

STATEMENT OF
KEVIN J. O'CONNOR
UNITED STATES ATTORNEY
FOR THE DISTRICT OF CONNECTICUT
CHAIRMAN, TASK FORCE ON INTELLECTUAL PROPERTY
DEPARTMENT OF JUSTICE

BEFORE THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

PRESENTED ON

November 7, 2007

Introduction

Chairman Leahy, Ranking Member Specter, and Members of the Committee, thank you for the opportunity to discuss the Department of Justice's efforts to protect intellectual property rights through criminal enforcement.

As America continues its transformation into an information- and innovation-based economy, the protection of America's creative assets is a top priority of the Department of Justice. Intellectual property embodies America's cultural heritage, consumer confidence and trust in brands for products ranging from prescription medicines to spark plugs, and most of the assets of our vibrant information industries. As the Committee knows, the majority of the enforcement regime for protecting these intellectual property assets is now and has traditionally been civil. However, with the advent of new technologies, a global supply chain economy, and the increased involvement of transnational criminal organizations, criminal enforcement is now more important than ever in protecting intellectual property rights.

Today, the Department is dedicating more energy and resources than ever before to the protection of U.S. intellectual property rights, with a particular emphasis on health and safety

crimes and organized criminal syndicates. The Department has been an integral part of President Bush's Strategy Targeting Organized Piracy, or "STOP", initiative. This initiative involves government officials, local and national law enforcement, small businesses, and international partners in a coordinated and aggressive strategy to fight global intellectual property crime.

Under the umbrella of the STOP initiative and the Department of Justice's Task Force on Intellectual Property, we have significantly increased our domestic enforcement efforts with special emphasis on organized criminal operations and counterfeiting crimes that threaten the health and safety of Americans. Recognizing that an increasing number of IP crimes are global in nature, the Department is diligently reaching out to foreign law enforcement both to train them in spotting intellectual property crime and to seek their involvement and assistance in joint operations. And finally, in the legislative package that the Attorney General transmitted to Congress on May 14, 2007, the Department is seeking additional tools to help prosecute and deter intellectual property thieves.

My remarks today are intended to describe in more detail the Department's role in the coordinated U.S. Government effort to protect intellectual property rights: strengthening domestic criminal enforcement programs, improving international enforcement and training efforts, and developing legislative proposals – all of which are designed to ensure the continued protection of intellectual property rights from the increasing theft and exploitation of those rights.

The Department's Domestic Criminal Enforcement Efforts

As part of the President's STOP initiative, in 2004 the Department created a Task Force on Intellectual Property to conduct an exhaustive review of its efforts to protect intellectual property and to strengthen its enforcement resources. Following the review, the Task Force made 31 specific recommendations, including a directive that the Department hire, train and retain more intellectual property prosecutors in order to keep pace with the growing number and complexity of criminal piracy and counterfeiting operations. The Department satisfied or continues to implement all 31 recommendations of the Task Force, and today has more prosecutors focusing on intellectual property crime than at any time in its history.

In June of 2006, the Department designated seven new Computer Hacking and Intellectual Property (CHIP) units in U.S. Attorneys Offices nationwide, bringing the total number of such specialized units to 25. We are already seeing significant increases in prosecutions: in FY 2007, CHIP Units successfully convicted and sentenced 199 defendants nationwide for IP offenses, representing an 80% increase over the 110 defendants convicted and sentenced by CHIP Units in 2006.

In addition to the CHIP network of approximately 230 specialized prosecutors in U.S. Attorney's Offices nationwide, including the CHIP Unit districts, the Criminal Division has fourteen prosecutors in the Computer Crime and Intellectual Property Section (CCIPS) who focus exclusively on prosecuting intellectual property crime. These attorneys prosecute single- and multi-district cases across the country. Additionally, CCIPS conducts extensive training of foreign law enforcement on intellectual property crime and enforcement. In fact, in 2006 alone,

CCIPS provided training and technical assistance to more than 3,300 foreign prosecutors, judges, and investigators from 107 countries. And in September 2006, CCIPS published a comprehensive 436- page resource manual on prosecuting intellectual property crimes. The manual is a valuable training and legal resource for prosecutors and agents nationwide, as well as for other federal agencies that have responsibilities under the STOP initiative – including the Federal Bureau of Investigation, Office of the U.S. Trade Representative, and the Departments of Commerce, State, and Homeland Security.

i. Interagency Coordination

The Department plays an active role in the President’s STOP initiative, working with other federal agencies to ensure an effective government-wide approach to protecting intellectual property rights. The Department also works closely with industry and IP rights holders to strengthen the public-private partnership so essential to strong IP protection. For instance, as part of a focused outreach to the private sector, the Department hosted a series of training conferences for IP rights holders on topics including, 1) the investigation and prosecution of federal IP cases, 2) the parameters for permissible cooperation and assistance in federal investigations by private rights holders, and 3) procedures and tips for how best to report criminal violations of the copyright, trademark, and trade secret laws. The latest such victims’ rights conference was sponsored jointly with the Business Software Alliance on May 22, 2007, in San Jose, California. More than 80 members of industry from Silicon Valley attended the one-day training conference that covered, among other things, criminal case studies and a detailed presentation on the permissible and appropriate parameters for industry’s assistance to federal law enforcement. A similar conference, planned for Miami on November 28, 2007, will be co-hosted by the Department of Justice and the U.S. Chamber of Commerce.

Thanks in no small part to the efforts of Chris Israel, the Coordinator for International IP, the Department has been able to work effectively with other STOP agencies to support important Department initiatives. For example, just last month, the Department held the first-ever IP Crimes Enforcement Network Conference, in Bangkok, Thailand. I will say more about the conference later in my remarks, but I mention it here because this unprecedented gathering of senior law enforcement officials would not have been possible without a State Department grant and the assistance of the US Patent and Trademark Office, which co-hosted the event with the Department and the Association of Southeast Asian Nations (ASEAN). Additionally, the Department supports the IP enforcement missions of other Departments and agencies, including the Special 301 process and Free Trade Agreement negotiations run by the U.S. Trade Representative; the State Department’s IP Training Coordination Group; and public outreach events for small businesses developed by the Department of Commerce. Despite the widely divergent roles played by many of the agencies involved in the STOP initiative, coordination and support among agencies has never been greater in the effort to enforce IP rights.

ii. Criminal Prosecutions

Of course, at the core of the Department’s IP enforcement program are criminal prosecutions, and we have worked hard to increase both the quality and the number of intellectual property prosecutions nationwide. Through the dedicated efforts of U.S. Attorney's

Offices, our Criminal Division, and law enforcement across the country, the Department filed 217 intellectual property cases in FY 2007, representing a 7% increase over cases reported in FY2006 (204), and a 33% increase over cases reported in FY2005 (169). Also in FY2007, 287 defendants were convicted and sentenced on intellectual property charges, representing a 35% increase over FY2006 (213) and a 92% increase over FY 2005 (149).

The increase in prosecutions in FY 2007 was not an aberration, but rather reflects a continuing upward trend. For example, in FY 2006, federal prosecutors convicted 187 defendants of criminal copyright and trademark offenses alone – an increase of 57% over the prior year. Thirty-nine (39) of those defendants received terms of imprisonment of 25 months or more, a 130% increase from the 17 sentenced to such terms in 2005. Indeed, in the previous year (FY 2005), the Department prosecuted twice the number of defendants for intellectual property violations than it had in 2004.

The Department's prioritization of the most serious intellectual property crimes is paying off in terms of more convictions and higher sentences. That, in turn, leads to increased deterrence for both the individual defendant and the general public. Deterrence is a key component of any effective enforcement strategy, and it is one reason that we try to publicize IP prosecutions through the print media as well as through online distribution channels, such as CCIPS' website, www.cybercrime.gov. Among other things, the website seeks to publicize the federal IP prosecutions of the CHIP Network, Assistant U.S. Attorneys, and CCIPS prosecutors, which in the past year alone have included:

Counterfeit Trafficker Gets 57 Month Prison Term, \$7 Million Forfeited

On October 12, 2007, in the Eastern District of Virginia, Abbas Chouman, 43, of Astoria, N.Y., was sentenced to serve 57 months in prison on one count of conspiracy to commit criminal copyright infringement by U.S. District Judge Henry E. Hudson of the Eastern District of Virginia. Chouman was also ordered to forfeit \$7 million. Chouman pleaded guilty to conspiracy on July 3, 2007, for operating a store that sold more than \$7 million worth of counterfeit clothing. He was the fifth of seven defendants to be sentenced as a result of Operation Throwback, a multi-agency, multi-state federal enforcement operation targeting traffickers in counterfeit and pirated goods that resulted in arrests in 4 states during March of this year.

Two Bay Area Men Indicted on Charges of Economic Espionage

On September 26, 2007, in the Northern District of California, two Bay Area men were indicted on charges of economic espionage and theft of trade secrets, and a related conspiracy charge. Defendants Lan Lee and Yuefi Ge allegedly conspired to steal trade secrets involving computer chip design and development from their employer and another company, and sought to obtain venture capital funding from the government of China, in particular the 863 Program and the General Armaments Department. The 863 Program is a funding plan created and operated by the government of the People's Republic of China, also known as the national High Technology Research Development Program.

Remaining Two Defendants Sentenced In Largest CD & DVD Manufacturing Piracy and Counterfeiting Scheme Prosecuted in the United States to Date

On August 6, 2007, in the Northern District of California, two co-defendants were each sentenced to 37 months in prison for conspiracy to commit copyright infringement and trafficking in counterfeit goods and labels. The defendants led piracy and counterfeiting schemes by using sophisticated replication machinery for the mass reproduction of copyrighted works. The sentences were the result of Operation Remaster, an extensive undercover investigation by the FBI in which agents seized approximately 494,000 pirated music, software, and movie CDs, and DVDs, and more than 6,135 stampers (devices used to produce high-quality counterfeit copies on optical disks), from 13 different locations. This case is believed to be the largest ever manufacturing case involving commercially duplicated, high-quality counterfeits that closely resemble authentic CDs in US history.

Former Chinese National Convicted for Committing Economic Espionage To Benefit China Navy Research Center in Beijing and For Violating the Arms Export Control Act

On August 2, 2007, in the Central District of California, defendant Xiaodong Sheldon Meng was convicted of violating the Economic Espionage Act, the Arms Export Control Act, and the International Traffic in Arms Regulations. Meng willingly violated the Economic Espionage Act by possessing a trade secret belonging to Quantum3D. Meng, knowing it would benefit the China Navy Research Center, exported source code for a visual simulation software program used for training military fighter pilots. This is the first conviction for the illegal export of military source code in US history.

Eighteen Charged with Racketeering in Internet Drug Distribution Network

On August 2, 2007, in the Southern District of California, a 313-count indictment charged 18 individuals with operating an online pharmaceutical distribution network known as Affpower. The Affpower organization received over 1 million Internet orders for controlled and non-controlled prescription pharmaceuticals from customers in all 50 states, and it generated more than \$126 million in gross revenue. Affpower allegedly paid licensed doctors to issue prescriptions based only on answers to health questionnaires filled out over the Internet and requiring no mental or physical exams. The defendants have been charged with various crimes, including racketeering and conspiracy to commit racketeering, distribution and dispensing of controlled substances, mail and wire fraud, and conspiracy to dispense and dispensing of misbranded drugs with the intent to defraud and mislead. Twelve individuals have already pleaded guilty in connection with the Affpower conspiracy.

29 Defendants in Three States Charged with Conspiracy to Smuggle Counterfeits

On June 6, 2007, in Brooklyn, New York, 29 defendants were charged in three separate complaints with conspiracy to smuggle over 950 shipments of merchandise into the United States through ports of entry at Newark, N.J., Houston Texas, Long Beach, California, New York Container Terminal in Staten Island, N.Y., and John F. Kennedy International Airport. The counterfeit merchandise was principally from China. Four of the defendants were also charged with money laundering. The charges resulted from a 19- month coordinated initiative by ICE and Customs and Border Protection.

Nine Convictions for Selling \$30 Million of Counterfeit Software on eBay

On June 22, 2007, in the District of Wisconsin, Department prosecutors obtained the eighth and ninth felony convictions involving the eBay auction sales of counterfeit Rockwell Automation software. All nine defendants pled guilty in separate proceedings to felony copyright infringement for selling counterfeit Rockwell Automation software on eBay. The software had a combined retail value of approximately \$30 million. These convictions are part of a larger Department initiative combating online auction piracy nationwide.

Ex-Employee of Coca Cola and Co-defendant Sentenced for Stealing Trade Secrets

On May 23, 2007, in the District of Georgia, two defendants were sentenced after being charged with conspiring to steal and sell trade secrets of the Coca Cola Company. Joya Williams, a former employee of Coca-Cola, was sentenced to 8 years in prison and Ibrahim Dimson was sentenced to 5 years in prison. The convictions resulted from an FBI investigation, which was initiated after PepsiCo provided the FBI with a copy of a letter from someone claiming to be a Coca-Cola employee and offering PepsiCo classified information about the Coca-Cola Company.

50th Conviction in Largest Online Software Piracy Enforcement Action

On May 14, 2007, in the Eastern District of Virginia, Department prosecutors obtained the 50th conviction in Operation FastLink, the largest and most successful global online piracy enforcement initiative ever conducted. This Operation culminated in the execution of more than 120 searches and arrests in 12 countries, the seizure of more than 200 computers, the complete dismantlement of 30 Internet distribution sites, and the confiscation of hundreds of thousands of counterfeit software titles valued at more than \$50 million. This 50th conviction represents a milestone never before achieved in an online piracy prosecution.

Eleven Indicted for Scheme to Import Adulterated Counterfeit Drugs for Sale on Internet

09/20/06 (Atlanta, GA): Eleven individuals and an Atlanta-based company were indicted on charges related to a scheme to sell counterfeit drugs over the internet. According to the indictment, the defendants marketed approximately 24 different drugs, including versions of Ambien, Valium, Lipitor, and Vioxx, through spam advertisements. Instead of buying safe and authentic generic versions of these vital drugs from Canada, customers were unwittingly buying adulterated fakes manufactured in an unsanitary house in Belize.

Texas Pharmacist Sentenced to Two Years in Prison for Selling Counterfeit Drugs

On September 25, 2006, in Houston, Texas, a licensed pharmacist was sentenced to two years imprisonment for selling counterfeit and misbranded Cialis and Viagra from China. He was convicted by a jury's verdict in May 2006 after a two-day trial during which the United States proved he had ordered counterfeit and misbranded pharmaceuticals from China via the internet and arranged for the drugs to be shipped to him at his home in Sugarland, Texas.

Internet Distributor of Pirated Software Sentenced to 6 Years' Imprisonment and Ordered to Pay \$4.1 Million in Restitution

On August 25, 2006, in the Eastern District of Virginia, a Florida man was sentenced to six years in prison and ordered to pay \$4.1 million in restitution for operating a for-profit piracy website known as BUYSUSA.com. The ordered forfeiture included a wide array of assets, including two Cessna airplanes, a helicopter, a Lamborghini, a 2005 Hummer, a 28 foot boat, and an ambulance.

Florida Men Sentenced to Terms of 7 and 8 Years' Imprisonment, respectively, for Massive Conspiracy to Sell Counterfeit Goods, Including Electrical Cords and Batteries

On August 25, 2006, in the Southern District of Florida, two men were sentenced to 97- and 87-month prison terms, respectively, for a massive conspiracy to sell counterfeit goods, including but not limited to electrical cords, batteries, and handbags bearing the counterfeit marks of Underwriters Laboratories, Duracell, and Louis Vuitton and Gucci, respectively.

In addition to the above cases, the Department has continued to prosecute defendants from the two largest international enforcement actions ever undertaken against online piracy, known as Operations FastLink and SiteDown. The takedowns of these international FBI undercover operations in 2004 and 2005, respectively, resulted in a total of more than 200 search warrants executed in 15 countries; the confiscation of hundreds of computers and illegal online distribution hubs; and the removal of more than 100 million dollars worth of illegally-copied copyrighted software, games, movies, and music from illicit distribution channels. Countries participating in these U.S.-led operations included: France, Canada, Sweden, Denmark, the Netherlands, the United Kingdom, Portugal, Hungary, Israel, Spain, Australia, Singapore, Belgium, and Germany. Together, these operations have resulted in over 100 felony convictions to date.

These and earlier Department-led operations targeting online piracy, are examples of an unprecedented level of international cooperation in the investigation and prosecution of intellectual property crimes. However, when international cooperation alone is insufficient or unsuccessful in bringing these criminals to justice, the Department will use all tools at its disposal to ensure that these crimes do not go unpunished. A recent example is that of **Hew Raymond Griffiths**, a resident of Australia and the leader of a notorious online piracy group responsible for the distribution of more than \$50 million in pirated works. Last February, he became the first individual ever extradited for online piracy offenses as he was brought to the Eastern District of Virginia to face criminal copyright charges. Griffiths had spent more than three years incarcerated in Australia while contesting his extradition. On June 22, 2007, Griffiths was sentenced to 51 months' imprisonment for conspiracy to commit criminal copyright infringement.

The Department's International Programs

As Operations FastLink and SiteDown show, prosecuting criminal organizations engaged in large-scale piracy and counterfeiting operations requires the ability to reach beyond America's borders. As global trade and communications networks continue to grow, America's intellectual

property assets become increasingly susceptible to exploitation by criminal organizations that operate overseas. The Department has found in several investigations that criminals are using industrial-scale overseas manufacturing facilities to produce counterfeit products and pirated optical discs on a commercial scale. Criminals are also using servers located overseas to host massive repositories of pirated software, movies, and music – some of which has not yet been released on commercial markets – with the belief that they will be beyond the reach of U.S. law enforcement and outside the interest of foreign law enforcement.

The Department is attacking this significant problem with a multi-faceted strategy that includes increased dedication of personnel to foreign enforcement coordination; broader international outreach and education efforts; more joint investigations and enforcement operations with foreign law enforcement; and new and stronger mechanisms for cooperation with counterfeit source countries. For instance, in 2006, the Department established the first ever IP Law Enforcement Coordinator for Asia in Bangkok, Thailand; and this week, the first IPLEC Coordinator for Eastern Europe began work in Sofia, Bulgaria. Both IPLEC positions are dedicated to advancing the Department's regional IP goals through training, outreach, and the coordination of investigations and operations against IP crime.

***A significant recent accomplishment of the Asian IPLEC occurred on October 23-26, 2007, when the U.S. Department of Justice hosted a regional conference of approximately 60 key law enforcement officials from over a dozen nations in Asia, with the aim of developing an international network targeting large-scale intellectual property crimes. The Asian IPLEC and CCIPS secured funding and organized this week-long gathering in Bangkok, Thailand, with the assistance of the Association of Southeast Asian Nations (ASEAN), the U.S. Patent and Trademark Office, and the U.S. Department of State.

High-level police and customs officials and prosecutors from the United States, China, Australia, Brunei, Cambodia, Indonesia, Japan, Laos, Philippines, Singapore, South Korea, Thailand and Vietnam took part in the conference, with the aim of increasing cross-border cooperation in the fight against intellectual property theft through the establishment of an IP Crimes Enforcement Network (IPCEN).

Based upon the input and positive response of the participants, the IPCEN will serve two primary functions in the future. First, it will operate as a forum to exchange successful investigation and prosecution strategies in combating piracy and counterfeiting crimes. In closed sessions during the conference, panels of law enforcement experts shared best practices and lessons learned in addressing retail counterfeiting and piracy, the mass production and distribution of counterfeit goods, Internet-based intellectual property theft, and border enforcement. Second, the IPCEN will strengthen communication channels to promote coordinated, multinational prosecutions of the most serious offenders.

Recognizing that effective prosecution of intellectual property crime depends heavily on cooperation between victims and law enforcement authorities, industry representatives also addressed the IPCEN conference regarding the scope and severity of counterfeiting crimes in Asia, and discussed ways to collectively enhance enforcement efforts.

The Department's outreach is not limited by regions or countries. For instance, in 2006 alone, the Department's Criminal Division prosecutors provided training and technical assistance on IP enforcement to over 3,300 foreign prosecutors, investigators, and judges from 107 nations. However, some countries pose greater problems than others for U.S. intellectual property protection efforts. China, for instance, has been of particular concern to U.S. intellectual property rights holders and law enforcement, due in large part to its role as a major U.S. trading partner and its well-developed manufacturing capabilities across a broad range of industries, including, unfortunately, the production of large quantities of pirated and counterfeit goods. The Department is confronting this issue, in part, by trying to build new and stronger international mechanisms to foster cooperation and joint investigations with China.

Experience has shown that much of the trade in fake goods originating in China involves organized crime. Any solution to this massive enforcement problem must begin with greater cooperation and coordination on joint criminal investigations and prosecutions. To that end, in March 2007, the Department's Criminal Division hosted and chaired the inaugural meeting of the Intellectual Property Criminal Enforcement Working Group ("IPCEWG") of the U.S.-China Joint Liaison Group for Law Enforcement Cooperation ("JLG"), which included 15 Chinese law enforcement officials and the Ministry of Public Security's Vice Director General of the Economic Crimes Investigation Department, as well as officials from the FBI and ICE. The IPCEWG met again alongside the annual JLG Plenary meeting in Beijing, China in June 2007. The working group's principal focus is on the development of more U.S.-China joint operations to combat transnational IP crime, in particular crimes committed by organized criminal groups and crimes that threaten public health and safety.

The Department of Justice's leadership of the IPCEWG is already yielding unprecedented results. On July 23, 2007, 25 Chinese nationals were arrested and more than half a billion dollars worth of counterfeit software was seized as a result of the largest ever joint investigation conducted by the FBI and the People's Republic of China. This operation, code-named "Operation Summer Solstice," was one of several cases nominated to the IPCEWG for joint investigation and prosecution. China's Ministry of Public Security ("MPS") searched multiple businesses and residential locations, seized more than \$7 million in assets, and confiscated over 290,000 counterfeit software CDs and Certificates of Authenticity. Microsoft publicly stated that the MPS and FBI dismantled a criminal syndicate "believed to be the largest of its kind in the world," responsible for distributing more than \$2 billion in counterfeit Microsoft software.

The Department also led an initiative with members of the G8 industrialized nations to develop a framework for cooperation on intellectual property crime investigations. In November 2006, all members of the G8's Lyon-Roma anti-crime group approved the "Principles and Recommendations for Cooperative Investigation and Prosecution of Serious and Organized Intellectual Property Rights Crime," which set forth a foundation for future cooperation on criminal IP enforcement among the G8 members. In June 2007, the G8 Leaders endorsed the Principles and Recommendations at their annual Summit in Munich, Germany.

The Department's Civil Enforcement Efforts

The Department's Civil Division has supported the enforcement of IP rights by owners of those rights principally through participation in private law suits as *amicus*. Since October 2004, the Department has filed 18 *amicus* briefs in 14 Supreme Court cases, and numerous other cases in the lower courts. Recently, in three important patent cases -- *Microsoft v. AT&T Corp*, *KSR International v. Teleflex*, and *MedImmune v. Genentech* -- the Supreme Court adopted the arguments of the Department recognizing the important balance between intellectual property rights and the overarching aim of spurring innovation. In addition, the Civil Division's Office of Consumer Litigation ("OCL") handles criminal and civil cases involving intellectual property laws that protect public health and safety, particularly in the regulation of drugs by the Food and Drug Administration. To maintain the high quality of drugs sold in the United States, allegations regarding counterfeit or adulterated drugs are taken very seriously, as problems associated with these drugs threaten human health. For example, in *United States v. Albers*, OCL attorneys assisted in the prosecution and conviction of top officials in a company charged with distributing counterfeit Lipitor. To date, twenty-four individuals have been charged, and sixteen convicted in connection with that investigation.

Since the 2006 Progress Report of the Department of Justice's Task Force on Intellectual Property, the Antitrust Division has continued to promote respect for intellectual property rights. In April 2007, the Division, together with the Federal Trade Commission, issued a report entitled ANTITRUST ENFORCEMENT & INTELLECTUAL PROPERTY RIGHTS: PROMOTING INNOVATION AND COMPETITION, which set forth key areas of debate and consensus regarding the antitrust analysis of six categories of intellectual property licensing practices. The Division issued two favorable business review letters, analyzing the competitive impact of patent licensing policies proposed by technology standard-setting organizations, and it assisted the Solicitor General in drafting briefs on IP-related cases including *Quanta Computer, Inc. v. LG Electronics, Inc.*, for which the Supreme Court has granted *certiorari*.

The Need for New Enforcement Tools

While the Department is working aggressively to fight intellectual property crime both here and abroad, criminals are often a step ahead of law enforcement. Our criminal laws must be kept updated in order to meet the global challenges of intellectual property crime.

To offset the lucrative nature of piracy and counterfeiting, criminal penalties must provide real deterrence. Criminals must be divested of their illicit profits; and victims deserve strong restitution laws to help make them whole. In addition, prosecutors need the necessary tools to fight increasingly sophisticated and organized criminal networks, many of which are turning to advanced communications technologies to hide their tracks from law enforcement.

The Attorney General recently forwarded to Congress a comprehensive intellectual property protection package, the Intellectual Property Protection Act of 2007, to better equip U.S. law enforcement with the tools necessary to protect intellectual property rights and provide real deterrence against criminals who are looking for unjust enrichment on the backs of hard-working Americans. Among other things, this bill would:

- Increase the maximum penalty for counterfeiting offenses from 10 years to 20 years imprisonment where the defendant knowingly or recklessly causes or attempts to cause serious bodily injury, and increase the maximum penalty to life imprisonment where the defendant knowingly or recklessly causes or attempts to cause death;
- Provide stronger penalties for repeat-offenders of the copyright laws;
- Implement broad forfeiture reforms to ensure the ability to forfeit property derived from or used in the commission of criminal intellectual property offenses;
- Strengthen restitution provisions for certain intellectual property crimes (*e.g.*, criminal copyright and DMCA offenses); and
- Ensure that the exportation and transshipment of pirated goods through the United States is subject to criminal penalties, just as the exportation of counterfeit goods is now subject to criminal penalties.
- Criminalize the attempt to commit copyright infringement, such as in a situation where a warehouse of pirated optical discs is seized before any sales are made;
- Clarify that registration of copyright is not a prerequisite to criminal prosecution.

In light of the sophisticated communications technologies criminal piracy and counterfeiting organizations are using to communicate about and plan their crimes, the IPPA would also amend the wiretap statute to include criminal copyright infringement and trafficking in counterfeit goods or services as predicate offenses for which a wire or oral intercept may be obtained. This amendment does not lower the substantial legal requirements for obtaining authorization to conduct a Title III wiretap. Rather, it recognizes that wiretaps may be the only way to obtain the evidence needed to prosecute the sophisticated criminal organizations engaged in the most serious piracy and counterfeiting operations, and it gives prosecutors a tool that has proven essential in combating other serious forms of crime, including those committed by criminal enterprises and multi-national criminal networks.

Conclusion

In conclusion, I would like to express the Department's appreciation and my personal gratitude to Chairman Leahy and other Members of the Committee for the opportunity to discuss the Department's efforts to protect intellectual property rights, both in the United States and abroad. The Department is aware of the importance of robust intellectual property laws and enforcement to our nation's economy and the health and safety of our citizens and is working aggressively to fulfill its mission.

At this time, I would be happy to answer any questions the Committee may have.