

Statement of

# The Honorable Patrick Leahy

United States Senator  
Vermont  
March 23, 2004

Statement Of Senator Patrick Leahy  
Hearing In The Senate Judiciary Committee  
"Counterfeiting And Theft Of Tangible Intellectual Property:  
Challenges And Solutions"  
March 23, 2004

I want to thank Senator Specter and Senator Hatch for agreeing to hold this hearing, which will address an issue of tremendous importance to many consumers, workers and businesses in our beleaguered economy. The committee has spent time in recent years focusing on the many problems of intangible piracy, particularly the theft of copyrighted works on the Internet, but I am pleased the committee will also address the problems of tangible piracy: knock-off goods that violate the rights inhering in trademarks, patents and copyrights, which deprive the owners of the fruits of their efforts and investments, and present consumers with shoddy and sometimes dangerous products.

Several years ago, Senator Hatch joined me in sponsoring the "Anticounterfeiting Consumer Protection Act of 1996," which addressed just this type of piracy by amending several sections of our criminal and tariff codes. While that law made important changes, particularly by expanding RICO, the federal antiracketeering law, to cover crimes involving counterfeiting and copyright and trademark infringement, more enforcement is needed in light of these pernicious practices involving the theft of goods based on intellectual property rights. Then, as now, trafficking in counterfeit goods hurts purchasers, State and federal governments, and economies at every level. Indeed, this form of theft has become a method of choice for organized crime syndicates - and more recently terrorist organizations - for profit, and to launder money to fund their criminal activities.

Just last year, I joined with Senator Allen in sponsoring an amendment to the Foreign Operations Bill for 2004, which will provide \$2.5 million to the State Department in order to establish programs that will help developing nations protect intellectual property rights. These programs will strengthen local intellectual property laws, educate and train law enforcement officers, and enhance the ability of customs officials to combat trafficking in pirated goods. This measure will give flexibility to the people who are actually combating piracy in the field, so that they can take whatever steps may be appropriate where they are. I hope we can find additional solutions to intellectual property piracy and counterfeiting. I look forward to hearing from Mr. Wayne about how this program is being implemented at the State Department, and what further steps might be useful to law enforcement in combating this form of theft.

Consumers feel the effects of counterfeit goods when they think they are buying a "brand name" product but end up with a shoddy imitation instead. We will be hearing today from Vanessa Price of Burton Snowboards who will bring home the damage this kind of theft creates. Although I am disturbed at the story she has to tell, I thank her for being with us today. Burton is a small company, whose innovation has made it an industry leader in snowboarding equipment and apparel. Unfortunately, knock-off products labeled "Burton" can be seen around the world. This theft and free-riding on the reputation of such a creative company threatens to undermine the years of effort of many hard-working Vermonters.

Similar stories are becoming all too familiar in my office. SB Electronics in Barre has seen its capacitors reverse engineered and its customers lost to inferior copycat models. Likewise, Vermont Tubbs, a furniture manufacturer in Rutland, has seen its designs copied, produced offshore with inferior craftsmanship and materials, and then reimported to undermine its own sales. Hubbardton Forge in Castleton, Vermont has seen its beautiful and original lamps counterfeited and then sold within the United States at prices - and quality - far below their own.

The means by which illegal knockoff producers will go to copy a design are astounding - all the more for the harm they inflict. At one trade show where cameras were prohibited, a competitor hired the night cleaning crew to take pictures of the showcased furniture.

In some cases, counterfeit goods can pose a significant public health risk. According to the International Anti-Counterfeiting Coalition, counterfeit parts have been discovered in helicopters sold to NATO, in jet engines, bridge joints, and fasteners in equipment designed to prevent nuclear reactor meltdowns. We have all seen news stories about counterfeit pharmaceutical drugs.

The economic impact of tangible piracy in counterfeit goods is estimated to be roughly \$350 billion a year and to constitute between 5 percent and 7 percent of worldwide trade. The United States is the world leader in intellectual property. Accordingly, knockoffs of American products account for a disproportionate percentage of that amount. In 2002, the movie industry lost \$3.5 billion in pirated videos, a 60 percent jump from 1997. In a study examining the impact of counterfeiting on trademarks, researchers for the International Trademark Association estimated that trademark holders worldwide lost \$2 billion in 1995, as a result of trademark infringement and counterfeiting.

In addition to depriving patent, copyright, and trademark holders of the compensation owed to them, the commerce in counterfeit goods robs the U.S. economy of jobs and tax revenue. The Business Software Alliance estimates that pirated software alone cost the U.S. economy 118,000 jobs and \$5.7 billion in lost wages in 2000. In Vermont, the State lost \$15.3 million in retail sales of software alone in 2002, which translated into 267 fewer jobs and \$3.6 million in lost tax revenue. And that is just from computer software. Think of the effects on jobs and on State and local tax revenue.

Another grim aspect of this problem is the link between organized crime and counterfeit goods. We are now learning more about the relationship between terrorism and this form of intellectual property theft, as well. According to the U.S. Customs Service, terrorists have used transnational counterfeiting operations to fund terrorist activities: The sale of counterfeit and pirated music, movies, software, tee-shirts, clothing, and fake drugs "accounts for much of the money the international terrorist network depends on to feed its operations."

There are thousands of reasons to work harder to end the trafficking in counterfeit goods - thousands of jobs lost, consumers harmed, trademarks and patents infringed, businesses threatened, and illegal enterprises enriched. I look forward to hearing from the Administration witnesses about the efforts they have made over the last three years to curtail these effects.

#####