

WRITTEN STATEMENT OF ASHIFI GOGO, PH.D.  
CHIEF EXECUTIVE OFFICER OF SPROXIL, INC.

BEFORE THE U.S. SENATE COMMITTEE ON THE JUDICIARY HEARING ON  
“INTELLECTUAL PROPERTY – DRIVER OF INNOVATION: MAKING OUR LIVES  
HEALTHIER, SAFER, AND MORE PRODUCTIVE”

APRIL 25, 2017

Chairman Grassley, Ranking Member Feinstein, and Members of the Judiciary Committee, thank you for the opportunity to share my thoughts today.

I am Ashifi Gogo, the founder and Chief Executive Officer of Sproxil, a mobile software company that enables brand owners to engage with consumers to earn and grow brand loyalty while protecting the brand from intellectual property fraud, including counterfeiting and theft. Consumers in five countries have already used our service over 55 million times to verify at the point of sale whether a product is from the original manufacturer, or whether it is of suspicious origin and may harm them. Our innovative use of loyalty campaigns to engage consumers in the fight against illicit trade and intellectual property fraud has earned us numerous awards. Sproxil has been named Fast Company’s most innovative company in healthcare and seventh most innovative worldwide in 2013, beating 99 of the Fortune 100 companies. That same year, Sproxil won a Patents for Humanity award from the United States Patent and Trademark Office for using our intellectual property to save lives globally and protect consumers from harmful counterfeit pharmaceuticals.

I am particularly familiar with the topics of innovation, entrepreneurship and practical strategies for protecting intellectual property in both industrialized and developing economies. Among the multiple granted and pending patent applications covering my inventions, I am a named inventor on a granted US patent for an advanced silicon on insulator laser speckle detector that excels at detecting minute vibrations. I graduated from the Thayer School of Engineering at Dartmouth College as its first ever Ph.D. Innovation Fellow. I also teach a course at Columbia University School of Professional Studies on how to protect an innovative idea and secure funding to turn it into a sustainable business — encouraging technology professionals to use entrepreneurship and intrapreneurship to bring their ideas to life.

At Sproxil, fighting counterfeiting puts us at the center of several intellectual property issues, including falsified products that frequently violate copyrights, infringe on registered marks and disregard patent rights. We unearth those issues by enabling consumers to use their own cell phone to determine whether a product is genuine or not. On each product the consumer wishes to purchase, the consumer reveals a unique code that determines whether the product has legitimate intellectual property rights, and with their cell phone, send that code to Sproxil for instant verification. Consumers can thus avoid those products that are of suspicious origins, and more importantly, likely to be harmful. In the process, the tens of millions of consumers on our platform actively direct their spending to discourage, and ultimately defeat, operations that thrive

on intellectual property violations. Through our platform, legitimate intellectual property right holders have given away over two million dollars in prizes directly to consumers to thank them for their authentic purchases, creating a sustainable model for keeping intellectual property violators outside formal commercial channels.

As we scale up and expand our operations to new countries and industries, we have experienced attacks on our own intellectual property. With operations in 8 countries that have varying degrees of institutional support for intellectual property rights, we carefully considered the range of protection options that are practical and effective in both industrialized and developing economies. For emerging multinationals like Sproxil, small and medium-sized businesses and individual inventors, gaining strong protection via patents in today's environment requires notable upfront capital and know-how. However, even when secured, intellectual property rights require further investments from the rights holder to enforce their rights, which is often burdensome to less-resourced entities. The situation led us to optimize our protection strategy to place a stronger emphasis on trademarks, trade secrets and copyrights, while investing more resources in our execution speed to outpace our competition.

Our strategy is paying off. In 2014, we noticed a product available on Alibaba, the global e-commerce platform, offered by Wenzhou Haoge Anti-counterfeit Technology Company Limited which infringed on our registered trademarks. We had previously registered "Sproxil" as a trademark in China and we successfully worked with Alibaba to delist the infringing supplier's product. That same year, we noticed a competitor had registered an Internet domain name in the United Kingdom bearing our company's name. I will spare you details of the irony in an anti-counterfeit technology company's attempt to "counterfeit" a competitor's brand. Within three months, we were able to gain control of the domain through a cost-effective independent dispute resolution process, thanks to registering our mark "Sproxil" in the EU. We have also used mediation to protect our intellectual property under similar circumstances in India, with positive outcomes.

These risks we faced could have had a materially negative impact on our business. However, using a broad portfolio of intellectual property protection options accessible to small and medium-sized businesses, we have successfully defended our intellectual property on multiple continents and we are able to continue offering our life-saving services to millions of consumers and patients around the world.

What can be done to make defending intellectual property rights more effective?

1. Secure supply chains and educate consumers to drive purchase decisions which make intellectual property theft unprofitable
2. Encourage partnerships between global e-commerce websites, content distribution platforms and law enforcement
3. Increase interagency and private sector collaboration using technology platforms to securely share intelligence

## **Secure Supply Chains and Educate Consumers**

In general, intellectual property violators continue to be profit-driven. However, such profits have frequently been linked to organized crime and terrorism, which impact society more broadly.<sup>1</sup> It is possible for intellectual property violation tactics such as counterfeiting to cause greater harm to society by compromising trust in institutions, creating apprehension that increases the transactional cost of trade, and exposing people to personal harm. By infiltrating supply chains with indiscernible yet toxic merchandise, adversaries who seek to harm people at any cost could create lasting damage by seeding widespread concern among consumers with a long-term negative impact on the trust between brands, citizens and their governments around the world.

Investments in securing supply chains through chain of custody pedigrees, combined with consumer-facing education on the risks associated with purchasing inauthentic products could help to reduce the impact of such a threat by defunding criminal activity and simultaneously making it more expensive to carry out such attacks.

## **Partnerships with Platforms**

In today's digital economy, a number of merchandise and digital content distribution channels have risen to prominence. Companies such as Amazon.com and Alibaba, in collaboration with rights holders and government agencies, can provide a secure channel to authentic merchandise, enabling consumers to avoid supporting intellectual property theft unknowingly. Similarly, research shows that music piracy is reduced when artists offer their songs broadly on music streaming platforms that make it easy to enjoy music, sometimes for free, without breaking the law.<sup>2</sup>

Increased collaboration between law enforcement and distribution platforms is beginning to show results. In response to a suspension from the International Anti-Counterfeiting Coalition (IACC) due to concerns around facilitating the trade in stolen intellectual property, Alibaba formed the "Big Data Anti-Counterfeiting Alliance" last year in partnership with over 20 major consumer-facing brands. Using artificial intelligence and Alibaba's large repository of information on global trade, Chinese law enforcement teams worked with Alibaba to arrest 332 suspects, shut down 417 production rackets and confiscate over \$200 million in fake goods.<sup>3</sup>

## **Collaborating with Competitors**

Products that violate intellectual property rights do not hold specific nationalities and frequently can travel across borders visa-free. Without collaboration between law enforcement, customs, patent and trademark offices, brand owners and consumer advocacy groups, enterprising

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<sup>1</sup> FICCI CASCADE, Ernst & Young. *Counterfeiting, piracy and smuggling: Growing threat to national security*.

[http://www.ey.com/Publication/vwLUAssets/EY-Government-and-Public-Sector-Growing-threat-to-national-security-an-analysis/\\$File/EY-Counterfeiting-piracy-and-smuggling-Growing-threat-to-national-security.pdf](http://www.ey.com/Publication/vwLUAssets/EY-Government-and-Public-Sector-Growing-threat-to-national-security-an-analysis/$File/EY-Counterfeiting-piracy-and-smuggling-Growing-threat-to-national-security.pdf). Last accessed on April 24, 2017.

<sup>2</sup> Aguiar, L. & Waldfoegel, J. (2015). *Streaming Reaches Flood Stage: Does Spotify Stimulate or Depress Music Sales?* Institute for Prospective Technological Studies.

<sup>3</sup> Counterfeiters Can Run, But Can't Hide From Alibaba's Big Data. <http://www.alizila.com/alibabas-big-data-means-counterfeiters-can-run-cant-hide-ipr-enforcement/>. Last accessed on April 24, 2017.

counterfeiters with swift operations can out-manuever enforcement agencies and continue to profit from their trade. New technology platforms, such as Interface Public-Members (IPM) championed by the World Customs Organization, allows brand owners to securely share intellectual property on product authentication features to enable customs officers in over 80 countries to verify products before admission. Patent and trademark offices around the world could authenticate intellectual property claims by brand owners, and law enforcement can act on intelligence derived from the platform.

The success of such a platform is amplified by collaboration among traditional competitors. A counterfeiter who makes a white pill or brown leather handbag can place a variety of infringing marks on the final product, impacting several different rights holders. It is in the common interest of industry to collaborate strongly to empower enforcement agencies with timely information that targets violators of intellectual property rights.

I would like to conclude with a brief look at history. In his book, *"Making a Killing,"* economist Roger Bate refers to records from the second century BC that narrate one of the earliest documented cases of intellectual property rights violation (as known today). A Gallic winemaker attempted to disguise his cheap wine as a premium brand. He replicated the premium wine stopper's design, but since he was illiterate, his attempt to faithfully duplicate the premium wine maker's name on the stopper resulted in illegible marks that compromised his plan. From its small-scale beginnings, the trade in counterfeit and pirated goods has grown to an estimated \$461 billion dollar global industry, according to the Organisation for Economic Co-operation and Development (OECD).<sup>4</sup> The World Economic Forum and the OECD also report that falsified drugs increase global microbial resistance and lead to over 700,000 deaths annually.<sup>5,6</sup>

Our society needs greater awareness and broad agreement to align our collective actions to reject support for intellectual property violators. We need to promote the discovery of new knowledge and innovations by individuals, corporations, research entities and various other legitimate organizations, both large and small. I continue to believe that technology can play a key role as we work together to achieve that goal.

Thank you for your time. I welcome the opportunity to answer your questions.

Ashifi Gogo, Ph.D.

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<sup>4</sup> OECD (2016) *Trade in Counterfeit and Pirated Goods - Mapping the Economic Impact*. <http://www.oecd.org/gov/risk/trade-in-counterfeit-and-pirated-goods-9789264252653-en.htm>. Last Accessed on April 24, 2017.

<sup>5</sup> OECD (2016), *Illicit Trade: Converging Criminal Networks*, OECD Publishing, Paris. DOI: <http://dx.doi.org/10.1787/9789264251847-en>. Last Accessed on April 24, 2017.

<sup>6</sup> World Economic Forum (2015), *State of the Illicit Economy* [http://www3.weforum.org/docs/WEF\\_State\\_of\\_the\\_Illicit\\_Economy\\_2015\\_2.pdf](http://www3.weforum.org/docs/WEF_State_of_the_Illicit_Economy_2015_2.pdf). Last Accessed on April 24, 2017.