

**Statement of Asa Hutchinson, Under Secretary
Border and Transportation Security Directorate
U.S. Department of Homeland Security
Before the House International Relations Committee
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Good morning, Mr. Chairman, and distinguished members of the Committee. It is my pleasure and privilege to be here today to have this opportunity to speak to you about the efforts undertaken by the Bureau of Immigration and Customs Enforcement (BICE) in its role in investigating intellectual property rights violations and the links to terrorism. Prior to beginning my specific testimony, I would like to provide some background on our new Bureau. With the creation of the new Department of Homeland Security, the investigative and intelligence functions of the former U.S. Customs Service and the Immigration and Naturalization Service have been merged to form the Bureau of Immigration and Customs Enforcement under the Department of Homeland Security. In part, the mission of BICE is to protect the U.S. and its citizens by deterring, interdicting, and investigating threats arising from the movement of people and goods into and out of the U.S.

Background

BICE views intellectual property rights (IPR) crime as one of the fastest growing threats to the U.S. economy and in fact the world economy. I believe that the theft of our ideas and technology through intellectual property related crime is potentially one of the most significant economic crimes facing the U.S. today.

As the world moves into the information age, we are increasingly dependent on the production and distribution of intellectual property. Currently, the U.S. leads the world in the creation of

intellectual property. The increasing demand for intellectual property products has escalated the production of counterfeit and pirated goods throughout the world. Losses to the U.S. economy in revenue and jobs are staggering. For example: information compiled by the International Anti-Counterfeiting Coalition (IACC) indicates that in 1998, losses from counterfeiting and piracy were estimated to be \$60 billion dollars. In 1998, the International Chamber of Commerce estimated that five to seven percent of world trade is in counterfeit goods, a market worth \$350 billion dollars.

IPR violations have grown in both magnitude and complexity. They undermine the kind of innovation and creativity that America was built upon. A significant amount of counterfeit goods are smuggled and distributed for consumption in the U.S. Many of these IP products, such as counterfeit pharmaceuticals, aircraft and automobile parts, can also pose a health & safety threat to U.S. consumers.

Intellectual property rights crime is an international problem. BICE investigations have shown that organized criminal groups are involved in trademark counterfeiting and copyright piracy. Criminals use the proceeds from the sale of counterfeit and pirated goods to finance a variety of legitimate and/or criminal enterprises. Recently, there has been media coverage alleging links between counterfeit and pirated merchandise and funding of terrorist groups. BICE has not established a direct link between profits from the sale of counterfeit merchandise and specific terrorist acts or organizations. However, criminals involved in manufacturing, distributing and selling of counterfeit and piratical products reap large profits with relatively low risk of

prosecution. As a result, this type of crime could be attractive to organizations seeking lucrative and low risk funding mechanisms to support terrorist activities.

Since a large percentage of the counterfeit merchandise comes to U.S. from abroad, BICE's unique border enforcement and border search authority make it the primary investigative agency in this area. Through the coordination of various disciplines within BICE and the Bureau of Customs and Border Protection (BCBP), substantial success in targeting infringing merchandise and enforcing IPR laws has been achieved. During the last five fiscal years, legacy Customs enforcement efforts have resulted in record IPR related seizures and significant investigative activity. During FY 1998-FY 2002, legacy Customs effected 19,723 IPR seizures, with an estimated domestic value of \$376 million dollars. China, Hong Kong and Taiwan were the source countries for over half of all the merchandise seized. An increasing number of these seizures have been media products. Media includes motion pictures on tape and DVD, interactive and computer software on CD-Rom, CD-R, floppy disc, and music on CD or tape.

BICE and the National Intellectual Property Rights Coordination Center (IPR Center), in concert with BCBP, continue to detect and seize infringing merchandise entering the U.S. and to investigate those individuals and organizations involved in these illicit schemes. The mission is accomplished through the cooperation of private industry, the public, international and domestic law enforcement, and Customs officials in foreign countries, to combat this problem. To facilitate this effort, private industry should utilize internal and commercial investigative companies to aggressively protect their intellectual property rights.

In 1998, recognizing the importance of intellectual property rights, the White House included intellectual property crime in its international crime control strategy. Legacy Customs, along with the Federal Bureau of Investigation, co-chaired a working group to implement the IPR strategy and strengthen the enforcement of IP laws. Pursuant to this initiative, the National Intellectual Property Rights Coordination Center (IPR Center) was established in 2000.

The IPR Center is responsible for coordinating investigative efforts, intelligence gathering, and interdiction of intellectual property crimes, both domestically and internationally. The IPR Center gathers information from a variety of sources, analyzes the information, and provides coordinated flow of intelligence for use by BICE and FBI field offices. The IPR Center has fostered close-working relationships with trade associations and industries most affected by IPR violations. In addition, the IPR Center continues to raise awareness, domestically and internationally, of the importance of protecting intellectual property rights. The IPR Center, representing BICE, is an active participant in the Interpol Intellectual Property Crime Action Group (IIPCAG). The IIPCAG is comprised of various national law enforcement agencies, international organizations and industry associations. Its mission is to coordinate and enhance IP enforcement around the world. It aims to raise the awareness of the economic and social impact of the trade in counterfeit products; to create IP crime investigation training programs; and to improve the enforcement coordination of IPR matters between police, Customs and the private sector.

The Internet has opened up vast new opportunities for both legitimate business and Cybersmuggling crime. It is unfortunate and ironic that the same Internet that carries

information back and forth between millions of people per day is also creating unprecedented opportunities for international criminals, money launderers, traffickers in child pornography and criminals intent on violating intellectual property rights. U.S. industries, in particular those involving software, motion pictures and sound recordings, are especially at risk. With a keystroke, from a computer anywhere in the world, criminals can traffic in stolen trademarks, piratical music, or download copyrighted software. In response to this threat, legacy Customs established the Customs Cybersmuggling Center in 1998. The BICE mandate now extends to the borderless world of cyberspace. One of the primary missions of the Cybersmuggling Center is combating the threat of IPR related cyber crime.

Case examples

The IPR Center also generates investigative leads and assists BICE agents in IPR investigations. For example, the IPR Center received an allegation concerning the smuggling of counterfeit vodka. Recognizing the potential health and safety concerns, the IPR Center referred the case to the field for immediate investigation. The subsequent investigation led to multiple seizures of counterfeit product in Florida and Massachusetts; and the arrest and indictment of the target of the investigation. Currently, the subject is scheduled for trial in the fall of 2003. In addition, this investigation is pursuing others involved in this smuggling organization.

Another successful investigation conducted by BICE agents in Los Angeles, California dismantled an international smuggling ring based in Hong Kong. During the course of the investigation, organizational members made over a dozen bribery payments, totaling in excess of \$50,000, to an undercover BICE agent, ostensibly to facilitate their smuggling venture. The

investigation culminated in the arrest of several violators and the largest seizure in U.S. history of counterfeit computer software and software packing materials. According to industry sources, had the computer software been authentic, it would have been valued at approximately \$100 million dollars.

A current, on-going investigation conducted by BICE agents from our Cybersmuggling office is Operation Buccaneer. This operation is an unprecedented international investigation into the global network of cyberspace piracy. The subjects of this investigation are responsible for pirating billions of dollars worth of software and copyrighted materials over the Internet.

Closing

In closing, I should say that as much as we have done to protect our intellectual property, we must do more. We need to stay ahead of the perpetrators. Greater interaction among BICE, intellectual property owners, the public, and domestic and international law enforcement, is critical to our efforts to combat the increasing threat posed by IPR crime. It is imperative that law enforcement, through training and equipment, keep pace with advances in IPR crime. I would like to thank the distinguished members of this Committee for the opportunity to speak before you today, and will be glad to address any questions you may have.