

U.S. Economic Sanctions and Anti-Boycott Laws

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I. EXECUTIVE SUMMARY

A. Current Sanctions Affecting Trademark Owners

With the exception of North Korea, there are either "General Licenses" for intellectual property protection in all nations in relation to which the United States has imposed economic sanctions or such sanctions programs otherwise permit protection of intellectual property rights. Therefore, any U.S. person or entity wishing to protect intellectual property assets in nations such as Cuba, Iran or Syria may do so without obtaining a "Specific License" from the Office of Foreign Assets Control, U.S. Department of the Treasury (OFAC). In the case of North Korea, a Specific License must first be obtained from OFAC in order to protect intellectual property assets.

Thus, at the current time, with the exception of North Korea, all U.S. sanctions programs allow U.S. persons and entities to apply for trademark registration, maintain existing registrations and seek other forms of trademark protection (e.g. trademark opposition or cancellation actions and trademark infringement litigation) without first contracting or requesting permission from the U.S. government. Similarly, payments may be made to foreign firms which assist with these measures and those payments may include official fees to the agencies of a government against which U.S. economic sanctions apply.

However, since U.S. sanctions programs may change quickly, persons wishing to protect their trademarks should review the Treasury Department's Office of Foreign Assets Control website (at www.treas.gov/offices/enforcement/ofac/) before retaining firms in sanctioned nations or paying official fees (directly or indirectly) to government agencies in those nations.

B. Current Participants in Unlawful Boycotts

Compliance with or participation in the secondary boycott of Israel by U.S. persons is strictly prohibited. Currently, INTA is unaware of any nations which are enforcing or participating in the secondary boycott of Israel in relation to trademark matters (that is, INTA is unaware of any nations which are requesting completion of unlawful boycott questionnaires or requiring similar types of disclosures, or actions in compliance with, which would result in violation of U.S. anti-boycott laws or regulations). However, at any time nations may change their boycott regimes and therefore persons wishing to protect their trademarks outside the United States should review the website of the Department of Commerce's Office of Anti-Boycott Compliance (<http://www.bis.doc.gov/antiboycottcompliance/default.htm>).

II. BACKGROUND

The United States maintains a series of laws and regulations that impose economic sanctions against targeted foreign countries, individuals and organizations to advance U.S. foreign policy and national security objectives. The economic sanctions programs of the U.S. government are powerful foreign policy tools.

The use of economic sanctions goes back to the earliest days of the United States and includes such tools as trade embargoes, blocked assets controls, travel restrictions and other commercial and financial restrictions. The management of U.S. economic sanctions programs is often entrusted to the Secretary of the Treasury, who has delegated his authority to the Office of Foreign Assets Control ("OFAC"). Since the September 11, 2001 attacks, however, a number of Executive Branch agencies are more involved in economic sanctions and trade control issues that are seen to relate to terrorism or its financing. For example, the Department of State, the Department of Commerce and the Department of Transportation now have more active rolls in sanctions programs. Historically, United States government embargoes or economic sanctions programs have prohibited various forms of trade and investment by U.S. nationals. They often block or freeze targeted countries' or individuals' assets in the United States. The prohibitions have sometimes included a ban on the payment of fees and expenses for protecting and maintaining intellectual property rights. In part, through efforts by and on behalf of INTA, such payments are now permitted, either by General License or because the particular sanctions program does not prevent trademark registration and maintenance.

The U.S. government also prohibits cooperation with unapproved boycotts and embargoes by other countries. Since 1948, the Arab League countries have maintained an official boycott of trade with Israel and against companies that trade with Israel. Since the 1979 Egypt-Israel Peace Treaty, Egypt has not officially participated in the boycott. In recent years, other Arab countries such as Jordan, Iraq and Syria and some members of the Gulf Cooperation Council ("GCC") have ended their participation in the boycott.

In 1977, the United States enacted anti-boycott legislation specifically designed to counteract the Arab League's boycott of Israel. The pertinent provisions of the U.S. anti-boycott legislation are contained in the Export Administration Act and its implementing regulations administered by the Department of Commerce. The Internal Revenue Service administers similar, but separate, regulations designed to counter the Arab League boycott. The economic sanctions regulations and both sets of anti-boycott regulations carry substantial penalties, both criminal and civil, assessable against companies and individual employees or officers who violate the regulations.

III. ISSUE DEFINITION

Trademark owners may be directly affected by sanctions regulations and anti-boycott requirements. The establishment and maintenance of trademark rights requires a mark to be registered and renewed with foreign governments that may choose to participate in the Arab boycott of Israel or are targets of U.S. sanctions. If unable to pay fees to such governments, U.S. trademark owners may forfeit protection for their marks. This paves the way for others, including

pirates and counterfeiters, to obtain rights in valuable U.S. intellectual property. This is not in the best interest of trademark owners, the public or U.S. economy in either the short or long term.

IV. SANCTIONS PROGRAMS

The United States currently maintains various levels of economic sanctions against a number of countries, regions, former national administrations, individuals and foreign institutions and other entities (e.g. banks), in addition to other sanctions programs (such as in relation to trade in certain diamonds, non-proliferation of certain weapons, counter-terrorism, counter-narcotics and transnational criminal organizations). The United States has also instituted sanctions against groups identified with terrorism and international narcotics trafficking, certain persons and groups in the Western Balkans, certain diamond trading enterprises and certain individuals identified as trafficking in weapons of mass destruction. Under most of these sanctions programs, however, payments to protect intellectual property rights can be made either because the sanctions do not prohibit such payments or because OFAC's has granted a license allowing the payments to be made, which licenses may be of two types.

General Licenses exclude certain types of payments from sanctions regimes and eliminate the need to obtain special written consent from OFAC to make payments. When a General License has not been granted, Specific Licenses must be obtained on a case-by-case basis.

A Specific License is effectively a permit issued by OFAC in response to an application by a particular individual or company regarding an activity that would otherwise be prohibited by the embargo or sanctions program. Specific Licenses are granted by OFAC on a discretionary basis. Each Specific License bears a control number that can be verified with OFAC.

Requests for a Specific License to allow payment of intellectual property fees and costs (where such payments are not otherwise authorized) should be made in writing to the Office of Foreign Assets Control, Department of the Treasury, Treasury Annex, Washington, D.C. 20220, telephone: (202) 622-2480. A request must include the following information:

1. Purpose of the license;
2. Name of individual or company requesting the license;
3. Identity of the prospective payee;
4. Amount of prospective payment; and
5. Whether the request is in relation to a new filing, an existing registration or right, or a contentious matter (opposition, cancellation or litigation).

U.S. sanctions programs in relation to the Balkans, Belarus, Burma (Myanmar), Ivory Coast (Cote d'Ivoire), Congo, Cuba, Iran, Iraq, Lebanon, Libya, North Korea, Somalia, Sudan, Syria, and Zimbabwe.

A. Balkans (Former Yugoslavia - Serbia)

Status: No Specific License required.

Boycott of Israel: No

Although the U. S. imposed sanctions on the Federal Republic of Yugoslavia (Serbia and Montenegro) in 1992, these sanctions were significantly relaxed in late 2000. Shortly thereafter, President Clinton issued an Executive Order that lifted the economic sanctions, yet blocked the property and the interests in property of specifically listed parties (mainly entities and individuals associated with the Milosevic regime in Serbia). The Executive Order also prohibited certain transactions involving blocked property, including any new investments in Serbian territory. Further relaxation of the regulations occurred under President George W. Bush. On June 29, 2011, OFAC issued a final rule removing certain sanctions pertaining to the former Federal Republic of Yugoslavia. The action taken does not affect ongoing enforcement proceedings or prevent the initiation of enforcement proceedings where the relevant statute of limitations has not run. Certain transactions relating to the Western Balkans region remain subject to Executive Order 13219 of June 26, 2001, Executive Order 13304 of May 28, 2003, and the Western Balkans Stabilization Regulations, and property and interests in property blocked pursuant to those Executive Orders and regulations remain blocked.

The current regulations do not require a Specific License for the filing and prosecution of trademark applications, receipt of trademark protection, renewal or maintenance of a trademark registration, or the filing and prosecution of opposition or infringement proceedings in Serbia.

Note that use is required to maintain trademark rights in Serbia and non-use for a period of five consecutive years may provide grounds for non-use cancellation of a trademark registration.

Serbia does not participate in the secondary boycott of Israel.

B. Belarus

Status: No Specific License required for trademark protection.

Boycott of Israel: No

Following the presidential election of December 2010, which was perceived by the opposition as having been rigged in favor of President Lukashenko, over 600 protestors were beaten and arrested in the Belarusian capital of Minsk. Those beaten and arrested included many opposition politicians, journalists, human rights activists and civil society representatives. Since those protests, which resulted in a number of lengthy prison sentences for participants, the government of President Lukashenko has engaged in a further crackdown on opposition politicians and others who have objected to the actions of the government. As a result, the Obama administration has instituted a sanctions program affecting Belarus. The current regulations do not require a Specific License for the filing and prosecution of trademark applications, receipt of trademark

protection, renewal or maintenance of a trademark registration, or the filing and prosecution of opposition or infringement proceedings.

Note that use is required to maintain trademark rights in Belarus and non-use for a period of five consecutive years may provide grounds for non-use cancellation of a trademark registration.

Belarus does not participate in the secondary boycott of Israel.

C. Burma (Myanmar)

Status: No Specific License required for trademark protection.

Boycott of Israel: No

In May 1997, President Clinton invoked authority under both the International Emergency Economic Powers Act ("IEEPA") and the Cohen-Feinstein Amendment to the 1997 Foreign Operations Authorization bill (P.L. 104-208) to prohibit "new investment" in Burma. OFAC's Burmese Sanctions Regulations neither address nor restrict the ability of U.S. persons to prosecute trademark applications or make payments in Burma to protect intellectual property rights. On July 29, 2003, President George W. Bush invoked authority under several provisions of law, including the Burmese Freedom and Democracy Act of 2003, to prohibit the exportation or re-exportation, directly or indirectly, to Burma of any financial services. There have been subsequent laws (e.g. Tom Lantos Block Burmese Jade (Junta's Anti-Democratic Efforts) Act of 2008), Executive Orders and regulations which have had the affect of modifying the Burma sanctions program. However, again, there is no mention of prohibitions or restrictions on the ability of U.S. persons to protect their trademark interests.

Note that use is important under the law of Myanmar and it appears re-registration is advisable every three years.

Burma does not participate in the secondary boycott of Israel.

D. The Congo

Status: No license required for trademark protection.

Boycott of Israel: No

On October 27, 2006, President George W. Bush determined that the presence of certain armed groups in the Democratic Republic of the Congo ("Congo") had a destabilizing effect on that nation. Armed groups and militias were found to have perpetrated violations of human rights, including the massacre of civilians, assaults against women and children, and the recruitment of child soldiers. As a result, sanctions were imposed against certain named individuals and entities. However, no sanctions were imposed against the government of the Congo and no trade restrictions or restrictions on banking or other financial transactions were put in place.

Therefore, at the present time, the protection of trademark rights is permitted in the Congo without the need for a license of any type.

The Congo is part of the African Intellectual Property Organization (OAPI), and a mark must be used in at least one of the nations of OAPI during the five years after registration in order to avoid a possible non-use cancellation action.

Neither the Congo nor OAPI participates in the in the secondary boycott of Israel.

E. Ivory Coast (Cote d'Ivoire)

Status: No license required for trademark protection.

Boycott of Israel: No

On February 8, 2006, President George W. Bush issued an Executive Order declaring a national emergency to deal with the unusual and extraordinary threat to the foreign policy of the United States posed by the conflict in Côte d'Ivoire. Despite the intervention and effort of the international community, numerous violations of human rights and international humanitarian law have been perpetrated against civilians during the ongoing political crisis in Côte d'Ivoire. The United Nations Security Council, expressing deep concern about the hostilities and the repeated violations of the May 3, 2003 ceasefire agreement, issued Resolution 1572. It determined that the situation in Côte d'Ivoire poses a threat to international peace and security in the region and called on member states to take certain measures against those responsible. The new Executive Order blocks the property of persons contributing to the political and social unrest in Côte d'Ivoire. However, again, there is no mention of prohibitions or restrictions on the ability of U.S. persons to protect their trademark interests.

Côte d'Ivoire is part of the African Intellectual Property Organization (OAPI), and that a mark must be used in at least one of the nations of OAPI during the five years after registration in order to avoid a possible non-use cancellation action.

Neither Côte d'Ivoire nor OAPI participates in the in the secondary boycott of Israel.

F. Cuba

Status: General License in place for trademark protection.

Boycott of Israel: No

The United States maintains a sanctions program against Cuba that generally prohibits trade with that country, including trade by foreign subsidiaries of U.S. corporations. There are exceptions for: (a) publications and informational materials (such as CDs and works of art); (b) certain

donated food; and (c) certain exports licensed by the Department of Commerce (such as medicine and medical supplies and certain foods and agricultural commodities).

From 1963 until August 1994, the Cuban sanctions regulations permitted intellectual property-related payments to the Cuban government and Cuban attorneys or representatives. However, effective August 26, 1994, OFAC amended the Cuban Assets Control Regulations to restrict payments to establish, maintain, protect or register intellectual property rights. Pursuant in large measure to the efforts of INTA, the general license for intellectual property payments was restored in October 1995.

The 1996 enactment of the Helms-Burton legislation (Pub. L. No. 104-114), substantially strengthening U.S. sanctions against Cuba (and against third parties deemed to be "trafficking" in property expropriated from U.S. persons) did not change the general license to make intellectual property-related payments.

In 2009 and 2011, the Obama administration relaxed the Cuban sanctions program to allow for the greater ability for U.S. persons to travel to Cuba for educational, cultural, religious, and journalistic purposes and also expanded the licensing of permitted remittances to Cuba.

Note that a mark must be used in Cuba within three years from the date of the grant of registration or be subject to possible non-use cancellation.

Cuba does not participate in the secondary boycott of Israel.

G. Iran

Status: General License in place for trademark protection

Boycott of Israel: No enforcement reported

On May 6, 1995, President Clinton signed Executive Order 12959, substantially expanding existing economic sanctions against Iran. The new sanctions prohibit most U.S. citizens and companies from exporting goods, services or technical data to Iran. The sanctions do not apply to foreign subsidiaries of U.S. corporations, but the relationship between foreign subsidiaries and their U.S. parents will be scrutinized to ensure that the subsidiaries are, in fact, sufficiently independent to undertake the proposed trade or other transactions without the "approval or facilitation" of their U.S. parents.

OFAC's regulations implementing the Executive Order provide a general license that authorizes the filing and prosecution of any trademark application, receipt of trademark protection, renewal or maintenance of a trademark registration, and the filing and prosecution of opposition or infringement proceedings.

The Iran-Libya Sanctions Act of 1996 ("ILSA") is addressed to non-U.S. persons' investments in and trade with Iran and Libya. Intellectual property-related transactions by third country nationals should not, however, trigger ILSA sanctions.

In 2008 and 2010, the Obama administration tightened financial and trade sanctions against Iran, but did not revoke the General License in relation to protection of intellectual property rights in Iran.

Note that failure to use a mark in Iran or abroad within three years after registration may provide grounds for cancellation.

As of this writing, Iran does not appear to be actively participating in the secondary boycott of Israel.

H. Iraq

Status: General License in place for trademark protection

Boycott of Israel: No enforcement reported

There currently are no broad-based sanctions in place against the Government of Iraq. However, there are certain prohibitions and asset freezes in force against specific individuals and entities associated with the former regime of Saddam Hussein and parties found to have committed, or to pose a significant risk of committing, acts of violence that might threaten the peace or stability of Iraq or its government or undermine efforts to promote economic reconstruction and political reform in Iraq or disrupt humanitarian assistance to the Iraqi people.

Note that a petition to cancel a registration in Iraq may be filed at any time the mark has gone unused for an uninterrupted period of three years, unless the non-use was excusable due to circumstances beyond the control of the registrant.

Until the Spring of 2004, Iraq continued its strict compliance with the Arab Boycott of Israel, including use of an eight-point questionnaire, which U.S. persons are prohibited from answering and the receipt of which must be reported to the Department of Commerce Office of Anti-Boycott Compliance. However, Iraq appears to have terminated its adherence to the secondary boycott of Israel.

Since the situation in Iraq continues to evolve rather quickly, persons interested in securing or maintaining intellectual property rights there should periodically review new information on certain U.S. Government websites, including the U.S. Department of Commerce Iraq Business Outreach site at www.export.gov/Iraq and the U.S. Department of State Office of Commercial and Business Affairs site at www.state.gov/e/eb/cba/iraq.

I. Lebanon

Status: No Specific License required for trademark protection.

Boycott of Israel: No

In August 2007, the administration of President George W. Bush imposed sanctions against certain designated persons and entities as a result of alleged efforts by them to undermine Lebanon's government, assault the rule of law in Lebanon and/or contribute to political and economic instability in that country. The Executive Order and regulations implemented the sanctions program make no mention of prohibitions or restrictions on the ability of U.S. persons to protect their trademark interests in Lebanon.

There are no use provisions in the trademark law of Lebanon.

Regarding the boycott of Israel, in 2012 there have been some reports indicating that Lebanon may at least occasionally be using a list of boycotted companies in denying renewal of trademark registrations to U.S. entities found thereon. There have been no reports of the use of boycott questionnaires or other measures, nor have there been reports of applications being denied registration based upon the boycott list.

J. Libya

Status: General License in place for trademark protection

Boycott of Israel: No enforcement reported

The United States imposed strict economic sanctions against Libya in January 1986. The Libyan sanctions prohibit the export of goods, technology or services from the United States to Libya, except as authorized. Also, no goods or services of Libyan origin could be imported to the United States, except pursuant to a Specific License. The U.S. sanctions against Libya supported (and substantially exceeded) the limited sanctions the U.N. imposed against Libya in April 1992 and suspended (but did not remove) in 1999.

Due to accommodations made by Libya in Spring 2004 to compensate victims and their families in relation to the bombing of Pan Am Flight 103 (Lockerbie disaster), renounce terrorism and the acquisition and use of weapons of mass destruction, and permit weapons inspections inside Libya, many sanctions were lifted. A general license is now in place for Libya, meaning that trademark owners no longer need to seek a special license to protect their marks there. In addition, it does not appear that Libya is supporting the secondary boycott of Israel. The current sanctions regulations allow most types of commercial transactions with Libya (goods, software and technology) provided that the exportation is licensed by the Department of Commerce's Bureau of Industry and Security under the Export Administration Regulations.

On February 25, 2011, President Obama issued an Executive Order imposing additional sanctions on the Government of Libya due to the "extreme measures Colonel Muammar Qadhafi, his government, and close associates have taken against the people of Libya, including by using weapons of war, mercenaries, and wanton violence against unarmed civilians, all of which have caused a deterioration in the security of Libya and pose a serious risk to its stability." On July 15, 2011, the Secretary of State announced that the United States had recognized the Transitional National Council of Libya as the legitimate governing authority for Libya and issued a General License for dealings with the Transitional National Council, provided that such transactions did not involve any other person whose property and interests in property were blocked by U.S. sanctions or other relevant Executive Orders or regulations.

In light of the July 15, 2011, recognition of the Transitional National Council of Libya, the prohibitions of the E.O. now technically encompass the Transitional National Council of Libya, its agencies, instrumentalities, and controlled entities (the "TNC"), in addition to the Qadhafi regime, including its agencies, instrumentalities, and controlled entities. To address this, OFAC issued General License No. 6 authorizing all transactions involving the TNC, provided that (1) the transactions do not involve any other person whose property and interests in property are blocked; and (2) all property and interests in property blocked pursuant to the E.O. or the Regulations as of August 19, 2011, remain blocked.

On September 19, 2011, sanctions were largely confined solely to members of the GADDAFI regime and related parties. The new Government of Libya was recognized on December 16, 2011, and all remaining sanctions were applied only to the former members of the Gaddafi regime and related parties.

With respect to the use of marks in Libya, a mark may be removed from the register by court order if there is proof that the mark has not been used for five consecutive years and the proprietor is unable to demonstrate reasonable cause for that non-use.

Libya does not appear to currently be actively participating in the secondary boycott of Israel.

K. North Korea

Status: Specific License required for trademark protection.

Boycott of Israel: No

The fifty-year old sanctions against North Korea were substantially relaxed in June 2000. The June 2000 amendments to OFAC's North Korea regulations ended the ban on exports to North Korea, provided they are licensed by the Department of Commerce or other appropriate agencies.

However, in 2006, sanctions against North Korea were tightened and this trend continued in 2008, 2010 and 2011 by Executive Orders of the President and regulatory amendments by OFAC. OFAC's North Korean sanctions regulations presently require a specific license for U.S.

entities to engage and pay North Korean attorneys or representatives for purposes of protecting and pursuing trademark rights. The same Specific License may include permission to pay fees to the North Korean government for the protection of trademark rights. If a registered mark is not used in North Korea for five consecutive years after the date of registration it may be subject to non-use cancellation.

L. Somalia

Status: No license required for trademark protection.

Boycott of Israel: No

Due to a deteriorating security situation, including piracy and armed robbery at sea off the coast of Somalia, in April 2010, President Obama issued an Executive Order resulting in the imposition of sanctions against certain persons and entities accused of threatening the peace, security, or stability of Somalia, or to have obstructed the delivery of humanitarian assistance to or within Somalia, or to have supplied arms or related materiel in violation of the United Nations arms embargo on Somalia. The sanctions are also imposed against certain persons and entities that are thought to have provided weapons, communication devices, boats and other equipment to pirates operating off the coast of Somalia. The Obama administration's action does not impose any broad-based sanctions against the people or nation of Somalia. The Executive Order and regulations implementing the sanctions program make no mention of prohibitions or restrictions on the ability of U.S. persons to protect their trademark interests in Somalia.

A trademark must be used in Somalia within three years of the date of issuance of the registration certificate and registration may also be challenged if the mark is not used for any consecutive period of three years.

Somalia does not participate in the secondary boycott of Israel.

M. Sudan

Status: General License in place for trademark protection

Boycott of Israel: No enforcement reported

On November 3, 1997, President Clinton issued Executive Order 13067, imposing wide ranging economic sanctions against Sudan under IEEPA. These sanctions prohibit the importation of any good or service of Sudanese origin without a license. The sanctions also prohibit the exportation

or re-exportation to Sudan of any good, service or technology from the United States or by a U.S. person, wherever located, without a license.

In March 1999, OFAC promulgated its Sudanese sanctions regulations which have subsequently been amended on several occasions. The regulations continue to expressly permit, by General License, the filing and prosecution of trademark applications, renewal and maintenance of trademark registrations, and the filing and prosecution of opposition or infringement proceedings, along with the payment of any fees required for these activities.

Non-use of a mark in Sudan for any consecutive five year period may subject the registration therefor to cancellation.

The Sudan does not appear to currently comply with the secondary boycott of Israel.

N. Syria

Status: General License in place for trademark protection.

Boycott of Israel: Does not appear to be actively participating with respect to documents required for the protection of intellectual property.

On May 11, 2004, President George W. Bush imposed sanctions on Syria for supporting terrorism, continuing its occupation of Lebanon, pursuing weapons of mass destruction and missile programs and allegedly undermining U.S. effort stabilize Iraq. During the Arab Spring demonstrations and ensuing conflict in Syria, additional sanctions were imposed, culminating in an Executive Order by President Obama on August 17, 2011, which imposed wide-ranging sanctions against the Government of Syria and did not provide a General License for the protection of intellectual property rights.

At the urging of INTA, in February 2012, OFAC issued a General License permitting transactions related to the protection of patents, trademarks and copyrights in Syria, including the filing and prosecution of trademark applications, renewal and maintenance of trademark registrations, and the filing and prosecution of opposition or infringement proceedings, along with the payment of any fees required for these activities.

A registration may be challenged for non-use in Syria if the mark has not been used within three years of the filing date of the cancellation action unless the owner of the mark is able to demonstrate a bona fide intent to use the mark in the future.

In the past, Syria has actively supported the secondary boycott of Israel. However, as of this writing, it does not appear to currently comply with the secondary boycott of Israel in relation to documents required for the protection of intellectual property.

O. Zimbabwe

Status: No license required for trademark protection.

Boycott of Israel: No

On March 7, 2003, sanctions were imposed against certain persons (including government leaders) and entities (such as Zimbabwe Defense Industries (PVT) Ltd.), mainly in relation to property interests and not in relation to payment for services or government fees needed to register and maintain trademark rights or protect trademark interests. The list of designated persons to whom sanctions apply was expanded on November 23, 2005, but, again, the protection of trademark rights in Zimbabwe was unaffected. Therefore, no license is required to file and prosecute trademark applications, renew and maintain trademark registrations, or file and prosecute opposition or infringement proceedings, and it is lawful to make payments of any fees required for these activities.

Non-use of a mark in Zimbabwe for any consecutive five year period may subject the registration therefor to cancellation.

Zimbabwe does not participate in the boycott of Israel.

P. Sanctions Against Drug Traffickers and Middle Eastern Terrorists

These two programs differ from some other OFAC sanctions programs in that they are often aimed at individuals and groups, wherever located, rather than at sovereign countries or the nationals thereof. For example, the administration of George W. Bush imposed sanctions directed against individuals, groups, government leaders and non-governmental organizations. Enforcement of and compliance with the Narcotics Trafficking and Terrorism sanctions have proved complicated and the impact of either program has yet to be accurately quantified. Neither program, however, specifically targets or restricts intellectual property-related payments, although, as in the case of Syria, sanctions may be imposed against certain financial institutions through which payments for intellectual property rights protection might be made. Considering that situations may quickly change, be sure to check the OFAC website at www.treas.gov/offices/enforcement/ofac/ for updated status reports on U.S. sanctions.

V. ANTI-BOYCOTT LEGISLATION

Despite the Egypt-Israel and Israel-Jordan peace agreements, most members of the Arab League formally required individuals or companies conducting business in their jurisdictions to participate or cooperate in a boycott against Israel. Each participating Arab League country implements the boycott law at its own discretion.

The purpose and goal of the Arab League boycott is to discourage trade with Israel. In response to the Arab League boycott, the U.S. government enacted anti-boycott legislation and regulations administered by the Commerce Department that prohibit certain actions by U.S. intellectual

property owners, their foreign subsidiaries and affiliates. The Internal Revenue Code also includes anti-boycott provisions. It is important that U.S. intellectual property owners be aware of the prohibitions included in and exceptions to the anti-boycott provisions in order to ensure that they comply with U.S. law. Violation of the Commerce Department's anti-boycott provisions can result in the imposition of civil penalties and/or the denial of certain export privileges. In addition, individuals who knowingly commit such violations are subject to criminal fines or imprisonment up to five years, or both. Violation of the tax provisions can lead to the denial of important tax benefits, and willful failure to report boycott-related requests under the Internal Revenue Code can result in substantial fines and imprisonment up to one year.

Any boycott-related requests for information or action received by a U.S. person, which the U.S. person knows or has reason to know is intended to further the boycott, must be reported to the Commerce Department and, in many cases, the IRS.

Although the U.S. anti-boycott provisions contain many prohibitions, one of the most pertinent prohibitions affecting U.S. owners of intellectual property deals with furnishing or agreeing to furnish information to a boycotting country concerning business relations with a boycotted country or a blacklisted company or person. The most common forms of boycott-related requests that U.S. intellectual property owners are likely to encounter include: (1) requirements to complete questionnaires in connection with a trademark application or renewal application that request information for boycott-related purposes; (2) boycott declarations incorporated into powers of attorney; and (3) requirements to make declarations, including responding to questions regarding the boycott of Israel.

Each participating Arab League country may have differing requirements to apply for and maintain trademark registrations. Compliance with such requirements may or may not be permitted under U.S. law. In this regard, U.S. intellectual property owners, their foreign subsidiaries and affiliates may always furnish their names, addresses, states of incorporation and the nature of their business in connection with protecting and maintaining intellectual property. If further information is sought, however, extreme care should be taken to ensure compliance with U.S. law. Up-to-date anti-boycott information may be found on the Commerce Department's Office of Anti-Boycott Compliance website at:

<http://www.bis.doc.gov/antiboycottcompliance/default.htm> .

VI. INTA POSITION

Trademarks and their protection are highly valuable components of international trade and economic growth. INTA opposes any requirements that place undue burdens on trademark owners in obtaining and maintaining protection for their marks.

Economic sanctions requiring a Specific License for trademark-related payments can result in delays in securing and maintaining a registration, thus opening the possibility of usurpation of trademark rights by third parties. In past communications to OFAC and the U.S. Trade Representative, INTA emphatically stated that enormously valuable intellectual property rights

should not be jeopardized in the interests of denying certain governments the relatively insignificant revenues associated with trademark registration and renewal payments. The U.S. government responded in 1995 by eliminating a Specific License for payment of intellectual property-related fees to Cuba, which now may be paid under a general license.

INTA also strongly opposes the inclusion of Arab boycott questionnaires as part of the process to obtain or maintain trademark registrations. Under the auspices of the World Intellectual Property Organization, efforts to harmonize trademark office practices resulted in the Trademark Law Treaty (TLT), which prohibits extraneous requirements being imposed on applicants and specifically limits what may be contained on trademark applications and powers of attorney. The TLT was updated in 2006 under a new treaty – the Singapore Treaty on the Law of Trademarks. INTA urges all countries to join the Singapore Treaty and to implement its provisions.

VII. ADDITIONAL READING

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