

ANNUAL INTELLECTUAL PROPERTY REPORT TO CONGRESS

February 2019



UNITED STATES
INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR



IPEC ANNUAL INTELLECTUAL PROPERTY REPORT TO CONGRESS:

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

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

The Trump Administration's Annual Intellectual Property Report to Congress, developed by the Office of the U.S. Intellectual Property Enforcement Coordinator, brings together the combined and coordinated efforts of the White House, the Departments of Commerce, Justice, Homeland Security, State, Treasury, 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 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 (IP) underpins nearly every aspect of our economy – it supports good paying jobs, it supports the arts, sciences and technology, and it creates a framework that allows new industries and innovations to flourish.

On April 26, 2018, President Trump, became the first President to formally recognize World Intellectual Property Day and proclaimed that “[o]n World Intellectual Property Day, we not only celebrate invention and innovation, but also we recognize how integral intellectual property rights are to our Nation’s economic competitiveness.” For this reason, the President stated that “[o]ur country will no longer turn a blind eye to the theft of American jobs, wealth, and intellectual property through the unfair and unscrupulous economic practices of some foreign actors.”²

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

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

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) - <https://www.govinfo.gov/content/pkg/DCPD-201700571/pdf/DCPD-201700571.pdf>

² President Trump Proclaims April 26, 2018, as World Intellectual Property Day (April 26, 2018) - <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-proclaims-april-26-2018-world-intellectual-property-day/>

³ U.S. Code: Title 15 (Commerce and Trade), Chapter 107 (Protection of Intellectual Property Rights) - 15 U.S.C §8111. The IPEC Office is part of the White House Office of Management and Budget in the Executive Office of the President.



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

The Administration's four-part strategic approach includes:

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

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

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

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

Across the Administration, federal departments have vital roles over intellectual property policy and strategy. The Secretary of Commerce leads several agencies that have important intellectual property responsibilities and serves as a leading voice shaping intellectual property policy both in the United States and abroad. Chief among the Commerce Department agencies is the USPTO, with statutory authority to advise "the President, through the Secretary of Commerce,

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



on national and certain international intellectual property issues” and advise “Federal departments and agencies on matters of intellectual property in the United States and intellectual property protection in other countries.” 35 U.S.C. §2(b) (8)-(13). Other Commerce Department agencies that work on intellectual property issues include the International Trade Administration (ITA), the National Telecommunications and Information Administration (NTIA), and the Bureau of Industry and Security (BIS).

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

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

As the United States government works to advance American economic interests overseas, a significant component of our enforcement and protection efforts includes addressing trade enforcement, market access, competition, digital trade, cybersecurity, and rule of law concerns in the intellectual property space, around the world. American innovators and creators must be able to operate in foreign markets that provide them with clear paths to secure and use their IP. Countries and foreign companies should not be allowed to profit off of the theft or misappropriation of American intellectual property, including, for example, by trade secret theft, IP infringement, piracy, forced technology transfers or localization requirements. Additionally, American brand holders must have full and fair ability to market and sell their products and use their properly registered trademarks across the globe, without undue restrictions. The recently-concluded U.S.-Mexico-Canada Agreement has the strongest and most comprehensive IP standards of any prior U.S. Free Trade Agreement (FTA).

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. During the past year, Congress considered and passed the Orrin G. Hatch–Bob Goodlatte Music Modernization Act, which the President signed into law on October 11, 2018. As President Trump explained, this “landmark legislation” – which had bipartisan sponsorship and was unanimously passed by both the Senate and the House –



“provides critical updates to copyright law to reflect the realities of music licensing in the digital age and to better reward artists and producers for the online use of their music.”⁵

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.



⁵ Statement by the President on signing H.R. 1551, the Orrin G. Hatch–Bob Goodlatte Music Modernization Act (October 11, 2018) - <https://www.whitehouse.gov/briefings-statements/statement-by-the-president-7/>



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

The Trump Administration is 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” and “emphasize fair trade enforcement actions when necessary, as well as multinational efforts to ensure transparency and adherence to international standards within trade and investment projects.”⁷

In China, President Trump “discussed with President Xi the chronic imbalance in our relationship as it pertains to trade, and the concrete steps that [the U.S. and China] will jointly take to solve the problem of the massive trade distortion. This includes addressing China’s market access restrictions and technology transfer requirements, which prevent American companies from being able to fairly compete within China. The United States is committed to protecting the intellectual property of our companies and providing a level playing field for our workers.”⁸ As part of the United States’ continuing response to China’s theft of American intellectual property and forced transfer of American technology, and at the direction of President Trump, the U.S. has imposed three rounds of tariffs on Chinese products this year, totaling \$250 billion worth of goods.⁹

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/>

⁹ Press Release: USTR Finalizes Tariffs on \$200 Billion of Chinese Imports in Response to China’s Unfair Trade Practices (September 18, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/september/ustr-finalizes-tariffs-200>



In September 2018, under the leadership of President Trump, the United States, Mexico and Canada reached an agreement to modernize the 24-year-old NAFTA into a 21st century, high-standard agreement. The United State-Mexico-Canada Agreement (USMCA) will support mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America. The USMCA includes a modernized, high-standard Intellectual Property chapter, which breaks new ground in U.S. trade and IP policy. It contains comprehensive protections against misappropriation of trade secrets, including by state-owned enterprises. It establishes a minimum term of data protection for biologic drugs of 10 years. It provides the most robust border enforcement mechanisms of any prior FTA. In addition, strong copyright protection and enforcement, more transparency in the grant of Geographical Indications (GI) protection or recognition, and full national treatment also promote the strong and effective protection and enforcement of IP rights that is critical to driving innovation, creating economic growth, and supporting American jobs.¹⁰

And, in October 2018, USTR announced that, “[u]nder President Trump’s leadership, we will continue to expand U.S. trade and investment by negotiating trade agreements with Japan, the EU and the United Kingdom. Today’s announcement is an important milestone in that process. We are committed to concluding these negotiations with timely and substantive results for American workers, farmers, ranchers, and businesses.”¹¹

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

OECD is a 36-member international organization that provides a forum for governments to cooperate on a wide range of economic and social issues, and also provides analysis and data on global economic and trade developments, including intellectual property systems, among other issues. In March 2018, the U.S. Intellectual Property Enforcement Coordinator provided the keynote address at the Washington, D.C. launch of the OECD’s report on *Governance Frameworks to Counter Illicit Trade*.¹²

In April 2018, a USTR-led interagency team represented the United States in ongoing trade discussions with India as part of the U.S.-India Bilateral Trade Policy Forum (TPF). The TPF is the primary bilateral trade and investment dialogue between the U.S. and India and features four working groups, including a group on Intellectual Property. The 2018 meeting included discussions on a wide range of IP protection and enforcement issues, including trade secrets.

¹⁰ United States–Mexico–Canada Trade Fact Sheet: Modernizing NAFTA into a 21st Century Trade Agreement (October 1, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2018/october/united-states%E2%80%93mexico%E2%80%93canada-trade-fa-1>

¹¹ Press Release: Trump Administration Announces Intent to Negotiate Trade Agreements with Japan, the European Union and the United Kingdom (October 16, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/october/trump-administration-announces>

¹² The OECD report is available at <http://www.oecd.org/gov/governance-frameworks-to-counter-illicit-trade-9789264291652-en.htm>



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. Intellectual Property Enforcement Coordinator to discuss priority IP concerns. In addition, along with representatives from the State Department, Department of Homeland Security, and Commerce Department, the U.S. Intellectual Property Enforcement Coordinator met in both New Delhi and Mumbai with high-level officials from the Indian government and stakeholders from various industries to identify areas where the Indian intellectual property regime and associated enforcement could be improved.

In August 2018, the U.S. Intellectual Property Enforcement Coordinator led an inter-agency U.S. delegation to Southeast Asia that included representatives from the Justice Department, the State Department, Commerce Department, and the Department of Homeland Security. The delegation met with foreign counterparts in Vietnam, Thailand, and Hong Kong to discuss a range of intellectual property and related trade and law enforcement issues in the region. Senior government officials in the countries acknowledged the importance of strengthening IP enforcement and discussed ways to enhance cooperation with the U.S. The U.S. will continue to address intellectual property and related trade and law enforcement issues with those countries through bilateral engagements, including through the Trade and Investment Framework Agreements with Vietnam and Thailand.

On October 17, 2018, the Administration announced that it was submitting a notice of withdrawal from the Universal Postal Union (UPU).¹³ As the Chairman of the Postal Regulatory Commission explained, “[t]he UPU continues to promulgate agreements that require posts to undercharge for delivery of inbound mail, to insulate postal shipments from full application of national customs laws, and to promote a different legal regime for postal operators and competing private carriers.”¹⁴ As the President explained in his memorandum of August 23, 2018, the current UPU system “distorts the flow of small packages around the world by incentivizing the shipping of goods from foreign countries that benefit from artificially low reimbursement rates”; as a result, “in many cases” – including when packages are shipped by air from China to the US – the postal charges “are less than comparable domestic postage rates” for packages that are shipped entirely within the United States.¹⁵ For example, a small package is charged less to be shipped by air from China to the United States than when it is shipped entirely within the US. In addition to other negative impacts, this artificially low postage has significantly contributed to the rapid growth in recent years of counterfeits being shipped from China to the United States. The Administration’s notice of withdrawal is intended to address this and other problems. As the Postal Regulatory Commission’s Chairman explained, the Administration’s decision “is a tremendous step towards finally addressing these distortions on

¹³ Statement from the White House Press Secretary (October 17, 2018) - <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-38/>

¹⁴ Statement of Chairman Robert G. Taub, Postal Regulatory Commission (October 17, 2018) - https://www.prc.gov/sites/default/files/pr/Chairman%20Taub%20Statement%20on%20UPU_0.pdf

¹⁵ Presidential Memorandum of August 23, 2018, on “Modernizing the Monetary Reimbursement Model for the Delivery of Goods Through the International Postal System and Enhancing the Security and Safety of International Mail” - <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-treasury-secretary-homeland-security-postmaster-general-chairman-postal-regulatory-commission/>



behalf of our fellow Americans – particularly U.S. merchants, U.S. mailers, and U.S. private-sector carriers who are trying to compete fairly in these global markets.”

In September 2018, USPTO participated in the 58th assemblies of the member states of the WIPO. There the Administration engaged with WIPO officials and participated in bilateral discussions on intellectual property with a number of trading partners, including the European Union, Japan, United Kingdom, Canada, Mexico, Australia, South Korea, Singapore, and Chile.

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.¹⁶

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 2018, the USPTO’s Global Intellectual Property Academy (GIPA) developed and provided capacity building programs that addressed a full range of IP protection and enforcement matters, including enforcement of IP rights at national borders, Internet piracy, express mail shipments, trade secrets, copyright policy, and patent and trademark examination. During the last year, the programs cumulatively included just under 4,000 government officials, judges and prosecutors, from 83 countries.¹⁷

In 2018, 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, 2018, highlighting IP’s importance in fostering innovation and economic growth. The theme in 2018 was “Powering Change: Women in Innovation and Creativity,” and events focused on celebrating all of the industrious and brilliant women who have changed, and who continue to change, the world with their inventions, innovations, and other creative contributions to society. To celebrate the occasion, U.S. Embassies and consulates hosted IP-focused panel discussions, contests, and workshops.

¹⁶ 2018 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/files/Press/Reports/2018%20Special%20301.pdf>)

¹⁷ For a comprehensive list of the types of programs conducted by Executive Branch agencies in 2018, please see the appendices.



Every two years, the Copyright Office and WIPO co-host the week-long International Copyright Institute (ICI), a symposium held in Washington, D.C. that is one of the Copyright Office’s premier training events. The 2018 ICI, held in early June, was on “Copyright and Cross-Border Issues for Developing Countries and Countries with Economies in Transition.” Copyright officials from 17 countries heard from over 50 experts on topics ranging from copyright registration systems in the 21st century to inter-governmental coordination on criminal enforcement across borders.

The United States’ inter-agency IP training and capacity building efforts involve a multitude of Federal agencies. For example, in April 2018, USPTO and the IP Attaché in Brazil, in conjunction with the Department of Justice’s Intellectual Property Law Enforcement Coordinator (IPLEC) for Latin America (stationed in Sao Paulo), organized a Workshop on Combatting trade in Illicit and Counterfeit Agricultural Chemicals that was held in Foz do Iguacu, Brazil. The USPTO had organized several previous workshops on this issue in Southeast Asia and were asked by stakeholders to organize a similar workshop in South America. Approximately 40 law enforcement and regulatory officials from Brazil, Argentina, Uruguay, and Paraguay discussed the laws and regulations covering the sale, import, export and use of pesticides and the parties responsible for testing, inspecting, auditing and enforcing these laws. They also shared strategies and presented case studies on best practices for investigating and prosecuting IP and environmental crimes. In addition, the leading private stakeholders in the agricultural industry provided an overview of the trends and their challenges in protecting and enforcing IP in the tri-border area (Argentina, Paraguay, and Brazil).





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 "[e]very year, competitors such as China steal U.S. intellectual property valued at hundreds of billions of dollars. Stealing proprietary technology and early-stage ideas allows competitors to unfairly tap into the innovation of free societies."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

In August 2017, President Trump directed the United States Trade Representative to investigate China’s laws, policies, practices, and actions that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technology development. On August 18, 2017, the Trade Representative initiated an investigation under section 301 of the Trade Act of 1974 (19 U.S.C. 2411).²³

In March 2018, USTR released the findings of its exhaustive investigation; USTR found that China’s acts, policies, and practices related to technology transfer, intellectual property and innovation are unreasonable and discriminatory and burden or restrict U.S. commerce.²⁴ Based on these findings, the President issued a memorandum that directed the U.S. Trade Representative to take all appropriate action under Section 301, including considering increased tariffs on goods from China and pursuing dispute settlement proceedings in the WTO.²⁵ Initially the U.S. imposed a 25 percent duty that affected \$34 billion in Chinese imports, including farm equipment, motor vehicles, medical equipment and products made of aluminum and steel. That was followed by a second round of tariffs on \$16 billion in Chinese goods. Starting September 24, and in response to China’s refusal to eliminate its acts, policies, and practices, tariffs on another \$200 billion in Chinese imports went into effect initially set at a rate of 10 percent (the rate will increase to 25 percent on March 2, 2019).²⁶ USTR explained the need to take these tariff actions, in response to China’s unfair trade practices:

“We must take strong defensive actions to protect America’s leadership in technology and innovation against the unprecedented threat posed by China’s theft of our intellectual property, the forced transfer of American technology, and its cyber-attacks on our computer networks. China’s government is aggressively working to undermine America’s high-tech

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

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

²⁴ USTR, Findings Of The Investigation Into China’s Acts, Policies, And Practices Related To Technology Transfer, Intellectual Property, and Innovation Under Section 301 of the Trade Act of 1974 (March 22, 2018) - <https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF>

²⁵ Presidential Memorandum on the Actions by the United States Related to the Section 301 Investigation (March 22, 2018) - <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-actions-united-states-related-section-301-investigation/>

²⁶USTR, Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation , 83 FR 65198 (December 19, 2018) –

<https://www.govinfo.gov/content/pkg/FR-2018-12-19/pdf/2018-27458.pdf>; Press Release: USTR Finalizes Tariffs on \$200 Billion of Chinese Imports in Response to China’s Unfair Trade Practices (September 19, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/september/ustr-finalizes-tariffs-200>



industries and our economic leadership through unfair trade practices and industrial policies like ‘Made in China 2025.’ Technology and innovation are America’s greatest economic assets and President Trump rightfully recognizes that if we want our country to have a prosperous future, we must take a stand now to uphold fair trade and protect American competitiveness.”²⁷

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.”²⁸

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

USTR also works closely with executive branch departments and agencies to prepare the Annual Special 301 report that identifies U.S. trading partners that do not adequately protect intellectual property rights, and to compile the annual Notorious Markets list, that highlights prominent online and physical marketplaces, outside the United States, that engage in and facilitate substantial piracy and counterfeiting. The Annual Special 301 report provides a review of the state of IP protection and enforcement in U.S. trading partners around the world. The report calls out foreign countries and exposes the laws, policies, and practices that fail to provide adequate and effective IP protection and enforcement for U.S. inventors, creators, brands, manufacturers, and service providers.²⁹ 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.”³⁰ 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

²⁷ Press Release: USTR Issues Tariffs on Chinese Products in Response to Unfair Trade Practices (June 15, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/june/ustr-issues-tariffs-chinese-products>

²⁸ National Security Strategy, December 18, 2017 (page 20) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

²⁹ 2018 Special 301 Report - <https://ustr.gov/sites/default/files/files/Press/Reports/2018%20Special%20301.pdf>

³⁰ 2017 Out of Cycle Review of Notorious Markets (January 11, 2018) - <https://ustr.gov/sites/default/files/files/Press/Reports/2017%20Notorious%20Markets%20List%201.11.18.pdf>



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.³¹

The World Trade Organization is one forum for enforcing U.S. rights under various WTO agreements to ensure that the United States receives the full benefits of WTO membership. These WTO agreements also provide a foundation for high-standard U.S. bilateral and regional agreements that make a positive contribution to a free, fair and open global trading system based on the rule of law. In regards to intellectual property rights, the WTO provides a venue for the United States to engage with trading partners on key IP issues, including through accession negotiations for prospective Members, the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council), and by bringing IPR-related cases before the WTO's Dispute Settlement Body. On March 23, 2018, the United States initiated dispute settlement proceedings against China concerning its discriminatory technology licensing requirements.³² In its request for consultations, the United States identified breaches by China of WTO rules, harming the intellectual property rights of U.S. companies and innovators. On October 18, 2018, the United States requested that the WTO establish a panel to examine the U.S. complaint after consultations did not resolve the matter.³³

As noted, above, the National Security Strategy – issued in December 2017 – stated that “this Administration will work with the Congress to strengthen the Committee on Foreign Investment in the United States (CFIUS) to ensure it addresses current and future national security risks.”³⁴ CFIUS is an interagency committee authorized to review certain transactions in order to determine the effect of such transactions on the national security of the United States. A CFIUS review can be initiated voluntarily when parties to a transaction that might raise national security concerns file a voluntary notice with CFIUS, or involuntarily, when CFIUS unilaterally initiates review. If CFIUS determines that the transaction presents national security risks that cannot be adequately resolved by other laws or by mitigation measures agreed or imposed by CFIUS, then CFIUS may refer the transaction to the President. The President may suspend or prohibit the transaction. In 2018, President Trump blocked the acquisition of U.S. chipmaker Qualcomm by its Asian competitor, Broadcom. As the Treasury Secretary explained, President Trump assessed that the transaction posed a risk to the national security of the United States.³⁵

³¹ 19 CFR Part 210

³² Press Release: Following President Trump's Section 301 Decisions, USTR Launches New WTO Challenge Against China (March 23, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/march/following-president-trump%E2%80%99s-section>.

³³ Request for the Establishment of a Panel by the United States, *China – Certain Measures Concerning the Protection of Intellectual Property Rights* (WT/DS542/8) - https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds542_e.htm

³⁴ National Security Strategy, December 18, 2017 (page 22) - <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

³⁵ Statement by Secretary Mnuchin on the President's Decision Regarding Broadcom's Takeover Attempt of Qualcomm (March 12, 2018) - <https://home.treasury.gov/news/press-releases/sm0309>



During the past year, Congress passed the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), which the President signed into law on August 13, 2018. As the President explained, “[t]his new authority will enhance our ability to protect cutting-edge American technology and intellectual property vital to our national security. . . . I’m pleased this new legislation provides the Committee on Foreign Investment in the United States greater authority when it comes to reviewing foreign ownership of American firms with critical technology and intellectual property.”³⁶



³⁶ Remarks by President Trump at a Roundtable on the Foreign Investment Risk Review Modernization Act (FIRRMA) (August 23, 2018) - <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-roundtable-foreign-investment-risk-review-modernization-act-firrna/>



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. Trump³⁷

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

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

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

The National Intellectual Property Rights Coordination Center³⁸ (IPR Center), a joint enforcement collaboration led by the Department of Homeland Security, brings government

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) - <https://www.govinfo.gov/content/pkg/DCPD-201700571/pdf/DCPD-201700571.pdf>

³⁸ The federal member agencies of the IPR Center include: U.S. Customs and Border Protection, the Federal Bureau of Investigation, the United States Postal Inspection Service, the Food and Drug Administration’s Office of Criminal



agencies together to share information, leverage resources, and train investigators, prosecutors, and the public on IP. The IPR Center also conducts an aggressive international program to promote cooperative enforcement efforts with our trading partners and to improve substantive laws and enforcement regimes in other countries. Additionally, the IPR Center continues to engage industry in an open and on-going dialogue. Through this approach, the IPR Center utilizes both law enforcement efforts and private industry collaboration to effectively combat intellectual property crimes. The IPR Center has developed numerous initiatives and interdiction efforts to combat the infiltration of counterfeits. These efforts are focused on counterfeits that pose a risk to the health and safety of the consumer, counterfeits entering the U.S. Department of Defense (DOD) and U.S. Government supply chains, and the protection of the U.S. economy. In addition, on October 30, 2018, the IPR Center signed an agreement with the City of London Police (CoLP) for CoLP to become the fifth international member of the IPR Center (the other four international members are Interpol, Europol, the Mexican Revenue Service, and the Royal Canadian Mounted Police).³⁹

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 FY2018 the IPR Center reached out to more than 16,478 people at 308 outreach and training events. In addition to these efforts, DHS law enforcement agencies that support IP enforcement had numerous other engagements with stakeholders in 2018. For example, Project Trade Watch is Immigration and Customs Enforcement (ICE) Homeland Security Investigations (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, HSI and the Automotive Anti-Counterfeiting Council (A2C2) worked together to provide training to HSI and CBP field offices to train personnel on how to identify counterfeits.

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).

Investigations, the Department of Commerce's International Trade Administration, the Naval Criminal Investigative Service, the Defense Criminal Investigative Service, the Defense Logistics Agency's Office of Inspector General, U.S. Immigration and Customs Enforcement's Homeland Security Investigations, the United States Nuclear Regulatory Commission, the United States Patent and Trademark Office, the General Service Administration's Office of Inspector General, the Consumer Product Safety Commission, the National Aeronautics and Space Administration's Office of Inspector General, the Department of State's Office of International Intellectual Property Enforcement, the Army Criminal Investigation Command's Major Procurement Fraud Unit, the Air Force Office of Special Investigations, the U.S. Postal Service Office of Inspector General, and the Federal Maritime Commission.

³⁹ News Release: ICE HSI teams with London police to fight counterfeiting (October 30, 2018) –

<https://www.ice.gov/news/releases/ice-hsi-teams-london-police-fight-counterfeiting#wcm-survey-target-id>



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

From July 1, 2017 to June 30, 2018, local law enforcement grantees:⁴⁰

- Arrested 423 individuals for violations of IP laws;
- Served 187 state and local IP search warrants; and
- Disrupted or dismantled 428 piracy/counterfeiting organizations.

DOJ has conducted training programs for state and local law enforcement, that have cumulatively, supported: 104 trainings for 2,404 attendees from 1,246 agencies; 16 seminars for 538 attendees from 185 agencies; and 33 technical assistance visits for 399 attendees from 118 agencies.

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

At the end of FY 2018, the FBI had 195 pending IPR investigations. The largest number of investigations deal with the theft of trade secrets (67), copyright infringement (64), and trademark infringement (64). During FY 2018, the FBI initiated 54 new investigations, made 22 arrests, obtained 12 convictions, forfeitures totaling \$3,176,949, and restitutions totaling \$64,549,217.

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

⁴⁰ See Appendix (Department of Justice)



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

The health and safety initiative brings together private, state, and federal enforcement resources to address the proliferation of counterfeit goods posing a danger to consumers, including counterfeit and illegally prescribed pharmaceuticals, automotive parts, and military goods.⁴¹ 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.⁴² DOJ continues to pursue significant, large-scale piracy and counterfeiting operations.⁴³

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.⁴⁴

IPR Center partner Attachés establish strong working relationships with host country counterparts. These relationships strengthen IPR Center partners' capacity to conduct successful domestic, international, and multilateral operations. IPR Center partner Attachés provide coverage in over 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

⁴¹ See Appendix (Department of Justice) for FY 2018 significant prosecutions

⁴² See Appendix (Department of Justice) for FY 2018 significant prosecutions

⁴³ See Appendix (Department of Justice) for FY 2018 significant prosecutions

⁴⁴ See Appendices for detailed examples on U.S. government training and capacity building programs



been expanded under the Trump Administration with the creation of a new Global IPLEC Network. The United States now has five IPLECs deployed to work collaboratively within and across their regions to mitigate threats to IP protections, including that 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 law enforcement cooperation is a key goal. For example, in 2018 multiple federal and state law enforcement agencies worked together to stop a massive smuggling operation of counterfeit luxury goods. Specifically, 33 individuals were charged following an investigation by U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) into a scheme to illegally bring into the United States millions of dollars of Chinese-manufactured counterfeit goods by smuggling them through ports of entry on the East and West Coasts.⁴⁵ The investigation was conducted by HSI Intellectual Property Group and HSI Border Enforcement Security Task Force and the NYPD Border Security Enforcement Task Force. Assistance was provided by U.S. Customs and Border Protection, the New York State Police and the Brooklyn District Attorney's Office. The federal charges against 22 of the defendants are being prosecuted by the United States Attorney's Office for the Eastern District of New York and Computer Crime and Intellectual Property Section of the Criminal Division at the Department of Justice; a related state case is being prosecuted by the Queens District Attorney's Office.

The IPR Center's Operation Team Player targets the sale and trafficking of counterfeit sports merchandise, apparel and tickets. During FY 2018, Operation Team Player resulted in the seizure of over 171,926 counterfeit sports- and entertainment-related items worth an estimated \$15.69 million, and joint investigative efforts led to 65 arrests with 24 convictions.⁴⁶ This year's Operation Team Player, which saw a 16 percent increase in arrests, began at the conclusion of last year's Super Bowl. Throughout the year, the IPR Center led coordinated efforts with major sporting leagues to target contraband that harms the economy, provides financing that supports other criminal activities, and poses potential public health and safety hazards.

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

In July 2018, IPEC convened a White House IP Roundtable, with representatives from the White House, Department of Homeland Security, and Congress to meet with industry stakeholders and

⁴⁵ News Release: 33 charged in half a billion dollar smuggling scheme of counterfeit luxury goods (August 6, 2018) - <https://www.ice.gov/news/releases/33-charged-half-billion-dollar-smuggling-scheme-counterfeit-luxury-goods>

⁴⁶ News Release: 'Operation Team Player' nets over \$15 million in fake sports merchandise (February 1, 2018) - <https://www.ice.gov/news/releases/operation-team-player-nets-over-15-million-fake-sports-merchandise>



shippers to discuss the challenges associated with the influx of small parcels in the express consignment and international mail environment. DHS/CBP officials shared information on how the large and growing number of small parcels moving through international mail and express facilities puts a tremendous burden on DHS/CBP's inspection and interdiction resources and poses a significant challenge in the fight against counterfeit and pirated goods. Participants from industry and shipping companies provided examples of how increased information sharing amongst the involved parties could aid in their own investigations and ultimately assist DHS/CBP in increasing the effectiveness of its interdiction efforts.

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

“Strong intellectual property protections ensure continued economic growth and innovation in the digital age. The United States Government has fostered and will continue to help foster a global intellectual property rights system that provides incentives for innovation through the protection and enforcement of intellectual property rights such as patents, trademarks, and copyrights.”⁴⁷

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

“The United States Government will also promote protection of sensitive emerging technologies and trade secrets, and we will work to prevent adversarial nation states from gaining unfair advantage at the expense of American research and development. . . . For more than a decade, malicious actors have conducted cyber intrusions into United States commercial networks, targeting confidential business information held by American firms. Malicious cyber actors from other nations have stolen troves of trade secrets, technical data, and sensitive proprietary internal communications. The United States Government will work against the illicit appropriation of public and private sector technology and technical knowledge by foreign competitors, while maintaining an investor-friendly climate.”⁴⁸

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

During the past year, a China-based manufacturer and exporter of wind turbines, Sinovel, was convicted in federal court and sentenced for stealing trade secrets from AMSC, a U.S.-based company formerly known as American Superconductor Inc. Sinovel stole AMSC's proprietary

⁴⁷ White House, National Cyber Strategy of the United States of America (September 2018) (page 16) - <https://www.whitehouse.gov/wp-content/uploads/2018/09/National-Cyber-Strategy.pdf>

⁴⁸ Id. (pages 16-17)



wind turbine technology in order to produce wind turbines and retrofit existing turbines with AMSC technology.⁴⁹

In addition, in March 2018, the DOJ brought charges against nine Iranians for their roles in conducting a massive cyber theft campaign on behalf of the Islamic Revolutionary Guard Corps (ISIRI) as well as other Iranian government and university clients.⁵⁰ The defendants were affiliated with the Mabna Institute, an Iran-based company. In its indictment, the Justice Department charged that, as a result of the defendants' activities, the Mabna Institute stole more than 31 terabytes of academic data and intellectual property from universities, and email accounts of employees at private sector companies, government agencies, and non-governmental organizations. In connection with these criminal charges, the Department of the Treasury's Office of Foreign Assets Control (OFAC) imposed sanctions on the Mabna Institute and the nine defendants under Executive Order 13694⁵¹, as amended, which authorizes the imposition of sanctions for such malicious cyber-enabled activity.⁵²

The Justice Department has brought several more trade-secret prosecutions in recent months. On August 1, 2018, the Justice Department announced that a former General Electric (GE) engineer was arrested and charged with the theft of GE's trade secrets involving its turbine technologies.⁵³ On October 10, 2018, the Justice Department announced that an operative of the Chinese Ministry of State Security (MSS) was arrested and charged with conspiring and attempting to commit economic espionage and steal trade secrets from multiple US aviation and aerospace companies. The MSS operative was arrested in Belgium, pursuant to a federal complaint, indicted by a federal grand jury in the Southern District of Ohio, and then extradited to the US.⁵⁴ On October 30, 2018, the Justice Department announced the indictment of two Chinese intelligence officers, and the hackers and co-opted company insiders who worked under their direction, for conspiring to steal intellectual property and confidential business information, including information related to a turbofan engine used in commercial airliners.⁵⁵ And, on

⁴⁹ Press Release: Court Imposes Maximum Fine on Sinovel Wind Group for Theft of Trade Secrets (July 6, 2018) - <https://www.justice.gov/opa/pr/court-imposes-maximum-fine-sinovel-wind-group-theft-trade-secrets>

⁵⁰ Press Release: Nine Iranians Charged With Conducting Massive Cyber Theft Campaign on Behalf of the Islamic Revolutionary Guard Corps (March 23, 2018) - <https://www.justice.gov/opa/pr/nine-iranians-charged-conducting-massive-cyber-theft-campaign-behalf-islamic-revolutionary>

⁵¹ Executive Order 13694 (November 28, 2018) - <https://www.federalregister.gov/documents/2015/04/02/2015-07788/blocking-the-property-of-certain-persons-engaging-in-significant-malicious-cyber-enabled-activities>; this Executive Order was amended by Executive Order 13757 - <https://www.federalregister.gov/documents/2017/01/03/2016-31922/taking-additional-steps-to-address-the-national-emergency-with-respect-to-significant-malicious>

⁵² Press Release: Treasury Sanctions Iranian Cyber Actors for Malicious Cyber-Enabled Activities Targeting Hundreds of Universities (March 23, 2018) - <https://home.treasury.gov/news/press-releases/sm0332>

⁵³ Press Release: New York Man Charged With Theft of Trade Secrets (August 1, 2018) - <https://www.justice.gov/opa/pr/new-york-man-charged-theft-trade-secrets>

⁵⁴ Press Release: Chinese Intelligence Officer Charged with Economic Espionage Involving Theft of Trade Secrets from Leading U.S. Aviation Companies (October 10, 2018) - <https://www.justice.gov/opa/pr/chinese-intelligence-officer-charged-economic-espionage-involving-theft-trade-secrets-leading>

⁵⁵ Press Release: Chinese Intelligence Officers and Their Recruited Hackers and Insiders Conspired to Steal Sensitive Commercial Aviation and Technological Data for Years (October 30, 2018) - <https://www.justice.gov/opa/pr/chinese-intelligence-officers-and-their-recruited-hackers-and-insiders-conspired-steal>



November 1, 2018, the Justice Department announced indictments against a Chinese state-owned enterprise, a Taiwan company, and three individuals, for their conspiracy to steal, convey, and possess stolen trade secrets of an American semiconductor company (Micron Technology, Inc.) for the benefit of a company controlled by the Chinese government. The Justice Department also filed a civil lawsuit to enjoin the further transfer of the stolen trade secrets and to enjoin certain defendants from exporting to the United States any products manufactured by the indicted companies that were created using the trade secrets (in another action to prevent the Chinese company from profiting from the stolen technology, the Commerce Department added the company to the Entity List, which will prevent it from buying goods and services in the United States).⁵⁶ And, on January 28, 2019, the Justice Department announced an indictment against a Chinese company and its U.S. affiliate for their attempted theft of trade secrets of an American telecommunications company (T-Mobile USA).

Finally, on November 1, 2018, the Attorney General announced the creation of a China Initiative led by the National Security Division's Assistant Attorney General, and composed of a senior FBI Executive, five United States Attorneys, and several other Department of Justice leaders and officials, including the Criminal Division's Assistant Attorney General. As the Attorney General explained, “[t]his Initiative will identify priority Chinese trade theft cases, ensure that we have enough resources dedicated to them, and make sure that we bring them to an appropriate conclusion quickly and effectively.”⁵⁷ In the subsequent three months, the Justice Department has continued to bring prosecutions for the theft of trade secrets and other confidential business information.⁵⁸ These will be discussed in next year's annual report, covering Fiscal Year 2019.

⁵⁶ Press Release: PRC State-Owned Company, Taiwan Company, and Three Individuals Charged with Economic Espionage (November 1, 2018) - <https://www.justice.gov/opa/pr/prc-state-owned-company-taiwan-company-and-three-individuals-charged-economic-espionage>

⁵⁷ Press Release: Attorney General Jeff Sessions Announces New Initiative to Combat Chinese Economic Espionage” (November 1, 2018) - <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-announces-new-initiative-combat-chinese-economic-espionage>. See also “Attorney General Jeff Session’s China Initiative Fact Sheet” (November 1, 2018) - <https://www.justice.gov/opa/speech/file/1107256/download>; “Assistant Attorney General for National Security John C. Demers Delivers Remarks Regarding Economic Espionage by the People’s Republic of China” (November 1, 2018) - <https://www.justice.gov/opa/speech/assistant-attorney-general-national-security-john-c-demers-delivers-remarks-regarding>; “Assistant Attorney General Brian A. Benczkowski of the Criminal Division Delivers Remarks Regarding Chinese Economic Espionage” (November 1, 2018) - <https://www.justice.gov/opa/speech/assistant-attorney-general-brian-benczkowski-criminal-division-delivers-remarks-regarding>; and Remarks by FBI Director Wray, “Keeping Our Financial Systems Secure: A Whole-of-Society Response” (November 1, 2018) - <https://www.fbi.gov/news/speeches/keeping-our-financial-systems-secure-a-whole-of-society-response>.

⁵⁸ Press Releases: Two Chinese Hackers Associated With the Ministry of State Security Charged with Global Computer Intrusion Campaigns Targeting Intellectual Property and Confidential Business Information (December 20, 2018) – <https://www.justice.gov/opa/pr/two-chinese-hackers-associated-ministry-state-security-charged-global-computer-intrusion> – and Deputy Attorney General Rod J. Rosenstein Announces Charges Against Chinese Hackers (December 20, 2018) – <https://www.justice.gov/opa/speech/deputy-attorney-general-rod-j-rosenstein-announces-charges-against-chinese-hackers>; Press Release: Chinese National Charged with Committing Theft of Trade Secrets (December 21, 2018) – <https://www.justice.gov/opa/pr/chinese-national-charged-committing-theft-trade-secrets>; Press Release: Chinese Telecommunications Device Manufacturer and its U.S. Affiliate Indicted for Theft of Trade Secrets, Wire Fraud, and Obstruction Of Justice (January 28, 2019) – <https://www.justice.gov/opa/pr/chinese-telecommunications-device-manufacturer-and-its-us-affiliate-indicted-theft-trade>



Coordinating efforts across the government is critical to successfully tackling IP enforcement. The White House has convened a number of roundtables bringing together industry representatives with government officials from a range of departments and agencies, and Members of Congress, in order to together strategize on ways to address various intellectual property related issues. In March 2018, IPEC hosted its first White House IP Roundtable on counterfeits in the auto-industry. This roundtable was a candid discussion on counterfeit auto parts and the serious public safety issues they raise. Roundtable participants included representatives from major auto manufacturers and auto associations along with officials from the Department of Homeland Security’s IPR Center, CBP, the FBI, the Department of Transportation, and the Justice Department. The roundtable examined current industry initiatives, such as the efforts of the Automotive Anti-Counterfeiting Council (A2C2), and current law enforcement initiatives like the IPR Center’s Operation Engine Newity and CBP’s Centers for Excellence and Experience (CEE). Further, the discussion focused on lessons learned from such initiatives, how to leverage experience to increase the effectiveness of future work, and how to increase collaboration between the auto industry and government.

The intellectual property issues surrounding the online sale of goods and services are well-documented. Many stakeholders, including online sales platforms, payment processing companies and advertising networks, have formed collaborative partnerships to address these concerns, while encouraging innovation in the digital environment. Still, certain issues remain outstanding, and rapid advances in internet-enabled commerce – including entirely new business models – have brought new problems that need to be addressed. The Administration 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.





ENGAGEMENT AND PARTNERSHIP WITH THE PRIVATE SECTOR AND OTHER STAKEHOLDERS



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

- President Donald J. Trump⁵⁹

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

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

Throughout 2018, the Administration engaged with a variety of stakeholders in support of enhancing the protection and enforcement of intellectual property rights. These efforts involved departments and agencies across the Executive Branch, engaging with representatives of the private sector, trade associations, think tanks, academia, and other entities. These discussions also extended to foreign government officials, international governmental institutions (such as INTERPOL, Europol, and WIPO), and private-sector associations and groups in other countries.

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

⁵⁹ Remarks by the President on Signing a Memorandum on Addressing China’s Laws, Policies, Practices, and Actions Related to Intellectual Property, Innovation, and Technology (August 14, 2017) - <https://www.govinfo.gov/content/pkg/DCPD-201700571/pdf/DCPD-201700571.pdf>



Throughout 2018, the White House, led by the U.S. Intellectual Property Enforcement Coordinator, has convened a number of roundtables, bringing together industry stakeholders and officials from the White House, Congress, and across the government to discuss matters such as the protection of trade secrets, automotive counterfeits, illicit streaming devices, and others.

In May 2018, IPEC hosted a roundtable aimed at addressing the growing use of illicit streaming devices (ISDs) that allow users to illegally access and stream content (e.g., movies, television shows, etc.) from the Internet. IPEC brought together representatives from various fields that are each affected by such online piracy, including movie studios, pay television providers, broadcasters, sports leagues, and the creative community. They described their experiences and concerns with officials from the FBI, Department of Homeland Security, Justice Department, Commerce Department, Federal Communications Commission, Federal Trade Commission, USTR, and Congress.

The issue of illicit streaming devices was also a significant topic during the Europol Crime Conference in Budapest, Hungary in June 2018. The IPEC, along with other U.S. government representatives and their international counterparts, met to discuss effective ways to tackle IP crime both in terms of physical goods and online.

In 2018, the White House and Administration officials met with the mobile networking business community to discuss standards setting for the soon-to-be-deployed fifth generation (5G) of wireless infrastructure. Standards bodies are actively trying to develop voluntary consensus standards for 5G that will satisfy the diversified requirements set by the current and future use cases and applications. These meetings emphasized the need for U.S. companies to continue to lead in this space and ensure America is at the forefront of innovation and development.

In 2018, the White House hosted a series of meetings with representatives from digital streaming services, the recording industry, songwriters, and other stakeholders to discuss copyright issues and the legislation that was subsequently signed by President Trump on October 11, 2018 – the Orrin G. Hatch–Bob Goodlatte Music Modernization Act (MMA)⁶⁰. The MMA creates a single licensing entity for all digital compositions, streamlining the process and ensuring that songwriters receive the compensation that they have earned. The MMA also includes provisions that ensure compensation for pre-1972 sound recordings (the CLASSICS Act) and for producers and engineers (the AMP Act). Representatives from digital streaming services, the music industry, and songwriters shared with the Administration how they all came together to express support for this comprehensive update to the creation and distribution in the digital environment. During the signing of the bill, the President remarked that “[t]his legislation will help ensure that artists from eras long ago, in addition to modern day, can retire in security, and that current and upcoming artists can make a living by creating amazing works that captivate their fans and entertain our nation — and the world.”⁶¹

⁶⁰ H.R.1551 (Public Law 115-264), Orrin G. Hatch-Bob Goodlatte Music Modernization Act (October 11, 2018) – <https://www.congress.gov/115/bills/hr1551/BILLS-115hr1551enr.pdf>

⁶¹ Remarks by President Trump at Signing of H.R. 1551, the “Orrin G. Hatch—Bob Goodlatte Music Modernization Act” (October 11, 2018) - <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-signing-h-r-1551-orrin-g-hatch-bob-goodlatte-music-modernization-act/>



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

In 2018, the Global IP Academy (GIPA) at the USPTO organized China IP Road Shows that took place throughout the United States, in Chicago, Denver, Las Vegas, Nashville, Phoenix, Portland, Salt Lake City, San Jose, Seattle, Louisville, Fort Mitchell, New York City, New Orleans, Austin, Baltimore and Boise. These road shows were designed to help SMEs and their IP attorneys understand how to obtain and enforce IP rights in China. In general, GIPA provides IP education programming, a distance learning program for U.S. small-and-medium businesses (SMEs), including a continuing quarterly webinar initiative to provide comprehensive IP education to grantees of the Small Business Administration's SBIR-STTR programs, as well as IP education programming for domestic attorneys general, and webinars. Additionally, GIPA produces and hosts 31 free IPR e-Learning modules that are available to the public. This content covers six different areas of intellectual property, and is available in five languages: Arabic, English, French, Russian, and Spanish. By late 2018, the e-learning products had received over 75,000 hits since content was made available in 2010.

During FY18, the Commerce Department's International Trade Administration (ITA) – with the support of many USG agencies – completed six STOPfakes.gov Roadshows in Seattle, Portland, Austin, Dallas, Phoenix, and Tucson, reaching more than 155 U.S. companies. These Roadshows, what have given increased attention to SMEs, deliver critically important information about intellectual property to audiences that need it most – start-ups, entrepreneurs, small and medium-sized businesses, independent creators, and inventors. For FY19, OIPR intends to expand the STOPfakes Roadshows to 13 more cities throughout the United States.

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 2017, the IPR Center conducted 96 such events.

On World IP Day (April 26, 2018), the IPR Center signed a declaration of intent to support the International Chamber of Commerce's (ICC) Business Action to Stop Counterfeiting and Piracy, and expressed strong commitment to prevent the maritime transport of counterfeit goods. ICC launched this effort, which had been signed in 2016 by shipping companies and freight forwarders and multinational brand owners, in order to address the problem of counterfeit goods



being transported through shipping containers. The IPR Center is the first law-enforcement organization to formally pledge its support for this initiative.⁶²

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 U.S. officials are better equipped to advocate for U.S. rights-holders overseas; provide useful field reporting to inform interagency discussions and deliberations regarding the Special 301 Annual Report to Congress, Notorious Markets, and other IP-related reports and policy discussions; and articulate U.S. government policy positions in bilateral discussions and in international fora.

The Administration also continues to examine opportunities to engage with stakeholders on important areas of IP policy, that includes existing industry-led voluntary initiatives to protect American intellectual property, and new areas for greater cooperation. IPEC will continue to hold White House IP roundtables in 2019, to better engage with stakeholders, develop new initiatives, examine legislative priorities, and find creative solutions. As we look forward, we will build on past roundtables and look to examine new areas of importance to the U.S. economy, stakeholders, and policymakers.

The Trump Administration has begun the process for developing a new 3-year Joint Strategic Plan on Intellectual Property Enforcement. On September 13, 2018, the U.S. Intellectual Property Enforcement Coordinator issued a Federal Register notice requesting public comments for the development of this 3-year strategic plan.⁶³ These comments have been received, and the IPEC Office is currently reviewing them. As the Trump Administration develops this new 3-year plan, we will continue to engage with interested stakeholders and Congress, and we anticipate that the Strategic Plan will be announced later in 2019.

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.



⁶² Press release: ICC welcomes NIPRC signing of Declaration of Intent to Prevent the Maritime Transport of Counterfeit (April 26, 2018) - <https://iccwbo.org/media-wall/news-speeches/icc-welcomes-niprc-signing-declaration-intent-prevent-maritime-transport-counterfeit/>

⁶³ IPEC, Request of the U.S. Intellectual Property Enforcement Coordinator for Public Comments: Development of the Joint Strategic Plan on Intellectual Property Enforcement, 83 FR 46522 (September 13, 2018) - <https://www.gpo.gov/fdsys/pkg/FR-2018-09-13/pdf/2018-19863.pdf>



LOOKING FORWARD



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

- President Donald J. Trump⁶⁴

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

⁶⁴ 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?"

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





INTELLECTUAL PROPERTY: FACTS AND STATS



INTELLECTUAL PROPERTY AND THE ECONOMY:

- The Department of Commerce (2016) designated 81 industries (out of 313 total, more than 25 percent) as IP-intensive in 2014, collectively accounting for \$6.6 trillion value added in 2014, or 38.2 percent of U.S. GDP. IP-intensive industries directly accounted for 27.9 million jobs and indirectly supported an additional 17.6 million jobs, representing almost one in three jobs in the United States. IP-intensive industries also pay well; compared to non-IP intensive industries, workers in IP-intensive industries earn 46 percent higher weekly wages.⁶⁵
- The Department of Commerce reported that technological innovation is linked to roughly three-quarters of U.S. growth since the mid-1940s.⁶⁶
- 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.⁶⁷
- 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.⁶⁸
- 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 2015.⁶⁹
- Merchandise exports of IP industries grew to \$842 billion in 2014, up from \$775 billion in 2010; an 8.6 percent increase.⁷⁰
- 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.⁷¹

⁶⁵ 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>

⁶⁶ 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

⁶⁷ 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>

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ 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 2016.⁷²
- According to the 2017 IP Commission Report, China accounts for 87 percent of counterfeited goods seized coming to the United States.⁷³
- 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.⁷⁴
- The U.S. Customs and Border Protection Bureau (CBP) 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).⁷⁵ (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.⁷⁶
- 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.⁷⁷
- Between 2013 and 2017, total inbound international package mail to the U.S. tripled.⁷⁸ 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

⁷² IP Commission. 2017. "Update to the Report of the Commission on the Theft of American Intellectual Property." http://www.ipcommission.org/report/IP_Commission_Report_Update_2017.pdf

⁷³ IP Commission. 2017. "Update to the Report of the Commission on the Theft of American Intellectual Property." http://www.ipcommission.org/report/IP_Commission_Report_Update_2017.pdf

⁷⁴ IP Commission. 2017. "Update to the Report of the Commission on the Theft of American Intellectual Property." http://www.ipcommission.org/report/IP_Commission_Report_Update_2017.pdf

⁷⁵ 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

⁷⁶ 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

⁷⁷ Ibid.

⁷⁸ 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.⁷⁹



⁷⁹ 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.uspsig.gov/sites/default/files/document-library-files/2015/ms-ar-14-002.pdf>

APPENDICES

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DEPARTMENT OF AGRICULTURE

DEPARTMENT OF AGRICULTURE

Department of Agriculture Appendix for FY 18 Annual Report

Geographical Indications (GIs)

Overview

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

USDA’s GI related activities during FY 2018

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 2018, USDA engaged at the most senior levels with key foreign country counterparts to emphasize concerns and counter harmful GI policies, such as those of the European Union (EU), emphasizing transparency, adherence with internationally recognized standards, seeking an opportunity to comment on any proposed GIs through comment period and requesting the countries be fair in the evaluations. USDA engaged with a number of countries that were negotiating Free Trade Agreements (FTAs) with the EU – including Mexico, Canada, Japan, and the MERCOSUR countries – to raise the importance of preserving common terms for food products.

Secretary Perdue led a GI focused event on the margins of the G-20 with like-minded countries and key industries to raise awareness of the EU approach to GIs as well as to celebrate new world food products, which are often the focus of EU GI protection.

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

More broadly, FAS participated in a panel of public and private entity representatives during a special forum in June entitled, “Intellectual Property, Food Laws, and Global Food Security: Feeding the 9 Billion in 2050” at Michigan State University (MSU). The event was jointly organized by the MSU’s College of Agriculture and Natural Resources and the MSU Law College’s Global Food Law Program. FAS’s representative highlighted how USDA’s international programs can be utilized to promote protection of intellectual property overseas,

especially to help create trade-enabling environments for protected U.S. products and technologies.

Plant Variety Protection

USDA plant variety protection certificates are recognized worldwide and expedite foreign plant variety protection application filing. The Plant Variety Protection Office (PVPO) of USDA's Agricultural Marketing Service (AMS) works actively with members of the International Union for the Protection of New Varieties of Plants to promote cooperation on the standards for variety examination. Once plant variety protection is granted, the certificate owners have exclusive legal rights to market and to exclude others from selling their varieties. This legal protection for breeders and inventors promotes the development of new varieties that can increase yield and crop productivity, increase farmer income, and expand trade opportunities. Other benefits of plant variety protection include provisional protection upon application receipt, priority when filing in another country, user-friendly filing without the need for an attorney, no annual maintenance fees, and applicant-conducted field trials.

USDA Plant Variety Protection Activities in FY 2018

AMS launched the new electronic Plant Variety Protection (ePVP) System in October 2017 using widely available technology to automate the process for plant variety protection applications. The addition of this platform has resulted in increased efficiency and budget savings. The system makes it easier for customers to apply for protection, track an application, correspond with program staff, and make online payments.

During FY 2018, PVPO staff provided presentations on ePVP and examination procedures to delegations from Taiwan, China, The Netherlands, Monsanto, DuPont Pioneer, American Seed Trade Association, and the U.S. Patent and Trademark Office. The presentations highlighted the benefits of the new web-based system for submitting plant variety protection applications, and provided an overview of how PVPO examination procedures have been streamlined to speed up certification for customers.

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

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

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

DEPARTMENT OF COMMERCE

DEPARTMENT OF COMMERCE

Department of Commerce Appendix for FY 18 Annual Report

This appendix discusses the FY 2018 activities of the Commerce Department, including 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).

COMMERCIAL LAW DEVELOPMENT PROGRAM (CLDP)

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

As the Office of General Counsel's technical assistance arm, CLDP upholds the Department of Commerce's mission, as stated in its 2014-2018 strategic plan 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."

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

In FY 2018, these CLDP activities were conducted in Armenia, Azerbaijan, Bosnia and Herzegovina, Pakistan, Sri Lanka, Tajikistan, Tunisia, Ukraine, and the United States. In addition, regional programs were conducted for MENA countries.

As outlined below, CLDP's activities mainly fell into four main categories: Capacity Building in Border Enforcement; Judicial Capacity Building in IPR Enforcement; Capacity Building for Institutions that Enforce IPR; and Development of Innovation Ecosystems in Particular Through Technology Transfer.

The following are notable CLDP programs during FY 2018 (more detailed descriptions are further below).

Capacity Building in Border Enforcement

Afghanistan:

TRIPS Border Enforcement Workshop, April 2018

Azerbaijan:

Workshop on Border Enforcement of Intellectual Property Rights, March 2018

Tajikistan:

Workshop on Border Identification and Interdiction of Counterfeit and Pirated Products, May 2018

Judicial Capacity Building in IPR Enforcement

Azerbaijan:

IPR Adjudication, September 2018

Bosnia and Herzegovina:

Workshop on Adjudication of Civil Intellectual Property Infringement Cases, June 2018

Pakistan:

Intellectual Property Legislative Update Working Group Meeting, November/December 2017

Intellectual Property Workshop, December 2017

Intellectual Property Legislative Update Working Group Meeting, September 2018

Technology/IP Licensing Workshop, September 2018

Intellectual Property Tribunal Judicial Workshop, September 2018

Ukraine:

Consultative Visit on Utilization of Judicial IP Benchbook, October 2017

Workshop on Collective Copyright Management in Ukraine II, July 2018

IP Judicial Benchbook Launch, July 2018

Workshop on Adjudication of Intellectual Property Disputes, July 2018

West Bank:

E-Prosecution Session at the 8th Annual Palestine Public Prosecution Conference, March 2018

Trademark Workshop for Palestinian Judges and Prosecutors, April 2018

Capacity Building for Institutions that Enforce IPR

Afghanistan:

IPR-related Assessment of Afghanistan's Technical Assistance Needs, October 2017

Bosnia and Herzegovina:

Workshops on Addressing IP Issues that Arise in the Negotiation of International Software Agreements, June 2018

West Bank:

IP Judicial Development in the West Bank, November 2017

Meeting with Officials from the Ministry of National Economy to discuss the impact of the current and draft laws to improve the legal framework for IP, April 2018

Development of Innovation Ecosystems in Particular through Technology Transfer

Armenia:

Creation of a Technology Transfer Office Common to Four Universities through Workshop in Armenia Followed by Internships at Technology Transfer Offices in the U.S., October 2017 and March 2018

Pakistan:

Participation in the Global Entrepreneurship Network Pakistan (GEN) Seminar, Celebrating World IP Day, April 2018

Intellectual Property/Technology Licensing Workshop, September 13-14, 2018

Regional MENA Program:

Workshop on University-Industry Relations, February 2018

Training and AUTM Meeting Visit on Tech Transfer, February 2018

Sri Lanka:

Consultations at AUTM Conference and Licensing Workshop, April 2018

CLDP Supports Technology Transfer Fellowship, June-August 2018

Tunisia:

U.S. Consultations on Technology Transfer Management, November/December 2017

West Bank:

Formation of an Entrepreneurship Working Group, October 2017

Conference on Building an Innovation Ecosystem, October 2017

Consultations on IP Curriculum Development in Law School, October 2017

The following are more detailed descriptions of these FY 2018 CLDP programs

Capacity Building in Border Enforcement

Azerbaijan: On March 14-15, 2018, CLDP – in coordination with U.S. Embassy Baku and Azerbaijan State Customs Committee – held a two-day Workshop on Border Enforcement of Intellectual Property Rights in Baku, Azerbaijan. The workshop was designed to improve the coordination between government agencies, and between agencies and the private sector, in order to better interdict counterfeit and pirated goods in Azerbaijan and the region. Additionally,

CLDP organized a panel discussion during the program with U.S. Customs and Border Protection (CBP), Azerbaijani private sector, and Azerbaijan' Customs Committee officials to discuss how Azerbaijan Customs could improve its approach to engagement with private sector counterparts and end-use consumers.

Afghanistan: On April 22-23, 2018, CLDP in close cooperation with USPTO conducted a two-day *TRIPS Border Enforcement Workshop* in New Delhi, India on Trade-Related Aspects of Intellectual Property (TRIPS) enforcement primarily for officials from Afghanistan's Customs Department (ACD) and Ministry of Commerce and Industry (MOCI). Additionally, three senior members of the Afghan judiciary joined the delegation for the second day of the workshop. The workshop focused on identifying existing gaps between TRIPS obligations and current Afghan customs laws and procedures, with the goal of informing the creation of a strategy document to rectify the identified gaps, including updating the Implementation Action Plan for Afghanistan to meet its TRIPS commitments.

Tajikistan: On May 15-17, 2018, CLDP – together with advisors from the USPTO, DHS/CBP, and the World Customs Organization (WCO) – led a *Workshop on Border Identification and Interdiction of Counterfeit and Pirated Products* in Dushanbe, Tajikistan. Officials from the Tajik Customs Service and the Ministry of Economic Development engaged in discussion of the economic, health, and safety risk posed by counterfeits. Advisors introduced participants to international best practices in such topics as application/recordation, seizure of goods, whole-of-government coordination at the border, risk management, targeting, and destruction of infringing products. The workshop followed up an introductory program by CLDP conducted in October 2016, and builds upon the Tajik Governments efforts to raise awareness of Intellectual Property protection in the country. CLDP and its advisors made plans with those in attendance to return for an additional program in December 2018.

Judicial Capacity Building in IPR Enforcement

Ukraine: On October 13-20, 2017, CLDP – in cooperation with the Higher Commercial Court of Ukraine (HCC) and the U.S. Federal Judicial Center – held a week long Consultative Visit on Utilization of Judicial IP Benchbook. The visit took place in Minneapolis, Minnesota and Washington D.C. and was part of the efforts to assist Ukraine to obtain a more effective adjudication of IP cases by the Ukrainian judiciary through the development of the IP Benchbook. The visit brought together the Benchbook Development Working Group composed of six judges from the HCC and other commercial courts of Ukraine who participated in the Benchbook writing in 2015/2016. During their visits to the Courthouse in St. Paul MN, USPTO, the Alexandria, VA Courthouse, and the Federal Judicial Center, the delegation consulted with judges and magistrates on the utilization of benchbooks as well as the issues involved in the adjudication of IP cases. Ukraine IP Benchbook was published in June 2018 and launched in July 2018.

Pakistan: On November 28-December 1, 2017, CLDP and USPTO welcomed a six-member *Intellectual Property Legislative Update Working Group* composed of officials from Pakistan's Ministry of Commerce and Intellectual Property Office as well as three intellectual property attorneys from Pakistan. This working group is charged with updating Pakistan's IP laws and

has produced a first draft of proposed amendments to existing patent, trademark, and copyright ordinances. The delegation discussed USG comments to the amendments with experts from USPTO and the Copyright Office and created a work plan for producing the next draft.

Pakistan: On December 4-5, 2017, CLDP – in close cooperation with USPTO and the Continuing Legal Education Institute of Pakistan (CLEIP) – held an *Intellectual Property Workshop* in Karachi, Pakistan, for IP Tribunal Presiding Officers and select District and Session Court (D&S) judges identified as likely to be assigned to IP Tribunals in the near future (a total of 15 participants). The workshop focused on enhancing the knowledge and analytical skills of the participants when applying IP law to cases before the IP Tribunals and D&S courts. U.S. Federal District Court Judge David Carter and Lahore High Court Justice Farrukh Irfan Khan led numerous panel discussions with active participation by the Tribunal and D&S judges, supplemented by teaching sessions on copyright and trademark law. At the conclusion of the workshop, the participants gained an increased understanding of the legal and economic underpinning of IP law and global best practices which will enhance the tribunal/court's effectiveness in adjudicating civil and criminal claims to protect IP rights holders from the unauthorized use of IP and the resulting damages to individuals, the economy, and society as a whole. This program is integral to the U.S.-Pakistan Special 301 engagement matrix.

West Bank: On March 22-24, 2018, CLDP was represented by Mr. Brian Pearce and Professor Michael Landau at the *8th Annual Palestine Public Prosecutors Conference*. Mr. Pearce and Professor Landau provided key remarks on e-prosecution, focusing on cyber and IP crimes. Over 200 participants attended the Conference, including Palestinian Public Prosecutors, academics, and many international experts. In addition to their direct contribution to the conference, Mr. Pearce and Professor Landau had extensive discussions with the Attorney General, Dr. Ahmed Barka, about international standards for electronic case management of IP cases. CLDP was the only US government entity represented in the conference.

West Bank: On April 6-7, 2018, CLDP – in cooperation with the Higher Judicial Council and the Office of the Attorney General – hosted a two-day *Trademark Workshop for Palestinian Judges and Prosecutors* on the calculation of damages in trademark cases. CLDP, along with Judge Denise Cote from the Southern District of New York and Dorian Mazurkevich from USPTO, guided 25 Judges and Prosecutors in understanding different models of calculating damages under civil and common law and in the use of statutory damages. The participants engaged in a simulated case study that enabled them to apply the current IP law to the calculation of civil damages for trademark infringement. (The current IP law is a hybrid of British, Ottoman, Jordanian, and Egyptian law.) The exercise was key in facilitating dialogue among judges and prosecutors on application of the current law and on the need to review the current draft IP law with respect to the recovery of civil damages in trademark cases. As a new IP law is being drafted, the workshop was timely in providing guidance on the calculation of damages in civil cases that may arise from criminal cases brought by the Office of the Attorney General.

Bosnia and Herzegovina: On June 12-13, 2018, CLDP – in coordination with the Centre for Judicial and Prosecutorial Training of Republika Srpska and Centre for Judicial and Prosecutorial Training of FBiH – held a two-day *Workshop on Adjudication of Civil Intellectual Property Infringement Cases* in Sarajevo, Bosnia and Herzegovina. In attendance were 15

judges from the Court of BiH, Cantonal Court Sarajevo and Municipal Court Travnik. The workshop featured presentations as well as practical and effective training in IP adjudication skills through the use of country-specific case studies and interactive discussions. The workshop included topics such as: Adjudication of Copyright and Trademark Cases, Determining IP Valuation: Trademark, Calculation of IP Damages, and Legal Framework and Challenges of Software Protection in BiH. The workshop was designed to provide the judges the skills necessary to fairly, efficiently, and effectively adjudicate intellectual property infringement cases. The workshop also started the discussion on updating the IP Judicial Benchbook for BiH.

Ukraine: On July 23-25, 2018, CLDP – in cooperation with the Ministry of Economic Development and Trade (MEDT) of Ukraine – designed and implemented the *Workshop on Collective Copyright Management in Ukraine II* in Kyiv, Ukraine. The workshop, which was a follow up to the 2015 international workshop of the same name, gathered representatives of the Ukrainian government, Ukrainian expert community and right holders, as well as representatives of U.S. and international collective copyright management organizations. International advisors, including experts from international collective management organizations and the World Intellectual Property Organization, reviewed the provisions of the newly adopted Ukrainian collective copyright management law, as presented by the representatives of MEDT, and made specific recommendations on suggested further changes in the Ukrainian collective copyright management system. These suggestions will help MEDT develop legislative, regulatory, and procedural solutions in line with internationally accepted standards and best practices, in order to address the remaining issues of the collective copyright management system in Ukraine in the light of the newly adopted law.

Ukraine: On July 26, 2018, in Kyiv, Ukraine, during *The Launch of the IP Judicial Benchbook*, CLDP – in collaboration with the Supreme Court of Ukraine and the Federal Judicial Center – introduced Ukraine’s judiciary to the IP Benchbook, prepared with the support of CLDP. The introduction assisted the Ukrainian judiciary to use the IP Benchbook efficiently. The participants discussed the contents and structure of the Benchbook, and its functions and uses, and also took part in the case study exercises on some of the current issues of IP adjudication. The workshop resulted in better awareness of the Ukrainian judiciary of the nature and importance of the IP Benchbook as a tool in further improvement of adjudication of IP disputes in Ukraine.

Ukraine: On July 30-31, 2018, in Odesa, Ukraine, CLDP – in cooperation with the U.S. judiciary and the Federal Judicial Center, as well as with the High Council of Justice and the Supreme Court of Ukraine – designed and implemented the *Workshop on the Adjudication of Intellectual Property Disputes*. The workshop gathered Ukrainian judges, members of the High Council of Justice, and representatives of the U.S. judiciary and legal community. The U.S. judges helped Ukrainian participants engage in the productive discussion of priority issues and challenges in the adjudication of IP disputes and identify potential solutions to a number of specific practical legal issues of adjudication of IP commercial disputes in Ukraine, identified together with CLDP in the course of the preparation for the workshop. The workshop contributed to more effective and efficient adjudication of IP commercial disputes in Ukraine, which is among the key factors of continued reforms of the Ukrainian judiciary system.

Pakistan: On September 12, 2018, CLDP met with the *Intellectual Property Legislative Update Working Group* composed of officials from Pakistan's Ministry of Commerce and Intellectual Property Organization (IPO), as well as three intellectual property attorneys from Pakistan. This working group is charged with updating Pakistan's IP laws and has produced a first draft of proposed amendments to existing patent, trademark, and copyright ordinances. The working group discussed the process IPO will follow to publish the proposed revisions for public comment, respond to such public comment, meet with legislators, and move the proposed legislation forward. CLDP will be ending its role in this process, insofar as IPO can interact with the three Pakistani expert attorneys going forward. IPO will share an updated work plan for the activities necessary to affect the proposed changes to Pakistan's IP laws.

Pakistan: On September 13-14, 2018, in Islamabad, CLDP – in close cooperation with Pakistan's Higher Education Commission (HEC) and the Continuing Legal Education Institute of Pakistan (CLEIP) – conducted a three phase (i.e., Technology/IP licensing basics, teaching-point licensing exercise, hands-on licensing problem with critique) two-day program for university officials (e.g., Office of Research, Innovation and Commercialization members, Business Incubation Center representatives, faculty) and legal practitioners (e.g., IP law firms and/or lawyers identified by CLEIP) regarding how to commercialize technology/IP with a focus on licensing.

Pakistan: On September 26-27, 2018, CLDP – in close cooperation with USPTO and the Continuing Legal Education Institute of Pakistan (CLEIP) – held an *Intellectual Property Workshop* in Karachi, Pakistan, for IP Tribunal Presiding Officers and select District and Session Court (D&S) judges identified as likely to be assigned to IP Tribunals in the near future (a total of 15 participants). The workshop focused on Pakistani jurisprudence on intellectual property law, with emphasis on trademark and copyright issues. This workshop was developed after the completion of an earlier program in December 2017, where gaps were identified in the knowledge base of the participating judges, in order to better prepare this same group of participants for the more comprehensive and challenging workshop to be held in Washington, D.C. in the next quarter. At the conclusion of the workshop, the participants gained an increased understanding of Pakistani jurisprudence that will have an immediate positive effect on the ability of the tribunal/court's effectiveness in adjudicating civil and criminal claims to protect IP rights holders from the unauthorized use of IP and the resulting damages to individuals, the economy, and society as a whole. This program is integral to the U.S.-Pakistan Special 301 engagement matrix.

Azerbaijan: On September 10-11, 2018, in coordination with Azerbaijan's Intellectual Property Agency and Ministry of Justice, CLDP held a two-day *Workshop on the Adjudication of Intellectual Property Infringement Cases* in Baku, Azerbaijan. Nineteen judges from the Azerbaijan Court of Appeals, Azerbaijan Economic Courts, and other district and city courts throughout Azerbaijan participated. Judge Bernice Donald, U.S. Circuit Judge for the Sixth Circuit Court of Appeals, and Judge Virginia Covington of the Middle District of Florida discussed best practices in intellectual property law and led interactive case studies designed for practical application of key concepts in copyright and trademark law. Representatives from Azerbaijan's Intellectual Property Agency presented country-specific case studies that focused on interpretation and application of Azerbaijan intellectual property law.

This workshop promoted reasoned decision-making and a uniform approach to intellectual property disputes, which will lead to more predictable, harmonized, and efficient adjudication of these cases throughout Azerbaijan, particularly with respect to amendments to Azerbaijan's IP law. Guaranteeing the protection of intellectual property rights is fundamental to attracting foreign investment, as it is a critical factor in whether U.S. investors and businesses enter or increase their presence in a market.

Capacity Building for Institutions that Enforce IPR

Afghanistan: On October 9-12, 2017, Attorney Advisors from CLDP and USPTO traveled to Kabul, Afghanistan to conduct an *Assessment of Afghanistan's Technical Assistance Needs* related to intellectual property rights enforcement and the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). As a result of the assessment USPTO and CLDP, in 2017-2018, USPTO/CLDP/USAID initiated technical assistance programs on Border Enforcement.

West Bank: On November 20, 2017, CLDP and the Commerce Department's Foreign Commercial Service (FCS) met with high-level officials from the Attorney General's Office and the Higher Judicial Council to determine next steps in providing essential *IP Training to Prosecutors and Judges*. The training comes at a critical time as the Palestinian Authority is in the midst of passing a new IP law, replacing the current law from 1933. During the meeting, the Palestinian officials expressed the need to focus on trademark law given the significant nexus with competition and franchising, two other key areas that CLDP has begun working on in the West Bank. One of the main issues that judges and prosecutors face is the calculation of civil and criminal penalties within international standards. CLDP will implement a workshop for judges and prosecutors on monetary damages for trademark issues in the coming year.

West Bank: The Palestinian Authority is in the process of reforming laws and regulations in order to improve its World Bank Doing Business Ranking. Currently, the IP and Company's Law are being re-drafted. On April 4, 2018, CLDP – in collaboration with the Entrepreneurship Working Group – hosted an *Exclusive Meeting with Officials from the Ministry of National Economy* to discuss the impact of the current and draft laws proposed. The meeting was instrumental in creating a dialogue between key stakeholders so as to improve the legal framework for IP.

Bosnia and Herzegovina: On June 12-13, 2018, CLDP held the second phase of programming on judicial IPR enforcement in coordination with the Center(s) of Judicial and Prosecutorial Training of the Federation of Bosnia-Herzegovina (BiH) and the Republika Srpska. *Workshops on International Software Agreements* was part of a series of workshops on IPR development and enforcement, targeting local tech companies, law firms, universities, government officials and judges and aiming to strengthen IP capacity of local ICT industry and improving enforcement of IPR. The first phase of the program, which was held on May 14-18 in both Sarajevo and Banja Luka, focused on negotiating international software agreements for local IT companies. CLDP focused on training these firms on how software IP can be protected and key IP issues that arise in the negotiation of international software agreements. The workshops also included mock negotiations sessions led by an internationally renowned IP partner, with specific

focus on drafting and negotiating term sheets. Additionally, CLDP experts discussed how to effectively utilize open-source software, and to develop and protect IP for Google and Apple app stores. Strengthening intellectual property rights will help BiH to develop as a knowledge-based economy, improving employment opportunities and economic stability, and will protect the IP of both Bosnian and U.S. companies.

Development of Innovation Ecosystems in Particular through Technology Transfer

Armenia: On October 9-27, 2017, participants from four Armenian universities (American University of Armenia, Yerevan State University, National Polytechnic University, and National Science Academy) 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, and the National Institute of Standards and Technology (NIST). Upon return to Armenia, the participants hope to establish a regional technology transfer office for local universities in Yerevan, Armenia.

West Bank: On October 23, 2017, CLDP – working in collaboration with U.S. ConGen Jerusalem – supported the formation of an *Entrepreneurship Working Group* that is leading the technology transfer industry in the West Bank. The Committee members are instrumental in providing private sector perspective to the innovation field that is outside of academia. The Committee agreed to support government and academic engagement, so as to foster a harmonized and holistic effort to the development of a Palestinian Innovation Ecosystem. The first consultations led to a deeper understanding of key legal and regulatory issues that would hinder IP-based entrepreneurship.

West Bank: On October 24-25, 2017, CLDP hosted a conference for academia, private sector, and government officials on *Building an Innovation Ecosystem and the Role of the Universities*. CLDP was joined by Technology Transfer experts from Stanford University and Louisiana State University, to provide regional and international best practices to developing an environment that would foster entrepreneurship and innovation through IP protection. The conference provided a platform for current entrepreneurs, academia, and government officials to discuss current legal and regulatory challenges that impact IP development and contribution to the local economy.

West Bank: On October 26, 2017, CLDP hosted a roundtable with law schools from prominent academic institutions in the West Bank to discuss potential contributions that academia-influenced IP can have on the local economy. While a few technology offices are opening in the West Bank, further engagement with the government would be key to building the support needed to develop University Technology Transfer Offices.

Tunisia: On November 27-December 8, 2017, CLDP and Carnegie Mellon University's Technology Transfer Office (TTO) organized U.S consultations for two managers of a Tunisian TTO to discuss best practices in turning scientific research into commercial products and services. The visits were part of CLDP's multi-year effort to develop effective technology transfer in Tunisia to encourage job and business creation and foster the development of a knowledge-based economy.

Regional MENA Program: On February 7-9, 2018, CLDP held a North Africa Regional *Workshop on University-Industry Relations* at the University Mohammed V in Rabat, Morocco. The workshop focused on how universities and the business community can interact to create innovation ecosystems that encourage technology transfer, product commercialization, and the creation of jobs and companies. It included 50 participants from Algeria, Morocco, and Tunisia, including officials from universities and government agencies who are engaged in technology transfer and innovation. Experts from the University of California, Berkeley and European universities led the workshop, with input from regional experts.

Regional MENA Program: On February 15-21, 2018, CLDP conducted an intensive program in Phoenix, Arizona, for technology transfer specialists from Algeria, Morocco, Sri Lanka, and Tunisia. The program consisted of a 3-day training program focusing on contract negotiation and how to identify, evaluate, protect, and exploit intellectual property developed within their research organizations. The training included visits to Arizona State University and Skysong Innovations Inc. to learn best practices for successful technology licensing offices and business incubators. Participants also attended the Association of University Technology Managers (AUTM) Annual Meeting, which provided 4 days of extensive training and networking on how to manage a technology transfer office. The combined 7-day program leveraged the resources of private sector experts and AUTM through case studies, mock negotiations, lectures, and discussion.

Armenia: On March 16, 2018, CLDP – in coordination with the Intellectual Property Rights Center of Armenia – led a one-day *Consultation with a Delegation of Armenian University Professionals on Establishing a Technology Transfer* office in Yerevan, Armenia. The consultation built on the delegation’s internship in Washington, DC in fall 2017 (discussed above). A skilled technology transfer office in Armenia will encourage innovation in the private and public sectors and contribute to Armenia’s shift from an agriculture-based to a knowledge-based economy.

Sri Lanka: On April 15-16, 2018, eight Sri Lankans participated in a two-day *AUTM Conference and Licensing Workshop* consisting of presentations, round-table discussions, case studies and exercises, and an on-campus visit to Arizona State University (ASU) and the Skysong Innovation & Entrepreneurial Center (Skysong). For the first 1½ days, experts from CLDP, the United States Department of Agriculture, Cornell University, and Boston University presented on subjects such as Technology Licensing and the Institutional Imperative, Licensing from a Licensee’s Perspective, IP/Technology Valuation, Negotiation as a Process, Communicating the Value of Technology Transfer, and Financial Terms and Conditions of a License. Numerous negotiating exercises were conducted to strengthen teaching points and key concepts. During the afternoon of April 16th, the delegation visited ASU and Skysong to see examples of university and local community support of innovation, technology commercialization, and the challenges of venture start-up. On April 18-21, the delegation attended full-day sessions of the AUTM conference, including a number of networking events, plus daily recap discussions conducted on an ad hoc basis by CLDP with the added participation of the Cornell and BU experts.

Pakistan: On April 26, 2018, CLDP – in close cooperation with Embassy Islamabad – participated in a seminar conducted by the Global Entrepreneurship Network Pakistan (GEN) celebrating *World IP Day*. CLDP joined Pakistani government and university officials in a panel discussion of Women's Role in Innovation and Creativity. Other panelists acknowledged the importance of the Contributions made by Post and CLDP to enhance the innovation ecosystem in Pakistan. CLDP made specific mention that innovation and creativity is not bound by gender or social status and highlighted the important contributions made by women in Pakistan and worldwide. The seminar was widely attended and increased the public awareness of IP and its role in benefiting the economy and society in general.

Sri Lanka: On June 4-August 24, 2018, CLDP arranged a *Technology Transfer Fellowship* for Dr. Megelhewa Nidarsha Kaumal from the University of Colombo to take place in Boston, MA with Partners Healthcare Innovation (PHI). CLDP, the World Intellectual Property Organization, and USPTO have been supporting the development of technology transfer offices and managers in Sri Lanka, and Dr. Kaumal was selected to participate in this fellowship that allowed him to observe and participate in the day-to-day activities of an operating technology transfer office. Fellowship subject areas included intellectual property management, transactional affairs, finance, licensing, collaborations/alliances, innovation funds, template creation, and community engagement. Dr. Kaumal delivered a presentation on his fellowship on August 14 at PHI. Dr. Kaumal will go back to Colombo and deliver a training on what he learned for other technology transfer managers in Sri Lanka.

Pakistan: On September 13-14, 2018, CLDP – in close cooperation with the Continuing Legal Education Institute of Pakistan (CLEIP) and Pakistan's Higher Education Commission (HEC) – conducted an IP Licensing Workshop in Islamabad for university officials and private lawyers in the Islamabad Greater Metropolitan area who are involved in efforts to commercialize IP developed within the academic community. A majority of Workshop Panelists and presenters were Pakistani experts in IP, and CLDP brought in a technology licensing expert from the University of Michigan to share best practices in identifying, evaluating, protecting, and commercializing university-developed IP. The workshop culminated in a series of case studies and exercises requiring the participants to apply their new knowledge to identify and solve issues arising from IP licensing efforts. This workshop was an extension of earlier CLDP programs on this subject, which has led to the creation of over sixty university Offices of Research, Innovation and Commercialization (ORICs) and Business Incubation Centers (BICs) across Pakistan.

INTERNATIONAL TRADE ADMINISTRATION (ITA)

In FY2018, 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. The STOPfakes.gov website features industry-specific brochures catering to individuals and companies in several industry sectors. These industry brochures cover IP-specific topics relating to an array of U.S. industries including Pleasure Boats, Medical Devices, Auto Parts, and Building Products. The brochures provide brief, helpful guidance to assist U.S. companies protect copyright, patents, trademarks, trade secrets and other intellectual property in overseas markets. In addition to providing information and access to these interagency resources, OIPR also answers hundreds of IPR-related inquiries from businesses and individuals each year.

In FY2018, OIPR added a new feature to the STOPfakes.gov website known as Country Snapshots for 36 countries. These valuable IPR resources provide U.S. companies with contact information for seeking copyright, trademark and patent protection within each country. The Snapshots also provide U.S. companies with contact information for local U.S. government officials including the IP Attachés. In addition, OIPR published four new [Country Toolkits](#) on www.STOPfakes.gov to assist U.S. entrepreneurs in understanding the ins and outs of IP protections in four Southeast Asian markets: [Singapore](#), [Malaysia](#), [Vietnam](#) and [Brunei](#).

In FY2018, OIPR launched the @STOPfakesGov Twitter account in April 2018 on World IP Day. The account publicizes STOPfakes Roadshows as well as online resources from STOPfakes.gov and websites of partner bureaus and agencies (USPTO, IPR Center, CBP, etc.). Since launching three months ago, @STOPfakesGov has grown in followers and impact steadily. The account has proven especially useful for reaching out beyond the traditional IP constituency to make sure resources and events are widely publicized.

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 FY2012 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 FY18, OIPR reimagined and reinvigorated the STOPfakes.gov Roadshows geared towards SMEs. These Roadshows deliver critically important information about intellectual property to audiences that need it most – start-ups, entrepreneurs, small and medium-sized businesses, independent creators, and inventors. Six roadshows were completed in Seattle, Portland, Austin, Dallas, Phoenix, and Tucson – reaching more than 155 U.S. companies. OIPR secured the support of many USG offices and agencies for Roadshow participation, including: U.S. Customs & Border Protection (CBP), U.S. Patent and Trademark Office (USPTO), U.S. Copyright Office (USCO), National IPR Coordination Center, Federal Bureau of Investigation (FBI), Small Business Administration (SBA), Department of State (DOS), Naval Surface Warfare Center (NAVSEA), Minority Business Development Agency (MBDA), Export-Import Bank and others. In addition, OIPR added a unique interactive feature to the Road Show which will include guided assistance by U.S. Customs officials to assist with trademark recordation and guidance from U.S. Copyright officials in filing for copyright protections.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (NTIA)

Protect Intellectual Property at ICANN

The National Telecommunications and Information Administration (NTIA) – in collaboration with USPTO, IPEC, and other Federal agencies – continued to advance implementation by the Internet Corporation for Assigned Names and Numbers (ICANN) of the new generic top-level domain (gTLD) safeguard advice. ICANN’s Governmental Advisory Committee (GAC) developed this safeguard advice as a complement to earlier GAC proposed amendments to the Registrar Accreditation Agreements that address the concerns of trademark and other rights holders. As new gTLDs become operational, NTIA, USPTO, IPEC, and other interagency colleagues continue to focus on the effectiveness of new rights protection mechanisms (RPMs) created to protect Intellectual Property, such as the Trademark Clearinghouse, Trademark Claims Service, and the Uniform Rapid Suspension System, as well as the review of these RPMs. In addition, NTIA, USPTO, and other federal agencies, including the Federal Trade Commission and the Department of Justice, continue to engage within the GAC and ICANN, highlighting the importance of timely access to domain name registration information (known as WHOIS) for IP rights holders, to combat infringement online.

In response to the European Data Protection Regulation (GDPR), which went into effect during FY2018, crucial domain name registration information details are no longer publicly provided. The US Government is playing an active role in the GAC to encourage ICANN to establish a sustainable access and accreditation model as soon as possible, so that IP rights holders and other legitimate interests can access non-public WHOIS information. The US Government will continue to work through the GAC to ensure that intellectual property rights are respected in the ICANN policy processes.

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

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

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

Strengthen Intellectual Property Enforcement through International Organizations

Throughout 2018, 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, USPTO previously entered into a Memorandum of Understanding with INTERPOL's Illicit Goods and Global Health Programme. The MOU was renewed in 2018. Under the arrangement, USPTO and INTERPOL will cooperate on training and capacity building programs to promote effective intellectual property enforcement internationally.

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

Throughout FY 2018, 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, and the Section 301 Report. The Special 301 Report identifies U.S. trading partners in which IP protection and enforcement has deteriorated or remained at inadequate levels and where U.S. persons who rely on IP protection have difficulty with fair and equitable market access. USPTO assisted in its preparation by providing extensive information on the state of IP protection and enforcement in many countries. USPTO likewise provided USTR with information in connection with its compilation of the annual Notorious Markets List. The list highlights prominent online and physical marketplaces that reportedly engage in and facilitate substantial copyright piracy and trademark counterfeiting. USPTO participated in briefing the Industry Trade Advisory Committee (ITAC) and other stakeholders including small and medium size businesses, on progress on promoting enforcement of U.S. intellectual property rights through trade policy tools.

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

The USPTO's Global Intellectual Property Academy (GIPA) offers advanced-topic programming for U.S. Small and Medium Enterprises (SMEs) doing business abroad. These in-depth GIPA programs cover best practices in domestic and international IP protection and enforcement and are delivered through face-to-face and distance learning modes, both from the USPTO's Academy headquarters in Alexandria, VA and around the country in cooperation with USPTO's regional offices. GIPA collaborates with IP Attachés, USPTO Regional Offices, other USG agencies, and the Federal Judiciary. In the past year, GIPA provided IP awareness and education programming to over 3,275 U.S. SME representatives and U.S. government officials.

Almost 40% of GIPA's 151 programs in FY18 targeted this domestic audience of IP rights owners, users and policymakers.

In FY2018, USPTO collaborated with ITA, the World Trade Center Denver, and the Colorado Bar Association to present our second Anti-Counterfeiting and the Global Marketplace seminar, featuring speakers from the IP enforcement interagency. USPTO supports the interagency STOPFakes.gov Initiative, which includes staffing the Road Shows. GIPA provides IP education programming on the margins of industry trade shows, such as the National Association of Music Manufacturers Trade Show. FY2018 GIPA Distance Learning programming for U.S. SMEs included a continuing quarterly webinar initiative to provide comprehensive IP education to grantees of the Small Business Administration's SBIR-STTR programs, as well as IP education programming for domestic attorney generals, and webinars on China IP from the USPTO China Team.

Assess the Economic Impact of Intellectual Property-Intensive Industries

In response to the IPEC Joint Strategic Plan on Intellectual Property Enforcement for FYs2017-2019, the USPTO Office of the Chief Economist is leading a multiyear, interagency effort to encourage empirically-based research on IP enforcement, particularly in the areas of illicit trade in counterfeit goods, patents, commercial scale piracy, and trade secret theft. In FY2018, the interagency group finalized an implementation plan and began work to improve researcher access to and understanding of relevant data. The group also initiated engagements with scholars and universities pursuing research relevant to IP enforcement.

Additionally, in FY2018, USPTO completed its collaborative efforts with the U.S. Census Bureau to create new data products describing the business dynamics of innovative firms. Through this collaboration, the agencies produced datasets linking USPTO's patent and trademark data to Census Bureau data on workers and firms. These datasets track the activities of IP-owning individuals and firms and serve as an invaluable resource for assessing the economic impact of IP. In FY2018, coauthors from the USPTO and U.S. Census Bureau published papers discussing the construction of these datasets and providing a first look at the connection between patent and trademark application filing and firm performance. The patent-firm linked data was released through the Census Bureau Regional Data Centers for academic scholars to utilize on approved research projects.

Raise Public Awareness of International Intellectual Property Protection and Enforcement

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

USPTO GIPA produces and hosts 31 free IPR e-Learning modules and products available to the public. This content cover six different areas of Intellectual Property, and is available in five

languages: Arabic, English, French, Russian, and Spanish. By late FY2018, the e-learning products had received over 75,000 hits, by viewers all over the world since content was made available in FY2010. In FY2018, GIPA produced an updated [Patents video](#) (see also USPTO GIPA's YouTube Playlist at <http://bit.ly/USPTOGIPA>).

In March 2018, USPTO HQ and its Denver Regional Office organized a workshop on “Anti-Counterfeiting and the Global Marketplace: How to Protect and Enforce IP While Expanding Trade.” Approximately 60 persons attended the workshop which included presentations by USPTO, CBP, the DOC Office of IP Rights, HSI, and the local US Attorney. Various local companies spoke on their experiences in developing and implementing an effective IP enforcement strategy.

In March 2018, Embassy Lima kicked off Women's History Month with a program to celebrate International Women's Day, “Innovation, Creativity, and Entrepreneurship.” The program included a screening of the film “Joy”, and a legal specialist spoke about protecting your creations.

Throughout FY2018 and as mentioned above, USPTO's China team, USPTO Regional Offices, along with Department of Commerce local Export Assistance Centers and various bar associations held a series of ten China IP Roadshows in Denver, Salt Lake City, Indianapolis, Chicago, Silicon Valley, Portland, Seattle, Nashville, Las Vegas and Phoenix. These programs are 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. Speakers included government officials from USPTO, Department of Commerce, Mayor's Office, and various law enforcement agencies including U.S. Attorney's Office, FBI, Department of Homeland Security, U.S. Immigration and Customs Enforcement, business executives, in house and outside counsel of U.S. IP rights holders as well as academic IP scholars. In general these programs have about 50 to 150 attendees.

In April to May 2018, USPTO's China team held two webinars – “China's Utility Model Patent System” and “Cost-Effective Intellectual Property Enforcement in China.” The two webinars educated U.S. rights holders on two specific areas of China's IP system that differ from the U.S. system. The webinars attracted 80 to 120 participants from across the U.S. and abroad. Taking full advantage of the webinar format, the webinar simultaneously featured speakers from as many as six different time zones around the globe.

In June 2018, along with partners, the USPTO held the Third Annual US-China Entertainment Law Conference in Shanghai. Nearly 300 people attended the conference, which brought together senior policymakers, academics, business executives, and international practitioners from China and the U.S. to discuss current legal issues in the US-China entertainment industry. USPTO organized the event with Loyola Law School (Los Angeles), and co-hosted with Peking University, Shanghai Jiaotong University, Beijing Film Academy, and Shanghai Film Group. Topics included recent developments in the US/China entertainment industry, IP issues in the film and game industries, and cross-border IP protection, including the impact of illicit streaming devices.

In November 2017, the IP Attaché Office in Bangkok, Thailand, and the Asian Law Students' Association (ALSA)-Thailand Chapter co-organized a Workshop on IPRs Protection in Digital Era in Bangkok, Thailand. Approximately 120 students participated in the program, which addressed global trends in IPR protection and related cutting-edge issues.

In February 2018, the IP Attaché Office in Bangkok, Thailand co-organized a roundtable discussion concerning online copyright infringement and enforcement with the Copyright Coalition (Thailand) and the Thai Electronic Transactions Development Agency (ETDA). An expert from the United States Copyright Office gave a presentation to 50 officers, lecturers, practitioners and university students participating in the program.

In February 2018, the Senior IP Specialist at the IP Attaché Office in Bangkok, Thailand spoke on copyright protection to students and researchers at Thammasat University in Lampang, Thailand.

In March 2018, the IP Attaché in Bangkok, Thailand, and the Senior IP Specialist participated in an outreach program co-organized by the USPTO and the Saigon Innovation Hub (SiHub) in Ho Chi Minh City. The Attaché spoke on protection and enforcement of IP in the United States and ASEAN member countries. About 50 Vietnamese SMEs, researchers and entrepreneur attended. The Attaché also discussed IPR protection-related issues in meetings with local IP stakeholders and associations, such as Patent Association of Ho Chi Minh City, the IP Asset Management Club, the Recording Industry Association of Vietnam (RIAV) and the Saigon Innovation Hub (SiHub).

In March 2018, the IP Attaché in Bangkok, Thailand participated as a moderator in the Workshop on Intellectual Property Enforcement in a Digital World, which was co-organized by USPTO, the U.S. Embassy Hanoi, the Ministry of Science and Technology of Vietnam, and the American Chamber of Commerce. About 200 people attended the workshop, including Vietnamese government agencies and stakeholders and US companies and trade association. A few days after the workshop in Hanoi, one of the world's largest illegal streaming sites operated in Vietnam (123movies) announced it would cease its operations. According to executives of the Motion Picture Association of America (MPAA), the workshop – along with MPAA engagement with Vietnamese law enforcement agencies – prompted the site operator to cease operations.

In celebration of WIPO's World Intellectual Property Day (April 26), IP Attachés in cooperation with U.S. Agencies and local IP Offices hosted a number of events to commemorate the global theme "Powering Changes: Women in Innovation and Creativity":

The IP Attaché Office in Bangkok, Thailand, and the IP Attaches' from the United Kingdom's IP Office (UKIPO), the Japan External Trade Organization (JETRO), and the National Industrial Property Institute of France (INPI), together with WIPO Singapore and Intellectual Property Office Singapore (IPOS), co-organized a World IP Day program in Singapore. The program featured two discussion panels of successful innovative and creative women from global companies and small businesses, sharing their views on the importance of IP in their work. There were approximately 80 people in attendance.

The IP Attaché in Bangkok, Thailand, co-organized a World IP Day program in Bangkok, Thailand with the Department of Intellectual Property of Thailand (DIP) and the Motion Picture Association of America (MPAA). There were approximately 140 people in attendance. The program included a discussion panel of successful Thai business women. The speakers shared their experiences and discussed the importance of intellectual property.

The IP Attaché Office in Bangkok, Thailand and U.S. Consulate Chiang Mai co-organized a World IP Day program in Chiang Mai, Thailand, with the support from Chiang Mai University. The program featured several activities to raise awareness on IPR protection, including two panels of local speakers sharing perspectives on the importance of IP and the local administrative organizations' role in promoting innovation and creativity.

The USPTO Attaché in Mexico launched the "Original or Fake? Which one are you?" exhibition featuring 64 side-by-side original and counterfeit and piratical articles. The USPTO Attaché in Mexico delivered opening remarks highlighting the importance of educating the public (especially the youth) on the economic and health dangers posed by counterfeit products. Approximately 50 stakeholders from the public and private sectors attended. In addition, the USPTO Attaché in Mexico screened four IP-themed movies in April for the general public and various IP stakeholders.

The IP Attaché Office in New Delhi supported and discussed the importance of Women in law and STEM areas and encouraged them to protect their IP.

In April 2018, the IP Attaché in Lima, Peru co-sponsored a World IP Day event with the National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI), "Intellectual Property and Peruvian Women: entrepreneurship, creativity and innovation," and the Deputy Chief of Mission (DCM) gave opening remarks. The Attaché brought down a National Inventors Hall of Fame staff person and collegiate invention contest winner to participate, and the IP Legal Specialist participated as a speaker. More than 200 people attended the event, including representatives from the Peruvian Government and members of the general public.

The IP Attaché in Brussels sponsored a program for World IP Day that focused on Women for IP and Innovation. The event, co-hosted by the U.S. Mission to the EU and the U.S. Embassy to Belgium, with support from Women in International Trade (EU) and Young Professionals in International Trade, brought together 75 attendees to hear from four women leaders in IP: Ana Hinojosa, Director of the Compliance and Facilitation Directorate at the World Customs Organization; Maria Martin-Prat, Director for Services, Investment, IP and Public Procurement in the Commission's Directorate General for Trade; Anne-Sophie de Brancion, Head of Brussels Bureau of the European Patent Office; and Cheryl Miller, a pioneer and advocate in STEM education for women and girls.

The Middle East North Africa IP Attaché and the U.S. Embassy in Kuwait, in cooperation with the National Library of Kuwait, organized a public event to celebrate World IP Day at the National Library of Kuwait. The event was attended by over 150 people and was

livestreamed onto Kuwaiti national television and was widely covered by print, radio, and social media outlets.

In November 2017, and again in March 2018, the IP Attaché in Mexico participated in the Mexican Institute of Industrial Property's (IMPI's) Jornadas Expo Ingenios in Monterrey and Tepic, respectively, providing an overview of the IP Attaché Program and general discussions on the importance of intellectual property rights protection and enforcement. The audiences consisted of SMEs, university students and faculty, and local and federal officials.

In December 2017, the IP Advisor in Brazil made a presentation on “the USPTO, IP and its Economic Impact” to approximately 10 professors and students at Faculdades de Campinas (FACAMP).

In October 2017, the IP Attaché spoke at a Brazilian Industries Coalition Webinar, with approximately 30 participants. The presentation was on the relationship between the U.S. and Brazil in the intellectual property area.

In October 2017, the IP Advisor in Brazil delivered remarks on the panel “Digital Piracy: what is being done in Brazil,” during the Rio de Janeiro International Film Festival. Approximately 20 people were present.

In October 2017, the IP Attaché presented opening remarks during the 2nd International Seminar on Fashion Law, organized by the Brazil Bar Association–Rio de Janeiro Session. She spoke to approximately 60 attendees on the importance to the international fashion industry of strong intellectual property protection and enforcement.

In May 2018, the IP Attaché and USPTO HQ patent staff presented on IP to approximately 40 students at Universidad San Andrés in Argentina. The group included a wide array of representatives from the region (Argentina, Brazil, Cuba, Costa Rica, Mexico, Peru, etc.), including government employees, lawyers, economists, technology transfer experts, and engineers.

In May 2018, the IP Attaché in Brazil teamed up with the U.S. Consulate in Rio de Janeiro and Brazil-U.S. Institute (IBEU) for the screening of the film “Joy”. The screening was followed by a discussion with approximately 10 University-level students on IP issues and the harms of piracy, which was led by the IP Advisor.

In May 2018, the IP Advisor in Brazil spoke at the II Seminar on Intellectual Property for the Industrial Development of the Brazil's National Confederation of Industries (CNI), presenting on international cooperation to approximately 100 people.

In May 2018, the IP Advisor from Brazil spoke to a group of approximately 20 engineering students and professors visiting from the University of Oklahoma. The topic was the similarities and differences in the intellectual property systems in Brazil and the United States.

In May 2018, several IP Attachés presented at the International Trademark Association’s (INTA) Annual Meeting and at the AIPLA meeting in Seattle. Attachés also presented to approximately 25 people at Cambia Grove in Seattle regarding IP in their regions. Additionally, some Attachés presented at the Washington State Bar Association regarding IP in their region. Finally, some Attachés presented on IP in their region to approximately 40 people at a Seattle University and Seattle IP American Inn of Court event.

In February 2018, the IP Attaché Office in New Delhi conducted several awareness programs in partnership in the states of Mizoram and Meghalaya, organized by the Universal Research Foundation (URF), the Motion Picture Association (MPA), the Andhra Pradesh Film Chamber of Commerce (APFCC), and the Indian Music Industry (IMI). One such program was on the importance of protecting IP for entrepreneurs and another was on protecting their music and creative industry. This program was very well received and the government of Mizoram has empaneled the URF to create a roadmap for a creative council for the State.

In April 2018, as part to the Road to the Global Entrepreneurship Summit, USPTO and the Government of India’s National Institution for Transforming India (NITI Aayog) partnered with the Andhra Pradesh Tourism Development Corporation (APTDC) to showcase the importance of IP. USPTO highlighted the need for a startup to respect, protect, and value IP at an early stage.

In December 2017, the IP Attaché Office in New Delhi participated and spoke at the “Digital World, 2017,” an annual flagship event organized by the Government of Bangladesh. USPTO stressed the importance of Technological Protective Measures and combatting online piracy.

In March 2018, at the Interpol and INTA program on IP held in Nepal, the IP Attaché Office in New Delhi participated in training on the fight against pharmaceutical crime and products affecting consumer’s health.

In May 2018, the IP Attaché Office in New Delhi participated in, and spoke at, a Custom and Industry round-table discussion on IP organized by the US Embassy in Bangladesh.

Throughout FY2018, the IP Attaché in Brussels stressed the importance of sustained, comprehensive and cooperative “whole of government” approaches to modern and pervasive IP theft. In programs in Brussels, Milan and Rome, Amsterdam and Rotterdam, Berlin, Paris, London, and Valletta, the Attaché showcased the existing threat, highlighted U.S. priorities and policies, advocated for strategic approaches to IP theft (such as those outlined in the IPEC Joint Strategic Plan on Intellectual Property Enforcement for FYs2017-2019), and warned of the coming economic and public safety challenges that China’s One Belt, One Road will present in the region. In Vienna, at a program sponsored by the U.S. Embassy, local Austrian industry organizations, and USPTO, the Attaché, DOJ IPEC for Eastern Europe, a representative of the EU’s DG Grow, and representatives of U.S. industry, highlighted transnational trade secret theft and the need for solid legislative frameworks that provide opportunities for cooperative enforcement efforts.

In February 2018, the Middle East North Africa IP Attaché and IP Specialist represented the U.S. Embassy and USPTO at Comic Con Kuwait 2018 and created a booth, with assistance from USPTO HQ, on the importance of protecting and respecting creative works through copyright protection. The booth also offered information on patent and trademark protection. Over the course of 2 days, the IP Attaché and IP Specialist staffed the booth and shared USPTO's mission to approximately 310 people, including Kuwaiti government officials, Kuwaiti artists, families, American expats, university students and kids. The IP Attaché and IP Specialist also identified local Kuwaiti comic book creators who might be interested in collaborating with the Office of the IP Attaché and the Kuwait National Library to create a comic book on copyrights in Kuwait. This was USPTO's first time participating at a Comic Con.

In April 2018, the Middle East North Africa IP Attaché hosted an outreach event in coordination with the Riyadh International Lawyers Association entitled "Current IPR Issues and Challenges in Saudi Arabia and the Gulf." The IP Attaché discussed the role of the IP Attaché, regional and local IPR challenges, and ways the group could provide feedback during the development phase of the new Saudi IP Authority. The program was attended by 25 attorneys and practitioners.

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 2018, 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, and IP infringement involving express mail deliveries, trade secrets, copyright policy, and patent and trademark examination. Participants included officials with IP-related responsibilities, such as judges, prosecutors, patent and trademark examiners, and IP office administrators. In FY2018, GIPA conducted 151 IP programs covering all areas of IP. A complete list of all countries represented at GIPA trainings in FY 2018, 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 explored IP law as applied to the trade show environment. Another pair of programs on U.S. Trademark Law for U.S. Government Attorneys, provided attorneys from a variety of federal departments and agencies with training on trademark issues they are likely to encounter (this followed a FY2017 program for USG on copyright). In FY2018, GIPA

also presented a program for USG on IP and International Trade Shows. USPTO once again collaborated with the U.S. Department of State's Foreign Service Institute (FSI) to provide IP training for outbound Foreign Service officers, and to provide subject matter expertise in developing an update to FSI's IP distance learning products. Finally, to increase the effectiveness of interagency coordination of capacity-building and training, GIPA reviewed the capabilities of the www.usipr.uspto.gov IPR education database and piloted an enhanced impact survey tool.

Other USPTO Activities Related to IP Enforcement

During FY2018, USPTO continued to work 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.

In January 2018, USPTO participated as speaker on two panel sessions dealing with Anti-Counterfeit Initiatives and Trends in the Fashion and Luxury Goods Industries and IP Enforcement and FinTech, respectively, at the World IP Forum 2018 in Dubai, UAE.

In February 2018, USPTO participated in the National District Attorneys Association's Digital Prosecutor Workshop in San Antonio, Texas. The workshop was organized for over 80 state and local prosecutors, with a handful of investigators, from all across the United States. The workshop focused on the use of technology in investigations and prosecution, search and seizure in the digital age, trends from the courts in 4th Amendment cases, an overview and demonstration of the dark web and Tor browser, and electronic evidence and preservation techniques for mobile devices and social media. The USPTO provided an overview of trade secrets and the laws that govern them, highlighting the provisions of the Economic Espionage Act, the Uniform Trade Secret Act, and state criminal trade secret theft statutes.

In May 2018, USPTO participated as a speaker/panelist during a session on "Government Perspectives on Trends in and Evolution of Anti-Counterfeiting Enforcement" at the Spring Conference of the International AntiCounterfeiting Coalition (IACC) in Seattle, Washington.

In May 2018, USPTO participated as a speaker/panelist during a session on "Working with Intermediaries to Combat the Manufacture and Trade of Counterfeit Goods in Free Trade Zones" which was attended by approximately 180 individuals, and moderated a panel session on "Enforcement Strategies in Asia" which was attended by approximately 200 individuals during the Annual Meeting of the International Trademark Association (INTA), in Seattle, Washington.

In May 2018, USPTO participated in an International Fellows Program hosted by the National Association of Attorneys General (NAAG) and its research and training arm, the National Attorneys General Training and Research Institute (NAGTRI), for prosecutors and attorney generals from Australia, Brazil, Denmark, Holland, Jamaica, Mauritius, Mongolia, Nigeria,

Palestine, Rwanda, South Africa, UK, Taiwan, and Thailand. USPTO spoke about the dangers of counterfeit medicines and best practices in combatting the trafficking of counterfeit medicines and medical products.

USPTO continued its cooperation with INTERPOL's Illicit Goods and Global Health Programme, in order to promote effective intellectual property enforcement internationally. In July 2018, USPTO coordinated with INTERPOL in conducting a regional Middle East training program on combating fraudulent and counterfeit food products for 40 law enforcement officials from Jordan, UAE, Morocco, Egypt, and Tunisia, which was conducted in Amman, Jordan. In March 2018, USPTO coordinated with INTERPOL to conduct a training program on counterfeit goods and illicit trade in Kyiv, Ukraine. The program brought together 35 law enforcement officials from Ukraine, Moldova, Belarus, Romania, and Poland. In December 2017, USPTO participated in a regional training on counterfeit pharmaceuticals for South East Asia conducted in Vientiane, Laos. The program brought together 21 law enforcement officials from Vietnam, Myanmar, Cambodia, Thailand, Malaysia, and Indonesia, and served as a platform to prepare for INTERPOL's Operation STORM, which targets pharmaceutical crime. In October 2017, USPTO participated in an INTERPOL training workshop on fraudulent and counterfeit food products, conducted in Dublin, Ireland. The program brought together approximately 40 law enforcement officials from Africa, Latin America, and Asia, including Argentina, Colombia, Kenya, Korea, Malaysia, Nigeria, Tanzania, Thailand, and the Philippines. The training served as a platform for INTERPOL's Operation Opson, which targets counterfeit and fraudulent food products.

In December 2017, USPTO hosted sixteen delegates from seven countries for a three-day workshop on Trade Secrets at USPTO's GIPA in Alexandria, VA. The participants included judges, prosecutors, other government IP professionals, and a parliamentarian from the following countries: Brazil, Chile, Georgia, Israel, Kazakhstan, Peru and Vietnam. The program featured two industry panels, a judicial panel, and a case study, and included a summary of each country's trade secret laws and US trade secret law and discussions on the intersection between patents and trade secrets, a forensic approach to investigating trade secret theft, and the prosecution of trade secret theft.

In November 2017, USPTO hosted a four-day copyright seminar for foreign copyright officials, attended by 26 participants from 18 countries in Africa, Asia, Latin America, the Caribbean, the Middle East, and Europe. Topics included copyright subject matter and exclusive rights, exceptions and limitations, criminal enforcement of copyright and international cooperation in the prosecution of online piracy, copyright and enforcement provisions in recent Free Trade Agreements, internet service provider liability, WIPO treaties and other activities, copyright collective management organizations, the Special 301 Report and the Notorious Markets List, the economic impact of the copyright industries, U.S. Copyright Office activities, and copyright issues for libraries and educational institutions. In addition, the seminar included presentations on various copyright industry sectors (e.g. music, motion pictures and television, publishing, computer software, and video games). Speakers included USPTO staff, representatives of other U.S. Government agencies (including USTR, DOJ CCIPS and the Copyright Office), academics, and speakers from the private sector and nonprofit organizations.

Commonwealth of Independent States

In May 2018 (and as noted above), USPTO and CLDP held a three-day program on border enforcement for customs officials in Dushanbe, Tajikistan. The participants consisted of a variety of representatives from the Ministry of Economic Development and the Tajikistan Customs Service. Topics included the importance of IPR enforcement, TRIPS, destruction of infringing goods, risk analysis, identification of counterfeit goods, and transshipment of infringing goods.

In June 2018, USPTO conducted a Judicial Dialogue on the “Protection of Intellectual Property Rights” in Tashkent, Uzbekistan. Fifteen Uzbek judges participated in the program, including six from the Administrative Judicial Bench of Supreme Court. The discussions centered on the importance of intellectual property protection; comparison of U.S. and Uzbekistan enforcement and judicial systems; comparison of litigation in the U.S. common law system and the Uzbekistan civil law system in intellectual property litigation; the role of alternative dispute resolution; criminal prosecution and trials in the U.S. and Uzbekistan; case management in the U.S. judicial system; and case studies addressing matters on copyright, trademark, sentencing, and criminal investigation.

In June 2018, USPTO provided a speaker to address IP enforcement issues at the “Georgia against Counterfeiting and Piracy” conference in Batumi, Georgia. The conference was hosted by the National Intellectual Property Centre of Georgia (SAKPATENTI). The presentations were presented by multinational organizations, including WIPO, EUIPO, WCO, INTA, AIM – European Brands Association, REACT and Association of Pharmaceutical Companies Representatives in Georgia.

In September 2018, USPTO hosted seventeen judges from Armenia at GIPA for a Judicial Dialogue on the Protection of Intellectual Property Rights. Topics included comparative legal systems, copyright and trademark law, trade secrets, patents, and criminal investigation and prosecution of IP crimes. The program included case studies and exercises.

Latin America

In November 2017, the IP Attaché in Lima, Peru and the Legal Specialist attended the National Convention of Patents and Inventions (CNAPI), organized by INDECOPI. USPTO made a presentation at CNAPI about the experience of USPTO in the process of granting patents with a participation of 50 attendees (approximately). During the Q&A period, the audience asked about the characteristics and importance of a PPH agreement between INDECOPI and USPTO. Attaché participated at the XVII National Contest of Inventions Award Ceremony of INDECOPI, where President Gagliuffi thanked and noted the importance of USPTO and another sponsor’s support.

In December 2017, the Legal Specialist in Lima, Peru organized a training for the Minister of Transport and Communications (MTC), together with Alianza and Direct TV regarding the identification of Internet Protocol Television (IPTV) and Free To Air (FTA) boxes that could be

used for illicit activities. There were around 30 participants between officials of the MTC and INDECOPI.

In March 2018, the IP Attaché in Lima, Peru participated in the IPR Center Regional (Colombia, Ecuador, Guatemala and Peru) Training on the Enforcement of IP Rights, held in Cartagena, Colombia. The Attaché spoke about “What Is IP? How Is It Protected? USPTO’s Role in the Region.”

In April 2018, the IP Attaché in Lima, Peru presented at the II Seminar - Intellectual Property Workshop: "Products Identification" in Customs (SUNAT) hosted by Barlaw and SUNAT. Approximately 70 attendees were present.

In April/May 2018, the IP Attaché in Lima, Peru presented at the Barlaw/PNP Seminar: "Products Identification." Approximately 120 policemen attended the seminar.

In July 2018, USPTO, OPDAT, INDECOPI and the Peruvian Judiciary co-sponsored a Judicial Training in Peru about Digital IP Infringements at the Chamber of Oaths in the Supreme Court. Fifty judges attended (including some by DVC). U.S. and Peruvian judges and prosecutors participated, as well as U.S. stakeholders. The President of the Judiciary and the Ambassador provided opening remarks.

Continuing and regularly: The IP Attaché, in Lima, Peru and the IP Legal Specialist participated in regular inter-agency meetings led by officials from the Government of Peru. One series of meetings is dedicated to online piracy and another is dedicated to stopping camcording. Attaché Office officials also attend a meeting of Contrafalme, which is a Peruvian Interagency group to fight counterfeit medicines.

In April 2018, USPTO and the IP Attaché in Brazil – with support from the Department of Justice (DOJ) State/INL-funded Intellectual Property Law Enforcement Coordinator (IPLEC) for Latin America – organized a Workshop on Combatting trade in Illicit and Counterfeit Agricultural Chemicals. The USPTO had organized several previous workshops on this issue in Southeast Asia and was approached by CropLife Latin America and asked to duplicate the workshop in South America. Approximately 40 law enforcement and regulatory officials from Brazil, Argentina, Uruguay, and Paraguay (i) discussed the laws and regulations covering the sale, import, export and use of pesticides and the parties responsible for testing, inspection, auditing and enforcing these laws, (ii) shared strategies, and (iii) presented case studies on best practices on investigation, prosecution of environmental crimes, and enforcement of IP rights. On the last day of the program, the leading private stakeholders in the agricultural industry provided an overview of the trends and their challenges in protection and enforcement of IP in the tri-border area (Argentina, Paraguay, and Brazil).

In May 2018, the USPTO organized a Latin America Regional Judicial Workshop on Intellectual Property Enforcement for approximately 20 Judges from countries throughout Latin America and the Caribbean. The workshop focused on the importance of intellectual property protection and enforcement, the rule of law, overview of the U.S. and participant’s civil and criminal IP

laws, civil remedies, prosecution of IP crimes, fines and deterrent sentencing, and the role of judges in shaping societal attitudes and establishing public perception.

In July 2018, the USPTO organized and participated in a three-day Workshop on Measures to Combat the Trade in Illicit and Counterfeit Health and Safety Products. A total of 75 customs officials, police, prosecutors and regulators from the Dominican Republic, Mexico, El Salvador, Guatemala, Honduras and Panama attended the three-day program, one of the largest events in the region to date. (Among the attendees were approximately 35 participants from the Dominican Republic, comprised of health regulators, inspectors, police and investigators, customs officials and prosecutors.) The workshop focused on the importance of protection and enforcement of intellectual property, the impact of counterfeits on health and safety, the intersection of IP and organized crime, and the importance of laws that serve as a deterrent. In addition to USG subject matter experts, each country had the opportunity to provide an overview of its health and food safety regulations, customs laws, and best practices in investigation and prosecution of IP crimes.

In August 2018, the USPTO and the Brazil IP Attaché hosted a 3-day program for Argentine judges and prosecutors in Buenos Aires, Argentina. Presentations were made by US judges as well as Argentine judges and prosecutors (47 Argentinean Prosecutors and Members of the Judiciary participated). Topics discussed included the intersection between trafficking in counterfeit goods and other federal crimes, asset forfeiture, handling electronic evidence, and trade secrets theft.

In September 2018, the IP Advisor assigned to Brazil spoke at a Commerce Department, Foreign Commercial Service E-Commerce Webinar on IP and IP Crimes. Approximately 30 people attended, including U.S. business representatives and owners.

In September 2018, the Brazil IP Attaché supported State Department staff in conducting public awareness programs for the video game community in the cities of Belo Horizonte and Porto Alegre, Brazil. Approximately 560 people attended a total of 7 presentations.

In April 2018, the IP Attaché in Mexico facilitated trademark examination workshops in San Salvador and Costa Rica for trademark examiners, supervisors and judges. The workshop topics included likelihood of confusion analysis, descriptiveness, well-known marks, and bad faith applications.

In May 2018, the IP Attaché in Mexico coordinated with attorneys from USPTO's Office of Policy and International Affairs (OPIA) in the delivery of a Regional Judicial Workshop on Intellectual Property Enforcement in Alexandria, Virginia, for judges from several Latin American countries. Topics included copyright piracy in the digital environment (such as illegal streaming, and cable, software, and content piracy) as well as trademark counterfeiting issues. Approximately 16 judges from Dominican Republic, Costa Rica, Panama, Uruguay and Brazil attended the program.

In July 2018, the IP Attaché assigned to Mexico, Central America, and the Caribbean co-sponsored – with USPTO/OPIA and DOJ’s Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) – a regional Workshop on Measures against Trade in Illicit and Counterfeit Health and Safety Products, held in Santo Domingo, Dominican Republic. Topics included the Importance of IPR Enforcement; Overview of U.S. Laws and Regulations Food and Drug Safety; Overview of Participants’ Laws Regulating Food and Drug Safety: Imports and Exports; Trending Issues in Combatting the Threat of Counterfeit and Adulterated Foods; IPR Border Measures in the U.S.; and Participants’ Legal and Practical Approaches to Recordation, Seizure, Forfeiture and Destruction (to include ex-officio actions). The third day of the program included a product identification exhibition and training with 9 rights holders representing various sectors (apparel, cosmetics, pharmaceutical, and tobacco). Approximately 85 government officials (prosecutors, investigators, customs officials and health inspectors) from Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico and Panama attended the program. The IP Senior Legal Specialist delivered opening remarks, facilitated the transition between sessions, and provided overall support throughout the three-day program.

In August 2018, the IP Attaché assigned to Mexico, Central America, and the Caribbean participated in the Intellectual Property Rights Enforcement Training organized by the National Intellectual Property Rights Coordination Center (IPR Center), Mexico Tax and Customs Administration Service (SAT), and HSI in Mexico City. The IP Attaché gave a presentation on Regional Responses to IP Crime. The training emphasized health and safety issues associated with counterfeit goods, the adverse effects on economies, and its connection to transnational organized crime. Attendees included representatives from the local private sector and over 100 participants from Mexican government offices including SAT, the Administration for Auditing on Foreign Trade (AGACE), the Customs Ports of Entry Division (AGA), México’s Attorney General Office (PGR), the Federal Police (CNS), the Mexican Institute of Industrial Property (IMPI), Mexico’s FDA (COFEPRIS), and Mexico’s Consumer Product Safety Commission (PROFECO).

In August 2018, the IP Attaché assigned to Mexico, Central America, and the Caribbean hosted a two-hour session on the importance of protecting trademarks and identifying counterfeit and piratical products at the Benjamin Franklin Library. Two IP attorneys discussed the challenges rights holders face with counterfeiting and piracy, and the explained how to best identify original products and the provisional measures they request at the border to stop illicit merchandise from entering the market. Approximately 15 people attended the session, which was the first in a series of public awareness sessions.

In August 2018, the IP Attaché assigned to Mexico, Central America, and the Caribbean co-sponsored —with USPTO/OPIA—a Workshop on Border Enforcement of Intellectual Property Rights in Monterrey, Mexico. Topics included the Importance of IPR Enforcement; IPR Border Measures: the U.S. Approach and Mexico’s Approach; Targeting and Risk Indicators; and Criminal Investigation and Prosecution of IPR Agencies. AmCham conducted the product identification exhibition and training on the third day of the program. Approximately 30 Mexican customs officials received training from 24 rights holders from the apparel, pharmaceutical, consumer goods, tobacco, certification marks, and entertainment sectors.

In September 2018, the USPTO organized and participated in a three-day Tri-border Workshop on Combatting Intellectual Property Crime. A total of 27 customs officials, police and prosecutors from El Salvador, Guatemala and Honduras participated in the workshop. The workshop, which took place at the State Department's International Law Enforcement Academy (ILEA), focused on the intersection between transnational organized crime and intellectual property; the impact of counterfeits on health and safety, society and the economy; the importance of laws that serve as a deterrence, and strategies to seek stronger penalties in IP cases; and best practices for educating judges about IP crimes.

In September 2018, the USPTO and IP Attaché in Mexico City planned and participated in a regional IP border enforcement workshop for approximately 40 Mexican SAT and Belize customs officers. Topics included the importance of IP; threats, risk indicators, and targeting; criminal investigation and prosecution; working with rights holders; and cooperation with national, regional, and international partners. Training was provided by USG experts and 30 rights holders from the toy, apparel, pharmaceutical, consumer goods, tobacco, certification marks, and entertainment sectors.

South Asia

In November 2017 (and as noted above), USPTO and CDLP hosted a six-member intellectual property legislative update working group composed of officials from Pakistan's Ministry of Commerce, Intellectual Property Office and three intellectual property attorneys. The delegation discussed United States Government comments to proposed amendments to the Patent, Copyright and Trademark Laws with experts from the USPTO, U.S. Copyright Office and U.S. Department of Justice.

In November 2017, USPTO and DHS – along with Confederation of Indian Industry – conducted a program on enforcing trademark and copyright rights in India. The US and India exchanged best practices on combatting counterfeit goods. Special focus was also given to online piracy and how the police can play a role, citing the examples of the City of London Police and the Telangana Model. The programs took place in Delhi, Bihar, and Kolkata.

In January 2018, the Government of Mizoram, recognizing an issue with rampant piracy and dubbing of music and films, requested USPTO and our partners to come and talk to them about setting up a task force to enforce IP rights and curb counterfeiting in the region. As a result of this roundtable, the State of Mizoram becomes the third state in the country to have a digital crime unit to combat online piracy, and is working towards strengthening border protection.

In January 2018, USPTO participated in a Federation of Indian Chambers of Commerce & Industry program specifically designed to address enforcement concerns. DHS and USPTO spoke on protecting and enforcing IP rights in the United States and best practices that can be adopted by India.

In February 2018, USPTO – in close coordination and collaboration with the Food and Drug Administration (FDA) – conducted a three-day workshop for the Governments of India, Nepal,

and Sri Lanka on Combatting the Proliferation of Substandard, Unregistered, Unlicensed, and Falsified Health and Safety Regulated Products. The program was conducted in New Delhi, India, and approximately 65 officials attended, including representatives from state and central drug regulators, customs, and police. The Workshop leveraged expertise from FDA, U.S. Customs Border Protection, U.S. Department of Justice, INTERPOL, UK Border Force, Her Majesty's Revenue and Customs, and the Universal Postal Union. The program focused attention on consignment shipments and International Mail Facility enforcement challenges.

In April 2018 (and as noted above), USPTO in close coordination and collaboration with CLDP organized a two-day IPR Border Enforcement program for Afghan Customs and Judicial officials. The program hosted ten Afghan Customs officials, including leadership and legislative specialists, three Afghan Judges from the Commercial Court and one official from Afghan Central Business Registry-IP unit. The program sensitized Afghan Customs leadership and policy makers on the importance of IPR Enforcement and educated the officials on TRIPS IPR Border Enforcement provisions with expertise from the World Customs Organization's Combatting Counterfeiting and Piracy unit. In addition, Indian Customs IPR unit presented on Indian Customs' experience in implementing TRIPS. The program helped provide the delegation the requisite technical expertise to begin updating Afghanistan's IPR Border Enforcement procedures.

In April 2018, USPTO organized a two-day IPR Border Enforcement program for the Government of Sri Lanka. The participants consisted of approximately 70 officials, from Sri Lankan Customs and the Criminal Investigation Department. The program leveraged expertise from U.S. Customs and Border Protection and U.S. Department of Justice, and the topics included IPR Adjudication, prosecuting criminal IPR cases, and utilizing IP recordation systems.

South East Asia

In May 2018, the IP Attaché in Bangkok, Thailand, the Thai Attorney General Office, and the State's Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) co-organized a capacity building program, "Workshop on the Prosecution of Intellectual Property Cases for Public Prosecutors" in Chiang Mai, Thailand. The program aimed at providing information from the newly published manual for prosecuting IPR cases and sharing experiences by both Thai and U.S. experts. (The manual was produced with the support of the IP Attaché Office.) 40 provincial public prosecutors in the northern area of Thailand participated.

In June 2018, as requested by the Central Intellectual Property and International Trade Court of Thailand, the IP Attaché in Bangkok, Thailand, provided support for the participation of a U.S. speaker from the Columbia Law School in the Court's annual conference held in Bangkok, Thailand. The U.S. Speaker spoke on the topic of "The U.S. laws on Combatting Online Piracy" to about 300 Thai judges, associated judges, lawyers, practitioners, academic lecturers, and enterprises.

In June 2018, the IP Attaché Office in Bangkok, Thailand, assisted the ASEAN Secretariat in organizing the ASEAN Judicial Colloquium on Civil and Criminal IP Cases, supported by the

USPTO, in Bangkok, Thailand. Three U.S. judges and 32 judges from ASEAN member countries exchanged knowledge and discussed IP case administration and cutting edge IPR enforcement issues.

In July 2018, the IP Attaché assigned to South East Asia traveled to Nay Pyi Taw, Myanmar, to contribute to two judicial programs that were co-organized by the USPTO, United States Agency for International Development (USAID), CLDP, and Myanmar Union Supreme Court. The U.S. speakers and participants in both programs included Bernice B. Donald (Circuit Judge, U.S. Court of Appeals for the Sixth Circuit), Hildy Bowbeer (Magistrate Judge, U.S. District Court for the District of Minnesota, St. Paul, Minnesota), Thomas Shaw (Administrative Law Judge at the USPTO Trademark Trial and Appeal Board), Peter Fowler (USPTO Senior Counsel for Enforcement), Catherine Hartzenbusch (Department of Justice Attaché, and IP Law Enforcement Coordinator for Asia), and Judy Goans (USAID IP Consultant). The first judicial program comprised round table discussions on judicial enforcement of intellectual property laws. The U.S. delegation received a report on Myanmar's preparation for handling IP cases with the promulgation of four new IP laws from the Director General of the Office of the Union Supervision, Union Supreme Court, and about 12 Myanmar participants. They also discussed key issues, overviews and examples of how the U.S. and other courts in the ASEAN region handle IP cases. The second judicial program comprised a judicial colloquium on handling administrative, civil, and criminal IP cases. About 50 participants attended the program, where the U.S. speakers presented information and shared experiences on various aspects of IP cases.

In August 2018, the IP Attaché assigned to South East Asia and the IP Division of Thai Attorney General Office (AGO) co-organized a capacity-building program in Phuket, Thailand for 40 Thai public prosecutors in the southern region on prosecuting cases regarding IPR violation. The program provided relevant information and sharing experiences by both Thai and U.S. experts, on prosecuting cases related to IPR infringement. Catharine A. Hartzenbusch, Attaché for Criminal Matters in Southeast Asia and IP Law Enforcement Coordinator for Asia from the U.S. Department of Justice, also participated and spoke in this program.

In August 2018, the IP Attaché assigned to South East Asia provided support in hosting the "Workshop on Criminal Enforcement Against Online Trade in Pirated Content and Counterfeit Goods" held in Bangkok, Thailand and co-organized by USPTO, U.S. Department of Justice, ASEAN Secretariat, U.S. Food and Drug Administration, U.S. Department of Homeland Security and the E.U. Intellectual Property Office. Attending the program were 80 officers, police and public prosecutors – from countries in Asia region (including ASEAN members, Mongolia, Pakistan, Bangladesh, Nepal, and Timor-Leste) who have a role in investigation and enforcement against online IPR infringement.

In August 2018, the IP Attaché assigned to South East Asia co-hosted – with the U.S. Consulate General in HCMC and the American Chamber of Commerce – the "Workshop on Patent Protection, Licensing, and Enforcement" held in Ho Chi Minh City, Vietnam. The program provided an overview of patent protection, commercialization, and enforcement in the U.S. and Vietnam. Fifty entrepreneurs, local academies' researchers and staff, and IP practitioners participated.

In August 2018, the IP Attaché assigned to South East Asia and her team, along with a U.S. delegation headed by Mr. Vishal Amin, the Intellectual Property Enforcement Coordinator (IPEC), participated in several meetings with the Royal Thai Government's law enforcement authorities responsible for IPR protection and enforcement in Thailand. The meetings included a discussion on the current Thai IP enforcement efforts, with the National Sub-Committee on Enforcement Against IP Infringement, which included representatives from the Department of Intellectual Property, Internal Security Operations Command (ISOC), Economic Crime Suppression Division of the Royal Thai Police, and Customs Department. The Attaché and the IPEC delegation also had bilateral meetings with the Department of Special Investigation (DSI) and Customs Department and discussed matters concerning the on-going collaboration on IPR enforcement between relevant agencies in the two countries.

In August 2018, the IP Attaché assigned to South East Asia and an IPEC delegation also met with the ASEAN Network of Intellectual Property Enforcement Experts (ANIEE), organized by the ASEAN Secretariat, with support from USPTO and USDOJ. Mr. Amin delivered remarks, which discussed in part the importance of strong IP protection. The IP Attaché also discussed her role in providing training and assistance in the ASEAN region.

In September 2018, the IP Attaché assigned to South East Asia and her team provided information on IP protection and enforcement, especially on collective management system in Thailand, to representatives from the Motion Picture Licensing Corporation – an international copyright licensing organization authorized by motion picture copyright holders.

Asian Pacific Economic Cooperation (APEC)

In February 2018, USPTO – in co-sponsorship with APEC – organized and participated in a workshop on Trademark Infringement Determinations in a Border Enforcement Context on the margins of the APEC Intellectual Property Rights Experts' Group (IPEG) Meetings in Papua, New Guinea. Approximately 55 representatives from both the border enforcement authorities as well as intellectual property offices of the APEC economies attended the workshop. Speakers from USPTO, CBP, HSI, and DOJ discussed investigating and prosecuting IP infringement cases arising from customs seizures at the border. Representatives from APEC member economy's customs services also spoke on their experiences in stopping IP infringing goods at the border.

Middle East/North Africa

In January 2018, the Middle East North Africa IP Attaché delivered a presentation at D1! (Diwan) to members of the local Kuwaiti creative community – including filmmakers, social media influencers and animators – about copyrights and intellectual property laws in Kuwait. The presentation highlighted the definition of copyright, why we protect the copyright, how we protect the copyright, comparison between the copyright law in US and Kuwait, international treaties related to the copyrights, and what is protected by copyright.

In April 2018, the Middle East North Africa IP Attaché co-sponsored and spoke at the 2018 Hewlett-Packard (HP) Anti-Counterfeiting Summit which was attended by approximately 100 people. Besides HP representatives, other speakers included Sulaiman bin Abdullah Al-Tuwaijri, the General Manager for Saudi customs, and Hashal Bin Sulaiman Alhamdan, the

General Manager for the commercial control at the Said Ministry of Commerce. The IP Attaché, in consultation with USPTO's MENA Enforcement lead, spoke about the IP Attaché program, developments at the Saudi IP Authority, and policy considerations related to counterfeit goods, focusing on effective messaging and elements of an ideal IP ecosystem.

In July 2018, the IP Attaché assigned to the Middle East and North Africa along with USPTO Technical Expert Peter Fowler conducted an IP Enforcement Consultation Program with the Saudi Authority for Intellectual Property (SAIP) technical team on best practices related to IP enforcement policy. Agenda topics included the U.S. enforcement ecosystem, outreach strategies, and recommendations on how SAIP can lead the Kingdom of Saudi Arabia to become a regional hub for IP. The program was attended by eight Saudi Government officials.

In August 2018, USPTO organized a four-day IPR Judicial Exchange at GIPA for thirty-six Middle Eastern and North African Judges from Algeria, Saudi Arabia, Jordan, Egypt, Kuwait, Oman, UAE and Bahrain. The program was coordinated with the Gulf Cooperation Council's Intellectual Property Training Centre. The program leveraged expertise from two U.S. District Court Judges and U.S. law enforcement. The program included substantial exchange of best practices in adjudicating IPR cases and incorporated case studies presided by U.S. Judges.

East Asia

In October 2017, US Consulate Shanghai hosted its first IPR roundtable since arriving at post in August 2017. Shanghai PTO organized the event, which included 39 representatives from 28 U.S. companies.

In April 2018, USPTO HQ, the USPTO IP Attaché in Shanghai, China, and the DOJ regional IP Law Enforcement Coordinator organized a two-day Taiwan Trade Secrets Workshop in Taipei, Taiwan. The workshop focused primarily on criminal enforcement of trade secrets misappropriation and included presentations and panel discussions from USPTO, FBI, and DOJ. Representatives from industry groups also presented their experiences in investigating and pursuing a trade secrets case in Taiwan. FBI and DOJ participants presented a case study on a recent economic espionage case in the US which led to the longest prison sentence handed down for a trade secrets case in the U.S.

In June 2018, USPTO held the third annual US-China Entertainment Law Conference at Shanghai Jiaotong University. The conference brought together senior policymakers, academics, business executives and international practitioners from China and the U.S. to discuss current legal issues in the US-China entertainment industry. USPTO organized the event with Loyola Law School Los Angeles, and co-hosted with Peking University, Shanghai Jiaotong University, Beijing Film Academy, and Shanghai Film Group. Topics included the recent development in US and China entertainment industry, related IP issues in entertainment and game industries, and cross-border IP protection. Approximately 250 people attended the event. Some of the speakers included Deputy Director General of SIPA Rui Wenbiao, Judge Hu Mi from Shanghai IP Court, Judge Li Xiaoping from Xuhui District Court, and Judge Jiang Guangrui from Pudong District Court. Shanghai Consul General Stein delivered the opening remarks, and the Shanghai IP

Attaché spoke at the opening roundtable discussion and gave the closing remarks. Neil Graham, Attorney Advisor of USPTO, presented a “Spotlight Dialogue” with Mr. Ren Zhonglun, President of Shanghai Film Group.

In July 2018, the Shanghai IP Attaché delivered the opening remarks at the 2018 China Forum on Criminal IP Protection in Suzhou, China. The theme of the forum was “collaboration, innovation, win-win.” Officials from the Ministry of Public Security and from courts and procuratorates, as well as rights holders shared their experience and challenges in criminal IP enforcement. Gao Feng, Director General of the Economic Crime Investigation Department of the Ministry of Public Security (MPS/ECID), Lu Zhengmin, Deputy Director of the National Leading Group, Chang Heping, Deputy Director General of Jiangsu Public Security Bureau (PSB), and Lv Guoqiang, Counselor of WIPO, also spoke at the forum, which was attended by approximately 250 people.

In September 2018, the Shanghai IP Attaché held side meetings with (i) representatives from music, movie, publishing, and software industries regarding copyright protections, digital piracy and the work plan; (ii) the Taiwan Intellectual Property Office (TIPO) to discuss right holder issues and areas for cooperation, including examiner exchanges, Priority Document Exchange, Patent Prosecution Highway, and biological deposits; and (iii) the Taiwan Intellectual Property Court and High Prosecutors Office of the Ministry of Justice to discuss enforcement issues and plans to hold two enforcement programs in early 2019, one on combatting digital piracy (which follows up on a July 2016 digital piracy program in Taipei) and one on trade secret enforcement (which follows up on an April 2018 workshop in Taipei). Taiwan has asked that these programs include industry, law enforcement and judges from both Taiwan and the U.S.

European Union

In FY 2018, the IP Attaché in Brussels hosted a series of roundtables with European Commission, Europol, OECD, and WCO representatives, among others, on issues such as IP and terrorist financing, IP and cybercrime, sustained public awareness campaigns and education, and pharmaceutical counterfeiting. The Attaché also organized briefings for Members of the European Parliament on various aspects of illicit trade, including IP counterfeiting. The purpose of the roundtables is to enhance understanding of the intricacies of the various IP crime trends and emerging challenges so that we can develop more effective and cooperative responses. Future roundtables and briefings will be on trade secret theft and counterfeits.

Engagements with local governments and IP stakeholders

In December 2017, the USPTO and Thai Department of Intellectual Property (DIP) co-organized a half-day program on Enforcement against Signal and Streaming Piracy, at the Ministry of Commerce in Nonthaburi, Thailand. About 60 officers from the Thai governmental agencies who handle IPR enforcement – including Internal Security Operations Command of the Thai Army, Economic Crime Suppression Division (the Thai Police), Department of Special Investigation, Ministry of Digital Economy and Society, and the National Broadcasting and Telecommunication Committee – participated in the program.

In January 2018, the IP Attaché in Bangkok, Thailand, and IP specialist surveyed the MBK Shopping Mall in Bangkok, Thailand – which in 2017 was removed from USTR’s list of notorious markets – and discussed the IPR enforcement issues with staff of the Thai IPR Enforcement Center, which was established by the Prime Minister Prayuth Chan-o-cha.

In February 2018, the IP Attaché in Bangkok, Thailand – together with experts from the United States Copyright Office and the USPTO, and the Deputy Assistant for Innovation and Intellectual Property of the Office of the U.S. Trade Representative (USTR) – provided consultation to the Thai Department of Intellectual Property (DIP) on copyright registration, recordation system, and technical issues concerning the current draft of Thai Copyright Law Amendment. The draft aimed at resolving issues in the current copyright law of Thailand concerning Internet Service Provider (ISP) liability and the Court’s order concerning the removal of pirated content from a website. The draft will add protection for technological protection measures and rights management information.

In March 2018, the IP Attaché in Bangkok, Thailand – together with 2 experts from the United States Copyright Office and the USPTO – met with 40 judges/associate judges and the Chief judge at the Central Intellectual Property and International Trade Court of Thailand and discussed the legal issues relating to the Digital Millennium Copyright Act (DMCA) and the copyright enforcement experience in Thailand.

In March 2018, the IP Attaché in Bangkok, Thailand – together with experts from the United States Copyright Office and the USPTO, and USTR’s Deputy Assistant for Innovation and Intellectual Property – participated in consultation meetings with groups of IP right holders on issues and concerns regarding IPR protection in Thailand. The groups included the Pharmaceutical Research & Manufacturers Association (PhRMA), the Business Software Alliance (BSA), Motion Picture Association (MPA) and the International Federation of the Phonographic Industry (IFPI).

In June 2018, the IP Attaché in Bangkok, Thailand, accompanied three U.S. judges and USPTO Senior Counsel for IPR Enforcement in meetings with Thai governmental agencies and IP stakeholders in Bangkok, Thailand. The US delegation (i) visited the Central Intellectual Property and International Trade Court of Thailand and met with 20 judges and the Chief Judge for exchanging information concerning adjudication of IP cases; (ii) met with the U.S. Embassy Bangkok’s Law Enforcement Working Group (LEWG) and discussed the roles of U.S. agencies in relation to IPR issues; and (iii) met with the Chairman of the IP Association of Thailand (IPAT) and the association’s members. In addition, the judges received updates on challenges in IPR enforcement in Thailand.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY (NIST)

The Commerce Department’s National Institute of Standards and Technology (NIST) and the White House Office of Science and Technology Policy (OSTP) are co-leading the Lab-to-Market cross agency priority (CAP) goal. To carry out these efforts, NIST has launched the Return on

Investment (ROI) Initiative at an event titled "Unleashing American Innovation" to streamline and accelerate the transfer of technology from Federal Laboratories and federally-funded R&D at universities.

For America to maintain its position as the global leader in innovation, bringing products to market more quickly, growing the economy, and maintaining a strong national security innovation base, it is essential to optimize technology transfer and support programs to increase the return on investment (ROI) from federally funded R&D. The Lab-to-Market initiative was identified as an Administration priority and funded by Congress to increase the economic impact of federally-funded research and development by accelerating and improving the transfer of new technologies from the laboratory to the commercial marketplace. As part of the Department of Commerce, NIST performs a critical role in coordinating interagency activities including development of standard tools and practices and the measurement and evaluation of results. Interagency Lab-to-Market efforts focus on five strategy areas:

- Regulatory and Administrative Improvements - Identify regulatory impediments and administrative improvements in Federal technology transfer policies and practices.
- Private Sector Engagement - Increase engagement with private sector technology development experts and investors.
- Entrepreneurial R&D Workforce - Build a more entrepreneurial R&D workforce. Support entrepreneurial education and training to develop the next generation of skilled innovators and entrepreneurs, and enable technology transfer and start-ups.
- Tech Transfer Tools and Services - Support innovative tools and services for technology transfer. Improve and develop tools to support the discovery and transfer of technologies.
- S&T Trends and Benchmarks - Improve understanding of global science and technology trends and benchmarks to measure progress and achieve results.

NIST is working in collaboration with public sector, private sector and other Federal R&D, intellectual property, and technology transfer stakeholders to identify critically-needed improvements to Federal technology transfer efforts. NIST is uniquely positioned to implement this initiative through its government-wide leadership role within the Department of Commerce, including delegated regulatory authority and responsibility for annual reporting to the President and Congress on government intellectual property and collaborative research.

**DEPARTMENT OF HEALTH AND HUMAN
SERVICES**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration (FDA) Appendix for FY 2018 Annual Report

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

Protecting the Integrity of the Public Health Supply Chain

Drug Track and Trace

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

In FY 2018, the FDA issued six guidance documents that provide stakeholder clarity on product identifier requirements, including grandfathering and compliance policy of product without product identifiers, determining suspect and illegitimate product for verification, standardizing data and documentation practices for product tracing, and the process for waivers, exceptions, and exemptions. FDA conducted three public meetings to gain stakeholder input on electronic interoperability, standards for data exchange, data architecture and inference as FDA works to develop standards and system attributes to achieve electronic, interoperable tracing of products at the package level by 2023. In addition, FDA intends to initiate a DSCSA pilot project program later in 2018. FDA is actively developing enhanced drug distribution security needs for package level product tracing in 2023 and continues to engage stakeholders. For updates about DSCSA implementation and copies of the guidance documents, see <http://www.fda.gov/Drugs/DrugSafety/DrugIntegrityandSupplyChainSecurity/DrugSupplyChainSecurityAct/default.htm>

Engagement with Other Countries

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

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

Global Surveillance and Monitoring System

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

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

Illegal Opioids and Consumer Education

Illegal Opioid Online and Warning Letters Issued

Opioid addiction is an immense public health crisis and addressing it is one of FDA’s highest priorities. The FDA has been coordinating its efforts to address this crisis with respect to the illegal online marketing of unapproved opioids. The FDA’s Center for Drug Evaluation and

Research (CDER) took a proactive approach by hosting a one-day Online Opioid Summit in June 2018 with internet stakeholders, government entities, academic researchers, and advocacy groups to discuss ways to collaboratively take stronger action to reduce the online availability of illicit opioids. Topics that were addressed during the summit included research into the ease with which illicit opioids can be purchased online and industry approaches to addressing opioids marketed online, followed by a roundtable discussion to identify gaps and new solutions.

In addition, opioids bought online may be counterfeit and could contain other dangerous substances. As part of its continued efforts to address this public health concern, in May and August 2018, FDA issued warning letters to 13 networks operating a total of 74 illegal online pharmacies marketing potentially dangerous, unapproved, and misbranded versions of opioids, including tramadol, to U.S. consumers. These warning letters state that these networks must immediately stop illegally selling these products to American consumers. These letters are part of FDA's comprehensive campaign to minimize the illegal sale of unapproved opioids. For more information, please see the accompanying press release for each operation:

<https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm618658.htm> and <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm609869.htm>

Consumer Education

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

Between October 2017 and September 2018, the BeSafeRx public service announcement (PSA) aired 9,381 times on television stations and networks across the country. The TV PSA has yielded 72 million impressions. During the same time period, print ads for the campaign have appeared in various publications distributed in physicians' offices. These placements resulted in a combined circulation of 1,330,000 total copies, yielding an estimate of 9.5 million impressions.

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

Outreach to Health Care Providers

During August and September 2018, FDA/CDER published its Know Your Source, Notice to Physicians (Notice) in the wallboard publication of Physician's Weekly, which was displayed in 150 oncology practices during each month. The Notice describes the importance of buying drugs from licensed sources to ensure that patients receive safe and effective drugs.

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

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

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

In FY 2018, the vendor provided a CD5 prototype device (pre-production devices) that was evaluated by FDA scientists. Through their feedback, the vendor made further modifications and refinements to the device. The plan in FY 2019 is to purchase additional CD5 prototypes for field testing, to receive input from the FDA investigators before finalizing the production device, with a target of delivery and purchase of production units before the end of FY 2019.

Collaboration with CBP at international mail facilities (IMFs)

As part of FDA's Import Operation Strategy, FDA personnel – assigned to import operations – work daily with U.S. Customs and Border Protection (CBP) personnel at international mail facilities (IMFs) and ports of entry. The FDA investigators determine admissibility of FDA-regulated products. All parcels reviewed which contain pharmaceuticals, regardless of detention status, are documented and processed. The FDA collects daily data from all nine IMFs regarding the seizure or detention of suspected counterfeit pharmaceuticals and products marketed as foods and/or dietary supplements containing undeclared drug ingredients. This data is shared within FDA and CBP. Due to the growth of the packages received at the IMFs, FDA in 2017 increased the number of investigators in the IMFs, allowing FDA to open and screen significantly more. These are packages that our partners at CBP have flagged for additional screening for potential refusal of admission and possible destruction; many of these packages contain unapproved and counterfeit drugs. Furthermore, FDA is seeing an increase in number of packages containing opioids including tramadol, codeine and morphine. The FDA investigators are making a difference in preventing illegal drugs from reaching their intended consumers and assisting in finding the source of illegal drugs. See

<https://www.fda.gov/NewsEvents/Newsroom/FDAVoices/ucm611996.htm>

FDA also shares technology with CBP. For example, FDA and CBP personnel collaborate to utilize FDA's handheld Counterfeit Detector and portable Ion Mobility Spectrometry (IMS) devices at IMFs to identify counterfeit pharmaceuticals and dietary supplements tainted with active pharmaceutical ingredients (API).

International Capacity Building and Training: FDA Capacity Building and Training

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

In February 2018, FDA/OCI and FDA's foreign office in India helped to organize a three-day workshop in New Delhi titled "Combatting the Proliferation of Substandard, Unregistered, Unlicensed, and Falsified Health and Safety Products." The workshop focused on illicit medical and tobacco products. The attendees included representatives from five countries, INTERPOL, regulated industry, and the Universal Postal Union. This event was sponsored by United States Patent and Trademark Office (USPTO) and Department of Justice (DOJ). FDA/OCI also conducted training with the FDA India Office in New Delhi.

In February 2018, FDA/OCI provided cybercrime training to law enforcement and regulatory personnel from the United Kingdom and Republic of Ireland. In addition, FDA/OCI hosted two law enforcement officers from the United Kingdom at its Special Agent Training Program. Both attendees played leading roles in Operation Lascar, FDA/OCI's first international enforcement operation.

In June 2018, representatives from FDA/OCI participated in the 20th annual meeting of the Permanent Forum on International Pharmaceutical Crime. Also in attendance were law enforcement and regulatory personnel representing Belgium, Australia, Italy, Canada, Germany, Ireland, Israel, The Netherlands, New Zealand, Singapore, Spain, Switzerland, United Kingdom, World Customs Organization, and INTERPOL.

In July 2018, representatives from FDA/OCI were featured speakers at a regional workshop in Santo Domingo, Dominican Republic, which involved prosecutors and law enforcement and regulatory personnel from the Dominican Republic, Guatemala, Honduras, El Salvador, Mexico, and Costal Rica. The program focused on import operation and food products. This event was sponsored by USPTO and DOJ.

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

In 2018, the PFIPC/ILFCM annual meeting was hosted by the German Federal Police and Germany's Official Medicines Control Laboratory (OMCL) Münster. The PFIPC meeting was

entitled “20 years of Cooperation in Prevention, Detection and Disruption of Organized Criminal Networks,” and focused on counterfeit medicines, medical devices, traditional Chinese medicines, herbal medicines adulterated with active pharmaceutical ingredients, and biologic pharmaceuticals. The ILFCM meeting included multiple presentations on the above topics from each of the laboratory organizations attending the meeting. A large portion of the meeting focused on the health crisis associated with fentanyl and opioid-containing pharmaceutical products, and the impact that these materials are having on the member countries. The group also shared information related to new instruments and field portable technology which can be used to detect the compounds.

Enforcement Activities

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 use the internet to illegally sell counterfeit or adulterated medicines, medical devices, cosmetics, tobacco, and food products. During FY 2018, OCI further strengthened its CcIU by assigning five additional full-time Special Agents to this program. Currently, there are 11 full-time CcIU Special Agents whose activities are managed by a Senior Operations Manager and supported by dedicated analytical staff. Their priorities include the strategic targeting of transnational criminal groups misusing the internet as well as those who facilitate their activities by attempting to penetrate the FDA regulated supply chain or by intentionally misrepresenting the nature of their products.

FDA/OCI’s Port of Entry Program

OCI’s ongoing Port of Entry Program (POE) is intended to detect violative shipments of FDA-regulated commodities entering our national ports and mail systems. Currently, there are 11 full-time and 10-part-time OCI POE Special Agents and the program is overseen by a Senior Operations Manager. Their priorities include responding to international mail facilities, fast parcel carriers, ports, and mail hubs. This initiative enables OCI Special Agents to collaboratively work with their regulatory colleagues from FDA, CBP, and other Federal law enforcement agencies to stop the entry into the United States of illicit human and animal drugs, vaccines, medical devices, and other biologic and tobacco products.

FDA/OCI Enforcement Actions

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

Operation Safeguard

Operation Safeguard mail blitzes are conducted at IMFs by FDA, CBP and other partner government agencies (PGAs) on a regular, rotating schedule. Beginning in March 2007, these

blitzes have been conducted monthly, with few exceptions. The format for each blitz is based on the same premise: for each of three days, CBP reviews up to 100 mail parcels each day which are suspected to contain pharmaceuticals. This format provides an idea of the wide variety of pharmaceutical products that pass through each IMF. FDA participates by providing technical assistance to CBP and conducting an FDA admissibility review of each of the parcels referred as FDA-regulated articles. Upon review and examination, some parcels are subsequently referred to other PGAs as being articles under their jurisdiction, such as controlled substances to Drug Enforcement Administration (DEA). For those articles found to be subject to FDA jurisdiction and found to be violative, the articles are generally refused admission into the U.S. and returned to the sender, unless evidence is provided to overcome the violation. FDA has implemented the enforcement tool provided by section 708 of the Food and Drug Administration Safety and Innovation Act (FDASIA) to combat illegal drug importation. Section 708 gives FDA the authority to administratively destroy refused drugs that are valued at \$2500 or less. This authority was implemented nationwide in FY 2017.

Operation Opson

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

Other FDA Enforcement Actions

In addition to the operations discussed above, FDA enforcement cases during FY 2018 include the following prosecutions.

Canadian Drug Firm Admits to Selling Counterfeit and Misbranded Prescription Drugs Throughout the United States. Kristjan Thorkelson, a resident of Manitoba, Canada, together with several Canadian companies associated with Thorkelson, including Canada Drugs, Rockley Ventures, and River East Supplies, admitted on April 13, 2018, to widespread illegal sales of misbranded and counterfeit prescription drugs in the United States. The Canadian companies were sentenced to forfeit \$29,000,000 of the proceeds of their illegal scheme, to pay a fine of \$5,000,000, and to five years of probation. The court sentenced Thorkelson individually to pay a fine of \$250,000 and to five years of probation with the first six months in home confinement. Thorkelson and the associated companies were also ordered to permanently cease their illegal operations, surrender to the United States all domain name registrations and websites from their businesses, and cooperate with the United States Justice Department and the FDA in any further criminal investigations. <https://www.fda.gov/ICECI/CriminalInvestigations/ucm605139.htm>

Canadian Companies Fined \$45 Million and Ordered to Forfeit an Additional \$30 Million for Smuggling Misbranded Pharmaceuticals into the United States. SB Medical Inc., and TC Medical Group, companies based in Toronto, Canada, and St. Michael, Barbados, were fined \$45 million and required to forfeit another \$30 million for orchestrating a multi-year conspiracy to smuggle misbranded prescription pharmaceuticals into the United States. During the conspiracy, SB Medical Inc. and TC Medical Group received over \$33 million in proceeds from selling misbranded prescription pharmaceuticals to U.S. doctors and clinics. Tzvi Lexier, leader

of the TC Medical organization, lost his final appeal to the Canadian Supreme Court during the week of July 2, 2018. He was ordered to surrender before August 19, 2018. On July 26, 2018 Lexier had his initial appearance in the United States. This action will conclude over three years of extradition proceedings against Mr. Lexier.

<http://wayback.archive-it.org/7993/20180126095029/>

<https://www.fda.gov/ICECI/CriminalInvestigations/ucm459660.htm>

Pharmacy Owner Sentenced for Dispensing Misbranded Drugs. Bryan Polomoscanik, owner of Dierkens Pharmacy, Monongahela, PA, was sentenced to 5 years of probation, \$1,450,000 in forfeiture and fined \$50,000 for his previous conviction of conspiracy, smuggling, and money laundering in connection to introducing misbranded drugs into interstate commerce. Polomoscanik purchased prescription medications from the United Kingdom and Canada which he dispensed to unsuspecting consumers as FDA approved drugs purchased from a U.S. based wholesaler. Additionally, Dierkens Pharmacy supplied multiple assisted living facilities around the Monongahela, PA area with prescription drugs for their patients. When these patients no longer needed medications, unused drugs were returned to Dierkens Pharmacy, where they were re-dispensed to unsuspecting pharmacy customers. Polomoscanik purchased Dierkens Pharmacy from Jeffrey Markovitz. Markovitz was also buying prescription drugs from Canada and dispensing them to unsuspecting customers. Markovitz has previously pleaded guilty and ordered to forfeit \$650,000. Additionally, Quantum Solutions, a Canadian company and a source of the misbranded drugs, along with its owners, Tony Lee, Billy Lee and Tarn Uppal, pleaded guilty. Tony Lee, Billy Lee, and Tarn Uppal were each sentenced to 3 years of probation and fined \$50,000. Quantum Solutions was sentenced with a \$100,000 fine and ordered to pay \$4,235,000 in criminal forfeiture.

<https://www.fda.gov/ICECI/CriminalInvestigations/ucm615440.htm>

Compounding Pharmacy Pleads Guilty to Mail Fraud in Connection to Introducing Misbranded Drugs into Interstate Commerce. Scott M. Connolly, an unlicensed pharmacy technician employed by New England Compounding Center (NECC), pleaded guilty to 10 counts of mail fraud. Connolly was previously indicted along with 13 others in connection with the 2012 nationwide fungal meningitis outbreak originating from NECC. Connolly was assigned to making cardioplegia solutions that are used to stop patients' hearts during heart surgeries. For more than two years, Connolly produced thousands of cardioplegia solutions that were sent to customers throughout the country. Connolly's unlicensed status was known to his supervising pharmacists, Barry Cadden, Glenn Chin, and Gene Svirskiy. Connolly used Cadden's username and password to log into the computerized pump so that his name would not appear on any paperwork generated when he filled the cardioplegia orders. He also did not perform any of the required validation tests other pharmacy technicians were required to do. Cadden and Chin have been sentenced to 9 and 8 years' incarceration respectively. Connolly is cooperating with the government and is expected to testify during the trial of the remaining NECC defendants.

<https://www.fda.gov/ICECI/CriminalInvestigations/ucm617436.htm>

DEPARTMENT OF HOMELAND SECURITY

Department of Homeland Security

Department of DHS Appendix for FY 18 Annual Report

This appendix discusses the FY 2018 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 2018, under **Operation Chain Reaction**, HSI initiated 24 criminal investigations, conducted 15 criminal arrests, and helped secure 18 indictments and 7 convictions, as well as 68 seizure incidents of counterfeit goods with a total Manufacturer's Suggested Retail Price (MSRP) of approximately \$ 4.9 million.

Other notable OCR activities during FY 2018 included the following.

- On October 25, 2017, a representative of OCR participated on a panel at NXP headquarters in Austin, Texas, made up of experts who are using Science, Technology, Engineering, or Math to positively impact national security. OCR conveyed its efforts against counterfeits entering the supply chain, and the importance of the support from forensic labs, and the processing of evidence in our investigations as it relates to national security. There were approximately 85 attendees.
- On March 14, 2018, a representative of the IPR Center spoke at the U.S. Nuclear Regulatory Commission's (NRC) 30th Annual Regulatory Information Conference (RIC) held in Rockville, Maryland. The RIC brought together nearly 3,000 participants from over 30 countries representing interested stakeholders from other government agencies, industry, international organizations, and the general public, providing a forum that promotes open dialogue to learn valuable information about NRC actions planned or in progress related to the regulation of nuclear power plants, other nuclear facilities, and nuclear safety research. The IPR Center representative participated on a panel regarding counterfeit, fraudulent, and suspect items. Approximately 150 people were in attendance for the panel discussion (in person and telephonically).
- On March 18, 2018, personnel representing OCR participated in a Counterfeit Microelectronics Panel at the DoD Procurement Fraud Working Group (PFWG) in San Antonio, Texas. The PFWG brings together experienced personnel within the DoD enforcement community in a forum of information exchange, legislative/policy development, and continuing education in regard to current issues, future national trends, investigative strategies, appropriate remedies, and enforcement problems in the procurement fraud arena. Presenters provided information on intellectual property, the IPR Center and OCR. There were approximately 139 attendees at the panel session.

- On April 17-19, 2018, 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.
- On April 19, 2018 and also July 26, 2018, personnel representing the IPR Center's OCR provided training to the Defense Counter-Proliferation Training Program (DCTP). DCTP is 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.
- In May 2018, 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 approximately 69 attendees from private industry and the government.
- On June 14, 2018, a representative of OCR spoke at the NRC's sixth workshop on Vendor Oversight in Cleveland, Ohio. The purpose of this workshop was to bring together NRC staff, regulated utilities, vendors of nuclear components, and other interested stakeholders to discuss vendor oversight issues. The OCR representative presented information on the IPR Center and OCR. There were approximately 400 in attendance (in person and telephonically).
- On June 27, 2018, an OCR partner spoke at the University of Maryland's Center for Advanced Life Cycle Engineering (CALCE), which hosted its 2018 Symposium on Counterfeit Parts and Materials. There were approximately 200 attendees representing various federal agencies and private sector businesses.
- On July 25, 2018, OCR presented a day-long training session to NCIS, AFOS and HSI personnel. The training took place at the Naval Base in San Diego. The original program developed by the OCR task force members was designed to educate the attendees on the IPR Center and OCR, with a specific focus on how to successfully investigate and prosecute OCR subjects and to maximize success. Attendees were provided with the information about the OCR resources available from an analytic perspective. In addition, a case agent presented a briefing on a successful case and lessons learned related to the investigation. Finally, a CCIPS prosecutor briefed on the prosecution process and strategies for maximizing success in prosecuting. There were approximately 30 attendees at the training.
- On August 8, 2018, 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 347 members of industry and DoD personnel attended the meeting.

- Between August 20-23, 2018, a representative from OCR presented information on OCR to over 150 Mexican government and military officials and industry representatives. The IPR Center Outreach and Training Unit hosted this IPR enforcement training program in coordination with the Mexico Customs and Revenue Service (SAT), DOJ's Intellectual Property Enforcement Coordinator program and the U.S. Patent and Trademark Office. The attendees included national police, customs officials and prosecutors. Industry partners at this training included pharmaceutical, biotechnology, consumer goods/products, sporting goods/equipment, footwear/apparel, electronics, bicycles, tobacco, non-profit organizations and technology. The training emphasized health and safety issues associated with counterfeit goods, the adverse effects on economies and its connection to transnational organized crime.

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 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 2018 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 2018, ***Operation Apothecary*** resulted in 65 new cases, 92 arrests, 34 indictments, and 38 convictions, as well as 321 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.***

- i. The E-Commerce Program is an on-going HSI initiative targeting entities that sell counterfeit products through the Internet. This program consists of the well-known operation, ***Operation in Our Sites*** (IOS), which was initiated in 2010 as a method to disrupt this activity online. The E-Commerce initiative focuses on developing long term investigations that identify targets, assets, and financial schemes used in operating infringing websites. It also emphasizes working in partnership with third-party entities, such as online marketplaces, payment processors and the express consignment industry. Additionally, the IPR Center coordinates with rights holders, who utilize civil and administrative remedies to shutdown infringing sites.
- ii. In recognition of the wide-reach of e-commerce into many of its programmatic areas, HSI promulgated a single agency strategy on February 14, 2018. The HSI E-Commerce Strategy emphasizes an agency approach that leverages collaboration between private industry and law enforcement partners in an effort to act as a force-multiplier in a cooperative enforcement approach to identify and dismantle those organizations and prosecute those persons or entities that traffic in all manners of dangerous and illicit goods utilizing various e-commerce outlets including open-net websites, the dark web, point-to-point sales platforms, social media and a variety of payment processors and shipping methods.
- iii. In FY 2018, in furtherance of the E-Commerce Strategy, IOS personnel met with representatives from online platforms, payment processors, and the shipping industry for the purpose of initiating a dialogue about how it might be possible to share information for the purpose of stopping the sale of counterfeit goods online.
- iv. In FY 2018, under ***E-Commerce/IOS***, HSI initiated 8 investigations, conducted 26 arrests, and helped secure 19 indictments and 7 convictions. These investigations are initiated and developed by HSI field offices through IPR Center leads, seizures, informants, complaints, industry leads, and/or other investigative techniques.

- Under ***IOS Cyber Monday/Project Transatlantic***, the IPR Center – through HSI – partners with Europol, 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 2017, the IPR Center and Europol concluded ***Operation IOS Cyber Monday/Project TransAtlantic VIII*** in collaboration with INTERPOL. Over 20,520 infringing domains were seized.

<https://www.europol.europa.eu/newsroom/news/biggest-hit-against-online-piracy-over-20-520-internet-domain-names-seized-for-selling-counterfeits>

- ***Operation Engine Newity***
 - i. Operation Engine Newity (OEN) is an IPR Center and HSI-led initiative that focuses on securing the supply chains of automotive and other heavy industry from counterfeit components. The proliferation of counterfeit parts - including critical components such as airbags, bearings, brake pads, accelerator arms, and windshields - has grown exponentially over the last several years and now poses a significant health and safety threat to end users and an economic cost to businesses and consumers through lost revenue, downtime, and replacement costs.
 - ii. In FY 2018, OEN personnel worked closely with automotive original equipment manufacturers (OEMs) through the Automotive Anti-Counterfeiting Council (A2C2) to provide training across the country. A2C2 members also supported criminal investigations by providing product authentication.
 - iii. Throughout FY 2018 and in support of OEN, HSI and the Automotive Anti-Counterfeiting Council (A2C2) worked together to provide training to HSI and CBP field offices as well as other government personnel across the country. Training took place in Seattle, Atlanta, Buffalo, Laredo, Boston, Miami, Baltimore, Charleston, Dallas, Las Vegas, Long Beach, 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.
 - iv. On January 24, 2018, a representative from OEN met with a major payment processor to discuss funding that is associated with counterfeit automotive parts. Additionally, the A2C2 presented information on counterfeit automotive parts. On January 25, 2018, this training was presented to approximately 37 individuals assigned to HSI, CBP and law enforcement from the surrounding area.
 - v. In FY 2018, under OEN, HSI initiated 79 criminal investigations, conducted 8 criminal arrests, and helped secure 12 indictments and 12 convictions, as well as 159 counterfeit goods seizures incidents with a MSRP of approximately \$ 2.6 million.

- ***Operation Surge Protector***
 - i. Operation Surge Protector (OSP) was initiated by the IPR Center in December 2016 to target the sale and trafficking of counterfeit consumer electronics and technology products, such as batteries, chargers, smartphones and charging cords. OSP combines the expertise of HSI, CBP and the Consumer Product Safety Commission (CPSC).
 - ii. On June 4-8, 2018, a representative of OSP worked in conjunction with CBP and in collaboration with industry on an enforcement operation in Louisville, KY that focused on interdicting counterfeit consumer technology.
 - iii. On June 11, 2018, a representative of OSP conducted training on the IPR Center and OSP to an audience of approximately 30 HSI, CBP, USPIS and DOJ

- personnel in Sterling, VA.
- iv. In FY 2018, under OSP, HSI initiated 13 cases, conducted 19 arrests, helped secure 17 indictments and 3 convictions, and seized approximately \$47 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 HSI, CBP, and FDA-OCI), the IPR Center partners with industry and other entities associated with the healthcare and beauty product community. In FY 2018, under ***Operation Plastic Beauty***, HSI initiated 10 cases, conducted 3 arrests, helped secure 1 indictment and 10 convictions, and seized \$3.7 million MSRP in counterfeit products.
 - ***Operation Team Player***
 - i. Operation Team Player (OTP) targets the sale and trafficking of counterfeit sports merchandise, apparel and tickets, a multi-million-dollar criminal industry. The culmination of the sports season—playoffs and finals games—are events that stimulate the sale of counterfeit items. HSI Special Agents and CBP Officers worked with sports leagues and law enforcement agencies throughout the nation to identify shipments of counterfeit sports merchandise being imported to the United States or being sold by vendors. In FY 2018, the IPR Center continued coordinating enforcement actions at multiple high-profile sporting events, including the National Football League (NFL) Pro Bowl and Super Bowl, Major League Baseball (MLB) World Series, National Hockey League (NHL) Winter Classic; MLB, and National Basketball Association (NBA) and Major League Soccer All-Star games; NHL and NBA Championship series; the 2018 NHL Stadium Series; and the 2018 International Champions Cup.
 - ii. On January 26 – February 6, 2018, IPR Center representatives traveled to Minneapolis/St. Paul, Minnesota, to coordinate OTP enforcement operations targeting the importation and trafficking of counterfeit sports merchandise and media activities related to Super Bowl LII. The operations were conducted by teams comprised of HSI St. Paul, IPR Center representatives, CBP St. Paul and CBP Mobile Intellectual Property Enforcement Teams (MIPETs), Minneapolis Police Department, St. Paul Police Department and representatives from the National Football League.
 - iii. On May 15-17, 2018, a representative of OTP worked in conjunction with CBP to conduct an enforcement interdiction operation targeting counterfeit sports apparel and merchandise. On May 18, 2018, the OTP representative provided IPR Center and OTP training to HSI personnel.
 - iv. On July 25-26, 2018, a representative of OTP traveled to Atlanta, Georgia, to meet with HSI Atlanta, HSI Miami, law enforcement partners, and industry representatives from the NFL, NHL, MLB, National Collegiate Athletic Association (NCAA), and English Premier League. The OTP representative provided training on the IPR Center and OTP at the Super Bowl LIII Law Enforcement Training event hosted by the NFL. In attendance were 50

representatives of federal, state, and local law enforcement, as well as 10 industry representatives from the sports brand industry.

In FY 2018, under OTP, HSI seized more than 140,000 items counterfeit sports merchandise worth 9.3million and arrested 35 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 2018, HSI, working in conjunction with CBP and FDA/OCI, conducted Pangea XI related enforcement operation. However, due to a change in INTERPOL's reporting times, the final statistics for Pangea XI will be released in FY2019.

DHS's law enforcement activities during FY 2018 also included the following activities:

- In FY 2018, CBP conducted 26 national operations that resulted in over \$13 million worth of goods being seized.
- 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. HSI Special Agents play a significant role in the enforcement of IP violations through their traditional customs authorities and expertise regarding the illicit importation and exportation of merchandise. HSI Attachés establish strong working relationships with host country counterparts. These relationships strengthen ICE's capacity to conduct successful domestic, international, and multilateral operations. HSI Attachés are located in 50 countries, and they work closely with host government counterparts and participate in IP working groups at post.
- In FY 2018, HSI initiated 948 intellectual property investigations and was involved in 565 arrests, 378 indictments, and 311 convictions.
- In FY 2018, the IPR Center vetted 26,197 investigative leads; of these, 9,271 were referred to law enforcement partners. Additionally, the IPR Center de-conflicted 11,204 investigative targets for partner agencies and industry. While performing these de-conflictions, the IPR Center identified 348 "blue on blue" situations where two or more entities were investigating the same target. Finally, the IPR Center referred 791 leads to private industry for follow-up.
- In FY 2018, the IPR Center hosted three Intellectual Property and Trade Enforcement Investigations (IPTEI) training courses. The courses were held in April, June, and August 2018. 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 HSI and CBP.

Engaging with Stakeholders

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

Operation Joint Venture and Project Trade Watch

Through the IPR Center's Outreach and Training Section HSI engages in partnerships with the public and private sectors to combat IP infringement through its **Operation Joint Venture** (OJV) initiative. This IPR Center-led outreach initiative is designed to increase information sharing with public and private sectors to combat the illegal importation and distribution of counterfeit, substandard and tainted goods, as well as the evasion of duties. The initiative is aimed at fostering commercial fraud, public health and safety, and IP investigations. Through OJV, the IPR Center engages with rights holders, manufacturers, importers, customs brokers, freight forwarders, bonded facilities, carriers, and others to discuss the IPR Center's priorities of protecting public health and safety, the economy, and securing the Government's supply chain. Through outreach and public engagement, the IPR Center raises the public's awareness of the dangers of commercial fraud violations, such as IP, while serving as a public point of contact for investigative leads. The IPR Center's audience includes a broad spectrum of industries and government agencies, including but not limited to the pharmaceutical, entertainment, wearing apparel, sports, electronic, and automobile industries, as well as customs bonded entities, importers, and law enforcement officials. In FY 2018, the IPR Center – through OJV – reached out to more than 16,000 people at 308 outreach and training events.

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

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 2018. 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 2018, the IPR Center conducted 308 outreach and training events with 16,478 attendees.

In FY 2018, the IPR Center continued the monthly publication of the *IPRC Connections* newsletter to keep stakeholders up to date on the most significant IPR Center enforcement efforts and outreach activities. Additionally, the IPR Center collects, tabulates, and catalogs victim impact accounts of brand holders and consumers with the aim to show more clearly the full effect of IP infringement and trade fraud on the U.S. and global economies, public health and safety, and any related threat to government supply chains.

Throughout FY 2018, 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), HSI and the Automotive Anti-Counterfeiting Council (A2C2) worked together to provide training to HSI and CBP field offices as well as other government personnel across the country. Training took place in Seattle, Atlanta, Buffalo, Laredo, Boston, Miami, Baltimore, Charleston, Dallas, Las Vegas, Long Beach, 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 May 2018, 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 69 people attended.
- During FY 2018, the IPR Center’s Stakeholder Engagement and Outreach Coordinator conducted approximately 60 meetings with industries and coalitions including Eli Lilly, Pfizer, CREE, Consumer Product Safety Commission, Benefit Cosmetics, Archery Trade

Association, Rubies Costume, Vista Outdoor, Abbott Laboratories, Burberry, American Watch Association, Specialized Bicycles, Water Quality Association, PayPal, Juul Labs, Mitsubishi, UPS, Charter Communications, and government officials from Australia, Mexico, Colombia, Spain, China, France, Saudi Arabia, Canada, Ukraine, Kuwait, Korea, Switzerland, Brazil, Pakistan, and United Kingdom.

- The IPR Center HSI personnel assigned to the National Cyber-Forensics and Training Alliance (NCFTA) leverage the resources and analytical tools of the NCFTA to identify domain names and networks affiliated with infringing activity in support of criminal investigations or potential civil enforcement action. (The NCFTA is a non-profit corporation that conducts real-time information sharing and analysis with subject matter experts in the public and private sectors and academia.) The IPR Center expanded the use of its “Report IP Theft button” to five companies and/or organizations that have joined the fight to maintain brand protection, including Rubies Costume Company, Water Quality Association, JTI Holdings, Bonanza and the Global Brake Safety Council. Agreements that are under review/pending approval include Ford and the US Army Material Command.
- 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

In March 2018, CBP issued a comprehensive e-commerce strategy to address the complexities and challenges associated with the increases in small packages due to the worldwide proliferation of online and mobile technologies.

The DHS Private Sector Office (PSO) continues to coordinate U.S. government-wide efforts to catalyze and support private sector and non-governmental-based counter-illicit trade activities.

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.

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 2018 included:

- CBP's Centers of Excellence and Expertise have been heavily involved in the development and implementation of the trade intelligence concept, a CBP effort to establish formal linkages with the private sector to develop actionable intelligence. As part of these efforts, the Centers engage in continual dialogue, information sharing, and trend analysis (e.g., with the pharmaceutical industry) in order to safeguard the American public from substandard, counterfeit, or otherwise illegal products. CBP proactively and frequently issues national and local press releases, and social media notifications to educate the public on counterfeiting. In FY 2018, CBP issued 29 IPR-related press releases.
- In FY 2018, CBP continued the *Truth Behind Counterfeits* IPR Public Awareness Campaign which 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 second and third phases of the campaign ran at major U.S. airports (Boston, Newark, Miami, Pittsburgh, Detroit, Houston, Atlanta (2), Seattle, Fort Lauderdale, Philadelphia, and Chicago) during the busy 2017 holiday travel period and summer of 2018. 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 were viewed approximately 200 million times during these two phases.

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 2018, as discussed above, U.S. law enforcement and Federal agencies – including the IPR Center through HSI, CBP, and FDA – participated in *Operation Pangea XI*, a global enforcement effort led by INTERPOL that is aimed at disrupting organized crime networks behind the illicit online sale of fake drugs. Due to a change in INTERPOL's reporting times, the results of Pangea XI will not be available until FY2019.

As also discussed above, in November 2017 the IPR Center and Europol concluded *Operation*

IOS Cyber Monday/Project TransAtlantic VIII in collaboration with INTERPOL. Over 20,520 infringing domains were seized. In June 2018, CBP and Singapore Customs participated in a joint enforcement operation focused on shipments of IPR infringing goods that were in-transit through Singapore and destined to the United States.

Through the U.S.-China Joint Liaison Group's IP Criminal Enforcement Working Group, DOJ and U.S. law enforcement (including HSI and FBI) maintain a steady exchange of information and case leads with Chinese law enforcement, resulting in successful operations to disrupt the manufacture of counterfeit items, such as airbags, pharmaceuticals, batteries, electronic components, and luxury items. In FY 2018, successful collaboration between the Ministry of Public Security (MPS) of the People's Republic of China and HSI through the ICE Attaché office in Beijing continued on a number of health and safety-related investigations. One example of this collaboration was the successful joint investigation into the manufacturing and distribution of counterfeit health and beauty products.

During FY2018, the IPR Center continued to host numerous foreign government officials with an interest in IP enforcement. Among the many international delegations were representatives from Australia, Mexico, Colombia, Spain, China, France, Saudi Arabia, Canada, Ukraine, Kuwait, Korea, Switzerland, Brazil, Pakistan, and United Kingdom.

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 2018 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 2018, at the Asia Pacific Economic Cooperation (APEC) Subcommittee on Customs Procedures (SCCP) meeting held in Port Moresby, Papua New Guinea, CBP proposed an APEC joint enforcement operation focused on consumer electronics and utilizing the APEC IPR guidelines enforcement compendium that was created in 2017 to assist with the identification, interdiction, and deterrence of IP violations. Nine economies participated in this operation (Australia, Chile, Chinese Taipei, Hong Kong, Mexico, Japan, Singapore, the United States, and Vietnam). 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 USPTO.

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 2018, the IPR Center participated in 19 international trainings in support of these programs. HSI continues to work closely with its law enforcement counterparts, particularly those who received training in IP enforcement. The following are examples.

- On November 14, 2017, HSI Guatemala attended and participated in the American Chamber of Commerce (AmCham), Illicit Trade and Transnational Crime Conference in Guatemala City. The conference focused on Central America's enforcement activities relative to illicit trade and intellectual property. HSI Guatemala highlighted prior investigative successes worked with the Transnational Criminal Investigative Unit (TCIU) and also participated on a panel to discuss general transnational crime. This event was attended by high level private and governmental officials from different Central American countries.
- From November 24 – December 2, 2017, the IPR Center led a two-day Intellectual Property Rights Enforcement Training workshop in Yerevan, Armenia. This training was delivered to Armenia customs and police agency investigators, prosecutors and judges and was funded by the U.S. Embassy, Yerevan INL Director.
- On January 24, 2018, HSI Guatemala Transnational Criminal Investigative Unit (TCIU) members attended the Latin American Anti-Piracy & Intellectual Property Consulting (LAAPIP) conference in Guatemala City. Topics that were covered related to the illegal retransmission of international signals/channels.
- On February 25, 2018, as part of the Asia-Pacific Economic Cooperation's (APEC) First Senior Officials' Meeting, the Office of the U.S. Trade Representative and the U.S. Patent and Trademark Office (USPTO) in conjunction with CBP and APEC, co-hosted the second of three workshops for APEC delegates in Port Moresby, Papua New Guinea, aimed to 1) Ensure border and other enforcement officials improve their understanding of the importance of trademark protection and enforcement, including the harms of trademark infringing goods; and 2) Increase capacity for effective IPR enforcement among border and other enforcement officials in the region by providing training on trademark infringement determinations in a border enforcement context through a series of three workshops. HSI Singapore presented and participated in three panels on 1) Transnational Law Enforcement and Border Enforcement Strategies, 2) Turning Customs and Border Enforcement Violations into Criminal Cases, and 3) a case study on a collaborative investigation into JDC Networking.

- From March 13 – 15, 2018, the IPR Center provided IPR Enforcement Training for customs, police and prosecutors from Colombia, Ecuador, Peru and Guatemala. With the approval of INL and the support of HSI Bogota, this training was combined into a joint regional training for all countries in Cartagena, Colombia. The training workshop was attended by a total of fifty-six (56) participants.
- From May 8 – 10, 2018, the IPR Center provided intellectual property (IP) enforcement training for customs, police, prosecutors and judges from Bulgaria, Greece, Moldova, Romania, Turkey and Ukraine. With DoS INL approval, support of HSI Vienna and DOJ IPLEC-Bucharest, this training was combined into a joint regional training for all countries in Bucharest, Romania. A total of 60 participants attended the training workshop. The training emphasized health and safety issues related to IP crime and its connection to transnational criminal organizations; the need for cooperation and collaboration between countries and governments for stronger IP protection and enforcement. Specifically, this training focused on illicit pharmaceuticals as this was the overwhelming IP issue faced by the participating countries. The pharmaceutical industry was represented by Merck, MSD, Pfizer, Pharmaceutical Security Institute (PSI) and Sanofi. All representatives provided a presentation and participated in a 90-minute discussion panel.
- From June 19-21, 2018, the IPR Center participated in the INTERPOL Operation Chain Third Case Meeting training initiative in Singapore. The objective of the meeting was to facilitate international cooperation among countries and support transnational investigations focused on the illicit trade of goods (trademark and piracy infringements, smuggling of legitimate products, and tax evasion). The Third Case Meeting allowed delegates to discuss pending and new transnational cases in order to help the investigators in their intelligence sharing and evidence collection. Presentations focused on the benefits of working together in partnership with other public/private entities to combat transnational organized IP related crime. Presenters were encouraged to discuss the challenges posed by transnational organized crime and best practices in overcoming those challenges. The training was held at INTERPOL Global Complex for Innovation. Private Sector presenters included representatives from Alibaba, Nagravision-The Audiovisual Anti-Piracy Alliance (APAC-China), Syngenta (Asia Pacific), INTA-Asia Pacific office, and Johnson & Johnson.
- From June 26-28, 2018, the IPR Center provided intellectual property (IP) enforcement training for customs, police, prosecutors and judges from Algeria, Morocco and Niger. With DoS INL approval, support of HSI Casablanca and DOJ IPLEC-Nigeria, this training was combined into a joint regional training for all countries in Casablanca, Morocco. The training emphasized health and safety issues related to IP crime and its connection to transnational criminal organizations; the need for cooperation and collaboration between countries and governments for stronger IP protection and enforcement. Industry representatives from Apple, Colgate-Palmolive, Estee Lauder Companies, Pfizer, Philip Morris International, and Procter & Gamble provided presentations on how they are assisting law enforcement in the fight against IP crime, the economic impact of this illicit activity and product identification. The presentations were

delivered in English and French with simultaneous interpretation. The U.S. Consul General was the keynote speaker who delivered opening remarks. A total of 33 participants attended the training workshop, all of whom received an ICE Certificate of Completion.

- On July 10-11, 2018, at the request of the U.S. Embassy (Yerevan, Armenia), the IPR Center provided IPR Enforcement Training for 30 participants from several Armenian enforcement agencies, including the Special Investigative Service, Investigative Committee, National Security Service and the State Revenues Committee. This event was followed by a second two-day training for 20 participants on July 12-13, 2018, tailored for prosecutors and judges, which included representatives from the Office of the Prosecutor General, Court of Appeals, regional Courts of General Jurisdiction, the Cassation Court's Criminal Chamber and Criminal Court of Appeals. In addition, this session included representatives from the IPR Agency of Armenia. A total of 50 officials participated in both sessions. Topics of discussion included; 1) health and safety issues related to IP crime; 2) the need for cooperation between countries/agencies; 3) the leading role of international organized crime groups in IP crime and; 4) the developing trends in IP crime. The presentations were delivered in English and Armenian with simultaneous interpretation.
- On July 18-20, 2018, at the request of DOJ IPLEC (Hong Kong), the IPR Center supported a DOJ sponsored IPR training for the People's Supreme Court of Vietnam. An HSI agent participated in this training and provided a presentation on the topic of IPR investigations.
- From August 7-9, 2018, the DOJ/OPDAT Africa Regional Intellectual Property Law Enforcement Coordinator (IPLEC) organized a workshop for West African countries which seeks to build enforcement capacity and improve regional coordination in combatting pharmaceutical-based crimes. Seven countries which share a border; Benin, Burkina Faso, Cameroon, Ghana, Niger, Nigeria, and Togo, were invited. The workshop was held at the West Africa Regional Training Center in Accra, Ghana. This three-day workshop brought in experts from United States and sub-Saharan Africa regulatory, investigative and prosecutorial agencies, the private sector, and international organizations. It was directed towards health regulatory officials, customs, law enforcement officers, and prosecutors, and had break-out groups for law enforcement and prosecutors with separate groups for the regulatory and customs officials. The IPR Center supported this training by providing an HSI Special Agent to speak on the topic of counterfeit pharmaceuticals.
- From August 14-16, 2018, USPTO sponsored a workshop on Border Enforcement of Intellectual Property Rights in Monterrey, Mexico. At the request of USPTO, the IPR Center supported this training by providing an HSI Special Agent to speak on the topics of criminal investigation and prosecution of IPR cases; coordination with other agencies and regional cooperation; and financial aspects of IP crime.

- From August 20-24, 2018, the U.S. Department of Justice, Office of Overseas Prosecutorial Development, Assistance and Training (DOJ/OPDAT), the U.S. Patent and Trademark Office (USPTO), and the ASEAN Secretariat, sponsored an Asia Regional Workshop on Criminal Enforcement Against Online Trade in Pirated Content and Counterfeit Goods in Bangkok, Thailand. At the request of DOJ/OPDAT, the IPR Center supported this training by providing an HSI Special Agent to speak on the topic of investigation of IP crimes.
- From August 20-23, 2018, the Mexico Tax and Customs Administration Service (SAT), in coordination with the IPR Center, hosted an intellectual property (IP) enforcement training workshop in Mexico City, Mexico. The main objective of this workshop was to establish an open interactive forum between law enforcement, prosecutors, judicial officials and rights holders for the discussion and analysis of issues related to IP crimes in Mexico. The training emphasized the health and safety issues associated with counterfeit goods, the adverse effects on economies and its connection to transnational organized crime. Interdiction, investigations, enforcement operations, best practices, international collaboration, and product identification were among the discussion topics. The training was held at SAT's main auditorium facilities with an audience of over one-hundred fifty participants from SAT, Post-Customs Clearance Investigation Division (AGACE), Customs Ports of Entry Division (AGA), México's Attorney General Office and Federal Police (PGR), Mexican Institute for Industrial Property (IMPI), Mexico's FDA (COFEPRIS), Mexico Consumer Product Safety Commission (PROFECO), Mexico's DOD (SEDENA and Marines), as well as some representatives from the local private sector. Industries that were represented at this training include; apparel, footwear and equipment, automotive, bicycles, biotechnology, consumer goods and products, non-profit organizations, pharmaceuticals, safety consulting, technology and tobacco.
- From September 11-13, 2018, USPTO hosted an IP Enforcement Program for police, prosecutors and customs officers from Guatemala, Honduras and El Salvador. The workshop was held at the ILEA facility in San Salvador, El Salvador. The IPR Center supported this training by providing an HSI Special Agent from HSI El Salvador.
- From September 12-14, 2018, the U.S. Department of Justice, Office of Overseas Prosecutorial Development, Assistance and Training (DOJ/OPDAT), sponsored the Sixth Meeting of the IP Crime Enforcement Network (IPCEN), a biannual gathering of police and prosecutors who work IPR cases from the ASEAN countries. At the request of DOJ/OPDAT, the IPR Center supported this training by providing an HSI special agent to speak on the topic of national security (counterfeit integrated circuits).
- From September 13-14, 2018, USPTO hosted a series of Customs border enforcement workshops in Indonesia. The IPR Center supported this training by providing an HSI special agent to speak on the topic of investigating IP crimes arising from border seizures.
- From September 25-27, 2018, the USPTO, sponsored a workshop on Border Enforcement of Intellectual Property Rights in Chetumal, Mexico. At the request of

USPTO, the IPR Center supported this training by providing an HSI special agent to deliver a presentation on criminal investigation of IPR cases.

- From September 25-26, 2018, the IPR Center participated in the annual INTERPOL International Law Enforcement Intellectual Property Crime Conference in Dubai, UAE.

D. Major Enforcement Activities

Operation Team Player. This targets the sale and trafficking of counterfeit sports merchandise, apparel and tickets, a multimillion-dollar criminal industry. The culmination of the sports season—playoffs and finals games—are events that stimulate the sale of counterfeit items. HSI Special Agents and CBP Officers worked with sports leagues and law enforcement agencies throughout the nation to identify shipments of counterfeit sports merchandise being imported to the United States or being sold by vendors. In FY 2018 HSI seized more than 140,000 items counterfeit sports merchandise worth \$9.3 million and arrested 35 individuals under ***Operation Team Player***. In FY 2018, the IPR Center continued coordinating enforcement actions at multiple high-profile sporting events, including the National Football League (NFL) Pro Bowl and Super Bowl, Major League Baseball (MLB) World Series, National Hockey League (NHL) Winter Classic; MLB, and National Basketball Association (NBA) and Major League Soccer All-Star games; NHL and NBA Championship series; the 2018 NHL Stadium Series; and the 2018 International Champions Cup.

Operation Chain Reaction. This is an IPR Center coordinated effort led by 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 2018, under ***Operation Chain Reaction***, HSI initiated 24 criminal investigations, conducted 15 criminal arrests, and helped secure 18 indictments and 7 convictions, as well as 68 counterfeit goods seizure incidents with a Manufacturer's Suggested Retail Price (MSRP) of approximately \$4.9 million.

Operation Engine Newity. This is an IPR Center and HSI-led initiative that focuses on securing the supply chains of automotive and other heavy industry from counterfeit components. The proliferation of counterfeit parts - including critical components such as airbags, bearings, brake pads, accelerator arms, and windshields - has grown exponentially over the last several years and now poses a significant health and safety threat to end users and an economic cost to businesses and consumers through lost revenue, downtime, and replacement costs. In FY 2018, under ***Operation Engine Newity***, HSI initiated 79 criminal investigations, conducted 8 criminal arrests, and helped secure 12 indictments and 12 convictions, as well as 159 counterfeit goods seizures incidents with a MSRP of approximately \$2.6 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 2018, under ***Operation Apothecary***, HSI investigations resulted in the initiation of 65 cases, the arrest of 92 individuals, the indictment of 34 individuals, and the conviction of 38 persons, as well as 321 seizure incidents of counterfeit items.

E-Commerce - Operation in Our Sites. The E-Commerce Program is an on-going HSI initiative targeting entities that sell counterfeit products through the Internet. The E-Commerce Program consists of a well-known operation dubbed *Operation in Our Sites* (IOS) which was initiated in 2010 as a method to disrupt this activity online. HSI has evolved this strategy to focus on developing long term investigations that identify targets, assets, and financial schemes used in operating infringing websites. Through IOS, the IPR Center also coordinates with rights holders, who utilize civil and administrative remedies to shutdown infringing sites. In FY 2018, HSI promulgated an agency-wide E-Commerce Strategy. In FY 2018, under ***E-Commerce/In Our Sites***, HSI initiated 8 investigations, conducted 26 arrests, and helped secure 19 indictments and 7 convictions. These investigations are initiated and developed by ICE HSI field offices through IPR Center leads, seizures, informants, complaints, industry leads, and/or other investigative techniques.

Operation Surge Protector. The IPR Center initiated Operation Surge Protector in December 2016 to target the sale and trafficking of counterfeit consumer electronics and technology products, such as batteries, chargers, smartphones and charging cords. Operation Surge Protector combines the expertise of HSI, CBP and the Consumer Product Safety Commission (CPSC). In FY 2018, under ***Operation Surge Protector***, HSI initiated 13 cases, conducted 19 arrests, helped secure 17 indictments and 3 convictions, and seized approximately \$47 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 HSI, CBP, and FDA-OCI), the IPR Center partners with industry and other entities associated with the healthcare and beauty product community. In FY 2018, under ***Operation Plastic Beauty***, HSI initiated 10 cases, conducted 3 arrests, helped secure 1 indictment and 10 convictions, and seized \$3.7 MSRP in counterfeit products.

DEPARTMENT OF JUSTICE

DEPARTMENT OF JUSTICE

Department of Justice Appendix for FY 2018 Annual Report

The Department of Justice (the “Department” or “DOJ”)² submits this Fiscal Year 2018 (“FY 2018”) 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 2018 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 2018 (*i.e.*, October 1, 2017 through September 30, 2018) are set forth below.

In addition, working closely with the Office of the Intellectual Property Enforcement Coordinator (“IPEC”), the Department contributed to the FY2017-2019 Joint Strategic Plan on Intellectual Property Enforcement, as it did with the 2013 Joint Strategic Plan on Intellectual Property Enforcement (June 2013), the Administration’s Strategy on Mitigating the Theft of U.S. Trade Secrets (February 2013), the Administration’s White Paper on Intellectual Property Enforcement Legislative Recommendations (March 2011), and the IPEC’s annual reports, among other things. The Department continues to participate in a number of IPEC-led working groups.

(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 2018, the Office of Justice Programs (“OJP”) awarded grants to support state and local IP law enforcement task forces under the statutory authority of the Department of Justice Appropriations Act 2018, Pub. L. No. 115-141, 132 Stat. 348, 421, and as informed by Section 401 of the PRO IP Act. The Intellectual Property Enforcement Program (“IPEP”), as the grant program is known, is designed to provide national support through training and technical assistance and improve the capacity of state and local criminal justice systems to address criminal IP enforcement, including prosecution, prevention, training, and technical assistance. Under the program, grant recipients establish and maintain effective collaboration and coordination between state and local law enforcement, including prosecutors, multi-jurisdictional task forces, and appropriate federal agencies, including the FBI and United States Attorneys’ Offices. The information shared under the program includes information about the investigation, analysis, and prosecution of matters involving IP offenses as they relate to violations of state and local criminal statutes. The program is administered by the Bureau of Justice Assistance (“BJA”), a component of OJP.

In FY 2018, OJP was able to grant seven awards totaling \$2,253,259 to local and state law enforcement and prosecutorial agencies. The following FY 2018 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
2018-H2197-CA-IP	City of Los Angeles, California	\$400,000.00
2018-H2188-OR-IP	City of Portland, Oregon	\$400,000.00
2018-H2178-NC-IP	North Carolina Department of the Secretary of State	\$400,000.00
2018-H2198-TX-IP	City of Houston, Texas	\$400,000.00
2018-H2080-TX-IP	The City of San Antonio Police Department	\$400,000.00
2018-H2179-CA-IP	County of Los Angeles	\$400,000.00
2018-H2195-KY-IP	Louisville Metro Government	\$24,999.99

Since the inception of the program, OJP has awarded \$28,610,772 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 \$21,312,108. Throughout the duration of the program, these agencies have made seizures totaling \$675,525,017, which includes counterfeit merchandise and other property valued at \$629,053,308, and \$16,471,705 in currency.

During a one-year period from July 1, 2017 to June 30, 2018, grantees reported seizures totaling \$143,296,457 (\$141,902,981 in counterfeit merchandise and other property, and \$1,393,476.27 in currency). Over this same one-year period, grantees engaged in the following law enforcement activities:

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

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

- After a City of Austin Detective viewed a local news story about counterfeit “Tide” believed to contain dangerous chemicals being sold in five-pound buckets in the Austin area, the Criminal Conspiracy unit researched and discovered four stores where this counterfeit product was sold. Initially, 188 five-pound gallon buckets were seized, and a distributor was identified. In addition, HSI Dallas seized an additional 125 buckets of the counterfeit “Tide;” police in Los Angeles and Houston also seized counterfeit “Tide.”
- The City of Phoenix Police Department’s program focused on multiple areas, including money laundering, counterfeit medicine, investment fraud, and cargo theft. The investigators identified supply lines for counterfeit medicine flowing into immigrant communities, targeted seven locations, and seized over 100,000 doses of counterfeit medicine. Several store owners were indicted. Indictments of eight suspects involved in investment fraud and money laundering also are pending. The program also conducted an investigation involving a cargo theft ring consisting of a third party delivery driver for Amazon and his associates. The ring leader used a stolen identity to secure employment at an Amazon fulfillment center; while working at the facility, he stole pallets that were assigned to other drivers. The Phoenix police executed search warrants that resulted in the recovery of tens of thousands of dollars in stolen cargo, and two subjects were indicted.

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, 2017 and June 30, 2018, NW3C conducted these training sessions for 234 attendees from 103 agencies in 8 locations.³ During this time, NW3C also conducted onsite technical assistance visits for two IPEP Grantee task

³ Training sessions occurred in Mesa, AZ; Atlanta, GA; Humble, TX; Commerce, CA; Gonzales, LA; Sayreville, NJ; Hartford, CT; and Baton Rouge, LA.

forces and provided training to 40 students through NW3C's online IP resource in order to improve their investigative and prosecutorial approaches to the problem of IP theft.

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

- 104 trainings for 2,404 attendees from 1,246 agencies;
- 16 seminars for 538 attendees from 185 agencies; and
- 33 technical assistance visits for 399 attendees from 118 agencies.

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

- An attendee at an NW3C training in San Francisco modeled an investigation after a case example to launch an investigation into area liquor stores selling counterfeit goods. The investigation expanded to certain flea market vendors, and ultimately led to a primary supplier who maintained a local warehouse. A criminal search warrant was served and numerous pallets of thousands of infringing goods valued roughly at \$280,000 were seized, as well as \$65,000.00 in cash. Federal criminal charges are now pending against the supplier.
- NW3C recently provided technical assistance to the St. Louis Police Department. This assistance included instruction on writing and properly executing search warrants related to IP theft, as well as direct work with attendees who were preparing to launch several investigations throughout the state. Through this engagement, the St. Louis Police were able to obtain search warrants on numerous targets selling counterfeit goods in the St. Louis area.

(a) (2) Additional Agents of FBI

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

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

(a) (3) FBI Training

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

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

(a) (4) Organized Crime Plan

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

As in FY 2009 through FY 2017, Congress did not appropriate funds to support Section 402(b) of the PRO IP Act in FY 2018.⁴ 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 2018, the Department has taken the following additional actions to address this important issue:

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 2018, 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

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.”

crime through training and outreach with international counterparts and organizations, which often encounter IP crime committed by organized crime groups. These training and outreach activities are described in section (a) (7) (B) of this Report.

Executive Order

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

(a) (5) Authorized Funds Under Section 403

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

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

Section 403 related to funds appropriated during FY 2009-2013. No funds were appropriated under this section or expended during FY 2018 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 2018.

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

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

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

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

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

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

The Department coordinates closely with IPEC in addressing the Administration’s priorities on IP enforcement and implementing the IPEC’s 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.

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

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

CCIPS continues to place a high priority on fostering international cooperation and coordination of criminal IP enforcement efforts. The Section has developed relationships with foreign law enforcement through international casework as well as through training and outreach. An important component of the Department's international enforcement efforts is the 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, CES—one of NSD's principal litigating components—is responsible for coordinating and conducting investigations and prosecutions of a wide variety of national

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.

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.

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

Interagency Coordination

In addition to investigating and prosecuting IP crime, the Department has worked closely with other federal agencies directly, and through the National Intellectual Property Rights Coordination Center (“IPR Center”), to improve IP enforcement domestically and overseas.⁸ These activities have included training investigators and prosecutors in the investigation and

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

⁸ These federal agencies include Customs and Border Protection (“CBP”), the Federal Bureau of Investigation (“FBI”), the United States Postal Inspection Service, the Food and Drug Administration’s Office of Criminal Investigations, the Department of Commerce’s International Trade Administration, the Naval Criminal Investigative Service, the Defense Criminal Investigative Service, the Defense Logistics Agency’s Office of Inspector General, Immigration and Customs Enforcement’s Homeland Security Investigations (“ICE-HSI”), the United States Nuclear Regulatory Commission, the United States Patent and Trademark Office (“USPTO”), the General Service Administration’s Office of Inspector General, the Consumer Product Safety Commission, the National Aeronautics and Space Administration’s Office of Inspector General, the Department of State’s Office of International Intellectual Property Enforcement, the Army Criminal Investigation Command’s Major Procurement Fraud Unit, the Air Force Office of Special Investigations, the U.S. Postal Service Office of Inspector General, and the Federal Maritime Commission.

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 2018 both domestically and abroad. Some of these efforts are highlighted below:

Prosecution Initiatives

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

(1) Health and Safety

The Department's health and safety initiative brings together private, state, and federal enforcement resources to address the proliferation of counterfeit goods posing a danger to consumers, including counterfeit and illegally prescribed pharmaceuticals, automotive parts, and military goods. In FY 2018, this initiative resulted in a number of significant prosecutions, including those set forth below:

- *Defendant Sentenced To Prison For Selling Counterfeit Airbags.* On October 4, 2017, Vitaliy Fedorchuk was sentenced to one year and one day in prison and a \$5,000 fine for an international scheme to sell counterfeit airbags via eBay and other internet sales sites. Fedorchuk had pleaded guilty on May 31, 2017, to five counts of mail fraud. 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.
- *Drug Dealer Charged In Manhattan Federal Court For Selling Heroin And Counterfeit Oxycodone Over The Internet.* On October 23, 2017, Cristian Rodriguez was arrested and charged with one count of distributing and possessing with intent to distribute heroin and oxycodone. Since at least May 2016, Rodriguez and his co-conspirators anonymously sold and distributed controlled substances over the Internet via online marketplaces and "dark web" sites. Rodriguez shipped various prescription drugs, including counterfeit oxycodone, which was actually made of heroin and other substances, to individuals across the United States.

- *Dominican National Arrested and Charged with Fentanyl Conspiracy Including the Distribution of Counterfeit Pain Pills.* On December 20, 2017, Santiago Pena was charged with conspiracy to distribute 40 grams or more of fentanyl. The charge stems from Pena’s participation in a large-scale fentanyl and heroin trafficking ring that was dismantled in August 2017. Pena is the seventh defendant related to the drug trafficking operation to be charged in federal court; approximately 10 other defendants have been charged in state court. A lengthy wiretap investigation revealed that James Ramirez, an individual charged separately, supplied large-quantities of fentanyl and heroin to drug dealers on Cape Cod. According to the indictment, Pena brokered fentanyl pill deals on Ramirez’s behalf, helping to connect Ramirez with a fentanyl pill supplier. Pena pleaded guilty on March 19, 2018, and is scheduled to be sentenced on November 27, 2018.
- *Three Individuals Sentenced for Operating an Illegal Steroid and Counterfeit Prescription Drug Lab.* On February 1, 2018, Ryan Anthony Sikora was sentenced to 41 months in prison, Ariel Anna Murphy was sentenced to 12 months, and John Joseph Bush, II was sentenced to 8 months for their involvement in a steroid and counterfeit prescription drug lab in Northwest Florida. The three received their sentences after pleading guilty to conspiracy charges for importing, manufacturing, and distributing anabolic steroids as well as counterfeit prescription drugs. The investigation began when U.S. Postal Inspectors determined that large amounts of steroid and counterfeit prescription drug ingredients were being shipped from China to various locations in South Alabama and Northwest Florida. They marketed the counterfeit drugs online using the brand name “Future Pharma” and they would typically process the orders through encrypted email, and then use the U.S. Postal Service to send the contraband products across the United States.
- *Four Individuals Indicted For Trafficking In Counterfeit Goods.* On March 7, 2018, Carlos Enrique Velázquez-Gines, Mayra Evelise Gines-Otero, Noriam Ivette Flores-Deleon, and Vanessa Marrero-Hernández, were charged with mail and wire fraud conspiracy, mail fraud, trafficking in counterfeit goods, introducing misbranded articles into interstate commerce, distribution of a controlled substance, international money laundering, and smuggling. According to the indictment, from at least on or about October 3, 2013, defendants purchased from overseas suppliers located in China, and imported into the United States, dietary supplements, latex condoms, and cosmetics that were counterfeit and/or misbranded under the Federal Food, Drug, and Cosmetic Act. Defendants marketed and sold the products through “online stores” on platforms such as eBay.com and Bonanza.com. Marrero-Hernández pleaded guilty on October 2, 2018, and Flores-Deleon pleaded guilty on October 18, 2018. The trial for Velazquez-Gines and Gines-Otero is scheduled to being on December 4, 2018.
- *Six Massachusetts Defendants Sentenced for Roles in Counterfeit Steroid Conspiracy.* On March 15, 2018, Tyler Baumann was sentenced to 120 months incarceration; on March 15, 2018, Kathryn Green was sentenced to 1 year and 1 day incarceration; on March 30, 2018, Phillip Goodwin was sentenced to 130 months incarceration; on April 25, 2018, Melissa Sclafani was sentenced to 1 year and 1 day incarceration; on June 20, 2018, Brian Petzke was sentenced to 2 years’ incarceration and 2 years of supervised

release; and on June 20, 2018, Elizabeth Green was sentenced to 2 years of probation. Baumann and Goodwin pleaded guilty to various offenses, including trafficking in counterfeit drugs. Kathryn Green pleaded guilty to one count of conspiracy to distribute controlled substances. Sclafani pleaded guilty to conspiracy to distribute counterfeit steroids. Petzke and Elizabeth Green pleaded guilty one count of conspiracy to distribute controlled substances. From approximately May 2015 until April 12, 2017, the defendants 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 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.

- *Canadian Pharmacist Sentenced for Distributing Counterfeit and Adulterated Botox to Local Doctors.* On April 4, 2018, Nikhil Buhecha pleaded guilty and was sentenced to 36 months’ imprisonment for conspiring to distribute counterfeit, misbranded, and adulterated Botox® into the United States, including multiple shipments to two doctors located in St. Louis County, Missouri. Buhecha owned and operated a sophisticated wholesale drug distribution business involving multiple persons in Canada, Panama, and Turkey. Buhecha sourced Botox® from Turkey and shipped it to multiple U.S. doctors in Missouri and other states. The FDA issued several public safety alerts about these events.
- *Mexican Nationals Plead Guilty to Trafficking in Counterfeit Goods by Operating Counterfeit Airbag Business in Albuquerque.* On May 9, 2018, Two Mexican nationals entered guilty pleas to operating a counterfeit airbag business out of their residence in Albuquerque, New Mexico. Dina Gonzalez-Marquez 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 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.
- *South Carolina Couple Sentenced to a Total of 138 Months in Prison for Trafficking Counterfeit Goods, Including Misbranded Pet Medicine.* On May 9, 2018, David Haisten and Judy Haisten were sentenced to 78 and 60 months of incarceration, respectively. A jury found the Haistens guilty in October 2017 of conspiracy as well as six counts of violating the Federal Insecticide, Fungicide, and Rodenticide Act, five counts of distributing misbranded animal drugs, and two counts of trafficking in counterfeit goods. The defendants’ products, including pesticides that are extremely toxic in the wrong dose, posed a serious risk to animals and humans.
- *Long Beach Man Sentenced to Over 26 Years in Prison for Leading Counterfeit Opioid Scheme that Distributed Fentanyl Analogue.* On July 9, 2018, Gary Resnik was sentenced to 320 months in federal prison. Resnik was the leader of a narcotics

distribution ring that imported a powerful fentanyl analogue from China and produced hundreds of thousands of opioid pills that were distributed in bulk across the nation. Resnik pleaded guilty in August 2017 to two felony offenses—conspiracy to manufacture and distribute narcotics (including acetylfentanyl and ecstasy), and possession with the intent to distribute acetylfentanyl. Resnik admitted to importing from China bulk chemicals, including acetylfentanyl that were used to manufacture opioid pills. His drug organization also illegally imported pill presses from China that were used to make pills in homemade labs in a Long Beach storage unit and Baldwin Park house. A co-defendant in this case – Christopher Bowen, of downtown Los Angeles – was sentenced in May 2018, to 320 months in federal prison for participating in the drug-trafficking conspiracy.

- *Two Indicted for Trafficking Counterfeit Oxycodone Pills Containing Fentanyl.* On July 19, 2018, Alfredo Sanchez of Madera, and Saybyn Borges, of Sacramento, were indicted on charges relating to their scheme to distribute counterfeit oxycodone pills that contained Fentanyl. Specifically, the defendants were charged with conspiracy to distribute fentanyl, distribution of fentanyl, possession with intent to distribute fentanyl, and being a felon in possession of a firearm. According to other court filings, Sanchez and Borges were involved in the sale of approximately 7,500 counterfeit oxycodone pills that contained fentanyl, a synthetic opioid.
- *Cheektowaga Man Pleads Guilty to Buying and Selling Counterfeit Airbags.* On August 30, 2018, Raymond Whelan pleaded guilty to conspiracy to traffic in counterfeit goods and is scheduled to be sentenced on December 17, 2018. Between June 2015 and March 2016, Whelan and co-defendant David Nichols entered into an agreement to sell counterfeit automobile airbags. Whelan would contact Nichols and order numerous airbags bearing counterfeit trademarks of Honda, Toyota, Nissan, Subaru, Mazda, Hyundai, Acura, and Mitsubishi. Nichols would then locate manufacturers in China to supply the requested airbags. In order to avoid detection during importation, the airbags were purposefully mislabeled. Once imported into the United States, Whelan would sell the airbags as genuine used airbags on eBay utilizing the name Rayscarparts71. Co-defendant David Nichols was previously convicted, and is scheduled to be sentenced on January 31, 2019.

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

In FY 2018, 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:

- *Three Chinese Hackers Charged Firm for Hacking Three Corporations for Commercial Advantage.* On November 27, 2017, Chinese nationals Wu Yingzhuo, Dong Hao and Xia Lei were indicted for computer hacking, theft of trade secrets, conspiracy and identity theft directed at U.S. and foreign employees and computers of three corporate victims in the financial, engineering and technology industries between 2011 and May 2017. The

three Chinese hackers work for the purported China-based Internet security firm Guangzhou Bo Yu Information Technology Company Limited (a/k/a “Boyusec”). The indictment alleges that the defendants conspired to hack into private corporate entities in order to maintain unauthorized access to, and steal sensitive internal documents and communications from, those entities’ computers. For one victim, information that the defendants targeted and stole between December 2015 and March 2016 contained trade secrets.

- *Chinese National Sentenced for Economic Espionage and Theft of a Trade Secret From U.S. Company.* On January 17, 2018, Jiaqiang Xu was sentenced to 5 years in prison after pleading guilty to theft of trade secrets and economic espionage on May 19, 2017. The six-count indictment returned in June 2016 alleged that Xu stole proprietary source code from a former employer with the intent to benefit the National Health and Family Planning Commission of the People’s Republic of China. From November 2010 to May 2014, Xu worked as a developer and was granted access to proprietary software and its 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.
- *Chinese Intelligence Officer Charged with Economic Espionage and Theft of Trade Secrets from Leading U.S. Aviation Companies.* On April 1, 2018 a Chinese Ministry of State Security (MSS) operative, Yanjun Xu was arrested in Belgium, pursuant to a federal complaint, and then indicted by a federal grand jury in the Southern District of Ohio. The four-count indictment charges Xu with conspiring and attempting to commit economic espionage and theft of aviation trade secrets. Xu was extradited to the United States on October 9, 2018.
- *Two Businessmen Charged With Conspiring to Commit Economic Espionage for Benefit of Chinese Manufacturing Company.* On April 26, 2018, Shan Shi and Gang Liu were charged with conspiracy to commit economic espionage for the benefit of CBM-Future New Material Science and Technology Co. Ltd. (CBMF), a Chinese company based in Taizhou. Both businessmen were previously indicted in June 2017 for conspiracy to commit theft of trade secrets. According to court records, Shi and Liu conspired with others to commit economic espionage and steal trade secrets from a U.S. engineering firm that produces syntactic foam, a strong, lightweight material with commercial and military uses. Shan, Liu, Uka Kalu Uche, Samuel Abotar Ogoe, Kui Bo, and Hui Huang were indicted in June 2017 on a charge of conspiracy to commit theft of trade secrets. An additional defendant pleaded guilty to the charge in December 2017. The superseding indictment includes that charge, adds the conspiracy to commit economic espionage count against Shi and Liu, and includes a federal money laundering conspiracy count

against Shi. Uche pleaded guilty on April 27, 2018, and was sentenced on August 10, 2018 to 12 month's probation. Ogoe pleaded guilty on October 17, 2018.

- *Court Imposes Maximum Fine on Sinovel Wind Group for Theft of Trade Secrets.* On July 6, 2018, a manufacturer and exporter of wind turbines based in the People's Republic of China was sentenced for stealing trade secrets from AMSC, a U.S.-based company formerly known as American Superconductor Inc. The Court found that AMSC's losses from the theft exceeded \$550 million, and imposed the maximum statutory fine in the amount of \$1.5 million on Sinovel Wind Group LLC. Sinovel was convicted of conspiracy to commit trade secret theft, theft of trade secrets, and wire fraud on January 24, 2018 following a jury trial.
- *Electrical Engineer Found Guilty for Intending to Convert Trade Secrets from Defense Contractor.* On July 9, 2018, Jared Dylan Sparks was found guilty for his conduct related to a scheme to convert trade secrets belonging to a defense contractor, related to, among others, an innovative naval prototype being developed for the U.S. Navy. The jury found Sparks guilty of six counts of theft of trade secrets, six counts of uploading trade secrets, and one count of transmitting trade secrets. According to evidence admitted at trial, Sparks, an electrical engineer, worked at LBI Inc., a defense contractor that designs and builds unmanned underwater vehicles for the U.S. Navy's Office of Naval Research and deployable ice buoys for the National Oceanic and Atmospheric Administration. Before he left LBI, Sparks surreptitiously uploaded thousands of LBI files to his personal account with Dropbox, a cloud-based file-storage application.
- *Former DuPont Employee Pleads Guilty to Stealing Trade Secrets and Lying to the FBI.* On July 11, 2018, Josh Harry Isler pleaded guilty to one count of trade secret theft and one count of making a false statement or representation to the FBI. As part of his guilty plea, Isler admitted that during August 2013, while employed with DuPont, but after having accepted an offer of employment from a competitor, he stole trade secrets of DuPont. In a plea agreement, Isler admitted that after he accepted employment with a competitor of DuPont in the ethanol fuel enzyme business, he transferred hundreds of DuPont's electronic files to an external device. Isler also admitted that when he was interviewed by the FBI in November 2013, he falsely denied he had downloaded files containing proprietary information.
- *Former Apple Employee Indicted On Theft of Trade Secrets.* On July 12, 2018, Xiaolang Zhang was indicted for theft of trade secrets. According to the Indictment, Zhang is alleged to have taken a confidential 25-page document containing detailed schematic drawings of a circuit board designed to be used in the critical infrastructure of a portion of an autonomous vehicle, knowing that the theft would injure the owner of the trade secrets, Apple, Inc. Court documents filed allege that on April 30, 2018, Zhang told Apple personnel that he was resigning from his job so that he could return to China to be closer to his mother who was ill. Apple subsequently learned that Zhang went to work for X-MOTORS—a company focused on electric automobiles and autonomous vehicle technology with its headquarters in China. On July 7, 2018, FBI Agents learned that Zhang purchased a last-minute round-trip airline ticket with no co-travelers, departing for

Hangzhou, China aboard Hainan Airlines. Federal agents intercepted and arrested Zhang at the San Jose International Airport after he had passed through the security checkpoint.

- *New York Man Charged With Theft of Trade Secrets.* On August 1, 2018, Xiaoqing Zheng was arrested in connection with a criminal complaint charging him with stealing trade secrets belonging to General Electric (GE). The criminal complaint alleges that on or about July 5, Zheng, an engineer employed by GE, used an elaborate and sophisticated means to remove electronic files containing GE's trade secrets involving its turbine technologies. Specifically, Zheng is alleged to have used steganography to hide data files belonging to GE into an innocuous looking digital picture of a sunset, and then to have e-mailed the digital picture, which contained the stolen GE data files, to Zheng's e-mail account.
- *Second Former GlaxoSmithKline Scientist Pleads Guilty to Stealing Trade Secrets to Benefit Chinese Pharmaceutical Company.* On September 14, 2018, Dr. Tao Li pleaded guilty to conspiracy to steal trade secrets from GlaxoSmithKline (GSK) for the benefit of a Chinese pharmaceutical company named Renopharma. Dr. Li and two of his friends, Dr. Yu Xue and Dr. Yan Mei, created Renopharma in Nanjing, China, supposedly to research and develop anti-cancer drugs. In reality, Renopharma was used as a repository of stolen information from GSK. The data contained information regarding multiple biopharmaceutical products under development, GSK research data, and GSK processes regarding the research, development, and manufacturing of biopharmaceutical products. On January 5, 2016, the FBI arrested Li and seized his computer on which they found a number of GSK documents containing trade secret and confidential information which he had received from Xue. Xue previously pleaded guilty on August 31, 2018.

(3) Large-Scale Commercial Counterfeiting and Online Piracy

The Department continues to pursue significant, large-scale piracy and counterfeiting operations. In FY 2018, the Department has had a number of significant prosecutions, including those set forth below:

- *Orlando Pair Sentenced For Copyright Infringement Of Microsoft Products And Conspiracy To Commit Wire Fraud.* On December 1, 2017, Robert F. Stout, and Kasey N. Riley, a/k/a Kasey Stout, were sentenced to 18 months' imprisonment and 12 months of home detention, respectively, for conspiracy to commit wire fraud and copyright infringement relating to the sale of illegal activation keys for Microsoft products. As a part of their sentences, the Court also ordered them to pay \$1,480,227, the proceeds of the charged criminal conduct.
- *Sacramento Man Sentenced To Prison For Criminal Trademark Infringement.* On December 15, 2017, Xavier L. Johnson was sentenced to two years and six months in prison and three years of supervised release for trafficking in goods bearing counterfeit trademarks. From 2008 to 2011, Johnson and co-defendant Kristin Caldwell imported DVDs from China that contained counterfeit versions of children's movies.

- Staten Island Man Sentenced For Trafficking Over \$2.5 Million In Counterfeit Footwear Through Port Of Newark.* On January 23, 2018, Shi Wei Zheng was sentenced to 30 months in prison and two years of supervised release for attempting to distribute more than \$2.5 million of counterfeit UGG-brand boots that were 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.
- Chinese National Pleads Guilty to Conspiracy and Trafficking of Counterfeit Apple Goods into The United States.* On February 2, 2018, Jianhua “Jeff” Li pleaded guilty for his role as a counterfeit distributor in a scheme to traffic and smuggle counterfeit electronics purporting to be Apple iPhones and iPads, from China into the United States. From July 2009 through February 2014, Li, working through his company, Dream Digitals, conspired with Andreina Becerra, Roberto Volpe, Rosario LaMarca, and others to smuggle and traffic into the United States from China more than 40,000 electronic devices and accessories, including iPads and iPhones, along with labels and packaging bearing counterfeit Apple trademarks. Li also received payments totaling over \$1.1 million in sales proceeds from U.S. accounts into his bank accounts. Becerra, Volpe, and LaMarca have also pleaded guilty to their roles in the conspiracy. LaMarca was sentenced on July 20, 2017, to 37 months in prison. Volpe and Becerra were sentenced on October 15, 2018. Volpe was sentenced to 22 months in prison, and Becerra was sentenced to three years of probation.
- Owner of Sharebeast.com Sentenced for Copyright Infringement.* On March 22, 2018, Artur Sargsyan, of Glendale, California, was sentenced to five years in prison followed by three years of supervised release for his role in operating a massive file-sharing infrastructure that distributed approximately 1 billion copies of copyrighted musical works through Internet downloads. He was also ordered to pay restitution in the amount of \$458,200 and to forfeit \$184,768.87. Sargsyan owned and operated a number of websites including Sharebeast.com, Newjams.net, and Albumjams.com. Sargsyan pleaded guilty to copyright infringement on September 1, 2017.
- New York Woman Sentenced for Trafficking Over \$3 Million In Counterfeit Footwear And Handbags Through Port Of Newark.* On May 23, 2018, Xiao Xia Zhao pleaded guilty to trafficking in counterfeit goods. In total, Zhao trafficked in thousands of pairs of fake Nike footwear, Louis Vuitton handbags, and other counterfeit items, with a total estimated retail value of over \$3 million. From November 2013 through February 2017, Zhao received certain shipping container numbers from an individual overseas that identified at least three containers containing counterfeit merchandise. Zhao asked individuals working at the Port of Newark to remove the containers from the port before they could be examined by U.S. Customs and Border Protection. On October 22, 2018, Zhao was sentenced to 18 months imprisonment and three years of supervised release.

- *California Sentenced for Copyright Infringement.* On July 23, 2018, Craig M. Vincent pleaded guilty to one count of criminal infringement of a copyright. Vincent admitted he used eBay to resell aviation navigational database updates in violation of Jeppesen Company's licensing agreement for a trademarked product called NavData. Jeppesen's NavData includes airport information, runway characteristics, waypoints, arrival routes, departure routes, terminal procedures and general information that a Global Positioning System or flight management computer needs to navigate an airplane to final destination. Doing business as Merlin Enterprises, Vincent sold NavData cards and required customers to return old data cards to him. On October 15, 2018, Vincent was sentenced to serve three years on federal probation.
- *Five Defendants Charged In Manhattan Federal Court With Multimillion-Dollar Counterfeiting Scheme.* On August 7, 2018, defendants Miyuki Suen, Jian Min Huang, Kin Lui Chen, Songhua Qu, and Fangrang Qu were arrested on charges of importing hundreds of thousands of athletic shoes from China into the United States. The defendants are each charged with one count of conspiring to traffic in counterfeit goods, and one count of trafficking in counterfeit goods. From at least in or about January 2016 up to and including in or about July 2018, the defendants imported at least 42 shipping containers holding an estimated more than 380,000 pairs of sneakers from China. Once these shoes arrived, the defendants added trademarked logos to the shoes, rendering them counterfeit. The estimated loss attributable to the defendants' efforts amounts to more than \$70 million.
- *California Man Sentenced for Trafficking in Counterfeit Sports Apparel.* On August 10, 2018, Seyyed Ali Noori was sentenced to 12 months imprisonment and 12 months of supervised release for trafficking in counterfeit sports apparel, and ordered to pay restitution to victim companies, totaling \$27, 565.51. Noori had pleaded guilty on March 30, 2018. Noori owned and operated Goldstar Wholesale LLC, a regional wholesale distributor based in Tracy, California, and also sold goods at the Galt Flea Market in Galt, California.
- *22 Charged With Smuggling Millions of Dollars of Counterfeit Luxury Goods From China Into the United States.* On August 16, 2018, six indictments and one criminal complaint were unsealed in federal court, charging a total of 22 defendants with illegally bringing into the United States millions of dollars of Chinese-manufactured goods by smuggling them through ports of entry on the East and West Coasts. Twenty-one defendants were arrested on charges, including conspiracy to traffic, and trafficking, in counterfeit goods; conspiracy to smuggle, and smuggling, counterfeit goods into the United States; money laundering conspiracy; immigration fraud and unlawful procurement of naturalization. The defendants played various roles in the trafficking of counterfeit goods manufactured in China, brought by ocean-going ships to the United States in 40-foot shipping containers, smuggled through ports of entry disguised as legitimate imports and distributed throughout the country. The counterfeit goods included items such as fake Louis Vuitton and Tory Burch handbags, Michael Kors wallets, Hermes belts and Chanel perfume.

Domestic Training

During the past fiscal year, the Department provided a number of training programs for federal, state, and local prosecutors and agents investigating IP crimes. These training courses covered a range of IP enforcement issues and were designed to increase coordination between prosecutors and investigators as well as coordination among federal, state, and local law enforcement agencies. Examples of such training included:

- In October 2017, CCIPS, in conjunction with the Executive Office of U.S. Attorneys (“EOUSA”), presented a one-hour webinar for federal prosecutors on the prosecution of cases involving counterfeit microelectronics. The presentation included a background on microelectronics production and procurement, relevant law and policy, practical guidance in counterfeit trademark investigations, and included a case study.
- In October 2017, NSD, with support from CCIPS, organized and led the annual NSCS Training in McLean, Virginia. The NSCS training builds on the technical skills covered by the annual CHIP conference to address the added complexity of working with classified information and issues related to the investigation, prosecution, and disruption of crimes impacting national security.
- In January 2018, CCIPS was scheduled to present its Intellectual Property Crimes Seminar at the NAC. Citing the lapse in appropriations, DOJ’s Office of Legal Education cancelled the seminar. The Seminar is an in-depth course on investigating and prosecuting trafficking of counterfeit goods and services, criminal copyright infringement, and theft of trade secrets, along with significant instruction on electronic evidence gathering for IP cases.
- In March 2018, CCIPS and the District of Kansas U.S. Attorney’s Office presented on the trial and conviction of Weiqiang Zhang at the National Security Seminar on Export Control, Counterproliferation and Counterintelligence. Zhang, a former rice breeder at Ventria Biosciences in Kansas, provided proprietary rice seeds to members of a visiting Chinese delegation during their visit to the U.S. in 2013. Zhang was convicted in the District of Kansas of conspiracy to commit theft of trade secrets and related charges in February 2017.
- In April 2018, CCIPS presented at FBI Headquarters for approximately 25 FBI Supervisory Special Agents and Analysts on *United States v. Sinovel*. The presentation focused on tips for “investigating a case for trial.”
- In April, June, and August 2018, CCIPS presented at Intellectual Property and Trade Enforcement Investigations course at the IPR Center Arlington, Virginia, to approximately 30 HSI and CBP agents. The presentation covered relevant law and policy, provide practical guidance in counterfeit trademark investigations, and include a case study.
- In June 2018, 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 July 2018, CCIPS presented to Naval Criminal Investigative Service (NCIS) and other federal agents at a day-long training in San Diego, California. The training, organized by the IPR Center, focused on Operation Chain Reaction, which targets counterfeit microelectronics in the government and military supply chains. The presentation covered relevant law and policy, practical guidance in counterfeit trademark investigations, and included a case study.
- In August 2018, CCIPS presented at FBI’s 2018 National Intellectual Property Rights Training at the FBI Field Office in Dallas, Texas. The presentation was titled “What You Need for a Successful Trade Secret Theft Prosecution.” CCIPS also presented a case study about the Sinovel prosecution. More than 50 FBI agents and other members of federal law enforcement attended.
- In September 2018, CCIPS spoke at a symposium at FBI headquarters on the diversification of transnational crime in the Western Hemisphere. CCIPS gave a presentation focusing on the links between organized crime and intellectual property crime and cybercrime in Latin America as well as recent developments and trends in the region in these areas. The audience included approximately 150 people, primarily federal law enforcement agents and analysts.

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 2018, 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 2018 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 2018, 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

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

DOJ's IPLEC Program and Cyber Resident 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

Presentation to Chinese Copyright Delegation. In November 2017, CCIPS presented on U.S. criminal copyright law, combatting online piracy, and international cooperation to a 17-person delegation from China's National Copyright Administration, Public Security Bureaus, and Cultural Market Enforcement Agency. The U.S. Patent and Trademark Office and OPDAT facilitated the meeting held in Washington, D.C.

Presentation to Pakistani Delegation: In November 2017, CCIPS presented to a delegation of Pakistani IP government officials and private IP attorneys. The discussion focused on U.S. intellectual property enforcement efforts and case studies. CCIPS also discussed Pakistani IP statutes and ways to bring them in-line with international best practices and norms through a comparative analysis with U.S. laws.

U.S.-China Joint Dialogue on Counterfeit Pharmaceuticals. In January 2018, CCIPS and DOJ Civil Division's Consumer Protection Branch, along with the Hong Kong IPLEC, met with six senior Chinese law enforcement officials from the Ministry of Public Security's Public Order Administration to discuss combatting the trafficking of counterfeit pharmaceuticals. The delegation's trip was coordinated by CCIPS and the IPLEC through the U.S.-China Joint Liaison Group's ("JLG") Intellectual Property Criminal Enforcement Working Group. The JLG is designed to strengthen law enforcement cooperation between the United States and China across a range of issues, including intellectual property. Representatives from the FDA's Office of

Criminal Investigations, National IPR Center, and the U.S. Patent and Trademark Office also met with the delegation.

USPTO Workshop on Proliferation of Counterfeit Products in India. In February 2018, the Hong Kong IPLEC traveled to New Delhi, India to serve as an instructor at a workshop organized by the USPTO's South Asia Office, with assistance from FDA-OCI, on "Combating the Proliferation of Substandard, Unregistered, Unlicensed and Falsified Health and Safety Regulated Products," with particular emphasis on counterfeit pharmaceuticals. Workshop participants included 59 Indian delegates, most from the Central Drugs Standard Control Organization (CDSCO); two delegates each from Nepal and Sri Lanka; as well as representatives from INTERPOL, Her Majesty's Revenue and Customs Service and the recently established Border Force of the United Kingdom, U.S. CBP, and the United Nations Universal Postal Union (UPU).

Training Events Promoting Intellectual Property Right Enforcement in Vietnam. In March 2018, the Hong Kong IPLEC and Bangkok IPLEC participated in a series of events promoting IPR enforcement in Vietnam. The Asia IPLECs co-sponsored with the U.S. Embassy and Vietnam's Ministry of Science and Technology (MOST) a roundtable on IP enforcement in a digital world. The IPLECs met with senior officials at the MOST Inspectorate, which is responsible for coordinating training events for all nine Government of Vietnam (GOV) agencies involved in IPR enforcement. The IPLECs also participated in a roundtable for GOV agencies involved in IPR criminal enforcement, including the Supreme People's Court, the Supreme People's Procuracy, and the Ministry of Public Security, as well as private attorneys representing IP rights holders. The IPLECs also gave an address on IP enforcement at Hanoi Law University, and the Hong Kong IPLEC participated in an American Chamber of Commerce (AmCham) roundtable on innovation and IP sponsored by AmCham as well as met with officials of the provincial Department of Science and Technology to discuss training needs.

Meeting with Chinese Media Group on Enforcement of Copyright Laws. In April 2018, CCIPS met with representatives from the Shenzhen Media Group (a state-owned media company that owns TV channels and radio stations) to discuss copyright enforcement issues as well as U.S. copyright law. Officials from the U.S. Patent and Trademark Office, U.S. Copyright Office, U.S. Trade Representative, and IPR Center also participated in the meeting.

Presentation at Trade Secrets Workshop in Taiwan. In April 2018, CCIPS, the Southeast Asia Resident Legal Advisor for Cybercrime, and the Hong Kong IPLEC, in conjunction with the FBI and the USPTO, presented a Trade Secrets Workshop in Taipei, Taiwan. The audience included approximately 175 Taiwanese prosecutors, judges and investigators, and covered Taiwan's Trade Secrets Act, including presentations and panels regarding identifying and articulating trade secrets, using protective orders, assessing loss in theft of trade secrets cases, and more.

Digital Video Conference with Taiwan on Intellectual Property Issues. In May and August 2018, CCIPS participated in a half-day interagency digital video conferences on IP issues in Washington, D.C., with 20 Taiwanese government officials including prosecutors from the Taiwanese Ministry of Justice. Specific topics included internet piracy, illicit streaming devices, textbook piracy, and amendments to the Taiwan Copyright Act.

Meeting with Chinese Law Enforcement Officials to Discuss Coordinated Intellectual Property Cases. In May 2018, CCIPS, and representatives from the National IPR Center, met with Chinese law enforcement officials to discuss ongoing case cooperation. This meeting is a continuation of CCIPS's work under the former U.S.-China Joint Liaison Group's ("JLG") Intellectual Property Criminal Enforcement Working Group ("IPCEWG"). The JLG was designed to strengthen law enforcement cooperation between the United States and China across a range of issues, including intellectual property, and was subsumed last fall into the U.S.-China Law Enforcement and Cybersecurity Dialogue. A CCIPS attorney, who served as co-chair of the IPCEWG, led the meeting. The Chinese delegation was led by a Deputy Director General of China's Ministry of Public Security, Economic Crime Investigation Department.

Presentation to Chinese Delegation on Intellectual Property Rights. In May 2018, CCIPS addressed a Chinese government delegation 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.

Meeting with Korean Law Enforcement Officials on Combatting Counterfeit Pharmaceuticals. In May 2018, CCIPS met with officials from Korea's Ministry of Justice and Ministry of Food & Drug Safety to discuss best practices in investigating and prosecuting counterfeit pharmaceutical cases, as well as the take-down/seizures of related websites.

Forum on Criminal Intellectual Property Cases. In July 2018, the Hong Kong IPLEC participated in the Quality Brands Protection Committee (QBPC) 2018 Criminal IP Forum. The Hong Kong IPLEC served as a panelist discussing the potential for plea bargaining in criminal cases in China.

IPR Training for Vietnamese Judicial Officials. In July 2018, the Hong Kong IPLEC and CCIPS, along with HSI, met with justices of the Supreme People's Court of Vietnam and other Vietnamese judicial officials in Hanoi and Ho Chi Minh City, Vietnam to provide training on best practices and techniques for criminal enforcement of intellectual property rights. Over the past several years, Vietnam's national legislature has enacted significant amendments to strengthen the country's criminal intellectual property laws, but these changes have thus far not resulted in substantial improvements in enforcement. The program, organized by the Hong Kong, is designed to assist Vietnam's Supreme People's Court in developing guidance for lower courts to implement these new changes to Vietnam's criminal laws, and to improve enforcement of IP rights in Vietnam.

Colloquium on Intellectual Property Rights in Myanmar. In July 2018, the Bangkok IPLEC presented on criminal enforcement of intellectual property rights to an audience of judges from Myanmar at a USPTO/USAID-sponsored judicial colloquium on intellectual property rights.

Presentation to Thai Prosecutors on Intellectual Property Crime. In August 2018, the Bangkok IPLEC presented on criminal enforcement of IP cases to an audience of Thai public provincial public prosecutors at a USPTO-Thai Attorney General's Office-sponsored workshop. This was one of a series of such workshops throughout Thailand to roll out a new manual on criminally

prosecuting IP violations developed with USPTO support by the Office of the Attorney General of Thailand for use by Thai public prosecutors.

Regional Workshop on Counterfeit Goods in Thailand. In August 2018, the Hong Kong and Bangkok IPLECs, along with the USPTO, presented the “Asia Regional Workshop on Criminal Enforcement Against Online Trade in Pirated Content and Counterfeit Goods.” Approximately 120 police, prosecutors, and IP administrative officials from 15 Asian nations attended the workshop. HSI, FDA-OCI, the ASEAN Secretariat, and the EUIPO IP Key program also supported the workshop. Subsequently, on August 24, also in Bangkok, the Hong Kong and Bangkok IPLECs participated in opening the third meeting of the ANIEE, which was established in November 2016 as a successor to the ASEAN Working Group on IP Crime.

Presentation at Sixth Asian IP Crimes Enforcement Network Meeting. In September 2018, DOJ IPLECs in Hong Kong and Bangkok and CCIPS hosted the sixth meeting of the Asian IP Crimes Enforcement Network in Hong Kong. About ten countries from the region gathered to discuss methods to facilitate the exchange of successful investigation and prosecution strategies in combating domestic piracy and counterfeiting crimes, and how to strengthen communication channels to promote coordinated, multinational prosecutions of the most serious offenders. The meeting included panel discussions by law enforcement officials, presentations by representatives of affected industries, and technical and legal discussions from U.S. experts.

NORTH AFRICA AND THE MIDDLE EAST

Workshop on Intellectual Property Offenses Related to Commerce and Terrorism. In March 2018, the Nigeria IPEC traveled to Kuwait, City, Kuwait to instruct on IP offenses in a workshop co-sponsored by the Kuwait Ministry of Commerce and Industry, Anti-Money Laundering and Counter-Terrorism Funding Administration (KMCI-AML/CFT) and DOJ OPDAT. The workshop was entitled “Investigating Fraudulent Business Transactions to Prevent Money Laundering and Terrorism Funding,” and it included, in addition to the segments on IP offenses, sections on basic fraud investigations, indicators of fraud, interview techniques and strategies, evidence needed for prosecutions, and case scenarios.

Judicial Training Conference in Uzbekistan for Uzbekistani Judges. In June 2018, CCIPS participated in a three-day training conference in Tashkent, Uzbekistan for Uzbekistani judges focusing on protection of intellectual property rights. The U.S. Patent and Trademark Office, in conjunction with the U.S. Embassy in Tashkent, DOJ, and the Uzbekistani judiciary, organized the conference, which included around 20 participants. CCIPS gave five presentations on various topics involving intellectual property and IPR enforcement in the U.S. and Uzbekistan. CCIPS also led a discussion of a case study and participated in additional panels and discussions as well as a reception at a local nongovernmental organization for a mock trial program they organized in Chorvoq, Uzbekistan for Uzbekistani and Afghan law enforcement.

Presentation to Middle Eastern and Northern African Judges at USPTO’s Intellectual Property Judicial Exchange. In August 2018, CCIPS presented at the U.S. Patent and Trademark Office’s Middle Eastern and Northern Africa Intellectual Property Judicial Exchange. The audience consisted of forty judges from Algeria, Egypt, Jordan, Kuwait, Oman, the Kingdom of Saudi

Arabia, and United Arab Emirates. The four-day program was designed to provide a comprehensive overview of U.S. intellectual property law. CCIPS presented on DOJ's priorities in combatting intellectual property infringement and provided an overview of criminal trademark, copyright, and theft of trade secrets law as well as sentencing issues.

CENTRAL AND SOUTH AMERICA

Regional Intellectual Property Rights Enforcement Program in Brazil. In March 2018, the Brazil IPLEC participated in a regional IPR enforcement program organized by HSI Colombia and the IPR Center for approximately 40 police, prosecutors, and customs officials from the Ecuador, Colombia, Peru, and Guatemala. The IPLEC focused on IPR prosecutions involving the Internet, and provided an overview of online investigation principles and the basics of electronic evidence. The IPLEC also visited the Port in Cartagena, and met with both CBP and Colombian customs officials to discuss their challenges coping with the importation of counterfeit goods.

South America Regional Workshop on Measures Against Trade in Illicit and Counterfeit Agricultural Chemicals. In April 2018, CCIPS assisted DOJ IP Law Enforcement Coordinator Dan Ackerman, who is based in Sao Paulo, in hosting a DOJ and USPTO-sponsored "Workshop on Measures Against Trade in Illicit and Counterfeit Agricultural Chemicals" in Iguazu Falls, Brazil. Approximately 50 government officials from regulatory, customs, investigative, and prosecutorial agencies in the United States, Brazil, Paraguay and Argentina gathered to discuss methods to facilitate the exchange of successful enforcement strategies in combating trade in illicit and counterfeit pesticides. The program included panel discussions by law enforcement officials, presentations by industry representatives, and technical and legal discussions from U.S. experts. DOJ ENRD, EPA, CBP, HSI and USPTO representatives also served as instructors.

USPTO Judicial Workshop on the Protection and Enforcement of Intellectual Property Rights. In April 2018, CCIPS presented to a group of judges from Latin American countries, including Argentina, Brazil, Costa Rica, Dominican Republic, Panama, Peru, on the topic of U.S. Criminal Prosecution of Intellectual Property Crimes in the Digital Domain. Together, with Chief Judge Gustavo Gelpi of the U.S. District Court of Puerto, the group discussed a variety of topics, including the importance of international cooperation, public-private sector partnerships, and careful consideration of public health and safety issues. .

Participation in U.S.-Cuba Law Enforcement Dialogue (LED). In May 2018, in Washington, D.C., CCIPS participated in the U.S.-Cuba LED as a technical expert on cybercrime and intellectual property crime. The LED is a high-level dialogue designed to strengthen law enforcement cooperation between the United States and Cuba across a range of issues. Topics for discussion included legal cooperation, counterterrorism, human trafficking, human smuggling, counter-narcotics, anti-money laundering, and cyber issues. Representatives from the State Department, DHS, ICE-HSI, U.S. Coast Guard, HHS, INTERPOL, DEA, and FBI also attended on behalf of the United States.

IPR Enforcement Program in Uruguay. In May 2018, the Brazil IPLEC participated in a regional IPR enforcement program in Montevideo, Uruguay, organized by HSI Argentina and

the IPR Center for police, prosecutors, and customs officials from Uruguay and Paraguay. The IPLEC focused on IPR prosecutions involving the Internet, and provided an overview of online investigation principles, cyber-tracing techniques, and basics of electronic evidence. The IPLEC also spoke about international collaboration to obtain electronic evidence in criminal cases.

Training on Electronic Evidence in Copyright Infringement Cases. In July 2018, the Brazil IPLEC and USPTO trained approximately 60 Peruvian judges on best practices in handling of electronic evidence in digital copyright infringement cases. Two U.S. District Court judges as well as several US rights holders also served as instructors for the program. Participants learned about trending legal and policy issues in the acquisition and authentication of electronic evidence in digital copyright infringement cases as well as other cyber-enabled crime.

Training for Law Enforcement and Prosecutors on Intellectual Property Infringement. In July 2018, the Brazil IPLEC, CCIPS, and USPTO trained approximately 90 police and prosecutors from various Central American countries on best practices in IP infringement cases involving health and safety products in Santo Domingo, Dominican Republic. The program highlighted counterfeit pharmaceuticals and cosmetics case studies and addressed how authorities in different countries deal with the investigative and evidentiary issues that arise in these cases. Multiple pharmaceutical companies as well as Western Union presented on how they can assist law enforcement in these cases.

Training on Electronic Evidence in Intellectual Property Right Crime. In July 2018, the Brazil IPLEC and CCIPS trained approximately 60 Brazilian police and prosecutors from 16 Brazilian states and multiple cities within São Paulo state on the handling of electronic evidence in cybercrime investigations, including IPR crime. Facebook/Instagram and Microsoft participated in a panel for providers to share their insights on collaboration with law enforcement, especially on requests for overseas data. The program included a practical tabletop exercise on locating a target of a crime using open source applications, third-party data, and traditional methods of investigation.

Training on Intellectual Property Rights Cases in Mexico. In August 2018, the Brazil IPLEC and USPTO trained 30 Mexican prosecutors, police, and customs officials on best practices in IPR criminal investigations and prosecutions. The IPLEC co-presented on these issues along with the chief of the IP crimes section at the Mexican Attorney General's office (PGR).

Training with USPTO for Mexican Law Enforcement and Prosecutors. In August 2018, the Brazil IPLEC trained approximately 100 Mexican prosecutors, police, and customs officials on best practices in IPR criminal investigations and prosecutions at National IPR Center and Mexican Customs (SAT)-sponsored program held at the SAT headquarters in Mexico City. The IPLEC co-presented on these issues along with the USPTO Attaché for Mexico, Central America, and the Caribbean.

Training for Northern Triangle Prosecutors, Judges, and Law Enforcement on Intellectual Property Crime Prosecutions. In September 2018, CCIPS presented at a workshop on combatting intellectual property crime prosecutions at the International Law Enforcement Academy in San Salvador, El Salvador. The U.S. Patent and Trademark Office organized the

workshop, and participants included judges, prosecutors, law enforcement, and customs officials from El Salvador, Honduras, and Guatemala. CCIPS presented on prosecuting intellectual property crime and sentencing issues, and also participated on panels addressing international cooperation, collaboration with customs officials, and the use of electronic evidence in intellectual property prosecutions.

Presentation at Workshop on Intellectual Property Rights. In September 2018, CCIPS presented at the Regional Workshop on Border Enforcement of Intellectual Property Rights in Chetumal, Mexico. Law enforcement, customs agents and prosecutors from Mexico, Guatemala, and Belize attended the workshop, organized by the U.S. Patent and Trademark Office. CCIPS presented on investigating and prosecuting intellectual property offenses, and participate on panels discussing infringement determinations and promoting regional cooperation.

EUROPE

EIPPN Third Annual Workshop. In October 2017, the Romania IPLEC provided an overview of the available legal assistance and cooperation channels with the U.S. in IP and cybercrime cases to approximately 70 specialized IP prosecutors from 28 countries at a two-day workshop in The Hague. The European Union Intellectual Property Office (EUIPO), Eurojust, and the European Intellectual Property Prosecutors Network (EIPPN) organized the program, which was the EIPPN's third annual workshop.

Open World Program on Criminal Enforcement of Intellectual Property Rights. In October 2017, CCIPS met with six Intellectual Property Rights specialists from Belarus, as part of the Open World Program at the Library of Congress. The Open World Leader Center, an independent government agency of the United States Congress, administers the program, which is designed to enhance understanding and cooperation between the Congress, American communities, and global leaders. Attendees were Belarusian nationals who work on intellectual property matters. The discussion focused on how U.S. law enforcement officials investigate, prosecute, and deter criminal intellectual property crimes.

Training Program Focused on Intellectual Property Violations and Computer Crime. In December 2017, in Bucharest, Romania, the Romania IPLEC and DOJ Intermittent Legal Advisor organized a two-day training program on combatting IP violations and investigating financial and computer crime for 30 judges, prosecutors, and law enforcement officers from Romania's Economic Crime, Organized Crime, and Anticorruption Divisions of the Prosecutor General's Office. FBI, DEA, NDIL AUSA, and a Council of Europe representative also participated in the program.

Presentation to American Chamber of Commerce in Romania. In February 2018, the Romania IPLEC presented to the American Chamber of Commerce (AmCham) in Romania about improving cooperation and coordination in criminal IP cases and connecting resources and efforts of the private sector with law enforcement partners on national and international levels. The IPLEC provided an overview of DOJ's criminal IP enforcement efforts and the IPLEC program, including how the Romania IPLEC can work with rights holders in the region, other resources for assistance in IP matters, and best practices in working with law enforcement.

EUIPO and EIPPN Annual Conference. In April 2018, the Romania IPLEC participated in the European Union Intellectual Property Office (EUIPO) and the European Intellectual Property Prosecutors Network (EIPPN) annual conference in Alicante, Spain. Approximately 68 prosecutors, law enforcement officers, academia and private industry representatives from 26 countries attended. The program addressed health and safety aspects of intellectual property rights (IPR) violations, Internet protocol TV (IPTV) crime trends, and best practices for combating these crimes. The Romania IPLEC provided an overview of the United States' experience with IPR and health and safety, with special emphasis on counterfeit pharmaceuticals, personal care products, automotive parts, electronics and toys, and discussed recent developments in the legal assistance and cooperation channels available with the United States in IPR and cybercrime cases.

Meeting on Arbitration and Mediation of Intellectual Property Rights Cases. In April 2018, at the Romanian-American University in Bucharest, the Romania IPLEC and FSN participated in a meeting focused on mediation and arbitration in IPR cases organized by World Intellectual Property Organization (WIPO) in cooperation with the Romanian Copyright Office (ORDA) to mark the 2018 World IP Day. The IPLEC presented an overview of arbitration and mediation in IPR cases in the U.S., the IPLEC program, and avenues for assistance with the U.S. in IPR cases.

Training on Trade Secrets in Austria. In June 2018, the Romania IPLEC participated in two events hosted by the U.S. Embassy in Austria and the Federation of Austrian Industries. The events were designed to share international best practices and to help strengthen Austria's trade secrets legal regime. In the morning session, the Romania IPLEC participated in a trade secrets expert roundtable during which policymakers, officials, and business representatives from Europe and the United States exchanged best practices and discussed the development of effective trade secret laws. In the evening session, over 40 representatives from the Austrian business community attended the stakeholder event, and the Romania IPLEC participated in a panel session at that event designed to raise awareness about the importance of strong trade secrets protection.

National Conference at the Studies Institute for Public Order. In July 2018, the Romania IPLEC, in partnership with the Romanian counterparts, organized two joint workshops for Romanian investigators and prosecutors. 46 police investigators focusing on IP enforcement attended the first day-and-a-half workshop as part of their three-day annual national conference at Studies Institute for Public Order (ISOP). Subsequently, twenty-five prosecutors at the National Institute for Magistracy (INM) attended the second day-and-a-half workshop.

Workshop with USPTO Regarding Intellectual Property Rights Protection in Greece. In July 2018, the Romania IPLEC, in partnership with the USPTO and HSI, organized a joint two-day workshop for law enforcement and judicial officials as well as industry involved in IPR protection in Greece. Forty-eight investigators, prosecutors and judges attended the workshop.

Judicial Training Conference for Armenian Judges. In September 2018, CCIPS participated in a three-day training conference at the USPTO on the protection of intellectual property rights for Armenian judges handling criminal cases at the trial, appellate, or administrative level. The

conference was organized by USPTO in conjunction with the U.S. Embassy in Yerevan, DOJ, and the Armenian judiciary, and included around 20 participants. Armenia has one of the highest rates of piracy and counterfeiting in the world. CCIPS presented on relating to IPR enforcement in the U.S. and Armenia, and also participated in additional panels and discussions.

SUB-SAHARAN AFRICA

IP Meeting with Nigerian Officials. In February 2018, the Nigeria IPLEC traveled to Lagos to hold a series of meetings with IP stakeholders. Meeting attendees included representatives from the Nigerian American Chamber of Commerce (AmCham), National Agency for Food and Drug Administration and Control, Nigerian Copyright Commission, and International Trademarks Association.

Intellectual Property Workshop in Zimbabwe. In July 2018, the Nigeria IPLEC participated in WIPO and ARIPO's Training of Trainers IP Workshop. Representatives from thirteen of the nineteen member countries attended. The Nigeria IPLEC presented on U.S. perspectives on IP in Africa and on the elements of trademark counterfeiting. This was the first time WIPO and ARIPO have partnered with DOJ in the region, and the Nigeria IPLEC looks forward to further collaboration with these organizations.

Western Africa Workshop on Law Enforcement Capacity and Regional Coordination in Combatting Pharmaceutical Crimes. In August 2018, the Nigeria IPLEC led the Western Africa Workshop to Build Enforcement Capacity and Improve Regional Coordination in Combatting Pharmaceutical Crimes at the West Africa Regional Training Center in Accra, Ghana. Police, prosecutors, health regulatory officials, gendarmerie, investigative magistrates and customs officials participated from Nigeria, Ghana, Benin, Togo, Burkina Faso, Cameroon, and Niger. In addition to the Nigeria IPLEC, U.S. law enforcement and prosecutors as well as a Nigerian prosecutor, an INTERPOL official, and industry representatives served as workshop facilitators and instructors.

Dialogue on Anti-Piracy and Law Enforcement Issues. In August 2018, the Nigeria IPLEC convened numerous stakeholders in Nigeria's creative industry for a strategic dialogue on anti-piracy and enforcement issues at the American Guest Quarters at the U.S. Consulate in Lagos, Nigeria. In the morning session, the IPLEC team met with individuals from the literary and software sector, and in the afternoon session, they met with individuals representing the entertainment/art sector.

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 FY2018, 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, as well as the Civil Division's Consumer Protection Branch attorneys, have also presented at a variety of domestic and international conferences, symposia, workshops, and events attended by IP rights holders and law enforcement officials. These events included, among others:

- In October 2017, CCIPS presented at Michigan State University's Center for Anti-Counterfeiting and Product Protection (A-CAPP) Brand Protection Strategy Summit on a panel entitled "Organizational Adaptation and the Changing Nature of E-Commerce Retailers." The discussion focused on the changes to intellectual property rights enforcement in an age of increased e-commerce transactions, and addressed certain key factors affecting the evolving e-commerce landscape, including the multifaceted role of consumers, the nature and scope of collaborations between brand owners and e-commerce sites, and the impact of globalization on counterfeiters and their organizations.
- In November 2017, CCIPS addressed approximately 100 members of the International Trademark Association (INTA) Anti-Counterfeiting Committee as part of INTA's annual meeting in Washington, D.C. CCIPS discussed the roles of the section and other DOJ components, the CHIP Network, and the IP Law Enforcement Coordinator program in combatting intellectual property crime, with a particular focus on trademark counterfeiting and the international trafficking of fake hard goods.
- In November 2017, CCIPS participated in a panel discussion to an audience of approximately 100 intellectual property industry representatives and law enforcement officials at the 2017 IPR Center Symposium. The symposium was entitled "Solving the E-Commerce Puzzle," and included panels on topics such as fraud protection for consumers and business, efforts to reduce sale of counterfeits in online marketplaces such as eBay, Amazon and Alibaba, and challenges facing law enforcement.
- In March 2018, CCIPS attended meetings with the Automotive Anti-Counterfeiting Council (A2C2) and U.S. government representatives. The Intellectual Property

Enforcement Coordinator (IPEC) organized the roundtable discussion focused on A2C2's current and future initiatives as well as opportunities for further collaboration with the IPEC and other U.S. government agencies. The IPR Center hosted an additional meeting that consisted briefings and discussions focused on the sales of airbags and other automotive parts on e-commerce platforms as well as sharing best practices by industry and future training opportunities for law enforcement.

- In March 2018, CCIPS and NSD CES presented to the Electronic Components Industry Association (ECIA) Board in Crystal City, Virginia, and provided an overview of DOJ's criminal IP and export control enforcement efforts as well as best practices in identifying and reporting criminal activity. Approximately 20 executives from major electronic component manufacturers and their authorized distributors attended.
- In April 2018, CCIPS presented for the New York and New Jersey Intellectual Property Law Associations at a half-day conference entitled, "Trade Secrets / Cybersecurity: Protecting Your Corporate Client's Information." CCIPS's presentation, entitled "Cybercrime and Intellectual Property Crime: A Team Effort," focused on the importance of developing relationships with law enforcement in advance of an incident, and reaching out to law enforcement as soon as an incident does occur. More than 100 attorneys attended the presentation.
- In April 2018, CCIPS presented at the American Bar Association Intellectual Property Section's 33rd Annual Spring Conference in Arlington, Virginia. CCIPS was part of a panel on "The Dark Side of Knock-Off's." CCIPS's presentation focused on the challenges of investigating and prosecuting counterfeiting and how victims can work more effectively with law enforcement to deter counterfeiting. Approximately 100-150 IP attorneys attended the presentation. .
- In April 2018, the Civil Division's Consumer Protection Branch presented to the Pharmaceutical Security Institute's 33rd General Assembly in McLean, Virginia, on prosecuting counterfeit drug cases. The presentation focused on federal prosecution priorities and recent cases involving counterfeit drugs.
- In May 2018, CCIPS and the IPR Center co-hosted a half-day meeting 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. CCIPS, in conjunction with the IPR Center and industry partners, organized the meeting. Over 60 industry, government, and law enforcement representatives attended the meeting.
- In May 2018, CCIPS participated in a panel discussion at the International AntiCounterfeiting Coalition's (IACC's) Spring Conference in Seattle, Washington. CCIPS, and co-panelists from HSI, FBI, City of London Police, and the USPTO, addressed "Government Perspectives on Trends in and Evolution of Anti-Counterfeiting Enforcement." Topics included innovative enforcement programs at the national level and international, intergovernmental cooperation.

- In June 2018, the Civil Division’s Consumer Protection Branch moderated a panel at the Partnership for Safe Medicine’s Interchange in Washington, D.C. The meeting brought together policymakers, families of counterfeit drug victims, law enforcement, healthcare professionals, patient advocates, and pharmaceutical manufacturers and focused on the dangers of counterfeit drugs, particularly the upsurge in counterfeit opioids.
- In July 2018, CCIPS presented at the Smithsonian Museum of American History as part of the National Trademark Exposition. CCIPS served on a panel entitled, “Counterfeits and Con Artists: The Real Dangers and Costs of Fake Goods.” The president of the International Trademark Association and a USPTO Enforcement Team representative also participated on the panel.
- In August 2018, CCIPS presented for a live-stream hosted by the IP Owners Association. The presentation was entitled, “IP Crime and Cybercrime: A Team Effort” and focused on the importance of developing relationships with law enforcement in advance of an IP or cyber incident, and communicating with law enforcement as soon as an incident does occur. The presentation was live-streamed to over 100 participants.
- In August 2018, CCIPS and the Civil Division Consumer Protection Branch participated in a Roundtable on Counterfeit Drugs at USPTO. Participants included public health researchers, economists, and U.S. Government representatives. The roundtable focused in particular on the problem of internet sales of counterfeit drugs directly to consumers.
- In September 2018, CCIPS presented to the International Trademark Association as part of its program on U.S. Federal Government’s Work on IP Enforcement, Outreach, and Education. The presentation addressed the Department of Justice’s work investigating, prosecuting, and deterring intellectual property crime and how the private sector can partner with law enforcement to address these serious crimes.
- In September 2018, CCIPS and the Civil Division’s Appellate Section took part in a panel discussion in Los Angeles addressing the U.S. government role in copyright enforcement for an audience of approximately 400 representatives of the entertainment and copyright content industries.
- Throughout FY2018, DOJ CHIP AUSAs presented at China IP Road Shows, sponsored by the USPTO in Denver, Colorado; Salt Lake City, Utah; Indianapolis, Indiana; Chicago, Illinois; Portland, Oregon; Seattle, Washington; San Jose and San Francisco, California; Nashville, Tennessee; Louisville, Kentucky; Iowa City, Iowa; Kansas City, Missouri; and New York City. With the China IP Road Shows, the USPTO is partnering with a variety of organizations across the country — including universities, USPTO regional offices, business groups, state and local governments, and other federal agencies — to present a series of one-day events that delve into the details of how to better protect IP in China. These one-day events bring to local businesses and stakeholders the expertise and knowledge of the USPTO’s China specialists as well as that of special

invited guests, and have been tailored to address the needs of the specific locale in which it is held.

Several years ago, NSD placed additional focus on the protection of national assets from the threats of nation states, including economic espionage and trade secret theft. These changes included creating a new Deputy Assistant Attorney General position focusing on protecting national assets. Pursuant to this increased focus over the last several years, NSD leadership and other attorneys have reached out to senior managers and counsel at hundreds of companies over the last year to educate them about the Department's resources and efforts to combat economic espionage and trade secret theft and other national security threats. These outreach efforts have included presentations at universities and think tanks, cybersecurity summits and roundtable discussions, as well as one-on-one meetings with senior executives at Fortune 500 and other companies. The NSCS Network also periodically disseminated talking points and other resources to its members nationwide to facilitate their outreach to companies and other organizations in their home districts and facilitated FBI field offices' efforts to educate AUSAs on the national security threats in their districts and to include them in FBI's outreach efforts in their districts.

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 2018, 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 also

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. § 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.

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 2018
Investigative Matters Received by AUSAs	189
Defendants Charged	117
Cases Charged	67
Defendants Sentenced	65
No Prison Term	36
1-12 Months	12
13-24 Months	7
25-36 Months	4
37-60 Months	3
60 + Months	3

In addition, we have provided the chart below with FY 2018 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>	53	77.9%
Copyright <i>Criminal copyright infringement, 17 U.S.C. § 506; 18 U.S.C. § 2319</i>	4	5.9%
<i>Counterfeit labels, 18 U.S.C. § 2318</i>	0	0%
<i>DMCA, 17 U.S.C. § 1201</i>	0	0%
Economic Espionage Act <i>Economic espionage, 18 U.S.C. § 1831</i>	1	1.5%
<i>Theft of trade secrets, 18 U.S.C. § 1832</i>	10	14.7%
Total	68	100%

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

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

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

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

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.

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 the 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 fielded 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.

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

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

(a) (8) Efforts to Increase Efficiency

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

- A. minimize duplicating the efforts, materials, facilities, and procedures of any other Federal agency responsible for the enforcement, investigation, or prosecution of intellectual property crimes; and*
- B. enhance the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute intellectual property crimes, including the*

extent to which the Department has utilized existing personnel, materials, technologies, and facilities.”

The Department works hard to ensure the effective use of limited resources devoted to fighting IP crime. One of the most important ways to reduce duplication of effort is to ensure that law enforcement agencies are pursuing unique case leads, and that prosecutors are not following prosecution strategies that duplicate those in other districts. To that end, CCIPS continues to provide ongoing support to the IPR Center in Arlington, Virginia. Among other things, the IPR Center serves as an investigation clearinghouse for FBI, ICE-HSI, CBP, FDA, and other agencies. CCIPS also works closely with the CHIP Network to assist in coordinating national prosecution initiatives. Along similar lines, NSD works closely with the NSCS Network to assist in coordinating national prosecution initiatives designed to counter the national security cyber threat. Department attorneys will continue to work with the IPR Center and 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 2018, the FBI had 195 pending IPR investigations with the following areas of focus:

- 67 investigations of theft of trade secrets
- 23 investigations of copyright infringement related to software
- 41 investigations of other copyright infringement
- 25 investigations of trademark infringement
- 8 investigations of copyright infringement related to signal theft
- 5 investigations of counterfeit aircraft parts
- 10 investigations of counterfeit electrical parts
- 6 investigations of counterfeit automotive parts
- 8 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 2018:

- 54 new investigations initiated
- 22 arrests
- 10 information/indictments
- 12 convictions
- Seizures totaling \$940
- Forfeitures totaling \$3,176,949
- Restitution totaling \$64,536,442
- FIRE (Frozen, Indicted, Restrained, Encumbered) totaling \$0

DOJ Intellectual Property Prosecutions FY 2018, by Statute

The following is a listing of DOJ IP prosecutions during FY 2018 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)

- **California Man Pleads Guilty To Copyright Infringement.** On July 23, 2018, Craig M. Vincent, 51, of Stockton, California, pleaded guilty to one count of criminal infringement of a copyright. In his plea, Vincent admitted he used eBay to resell aviation navigational database updates in violation of Jeppesen Company’s licensing agreement for a trademarked product called NavData. Jeppesen is a Boeing subsidiary. Jeppesen’s NavData includes airport information, runway characteristics, waypoints, arrival routes, departure routes, terminal procedures and general information that a Global Positioning System or flight management computer needs to navigate an airplane to final destination. Jeppesen sold NavData subscriptions to Kansas-based Garmin, Inc. Garmin received a commission from the sales of Jeppesen data sets. Doing business as Merlin Enterprises, Vincent sold NavData cards and required customers to return old data cards to him. (DKS, FBI)
<https://www.justice.gov/usao-ks/pr/california-man-pleads-guilty-copyright-infringement>
(17-20076)
- **Owner of Sharebeast.com Sentenced for Copyright Infringement.** On March 22, 2018, Artur Sargsyan, 30, of Glendale, California, was sentenced to five years in prison followed by three years of supervised release for his role in operating a massive file-sharing infrastructure that distributed approximately 1 billion copies of copyrighted musical works through Internet downloads. He was also ordered to pay restitution in the amount of \$458,200 and to forfeit \$184,768.87. Sargsyan owned and operated a number of websites including Sharebeast.com, Newjams.net, and Albumjams.com. Sargsyan pleaded guilty to copyright infringement on September 1, 2017. According to the Recording Industry Association of America (“RIAA”), Sharebeast.com was the largest online file-sharing website specializing in the reproduction and distribution of infringing copies of copyrighted music operating out of the United States. From 2012 to 2015, the RIAA sent Sargsyan over 100 e-mails notifying him that Sharebeast.com was illegally hosting and sharing copyrighted works. Sargsyan continued, however, to make the copyright-infringing files available for download, disregarding the many warnings that he received. The RIAA conservatively estimated the total monetary loss to its member companies at \$6.3 billion. (NDGA, CDCA, CCIPS, OIA, FBI, UK National Crime Agency, Netherlands Ministry of Security and Justice)
<https://www.justice.gov/usao-ndga/pr/sharebeastcom-owner-pleads-guilty-criminal-copyright-infringement>
<https://www.justice.gov/usao-ndga/pr/owner-sharebeastcom-sentenced-copyright-infringement>
(17-222)
- **Orlando Pair Sentenced For Copyright Infringement Of Microsoft Products And**

Conspiracy To Commit Wire Fraud. On December 1, 2017, Robert F. Stout, 51, and Kasey N. Riley, a/k/a Kasey Stout, 33, were sentenced to 18 months' imprisonment and 12 months of home detention, respectively, for conspiracy to commit wire fraud and copyright infringement relating to the sale of illegal activation keys for Microsoft products. As a part of their sentences, the Court also ordered them to pay \$1,480,227, the proceeds of the charged criminal conduct. According to court documents, Stout and Riley advertised Microsoft software products for sale online, using a variety of sham business names. They purchased unauthorized activation keys from various websites and then provided them, in exchange for PayPal payments, to at least 13,000 customers throughout the United States. They received at least \$1.4 million from customers in exchange for the unauthorized, and often invalid, activation keys. Even after receiving customer complaints that specific activation keys were not functioning properly, Stout and Riley continued to sell them. For example, between September 2013 and June 2014, they sold one specific activation key approximately 880 times. Stout and Riley pleaded guilty on August 8, 2017. (MDFL, HSI, FBI)
<https://www.justice.gov/usao-mdfl/pr/orlando-man-and-woman-plead-guilty-copyright-infringement-microsoft-products-and>
<https://www.justice.gov/usao-mdfl/pr/orlando-pair-sentenced-copyright-infringement-microsoft-products-and-conspiracy-commit>
(17-183) (17-174)

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

- **New Orleans Man Charged with Trafficking In Counterfeit Goods.** On September 7, 2018, Mahir Salim (a/k/a Maher Salem, Mike Salem), age 40, a resident of New Orleans, Louisiana, was charged by a federal grand jury in a one-count Indictment with trafficking in counterfeit goods. According to the Indictment, beginning at a time unknown and continuing until about January 19, 2017, Salim trafficked and attempted to traffic in approximately 111 pair of "True Religion" blue jeans, 50 pair of "Rock Revival" jeans, 8 "Michael Kors" purses, 19 "Coach" wallets, 2 "Michael Kors" wallets, 8 "Louis Vuitton" purses, 6 "Gucci" purses, 177 "Polo" sweatshirts, 41 pair of "Polo" sweatpants, 24 "Polo" jogging suits, 44 pair of "Timberland" boots, 336 "New Era" hats, 473 pair of "Nike" shoes, 21 "Adidas" jogging suits, 114 pair of "Adidas" shoes, 6 bottles "Dolce & Gabbana" perfume, 110 "Mitchell & Ness" hats, 24 "North Face" vests, and 43 "Nike" hats. (EDLA, HSI)
<https://www.justice.gov/usao-edla/pr/new-orleans-man-charged-trafficking-counterfeit-goods>
(18-191)
- **Cheektowaga Man Pleads Guilty to Buying and Selling Counterfeit Airbags.** On August 30, 2018, Raymond Whelan, 49, of Cheektowaga, NY, pleaded guilty to conspiracy to traffic in counterfeit goods. The defendant operates Rayscarparts71.com. Between June 2015 and March 2016, Whelan and co-defendant David Nichols entered into an agreement to sell counterfeit automobile airbags. Whelan would contact Nichols and order numerous airbags bearing counterfeit trademarks of Honda, Toyota, Nissan, Subaru, Mazda, Hyundai, Acura, and Mitsubishi. Nichols would then locate

manufacturers in China to supply the requested airbags. In order to avoid detection during importation, the airbags were purposefully mislabeled. Once imported into the United States, Whelan would sell the airbags on eBay utilizing the name Rayscarparts71. The airbags were listed on eBay as genuine used airbags designed to fit Honda, Toyota, Nissan, Subaru, Mazda, Hyundai, Acura, and Mitsubishi. During the investigation, multiple undercover purchases were made from Rayscarparts71 and airbags were seized from the defendant's business. All the purchased and seized airbags were determined to be counterfeit. The airbags also contained trademarks of Honda, Toyota, Nissan, Subaru, Mazda, Hyundai, Acura, and Mitsubishi, trademarks registered with the United States Patent and Trademark Office. None of these companies authorized the defendant to utilize their trademarks. Whelan imported and sold approximately 360 counterfeit automobile airbags with an average manufacturer's retail price of \$650.00. The total infringement amount was \$236,600.00. Co-defendant David Nichols was previously convicted and is awaiting sentencing. (WDNY, HSI, CBP)

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

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

(17-206)

- **Texas Man Pleads Guilty to Federal Counterfeiting Conspiracy Charges.** On August 24, 2018, Steve Kim of Round Rock, Texas, pleaded guilty to conspiracy to defraud the United States. On April 19, 2018, Kim was arrested on federal counterfeiting charges. Kim was charged with one count of conspiracy to defraud the United States and one count of trafficking in counterfeit goods. According to the indictment, from January 2010 until June 2, 2017, Kim knowingly sold more than \$325,000 worth of counterfeit sports apparel on eBay. A vast majority of the items were acquired in China and shipped to his home in Round Rock. Those items included National Basketball Association (NBA), Major League Baseball (MLB), National Football League (NFL), and National Hockey League (NHL) jerseys and hats. On June 2, 2017, federal and state authorities executed a search warrant at the defendant's residence and seized more than 2,300 items bearing counterfeit markings to include NBA, MLB, NFL, NHL, Reebok, Louis Vuitton, New Era and others. The suggested retail value of the seized items exceeds \$189,000. Sentencing is set for November 16, 2018. (WDTX, HSI, Austin Police, Williamson County Sheriff's Office)
<https://www.justice.gov/usao-wdtx/pr/round-rock-man-faces-federal-counterfeiting-charges>
(18-149)

- **Sacramento Man Pleads Guilty to Selling Counterfeit Air Bag Covers and Nameplate Badges.** On August 21, 2018, Pavel Ryzhenkov, 32, of Sacramento, California, pleaded guilty to one count of trafficking in counterfeit goods. According to court documents, between December 2015 and September 2017, Ryzhenkov sold counterfeit air bag covers on eBay. He purchased the counterfeit covers from manufacturers in China and in turn advertised and sold them as genuine with the trademarks of various auto manufacturers, including Audi, BMW, Chevrolet, Dodge,

Ford, Honda, Infiniti, Lexus, Mercury, Nissan, Subaru, Toyota, and Volkswagen. (DOR, HSI)

<https://www.justice.gov/usao-or/pr/sacramento-man-pleads-guilty-selling-counterfeit-air-bag-covers-and-nameplate-badges>

(18-313)

- **California Man Sentenced for Trafficking in Counterfeit Sports Apparel.** On August 10, 2018, Seyyed Ali Noori, 50, was sentenced to 12 months imprisonment and 12 months of supervised release per Count (1-2) to be served concurrently, and ordered to pay restitution to victim companies, totaling \$27,565.51. Noori had pleaded guilty on March 30, 2018, to two counts of trafficking in counterfeit goods. According to admissions made in connection with his plea, Noori owned and operated Goldstar Wholesale LLC, a regional wholesale distributor based in Tracy, California, and also sold goods at the Galt Flea Market in Galt, California. In August, October, and November 2013, undercover officers with the Sacramento Intellectual Property Task Force purchased hundreds of dollars of counterfeit hats, shirts, and other accessories from Noori. These items bore counterfeit trademarks belonging to professional sports franchises in the National Football League (NFL), the National Basketball Association (NBA), Major League Baseball (MLB), and the National Hockey League (NHL), as well as apparel brands like Monster Energy, Nike, and New Era. Purchases were made from Noori at the Galt Flea Market and the Goldstar warehouse. Noori admitted that on November 12, 2013, he was served with a notice directing him to cease-and-desist selling goods bearing counterfeit NFL, MLB, NBA, NHL, and Monster Energy trademarks. Noori signed a declaration that he understood the cease-and-desist notice and would refrain from selling such products in the future. Nonetheless, according to Noori's admissions, he continued to sell the counterfeit goods. On December 3, 2013, undercover Task Force officers visited Noori's retail stand at the Galt Flea Market, where Noori indicated that he could no longer display the counterfeit items for sale. Instead, he directed the officers to his box truck for the counterfeit goods, which they purchased. On December 19, 2013, a search warrant executed at the Goldstar warehouse recovered thousands of items openly displayed for sale, including pieces of headwear, shirts, and accessories, all bearing counterfeit sports trademarks. (EDCA, CCIPS, FBI, Sacramento County Sheriff's Department)
<https://www.justice.gov/usao-edca/pr/san-joaquin-county-man-charged-trafficking-counterfeit-sports-apparel-and-other>
<https://www.justice.gov/opa/pr/california-man-pleads-guilty-trafficking-counterfeit-sports-apparel>
(16-7)

- **5 Defendants Charged In Manhattan Federal Court With Multimillion-Dollar Counterfeiting Scheme.** On August 7, 2018, defendants Miyuki Suen, 43, Jian Min Huang, 42, and Kin Lui Chen, 53, of New York, New York, and Songhua Qu, 54, and Fangrang Qu, 31, of Hicksville, New York, were arrested on charges of importing hundreds of thousands of athletic shoes from China into the United States. The defendants are each charged with one count of conspiring to traffic in counterfeit goods and one count of trafficking in counterfeit goods. From at least in or about January 2016

up to and including in or about July 2018, Suen, Huang, Songhua Qu, Kin Lui Chen, and Fangrang Qu imported at least 42 shipping containers holding an estimated more than 380,000 pairs of sneakers from China. These sneakers were manufactured to resemble Nike Air Jordans. Once these shoes arrived, the defendants added trademarked logos to the shoes, rendering them counterfeit. The defendants then stored the counterfeit Nike Air Jordans in multiple storage units and warehouses in New York City and elsewhere. On August 7, 2018, pursuant to court-authorized search warrants, federal law enforcement agents conducted searches of a warehouse, storage units, and a residence related to this scheme, and found thousands of counterfeit shoes, counterfeit trademarks, and machinery to finish counterfeit shoes. The estimated loss attributable to the defendants' efforts amounts to more than \$70 million. (SDNY, HSI, NYPD, CBP) <https://www.justice.gov/usao-sdny/pr/5-defendants-charged-manhattan-federal-court-multimillion-dollar-counterfeiting-scheme> (18mj6658)

- **Massachusetts Woman and Man Sentenced for Roles in Counterfeit Steroid Conspiracy.** On June 20, 2018, Brian Petzke, 49, of Saugus, was sentenced to two years in prison and two years of supervised release. Elizabeth Green, 30, of Fitchburg, was sentenced to two years of probation. Both were sentenced for their roles in a steroid trafficking conspiracy. Green pleaded guilty in December 2017 to one count of conspiracy to distribute controlled substances, charged by Information. In February April 2018, Petzke pleaded to one count of conspiracy to distribute controlled substances, charged with six others in April 2017. 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 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. Some of the defendants laundered proceeds from the steroid sales through Wicked Tan LLC, a tanning business in Beverly, which they owned and operated specifically to launder the proceeds of the steroid operation. Green’s role in the conspiracy was to collect customer payments from money remitters using false identifications and provide those proceeds to another member of the organization. Green retrieved more than \$220,000 in customer payments for steroid purchases. Petzke’s principal roles in the conspiracy were receiving packages containing raw steroid powder; shipping steroids to customers throughout the United States at the direction of co-defendants Tyler Baumann and Phillip Goodwin; and picking up steroid proceeds from money remitters at the direction of Baumann and Goodwin. (DMASS, HSI, USPIS, FDA) <https://www.justice.gov/usao-ma/pr/six-charged-trafficking-counterfeit-steroids> <https://www.justice.gov/usao-ma/pr/fitchburg-woman-pleads-guilty-role-counterfeit-steroid-conspiracy> <https://www.justice.gov/usao-ma/pr/saugus-man-pleads-guilty-role-counterfeit-steroid-conspiracy> <https://www.justice.gov/usao-ma/pr/lynn-man-sentenced-over-10-years-prison-role->

[counterfeit-steroid-conspiracy](https://www.justice.gov/usao-ma/pr/fitchburg-woman-and-saugus-man-sentenced-roles-counterfeit-steroid-conspiracy)

<https://www.justice.gov/usao-ma/pr/fitchburg-woman-and-saugus-man-sentenced-roles-counterfeit-steroid-conspiracy>

(17-10374) (17-10209)

- **New York Woman Pleads Guilty To Trafficking Over \$3 Million In Counterfeit Footwear And Handbags Through Port Of Newark.** On May 23, 2018, Xiao Xia Zhao, 41, pleaded guilty to trafficking in counterfeit goods. According to documents filed in this case and statements made in court, from November 2013 through February 2017, Zhao received certain shipping container numbers from an individual overseas that identified at least three containers containing counterfeit merchandise. Zhao asked individuals working at the Port of Newark to remove the containers from the port before they could be examined by U.S. Customs and Border Protection. Once the containers were removed, Zhao directed that they be delivered to other individuals, who would then distribute the merchandise in New Jersey and elsewhere. Law enforcement intercepted the containers before Zhao could distribute the goods. In total, Zhao trafficked in thousands of pairs of fake Nike footwear, Louis Vuitton handbags, and other counterfeit items, with a total estimated retail value of over \$3 million. Zhao also paid individuals over \$75,000 in exchange for the delivery of the containers. Sentencing is set for October 22, 2018. (DNJ, CBP, HSI)
<https://www.justice.gov/usao-nj/pr/new-york-woman-pleads-guilty-trafficking-over-3-million-counterfeit-footwear-and-handbags>
(18-311)
- **South Carolina Couple Sentenced to a Total of 138 Months in Prison for Trafficking Counterfeit Goods, Including Misbranded Pet Medicine.** On May 9, 2018, David Haisten, 51, and Judy Haisten, 51, both of Irmo, South Carolina, were sentenced to 78 and 60 months of incarceration, respectively. A jury found the Haistens guilty in October 2017 of conspiracy as well as six counts of violating the Federal Insecticide, Fungicide, and Rodenticide Act, five counts of distributing misbranded animal drugs, and two counts of trafficking in counterfeit goods. The defendants' products, including pesticides that are extremely toxic in the wrong dose, posed a serious risk to animals and humans. Further, as detailed at trial, the defendants' packaging and instructions for use increased the likelihood that an injury would occur. (EDPA, EPA, FDA, HSI)
<https://www.justice.gov/usao-edpa/pr/south-carolina-couple-sentenced-total-138-months-prison-trafficking-counterfeit-goods>
(16-461)
- **Mexican Nationals Plead Guilty to Trafficking in Counterfeit Goods by Operating Counterfeit Airbag Business in Albuquerque.** On May 9, 2018, Two Mexican nationals, illegally present in the United States, entered guilty pleas to operating a counterfeit airbag business out of their residence in Albuquerque, New Mexico. Dina Gonzalez-Marquez, 24, and Emilio Gonzalez-Marquez, 22, 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. It also alleged that they facilitated the conspiracy by listing and selling counterfeit airbag

modules and airbag covers online, shipping the counterfeit goods to purchasers, and conducting in person sales of the counterfeit goods. Pursuant to their plea agreements, the siblings agreed to forfeit approximately 143 airbags and airbag covers, four storage devices, four laptops, and \$2,510 in cash. (DNM, HSI)

<https://www.justice.gov/usao-nm/pr/mexican-nationals-plead-guilty-trafficking-counterfeit-goods-operating-counterfeit-airbag>
(17-1103)

- **Massachusetts Business Owner Sentenced for Defrauding SNAP and Selling Counterfeit Merchandise.** On April 25, 2018, Esther Acquaye, 31, of Worcester, was sentenced to eight months in prison, three years of supervised release, and ordered to pay \$285,075 in restitution. In December 2017, Acquaye pleaded guilty to one count of conspiracy to acquire, possess, and redeem SNAP benefits in an unauthorized manner, and to convert public money; one count of SNAP fraud; and one count of trafficking in counterfeit goods. On numerous occasions, between November 2013 and April 2016, Acquaye, the owner of Esther's Fashion Paradise in Worcester, accepted EBT cards from SNAP recipients wishing to exchange their SNAP benefits for cash. Specifically, Acquaye passed the EBT cards through a point-of-sale terminal causing the full value of the SNAP benefits to be electronically transferred to her business, and then provided less than the full value of the SNAP benefits in cash to the SNAP recipients. In total, Acquaye caused approximately \$282,541 in fraudulent EBT transactions and SNAP benefits to be transacted at Esther's. In addition, on at least four occasions between November 2015 and March 2016, Acquaye accepted an EBT card from an undercover investigator as payment for counterfeit retail goods. Acquaye sold the investigator two counterfeit Michael Kors purses, one counterfeit Gucci purse, and one counterfeit The North Face jacket. (DMA, USDA-OIG, HSI)
<https://www.justice.gov/usao-ma/pr/worcester-business-owner-pleads-guilty-defrauding-snap-benefits-program-and-selling>
<https://www.justice.gov/usao-ma/pr/worcester-business-owner-sentenced-defrauding-snap-and-selling-counterfeit-merchandise>
(17-40040)
- **Massachusetts Woman Sentenced for Role in Counterfeit Steroid Trafficking Scheme.** On April 25, 2018, Melissa Sclafani, 30, from Gloucester, was sentenced to one year and one day in prison and two years of supervised release. In June 2017, Sclafani pleaded guilty to one count of conspiracy with intent to distribute and to distribute counterfeit steroids and one count of conspiracy to launder money. On April 12, 2017, Sclafani and five others were charged by criminal complaint. From at least February 2016 until April 12, 2017, Sclafani conspired with others to manufacture steroid products, market them as "Onyx" steroids, and sell them to customers across the United States using email and social media platforms. Customers paid for the steroids via money remitters, such as Western Union and MoneyGram, and members of the conspiracy used false identifications and multiple remitter locations to pick up the steroid proceeds. Sclafani obtained materials and supplies to manufacture the counterfeit steroids and served as the corporate secretary of Wicked Tan LLC, a tanning business in Beverly that was owned by two co-conspirators. Sclafani assisted members of the

conspiracy in laundering proceeds from the sale of counterfeit steroids through the business. (DMA, HSI, USPIS, FDA)

<https://www.justice.gov/usao-ma/pr/six-charged-trafficking-counterfeit-steroids>
<https://www.justice.gov/usao-ma/pr/gloucester-woman-sentenced-role-counterfeit-steroid-trafficking-scheme>

(17-10185)

- **Lynn Man Sentenced to Over 10 Years in Prison for Role in Counterfeit Steroid Conspiracy.** On March 29, 2018, Philip Goodwin, 37, of Lynn, Massachusetts, was sentenced to 130 months in prison and three years of supervised release. In November 2017, Goodwin pleaded guilty to one count of conspiracy to distribute controlled substances, one count of conspiracy to traffic counterfeit drugs, one count of trafficking in counterfeit drugs, one count of possession with intent to distribute controlled substances, and one count of money laundering conspiracy. In April 2017, Goodwin and five others, including Tyler Bauman, a/k/a “musclehead 320,” were arrested and charged with operating a counterfeit steroid operation on the North Shore. From approximately May 2015 until April 12, 2017, the conspirators manufactured steroid products—made from raw materials purchased overseas—in Goodwin’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 sold the steroids online 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. (DMA, HSI, USPIS, FDA)
<https://www.justice.gov/usao-ma/pr/lynn-man-sentenced-over-10-years-prison-role-counterfeit-steroid-conspiracy>
(17-10209)
- **Mexican Man Sentenced to Prison for Importing Counterfeit Drugs.** On March 20, 2018, Arturo Rafael Salazar Cruz, age 38, of Matamoros, Mexico, was sentenced for conspiracy to traffic in counterfeit goods. Cruz was sentenced to the maximum of 60 months imprisonment and 3 years supervised release. Evidence presented in this case established that from 2011 through 2017, Cruz conspired with others in foreign countries to import counterfeit pharmaceuticals from China and India into the United States. Cruz had a Non-Immigrant Visa, and he misused his Visa to transport the counterfeit pharmaceuticals from Mexico to Texas where he shipped the drugs through the United States Postal Service. Cruz and others sold these counterfeit pharmaceuticals to persons without prescriptions in the United States. Some of the counterfeit pharmaceuticals were highly addictive controlled substances, including Xanax and OxyContin. During the investigation, agents executed a search warrant at Cruz’s office in Texas and seized 360,000 pills. The retail value of these seized pharmaceuticals exceeded \$8 million. (DSC, HSI)
<https://www.justice.gov/usao-sc/pr/mexican-man-sentenced-prison-importing-counterfeit-drugs>
(17-547)

- Massachusetts Couple Sentenced for Roles in Counterfeit Steroid Conspiracy.** On March 15, 2018, a Shrewsbury couple were sentenced for their respective roles in a far-reaching, multi-million dollar conspiracy to distribute counterfeit steroids throughout the United States. Tyler Bauman, a/k/a “musclehead320,” 32, was sentenced to 10 years in prison and three years of supervised release. Kathryn Green, 29, was sentenced to one year and one day in prison and three years of supervised release. From approximately May 2015 until April 12, 2017, Bauman, Green and their co-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. Bauman had a robust social media following on Instagram and other platforms under the moniker “musclehead320” and derivations of that name. Bauman used the “musclehead320” persona to promote Onyx by claiming to be an “Onyx Sponsored Athlete.” Through these social media accounts, Bauman provided customers with email addresses to place orders, received steroid orders, and then communicated with customers via these email addresses. Bauman directed other members of the conspiracy to ship steroids to customers using the U.S. Postal Service. Customers paid for the steroids via money remitters, such as Western Union and MoneyGram. Bauman then directed other members of the conspiracy to pick up payments at multiple remitter locations using false identifications to attempt to avoid suspicion. Bauman purchased both the oral steroids (tablets) and the raw materials to manufacture the injectable steroids from overseas suppliers. He also ordered the counterfeit Onyx labeling and packaging from overseas suppliers. The injectable steroids advertised and sold by the members of this conspiracy bore trademarks of Onyx Pharmaceuticals. Further, Bauman laundered proceeds from the steroid sales through Wicked Tan LLC, a tanning salon located in Beverly, which he and a co-conspirator owned and operated specifically to launder the proceeds of the steroid operation. (USMA, HSI, USPIS, 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/lynn-man-pleads-guilty-counterfeit-steroid-conspiracy>
<https://www.justice.gov/usao-ma/pr/saugus-man-pleads-guilty-role-counterfeit-steroid-conspiracy>
<https://www.justice.gov/usao-ma/pr/shrewsbury-couple-sentenced-roles-counterfeit-steroid-conspiracy>

(17-10209) (17-10211)
- Four Individuals Indicted For Trafficking In Counterfeit Goods.** On March 7, 2018, Carlos Enrique Velázquez-Gines, Mayra Evelise Gines-Otero, Noriam Ivette Flores-Deleon, and Vanessa Marrero-Hernández were charged with mail and wire fraud conspiracy, mail fraud, trafficking in counterfeit goods, introducing misbranded articles into interstate commerce, distribution of a controlled substance, international money

laundering, and smuggling. According to the indictment, the defendants marketed and offered numerous purported “dietary supplements” for male enhancement or weight loss, which were in fact “drugs” under the Federal Food, Drug, and Cosmetic Act (FDCA) for sale to American consumers. Defendants marketed and sold the products through “online stores” on platforms such as eBay.com and Bonanza.com. Many of the counterfeit male-enhancement pills contain the active pharmaceutical ingredient (sildenafil), found in popular and well-known products such as “Viagra” and “Cialis,” and these products do not advertise that pharmaceutical ingredient. Defendants also sold counterfeit condoms. From at least on or about October 3, 2013, defendants purchased from overseas suppliers located in China, and imported into the United States, dietary supplements, latex condoms, and cosmetics that were counterfeit and/or misbranded under the FDCA. In an effort to evade detection by law enforcement, when ordering the illegal products from China, defendants had the packages shipped to a trans-shipper located in Miami, Florida, who would then re-package and/or re-label the parcels and send them to defendants in Puerto Rico. The defendants mailed numerous packages through USPS to customers across the United States containing counterfeit and/or misbranded products. They used a residence located in Manatí, Puerto Rico, as a warehouse to store and distribute the unlawful products they purchased from overseas suppliers and re-sold to customers. The defendants also distributed wholesale quantities of the counterfeit and/or misbranded products imported from overseas to wholesale buyers. Defendant Carlos Enrique Velázquez-Gines, initiated numerous wire transfers of funds to overseas suppliers to pay for the unlawful products purchased and imported by the defendants. The defendants are facing a forfeiture allegation of \$3,699,901.94, six properties or homes, two bank accounts, one Pay Pal account, and three certificates of deposit. (DPR, FDA, HSI, USFIS, CBP, PR-Treasury Dept.)

<https://www.justice.gov/usao-pr/pr/four-individuals-indicted-trafficking-counterfeit-goods>
(18-136)

- **Niagara Falls Man Sentenced For Selling Counterfeit Goods.** On February 9, 2018, Mohsen Kassem Abdulrab, 58, of Niagara Falls, NY, was sentenced to two years supervised release and fined \$2,000 for trafficking in counterfeit goods. Between January 6, 2014, and February 13, 2014, the defendant sold or attempted to sell unauthorized counterfeit goods at his store, the Hip Hop Center, located in Niagara Falls. The counterfeit merchandise included UGG, Michael Kors, The North Face, National Basketball Association, National Football League, Major League Baseball, Polo Ralph Lauren, Louis Vuitton, Coach, Timberland, and others. The value of the counterfeit merchandise, if genuine, was more than \$40,000. (WDNY, HSI)
<https://www.justice.gov/usao-wdny/pr/niagara-falls-man-sentenced-selling-counterfeit-goods>
(15-167)
- **Chinese National Pleads Guilty to Conspiracy and Trafficking of Counterfeit Apple Goods into The United States.** On February 2, 2018, Jianhua “Jeff” Li, 43, a Chinese national, living in the United States on a student visa, pleaded guilty for his role as a counterfeit distributor in a scheme to traffic and smuggle counterfeit electronics purporting to be Apple iPhones and iPads, from China into the United States. Li pleaded

guilty to one count of conspiracy to traffic in counterfeit goods and labels and to smuggle goods into the United States, and one count of trafficking in counterfeit goods. According to the documents filed in this case and statements made in court, from July 2009 through February 2014, Li, working through his company, Dream Digitals, conspired with Andreina Becerra, Roberto Volpe, Rosario LaMarca, and others to smuggle and traffic into the United States from China more than 40,000 electronic devices and accessories, including iPads and iPhones, along with labels and packaging bearing counterfeit Apple trademarks. Li also received payments totaling over \$1.1 million in sales proceeds from U.S. accounts into his bank accounts. Becerra, Volpe, and LaMarca have also pleaded guilty to their roles in the conspiracy. LaMarca was sentenced on July 20, 2017, to 37 months in prison. Further, the documents filed in this case and statements made in court showed that Li shipped devices separately from the labels bearing counterfeit trademarks for later assembly to avoid detection by CBP officials. The devices were then shipped to conspirators all over the United States. Proceeds from the sales of the devices were funneled back to the co-conspirators' accounts in Florida and New Jersey via structured cash deposits and a portion of the proceeds was then transferred to conspirators in Italy, further disguising the source of the funds. Sentencing is scheduled for October 15, 2018. (DNJ, CCIPS, HSI, local LE agencies, Europol, Italy's Guardia di Finanza)
<https://www.justice.gov/opa/pr/four-individuals-charged-importing-and-trafficking-counterfeit-apple-and-sony-technology>
<https://www.justice.gov/opa/pr/member-conspiracy-import-and-traffic-counterfeit-electronic-products-sentenced>
<https://www.justice.gov/opa/pr/chinese-national-pleads-guilty-conspiracy-and-trafficking-counterfeit-apple-goods-united>
(15-178)

- **Staten Island Man Gets 30 Months In Prison For Trafficking Over \$2.5 Million In Counterfeit Footwear Through Port Of Newark.** On January 23, 2018, Shi Wei Zheng, 42, from Staten Island, NY, was sentenced to 30 months in prison and two years of supervised release for attempting to distribute more than \$2.5 million of counterfeit UGG-brand boots that were shipped into the Port of Newark. According to documents filed in this case and statements made in court, 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. However, before Zheng could distribute the goods, law enforcement intercepted the containers, examined their contents, and determined the boots were counterfeit. At no time was Zheng authorized to import authentic or counterfeit UGG merchandise. In total, Zheng trafficked in over 15,000 pairs of counterfeit UGG boots, with a total estimated retail value of over \$2.5 million. Zheng also paid individuals over \$50,000 in exchange for the delivery of the containers. (DNJ, HSI, CBP)
<https://www.justice.gov/usao-nj/pr/staten-island-man-admits-trafficking-over-25-million->

[counterfeit-footwear-through-port](https://www.justice.gov/usao-nj/pr/staten-island-man-gets-30-months-prison-trafficking-over-25-million-counterfeit-footwear)

<https://www.justice.gov/usao-nj/pr/staten-island-man-gets-30-months-prison-trafficking-over-25-million-counterfeit-footwear>

(17-401)

- **Sacramento Man Sentenced To Prison For Criminal Trademark Infringement.** On December 15, 2017, Xavier L. Johnson, 37, of Sacramento, was sentenced to two years and six months in prison and three years of supervised release for trafficking in goods bearing counterfeit trademarks. According to court documents, from 2008 to 2011, Johnson and co-defendant Kristin Caldwell imported DVDs from China that contained counterfeit versions of children's movies. They advertised and sold those DVDs throughout the United States using websites on which they claimed that they had obtained limited quantities of the movies. The DVDs bore counterfeit trademarks, including the names of the movies, the names of the movie studios, and other marks that were registered with the United States Patent and Trademark Office. (EDCA, USPS, FBI)
<https://www.justice.gov/usao-edca/pr/two-elk-grove-residents-plead-guilty-trafficking-counterfeit-dvds>
<https://www.justice.gov/usao-edca/pr/sacramento-man-sentenced-prison-criminal-trademark-infringement>
(12-250)

TRADE SECRET THEFT (18 U.S.C. § 1832)

- **Second Former Glaxosmithkline Scientist Pleads Guilty to Stealing Trade Secrets to Benefit Chinese Pharmaceutical Company.** On September 14, 2018, Dr. Tao Li, 45, of San Diego, California, pleaded guilty to conspiracy to steal trade secrets from GlaxoSmithKline (GSK) for the benefit of a Chinese pharmaceutical company named Renopharma. Dr. Li and two of his friends, Dr. Yu Xue and Dr. Yan Mei, created Renopharma in Nanjing, China, supposedly to research and develop anti-cancer drugs. In reality, Renopharma was used as a repository of stolen information from GSK. Renopharma received financial support and subsidies from the government of China. At the time, Xue was employed as a scientist at GSK working on developing biopharmaceutical products. These products typically cost in excess of \$1 billion to research and develop. Xue sent a substantial number of GSK's scientific documents, some of which contained GSK trade secrets, to Li and Mei at Renopharma in China. The data contained information regarding multiple biopharmaceutical products under development, GSK research data, and GSK processes regarding the research, development, and manufacturing of biopharmaceutical products. Xue typically sent the documents via e-mail or transferred the documents via portable electronic storage devices. Xue sent these documents to Li and Mei with the intention to convert GSK's information for their economic benefit. On January 5, 2016, the FBI arrested Li and seized his computer on which they found a number of GSK documents containing trade secret and confidential information which he had received from Xue. Xue previously pleaded guilty on August 31, 2018. (EDPA, FBI)
<https://www.justice.gov/usao-edpa/pr/scientists-indicted-allegedly-stealing->

[biopharmaceutical-trade-secrets](https://www.justice.gov/usao-edpa/pr/former-glaxosmithkline-scientist-pleads-guilty-stealing-trade-secrets-benefit-chinese)
<https://www.justice.gov/usao-edpa/pr/former-glaxosmithkline-scientist-pleads-guilty-stealing-trade-secrets-benefit-chinese>
<https://www.justice.gov/usao-edpa/pr/second-former-glaxosmithkline-scientist-pleads-guilty-stealing-trade-secrets-benefit>
(16-22)

- **New York Man Charged With Theft of Trade Secrets.** On August 1, 2018, Xiaoqing Zheng, 55, of Niskayuna, New York, was arrested in connection with a criminal complaint charging him with stealing trade secrets belonging to General Electric (GE). The criminal complaint alleges that on or about July 5, Zheng, an engineer employed by GE, used an elaborate and sophisticated means to remove electronic files containing GE's trade secrets involving its turbine technologies. Specifically, Zheng is alleged to have used steganography to hide data files belonging to GE into an innocuous looking digital picture of a sunset, and then to have e-mailed the digital picture, which contained the stolen GE data files, to Zheng's e-mail account. (NDNY, FBI)
<https://www.justice.gov/opa/pr/new-york-man-charged-theft-trade-secrets>
(18mj434)
- **Former Apple Employee Indicted On Theft of Trade Secrets.** On July 12, 2018, Xiaolang Zhang, 33, of San Jose, was indicted for theft of trade secret. According to the Indictment, Zhang is alleged to have taken a confidential 25-page document containing detailed schematic drawings of a circuit board designed to be used in the critical infrastructure of a portion of an autonomous vehicle, knowing that the theft would injure the owner of the trade secrets, Apple, Inc. Court documents filed allege that on April 30, 2018, Zhang told Apple personnel that he was resigning from his job so that he could return to China to be closer to his mother who was ill. Apple immediately terminated Zhang's access to its computer systems and Apple personnel began a forensic analysis of Zhang's Apple-owned devices and network activity. According to an affidavit filed in the case, Apple subsequently learned that Zhang went to work for X-MOTORS—a company focused on electric automobiles and autonomous vehicle technology with its headquarters in China. Apple security personnel confirmed that in the three days prior to April 30, 2018, Zhang's network activity increased notably compared to the prior two years of his employment. The majority of his activity consisted of downloading information from the project databases, and the downloaded information contained trade secret intellectual property. On July 7, 2018, FBI Agents learned that Zhang purchased a last-minute round-trip airline ticket with no co-travelers, departing San Jose for Hangzhou, China aboard Hainan Airlines. Federal agents intercepted and arrested Zhang at the San Jose International Airport after he had passed through the security checkpoint. (NDCA, FBI)
<https://www.justice.gov/usao-ndca/pr/former-apple-employee-indicted-theft-trade-secrets>
(18-312}
- **Former DuPont Employee Pleads Guilty to Stealing Trade Secrets and Lying to the FBI.** On July 11, 2018, Josh Harry Isler, 55, of St. Ansgar, Iowa, pled guilty to one count of trade secret theft and one count of making a false statement or representation to the

FBI. As part of his guilty plea, Isler admitted that during August 2013, while employed with DuPont, but after having accepted an offer of employment from a competitor, he stole trade secrets of DuPont. In a plea agreement, Isler admitted that after he accepted employment with a competitor of DuPont in the ethanol fuel enzyme business, he transferred hundreds of DuPont's electronic files to an external device. Isler knew the files he downloaded contained proprietary information and trade secrets of DuPont. Many of the files also related to DuPont customers who were also customers of the competitor or whose business the competitor was seeking. Isler kept the files in his new job and also transferred some to his new employer. Isler also admitted that when he was interviewed by the FBI in November 2013, he falsely denied he had downloaded files containing proprietary information. (NDIA, FBI)

<https://www.justice.gov/usao-ndia/pr/former-dupont-employee-charged-theft-trade-secrets-and-lying-fbi>

<https://www.justice.gov/usao-ndia/pr/former-dupont-employee-pleads-guilty-stealing-trade-secrets-and-lying-fbi>

(18-2032)

- **Electrical Engineer Found Guilty for Intending to Convert Trade Secrets from Defense Contractor.** On July 9, 2018, Jared Dylan Sparks, 35, of Ardmore, Oklahoma, was found guilty for his conduct related to a scheme to convert trade secrets belonging to a defense contractor based in Groton, Connecticut, related to, among others, an innovative naval prototype being developed for the U.S. Navy. The jury found Sparks guilty of six counts of theft of trade secrets, six counts of uploading trade secrets, and one count of transmitting trade secrets. According to evidence admitted at trial, Sparks, an electrical engineer, worked at LBI Inc., a defense contractor that designs and builds unmanned underwater vehicles for the U.S. Navy's Office of Naval Research and deployable ice buoys for the National Oceanic and Atmospheric Administration. During the course of his employment with LBI, Sparks collaborated with Charles River Analytics (CRA), a Massachusetts-based software company that developed software to be integrated into LBI's unmanned underwater vehicles. In late 2011, CRA 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. Sometime after April 2011, Sparks began exploring employment with CRA, and was eventually hired by that company in January 2012. Before he left LBI, Sparks surreptitiously uploaded thousands of LBI files to his personal account with Dropbox, a cloud-based file-storage application. Those files included LBI's accounting and engineering files as well as photographs related to designs and renderings used to fabricate and manufacture LBI's unmanned underwater vehicles and buoys. (DCT, CCIPS, DCIS, FBI, CCIPS Cybercrime Lab)
<https://www.justice.gov/usao-ct/pr/two-men-charged-stealing-trade-secrets-connecticut-defense-contractor>
<https://www.justice.gov/opa/pr/electrical-engineer-found-guilty-intending-convert-trade-secrets-defense-contractor>
(16-198)

- **Court Imposes Maximum Fine on Sinoel Wind Group for Theft of Trade Secrets.**

On July 6, 2018, a manufacturer and exporter of wind turbines based in the People's Republic of China was sentenced for stealing trade secrets from AMSC, a U.S.-based company formerly known as American Superconductor Inc. The Court found that AMSC's losses from the theft exceeded \$550 million, and imposed the maximum statutory fine in the amount of \$1.5 million on Sinovel Wind Group LLC. The Court found that the parties settled the restitution amount, and imposed a year of probation until Sinovel pays the full restitution amount. Sinovel has paid \$32.5 million to AMSC this week and will pay \$25 million within its year of probation. Sinovel will also pay \$850,000 to additional victims within its year of probation. Sinovel was convicted of conspiracy to commit trade secret theft, theft of trade secrets, and wire fraud on January 24 following an 11-day jury trial in Madison, Wisconsin. (WDWI, DOJ IP Task Force, CCIPS, OIA, FBI, CCIPS Cybercrime Lab)

<https://www.justice.gov/usao-wdwi/pr/sinovel-corporation-three-individuals-charged-theft-trade-secrets>

<https://www.justice.gov/opa/pr/chinese-company-sinovel-wind-group-convicted-theft-trade-secrets>

<https://www.justice.gov/opa/pr/court-imposes-maximum-fine-sinovel-wind-group-theft-trade-secrets>

(13-84)

- **Former Chemours Employee Sentenced for Theft Of Trade Secrets Conspiracy In Bid To Lure Chinese Investors Into Sodium Cyanide Market.** On June 27, 2018, Jerry Jindong Xu, a citizen of Canada, was sentenced to time served in prison and a \$100.00 special assessment. On June 8, 2018, Xu pled guilty to one count of conspiracy to steal trade secrets. According to court documents, the conspiracy involved the theft of trade secrets related to sodium cyanide, a chemical most often used to mine gold, silver, and other precious metals. The Chemours Company (Chemours) is the world's largest producer of sodium cyanide. Chemours, formed in July of 2015 after the DuPont Corporation separated its performance chemicals business, is based in Wilmington and performs the research and development for sodium cyanide products at its nearby Experimental Station. From 2011 to June 2016, the defendant was employed in Chemours' office in Ontario, Canada. There, he marketed various sodium cyanide-based products developed in the United States to the Canadian mining market. The defendant previously worked for seven years in China for the DuPont Corporation, where he cultivated extensive ties to the Chinese cyanide and mining industry. The defendant was arrested in New York in August 2017 and arraigned in Wilmington on September 28, 2017. The defendant admitted that during his final year of employment with Chemours, he systematically acquired—through surreptitious action, false statements to colleagues, and sometimes through his legitimate employment duties—dozens of confidential files, many of which included trade secret information about Chemours' sodium cyanide business. During this same time, the defendant secretly established a side company, called Xtrachemical, whose purpose was to solicit Chinese-based investors to build a sodium cyanide plant in Canada – in direct competition with Chemours. At the time of his arrest, the Royal Canadian Mounted Police executed a search warrant on behalf of the United States pursuant to our government's Mutual Legal Assistance Treaty with Canada. (DDE, FBI, OIA, RCMP)

<https://www.justice.gov/usao-de/pr/former-chemours-employee-charged-conspiracy-steal-trade-secrets-connection-plan-sell>

<https://www.justice.gov/usao-de/pr/former-chemours-employee-pleads-guilty-theft-trade-secrets-conspiracy-bid-lure-chinese>

(17-63)

- **Six Former And Current Fitbit Employees Indicted For Possessing Multiple Trade Secrets Stolen From Jawbone.** On June 14, 2018, six California residents were indicted for possessing stolen trade secrets. The secrets allegedly were stolen from now-defunct San Francisco-based AliphCom, Inc., doing business as Jawbone, after his or her employment with Jawbone ended and the defendant accepted employment with Fitbit, Inc., another San Francisco-based company. The indictment charges Katherine Mogal, 52, of San Francisco; Ana Rosario, 33, of Pacifica; Patrick Narron, 41, of Boulder Creek; Patricio Romano, 37, of Calabasas; Rong Zhang, 45, of El Cerrito; and Jing Qi Weiden, 39, of San Jose, with possessing stolen trade secrets. The indictment describes Jawbone as a company that “designed, manufactured, and sold wearable electronic devices, fitness trackers, and wireless speakers in interstate and international commerce. The indictment alleges Jawbone’s protected internal computer systems and cloud storage contained trade secrets, 14 of which are described in the indictment. Similarly, the indictment describes Fitbit as a publically traded company that promotes itself as “design[ing] products and experiences that track and provide motivation for everyday health and fitness.” According to the indictment, each of the defendants worked for Jawbone for at least one year between May of 2011 and April of 2015, and had signed a confidentiality agreement with the company. The indictment alleges that in between March 2015 and April 2015, Mogal, Rosario, Narron, and Zhang, while still working for Jawbone, received an offer of employment from Fitbit and, within three weeks, each had terminated his or her employment with Jawbone. Each of these defendants accepted his or her offer of employment from Fitbit. Weiden resigned from Jawbone in March 2014 and began working for Fitbit in November 2014. According to the indictment, at times in 2014 and 2015, after he or she was no longer employed by Jawbone, each defendant received and possessed one or more of the trade secrets for the economic benefit of someone other than Jawbone. Further, the indictment alleges each defendant was aware following his or her departure from Jawbone that the trade secrets were stolen and that they were being possessed without authorization. (NDCA, HSI)

<https://www.justice.gov/usao-ndca/pr/six-former-and-current-fitbit-employees-indicted-possessing-multiple-trade-secrets>

(18-259)

ECONOMIC ESPIONAGE (18 U.S.C. § 1831)

- **Four Chinese State-Owned Industrial Companies Arraigned In Economic Espionage Conspiracy.** On September 6, 2018, four state-owned Chinese companies were arraigned on a Third Superseding Indictment charging each of the companies and two of their officers with conspiring to commit economic espionage and related crimes. The companies were arraigned on charges that the defendants conspired and attempted to engage in economic espionage by seeking to acquire misappropriated trade secrets for the

production technology for chloride-route titanium dioxide (TiO₂) from E.I. du Pont de Nemours & Company (DuPont). According to the indictment that was filed January 5, 2016, between 1998 and 2011, Pangang Group Company, Ltd. (also known as Panzhihua Iron and Steel (Group) Co., Ltd.) allegedly conspired with Chinese nationals Hou Shengdong and Dong Yingjie as well as three of the company's subsidiaries and others to acquire stolen or misappropriated trade secrets. The defendant subsidiaries companies are: Pangang Group Steel Vanadium & Titanium Company, Ltd.; Pangang Group Titanium Industry Company Ltd.; and Pangang Group International Economic & Trading Company. The trade secrets relate to TiO₂ technology from DuPont. DuPont had developed the technology and controlled a significant amount of the world's TiO₂ sales. The defendants are alleged to have obtained confidential trade secret information including photographs related to TiO₂ plant technologies and facilities. Further, the defendants are alleged to have paid an Oakland company at least \$27,000,000 between 2006 and 2011 for assistance with TiO₂ technology, including obtaining DuPont trade secrets. The defendants also allegedly attempted, between 2008 and 2011, to commit economic espionage related to DuPont's TiO₂ processes. (NDCA Nat'l Security Unit, FBI)

<https://www.justice.gov/usao-ndca/pr/four-chinese-state-owned-industrial-companies-arraigned-economic-espionage-conspiracy>
(11-573)

- **Two Businessmen Charged With Conspiring to Commit Economic Espionage for Benefit of Chinese Manufacturing Company.** On April 26, 2018, Shan Shi, 53, of Houston, and Gang Liu, 32, a Chinese national, were charged by superseding indictment with conspiracy to commit economic espionage for the benefit of CBM-Future New Material Science and Technology Co. Ltd. (CBMF), a Chinese company based in Taizhou. Both businessmen were previously indicted in June 2017 for conspiracy to commit theft of trade secrets. The superseding indictment issued also charged CBMF and its Houston-based subsidiary, CBM International, Inc. (CBMI), for their roles in the conspiracy. According to court records, Shi and Liu conspired with others to commit economic espionage and steal trade secrets from a U.S. engineering firm that produces syntactic foam, a strong, lightweight material with commercial and military uses. Shan; Liu; Uka Kalu Uche, 36, of Spring, Texas; Samuel Abotar Ogoe, 75, of Missouri City, Texas; Kui Bo, 41, a Canadian citizen who had been residing in the Dallas area; and Hui Huang, 33, a Chinese national, were indicted in June 2017 on a charge of conspiracy to commit theft of trade secrets. An additional defendant pleaded guilty to the charge in December 2017. The superseding indictment includes that charge, adds the conspiracy to commit economic espionage count against Shi and Liu, and includes a federal money laundering conspiracy count against Shi. CBMF and CBMI have also been indicted on all three charges. (DDC, NSD-CES, FBI, IRS)

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

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

(17-110)

- **Chinese National Sentenced for Economic Espionage and Theft of a Trade Secret From U.S. Company.** On January 17, 2018, Xu Jiaqiang, 31, formerly of Beijing, China, was sentenced to five years in prison, for 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 previously pleaded guilty to all six counts with which he was charged. From November 2010 to May 2014, Xu worked as a developer for a particular U.S. company (the Victim Company), and enjoyed access to certain proprietary software (the Proprietary Software), as well as that software's underlying source code (the Proprietary Source Code). In May 2014, Xu voluntarily resigned from the Victim Company. Xu subsequently communicated with one undercover law enforcement officer (UC-1), who posed as a financial investor aiming to start a large-data storage technology company, and another undercover law enforcement officer (UC-2), who posed as a project manager, working for UC-1. On March 6, 2015, Xu sent UC-1 and UC-2 a code, which Xu stated was a sample of Xu's prior work with the Victim Company. Xu subsequently informed UC-2 that Xu was willing to consider providing UC-2's company with the Proprietary Source Code as a platform for UC-2's company to facilitate the development of its own data storage system. Xu informed UC-2 that if UC-2 set up several computers as a small network, then Xu would remotely install the Proprietary Software so that UC-1 and UC-2 could test it and confirm its functionality. In or around early August 2015, the FBI arranged for a computer network to be set up, consistent with Xu's specifications. Files were then remotely uploaded to the FBI-arranged computer network (the Xu Upload). Thereafter, on or about August 26, 2015, Xu and UC-2 confirmed that UC-2 had received the Xu Upload. On December 7, 2015, Xu met with UC-2 at a hotel in White Plains, New York (the Hotel). Xu stated, in sum and substance, that Xu had used the Proprietary Source Code to make software to sell to customers, that Xu knew the Proprietary Source Code to be the product of decades of work on the part of the Victim Company, and that Xu had used the Proprietary Source Code to build a copy of the Proprietary Software, which Xu had uploaded and installed on the UC Network (i.e., the Xu Upload). Later also on December 7, 2015, Xu met with UC-1 and UC-2 at the Hotel, and showed UC-2 a copy of what Xu represented to be the Proprietary Source Code on Xu's laptop. (SDNY, FBI, DOJ-NSD)
<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/usao-sdny/pr/chinese-national-pleads-guilty-economic-espionage-and-theft-trade-secret-us-company>
<https://www.justice.gov/opa/pr/chinese-national-sentenced-economic-espionage-and-theft-trade-secret-us-company>
(16-10)

ALTERNATIVE CHARGES

- Minnesota Attorney Pleads Guilty To Federal Charges In Connection With Multi-Million Dollar Pornography Film Copyright Fraud Scheme.** On August 17, 2018, Paul R. Hansmeier, 37, of Woodbury, pleaded guilty to conspiracy to commit mail fraud and wire fraud and conspiracy to commit money laundering. On March 6, 2017, Hansmeier’s co-defendant, John Steele pleaded guilty for his role in the scheme. According to his guilty plea and documents filed in court, between 2010 and 2014, Hansmeier and Steele, both practicing lawyers, executed a scheme to obtain millions of dollars by threatening copyright lawsuits against individuals who supposedly downloaded pornographic movies from file-sharing websites. Hansmeier admitted in court that he and Steele created a series of sham entities, which Steele controlled, to obtain copyrights to pornographic movies – some of which they filmed themselves – and then uploaded those movies to file-sharing websites like “The Pirate Bay” in order to lure people to download the movies. The defendants then filed bogus copyright infringement lawsuits that concealed both their role in distributing the movies, and their personal stake in the outcome of the litigation. After filing the lawsuits, Hansmeier and Steele gained authority from the courts to subpoena internet service providers (“ISPs”) for identification information of the subscriber who controlled the IP address used to download the movie. With that information, the defendants used extortionate tactics such as letters and phone calls to threaten victims with enormous financial penalties and public embarrassment unless they agreed to pay a \$3,000 settlement fee. In November 2011, in order to distance themselves from the specious lawsuits and any potential fallout, Hansmeier and Steele admitted that they created and used Prenda Law, among other law firms, to pursue their fraudulent claims and proceeds of the scheme. Hansmeier acknowledged in court today that he and Steele exerted de facto control over Prenda Law throughout the scheme. In October 2012, the defendants changed their tactics and began filing lawsuits falsely alleging that computer systems belonging to their sham clients had been hacked. To facilitate their phony “hacking” lawsuits, Hansmeier and Steele recruited individuals who had been caught downloading pornography from a file-sharing website, to act as ruse “defendants” who were sued in exchange for Hansmeier and Steele waiving their settlement fees while pursuing claims against their supposed “co-conspirators.” (DMN, CCIPS, FBI, IRS-CI)

<https://www.justice.gov/opa/pr/attorney-pleads-guilty-role-multi-million-dollar-scheme-fraudulently-obtain-copyright>
<https://www.justice.gov/usao-mn/pr/minnesota-attorney-pleads-guilty-federal-charges-connection-multi-million-dollar>
(16-334)
- Two Indicted for Trafficking Counterfeit Oxycodone Pills Containing Fentanyl.** On July 19, 2018, Alfredo Sanchez, 39, of Madera, and Saybyn Borges, 27, of Sacramento, were indicted on charges relating to their scheme to distribute counterfeit oxycodone pills that contained Fentanyl. Specifically, the defendants were charged with conspiracy to distribute fentanyl, distribution of fentanyl, possession with intent to distribute fentanyl, and being a felon in possession of a firearm. According to other court filings, Sanchez and Borges were involved in the sale of approximately 7,500 counterfeit oxycodone pills that contained fentanyl, a synthetic opioid. (EDCA, DEA)

<https://www.justice.gov/usao-edca/pr/two-indicted-trafficking-counterfeit-oxycodone>

[pills-containing-fentanyl-0](#)
(18-136)

- **Long Beach Man Sentenced to Over 26 Years in Prison for Leading Counterfeit Opioid Scheme that Distributed Fentanyl Analogue.** On July 9, 2018, Gary Resnik, 33, of Long Beach, was sentenced to 320 months in federal prison. Resnik was the leader of a narcotics distribution ring that imported a powerful fentanyl analogue from China and produced hundreds of thousands of opioid pills that were distributed in bulk across the nation. Resnik pled guilty in August 2017 to two felony offenses – conspiracy to manufacture and distribute narcotics (including acetylfentanyl and ecstasy), and possession with the intent to distribute acetylfentanyl. When he pled guilty, Resnik admitted to importing from China bulk chemicals, including acetylfentanyl that were used to manufacture opioid pills. His drug organization also illegally imported pill presses from China that were used to make pills in homemade labs in a Long Beach storage unit and Baldwin Park house. Resnik acknowledged that drug enforcement agents seized over 11 kilograms of acetylfentanyl from the Long Beach lab in addition to other large quantities of acetylfentanyl and other illegal drugs from both labs. A co-defendant in this case – Christopher Bowen, 32, of downtown Los Angeles – was sentenced in May 2018, to 320 months in federal prison for participating in the drug-trafficking conspiracy. Over the course of nine months in 2015 and 2016, Resnik’s organization sold approximately 40,000 to 45,000 pills each month, for between \$4 to \$8 per pill, according to prosecutors. (CDCA, DEA)
<https://www.justice.gov/usao-cdca/pr/dea-agents-arrest-four-men-federal-charges-distributing-narcotics-including-pills>
<https://www.justice.gov/usao-cdca/pr/long-beach-man-pleads-guilty-federal-narcotics-charges-including-distribution-pills>
<https://www.justice.gov/usao-cdca/pr/los-angeles-man-sentenced-over-26-years-prison-role-federal-narcotics-conspiracy>
<https://www.justice.gov/usao-cdca/pr/long-beach-man-sentenced-over-26-years-prison-leading-counterfeit-opioid-scheme>
(16-201)
- **Ozark Man Sentenced for Counterfeit Airbag Scheme.** On June 27, 2018, Aleksey Illyuk, 28, of Ozark, Missouri, was sentenced to 45 days imprisonment, three years of supervised release, and ordered to pay restitution in the amount of \$120,000.00. On December 6, 2017, Illyuk pleaded guilty to one count of mail fraud and one count of smuggling goods into the United States. Illyuk admitted that he sold counterfeit automotive airbags and airbag components on his online eBay stores, CarPro 417 and CarPro Electronics. He received shipments from various Chinese manufacturers of airbags, airbag covers and other items that contained the trademarks of Honda, Toyota, Chevy, Ford and other companies. Each of these imported airbags contained trademarks and markings that made it appear the legitimate holder of the trademark had manufactured the airbags. Illyuk fraudulently marketed these items as airbags that had been manufactured by the legitimate trademark holder, when he knew that the parts were counterfeit and not manufactured by the legitimate trademark holder. He sold approximately \$120,000 worth of counterfeit items to consumers throughout the United

States through his online stores from January 1, 2015, to August 17, 2017. The fact that the airbags and the airbag components parts were counterfeit and not manufactured by the legal holders of the displayed trademark or logo on the item was never truthfully disclosed to the consumers. (WDMO, HSI, IRS)

<https://www.justice.gov/usao-wdmo/pr/ozark-man-pleads-guilty-counterfeit-airbag-scheme>

(17-3132)

- **Connecticut Man Charged with Distributing Counterfeit Drugs.** On June 19, 2018, Kamil Golebioski, 26, of Shelton, was arrested on a federal criminal complaint charging him with various drug offenses related to the illegal distribution of counterfeit drugs, including possession with intent to distribute and distribution of a counterfeit substance. The charges stem from an ongoing statewide initiative targeting narcotics dealers who distribute heroin, fentanyl or opioids that cause death or serious injury to users. As alleged in the criminal complaint, on July 9, 2017, the Seymour Police Department and emergency medical personnel responded to a report of a suspected overdose at a residence in Seymour. At the residence, medical personnel pronounced a 29-year-old male deceased. Investigators seized drug and non-drug evidence from the scene, including the victim's cell phone. The complaint alleges that analysis of the victim's cell phone identified two individuals who purchased heroin and what they believed to be Xanax pills for the victim shortly before the victim died. Golebioski was subsequently identified as a source of supply for Xanax pills. It is further alleged that, between August 2017 and May 2018, investigators made multiple controlled purchases of Xanax pills from Golebioski. Analysis of the pills revealed that they were counterfeit. In early June 2018, investigators intercepted two packages mailed from Canada and addressed to Golebioski. The packages contained approximately 1,400 counterfeit Xanax pills. (DCT, DEA, HSI, CBP)
<https://www.justice.gov/usao-ct/pr/shelton-man-charged-distributing-counterfeit-drugs>
(18mj627)
- **Roswell Woman Sentenced for Distributing Counterfeit Oxycodone Pills Containing Fentanyl & Synthetic Opioids.** On May 24, 2018, Cathine Lavina Sellers, 39, of Roswell, Georgia was sentenced to three years in prison to be followed by three years of supervised release for possession with intent to distribute fentanyl and two synthetic opioids, furanyl-fentanyl and U-47700. Sellers pleaded guilty on January 30, 2018. According to the charges and other information presented in court, on June 13, 2017, Sellers sold approximately 100 pills for \$1,400 in cash from her Roswell townhouse to a confidential source working with the DEA. Later that night, DEA agents searched Sellers's townhouse and retrieved the money from the earlier transaction, and they found approximately 100 more counterfeit pills concealed in a dietary supplement bottle. Agents also found a loaded Glock handgun and two magazines. DEA agents arrested Sellers that night. A DEA lab test revealed the counterfeit pills contained furanyl-fentanyl, U-47700 and fentanyl. None of these substances are present in legitimate oxycodone tablets. The counterfeit pills are similar in appearance to a legitimate 30mg Roxicodone tablet. (NDGA, DEA)
<https://www.justice.gov/usao-ndga/pr/roswell-woman-indicted-federal-charges->

[counterfeit-oxycodone-pills-containing-fentanyl-0](https://www.justice.gov/usao-ndga/pr/roswell-woman-sentenced-distributing-counterfeit-oxycodone-pills-containing-fentanyl)
<https://www.justice.gov/usao-ndga/pr/roswell-woman-sentenced-distributing-counterfeit-oxycodone-pills-containing-fentanyl>
(17-241)

- **Los Angeles Man Sentenced to Over 26 Years in Prison for Role in Federal Narcotics Conspiracy Involving Counterfeit Opioids.** On May 21, 2018, Christopher Bowen, 32, was sentenced to 320 months in federal prison for his role in a conspiracy to manufacture, possess and distribute four narcotics, specifically: acetylfentanyl; a-pyrrolidinovalerophenone, a so-called designer drug also known as “PVP” that is sometimes used in “bath salts”; ecstasy; and alprazolam, commonly sold under the brand name Xanax. Acetylfentanyl, is five times more potent than heroin and not approved for any use in the United States. Bowen was sentenced after being convicted on two counts following a jury trial in October 2017. The judge remarked that the sentence of $26\frac{2}{3}$ years reflected the quantities of drugs seized by investigators. During the investigation, DEA agents seized more than 11 kilograms of acetylfentanyl from the organization. The evidence presented during the trial showed that Bowen and other members of the drug organization imported acetylfentanyl from China, which they then used to produce homemade pills designed to look like legitimate pharmaceuticals. Bowen and his co-conspirators then distributed the pills in bulk across the nation. (CDCA, DEA)
<https://www.justice.gov/usao-cdca/pr/dea-agents-arrest-four-men-federal-charges-distributing-narcotics-including-pills>
<https://www.justice.gov/usao-cdca/pr/long-beach-man-pleads-guilty-federal-narcotics-charges-including-distribution-pills>
<https://www.justice.gov/usao-cdca/pr/los-angeles-man-found-guilty-federal-narcotics-conspiracy-involving-opioid>
<https://www.justice.gov/usao-cdca/pr/los-angeles-man-sentenced-over-26-years-prison-role-federal-narcotics-conspiracy>
(16-201)
- **Seller of Counterfeit and Unapproved Pharmaceuticals Sentenced to Prison.** On April 27, 2018, Tijuana resident Alejandro Hernandez was sentenced to 30 months in custody for conspiring to smuggle and sell counterfeit and unapproved drugs. The defendant was also ordered to pay restitution of \$9,750 to Eli Lilly and Co., for losses related to his sale of counterfeit products. During a long-term undercover investigation, agents purchased counterfeit or unapproved pharmaceuticals from Hernandez on six separate occasions – oftentimes in a Chula Vista parking lot, paying for them with cash. The drugs were all labeled in the Spanish language, and included products such as Buscapina, Prodolina and Neo-Melubrina, which are not approved by the Food and Drug Administration for use in the United States. Hernandez also provided counterfeit versions of several drugs, including Viagra and Cialis. Hernandez told undercover operatives that his boss in Mexico had other employees, including a driver who would walk or drive across the border with the pharmaceuticals. Surveillance revealed that Hernandez stored the illegal pharmaceuticals at various self-storage units near the border. Agents arrested Hernandez earlier this year as he made a delivery of pharmaceuticals, and executed a search warrant at one of his self-storage units. The search yielded over

\$250,000 of unapproved and counterfeit pharmaceuticals, as well as ledgers documenting years of sales. (SDCA, FDA, HSI)

<https://www.justice.gov/usao-sdca/pr/seller-counterfeit-and-unapproved-pharmaceuticals-sentenced-prison>

(18-380)

- **Canadian Drug Firm Sentenced for Selling Counterfeit and Misbranded Prescription Drugs Throughout the United States.** On April 13, 2018, Kristjan Thorkelson, a resident of Manitoba, Canada, together with several Canadian companies associated with Thorkelson, including Canada Drugs, Rockley Ventures, and River East Supplies, admitted to widespread illegal sales of misbranded and counterfeit prescription drugs in the United States. The Canadian companies were ordered to forfeit \$29,000,000 of the proceeds of their illegal scheme, to pay a fine of \$5,000,000, and to serve five years of probation. The court sentenced Thorkelson individually to pay a fine of \$250,000 and to five years of probation with the first six months in home confinement. Thorkelson and the associated companies were also ordered to permanently cease their illegal operations, surrender to the United States all domain name registrations and websites from their businesses, and cooperate with the United States Justice Department and the Food and Drug Administration (FDA) in any further criminal investigations. In 2010, it came to the attention of the FDA that Canada Drugs was shipping to health care providers in the United States prescription drugs that were unapproved in the United States, labelled with foreign languages, and that lacked adequate instructions for use. During this time, Thorkelson was CEO of Canada Drugs. Further investigation revealed that various entities affiliated with Canada Drugs were smuggling unapproved and misbranded drugs intended for sale in foreign countries into the United States, including for sale to providers in Montana. To facilitate its sales, Canada Drugs purchased other companies engaged in this business and used the brand names, drug inventories, and customer lists of those companies to further its illegal operations. One of those companies was Montana HealthCare Solutions, owned by Montana resident Paul Bottomley, who was separately prosecuted for similar conduct. In order to avoid detection, Canada Drugs and its affiliated companies falsified customs forms concerning the value of the drugs shipped into the United States. In two instances, Canada Drugs, through its subsidiary River East Supplies, distributed counterfeit cancer drugs Avastin and Altuzan (the Turkish version of the drug) in the United States. Testing of vials of the drugs recovered from these shipments revealed that both contained no active ingredient. In 2012, Thorkelson and others at Canada Drugs became aware that they had shipped counterfeit Avastin and Altuzan to medical clinics in the United States. Thorkelson denied “selling or offering Avastin,” even while the company attempted to recall the suspect drugs. At no time did Thorkelson notify the FDA or other authorities in the United States that counterfeit cancer drugs containing no active ingredient had been shipped to providers in the United States. (DMT, FDA, OIA)
<https://www.justice.gov/usao-mt/pr/canadian-drug-firm-admits-selling-counterfeit-and-misbranded-prescription-drugs>
(14-27)

- **Co-Owner & CEO of Computer Company Sentenced for Conspiring to Steal**

Intellectual Property. On April 5, 2018, the co-owner and CEO of TERiX Computer Company, Inc. was sentenced for his role in fraudulently obtaining more than \$10 million worth of intellectual property. Bernd D. Appleby, 66, of San Jose, California, was sentenced to 24 months in prison and two years of supervised release and ordered to pay a \$100,000 fine. TERiX – located in Sunnyvale, California and Dublin, Ohio – used the intellectual property belonging to Sun Microsystems, Inc. and Oracle Corporation to support its customers nationwide and internationally. Appleby was one of four TERiX executives who pleaded guilty in August 2017 to one count of conspiracy to commit wire fraud. According to court documents, the four conspired to set up three fake companies using aliases – which they supported using bogus email addresses and addresses, pre-paid telephones and pre-paid credit cards – to enter into service support contracts with Sun and Oracle for a single server. The four used the fraudulently obtained intellectual property to support at least 500 TERiX customers, who did not know about the fraud. A statement of facts filed with the plea agreements cites more than 2,700 separate downloaded pieces of intellectual property between 2010 and 2014. The primary purpose of the conspiracy was to fraudulently obtain intellectual property worth millions of dollars and then use the intellectual property to support unwitting TERiX customers, and for their own personal benefit. Appleby was the one defendant responsible for all aspects of the business. (SDOH, FBI)

<https://www.justice.gov/usao-sdoh/pr/co-owner-ceo-computer-company-sentenced-conspiring-steal-intellectual-property>

(17-138)

- **Canadian Pharmacist Sentenced for Distributing Counterfeit and Adulterated Botox to Local Doctors.** On April 4, 2018, Nikhil Buhecha, a Canadian national, pled guilty and was sentenced to 36 months' imprisonment for conspiring to distribute counterfeit, misbranded, and adulterated Botox® into the United States, including multiple shipments to two doctors located in St. Louis County, Missouri. According to facts contained in the plea agreement, Buhecha owned and operated a sophisticated wholesale drug distribution business involving multiple persons in Canada, Panama, and Turkey. Buhecha sourced Botox® from Turkey and shipped it to multiple U.S. doctors in Missouri and other states. According to the label for Botox® Cosmetic that was approved by the U.S. Food and Drug Administration (FDA), unopened vials of Botox® Cosmetic should be stored in a refrigerator at temperatures between 2° to 8° Celsius before dispensing to patients. The defendant's drugs were adulterated because his business did not keep the Botox® at constant cold temperatures, and sometimes shipped and stored these drugs with no refrigeration or insulation. Further, some of the Botox® sold by Buhecha had counterfeit exterior packaging, and the manufacturing lot numbers on the exterior of the drugs' cartons did not match the lot numbers on the drug vials inside the cartons. The FDA issued several public safety alerts about these events. (EDMO, FDA, College of Pharmacists of British Columbia, RCMP, INTERPOL, USMS)
- <https://www.justice.gov/usao-edmo/pr/canadian-pharmacist-sentenced-distributing-counterfeit-and-adulterated-botox-local>
- (17-152)
- **Three Men Face Federal Narcotics Charges that Allege Distribution of Counterfeit**

Opioid Pills Containing Fentanyl. On April 4, 2018, Wyatt Pasek, 21, of Santa Ana, Isaiah Suarez, 22, of Newport Beach; and Duc Cao, 20, of Orange County were charged in a scheme to use the synthetic opioid fentanyl and a similar drug to manufacture and distribute counterfeit pharmaceuticals. Specifically, the three designed pills that appeared to be brand-name oxycodone pills. Court documents allege that the men obtained fentanyl and an analogue called cyclopropyl fentanyl through internet suppliers, used a pill press to make counterfeit pills, and distributed the narcotics through the mails, often arranging sales through a darknet marketplace. During the arrest, authorities seized a pill press lab in Suarez's apartment, along with bags that contained nearly 3 kilograms of what appear to be counterfeit oxycodone and Xanax pills, and bags that contained approximately 4.5 kilograms of white and blue powders that are being tested. A search of Pasek's residence revealed approximately 13,000 pills that appeared to be counterfeit oxycodone and bundles of United States currency. (CDCA, DEA, USPIS, IRS, FDA, USMS, Costa Mesa Police Dept.)

<https://www.justice.gov/usao-cdca/pr/three-oc-men-face-federal-narcotics-charges-allege-distribution-counterfeit-opioid>
(18-72)

- **San Francisco Woman Who Helped Sell Counterfeit Oxycodone Pills Sentenced To 151 Months In Prison.** On February 9, 2018, Candelaria Vazquez, 42, of San Francisco, was sentenced in absentia to over 12 years in prison for her role in a conspiracy to manufacture, distribute, and possess with intent to distribute fentanyl. Vasquez pleaded guilty on November 8, 2016, to conspiracy to distribute fentanyl and conspiracy to launder drug proceeds. According to the plea agreement, Vazquez admitted that for two years, she and her husband operated a pill press that generated thousands of fake oxycodone pills. Although stamped to appear like genuine oxycodone, the pills were in fact laced with fentanyl. Vazquez helped with the pill pressing operation and packaged, mailed, and delivered fentanyl pills for two years before the pair was arrested on June 10, 2016. She also conspired to launder the drug proceeds, which were received in bitcoin and exchanged for cash using unlicensed bitcoin brokers. Vazquez and her husband had distributed hundreds of thousands of fentanyl-laced pills via online marketplaces. In addition to the prison term, Vasquez was sentenced to a three-year period of supervised release. Vazquez remains a fugitive and will begin serving the sentence upon her apprehension. (NDCA, OCDEF, DEA, USPIS, HSI, IRS)
<https://www.justice.gov/usao-ndca/pr/three-defendants-arrested-connection-illegal-fentanyl-pill-manufacturing-operation>
<https://www.justice.gov/usao-ndca/pr/san-francisco-woman-who-helped-sell-counterfeit-oxycodone-pills-sentenced-151-months>
(16-259)
- **Three Florida Residents Sentenced for Operating an Illegal Steroid and Counterfeit Prescription Drug Lab.** On February 1, 2018, three Chipley, Florida, residents were sentenced to serve time in federal prison for their involvement in a steroid and counterfeit prescription drug lab in Northwest Florida. Ryan Anthony Sikora (24) was sentenced to 41 months in prison, Ariel Anna Murphy (29) to 12 months, and John Joseph Bush, II (26) was sentenced to 8 months. The three received their sentences after pleading guilty

to conspiracy charges for importing, manufacturing, and distributing anabolic steroids as well as counterfeit prescription drugs. The investigation began when US Postal Inspectors determined that large amounts of steroid and counterfeit prescription drug ingredients were being shipped from China to various locations in South Alabama and Northwest Florida. The defendants mass-produced counterfeit pills at a lab near Chipley, Florida, using two large-scale pill presses. They marketed the counterfeit drugs online using the brand name “Future Pharma” and they would typically process the orders through encrypted email, and then use the US Postal Service to send the contraband products across the United States. (MDAL, USPIS, FDA, Local LE agencies)

<https://www.justice.gov/usao-mdal/pr/three-florida-residents-arrested-after-law-enforcement-discovers-steroid-and-fake>
<https://www.justice.gov/usao-mdal/pr/three-florida-residents-plead-guilty-operating-illegal-steroid-and-counterfeit>
<https://www.justice.gov/usao-mdal/pr/three-florida-residents-sentenced-operating-illegal-steroid-and-counterfeit>

- **Dominican National Arrested and Charged with Fentanyl Conspiracy Including the Distribution of Counterfeit Pain Pills.** On December 20, 2017, Santiago Pena, 49, a Dominican national residing in Roxbury, Massachusetts, was charged by indictment with conspiracy to distribute 40 grams or more of fentanyl. The charge stems from Pena’s participation in a large-scale fentanyl and heroin trafficking ring that was dismantled in August 2017. Pena is the seventh defendant related to the drug trafficking operation to be charged in federal court; approximately 10 other defendants have been charged in state court. According to court documents, a lengthy wiretap investigation revealed that James Ramirez, an individual charged separately, supplied large-quantities of fentanyl and heroin to Kevin and Alex Fraga, drug dealers on Cape Cod. Wiretap intercepts revealed that Ramirez was distributing fentanyl pills in batches of 100 to numerous other drug dealers, and over 2,500 fentanyl pills were recovered as a result of Ramirez’s arrest in late August. According to the indictment, Pena brokered fentanyl pill deals on Ramirez’s behalf, helping to connect Ramirez with a fentanyl pill supplier. On multiple occasions, Ramirez traded used cars for a combination of cash and fentanyl pills in deals that Pena helped arrange. Alex Fraga, Kevin Fraga, and Ramirez each pleaded guilty in November. Pena is scheduled to be sentenced on October 4, 2018. (DMA, DEA, BATF, IRS, DA’s Office and State Police)
<https://www.justice.gov/usao-ma/pr/dominican-national-arrested-and-charged-fentanyl-conspiracy-including-distribution>
(17-10390)

- **Drug Dealer Charged In Manhattan Federal Court For Selling Heroin And Counterfeit Oxycodone Over The Internet.** On October 23, 2017, Cristian Rodriguez, 43, of the Dominican Republic, was arrested and charged with one count of distributing and possessing with intent to distribute heroin and oxycodone. According to the allegations in the Complaint and statements, since at least May 2016, Rodriguez and his co-conspirators anonymously sold and distributed controlled substances over the Internet via online marketplaces and “dark web” sites. Rodriguez shipped various prescription

drugs, including counterfeit oxycodone, which was actually made of heroin and other substances, to individuals across the United States. Rodriguez maintained a stockpile of these drugs in his apartment in the Bronx, New York. A search of Rodriguez's residence at the time of his arrest uncovered, among other things, approximately 32 kilograms of prescription drugs, shipping supplies, drug paraphernalia, money transfer records, and electronics typically used in the operation of online narcotics distribution schemes. (SDNY, DEA, USPIS, NYPD, NYSP, HSI)
<https://www.justice.gov/usao-sdny/pr/drug-dealer-charged-manhattan-federal-court-selling-heroin-and-counterfeit-oxycodone>
(17mj7822)

- **California Man Sentenced To Prison For Selling Counterfeit Airbags.** On October 4, 2017, Vitaliy Fedorchuk, 28, of Antelope, California, was sentenced to one year and one day in prison and a \$5,000 fine for an international scheme to sell counterfeit airbags via eBay and other internet sales sites. Fedorchuk had pleaded guilty on May 31, 2017, to five counts of mail fraud. 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. Fedorchuk was ordered to pay \$1,334 in restitution to identified victims in this case. (EDCA, HSI)
<https://www.justice.gov/usao-edca/pr/antelope-man-pleads-guilty-selling-counterfeit-airbags-online>
<https://www.justice.gov/usao-edca/pr/antelope-man-sentenced-prison-selling-counterfeit-airbags>
(17-73)

The Antitrust Division Engages with Foreign Counterparts to Promote the Proper Application of Competition Laws to Intellectual Property Rights.

The Antitrust Division continues to advocate for principled competition enforcement policy abroad based on analysis of competitive effects. One area of focus is competition remedies that affect IP assets. Our international enforcement guidance calls for appropriately-tailored remedies that address the identified competitive harm to U.S. commerce and consumers, and we urge other enforcers to apply similar limiting principles in drawing remedies.¹² The Antitrust Division has thus expressed concern about foreign competition remedies that unnecessarily impinge on U.S. intellectual property rights, where those remedies are not directly tied to the domestic harm. In December 2017, the Antitrust Division, along with the Federal Trade Commission (FTC), explained in a submission to the Organization for Economic Cooperation and Development (OECD) that antitrust remedies that the Antitrust Division and the FTC seek

¹² See, e.g., U.S. Dep't of Justice & Fed. Trade Comm'n, Antitrust Guidelines for International Enforcement and Cooperation (rev'd Jan. 13, 2017), <https://www.justice.gov/atr/internationalguidelines/download>; Roger Alford, Deputy Assistant Att'y Gen., Antitrust Div., U.S. Dep't of Justice, Antitrust Enforcement in an Interconnected World, Remarks at the American Chamber of Commerce in South Korea (Jan. 29, 2018), <https://www.justice.gov/opa/speech/file/1029821/download>.

related to IP rights will be crafted to be limited to the United States unless extraterritorial application is necessary to remedy harm to U.S. commerce and consumers.¹³ The submission also emphasized the importance of transparency, procedural fairness, and non-discrimination with regard to individual remedy determinations, particularly those implicating extraterritoriality.

¹³ United States Submission, OECD Roundtable on the Extraterritorial Reach of Competition Remedies (Dec. 17, 2017), [https://one.oecd.org/document/DAF/COMP/WP3/WD\(2017\)41/en/pdf](https://one.oecd.org/document/DAF/COMP/WP3/WD(2017)41/en/pdf).

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
LECD	U.S.-China Law Enforcement and Cybersecurity Dialogue
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 Annual Report October 1, 2017 through September 30, 2018

Bilateral and Multilateral Engagement

During the period October 1, 2017 through September 30, 2018, U.S. Embassies around the world continued to make IPR an integral part of their policy dialogues with host governments and multilateral institutions. Areas in which U.S. Embassies work with their host governments include increasing political will for strengthening copyright, patent, trademark, and other intellectual property protections, as well as combatting online piracy and counterfeit goods production. Embassy Economic sections typically lead such engagement, along with support from IP Attachés, other agencies, and with support from Ambassadors and Deputy Chiefs of Mission.

Examples of bilateral engagement include:

- U.S. Embassy Hanoi co-sponsored with the Hanoi American Chamber of Commerce and the host government a workshop on Intellectual Property Enforcement in a Digital World.
- One U.S. mission also worked closely with officials and U.S. industry to shut down one of the world's largest piracy websites.
- U.S. Embassy Kuala Lumpur engaged host government officials regularly concerning patent and pharmaceutical issues on behalf of U.S. innovative medicines firms.
- The regional Intellectual Property Law Enforcement Coordinator (IPLEC) based in U.S. Consulate Sao Paulo secured cooperation of Brazilian authorities to make significant counterfeit goods seizures.
- The IPLEC program receives State Department funding through the Bureau of International Narcotics and Law Enforcement Affairs.

The Department of State raises IP awareness internationally through public diplomacy events, such as World IP Day programs in countries around the world. In April 2018, State provided funding for World IP Day programming in more than a dozen countries in the developed and developing world consistent with this year's theme of "Powering Change: Women in Innovation and Creativity." State also used social media to amplify the importance of IP protections to its overseas and domestic audiences.

International Organizations

The State Department participates in U.S. delegations to multilateral forums and international organizations where we advance global intellectual property rights protections including: the

World Trade Organization's (WTO) Trade Related Aspects of Intellectual Property Rights (TRIPS) Council, the Organization for Economic Co-operation and Development (OECD) Taskforce on Countering Illicit Trade, the World Intellectual Property Organization (WIPO), the Asia-Pacific Economic Cooperation (APEC) Forum, the World Health Organization (WHO) and various U.N. bodies. Also, Department of State representatives requested that U.S. international development and trade agency partners educate their program recipients about the importance of IP to support business development, entrepreneurship, and innovation.

Report Pursuant to Article 66.2 of TRIPS: The United States reports on its incentives to promote and encourage technology transfer to least-developed country (LDC) WTO members in the annual Article 66.2 Report. The Department of State receives input from mission's overseas, regional and functional bureaus, and interagency partners on the range of USG technology transfer and capacity building activities around the world. The USG submits the Article 66.2 Report to the WTO TRIPS Council every autumn. The broad range of activities covered in this report, including laboratory-based scientific collaboration, capacity building and education, and IP enforcement activities, highlight the United States' efforts to promote effective, voluntary transfer of technology to LDC members.

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 leading to more effective investigation and prosecution of IPR offenses.

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

Building on early successes, State has worked closely with the Justice Department to expand the IPLEC program into a global network. The United States has deployed five IPLECs that work collaboratively within and across their regions, 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 the reporting period, the Department of State's Office of Intellectual Property Enforcement (IPE) provided extensive support to USTR and the interagency team for the 2018 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.

Post insights on the “on-the-ground” events deepened U.S. departments and agencies’ knowledge of IP protections in host countries.

Capacity Building and Training

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

As an example of bilateral training successes:

- In January 2018, the State Department funded a week-long training program in Manila, Philippines hosted by an intellectual property expert, in which the expert engaged with judges, prosecutors, law enforcement officials, students, faculty, and industry stakeholders to raise intellectual property awareness.
- In March 2018, the Sao Paulo-based IPLEC delivered a regional training program in Brazil to Argentine, Brazilian and Paraguayan officials. An Argentine federal judge who participated in the IPLEC training and received subsequent IPLEC mentoring executed a search warrant in April 2018 resulting in a significant seizure of counterfeit goods slated for sale at Argentina’s most notorious open-air market for counterfeit hard goods.
- In May 2018, the Hong Kong-based IPLEC in conjunction with INTERPOL delivered regional training on IP cybercrime in Singapore to prosecutors and investigators from Indonesia, the Philippines, and Thailand. Attending officials said they would convey the value of interagency collaboration to their colleagues in their home countries to create more effective IP cybercrime enforcement. The program will help officials better enforce IP rights, including those of U.S. rights holders, and prosecute violations in their home countries.

On a global level, the Department of State’s nearly 1500 economic officers, together with 13 Commerce Department Intellectual Property (IP) Attachés, secured the participation of representatives from foreign ministries and law enforcement officials in training programs that bolster IP law and enforcement efforts. The Department of State also organized International Visitor Leadership Program (IVLP) visits to the National IPR Coordination Center in Alexandria, Virginia for IP policy and enforcement officials from Argentina, Colombia, Thailand, the United Kingdom, Australia, and Spain, among others. The Department also gave presentations to IP officials and private sector stakeholders from Southern and Sub-Saharan Africa and Spain who were in the United States as part of various international visitor programs. These engagements enabled the Department to better understand key IP enforcement concerns around the world and share best practices with international IP professionals.

In addition, IPE – in partnership with USPTO’s Global IP Academy (GIPA) – coordinated a two-day training course on IPR for U.S. government officials. Most participants were Foreign Service Officers preparing for onward assignments, and the training also included civil servants and U.S. Embassy locally employed staff. Experts and stakeholders briefed attendees on the fundamentals of intellectual property, U.S. government positions on current IP “hot topics,” and U.S. industry priorities. These officials are now better equipped to advocate for U.S. rights-holders overseas and articulate 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 delivered training to classes of Foreign Service Officers at the Foreign Service Institute’s Political-Economic and Commercial Tradecraft classes. IPE training gives officers and local staff the latest policy perspectives on debates in international IP and enables and empowers American officers to better advocate for U.S. rights-holders overseas.

In late October 2017 and in September 2018, IPE took part in week-long Econ-Energy Seminars for Foreign Service Officers at posts in Africa and in South and Central America. At each of the seminars, an IPE representative delivered an hour-long training session on U.S. intellectual property policy in the region, enabling officers to better understand U.S. policy in a regional context and better advocate for U.S. rights-holders in their regions.

IPE joined with the U.S. Department of Commerce “Stopfakes” roadshows in six different domestic locations during FY 2018: Seattle, WA, Portland, OR, Dallas, TX, Austin, TX, Phoenix, AZ, and Tucson, AZ. Stopfakes roadshows bring start-ups, entrepreneurs, and small to medium-sized businesses, together with USG officials to learn how to identify and protect various intellectual property assets. They also learn about mechanisms for obtaining IP protection in overseas markets, strategies for determining where to seek protection, and the value of copyright and trade secrets protection to their businesses. IPE presented information on the State Department role in helping U.S. companies overseas protect their IP rights, and provided the hundreds of attendees with points of contact in case individual assistance became necessary. Presentations also addressed how to combat counterfeits on international e-commerce sites and what additional government resources are available to help U.S. business bolster intellectual property protections, while allowing participants to have opportunities to meet one-on-one with the presenters to discuss intellectual property issues of primary concern.

DEPARTMENT OF TREASURY

DEPARTMENT OF TREASURY

Department of the Treasury Appendix for FY18 Annual Report

Treasury IP-related efforts on Customs

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

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

The 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 interagency 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. Pursuant to the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), which was signed into law on August 13, 2018, and subject to implementing regulations, CFIUS now has the authority, among others, to review certain non-controlling investments by foreign persons in U.S. businesses that produce, design, test, manufacture, fabricate, or develop critical technologies, which could include aspects of intellectual property. 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 47 individuals and entities that have been sanctioned pursuant to the Executive Order, one entity and ten individuals were sanctioned during FY18 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 March 23, 2018, on “Treasury Sanctions Iranian Cyber Actors for Malicious Cyber-Enabled Activities Targeting Hundreds of Universities,” at <https://home.treasury.gov/news/press-releases/sm0332>.)

OFFICE OF THE U.S. TRADE REPRESENTATIVE

OFFICE OF THE U.S. TRADE REPRESENTATIVE

USTR Appendix for FY 2018 Annual Report

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*, creative works, brands, designs, trade secrets and inventions by U.S. creators, inventors, artists and businesses. Through direct engagement with foreign counterparts, the Office of the U.S. Trade Representative (USTR) emphasizes the importance that the U.S. government places on protecting and enforcing intellectual property, and presses for concrete action by trading partners to protect and enforce intellectual property rights, including those owned by Americans.

To advance the Administration's objectives, USTR 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 related market access issues; trade agreement negotiations; monitoring and enforcement of those agreements; trade and investment framework agreements; participation in the TRIPS Council at the World Trade Organization; and high-level engagement in multilateral and bilateral meetings.

Given the international competitiveness of U.S. innovative and creative industries, the United States considers strong and effective protection and enforcement of IP rights as critical to U.S. economic growth and American jobs. According to the U.S. Department of Commerce, 45.5 million American jobs in 2014 were directly or indirectly supported by "IP-intensive" industries, and these jobs paid higher wages to their workers. In addition, in 2014, these IP-intensive industries accounted for \$6.6 trillion in value added and 38.2 percent of the U.S. GDP. (See Department of Commerce, *Intellectual Property and the U.S. Economy: 2016 Update*, at <https://www.uspto.gov/sites/default/files/documents/IPandtheUSEconomySept2016.pdf>.) Innovation and creativity are key export strengths for the United States. To help ensure that American innovators and creators compete on a level playing field around the world, the U.S. Government uses all the tools at its disposal to promote effective IPR protection and enforcement by its trading partners. The USTR initiatives that have advanced IPR protection in 2018 include the following.

Section 301 Investigation into China's Technology Transfer, Intellectual Property and Innovation Law, Policies, Practices and Actions

On August 14, 2017, the President of the United States issued a Memorandum instructing the Trade Representative to determine whether to investigate under section 301 of the Trade Act of 1974 (the Trade Act) (19 U.S.C. § 2411), laws, policies, practices, or actions of the government of China that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technology development. See 82 FR 39007. After consultation with the appropriate advisory committees and the inter-agency Section 301 Committee, on August 18, 2017, USTR initiated an investigation into certain acts, policies, and practices of China related to technology transfer, intellectual property, and innovation. See 82

FR 40213. The investigation included a public hearing on October 10, 2017, and two rounds of public written comments from interested members of the public. On March 22, 2018, the Presidential Memorandum on the Actions by the United States Related to the Section 301 Investigation noted that the Trade Representative had advised that the investigation supports findings that acts, policies, and practices of the China related to technology transfer, intellectual property, and innovation covered in the investigation are unreasonable or discriminatory and burden or restrict U.S. commerce. In a notice published in the Federal Register on April 6, 2018, the Trade Representative found:

- China uses foreign ownership restrictions, such as joint venture requirements and foreign equity limitations, and various administrative review and licensing processes, to require or pressure technology transfer from U.S. companies;
- China's regime of technology regulations forces U.S. companies seeking to license technologies to Chinese entities to do so on non-market-based terms that favor Chinese recipients;
- China directs and unfairly facilitates the systematic investment in, and acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generate the transfer of technology to Chinese companies; and
- China conducts and supports unauthorized intrusions into, and theft from, the computer networks of U.S. companies to access their sensitive commercial information and trade secrets.

The President directed the Trade Representative to take all appropriate action under Section 301, including considering increased tariffs on goods from China. On March 23, 2018, the United States requested consultations with China under the WTO Dispute Resolution Understanding (in matter DS542). Consultations on DS542 were held in July 2018 but they did not resolve the dispute. On October 18, 2018, the United States requested that the WTO Dispute Settlement Body establish a panel to examine the U.S. complaint. After China blocked the first U.S. request for a WTO dispute settlement panel as provided for in the rules for dispute settlement proceedings, the United States repeated its request to establish a WTO dispute settlement panel and a panel was established at the November 21, 2018 meeting of the Dispute Settlement Body.

On a separate track, April 6, 2018, USTR published a proposed list of products imported from China, worth approximately \$50 billion in imports that could be subject to additional tariffs. After hearings and the receipt of numerous written comments, the USTR imposed additional tariffs of 25 percent on approximately \$34 billion worth of imports from China, effective July 6, 2018. After a subsequent round of hearings and submissions, the USTR imposed additional tariffs of 25 percent on approximately \$16 billion worth of imports from China, effective August 23, 2018.

China, however, made clear that it would not change its policies in response to the initial Section 301 action. China denied there were problems with respect to its policies involving technology transfer and intellectual property and increased duties on certain U.S. exports to China. These

actions demonstrated that USTR's initial tariff action was no longer appropriate to obtain the elimination of China's unfair trade acts, policies, and practices. In addition, the burden or restriction on United States commerce of these acts, policies, and practices continues to increase, including following the one-year investigation period.

Accordingly, under direction of the President, on September 24, 2018, USTR announced the imposition of tariffs of 10 percent on approximately \$200 billion worth of imports from China, rising to a rate of 25 percent effective March 2, 2019.

On November 20, 2018, USTR released a report updating information on its Section 301 investigation of China's acts, policies and practices related to technology transfer, intellectual property and innovation.¹⁴ USTR Robert Lighthizer indicated that "This update shows that China has not fundamentally altered its unfair, unreasonable, and market-distorting practices that were the subject of the March 2018 report on our Section 301 investigation."¹⁵

NAFTA and the United States, Mexico, and Canada Agreement (USMCA)

On May 18, 2017, USTR notified Congress of the Administration's intent to initiate NAFTA renegotiations. Securing effective protection and enforcement of intellectual property for U.S. rights holders is a key element of all trade engagement, including these negotiations. The Administration notified Congress of its intent to sign a trade deal in August. That outcome included strong intellectual property provisions related to copyright, patents, trademarks, geographical indications, enforcement (including civil, criminal, border, administrative), trade secrets and other IP priorities.

In September 2018, under the leadership of President Trump, the United States, Mexico and Canada reached an agreement to modernize the 24-year-old NAFTA into a 21st century, high-standard agreement. The United State-Mexico-Canada Agreement (USMCA) will support mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America. The USMCA includes a modernized, high-standard Intellectual Property chapter, which breaks new ground in U.S. trade and IP policy. It contains comprehensive protections against misappropriation of trade secrets, including by state-owned enterprises. It establishes a minimum term of data protection for biologic drugs of 10 years. It provides the most robust border enforcement mechanisms of any prior FTA. In addition, strong copyright protection and enforcement, more transparency in the grant of Geographical Indications (GI) protection or recognition, and full national treatment also promote the strong and effective protection and enforcement of IP rights that is critical to driving innovation, creating economic growth, and supporting American jobs.¹⁶

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

15 <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/november/ustr-updates-section-301>

16 United States–Mexico–Canada Trade Fact Sheet: Modernizing NAFTA into a 21st Century Trade Agreement (October 1, 2018) - <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2018/october/united-states%E2%80%93mexico%E2%80%93canada-trade-fa-1>

U.S.-Korea Free Trade Agreement (KORUS)

Through negotiations to improve KORUS, the U.S. Trade Representative has secured changes that will address the trade imbalance between the United States and Korea. In July 2017, Ambassador Lighthizer initiated trade discussions with Korea, leading to special sessions of the KORUS Joint Committee in 2017 and further negotiations for KORUS amendments and modifications in 2018. In these discussions, the United States achieved steps to improve the large trade deficit in industrial goods and to address KORUS implementation concerns that have hindered U.S. export growth. In the realm of pharmaceutical reimbursements, the USTR secured Korea's commitment to, within 2018, amend its Premium Pricing Policy for Global Innovative Drugs to make it consistent with Korea's commitments under KORUS to ensure non-discriminatory and fair treatment for U.S. pharmaceutical exports. <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2018/march/new-us-trade-policy-and-national> and <https://ustr.gov/sites/default/files/files/Press/Releases/KORUS%20Texts%20Outcomes.pdf>.

Ongoing Trade Agreement Implementation and Enforcement

In FY 2018, the U.S. continued to engage with Free Trade Agreement (FTA) partners (including Australia, Colombia, Costa Rica, Dominican Republic, and Morocco) to ensure that FTA obligations, including those related to IPR, are being implemented.

USTR Special 301 Report

Each year, pursuant to statute, USTR issues the Special 301 Report on the adequacy and effectiveness of protection and enforcement of 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 2018 Special 301 Report in April 2018. (The 2018 Report is at <https://ustr.gov/sites/default/files/files/Press/Reports/2018%20Special%20301.pdf>, and the related press release is at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/april/ustr-releases-2018-special-301-report>.) In the report, USTR highlighted serious and ongoing concerns with respect to the environment for IPR protection and enforcement in Canada, China, Colombia, India, Indonesia, Russia, Ukraine and other markets. In addition, USTR announced that it would conduct Out-of-Cycle Reviews (OCRs) for Colombia, Kuwait and Malaysia.

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) discriminatory and/or non-transparent measures that act as market access

barriers to U.S. pharmaceutical products and medical devices; (c) unresolved inadequacies in trade secret protection in China, India, and elsewhere; (d) troubling “indigenous innovation,” technology transfer, and localization policies that may unfairly disadvantage U.S. right holders in markets abroad; (e) the continuing challenges of online copyright piracy; (f) measures that impede market access for U.S. products embodying IPR and U.S. entities that rely upon IPR protection; and (g) other ongoing, systemic IPR enforcement issues in many trading partners around the world.

A Special 301 Out-of-Cycle Review is a tool that USTR uses to encourage progress on IP issues of concern. Out-of-Cycle Reviews provide an opportunity to address and remedy such issues through heightened engagement and cooperation with trading partners and other stakeholders. Out-of-Cycle Reviews focus on identified IP challenges in specific trading partner markets. Successful resolution of specific IP issues of concern can lead to a positive change in a trading partner’s Special 301 status outside of the typical period for the annual review. Conversely, failure to address identified IP concerns, or further deterioration as to an IP-related concern within the 10 specified Out-of-Cycle Review period, can lead to an adverse change in status. As of the end of FY 2018, out-of-cycle reviews were proceeding as to Colombia, Kuwait, and Malaysia.

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. As of the close of FY2018, the 2018 list is expected to be issued in the coming weeks.

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 during FY 2018 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.

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 2018, the United States advanced its IP and Innovation agenda in the TRIPS Council through a series of initiatives designed to facilitate greater understanding of the critical role that IP plays in promoting innovation, entitled “The Societal Value of Intellectual Property in the New Economy.” The United States co-sponsored three submissions under this year-long theme with member states including, Australia, the European Union, Japan, Chinese Taipei, The Republic of Korea, and Switzerland, examining how IP protection and enforcement helps create conditions that encourage risk-taking and investments in innovations of all kinds, including in the development of new technologies, new solutions to business challenges, new cultural and artistic expressions, and the means to distribute such works to the public. We advanced discussion among member states at TRIPS Council meetings this year on how IP protection and enforcement help to create new businesses and expand opportunities for individuals and societies.

World Trade Organization Accession

Governments in the process of negotiating the terms for accession to the WTO work with WTO Members, including the United States, to appropriately update and strengthen their intellectual property regimes as well as to expand trade and enhance the investment climate for innovative and creative industries.

Other Fora

In addition to the WTO (which is the principal forum for addressing trade-related aspects of intellectual property), the United States also advanced these issues in other fora during FY 2018, including the OECD, WIPO, APEC forum and various U.N. bodies.

In the APEC Intellectual Property Experts Group (IPEG), the United States coordinated presentations with other APEC economies highlighting best practices regarding patent grace period, including the benefits of grace period harmonization for SMEs. The United States also presented on the benefits of transparency and public notice in trademark and geographical indications protections, and U.S. practice regarding trademark consent agreements. Additionally, on the margins of IPEG meetings, the United States organized and held the second and third of three capacity-building workshops on intellectual property border enforcement, bringing together trademark and customs officials and private sector representatives from various APEC economies to discuss best practices on addressing trade in fake goods across the region.

Additionally, in FY 2018, the United States reviewed the intellectual property laws and practices of Colombia in connection with that country's OECD accession.

Additional Areas of IPR Engagement

In September 2018, USTR led a delegation of officials to Taiwan for discussions on the full range of trade and investment issues, including priority issues such as digital piracy and pharmaceuticals. Digital piracy was a primary focus of these discussions, particularly further steps for Taiwan to curb digital piracy and enhance cooperation with the United States.

USTR led the U.S. delegation in meetings with the United Kingdom (UK) under the U.S.-UK Trade and Investment Working Group in March and July 2018 as well as several ad hoc meetings of the subgroup on intellectual property rights. The Working Group, established in July 2017, is focused on providing commercial continuity for U.S. and UK businesses as the UK prepares to leave the EU and on exploring ways to strengthen trade and investment ahead of the exit. The Working Group is exploring how the United States and UK can demonstrate global leadership in IP enforcement and collaborate to promote open markets around the world. As one outcome of this effort, the Working Group released toolkits on protecting intellectual properties targeted at small and medium-sized enterprises

(https://www.uspto.gov/sites/default/files/documents/UK-SME-IP-Toolkit_FINAL.pdf?MURL=IPToolkit). The United States and the UK issued statements regarding the Working Group's March meeting (<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/march/readout-3rd-meeting-us-uk-trade-and>) and July meeting (<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/july/fourth-meeting-us-uk-trade-and>). See also <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/september/deputy-ustr-gerrish-statement-us>.

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

COPYRIGHT OFFICE

Copyright Office Appendix for FY 18 Annual Report

This appendix summarizes some of the key activities taken by the United States Copyright Office in FY 2018.

Enactment of the Orrin G. Hatch–Bob Goodlatte Music Modernization Act (P.L. 115-264)

Congress passed the Orrin G. Hatch–Bob Goodlatte Music Modernization Act (MMA) in late September 2018, and the President signed it into law on October 11, 2018. As President Trump explained, this “landmark legislation” – which had bipartisan sponsorship and was unanimously passed by both the Senate and the House – “provides critical updates to copyright law to reflect the realities of music licensing in the digital age and to better reward artists and producers for the online use of their music.”¹⁷

Congress explained the need and background of this legislation as follows:

The United States’ copyright laws have helped make this nation the center of the music world. Copyright laws protect creators and artists, allowing them to thrive by granting them exclusive rights and protections to their works. However, the law has not kept pace with the music industry to reflect changes in consumer preferences and technological developments. The current statutory scheme applies inconsistent rules that place certain technologies at a disadvantage and result in inequitable compensation variances for music creators. These inconsistencies have drawn criticism that music copyright and licensing laws are too difficult to comply with and do not adequately reward the artists and professionals responsible for creating American music. To address these issues, multiple bills were introduced in the Senate and House of Representatives. Songwriters, artists, publishers, producers, distributors, and other stakeholders involved in the creation and distribution of music collaborated with legislators in both the Senate and the House to find a path forward on music reform. Legislative options were discussed with copyright experts and the Copyright Office. Hearings and briefings were held on music licensing reform and multiple bills were introduced.¹⁸

To summarize, the following is a description of what the three titles of the MMA accomplish (this description is based on the discussion of the MMA that is on the Copyright Office’s website at <https://www.copyright.gov/music-modernization/>):

¹⁷ Statement by the President on signing H.R. 1551, the Orrin G. Hatch–Bob Goodlatte Music Modernization Act (October 11, 2018) at <https://www.whitehouse.gov/briefings-statements/statement-by-the-president-7/>.

¹⁸ S. Rep. No. 115-339, at 1-2 (2018); Report and Section-by-Section Analysis of H.R. 1551 by the Chairmen and Ranking Members of the Senate and House Judiciary Committees, at 1 (2018); *see also* H.R. Rep. No. 115-651, at 2 (2018) (detailing the House Judiciary Committee’s effort to review music copyright laws).

- Title I of the MMA is the Musical Works Modernization Act. Among other things, Title I modifies the existing section 115 “mechanical” license for reproduction and distribution of musical works in phonorecords (which was previously obtained by licensees on a per-work, song-by-song basis) to establish a new blanket license for digital music providers to engage in specific covered activities (namely, permanent downloads, limited downloads, and interactive streaming). Licensing of physical configurations (*e.g.*, CDs, vinyl) will still operate on a per-work, individual song license, basis. Title I establishes a market-oriented “willing buyer, willing seller” rate standard that will apply to all licensees of musical works under the section 115 mechanical license. Pursuant to section 115(d)(3), as amended, the Register of Copyrights will designate an entity as the mechanical licensing collective to administer the blanket license and distribute collected royalties to songwriters and music publishers. The newly created mechanical licensing collective will be tasked with developing and maintaining a database of musical works and sound recordings, which will be publicly available and is expected to become the most comprehensive database in the music industry. There will be a transition period to move to the new blanket license, allowing digital music providers to limit copyright infringement liability so long as the provider engages in good-faith, commercially reasonable efforts to identify and locate musical work copyright owners. The legislation also modifies the process for selecting federal district court judges to adjudicate rate-setting disputes regarding performance rights organizations that are subject to consent decrees with the Department of Justice (*i.e.*, ASCAP and BMI).
- Title II of the MMA is the Classics Protection and Access Act. Among other things, Title II brings pre-1972 sound recordings partially into the federal copyright system by extending remedies for copyright infringement to owners of sound recordings fixed before February 15, 1972. The federal remedies for unauthorized use of pre-1972 sound recordings shall be available for 95 years after first publication of the recording, ending on December 31 of that year, subject to certain additional periods. These periods provide varying additional protection for pre-1972 sound recordings, based on when the sound recording was first published. This section applies a statutory licensing regime similar to that which applies to post-1972 sound recordings, *e.g.*, the statutory licenses for noninteractive digital streaming services — such as internet radio, satellite radio, and cable TV music services. It also establishes a process for lawfully engaging in noncommercial uses of pre-1972 sound recordings that are not being commercially exploited. The legislation also applies certain existing title 17 limitations on exclusive rights and limitations on liability to uses of pre-1972 sound recordings, *e.g.*, sections 107 (fair use), 108 (libraries and archives), 109 (first sale), 110 (certain public performances), 112(f) (certain ephemeral copies) and 512 (safe harbor provisions for online service providers).
- Title III of the MMA is the Allocation for Music Producers (“AMP”) Act. Among other things, Title III will allow music producers to receive compensation from royalties collected for uses of sound recordings under the section 114 statutory license by codifying a process wherein the collective designated to collect and distribute royalties (currently, Sound Exchange) will distribute royalty payments to a producer under a “letter of direction.”

For years, the Copyright Office has worked on issues related to music reform. In 2011, the Office issued its report, *Federal Copyright Protection for Pre-1972 Sound Recordings*, which examined the desirability of and means for bringing sound recordings fixed before February 15, 1972, under federal jurisdiction. In 2015, the Office completed its comprehensive study of the music licensing framework and the evolving needs of creators in the twenty-first century, and published its report, *Copyright and the Music Marketplace*. The Copyright Office is heartened by the passage of this landmark legislation expected to benefit the many stakeholders across all aspects of the music marketplace, including songwriters, publishers, artists, record labels, digital services, libraries, and the public at large.

The Office has started work on various rulemaking endeavors related to the MMA and is conducting public outreach and educational activities regarding the changes made by the MMA. For more on the MMA and the Office's implementation of the new law, see <https://www.copyright.gov/music-modernization/>.

Studies and Reports

The Office has maintained 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. In addition, the Office continued to perform its work in administering the Copyright Act by examining and registering hundreds of thousands of copyright claims and recording documents and administering statutory licenses. The Office also worked with Congressional committees and staff on copyright legislation, provided expert advice to the federal courts and executive branch agencies on domestic and international copyright matters, and offered public outreach during FY18. Please visit www.copyright.gov for more information.

During FY 2018, the Office continued its work on a number of active studies.

- **Visual Works**. The 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 creators 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 and users of these creative works. The Office is continuing its review of these issues into FY 2019. For information on this work, see <https://www.copyright.gov/policy/visualworks/>.
- **Moral Rights of Attribution and Integrity**. During FY 2018, the 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 continued its review of the issues, conducted additional research, and is in the process of finalizing a written report for Congress, which will be released in FY 2019. For information on this study, see <https://www.copyright.gov/policy/moralrights/>.

- **The DMCA Safe Harbor Provisions (17 U.S.C. Section 512)**. The Office published a *Federal Register* notice in December 2015, requesting public comments 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.

In response to the request for comments, the Office received more than 92,000 written comments, filed by a variety of stakeholders, including large and small creators, service providers, users, civil society, and academics. In 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 request for empirical studies.

During FY 2018, the Office continued its work on this study to evaluate the impact and effectiveness of the safe harbor provisions contained in section 512 of Title 17 of the U.S. Code. Among other issues, the Office is considering the costs and burdens of the notice-and-takedown process on large- and small-scale copyright owners, online service providers, and the general public. The Office is also reviewing how successfully section 512 addresses online infringement and protects against improper takedown notices. For information on this study, see <https://www.copyright.gov/policy/section512/>.

Rulemakings

During FY 2018, the Office engaged in a number of rulemaking matters. A list of both open and closed rulemakings is available at <https://www.copyright.gov/rulemaking/>. An illustrative list appears below.

- **Seventh Triennial Rulemaking Proceeding under the DMCA**. On June 30, 2017, the 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 outlined in its June 2017 notice of inquiry (NOI), which launched the seventh triennial rulemaking, the Office established a new, streamlined procedure for consideration of requests to renew exemptions that were granted during the sixth triennial rulemaking. Many of the regulatory recommendations in the Office's June 2017 report, *The Section 1201 Study*, were reflected in the NOI.

In October 2017, the Office issued a notice of proposed rulemaking (NPRM). As discussed in the October NPRM, the Office reviewed all renewal petitions and related comments and concluded that, for each existing regulatory exemption, it had received a sufficient petition to renew that exemption and received no meaningful opposition to renewal. Accordingly, the Office indicated that it intends to recommend re-adoption of all existing exemptions.

The NPRM also outlined 12 classes for new or expanded exemptions that the Office had identified in response to public petitions, all of which are described in greater detail in the notice. The Office then initiated three rounds of public comment on those classes of exemptions. In the first round of comments, the Office sought legal and evidentiary submissions from parties who support the adoption of a proposed exemption, as well as parties that neither support nor oppose an exemption but seek to share pertinent information about a proposal. In the second round, responsive legal and evidentiary submissions from those who oppose the adoption of a proposed exemption were submitted. In the third round, written reply comments from supporters of a proposed exemption and parties that neither support nor oppose a proposed exemption were submitted. The Office held public hearings concerning the proposed exemptions; attorneys from both the Copyright Office and NTIA took part in April 2018 hearings held in Washington, D.C. (four days) and Los Angeles (three days).

Following the hearings, the Office issued a series of post-hearing questions to participants in various classes and, as promised by the NPRM, issued further guidelines for *ex parte* communications should a non-governmental participant seek to communicate with the Office. During the post-hearing phase of the proceedings, the Office consulted with NTIA and the Acting Register provided her recommendation to the Librarian of Congress regarding recommendations for new exemptions.

The Acting Register's recommendation and the final rule issued by the Librarian were published in the *Federal Register* on October 26, 2018. Additional information, including frequently asked questions, is available at <https://www.copyright.gov/1201/2018/>. The exemptions adopted in this rulemaking are effective October 28, 2018, and remain effective until the completion of the new rulemaking in 2021. More information about section 1201 is available at <https://www.copyright.gov/1201/>, which contains helpful resources, such as video tutorials, the Office's recent policy study on section 1201, and links to prior rulemaking proceedings.

- **Fee Study.** On May 24, 2018, the Office issued a notice of proposed rulemaking regarding the adoption of a new fee schedule. Congress authorized the Register to set and adjust Copyright Office fees that are fair, equitable, and give due consideration to the objectives of the copyright system. The Office adjusts its fees every three to five years, after first conducting a study of the actual cost to the Office of providing its fee-based services. The Office initiated a new cost study in June 2017, and based on its outcome, proposed the fee schedule described in the notice of proposed rulemaking. In addition, the Office provided the economic model used to craft the fee schedule, based on the findings of the cost study. Though the Office does not seek to achieve full cost-recovery, the proposed fees aim to recover a significant portion of the costs the Office incurs for providing fee-based services. The Office provided an opportunity to the public to comment on the proposed changes before it submits the fee schedule to Congress; 158 substantive public comments were received by the September 21, 2018 deadline. This docket is available at <https://www.copyright.gov/rulemaking/feestudy2018/>.
- **DART royalty payments.** After soliciting public comments in July 2018, the Office adopted a final rule to streamline the administration of digital audio recording technology (DART) royalty accounts and electronic royalty payments processes. This rule is intended to improve the efficiency of the Copyright Office’s Licensing Division operations and simplify royalty payment procedures for filers; it becomes effective November 14, 2018.

During FY 2018, the Office also issued final regulations on the following subjects:

- Group registration of newspapers;
- Group registration of photographs;
- Deposit requirements for literary monographs; and
- Fees for recording documents with electronic title lists.

The Compendium of U.S. Copyright Office Practices

The Office continues to maintain updates to its office practices. During FY 2017, the Office conducted a comprehensive review of its *Compendium of U.S. Copyright Office Practices*, Third Edition, which is the administrative manual for registration and recordation practices of the U.S. Copyright Office. On September 29, 2017, the Office released the latest version of the *Compendium*, which 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>. The 2017 update included revisions to twenty-one sections of the *Compendium*. 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*.

During FY 2018, the Office continued its work to review numerous revisions. The Office is finalizing its work on another update on the *Compendium* which it intends to release for public comment in FY 2019. For updates, see <https://www.copyright.gov/comp3>.

The Fair Use Index

The 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. As of September 2018, the index contains more than 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 Office continued to provide outreach and education regarding copyright issues to foreign visitors. The Office also hosted international visitors to discuss and exchange information on the U.S. copyright system and significant international copyright issues. The Office works with other agencies, including the State Department and the USPTO, to participate in meetings organized by those agencies, or to have visitors in those programs meet with the Office directly. In February 2018, a senior attorney from the Copyright Office participated in a program organized by the IP Attaché Office in Bangkok, giving a presentation to 50 officers, lecturers, practitioners and university students.

- **International Copyright Institute.** Every two years, the Office and World Intellectual Property Organization (WIPO) co-host the week-long International Copyright Institute, a symposium held in Washington, D.C.; it is one of the Office’s premier training events. Held on June 4-8, 2018, the ICI program was titled, “Copyright and Cross-Border Issues for Developing Countries and Countries with Economies in Transition.” Copyright officials from 17 countries heard from over 50 experts on topics ranging from copyright registration systems in the twenty-first century to inter-governmental coordination on criminal enforcement across borders. The program agenda is posted at <https://www.copyright.gov/international-issues/ici-2018.html>.