

**INTA SUBMISSION ON THE REQUEST FOR PUBLIC COMMENT REGARDING
THE 2ND JOINT STRATEGIC PLAN FOR IP ENFORCEMENT**

*for the Office of the Intellectual Property Enforcement Coordinator (IPEC)
through the Office of Management and Budget*

August 10, 2012

Introduction

The International Trademark Association (INTA) welcomes the opportunity to respond to the request of the Intellectual Property Enforcement Coordinator (IPEC) for comments to the second Joint Strategic Plan.

INTA is a membership association of more than 5,900 trademark owners and professionals from more than 190 countries. The organization is dedicated to the support and advancement of trademarks and related intellectual property (IP) as elements of fair and effective national and international commerce.

INTA congratulates the enforcement agencies and the IPEC for notable achievements in improving the fight against counterfeits and other IP infringements including:

- Increased effectiveness of law enforcement through better coordination and training which resulted in an increase in investigations and cases;
- Gathering of relevant stakeholders in discussions on how to address online counterfeiting, one result of which was the formation of the Center for Safe Internet Pharmacies; and
- Release in 2012 of the first study on the value of IP to the United States economy, which was entitled “Intellectual Property and the U.S. Economy: Industries in Focus.”

INTA believes that building on the momentum of the achievements thus far, IPEC can take further steps to improve current enforcement efforts and to address new trends in IP infringements, particularly those relating to trademarks. The comments below follow the format of the Federal Register Notice with our strategic recommendations in Part I and our comments on the threats to the economy and health and safety in Part II.

PART 1: STRATEGIC RECOMMENDATIONS

IPEC should continue to work towards the original objectives of the Joint Strategic Plan as well as recognize new challenges and trends in counterfeiting and parallel imports. We provide our comments on the Joint Strategic Plan based on those objectives.

Objective 1: Reduce the supply of infringing goods domestically and internationally

Since counterfeit goods enter the United States and are accessed by consumers in a number of ways, INTA highlights the following areas each of which should receive equal consideration.

1) *Enhance and streamline customs processes and border protection.*

Customs processes provide the ability to prevent the entry of counterfeit merchandise into U.S. commerce. As greater emphasis has been placed on this function of U.S. Customs and Border Protection (CBP), recent annual statistics of seizures demonstrate significant improvement. However, reference to seizures alone does not adequately measure the sufficiency of steps that need to be taken to eliminate this continuing threat to the U.S. economy and public health and safety.

INTA recognizes CBP's current efforts to work on a process and method to distinguish between high and low risk shipments, which would help to make CBP's intellectual property rights (IPR) targeting system more efficient and effective. INTA encourages continued work on this process. Furthermore, INTA recommends the following:

- Revise CBP's statutory authority to consult with rights holders about suspect merchandise presented for clearance at the ports. This should permit CBP officers to communicate freely about the characteristics of that merchandise and provide unredacted samples so that infringing products can be identified. Currently, the Interim Rules allow for unredacted samples to be shared with the rights holder after a period of seven days within which the importer is given the opportunity to identify whether the goods are fake or real. INTA believes that the rights holder is best equipped to confirm whether the goods are authentic. If the objective of the procedure is to determine the authenticity of the goods as quickly as possible, then the seven-day waiting period is not appropriate to accomplish the objective. Please see Attachment 1 for INTA's submission on the CBP's consultation on the Interim Rules.
- Make improvements to the recordation system so that trademarks can be seamlessly registered at the U.S. Patent and Trademark Office (USPTO) and immediately recorded at CBP. This would also help to increase the number of rights holders' recordations with Customs.
- Allow for electronic renewal of trademark rights in customs recordation databases. While initial recordation of registered trademarks via CBP's online website is smooth and seamless, the renewal process is inefficient. In order to renew the recordation, the intellectual property rights owner must mail a physical request to the Chief of the IP Rights & Restricted Merchandise Branch. We recommend that in the interest of saving time for all parties and cutting down on unnecessary paperwork, CBP allow renewal of these same trademark recordation rights via its existing online portal.
- Provide adequate resources for CBP field operations with personnel dedicated to IPR enforcement to develop expertise, provide a focal point for training and ensure the sufficiency of those assigned to interdict counterfeit goods.

- Expand CBP's administrative authority to detain and seize clearly infringing, though unrecorded merchandise.
- Publicize among brand owners the availability of the continuous bond. Improve the accessibility of the continuous bond requirement and review and revise the hold harmless agreement for the continuous bond. INTA would be pleased to assist with publicizing this to its membership.
- Allow a mechanism for providing CBP with a list of known sources of pirated goods. This list could include convicted persons and entities. Also, give the public access to information provided to CBP of known sources of counterfeit goods. Customs could add this information to its database and enhance the effectiveness of its targeting.

2) *Strengthen anticounterfeiting enforcement and legislation at the state level.*

Training for state and local law enforcement is an important component in rooting out counterfeiters and fake merchandise. The Department of Justice (DOJ) and other enforcement agencies have thus far provided valuable training opportunities throughout the country in which INTA has participated. Recent trends and challenges in anticounterfeiting, such as the prevalence of online websites selling counterfeits, and education on how to address these issues at the state level should be incorporated and updated in training materials. INTA also encourages the continuation of grants and resources allocated to these events so that every law enforcement official can be properly educated about counterfeiting and its adverse effects on the local and global economy.

Changes to relevant state laws to allow for measures to meaningfully disrupt the illegal business of vendors who sell counterfeit goods through leased premises should also be adopted by the states. These may include laws that do not specifically address trademarks or counterfeiting but open avenues to facilitate prosecutions. Companies have been pursuing theories of third party liability against landlords or other property owners at locations where counterfeit goods are sold. This approach has been effective in New York City where sales of counterfeits are centralized in certain areas of the city. The New York Real Property Law contains a section that specifically supports a finding of liability against a landlord for illegal acts committed by a tenant on the premises if the landlord was aware of the illegal acts and failed to take appropriate action. The New York state courts have concluded that trademark counterfeiting is an illegal activity under this statute, and it is therefore applicable to situations where counterfeit goods are sold from the premises. This principle is applicable to *areas* such as flea markets as well as *premises* like buildings. Although changes to state laws are not a federal matter, IPEC should encourage state legislators and law enforcement to adopt and implement these measures.

In addition, INTA is willing to work with state legislatures in adopting INTA's Model State Anticounterfeiting law which would provide additional tools for law enforcement in prosecuting those engaged in counterfeiting activities. Please see Attachment 2 for the model bill for your reference.

3) *Recognize and address through practical and cooperative measures the increasing challenge of the sale of counterfeit products on the Internet*

The availability of counterfeits on the Internet through marketplace sites, search engines, independent websites and now, increasingly, social media sites is a significant concern for trademark owners and other Internet stakeholders. The Organization for Economic Cooperation and Development (OECD) noted in the recent study on “The Economic Impact of Counterfeiting and Piracy” that the Internet has provided counterfeiters with a new and powerful means to sell fake products. MarkMonitor estimates that global sales of counterfeit goods via the Internet from illegitimate retailers will reach \$135 billion in its 2010 “Seven Best Practices for Fighting Counterfeit Sales Online” article. According to the U.S. Department of Justice’s 2010 Performance and Accountability Report, 17.5% of total Internet traffic is on sites with infringing activity in the U.S. alone. This is further supported by trends shown in CBP seizure statistics indicating a shift towards using mail and consolidated shipping services to deliver counterfeit goods, which in turn is attributed to the growth of websites selling counterfeits.

INTA recognizes the efforts U.S. enforcement agencies, legislators and other stakeholders have taken to address the issue, which have had mixed results. Although addressing IP enforcement on the Internet is challenging, INTA encourages continued focus on tackling this important and evolving issue, as ongoing developments on the Internet will result in additional challenges in anticounterfeiting enforcement. This will necessitate further action and increased cooperation among stakeholders such as rights holders, consumers and government. In this regard, the IPEC office has a unique and important role to play in advocating for the protection of trademarks (and other intellectual property) on the Internet.

The following factors illustrate the numerous challenges trademark owners and law enforcement face in addressing illegal websites. We expand on a few of these important challenges below:

- an exponential increase in the number of new generic top-level domain names (gTLDs);
- cybersquatting;
- widespread inaccuracies in the contact information on registered domain names;¹
- growth of proxy/privacy services that shield the domain registrant’s contact information from public disclosure;
- lack of clear and enforceable contracts for domain name registration entities; and
- inadequate contractual compliance.

New Generic Top-Level Domain Names (gTLDs)

In June 2011, the Internet Corporation for Assigned Names and Numbers (ICANN), which operates through a framework agreement with the U.S. Department of Commerce, approved a plan to expand the number of new gTLDs in the domain name system. While this development presents some potential benefits to trademark owners, it also will dramatically

¹ See Draft Report on Whois Accuracy by The National Opinion Research Center (NORC)
<http://www.icann.org/en/compliance/reports/whois-accuracy-study-17jan10-en.pdf>

increase the sale of counterfeit products on the Internet by creating more avenues and opportunities for counterfeiters.

On June 23, 2012, ICANN received over 1,900 applications for approximately 1,400 unique generic top-level domains. In light of the size and breadth of the proposed expansion, INTA believes that ICANN must take action to ensure its newly developed and untested Rights Protection Mechanisms (RPMs) can be effective in protecting intellectual property and consumers, especially from the harmful sale of online counterfeits.

U.S. enforcement agencies must also anticipate and prepare for new challenges in fighting illegal websites as a result of this new development. The U.S. National IPR Coordination Center (IPR Center) and DOJ have made important progress in seizing infringing websites and disrupting online counterfeiting activities, but the introduction of new gTLDs challenge these efforts, with many of the new gTLD registries based outside the U.S. In addition, there will be an increased number of infringing sites and language barriers with the availability of new domains in different languages and scripts. INTA recommends dialogue to start as soon as possible to determine how new gTLDs will impact enforcement and what measures can be taken to prepare for the increase in counterfeiting activities online.

Cybersquatting

In addition to the overall challenge of the widespread availability of counterfeits on the Internet, the unauthorized use of trademarks as Internet domain names, commonly known as cybersquatting, also contributes to the sale of counterfeit goods and services on the Internet. Cybersquatting is an important aspect of the growing problem of counterfeits on the Internet and warrants a brief discussion.

Cybersquatters capitalize on the goodwill and recognition associated with trademarks to mislead consumers into believing they have reached their intended destination on the Internet by registering domain names in this misleading manner. Despite the considerable resources dedicated by trademark owners to address the growing problem of cybersquatting, this practice continues to impact organizations across all industry lines.

Proxy Services

Proxy/privacy services limit the public disclosure of contact information on registered domain names by 'masking' those contact details through the publication of alternative contact information. The problem created by proxy/privacy services is very serious. When used in conjunction with websites offering advertising or sale of counterfeit goods and services, these proxies can obstruct the ability of trademark owners and law enforcement to institute swift legal action to prevent the abuse of intellectual property and harm to consumers by hiding the identity and whereabouts of the infringer. Consequently, counterfeiters can simply move on to a new website when one is shut down. Therefore, shutting down a website is usually more of a short-term tactic, though effective in many cases, rather than a long-term method of stopping the sale of the counterfeit products on the Internet.

Hiding the Proceeds of Counterfeiting

Recent efforts to address counterfeiting online have taken the “follow-the-money” approach, which goes after the proceeds of the counterfeiting activity. INTA believes that it is important for courts and government authorities to recognize the importance of stemming the flow of funds that incentivizes trademark counterfeiting.

Websites offering counterfeits to consumers in the U.S. usually accept credit card payments. The payments are then funneled to bank accounts outside the United States, often by way of financial institutions that have both physical presence and permission to offer banking services in the United States, but that designate the relevant accounts as outside of United States jurisdiction. Many would-be counterfeiters, however, cannot or will not pursue counterfeiting operations unless they have some assurance that they will be able to hide the proceeds of their counterfeiting from the reach of law enforcement. If law enforcement can effectively cut off counterfeiters’ access to their profits, then this can be a potent tool to effectively deter the counterfeiter. This approach has been one of the most effective ways to combat online infringement in the copyright context.

Government agencies coordinated through IPEC have recently enjoyed some important successes in pursuing this goal. For example, the U.S. Immigration and Customs Enforcement (ICE)-led IPR Center and DOJ recently used a provision of the Patriot Act to seize proceeds of counterfeit sales that had been spirited to accounts outside the United States. After a criminal investigation of a counterfeiting operation revealed that counterfeiters used an e-commerce service to process payments for counterfeit goods and then wired the proceeds to bank accounts in China, the government obtained warrants to seize \$826,883 from branches of the relevant banks that are maintained inside the United States. Law enforcement should continue to prioritize these kinds of operations. At the same time, courts should allow trademark owners to utilize appropriate tools of civil litigation to seize the proceeds of unlawful counterfeiting operations. Finally, policymakers should support crucial policies that aim to stem the flow of funds derived from counterfeiting.

4) *Increase government public awareness campaigns to educate consumers.*

Consumer education on the adverse impact of counterfeiting on the economy and public health is crucial to curbing the demand for counterfeit goods. A strong government supported education program or campaign at national and state levels would make a meaningful impact on the attitude of both consumers who are consciously purchasing fake products as well as those who do so unknowingly but without adequate knowledge of the risks. Therefore, INTA is in strong support of the recent public awareness initiative launched by the National Crime Prevention Council and DOJ.

Involving industry or supporting industry efforts in the implementation of the education program is essential, particularly since trademark owners, who can be cautious about having the spotlight shone on their counterfeit problems, can pool information and examples for

these public education initiatives. Initiatives should also include approaches to educating consumers online and in areas where they are most exposed to counterfeiting sales².

Beyond exposing the dangers of counterfeiting, a strong national awareness program to educate the public about the value of intellectual property rights, its connection to people's everyday lives, economy and jobs, and why IP needs to be protected online and offline is needed now more than ever. The study released by the U.S. Department of Commerce and the Economic Statistics Administration entitled "Intellectual Property and the U.S. Economy: Industries in Focus," was a good and necessary step to building public awareness of the value of IP. INTA recommends that the IPEC and other government agencies to utilize the findings of the study by incorporating them into public awareness initiatives and linking them to the effects of IP infringement.

5) *Improve U.S. government enforcement efforts against parallel imports.*

"Parallel imports," otherwise known as "gray market goods," refer to goods that a U.S. trademark owner intended for sale outside the U.S., but which are purchased by a third party outside the U.S. who then provides such products to be imported for sale in the U.S. without the authorization of the U.S. trademark owner and which are in competition with the trademark owner's products intended for the U.S. market. Typically, these goods bear the same trademarks which can lead to confusion among consumers who believe that the imported goods are of the same quality and specification as the goods produced for the U.S. market. Indeed, consumers purchasing parallel imports that are materially different and who believe them to be the same as the U.S. goods risk being disappointed or harmed by the differences. Such consumer dissatisfaction is invariably directed at the brand owners, who never intended that those goods be sold in the market.

As a result, federal courts have recognized that such unauthorized importation of unauthorized goods into the U.S. infringes the U.S. trademark owner's rights if such goods are materially different from the U.S. goods. INTA thus believes that parallel imports should be included in the Joint Strategic Plan in order to improve U.S. government enforcement efforts against trademark infringement.

Gray market goods touch upon almost all industries that sell goods to consumers. For the information technology industry alone, gray market goods are a multi-billion dollar annual problem. In 2007, grey market goods racked up \$58 billion in sales just in the U.S. technology market, and this cost technology companies \$10 billion USD in profits, according to a December 2008 survey by KPMG and the Alliance for Gray Market and Counterfeit Abatement. INTA believes that the IPEC could play an important role in this area, countering unsafe and materially different gray market goods by: (1) encouraging better coordination among CBP, the Food and Drug Administration (FDA), the U.S. Postal Service, and other agencies with respect to materially different gray market goods; (2) supporting changes in the regulations that would make enforcement efforts more effective; and (3) by generally raising the awareness among government agencies that materially different gray market goods are an important issue that needs to be addressed.

² INTA recently launched its public awareness initiative targeted at teens in May 2012. The Unreal Campaign aims to raise awareness of the harms of counterfeiting and value of trademarks through the campaign (www.ina.org/unrealcampaign).

Objective 2: Promote information sharing between participating agencies to the extent permissible by law

INTA encourages increased information sharing and coordination between agencies internally and with trademark owners. Possible approaches to this area include:

- 1) Encourage each enforcement agency to create individual IP enforcement strategies that complement the Joint Strategic Plan and outline specific action steps and priorities to be undertaken to strengthen IP enforcement. Where possible, these plans can be made available to the public.*

While enforcement agencies provide annual statistics on seizures of infringing products and have established internal working groups to coordinate overall IPR strategy, there is currently little public information on what those specific strategies or action plans of the relevant enforcement agencies are and where milestones or areas against which to measure progress or success can be identified. These action plans could outline what steps the enforcement agency will take to strengthen its efforts and further collaborate with industry. Such information would be useful to be able to better assess opportunities to provide more assistance to enforcement agencies.

- 2) Establish and convey a mechanism to enhance communication and transparency among the governmental agencies involved in enforcing trademarks.*

A clear and transparent communication process among the intergovernmental agencies involved in IP enforcement is extremely important to making the efforts in combating counterfeit goods effective. These agencies include the Federal Bureau of Investigation (FBI), ICE, FDA, DOJ, and CBP. The National IPR Coordination Center has been a good platform for such coordination, having achieved notable success in the last two years in promoting coordination and information sharing between the agencies and with affected rights holders. INTA encourages the IPR Center to increase its role in promoting more coordination and information sharing at the international, national and local level.

- 3) Create a uniform, simple and cross-jurisdictional process by which trademark owners can report and receive reports of counterfeiting activities.*

The different reporting processes across city and state jurisdictions presents a challenge for rights holders who often have to handle counterfeiting cases across multiple jurisdictions. Streamlining paperwork processes and simplifying and making consistent the steps, regardless of which agency the brand owners utilize to combat counterfeiting activities, would save money and time on the part of both the trademark owner and the government.

- 4) Create a centralized database or notification for publishing indictments.*

INTA encourages increased transparency in communicating and publishing indictments so that victims of counterfeiting can know the outcome of cases, track whether penalties have been paid and seek restitution. This would support rights of crime victims under 18 U.S.C. § 3771 including subsection (a)(6) granting the right to full and timely restitution as provided by law. Further, this would also promote the sharing of information between the various

enforcement agencies that have participated in the cases. The comments herein also support Section 1(c). As stated there, the list of known counterfeiters could be published on the CBP website.

Objective 3: Reduce the number of countries that fail to enforce intellectual property rights; Assist other countries to enforce intellectual property rights more effectively

The United States is well positioned to assist other countries to effectively enforce their intellectual property rights in several ways:

1) Ratify and implement the Anti-Counterfeiting Trade Agreement (ACTA).

The Anti-Counterfeiting Trade Agreement (ACTA) continues to present a valuable opportunity to place a stronger global enforcement framework to combat counterfeiting and piracy. As of July 2012, eleven countries have signed ACTA, of which six countries need to ratify the trade agreement before it can take effect. INTA encourages IPEC to advocate for the U.S. (and other signatories) to ratify ACTA as soon as possible. For additional information on INTA's support of ACTA, please see www.inta.org/acta.

2) Continue to make intellectual property rights an important and necessary section in bilateral and multilateral trade agreements.

In order for the U.S. to form sustainable trade relations with other countries, it is important that a framework to protect intellectual property rights is established and maintained. Consequently, strong U.S. protection of IP can be transferred to other countries.

3) Strengthen ongoing partnerships and bilateral working groups with enforcement bodies of other countries.

The ability for U.S. enforcement agencies to work with those of other countries is critical to addressing multi-jurisdictional counterfeiting cases. Currently, DOJ participates with Chinese counterparts in an enforcement task force under the China-U.S. Joint Liaison group on Law Enforcement. INTA fully supports such working groups and encourages the formation of others as appropriate. Furthermore, the IPR Center has increased participation of enforcement agencies from other countries in the last few years (Mexican Revenue Service, Royal Canadian Mounted Police, Europol, and INTERPOL). INTA commends the increase in global coordination and encourages the inclusion of other countries' enforcement agencies as appropriate.

Objective 4: Disrupting and eliminating infringement networks in the U.S. and in other countries

Counterfeiting networks span multiple countries. The manufacture, assembly and distribution of counterfeits are often conducted in different jurisdictions. In some cases, counterfeit parts and labels manufactured in one country are sent to free trade zones (FTZ) or free ports (FP) of another country to be assembled into the actual counterfeit product. The final counterfeit products are then shipped to

yet another country for sale and distribution. Goods passing through FTZ's or FP's and transshipped through multiple ports, create opportunities for counterfeiters to disguise the true country of origin of goods. Counterfeiters also take advantage of customs territories where border enforcement for transshipped or in transit goods are known to be weak, with the intention of passing the goods through those customs territories to their destination, including the U.S.

In order to disrupt counterfeiting networks, customs authorities must be given the authority to take actions against suspected counterfeit goods regardless of the reported final destination of the goods. In light of the above, INTA recommends the following actions:

1) *Implement Section 205 of the Pro-IP Act of 2008, which includes a statement prohibiting the transshipment of counterfeit goods.*

INTA supported the inclusion of transshipment issues in the Pro-IP Act of 2008 under Section 205, which states: *Prohibits the transshipment or exportation of counterfeit goods or services and deems such acts to be violations of the Acts commonly referred to as the Trademark Act of 1946 or the Lanham Act.* INTA encourages full implementation of this provision.

2) *Encourage other countries to establish procedures and a legal framework to halt the transshipment and transit of counterfeit goods in free trade zones and free ports.*

Addressing counterfeit goods in transit continues to be a source of debate and there are concerns by some countries that applying such procedures will interfere with and block the flow of legitimate goods. These concerns are understandable; however, the aim should be to stop counterfeit goods – goods that, if allowed to pass through the free trade zone or free port, can ultimately reach the hands of consumers including those living in the United States. This is particularly critical when those counterfeits pose risks to public health and safety.

As noted above, INTA is pleased that the U.S. has recognized the urgent issue of transshipped and in transit goods. However, we note that other countries like the European Union and Mexico that have taken the position that goods in transit are not subject to current customs enforcement. In the case of Mexico, the Mexican Attorney General sent an official order to the Central Customs Office that customs officials should not seize goods in transit, which would allow items that Mexican officials know are counterfeit to pass through their borders into other countries, including the United States. We foresee these developments having an impact on other countries' treatment of goods in transit, some of which are major trading partners for the U.S. Therefore, we highly encourage the U.S. to promote the establishment of procedures and legal frameworks in other countries through trade agreements, information and best practices exchange and/or other relevant and appropriate collaboration mechanisms to address this problem.

PART 2: THREAT ASSESSMENT

Threats to the U.S. Economy

There are significant economic and public safety costs from violations of trademarks (and other intellectual property). At least 40 million jobs and \$5 trillion of the United States' gross domestic product (34.8%) are supported by IP-intensive industries according to the 2012 U.S. Commerce Department's report, entitled "Intellectual Property and the U.S. Economy: Industries in Focus." These numbers are significant and yet counterfeiting and piracy, among two of the largest threats to IP innovation, remain as rampant as ever. The World Customs Organization's 2011 Annual Report indicated that 47% of the world's reported cases of counterfeits seized were in the United States, though the country produces less than 1% of the world's counterfeits. The United States Government Accountability Office's 2012 report entitled "Intellectual Property: Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods" reported American businesses lose \$200 to \$250 billion to counterfeiting on an annual basis.

Another major cost of trademark counterfeiting is tax revenue to the government. In 2004, the office of the New York City Comptroller reported that New York City's counterfeiting trade (equal to about 12% of the total counterfeit trade in the United States) accounted for \$1.6 billion in sales and income tax revenue.

At the international level, a 2011 study by Frontier Economics, "Estimating the Global Economic and Social Impacts of Counterfeiting and Piracy," reported that 2.5 million jobs have been adversely impacted by the top 20 economies as a result of counterfeiting and piracy. Other less apparent costs of counterfeiting to brand owners, like lost revenue due to lost opportunities, decreased consumer satisfaction, and damage to brand image, are hard to calculate, but also take their economic tolls on U.S. brand owners.

Threats to Health and Safety

The greatest cost to Americans is the public health and safety threats posed by counterfeits. Seizures of counterfeit products posing health and safety risks from electronics to food are on the rise in the U.S. and globally.

According to the U.S. Customs and Border Protection Fiscal Year 2011 Intellectual Property Rights Report, the top five categories of IPR-infringing products seized were: pharmaceuticals; health/personal care; eyewear/parts; critical technology components and electronic articles. Pharmaceuticals accounted for 28% of the domestic value of these seizures and the value of these seizures increased by 41% compared to the total for 2010. The value of consumer safety and critical technology IPR seizures increased 44% to more than \$60 million, due to the increase in pharmaceutical and perfume seizures. The United Nations Office on Drugs and Crime highlights that counterfeit medicines also have a direct impact on increased medical costs due to prolonged treatment periods and medical complications in the spread of treatment-intensive diseases.

Beyond the U.S., 2.4 million counterfeit pills valued at \$6.3 million were seized in just one week by INTERPOL's Operation Pangea IV initiative, which involved 81 countries and the U.S.

Counterfeit food items pose similar health concerns as counterfeit medicines to the public. While not a major category of seized items in the U.S., the problem is notable worldwide. According to the U.S.

Pharmacoepial Convention, the top counterfeited food items worldwide include: olive oil (16% counterfeit of the olive oil market), milk (14% counterfeit in the dairy market), fish (9% counterfeit in the fish market), honey (7% counterfeit in the honey market), and saffron (5% counterfeit in the saffron market). In 2011, Interpol launched a week-long initiative in Europe, Operation Opson, focused on counterfeit foods resulting in the recovery of more than 13,000 bottles of substandard olive oil, 30 tons of fake tomato sauce, around 77,000 kg of counterfeit cheese, more than 12,000 bottles of substandard wine (worth EUR 300,000 or \$350,000+), five tons of substandard fish and seafood, and nearly 30,000 counterfeit candy bars. Although focused on Europe, many of those products may have infiltrated the U.S. food supply chain.

Another major safety risk is counterfeit electronics. These counterfeits affect personal safety when consumers knowingly or unknowingly purchase electronics that were made with inferior components that are unsafe for use. The Loss Prevention Concepts Organization reports airliners and helicopters have crashed due to counterfeit components. Counterfeit auto parts, notably brake pads, have also caused deaths. According to the U.S. Commerce Department's 2012 report "Intellectual Property and the U.S. Economy: Industries in Focus", counterfeiting is estimated to cost the global automotive parts industry \$12 billion a year in lost sales with \$3 billion in phony auto parts sales in the United States. The Senate Armed Services Committee's 2012 report showed that a year-long investigation of the U.S. military found 1,800 cases of counterfeit parts in military equipment.

The studies and figures quoted above from public and private organizations all indicate a counterfeiting problem that goes beyond a single country and product category. With many successes in the last two years, the IPEC office and enforcement agencies are in a strong position to address continuing challenges and new trends in counterfeiting to stem the flow of fake goods into the U.S. and their distribution around the world. INTA encourages IPEC and law enforcement to build upon these successes to achieve greater strength, efficiency and coordination at all levels.

Conclusion

INTA is pleased to have the opportunity to comment on the development of the second Joint Strategic Plan. INTA would be pleased to answer any questions that the IPEC may have and is available to discuss our recommendations in more detail. Please contact either of the following INTA representatives:

Candice Li

External Relations Manager, Anticounterfeiting
cli@inta.org; 1(212)642-1700

David E. Warr

Director, Government Relations/Washington Representative
dwarr@inta.org; 1(202)261-6572

ATTACHMENT 1

INTA Submission on the Request for Public
Comment Regarding:

Docket No. USCBP 2012-0011:
“Disclosure of Information for Certain
Intellectual Property Rights Enforced at the
Border”

U.S. Customs & Border Protection,
Department of Homeland Security,
Department of Treasury (77 Federal
Register 24375 (April 24, 2012))

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