



S. 3325 – Prioritizing Resources and Organization for Intellectual Property Act of 2008

FLOOR SITUATION

S. 3325 is being considered on the House floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Senator Patrick Leahy (D-VT) on July 24, 2008. The Senate passed S. 3325 by unanimous consent on September 25, 2008.

S. 3325 is expected to be considered on the House floor on September 27, 2008.

SUMMARY

Title I

Civil Remedies for Infringement: The bill gives copyright owners the ability to impound records that relate to the infringement and requires the court to enter a protective order with respect to discovery and use of any records or information that has been impounded.

Statutory Damages: The bill doubles statutory damages for counterfeiting and applies them to those who intentionally use a mark or designation and those who provide goods and services necessary to commit a violation of the Trademark Act.

Exported Goods: The bill extends copyright laws to cover exported items, as well as imported items.

TITLE II

Forfeiture and Destruction of Property: The bill harmonizes forfeiture laws governing intellectual property. The bill also creates forfeiture provisions for both civil and criminal forfeiture.

TITLE III

Intellectual Property Enforcement Coordinator: S. 3325 requires the President to appoint, with the advice and consent of the Senate, an Intellectual Property Enforcement Coordinator to develop the Joint Strategic Plan against counterfeiting and infringement and serve as the chair of an advisory committee. The Joint Strategic Plan also must include programs to provide training and technical assistance to foreign governments to enhance their efforts to enforce laws against infringement and counterfeiting. The IPEC may not control or direct any law enforcement agency, including the Department of Justice, in the exercise of its investigative or prosecutorial authority.

Report: The bill requires the IPEC to submit a report on the activities of the advisory committee during the preceding fiscal year.

NIPPLECC: The bill transitions the current National Intellectual Property Law Enforcement Coordination Council (NIPPLECC), housed in the Department of Commerce, with the Intellectual Property Enforcement Coordinator.

TITLE IV

Local Law Enforcement Grants: The bill reauthorizes the Office of Justice Programs to make grants to eligible state or local law enforcement entities, municipal governments, and public educational institutions for training, prevention, enforcement, and prosecution of intellectual property crimes. It authorizes \$25 million to be appropriated for each of fiscal years 2009-2013.

Increased Staffing: Subject to appropriation, the bill requires the Attorney General to ensure that there are at least ten additional FBI agents designated to the Computer Crime and IP Section of the Department of Justice and to ensure that one FBI agent and two Assistant United States Attorneys are



supporting all of the Computer Hacking and IP Crime Units of the Department of Justice. The bill authorizes \$10 million for each of the fiscal years 2009-2013.

Additional Funding for Resources: The bill provides an additional \$10 million each to the Director of the FBI and to the Attorney General for resources to investigate and prosecute IP crimes and other criminal computer activity.

TITLE V

GAO Study: The bill requires a study on the protection of intellectual property of manufacturers by quantifying the impacts of imported and domestic counterfeited goods.

BACKGROUND

Intellectual property (copyrights, patents, and trademark) is critical to our fiscal health and to American strength in the world economy. This valuable property is also vulnerable and it is subject to numerous types of theft and misappropriation. Individuals and organizations may own various forms of IP, either because they are the creators of such IP and have not relinquished their rights, or they have acquired legal title to the IP. This legislation gives law enforcement resources and tools to combat piracy and counterfeiting, and will improve coordination among the many agencies that deal with intellectual property enforcement.

According to the U.S. Government, American businesses lose \$250 billion a year to intellectual property theft, and intellectual property theft has robbed Americans of 750,000 jobs. The motion picture industry alone estimates that it loses more than \$3.5 billion because of piracy annually. China had the greatest motion picture piracy rate, with an estimated 90% of the motion picture market considered to be illegitimate. The U.S. Department of Justice criminally prosecutes violators of copyright law in the case of willful infringement for purposes of commercial advantage or private financial gain.

STAFF CONTACT

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