110TH CONGRESS 1ST SESSION

H. R. 4279

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

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

A BILL

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Prioritizing Resources and Organization for Intellectual Property Act of 2007".

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

Sec. 1. Short title; table of contents.

Sec. 2. Reference.

Sec. 3. Definition.

TITLE I—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. Computation of statutory damages in copyright cases.

Sec. 105. Treble damages in counterfeiting cases.

Sec. 106. Statutory damages in counterfeiting cases.

Sec. 107. Exportation of goods bearing infringing marks.

Sec. 108. 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 Representative.

Sec. 302. Definition.

Subtitle B—Joint Strategic Plan

Sec. 321. Joint Strategic Plan.

Sec. 322. Reporting.

Sec. 323. Other intellectual property activities.

Sec. 324. Savings and repeals.

Sec. 325. 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.

SEC. 2. REFERENCE.

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

SEC. 3. DEFINITION.

In this Act, the term "United States person" means—

(1) any United States resident or national,

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

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

TITLE I—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS

SEC. 101. REGISTRATION OF CLAIM.

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

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

(2) by inserting after subsection (b) the following:

"(c) (1) A certificate of registration satisfies the requirements of section 411 and section 412 regardless of any inaccurate information contained in the certificate, unless—

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

"(B) the inaccuracy of the information, if known,

would have caused the Register of Copyrights to refuse registration.

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

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

SEC. 102. REGISTRATION AND INFRINGEMENT ACTIONS.

(a) REGISTRATION IN CIVIL INFRINGEMENT ACTIONS.—Section 411(a) of title 17, United States Code, is amended—

(1) in the section heading, by inserting "civil" after "and" ; and

(2) in subsection (a), by striking "no action" and inserting "no civil action".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 411(b) of title 17, United States Code, is amended by striking "506 and sections 509 and" and inserting "505 and section".

SEC. 103. CIVIL REMEDIES FOR INFRINGEMENT.

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

(1) by striking "and of all plates" and inserting "of all plates"; and

(2) by striking the period at the end and inserting the following: ", and records documenting the manufacture, sale, or receipt of things involved in such violation. The court shall enter an appropriate protective order with respect to discovery by the applicant of any records that have been seized. The protective order shall provide for appropriate procedures to assure that confidential information contained in such records is not improperly disclosed to the applicant.".

SEC. 104. COMPUTATION OF STATUTORY DAMAGES IN COPYRIGHT CASES.

Section 504(c)(1) of title 17, United States Code, is amended by

striking the second sentence and inserting the following: "A copyright owner is entitled to recover statutory damages for each copyrighted work sued upon that is found to be infringed. The court may make either one or multiple awards of statutory damages with respect to infringement of a compilation, or of works that were lawfully included in a compilation, or a derivative work and any preexisting works upon which it is based. In making a decision on the awarding of such damages, the court may consider any facts it finds relevant relating to the infringed works and the infringing conduct, including whether the infringed works are distinct works having independent economic value.".

SEC. 105. TREBLE DAMAGES IN COUNTERFEITING CASES.

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

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

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

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

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

In such a case, the court may award prejudgment interest on such amount at an annual interest rate established under section 6621(a)(2) of the Internal Revenue Code of 1986, beginning on the date of the service of the claimant's pleadings setting forth the claim for such entry of judgment and ending on the date such entry is made, or for such shorter time as the court considers appropriate.".

SEC. 106. STATUTORY DAMAGES IN COUNTERFEITING CASES.

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

(1) in paragraph (1)—

(A) by striking "$500" and inserting "$1000"; and

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

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

SEC. 107. EXPORTATION OF GOODS BEARING INFRINGING MARKS.

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

(1) in the title heading, by inserting after "IMPORTATION" the following: "OR EXPORTATION"; and

(2) in section 42—

(A) in the first sentence—

(i) by striking the word "imported"; and

(ii) by inserting after "custom house of the United States" the following: ", nor shall any such article be exported from the United States".

SEC. 108. IMPORTATION AND EXPORTATION.

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

"CHAPTER 6—MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION".

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

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

(2) by striking "(a)" and inserting "

"(a) INFRINGING IMPORTATION AND EXPORTATION.—

"(1) IMPORTATION.—

(3) by striking "This subsection does not apply to— " and inserting the following:

"(2) IMPORTATION OR EXPORTATION OF INFRINGING ITEMS.—Importation into the United States or exportation from the United States, without the authority of the owner of copyright under this title, of copies or phonorecords, the making of which either constituted an infringement of copyright or would have constituted an infringement of copyright if the copies or phonorecords had been made in the United States, is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under sections 501 and 506.

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

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

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

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

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

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

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

(B) in subsection (b)—

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

(ii) by striking "if this title had been applicable" and inserting "if the copies or phonorecords had been made in the United States".

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

TITLE II—ENHANCEMENTS TO CRIMINAL INTELLECTUAL PROPERTY LAWS

SEC. 201. CRIMINAL INFRINGEMENT OF A COPYRIGHT.

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

(1) in subsection (b)(2), by inserting "is a felony and" after "offense" and by striking "paragraph (1)" and inserting "subsection (a)";

(2) in subsection (c)(2), by inserting "is a felony and" after "offense", and by striking "paragraph (1)" and inserting "subsection (a)";

(3) in subsection (d)(3), by inserting "is a felony and" after "offense", and by inserting "under subsection (a)" before the semicolon; and

(4) in subsection (d)(4), by inserting "is a felony and" after "offense".

SEC. 202. HARMONIZATION OF FORFEITURE PROCEDURES FOR INTELLECTUAL PROPERTY OFFENSES.

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

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

"(d) FORFEITURE AND DESTRUCTION; RESTITUTION.—

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

"(i) Any counterfeit documentation or packaging, and any counterfeit label or illicit label and any article to which a counterfeit label or illicit label has been affixed, or which a counterfeit label or illicit label encloses or accompanies, or which was intended to have had such label affixed, enclosing, or accompanying.

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

"(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 predominantly controlled by the violator or by a person conspiring with or aiding and abetting the violator in committing the violation.

"(B) The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under subparagraph (A). At the conclusion of the forfeiture proceedings, the court shall order that any forfeited counterfeit labels or illicit labels and any article to which a counterfeit label or illicit label has been affixed, or which a counterfeit label or illicit label encloses or accompanies, or which was intended to have had such label affixed, enclosing, or accompanying, be destroyed or otherwise disposed of according to law.

"(C) In this paragraph, the term 'aiding and abetting' means to knowingly provide aid to the violator with the intent to facilitate the violation.

"(2) CRIMINAL FORFEITURE PROCEEDINGS.—(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States the following property:

"(i) Any counterfeit documentation or packaging, and any counterfeit label or illicit label, that was used, intended for use, or possessed with intent to use in the commission of an offense under subsection (a), and any article to which such a counterfeit label or illicit label has been affixed, which such a counterfeit label or illicit label encloses or accompanies, or which was intended to have had such label affixed, enclosing, or accompanying.

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

"(iii) Any property used, or intended to be used, to commit or substantially facilitate the commission of an offense under

subsection (a).

"(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. At the conclusion of the forfeiture proceedings, the court shall order that any counterfeit label or illicit label and any article to which a counterfeit label or illicit label has been affixed, which a counterfeit label or illicit label encloses or accompanies, or which was intended to have had such label affixed, enclosing, or accompanying, be destroyed or otherwise disposed of according to law.

"(3) RESTITUTION.—When a person is convicted of an offense under this section, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the owner of the marks or copyrighted works involved in the offense and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).";

(2) by striking subsection (e); and

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

(b) CRIMINAL INFRINGEMENT OF A COPYRIGHT.—

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

"(g) FORFEITURE AND DESTRUCTION; RESTITUTION.—

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

"(i) Any copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of section 506(a) of title 17, and any plates, molds, matrices, masters, tapes, film

negatives, or other articles by means of which such copies or phonorecords may be made and any devices for manufacturing, reproducing, or assembling such copies or phonorecords.

"(ii) Any property constituting or derived from any proceeds obtained directly or indirectly as a result of a violation of section 506(a) of title 17.

"(iii) Any property used, or intended to be used, to commit or facilitate the commission of a violation of section 506(a) of title 17 that is owned or predominantly controlled by the violator or by a person conspiring with or aiding and abetting the violator in committing the violation.

"(B) The provisions of chapter 46 of title 18 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, the court shall order that any forfeited infringing copies or phonorecords, and any plates, molds, matrices, masters, tapes, and film negatives by means of which such unauthorized copies or phonorecords may be made, be destroyed or otherwise disposed of according to law.

"(C) In this paragraph, the term 'aiding and abetting' means to knowingly provide aid to the violator with the intent to facilitate the violation.

"(2) CRIMINAL FORFEITURE PROCEEDINGS.—(A) The court, in imposing sentence on a person convicted of an offense under subsection (a), shall order, in addition to any other sentence imposed, that the person forfeit to the United States the following property:

"(i) Any copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in the commission of an offense under subsection (a), and any plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which the copies or phonorecords may be reproduced, and any electronic,

mechanical, or other devices for manufacturing, reproducing, or assembling such copies or phonorecords.

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

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

"(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. At the conclusion of the forfeiture proceedings, the court shall order that any forfeited infringing copies or phonorecords, and any plates, molds, matrices, masters, tapes, and film negatives by means of which such infringing copies or phonorecords may be made, be destroyed or otherwise disposed of according to law.

"(3) RESTITUTION.—When a person is convicted of an offense under this section, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the copyright owner and any other victim of the offense as an offense against property referred to in section 3663A(c)(l)(A)(ii).".

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

(B) Section 509 of title 17, United States Code, relating seizure and forfeiture, and the item relating to section 509 in the table of sections at the beginning of chapter 5 of title 17, United States Code, are repealed.

(c) UNAUTHORIZED FIXATION AND TRAFFICKING.—

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

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

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

"(b) FORFEITURE AND DESTRUCTION; RESTITUTION.—

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

"(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.

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

"(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 predominantly controlled by the violator or by a person conspiring with or aiding and abetting the violator in committing the violation.

"(B) The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under paragraph (1). At the conclusion of the forfeiture proceedings, the court shall order that any forfeited unauthorized copies or phonorecords of live musical performances, and any plates, molds, matrices, maters, tapes, and film negatives by means of which such unauthorized copies or phonorecords may be made, be destroyed or otherwise

disposed of according to law.

"(C) In this paragraph, the term 'aiding and abetting' means to knowingly provide aid to the violator with the intent to facilitate the violation.

"(2) CRIMINAL FORFEITURE PROCEEDINGS.—(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States the following property:

"(i) Any unauthorized copies or phonorecords of a live musical performance that were used, intended for use, or possessed with intent to use in the commission of an offense under subsection (a), and any plates, molds, matrices, masters, tapes, and film negatives by means of which such copies or phonorecords may be made.

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

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

"(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. At the conclusion of the forfeiture proceedings, the court shall order that any forfeited unauthorized copies or phonorecords of live musical performances, and any plates, molds, matrices, masters, tapes, and film negatives by means of which such unauthorized copies of phonorecords

may be made, be destroyed or otherwise disposed of according to law.

"(3) NOTIFICATION OF IMPORTATION.—The Secretary of Homeland Security shall issue regulations by which any performer may, upon payment of a specified fee, be entitled to notification by U.S. Customs and Border Protection of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance prohibited by this section.

"(4) RESTITUTION.—When a person is convicted of an offense under this section, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the performer or performers involved, and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).".

(2) APPLICABILITY.—Section 2319A(e), as redesignated by paragraph (1) of this subsection, is amended by inserting before the period the following: ", except that the forfeiture provisions under subsection (b)(2), as added by the Prioritizing Resources and Organization for Intellectual Property Act, shall apply only in a case in which the underlying act or acts occur on or after the date of the enactment of that Act".

(d) UNAUTHORIZED RECORDING OF MOTION PICTURES.—Section 2319B(b) of title 18, United States Code, is amended to read as follows:

"(b) FORFEITURE AND DESTRUCTION; RESTITUTION.—

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

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

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

"(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 predominantly controlled by the violator or by a person conspiring with or aiding and abetting the violator in committing the violation.

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

"(C) In this paragraph, the term 'aiding and abetting' means to knowingly provide aid to the violator with the intent to facilitate the violation.

"(2) CRIMINAL FORFEITURE PROCEEDINGS.—(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States the following property:

"(i) Any unauthorized copies of a motion picture or other audiovisual work protected under title 17, or part thereof, that were used, intended for use, or possessed with intent to use in the commission of an offense under subsection (a).

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

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

"(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. At the conclusion of the forfeiture proceedings, the court shall order that any forfeited unauthorized copies or phonorecords of a motion picture or other audiovisual work, or part thereof, and any plates, molds, matrices, masters, tapes, and film negatives by means of which such unauthorized copies or phonorecords may be made, be destroyed or otherwise disposed of according to law.

"(3) RESTITUTION.—When a person is convicted of an offense under this chapter, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the owner of the copyright in the motion picture or other audiovisual work and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).".

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

SEC. 203. DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.

(a) REVIEW AND AMENDMENT.—The United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable in any case sentenced under section 2B5.3 of the Federal sentencing guidelines for exporting infringing items in violation of section 602(a)(2) of title 17, United States Code, to determine whether a defendant in such case should receive an upward adjustment in the offense level, on the grounds that exportation introduces infringing items into the stream of foreign commerce in a manner analogous to the manner in which manufacturing, importing, and uploading such items introduces them into the stream of commerce.

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

SEC. 204. TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.

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

(1) in subsection (a)—

(A) by striking "Whoever" and inserting "

"

"(1) IN GENERAL.—Whoever";

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

(C) by adding at the end the following:

"(2) SERIOUS BODILY HARM OR DEATH.—

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

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

(2) in subsection (b)(l)—

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

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

"(B) Any property constituting or derived from any proceeds obtained directly or indirectly as a result of a violation of subsection (a).".

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 REPRESENTATIVE.

(a) ESTABLISHMENT WITHIN EXECUTIVE OFFICE OF THE PRESIDENT.—There is established within the Executive Office of the President the Office of the United States Intellectual Property Enforcement Representative (in this title referred to as "the Office").

(b) UNITED STATES INTELLECTUAL PROPERTY ENFORCEMENT REPRESENTATIVE.—The head of the Office shall be the United States Intellectual Property Enforcement Representative (in this title referred

to as the "IP Enforcement Representative") who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of the IP Enforcement Representative submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on the Judiciary. The IP Enforcement Representative shall hold office at the pleasure of the President, shall be entitled to receive the same allowances as a chief of mission, and shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(c) DUTIES OF IP ENFORCEMENT REPRESENTATIVE.—

(1) IN GENERAL.—The IP Enforcement Representative shall—

(A) have primary responsibility for developing, coordinating, and facilitating the implementation, by the departments and agencies listed in subsection (d)(2), the policies, objectives, and priorities of the Joint Strategic Plan against counterfeiting and piracy under section 321;

(B) serve as the principal advisor to the President on domestic and international intellectual property enforcement policy;

(C) assist the United States Trade Representative in conducting negotiations on behalf of the United States relating to international intellectual property enforcement, including negotiations on any intellectual property enforcement matter considered under the auspices of the World Trade Organization or in the course of commodity and direct investment negotiations in which the United States participates;

(D) issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation that arise in the exercise of domestic and international intellectual property enforcement functions to the extent necessary to assure the coordination of international intellectual property enforcement policy and consistent with any other law;

(E) act as the principal spokesperson of the President on domestic and international intellectual property enforcement matters;

(F) report directly to the President and the Congress regarding, and be responsible to the President and the Congress for the administration of, intellectual property enforcement programs;

(G) advise the President and the Congress with respect to domestic and international intellectual property enforcement challenges and priorities;

(H) report to the Congress, as provided in section 322, on the implementation of the Joint Strategic Plan, and make recommendations to the Congress for improvements in Federal intellectual property enforcement efforts;

(I) chair the interagency intellectual property enforcement advisory committee established under subsection (d)(2), and consult with such advisory committee in the performance of the functions of the IP Enforcement Representative; and

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

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

(A) be the senior representative on any body that the President may establish for the purpose of providing to the President advice on overall policies in which intellectual property enforcement matters predominate; and

(B) be included as a participant in all economic summit and other international meetings at which international intellectual property enforcement is a major topic.

(3) DELEGATION.—The IP Enforcement Representative may—

(A) delegate any of the IP Enforcement Representative's functions, powers, and duties to such officers and employees of the Office as the IP Enforcement Representative may designate; and

(B) authorize such successive redelegations of such functions, powers, and duties to such officers and employees of the Office as IP Enforcement Representative considers appropriate.

(d) COORDINATION OF INTELLECTUAL PROPERTY ENFORCEMENT ACTIONS.—

(1) IN GENERAL.—In carrying out the functions of the IP Enforcement Representative, the IP Enforcement Representative shall coordinate the allocation of interagency resources for intellectual property enforcement, including identifying, and

referring to the appropriate Federal department or agency, for consideration with respect to action, violations of intellectual property laws.

(2) ADVISORY COMMITTEE.—For purposes of assisting the IP Enforcement Representative in carrying out the functions of the IP Enforcement Representative, there is established an interagency intellectual property enforcement advisory committee composed of the IP Enforcement Representative, who shall chair the committee, and senior representatives of the following departments and agencies who are involved in intellectual property enforcement, and are appointed by the respective heads of those departments and agencies:

(A) The Department of Justice (including the Intellectual Property Enforcement Officer appointed under section 501).

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

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

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

(E) The Department of Homeland Security (including U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement).

(F) The United States International Trade Commission.

(G) The Food and Drug Administration of the Department of Health and Human Services.

(H) The United States Copyright Office.

(I) Such other agencies as the IP Enforcement Representative determines to be substantially involved in the efforts of the Federal Government to combat counterfeiting and piracy.

(e) IDENTIFICATION OF COUNTRIES THAT DENY ADEQUATE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.—Section 182(b)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2242(b)(2)(A)) is amended by inserting "the United States Intellectual Property Enforcement Representative," after "shall consult with".

(f) POWERS OF IP ENFORCEMENT REPRESENTATIVE.—In carrying out the responsibilities under this title, the IP Enforcement Representative may—

(1) select, appoint, employ, and fix the compensation of such officers and employees as may be necessary to carry out those responsibilities;

(2) request the head of a department, agency, or program of the Federal Government to place personnel of such department, agency, or program who are engaged in intellectual property enforcement activities on temporary detail to the Office of the IP Enforcement Representative to assist in carrying out those responsibilities;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local government agencies;

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

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

(6) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the IP Enforcement Representative considers appropriate, with any department, agency, or instrumentality of the United States, or with any public or private person, firm, association, corporation, or institution;

(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

(8) adopt an official seal, which shall be judicially noticed; and

(9) accept, hold, administer, and use gifts, devises, and

bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office.

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

" United States Intellectual Property Enforcement Representative.".

SEC. 302. DEFINITION.

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

Subtitle B—Joint Strategic Plan

SEC. 321. JOINT STRATEGIC PLAN.

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

(1) Eliminating counterfeit and pirated goods from the international supply chain.

(2) Identifying individuals, financial institutions, business concerns, and other entities involved in the financing, production, trafficking, or sale of counterfeit or pirated goods.

(3) Identifying and sharing information among the relevant departments and agencies for the purpose of arresting and prosecuting individuals and entities that are knowingly involved the financing, production, trafficking, or sale of counterfeit or pirated goods.

(4) Disrupting and eliminating counterfeit and piracy networks.

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

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

(7) Protecting intellectual property rights overseas by—

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

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

(ii) have legal regimes that enforce their own domestic intellectual property laws, eliminate counterfeit and piracy operations, and arrest and prosecute those who commit intellectual property crimes;

(iii) provide their law enforcement officials with the authority to seize, inspect, and destroy pirated and counterfeit goods, including at ports of entry;

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

(v) are not on the Priority Watch List issued by the United States Trade Representative under section 182 of the Trade Act of 1974 (19 U.S.C. 2242);

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

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

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

(b) TIMING.—Not later than 6 months after the date of the enactment of this Act, and not later than December 31 of every third year thereafter, the IP Enforcement Representative shall submit the joint strategic plan to the President, to the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives, and to the Committee on the Judiciary and the Committee on Appropriations of the Senate.

(c) RESPONSIBILITY OF THE IP ENFORCEMENT

REPRESENTATIVE.—In developing the joint strategic plan, the IP Enforcement Representative—

(1) shall consult and coordinate with the appropriate officers and employees of departments and agencies represented on the advisory committee appointed under section 301(d)(2) who are involved in intellectual property enforcement; and

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

(d) RESPONSIBILITIES OF OTHER DEPARTMENTS AND AGENCIES.—To assist in the development and implementation of the joint strategic plan, the heads of the departments and agencies identified under section 301(d)(2) (including the heads of any other agencies identified by the IP Enforcement Representative under section (d)(2)(I)) shall—

(1) designate personnel with expertise and experience in intellectual property enforcement matters to work with the IP Enforcement Representative; and

(2) share relevant department or agency information with the IP Enforcement Representative, including statistical information on the enforcement activities of the department or agency against counterfeiting or piracy.

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

(1) A detailed description of the priorities identified for activities of the Federal Government relating to intellectual property enforcement.

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

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

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

(5) An analysis of the threat posed by violations of intellectual property rights, including targets, risks, and threats of intellectual property theft, and the costs to the economy of the United States resulting from violations of intellectual property

laws and the threats to public health and safety created by counterfeiting and piracy.

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

(7) A strategy for ensuring coordination between the IP Enforcement Representative and the departments and agencies identified under paragraph (6), including a process for oversight of, and accountability among, the departments and agencies carrying out the strategy.

(8) Such other information as the IP Enforcement Representative considers important in conveying to the recipients of the report, and to the people of the United States, the costs imposed on the United States economy and the threats to public health and safety created by counterfeiting and piracy, and the steps that the Federal Government will take over the period covered by the succeeding joint strategic plan to reduce those costs and counter those threats.

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

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

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

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

(4) develop metrics to measure the effectiveness of the Federal Government's efforts to improve the laws and

enforcement practices of foreign governments against counterfeiting and piracy.

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

SEC. 322. REPORTING.

(a) ANNUAL REPORT.—Not later than December 31 of each year, the IP Enforcement Representative shall submit an report on the activities of the Office during the preceding fiscal year. The annual report shall be submitted to the President and the Congress, and disseminated to the people of the United States, in the manner specified in subsections (b) and (g) of section 321.

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

(1) The progress made on implementing the strategic plan and on the progress toward fulfillment of the priorities identified under section 321(e).

(2) The progress made toward efforts to encourage Federal, State, and local government departments and agencies to accord higher priority to intellectual property enforcement.

(3) The progress made in working with foreign countries to investigate, arrest, and prosecute entities and individuals involved in the financing, production, trafficking, and sale of counterfeit and pirated goods.

(4) The manner in which the relevant departments and agencies are working together and sharing information to strengthen intellectual property enforcement.

(5) An assessment of the successes and shortcomings of the efforts of the Federal Government, including departments and agencies represented on the committee appointed under section 301(d)(2), in fulfilling the priorities identified in the applicable joint strategic plan during the preceding fiscal year.

(6) Recommendations for any changes in statutes, regulations, or funding levels that the IP Representative considers would significantly improve the effectiveness or efficiency of the effort of the Federal Government to combat counterfeiting and piracy and otherwise strengthen intellectual property enforcement.

(7) The progress made in strengthening the capacity of

countries to protect and enforce intellectual property rights.

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

(9) The progress of the United States Trade Representative in taking the appropriate action under any trade agreement or treaty to protect intellectual property rights of United States persons and their licensees.

SEC. 323. OTHER INTELLECTUAL PROPERTY ACTIVITIES.

If in any other case in which the IP Representative identifies other intellectual property initiatives of the Federal Government that include enforcement activities similar or identical to the activities described in this title, the IP Representative shall consolidate those activities into the work of the Office of the IP Representative in order to prevent duplication. Other activities that may improve intellectual property enforcement may continue outside of the Office of the Intellectual Property Enforcement Representative, including—

(1) capacity building in other countries (other than activities to carry out the objectives described in section 321(a)(7); and

(2) bilateral and multilateral cooperative efforts.

SEC. 324. SAVINGS AND REPEALS.

(a) REPEAL OF COORDINATION COUNCIL.—Section 653 of the Treasury and General Government Appropriations Act, 2000 (15 U.S.C. 1128) is repealed.

(b) CURRENT AUTHORITIES NOT AFFECTED.—Except as provided in subsection (a), nothing in this title shall alter the authority of any department or agency of the United States to investigate and prosecute violations of laws protecting intellectual rights.

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

SEC. 325. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title. By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the IP Representative shall submit to the Committees on the Judiciary of the House of Representatives and the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out

its functions.

TITLE IV—INTERNATIONAL ENFORCEMENT AND COORDINATION

SEC. 401. INTELLECTUAL PROPERTY ATTACHÉS.

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (in this title referred to as the "Director"), in consultation with the Director General of the United States and Foreign Commercial Service, shall appoint 10 intellectual property attachés to serve in United States embassies or other diplomatic missions. The 10 appointments shall be in addition to personnel serving in the capacity of intellectual property attaché at United States embassies or other diplomatic missions on the date of the enactment of this Act.

SEC. 402. DUTIES AND RESPONSIBILITIES OF INTELLECTUAL PROPERTY ATTACHÉS.

The intellectual property attachés appointed under section 401, as well as others serving as intellectual property attachés of the Department of Commerce, shall have the following responsibilities:

(1) To promote cooperation with foreign governments in the enforcement of intellectual property laws generally, and in the enforcement of laws against counterfeiting and piracy in particular.

(2) To assist United States persons holding intellectual property rights, and the licensees of such United States persons, in their efforts to combat counterfeiting and piracy of their products or works within the host country, including counterfeit or pirated goods exported from or transshipped through that country.

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

(4) To coordinate with representatives of the embassies or missions of other countries in information sharing, private or public communications with the government of the host country, and other forms of cooperation for the purpose of improving enforcement against counterfeiting and piracy.

(5) As appropriate and in accordance with applicable laws and the diplomatic status of the attachés, to engage in public education efforts against counterfeiting and piracy in the host country.

(6) To coordinate training and technical assistance programs of the United States Government within the host country that are aimed at improving the enforcement of laws against counterfeiting and piracy.

(7) To identify and promote other means to more effectively combat counterfeiting and piracy activities under the jurisdiction of the host country.

SEC. 403. TRAINING AND DESIGNATION OF ASSIGNMENT.

(a) TRAINING OF ATTACHÉS.—The Director shall ensure that each attaché appointed under section 401 is fully trained for the responsibilities of the position before assuming duties at the United States embassy or other mission in question.

(b) PRIORITY ASSIGNMENTS.—In designating the embassies or other missions to which attachés are assigned, the Director shall give priority to those countries where the activities of an attaché can be carried out most effectively and with the greatest benefit to reducing counterfeit and pirated products in the United States market, to protecting the intellectual property rights of United States persons and their licensees, and to protecting the interests of United States persons otherwise harmed by violations of intellectual property rights in those countries.

SEC. 404. COORDINATION.

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

(b) REPORT ON ATTACHÉS.—The Director shall submit to the Congress each year a report on the appointment, designation for assignment, and activities of all intellectual property attachés of the Department of Commerce who are serving at United States embassies or other diplomatic missions.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary for the training and support of the intellectual property attachés appointed under section 401 and of other personnel serving as intellectual property attachés of the Department of Commerce.

TITLE V—DEPARTMENT OF JUSTICE PROGRAMS

Subtitle A—Coordination

SEC. 501. INTELLECTUAL PROPERTY ENFORCEMENT OFFICER.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice the "Intellectual Property Enforcement Division". The head of the Intellectual Property Enforcement Division shall be the Intellectual Property Enforcement Officer (in this title referred to as the "IP Officer"). The IP Officer shall be appointed by the Attorney General and shall report directly to the Deputy Attorney General.

(b) DUTIES.—The IP Officer shall—

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

(2) serve as the lead representative of the Department of Justice on the advisory committee provided for in section 301(d)(2) and as the liaison of the Department of Justice with foreign governments with respect to training conducted under section 522; and

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

(c) TRANSFER OF FUNCTIONS.—

(1) CRIMINAL INTELLECTUAL PROPERTY ENFORCEMENT.—There are transferred to the Intellectual Property Enforcement Division those functions of the Computer Crime and Intellectual Property Section of the Criminal Division of the Department of Justice that relate to the enforcement of criminal laws relating to the protection of intellectual property rights and trade secrets, including the following:

(A) Section 506 and 1204 of title 17, United States Code.

(B) Section 2318 through 2320 of title 18, United States Code.

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

(D) Any other provision of law, including the following, to the extent such provision involves the enforcement of any provision of law referred to in subparagraphs (A) through (C) or comparable provision of

law:

(i) Section 1341 of title 18, United States Code, relating to frauds and swindles.

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

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

(iv) Section 633 of the Communications Act of 1934 (47 U.S.C. 553), relating to the unauthorized reception of cable service.

(v) Section 705 of the Communications Act of 1934 (47 U.S.C. 605), relating to the unauthorized publication or use of communications.

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

Subtitle B—Law Enforcement Resources

SEC. 511. LOCAL LAW ENFORCEMENT GRANTS.

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

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

(2) in subsection (e)(1), relating to authorization of appropriations, by striking "fiscal years 2001 through 2004" and inserting "fiscal years 2008 through 2012".

(b) GRANTS.—The Office of Justice Programs of the Department of Justice shall make grants to eligible State or local law enforcement entities, including law enforcement agencies of municipal governments and public educational institutions, for training, prevention, enforcement, and prosecution of intellectual property theft and infringement crimes (in this subsection referred to as "IP–TIC grants"), in accordance with the following:

(1) USE OF IP–TIC GRANT AMOUNTS.—IP–TIC grants may be used to establish and develop programs to do the following

with respect to the enforcement of State and local true name and address laws and State and local criminal laws on anti-piracy, anti-counterfeiting, and theft of goods protected by any copyright, patent, trademark, service mark, trade secret, or other intellectual property right under State or Federal law:

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

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

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

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

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

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

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

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

(B) an assessment of the resource needs of the State or local government entity applying for the grant, including information on the need for reimbursements of base salaries

and overtime costs, storage fees, and other expenditures to improve the investigation, prevention, or enforcement of laws described in paragraph (1); and

(C) a plan for coordinating the programs funded under this section with other federally funded technical assistance and training programs, including directly funded local programs such as the Local Law Enforcement Block Grant program (described under the heading "Violent Crime Reduction Programs, State and Local Law Enforcement Assistance" in title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)).

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

(4) AUTHORIZATION OF APPROPRIATIONS.—

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

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

SEC. 512. CHIP UNITS, TRAINING, AND ADDITIONAL RESOURCES.

(a) EVALUATION OF CHIP UNITS.—The Attorney General shall review the allocation and activities of the Computer Hacking and Intellectual Property (in this section referred to as "CHIP") units that have been established in various Federal judicial districts, with the goals of—

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

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

(3) upgrading the training and expertise of Department of Justice personnel participating in CHIP units; and

(4) improving the coordination of the activities of CHIP units with corresponding efforts of State and local law

enforcement agencies operating within the Federal judicial district in question.

(b) REQUIREMENTS.—In addition to any initiatives undertaken as a result of the review conducted under subsection (a), the Attorney General, in consultation with the Director of the Federal Bureau of Investigation, shall ensure that—

(1) each CHIP unit is assigned at least 2 additional agents of the Federal Bureau of Investigation to support such unit for the purpose of investigating intellectual property crimes;

(2) each CHIP unit is assigned at least 1 additional assistant United States attorney to support such unit for the purpose of prosecuting intellectual property crimes or other crimes involved in counterfeiting or piracy activities;

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

(4) an operational unit is created consisting of not less than 5 agents of the Federal Bureau of Investigation, attached to the headquarters of the Federal Bureau of Investigation in Washington, DC, and dedicated to working with the Intellectual Property Enforcement Division established by section 501 on the development, investigation, and coordination of complex, multi-district, and international criminal intellectual property cases.

(c) COORDINATION WITH STATE AND LOCAL AUTHORITIES.—The United States attorney for each Federal judicial district in which a CHIP unit is in operation shall ensure that the activities of that unit are coordinated with the corresponding activities of State and local law enforcement agencies operating within that Federal judicial district in the investigation of intellectual property crimes and other crimes involved in counterfeiting or piracy, including by coordinating Federal, State, and local operations and intelligence sharing to the extent appropriate.

(d) ADDITIONAL RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation as appropriate, shall ensure the following:

(1) All agents of the Federal Bureau of Investigation, and all assistant United States attorneys, who are assigned to CHIP units have received advanced training, on an annual basis, in the investigation and prosecution of intellectual property crimes and other crimes involved in counterfeiting and piracy.

(2) A comprehensive training program on the development and investigation of criminal offenses involved in counterfeiting and piracy is provided for all agents of the Federal Bureau of Investigation.

(3) All relevant units of the Department of Justice are allocated sufficient funding and other resources as may be necessary to provide expert computer forensic assistance, including from nongovernmental entities, in investigating and prosecuting intellectual property crimes in a timely manner. For purposes of this paragraph, the term "all relevant units" includes those officers and employees assigned to carry out the functions transferred by section 502(a)(1), CHIP units, offices of the United States attorneys, and units of the Federal Bureau of Investigation that are engaged in the investigation of intellectual property crimes.

SEC. 513. TRANSPARENCY OF PROSECUTORIAL DECISIONMAKING.

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

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

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

(A) to ensure that significant violations are not being declined for prosecution inappropriately; or

(B) in light of the broader impact of individual cases on the overall strategy to combat counterfeiting and piracy; and

(3) to review the practices and procedures currently in place for providing information to complainants and victims in cases and investigations involving criminal violations of intellectual property laws regarding the status of such cases and investigations, including the practices and procedures for apprising interested parties of the decision to decline prosecution of such cases.

(b) CONSTRUCTION.—(1) Nothing in this section shall be construed to impinge on the appropriate exercise of prosecutorial discretion with regard to cases involving criminal violations of intellectual property laws or to require the promulgation of formal standards or thresholds regarding prosecution of any cases.

(2) Nothing in the section shall give rise to any claim, cause of

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

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

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

Subtitle C—International Activities

SEC. 521. INTERNATIONAL INTELLECTUAL PROPERTY LAW ENFORCEMENT COORDINATORS.

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

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

(2) Performing outreach and training to build the enforcement capacity of foreign governments against intellectual property-related crime in the regions in which the coordinators serve.

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

(4) Coordinating with the activities of the intellectual property attachés appointed under title IV in the countries or regions to which the coordinators are deployed.

(5) Coordinating the activities of the coordinators with the IP Officer.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary for the deployment and support of all International Intellectual

Property Enforcement Coordinators of the Department of Justice, including those deployed under subsection (a).

SEC. 522. INTERNATIONAL TRAINING ACTIVITIES OF THE COMPUTER CRIME AND INTELLECTUAL PROPERTY SECTION.

(a) INCREASED TRAINING AND TECHNICAL ASSISTANCE TO FOREIGN GOVERNMENTS.—The Attorney General shall increase the efforts of the Department of Justice to provide training and technical assistance to foreign governments, including foreign law enforcement agencies and foreign courts, to more effectively combat counterfeiting and piracy activities falling within the jurisdiction of such governments.

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

(c) PRIORITY COUNTRIES.—The Attorney General, in providing increased training and technical assistance programs under this section, shall give priority to those countries where such programs can be carried out most effectively and with the greatest likelihood of reducing counterfeit and pirated products in the United States market, of protecting the intellectual property rights of United States persons, and of protecting the interests of United States persons otherwise harmed by violations of intellectual property rights in those countries.

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

Subtitle D—Coordination, Implementation, And Reporting

SEC. 531. COORDINATION.

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

SEC. 532. ANNUAL REPORTS.

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