

Statement submitted by the U.S. Chamber of Commerce
House Subcommittee on Intellectual Property, Competition, and the Internet
Hearing on: “Oversight of the Office of the U.S. Intellectual Property Enforcement
Coordinator” Tuesday, March 1, 2011

The U.S. Chamber of Commerce’s Global Intellectual Property Center (GIPC) commends the Subcommittee for holding this important hearing. We would be remiss not to acknowledge and once again thank the House Judiciary Committee for working on a bipartisan basis to enact the 2008 PRO-IP Act. This legislation, supported by a diverse group of stakeholders including both business and organized labor, created the Intellectual Property Enforcement Coordinator (IPEC) position.

Congress was right to recognize the need for both strong global rules to protect intellectual property and more effective enforcement of those rules in both the physical and digital marketplaces. The GIPC urges Congress to continue to build on these efforts in three ways:

1. **Fight Intellectual Property Theft Online**—New online technologies and high-speed Internet access greatly benefit the global economy and enable consumer access to a growing range of goods and services. However, they have also fueled an explosion in IP theft, which not only poses a risk to consumer health and safety, but severely undermines sectors of our economy that have historically provided secure, high-paying jobs. Congress should examine the problem of rogue websites and consider legislation that will make it easier to cut off websites dedicated to IP theft from the U.S. market.
2. **Advance Trade Agreements with Modern Day IP Provisions**—Congress should swiftly approve the pending trade agreements and use the robust IP standards contained in the U.S.-Korea agreement as a model as we move forward with negotiations on the Trans-Pacific Partnership Agreement.
3. **Expand Government Resources Dedicated to Enforce IP rights**, Starting with the Intellectual Property Enforcement Coordinator (IPEC)—The GIPC urges Congress to expand the dedicated resources IP enforcement activities while crafting appropriations legislation for FY11. Congress should ensure that the IPEC has the requisite resources and dedicated staff to successfully carry out her duties as outlined in the PRO-IP Act and the National IP Strategy. The GIPC also urges Congress to enact legislation that expands the current IP attaché program into additional countries to enhance IP assistance to U.S. businesses operating abroad.

In the global economy of the twenty-first century, U.S. competitiveness has become even more directly and inextricably linked to our ability to effectively enforce IP rights. As President Obama said in this year’s State of the Union address: “In America, innovation doesn’t just change our lives. It is how we make a living.” While it is well-established that innovation, technical invention and creativity are the primary drivers of U.S. global competitiveness, it is also clear that Americans’ ability to compete in the global marketplace is increasingly threatened by a tidal wave of infringing activity—including counterfeiting and piracy in both the physical and online environments—that diverts the benefits of innovation and creativity from its proper beneficiaries into the coffers of criminals.

IP theft is estimated to cost the G-20 economies \$650 billion and has also led to 2.5 million jobs lost. In addition to the economic impact, IP theft poses a health and safety threat that presents a clear and increasing danger to the public. Sectors where this threat is particularly severe include automobile parts, airplane parts, food, medical supplies, electrical supplies, pharmaceuticals, and many more. IP theft has become an attractive proposition for organized crime because they can engage, with minimal risk, in high-value commerce such as manufacturing millions of bootleg DVDs, bottles of counterfeit medicine, or even chips used by our military to operate sophisticated, multi-million dollar weapon systems.

The combination of all of these factors has elevated counterfeiting and piracy to an acute and growing crisis, which significantly impacts a broad and diverse segment of the business community and the jobs they support. Today, America's business sectors invest heavily in technical and other measures to prevent and investigate intellectual property theft. But, the private sector can only do so much. Congress and the Administration must also be committed to implementing sound IP policies and sustaining strong IP enforcement efforts in the United States and abroad.

The IPEC is central to these efforts, and the GIPC believes that since her Senate confirmation in late 2009 Ms. Espinel has demonstrated a strong commitment to advancing measures that will result in more effective enforcement of IP rights.

Last June, Ms. Espinel released an ambitious Joint Strategic Plan to improve and better coordinate IP enforcement efforts across the government. Rather than playing defense, she crafted a proactive and comprehensive strategy to fight against criminal networks and others who seek to steal Americans' IP. This plan included six broad principles and included 33 specific actions items—several of which have already been achieved.

For example, in the Joint Strategic Plan the Administration committed to explore the expansion of U.S. Trade Representative's (USTR) Annual Special 301 report's Notorious Markets list to include notorious online markets. On February 28, 2011, USTR, working in coordination with the IPEC, released the expanded Notorious Markets list as an Out-of-Cycle Review. The list identified a representative list of websites and physical markets that are responsible for the most egregious infringements of intellectual property rights. This list will be a critical tool to help educate consumers about the dangers of rogue websites. It also shines a spotlight on the countries that appear to abide or attract these sites and signals USTR's intent to raise concerns over the protection of IP online with those countries.

The IPEC, working with USTR and the State Department, has also achieved another of the Joint Strategic Plan's action items—the creation of a Special 301 "Action Plan." Using the Special 301 report, among other resources, the Administration identified 17 priority countries. Over the past few months, the embassies in each of these countries has established a working group and are in the process of developing concrete plans to help improve the enforcement of intellectual property in those countries. The GIPC is hopeful that these action plans will help improve IP enforcement in some of the most critical foreign markets. The GIPC hopes that these embassy working groups will help move countries who perpetually appear on the Special 301 list off the list.

These are just two of many examples of accomplishments the Administration has achieved since the Joint Strategic Plan was issued last June. The GIPC also welcomes the personal leadership of Vice President Joe Biden and President Obama's cabinet who have become personally invested in the fight against counterfeiting and piracy.

Nowhere has this commitment been more obvious than within Immigration and Customs Enforcement (ICE) under Director John Morton's leadership. To highlight just a single illustrative example, in June 2010 ICE and the U.S. Attorney for the Southern District of New York (SDNY) announced the launch of "Operation In Our Sites." This new initiative is aimed at fighting counterfeiting and piracy over the Internet by seizing the domain names of rogue websites—websites used to sell or provide access to counterfeit and pirated products. Operation In Our Sites has led to the seizure of more than 100 rogue websites. While some of these sites have reappeared, interestingly, many more, after seeing that U.S. law enforcement was serious about combating this threat, have left the marketplace before ICE and the Department of Justice have had the opportunity to shut them down.

Additionally, on February 8, 2011, President Obama, in issuing an Executive Order establishing two White House Intellectual Property advisory committees, provided yet another example of the Administration's commitment to IP enforcement. Both of these committees will be chaired by the IPEC, including an interagency Senior Intellectual Property Enforcement Advisory Committee which will be comprised of cabinet level officials from the Departments of State, Treasury, Justice, Agriculture, Commerce, Health and Human Services, and Homeland Security, as well as the Office of Management and Budget and the United States Trade Representative. These advisory committees will play an important role in helping Ms. Espinel implement the remaining objectives of the Joint Strategic Plan and continue to evaluate the administration's commitment to IP protection and enforcement.

While there is a long way to go in the battle against counterfeiting and piracy, Ms. Espinel is off to a tremendous start, especially given the limited resources, staff, and budget she has to work with. Congress must ensure that Ms. Espinel has the personnel and resources to continue and expand her effort.

U.S. global competitiveness and economic future is dependent on the ability to protect and defend intellectual property rights. The GIPC appreciates the Subcommittee's continued leadership on this issue and we look forward to continuing to work with you to protect American workers and consumers.