Dear Anticounterfeiting Committee Members,

The ACC has gotten off to a busy start this year! Our seven subcommittees have been hard at work preparing activities and discussions for the fast-approaching Annual Meeting in Dallas on May 4 through 8. We look forward to an active agenda through our final in-person gathering at the INTA Leadership Meeting from November 12 to 16 in Miami.

Across the ACC, we are focused on analyzing online counterfeiting and border measures across our seven regions. Several subcommittees are surveying the policies of the top search engines, online marketplaces and auction sites. Other subcommittees are focused on the ways in which new customs procedures and practices will affect anticounterfeiting measures in their regions. We have planned to address these topics with government officials in Canada, China, Croatia, Indonesia, Mexico, Serbia, South Africa, Thailand, Turkey and Ukraine.

Outside the ACC, many other activities will be happening at INTA. In late March into early April, INTA will be hosting a spring policy tour of holding several meetings with Asian officials from Thailand, China, Korea, Indonesia, Singapore, and Myanmar. INTA will be sponsoring the Seventh Global Congress on Combating Counterfeiting and Piracy in Istanbul from April 24 through April 26. The INTA committee application process for the 2014–2015 committee term will take place in June.

We are thrilled by the momentum our committee has gained in 2013 so far and are excited to see how the ACC’s hard work pays off as the second year of our term continues.

Sincerely,

ACC Chair Gustavo Giay
Marval, O’Farrell & Mairal, Argentina

ACC Vice Chair Michelle Brownlee
Bose Corporation, USA

Anticounterfeiting Committee Policy Roundtables

The ACC conducts policy roundtables to communicate INTA positions on anticounterfeiting to relevant governmental agencies or relevant public policy authorities. These roundtables foster dialogue with governments on policy issues and have become an efficient way to influence policy makers and voice INTA's concerns and interests.

Shared Experiences in Counterfeiting in China

On October 26, 2012, the ACC China Subcommittee held a roundtable discussion on online counterfeiting called “Shared Experiences in Counterfeiting” in the National Basketball Association’s Beijing office. This subcommittee-led program included the following panels: “Perspectives on Anticounterfeiting Legal Framework in China,” led by Joe Simone (Simone IP Services Asia Ltd, China); “Perspectives on Legal and Enforcement for Online Counterfeiting in China,” led by Scott Palmer (Baker & McKenzie, China) and “Counterfeiting Issues and New Online Challenges,” led by Subcommittee Chair Ayala Deutsch (NBA Properties, Inc., USA). This roundtable program was the first in a series of events leading to an open dialogue between Chinese and non-Chinese trademark owners.

Roundtable with Anti-Counterfeiting Collaboration of Nigeria

On November 15, 2012, in Lagos, Nigeria, the ACC Middle East, Africa, and South Asia Subcommittee, in partnership with the Anti-Counterfeiting Collaboration of Nigeria, held a roundtable entitled “Taking Legislators to the Counterfeiter’s Doorstep: A Case Study of the IPCOM Bill and the Counterfeit and Fake Drug Bill.” INTA Board member Lara Kayode (O. Kayode & Company, Nigeria) provided opening remarks on behalf of the Association, speaking about the activities and achievements in the global fight against counterfeiting and piracy. ACC member Chinasa Uwanna (Banwo & Ighodalo, Nigeria) helped plan the event and attended along with member Obafemi Agaba (Jackson, Ett, Edu & Co, Nigeria). Also in attendance were several government officials, including Chairman of the National Assembly’s House Committee on Commerce, Hon. Sylvester Ogbagha. The major outcome of the roundtable discussion was the determination, particularly on the part of Hon. Ogbagha, to push for the passage of more effective “Policy Roundtables” continues on page 2
Working Together in the Fight Against Online Counterfeiting in the Philippines

On October 24, 2012, the ACC East Asia and Pacific Subcommittee held roundtable discussions to address counterfeit products on the new e-commerce market developing in Taguig City. Subcommittee Chair Regina Reyes-Rara (MarksPro, Philippines) organized the event and made opening remarks. The following topics were discussed: (1) effects of the Internet on counterfeiting; (2) Philippines laws on online counterfeiting; (3) INTA’s best practices in addressing online counterfeiting; (4) current anticyounterfeiting measures of e-commerce sites; and (5) working together in addressing online counterfeiting. Other notable speakers included IPO Director-General Ric Blancaflor and Palmer Mallari, the Chief of the Technical Investigation Division in the National Bureau of Investigation.

Myanmar Trademark Law and Anticounterfeiting Issues

Attended by 2013 INTA President Toe Su Aung, a luncheon and program on the importance of trademark law to investment and economic growth was held on November 29, 2012, in Yangon, Myanmar. ACC East Asia and Pacific Subcommittee member Kowit Somwaiya (Law-Plus Ltd., Thailand) was instrumental in coordinating this event with the INTA Asia Pacific Subcommittee. On November 30, INTA held a government roundtable discussion co-hosted by the Ministry of Science and Technology in the capital of Naypyidaw. This program led the way for follow-up comments sent in January of 2013, with more meetings to take place in Yangon in April.

Pre-Annual Meeting Panel in Poland

On Monday, March 11, 2013, INTA’s Pre-Annual Meeting Reception in Warsaw, co-hosted for the third time by Polservice Patent and Trademark Attorneys Office and LDS (Lazewski Depo & Partners), included a panel discussion on the practical aspects and implications of the new EU regulation concerning customs enforcement of IP rights. The one-hour panel discussion was co-moderated by the ACC EU Subcommittee Chair Bartosz Krakowiak (Polservice) and Michal Siciarek (LDS); the ideas offered sparked a lively debate about implementing the new regulation in Poland.

The Unreal Campaign is heading to Dallas for INTA’s 2013 Annual Meeting!

- **Getting involved:** High school students from the Dallas area will attend an interactive educational session about the value of trademarks and the harms of counterfeiting.
- **Member outreach:** INTA members will deliver presentations to raise awareness about the dangers of counterfeiting.
- **Exhibition:** An anticounterfeiting exhibit will allow teens to see real samples of genuine and counterfeit products.
- **Demonstration:** Interactive touchscreens will allow teens to test their knowledge of what’s real vs. fake.

Find out how you can get more involved with the Unreal Campaign at [www.inta.org/unrealcampaign](http://www.inta.org/unrealcampaign)

Learn more about the Annual Meeting at [www.inta.org/2013AM](http://www.inta.org/2013AM)
Unreal Campaign

Unreal Update

The Unreal Campaign launched its first Student Outreach Program on February 5, 2013. The program provides INTA volunteers with opportunities to engage directly with their communities by educating high school students about the harms of counterfeiting and the value of trademarks. INTA volunteers are given a lesson plan that provides step-by-step instructions on how to implement the curriculum; volunteers in Dallas, Los Angeles, New York City and Washington, D.C. were matched with participating schools. Final results of the program will be announced at the end of April. The Unreal Campaign thanks David Gryce (Arent Fox LLP), Monique Cheng Joe (NBCUniversal), Marc Lieberstein (Kilpatrick Townsend LLP), Nancy Lutz (Kelley Drye LLP), Heather J. McDonald (Baker Hostetler), Alec Rosenberg (Arent Fox LLP) and Raffi Zerounian (Taillieu Law Firm) for helping to create the lesson plan and piloting it in schools in Los Angeles, New York and Washington, D.C. The Student Outreach Program is conducted in partnership with Street Law and the Constitutional Rights Foundation.

The Campaign also launched a series of monthly video blogs that demonstrate teen interaction with the Campaign and teens’ knowledge about counterfeiting issues. Watch the video blogs at www.unrealcampaign.com/VideoBlog/VideoBlog.aspx.

Learn more about the Unreal Campaign: www.inta.org/unrealcampaign
Visit the Campaign’s teen website: www.unrealcampaign.com
Connect with the Unreal Campaign on social media:
Comments to EU Observatory Work Programme Draft
On October 12, 2012, with input from the ACC EU subcommittee, INTA commented on the EU Observatory on Infringements to Intellectual Property Rights Draft 2013 Work Programme. The Association made note of the limited scope of the Observatory’s new projects, emphasized the need for more public awareness, expressed concerns over the data collection methodology and suggested broadening the role of the private sector in Observatory activities. The ACC continues to work with other INTA committees to actively take part in the Observatory Working Groups—namely, the Statistics, Public Awareness, Legal, Enforcement/Training, and IP in the Digital World groups.

Letter of support of the Intellectual Property Section of Customs in Poland
On behalf of INTA, ACC EU Subcommittee Chair Bartosz Krakowiak signed, along with other local organizations, a letter to Jan Vincent-Rostowski, Minister of Finance, in support of the Intellectual Property Section of Customs in the Ministry of Finance in Poland.

Comments on the Recordation System in the United States
On December 20, 2012, INTA submitted comments to the Office of Regulations and Rulings of U.S. Customs and Border Protection (CBP) regarding regulations relating to recordation and enforcement of trademarks and copyrights. These comments, which were made in response to a request for public comment published in the Federal Register, included suggestions that the CBP link its recordation system to the USPTO trademark registration system, that electronic renewal of trademark rights in recordation databases be made available and that the process for obtaining Lever-rule protection be made more transparent.

Comments on Myanmar’s Draft Trademark Law
On January 8, 2013, the ACC was one of many INTA subcommittees to submit comments on Myanmar’s Draft Trademark Law to the Deputy Minister of the Ministry of Science and Technology, Ko Ko Oo. The ACC suggested that counterfeit goods be defined to include fake labels and packaging and that the law also consider actions such as manufacturing, assembling, transporting and warehousing of counterfeit goods. Another anticounterfeiting measure recommended was that the law establish penalties and damages commensurate with the crime to deter repeat offenders. This submission followed up on the roundtable discussion held in Naypyidaw in November 2012. INTA plans to visit Myanmar again this April to meet with government officials about the new trademark law being developed.

Comments on Thailand’s Draft Tobacco Consumption Control Act
On January 13, 2013, INTA commented on Thailand’s Draft Tobacco Consumption Control Act in a letter to Pradit Sintavana-rong, Minister of Public Health, warning that the draft act could increase the dangerous trade of counterfeit tobacco products.

Comments on China’s Draft Trademark Law
On January 25, 2013, INTA sent comments on China’s Draft Trademark Law to the Standing Committee of the National People’s Congress. The comments included recommendations that the next Trademark Law Revision include stronger protection for trademark owners in order to maintain fair competition and market order by improving and strengthening provisions to protect against counterfeiting.

Advocating on Strengthening Anticounterfeiting Laws and Procedures in Canada
INTA coordinated a delegation visit to Canada on March 7 and 8, where INTA President Toe Su Aung (BATMark Ltd, UK) introduced the Association to officials in Canada. In preparation for that meeting, the Canadian Task Force of the ACC North America Subcommittee submitted comments to various members of Industry Canada, Public Safety Canada and the Department of Justice on February 14, 2013. The recommendations included explicitly prohibiting importation and/or sale of counterfeit products and making it a criminal offense, allocating sufficient resources toward training customs officials and, in recognition of situations where it is difficult for the trademark owners to prove their measurable monetary loss or damage, adding provisions to the Trade-marks Act that would give courts the power to award significant statutory (or “pre-established”) damages against counterfeiters.

On March 8, 2013, INTA met with many officials in Industry Canada—the department of government that oversees the Canadian Intellectual Property Office and is responsible for developing and administering economic framework policies that promote competition and innovation. On March 1, the Minister of Industry Canada had introduced the Combating Counterfeit Products Act (Bill C-56), proposing a new border regime and additional civil causes of action and counterfeiting criminal offenses; the new proposals address some of the anticounterfeiting issues that our members had originally highlighted in our position paper. On March 8, ACC members Brian Gray and David Lipkus joined INTA President Toe Su Aung in meetings to discuss these issues in person with Industry Canada officials. INTA representatives commented generally on the new draft bill and to elaborate on the issues discussed in the Association’s position paper. The visit opened further opportunities in the near future to comment on the draft bill and to help strengthen Canadian anticounterfeiting measures.
**EU Customs Regulation**

In January 2013, the EU released its final draft of the Customs Regulation to replace the current Regulation concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (Council Regulation (EC) No. 1383/2003 of July 22, 2003). Although the ACC had submitted comments asking for several changes, the new Regulation does not make many radical changes to the existing practices.

The most positive change is that the new Regulation allows trademark owners to opt into a simplified procedure for the destruction of counterfeit goods and of small consignments of pirated goods, which have increased as a result of the many counterfeit goods sold on the Internet and shipped directly to consumers. Another positive change to customs practices in the EU is that trademark owners may use information provided from customs for civil proceedings and criminal action. The regulation also expands the scope of rights to include trade names, topographies of semiconductor products, utility models and circumvention devices.

Even with this positive change, some issues remain. The Regulation does not cover parallel imports. Although trademark owners are the victims of counterfeiting, they are still primarily liable for the costs associated with the detention of counterfeit goods. Finally, customs officers are prohibited from seizing goods that are in transit through the EU and destined for a non-EU country, which allows these dangerous goods to remain on the market and to possibly be re-imported into EU. INTA plans to continue its lobbying efforts on these issues in the EU with the upcoming Community Trademark Regulation and new Trademarks Directive. The ACC thanks the EU task force focused on this issue and, in particular, recognizes the efforts of Stuart Adams (Rouse, United Kingdom), Manon Rieger-Jansen (Bird & Bird, Netherlands), Reda Žaboliene (Metida, Lithuania), Tania Kern (Kern, Weyl & Andreani of France), Carsten Menebroecker (CMS Hasche Sigle of Germany), Jeremy Newman (Rouse, United Kingdom) and Chair Bartosz Krakowiak (Polservice Patent and Trademark Attorneys Office, Poland).

**Turkish Anticounterfeiting Issues**

In preparation for INTA’s participation in the Seventh Global Congress on Combating Counterfeiting and Piracy, the Turkish members of the Middle East, Africa, and South Asian Subcommittee examined counterfeiting issues in their country and compiled target issues and recommendations that can be conveyed to Turkish officials.

Counterfeiting is a major problem in Turkey. In recent reports, counterfeit products amounting to US $3.5 billion to $4.4 billion (6.3 to 7.9 billion Turkish lira) are imported into Turkey and are directly consumed by Turkish consumers every year. The MEASA Subcommittee’s paper included for recommendations to combat the problem in Turkey. However, there are many measures that can be taken to combat this problem including:

- An amendment of legislation allowing ex officio raids and confiscation of counterfeit products to help customs officials stop these counterfeit goods from entering the Turkish market
- More deterrent criminal sanctions to keep local counterfeiting from distributing goods within Turkish borders
- Increased training of both customs officials and judges alike to lead to more seizures and more convictions
- Increased consumer awareness about the harms of counterfeiting (as seen in a recent Turkish documentary) to decrease the demand for counterfeit goods in Turkey

The ACC would like to thank its members in Turkey who have been looking at these issues: Zeynep Seda Alhas (Mehmet Gün & Partners), Claudia Kaya (Destek Patent) and Olgac Nacakci (Ekdial Attorneys at Law).

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**7th Global Congress on Combating Counterfeiting and Piracy**

April 24–26, 2013
Lutfi Kirdar Convention and Exhibition Center
Istanbul, Turkey

See website for more information about the Global Congress:
http://www.ccapcongress.net/

Please contact Candice Li at cli@inta.org or Parvis Hanson, Congress Secretariat, at parvis.hanson@ccapcongress.net for questions.

Convened by:
World Customs Organization, World Intellectual Property Organization, INTERPOL, INTA and ICC BASCAP
Update on the Customs Union

The ACC Eastern Europe and Central Asia Subcommittee is focused on the Customs Union between Belarus, Kazakhstan and Russia. As the Customs Union heads toward establishing a Eurasian Commission, members in the area have experienced many trademark and anticounterfeiting issues. The most prevalent issue is the lack of harmonization in the Union. The three countries have separate intellectual property laws and regulations, largely relying on national laws when it comes to the enforcement of IP rights, and separate trademark registration systems that offer conflicting information, causing problems at the borders. It is hoped that a recent proposal to establish a single economic space creating one registration system throughout the area will remedy this problem. Another major issue is that Kazakhstani borders are open to non- Customs Union countries, which has raised the serious concern that the Union may be flooded with fakes manufactured in Asia which are smuggled into Kazakhstan across the Kyrgyzstani border.

INTA attended and exhibited at the Antikontra-fakt Forum held October 22 through 24 in Moscow and organized by the Russian Ministry of Industry and Trade. This first-of-its-kind event in Russia had high-level officials in attendance, including Prime Minister Dmitry Medvedev. INTA’s 2013 President Toe Su Aung (BATMark Ltd, UK) spoke, and INTA staff members Christina Sleszynska and Milesh Gordhandas attended as well as INTA volunteer Oxana Pishvanova (Salans, Russia), whose invaluable support at the event prompted the ACC to quickly recruit her as a member.

On February 19, 2013, INTA participated in the Second International Theoretical and Practical Conference in Minsk, the largest anticounterfeiting event BelBrand, an industry association of Belarusian trademark owners and new member of INTA. Famous and Well-known Marks Committee member Ignacio Lázaro (PETOŠEVIĆ, Belgium) spoke while ACC member Daria Beliaeva (Elena Beliaeva, Nina Vasilieva and Partners, Belarus) and INTA staff Milesh Gordhandas attended the event.

The ACC plans to stay active as developments unfold in the Customs Union. In the meantime, see highlights of Ignacio’s presentation in the Belapan news agency’s coverage of the event: [http://belapan.by/archive/2013/02/19/media_brend_v/](http://belapan.by/archive/2013/02/19/media_brend_v/).

Goods in Transit in Eastern Europe

INTA supports the practice of customs stopping counterfeit goods in transit even if those goods are simply passing through the borders to another country as a destination. Allowing counterfeit goods to pass through borders negatively affects local companies whose products are being counterfeited and distributed within the local market and abroad, not to mention any goods in transit that are re-imported from their destination countries back into the local market.

Our Eastern Europe and Central Asia Subcommittee recently completed a regional survey of the goods in transit practices with the coordination efforts of member Mara Jankovic (Mikijelj Jankovic & Bogdanovic, Serbia). They found that in the legislation of most countries general provisions give customs officials the authority to stop and detain goods in transit; these powers are provided explicitly or are implied under certain conditions (for example, in Kazakhstan and the Russian Federation, if there is no country of final destination in the bill of transit). The exceptions to this general rule are Moldova, which has no provisions extending the powers of customs to inspect and detain IP rights goods in transit, and Ukraine, where it is expressly forbidden for customs officials to take any action with regard to goods in transit.

The generally good practices of this region are now in danger of changing with the passage in January 2013 of the new EU Customs Regulation (see article above). The EU’s influence in the region has already been seen in Serbia, which recently amended its trademark law to better harmonize with the EU. On February 7, 2013, the Serbian trademark amendments came into force, explicitly prohibiting any actions against goods in transit. Croatia is also likely to make this change, as it, too, is harmonizing its laws with the EU in preparation of its accession to the EU on July 1, 2013. Our Eastern European members predict that this trend will continue throughout the region.

According to the Europol Director in 2011, the greatest expansion of trafficking of counterfeit goods into the EU was through the Western Balkans and South East Europe region, with more than 60 percent of the counterfeit goods in that region in transit to pass through its borders. Hopefully, the adverse effects of this change in policy in the EU, and now Eastern Europe, will motivate policy makers to prohibit goods in transit from crossing their countries’ borders. And, of course, INTA will also continue to advocate worldwide for customs enforcement against counterfeit goods in transit.
Anticounterfeiting Policy News and Developments

Drug Regulatory Authority of Pakistan Act

Pakistan has been a top-ranked country of the world’s leading producers and sellers of fake medicine, with estimates that up to 50 percent of the pharmaceutical products on the market are counterfeit. These imitation drugs have long been sold openly in bazaars and shops around the country. After the death of 125 patients at one hospital because of the use of counterfeit heart medication last January, the Pakistani government has been diligently working to raise the standards of pharmaceutical medicines in 2012.

This slew of counterfeit-drug-related deaths triggered President Asif Ali Zardari to sign the Drug Regulatory Authority of Pakistan (DRAP) Act on November 13, 2012. The DRAP Act establishes a Drug Regulatory Authority, which has been charged with administration and enforcement of DRAP and the Drugs Act 1976. The Act covers all therapeutic goods, including biological drugs, medical devices, medicated cosmetics and alternative medicines. The bill prohibits the import, export, manufacture and sale of counterfeit therapeutic goods and controls aspects such as advertisement, samplings and printing of labeling. Punishments for violating the law include imprisonment ranging from three to ten years and fines of up to one million Pakistani rupees. Members of the ACC Middle East, Africa, and South Asia Subcommittee are hopeful that the DRAP will be effective against the counterfeit medicine epidemic in Pakistan. Chair Faisal Daudpota (Daudpota International, United Arab Emirates) and member Salim Hasan (Meer & Hasan, Pakistan) will continue to monitor the progress of the Drug Regulatory Authority.

Recordation System in Brazil

Brazil has 7,491 kilometers of coastline and land that borders of all the countries in South America—except Ecuador and Chile. With such a massive area to cover, customs officials face challenges in stopping counterfeit goods from entering the country. Despite the Brazilian government’s dedicated anticounterfeiting efforts, Brazil does not have a formal customs recordation system.

Recordation systems provide customs with vital information such as tips on how to spot a counterfeit product and brand owner contacts to help determine if a good is counterfeit. Presently, if a brand owner wanted to supply information to the Department of Customs Administration (COANA), it would have to provide hardcopy brand identification manuals to every port of entry along Brazil’s vast border—it would be impossible to get this information to every COANA officer. In case of a re-branding or re-labeling, the current situation makes updating information tediously difficult and leaves open the possibility of COANA officers using old information and seizing genuine goods that are rebranded as counterfeit.

In 2011, the National Council of Combating Piracy and Crimes Against Intellectual Property (CNCP), a private/public partnership under the Ministry of Justice, passed a resolution to create a trademark recordal system for customs and other enforcement officials called the Brazilian National Directory of Trademark Owners (DNTM). However, this invaluable system, which would benefit COANA and brand owners alike, has yet to be implemented. This year, the CNCP put together a DNTM Working Group of both private and public stakeholders to get the recordation system up and running, with ACC Latin America and Caribbean Subcommittee member Luiz Claudio Garé (Garé & Ortiz do Amaral—Advogados) directly involved in the Group’s meetings. With support Luiz and other committee members in Brazil—Otávio Saraiva Padilha Velasco (Soerensen Garcia Advogados Associados) and Ricardo Pinho (Guerra Law)—the ACC is looking for ways to get involved in helping to establish a recordation system in Brazil.

ACC Mission Statement

The ACC evaluates treaties, laws, regulations, procedures and other enforcement mechanisms with respect to anticounterfeiting and enforcement. In addition, the Committee advocates policies to advance protection against counterfeiting and infringement and provides anticounterfeiting and enforcement education.

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Marval, O’Farrell & Mairal

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Although every effort has been made to verify the accuracy of items in this newsletter, readers are urged to check independently on matters of specific interest.

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