

October 14, 2008

Intellectual Property Practice

Increased US Enforcement Laws Provided by Newly Signed “Prioritizing Resources and Organization for Intellectual Property Act of 2008”

On October 13, 2008, the President signed into law Senate Bill 3325, known as the “Prioritizing Resources and Organization for Intellectual Property Act of 2008” (the “Bill”). The Bill provides for increased enforcement of intellectual property laws covering such violations as copyright infringement, trademark counterfeiting and the use of false marks on goods and services. Additionally, the Bill increases penalties for some of these violations.

One of the Bill’s main priorities is to reduce counterfeit and infringing goods in the domestic and international supply chain. This will be accomplished by identifying weaknesses in the current enforcement system, reducing duplicative enforcement efforts, increasing information flow between agencies, strengthening international enforcement of intellectual property rights and providing state and local agencies the funding needed to enforce intellectual property laws.

Highlights:

- Permitting plaintiffs to sue on copyright registrations containing inaccurate information unless the inaccurate information was proffered knowingly by the registrant and the correct information would have caused the Copyright Office to deny registration on that basis.
- Broadening the availability of treble damages in counterfeiting cases and increasing maximum awards for willful use of a counterfeited mark from US\$1 to 2 million.
- Applying copyright laws to “exportation” of infringing items in the same manner that it was previously applied to “importation.”
- Mandating forfeiture of equipment and property used and intended to be used to commit or facilitate in the commission of copyright infringement, trademark counterfeiting, unauthorized recording of live musical performances and recording movies without authorization.
- Authorizing an Intellectual Property Enforcement Coordinator (the “IPEC”) within the office of the President to act as IP enforcement “czar” to develop a strategy to fight piracy and counterfeiting at home and abroad.
- Authorizing funding for local law enforcement prosecutions of intellectual property theft and infringement crimes, as well as increased support for the Federal Computer Hacking and Intellectual Property Crime Unit.

The Bill reflects the need to protect the rights and remedies available to copyright and trademark holders and it supports federal efforts to fight infringement, piracy and counterfeiting. It should be a positive sign to those concerned about strengthening US innovation and job security, as these additional enforcement tools add value to both the intellectual property community and to consumers.

According to the United States Department of Commerce, intellectual property theft costs the US economy US\$250 billion per year and results in the loss of 750,000 jobs. On a global scale the cost explodes to US\$600 billion. Accordingly, encouraging innovation and protecting entrepreneurs benefits the entire global economy, and this Bill is a step in the right direction.

If you have questions regarding the Prioritizing Resources and Organization for Intellectual Property Act of 2008, please contact [Brandon Baum](#) at +1 650 331 2080 or the Mayer Brown attorney with whom you normally communicate.

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