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United States Department of State

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Under Secretary of State  
for Economic,  
Business, and Agricultural Affairs

COPIES TO

Washington, D.C. 20520-7512

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Dear Under Secretary Dickinson:

Pursuant to our recent telephone conversation, I am pleased to enclose a paper outlining the State Department's role in Intellectual Property Training Coordination.

I look forward to discussing it with you and other members of the National Intellectual Property Law Enforcement Coordination Council at our next meeting on August 4.

Very truly yours,



Alan P. Larson

The Honorable  
Q. Todd Dickinson,  
Under Secretary of Commerce,  
U.S. Patent and Trademark Office.

# **U.S. Government Coordination of International Intellectual Property Law Enforcement Training and Technical Assistance**

## **Views of the Department of State**

### *Introduction*

The State Department welcomes the opportunity to outline for the U.S. Patent and Trademark Office (PTO) and other National Intellectual Property Law Enforcement Coordination Council (NIPLECC) members the Department's role in protecting international intellectual property rights, IPR trade policy and enforcement, and IPR technical assistance and training. Secretary Albright takes seriously her statutorily mandated responsibility to coordinate all USG training and technical assistance programs overseas, consistent with the non-derogation clause in the statute that created the NIPLECC. To foster better coordination, the State Department for several years has chaired an interagency coordination body (the IP Working Group), whose job it is to ensure the forceful and comprehensive implementation of U.S. IPR policy and the most effective use of scarce USG-funded training programs. Congress annually appropriates funds to the State Department for this purpose. Working together, the State Department is confident that the USG can continue to confront with growing success the challenges of intellectual property theft and the proper implementation of TRIPS legislation in our WTO partner countries.

### *State's International Intellectual Property Enforcement Program*

The State Department has long been engaged in matters concerning the intersection between intellectual property rights, trade policy and IPR law enforcement. The Office of Intellectual Property and Competition (IPC) in State's Bureau of Economic and Business Affairs (EB) and the Bureau for International Narcotics and Law Enforcement Affairs (INL) have the lead on these issues within the Department. Together, EB and INL co-chair the interagency State IP Working Group that meets approximately once a month. By direction of the President, the Departments of Justice, State and Treasury jointly issued the 1998 Crime Control Strategy, instructing US agencies to, "protect intellectual property rights by enhancing foreign and domestic law enforcement efforts to curtail the flow of counterfeit and pirated goods, and by educating consumers." Accordingly, State's enforcement mission in this area is to fight intellectual property theft globally and create predictable legal and economic environments worldwide so that American business may prosper.

The Crime Control Strategy and State's expanded role in the area of intellectual property highlights the Administration's commitment to the issue and importance of safeguarding these rights. Global intellectual property theft threatens our economic prosperity, as well as our national and individual security. Intellectual property theft is not only harmful to US interests but to the international community. It discourages investment, leaves creators unprotected, hampers technology, and feeds organized

criminal activity. In furthering its mission, State utilizes its established contacts within the international law enforcement community, working with the FBI, the Customs Service, and the Justice Department, in fighting this type of crime along side more traditional issues of narcotics trafficking, trafficking in women, corruption and organized crime. Through regular meetings of the IP Working Group, State coordinates the work of all USG agencies involved in both trade and enforcement and communicates regularly with the private sector, so as to ensure timely and responsive assistance to U.S. right holders doing business abroad.

Pursuant to the Foreign Assistance Act of 1961, Congress designates funding for "anti-crime" purposes (including intellectual property theft) to be distributed at the direction of State's Bureau of International Narcotics and Law Enforcement Affairs. For guidance as to where to direct intellectual property, State relies on a number of indicators. Factors considered include the adequacy of a country's intellectual property laws, a country's willingness to engage in intellectual property reform, input from US Embassies, interagency input through State's Intellectual Property Working Group, and a country's status on USTR's Special 301 annual survey. When examining an existing enforcement regime, State seeks to tailor solutions to address specific deficiencies. In the past, State has directed funds to: the Justice Department for hands-on training for Russian judges and prosecutors; the FBI for training of investigators in Vietnam and Central America; the Commerce Department's Commercial Law Development Program (CLDP) for various in-country training programs; and for other comprehensive programs such as a program at the International Law Enforcement Academy (ILEA) in Budapest for Eastern European government officials furthering intellectual property protection in the region. The Department, in conjunction with the FBI, funds two ILEA training facilities for regional training and technical assistance. In addition to the ILEA in Budapest, there is an ILEA in Bangkok. Other regional training facilities are currently being established. To date, many USG training and technical assistance programs combating global intellectual property theft and other crimes are either wholly or partly supported by funding from the Department of State.

### *The Intellectual Property Working Group*

State's EB and INL bureaus co-chair the Intellectual Property Working Group. It is devoted to the coordination of international intellectual property technical assistance and law enforcement programs. This group consists of representatives from all of the statutory NIPLECC member agencies, the Copyright Office, as well as other USG entities engaged in intellectual property enforcement activities, training activities, and trade policy on an as-needed basis. These other agencies include the U.S. Agency for International Development (USAID), the Commercial Law Development Program (CLDP) at USDOC, the Federal Judicial Center, the FBI, and numerous Country desk and Public Affairs offices within the State Department.

The IP Working Group meets monthly, follows a very substantive agenda, and acts to prioritize USG IPR programming. It serves as a forum for invaluable information

sharing and creative problem solving. Because of EB's responsibilities in the area of trade policy and INL's longstanding relationships with the law enforcement community, the group is uniquely positioned to coordinate all U.S. government sectors engaged in international intellectual property matters and to ensure that all efforts are complimentary and consistent. The group is instrumental in prioritizing State's funding in this area, and generates and maintains a very useful a database containing all recent technical assistance offered by both government agency and the private sector. Each meeting is divided into a discussion of country-specific issues; international organizations/efforts; proposed projects; and an open discussion forum for agencies to raise concerns and share information. The creation of a web site and events calendar, the development of specific course curricula, the further development of the training database, greater emphasis on Internet piracy, greater examination of the links to organized crime, the need to address consumer protection, and the need for greater attention to countries attempting to comply with TRIPs, are all prospective projects and topics for future discussion.

#### *Project-Specific Sub-Groups*

In coordinating and implementing the USG agenda on intellectual property enforcement, each agency brings to the process distinct expertise. Some agencies bring hands-on enforcement expertise, some offer extensive knowledge of intellectual property laws and regulations, and some come to the table with process and negotiating expertise. State, for example, offers unique insight into the international community and a history as an "honest broker" in enforcement matters, coordinating subject-matter experts from various USG agencies. State's role has been recognized at past NIPLECC meetings and was also recognized at the working-level, White House-led SCG meetings in 1998-1999 that aimed at coordinating US agencies engaged in intellectual property enforcement. The State IP Working Group's goal is to coordinate and then to defer to appropriate agency expertise and synthesize the results of agencies' efforts.

In recognition of the NIPLECC members' intention to further enhance coordination of IPR law enforcement coordination by the USG, the State Department proposes that the State IP Working Group expand upon existing "Projects" efforts to form *ad hoc* sub-groups on a project-specific basis. These groups could focus on such issues as working with the government of Ukraine to improve IPR enforcement in that country. The sub-groups would be composed of appropriate representatives from relevant NIPLECC member agencies. One sub-group could also be established to develop standard training curriculum; PTO could make a major contribution to the work of that group. The groups would report to and be tasked by the IP Working Group to achieve specific and discrete goals within a realistic timeframe. The IP Working Group could designate one of the sub-groups' members to make a written report on the sub-groups' accomplishments. NIPLECC could then use these reports in its annual report to Congress.

### *Conclusion*

As the NIPLECC agencies are aware, intellectual property theft poses a substantial threat to US interests. US agencies need to combine their expertise and resources to adequately address the myriad of issues created by the globalization of intellectual property and the theft of such property. Coordination is also important in effectively communicating consistent policies to international counterparts. Accordingly, the State Department looks forward to working closely with other NIPLECC members to advance IP coordination efforts, both through the IP Working Group meeting as a whole and through *ad hoc*, project-oriented sub-groups directed by the IP Working Group to tailor training and technical assistance programs for individual countries and regions.