To enhance remedies for violations of intellectual property laws, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. LEAHY (for himself, Mr. SPECTER, Mr. BAYH, Mr. VOINOVICH, Mrs. FEINSTEIN, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To enhance remedies for violations of intellectual property laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Enforcement of Intellectual Property Rights Act of 2008”.

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Reference.
Sec. 3. Definition.
TITLE I—AUTHORIZATION OF CIVIL COPYRIGHT ENFORCEMENT
BY ATTORNEY GENERAL

Sec. 101. Civil penalties for certain violations.

TITLE II—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY
LAWS

Sec. 201. Registration of claim.
Sec. 203. Treble damages in counterfeiting cases.
Sec. 204. Statutory damages in counterfeiting cases.
Sec. 205. Transshipment and exportation of goods bearing infringing marks.
Sec. 206. Importation, transshipment, and exportation.

TITLE III—ENHANCEMENTS TO CRIMINAL INTELLECTUAL
PROPERTY LAWS

Sec. 301. Criminal copyright infringement.
Sec. 302. Trafficking in counterfeit labels, illicit labels, or counterfeit doc-umentation or packaging for works that can be copyrighted.
Sec. 303. Unauthorized fixation.
Sec. 304. Unauthorized recording of motion pictures.
Sec. 305. Trafficking in counterfeit goods or services.
Sec. 306. Forfeiture, destruction, and restitution.
Sec. 307. Forfeiture under Economic Espionage Act.
Sec. 308. Technical and conforming amendments.

TITLE IV—COORDINATION AND STRATEGIC PLANNING OF
FEDERAL EFFORT AGAINST COUNTERFEITING AND PIRACY

Sec. 401. Intellectual property enforcement coordinator.
Sec. 402. Definition.
Sec. 403. Joint strategic plan.
Sec. 404. Reporting.
Sec. 405. Savings and repeals.

TITLE V—DEPARTMENT OF JUSTICE PROGRAMS

Sec. 501. Local law enforcement grants.
Sec. 502. Improved investigative and forensic resources for enforcement of laws related to intellectual property crimes.
Sec. 503. Additional funding for resources to investigate and prosecute criminal activity involving computers.
Sec. 504. International intellectual property law enforcement coordinators.
Sec. 505. Annual reports.
Sec. 506. Authorization of appropriations.

1 SEC. 2. REFERENCE.

Any reference in this Act to the “Trademark Act of 1946” refers to the Act entitled “An Act to provide for the registration of trademarks used in commerce, to carry
out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 3. DEFINITION.

In this Act, the term “United States person” means—

(1) any United States resident or national,

(2) any domestic concern (including any permanent domestic establishment of any foreign concern), and

(3) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern,

except that such term does not include an individual who resides outside the United States and is employed by an individual or entity other than an individual or entity described in paragraph (1), (2), or (3).
TITLE I—AUTHORIZATION OF CIVIL COPYRIGHT ENFORCEMENT BY ATTORNEY GENERAL

SEC. 101. CIVIL PENALTIES FOR CERTAIN VIOLATIONS.

(a) In General.—Chapter 5 of title 17, United States Code, is amended by inserting after section 506 the following:

“SEC. 506a. CIVIL PENALTIES FOR VIOLATIONS OF SECTION 506.

“(a) In General.—In lieu of a criminal action under section 506, the Attorney General may commence a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 506. Upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty under section 504 which shall be in an amount equal to the amount which would be awarded under section 3663(a)(1)(B) of title 18 and restitution to the copyright owner aggrieved by the conduct.

“(b) Other Remedies.—

“(1) In General.—Imposition of a civil penalty under this section does not preclude any other criminal or civil statutory, injunctive, common law,
or administrative remedy, which is available by law to the United States or any other person.

“(2) OFFSET.—Any restitution received by a copyright owner as a result of a civil action brought under this section shall be offset against any award of damages in a subsequent copyright infringement civil action by that copyright owner for the conduct that gave rise to the civil action brought under this section.”.

(b) DAMAGES AND PROFITS.—Section 504 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in the first sentence—

(i) by inserting “, or the Attorney General in a civil action,” after “The copyright owner”; and

(ii) by striking “him or her” and inserting “the copyright owner”; and

(B) in the second sentence by inserting “, or the Attorney General in a civil action,” after “the copyright owner”; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting “, or the Attorney General in a civil action,” after “the copyright owner”; and
(B) in paragraph (2), by inserting “, or the Attorney General in a civil action,” after “the copyright owner”.

(c) Technical and Conforming Amendment.—

The table of sections for chapter 5 of title 17, United States Code, is amended by inserting after the item relating to section 506 the following:

“Sec. 506a. Civil penalties for violations of section 506.”.

TITLE II—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS

SEC. 201. REGISTRATION OF CLAIM.

(a) Limitation to Civil Actions; Harmless Error.—Section 411 of title 17, United States Code, is amended—

(1) in the section heading, by inserting “CIVIL” before “INFRINGEMENT”;

(2) in subsection (a)—

(A) in the first sentence, by striking “no action” and inserting “no civil action”; and

(B) in the second sentence, by striking “an action” and inserting “a civil action”;

(3) by redesignating subsection (b) as subsection (e);
(4) in subsection (c), as so redesignated by paragraph (3), by striking “506 and sections 509 and” and inserting “505 and section”; and

(5) by inserting after subsection (a) the following:

“(b)(1) A certificate of registration satisfies the requirements of this section and section 412, regardless of whether the certificate contains any inaccurate information, unless—

“(A) the inaccurate information was included on the application for copyright registration with knowledge that it was inaccurate; and

“(B) the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.

“(2) In any case in which inaccurate information described under paragraph (1) is alleged, the court shall request the Register of Copyrights to advise the court whether the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 412 of title 17, United States Code, is amended by striking “411(b)” and inserting “411(c)”.
(2) The item relating to section 411 in the table of sections for chapter 4 of title 17, United States Code, is amended to read as follows:

“Sec. 411. Registration and civil infringement actions.”.

SEC. 202. CIVIL REMEDIES FOR INFRINGEMENT.

(a) IN GENERAL.—Section 503(a) of title 17, United States Code, is amended—

(1) by striking “and of all plates” and inserting “, of all plates”; and

(2) by striking the period and inserting “, and of records documenting the manufacture, sale, or receipt of things involved in such violation. The court shall enter, if appropriate, a protective order with respect to discovery of any records that have been seized. The protective order shall provide for appropriate procedures to ensure that confidential information contained in such records is not improperly disclosed to any party.”.

(b) PROTECTIVE ORDERS FOR SEIZED RECORDS.—

Section 34(d)(1)(A) of the Trademark Act (15 U.S.C. 1116(d)(1)(A)) is amended by adding at the end the following: “The court shall enter, if appropriate, a protective order with respect to discovery of any records that have been seized. The protective order shall provide for appropriate procedures to ensure that confidential information
contained in such records is not improperly disclosed to
any party.”.

SEC. 203. TREBLE DAMAGES IN COUNTERFEITING CASES.

Section 35(b) of the Trademark Act of 1946 (15
U.S.C. 1117(b)) is amended to read as follows:

“(b) In assessing damages under subsection (a) for
any violation of section 32(1)(a) of this Act or section
220506 of title 36, United States Code, in a case involving
use of a counterfeit mark or designation (as defined in
section 34(d) of this Act), the court shall, unless the court
finds extenuating circumstances, enter judgment for three
times such profits or damages, whichever amount is great-
er, together with a reasonable attorney’s fee, if the viola-
tion consists of—

“(1) intentionally using a mark or designation,
knowing such mark or designation is a counterfeit
mark (as defined in section 34(d) of this Act), in
connection with the sale, offering for sale, or dis-
tribution of goods or services; or

“(2) providing goods or services necessary to
the commission of a violation specified in paragraph
(1), with the intent that the recipient of the goods
or services would put the goods or services to use in
committing the violation.
In such a case, the court may award prejudgment interest on such amount at an annual interest rate established under section 6621(a)(2) of the Internal Revenue Code of 1986, beginning on the date of the service of the claimant’s pleadings setting forth the claim for such entry of judgment and ending on the date such entry is made, or for such shorter time as the court considers appropriate.”.

SEC. 204. STATUTORY DAMAGES IN COUNTERFEITING CASES.

Section 35(c) of the Trademark Act of 1946 (15 U.S.C. 1117) is amended—

(1) in paragraph (1)—

(A) by striking “$500” and inserting “$1,000”; and

(B) by striking “$100,000” and inserting “$200,000”; and

(2) in paragraph (2), by striking “$1,000,000” and inserting “$2,000,000”.

SEC. 205. TRANSSHIPMENT AND EXPORTATION OF GOODS BEARING INFRINGING MARKS.

Title VII of the Trademark Act of 1946 (15 U.S.C. 1124) is amended—

(1) in the title heading, by inserting after “IMPORTATION” the following: “TRANSSHIPMENT, OR EXPORTATION”; and
(2) in section 42—

(A) by striking “imported”; and

(B) by inserting after “customhouse of the United States” the following: “, nor shall any such article be transshipped through or exported from the United States”.

SEC. 206. IMPORTATION, TRANSSHIPMENT, AND EXPORTATION.

(a) IN GENERAL.—The heading for chapter 6 of title 17, United States Code, is amended to read as follows: “CHAPTER 6—MANUFACTURING REQUIREMENTS, IMPORTATION, TRANSSHIPMENT, AND EXPORTATION”.

(b) AMENDMENT ON EXPORTATION.—Section 602(a) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and moving such subparagraphs 2 ems to the right;

(2) by striking “(a)” and inserting “(a) INFRINGING IMPORTATION, TRANSSHIPMENT, OR EXPORTATION.—

“(1) IMPORTATION.—”;

(3) by striking “This subsection does not apply to—” and inserting the following:
“(2) IMPORTATION, TRANSSHIPMENT, OR EXPORTATION OF INFRINGING ITEMS.—Importation into the United States, transshipment through the United States, or exportation from the United States, without the authority of the owner of copyright under this title, of copies or phonorecords, the making of which either constituted an infringement of copyright or would have constituted an infringement of copyright if this title had been applicable, is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under sections 501 and 506.

“(3) EXCEPTIONS.—This subsection does not apply to—”;

(4) in paragraph (3)(A) (as redesignated by this subsection) by inserting “or exportation” after “importation”; and

(5) in paragraph (3)(B) (as redesignated by this subsection)—

(A) by striking “importation, for the private use of the importer” and inserting “importation or exportation, for the private use of the importer or exporter”; and

(B) by inserting “or departing from the United States” after “United States”.

(c) CONFORMING AMENDMENTS.—(1) Section 602 of title 17, United States Code, is further amended—

(A) in the section heading, by inserting “or exportation” after “importation”; and

(B) in subsection (b)—

(i) by striking “(b) In a case” and inserting “(b) IMPORT PROHIBITION.—In a case”; and

(ii) by striking “the United States Customs Service” and inserting “United States Customs and Border Protection”; and

(iii) by striking “the Customs Service” and inserting “United States Customs and Border Protection”.

(2) Section 601(b)(2) of title 17, United States Code, is amended by striking “the United States Customs Service” and inserting “United States Customs and Border Protection”.

(3) The item relating to chapter 6 in the table of chapters for title 17, United States Code, is amended to read as follows:

“6. MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION ........ 601”.
TITLE III—ENHANCEMENTS TO CRIMINAL INTELLECTUAL PROPERTY LAWS

SEC. 301. CRIMINAL COPYRIGHT INFRINGEMENT.

(a) Forfeiture and Destruction; Restitution.—Section 506(b) of title 17, United States Code, is amended to read as follows:

“(b) Forfeiture, Destruction, and Restitution.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323 of title 18, to the extent provided in that section, in addition to any other similar remedies provided by law.”.

(b) Seizures and Forfeitures.—

(1) Repeal.—Section 509 of title 17, United States Code, is repealed.

(2) Technical and Conforming Amendment.—The table of sections for chapter 5 of title 17, United States Code, is amended by striking the item relating to section 509.

SEC. 302. TRAFFICKING IN COUNTERFEIT LABELS, ILICIT LABELS, OR COUNTERFEIT DOCUMENTATION OR PACKAGING FOR WORKS THAT CAN BE COPYRIGHTED.

Section 2318 of title 18, United States Code, is amended—
(1) in subsection (a)—

(A) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by striking “Whoever” and inserting “(1) Whoever”;

(2) by amending subsection (d) to read as follows:

“(d) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.”; and

(3) by striking subsection (e) and redesignating subsection (f) as subsection (e).

SEC. 303. UNAUTHORIZED FIXATION.

(a) Section 2319A(b) of title 18, United States Code, is amended to read as follows:

“(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323,
to the extent provided in that section, in addition to any other similar remedies provided by law.”.

(b) Section 2319A(e) of title 18, United States Code, is amended by striking the second sentence and inserting:
“The Secretary of Homeland Security shall issue regulations by which any performer may, upon payment of a specified fee, be entitled to notification by United States Customs and Border Protection of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.”.

SEC. 304. UNAUTHORIZED RECORDING OF MOTION PICTURES.

Section 2319B(b) of title 18, United States Code, is amended to read as follows:
“(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.”.

SEC. 305. TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.

(a) IN GENERAL.—Section 2320 of title 18, United States Code, is amended—

(1) in subsection (a)—
(A) by striking “WHOMEVER” and inserting “OFFENSE.—”

“(1) IN GENERAL.—Whoever;”;

(B) by moving the remaining text 2 ems to the right; and

(C) by adding at the end the following:

“(2) SERIOUS BODILY HARM OR DEATH.—

“(A) SERIOUS BODILY HARM.—If the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of paragraph (1), the penalty shall be a fine under this title or imprisonment for not more than 20 years, or both.

“(B) DEATH.—If the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of paragraph (1), the penalty shall be a fine under this title or imprisonment for any term of years or for life, or both.”.

(b) FORFEITURE AND DESTRUCTION OF PROPERTY;

RESTITUTION.—Section 2320(b) of title 18, United States Code, is amended to read as follows:

“(b) FORFEITURE AND DESTRUCTION OF PROPERTY;

RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323,
to the extent provided in that section, in addition to any
other similar remedies provided by law.”.

SEC. 306. FORFEITURE, DESTRUCTION, AND RESTITUTION.

(a) In General.—Chapter 113 of title 18, United
States Code, is amended by adding at the end the fol-
lowing:

“SEC. 2323. FORFEITURE, DESTRUCTION, AND RESTITU-
TION.

“(a) Civil Forfeiture.—

“(1) Property subject to forfeiture.—

The following property is subject to forfeiture to the
United States Government:

“(A) Any article, the making or trafficking
of which is, prohibited under section 506 or
1204 of title 17, or section 2318, 2319, 2319A,
2319B, or 2320, or chapter 90, of this title.

“(B) Any property used, or intended to be
used, in any manner or part to commit or facili-
tate the commission of an offense referred to in
subparagraph (A), except that property is sub-
ject to forfeiture under this subparagraph only
if the United States Government establishes
that there was a substantial connection between
the property and the violation of an offense re-
ferred to in subparagraph (A).
“(C) Any property constituting or derived from any proceeds obtained directly or indirectly as a result of the commission of an offense referred to in subparagraph (A).

“(2) PROCEDURES.—The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, unless otherwise requested by an agency of the United States, the court shall order that any property forfeited under paragraph (1) be destroyed, or otherwise disposed of according to law.

“(b) CRIMINAL FORFEITURE.—

“(1) PROPERTY SUBJECT TO FORFEITURE.—

The court, in imposing sentence on a person convicted of an offense under section 506 or 1204 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, shall order, in addition to any other sentence imposed, that the person forfeit to the United States Government any property subject to forfeiture under subsection (a) for that offense.

“(2) PROCEDURES.—

“(A) IN GENERAL.—The forfeiture of property under paragraph (1), including any
seizure and disposition of the property and any
related judicial or administrative proceeding,
shall be governed by the procedures set forth in
section 413 of the Comprehensive Drug Abuse
853), other than subsection (d) of that section.

“(B) DESTRUCTION.—At the conclusion of
the forfeiture proceedings, the court, unless oth-
erwise requested by an agency of the United
States shall order that any—

“(i) forfeited article or component of
an article bearing or consisting of a coun-
terfeit mark be destroyed or otherwise dis-
posed of according to law; and

“(ii) infringing items or other prop-
erty described in subsection (a)(1)(A) and
forfeited under paragraph (1) of this sub-
section be destroyed or otherwise disposed
of according to law.

“(c) RESTITUTION.—When a person is convicted of
an offense under section 506 or 1204 of title 17 or section
2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of
this title, the court, pursuant to sections 3556, 3663A,
and 3664 of this title, shall order the person to pay res-
titution to any victim of the offense as an offense against
property referred to in section 3663A(c)(1)(A)(ii) of this title.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—

The table of sections for chapter 113 of title 18, United States Code, is amended by adding at the end the following:

“Sec. 2323. Forfeiture, destruction, and restitution.”.

SEC. 307. FORFEITURE UNDER ECONOMIC ESPIONAGE ACT.

Section 1834 of title 18, United States Code, is amended to read as follows:

“SEC. 1834. CRIMINAL FORFEITURE.

“Forfeiture, destruction, and restitution relating to this chapter shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.”.

SEC. 308. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—

(1) Section 109 (b)(4) of title 17, United States Code, is amended by striking “505, and 509” and inserting “and 505”.

(2) Section 111 of title 17, United States Code, is amended—

(A) in subsection (b), by striking “and 509”;

(B) in subsection (e)—
(i) in paragraph (2), by striking “and 509”; 
(ii) in paragraph (3), by striking “sections 509 and 510” and inserting “section 510”; and 
(iii) in paragraph (4), by striking “and section 509”; and 
(C) in subsection (e)— 
(i) in paragraph (1), by striking “sections 509 and 510” and inserting “section 510”; and 
(ii) in paragraph (2), by striking “and 509”.

(3) Section 115(c) of title 17, United States Code, is amended—

(A) in paragraph (3)(G)(i), by striking “and 509”; and 
(B) in paragraph (6), by striking “and 509”.

(4) Section 119(a) of title 17, United States Code, is amended—

(A) in paragraph (6), by striking “sections 509 and 510” and inserting “section 510”; 
(B) in paragraph (7)(A), by striking “and 509”;
(C) in paragraph (8), by striking “and 509”; and
(D) in paragraph (13), by striking “and 509”.

(5) Section 122 of title 17, United States Code, is amended—
(A) in subsection (d), by striking “and 509”;  
(B) in subsection (e), by striking “sections 509 and 510” and inserting “section 510”; and  
(C) in subsection (f)(1), by striking “and 509”.

(6) Section 411(b) of title 17, United States Code, is amended by striking “sections 509 and 510” and inserting “section 510”.

(b) Other Amendments.—Section 596(e)(2)(c) of the Tariff Act of 1950 (19 U.S.C. 1595a(e)(2)(c)) is amended by striking “or 509”.
TITLE IV—COORDINATION AND STRATEGIC PLANNING OF FEDERAL EFFORT AGAINST COUNTERFEITING AND PIRACY

SEC. 401. INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR.

(a) INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR.—The President shall appoint, by and with the advice and consent of the Senate, an Intellectual Property Enforcement Coordinator (in this title referred to as the “IPEC”) to serve within the Executive Office of the President. As an exercise of the rulemaking power of the Senate, any nomination of the IPEC submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on the Judiciary.

(b) DUTIES OF IPEC.—

(1) IN GENERAL.—The IPEC shall—

(A) chair the interagency intellectual property enforcement advisory committee established under subsection (b)(3)(A);

(B) coordinate the development of the Joint Strategic Plan against counterfeiting and piracy by the advisory committee under section 403;
(C) assist in the implementation of the Joint Strategic Plan by the departments and agencies listed in subsection (b)(3)(A);

(D) report directly to the President and Congress regarding domestic and international intellectual property enforcement programs;

(E) report to Congress, as provided in section 404, on the implementation of the Joint Strategic Plan, and make recommendations to Congress for improvements in Federal intellectual property enforcement efforts; and

(F) carry out such other functions as the President may direct.

(2) LIMITATION ON AUTHORITY.—The IPEC may not control or direct any law enforcement agency in the exercise of its investigative or prosecutorial authority.

(3) ADVISORY COMMITTEE.—

(A) ESTABLISHMENT.—There is established an interagency intellectual property enforcement advisory committee composed of the IPEC, who shall chair the committee, and Senate-confirmed representatives of the following departments and agencies who are involved in intellectual property enforcement, and who are,
or are appointed by, the respective heads of those departments and agencies:

(i) The Office of Management and Budget.

(ii) The Department of Justice.

(iii) The United States Patent and Trademark Office and other relevant units of the Department of Commerce.

(iv) The Office of the United States Trade Representative.

(v) The Department of State, the United States Agency for International Development, and the Bureau of International Narcotics Law Enforcement.


(viii) The United States Copyright Office.

(ix) Any such other agencies as the President determines to be substantially
involved in the efforts of the Federal Government to combat counterfeiting and piracy.

(B) FUNCTIONS.—The advisory committee established under subparagraph (A) shall develop the Joint Strategic Plan against counterfeiting and piracy under section 403.

(c) COMPENSATION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following: “United States Intellectual Property Enforcement Coordinator.”.

SEC. 402. DEFINITION.

For purposes of this title, the term “intellectual property enforcement” means matters relating to the enforcement of laws protecting copyrights, patents, trademarks, other forms of intellectual property, and trade secrets, both in the United States and abroad, including in particular matters relating to combating counterfeit and pirated goods.

SEC. 403. JOINT STRATEGIC PLAN.

(a) PURPOSE.—The objectives of the Joint Strategic Plan against counterfeiting and piracy that is referred to in section 401(b)(1)(B) (in this section referred to as the “joint strategic plan”) are the following:
(1) Reducing counterfeit and pirated goods in the domestic and international supply chain.

(2) Identifying and addressing structural weaknesses, systemic flaws, or other unjustified impediments to effective enforcement action against the financing, production, trafficking, or sale of counterfeit or pirated goods.

(3) Ensuring that information is identified and shared among the relevant departments and agencies, to the extent permitted by law and consistent with law enforcement protocols for handling information, to aid in the objective of arresting and prosecuting individuals and entities that are knowingly involved in the financing, production, trafficking, or sale of counterfeit or pirated goods.

(4) Disrupting and eliminating domestic and international counterfeiting and piracy networks.

(5) Strengthening the capacity of other countries to protect and enforce intellectual property rights, and reducing the number of countries that fail to enforce laws preventing the financing, production, trafficking, and sale of counterfeit and pirated goods.

(6) Working with other countries to establish international standards and policies for the effective
protection and enforcement of intellectual property rights.

(7) Protecting intellectual property rights overseas by—

(A) working with other countries and exchanging information with appropriate law enforcement agencies in other countries relating to individuals and entities involved in the financing, production, trafficking, or sale of pirated or counterfeit goods;

(B) using the information described in subparagraph (A) to conduct enforcement activities in cooperation with appropriate law enforcement agencies in other countries; and

(C) building a formal process for consulting with companies, industry associations, labor unions, and other interested groups in other countries with respect to intellectual property enforcement.

(b) TIMING.—Not later than 12 months after the date of the enactment of this Act, and not later than December 31 of every third year thereafter, the IPEC shall submit the joint strategic plan to the Committee on the Judiciary and the Committee on Appropriations of the Senate, and to the Committee on the Judiciary and the
Committee on Appropriations of the House of Representatives.

(c) Responsibility of the IPEC.—During the development of the joint strategic plan, the IPEC—

(1) shall provide assistance to, and coordinate the meetings and efforts of, the appropriate officers and employees of departments and agencies represented on the advisory committee appointed under section 401(b)(3) who are involved in intellectual property enforcement; and

(2) may consult with private sector experts in intellectual property enforcement in furtherance of providing assistance to the members of the advisory committee appointed under section 401(b)(3).

(d) Responsibilities of Other Departments and Agencies.—In the development and implementation of the joint strategic plan, the heads of the departments and agencies identified under section 401(b)(3) shall—

(1) designate personnel with expertise and experience in intellectual property enforcement matters to work with the IPEC and other members of the advisory committee; and

(2) share relevant department or agency information with the IPEC and other members of the advisory committee, including statistical information
on the enforcement activities of the department or agency against counterfeiting or piracy, and plans for addressing the joint strategic plan.

(e) CONTENTS OF THE JOINT STRATEGIC PLAN.—

Each joint strategic plan shall include the following:

(1) A detailed description of the priorities identified for carrying out the objectives in the joint strategic plan, including activities of the Federal Government relating to intellectual property enforcement.

(2) A detailed description of the means and methods to be employed to achieve the priorities, including the means and methods for improving the efficiency and effectiveness of the Federal Government’s enforcement efforts against counterfeiting and piracy.

(3) Estimates of the resources necessary to fulfill the priorities identified under paragraph (1).

(4) The performance measures to be used to monitor results under the joint strategic plan during the following year.

(5) An analysis of the threat posed by violations of intellectual property rights, including the costs to the economy of the United States resulting from violations of intellectual property laws, and the threats
to public health and safety created by counterfeiting and piracy.

(6) An identification of the departments and agencies that will be involved in implementing each priority under paragraph (1).

(7) A strategy for ensuring coordination between the IPEC and the departments and agencies identified under paragraph (6), including a process for oversight by the executive branch of, and accountability among, the departments and agencies responsible for carrying out the strategy.

(8) Such other information as is necessary to convey the costs imposed on the United States economy by, and the threats to public health and safety created by, counterfeiting and piracy, and those steps that the Federal Government intends to take over the period covered by the succeeding joint strategic plan to reduce those costs and counter those threats.

(f) ENHANCING ENFORCEMENT EFFORTS OF FOREIGN GOVERNMENTS.—The joint strategic plan shall include programs to provide training and technical assistance to foreign governments for the purpose of enhancing the efforts of such governments to enforce laws against
counterfeiting and piracy. With respect to such programs, the joint strategic plan shall—

1. seek to enhance the efficiency and consistency with which Federal resources are expended, and seek to minimize duplication, overlap, or inconsistency of efforts;

2. identify and give priority to those countries where programs of training and technical assistance can be carried out most effectively and with the greatest benefit to reducing counterfeit and pirated products in the United States market, to protecting the intellectual property rights of United States persons and their licensees, and to protecting the interests of United States persons otherwise harmed by violations of intellectual property rights in those countries;

3. in identifying the priorities under paragraph (2), be guided by the list of countries identified by the United States Trade Representative under section 182(a) of the Trade Act of 1974 (19 U.S.C. 2242(a)); and

4. develop metrics to measure the effectiveness of the Federal Government’s efforts to improve the laws and enforcement practices of foreign governments against counterfeiting and piracy.
(g) **Dissemination of the Joint Strategic Plan.**—The joint strategic plan shall be posted for public access on the website of the White House, and shall be disseminated to the public through such other means as the IPEC may identify.

**SEC. 404. REPORTING.**

(a) **Annual Report.**—Not later than December 31 of each calendar year beginning in 2009, the IPEC shall submit a report on the activities of the advisory committee during the preceding fiscal year. The annual report shall be submitted to Congress, and disseminated to the people of the United States, in the manner specified in subsections (b) and (g) of section 403.

(b) **Contents.**—The report required by this section shall include the following:

1. The progress made on implementing the strategic plan and on the progress toward fulfillment of the priorities identified under section 403(e)(1).
2. The progress made in efforts to encourage Federal, State, and local government departments and agencies to accord higher priority to intellectual property enforcement.
3. The progress made in working with foreign countries to investigate, arrest, and prosecute entities and individuals involved in the financing, pro-
duction, trafficking, and sale of counterfeit and pi-
rated goods.

(4) The manner in which the relevant depart-
ments and agencies are working together and shar-
ing information to strengthen intellectual property
enforcement.

(5) An assessment of the successes and short-
comings of the efforts of the Federal Government,
including departments and agencies represented on
the committee established under section 401(b)(3).

(6) Recommendations for any changes in en-
forcement statutes, regulations, or funding levels
that the advisory committee considers would signifi-
cantly improve the effectiveness or efficiency of the
effort of the Federal Government to combat counter-
feiting and piracy and otherwise strengthen intellec-
tual property enforcement, including through the
elimination or consolidation of duplicative programs
or initiatives.

(7) The progress made in strengthening the ca-
pacity of countries to protect and enforce intellectual
property rights.

(8) The successes and challenges in sharing
with other countries information relating to intellec-
tual property enforcement.
The progress made under trade agreements and treaties to protect intellectual property rights of United States persons and their licensees.

SEC. 405. SAVINGS AND REPEALS.

(a) Repeal of Coordination Council.—Section 653 of the Treasury and General Government Appropriations Act, 2000 (15 U.S.C. 1128) is repealed.

(b) Current Authorities Not Affected.—Except as provided in subsection (a), nothing in this title shall alter the authority of any department or agency of the United States (including any independent agency) that relates to—

(1) the investigation and prosecution of violations of laws that protect intellectual property rights;

(2) the administrative enforcement, at the borders of the United States, of laws that protect intellectual property rights; or

(3) the United States trade agreements program or international trade.

(c) Register of Copyrights.—Nothing in this title shall derogate from the duties and functions of the Register of Copyrights.
SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.

TITLE V—DEPARTMENT OF JUSTICE PROGRAMS

SEC. 501. LOCAL LAW ENFORCEMENT GRANTS.

(a) AUTHORIZATION.—Section 2 of the Computer Crime Enforcement Act (42 U.S.C. 3713) is amended—

(1) in subsection (b), by inserting after “computer crime” each place it appears the following: “, including infringement of copyrighted works over the Internet”; and

(2) in subsection (e)(1), relating to authorization of appropriations, by striking “fiscal years 2001 through 2004” and inserting “fiscal years 2009 through 2013”.

(b) GRANTS.—The Office of Justice Programs of the Department of Justice shall make grants to eligible State or local law enforcement entities, including law enforcement agencies of municipal governments and public educational institutions, for training, prevention, enforcement, and prosecution of intellectual property theft and infringement crimes (in this subsection referred to as “IP–TIC grants”), in accordance with the following:
(1) USE OF IP–TIC GRANT AMOUNTS.—IP–TIC grants may be used to establish and develop programs to do the following with respect to the enforcement of State and local true name and address laws and State and local criminal laws on anti-piracy, anti-counterfeiting, and unlawful acts with respect to goods by reason of their protection by a patent, trademark, service mark, trade secret, or other intellectual property right under State or Federal law:

(A) Assist State and local law enforcement agencies in enforcing those laws, including by reimbursing State and local entities for expenses incurred in performing enforcement operations, such as overtime payments and storage fees for seized evidence.

(B) Assist State and local law enforcement agencies in educating the public to prevent, deter, and identify violations of those laws.

(C) Educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions in matters involving those laws.
(D) Establish task forces that include personnel from State or local law enforcement entities, or both, exclusively to conduct investigations and forensic analyses of evidence and prosecutions in matters involving those laws.

(E) Assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analyses of evidence in matters involving those laws.

(F) Facilitate and promote the sharing, with State and local law enforcement officers and prosecutors, of the expertise and information of Federal law enforcement agencies about the investigation, analysis, and prosecution of matters involving those laws and criminal infringement of copyrighted works, including the use of multijurisdictional task forces.

(2) ELIGIBILITY.—To be eligible to receive an IP–TIC grant, a State or local government entity shall provide to the Attorney General—

(A) assurances that the State in which the government entity is located has in effect laws described in paragraph (1);
(B) an assessment of the resource needs of the State or local government entity applying for the grant, including information on the need for reimbursements of base salaries and overtime costs, storage fees, and other expenditures to improve the investigation, prevention, or enforcement of laws described in paragraph (1); and

(C) a plan for coordinating the programs funded under this section with other federally funded technical assistance and training programs, including directly funded local programs such as the Edward Byrne Memorial Justice Assistance Grant Program authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(3) MATCHING FUNDS.—The Federal share of an IP–TIC grant may not exceed 90 percent of the costs of the program or proposal funded by the IP–TIC grant, unless the Attorney General waives, in whole or in part, the 90 percent requirement.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There is authorized to be appropriated to carry out this subsection
the sum of $25,000,000 for each of fiscal years 2009 through 2013.

(B) LIMITATION.—Of the amount made available to carry out this subsection in any fiscal year, not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

SEC. 502. IMPROVED INVESTIGATIVE AND FORENSIC RESOURCES FOR ENFORCEMENT OF LAWS RELATED TO INTELLECTUAL PROPERTY CRIMES.

(a) IN GENERAL.—Subject to the availability of appropriations to carry out this subsection, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation, shall, with respect to crimes related to the theft of intellectual property—

(1) create an operational unit of the Federal Bureau of Investigation—

(A) to work with the Computer Crime and Intellectual Property section of the Department of Justice on the investigation and coordination of intellectual property crimes that are complex, committed in more than 1 judicial district, or international;
(B) that consists of at least 10 agents of the Bureau; and

(C) that is located at the headquarters of the Bureau;

(2) ensure that any unit in the Department of Justice responsible for investigating computer hacking or intellectual property crimes is assigned at least 2 agents of the Federal Bureau of Investigation (in addition to any agent assigned to such unit as of the date of the enactment of this Act) to support such unit for the purpose of investigating or prosecuting intellectual property crimes; and

(3) implement a comprehensive program—

(A) the purpose of which is to train agents of the Federal Bureau of Investigation in the investigation and prosecution of such crimes and the enforcement of laws related to intellectual property crimes;

(B) that includes relevant forensic training related to investigating and prosecuting intellectual property crimes; and

(C) that requires such agents who investigate or prosecute intellectual property crimes to attend the program annually.
(b) ORGANIZED CRIME TASK FORCE.—Subject to the availability of appropriations to carry out this subsection, and not later than 120 days after the date of the enactment of this Act, the Attorney General, through the United States Attorneys’ Offices, the Computer Crime and Intellectual Property section, and the Organized Crime and Racketeering section of the Department of Justice, and in consultation with the Federal Bureau of Investigation and other Federal law enforcement agencies, shall create a Task Force to develop and implement a comprehensive, long-range plan to investigate and prosecute international organized crime syndicates engaging in or supporting crimes relating to the theft of intellectual property.

(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $12,000,000 for each of fiscal years 2009 through 2013.

SEC. 503. ADDITIONAL FUNDING FOR RESOURCES TO INVESTIGATE AND PROSECUTE CRIMINAL ACTIVITY INVOLVING COMPUTERS.

(a) ADDITIONAL FUNDING FOR RESOURCES.—

(1) AUTHORIZATION.—In addition to amounts otherwise authorized for resources to investigate and prosecute criminal activity involving computers,
there are authorized to be appropriated for each of
the fiscal years 2009 through 2013—

(A) $10,000,000 to the Director of the
Federal Bureau of Investigation; and

(B) $10,000,000 to the Attorney General
for the Criminal Division of the Department of
Justice.

(2) Availability.—Any amounts appropriated
under paragraph (1) shall remain available until ex-
pended.

(b) Use of Additional Funding.—Funds made
available under subsection (a) shall be used by the Direc-
tor of the Federal Bureau of Investigation and the Attor-
ney General, for the Federal Bureau of Investigation and
the Criminal Division of the Department of Justice, re-
spectively, to—

(1) hire and train law enforcement officers to—

(A) investigate crimes committed through
the use of computers and other information
technology, including through the use of the
Internet; and

(B) assist in the prosecution of such

crimes; and

(2) procure advanced tools of forensic science to
investigate, prosecute, and study such crimes.
SEC. 504. INTERNATIONAL INTELLECTUAL PROPERTY LAW ENFORCEMENT COORDINATORS.

(a) DEPLOYMENT OF ADDITIONAL COORDINATORS.—Subject to the availability of appropriations to carry out this section, the Attorney General shall, within 180 days after the date of the enactment of this Act, deploy 5 Intellectual Property Law Enforcement Coordinators, in addition to those serving in such capacity on such date of enactment. Such deployments shall be made to those countries and regions where the activities of such a coordinator can be carried out most effectively and with the greatest benefit to reducing counterfeit and pirated products in the United States market, to protecting the intellectual property rights of United States persons and their licensees, and to protecting the interests of United States persons otherwise harmed by violations of intellectual property rights in those countries. The mission of all International Intellectual Property Law Enforcement Coordinators shall include the following:

(1) Acting as liaison with foreign law enforcement agencies and other foreign officials in criminal matters involving intellectual property rights.

(2) Performing outreach and training to build the enforcement capacity of foreign governments against intellectual property-related crime in the regions in which the coordinators serve.
(3) Coordinating United States law enforcement activities against intellectual property-related crimes in the regions in which the coordinators serve.

(b) Authorization of Appropriations.—There are authorized to be appropriated for each fiscal year such sums as may be necessary for the deployment and support of all International Intellectual Property Enforcement Coordinators of the Department of Justice, including those deployed under subsection (a).

SEC. 505. ANNUAL REPORTS.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on actions taken to carry out this title.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.