



May 18, 2016

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Responses to Questions for the Hearing Record (April 27, 2016)

Mr. Chairman:

Thank you for the opportunity to testify on April 27, 2016, and present the views of the United States Chamber of Commerce (the “Chamber”) to you and members of the Committee on counterfeits and their impact on consumer safety. The following pages are responsive to the questions posed to me for the record by members of the Committee.

Regards,

David Hirschmann
President and CEO
Global Intellectual Property Center

Response to Question 1 by Chairman Grassley

Today's counterfeiters use every avenue to reach consumers directly. Counterfeiters are excellent marketers. Criminals used to sell goods in flea markets to target consumers. Now, criminals have taken their sales online. The sale of counterfeits on social media platforms such as Twitter, Instagram and WeChat is a growing threat.¹ While the sale of counterfeit goods on the Internet is not new, the medium through which a sale occurs has changed. Criminals are harder to locate and prosecute because of concealed identities used online.

As criminals continue to target various e-commerce platforms, law enforcement's tactics to target and seize goods becomes more challenging. Goods are shipped directly to consumers in small, individual parcels.²

Response to Question 2 by Chairman Grassley

The Trustworthy Accountability Group (TAG) is an advertising industry-driven initiative that will help protect brands in the online environment to combat online piracy by keeping legitimate companies' digital ads from inadvertently being placed on websites dedicated to counterfeiting or piracy. As more consumers turn to online marketplaces to purchase goods and digital advertising becomes smarter, criminals are getting smarter as well, often purchasing fake domain names and pursuing other forms of digital fraud such as malware and identify theft. The TAG initiative is a great example of an industry adapting to the challenges of online piracy and protecting its consumers.³

The National Crime Prevention Council organized a public service announcement and coordinated campaign where the Global Intellectual Property Center ("GIPC") offered its own consumer awareness tips. The public service announcement video is used for law enforcement educational purposes. The video is an educational tool created to educate about various industry sectors that are victims to counterfeit goods.⁴

¹ *For Counterfeit Fighters on Social Media, Fake Profiles Are a Real Ally*, <http://www.wsj.com/articles/for-counterfeit-fighters-on-social-media-fake-profiles-are-a-real-ally-1461578495>

² *Intellectual Property Rights Seizure Statistics Fiscal Year 2015*, <https://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/FY%202015%20IPR%20Stats%20Presentation.pdf>

³ *Largest Brands and Agencies Take TAG Pledge To Fight Ad-Supported Piracy For All Digital Ads*, <http://www.tagtoday.net/largest-brands-and-agencies-take-tag-pledge-to-fight-ad-supported-piracy-for-all-digital-ads/>

⁴ *National Crime Prevention Council Takes Home Top Honor*, <http://ncpc.mediaroom.com/2016-04-19-National-Crime-Prevention-Council-Takes-Home-Top-Honor>

In December, the GIPC created a safe holiday shopping campaign focused on raising public awareness of the potential harms of counterfeit products. The multimedia effort highlights the consumer and economic impacts of purchasing fake goods during the holiday shopping season.⁵

Response to Question 3 by Chairman Grassley

Businesses are taking actions to address the issue of counterfeits to ensure consumers have safe access to products. Collaboration between the public and private sector is the key to addressing the problem including global collaboration on enforcement and investigations as well as engagement to improve laws and regulations internationally. The best solution is still an informed, empowered consumer. However, there are some voluntary efforts that are successful.

The Copyright Alert System is an educational platform intended for users to find safe and legal content. The system is a voluntary mechanism. Notices are sent to content owners when their work is infringed, but protects privacy of users. The primary goal of the system is to enhance understanding of copyright law among younger generations.⁶

Industry is also invested in training U.S. Customs agents at each of the ports of entry as well as training international law enforcement. Product identification training allows agents to more easily identify suspect goods.⁷

Response to Question 4 by Chairman Grassley

The Center for Safe Internet Pharmacies created its own best practices guidance, Principles of Participation⁸, leading the way for internet and e-commerce companies to promote safe online pharmacies through enforcement and information sharing.

In addition, the National Association of Boards of Pharmacy offers a list of safe providers known as the Verified Internet Pharmacy Practice Sites⁹, where consumers may safely purchase prescriptions online. This tool can help eliminate the risks associated with sites that fail to comply with federal and state laws and regulations.

⁵ *Shop Smart This Holiday Season*, <http://www.cnn.com/2015/11/27/opinions/hirschmann-holiday-season-counterfeit/>

⁶ *The Copyright Alert System*, <http://www.copyrightinformation.org/the-copyright-alert-system/>

⁷ *Intellectual Property Rights Enforcement*, https://www.cbp.gov/sites/default/files/documents/ipr_guide.pdf

⁸ *Find a VIPPS pharmacy Online*, <http://www.nabp.net/programs/accreditation/vipps/find-a-vipps-online-pharmacy>

⁹ *Principles of Participation*, <http://www.safemedsonline.org/who-we-are/principles-participation/>

Response to Question 5 by Chairman Grassley

According to the U.S. Customs and Border Protection (“CBP”) and the United Nations Office on Drugs and Crime, wearing apparel and accessories are the most counterfeited items. Criminal counterfeiters will counterfeit any item that offers a low risk and yields high returns.¹⁰

Response to Question 6 by Chairman Grassley

China is the world’s largest exporter. The GIPC found 86% of all fake products come from China and Hong Kong translating to over \$396 billion dollars’ worth of counterfeit goods each year.¹¹ China is estimated to be the source for more than 70% of global physical trade-related counterfeiting, amounting to nearly \$285 billion.

Physical counterfeiting accounts for the equivalent of 11% of China’s exports of goods and the equivalent of nearly 1.5% of its GDP. We understand from our member companies that Brazil continues to be a market where fake products are prevalent.¹²

The Organisation for Economic Co-operation and Development (“OCED”) recently published information about countries with the most counterfeit exports. The chart is attached for reference.¹³

Response to Question 7 by Chairman Grassley

Anti-counterfeiting solutions are best addressed when working collaboratively with Congress, the Administration and federal law enforcement agencies to implement strong intellectual property policies at every level.

¹⁰ *Counterfeit Products*, https://www.unodc.org/documents/data-and-analysis/tocta/8.Counterfeit_products.pdf, *Intellectual Property Rights Seizure Statistics Fiscal Year 2015*, <https://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/FY%202015%20IPR%20Stats%20Presentation.pdf>

¹¹ *Counterfeits and Their Impact on Consumer Safety*, <https://www.judiciary.senate.gov/imo/media/doc/04-27-16%20Hirschmann%20Testimony.pdf>

¹² https://ustr.gov/sites/default/files/Brazil_0.pdf

¹³ OECD/EUIPO, (2016). *Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact*, OECD Publishing, Paris. http://www.keepeek.com/Digital-Asset-Management/oecd/governance/trade-in-counterfeit-and-pirated-goods_9789264252653-en#page1 (See Table A.1 Propensity of economies to export counterfeit products)

Deterrence is the goal. The GIPC advocates for increased penalties directed at criminals, who knowingly traffic in counterfeit goods that bear a counterfeit mark.

It is vitally important that Congress provide all the IP enforcement agencies with adequate funding. These include CBP, ICE, the National Intellectual Property Rights Coordination Center, and the Department of Justice (including FBI and the regional IP Law Enforcement Coordinators).

Response to Question 1 by Ranking Member Leahy

The GIPC engages in education campaigns about counterfeits for all businesses. The GIPC presents at local, regional and state Chambers about the dangers of counterfeit goods and the global economic impact as well as recent best practices.

The National Intellectual Property Rights Coordination Center (IPR Center) invites businesses of any size to engage in their programming and work with law enforcement on education, best practices, seizure techniques, and its new *Threat Matrix* being used by the FBI to work specifically with brand protection programs that are less developed or smaller in scale.

The Trade Facilitation and Trade Enforcement Act of 2015 will solidify information sharing between rights holders and CBP. This means that even the smallest business will have the opportunity to work directly with Customs.

The GIPC has many resources on its website including the “Report IP Theft” button established by the IPR Center. This alert button may be used by any business or consumer.

Response to Question 2 by Ranking Member Leahy

With the powerful rise of online shopping and e-commerce delivery platforms, enforcing against counterfeits is a much more challenging endeavor. For example, as of February 2016, small parcel shipments of counterfeits are now seized ten times more than large shipping containers, a major reversal of the challenges only a few years ago. The volume of parcels containing counterfeits is much higher, and when

one is caught, the amount of counterfeit products seized is much smaller. This means that more resources are needed to do the job.¹⁴

Additionally, the Office of the Intellectual Property Enforcement Coordinator (“IPEC”) has been helpful in convening conversations and U.S. government-focused strategies regarding small parcels. The GIPC looks forward to reviewing the IPEC’s Joint Strategic Plan where the issue of small parcels may be covered in fuller detail.

Response to Question 3 by Ranking Member Leahy

Counterfeiting is a tremendous global threat.¹⁵ Counterfeit products also result in detrimental effects on economies due to decreased innovation, loss of revenue and taxation, and higher unemployment rate. The reach of counterfeiting is expansive. Counterfeits are found in nearly every industry sector and every product line from mainstream household items to luxury goods.

The Trustworthy Accountability Group (TAG) is an advertising industry-driven initiative that will help protect brands in the online environment to combat online piracy by keeping legitimate companies’ digital ads from inadvertently being placed on websites dedicated to counterfeiting or piracy.

The National Crime Prevention Council organized a public service announcement and coordinated campaign where the GIPC offered its own consumer awareness tips. The public service announcement video is used for law enforcement educational purposes. The video is an educational tool created in an effort to educate about various industry sectors that are victims to counterfeit goods.

In April of 2016, through the *Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact* – the OECD now estimates that global trade-related counterfeiting accounts for 2.5% of world trade, or \$461 billion.¹⁶ Since the total value of imported fake goods continues to increase, each industry effort will need to continue to grow, evolve and adapt to address the issue of counterfeiting.

¹⁴ *Intellectual Property Rights Seizure Statistics Fiscal Year 2015*, <https://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/FY%202015%20IPR%20Stats%20Presentation.pdf>

¹⁵ OECD/EUIPO, (2016). *Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact*, OECD Publishing, Paris. http://www.keepeek.com/Digital-Asset-Management/oecd/governance/trade-in-counterfeit-and-pirated-goods_9789264252653-en#page1

¹⁶ OECD/EUIPO, (2016). *Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact*, OECD Publishing, Paris. http://www.keepeek.com/Digital-Asset-Management/oecd/governance/trade-in-counterfeit-and-pirated-goods_9789264252653-en#page1

Annex C.

Tables and figures

Table A.1. Propensity of economies to export counterfeit products

GTRIC-e for world trade, based on the unified seizure dataset

Economy	2011	2012	2013	Economy	2011	2012	2013
Afghanistan	0.938	0.925	0.014	Canada	0.012	0.023	0.006
Albania	0.014	0.058	0.069	Cabo Verde	0.848	0.157	
Algeria	0.001		0.000	Central African Republic			0.000
Angola	0.000	0.000		Chad			0.000
Argentina	0.007	0.676	0.319	Chile	0.008	0.002	0.069
Armenia	0.992	0.103	0.922	China (People's Republic of)	0.995	0.999	0.946
Australia	0.015	0.031	0.001	Christmas Island			0.424
Austria	0.000	0.001	0.000	Colombia	0.046	0.035	0.007
Azerbaijan	0.027	0.154	0.455	Congo	0.000	0.010	
Bahamas	0.259			Democratic Republic of the Congo		0.017	
Bahrain	0.042	0.039	0.211	Costa Rica	0.000	0.000	0.005
Bangladesh	0.207	0.334	0.292	Côte d'Ivoire	0.003	0.002	0.017
Barbados	0.000		0.012	Croatia	0.023	0.007	0.112
Belarus	0.012	0.016	0.002	Cuba	0.020	0.001	
Belgium	0.010	0.002	0.005	Cyprus	1.000	0.000	0.853
Belize	0.075			Czech Republic	0.004	0.006	0.534
Bolivia	0.001	0.027		Denmark	0.000	0.008	0.001
Bosnia and Herzegovina	0.110	0.003	0.769	Djibouti	0.002	0.922	0.444
Brazil	0.003	0.005	0.001	Dominica			0.036
British Virgin Islands		0.479		Dominican Republic	0.174	0.261	0.102
Brunei Darussalam		0.000		Ecuador	0.101	0.027	0.012
Bulgaria	0.460	0.344	0.235	Egypt	0.234	0.447	0.202
Cambodia	0.829	0.119	0.962	El Salvador	0.046	0.074	0.049
Cameroon	0.000	0.189	0.013	Eritrea		0.015	0.001

Table A.1. Propensity of economies to export counterfeit products *(continued)*

Economy	2011	2012	2013	Economy	2011	2012	2013
Estonia	0.062	0.007	0.000	Democratic People's Republic of Korea	0.139	0.93	0.186
Ethiopia	0.011	0.010	0.006	Kuwait	0.006	0.004	0.011
Faroe Islands		0.002		Kyrgyzstan	0.868	0.104	0.020
Fiji		0.048	0.255	Lao People's Democratic Republic	0.020	0.016	0.010
Finland	0.358	0.187	0.000	Latvia	0.942	0.521	0.232
France	0.080	0.047	0.001	Lebanon	0.409	0.493	0.670
Former Yugoslav Republic of Macedonia	0.084	0.014	0.021	Liberia			0.008
Gambia		0.068		Libya	0.010	0.003	0.003
Georgia	0.000	0.017	0.015	Lithuania	0.004	0.116	0.006
Germany	0.086	0.019	0.003	Luxembourg			0.000
Ghana	0.030	0.028	0.274	Macao (China)	0.481	0.928	0.073
Greece	0.983	0.790	0.930	Malawi	0.069		
Guatemala	0.446	0.025	0.014	Malaysia	0.142	0.035	0.126
Guinea	0.037	0.254		Maldives		0.554	
Guinea-Bissau	0.006			Mali		0.015	
Guyana		0.032		Malta	0.098	0.023	0.000
Haiti	0.016			Mauritania	0.044		
Honduras	0.005	0.018	0.038	Mauritius	0.149	0.763	0.004
Hong Kong (China)	1.000	1.000	1.000	Mexico	0.019	0.035	0.002
Hungary	0.001	0.002	0.010	Moldova	0.222	0.192	0.132
Iceland		0.000		Mongolia	0.010	0.044	0.031
India	0.483	0.321	0.505	Montenegro	0.099	0.098	
Indonesia	0.070	0.110	0.051	Morocco	0.367	0.937	0.629
Iran, Islamic Rep.	0.009	0.015	0.170	Mozambique			0.002
Iraq	0.011	0.005	0.006	Myanmar	0.000		
Ireland	0.000	0.000	0.000	Nauru			0.030
Israel	0.002	0.002	0.002	Nepal	0.149	1.000	0.951
Italy	0.023	0.136	0.057	Netherlands	0.012	0.024	0.002
Jamaica	0.000		0.369	New Caledonia	0.019	0.103	
Japan	0.001	0.002	0.004	New Zealand	0.071	0.049	0.000
Jordan	0.430	0.057	0.066	Nicaragua		0.001	0.001
Kazakhstan	0.019	0.001	0.001	Niger		0.176	
Kenya	0.010	0.062	0.033	Nigeria	0.003	0.005	0.005
Kiribati		0.458		Northern Mariana Islands	0.879		
Korea	0.108	0.134	0.425	Norway	0.000	0.000	0.000

Table A.1. Propensity of economies to export counterfeit products *(continued)*

Economy	2011	2012	2013	Economy	2011	2012	2013
Oman	0.000		0.000	Togo	0.207	0.025	0.409
Pakistan	0.841	0.564	0.442	Tokelau	0.998	0.860	1.000
Palau	0.647			Trinidad and Tobago	0.001	0.025	
Panama	0.454	0.470	0.989	Tunisia	0.847	0.750	0.493
Paraguay	0.012	0.000	0.090	Turkey	0.961	0.985	0.978
Peru	0.699	0.231	0.077	Turkmenistan	0.003		
Philippines	0.341	0.075	0.059	Ukraine	0.099	0.191	0.686
Poland	0.013	0.165	0.022	United Arab Emirates	0.357	0.698	0.317
Portugal		0.009	0.001	United Kingdom	0.014	0.203	0.012
Qatar	0.000	0.002	0.022	United States	0.032	0.016	0.263
Romania	0.545	0.000	0.004	Uruguay	0.000	0.786	0.013
Russia	0.107	0.180	0.320	Uzbekistan	0.012	0.100	0.000
Saint Helena		0.994		Vanuatu		0.103	
Saint Kitts and Nevis	0.013			Venezuela	0.186	0.042	0.004
Saint Lucia	0.001			Viet Nam	0.940	0.077	0.028
Saudi Arabia	0.001	0.012	0.008	Western Sahara	0.097		
Senegal	0.071	0.750	1.000	Yemen	0.008	1.000	0.996
Serbia	0.000	0.014	0.001	Zambia	0.009		
Seychelles	0.747	0.435					
Sierra Leone	0.008						
Singapore	0.519	0.539	0.279				
Slovak Republic	0.000	0.091					
Slovenia	0.010	0.079	0.332				
Somalia			0.002				
South Africa	0.000	0.001	0.055				
Spain	0.034	0.524	0.010				
Sri Lanka	0.020	0.027	0.044				
Suriname	0.509	0.776	0.538				
Swaziland		0.002	0.001				
Sweden	0.004	0.002	0.020				
Switzerland	0.109	0.146	0.017				
Syrian Arab Republic	1.000	0.776	0.997				
Tajikistan	0.016	0.041					
Tanzania	0.014	0.408	0.009				
Thailand	0.505	0.875	0.215				
Timor-Leste	0.009						