



QUARTERLY NEWSLETTER



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Member Resource Section

MSU'S A-CAPP CENTER DEMONSTRATES VALUE AND EFFICACY OF THE IACC MARKETSAFE PROGRAM

We are excited to share Michigan State University's (MSU) Center for Anti-Counterfeiting and Product Protection (A-CAPP) report, which details its experience participating in the IACC MarketSafe Program. The Program is a long-standing collaboration between the IACC and Alibaba Group to enhance IP enforcement on its e-commerce platforms. A-CAPP, in collaboration with MSU Licensing, was a rights-holder participant in the IACC MarketSafe Program working to enforce MSU's intellectual property.

This report provides key learnings and valuable insight into how MSU utilized the Program to effectively reduce infringing listings on Alibaba. Read the full report [here](#)!

IACC Virtual Events

Since launching our Regional IP Dialogue Series and Online Enforcement Workshop Dialogues, we have hosted five webinars, providing information and resources to more than 650 attendees. We're thankful for our 13 speakers from the USPTO IP Attaché Program based in Europe, Latin America, and the Middle East, as well as from Mercado Libre and Google - all of whom have provided insightful and practical information to enhance attendees' IP enforcement efforts.

Going into the last quarter of 2020, we have an exciting line up of webinars and events. These virtual learning and engagement opportunities are an excellent way to hear from regional and subject matter experts, as well as get updates on current trends in IP protection.

Additional details and registration are coming soon, so stay tuned or check out www.iacc.org/training/webinars.

**Limited sponsorship opportunities for our events are available. Please contact Dawn Sgarlata (dsgarlata@iacc.org) if you are interested in learning more.*

October

- Regional IP Dialogue Series - Sub Saharan Africa - 10/28 from 1:30pm - 2:30pm ET
- LatAm IP Enforcement Webinar - South America - 10/29 from 10:00am - 1:00pm ET

November

- Regional IP Dialogue Series - S.E. Asia and South Asia - 11/17 from 10:00am - 11:00am ET
- Europol IP Crime Virtual Conference (in partnership with the IACC) - 11/23 from 9:30am - 11:30am ET

December

- Online Enforcement Workshop Dialogue with Amazon - TBD
- Online Enforcement Workshop Dialogue with Facebook - 12/10 from 1:00pm - 2:00pm ET

IACC Partner Spotlight

The IACC has been the leading association in the development of partnerships with law enforcement, online intermediaries and other associations to meaningfully and effectively combat counterfeiting and piracy. We are proud to have a long history of collaboration with the National IPR Coordination Center and other law enforcement agencies in the U.S. and around the world. We have partnered with the IPR Center on our Latin America Regional IP Summit, HSI/IACC IP Advisory Board, and other initiatives to facilitate impactful information sharing between industry, online intermediaries and law enforcement.

Steve K. Francis **National IPR Coordination Center**

What is your role in your company/organization?

Within Homeland Security Investigations, I serve as the Assistant Director for the Global Trade Investigations Division. As part of this role, I also serve as the Director of the National IPR Center. The National IPR Center stands at the forefront of the United States government's response to combatting intellectual property (IP) theft and the enforcement of its international trade laws.

How can the IPR Center help brands?

The IPR Center is a one stop shop for all brands when they have questions about enforcing their IP rights. We work closely with small businesses just starting up and major companies with established brand protection programs. In addition to our law enforcement mission, we offer assistance to brands with training and policy questions and can help you make sure you are doing everything possible to protect your brand and business. If you haven't visited the IPR Center we would love to meet with you to discuss how we can assist each other.

What are the top 2 challenges in IP enforcement you see affecting law enforcement over the next year?

Currently criminal organizations are exploiting the COVID-19 pandemic with illicit sales in PPE, therapeutics and vaccines. We have stepped up our efforts in this space, while continuing to support our existing programs in other sectors. Although we are all dedicated to protecting our citizens and companies, this has sometimes been complicated because we too must follow the guidelines of social distancing and protecting ourselves and our families while doing our job. I think a second issue which is always around is evolving technology. While technology makes our lives easier, it also makes it easier for criminals to exploit us for illicit financial gains.



What value does collaboration with public and private organizations bring to the IPR Center?

The IPR Center has long realized that law enforcement will never be able to seize or arrest our way out of the IP crime issue. We built the center to facilitate both government and private sector collaboration. Our success in fighting IP crime depends on a robust collaboration concerning intelligence sharing, trend analysis and data sharing with both our formal and informal partners, in both the public and private sectors.

What hobbies or causes are you passionate about?

I have always had a passion for animals, especially dogs, and during the pandemic my family began to volunteer and foster dogs from the Homeless Animals Rescue Team (HART) organization which is a no-kill rescue and support group. We are on our 7th or 8th foster dog and it's such a rewarding experience (despite some mishaps) to see these dogs coming into our home and the reaction they give when they receive some love and attention. This is an extremely worthwhile and rewarding experience especially when you are part of the process to help identify a good person/family to adopt the dogs.

Contact info: steve.francis@dhs.gov

Legislative Updates

As we draw closer to the end of the calendar year, we'd like to provide an update on a number of legislative and policy issues that the IACC continues to monitor.

Notorious Markets Report

On October 1, the Office of the U.S. Trade Representative published a notice in the Federal Register seeking public comments in connection with its annual Notorious Markets Report.

The USTR's annual Notorious Markets report provides industry stakeholders with an opportunity to highlight both physical and online marketplaces that engage in or facilitate substantial copyright piracy or trademark counterfeiting. The list is intended to draw attention to those marketplaces outside of the United States that are viewed as being the most significant concerns to IP owners, and to encourage the owners and operators of those markets to adopt business models that foster legitimate trade while combatting illicit sales.

The deadline to submit comments to USTR is Sunday, November 8th. We invite you to provide any relevant feedback regarding those markets that are most problematic to your businesses no later than Friday, October 30, 2020.

If you have any questions, please contact Travis Johnson at tjohnson@iacc.org.

Congressional Activity

The House and Senate resumed their legislative sessions following their annual August recess, but with much of their deliberations dominated by issues related to Congressional spending bills, Covid response, and following the recent death of Justice Ginsburg, a Supreme Court nomination – not to mention an election looming; the prospects for action on any pending IP-related bills remains unlikely between now and the end of the year.

Senate Judiciary Hearing – Cyber-attacks and Counterfeits During the COVID-19 Pandemic

The Senate Judiciary Committee was scheduled to hold a hearing on September 23rd, focusing on increased threats related to cyber-attacks and the trafficking of counterfeit goods in the context of the current pandemic. With brick-and-mortar shops closed around the country, and consumers increasingly turning to online outlets to meet their retail needs; concerns about the trafficking of counterfeits, product safety, and supply chain security have grown more pronounced – particularly with regard to sales of personal protective equipment, pharmaceuticals, and numerous other product sectors.

Unfortunately, the hearing which was to include testimony from Steve Francis, Director of the National IPR Coordination Center, and Clyde Wallace, Deputy Assistant Director of the FBI's Cyber Division, was postponed. We suspect it will likely not take place prior to the lame-duck session after the election in November; or could be pushed off until the new legislative session begins in 2021.

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BLACK FRIDAY IN TIMES OF COVID

How consumers will navigate the counterfeit spike

[SEE REPORT](#)

IACC Program Participant Spotlight - Law Enforcement Training Program

Over the last 30+ years, the IACC has become a recognized leader in global enforcement training. Our Law Enforcement Training Program provides prosecutors, customs, local and federal police and other authorities the resources and connections with industry representatives needed to effectively stop counterfeits. Hundreds of member and non-member brands and designated representatives have participated in training more than 45,000 law enforcement in the U.S. and around the world. Two long-standing program participants share their experiences and views below.



Adrienne Hahn

Group Director, Intellectual Property and Legal Operations

Chanel, Inc.

Verona, New Jersey

Contact info: Adrienne.Hahn@chanel.com

1. What is your role in your company/organization?

Trademark clearance and prosecution (US); part of anticounterfeiting group with focus on law enforcement product training and point of contact for product identification; corporate responsibilities include legal department budgeting and expense analysis, software adoption, etc.

2. How is law enforcement training/engagement integrated into your brand protection program?

Chanel has always considered in-person law enforcement training to be one of the most important and cost-effective methods of fighting counterfeits. Many law enforcement personnel are not familiar with our range of products and may have only seen counterfeit Chanel-branded goods. The IACC training program has provided us with the opportunity to introduce our genuine products and educate with identification tips.

3. Can you provide 3 of your best practices in engaging with law enforcement?

- Be brief/succinct – There may be many brands at an IACC training event. While that is great, it means that the law enforcement personnel are receiving a lot of detailed information from the various representatives. I have created a product identification guide with lots of illustrations, and in conversation focus on a few clear, universal Chanel product identification guidelines during the training event. I also make certain to point out my contact information and express willingness to assist in the future.
- Be responsive – Law enforcement, especially CBP, is usually on a tight schedule that does not allow much time for brands to provide information. If you can't get back to them within a day or so, it is best to let them know how long you expect to need until you can respond.
- Be passionate – I could talk all day about issues related to counterfeiting. Sometimes law enforcement needs to hear why even Chanel needs and appreciates their anticounterfeiting work.

4. Can you share an interesting conversation or thing you learned from an official during a training?

I recall conducting a training early in my career, and at the end of my presentation one of the officers said “You are nice. I didn't expect someone from Chanel to be nice.” Besides the fact that there are lots of nice Chanel employees, I often remember that an aspect of what I want to accomplish at trainings is personalize the Chanel brand, and show that we are eager to work with law enforcement. Although not the primary purpose of the trainings, they have given me the opportunity to meet so many wonderful people that are also dedicated to fighting counterfeiting.

IACC Program Participant Spotlight - Law Enforcement Training Program



Angelo Mazza

Partner

Gibney Anthony & Flaherty LLP

New York, NY

Contact info: aepmazza@gibney.com

1. What is your role in your company/organization?

I am a Partner in the IP Department responsible for law enforcement training, developing criminal cases, addressing Customs enforcement issues and directing our multi-platform online enforcement program.

2. In what way has the IACC's Law Enforcement Training Program helped your clients?

In our over our 30 years of participation, the program has proven to be of tremendous benefit to all our clients. Developing new leads, understanding trends in counterfeits and personally meeting enforcement personnel are but some of the many benefits. The program has evolved over time to meet the technological needs of law enforcement. The IACC Training App and site allow for updates and information to get out quickly to law enforcement users.

3. How is law enforcement training/engagement integrated into your clients' brand protection program?

Our programs are always 360 degrees taking advantage of every resource possible to provide the highest level of protection and engagement on behalf of the client. Law enforcement's willingness to engage and learn are a significant part of the foundation of our enforcement programs. We often develop leads involving online and brick and mortar counterfeiters based on information developed at the trainings.

4. How does law enforcement training fit into your clients' regional or worldwide brand protection program?

The law enforcement training is a big part of our efforts to leverage the training for both interdiction and prosecution. In effect, we are creating resources for future actions. All our clients view the training as the cornerstone of their programs throughout the world.

5. Can you provide 3 of your best practices in engaging with law enforcement?

For us, there is one practice that immediately stands out, responsiveness. Every inquiry from law enforcement is addressed in less than 24 hours; our usual turnaround is a couple of hours. We are determined to provide law enforcement with information they need to make decisions on the spot, in real time. Whether it be email or picking up the phone (or Zoom), we personalize the process so that we build connections for the future. The brochures and info given to LE are more meaningful if backed up by a commitment to remain engaged beyond the training opportunity. Be a reliable resource for law enforcement. Do not expect to leave a booklet or show a few pointers and your problems will be solved.

However, it is important to listen to what LE is saying. Whether there are local obstacles to cases, new ways goods are being smuggled, trends in what is out on the market, listening is a way to better understand the landscape. Too often, we get so wrapped up in delivering our message, we forget that training has to be a conversation, not a soliloquy. Have passion for what you are doing. Be able to convey your knowledge and how you feel about the brand to others. A strong message forcefully delivered will go a long way to being memorable and planting the seeds of interest and action in others.

Legislative Updates continued

Pending Federal Legislation

The IACC continues to monitor, and is seeking members' feedback, on several pieces of legislation currently pending in Congress. Given the current landscape – the imminent election, limited amount of time that Congress is expected to remain in session, and a number of other matters taking priority at present – action on these bills is unlikely prior to the end of the year. Each, however, is likely to be reintroduced in some form during the next legislative session that begins in 2021.

Three bills – the SANTA Act, the SHOP SAFE Act, and the INFORM Consumers Act – focus on issues related to the trafficking of counterfeit goods via e-commerce platforms.

A fourth bill, the Counterfeit Goods Seizure Act, would extend CBP's authority to seize goods at the border on the basis of design patent violations.

Stopping All Nefarious Toys in America (SANTA) Act - S. 3073

Summary: This bill requires online marketplaces to verify and disclose to consumers information related to the seller of children's products.

Stopping Harmful Offers on Platforms by Screening Against Fakes in E-commerce Act of 2020 (SHOP SAFE Act of 2020) – H.R. 6058

Summary: Amends the Lanham Act to provide for contributory liability of e-commerce platforms in connection with the sale / offer for sale of counterfeit goods by third parties; provides a shield against contributory liability where such e-commerce platforms have adopted certain enumerated best practices. The bill's provisions are limited to sales in e-commerce of goods deemed to implicate consumers' health and safety.

Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act (INFORM Consumers Act) – S. 3431

Summary: Requires e-commerce platforms to verify the identity of high-volume sellers on an annual basis, and to conspicuously disclose to consumers information identifying the seller.

Counterfeit Goods Seizure Act of 2019 – S. 2987

Summary: Provides authority for CBP's seizure of goods on the basis of a design patent violation, comparable to that currently available for the enforcement of trademarks and copyrights and against illicit importations of circumvention devices; allows for the adoption of regulations to enable the recordation of design patent rights comparable to trademarks and copyrights.

According to a survey conducted by BrandMonitor, the volume of counterfeit luxury goods on social media in Russia has increased by 28% compared to 2019.

THE MAIN PLATFORMS FOR SELLING COUNTERFEITS



VK.com



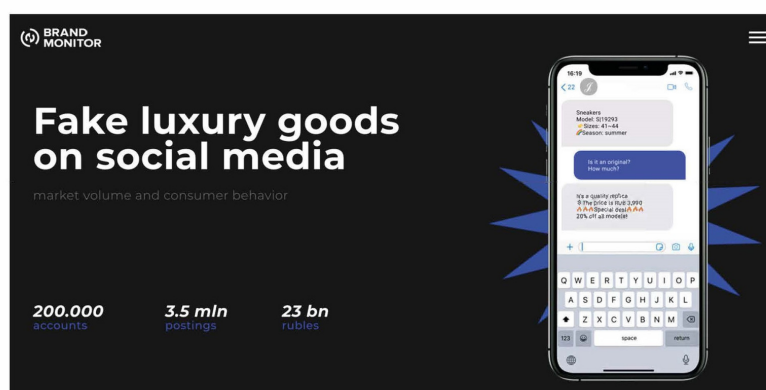
Instagram



OK.ru

We would be happy to offer a free three-month trial period for social media enforcement to the IACC members. If you would like to benefit from the services above please contact

YURY VOPILOV
vopilov@brandmonitor.ru



Legislative Updates continued

Executive Branch Activity

The White House

Memorandum on Stopping Counterfeit Trafficking on E-Commerce Platforms Through Fines and Penalties

On October 13th, the Trump Administration issued a memo highlighting its policy of prioritizing IP enforcement in the e-commerce environment, and directing the Attorney General and Secretary of Homeland Security to consider all appropriate action under existing law (specifically, 19 U.S.C. 1526 and 1595a), to seize counterfeit goods imported in connection with e-commerce transactions, and to assess the maximum civil fines and penalties available against any e-commerce platform found to facilitate such illicit trafficking. The AG and DHS Secretary were further directed to develop a legislative proposal in furtherance of the Administration's stated policy objective within 120 days. The memo is largely in keeping with prior actions taken by the Administration (under Executive Order 13904, issued in January of this year), and with recommendations included in the DHS-authored report published last April. It is expected that any legislative proposal to emerge in response to the present action will reflect, and further flesh out, those prior DHS recommendations. The full text of the Presidential Memorandum is available [here](#).

Pharmaceutical Pricing & Importations

The White House issued a flurry of Executive Orders in recent months, nominally aimed at pharmaceutical pricing and access to medicine, though characterized by some as election year posturing that's unlikely to lead to any substantial change. Among the orders were a "[Most-Favored Nation](#)" [pricing policy](#) and one seeking to increase drug importation to provide consumers access to lower priced drugs.

The IACC has consistently opposed such drug importation proposals due to concerns about the impact of such a policy on the enforcement of intellectual property rights, the difficulties in maintaining the security of an increasingly complex distribution chain, and the ultimate impact that such an approach could have on patient safety. Further, such a policy sends mixed signals to American consumers regarding the safety and reliability of "medicines" sourced from outside of the traditional supply chain and from abroad.

We will continue to monitor developments on this issue, while seeking to coordinate with our members who are most directly impacted by these Executive Orders. We welcome your feedback on this issue.

WeChat / TikTok

The White House also issued two Executive Orders on August 6th, targeted at two Chinese social media giants - [WeChat](#) and [TikTok](#) - citing national security threats related to the apps' use of users' data. The EOs strictly curtailed any transactions related to the apps; the Orders were immediately met with legal challenges, which are currently pending.

We investigate
infringements of
your brand in the
marketplace.

Then we
DO SOMETHING
about it.

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IP SERVICES
www.ipservicesinc.com

Legislative Updates continued

US-UK Free Trade Agreement Negotiations

The fourth round of negotiations between the United States and the UK took place between September 8th and 18th. Intellectual property was not on the agenda for this round, but is expected to be a topic of discussion in Round 5 in mid- to late-October.

We will continue to keep you apprised of further relevant developments, and encourage you to share any priorities or concerns that you would hope to see addressed as the negotiations move forward.

U.S. Customs & Border Protection

CBP is currently seeking applicants who wish to be considered for appointment to the agency's Commercial Customs Operations Advisory Committee (COAC). Comprised of representatives from the private sector, the COAC's mission is to provide advice and recommendations to the Secretaries of the Treasury and the Department of Homeland Security on matters related to both policies and procedures related to trade facilitation and enforcement - including the enforcement of intellectual property rights at the border.

If you wish to be considered for an appointment to the COAC, detailed information is available [here](#). The deadline for applications is October 19, 2020.

The IACC Offers a Wealth of Resources and Tools

IACC Membership Information

[Member Benefits](#)

[Membership for SMEs](#)

IACC Online Program Information

[IACC MarketSafe Program](#)

[IACC-Amazon Program](#)

[RogueBlock®](#)

IACC Law Enforcement Training Program Information

[U.S. Trainings](#)

[Law Enforcement Training App](#)

IP Resources from our Members

The IACC's membership includes a broad range of IP enforcement expertise around the world. We are excited to launch a new Resource Section in our Quarterly Newsletter where we share interesting insights, research studies, white papers and other thought pieces from our members with our IP community. If you are a member and would like to submit relevant material to be included in our next newsletter, please contact Dawn Sgarlata at dsgarlata@iacc.org.

Disclaimer: The IACC is providing these links as a courtesy to our members; the IACC has not independently verified any claims or assertions contained therein. Further, the views expressed in each of the linked resources are those of the respective authors, and their inclusion should not be interpreted as an endorsement by the IACC.

- **Brand Monitor**

- [A Game of Synonyms](#): How alternative ways of referring to counterfeit affect our attitude towards the quality and legality of pirated products.

- **Systech**

- [Best Practices to Combat Counterfeiting & Diversion](#): Counterfeiting and diversion are at an all-time high. Learn how industry leaders are fighting these threats.

- **Red Points**

- [Black Friday in times of COVID](#): Be the first to know how U.S. consumers are going to shop on Black Friday 2020.

- **Corsearch**

- [4 Things IP Professionals Need to Know About... TikTok and Douyin](#) Corsearch's article on the IP infringement threat posed by TikTok, and its Chinese counterpart, Douyin, shines a light on the controversial platform for IP professionals.
- [Covid-19 and Counterfeiting: How the Pandemic is Reshaping Brand Protection – Part 1](#): In his industry report on the impact of the COVID-19 pandemic on brand protection, Corsearch's Daniel Bennett outlines how the threat to brands has changed in 2020 and what the future of IP protection may look like for many.

- **SICPA**

- [THE PERFECT PARTNERSHIP Innovation and Intellectual Property Protection in the 2020's](#): Intellectual Property Rights (IPR) are one of the principal ways for companies, creators and inventors to generate returns on their investments in creative innovations and finding the perfect partnership is key in combatting IP theft and abuse.