

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503
WWW.WHITEHOUSE.GOV/OMB**

**Testimony of Victoria Espinel
Intellectual Property Enforcement Coordinator, Office of Management and Budget
Before the Committee on the Judiciary
United States Senate
June 23, 2010**

Chairman Leahy, Senator Sessions, and members of the Judiciary Committee: Thank you for your continued leadership on this important issue.

I sit here today humbled by my recent confirmation and service to the President as the first Intellectual Property Enforcement Coordinator on a vital issue facing American businesses and American consumers in the 21st Century. Congress created my office in an important first step at reform and the response has been overwhelmingly supportive. I feel privileged to have the opportunity to work with you on this effort.

Congress tasked the Administration with developing and implementing a U.S. government strategy to tackle a wide range of problems associated with intellectual property enforcement and today, I'm pleased to present you with our strategy.

This first strategy reflects the hard work of, and coordination between, numerous U.S. government agencies – including many dedicated public servants and law enforcement officials - the public, the private sector, and my small but hard-working office. But, the release of this strategy marks the commencement of a long process and much hard work lies ahead.

The country needs America's ingenuity now more than ever. It is American innovation that drives our economy and keeps people working. And that makes our intellectual property

enforcement efforts all the more critical. We need a new course - one that will protect those ideas and help the American economy to thrive again.

In this strategy, we have attempted to capture the significant issues that require immediate attention. We'll be targeting counterfeiters and pirates, not those engaged in legal and legitimate activities. Increased coordination, cooperation, and prioritization must accompany this first step. And legislative action may be required in order to fulfill our goals.

The United States has always been a global leader in developing new technologies in intellectual property-related industries. We lead the way in bringing new pharmaceuticals to consumers, inventing tires that keep families safe on the road, developing environmentally-conscious technologies, creating innovative software products and producing films, music and games craved by consumers throughout the world. However, our leadership in the development of innovative technology and creative works also makes us a global target for theft.

For those reasons, strong enforcement of our intellectual property is critical. Combating counterfeiting and piracy is an economic concern, it is a national security concern, and it requires a robust federal response. Strong intellectual property enforcement saves American jobs, it creates American jobs, it protects American ideas and it invigorates our economy. The revenue lost to American businesses from intellectual property theft carries with it lost funding for public services to compound the harm caused to our economy.

Counterfeiting and piracy affects a vast range of businesses and industry sectors. As part of our efforts to develop this strategic plan, we asked the public for input so the Administration could understand their concerns directly and we received over 1,600 responses. My office reviewed all of those responses and we posted them on our website. Anyone who is interested can see what we are taking into account. I also met with many companies, across a broad

spectrum of America's industries, as well as unions, academics and consumers groups to engage them about where the problems in intellectual property enforcement lie and to find out what we can do to make things better for the many Americans and American industries that depend on intellectual property for success. The strategy reflects the recommendations that came from the public.

I also want to emphasize that the development of this strategy was an inter-agency collaboration. Justice, Homeland Security, Commerce, USTR, HHS, State and others – all worked tirelessly to make this an excellent and forward leaning strategy.

The overarching mission of this strategy is to ensure that all of the agencies that have a hand in enforcing intellectual property are working together in a coordinated fashion -- and in a manner that is consistent with the priorities of the Administration. With increased cooperation and coordination, this plan has the ability to alter our approach to intellectual property enforcement for the better for many years to come. To do so, we are taking some new bold steps and we look forward to partnering with you.

- The U.S. Government will work to collect and analyze data to determine jobs and exports that are generated by the intellectual property-intensive industries. We will also start collecting annual data on U.S. Government resources spent on intellectual property enforcement to make certain that we are using those resources efficiently. This information may take some time to gather, but will be valuable to better inform our approach in years to come.
- We will lead by example. We are establishing a government-wide procurement working group which will prepare recommendations on how to reduce the risk of the procurement of counterfeit products. And we will review our policies and practices to promote legal use of software by Federal government contractors.

- This Administration is strongly committed to transparency in our policy making. Both the process through which the strategy was developed and the substance of the strategy reflect that. We will increase information-sharing with rightholders. We will make sure that victims know how and where to report a potential intellectual property crime. And we will work to ensure that victims of crimes and the public are appropriately informed of our law enforcement activities.
- In order to reduce duplication and waste, we will ensure that federal agencies are coordinating, cooperating, and offering broad participation on this issue. We will also help state and local law enforcement coordinate their responses with federal agencies in an effort to help reduce duplication of resources and conflicts among and between law enforcement agencies.
- We will improve the effectiveness of U.S. Government personnel overseas to combat intellectual property infringement. Therefore, we will strive to station overseas personnel in countries of top concern. We will also improve coordination of international capacity building and training so that foreign governments have the tools necessary to strengthen intellectual property protection on their own.
- We will work with foreign governments to increase foreign law enforcement efforts and promote enforcement of American intellectual property rights through trade policy tools, such as trade agreements and “Special 301” action plans.
- We are establishing a counterfeit pharmaceutical interagency committee to examine the numerous problems associated with unlicensed internet pharmacies, health and safety risks in the United States associated with the distribution of counterfeits, and the proliferation of the distribution of counterfeit pharmaceuticals abroad. And to further guard against the proliferation of counterfeit drugs, we will increase our enforcement efforts and cooperation with relevant agencies - including CBP, DEA, and FDA.

- In order to reduce counterfeit goods in our supply chain, we want to encourage voluntary disclosure when importers discover that they are transporting counterfeit goods without knowledge. We're proposing legislative changes to encourage them to come forward.
- We need to facilitate cooperation to reduce intellectual property infringement occurring over the internet. It's important for the private sector to work to find practical and efficient solutions to the problems on their own. In the meantime, we will also be exploring alternative measures to reduce piracy.
- For example, we will go after the foreign-based websites and web services that infringe our intellectual property rights utilizing a combination of tools, including law enforcement, diplomatic measures, and coordination with the private sector.
- We will also conduct a comprehensive review of existing intellectual property laws to determine where legislative changes are needed to improve our enforcement, including to address the problem of internet piracy. We will be presenting those to you for your review and consideration.
- Finally, we will undertake a comprehensive review of efforts to support U.S. businesses that face difficulties enforcing their intellectual property in overseas markets in order to ensure that American rights are respected and enforced in global markets, including China.

I've stated some ambitious goals. This Committee has been steadfast in its fight for justice for the American people. I commend your leadership on these issues and I look forward to working closely with this Committee in the coming months on improving our enforcement efforts - here and abroad. I look forward to your questions.