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Intellectual Property Protection Resource Guide
Developed by the TCC/MAC

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Counseling Companies on IPR

Key Questions to be Used to Provide General IPR Counseling

- 1) Have you obtained a patent or registered a trademark for your product?
Remember that patents and trademarks are territorial and protection must be sought in each country where the intellectual property is to be protected.
- 2) In what countries have you sought this protection?
The company may be asked to present proof of its rights (registration, application).
- 3) Is your product subject to copyright protection?
Copyright protection is enjoyed for literary, artistic and musical works immediately upon creation. Copyright protection is applied globally and is not territorial. Promotional material, for example, is subject to copyright.
- 4) Have you registered your copyright in the United States and abroad?
- 5) Would you like additional information instructing you how to obtain a patent, trademark or copyright or how to register these rights?

The company can be directed to the correct government agency identified in the IPR Resource Guide prepared by the International Trade Administration and/or provided with the Commerce Department brochure "Protecting Your Intellectual Property at Home and Abroad" available at www.stopfakes.gov.

6. Are you currently facing an intellectual property rights infringement problem?

The company may be directed to the Commerce IPR hotline where Commerce experts can suggest strategies to address IPR problems encountered abroad. Companies can contact Commerce at: 1-866-999-HALT (4258)

Key Questions to Ask to Determine Whether an Intellectual Property Problem Exists:

The following questions can be asked to help determine whether an intellectual property problem exists and to develop a strategy to advise the company about steps it can take to protect its intellectual property.

- 1) Does the company or individual hold a patent or trademark for the product that is allegedly being counterfeited or otherwise infringed?
- 2) From what countries were the patents or trademarks issued?
Remember that patents and trademarks are territorial and protection must be sought in

each country where the intellectual property is to be protected.

3) Is the product one that would be subject to copyright protection?

Copyright protection applies to a wide range of subject matter such as literary works (including computer software), artistic works, and musical works. Protection begins at the moment of creation, and registration and copyright notice are generally not required to enjoy copyright protection. However, there may be additional benefits for registering a copyright, especially a foreign copyright.

4) Where is your product being produced and sold?

5) Where is the infringing product being produced and sold?

6) Does your company know the identity and location of the manufacturer of the infringing products? Does the counterfeit or infringing product pose any health or safety concerns?

7) What steps has the company taken to combat piracy or counterfeiting of its product?

a) Has the company attempted to enforce its rights through a civil or administrative action in the country where it has patent or trademark protection?

This is a step to explore if the company has patent or trademark protection in the same country where production or distribution of the counterfeit product is taking place.

b) Has the company attempted to enforce its rights through a civil or administrative action to combat copyright piracy?

This is a step to explore if the company wants to stop production and distribution of pirated copyrighted products. A case should be pursued in the country where the counterfeiting and distribution is occurring.

8) If infringing products are being imported into the United States, and the company holds a registered patent, trademark or copyright for the product, has the company considered filing a Section 337 complaint with the U.S. International Trade Commission to bar infringing products from entering the United States?

Information on filing a Section 337 complaint can be found at the International Trade Commission's website at <http://info.usitc.gov/337>.

8) Has the company recorded its registered trademarks and copyrights with the U.S. Customs and Border Protection (CBP)? Note: this procedure is not available for patents.

When this information is recorded with CBP (for a fee), it is entered into an electronic database accessible by CBP officers across the country. CBP uses the information to actively monitor shipments and prevent the importation or exportation of infringing goods.. Information on how CBP can assist in protecting a company's IPR is available at:

http://www.customs.gov/xp/cgov/import/commercial_enforcement/ipr/ipr_enforcement/

9) Do you need assistance contacting any U.S. Embassies who may be able to help you find experienced intellectual property attorneys in your country of interest?

10) Would you like to speak to U.S. Government experts that can help you devise a strategy to fight back?

The company may use the Commerce IPR hotline, established under the STOP initiative, for businesses to learn how to protect IRP overseas or for IPR enforcement assistance. The number is: 1-866-999-HALT (4258)

IPR Protection in the United States

Reporting IPR Crimes Domestically

U.S. Department of Justice: Intellectual property crime, such as copyright piracy, trademark counterfeiting, or internet fraud, like any other crime, should be reported to appropriate law enforcement investigative authorities at the local, state, federal, or international levels, depending on the scope of the crime. Citizens or companies aware of federal crimes should report them to local offices of federal law enforcement. Federal law enforcement agencies have offices conveniently located in every state. In general, federal crimes, which include IPR crimes, may be reported to the local office of an appropriate law enforcement agency by telephone call and by requesting the “Duty Complaint Agent”. Contact information regarding these local offices may be found at 202-324-3000 or www.cybercrime.gov/reporting.htm.

National Intellectual Property Rights Coordination Center: If a company learns of infringement occurring in the United States, it should contact the National Intellectual Property Rights Coordination Center at 202-344-2410 or fax 202-344-1920. The IPR Center is a multi-agency center responsible for coordinating a unified U.S. Government response regarding IPR enforcement issues. Investigative personnel provide core staffing from Immigration and Customs Enforcement (ICE) and the Federal Bureau of Investigation (FBI). If a company has specific information concerning IPR crimes, it can complete a complaint form at <http://www.ice.gov/graphics/cornerstone/ipr/IPRForm.htm>. Companies may also contact the Center by mail or telephone:

U.S. Immigration and Customs Enforcement
National Intellectual Property Rights Center
1300 Pennsylvania Avenue, NW, RM 3.5A
Washington, DC 20229
Phone: 202-344-2410
Fax: 202-344-1920

U.S. Food and Drug Administration: The Food and Drug Administration (FDA) Office of Criminal Investigations (OCI) investigates counterfeiting involving drugs, medical devices, foods, blood and biologic products. If a company or consumer finds an FDA regulated product to be counterfeit they should contact this office for further investigation:

Food and Drug Administration, Office of Criminal Investigations
7500 Standish Place
Rockville, MD 20855
Tel: (301) 294-4030

IPR Protection in the United States

The U.S. Department of Commerce's International Trade Administration and U.S. Patent and Trademark Office, U.S. Copyright Office, U.S. Customs and Border Protection, U.S. Department of Justice and the National Intellectual Property Rights Coordination Center are U.S. government agencies that can assist with IPR problems encountered domestically.

Obtaining a U.S. Patent: The first step in ensuring protection of intellectual property is registering for protection at the U.S. Department of Commerce's Patent and Trademark office (USPTO). A U.S. patent is the grant of a property right to the inventor(s) of an invention, issued by the USPTO. The right conferred by the patent grant is "the right to exclude others from making, using, offering for sale or selling" the invention in the United States or "importing" the invention into the United States. To get a U.S. patent, an application must be filed with the USPTO. For more information on filing for a patent in the United States contact: 1-800-786-9199 or 703-308-4357 or www.uspto.gov. To file electronically with the USPTO visit: www.uspto.gov/ebc/efs/index.html.

Obtaining a U.S. Trademark: A trademark is a word, phrase symbol or design, or combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods of one party from those of others. A service mark is similar to a trademark except that it identifies and distinguishes the source of a service rather than a good. The U.S. Patent and Trademark Office (USPTO) reviews trademark applications and determines whether an application meets the requirements for federal registration. The USPTO does not decide whether a company or individual has the right to *use* a mark (which differs from the right to register). Even without registration an individual or company may still use any mark adopted to identify the source of its goods and/or services. For more information on filing for a trademark in the United States contact: 1-800-786-9199 or 703-308-4357 or www.uspto.gov. To file with the USPTO electronically visit: www.uspto.gov/teas/index.html.

Registering a Copyright: Copyrights reserve to authors the exclusive control of their "writings", such as literary, musical, pictorial and audiovisual works, including computer programs, for a fixed period of time. Although copyright protection is automatic, registration can offer several benefits, such as proof of ownership. For information on securing a U.S. copyright registration, contact:

U.S. Copyright Office
Phone: 202-707-5959
Website: www.copyright.gov.

Stopping Infringing Imports at the U.S. Border: Once a company secures a trademark registration from the U.S. Patent and Trademark Office (USPTO), or a copyright from the U.S. Copyright Office, the registration should be recorded with U.S. Customs and Border Protection (CBP). Recordation of a federally registered trademark or copyright significantly aids in the border enforcement of such rights by making it easier for CBP officials to identify infringing goods. U.S. law provides for seizure of pirate and counterfeit goods at the border, and provides various procedures for requesting assistance from CBP to prevent pirate and counterfeit goods

from entering the United States. The recordation fee is \$190.

Applications to record a trademark, copyright, or trade name must be in writing and should be addresses to:

U.S. Customs and Border Protection
Office of Regulations and Rulings
Intellectual Property Rights Branch
1300 Pennsylvania Avenue, N.W.
Mint Annex
Washington, D.C. 20229
Phone: 202-572-8710; fax: 202-344-1873

An applicant wishing to record an intellectual property right with CBP may refer to the CBP website for further information and for forms that may be used to complete a recordation: www.cbp.gov. The Intellectual Property Rights Branch e-mail address is hqiprbranch@dhs.gov. Additional information on how CBP can assist in protecting a company's IPR is available at: http://www.customs.gov/xp/cgov/import/commercial_enforcement/ipr/ipr_enforcement/.

Exclusion Order: Companies may also want to consult with their legal counsel to discuss whether filing a Section 337 complaint with the U.S. International Trade Commission (USITC) may be useful for their particular situation. Section 337 declares the infringement of certain statutory IPR and other forms of unfair competition in import trade to be unlawful practices. Most Section 337 investigations involve allegations of patent or registered trademark infringement; however, it is also available for copyright infringement. In the event that the USITC determines that Section 337 has been violated, it may issue an exclusion order barring the products at issue from entry into the United States, as well as a cease and desist order directing the violating parties to cease certain actions, when appropriate. USITC provides information on Section 337 at: <http://info.usitc.gov/337>

The USITC also has a Trade Remedy Assistance Office (TRAO) that provides information to small businesses concerning the remedies and benefits available under U.S. trade laws and provides technical and legal assistance and advice to eligible small businesses to assist them in preparing and filing Section 337 complaints. TRAO can be reached by telephone at 800-343-9822 or 202-205-2200, or by facsimile at 202-205-2139.

Under the STOP initiative, the Commerce Department established a single IPR hotline where businesses can go to learn how to protect their intellectual property rights overseas or for international intellectual property enforcement assistance: 1-866-999-HALT (4258).

IPR Protection in Foreign Markets

It is important to note that intellectual property rights are generally territorial. That is, a U.S. patent or trademark provides protection only in the United States; a Japanese patent provides protection only in Japan, etc. This means that, in most cases, the first step in protecting intellectual property beyond U.S. borders is for companies to register their trademark or patent with the appropriate authorities in each country where they seek protection or through international treaties that are administered by the World Intellectual Property Organization (WIPO). Copyrights may also be registered, but registration is not required for protection if the country in question is a member of the Berne Convention.

The Commerce Department recommends that companies seek assistance from an attorney familiar with the intellectual property laws of the country or countries where they are interested in conducting business to determine the costs and benefits of registration. The U.S. Department of Commerce can put companies in contact with U.S. Embassies overseas in order to help companies locate local patent and trademark attorneys.

Various U.S. Government agencies, including the Department of Commerce, Department of State, the U.S. Patent and Trademark Office, U.S. Copyright Office and the United States Trade Representative have IPR experts who regularly work with companies to help them protect their intellectual property. Teams from these agencies also work directly with foreign governments to enforce IPR trade agreements, raise IPR concerns bilaterally and conduct IPR training.

Seeking Assistance with Counterfeit or Pirated Products

The Trade Compliance Center and Commerce Department country experts stand ready to work with U.S. firms to help them protect their intellectual property at home and abroad. Commerce experts can suggest strategies to evaluate IPR problems encountered abroad and will work with our Embassies around the world to pursue a course of action for resolution of the problems. Commerce established a special telephone and web address designed specifically to deal with companies' international intellectual property concerns. Companies can contact Commerce at:

U.S. Department of Commerce
Trade Compliance Center
14th Street and Constitution Avenue, NW
Washington, DC 20230

Phone: 1-866-999-HALT (4258)

Obtaining Patents and Trademarks in Foreign Markets: For more information on how to apply for patents or trademarks in a foreign country, contact the intellectual property office in that country directly. A list of contact information for most intellectual property offices worldwide can be found at www.wipo.int/news/en/links/addresses/ip/index.htm. Once a company has registered for protection, it can use that country's local laws to enforce its rights.

Obtaining Patents in Multiple Foreign Markets with a Single Application: The Patent Cooperation Treaty (PCT) streamlines the process for U.S. inventors and businesses wishing to obtain patent protection in other countries. By filing one patent application with the U.S. Patent and Trademark Office (USPTO), U.S. applicants can concurrently seek protection in up to 115 countries. For an invention made in the United States, U.S. law prohibits filing abroad without a foreign filing license from the USPTO, unless six months have elapsed since filing a U.S. application. For filing an international patent application under the PCT, visit the USPTO website: www.uspto.gov/go/pct/. Additional information on the PCT is also available on the WIPO website: www.wipo.org/pct/en/index.html (Note: The international application itself does not lead to any patent protection in any country. It simply serves as a vehicle for centralized pre-processing of the application. Each application still must be reviewed and approved by each participating country.)

Obtaining Trademarks in Multiple Foreign Markets with a Single Application: The Madrid Protocol streamlines the process for U.S. trademark owners wishing to obtain trademark protection in other countries. By filing one international trademark application with the U.S. Patent and Trademark Office (USPTO), U.S. applicants can concurrently seek protection in up to 66 countries. Changes to a registration, e.g., transfers, name or address changes of renewals can be handled through a single procedural step. For filing an international trademark application under the Madrid Protocol, visit the USPTO website: <http://www.uspto.gov/web/trademarks/madrid/madridindex.htm>. Additional information on the Madrid Protocol is also available on the WIPO website: <http://www.wipo.int/madrid/en/> (Note: The international application itself does not lead to any trademark protection in any country. It simply serves as a vehicle for centralized pre-processing of the application. Each application still must be reviewed and approved by each participating country.)

Registering Copyrights in Foreign Markets

Although most countries do not require copyright registration in order to enjoy copyright protection, registration can offer several benefits, such as proof of ownership. For information on registering a literary or artistic work for copyright protection abroad contact the U.S. Copyright Office at: 202-707-5959 or www.copyright.gov.

Enforcement: Using Local Laws

Once a company has registered its patent or trademark, it can use local laws to enforce its rights. Copyright protection may also be enforced using local laws. Enforcement can be through civil suits, criminal investigations and prosecutions, or administrative procedures, where available. Generally, a company will need to work with the country's law enforcement authorities or through its courts to initiate investigations and lawsuits. Because of the legal complexities involved with IPR protection, it is suggested that the advice of an IPR lawyer be sought where needed. Countries must ensure that its IPR laws are implemented effectively and are consistently enforced.

EU Design Patent Protection

In the EU, there is a separate system of protection specific to designs called a Registered Community Design (RCD) right. The (RCD) lasts five years but can be renewed in blocks of five years up to a maximum of twenty-five. It gives the holder the exclusive right to use or license the design. The application process is managed by the Office for Harmonization in the Internal Market (OHIM) (<http://oami.eu.int>). Companies can register a RCD that covers them for all 25 EU member states.

The fee for registering one design is around 350 euro for five years of protection from the date of filing. Companies can include several different designs in the same application and can choose to keep designs confidential for up to 30 months after registration. Unregistered designs are protected for three years from the date the design was first made available to the public. They protect the design holder against deliberate copying. Registered designs are protected against copying *and* the independent development of similar signs.

For FAQs on the RCD see the following website: <http://oami.eu.int/en/design/faq.htm>

The Office of Harmonization in the Internal Market (OHIM) runs a design search tool in the registered community designs bulletin: <http://oami.eu.int/en/design/bull.htm>

China IPR Resources

Contacting the U.S. Embassy for Resources in China:

The U.S. Embassy in Beijing and our Foreign Commercial Service (FCS) offices in China can provide in-country information about IPR enforcement resources. Companies can go directly to the FCS-China website at: <http://www.buyusa.gov/china/en/> On this webpage, there are links to "Business service providers in China for U.S. companies," including legal services and investigative services. Also, FCS and the U.S. Embassy in Beijing have created an "IPR Toolkit" that provides more information on IPR protection specific to China: <http://www.usembassy-china.org.cn/ipr>

China: Additional Remedies When a Company Does not Hold Patent or Trademark Protection

If a company does not hold patents or trademarks in China, there may be remedies available in China based on other types of rights and laws. A company should obtain local counsel to explore possible legal actions. The U.S. Embassy in Beijing can assist U.S. companies looking for attorneys who specialize in Chinese intellectual property rights protection.

Questions that may be asked in pursuing additional remedies include the following:

§ Have safety issues been identified as a result of the counterfeit products?

- § Is the product Underwriters Laboratories (UL) certified (or other certification mark)? If so, and the counterfeit bears the UL mark, there is a counterfeiting problem of another company's mark. UL has an aggressive anti-counterfeiting program that can help.
- § Does the product falsely indicate it is made in America? If so, there may be a violation of the unfair competition laws.
- § Does the product bear the barcode of the legitimate product? If so, there may be administrative measures available regarding false barcoding.
- § Are there distinctive packaging materials or perhaps an instructional brochure? If so, there may be copyright protection, and a possible basis for U.S. Customs seizures.
- § Is there false General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) certification? (Note: AQSIQ is the Chinese law-enforcement administrative organ of the State Council in the field of quality, metrology, entry-exit commodities inspection, entry-exit health quarantine, entry-exit animal and plant quarantine, certification and accreditation and standardization.) If so, there may be Chinese product quality law remedies available.
- § Is the mark famous/well-known? Some international protection may be available. (Note: “Well-known” trade and service marks enjoy protection in most countries against signs that are considered a reproduction, imitation or translation of that mark provided that they are likely to cause confusion in the relevant sector of the public. Well-known marks are usually protected, irrespective of whether they are registered or not, in respect of goods and services which are identical with, or similar to, those for which they have gained their reputation.)
- § Are new product designs being developed? If so, design patent protection may be available.
- § Are there security devices/commercial strategies, etc., that the company can use to protect its name regardless of IP rights - controlling marketing channels, identifying legitimate/preferred suppliers/ strategies at trade shows, etc.?

IPR Industry Contacts

Industry associations representing the intellectual property rights sectors (copyright, trademark and patent) are very active in Washington, DC as well as in many major overseas markets. Representatives from these industry associations can be excellent resources for “on the ground” perspectives and intelligence. Their websites often provide in-depth materials on the quality of IPR protection in a particular region, their industry’s Special 301 submissions, and many offer educational information for businesses on IPR protection.

Copyright Industry Associations

The following associations represent various sectors of the copyright industry and work with the U.S. government to improve intellectual property protection globally.

IIPA: International Intellectual Property Alliance

A private sector coalition comprised of six trade associations representing a significant segment of the U.S. copyright community: AAP, BSA, ESA, MPAA, RIAA and The Independent Film & Television Alliance.

1747 Pennsylvania Avenue, NW
Suite 825, Washington, DC 20006
Phone: 202-833-4198
Fax: 202-872-0546
www.iipa.com

AAP: Association of American Publishers, Inc.

50 F St., NW
Suite 400
Washington, DC 20001
Phone: 202-347-3375
Fax: 202-347-3690
www.publishers.org

BSA: Business Software Alliance

1150 18th Street, NW
Suite 700
Washington, DC 20036
Phone: 202.872.5500
Fax: 202.872.5501
www.bsa.org

ESA: Entertainment Software Association

1211 Connecticut Ave, NW

Washington, DC 20036
Phone: 202-223-2400
Fax: 202-223-2401
www.theESA.com

MPAA: Motion Picture Association of America

1600 Eye Street, NW
Washington, DC 20006
Phone: 202-293-1966
www.mpa.org

RIAA: Recording Industry Association of America

1330 Connecticut Avenue, NW
Washington, DC 20036
Phone: 202-775-0101
Fax: 202-775-7253
www.riaa.com

Trademark Industry Associations

International Trademark Association (INTA)

1133 Avenue of the Americas
New York, NY 10036-6710
Phone: 212-768-9887
Fax: 212-768-7796
www.inta.org

The International Trademark Association (INTA) is a not-for-profit membership association of more than 4,500 trademark owners and professionals, from more than 180 countries, dedicated to the support and advancement of trademarks and related intellectual property as elements of fair and effective national and international commerce.

IACC: The International AntiCounterfeiting Coalition

1725 K Street, NW
Suite 1101
Washington, DC 20006
Phone: 202-223-6667
Fax: 202-223-6668
www.iacc.org

QBPC (China): Quality Brands Protection Committee

The Quality Brands Protection Committee (QBPC) of the China Association of Enterprises with Foreign Investment is comprised of European, Japanese, and American and Hong Kong companies that own many of the most well-known brands worldwide. It is based in China and

represents the trademark industries in the promotion of anti-counterfeiting efforts. Its members collectively have invested over US\$19 billion in China.

The QBPC was formed in March 2000 to work cooperatively with the Chinese government to promote anti-counterfeiting work, including through the encouragement of policy discussions and educational initiatives. Since its establishment, in March 2000, the QBPC has organized or otherwise supported a wide range of educational seminars and research activity involving legislators, judicial authorities, administrative enforcement bodies, academics and other experts in intellectual property rights.

QBPC Secretariat

Phone: +86(10)6505-5127

Fax +86(10)6505-5257

E- mail QBPC@apcochina.com

<http://www.qbpc.org.cn>

Patent Industry Associations

PhRMA: Pharmaceutical Research and Manufacturers of America

The PhRMA represents the leading research-based pharmaceutical and biotechnology companies in the United States. PhRMA is involved in promotion of patent and data protection globally.

PhRMA

1100 Fifteenth Street, NW

Washington, DC 20005

Phone: (202)-835-3400

Fax: (202)-835-3414

www.phrma.org

BIO: Biotechnology Industry Organization

BIO represents more than 1,100 biotechnology companies, academic institutions, state biotechnology centers and related organizations in all 50 U.S. states and 33 other nations. BIO Members are involved in the research and development of health care, agricultural, industrial, and environmental biotechnology products and services.

BIO

1225 Eye Street NW

Suite 400

Washington, DC 20005

Phone: 202-962-9200

Fax: 202-962-9201

info@bio.org

www.bio.org

Additional IPR Websites

Office of the U.S. Trade Representative (USTR)

www.ustr.gov

Trade Compliance Center (TCC)

<http://www.tcc.mac.doc.gov>

World Trade Organization (WTO)

<http://www.wto.org/>

WTO Agreement on the Trade-related Aspects of Intellectual Property Rights (TRIPs)

http://www.wto.org/english/tratop_e/trips_e/trips_e.htm

World Intellectual Property Organization (WIPO)

Headquartered in Geneva, Switzerland, WIPO is one of the 16 specialized agencies of the United Nations system of organizations. It administers 23 international treaties dealing with different aspects of intellectual property protection. 180 nations, including the United States, are member states.

<http://www.wipo.int/>

Trade Agreements on Intellectual Property Rights

Our international trade agreements, such as the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), and related international property rights treaties, require member countries to provide for means by which rights holders can protect and enforce their IPR. For an overview, please go to the following website:

<http://web.ita.doc.gov/ticwebsite/FAQs.nsf/6683dce2e5871df9852565bc00785ddf/c8270ae95fe5069085256bd1006a9b40!OpenDocument>)

The following website contains the text of the TRIPs Agreement:

www.tcc.mac.doc.gov/cgi-bin/doiit.cgi?204:64:144408919:272

From the following website you can find the links to many international IPR treaties:

<http://www.tcc.mac.doc.gov/cgi-bin/doiit.cgi?207:64:182368177>.

The Trade Compliance Center (TCC) at the U.S. Department of Commerce works with foreign governments to ensure that IPR infringements are not the result of the abrogation of international trade agreements. The TCC also monitors countries' implementation of IPR trade agreements. The TCC actively participates in World Trade Organization discussions regarding international IPR treaties and participates in trade negotiations to ensure U.S. IPR interests are represented. To contact the TCC to discuss trade agreement concerns, call 202-482-1191.

Additional U.S. Government Contacts

Under the STOP initiative, the Commerce Department established a single IPR hotline where businesses can go to learn how to protect their intellectual property rights overseas or for international intellectual property enforcement assistance: 1-866-999-HALT (4258)

U.S. agencies have IPR experts that can assist with intellectual property matters. Below are contact numbers for some of the agencies' international intellectual property divisions. Please note, these are internal numbers for internal government inquiries, but not necessarily appropriate for company referrals:

USTR Office of Services, Investment and Intellectual Property: 202-395-4510

U.S. Department of State Intellectual Property and Competition Division: 202-647-3985

USPTO Office of Legislative, Enforcement and International Affairs: 703-305-9300

(Attorneys can answer questions regarding patents, trademarks, copyrights, geographical indications and other intellectual rights questions.)

Glossary of IPR Terms

Copyright - Form of intellectual property protection provided to the authors of “original works of authorship,” including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works.

Counterfeit - A copy that is represented as the original.

Trademark Counterfeiting - Unauthorized representation of a registered trademark carried on goods identical or similar to goods for which the trademark is registered, with a view to deceiving the purchaser that he/she is buying the original goods.

Intellectual Property (IP)- The general term for intangible property rights which are a result of intellectual effort and is afforded legal protection. Intellectual property includes patents, trademarks, including geographical indications, industrial designs, lay-out designs of integrated circuits, copyrights, and trade secrets

Intellectual Property Protection - The legal protection afforded to the owner of intellectual property through national legislation and international agreements.

Intellectual Property Rights (IPR)- The legal rights afforded to the owners of intellectual property.

Intellectual Property Right Infringement – An act that interferes with any of the exclusive rights conferred to the owner of intellectual property. For example, infringement of a patent involves making, using, or selling a patented product or process without authorization. Infringement of a trademark consists of the unauthorized use of the same or similar mark for the same or related goods or services where such use is likely to deceive, confuse, or mislead others. Infringement of a copyright involves reproducing, adapting, distributing, performing in public, or displaying in public the copyrighted work of someone else.

Patent – The grant of a property right to the inventor, issued by governments, which confers to the inventor the right to exclude others from making, using, selling, or offering to sell the invention for a period of time. In the United States., patents are available for any new and useful product and process machine, manufacture, or composition of matter, or any new and useful improvement thereof.

Copyright Piracy - Reproduction, distribution and use of a work without the permission of the copyright owner or a person duly authorized by the right holder.

Pirated Product – Copies made without the consent of the copyright owner.

Trademark - Any word, name, symbol or device or combination of these, used by

manufacturers and merchants to identify their goods and services, indicate their source or origin, and distinguish them from the goods or services of others.

Other informal terms for pirated or counterfeit goods:

infringing
knock-off
fake
clone
phony
forged or forgery

bogus
imitation
fraud or fraudulent
illegitimate
adulterated
false

sham
duplicate

