

ANNUAL INTELLECTUAL PROPERTY REPORT TO CONGRESS

March 2018



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 this past year, 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, 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 nearly 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



“We will safeguard the copyrights, patents, trademarks, trade secrets, and other intellectual property that is so vital to our security and to our prosperity. We will uphold our values, we will defend our workers, and we will protect the innovations, creations, and inventions that power our magnificent country.”

- 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 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 has stated that, “the United States is committed to protecting the intellectual property of our companies and providing a level playing field for our workers.”² And that “we can no longer tolerate unfair trading practices that steal American jobs, wealth, and intellectual property.”³

Under the Trump Administration, the Office of the U.S. Intellectual Property Enforcement Coordinator⁴ (IPEC) along with other White House offices, in coordination with executive branch departments and agencies, works to advance pro-growth policies, to promote and protect our great competitive advantage – our nation’s innovative economy.

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

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.

¹ 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).

² Remarks by President Trump and President Xi of China in Joint Press Statement (November 9, 2017) - <https://www.whitehouse.gov/the-press-office/2017/11/09/remarks-president-trump-and-president-xi-china-joint-press-statement>

³ Remarks by President Trump on his Trip to Asia (November 15, 2017) - <https://www.whitehouse.gov/the-press-office/2017/11/15/remarks-president-trump-his-trip-asia>

⁴ U.S. Code: Title 15 (Commerce and Trade), Chapter 107 (Protection of Intellectual Property Rights) - 15 U.S.C §1111. The IPEC Office is part of the White House Office of Management and Budget in the Executive Office of the President.



Over the past year, 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 strategy⁵. 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 has established the White House Intellectual Property Strategy Group, that for the first time, 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. Since 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, 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, these include: 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 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 within 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 advising "Federal

⁵ This includes implementation, of areas in line with Presidential policies and priorities, of the Joint Strategic Plan, submitted under 14 U.S.C. §8113, for FY2017 to FY2019.



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. 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, through actions including trade secret theft, IP infringement, piracy, forced technology transfers or localization requirements. Additionally, American brand holders must have full and fair use to market and sell their products and use their properly registered trademarks across the globe, without undue restrictions.

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

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. The Administration continues to monitor copyright reform efforts in Congress, and engage with interested stakeholders and Members as concepts are developed.

Additionally, a well-functioning patent system is important for our economy. The Administration is working to promote innovation and to ensure that we have strong and reliable patents, that the process for granting them is thorough, yet expeditious, and that any subsequent reviews by the courts or administrative agency is done fairly. The Supreme Court has ruled on a number of



significant intellectual property cases in recent years. The Administration is monitoring how those decisions are being implemented by lower courts and executive branch agencies.

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

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





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

The Trump Administration is ready 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...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 we’ll 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

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

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/>



In September 2017, at the G7 ministerial meeting on ICT⁹ and Industry, the final declaration acknowledged “...the role of intellectual property rights for promoting innovation, contributing to industry’s productivity, growth and competitiveness in the digital economy and that IPR-intensive industries contribute more than other industries to increase GDP, employment and trade.” The declaration recognized that IP enforcement is critical, to protect businesses of all sizes from “...counterfeiting and piracy, misappropriation of trade secrets and transnational organized crime.”¹⁰

In November 2017, the Administration participated in the 25th Asia Pacific Economic Cooperation (APEC) Economic Leaders’ Meeting. APEC, established in 1989, is a 21-member regional forum dedicated to promoting free trade. At the 25th APEC Economic Leaders’ Meeting, the U.S. joined with other leaders to declare the “importance of innovation, science and technology as key drivers of economic growth and international trade and investment in the APEC region.”¹¹ Further, the declaration at the APEC Ministerial Meeting held two days earlier recognized the “importance of cooperation in the area of intellectual property (IP) rights,” and encouraged “economies to promote IP policies and programs that cultivate, foster, support, protect and advance innovation and creativity.”¹² The Administration continues to use APEC to build capacity and raise standards for the protection of intellectual property rights in the Asia-Pacific region. This includes U.S.-led initiatives on combating trademark-infringing and counterfeit goods, which often present threats to consumer health and safety, at the border.

In October 2017, the Department of Commerce’s U.S. Patent and Trademark Office (USPTO) and IPEC participated in the 57th assemblies of the member states of the WIPO. Established in 1967, WIPO is one of 15 specialized agencies of the United Nations.¹³ There the Administration engaged with WIPO officials, and participated in bilateral discussions on intellectual property with a number of trading partners, including the European Union, Japan, United Kingdom, India, Canada, Mexico, Australia, South Korea, Singapore, Philippines, Ukraine, and Chile. Additionally, the Administration engaged in discussions with officials at the World Health Organization, and at the World Trade Organization.

The Organization of Economic Cooperation and Development (OECD) is a 35-member international organization that provides a forum for governments to cooperate on a wide range of economic and social issues, as well as provides analysis and data on global economic and trade developments, including intellectual property systems, among other issues. In November 2017, the USPTO, together with the Canadian Intellectual Property Office (CIPO), the Mexican Institute of Industrial Property (IMPI) and the OECD, co-organized the 2017 IP Statistics for Decision Makers (IPSDM) conference in Mexico City, Mexico. The IPSDM was initiated by the

⁹ Information and Communications Technology (ICT)

¹⁰ G7 ICT and Industry Ministers’ Declaration, Torino, Italy (September 25-26, 2017) - http://www.g7italy.it/sites/default/files/documents/G7%20ICT_Industry_Ministers_Declaration_%20Italy-26%20Sept_2017final_0.pdf

¹¹ The 25th APEC Economic Leaders’ Meeting, Da Nang, Vietnam (November 11, 2017) - https://www.apec.org/Meeting-Papers/Leaders-Declarations/2017/2017_aelm

¹² The 29th APEC Ministerial Meeting, Da Nang, Vietnam (November 8, 2017) - https://www.apec.org/Meeting-Papers/Annual-Ministerial-Meetings/2017/2017_amm

¹³ <http://www.un.org/en/sections/about-un/funds-programmes-specialized-agencies-and-others/index/html>



OECD and the European Patent Office (EPO) in 2006 as a venue to present and discuss the latest empirical data on patents, trademarks, designs, and copyrights. The 2017 conference featured government and academic speakers from countries around the world discussing how IP-related data and statistics can be leveraged by both the public and private sectors to guide better decision-making. USPTO representatives participated and presented on panels dedicated to such topics as the digital economy and IP office efficiency.

In August 2017, the first round of NAFTA negotiations took place between the United States, Canada and Mexico in Washington, D.C. Through the renegotiation of NAFTA, the Trump Administration is seeking a better agreement that reduces the U.S. trade deficit and is fair for all Americans by improving market access in Canada and Mexico for U.S. manufacturing, agriculture, and services. Among other objectives, the Administration is working to enhance standards for protection and enforcement of intellectual property rights.¹⁴

In October 2017, a USTR-led interagency team held the annual U.S.-India Bilateral Trade Policy Forum (TPF) in Washington, D.C. The TPF, established in 2005, is the primary bilateral trade and investment dialogue between the two countries, and features four working groups, including a working group on Intellectual Property. The 2017 meeting featured discussions on a wide range of IP protection and enforcement issues, including trade secrets. The Indian delegation from the Department of Industrial Policy and Promotion (DIPP), which led the working-level discussions at the IP working group on behalf of India, also met with the U.S. IP Enforcement Coordinator, where both sides reviewed priority IP concerns, and looked for joint IPR enforcement opportunities.

In December 2017, the Transatlantic IPR Working Group (TIPRWG) hosted a meeting with U.S. stakeholders in Washington, D.C. TIPRWG is a platform for IP-related policy discussions between the EU and the U.S., which is co-led on the U.S. side by USTR and the Department of Commerce. During the December meeting, U.S. companies, industry associations, and non-governmental organizations raised issues and concerns with the relevant EU and U.S. government officials in regards to transatlantic and third-party country IP concerns.

The United States conducts a number of international capacity building and training programs that leverage the resources of executive branch agencies and our embassies overseas. As the United States conducts these programs, it will be important for them to be designed toward achieving meaningful results on IP concerns raised, for example, in places such as the Annual USTR Special 301 Report.¹⁵

¹⁴ USTR Releases NAFTA Negotiating Objectives - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/july/ustr-releases-nafta-negotiating>

¹⁵ 2017 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/301/2017%20Special%20301%20Report%20FINAL.PDF>)



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

In FY2017, the USPTO's Global Intellectual Property Academy (GIPA), developed and provided capacity building programs that addressed a full range of IP protection and enforcement matters, including enforcement of IP rights at national borders, Internet piracy, express mail shipments, trade secrets, copyright policy, and patent and trademark examination. During the last year, the programs cumulatively included over 4,000 government officials, judges and prosecutors, from 120 countries.¹⁶

In 2017, 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, 2017, highlighting IP's importance in fostering innovation and economic growth. The theme in 2017 was "Innovation – Improving Lives", and events focused on how innovation helps societies turn problems into progress and promotes health and safety. To celebrate the occasion, U.S. Embassies and consulates hosted IP-focused panel discussions, contests, and workshops. Other events in FY2017, such as the U.S.-Argentina Innovation and Creativity Forums held in December 2016 in Buenos Aires and July 2017 in Washington D.C., highlighted perspectives on IPR protection shared by the U.S. and our trading partners.

The Copyright Office worked with other agencies (such as the State Department and the USPTO) to participate in meetings with foreign officials, or to have visitors in those programs meet with the Copyright Office directly, to discuss and exchange information on the U.S. copyright system and significant trade-related copyright issues.

In cooperation with USPTO, other Department of Commerce bureaus and other U.S. Government agencies, the Department of Commerce Commercial Law Development Program (CLDP), carried out capacity-building programs on a wide range of IP issues, including IP border enforcement, judicial training, enforcement in the digital sphere, and the economic value of IP and technology transfer, among other issues. In FY2017, these activities were conducted in Algeria, Armenia, Bahrain, Bosnia-Herzegovina, Georgia, Kosovo, Mali, Maghreb Regional, Mena Regional Pakistan, Sri Lanka, Tajikistan, Tunisia, Ukraine, and the United States.¹⁷

Executive branch agencies are working with our embassies overseas to deliver training and capacity building through such venues as the interagency International Law Enforcement Academy (ILEA) program; training events conducted by the USPTO and INTERPOL; and the

¹⁶ For a comprehensive list of the types of programs conducted by Executive Branch agencies in 2017, please see the appendices.

¹⁷ Please see appendices for detailed descriptions of the individual capacity-building programs carried out by CLDP.



State Department's Bureau of International Narcotics and Law Enforcement Affairs-funded country-specific and regional programs.





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. Trump¹⁸

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.”¹⁹

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.”²⁰

The NSS highlights that “every 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.”²¹ The NSS lists the protection of intellectual property as a priority action. “The United States will reduce the illicit

¹⁸ Remarks by President Trump to the World Economic Forum (January 26, 2018) -

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

¹⁹ 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/>

²⁰ 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/>

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



appropriation of U.S. public and private sector technology and technical knowledge by hostile foreign competitors. While maintaining an investor-friendly climate, this Administration will work with the Congress to strengthen the Committee on Foreign Investment in the United States (CFIUS) to ensure it addresses current and future national security risks. The United States will prioritize counterintelligence and law enforcement activities to curtail intellectual property theft by all sources and will explore new legal and regulatory mechanisms to prevent and prosecute violations.”²²

On August 14, 2017, President Trump took significant steps to protect American intellectual property. Under Section 302(b) of the Trade Act of 1974 (19 U.S.C. 2412(b)), the President signed a Presidential Memorandum asking the U.S. Trade Representative to determine whether to investigate any of China’s laws, policies, practices, or actions that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technology development.²³

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.”²⁴

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,

²² 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>

²³ August 14, 2017 - <https://www.whitehouse.gov/articles/president-trump-takes-action-intellectual-property-rights/> Presidential Memorandum to U.S. Trade Representative (August 14, 2017) – <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-united-states-trade-representative/>

²⁴ National Security Strategy, December 18, 2017 (page 20) -- <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>



and service providers.²⁵ The Out of Cycle Review of Notorious Markets highlights prominent examples of foreign “online and physical marketplaces that reportedly engage in, facilitate, turn a blind eye to, or benefit from substantial piracy and counterfeiting.”²⁶ 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.²⁷

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. In 2017, the United States advanced its IP and Innovation agenda in the TRIPS Council through a series of initiatives designed to facilitate greater understanding of the critical role that IP plays in promoting inclusive innovation for micro-, small-, and medium-sized enterprises (MSMEs).

The Committee on Foreign Investment in the United States (CFIUS) is an interagency committee authorized to review certain transactions that could result in control of a U.S. business by a foreign person (referred to as “covered transactions”), in order to determine the effect of such transactions on the national security of the United States. The members of CFIUS include the Secretaries of the Treasury (chair), State, Defense, Commerce, Energy, and Homeland Security; the Attorney General; the United States Trade Representative; and the Director of the White House Office of Science and Technology Policy. A CFIUS review can be initiated voluntarily, when parties to a transaction that might raise national security concerns file a voluntary notice with CFIUS, or involuntarily, when CFIUS unilaterally initiates review of a covered transaction. The CFIUS process begins with a 30-day “review” period. CFIUS may initiate an “investigation”

²⁵ 2017 Special 301 Report -

<https://ustr.gov/sites/default/files/301/2017%20Special%20301%20Report%20FINAL.PDF>

²⁶ 2017 Out of Cycle Review of Notorious Markets (01/11/2018) -

<https://ustr.gov/sites/default/files/files/Press/Reports/2017%20Notorious%20Markets%20List%201.11.18.pdf>

²⁷ 19 CFR Part 210



that may last up to 45 additional days if CFIUS determines that it needs additional time to complete its assessment. If CFIUS determines that the transaction presents national security risks that cannot be adequately resolved by other laws or by mitigation measures agreed or imposed by CFIUS, then CFIUS may refer the transaction to the President. The President may suspend or prohibit the transaction.

In 2017, President Trump blocked the acquisition of a U.S. semiconductor manufacturer (Lattice Semiconductor Corporation (Lattice)) by, among others, a Chinese corporation owned by Chinese state-owned entities. CFIUS and President Trump assessed that the transaction posed a risk to the national security of the United States that could not be resolved through mitigation. The national security risk posed by the transaction related to, among other things, the potential transfer of IP to the foreign acquirer, the Chinese government's role in supporting the transaction, the importance of semiconductor supply chain integrity to the U.S. government, and the U.S. government's use of Lattice products.





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. Trump²⁸

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 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 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 AUSAs throughout the country with their counterfeit pharmaceutical and device cases.

The National IP Rights Coordination Center²⁹ (IPR Center), at the Department of Homeland Security, brings government agencies together to share information, leverage resources, train

²⁸ 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)

²⁹ The 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, U.S.



investigators, prosecutors, and the public on IP; and conduct an aggressive international program to promote cooperative enforcement efforts with our trading partners and to improve substantive laws and enforcement regimes in other countries. Additionally, the IPR Center continues to engage industry in an open and on-going dialogue. Through this approach, the IPR Center utilizes both law enforcement efforts and private industry collaboration to effectively combat intellectual property crimes. The IPR Center has developed numerous initiatives and interdiction efforts to combat the infiltration of counterfeits. These efforts are focused on counterfeits that pose a risk to the health and safety of the consumer, counterfeits entering the U.S. Department of Defense (DoD) and U.S. Government supply chains, and the protection of the U.S. economy.

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

In FY2017, the Department of Homeland Security's IPR Center reached out to more than 14,000 people at 339 outreach and training events. In addition to these efforts, DHS law enforcement agencies that support IP enforcement had numerous other engagements with stakeholders in 2017. For example, Project Trade Watch is ICE-HSI and CBP's outreach campaign to the importing community to facilitate informed compliance by private industry and to enhance public awareness of law enforcement efforts within the trade community. The IPR Center collaborates with industry and other government agencies for training and engagement. For example, in support of Operation Engine Newity, ICE-HSI and the Automotive Anti-Counterfeiting Council (A2C2) worked together to provide training to ICE-HSI and CBP field offices to train personnel on how to identify counterfeits.

In FY 2016, CBP conducted 18 specialized training courses of CBP port personnel involved in IPR enforcement with a total of 227 attendees. The training focused on identifying IP infringing shipments and IP related challenges of each port.

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

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, and the Federal Maritime Commission.



From July 1, 2016 to June 30, 2017, local law enforcement grantees:³⁰

- Arrested 423 individuals for violations of IP laws;
- Served 203 state and local IP search warrants; and
- Disrupted or dismantled 376 piracy/counterfeiting organizations.

DOJ has conducted training programs for state and local law enforcement, that have cumulatively, supported: 97 trainings for 2,251 attendees from 1,164 agencies; 17 seminars for 573 attendees from 194 agencies; and 31 technical assistance visits for 396 attendees from 116 agencies.

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

At the end of FY 2017, the FBI had 228 pending IPR investigations. The largest number of investigations deal with the theft of trade secrets (79), copyright infringement (79),³¹ and trademark infringement (64).³² During FY 2017, the FBI initiated 44 new investigations, made 31 arrests, got 23 convictions, and had seizures totaling \$750,205, forfeitures totaling \$86,949, restitution totaling \$53,396,003, and FIRE (Frozen, Indicted, Restrained, Encumbered) totaling \$750,000.

In FY 2017, the number of CBP and HSI IPR seizures increased more than eight percent, to 34,143 (from 31,560 in FY 2016). The total estimated Manufacturer's Suggested Retail Price (MSRP) of the seized goods, had they been genuine, was \$1,206,382,219.

In FY 2017, ICE-HSI initiated 713 intellectual property investigations and had 457 arrests, 288 indictments, and 240 convictions.

In FY 2017, the IPR Center vetted 27,856 investigative leads; of these 16,030 were referred to law enforcement partners. Additionally, the IPR center de-conflicted 4,750 investigative targets for partner agencies and industry. While performing these de-conflicts, the IPR Center identified 321 situations where two or more entities were investigating the same target. Finally, the IPR Center referred 959 leads to private industry for follow-up.

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

³⁰ See Appendix (Department of Justice)

³¹ Investigations: 47 Copyright infringement cases; 23 Copyright infringement cases related to software; 9 Copyright infringement cases related to signal theft.

³² Investigations: 28 Trademark cases; 16 counterfeit health product cases; 10 counterfeit electronic parts cases; 7 counterfeit aircraft parts cases; 7 counterfeit automotive parts cases; 2 counterfeit health & safety product cases.



The health and safety initiative brings together private, state, and federal enforcement resources to address the proliferation of counterfeit goods posing a danger to consumers, including counterfeit and illegally prescribed pharmaceuticals, automotive parts, and military goods.³³ 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.³⁴ DOJ continues to pursue significant, large-scale piracy and counterfeiting operations.³⁵

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.³⁶

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 50 countries internationally.

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 regional IP Law Enforcement Coordinator (IPLEC) program, funded by the Department of State and operated by the Department of Justice, is improving the effectiveness of U.S. personnel serving abroad by training local prosecutors, judges and police. 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 creation of a new Global IPLEC Network. By the end of 2017, the United States had five IPLECs deployed to work collaboratively within and across their regions to mitigate threats to IP protections, including that

³³ See Appendix (Department of Justice) for FY 2017 significant prosecutions

³⁴ See Appendix (Department of Justice) for FY 2017 significant prosecutions

³⁵ See Appendix (Department of Justice) for FY 2017 significant prosecutions

³⁶ See Appendices for detailed examples on U.S. government training and capacity building programs



which supports transnational organized crime, in (1) Hong Kong, China SAR; (2) Sao Paulo, Brazil; (3) Bucharest, Romania; (4) Bangkok, Thailand; and (5) Abuja, Nigeria.

Enhancing foreign law enforcement cooperation is a key goal. For example, U.S. law enforcement and Federal agencies participated in Operation Pangea X, which was conducted from August 19, 2017 to September 19, 2017, with the participation of 123 countries, and culminated with a week of action, where participating countries and agencies conducted and/or reported the results of their respective operations. U.S. and Mexican authorities typically participate in Pangea independent of each other. However, in FY 2017, ICE-HSI, CBP, and Mexico collaborated during the U.S. operational phase of this operation. On September 25, 2017, INTERPOL issued a press release highlighting the results of Operation Pangea X, which resulted in 3,584 websites taken off-line, 400 arrests worldwide, and the seizure of 470,000 packages with an estimated value of \$51 million in potentially dangerous medicine.

The IPR Center's Operation Apothecary addresses, analyzes, and attacks potential vulnerabilities in the entry process that might allow for the Internet-facilitated smuggling of commercial quantities of counterfeit, unapproved, and/or adulterated drugs through international mail facilities, express courier hubs, and land borders. During FY 2017, Operation Apothecary resulted in 59 new cases, 38 arrests, 37 indictments, and 41 convictions, as well as 567 seizure incidents of counterfeit items.





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 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. Trump³⁷

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

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

The Commerce Department’s IP Attaché program established during the Bush Administration, continues to promote U.S. economic interests abroad – furthering U.S. government IP policy, helping secure high standards in international agreements and host country laws, and encouraging effective IP protection by U.S. trading partners for the benefit of U.S. stakeholders. The IP Attachés engage regularly with the private sector and other stakeholders to understand their concerns and develop strategies to address them. Their work includes: raising issues with foreign government officials; providing training on IP law, enforcement, and administration; conducting public awareness programs; and presenting and explaining U.S. government positions. Additionally the IP Attachés help U.S. stakeholders looking to enter foreign markets or conduct business abroad, by providing information on navigating foreign laws and regulations, and by explaining how foreign courts and governments operate and ways to protect and enforce IP abroad. IP Attachés serve in embassies, consulates and missions throughout the world, including in China, Mexico, Brazil, Peru, Belgium, India, Thailand, and Switzerland.

The Global IP Academy (GIPA) at the USPTO provides intellectual property educational and training programs to enhance IP awareness and technical capacity. In FY 2017, GIPA’s domestic outreach focused on the importance of IP protection and enforcement to U.S. companies doing business abroad. Attendees included representatives of U.S. small- and medium-sized enterprises (SMEs), IP practitioners, academics, and IP rights owners and users. For example, one such outreach effort included five “China IP Road Shows” designed to educate U.S. rights holders on

³⁷ 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)



how to better protect their IP in China. In addition to conducting live, in-person programs, GIPA continues to utilize technology to make its training programs more efficient and to expand their reach. When possible, IP awareness programs are webcast live to reach audiences from all over the country. In FY 2017, GIPA presented 24 programs with a distance-learning component, GIPA maintains on-demand IP education modules on the USPTO website in five languages and covering six different areas of IP protection.

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 FY 2017, the IPR Center conducted 96 such events.

During summer 2017, CBP launched an IPR Public Awareness Campaign aimed at educating international travelers of the dangers associated with the purchase of counterfeit goods. The first phase of the campaign ran at 6 major U.S. airports and CBP estimates that they reached 97 million travelers with this campaign.

The State Department and the USPTO have also conducted training programs 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 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. As part of our policy development efforts, IPEC is establishing, for the first time, a series of White House IP roundtables for 2018, to better engage with stakeholders, develop new initiatives, examine legislative priorities, and find creative solutions. As we look forward, there are a number of policy areas that could be examined and discussed further, including, for example:

Copyright Policy: Copyrights are not only economically important, but also a key part of our culture and society. A well-functioning copyrights system is essential. The U.S. copyright system is grounded in our Constitution, and built on centuries of extensive jurisprudence, statutory provisions, and regulations. And as new technologies continue to develop, the shift in the delivery of content, including music and movies, from physical sales to digital downloads to streaming, is one that requires further examination and discussion to ensure that our nation's copyright system is kept up to date. The Copyright Office engages in public proceedings and continues to engage with stakeholders as it works to draft various studies and reports to advise Congress.³⁸ The Administration continues to monitor copyright reform efforts in Congress, and engage with interested stakeholders and Members as concepts are developed.

³⁸ During FY 2017, the Copyright Office issued reports on software-enabled consumer products, the triennial rulemaking process of section 1201, a discussion document on section 108, a fee study on recordation, and informed



Cyber-theft: 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. IPEC continues to work with stakeholders and agencies across the Federal government to develop strategies to limit the ability of bad actors and foreign adversaries to benefit from the misappropriation of valuable intellectual property from U.S. industry.

E-commerce: The intellectual property issues surrounding the online sale of goods and services are well-documented, and many stakeholders, including online sales platforms, payment processing companies and advertising networks, have formed public-private and private sector collaborative partnerships to address many of 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 has sought the input of key stakeholders to help develop new partnerships and creative solutions for addressing outstanding IPR-related issues in the e-commerce space, and will expand its efforts in the future.

Express shipments and consignment packages: More than 11 million containers arrive at U.S. seaports, another 13 million arrive by truck and rail, and an additional quarter billion cargo, postal, and express packages arrive by air.³⁹ In 2015, express shipments accounted for over half of all U.S. IP seizures. It is clear that the United States needs to develop improved methods to address this problem. Such measures could include requiring foreign shippers to provide advanced electronic data and shipping notifications to help CBP better target suspect packages; information sharing with like-minded allies; and requiring greater scrutiny of packages arriving from regions where there is a higher likelihood of illicit or counterfeit goods being sent from.

ICANN: The Administration will continue to engage with private sector stakeholders and ICANN to ensure that the new generic top-level domain (gTLD) program has adequate measures in place to ensure that intellectual property rights are respected; engage with stakeholders and international partners to ensure that the WHO IS database remains an effective resource; and work overall to ensure that the rights of brand holders, creators and innovators are protected.

Illicit Streaming Devices: ISD piracy is the combination of media boxes, set-top boxes, or other devices with piracy applications (apps) that allow users to stream, download, or otherwise access unauthorized content from the Internet. ISDs may be “fully loaded” at the point of sale with an open-source media player, apps, and add-ons configured to access unlicensed content via cyberlockers and streaming websites. Alternatively, the devices may be combined with add-ons after purchase to achieve the same objective. Such add-ons are sold or provided through online

Congress on terminating the mass digitization pilot project. Ongoing work includes studies on moral rights, the safe harbor provisions of section 512, and visual works (please see the Appendices for further details).

³⁹ U.S. Joint Strategic Plan on Intellectual Property Enforcement (2016) -

<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/IPEC/2016jointstrategicplan.pdf>

U.S. Senate, Permanent Subcommittee on Investigations – Combatting the Opioid Crisis: Exploiting the Vulnerabilities in International Mail (January 24, 2018) - http://www.hsgac.senate.gov/download/psi-report_-_combatting-the-opioid-crisis



markets for accessing infringing content with streaming devices.⁴⁰ Copyright stakeholders from all segments of the internet ecosystem have indicated that these devices present a growing problem, both within the United States and globally. The Administration will continue to engage with stakeholders and international partners to work to address this growing problem.

Patent Policy: A well-functioning patent system is important for our economy, and is critical to providing incentives for valuable innovation. The Administration is working to promote innovation and ensure that we have strong and reliable patents, that the process for granting them is thorough, yet expeditious, and that any subsequent review is done fairly. We must keep our patent laws up to date, and make sure that our innovators are able to effectively secure and use their inventions overseas.

Standards Setting: Many of America's economic competitors engage strategically in standards setting organizations (SSOs), often to the detriment of American innovators. As the Administration and American industry engage with SSOs, it will be important to ensure that SSOs are being used fairly to promote the adoption of new technologies, rather than impeding the ability for American innovators to continue creating and inventing. And as SSOs promote the adoption of new technologies, such technologies should be available to industry under fair, reasonable and non-discriminatory terms.

Trademarks/Geographical Indications: In the U.S., farmers, craftsmen and businesses are able to use the trademark system, among other means, to protect their geographical indications (GIs) effectively and predictably. In contrast, certain countries protect GIs outside of the trademark registration system, in *sui generis* systems, which can lead to conflict with established trademark rights, and potentially confuse consumers. These countries are exporting their non-trademark GI systems by tying them to market access in free trade agreements with countries around the world, resulting in "lists" of GIs being accepted in foreign jurisdictions without an independent public review process and potentially without regard to existing trademark rights or generic terms. This GI "list-swapping" can unfairly block U.S. farmers and businesses from selling their goods into these third countries. IPEC is committed to working with the interagency and U.S. stakeholders to promote trademark-based system for protecting GIs.

Trade Secrets Policy: For the United States to maintain its global competitiveness, trade secret protection and enforcement is vital. Many iconic American inventions and other innovations are held as trade secrets and the unique benefits of trade secrets protection gives these inventions a distinct place in the intellectual property portfolios of our most innovative companies. Trade secret misappropriation can take many forms, from walking out with a set of blueprints to hacking into a company's server. Working to find effective ways to protect American innovators from foreign actors that engage in trade secret theft will be key.

Further, creating an environment where American innovators can invest and build manufacturing facilities in the United States is an important economic and strategic goal. To encourage American manufacturing and job creation, we must work to ensure that innovators who first

⁴⁰ USTR, 2017 Out-of-Cycle Review of Notorious Markets (January 12, 2018), pages 9-10:
<https://ustr.gov/sites/default/files/files/Press/Reports/2017%20Notorious%20Markets%20List%201.11.18.pdf>



commercially use inventions in the United States, as a trade secret, are afforded adequate prior user protections.

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





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. Trump⁴¹

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.

As part of the Trump Administration’s approach we recognize that we must change the paradigm. Of course, we will continue to build upon the work of previous Administrations to

⁴¹ Remarks by President Trump at the World Economic Forum (January 26, 2018)

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



continue programs and policies that are working well. And the Administration is working to ensure that the United States' efforts are focused and well-coordinated and that resources are being used effectively and efficiently. But there are clearly approaches that have failed to bear fruit. And, in those areas that are not working, or achieving meaningful results, we must ask ourselves "what can we do differently?"

We are at a defining moment in this new century, and our future success depends on how we protect our nation's continued economic and innovative competitiveness, promote new engines of growth, and prioritize America's innovative and creative capacity.





INTELLECTUAL PROPERTY: FACTS AND STATS



INTELLECTUAL PROPERTY AND THE ECONOMY:

- The Department of Commerce (2016) designated 81 industries (out of 313 total, more than 25 percent) as IP-intensive in 2014, collectively accounting for \$6.6 trillion value added in 2014, or 38.2 percent of U.S. GDP. IP-intensive industries directly accounted for 27.9 million jobs and indirectly supported an additional 17.6 million jobs, representing almost one in three jobs in the United States. IP-intensive industries also pay well; compared to non-IP intensive industries, workers in IP-intensive industries earn 46 percent higher weekly wages.⁴²
- The Department of Commerce reported that technological innovation is linked to roughly three-quarters of U.S. growth since the mid-1940s.⁴³
- 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.⁴⁴
- 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.⁴⁵
- 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 2015.⁴⁶
- Merchandise exports of IP industries grew to \$842 billion in 2014, up from \$775 billion in 2010; an 8.6 percent increase.⁴⁷
- 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.⁴⁸

⁴² 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>

⁴³ 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://www.commerce.gov/sites/commerce.gov/files/migrated/reports/patentreform_0.pdf

⁴⁴ 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>

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.



THE ECONOMIC COSTS OF IP THEFT:

- 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 2016.⁴⁹
- According to the 2017 IP Commission Report, China accounts for 87 percent of counterfeited goods seized coming to the United States.⁵⁰
- 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.⁵¹
- The U.S. Customs and Border Protection Bureau reported seizing \$1.4 billion of counterfeit goods in FY 2016 (valued using the total manufacturer's suggested retail price), but the IP commission estimates that CBP seized only about 1.2-2.3 percent of the projected total value of counterfeit goods entering the United States (in 2015).⁵² (Note that the CBP seizure figure includes labels and tags which historically has been one of the top ten products seized. Counterfeiters often evade seizure of finished goods by affixing labels to generic goods and/or assembly of finished goods after importation). The IP commission attributes this low share of seized goods to the fact that counterfeit goods mostly travel by postal service and often in small shipments of ten items or fewer. Given that the value of seized counterfeit goods from China and Hong Kong was valued at \$1.2 billion in FY2016, that implies that the total value of counterfeit goods arriving from China and Hong Kong, based on the manufacturer suggested retail price of the infringed good, is estimated at \$52.9-\$101.4 billion in 2016, 0.3-0.5 percent of 2016 GDP.⁵³
- In 2016, CBP reports that \$617 million (45 percent) of seized goods were sourced to China and \$600 million (43 percent) were sourced to Hong Kong.⁵⁴
- Between 2013 and 2017, total inbound international package mail to the U.S. tripled.⁵⁵ There was a sharp rise in seized goods after the United States Postal Service (USPS) entered into deals with postal services in China (in 2010), Hong Kong (2011), Singapore (2012), and Korea (2013) to provide—for a small premium—tracking and delivery

⁴⁹ 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_052213.pdf

⁵⁰ 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_052213.pdf

⁵¹ 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_052213.pdf

⁵² U.S Customs and Border Protection Office of Trade (2016). *Intellectual Property Rights: Fiscal Year 2016 Seizure Statistics*. [online] Washington: U.S. Department of Homeland Security, p. 21. Available at: https://www.cbp.gov/sites/default/files/assets/documents/2018-Jan/FY2016%20IPR%20Seizure%20Statistics%20Book%20%28PDF%20Formatting%29_OT.pdf

⁵³ U.S Customs and Border Protection Office of Trade (2016). *Intellectual Property Rights: Fiscal Year 2016 Seizure Statistics*. [online] Washington: U.S. Department of Homeland Security, p. 23. Available at: https://www.cbp.gov/sites/default/files/assets/documents/2018-Jan/FY2016%20IPR%20Seizure%20Statistics%20Book%20%28PDF%20Formatting%29_OT.pdf

⁵⁴ Ibid.

⁵⁵ United States Senate Permanent Subcommittee on Investigations (2018). *Combating the Opioid Crisis: Exploiting Vulnerabilities in International Mail*. Washington: United States Senate Committee on Homeland Security and Governmental Affairs, p.21. (http://www.hsgac.senate.gov/download/psi-report_-combating-the-opioid-crisis)



confirmation, an essential feature for e-commerce transactions at popular online retailers. The service, called “ePacket” led to large increases in the number of packages shipped to the U.S. from Asia; between fiscal years 2011 and 2012, the number from China alone nearly tripled, from 9.5 million to 26.8 million.⁵⁶



⁵⁶ Guo, Jeff (September 12, 2014). The Postal Service is losing millions a year to help you buy cheap stuff from China. Washington Post. https://www.washingtonpost.com/news/storyline/wp/2014/09/12/the-postal-service-is-losing-millions-a-year-to-help-you-buy-cheap-stuff-from-china/?utm_term=.77dc1ca94bc3.

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

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DEPARTMENT OF AGRICULTURE

DEPARTMENT OF AGRICULTURE

Department of Agriculture Appendix for FY 17 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 activities during FY 2017

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 2017, 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, emphasizing transparency, adherence with internationally recognized standards, seeking an opportunity to comment on any proposed GIs through comment period and requesting the countries be fair in the evaluations.

For example, FAS/Manila and the Philippine Intellectual Property Office hosted a one-day workshop on Common Food Names and Geographical Indications. Attendees included Philippine government officials, industry representatives, and congressional staff. The Philippines’ interest was in creating a policy framework that derived maximum benefit for its industry, and the Philippine officials welcomed hearing the U.S. perspective. USPTO and the Consortium for Common Food Names demonstrated how trademark systems can achieve branding goals while at the same time provide safeguards for users of common names and respect prior trademark rights.

In addition, FAS is supporting a multi-year project with U.S. industry stakeholders targeting key countries in Asia and Western Hemisphere, with the broad goal of achieving widely adopted GI policies that protect common food and beverage names and promote transparent global trade.

DEPARTMENT OF COMMERCE

DEPARTMENT OF COMMERCE

Department of Commerce Appendix for FY 17 Annual Report

This appendix discusses the FY 2017 activities of the Commerce Department, through the U.S. Patent and Trademark Office (USPTO), the International Trade Administration (ITA), the Commercial Law Development Program (CLDP), and the National Telecommunications and Information Administration (NTIA).

Strengthen Intellectual Property Enforcement through International Organizations

The Director of the USPTO has the responsibility of, among other things: of 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.” Title 35 U.S.C. 2(b)(8)-(13).

Consistent with this responsibility, the USPTO provides expert legal and policy advice to the Administration on issues related to the protection and enforcement of patents, industrial designs, trademarks and geographical indications, copyright, plant varieties, and trade secrets, including regulatory test data. The USPTO represents the United States at the World Intellectual Property Organization (WIPO) and in other international intergovernmental organizations discussing IP-related matters. In addition, the Department of Commerce, including the USPTO, provides advice to the Office of the United States Trade Representative (USTR) through extensive input into the annual Special 301 review of global IP regimes, Section 337 investigations, and the Notorious Markets Review.

Throughout 2017, the USPTO provided leadership and obtained stakeholder views to shape negotiating positions for a whole-of-government (State, DOJ, USTR, US Copyright Office, NTIA) effort to advocate for the exclusion of IP from the scope of the draft Hague Convention on the Recognition and Enforcement of Foreign Judgments, proposed by the Hague Conference on Private International Law.

The USPTO also entered into a number of agreements with intergovernmental organizations. For example, in March 2017, USPTO entered into a Memorandum of Understanding with INTERPOL’s Illicit Goods and Global Health Programme. Under the arrangement, USPTO and INTERPOL will cooperate on training and capacity building programs to promote effective intellectual property enforcement internationally.

In June 2017, the USPTO Guangzhou IPR Specialist participated in the Interpol IPR Capacity-Building Program in Nanning, Guangxi Zhuang Autonomous Region addressing 150 participants, including 120 frontline officers of China’s Ministry of Public Security and 30 industry representatives.

In September 2017, USPTO actively participated in the 12th Session of the WIPO Advisory Committee on Enforcement, the principal multilateral forum on intellectual property enforcement issues. In its engagement, USPTO seeks to ensure that the Committee remains focused on the exchange of information and best practices concerning the enforcement of intellectual property rights.

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

Throughout FY 2017, USPTO provided policy advice and technical expertise on domestic and international IP matters to multiple other federal agencies. These included USTR, IPEC, and other bureaus of the Commerce Department. USPTO advised USTR in the negotiation of trade agreements, reviews under U.S. trade preference programs such as the Generalized System of Preferences and the African Growth and Opportunity Act (AGOA), on Trade Policy Reviews undertaken at the World Trade Organization (WTO), and on the proposed accessions of over 20 countries to the WTO. In addition, USPTO assisted USTR in the preparation of its annual review of global developments on trade and IP, the Special 301 Report. This report identifies U.S. trading partners who have not provided appropriate IP protection and enforcement, or market access, for U.S. rights holders. USPTO assisted in its preparation by providing extensive information on the state of IP protection and enforcement in many countries. USPTO likewise provided USTR with information in connection with its compilation of the annual Notorious Markets List. The list highlights prominent online and physical marketplaces that reportedly engage in and facilitate substantial copyright piracy and trademark counterfeiting. USPTO participated in briefing the Industry Trade Advisory Committee (ITAC) and other stakeholders including small and medium size businesses, on progress on promoting enforcement of U.S. intellectual property rights through trade policy tools.

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

The USPTO's Global Intellectual Property Academy (GIPA) offers assistance tailored to U.S. Small and Medium Enterprises (SMEs). GIPA programs cover crosscutting IP topics and are delivered both from the USPTO's Academy headquarters in Alexandria, VA and around the country. Programs cover topics relevant to SME exporters, and are produced with local cooperation from other U.S. government agencies including U.S. Customs and Border Protection (CBP), the U.S. Export Assistance Centers (USEACs) of the International Trade Administration, and Small Business Development Centers (SBDCs) of the Small Business Administration. Additional support is provided by U.S. universities and nonprofits.

In FY 2017, GIPA's domestic IP outreach focused on the importance of IP protection and enforcement to U.S. companies doing business abroad. Over 2,600 attendees, encompassing representatives of U.S. small and medium-sized enterprises, IP practitioners, academics, and IP rights owners and users, attended 42 programs. GIPA powered the popular USPTO China IP Road Shows, stopping in Boston, Dallas, Houston, Detroit and Grand Rapids to help SMEs and their IP attorneys understand how to obtain and enforce IP rights in China. USPTO collaborated with ITA and the Dallas Bar Association to present an Anti-Counterfeiting and the Global Marketplace seminar, featuring speakers from the IP enforcement interagency. USPTO widened its IP education reach through Train-the-Trainer work with USG business counselors, both

directly and through partnerships. GIPA provided SBA business advisors at the ASBDC annual conference, and to the National Association of Small Business International Trade Educators (NASBITE). Face-to-face programs covering all areas of intellectual property were conducted around the country in cooperation with USPTO regional offices, universities and bar associations, and field offices of other US government agencies. Distance Learning programs included a quarterly webinar initiative to provide comprehensive IP education to grantees of the Small Business Administration's Small Business Innovation Research and Small Business Technology Transfer (SBIR-STTR) programs.

In addition, during FY 2017, GIPA continued its efforts to educate U.S. SMEs (including the individual inventor and creator) and the general public on the importance of copyright protection and a balanced approach to enforcement – within the United States and abroad, and in the digital world. Businesses often are unfamiliar with the copyright concept of “fair use” and its application within the business context. GIPA has continued to refine its approach to teaching this concept through its “Intellectual Property (IP) Boot Camps” and other offerings, including through distance learning initiatives. In FY 2017, GIPA provided education on “fair use” to nearly 400 program participants throughout the United States.

In FY 2017, the International Trade Administration's Office of Intellectual Property Rights (OIPR) continued to make available – and update with relevant content – the STOPfakes.gov website, which is an interagency resource that serves as a one-stop shop for U.S. government tools and resources on intellectual property rights. OIPR is the lead agency hosting the STOPfakes.gov website along with support from partner Federal agencies. The Federal agencies behind STOPfakes.gov have developed a number of resources to educate and assist businesses (including SMEs) as well as consumers, government officials, and the general public. These include resources that assist SMEs in identifying and working through IPR issues in key foreign markets, such as country-specific toolkits and a new series of industry-specific IPR toolkits starting with Building Materials, Medical Devices, and Auto Parts. In addition to providing information and access to these interagency resources, OIPR also answers each year hundreds of IPR-related inquiries from businesses and individuals.

For over five years, OIPR has been a leader in developing and coordinating SME-focused outreach programs in an array of formats. With the inception in FY 2012 of the STOPfakes.gov Road Show, OIPR developed a unique, interagency Road Show that traveled to multiple U.S. cities with IP-intensive industries and provided an array of panel speakers and IP experts to advise and consult with SMEs on IP protection and enforcement mechanisms. During FY17, OIPR developed a webinar outreach program customized to particular industries, following on its successful industry toolkits launch. The first of these programs was held in March, 2017 titled “Protecting Your Intellectual Property in Export Markets – A Look at Trademarks and the Madrid Protocol,” which reached more than 50 U.S. companies. OIPR intends to expand the STOPfakes.gov Road Show for FY18.

In addition to participating in specific trade association-sponsored programs, OIPR representatives also travelled to various U.S. cities, including Pittsburgh, Seattle and New York, as part of the *Startup Global* Initiative that was launched in 2017 to assist startup firms in thinking about exports from their earliest stages.

As part of the Commerce Department's overall IPR-outreach related activities, ITA's OIPR continued its China Webinar Series during FY 2017. These webinars, conducted by the Office of China and Mongolia, offer U.S. SMEs the opportunity to discuss current IPR issues with attorneys practicing in China. The webinars are designed to assist companies doing business in China by addressing a wide variety of issues related to intellectual property protection and enforcement. The China IPR Webinars can be found here: <http://www.stopfakes.gov/china-ipr-webinar>.

Assess the Economic Impact of Intellectual Property-Intensive Industries

USPTO continued its collaborative efforts with the U.S. Census Bureau to create new data products describing the business dynamics of innovative firms along with a technical note discussing the methodology used to develop a set of innovation indicators. These indicators are designed to capture (1) the degree of technological novelty associated with a firm's patents; (2) the impact on downstream inventions and innovations; and (3) the broader impacts on the economy, such as job creation. An important output of this collaboration has been the production of datasets linking USPTO's patent and trademark data to Census Bureau data on workers and firms. Other outputs of this collaboration include datasets containing disambiguated identifiers for inventors, patent assignees and trademark holding firms. The datasets are to be made accessible through the Census Bureau Regional Data Centers. As part of its efforts to promote IP-related academic research, USPTO's Office of the Chief Economist hosted a one-day conference on the economic impacts of intellectual property on market outcomes. Academic researchers from several countries presented preliminary results on diverse IP-related topics such as the measurement of patent scope, the impact of IP rights on firm structure, and the use of IP as collateral in financial transactions. The results of most of the studies presented at the conference will be published in a special issue of an academic journal in the fall of 2018.

Protect Intellectual Property at ICANN

The National Telecommunications and Information Administration (NTIA) – in active collaboration with USPTO, IPEC, and other Federal agencies – continued to advance the effective implementation by the Internet Corporation for Assigned Names and Numbers (ICANN) of the new generic top-level domain (gTLD) safeguard advice developed by ICANN's Governmental Advisory Committee (GAC), as a complement to earlier amendments proposed by the GAC to the Registrar Accreditation Agreements that address the concerns of trademark and other rights holders. Of the 1,930 new gTLD applications received for 1,430 unique strings, 1,227 have been delegated and executed Registry Agreements. As new gTLDs have become operational, NTIA, IPEC, and other interagency colleagues continue to direct attention on the effectiveness of new rights protection mechanisms created to protect Intellectual Property, such as the Trademark Clearinghouse and Trademark Claims Service and the Uniform Rapid Suspension System. Such work focuses in particular on: the new gTLD program implementation review; the review of the competition, consumer trust and consumer choice effects of the new gTLD program; and the review of the effectiveness of the rights protection mechanisms in the new gTLD program, all of which are currently underway at ICANN. These actions represent positive steps, and the Federal Government will continue to work through the GAC to ensure that intellectual property rights are respected in the ICANN policy processes.

The Copyright Office's Section 1201 rulemaking

Throughout FY 2017, NTIA followed developments in the Section 1201 rulemaking process, and prepared to fulfill its statutory role to engage in consultation with the Copyright Office on exemptions proposed during the latest triennial rulemaking, which will conclude by October 2018 (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 appreciates the positive process changes that the Copyright Office has implemented for this rulemaking, several of which track closely with recommendations NTIA has made both in its previous consultations and in less formal discussions. NTIA looks forward to actively participating in the rulemaking and sharing its views with the Copyright Office during FY 2018.

Raise Public Awareness of International Intellectual Property Protection and Enforcement

USPTO engages in many outreach activities to raise public awareness of IP. Knowledge is shared through libraries and resource centers, universities, regional offices, Face-to-Face and Distance Learning educational programs and a presence at trade shows. Additionally, content covering all areas of IP is available on the [USPTO's website](#) and promoted through the USPTO's social media platforms. USPTO's GIPA produces and maintains in-depth, on-demand Distance Learning modules on the [USPTO website](#). These modules, available in five languages and covering six different areas of IP protection (including International Standards for the Enforcement of Intellectual Property) have received more than 67,500 unique visitors since they were first made available online in FY 2010. Viewers access these modules from over 160 countries, with the most views coming from the United States and India. In FY 2017, to support efforts to further expand IP awareness, GIPA produced a short educational video, *Trade Secrets*, and established a [GIPA Playlist](#) on USPTO's YouTube channel for future IP micro-learning products. Playlist content generated over 2,000 views between its launch in March 2017 through the end of the year.

In October 2016, USPTO participated in the 2016 Brand Protection Strategy Summit at Michigan State University. Organized by the Center for Anti-Counterfeiting and Product Protection, the event featured USPTO participation in a panel on brand protection in China. A roundtable on partnering with the U.S. government overseas included a discussion on how the USPTO's IP Attachés can assist U.S. stakeholders.

In October 2016, USPTO provided remarks before the Center for Anti-Counterfeiting and Product Protection of Michigan State University on current challenges in China's IP environment, particularly in the on-line, enforcement, and trademark spaces. In addition, the USPTO Shanghai Office supported the Ambassador's IPR Roundtable on IPR enforcement, bringing together approximately 150 representatives from the Chinese government, academic and business communities and from the U.S. business community. Furthermore, the USPTO Beijing IP Attaché hosted a public awareness event at the Beijing American Center on attending U.S. law schools and pursuing a legal career in IP.

In November 2016, the USPTO Beijing Attaché office co-hosted an event with graduate law students interested in learning more about IPR enforcement systems in the U.S. DOJ's IP Law

Enforcement Coordinator informed the students and faculty members of IPR criminal laws and prosecutorial systems in the U.S. and the USPTO Beijing IP Attaché about civil and border enforcement systems in the U.S. and how these compare with China's systems. The USPTO Beijing IP Attaché supported a public Awareness Event on IPR enforcement at the Beijing American Center (BAC): The Embassy's BAC hosted an event open to the public on IPR enforcement. The USPTO Beijing IP Attaché opened the event by introducing the U.S. IPR system generally and discussing the importance of protecting IPR, highlighting the role IP plays in promoting innovation and creativity. The event drew approximately 40 Chinese attendees.

In November 2016, USPTO spoke on IP protection and enforcement issues, as well as IP and economic development, at the National University Faculty of Law and Political Science in Vientiane, Laos. USPTO participated and spoke at a roundtable program on intellectual property, organized by the Intellectual Property Association of Ho Chi Minh City, Vietnam, on the U.S. experience and perspective on how a strong IPR protection and enforcement system has provided a vital underlying condition for promotion of creative and innovative industries, benefits start-ups and entrepreneurs, and contributes to economic development, in Ho Chi Minh City, Vietnam.

In November 2016, at the 4th Sanjiang IP International Conference, IP & Capitalization, the USPTO Shanghai IP Attaché gave a key note speech in Zhenjiang, attracting about 300 attendees. The USPTO Shanghai IP Attaché gave a key note speech in Shenzhen at the US-China IP Conference co-hosted by Berkeley and Renmin University, attracting about 150 participants.

In November 2016, at the Annual Congress of IDDST the USPTO Shanghai IP Attaché gave a presentation on technology transfer in Nanjing, attracting about 200 attendees. At the 2016 Automechanika Shanghai Event, the USPTO Shanghai IP Attaché spoke about IPR protection in China, attracting about 25 attendees.

In December 2016, USPTO organized a series of consultations between the IP Attachés and stakeholders in the United States. These sessions included: a roundtable at the U.S. Chamber of Commerce's Global Intellectual Property Center with more than 150 U.S. Chamber members, other stakeholders, and members of the public, a Manufacturing Association & Anti-Counterfeiting meeting with eight organizations from a wide-variety of industries, including spirits, groceries, apparel and footwear, milk and semiconductor materials, and a Life Science Industry Association Meeting with three organizations from biotechnology, seed trade and pharmaceutical industries, an event hosted by the Business Council for International Understanding that was attended by more than 50 senior industry representatives. In addition, the Attachés had separate meetings with several U.S. stakeholders, eight U.S. Government agencies, six USPTO business units, the USPTO Director, and teams of experts at the USPTO who focus on the various Attachés' respective regions. USPTO's IP Attachés coordinated a briefing with the World Trade Center Denver to discuss intellectual property protection and enforcement abroad. USPTO IP Attachés from European Union, Mexico, United Nations, China, India, Middle East and North Africa conducted a set of outreach meetings in Denver. These meetings included: a roundtable with Denver Office of Economic Development, Colorado Technology Association and Downtown Denver Partnership and a meeting with three key

Federal partners in export assistance, small business administration and economic development agency. In addition, the Attachés had separate meetings with seven copyright groups.

Between December 2016 and January 2017, USPTO spoke to local designers on intellectual property protection and enforcement in Thailand and the United States as part of the Chiang Mai Design Week 2016 program organized by the Thailand Creative and Design Center, in Chiang Mai, Thailand. The USPTO spoke on trademark law and enforcement issues in Southeast Asia as part of a program at Golden Gate University School of Law in San Francisco, California. The USPTO Brazil Attaché and the U.S. Department of Justice's regional Intellectual Property Law Enforcement Coordinator (IPLC) based in Brazil presented at several programs in Recife and Caruaru, Brazil, addressing the economic importance of strong IP protection and enforcement, health/safety risks with respect to weak enforcement, and engaged in a dialogue with the various entities. These programs included: Intellectual Property Rights and Law Enforcement at Tribunal Regional Eleitoral de Pernambuco (TRE-PE); Receita Federal Presentation and Meeting; U.S. & Brazil: Protecting and Enforcing Intellectual Property Rights to Promote Innovation.

In February 2017, the USPTO Attaché in Brazil spoke at the INTA/ABAPI IP Enforcement Customs Policy Dialogue in Rio de Janeiro. Additionally, USPTO participated in an Embassy Singapore briefing for a Visiting U.S. Delegation on Financial Technology and Trade led by Adrienne Harris, Special Assistant to the President for Economic Policy on the White House National Economic Council, and composed of a dozen U.S. financial firms and technology companies, by presenting an overview of the intellectual property environment and system in Singapore with an emphasis on the role of copyright, patent, and trade secrets in providing a legal underpinning for financial technology assets and innovation; and spoke on "Protecting Your IP in the Fintech Industry" to 200 participants at a *FinTech Solutions Showcase*, organized by Singapore Management University, in Singapore. The USPTO Beijing IP Attaché delivered remarks at an International Trademark Association (INTA) anti-counterfeiting conference (approximately 150 attendees), discussing the USG efforts under the Joint Commission on Commerce and Trade (JCCT) and the Mission's IPR Work Plan to combat on-line counterfeiting and piracy, and the need for right holders and platforms to come together and find new ways to cooperate and address this growing issue. The USPTO IP Attaché in Beijing spoke at an INTA program on IPR enforcement in Free Trade Zones; approximately 50 people attended the event. The IP Attaché hosted an IPR public awareness event on the importance of copyright to the movie industry at the Beijing American Center (BAC), which is the Embassy's dedicated public diplomacy and educational outreach space. The event, designed to coincide with the Academy Awards, drew 185 attendees. Speakers talked about how copyright protection and enforcement support the movie industry as well as the direct and indirect jobs.

In March 2017, the USPTO organized and participated in a seminar on trade secret protection and enforcement in Thailand. The seminar – *Thailand 4.0: Value Creation for Business Using Trade Secrets* – was held in Bangkok, Thailand, and was co-organized with the Legal and Intellectual Property Law Committee of the American Chamber of Commerce in Thailand and the Thai Department of Intellectual Property. The USPTO Shanghai IP Attaché gave a keynote speech regarding technology transfer in Beijing, bringing together about 200 attendees at the

MofCOM-USPTO Tech Licensing Program. The USPTO Shanghai IP Attaché gave a presentation on technology licensing in Taiwan as part of an USPTO-TIFA Licensing Program.

In April 2017, the USPTO – in close collaboration with CLDP, the US Embassy Islamabad, and US Consulate Karachi – participated in several public awareness programs in Islamabad and Karachi. These include a session with the Pakistan Intellectual Property Organization (IPO) to mark World IP Day, which drew over 400 people; a session at National University for Science and Technology, which drew over 125 students; a roundtable discussion at the Islamabad Women Chamber of Commerce and Industry focused on SME entrepreneurs; a seminar at The Institute of Business Administration consisting of a mix of students and SMEs; and a seminar at the Pakistan American Cultural Center consisting of approximately 70 people including business leaders, college students and entrepreneurs. These engagements stressed the importance of intellectual property rights to spur innovation and the need to for effective IPR enforcement mechanisms to protect small business and the health and safety of the citizenry at large.

In April 2017, the USPTO organized a judicial program in Baku, Azerbaijan. While there, two U.S. District Court Judges from the U.S. delegation spent an hour talking to students at the Baku State University on a variety of subjects. The embassy live-streamed the talk on its Facebook page. Additionally, since the judicial program fell on World IP Day, the U.S. delegation attended a reception in the residence of the Chargé d’Affaires in recognition of World IP Day. The attendees included local businesses.

In April 2017, the USPTO Attaché in Brazil participated at the *Promoting Intellectual Property Rights Enforcement Policy in Latin America: The Role of the IPO Second Annual Seminar* held in Santiago, Chile. The seminar was hosted by INAPI and supported by INTA, ASIPI, and BASCAP. The Attaché spoke about the storage, destruction and disposal of infringing goods, and about IPR enforcement and consumer awareness.

In April 2017, the USPTO organized and presented at the “China IP Roadshow” in Boston, Massachusetts, designed to educate U.S. rights holders on China’s IP system, and inform attendees on the differences between the U.S. and Chinese systems of IP registration, protection, and enforcement. In addition, the USPTO IP Attaché in Beijing and DOJ’s Regional IP Law Enforcement Coordinator held a public outreach event at a Beijing law firm to discuss the role of the USG in promoting IPR protection and enforcement in China. Also, the USPTO IP Attaché in Beijing spoke at a World IP Day event convened by the General Administration of China Customs (GACC), held in Yiwu, home to the world’s largest “small commodities market,” a combined 80,000+ store market spanning several kilometers. It is the official starting point of the “One-Belt-One-Road” land route, and has been a focus of anti-counterfeiting enforcement activity. The USPTO IP Attaché in Beijing delivered a presentation on the need for more collaboration in cross-border IPR enforcement, highlighting China’s position as an exporter of IPR infringing goods (based on annual CBP seizure statistics). The USPTO IP Attaché in Beijing worked with the Embassy’s Public Affairs Section to publish a Chinese language op-ed on April 25, 2017, to commemorate World IP Day. The piece emphasized the important role that IPR protection and enforcement play in making the U.S. the world’s most innovative economy, and the importance of continued efforts in China to develop its own IPR systems as it creates a more innovative economy. Working with the Beijing American Center, the Embassy’s

public outreach center, the USPTO Beijing Office convened a public awareness program on innovation and IP on April 26. The event drew a crowd of 75 young professionals, academics, and students. The USPTO Guangzhou IPR Specialist organized a Guangzhou Consul General's IPR Roundtable. Over 20 U.S. company representatives attended this meeting, enabling the Consul General and Consulate Officers to hear from rights holders and exchange views and ideas on IPR matters and the continuing U.S./China IPR dialogue. The USPTO Guangzhou IPR Specialist partnered with the Consulate's Economic and Public Affairs Sections to organize a World IP Day Public Event, focusing on IPR and innovation. Approximately 70 people attended the event.

In another April 2017 activity, the USPTO IP Attaché in Shanghai shared IPR environment as well as protection issues with over 25 US rights holders in Changsha at the US-Central China Business Summit. The USPTO Shanghai IP Attaché office teamed up with US Consulate General Shanghai Public Affairs Section and Motion Picture Association of America (MPAA) to jointly hold a screening of the movie "Joy" – a story of building a business from an innovative idea. Approximately 80 people attended the event for a World IP Day Public Awareness Event. The USPTO Shanghai IP Attaché travelled to Guangzhou supporting Guangzhou CG's IPR Roundtable, talking to over 20 U.S. company representatives.

In May 2017, near the one-year anniversary of the signing of the Defend Trade Secrets Act of 2016, about 200 people gathered at the USPTO's headquarters and via live webcast to participate in a public symposium on *Developments in Trade Secret Protection*. The symposium brought together experts from academia, private legal practice, international organizations, and industry to discuss such topics as measuring the value of secrecy, use of the DTSA, and differences in trade secret protection in foreign jurisdictions. Also in May 2017, USPTO organized and presented at the "China IP Roadshows" in Dallas and Houston, Texas. This informative program was designed to educate U.S. rights holders on China's IP system, and inform attendees on the differences between the U.S. and Chinese systems of IP registration, protection, and enforcement. In Dallas, Mayor Mike Rawlings gave opening remarks. In Houston, U.S. Representative John Culberson gave luncheon remarks. Also that month, the USPTO Attaché office in Beijing worked closely with the Public Affairs Section (PAS) to arrange four public awareness events for visiting Professor Doris Long of The John Marshall Law School in Chicago, Illinois. The IP Attaché introduced Professor Long at an event at the Beijing American Center on protecting IP online, with a particular emphasis on how consumers can spot fakes when buying products online. An IP Specialist from the USPTO Beijing Attaché office joined Professor Long at two additional events hosted at Renmin University and Beijing Foreign Studies University, which were geared towards graduate students studying IP.

In June 2017, USPTO and the USPTO Beijing Attaché's office participated in a daylong conference at Renmin University on protecting sports broadcasts and broadcasts of other live events. The conference drew around 100 attendees. The USPTO IP Attaché in Shanghai delivered remarks regarding the international experience exchange on criminal protection for intellectual property, around 300 attendees at the 2017 China Forum on Criminal IP Protection.

In July 2017, USPTO organized and presented at the "China IP Roadshows" in Detroit and Grand Rapids, Michigan. This informative program was designed to educate U.S. rights holders

on China's IP system, and inform attendees on the differences between the U.S. and Chinese systems of IP registration, protection, and enforcement. Detroit Federal District Judge Victoria Roberts gave luncheon remarks. About 100 attendees participated in a half-day roundtable on fraudulent trademark solicitations held in Alexandria, Virginia. Organized by USPTO and Trademark Public Advisory Committee, the program featured 14 spoken and written comments from members of the public who had been affected by fraudulent solicitations. This was followed by a panel presentation by representatives from seven federal agencies that have experience with preventing such scams and informing the public about them. The USPTO IP Attaché in Shanghai hosted a panel discussion with Internet service providers at the Taipei International Conference on Best Practices for Stemming Digital Piracy, which drew about 135 stakeholders in attendance.

In August 2017, USPTO and the USPTO Dallas Regional Office, the Dallas U.S. Export Assistance Center, and the Dallas Bar Association presented a program on *Anti-Counterfeiting and The Global Marketplace: How to Protect and Enforce IP While Expanding Trade in Dallas, Texas*. The program featured remarks by U.S. Reps. Pete Sessions and Eddie Bernice Johnson, and included 83 attendees. The program included sessions on how to work with CBP, best practices for companies, and brand protection. Also, USPTO spoke to approximately 250 individuals at the Guangdong Provincial IP Expo on trademarks and innovation; this visit was supported by the USPTO Attaché office in Guangzhou. The USPTO IP Attaché in Shanghai delivered the opening remarks and keynote speech at the SAIC-USPTO Brand Program in Beijing, before about 100 attendees. In August 2017, the USPTO IP Attaché in Shanghai spoke to about 200 participants at the *Managing IP Global IP & Innovation Summit* and introduced the topic of latest IPR and innovation policies and sharing the long-standing outlook of IPR protection.

In September 2017, USPTO's OPIA Enforcement team coordinated with the USPTO Silicon Valley Office to provide a public outreach presentation on Trade Secrets. The target audience was small and medium enterprises, with the presentation focused on challenges faced by that community. The presentation was live, presented in the Silicon Valley offices. The presentation was well-received and the audience was actively engaged. USPTO presided over the Shenzhen IPR Roundtable for U.S. businesses with offices in Shenzhen and Hong Kong. Twenty U.S. rights holders attended the meeting, in which frank and candid views were exchanged. The PTO Guangzhou Office provided organizational and logistical support. In September 2017 USPTO addressed a Meeting of the IPR Committee of the American Chamber of Commerce in South China, at which USPTO heard their concerns and learned about latest developments in innovation and IPR in South China. In September 2017, the USPTO IP Attaché in Shanghai gave a presentation and held a discussion regarding IPR with 18 company members of the U.S. Specialty Equipment Market Association (SEMA).

Capacity-Building and Training

The Commerce Department continues to engage in training and capacity building programs to strengthen intellectual property awareness and enforcement internationally. These programs are conducted by USPTO's Global Intellectual Property Academy and the Department's Commercial Law Development Program.

USPTO's Global Intellectual Property Academy (GIPA)

In FY 2017, USPTO's GIPA continued to develop and provide capacity-building programs to help improve IP systems in key countries and regions for the benefit of U.S. stakeholders. 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. There were over 4,000 participants, and they hailed from 120 countries. A complete list of all countries represented at GIPA trainings in FY 2017, is available online at the [USPTO Data Visualization Center](#). 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, which provided updates on domestic and IP law and policy. One such GIPA program—on patent, trademark, copyright, and trade secret law—was for Foreign Service officers posted in U.S. embassies around the world, and was cosponsored by the U.S. Department of State's Foreign Service Institute. Another program on U.S. Copyright Law for U.S. Government Attorneys provided attorneys from a variety of federal departments and agencies with training on copyright issues they are likely to encounter, with similar programs on trademark and patent law planned for FY 2018. Finally, to increase the effectiveness of interagency coordination of capacity-building and training, GIPA reviewed the capabilities of the www.usipr.uspto.gov IPR education database and piloted an enhanced impact survey tool.

During FY 2017, USPTO worked closely with the International Judicial Relations Committee of the U.S. Courts, as well as the Administrative Office of the U.S. Courts, to coordinate the involvement and participation of Federal judges in foreign and domestic training programs and capacity-building and public outreach activities overseas. These programs and activities addressed various issues in IP enforcement, as well as best practices in case management, rule of law, and transparency in decision-making in the context of intellectual property civil and criminal cases.

Sub-Saharan Africa

In March 2017, USPTO organized a roundtable meeting on combating counterfeit medicines for high-level Ministry of Health officials from Angola. The roundtable brought together officials from FDA's Office of Criminal Investigation (OCI), the Criminal Division of the U.S. Department of Justice (DOJ), CBP, U.S. Immigration and Customs Enforcement (ICE), and the U.S. National Intellectual Property Rights Coordination Center (U.S. National IPR Center).

Commonwealth of Independent States

In April 2017, USPTO offered a three-day Judicial Dialogue in Baku, Azerbaijan. Azerbaijani judges and a professor from Baku State University participated. In

addition to USPTO, the US delegation included two U.S. District Court Judges and a prosecutor from the DOJ Computer Crime and Intellectual Property section (CCIPS). The program was designed to encourage active participation by the judges by focusing on a judge-to-judge exchange of ideas and experiences, not just lecture format. The program included subject matter discussions and case studies.

In May 2017, USPTO offered a three-day program for Kazakhstani police and prosecutors at the GIPA facilities at USPTO. The program focused on providing practical knowledge on the investigation, case development, and prosecution of IP crimes. The faculty included representatives from USPTO, FBI, DOJ/CCIPS, the CCIPS Cybercrime Lab, and industry.

Latin America

In November 2016, USPTO conducted a colloquium for the judiciary on digital piracy and copyright enforcement. The two-day workshop was held in Port of Spain, Trinidad and Tobago. Approximately 30 Justices from nine Caribbean countries participated in the workshop. It featured presentations by officials from USPTO, WIPO, the FCC, DOJ, and the Federal Judiciary. The presentations addressed the importance of copyright protection and enforcement; international laws and conventions on online copyright protections; enforcement of cable and broadcast rights; digital piracy and Internet streaming; best practices in investigating and criminal prosecution of copyright piracy cases; criminal and civil remedies in IP cases; and deterrence sentencing.

In November 2016, USPTO held a capacity building program entitled *Combating Internet Crime* for Mexican federal prosecutors, investigators, and magistrates. The program included a visit to the National Cyber-Forensics & Training Alliance in Pittsburgh, Pennsylvania, for training with online IPR enforcement officials from both government and industry.

In December 2016, USPTO delivered a presentation on US administrative and judicial venues and remedies for IP enforcement within the U.S. IP system to representatives of the Mexican Association for the Protection of Intellectual Property.

In January 2017, USPTO – in collaboration with the USPTO IPR Attaché in Mexico City – organized and participated in two back-to-back *Train-the-Trainer Workshop for Trinidad and Tobago Customs and Excise* and *Train-the-Trainer Workshop for Trinidad and Tobago Police* in Port-of-Spain, Trinidad and Tobago. The workshops provided more than 85 customs and police officials with the opportunity to learn best practices in investigating IP crimes, gathering evidence, targeting seizure, forfeiture and destruction of suspect goods, and presenting cases to public prosecutors. Other presenters at the workshops included representatives of CBP, the UN Office on Drugs and Crime, and the Virginia State Police. The goal of the workshops was to provide the customs and police academies with the tools, materials and framework that they need to develop their own IPR training programs for their cadets and junior officers.

In January 2017, the USPTO Attaché in Brazil provided a presentation to police on IPR enforcement in Recife.

On February 27-March 1, 2017, USPTO organized and participated in a three-day *Intellectual Property Rights Enforcement Workshop* for prosecutors, inspectors and customs officials from Guatemala and Honduras. Approximately 45 prosecutors, inspectors and mid and senior-level customs officials participated the workshop. Speakers from CBP and the IPR Attaché lead discussions on documentation and infringement determinations, utilizing bills and manifests to identify discrepancies and risk indicators. Speakers from the DHS highlighted the link between organized crime and IPR, challenges to transnational investigations and prosecutions, investigative techniques, and trade based money laundering.

In March 2017, the USPTO Attaché in Brazil participated in the USPTO-IPLEC-HSI IP enforcement workshop conducted in Belo Horizonte in the Minas Gerais State of Brazil with about 100 attendees from a broad range of government offices (civil police, federal police, customs, highway police, prosecutors, etc.). The two-and-a-half-day workshop covered a broad range of IP enforcement topics. In addition, the USPTO Attaché office in Brazil participated in IP enforcement workshops organized by the U.S. National IPR Center; this included a workshop in Buenos Aires (for officials from Argentina and Chile) and a workshop in Montevideo (for officials from Uruguay and Paraguay).

In April 2017, the Intellectual Property Law Enforcement Coordinator (IPLEC) and the USPTO Attaché in Peru conducted a two-day training for police and prosecutors in Lima, Peru regarding investigation and prosecution of online infringement. Approximately 45 police and prosecutors attended, as well as government officials from Indecopi and Digemid.

In May 2017, the USPTO Attaché in Brazil spoke at the IPR Enforcement Training for Uruguay and Paraguay organized by the U.S. National IPR Center and HSI.

In June 2017, USPTO – in collaboration with the USPTO Attaché in Mexico City – organized and participated in a seminar and dialogue on Broadcast Licensing and Enforcement in Kingston, Jamaica. The event’s approximately 90 participants included approximately 70 representatives from the Broadcast Commissions, Intellectual Property Offices, Telecommunications Commissions, and Cable Operators from the 14 CARICOM Member States, as well as representatives from the NBC, DirecTV, HBO and FOX. During the seminar, officials from USPTO, the FCC, the Copyright Office and USTR discussed the legal framework for content and signal licensing, including domestic considerations and international obligations, the nature and prevalence of piracy in the Caribbean region and any recent progress and re-occurring challenges in reducing video content and signal from both the perspective of Government Regulators and Rights-holders. During the stakeholder dialogues, USPTO led discussion on the possibility of the creation of voluntary initiatives among many of the stakeholders in the room, to set forth principles of understanding and rules and procedures of operation; on public awareness and educational campaigns; and on the creation of materials that could be used by all partners on their individual platforms to be distributed in schools and other outlets. Additionally, the USPTO Attaché in Brazil spoke at the IPR Enforcement training program for Argentina and Chile in Buenos Aires.

In September 2017, USPTO – in cooperation with DOJ – organized and participated in a workshop on the *Investigation and Prosecution of Intellectual Property Crimes* in St. Michael, Barbados. Approximately 50 representatives from the police, prosecutors and customs offices from the 14 CARICOM Member States attended and participated in the program. USG representatives from DOJ, FBI, CBP, USPTO and the IPR Attaché in Mexico City led discussions on the importance of intellectual property protection and enforcement, building respect for IPR, the need for consumer awareness campaigns, the impact of effective border measures, and best practices in investigating and prosecuting intellectual property crimes.

South Asia

In July 2017, USPTO – in close collaboration with the ICE/Homeland Security Investigations (HSI) Attaché in Islamabad – conducted a three-day IPR Enforcement Program for a total of sixteen Government of Pakistan Officials, consisting of representatives from the Federal Investigation Agency (FIA), the Intellectual Property Organization of Pakistan (IPO), and three representatives from the National Assembly of Pakistan. The workshop was conducted at GIPA in Alexandria, Virginia. The workshop incorporated IPR Enforcement discussion from local, state and federal law enforcement agencies, including the Los Angeles Police Department, Virginia State Police, DOJ, FBI, ICE/HSI, the U.S. National IPR Center, and FDA/OCI. The law enforcement experts covered best practices of investigating and prosecution of IPR crimes, and they incorporated case studies into the discussion. This format facilitated active discussion from the participants, including an overview of Government of Pakistan’s recent efforts in curbing counterfeiting and piracy.

In August 2017, USPTO – in conjunction with the USPTO IP Attaché’s Office in India, and co-sponsored by the Confederation of Indian Industry – organized a two-and-a-half-day *Workshop on Exchange of Best Practices in IP Enforcement for South Asia* in Singapore. Representatives from India, Sri Lanka, Nepal, Bhutan, the Maldives, and Singapore joined with US officials to focus on regional trends and experiences in IP enforcement. Some of the topics addressed in the workshop included effective border measures, investigating IP crimes, and working with IP right holders.

In August 2017, USPTO – in close collaboration with the ICE/HSI Attaché in Islamabad and the US Embassy Islamabad – conducted a three-day IPR Border Enforcement Workshop for a total of ten Government of Pakistan Officials consisting of representatives from the Federal Board of Revenue, Customs, the National Assembly of Pakistan, and the Intellectual Property Organization of Pakistan. The workshop was conducted at GIPA in Alexandria, Virginia. The workshop included topics on customs procedures, investigations, risk analysis and targeting and destruction of counterfeits. The program included presentations, case studies and discussions from representatives from USPTO, CBP, FDA/OCI, and ICE/HSI.

In August 2017, USPTO conducted a two-day IPR Enforcement program in close collaboration with Department of Justice’s International Criminal Investigation Training Assistance Program (ICITAP) Attaché for approximately forty-five Government of Nepal Officials consisting of Customs, Police and Prosecutors. The program was conducted in Kathmandu, Nepal. The program provided an overview of intellectual property laws and the importance of intellectual property law enforcement. The workshop also included discussion

from industry representatives on their experiences of protecting intellectual property rights in Nepal.

South East Asia

In October 2016, USPTO spoke on the role of consumer protection and unfair business practices in intellectual property enforcement at the 6th Annual Anti-Counterfeiting and Piracy Summit in Manila, Philippines.

In January 2017, USPTO addressed the challenges facing intellectual property and the role of the courts in intellectual property enforcement in the *Fourth Industrial Revolution of the 21st Century at a Judicial Symposium to Mark the 20th Anniversary of the Establishment of the Thai Central Intellectual Property and International Trade Court* attended by more than 450 Thai Government officials and judges.

In February 2017, USPTO participated as speaker/panelist at the 5th Intellectual Property Criminal Enforcement Network Conference (IPCEN5), co-organized by the U.S. Department of Justice, U.S. Department of Homeland Security, and USPTO.

Between February 28 and March 2, 2017, USPTO organized and participated as speaker in a Judicial Roundtable on Intellectual Property Enforcement, co-organized with Embassy Jakarta and the Center for Technical Judicial Education and Training of the Supreme Court of Indonesia, in Jakarta, Indonesia.

In April 2017, the USPTO conducted a three-day advanced workshop at GIPA in Alexandria, Virginia. The workshop was organized for approximately 15 law enforcement officers and prosecutors from Malaysia, Vietnam, and the Philippines on advanced concepts in the investigation and prosecution of online piracy and counterfeiting. Experts from USPTO, DOJ/CCIPS, and the U.S. National IPR Center presented on digital forensic techniques, collection and handling of electronic evidence, prosecution strategies in IP cases, trade secret protection and enforcement, prosecution of money-laundering and asset forfeiture cases, among other topics.

In September 2017, USPTO conducted the following events held in Bangkok, Thailand. USPTO spoke at meeting of the ASEAN Network of Intellectual Property Enforcement Experts (ANIEE) on the topic of regional and trans-border enforcement cooperation. USPTO co-organized and spoke at Asia Regional Workshop on Intellectual Property Border Enforcement, attended by more than 140 customs and law enforcement officials, and brand owners. USPTO organized and spoke about IP enforcement at a Roundtable for the Thailand Court of Appeal for Specialized Cases on Cutting Edge IP Issues and Case Management. USPTO organized and spoke on enforcement issues at an ASEAN Judicial Colloquium on IP Protection and Enforcement of Civil and Criminal Cases for ASEAN region appellate judges. Finally, USPTO participated as a speaker on trade secret protection and enforcement in the United States at a *WIPO Sub-Regional Seminar on Trade Secrets and Innovation* in Singapore.

APEC

In February 2017, USPTO participated as member of U.S. Delegation at APEC-IPEG meeting in Nha Trang, Vietnam, to present U.S. Government proposal on border enforcement training workshops for customs and other enforcement officials on trademark protection and anti-counterfeiting effective practices, which was widely supported and approved by IPEG member economies.

In August 2017, USPTO – in co-sponsorship with APEC – organized and participated in a *Workshop on Confusingly Similar Trademark Determinations in a Border Enforcement Context* on the margins of the APEC Intellectual Property Rights Experts’ Group (IPEG) Meetings in Ho Chi Minh City, Vietnam. Approximately 60 representatives from both the border enforcement authorities as well as the intellectual property offices of the APEC economies attended the workshop. Speakers from USPTO and CBP discussed the impact of trademark infringement on brand owners, consumers, and economies, the role of customs in IP border enforcement, the role of Trademark Offices in making examination decisions about confusingly similar trademarks, and the function of Customs Agencies in making determinations between counterfeits and confusingly similar trademarks. The workshop also included discussion from industry representatives on their experiences of protecting intellectual property rights in the APEC economies.

Middle East/North Africa

In November 2016, USPTO conducted a workshop training for customs officials, police officials and health regulators on IPR Enforcement issues as it pertains to health and safety products for approximately 20 Gulf Cooperation Council (GCC) Officials including Bahrain, Qatar, Saudi Arabia and the UAE in Dubai, UAE. The workshop focused on best practices related to interdicting counterfeit health and safety products at the border, best practices of investigating transnational criminal actors, law enforcement tools to address IPR violating merchandise sent through consignment shipments, and discussed the importance of inter-ministerial and private sector cooperation. The workshop employed the expertise from INTERPOL, Europol, the World Customs Organization (WCO), and USG representatives from FDA/OCI, CBP, and ICE.

In April 2017, USPTO – in collaboration with the UAE Institute of Training & Judicial Studies – hosted a two-day judicial training at the Institute’s training facility in Sharjah, UAE. The program focused on best practices as it relates to IPR Criminal Enforcement for the benefit of UAE Judges. U.S. participants included one U.S. Federal Judge and representatives from DOJ/CCIPS. Topics included Online Reconnaissance & Computer Forensics; Online and Digital IPR Cases & Criminal Piracy; Copyright Crime Hypotheticals and Case Studies; Challenges & Best Practices in Judicial Proceedings of Criminal Counterfeiting; Trademark Crime Hypotheticals and Case Studies; and Criminal Remedies in IPR Cases.

In September 2017, USPTO – in collaboration with the Moroccan Office of Industrial and Commercial Property – conducted back-to-back two-day intellectual property judicial exchanges in Casablanca and Marrakech, Morocco. The participants consisted of approximately 40 Judges

from the Court of First Instance, Trial Courts, and Courts of Appeal. The program drew from the expertise of U.S. Federal Judges and a prosecutor from DOJ/CCIPS. The workshop incorporated trademark and copyright case studies and discussions of best practices of prosecuting criminal IPR cases.

Commercial Law Development Program

The Commerce Department's Commercial Law Development Program (CLDP) works to improve IP enforcement and protection in key countries around the globe. As the Office of General Counsel's technical assistance arm and as part of the strategic goal of the Commerce Department (as stated in its 2014-2018 strategic plan), CLDP upholds the Department's mission to "Expand the U.S. economy through increased exports." The first objective is to "increase opportunities for U.S. companies by opening markets globally," and a key strategy is to "reduce trade barriers." The strategic plan states that: "Foreign government-imposed trade barriers cost U.S. exporters billions of dollars each year. Barriers include inadequate protections for IP rights."

With this mandate to help create a level playing field for US firms overseas, CLDP places a strong emphasis on enhancing the enforcement of IPR rights in other countries. CLDP does so 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). In cooperation with USPTO, other Commerce bureaus, USTR and other Federal agencies, CLDP's activities include trainings, seminars, and meetings that address topics such as IPR border enforcement, innovation and the role of IP in the economy, technology transfer, judicial training in adjudicating IP infringement cases, capacity building for government institutions and IP enforcement systems, copyright and trademark protection, copyright management, public awareness of IP issues, and IP enforcement in the digital sphere.

In FY 2017, these CLDP activities were conducted in Algeria, Armenia, Azerbaijan, Bahrain, Bosnia-Herzegovina, Georgia, Kosovo, Mali, Maghreb Regional, MENA Regional, Pakistan, Sri Lanka, Tajikistan, Tunisia, Ukraine, and the United States. Notable CLDP programs during FY 2017 included:

Border Enforcement Capacity Building

On October 18, 2016, CLDP – in coordination with U.S. Customs and Border Protection, the World Customs Organization, and the Ministry of Economic Development and Trade of the Republic of Tajikistan – conducted an introductory workshop on *Border Identification and Interdiction of Counterfeit and Pirated Products* in Dushanbe, Tajikistan. Advisors led discussions with participants from the Tajik Customs Service, the Ministry of Culture, and the Ministry of Economic Development and Trade, including the National Center for Patents and Information and the WTO Affairs Office. The workshop included such topics as *The Health and Safety Risks Posed by Counterfeit and Pirated Products; Economic Aspects of Counterfeit Trade; and Challenges of Interdicting Infringing Merchandise*. The workshop focused on protecting intellectual property rights at the borders of Tajikistan as well as efforts by the

Government of Tajikistan to carry out its “National Strategy for the Development of the Intellectual Property in the Years 2014-2020” and the “Program for the Adjustment of the Economy of the Republic of Tajikistan in Connection with Membership in the World Trade Organization.”

On July 20-21, 2017, CLDP hosted the Third Annual *Georgia Against Counterfeiting* Conference in Batumi, Georgia. The program was organized in close partnership with the National Intellectual Property Center (“Sakpatenti”) and was attended by over 130 participants, representing Georgia's private and public sectors, international patent organizations, Georgian SMEs, and educational organizations. The Deputy Minister of Georgia's Ministry of Economy and Sustainable Development, the Deputy Commissioner of State IP Office of China, and ICC Georgia presented the legal frameworks and legislations adopted by Georgia, the U.S., the U.K., China, Lithuania, France, and Germany and spoke of the challenges they face in the areas of IPR enforcement. CLDP and Sakpatenti were also able to identify a wide range of speakers from the governments and public sectors of Georgia, the U.S., the U.K., China, Lithuania, France, and Germany, who presented on the recent development in the follow-up actions that the customs services and Sakpatenti have taken after counterfeit good have been identified and seized in their respective organizations and countries.

From October 31-November 4, 2016, CLDP led a *Workshop on Customs Valuation, Intellectual Property, and Post-Clearance Audit* in Pristina, Kosovo, which was part of an ongoing series of customs workshops. The workshop brought together 24 Kosovo Customs officials and four experts from US Customs and Border Protection (CBP). At CLDP’s previous workshop in June 2016 (that focused on customs valuation and post-clearance audit), participants worked with CBP experts to identify several priorities for future trainings. The fall 206 workshop specifically addressed those follow-on topics, which included protection of intellectual property rights and advanced post-clearance auditing techniques.

Judicial Capacity Building and Development of Judicial Benchbooks

On August 9-10, 2017, CLDP – at the behest of the US General Consulate in Jerusalem, and in cooperation with the Higher Judicial Council and the Attorney General’s Office – kick-started its IP training program for Palestinian judges and prosecutors from the West Bank. CLDP was joined by two USPTO trademark attorneys, alongside Judge Denise Cote of the U.S. Federal District Court for the Southern District of New York. Ten judges and 13 prosecutors participated in the program, representing 10 West Bank governorates, and partook in a series of interactive cases reflecting practical legal issues. The program provided a rare opportunity to gain an understanding of the legal gaps between current judicial practice of trademark cases in West Bank courts in comparison to international and regional best practices. The program also provided a heightened level of appreciation of how trademark enforcement impacts economic development.

On September 23-25, 2017, CLDP co-organized two workshops on intellectual property in Batumi, Georgia. In coordination with Georgia's High School of Justice (HSOJ), Sakpatenti, and the Georgian Copyright Association, CLDP led a Workshop on Adjudication of Civil Intellectual Property Infringement for 23 judges from courts throughout Georgia. Judge Bernice Donald (6th Circuit) and Judge Virginia Covington (Middle District of Florida) presented U.S. judicial best

practices and case studies for the adjudication of IP-related cases. These programs trained participants of the Georgian judiciary to effectively and fairly adjudicate cases involving IP infringement. The workshop featured interactive case studies featuring six Georgian cases and two actual cases from the United States, and addressed special topics requested by the judges: IP valuation and damages calculation, determining co-inventors, and treatment of statutes of limitations.

Attorney Capacity Building

On July 23-30, 2017, CLDP co-organized Summer School on IP Law in Tbilisi, Georgia, in partnership with Georgia's European Law Students' Association (ELSA) and Sakpatenti. The summer school was attended by 50 Georgian and European law students who then competed in a moot competition in August. In preparation for this competition, participants received in-depth training on IP rights, trademark and copyright infringement, best practices, and lessons learned from across the region. Representatives from Sakpatenti, the EU Intellectual Property Office, and the World Intellectual Property Organization led the discussions. This program followed an earlier IP Pre-Moot, co-sponsored by CLDP and ELSA, from June 1-4, 2017. These programs aim to train Georgian law students in IP law and are part of CLDP's multi-year assistance to create greater IP awareness and enforcement in Georgia.

IPR Institution Capacity Building

CLDP's program in Georgia includes building the capacity of Georgia's intellectual property protection and enforcement, through assistance to Sakpatenti, the Georgian Copyright Association, and other organizations; and improving the country's capacity for IPR dispute resolution by building the capacity of judges and attorneys. While each of the programs that include Sakpatenti achieve other objectives, they also help to sustain institutional capacity building related to IPR.

On February 27-March 10, 2017, CLDP, in conjunction with USPTO, hosted a two-week U.S. Consultation with Sakpatenti officials from Georgia to provide assistance and advanced training for trademark examiners. CLDP cosponsored a three-person delegation from Sakpatenti to travel to Alexandria, VA, to conduct on-site consultations with USPTO, where the training consisted of lectures and presentations, in addition to case studies and group exercises. The goal of these consultations was to assist Georgia in providing a platform for sharing information about legal and procedural approaches to resolving trademark registration issues.

On February 27-28, 2017, CLDP conducted a workshop on IPR for 25 entrepreneurs, IP attorneys, and government officials in Baku, Azerbaijan. The workshop aimed to raise awareness and teach the fundamentals of copyrights, trademarks, patents, and licensing, with the objective of empowering small- and medium-sized enterprises to manage their IP issues more strategically as they become increasingly commercial. CLDP called upon the expertise of Pejman Sharifi, patent attorney and partner at Winston & Strawn LLP, and Darius Graham, director of the Social Innovation Lab at Johns Hopkins University. The experts, along with their counterparts from the Azerbaijan government's copyright and patent offices, spent the first day of the program

overviewing the many benefits of a robust IPR regime. Experts also compared the legal frameworks for copyrights and trademarks of the United States and European Union.

On July 11-12 2017, CLDP co-led a workshop on combatting counterfeiting in Mali using technology to verify the authenticity of products. The event was an official launch of a public-private partnership, formed through CLDP's work, amongst the International Crops Research Institute for the Semi-Arid Tropics, the U.S. Agency for International Development, and the U.S.-based company Sproxil. The project uses mobile product authentication (using Sproxil's software) to combat counterfeit products affecting public health, including pharmaceuticals and agro-inputs such as seeds and fertilizers. The technology allows consumers to verify a product in a matter of seconds. The project addresses a major problem in Mali and other parts of Sub-Saharan Africa, where under-resourced regulatory bodies struggle to adequately address the numerous counterfeits in the market, which pose a public health risk and can negatively affect agricultural production. The project also protects the intellectual property of producers, including U.S. companies

Public Awareness of Intellectual Property Issues

On September 25, 2017, CLDP held a *Media Workshop on Civil IP Infringement Disputes* for 25 journalists from national and local media outlets. The program aimed to build the capacity of journalists to understand and cover IP issues, thereby raising awareness and improving understanding among the general public. This event was organized in coordination with Sakpatenti and the Georgian Copyright Association.

On April 26, 2017, CLDP and USPTO conducted a half-day World IP Day event highlighting and celebrating efforts to strengthen Sri Lanka's intellectual property regime.

Innovation and the Role of Intellectual Property in the Economy; Technology Transfer

On July 26-28, 2017, CLDP led a workshop on technology transfer for advisors and practitioners in Yerevan, Armenia. Representatives from American University of Armenia (AUA), Yerevan State University, National Polytechnic University, National Science Academy, and private sector law firms attended the program held at AUA. The workshop aimed to build the institutions' capacity to commercialize the results of their research, particularly through three domains: intellectual property protection strategy, valuation of new technologies, and negotiation of technology licenses. At the workshop CLDP experts trained participants in the following four areas: (1) assessing the value of technological innovations; (2) protecting the IP inherent in technological innovations developed by the participants' institutions; (3) conducting successful technology licensing negotiations on behalf of these institutions; and (4) drafting licensing agreements. Furthermore, experts led practical case studies to demonstrate the theoretical principles discussed during the workshop, and led interactive discussions with participants.

On October 9-27, 2017, and as a follow-up to the July workshop, participants from four Armenian universities took part in a three-week internship in the United States hosted by George Washington University, the University of Maryland, the U.S. Department of Agriculture (USDA), and the National Institution of Standardization of Technology (NIST). Upon return to

Armenia, the participants hope to establish a regional technology transfer office for universities in Yerevan, Armenia.

On October 27-November 4, 2016, CLDP conducted a technology transfer program for a Sri Lankan delegation comprised of officials from the National Intellectual Property Office, the University Grants Commission, and the Coordinating Secretariat for Science, Technology and Innovation, as well as universities interested in establishing technology transfer offices and incubators. USPTO prepared an IP fundamentals program for the 12-member delegation at its Global Intellectual Property Academy and then the participants traveled to Princeton University and Carnegie Mellon University for technology transfer consultations.

On April 24-27, 2017, CLDP and USPTO conducted a three-day University IP Policy Workshop for universities, the University Grants Commission, and research institutes in Sri Lanka. The workshop built upon earlier capacity-building programs and aimed to prepare university leadership and technology transfer managers to incentivize innovation and commercialization.

On September 11-12, 2016 CLDP, USPTO, and the World Intellectual Property Organization (WIPO) conducted an Institutional IP Policy Workshop for 56 participants from Sri Lankan universities and research institutes and foundations. The National Intellectual Property Office of Sri Lanka, the University Grants Commission, and the Coordinating Secretariat for Science Technology and Innovation also participated and helped organize the event. CLDP experts spoke on the different elements of institutional IP policy (Scope of Policy, Use Requirements, Ownership, Revenue, Governance, and Operations and Assignment) that help incentivize innovation for faculty, students, and private sector partners. This workshop also included several drafting exercises, and all of the participating institutions submitted draft IP policy language for WIPO and CLDP to review.

On October 11-13, 2016, in Tunis, CLDP – in close cooperation with Tunisia's National Agency for the Promotion of Scientific Research – led a *Workshop on Promoting Innovation Ecosystems through Technology Transfer in Tunisia*. Participants included government officials, representatives from universities and research institutions, university students, attorneys, and private-sector representatives from across Tunisia. It was led by local experts as well as American expert-advisors from Louisiana State University and USPTO as an exchange of best practices. The workshop is a part of CLDP's continued programming in Tunisia to encourage the commercialization of the results of research, and thus contribute toward the development of companies and jobs in the country. This program is funded through the U.S. Department of State's Middle East Partnership Initiative (MEPI).

On October 4-13, 2016, CLDP conducted a U.S. study tour for a 15-member delegation representing 12 Pakistani universities that are interested in establishing or have early start-up Offices of Research, Innovation and Commercialization. CLDP has been working with Pakistan's Higher Education Commission, select Pakistani universities, and key private sector stakeholders since 2012 on establishing a university-based innovation and entrepreneurship environment through installation of ORICs on university campuses. This 10-day study tour began in Washington, DC at USPTO's Global Intellectual Property Academy and continued to southeastern Michigan where the delegation visited The University of Michigan, Michigan State

University, Wayne State University, and local technology accelerators and business incubators. During these visits, they discussed and observed best practices in the field of intellectual property as it relates to the responsibilities and activities of U.S. universities' technology commercialization offices.

On December 5-15 2016, CLDP led a *U.S. Study Tour on Developing Efficient Innovation Ecosystems* for an Algerian delegation in Washington and Atlanta. The delegation included five entrepreneurs looking to commercialize their innovative technologies, two government officials tasked with promoting innovation in Algeria, the head of Algeria's information technology association, and a chamber of commerce representative. The program was designed to both teach U.S. best practices in creating successful innovation ecosystems, and to support the entrepreneurs in the commercialization process through training in business plans, intellectual property protection, and pursuing financing for their projects. The delegation met with representatives from the Georgia Institute of Technology and from Federal agencies (such as USPTO, the National Science Foundation, and the National Institutes for Health), as well as intellectual property experts and venture capitalists.

On April 3-8, 2017, CLDP and the Division for Entrepreneurship and Technology Transfer (CRIIA) of the University of Algarve organized a program in Faro, Portugal on *Developing Entrepreneurship and Supporting Innovation Ecosystems in Algeria and Morocco*. Program participants included 20 technology transfer and innovation stakeholders from universities, research centers, and other institutions from Algeria and Morocco, and the program was led by experts from Spain, Portugal, and the Center for Technology Transfer and Enterprise Creation at Carnegie Mellon University in Pittsburgh, Pennsylvania. The program aimed to provide practical tools, resources, and connections for business-development models for universities and research centers as they build innovation ecosystems that support market commercialization of university-generated research. This technology transfer process, in turn, contributes to the creation of new companies, jobs, and international partnerships.

On May 10-12, 2017, CLDP held a MENA regional program with participants from Azerbaijan, Bahrain, Kuwait, and Morocco in Casablanca, Morocco to share best practices in promoting SME development. The program included participants from the private sector, including consultants, incubators and accelerator programs, and government actors whose aim is to promote entrepreneurship. Topics for the program included best practices in building innovation ecosystems, facilitating effective and efficient business registration procedures, promoting technology transfer at universities and research centers to create companies and jobs, and developing effective government assistance programs to small businesses. Panelists and experts also discussed legal frameworks that make business registration accessible, transparent, and efficient through the lens of the World Bank Doing Business indicators. Through a regional approach with countries from the Gulf, North Africa and the Caucasus, the program benefited from participants sharing best practices and experiences in their own countries.

On September 11, 2017, CLDP – in coordination with Tamkeen Enterprises, Bahrain SME Society, the Ministry of Industry and Commerce (MOIC), American Chamber of Commerce, and Bahrain's Economic Development Board – led a workshop in Bahrain on *Technology Led Economic Development*. The workshop discussed the importance of business clusters and

technology innovation centers at universities, as well as strengthening IP regimes to promote entrepreneurship.

**DEPARTMENT OF HEALTH AND HUMAN
SERVICES**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration (FDA) Appendix for FY 17 Annual Report

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

Protecting the Integrity of the Public Health Supply Chain

Drug Track and Trace

FDA continues to implement provisions of the Drug Supply Chain Security Act (DSCSA) (Title II of the Drug Quality and Security Act) that was enacted on November 27, 2013. The DSCSA helps to improve the security of the pharmaceutical distribution supply chain by building an electronic, interoperable system to identify and trace certain prescription drugs they 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 2017, the FDA issued four guidance documents that provide stakeholder clarity on product tracing, verification, and annual reporting requirements. A key guidance announced FDA's compliance policy that gives manufacturers an additional year to affix or imprint the product identifier on packages and homogenous cases. In addition, FDA announced its proposed DSCSA pilot project program and anticipated implementation in FY 2018. FDA is actively developing enhanced drug distribution security needs for package level product tracing in 2023 through engaging stakeholders in public meetings and other venues.

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

Roadmap for Global Medical Product Quality and Supply Chain Security

The APEC Roadmap to Promote Global Medical Product Quality and Supply Chain Security (hereafter “Roadmap”) was completed in February 2017. The Roadmap covers the entire supply chain and life cycle of medical products and focuses on: a detailed explanation of the components of the Supply Chain Security Toolkit (hereinafter “Toolkit”); the Toolkit’s role as a comprehensive resource that addresses prevention, detection, and response with regards to vulnerabilities in the medical product supply chain; and a brief discussion about APEC Center of Excellence Programs (CoE), which are intended to develop trainings on various aspects of the Toolkit. Currently, the APEC Regulatory Health Steering Committee has endorsed two pilot programs on supply chain security, one sponsored by the United States Pharmacopeial Convention and the other by the University of Tennessee Health Science Center. Moving forward, the goal is to have CoEs well-aligned and complementary such that economies worldwide can find a program that best meets their needs. The Toolkit is housed on the APEC Harmonization Center’s website at http://www.nifds.go.kr/apec/SupplyChain/APEC_SupplyChainToolkit_170317.pdf

Global Surveillance and Monitoring System

FDA has supported the World Health Organization to establish the WHO Global Surveillance and Monitoring System for SF Medical Products, a project within the scope of the WHO Member State Mechanism (MSMech) on SF Medical Products. The purpose of the Monitoring System is to assist in determining: 1) the scale of the issue; 2) the geographic extent; 3) the medicines affected; 4) the harm caused; 5) the value of the market; and 6) supply chain vulnerabilities. Work on this project will continue as a means to share information on a global scale regarding counterfeit medical products. Since its inception, there have been more than 597 incidents reported. A Report on the first four years of the System will be launched by WHO on November 29, 2017 along with a Study on the Public Health and Socioeconomic Impact of Substandard and Falsified Medical Products. 141 Member States, 550 regulatory personnel have been trained to report SF medical products to the WHO Global Surveillance and Monitoring System, creating a global network of focal points and 18 of the largest international procurement agencies have been sensitized. So far, over 1,530 products have been reported to the system, with incidents having occurred in 106 countries. WHO has conducted 20 workshops in all regions and issued 20 Global Medical Product Alerts and numerous regional warnings. Technical support has been provided in over 100 cases. The system is available in English, French, Spanish, and Portuguese. The online portal, search facility, and access to the photo library were rolled out to focal points in 2016. A smartphone application for easier reporting from healthcare professionals to national regulatory agencies was successfully piloted in Tanzania.

In addition to supporting the Global Surveillance and Monitoring System, in 2017, FDA provided resources and technical expertise on related activities within the MSMech on SF Medical Products. Such activities include 1) the development of recommendations for Health Authorities engaged in the detection of SF medical products and a tool-generating program to contribute to Member States’ training; 2) a survey of technologies, methodologies, and “track

and trace” models; 3) recommendations for effective risk communication and awareness campaigns on SF medical products; 4) a study of the socio-economic and public health impact of SF medical products; and 5) refining SF working definitions. On May 29, 2017 at the Seventieth World Health Assembly, a decision was agreed to adopt “Substandard and Falsified (SF) medical products” as the term to be used in the name of the Member State mechanism and in all future documentation on the subject of medical products of this type.

Consumer Education

In FY 2017, FDA continued the BeSafeRx campaign by marketing public service announcements (PSA) on television, radio and the Internet. The 30-second general PSA informs viewers that medicines bought from unlicensed online pharmacies can be dangerous and educates them about ways to ensure they do not put their health at risk when buying online. Overall, in FY 2017, the television PSA aired 13,648 times, garnering more than 121 million impressions. Broadcast radio PSA aired 4,928 times and yielded 25 million impressions. In doctors’ waiting rooms, the PSA aired 1.4 million times, garnering 11.6 million impressions.

Outreach to Health Care Providers

FDA’s Outreach to Doctors About Criminal Convictions work group developed a one-page Notice to Physicians (Notice) informing physicians of the risks associated with buying drugs from unlicensed sources, including health risks to their patients and serious legal consequences to themselves, such as criminal penalties. On October 27, 2016, FDA faxed the Notice to over 8000 physicians’ offices. In addition, between March 21 and March 29, 2017, FDA mailed approximately 9,700 Notices to physicians’ offices. The Notice is also posted on FDA’s website at <https://www.fda.gov/Drugs/ResourcesForYou/HealthProfessionals/ucm389121.htm>. Furthermore, FDA conducted outreach regarding this import public health message at conferences to the following organizations: Federation of State Medical Boards (November 10, 2016), Council of Medical Specialty Societies (November 18, 2016), and Professional Association of Health Care Office Management (October 16-18, 2017).

Using Advanced Technology to Identify Suspect Products

CDx (handheld Counterfeit Detection devices)

In September 2012, FDA unveiled a handheld Counterfeit Detection (CD3 also known as CDx) device, developed by FDA scientists, which can be used to rapidly screen suspected products and packaging such as in the case of counterfeit pharmaceuticals. FDA continues to refine this low-cost device which enables users to rapidly visualize differences between suspect products and authentic products and provides preliminary findings in the field. The goal is to put an affordable tool for identifying counterfeit pharmaceutical products in the hands of global regulatory, law enforcement, and public health officials.

In FY 2016, FDA developed a contract for outside vendors to develop and manufacture a more advanced counterfeit detection (CD5) device.

In FY 2017, FDA awarded the contract to one vendor who best met the requirements listed in the solicitation in August of 2017. The current CDx technology was used at the International Mail Facilities (IMFs) and Express Courier Hubs (ECHs) to screen incoming packages, and, with the assistance of the FDA CDx review team, has been involved in the review and refusal of approximately 135,000 finished dosage form pharmaceuticals that were offered for entry.

Ion Mobility Spectrometry (IMS)

Since 2011, FDA has used technology to assist with the rapid field analysis of imported dietary supplement products suspected of containing undeclared drug ingredients. The portable and benchtop IMS instruments are used to shorten the time it takes to review and take action on tainted dietary supplements. The instruments detect the presence of certain Active Pharmaceutical Ingredients (APIs) through the migration speed and time of charged particles through a “drift tube” contained within the instrument. FDA continues to use positive FDA rapid screening results, without confirmatory testing by a FDA laboratory, as a factor in meeting the appearance standard under section 801 of the FD&C Act. The scientific reliability of each instrument alarm, or API detected is determined based on confirmatory test results from an FDA laboratory.

Collaboration with CBP

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

International Capacity Building and Training

FDA Capacity Building and Training

During FY 2017, FDA engaged in the following capacity building and training activities with foreign countries.

In February 2017, FDA-OCI’s Attaché to Europol presented at the “Assurance for safe medical products: protecting public health through unified global action” conference, held in Abuja, Nigeria.

In May 2017, FDA-OCI hosted law enforcement, customs and regulatory personnel from 13 countries, Europol and Interpol at the Federal Law Enforcement Training Center for the annual case coordination and strategy meeting of the Permanent Forum on International Pharmaceutical Crime (PFIPC). PFIPC is an international enforcement forum aimed at protecting public health through the exchange of information and ideas to foster cooperation.

In May 2017, a representative from FDA-OCI was a keynote speaker at the Second Emirates International Conference on Combating Medicinal Product Counterfeiting, held in Dubai, United Arab Emirates. The FDA-OCI representative addressed the evolving threat posed by illicit products.

In September 2017, a representative from FDA-OCI was a featured speaker at the Regional Workshop on Effective Practices in Border Enforcement of Intellectual Property, held in Bangkok, Thailand. This event was sponsored by USPTO and DOJ (in cooperation with CBP, ICE-HSI and with the support of the State Department) and included representatives from at least seventeen foreign countries and industry.

During 2017, FDA-OCI extended invitations to Border Force and Her Majesty's Revenue and Customs to send representatives to FDA-OCI's Special Agent Training Program at the Federal Law Enforcement Training Center in Charleston, South Carolina. These invitations were accepted and the program will take place from February 2018 to March 2018. The Special Agent Training Program is a comprehensive overview of the investigative priorities and legal authority for the FDA-OCI. This training provides the newly hired OCI agent the opportunity to develop a common foundation as they are incorporated into the OCI organization.

Laboratory/Analytical Capacity Building

The International Laboratory Forum on Counterfeit Medicines (ILFCM) is comprised of scientific experts from National Regulatory Control Laboratories. It began in 1999 with a bilateral agreement between FDA and MHRA and developed into a partnership with global regulatory counterparts from Europe, North America, Asia and Australia in an effort 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 2017, the ILFCM annual meeting was hosted by the FDA's Office of Criminal Investigations (OCI) and the Forensic Chemistry Center (FCC), and focused on Prevention, Detection, Disruption and Dismantlement of Organized Crime Networks. Information on emerging active pharmaceutical ingredients (API) including opioids, new API analogs, and biosimilar products was shared between member laboratory organizations, and, in joint sessions with the PFIPC, on counterfeit medicines encountered, illegally marketed medicines and unapproved drug substances, and adulterated herbal medicines and food supplements.

Additionally, FCC hosted scientists from two member countries for training on some of the analytical tools and methods used by FCC scientists for non-targeted screening of foreign unapproved drugs and dietary supplements.

GAO's report on FDA's Foreign Offices

In December 2016, the U.S. Government Accountability Office (GAO) issued a report on FDA's Foreign Offices and Drug Inspections. The report – “Drug Safety: FDA Has Improved Its Foreign Drug Inspection Program, but Needs to Assess the Effectiveness and Staffing of Its Foreign Offices” (GAO-17-143) – is at <https://www.gao.gov/products/GAO-17-143>.

As GAO explained in the report, FDA “has increased its foreign drug inspections and enhanced its ability to prioritize drug establishments for inspection. The number of foreign inspections has consistently increased each year since fiscal year 2009” (see the report’s *Highlights* page). In addition, the report explained that FDA – from its foreign offices – engages in training and other collaborative activities, with the objective of ensuring the safety of drugs coming into the U.S. In the report, GAO made two recommendations to FDA: (1) that FDA “[a]ssess the effectiveness of the foreign offices’ contributions by systematically tracking information to measure whether the offices’ activities specifically contribute to drug safety-related outcomes, such as inspections, import alerts, and warning letters”; and (2) that FDA “[e]stablish goals to achieve the appropriate staffing level for its foreign offices . . .” (p. 42). In response, HHS stated that it “concur[s] with GAO’s recommendations and is taking immediate steps to address them,” adding that “FDA is committed to strengthening its monitoring and evaluation approaches to systematically and quantitatively track overseas offices’ progress in achieving FDA’s mission and objectives, including drug safety-related outcomes” (Appendix V of the report includes the HHS comment letter on the report; the quoted text is on page 4 of the Appendix, which is page 53 of the report).

Enforcement Actions

FDA-OCI's Cybercrime Investigation Unit (CciU)

FDA-OCI's Cybercrime Investigation Unit (CciU) protects public health by working with DOJ and other domestic and international law enforcement and regulatory agencies to disrupt and dismantle criminal networks that illegally sell counterfeit or adulterated medicines, medical devices, cosmetics, tobacco, and food products online. These cybercrime specialists follow the cyber-trail of these sophisticated criminals and often go undercover to infiltrate the illicit criminal networks. CciU also works with FDA-regulatory personnel to provide training and support to FDA's regulatory efforts in the online environment. In 2017, FDA-OCI's Internet-related cases resulted in 44 arrests; 31 convictions; fines and restitution totaling \$5,841,001 and the seizure of 94 domain names.

FDA-OCI Enforcement Actions

FDA-OCI has a leadership role in combating counterfeit pharmaceuticals and medical devices. Below are several notable examples of FDA-OCI's enforcement activities (additional FDA enforcement cases are discussed further below).

Operation Safeguard

Operation Safeguard mail blitzes are conducted by FDA, CBP and other partner government agencies (PGAs) on a regular, rotating schedule at International Mail Facilities (IMFs). Beginning in March, 2007, these blitzes have been conducted monthly, with few exceptions. The format for each blitz is based on the same premise: for each of 3 days, CBP reviews up to 100 mail parcels each day which are suspected to contain pharmaceuticals. This format provides an idea of the wide variety of pharmaceutical products that pass through each IMF. FDA participates by providing technical assistance to CBP and conducting an FDA admissibility review of each of the parcels referred as FDA-regulated articles. Upon review and examination, some parcels are subsequently referred to other PGAs as being articles under their jurisdiction, such as controlled substances to DEA. For those articles found to be subject to FDA jurisdiction and found to be violative, the articles are generally refused admission into the U.S. and returned to the sender, unless evidence is provided to overcome the violation. FDA has implemented the new 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.

In FY 2017, FDA participated in one or more *Operation Safeguard* blitzes in seven of the nine international mail facilities throughout the country. During the FY 2017 blitzes, FDA examined a total of 2,874 parcels, containing 4,575 products, 4,574 of which were detained by FDA. Of those 4,574 detained articles, FDA refused admission to 3,572 violative articles and returned them to the sender. Two hundred and ninety-seven (297) products were destroyed. Based on additional evidence collected or provided by the responsible parties, FDA released 120 articles, while the balance of the lines (585) are still within FDA's detention & hearing process where the responsible parties may provide evidence to refute the violation.

Operation Pangea X

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 2017, U.S. law enforcement and Federal agencies, including CBP and FDA, participated in *Operation Pangea X*, a global enforcement effort led by INTERPOL that is aimed at disrupting organized crime networks behind the illicit online sale of fake drugs. *Operation Pangea X* was conducted from September 12-19, 2017. FDA-OCI's Attaché assigned to

INTERPOL's Global Complex for Innovation (ICGI) in Singapore was specifically charged with the global coordination of *Operation Pangea X*, which involved the interdiction and enforcement efforts of approximately 123 participating countries. *Operation Pangea X* was the largest such operation coordinated by INTERPOL, and a record number of illicit and counterfeit medicines were seized worldwide.

The FDA conducted extensive inspections of packages at International Mail Facilities (IMFs) in coordination with CBP. During *Operation Pangea X*, the FDA sent 13 warning letters to the operators of 401 websites. The FDA also seized nearly 100 website domain names, such as buyhydrocodoneonline.com, canadian-pharmacy24x7.com and buyklonopin.com. FDA inspectors, in collaboration with other federal agencies, screened packages suspected of containing illegal drug products at IMFs in Chicago, Miami and New York during the IIWA. These screenings resulted in nearly 500 parcels being detained for appropriate FDA compliance follow up. <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm577178.htm>

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.

Joint US-UK enforcement operation

During June 2017, FDA-OCI participated in a joint enforcement operation in the United Kingdom focused upon non-FDA approved drugs and medical devices originating from unauthorized foreign sources. FDA-OCI partnered in this operation with personnel from Her Majesty's Revenue and Customs, Border Force, and the Medicines & Healthcare products Regulatory Agency. This operation included targeted activities against violative airfreight and informal mail shipments destined for the United States, which included counterfeit and illicit pharmaceuticals intended to breach the FDA regulated supply chain.

Other FDA Enforcement Actions

In addition to the operations discussed above, additional FDA enforcement activities during FY 2017 included the following prosecutions.

Oakland Man Pleads Guilty to Role in Conspiracy to Manufacture Counterfeit Drugs.

According to the guilty plea filed in this case, Antoine King of Oakland, Calif., admitted that from October 6, 2014 through December 12, 2015, he was involved in a conspiracy with his co-defendant David Beckford and others to manufacture and distribute pills that were designed to resemble Xanax® pills as nearly as possible. King admitted that he knew his co-defendants and others obtained the components and equipment to manufacture the counterfeit Xanax pills from foreign sources. King further admitted that from October 6, 2014, through December 12, 2015, he sold counterfeit Xanax pills that were created as part of the operation.

<https://www.fda.gov/iceci/criminalinvestigations/ucm583065.htm>

Two Charged in Federal Court with Smuggling Counterfeit Cigarettes. Abhishek Shukla and Harish Shabhai Panchal, both citizens of India, were formally arraigned on an indictment charging them and two companies, Jubilee Tobacco Industries Corp., and Pelican Tobacco (India) Private Limited, both incorporated under the laws of India, with conspiring to smuggle counterfeit cigarettes into the United States. <https://www.fda.gov/iceci/criminalinvestigations/ucm574171.htm>

Drug Trafficking Organization Faces Indictment For Involvement In Manufacturing Fake Prescriptions Drugs With Fentanyl. FDA-OCI joined with ICE-HSI, USFIS, DEA and IRS in a large-investigation involving the domestic manufacture of fake drugs. According to documents filed in federal court in Utah, the organization began with Aaron Michael Shamo and Drew Wilson Crandall, but grew to include other co-conspirators. Shamo and Crandall, according to court records, purchased pill presses, dies and stamps to mark pills so the markings would match those of legitimate pharmaceutical drugs, and inert pill ingredients, such as binding agents and colors. Some items were purchased legally and others, such as Fentanyl and Alprazolam, were imported into the United States illegally, including from China. To avoid detection, Shamo and Crandall had many of their supplies shipped to nominees or straw purchasers. The ingredients were then to be pressed into pills that had the appearance of legitimate pharmaceuticals. The fake Oxycodone-type pills and the counterfeit Alprazolam tablets were sold on the dark net at a significant profit. Once sold, Shamo and Crandall used the co-conspirators to package the pills and ship them to customers. According to documents filed in court, the enterprise sold hundreds of thousands of pills in Utah and throughout the United States. <https://www.fda.gov/iceci/criminalinvestigations/ucm561483.htm>

Four Charged in Counterfeit Body Building Steroid Conspiracy. According to court documents, from approximately May 2015 until April 12, 2017, the four conspirators charged in this case manufactured steroid products - made from raw materials purchased overseas - in a defendant's home, and marketed them as "Onyx" steroids using "Onyx" labels that were also ordered from overseas suppliers. Onyx, now owned by Amgen Inc., is a legitimate pharmaceutical company that does not manufacture steroids. The defendants allegedly sold the steroids to customers across the United States using email and social media platforms, collected payment through money remitters, such as Western Union and MoneyGram, and used false identifications and multiple remitter locations to pick up the proceeds. <https://www.fda.gov/iceci/criminalinvestigations/ucm567377.htm>

Counterfeiters Sentenced for Convictions in Nationwide Conspiracy to Distribute Fake 5-Hour Energy Drink. On November 28, 2016, a jury in San Jose found Joseph Shayota and his wife, Adriana Shayota, guilty of conspiracy to traffic in counterfeit goods, as well as conspiracy to commit criminal copyright infringement and to introduce misbranded food into interstate commerce. The criminal conduct began in late 2009 and ran through October 2012. Over 3,700,000 bottles of counterfeit 5-Hour ENERGY were placed in the stream of interstate commerce. Joseph Shayota and Adriana Shayota were sentenced to 86 months and 26 months in prison, respectively. <https://www.fda.gov/iceci/criminalinvestigations/ucm564323.htm>

DEPARTMENT OF HOMELAND SECURITY

Department of Homeland Security

Department of DHS Appendix for FY 17 Annual Report

This appendix discusses the FY 2017 activities of the Department of Homeland Security. As outlined below, DHS's activities including protecting public and private acquisition supply chains from counterfeits; conducting law enforcement operations; engaging with stakeholders; educating the public; cooperating with foreign law enforcement; enhancing IP enforcement through international organizations; and providing capacity building and training to support IP enforcement in other countries.

Protecting Public and Private Acquisition Supply Chains from Counterfeits

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

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

DHS Training for Acquisition Professionals

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

To address the systemic threat from counterfeits, the U.S. Immigration and Customs Enforcement (ICE)-led National Intellectual Property Rights Coordination Center (IPR Center) provides educational opportunities for public and private acquisition professionals. The IPR Center has posted on its website free training that is designed to provide acquisition professionals with the knowledge and skills they need to combat the counterfeit threat. The training – “Acquisition Professional Training: Counterfeit Awareness, Mitigation, Identification, and Reporting” – is at <https://www.iprcenter.gov/reports/training/Acquisition%20Professional%20Training%20revised%20for%20public%20use.pdf/view>.

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

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

Operation Chain Reaction (OCR) targets counterfeit items entering the military and U.S. Government supply chains, and is an IPR Center-coordinated effort led by ICE Homeland Security Investigations (HSI) and consists of 16 Federal law enforcement agencies (including ICE, U.S. Customs and Border Protection (CBP), and DoD's criminal investigative offices). In FY 2017, under **Operation Chain Reaction**, ICE HSI initiated 22 criminal investigations, conducted 3 criminal arrests, and helped secure 5 indictments and 2 convictions, as well as 104 seizure incidents of counterfeit goods with a total Manufacturer's Suggested Retail Price (MSRP) of approximately \$1.9 million.

Other notable OCR activities during FY 2017 included the following.

- On July 13, 2017, personnel representing the IPR Center's OCR provided training to the Defense Counter-Proliferation Training Program (DCTP). DCTP is a joint bi-annual course given at the Federal Law Enforcement Training Center (FLETC) designed for Air Force Office of Special Investigations (AFOSI), Naval Criminal Investigative Service (NCIS), and Defense Criminal Investigative Service (DCIS) students, and promotes awareness of the threats facing DoD technologies. The course endorses partnerships within the DoD to protect critical U.S. information and ensure a continued technical and military advantage for the U.S. military.
- On July 26-27, 2017, personnel representing OCR attended the Microelectronics Integrity Meeting (MIM) at the Naval Surface Warfare Center, Crane Division (NSWC Crane) near Indianapolis, Indiana. This event brings representatives from various government, industry and academia organizations together to discuss the critical trusted electronics issues currently faced by the Department of Defense. Approximately 225 members of industry and DoD personnel attended the meeting.
- On August 8-10, 2017, personnel representing OCR worked with CBP's Electronics Center of Expertise and Excellence to conduct an express consignment blitz operation that focused on counterfeit microelectronics.
- In March and September 2017, the IPR Center and the Department of Justice (DOJ) Computer Crime and Intellectual Property Section (CCIPS) co-hosted the Counterfeit Microelectronics Working Group (CMWG). The meetings focused on enhancing communication between law enforcement and industry. There were 57 attendees in March and 80 attendees in September, from private industry and the government.
- During FY 2017, OCR received \$100,000 in funds from the Treasury Executive Office for Asset Forfeiture. OCR used these funds to recruit and manage eight TDY Special Agents to assist with OCR operations. The agents reviewed and provided input on a new

lead packet format, assisted with processing and developing leads, and conducted presentations regarding cases worked under the program. The funds were also used for the OCR team to travel to meetings with stakeholders.

Other DHS enforcement actions, discussed below, address counterfeits that impact the private sector supply chain (e.g., **Operation Engine Newity** focuses on securing the supply chains of automotive and other heavy industry from counterfeit components).

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 FY 2017, the number of CBP and ICE HSI IPR seizures increased more than eight percent, to 34,143 (from 31,560 in FY 2016). The total estimated Manufacturer's Suggested Retail Price (MSRP) of the seized goods, had they been genuine, decreased to \$1.206 billion (from \$1.383 billion in FY 2016). In FY 2017, CBP completed 115 exclusion order enforcement actions (shipments seized and shipments excluded). CBP seized 297 shipments of circumvention devices for violations of the Digital Millennium Copyright Act (DMCA), a 324 percent increase from 70 such seizures in FY 2016. The combined total number of all IPR border enforcement actions in FY 2017 increased 12 percent over FY 2016.

In addition to **Operation Chain Reaction** (discussed above), the DHS law enforcement efforts during FY 2017 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 2017, **Operation Apothecary** resulted in 59 new cases, 38 arrests, 37 indictments, and 41 convictions, as well as 567 seizure incidents of counterfeit items.
- **Operation Safeguard** activities are conducted monthly at International Mail Facilities and Express Consignment Centers throughout the United States. Each onsite examination period lasts several days and entails the inspection of hundreds of parcels containing pharmaceuticals and designer drugs. **Operation Safeguard** mail blitzes are conducted by FDA, CBP and other partner government agencies (PGAs) on a regular, rotating schedule at the international mail facilities (IMFs). Beginning in March 2007, these blitzes have been conducted on a monthly basis, with few exceptions. The format for each blitz is based on the same premise: for each of three days, CBP reviews up to 100 mail parcels each day which are suspected to contain pharmaceuticals. This format provides an idea of the wide variety of pharmaceutical products that pass through each IMF. FDA participates by providing technical assistance to CBP and conducting an FDA admissibility review of each of the parcels referred as FDA-regulated articles. Upon review and examination, some parcels are subsequently referred to other PGAs as being articles under their jurisdiction, such as controlled substances to DEA.

- ***E-Commerce/Operation in Our Sites.*** The E-Commerce Program is an on-going ICE 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. 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. In FY 2017, under IOS, ICE HSI initiated 16 investigations, conducted 10 arrests, and helped secure 13 indictments and 5 convictions. These investigations are initiated and developed by ICE HSI field offices through IPR Center leads, seizures, informants, complaints, industry leads, and/or other investigative techniques.

Under ***IOS Cyber Monday/Project Transatlantic***, the IPR Center – through ICE HSI – partners with Europol, which 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 2016, the IPR Center and Europol concluded ***Operation IOS Cyber Monday/Project TransAtlantic VII*** in collaboration with INTERPOL. Over 4,500 infringing domains were seized. The 27 participants in ***Project TransAtlantic VII*** were Albania, Austria, Belgium, Bosnia and Herzegovina, Canada, Colombia, Croatia, Denmark, France, Macedonia, Greece, Hong Kong, Hungary, Iceland, Italy, Lithuania, Luxembourg, Moldova, Netherlands, Peru, Portugal, Romania, Serbia, Spain, Sweden the United Kingdom and the United States.

<https://www.europol.europa.eu/newsroom/news/over-4500-illicit-domain-names-seized-for-selling-counterfeit-products>

- ***Operation Engine Newity*** is an IPR Center and ICE HSI-led initiative that focuses on securing the supply chains of automotive and other heavy industry from counterfeit components. The proliferation of counterfeit parts - including critical components such as airbags, bearings, brake pads, accelerator arms, and windshields - has grown exponentially over the last several years and now poses a significant health and safety threat to end users and an economic cost to businesses and consumers through lost revenue, downtime, and replacement costs. In FY 2017, ICE HSI initiated 51 criminal investigations, conducted 15 criminal arrests, and helped secure 9 indictments and 1 conviction, as well as 142 counterfeit goods seizures incidents with a MSRP of approximately \$3.4 million.
- ***Operation Surge Protector*** 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. ***Operation Surge Protector*** combines the expertise of ICE HSI, CBP and the Consumer Product Safety Commission (CPSC). In FY 2017, ICE HSI initiated 22 cases, conducted 15 arrests, helped secure 6 indictments and 2 convictions, and seized approximately \$6.1 million in counterfeit products.

- **Operation Plastic Beauty** was initiated by the IPR Center in January 2015, to combat the sale of counterfeit personal healthcare and beauty products. Through **Operation Plastic Beauty** (which combines the expertise of ICE HSI, CBP, and FDA-OCI), the IPR Center partners with industry and other entities associated with the healthcare and beauty product community. In FY 2017, ICE HSI initiated 15 cases, conducted 12 arrests, helped secure 10 indictments and 7 convictions, and seized \$641,391 MSRP in counterfeit products.
- **Operation Team Player** 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. ICE 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 2017, 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; National Collegiate Athletic Association (NCAA) 2017 College Football Championship; NCAA 2017 Basketball Championship Tournament; NHL, MLB, and National Basketball Association (NBA) and Major League Soccer All-Star games; NHL and NBA Championship series; the 2017 NHL Stadium Series; and the 2017 International Champions Cup. In FY2017, ICE HSI seized more than 330,000 items counterfeit sports merchandise worth \$17.7 million and arrested 101 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 2017, U.S. law enforcement and Federal agencies, including the IPR Center through ICE HSI, CBP, and FDA, participated in **Operation Pangea X**, a global enforcement effort led by INTERPOL that is aimed at disrupting organized crime networks behind the illicit online sale of fake drugs. **Operation Pangea X** was conducted from August 19, 2017 – September 19, 2017, with the participation of 123 countries and culminated with a week of action from September 12-19, 2017, when participating countries and agencies conducted and/or reported the results of their respective operations. On September 25, 2017, INTERPOL issued a press release highlighting the results of **Operation Pangea X** which resulted in 3,584 websites taken off line, 400 arrests worldwide, and 470,000 packages seized with an estimated value of \$51 million worth of potentially dangerous medicines (<https://www.interpol.int/News-and-media/News/2017/N2017-119>). It also should be noted that, in the past, U.S. and Mexican authorities had typically participated in **Operation Pangea** independent of each other. However, in FY 2017, ICE HSI, CBP, and Mexico’s Tax and Customs Administration Service (SAT) collaborated during the U.S. operational phase of **Operation Pangea X**. In September 2017, ICE HSI (through the IPR Center), CBP, and the FDA worked in coordination with Mexico’s SAT to seize counterfeit, misbranded,

adulterated, and unapproved pharmaceuticals (that include controlled substances) as well as counterfeit and unapproved medical devices as part of U.S. operations at the International Mail Facility in Torrance, California.

DHS's law enforcement activities during FY 2017 also included the following activities.

- In April 2017, CBP and the General Administration of Customs in China (GACC) conducted a successful joint IPR enforcement operation. During the one-month operation, China seized shipments of all types of IPR infringing products destined to the United States. CBP seized 420 shipments from China of IPR-infringing consumer electronics, wearing apparel, and footwear. After the operation, CBP and GACC exchanged the seizure data from the operation for use in targeting and future risk assessment.
- In FY 2017, CBP conducted eight Mobile Intellectual Property Enforcement Team (MIPET) operations, resulting in 1,687 total seizures of IPR infringing products (valued at \$34.6 million MSRP). These eight MIPET operations were conducted at thirteen different ports: five seaports, four express consignment ports, two international mail facilities, and two air cargo facilities. Operations were coordinated with six CBP Centers of Excellence and Expertise – the Centers for Apparel, Footwear & Textile (AFT), Automotive and Aerospace (AA), Consumer Products and Mass Merchandising (CPMM), Electronics, Industrial & Manufacturing Materials (IMM), and Machinery – and with headquarters, field office, port, HSI and laboratory personnel.
- ICE HSI investigates IP violations involving the illegal production, smuggling, and distribution of counterfeit merchandise and pirated works. Since the large majority of infringing and dangerous products are produced overseas and either shipped directly to the United States or via a third country, ICE's long-term goals are to increase overseas IP investigations through collaboration with its foreign law enforcement and customs counterparts, and to work with host nations in interdicting such exports before they reach the United States. ICE 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. 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 50 countries, and they work closely with host government counterparts and participate in IP working groups at post.
- In FY 2017, ICE HSI initiated 713 intellectual property investigations and was involved in 457 arrests, 288 indictments, and 240 convictions.
- In FY 2017, the IPR Center vetted 27,856 investigative leads; of these, 16,030 were referred to law enforcement partners. Additionally, the IPR Center de-conflicted 4,750 investigative targets for partner agencies and industry. While performing these de-conflictions, the IPR Center identified 321 “blue on blue” situations where two or more entities were investigating the same target. Finally, the IPR Center referred 959 leads to private industry for follow-up.

- In FY 2017, the IPR Center hosted three Intellectual Property and Trade Enforcement Investigations (IPTEI) training courses. The courses were held in March, June, and August 2017. 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 both ICE HSI and CBP.
- The IPR Center, under the auspices of *Operation Team Player*, coordinated with Mexican SAT, the Mexican Institute of Industrial Property (IMPI) and the National Football League (NFL) to conduct a workshop regarding intellectual property enforcement in the sports industry. This workshop was conducted for two groups, totaling approximately 60 officials from SAT and IMPI offices located in the Mexico City metropolitan area.

Engaging with Stakeholders

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

Operation Joint Venture and Project Trade Watch

Through the IPR Center's Outreach and Training Section ICE 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 rightsholders, 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. In FY 2017, the IPR Center – through OJV – reached out to more than 14,000 people at 339 outreach and training events.

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

Executive Order 13785 (expanding the disclosure of information with rights holders)

On March 31, 2017 the President issued Executive Order 13785, titled “Establishing Enhanced Collection and Enforcement of Antidumping and Countervailing Duties and Violations of Trade and Customs Laws” (82 FR 16719; April 5, 2017).

The Executive Order directs CBP to “develop and implement a strategy and plan for combating violations of United States trade and customs laws for goods and for enabling interdiction and disposal, including through methods other than seizure, of inadmissible merchandise entering through any mode of transportation, to the extent authorized by law.”

The Executive Order also directs the Departments of Treasury and Homeland Security – in order “[t]o ensure the timely and efficient enforcement of laws protecting Intellectual Property Rights (IPR) holders from the importation of counterfeit goods” – to “take all appropriate steps, including rulemaking if necessary, to ensure that CBP can, consistent with law, share with rights holders: (i) any information necessary to determine whether there has been an IPR infringement or violation; and (ii) any information regarding merchandise voluntarily abandoned, as defined in section 127.12 of title 19, Code of Federal Regulations, before seizure, if the Commissioner of CBP reasonably believes that the successful importation of the merchandise would have violated United States trade laws.” DHS and CBP are implementing the Executive Order.

Other Engagements

DHS law enforcement agencies which support IP enforcement had numerous other engagements with stakeholders in 2017. Some of these public education and outreach efforts are described below.

The IPR Center has a unique role within ICE by serving as a one-stop shop for IP enforcement efforts. In this role, the IPR Center has regular contact with the international community, the media, Members of Congress, trade organizations, industry leaders, and the general public. In FY 2017, the IPR Center conducted 339 outreach and training events with 14,258 attendees.

In FY 2017, 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 FY17, ICE HSI – through its leadership at the IPR Center – collaborated with industry and other government agencies to present training and foster communication. Examples of this include:

- In support of *Operation Engine Newity* (which focuses on securing the supply chains of automotive and other heavy industry), ICE HSI and the Automotive Anti-Counterfeiting

Council (A2C2) worked together to provide training to ICE HSI and CBP field offices as well as other government personnel across the country. Training took place in Chicago, Long Beach, Arlington, Newark and New York, and included presentations from both industry and government personnel. These sessions trained the personnel on how to identify counterfeits, educated them about the IPR Center, and established relationships on which further collaboration could be based.

- In March and September 2017, DOJ/CCIPS and the IPR Center co-hosted meetings of the CMWG to foster direct communication between industry representatives and the prosecutors, law enforcement agents, and other government officials working to combat counterfeit microelectronics in the supply chain. Approximately 57 people attended in March and 80 people attended in September.
- In August 2017, the IPR Center and INTERPOL co-hosted – in partnership with Underwriters Laboratories Inc. and the International Anti-Counterfeiting Coalition – the 11th Annual International Law Enforcement Intellectual Property (IP) Crime Conference in New York, NY at the United Nations Headquarters, themed “Uniting Nations for the Next Decade.” This marked the first time that the conference was held in the U.S. and the first time ICE has co-hosted. The event was attended by over 600 senior police leaders, government officials, and security and industry experts from 60 countries.
- During FY 2017, the IPR Center’s Stakeholder Engagement and Outreach Coordinator conducted over 50 meetings with industries and coalitions including the International Anti-Counterfeiting Coalition (IACC), International Trademark Association, Underwriters Laboratories, National Association of Attorneys General, Automotive Anti-Counterfeiting Council, National White Collar Crime Center, Motion Picture Association of America, Eli Lilly, Pfizer, Apple, Alibaba, Amazon, Wal-Mart, Altria Group, Timberland, American Bearing Manufacturers Association, Southern Shrimp Alliance, Semi-Conductor Industry Association and government officials from Argentina, Australia, Mexico, Taiwan, Thailand, Singapore, and United Kingdom.
- The IPR Center ICE 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.)
- The IPR Center expanded the use of its “Report IP Theft button” to seven companies and/or organizations that have joined the fight to maintain brand protection, including the National Cyber Forensics Training Alliance, Foucart & Associates, the American Watch Association, The Mind of Rey Rey, the Automotive Anti-Counterfeiting Council, National Sportswear Incorporated, and the Relationship Toolshop International Training Institute.

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),¹ the IP-focused staff at headquarters, the IPR Center in the Washington D.C. metro area, and statistical analysis and industry experts at the IPR National Targeting and Analysis Group (NTAG) in Los Angeles and San Francisco;
- Participation in national and local trade events, industry meetings, speaking engagements, and rights holder and industry-specific right holder roundtables; and
- During FY 2017, the IPR NTAG participated in three IPR roundtables: an audio visual, consumer electronics, and entertainment industries roundtable in Calabasas, CA; a joint Import Safety/IPR roundtable held at the National Electrical Manufacturer's Association (NEMA) in Rosslyn, VA; and an Automotive IPR conference in Long Beach, organized by the Automotive & Aerospace Center with representatives from the National Cyber Forensics Training Alliance (NCFTA) and Automotive Anti-Counterfeiting Council (A2C2). Rightsholders' issues and concerns were discussed, and CBP provided IPR seizure data and updates on CBP programs.

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 2017 included:

- The IPR Center continues to make available the IPR Center/ICE HSI Civil Anti-Counterfeiting and Piracy banner (<https://www.iprcenter.gov/ip-theft/digital-ip-theft>) for industry rights holders to use on redirected domain name registrations seized in civil

¹ 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.

judicial proceedings. This informational banner educates the public about IP theft and provides information to the public on how to report violations to the IPR Center.

- 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 2017, CBP issued 27 IPR-related press releases.
- In FY 2017, CBP launched an IPR Public Awareness Campaign – *Truth Behind Counterfeits* – that educates international travelers of the dangers associated with the purchase of counterfeit goods. The goal of the campaign is to make the public aware that buying counterfeits is not a victimless crime and to encourage people to shop from well-known and reputable sources. The first phase of the campaign ran at six major U.S. airports (New York JFK; Dallas DFW; Los Angeles LAX; Chicago ORD; Washington Dulles; and Baltimore BWI) throughout the busy travel period during the summer of 2017. At these airports, ads were placed on the electronic bulletin boards. In addition, the campaign included ads on several travel websites. The campaign and its messages about responsible consumer behavior reached approximately 97 million people. A second phase of the campaign is planned for FY 2018.

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 2017, as discussed above, U.S. law enforcement and Federal agencies – including the IPR Center through ICE HSI, CBP, and FDA – participated in ***Operation Pangea X***, a global enforcement effort led by INTERPOL that is aimed at disrupting organized crime networks behind the illicit online sale of fake drugs. ***Operation Pangea X*** resulted in 3,584 websites taken off line, 400 arrests worldwide, and 470,000 packages seized with an estimated value of \$51 million worth of potentially dangerous medicines.

As also discussed above, in November 2016 the IPR Center and Europol concluded ***Operation IOS Cyber Monday/Project TransAtlantic VII*** in collaboration with INTERPOL. Over 4,500 infringing domains were seized.

Through the U.S.-China Joint Liaison Group's IP Criminal Enforcement Working Group, DOJ and U.S. law enforcement (including ICE 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 2017, successful collaboration between the

Ministry of Public Security (MPS) of the People's Republic of China and ICE HSI through the ICE Attaché office in Beijing continued on a number of health and safety-related investigations. One example of this collaboration was the successful joint investigation into the manufacturing and distribution of counterfeit luxury goods over the internet – resulting in the raid of a factory, arrest of several manufacturer suspects, and the seizure of numerous counterfeit luxury purses and watches.

Cooperation with Asian law enforcement counterparts to address infringement is critical. In February 2017, CBP and ICE HSI officials met with China Customs counterparts for an IPR working group meeting in Long Beach, CA and planned a joint IPR enforcement operation and exchanged information on legal standards, enforcement procedures, and IPR enforcement trends. In April 2017, CBP and the General Administration of Customs in China (GACC) successfully conducted the joint IPR enforcement operation. During the one-month operation, China seized shipments of all types of IPR infringing products destined to the United States. CBP seized 420 shipments from China of IPR-infringing consumer electronics, wearing apparel, and footwear. After the operation, CBP and GACC exchanged the seizure data from the operation for use in targeting and future risk assessment.

During 2017, the IPR Center continued to host numerous foreign government officials with an interest in IP enforcement. Among the many international delegations were representatives from Albania, Argentina, Australia, Bangladesh, Benin, Brazil, Bulgaria, Burma, Cambodia, Chile, Colombia, Cyprus, Dominican Republic, Georgia, Greece, Guatemala, Guinea, Honduras, Hong Kong, India, Indonesia, Jamaica, Jordan, Kingdom of Bahrain, Kingdom of Saudi Arabia, Laos, Liberia, Macedonia, Malaysia, Mexico, Moldova, Mongolia, Nepal, Pakistan, Panama, Paraguay, Philippines, Romania, Senegal, Sierra Leone, Singapore, South Korea, Spain, State of Kuwait, State of Qatar, Sultanate of Oman, Taiwan, Thailand, The Gambia, Ukraine, United Arab Emirates, United Kingdom, Uruguay, and Vietnam.

Enhancing IP Enforcement through International Organizations

The U.S. Government continues its efforts to improve enforcement of IPR through a number of international organizations. A summary of key DHS accomplishments during FY 2017 include:

- During FY 2017, CBP and the State Department continued to support the further development and deployment of the WCO Cargo Targeting System (CTS) which was successfully piloted in 2013. The CTS has the potential to enhance cooperation between the United States and foreign partners through targeting efforts to identify and interdict counterfeit products. It allows foreign customs administrations to receive electronic cargo manifest data to identify high-risk shipments at import, export, and transshipment across the full range of customs threats, including trade in counterfeit products. Attachés at the WCO continue to train and support customs administrations in CTS operation.
- In February 2017, at the Asia Pacific Economic Cooperation (APEC) Subcommittee on Customs Procedures (SCCP) meeting held in Vietnam, CBP presented the concept of jointly creating an IPR guidelines enforcement compendium that could be used as a tool by all APEC economies to assist with the identification, interdiction, and deterrence of

IP violations. Throughout the intercessional period following the February meeting, several economies worked with the United States to provide practices for this compendium (examples were provided by Chinese Taipei, Hong Kong, Mexico, Peru, The Philippines, Singapore, and the United States). The document was adopted by all of the APEC economies at the August SCCP meeting in Ho Chi Minh City, Vietnam. This compendium is intended to be a living document to serve as a resource for future joint operations and/or capacity building efforts within APEC and may change based on trends and strategies. The goal is to continue to build upon past operational work of the SCCP related to IPR enforcement and to help all APEC customs authorities combat trade in counterfeit items. In addition, CBP officials participated in the APEC Intellectual Property Experts Group meetings and provided presentations in a workshop on identifying trademark infringement at the border that was organized by USTR and USTPO.

Capacity Building and Training

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

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). In FY 2017, the IPR Center participated in 16 international trainings in support of these programs. ICE HSI continues to work closely with its law enforcement counterparts, particularly those who received training in IP enforcement. The following are examples.

- In November 2016, the IPR Center supported the 6th Regional IP Crime Conference in the Middle East and North Africa organized by the United Emirates IP Association and INTERPOL. There were approximately 500 attendees, supported by officers and enlisted personnel of Dubai Customs and Police forces. The speakers included a wide range of IPR stakeholders from law enforcement, IP protection associations and academia from the Middle East, the United States, Europe, Korea and Japan. Copyright piracy was the focus of most academics and non-profit organizations. The IPR Center presentation focused on enforcement and international cooperation.
- In November 2016, the IPR Center sent an ICE HSI special agent to Dubai, United Arab Emirates (UAE) in support of a USPTO-led three-day training seminar focused on Combating the Proliferation of Counterfeit Health and Safety Products. In attendance were customs and police officers, doctors and ministerial level employees from the UAE, Kingdom of Saudi Arabia, State of Qatar, Kingdom of Bahrain, Sultanate of Oman and State of Kuwait. The agent presented a case study on counterfeit pharmaceuticals. Guest speakers included the US Council General to UAE and the Deputy Commander of Dubai Police. The participants were engaged in a number of discussions on IP issues in their respective countries and the steps they are taking to combat the illegal production and the sale of counterfeit products.

- In January 2017, the IPR Center participated in a three-day INTERPOL training to kick-off *Operation Chain* at the INTERPOL Global Complex for Innovation (IGCI) in Singapore. *Operation Chain* is an INTERPOL initiative designed to promote more effective IP enforcement in various countries by assisting investigators in case development through innovative techniques and international cooperation. In attendance were participants from 11 countries across Asia and the Middle East; the training included presentations by high-level officials from the participating countries, private industry, INTERPOL, as well as ICE HSI and FDA criminal investigators. These presentations were followed by working groups to discuss criminal cases and exchange best practices between the delegates.
- On February 14-16, 2017, the IPR Center participated – with USPTO, the Computer Crime & Intellectual Property Section (CCIPS) of the U.S. Department of Justice (DOJ), and the DOJ Office of Overseas Prosecutorial Development Assistance and Training (OPDAT) – in the 5th annual Intellectual Property Crimes Enforcement Network meeting in Bangkok, Thailand. The event was a high-level conference on IPR crime trends and enforcement issues in the region. Speakers from DOJ, ICE HSI, CBP and USPTO’s Attaché program were joined by officials from several Asian countries to discuss enforcement problems and regional perspectives on IP crime. Presentations were provided by the IPR Center and an ICE HSI Los Angeles field agent.
- On February 27–March 1, 2017, the IPR Center participated in the Intellectual Property Rights Enforcement Workshop funded by State INL and hosted by the USPTO’s Regional Attaché for Mexico, Central America and the Caribbean. The workshop was held in Guatemala City, Guatemala, and the Regional Attaché delivered welcoming remarks. The workshop featured 12 presentations on a variety of IP enforcement issues; the presenters included program managers with the IPR Center and ICE HSI Guatemala. Presentations were given on the IPR Center’s “whole-of-government” approach to IP and trade enforcement, rightsholder complaints and investigations, trade-based money laundering, and investigative techniques. CBP’s Office of International Trade supported the workshop that also featured private industry displays of health and safety, electronics, consumer goods, footwear and apparel. The 61 attendees included 43 foreign government officials (from Guatemala and Honduras), six U.S. Government officials, and 12 industry representatives.
- In March 2017, the IPR Center supported the DOJ regional Intellectual Property Law Enforcement Coordinator (IPLC) – based out of the United States Consulate General for Hong Kong & Macau – in a regional IPR Criminal Enforcement Workshop to which 14 nations were invited. The workshop focused on IP enforcement and prosecution, including the importance of multi-jurisdictional coordination and public-private partnerships. The workshop included 57 foreign government participants, four from the private sector and 11 U.S. Government presenters, including two from the IPR Center and ICE HSI New York. Other presenters included the Hong Kong Customs and Excise Department, the Hong Kong Intellectual Property Department, the Asia-Pacific Internet Centre Motion Picture Association, Colgate-Palmolive Asia Brand Protection, Apple Inc. Global Security and IP Enforcement, the European Brands Protection Council, LVMH

(Luis Vuitton) Fashion Group Pacific Limited, and the Hong Kong Internet Registration Corporation.

- On March 14-16, 2017, IPR Center participated in the European Union Intellectual Property Office (EUIPO) Knowledge and Awareness Building Conference in Alicante, Spain. The IPR Center staff provided a presentation on International Cooperation and the Role of Intermediaries.
- In March 2017, the IPR Center sent two ICE HSI special agents to Belo Horizonte, Brazil to support an IPR Training seminar led by the DOJ regional Intellectual Property Law Enforcement Coordinator based in Brazil. This seminar was conducted in collaboration with the DOJ OPDAT, USPTO, and the HSI Attaché in Brazil, and was held at the headquarters of the State Public Ministry in Belo Horizonte, Minas Gerais, Brazil. Attended by 74 state and federal judges, police, prosecutors, and customs officers, the seminar covered subjects that included case studies in digital and hard-goods, IP crimes, and best practices in investigating and prosecuting IP crimes. Presentations were provided by the IPR Center, CBP, DOJ, USPTO, the Government of Brazil, and industry.
- In March 2017, the IPR Center hosted a regional IPR Criminal Enforcement Workshop in Bucharest, Romania. There were 34 participants from Albania, Bulgaria, Macedonia, Moldova, and Romania, and included customs officers, police, prosecutors, and judges (two from Moldova). The workshop included a visit to the largest seaport in Romania (Constanta), which is the 4th largest in Europe. The participants also toured the Customs seized-property warehouse, inspected seized shipments of counterfeit products (including health and safety items), and heard presentations by Romania Customs and Coast Guard officers on IPR enforcement at the seaport and on coastal waters. The US Embassy in Bucharest was represented by the Deputy Chief of Mission who presided over the opening ceremony and delivered one of the keynote speeches.
- In April 2017, the IPR Center sent a representative to Kyiv, Ukraine to participate in the Kyiv Conference focusing on Combatting Counterfeiting and Piracy. There were 200 guests and approximately 50 organizers/presenters. The IPR Center representative provided a presentation on Counterfeiting and Organized crime.
- In May 2017, the IPR Center, in collaboration with ICE HSI Buenos Aires and the regional DOJ IPLEC, hosted a four-day regional IP Enforcement Training Workshop in Montevideo, Uruguay for Uruguay and Paraguay customs and police officer, prosecutors and judges. There were a total of 41 participants who attended the seminar. Additionally, the U.S. Ambassador to Uruguay provided remarks at the opening ceremony. The presentations centered on enhanced cooperation with foreign counterparts to identify and combat criminal activity related to IP rights, border enforcement, commercial and trade fraud, international cooperation and asset sharing, money laundering fundamentals, brand protection, counterfeit pharmaceuticals and IP crime on the Internet.
- In June 2017, the IPR Center – in collaboration with ICE HSI Buenos Aires and the regional DOJ IPLEC – hosted a four-day regional IP Enforcement Training Workshop in Buenos Aires, Argentina for Argentinian and Chilean customs and police officers, prosecutors and judges. Forty participants attended the program.

- In July 2017, the IPR Center and ICE HSI Kingston – in coordination with the regional DOJ IPLEC – hosted a three-day Intellectual Property Rights Enforcement Training in Montego Bay, Jamaica for customs, police officers and prosecutors from Colombia, Dominican Republic, Guatemala, Honduras, Jamaica and Panama. A total of 42 participants attended the program. The training focused on health and safety awareness as it relates to IPR violations; interception of counterfeit cargo; basic investigative techniques and case management; prosecutorial case development; best practices; and the investigation of financial proceeds. A portion of the training was dedicated to the illicit tobacco trade and the hazards associated with counterfeit cigarettes combined with the trade based money laundering that is associated with this illicit trade.
- In August 2017, the IPR Center and ICE HSI Manila – in coordination with the regional DOJ IPLEC – conducted a four-day regional training seminar for 23 customs, police officers and prosecutors from Malaysia, Philippines, Singapore, South Korea and Vietnam. The training focused on IP detection, interdiction, and enforcement. Regional brand representatives provided region-specific trends, challenges, and information on their products.
- On September 12-14, 2017, the IPR Center hosted an IPR Enforcement training workshop in Dakar, Senegal for 40 customs, police officers and prosecutors from Benin, Guinea, Liberia, Senegal, Sierra Leone and The Gambia. The training emphasized topics such as health and safety issues related to IP crime, targeting and interdiction of illicit goods, trade based money laundering, and the need for regional and global cooperation (including with rightsholders). Investigative case studies were provided on pharmaceuticals, automotive parts, and electronics.
- On September 12-15, 2017, the IPR Center participated in USPTO IPR Enforcement training for law enforcement and regulatory representatives from 17 Asian countries (Bangladesh, Cambodia, India, Indonesia, Laos, Malaysia, Maldives, Mongolia, Myanmar, Nepal, Pakistan, Philippines, Singapore, Sri Lanka, Thailand, Timor-Leste, and Vietnam). The training was held in Bangkok, Thailand, and was co-hosted by the Departments of State, Justice, Homeland Security and Commerce. The training emphasized topics such as Challenges of Enforcement in a Global Market and Online eCommerce Environment, Targeting and Enforcement, Case Studies, Utilizing Technology to Protect IP, Whole of Government Approach, and Trade Based Money Laundering. There were a total of 129 participants.
- In FY 2017, CBP supported U.S. Government-sponsored IPR capacity building and training programs, providing instructors for training sessions for foreign customs officials in Dubai, United Arab Emirates; Dushanbe, Tajikistan; Guatemala City, Guatemala; and Belo Horizonte, Brazil.
- In FY 2017, the IPR Center also coordinated with the International Anti-Counterfeiting Coalition (IACC) to provide training to state and local law enforcement as well as foreign law enforcement. This training brought together brand holders and regulatory investigators to address the counterfeiting issue and to provide strategies for strengthening IP enforcement efforts.

D. Major Enforcement Activities (DHS and FDA)

DHS:

Operation Team Player. This targets the sale and trafficking of counterfeit sports merchandise, apparel and tickets, a multi-million dollar criminal industry. The culmination of the sports season—playoffs and finals games—are events that stimulate the sale of counterfeit items. ICE 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 2017 ICE HSI seized more than 330,000 items counterfeit sports merchandise worth \$17.7 million and arrested 101 individuals under Operation Team Player. In FY 2017, 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; National Collegiate Athletic Association (NCAA) 2017 College Football Championship; NCAA 2017 Basketball Championship Tournament; NHL, MLB, and National Basketball Association (NBA) and Major League Soccer All-Star games; NHL and NBA Championship series; the 2017 NHL Stadium Series; and the 2017 International Champions Cup.

Operation Chain Reaction. This is an IPR Center coordinated effort led by ICE HSI and consisting of 16 Federal law enforcement agencies including CBP and DoD's criminal investigative offices that work to target counterfeit items entering the military and U.S. Government supply chains. In FY 2017, under *Operation Chain Reaction*, ICE HSI initiated 22 criminal investigations, conducted 3 criminal arrests, and helped secure 5 indictments and 2 convictions, as well as 104 counterfeit goods seizure incidents with a Manufacturer's Suggested Retail Price (MSRP) of approximately \$1.9 million.

Operation Engine Newity. This is an IPR Center and ICE HSI-led initiative that focuses on securing the supply chains of automotive and other heavy industry from counterfeit components. The proliferation of counterfeit parts - including critical components such as airbags, bearings, brake pads, accelerator arms, and windshields - has grown exponentially over the last several years and now poses a significant health and safety threat to end users and an economic cost to businesses and consumers through lost revenue, downtime, and replacement costs. In FY 2017, ICE HSI initiated 51 criminal investigations, conducted 15 criminal arrests, and helped secure 9 indictments and 1 conviction, as well as 142 counterfeit goods seizures incidents with a MSRP of approximately \$3.4 million.

Operation Apothecary. This is an IPR Center led subset of *Operation Guardian* that addresses, analyzes, and attacks potential vulnerabilities in the entry process that might allow for the smuggling of commercial quantities of counterfeit, unapproved, and/or adulterated drugs through international mail facilities, express courier hubs, and land borders. In FY 2017, ICE HSI investigations resulted in the initiation of 59 cases, the arrest of 38 individuals, the indictment of 37 individuals, and the conviction of 41 persons, as well as 567 seizure incidents of counterfeit items.

Illicit Cyber Commerce - Operation in Our Sites. The Illicit Cyber Commerce Program (ICC) is an on-going ICE HSI initiative targeting entities that sell counterfeit products through the Internet. The ICC program consists of a well-known operation dubbed *Operation in Our Sites* (IOS) which was initiated in 2010 as a method to disrupt this activity online. ICE HSI has evolved this strategy to focus on developing long term investigations that identify targets, assets, and financial schemes used in operating infringing websites. Through IOS, the IPR Center also coordinates with rights holders, who utilize civil and administrative remedies to shutdown infringing sites. In FY 2017, ICE HSI initiated 16 investigations, conducted 10 arrests, and helped secure 13 indictments and 5 convictions. These investigations are initiated and developed by ICE HSI field offices through IPR Center leads, seizures, informants, complaints, industry leads, and/or other investigative techniques.

Operation Surge Protector. The IPR Center initiated Operation Surge Protector in December 2016 to target the sale and trafficking of counterfeit consumer electronics and technology products, such as batteries, chargers, smartphones and charging cords. Operation Surge Protector combines the expertise of ICE HSI, CBP and the Consumer Product Safety Commission (CPSC). In FY 2017, ICE HSI initiated 22 cases, conducted 15 arrests, helped secure 6 indictments and 2 convictions, and seized approximately \$6.1 million in counterfeit products.

Operation Plastic Beauty. In January 2015, the IPR Center initiated *Operation Plastic Beauty* to combat the sale of counterfeit personal healthcare and beauty products. Through *Operation Plastic Beauty* (which combines the expertise of ICE HSI, CBP, and FDA-OCI), the IPR Center partners with industry and other entities associated with the healthcare and beauty product community. In FY 2017, ICE HSI initiated 15 cases, conducted 12 arrests, helped secure 10 indictments and 7 convictions, and seized \$641,391 MSRP in counterfeit products.

DEPARTMENT OF JUSTICE

DEPARTMENT OF JUSTICE

Department of Justice Appendix for FY 17 Annual Report

The Department of Justice (the “Department” or “DOJ”)² submits this Fiscal Year 2017 (“FY 2017”) annual report to the United States Congress pursuant to Section 404 of the *Prioritizing Resources and Organization for Intellectual Property Act of 2008* (“PRO IP Act” or “Act”), Pub. L. No. 110-403. The Act imposes a number of annual reporting requirements on the Attorney General, including actions the Department has taken to implement Title IV of the Act (“Department of Justice Programs”) and “a summary of the efforts, activities, and resources the [Department] has allocated to the enforcement, investigation, and prosecution of intellectual property crimes.” The Act requires similar reporting by the Director of the Federal Bureau of Investigation (“FBI”) on its intellectual property (“IP”) enforcement efforts pursuant to Title IV of the Act.

To the extent a particular request seeks information maintained by the FBI, the Department respectfully refers Congress to the FBI Fiscal Year 2017 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 2017 (*i.e.*, October 1, 2016 through September 30, 2017) are set forth below.

In addition, working closely with the Office of the Intellectual Property Enforcement Coordinator (“IPEC”), the Department contributed to the 2016 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.

(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

² Appendix A contains a glossary of acronyms referenced throughout this report.

not limited to, sanctions as described in the Financial Guide issued by the Office of Justice Programs at the Department of Justice.”

In FY 2017, the Office of Justice Programs (“OJP”) awarded grants to support state and local IP law enforcement task forces and local IP training and technical assistance as authorized by The Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, 131 Stat. 135, 204, 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 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 2017, OJP was able to grant seven six awards totaling \$2,048,304 to local and state law enforcement and prosecutorial agencies. The following FY 2017 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
2017-H0104-TX- BE	City of Austin	\$400,000.00
2017-H0006-MD- BE	Baltimore, County of	\$58,142.00
2017-H0105-CA- BE	City of Los Angeles	\$400,000.00
2017-H0090-NC- BE	North Carolina Department of the Secretary of State	\$400,000.00
2017-H0089-AZ- BE	City of Phoenix Police Department	\$390,162.00
2017-H0095-MO- BE	City of Saint Louis Metropolitan Police Department	\$400,000.00

Since the inception of the program, OJP has awarded \$26,357,513 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 \$19,058,849. Throughout the duration of the program, these agencies have made seizures totaling \$532,228,560, which includes counterfeit merchandise and other property valued at \$487,150,327, and \$15,078,229 in currency.

In addition to these seizures, grantees engaged in the following law enforcement activities in the one-year period from July 1, 2016 to June 30, 2017:

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

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

- As a result of a grant awarded in FY 2016, the San Antonio Police Department (“SAPD”) has seized over 33,285 items with a MSRP of over 1.2 million dollars in 2016. Between July 2016 and December 2016, the Department seized over 27,810 counterfeit items with a MSRP of over a million dollars and generated 112 prosecutable cases.
- In FY 2017, the Los Angeles Police Department’s Anti-Piracy Unit served 15 search warrants and arrested 20 individuals for intellectual property related crimes and recovered over \$9 million dollars in evidence value. The Anti-Piracy Unit provided intellectual property investigative technique training to 224 Law Enforcement Officers and conducted first-hand “ride-along” training to officers and prosecutors. The Anti-Piracy Unit provided training for Portland, Oregon, and Meza, Arizona, Police Departments on intellectual property investigative techniques.

BJA also 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 July 1, 2016 and June 30, 2017, NW3C conducted these training sessions for 213 attendees from 86 agencies in 7 locations.³ During this time, NW3C also conducted 6 technical assistance visits involving 61 agencies with 146 participants in order to improve their IP investigative and prosecutorial approaches.

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

- 97 trainings for 2,251 attendees from 1,164 agencies;
- 17 seminars for 573 attendees from 194 agencies; and
- 31 technical assistance visits for 396 attendees from 116 agencies.

(a)(2) Additional Agents of FBI

³ Training sessions took place in: Fairmont, WV; Cedar Grove, NJ; Santa Clara, CA; Jackson, MS; Raleigh, NC; Virginia Beach, VA; Portland, OR.

“(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 2016, Congress did not appropriate funds to support Section 402(b) of the PRO IP Act in FY 2017.⁴ 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 2017, the Department has taken the following additional actions to address this important issue:

⁴ 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 2017, 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 2009-13. No funds were appropriated under this section or expended during FY 2017 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 2017.

(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;

- 1. a summary of the overall successes and failures of such policies and efforts;*
- 2. a review of the investigative and prosecution activity of the Department of Justice with respect to intellectual property crimes, including –*
 - a. the number of investigations initiated related to such crimes;*

1. *the number of arrests related to such crimes; and*
2. *the number of prosecutions for such crimes, including—*
 - a. *the number of defendants involved in such prosecutions;*
 - b. *whether the prosecution resulted in a conviction; and*
 - c. *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, 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 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.⁵

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), including several of which (described above) were enacted into law. 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 FY2017-2019 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; 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.

⁵ 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 2016 PRO IP Reports are available at the same location.

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 Intellectual Property Law Enforcement Coordinator ("IPLEC") program. Through the current program, the Department has had an experienced federal prosecutor in Bangkok, Thailand, to coordinate law enforcement activities in Asia since 2006. The IPLEC program has continued to expand, and with the assistance of the State Department, the DOJ has posted regional IPLECs in Bucharest, Romania; Hong Kong; Sao Paulo, Brazil; and Abuja, Nigeria.

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.⁶ 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, the Counterintelligence and Export Control Section ("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.⁷ 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.

⁶ 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.

⁷ In 2015, CES changed its name from the "Counterespionage Section" to better reflect the scope of its work.

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 five 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 National Security Division (“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.

Interagency Coordination

In addition to investigating and prosecuting IP crime, the Department has worked closely with other federal agencies directly, and through the National IP Rights Coordination Center (“IPR Center”), to improve IP enforcement domestically and overseas.⁸ 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 201& both domestically and abroad. Some of these efforts are highlighted below:

⁸ These federal agencies include U.S. 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, and the Federal Maritime Commission.

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 2017, this initiative resulted in a number of significant prosecutions, including those set forth below:

- *Two Sentenced for Trafficking in Counterfeit Viagra and Cialis.* On December 6, 2016, Martez Alando Gurley and Victor Lamar Coates were sentenced for trafficking in counterfeit Viagra and Cialis. Gurley was sentenced to 75 months in prison, and ordered to pay \$410,508 in restitution to Pfizer Inc. and Eli Lilly and Company. Coates was sentenced to 46 months, and ordered to pay \$314,565 in restitution. Gurley and Coates illegally imported the counterfeit tablets into the United States from sources in China. This case was investigated by ICE Homeland Security Investigations (HSI) and the U.S. Food and Drug Administration (FDA) Office of Criminal Investigations (OCI), and prosecuted by the U.S. Attorney's Office (USAO) for the Southern District of Texas.
- *Citizen of China Who Attempted Illegal Export of Advanced Military Computer Chips is Sentenced.* On December 20, 2016, Jiang Yan was sentenced to approximately 12 months of imprisonment for attempting to purchase and export to China, without a required license, certain sophisticated integrated circuits used in military satellites and missiles, and for conspiring to sell counterfeits of those same integrated circuits to a purchaser in the United States. According to court documents and statements made in court, Yan and co-conspirators Xianfeng Zuo, and Daofu Zhang each operated businesses in China that bought and sold electronic components, including integrated circuits ("ICs"). In November 2015, Zhang shipped from China, to a U.S. individual, two packages containing a total of eight counterfeit ICs, each bearing a counterfeit Xilinx brand label. Yan, Zhang, and Zuo flew together from China to the U.S. in early December 2015 to complete the Xilinx ICs purchase. Federal agents arrested all three at the meeting location. On March 7, 2016, Yan pleaded guilty to one count each of conspiracy to traffic in counterfeit goods, and attempted unlicensed export of export-controlled items. As part of his sentence, Yan was ordered to forfeit \$63,000 in cash seized incident to his arrest. Yan will be deported to China. Zhang and Zuo also pleaded guilty and were each sentenced to 15 months of imprisonment on July 8, 2016, and November 4, 2016, respectively. This case was investigated by Defense Criminal Investigative Service (DCIS), ICE HSI, Department of Commerce (DOC), FBI, and U.S. Air Force Office of

Special Investigations, and prosecuted by the USAO for the District of Connecticut and the DOJ Counterintelligence and Export Control Section.

- *Owner Of Major Online Colored Contact Lens Business Sentenced to 46 Months in Prison for Importing and Selling Counterfeit and Misbranded Contact Lenses.* On January 18, 2017, Dmitriy V. Melnik was sentenced to 46 months in prison for running an international operation importing counterfeit and misbranded contact lenses from suppliers in Asia and then selling them over the internet without a prescription to tens of thousands of customers around the country. Melnik was ordered to remit \$200,000 in restitution and forfeit \$1.2 million in proceeds derived from the scheme as well as property seized during the investigation. This case was investigated by FDA OCI, United States Postal Inspection Service, and ICE HSI, and prosecuted by DOJ Computer Crime and Intellectual Property Section (CCIPS) and the USAO for the District of Nevada.
- *Defendant Sentenced for Trafficking in Counterfeit Labels for Veterinary Products.* On February 6, 2017, Allen Smith was sentenced to 37 months in prison for trafficking, and aiding and abetting in the trafficking, of counterfeit labels for Frontline Plus, Advantage, and K9 Advantix Plus products into and throughout the United States. Smith was also ordered to pay \$867,150 in restitution and to forfeit \$42,269 worth of illicit proceeds. Subsequently, on February 16, 2017, Lan Ngoc Tran was sentenced to 46 months in prison for trafficking in counterfeit labels for Frontline Plus veterinary products into and throughout the United States. Tran was also ordered to pay \$867,150.44 in restitution and \$841,813.94 in forfeiture. Previously, on July 9, 2015, a grand jury indicted four leading members of an organized crime group, including Smith and Tran, for trafficking and smuggling in millions of counterfeit veterinary products into and throughout the United States. The group represents the largest known suppliers of counterfeit packaging for flea treatment products in the United States. On December 20, 2013, HSI agents executed a search warrant and raided the business location of Chris Martin, co-defendant with Smith, who was the sole supplier of Frontline Plus flea treatment products to Target department stores, as well as a supplier to other major retail outlets for flea treatment products. Target removed from the shelves of all its nationwide stores all products purchased from Martin, including the Frontline Plus, Advantage, and K9 Advantix Plus products. On January 5, 2018, Martin was sentenced to 47 months in prison, and ordered to pay \$867,150.44 in restitution and forfeit \$42,269.10. This case was investigated by FDA OCI, ICE HSI, and the U.S. Environmental Protection Agency, and prosecuted by DOJ CCIPS and the USAO for the Southern District of Texas.
- *Joint Law Enforcement Operation Leads to Conviction of Counterfeit Drug Manufacturers.* On February 7, 2017, David Beckford was sentenced to more than 10 years in prison for his role in a conspiracy to manufacture counterfeit Xanax pills, for engaging in international money laundering, and for his use and possession of a firearm in furtherance of drug trafficking and in violation of the felon-in-possession statute. According to the guilty plea, Beckford admitted that from January 17, 2014, through December 12, 2015, he engaged in a scheme to import controlled substances from China and other foreign sources, obtain manufacturing equipment, including a press to make pills, and press fake Xanax pills at locations in the Northern District of California.

Subsequently, on July 28, 2017, Antoine King was sentenced to 30 months in prison and 3 years of supervised release for his role in the conspiracy to manufacture counterfeit Xanax pills and to launder the proceeds gained by the illegal scheme. According to the guilty plea, King admitted that from October 6, 2014 through December 12, 2015, he was involved in a conspiracy with co-conspirator David Beckford and others to manufacture and distribute pills that were designed to resemble Xanax pills as nearly as possible. This case was investigated by the DEA, the Internal Revenue Service Criminal Investigation, and FDA OCI, and prosecuted by the USAO for the Northern District of California.

- *Defendant Sentenced for Trafficking in Counterfeit Pharmaceuticals.* On March 10, 2017, Robert Grabau was sentenced to three years of probation for trafficking in counterfeit Viagra, and attempting to distribute and possess with intent to distribute phentermine, a Schedule IV controlled substance. Grabau must also forfeit over 41,000 pills of alprazolam and counterfeit Viagra, pay a money judgment of \$38,500, and pay \$100,000 in restitution to Pfizer Corporation. This case was investigated by the FBI, ICE HSI, and FDA OCI and prosecuted by the USAO for the Eastern District of New York and DOJ CCIPS.
- *Plea of Guilty for Selling Counterfeit Airbags Online.* On May 31, 2017, Vitaliy Fedorchuk pleaded guilty to five counts of mail fraud for an international scheme to sell counterfeit airbags via ebay and other online sites. According to court documents, between June 23, 2014, and July 27, 2016, Fedorchuk offered for sale airbag modules, covers, and manufacturer emblems at his ebay online store, redbarnautoparts. Fedorchuk falsely advertised that the counterfeit airbags were original equipment from major automobile manufacturers such as Honda, Fiat, Chrysler, Nissan, Toyota, GMC and Ford. During the scheme, Fedorchuk sold hundreds of counterfeit airbags and obtained more than \$95,000. According to the plea agreement, all airbag parts Fedorchuk sold through his online store were counterfeit. On October 5, 2017, Fedorchuk was sentenced to one year and one day in prison. This case was investigated by ICE HSI, and prosecuted by the USAO for the Eastern District of California.
- *Counterfeiters Sentenced For Convictions In Nationwide Conspiracy To Distribute Fake 5- Hour Energy Drink.* On June 20, 2017, Joseph Shayota and his wife, Adriana Shayota, were sentenced for their roles in a conspiracy to traffic in counterfeit goods and conspiracy to commit criminal copyright infringement and to introduce misbranded food into interstate commerce. Joseph Shayota was sentenced to 86 months, and Adriana Shayota to 26 months imprisonment. Their sentences brought an end to all but one of the cases brought against 11 defendants charged in a scheme involving the manufacture and sale of millions of bottles of the liquid dietary supplement 5-Hour ENERGY. This case was investigated by the FBI and FDA OCI, and prosecuted by Northern District of California.
- *Distributor of Counterfeit Medications Arrested.* On September 22, 2017, Carolina Aguilar Rodriguez aka “Doctora,” pleaded guilty to conspiracy to smuggle prescription drugs into the United States and receiving and delivering misbranded drugs with the intent to defraud. The criminal complaint alleged that she sold counterfeit Diprospan to

undercover federal agents on at least five occasions. According to the charges, Rodriguez was not licensed to dispense prescription medications in Texas, and Naturavida was not licensed as a Texas pharmacy. Diprosan is not approved for use or sale in the United States and is not manufactured in the United States. Sentencing is scheduled for April 20, 2018. This case was investigated by ICE HSI, FDA OCI and the Houston Police Department, and prosecuted by the USAO for the Southern District of Texas.

- *Indictment on Federal Charges for Counterfeit Oxycodone Pills Containing Fentanyl and Synthetic Opioids.* On July 11, 2017, Cathine Lavina Sellers was charged with possession with the intent to distribute a controlled substance, involving fentanyl, a Schedule II controlled substance, and furanyl-fentanyl and U-47700, both of which were designated by DEA as a Schedule I controlled substance on an emergency basis in 2016. On June 13, 2017, Sellers allegedly sold approximately 100 pills for \$1,400 in cash from her townhouse to a confidential source working with the DEA. A field test of the pills was positive for the presence of furanyl-fentanyl, which is an analog of fentanyl, similar to morphine but more potent. In conjunction with this arrest, the U.S. Attorney's Office and Atlanta DEA have issued a public warning regarding these counterfeit pills through their public affairs offices as well as through the North Georgia Heroin Working Group. This case was investigated by the DEA and the Sandy Springs Police Department, and prosecuted by the USAO for the Northern District of Georgia.
- *Two Indian Nationals Charged with Smuggling Counterfeit Cigarettes into the United States.* On August 24, 2017, Abhishek Shukla and Harish Shabhai Panchal, along with two companies incorporated in India, Jubilee Tobacco Industries Corp., and Pelican Tobacco (India) Private Limited, were charged with conspiring to smuggle counterfeit cigarettes into the United States. The defendants were charged with trafficking in counterfeit goods and with selling counterfeit tobacco products with false labeling. The indictment alleges that approximately 68,600 cartons of counterfeit Newport brand cigarettes were shipped into the United States, which were seized in two shipments at the Port of Miami. The defendants are pending trial in the Southern District of Florida. If distributed in the State of Florida, the un-taxed shipments would have an approximate value of approximately \$4.3 million. *This case was investigated by FDA OCI, ICE HSI, and the Broward County Sheriff's Office, with support from U.S. Customs and Border Protection (CBP), and prosecuted by the USAO for the Southern District of Florida.*
- *Guilty Pleas for Conspiracy to Traffic Counterfeit Steroids.* On August 28, 2017, Tyler Bauman pleaded guilty to conspiracy to distribute counterfeit testosterone, trenbolone, and other steroid compounds; conspiracy to traffic in counterfeit drugs; conspiracy to launder money; possession with intent to distribute controlled substances (steroids); and trafficking in counterfeit drugs. In April 2017, Bauman and five others were arrested and charged with various offenses related to the steroid operation. According to court documents, from approximately May 2015 until April 12, 2017, the defendants manufactured steroid products made from raw materials purchased overseas - and marketed them as "Onyx" steroids using "Onyx" labels that were also ordered from overseas suppliers. Bauman is scheduled to be sentenced in January 2018. Previously, on June 21, 2017, co-conspirator Robert Medeiros pleaded guilty to one count of conspiracy

to traffic in counterfeit drugs and to distribute controlled substances. Medeiros' principal role in the conspiracy was to fulfill orders for anabolic steroids by obtaining the finished steroid products, branded with Onyx labeling and packaging, from other members of the conspiracy, prepare the steroids for shipment, and ship the steroids via the U.S. Postal Service to customers across the United States. Additionally, on July 14, 2017, co-conspirator Melissa Sclafani pleaded guilty to one count of conspiracy with intent to distribute and distribute counterfeit steroids and one count of conspiracy to launder money. Sclafani obtained materials and supplies to manufacture the counterfeit steroids and served as the corporate secretary of Wicked Tan LLC, a tanning business owned by two co-conspirators. Sclafani assisted members of the conspiracy in laundering proceeds from the sale of counterfeit steroids through the business. This case was investigated by ICE HSI, USPIS, FDA OCI, and prosecuted by the USAO for the District of Massachusetts.

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

In FY 2017, 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:

- *Two Men Charged with Stealing Trade Secrets from Defense Contractor.* On November 3, 2016, Jared Dylan Sparks and Jay Williams were charged by indictment with offenses related to a scheme to steal trade secrets from a Connecticut-based defense contractor. According to court documents and statements made in court, Sparks, an electrical engineer, and Williams, an electronic technician, both worked at LBI Inc., a Connecticut-based defense contractor that designs and builds, among other things, unmanned underwater vehicles for the U.S. Navy Office of Naval Research. Information obtained from the execution of various search warrants revealed that beginning in at least May 2011 and continuing until November 2011, Williams and Sparks, without authorization, uploaded LBI proprietary information to Dropbox online file storage accounts. Trial is scheduled to begin on March 13, 2018. This case was investigated by DCIS and the FBI, and prosecuted by the USAO for the District of Connecticut and DOJ CCIPS.
- *Agricultural Scientist Convicted in Theft of Engineered Rice.* On February 16, 2017, Weiqiang Zhang was convicted on one count of conspiracy to steal trade secrets, one count of conspiracy to commit interstate transportation of stolen property and one count of interstate transportation of stolen property. Evidence at trial established that Zhang worked as a rice breeder for Ventria Bioscience. Ventria develops genetically programmed rice to express recombinant human proteins, which are then extracted for use in the therapeutic and medical fields. According to trial evidence, Zhang acquired without authorization hundreds of rice seeds produced by Ventria and stored them at his residence in Manhattan. On August 7, 2013, U.S. Customs and Border Protection officers found seeds belonging to Ventria in the luggage of Zhang's visitors as they prepared to leave the United States for China. This case was investigated by the FBI, with assistance

from CBP, and prosecuted by the National Security Division, CCIPS, and the USAO for the District of Kansas.

- *Russian Federal Security Service (FSB) Officers and Criminal Hacker Charged With Economic Espionage Targeting Yahoo, Inc.* On February 28, 2017, three Russian nationals, including two FSB officers, were charged with economic espionage in relation to a widely publicized breach at Yahoo that resulted in the theft of Yahoo trade secrets and account information for more than 500 million Yahoo accounts and with unauthorized access to the contents of more than 30 million accounts, primarily at Yahoo. FSB officer Dmitry Dokuchaev (who was from the FSB unit that is the FBI's point of contact in Moscow for cybercrime) and his FSB superior, Igor Sushchin, used one of FBI's "Most Wanted" criminal hackers, Alexsey Belan, to gain access to Yahoo's network and trade secrets. All three men then used this access to hack email accounts of Yahoo users, from Russian dissidents to foreign businesspeople. This case was investigated by the FBI and prosecuted by the National Security Division and the USAO for the Northern District of California, with support from the DOJ Office of International Affairs.
- *New Jersey Man Charged With Theft Of Trade Secret Materials From Dupont.* On April 7, 2017, Anchi Hou was arrested and charged by complaint with one count of theft of trade secrets. According to the documents filed in this case and statements made in court, in the summer and fall of 2016, Hou allegedly copied and removed thousands of files containing DuPont's proprietary information, including formulas, data, and customer information related to flexographic printing plate technology. A forensic review of Hou's personal computer revealed that it contained more than 20,000 stolen DuPont files related to the company's flexographic printing plate technology. Some of the stolen files include information that DuPont considers trade secrets developed by its employees over the course of the past 40 years and which are critical to its technical, economic, and business operations. This case was investigated by the FBI and prosecuted by the USAO for the District of New Jersey.
- *Seven People Charged With Conspiring to Steal Trade Secrets For Benefit of Chinese Manufacturing Company.* On May 23, 2017, two defendants were arrested in Washington, D.C., three in the Southern District of Texas, and one in the District of Massachusetts. All six defendants were charged by criminal complaint in the U.S. District Court for the District of Columbia with conspiracy to commit theft of trade secrets, and a seventh defendant – a Chinese national living in China – also was charged. Between in or about 2012 and the present, the affidavit alleges that the Chinese manufacturer and employees of its Houston-based company engaged in a systematic campaign to steal the trade secrets of a global engineering firm that was a leader in marine construction technology. Subsequently, on June 8, 2017, all seven defendants were charged with conspiracy to steal trade secrets in an indictment. On December 15, 2017, Johnny Randall pleaded guilty to this conspiracy charge, and is scheduled to be sentenced on March 16, 2018. This case was investigated by the FBI, DOC Bureau of Industry Office of Export Enforcement (OEE), and the IRS CI, and prosecuted by the USAO for the District of Columbia and DOJ's National Security Division.

- Individual Charged with Economic Espionage for Stealing Source Code from Former Employer with Intent to Benefit the Chinese Government.* On May 19, 2017, Jiaqiang Xu pleaded guilty to theft of trade secrets and economic espionage. The six-count indictment returned in June 2016 alleges that Xu stole proprietary source code from Xu's former employer with the intent to benefit the National Health and Family Planning Commission of the PRC. According to court documents, from November 2010 to May 2014, Xu worked as a developer and for this role, Xu's former employer granted Xu access to proprietary software as well as that software's underlying source code. In May 2014, Xu voluntarily resigned and subsequently communicated with undercover law enforcement officer that he had experience with his former employer's proprietary software and proprietary source code. As a result of the communications, Xu uploaded a functioning copy of the proprietary software to an undercover computer network. Xu is scheduled to be sentenced on January 18, 2018. This case was investigated by the FBI and prosecuted by the USAO for the Southern District of New York and the DOJ National Security Division.
- Chinese National Sentenced for Economic Espionage for Stealing Sensitive Military Program Documents from U.S. Defense Contractor.* On June 22, 2017, Yu Long was sentenced to approximately 30 months for his theft of voluminous sensitive military program documents from U.S. defense contractor United Technologies (UTC) and transporting them to China. After attending U.S. universities, Long worked for six years as a senior engineer at UTC on F119 and F135 airplane engines. Beginning in 2013, Long was recruited, through PRC Talent Programs, to return to China to work on research projects at certain state-run universities, using knowledge and materials he had acquired while employed at UTC. Long brought with him and accessed in China a UTC external hard drive that had been issued to him and that he unlawfully retained. A review of Long's digital media seized at the time of his arrest revealed voluminous files controlled under the International Traffic in Arms Regulations and Export Administration Regulations, and voluminous files proprietary to various U.S. companies. This case was investigated by the FBI, ICE HSI, DCIS, USAF OSI, DOC OEE, with assistance from CBP, and prosecuted by the USAO for the District of Connecticut and the DOJ National Security Division.
- Former Lutonix Executive Sentenced For Stealing Trade Secrets.* On August 17, 2017, Christopher Barry was sentenced to 12 months and 1 day in prison for stealing trade secrets from his former employer, Lutonix. Barry was also ordered to pay \$533,842 in restitution to Lutonix. Barry pleaded guilty to a felony information on April 5, 2017. According to the defendant's guilty plea, in May 2015, Barry left Lutonix and accepted employment as CEO of Urotronic, a start-up medical device company founded by a former Lutonix employee. As Barry was planning to leave Lutonix, he stole numerous trade secret files belonging to the company so that he could utilize the proprietary information in connection with his next job. This case was investigated by the FBI, IRS/CID and the USPIS, and prosecuted by the USAO for the District of Minnesota.

- *Former Chemours Employee Charged With Conspiracy To Steal Trade Secrets In Connection With Plan To Sell Trade Secrets To Chinese Investors.* On September 5, 2017, Jerry Jindong Xu, a former Chemours employee, was charged by a federal grand jury with conspiring to steal trade secrets and attempting to monetize them with Chinese investors. According to the indictment, the conspiracy involved sodium cyanide, a chemical used in mining and for which Chemours is the world's largest producer. Xu, who moved from China to North America in 2011 while employed by DuPont, became a Chemours employee when Chemours spun off of DuPont in 2015. This case was investigated by the FBI and prosecuted by the USAO for the District of Delaware.

(3) Large-Scale Commercial Counterfeiting and Online Piracy

The Department continues to pursue significant, large-scale piracy and counterfeiting operations. In FY 2017, the Department has had a number of significant prosecutions, including those set forth below:

- *Fourth Conspirator in SnappzMarket Android Mobile Device App Piracy Group Convicted of Conspiracy to Commit Criminal Copyright Infringement.* On June 19, 2017, Joshua Taylor was sentenced to 16 months in prison for conspiracy to commit criminal copyright infringement. Taylor was the fourth member of the SnappzMarket online piracy group convicted for his role in the illegal distribution of copies of copyrighted Android mobile device applications ("apps"). Evidence presented at trial demonstrated that Taylor and his co-conspirators identified themselves as members of the SnappzMarket Group, which reproduced and distributed copies of copyrighted Android mobile device apps between May 2011 and August 2012. Previously, on February 10, 2017, Kody Peterson, a leading member of the SnappzMarket group, was sentenced to a year and a day in prison for conspiring to commit criminal copyright infringement by reproducing and distributing paid Android apps on a massive scale to group members across the globe. Peterson was also ordered to pay a statutory fine of \$15,000. Scott Walton, another co-conspirator, was sentenced to 46 months in prison in August 2016. Additionally, Gary Edwin Sharp II pleaded guilty on January 13, 2016 and is scheduled for sentencing in March 2018. The FBI also executed a seizure order against the group's website. The total retail value of the more than one million pirated apps distributed by the SnappzMarket Group was estimated at more than \$1.7 million. This case was investigated by the FBI and prosecuted by DOJ CCIPS and the USAO for the Northern District of Georgia.
- *Defendants Plead to Trafficking in Counterfeit Goods, Labels, and Packaging.* On February 22, 2017, defendants Andreina Becerra, Roberto Volpe, and Rosario LaMarca pleaded guilty to conspiracy to traffic in counterfeit goods, labels, and packaging; conspiracy to smuggle goods into the United States; and conspiracy to structure financial transactions as well as substantive counts of those offenses. From July 2009 to October 2013, the defendants allegedly trafficked more than 40,000 electronic devices bearing counterfeit Apple and Sony trademarks, including iPods, iPhones, and iPads, as well as their accompanying accessories, labels, and packaging from Hong Kong and the People's Republic of China to multiple locations throughout the United States. The estimated

manufacturer's suggested retail price for these items exceeds 15 million dollars. LaMarca was sentenced to 37 months in prison on July 20, 2017. This case was investigated by ICE HSI and the Bergen County Prosecutor's Financial Crimes Unit, and prosecuted by DOJ CCIPS and the USAO for the District of New Jersey.

- *Guilty Plea in Software Piracy Scheme.* On March 2, 2017, David Reece pleaded guilty to a federal information that charged him with conspiracy. Reece admitted that he conspired with others – including Casey Lee Ross and another individual in the People's Republic of China to smuggle illegal merchandise into the United States and distribute it to others. Reece bought and sold illicit and/or unauthorized Microsoft Office product key cards. (Product key cards contain codes that are used to obtain full access to licensed versions of copyrighted Microsoft software programs, in this case, purportedly for Lenovo computers.) At an estimated loss of \$250 per item, this constitutes a total loss of approximately \$2.5 million. Reece is the eighth defendant charged in the software piracy scheme and the seventh defendant to plead guilty. This case was investigated ICE HSI and prosecuted by the USAO for the Western District of Missouri.
- *Member of CD and DVD Counterfeiting Ring Sentenced to 60 Months in Prison.* On March 22, 2017, Mamadou Aliou Simakha was sentenced to 60 months in prison and ordered to pay \$70,894 in restitution, jointly and severally with his co-defendants. Simakha pleaded guilty on March 10, 2010, to one count of conspiracy to commit criminal copyright infringement, to traffic in counterfeit goods and to traffic in counterfeit labels. After entering his guilty plea, Simakha fled the country, and a warrant was issued for his arrest on April 6, 2010. On March 1, 2016, Simakha was arrested in Morocco and was extradited from Morocco into the custody of the U.S. Marshals Service on Dec. 15, 2016. Simakha was one of 13 individuals charged by a federal grand jury on May 19, 2009, in an indictment alleging various copyright, trademark and counterfeit label offenses. This case was investigated by the FBI and ICE HSI, with assistance from the Atlanta Police Department, Fulton County Sheriff's Office, College Park Police Department, and East Point Police Department, and prosecuted by the USAO for the Northern District of Georgia, with assistance from DOJ Office of International Affairs and the U.S. Marshals Service.
- *Sentence for Trafficking in Counterfeit Goods.* On May 3, 2017, Kurt Michael Krol was sentenced to 72 months imprisonment. Additionally, Krol agreed to forfeit to the government all counterfeit articles seized; over \$200,000 in proceeds seized from six locations; and a money judgment in the amount of the gross proceeds of the offense. The investigation revealed that on January 22, 2008, Krol founded Universal Mania, Inc. (UM), an internet based marketplace. Krol met with a representative from a Chinese company that counterfeited Otterbox products in Fayetteville to find out what other products they could counterfeit. Krol sold counterfeit merchandise, as well as merchandise from legitimate distributors on the internet. He commingled the sales proceeds from the counterfeit products with proceeds from legitimate sales. This case was investigated by ICE HSI and prosecuted by the USAO for the Eastern District of North Carolina.

- *Two Individuals Sentenced Federally for Importing Counterfeit Microsoft Software Into The United States.* On May 23, 2017, Clifford Eric Lundgren was sentenced to 15 months in prison and a \$50,000 fine, and Robert J. Wolff was sentenced to 6 months house arrest and four years of probation. Lundgren and Wolff previously pled guilty to participating in a conspiracy to traffic in counterfeit goods, and committing criminal copyright infringement. According to documents filed with the court, Lundgren and Wolf manufactured and imported 28,000 discs containing Microsoft Windows programming, specifically, 7 Dell reinstallation Edition and XP Service Pack 3 Dell reinstallation Edition. Lundgren and Wolff violated Microsoft's intellectual property rights by illegally manufacturing the software in China and then importing the discs into the United States. This case was investigated by ICE HSI and prosecuted by the USAO for the Southern District of Florida.
- *Chinese National Indicted for Trafficking Counterfeit Computer Networking Equipment.* On July 19, 2017, a grand jury returned an indictment charging Ruiyang Li with trafficking in and smuggling counterfeit HP, Cisco, and Intel computer networking equipment. Li was arrested on July 7, 2017, upon entering the United States at Los Angeles International Airport (LAX). According to the allegations in the indictment, Li has been trafficking in counterfeit goods since 2007, causing millions of dollars in losses to the victim companies. Li pleaded guilty on December 8, 2018, and sentencing is scheduled for March 30, 2018. This case was investigated by ICE HSI and prosecuted by the USAO for the Southern District of Texas and DOJ CCIPS.
- *Guilty Pleas for Copyright Infringement of Microsoft Products And Conspiracy To Commit Wire Fraud.* Robert F. Stout and Kasey N. Riley pleaded guilty on August 8, 2017, to copyright infringement and conspiracy to commit wire fraud relating to the sale of illegal activation keys for Microsoft products. The United States is seeking a money judgment in the amount of \$1,480,227, the proceeds of the charged criminal conduct. Stout was sentenced to 18 months in prison, and Riley was sentenced to probation on December 1, 2017. This case was investigated by ICE HSI and the FBI, and prosecuted by the USAO for the Middle District of FL and the USAO for the Northern District of New York.
- *Chinese National Pleads Guilty to Software Piracy Scheme.* On September 19, 2017, Wen Tao Liu pleaded guilty to one count of conspiracy and one count of trafficking in counterfeit labels. Investigators have seized more than \$20 million in assets from defendants in several separate but related cases, who are estimated to have sold in excess of \$100 million worth of illicit, unauthorized and counterfeit software products to thousands of online customers. Liu, doing business as Haitu International Group Co. Limited (an entity based in Hong Kong), participated in a conspiracy with Casey Lee Ross of Kansas City, Mo. (doing business as Software Slashers), David Reece of Fort Lauderdale, Fla., and others from March 10, 2010, to February 2, 2015, to commit the offenses of unauthorized solicitation of access devices, trafficking in counterfeit goods and smuggling goods into the United States. This case was investigated by ICE HSI and the FBI, and prosecuted by the USAO for the Middle District of FL and the USAO for the Northern District of New York.

- *Staten Island Man Admits Trafficking Over \$2.5 Million In Counterfeit Footwear Through Port Of Newark.* On September 26, 2017, Shi Wei Zheng pleaded guilty, admitting his plan to distribute more than \$2.5 million of counterfeit UGG-brand boots shipped into the Port of Newark. From September 2016 through February 2017, Zheng received certain shipping container numbers from an individual overseas that identified at least three containers containing counterfeit UGG boots. Cheng asked individuals working at the Port of Newark to remove the containers from the port before they could be examined by U.S. Customs and Border Protection. Once the containers were removed, Zheng directed that they be delivered to other individuals working for him, who would then distribute the boots in New Jersey and elsewhere. Before Zheng could distribute the goods, law enforcement intercepted the containers, examined their contents, and determined the boots were counterfeit. This case was investigated by ICE HSI and prosecuted by the USAO for the District of New Jersey.

Domestic Training

During the past 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 2016, NSD, with support from CCIPS, organized and led the annual NSCS Training in Mclean, Virginia. The NSCS Network is a nationwide network of prosecutors and other attorneys, whose members are specially trained to investigate computer crimes that have a national security dimension, including the theft of IP and other information by nation state actors. Many members of the NSCS Network are also members of the CHIP Network. 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 January 2017, CCIPS and NSD organized and taught DOJ's Economic Espionage and Trade Secrets Seminar at the National Advocacy Center in Columbia, South Carolina, Approximately 80 prosecutors and law enforcement agents from around the country attended the course, which featured in-depth presentations on investigating and prosecuting theft of trade secrets and economic espionage cases.
- In March, June, and August 2017, CCIPS presented at an Intellectual Property and Trade Enforcement Investigations course at the National Intellectual Property Rights Coordination Center in Crystal City, Virginia, to approximately 30 HSI and CBP agents. The presentation covered relevant law and policy, 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 March 2017, CCIPS presented on “Collaborating with the Department to Fight IP Crime and Cybercrime” at the Corporate Counsel Forum in Indianapolis, Indiana. Hosted by FBI Indianapolis and the U.S. Attorney’s Office for the Northern and Southern Districts of Indiana, the Corporate Counsel Forum is intended to educate corporate counsel on the mission of the DOJ and FBI. Approximately 75 organizations attended the event.
- In March 2017, CCIPS hosted its annual CHIP Conference and Training at the NAC. Approximately 150 prosecutors attended the four-day event, which featured training on a wide range of investigative, litigation, legislative, and technology issues. The conference also included multiple breakout sessions, and an optional day with two tracks—a refresher track, and an advanced technology track.
- In May and September 2017, CCIPS organized and taught the Electronic Evidence and Basic Cybercrime Seminar at the NAC. The seminar, which was attended by approximately 70 prosecutors, addressed a variety of topics including: obtaining evidence from third-party service providers pursuant to the Stored Communications Act, the Pen/Trap Statute, and the Wiretap Act; the utility of social networking sites to investigations; the search and seizure of electronic media; encryption; basic principles relating to the Internet; digital forensics; the use of electronic evidence at trial; and relevant statutes governing computer and IP crime.
- In August 2017, CCIPS participated in the International Law Enforcement IP Crime Conference at the United Nations Headquarters located in New York. The event brought together approximately 600 police, customs, prosecutors, and other government officials as well as rights holders representing a wide variety of industries to share best practices, create stronger networks to combat IP crime, and develop joint initiatives focused on enforcement, education and partnerships. Deputy Attorney General Rod Rosenstein provided a keynote address at the conference.
- In September 2017, CCIPS presented at the Naval Criminal Investigative Service’s (NCIS’s) 2017 Economic Crimes Conference at Quantico, Virginia. CCIPS discussed methods for the investigation and prosecution of cases involving counterfeit microelectronics and presented case studies. Approximately 75 NCIS agents and analysts attended the three-day training conference.

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 2017, 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 2017 to provide training to foreign officials on effective enforcement of IP laws. CCIPS’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 2017, the Department, with the assistance from the State Department, continued to expand the IPLEC program. Experienced DOJ attorneys now serve as regional IPLECs in Bangkok, Thailand; Bucharest, Romania; Hong Kong; Sao Paulo, Brazil; and Abuja, Nigeria.⁹



DOJ’s IPLEC Program and Cyber Intermittent Legal Advisor in Kuala Lumpur

In addition to the Department’s regional efforts through its IPLEC program, examples of DOJ’s international engagement regarding various IP enforcement include:

Asia

U.S.-China Joint Liaison Group on Law Enforcement Cooperation. The Department continues to engage with China through the bilateral IP Criminal Enforcement Working Group (“IPCEWG”), which is part of the Joint Liaison Group (“JLG”). The JLG is designed to

⁹ For more information about CCIPS’s international outreach, see <https://www.justice.gov/criminal-ccips/overseas-work>.

strengthen law enforcement cooperation between the United States and China across a range of issues, including IP and cybercrime. In November 2016, CCIPS participated in the 14th Annual Meeting of the JLG in Washington, D.C. Deputy Assistant Attorney General Bruce Swartz co-chaired the JLG plenary session. Also in attendance at the JLG meeting were representatives from DOJ, DOS, FBI, ICE-HSI, and DEA. In August 2017, CCIPS also participated in the IPCEWG's annual meeting in Washington D.C., and discussed the continued commitment to ongoing case cooperation and coordination, joint priority areas, and proposals for the upcoming year. Representatives from the National IPR Center, ICE-HSI Beijing & New York, and FBI also attended the meeting on behalf of the United States.

U.S. Patent and Trademark Office's Intellectual Property Enforcement Roundtable for Chinese Officials. In October 2016, CCIPS participated in a roundtable discussion on the U.S. government's enforcement of intellectual property laws, as part of a one-day seminar hosted by the U.S. Patent and Trademark Office's ("USPTO's") Global Intellectual Property Academy in Alexandria, Virginia. The audience consisted of 25 Chinese officials from provincial and central enforcement agencies.

U.S.-China High-Level Joint Dialogue on Cybercrime and Related Issues. In December 2016, Attorney General Loretta E. Lynch and Department of Homeland Security Secretary Jeh Johnson, together with Chinese State Councilor Guo Shengkun, co-chaired the third U.S.-China Joint Dialogue on Cybercrime and Related Issues. The dialogue aimed to review the timeliness and quality of responses to requests for information and assistance with respect to cybercrime or other malicious cyber activities and to enhance pragmatic bilateral cooperation with regard to cybercrime, network protection and other related issues. At the dialogue, both sides agreed to continue to cooperate on the investigation of cybercrime and malicious cyber activities emanating from China or the United States and to refrain from cyber-enabled theft of intellectual property with the intent of providing competitive advantages to companies or commercial sectors. As a result, both sides plan to continue evaluating the effectiveness of case cooperation, focus cooperation on hacking and cyber-enabled fraud cases, share cybercrime-related leads, expand cyber-enabled crime cooperation to counter Darkweb marketplaces, and provide concrete and timely updates on cases brought within the ambit of the dialogue, among other agreements.

5th Intellectual Property Crimes Enforcement Network (IPCEN) Meeting. In February 2017, CCIPS, the Bangkok IPLEC, and the Hong Kong IPLEC organized and participated in the 5th IPCEN meeting held in Bangkok, Thailand. The meeting facilitated the exchange of successful investigation and prosecution strategies in combating domestic and cross-border copyright piracy and trademark counterfeiting crimes. Over 50 prosecutors and law enforcement officers shared best practices and lessons learned in addressing retail and online counterfeiting and piracy, mass production and distribution of counterfeit goods, and border enforcement strategies. The IPCEN meeting also served to strengthen communications channels to promote coordinated, multinational prosecutions of the most serious offenders. Participating countries included Burma, Cambodia, Indonesia, Laos, Malaysia, Singapore, South Korea, Thailand, and Vietnam.

Presentation to Chinese Judges on Intellectual Property Rights. In March 2017, CCIPS addressed a visiting group of Chinese judges 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 Chinese Delegations on U.S. Enforcement of Intellectual Property Rights. In March 2017, CCIPS addressed a visiting group of Chinese government officials, academics, and 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.

Asia Regional Intellectual Property Rights (IPR) Criminal Enforcement Workshop. In March 2017, the Hong Kong IPLEC, with the assistance of CCIPS, organized the first Asia Regional IPR Criminal Enforcement Workshop in Hong Kong. Approximately 50 IP prosecutors and investigators from thirteen countries (United States, Bangladesh, Burma, China, India, Indonesia, Mongolia, Nepal, Pakistan, Sri Lanka, Thailand, Vietnam, and Hong Kong) gathered to discuss methods to facilitate the exchange of successful investigation and prosecution strategies in combating trademark counterfeiting, copyright infringement, and theft of trade secrets, and how to strengthen communication channels to promote coordinated, multinational prosecutions of the most serious offenders. The meeting included panel discussions and case studies by law enforcement officials, presentations by representatives of affected industries, and technical and legal discussions from U.S. experts.

Intellectual Property Rights Law Enforcement Workshop for Pakistan. In July 2017, CCIPS presented to Pakistani law enforcement and intellectual property enforcement officials at the Intellectual Property Rights Law Enforcement Workshop for Pakistan. The hour-long presentation focused on intellectual property enforcement efforts, case studies and CCIPS' international assets and coordination efforts.

International Law Institute (ILI) 2017 China Law Society. In July 2017, CCIPS presented to the ILI's China Law Society. The delegation consisted of Chinese professors, legislators, and policy-makers. CCIPS's presentation focused on U.S. criminal intellectual property enforcement with a concentration on IP-related statutes, effective IP enforcement strategies, and coordination between prosecutors and investigative agencies. The presentation also provided case highlights, CCIPS resources, and trial strategies.

China IP Road Shows. In July 2017, DOJ CHIP AUSAs presented at China IP Road Shows, sponsored by the USPTO, in Detroit and Grand Rapids, Michigan. 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 intellectual property (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.

Presentation to Chinese Delegation on IP Enforcement. In August 2017, CCIPS presented to a delegation of 26 Zhejiang Police College students from Zhejiang, China. CCIPS discussed DOJ's role in IP enforcement and on investigating and prosecuting IP crimes in the

United States. The University of Maryland's Office of International and Executive Programs organized the delegation's visit.

ASEAN Network of IP Enforcement Experts (ANIEE) Meeting. In September 2017, the Hong Kong IPLEC participated in the ANIEE meeting hosted in Bangkok, Thailand. The meeting focused on initiatives related to enforcement under the 2016-2025 ASEAN IPR Action Plan. Initiatives included the development of information-sharing networks among government officials responsible for IP enforcement (customs, police, prosecutors, administrative enforcement authorities), and enhanced IPR border enforcement. Participating countries included Brunei, Burma, Cambodia, Malaysia, Indonesia, Laos, the Philippines, Singapore, Thailand, and Vietnam.

Regional Workshop on Effective Practices in Border Enforcement of Intellectual Property Rights. In September 2017, the Hong Kong IPLEC participated in the Regional Workshop on Effective Practices in Border Enforcement of Intellectual Property Rights in Bangkok, Thailand. The goal of the workshop was to support the participating countries' efforts to develop and enforce effective border strategies for targeting trademark and copyright infringing goods. Participating countries included the United States, Bangladesh, Bhutan, Brunei, Burma, Cambodia, China, Timor-Leste, Hong Kong, India, Indonesia, Laos, Malaysia, Maldives, Mongolia, Nepal, Pakistan, Singapore, Sri Lanka, the Philippines, Thailand, and Vietnam.

U.S. Patent and Trademark Office's China IP Update. In September 2017, CCIPS spoke at the United States Patent and Trademark Office's (USPTO's) China IP Update Program in Alexandria, Virginia. The event provided an opportunity for U.S. government attendees to hear about the latest developments on a wide range of Chinese IP issues from U.S. government subject matter experts from agencies including the USPTO, USTR, Commerce, DOJ, FBI, HIS, and CBP. CCIPS spoke on a panel addressing recent updates on law enforcement cooperation with China.

North Africa and the Middle East

Intellectual Property Crime Workshop for Kazakhstan Delegation: In March 2017, CCIPS presented to a visiting delegation of 18 investigators and prosecutors from Kazakhstan as part of the Global Intellectual Property Academy's "Workshop on the Investigation and Prosecution of Intellectual Property Crimes," organized by the U.S. Patent and Trademark Office. CCIPS provided presentations addressing U.S. criminal investigation and prosecution procedure, computer forensic and electronic evidence issues, criminal prosecution of IP crimes, prosecution of trade secret theft cases, and sentencing and asset forfeiture issues as well as a case study.

Workshop for Azerbaijani Judges. In April 2017, CCIPS participated in a three-day training conference in Baku, Azerbaijan for approximately Azerbaijani judges focusing on protection of intellectual property rights. USPTO organized the conference in conjunction with the U.S. Embassy in Baku, DOJ, and the Azerbaijani judiciary. CCIPS gave five presentations on various topics involving intellectual property and IPR enforcement in the U.S. and Azerbaijan.

Regional IPR Enforcement Training in Jordan. In September 2017, CCIPS participated in training in Amman, Jordan, with law enforcement officials and attorneys from Egypt, Jordan, Lebanon, Morocco, Saudi Arabia, and United Arab Emirates. The regional workshop on investigating and prosecuting intellectual property violations brought together over 40 investigators and prosecutors to develop laws and procedures that will enhance regional ability to investigate and prosecute crimes involving intellectual property violations.

Regional IPR Enforcement Training in Senegal. In September 2017, the Nigeria IPLEC participated in training hosted in Dakar, Senegal. Customs officials, police officers, and prosecutors from Liberia, Sierra Leone, Gambia, Benin, Guinea and Senegal participated. The training emphasized the health and safety issues associated with counterfeit goods and their connection to transnational organized crime. The program focused on interdiction, investigations and enforcement operations, with emphasis on health and safety concerns of counterfeit goods such as pharmaceuticals, health and beauty products, and consumer electronics.

IPR Training Program for Moroccan Judicial Officials. In September 2017, CCIPS participated in two judicial exchange programs for approximately 60 Moroccan judges in Casablanca and Marrakesh, Morocco. The USPTO-sponsored programs highlighted the growing importance of intellectual property in the Moroccan, U.S., and global economies, and for effective IP enforcement. CCIPS discussed various issues related to criminal IP enforcement, particularly online investigations.

Central and South America

Meeting with Mexican Intellectual Property Attorneys. In October 2016, CCIPS Attorneys met in Washington, DC with nine attorneys from the Mexican Association for the Protection of Intellectual Property (“AMPPI”) regarding IPR issues in Mexico and the U.S. The participants had a wide-ranging discussion focusing on how right holders could work more effectively with law enforcement in Mexico on IPR enforcement matters. Following the discussion, the delegation toured the CCIPS Cybercrime Lab and were provided an overview of the role and capabilities of the Lab. AMPPI had a follow-up meeting with DOJ the following week when a CCIPS attorney was in Mexico City as a presenter at a training conference for Mexican judges on intellectual property crimes and the accusatory system.

Training Conference in Mexico City for Mexican Judges. In October 2016, CCIPS and the Brazil IPLEC participated in a two-day training conference in Mexico City, Mexico for Mexican judges focusing on protecting IPR and Mexico’s transition to an accusatory criminal justice system. DOJ, USPTO, and the U.S. Embassy in Mexico City organized the conference for over 70 participants including two U.S. federal judges. CCIPS gave a presentation regarding investigating, prosecuting, and adjudicating IPR cases in Mexico.

Intellectual Property Rights Enforcement Training in Brazil. In March 2017, the Brazil IPLEC participated in training with Brazilian law enforcement in Belo Horizonte, Brazil. The goal of the training was to strengthen the ability of Brazilian state and federal law enforcement officials in Minas Gerais (Belo Horizonte) to combat IP crime more effectively. The training consisted of U.S. and Brazilian case studies, overviews of USG resources and best practices in IP

crime investigation and prosecution, and presentations from different rights-holders on their brand protection strategies and methods.

Intellectual Property Rights Enforcement Training in Peru. In April 2017, the Brazil IPLEC participated in training with Peruvian law enforcement in Lima, Peru. The goal of the training was to strengthen the ability of Peruvian law enforcement officials in Peru to combat digital IP crime more effectively. The training consisted of U.S. and Peruvian case studies, overviews of USG resources and best practices in IP crime investigation and prosecution, and presentations from different rights-holders on their brand protection strategies and methods.

Regional Intellectual Property Rights Enforcement Training in Panama. In August 2017, the Brazil IPLEC participated in training in Panama City, Panama, with law enforcement officials and attorneys from Panama, the Dominican Republic, Costa Rica, El Salvador, Guatemala, Honduras, and Mexico. This program focused on hard goods and the best practices for using effective tools to increase seizures, as well as how to investigate and prosecute these crimes successfully in a challenging legal environment. The participants were primarily law enforcement, prosecutors, and customs officers.

Europe

EUIPO-CEPOL Workshop. In October 2016, CCIPS participated in and spoke at the “EUIPO-CEPOL Counterfeiting Goods and Intellectual Property” Conference in Paris, France. The European Union Intellectual Property Office (EUIPO) through its European Observatory on Infringements of Intellectual Property Rights and CEPOL (the European Union Agency for Law Enforcement Training) jointly organized the training workshop. The workshop was held at the EU police training facility in Paris, France. The aim of the workshop was to (1) provide the participating prosecutors and investigators with presentations about experiences with IP prosecutions in a number of EU Member States as well as in the United States, (2) share best practices on interagency and public-private cooperation, and (3) identify the best investigative measures to combat against counterfeiting and IP crime infringement online. The audience included investigators and prosecutors from 10 EU countries who are responsible for investigating and prosecuting IP crime cases. CCIPS gave presentations on the use of digital evidence in online piracy and counterfeit goods prosecutions and on digital investigative techniques, as well as an Internet investigation simulation.

CCIPS Meeting with Latvian Delegation. In July 2017, CCIPS met with a delegation from the Republic of Latvia to discuss CCIPS’ role within the Department as it relates to cyber-crime and intellectual property enforcement. The Latvian delegation consisted of a judge, a prosecutor, and an educator from the Latvian School of Public Administration. Topics discussed included CCIPS’ coordination with the USAO community, CHIP AUSAs, domestic and international law enforcement, and policymakers.

Other Regions

Resistant Legal Advisor Trainings. In February 2017, CCIPS addressed 11 participants based in nine countries—Bangladesh, Ethiopia, Kenya, Mexico, Pakistan, the Philippines,

Serbia, Sri Lanka, and Timor-Leste—at the DOJ/OPDAT Resident Legal Advisor (“RLA”) School in Washington, DC. CCIPS spoke regarding CCIPS’s and DOJ’s work on cybercrime, intellectual property, and electronic evidence issues in the U.S. and around the world.

Visit from Chief Justice from The Republic of Trinidad and Tobago. In August 2017, CCIPS met with the Chief Justice from the Republic of Trinidad and Tobago. The presentation at CCIPS covered computer crime policy and prosecution, digital evidence collection, and intellectual property law and prosecutions.

Regional Intellectual Property Rights Training in Barbados. In September 2017, the Brazil IPLEC participated in a regional training in Bridgetown, Barbados. The program focused on counterfeit hard goods and the best practices for using effective tools to increase seizures, as well as how to investigate and prosecute these crimes successfully in a challenging legal environment. Police, prosecutors, and customs officers from Barbados, Antigua and Barbuda, St. Kitts and Nevis, St. Lucia, Guyana, Grenada, Belize, Jamaica, Curacao, Trinidad and Tobago, Bermuda, and Suriname participated.

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 FY2017, CCIPS organized and planned its Eleventh Annual IP Industry and Law Enforcement Meeting held in Washington, D.C, in October 2017. 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, Deputy Attorney General Rod Rosenstein provided keynote remarks, and several senior DOJ and law enforcement officials, including Acting Assistant Attorney General Kenneth Blanco and officials from FBI, ICE-HSI, CBP, and FDA participated in the meeting. Approximately 90 government 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 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 2016, a DOJ Consumer Protection Branch attorney presented to the Pharmaceutical Security Institute’s 30th General Assembly in Cambridge, Massachusetts, on prosecuting counterfeit drug cases. The presentation included means of industry assistance that complement law enforcement investigations and prosecutions.
- In October 2016, CCIPS presented at a roundtable in Charleston, South Carolina for the General Counsel of more than 20 mid-sized law firms (firms with 150-450 lawyers). CCIPS’s presentation, entitled “Cybercrime and Intellectual Property Crime: A Team

Effort,” focused on the importance of lawyers and their clients developing relationships with law enforcement in advance of a cybersecurity or IP theft incident, and contacting law enforcement as soon as possible when an incident does occur.

- In October 2016, CCIPS participated in a panel discussion at the FBI’s General Counsel Cyber Summit at University of California Berkeley Law School. The symposium was organized by FBI’s Cyber Division, as an outreach opportunity to general counsels of Silicon Valley companies, and included presentations on how cyber investigations are conducted and attendant legal issues that affect law enforcement’s ability to conduct them effectively. DOJ contributed content on how cyber intrusions or trade secret theft can be reported and legal issues associated with information sharing, including issues arising under the newly enacted Cybersecurity Act of 2015.
- In October 2016, CCIPS presented at the 15th Annual Law Firm COO & CFO Forum in New York City, New York. CCIPS’s presentation, entitled “Cybercrime and IP Crime: A Team Effort.” focused on the importance of developing relationships with law enforcement before a cyber or IP incident and of involving law enforcement as soon as an incident occurs. More than 250 lawyers are expected to attend the Forum at The Thomson Reuters Legal Executive Institute.
- In December 2016, CCIPS participated in the Semiconductor Industry Association’s briefing on anti-counterfeiting in Washington, D.C. Industry representatives from Intel and Texas Instruments, among others, met with government representatives from Commerce, DHS, and DOJ to discuss the proliferation and detrimental public impact of counterfeit semiconductor components in the United States and to explore ways to increase international cooperation in combatting the issue.
- In January 2017, CCIPS participated in meetings with Automotive Anti-Counterfeiting Council (“A2C2”) representatives; ebay representatives; and FBI, HSI, and USPIA representatives. ebay hosted the meetings at their facility in Draper, Utah. The full-day agenda consisted of A2C2 and USG briefings, presentations by multiple ebay units, and discussions focused on the sales of airbags and other supplementary restraint systems on e-commerce platforms, sharing best practices by industry, and improving ebay’s internal scrutiny of listings to limit counterfeits on its platform.
- In January 2017, CCIPS, along with representatives of the FBI and ICE/HSI, met with Facebook representatives to discuss the challenge of reducing the sale of counterfeit, pirated and other fraudulent merchandise in Facebook’s recently implemented Marketplace platform. The meeting included discussion of cases arising on other online marketplace systems and best practices in identifying and reporting criminal activity.
- In February 2017, CCIPS met with representatives of the Entertainment Software Association (ESA) to gain insight on the impact of IP and Computer Crime on ESA member companies. ESA presented information about trends in gaming piracy and its internal investigative techniques. CCIPS also made suggestions for best practices for DOJ’s future work with industry to investigate, prosecute, and deter these crimes.

- In March 2017 and September 7, 2017, CCIPS and the IPR Center co-hosted half-day meetings of the Counterfeit Microelectronics Working Group, which meets at least twice a year to discuss ways to detect and prevent counterfeit microelectronics in the U.S. supply chain. Approximately 65 industry, government, and law enforcement representatives attended the meeting.
- In March 2017, CCIPS met with representatives of Liberty Puerto Rico at a meeting hosted by the National Intellectual Property Rights Coordination Center in Arlington, Virginia. At the meeting, counsel for Liberty Puerto Rico discussed the difficulties that Liberty, along with other small-and medium-sized cable providers in the American Cable Association, and a broad range of content owners, is experiencing due to recent growth in unauthorized fee-based streaming services that provide pirated content through “set top” media players.
- In May 2017, CCIPS met with representatives from the Entertainment Software Alliance (ESA) and law enforcement, including HSI and CBP. The National Intellectual Property Rights Coordination Center in Alexandria, Virginia, hosted the meeting, which focused on intellectual property rights enforcement, including copyright infringement, piracy, and trademark counterfeiting.
- In May 2017, CCIPS attended the spring meeting of the Automotive Aftermarket Suppliers Association (AASA) and the Motor & Equipment Manufacturers Association (MEMA) in Washington, D.C., to discuss intellectual property rights enforcement. AASA and MEMA are trade associations that represent businesses in the automotive aftermarket and motor vehicle suppliers and parts industries, respectively. Other participants included representatives from the USPTO and law enforcement, including the FBI, HSI, and CBP.
- In June 2017, CCIPS participated on a panel at Merck Pharmaceutical’s Product Integrity Investigative Summit in Los Angeles, California. The summit serves as Merck’s annual global meeting for all Merck Global Security employees who lead or execute investigations and all of their outside investigators and counsel involved in anti-counterfeit investigations, internal investigations, and FCPA compliance. CCIPS’s presentation highlighted the need for effective partnerships and coordination among prosecution, law enforcement, and trademark holders in criminal counterfeit investigations, as well as some potential pitfalls.
- In June 2017, CCIPS met with the Recording Industry Association of America, about intellectual property IP issues affecting the recording industry generally as well other domestic and international IP policy issues.
- In June 2017, CCIPS spoke in Los Angeles, CA at the Eighth Annual Anti-Piracy and Content Protection Summit. The summit is a leading event bringing together private sector and government lawyers and managers in the area of intellectual property, content protection, antipiracy, security, and digital rights. In the past few years, many of the

nation's largest companies affected by copyright infringement and content theft have participated in the event. CCIPS addressed DOJ's efforts to investigate and prosecute counterfeiting and piracy; working with law enforcement; and emerging enforcement issues.

NSD has undertaken strategic changes within its Division designed to put 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 and naming the first Director of the Division's Protection of National Assets Outreach Program. Pursuant to this increased focus, 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.

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/iptf> 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>.

(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 hundreds 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 2017, listing the number of defendants and cases charged, the number of defendants sentenced, and the length of those sentences.¹⁰ Section 404(b) of the PRO IP Act

¹⁰ 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. §

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 2017
Investigative Matters Received by AUSAs	178
Defendants Charged	101
Cases Charged	77
Defendants Sentenced	70
No Prison Term	42
1-12 Months	12
13-24 Months	3
25-36 Months	4
37-60 Months	6
60 + Months	3

In addition, we have provided the chart below with FY 2017 statistics for criminal IP cases broken down by type of charge.¹¹

Charge	Cases charged	Percentage
Trademark <i>Trafficking in counterfeit goods, 18 U.S.C. § 2320</i>	56	71%

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.

¹¹ 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.

Copyright		
<i>Criminal copyright infringement, 17 U.S.C.</i>	8	10%
<i>§506 Counterfeit labels, 18 U.S.C. § 2318</i>	2	3%
<i>DMCA, 17 U.S.C. § 1201</i>	2	3%
Economic Espionage Act		
<i>Economic espionage, 18 U.S.C. § 1831 Theft of</i>	2	3%
<i>trade secrets, 18 U.S.C. § 1832</i>	9	11%
Total	79	100%

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

The Criminal Division currently devotes fifteen 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 IPLEC program, DOJ has had a Department attorney stationed in Bangkok, Thailand, since January 2006 to handle IP issues in 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 IPLEC 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 IPLEC program in FY 2016 by posting new regional IPLECs in Hong Kong and Sao Paulo, Brazil. Most recently, in FY 2017, the State Department and DOJ prepared to field a new IPLEC position in Abuja, Nigeria. The Nigeria IPLEC deployed in October 2017, bringing the total number of regional IPLECs up to five DOJ prosecutors.

The Cybercrime Lab housed in CCIPS provides support in evaluating digital evidence in IP cases, with a current total of nine computer forensics experts on staff. In addition to evaluating

digital evidence, 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 three sections of the Department's Civil Division: the Intellectual Property Section, the National Courts Section, and the Consumer Protection Branch. 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. Finally, 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.

(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 NCIJTF 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.

* * * *

FBI Law Enforcement Actions

At the end of FY 2017, the FBI had 228 pending IPR investigations with the following areas of focus:

- 79 investigations of theft of trade secrets
- 23 investigations of copyright infringement related to software
- 47 investigations of other copyright infringement
- 28 investigations of trademark infringement
- 9 investigations of copyright infringement related to signal theft
- 7 investigations of counterfeit aircraft parts
- 10 investigations of counterfeit electrical parts
- 7 investigations of counterfeit automotive parts
- 16 investigations of counterfeit health products
- 2 investigations of other counterfeit health and safety products

The following is a summary of statistics for IPR investigations for FY 2017:

- 44 new investigations initiated
- 31 arrests
- 22 information/indictments
- 23 convictions
- Seizures totaling \$750,205
- Forfeitures totaling \$86,949
- Restitution totaling \$53,396,003
- FIRE (Frozen, Indicted, Restrained, Encumbered) totaling \$750,000

DOJ Intellectual Property Prosecutions FY 2017, by Statute

The following is a listing of DOJ IP prosecutions during FY 2017 by reference to the statutes involved (a number of these cases are discussed above, in the section on “Prosecution Initiatives”).

Copyright / Pre-Release / Camcording / Counterfeit Labels (17 U.S.C. § 506, 18 U.S.C. §§ 2319, 2318)

Orlando Man And Woman Plead Guilty To Copyright Infringement Of Microsoft Products And Conspiracy To Commit Wire Fraud. On August 8, 2017, Robert F. Stout, 51, and Kasey N. Riley, a/k/a Kasey Stout, 33, both of Windermere, Florida, pleaded guilty to copyright infringement and to conspiracy to commit wire fraud relating to the sale of illegal activation keys for Microsoft products. The United States is seeking a money judgment in the amount of

\$1,480,227, the proceeds of the charged criminal conduct. Stout was sentenced to 18 months in prison, and Riley was sentenced to probation on December 1, 2017. (MDFL, ICE-HSI, FBI) <https://www.justice.gov/usao-mdfl/pr/orlando-man-and-woman-plead-guilty-copyright-infringement-microsoft-products-and>

Fourth Conspirator in SnappzMarket Android Mobile Device App Piracy Sentenced for Conspiracy to Commit Criminal Copyright Infringement. On June 19, 2017, Joshua Taylor was sentenced to 16 months in prison for conspiracy to commit criminal copyright infringement. Taylor was the fourth member of the SnappzMarket online piracy group convicted for his role in the illegal distribution of copies of copyrighted Android mobile device applications (“apps”). Evidence presented at trial demonstrated that Taylor and his co-conspirators identified themselves as members of the SnappzMarket Group, which reproduced and distributed copies of copyrighted Android mobile device apps between May 2011 and August 2012. Previously, on February 10, 2017, Kody Peterson, a leading member of the SnappzMarket group, was sentenced to a year and a day in prison for conspiring to commit criminal copyright infringement by reproducing and distributing paid Android apps on a massive scale to group members across the globe. Peterson was also ordered to pay a statutory fine of \$15,000. Scott Walton, another co-conspirator, was sentenced to 46 months in prison in August 2016. Additionally, Gary Edwin Sharp II pleaded guilty on January 13, 2016 and is scheduled for sentencing March 2018. The FBI also executed a seizure order against the group’s website. The total retail value of the more than one million pirated apps distributed by the SnappzMarket Group was estimated at more than \$1.7 million. (NDGA, CCIPS & CCIPS Cybercrime Lab, OIA, FBI) <https://www.justice.gov/opa/pr/conspirators-two-android-mobile-device-app-piracy-groups-plead-guilty-0>; <https://www.justice.gov/opa/pr/fourth-conspirator-snappzmarket-android-mobile-device-app-piracy-group-convicted-conspiracy>

Fresno Man Arrested on Federal Copyright Violations for Alleged Illegal Upload of ‘Deadpool’ Movie to the Internet. On June 13, 2017, Trevon Maurice Franklin, 21, of Fresno, was arrested on a federal criminal charge of copyright infringement that alleges he posted the movie “Deadpool” to his Facebook page. As a result of the illegal upload, more than 5 million people were able to view the film copyrighted by the Twentieth Century Fox Film Corporation. Franklin used the screen name “Tre-Von M. King,” allegedly uploaded “Deadpool” approximately eight days after its February 2016 release to theaters. Franklin is charged in a one-count indictment returned on April 7 with reproducing and distributing a copyrighted work. Trial is scheduled for February 2018. (CDCA, FBI) <https://www.justice.gov/usao-cdca/pr/fresno-man-arrested-federal-copyright-violations-alleged-illegal-upload-deadpool-movi-0>

Printing and Packaging Business Owner Convicted of Trafficking in Counterfeit Veterinary Labels. On May 15, 2017, Michael Chihwen Wang, 49, of Buena Park, California, pleaded guilty trafficking in counterfeit labels. He admitted to directing the manufacture of counterfeit labels and sending them to Houston. Wang was the vice president of CYU Lithographics Inc. doing business as Choice Lithographics in Buena Park. Between July 2015 and December 2016, Wang directed the manufacture of counterfeit trademarked Frontline, Frontline Plus and Merial veterinary product labels and shipped them to Houston. Wang was sentenced to five years of probation on December 4, 2017. (SDTX, FDA, ICE-HSI)

<https://www.justice.gov/usao-sdtx/pr/printing-and-packaging-business-owner-convicted-trafficking-counterfeit-veterinary>

Trafficking in Counterfeit Goods (18 U.S.C. § 2320)

Staten Island Man Admits Trafficking Over \$2.5 Million In Counterfeit Footwear Through Port Of Newark. On September 26, 2017, Shi Wei Zheng, 42, of Staten Island, New York, pleaded guilty, admitting his plan to distribute more than \$2.5 million of counterfeit UGG-brand boots shipped into the Port of Newark. Zheng was originally arrested and charged by complaint on March 7, 2017. From September 2016 through February 2017, Zheng received certain shipping container numbers from an individual overseas that identified at least three containers containing counterfeit UGG boots. Zheng asked individuals working at the Port of Newark to remove the containers from the port before they could be examined by U.S. Customs and Border Protection. Once the containers were removed, Zheng directed that they be delivered to other individuals working for him, who would then distribute the boots in New Jersey and elsewhere. Before Zheng could distribute the goods, law enforcement intercepted the containers, examined their contents, and determined the boots were counterfeit. Sentencing is scheduled for January 23, 2018. (DNJ, ICE-HSI) <https://www.justice.gov/usao-nj/pr/staten-island-man-admits-trafficking-over-25-million-counterfeit-footwear-through-port>

New Hampshire Company Sentenced for Trafficking Counterfeit Patriots Playoff T-Shirts. On September 25, 2017, CK Productions Inc., based in Pelham, N.H. was sentenced for trafficking counterfeit New England Patriots AFC Championship and Super Bowl t-shirts during the 2015 NFL playoffs. The company was ordered to pay restitution in the amount of \$29,405 to the NFL and a fine of \$30,000. Previously, on April 13, 2017, CK Productions pleaded guilty to trafficking in counterfeit goods. From January through February 2015, CK Productions printed and sold approximately 1,724 counterfeit t-shirts, with a total retail value of approximately \$29,405. The playoff t-shirts bore the trademarked words “Patriots” and “Super Bowl” and pictured the Patriots logo. (DMASS, ICE-HSI) <https://www.justice.gov/usao-ma/pr/new-hampshire-company-pleads-guilty-trafficking-counterfeit-patriots-playoff-t-shirts>; <https://www.justice.gov/usao-ma/pr/new-hampshire-company-sentenced-trafficking-counterfeit-patriots-playoff-t-shirts>

Chinese National Pleads Guilty to Software Piracy Scheme. On September 19, 2017, Wen Tao Liu pleaded guilty to one count of conspiracy and one count of trafficking in counterfeit labels. Investigators have seized more than \$20 million in assets from defendants in several separate but related cases, who are estimated to have sold in excess of \$100 million worth of illicit, unauthorized and counterfeit software products to thousands of online customers. Liu, doing business as Haitu International Group Co. Limited (an entity based in Hong Kong), participated in a conspiracy with Casey Lee Ross of Kansas City, Mo. (doing business as Software Slashers), David Reece of Fort Lauderdale, Fla., and others from March 10, 2010, to February 2, 2015, to commit the offenses of unauthorized solicitation of access devices, trafficking in counterfeit goods and smuggling goods into the United States. (WDMO, ICE-HSI) <https://www.justice.gov/usao-wdmo/pr/chinese-national-pleads-guilty-software-piracy-scheme>

Shrewsbury Man Pleads Guilty to Operating Counterfeit Steroid Scheme. On August 28, 2017, Tyler Bauman, a/k/a “musclehead320,” 32, pleaded guilty to conspiracy to distribute counterfeit testosterone, trenbolone, and other steroid compounds; conspiracy to traffic in counterfeit drugs; conspiracy to launder money; possession with intent to distribute controlled substances (steroids); and trafficking in counterfeit drugs. In April 2017, Bauman and five others were arrested and charged with various offenses related to the steroid operation. According to court documents, from approximately May 2015 until April 12, 2017, the defendants manufactured steroid products - made from raw materials purchased overseas - and marketed them as “Onyx” steroids using “Onyx” labels that were also ordered from overseas suppliers. Bauman is scheduled to be sentenced on February 15, 2018. Previously, on June 21, 2017, co-conspirator Robert Medeiros pleaded guilty to one count of conspiracy to traffic in counterfeit drugs and to distribute controlled substances. Medeiros’ principal role in the conspiracy was to fulfill orders for anabolic steroids by obtaining the finished steroid products, branded with Onyx labeling and packaging, from other members of the conspiracy, prepare the steroids for shipment, and ship the steroids via the U.S. Postal Service to customers across the United States. Additionally, on July 14, 2017, co-conspirator Melissa Sclafani pleaded guilty to one count of conspiracy with intent to distribute and distribute counterfeit steroids and one count of conspiracy to launder money. Sclafani obtained materials and supplies to manufacture the counterfeit steroids and served as the corporate secretary of Wicked Tan LLC, a tanning business owned by two co-conspirators. Sclafani assisted members of the conspiracy in laundering proceeds from the sale of counterfeit steroids through the business. (DMASS, ICE-HSI, USPI, FDA) <https://www.justice.gov/usao-ma/pr/six-charged-trafficking-counterfeit-steroids> ; <https://www.justice.gov/usao-ma/pr/four-charged-counterfeit-body-building-steroid-conspiracy> ; <https://www.justice.gov/usao-ma/pr/shrewsbury-man-pleads-guilty-operating-counterfeit-steroid-scheme>; <https://www.justice.gov/usao-ma/pr/gardner-man-charged-conspiracy-traffic-counterfeit-steroids>; <https://www.justice.gov/usao-ma/pr/gardner-man-pleads-guilty-conspiracy-traffic-counterfeit-steroids>

Two Indian Nationals Charged with Smuggling Counterfeit Cigarettes into the United States. On August 24, 2017, Abhishek Shukla and Harish Shabhai Panchal, along with two companies incorporated in India, Jubilee Tobacco Industries Corp., and Pelican Tobacco (India) Private Limited, were charged with conspiring to smuggle counterfeit cigarettes into the United States. The defendants were charged with trafficking in counterfeit goods and with selling counterfeit tobacco products with false labeling. The indictment alleges that approximately 68,600 cartons of counterfeit Newport brand cigarettes were shipped into the United States, which were seized in two shipments at the Port of Miami. The defendants are pending trial in the Southern District of Florida. If distributed in the State of Florida, the un-taxed shipments would have an approximate value of approximately \$4.3 million. (SDFL, ICE-HSI, FDA-OCI) <https://www.fda.gov/ICECI/CriminalInvestigations/ucm574171.htm>

Chelsea Store Owner Sentenced for Trafficking Counterfeit Merchandise. On July 26, 2017, Arif Ali Shah, 66, was sentenced to 18 months in prison, two years of supervised release, a \$5,000 fine, and ordered to pay restitution in the amount of \$145,531. In May 2017, Shah pleaded guilty to one count of trafficking in counterfeit goods. From approximately 2005 to February 2015, Shah knowingly sold counterfeit merchandise at three retail stores in

Massachusetts that he owned. Shah sold counterfeit Apple, Samsung, and Speck components as well as a variety of counterfeit apparel and accessories, including Chanel, Michael Kors, Nike, Prada, Timberland, and Uggs. Shah purchased the counterfeit merchandise from foreign and domestic sources and purchased a number of the counterfeit cell phone components from a domestic supplier, Flexqueen, the owner of which was prosecuted in California. (DMASS, ICE-HSI) <https://www.justice.gov/usao-ma/pr/chelsea-store-owner-charged-trafficking-counterfeit-apple-cell-phone-components>; <https://www.justice.gov/usao-ma/pr/chelsea-store-owner-sentenced-trafficking-counterfeit-merchandise>

Oakland Man Pleads Sentenced to 30 Months for Conspiracy To Manufacture Counterfeit Drugs. On July 25, 2017, Antoine King, 27, of Oakland, California, was sentenced to 30 months in prison for conspiring to manufacture counterfeit Xanax pills and to launder the proceeds gained by the illegal scheme. Previously, on March 28, 2017, King pleaded guilty. According to the guilty plea, King admitted that from October 6, 2014 through December 12, 2015, he was involved in a conspiracy with his co-defendant David Beckford and others to manufacture and distribute pills that were designed to resemble Xanax® pills as nearly as possible. King admitted that he knew his co-defendants and others obtained the components and equipment to manufacture the counterfeit Xanax pills from foreign sources. King further admitted that from October 6, 2014, through December 12, 2015, he sold counterfeit Xanax pills that were created as part of the operation. (NDCA, DEA, IRS-CI, FDA-OCI) <https://www.justice.gov/usao-ndca/pr/oakland-man-pleads-guilty-role-conspiracy-manufacture-counterfeit-drugs>

Chinese National Indicted for Trafficking Counterfeit Computer Networking Equipment. On July 19, 2017, a grand jury returned an indictment charging Ruiyang Li with trafficking in and smuggling counterfeit HP, Cisco, and Intel computer networking equipment. Li was arrested on July 7, 2017, upon entering the United States at Los Angeles International Airport (LAX). According to the allegations in the indictment, Li has been trafficking in counterfeit goods since 2007, causing millions of dollars in losses to the victim companies. Li pleaded guilty on December 8, 2017, and sentencing is scheduled for March 30, 2018. (SDTX, CCIPS, ICE-HSI)

Roswell Woman Indicted on Federal Charges for Counterfeit Oxycodone Pills Containing Fentanyl and Synthetic Opioids. On July 11, 2017, Cathine Lavina Sellers, 38, of Roswell, Georgia, was charged with possession with the intent to distribute a controlled substance, involving fentanyl, a Schedule II controlled substance, and furanyl-fentanyl and U-47700, both of which were designated by DEA as a Schedule I controlled substance on an emergency basis in 2016. On June 13, 2017, Sellers allegedly sold approximately 100 pills for \$1,400 in cash from her Roswell townhouse to a confidential source working with the DEA. A field test of the pills was positive for the presence of furanyl-fentanyl, which is an analog of fentanyl, similar to morphine but more potent. In conjunction with this arrest, the U.S. Attorney's Office and Atlanta DEA have issued a public warning regarding these counterfeit pills through their public affairs offices as well as through the North Georgia Heroin Working Group, (NDGA, DEA, Sandy Spring Police Dept.) <https://www.justice.gov/usao-ndga/heroinopioid-working-group>; <https://www.justice.gov/usao-ndga/pr/roswell-woman-indicted-federal-charges-counterfeit-oxycodone-pills-containing-fentanyl-0>

Online Reseller of Rare Nike Sneakers Pleads Guilty to Trafficking in Counterfeit Goods and Money Laundering. On June 30, 2017, James Pepion pleaded guilty to charges of trafficking in counterfeit goods and money laundering. Pepion offered rare Nike sneakers and similar merchandise for sale on the website Get-Supplied.com and through related businesses, including Supplied, Inc., and SwagSupply, Inc. using online platforms such as Instagram, eBay, and Shopify. Though Pepion acquired many of the limited-edition sneakers he resold through legitimate channels, he also imported counterfeit versions of some sneakers directly from black market sources in China, selling them as authentic Nike footwear to unwitting buyers. These fraudulent sales triggered numerous complaints to Nike as well as to Pepion. Between June 2013 and September 2015, Pepion wired \$174,460.00 to sellers in China, almost all of which was for counterfeit shoes and packaging. Pepion combined the proceeds of the sales of these counterfeit Nike sneakers with the proceeds of sales of authentic sneakers in various financial accounts in order to conceal the illegal source of much of his income. Sentencing is scheduled for April 2018. (DOR, ICE-HSI, IRS-CI) <https://www.justice.gov/usao-or/pr/online-reseller-rare-nike-sneakers-pleads-guilty-trafficking-counterfeit-goods-and-money>

Counterfeiters Sentenced For Convictions In Nationwide Conspiracy To Distribute Fake 5-Hour Energy Drink. On June 20, 2017, Joseph Shayota, 64, and his wife, Adriana Shayota, 45, both of El Cajon, California, were sentenced for their roles in a conspiracy to traffic in counterfeit goods and conspiracy to commit criminal copyright infringement and to introduce misbranded food into interstate commerce. Joseph Shayota was sentenced to 86 months and Adriana Shayota to 26 months imprisonment. Their sentences brought an end to all but one of the cases brought against 11 defendants charged in a scheme involving the manufacture and sale of millions of bottles of the liquid dietary supplement 5-Hour ENERGY. On November 28, 2016, the jury convicted both defendants of all the charges presented against them at the trial. (NDCA, FBI, FDA) <https://www.justice.gov/usao-ndca/pr/eight-defendants-convicted-conspiracy-manufacture-and-distribute-counterfeit-5-hour>; <https://www.justice.gov/usao-ndca/pr/counterfeiters-sentenced-convictions-nationwide-conspiracy-distribute-fake-5-hour>

South Carolina Man Pleads Guilty to Trafficking in Counterfeit Goods. On June 8, 2017 Joshua D. Korb, age 38, of Greenville, pleaded guilty to trafficking in counterfeit goods. Evidence presented at the change of plea hearing established that Korb ran an online EBay store called Steel-Town Memorabilia. The investigation was initiated from a request by the National Football League (NFL) because of numerous complaints received by EBay and PayPal that Korb sold counterfeit NFL merchandise and sports memorabilia. Based on the results from the undercover buys, federal agents obtained and executed a search warrant on Korb's Greenville residence. Agents seized 2,911 pieces of NFL memorabilia. These items included counterfeit jerseys, forged signatures of current and former NFL players on NFL replica footballs and jerseys, and forged signatures of current and former NFL players on photos and posters. Agents also seized counterfeit certificate of authenticity seals. Law enforcement estimates that Korb trafficked in more than \$4 million worth of counterfeit goods before the search warrant shut down his business. (DSC, USPIS, FBI, ICE-HSI, Local Sheriff offices) <https://www.justice.gov/usao-sc/pr/upstate-man-pleads-guilty-trafficking-counterfeit-goods>

Two Individuals Sentenced Federally for Importing Counterfeit Microsoft Software Into The United States. Clifford Eric Lundgren, 33, of Reseda, California and Robert J. Wolff, 54, of

Boca Raton, Florida, previously pleaded guilty to participating in a conspiracy to traffic in counterfeit goods, and committing criminal copyright infringement. On May 23, 2017, Lundgren was sentenced to 15 months in prison and a \$50,000 fine and Wolff was sentenced to 6 months house arrest and four years of probation. According to documents filed with the court, Lundgren and Wolff manufactured and imported 28,000 discs containing Microsoft Windows programming, specifically, 7 Dell reinstallation Edition and XP Service Pack 3 Dell reinstallation Edition. Lundgren and Wolff violated Microsoft's intellectual property rights by illegally manufacturing the software in China and then importing the discs into the United States. (SDFL, ICE-HSI) <https://www.justice.gov/usao-sdfl/pr/two-individuals-sentenced-federally-importing-counterfeit-microsoft-software-united>

District Man Sentenced for Trafficking in Counterfeit Goods. On May 9, 2017, Arthur Chan, 31, of Washington, D.C., was sentenced to nine months of home confinement and ordered to perform 180 hours of community service on a federal charge involving the sale of counterfeit designer apparel and accessories. Chan pleaded guilty in January 2017, to trafficking in counterfeit goods. Chan was also ordered to serve one day in jail, complete 18 months of supervised release, and pay a forfeiture money judgment of \$37,246, which represents the amount of proceeds he generated through the crimes. According to a statement of offense, Chan was a resources analyst at NASA's Goddard Space Flight Center in Greenbelt, Maryland. Between November 2013 and March 2016, he used two personal eBay accounts to complete approximately 610 sales of apparel and accessories bearing marks identical with, or substantially indistinguishable from, those registered to Hugo Boss. Among other things, Chan used his work computer at NASA to facilitate the counterfeit apparel sales scheme. Chan imported all of these items from India to a mailbox he maintained at a UPS store in Lanham or his residence in Washington, D.C. According to the statement of offense, he netted a total of \$37,246 from the sale of these items. During the investigation, law enforcement seized a variety of counterfeit items, including 113 counterfeit Hugo Boss wallets; 18 counterfeit Ralph Lauren Polo wallets; three counterfeit Fred Perry wallets; 23 counterfeit Hugo Boss Polo shirts; two counterfeit Fred Perry Polo shirts, and counterfeit Hugo Boss and Ralph Lauren packaging. (DDC, ICE-HSI, NASA/OIG) <https://www.justice.gov/usao-dc/pr/district-man-pleads-guilty-federal-charge-trafficking-counterfeit-goods>; <https://www.justice.gov/usao-dc/pr/district-man-sentenced-trafficking-counterfeit-goods>

Mexican Nationals Arrested on Federal Counterfeit Trafficking Charges. On May 3, 2017, Dina Gonzalez-Marquez, 23, and Emilio Gonzalez-Marquez, 21, both of whom are illegally present in the United States, were arrested and made their initial appearances in federal court on a three-count indictment charging them with trafficking in counterfeit goods. The indictment charges the siblings with conspiring to traffic in counterfeit goods and two counts of trafficking in counterfeit goods. According to the indictment, Dina and Emilio Gonzalez-Marquez 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. They allegedly 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. The indictment alleges that undercover ICE-HSI agents purchased counterfeit goods from the defendants on two occasions. (DNM, ICE-HSI) <https://www.justice.gov/usao-nm/pr/mexican-nationals-arrested-federal-counterfeit-trafficking-charges>

Fayetteville Man Sentenced for Trafficking in Counterfeit Goods. On May 3, 2017, Kurt Michael Krol, 36, of Fayetteville, North Carolina, was sentenced to 72 months imprisonment. Additionally, Krol agreed to forfeit to the government all counterfeit articles seized; proceeds of \$156,932 seized from four BB&T bank accounts, proceeds of \$51,988 seized from two USAA bank accounts; a residence located in Fayetteville; a residence located in Raeford; and a money judgment in the amount of the gross proceeds of the offense. The investigation revealed that on January 22, 2008, Krol founded Universal Mania, Inc. (UM), an internet based marketplace for consumer electronics located in Fayetteville. Krol, president and CEO of UM, initially sold legitimate consumer electronic equipment; however, in 2011 or 2012, he was introduced to a representative of a company in Hong Kong, China, that sold counterfeit Otterbox products (OBP). Thereafter, Krol began purchasing counterfeit OBP from that company. The investigation discovered that Krol met with a representative from the Chinese company in Fayetteville to find out what products they could counterfeit. Krol then imported counterfeit products including L’Oreal (Clarisonic), HSI Professional, and Conair (Babyliss) beauty products; Garmin products; Choon’s Design (Rainbow Loom) toys; Philips (Sonicare) products; Zing Anything bottles; Harman International Industries (JBL), LG, and Bose speakers and/or headphones; and Spectrum Brands FURminator dog brushes. The investigation found that 2,047 shipments originating in Hong Kong were addressed to Krol between August 2012 and February 2015. Krol sold counterfeit merchandise, as well as merchandise from legitimate distributors on the internet. He commingled the sales proceeds from the counterfeit products with proceeds from legitimate sales. When one internet business discovered UM was selling counterfeit items through its website, they terminated UM’s accounts. Krol then solicited UM employees, friends, and family members to establish accounts on the website to sell UM’s counterfeit products. (EDNC, DHS, ICE-HSI) <https://www.justice.gov/usao-ednc/pr/fayetteville-man-sentenced-trafficking-counterfeit-goods>

Two Elk Grove Residents Plead Guilty to Trafficking in Counterfeit DVDs. On April 28, 2017, Xavier L. Johnson, 36, formerly of Elk Grove, and Kristin M. Caldwell, 35, of Elk Grove, pleaded guilty to trafficking in counterfeit goods. According to court documents, between April 2008 and August 2011, the defendants imported counterfeit DVDs containing children’s movies from manufacturers in China and sold them over the internet. During that time period, they ordered at least 43,589 counterfeit DVDs from a supplier in China. According to court documents, when advertising the movies on their websites and in marketing emails, the defendants made false representations to consumers, including that the DVDs were in “limited supply” or “currently out of print” when in fact the defendants had a virtually limitless supply of counterfeit DVDs. The activity charged in the indictment occurred after the defendants had received multiple letters from government agencies telling them that shipments of DVDs were being seized at the border because they were counterfeit. On December 15, 2017, Johnson was sentenced to 30 months in prison. Previously, on August 4, 2017, Caldwell was sentenced to 36 months of probation. (EDCA, USPIS, FBI) <https://www.justice.gov/usao-edca/pr/two-elk-grove-residents-plead-guilty-trafficking-counterfeit-dvds>

New York Man Pleads Guilty to Conspiring To Traffic In Counterfeit Goods. On April 26, 2017, Daye Dong, 49, of Bayside, NY, pleaded guilty to conspiring to traffic in counterfeit goods. Previously, on October 27, 2016, Dong was arrested and charged with importing counterfeit goods from China into the United States with the intent to distribute and sell the

counterfeit products to retailers in New York City and elsewhere. From March 2012 to October 2016, Dong imported counterfeit luxury and designer brand goods into the United States from China. Dong stored the imported counterfeit goods in two warehouses with the intent to transfer the goods to retailers in New York City, including a Manhattan retail store operated by Chen, and elsewhere. Federal and New York City law enforcement officers conducted a search of Dong's residence, warehouses, and retail store, and found more than 30,000 pieces of counterfeit goods, including handbags and wallets, for various luxury and designer brands. On October 23, 2017, Dong was sentenced to 36 months in prison. (SDNY, ICE-HSI, CBP, NYPD) <https://www.justice.gov/usao-sdny/pr/two-charged-manhattan-federal-court-conspiring-traffic-counterfeit-goods>

Stockton Man Sentenced to 2.5 Years in Prison for Trafficking Counterfeit Goods. On March 31, 2017, Michael Hampton, 40, of Stockton, California, was sentenced to two and a half years in prison for trafficking in counterfeit goods. On January 6, 2017, Hampton pleaded guilty to one count of trafficking in counterfeit goods. According to court documents, Hampton imported counterfeit handbags, jackets, accessories, shoes, and jerseys from Asia and supplied them to resellers. Hampton rented storage units in Stockton and sold the counterfeit goods at the storage facility. The counterfeit goods included, Adidas, Chi, Coach, Gucci, Juicy Couture, Louis Vuitton bags, Majestic, Mitchell & Ness shirts and jerseys, New Era sporting goods, Nike shoes, Northface, and 47. In addition, Hampton sold counterfeit Nike shoes on eBay. (EDCA, FBI) <https://www.justice.gov/usao-edca/pr/stockton-man-sentenced-25-years-prison-trafficking-counterfeit-goods>

Member of CD and DVD Counterfeiting Ring in Atlanta Sentenced to 60 Months in Prison. On March 22, 2017, Mamadou Aliou Simakha, 41, a Dakar, Senegal man, was sentenced to 60 months in prison and ordered to pay \$70,894 in restitution, jointly and severally with his co-defendants. Simakha pleaded guilty on March 10, 2010, to one count of conspiracy to commit criminal copyright infringement, to traffic in counterfeit goods and to traffic in counterfeit labels. After entering his guilty plea, Simakha fled the country, and a warrant was issued for his arrest on April 6, 2010. On March 1, 2016, Simakha was arrested in Morocco and was extradited from Morocco into the custody of the U.S. Marshals Service on Dec. 15, 2016. At the plea hearing, Simakha admitted that two co-conspirators supplied him with blank CDs and DVDs and Simakha burned counterfeit copies of music and movies onto the CDs and DVDs along with placing counterfeit artwork onto the CDs and DVDs. Simakha also admitted that he was involved in a conspiracy to then sell copies of the pirated works to others. Simakha was one of 13 individuals charged by a federal grand jury on May 19, 2009, in an indictment alleging various copyright, trademark and counterfeit label offenses. Seven other defendants were sentenced in 2011 to prison terms ranging from probation to five years. The court found that Simakha conspired with co-defendants and others to reproduce and distribute tens of thousands of copyright infringing music CDs and movie DVDs which, if legitimate, would have been worth more than \$769,000. (NDGA, CCIPS, FBI, OIA, ICE-HSI, USMS) <https://www.justice.gov/opa/pr/member-cd-and-dvd-counterfeiting-ring-atlanta-sentenced-60-months-prison>

Defendant Sentenced for Trafficking in Counterfeit Pharmaceuticals. On March 10, 2017, Robert Grabau was sentenced to three years of probation for trafficking in counterfeit Viagra,

and attempting to distribute and possess with intent to distribute phentermine, a Schedule IV controlled substance. Grabau must also forfeit over 41,000 pills of alprazolam and counterfeit Viagra, pay a money judgment of \$38,500, and pay \$100,000 in restitution to Pfizer Corporation. (EDNY, CCIPS, FBI, ICE-HSI, FDA-OCI)

Defendants Plead to Trafficking in Counterfeit Goods, Labels, and Packaging. On February 22, 2017, defendants Andreina Becerra, Roberto Volpe, and Rosario LaMarca pleaded guilty to conspiracy to traffic in counterfeit goods, labels, and packaging; conspiracy to smuggle goods into the United States; and conspiracy to structure financial transactions as well as substantive counts of those offenses. From July 2009 to October 2013, the defendants allegedly trafficked more than 40,000 electronic devices bearing counterfeit Apple and Sony trademarks, including iPods, iPhones, and iPads, as well as their accompanying accessories, labels, and packaging from Hong Kong and the People's Republic of China to multiple locations throughout the United States. The estimated manufacturer's suggested retail price for these items exceeds 15 million dollars. LaMarca was sentenced to 37 months in prison on July 20, 2017. (DNJ, CCIPS, ICE-HSI) <https://www.justice.gov/opa/pr/three-individuals-plead-guilty-conspiracy-and-trafficking-counterfeit-electronic-goods-united>

Joint Law Enforcement Operation Leads to Conviction of East Bay Counterfeit Drug Manufacturer. On February 7, 2017, David Beckford, 28, of Oakland, California, was sentenced to more than 10 years in prison for his role in a conspiracy to manufacture counterfeit Xanax pills, for engaging in international money laundering, and for his use and possession of a firearm in furtherance of drug trafficking and in violation of the felon-in-possession statute. According to the guilty plea, Beckford, admitted that from January 17, 2014, through December 12, 2015, he engaged in a scheme to import controlled substances from China and other foreign sources, obtain manufacturing equipment, including a press to make pills, and press fake Xanax pills at locations in the Northern District of California. Beckford acknowledged the pills he manufactured were designed to appear as close as possible to brand-name Xanax pills. Beckford further admitted to wiring money to China and other foreign countries to pay for the materials that he used to operate his illegal Xanax manufacturing business. In total, Beckford was found to be responsible for 161,474 counterfeit Xanax pills. Beckford further admitted to possessing firearms and ammunition. On May 12, 2016, a federal grand jury returned a thirty-three count superseding indictment charging Beckford and four co-defendants with various crimes related to the scheme. (NDCA, DEA, IRS, FDA) <https://www.justice.gov/usao-ndca/pr/joint-law-enforcement-operation-leads-conviction-east-bay-counterfeit-drug-manufacturer>

Defendant Sentenced for Trafficking in Counterfeit Labels for Veterinary Products. On February 6, 2017, Allen Smith was sentenced to 37 months in prison for trafficking, and aiding and abetting in the trafficking, of counterfeit labels for Frontline Plus, Advantage, and K9 Advantix Plus products into and throughout the United States. Smith was also ordered to pay \$867,150 in restitution and to forfeit \$42,269 worth of illicit proceeds. Subsequently, on February 16, 2017, Lan Ngoc Tran was sentenced to 46 months in prison for trafficking in counterfeit labels for Frontline Plus veterinary products into and throughout the United States. Tran was also ordered to pay \$867,150.44 in restitution and \$841,813.94 in forfeiture. Previously, on July 9, 2015, a grand jury indicted four leading members of an organized crime group, including Smith and Tran, for trafficking and smuggling in millions of counterfeit

veterinary products into and throughout the United States. The group represents the largest known suppliers of counterfeit packaging for flea treatment products in the United States. On December 20, 2013, HSI agents executed a search warrant and raided the business location of Chris Martin, co-defendant with Smith, who was the sole supplier of Frontline Plus flea treatment products to Target department stores, as well as a supplier to other major retail outlets for flea treatment products. Target removed from the shelves of all its nationwide stores all products purchased from Martin, including the Frontline Plus, Advantage, and K9 Advantix Plus products. On January 5, 2018, Martin was sentenced to 47 months in prison, and ordered to pay \$867,150.44 in restitution and forfeit \$42,269.10. (SDTX, CCIPS, FDA-OCI, ICE-HSI, EPA) <https://www.justice.gov/opa/pr/arizona-man-sentenced-prison-trafficking-pet-products-counterfeit-labels>

Two California Men Sentenced for Counterfeiting. On January 30, 2017, Mohamed Elkady, age 30, and Fady Youssef Abdelmalek, age 34, were each sentenced to time served. They also were ordered to pay \$50,000 in restitution jointly. Elkady and Abdelmalek were charged on June 6, 2015. The conviction stems from them manufacturing and selling counterfeit goods at kiosks in the Rushmore Mall in Rapid City, South Dakota, and the Empire Mall in Sioux Falls, South Dakota, between November 2014 and June 2015. The victims included the National Football League, various motor vehicle manufacturers, and television show producers. (DSD, ICE-HSI) <https://www.justice.gov/usao-sd/pr/two-california-men-sentenced-counterfeiting>

Owner Of Major Online Colored Contact Lens Business Sentenced to 46 Months in Prison in Largest-Ever Scheme to Import and Sell Counterfeit and Misbranded Contact Lenses Prosecuted in the United States. On January 18, 2017, Dmitriy V. Melnik, 30, of Las Vegas, was sentenced to 46 months in prison for running an international operation importing counterfeit and misbranded contact lenses from suppliers in Asia and then selling them over the internet without a prescription to tens of thousands of customers around the country. Melnik was ordered to remit \$200,000 in restitution and forfeit \$1.2 million in proceeds derived from the scheme as well as property seized during the investigation. Previously, Melnik pleaded guilty on September 8, 2016, to one count of conspiracy to traffic in counterfeit goods and to introduce into interstate commerce misbranded devices. According to the plea agreement, Melnik imported large quantities of colored contact lenses from the People's Republic of China and South Korea that he knew were counterfeit and/or unauthorized by the FDA for sale in the United States. Many of these contact lenses bore labels with counterfeit trademarks for Ciba Vision FreshLook COLORBLEND, which are manufactured by Novartis International AG, and others bore labels of contact lens brands produced and sold in Asia, he admitted. A substantial part of the fraudulent scheme was committed from outside the United States, and Melnik received at least \$1.2 million in gross revenue from this illegal enterprise, including approximately \$200,000 alone from the sale of counterfeit Ciba Vision FreshLook COLORBLEND. (DNV, CCIPS, FDA-OCI, USPIS, ICE-HSI) <https://www.justice.gov/opa/pr/las-vegas-resident-indicted-running-counterfeit-and-misbranded-contact-lens-operation>; <https://www.justice.gov/opa/pr/owner-major-online-colored-contact-lens-business-pleads-guilty-largest-ever-investigation>; <https://www.justice.gov/opa/pr/owner-major-online-colored-contact-lens-business-sentenced-46-months-prison-largest-ever>

Citizen of China Who Attempted Illegal Export of Advanced Military Computer Chips is Sentenced. On December 20, 2016, Jiang Yan, 34, of Shenzhen, China, was sentenced to approximately 12 months of imprisonment, time already served, for attempting to purchase and export to China, without a required license, certain sophisticated integrated circuits used in military satellites and missiles, and for conspiring to sell counterfeits of those same integrated circuits to a purchaser in the United States. According to court documents and statements made in court, Yan, Xianfeng Zuo, and Daofu Zhang each operated businesses in China that bought and sold electronic components, including integrated circuits (“ICs”). In the summer of 2015, Zuo asked Yan to locate and purchase several advanced ICs made by Xilinx Corp., which owing to their radiation tolerance for uses in space, have military applications in missiles and surveillance satellites. Yan then asked a U.S. individual to locate the Xilinx ICs and sell them to Yan. The U.S. individual explained that the ICs cannot be shipped outside the U.S. without an export license, but Yan still wished to make the purchase. When the U.S. individual expressed concern that the desired ICs would have to be stolen from military inventory, Yan proposed to supply the U.S. source with “fake” ICs that “look the same,” to replace the ones to be stolen from the military. In November 2015, Zhang shipped from China, to the U.S. individual, two packages containing a total of eight counterfeit ICs, each bearing a counterfeit Xilinx brand label. After further discussions between Yan and the U.S. individual, Yan, Zhang, and Zuo flew together from China to the U.S. in early December 2015 to complete the Xilinx ICs purchase. On December 10, 2015, the three conspirators drove to a location near Route 95 in Milford, Connecticut, where they planned to meet the U.S. individual, make payment, and take custody of the Xilinx ICs. Federal agents arrested all three at the meeting location. Yan has been detained since his arrest. On March 7, 2016, he pleaded guilty to one count each of conspiracy to traffic in counterfeit goods, and attempted unlicensed export of export-controlled items. As part of his sentence, Yan was ordered to forfeit \$63,000 in cash seized incident to his arrest. Yan will be transferred to the custody of the Department of Homeland Security and deported to China. Zhang and Zuo also pleaded guilty. They were each sentenced to 15 months of imprisonment on July 8, 2016, and November 4, 2016, respectively. (DCT, ICE-HSI, DOC, FBI, AFOSI, NSD-CES) <https://www.justice.gov/usao-ct/pr/three-chinese-nationals-arrested-scheme-steal-and-illegally-export-military-grade>; <https://www.justice.gov/usao-ct/pr/citizen-china-pleads-guilty-trafficking-counterfeit-computer-chips>; <https://www.justice.gov/usao-ct/pr/citizen-china-sentenced-15-months-prison-trafficking-counterfeit-computer-chips>; <https://www.justice.gov/usao-ct/pr/citizen-china-sentenced-15-months-prison-trafficking-counterfeit-computer-chips-0>; <https://www.justice.gov/usao-ct/pr/citizen-china-who-attempted-illegal-export-advanced-military-computer-chips-sentenced>

Two Sentenced for Trafficking in Counterfeit Viagra and Cialis. On December 6, 2016, Martez Alando Gurley, 41, and Victor Lamar Coates, 47, were sentenced for trafficking in counterfeit Viagra and Cialis. Gurley was sentenced to 75 months in federal prison and ordered to pay \$410,508 in restitution to Pfizer Inc. and Eli Lilly and Company - the licensed patent trademark holders of Viagra and Cialis. Coates was sentenced to 46 months and must pay \$314,565 in restitution. Each defendant must also serve three years of supervised release following completion of their prison terms. Gurley was convicted of trafficking at least 12,960 counterfeit Viagra and counterfeit Cialis tablets from his home in Napa, California, while Coates was convicted of trafficking at least 10,288 counterfeit Viagra and counterfeit Cialis tablets from his home in Philadelphia, Pennsylvania. Both defendants sold the counterfeit drugs to individuals

in the Houston area for further distribution to unsuspecting customers. Gurley and Coates illegally imported the counterfeit tablets into the United States from sources in China. Testing on samples of the counterfeit Viagra revealed the drugs contained less than the 100 mg of active pharmaceutical ingredient (API) listed on the labels, while testing on the counterfeit Cialis revealed small quantities of the Viagra API and none of the Cialis API. In addition, some of the counterfeit Viagra tablets were found to contain the unrelated compound 2-MBT. The counterfeit Viagra and Cialis tablets looked like the authentic products and included labels and packaging that closely resembled the registered trademarks of Eli Lilly and Company, and Pfizer Inc. (SDTX, FDA-OCI) <https://www.justice.gov/usao-sdtx/pr/second-trafficker-convicted-distributing-dangerous-counterfeit-viagra-and-cialis>; <https://www.justice.gov/usao-sdtx/pr/two-sentenced-trafficking-counterfeit-viagra-and-cialis>

South Carolina Couple Charged With Trafficking Counterfeit Goods. David Haisten, 51, and Judy Haisten, 51, both of Irmo, South Carolina, were charged by Indictment, unsealed on November 14, 2016, with one count of conspiracy; six counts of violating the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); five counts of distributing misbranded animal drugs; and three counts of trafficking in counterfeit goods. According to the indictment, the defendants operated an online business that sold unregistered and misbranded pet pesticides, misbranded animal drugs, and counterfeit DVDs. On October 27, 2017, after a jury trial, David and Judy Haisten were convicted of conspiracy, violating the FIFRA, distributing misbranded animal drugs, and trafficking in counterfeit goods. Judy Haisten is scheduled to be sentenced on February 8, 2018, and David Haisten is scheduled to be sentenced on February 9, 2018. (EDPA, EPA/OIG, FDA, ICE-HSI) <https://www.justice.gov/usao-edpa/pr/south-carolina-couple-charged-trafficking-counterfeit-goods>

Trade Secret Theft (18 U.S.C. § 1832)

Former Chemours Employee Charged With Conspiracy To Steal Trade Secrets In Connection With Plan To Sell Trade Secrets To Chinese Investors. On September 5, 2017, Jerry Jindong Xu, a former Chemours employee, was charged by a federal grand jury with conspiring to steal trade secrets and attempting to monetize them with Chinese investors. According to the indictment, the conspiracy involved sodium cyanide, a chemical used in mining and for which Chemours is the world's largest producer. Chemours, based in Wilmington, Delaware, performs the research and development for sodium cyanide at the Experimental Station in Wilmington. Sodium cyanide is most often used to mine gold, silver, and other precious metals. Earlier this summer, Chemours broke ground on a \$150 million sodium cyanide plant in Mexico. Xu, who moved from China to North America in 2011 while employed by DuPont, became a Chemours employee when Chemours spun off of DuPont in 2015. Xu, terminated by Chemours in 2016, was a marketing professional specializing in sales of sodium cyanide. Xu was aided by an unnamed co-conspirator, who was also a longtime DuPont employee before leaving the company in 2014 to open a cyanide and mining consulting business. According to the indictment, Xu completed several overt acts in furtherance of the conspiracy. His main objective was either to help investors build a competing sodium cyanide plant or become an import competitor in North America. (DDE, FBI) <https://www.justice.gov/usao-de/pr/former-chemours-employee-charged-conspiracy-steal-trade-secrets-connection-plan-sell>

Former Lutonix Executive Sentenced For Stealing Trade Secrets. On August 17, 2017, Christopher Barry, 46, was sentenced to 12 months and 1 day in prison for stealing trade secrets from his former employer, Lutonix, Inc. Barry was also ordered to pay \$533,842 in restitution to Lutonix, Inc. Barry pleaded guilty to a felony information on April 5, 2017. According to the defendant's guilty plea, from 2007 until May 1, 2015, Barry was the Vice President of Research & Development for Lutonix, Inc. ("Lutonix"), a company based in New Hope, Minnesota, that develops, manufactures, and sells drug coated balloon ("DCB") medical products. In his role, Barry was responsible for all research and development, quality assurance, and manufacturing activities for the company, among other things. Barry was also directly involved in the development of Lutonix's primary product, an extremely valuable proprietary DCB called the Lutonix 035 DCB. According to the defendant's guilty plea, in May 2015, Barry left Lutonix and accepted employment as CEO of Urotronic, a start-up medical device company founded by a former Lutonix employee. As Barry was planning to leave Lutonix, he stole numerous trade secret files belonging to the company so that he could utilize the proprietary information in connection with his next job. During his employment with Urotronic, Barry transferred the stolen trade secret files from his portable hard drive onto his Urotronic work computer. Additionally, while Barry was employed at Urotronic, he shared several procedural documents containing Lutonix trade secrets with other Urotronic employees. (DMN, FBI, IRS, USPIS) <https://www.justice.gov/usao-mn/pr/former-lutonix-executive-pleads-guilty-stealing-trade-secrets>; <https://www.justice.gov/usao-mn/pr/former-lutonix-executive-sentenced-year-and-day-prison-stealing-trade-secrets>; <https://www.justice.gov/usao-mn/pr/former-lutonix-executive-pleads-guilty-stealing-trade-secrets>

Businessman Indicted for Allegedly Stealing Employer's Trade Secrets While Planning for New Job with Rival Firm in China. On July 19, 2017, Robert O'Rourke 57, of Lake Geneva, Wisconsin was charged with trade secret theft in a 13-count indictment. According to the indictment, on September 13, 2015, Robert O'Rourke allegedly downloaded electronic data belonging to his employer, a Woodstock-based manufacturer of cast-iron products. At the time, O'Rourke had already accepted a new job with a rival firm in Jiangsu, China. The indictment states that two days later he officially resigned from the Woodstock company. The following week O'Rourke packed up the proprietary information and went to O'Hare International Airport in Chicago to board a flight to China. Federal authorities intervened and seized the stolen electronic data, along with stolen paper documents, before O'Rourke traveled to China to begin work for the new firm. (NDIL, FBI) <https://www.justice.gov/usao-ndil/pr/businessman-indicted-allegedly-stealing-employer-s-trade-secrets-while-planning-new-job>

Seven People Charged With Conspiring to Steal Trade Secrets For Benefit of Chinese Manufacturing Company. On May 23, 2017, two defendants were arrested in Washington, D.C., three in the Southern District of Texas, and one in the District of Massachusetts. All are charged in the U.S. District Court for the District of Columbia with conspiracy to commit theft of trade secrets. The government also filed a related civil forfeiture complaint in the District of Columbia for two pieces of real property which were involved in, and are traceable to, the alleged illegal conduct. Those arrested and charged include four U.S. citizens: Shan Shi, 52, of Houston, Texas; Uka Kalu Uche, 35, of Spring, Texas; Samuel Abotar Ogoe, 74, of Missouri City, Texas; and Johnny Wade Randall, 48, of Conroe, Texas. Also charged were Kui Bo, 40, a Canadian citizen who has been residing in Houston, and Gang Liu, 31, a Chinese national who

has been residing in Houston as a permanent resident. Additionally, charges were filed against one Chinese national living in China, Hui Huang, 32, an employee of the Chinese manufacturing firm allegedly involved in tasking employees of the Houston company. According to an affidavit filed in support of the criminal complaint, the trade secrets were stolen in order to benefit a manufacturer located in China; this manufacturer was the only shareholder for a company that had been incorporated in Houston. Between in or about 2012 and the present, the affidavit alleges that the Chinese manufacturer and employees of its Houston-based company engaged in a systematic campaign to steal the trade secrets of a global engineering firm, referred to in the affidavit as “Company A,” that was a leader in marine technology. The case involves the development of a technical product called syntactic foam, a strong, light material that can be tailored for commercial and military uses, such as oil exploration; aerospace; underwater vehicles, such as submarines; and stealth technology. According to the affidavit, the Chinese manufacturer intended to sell syntactic foam to both military and civilian, state-owned enterprises in China. The affidavit alleges that the conspirators took part in the theft of trade secrets from Company A, a multi-national company with a subsidiary in Houston that is among the major producers of syntactic foam. Subsequently, on June 8, 2017, all seven defendants were charged with conspiracy to steal trade secrets in an indictment. On December 15, 2017, Johnny Randall pleaded guilty to this conspiracy charge, and is scheduled to be sentenced on March 16, 2018. (DDC, NSC-CES, DOC-BIS-OEE, FBI, IRS-CI) <https://www.justice.gov/usao-dc/pr/seven-people-charged-conspiring-steal-trade-secrets-benefit-chinese-manufacturing-company>

Middlesex County, New Jersey, Man Charged With Theft Of Trade Secret Materials From DuPont. On April 7, 2017, Anchi Hou, 61, of East Brunswick, New Jersey, was arrested and charged by complaint with one count of theft of trade secrets. According to the documents filed in this case and statements made in court, in the summer and fall of 2016, Hou allegedly copied and removed thousands of files containing DuPont’s proprietary information, including formulas, data, and customer information related to flexographic printing plate technology. He also allegedly took photographs in restricted areas of plant equipment and layouts used to manufacture DuPont’s products. After allegedly stealing DuPont’s trade secrets, Hou announced his intention to retire from the company by the end of 2016. At some point in 2016, he formed a consulting business intended to provide consulting services to the manufacturing industry. Hou admitted to DuPont officials he secretly copied the files from his DuPont work computer and then uploaded those files onto a personal computer at his residence in order to assist him with his consulting business. (DNJ, FBI) <https://www.justice.gov/usao-nj/pr/middlesex-county-new-jersey-man-charged-theft-trade-secret-materials-dupont>

Kansas Agricultural Scientist Convicted in Theft of Engineered Rice. On February 16, 2017, Weiqiang Zhang, 50, a Chinese national residing in Manhattan, Kansas, was convicted on one count of conspiracy to steal trade secrets, one count of conspiracy to commit interstate transportation of stolen property and one count of interstate transportation of stolen property. Evidence at trial established that Zhang worked as a rice breeder for Ventria Bioscience in Junction City, Kansas. Ventria develops genetically programmed rice to express recombinant human proteins, which are then extracted for use in the therapeutic and medical fields. According to trial evidence, Zhang acquired without authorization hundreds of rice seeds produced by Ventria and stored them at his residence in Manhattan. The rice seeds have a wide variety of

health research applications and were developed to express either human serum albumin, contained in blood, or lactoferrin, an iron-binding protein found, for example, in human milk. Trial evidence demonstrated that in the summer of 2013, personnel from a crop research institute in China visited Zhang at his home in Manhattan. Zhang drove the visitors to tour facilities in Iowa, Missouri and Ohio. On August 7, 2013, U.S. Customs and Border Protection officers found seeds belonging to Ventria in the luggage of Zhang's visitors as they prepared to leave the United States for China. (DKS, EDAK, CCIPS, NSD-CES, FBI, CBP) <https://www.justice.gov/usao-ks/pr/two-agricultural-scientists-chinacharged-stealing-trade-secrets>; <https://www.justice.gov/opa/pr/arkansas-man-pleads-guilty-making-false-statements-about-plan-steal-rice-seeds>; <https://www.justice.gov/opa/pr/kansas-agricultural-scientist-convicted-theft-engineered-rice>

Two Men Charged with Stealing Trade Secrets from Connecticut Defense Contractor. On November 3, 2016, a 29-count indictment charged Jared Dylan Sparks, 33, of Ardmore, Oklahoma, and Jay Williams, 45, of Griswold, Connecticut, with offenses related to a scheme to steal trade secrets from a Connecticut-based defense contractor. According to court documents and statements made in court, Sparks, an electrical engineer, and Williams, an electronic technician, both worked at LBI Inc., a Connecticut-based defense contractor that designs and builds, among other things, unmanned underwater vehicles for the U.S. Navy Office of Naval Research. During the course of their employment with LBI, Sparks and Williams collaborated with employees of Charles River Analytics, a Massachusetts-based software company that developed software to be integrated into LBI's unmanned underwater vehicles. In late 2010 and early 2011, Charles River Analytics sought to expand into the hardware business and eventually agreed with the Office of Naval Research that it would complete the testing for a number of the unmanned vehicles designed and developed by LBI. However, Charles River Analytics had never done that work before and had no staff that could carry out that work. Sometime after April 2011, Sparks and Williams began exploring employment with Charles River Analytics, and were eventually hired by that company in the fall of 2011. Information obtained from the execution of various search warrants revealed that beginning in at least May 2011 and continuing until November 2011, Williams and Sparks, without authorization, uploaded LBI proprietary information to accounts in Dropbox. Sparks and Williams ended their employment with LBI in December 2, 2011, and November 23, 2011 respectively, and both began working with Charles River Analytics on January 3, 2012. Sparks and Williams continued to possess stolen trade secrets belonging to LBI after the end of their employment with LBI. Trial is scheduled to begin on March 13, 2018. (DCT, CCIPS, FBI) <https://www.justice.gov/usao-ct/pr/two-men-charged-stealing-trade-secrets-connecticut-defense-contractor>

Economic Espionage (18 U.S.C. § 1831)

Chinese National Sentenced for Economic Espionage for Stealing Sensitive Military Program Documents from U.S. Defense Contractor. On June 22, 2017, Yu Long, 38, a citizen of China and lawful permanent resident of the U.S., was sentenced to approximately 30 months (time served) for his theft of voluminous sensitive military program documents from U.S. defense contractor United Technologies (UTC) and transporting them to China. After attending U.S. universities, Long worked for six years as a senior engineer at UTC on F119 and F135 airplane engines. Beginning in 2013, Long was recruited, through PRC Talent Programs, to

return to China to work on research projects at certain state-run universities, using knowledge and materials he had acquired while employed at UTC. Long brought with him and accessed in China a UTC external hard drive that had been issued to him and that he unlawfully retained. A review of Long's digital media seized at the time of his arrest revealed voluminous files controlled under the International Traffic in Arms Regulations and Export Administration Regulations, and voluminous files proprietary to various U.S. companies. Previously, on December 19, 2016, Long waived his right to be indicted and pleaded guilty one count of conspiracy to engage in the theft of trade secrets knowing that the offense would benefit a foreign government, foreign instrumentality or foreign agent. He also pleaded guilty to one count of unlawful export and attempted export of defense articles from the U.S. (DCT, NSD-CES, FBI, ICE-HSI, DCIS, AFOSI, CBP) <https://www.justice.gov/opa/pr/chinese-national-admits-stealing-sensitive-military-program-documents-united-technologies>

Chinese National Pleads Guilty to Economic Espionage and Theft of a Trade Secret From U.S. Company. On May 19, 2017, Xu Jiaqiang, 31, formerly of Beijing, China, pleaded guilty to economic espionage and theft of a trade secret, in connection with Xu's theft of proprietary source code from Xu's former employer, with the intent to benefit the National Health and Family Planning Commission of the People's Republic of China. Xu pleaded guilty to all six counts with which he was charged in June 2016. According to court documents, from November 2010 to May 2014, Xu worked as a developer and for this role, Xu's former employer granted Xu access to proprietary software as well as that software's underlying source code. In May 2014, Xu voluntarily resigned and subsequently communicated with undercover law enforcement officer that he had experience with his former employer's proprietary software and proprietary source code. As a result of the communications, Xu uploaded a functioning copy of the proprietary software to an undercover computer network. Xu is scheduled to be sentenced on January 18, 2018. (SDNY, NSD-CES, FBI) <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-and-fbi-assistant-director-charge-announce-arrest-individual>; <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-economic-espionage-charges-against-chinese-man-stealing>; <https://www.justice.gov/opa/pr/chinese-national-charged-stealing-source-code-former-employer-intent-benefit-chinese>; <https://www.justice.gov/opa/pr/chinese-national-pleads-guilty-economic-espionage-and-theft-trade-secret-us-company-0>

Russian Federal Security Service (FSB) Officers and Criminal Hacker Charged With Economic Espionage Targeting Yahoo, Inc. On February 28, 2017, three Russian nationals, including two FSB officers, were charged with economic espionage in relation to a widely publicized breach at Yahoo that resulted in the theft of Yahoo trade secrets and account information for more than 500 million Yahoo accounts and with unauthorized access to the contents of more than 30 million accounts, primarily at Yahoo. FSB officer Dmitry Dokuchaev (who was from the FSB unit that is the FBI's point of contact in Moscow for cybercrime) and his FSB superior, Igor Sushchin, used one of FBI's "Most Wanted" criminal hackers, Alexsey Belan, to gain access to Yahoo's network and trade secrets. All three men then used this access to hack email accounts of Yahoo users, from Russian dissidents to foreign businesspeople. (NDCA, NSD-CES, FBI) <https://www.justice.gov/opa/pr/us-charges-russian-fsb-officers-and-their-criminal-conspirators-hacking-yahoo-and-millions>

Alternative Charges

Distributor of Counterfeit Medications Pleads Guilty. On September 22, 2017, Carolina Aguilar Rodriguez aka “Doctora,” 47, a Mexican national, pleaded guilty to conspiring to smuggle prescription drugs into the United States, and receiving and delivering misbranded drugs with the intent to defraud. The criminal complaint alleged that she sold counterfeit Diprosan to undercover federal agents on at least five occasions. According to the charges, Rodriguez was not licensed to dispense prescription medications in Texas, and Naturavida was not licensed as a Texas pharmacy. Diprosan is not approved for use or sale in the United States and is not manufactured in the United States. Sentencing is scheduled for April 20, 2018. Sentencing is scheduled for April 20, 2018. (SDTX, ICE-HSI, FDA, Houston Police)
<https://www.justice.gov/usao-sdtx/pr/distributor-counterfeit-medications-arrested>;
<https://www.justice.gov/usao-sdtx/pr/woman-admits-illegally-selling-prescription-drugs-not-approved-use-us>

Monmouth County, New Jersey, Man Admits Trying to Sell Employer’s ‘As Seen On TV’ Trade Secrets To Competition. On September 19, 2017, Ralph Mandil, 38, of West Long Branch, New Jersey, and former employee of a New York company that invests in, imports and distributes “As Seen On TV” products pleaded guilty to an information charging him with one count of wire fraud. According to documents filed in this case and statements made in court, the products sold by Mandil’s employer, identified in the information as “Victim Company 1,” included electrical and non-electrical appliances, beauty and personal care, pet care, fitness, auto and outdoor products that are frequently marketed via television ads and are commonly sold at large retailers such as Walmart. From August 2016 through October 2016, Mandil communicated and met with people he believed were representatives of a New Jersey-based competitor of Victim Company 1. These individuals were actually government agents outfitted with audio and video recording devices. Mandil offered to provide the agents with information belonging to Victim Company 1, in addition to providing them with access to Victim Company 1’s “drop box,” or cloud storage account, in exchange for money. Mandil also provided the government agents with samples of the merchandise he could steal from Victim Company 1. Mandil was arrested on October 13, 2016, following the two-month sting operation described above. He is scheduled to be sentenced on January 22, 2018. (DNJ, FBI)
<https://www.justice.gov/usao-nj/pr/monmouth-county-new-jersey-man-admits-trying-sell-employer-s-seen-tv-trade-secrets>

Shrewsbury Woman Pleads Guilty to Role in Counterfeit Steroid Conspiracy. On August 3, 2017, Kathryn Green, 29, pleaded guilty to one count of conspiracy to distribute controlled substances. In April 2017, Green and five others were charged for their roles in the conspiracy. According to court documents, from approximately May 2015 until April 12, 2017, the conspirators manufactured steroid products made from raw materials that they purchased overseas and marketed as “Onyx” steroids using “Onyx” labels that were also ordered from overseas suppliers. Onyx, now owned by Amgen Inc., is a legitimate pharmaceutical company that does not manufacture steroids. The defendants allegedly sold the steroids to customers across the United States using email and social media platforms, collected payment through money remitters, such as Western Union and MoneyGram, and used false identifications and

multiple remitter locations to pick up the proceeds. Green's principal roles in the conspiracy were to pay another member of the conspiracy to ship steroids and to collect payments from customers. Sentencing is scheduled for January 11, 2018. (DMASS, ICE-HSI, FDA) <https://www.justice.gov/usao-ma/pr/six-charged-trafficking-counterfeit-steroids>; <https://www.justice.gov/usao-ma/pr/four-charged-counterfeit-body-building-steroid-conspiracy>; <https://www.justice.gov/usao-ma/pr/shrewsbury-woman-pleads-guilty-role-counterfeit-steroid-conspiracy>

IT System Administrator Sentenced for Theft of Proprietary Information and Illegal Wiretapping. On June 14, 2017, Benjamin Levi Cox, 34, of Nineveh, Indiana, pleaded guilty and was sentenced to serve eight months in prison for the theft of his former employer's proprietary information and wiretapping its email communications. In addition to his prison term, Cox was ordered to pay \$27,490 in restitution. According to admissions made in connection with his plea, Cox was formerly employed by Electric Metal Fab, Inc. ("EMF"), a stainless steel fabrication company in Nashville, Indiana. Cox worked as EMF's IT system administrator and a designer for its computer-aided drafting ("CAD") system, which EMF used to custom design each product. In or about March 2013, taking advantage of his system administrator privileges, Cox began covertly copying EMF's entire computer system to an external hard drive. Over a period of three months, Cox repeatedly loaded all of EMF's proprietary digital information – including thousands of files containing its CAD designs, financial data, sensitive personnel records, and operational and technical documents onto this external device. As part of his plea, Cox admitted that when he resigned from EMF in June 2013, he took the hard drive containing the stolen EMF data and brought it with him to his new employer, a direct competitor of EMF. Cox then copied multiple files to the new employer's computer and, among other things, altered the CAD designs to appear as if they had been created by the competitor. The doctored CAD designs were subsequently used by the competitor in obtaining over \$45,000 in new contracts with customers that had previously been EMF clients. Cox further admitted that before quitting EMF, he used his system administrator privileges to secretly configure EMF's email account settings to auto-forward all of its email communications to two external email accounts he had registered. (SDIN, CCIPS & Cybercrime Lab, USSS, IN State police) <https://www.justice.gov/usao-sdin/pr/it-system-administrator-sentenced-theft-proprietary-information-and-illegal-wiretapping>

Antelope Man Pleads Guilty to Selling Counterfeit Airbags Online. On May 31, 2017, Vitaliy Fedorchuk, 28, of Antelope, pleaded guilty today to five counts of mail fraud for an international scheme to sell counterfeit airbags via eBay and other internet sales sites. According to court documents, between June 23, 2014, and July 27, 2016, Fedorchuk offered for sale airbag modules, covers, and manufacturer emblems at his eBay online store, redbarnautoparts. Fedorchuk falsely advertised that the counterfeit airbags were original equipment from major automobile manufacturers such as Honda, Fiat, Chrysler, Nissan, Toyota, GMC and Ford. During the scheme, Fedorchuk sold hundreds of counterfeit airbags and obtained more than \$95,000. On October 5, 2017, Fedorchuk was sentenced to one year and one day in prison. (EDCA, ICE-HSI) <https://www.justice.gov/usao-edca/pr/antelope-man-pleads-guilty-selling-counterfeit-airbags-online>

Missouri Man Pleads Guilty to Computer Hacking and Accessing Child Pornography. On May 23, 2017, Jacob Raines, 38, of Parkville, Missouri, pleaded guilty to one count of computer intrusion and one count of accessing a computer in order to view child pornography over the Internet. Raines worked as the information technology (IT) manager for American Crane & Tractor Parts (“ACTP”) in Kansas City, Kansas, from July 2004 until his resignation on March 28, 2014. The company’s new IT manager removed Raines’s computer passwords and made other security changes associated with the transition to a new IT manager. However, while utilizing the computer previously assigned to Raines, the new IT manager noticed that someone had logged into the computer remotely and copied files to an off-site server. An examination revealed the company’s proprietary source code files and file folders were copied to Raines’s remote server during several sessions from May 16 to May 18, 2014. Law enforcement officers executed a search warrant at Raines’s residence on April 2, 2015, for evidence of the computer intrusion and theft of trade secrets. Copies of the proprietary source code – considered a trade secret by ACTP – were on Raines’s home computer. Investigators also discovered that Raines had used his home computers and hard drives to access child pornography over the Internet since November 13, 2013. Raines utilized peer-to-peer, file-sharing software to search for child pornography. Investigators discovered more than 7,000 files of child pornography images and videos on a Memorex DVD. (WDMO, FBI) <https://www.justice.gov/usao-wdmo/pr/parkville-man-pleads-guilty-computer-hacking-accessing-child-pornography>

Attorney Pleads Guilty for Role in Multi-Million Dollar Scheme to Fraudulently Obtain Copyright Infringement Settlements from Victims Who Downloaded Pornographic Movies. On March 6, 2017, John L. Steele, 45, currently residing in Pennsylvania, pleaded guilty to conspiracy to commit mail fraud and wire fraud and conspiracy to commit money laundering. According to Steele’s admissions in the plea, between 2011 and 2014, Steele and co-defendant Paul Hansmeier, both practicing lawyers, executed a scheme to fraudulently obtain more than \$6 million by threatening copyright lawsuits against individuals who supposedly downloaded pornographic movies from file-sharing websites. Steele admitted that he and Hansmeier created a series of sham entities to obtain copyrights to pornographic movies – some of which they filmed themselves – and then uploaded those movies to file-sharing websites like “The Pirate Bay” in order to lure people to download the movies. Steele and Hansmeier then filed bogus copyright infringement lawsuits that concealed their role in distributing the movies, as well as their personal stake in the outcome of the litigation. After fraudulently inducing courts into giving him and co-defendants the power to subpoena Internet service providers and thereby identify the subscriber who controlled the IP address used to download the movie, Steele and Hansmeier used extortionate tactics such as letters and phone calls to threaten victims with enormous financial penalties and public embarrassment unless they agreed to pay a \$3,000 settlement fee. On September 8, 2017, the district court denied co-defendant Hansmeier’s motion to dismiss; the case against him is pending. (DMN, CCIPS, FBI, IRS-CI) <https://www.justice.gov/opa/pr/attorney-pleads-guilty-role-multi-million-dollar-scheme-fraudulently-obtain-copyright>

Florida Man Pleads Guilty to Software Piracy Scheme. On March 2, 2017, David Reece, 47, of Fort Lauderdale, waived his right to a grand jury and pleaded guilty to a federal information that charged him with conspiracy. Reece admitted that he conspired with others – including Casey Lee Ross, 30, of Kansas City, Mo., and another individual in the People’s

Republic of China – to smuggle illegal merchandise into the United States and distribute it to others. Reece bought and sold illicit and/or unauthorized Microsoft Office product key cards. (Product key cards contain codes that are used to obtain full access to licensed versions of copyrighted Microsoft software programs, in this case, purportedly for Lenovo computers.) Reece purchased large volumes of Microsoft Office product key cards from Ross and the Chinese co-conspirator. Reece then resold them to other illicit software suppliers and customers. Among Reece’s customers are two co-conspirators identified in court documents as “Individual I” and “Individual J,” who were operating in Texas. Reece admitted that, between September 21, 2013, and March 14, 2015, he received approximately 20 physical shipments of contraband, with each shipment containing approximately 500 Microsoft Office “Lenovo” product key cards, for a total of approximately 10,000 contraband items. At an estimated loss of \$250 per item, this constitutes a total loss of approximately \$2.5 million. Reece is the eighth defendant charged in the software piracy scheme and the seventh defendant to plead guilty. (WDMO, ICE-HSI) <https://www.justice.gov/usao-wdmo/pr/florida-man-pleads-guilty-software-piracy-scheme>

Iowa Cancer Clinic and Oncologist to Pay More Than \$176,000 To Settle False Claims Act Allegations They Recklessly Billed for Cancer Drugs That Were Unapproved, Misbranded, or Counterfeit and Improperly Upcoded Office Visit Claims. On November 28, 2016, the Hematology and Oncology Center of Iowa, P.C., located in Clive, Iowa, and its only corporate officer, Dr. Magdy Elsayy, agreed to pay \$176,460 to settle allegations that they violated the False Claims Act by submitting false billings for cancer drugs that were not approved, misbranded, or counterfeit, and by submitting office visit claims for visits that were either medically unnecessary or were upcoded to reflect more complex encounters than what actually happened. (NDIA, FDA, HHS/OIG) <https://www.justice.gov/usao-ndia/pr/iowa-cancer-clinic-and-oncologist-pay-more-176000-settle-false-claims-act-allegations>

Appendix A – Glossary

A2C2	Automotive Anti-Counterfeiting Council
AUSA	Assistant U.S. Attorney
BJA	Bureau of Justice Assistance
CBP	U.S. Customs and Border Protection
CCIPS	Computer Crime and Intellectual Property Section
CES	Counterintelligence and Export Control Section
CHIP	Computer Hacking and Intellectual Property
DMCA	<i>Digital Millennium Copyright Act</i>
DOJ	Department of Justice
EOUSA	Executive Office for United States Attorneys
FBI	Federal Bureau of Investigation
FBI’s Annual Report	FBI Fiscal Year 2017 Report to Congress on Intellectual Property Enforcement
FY 2017	Fiscal Year 2017
IC	Integrated circuits
ICE-HSI	Immigration and Customs Enforcement’s Homeland Security Investigations
IP	Intellectual property
IPCEWG	IP Criminal Enforcement Working Group
IPEC	Intellectual Property Enforcement Coordinator
IPEP	Intellectual Property Enforcement Program
IPLEC	Intellectual Property Law Enforcement Coordinator
IPR Center	National IP Rights Coordination Center
JLG	U.S.-China Joint Liaison Group
NAC	National Advocacy Center
NCIJTF	National Cyber Investigative Joint Task Force
NSCS	National Security Cyber Specialists
NSD	National Security Division
NW3C	National White Collar Crime Center
OJP	Office of Justice Programs

OPDAT	Office of Overseas Prosecutorial Development, Assistance and Training
PRC	People's Republic of China
PRO IP Act	<i>Prioritizing Resources and Organization for Intellectual Property Act of 2008</i>
USPTO	U.S. Patent and Trademark Office

DEPARTMENT OF STATE

DEPARTMENT OF STATE

State Department Appendix for FY 17 Annual Report

Bilateral and Multilateral Engagement

During FY 2017, U.S. Embassies around the world continued to make IPR an integral part of their bilateral policy dialogues with host governments. Areas in which U.S. Embassies work productively with their host governments include pharmaceutical market access, online piracy, and counterfeit pharmaceuticals. Economic Counselors – together with IP Attachés when jointly posted – typically lead such engagement, along with support from other agencies and, when appropriate, with support from Ambassadors and Deputy Chiefs of Mission.

One example of a bilateral engagement is the U.S.-Argentina Innovation and Creativity Forum, which was held in December 2016 (in Buenos Aires) and in July 2017 (in Washington D.C.). Another example is the Department of State's leadership of the U.S. government negotiations to renew the bilateral U.S.-China Science and Technology Agreement, which includes effective intellectual property protections for researchers engaged in U.S. - China science and technology cooperation. The agreement was extended through the end of fiscal year 2017, and the formal renewal of the agreement is anticipated to occur in fiscal year 2018.

In addition, the Department of State continued to promote respect for IPR through international organizations and in other multilateral fora. Where relevant, the Department of State representatives have requested that U.S. international development and trade agency partners educate their program recipients about the importance of IP to support business development, entrepreneurship, and innovation.

The Department of State also contributed to bilateral and multilateral negotiations to ensure that binding IP protection and enforcement text was included in agreements with foreign governments. These agreements are important elements of the U.S. government's efforts to promote U.S. law and policy objectives and protect America's IP-related industries by deterring commercial-scale pirated and counterfeit goods and services, including by transnational criminal organizations.

International Organizations

The United States also advances IP issues in international organizations, including the World Trade Organization (WTO, which is a principal forum for addressing trade-related aspects of intellectual property), the Organization for Economic Co-operation and Development (OECD), the World Intellectual Property Organization (WIPO), the Asia-Pacific Economic Cooperation (APEC) Forum, the World Health Organization (WHO) and other U.N. bodies.

Report Pursuant to Article 66.2 of TRIPS. The United States is committed to continually enhancing its activities pursuant to Article 66.2 of the Agreement on the Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement regarding promoting and encouraging

technology transfer to least-developed country (LDC) members, and reporting those activities on an annual basis. The Department of State submits the 66.2 report to the TRIPS Council every autumn. The broad range of activities covered in this report – from laboratory-based scientific collaboration, to capacity-building for institutions that support innovation and technology, to the sustainable development of energy infrastructure providing access to power for millions – as well as IP enforcement, reflect the myriad United States efforts to encourage the effective, voluntary transfer of technology to LDC members.

Creation of the Global IP Law Enforcement Coordinator (IPLEC) program

The regional IP Law Enforcement Coordinator (IPLEC) program, funded by the Department of State and carried out by Department of Justice personnel, works with foreign countries to strengthen IPR protection and enforcement, by developing strategies for more effective investigation and prosecution of IPR offenses.

The IPEC's have the following regional responsibilities: (1) assess the capacity of law enforcement authorities throughout the region to enforce intellectual property rights; (2) develop and deliver training and other capacity building formats designed to enhance the capacity of justice sector personnel to enforce intellectual property rights; (3) assist in developing or strengthening institutions dedicated to enforcing intellectual property rights; (4) monitor regional trends in intellectual property protection and computer crimes; and (5) provide expert assistance in support of U.S. Government intellectual property and computer crimes policies and initiatives in the region.

Building on the success of the initial IPLECs, State has increased its support for the program and worked with the Justice Department to expand it to a global IPLEC Network. At the end of 2017, the United States had deployed five IPLECs that work collaboratively within and across their regions. The IPLEC are stationed in Hong Kong, China SAR; Sao Paulo, Brazil; Bucharest, Romania; Bangkok, Thailand; and Abuja, Nigeria.

Contributions to USTR's Special 301 and Notorious Markets reports

During FY 2017, the Department of State's Office of Intellectual Property Enforcement (IPE) provided extensive support to USTR and the interagency team for the 2017 Special 301 process. At the request of IPE, Posts from around the world submitted detailed analysis on the state of IPR protection and enforcement as part of the review. IPE also obtained input from several Posts that offered significant contributions to the Notorious Markets Report.

Capacity Building and Training

The Department of State, using foreign assistance anti-crime funds managed by the Bureau of International Narcotics and Law Enforcement (INL), has a long-standing program to provide U.S. Government capacity-building training and technical assistance to foreign law enforcement partners to combat IPR crime and to deter widespread commercial-scale pirated and counterfeit goods and services. State works with other agencies to prioritize assistance to developing countries that are named in USTR's Special 301 Report as countries of concern.

As an example of bilateral training, the U.S. Embassy in Mexico City has worked closely with the Department of Justice (DOJ) since 2012 to use INL funds to conduct training sessions on IP-related computer forensics and digital evidence in order to address infringement in the digital environment. The Department provides funding to DOJ, Department of Homeland Security (DHS), and USPTO to implement regional training programs focused on IP infringement in the Americas, Asia Pacific and Sub-Saharan Africa, in partnership with bodies like the Organization of American States, ASEAN and the African Economic Community.

On a global level, the Department of State economic officers, together with 13 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 also organized International Visitor Leadership Program visits to the National IPR Coordination Center for IP policy and enforcement officials from Argentina, Colombia, Thailand, the United Kingdom, Australia, and Spain, among others. The Department also presented to IP officials and private sector stakeholders from the Philippines, Palestine, and Spain in the United States as part of International Visitors Leadership Programs. In so doing, the Department was able to get a better understanding of key IP enforcement concerns around the world and share best practices.

In addition, the Department of State's Office of International Intellectual Property Enforcement (IPE) – in partnership with USPTO's Global IP Academy – coordinated a multi-day training course on IPR for U.S. government officials. Most participants were Foreign Service Officers planning to move overseas for their next assignment. Experts and stakeholders briefed them on the fundamentals of intellectual property, U.S. government positions on current debates such as access-to-medicines, and U.S. industry priorities. The officials are now 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. In addition, IPE regularly briefed visiting foreign IP officials on U.S. government policy positions and IP promotion and protection activities.

IPE also trained foreign, locally-employed U.S. Embassy staff on IP as part of their regular economic training. IPE focused on ensuring they are aware of current debates in international IP, can flag potentially troubling restrictions, and are enabled and empowered to assist American officers in advocating for U.S. rights-holders overseas. In addition, State conducted training for embassy and consulate Digital Economy Officers, which included content on online IP issues and how to identify IPR crimes.

DEPARTMENT OF TREASURY

DEPARTMENT OF TREASURY

Department of Treasury Appendix for FY17 Annual Report

Treasury IP-related efforts on Customs

Treasury authority for border enforcement of intellectual property laws, along with certain other customs revenue functions, has been delegated to DHS and is carried out by CBP and ICE (see Treasury Order 100-16 and 6 U.S.C. §§ 212, 215). Under the delegation, Treasury retains the sole authority to approve any regulations concerning copyright and trademark enforcement at the border, and works closely on these with CBP and ICE.

Treasury efforts to identify and address certain IP-related risks to national security through the CFIUS process.

Treasury's Office of Investment Security manages the day-to-day functions of Treasury's role as Chair of the Committee on Foreign Investment in the United States (CFIUS). CFIUS is an inter-agency committee authorized to review certain transactions that could result in control of a U.S. business by a foreign person, in order to determine the effect of such transactions on the national security of the United States. CFIUS does not enforce intellectual property laws. If, however, during its review of a transaction, CFIUS identifies a risk to U.S. national security arising from a foreign person's acquisition of, or access to, the intellectual property of the U.S. business, and if other authorities are not adequate or appropriate to address the identified risk, CFIUS will seek to mitigate such risk. Mitigation measures could take a variety of forms, including but not limited to: placing the intellectual property in escrow; controlling the foreign person's access to the intellectual property; requiring mechanisms to monitor and enforce such access controls; and ensuring U.S. government access to, or insight into, the intellectual property. If CFIUS determines that the identified risk cannot be resolved through mitigation, it will refer the transaction to the President, who can suspend or prohibit the transaction.

Treasury authority to impose sanctions under Executive Order 13694, as amended, in response to certain malicious cyber-enabled activities, including the theft of trade secrets for commercial or competitive advantage or private financial gain.

Treasury continues to encourage referrals from relevant departments and agencies, including law enforcement and intelligence agencies, regarding targets for potential designation by the Office of Foreign Assets Control (OFAC) pursuant to Executive Order (E.O.) 13694, as amended by E.O. 13757. The Executive Order authorizes the imposition of sanctions on individuals and entities determined to be responsible for or complicit in, or to have engaged in, certain malicious cyber-enabled activities, including "causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain." Of the 19 individuals and entities that have been sanctioned pursuant to the Executive Order, two individuals were sanctioned during FY17 for having engaged in significant malicious cyber-enabled misappropriation of financial information and personal identifiers for private financial gain. (See the Treasury Department press release of December 29, 2016, on "Treasury Sanctions Two

Individuals for Malicious Cyber-Enabled Activities,” at <https://www.treasury.gov/press-center/press-releases/Pages/jl0693.aspx>.

OFFICE OF THE U.S. TRADE REPRESENTATIVE

OFFICE OF THE U.S. TRADE REPRESENTATIVE

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One avenue to promote intellectual property protection and enforcement abroad is through engagement with our trading partners. Through such engagement, the Administration advocates for strong intellectual property protection and enforcement in other countries for, *inter alia*, works, phonograms, performances, brands, designs, trade secrets and inventions by U.S. creators, inventors, artists and businesses. During negotiations with foreign counterparts, USTR and other agencies emphasize the importance that the U.S. government places on protecting and enforcing intellectual property, as it presses for concrete action by trading partners to protect and enforce intellectual property rights, including those owned by Americans.

The U.S. Government uses a broad range of trade policy tools to promote strong intellectual property rights protection and enforcement, including Section 301 of the Trade Act, the annual Special 301 review of intellectual property protection and enforcement and of certain market access practices in foreign countries; trade agreement negotiations; monitoring and enforcement of those agreements; participation in the TRIPS Council; 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 IPR protection and enforcement by its trading partners. Trade-related initiatives that have advanced IPR protection in 2017 include the following.

NAFTA

On May 18, 2017, USTR notified Congress of the Administration’s intent to initiate NAFTA renegotiations. Securing effective protection and enforcement of intellectual property for U.S. rightsholders is a key element of all trade engagement, including these negotiations. (USTR’s notification letter is at <https://ustr.gov/sites/default/files/files/Press/Releases/NAFTA%20Notification.pdf>, and the related press release is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/may/ustr-trump-administration-announces>.)

Initiation of Section 301 Investigation

On August 14 2017, President Trump instructed USTR to determine “whether to investigate any of China’s laws, policies, practices, or actions that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technical development.” (The Presidential memorandum was published in the Federal Register (82 FR 39007) and is at <https://www.gpo.gov/fdsys/pkg/FR-2017-08-17/pdf/2017-17528.pdf>.)

On August 18, 2017, USTR initiated such an investigation under section 302(b) of the Trade Act (19 U.S.C. 2412(b)). As USTR explained in an August 24, 2017 *Federal Register* notice, the “investigation initially will consider the following specific types of conduct:

“First, the Chinese government reportedly uses a variety of tools, including opaque and discretionary administrative approval processes, joint venture requirements, foreign equity limitations, procurements, and other mechanisms to regulate or intervene in U.S. companies’ operations in China, in order to require or pressure the transfer of technologies and intellectual property to Chinese companies. Moreover, many U.S. companies report facing vague and unwritten rules, as well as local rules that diverge from national ones, which are applied in a selective and nontransparent manner by Chinese government officials to pressure technology transfer.

“Second, the Chinese government’s acts, policies and practices reportedly deprive U.S. companies of the ability to set market-based terms in licensing and other technology-related negotiations with Chinese companies and undermine U.S. companies’ control over their technology in China. For example, the Regulations on Technology Import and Export Administration mandate particular terms for indemnities and ownership of technology improvements for imported technology, and other measures also impose non-market terms in licensing and technology contracts.

“Third, the Chinese government reportedly directs and/or unfairly facilitates the systematic investment in, and/or acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generate largescale technology transfer in industries deemed important by Chinese government industrial plans.

“Fourth, the investigation will consider whether the Chinese government is conducting or supporting unauthorized intrusions into U.S. commercial computer networks or cyber-enabled theft of intellectual property, trade secrets, or confidential business information, and whether this conduct harms U.S. companies or provides competitive advantages to Chinese companies or commercial sectors.

“In addition to these four types of conduct, interested parties may submit for consideration information on other acts, policies and practices of China relating to technology transfer, intellectual property, and innovation described in the President’s Memorandum that might be included in this investigation, and/or might be addressed through other applicable mechanisms.”

(The Federal Register notice (82 FR 40213) is at <https://www.gpo.gov/fdsys/pkg/FR-2017-08-24/pdf/2017-17931.pdf>.) As the notice explained, a hearing in the investigation was held on October 10, 2017, with an October 20, 2017 deadline for final submissions. The outcome of the investigation will turn on the facts and arguments presented.

Ongoing Trade Agreement Implementation and Enforcement

In FY 2017, the U.S. continued to engage with Free Trade Agreement (FTA) partners (including Australia, Korea, Colombia, Dominican Republic, Costa Rica and Morocco) to ensure that FTA obligations, including those related to IPR, are being implemented.

USTR Special 301 Report

Each year, pursuant to statute, USTR issues the Special 301 Report on the adequacy and effectiveness of protection and enforcement of intellectual property 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 IPR 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 2017 Special 301 Report in April 2017. (The 2017 Report is at <https://ustr.gov/sites/default/files/301/2017%20Special%20301%20Report%20FINAL.PDF>, and the related press release is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/april/ustr-releases-2017-special-301-report>.) In the report, USTR highlighted serious and ongoing concerns with respect to the environment for IPR protection and enforcement in China, India, Indonesia, Russia, Ukraine and other markets. In addition, USTR announced that it would continue to conduct Out-of-Cycle Reviews (OCRs) for Colombia and Tajikistan, and initiated an OCR for Kuwait.

The Special 301 Report reflects the Administration's continued resolve to encourage adequate and effective IPR protection and enforcement worldwide. The Report identifies a wide range of concerns, including: (a) the deterioration in IPR protection and enforcement in a number of trading partners; (b) unresolved inadequacies in trade secret protection in China, India, and elsewhere; (c) troubling "indigenous innovation" policies that may unfairly disadvantage U.S. right holders in markets abroad; (d) the continuing challenges of online copyright piracy; (e) measures that impede market access for U.S. products embodying IPR and U.S. entities that rely upon IPR protection; and (f) other ongoing, systemic IPR enforcement issues in many trading partners around the world.

In September 2017, USTR announced that it was initiating an OCR of Thailand in recognition of positive steps Thailand took with respect to IPR protection and enforcement. (The press release for the initiation of the Thailand OCR is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/september/ustr-lighthizer-initiates-special>, and the

September 21, 2017 *Federal Register* notice (82 FR 44240) seeking public comments for this OCR is at <https://www.gpo.gov/fdsys/pkg/FR-2017-09-21/pdf/2017-20103.pdf>.) USTR completed this OCR and announced the conclusion and results in December 2017. In light of the progress that Thailand has made in IPR protection and enforcement, USTR announced that it “is moving Thailand from the Special 301 Priority Watch List to the Watch List,” and “[t]he United States will continue to engage bilaterally with Thailand to address other remaining IP concerns, which are highlighted in the 2017 Special 301 report” (the USTR press release is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/december/ustr-lighthizer-announces-results>).

Notorious Markets List

The Notorious Markets List (List) highlights select online and physical marketplaces that reportedly engage in and facilitate substantial copyright piracy and trademark counterfeiting. USTR has identified notorious markets in the Special 301 Report since 2006. In 2010, USTR announced that it would begin publishing the List separately from the annual Special 301 Report, pursuant to an Out-of-Cycle Review (OCR). USTR first separately published the 2010 List in February 2011, and has published a List for every year since.

In the List, 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. IPR 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 List does not purport to be an exhaustive list of all physical and online markets worldwide in which IPR infringement takes place.

A goal of the List is to motivate appropriate action by owners and operators in the private sector as well as governments, to reduce piracy and counterfeiting. The operators of several websites identified in past Lists have begun to work with rights holders to address counterfeiting and piracy. Several markets have also ceased operations or have been the focus of government enforcement efforts.

The 2017 Notorious Markets List was issued on January 12, 2018. (The List is at <https://ustr.gov/sites/default/files/files/Press/Reports/2017%20Notorious%20Markets%20List%201.11.18.pdf>, and the related press release is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/january/2017-notorious-markets-list>.) The 2017 List includes a focus on illicit streaming devices and the growing threat of the illicit streaming ecosystem to U.S. television, movie, sports, and other content in foreign markets.

India

The U.S. maintains bilateral engagement with India on IPR issues through the High Level IP Working Group under the United States – India Trade Policy Forum (TPF). USTR, working with interagency partners (USPTO, U.S. Copyright Office, ITA, DOJ, Health and Human Services, FTC, and others), held numerous engagements with Indian government counterparts to

promote robust protection and enforcement of IPR, with a focus on areas such as copyright, trade secrets, patents, and promoting innovation and creativity through high-level government policies.

U.S.-China Economic Dialogues

In FY 2017, China made a number of bilateral IPR commitments described below. However, action to implement these commitments is still needed. (See “U.S.-China Joint Fact Sheet on the 17th U.S.-China Joint Commission on Commerce and Trade”

(<https://www.commerce.gov/news/fact-sheets/2017/01/us-china-joint-fact-sheet-27th-us-china-joint-commission-commerce-and-trade>) and “U.S. Fact Sheet for the 27th U.S.-China Joint Commission on Commerce and Trade) (at <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2016/november/us-fact-sheet-27th-us-china-joint>).

- A commitment that generally applicable Information and Communications Technology security-related measures do not unnecessarily discriminate or restrict trade or the flow of information and that China’s “secure and controllable” commercial sector policies are not to limit sales by foreign suppliers or impose nationality-based conditions or restrictions.
- The issuance of another high level directive requiring all local regions and all agencies to adjust measures so that they do not link the indigenous innovation policy to the provision of government procurement preferences.
- A commitment to base the operation of China’s integrated circuit investment funds on market principles, without government interference in the normal operation of the funds, and without requiring technology or IPR transfer as a condition for participation in the funds’ investment projects.;
- A commitment under a joint U.S.-China Memorandum of Understanding relating to a WTO dispute to provide for meaningful compensation to the United States in terms of the number of U.S. films to be imported each year and the share of gross box office receipts received by U.S. enterprises, and to address other outstanding U.S. concerns relating to other policies and practices in China’s films market.
- An affirmative recognition that trademarks obtained and asserted in bad faith hinder legitimate commerce, mislead consumers, and deter investment in building global brands, and China’s commitment to take further efforts to combat bad faith trademark filings.
- Confirmation that broadcasts of sporting events, including when transmitted over the Internet, should be protected under laws and regulations, its commitment to further study the feasibility of protecting the broadcasts of sporting events under its Copyright Law, and its recognition that United States considers protections available under alternative measures to be insufficient.
- Commitments not to discriminate against medical devices bearing overseas brands or produced overseas, including in government procurement.

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 intellectual property rights (IPR) 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 2017, the United States advanced its IP and Innovation agenda in the TRIPS Council through a series of initiatives designed to facilitate greater understanding of the critical role that IP plays in promoting inclusive innovation for micro-, small-, and medium-sized enterprises (MSMEs). The United States co-sponsored this year-long theme (along with Australia, the European Union, Japan, and Switzerland) and focused dedicated attention on the topics of MSME Collaboration, MSME Growth, and MSME Trade. During these exchanges, the United States, co-sponsors of the agenda item, and a number of other WTO Members shared perspectives and first-hand experiences that demonstrated the value that intellectual property systems play in stimulating creativity and innovation in MSMEs, and highlighted the beneficial role that governments can play through targeted programs. WTO Members also benefited from a U.S.-sponsored side-event in October 2017 that brought together government and non-government stakeholders from around the world that either are innovative MSMEs or directly involved in the commercialization of IP-intensive MSMEs.

In addition, in November 2016, the US, EU, Canada, Japan, New Zealand, and Taiwan introduced legislation to protect trade secrets. Many noted that protecting trade secrets is essential for maintaining the competitive edge of industries. The US, the EU, and Japan also hosted a side event on trade secrets on the margins of that meeting, featuring speakers from the UN, OECD and private sector to address recent updates of trade secrets protection regimes and how trade secrets are used and managed.

World Trade Organization Accession

Governments in the process of negotiating the terms for accession to the WTO work with WTO Members, including with the United States, to appropriately update and strengthen their intellectual property regimes, as well as to expand trade and enhance the investment climate for innovative and creative industries. In FY 2017, Sudan re-engaged in the WTO accession process after a lengthy hiatus.

Other Fora

In addition to the WTO (which is the principal forum for addressing trade-related aspects of intellectual property), the United States also advances these issues in other fora, including the OECD, WIPO, APEC forum and various U.N. bodies.

In FY 2017, the Department of State and USTR continued to support follow-up research and analysis to a 2016 OECD publication that measured the economic impact of fake products on the global economy: *Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact*, at

https://euipo.europa.eu/tunnelweb/secure/webdav/guest/document_library/observatory/documents/Mapping_the_Economic_Impact_study/Mapping_the_Economic_Impact_en.pdf. U.S. Customs and Border Patrol (CBP) contributed data to the report.

In November 2016, the APEC leaders endorsed a set of *Best Practices in Trade Secret Protection and Enforcement Against Misappropriation*. The Best Practices document is the culmination of a multi-year initiative led by the United States with the support of APEC Leaders and Ministers, which also included a four-volume report on Trade Secrets Protection in APEC Economies. Recognizing the important role that trade secrets play in many industries, APEC economies identified eight best practices that will serve as a toolkit for good policy development across the region. Among these best practices are broad standing to claims for the protection of trade secrets and enforcement against trade secret theft; civil and criminal liability, as well as remedies and penalties, for trade secret theft; robust procedural measures in enforcement proceedings; and adoption of written measures that enhance protection against further disclosure when governments require the submission of trade secrets. These best practices also recognize the important role of appropriate safeguards, such as measures protecting good faith lawful disclosures to provide evidence of a violation of law. The Best Practices document is at <https://ustr.gov/sites/default/files/11202016-US-Best-Practices-Trade-Secrets.pdf>; background information is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2016/november/obama-administration-welcomes-apec>.

In the APEC Intellectual Property Experts Group (IPEG), the United States coordinated presentations with other APEC economies highlighting best practices regarding patent grace period and addressing bad-faith trademark filing and provided an update on enhanced border enforcement authorities provided under the Trade Facilitation and Trade Enforcement Act of 2015. The United States also organized a workshop on commercialization of new plant varieties with a focus on SMEs and universities. In addition, the United States implemented the first of a series of three capacity-building workshops on intellectual property border enforcement, bringing together trademark and customs officials to discuss best practices on addressing trade in fake goods across the region.

Additionally, in FY 2017, the United States reviewed the intellectual property laws and practices of Colombia as it seeks to join the OECD.

Additional Areas of IPR Engagement

During the 2017 review of the implementation of Taiwan's IPR-related commitments from the 2016 Trade and Investment Framework Agreement Council meetings, Taiwan undertook to take further steps to enhance protection for innovation, curb piracy and infringement (particularly those occurring online) and deepen engagement on trade secrets protection and enforcement.

The United States and the United Kingdom (UK) established the Trade and Investment Working Group and held the first meeting in July 2017. The Group is focused on providing commercial continuity for US and UK businesses as the UK leaves the EU and exploring ways to strengthen trade and investment ties ahead of the exit. The Working Group will also explore

how the United States and UK can demonstrate global leadership in IP enforcement and collaborate to promote open markets around the world. The U.S. and the UK issued a Joint Release in July 2017 regarding the Working Group's first meeting (<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/july/joint-release-ustr-ambassador>) and a Joint Statement in November 2017 regarding the Working Group's second meeting (<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/november/joint-statement-second-meeting-us>).

Under the U.S.-Argentina TIFA, the United States and Argentina agreed to create a bilateral Innovation and Creativity Forum for Economic Development to discuss IP topics of mutual interest (see the November 2016 press release at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2016/november/us-and-argentina-hold-ministerial>). Meetings of the Forum were held in December 2016 in Buenos Aires and July 2017 in Washington, D.C. during which the United States and Argentina exchanged information and identified good practices for IP protection and enforcement such as enforcement against counterfeiting in informal markets, interagency coordination on IP strategies, IP awareness efforts, facilitating benefits of IP for SMEs, among others.

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 intellectual property rights or use unfair barriers to limit market access for U.S. businesses that rely on intellectual property. The Notorious Markets List highlights prominent online and physical marketplaces that reportedly engage in and facilitate substantial copyright piracy and 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 public hearings for these processes.

In addition to requesting comments from the public and holding public hearings on IPR matters, intellectual property trade policy figured heavily in USTR's broader stakeholder and Congressional outreach, including in a range of domestic and international fora.

COPYRIGHT OFFICE

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Copyright Office Appendix for FY 17 Annual Report

During FY 2017, the U.S. Copyright Office engaged in a range of copyright-related activities, in addition to performing its core mission of examining and registering – each year – hundreds of thousands of copyright claims in books, journals, music, movies, sound recordings, software, photographs, and other works of original authorship. A summary of the Office’s work during this period appears below.

Studies and Reports

During FY 2017, the Copyright Office engaged in and completed five policy studies. The Copyright Office has continued 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.

Completed Studies

During FY 2017, the Copyright Office completed studies on software-enabled consumer products, sections 1201 and 108 of the Copyright Act, recordation fees, and mass digitization.

- **Software-Enabled Consumer Products.** In 2015, Senators Charles E. Grassley and Patrick Leahy of the Senate Committee on the Judiciary (“Senate Judiciary Committee”) asked the Copyright Office to “undertake a comprehensive review of the role of copyright in the complex set of relationships at the heart” of the issues raised by the spread of software in everyday products. The Office subsequently engaged in a study reviewing the role of copyright law with respect to software-enabled consumer products.

After seeking input from a wide range of stakeholders in submitted comments and public roundtable hearings, the Copyright Office submitted its report on “Software-Enabled Consumer Products” to Congress on December 15, 2016. The Office addressed several different aspects of the embedded-software landscape, including issues regarding licensing, resale, repair and tinkering, security research, and interoperability and competition. The report outlined how doctrines such as the idea/expression dichotomy, merger, scènes à faire, first sale, the section 117 exemptions, and other areas of law apply to software-enabled consumer products. The report provides a thorough review of the existing legal framework with respect to software embedded in consumer products, but it did not recommend specific legislative changes. The report is available at <https://www.copyright.gov/policy/software/software-full-report.pdf>.

- **Anti-Circumvention of Technological Protection Measures (17 U.S.C. Section 1201).** At the request of House Judiciary Committee Ranking Member John Conyers, Jr., the Office commenced a comprehensive study on the impact and effectiveness of section 1201. In December 2015, the Office issued a *Federal Register* notice requesting public

comments on a broad range of issues (including the statute’s effect on consumer interests, the role of the anti-trafficking provisions, the adequacy of the statutory exemptions for activities such as reverse engineering and security research, the triennial rulemaking process, and a discussion of any proposed amendments on U.S. trade obligations). In response to the notice, the Office received 84 total comments in two rounds of public comment. The Office received further input in May 2016 through public roundtables held in Washington, D.C. and San Francisco.

The Copyright Office submitted its report to Congress on June 22, 2017. In its report, the Office did not recommend altering the basic framework of section 1201, concluding that its overall structure and scope remain sound. It did, however, recommend certain legislative updates, including expanding existing exemptions for security and encryption research and adding new provisions to allow circumvention for other purposes, such as the use of assistive reading technologies and the repair of devices. In addition, the report identified changes to the Office’s administration of the rulemaking to streamline the process for renewing previously adopted exemptions; this recommendation has been implemented in the seventh triennial rulemaking process currently underway. The report is available at <https://www.copyright.gov/policy/1201/section-1201-full-report.pdf>.

- **The Exception for Libraries and Archives (17 U.S.C. Section 108)**. For over a decade, the Copyright Office has led and participated in major discussions on potential changes to section 108 of the Copyright Act, with the goal of updating the provisions to better reflect the facts, practices, and principles of the digital age and providing greater clarity for libraries, archives, and museums. In 2005, the Copyright Office partnered with the National Digital Information Infrastructure and Preservation Program of the Library of Congress to sponsor an independent study group, which issued a comprehensive report in March 2008, calling for an extensive revision of section 108. In February 2013, the Copyright Office and Columbia Law School held a public symposium on section 108 revision, exploring many of the issues addressed in the “2008 Section 108 Study Group Report.”

The Copyright Office’s more recent review of section 108 began during the summer of 2016 with a series of nearly 40 in-person and telephone meetings with interested persons, such as librarians, museum professionals, content creators, archivists, scholars, and technology professionals. During this review, a wide variety of perspectives and practices concerning section 108 activities were discussed.

In September 2017, the Copyright Office completed and released a discussion document reviewing section 108 in the context of the digital age (“Discussion Document”). In the Discussion Document, the Copyright Office restated its longstanding belief that section 108 needs to be updated so that libraries, archives, and museums have a robust, comprehensible, and balanced set of exceptions in order to fulfill their missions. The primary objective of the Discussion Document was to provide a concrete framework for further discussion among stakeholders and Members of Congress. In an effort to provide this framework, the Discussion Document examined the issues raised during recent review and in previous revision work, such as adding museums to the statute; allowing

preservation copies to be made of all works in an eligible entity's collections; and replacing the current three-copy limit with a "reasonably necessary" standard when making copies for preservation and research. The Discussion Document also included model statutory language to guide future discussions, and the Copyright Office is hopeful this language will serve as a means for generating consensus on these and other discrete issues in section 108. The Discussion Document is available at <https://www.copyright.gov/policy/section108/discussion-document.pdf>.

- **Copyright Office Recordation Fees.** The Copyright Office is currently involved in a comprehensive study of all Copyright Office costs and fees, which is expected to be completed and submitted to Congress in 2018.

In the interim, the Copyright Office prepared an analysis and limited proposed fee schedule for the recording of documents accompanied by electronic title lists, which the Office submitted to Congress on August 18, 2017. This proposal was submitted to allow the Copyright Office to more quickly implement a reduced recordation fee for electronic title lists. Adopting such a fee will incentivize remitters to provide such electronic lists, which are quicker to process than paper title appendices. The delivery of this study to Congress was also timed to account for the development and implementation of needed technological adjustments to the Office's backend recordation and cataloging systems to accommodate the reduced fee and efficiencies in submitting documents with electronic title lists. The Copyright Office's 2017 Proposed Schedule and Analysis of Copyright Recordation Fee is available at <https://www.copyright.gov/policy/feestudy2017/fee-study-2017.pdf>. The final rule was issued on November 13, 2017; see <https://www.gpo.gov/fdsys/pkg/FR-2017-11-13/pdf/2017-24526.pdf>.

- **Mass Digitization Pilot Program.** As part of its "Orphan Works and Mass Digitization Report," published in June 2015, the Copyright Office proposed the creation of a limited pilot program that would establish a legal framework known as extended collective licensing (ECL) for certain mass digitization activities. The ECL pilot program proposed by the Copyright Office would enable users to digitize and provide access to certain works for research and education purposes under conditions to be agreed upon between rightsholder and user representatives. On June 9, 2015, the Copyright Office published a *Federal Register* notice requesting public comments regarding the structure and operation of an ECL system. In response, the Office received over 80 written comments from a variety of interested parties.

In September 2017, the Copyright Office submitted a letter to the Chairmen and Ranking Members of the House and Senate Judiciary Committees regarding the Mass Digitization Pilot Program. The Office's letter summarized the comments and concluded that there currently is a lack of stakeholder consensus on key elements of an ECL pilot program and that any proposed legislation therefore would be premature at this time. The Office stands ready to assist stakeholders in developing a consensus-based legislative framework should Congress wish to pursue further discussion in this area. The Office's letters to the Judiciary Committees are available at <https://www.copyright.gov/policy/massdigitization/>.

Ongoing Studies

During FY 2017, the Copyright Office was also engaged in a number of active studies, which continue into FY 2018.¹²

- **Moral Rights of Attribution and Integrity.** During FY 2017, the Copyright Office continued its work on a study on how existing U.S. law (including provisions found in Title 17 of the U.S. Code and other federal and state laws) protects the moral rights of attribution and integrity and whether any additional protection is advisable in this area. As part of this study, the Office in January 2017 published a *Federal Register* request for two rounds of public comment. In response, the Office received 62 written submissions. The Office is continuing its review of the issues. For information on the study, see <https://www.copyright.gov/policy/moralrights/>.
- **The Safe Harbor Provisions (17 U.S.C. Section 512).** During FY 2017, the Copyright Office continued its work on a study to evaluate the impact and effectiveness of the safe harbor provisions contained in Section 512 of Title 17 of the U.S. Code. Section 512 established a system for copyright owners and online entities to address online infringement, including limitations on liability for compliant service providers to help foster the growth of internet-based services. The section 512 study is evaluating the current impact and effectiveness of the Copyright Act's notice-and-takedown system and safe harbor provisions. Among other issues, the Office will consider the costs and burdens of the notice-and-takedown process on large- and small-scale copyright owners, online service providers, and the general public. The Office will also review how successfully section 512 addresses online infringement and protects against improper takedown notices.

In December 2015, the Office published a *Federal Register* request for public comments, and in response received more than 92,000 written comments, filed by a variety of stakeholders, including large and small creators, service providers, users, civil society, and academics. In addition, the Office held two days of public roundtables (in San Francisco and New York) and heard from over 130 participants. In November 2016, the Office sought further input through a second round of public comments as well as a

¹² Access to the *Federal Register* notices, public comments, and roundtable transcripts for all of the Office's active studies is available through the Office's website at <https://copyright.gov/policy/>. Many of the Office's studies are taking place as part of its continued support for the ongoing Congressional review of the nation's copyright laws conducted by the House of Representatives Committee on the Judiciary. The Office also maintains hyperlinks on its website at <https://copyright.gov/laws/hearings/> to enable the public to access the written testimony, transcripts, and videos of the copyright review hearings that occurred before this Committee. The Office also maintains a list of all copyright-related legislation in the current Congressional session as well as prior session at <https://www.copyright.gov/legislation/>.

request for empirical studies. The Office is continuing its work on this study in 2018. For information on the study, see <https://www.copyright.gov/policy/section512/>.

- **Visual Works.** During FY 2017, the Copyright Office continued its work on a study on how certain visual works – particularly photographs, graphic artworks, and illustrations – are monetized, enforced, and registered under the Copyright Act. In April 2015, the Office published a *Federal Register* request for public comments. As the notice explained, the Office is specifically interested in the current marketplace for these visual works, as well as observations regarding the real or potential obstacles that these authors and, as applicable, their licensees or other representatives face when navigating the digital landscape. In addition, the Office is interested in the perspectives of copyright owners as well as users of these creative works. The Office is continuing its review of the issues. For information on the study, see <https://www.copyright.gov/policy/visualworks/>.

Updating of the Compendium of U.S. Copyright Office Practices

During FY 2017, the Copyright Office conducted a comprehensive review of its Compendium of U.S. Copyright Office Practices, which is the administrative manual for registration and recordation practices of the U.S. Copyright Office. And, on September 29, 2017, the Office released the latest version of the Compendium (an updated version of the Third Edition).

The Office initially released this version in draft form, and it received comments on the draft from three organizations and four individuals. After carefully reviewing these comments, the Office revised twenty-one sections of the Compendium. Revisions to the registration chapters clarify how and when the Office communicates with applicants and how it handles duplicate claims, deposit requirements, and claims involving multiple works. It also provides preliminary guidance for claims involving useful articles based on the Supreme Court’s March 2017 decision in *Star Athletica v. Varsity Brands*. Revisions to the recordation chapter provide additional information on the Office’s new electronic system for the designation of agents. The revisions address changes in post-registration procedures, including new rules on supplementary registration, the “mailbox rule” for requests for reconsideration, and new procedures for removing personally identifiable information. It incorporates changes made to the regulation governing the group registration option for contributions to periodicals (“GRCP”) and a number of technical amendments to the Office’s regulations.

The revised compendium is available at <https://www.copyright.gov/comp3/>. A complete list of the sections that have been added, amended, revised, or removed in this release, as well as a set of redlines prepared by the Office (which provides a direct comparison between the current version and the 2014 version), is at <https://www.copyright.gov/comp3/revisions.html>.

Rulemakings

During FY 2017, the Copyright Office engaged in a number of rulemaking matters. A list of both open and closed rulemakings is available at <https://www.copyright.gov/rulemaking/>. During this time frame, the Copyright Office issued final regulations on the following subjects:

- Affixation and position of copyright notice
- Group registration of contributions to periodicals
- Amendments governing supplementary registration to reflect certain technical upgrades to the electronic registration system
- Authentication of electronic signatures on electronically filed Statements of Account
- Regulations to address the disruption of Copyright Office electronic systems
- Technical amendments to the process by which individuals create system user accounts required by the DMCA designated agent rule
- Technical amendments governing registration, recordation, licensing, and other services to update cross-references, replace outdated terminology, eliminate expired or obsolete provisions, and correct nonsubstantive errors
- Removal of personally identifiable information from registration records
- Designation of agent to receive notification of claimed infringement under the DMCA
- Adoption of a “mailbox” rule for appeals to refusals to register

Seventh Triennial Rulemaking Proceeding under the DMCA. On June 30, 2017, the Copyright Office initiated the seventh 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 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 set forth in its prior notice of inquiry, the Copyright Office established a new, streamlined procedure for the renewal of exemptions that were granted during the sixth triennial rulemaking. The June 2017 notice requested members of the public seeking the renewal of current exemptions to submit petitions (and input from those opposing such renewals), and also sought petitions for new exceptions not currently permitted by existing exemptions.

On October 26, 2017, the Copyright Office issued a notice of proposed rulemaking. As discussed in that notice, the Office reviewed all renewal petitions and related comments and

concluded that it has received a sufficient petition to renew each existing exemption and did not find any meaningful opposition to renewal. Accordingly, the Office announced it intended to recommend re-adoption of all existing exemptions. Furthermore, the Office has evaluated the petitions for new or expanded exemptions and grouped them into 12 classes. The Office has outlined three rounds of public comment on those classes of exemptions, a process that will continue into 2018. For information on the rulemaking, see <https://www.copyright.gov/1201/>.

Educating Authors on Fair Use

The Copyright Office hosts and maintains the Fair Use Index, a searchable database of notable cases from U.S. courts that comment on fair use law, which was undertaken in coordination with the Intellectual Property Enforcement Coordinator. April 2017 marked the two-year anniversary of the Index, and – as of November 2017 – the Index contains almost 200 cases. The Index is continually updated to keep practitioners and the public informed of new or prominent issues in fair use law, the application of fair use to a variety of types of works, and the law across appellate jurisdictions in the United States. The Index contains clear and concise language describing the facts and outcome of each case, making the Index accessible to the general public and providing valuable information – including a full legal citation – to aid a viewer in further research. The Fair Use Index is hosted at <https://www.copyright.gov/fair-use/index.html>.

International Capacity Building and Training

Throughout the year, the U.S. Copyright Office continued to provide outreach and education regarding copyright issues to foreign visitors. The Copyright 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 (such as the State Department and the USPTO) to participate in meetings organized by those agencies, or to have visitors in those programs meet with the Office directly. Every two years, the Copyright Office and World Intellectual Property Organization (WIPO) co-host the International Copyright Institute, a symposium held in Washington, D.C. The week-long program is one of the Copyright Office's premier training events and brings together senior-level copyright officials from twenty-two countries to hear from more than fifty government, private industry, and civil society experts on emerging issues in copyright law and policy. The last ICI was in 2016, and the Office is currently preparing for the next ICI in 2018.