Anticounterfeiting Committee 2020-2021 Objectives

Mission and Objectives of the Anticounterfeiting Committee:

Mission: With over 320 members globally, INTA’s Anticounterfeiting Committee (ACC) is dedicated to the enforcement of anticounterfeiting procedures worldwide. ACC members are responsible for the evaluation of treaties, laws, and regulations with respect to anticounterfeiting and enforcement. Members also develop and advocate strong policies to protect against infringement and promote enforcement education.

- Chair: Myrtha Hurtado Rivas (Novartis International AG)
- Vice Chair: Claudette Vernot (Estrategia Juridica)
- INTA Staff Liaison: Maysa Razavi
- 9 Regional Subcommittees:
  - Canada Subcommittee Chair- Graham Hood (Smart & Biggar)
    - INTA Staff Liaison – Tiffany Pho
  - China Subcommittee Chair- Yu Bo (LexField Law)
    - INTA Staff Liaison – Tiffany Pho; supported by Valentina Salmoiraghi
  - East Asia and Pacific Subcommittee Chair - Nick Holmes (Davies Collison Cave)
    - INTA Staff Liaison – Tiffany Pho; supported by Valentina Salmoiraghi
  - Eastern Europe and Central Asia Subcommittee Chair – Okan Can (Deris)
    - INTA Staff Liaison – Maysa Razavi
  - Latin America and Caribbean Subcommittee Chair – Cynthia Merchant (Eli Lilly)
    - INTA Staff Liaison – Maysa Razavi
  - Middle East and Africa Subcommittee Chair – Lorna Mbatia (CFL Advocates)
    - INTA Staff Liaison – Tiffany Pho
  - South Asia Subcommittee Chair – Tanya Varma (Fidus Law Chambers)
    - INTA Staff Liaison – Tiffany Pho
  - United States Subcommittee Chair – Kristina Schrader (Adams and Reese)
    - INTA Staff Liaison – Maysa Razavi
  - Western Europe Subcommittee Chair – Davide Bresner (Bresner Cammareri)
    - INTA Staff Liaison – Maysa Razavi

Anticounterfeiting Committee Overall Objectives:


2. Draft Board Resolutions on 1) the Proceeds of Counterfeiting and 2) Section 2320. Develop a recommendation on the link between piracy and counterfeiting.

3. Develop a recommendation to better share information with various IGOs and national enforcement officials to promote stronger anticounterfeiting efforts online and offline.

4. Work with customs officials and World Customs Organization by mapping the counterfeit trade routes, advocating for stronger tools for targeting counterfeits, and implementing a program for rights holders to train officers.
5. Develop and implement an avenue for open and continuous collaboration between online stakeholders and brand owners worldwide.

**Mission and Objectives of Global Project Teams:**

**Anticounterfeiting Policy Project Team:** The Anticounterfeiting Policy Project Team sets the anticounterfeiting positions for the Association and the committee on a global scale. Projects for this team derive from member input on gaps in the committee’s policy positions. Work from this project team flows down to the regional subcommittees for implementation. Previous projects include:

1. **Expert Witness Resolution** - Draft a board resolution advocating for the brand owner or an agent appointed by the brand owner as the best person with the most knowledge to serve as an expert witness in counterfeiting cases. (passed by INTA Board of Directors in May 2019).
2. **Proceeds of Counterfeiting Resolution** - Draft a resolution advocating for a “follow the money” approach to fighting counterfeiters. Recommendations include a reverse burden of proof on counterfeiters in proving legitimate assets and empowering enforcement officials to seize assets prior to a criminal conviction. (Pending for 2020)
3. **Free Trade Zone Model Law Guidelines** - Update INTA’s Model Law Guidelines on counterfeiting enforcement in Free Trade Zones globally. Provide input to international organizations on Free Trade Zones, such as INTERPOL and the WCO. (Update of Model Law Guidelines pending for 2020)
4. **Landlord Liability** - Analyze INTA’s Board Resolution on Landlord Liability for updates. Conduct a global survey of landlord liability legislation and prioritize countries for advocacy. (Global survey on landlord liability practices completed, analysis pending for 2020)
5. **Section 2320 “Remarking” Resolution** - Draft a Board Resolution on the issue of “remarking” to advocate for inclusion of remarking in criminal counterfeiting legislation. (Survey on global remarking practices completed, resolution pending for 2020).

**Online Counterfeiting Project Team:** The Online Counterfeiting Project Team sets the global online counterfeiting projects for the committee. The work of the global team flows down to the regional subcommittees for implementation. Previous projects include:

1. **Survey on Social Media Sites** - Conducted a survey of 21 global social media sites to compare their notice and takedown policies and transparency.
2. **John Doe Survey** - Created a global survey of jurisdictions that allow lawsuits to be brought against anonymous “John Doe” operators of online counterfeit sites. Survey of 11 jurisdictions completed.

**Global Customs Project Team:** New project team created in 2020 to lead INTA’s global customs trainings and leverage INTA’s relationship with the World Customs Organization. INTA became a member of the WCO’s Private Sector Consultative Group in October 2019, one of only 26 members. This group’s objectives can still be expanded, but projects may include advocacy on global customs information sharing and a global counterfeit trade mapping project.

**Objectives of Anticounterfeiting Committee Subcommittees:**

**Canada Subcommittee Objectives:**
1. Develop and draft a comprehensive business plan for an IPR Coordination Centre in Canada (modelled on the National Intellectual Property Rights Coordination Center in the U.S.) to be delivered to government, namely the PMO, ISED and MPs.

2. Facilitate the passage of Senator Day’s private member’s bill to amend the *Trademarks Act* to provide for (i) a simplified procedure at Canada’s borders, (ii) the lawful detention of in-transit goods by the Canada Border Services Agency, and (iii) statutory damages for counterfeiting.

3. Organize annual training seminars for law enforcement officials, including the CBSA and Royal Canadian Mounted Police, as well as local and provincial police, at Canada’s major cities and ports to better educate them on how to detect and process counterfeit goods.

4. Prepare a report to be delivered to Innovation, Science and Economic Development Canada by April 25, 2019 on how online third-party marketplaces fulfill orders for counterfeit goods distributed through fulfillment centers in Canada, and provide recommendations to address the shortfalls of the current customs recordal regime.

**China Subcommittee Objectives:**

1. Advocate for stronger criminal IP protection by meeting with relevant legislative and judicial stakeholders to increase awareness about counterfeiting issues.

2. Develop an action plan for fake store advocacy through a follow up survey with impacted INTA members and meet with local AMRs on the topic by July 2020.

3. Closely monitor the e-commerce law, inform INTA membership on how the law will impact their brand protection strategies, and meet with legislators to discuss implementation.

4. Hold at least one meeting per year with local platforms/social media sites to discuss online counterfeiting and collaboration.

5. Organize one brand identification training per year with the General Administration of Customs or the Ministry of Public Security in cooperation with local partners such as the Quality Brands Protection Committee (QBPC).

**East Asia and Pacific Subcommittee Objectives:**

1. Create a survey from each member country identifying its national anticounterfeiting bodies/organizations (including relevant industry organizations such as cars, clothing etc), as a precursor to creating an INTA report summarizing developments and/or activities undertaken by each such body/organization. Group to analyze information and create engagement plan for priority countries.

2. Continue to encourage and monitor SEA Customs coordination between neighboring countries (ie Singapore/Malaysia, AU/NZ), with a view to having at least one meeting/engagement (virtual, email or otherwise) for each identified set of “neighbors” by end of year 2020.

3. Each country will be asked to report on its national major local online marketplaces and the steps which they have in place to address counterfeit activity - preferably by having direct contact/involvement with each entity’s legal counsel. Group to hold at least one policy dialogue/meeting with platforms to discuss solutions each year.

**Eastern Europe and Central Asia Subcommittee Objectives:**
1. Conducting a root cause analysis for identifying the basic needs for an effective anticounterfeiting strategy in the Region and advocating for overcoming the obstacles.

2. Awareness Building:
   - holding two IP Policy Dialogues per year in the region,
   - holding at least one Unreal Campaign per year in each jurisdiction,

3. Developing a strategy for combatting the online counterfeiting with the cooperation of the international and local online market platforms in the region,

4. Developing a report by analyzing the local laws for exploring the instances where the Regulatory Authorities can ex-officio act against the counterfeiting besides the Judicial Bodies.

**Latin America and Caribbean Subcommittee Objectives:**

1. 26 countries have been identified where anticounterfeiting legislation exists. Select about 10 -12 countries to develop a strategy to advocate for these measures in their jurisdictions in 2020-2021.

2. Facilitate two national policy dialogues per year to discuss anticounterfeiting issues and strategies to tackle them.
   a. Maintain this project for countries where there was no activity in the past term (i.e. Caribbean countries/islands)

3. Develop a strategy to raise the profile of the importance of anticounterfeiting measures in the Latin American region – specifically looking at provisions that affect specific industries with health and safety concerns.

4. Develop a paper on online counterfeiting practices in Latin America. Expand it by determining the responsibility of the intermediaries on internet regarding IP issues. For instance, what is the responsibility of platforms, tools, what legislations/regulations are in place, how are they enforced (civil, criminal, etc.)
   a. A better questionnaire needs to be developed
   b. More countries need to be included

5. Produce a map of the top routes and ports in LatAm where counterfeited products are circulated.
   a. The main ports have already been identified. Now, determine what is the role of intermediaries such as freight forwarders, brokers, warehousing, third party logistic providers, and additional participants in the supply chain.
   b. Focus on main countries of interest such as Panama, Mexico, Colombia, Curacao, Brazil, and Uruguay.

6. To identify countries that have best practices in place for customs recordals. The objective will have as main goal to identify those best practices countries (DR, Panama, Colombia) so that other countries that don’t have those in place can follow the example. This objective will also have the purpose of connecting Customs authorities with brand owners.

7. Identify new or different channels and stakeholders to increase enforcement and brand protection / anticounterfeiting programs led by brand owners to protect their IP in the region. Understand the role of law enforcement in different countries (passive vs active) and the reasons behind such as legislation, budget, etc. Find collaboration and coordination with multiple stakeholders such as investigators, antipiracy association, trade associations, Chambers of Commerce, law enforcement agencies (local & global/int’l – Interpol, ICE, WCO, etc.).
   a. Methodology: Create and revise a multi-jurisdictional regional survey (5 - 10 countries) covering the following points (at least and to be developed):
i. Characteristics of the IP criminal Legal System (Federal, central; accusatory, inquisitorial).
ii. Investigation enforcement agent capabilities: territorial reach, their role in the criminal system, and investigation, level of corruption and compliance with anti-bribery laws (FCPA and local), local reputation.
iii. Involvement and cooperation with other agencies (IP Office, Customs, Attorney General Office, Judicial)
iv. Best practices
v. Windows of opportunity

8. Extrapolating counterfeiting cases to elevate the importance of the crime by finding connections with money laundering, terrorism, cybercrime, etc. Develop strategies for brand owners to work with law enforcement to attack these crimes in a holistic manner.

Middle East and Africa Subcommittee Objectives:
1. Policy dialogues and round tables
   - Hold at least two policy dialogues or roundtables on anticounterfeiting matters in the region per year.
2. Awareness and training
   - Identify relevant stakeholders (government officials including judicial officers, business owners/manufacturers, consumers etc) and raise awareness on anticounterfeiting through meeting engagements and trainings. Support WCO trainings.
3. Online counterfeiting
   - Identify the various stakeholders (online marketplaces, social media sites, influencers, registrars, logistic companies etc) and have at least two meetings per year to address online counterfeiting.
4. Explore more avenues of cooperation with new government bodies to spread INTA’s anticounterfeiting policies.

South Asia Subcommittee Objectives:
1. Conduct customs and police trainings on brand identification and anticounterfeiting (one per year). Target regions such as Pakistan, India, Bangladesh, Nepal, Sri Lanka, and Myanmar by the end of the term.
2. Organise one policy dialogue between online stake holders, brand owners and enforcement agencies in India;
3. Evaluate treaties, laws, regulations, procedures and other enforcement mechanisms in the member countries with respect to intermediaries to support collaborative engagement and solutions to online counterfeiting;
4. Hold meetings with Government officials (two per year) to advocate INTA’s positions on anticounterfeiting. Respective sub-committee member countries to conduct such meetings in their jurisdictions.

United States Subcommittee Objectives:
1. Hold four webinars / in-person trainings during the term to facilitate discussions between members and enforcement officials on U.S. enforcement practices.
2. Conduct questionnaire and conduct analysis of data sharing practices with U.S customs to advocate better information sharing between public sector and private sector.
3. Hold four online counterfeiting policy dialogues with U.S.-based marketplaces, social media sites, search engines, and payment processing entities throughout the term.

4. Draft two committee updates for the INTA Bulletin this term to highlight the work of U.S. brands and enforcement agencies (engage with U.S. IPRC and IPEC).

Western Europe Subcommittee Objectives:

1) Legislation
Continue monitoring that the key anticounterfeiting aspects of the Customs Regulation 608/2013 and the Trade Mark Package are implemented in line with INTA’s interpretation:
   a. create an informative chart with key aspects and remedies available across EU in applying Customs Regulation 608/2013, suitable for all INTA members.
   b. actively engage with DG-TAXUD. Attend annual meetings;
   c. evaluate Customs activities at a national level (including small consignments and counterfeit goods in transit) - Actively engage with individual EU Customs administrations, in order to address issues like the insufficient focus on large consignments;

2) European Union
Actively engage with stakeholders on key EU legislative and policy issues (including Digital Agenda, Enforcement Directive and Brexit):
   a. evaluate developments in the field of Brexit and monitor these against the INTA policy for Brexit;
   b. develop positions on key aspects to support policy dialogues;
   c. actively participate in the EU Observatory (attend bi-annual Working Groups and Plenary Meetings; submit written recommendations to the Work Programmes).

3) Anticounterfeiting Practices on Internet
Develop policies and best practices against online counterfeiting:
   a. evaluate treaties, laws, regulations, procedures and other enforcement mechanisms with respect to intermediaries which services are used in the supply chain for counterfeit goods;
   b. hold four policy dialogues on online counterfeiting to develop relationships with intermediaries and relevant officials with the view to develop and advocate policies to advance protection against counterfeiting and infringement (including INTA SINGAPORE – Social Media and anti-counterfeiting);
   c. provide anticounterfeiting and enforcement education, shifting the focus from “E-commerce” to “Social Commerce”.

4) Partnerships
Develop effective partnerships with trade associations and enforcement bodies:
   a. further develop and maintain partnership with EUROPOL/WCO/ ICC BASCAP/AIM;
   b. Develop new partnership with EUIPO to address the BLOCKATHON FORUM.
   c. Develop areas of collaboration with other similar Trademark Associations on topics of common interest, wherever deemed opportune.

5) Awareness
   a. Hold two events during the term to raise the awareness of policymakers on counterfeiting and the importance of strong anticounterfeiting measures in the online environment, with specific respect to Social Commerce.