

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4279

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## AN ACT

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Prioritizing Resources and Organization for Intellectual  
 4 Property Act of 2008”.

5 (b) **TABLE OF CONTENTS.**—The table of contents is  
 6 as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Reference.
- Sec. 3. Definition.

TITLE I—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY  
LAWs

- Sec. 101. Registration of claim.
- Sec. 102. Registration and infringement actions.
- Sec. 103. Civil remedies for infringement.
- Sec. 104. Treble damages in counterfeiting cases.
- Sec. 105. Statutory damages in counterfeiting cases.
- Sec. 106. Exportation of goods bearing infringing marks.
- Sec. 107. Importation and exportation.

TITLE II—ENHANCEMENTS TO CRIMINAL INTELLECTUAL  
PROPERTY LAWS

- Sec. 201. Criminal infringement of a copyright.
- Sec. 202. Harmonization of forfeiture procedures for intellectual property of-  
fenses.
- Sec. 203. Directive to United States Sentencing Commission.
- Sec. 204. Trafficking in counterfeit goods or services.

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

Subtitle A—Office of the United States Intellectual Property Enforcement  
Representative

- Sec. 301. Office of the United States Intellectual Property Enforcement Rep-  
resentative.
- Sec. 302. Definition.

Subtitle B—Joint Strategic Plan

- Sec. 321. Joint Strategic Plan.
- Sec. 322. Reporting.
- Sec. 323. Savings and repeals.
- Sec. 324. Authorization of appropriations.

TITLE IV—INTERNATIONAL ENFORCEMENT AND COORDINATION

- Sec. 401. Intellectual property attachés.
- Sec. 402. Duties and responsibilities of intellectual property attachés.

- Sec. 403. Training and designation of assignment.  
 Sec. 404. Coordination.  
 Sec. 405. Authorization of appropriations.

TITLE V—DEPARTMENT OF JUSTICE PROGRAMS

Subtitle A—Coordination

- Sec. 501. Intellectual Property Enforcement Officer.

Subtitle B—Law Enforcement Resources

- Sec. 511. Local law enforcement grants.  
 Sec. 512. CHIP units, training, and additional resources.  
 Sec. 513. Transparency of prosecutorial decisionmaking.  
 Sec. 514. Authorization of appropriations.

Subtitle C—International Activities

- Sec. 521. International intellectual property law enforcement coordinators.  
 Sec. 522. International training activities of the computer crime and intellectual property section.

Subtitle D—Coordination, Implementation, and Reporting

- Sec. 531. Coordination.  
 Sec. 532. Annual reports.

1 **SEC. 2. REFERENCE.**

2 Any reference in this Act to the “Trademark Act of  
 3 1946” refers to the Act entitled “An Act to provide for  
 4 the registration of trademarks used in commerce, to carry  
 5 out the provisions of certain international conventions,  
 6 and for other purposes”, approved July 5, 1946 (15  
 7 U.S.C. 1051 et seq.).

8 **SEC. 3. DEFINITION.**

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

- 11 (1) any United States resident or national,  
 12 (2) any domestic concern (including any perma-  
 13 nent domestic establishment of any foreign concern),  
 14 and

1           (3) any foreign subsidiary or affiliate (including  
2           any permanent foreign establishment) of any domes-  
3           tic concern that is controlled in fact by such domes-  
4           tic concern,

5           except that such term does not include an individual who  
6           resides outside the United States and is employed by an  
7           individual or entity other than an individual or entity de-  
8           scribed in paragraph (1), (2), or (3).

9           **TITLE I—ENHANCEMENTS TO**  
10           **CIVIL INTELLECTUAL PROP-**  
11           **ERTY LAWS**

12           **SEC. 101. REGISTRATION OF CLAIM.**

13           Section 410 of title 17, United States Code, is  
14           amended—

15           (1) by redesignating subsections (c) and (d) as  
16           subsections (d) and (e), respectively; and

17           (2) by inserting after subsection (b) the fol-  
18           lowing:

19           “(c)(1) A certificate of registration satisfies the re-  
20           quirements of section 411 and section 412 regardless of  
21           any inaccurate information contained in the certificate,  
22           unless—

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

1           “(B) the inaccuracy of the information, if  
2           known, would have caused the Register of Copy-  
3           rights to refuse registration.

4           “(2) In any case in which inaccuracies described  
5           under paragraph (1) are alleged, the court shall request  
6           the Register of Copyrights to advise the court whether the  
7           inaccuracy of the information, if known, would have  
8           caused the Register of Copyrights to refuse registration.  
9           The Register shall respond to the court’s request within  
10          45 days after the request is made.

11          “(3) Nothing in this subsection shall affect any  
12          rights, obligations, or requirements of a person related to  
13          information contained in a registration certificate except  
14          for the institution of and remedies in infringement actions  
15          under sections 411 and 412.”.

16          **SEC. 102. REGISTRATION AND INFRINGEMENT ACTIONS.**

17          (a) REGISTRATION IN CIVIL INFRINGEMENT AC-  
18          TIONS.—Section 411 of title 17, United States Code, is  
19          amended—

20                  (1) in the section heading, by inserting “**civil**”  
21                  after “**and**” ; and

22                  (2) in subsection (a), by striking “no action”  
23                  and inserting “no civil action”.

24          (b) TECHNICAL AND CONFORMING AMENDMENT.—  
25          Section 411(b) of title 17, United States Code, is amended

1 by striking “506 and sections 509 and” and inserting  
2 “505 and section”.

3 **SEC. 103. CIVIL REMEDIES FOR INFRINGEMENT.**

4 Section 503(a) of title 17, United States Code, is  
5 amended—

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

8 (2) by striking the period at the end and insert-  
9 ing the following: “, and records documenting the  
10 manufacture, sale, or receipt of things involved in  
11 such violation. The court shall enter an appropriate  
12 protective order with respect to discovery by the ap-  
13 plicant of any records that have been seized. The  
14 protective order shall provide for appropriate proce-  
15 dures to assure that confidential information con-  
16 tained in such records is not improperly disclosed to  
17 the applicant.”.

18 **SEC. 104. TREBLE DAMAGES IN COUNTERFEITING CASES.**

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

21 “(b) In assessing damages under subsection (a) for  
22 any violation of section 32(1)(a) of this Act or section  
23 220506 of title 36, United States Code, in a case involving  
24 use of a counterfeit mark or designation (as defined in  
25 section 34(d) of this Act), the court shall, unless the court

1 finds extenuating circumstances, enter judgment for three  
2 times such profits or damages, whichever amount is great-  
3 er, together with a reasonable attorney’s fee, if the viola-  
4 tion consists of—

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

10 “(2) intentionally inducing another to engage in  
11 a violation specified in paragraph (1); or

12 “(3) providing goods or services necessary to  
13 the commission of a violation specified in paragraph  
14 (1), with the intent that the recipient of the goods  
15 or services would put the goods or services to use in  
16 committing the violation.

17 In such a case, the court may award prejudgment interest  
18 on such amount at an annual interest rate established  
19 under section 6621(a)(2) of the Internal Revenue Code of  
20 1986, beginning on the date of the service of the claim-  
21 ant’s pleadings setting forth the claim for such entry of  
22 judgment and ending on the date such entry is made, or  
23 for such shorter time as the court considers appropriate.”.

1 **SEC. 105. STATUTORY DAMAGES IN COUNTERFEITING**  
2 **CASES.**

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

5 (1) in paragraph (1)—

6 (A) by striking “\$500” and inserting  
7 “\$1,000”; and

8 (B) by striking “\$100,000” and inserting  
9 “\$200,000”; and

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

12 **SEC. 106. EXPORTATION OF GOODS BEARING INFRINGING**  
13 **MARKS.**

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

16 (1) in the title heading, by inserting after “IM-  
17 PORTATION” the following: “OR EXPOR-  
18 TATION”; and

19 (2) in section 42—

20 (A) by striking the word “imported”; and

21 (B) by inserting after “customhouse of the  
22 United States” the following: “, nor shall any  
23 such article be exported from the United  
24 States”.



1 **SEC. 107. IMPORTATION AND EXPORTATION.**

2 (a) IN GENERAL.—The heading for chapter 6 of title  
3 17, United States Code, is amended to read as follows:

4 **“CHAPTER 6—MANUFACTURING REQUIRE-**  
5 **MENTS, IMPORTATION, AND EXPOR-**  
6 **TATION”.**

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

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

12 (2) by striking “(a)” and inserting “(a) IN-

13 FRINGING IMPORTATION AND EXPORTATION.—

14 “(1) IMPORTATION.—”;

15 (3) by striking “This subsection does not apply  
16 to—” and inserting the following:

17 “(2) IMPORTATION OR EXPORTATION OF IN-

18 FRINGING ITEMS.—Importation into the United  
19 States or exportation from the United States, with-  
20 out the authority of the owner of copyright under  
21 this title, of copies or phonorecords, the making of  
22 which either constituted an infringement of copy-  
23 right or would have constituted an infringement of  
24 copyright if this title had been applicable, is an in-  
25 fringement of the exclusive right to distribute copies

1 or phonorecords under section 106, actionable under  
2 sections 501 and 506.

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

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

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

10 (A) by striking “importation, for the pri-  
11 vate use of the importer” and inserting “import-  
12 ation or exportation, for the private use of the  
13 importer or exporter”; and

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

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

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

20 (B) in subsection (b)—

21 (i) by striking “(b) In a case” and insert-  
22 ing “(b) IMPORT PROHIBITION.—In a case”;

23 (ii) by striking “the United States Cus-  
24 toms Service” and inserting “U.S. Customs and  
25 Border Protection”; and

1 (iii) by striking “the Customs Service” and  
 2 inserting “U.S. Customs and Border Protec-  
 3 tion”.

4 (2) Section 601(b)(2) of title 17, United States Code,  
 5 is amended by striking “the United States Customs Serv-  
 6 ice” and inserting “U.S. Customs and Border Protection”.

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

“6. MANUFACTURING REQUIREMENTS, IMPORTATION, AND  
 EXPORTATION ..... 601”.

10 **TITLE II—ENHANCEMENTS TO**  
 11 **CRIMINAL INTELLECTUAL**  
 12 **PROPERTY LAWS**

13 **SEC. 201. CRIMINAL INFRINGEMENT OF A COPYRIGHT.**

14 Section 2319 of title 18, United States Code, is  
 15 amended—

16 (1) in subsection (b)(2)—

17 (A) by inserting “is a felony and” after  
 18 “offense” the first place such term appears;  
 19 and

20 (B) by striking “paragraph (1)” and in-  
 21 serting “subsection (a)”;

22 (2) in subsection (c)(2)—

1 (A) by inserting “is a felony and” after  
2 “offense” the first place such term appears;  
3 and

4 (B) by striking “paragraph (1)” and in-  
5 serting “subsection (a)”;  
6 (3) in subsection (d)(3)—

7 (A) by inserting “is a felony and” after  
8 “offense” the first place such term appears;  
9 and

10 (B) by inserting “under subsection (a)”  
11 before the semicolon; and

12 (4) in subsection (d)(4), by inserting “is a fel-  
13 ony and” after “offense” the first place such term  
14 appears.

15 **SEC. 202. HARMONIZATION OF FORFEITURE PROCEDURES**  
16 **FOR INTELLECTUAL PROPERTY OFFENSES.**

17 (a) **TRAFFICKING IN COUNTERFEIT LABELS.**—Sec-  
18 tion 2318 of title 18, United States Code, is amended—

19 (1) by amending subsection (d) to read as fol-  
20 lows:

21 “(d) **FORFEITURE AND DESTRUCTION; RESTITU-**  
22 **TION.**—

23 “(1) **CIVIL FORFEITURE PROCEEDINGS.**—(A)  
24 The following property is subject to forfeiture to the  
25 United States:

1           “(i) Any counterfeit documentation or  
2 packaging, and any counterfeit label or illicit  
3 label and any article to which a counterfeit  
4 label or illicit label has been affixed, which a  
5 counterfeit label or illicit label encloses or ac-  
6 companies, or which was intended to have had  
7 such label affixed, enclosing, or accompanying.

8           “(ii) Any property constituting or derived  
9 from any proceeds obtained directly or indi-  
10 rectly as a result of a violation of subsection  
11 (a).

12           “(iii) Any property used, or intended to be  
13 used, to commit or facilitate the commission of  
14 a violation of subsection (a) that is owned or  
15 predominantly controlled by the violator or by a  
16 person conspiring with or aiding and abetting  
17 the violator in committing the violation, except  
18 that property is subject to forfeiture under this  
19 clause only if the Government establishes that  
20 there was a substantial connection between the  
21 property and the violation of subsection (a).

22           “(B) The provisions of chapter 46 relating to  
23 civil forfeitures shall extend to any seizure or civil  
24 forfeiture under subparagraph (A). At the conclusion  
25 of the forfeiture proceedings, the court shall order

1 that any forfeited counterfeit labels or illicit labels  
2 and any article to which a counterfeit label or illicit  
3 label has been affixed, which a counterfeit label or  
4 illicit label encloses or accompanies, or which was in-  
5 tended to have had such label affixed, enclosing, or  
6 accompanying, be destroyed or otherwise disposed of  
7 according to law.

8 “(C) In this paragraph, the term ‘aiding and  
9 abetting’ means knowingly providing aid to the viola-  
10 tor with the intent to facilitate the violation.

11 “(2) CRIMINAL FORFEITURE PROCEEDINGS.—

12 (A) The court, in imposing sentence on a person  
13 convicted of an offense under this section, shall  
14 order, in addition to any other sentence imposed,  
15 that the person forfeit to the United States the fol-  
16 lowing property:

17 “(i) Any counterfeit documentation or  
18 packaging, and any counterfeit label or illicit  
19 label, that was used, intended for use, or pos-  
20 sessed with intent to use in the commission of  
21 an offense under subsection (a), and any article  
22 to which such a counterfeit label or illicit label  
23 has been affixed, which such a counterfeit label  
24 or illicit label encloses or accompanies, or which

1 was intended to have had such label affixed, en-  
2 closing, or accompanying.

3 “(ii) Any property constituting or derived  
4 from any proceeds obtained directly or indi-  
5 rectly as a result of an offense under subsection  
6 (a).

7 “(iii) Any property used, or intended to be  
8 used, to commit or substantially facilitate the  
9 commission of an offense under subsection (a).

10 “(B) The forfeiture of property under subpara-  
11 graph (A), including any seizure and disposition of  
12 the property and any related judicial or administra-  
13 tive proceeding, shall be governed by the procedures  
14 set forth in section 413 of the Comprehensive Drug  
15 Abuse Prevention and Control Act of 1970 (21  
16 U.S.C. 853), other than subsection (d) of that sec-  
17 tion. At the conclusion of the forfeiture proceedings,  
18 the court shall order that any counterfeit label or il-  
19 licit label and any article to which a counterfeit label  
20 or illicit label has been affixed, which a counterfeit  
21 label or illicit label encloses or accompanies, or  
22 which was intended to have had such label affixed,  
23 enclosing, or accompanying, be destroyed or other-  
24 wise disposed of according to law.

1           “(3) RESTITUTION.—When a person is con-  
2           victed of an offense under this section, the court,  
3           pursuant to sections 3556, 3663A, and 3664, shall  
4           order the person to pay restitution to the owner of  
5           the marks or copyrighted works involved in the of-  
6           fense and any other victim of the offense as an of-  
7           fense against property referred to in section  
8           3663A(c)(1)(A)(ii).”;

9           (2) by striking subsection (e); and

10           (3) by redesignating subsection (f) as sub-  
11           section (e).

12           (b) CRIMINAL INFRINGEMENT OF A COPYRIGHT.—

13           (1) IN GENERAL.—Section 2319 of title 18,  
14           United States Code, is amended by adding at the  
15           end the following:

16           “(g) FORFEITURE AND DESTRUCTION; RESTITU-  
17           TION.—

18           “(1) CIVIL FORFEITURE PROCEEDINGS.—(A)  
19           The following property is subject to forfeiture to the  
20           United States:

21           “(i) Any copies or phonorecords manufac-  
22           tured, reproduced, distributed, sold, or other-  
23           wise used, intended for use, or possessed with  
24           intent to use in violation of section 506(a) of  
25           title 17, any plates, molds, matrices, masters,



1 tapes, film negatives, or other articles by means  
2 of which such copies or phonorecords may be  
3 made, and any electronic, mechanical, or other  
4 devices for manufacturing, reproducing, or as-  
5 sembling such copies or phonorecords.

6 “(ii) Any property constituting or derived  
7 from any proceeds obtained directly or indi-  
8 rectly as a result of a violation of section  
9 506(a) of title 17.

10 “(iii) Any property used, or intended to be  
11 used, to commit or facilitate the commission of  
12 a violation of section 506(a) of title 17 that is  
13 owned or predominantly controlled by the viola-  
14 tor or by a person conspiring with or aiding and  
15 abetting the violator in committing the viola-  
16 tion, except that property is subject to for-  
17 feiture under this clause only if the Government  
18 establishes that there was a substantial connec-  
19 tion between the property and the violation of  
20 section 506(a) of title 17.

21 “(B) The provisions of chapter 46 relating to  
22 civil forfeitures shall extend to any seizure or civil  
23 forfeiture under this section. At the conclusion of  
24 the forfeiture proceedings, the court shall order that  
25 any forfeited infringing copies or phonorecords, and

1 any plates, molds, matrices, masters, tapes, and film  
2 negatives by means of which such unauthorized cop-  
3 ies or phonorecords may be made, be destroyed or  
4 otherwise disposed of according to law.

5 “(C) In this paragraph, the term ‘aiding and  
6 abetting’ means knowingly providing aid to the viola-  
7 tor with the intent to facilitate the violation.

8 “(2) CRIMINAL FORFEITURE PROCEEDINGS.—

9 (A) The court, in imposing sentence on a person  
10 convicted of an offense under subsection (a), shall  
11 order, in addition to any other sentence imposed,  
12 that the person forfeit to the United States the fol-  
13 lowing property:

14 “(i) Any copies or phonorecords manufac-  
15 tured, reproduced, distributed, sold, or other-  
16 wise used, intended for use, or possessed with  
17 intent to use in the commission of an offense  
18 under subsection (a), any plates, molds, mat-  
19 rices, masters, tapes, film negatives, or other  
20 articles by means of which the copies or  
21 phonorecords may be reproduced, and any elec-  
22 tronic, mechanical, or other devices for manu-  
23 facturing, reproducing, or assembling such cop-  
24 ies or phonorecords.

1           “(ii) Any property constituting or derived  
2           from any proceeds obtained directly or indi-  
3           rectly as a result of an offense under subsection  
4           (a).

5           “(iii) Any property used, or intended to be  
6           used, to commit or substantially facilitate the  
7           commission of an offense under subsection (a).

8           “(B) The forfeiture of property under subpara-  
9           graph (A), including any seizure and disposition of  
10          the property and any related judicial or administra-  
11          tive proceeding, shall be governed by the procedures  
12          set forth in section 413 of the Comprehensive Drug  
13          Abuse Prevention and Control Act of 1970 (21  
14          U.S.C. 853), other than subsection (d) of that sec-  
15          tion. At the conclusion of the forfeiture proceedings,  
16          the court shall order that any forfeited infringing  
17          copies or phonorecords, and any plates, molds, mat-  
18          rices, masters, tapes, and film negatives by means of  
19          which such infringing copies or phonorecords may be  
20          made, be destroyed or otherwise disposed of accord-  
21          ing to law.

22          “(3) RESTITUTION.—When a person is con-  
23          victed of an offense under this section, the court,  
24          pursuant to sections 3556, 3663A, and 3664, shall  
25          order the person to pay restitution to the copyright

1 owner and any other victim of the offense as an of-  
2 fense against property referred to in section  
3 3663A(c)(1)(A)(ii).”.

4 (2) CONFORMING AMENDMENTS.—(A) Section  
5 506(b) of title 17, United States Code, is amended  
6 by striking all that follows “destruction” and insert-  
7 ing the following: “of property as prescribed by sec-  
8 tion 2319(g) of title 18.”.

9 (B) Section 509 of title 17, United States Code,  
10 relating seizure and forfeiture, and the item relating  
11 to section 509 in the table of sections at the begin-  
12 ning of chapter 5 of title 17, United States Code,  
13 are repealed.

14 (c) UNAUTHORIZED FIXATION AND TRAFFICKING.—

15 (1) IN GENERAL.—Section 2319A of title 18,  
16 United States Code, is amended—

17 (A) by striking subsection (c) and redesignig-  
18 nating subsections (d), (e), and (f) as sub-  
19 sections (c), (d), and (e), respectively; and

20 (B) by amending subsection (b) to read as  
21 follows:

22 “(b) FORFEITURE AND DESTRUCTION; RESTITU-  
23 TION.—

1           “(1) CIVIL FORFEITURE PROCEEDINGS.—(A)  
2           The following property is subject to forfeiture to the  
3           United States:

4                   “(i) Any copies or phonorecords of a live  
5                   musical performance described in subsection  
6                   (a)(1) that are made without the consent of the  
7                   performer or performers involved, and any  
8                   plates, molds, matrices, masters, tapes, and  
9                   film negatives by means of which such copies or  
10                  phonorecords may be made.

11                  “(ii) Any property constituting or derived  
12                  from any proceeds obtained directly or indi-  
13                  rectly as a result of a violation of subsection  
14                  (a).

15                  “(iii) Any property used, or intended to be  
16                  used, to commit or facilitate the commission of  
17                  a violation of subsection (a) that is owned or  
18                  predominantly controlled by the violator or by a  
19                  person conspiring with or aiding and abetting  
20                  the violator in committing the violation, except  
21                  that property is subject to forfeiture under this  
22                  clause only if the Government establishes that  
23                  there was a substantial connection between the  
24                  property and the violation of subsection (a).

1           “(B) The provisions of chapter 46 relating to  
2           civil forfeitures shall extend to any seizure or civil  
3           forfeiture under paragraph (1). At the conclusion of  
4           the forfeiture proceedings, the court shall order that  
5           any forfeited unauthorized copies or phonorecords of  
6           live musical performances, and any plates, molds,  
7           matrices, masters, tapes, and film negatives by means  
8           of which such unauthorized copies or phonorecords  
9           may be made, be destroyed or otherwise disposed of  
10          according to law.

11           “(C) In this paragraph, the term ‘aiding and  
12          abetting’ means knowingly providing aid to the viola-  
13          tor with the intent to facilitate the violation.

14           “(2) CRIMINAL FORFEITURE PROCEEDINGS.—

15          (A) The court, in imposing sentence on a person  
16          convicted of an offense under this section, shall  
17          order, in addition to any other sentence imposed,  
18          that the person forfeit to the United States the fol-  
19          lowing property:

20           “(i) Any unauthorized copies or  
21           phonorecords of a live musical performance that  
22           were used, intended for use, or possessed with  
23           intent to use in the commission of an offense  
24           under subsection (a), and any plates, molds,  
25           matrices, masters, tapes, and film negatives by

1 means of which such copies or phonorecords  
2 may be made.

3 “(ii) Any property constituting or derived  
4 from any proceeds obtained directly or indi-  
5 rectly as a result of an offense under subsection  
6 (a).

7 “(iii) Any property used, or intended to be  
8 used, to commit or substantially facilitate the  
9 commission of an offense under subsection (a).

10 “(B) The forfeiture of property under subpara-  
11 graph (A), including any seizure and disposition of  
12 the property and any related judicial or administra-  
13 tive proceeding, shall be governed by the procedures  
14 set forth in section 413 of the Comprehensive Drug  
15 Abuse Prevention and Control Act of 1970 (21  
16 U.S.C. 853), other than subsection (d) of that sec-  
17 tion. At the conclusion of the forfeiture proceedings,  
18 the court shall order that any forfeited unauthorized  
19 copies or phonorecords of live musical performances,  
20 and any plates, molds, matrices, masters, tapes, and  
21 film negatives by means of which such unauthorized  
22 copies of phonorecords may be made, be destroyed  
23 or otherwise disposed of according to law.

24 “(3) NOTIFICATION OF IMPORTATION.—The  
25 Secretary of Homeland Security shall issue regula-

1 tions by which any performer may, upon payment of  
2 a specified fee, be entitled to notification by U.S.  
3 Customs and Border Protection of the importation  
4 of copies or phonorecords that appear to consist of  
5 unauthorized fixations of the sounds or sounds and  
6 images of a live musical performance prohibited by  
7 this section.

8 “(4) RESTITUTION.—When a person is con-  
9 victed of an offense under this section, the court,  
10 pursuant to sections 3556, 3663A, and 3664, shall  
11 order the person to pay restitution to the performer  
12 or performers involved, and any other victim of the  
13 offense as an offense against property referred to in  
14 section 3663A(c)(1)(A)(ii).”.

15 (2) APPLICABILITY.—Section 2319A(e), as re-  
16 designated by paragraph (1) of this subsection, is  
17 amended by inserting before the period the fol-  
18 lowing: “, except that the forfeiture provisions under  
19 subsection (b)(2), as added by the Prioritizing Re-  
20 sources and Organization for Intellectual Property  
21 Act, shall apply only in a case in which the under-  
22 lying act or acts occur on or after the date of the  
23 enactment of that Act”.



1 (d) UNAUTHORIZED RECORDING OF MOTION PIC-  
2 TURES.—Section 2319B(b) of title 18, United States  
3 Code, is amended to read as follows:

4 “(b) FORFEITURE AND DESTRUCTION; RESTITU-  
5 TION.—

6 “(1) CIVIL FORFEITURE PROCEEDINGS.—(A)  
7 The following property is subject to forfeiture to the  
8 United States:

9 “(i) Any copies of a motion picture or  
10 other audiovisual work protected under title 17  
11 that are made without the authorization of the  
12 copyright owner.

13 “(ii) Any property constituting or derived  
14 from any proceeds obtained directly or indi-  
15 rectly as a result of a violation of subsection  
16 (a).

17 “(iii) Any property used, or intended to be  
18 used, to commit or facilitate the commission of  
19 a violation of subsection (a) that is owned or  
20 predominantly controlled by the violator or by a  
21 person conspiring with or aiding and abetting  
22 the violator in committing the violation, except  
23 that property is subject to forfeiture under this  
24 clause only if the Government establishes that

1           there was a substantial connection between the  
2           property and the violation of subsection (a).

3           “(B) The provisions of chapter 46 relating to  
4           civil forfeitures shall extend to any seizure or civil  
5           forfeiture under this section. At the conclusion of  
6           the forfeiture proceedings, the court shall order that  
7           any forfeited unauthorized copies or phonorecords of  
8           a motion picture or other audiovisual work, or part  
9           thereof, and any plates, molds, matrices, masters,  
10          tapes, and film negatives by means of which such  
11          unauthorized copies or phonorecords may be made,  
12          be destroyed or otherwise disposed of according to  
13          law.

14          “(C) In this paragraph, the term ‘aiding and  
15          abetting’ means knowingly providing aid to the viola-  
16          tor with the intent to facilitate the violation.

17          “(2) CRIMINAL FORFEITURE PROCEEDINGS.—

18          (A) The court, in imposing sentence on a person  
19          convicted of an offense under this section, shall  
20          order, in addition to any other sentence imposed,  
21          that the person forfeit to the United States the fol-  
22          lowing property:

23                  “(i) Any unauthorized copies of a motion  
24                  picture or other audiovisual work protected  
25                  under title 17, or part thereof, that were used,

1 intended for use, or possessed with intent to use  
2 in the commission of an offense under sub-  
3 section (a).

4 “(ii) Any property constituting or derived  
5 from any proceeds obtained directly or indi-  
6 rectly as a result of an offense under subsection  
7 (a).

8 “(iii) Any property used, or intended to be  
9 used, to commit or substantially facilitate the  
10 commission of an offense under subsection (a).

11 “(B) The forfeiture of property under subpara-  
12 graph (A), including any seizure and disposition of  
13 the property and any related judicial or administra-  
14 tive proceeding, shall be governed by the procedures  
15 set forth in section 413 of the Comprehensive Drug  
16 Abuse Prevention and Control Act of 1970 (21  
17 U.S.C. 853), other than subsection (d) of that sec-  
18 tion. At the conclusion of the forfeiture proceedings,  
19 the court shall order that any forfeited unauthorized  
20 copies or phonorecords of a motion picture or other  
21 audiovisual work, or part thereof, and any plates,  
22 molds, matrices, masters, tapes, and film negatives  
23 by means of which such unauthorized copies or  
24 phonorecords may be made, be destroyed or other-  
25 wise disposed of according to law.

1           “(3) RESTITUTION.—When a person is con-  
2           victed of an offense under this chapter, the court,  
3           pursuant to sections 3556, 3663A, and 3664, shall  
4           order the person to pay restitution to the owner of  
5           the copyright in the motion picture or other audio-  
6           visual work and any other victim of the offense as  
7           an offense against property referred to in section  
8           3663A(c)(1)(A)(ii).”.

9           (e) APPLICABILITY.—The amendments made by this  
10          section shall apply only in a case in which the underlying  
11          act or acts occur on or after the date of the enactment  
12          of this Act.

13       **SEC. 203. DIRECTIVE TO UNITED STATES SENTENCING**  
14                               **COMMISSION.**

15          (a) REVIEW AND AMENDMENT.—The United States  
16          Sentencing Commission, pursuant to its authority under  
17          section 994 of title 28, United States Code, shall review  
18          and, if appropriate, amend the Federal sentencing guide-  
19          lines and policy statements applicable in any case sen-  
20          tenced under section 2B5.3 of the Federal sentencing  
21          guidelines for exporting infringing items in violation of  
22          section 602(a)(2) of title 17, United States Code, to deter-  
23          mine whether a defendant in such case should receive an  
24          upward adjustment in the offense level, on the grounds  
25          that exportation introduces infringing items into the

1 stream of foreign commerce in a manner analogous to the  
 2 manner in which manufacturing, importing, and uploading  
 3 such items introduces them into the stream of commerce.

4 (b) AUTHORIZATION.—The United States Sentencing  
 5 Commission may amend the Federal sentencing guidelines  
 6 under subsection (a) in accordance with the procedures set  
 7 forth in section 21(a) of the Sentencing Act of 1987 (28  
 8 U.S.C. 994 note) as though the authority under that sec-  
 9 tion had not expired.

10 **SEC. 204. TRAFFICKING IN COUNTERFEIT GOODS OR SERV-**  
 11 **ICES.**

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

14 (1) in subsection (a)—

15 (A) by striking “Whoever” and inserting  
 16 “OFFENSE.—

17 “(1) IN GENERAL.—Whoever”;

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

20 (C) by adding at the end the following:

21 “(2) SERIOUS BODILY HARM OR DEATH.—

22 “(A) SERIOUS BODILY HARM.—If the of-  
 23 fender knowingly or recklessly causes or at-  
 24 tempts to cause serious bodily injury from con-  
 25 duct in violation of paragraph (1), the penalty

1 shall be a fine under this title or imprisonment  
2 for not more than 20 years, or both.

3 “(B) DEATH.—If the offender knowingly  
4 or recklessly causes or attempts to cause death  
5 from conduct in violation of paragraph (1), the  
6 penalty shall be a fine under this title or im-  
7 prisonment for any term of years or for life, or  
8 both.”; and

9 (2) in subsection (b)(1)—

10 (A) by redesignating subparagraph (B) as  
11 subparagraph (C); and

12 (B) by inserting after subparagraph (A)  
13 the following:

14 “(B) Any property constituting or derived  
15 from any proceeds obtained directly or indi-  
16 rectly as a result of a violation of subsection  
17 (a).”.

1 **TITLE III—COORDINATION AND**  
2 **STRATEGIC PLANNING OF**  
3 **FEDERAL EFFORT AGAINST**  
4 **COUNTERFEITING AND PI-**  
5 **RACY**

6 **Subtitle A—Office of the United**  
7 **States Intellectual Property En-**  
8 **forcement Representative**

9 **SEC. 301. OFFICE OF THE UNITED STATES INTELLECTUAL**  
10 **PROPERTY ENFORCEMENT REPRESENTA-**  
11 **TIVE.**

12 (a) ESTABLISHMENT WITHIN EXECUTIVE OFFICE OF  
13 THE PRESIDENT.—There is established within the Execu-  
14 tive Office of the President the Office of the United States  
15 Intellectual Property Enforcement Representative (in this  
16 title referred to as “the Office”).

17 (b) UNITED STATES INTELLECTUAL PROPERTY EN-  
18 FORCEMENT REPRESENTATIVE.—The head of the Office  
19 shall be the United States Intellectual Property Enforce-  
20 ment Representative (in this title referred to as the “IP  
21 Enforcement Representative”) who shall be appointed by  
22 the President, by and with the advice and consent of the  
23 Senate. As an exercise of the rulemaking power of the  
24 Senate, any nomination of the IP Enforcement Represent-  
25 ative submitted to the Senate for confirmation, and re-

1 referred to a committee, shall be referred to the Committee  
2 on the Judiciary.

3 (c) DUTIES OF IP ENFORCEMENT REPRESENTA-  
4 TIVE.—

5 (1) IN GENERAL.—The IP Enforcement Rep-  
6 resentative shall—

7 (A) have primary responsibility for devel-  
8 oping the Joint Strategic Plan against counter-  
9 feiting and piracy under section 321 and facili-  
10 tating the implementation of the Joint Strategic  
11 Plan by the departments and agencies listed in  
12 subsection (d)(2)(A);

13 (B) serve as a principal advisor to the  
14 President on domestic and international intel-  
15 lectual property enforcement policy;

16 (C) assist the United States Trade Rep-  
17 resentative—

18 (i) concerning negotiations on behalf  
19 of the United States relating to inter-  
20 national intellectual property enforcement,  
21 including negotiations on any intellectual  
22 property enforcement matter considered  
23 under the auspices of the World Trade Or-  
24 ganization or in the course of commodity



1 or direct investment negotiations in which  
2 the United States participates; and

3 (ii) in the programs of the United  
4 States Trade Representative to monitor  
5 and enforce intellectual property enforce-  
6 ment obligations of other countries under  
7 trade agreements with the United States;

8 (D) coordinate the issuance of policy guid-  
9 ance to departments and agencies on basic  
10 issues of policy and interpretation that arise in  
11 the exercise of domestic and international intel-  
12 lectual property enforcement functions, to the  
13 extent necessary to assure the coordination of  
14 intellectual property enforcement policy and  
15 consistency with any other law;

16 (E) act as a principal spokesperson of the  
17 President on domestic and international intel-  
18 lectual property enforcement matters;

19 (F) report directly to the President and  
20 the Congress regarding domestic and inter-  
21 national intellectual property enforcement pro-  
22 grams;

23 (G) advise the President and the Congress  
24 with respect to domestic and international intel-

1           lectual property enforcement challenges and pri-  
2           orities;

3           (H) report to the Congress, as provided in  
4           section 322, on the implementation of the Joint  
5           Strategic Plan, and make recommendations to  
6           the Congress for improvements in Federal intel-  
7           lectual property enforcement efforts;

8           (I) chair the interagency intellectual prop-  
9           erty enforcement advisory committee estab-  
10          lished under subsection (d)(2), and consult with  
11          such advisory committee in the performance of  
12          the functions of the IP Enforcement Represent-  
13          ative; and

14          (J) carry out such other functions as the  
15          President may direct.

16          (2) LIMITATION ON AUTHORITY.—The IP En-  
17          forcement Representative may not control or direct  
18          any law enforcement agency in the exercise of its in-  
19          vestigative or prosecutorial authority in particular  
20          cases.

21          (3) SENSE OF CONGRESS.—It is the sense of  
22          the Congress that the IP Enforcement Representa-  
23          tive should—

24                  (A) be a senior representative on any body  
25                  that the President may establish for the pur-

1 pose of providing to the President advice on  
2 overall policies in which intellectual property en-  
3 forcement matters predominate; and

4 (B) be included as a participant in eco-  
5 nomic summit and other international meetings  
6 at which international intellectual property en-  
7 forcement is a significant topic.

8 (4) DELEGATION.—The IP Enforcement Rep-  
9 resentative may—

10 (A) delegate any of the IP Enforcement  
11 Representative’s functions, powers, and duties  
12 to such officers and employees of the Office as  
13 the IP Enforcement Representative may des-  
14 ignate; and

15 (B) authorize such successive redelegations  
16 of such functions, powers, and duties to such  
17 officers and employees of the Office as the IP  
18 Enforcement Representative considers appro-  
19 priate.

20 (d) COORDINATION OF INTELLECTUAL PROPERTY  
21 ENFORCEMENT ACTIONS.—

22 (1) IN GENERAL.—In carrying out the func-  
23 tions of the IP Enforcement Representative, the IP  
24 Enforcement Representative shall develop rec-

1       ommendations on the allocation of Federal resources  
2       for intellectual property enforcement.

3               (2) ADVISORY COMMITTEE.—

4               (A) ESTABLISHMENT.—There is estab-  
5       lished an interagency intellectual property en-  
6       forcement advisory committee composed of the  
7       IP Enforcement Representative, who shall chair  
8       the committee, and senior representatives of the  
9       following departments and agencies who are in-  
10      volved in intellectual property enforcement, and  
11      are appointed by the respective heads of those  
12      departments and agencies:

13              (i) The Department of Justice (in-  
14              cluding the Intellectual Property Enforce-  
15              ment Officer appointed under section 501).

16              (ii) The United States Patent and  
17              Trademark Office and other relevant units  
18              of the Department of Commerce.

19              (iii) The Office of the United States  
20              Trade Representative.

21              (iv) The Department of State (includ-  
22              ing the United States Agency for Inter-  
23              national Development and the Bureau of  
24              International Narcotics Law Enforcement).

1 (v) The Department of Homeland Se-  
2 curity (including U.S. Customs and Border  
3 Protection and U.S. Immigration and Cus-  
4 toms Enforcement).

5 (vi) The United States International  
6 Trade Commission.

7 (vii) The Food and Drug Administra-  
8 tion of the Department of Health and  
9 Human Services.

10 (viii) The United States Copyright Of-  
11 fice.

12 (ix) Such other agencies as the IP  
13 Enforcement Representative determines to  
14 be substantially involved in the efforts of  
15 the Federal Government to combat coun-  
16 terfeiting and piracy.

17 (B) FUNCTIONS.—The advisory committee  
18 established under subparagraph (A) shall,  
19 under the guidance of the IP Enforcement Rep-  
20 resentative, develop the Joint Strategic Plan  
21 against counterfeiting and piracy under section  
22 321.

23 (3) EXEMPTION FROM FEDERAL ADVISORY  
24 COMMITTEE ACT.—The Federal Advisory Committee  
25 Act shall not apply to the interagency intellectual

1 property enforcement advisory committee established  
2 under paragraph (2) or to any of the activities con-  
3 ducted by the IP Enforcement Representative in de-  
4 veloping the Joint Strategic Plan under section 321.

5 (e) IDENTIFICATION OF COUNTRIES THAT DENY  
6 ADEQUATE PROTECTION OF INTELLECTUAL PROPERTY  
7 RIGHTS.—Section 182(b)(2)(A) of the Trade Act of 1974  
8 (19 U.S.C. 2242(b)(2)(A)) is amended by inserting “the  
9 United States Intellectual Property Enforcement Rep-  
10 resentative,” after “consult with”.

11 (f) POWERS OF IP ENFORCEMENT REPRESENTA-  
12 TIVE.—In carrying out the responsibilities under this title,  
13 the IP Enforcement Representative may—

14 (1) select, appoint, employ, and fix the com-  
15 pensation of such officers and employees as may be  
16 necessary to carry out those responsibilities;

17 (2) request the head of a department, agency,  
18 or program of the Federal Government to place per-  
19 sonnel of such department, agency, or program who  
20 are engaged in intellectual property enforcement ac-  
21 tivities on temporary detail to the Office of the IP  
22 Enforcement Representative to assist in carrying out  
23 those responsibilities;

24 (3) use, with the consent of the Federal, State,  
25 and local government agencies concerned, the avail-

1       able services, equipment, personnel, and facilities of  
2       such Federal, State, and local government agencies;

3           (4) procure the services of experts and consult-  
4       ants in accordance with section 3109 of title 5,  
5       United States Code, relating to the procurement of  
6       temporary and intermittent services, at rates of com-  
7       pensation for individuals not to exceed the daily  
8       equivalent of the rate of pay payable under level IV  
9       of the Executive Schedule under section 5315 of title  
10      5, United States Code, and while such experts and  
11      consultants are so serving away from their homes or  
12      regular place of business, pay such employees travel  
13      expenses and per diem in lieu of subsistence at rates  
14      authorized by section 5703 of title 5, United States  
15      Code, for persons in Government service employed  
16      intermittently;

17           (5) issue such regulations as may be necessary  
18      to carry out the functions vested in the IP Enforce-  
19      ment Representative;

20           (6) enter into and perform such contracts,  
21      leases, cooperative agreements, or other transactions  
22      as may be necessary in the conduct of the work of  
23      the Office and on such terms as the IP Enforcement  
24      Representative considers appropriate, with any de-  
25      partment, agency, or instrumentality of the United

1 States, or with any public or private person, firm,  
2 association, corporation, or institution;

3 (7) accept voluntary and uncompensated serv-  
4 ices, notwithstanding the provisions of section 1342  
5 of title 31, United States Code;

6 (8) adopt an official seal, which shall be judi-  
7 cially noticed; and

8 (9) accept, hold, administer, and use gifts, de-  
9 vises, and bequests of property, both real and per-  
10 sonal, for the purpose of aiding or facilitating the  
11 work of the Office.

12 (g) COMPENSATION.—Section 5312 of title 5, United  
13 States Code, is amended by adding at the end the fol-  
14 lowing:

15 “United States Intellectual Property Enforce-  
16 ment Representative.”.

17 **SEC. 302. DEFINITION.**

18 For purposes of this title, the term “intellectual prop-  
19 erty enforcement” means matters relating to the enforce-  
20 ment of laws protecting copyrights, patents, trademarks,  
21 other forms of intellectual property, and trade secrets,  
22 both in the United States and abroad, including in par-  
23 ticular matters relating to combating counterfeit and pi-  
24 rated goods.



## 1     **Subtitle B—Joint Strategic Plan**

### 2     **SEC. 321. JOINT STRATEGIC PLAN.**

3           (a) PURPOSE.—The objectives of the Joint Strategic  
4 Plan against counterfeiting and piracy that is referred to  
5 in section 301(c)(1)(A) (in this section referred to as the  
6 “joint strategic plan”) are the following:

7           (1) Reducing counterfeit and pirated goods in  
8 the domestic and international supply chain.

9           (2) Identifying and addressing structural weak-  
10 nesses, systemic flaws, or other unjustified impedi-  
11 ments to effective enforcement action against the fi-  
12 nancing, production, trafficking, or sale of counter-  
13 feit or pirated goods.

14          (3) Assuring that information is identified and  
15 shared among the relevant departments and agen-  
16 cies, to the extent permitted by law and consistent  
17 with law enforcement protocols for handling infor-  
18 mation, to aid in the objective of arresting and pros-  
19 ecuting individuals and entities that are knowingly  
20 involved in the financing, production, trafficking, or  
21 sale of counterfeit or pirated goods.

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

24          (5) Strengthening the capacity of other coun-  
25 tries to protect and enforce intellectual property

1 rights, and reducing the number of countries that  
2 fail to enforce laws preventing the financing, produc-  
3 tion, trafficking, and sale of counterfeit and pirated  
4 goods.

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

9 (7) Protecting intellectual property rights over-  
10 seas by—

11 (A) working with other countries to ensure  
12 that such countries—

13 (i) have adequate and effective laws  
14 protecting copyrights, trademarks, patents,  
15 and other forms of intellectual property;

16 (ii) have legal regimes that enforce  
17 their own domestic intellectual property  
18 laws, eliminate counterfeit and piracy oper-  
19 ations, and arrest and prosecute those who  
20 commit intellectual property crimes;

21 (iii) provide their law enforcement of-  
22 ficials with the authority to seize, inspect,  
23 and destroy pirated and counterfeit goods,  
24 including at ports of entry; and

1 (iv) provide for the seizure of property  
2 used to produce pirated and counterfeit  
3 goods;

4 (B) exchanging information with appro-  
5 priate law enforcement agencies in other coun-  
6 tries relating to individuals and entities involved  
7 in the financing, production, trafficking, or sale  
8 of pirated or counterfeit goods;

9 (C) using the information described in sub-  
10 paragraph (B) to conduct enforcement activities  
11 in cooperation with appropriate law enforce-  
12 ment agencies in other countries; and

13 (D) building a formal process for con-  
14 sulting with companies, industry associations,  
15 labor unions, and other interested groups in  
16 other countries with respect to intellectual prop-  
17 erty enforcement.

18 (b) TIMING.—Not later than 12 months after the  
19 date of the enactment of this Act, and not later than De-  
20 cember 31 of every third year thereafter, the IP Enforce-  
21 ment Representative shall submit the joint strategic plan  
22 to the President, to the Committee on the Judiciary and  
23 the Committee on Appropriations of the House of Rep-  
24 resentatives, and to the Committee on the Judiciary and  
25 the Committee on Appropriations of the Senate.

1           (c) RESPONSIBILITY OF THE IP ENFORCEMENT REP-  
2 REPRESENTATIVE.—During the development of the joint stra-  
3 tegic plan, the IP Enforcement Representative—

4           (1) shall consult and coordinate with the appro-  
5 priate officers and employees of departments and  
6 agencies represented on the advisory committee ap-  
7 pointed under section 301(d)(2) who are involved in  
8 intellectual property enforcement; and

9           (2) may consult with private sector experts in  
10 intellectual property enforcement.

11          (d) RESPONSIBILITIES OF OTHER DEPARTMENTS  
12 AND AGENCIES.—To assist in the development and imple-  
13 mentation of the joint strategic plan, the heads of the de-  
14 partments and agencies identified under section  
15 301(d)(2)(A) (including the heads of any other agencies  
16 identified by the IP Enforcement Representative under  
17 section 301(d)(2)(A)(ix)) shall—

18           (1) designate personnel with expertise and expe-  
19 rience in intellectual property enforcement matters  
20 to work with the IP Enforcement Representative;  
21 and

22           (2) share relevant department or agency infor-  
23 mation with the IP Enforcement Representative, in-  
24 cluding statistical information on the enforcement  
25 activities of the department or agency against coun-

1       terfeiting or piracy, and plans for addressing the  
2       joint strategic plan.

3       (e) CONTENTS OF THE JOINT STRATEGIC PLAN.—

4       Each joint strategic plan shall include the following:

5           (1) A detailed description of the priorities iden-  
6           tified for carrying out the objectives in the joint  
7           strategic plan, including activities of the Federal  
8           Government relating to intellectual property enforce-  
9           ment.

10          (2) A detailed description of the means and  
11          methods to be employed to achieve the priorities, in-  
12          cluding the means and methods for improving the  
13          efficiency and effectiveness of the Federal Govern-  
14          ment's enforcement efforts against counterfeiting  
15          and piracy.

16          (3) Estimates of the resources necessary to ful-  
17          fill the priorities identified under paragraph (1).

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

21          (5) An analysis of the threat posed by violations  
22          of intellectual property rights, including targets,  
23          risks, and threats of intellectual property infringe-  
24          ment, the costs to the economy of the United States  
25          resulting from violations of intellectual property

1 laws, and the threats to public health and safety cre-  
2 ated by counterfeiting and piracy.

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

6 (7) A strategy for ensuring coordination be-  
7 tween the IP Enforcement Representative and the  
8 departments and agencies identified under para-  
9 graph (6), including a process for oversight by the  
10 executive branch of, and accountability among, the  
11 departments and agencies responsible for carrying  
12 out the strategy.

13 (8) Such other information as is necessary to  
14 convey the costs imposed on the United States econ-  
15 omy by, and the threats to public health and safety  
16 created by, counterfeiting and piracy, and those  
17 steps that the Federal Government intends to take  
18 over the period covered by the succeeding joint stra-  
19 tegic plan to reduce those costs and counter those  
20 threats.

21 (f) ENHANCING ENFORCEMENT EFFORTS OF FOR-  
22 EIGN GOVERNMENTS.—The joint strategic plan shall in-  
23 clude programs to provide training and technical assist-  
24 ance to foreign governments for the purpose of enhancing  
25 the efforts of such governments to enforce laws against

1 counterfeiting and piracy. With respect to such programs,  
2 the joint strategic plan shall—

3           (1) seek to enhance the efficiency and consist-  
4           ency with which Federal resources are expended,  
5           and seek to minimize duplication, overlap, or incon-  
6           sistency of efforts;

7           (2) identify and give priority to those countries  
8           where programs of training and technical assistance  
9           can be carried out most effectively and with the  
10          greatest benefit to reducing counterfeit and pirated  
11          products in the United States market, to protecting  
12          the intellectual property rights of United States per-  
13          sons and their licensees, and to protecting the inter-  
14          ests of United States persons otherwise harmed by  
15          violations of intellectual property rights in those  
16          countries;

17          (3) in identifying the priorities under paragraph  
18          (2), be guided by the list of countries identified by  
19          the United States Trade Representative under sec-  
20          tion 182(a) of the Trade Act of 1974 (19 U.S.C.  
21          2242(a)); and

22          (4) develop metrics to measure the effectiveness  
23          of the Federal Government's efforts to improve the  
24          laws and enforcement practices of foreign govern-  
25          ments against counterfeiting and piracy.

1 (g) DISSEMINATION OF THE JOINT STRATEGIC  
2 PLAN.—The joint strategic plan shall be posted for public  
3 access on the website of the White House, and shall be  
4 disseminated to the public through such other means as  
5 the IP Enforcement Representative may identify.

6 **SEC. 322. REPORTING.**

7 (a) ANNUAL REPORT.—Not later than December 31  
8 of each calendar year beginning in 2009, the IP Enforce-  
9 ment Representative shall submit a report on the activities  
10 of the Office during the preceding fiscal year. The annual  
11 report shall be submitted to the President and the Con-  
12 gress, and disseminated to the people of the United States,  
13 in the manner specified in subsections (b) and (g) of sec-  
14 tion 321.

15 (b) CONTENTS.—The report required by this section  
16 shall include the following:

17 (1) The progress made on implementing the  
18 strategic plan and on the progress toward fulfillment  
19 of the priorities identified under section 321(e), in-  
20 cluding an analysis of the performance measures  
21 used to monitor results described in section  
22 321(e)(4).

23 (2) The progress made in efforts to encourage  
24 Federal, State, and local government departments



1 and agencies to accord higher priority to intellectual  
2 property enforcement.

3 (3) The progress made in working with foreign  
4 countries to investigate, arrest, and prosecute enti-  
5 ties and individuals involved in the financing, pro-  
6 duction, trafficking, and sale of counterfeit and pi-  
7 rated goods.

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

12 (5) An assessment of the successes and short-  
13 comings of the efforts of the Federal Government,  
14 including departments and agencies represented on  
15 the committee established under section  
16 301(d)(2)(A), in fulfilling the priorities identified in  
17 the applicable joint strategic plan during the pre-  
18 ceding fiscal year and in implementing the rec-  
19 ommendations developed under section 301(d)(1).

20 (6) Recommendations for any changes in en-  
21 forcement statutes, regulations, or funding levels  
22 that the IP Representative considers would signifi-  
23 cantly improve the effectiveness or efficiency of the  
24 effort of the Federal Government to combat counter-  
25 feiting and piracy and otherwise strengthen intellec-

1 tual property enforcement, including through the  
2 elimination or consolidation of duplicative programs  
3 or initiatives.

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

7 (8) The successes and challenges in sharing  
8 with other countries information relating to intellec-  
9 tual property enforcement.

10 (9) The progress of the United States Trade  
11 Representative in taking the appropriate action  
12 under any trade agreement or treaty to protect intel-  
13 lectual property rights of United States persons and  
14 their licensees.

15 **SEC. 323. SAVINGS AND REPEALS.**

16 (a) REPEAL OF COORDINATION COUNCIL.—Section  
17 653 of the Treasury and General Government Appropria-  
18 tions Act, 2000 (15 U.S.C. 1128) is repealed.

19 (b) CURRENT AUTHORITIES NOT AFFECTED.—Ex-  
20 cept as provided in subsection (a), nothing in this title  
21 shall alter the authority of any department or agency of  
22 the United States (including any independent agency) that  
23 relates to—

1           (1) the investigation and prosecution of viola-  
2           tions of laws that protect intellectual property  
3           rights;

4           (2) the administrative enforcement, at the bor-  
5           ders of the United States, of laws that protect intel-  
6           lectual property rights; or

7           (3) the United States trade agreements pro-  
8           gram or international trade.

9           (c) REGISTER OF COPYRIGHTS.—Nothing in this title  
10          shall derogate from the duties and functions of the Reg-  
11          ister of Copyrights.

12          **SEC. 324. AUTHORIZATION OF APPROPRIATIONS.**

13          (a) IN GENERAL.—There are authorized to be appro-  
14          priated for each fiscal year such sums as may be necessary  
15          to carry out this title.

16          (b) SUBMISSION OF PROJECTED BUDGET.—By not  
17          later than the date on which the President submits to the  
18          Congress the budget of the United States Government for  
19          a fiscal year, the IP Representative shall submit to the  
20          Committees on the Judiciary of the House of Representa-  
21          tives and the Senate the projected amount of funds for  
22          the succeeding fiscal year that will be necessary for the  
23          Office to carry out its functions.

1 **TITLE IV—INTERNATIONAL EN-**  
2 **FORCEMENT AND COORDINA-**  
3 **TION**

4 **SEC. 401. INTELLECTUAL PROPERTY ATTACHÉS.**

5 The Under Secretary of Commerce for Intellectual  
6 Property and Director of the United States Patent and  
7 Trademark Office (in this title referred to as the “Direc-  
8 tor”), in consultation with the Director General of the  
9 United States and Foreign Commercial Service, shall,  
10 within 2 years after the date of the enactment of this Act,  
11 appoint at least 10 intellectual property attachés to serve  
12 in United States embassies or other diplomatic missions.  
13 The appointments under this section shall be in addition  
14 to those individuals serving in the capacity of intellectual  
15 property attachés at United States embassies or other dip-  
16 lomatic missions on the date of the enactment of this Act.  
17 The Director shall provide such managerial, administra-  
18 tive, research, and other services as the Secretary of Com-  
19 merce considers necessary to assist the intellectual prop-  
20 erty attachés in carrying out their responsibilities.

21 **SEC. 402. DUTIES AND RESPONSIBILITIES OF INTELLEC-**  
22 **TUAL PROPERTY ATTACHÉS.**

23 The intellectual property attachés appointed under  
24 section 401, as well as others serving as intellectual prop-

1 erty attachés of the Department of Commerce, shall have  
2 the following responsibilities:

3           (1) To promote cooperation with foreign gov-  
4 ernments in the enforcement of intellectual property  
5 laws generally, and in the enforcement of laws  
6 against counterfeiting and piracy in particular.

7           (2) To assist United States persons holding in-  
8 tellectual property rights, and the licensees of such  
9 United States persons, in their efforts to combat  
10 counterfeiting and piracy of their products or works  
11 within the host country, including counterfeit or pi-  
12 rated goods exported from or transshipped through  
13 that country.

14           (3) To chair an intellectual property protection  
15 task force consisting of representatives from all  
16 other relevant sections or bureaus of the embassy or  
17 other mission.

18           (4) To coordinate with representatives of the  
19 embassies or missions of other countries in informa-  
20 tion sharing, private or public communications with  
21 the government of the host country, and other forms  
22 of cooperation for the purpose of improving enforce-  
23 ment against counterfeiting and piracy.

24           (5) As appropriate and in accordance with ap-  
25 plicable laws and the diplomatic status of the

1 attachés, to engage in public education efforts  
2 against counterfeiting and piracy in the host coun-  
3 try.

4 (6) To coordinate training and technical assist-  
5 ance programs of the United States Government  
6 within the host country that are aimed at improving  
7 the enforcement of laws against counterfeiting and  
8 piracy.

9 (7) To assist in the coordination of the efforts  
10 of the United States Intellectual Property Enforce-  
11 ment Representative, Federal agencies, and private  
12 organizations engaged in the promotion of United  
13 States intellectual property interests abroad so as to  
14 maximize their effectiveness and minimize duplica-  
15 tive efforts.

16 (8) To identify and promote other means to  
17 more effectively combat counterfeiting and piracy ac-  
18 tivities under the jurisdiction of the host country.

19 **SEC. 403. TRAINING AND DESIGNATION OF ASSIGNMENT.**

20 (a) TRAINING OF ATTACHÉS.—The Director shall en-  
21 sure that each attaché appointed under section 401 is fully  
22 trained for the responsibilities of the position before as-  
23 suming duties at the United States embassy or other mis-  
24 sion in question.

1 (b) PRIORITY ASSIGNMENTS.—In designating the  
2 embassies or other missions to which attachés are as-  
3 signed, the Director shall give priority to those countries  
4 where the activities of an attaché can be carried out most  
5 effectively and with the greatest benefit to reducing coun-  
6 terfeit and pirated products in the United States market,  
7 to protecting the intellectual property rights of United  
8 States persons and their licensees, or to protecting the in-  
9 terests of United States persons otherwise harmed by vio-  
10 lations of intellectual property rights in those countries.

11 **SEC. 404. COORDINATION.**

12 (a) IN GENERAL.—The activities authorized by this  
13 title shall be carried out in coordination with the United  
14 States Intellectual Property Enforcement Representative  
15 appointed under section 301.

16 (b) REPORT ON ATTACHÉS.—The Inspector General  
17 of the Department of Commerce shall perform yearly au-  
18 dits of the intellectual property attachés of the Depart-  
19 ment, and shall report to the Committees on the Judiciary  
20 of the House of Representatives and the Senate the results  
21 of each such audit. In addition to an overview of the activi-  
22 ties and effectiveness of the intellectual property attaché  
23 operations, the audit shall include—

24 (1) an evaluation of the current placement of  
25 foreign-based personnel and recommendations for

1 transferring such personnel in response to newly  
2 emerging intellectual property issues abroad; and

3 (2) an evaluation of the personnel system and  
4 its management, including the recruitment, assign-  
5 ment, promotion, and performance appraisal of per-  
6 sonnel, and the use of limited appointees.

7 **SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated for each fis-  
9 cal year such sums as may be necessary for the training  
10 and support of the intellectual property attachés appointed  
11 under section 401 and of other individuals serving as intel-  
12 lectual property attachés of the Department of Commerce.

13 **TITLE V—DEPARTMENT OF**  
14 **JUSTICE PROGRAMS**  
15 **Subtitle A—Coordination**

16 **SEC. 501. INTELLECTUAL PROPERTY ENFORCEMENT OFFI-**  
17 **CER.**

18 (a) ESTABLISHMENT.—There is established within  
19 the Office of the Deputy Attorney General in the Depart-  
20 ment of Justice the “Intellectual Property Enforcement  
21 Division”. The head of the Intellectual Property Enforce-  
22 ment Division shall be the Intellectual Property Enforce-  
23 ment Officer (in this title referred to as the “IP Officer”).  
24 The IP Officer shall be appointed by the Attorney General  
25 and shall report directly to the Deputy Attorney General.



1 (b) DUTIES.—The IP Officer shall—

2 (1) coordinate all efforts of the Department of  
3 Justice relating to the enforcement of intellectual  
4 property rights and to combating counterfeiting and  
5 piracy;

6 (2) serve as the lead representative of the De-  
7 partment of Justice on the advisory committee pro-  
8 vided for in section 301(d)(2) and as the liaison of  
9 the Department of Justice with foreign governments  
10 with respect to training conducted under section  
11 522; and

12 (3) carry out such other related duties that may  
13 be assigned by the Deputy Attorney General.

14 (c) TRANSFER OF FUNCTIONS.—

15 (1) CRIMINAL INTELLECTUAL PROPERTY EN-  
16 FORCEMENT.—There are transferred to the Intellec-  
17 tual Property Enforcement Division those functions  
18 of the Computer Crime and Intellectual Property  
19 Section of the Criminal Division of the Department  
20 of Justice that relate to the enforcement of criminal  
21 laws relating to the protection of intellectual prop-  
22 erty rights and trade secrets, including the following:

23 (A) Sections 506 and 1204 of title 17,  
24 United States Code.

1 (B) Sections 2318 through 2320 of title  
2 18, United States Code.

3 (C) Sections 1831 and 1832 of title 18,  
4 United States Code.

5 (D) Any other provision of law, including  
6 the following, to the extent such provision in-  
7 volves the enforcement of any provision of law  
8 referred to in subparagraphs (A) through (C)  
9 or comparable provision of law:

10 (i) Section 1341 of title 18, United  
11 States Code, relating to frauds and swin-  
12 dles.

13 (ii) Section 1343 of title 18, United  
14 States Code, relating to fraud by wire,  
15 radio, or television.

16 (iii) Section 2512 of title 18, United  
17 States Code, relating to trafficking in  
18 interception devices.

19 (iv) Section 633 of the Communica-  
20 tions Act of 1934 (47 U.S.C. 553), relat-  
21 ing to the unauthorized reception of cable  
22 service.

23 (v) Section 705 of the Communica-  
24 tions Act of 1934 (47 U.S.C. 605), relat-

1                   ing to the unauthorized publication or use  
2                   of communications.

3                   (2) INTELLECTUAL PROPERTY ENFORCEMENT  
4                   COORDINATORS.—The Intellectual Property Law  
5                   Enforcement Coordinators of the Department of  
6                   Justice to whom section 521 applies shall also be in  
7                   the Intellectual Property Enforcement Division.

8                   **Subtitle B—Law Enforcement**  
9                   **Resources**

10 **SEC. 511. LOCAL LAW ENFORCEMENT GRANTS.**

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

13                   (1) in subsection (b), by inserting after “com-  
14                   puter crime” each place it appears the following: “,  
15                   including infringement of copyrighted works over the  
16                   Internet”; and

17                   (2) in subsection (e)(1), relating to authoriza-  
18                   tion of appropriations, by striking “fiscal years 2001  
19                   through 2004” and inserting “fiscal years 2009  
20                   through 2013”.

21                   (b) GRANTS.—The Office of Justice Programs of the  
22                   Department of Justice shall make grants to eligible State  
23                   or local law enforcement entities, including law enforce-  
24                   ment agencies of municipal governments and public edu-  
25                   cational institutions, for training, prevention, enforce-

1 ment, and prosecution of intellectual property theft and  
2 infringement crimes (in this subsection referred to as “IP-  
3 TIC grants”), in accordance with the following:

4           (1) USE OF IP-TIC GRANT AMOUNTS.—IP-TIC  
5 grants may be used to establish and develop pro-  
6 grams to do the following with respect to the en-  
7 forcement of State and local true name and address  
8 laws and State and local criminal laws on anti-pi-  
9 racy, anti-counterfeiting, and unlawful acts with re-  
10 spect to goods by reason of their protection by a pat-  
11 ent, trademark, service mark, trade secret, or other  
12 intellectual property right under State or Federal  
13 law:

14           (A) Assist State and local law enforcement  
15 agencies in enforcing those laws, including by  
16 reimbursing State and local entities for ex-  
17 penses incurred in performing enforcement op-  
18 erations, such as overtime payments and stor-  
19 age fees for seized evidence.

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

23           (C) Educate and train State and local law  
24 enforcement officers and prosecutors to conduct  
25 investigations and forensic analyses of evidence

1 and prosecutions in matters involving those  
2 laws.

3 (D) Establish task forces that include per-  
4 sonnel from State or local law enforcement enti-  
5 ties, or both, exclusively to conduct investiga-  
6 tions and forensic analyses of evidence and  
7 prosecutions in matters involving those laws.

8 (E) Assist State and local law enforcement  
9 officers and prosecutors in acquiring computer  
10 and other equipment to conduct investigations  
11 and forensic analyses of evidence in matters in-  
12 volving those laws.

13 (F) Facilitate and promote the sharing,  
14 with State and local law enforcement officers  
15 and prosecutors, of the expertise and informa-  
16 tion of Federal law enforcement agencies about  
17 the investigation, analysis, and prosecution of  
18 matters involving those laws and criminal in-  
19 fringement of copyrighted works, including the  
20 use of multi-jurisdictional task forces.

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

1 (A) assurances that the State in which the  
2 government entity is located has in effect laws  
3 described in paragraph (1);

4 (B) an assessment of the resource needs of  
5 the State or local government entity applying  
6 for the grant, including information on the need  
7 for reimbursements of base salaries and over-  
8 time costs, storage fees, and other expenditures  
9 to improve the investigation, prevention, or en-  
10 forcement of laws described in paragraph (1);  
11 and

12 (C) a plan for coordinating the programs  
13 funded under this section with other federally  
14 funded technical assistance and training pro-  
15 grams, including directly funded local programs  
16 such as the Edward Byrne Memorial Justice  
17 Assistance Grant Program authorized by sub-  
18 part 1 of part E of title I of the Omnibus  
19 Crime Control and Safe Streets Act of 1968  
20 (42 U.S.C. 3750 et seq.).

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

1 (4) AUTHORIZATION OF APPROPRIATIONS.—

2 (A) AUTHORIZATION.—There is authorized  
3 to be appropriated to carry out this subsection  
4 the sum of \$25,000,000 for each of fiscal years  
5 2008 through 2012.

6 (B) LIMITATION.—Of the amount made  
7 available to carry out this subsection in any fis-  
8 cal year, not more than 3 percent may be used  
9 by the Attorney General for salaries and admin-  
10 istrative expenses.

11 **SEC. 512. CHIP UNITS, TRAINING, AND ADDITIONAL RE-**  
12 **SOURCES.**

13 (a) EVALUATION OF CHIP UNITS.—The Attorney  
14 General shall review the allocation and activities of the  
15 Computer Hacking and Intellectual Property (in this sec-  
16 tion referred to as “CHIP”) units that have been estab-  
17 lished in various Federal judicial districts, with the goals  
18 of—

19 (1) improving the effectiveness of CHIP units  
20 in investigating and prosecuting criminal offenses  
21 arising from counterfeiting or piracy activities;

22 (2) ensuring that CHIP units are established  
23 and funded in every judicial district in which they  
24 can be effectively deployed;

1           (3) upgrading the training and expertise of De-  
2           partment of Justice personnel participating in CHIP  
3           units; and

4           (4) improving the coordination of the activities  
5           of CHIP units with corresponding efforts of State  
6           and local law enforcement agencies operating within  
7           the Federal judicial district in question.

8           (b) REQUIREMENTS.—In addition to any initiatives  
9           undertaken as a result of the review conducted under sub-  
10          section (a), the Attorney General, in consultation with the  
11          Director of the Federal Bureau of Investigation, shall en-  
12          sure that—

13           (1) each CHIP unit is supported by at least 2  
14           additional agents of the Federal Bureau of Inves-  
15           tigation for the purpose of investigating intellectual  
16           property crimes;

17           (2) each CHIP unit is assigned at least 1 addi-  
18           tional assistant United States attorney to support  
19           such unit for the purpose of prosecuting intellectual  
20           property crimes or other crimes involved in counter-  
21           feiting or piracy activities;

22           (3) CHIP units are established and staffed in  
23           at least 10 Federal judicial districts in addition to  
24           those districts in which CHIP units exist on the date  
25           of the enactment of this Act; and



1           (4) an operational unit is created consisting of  
2           not less than 5 agents of the Federal Bureau of In-  
3           vestigation, attached to the headquarters of the Fed-  
4           eral Bureau of Investigation in Washington, D.C.,  
5           and dedicated to working with the Intellectual Prop-  
6           erty Enforcement Division established by section  
7           501 on the development, investigation, and coordina-  
8           tion of complex, multi-district, and international  
9           criminal intellectual property cases.

10          (c) COORDINATION WITH STATE AND LOCAL AU-  
11          THORITIES.—The United States attorney for each Federal  
12          judicial district in which a CHIP unit is in operation shall  
13          ensure that the activities of that unit are coordinated with  
14          the corresponding activities of State and local law enforce-  
15          ment agencies operating within that Federal judicial dis-  
16          trict in the investigation of intellectual property crimes  
17          and other crimes involved in counterfeiting or piracy, in-  
18          cluding by coordinating Federal, State, and local oper-  
19          ations and intelligence sharing to the extent appropriate.

20          (d) ADDITIONAL RESPONSIBILITIES OF THE ATTOR-  
21          NEY GENERAL.—The Attorney General, in consultation  
22          with the Director of the Federal Bureau of Investigation  
23          as appropriate, shall ensure the following:

24                 (1) All assistant United States attorneys who  
25                 are assigned to CHIP units, and all agents of the

1 Federal Bureau of Investigation who support those  
2 units, have received advanced training, on an annual  
3 basis, in the investigation and prosecution of intel-  
4 lectual property crimes and other crimes involved in  
5 counterfeiting and piracy.

6 (2) All relevant units of the Department of Jus-  
7 tice are allocated sufficient funding and other re-  
8 sources as may be necessary to provide expert com-  
9 puter forensic assistance, including from nongovern-  
10 mental entities, in investigating and prosecuting in-  
11 tellectual property crimes in a timely manner. For  
12 purposes of this paragraph, the term “all relevant  
13 units” includes those officers and employees as-  
14 signed to carry out the functions transferred by sec-  
15 tion 501(c)(1), CHIP units, offices of the United  
16 States attorneys, and units of the Federal Bureau of  
17 Investigation that are engaged in the investigation of  
18 intellectual property crimes.

19 **SEC. 513. TRANSPARENCY OF PROSECUTORIAL DECISION-**  
20 **MAKING.**

21 (a) IN GENERAL.—The Attorney General shall direct  
22 each United States attorney—

23 (1) to review the formal or informal standards  
24 currently in effect in that Federal judicial district  
25 for accepting or declining prosecution of cases in-

1       volving criminal violations of intellectual property  
2       laws;

3               (2) to consider whether the standards should be  
4       modified or applied more flexibly—

5                       (A) to ensure that significant violations are  
6       not being declined for prosecution inappropri-  
7       ately; or

8                       (B) in light of the broader impact of indi-  
9       vidual cases on the overall strategy to combat  
10      counterfeiting and piracy; and

11               (3) to review the practices and procedures cur-  
12      rently in place for providing information to com-  
13      plainants and victims in cases and investigations in-  
14      volving criminal violations of intellectual property  
15      laws regarding the status of such cases and inves-  
16      tigations, including the practices and procedures for  
17      apprising interested parties of the decision to decline  
18      prosecution of such cases.

19      (b) CONSTRUCTION.—

20               (1) PROSECUTORIAL MATTERS.—Nothing in  
21      this section shall be construed to impinge on the ap-  
22      propriate exercise of prosecutorial discretion with re-  
23      spect to cases involving criminal violations of intel-  
24      lectual property laws or to require the promulgation

1 of formal standards or thresholds regarding prosecu-  
2 tion of any cases.

3 (2) NO CLAIMS, ETC., MAY BE ASSERTED.—

4 Nothing in the section shall give rise to any claim,  
5 cause of action, defense, privilege, or immunity that  
6 may be asserted by any party to Federal litigation.

7 **SEC. 514. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated for each fis-  
9 cal year such sums as may be necessary to carry out this  
10 subtitle.

11 **Subtitle C—International Activities**

12 **SEC. 521. INTERNATIONAL INTELLECTUAL PROPERTY LAW**

13 **ENFORCEMENT COORDINATORS.**

14 (a) DEPLOYMENT OF ADDITIONAL COORDINA-  
15 TORS.—The Attorney General shall, within 180 days after  
16 the date of the enactment of this Act, deploy 5 Intellectual  
17 Property Law Enforcement Coordinators, in addition to  
18 those serving in such capacity on such date of enactment.  
19 Such deployments shall be made to those countries and  
20 regions where the activities of such a coordinator can be  
21 carried out most effectively and with the greatest benefit  
22 to reducing counterfeit and pirated products in the United  
23 States market, to protecting the intellectual property  
24 rights of United States persons and their licensees, and  
25 to protecting the interests of United States persons other-

1 wise harmed by violations of intellectual property rights  
2 in those countries. The mission of all International Intel-  
3 lectual Property Law Enforcement Coordinators shall in-  
4 clude the following:

5           (1) Acting as liaison with foreign law enforce-  
6           ment agencies and other foreign officials in criminal  
7           matters involving intellectual property rights.

8           (2) Performing outreach and training to build  
9           the enforcement capacity of foreign governments  
10          against intellectual property-related crime in the re-  
11          gions in which the coordinators serve.

12          (3) Coordinating United States law enforcement  
13          activities against intellectual property-related crimes  
14          in the regions in which the coordinators serve.

15          (4) Coordinating with the activities of the intel-  
16          lectual property attachés appointed under title IV in  
17          the countries or regions to which the coordinators  
18          are deployed.

19          (5) Coordinating the activities of the coordina-  
20          tors with the IP Officer.

21          (b) AUTHORIZATION OF APPROPRIATIONS.—There  
22          are authorized to be appropriated for each fiscal year such  
23          sums as may be necessary for the deployment and support  
24          of all International Intellectual Property Enforcement Co-

1 ordinarators of the Department of Justice, including those  
2 deployed under subsection (a).

3 **SEC. 522. INTERNATIONAL TRAINING ACTIVITIES OF THE**  
4 **COMPUTER CRIME AND INTELLECTUAL**  
5 **PROPERTY SECTION.**

6 (a) INCREASED TRAINING AND TECHNICAL ASSIST-  
7 ANCE TO FOREIGN GOVERNMENTS.—The Attorney Gen-  
8 eral shall increase the efforts of the Department of Justice  
9 to provide training and technical assistance to foreign gov-  
10 ernments, including foreign law enforcement agencies and  
11 foreign courts, to more effectively combat counterfeiting  
12 and piracy activities falling within the jurisdiction of such  
13 governments.

14 (b) CONDUCT OF PROGRAMS.—The increased train-  
15 ing and technical assistance programs under subsection  
16 (a) shall be carried out by the Intellectual Property En-  
17 forcement Division established by section 501, as well as  
18 through such other divisions, sections, or agencies of the  
19 Department of Justice as the Attorney General may di-  
20 rect.

21 (c) PRIORITY COUNTRIES.—The Attorney General, in  
22 providing increased training and technical assistance pro-  
23 grams under this section, shall give priority to those coun-  
24 tries where such programs can be carried out most effec-  
25 tively and with the greatest likelihood of reducing counter-

1 feit and pirated products in the United States market, of  
2 protecting the intellectual property rights of United States  
3 persons, or of protecting the interests of United States  
4 persons otherwise harmed by violations of intellectual  
5 property rights in those countries.

6 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated for each fiscal year such  
8 sums as may be necessary to carry out this section.

9 **Subtitle D—Coordination,**  
10 **Implementation, and Reporting**

11 **SEC. 531. COORDINATION.**

12 The IP officer shall ensure that activities undertaken  
13 under this title are carried out in a manner consistent with  
14 the joint strategic plan developed under section 321.

15 **SEC. 532. ANNUAL REPORTS.**

16 Not later than 1 year after the date of the enactment  
17 of this Act, and annually thereafter, the Attorney General  
18 shall submit to the Committees on the Judiciary of the  
19 Senate and the House of Representatives a report on ac-

- 1 tions taken to carry out this title, including a report on
- 2 the activities of the IP Officer.

Passed the House of Representatives May 8, 2008.

Attest:

*Clerk.*





110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 4279**

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**AN ACT**

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