

Question#:	1
Topic:	Counterfeiter Tactics
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Could you please elaborate on how the tactics of counterfeiters are evolving, and how you are keeping up with these criminals?

Response: The rise of global communications has allowed counterfeiters overseas to sell directly to consumers instead of using traditional distribution channels. In 2010, the National Intellectual Property Rights Coordination Center (IPR Center) initiated Operation In Our Sites (IOS) to address the online sale and distribution of counterfeit goods and pirated content. Through IOS, U.S. Immigration and Customs Enforcement (ICE) has seized over 2,700 domain name registrations. However, criminal organizations adapted to this methodology and now have inactive or dormant websites ready to be activated when their active websites are seized. Thus, seizing websites is no longer as effective, as a law enforcement tool, as it had been in combatting online sales of counterfeit goods and pirated content. In late 2014, the IPR Center evolved its strategy to primarily focus on prosecutable long-term investigations that identified targets, assets, and financial schemes used in operating the infringing websites domestically and internationally. The change in strategy resulted in an increase in criminal arrests and convictions. In Fiscal Year (FY) 2014, through IOS, ICE conducted two criminal arrests and obtained five indictments and nine convictions. In FY 2015, ICE conducted 20 criminal arrests and obtained 18 indictments and 15 convictions.

Question#:	2
Topic:	Counterfeit Pharmaceuticals
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: How is the IPR Center working to address the problem of counterfeit pharmaceuticals? What kinds of programs are in place? Are there any voluntary initiatives or best practices that have proven effective?

Response: The National Intellectual Property Rights Coordination Center (IPR Center) leverages the authorities and resources of its 23 partner agencies to combat counterfeit pharmaceuticals, including through the coordination of investigations and joint operations, and outreach and training to members of industry and the public.

Since 2004, the IPR Center has led Operation Apothecary to target the smuggling and illegal importation of unapproved, counterfeit, or adulterated pharmaceuticals through international mail facilities, express courier hubs, and the Internet. Operation Apothecary combines the expertise of U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), the Food and Drug Administration (FDA), and the United States Postal Inspection Service in the execution of investigations and surge operations at international mail facilities, express consignment carrier facilities, and ports of entry throughout the United States.

Since 2008, the IPR Center has participated in an annual INTERPOL-led operation called Pangea. The IPR Center and FDA are members of INTERPOL's Organizing Committee, representing the United States as the lead law enforcement agencies in Operation Pangea. Operation Pangea targets the importation, advertisement, sale, and supply of counterfeit pharmaceuticals and medical devices that threaten worldwide public health and safety. The IPR Center has participated in all Pangea operations since 2008. The IPR Center is also working with its international partners through training and outreach to increase international law enforcement efforts to combat counterfeit pharmaceuticals. For example, in August 2013, the IPR Center, in collaboration with the Mexico Tax and Customs Administration (SAT), provided IPR enforcement training to Government of Mexico (GOM) law enforcement officers in Mexico City, Mexico, who are involved in combating counterfeit pharmaceuticals. The training was intended to further capacity building efforts with the GOM to address the growing facilitation of illicit trade and strength of transnational organized criminals who attack the integrity and credibility of the health care and pharmaceutical supply chains. The training consisted of two parts, the first being a 2-day overview of combating counterfeit pharmaceuticals and the sharing of best practices, to include collaboration with private industry. The second part of the training incorporated practical exercises with CBP and ICE representatives, who shared their expertise in identifying suspicious packages and controlled delivery

Question#:	2
Topic:	Counterfeit Pharmaceuticals
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Committee:	JUDICIARY (SENATE)

operations. This training also enabled U.S. law enforcement and Mexican authorities to engage in an exchange of techniques and best practices to aid the GOM in maximizing their current legislation to combat counterfeit pharmaceuticals.

Law enforcement and training are only part of a larger effort to combat counterfeits. The private sector must also play a significant role. The IPR Center encourages the development of industry-specific groups as a best practice to address counterfeits, such as those that train their members on how to reduce the threat of counterfeit products in their supply chain and provide consumers information on how to identify counterfeit pharmacies and pharmaceuticals. This best practice, for example, has the potential to reduce the demand and supply of counterfeit pharmaceuticals.

In March 2011, the Administration’s Counterfeit Pharmaceutical Inter-Agency Working Group issued its Report to the Vice President of the United States and to Congress.¹ In its report, the Inter-Agency Working Group explained that:

The U.S. has stringent statutory, regulatory and enforcement regimes to protect consumers against dangerous counterfeit, unapproved or illegally prescribed pharmaceuticals. However, increasing access to the Internet coupled with new methods of manufacturing and distributing illegal pharmaceuticals have created new challenges to safeguarding the legitimate pharmaceutical supply chain. Thousands of websites openly sell unapproved and/or counterfeit drugs, as well as prescription drugs without requiring a valid prescription, all in violation of federal and state law.²

The report then outlined a multi-pronged approach for combating these illegal Internet “pharmacies,” which included a voluntary private-sector initiative that was launched in December 2010.³ Under that initiative, American Express, Discover, eNom, GoDaddy, Google, MasterCard, Microsoft (Bing), Neustar, PayPal, Visa, and Yahoo! together formed the Center for Safe Internet Pharmacies (CSIP)⁴, a non-profit organization established to combat fake online “pharmacies.” CSIP was formally launched in July 2012. The initiative’s membership has since expanded to include Facebook, Rightside,

¹ The Inter-Agency Working Group’s report is at https://www.whitehouse.gov/sites/default/files/omb/IPEC/Pharma_Report_Final.pdf.

² *Id.* at 1.

³ *Id.* at 9-10.

⁴ The CSIP’s website is at <http://www.safemedsonline.org/>.

Question#:	2
Topic:	Counterfeit Pharmaceuticals
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
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Committee:	JUDICIARY (SENATE)

and UPS. Its ongoing efforts include de-registering domain names, withdrawing payment services from fake pharmacies, and refusing to advertise fake pharmacies.

Question#:	3
Topic:	Best Practices
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Could you give us more information on what best practices you encourage or engage in to fight against the sale of counterfeit products?

Do you have best practices specifically designed to protect consumer health and safety?

Response: The National Intellectual Property Rights Coordination Center (IPR Center) recognizes the value of strong relationships with industry and has introduced an aggressive stakeholder outreach campaign designed to inform and educate companies and the consumers they serve regarding Intellectual Property (IP) theft, trade fraud, and how to report them. This campaign focuses attention on how counterfeit goods present health and safety hazards, threaten the U.S. economy, and fund organizations involved in violent crime. The outreach effort has been especially effective in the automotive industry; for example, the black-market sale of counterfeit airbags prompted major auto makers to warn consumers to avoid them by providing online links to the IPR Center to report the counterfeit airbags. The Motion Picture Association of America, Motor & Equipment Manufacturer’s Association, National Crime Prevention Council, and the Pharmaceutical Security Institute are but a few of the other enterprises featuring the IPR Center’s “To Report IP Theft” link.

Consumers should follow the 10 steps on the www.stopfakes.gov page to protect themselves against counterfeit goods. These steps include scrutinizing labels, packaging, and contents; seeking authorized retailers; insisting on secure transactions; and trusting their instincts. Specifically, when it comes to ensuring that the pharmaceuticals consumers purchase are legitimate, they may want to consult with their healthcare provider and request a list of legitimate Internet pharmacies, if available. Consumers should purchase pharmaceuticals from a state-licensed pharmacy in the United States where the consumer can be confident in the quality, safety, and efficacy of the drugs purchased. Consumers have to be vigilant when doing business with Internet pharmacy sites because the pharmacy may not be legitimately licensed, their location can be almost anywhere in the world, and the product received may not be a Food and Drug Administration approved drug.

Question#:	4
Topic:	Counterfeiting Preference
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What trends are you seeing in terms of the type of goods that are being counterfeited? Do the criminals have a preference for the type of products they like to counterfeit?

Response: Counterfeiters have proven over time that they will make and sell almost any product, regardless of the health and safety impact to consumers. The Department of Homeland Security's Intellectual Property Rights Seizure Statistics indicate that the most commonly seized counterfeit items include clothing, consumer electronics, footwear, watches and jewelry, and pharmaceutical/personal care products. Specifically, the Fiscal Year (FY) 2015 Report indicated that the most common seizures by estimated Manufacturer's Suggested Retail Price, had the goods been genuine, for FY15 were:

- Apparel/Accessories (22%)
- Consumer Electronics (18%)
- Footwear (10%)
- Watches/Jewelry (10%)
- Pharmaceuticals/Personal Care Products (8%)

Question#:	5
Topic:	Exporting Countries
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: From which countries are you seeing an increase of exports of counterfeit products?

Response: The Fiscal Year (FY) 2015 Department of Homeland Security Intellectual Property Rights seizure statistics show that the total number of counterfeit goods seizures from China, Singapore, and Romainia increased in FY 2015 as compared to FY 2014. Seizures originating from China, as a percentage of seizures from all sources countries, increased from 45 percent in FY 2014 for 49 percent in FY 2015. Seizures from Singapore increased from two percent to five percent, and seizures from Romania increased from less than one percent to one percent. The majority of counterfeits coming from Singapore are goods that are made in China and transshipped through Singapore.

Question#:	6
Topic:	Keeping Troops Safe
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In your written testimony, you mentioned a few IPR Center programs that target counterfeits in the military supply chain. Can you tell us more about what the IPR Center does to keep our troops safe from counterfeits?

Response: Operation Chain Reaction (OCR) is a National Intellectual Property Rights Coordination Center (IPR Center) initiative that combines the efforts of 16 federal law enforcement partner agencies to target counterfeit items entering the Department of Defense (DoD) and other U.S. Government agencies' supply chains. OCR-partner agencies coordinate their efforts to more productively protect the U.S. Government supply chain from substandard counterfeit parts that could impact the reliability of weapons systems, delay DoD missions, imperil the safety of servicemen and women, and waste taxpayer money.

In fiscal year 2015, U.S. Immigration and Customs Enforcement initiated 36 cases, conducted 10 criminal arrests, and obtained 13 indictments resulting in 10 convictions under OCR. Many of these investigations were worked in conjunction with IPR Center partners.

As part of OCR, IPR Center partners are conducting ongoing presentations to DoD and other government entities on the threat counterfeits pose to DoD supply chains. The IPR Center is also working with the DoD to aid their ongoing efforts to improve their procurement process.

Additionally, the IPR Center conducts webinars to educate field agents and prosecutors on how they can effectively bring IP infringers to justice and protect the DoD's supply chain. In addition to the webinars, there have also been in-person trainings in Long Beach, California and Tampa, Florida, with another one scheduled for the Long Island/Newark area.

Question#:	7
Topic:	Private Industry
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What can private industry do better to improve your pursuit of counterfeiters?

Response: One of the most effective activities that private industry can undertake to improve pursuit of counterfeiters is to report any allegations of counterfeit or pirated goods; register their trademarks, copyrights or; record their products with U.S. Customs and Border Protection; and educate consumers on the dangers of counterfeit goods.

The Intellectual Property Rights Coordination Center (IPR Center) encourages private industry to report specific allegations of intellectual property violations to U.S. Immigration and Customs Enforcement (ICE) at one of our 26 Homeland Security Investigations Special Agent in Charge offices, provide information through the Report IP theft button on the IPR Center’s website at www.iprcenter.gov, or contact our hotline at 1-866-IPR-2060. We provide suggestions on our website on the types of information that are helpful to investigations. The IPR Center also encourages members of industry to visit the IPR Center to learn more about our intellectual property investigations through interaction with ICE’s 22 partner agencies.

Another of the most effective tools industry can employ is to educate consumers. Public service announcements are an excellent example. Educating the public on the dangers of counterfeits and the ways in which counterfeits are sold and advertised is one of the most effective ways to eliminate the demand for counterfeit goods. The public needs to understand not only that counterfeits exist across all product types, but the effect counterfeits have on the worldwide economy and what to do if they encounter a counterfeit product.

Question#:	8
Topic:	Legislative Help
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Is there anything that Congress should consider in terms of legislation to help address the counterfeiting problem and specifically counterfeits that directly impact the health and safety of consumers?

Response: As noted within the Administration’s White Paper on Intellectual Property Enforcement Legislative Recommendations,⁵ there are legal limitations that hinder the ability of U.S. Immigration and Customs Enforcement to effectively combat intellectual property theft. In particular, the list of offenses in 18 U.S.C. § 2516(1) for which the U.S. Government is authorized to seek wiretap authority from a court to obtain interceptions of wire or oral communications as evidence of those offenses does not currently include criminal copyright (17 U.S.C. § 506, 18 U.S.C. § 2319) and criminal trademark offenses (18 U.S.C. § 2320). The enhancement of wiretap authority would assist U.S. law enforcement agencies with the effective investigation of copyright and trademark violations , including in instances where counterfeit goods directly impact the health and safety of consumers, particularly in organized crime.

Additionally, because infringement by streaming remains a misdemeanor, it is often difficult to justify the use of investigative and prosecutorial resources for such violations. The availability of more significant penalties, in appropriate circumstances, for infringement by streaming or by means of other similar evolving technology would assist U.S. law enforcement in effectively combatting infringement involving new technology.

⁵ https://www.whitehouse.gov/sites/default/files/ip_white_paper.pdf

Question#:	9
Topic:	Intellectual Property Enforcement
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The Trade Facilitation and Trade Enforcement Act of 2015 contains a number of provisions to boost our intellectual property enforcement capabilities. You mentioned in your testimony about the efforts the IPR Center is undertaking to implement these provisions. Could you elaborate on where you stand on those efforts? Specifically, can you comment on the current status of information sharing efforts among government agencies, and between government agencies and private actors, to combat counterfeiting as required by Trade Facilitation and Trade Enforcement Act?

Response: Several of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) provisions directly impact U.S. Immigration and Customs Enforcement's (ICE) trade fraud, intellectual property, and forced labor enforcement missions. Specifically, the TFTEA enhances the ability of the Federal Government to combat intellectual property violations. The National Intellectual Property Rights Coordination Center (IPR Center) and ICE are currently implementing the Act's requirements, working closely with their partners in the federal government, including U.S. Customs and Border Protection (CBP), the Department of Homeland Security (DHS), and the Intellectual Property Enforcement Coordinator (IPEC). The IPR Center welcomes this new focus and is rapidly ramping up its efforts to enforce IP laws.

The IPR Center has met with CBP, DHS, IPEC and the Department of Justice to further increase information sharing as required by the TFTEA. Some of the initial initiatives in development include the following:

- ICE Special Agent in Charge Offices are currently developing strategic plans to enhance trade enforcement, including intellectual property investigations, at the regional level.
- ICE and CBP continue collaboration to open additional Trade Enforcement Coordination Centers (TECCs) at major ports of entry. TECCs ensure joint ICE and CBP oversight and prioritization of the enforcement and interdiction process, and they increase direct communication.
- In Fiscal Year 2015, the IPR Center created a new lead intake form (via a button on www.iprcenter.gov). The new form, will enable the IPR Center to more efficiently collect and track actionable information reported by the general public, industry, trade associations, law enforcement and government agencies.

Each of these initiatives will increase information sharing at the regional and national levels, and further information sharing efforts are being developed as resources become available.

Question#:	10
Topic:	Improve Information Sharing
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What additional tools or mechanisms would improve the information sharing regime?

What is being done or should be done to make sure that the provisions of the Trade Enforcement and Trade Facilitation Act of 2015 – and especially the information sharing provisions—are implemented swiftly and effectively?

Response: The National Intellectual Property Rights Coordination Center (IPR Center) is working closely with U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), the Department of Homeland Security (DHS), and the IPR Center partner agencies to swiftly and effectively implement the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA).

Information sharing as outlined in the TFTEA is a significant undertaking. The IPR Center is in the process of implementing these requirements using existing tools, and is identifying resources to develop new tools to aid in meeting these requirements. In Fiscal Year 2015, the IPR Center created a new lead intake form (via a button on www.iprcenter.gov). The new form will enable the IPR Center to more efficiently collect and track actionable information provided by the general public, industry, trade associations, law enforcement and government agencies.

The DHS Office of Policy, ICE, and CBP have formed a working group that meets bi-weekly to coordinate TFTEA implementation efforts, including identifying mechanisms to further promote information sharing. ICE is continuing efforts to identify resources to aid in implementing TFTEA requirements, which includes several new mandates to expand outreach, training, and international and domestic collaboration, without accompanying funding or additional personnel.

Using existing resources:

- Each ICE Special Agent in Charge office is working to develop a Commercial Fraud Reinvigoration Plan that will identify concrete efforts to enhance trade fraud and intellectual property theft investigations.
- ICE and CBP have established seven Trade Enforcement Coordination Centers and are in the process of expanding to additional locations in El Paso, Texas; Buffalo, New York; and San Juan, Puerto Rico to increase collaboration in the field.

Question#:	10
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Committee:	JUDICIARY (SENATE)

- The IPR Center continues to co-host the 2-week advanced training Intellectual Property and Trade Enforcement Investigations Course with CBP, which was recently revised and updated. This training is provided to CBP and ICE personnel to gain a better understanding of trade fraud and intellectual property investigations and current priorities.
- ICE is working closely with CBP to update CBP's regulations to codify and implement the repeal of the consumptive demand clause and is developing a strategy to enhance cooperation on forced labor investigations.

Question#:	11
Topic:	Foreign Law Enforcement
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: How do foreign law enforcement and other authorities deal with dangerous counterfeits? Are counterfeits a priority for foreign law enforcement and other authorities?

Response: U.S. Immigration and Customs Enforcement (ICE) works closely with our foreign law enforcement partners to promote best practices to investigate and prosecute those involved in producing and trafficking counterfeit goods. As each country is different, there is no “one size fits all” approach to combating counterfeit goods, and combatting counterfeiting is prioritized differently around the world based on competing interests.

The National Intellectual Property Rights Coordination Center (IPR Center) shares investigative outcomes and trend information that it obtains through cooperation with our foreign counterparts with interagency partners to further inform the U.S. Trade Representative’s Special 301 report.

During FY 2015, products from China accounted for an estimated 52 percent of the total value of the intellectual property rights (IPR) infringing products seized in the United States. Products transshipped through or designated as originating from Hong Kong, accounted for an additional 35 percent of the estimated total value of seizures. Together, products from these two economies accounted for 87 percent of the total seizure value by U.S. Customs and Border Protection and ICE.

The IPR Center continues to work with foreign law enforcement and other authorities to educate and emphasize the importance of IPR protection especially as it relates to health and safety. The IPR Center also participates in U.S. Government working groups to encourage foreign entities to notify or take action on counterfeit goods transiting their ports.

In FY 2015, ICE, through the IPR Center and in conjunction with INTERPOL, conducted law enforcement training programs in the United Arab Emirates, the Dominican Republic, Saudi Arabia, Costa Rica, Mexico, South Korea, Kuwait, and Panama. ICE trained officials and police officers from Saudi Arabia, the United Arab Emirates, Qatar, Bahrain, the Dominican Republic, Costa Rica, Morocco, Belize, Colombia, Curacao, Guatemala, Jamaica, Nicaragua, St. Kitts and Nevis, Venezuela, Mexico, Panama, and Brazil. The IPR Center also conducted an advanced intellectual property training program at the International Law Enforcement Academies in Budapest, Hungary, for participants from Albania, Romania, Moldova, and Hungary.

Question#:	12
Topic:	IPR Center Abroad
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What does the IPR Center do to help fight against counterfeiting abroad in terms of building capacity overseas or promoting international education?

Response: The National Intellectual Property Rights Coordination Center (IPR Center) participates in international training and capacity building programs. The IPR Center works closely with its partner agencies, international attaché networks, and local U.S. embassies to deliver training and support capacity building bilaterally and through international organizations, such as INTERPOL and the World Customs Organization. For instance, in Fiscal Year (FY) 2015, U.S. Immigration and Customs Enforcement (ICE), through the IPR Center and in conjunction with INTERPOL, conducted law enforcement training programs in the United Arab Emirates, the Dominican Republic, Saudi Arabia, Costa Rica, Mexico, South Korea, Kuwait, and Panama. ICE Homeland Security Investigations trained officials and police officers from Saudi Arabia, the United Arab Emirates, Qatar, Bahrain, the Dominican Republic, Costa Rica, Morocco, Belize, Colombia, Curacao, Guatemala, Jamaica, Nicaragua, St. Kitts and Nevis, Venezuela, Mexico, Panama, and Brazil. The IPR Center also provides instructors and materials to International Law Enforcement Academy training in Botswana, Thailand, Hungary, Peru, and El Salvador as requested.

Most of the IPR Center-sponsored international training efforts are funded by the Department of State (DOS) Bureau of International Narcotics and Law Enforcement Affairs. These IPR Center-led outreach and training programs are designed to increase information sharing with the public and private sectors to combat the illegal importation and distribution of counterfeit, substandard, and tainted goods. Through outreach and public engagement, the IPR Center raises the public's awareness of the dangers of trade-based violations, while serving as a public point of contact for investigative leads. The IPR Center's target audience includes a broad spectrum of industries and government agencies including, but not limited to, pharmaceutical, entertainment, apparel, sports, electronic and automobile manufacturers, customs-bonded entities, importers, and law enforcement officials.

The IPR Center also supports the U.S. Patent and Trademark Office international training events at their Global IP Academy and hosts visits by international law enforcement and customs officers participating in the DOS's International Visitor Leadership Program and the Department of Commerce Commercial Law Development Program. Through these collective efforts, the IPR Center is enhancing cooperation, increasing skill sets, and

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Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

facilitating relationships with international partners that are critical in addressing intellectual property theft abroad.

In FY 2015, the IPR Center reached 21,456 people via 422 outreach and training events. The number of people reached in FY 2015 included 4,516 foreign government and industry representatives. In FY 2014, the IPR Center reached 19,824 people by conducting 290 outreach and training events. These efforts included approximately 3,839 foreign government and industry personnel.

Question#:	13
Topic:	Global Agriculture Crop Protection
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: I understand that the illegal production and trade of counterfeit crop protection is a major problem in the global agricultural industry, causing dangerous consequences that affect the entire agricultural production chain and jobs in the United States. Over \$1 billion of the \$58 billion international trade in crop protection chemicals is estimated to be produced illegally, either by counterfeited patented and branded chemicals or by illegally producing chemicals legally registered by other parties that may not be intended for these uses. What role can the IPR Center play to combat this issue?

Response: The National Intellectual Property Rights Coordination Center (IPR Center) works closely with our law enforcement counterparts and the private sector to address new and emerging trends in counterfeits, such as counterfeit crop protection. Counterfeit agricultural products pose a threat to a very important sector of the U.S. economy and to the health and safety of American consumers.

The IPR Center works in close coordination with the Commercial Targeting and Analysis Center (CTAC), which is an interagency import safety center based at U.S. Customs and Border Protection's Office of Trade. The CTAC's mission is to facilitate information sharing and leverage the collective resources of participating government agencies to prevent, preempt, deter and refer for investigation violations of importation laws that affect U.S. interest in the import safety environment. This is achieved by creating a multi-agency fusion center that develops, implements, and streamlines joint targeting procedures to enhance federal targeting efforts on shipments posing a threat to the health and safety of the American public. CTAC has a number of participating federal agencies with diverse jurisdictions, including the U.S. Environmental Protection Agency, which has a direct mission to protect human health and the environment. The IPR Center works closely with CTAC when intellectual property theft impacts import safety.

As specific information becomes available, industry and private individuals are encouraged to provide input through the Report IP Theft Button on www.iprcenter.gov or through calling the IPR Center's hotline. Actionable information can be vetted through the IPR Center's partners for appropriate enforcement actions.

Question#:	14
Topic:	Illicit Products Reaching the U.S.
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Production of counterfeit and illegal crop protection products has exploded over the past decade. The producers have become increasingly sophisticated as illicit products are now leaving the countries where they are produced and are entering the international market. Illicit manufacturing is an organized, criminal conspiracy that breeds corruption and puts consumers in danger. I understand that the crop protection chemical industry routinely identifies illicit products made in China entering Brazil via Uruguay, as well as entering Southeast Asia, India, Ukraine and other countries in Eastern Europe. Do you have any knowledge of these products reaching NAFTA countries and the U.S. market?

Response: Over the past two years, the National Intellectual Property Rights Coordination Center (IPR Center) has met with companies, such as Dow Corning, 3M, and DuPont, to discuss challenges related to counterfeiting in the agricultural industry. This ongoing dialogue and awareness building is important, and the IPR Center encourages impacted brand holders to continue to discuss enforcement options with the IPR Center and its partners.

The IPR Center is not currently aware of the specific routes of illicit crop production chemicals described in the posed question. As detailed information becomes available, industry and private individuals are encouraged to provide input through the Report IP Theft Button on www.iprcenter.gov or by calling the IPR Center's hotline. Actionable information can be vetted through the IPR Center's partners to take appropriate enforcement actions.

IPR Center personnel are available to meet for further discussion on this issue, including possible appropriate enforcement action.

Question#:	15
Topic:	Small Parcel Inspection
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Increasingly, counterfeits are entering the country in small parcels sent directly to consumers, instead of in large shipments that are easy for Customs & Border Protection (CBP) to detect. How is law enforcement responding to this problem?

Response: In the international mail environment, U.S. Customs and Border Protection (CBP) is conducting a pre-arrival data initiative with China Post and La Poste (France), which is intended to improve CBP's targeting capabilities and uncover areas where increased efficiencies could potentially exist. CBP is also conducting a pilot with the United States Postal Service to test advanced electronic data on international mail packages from Australia, Canada, China, France, Hong Kong, South Korea, Singapore, Spain, and the United Kingdom. The data provided for mail from France and China covers express parcels and e-packets (e-commerce), respectively.

The express consignment (ex. FedEx, UPS, DHL) environment is highly automated. Prior to arrival of parcels, CBP reviews manifest information transmitted into the Automated Targeting System (ATS) by the express consignment operator to identify those shipments requiring inspection.

All packages and parcels presented to CBP in both the international mail and express consignment environments are screened through the use of detection technology equipment such as X-ray and Radiation Portal Monitors.

Question: Is there more that the private sector, including delivery services, can do to assist you in this work?

Response: Partnerships with the private sector are necessary and must continue to be forged for an effective process to be developed. The concept of 40' container full of IPR-infringing merchandise has taken a back seat to the direct-to-consumer small package arriving via an express consignment carrier or international mail. Through regular engagement, CBP and private sector partners are able to share information on industry trends and product-specific issues. By understanding the needs of stakeholders and their processes for doing business, CBP is better able to adapt law enforcement efforts to keep up with evolving business models.

Recognizing the U.S. Postal Service is not private sector, they nevertheless can play a vital role in helping to address the increasing volume of small parcels input through their environment by continuing to work with CBP and the international postal community,

Question#:	15
Topic:	Small Parcel Inspection
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

through the Universal Postal Union, to promote and support the requirement for advance electronic data. This would allow CBP to apply targeting mechanisms in order to facilitate legitimate mail packages and identify those that pose a national security or public safety risk.

Question#:	16
Topic:	Recording of Design Patents
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: In his testimony, Mr. Maguire recommended that CBP should enable the recording of design patents to facilitate CBP's seizure of counterfeit products. Are you willing to facilitate a conversation to explore whether this would be an effective tool?

Response: U.S. Customs and Border Protection (CBP) recognizes the desire to provide for design patent enforcement at the border, but believes that patent infringement, to include design patents, is best addressed at the border by CBP's enforcement of exclusion orders issued by the U.S. International Trade Commission under 19 U.S.C. § 1337. We also note that current law does not provide for criminal enforcement of patent rights, including design patents. Therefore, as with respect to exclusion orders issued by the U.S. International Trade Commission, any enforcement action would be limited to civil administrative action by CBP.

As a general matter, we note that design patent enforcement, unlike CBP's enforcement against counterfeit trademarks and piratical copies, where agency action is premised largely on a factual determination, is resource intensive and must be undertaken principally by Headquarters officials. Design patent infringement determinations would involve mixed questions of law and fact and would therefore require, were there a grant of legislative authority, a significant expansion of CBP resources to handle the additional workload that would likely consist, among other things, of making the infringement determination, adjudicating any administrative challenges to that determination, and assisting with litigation arising from judicial review of that determination.

Question#:	17
Topic:	Educating Other Governments
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Mr. Maguire testified about how Revision Eyewear lost a contract in the Ukraine to a competitor that was providing counterfeit versions of Revision's product. The competitor even submitted Revision's own test data with its replicas. What is the United States government doing to educate other governments about the safety risks and broader economic effect of purchasing counterfeits of American goods?

Response: The U.S. Government continues to engage in training and capacity building programs to strengthen intellectual property awareness and enforcement internationally.

U.S. Immigration and Customs Enforcement (ICE), through its 62 overseas offices in 46 countries, works closely with international law enforcement to increase awareness about the risks of purchasing counterfeit goods and pirated content, to share enforcement information, and to assist in capacity building. The National Intellectual Property Rights Coordination Center (IPR Center) works in tandem with its partner agencies, international attaché networks, and local U.S. embassies to deliver training and support capacity building bilaterally and through international organizations, such as INTERPOL and the World Customs Organization. In Fiscal Year (FY) 2015, the IPR Center conducted 102 international outreach events and 23 international training events. In FY 2015, ICE through the IPR Center and in conjunction with INTERPOL, conducted law enforcement training programs in the United Arab Emirates, the Dominican Republic, Saudi Arabia, Costa Rica, Mexico, South Korea, Kuwait, and Panama. ICE trained officials and police officers from Saudi Arabia, the United Arab Emirates, Qatar, Bahrain, the Dominican Republic, Costa Rica, Morocco, Belize, Colombia, Curaçao, Guatemala, Jamaica, Nicaragua, St. Kitts and Nevis, Venezuela, Mexico, Panama, and Brazil. The IPR Center also provided instructors and materials to International Law Enforcement Academy training in Botswana, Thailand, Hungary, Peru, and El Salvador as requested. During these trainings, the IPR Center discusses supply chain security and gives case and product examples.

More comprehensive information on the efforts of other Federal Government agencies to work with their international partners can be found in the Annual Report of the Intellectual Property Enforcement Coordinator at <https://www.whitehouse.gov/sites/default/files/omb/IPEC/fy2015ipeccannualreportchairmangoodlatteletter.pdf>

Question#:	18
Topic:	Websites Selling Counterfeit Products
Hearing:	Counterfeits and Their Impact on Consumer Health and Safety
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: There are many ways to get counterfeit products into the market, but third party websites are one of the most widespread and flagrant. We have seen some websites shut down, but it is still too easy to find online sources for counterfeit products. What efforts are being taken to shut down websites selling counterfeit products? What are the biggest obstacles in the way, and how can we fix them?

Response: The National Intellectual Property Rights Coordination Center (IPR Center) has created a guide for industry on the different processes that exist for Third Party Marketplaces to report counterfeit and pirated merchandise and content on their sites. The guide provides industry with reference information on how to report counterfeit and pirated merchandise and content. Additionally, the IPR Center has initiated an ongoing dialogue with online marketplaces. Where possible, we will work with them to recommend detection methods and law enforcement lead referral mechanisms. Liaising with the marketplaces can be effective as long as the dialogue occurs on a regular basis, preferably in person, to account for changes in personnel and/or policy within the marketplace.

In 2014, the IPR Center updated the Operation In Our Sites (IOS) strategy to focus on prosecutable long-term investigations that identified targets, assets, and financial schemes used in operating the infringing websites domestically and internationally. The Rocky Pon Ouprasith investigation (OUPRASITH), conducted by U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations' (HSI) Norfolk field office, is an example of the investigations ICE is working under this new strategy.

This international investigation revealed that OUPRASITH offered thousands of music singles, music videos, and hundreds of albums and mix tapes for download. OUPRASITH also obtained content by encouraging users to be "affiliates" and upload music to his website. On November 17, 2015, OUPRASITH was sentenced to 36 months' imprisonment, two years supervised release, forfeiture of \$50,851.05, and \$48,288.62 in restitution.

Additionally, under IOS, ICE encourages rights holders to utilize their civil legal and administrative remedies to shut down infringing websites on the internet. The IPR Center also created an Anti-Piracy/Counterfeiting Banner (Banner) for rights holders to use to re-direct visitors from the civilly seized infringing websites. This Banner is informational and provides a conduit for the public to provide information on IPR

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violations and also serves as a method of educating the public about intellectual property (IP) theft.

The IPR Center sees a future challenge in the diverse response online marketplaces take to combatting IP theft. Some are more proactive and willing than others to engage in an open dialogue. The IPR Center will continue to work closely with the marketplaces to enhance IPR protection. These complex issues can only be addressed through cooperation between the public and the private sector.