

APPENDIX F

Intellectual Property Report – FY 2006

The information in this section is provided pursuant to the statutory mandate in Title 18, United States Code, Section 2320(g), which requires a report of Department of Justice prosecutions of intellectual property (IP) crimes brought under sections 2318, 2319, 2319A and 2320 of Title 18 of the United States Code. Prosecutions under other IP statutes are not included. This information has been provided by the Executive Office for United States Attorneys (EOUSA), which maintains criminal caseload information as reported by the 94 U.S. Attorneys' Offices.

The pages that follow contain summary case information, segregated by statutory provision, and preceded by a brief description of each offense. Also included is a list of cases referred for prosecution by the Bureau of Immigration and Customs Enforcement or the Bureau of Customs and Border Protection. Following the summary data is a district by district break out of the same data.

The automated case management system used to collect data for the U.S. Attorneys' Offices does not break out copyright infringement cases according to the following categories: audiovisual (videos and films); audio (sound recordings); literary works (books and musical compositions); computer programs or video games. Also, the case management system does not separately identify copyright infringement cases where the infringer advertises the infringing work online or makes the infringing work available on the Internet for download, reproduction, performance or distribution by others. Thus, that information is not included. Similarly, data on fines, penalties, settlements or restitution are not included because that information cannot be extracted from the database according to particular statutes.

TITLE 18, UNITED STATES CODE, SECTION 2318* - Trafficking in Counterfeit Labels for Phono Records and Copies of Motion Pictures or Other Audiovisual Works

Offense: knowingly trafficking in a counterfeit label affixed or designated to be affixed to a phono record or a copy of a motion picture or other audiovisual work.

	<u>FY06-</u> <u>All Districts</u>
<u>Referrals and Cases:</u>	
Number of Investigative Matters Received by U.S. Attorneys:	29
Number of Defendants:	31
Number of Cases Filed	11
Number of Defendants:	14
Number of Cases Resolved/Terminated:	11
Number of Defendants:	18
<u>Disposition of Defendants in Concluded Cases:</u>	
Number of Defendants Who Pleaded Guilty:	8
Number of Defendants Who Were Tried and Found Guilty:	2
Number of Defendants Against Whom Charges Were Dismissed:	8
Number of Defendants Acquitted:	0
Other Terminated Defendants:	0
<u>Prison Sentencing for Convicted Defendants (# represents defendants):</u>	
No Imprisonment:	5

	<u>FY06-</u> <u>All Districts</u>
1 to 12 Months Imprisonment:	2
13 to 24 Months:	1
25 to 36 Months:	1
37 to 60 Months:	1
61+ Months:	0

Total Dollar Value of All Criminal Fines Imposed: Not Available
(fines can be assessed in lieu of or in addition to prison sentences)

*This chart includes data on any and all criminal cases/defendants where 18 U.S.C. 2318 was brought as any charge against a defendant. Displayed defendant outcome information is based upon the defendant's outcome on the individual charge. Defendants against whom charges were dismissed may have been convicted of other, related offenses. This chart may not include criminal cases or matters involving 18 U.S.C. 2318 where the lead charge, charges filed or charges of conviction include only a conspiracy to violate 18 U.S.C. 2318.

TITLE 18, UNITED STATES CODE, SECTION 2319, TITLE 17, UNITED STATES CODE, SECTION 506* - Criminal Infringement of a Copyright

Offense: willful infringement of a copyright for purposes of commercial advantage or private financial gain, or through large-scale, unlawful reproduction or distribution of a copyrighted work, regardless of whether there was a profit motive.

Referrals and Cases:

	<u>FY06-</u> <u>All Districts</u>
Number of Investigative Matters Received by U.S. Attorneys:	162
Number of Defendants:	295
Number of Cases Filed	98
Number of Defendants:	152
Number of Cases Resolved/Terminated:	100
Number of Defendants:	125

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pleaded Guilty:	78
Number of Defendants Who Were Tried and Found Guilty:	2
Number of Defendants Against Whom Charges Were Dismissed:	29
Number of Defendants Acquitted:	1
Other Terminated Defendants:	15

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	45
1 to 12 Months Imprisonment:	16
13 to 24 Months:	8
25 to 36 Months:	3
37 to 60 Months:	4
61+ Months:	4

*This chart includes data on any and all criminal cases/defendants where 18 U.S.C. 2319 or 17 U.S.C. 506 was brought as any charge against a defendant. Displayed defendant outcome information is based upon the defendant's outcome on the individual charge. Defendants against whom charges were dismissed may have been convicted of other, related offenses. This chart may not include criminal cases or matters involving 18 U.S.C. 2319 where the lead charge, charges filed or charges of conviction include only a conspiracy to violate 18 U.S.C. 2319.

TITLE 18, UNITED STATES CODE, SECTION 2319A* - Unauthorized Fixation of and Trafficking in Sound Recordings and Music Videos of Live Musical Performances

Offense: without the consent of the performer, knowingly and for the purposes of commercial advantage or private financial gain, fixing the sounds or sound and images of a live musical performance, reproducing copies of such a performance from an authorized fixation; transmitting the sounds or sounds and images to the public, or distributing, renting, selling, or trafficking (or attempting the preceding) in any copy of an authorized fixation.

Referrals and Cases:

**FY06-
All Districts**

Number of Investigative Matters Received by U.S. Attorneys:	0
Number of Defendants:	0
Number of Cases Filed	0
Number of Defendants:	0
Number of Cases Resolved/Terminated:	0
Number of Defendants:	1

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pleaded Guilty:	0
Number of Defendants Who Were Tried and Found Guilty:	0
Number of Defendants Against Whom Charges Were Dismissed:	1
Number of Defendants Acquitted:	0
Other Terminated Defendants:	0

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	0
1 to 12 Months Imprisonment:	0
13 to 24 Months:	0
25 to 36 Months:	0
37 to 60 Months:	0
61+ Months:	0

Total Dollar Value of All Criminal Fines Imposed: Not Available
(fines can be assessed in lieu of or in addition to prison sentences)

*The chart above includes data on any and all criminal cases/defendants where 18 U.S.C. 2319A was brought as any charge against a defendant. Displayed defendant outcome information is based upon the defendant's outcome on the individual charge. Defendants against whom charges were dismissed may have been convicted of other, related offenses. This chart may not include criminal cases or matters involving 18 U.S.C. 2319A where the lead charge, charges filed or charges of conviction include only a conspiracy to violate 18 U.S.C. 2319A.

TITLE 18, UNITED STATES CODE, SECTION 2320* - Trafficking in Counterfeit Goods or Services

Offense: intentionally trafficking or attempting to traffic in goods or services and knowingly using a counterfeit mark on or in connection with such goods or services.

**FY06-
All Districts**

Referrals and Cases:

Number of Investigative Matters Received by U.S. Attorneys:	150
Number of Defendants:	264
Number of Cases Filed	80

FY06-
All Districts

Number of Defendants:	147
Number of Cases Resolved/Terminated:	64
Number of Defendants:	106

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pled Guilty:	61
Number of Defendants Who Were Tried and Found Guilty:	7
Number of Defendants Against Whom Charges Were Dismissed:	35
Number of Defendants Acquitted:	0
Other Terminated Defendants:	3

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	34
1 to 12 Months Imprisonment:	8
13 to 24 Months:	11
25 to 36 Months:	8
37 to 60 Months:	3
61+ Months:	4

Total Dollar Value of All Criminal Fines Imposed: Not Available
(fines can be assessed in lieu of or in addition to prison sentences)

*This chart includes data on any and all criminal cases/defendants where 18 U.S.C. 2320 was brought as any charge against a defendant. Displayed defendant outcome information is based upon the defendant's outcome on the individual charge. Defendants against whom charges were dismissed may have been convicted of other, related offenses. This chart may not include criminal cases or matters involving 18 U.S.C. 2320 where the lead charge, charges filed or charges of conviction include only a conspiracy to violate 18 U.S.C. 2320.

**TITLE 18, UNITED STATES CODE, SECTIONS 2318, 2319, 2319A, 2320 OR TITLE 17,
UNITED STATES CODE, SECTION 506***

All Districts - All Statutes

	<u>FY02</u>	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>
<u>Referrals and Cases:</u>					
Number of Investigative Matters Received by U.S. Attorneys:	169	229	269	361	333
Number of Defendants:	289	333	334	642	580
Number of Cases Filed	78	100	101	143	178
Number of Defendants:	149	165	141	319	297
Number of Cases Resolved/Terminated:	82	65	107	95	155
Number of Defendants:	135	119	137	133	223
<u>Disposition of Defendants in Concluded Cases:</u>					
Number of Defendants Who Pled Guilty:	103	87	114	112	178
Number of Defendants Who Were Tried and Found Guilty:	3	5	8	7	9
Number of Defendants Against Whom Charges Were Dismissed:	26	22	8	10	16
Number of Defendants Acquitted:	0	3	1	1	2
Other Terminated Defendants:	3	2	6	3	18
<u>Prison Sentencing for Convicted Defendants</u> <u>(# represents defendants):</u>					
No Imprisonment:	58	50	62	55	91
1 to 12 Months Imprisonment:	25	18	26	29	35

	<u>FY02</u>	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>
13 to 24 Months:	14	13	14	18	22
25 to 36 Months:	5	1	9	6	13
37 to 60 Months:	4	9	7	7	17
61+ Months:	0	1	4	4	9

Statistics on Matters/Cases Originating with the United States Bureau of Customs & Border Protection and Bureau of Immigrations & Customs Enforcement

Referrals and Cases:

	<u>FY06- All Districts</u>
Number of Investigative Matters Received by U.S. Attorneys:	96
Number of Defendants:	181
Number of Cases Filed	48
Number of Defendants:	92
Number of Cases Resolved/Terminated:	32
Number of Defendants:	59

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pleaded Guilty:	47
Number of Defendants Who Were Tried and Found Guilty:	3
Number of Defendants Against Whom Charges Were Dismissed:	6
Number of Defendants Acquitted:	1
Other Terminated Defendants:	2

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	21
1 to 12 Months Imprisonment:	9
13 to 24 Months:	6
25 to 36 Months:	2
37 to 60 Months:	9
61+ Months:	3

*This chart includes data on any and all criminal cases/defendants where 18 U.S.C. 2318, 18 U.S.C. 2319, 18 U.S.C. 2319A, 18 U.S.C. 2320, or 17 U.S.C. 506 was brought as any charge against a defendant. Displayed defendant outcome information is based upon the overall outcome of the defendant. This chart may not include criminal cases/defendants involving 18 U.S.C. 2318, 18 U.S.C. 2319, 18 U.S.C. 2319A, 18 U.S.C. 2320, or 17 U.S.C. 506, where the lead charge, charges filed or charges of conviction include only a conspiracy to violate any of the identified offenses. This chart does not include data on the investigation and prosecution of other intellectual property crimes, such as economic espionage, 18 U.S.C. 1831; theft of trade secrets, 18 U.S.C. 1832; signal piracy, 47 U.S.C. 553 and 605; and circumvention of copyright protection systems, 17 U.S.C. 1201 to 1205; live music infringement, 18 U.S.C. 2319B, and counterfeit drug offenses in violation of 21 U.S.C. 331. In addition, the data does not include month of September 2005 information for the Eastern District of Louisiana due to Hurricane Katrina.

