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Before the Subcommittee on Intellectual Property, Competition, and the Internet,
Committee on the Judiciary
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Chairman Goodlatte, Ranking Member Watt, members of the Subcommittee on Intellectual Property, Competition, and the Internet: Thank you for your continued leadership on this important issue.

As the President said in the State of the Union Address: “In America, innovation doesn’t just change our lives. It is how we make a living.” Protecting innovation, and the jobs, exports and economic growth that innovation creates, is what I do on a daily basis. It takes effective intellectual property enforcement to ensure that a revolutionary idea can blossom into economic opportunity and to allow the American innovative spirit to create the good, high-paying jobs that will drive our prosperity in the 21st Century.

The PRO-IP Act of 2008 created my position -- the U.S. Intellectual Property Enforcement Coordinator -- and placed it within the Executive Office of the President. A number of members of this Subcommittee were instrumental in creating my position and I am honored to serve as the first U.S. Intellectual Property Enforcement Coordinator, having been nominated by the President and having been confirmed by the Senate a little more than a year ago. To demonstrate the importance the President places on intellectual property enforcement, three weeks ago, he issued an Executive Order establishing a cabinet-level intellectual property

enforcement committee which I will chair to further focus the Administration's efforts to protect intellectual property and innovation.

My first order of business upon taking office was to coordinate the development of the Administration's inaugural Joint Strategic Plan on Intellectual Property Enforcement. That Strategy was developed as a result of significant public input -- including more than 1,600 public comments -- and the coordinated efforts of the Federal agencies, including the U.S. Departments of Commerce, Health and Human Services, Homeland Security, Justice, State and the U.S. Trade Representative. The overarching goal of the Strategy is to protect the health and safety of the public, and to protect U.S. jobs, increase exports of innovative and creative products and support and protect our innovation, thereby allowing America's innovation to continue to drive our economic growth. The Strategy set out six broad principles that we would follow to meet our goals (and included 33 actions items within those broad principles that the U.S. Government would undertake to improve enforcement). I want to outline those six principles, and highlight some of the concrete steps that we have taken to support those principles and to improve enforcement in the eight months since we issued the Strategy.

First, we will lead by example and work to ensure that the U.S. Government does not purchase or use infringing products. To that end, on Jan. 7, 2011, the U.S. Chief Information Officer, the Administrator for Federal Procurement Policy and I issued a statement to Federal procurement officials reminding them of the Administration's policy to be "technology neutral" in procurement, and that all technology must be properly licensed. We are also reviewing our policies with respect to use of software by our Federal contractors.

Counterfeit products coming in to the U.S. Government supply chain is unacceptable – particularly products that could have an impact on our military and national security. We are working intensely with the Department of Defense and NASA on a plan to stop counterfeit products from entering the military and critical infrastructure supply chain, which put our military and national security at risk. We will have recommendations this year on what we can do to prevent counterfeit goods from entering that supply chain.

Second, we will be transparent in our policymaking and enforcement, so the public knows what the U.S. Government is doing to help enforce intellectual property rights and can have input in those efforts. We have made extensive efforts to solicit a wide range of views and input and to take those views and input into account, through meetings I have held with stakeholders, our website postings and updates, Federal Register notices from the U.S. Government when we are making policy decisions, and recurring newsletters from my office informing the public about significant government enforcement actions. We have and will continue to meet with stakeholders as we move forward with implementing the Strategy.

Third, we will improve the coordination of our law enforcement, our overseas personnel and our international training. We have brought together the agencies to ensure better information sharing and reduce duplicative efforts. We have supported efforts to increase Federal law enforcement coordination with state and local law enforcement, and we now have 30 law enforcement teams in cities across the nation working together with state and local law enforcement to fight intellectual property crime. On the international front, working with a new interagency task force we created, we identified 17 countries in which intellectual property enforcement is a priority. The embassies in each of those countries has now established embassy

intellectual property working groups chaired by senior embassy personnel and are drafting concrete plans setting out the actions each embassy will take to address the specific challenges in those countries.

Fourth, we will help American rightholders overseas, ensuring that we are able to effectively work with foreign governments when their citizens are infringing U.S. intellectual property rights. In November, the U.S. Trade Representative concluded negotiations on the Anti-Counterfeiting Trade Agreement with 38 countries, representing over 50% of global trade. That agreement is the first international agreement focused exclusively on intellectual property enforcement. Since June, the U.S. has led and participated in three global law enforcement sweeps, each involving more than 30 countries, with two targeting counterfeit drugs and one taking down about 300 websites used to sell counterfeit drugs. We are also working with the U.S. Trade Representative, U.S. Patent and Trademark Office, the Federal agencies and industry to assess China's progress under the campaign on intellectual property enforcement it launched in October and to encourage further action. And the U.S. Trade Representative is preparing a report on physical and online overseas markets that traffic in infringing products that will aid our diplomatic efforts to combat those markets.

Fifth, we will secure our supply chain. That includes securing the physical border, working to minimize infringing products coming into the U.S. and innovative technology from being illegally transferred out of the U.S. In June and July, Immigration and Customs Enforcement and DOJ had two of the largest counterfeit good cases in U.S. history, each involving \$100 million of counterfeit goods. DOJ and the FBI have increased their investigation and prosecution of trade secret cases. Among the examples of cases charged or prosecuted by DOJ

last year are two cases involving the theft of technology developed by our automobile industry, including trade secrets to build hybrid cars.

These significant cases are representative of our overall increased enforcement: From Fiscal Year 2009 to 2010, Immigration and Customs Enforcement intellectual property investigations opened were up more than 41% and arrests are up more than 37%, Department of Homeland Security intellectual property seizures were up more than 34%, and FBI intellectual property investigations opened were up more than 44%.

Securing our supply chain includes not only the physical border, but also combating infringement in the digital world. We have developed a three-pronged approach to do so: Increased law enforcement action, voluntary efforts by the private sector and consumer education.

Turning to the first prong, we have increased law enforcement efforts to combat online counterfeiting and piracy. In June, Immigration and Customs Enforcement and DOJ launched “Operation In Our Sites,” cracking down on websites used to distribute or provide access to counterfeit and pirated products. The Operation has thus far had four different enforcement phases, has resulted in the seizure of more than 100 domain names for websites used to sell or provide access to infringing products over the Internet, and has resulted in more than 36 million people attempting to visit the websites being greeted by banners alerting them that the domain names had been seized.

We are also working with private sector participants to encourage voluntary actions that are practical and effective, respect privacy and fair process and protect legitimate uses of the Internet. In December, we announced that a number of major Internet intermediaries -- American Express, eNom, GoDaddy, Google, MasterCard, Microsoft, PayPal, Neustar, Visa, and

Yahoo! -- agreed to come together as leaders to form a nonprofit organization to educate consumers, share information and take voluntary enforcement action against illegal online pharmacies. By preventing criminals from gaining access to consumers and attaining legitimacy through the use of payment processors, the purchase of ad space or a registered domain name, these private companies can play a critical role in combating illegal online pharmacies. The nonprofit should be up and running in the next few months.

Voluntary cooperative solutions are a priority focus and we believe that, in combination with law enforcement action, voluntary actions by the private sector have the potential to dramatically reduce online infringement and change the enforcement paradigm. We will continue to push forward to encourage voluntary cooperative actions on multiple fronts. Our ultimate goal is to reduce infringement online so we will continue to assess our approach to ensure that it is as effective as possible.

The final piece of our online enforcement approach is consumer education. To give just two examples, DOJ has committed to fund public awareness campaigns on the risks to the public of purchasing counterfeiting goods and the nonprofit organization that will combat illegal online pharmacies includes education and public awareness as one of its four guiding principles.

Although I mention the physical and online environments separately here, our approach focuses on combating infringement in both at the same time. For example, in the near future, I will submit to Congress a report from the interagency pharmaceutical working group, which will describe efforts to combat counterfeit drugs sold on the Internet, smuggled into the U.S., and sold in the cities throughout the U.S.

Finally, we will build a data-driven government to ensure that our policies are as well-informed as possible. We are working with the Department of Commerce, the chief economists

of the Federal agencies and the Council of Economic Advisors on an economic analysis to measure the number of jobs and levels of exports created by intellectual property industries and their importance to their economy. This is the first time the U.S. Government has ever attempted such an analysis across all the sectors of our economy.

We are also reviewing existing laws to determine if changes are needed to make intellectual property enforcement more effective. I expect to submit to Congress in the near future a White Paper containing recommendations for legislative changes from that review.

The U.S. Government is committed to utilizing the resources at our disposal to help American businesses, to protect American jobs, to increase exports, and to ensure that innovation can continue to drive economic growth. We know we still have much to do. I commend this Subcommittee's leadership on intellectual property enforcement and I look forward to working closely with this Subcommittee on improving our protection of American intellectual property.