



Bush Administration



**Strategy for  
Targeting  
Organized  
Piracy**



Accomplishments and  
Initiatives



April 2006



## BUSH ADMINISTRATION STRATEGY FOR TARGETING ORGANIZED PIRACY

April 6, 2006

***“In order to keep this economy innovative and entrepreneurial, it's important for us to enforce law, and if the laws are weak, pass new laws, to make sure that the problem of counterfeiting, which has been growing rapidly... is held in check.”***

- President George W. Bush (March 16, 2006)

Our competitive advantage is only as good as our ability to protect our ideas. And to protect our ideas we need to ensure that there is a level playing field for American businesses throughout the world.

In October of 2004, the Bush Administration announced an initiative that reinforced this objective – the Strategy Targeting Organized Piracy (STOP). STOP! is led by the White House and brings together USTR, the Department of Commerce, the Department of Justice, the Department of Homeland Security, the Food and Drug Administration and the State Department. STOP! is the most comprehensive initiative ever advanced to fight global piracy where it starts, block bogus goods at America’s borders and help American businesses secure and enforce their rights around the world.

The problem of global piracy and counterfeiting confronts many industries, exists in many countries and demands continuous attention. That’s why this Administration is committed to stopping trade in pirated and counterfeit goods. And through President Bush’s leadership, we created a five-point plan under STOP!:

1. Empower American innovators to better protect their rights at home and abroad.
2. Increase efforts to seize counterfeit goods at our borders.
3. Pursue criminal enterprises involved in piracy and counterfeiting.
4. Work closely and creatively with U.S. industry.
5. Aggressively engage our trading partners to join our efforts.

Through effective coordination we have effectively implemented this plan U.S. government agencies are working more closely together and we have made significant progress. We are achieving results, maintaining the commitment of senior Administration officials, institutionalizing an unprecedented level of coordination within the federal government and receiving attention around the world. The message that we are delivering is – the United States takes the issue of intellectual property enforcement very seriously, we are leveraging all of our resources to address it and we have high expectations of all of our global trading partners.

The following pages describe the approaches that we are taking and the results we have achieved.



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

*"This administration is committed to helping U.S. businesses remain competitive by protecting intellectual property so that American ingenuity remains a driving force in the United States and the world's economy."*

- Secretary of Commerce Carlos Gutierrez (March 16, 2006)

*"The development of intellectual property is one of the driving forces of U.S. economic competitiveness, and we will utilize all tools at our disposal to ensure that U.S. intellectual property rights are protected."*

- U.S. Trade Representative Rob Portman (October 26, 2005)

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

We created a hotline (1-866-999-HALT), which is staffed by specialized attorneys who counsel businesses on how to protect their intellectual property rights (IPR) and work with callers on how to best resolve problems. In cases where the individual or company has properly registered its rights, its issue can then be referred to a trade compliance team that will monitor their case and work to see what next steps can be taken.

We also developed a website ([www.stopfakes.gov](http://www.stopfakes.gov)) and brochure to provide information and guidance to rights holders on how to register and protect their IPR in markets around the world.

We created downloadable "IP toolkits" to guide businesses through securing and enforcing their rights in key markets across the globe. These toolkits are available at the [Stopfakes.gov](http://Stopfakes.gov) website, and cover key trading partners such as China, Russia, Mexico, Korea and Taiwan.

In November 2005, Commerce Secretary Gutierrez announced the China Intellectual Property Rights (IPR) Advisory Program. This program is done in conjunction with the American Bar Association, the National Association of Manufacturers and the American Chamber of Commerce in China. It offers small and medium-sized U.S. businesses free IPR consultation with an attorney.

We are continuing to expand our IP attaché program in China and positioning new attachés in Brazil, Russia, India, Thailand and the Middle East. Having IP attachés stationed in these countries will enhance our ability to work with local government officials to improve IP laws and enforcement procedures in addition to assisting U.S. businesses to better understand the challenges of protecting and enforcing their IPR.

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

- The [Stopfakes.gov](http://Stopfakes.gov) website has received over 1.8 million visits.
- In FY 2005, the STOP! Hotline received over 950 calls and during the first quarter of FY 2006 we have received over 550 calls.
- During our four 2005 IP Road Show events, in Salt Lake City, Phoenix, Austin and Miami we had a total of 740 small business attendees.



**INCREASE EFFORTS TO SEIZE COUNTERFEIT GOODS AT OUR BORDERS**

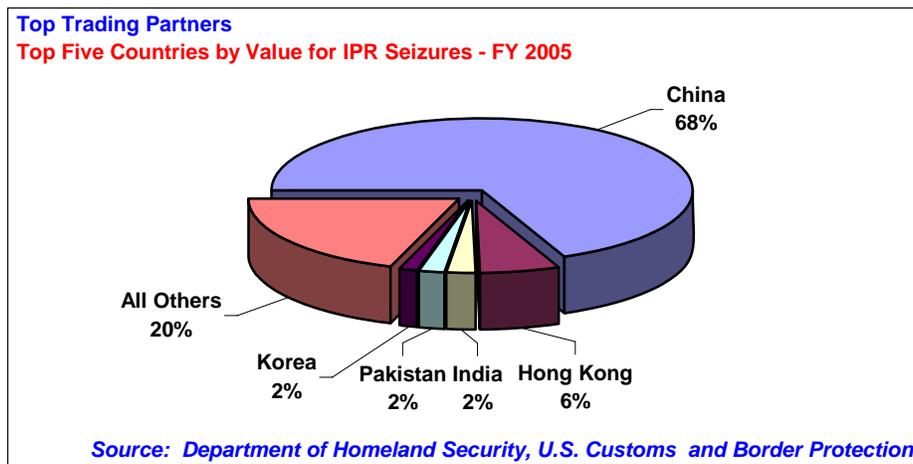
*“Illicit profits from counterfeit or pirated goods are one way for criminal networks to finance their heinous activities. We are confronting counterfeiters with the full force of the law and we’re moving aggressively to seize their assets and put them out of business.”*

- Secretary of Homeland Security Michael Chertoff (April 6, 2006)

**We need to increase our efforts to stop fake and counterfeit goods at America’s borders:**

The Department of Homeland Security (DHS), through the enforcement efforts of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), is a key player in the STOP! Initiative, working to stop counterfeiters and pirates from bringing fake products into the United States. In fiscal year 2005, DHS seized 8,022 shipments of counterfeit and pirated goods valued at more than \$93 million. Since 2001 CBP has made over 31,000 seizures of fake and counterfeit goods.

*The following chart provides a break down of the major countries from which CBP IP-related seizures originated:*



We have begun implementing a new risk assessment model and technologies to cast a wider, tighter net on counterfeit and pirated goods and to stop these goods at our borders. CBP’s new risk assessment model uses several sources of data, including historical seizure information, to target high-risk cargo while facilitating the flow of legitimate goods. With post-entry verification (IPR audits), CBP added a new IPR enforcement tool to complement traditional physical examination of goods at the border. We are issuing penalties on imports of fakes uncovered during IPR audits, and working with businesses to develop internal control systems to prevent imports of counterfeit and pirated goods.

Additionally, we have developed an online recordation tool for rights holders to record their trademarks and copyrights with CBP. Recordation provides a higher level of protection for trademarks and copyrights and makes it easier for CBP to identify fake goods at our borders. CBP’s online recordation tool is linked to the U.S. Patent and Trademark Office’s website, and will soon be linked to the Copyright Office’s website as well. This resource helps businesses protect their rights.

We are working with our trading partners to share information and improve our capabilities to assess and anticipate risks. We are already seeing early results of this effort with the European Union. We have followed up on the U.S./EU Economic Ministerial held last year, where leaders of both governments committed to expand information sharing of customs data and information. The United States and the



European Union, as part of a bilateral IP working group, are implementing an action plan to strengthen IPR enforcement, including through greater customs cooperation.

The Department of Homeland Security's Immigration and Customs Enforcement (ICE) and the Department of Justice's Federal Bureau of Investigation (FBI), two of the lead investigative agencies in the fight against both domestic and international IPR crime, jointly run the National IPR Center. The Center identifies and addresses developing IPR issues and trends and advances that information through outreach and training with foreign governments. Additionally, the FBI serves as the co-chair for Interpol's IPR international training sub-committee, and in that role provides regular training to officials overseas on IPR enforcement.

The tools and relationships developed under STOP! have produced real results. For example, ICE special agents working in conjunction with the Chinese government and U.S. industry conducted the first ever joint US-Chinese enforcement action on the Chinese mainland and disrupted a network that distributed counterfeit motion pictures worldwide. More than 210,000 counterfeit DVDs were seized. Chinese authorities also destroyed three warehouses that were being used to store the counterfeit DVDs that would have been distributed worldwide.

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

*“In the United States, we have made the protection of intellectual property rights a law enforcement priority, and we are waging an aggressive and successful campaign against intellectual property crime on multiple fronts.”*

- Attorney General Alberto Gonzales (November 18, 2005)

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

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

The Department of Justice (DoJ) plays a key role in dismantling criminal enterprises that steal intellectual property, improving international enforcement efforts, and ensuring that there is a strong legal regime for the protection of intellectual property throughout the world. To that end, as part of the STOP! Initiative, the Attorney General formed an Intellectual Property Task Force to examine how it could maximize its efforts to protect intellectual property rights. In October of 2004, the first Task Force Report was released and it included a comprehensive set of recommendations on steps that the Department of Justice could take to better protect IPR. U.S. law enforcement agencies, the Justice Department in particular, have achieved significant results as discussed below.

#### **Increasing Criminal Prosecutions**

- Increased the number of copyright and trademark cases filed from FY 2004 to FY 2005 by 45%.
- Increased the number of defendants prosecuted for intellectual property offenses by 97% from FY 2004 through the end of FY 2005.
- Created five new Computer Hacking and Intellectual Property (CHIP) Units in the U.S. Attorney's Offices in Nashville, Orlando, Pittsburgh, Sacramento, and Washington D.C., bringing the total number of specialized units to 18.
- Increased the total number of CHIP prosecutors nationwide to 230.
- Continued to dismantle and prosecute multi-district and international criminal organizations that commit intellectual property crimes, including:



- Leading the international takedown against members of over 22 major online software piracy groups in Operation Site Down in June 2005, involving 12 countries, the simultaneous execution of over 90 searches worldwide, the eradication of at least eight major online distribution sites, and confiscation of an estimated \$50 million in pirated software, games, movies, and music. Prosecutors have indicted 44 defendants and obtained 17 felony convictions in connection with this operation to date;
- Shutting down a sophisticated international peer-to-peer network known as Elite Torrents, used by over 133,000 members, in the first-ever criminal action against a Bit Torrent file-sharing network;
- Obtaining felony conspiracy and copyright convictions against 26 software, game, movie, and music pirates as part of the ongoing Operation FastLink, the largest law enforcement action ever taken against online intellectual property offenders;
- Obtaining convictions against two Los Angeles-area men for conspiracy and trafficking in over 700,000 counterfeit Viagra tablets manufactured in China and worth over \$5.6 million.
- Indicting the four leaders of one of the largest counterfeit goods operations ever uncovered in New England – breaking up a scheme to sell more than 30,000 luxury goods worth more than \$1.4 million.

### **Improving International Enforcement**

The Justice Department recently deployed an IP law enforcement coordinator for Asia, who is stationed in Bangkok, Thailand. This individual will work closely with prosecutors in the Department's Computer Crime and Intellectual Property Section and Office of International Affairs to oversee IP law enforcement training and assist U.S.-based enforcement efforts in the region.

In addition, DoJ has executed agreements to implement obligations of the US/EU Mutual Legal Assistance and Extradition Agreements. These agreements ensure cooperation regarding intellectual property crimes with Austria, Belgium, Denmark, Finland, France, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Slovenia, Spain, Sweden, and the United Kingdom; and we have completed negotiations with the nine remaining E.U. countries – Cyprus, Czech Republic, Estonia, Germany, Greece, Italy, Malta, Poland and Slovakia.

We trained and provided technical assistance to more than 2,000 prosecutors, investigators, judges and IP experts from 94 countries regarding the protection and enforcement of IPR.

We have initiated bilateral discussions with China on criminal IP enforcement and are working toward establishing a bilateral law enforcement experts group to improve operational cooperation and coordination in joint and cross-border investigations. We are also working closely with other member countries in a G8 IP Experts working group, and will soon be proposing and pursuing specific IP enforcement projects in the G8 Lyon-Roma Group on Crime and Terrorism.

### **Strengthening Laws**

The Bush Administration is working with Congress to strengthen laws and penalties related to intellectual property rights enforcement, including the:

- *Stop Counterfeiting in Manufactured Goods Act, H.R. 32 (March 2006)*
  - Prohibits the trafficking of counterfeit labels, emblems, containers or similar labeling components that may be used to facilitate counterfeiting; provides for forfeiture of articles bearing or consisting of a counterfeit mark and proceeds of any property derived from proceeds of, or used in the commission of, a violation; expands the definition of "trafficking"



for certain counterfeiting crimes and clarifying that trafficking in counterfeit goods or labels includes possession with intent to traffic in such items.

- *Family Entertainment and Copyright Act, S. 167 (April 2005)*
  - Outlaws camcording in movie theaters and provides a new 3-year felony for the distribution of a pre-release work by making it available on a publicly-accessible computer network. Recognizes the premium value of copyrighted works before they are released to the public.
- *Anti-Counterfeiting Amendments of 2004, H.R. 3632 (December 2005)*
  - Allows law enforcement officials to seize material and equipment used to make counterfeit products and labels.
- *Intellectual Property Protection Act of 2005*
  - The Department of Justice transmitted to Congress the Administration's proposed legislation entitled the "Intellectual Property Protection Act of 2005," a comprehensive reform package that would toughen penalties for intellectual property crimes, expand criminal intellectual property protections, and add investigative tools for criminal and civil intellectual property rights enforcement.

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

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

- Secretary of Commerce Carlos Gutierrez (February 26, 2006)

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

We are working with U.S. and international trade associations such as the American Bar Association, American Chamber of Commerce in China, Business Software Alliance, Entertainment Software Association, International Chamber of Commerce, International Intellectual Property Alliance, International Federation of Phonographic Industries, Motion Picture Association, National Association of Manufacturers, The Pharmaceutical Research and Manufacturers of America, Quality Brands Protection Committee, Recording Industry Association of American, U.S. Chamber of Commerce and the U.S.-China Business Council, to name just a few.

Additionally, we are working with the Coalition Against Counterfeiting and Piracy, a U.S. Chamber of Commerce and National Association of Manufacturers led association on the "No Trade in Fakes" program to develop voluntary guidelines companies can use to ensure their supply and distribution chains are free of counterfeits.

We are also conducting post-entry verifications (IPR audits) on companies vulnerable to IP violations and working with them to correct their faulty business practices. U.S. Customs and Border Protection (CBP) uses post-entry verifications of importing companies to detect discrepancies and systemic weaknesses in the area of IPR protection. We then work with audited companies to devise solutions and remedies for deficient and vulnerable areas.



We have education campaigns that take place across America to teach small and medium-sized enterprises how to secure and protect their rights and where to turn for federal resources and assistance. It is important to note that only 15% of small businesses that do business overseas know that a U.S. patent or trademark provides protection only in the United States. Companies need to make sure that they register for intellectual property protection overseas. We recently had education programs in Northern Virginia, San Diego and Atlanta, and we have upcoming programs in Nashville and Columbus. These events help educate businesses on what intellectual property rights are, why they are important, and how to protect and enforce these rights domestically and internationally.

With China, an important tool that we use to help our industry is the IPR Case Referral Mechanism (CRM) which was created by the U.S. government to facilitate the submission of individual U.S. company IPR cases through China’s Ministry of Commerce (MOFCOM) to relevant Chinese agencies. Our inter-agency team reviews cases where the Chinese government fails to provide adequate protection of IPR to U.S. businesses, and after an internal vetting process, sends approved cases to the Chinese government to facilitate their resolution. Five cases have already been submitted to the Chinese through the Case Referral Mechanism.

**AGGRESSIVELY ENGAGE OUR TRADING PARTNERS TO JOIN OUR EFFORTS**

*"But while innovation will push our economies forward, a lack of fairness will hold us back. American businesses lose \$200 to \$250 billion a year to pirated and counterfeit goods. Innovation stimulates economic growth, but innovation will suffer without proper protection for intellectual property rights."*

- Secretary of State Condoleezza Rice (March 19, 2005)

*"Trade can raise living standards for millions. But a vibrant trade system must be based on fairness and trust. All countries benefit from honest commerce. All countries suffer from dishonest commerce. Today’s pirates are more clever and steal more than the bandits of the high seas from an earlier time. It is tougher to track them down and shut them down but we must succeed."*

- U.S. Trade Representative Rob Portman (March 15, 2006)

**We are reaching out to our trading partners and building international support. U.S. leadership is critical and we are active on a number of fronts:**

When U.S. government officials meet with our global trading partners for bilateral and multilateral discussions, IPR protection and enforcement are always top priorities.

**Promoting International Engagement:**

**G-8:** At the 2005 G8 meeting, President Bush secured an agreement from fellow leaders to focus on IP enforcement, and we are working with our G8 counterparts to develop a strong IP enforcement program in 2006.

**APEC:** Within the Asia Pacific Economic Cooperation (APEC) forum last year, we secured an endorsement of a U.S.-Japan sponsored ‘APEC Anti-Counterfeiting and Piracy Initiative’ to reduce trade in counterfeit goods and to combat online piracy, while increasing cooperation and capacity building. Last November this initiative resulted in agreement by the leaders of APEC’s 21 member economies to a set of model guidelines to reduce trade in counterfeit and pirated goods, to protect against unauthorized copies, and to prevent the sale of counterfeit goods over the Internet. We are currently working to implement and expand these model guidelines.

**FTAs:** Constant, high-level engagement to improve enforcement of intellectual property rights has been a vital part of U.S. trade policy for many years. The importance of intellectual property enforcement is



reflected, for example, in the provisions of U.S. trade agreements and in the Administration's utilization of the "Special 301" provisions of U.S. trade law. The Bush Administration makes intellectual property rights a priority when negotiating new free trade agreements. Our free trade agreements provide cutting-edge protection for intellectual property with strong rules to combat counterfeiting and piracy. This was seen in the recent Central America-Dominican Republic Free Trade Agreement (CAFTA-DR), as well as the recently concluded free trade agreements with Colombia and Peru. Over the past year, we worked closely with our CAFTA-DR partners and the governments of Australia, Morocco, Singapore and Bahrain to bring their intellectual property enforcement regimes up to the high standards required by our free trade agreements.

**OECD:** Additionally, we have commissioned a study by the Organization for Economic Cooperation and Development (OECD) to examine the impact of global counterfeiting and piracy. Our inter-agency team has held several meetings with OECD officials to follow-up and assist with this study. We are looking for sound, reliable and accurate information to be produced with this study, so that we may have accurate metrics that can be used effectively by senior policymakers and by industry as we continue building international support to stem the flow of fake and counterfeit goods and keep them out of global supply chains.

**SPP:** The Administration has also launched a cooperative effort under the Security and Prosperity Partnership (SPP) with Canada and Mexico to develop a strategy for combating piracy and counterfeiting in North America. Work is underway through a trilateral task force and efforts will focus on enhancing detection and deterrence of counterfeiting and piracy and expanding public awareness of the need to protect and enforce intellectual property rights.

**Bilateral:** Under the STOP Initiative, we have conducted outreach to Canada, the European Commission, France, Germany, Hong Kong, Japan, Korea, Mexico, Singapore and the United Kingdom laying the basis for increasing cooperation on IP enforcement.

**European Union:** In January, we met with European Union officials at the White House for a series of meetings to address global piracy. Follow up meetings were held in Brussels in March. We are breaking new ground and have begun to expand our cooperation with the EU – focused initially on border enforcement, a strategy to address specific problems in third countries and other international cooperation and working with the private sector.

**Japan:** Japan is one of our key international partners in the fight against counterfeiting and piracy. We continue to work with Japan under STOP!, especially on the APEC initiatives discussed above. Our cooperation under STOP! is just one part of our broader bilateral IPR cooperation. For example, last October, Japan and Switzerland joined with the U.S. in requesting that China disclose key IPR enforcement data under WTO transparency rules.

On March 30, 2006, Secretary Gutierrez and Japan's Minister of Economy, Trade, and Industry announced expanded bilateral cooperation on IPR protection and enforcement. This cooperation will allow the two countries to confront the growing problem of global piracy and counterfeiting together. Highlights of the new agreement include increasing assistance and education for SMEs; sharing information on IPR enforcement activities; strengthening technical assistance to third countries, and streamlining the patent process.

**Training and Capacity Building:** The U.S. has conducted several hundred IP training and capacity building programs around the world to improve criminal and civil IPR protection. To that end, the



Administration has established a Global Intellectual Property Academy to consolidate and expand our training programs for foreign judges, enforcement officials and administrators.

Highlights of our Training and Capacity Building Programs:

- Brazil - Since 2001, the U.S. government has sponsored 15 IP-related programs involving Brazilian government officials, nearly half of which took place in Brazil.
- Russia - Since 2001, the U.S. government has conducted well over 15 training and capacity building programs involving Russian government officials.
- India - The U.S. government has conducted over a dozen IP training and capacity building programs with Indian officials and we continue to conduct conferences to train Indian academics and officials on IP enforcement and WTO TRIPS obligations. In addition, U.S. intellectual property experts will participate in a four-city IP enforcement training program in India in May 2006.
- China - Since 2001, the U.S. government has conducted well over 50 training programs involving Chinese government officials.

Addressing Global IP Enforcement Concerns:

**China:** The U.S. government is working on many fronts to engage China on IPR concerns, and under President Bush's leadership, we have developed an effective China IP strategy. The Bush Administration's China IP strategy is built on four pillars: bilateral engagement; effective use of our trade tools; expanding law enforcement cooperation; and working with the private sector. We are utilizing all of our resources to effectively implement our approach.

In February 2006, Ambassador Portman announced the results of a top-to-bottom review of U.S. trade policy with China. It identified weak protection of intellectual property as one reason why the U.S.-China trade relationship lacks balance in opportunity, as well as equity and durability.

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

**Russia:** The U.S. is working with Russia to strengthen IP protection and enforcement. Ambassador Portman recently raised the issue of intellectual property protection with Russian Minister of Economic Development and Trade German Gref stating that IPR protection and enforcement is a shared responsibility within the Russian government. Recent positive statements made by President Putin recognize that IPR protection is both an economic issue for the Russian government and a public health concern for the Russian people. The Russian government needs to take steps to curb the high rates of piracy that exist in Russia and demonstrate that their enforcement efforts are providing deterrence and producing results.

Also, the work of the U.S.-Russia IP Working Group remains a high priority, as the United States, through USTR, and Russia work to address a number of IPR-related issues and steps that need to be taken.