Music Modernization Act

Congress signed the Orrin G. Hatch–Bob Goodlatte Music Modernization Act (MMA, P.L. 115-264) into law on October 11, 2018. This law address Congress's determination that copyright law has not kept pace with changing consumer preferences and technological developments in the music marketplace. This landmark legislation reflects years of Copyright Office work on issues related to music reform. In 2011, the Office issued its report, *Federal Copyright Protection for Pre-1972 Sound Recordings*. In 2015, the Office completed its comprehensive study of the music licensing framework and the evolving needs of creators in the twenty-first century, and published *Copyright and the Music Marketplace*. Many of the suggestions offered in these reports were included in this legislation.

The MMA requires that the Copyright Office take a number of actions, ranging from rulemakings to public outreach, to fully implement its provisions. The Copyright Office responded to passage of the MMA immediately, including by creating a webpage dedicated to informing the public about the bill and promptly initiating the public notices and regulations

needed to implement various aspects of the landmark law. The following is a description of the Copyright Office's work in FY19 to implement the MMA, by title:

Title I of the MMA is the Musical Works Modernization Act.

Title I, among other things, replaces the existing song-by-song compulsory licensing structure for making and distributing musical works with a blanket licensing system for digital music providers to make and distribute digital phonorecord deliveries (e.g., permanent downloads, limited downloads, or interactive streams).

First, pursuant to section 115(d)(3), as amended, the Register of Copyrights must designate an entity as the mechanical licensing collective (MLC) to administer the blanket license and distribute collected royalties to songwriters and music publishers. The MLC is tasked with developing and maintaining a database of musical works and sound recordings, which will be publicly available and is expected to become the most comprehensive database in the music industry. The MMA also allows, but does not require, the Register to designate a digital licensee coordinator (DLC) to represent licensees in this proceeding, to serve as a non-voting member of the MLC, and to carry out other functions.

In December 2018, the Office issued a notice of inquiry soliciting proposals from entities who seek to be designated as the MLC or DLC. Following the submission of proposals, the Office received over 600 comments from members of the public regarding these submissions. Based on the submissions received and the selection criteria provided in the statute, the Register designated, with the Librarian's approval, Mechanical Licensing Collective, Inc. as the MLC, and Digital Licensee Coordinator, Inc. as the DLC. This rule was issued, on time, on July 8, 2019. All documents related to this decision are posted at <https://www.copyright.gov/rulemaking/mma-designations/>.

Second, the Office completed a rulemaking updating the Office's existing regulations pertaining to the compulsory "mechanical" license for making and distributing phonorecords of nondramatic musical works available under section 115. This amendment conformed the existing regulations to the new law, including with respect to the operation of notices of intention and statements of account, and making other minor technical updates. The March 2019 rule was generally directed at the transition period before a blanket license is offered by a mechanical licensing collective and does not include regulatory updates required in connection with the future offering of that blanket license. This rulemaking is available at <https://www.copyright.gov/rulemaking/mma-115-techamend/>.

In September 2019, the Office issued a notice of inquiry regarding the regulatory updates required for the new blanket license. The NOI requests input on several areas, including on the form and substance of notices of license and notices of nonblanket activity. It also requests input on the need for regulations concerning activities of digital music providers or copyright owners. Additionally, the Office is welcoming information on the existing industry customs in voluntary licensing as well as input on any issues the Office should consider with regards to record keeping, reporting of unclaimed royalties, and any related information regarding the MLC's database. These measures will help to ensure that the

proper regulatory procedures are in place prior to the upcoming license availability date of January 2021. The full notice is available at <https://www.govinfo.gov/content/pkg/FR-2019-09-24/pdf/2019-20318.pdf>.

Third, the Copyright Office is engaging in outreach and educational activities to inform the public about the changes to the section 115 license, including the MLC's responsibilities under the MMA, how songwriters can claim ownership of musical works with the MLC, and how the MLC distributes unclaimed royalties under the amended section 115 license. The Copyright Office has created a dedicated webpage to informing the public on these topics, which includes FAQs, pamphlets, Circulars, and other helpful information. The Office plans to expand this webpage to include an online tutorial and email list dedicated to MMA-related developments. Copyright Office experts have also engaged in in-person outreach, including speaking at different conferences to diverse audiences across the country.

Title II of the MMA is the Classics Protection and Access Act.

During FY19, the Copyright Office completed its implementation of this part of the MMA. Title II, among other things, brings pre-1972 sound recordings partially into the federal copyright system. The MMA created a new chapter 14 of the copyright law, title 17 United States Code, which, among other things, extends remedies for copyright infringement to owners of sound recordings fixed before February 15, 1972, when the recordings are used without authorization. Because U.S. pre-1972 sound recordings remain ineligible for copyright registration, a new filing requirement applies to claims for statutory damages. The new chapter includes several limitations and exceptions to the eligibility for these remedies and related administrative procedures.

Less than a week after the MMA's passage, the Office issued regulations establishing new filing mechanisms to onboard the protection and use of pre-1972 sound recordings into the federal scheme. Following multiple rounds of public comment, all pre-1972 sound recording regulations and filing procedures have been fully implemented:

- ***Schedules of Pre-1972 Sound Recordings:*** Rights owners may submit schedules to obtain eligibility for statutory damages and attorneys' fees for unauthorized uses of these recordings.
- ***Noncommercial Use:*** The Office adopted a rule establishing two filing mechanisms to implement the new exception for noncommercial uses of pre-1972 sound recordings that are not being commercially exploited.
- ***Notice of Contact Information:*** The Office received notice of contact information by the *April 9, 2019* statutory deadline from digital services who had been publicly performing sound recordings.
- ***Publicly Accessible Databases:*** The Office indexes schedules of pre-1972 sound recordings into its online searchable database, with results downloadable into an Excel spreadsheet. A separate online directory displays notices of contact information filed by digital services. The Office will launch a third online searchable database regarding proposed noncommercial uses of these recordings.

- **News Alerts:** Users may subscribe to weekly email alerts to identify recently indexed pre-1972 sound recordings at https://updates.loc.gov/accounts/USLOC/subscriber/new?topic_id=USLOC_177. A separate alert is being created regarding notices of noncommercial use.

Title III of the MMA is the Allocation for Music Producers Act.

This title did not require any rulemaking action by the Copyright Office. Title III of the MMA, the “AMP Act,” allows music producers, mixers, or engineers who were part of the creative process that made a sound recording, but who were not by statute receiving royalties under section 114, to receive compensation from royalties collected for uses of sound recordings under the section 114 statutory license. It does this by codifying a process wherein the collective designated to collect and distribute royalties (currently, Sound Exchange) will distribute a portion of royalty payments directly to a producer, mixer, or engineer pursuant to a “letter of direction” from an authorized artists payee.

For more on the MMA and the Office’s implementation of the new law, *see* <https://www.copyright.gov/music-modernization/>. For the text of the MMA amendments, *see* https://www.copyright.gov/legislation/2018_mma_amendments.pdf.

Copyright Small Claims

The Copyright Office has provided legislative support to Congress over the past few years to consider the possibility of creating a small claims tribunal within the Copyright Office to address an important enforcement problem. The Office identified the creation of such a small claims tribunal as a topic worthy of further study as far back as 2006, during its participation in Congress’ review of the orphan works problem. The Office’s 2013 report, *Copyright Small Claims*, indicated that the costs and burdens of federal copyright litigation effectively prevent many who do not have extensive resources from bringing suit to enforce their rights or to obtain a declaratory judgment of non-infringement. That report, as well as 2019 testimony of the Register in budget and oversight hearings, describes why the Copyright Office strongly supports a small claims tribunal structured along the lines of the proposal detailed in the Copyright Office’s 2013 report. The Office supported the House and Senate Judiciary committees during FY 2019 as each chamber proposed legislation to create a small claims tribunal.

Rulemakings (non-MMA)

During FY 2019, the Office engaged in a number of additional rulemaking matters. A list of both open and closed rulemakings is available at <https://www.copyright.gov/rulemaking/>. An illustrative list appears below.

Seventh Triennial § 1201 Rulemaking Proceeding under the DMCA

The final rule on temporary exemptions to section 1201’s prohibition against circumvention of technological measures that control access to copyrighted works was published in the *Federal Register* on October 26, 2018.

The Office initiated the seventh triennial rulemaking proceeding on June 30, 2017, and conducted the public rulemaking procedure during FY 2017 and FY 2018. The Office implemented new streamlining procedures to facilitate the renewal of previously adopted exemptions to which there were no meaningful opposition. Public hearings were held in D.C. (April 10–13, 2018) and L.A. (April 23–25, 2018) and, for the first time, were both livestreamed.

The exemptions adopted in this rulemaking became effective October 28, 2018, and remain effective until the completion of the new rulemaking in 2021. Additional information, including a complete list of exemptions granted and frequently asked questions, is available at <https://www.copyright.gov/1201/2018/>.

Rulemakings Affecting Registration Practices

During FY 2019, the Office issued a number of final rules to help improve the registration process for copyright claimants. These included rules: 1) simplifying copyright registration for architectural works; 2) increasing flexibility for group registration of newspapers; 3) establishing a group registration option for unpublished works, which replaced a previous option for registering unpublished collections; 4) improving the online application for single works by one author that are not works made for hire; and 5) updating the group registration of newsletters and serials.

DART royalty payments

After soliciting public comments in July 2018, the Office adopted a final rule to streamline the administration of digital audio recording technology (DART) royalty accounts and electronic royalty payments processes. This rule is intended to improve the efficiency of the Copyright Office's Licensing Division operations and simplify royalty payment procedures for filers; it became effective November 14, 2018.

Rulemakings Open at the End of FY 19

The Office has a number of open rulemakings that will continue through the end of FY 2019. Of note are the proposed new rules on group registrations for works on an album of music and short online literary works, and an open rulemaking on how to improve the regulations and practices related to the registration of copyright claims in the digital age. This rulemaking is a component of the Copyright Office's modernization efforts.

Fee Study (Ongoing)

On May 24, 2018, the Office issued a notice of proposed rulemaking regarding the adoption of a new fee schedule. Congress authorized the Register to set and adjust Copyright Office fees that are fair, equitable, and give due consideration to the objectives of the copyright system. The Office adjusts its fees every three to five years, after first conducting a study of the actual cost to the Office of providing its fee-based services. The Office initiated a new cost study in June 2017, and based on its outcome, proposed the fee schedule described in the notice of proposed rulemaking. In addition, the Office

provided the economic model used to craft the fee schedule, based on the findings of the cost study. Though the Office does not seek to achieve full cost-recovery, the proposed fees aim to recover a significant portion of the costs the Office incurs for providing fee-based services. The Office provided an opportunity to the public to comment on the proposed changes before it submits the fee schedule to Congress; 158 substantive public comments were received by the September 21, 2018 deadline. The study will be issued in early FY 20. This docket is available at <https://www.copyright.gov/rulemaking/feestudy2018/>.

Reports and Studies for Congress

The Copyright Office advises Congress on national and international issues relating to copyright. (17 U.S.C. § 701(b)(1).) This advice includes providing requested opinions on pending and existing legislation as well as providing topical analysis on areas of copyright law. The Office maintains its commitment to transparency by ensuring that all members of the copyright community—including copyright owners, technology companies, consumers, public interest groups, academics, and the general public—have robust opportunities to participate and contribute to the Office’s policy studies, reports, and recommendations.

During FY 2019, the Office completed two reports and continued its work on a third study.

Letter on Copyright and Visual Works (January 2019)

On January 18, 2019, the Copyright Office submitted a letter to the Chairman and Ranking Members of the House and Senate Judiciary Committees summarizing the current copyright legal landscape faced by creators and users of visual works. In 2015, the Office sought commentary on the marketplace for these visual works, as well as observations regarding the obstacles that creators and users of visual works face when navigating the digital landscape. The Office’s resulting review builds upon previous studies and public inquiries in a number of areas, including small claims, orphan works, moral rights, section 512 notice and takedown, and overall Office modernization. The Copyright Office’s review both reinforces the importance of visual works to this nation and identifies common obstacles that Congress and the Office itself may be able to alleviate. Challenges faced by stakeholders, such as photographers, graphic designers, illustrators, and licensees, fall within three general categories: (1) difficulties with the registration process; (2) challenges with licensing generally and monetizing visual works online; and (3) enforcement obstacles. The Copyright Office takes these concerns seriously and has already taken steps to address them where it can, most notably with the ongoing Office modernization efforts in preparation for a wholesale technological upgrade to the Office’s systems. In other areas, legislative action may be the best solution. The Office continues to strongly support the idea of a small copyright claims tribunal located within the Office, as well as a legislative solution to the orphan works conundrum. Congress’ action in these two areas would go far to alleviate several important concerns raised by visual artists.

For more information, see <https://www.copyright.gov/policy/visualworks/>.

Report on Moral Rights of Attribution and Integrity in the United States (April 2019)

On April 23, 2019, the Copyright Office published *Authors, Attribution, and Integrity: Examining Moral Rights in the United States*, a report considering the current patchwork of moral rights protections in the United States. The Report addresses the moral rights of attribution (the right to be credited as the author of one's work) and integrity (the right to prevent prejudicial distortions of one's work).

The Office initiated its study with a public symposium in April 2016, and later solicited public comments. The Report reviews significant federal laws that support moral rights, such as the Visual Artists Rights Act (VARA) of 1990, section 1202 of the Copyright Act, and the Lanham Act. The Report also discusses state laws concerning moral rights as well as state privacy and publicity statutes, private ordering mechanisms like contracts and licenses, and informal plagiarism rules.

The Copyright Office concluded that the U.S. moral rights framework (which includes a variety of federal and state laws) continues to provide important protections, despite there being some room for improvement. Should Congress wish to strengthen this framework, this Report provides possible avenues to do so. Possible legislative changes for consideration include amendments to the Visual Artists Rights Act (VARA) and the Lanham Act to better protect attribution and integrity interests, along with suggestions to expand authors' recourse for removal or alteration of copyright management information in section 1202 of Title 17. Congress may also wish to consider adoption of a federal right of publicity law as a means to reduce uncertainties and ambiguities created by the diversity of state right of publicity laws. The Office further suggests some areas where preferred interpretations of judicial decisions could boost the landscape of protection for authors.

For information on the moral rights report, *see* <https://www.copyright.gov/policy/moralrights/>.

Study on Section 512 (Ongoing)

During FY 2019, the Office continued its work on the study to evaluate the impact and effectiveness of the safe harbor provisions contained in section 512 of Title 17 of the U.S. Code. Among other issues, the Office is considering the costs and burdens of the notice-and-takedown process on large- and small-scale copyright owners, online service providers, and the public. The Office is also reviewing how successfully section 512 addresses online infringement and protects against improper takedown notices.

In response to the December 2015 request for comments, the Office received more than 92,000 written comments, filed by a variety of stakeholders, including large and small creators, service providers, users, civil society, and academics. In 2016, the Office held two days of public roundtables (in San Francisco and New York) and heard from over 130 participants. In November 2016, the Office sought further input through a second round of public comments as well as a request for empirical studies. The Office held another public roundtable in Washington, D.C. on April 8, 2019, to discuss recent updates on domestic case law and international developments; over 50 stakeholders participated.

For information on the section 512 study, including transcripts of the public roundtables, see <https://www.copyright.gov/policy/section512/>.

The Compendium of U.S. Copyright Office Practices

The Office continues to maintain updates to its office practices manual, *Compendium of U.S. Copyright Office Practices*, Third Edition. The current version of the Compendium was released on September 29, 2017. Since then, there have been a variety of developments, from case law to regulatory practice to modernization planning, which have required continued review of office practices. In March 2019, the Office released a revised draft of the Compendium for public review; comments were accepted from March 15, 2019, to May 31, 2019. The Office held a public webinar on April 10 to review the proposed revisions. A complete list of the sections that have been added, amended, revised, or removed in this release, as well as a set of redlines prepared by the Office (which provides a direct comparison between the current version and the 2014 version), is at <https://www.copyright.gov/comp3/revisions.html>. Work continues to finalize proposed revisions.

Registration Pendency Times

On May 31, 2019, the Copyright Office responded to inquiries from the House Judiciary Committee and the Senate Judiciary IP Subcommittee with a comprehensive analysis and discussion of operational issues with respect to the registration program as well as the importance of the registration program with respect to the national copyright system. The response detailed multiple steps that the Office has taken to improve registration processing times. Registration processing times have always been important for the copyright community, and are even more so now because of the Supreme Court's 2019 decision in *Fourth Estate Public Benefit Corp. v. Wall-Street.com*. *Fourth Estate*, in which the Court held that Copyright Office action on an application for registration must be complete before the owner of a U.S. work can seek redress for infringement of their rights in court.

The Fair Use Index

The Office hosts and maintains the Fair Use Index, which was undertaken in coordination with the Intellectual Property Enforcement Coordinator. This searchable database contains notable cases from U.S. courts that comment on fair use law. The index contains more than 200 cases. The Office continually updates the Index to keep practitioners and the public informed of new or prominent issues in fair use law, the application of fair use to a variety of types of works, and the law across appellate jurisdictions in the United States. The Index contains clear and concise language describing the facts and outcome of each case, making the Index accessible to the general public and providing valuable information—including a full legal citation—to aid a viewer in further research. The Fair Use Index is hosted at <https://www.copyright.gov/fair-use/index.html>.

International Capacity Building and Training

Throughout the year, the Office continued to provide outreach and education to foreign visitors. The Office also hosted international visitors to discuss and exchange information on the U.S. copyright system and significant international copyright issues. The Office works with other

agencies, including the State Department, the USTR, and the USPTO, to participate in meetings organized by those agencies, or to have visitors in those programs meet with the Office directly. For example, in FY 2019, the Copyright Office participated in a weeklong copyright training organized by the PTO, and hosted participants for a half-day program at the Copyright Office. Foreign government officials learned about the U.S. registration and recordation systems and met with counterparts from the Copyright Office's Office of Policy & International Affairs.

Advice on International Copyright and Trade Matters to Executive Branch Agencies

The Copyright Office supports the Office of the U.S. Trade Representative (USTR) and other executive branch agencies by serving on official delegations and negotiating teams, as part of our statutory duty (17 USC 701(b)). In FY 2019, attorneys in the Office of Policy and International Affairs at the Office serve on the U.S. government delegations to the World Intellectual Property Organization (WIPO) led by USPTO for meetings with the Standing Committee on Copyright and Related Rights (SCCR) and the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). The Office also participated in the annual Special 301 review facilitated by USTR, including the Notorious Markets out-of-cycle review, and engaged in regular consultation with executive branch agencies on copyright law and enforcement developments in other countries, including trade agreement negotiations, compliance efforts, World Trade Organization trade policy reviews and accessions, and reviews under trade preference programs

Public Outreach

The Copyright Office implements a full program of outreach activities to educate the public regarding copyright protections. The Office's outreach programs cover a wide range of formats and media, including live presentations, video tutorials, social media, and through participation in programs hosted by outside organizations. Highlights beyond those discussed above include:

In October 2018, the United States signed onto the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, entering into force on February 8, 2019. To support public awareness, the Office published [a blog](#) as well as a set of [FAQs](#).

In October 2018, Register Karyn A. Temple spoke on emerging developments at the Copyright Office and in copyright law to women in tech, law, and policy at the 2018 ChIPs Global Summit in Washington DC.

In January 2019, the Copyright Office participated as a speaker in the Copyright & Technology NYC [conference](#) to discuss legal developments, including the new Section 1201 exemption process and results, and implementation of the Music Modernization Act.

In April 2019, the Copyright Office hosted an all-day [roundtable](#) session to gather public input on recent domestic and international developments relevant to the Office's study on Section 512 of the Copyright Act.

In April 2019, the Copyright Office hosted and presented a [program](#) on intellectual property and sports in connection with the World IP Day theme chosen by the World Intellectual Property Organization. A presentation featured speakers addressing the IP aspects of sports. Later the

same week, the Copyright Office continued the celebration of World IP Day with a copyright-focused Story Time at the Young Readers Center at the Library of Congress.

In September 2019, Register Karyn A. Temple moderated a panel on “Will AI Change Human Creativity and its Protection as Copyright and Related Rights?” at the [World Intellectual Property Organization \(WIPO\) Conversation on Intellectual Property and Artificial Intelligence](#) event in Geneva Switzerland. The Register also announced a joint WIPO and Copyright Office conference on copyright and AI coming February 2020 in Washington, DC.