

<b>Question#:</b>	1
<b>Topic:</b>	China Update
<b>Hearing:</b>	Intellectual Property - Driver of Innovation: Making Our Lives Healthier, Safer, and more Productive
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Last year, in the context of a hearing on enforcement issues related to counterfeiting, I raised the point that during the Joint Commission on Commerce and Trade - JCCT -negotiation sessions, both the U.S. and China agreed to work on the online enforcement challenges that we have. This is a bilateral dialogue that the United States government engages in with China at the ministerial/secretarial level, vice-ministerial, and staff levels. Are there any updates regarding China's willingness to address the problems of counterfeit products and intellectual property infringement that the IPR Center can provide?

**Response:** The Joint Commission on Commerce and Trade (JCCT) is focused on U.S.-China commercial and trade issues, and as a result, U.S. Customs and Border Protection, as well as the Department of Homeland Security (DHS) Office of Policy, serve as the DHS representatives in these sessions. U.S. Immigration and Customs Enforcement (ICE) does not participate in the JCCT because the ICE mission is primarily law enforcement focused. ICE does, however, engage in dialogue regarding National Intellectual Property Rights Coordination Center enforcement with both the General Administration of China Customs and the Chinese Ministry of Public Security through other mechanisms, such as the Department of Justice-led Joint Liaison Group.

<b>Question#:</b>	2
<b>Topic:</b>	Big Data Anti-Counterfeiting Alliance
<b>Hearing:</b>	Intellectual Property - Driver of Innovation: Making Our Lives Healthier, Safer, and more Productive
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Dr. Gogo of Sproxil mentioned during the hearing that “in response to a suspension from the International Anti-Counterfeiting Coalition due to concerns around facilitating the trade in stolen intellectual property, the Chinese e-commerce site Alibaba formed the ‘Big Data Anti-Counterfeiting Alliance’ last year.” What has the IPR Center’s experience with this effort been? Do significant concerns still exist with this platform?

**Response:** The National Intellectual Property Rights Coordination Center (IPR Center) has prioritized engagement with the e-commerce industry and online marketplaces. In furtherance of this priority, the IPR Center conducted outreach to several e-commerce companies in third party seller marketplaces such as Amazon, Alibaba, OfferUp, and e-commerce webhosts such as Shopify, as well as popular online auction sites such as eBay.

At the 27th JCCT ministerial-level meetings, the United States and China committed to “explore the use of big data and other new information technologies to enhance the capability for combating infringement and counterfeiting online.” The United States Patent and Trademark Office (USPTO) has established a China Resource Center to review data-driven analyses of China’s IP environment, and assist other U.S. Government agencies and industries in analyzing China’s IP environment.

As it specifically pertains to Alibaba, the Office of the United States Trade Representative (USTR), with the support of other agencies, annually develops the Notorious Markets List (the “List”), which identifies online and physical marketplaces that reportedly engage in and facilitate substantial copyright piracy and trademark counterfeiting. USTR requests written comments from the public identifying Internet and physical markets based outside the United States that should be included in the List and consults the federal agencies that serve on the Special 301 Subcommittee of the Trade Policy Staff Committee. The IPR Center serves as one of the U.S. Department of Homeland Security representatives to that subcommittee.

Alibaba was first included in the 2008 Special 301 Report for facilitating the sale of counterfeit and pirated goods. They remained on the list until 2012. In 2013, Taobao assured stakeholders that they are working to address issues. In 2014, the Alibaba Group provided comments to the USTR indicating that they continue to address stakeholder complaints on this issue. In December 2016, USTR published the “2016 Out-of-Cycle Review of Notorious Markets,” and named Taobao.com, Alibaba’s consumer-to-consumer marketplace, as “an important concern due to the large volume of allegedly

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counterfeit and pirated goods available.” The report points to its lack of responsiveness to industry complaints to takedown counterfeit goods and states that “current levels of reported counterfeiting and piracy are unacceptably high.”

The IPR Center has met with representatives from Alibaba on two occasions, and continues to engage them about counterfeit goods on their platforms. The IPR Center anticipates meeting with representatives from Alibaba again in the coming months.

One of the items that the IPR Center intends to discuss with Alibaba is the Big Data Anti-Counterfeiting Alliance following their return to the Out-of-Cycle Review of Notorious Markets. Media coverage of the Alliance reports that Alibaba is encouraging information sharing, the use of data analytics, and proactive efforts on behalf of industry to combat counterfeits. These are concepts the IPR Center has promoted as well, and we look forward to learning more about the program and whether it has produced a noticeable difference in Alibaba’s online presence.

The IPR Center closely works with the USPTO using empirical data to tracking China’s complicated IP enforcement environment. Purposes served by this data-driven effort include assessing the effectiveness of enforcement efforts initiated by the Chinese government and companies such as Alibaba, as well as holding companies such as Alibaba accountable in reporting meaningful result-oriented data.

<b>Question#:</b>	3
<b>Topic:</b>	Intellectual Property Infringement
<b>Hearing:</b>	Intellectual Property - Driver of Innovation: Making Our Lives Healthier, Safer, and more Productive
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** What is the IPRC doing to combat intellectual property infringement and theft in the Third Party marketplace?

**Response:** The National Intellectual Property Rights Coordination Center (IPR Center) has prioritized engagement with the e-commerce industry and online marketplaces. In furtherance of this priority, the IPR Center has engaged several e-commerce companies in the third party seller marketplaces such as Amazon, Alibaba, OfferUp, and e-commerce webhosts such as Shopify, as well as popular online auction sites such as eBay. While outreach and training have been effective, this collaboration requires an ongoing dialogue so as to have a substantial impact on the sale of counterfeit items.

#### *Amazon*

In 2012, the IPR Center initiated a dialogue with Amazon regarding its marketplace and collaboration with law enforcement to reduce the sale of counterfeit merchandise, especially dangerous goods, on its platform. The IPR Center has maintained contact and collaborated with Amazon over the past 5 years in an effort to not only expedite the removal of counterfeit merchandise from their marketplace, but also to enhance the real-time information exchange with law enforcement. Additionally, the IPR Center helped arrange a meeting between the automotive industry and Amazon, and as a result, Amazon now bans the sale of airbags and airbag covers on their platform as the original equipment manufacturers do not sell airbags or airbag covers on online marketplaces due to the health and safety risks posed by counterfeit airbags.

#### *Alibaba/Taobao/Tmall*

The Office of the United States Trade Representative (USTR) annually publishes the Notorious Markets List (the "List"), which identifies Internet and physical markets based outside of the United States that reportedly engage in and facilitate substantial copyright piracy and trademark counterfeiting.

USTR develops the List based upon public comments solicited through the Federal Register and in consultation with other federal agencies that serve on the Special 301 Subcommittee of the Trade Policy Staff Committee. The IPR Center participates as one of the Department of Homeland Security's representatives to the subcommittee.

Alibaba was first included in USTR's 2008 Special 301 Report for facilitating the sale of counterfeit and pirated goods. It remained on the list until 2012. In 2013, Taobao.com, Alibaba's consumer-to-consumer marketplace, assured stakeholders that it was working

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to address this issue. In 2014, the Alibaba Group provided comments to USTR indicating that that it was continuing to address stakeholder complaints on this issue. In December 2016, USTR published the “2016 Out-of-Cycle Review of Notorious Markets” List and named Taobao.com “an important concern due to the large volume of allegedly counterfeit and pirated goods available.” The List notes Alibaba’s lack of responsiveness to industry complaints to take down counterfeit goods and states that “current levels of reported counterfeiting and piracy are unacceptably high.”

The IPR Center has met with representatives from Alibaba on two occasions, and continues to engage them about counterfeit goods on their platforms. The IPR Center anticipates meeting with representatives from Alibaba in the coming months.

#### *EBay and Others*

In recent months, the IPR Center has initiated engagement with other e-commerce entities including eBay, Shopify, and OfferUp.com. The IPR Center continues to work with these companies to identify and inform them about counterfeit goods on their respective platforms. Additionally, the IPR Center conducted similar outreach to Facebook about the Facebook Marketplace.

<b>Question#:</b>	4
<b>Topic:</b>	Best Practices
<b>Hearing:</b>	Intellectual Property - Driver of Innovation: Making Our Lives Healthier, Safer, and more Productive
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** What are the IPRC’s best practices concerning its relationship with industry, and what type of international training do you provide?

**Response:** The National Intellectual Property Rights Coordination Center (IPR Center) routinely interacts with the private sector on a number of roles. The IPR Center routinely receives intelligence and leads from the private sector to identify viable targets for potential criminal investigations. One avenue for this is the IPR Center “Report IP Theft Button” which can be placed on industry websites. Clicking on this button directs the individual to the IPR Center website and allows them to report potential intellectual property (IP) violations. Potential leads are then analyzed and deconflicted with IPR Center partner agencies for further action. The IPR Center routinely hosts industry meetings to discuss potential areas of concern and to identify potential trends concerning IP theft. In addition to rights holders, the IPR Center also works with others in the e-commerce industry to include online third party seller marketplaces (such as Amazon, Alibaba, OfferUp) as well as payment platforms (such as Visa, MasterCard, and PayPal), all of which are legitimate businesses utilized by criminal organizations to facilitate this illicit activity.

Finally, the IPR Center actively engages industry in our outreach and training programs. These training programs are interactive workshops led by subject matter experts, whose focus, on counterfeit items such as pharmaceuticals, electronics, automotive parts, health and beauty products, in an effort to address health and safety concerns.

The IPR Center works closely with all partner agencies including the Department of State, Bureau of International Narcotics and Law Enforcement Affairs; Department of Commerce, U.S. Patent and Trademark Office; as well as international partners such as INTERPOL and Europol to provide international training and outreach to help build the enforcement capacity of foreign law enforcement agencies, and to act as a central point of contact for engagement on enforcement and policy matters. The IPR Center also supports industry-led training by groups such as the International Anti-Counterfeiting Coalition and the Automotive Anti-Counterfeiting Council.

<b>Question#:</b>	5
<b>Topic:</b>	Reaching Out to Start-Ups
<b>Hearing:</b>	Intellectual Property - Driver of Innovation: Making Our Lives Healthier, Safer, and more Productive
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Does the IPR Center have a strategy to reach out and work with start-ups to stop intellectual property theft?

**Response:** While The National Intellectual Property Rights Coordination Center (IPR Center) does not, at this time, have a strategy which focuses specifically on start-ups, the very nature of the IPR Center's efforts support entrepreneurship. The IPR Center has vigorous interaction with industry to safeguard their intellectual property through direct outreach, industry coalitions such as the International Anti-Counterfeiting Coalition and the Automotive Anti-Counterfeiting Coalition, industry events, and other active work with all industry including start-ups.

IPR Center partner agencies perform outreach in cities such as Boston, Detroit, and San Francisco, all of which have significant start-up communities.

<b>Question#:</b>	6
<b>Topic:</b>	Sale and Transport of Counterfeit Goods
<b>Hearing:</b>	Intellectual Property - Driver of Innovation: Making Our Lives Healthier, Safer, and more Productive
<b>Primary:</b>	The Honorable Christopher Coons
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** The internet has made it increasingly easy for sellers to ship counterfeit goods directly to customers through the mail, with few opportunities for discovering their crimes and often without customers’ knowledge. Are there further steps that Congress could take to help the National Intellectual Property Rights Coordination Center prevent the sale and transport of counterfeit goods?

**Response:** Technology as it pertains to the manufacturing, sale, and shipment of goods is changing at a rapid pace. This requires law enforcement to also change and adapt. As this environment changes, U.S. Immigration and Customs Enforcement (ICE) and its partner agency U.S. Customs and Border Protection (CBP) work closely to target counterfeit and other illicit goods crossing the borders, including through the co-location of personnel at Trade Enforcement Coordination Centers (TECC) in Los Angeles, New York/Newark, Detroit, New Orleans, Houston, El Paso, San Juan, Buffalo, Baltimore, and Chicago Ports of Entry. The TECCs enhance communication and combine resources to identify and combat trade fraud and intellectual property crime. The TECCs proactively identify, interdict, and investigate inbound cargo that may enter U.S. commerce in violation of U.S. customs and trade laws. TECCs ensure joint CBP and ICE oversight and prioritization of the enforcement and interdiction process in the local area, and involve ICE early in the enforcement process. The National Intellectual Property Rights Coordination (IPR) Center also has agents who sit full-time at the National Cyber-Forensics and Training Alliance (NCFTA) in Pittsburgh, Pennsylvania. The NCFTA is a non-profit organization, which brings together experienced personnel from academia, law enforcement, and industry. By merging a wide range of expertise in one location, the NCFTA provides a neutral forum for information sharing regarding emerging and ongoing threats.

One big challenge that lies ahead is the use of e-commerce platforms with a business-direct-to-consumer business model that utilizes the express mail environment. There are numerous weaknesses in this model that counterfeiters can exploit. While technology and innovation play an essential role in combatting intellectual property crimes, one of the most effective approaches the IPR Center uses is old fashioned outreach—talking to the public about the dangers of counterfeit products and pirated content.

One of the most effective approaches law enforcement can have is an education platform to raise consumer awareness of the impact that illicit goods can have on the health and safety of our citizens. Additionally, illicit goods have a negative economic impact for our country as they will reduce demand. Therefore, continued support for existing programs



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as well as developing new programs to interdict and educate are essential to success in this fight.

<b>Question#:</b>	7
<b>Topic:</b>	Working with Foreign Law Enforcement
<b>Hearing:</b>	Intellectual Property - Driver of Innovation: Making Our Lives Healthier, Safer, and more Productive
<b>Primary:</b>	The Honorable Christopher Coons
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** To what extent does the National Intellectual Property Rights Coordination Center work directly with foreign law enforcement officials to help stop the trafficking of counterfeit goods? Are there actions Congress could take to help facilitate further cooperation?

**Response:** The National Intellectual Property Rights Coordination Center (IPR Center) brings together 23 key federal and international agencies in a task force setting using a three-pronged approach to combat intellectual property and trade crime: interdiction, investigation, and outreach to the public and law enforcement. In addition to its 19 U.S. partner agencies, the IPR Center also hosts four international components to include INTERPOL, Mexico's Tax and Customs Administration Service, the Royal Canadian Mounted Police, and Europol. The presence of these international components gives IPR Center partner agencies direct and immediate interaction with regard to intelligence sharing and deconfliction, as well as operational and direct investigative support. Additionally, U.S. Immigration and Customs Enforcement routinely coordinates international efforts through its Attaché network with over 250 investigators in 66 offices and 8 Department of Defense liaisons in 47 countries. Finally, the IPR Center works closely with the Department of State, Bureau of International Narcotics and Law Enforcement Affairs as well as our international partners such as INTERPOL and Europol, to provide international training and outreach efforts to build the enforcement capacity of foreign law enforcement agencies, and acts as a central point of contact for engagement on enforcement and policy matters.

Continued support for existing efforts and international outreach, as well as the development of new programs to interdict domestically and abroad are essential to success in this fight.

<b>Question#:</b>	8
<b>Topic:</b>	Women's Issues
<b>Hearing:</b>	Intellectual Property - Driver of Innovation: Making Our Lives Healthier, Safer, and more Productive
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Last year, a report the Institute for Women’s Policy Research (IWPR) that found that at the current rate of progress, women inventors will not reach parity in patenting until 2092. Only 18.8 of all patents had at least one women inventor in 2010. In addition, where women are the primary inventor, their patents are concentrated in areas such as travel goods, personal belongings, jewelry, and apparel.

What is your company doing to encourage more innovation by women?

In an article in the April 2017 issue of the Atlantic, entitled “Why is Silicon Valley So Awful to Women?”, the author cites a report from the Center for Talent Innovation which found that when women drop out of tech, it is not typically for family reasons or because they dislike the work. Rather, they drop out for reasons such as feeling stalled in their career or undermining behavior from managers.

What best practices do you use at your company to encourage women to remain at your company and support them in pursuing patents for the work they are doing?

**Response:** The National Intellectual Property Rights Coordination Center respectfully notes this question is not applicable to a government entity, and requests it be deferred to the industry panelists for response.

<b>Question#:</b>	9
<b>Topic:</b>	Collaboration with Online Marketplaces
<b>Hearing:</b>	Intellectual Property - Driver of Innovation: Making Our Lives Healthier, Safer, and more Productive
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** The proliferation of the internet and online shopping has enabled counterfeiters to sell millions of dollars of fake merchandise each year. This past February, The Chicago Tribune reported that in 2016 the government seized \$1.38 billion in counterfeit goods. Danny Marti, the U.S. intellectual property enforcement coordinator under the Obama administration proposed great collaboration with online marketplaces.

Is this something the agency plans to pursue under the new administration?

**Response:** Commerce, in general, is shifting toward the online marketplace, and as a result, more and more counterfeit and pirated goods can be found in this environment. As a result, the National Intellectual Property Rights Coordination Center (IPR Center) has prioritized engagement with the e-commerce industry and online marketplaces. In furtherance of this priority, the IPR Center has engaged several e-commerce companies in the third party seller marketplaces such as Amazon, Alibaba, OfferUp, and e-commerce webhosts such as Shopify, as well as popular online auction sites such as eBay. To maintain progress, there must be on-going dialogue to have a continuing substantial impact on the sale of counterfeit items.

This on-going dialogue with e-commerce companies will include the IPR Center's contributions to the Federal Government's implementation of the FY 2017-2019 Joint Strategic Plan on Intellectual Property Enforcement (JSP), which was submitted to Congress last December pursuant to Title III of the PRO IP Act of 2008 (P.L. 110-403), codified at 15 U.S.C. §§ 8111, 8113. Section 2.C.7 of the JSP addresses "Opportunities to Curb Sales of Counterfeit and Pirated Goods on E-Commerce Platforms," and the IPR Center will have a key role in the implementation of JSP action items 2.19 ("Support enhanced coordination between rights holders and e-commerce platforms"), 2.21 ("Support enhanced transparency and public reporting of counterfeit incidents on e-commerce platforms"), and 2.23 ("Promote and expand U.S. law enforcement partnerships with e-commerce platforms to disrupt incidents of fraud").