

## Union Calendar No. 384

110TH CONGRESS  
2D SESSION

# H. R. 4279

[Report No. 110-617]

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

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### IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2007

Mr. CONYERS (for himself, Mr. BERMAN, Mr. SMITH of Texas, Mr. SCHIFF, Mr. FEENEY, Mr. ISSA, Mr. CHABOT, Mr. COHEN, Mr. KELLER of Florida, Ms. JACKSON-LEE of Texas, and Mr. GOODLATTE) introduced the following bill; which was referred to the Committee on the Judiciary

MAY 5, 2008

Additional sponsors: Mr. WEXLER, Mr. WATT, Mr. COBLE, Mrs. BONO MACK, Mr. PENCE, Ms. WATSON, Ms. WASSERMAN SCHULTZ, Mr. GALLEGLY, and Mr. SHERMAN

MAY 5, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on December 5, 2007]

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## A BILL

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,*

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

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

7 (b) *TABLE OF CONTENTS.*—*The table of contents is as*  
 8 *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 offenses.*

*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 Represent-*  
*ative.*

*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 the*  
*4 registration of trademarks used in commerce, to carry out*  
*5 the provisions of certain international conventions, and for*  
*6 other purposes”, approved July 5, 1946 (15 U.S.C. 1051*  
*7 et seq.).*

**8 SEC. 3. DEFINITION.**

*9 In this Act, the term “United States person” means—*  
**10 (1) any United States resident or national,**

1           (2) *any domestic concern (including any perma-*  
2           *nent domestic establishment of any foreign concern),*  
3           *and*

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

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

12 **TITLE I—ENHANCEMENTS TO**  
13 **CIVIL INTELLECTUAL PROP-**  
14 **ERTY LAWS**

15 **SEC. 101. REGISTRATION OF CLAIM.**

16       *Section 410 of title 17, United States Code, is amend-*  
17 *ed—*

18           (1) *by redesignating subsections (c) and (d) as*  
19           *subsections (d) and (e), respectively; and*

20           (2) *by inserting after subsection (b) the fol-*  
21 *lowing:*

22       “(c)(1) *A certificate of registration satisfies the re-*  
23 *quirements of section 411 and section 412 regardless of any*  
24 *inaccurate information contained in the certificate, un-*  
25 *less—*

1           “(A) the inaccurate information was included on  
2           the application for copyright registration with knowl-  
3           edge that it was inaccurate; and

4           “(B) the inaccuracy of the information, if  
5           known, would have caused the Register of Copyrights  
6           to refuse registration.

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

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

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

20          (a) **REGISTRATION IN CIVIL INFRINGEMENT AC-**  
21       **TIONS.**—Section 411 of title 17, United States Code, is  
22       amended—

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

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

3           (b) *TECHNICAL AND CONFORMING AMENDMENT.—Sec-*  
4           *tion 411(b) of title 17, United States Code, is amended by*  
5           *striking “506 and sections 509 and” and inserting “505*  
6           *and section”.*

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

8           *Section 503(a) of title 17, United States Code, is*  
9           *amended—*

10           (1) *by striking “and of all plates” and inserting*  
11           *“of all plates”; and*

12           (2) *by striking the period at the end and insert-*  
13           *ing the following: “, and records documenting the*  
14           *manufacture, sale, or receipt of things involved in*  
15           *such violation. The court shall enter an appropriate*  
16           *protective order with respect to discovery by the ap-*  
17           *plicant of any records that have been seized. The pro-*  
18           *TECTIVE order shall provide for appropriate procedures*  
19           *to assure that confidential information contained in*  
20           *such records is not improperly disclosed to the appli-*  
21           *cant.”.*

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

23           *Section 35(b) of the Trademark Act of 1946 (15 U.S.C.*  
24           *1117(b)) is amended to read as follows:*

1       “(b) *In assessing damages under subsection (a) for any*  
2 *violation of section 32(1)(a) of this Act or section 220506*  
3 *of title 36, United States Code, in a case involving use of*  
4 *a counterfeit mark or designation (as defined in section*  
5 *34(d) of this Act), the court shall, unless the court finds*  
6 *extenuating circumstances, enter judgment for three times*  
7 *such profits or damages, whichever amount is greater, to-*  
8 *gether with a reasonable attorney’s fee, if the violation con-*  
9 *sists of—*

10               “(1) *intentionally using a mark or designation,*  
11 *knowing such mark or designation is a counterfeit*  
12 *mark (as defined in section 34(d) of this Act), in con-*  
13 *nection with the sale, offering for sale, or distribution*  
14 *of goods or services;*

15               “(2) *intentionally inducing another to engage in*  
16 *a violation specified in paragraph (1); or*

17               “(3) *providing goods or services necessary to the*  
18 *commission of a violation specified in paragraph (1),*  
19 *with the intent that the recipient of the goods or serv-*  
20 *ices would put the goods or services to use in commit-*  
21 *ting the violation.*

22 *In such a case, the court may award prejudgment interest*  
23 *on such amount at an annual interest rate established*  
24 *under section 6621(a)(2) of the Internal Revenue Code of*  
25 *1986, beginning on the date of the service of the claimant’s*

1 *pleadings setting forth the claim for such entry of judgment*  
2 *and ending on the date such entry is made, or for such*  
3 *shorter time as the court considers appropriate.”.*

4 **SEC. 105. STATUTORY DAMAGES IN COUNTERFEITING**  
5 **CASES.**

6 *Section 35(c) of the Trademark Act of 1946 (15 U.S.C.*  
7 *1117) is amended—*

8 *(1) in paragraph (1)—*

9 *(A) by striking “\$500” and inserting*  
10 *“\$1,000”; and*

11 *(B) by striking “\$100,000” and inserting*  
12 *“\$200,000”; and*

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

15 **SEC. 106. EXPORTATION OF GOODS BEARING INFRINGING**  
16 **MARKS.**

17 *Title VII of the Trademark Act of 1946 (15 U.S.C.*  
18 *1124) is amended—*

19 *(1) in the title heading, by inserting after “IM-*  
20 *PORTATION” the following: “OR EXPORTATION”;*  
21 *and*

22 *(2) in section 42—*

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



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

4 **SEC. 107. IMPORTATION AND EXPORTATION.**

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

7 **“CHAPTER 6—MANUFACTURING REQUIRE-**  
8 **MENTS, IMPORTATION, AND EXPOR-**  
9 **TATION”.**

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

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

15                   (2) by striking “(a)” and inserting “(a) *IN-*  
16 *FRINGING IMPORTATION AND EXPORTATION.*—

17                           “(1) *IMPORTATION.*—”;

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

20                           “(2) *IMPORTATION OR EXPORTATION OF IN-*  
21 *FRINGING ITEMS.*—Importation into the United  
22 States or exportation from the United States, without  
23 the authority of the owner of copyright under this  
24 title, of copies or phonorecords, the making of which  
25 either constituted an infringement of copyright or

1       *would have constituted an infringement of copyright*  
 2       *if this title had been applicable, is an infringement*  
 3       *of the exclusive right to distribute copies or*  
 4       *phonorecords under section 106, actionable under sec-*  
 5       *tions 501 and 506.*

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

8               (4) *in paragraph (3)(A) (as redesignated by this*  
 9       *subsection) by inserting “or exportation” after “im-*  
 10       *portation*”; and

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

13              (A) *by striking “importation, for the pri-*  
 14       *vate use of the importer” and inserting “impor-*  
 15       *tation or exportation, for the private use of the*  
 16       *importer or exporter*”; and

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

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

21              (A) *in the section heading, by inserting “or ex-*  
 22       *portation” after “importation*”; and

23              (B) *in subsection (b)—*

24              (i) *by striking “(b) In a case” and inserting*

25       “(b) *IMPORT PROHIBITION.*—*In a case*”;

1                   (ii) by striking “the United States Customs  
2                   Service” and inserting “U.S. Customs and Bor-  
3                   der Protection”; and

4                   (iii) by striking “the Customs Service” and  
5                   inserting “U.S. Customs and Border Protection”.

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

9           (3) The item relating to chapter 6 in the table of chap-  
10 ters for title 17, United States Code, is amended to read  
11 as follows:

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

12 **TITLE II—ENHANCEMENTS TO**  
13 **CRIMINAL INTELLECTUAL**  
14 **PROPERTY LAWS**

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

16           Section 2319 of title 18, United States Code, is amend-  
17 ed—

18                   (1) in subsection (b)(2)—

19                           (A) by inserting “is a felony and” after “of-  
20                           fense” the first place such term appears; and

21                           (B) by striking “paragraph (1)” and insert-  
22                           ing “subsection (a)”;

23                   (2) in subsection (c)(2)—

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

3           (B) by striking “paragraph (1)” and insert-  
4           ing “subsection (a)”;

5           (3) in subsection (d)(3)—

6           (A) by inserting “is a felony and” after “of-  
7           fense” the first place such term appears; and

8           (B) by inserting “under subsection (a)” be-  
9           fore the semicolon; and

10          (4) in subsection (d)(4), by inserting “is a felony  
11          and” after “offense” the first place such term appears.

12 **SEC. 202. HARMONIZATION OF FORFEITURE PROCEDURES**

13 **FOR INTELLECTUAL PROPERTY OFFENSES.**

14          (a) *TRAFFICKING IN COUNTERFEIT LABELS.*—Section  
15 2318 of title 18, United States Code, is amended—

16          (1) by amending subsection (d) to read as fol-  
17          lows:

18          “(d) *FORFEITURE AND DESTRUCTION; RESTITU-*  
19 *TION.*—

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

23                         “(i) *Any counterfeit documentation or pack-*  
24 *aging, and any counterfeit label or illicit label*  
25 *and any article to which a counterfeit label or*

1           *illicit label has been affixed, which a counterfeit*  
2           *label or illicit label encloses or accompanies, or*  
3           *which was intended to have had such label af-*  
4           *fixed, enclosing, or accompanying.*

5           *“(ii) Any property constituting or derived*  
6           *from any proceeds obtained directly or indirectly*  
7           *as a result of a violation of subsection (a).*

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

18           *“(B) The provisions of chapter 46 relating to*  
19           *civil forfeitures shall extend to any seizure or civil*  
20           *forfeiture under subparagraph (A). At the conclusion*  
21           *of the forfeiture proceedings, the court shall order that*  
22           *any forfeited counterfeit labels or illicit labels and*  
23           *any article to which a counterfeit label or illicit label*  
24           *has been affixed, which a counterfeit label or illicit*  
25           *label encloses or accompanies, or which was intended*

1       to have had such label affixed, enclosing, or accom-  
2       panying, be destroyed or otherwise disposed of accord-  
3       ing to law.

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

7               “(2) CRIMINAL FORFEITURE PROCEEDINGS.—(A)  
8       The court, in imposing sentence on a person convicted  
9       of an offense under this section, shall order, in addi-  
10      tion to any other sentence imposed, that the person  
11      forfeit to the United States the following property:

12               “(i) Any counterfeit documentation or pack-  
13      aging, and any counterfeit label or illicit label,  
14      that was used, intended for use, or possessed with  
15      intent to use in the commission of an offense  
16      under subsection (a), and any article to which  
17      such a counterfeit label or illicit label has been  
18      affixed, which such a counterfeit label or illicit  
19      label encloses or accompanies, or which was in-  
20      tended to have had such label affixed, enclosing,  
21      or accompanying.

22               “(ii) Any property constituting or derived  
23      from any proceeds obtained directly or indirectly  
24      as a result of an offense under subsection (a).

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

4           “(B) The forfeiture of property under subpara-  
5           graph (A), including any seizure and disposition of  
6           the property and any related judicial or administra-  
7           tive proceeding, shall be governed by the procedures  
8           set forth in section 413 of the Comprehensive Drug  
9           Abuse Prevention and Control Act of 1970 (21 U.S.C.  
10          853), other than subsection (d) of that section. At the  
11          conclusion of the forfeiture proceedings, the court shall  
12          order that any counterfeit label or illicit label and  
13          any article to which a counterfeit label or illicit label  
14          has been affixed, which a counterfeit label or illicit  
15          label encloses or accompanies, or which was intended  
16          to have had such label affixed, enclosing, or accom-  
17          panying, be destroyed or otherwise disposed of accord-  
18          ing to law.

19          “(3) RESTITUTION.—When a person is convicted  
20          of an offense under this section, the court, pursuant  
21          to sections 3556, 3663A, and 3664, shall order the  
22          person to pay restitution to the owner of the marks  
23          or copyrighted works involved in the offense and any  
24          other victim of the offense as an offense against prop-  
25          erty referred to in section 3663A(c)(1)(A)(ii).”;

1           (2) *by striking subsection (e); and*

2           (3) *by redesignating subsection (f) as subsection*

3           *(e).*

4           ***(b) CRIMINAL INFRINGEMENT OF A COPYRIGHT.—***

5           ***(1) IN GENERAL.—Section 2319 of title 18,***

6           ***United States Code, is amended by adding at the end***

7           ***the following:***

8           ***“(g) FORFEITURE AND DESTRUCTION; RESTITU-***

9           ***TION.—***

10           ***“(1) CIVIL FORFEITURE PROCEEDINGS.—(A) The***

11           ***following property is subject to forfeiture to the***

12           ***United States:***

13           ***“(i) Any copies or phonorecords manufac-***

14           ***tured, reproduced, distributed, sold, or otherwise***

15           ***used, intended for use, or possessed with intent***

16           ***to use in violation of section 506(a) of title 17,***

17           ***any plates, molds, matrices, masters, tapes, film***

18           ***negatives, or other articles by means of which***

19           ***such copies or phonorecords may be made, and***

20           ***any devices for manufacturing, reproducing, or***

21           ***assembling such copies or phonorecords.***

22           ***“(ii) Any property constituting or derived***

23           ***from any proceeds obtained directly or indirectly***

24           ***as a result of a violation of section 506(a) of title***

25           ***17.***



1           “(iii) Any property used, or intended to be  
2           used, to commit or facilitate the commission of  
3           a violation of section 506(a) of title 17 that is  
4           owned or predominantly controlled by the viola-  
5           tor or by a person conspiring with or aiding and  
6           abetting the violator in committing the violation,  
7           except that property is subject to forfeiture under  
8           this clause only if the Government establishes  
9           that there was a substantial connection between  
10          the property and the violation of section 506(a)  
11          of title 17.

12          “(B) The provisions of chapter 46 relating to  
13          civil forfeitures shall extend to any seizure or civil  
14          forfeiture under this section. At the conclusion of the  
15          forfeiture proceedings, the court shall order that any  
16          forfeited infringing copies or phonorecords, and any  
17          plates, molds, matrices, masters, tapes, and film nega-  
18          tives by means of which such unauthorized copies or  
19          phonorecords may be made, be destroyed or otherwise  
20          disposed of according to law.

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

24          “(2) CRIMINAL FORFEITURE PROCEEDINGS.—(A)  
25          The court, in imposing sentence on a person convicted

1       of an offense under subsection (a), shall order, in ad-  
2       dition to any other sentence imposed, that the person  
3       forfeit to the United States the following property:

4               “(i) Any copies or phonorecords manufac-  
5               tured, reproduced, distributed, sold, or otherwise  
6               used, intended for use, or possessed with intent  
7               to use in the commission of an offense under sub-  
8               section (a), any plates, molds, matrices, masters,  
9               tapes, film negatives, or other articles by means  
10              of which the copies or phonorecords may be re-  
11              produced, and any electronic, mechanical, or  
12              other devices for manufacturing, reproducing, or  
13              assembling such copies or phonorecords.

14             “(ii) Any property constituting or derived  
15             from any proceeds obtained directly or indirectly  
16             as a result of an offense under subsection (a).

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

20             “(B) The forfeiture of property under subpara-  
21             graph (A), including any seizure and disposition of  
22             the property and any related judicial or administra-  
23             tive proceeding, shall be governed by the procedures  
24             set forth in section 413 of the Comprehensive Drug  
25             Abuse Prevention and Control Act of 1970 (21 U.S.C.

1 853), other than subsection (d) of that section. At the  
2 conclusion of the forfeiture proceedings, the court shall  
3 order that any forfeited infringing copies or  
4 phonorecords, and any plates, molds, matrices, mas-  
5 ters, tapes, and film negatives by means of which such  
6 infringing copies or phonorecords may be made, be  
7 destroyed or otherwise disposed of according to law.

8 “(3) *RESTITUTION*.—When a person is convicted  
9 of an offense under this section, the court, pursuant  
10 to sections 3556, 3663A, and 3664, shall order the  
11 person to pay restitution to the copyright owner and  
12 any other victim of the offense as an offense against  
13 property referred to in section 3663A(c)(1)(A)(ii).”.

14 (2) *CONFORMING AMENDMENTS*.—(A) Section  
15 506(b) of title 17, United States Code, is amended by  
16 striking all that follows “destruction” and inserting  
17 the following: “of property as prescribed by section  
18 2319(g) of title 18.”.

19 (B) Section 509 of title 17, United States Code,  
20 relating seizure and forfeiture, and the item relating  
21 to section 509 in the table of sections at the beginning  
22 of chapter 5 of title 17, United States Code, are re-  
23 pealed.

24 (c) *UNAUTHORIZED FIXATION AND TRAFFICKING*.—

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

3                     (A) *by striking subsection (c) and redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively; and*

6                     (B) *by amending subsection (b) to read as follows:*

8           “(b) *FORFEITURE AND DESTRUCTION; RESTITUTION.*—  
9           *TION.*—

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

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

20                             “(ii) *Any property constituting or derived from any proceeds obtained directly or indirectly as a result of a violation of subsection (a).*

23                             “(iii) *Any property used, or intended to be used, to commit or facilitate the commission of a violation of subsection (a) that is owned or*

1           *predominantly controlled by the violator or by a*  
2           *person conspiring with or aiding and abetting*  
3           *the violator in committing the violation, except*  
4           *that property is subject to forfeiture under this*  
5           *clause only if the Government establishes that*  
6           *there was a substantial connection between the*  
7           *property and the violation of subsection (a).*

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

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

21           “(2) *CRIMINAL FORFEITURE PROCEEDINGS.—(A)*  
22           *The court, in imposing sentence on a person convicted*  
23           *of an offense under this section, shall order, in addi-*  
24           *tion to any other sentence imposed, that the person*  
25           *forfeit to the United States the following property:*

1           “(i) Any unauthorized copies or  
2           phonorecords of a live musical performance that  
3           were used, intended for use, or possessed with in-  
4           tent to use in the commission of an offense under  
5           subsection (a), and any plates, molds, matrices,  
6           masters, tapes, and film negatives by means of  
7           which such copies or phonorecords may be made.

8           “(ii) Any property constituting or derived  
9           from any proceeds obtained directly or indirectly  
10          as a result of an offense under subsection (a).

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

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

1 *phonorecords may be made, be destroyed or otherwise*  
2 *disposed of according to law.*

3 “(3) *NOTIFICATION OF IMPORTATION.*—*The Sec-*  
4 *retary of Homeland Security shall issue regulations*  
5 *by which any performer may, upon payment of a*  
6 *specified fee, be entitled to notification by U.S. Cus-*  
7 *toms and Border Protection of the importation of cop-*  
8 *ies or phonorecords that appear to consist of unau-*  
9 *thorized fixations of the sounds or sounds and images*  
10 *of a live musical performance prohibited by this sec-*  
11 *tion.*

12 “(4) *RESTITUTION.*—*When a person is convicted*  
13 *of an offense under this section, the court, pursuant*  
14 *to sections 3556, 3663A, and 3664, shall order the*  
15 *person to pay restitution to the performer or per-*  
16 *formers involved, and any other victim of the offense*  
17 *as an offense against property referred to in section*  
18 *3663A(c)(1)(A)(ii).”.*

19 (2) *APPLICABILITY.*—*Section 2319A(e), as redес-*  
20 *ignated by paragraph (1) of this subsection, is*  
21 *amended by inserting before the period the following:*  
22 *“, except that the forfeiture provisions under sub-*  
23 *section (b)(2), as added by the Prioritizing Resources*  
24 *and Organization for Intellectual Property Act, shall*  
25 *apply only in a case in which the underlying act or*

1       *acts occur on or after the date of the enactment of*  
2       *that Act*'.

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

6       “(b) *FORFEITURE AND DESTRUCTION; RESTITU-*  
7       *TION.—*

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

11               “(i) *Any copies of a motion picture or other*  
12       *audiovisual work protected under title 17 that*  
13       *are made without the authorization of the copy-*  
14       *right owner.*

15               “(ii) *Any property constituting or derived*  
16       *from any proceeds obtained directly or indirectly*  
17       *as a result of a violation of subsection (a).*

18               “(iii) *Any property used, or intended to be*  
19       *used, to commit or facilitate the commission of*  
20       *a violation of subsection (a) that is owned or*  
21       *predominantly controlled by the violator or by a*  
22       *person conspiring with or aiding and abetting*  
23       *the violator in committing the violation, except*  
24       *that property is subject to forfeiture under this*  
25       *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 the*  
6           *forfeiture proceedings, the court shall order that any*  
7           *forfeited unauthorized copies or phonorecords of a mo-*  
8           *tion picture or other audiovisual work, or part there-*  
9           *of, and any plates, molds, matrices, masters, tapes,*  
10          *and film negatives by means of which such unauthor-*  
11          *ized copies or phonorecords may be made, be de-*  
12          *stroyed or otherwise disposed of according to law.*

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

16          “(2) *CRIMINAL FORFEITURE PROCEEDINGS.—(A)*  
17          *The court, in imposing sentence on a person convicted*  
18          *of an offense under this section, shall order, in addi-*  
19          *tion to any other sentence imposed, that the person*  
20          *forfeit to the United States the following property:*

21                 “(i) *Any unauthorized copies of a motion*  
22                 *picture or other audiovisual work protected*  
23                 *under title 17, or part thereof, that were used,*  
24                 *intended for use, or possessed with intent to use*

1           *in the commission of an offense under subsection*  
2           *(a).*

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

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

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

24          “(3) *RESTITUTION.*—*When a person is convicted*  
25          *of an offense under this chapter, the court, pursuant*

1       to sections 3556, 3663A, and 3664, shall order the  
2       person to pay restitution to the owner of the copyright  
3       in the motion picture or other audiovisual work and  
4       any other victim of the offense as an offense against  
5       property referred to in section 3663A(c)(1)(A)(ii).”.

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

10   **SEC. 203. DIRECTIVE TO UNITED STATES SENTENCING**  
11                           **COMMISSION.**

12       (a) *REVIEW AND AMENDMENT.*—The United States  
13       Sentencing Commission, pursuant to its authority under  
14       section 994 of title 28, United States Code, shall review and,  
15       if appropriate, amend the Federal sentencing guidelines  
16       and policy statements applicable in any case sentenced  
17       under section 2B5.3 of the Federal sentencing guidelines for  
18       exporting infringing items in violation of section 602(a)(2)  
19       of title 17, United States Code, to determine whether a de-  
20       fendant in such case should receive an upward adjustment  
21       in the offense level, on the grounds that exportation intro-  
22       duces infringing items into the stream of foreign commerce  
23       in a manner analogous to the manner in which manufac-  
24       turing, importing, and uploading such items introduces  
25       them into the stream of commerce.

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

7 **SEC. 204. TRAFFICKING IN COUNTERFEIT GOODS OR SERV-**  
8 **ICES.**

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

11                 (1) *in subsection (a)—*

12                         (A) *by striking “Whoever” and inserting*  
13 *“OFFENSE.—*

14 *“(1) IN GENERAL.—Whoever”;*

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

17                         (C) *by adding at the end the following:*

18                         “(2) *SERIOUS BODILY HARM OR DEATH.—*

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

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

7           *(2) in subsection (b)(l)—*

8                 *(A) by redesignating subparagraph (B) as*  
9                 *subparagraph (C); and*

10                *(B) by inserting after subparagraph (A) the*  
11                *following:*

12                    *“(B) Any property constituting or derived*  
13                    *from any proceeds obtained directly or indirectly*  
14                    *as a result of a violation of subsection (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 REPRESENTATIVE.**

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

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

1 *committee, shall be referred to the Committee on the Judici-*  
2 *ary.*

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 intellec-*  
15 *tual property enforcement policy;*

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

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

1                    *vestment negotiations in which the United*  
2                    *States participates; and*

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

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

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

19                   *(F) report directly to the President and the*  
20                   *Congress regarding domestic and international*  
21                   *intellectual property enforcement programs;*

22                   *(G) advise the President and the Congress*  
23                   *with respect to domestic and international intel-*  
24                   *lectual property enforcement challenges and pri-*  
25                   *orities;*



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

6           (I) chair the interagency intellectual prop-  
7 erty enforcement advisory committee established  
8 under subsection (d)(2), and consult with such  
9 advisory committee in the performance of the  
10 functions of the IP Enforcement Representative;  
11 and

12           (J) carry out such other functions as the  
13 President may direct.

14           (2) SENSE OF CONGRESS.—It is the sense of the  
15 Congress that the IP Enforcement Representative  
16 should—

17           (A) be a senior representative on any body  
18 that the President may establish for the purpose  
19 of providing to the President advice on overall  
20 policies in which intellectual property enforce-  
21 ment matters predominate; and

22           (B) be included as a participant in eco-  
23 nomic summit and other international meetings  
24 at which international intellectual property en-  
25 forcement is a significant topic.

1           (3) *DELEGATION.*—*The IP Enforcement Rep-*  
2           *resentative may—*

3                   (A) *delegate any of the IP Enforcement*  
4                   *Representative’s functions, powers, and duties to*  
5                   *such officers and employees of the Office as the*  
6                   *IP Enforcement Representative may designate;*  
7                   *and*

8                   (B) *authorize such successive redelegations*  
9                   *of such functions, powers, and duties to such offi-*  
10                   *cers and employees of the Office as the IP En-*  
11                   *forcement Representative considers appropriate.*

12           (d) *COORDINATION OF INTELLECTUAL PROPERTY EN-*  
13           *FORCEMENT ACTIONS.*—

14                   (1) *IN GENERAL.*—*In carrying out the functions*  
15                   *of the IP Enforcement Representative, the IP Enforce-*  
16                   *ment Representative shall develop recommendations*  
17                   *on the allocation of Federal resources for intellectual*  
18                   *property enforcement.*

19                   (2) *ADVISORY COMMITTEE.*—

20                           (A) *ESTABLISHMENT.*—*There is established*  
21                           *an interagency intellectual property enforcement*  
22                           *advisory committee composed of the IP Enforce-*  
23                           *ment Representative, who shall chair the com-*  
24                           *mittee, and senior representatives of the fol-*  
25                           *lowing departments and agencies who are in-*

1           *involved in intellectual property enforcement, and*  
2           *are appointed by the respective heads of those de-*  
3           *partments and agencies:*

4                     *(i) The Department of Justice (includ-*  
5                     *ing the Intellectual Property Enforcement*  
6                     *Officer appointed under section 501).*

7                     *(ii) The United States Patent and*  
8                     *Trademark Office and other relevant units*  
9                     *of the Department of Commerce.*

10                    *(iii) The Office of the United States*  
11                    *Trade Representative.*

12                    *(iv) The Department of State (includ-*  
13                    *ing the United States Agency for Inter-*  
14                    *national Development and the Bureau of*  
15                    *International Narcotics Law Enforcement).*

16                    *(v) The Department of Homeland Se-*  
17                    *curity (including U.S. Customs and Border*  
18                    *Protection and U.S. Immigration and Cus-*  
19                    *toms Enforcement).*

20                    *(vi) The United States International*  
21                    *Trade Commission.*

22                    *(vii) The Food and Drug Administra-*  
23                    *tion of the Department of Health and*  
24                    *Human Services.*

1                   (viii) *The United States Copyright Of-*  
2                   *ficie.*

3                   (ix) *Such other agencies as the IP En-*  
4                   *forcement Representative determines to be*  
5                   *substantially involved in the efforts of the*  
6                   *Federal Government to combat counter-*  
7                   *feiting and piracy.*

8                   (B) *FUNCTIONS.—The advisory committee*  
9                   *established under subparagraph (A) shall, under*  
10                  *the guidance of the IP Enforcement Representa-*  
11                  *tive, develop the Joint Strategic Plan against*  
12                  *counterfeiting and piracy under section 321.*

13                  (3) *EXEMPTION FROM FEDERAL ADVISORY COM-*  
14                  *MITTEE ACT.—The Federal Advisory Committee Act*  
15                  *shall not apply to the interagency intellectual prop-*  
16                  *erty enforcement advisory committee established*  
17                  *under paragraph (2) or to any of the activities con-*  
18                  *ducted by the IP Enforcement Representative in de-*  
19                  *veloping the Joint Strategic Plan under section 321.*

20                  (e) *IDENTIFICATION OF COUNTRIES THAT DENY ADE-*  
21                  *QUATE PROTECTION OF INTELLECTUAL PROPERTY*  
22                  *RIGHTS.—Section 182(b)(2)(A) of the Trade Act of 1974*  
23                  *(19 U.S.C. 2242(b)(2)(A)) is amended by inserting “the*  
24                  *United States Intellectual Property Enforcement Represent-*  
25                  *ative,” after “consult with”.*

1           (f) *POWERS OF IP ENFORCEMENT REPRESENTA-*  
2 *TIVE.—In carrying out the responsibilities under this title,*  
3 *the IP Enforcement Representative may—*

4           (1) *select, appoint, employ, and fix the com-*  
5 *pen-sation of such officers and employees as may be*  
6 *necessary to carry out those responsibilities;*

7           (2) *request the head of a department, agency, or*  
8 *program of the Federal Government to place per-*  
9 *sonnel of such department, agency, or program who*  
10 *are engaged in intellectual property enforcement ac-*  
11 *tivities on temporary detail to the Office of the IP*  
12 *Enforcement Representative to assist in carrying out*  
13 *those responsibilities;*

14           (3) *use, with the consent of the Federal, State,*  
15 *and local government agencies concerned, the avail-*  
16 *able services, equipment, personnel, and facilities of*  
17 *such Federal, State, and local government agencies;*

18           (4) *procure the services of experts and consult-*  
19 *ants in accordance with section 3109 of title 5,*  
20 *United States Code, relating to the procurement of*  
21 *temporary and intermittent services, at rates of com-*  
22 *pen-sation for individuals not to exceed the daily*  
23 *equivalent of the rate of pay payable under level IV*  
24 *of the Executive Schedule under section 5315 of title*  
25 *5, United States Code, and while such experts and*

1        *consultants are so serving away from their homes or*  
2        *regular place of business, pay such employees travel*  
3        *expenses and per diem in lieu of subsistence at rates*  
4        *authorized by section 5703 of title 5, United States*  
5        *Code, for persons in Government service employed*  
6        *intermittently;*

7            *(5) issue such regulations as may be necessary to*  
8        *carry out the functions vested in the IP Enforcement*  
9        *Representative;*

10           *(6) enter into and perform such contracts, leases,*  
11        *cooperative agreements, or other transactions as may*  
12        *be necessary in the conduct of the work of the Office*  
13        *and on such terms as the IP Enforcement Representa-*  
14        *tive considers appropriate, with any department,*  
15        *agency, or instrumentality of the United States, or*  
16        *with any public or private person, firm, association,*  
17        *corporation, or institution;*

18           *(7) accept voluntary and uncompensated serv-*  
19        *ices, notwithstanding the provisions of section 1342 of*  
20        *title 31, United States Code;*

21           *(8) adopt an official seal, which shall be judi-*  
22        *cially noticed; and*

23           *(9) accept, hold, administer, and use gifts, de-*  
24        *vises, and bequests of property, both real and per-*

1       sonal, for the purpose of aiding or facilitating the  
2       work of the Office.

3       (g) *COMPENSATION.*—Section 5312 of title 5, United  
4       States Code, is amended by adding at the end the following:

5               “United States Intellectual Property Enforce-  
6       ment Representative.”.

7       **SEC. 302. DEFINITION.**

8       For purposes of this title, the term “intellectual prop-  
9       erty enforcement” means matters relating to the enforce-  
10      ment of laws protecting copyrights, patents, trademarks,  
11      other forms of intellectual property, and trade secrets, both  
12      in the United States and abroad, including in particular  
13      matters relating to combating counterfeit and pirated  
14      goods.

15      **Subtitle B—Joint Strategic Plan**

16      **SEC. 321. JOINT STRATEGIC PLAN.**

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

21              (1) Reducing counterfeit and pirated goods in  
22      the domestic and international supply chain.

23              (2) Identifying and addressing structural weak-  
24      nesses, systemic flaws, or other unjustified impedi-  
25      ments to effective enforcement action against the fi-

1        *ancing, production, trafficking, or sale of counterfeit*  
2        *or pirated goods.*

3            *(3) Assuring that information is identified and*  
4        *shared among the relevant departments and agencies,*  
5        *to the extent permitted by law and consistent with*  
6        *law enforcement protocols for handling information,*  
7        *to aid in the objective of arresting and prosecuting in-*  
8        *dividuals and entities that are knowingly involved in*  
9        *the financing, production, trafficking, or sale of coun-*  
10       *terfeit or pirated goods.*

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

13           *(5) Strengthening the capacity of other countries*  
14        *to protect and enforce intellectual property rights,*  
15        *and reducing the number of countries that fail to en-*  
16        *force laws preventing the financing, production, traf-*  
17        *ficking, and sale of counterfeit and pirated goods.*

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

22           *(7) Protecting intellectual property rights over-*  
23        *seas by—*

24                    *(A) working with other countries to ensure*  
25                    *that such countries—*



1           (i) have adequate and effective laws  
2           protecting copyrights, trademarks, patents,  
3           and other forms of intellectual property;

4           (ii) have legal regimes that enforce  
5           their own domestic intellectual property  
6           laws, eliminate counterfeit and piracy oper-  
7           ations, and arrest and prosecute those who  
8           commit intellectual property crimes;

9           (iii) provide their law enforcement offi-  
10          cials with the authority to seize, inspect,  
11          and destroy pirated and counterfeit goods,  
12          including at ports of entry; and

13          (iv) provide for the seizure of property  
14          used to produce pirated and counterfeit  
15          goods;

16          (B) exchanging information with appro-  
17          priate law enforcement agencies in other coun-  
18          tries relating to individuals and entities involved  
19          in the financing, production, trafficking, or sale  
20          of pirated or counterfeit goods;

21          (C) using the information described in sub-  
22          paragraph (B) to conduct enforcement activities  
23          in cooperation with appropriate law enforcement  
24          agencies in other countries; and

1           (D) building a formal process for consulting  
2           with companies, industry associations, labor  
3           unions, and other interested groups in other  
4           countries with respect to intellectual property en-  
5           forcement.

6           (b) *TIMING.*—Not later than 12 months after the date  
7           of the enactment of this Act, and not later than December  
8           31 of every third year thereafter, the IP Enforcement Rep-  
9           resentative shall submit the joint strategic plan to the Presi-  
10          dent, to the Committee on the Judiciary and the Committee  
11          on Appropriations of the House of Representatives, and to  
12          the Committee on the Judiciary and the Committee on Ap-  
13          propriations of the Senate.

14          (c) *RESPONSIBILITY OF THE IP ENFORCEMENT REP-*  
15          *RESENTATIVE.*—During the development of the joint stra-  
16          tegic plan, the IP Enforcement Representative—

17               (1) shall consult and coordinate with the appro-  
18               priate officers and employees of departments and  
19               agencies represented on the advisory committee ap-  
20               pointed under section 301(d)(2) who are involved in  
21               intellectual property enforcement; and

22               (2) may consult with private sector experts in  
23               intellectual property enforcement.

24          (d) *RESPONSIBILITIES OF OTHER DEPARTMENTS AND*  
25          *AGENCIES.*—To assist in the development and implementa-

1 *tion of the joint strategic plan, the heads of the departments*  
2 *and agencies identified under section 301(d)(2)(A) (includ-*  
3 *ing the heads of any other agencies identified by the IP*  
4 *Enforcement Representative under section 301(d)(2)(A)(ix))*  
5 *shall—*

6           (1) *designate personnel with expertise and expe-*  
7 *rience in intellectual property enforcement matters to*  
8 *work with the IP Enforcement Representative; and*

9           (2) *share relevant department or agency infor-*  
10 *mation with the IP Enforcement Representative, in-*  
11 *cluding statistical information on the enforcement ac-*  
12 *tivities of the department or agency against counter-*  
13 *feiting or piracy, and plans for addressing the joint*  
14 *strategic plan.*

15       (e) *CONTENTS OF THE JOINT STRATEGIC PLAN.—Each*  
16 *joint strategic plan shall include the following:*

17           (1) *A detailed description of the priorities identi-*  
18 *fied for carrying out the objectives in the joint stra-*  
19 *tegic plan, including activities of the Federal Govern-*  
20 *ment relating to intellectual property enforcement.*

21           (2) *A detailed description of the means and*  
22 *methods to be employed to achieve the priorities, in-*  
23 *cluding the means and methods for improving the ef-*  
24 *iciency and effectiveness of the Federal Government's*  
25 *enforcement efforts against counterfeiting and piracy.*

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

3           (4) *The performance measures to be used to mon-*  
4 *itor results under the joint strategic plan during the*  
5 *following year.*

6           (5) *An analysis of the threat posed by violations*  
7 *of intellectual property rights, including targets,*  
8 *risks, and threats of intellectual property infringe-*  
9 *ment, the costs to the economy of the United States*  
10 *resulting from violations of intellectual property laws,*  
11 *and the threats to public health and safety created by*  
12 *counterfeiting and piracy.*

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

16           (7) *A strategy for ensuring coordination between*  
17 *the IP Enforcement Representative and the depart-*  
18 *ments and agencies identified under paragraph (6),*  
19 *including a process for oversight by the executive*  
20 *branch of, and accountability among, the departments*  
21 *and agencies responsible for carrying out the strategy.*

22           (8) *Such other information as is necessary to*  
23 *convey the costs imposed on the United States econ-*  
24 *omy by, and the threats to public health and safety*  
25 *created by, counterfeiting and piracy, and those steps*

1        *that the Federal Government intends to take over the*  
2        *period covered by the succeeding joint strategic plan*  
3        *to reduce those costs and counter those threats.*

4        (f) *ENHANCING ENFORCEMENT EFFORTS OF FOREIGN*  
5        *GOVERNMENTS.*—*The joint strategic plan shall include pro-*  
6        *grams to provide training and technical assistance to for-*  
7        *ign governments for the purpose of enhancing the efforts*  
8        *of such governments to enforce laws against counterfeiting*  
9        *and piracy. With respect to such programs, the joint stra-*  
10       *tegic plan shall—*

11                (1) *seek to enhance the efficiency and consistency*  
12                *with which Federal resources are expended, and seek*  
13                *to minimize duplication, overlap, or inconsistency of*  
14                *efforts;*

15                (2) *identify and give priority to those countries*  
16                *where programs of training and technical assistance*  
17                *can be carried out most effectively and with the great-*  
18                *est benefit to reducing counterfeit and pirated prod-*  
19                *ucts in the United States market, to protecting the in-*  
20                *tellectual property rights of United States persons*  
21                *and their licensees, and to protecting the interests of*  
22                *United States persons otherwise harmed by violations*  
23                *of intellectual property rights in those countries;*

24                (3) *in identifying the priorities under paragraph*  
25                (2), *be guided by the list of countries identified by the*

1 *United States Trade Representative under section*  
2 *182(a) of the Trade Act of 1974 (19 U.S.C. 2242(a));*  
3 *and*

4 *(4) develop metrics to measure the effectiveness of*  
5 *the Federal Government's efforts to improve the laws*  
6 *and enforcement practices of foreign governments*  
7 *against counterfeiting and piracy.*

8 *(g) DISSEMINATION OF THE JOINT STRATEGIC*  
9 *PLAN.—The joint strategic plan shall be posted for public*  
10 *access on the website of the White House, and shall be dis-*  
11 *seminated to the public through such other means as the*  
12 *IP Enforcement Representative may identify.*

13 **SEC. 322. REPORTING.**

14 *(a) ANNUAL REPORT.—Not later than December 31 of*  
15 *each calendar year beginning in 2009, the IP Enforcement*  
16 *Representative shall submit a report on the activities of the*  
17 *Office during the preceding fiscal year. The annual report*  
18 *shall be submitted to the President and the Congress, and*  
19 *disseminated to the people of the United States, in the man-*  
20 *ner specified in subsections (b) and (g) of section 321.*

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

23 *(1) The progress made on implementing the stra-*  
24 *tegic plan and on the progress toward fulfillment of*  
25 *the priorities identified under section 321(e), includ-*

1        *ing an analysis of the performance measures used to*  
2        *monitor results described in section 321(e)(4).*

3            (2) *The progress made in efforts to encourage*  
4        *Federal, State, and local government departments*  
5        *and agencies to accord higher priority to intellectual*  
6        *property enforcement.*

7            (3) *The progress made in working with foreign*  
8        *countries to investigate, arrest, and prosecute entities*  
9        *and individuals involved in the financing, produc-*  
10       *tion, trafficking, and sale of counterfeit and pirated*  
11       *goods.*

12           (4) *The manner in which the relevant depart-*  
13       *ments and agencies are working together and sharing*  
14       *information to strengthen intellectual property en-*  
15       *forcement.*

16           (5) *An assessment of the successes and short-*  
17       *comings of the efforts of the Federal Government, in-*  
18       *cluding departments and agencies represented on the*  
19       *committee established under section 301(d)(2)(A), in*  
20       *fulfilling the priorities identified in the applicable*  
21       *joint strategic plan during the preceding fiscal year*  
22       *and in implementing the recommendations developed*  
23       *under section 301(d)(1).*

24           (6) *Recommendations for any changes in enforce-*  
25       *ment statutes, regulations, or funding levels that the*

1 *IP Representative considers would significantly im-*  
2 *prove the effectiveness or efficiency of the effort of the*  
3 *Federal Government to combat counterfeiting and pi-*  
4 *racy and otherwise strengthen intellectual property*  
5 *enforcement, including through the elimination or*  
6 *consolidation of duplicative programs or initiatives.*

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

10 (8) *The successes and challenges in sharing with*  
11 *other countries information relating to intellectual*  
12 *property enforcement.*

13 (9) *The progress of the United States Trade Rep-*  
14 *resentative in taking the appropriate action under*  
15 *any trade agreement or treaty to protect intellectual*  
16 *property rights of United States persons and their li-*  
17 *censees.*

18 **SEC. 323. SAVINGS AND REPEALS.**

19 (a) *REPEAL OF COORDINATION COUNCIL.*—*Section*  
20 *653 of the Treasury and General Government Appropria-*  
21 *tions Act, 2000 (15 U.S.C. 1128) is repealed.*

22 (b) *CURRENT AUTHORITIES NOT AFFECTED.*—*Except*  
23 *as provided in subsection (a), nothing in this title shall*  
24 *alter the authority of any department or agency of the*



1 *United States (including any independent agency) relating*  
2 *to—*

3 *(1) investigating and prosecuting violations of*  
4 *laws protecting intellectual property rights;*

5 *(2) administratively enforcing, at the borders of*  
6 *the United States, laws protecting intellectual prop-*  
7 *erty rights; or*

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

10 *(c) REGISTER OF COPYRIGHTS.—Nothing in this title*  
11 *shall derogate from the duties and functions of the Register*  
12 *of Copyrights.*

13 **SEC. 324. AUTHORIZATION OF APPROPRIATIONS.**

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

17 *(b) SUBMISSION OF PROJECTED BUDGET.—By not*  
18 *later than the date on which the President submits to the*  
19 *Congress the budget of the United States Government for*  
20 *a fiscal year, the IP Representative shall submit to the Com-*  
21 *mittees on the Judiciary of the House of Representatives*  
22 *and the Senate the projected amount of funds for the suc-*  
23 *ceeding fiscal year that will be necessary for the Office to*  
24 *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, with-*  
10 *in 2 years after the date of the enactment of this Act, ap-*  
11 *point at least 10 intellectual property attachés to serve in*  
12 *United States embassies or other diplomatic missions. The*  
13 *appointments under this section shall be in addition to*  
14 *those individuals serving in the capacity of intellectual*  
15 *property attachés at United States embassies or other diplo-*  
16 *matic 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 property*  
20 *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 sec-*  
24 *tion 401, as well as others serving as intellectual property*

1 *attachés of the Department of Commerce, shall have the fol-*  
2 *lowing responsibilities:*

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

7           (2) *To assist United States persons holding intel-*  
8 *lectual property rights, and the licensees of such*  
9 *United States persons, in their efforts to combat coun-*  
10 *terfeiting and piracy of their products or works with-*  
11 *in the host country, including counterfeit or pirated*  
12 *goods exported from or transshipped through that*  
13 *country.*

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

18           (4) *To coordinate with representatives of the em-*  
19 *bassies or missions of other countries in information*  
20 *sharing, private or public communications with the*  
21 *government of the host country, and other forms of co-*  
22 *operation for the purpose of improving enforcement*  
23 *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 against*  
2        *counterfeiting and piracy in the host country.*

3            *(6) To coordinate training and technical assist-*  
4        *ance programs of the United States Government with-*  
5        *in the host country that are aimed at improving the*  
6        *enforcement of laws against counterfeiting and pi-*  
7        *racy.*

8            *(7) To assist in the coordination of the efforts of*  
9        *the United States Intellectual Property Enforcement*  
10       *Representative, Federal agencies, and private organi-*  
11       *zations engaged in the promotion of United States in-*  
12       *tellectual property interests abroad so as to maximize*  
13       *their effectiveness and minimize duplicative efforts.*

14           *(8) To identify and promote other means to more*  
15        *effectively combat counterfeiting and piracy activities*  
16        *under the jurisdiction of the host country.*

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

18           *(a) TRAINING OF ATTACHÉS.—The Director shall en-*  
19        *sure that each attaché appointed under section 401 is fully*  
20        *trained for the responsibilities of the position before assum-*  
21        *ing duties at the United States embassy or other mission*  
22        *in question.*

23           *(b) PRIORITY ASSIGNMENTS.—In designating the em-*  
24        *bassies or other missions to which attachés are assigned,*  
25        *the Director shall give priority to those countries where the*

1 *activities of an attaché can be carried out most effectively*  
2 *and with the greatest benefit to reducing counterfeit and*  
3 *pirated products in the United States market, to protecting*  
4 *the intellectual property rights of United States persons and*  
5 *their licensees, or to protecting the interests of United States*  
6 *persons otherwise harmed by violations of intellectual prop-*  
7 *erty rights in those countries.*

8 **SEC. 404. COORDINATION.**

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

13 *(b) REPORT ON ATTACHÉS.—The Inspector General of*  
14 *the Department of Commerce shall perform yearly audits*  
15 *of the intellectual property attachés of the Department, and*  
16 *shall report to the Committees on the Judiciary of the House*  
17 *of Representatives and the Senate the results of each such*  
18 *audit. In addition to an overview of the activities and effec-*  
19 *tiveness of the intellectual property attaché operations, the*  
20 *audit shall include—*

21 *(1) an evaluation of the current placement of for-*  
22 *foreign-based personnel and recommendations for trans-*  
23 *ferring such personnel in response to newly emerging*  
24 *intellectual property issues abroad; and*

1           (2) *an evaluation of the personnel system and its*  
 2           *management, including the recruitment, assignment,*  
 3           *promotion, and performance appraisal of personnel,*  
 4           *and the use of limited appointees.*

5 **SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

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

11           **TITLE V—DEPARTMENT OF**  
 12           **JUSTICE PROGRAMS**  
 13           **Subtitle A—Coordination**

14 **SEC. 501. INTELLECTUAL PROPERTY ENFORCEMENT OFFI-**  
 15           **CER.**

16           (a) *ESTABLISHMENT.*—*There is established within the*  
 17           *Office of the Deputy Attorney General in the Department*  
 18           *of Justice the “Intellectual Property Enforcement Divi-*  
 19           *sion”. The head of the Intellectual Property Enforcement*  
 20           *Division shall be the Intellectual Property Enforcement Of-*  
 21           *ficer (in this title referred to as the “IP Officer”). The IP*  
 22           *Officer shall be appointed by the Attorney General and shall*  
 23           *report directly to the Deputy Attorney General.*

24           (b) *DUTIES.*—*The IP Officer shall—*

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

5           (2) *serve as the lead representative of the Depart-*  
6 *ment of Justice on the advisory committee provided*  
7 *for in section 301(d)(2) and as the liaison of the De-*  
8 *partment of Justice with foreign governments with re-*  
9 *spect to training conducted under section 522; and*

10          (3) *carry out such other related duties that may*  
11 *be assigned by the Deputy Attorney General.*

12       (c) *TRANSFER OF FUNCTIONS.—*

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

21           (A) *Sections 506 and 1204 of title 17,*

22           *United States Code.*

23           (B) *Sections 2318 through 2320 of title 18,*

24           *United States Code.*

1           (C) Sections 1831 and 1832 of title 18,  
2           United States Code.

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

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

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

14                  (iii) Section 2512 of title 18, United  
15                  States Code, relating to trafficking in inter-  
16                  ception devices.

17                  (iv) Section 633 of the Communica-  
18                  tions Act of 1934 (47 U.S.C. 553), relating  
19                  to the unauthorized reception of cable serv-  
20                  ice.

21                  (v) Section 705 of the Communications  
22                  Act of 1934 (47 U.S.C. 605), relating to the  
23                  unauthorized publication or use of commu-  
24                  nications.



1           (2) *INTELLECTUAL PROPERTY ENFORCEMENT CO-*  
2           *ORDINATORS.—The Intellectual Property Law En-*  
3           *forcement Coordinators of the Department of Justice*  
4           *to whom section 521 applies shall also be in the Intel-*  
5           *lectual Property Enforcement Division.*

6           ***Subtitle B—Law Enforcement***  
7           ***Resources***

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

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

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

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

19           (b) *GRANTS.—The Office of Justice Programs of the*  
20          *Department of Justice shall make grants to eligible State*  
21          *or local law enforcement entities, including law enforcement*  
22          *agencies of municipal governments and public educational*  
23          *institutions, for training, prevention, enforcement, and*  
24          *prosecution of intellectual property theft and infringement*

1 *crimes (in this subsection referred to as “IP–TIC grants”),*  
2 *in accordance with the following:*

3           (1) *USE OF IP–TIC GRANT AMOUNTS.—IP–TIC*  
4 *grants may be used to establish and develop programs*  
5 *to do the following with respect to the enforcement of*  
6 *State and local true name and address laws and*  
7 *State and local criminal laws on anti-piracy, anti-*  
8 *counterfeiting, and unlawful acts with respect to*  
9 *goods by reason of their protection by a patent, trade-*  
10 *mark, service mark, trade secret, or other intellectual*  
11 *property right under State or Federal law:*

12           (A) *Assist State and local law enforcement*  
13 *agencies in enforcing those laws, including by re-*  
14 *imbursing State and local entities for expenses*  
15 *incurred in performing enforcement operations,*  
16 *such as overtime payments and storage fees for*  
17 *seized evidence.*

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

21           (C) *Educate and train State and local law*  
22 *enforcement officers and prosecutors to conduct*  
23 *investigations and forensic analyses of evidence*  
24 *and prosecutions in matters involving those*  
25 *laws.*

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

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

11          (F) *Facilitate and promote the sharing,*  
12          *with State and local law enforcement officers*  
13          *and prosecutors, of the expertise and information*  
14          *of Federal law enforcement agencies about the*  
15          *investigation, analysis, and prosecution of mat-*  
16          *ters involving those laws and criminal infringe-*  
17          *ment of copyrighted works, including the use of*  
18          *multi-jurisdictional task forces.*

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

22                 (A) *assurances that the State in which the*  
23                 *government entity is located has in effect laws*  
24                 *described in paragraph (1);*

1           (B) an assessment of the resource needs of  
2           the State or local government entity applying for  
3           the grant, including information on the need for  
4           reimbursements of base salaries and overtime  
5           costs, storage fees, and other expenditures to im-  
6           prove the investigation, prevention, or enforce-  
7           ment of laws described in paragraph (1); and

8           (C) a plan for coordinating the programs  
9           funded under this section with other federally  
10          funded technical assistance and training pro-  
11          grams, including directly funded local programs  
12          such as the Edward Byrne Memorial Justice As-  
13          sistance Grant Program authorized by subpart 1  
14          of part E of title I of the Omnibus Crime Con-  
15          trol and Safe Streets Act of 1968 (42 U.S.C.  
16          3750 et seq.).

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

22          (4) *AUTHORIZATION OF APPROPRIATIONS.*—

23                 (A) *AUTHORIZATION.*—There is authorized  
24                 to be appropriated to carry out this subsection

1           *the sum of \$25,000,000 for each of fiscal years*  
2           *2008 through 2012.*

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

8   **SEC. 512. CHIP UNITS, TRAINING, AND ADDITIONAL RE-**  
9           **SOURCES.**

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

15                  *(1) improving the effectiveness of CHIP units in*  
16                  *investigating and prosecuting criminal offenses aris-*  
17                  *ing from counterfeiting or piracy activities;*

18                  *(2) ensuring that CHIP units are established*  
19                  *and funded in every judicial district in which they*  
20                  *can be effectively deployed;*

21                  *(3) upgrading the training and expertise of De-*  
22                  *partment of Justice personnel participating in CHIP*  
23                  *units; and*

24                  *(4) improving the coordination of the activities*  
25                  *of CHIP units with corresponding efforts of State and*

1        *local law enforcement agencies operating within the*  
2        *Federal judicial district in question.*

3        (b) *REQUIREMENTS.*—*In addition to any initiatives*  
4        *undertaken as a result of the review conducted under sub-*  
5        *section (a), the Attorney General, in consultation with the*  
6        *Director of the Federal Bureau of Investigation, shall ensure*  
7        *that—*

8                (1) *each CHIP unit is supported by at least 2*  
9                *additional agents of the Federal Bureau of Investiga-*  
10               *tion for the purpose of investigating intellectual prop-*  
11               *erty crimes;*

12               (2) *each CHIP unit is assigned at least 1 addi-*  
13               *tional assistant United States attorney to support*  
14               *such unit for the purpose of prosecuting intellectual*  
15               *property crimes or other crimes involved in counter-*  
16               *feiting or piracy activities;*

17               (3) *CHIP units are established and staffed in at*  
18               *least 10 Federal judicial districts in addition to those*  
19               *districts in which CHIP units exist on the date of the*  
20               *enactment of this Act; and*

21               (4) *an operational unit is created consisting of*  
22               *not less than 5 agents of the Federal Bureau of Inves-*  
23               *tigation, attached to the headquarters of the Federal*  
24               *Bureau of Investigation in Washington, D.C., and*  
25               *dedicated to working with the Intellectual Property*

1        *Enforcement Division established by section 501 on*  
2        *the development, investigation, and coordination of*  
3        *complex, multi-district, and international criminal*  
4        *intellectual property cases.*

5        *(c) COORDINATION WITH STATE AND LOCAL AUTHORI-*  
6        *TIES.—The United States attorney for each Federal judicial*  
7        *district in which a CHIP unit is in operation shall ensure*  
8        *that the activities of that unit are coordinated with the cor-*  
9        *responding activities of State and local law enforcement*  
10       *agencies operating within that Federal judicial district in*  
11       *the investigation of intellectual property crimes and other*  
12       *crimes involved in counterfeiting or piracy, including by*  
13       *coordinating Federal, State, and local operations and intel-*  
14       *ligence sharing to the extent appropriate.*

15       *(d) ADDITIONAL RESPONSIBILITIES OF THE ATTOR-*  
16       *NEY GENERAL.—The Attorney General, in consultation*  
17       *with the Director of the Federal Bureau of Investigation*  
18       *as appropriate, shall ensure the following:*

19                *(1) All assistant United States attorneys who are*  
20                *assigned to CHIP units, and all agents of the Federal*  
21                *Bureau of Investigation who support those units, have*  
22                *received advanced training, on an annual basis, in*  
23                *the investigation and prosecution of intellectual prop-*  
24                *erty crimes and other crimes involved in counter-*  
25                *feiting and piracy.*

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

14 **SEC. 513. TRANSPARENCY OF PROSECUTORIAL DECISION-**  
15 **MAKING.**

16           (a) *IN GENERAL.*—*The Attorney General shall direct*  
17 *each United States attorney—*

18                   (1) *to review the formal or informal standards*  
19 *currently in effect in that Federal judicial district for*  
20 *accepting or declining prosecution of cases involving*  
21 *criminal violations of intellectual property laws;*

22                   (2) *to consider whether the standards should be*  
23 *modified or applied more flexibly—*



1           (A) to ensure that significant violations are  
2           not being declined for prosecution inappropri-  
3           ately; or

4           (B) in light of the broader impact of indi-  
5           vidual cases on the overall strategy to combat  
6           counterfeiting and piracy; and

7           (3) to review the practices and procedures cur-  
8           rently in place for providing information to com-  
9           plainants and victims in cases and investigations in-  
10          volving criminal violations of intellectual property  
11          laws regarding the status of such cases and investiga-  
12          tions, including the practices and procedures for ap-  
13          prising interested parties of the decision to decline  
14          prosecution of such cases.

15          (b) CONSTRUCTION.—

16           (1) PROSECUTORIAL MATTERS.—Nothing in this  
17           section shall be construed to impinge on the appro-  
18           priate exercise of prosecutorial discretion with respect  
19           to cases involving criminal violations of intellectual  
20           property laws or to require the promulgation of for-  
21           mal standards or thresholds regarding prosecution of  
22           any cases.

23           (2) NO CLAIMS, ETC., MAY BE ASSERTED.—Noth-  
24           ing in the section shall give rise to any claim, cause

1       of action, defense, privilege, or immunity that may be  
2       asserted by any party to Federal litigation.

3   **SEC. 514. AUTHORIZATION OF APPROPRIATIONS.**

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

7   **Subtitle C—International Activities**

8   **SEC. 521. INTERNATIONAL INTELLECTUAL PROPERTY LAW**  
9                   **ENFORCEMENT COORDINATORS.**

10       (a) *DEPLOYMENT OF ADDITIONAL COORDINATORS.*—  
11   The Attorney General shall, within 180 days after the date  
12   of the enactment of this Act, deploy 5 Intellectual Property  
13   Law Enforcement Coordinators, in addition to those serv-  
14   ing in such capacity on such date of enactment. Such de-  
15   ployments shall be made to those countries and regions  
16   where the activities of such a coordinator can be carried  
17   out most effectively and with the greatest benefit to reducing  
18   counterfeit and pirated products in the United States mar-  
19   ket, to protecting the intellectual property rights of United  
20   States persons and their licensees, and to protecting the in-  
21   terests of United States persons otherwise harmed by viola-  
22   tions of intellectual property rights in those countries. The  
23   mission of all International Intellectual Property Law En-  
24   forcement Coordinators shall include the following:

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

4           (2) *Performing outreach and training to build*  
5           *the enforcement capacity of foreign governments*  
6           *against intellectual property-related crime in the re-*  
7           *gions in which the coordinators serve.*

8           (3) *Coordinating United States law enforcement*  
9           *activities against intellectual property-related crimes*  
10          *in the regions in which the coordinators serve.*

11          (4) *Coordinating with the activities of the intel-*  
12          *lectual property attachés appointed under title IV in*  
13          *the countries or regions to which the coordinators are*  
14          *deployed.*

15          (5) *Coordinating the activities of the coordina-*  
16          *tors with the IP Officer.*

17          (b) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
18          *authorized to be appropriated for each fiscal year such sums*  
19          *as may be necessary for the deployment and support of all*  
20          *International Intellectual Property Enforcement Coordina-*  
21          *tors of the Department of Justice, including those deployed*  
22          *under subsection (a).*

1 **SEC. 522. INTERNATIONAL TRAINING ACTIVITIES OF THE**  
2 **COMPUTER CRIME AND INTELLECTUAL PROP-**  
3 **ERTY SECTION.**

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

12 (b) *CONDUCT OF PROGRAMS.*—*The increased training*  
13 *and technical assistance programs under subsection (a)*  
14 *shall be carried out by the Intellectual Property Enforce-*  
15 *ment Division established by section 501, as well as through*  
16 *such other divisions, sections, or agencies of the Department*  
17 *of Justice as the Attorney General may direct.*

18 (c) *PRIORITY COUNTRIES.*—*The Attorney General, in*  
19 *providing increased training and technical assistance pro-*  
20 *grams under this section, shall give priority to those coun-*  
21 *tries where such programs can be carried out most effec-*  
22 *tively and with the greatest likelihood of reducing counter-*  
23 *feit and pirated products in the United States market, of*  
24 *protecting the intellectual property rights of United States*  
25 *persons, or of protecting the interests of United States per-*

1 *sons otherwise harmed by violations of intellectual property*  
2 *rights in those countries.*

3 *(d) AUTHORIZATION OF APPROPRIATIONS.—There are*  
4 *authorized to be appropriated for each fiscal year such sums*  
5 *as may be necessary to carry out this section.*

6 ***Subtitle D—Coordination,***  
7 ***Implementation, and Reporting***

8 ***SEC. 531. COORDINATION.***

9 *The IP officer shall ensure that activities undertaken*  
10 *under this title are carried out in a manner consistent with*  
11 *the joint strategic plan developed under section 321.*

12 ***SEC. 532. ANNUAL REPORTS.***

13 *Not later than 1 year after the date of the enactment*  
14 *of this Act, and annually thereafter, the Attorney General*  
15 *shall submit to the Committees on the Judiciary of the Sen-*  
16 *ate and the House of Representatives a report on actions*  
17 *taken to carry out this title, including a report on the ac-*  
18 *tivities of the IP Officer.*

Union Calendar No. 384

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

**H. R. 4279**

[Report No. 110-617]

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## **A BILL**

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

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MAY 5, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed