

ANNUAL INTELLECTUAL PROPERTY REPORT TO CONGRESS

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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 four 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 third proclamation on April 24, 2020 stated that “[W]e pay tribute to our Nation’s long history of ingenuity and advancement, and we recommit to protecting, promoting, and prioritizing a business and economic environment that supports those who carry on this legacy. The pioneering spirit of these artists, authors, inventors, and other creators has improved our lives and the lives of millions of people around the world, and will continue to propel us toward a better future.”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. And, under the leadership of President Trump and with the support of Congress, the White House Office of the U.S. Intellectual Property Enforcement Coordinator (IPEC) was established as a new component agency of the Executive Office of the President and part of the National Economic Council, ensuring that in the decades to come the IPEC will be there to advise the President, coordinate policy, and advocate for American interests 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 26, 2020, as World Intellectual Property Day (April 24, 2020) - <https://www.whitehouse.gov/presidential-actions/proclamation-world-intellectual-property-day-2020/>

³ U.S. Code: Title 15 (Commerce and Trade), Chapter 107 (Protection of Intellectual Property Rights) - 15 U.S.C §8111. In the White House Office the IPEC Office has been established as the newest component agency of the Executive Office of the President and part of the National Economic Council (NEC).



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.

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.

During the past four 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. 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.



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.”⁴ 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 works to ensure that our intellectual property laws are kept up to date, and that they promote American innovation and creativity. The departments and

⁴ 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/>



agencies responsible for enforcement of intellectual property rights will continue to use every tool available to protect the health and safety of our people. This year, we saw opportunistic criminals taking advantage of the coronavirus health crisis, which led to an influx of counterfeit personal protection equipment and medicines, as well as the proliferation of online scams. The United States Government will remain vigilant in detecting, investigating, and prosecuting wrongdoing related to the crisis.

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.”⁵

In 2020, the Copyright Office continued implementation of the Music Modernization Act (MMA), which makes significant updates to the way musicians are paid when their work is played on digital streaming services. A highlight of the work on this important law was the Unclaimed Royalties Study Kickoff Symposium, held on December 6, 2019, which brought together songwriters, a broad cross-section of industry participants, and other interested members of the public for a day-long discussion on best practices for matching unclaimed royalty payments with their rightful owners.

Despite disruptions associated with COVID-19, the Copyright Office continued substantial outreach efforts to ensure musicians and publishers are aware of how this legislation will affect them throughout the year. Activities included participation in 31 in-person and virtual outreach events with the music community, including presentations to international audiences on how to claim U.S. royalties and the launch of an MMA educational resources page. Additionally, the Copyright Office started publishing a newsletter to keep the public informed on important MMA-related developments and new educational materials. The Copyright Office is continuing to participate in virtual panels and education activities, and will continue its outreach efforts up to and beyond the January 2021 license availability date to ensure the music community is well informed about how to receive payment under this important law.

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

⁵ 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/>



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 continues to advance pro-growth policies to protect our continued economic and innovative competitiveness, promotes new engines of growth, and prioritizes America's innovative and creative capacity.





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. Trump⁶

During the past four 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 continues 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.”⁷

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.”⁸ 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

⁶ 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/>

⁷ National Security Strategy, December 18, 2017 (page 20) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

⁸ 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."⁹

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) supports 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.”¹⁰

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.”¹¹ 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.¹² 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.”¹³

More recently, on May 5, 2020, USTR announced the opening of negotiations with the United Kingdom on a Free Trade Agreement. In explaining the relationship, USTR stated that “[t]here is almost \$270 billion in two-way trade [between our countries], we are each other's largest source of foreign investment, and we each employ about a million citizens of the other country.” USTR further stated that “[o]ur objective in these talks is to grow this economic relationship even closer. Our ambition is to write an agreement that has high standards in the digital and other

⁹ 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>

¹⁰ 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/>

¹¹ 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>

¹² 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/>

¹³ 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/>



services sectors, that will eliminate barriers to trade and that will incorporate best practices in all sectors. If we are successful, benefit will flow to workers, farmers, and businessmen on both sides of the Atlantic.”¹⁴

In addition, on March 17, 2020, USTR notified Congress of the Administration’s intent to initiate negotiations with the Republic of Kenya. On July 8, 2020, USTR formally launched trade agreement negotiations between the United States and the Republic of Kenya, seeking a comprehensive, high-standard agreement that can serve as a model for additional agreements across Africa.¹⁵

The Administration is also advancing intellectual property issues in multiple international organizations and fora, including the Organization for Economic Cooperation and Development (OECD), World Intellectual Property Organization (WIPO), World Trade Organization (WTO), the World Health Organization (WHO), as well as the Asia-Pacific Economic Cooperation (APEC) forum and the Group of Twenty (G20), among others.

During development of the 2020 G20 and APEC summits, the IPEC and other Cabinet-level Departments promoted the protection of IP in preparatory negotiations across multiple work streams. This ensured that multilateral efforts to spur the global economy respect the important role of IP in driving economic growth, especially within the digital economy.

The 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 March 2019, the OECD issued a 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 More recently, they released a study on “Trade in Counterfeit Pharmaceutical Products.” The study found that the total value of counterfeit pharmaceuticals traded worldwide is estimated to be up to 4.4 billion dollars and that China, Singapore and India are the main sources for counterfeit medicines.¹⁷

In April 15, 2020, President Trump demanded accountability from the World Health Organization by putting a hold on U.S. funding citing “mismanagement, cover-ups, and failures” and calling for reform to address longstanding structural issues. The Administration is also “calling for reforms to promote transparency and data sharing, hold member states accountable

¹⁴ Statement of USTR Robert Lighthizer on the Launch of U.S.-UK Trade Negotiations (May 5, 2020) *available at* <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2020/may/statement-ustr-robert-lighthizer-launch-us-uk-trade-negotiations>

¹⁵ Joint Statement Between the United States and Kenya on the Launch of Negotiations Towards a Free Trade Agreement (July 8, 2020) *available at* <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2020/july/joint-statement-between-united-states-and-kenya-launch-negotiations-towards-free-trade-agreement>

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>

¹⁷ The OECD-EUIPO report – “Trade in Counterfeit Pharmaceutical Products” (2020) – is available at <https://euipe.europa.eu/ohimportal/en/web/observatory/trade-in-counterfeit-pharmaceutical-products>



for abiding by the International Health Regulations, increase access to medicines, and counter China's outsized influence on the organization.”¹⁸ Further, on July 6, 2020, the United States notified the WHO Secretary-General of its intent to withdrawal from the organization as of July 6, 2021.

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 few years, 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. continues to address these and other issues with those countries through bilateral engagements, including, for example, through the Trade and Investment Framework Agreements.

Further, other bilateral engagements -- such as Memoranda of Understanding (MOUs) and Work Plans, which the U.S. negotiates with our partners in other counties -- are useful tools for collaborating on various aspects of intellectual property and related trade and law enforcement issues. Various agencies within the U.S. Government, including the Department of State, Department of Commerce's U.S. Patent and Trademark Office, the Office of the U.S. Intellectual Property Enforcement Coordinator, the Department of Homeland Security's IPR Center, and others, have recently signed new MOUs, or are actively considering options for future MOUs to continue to achieve mutually beneficial results with foreign counterparts.

The USG also continues to engage on intellectual property 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 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).¹⁹ 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

¹⁸ Fact Sheet: President Donald J. Trump Is Demanding Accountability From the World Health Organization (April 15, 2020) - <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-demanding-accountability-world-health-organization/>

¹⁹ Statement from the White House Press Secretary (October 17, 2018) - <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-38/>



competing private carriers.”²⁰ 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.²¹ 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.”²²

In March 2020, after months of extensive outreach, the USG participated in the WIPO meeting in which Members agreed, after multiple rounds of voting, to nominate Daren Tang of Singapore to the position of Director General. Mr. Tang took office on October 1, 2020. In September 2020, United States Government participated virtually in the 60th assemblies of the member states of the WIPO. There, and throughout the year, the Administration engaged with their international counterparts and WIPO officials on various intellectual property matters.

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

²⁰ 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

²¹ 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/>

²² 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>



achieving meaningful results on IP concerns raised, for example, in places such as the Annual USTR Special 301 Report.²³

With the spread of coronavirus limiting in-person activities, the U.S. Government adopted widespread use of video-conferencing and other technologies, enabling officials to continue crucial bilateral dialogues, create and participate in a broad range of IP-related events and activities, discuss IP issues with both stakeholders and interagency partners, and advance U.S. IP priorities overseas. For example, in response to the surge of China-origin counterfeit and substandard PPE, test kits, medicines, and other COVID-19 related products, the USPTO IP Attaché in Brussels launched several public awareness and capacity-building programs and campaigns. One program, co-sponsored with the Bucharest-based DOJ ICHIP, the IPR Center, Europol and Interpol, focused on Romania as an entry point into the EU. Two other programs, held in partnership with the OECD Task Force on Countering Illicit Trade, focused on emerging trends in illicit trade. USPTO IP Attachés to the Middle East/North African and Central Asia also joined, to ensure broader regional coordination on illicit trade routes. The USPTO also added a COVID-19 Response Resource Center on its website, including, for example, USPTO resources to assist patent and trademark applicants, and links to pages where fraud and counterfeiting can be reported. In addition, the Department of Homeland Security has convened an interagency working group dedicated to countering trade in counterfeit and sub-standard COVID-19 supplies, and ensure registration and recordation of related certification markings.

The State Department supports deployment of a U.S. Transnational and High Tech Crime Global Law Enforcement Network (GLEN), which features International Computer Hacking and Intellectual Property advisors – (ICHIPs), 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 GLEN particularly focuses 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 2020, 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 trademark, counterfeiting, copyright piracy (with an emphasis on online piracy) enforcement of IP rights at national borders, express mail shipments, trade secrets, copyright policy, and patent and trademark policy and examination. During the last year, the programs cumulatively included over 4,820 government officials, judges and prosecutors, from 117 countries.²⁴

²³ 2020 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/2020_Special_301_Report.pdf)

²⁴ For a comprehensive list of the types of programs conducted by Executive Branch agencies in 2020, please see the appendices.



In 2020, 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, 2020, highlighting IP's importance in fostering innovation and economic growth. To celebrate the occasion, U.S. Embassies and consulates virtually 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 July 2020 virtual workshop moderated by USPTO brought together representatives from CBP, USTR, DOJ, CLDP and the Department of State with senior officials from Pakistan's Federal Bureau of Revenue (FBR) Customs Directorate for Intellectual Property Rights Enforcement (IPRE). During the program, Pakistani officials reaffirmed the country's commitment to improving IPR enforcement at the border for both imports and exports, and stressed the threats to public health and safety and the negative economic impact of unchecked counterfeits, pirated, and illicit goods. At the conclusion of the conference, CLDP, USPTO and Pakistan FBR-IPRE agreed to jointly initiate a technical assistance program focused on stopping counterfeit pharmaceuticals transiting through air freight and air mail facilities in Pakistan.





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. Trump²⁵

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."²⁶

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."²⁷

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."²⁸ The NSS lists the protection of intellectual property as a priority action. "The United States will reduce the illicit appropriation of U.S. public and private sector technology and technical knowledge by hostile

²⁵ Remarks by President Trump to the World Economic Forum (January 26, 2018) -

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

²⁶ 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/>

²⁷ 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/>

²⁸ National Security Strategy (December 18, 2017) (page 21) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>



foreign competitors. While maintaining an investor-friendly climate, this Administration worked with Congress to strengthen the Committee on Foreign Investment in the United States (CFIUS) to ensure it addresses current and future national security risks, successfully passing legislation to that effect enacted in 2018. The United States prioritizes 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.”²⁹

In October 2020, President Trump released the “National Strategy for Critical and Emerging Technologies,” which outlines how the United States will promote and protect our competitive edge in fields such as artificial intelligence, energy, quantum information science, communication and networking technologies, semiconductors, military, and space technologies. The Administration’s critical and emerging technologies strategy establishes priority actions to protect our national security innovation base and secure our technology advantage by strengthening rules where gaps exist, insisting that agreements be enforced, and working with like-minded allies and partners to promote, advance, and ensure the success of our common principles. This Administration continues to defend our industry, address unfair practices, and level the playing field for American workers. In releasing the strategy, the Administration stated “[a]s our competitors and adversaries mobilize vast resources in these fields, American dominance in science and technology is more important now than ever, and is vital to our long-term economic and national security. The United States will not turn a blind eye to the tactics of countries like China and Russia, which steal technology, coerce companies into handing over intellectual property, undercut free and fair markets, and surreptitiously divert emerging civilian technologies to build up their militaries.”³⁰

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).³¹

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.³² 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

²⁹ 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>

³⁰ Statement from the Press Secretary Regarding the National Strategy for Critical and Emerging Technologies (October 15, 2020) – available at: <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-regarding-national-strategy-critical-emerging-technologies/>. The National Strategy for Critical and Emerging Technologies is available at <https://www.whitehouse.gov/wp-content/uploads/2020/10/National-Strategy-for-CET.pdf>.

³¹ Presidential Memorandum to U.S. Trade Representative (August 14, 2017) - <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-united-states-trade-representative/>

³² 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>



tariffs on goods from China and pursuing dispute settlement proceedings in the WTO.³³ 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.³⁴ 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 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.³⁵

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

³³ 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/>

³⁴ 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>

³⁵ 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>



prosperous future, we must take a stand now to uphold fair trade and protect American competitiveness.”³⁶

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, 2019.³⁷

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 ensure they are consistent with those principles. Agreements must adhere to high standards in intellectual property, digital trade, agriculture, labor, and the environment.”³⁸

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.³⁹ The Out of Cycle Review of Notorious Markets highlights prominent examples of foreign “online and physical marketplaces that reportedly

³⁶ 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>

³⁷ 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>

³⁸ National Security Strategy, December 18, 2017 (page 20) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

³⁹ 2020 Special 301 Report (April 29, 2020) - https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf



engage in, facilitate, turn a blind eye to, or benefit from substantial piracy and counterfeiting.”⁴⁰ 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.⁴¹

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. 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.⁴² 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.⁴³ The WTO composed the dispute settlement panel on January 16, 2019. In March 2019, China revised the measures that the United States had challenged. On June 18, 2020, the WTO panel informed the Dispute Settlement Body that it had accepted a request from the parties to suspend the dispute, in light of ongoing consultations between the parties.⁴⁴

⁴⁰ 2019 Out of Cycle Review of Notorious Markets (April 29, 2020) -

https://ustr.gov/sites/default/files/2019_Review_of_Notorious_Markets_for_Counterfeiting_and_Piracy.pdf

⁴¹ 19 CFR Part 210

⁴² 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>

⁴³ 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

⁴⁴ Communication from the Panel, *China – Certain Measures Concerning the Protection of Intellectual Property Rights* (WT/DS542/14) - https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds542_e.htm



As noted, above, the NSS – 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.”⁴⁵ 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.

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 when it comes to reviewing foreign ownership of American firms with critical technology and intellectual property.”⁴⁶ In February 2020, final regulations implementing FIRRMA went into effect. In October 2020, additional updates linked CFIUS mandatory declaration requirements to export controls, further enhancing protections of American technology.

A CFIUS assessment or review can be initiated either voluntarily, as when parties to a transaction that might raise national security concerns file a short-form declaration or a voluntary notice with CFIUS, or mandatorily, as when the parties to a transaction deal in technology that is subject to export controls. Additionally, CFIUS can unilaterally initiate review of a transaction. If CFIUS determines that the transaction presents national security risks that cannot be adequately resolved by other laws or through mitigation measures, which may be implemented by agreement or imposed by CFIUS through an appropriate order, then CFIUS may refer the transaction to the President. The President may suspend or prohibit the transaction.



⁴⁵ National Security Strategy, December 18, 2017 (page 22) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

⁴⁶ 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. Trump⁴⁷

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.

The Department of Homeland Security (DHS), through CBP and U.S. Immigration and Customs Enforcement-Homeland Security Investigations (ICE-HSI), stands at the forefront of enforcing U.S. intellectual property rights at our borders to defend American innovation from

⁴⁷ 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>



infringement and illegal trade practices. The enforcement of IPR supports U.S. public health and safety, promotes economic prosperity, and preserves domestic and international security.

CBP's strategy to enforce IPR is built on the pillars of facilitation, enforcement, and deterrence. CBP's strategic approach focuses on collaborative efforts to educate and engage stakeholders to deter the importation of illicit goods and employs innovative approaches to enforce IPR law at all ports of entry. In implementing this strategy, CBP has deployed new tools that have enabled officers to expeditiously determine whether suspected counterfeit or pirated merchandise is authentic. One such tool is CBP's e-Recordation program, which allows U.S. trademark and copyright owners to obtain border enforcement of their intellectual property rights.

ICE-HSI investigates IPR violations involving the illegal production, smuggling, and distribution of counterfeit merchandise and pirated works. A significant majority of infringing and dangerous products are produced overseas and are either shipped directly to the United States or arrive at the United States via a third country. ICE-HSI Special Agents' critical role in investigating IPR violations utilizes their traditional customs authorities and their expertise regarding the illicit importation and exportation of merchandise.

The National Intellectual Property Rights Coordination Center⁴⁸ (IPR Center), led by ICE- HSI, the largest investigative agency within the Department of Homeland Security, brings government agencies together to share information, leverage resources, and train investigators, prosecutors, and the public on IP. 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.

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

⁴⁸ 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, the Federal Maritime Commission, and the Department of Veterans Affairs' Office of Inspector General. 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.



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 FY 2020, the IPR Center reached out to 3,438 people at 78 outreach and training events. In addition to these efforts, DHS law enforcement agencies that support IP enforcement had numerous other engagements with stakeholders in 2020. For example, based on a recommendation in the DHS Report on “Combating Trafficking in Counterfeit and Pirated Goods,” the “Anti-Counterfeiting Consortium to Identify Online Nefarious actors” (ACTION) group was formed. During its inaugural meeting in June 2020, representatives from 14 private sector companies including online sales platforms, social media platforms, payment processors and express delivery companies met to discuss ways to enhance information sharing amongst themselves. The IPR Center also 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 train personnel at ICE-HSI and CBP field offices 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.

In FY 2020, CBP and ICE made 26,503 IPR seizures. The total estimated manufacturer’s suggested retail price (MSRP) of the seized goods, had they been genuine, was about \$1.3 billion.

At the end of FY 2020, the FBI had 136 pending IPR investigations. The largest number of investigations deal with the theft of trade secrets (52), copyright infringement (47), and trademark infringement (16). During FY 2020, the FBI initiated 38 new investigations, made 14 arrests, obtained 7 convictions, forfeitures totaling \$11,341,164, and restitutions totaling \$0.

In FY 2020, ICE-HSI initiated 449 intellectual property investigations and had 203 arrests, 125 indictments, and 98 convictions.

In FY 2020, the IPR Center vetted 33,184 investigative leads -- of these, 18,449 were referred to law enforcement partners. Additionally, the IPR Center de-conflicted 8,785 investigative targets for partner agencies and industry. While performing these de-conflicts, the IPR Center identified 28 “blue on blue” situations where two or more entities were investigating the same target. Finally, the IPR Center referred 371 leads to private industry for follow-up.



DOJ and DHS continue 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. 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, under the auspices of ICE-HSI Operations Apothecary, Engine Newity, and Chain Reaction, 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.⁴⁹

In response to the increasing and evolving threat posed by COVID-19-related fraud and criminal activity, HSI launched Operation Stolen Promise in April 2020. Operation Stolen Promise combines HSI's expertise in global trade, financial fraud, international operations, cyber-crime, and criminal analysis to investigate financial fraud schemes, the importation of prohibited pharmaceuticals and medical supplies, websites defrauding consumers, and any other illicit criminal activities associated with the virus that compromises legitimate trade or financial systems or endangers the public. As efforts to combat COVID-19 progress, HSI will initiate Operation Stolen Promise 2.0 to focus on counterfeit vaccines, while continuing to investigate the trafficking of counterfeit personal protective equipment. This effort will coincide with INTERPOL's Operation Vigilant Interdiction, which will also primarily focus on combatting counterfeit COVID-19 vaccines.

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.⁵⁰ DOJ and DHS continue to pursue significant, large-scale piracy and counterfeiting operations.⁵¹

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.⁵²

⁴⁹ See Appendix (Department of Justice) for FY 2020 significant prosecutions.

⁵⁰ See Appendix (Department of Justice) for FY 2020 significant prosecutions.

⁵¹ See Appendix (Department of Justice) for FY 2020 significant prosecutions.

⁵² See Appendices for detailed examples on U.S. Government training and capacity building programs



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 U.S. Transnational and High Tech Crime Global Law Enforcement Network, which features International Computer Hacking and Intellectual Property (ICHIP) advisors, Global Cyber Forensics Advisors and long term agent mentors, funded by the Department of State and jointly managed with the Department of Justice, is improving the effectiveness of U.S. personnel serving abroad by training foreign prosecutors, judges, customs and border officials, and police.⁵³ Such training has resulted in multiple overseas prosecutions of trademark 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 United States now deploying twelve ICHIPs (one funded by DOJ) working collaboratively within and across their regions to mitigate threats to IP protections, including those involving transnational organized crime. In addition to two ICHIPs who are deployed in Washington DC, ICHIPs are 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 led to the creation of a multi-stakeholder group of São Paulo officials, U.S. rights-holders, and Brazilian police. Under the ICHIP's mentorship, since the inception of the program, the group has had significant operational successes, including seizing approximately 3,842 tons worth of counterfeit goods worth over \$300 million USD, and a recent seizure of 1,100 pirate internet protocol television (IPTV) boxes from 27 stores at Santa Efigênia mall in São Paulo. The IPTV boxes contained pirated films and series as well as applications that facilitate illicit streaming of premium channels. 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. On January 25 – February 3, 2020, Operation Team Player enforcement operations targeted the importation and trafficking of counterfeit sports merchandise and media activities related to Super Bowl LIIV. The operations were conducted by teams comprised of HSI Miami, HSI Tampa, IPR Center representatives, Miami Dade Police Department, and representatives from the National Football League. As a result of these efforts,

⁵³ Global Cyber and Intellectual Property Crimes, U.S. Department of Justice - <https://www.justice.gov/criminal-opdat/global-cyber-and-intellectual-property-crimes>



task force officers arrested 6 individuals and seized approximately 2,884 items with an estimated MSRP value of \$6,354,589.

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.

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.”⁵⁴

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.”⁵⁵

The Department of Justice and the Department of Homeland Security are committed to aggressively investigating and prosecuting individuals and corporations who undermine American competitiveness by stealing what they did not themselves create and continues to focus its investigative and prosecutorial efforts on combatting the theft of the trade secrets of U.S. businesses.

⁵⁴ 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>

⁵⁵ Id. (pages 16-17)



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."⁵⁶

During the past year, the Department of Justice brought several prosecutions for trade secret theft, including the following cases. (In addition, the Justice Department has recently issued an overview of the China Initiative.⁵⁷)

On October 4, 2019, the Justice Department announced that an Italian national was arrested in Marino, Italy pursuant to a provisional arrest request from the United States in a case involving two defendants who were charged in the U.S. with conspiring to steal trade secrets from an American aviation company. A federal grand jury indicted the pair on Sept. 11 with conspiracy to commit theft of trade secrets and attempted theft of trade secrets. According to the indictment, one of the defendants 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, while the other was a former director an Italian aerospace company.⁵⁸

On November 12, 2019, the Justice Department announced that a Chinese national and U.S. legal permanent resident, pleaded guilty Tuesday in federal court to committing theft of trade secrets from his employer, a U.S. petroleum company. The defendant stole the information from a U.S.-based petroleum company regarding the manufacture of a "research and development downstream energy market product" that is worth more than \$1 billion.⁵⁹

On November 21, 2019, the Justice Department announced that a Chinese national was indicted by a federal grand jury on one count of conspiracy to commit economic espionage, three counts

⁵⁶ 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 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>.

⁵⁷ Press Release: The China Initiative: Year-in-Review (2019-20) (November 16, 2020) - <https://www.justice.gov/opa/pr/china-initiative-year-review-2019-20>.

⁵⁸ Press Release: Second Defendant Arrested in Case Alleging Theft of Trade Secrets from American Aviation Company (October 4, 2019) - <https://www.justice.gov/opa/pr/second-defendant-arrested-case-alleging-theft-trade-secrets-american-aviation-company>.

⁵⁹ 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>



of economic espionage, one count of conspiracy to commit theft of trade secrets and three counts of theft of trade secrets. The indictment alleges another example of the Chinese government using Talent Plans to encourage employees to steal intellectual property from their U.S. employers. The defendant promoted himself to the Chinese government based on his experience at Monsanto. Within a year of being selected as a Talent Plan recruit, he quit his job, bought a one-way ticket to China, and was caught at the airport with a copy of the company's proprietary algorithm.⁶⁰

On February 10, 2020, the Justice Department announced the indictment of four members of the Chinese People's Liberation Army (PLA) for allegedly hacking into the computer systems of the credit reporting agency Equifax and stealing Americans' personal data and Equifax's valuable trade secrets. According to the indictment, the defendants exploited a vulnerability in the Apache Struts Web Framework software used by Equifax's online dispute portal. The indictment also charges the defendants with stealing trade secret information, namely Equifax's data compilations and database designs.⁶¹

On February 11, 2020, the Justice Department announced that the head of a Houston-based company that was the subsidiary of a Chinese company that developed stolen trade secrets was sentenced to 16 months in prison and ordered to forfeit more than \$330,000. The Court made clear that the defendant knew or intended that the offense would benefit the People's Republic of China.⁶²

On February 13, 2020 the Justice Department announced charges, via a superseding indictment, against Chinese telecommunications conglomerate Huawei and subsidiaries for racketeering conspiracy and conspiracy to steal trade secrets. According to the government's independent investigation in the case and review of court filings, the new charges in this case relate to the alleged decades-long efforts by Huawei, and several of its subsidiaries, both in the U.S. and in the People's Republic of China, to misappropriate intellectual property, including from six U.S. technology companies, in an effort to grow and operate Huawei's business. The misappropriated intellectual property included trade secret information and copyrighted works, such as source code and user manuals for internet routers, antenna technology and robot testing technology.⁶³

On February 27, 2020, the Justice Department announced that a former associate scientist was sentenced to 24 months in federal prison after pleading guilty to theft of proprietary information worth more than \$1 billion from his employer, a U.S. petroleum company. According to the plea

⁶⁰ Press Release: Chinese National Who Worked at Monsanto Indicted on Economic Espionage Charges (November 21, 2019) - <https://www.justice.gov/opa/pr/chinese-national-who-worked-monsanto-indicted-economic-espionage-charges>.

⁶¹ Press Release: Chinese Military Personnel Charged with Computer Fraud, Economic Espionage and Wire Fraud for Hacking into Credit Reporting Agency Equifax (February 10, 2020) - <https://www.justice.gov/opa/pr/chinese-military-personnel-charged-computer-fraud-economic-espionage-and-wire-fraud-hacking>.

⁶² Press Release: American Businessman Who Ran Houston-Based Subsidiary of Chinese Company Sentenced to Prison for Theft of Trade Secrets (February 11, 2020) - <https://www.justice.gov/opa/pr/american-businessman-who-ran-houston-based-subsidiary-chinese-company-sentenced-prison-theft>.

⁶³ Press Release: Chinese Telecommunications Conglomerate Huawei and Subsidiaries Charged in Racketeering Conspiracy and Conspiracy to Steal Trade Secrets (February 13, 2020) - <https://www.justice.gov/opa/pr/chinese-telecommunications-conglomerate-huawei-and-subsidiaries-charged-racketeering>.



agreement, the Chinese national used a thumb drive to copy hundreds of files containing the proprietary information. He subsequently turned in his resignation and was escorted from the premises. Later that day, he returned the thumb drive, claiming that he had forgotten to do so before leaving his employer's property. Upon examination, it was discovered that there was unallocated space on the thumb drive, indicating five documents had previously been deleted. Investigators with the FBI searched the defendant's premises and found an external hard drive. They discovered that the same five missing files from the thumb drive had been downloaded to the hard drive.⁶⁴

On June 26, 2020, the Justice Department announced that a Chinese citizen was found guilty of economic espionage, theft of trade secrets, and conspiring to commit both offenses. Evidence submitted during the course of the trial demonstrated that the individual conspired to and did steal trade secrets from two semiconductor companies. The judge in the case found that the defendant had intended to steal the trade secrets for the benefit of the People's Republic of China⁶⁵

On July 21, 2020, the Justice Department announced that a federal grand jury returned an indictment charging two hackers, both nationals and residents of China with hacking into the computer systems of hundreds of victim companies, governments, non-governmental organizations, and individual dissidents, clergy, and democratic and human rights activists in the United States and abroad, including Hong Kong and China. The defendants in some instances acted for their own personal financial gain, and in others for the benefit of the Ministry of State Security (MSS) or other Chinese government agencies. The hackers stole terabytes of data which comprised a sophisticated and prolific threat to U.S. networks. The 11-count indictment alleges that the defendants who were trained in computer applications technologies at the same Chinese university, conducted a hacking campaign lasting more than ten years to the present, targeting companies in countries with high technology industries, including the United States, Australia, Belgium, Germany, Japan, Lithuania, the Netherlands, Spain, South Korea, Sweden, and the United Kingdom. Targeted industries included, among others, high tech manufacturing; medical device, civil, and industrial engineering; business, educational, and gaming software; solar energy; pharmaceuticals; defense. Most recently, the defendants probed for vulnerabilities in computer networks of companies developing COVID-19 vaccines, testing technology, and treatments.⁶⁶

On July 30, 2020, the Justice Department announced that a former Ohio woman pleaded guilty in U.S. District Court to conspiring to steal scientific trade secrets and conspiring to commit wire fraud concerning the research, identification and treatment of a range of pediatric medical

⁶⁴ Press Release: Chinese National Sentenced for Stealing Trade Secrets Worth \$1 Billion (February 27, 2020) - <https://www.justice.gov/opa/pr/chinese-national-sentenced-stealing-trade-secrets-worth-1-billion>.

⁶⁵ Press Release: Chinese Citizen Convicted of Economic Espionage, Theft of Trade Secrets, and Conspiracy (June 26, 2020) - <https://www.justice.gov/opa/pr/chinese-citizen-convicted-economic-espionage-theft-trade-secrets-and-conspiracy>.

⁶⁶ Press Release: Two Chinese Hackers Working with the Ministry of State Security Charged with Global Computer Intrusion Campaign Targeting Intellectual Property and Confidential Business Information, Including COVID-19 Research (July 21, 2020) - <https://www.justice.gov/opa/pr/two-chinese-hackers-working-ministry-state-security-charged-global-computer-intrusion>.



conditions. According to her plea agreement, the defendant conspired to steal and then monetize one of the trade secrets by creating and selling exosome “isolation kits” and admitted to starting a company in China to sell the kits. She received benefits from the Chinese government, including the State Administration of Foreign Expert Affairs and the National Natural Science Foundation of China and had also applied to multiple Chinese government talent plans, a method used by China to transfer foreign research and technology to the Chinese government.⁶⁷



⁶⁷ Press Release: Researcher Pleaded Guilty to Conspiring to Steal Scientific Trade Secrets from Ohio Children’s Hospital to Sell in China (July 30, 2020) - <https://www.justice.gov/opa/pr/researcher-pleaded-guilty-conspiring-steal-scientific-trade-secrets-ohio-children-s-hospital>.



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 is 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 2020, 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. Over the past four years, 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.

For example, 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. To advance this goal, in fall 2020, ICE, through the HSI-led National Intellectual Property Rights Coordination Center, and the Motion Picture Association (MPA) jointly signed a Memorandum of Understanding aimed at developing comprehensive strategies to coordinate public- and private-sector efforts that disrupt and combat all forms of digital piracy. Through Operation Intangibles, HSI is committed to leading the United States' efforts to stop digital piracy and eliminate a vital source of illicit revenue from transnational criminal organizations.⁶⁹

In April 2019, President Trump signed a Presidential Memorandum (PM) on combating trafficking in counterfeit and pirated goods, specifically in third party online marketplaces.⁷⁰ 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.

The PM, for the first time, placed 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,

⁶⁹ For more information on the Memorandum of Understanding and Operation Intangibles, please see <https://www.ice.gov/features/OperationIntangibles>.

⁷⁰ Memorandum on Combating Trafficking in Counterfeit and Pirated Goods (April 3, 2019) available at <https://www.whitehouse.gov/presidential-actions/memorandum-combating-trafficking-counterfeit-pirated-goods/>.



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 the United States Consumers, Businesses, Government Supply Chains, and Intellectual Property Rights Holders.”

In furtherance of the aims of the report, on October 13, 2020, President Trump issued a Memorandum on “Stopping Counterfeit Trafficking on E-Commerce Platforms Through Fines and Civil Penalties.” The Memorandum reinforces the importance that the Administration places on countering trafficking in counterfeit goods. It says “trafficking in counterfeit goods infringes on the intellectual property rights of American companies, undermines their competitiveness, and harms American workers. Counterfeit trafficking also poses significant health and safety threats to online consumers. E-commerce platforms serve as key contributors to counterfeit trafficking by acting as intermediaries and providing marketplaces that match up buyers and sellers.” The Memorandum instructs the Secretary of Homeland Security, through the Commissioner of U.S. Customs and Border Protection and in consultation with the Attorney General to consider taking all appropriate actions to seize counterfeit goods imported into the United States in connection with a transaction on an e-commerce platform and impose the maximum fines and civil penalties permitted by law on any e-commerce platform that directs, assists with, or is in any way concerned in the importation into the United States of counterfeit goods and to develop a legislative proposal to promote the policy objectives of the memorandum.⁷¹

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

⁷¹ Memorandum on Stopping Counterfeit Trafficking on E-Commerce Platforms Through Fines and Civil Penalties (October 13, 2020) available at <https://www.whitehouse.gov/presidential-actions/memorandum-stopping-counterfeit-trafficking-e-commerce-platforms-fines-civil-penalties/>.



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 provide assistance in protecting and enforcing their IP rights. Attachés serve at U.S. missions throughout the world, including in China, Mexico, Brazil, Peru, Belgium, India, Thailand, Kuwait, Ukraine and Switzerland.

In 2020, the Global IP Academy (GIPA) at the USPTO continued to provide 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 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. These on-demand, the e-learning products have drawn more than 148,600 unique views since content was made available in 2010.

During FY20, the Commerce Department's International Trade Administration (ITA) – with the support of many USG agencies – completed 3 in-person STOPfakes.gov Roadshows in Newark, Sacramento, and San Jose. STOPfakes also began offering virtual content in August 2020 with ten webinars taking place between August 25 and October 13, 2020. These events, which have given increased attention to SMEs, deliver critically important information about intellectual property to audiences that need it most – start-ups, 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 2020, the IPR Center conducted 78 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 and other Cabinet-level Departments continue to 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 developed a new 3-year Joint Strategic Plan on Intellectual Property Enforcement, which was issued on November 9, 2020.⁷² The Joint Strategic Plan, 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 with valuable input from the public and interested stakeholders.⁷³

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



⁷² Press Release: Administration Issues Joint Strategic Plan on Intellectual Property (November 9, 2020) - <https://www.whitehouse.gov/briefings-statements/administration-issues-joint-strategic-plan-intellectual-property/>. The Joint Strategic Plan is available at <https://www.whitehouse.gov/wp-content/uploads/2020/11/IPEC-Joint-Strategic-Plan.pdf>.

⁷³ On September 13, 2018, the U.S. Intellectual Property Enforcement Coordinator issued a Federal Register notice requesting public comments for the development of Joint Strategic Plan. 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. Trump⁷⁴

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.

⁷⁴ 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, the United States will continue to build upon past work to continue programs and policies that are working well. And we are ensuring 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 regularly 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:

- In 2014, DOC (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.⁷⁵
- The Department of Commerce reported that technological innovation is linked to roughly three-quarters of U.S. growth since the mid-1940s.⁷⁶
- 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.⁷⁷
- 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.⁷⁸
- 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 2015.⁷⁹
- Merchandise exports of IP industries grew to \$842 billion in 2014, up from \$775 billion in 2010; an 8.6 percent increase.⁸⁰
- 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.⁸¹
- Investment in intellectual property products now accounts for about one-third of U.S. private nonresidential fixed investment, and as such, trade agreements that enhance international protection of intellectual property—such as the United States–Mexico–Canada Agreement and Phase I of U.S.-China negotiations—could also elevate the level of innovation and productivity growth.⁸²

⁷⁵ 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>

⁷⁶ 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

⁷⁷ 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>

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Economic Report of the President together with the Annual Report of the Council of Economic Advisors (2020), p. 302. <https://www.whitehouse.gov/wp-content/uploads/2020/02/2020-Economic-Report-of-the-President-WHCEA.pdf>



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.⁸³
- The countries most affected by counterfeiting and piracy in 2016 were the United States, whose brands or patents were concerned by 24% of the fake products seized, followed by France at 17%, Italy (15%), Switzerland (11%) and Germany (9%).⁸⁴
- 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 2016.⁸⁵
- 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.⁸⁶
- In fiscal year 2019, CBP reported processing \$2.7 trillion in imports, including approximately 1.8 million small packages per day sent via international mail and express carriers. CBP also reported seizing counterfeit goods with a total manufacturer's suggested retail price of up to \$1.5 billion if the goods had been authentic.⁸⁷
- In 2019, CBP reports that \$1.03 billion (66 percent) of seized goods originated in China and \$397.3 million (26 percent) originated in Hong Kong.⁸⁸
- According to CBP, criminal organizations are shipping illicit goods, including counterfeits, into the United States via small packages due to a perceived lower risk of detection and less severe consequences if a package is stopped. CBP also reported in FY 2019 that e-commerce sales had contributed to an increased volume of small packages imported in the United States, including approximately 600 million international mail and express carrier shipments. Further, CBP reported that from FY 2013 – FY 2019, it completed a total of about 203,000 IPR seizures, almost 90 percent of which occurred in the international mail.⁸⁹



⁸³ 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://euiipo.europa.eu/ohimportal/en/news/-/action/view/5031024>

⁸⁴ Ibid.

⁸⁵ IP Commission. 2017. "Update to the Report of the Commission on the Theft of American Intellectual Property."

⁸⁶ 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

⁸⁷ GAO, Report to the Chairman, Committee on Finance, U.S. Senate: CBP Has Taken Steps to Combat Counterfeit Goods in Small Packages but Could Streamline Enforcement (2020), p.6, available at:
<https://www.gao.gov/assets/710/709639.pdf>

⁸⁸ U.S. Customs and Border Protection Office of Trade (2019). Intellectual Property Rights: Fiscal Year 2019 Seizure Statistics. [online] Washington: U.S. Department of Homeland Security, p. 1324. Available at:
https://www.cbp.gov/sites/default/files/assets/documents/2020-May/FY%202019%20IPR%20Seizure%20Powerpoint%20FINAL%20PBRB%20APPROVED_0.pdf

⁸⁹ GAO *supra* note 103, at 4.

APPENDICES

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DEPARTMENT OF AGRICULTURE

DEPARTMENT OF AGRICULTURE

Department of Agriculture Appendix for FY 20 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 Fiscal Year (FY) 2020

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 2020, 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 to 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 Morocco, and the MERCOSUR countries – to raise the importance of preserving common terms for food products.

Consortium for Common Food Names Activities Supported by USDA

The information below represents notable actions taken by the Consortium for Common Food Names (CCFN), thanks to support provided by the USDA Global Based Initiative on Common Food Names throughout Fiscal Year 2020 to date. Each item listed supports work to preserve U.S. exporters’ rights to use common food names.

- The U.S. Dairy Export Council (USDEC), on behalf of a number U.S. agricultural associations including the U.S. Meat Export Federation and California Wine Institute, led a USDA Market Access Program-funded project to monitor and combat Geographical Indications (GI)-related trade restrictions. USDEC has received \$200,000 annually since 2013 that help support this effort through CCFN.
- During FY 2020, CCFN monitored activities and alerted trade officials in the United States and key nations about EU free-trade negotiation concerns. CCFN filed oppositions to 12 problematic cheese and meat geographical indications (GI) registrations published

during the EU-Australia FTA negotiations. At the end of 2019, CCFN secured favorable rulings to the oppositions filed during the China-EU FTA negotiations and publications of the 100 for 100 list so “mozzarella,” “pecorino,” “parmesan,” “prosciutto,” and “pecorino” will be free to use.

- In June 2020, CCFN worked with existing producers and exporters of GI cheeses to Mercosur to submit affidavits to Argentine, Brazilian, Paraguayan and Uruguayan authorities, attesting prior use of targeted terms scheduled to be restricted by the EU-Mercosur FTA. Prior to that, CCFN successfully led oppositions that resulted in generic usage assurances for “brie,” “camembert,” “edam,” “emmental,” “gouda,” “chorizo,” “mortadella,” “mozzarella,” “pancetta,” “prosciutto,” and “salami” per the text of the EU-Mercosur FTA.
- CCFN builds relationships with officials of the World Intellectual Property Organization (WIPO), successfully becoming an official Observer to WIPO committees, events and policies, and raised awareness in foreign markets about the potential trade barriers that GIs may pose to local industries and trading partners. In November 2019, project partners presented to officials from six CAFTA-DR countries, the importance of safeguarding common food names and use of regulatory and policy tools to provide concrete guidelines to determine a term’s genericism.
- In FY 2020 CCFN filed comments on the Vietnamese Trademark and GI law; the European Commission’s roadmap on the evaluation of EU Quality schemes-specifically on lack of clarity on generic terms, scope of protection, and lack of transparency for the GI application and opposition processes; China’s proposed Guide on determining generic names; New Zealand-EU FTA IP Chapter; and Brazil’s GI law public consultation.
- CCFN also secured favorable rulings: a trademark previously registered in Brazil for “asiago” was cancelled; China’s IP office clarified that two trademark applications that contained words similar to “bologna” would not prohibit use of the term “bologna”; the highest Guatemalan court ruled that the term “parmeseano” is and will remain generic; and the Australian IP court refused the registration of “gorgonzola” and “asiago trademarks.

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 2020

The final rule was published on January 6, 2020, to add asexually reproduced varieties to the program, and to simplify the fee schedule. 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 four webinars on the program, electronic Plant Variety Protection system, and examination procedures to participants from the European Union, China, AmericanHort, American Seed Trade Association, and other plant protection stakeholders. The webinars 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 has received ten asexually reproduced variety applications including hemp, raspberry, blackberry, apple, calibrachoa, magnolia, grapevine, and orange. The PVPO is continuing to work with ASTA and other seed and vegetative industry stakeholders on International Union for the Protection of New Varieties of Plants explanatory notes and molecular methods of analysis for select crops that can be used as supporting data in plant variety examinations.

New members were appointed to the PVP Board on September 30, 2020. The Board consists of 14 members representing farmers, the seed industry, trade and professional associations, and public and private institutions involved with developing new plant varieties. Members of the Plant Variety Protection Board provide oversight and guidance to the program on plant variety protection issues.

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

The Agricultural Research Service's Protection of USDA's own Intellectual Property

USDA's Agricultural Research Service (ARS) has a comprehensive program to protect U.S. 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.

DEPARTMENT OF COMMERCE

DEPARTMENT OF COMMERCE

Department of Commerce Appendix for FY 2020 Annual Report

This appendix discusses the FY 2020 activities of the Commerce Department, through the Commercial Law Development Program (CLDP), the International Trade Administration (ITA), the National Telecommunications and Information Administration (NTIA), and the U.S. Patent and Trademark Office (USPTO). The Commerce Department continues to engage in training and capacity building programs to strengthen intellectual property awareness and enforcement internationally. Additionally, the USPTO provides many different patent and trademark capacity building programs as fully described in our TRIPS Article 67 report each year, and the following highlights some enforcement activities during FY 2020.

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 rights (IPR).

As the Office of 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" and one of the strategies listed in the plan to do so is to "strengthen the protection of intellectual property" abroad.

CLDP helps enforce IPR overseas through two types of technical assistance programs: programs that help countries develop an effective IPR enforcement environment, and programs that help countries create their own intellectual property, which gives them a vested interest in enforcing IPR.

Conducted in close cooperation with the USPTO, other Commerce bureaus, USTR, and other Federal agencies, CLDP's activities usually include consultations, seminars, workshops, and meetings.

Starting in March 2020, in light of the public health situation (COVID-19) and of the resulting impossibility to travel overseas, CLDP suspended its traditional activities, most of which took place overseas and conducted, instead, online video-conferences and webinars.

At the suggestion of USPTO/GIPA's Director, GIPA and CLDP created an "IP eLearning Community of Practice" that has been effective in sharing lessons learned by both institutions as they conducted virtual programs.

In FY 2020, CLDP IP activities were conducted for the following countries: Algeria, Azerbaijan, Bahrain, Kosovo, Mali, Morocco, Pakistan, and Tunisia.

As outlined below, CLDP's FY 2020 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. OVERVIEW OF CLDP's FY 2020 IP PROGRAMS

The following are notable CLDP programs during FY 2020 (*more detailed descriptions are presented in section II below*).

Judicial Capacity Building in IPR Enforcement

Pakistan:

-Meetings with select judges to discuss IP rights enforcement matters, November 2019

Capacity Building for Institutions that Enforce IPR

Afghanistan:

Webinar on Trademark Registration

On August 11, CLDP, in close cooperation with USPTO and Afghanistan's Central Business Registry for Intellectual Property (ACBR-IP), hosted a webinar to discuss the operations and challenges facing ACBR-IP with a focus on trademark registration. Afghan senior management provided an overview of the Trademark Directory (TMD) and its operating environment, rules and regulations, authorities and operations, organizational chart, and the trademark registration process. The presentation included a self-assessment of the TMD's strengths and weaknesses, which prompted a full discussion of challenges and opportunities as it seeks to improve its operations and enhance the transparency and effectiveness of trademark examination and registration in Afghanistan. This was the first in a series of planned webinars to address key aspects of trademark examination and registration, including distinctiveness, likelihood of confusion, well-known marks, bad faith applications, non-traditional marks, trade dress, geographic descriptiveness, certification, and appeal, opposition, and cancellation proceedings. This activity is the result of a concerted effort between CLDP and USPTO to focus on trademark as the area of IP law and enforcement having the most direct and tangible impact of the general consumer public (e.g., brand equating to quality, health, and safety), as well as creating value within the private business sector.

Webinar on Trademark Distinctiveness

On August 25-26, CLDP, in cooperation with USPTO, conducted a webinar for Afghanistan's Central Business Registry Trademark Directorate on the concept of "distinctiveness" in the examination of a trademark (TM) application. The first day of the program explored the legal underpinnings of TM law, including the Paris Convention, the Afghanistan TM Registration Law, the U.S. Lanham Act, what constitutes a good TM, and the seven-factor U.S. test for determining distinctiveness. The second day focused on additional considerations for

distinctiveness, generic terms, deceptive mis-description, acquired distinctiveness, and disclaimers. Case studies and hands-on exercises honed the analytical skills of the Afghan examiners. Future webinars will explore additional topics in TM application, including likelihood of confusion, well-known marks, bad faith applications, non-traditional marks, trade dress, geographic descriptiveness, certification, and appeal, opposition and cancellation proceedings. Enhancing the knowledge and analytical skills of the Afghan TM examiners will have a direct and tangible impact for the general consumer public (e.g., brand equating quality, health, and safety), as well as create value in the private business sector.

Trademark Webinar on Likelihood of Confusion

On September 15th, CLDP, in cooperation with USPTO, conducted the first of two webinars for Afghanistan's Central Business Registry Trademark Directorate (TMD) on the concept of "likelihood of confusion" in the examination of a trademark application. This first session examined the concept as defined in the U.S. Lanham Act, discussed the initial search actions to be taken by an examiner, and the multi-point U.S. test (known as the DuPont factors) for determining the likelihood of confusion between two marks. Case examples highlighted and examined the application of the DuPont factors. Afghan officials actively participated in the discussion and raised questions related to past and current issues before the TMD. Increasing the analytical skills of the Afghan examiners will have a direct and tangible impact on the general consumer public (e.g., brand equating to quality, health, and safety), as well as create value within the private business sector.

Georgia:

Webinar Series on Intellectual Property Essentials

In Georgia, CLDP leads a multi-year project that aims to build the capacity of public sector institutions and private sector stakeholders to protect and enforce IPR. The Georgian National Intellectual Property Center 'Sakpatenti' has been the main beneficiary of CLDP technical assistance on IPR, but CLDP has also provided support to the Ministry of Economy and Sustainable Development, the Georgian Copyright Association, the Georgian Innovation and Technology Agency, the European Law Students Association, Georgian judges, IP specialists, and IP right holders. Over the course of the project, CLDP has organized and led IPR awareness workshops for Georgian journalists, trained Georgian law students through an IP summer school, and trained Georgian IP specialists to properly analyze complex copyright, trademark, and patent issues. CLDP has also helped to coordinate interagency responses to issues of IPR and helped to raise public and business awareness of the importance of IPR.

Due to travel restrictions related to COVID-19, CLDP partnered with USPTO and the USPTO Global Intellectual Property Academy (GIPA) on a series of virtual trainings on intellectual property to be delivered to the staff of the National Intellectual Property Center of Georgia in fall 2020. Topics for the training series include trade secret protection, telework practices and procedures, and overviews of the Trademark Trial and Appeal Board and the Patent Trial and Appeal Board. The training series includes virtual discussion sessions on each topic as well as related digitally recorded training videos for asynchronous learning. Digitally recorded training

sessions were delivered to the National Intellectual Property Center in September 2020 and live discussion sessions are scheduled to be held on October 5, October 14, and November 3.

Kosovo:

-Webinar for Kosovo customs officials on international best practices for combating counterfeit products, May 2020

Mali:

-Initiatives launched with the country's IP agencies to fight the counterfeiting of products affecting public health, Fall 2019

Pakistan:

-Meetings with the Intellectual Property Organization of Pakistan and the Intellectual Property Rights Enforcement wing of Pakistan Customs Service to discuss IP-related matters, November 2019

Development of Innovation Ecosystems Through Technology Transfer

Algeria:

-Workshop on Intellectual Property/Negotiation of Technology Licenses, October 2019

-Contribution to workshop on "Artificial Intelligence and Intellectual Property," June 2020

-Webinar on "Identifying and Remediating Vulnerabilities of Technology Start-ups," July 2020

Azerbaijan:

-Webinar on the Negotiation of International Software Agreements, May 2020

Bahrain:

-Workshop on Intellectual Property/Negotiation of Technology Licenses, December 2019

-Development of a framework agreement for cooperation (*Technology Transfer; Technology Start-ups*) between the University of Bahrain and George Mason University, April-May 2020

-Assistance to the University of Bahrain for the revision of its IP policy, March-June 2020

Morocco:

-Workshop on "Technology Transfer and Intellectual Property," December 2019

Pakistan:

-Meetings with education institutions to assess technical assistance needs for the recognition, protection, and exploitation of intellectual property, November 2019

-Workshop on the Licensing of University-Developed IP, March 2020

-Continuing Legal Education Master Class, March 2020

Tunisia:

-Capacity building in assessing the vulnerabilities of technology start-ups, July 2020

-Capacity building in technology transfer for scientists-entrepreneurs, July 2020

II. DETAILED DESCRIPTIONS OF PROGRAMS

The following are more detailed descriptions of these FY 2020 CLDP programs

Judicial Capacity Building in IPR Enforcement**Pakistan:*****Meetings with Judges to Discuss IPR Enforcement***

On November 19, 2019, CLDP met with four members of the judiciary who adjudicate cases involving IP issues, and have participated in a series of IP workshops specifically conducted for judges identified as likely to be appointed to IP Tribunals in the near future. The judges discussed the strengths and weaknesses of the CLDP programs, as well as their views and opinions on the current state of the judiciary regarding adjudication of cases involving IP matters. Ambiguities in the existing law (IPO Act of 2012) regarding the IP Tribunals were discussed, including actions under consideration to clarify and strengthen the role of the Tribunals. The judges were highly supportive of IP awareness programs and urged that such programs continue and be targeted to multiple audiences, including government officials (e.g., Ministry of Commerce). They advocated for 8-10 judges to be trained specifically on IP and form the pool of judges to hear such cases (e.g., various Tribunals, Appellate Court, High Court); they also suggested that a letter be sent to the High Court requesting/recommending training on IP matters. As a result of this meeting, CLDP will conduct a series of IP Judicial Workshops for judges newly appointed to IP Tribunals and for other select judges adjudicating cases involving IP matters at the D&S, appellate, and High Court levels.

Capacity Building for Institutions that Enforce IPR**Kosovo:*****Webinar for Kosovo Customs***

On May 14, 2020, CLDP, in coordination with experts from U.S. Customs and Border Protection and the U.S. Patent and Trademark Office, held a webinar for Kosovo customs officials on international best practices for combating counterfeit products. Technical assistance on Intellectual Property Rights (IPR) enforcement is instrumental in developing Kosovo's economy and protecting U.S. business interests abroad.

Mali:

Fighting the Counterfeiting of Products Affecting Public Health

In late 2019, CLDP partnered with Malian stakeholders to raise awareness of the danger of counterfeits and to showcase how to best combat counterfeiting. Working with CLDP were: Mali's Customs, Mali's Intellectual Property Office (CEMAPI), Mali's Copyright Office (BUMDA) as well as representatives from ministries of Agriculture and Health. The Mali stakeholders and CLDP created and launched a national campaign, including culturally appropriate marketing material including Public Service Announcements, brochures, billboards, radio and television interviews. CLDP also helped develop and implement a national database administered jointly by Mali's Customs, Mali's Intellectual Property Office (CEMAPI) and Mali's Copyright Office (BUMDA). Producers and importers can register authenticated products in this database to facilitate the seizure of counterfeited products.

This effort is part of a multi-year, Mali-wide, joint effort with the USAID mission in Mali to implement innovative solutions for combatting the counterfeiting of products affecting public health, with a particular focus on agro-inputs. The goal of the project was to successfully address the counterfeiting problem, which is becoming endemic in Mali (as in other parts of West Africa) as under-resourced regulatory bodies struggle to adequately thwart the flood of fakes into the market. This effort built upon past CLDP programs to fight counterfeited products, including extensive training of enforcement authorities including Mali's Customs, the judiciary, and law enforcement agencies, as well as consumer education programs.

Pakistan:

Discussion of Technical Assistance for IPR Enforcement

On November 12, 14, and 18, 2019, CLDP held meetings in Islamabad and Karachi to assess technical assistance needs in various areas relating to commerce, including intellectual property rights enforcement. Representatives of the following organizations took part in these meetings:

- Pakistan Customs' National Targeting Center (NTC): NTC noted its working relationship with the U.S. Department of Homeland Security (DHS) enforcement arm Customs and Border Protection (CBP), as well as with DHS' investigative arm Homeland Security Investigations (HSI). NTC's Director Asad noted that DHS National Targeting Center is currently providing software to Pakistan's NTC to support data analysis, and asked CLDP to consider providing technical assistance to NTC on IP rights enforcement, noting

that such training could be merged with CLDP programming for Pakistan Customs' IPR Enforcement Division (IPRE).

- Pakistan's Intellectual Property Organization (IPO): IPO provided an update regarding proposed revisions to the existing IP laws of Pakistan. IPO discussed that with the reconstitution of the IP Policy Board (IPPB), the Ministry of Commerce (MoC, the sponsoring ministry for the proposed legislative updates) sent the proposed changes to IPPB for its review/approval and forwarding for Cabinet-level review prior to entering the legislative process. No expected timing of this process was offered. CLDP reminded IPO that CLDP/USPTO "stand ready" to provide support, if requested by IPO, to assist IPO in explaining the proposed updates/amendments and answering questions arising during the legislative process. IPO discussed training needs for its patent and trademark examiners. IPO mentioned its problems retaining trained staff and is considering changes to its employment terms to include increased service obligations possibly attaching after education and training provided by or through IPO. CLDP noted that the movement of trained and experienced employees from the public to private sector, while inconvenient for the government, is beneficial to the overall environment of securing intellectual property rights and enforcement. IPO expressed its support for the creation of a practitioner's guidebook to IP, as well as of an IP judicial bench book. IPO and CLDP observed that development of these proposed resources would help mitigate some of the issues arising from turn-over of personnel (e.g., IPO staff, IP Tribunal staff, ORIC staff, and private law firm staff). CLDP and IPO discussed whether the Intellectual Property Organization Act of 2012 could be amended to enhance the qualifications for IP Tribunal Presiding Officers/judges, as well as to lengthen the term of appointment. IPO expressed support for this proposal, and noted that issues need to be addressed regarding the standing of the IP Tribunals as courts of first instance and appeals.
- Federal Board of Revenue – IP Rights Enforcement (FBR-IPRE): CLDP's discussion with FBR-IPRE focused on customs enforcement of IP rights (e.g., anti-counterfeiting). FBR's DG noted that interdictions have increased steadily and $\frac{3}{4}$ into 2019, had reached 100 instances, with seizures topping \$15 million in value. The majority of counterfeit product seizures consist of electronics, watches, book piracy, and fashion items. FBR-IPRE utilizes risk management assessments to determine its priorities. During March-April 2019, FBR-IPRE participated in JCO Hygiea, a joint exercise including 38 countries and focused on fast-moving consumer goods. Pakistan was deemed the No.1 participant in terms of effectiveness in interdicting counterfeit goods. FBR-IPRE has a good working relationship with many international and domestic companies and has partnered with private industry to teach its officers "how to spot" counterfeit goods. To assist in Pakistan's efforts to improve its Special 301 Watch List ranking, FBR-IPRE is taking action to tighten border controls, work more effectively with national and international customs-related organizations, and improve IPRE staff training. FBR-IPRE would welcome technical assistance from CLDP and USPTO.

As a result of these meetings, CLDP is developing programs in the following areas:

- Consultations with IPO in support of the pending IP Legislative Update
- Training for new trademark and patent examiners

- FBR-IPRE Anti-Counterfeiting Air Freight/Mail Pharma Exercise

Virtual USG/Pakistan Interagency Exchange on IPR Border Enforcement

On July 22, CLDP, in partnership with USPTO, moderated a virtual interagency exchange between representatives from USG agencies (*Customs Border Protection (CBP), the Office of the U.S. Trade Representative (USTR), the Department of Justice (DOJ), and the U.S. Embassy Islamabad*) and senior officials of Pakistan's Federal Bureau of Revenue (FBR) Customs Directorate for Intellectual Property Rights Enforcement (IPRE). The focus of the discussion was on intellectual property rights (IPR) border enforcement. The discussion involved 19 Pakistan officials, including the Director General of FBR-IPRE, the Additional Director of FBR-IPRE (South), as well as other senior Pakistan officials. Pakistan officials reaffirmed the country's commitment to improving IPR enforcement at the border for both imports and exports, and stressed the threats to public health and safety and the negative economic impact of unchecked counterfeits, pirated, and illicit goods. USTR discussed key areas for improvement and shortfalls by Pakistan on the 2020 Special 301 Report. Overviews of IPR enforcement procedures and activities at the border were presented and discussed by FBR and CBP, including examples of successful interdictions and identification of areas for possible U.S. government technical assistance to Pakistan. At the conclusion of the video conference, CLDP and Pakistan FBR-IPRE agreed to jointly initiate a technical assistance program focused on stopping counterfeit pharmaceuticals transiting through air freight and air mail facilities in Pakistan. The proposed program will highlight Pakistan's transnational efforts with the international community, including the Permanent Forum of International Pharmaceutical Crime (<http://www.pfipc.org/>). Pakistan and U.S. government representatives agreed to form a working group and conduct a series of scheduled virtual meetings to further develop the details of the multi-phased program. This program will be a capstone IPR enforcement exchange and training program and is a follow-on to earlier CLDP and USPTO programs for Pakistan.

Development of Innovation Ecosystems Through Technology Transfer

Algeria:

Workshop on IP and the Negotiation of Technology Licenses

Transfer of technology from academia to industry increases productivity in industry and fosters the development of technology start-ups. Technology transfer from academia to industry is therefore a priority for the Algerian government as it tries to decrease the country's economic dependence on oil and gas.

At the behest of the U.S. embassy in Algeria, since 2016 CLDP has been providing technical assistance to Algeria to build capacity to manage effectively technology transfer from academia to industry. A key component of CLDP's technical assistance has been a program to form a partnership between a U.S. center of excellence in technology transfer and an Algerian institution that has all the attributes required to become a center of excellence in technology transfer. The former is the International Technology Transfer Institute (ITTI) of the Franklin Pierce law school of the University of New Hampshire; the latter is École Nationale

Polytechnique d'Alger (ENP), Algeria's best institute of technology. As a third phase of this program, on October 21-24, in Algiers, Algeria, CLDP conducted a workshop on the negotiation of technology licenses. At ENP's request, the core of this workshop was the simulated negotiation of a technology license, based on a case study created by CLDP. In addition to the managers of ENP's incubator, about 15 Algerian participants attended the workshop. They represented key agencies that promote and support technological innovation, entrepreneurship, and IP in Algeria; a few Algerian private sector firms also took part in the workshop. The Algerian participants praised the very practical nature of the workshop and asked whether a similar workshop could be conducted in the future for a larger audience.

Contribution to workshop on “Artificial Intelligence and Intellectual Property”

In June 2020, ANVREDET (Algeria's National Agency for the Commercialization of the Results of Research and Development) organized a video-conference on “Artificial Intelligence and Intellectual Property.” CLDP was supposed to be one of the presenters but was unable to do for technical reasons. As a result, CLDP wrote a short note on “Artificial Intelligence and Intellectual Property: An Opportunity for Algeria.” This note was shared with the organizers.

Webinar on “Identifying and Remediating Vulnerabilities of Technology Start-ups”

In July 2020, ANVREDET organized a series of webinars on the topic of “The Financing of Technological Innovations.” CLDP has developed a methodology that makes it possible to quickly assess whether a science-based start-up can be successful and, if not, what it should try to change to increase the likelihood of success. On July 23 and on July 27, at ANVREDET's request, CLDP gave webinars on this methodology. ANVREDET and the participants found the CLDP methodology to be of immediate applicability.

Azerbaijan:

Webinar on Negotiating International Software Agreements

On May 7, 2020, CLDP, in coordination with the U.S. Embassy in Baku, led a three-hour webinar for Azerbaijan local IT companies, law firms, and law students focused on negotiating international software agreements. CLDP developed the webinar as the result of an assessment held with private sector companies in Azerbaijan who were interested in expanding internationally through joint development agreements and who also needed to understand how to best address key intellectual property (IP) issues. The webinar's two main experts, a corporate counsel from Google and the general counsel of Silicon Valley based start-up, focused on key IP issues that arise in the negotiation of licensing agreements and how software IP can be protected. The live webinar included time for questions from local counterparts. Strengthening IP rights will help Azerbaijan develop a knowledge-based economy, improve employment opportunities and economic stability, and protect the IP of both Azerbaijan and U.S. companies.

Bahrain:

Background

The Kingdom of Bahrain lacks oil and gas resources but has nine universities that conduct a significant amount of research and development. In light of this context, Bahrain's Ministry of Industry, Commerce and Tourism (MOICT) has designed an economic development strategy based upon technology transfer from academia to industry, both for the improvement of processes used by Bahrain's industry and for the creation of technology start-ups.

To implement this strategy, Bahrain has created a virtual Bahrain Innovation and Technology Center (BITC). A key mandate of BITC is to support intellectual property development and commercialization at Bahrain universities. BITC is led by MOICT's SME Development Directorate. BITC members are: Bahrain's Economic Development Board, Bahrain's universities, start-ups and start-ups organizations, and Bahrain's Development Bank.

CLDP has been providing technical assistance to Bahrain for over ten years. Starting in December 2019, CLDP has been providing technical assistance to BITC, at the behest of the U.S. embassy in Bahrain. In FY 2020, this assistance took two main forms:

- A one-day workshop on the negotiation of technology licenses, conducted in December.
- Support to the University of Bahrain (UoB), the country's main university. This support took place, from March 2020 until the end of July 2020, in three main domains:
 - a) The development of a cooperation agreement with a U.S. university.
 - b) The revision of UoB's IP policy.
 - c) The creation of methodologies to assess which technologies developed at Bahrain universities are worth patenting.

Bahrain's Ministry of Industry, Commerce and Tourism (MOICT) was pleased with the results achieved and published a press release to state so.

A key factor in the results achieved was the role of the USPTO's IP Attaché for the region. He took part in all the video-conferences between CLDP, BITC and UoB. In addition, he created significant synergy between CLDP and the USPTO by developing and leading 11 remarkable webinars on: intellectual property (IP) and universities, IP identification, and IP capture.

Workshop on Intellectual Property/Negotiation of Technology Licenses

On December 12, in Manama, Bahrain, at MOICT's invitation, CLDP held a workshop focused on technology transfer and technology licensing. The participants were key members of BITC: representatives from government, from academia, and from the startup community. The workshop included an intellectual property exercise as well as a negotiation exercise of a

technology license based on a case study. The exercise and the case study had been created by CLDP specifically for Bahrain.

After the workshop, the Director of SME Development at MOICT sent a message to CLDP stating: “it was a remarkable workshop and most of the attendees thanked me for it and for the valuable information you’ve shared.”

Framework agreement for cooperation between the University of Bahrain and George Mason University

Given the importance for Bahrain of technology transfer, MOICT has asked CLDP to help foster cooperation between UoB and a U.S. university that has significant experience in academia-to-industry technology transfer, as well as a unique focus on the development and protection of intellectual property (IP).

CLDP approached George Mason University (GMU). With a size comparable to UoB’s, GMU is the largest public university in the state of Virginia and, like UoB, it has an economic development mission. Also, GMU has the Office of Technology Transfer (OTT), and its law school has the Center for the Protection of Intellectual Property (CPIP) and the Innovation Law Clinic. The leadership at CPIP and OTT expressed a readiness to explore potential cooperation with UoB. Through video-conferences conducted over several weeks, the following framework for cooperation was agreed upon, in principle.

- Cooperation between UoB’s Technology Transfer Office (TTO) and GMU’s Office of Technology Transfer (OTT), with a focus on IP protection strategy, joint research projects, and internships at OTT for TTO members.
- Cooperation between UoB’s Incubator and GMU Law School (CPIP and Innovation Law Clinic) to share relevant experience.

MOICT values the cooperation envisioned between UoB and GMU. MOICT considers that, for this cooperation to be durable, it is important that a two-way relationship be established. Therefore, MOICT and Bahrain’s SMEs Development Board members stand ready to help technologies and start-ups originating from GMU to gain access, through Bahrain, to the markets of the Arabian Peninsula.

Revision of UoB’s IP Policy.

The University of Bahrain is the Kingdom’s largest university. Its IP policy will be a model for all the other universities in the Kingdom. The Dean of Graduate Studies and Scientific Research at UoB is in charge of the IP policy. The Dean wanted to make sure that UoB’s IP policy was consistent with best international practices. MOICT asked for CLDP’s technical assistance to do so.

To this end, CLDP formed a panel that included a key volunteer expert, Dr. Richard Cahoon, who had been for 20 years the director of Cornell University’s Technology Transfer Office and

who, after leaving Cornell, had been one of the drafters of WIPO's IP Toolkit for universities. The panel also included the USPTO (*both the IP Attaché and members from the Office of Policy and International Affairs*) as well as the director of George Mason University's Office of Technology Transfer.

For about six weeks, CLDP organized weekly video-conferences during which UoB and the panel discussed revisions to the IP policy that were suggested in writing by members of the panel during the previous week, and successive versions of the IP policy revised by UoB based upon these suggestions. As a result of this process, UoB now has a solid IP policy for Technology Transfer purposes that can serve as a model for other Bahrain universities.

Methodologies to Assess Which Technologies Developed at Bahrain Universities are Worth Patenting.

Over the years, CLDP has developed a "toolkit" of Technology Transfer methodologies. CLDP adapted some of these methodologies to Bahrain's specific priorities.

Morocco:

Workshop on IP and Technology Transfer

On December 11-13, 2019, CLDP, in collaboration with Morocco's Ministry of Higher Education and Scientific Research, held a workshop on technology transfer and intellectual property in Casablanca, Morocco. The U.S. Consul General in Casablanca gave opening remarks. The workshop was attended by 40 participants representing different techno-parks across Morocco and Spain, research institutions and government agencies. The workshop included a lively discussion on how to best strengthen the capacity of technology transfer stakeholders to manage intellectual property rights. This workshop was a continuation of a follow-on to a session held by CLDP in April 2019 in Fes, Morocco.

Pakistan:

Meetings with Education Institutions

On November 13-14 and 19, 2019, CLDP held meetings in Islamabad and Karachi to assess technical assistance needs in various areas relating to commerce, including the recognition, protection, and exploitation of intellectual property. Meetings were held in particular with the following organizations:

Continuing Legal Education Institute of Pakistan (CLEIP)

CLEIP reviewed the effectiveness of previous CLDP continuing legal education (CLE) programs focused on IP and discussed possible future programming. CLEIP's cooperation with Pakistan's Higher Education Commission (HEC) and CLDP regarding technology transfer (e.g., Technology/IP Licensing Workshop) efforts with Pakistani universities was discussed in detail, including plans for the upcoming Licensing Workshop II in Karachi. Possibly working with a

Provincial High Court judicial academy, including efforts for course development and/or an IP judicial bench book was discussed, as well as CLEIP's taking-on the development of an IP Guidebook for Legal Practitioners. There was detailed discussion on possibly organizing a National E-Commerce Conference to focus on the newly adopted E-Commerce policy for Pakistan. This conference would facilitate a discussion of the content and implementation challenges facing the business and legal communities, even though the GoP has not given any indication it is seeking public input.

Higher Education Commission of Pakistan (HEC)

CLDP's current efforts with HEC and universities' Offices of Research, Innovation and Commercialization (ORICs) and Business Innovation Centers (BICs) have been focused on improving the skills of the university technology transfer offices by providing technical assistance in licensing IP as an avenue to generate benefit for the general public including, hopefully, creating an ecosystem of innovation, coupled with societal and economic contribution. HEC and CLDP reviewed the plans and preparations for the upcoming IP/Technology Licensing Workshop in Karachi, to be hosted at the City Campus of the Institute of Business Administration (IBA), in cooperation with CLEIP. HEC discussed its ongoing open challenge programs to encourage interdisciplinary research and international cooperation; provincial government identification of local problems and proposed solutions of significant importance; IP commercialization; and start-up seed funding to foster innovation. HEC is partnering with the Ministry of Youth to develop and fund an additional 30 BICs to create jobs and opportunity for economic growth. HEC is working with engineering universities, as well as other universities, to offer courses on entrepreneurship, in recognition of the importance of business creation and economic opportunity across study disciplines. CLDP reminded HEC of earlier suggestions to develop and offer survey courses of "the legal environment of business," including the importance of IP, for non-lawyers. Many law schools have yet to include IP courses as part of their curriculum. HEC will give this further consideration. CLDP offered to connect HEC with U.S. universities offering such courses of study. Lastly, the importance of IP public awareness programming was discussed, and CLDP introduced the idea of programming for children (Camp Invention in the U.S.). This program introduces young students to the basic concepts of IP and connects these legal concepts to real life every day examples. In this way, the general public is introduced to the practical importance and value of IP and its benefits, while removing the mystery from the primary subject. HEC found the concept interesting, especially the aspect of industry providing (minimal) resources to sustain the ongoing public awareness program.

As a result of these discussions, CLDP is developing programs in the following areas:

- Private Sector Conference/CLE on Digital Economy and the Government of Pakistan's E-Commerce Strategy
- Private Sector Conference/CLE on the CMR Convention
- Support for World IP Day 2021
- University IP Licensing Workshop III (for universities in the Greater Lahore area)

Workshop on the Licensing of University-Developed IP

On March 3-4, 2020, CLDP, in partnership with HEC and CLEIP (Continuing Legal Education Institute of Pakistan), conducted a multi-day workshop on identifying, protecting, and exploiting university-developed IP, focusing on licensing as an efficient way to benefit the public good and, possibly, generate revenue for the university. IPO representatives attended the workshop, as well as having the Director of Copyrights speak at the event. HEC worked closely with the universities in the Greater Metropolitan Area of Karachi for nominations to attend the workshop and provide a venue (the workshop was held on the City Campus of the Institute of Business Administration (IBA)). Workshop participants (i.e., university personnel involved in IP management) learned key concepts and provisions of licensing agreements and how technology transfer benefits the creator, licensor and licensee, as well as the general public and the overall economy. Forty-five participants representing sixteen universities attended the workshop. CLDP anticipates that by focusing on the creation of economic opportunity arising from the recognition, protection, and exploitation of Pakistani-generated IP, for the benefit of Pakistanis, the culture regarding enforcement of IP rights in Pakistan will improve significantly. The workshop was digitally recorded for future use by HEC.

Continuing Legal Education Master Class

On March 5, 2020, CLDP, in partnership with CLEIP, conducted a continuing legal education (CLE) Master Class on Practicing Law in the Digital Age, to enhance the knowledge and skills of the attendees in the subject areas of intellectual property (IP) licensing, recent competition law matters, role of in-house counsel in supporting business growth, developments in laws relating to new technologies, and legal concerns and requirements in the Digital Age. CLE participants (i.e., Pakistani lawyers) learned key concepts and provisions of IP licensing agreements and how technology transfer benefits the creator, licensor and licensee, as well as the general public and the overall economy. Participants discussed recent actions by the Competition Commission of Pakistan (CCP), the role of in-house counsel in supporting business growth, legal issues relating to new technologies, and the evolving legal environment (e.g., concerns and requirements) of practicing law in the Digital Age. As demonstrated by the lively discussion and rigorous questioning during the masterclass, CLDP anticipates that the participants will share the knowledge gained from the workshop with their parent organizations (e.g., companies and law firms), and better serve their clients by applying these evolving legal concepts (e.g., IP, competition, consumer protection, E-discovery), which, in turn, contributes to the economy of Pakistan. Forty-seven lawyers from the Karachi area attended the CLE Master Class. This program was digitally recorded and will reside in the CLE library of CLEIP, allowing CLEIP to offer this program virtually without having to duplicate the efforts expended to create the initial program. In addition, offering the program virtually facilitates the spread of knowledge without requiring face-to-face travel, time, and expense.

Virtual Program on Law and Technology

On August 22, CLDP, in partnership with the Continuing Legal Education Institute of Pakistan (CLEIP) and the Institute of Business Management (IoBM), conducted a webinar titled, “The Future of Lawyers and Law Firms in Pakistan: Technology, Big Data, and Online Courts.” The

Continuing Legal Education (CLE) webinar focused on how new technologies affect the practice of law, including the need for CLE to keep lawyers abreast of new laws, in particular, cyberlaw, e-commerce, and intellectual property, and effectively advise clients. It was also noted that law schools need to adopt new technologies to prepare students for a rapidly changing environment in legal research, online filing, and document generation, as well as add substantive technology-focused courses (e.g., intellectual property) to the curriculum. The pandemic has accelerated the development and use of distance learning, virtual counseling, and online courts—all of which are quickly becoming normalized. By integrating technology into the practice of law, CLEIP and IoBM members can serve more clients and make legal services more accessible to a larger population. This virtual program reinforces and builds upon earlier CLDP-CLEIP programs by focusing on the intersection of technology and law, demonstrating the value of CLE to enhance the knowledge of legal practitioners in Pakistan, supporting a developing ecosystem of innovation, and contributing to the economy.

Tunisia:

Presentation on “How to ensure the viability of technology start-ups”

Agence Nationale pour la Promotion de la Recherche (ANPR), the national agency for the promotion of research, is part of Tunisia’s Ministry of Higher Education and Scientific Research. On June 30, ANPR launched a competition for Tunisian science Ph.Ds. and Ph.D. candidates seeking to launch science-based startups.

CLDP was one of the guest speakers who gave presentations as part of the virtual conference organized to launch the program. CLDP presented on “How to ensure the viability of technology start-ups.” CLDP also spoke about its programs to support startups and technology transfer in Tunisia and the Maghreb. As part of its presentation, CLDP gave an overview of a methodology that it developed specially for the ANPR program. This methodology makes it possible to quickly assess whether a science-based start-up can be successful and, if not, what it should try to change to increase the likelihood of success. This methodology is called VISTTA (a French language acronym for “Initial Viability of an Advanced Technology Tunisian Start-ups”; *Viabilité Initiale des Start-ups Tunisiennes de Technologie Avancée*). ANPR found VISTTA useful and shared it with all candidates.

The June 30 event took place on Google Meet for a total of 42 participants with a distinguished panel of representatives from government, academia, and the startup community. CLDP was invited to lead a series of webinars in July, please see below.

Webinar on Strategies for Research Commercialization

CLDP organized the first webinar on July 8, with a focus on research commercialization strategies. A consultant from WIPO presented on the different strategies available for research commercialization, including market research, value proposition, and marketing plan. She also presented on TRL (Technology Readiness Levels), a method for determining the maturity of new technologies. Participants who are primarily academic researchers had an opportunity to learn

more about tools to help them develop a more viable, value-driven project as they work to bring their inventions to market.

Webinar on the VISTTA Methodology

On July 21, 2020, as part of the program described in the section above, CLDP led a webinar on the methodology it has created to make it possible to quickly assess whether a science-based start-up can be successful and, if not, what it should try to change to increase the likelihood of success. There was so much interaction between CLDP and the participants that it was decided to devote a second session to the topic. This session will take place in a few months.

INTERNATIONAL TRADE ADMINISTRATION (ITA)

Office of Standards & Intellectual Property (OSIP)

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-three 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, Korea, Malaysia, Vietnam, Thailand, Brunei, Brazil, Colombia, Egypt, European Union, Italy, and Peru.

IP Highlights

These pamphlet-sized handouts raise awareness on a range of IP related issues. The inaugural *IP Highlight*, entitled "Suspicious Solicitations," noted how bad actors negatively impact rights

holders by impersonating government agencies. Additionally, the IP Highlights provides information on an array of U.S. Government IP Resources, including the IP Attaché Program, Indian Arts and Crafts Board, Enforcement on Counterfeit Car Seats, and the Patent Pro Bono Program.

STOPfakes Roadshows

The [STOPfakes Roadshows](#) deliver critically important information about intellectual property 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 focused on advancing stakeholders’ intellectual property interests:

- The U.S. Patent and Trademark Office provides information about how to protect patents and trademarks;
- The U.S. Copyright Office discusses the importance of copyright protection to businesses;
- U.S. Customs and Border Protection representatives explain how a registered trademark or copyright can be recorded with Customs to facilitate the seizure of infringing goods at our borders;
- Federal Bureau of Investigation (FBI) or U.S. Attorney’s Office representatives discuss how to protect trade secrets and identify internal and external threats;
- The U.S. Department of State highlights the role diplomacy and our diplomatic missions play in advocating for U.S. businesses overseas;
- International Trade Administration representatives identify mechanisms for obtaining intellectual property rights protections in export markets; and
- Small Business Administration representatives advise on the potential use of grants and loans to help with the costs of obtaining IP protection before exporting.

Participating agencies also identify additional resources they make available to assist U.S. businesses with acquiring and protecting their intellectual property rights.

In 2018, the STOPfakes team expanded the opportunities available to businesses at the “in-person” roadshows through what are now its three signature offerings: First, participants were able to sign up to talk one-on-one with any of the government agency speakers during 10-minute sessions. Second, participants could apply for online copyright registration. Copyright Office staff offered on-site assistance with the copyright application process. Third, participants were able to apply for copyright and trademark recordation. On-site assistance was made available by Customs and Border Protection staff to navigate the recordation application portal and process.

Three (3) roadshows were completed in FY 2020: Newark, Sacramento, and San Jose.

The roadshows will resume when it is practical to do so, and the content is offered virtually as of August 2020.

STOPfakes Webinars

STOPfakes began offering virtual content in August 2020 with ten webinars taking place between August 25 and October 13, 2020. These webinars are hosted by STOPfakes and feature some of the same topics and speakers from the roadshow agendas as well as some new content from new partners (e.g., NHTSA covering product safety issues with counterfeit airbags, car seats, replacement parts, etc.). The webinars are being recorded and will be posted on the STOPfakes website and announced via the STOPfakes Twitter feed.

Combating Trafficking in Counterfeit and Pirated Goods

OSIP undertook a critical role in the interagency process to appropriately implement the response to the Presidential Memorandum of April 3, 2019, on Combating Trafficking in Counterfeit and Pirated Goods. In addition, 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 continues to coordinate several meetings with stakeholders, including the International Anti-Counterfeiting Coalition (IACC), National Association of Manufacturers (NAM), and Amazon. OSIP briefed participants on stakeholder outreach efforts, and arranged for briefings to Industry Trade Advisory Committees (ITACs) interested in the issue. In FY 2020, OSIP continued to meet regularly with industry leaders and provide industry's unique perspective as part of OSIP's support for the ongoing USG activities to implement the DHS Report of January 2020 on "Combating Trafficking in Counterfeit and Pirated Goods."

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (NTIA)

Protect Intellectual Property at ICANN

The National Telecommunications and Information Administration (NTIA), the 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 right holders, to combat infringement online. In response to the European Data Protection Regulation (GDPR), which went into effect during FY 2018, crucial domain name registration information details are no longer publicly provided. The U.S. 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 law enforcement, IP right holders and other legitimate interests can access non-public WHOIS information for enforcement and security purposes. The U.S. 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 nearly-completed review 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 should begin in CY2020. Since its introduction in 1999, the UDRP has been a successful tool in assisting trademark right holders to combat cybersquatting, and consequently, the review of the UDRP is not without controversy.

The Copyright Office's Section 1201 Rulemaking

Throughout FY 2020, NTIA followed developments in the Section 1201 rulemaking process, and was prepared to fulfill its statutory role to engage in consultation with the Copyright Office on exemptions proposed during the latest triennial rulemaking, which is expected to conclude by late 2021 (17 U.S.C. § 1201(a)(1)(C)). In particular, NTIA reviewed petitions for both new and renewed exemptions, as well as comments on petitions received by the Copyright Office. NTIA looks forward to actively participating in the rulemaking and sharing its views with the Copyright Office during FY 2021.

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, copyrights, plant varieties, and trade secrets, including regulatory test data. This year, in addition to reporting on USPTO’s enforcement related activities, we have included non-enforcement activities that we consider particularly noteworthy for purposes of this report.

The USPTO represents the United States at World Intellectual Property Organization (WIPO) and in other international intergovernmental organizations discussing IP-related matters. In addition, the Department of Commerce (DOC), 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, the Economic and Trade Agreement between the government of the United States of America and the government of the People’s Republic of China, and the Notorious Markets Review, as well as the Section 301 investigations when intellectual property issues are involved. Additionally, the USPTO participates in the Asia-Pacific Economic Cooperation (APEC) Intellectual Property Experts Group (IPEG) meetings and advises USTR on IP enforcement-related issues in the context of APEC initiatives. The USPTO provides advice on initiatives, reports, proposed programs, and developments related to IP enforcement made or produced by other APEC economies. The USPTO also organizes and conducts IP enforcement-related programs/seminars for APEC economies.

The USPTO continues to work with DOC to respond to Hill inquiries regarding the USPTO’s fee revenue predictions as a result of the COVID-19 outbreak. USPTO staff met with appropriations

staff and authorizers through the month of July. On July 2, the USPTO announced a Fast-Track Appeals Pilot Program, an extension to the already existing Track One prioritized examination program. The Fast-Track Appeals Pilot Program allows applicants to obtain expedited resolution of ex parte appeals to the Patent Trial and Appeal Board (PTAB). On July 21, the USPTO released an updated study on participation of women in the U.S. innovation economy. The study found that the number of women entering and staying active in the patent system is at an all-time high. Additionally, on August 20-22, the USPTO conducted the 2020 Invention-Con online.

Strengthen Intellectual Property Enforcement through International Organizations

The USPTO 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. The USPTO has 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 of IP from 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. In October 2019, the USPTO led the U.S. delegation to the 39th Session of the WIPO Standing Committee on Copyright and Related Rights (SCCR), discussing, among other topics, a draft treaty that would protect broadcasting organizations against signal piracy.

The USPTO has also entered into a number of arrangements with intergovernmental organizations. For example, the USPTO's Memorandum of Understanding (MOU) with INTERPOL's Illicit Goods and Global Health Programme was renewed in 2018. Under the arrangement, the USPTO and INTERPOL intend to cooperate on training and capacity building programs to promote effective intellectual property enforcement internationally. And in FY 2019, the 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 the USPTO intend to cooperate on training and capacity-building programs to promote effective intellectual property enforcement in the region.

From November 25-26, 2019, USPTO's OPIA participated in the WIPO Trade Secret Symposium, speaking on the panel "National and Regional Frameworks: Recent Developments."

From July 7-9, 2020, the USPTO participated in the virtual second session of the WIPO *Conversation on Intellectual Property and Artificial Intelligence*. Director Iancu was one of the principal speakers.

On July 21, 2020, Director Iancu participated in a virtual annual meeting of the heads of the IP5 Offices. The meeting included a review of responses by the offices to the COVID-19 outbreak and the progress and next steps of ongoing IP5 projects.

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

Throughout FY 2020, the 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. The USPTO advised USTR on: the negotiation of trade agreements such as the Economic and Trade Agreement between the government of the United States of America and the government of the People's Republic of China; reviews under U.S. trade preference programs such as the Generalized System of Preferences and the African Growth and Opportunity Act (AGOA); Trade Policy Reviews undertaken at the World Trade Organization (WTO); and accessions underway at the WTO. In addition, the 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. The USPTO assisted in its preparation by providing extensive information on the state of IP protection and enforcement in many countries. The USPTO likewise provided USTR with information in connection with its compilation of the annual Notorious Markets List, which highlights prominent online and physical marketplaces that reportedly engage in and facilitate substantial copyright piracy and trademark counterfeiting. The 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 offers basic- and advanced-topic programming for U.S. Small and Medium Sized Enterprises (SMEs) doing business abroad through its Global Intellectual Property Academy (GIPA), a component of the Office of Policy and International Affairs (OPIA). These in-depth programs, organized and instructed by OPIA attorneys, 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 the USPTO's regional offices. OPIA collaborates with the USPTO's IP Attachés, Regional Offices, other USG agencies, and the Federal Judiciary. In FY 2020, GIPA provided IP awareness and education programming to over 5,875 U.S. SMEs, U.S. government officials, and other U.S. stakeholders. About 40% of GIPA's 130 programs in FY 2020 targeted this domestic audience of IP rights owners, users and policymakers. During FY 2020, GIPA successfully pivoted mid-year to all-remote outreach and education delivery, thanks to prior investments in technology platforms and e-learning strategies.

In FY 2020, the USPTO supported the interagency STOPFakes.gov Initiative, which includes organizing and staffing IP Roadshows throughout the country and developing a China IPR Toolkit that was posted to the USPTO.gov and stopFAKES.gov websites in October 2019. In-person programming through OPIA/GIPA included IP education programming for U.S. attorneys general, joint programs with universities and China IP Roadshows for U.S. SMEs, as well as a series of two virtual copyright programs with the USPTO regional offices. FY 2020 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.

Assessing the Economic Impact of Counterfeiting and Piracy

In response to the FY 2017-2019 IPEC Joint Strategic Plan on Intellectual Property Enforcement, the USPTO Office of the Chief Economist developed a new website, “Economic resources on intellectual property rights (IPR) infringement” (<https://www.uspto.gov/ip-policy/economic-research/economic-resources-ipr-infringement>). The site provides resources for understanding the nature and impact of counterfeit goods and piracy in the United States. In particular, it provides a customized resource tool that accesses 238 of the latest directives, reports, and policy documents on counterfeit and piracy from 13 U.S. government agencies. In addition, the site provides two recent landscape studies on counterfeit trade and commercial-scale piracy that summarize the current state of understanding and evidence on counterfeiting and piracy. The piracy study provides an overview of the actors involved in the generation and distribution of pirated content, how these actors are organized, and their financial motivations. The counterfeit study provides an overview of the international market for counterfeit goods and highlights the role of the private sector, of the rising trend of small-parcel counterfeit trade, and of consumer attitudes towards counterfeit goods and the role of social media. To exhibit the flow of international counterfeit trade, the site also spotlights in a figure the top three producers and importers of counterfeits goods between 2010 and 2014. Last, for those parties interested in enforcement-related legislative materials, the USPTO provides a link to visit Congress’ site.

Raise Public Awareness of International Intellectual Property Protection and Enforcement

The 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 through 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 October 2019, the USPTO organized a trade secrets roundtable at the Texas Regional Office (TXRO), which featured speakers from the U.S. Attorney’s Offices for the Northern and Eastern Districts of Texas, as well as stakeholders in the aviation, oil and gas, automotive, and consumer goods sectors.

From November 5-6, 2019, the USPTO’s OPIA enforcement team participated in a panel on the topic of counterfeits and food security at *Safe Quality Food Institute Conference 2019*, in San Antonio, Texas.

On November 19, 2019, the USPTO’s OPIA enforcement team participated in a panel on a session dealing with the value added by the U.S. Federal judiciary in overseas judicial education, capacity building, and exchange programs, as part of the November 2019 Meeting of the U.S. Courts International Judicial Relations Committee, in Washington, DC.

From November 20-21, 2019, the USPTO’s OPIA enforcement team participated and co-conducted a NAGTRI-USPTO Workshop on IP and Consumer Protection, attended by attorneys and consumer protection investigative staff from 17 East Coast and Caribbean Attorney General

(AG) offices, co-organized by the USPTO and the National Attorneys General Training and Research Institute at USPTO Global Intellectual Property Academy, Alexandria, Virginia.

From December 2 to 4, 2019, the USPTO IP Attachés traveled to New Orleans, Louisiana to join the USPTO’s outreach efforts to rights holders, informing them about the IP attaché program. The China IP Attaché addressed IP challenges in China.

In FY 2020, GIPA continued its decade-long commitment to produce on-demand content through distance-learning modules on the USPTO website. These modules are available in five languages and cover six different areas of IP protection. In addition, self-study materials—including recordings of events, training slides, and IP toolkits—were updated for asynchronous learning. This on-demand content collectively has drawn more than 125,000 unique views.

In celebration of 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 “Innovate for a Green Future”:

- The USPTO Brussels IP Attaché team amplified the launch of the OECD Report on Illicit Trade in Pharmaceuticals and published messages and a video on World IP Day, emphasizing the disastrous environmental impact of counterfeiting.
- The IP Attaché for Southeast Asia organized and supported two events to recognize World IP Day:
 - World IP Day E-Poster: The IP Attaché created and disseminated an e-poster and accompanying message to recognize World IP Day, aiming to promote awareness of the importance of intellectual property in addressing the COVID-19 situation and supporting a green future.
 - Thailand’s World IP Day Photo Contest: The IP Attaché and the U.S. Embassy Bangkok provided support for Thailand’s World IP Day Photo Contest 2020, led by the Thai DIP. The contest aimed to promote public awareness on the importance of IP in fostering innovation and creativity in supporting a green future. The contest was launched in April 2020; and the winner was selected in September 2020.

From May 22 through August 29, 2020, the USPTO’s OPIA and the USDOJ co-organized a 12-part weekly webinar series on “Enforcement Against COVID-19-Related Crime Series for the Indo-Pacific Region,” which was attended by more than 1,000 online law enforcement participants and stakeholders from the region.

On June 3, 2020, the USPTO’s OPIA enforcement team participated in a NAAG-USPTO Webinar on IP and Consumer Protection: Resources for Consumer Protection Enforcers, attended by more than 120 state AG attorneys and investigative staff.

On July 9, 2020, the USPTO’s OPIA, in cooperation with the United States Copyright Office, conducted the first of a series of four webinars on copyright for United States government lawyers.

On July 9, 2020, the USPTO OPIA attended virtually the University of Iowa Summer Speaker Series on COVID-19 and innovation policy titled “Patents, Pharma, and the Pandemic,” hosted by the Iowa Innovation, Business & Law Center in Iowa City, Iowa.

On July 10, 2020, the USPTO’s OPIA enforcement team conducted a webinar for officials in Guatemala, El Salvador, and Guatemala on the threat of COVID-19 related counterfeit products.

On July 10, 2020, the USPTO led a WebEx fireside chat with Michael Chu, Assistant U.S. Attorney and Computer Hacking and Intellectual Property Crimes Prosecutor, for an audience of USPTO externs.

On July 15, 2020, the USPTO’s OPIA, in cooperation with the U.S. Department of Justice, conducted a webinar titled “Cooperation between Law Enforcement and the Private Sector against COVID-19–related Counterfeit and Fraud Activities” for foreign government officials in the Indo-Pacific region.

On July 15, 2020, the USPTO’s OPIA enforcement team moderated a virtual panel entitled “Prevention and Prosecution of Trade Secret Theft” for the State Bar of Texas Advanced Intellectual Property Litigation Conference.

On July 16, 2020, the USPTO attended the Medical Main Street “Road to Innovation Event Series,” which discussed moving medical products from concept to implementation in view of the COVID-19 pandemic, at Lawrence Technological University in Southfield, Michigan.

On July 23, 2020, the USPTO’s OPIA conducted the webinar “Trademark Hot Topics” for economic and commercial officers and staff posted to U.S. embassies and consulates in Sub-Saharan Africa. The USPTO’s Office of Policy and International Affairs also conducted the webinar “Using Overlapping IP Rights to Protect Your Products in China” for U.S. businesses, inventors, and IP rights holders doing business in China. Over 800 persons attended the event.

On July 27, 2020, the USPTO’s OPIA held a virtual seminar with China’s National Intellectual Property Administration (CNIPA), to help China implement its Phase One commitment on patent term extension, patent term adjustment, and supplemental data to prove patentability. Experts from the USPTO and EPO explained in detail U.S. and European practices and answered a number of written and oral questions from CNIPA. CNIPA expressed sincere appreciation to the USPTO for the timely and highly valuable exchange. Merck (as an observer of the seminar, along with PhRMA) sent a thank you letter to OPIA management to express its appreciation of the USPTO’s continued advocacy on behalf of American Industry, particularly the biopharmaceutical industry.

On September 15, 2020, the USPTO’s OPIA conducted the webinar “Safeguarding Trade Secrets in China’s Changing IP Landscape” for U.S. IP stakeholders, including legislative updates, enforcement data and discussion of a hypothetical case. Close to 500 persons attended the event.

On September 17, 2020, the USPTO's OPIA enforcement team participated in a NAAG-USPTO Webinar on IP and Consumer Protection for the members of the International Association of Prosecutors.

Capacity-Building and Training

The USPTO's Global Intellectual Property Academy (GIPA)

In FY 2020, the USPTO's GIPA continued to develop and provide capacity-building programs, organized and instructed by OPIA attorneys, to help improve IP systems in key countries and regions to the benefit of U.S. stakeholders. Although traditional, face-to-face training programs did not take place from mid-March through September 2020, the USPTO continued to meet training obligations during this unprecedented time through increasing its leverage of various technologies to provide live online IP training. GIPA's established capacity for e-learning supported a successful pivot to all-remote delivery of its programs in mid-FY 2020. This included developing the technological capability to run virtual international meetings with simultaneous interpretation. Through these well-attended and well-received distance learning initiatives, the USPTO provided tailored content to developed and developing countries and Least Developed Countries (LDCs).

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 FY2020, GIPA conducted 130 IP programs covering all areas of IP. About 60% of these programs targeted foreign officials with IP portfolios, engaging over 4,820 officials from 117 countries and four intergovernmental organizations. A complete list of all countries represented at GIPA trainings in FY 2020 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. The USPTO's OPIA once again collaborated with the Department of State's Foreign Service Institute (FSI) to provide (virtual) IP training for outbound Foreign Service Officers, and to provide subject matter expertise in developing an update to FSI's IP distance learning products. GIPA continues to improve its monitoring and evaluation capabilities, and engaged in a logic model and multi-part survey overhaul in FY 2020. GIPA continued to engage in interagency training coordination meetings with other USG IP training donors such as DOJ, CBP, and DOC's CLDP program, on a whole-of-government basis as well as in smaller, more focused groups. These meetings facilitate discussions around avoiding duplication of efforts; allow agencies with aligned goals to leverage each other's resources to streamline the planning, execution and wrap-up of IP capacity building programs.

Other USPTO Activities Related to IP Enforcement

In June 2020, pursuant to a Joint Project Agreement (JPA), USPTO NAAG's Consumer Protection Training and Research Institute, co-organized a Webinar on IP and Consumer Protection for approximately 70 State Attorney General Officers from 25 offices. The focus of the webinar was on COVID-19 related counterfeiting and consumer fraud.

Africa

On March 3-4, 2020, the USPTO's OPIA enforcement team participated and presented on IP enforcement issues at a U.S.-African Union Intellectual Property Rights Seminar for AU members and trade agreement negotiators, in Addis Ababa, Ethiopia.

Eurasia

In May 2020, the USPTO's OPIA with its IP Attaché in Kyiv, Ukraine provided technical assistance to Ukraine's Anti-Monopoly Commission on trade secrets theft, including comparative U.S. practice. The Ukrainian agency recently handled one of the country's first trade secret misappropriation cases.

In June 2020, the USPTO's OPIA Eurasia team participated in a call with members of AmCham Moscow, Embassy Moscow, and Embassy Kyiv to discuss USPTO activities in Eurasia and opportunities for cooperation.

Latin America and Caribbean

Throughout the year, the USPTO IP Attaché office in Lima, Peru presented at 14 in-person and virtual training programs run by Barlaw (a law firm representing major brands) and the Government of Peru. These programs trained more than 1200 officials all around Peru on the importance of combatting counterfeiting and provided practical advice from major stakeholders about how to identify counterfeits.

In October 2019, the USPTO IP Attaché office in Lima, Peru co-sponsored and spoke about online infringement at the ASIPI/INTA anti-counterfeiting program entitled "Workshop to improve actions against piracy" (approximately 40 attendees).

On November 2-4, 2019, the USPTO participated in Operation LASCAR IV, a Food and Drug Administration (FDA) organized operation to detect and interdict illicit pharmaceutical products transshipped via the JFK International Mail Facility to American patients and consumers.

In November 2019, the International Chamber of Commerce (ICC) co-organized an event about "Counterfeiting in Peru." Around 20 GoP officers from the Fiscal Police, Indecopi, Digemid and Prosecutors' office attended the event. The USPTO IP Attaché office in Lima, Peru presented on

“Why it is Important to Enforce IP Crimes,” providing an opening and general overview of the problem.

In December 2019, the USPTO IP Attaché office in Lima, Peru co-sponsored a program offering training on combating the proliferation of counterfeit health and safety regulated products. Around 20 Latin-American officers were trained, including nine GoP officers from IP Prosecutor Offices, the Judiciary, Customs, USPTO (Indecopi) and Sanitary authority (Digemid). Many of these organizations had not worked together before on the issue, and after the training, they started planning a joint operative against online platforms that sell counterfeiting drugs.

From December 3-5, 2019, the USPTO’s OPIA enforcement team, with support from the U.S. Food and Drug Administration and the three regional IP Attachés based in Latin America, organized and participated in a workshop on Combating the Proliferation of Unregistered, Unlicensed and Counterfeit Health and Safety Products for approximately 20 police, prosecutors, judicial officials, customs officers, and regulatory officials from Peru, Brazil, and Mexico.

On December 5, 2019, the USPTO IP Attaché and IP Advisor supported the Regional Counterfeit Medicines workshop at GIPA, identifying and funding the participation of various Brazilian law enforcement officials. The IP Attaché spoke on a panel during the program. Nineteen foreign government officials were trained.

From February 11-12, 2020, the USPTO conducted a two-day program on “Copyright in the Digital Age: Supporting Authors, Artists, and the Creative Industries” in Mexico City. Participants included officials from the Mexican Institute of Intellectual Property (IMPI), Mexico’s Copyright Office (Indautor), and private sector stakeholders from both the United States and Mexico. Day one of the program focused on the copyright landscape in Mexico, the U.S. experience with implementing the WIPO Internet Treaties, and the role of Internet Service Providers in the U.S. and the European Union. Day two focused on enforcement challenges in the digital age, including set-top boxes and the problem of unauthorized camcording, and featured presentations by speakers from the U.S. Department of Justice, IMPI, and Indautor. A total of 78 government officials from INDAUTOR, IMPI and Industry representatives participated in the program.

During the week of March 2-6, 2020, the USPTO participated and attended an IPR Enforcement Workshop in the Dominican Republic for police and prosecutors from several countries in Central America and the Caribbean, hosted by the National IP Rights Coordination Center (IPR Center). The program included an overview on statutory damages and criminal penalties and the unique challenges small parcels and e-commerce present for law enforcement. Other sessions in the workshop covered best practices for conducting online investigations, surveillance, working with informants, trade-based money laundering, investigating organized crime, and combining charges.

On March 12, 2020, the Regional IP Advisor attended the first 2020 meeting of the Council to Combat the Illegal Trade at the Rio de Janeiro Federation of Commerce (FECOMÉRCIO). The goal was to discuss possible actions for the year. Also, the Advisor attended a meeting with the

Federal Highway Police, to explain USPTO-Brazil Office's work, and discussed with Rio Disque Denúncia the current environment of destruction of counterfeit goods in Rio de Janeiro State.

On April 14, 2020, the Regional IP Advisor represented USPTO-Brazil office on the call with the Organization of American States (OAS) – Department against Transnational Organized Crime (DTOC), to discuss possible joint activities.

On April 15, 2020, the Regional IP Advisor joined the Brazilian National Council to Combat Piracy (CNCP) virtual meeting to discuss, among other things, “Operação Hórus,” launched approximately one year ago with a focus on combating organized crime, and expected to be present in the entire border region of Brazil by the end of 2020.

In May 2020, the USPTO IP Attaché office in Lima, Peru ran a virtual Border Measures program for Customs and SENAPI in Bolivia. CBP officers and a local stakeholder presented, and 80 Bolivian officials attended.

In June 2020, the USPTO co-hosted a regional workshop via webinar for Central American enforcement officials from Guatemala, Honduras, and El Salvador. The focus of the workshop was COVID-19 related counterfeiting, and featured speakers from DHS, CPSC, the National IPR Coordination Center, as well as several U.S. and regional rights holders.

On June 3, 2020, the Regional IP Advisor joined the 3rd 2020 Meeting of the Brazilian National Council to Combat Piracy (CNCP). The Federal Police presented on “Programa Vigia,” coordinated by the Ministry of Justice, which brings together different police bodies and protects Brazilian borders. Currently, there are approximately 3,000 policemen participating in the program, and seizures under it have increased 40% since the beginning of the pandemic, according to the report. Approximately 7,000 cell phones have been seized under “Vigia” operations, many of them product of theft and contraband (which figures include IP infringing goods).

On June 10, 2020, the USPTO co-organized with AmCham Guatemala a webinar on Best Practices for Identifying Counterfeit and Fraudulent Products for approximately 220 police, customs, prosecutors and health regulators from Guatemala, El Salvador and Honduras.

In June 2020, the USPTO IP Attaché and Senior Legal Specialist in Mexico City worked with OPIA to organize a series of webinars on trademark issues for IP enforcement officials in El Salvador. Over 300 government officials from the Judicial Council, the Attorney General's Office, and the National Registry participated in the webinar.

On July 7, 2020, the Regional IP Advisor joined the second virtual meeting of the Brazilian National Telecommunications Agency (ANATEL) and the National Movie Agency (ANCINE) Joint Working Group on Fighting Online Piracy.

On July 15, 2020, the Regional IP Advisor joined a webinar on “Piracy Combat in Brazil: CNCP’s 15th Anniversary” organized by the Brazil Bar Association – Rio de Janeiro Session (OAB-RJ).

On July 7, 2020, DOJ and USPTO-Brazil office conducted a webinar on “Combating Online Frauds Connected to COVID-19: Taking Down Fraudulent Websites” for members of the Brazilian Federal Ministério Público. The Regional IP Advisor delivered a short presentation on USPTO COVID-19-related actions.

On July 28, 2020, the Regional IP Advisor joined a webinar “Presentation of CNCP’s Guide of Best Practices for E-Commerce” organized by the Brazilian National Council to Combat Piracy (CNCP). During the webinar it was announced that the Government will be in charge of educational and awareness programs and will help on the coordination of intelligence actions. They also announced that the CNCP plans to launch a study on IP crimes in Brazil by the end of 2020.

On August 20, 2020, the USPTO hosted a Webinar on Best practices in Identifying and Combatting Fraudulent Medical and Healthcare Products, organized in collaboration with DOJ’s I-CHIP and the USPTO’s Regional IP Attaché Offices, for approximately 100 customs, prosecutors, and administrative officials from the IP offices of Argentina, Bolivia, Mexico, Paraguay, and Peru to better identify, investigate, and prosecute COVID-19 related scams in the physical market and online.

South East Asia

From September to December 2019, the USPTO IP Attaché for Southeast Asia conducted a campaign entitled “Safe Meds, Save Lives,” aiming to alert the public of the danger of buying medicines from unlicensed vendors and promote the efforts of Thai government agencies to combat the illegal sales of medicine without license. The campaign was launched in collaboration with the Thai Department of Intellectual Property (DIP), Royal Thai Police, the Food and Drug Administration, and the U.S. Embassy Bangkok.

In October 2019, the USPTO, in collaboration with the Tamil Nadu Technology Development Center (TNTDC), organized an IP training program for enforcement officials focused on the automobile sector in Chennai, Delhi, India.

In October 2019, the USPTO, in collaboration with INTA, organized a one-day discussion session on well-known trademarks, non-traditional marks and penalty provisions in Kathmandu, Nepal. The session was attended by 40 participants, which included Government officials from the IP office and the Ministry of Commerce, industry, judges, and law firms from Nepal.

In November 2019, the IP Specialist spoke at the 6th edition of MASGRADE (Movement Against Smuggled & Counterfeit Trade) on attacking roots of organized crime. The conference was attended by more than 200 participants from customs, police, and industry.

From November 19-21, 2019, the USPTO IP Attaché for Southeast Asia participated as a speaker in the INTERPAT meeting in Singapore and discussed pharmaceutical patent and enforcement issues in Southeast Asia region with rights holders, including Pfizer, Johnson & Johnson, AbbVie, Roche, PhRMA, and the International Federation of Pharmaceutical Manufacturers and Associations (IFPMA).

From December 4-13, 2019, the USPTO's OPIA enforcement team participated in and co-organized with the U.S. Department of Justice, U.S. Embassy Hanoi, U.S. Consulate General Ho Chi Minh City and the Vietnam Supreme People's Court Judicial Academy, a two-week Judicial Exchange Program on Intellectual Property Civil and Criminal Enforcement, attended by more than 100 judges at three judicial roundtables in Hanoi, Da Nang, and Ho Chi Minh City, Vietnam.

The USPTO led numerous discussions with Bangladesh Customs to help them better understand and realize the importance of custom actions in the absence of IP protection and the role they play in incentivizing investments in Bangladesh. Such efforts help to better prepare Bangladesh for its eventual graduation from LDC status. These ongoing discussions with customs officials finally resulted in the implementation of the "Customs IPR rules" in December 2019 by the National Bureau of Revenue (NBR).

In January 2020, the USPTO IP Attaché for Southeast Asia met with the Director-General of the Thai DIP to discuss the issues of IPR enforcement and possible cooperation between the USPTO and Thai DIP.

In February 2020, the USPTO IP Attaché for Southeast Asia, together with the United States Trade Representative's Director for Innovation and Intellectual Property, met with the Thai DIP and Ministry of Public Health (MOH) to discuss the status of IPR protection and enforcement, the IPR work plan, and U.S. stakeholders' concerns over the Thai Innovation List.

From February 9-10, 2020, the USPTO's OPIA enforcement team participated as an enforcement technical advisor and member of the U.S. delegation to the APEC IPEG Meeting, in Putrajaya, Malaysia.

On April 22, 2020, the USPTO IP Attaché for Southeast Asia Office worked with the National Innovation Agency of Thailand (NIA) in providing education on IP protection to 93 Thai brand owners and practitioners at a webinar entitled "IP and Branding."

On May 7, 2020, the USPTO IP Attaché for Southeast Asia provided IP development updates in the region to 32 U.S. stakeholders in a virtual program organized by the U.S. Chamber of Commerce, and discussed IPR issues and concerns, especially on enforcement-related challenges in the region.

In FY 2020, the USPTO, in collaboration with AMCHAM, organized an IPR session with representatives of 24 ministries in Sri Lanka. One of the biggest concerns in South Asian countries is lack of IP awareness amongst the government officials on enforcement issues, and this program generated a lot of interest amongst the government officials.

On July 28, the USPTO's OPIA enforcement team, in conjunction with the SE Asia USPTO IP Attaché, organized a video conference with Philippine IP officials on Coordinating IP Enforcement actions, which included a speaker from the National IPR Coordination Center.

On August 10, the USPTO's OPIA enforcement team, in collaboration with the SE Asia USPTO IP Attaché, organized a video conference for Philippine IP officials on Investigating IP Crimes on the Dark Web with a speaker from DHS Homeland Security Investigations.

On August 24, the USPTO's OPIA enforcement team, working with the SE Asia USPTO IP Attaché, organized a video conference with Philippine IP officials on Prosecuting IP Crimes on the Dark Web, which included a speaker from the DOJ Computer Crimes and IP Section.

On August 24-25, 2020, the USPTO IP Attaché for Southeast Asia, with the USPTO IP Attaché for the Middle East and North Africa, in cooperation with the United Kingdom IP Office (UKIPO) Singapore, and Intellectual Property Office of Singapore (IPOS) organized a series of two webinars @ IP Week Singapore 2020 entitled: "Facing a different kind of global challenge: How to innovate and grow?," and "Triumph & Tragedies: Real Stories & Lessons Learned about IP Enforcement in the Time of COVID-19." The webinars were aimed at sharing experiences in using IP as a tool to promote innovation, and protect and grow businesses, especially in the current COVID-19 pandemic.

On September 28, the USPTO's OPIA enforcement team, in coordination with the SE Asia USPTO IP Attaché, organized a video conference with Philippine IP officials on Combating Counterfeit Medicines, which included a speaker from the FDA Office of Criminal Investigations.

In September 2020, the USPTO IP Attaché for Southeast Asia accompanied the U.S. Embassy Bangkok's Deputy Chief of Mission to witness the destruction of 785,376 confiscated counterfeit and pirated items, worth about THB 354 million (~ USD 11 million) at the Destruction Ceremony of the IPR Infringing Goods, hosted by the Thai DIP. The ceremony recognized the Thai Government's efforts in the suppression of IPR violations and promotion of awareness in IPR protection.

The USPTO IP Attaché for Southeast Asia, in cooperation with the Thai DIP, universities, and rights holder groups, has launched a "Go for Real" public awareness campaign against online piracy and counterfeiting to promote better understanding among the consumers/users, especially college students in Thailand of the impact and dangers of purchasing counterfeit goods or accessing pirated contents on-line. The campaign includes a video clip contest and series of webinars on subjects relating to online intellectual property rights violations. The winning video(s) will be used by the relevant partners to promote IP public awareness through several media and online platforms. The campaign will run from September 2020 through March 2021.

Indo Pacific

In May and June 2020, the USPTO's OPIA enforcement team participated in five USDOJ-USPTO Webinars on *Common COVID-19 Crimes and Options for Prosecutors to Charge Them*

(part of the Enforcement Against COVID-19-Related Crime Series webinars for Indo-Pacific Region).

South Asia

The USPTO's Office of OPIA enforcement team led numerous discussions with Bangladesh Customs to help them better understand and realize the importance of custom actions in the absence of IP protection and the role they play in incentivizing investments in Bangladesh. Such efforts help to better prepare Bangladesh for its eventual graduation from LDC status. These ongoing discussions with customs officials finally resulted in the implementation of the "Customs IPR rules" in December 2019 by the National Bureau of Revenue (NBR).

On July 22, 2020, the USPTO's OPIA enforcement team organized a video conference with Pakistan Customs to discuss their recent developments and exchange best practices as it relates to IP border enforcement. The video conference leveraged support from U.S. Customs and Border Protection, U.S. Department of Justice, U.S. Embassy Pakistan, and the Commercial Law Development Program.

From September 14-16, 2020, the USPTO's OPIA enforcement team organized a three-day video conference with Bangladesh Customs to discuss Bangladesh Customs' ongoing advancements as it relates to IP border enforcement procedures. The exchange used expertise from U.S. Customs Border Protection and also included exchanges with U.S. rights holders active in Bangladesh.

On September 21, 2020, the USPTO's OPIA enforcement team organized a video conference with Sri Lankan Customs to discuss best practices as it relates to IP border enforcement especially as it relates to combatting counterfeit health and safety products. The exchange leveraged support from U.S. Customs and Border Protection.

Middle East/North Africa

In October 2019, the USPTO's OPIA enforcement team conducted a series of engagements with enforcement officials in Tunisia and Algeria, including Customs, police, prosecutors, and the judiciary in order to assess current standards of IPR enforcement in the region and explore opportunities for future collaboration.

From November 11-13, 2019, led by USPTO HQ, the USPTO IP Attaché and U.S. Embassy Cairo supported a Judicial Training Program for 25 Egyptian Commercial Court Judges. The program leveraged expertise from a U.S. District Court, an expert on satellite piracy from the FCC, a prosecutor from Department of Justice, and a forensics expert also from Department of Justice. The program focused specifically on Judges making their own decisions (instead of relying on government "experts"), copyright piracy in the digital age, and the importance of deterrent sentencing.

On January 26, 2020, the USPTO IP Attaché held a one-day IPR boot camp entitled “IP Issues in MENA: When Policy Meets Practical” for 12 U.S. Foreign Commercial Service (FCS) Commercial Officers and Specialists who were attending the Arab Health Expo Jan 27-29. The program agenda included: (1) Know Your Types of IP – Knowledge Review, (2) Why IP Matters to U.S. Companies and U.S. Trade Policy: Protecting Competitive Advantage, (3) The Scarier Side of IP Crime: Planes Falling Out of the Sky, Sabotage, Death and Terrorism, (4) IP and YOUR Portfolio, (5) Mock Cases, (6) IP and Reporting: Who Wants What... and When, and Where Do You Find It, and (6) an Industry Session with the AmCham Dubai’s American Brand Forum.

On July 21, 2020, the USPTO’s OPIA enforcement team organized a video conference with the Saudi IP Authority and Saudi Customs on best practices related to customs enforcement and IP enforcement coordination. The program leveraged expertise from U.S. Customs and Border Protection, Homeland Security Investigations, IPR Center, and U.S. Department of Justice.

East Asia

From November 6 to 7, 2019, the USPTO IP Attaché supported the Guangzhou Consul General’s trip to Xiamen, Fujian Province, arranging for him to visit with Lifetime Products, a Utah-based maker of plastic outdoor athletic equipment and storage buildings, with whom the USPTO continues to collaborate since 2008. USPTO Guangzhou assisted this rights holder in its efforts to take over the infringer’s Xiamen production facility after a prolonged infringement suit.

From November 12 to 15, 2019, the USPTO IP Attaché traveled to Wuhan, Hubei Province, where he presented remarks at the China Optics Valley IP Conference. The USPTO IP Attaché then met with officials of the provincial IP office and municipal IP court, gleaned data and information about IP filing and litigation trends. Consulate Wuhan organized a meeting with the American Chamber of Central China, enabling the Attaché to learn more about the major IP issues confronting American rights holders in this region.

In November 2019, the USPTO IP Attaché in the U.S. Embassy Beijing held the first Ambassador’s IPR Roundtable in almost two years. The Roundtable brought together 24 industry representatives from seven industry associations, who provided detailed summaries of their recent experiences protecting and enforcing IPR in China, covering such issues as trade secret enforcement, online enforcement, civil damage awards, among other issues.

In November 2019, the USPTO IP Attaché in the U.S. Embassy Beijing coordinated with the Department of Justice’s Permanent Legal Advisor to host the first official visit to China by the Attorney General Alliance (AGA), briefing them on the IP and law enforcement environment here, arranging a visit with the Ambassador, as well as with China’s Supreme People’s Court and Supreme People’s Procuratorate, and putting them in contact with law enforcement representatives at the Embassy in order to assist with specific, China-related criminal matters in their States.

In March 2020, the USPTO IP Attaché in the U.S. Embassy Beijing was one of three presenters during a free 90-minute webinar for U.S. businesses, inventors, and intellectual property (IP) rights holders doing business in China, entitled, “Highlights from the field: Current IP developments in China.” The webinar was attended by over 500 participants, and covered a wide-range of IP enforcement issues in China, including, in particular, recent trends in administrative, civil, and criminal enforcement, developments in trade secret enforcement, and significant court and administrative decisions, among other important developments for U.S. rights holders in China.

In response to the coronavirus, from February to May 2020, at the direction of Terry Branstad, U.S. Ambassador to China, all Mission China personnel including the USPTO Guangzhou IPR Officer focused on sourcing and shipping Chinese-made personal protective equipment (PPE) and medical devices for use in the U.S. As part of the Mission China PPE Task Force, the Attaché remained vigilant against counterfeit or substandard medical products being imported into the U.S. As the only USPTO China IPR Officer in-country, the Attaché responded to Ambassador Branstad and FCS China with any IP requests.

In May 2020, along with current and former USPTO IP Attachés and Officers, the Attaché presented at the first of the China Team’s webinars, focusing on current IP issues in China garnered in excess of 500 attendees. In June, the Attaché participated in the first virtual meeting between USPTO and the China National IP Administration (CNIPA) to discuss the 2020 to 2021 Work Plan, and cooperative exchange programs in trademark examination and patent linkage.

In May 2020, the Attaché met with representatives of a major electronics manufacturer in Shenzhen to discuss ongoing counterfeiting issues, fake stores, and increasingly difficult patent-enforcement issues. In late July 2020, the Attaché traveled to Shanghai to meet with representatives of U.S. rights holders, East China provincial- and municipal-level IP officials, and officers of Consulate Shanghai.

In early July 2020, representatives of a China-based rights-holders’ group consisting of both U.S. and Chinese enterprises utilized the Attaché’s experience with automotive manufacturers, requesting an analysis of the IP aspects of selling refurbished but suspect vehicular wheels. They wanted to know how the U.S. treated this type of product, particularly if the refurbished wheels were marketed as new product, and the penalties that might be involved. The Attaché offered observations on substandard automotive parts, and possible enforcement venues including the joint OEM/USG Automotive Anti-Counterfeiting Council (A2C2), which is under the aegis of U.S. Immigration and Customs Enforcement/Homeland Security Investigations at the IPR Center.

On September 15, 2020, the USPTO’s OPIA China Team hosted a webinar on “Safeguarding Trade Secrets in China’s Changing IP Landscape,” providing U.S. businesses, inventors, and intellectual property (IP) rights holders doing business in China the opportunity to hear from senior USPTO attorneys and guest practitioners and companies about protection and enforcement of trade secrets in China. The webinar had over 400 attendees.

European Union

The Brussels-based USPTO Attaché for Europe (USPTO Brussels) spearheaded the organization of two on-demand International Visitor Leadership Programs (IVLPs) for officials of the EU institutions (i.e., European Commission, EU Anti-Fraud Office, European Parliament) and from EU Member States' national administrations, including specialized IP and enforcement agencies. These two on-demand IVLPs entitled "Intellectual Property and Customs Enforcement – A Regional Project for Europe" occurred in Washington, D.C. and Miami, Florida from November 13 to 23, 2019, and in Washington, D.C. and New York, New York from January 26 to February 5, 2020. In line with the key Presidential priorities, the specific objectives for the programs were to: (1) facilitate sharing of U.S. best practices on IP enforcement; (2) examine the scope of China's continued and growing malign influence in Intellectual IP matters relevant to both U.S. stakeholders and EU country economies; (3) emphasize the importance of establishing a high-threshold, risk-based, national security-focused customs screening system that can identify and remove counterfeit goods from the stream of commerce; and (4) explore areas of transatlantic cooperation, such as sharing of customs data to identify discrepancies and lost revenue and enhance enforcement efforts.

In response to the surge of China-origin counterfeit and substandard PPE, test kits, medicines and other COVID-19 related products, USPTO Brussels launched several public awareness and capacity-building programs and campaigns. One program, co-sponsored with the Bucharest-based DOJ ICHIP, NIPRCC, Europol and Interpol, focused on Romania as an entry point into the EU, and brought together 75 representatives of Romania, the U.S., and international law enforcement agencies. Two other programs, held in partnership with the OECD Task Force on Countering Illicit Trade, focused on emerging trends in illicit trade and the need for a more coordinated transatlantic response, and on illicit trade in pharmaceuticals targeting the U.S. and EU. USPTO IP Attachés to the Middle East and North Africa and Central Asia also joined, to ensure broader regional coordination based on illicit trade routes.

USPTO Brussels and the USEU Public Affairs Section also developed significant social media campaigns to raise public awareness during the COVID-19 crisis. The Brussels team amplified the launch of the OECD Report on Illicit Trade in Pharmaceuticals and published messages and a video on World IP Day, emphasizing the disastrous environmental impact of counterfeiting. On World Anti-Counterfeiting Day, the Acting U.S. Ambassador to the EU urged transatlantic cooperation against counterfeiting, in a video produced by USEU. Each of these campaigns were translated into French, and reached audiences outside the EU. Partners in the campaigns included Europol, Interpol, the World Customs Organization, the OECD, the EUIPO, the UKIPO and numerous private sector associations and NGOs.

USPTO Brussels also supported the White House IP Enforcement Coordinator (IPEC) and his team on each of the IPEC's Europe visits and on post-travel engagement. During the period between October 1, 2019 and June 30, 2020, the Attaché and staff supported the development of itineraries and joined IPEC delegations to Bulgaria, Spain, The Netherlands, Belgium, the United Kingdom, Croatia, Slovenia and Denmark. In these senior-level meetings, the IPEC and

delegation agencies conveyed U.S. Presidential priorities and the urgent need for transatlantic action against counterfeiting and piracy.

Oceania

From February 11-13, 2020, the USPTO's OPIA enforcement team participated in and co-organized with the Oceania Customs Organization (OCO), with the support of U.S. Customs and Border Protection, Interpol, International Trademark Association (INTA), Pharmaceutical Security Institute (PSI), and REACT, a customs and anti-counterfeiting border enforcement training workshop in Nadi, Fiji, attended by OCO staff and customs officers from 16 OCO members, including Commonwealth of the Northern Marianas Islands, Fiji, Guam, Australia, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

DEPARTMENT OF DEFENSE

Department of Defense

This appendix discusses the FY 2020 activities of the Department of Defense (DoD).

I. Policy Implementation

DoD Instruction (DoDI) 5010.44: On October 16, 2019, the Department published new DoDI 5010.44, IP Acquisition and Licensing. DoDI 5010.44 created a DoD-wide policy to govern and unify the acquisition, licensing, and management of IP, including by implementing the statutory requirements of 10 U.S.C. § 2322(a).

DoDI 5010.44 enables coordination and consistency throughout the Department by establishing the first-ever DoD-wide policy for the acquisition, licensing, and management of all IP forms, regardless of whether the IP is treated as a product or service. The policy applies to all contract types and other legal instruments used to govern such activities, in addition to covering all DoD components without exception. Section 1.2.b. of the policy establishes the following six core principles to govern these activities across the Department:

- 1) Integrate IP planning fully into acquisition strategies and product support strategies to protect core DoD interests over the entire life cycle.
- 2) Ensure acquisition professionals have relevant knowledge of how IP matters relate to their official duties.
- 3) Negotiate specialized provisions for IP deliverables and associated license rights whenever doing so will more effectively balance DoD and industry interests than the standard or customary license rights.
- 4) Communicate clearly and effectively with industry regarding planning, expectations and objectives for system upgrade and sustainment.
- 5) Respect and protect IP resulting from technology development investments by both the private sector and the United States Government.
- 6) Clearly identify and match data deliverables with the license rights in those deliverables.

DoDI 5200.48: On March 6, 2020, the Office of the Under Secretary of Defense for Intelligence and Security published a new Controlled Unclassified Information (CUI) Instruction, DoDI 5200.48. Intellectual property, in many forms, is a form of CUI which requires certain protections and procedures. DoDI 5200.48 speaks to the control and management of CUI such as the appropriate handling, marking and protection measures. CUI with the potential to impact national security (e.g., information related to critical programs and technology information) may require enhanced protection. Specifically emphasized in the new DoDI is the critical shared responsibility between the DoD and industry, when established by contract, grants, or other legal agreements or arrangements, in the identification, creation, sharing, marking, safeguarding, storage, dissemination, decontrol, disposition, destruction, and records management of CUI documents and materials.

II. Programs and Engagements

The Protecting Critical Technology Task Force: The Protecting Critical Technology Task Force (PCTTF) is not solely focused on the protection of IP; however, IP protection is part of the overall larger technology protection effort. The Task Force has identified weaknesses in the system and has championed initiatives to better protect information, especially unclassified and CUI associated with the Department's critical programs and technologies. The PCTTF has effectively utilized an Executive Committee, chaired by the Deputy Secretary of Defense and the Vice Chairman Joint Chiefs of Staff, to highlight technology protection issues, associated threats, and obtain Senior level support of recommendations in order to effect changes in policies and procedures within the Department to include the Defense Industrial Base (DIB) and DoD's research enterprise.

The PCTTF's Top 10 Priorities to protect DoD's Critical Programs and Technologies include:

- 1) Operationalize the Critical Programs and Technologies list to drive protection efforts.
- 2) Increase cybersecurity in the DIB.
- 3) Integrate security into the requirements and acquisition process.
- 4) Prevent individuals with a nefarious foreign nexus from working on DoD funded research.
- 5) Counter adversary talent recruitment programs.
- 6) Prevent adversaries from acquiring our critical technologies through acquisition and investment.
- 7) Expand protection of DoD critical technologies via export controls.
- 8) Undermine adversary confidence in exfiltrated data.
- 9) Operationally respond to cyber threat actors targeting the DIB.
- 10) Expose Chinese theft of critical technologies.

The PCTTF has taken ownership of the development of a Defense-wide process to establish a DoD Critical Programs and Technologies List (CP&TL). The DoD CP&TL will be the single, authoritative list of the Department's critical programs and technologies. DoD Components will tier their programs and technology based on the impact of their loss or compromise to the DoD Components' strategy, mission, or assigned tasks. Measures to protect CP&T controlled unclassified information will accompany the list so that program executives, intelligence professionals, counterintelligence professionals, security professionals and the export control community will understand their requirements to protect CP&T.

Additionally, the Task Force originally highlighted the poor network cyber security practices of most Defense Industrial Base companies. Most of the companies were not compliant with even the most basic National Institute of Standards and Technology standards and controls, yet self-attested the opposite. Raising this issue and the critical requirement to comply with cyber security standards led to the development of the Cybersecurity Maturity Model Certification (CMMC).

The PCTTF also works with Departmental organizations to better utilize export controls and the authorities of the Committee on Foreign Investments in the United States (CFIUS), including pursuant to the Foreign Investment Risk Review Modernization Act (FIRRMA), to ensure protection of DoD's critical programs and technologies.

One of the bigger endeavors of the Task Force has been to highlight the vast infiltration of the DoD-funded research enterprise by Chinese and other espionage threats. The Department is currently considering what security controls it can put in place to prevent and thwart threats in DoD's research.

Cybersecurity Maturity Model Certification (CMMC): In accordance with FY2020 NDAA Section 1648, the Department developed a risk-based cybersecurity framework to enhance the protection of Controlled Unclassified Information (CUI) and IP in the DIB sector. In order to implement this framework, the Department published an interim rule in the Federal Register on September 29, 2020 (85 FR 61505), that amends the Defense Federal Acquisition Regulation Supplement. The public comment period ends, and the interim rule will become effective, on November 30, 2020.

In addition, the Department worked with the DoD stakeholders and the DIB sector on risk reduction activities. These activities included acquisition tabletop exercises and mock assessments of the unclassified networks of a prime contractor and a subset of subcontractors on an existing DoD contract.

**DEPARTMENT OF HEALTH AND HUMAN
SERVICES**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration (FDA) Appendix for FY 2020 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 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 2020, to support response efforts to the COVID-19 pandemic, FDA provided clarity on an exemption and exclusion from certain supply chain security requirement during the COVID-19 public health emergency (PHE) in April 2020. This regulatory flexibility during the COVID-19 PHE strikes a balance between the need to facilitate the effective distribution of products under emergency conditions while helping protect consumers from exposure to products that may be counterfeit. DSCSA implementation efforts continued with the 20 pilot projects selected for FDA's DSCSA Pilot Project Program, which were completed in June 2020. FDA is working to compile results from the pilot projects to publish a final program report later in 2020. FDA is also planning for additional stakeholder engagement and discussions on systems and processes needed for enhanced supply chain security requirements that go into effect in 2023. For updates about DSCSA implementation and copies of the guidance documents see <http://www.fda.gov/Drugs/DrugSafety/DrugIntegrityandSupplyChainSecurity/DrugSupplyChainSecurityAct/default.htm>.

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 Kuala Lumpur, Malaysia, in September 2019. FDA also presented on topics including Good Distribution Practices, Track and Trace, and Internet Sales, and highlighted the utility of the Toolkit in preventing, detecting, and responding to breaches in the medical product supply chain.

Additionally, in November, FDA participated in GS1's global meeting and met with India's regulators to discuss traceability and serialization.

FDA participated in the World Health Organization (WHO) Planning Meeting on Risk-Based Post Market Surveillance on Medicines Quality from 1/20/2020 - 1/23/2020. The purpose of the visit/attendance was to participate in key discussions related to medicine quality survey tools. At the meeting of the Member State Mechanism, the United Republic of Tanzania agreed to pilot the tools to be used during the medicine quality survey to be conducted in 2020. The use of the tools under development seeks to simplify and reduce the amount of sampling and testing, and to allow the regulatory authority to design and conduct ongoing post-market surveillance of select medicines and sites based on risk.

FDA provided input for the development of the World Health Organization (WHO) Member State Mechanism Internet Questionnaire. The purpose of this survey is to identify the experiences, best practices and/or regulations of Member States that enable them to identify, prevent and/or reduce the risk of substandard and falsified (SF) medical products sold or supplied on the internet. This questionnaire is designed to be completed by the National Medicines Regulatory Authority (NMRA) department responsible for SF medical products. The WHO Member State Mechanism has prioritized an activity within its work plan to "identify and develop appropriate strategies to understand and address the distribution or supply of SF medical products via the internet."

Global Surveillance and Monitoring System

FDA has supported the World Health Organization (WHO) to establish the Global Surveillance and Monitoring System (GSMS) for Substandard and Falsified Medical Products which was launched in 2013. The GSMS provides national medicines regulatory authorities (MRAs) with an information portal to report counterfeit medical products, and the ability to check if similar products have been found around the globe. If similar products have been found, the WHO works with MRAs to investigate suspected counterfeit 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 by Member States. The

WHO has reported that the quality and number of reports to GSMS has been steadily increasing in the last few years.

Illegal Opioids and Other Consumer Education

Illegal Opioids 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, in a first of its kind collaboration, in September 2019, FDA and the U.S. Drug Enforcement Administration issued joint warning letters to four online networks, operating a total of ten websites, illegally marketing unapproved and misbranded opioids, including tramadol, that are potentially dangerous. This joint action demonstrates the federal government's commitment to enhance interagency coordination to respond to the opioid crisis.

In August and September 2020, FDA issued seventeen warning letters to the owner(s)/operator(s) of websites illegally marketing unapproved and misbranded opioids.

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>.

Online, the Office of Criminal Investigation's Cybercrime Investigation Unit is targeting darknet marketplaces and vendors manufacturing and selling counterfeit opioids through arrest and the seizure of assets. Thus far, Operation CyberPharma has led to the arrest of 11 darknet vendors and aided in the takedown of a major darknet marketplace as well as the seizure of drug counterfeiting tools and tens of thousands of dollars in virtual currencies and other assets. Additional arrests and seizures are anticipated with this on-going operation.

As part of its response to the public health emergency, FDA has also addressed the increase in unproven products sold with fraudulent COVID-19 claims and has issued more than 110 warning letters to companies. See <https://www.fda.gov/consumers/health-fraud-scams/fraudulent-coronavirus-disease-2019-covid-19-products> for more information.

Please see [FDA's website](#) for more information regarding Operation Quack Hack. Operation Quack Hack leverages agency expertise and advanced analytics to protect consumers from fraudulent medical products during the COVID-19 pandemic. Building upon our previous experience with illegal online pharmacies, a team of consumer safety officers, special agents and intelligence analysts triage incoming complaints about fraudulent and unproven medical products. Where appropriate, complaints are sent to other agencies or to FDA centers for

additional review and possible follow-up action. In some cases, following a preliminary investigation, the Operation Quack Hack team sends an abuse complaint to the domain name registrars or a report to online marketplaces. These abuse complaints and reports are intended to notify companies that may not have been aware that their platforms were being used to sell an unapproved, unauthorized, or uncleared medical product during the COVID-19 pandemic.

Pilot Process to Reduce the Availability of Opioids Online Launched

In June 2020, FDA and the National Telecommunications and Information Administration (NTIA) partnered to announce the launch of a 120-day pilot to help reduce the availability of unapproved opioids illegally offered for sale online. Under the pilot, the FDA will notify internet registries that are participating in the pilot – Neustar, Verisign and Public Interest Registry – when the agency sends a warning letter to a website operator and the website operator does not respond adequately within the required timeframe. The internet registries will review the FDA’s notifications and assess whether to take further voluntary action, including possible domain name suspensions or blocks.

Consumer Education

The FDA/CDER’s ongoing [BeSafeRx: Know Your Online Pharmacy](#) campaign raises awareness about the dangers of buying prescription medicine from unsafe online pharmacies. The campaign helps consumers understand the risks, identify the signs of an unsafe online pharmacy and identify the signs of a safe online pharmacy.

Between October 1, 2019 and September 28, 2020, the BeSafeRx campaign received 225,377 airings/placements, yielding an estimated 18.2 million impressions across TV, radio and print. This includes the BeSafeRx TV public service announcement (PSA) which aired 2,759 times on 44 television stations across the country, yielding approximately 6.1 million impressions.

The BeSafeRx radio PSA aired 2,618 times on 37 radio stations across the country, yielding approximately 10.6 million impressions.

The print advertisement for the campaign appeared in a publication distributed in physicians’ offices. The BeSafeRx print ad was placed in the November 2019 and December 2019 issues of Health Monitor’s Guide to Birth Control. These placements resulted in a circulation of over 220,000 total copies, yielding an estimated 1.5 million impressions. In addition, FDA posted updated BeSafeRx resources and tools on September 21, 2020.

FDA continues to issue warnings to consumers not to purchase or use Rhino male enhancement products or other products containing hidden drug ingredients, many of which are marketed for sexual enhancement. Since 2019, FDA has issued more than 40 [public notifications](#) about tainted sexual enhancement products that contain 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 tainted products, which are frequently labeled as dietary supplements, continue to be sold at gas stations and convenience stores, as well as online.

In some cases, these unapproved products have been discovered in international mail shipments to the U.S.

Outreach to Health Care Providers

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 suspect products and packaging, by visualizing differences between suspect and authentic products and providing preliminary findings in the field. The current CDx technology is used at the International Mail Facilities (IMFs) to screen incoming packages. With the assistance of the FDA CDx review team, the device enabled the team to assess finished dosage form pharmaceuticals that were offered for entry.

In FY 2017, FDA awarded the contract to a small engineering company to refine the design and manufacture devices with additional capabilities and improved ruggedness. The goal was to provide affordable tools for identifying counterfeit FDA-regulated products, including pharmaceuticals, in the hands of global regulatory, law enforcement, and public health officials.

In FY 2018, the vendor provided a CDx prototype device (CD5, 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 investigators in 4Q19 in preparation for a six-month pilot program at the Chicago, Los Angeles, Miami and New York IMFs. This pilot, which began in 4Q19, was designed to evaluate the CD5 prototype's effectiveness and usefulness for field screening suspected counterfeit pharmaceuticals, and intelligent sampling of products to be sent to the laboratory for further examination. 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.

In FY 2020, 17 examinations were conducted by import investigators using the CD5 and submitted to the Forensic Chemistry Center (FCC) for review. The 17 products examined with the CD5 represented 1300+ individual finished dosage form pharmaceuticals from four IMFs. Ten of the 17 different products were sent to the laboratory for confirmation. OEIO and ORS

have agreed to extend the pilot to the end of 2020 to allow for additional sample collections and data analysis.

Scientific presence and field deployable tools for rapid field detection of illegal, unapproved, and counterfeit pharmaceuticals and tainted supplements

In 2019, FDA formalized a partnership with CBP at the International Mail Facilities (IMF) in a Letter of Intent. The Commissioners of FDA and CBP signed this Letter 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 IMFs and Ports of Entry that pose a threat to public health. This partnership includes an increase in scientific resources at selected IMFs and sharing of space, technologies and information, which will facilitate mission responsibilities by improving efficiency and reducing duplication of efforts.

Based on benchmarking with Federal partners, ORA identified specially trained field-based scientists using an established a set of tools to be the most scientifically reliable and efficient approach to rapid identification of illicit FDA-regulated products, such as counterfeit pharmaceuticals, including opioids, and adulterated "supplements." Ten ORA/ORS chemists were trained at the FCC on the use of these instruments, a satellite laboratory unit was procured and pilot operations were initiated at the Chicago O'Hare IMF. Ten trained ORS chemists participated in 30-day details and working with OEIO investigators, processed over 900 samples in 68 working days. Twenty percent of the samples were found to contain DEA scheduled substances or were otherwise in violation of FDA law and regulations. The pilot was halted in March 2020 due to COVID-19 related complications. A summary report was issued in July 2020. Plans to train additional scientists and establish full operations in an additional IMF during FY21 are in progress.

Collaboration with CBP at international mail facilities (IMFs)

As part of FDA's Import Operation Strategy, FDA import operations personnel work daily with U.S. Customs and Border Protection (CBP) personnel at 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 by FDA. On a daily basis, FDA generates data at 8 of the 9 IMFs (excluding the St. Thomas IMF at this time) regarding the detention of unapproved drugs, suspected counterfeit pharmaceuticals, products marketed as foods and/or dietary supplements containing undeclared active pharmaceutical ingredients, and other non-compliant FDA-regulated products. This data is routinely shared within FDA and CBP.

FDA also shares technology with CBP. For example, FDA and CBP personnel collaborate to utilize FDA's handheld CDx (discussed above) to identify counterfeit pharmaceuticals and FDA's IONSCAN 500DT (benchtop) Ion Mobility Spectrometry (IMS) device to identify purported dietary supplements tainted with undeclared APIs at IMFs. FDA/Office of Enforcement and Import Operations is looking at potential expansion of the CDx and other handheld technologies to identify additional potential counterfeit pharmaceuticals.

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 September 2019, a representative from FDA/OCI was part of a panel who provided a briefing on FDA and FDA/OCI to Ecuadorian Law Enforcements officials (Ecuadorian Police, Prosecutors and Judges) as part of the first ever training program to combat illegal trade in Ecuador. The event was sponsored by the Hemispheres University in Quito, Ecuador.

In October 2019, FDA/OCI stationed a special agent within the U.S. Embassy in London, United Kingdom (U.K.).

In October 2019, a representative from FDA/OCI conducted liaison and outreach meetings in Bangkok, Thailand, with the U.S. Centers for Disease Control and Prevention, International Law Enforcement Academy, U.S. Drug Enforcement Administration (DEA), U.K. Border Force, U.S. Homeland Security Investigations, and the Thai Department of Special Investigations Bureau of Intellectual Property Crime.

In November 2019, the FDA/OCI Miami Field Office hosted Intellectual Property and Customs Enforcement partners from Europe and Eurasia under the U.S. Department of State's International Visitor Leadership Program.

In November 2019, a representative from FDA/OCI conducted a liaison and outreach meeting with the U.K. Medicines and Healthcare products Regulatory Agency E-Cigarette Unit of Vigilance and Risk Management of Medicines on counterfeit products.

In November 2019, a representative from FDA/OCI conducted a liaison and outreach meeting with the U.K. International Crime Coordination Center with discussions on the distribution of counterfeit drugs.

In November 2019, FDA/OCI executed Operation Lascar IV at the international mail facility at John F. Kennedy International Airport, Jamaica, New York. Operation Lascar IV focused on inbound shipments of violative FDA-regulated products from the U.K. FDA/OCI partnered with Her Majesty's Revenue and Customs, U.K. Border Force, U.S. Customs and Border Protection, U.S. Patent and Trademark Office (USPTO), and investigators from FDA's Division of Northeast Imports.

In December 2019, representatives from FDA/OCI participated in a workshop for regulators, police, prosecutors and customs officials from Mexico, Brazil and Peru. The title of the conference was "Combating Proliferation of Substandard, Unregistered, Unlicensed, and Counterfeit Health and Safety Regulated Products," and took place at the headquarters of the USPTO in Alexandria, Virginia.

In January 2020, FDA/OCI executed a bilateral enforcement operation, Operation Broadsword, at the international mail facility at the O'Hare International Airport in Chicago, Illinois. Operation Broadsword targeted packages of violative FDA-regulated products transshipped through third-party countries to conceal their point of origin to avoid detection. The operation was a collaboration with India's Directorate of Revenue Intelligence, the Forensic Chemistry Center, FDA's Division of Northern Border Imports, and U.S. Customs and Border Protection.

In February 2020, a representative from FDA/OCI conducted a liaison and outreach meeting with U.K. MHRA Investigators with a focus on combatting counterfeit drug and medical devices.

In February 2020, FDA/OCI met with representatives of Sanofi and France's Office Central de Lutte Contre les Atteintes à l'Environnement et à la Santé Publique (OCLAESP) on transshipment issues and the newly created Europol operation, Operation Shield, which targets the distribution of counterfeit and unlicensed high value drugs.

In March 2020, a representative with FDA/OCI attended the U.S. Department of State's Mission London China Working Group on strategies for tracing and combatting public safety threats from China.

In March 2020, a representative from FDA/OCI participated, via teleconference, in a brief workshop hosted by the Organisation for Economic Co-Operation and Development's Task Force on Countering Illicit Trade. This scaled-down workshop focused on the trade in counterfeit pharmaceuticals and review of a recently released brochure of the same name.

In March 2020, a representative from FDA/OCI hosted a teleconference with the U.K. Home Office's drug legislation team, Police Scotland, U.K. MHRA policy team, and DEA on the implementation of regulations related to the distribution of drug manufacturing equipment, including pill presses.

In April 2020, a representative from FDA/OCI participated in a workshop, via teleconference, for Romanian law enforcement. The title of the workshop was "Intellectual Property Crime and Cybercrime during the COVID19 Pandemic" and was coordinated by the U.S. Department of Justice (DOJ) with participation from various law enforcement entities.

In June 2020, a representative from FDA/OCI participated in a workshop, via teleconference, for the ten member countries of the Association of Southeast Nations. The title of the workshop was "Turning Regulatory Enforcement into Criminal Enforcement – Enforcement Against COVID19 Crime Series" and was hosted by DOJ and USPTO.

In August 2020, a representative from FDA/OCI presented to Anglophone Pharmacrime Working Group to discuss counterfeit pharmaceuticals sold over the Internet. Along with the DOJ International Computer Hacking and Intellectual Property Attorney-Advisors, FDA/OCI demonstrated investigative and prosecutorial techniques involving the distribution of counterfeit drugs.

Laboratory/Analytical Capacity Building through Domestic Partnerships

In 2020, 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 detection of illegal, unapproved, and counterfeit pharmaceuticals and tainted supplements. ORS/FCC expanded collaborative efforts with Federal partners in the fight against illegal/unapproved pharmaceuticals including opioids by establishing laboratory presence at the Chicago O'Hare IMF in partnership with CBP's Laboratories and Scientific Services (LSS) and by continuing method development work on detection of pharmaceutical based agents. ORA's FCC participated in joint operations with OCI, OEIO and CBP. Operation Broadsword was conducted at the Chicago IMF in January 2020, and Operation Dirty Hands at points of entry in Laredo, TX in June and McAllen, TX in July 2020.

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 arrangement 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 2020, the PFIPC/ILFCM annual meeting was cancelled due to the COVID-19 global pandemic.

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 10 special agents dedicated as cybercrime specialists and is supported by 1 intelligence research specialist, whose activities are overseen by a senior operations manager. In FY20, CcIU has dedicated focused resources to counter public health threats, such as Operation Cyber Pharma and Operation Quack Hack described above. In response to a dramatic increase in hospitalizations associated with the sale of vaping cartridges containing tetrahydrocannabinol (THC), CcIU in partnership with DEA, seized 44 websites advertising the sale of illicit vaping cartridges online. The action, which was part of Operation Vapor Lock, reflected the ongoing work by federal, state and local authorities to investigate the supply chain of vaping products associated with lung injuries that occurred in late 2019. CcIU also participates in the Permanent Forum on International Pharmaceutical Crime, the Public Safety Working Group of the Internet Corporation for Assigned Names and Numbers

Governmental Advisory Committee, and a number of cybercrime-related international law enforcement working groups. In July 2020, CcIU developed a working relationship with Amazon Counterfeit Crimes Unit to identify vendors selling counterfeit FDA-regulated products.

FDA/OCI's Port of Entry Program

FDA/OCI's Import Operations Program (IOP), intended to assist in detecting violative shipments of FDA-regulated products entering our domestic ports and facilities, is led by 2 Senior Operations Managers and consists of 15 fulltime and 2 part time IOP special agents. IOP's priorities include responding to U.S. Postal Service sorting facilities known as international mail facilities, express consignment carrier facilities (to include integrators such as DHL, UPS, and FedEx), air cargo facilities, and sea and land ports. 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 PANGEA

Operation PANGEA is an international collaboration with the objective to disrupt and dismantle criminal activity relating to the trafficking in illicit pharmaceuticals and medical devices where the crime is facilitated by the Internet. Coordinated by INTERPOL, the annual operation brings together customs, health regulators, national police, and private companies from various countries. The primary objectives of Operation Pangea are to shut down illicit websites, disrupt payment services, intercept illicit medicines in the postal system, investigate criminals involved in pharmaceutical crime, and raise awareness on the dangers of buying medicines online. 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” for purposes of determining admissibility, including if the article is an ingredient “that presents significant public health concern” and it is, or contains, the same active pharmaceutical ingredient of an FDA approved drug. This provision enhances FDA’s ability under its importation authorities in section 801 of the Act to detain, refuse and/or destroy illicit articles imported in the IMFs. FDA developed procedures for the section 801(u) authority and began using this new authority on March 4, 2019. FDA has destroyed over 29,000 violative drug products that are not in compliance with U.S. requirements in FY2020.

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 2020 include the following prosecutions.

Opioid Manufacturer Indivior’s Chief Executive Officer Pleads Guilty in Connection with Drug Safety Claims. Shaun Thaxter, Chief Executive Officer of Indivior PLC, pleaded guilty in United States District Court to the introduction into interstate commerce of the opioid Suboxone Film, which was misbranded in violation of the Federal Food, Drug, and Cosmetic Act. Thaxter was Indivior’s top executive, including the time period prior to December 2014 when Indivior was known as Reckitt Benckiser Pharmaceuticals, a subsidiary of British conglomerate Reckitt Benckiser Group. Reckitt Benckiser Group paid \$1.4 billion in 2019 related to the marketing of Suboxone. Suboxone Film is a drug product approved for use by recovering opioid addicts to avoid or reduce withdrawal symptoms while they undergo treatment.
<https://www.justice.gov/opa/pr/opioid-manufacturer-indivior-s-chief-executive-officer-pleads-guilty-connection-drug-safety>

Dark Web Fentanyl Trafficker Known as “The Drug Llama” Sentenced to 13 Years In Federal Prison. Melissa Scanlan, also known as “The Drug Llama,” was sentenced to 160 months in federal prison in the United States District Court for the Southern District of Illinois for trafficking fentanyl throughout the United States via the “dark web,” and engaging in an international money laundering conspiracy, and distributing fentanyl that results in death.
<https://www.justice.gov/usao-sdil/pr/dark-web-fentanyl-trafficker-known-drug-llama-sentenced-13-years-federal-prison>

Surry Man Sentenced for Trafficking in Counterfeit Pills Containing Carfentanil. Adam Fitzherbert was sentenced to two years in prison and three years of supervised release in United States District Court for the District of Maine. Fitzherbert was sentenced for holding for sale counterfeit drugs containing carfentanil that were purchased through a “dark web” marketplace.
<https://www.justice.gov/usao-me/pr/surry-man-sentenced-trafficking-counterfeit-pills-containing-carfentanil>

South Portland Man Sentenced to Prison for Trafficking in Counterfeit Pills and Illegally Possessing a Firearm. Colin Harle was sentenced to five years prison and three years of supervised release in the United States District Court for the District of Maine. Harle was arrested following the attempted sale of counterfeit alprazolam and was later found in possession of 20,000 counterfeit pills. <https://www.justice.gov/usao-me/pr/south-portland-man-sentenced-prison-trafficking-counterfeit-pills-and-illegally>

Rochester Man Sentenced for Smuggling Counterfeit Cialis and Viagra into the United States. Samuel McFarland was convicted of two counts of smuggling goods into the United States and was sentenced to serve 24 months' probation. In 2017, a package was intercepted at John F. Kennedy International Airport from Hong Kong containing 3,012 counterfeit Viagra pills and 190 counterfeit Cialis pills. Another package was intercepted at Rochester International Airport from China containing 3,000 counterfeit Cialis pills. <https://www.justice.gov/usao-wdny/pr/rochester-man-sentenced-smuggling-counterfeit-cialis-and-viagara-united-states>

Indian Businessman Pleads Guilty to Drug Importation, Smuggling and Money Laundering Offenses. Jeetendra Harish Belani of Nagpur, India, pleaded guilty in United States District Court for the Western District of Pennsylvania to conspiracy to import Schedule II and Schedule IV controlled substances, conspiracy to smuggle misbranded drugs, and money laundering conspiracy. Belani operated a drug-distribution entity based in India called LeeHPL Ventures. <https://www.justice.gov/usao-wdpa/pr/indian-businessman-pleads-guilty-drug-importation-smuggling-and-money-laundering>

Ukrainian Men Plead Guilty to Conspiracy and Trafficking of Counterfeit Cancer and Hepatitis Drugs. Two citizens of Ukraine, Maksym Nienadov, the owner of the Ukrainian-based company Healthy Nation, and his co-conspirator and employee Volodymyr Nikolaienko, pleaded guilty to conspiracy, trafficking in counterfeit drugs and smuggling goods into the United States. Nienadov also admitted to introducing misbranded drugs into the United States. Nienadov illegally sold counterfeit or unapproved Keytruda, Abraxane and Epclusa. <https://www.justice.gov/opa/pr/ukrainian-men-plead-guilty-conspiracy-and-trafficking-counterfeit-cancer-and-hepatitis-drugs>

DEPARTMENT OF HOMELAND SECURITY

Department of Homeland Security

Department of DHS Appendix for FY 20 Annual Report

This appendix discusses the FY 2020 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-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>

China Working Group

DHS has formed the DHS China Working Group, made up of senior representatives of all DHS Components, with the goal of developing an action plan to protect and defend the nation against threats from the government of China sponsored online activities. The Working Group is overseen by the Senior Official Performing the Duties of the Under Secretary for Policy and has compiled a preliminary round of actions. These actions are currently undergoing DHS review.

The Working Group is sub-divided into five workstreams, which are operated at the staff level and managed by Component representatives. Of these, the Cybersecurity and Infrastructure Security Agency (CISA) manages the Cybersecurity and Critical Infrastructure workstream. Participation includes staff from multiple CISA Divisions, U.S. Immigration and Customs Enforcement (ICE), U.S. Secret Service, Science and Technology, and Intelligence and Analysis. The Cybersecurity and Critical Infrastructure workstream is tasked with leading the development of action items in these relevant areas, including the prevention of intellectual property theft. The workstream has generated actions related to increasing public and private sector engagement through awareness, training, and exercises; support for the granting of the administrative subpoena authority to CISA (currently under congressional consideration); facilitation of the protection of cloud service providers, which have been used as a vector for Chinese government-sponsored offensive attacks; augmenting support for the US academic sector, which holds significant intellectual property data and is therefore a key target; studying the effect of emerging technologies, including Unmanned Aerial Systems (UAS) manufactured in China, on the vulnerability of intellectual property and developing deterrence strategies; and developing a strategy to protect and defend US intellectual property from Chinese government-sponsored cyber espionage and data theft.

The workstream also developed milestones for each of these areas.

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 HSI, U.S. Customs and Border Protection (CBP), and DoD's criminal investigative offices). In FY 2020, under ***Operation Chain Reaction***, HSI initiated 18 criminal investigations, conducted 11 criminal arrests, and helped secure 9 indictments and 1 conviction, as well as 29 seizure incidents of counterfeit goods.

Other notable OCR activities during FY 2020 included the following.

- On October 10, 2019, HSI representatives from the IPR Center, along with the Nuclear Regulatory Commission (NRC), met with members of Nuclear Utility Procurement Issues Corporation (NUPIC), who focus on significant nuclear utilities industry challenge's or issues that may influence procurement, planning and management activities. NUPIC evaluates suppliers to improve supplier assurance processes through cooperative efforts to ensure high standards of quality, including the prevention of counterfeits from entering the supply chain. In addition to the HSI and NRC, both Operation Chain Reaction and DHS CISA provided program overviews to promote industry to government interaction, information sharing and partnership.
- On November 21, 2019, HSI and the IPR Center hosted the Export Enforcement Coordination Center (E2C2) Public Private Partnership Meeting, including participants from BAE Systems, BioMarin, Booz Allen Hamilton, Honeywell, IBM, L3 Harris Technologies, Leonardo DRS, Mason International Trade, Raytheon, Rolls Royce and Tyco Electronics. The Operation Chain Reaction (OCR) Program Manager provided a presentation on OCR focused IP cases and the capabilities of the task force, to include how OCR acquires lead referrals through internal analysis and industry partners and red flag indicators for products that may be counterfeited to include their failure rates and acquisition details.
- On February 19, 2020, HSI provided a keynote invocation during the Armed Forces Communications & Electronics Association, Northern Virginia Chapter (AFCEA NOVA) Intelligence Community Information Technology Event. In addition, the OCR Program Manager provided a presentation on OCR focused IP cases and the capabilities of the task force and red flag indicators for products that may be counterfeited to include their failure rates and acquisition details.

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) 2020, CBP and ICE made 26,503 IPR seizures. The total estimated manufacturer's suggested retail price (MSRP) of the seized goods, had they been genuine, was about \$1.3 billion.

In addition to ***Operation Chain Reaction*** (discussed above), the DHS law enforcement efforts during FY 2020 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 2020, ***Operation***

Apothecary, HSI initiated 61 criminal investigations, 31 arrests, 11 indictments, and 32 convictions, as well as 223 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 2020, 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.
 - In December 2019, the IPR Center hosted the inaugural event for Operation Intangibles at the first ever HSI digital piracy symposium. This symposium brought law enforcement and CCI experts together to address stakeholders concerns in copyright protection and enforcement efforts. This symposium further addressed collaborative efforts in countering digital piracy to further protect a vital sector of the U.S. economy.
- iv. In FY 2020 under ***E-Commerce/IOS***, HSI initiated 12 criminal investigations, conducted 2 arrests, and helped secure 2 indictments and 4 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 2019, 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 (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.

- i. OEN personnel work 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.
- ii. Between November 3-8, 2019 IPR Center and A2C2 representatives traveled to Las Vegas, NV and participated 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 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.
- iii. In FY 2020, under OEN, HSI initiated 33 criminal investigations, conducted 7 criminal arrests, and helped secure 6 indictments and 14 convictions, as well as 122 counterfeit goods seizures incidents with a MSRP of approximately \$19,195,213.

Operation Surge Protector 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).

- i. On November 11-15, 2019, representatives of OSP worked in conjunction with CBP on an enforcement operation in New York, New York that focused on interdicting counterfeit consumer technology.
- ii. In FY 2020, under OSP, HSI initiated 14 criminal cases, conducted 18 arrests, helped

secure 10 indictments and 6 convictions, and seized approximately \$5,771,592 in counterfeit products.

Operation Body Armor 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 2020, under **Operation Body Armor**, HSI initiated 93 criminal cases, conducted 8 arrests, helped secure 4 indictments and 2 convictions, and seized \$2,118,405 MSRP in counterfeit products.

Operation Team Player 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 2020, 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, and the National Hockey League (NHL) and National Basketball Association (NBA) All-Star games. The traditional sports seasons of 2020 have been significantly impact by COVID-19, as such IPR enforcement operations in conjunction with such events have been unwarranted.

- i. On January 25 – February 3, 2020, OTP representatives traveled to Miami, FL to coordinate Operation Team Player enforcement operations targeting the importation and trafficking of counterfeit sports merchandise and media activities related to Super Bowl LIIV. The operations were conducted by teams comprised of HSI Miami, HSI Tampa, IPR Center representatives, Miami Dade Police Department, and representatives from the National Football League. As a result of these efforts, task force officers arrested 6 individuals and seized approximately 2,884 items with an estimated MSRP value of \$6,354,589.
- ii. On December 1 – 2, 2019, an IPR Center representative traveled to Miami, FL to meet with HSI Miami, law enforcement partners, and the NFL, to coordinate planning of IPR enforcement efforts for Super Bowl LIV.
- iii. On October 22-25, 2019, a representative of OTP and representatives from HSI New York, traveled to Portland, OR to meet with representatives from Nike and discuss ongoing collaboration and lead development.
- iv. In FY 2020, under OTP, HSI seized more than 270 items of counterfeit sports merchandise worth \$15,803,836 and arrested 23 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 conducted Pangea enforcement operations from March 3 – 10, 2020. During FY 2020 Operation Pangea enforcement efforts, over 90 INTERPOL member countries inspected over 326,000 packages. The inspections resulted in the seizure of over 48,000 packages, which included potentially dangerous pharmaceuticals worth over \$14 million. The operation also resulted in 121 arrests worldwide.

Operation Stolen Promise was launched by HSI in April 2020 to protect the Homeland from the increasing and evolving threat posed by COVID-19-related fraud and criminal activity. Operation Stolen Promise combines HSI's expertise in global trade, financial fraud, international operations, cyber-crime, and criminal analysis to investigate financial fraud schemes, the importation of prohibited pharmaceuticals and medical supplies, websites defrauding consumers, and any other illicit criminal activities associated with the virus that compromises legitimate trade or financial systems or endangers the public. Under Operation Stolen Promise, HSI has reported more than 1,600 seizures of prohibited test kits, treatments and personal protective equipment; over 180 arrests; and over \$28 million in seized proceeds. As efforts to combat COVID-19 progress, HSI initiated Operation Stolen Promise 2.0 in November 2020 to focus on counterfeit vaccines, while continuing to investigate the trafficking of counterfeit personal protective equipment. This effort will coincide with INTERPOL's Operation Vigilant Interdiction, which will also primarily focus on combatting counterfeit COVID-19 vaccines.

DHS's law enforcement activities during FY 2020 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, HSI'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 HSI's capacity to conduct successful domestic, international, and multilateral operations. HSI Attachés are located in 52 countries, and they work closely with host government counterparts and participate in IP working groups at post.
- In FY 2020, HSI initiated 449 intellectual property investigations and was involved in 203 arrests, 125 indictments, and 98 convictions.
- In FY 2020, the IPR Center vetted 33,184 investigative leads; of these, 18,449 were referred to law enforcement partners. Additionally, the IPR Center de-conflicted 8,785

investigative targets for partner agencies and industry. While performing these de-conflictions, the IPR Center identified 28 “blue on blue” situations where two or more entities were investigating the same target. Finally, the IPR Center referred 371 leads to private industry for follow-up.

- Due to the Coronavirus pandemic, the IPR Center was unable to conduct any Intellectual Property and Trade Enforcement Investigations (IPTEI) training courses in FY20. Previous 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.

The DHS report “Combating Trafficking in Counterfeit and Pirated Goods” issued to the White House in January 2020 recommended numerous “Immediate Actions by DHS and Recommendations for the U.S. Government.” Recommendation six acknowledged the work of the IPR Center E-Commerce Working Group (ECWG) and recommended the formation of the Anti-Counterfeiting Consortium to Identify Online Nefarious actors (ACTION). On June 30, 2020, the IPR Center hosted the inaugural meeting of the ACTION group. IPR Center Director Steve Francis and DHS Deputy Assistant Secretary Christa Brzozowski provided opening comments and provided participants with an overview of the DHS Report. The IPR Center provided an overview of the ECWG efforts to date and results from its pilot data sharing project.

This inaugural meeting included representatives from 14 private sector companies from various sectors, including online sales platforms, social media platforms, payment processors, and express delivery companies. Government representative included HSI, CBP, FBI and DOJ/Computer Crimes and Intellectual Property Section (CCIPS). This meeting focused on outlining the primary goal of ACTION, which is to enhance information sharing between private sector companies.

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***, HSI and CBP field personnel provide information and red flag indicators of potential import fraud and importer identity theft.

Other Engagements

DHS law enforcement agencies which support IP enforcement had numerous other engagements with stakeholders during FY 2020. Some of these public education and outreach efforts are described below.

The IPR Center has a unique role within HSI 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 2020, the IPR Center conducted 78 outreach and training events with 3,438 attendees.

In FY 2020, 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 2020, 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:

- On December 12, 2019, the National Intellectual Property Rights Coordination Center (IPR Center) – in coordination with the National Association of Attorneys General, and a coalition of law enforcement agencies and community organizations – hosted a roundtable discussion on E-cigarettes and the health and safety concerns associated with their use. The day-long gathering for law enforcement, health care professionals, legislators and educators presented a wide variety of information on E-cigarettes and the health effects that are jeopardizing public health, particularly among young people. The National Association of Attorneys General, an organization of 56 state and territorial attorneys general in the United States, joined the discussion on the heels of its annual Capital Forum in Washington D.C. Highlights of the roundtable discussion included

challenges facing law enforcement and the need to work with health care professionals to identify enforcement strategies that place a greater emphasis on prevention efforts designed to inform and educate the public about the dangers and risks associated with E-cigarette use. From a law enforcement perspective, the IPR Center remains at the forefront of efforts to increase information sharing with public and private sectors to combat the illegal importation and distribution of counterfeit E-cigarette products that can be used to deliver other drugs, including marijuana.

- During FY 2020, the IPR Center's Outreach and Training Section assisted with the coordination of approximately 8 meetings with industries and coalitions including BG Products, JUUL, Specialized Bicycles, Target, Adobe, Gemological Institute of America, TruTag Technologies, and National Governors Association.
- 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 2020, 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 2020 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 2020, CBP issued approximately 110 IPR-related press releases.
- In FY 2020, 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 sixth phase of the campaign ran at major U.S. airports (Miami, New York, Charlotte, Denver, Minneapolis, Pittsburgh, and Baltimore) during the busy 2019 holiday travel period. The campaign ads were placed on large scale electronic bulletin boards at these seven airports. Additionally, the campaign included a digital component with the ads appearing on websites for people in these same locations. During this phase the campaign and its messages about responsible consumer behavior were viewed over 100 million times.
- 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 winter of 2019 at the Miami, New York, Dallas, Denver and Minneapolis 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.
- CISA and the FBI jointly released a Public Service Announcement on the People's Republic of China's targeting of COVID-19 research organizations on May 13, 2020. CISA and FBI encouraged COVID-19 research organizations to review and apply the announcement's recommended mitigations to prevent surreptitious review or theft of COVID-19-related material.

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 2020, 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 participant countries conducted a week of coordinated enforcement efforts from March 3-10, 2020. At this time, planning of *Operation Pangea* for 2021 has been delayed to allow authorities throughout the world to pivot towards managing COVID-19 related outbreaks and criminal activity in their respective countries.

As also discussed above, in November 2019, the IPR Center and Europol concluded Operation IOS Cyber Monday/Project TransAtlantic X in collaboration with INTERPOL. Over 30,506 infringing domains were seized.

Through the U.S.-China 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 2020, collaboration continued, but there was limited investigative success due to realignment of resources within the Ministry of Public Security (MPS) of the People's Republic of China.

During FY2020, the IPR Center continued to host numerous foreign government officials with an interest in IP enforcement. Among the many international delegations were representatives from Belgium, France, Greece, Italy, Malta, Romania, Spain, Poland, Bulgaria, and the EU (including EUIPO).

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. 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.

Capacity Building and Training

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

CBP provided trainers for Department of Justice and HSI-led regional international forums on IP enforcement for foreign governments. In FY 2020, this HSI-led training occurred in the Dominican Republic.

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. The IPR Center 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 marketplaces, 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 2020, the IPR Center participated in 26 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.

- **DOJ/ICHIP Intellectual Property Workshop in Myanmar**
From October 7 – 9, 2019, HSI Bangkok participated with the workshop on behalf of the IPR Center – From October 7-9, 2019, HSI Bangkok agent participated in a DOJ/ICIP sponsored IPR Workshop in Naypyidaw, Myanmar. The program was attended by judges, prosecutors and police from Myanmar.
- **DOJ/ICHIP Pharmaceutical Roundtable Workshop – Abuja, Nigeria**
From December 10 – 12, 2019, the IPR Center provided support of the DOJ/ICHIP sponsored Pharmaceutical Workshop in Abuja, Nigeria. HSI San Juan agent facilitated roundtable discussions and counterfeit pharmaceutical case presentations to Counterfeit Pharma African Regional members from Ghana, Botswana, Zambia, Kenya, Malawi, Zambia, Tanzania, Rwanda, Uganda, Nigeria, Liberia, Sierra Leon and the Gambia.
- **IPR Enforcement Program for Sao Paulo, Brazil**
From February 11-13, 2020, the IPR Center supported the U.S. Department of Justice, Office of Overseas Prosecutorial Development, Assistance and Training (DOJ/OPDAT), based out of the United States Consulate General for Sao Paulo, Brazil. The

DOJ/OPDAT hosted an IPR Enforcement Program for Brazilian police, prosecutors, customs officers, and Sao Paulo municipal officials. Additional participants included rights-holders and representatives of trade associations.

- **Counterfeit Merchandise Identification Workshop in Guatemala**

On February 18, 2020, the IPR Center supported the HSI Attaché Guatemala on a Counterfeit Merchandise Identification Workshop in Guatemala. The HSI Guatemala Transnational Criminal Investigative Unit (TCIU) members, HSI Representatives and Government of Guatemala personnel attended an Intellectual Property Rights training provided by Proctor and Gamble, Chanel, Puma, Pfizer and Tommy Hilfiger. The purpose of the training was to advise all participants of their latest security measures their respective brands have implemented to identify their products from those that are found to be counterfeit. This training also served as a means of building contacts of these brands making it easier for participants to contact a representative in country.

- **Intellectual Property Rights Enforcement Training (Dominican Republic)**

From March 3-6, 2020, the IPR Center, in collaboration with HSI Santo Domingo, provided intellectual property (IP) enforcement training to customs officials, police investigators and prosecutors from Dominican Republic, Anguilla, Bermuda, Costa Rica, El Salvador, 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 Punta Cana, Dominican Republic. The training workshop featured HSI case study presentations on counterfeit pharmaceuticals, cell phones and sporting goods/footwear products. 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, Diageo, Motion Picture Association, Pfizer, Philip Morris International, Syngenta, and Underwriters Laboratories. Forty participants received HSI Certificates of Completion for their participation in the training program.

- **IP Crime and Cybercrime, DOJ/ICHIP Bucharest, IPR Center and HSI Vienna**

On April 30, 2020, the IPR Center and HSI Vienna participated in a webinar hosted by DOJ/ICHIP Attorney Advisor on “Intellectual Property Crime and Cybercrime during the COVID-19 Pandemic” in Bucharest, Romania. The webinar was attended by Romanian prosecutors and law enforcement personnel from the organized crime units, anti-corruption units, cyber police, General Prosecutor’s Office, Prosecutor’s Office attached to the Court of Appeal in Bucharest, Economic Police, Judicial Police, and Border Police. Participating agencies included DOJ, INTERPOL, EUROPOL, HSI/IPR Center, FDA, USPTO, and the Cybercrime Program Office of the Council of Europe (C-PROC). Opening comments were provided by U.S. Ambassador to Romania. The IPR Center HSI agent delivered a presentation on HSI’s COVID-19 response (Operation Stolen Promise) and HSI Vienna Regional Attaché provided closing remarks and offered continued HSI support to the region.

- **HSI Islamabad COVID Working Group**
 On May 14, 2020, the IPR Center supported the HSI Islamabad office that provided a presentation about “Operation Stolen Promise” to the Mission Pakistan COVID Working Group at the U.S. Embassy, Islamabad, Pakistan. In attendance was the Ambassador, the Deputy Chief of Mission (DCM) and representatives from the U.S. Embassy Islamabad, the Karachi Consulate, the Peshawar Consulate, and the Lahore Consulate. The representatives were from the various sections of the mission to include USAID, Political (POL), Economics (ECON), Public Affairs (PAS), Management (MGMT), Consular (CONS), Medical (MED), and the Regional Security Office (RSO). The presentation included an overview of the public awareness campaign and an explanation of the various types of fraud and criminal schemes that have been encountered. The working group was provided with the “HSI S.T.O.P. COVID-19 Fraud” placements and were encouraged to share them with their friends, family, and local Pakistani contacts.
- **IPR Center and HSI Guatemala**
 On June 10, 2020, the IPR Center supported the HSI Guatemala along with USPTO, AMCHAM, Colgate, Procter & Gamble, 3M, American PSI, and Magia Blanca that provided a webinar to over 142 police officers, prosecutors and judges from Honduras, El Salvador and Guatemala on the best practices for identifying counterfeit merchandise.
- **IPR Center, HSI Manila, Dept. of State, U.S. Embassy Manila**
 On June 11, 2020, the IPR Center supported the U.S. Embassy in Manila and the U.S. State Department with a webinar focusing on Protecting Intellectual Property in the time of COVID-19 held for private industry, the government of the Philippines and U.S. Embassy representatives. IPR Center/HSI agents discussed general IP protection and HSI's COVID-19 response. HSI Manila Deputy Attaché provided closing remarks. Additional presenters included IACC and Apple.
- **IPR Center Partner and HSI Attaché Singapore**
 On June 17, 2020, the IPR Center supported the HSI's Global Trade Investigation Division's (GTID), in partnership with HSI Attaché Singapore provided a web based COVID-19 enforcement brief to the Singapore Interagency including Customs, Law Enforcement, and other entities. The enforcement brief focused on HSI's Operation Stolen Promise, which targets COVID-19 related fraudulent and criminal activity, and the evolving threats posed by criminal organizations seeking to exploit the pandemic for illicit financial gain. The discussion also focused on the importance of leveraging public, private, and international partnerships to identify COVID19 related criminal activity, strengthening global supply-chain security.
- **Europol Operation In Our Sites/ TransAtlantic XI Operation**
 From July 16-17, 2020, the IPR Center Intel Section supported the Europol Operation In Our Sites/ TransAtlantic XI Operation kickoff meeting via video teleconference with the Hague, Netherlands. A HSI agent presented a 30-minute webinar training on the history of the Operation In Our Sites including the creation, participation and growth of the operation to include the collaboration with industry partners.

- **Intellectual Property Enforcement Coordination Training for Manila, Philippines:**
On July 28, 2020, the IPR Center Outreach and Training supported the Intellectual Property Enforcement Coordination Training via video teleconference with the Manila, Philippines sponsored by USPTO and IP Office of the Philippines. HSI agent provided a 30-minute presentation on the IPR Center and collaboration with law enforcement and industry partners.

DEPARTMENT OF JUSTICE

DEPARTMENT OF JUSTICE

The Department of Justice (the “Department” or “DOJ”)¹ submits the following 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. 110-403.² 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.

¹ Appendix A (in this section) contains a glossary of acronyms referenced throughout this report.

² The FY 2020 Pro-IP Act Report was not yet available at the time of publication, so the FY 2019 report has been reproduced here.

(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 Jetflixs, 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.

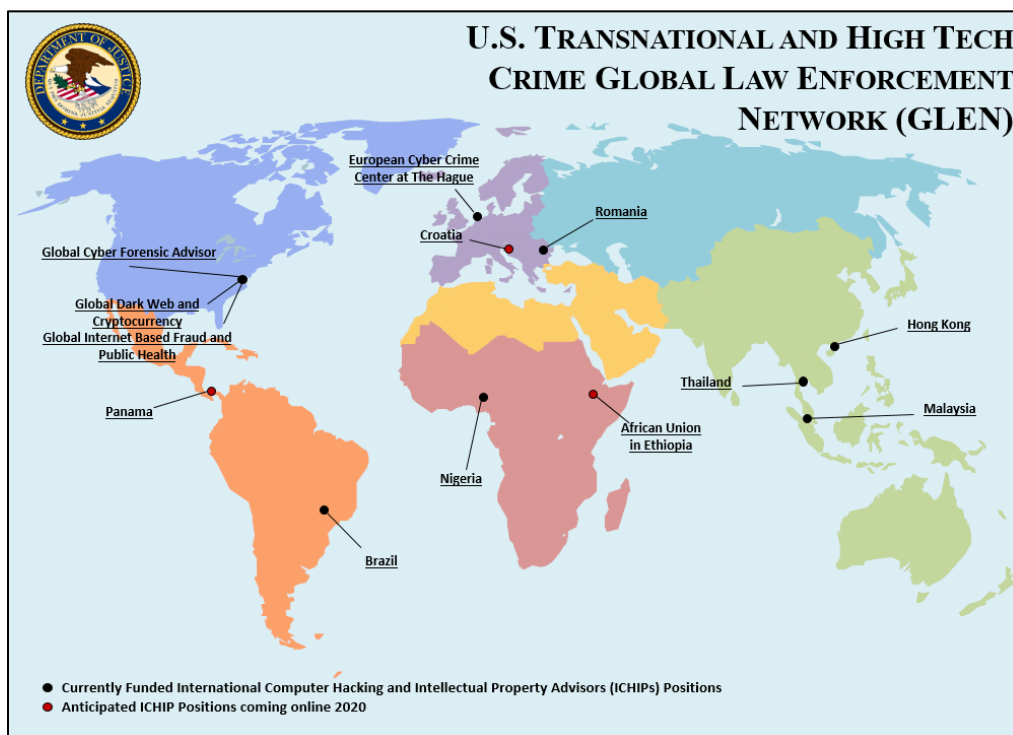
International Outreach and Training

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 FY2020

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- ***Acting U.S. Attorney Announces Federal Charges And International Operation To Dismantle Online Piracy Group.*** On August 26, 2020, the indictments were unsealed charging Umar Ahmad, 39, George Bridi, 50, and Jonatan Correa, 36, with copyright infringement. Bridi's indictment also included wire fraud for involvement in the Sparks Group, an international piracy group involved in illegally distributing movies and television shows on the Internet, and conspiracy to transport stolen property interstate. Bridi, a citizen of the United Kingdom, was arrested on Sunday in Cyprus on an INTERPOL Red Notice based on the U.S. criminal charges. The United States will seek Bridi's extradition to stand trial in the United States. Correa was arrested in Olathe, Kansas, where he will be presented in federal court. Ahmad, a citizen of Norway, remains at large.

According to the allegations contained in the Indictments, between 2011 and the present, Ahmad, Bridi, Correa, and others known and unknown, were members of the Sparks Group. In furtherance of its scheme, the Sparks Group fraudulently obtained copyrighted DVDs and Blu-Ray discs from wholesale distributors in advance of their retail release date by, among other things, making various misrepresentations to the wholesale distributors concerning the reasons that they were obtaining the discs prior to the retail release date. Sparks Group members then used computers with specialized software to compromise the copyright protections on the discs, a process referred to as "cracking" or "ripping," and to reproduce and encode the content in a format that could be easily copied and disseminated over the Internet. They thereafter uploaded copies of the copyrighted content onto servers controlled by the Sparks Group, where other members further reproduced and disseminated the content on streaming websites, peer-to-peer networks, torrent networks, and other servers accessible to the public. The Sparks Group identified its reproductions by encoding the filenames of reproduced copyrighted content with distinctive tags, and also uploaded photographs of the discs in their original packaging to demonstrate that the reproduced content originated from authentic DVDs and Blu-Ray discs.

Ahmad and Bridi arranged for discs to be picked up, mailed, or delivered from distributors located in Manhattan, Brooklyn, and New Jersey to other members of the Sparks Group, including Correa, prior to their official release date. Ahmad, Bridi, and Correa then reproduced, and aided and abetted the reproduction of, these discs by using computer software that circumvented copyright protections on the discs and reproducing the copyrighted content for further distribution on the Internet. The Sparks Group has caused tens of millions of dollars in losses to film production studios. (SDNY, DHS-HSI, USPIS, OIA)

<https://www.justice.gov/usao-sdny/pr/acting-us-attorney-announces-federal-charges-and-international-operation-dismantle-0>

- New Kensington Woman Pleads to Copyright Infringement Charge.*** On July 2, 2020, Sherry Collingwood, 60, of New Kensington, pleaded guilty to one count of copyright infringement. In connection with the guilty plea, the court was advised that, from January 2014 and continuing until March 2017, Collingwood willfully infringed the copyright of one or more copyrighted works, to include "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. She did this by reproducing and distributing for private financial gain, ten or more copies of one or more copyrighted works during a 180-day period. The copies have a total retail value of more than \$2,500. (WDPA, DHS-HSI)
<https://www.justice.gov/usao-wdpa/pr/new-kensington-woman-charged-copyright-infringement-reproducing-and-selling-copies-tv>
<https://www.justice.gov/usao-wdpa/pr/new-kensington-woman-pleads-copyright-infringement-charge>
- Newport Man Pleads Guilty to Copyright Infringement for Creating Illegal Video Streaming and Downloading Websites.*** On November 25, 2019, Talon White, 29, of Newport, Oregon, pleaded guilty to one count each of criminal infringement of copyright and tax evasion. According to court documents, beginning in 2013, White engaged in a scheme to reproduce and distribute for sale thousands of copyrighted movies and television shows. To accomplish this, White set up numerous websites that hosted the infringing material. Members of the public purchased subscriptions to websites created by White and were able to stream or download the video content. The content included movies that had yet to be released to the public. In total, White's scheme netted more than \$8 million. While operating the scheme, White also underreported his income by more than \$4.4 million, willfully evading the payment of more than \$1.9 million in taxes owed from 2013 through 2017. As part of the plea agreement, White has agreed to pay \$669,557 in restitution to the Motion Picture Association of America and \$3,392,708 in restitution, including penalties and interest, to the IRS. White has also agreed to forfeit more than \$3.9 million seized from his bank accounts, approximately \$35,000 in cash, cryptocurrency holdings worth an estimated \$424,000, and a 2,248 square foot home in Newport, Oregon worth an estimated \$415,000. These forfeitures are part of two related civil forfeiture cases in the District of Oregon and represent one of the largest civil forfeitures in the district's history. It is anticipated these forfeited assets will be applied to White's restitution obligations. Sentencing is set for February 24, 2020. (DOR, HSI, IRS-CI)
<https://www.justice.gov/usao-or/pr/newport-man-pleads-guilty-copyright-infringement-creating-illegal-video-streaming-and>
- Federal Jury Convicts Former Video Store Owner of Selling Counterfeit DVDs.*** On October 29, 2019, Douglas Gordon, 52, was convicted of mail fraud and two counts of copyright infringement following a seven-day jury trial. According to evidence presented at trial, Gordon, the former owner of a chain of video rental stores in eastern Maine, operated three websites from which he made more than \$640,000 in sales of over 48,000 counterfeit copies of copyright-protected motion pictures. Representatives of MGM, CBS, Disney, Mercury Pictures and other copyright owners testified that Gordon did not have permission to reproduce and distribute the movies. A senior investigator employed by the Motion Picture Association identified the DVDs as counterfeit. Based on undercover purchases

made from the three websites, execution of search warrants and forensic analysis of computers, investigators from U.S. Immigration and Customs Enforcement's Homeland Security Investigations (HSI) identified Gordon as the operator of the online businesses. A series of customers testified at trial that they expected, based on website advertisements, to receive authorized DVD movies with cover art and a plastic case, but instead received a paper envelope with nothing more than a burned disc with a laser-etched movie title. Several of Gordon's former video store employees also provided evidence of his unlawful reproduction. (DME, HSI, USPIS, State/Local LE)

<https://www.justice.gov/usao-me/pr/federal-jury-convicts-former-video-store-owner-selling-counterfeit-dvds>

TRAFFICKING IN COUNTERFEIT GOODS (18 U.S.C. § 2320, 21 U.S.C. §§ 331, 333)

- ***Husband and wife plead guilty to naturalization fraud and conspiring to illegally import and distribute male enhancement products and counterfeit goods from China.*** On September 24, 2020, Irfanali Momin and Shiba I. Momin a/k/a Saguftabanu Momin, husband and wife, each pleaded guilty to naturalization fraud, and conspiring to illegally import misbranded drug products from China, receive misbranded drugs that had moved in interstate commerce, and to trafficking of counterfeit goods. According to the prosecution, the charges and other information presented in court: Between August 2014 and November 2018, the Momins ordered and sold male enhancement products from China marketed under names such as "Black Ant King," "Bull," "Rhino 7," and "Black Mamba." These products contained sildenafil, the active pharmaceutical ingredient in Viagra, and/or tadalafil, the active pharmaceutical ingredient in Cialis. Both Viagra and Cialis can be obtained in the U.S. only with a prescription from a doctor. The Momins admitted to selling between \$550,000 and \$1.5 million in illegal drug products over the course of the conspiracy. They also sold various counterfeit goods from their warehouse in Dalton, Georgia, including counterfeit designer watches, headphones, e-cigarette devices, and tobacco rolling papers. (FDA, HSI, FBI)
<https://www.justice.gov/usao-ndga/pr/husband-and-wife-plead-guilty-naturalization-fraud-and-conspiring-illegally-import-and>
- ***Manufacturing Broker Pleads Guilty in Conspiracy to Manufacture and Sell Counterfeit Goods.*** On August 25, 2020, Bernard Klein, 39, a New York businessman, pleaded guilty in District Court to conspiracy to commit mail fraud and admitted that he conspired with New York wholesaler Ramin Kohanbash, 50, and at least one other person, to arrange the mass production of goods in China and Pakistan that carried counterfeit markings and labels identical to genuine trademarks registered with the U.S. Patent and Trademark Office. Some of the counterfeit items were distributed to members of the United States military. According to court documents, Klein was sent samples of genuine clothing, apparel, and gear by Kohanbash to be reproduced. Prior to the approval of mass production of the counterfeit goods, Klein emailed photographs of the goods, as well as hangtags and labels, to Kohanbash for approval. After making any changes ordered by Kohanbash, Klein facilitated the manufacturing of goods that contained the counterfeit markings. According to information presented to the court, Klein and Kohanbash instructed the manufacturers on how to fold and

package the counterfeit goods, and to affix removable “Made in China” stickers in order to avoid problems when shipments were inspected by U.S. Customs.

On June 13, 2019, Kohanbash pleaded guilty to conspiracy to commit wire fraud and trafficking in counterfeit goods and admitted that among the items he 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. (DRI, GSA, HSI, DCIS, CBP, Army-CID, AF-OSI)

<https://www.justice.gov/usao-ri/pr/manufacturing-broker-pleads-guilty-conspiracy-manufacture-and-sell-counterfeit-goods>

- ***Lebanon County Man Charged With Trafficking Counterfeit Drugs.*** On August 10, 2020, Stefan Knoche, 55, of Lebanon, Pennsylvania, was charged by Criminal Information with trafficking in counterfeit drugs. The information alleges that Knoche intentionally trafficked drugs knowing them to contain counterfeit marks of pharmaceutical manufacturers Pfizer Pharmaceuticals, Bayer AG, Eli Lilly and Company, and Roche Holding AG between May 23, 2017 and April 12, 2018. The information alleges Knoche knowingly trafficked counterfeit Viagra, Aurogra, Xanax, Levitra, Cialis, and Valium, all using counterfeit trademarks of their respective pharmaceutical companies. (MDPA, USPIS, FDA, HSI)
<https://www.justice.gov/usao-mdpa/pr/lebanon-county-man-charged-trafficking-counterfeit-drugs>
- ***Three Defendants Each Sentenced to 46 Months for Trafficking Counterfeit DVDs.*** On June 24, 2020, Hongtao Zhu, 43, Hui Lin, 36, and He Lin, 33, were each sentenced to 46 months in federal prison and required to pay \$898,748.52 in restitution for trafficking in counterfeit DVDs. All three defendants plead guilty in October 2019, and admitted to conspiring to sell counterfeit DVDs, which were imported from China and sold via eBay, over a two-year period. The DVDs appeared to be genuine Disney productions when, in fact, they were not. (EDKY, USPIS)
<https://www.justice.gov/usao-edky/pr/three-defendants-each-sentenced-46-months-trafficking-counterfeit-dvds>
- ***Philadelphia Man Sentenced to 20 Years in Prison For Trafficking Counterfeit Drugs That He Purchased on Dark Web with Bitcoin.*** On March 10, 2020, Michael Gordon, 32, of Philadelphia, was sentenced to serve 20 years’ imprisonment, followed by three years’ supervised release, for conspiracy to traffic in counterfeit goods and conspiracy to commit money laundering. The Court further ordered the defendant to pay over \$2.7 million in restitution and to forfeit over \$300,000. From approximately December 2017 until October 2018, Gordon was involved in a sophisticated scheme to obtain counterfeit Xanax on the dark web in order to sell the counterfeit pills for a profit. He took numerous steps to conceal his illegal activity: for example, he coordinated the mailing of packages in covert ways, having them addressed to fictitious recipients and mailed to a variety of locations Gordon himself controlled in an attempt to thwart any investigative efforts. Additionally, he paid for the counterfeit pills using Bitcoin, re-sold the counterfeit pills for a profit, and then laundered the proceeds of his illicit drug business in order to conceal the true nature of the funds

obtained from the scheme. Before he was stopped by law enforcement, the defendant illegally obtained hundreds of thousands of these pills and re-distributed them. He pleaded guilty to the charges in June 2019. (USPIS, DEA, USPS, USSS, DEPA)

<https://www.justice.gov/usao-edpa/pr/philadelphia-man-sentenced-20-years-prison-trafficking-counterfeit-drugs-he-purchased>

- ***Surry Man Sentenced for Trafficking in Counterfeit Pills Containing Carfentanil.*** On March 3, 2020, Adam Fitzherbert, 55, was sentenced in federal court in Bangor for holding for sale counterfeit drugs. Fitzherbert was sentenced to two years in prison and three years of supervised release after pleading guilty on September 3, 2019. According to court records, on February 6, 2018, Fitzherbert was arrested at his residence in Surry while agents were executing a search warrant there. While executing the warrant, agents from the U.S. Food and Drug Administration recovered 91 counterfeit Oxycodone HCL pills from Fitzherbert's bedroom that were later found to contain carfentanil. Fitzherbert admitted purchasing the pills through a "dark web" marketplace. (DEA, DME)
<https://www.justice.gov/usao-me/pr/surry-man-sentenced-trafficking-counterfeit-pills-containing-carfentanil>
- ***Two New York Men, Members of Counterfeiting Ring, Sentenced to Years in Prison for Trafficking Fake Super Bowl and Other Game and Concert Tickets.*** On February 28, 2020, Damon Daniels, 49, of Bronx, New York, was sentenced to 24 months' imprisonment and three years' supervised release for his participation in a conspiracy to produce and sell counterfeit tickets to sporting events and concerts. One of his co-defendants, Rahiem Watts, 31, also of Bronx, New York, was sentenced the week before to 41 months' imprisonment and three years' supervised release for his role in the same scheme. Daniels pleaded guilty in September 2019 to charges including conspiracy to commit wire fraud, wire fraud, and conspiracy to traffic in counterfeit goods. The charges stem from the defendant's participation in a scheme with others to create counterfeit tickets to sporting events and concerts held in Philadelphia and throughout the country. Specifically, Daniels and Watts printed counterfeit tickets for events, sold the counterfeit tickets at various venues, and also distributed the counterfeit tickets to other sellers nationwide for resale to victims. The defendants and their associates advertised the fake tickets on websites like Craigslist, tricking unsuspecting fans into paying hundreds of dollars with nothing to show for it. (FBI, EDPA)
<https://www.justice.gov/usao-edpa/pr/two-new-york-men-members-counterfeiting-ring-sentenced-years-prison-trafficking-fake>
- ***Champaign Man Sentenced to 13 Years in Prison for Trafficking Millions of Counterfeit Xanax Pills on Darknet, Money Laundering.*** On January 6, 2020, Stephan Caamano, 24, a Champaign, Ill., man, was sentenced to 13 years in federal prison for trafficking at least 4.3 million counterfeit Xanax pills throughout the country and laundering the proceeds. Caamano has been ordered to pay more than \$2.1 million he gained in profits through this scheme and to serve a term of three years supervised release upon completion of his prison sentence. On April 29, 2019, Caamano pleaded guilty to using darknet markets and cryptocurrency to traffic pills containing alprazolam, marked as 'Xanax,' from March 2017 through May 2018. Caamano purchased controlled substances from abroad to make the counterfeit pills. The pills were manufactured to make them identical in appearance to

prescription Xanax. Caamano then shipped the pills nationwide in quantities ranging from 1,000 pills per package up to one million. According to court documents, Caamano took significant steps to avoid detection by law enforcement, including the creation of a limited liability company to hide his purchase of the house he used as a base of operations. Caamano has remained in the custody since his arrest in May 2018, when he was charged in a criminal complaint. (CDIL, DEA, USCBP, USPIS)

<https://www.justice.gov/usao-cdil/pr/trial-scheduled-champaign-man-charged-allegedly-trafficking-counterfeit-xanax-money>

<https://www.justice.gov/usao-cdil/pr/champaign-man-sentenced-13-years-prison-trafficking-millions-counterfeit-xanax-pills>

- ***Chinese National Pleads Guilty to Federal Mail Fraud and Conspiracy Charges for Trafficking in Counterfeit Goods.*** On December 19, 2019, Xiaoying Xu, 34, a Chinese citizen residing in Covina, California, pleaded guilty today to on a federal conspiracy and mail fraud charges related to her trafficking in counterfeit goods. According to her plea agreement, from about August 2016 until approximately April 2019, Xu conspired with others to import and sell counterfeit consumer goods, specifically Pandora jewelry and Ray-Ban sunglasses. Xu used her residence and offices in El Monte and Alhambra, California, as destination points for shipments of counterfeit goods shipped from Hong Kong and China. Xu repackaged the counterfeit goods, then mailed them to unsuspecting customers throughout the United States who believed they had purchased authentic goods. Xu and other members of the conspiracy 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 by electronic transfer to bank accounts or by check, which Xu cashed at ATMs or deposited into bank accounts opened by co-conspirators. Xu admits that as a result of her fraudulent conduct and her knowledge of the fraudulent conduct of her co-conspirators, sold \$2,322,845 worth of counterfeit Pandora and Ray-Ban-branded products was sold to unsuspecting customers, causing a loss to the customers of at least that amount. On April 24, 2019, Xu and Yiwen Zhu, age 34, a Chinese citizen and legal permanent resident of the United States, were arrested and indicted on a federal conspiracy charge, mail fraud, and trafficking in counterfeit goods. Sentencing for Xu is scheduled for March 12, 2020. (DMD, FBI, HSI, USPIS, CBP)

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

<https://www.justice.gov/usao-md/pr/chinese-national-pleads-guilty-federal-mail-fraud-and-conspiracy-charges-trafficking>

- ***State Department Employee and Spouse Indicted for Trafficking In Counterfeit Goods from U.S. Embassy.*** On December 18, 2019, a U.S. Department of State employee, Gene Leroy Thompson Jr., 53, and his spouse, Guojiao "Becky" Zhang, 39, were arrested for their role in an international conspiracy to traffic in counterfeit goods from the U.S. Embassy in Seoul, Korea. The couple were indicted by a grand jury in Eugene, Oregon, and charged with conspiracy and trafficking in counterfeit goods. According to the indictment and other court documents, from September 2017 through December 2019, Thompson Jr. and Zhang allegedly sold counterfeit Vera Bradley handbags from e-commerce accounts to persons

throughout the United States. Thompson Jr., who is employed by the U.S. Department of State as an Information Programs Officer at the U.S. Embassy in Seoul, Korea, used his State Department computer to create accounts on a variety of e-commerce platforms, all from within a secure space within the Embassy. Once Thompson Jr. created these accounts, Zhang took primary responsibility for operating the accounts, communicating with customers, and procuring merchandise to be stored in the District of Oregon. Thompson Jr. and Zhang also directed a co-conspirator in the District of Oregon to ship items to purchasers across the United States. (DOR, OIA, HRSP, CCIPS, USPIS)

<https://www.justice.gov/opa/pr/state-department-employee-and-spouse-indicted-trafficking-counterfeit-goods-us-embassy>

- ***Individual Indicted and Arrested For Smuggling Counterfeit and Misbranded Products from China.*** On December 12, 2019, a federal grand jury in the District of Puerto Rico returned an indictment against Sameer Bani, charging him with seven counts, including: smuggling, receipt in interstate commerce and proffered delivery of misbranded articles, possession with intent to distribute a controlled substance, trafficking in counterfeit goods, and international money laundering. Bani was arrested on December 16, and was granted bail while he awaits trial. The indictment alleges that on April 2018, Bani fraudulently and knowingly received, concealed, sold, and facilitated the transportation, concealment, and sale of merchandise contrary to law after importation, namely drugs imported from China that were misbranded in violation of Title 21, USC, Section 352(a), in that the drugs' respective labeling was false or misleading for failure to properly declare active pharmaceutical ingredients, knowing that such merchandise had been imported and brought into the United States contrary to law. The merchandise that the defendant illegally imported from China included weight loss and male enhancement products containing undeclared substances. The indictment further alleges that Bani, aided and abetted by others, did intentionally traffic in goods and knowingly used a counterfeit mark on and in connection with such goods. Bani made three payments for the misbranded products via electronic transmissions of funds, each payment constituting a separate and distinct international money laundering violation. (DPR, FDA, HSI)
<https://www.justice.gov/usao-pr/pr/individual-indicted-and-arrested-smuggling-counterfeit-and-misbranded-products-china>
- ***East Bay Men Charged With Selling Counterfeit Pills Laced With Fentanyl.*** On December 12, 2019, Jose Ricardo Loza and Randy Lee Walker were arrested and charged with distributing fentanyl and heroin. At the time of Loza's arrest, law enforcement agents found more than 2,000 counterfeit oxycodone pills hidden in hallowed out compartments of his furniture. An affidavit filed in the case alleges that Loza sold blue counterfeit oxycodone pills laced with Fentanyl. According to the affidavit, Loza sold to a third party 50 Fentanyl-laced pills on August 22, 2019, when at the auto body shop where he works in Pittsburg, Calif. Loza allegedly did not initially have enough pills to sell, so he texted Walker, who arrived with more Fentanyl-laced pills. During the transaction, Loza allegedly warned the customer to be careful because he (Loza) gave the same pills to a mutual friend who overdosed and died. The affidavit also alleges that on November 22, 2019, Loza sold 500 more counterfeit pills to an undercover officer and told the officer that he had 10,000 more of

the same pills for sale and, on September 10, 2019, Loza sold two ounces of heroin. (NDCA, USPIS)

<https://www.justice.gov/usao-ndca/pr/east-bay-men-charged-selling-counterfeit-pills-laced-fentanyl>

- ***Large-Scale Counterfeit Fentanyl Pill Dealer Sentenced to 30 Years in Prison.*** On October 31, 2019, Dion Gregory Fisher, 33, formerly of Seminole, 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>

- ***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 purported sports organizations, 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>
- ***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>

TRADE SECRET THEFT (18 U.S.C. § 1832)

- ***Former Uber Executive Sentenced To 18 Months In Jail For Trade Secret Theft From Google.*** On August 4, 2020, Anthony Scott Levandowski pleaded guilty and was sentenced to 18 months in prison for trade secret theft related to Google’s self-driving car program. Levandowski was also ordered to pay a \$95,000 fine and \$756,499.22 in restitution. As part of a plea agreement, Levandowski, 40, of Marin County, California, pleaded guilty to one of the 33 counts of trade secrets theft originally filed against him in 2019. In pleading guilty, Levandowski admitted that, from 2009 to 2016, he worked in Google’s self-driving car program, known then as Project Chauffeur. Levandowski admitted that, during this time, he was aware his employment agreement required him to keep Google’s valuable non-public information confidential. He also admitted knowing that the non-public information related to Project Chauffeur was sensitive and subject to the confidentiality requirement. Levandowski admitted that, in 2016, as he was preparing to leave Google, he downloaded thousands of Project Chauffeur files onto his personal laptop. He also admitted downloading a variety of files from a corporate Google Drive repository. Among these files was an internal tracking document entitled “Chauffeur TL weekly updates – Q4 2015.” The update contained a variety of confidential details regarding the status of Project Chauffeur. Levandowski admitted he downloaded this file with the intent to use it to benefit himself and Uber Technologies, Inc. As part of his plea agreement, Levandowski admitted that the stolen document was Google’s trade secret, and that a reasonable estimate of the loss attributable to his theft was up to \$1,500,000. As part of the plea agreement, prosecutors agreed to dismiss the remaining 32 charges against Levandowski. However, prosecutors presented evidence to the court of Levandowski’s broader course of conduct, including downloading thousands of files from an internal, password-protected Google server. (NDCA, FBI)
<https://www.justice.gov/usao-ndca/pr/former-uber-self-driving-car-executive-indicted-alleged-theft-trade-secrets-google>
<https://www.justice.gov/usao-ndca/pr/former-uber-self-driving-car-executive-signs-agreement-plead-guilty-theft-trade-secrets>
<https://www.justice.gov/usao-ndca/pr/former-uber-executive-sentenced-18-months-jail-trade-secret-theft-google>

- Researcher Pleaded Guilty to Conspiring to Steal Scientific Trade Secrets from Ohio Children’s Hospital to Sell in China.*** On July 30, 2020, former Ohio woman Li Chen, 46, pleaded guilty to conspiring to steal scientific trade secrets and conspiring to commit wire fraud concerning the research, identification, and treatment of a range of pediatric medical conditions. Chen admitted to stealing scientific trade secrets related to exosomes and exosome isolation from Nationwide Children’s Hospital’s Research Institute for her own personal financial gain. Chen and her husband, alleged co-conspirator Yu Zhou, 49, worked in separate medical research labs at the Research Institute for 10 years each (Zhou from 2007 until 2017 and Chen from 2008 until 2018). They are charged with conspiring to steal at least five trade secrets related to exosome research from Nationwide Children’s Hospital. According to her plea agreement, Chen conspired to steal and then monetize one of the trade secrets by creating and selling exosome “isolation kits.” Chen admitted to starting a company in China to sell the kits. Chen received benefits from the Chinese government, including the State Administration of Foreign Expert Affairs and the National Natural Science Foundation of China. Chen also applied to multiple Chinese government talent plans, a method used by China to transfer foreign research and technology to the Chinese government. As part of her plea, Chen has agreed to forfeit approximately \$1.4 million, 500,000 shares of common stock of Avalon GloboCare Corp., and 400 shares of common stock of GenExosome Technologies Inc. Chen and Zhou were arrested in California in July 2019 and their case was unsealed in August 2019 when they appeared in federal court in Columbus. (SDOH, NSD, FBI)

<https://www.justice.gov/opa/pr/couple-who-worked-local-research-institute-10-years-charged-stealing-trade-secrets-wire-fraud>

<https://www.justice.gov/opa/pr/researcher-pleaded-guilty-conspiring-steal-scientific-trade-secrets-ohio-children-s-hospital>
- Two Chinese Hackers Working with the Ministry of State Security Charged with Global Computer Intrusion Campaign Targeting Intellectual Property and Confidential Business Information, Including COVID-19 Research.*** On July 7, 2020, a federal grand jury in Washington, returned an 11-count indictment charging Li Xiaoyu, 34, and Dong Jiazhi, 33, both nationals and residents of the People’s Republic of China (China), with hacking into the computer systems of hundreds of victim companies, governments, non-governmental organizations, and individual dissidents, clergy, and democratic and human rights activists in the United States and abroad, including Hong Kong and China. The defendants in some instances acted for their own personal financial gain, and in others for the benefit of the MSS or other Chinese government agencies. The hackers stole terabytes of data which comprised a sophisticated and prolific threat to U.S. networks. The indictment alleges that Xiaoyu and Jiazhi, who were trained in computer applications technologies at the same Chinese university, conducted a hacking campaign lasting more than ten years to the present, targeting companies in countries with high technology industries. Targeted industries included, among others, high tech manufacturing; medical device, civil, and industrial engineering; business, educational, and gaming software; solar energy; pharmaceuticals; defense. More recently, the defendants probed for vulnerabilities in computer networks of companies developing COVID-19 vaccines, testing technology, and treatments. (EDWA, NSD, FBI)

<https://www.justice.gov/opa/pr/two-chinese-hackers-working-ministry-state-security-charged-global-computer-intrusion>

- ***Man Sentenced To Federal Prison For Stealing Trade Secrets And Online Extortion Of Pensacola Company.*** On June 24, 2020, Timothy J. Smith, 43, of Mobile, Alabama, was sentenced to 18 months' imprisonment on charges of theft of trade secrets and interstate extortionate communications. On December 3, 2019, Smith was found guilty of theft of trade secrets and interstate extortionate communications. During trial, the jury received evidence that Smith was a software engineer in Mobile, Alabama. StrikeLines, the victim in the case, is a Pensacola based company that uses commercial side scan sonar equipment to locate fishing reefs in the Gulf of Mexico and sells the coordinates using an interactive map on their website. StrikeLines also provides public coordinates for free to those interested in finding valuable spots to fish in the Gulf. The evidence showed that, between April and November 2018, Smith obtained private information valued at hundreds of thousands of dollars from the local company by using sophisticated cyber techniques in order to gain the trade secrets and decrypt information of the company from its website. After hearing how Smith stole private sonar coordinates of reefs, the jury received testimony and exhibits showing how Smith then tried to extort the two owners of StrikeLines for more valuable fishing coordinates. During this entire time frame, the victims did not even know who Smith was or why he was trying to harm them. (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>

<https://www.justice.gov/usao-ndfl/pr/man-sentenced-federal-prison-stealing-trade-secrets-and-online-extortion-pensacola>

- ***Niskayuna Man Pleads Guilty to Stealing Trade Secrets from GE.*** On May 28, 2020, Yang Sui, age 42, of Niskayuna, New York, pled guilty to stealing trade secrets belonging to the General Electric Company. As part of his guilty plea, Sui admitted that between 2015 and 2017, he stole multiple electronic files pertaining to the research, design, and manufacture of silicon carbide MOSFETs (metal-oxide semiconductor field-effect transistors), which are used in a variety of GE's parts and products, including aviation equipment and wind turbines. (NDNY, FBI, NSD)

<https://www.justice.gov/usao-ndny/pr/niskayuna-man-pleads-guilty-stealing-trade-secrets-ge>

- ***Defendant sentenced to prison for stealing aircraft trade secrets now faces charges for lying.*** On May 21, 2020, Craig German, 59, of Kernersville, N.C., who took part in a conspiracy to steal design information from aircraft companies, was indicted by a grand jury on charges of Perjury and False Statements to a Government Agency. German faces additional prison time after his indictment for lying to the court while being sentenced and for lying to the FBI, which could add up to five years to German's current sentence of 70 months in federal prison, handed down in February after his guilty plea on a charge of Conspiracy to Steal Trade Secrets. According to court documents and testimony, German admitted that he and his co-conspirators agreed to steal trade secrets from aircraft companies

in order to assist a competitor company in developing their own anti-ice aircraft technology. After pleading guilty, German voluntarily met with the FBI in an effort to cooperate, but falsely denied copying, taking, or otherwise transferring numerous trade secret documents. At the sentencing hearing, testimony showed that German had, in fact, copied the trade secret documents onto a removable USB drive. German elected to testify at the hearing and falsely testified that he was directed by a supervisor to copy and move the trade secret files. (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-sentenced-prison-stealing-aircraft-trade-secrets-now-faces-charges-lying>

- ***Chinese National Sentenced for Stealing Trade Secrets Worth \$1 Billion.*** On February 27, 2020, Hongjin Tan, a Chinese National and U.S. legal permanent resident, was sentenced to 24 months in federal prison and ordered to pay \$150,000 in restitution for stealing proprietary information worth more than \$1 billion from his employer, a U.S. petroleum company. In November 2019, Tan pleaded guilty to theft of a trade secret, unauthorized transmission of a trade secret, and unauthorized possession of a trade secret. Tan was employed as an associate scientist for the U.S. petroleum company starting in June 2017 until his arrest in December 2018. The defendant was assigned to work within a group at the company with the goal of developing next generation battery technologies for stationary energy storage, specifically flow batteries. In his plea agreement, Tan admitted to intentionally copying and downloading research and development materials without authorization from his employer. On Dec. 11, 2018, Tan used a thumb drive to copy hundreds of files. He subsequently turned in his resignation and was escorted from the premises on December 12, 2018. Later that day, he returned the thumb drive, claiming that he had forgotten to do so before leaving his employer's property. Upon examination, it was discovered that there was unallocated space on the thumb drive, indicating five documents had previously been deleted. Investigators with the FBI searched Tan's premises and found an external hard drive. They discovered that the same five missing files from the thumb drive had been downloaded to the hard drive. Tan maintained the files on a hard drive so he could access the data at a later date. Further accessing the material would have been financially advantageous for Tan but caused significant financial damage to his Oklahoma employer. Sentencing is set for February 12, 2020. (NDOK, CCIPS, CES, FBI)
<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>
<https://www.justice.gov/opa/pr/chinese-national-sentenced-stealing-trade-secrets-worth-1-billion>
- ***American Businessman Who Ran Houston-Based Subsidiary of Chinese Company Sentenced to Prison for Theft of Trade Secrets.*** On February 10, 2020, Shan Shi, 55, the head of a Houston-based company that was the subsidiary of a Chinese company that developed stolen trade secrets was sentenced to sixteen months in prison and ordered to forfeit \$342,424.96. Shi, of Houston, Texas, had previously been found guilty by a jury on July 29, 2019, of Conspiracy to Steal 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)

<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>

<https://www.justice.gov/usao-dc/pr/american-businessman-who-ran-houston-based-subsiary-chinese-company-sentenced-prison>

- ***Guilty Plea and Sentence for Former GE Engineers who Conspired to Steal Trade Secrets.***

On December 10, 2019 Jean Patrice Delia, age 44, of Montreal, Canada, pled guilty to conspiring to steal trade secrets from the General Electric Company (GE). As part of his plea, Delia, a former engineer with GE, admitted that he conspired with his business partner and co-defendant, Miguel Sernas, 40, of Mexico City, Mexico, to compete against GE using trade secrets Delia stole from GE while employed by GE in Schenectady, New York. Delia admitted that he and Sernas, 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. Sernas pled guilty to conspiring to steal trade secrets from GE on May 15, 2019, and was sentenced on December 10, 2019 to time served (approximately 12 months in jail) and ordered to pay \$1.4 million in restitution. (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>

<https://www.justice.gov/usao-ndny/pr/former-ge-engineer-sentenced-stealing-trade-secrets>

<https://www.justice.gov/usao-ndny/pr/former-ge-engineer-pleads-guilty-conspiring-steal-trade-secrets-0>

- ***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. (NDIL, 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 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>

ECONOMIC ESPIONAGE (18 U.S.C. § 1831)

- ***Chinese Citizen Sentenced For Economic Espionage, Theft Of Trade Secrets, And Conspiracy.*** On August 31, 2020, Hao Zhang, 41, of China, was sentenced to eighteen months in prison and ordered to pay \$476,835 in restitution following his conviction at trial on charges of economic espionage, theft of trade secrets, and conspiring to commit both offenses. On May 16, 2015, Zhang was arrested upon entry into the United States from the People's Republic of China (PRC). The 32-count indictment, which had previously been sealed, charged six individuals with economic espionage and theft of trade secrets for their roles in a long-running effort to obtain U.S. trade secrets for the benefit of universities and companies controlled by the PRC government. Evidence submitted during the course of the four-day bench trial demonstrated that, from 2010 to 2015, Zhang conspired to and did steal trade secrets from two companies: Avago, a designer, developer, and global supplier of a broad range of analog, digital, mixed signal and optoelectronics components and subsystems with a focus in semiconductor design and processing, headquartered in San Jose, California, and Singapore; and Skyworks, an innovator of high performance analog semiconductors headquartered in Woburn, Massachusetts. It was found that Zhang intended to steal the trade secrets for the benefit of the People's Republic of China. According evidence presented during the bench trial, Zhang stole trade secrets relating the performance of wireless devices. Evidence at trial further showed that, in October 2006, Zhang and his co-conspirators started a business in China to compete with Avago and Skyworks. One of Zhang's co-conspirators, Wei Pang, started working at Avago at the same time. Zhang and Pang illicitly shared trade secrets with each other and with co-conspirators in China while they worked for the U.S. companies. Zhang and Pang then connected their venture to Tianjin University (TJU) in China, an instrumentality of the Chinese government. By 2009, they left their work in the United States to relocate to China, following a plan laid out by TJU officials to form another company, Novana, in the Cayman Islands. During that time, Zhang obtained patents in his own name using trade secret information he knew was stolen from Avago. Additional evidence demonstrated that Zhang engaged in economic espionage to help TJU and Zhang's Chinese company unfairly compete in the multi-billion dollar global market for cell phone RF filters. Zhang's sentencing hearing is scheduled for Aug. 31, 2020. (NDCA, NSD, FBI) <http://www.justice.gov/opa/pr/chinese-professors-among-six-defendants-charged-economic-espionage-and-theft-trade-secrets>

<https://www.justice.gov/opa/pr/chinese-citizen-convicted-economic-espionage-theft-trade-secrets-and-conspiracy>

<https://www.justice.gov/usao-ndca/pr/chinese-citizen-sentenced-economic-espionage-theft-trade-secrets-and-conspiracy>

- ***Chinese military personnel charged with computer fraud, economic espionage and wire fraud for hacking into credit reporting agency Equifax.*** On February 10, 2020, a federal grand jury returned an indictment charging four members of the Chinese People's Liberation Army (PLA) with hacking into the computer systems of the credit reporting agency Equifax and stealing Americans' personal data and Equifax's valuable trade secrets. The nine-count indictment alleges that Wu Zhiyong, Wang Qian, Xu Ke, and Liu Lei were members of the PLA's 54th Research Institute, a component of the Chinese military. They allegedly conspired with each other to hack into Equifax's computer networks, maintain unauthorized access to those computers, and steal sensitive, personally identifiable information of approximately 145 million American victims. According to the charges and other information presented in court, the defendants exploited a vulnerability in the Apache Struts Web Framework software used by Equifax's online dispute portal. They used this access to conduct reconnaissance of Equifax's online dispute portal and to obtain login credentials that could be used to further navigate Equifax's network. The defendants spent several weeks running queries to identify Equifax's database structure and searching for sensitive, personally identifiable information within Equifax's system. Once they accessed files of interest, the conspirators then stored the stolen information in temporary output files, compressed and divided the files, and ultimately were able to download and exfiltrate the data from Equifax's network to computers outside the United States. In total, the attackers ran approximately 9,000 queries on Equifax's system, obtaining names, birth dates and social security numbers for nearly half of all American citizens. The indictment also charges the defendants with stealing trade secret information, namely Equifax's data compilations and database designs. The defendants took steps to evade detection throughout the intrusion, as alleged in the indictment. They routed traffic through approximately 34 servers located in nearly 20 countries to obfuscate their true location, used encrypted communication channels within Equifax's network to blend in with normal network activity, and deleted compressed files and wiped log files on a daily basis in an effort to eliminate records of their activity. The defendants are charged with three counts of conspiracy to commit computer fraud, conspiracy to commit economic espionage, and conspiracy to commit wire fraud, as well as two counts of unauthorized access and intentional damage to a protected computer, one count of economic espionage, and three counts of wire fraud. (NDGA, NSD, CCIPS, FBI, OIA) <https://www.justice.gov/usao-ndga/pr/chinese-military-personnel-charged-computer-fraud-economic-espionage-and-wire-fraud> (Under Seal)
- ***Chinese National Who Worked at Monsanto Indicted on Economic Espionage Charges.*** On November 21, 2019, Haitao Xiang, 42, formerly of Chesterfield, Missouri, was indicted by a federal grand jury on one count of conspiracy to commit economic espionage, three counts of economic espionage, one count of conspiracy to commit theft of trade secrets and three counts of theft of trade secrets. According to the indictment, Xiang was employed by Monsanto and its subsidiary, The Climate Corporation, from 2008 to 2017, where he worked

as an imaging scientist. Monsanto and The Climate Corporation developed a digital, on-line farming software platform that was used by farmers to collect, store, and visualize critical agricultural field data and increase and improve agricultural productivity for farmers. A critical component to the platform was a proprietary predictive algorithm referred to as the Nutrient Optimizer. Monsanto and The Climate Corporation considered the Nutrient Optimizer a valuable trade secret and their intellectual property. In June 2017, the day after leaving employment with Monsanto and The Climate Corporation, Xiang bought a one-way plane ticket to China. Before he could board his flight, Xiang was intercepted at the airport by federal officials who seized copies of the Nutrient Optimizer. (EDMO, NSD-CES, FBI) <https://www.justice.gov/opa/pr/chinese-national-who-worked-monsanto-indicted-economic-espionage-charges>

- ***PRC State-Owned Company, Taiwan Company, and Three Individuals Charged With Economic Espionage.*** On November 1, 2018, an indictment 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, 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)
<https://www.justice.gov/opa/pr/prc-state-owned-company-taiwan-company-and-three-individuals-charged-economic-espionage>

Department of Justice Antitrust Division

Business Reviews

The Antitrust Division issued a number of business review letters relating to IP issues over the last year, including in response to the COVID-19 pandemic as discussed further below. The Department’s business review procedure (28 CFR § 50.6) allows parties to ask the Antitrust Division for its enforcement intentions with respect to proposed conduct. This process provides transparency on the Department’s enforcement policies and considerations to the parties involved as well as to the business community.

Outreach

To study how intellectual property rights, licensing, and collaboration promote competition and innovation in the life science sector, in September 2020, the Division held a joint workshop with the U.S. Patent & Trademark Office. The agencies invited a variety of stakeholders from government, industry, research laboratories, and academia, who discussed the importance of intellectual property protection and procompetitive collaboration to innovation in life sciences.¹¹ This workshop will help to inform the Antitrust Division’s policy development in this area in the future.

COVID-19

The Division has supported robust and balanced intellectual property protection during the COVID-19 pandemic. For example, the Division worked with other federal agencies to provide guidance on international efforts aimed at facilitating the licensing of intellectual property related to COVID-19. The Division also announced an expedited business review process for proposed conduct related to the pandemic. As part of this effort, the Division issued a favorable business

¹¹ Promoting Innovation in the Life Science Sector and Supporting Pro-Competitive Collaborations: The Role of Intellectual Property, <https://www.justice.gov/atr/promoting-innovation-life-science-sector-and-supporting-pro-competitive-collaborations-role>

review letter to several pharmaceutical companies planning to share information about their monoclonal antibody treatments targeting COVID-19.¹² The Antitrust Division's Life Science Workshop, which it hosted jointly with the U.S. Patent & Trademark Office, also discussed the importance of intellectual property protection and procompetitive collaboration to innovation during the pandemic.¹³

¹² Letter from the Hon. Makan Delrahim, Ass't Att'y Gen., Antitrust Div., U.S. Dep't of Justice, to Thomas O. Barnett, Eli Lilly and Company, AbCellera Biologics, Amgen, AstraZeneca, Genentech, and GSK (July 23, 2020).

¹³ Promoting Innovation in the Life Science Sector and Supporting Pro-Competitive Collaborations: The Role of Intellectual Property, <https://www.justice.gov/atr/promoting-innovation-life-science-sector-and-supporting-pro-competitive-collaborations-role>

DEPARTMENT OF STATE

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State Department Appendix for Annual Report October 1, 2019 through September 30, 2020

Bilateral and Multilateral Engagement

During the period October 1, 2019 through September 30, 2020, the Department of State continued to make intellectual property (IP) rights a priority in policy dialogues with host governments and multilateral institutions through its Washington, DC headquarters and U.S. diplomatic posts around the world. The Department of State focuses on representing the interests of U.S. IP rights holders; deterring access to counterfeit and pirated goods that can harm consumers; and highlighting the integral role that IP rights protection plays in supporting creativity, innovation, and economic growth. 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 forced technology transfer, online piracy and counterfeit goods production and sale. With direction and support from ambassadors and deputy chiefs of mission, economic sections at embassies typically lead such engagement, along with support from U.S. Patent and Trademark Office (USPTO) IP Attachés and Department of State-funded Department of Justice (DOJ) International Computer Hacking and Intellectual Property (ICHIP) advisors.

As the COVID-19 pandemic struck, limiting in-person work and travel and forcing reduced staffing at overseas posts, the Department of State quickly shifted to telework. To limit all but the most critical in-person activities, the Department of State adopted widespread use of videoconferencing and other technologies, enabling the Department of State to continue crucial bilateral dialogues, create and participate in a broad range of IP-related events and activities, discuss IP issues with interagency partners, and advance U.S. IP priorities overseas.

A sampling of bilateral engagement includes:

- **Science and Technology Agreements (STAs):** The United States finalized STAs with Finland, Hungary, Indonesia, North Macedonia, Slovenia, and Spain. All STAs include an IP rights annex.
- **Free Trade Agreements (FTAs):** The United States began formal FTA negotiations via teleconferences with the United Kingdom in May 2020 and with Kenya in July 2020, both of which are expected to include detailed IP chapters.
- **ICHIP:** The Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL) 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. New ICHIP advisors were approved and selected to be assigned to positions in Bucharest, Romania; Kuala Lumpur, Malaysia; and São Paulo, Brazil. ICHIPs were selected for

newly-added positions in Zagreb, Croatia; Panama City, Panama; and Addis Ababa, Ethiopia.

The Department of State raises IP awareness internationally through public diplomacy events, including marking World Intellectual Property Day in countries around the world. This year, the White House issued a proclamation recognizing April 26, 2020 as World Intellectual Property Day in order to celebrate the "benefits of intellectual property to our economy and country." The proclamation highlighted the links between strong IP protection and prosperity and public health and safety. In support of this effort, the Department of State's Diplomatic Note blog featured an essay on the importance of IP to health and safety. (<https://www.state.gov/world-ip-day-april-26-2020%E2%80%AF%E2%80%AF/>) Embassies also shared a video on the World Intellectual Property Organization's (WIPO) theme of "Innovate for a Green Future," ran essay and/or video contests, and posted ambassadorial statements on IP's importance. These activities were especially important to highlight as malicious actors find new opportunities to exploit the coronavirus pandemic through counterfeit and pirated goods marketed online. These actors target vulnerable populations by promoting fraudulent, ineffective, or even harmful treatments and "cures." INL also supports World IP Day by providing training and technical assistance to foreign enforcement partners to help them strengthen and enforce IP laws that ensure the prosperity of all people around the world.

Recognizing the critical role medical countermeasures play in controlling and ending a public health emergency, the U.S. government remains committed to working closely with partners overseas to respond to and mitigate the impact of this devastating pandemic. The U.S. government is undertaking significant investments and establishing unprecedented partnerships with industry and innovators to develop and appropriately scale the manufacture of safe and effective COVID-19 vaccines and therapeutics as quickly and as safely as possible.

Intellectual property rights (IPR) enforcement is essential for preserving the innovation incentives necessary for the rapid development of medical countermeasures to fight COVID-19 and future disease threats, to protect the integrity of medical supply chains, and to ensure the quality of personal protective equipment. We also applaud the private sector's work with governments to facilitate global access to vaccines and therapeutics, and we encourage these types of voluntary, non-exclusive, and innovative partnerships.

International Organizations

The Department of State participates in U.S. delegations to multilateral forums and international organizations with global intellectual property rights protection implications 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) Task Force on Countering Illicit Trade, WIPO, the World Customs Organization (WCO) Enforcement Committee, the Intellectual Property Rights Experts Group (IPEG) of the Asia-Pacific Economic Cooperation (APEC) Forum, and various other United Nations bodies.

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 Bureau of Economic and Business Affairs (EB) receives input from

missions overseas, regional and functional bureaus, and interagency partners on the range of U.S. government technology transfer and capacity building activities around the world. EB submits the Article 66.2 Report to the WTO TRIPS Council annually. 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 DOJ prosecutors posted at U.S. missions to strengthen enforcement coordination and deliver capacity building, Global Cyber Forensics Advisors (GCFAs), tasked to deliver law enforcement investigative training in digital forensics, and long-term federal agent mentors. The GLEN is supported by INL funds, and INL manages the GLEN with DOJ. The GLEN works with foreign countries to strengthen IPR and related cybercrime cooperation and designs training to lead to more effective investigation and prosecution of IPR and related cybercrime offense. INL consults closely with EB 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 foreign training and technical assistance designed to enhance the capacity of foreign justice sector personnel to enforce intellectual property rights; (3) assist in developing or strengthening foreign justice sector 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. GCFA training advances similar goals and objectives in the area of digital forensics training for foreign partner investigators. The long-term federal agent mentors are deployed to supplement the work of the ICHIPs and GCFAs through sustained hands-on mentoring.

Building on early successes, the Department of State has worked closely with the Justice Department to expand the ICHIP program into a global network. The GLEN presently deploys 12 ICHIPs, 11 supported by INL funds (one is DOJ/Office of International Affairs-funded), who work collaboratively within and across their regions, stationed in Panama City, Panama; Zagreb, Croatia; Addis Ababa, Ethiopia; The Hague, Netherlands; Hong Kong, China SAR; São Paulo Brazil; Bucharest, Romania; Abuja, Nigeria; Bangkok, Thailand; and two ICHIPs deployed out of Washington, D.C., who specifically address dark market/cryptocurrency and online consumer protection-related aspects of cybercrime and IP theft.

INL also provides funding to the ICE-HSI-led National Intellectual Property Rights Coordination Center (IPR) Center and the United States Patent and Trademark Office (USPTO) to deliver foreign law enforcement training and technical assistance to complement the work of the GLEN. ICE-HSI and USPTO-delivered workshops ensure that patent and trademark agencies and foreign border and customs agencies receive IP enforcement capacity building tailored to their missions. ICE-HSI and USPTO programming is closely coordinated with the work of the

GLEN. INL funds also support ICE-HSI providing U.S. trainers to participate in INTERPOL-managed IP workshops around the world.

Investment Climate Statements

Every year, economic officers at U.S. embassies and diplomatic missions prepare reports analyzing over 170 foreign markets to help U.S. companies make informed business decisions regarding overseas investments and operations. Each Investment Climate Statement focuses on an individual market and includes a chapter on intellectual property rights. These reports are also included in the Department of Commerce's Country Commercial Guides.

Contributions to the Office of the U.S. Trade Representative's IPR-related Reports

EB provided extensive support to the Office of the U.S. Trade Representative (USTR) and the interagency team for the 2020 Special 301 Report process. At EB's request, posts around the world submitted detailed analyses on IPR protection and enforcement conditions as part of the annual review. The bureau obtained input from several posts that offered significant contributions to USTR's Notorious Markets Report. Post insights into "on-the-ground" events deepened U.S. departments' and agencies' knowledge of IP protections in host countries.

EB, 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's Office of Intellectual Property Enforcement helps develop action plans with benchmarks for each country that has been on the Special 301 Report's Priority Watch List for at least one year. The action plans aim to encourage progress on high-priority IP concerns and identify, where possible, appropriate ways in which the U.S. government can assist.

Capacity Building and Training

The Department of State, using foreign assistance anti-crime funds managed by 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. The Department of State works with other agencies to prioritize assistance to developing countries that are named in USTR's Special 301 Report as countries of concern.

Examples of training successes include:

- The South American regional ICHIP advisor trained 80 Brazilian state and federal police, prosecutors, customs officers, and regulatory officials on best practices in the investigation and prosecution of complex trademark infringement crimes at physical markets. The interagency group attending the program was created by the ICHIP to increase cooperation on these complex investigations. Under the ICHIP's mentorship since the inception of the

program, the group had significant operational successes, including seizing approximately 3,842 tons worth of counterfeit goods worth over \$300 million USD, and a recent seizure of 1,100 pirate internet protocol television (IPTV) boxes from 27 stores at Santa Efigênia mall in São Paulo. The IPTV boxes contained pirated films and series as well as applications that facilitate illicit streaming of premium channels. Addressing the distribution of these boxes is a top priority for the U.S. private sector, and this raid marked the first time the ICHIP-mentored interagency group coordinated a seizure of these boxes with U.S. copyright holders.

- ICHIP Hong Kong is working with the U.S. Embassy in Hanoi to set up e-consultations with Vietnamese Supreme People’s Court (SPC) staff on the drafting of a “Judicial Resolution” to guide trial court judges, prosecutors and defense attorneys on the application of seminal 2018 amendments to the nation’s IPR criminal statutes. ICHIP Hong Kong would like to organize virtual consultations by U.S. subject matter experts from DOJ-CCIPS and other agencies, such as USPTO and the Copyright Office.
- The ICHIP for global health and public safety mentored 15 prosecutors in Barbados on best practices for seizing a U.S.-based fraudulent COVID-19 website. The ICHIP presented strategies for approaching registrars and other providers successfully. He also walked through the various open source tools prosecutors can use to begin an investigation of a target site and identify the registrar. The ICHIP also stressed the importance of using U.S.-promoted tools for international cooperation, such as the G7 24-7 network, to secure preservation of valuable domain and account information from foreign providers in the early stage of these investigations. The Chief of the Department of Public Prosecutions in Barbados appreciated the presentation and said the presentation would help her colleagues prepare to investigate fraudulent COVID-19 websites.

In addition, the COVID-19 pandemic drove extraordinary growth in online activity. This has provided a key lifeline to health, educational, and social services, but it has also increased vulnerabilities among private citizens, corporations, and government entities. While the COVID-19 restrictions have created some operational obstacles, the rise in traditional and unique cybercrimes brought the demand for U.S. assistance in these areas to the forefront. In spite of the challenges presented by the global response to the COVID pandemic, particularly on travel and face-to-face mentoring, ICHIPS continued an ambitious schedule with dozens of virtual trainings involving officials from 54 countries. ICHIPS conducted 21 trainings on cybercrime issues related directly to COVID-19 that were aimed at facilitating foreign law enforcement's ability to detect, prevent, and combat such crime. ICHIPS also participated as presenters and subject matter experts in support of other U.S. government capacity building efforts and diplomatic bilateral discussions with partner governments.

Examples of ICHIP COVID-19-related trainings include:

- An ICHIP-led webinar delivered to 186 leading members of the private sector in Malaysia covered the importance of law enforcement/private sector cooperation and best practices for companies to protect themselves against cybercrime. It also provided an overview of the current trends in COVID-19-related cybercrime, such as healthcare organizations

being targeted for ransomware, increased numbers of COVID-19 related domains used for cybercrime, internet fraud, and video-teleconferencing hijacking.

- An ICHIP co-hosted a webinar for 20 Romanian law enforcement officers on investigating ransomware attacks during the COVID-19 pandemic, a timely topic because Romania, like the rest of the world, was being hit with a dramatic increase in cyber-attacks, particularly those that appear to be launched by transnational criminal organizations.
- ICHIPs partnered with the U.S. Patent and Trademark Office and the Association of Southeast Asian Nations Secretariat to present the first webinar of their COVID-19-related criminal enforcement series.
- ICHIPS led a virtual workshop and mentoring session for a Pharma Crime Working Group with representatives from Ghana, Botswana, Zambia, Kenya, Namibia, Rwanda, Uganda, Nigeria, Liberia, and the Gambia that focused on taking down fraudulent COVID-19 websites, including what to include in take-down requests to internet service providers

On a global level, the Department of State's nearly 1,500 economic officers, together with 12 USPTO 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 Belgium, Czech Republic, Denmark, Estonia, France, Greece, Hungary, Italy, Lithuania, Malta, Poland, Romania, Spain, Sweden, and the United Kingdom. These programs also included representatives of the European Parliament, European Commission, and European Union Intellectual Property Office. The Department also gave presentations to IP officials and private sector stakeholders from China, Bulgaria, and Ukraine, among others.

At an IP conference targeted to Latin American countries that the International AntiCounterfeiting Coalition (IACC) hosted, the Department of State presented and engaged with several key IP officials from throughout Latin America. Through the National IPR Coordination Center in Alexandria, Virginia, the Department of State engaged with Colombian, Egyptian, and Saudi enforcement officials, and participated in a Digital Piracy Summit. These activities, plus meetings with numerous other U.S. business associations and companies, enabled the Department of State to understand better key IP enforcement concerns around the world and share best practices with international IP professionals.

Representatives of the Department of State accompanied the Intellectual Property Enforcement Coordinator (IPEC) on several international visits, including to the Middle East, North Africa, East Asia and Europe. The Department of State also played an integral part in the interagency process to implement appropriately the Presidential Memorandum of April 3, 2019, on Combating Trafficking in Counterfeit and Pirated Goods.

EB organized a webinar with the U.S. Embassy in Manila that highlighted U.S. government and private sector efforts to combat the proliferation of counterfeit products in Southeast Asia. Over 70 participants from the Government of the Philippines, the U.S. government, and the private sector joined the event. EB presenters were joined by speakers from the ICE-HSI National IPR Coordination Center, and they shared best practices, potential areas of collaboration and global initiatives on enforcement, health, and security hazards related to counterfeit products as well as tactics for tracking down online sellers. Attendees appreciated EB's core messaging of the importance of IPR protection to safeguard the economy, protect consumers' health and safety, and cut off possible support for criminal activity.

EB, in partnership with USPTO's Global IP Academy, coordinated a two-day virtual training course on IPR for U.S. government officials. The course, which is usually held in-person at the USPTO, was held virtually because of the COVID-19 pandemic. Most participants were Foreign Service Officers preparing for onward assignments, and the training also included civil servants and locally employed staff of U.S. embassies. 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 to articulate U.S. government policy positions in bilateral discussions and in international fora.

EB also trained Foreign Service Officers and representatives from various U.S. government agencies in sessions of the Foreign Service Institute's Political-Economic and Commercial Tradecraft classes, including a virtual class because of the COVID-19 pandemic. The training gave officers and locally employed staff the latest U.S. policy perspectives on debates on international IP issues, enabling them to advocate better for U.S. rights holders overseas. In addition, Department of State representatives gave external presentations in response to requests from the public.

The Department of State participated in the U.S. Department of Commerce "STOPFakes" domestic roadshows in Newark, New Jersey, San Jose, California, and Sacramento, California. STOPFakes roadshows bring start-ups, entrepreneurs, and small- to medium-size businesses together with U.S. government 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 secret protection to their businesses. EB presented information on the role that the Department of State plays in helping U.S. companies protect their IP rights overseas and provided the attendees with points of contact in Washington and at U.S. diplomatic posts abroad. When the Department of Commerce launched STOPFakes webinars in place of in-person events during the COVID-19 pandemic, EB took the Department of State message online with a talk on IPR as a national economic security issue while sharing information about resources and cooperative efforts with other U.S. government agencies that can help U.S. firms abroad.

DEPARTMENT OF TREASURY

DEPARTMENT OF TREASURY

Department of the Treasury Appendix for FY20 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 promulgations with DHS and its components.

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 its 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, and this review may include aspects of a technology's underlying intellectual property. The Department of the Treasury published final regulations to implement FIRRMA, including the aforementioned authority, in January 2020 and the regulations became effective on February 13, 2020.

Among other things, the regulations that became effective in February extended the requirements of the pilot program (discussed below) that mandated the filing of a declaration with CFIUS for certain foreign investment transactions involving a U.S. business that produces, designs, tests, manufactures, fabricates, or develops one or more critical technologies where there is a specified connection to one or more of 27 specified industries. This mandatory notification requirement was subsequently modified on October 15, 2020. Instead of focusing on a connection to one or more specified industries, the rule is now based on whether certain U.S. Government export control authorizations would be required to export, re-export, transfer (in country), or retransfer such U.S. business's critical technology to certain transaction parties or their owners.

As discussed above, prior to the rulemaking in 2020, CFIUS had issued an interim rule in the fall of 2018 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 was in effect from November 10, 2018 through February 12, 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 a 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 those "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 2020 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.¹⁴ 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.”¹⁵

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 March 2019, China revised the measures that the United States had challenged. On June 18, 2020, the WTO panel informed the Dispute Settlement Body that it had accepted a request from the parties to suspend the dispute, in light of ongoing consultations between the parties.

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, on February 14, 2020, the United States reduced 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.

¹⁴ <https://ustr.gov/sites/default/files/enforcement/301Investigations/301%20Report%20Update.pdf>

¹⁵ <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) entered into force on July 1, 2020.

The USMCA will support mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America. It 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.¹⁶

New Trade Negotiations

On October 16, 2018, USTR notified Congress of the Administration's intent to initiate negotiations with the United Kingdom (UK). On May 5, 2020, USTR launched FTA negotiations with the UK, seeking a high-standard, comprehensive agreement in which the United States and the UK can demonstrate global leadership in IP. USTR's negotiating objectives for the U.S.-UK Trade Agreement are at:

https://ustr.gov/sites/default/files/Summary_of_U.S.-UK_Negotiating_Objectives.pdf.

On March 17, 2020, USTR notified Congress of the Administration's intent to initiate negotiations with the Republic of Kenya. On July 8, 2020, USTR formally launched trade agreement negotiations between the United States and the Republic of Kenya, seeking a comprehensive, high-standard agreement that can serve as a model for additional agreements across Africa. USTR's negotiating objectives for the U.S.-Kenya Trade Agreement are at:

https://ustr.gov/sites/default/files/Summary_of_U.S.-Kenya_Negotiating_Objectives.pdf.

Ongoing Trade Agreement Implementation and Enforcement

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.¹⁷ In FY 2020, USTR led discussions of the KORUS Committee on Medicines and Medical Devices to address Korea's amended Premium Pricing

¹⁶ 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>

¹⁷ <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>.

Policy for Global Innovative Drugs and other concerns with respect to the implementation KORUS's pharmaceutical and medical device pricing provisions.

In FY 2020, 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 IP, 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.

USTR released the 2020 Special 301 Report in April 2020. (The 2020 Report is at https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf, and the related press release is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2020/april/ustr-releases-annual-special-301-report-intellectual-property-protection-and-review-notorious>.) 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 and Saudi Arabia.

The Special 301 Report reflects the Administration's continued resolve to encourage adequate and effective IP protection and IP rights enforcement worldwide. The 2020 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 2020, an out-of-cycle review was proceeding on Malaysia and Saudi Arabia.

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 2019 Notorious Markets List was issued in April 2020. (The NML is at https://ustr.gov/sites/default/files/2019_Review_of_Notorious_Markets_for_Counterfeiting_and_Piracy.pdf, and the related press release is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2020/april/ustr-releases-annual-special-301-report-intellectual-property-protection-and-review-notorious>.) The 2019 NML includes a focus that explores the nexus between online piracy and malware. As of the close of FY2020, the 2020 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), sought to revitalize the on-going engagement with Indian government counterparts during FY 2020, 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 2020, the United States advanced its IP and Innovation agenda in the TRIPS Council by focusing on intellectual property and innovation in connection with the development of micro, small and medium enterprises (MSMEs). The United States is working with member states including, Australia, Canada, Chile, Chinese Taipei, the European Union, Japan, Hong Kong, Russia, Singapore, South Korea, Switzerland, New Zealand, and the United Kingdom, examining how IP protection and enforcement promote innovation and creativity to meet societal challenges and needs.

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 2020, including the OECD, WIPO, APEC forum and various U.N. bodies.

In the APEC Intellectual Property Experts Group (IPEG), the United States is organizing a series of three workshops, beginning in September 2020, for IPEG members on the importance of industrial design protection and how developing modern design protections across APEC economies will promote economic growth. The United States also issued a survey for IPEG members on treatment of, and approaches to, illicit streaming devices (ISDs) under domestic laws or regulations, with results used to establish a baseline of information on how such devices are dealt with in the APEC region and inform future IPEG work, including possible adoption of a best practices document or building capacity of relevant officials.

Examples of Additional Areas of IP Rights Engagement

In November 2019, the U.S.-Ukraine Trade and Investment Council meeting provided an opportunity for USTR to continue engagement with Ukraine on longstanding IP protection and enforcement issues. In addition, the meeting also provided an opportunity for USTR to announce the partial restoration of Ukraine's Generalized System of Preferences (GSP) benefits due to tangible steps Ukraine is taking to reform its system for the collective management of royalties.

In March 2020, USTR sent a delegation to South Africa to engage on USTR's open GSP review on South Africa. USTR is conducting a review of South Africa's GSP status after accepting a petition from the International Intellectual Property Alliance (IIPA) asserting that South Africa is not providing adequate copyright protection and that if South Africa enacts two pending copyright bills, it will move even further from international norms.

In October 2019, the U.S. hosted the annual U.S.-Central Asia TIFA meeting, and provided an update regarding the activities of the Central Asia IP Working Group, which serves as an important mechanism to provide sustained engagement on IP issues and help improve IP regimes in the region.

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

COPYRIGHT OFFICE

Appendix for FY20 Annual Report

This appendix summarizes some of the key activities taken by the United States Copyright Office in FY 2020.

Overview

The Copyright Office marks its 150th anniversary in 2020.

During FY2020, the Copyright Office experienced a change in leadership. In late 2019, Karyn A. Temple resigned as the 13th Register of Copyrights, having served as Acting Register for over two years and as Register from March 27, 2019, through January 3, 2020. Librarian of Congress Dr. Carla Hayden appointed Maria Strong as Acting Register, effective January 5, 2020. On September 21, 2020, Librarian of Congress Hayden announced that she appointed Shira Perlmutter as the 14th Register of Copyrights. Ms. Perlmutter stepped into her new position in late October 2020, and Ms. Strong returned to her position as Associate Register of Copyrights and Director of Policy and International Affairs.

During FY 2020, the Office continued to work on a breadth of copyright-related issues, including efforts to modernize the Office's IT operations; the implementation of Title I of the Orrin G. Hatch-Bob Goodlatte Music Modernization Act (MMA, P.L. 115-264), known as the Music Licensing Modernization Act; engagement with Canada and Mexico on the implementation of their USMCA obligations; and the introduction or completion of several policy studies. The Copyright 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 <https://www.copyright.gov/> for more information on all the Office's activities.

Reports & 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 2020, the Office completed two studies and initiated two new studies.

Section 512 Study (May 2020)

On May 21, 2020, after conducting a multi-year study, the Copyright Office published *Section 512 of Title 17*, a report considering the effectiveness of the notice-and-takedown system under section 512 of title 17 of the Copyright Act. The report, the first U.S. government analysis of section 512 since the passage of the DMCA in 1998, addresses various provisions of section 512, including safe harbor eligibility for online service providers, repeat infringer policies, knowledge requirement standards, and voluntary initiatives to improve the operation of the notice-and-takedown system.

The Office initiated this study in December 2015 upon the recommendation of the then-Register of Copyrights and upon the request of the then-Ranking Member of the House Judiciary Committee. The study consisted of an initial notice of inquiry seeking public comments on thirty questions pertaining to areas of section 512—which received over 92,000 comments—and two initial public roundtables in May 2016. A second notice of inquiry was issued in November 2016 to seek information on additional questions raised in response to the initial inquiry and during the initial roundtables. The second inquiry also invited parties to submit empirical research studies on the operation of the safe harbor provisions. The Office received seventy-nine comments and nine empirical studies. In April 2019, the Office held a final roundtable attended by over fifty individuals representing a variety of companies and organizations, which discussed domestic case law and international developments regarding liability for infringing content online.

The Report concluded that the operation of the section 512 safe harbor system today is no longer balanced in the way that Congress intended in 1998. In reaching this conclusion, the Office identified five principles that guided its analysis, including that Congress intended to incentivize cooperation between online service providers and rightsholders, but that cooperation cannot be the only answer. The Report identified areas where the implementation of section 512 differs from Congress' original intent, including specificity within takedown notices, and took note of concerns raised by user advocacy groups regarding improper notices under the system. The Report also identified areas outside of the statutory arena that both rightholders and online service providers can utilize to increase the effectiveness of section 512.

The Report did not recommend any wholesale changes to Section 512, but instead pointed to areas where Congress may wish to restore the original balance between rightholders and online service providers that Congress sought to achieve.

In response to the Report, two members of the Senate Judiciary Committee Subcommittee on Intellectual Property sent a letter to the Office on May 29, 2020, requesting responses to a series of follow-up questions about the Report and requesting technical assistance. The Office submitted its response on June 29, 2020.

As part of the ongoing work related to the study, the Office held three online discussions in September 2020 to lay the groundwork for sustained engagement on standard technical measures (STMs). The discussions pertained to both the potential of STMs and the challenges of identifying and adopting STMs to improve the functioning of the section 512 framework.

On September 30, 2020, the Office launched a new webpage dedicated to the Digital Millennium Copyright Act (DMCA). The new webpage consolidates information and resources about various aspects of the DMCA, including section 512's safe harbors and notice-and-takedown system, section 1201's anti-circumvention provisions, and section 1202's copyright management information protections.

More information on the study can be found at <https://www.copyright.gov/policy/section512/>.

Fee Study – 2019 (February 2020)

On February 19, 2020, the Copyright Office issued its final rule adopting a new fee schedule for various services offered by the Office. The new fee schedule went into effect on March 20, 2020. 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 at appropriate intervals after conducting a study of the actual cost to the Office for providing its fee-based services. The Office initiated a new cost study in June 2017 and proposed a new fee schedule in May 2018, based on that cost study. In June 2019, the Office issued a limited updated proposal with respect to fees for recordation of documents related to copyright and new prospective group registration options.

Following receipt of public comments in response to a June 2019 Notice of Proposed Rulemaking and a subsequent adjustment of certain fees, the Office presented a final proposed schedule and analysis of copyright fees to Congress on October 16, 2019, as required by law. Pursuant to the Copyright Act, the proposed schedule of fees went into effect on March 20, 2020, after Congress elected not to exercise its ability to disapprove of the schedule within 120 days following receipt.

In addition to the fees submitted to Congress, the Office reviewed and adjusted certain other fees that are not required to be submitted to Congress. As provided in section 708(a), these adjustments are made by the Office based on its costs and after carefully considering public comments.

On March 18, 2020, the Office hosted a webinar to introduce the new fee schedule and fee changes.

This docket can be found at <https://www.copyright.gov/rulemaking/feestudy2018/>.

State Sovereign Immunity Study (Ongoing)

In response to the Supreme Court's ruling in *Allen v. Cooper*, Senators Thom Tillis and Patrick Leahy Congress sent a letter to the Copyright Office on April 28, 2020, asking the Office to commence a public study to discover the degree to which copyright owners are experiencing copyright infringement by states without adequate remedies under state law (<https://www.copyright.gov/policy/state-sovereign-immunity/letter.pdf>).

In *Allen v. Cooper*, the Supreme Court held that Congress did not validly abrogate states' sovereign immunity through the Copyright Remedy Clarification Act of 1990.

To commence the study, the Copyright Office issued a notice of inquiry on June 3, 2020, requesting comments on issues, such as specific instances of infringement committed by states, whether the infringement was intentional or reckless, and the availability of remedies under state law. The Office has extended the deadline for comments to October 22, 2020. The Office also plans to hold public roundtables and may request additional comments in the future.

A copy of the request for comments can be found at <https://www.govinfo.gov/content/pkg/FR-2020-06-03/pdf/2020-12019.pdf>.

Unclaimed Royalties Study (Ongoing)

In connection with the MMA, the Mechanical Licensing Collective (“MLC”) is tasked with administering the new blanket license under section 115 of the Copyright Act, distributing royalties to songwriters and music publishers, and, among other duties, implementing policies and procedures for distributing unclaimed accrued royalties and interest after a prescribed holding period. As directed by the MMA, and in consultation with the Government Accountability Office, the Copyright Office is undertaking a study to recommend best practices that the MLC may implement to identify and locate musical work copyright owners with unclaimed royalties, encourage those copyright owners to claim their royalties, and ultimately reduce the incidence of unclaimed royalties. The study is due in July 2021.

To initiate the Unclaimed Royalties Study, the Office held a kickoff symposium on December 6, 2019, which included educational discussions of these issues by a broad array of industry stakeholders, songwriters and artists, and other members of the public, including members of the MLC and the Digital Licensee Coordinator (“DLC”), which represents licensee interests.

To further assist the public in submitting comments to the study, the Office commissioned an April 2020 report addressing global collective management organizations' approaches to obtaining ownership information, reducing the instance of unclaimed royalties, and royalty distribution.

On June 2, 2020, the Office issued a notice of inquiry seeking public comments for this report and plans to hold public roundtables in the future. Information on this study, including videos of the symposium, the April 2020 report, and the notice of inquiry, can be found at <https://www.copyright.gov/policy/unclaimed-royalties/>.

Rulemakings

During FY 2020, the Copyright Office engaged in a number of additional rulemakings. Some rulemakings were in response to the COVID-19 pandemic, as a way to ensure that copyright owners had proper avenues to register and protect their works.

A list of both open and closed rulemakings is available at <https://www.copyright.gov/rulemaking/>. An illustrative list appears below.

MMA Rulemakings

The MMA was enacted in October 2018 and requires, among other things, that the Copyright Office adopt a number of regulations to govern the new blanket licensing system created under Title I of the MMA, known as the Musical Works Modernization Act. The blanket licensing system 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). The blanket licensing system will be available January 2021.

In September 2019, the Office issued a notice of inquiry seeking comments on a number of subjects, including notices of license; notices of nonblanket activity; usage reports and adjustments; information to be included in the mechanical licensing collective's database; database usability, interoperability, and usage restrictions; and the handling of confidential information.

After reviewing the comments submitted in response to the notice of inquiry, the Office has issued five notices of proposed rulemaking, each focusing on one or more of the regulatory categories identified in the September 2019 notice of inquiry. Three proposed rules (and an additional notification narrowing in on issues related to transparency and the new public database) were published April 22, 2020. A fourth proposed rule was published on July 17, 2020. On September 16, 2020, the Office moved forward with two interim rules and the fifth proposed rule.

The first interim rule addresses notices of license, data collection efforts, reports of usage and payment by digital music providers and related records of use, notices of nonblanket activity and reports of usage by significant nonblanket licensees, and data collection efforts by musical work copyright owners.

The second interim rule addresses the obligations of the MLC to report and distribute royalties paid by digital music providers under the blanket license to musical work copyright owners. This notice of proposed rulemaking concerns the MLC's regular reporting and distribution with respect to "matched" uses of works, and does not address separate considerations related to the MLC's duty to distribute unclaimed royalties after a prescribed holding period, which is the subject of a separate policy study.

The first proposed rule concerns confidentiality, and proposes various categories of permitted disclosure and use of confidential information by the MLC and DLC, including the MLC's statutorily-required unclaimed royalties oversight committee and dispute resolution committee.

The second proposed rule addresses requirements regarding the cumulative statements of account related to pre-blanket license uses of works that digital music providers are required to

submit to the mechanical licensing collective, for such providers to qualify for the statutory limitation on liability for unlicensed uses of musical works prior to the license availability date.

The third proposed rule relates to the MLC's public musical works database, database access, and database use, and other considerations related to facilitating transparent operations of the new collective.

For more on the MMA and the Office's implementation of the new law, *see* <https://www.copyright.gov/music-modernization/>.

Eighth Triennial Section 1201 Rulemaking Proceeding under the DMCA

On June 22, 2020, the Copyright Office initiated the eighth triennial rulemaking proceeding under the Digital Millennium Copyright Act (DMCA), which provides that the Librarian of Congress, upon the recommendation of the Register of Copyrights, may adopt temporary exemptions to section 1201's prohibition against circumvention of technological protection measures that control access to copyrighted works. In accordance with the statute, the Librarian's determination to grant an exemption is based upon the recommendation of the Register of Copyrights, who also consults with the National Telecommunications and Information Administration (NTIA) of the Department of Commerce. The ultimate goal of the proceeding is to determine whether there are particular classes of works as to which users are, or are likely to be in the next three years, adversely affected in their ability to make non-infringing uses due to the prohibition on circumventing access controls.

As outlined in its June 2020 notice of inquiry, which launched the eighth triennial rulemaking, the Office is again using a streamlined procedure for the renewal of exemptions that were granted during the seventh triennial rulemaking. Parties that are seeking expansions to existing exemptions, or are seeking new exemptions, must submit a petition for a new exemption. Those petitions, and renewal petitions that are meaningfully opposed, will be subject to a more comprehensive rulemaking process, including three rounds of written comments and public hearings.

For the Eighth Triennial Rulemaking, the Office received renewal petitions for all exemptions granted during the Seventh Triennial Rulemaking. The Office also received 26 petitions to either grant a new exemption or expand an existing exemption and received fifteen comments in response to renewal petitions.

In conjunction with the notice of inquiry initiating the eighth triennial rulemaking, the Office held a public webinar on June 23, 2020.

Modernization

During FY 2020, the Copyright Office issued a number of notices related to rulemakings intended to help improve the registration process for copyright claimants. These included rules establishing a group registration for short online literary works and establishing a group

registration for newsletters. The Office also issued a notice of inquiry directed at registration considerations with respect to works published online.

On June 3, 2020, the Office issued a notice of proposed rulemaking on amending certain regulations governing the recordation of notices of termination under sections 203 and 304(c) of the Copyright Act. The proposed amendments are intended to improve efficiency in the processing of termination notices and to provide additional guidance to the public in this area. The Office also provided notice of changes to the examination process for certain notices of termination that pertain to multiple grants and solicited public comments on two additional subjects of inquiry pertaining to notices of termination. The Office is currently reviewing the comments it received in response to the notice of proposed rulemaking. A response to the notice of proposed rulemaking is forthcoming in FY21.

On March 3, 2020, the Office issued a statement of policy and notice of inquiry announcing several intended practice updates to the copyright registration system, in conjunction with the new electronic registration system currently under development as part of the Office's modernization process. The eleven registration practice updates include, among other updates, substantive changes to the copyright registration application and utilizing the online public record system.

On January 23, 2020, the Office issued a supplemental interim rule in anticipation of the pilot program for an electronic recordation system through which certain remitters could record certain types of documents electronically online. The supplemental rule and pilot program further the Office's recordation modernization process, with the Office launching the pilot program on April 27, 2020. The supplemental rule made no changes to the Office's recordation rules for submissions outside of the pilot program.

Activities in Response to COVID-19

The Copyright Office has taken a number of actions to ensure that mission-critical functions continue during the ongoing challenges caused by COVID-19. These functions include those services that track our statutory obligations to administer the Copyright Act and to provide expertise and advice on domestic and international copyright law matters to Congress, the courts, and executive branch agencies.

The Office expanded its capabilities to receive and process certain electronic submissions and applications for various services offered by the Office, including establishing a dedicated email address for these submissions and applications. For example, services that required handwritten signatures and delivery by mail or other physical means can now utilize electronic submissions to meet certain filing requirements. The Office updated its regulations to facilitate this process.

The Office also implemented an interim rule related to the registration of secure tests in response to the pandemic. Prior regulations required that, in order to be eligible for this special registration option, secure tests must be administered "at specified centers," that is, physical locations. Due to COVID-19, certain tests normally administered at specified centers are

temporarily being administered remotely. Under the interim rule, these tests will remain eligible for registration as secure tests, provided the administrator employs sufficient security measures.

In response to the COVID-19 pandemic, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L.116-136), which was signed into law on March 27, 2020. The CARES Act adds a new section, section 710, to Title 17 of the Copyright Act, allowing the Register to toll, waive, adjust, or modify deadlines or procedural provisions on a temporary basis in response to a presidentially-declared national emergency.

Pursuant to the CARES Act and the emergency relief authority it grants, the Copyright Office adjusted the applicable timing provisions in specific cases where compliance would have been possible but for the national emergency. The Acting Register has continuously determined that the disruptions to the copyright system caused by the ongoing national emergency remain in effect and that the modifications therefore should be extended for up to an additional sixty days, most recently extending to modifications to January 8, 2021. Examples of these modifications apply to timing provisions related to certain registration claims, notices of termination, and section 115's paper-based provisions.

The Office is continuing to monitor the effect of the national emergency on these and other components of the copyright system and will consider further adjustments as circumstances warrant.

International Activities

Throughout the year, the Copyright Office continued to provide outreach and education regarding copyright issues 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 Office of the U.S. Trade Representative (USTR), and the U.S. Patent and Trademark Office (USPTO), to participate in meetings organized by those agencies, or to have visitors in those programs meet with the Office directly.

Advise Executive Branch Agencies on International Copyright & Trade Matters

The Copyright Office supports USTR and other executive branch agencies by serving on official delegations and negotiating teams, as part of its statutory duties (17 U.S.C § 701(b)). In FY 2020, attorneys in the Office of Policy and International Affairs at the Office supported USTR's work on the USMCA implementation and negotiation of new FTAs with the United Kingdom and Kenya, as well as serving on the U.S. government delegations to the World Intellectual Property Organization (WIPO) for meetings with the Standing Committee on Copyright and Related Rights (SCCR).

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

draft legislation and guidance documents, compliance efforts, World Trade Organization trade policy reviews and accessions, and reviews under trade preference programs.

Artificial Intelligence & Copyright – Co-Sponsored with WIPO

On February 5, 2020, the Copyright Office and WIPO co-sponsored a symposium that took an in-depth look at how the creative community currently utilizes artificial intelligence (AI) to create original works. Panelists' discussions included the relationship between AI and copyright, what level of human input is sufficient for the resulting work to be eligible for copyright protection, the challenges and considerations for using copyright-protected works to train a machine or to examine large data sets, and the future of AI and copyright policy.

The Office also submitted a response to the WIPO *Conversation on Intellectual Property (IP) and Artificial Intelligence (AI)*, which sought comments on AI's impact on copyright authorship and ownership, copyright infringement and copyright infringement exceptions, and deep fakes. In the Office's first response, dated February 14, 2020, the Office acknowledged the increasing intersection of AI and copyright law, particularly in terms of copyright authorship. The Office echoed these same statements in its written submission to the WIPO *Conversation on Intellectual Property and Artificial Intelligence: Second Session*, dated July 2020, and recognized the complexities surrounding the development of copyright law and policy at the national and global level to accommodate these new technologies.

International Copyright Institute

Every two years, the Copyright Office and WIPO co-host the International Copyright Institute, a week-long program designed to provide representatives from developing countries and countries in transition with a deeper understanding of copyright law in the digital age. Participants learn about a range of topics, including new distribution models for digital content, modern copyright registration systems, and enforcement challenges.

Due to the COVID-19 pandemic, the International Copyright Institute is postponed until 2021.

Copyright Office Modernization

Over the past several years, the Copyright Office has engaged in several modernization efforts to provide a more user-centered and flexible design for the Office's electronic registration, recordation, and public record work streams, along with modernizing the Office's information technology (IT) support systems.

More information about the Office's modernization efforts can be found at <https://www.copyright.gov/copyright-modernization/>.

Webinars

To provide information about the Copyright Office's ongoing modernization efforts, the Office hosts a bimonthly webinar series that focus on various aspects of the modernization process.

During FY 2020, the Office hosted four webinars, bringing the total number of webinars to nine since early 2019. Most recently on July 16, 2020, the Office, in conjunction with the Library of Congress, hosted a public forum on Copyright Office IT Modernization, which provided, among other things, an overview on the new electronic recordation system and demonstrations of the recordation and online public record applications that are in testing and pilot phases.

The webinars can be found at <https://www.copyright.gov/copyright-modernization/webinar/>.

Launch of Limited Pilot for Electronic Recordation Application

On April 27, 2020, the Copyright Office launched a limited pilot program for an electronic recordation application that will eventually replace the current paper-based process. The pilot focuses on electronic processing of ownership and other documents relating to copyright that fall under section 205 of title 17. The pilot does not include notices of termination under sections 203, 304(c), and 304(d).

This pilot is the first offering in connection with the Office's Enterprise Copyright System (ECS), which is currently under development. ECS is the Office's planned new enterprise IT system that will integrate and improve the Office's technology applications and will provide users with a consistent and optimal interface.

Hearings and Roundtables

On September 16, 2020, Regan A. Smith, the Office's General Counsel and Associate Register of Copyrights, testified before the Senate Judiciary Committee Subcommittee on Intellectual Property. She testified about the operation of section 1201 under the DMCA, including the triennial rulemaking required under section 1201, the Office's policy study, and provided legislative recommendations regarding potential amendments to section 1201.

On February 27, 2020, Acting Register Maria Strong testified before the House Committee on Appropriations Subcommittee on the Legislative Branch. She testified on the Office's budget request for fiscal year 2021, noting that such funding provides the resources necessary for the Office to continue to meet its strategic goals, including modernizing the Office's IT systems.

On December 10, 2019, Jody A. Harry, the Office's Chief Financial Officer and Acting Chief of Operations, testified before the Senate Judiciary Committee Subcommittee on Intellectual Property. She testified about the Office's efforts to modernize its operations and technological services, including improvements to the current registration and recordation workflows.

On November 13, 2019, then-Register Karyn A. Temple spoke during a roundtable hosted by the Senate Judiciary Committee Subcommittee on Intellectual Property. She discussed an overview of the Office's modernization efforts, upcoming projects, and forthcoming pilots supporting a fully digital copyright recordation workflow. The roundtable was part of a series reviewing Copyright Office modernization.

On November 7, 2019, then-Register Karyn A. Temple was a witness for the Senate Rules and Administration Committee hearing, titled “Library of Congress Modernization Oversight.” The hearing focused on IT modernization at the Library of Congress, including past efforts implemented by the Office to further modernization efforts.

A video of the hearing can be found at <https://www.rules.senate.gov/hearings/library-of-congress-modernization-oversight>.

Circular 92 Update

On June 23, 2020, the Copyright Office released an updated version of *Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code* in a digital version. Also known as Circular 92, this publication contains the text of the Copyright Act, including all amendments enacted by Congress through March 27, 2020.

The updated version reflects significant copyright legislation that has passed since the last printed edition of this circular in December 2016, including the Marrakesh Treaty Implementation Act and the Orrin G. Hatch–Bob Goodlatte Music Modernization Act, both signed into law in October 2018; the National Defense Authorization Act for Fiscal Year 2020, the Satellite Television Community Protection and Promotion Act of 2019, and the Library of Congress Technical Corrections Act of 2019, all signed into law in December 2019; and the Coronavirus Aid, Relief, and Economic Security Act, signed into law in March 2020.

Registration Pendency Times

The Copyright Office continues to progress in processing copyright registration claims in a timely manner. Registration processing times vary based on a number of factors, including how difficult a claim is to review, whether an applicant submitted a physical deposit, whether the Copyright Office needs to correspond with an applicant, and the number of registration specialists available to review claims. The average processing time for *all* claims is 3.2 months. (The processing time reflects cases closed during October 1, 2019 through March 31, 2020.)

More information regarding the Office’s registration processing times can be found at <https://www.copyright.gov/registration/docs/processing-times-faqs.pdf>.

Fair Use Index

The Copyright 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/>.

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 2019, the Copyright Office launched the "Learning Engine" [video series](#) that introduces the Office and copyright concepts to viewers who are new to these topics or who want to learn more. More videos will be added in the future.

In October 2019, the Copyright Office submitted its proposed fee schedule to Congress. To increase public awareness, then-Register Karyn A. Temple authored [a blog](#) explaining the justification for fee adjustments and included some examples of fee changes.

In October 2019, the Copyright Office co-sponsored the Kernochan Center's 2019 Annual Symposium in New York, NY. The Office presented on copyrightability, the Office's process for reviewing copyright applications, and additions to the *Compendium of U.S. Copyright Office Practices, Third Edition* pertaining to copyrightability.

In FY 2020, the Copyright Office continued to host [lectures](#) through the Office's Copyright Matters lecture series. The series discusses copyright concepts, copyright's impact on society, and the practical implications of copyright law in the 21st century.

In January 2020, the Copyright Office participated as a speaker at the Copyright & Technology NYC [conference](#). The panel discussed royalty distributions and how the MLC plans to implement rulemaking policies and procedures adopted by the Office.

In April 2020, the Copyright Office published four regulatory notices soliciting public comments on potential regulations for the MLC, as required by the MMA. To support public awareness, the Office authored [a blog](#) briefly describing the four notices and the Office's ongoing education and outreach efforts related to the MMA.

In April 2020, the Copyright Office hosted and presented a [program](#) on intellectual property and innovation in connection with the World IP Day theme chosen by the World Intellectual Property Organization. A presentation featured speakers addressing how creators can utilize intellectual property to create a green future.

In June 2020, Acting Register Maria Strong and the Associate Registers of Copyrights participated as speakers at the Copyright Society of the USA's Annual Meeting. The panel titled, "View from the Copyright Office," provided an overview of the Office, domestic and international policy updates, the Office's modernization progress, and regulatory updates.

In July 2020, the Copyright Office hosted a [webinar](#) offering an overview of the new Group Registration Option for Short Online Literary Works (GRTX) registration process, including answering questions submitted by participants. A separate [webpage](#) is dedicated to the new online application and contains answers to frequently asked questions, a mock-GRTX application form, and a copy of the webinar presentation.

In July 2020, the Copyright Office spoke on “Creative Commons and Open Licensing” and “Recent Copyright Decisions and Cases to Watch in 2020” as part of the “U.S. Copyright Law for U.S. Government Attorneys” webinar series in conjunction with the United States Patent and Trademark Office (USPTO).

In August 2020, Acting Register Maria Strong authored a [blog](#) discussing the Copyright Office’s accomplishments and challenges during COVID-19. The blog discussed the extensive work of various divisions within the Office and how the Office was handling processing physical documents pertaining to registration.

In August 2020, the Copyright Office hosted a [virtual](#) celebration in recognition of its 150th anniversary. The celebration highlighted the Copyright Office’s history, the importance of the Office’s connection with creators and users of copyright-protected works, and the role of the Office in engaging creativity through a conversation with Copyright Office experts, past and present.

In August 2020, the Copyright Office collaborated with the Nigerian Copyright Commission to host a virtual event that discussed the MMA and the role of the MLC. The Copyright Office engaged in a Q&A session and provided MMA educational materials to almost one-hundred members of the Nigerian music industry.

In September 2020, the Copyright Office moderated a SXSW panel titled, “How New Music Laws Can Help You Create & Get Paid.” The panel was moderated by Regan A. Smith, the Office’s General Counsel and Associate Register of Copyrights, and discussed broad changes to music copyright law brought by the MMA. The panel also discussed how the Office is implementing these changes as required by the MMA.

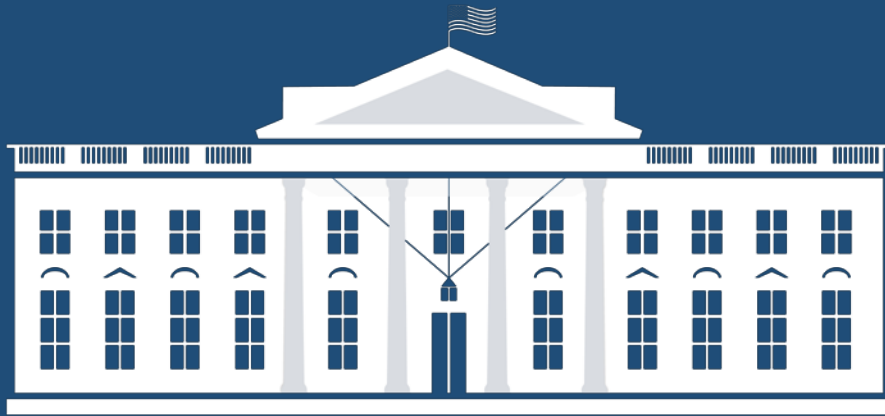
In September 2020, the Copyright Office participated as a speaker during the Author’s Rights with 20/20 Vision conference that was attended by over 300 attendees from around the world and experts from government offices and the private sector in Spain, Switzerland, Chile, the United States, Argentina, and Belgium. During a panel titled, “DMCA: On the Road to Modernization?” the Copyright Office discussed its *Section 512 of Title 17* report, including its findings and recommendations.

In September 2020, the Copyright Office participated as a speaker at the Center for the Protection of Intellectual Property’s The Evolving Music Ecosystem [conference](#). The panel discussed implementing the MMA, including the new blanket licensing regime, the MLC, and public database, as well as the Classics Protection and Access Act and the Allocations for Music Producers Act.

In September 2020, Acting Register Maria Strong authored a [blog](#) updating the public on the Copyright Office's operating status along with a summary of updated Copyright Office activities of public interest. The blog discussed, among other things, the Office's implementation of its Phase Two operations.

In September 2020, the Copyright Office participated as a speaker at the Americana Music Foundations' [Thriving Roots: A Virtual Community Music Conference](#). The panel provided updates on the MMA's implementation, the MLC's progress, and how artists can ensure payments for use of their musical works.

In September 2020, the Copyright Office participated as a speaker at the USC Gould School of Law's 2020 Intellectual Property Institute on a panel titled, "The Piper Will Lead Us To Reason: Current Developments In Music Copyright." The panel discussed recent copyright litigation involving music and the impact that litigation has on the creative community.



THE WHITE HOUSE

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INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR

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