

White Collar Crime - USA

Global Enforcement of IP Crimes Continues as High Priority

Contributed by **Sideman & Bancroft LLP**

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'Operation Site Down' IP Infringements in China Comment

In March 2004 a Taskforce on Intellectual Property was created by the US Department of Justice. In October 2004 the taskforce issued a report containing a series of recommendations designed to increase cooperation between nations in the prosecution of international IP crimes (for further details please see "[IP Taskforce Recommendations on International Cooperation](#)"). As two recent developments indicate, the United States' commitment to the international protection of IP rights through criminal investigations and prosecutions continues under the leadership of new Attorney General Alberto Gonzales.

'Operation Site Down'

The illegal distribution over the Internet of copyrighted software, movies, music and games is a widespread and growing international problem, resulting in billions of dollars of losses to the copyright industry each year. Three separate undercover investigations conducted by the Federal Bureau of Investigation have identified 120 leading members of underground online piracy organizations. On June 29 2005 these investigations resulted in the simultaneous execution of 90 search warrants in the United States, Canada, Israel, France, Belgium, Denmark, the Netherlands, Germany, Portugal and Australia. As a result of these searches, at least eight major online distribution sites were dismantled and pirated works with a value of over \$50 million were seized.

These investigations, dubbed 'Operation Site Down' by US law enforcement agencies, reflect the Department of Justice's continued efforts to dismantle and prosecute international criminal organizations that commit IP crimes. The international cooperation that resulted in the coordinated execution of search warrants worldwide is impressive and certainly foreshadows further IP investigations and prosecutions.

IP Infringements in China

On July 11 2005, in response to serious US concerns about the enforcement of IP rights in China, the United States and China's Joint Commission on Commerce and Trade announced a number of significant agreements aimed at increasing criminal prosecutions for IP crimes. The measures agreed include the following:

- China will increase the number of criminal prosecutions in cases of IP rights infringement relative to the number of administrative cases relating to IP rights infringement;
- The Chinese Ministry of Public Security and the General Administration of Customs will issue regulations to ensure the timely transfer of cases for criminal investigation, with the goal of reducing exports of infringing goods through increased criminal prosecution;

- The Chinese Ministry of Public Security has established a group responsible for overall research, planning and coordination of all criminal enforcement of IP infringements to ensure a coordinated nationwide effort; and
- The United States and China will immediately establish a bilateral IP infringement working group comprised of law enforcement officials from both countries. Its members will cooperate to reduce cross-border infringement through the exchange of infringement data and information regarding significant seizures.

Comment

The United States is committed to the investigation and prosecution of IP crimes worldwide. Operation Site Down and the agreements with China are proof of that commitment. International legal practitioners representing foreign defendants charged with IP crimes should familiarize themselves with these increased efforts at global criminal enforcement. They may wish to consult US counsel for advice on the practical ramifications of these increased efforts as they relate to the prosecution of foreign citizens in US courts and prosecutions as a result of US investigations.

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