

DEPARTMENT OF JUSTICE
REPORT TO CONGRESS
PURSUANT TO THE
DEFEND TRADE SECRETS
ACT

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The Defend Trade Secrets Act of 2016 included various amendments to the Economic Espionage Act of 1996, including the creation of a federal private civil right of action for trade secret misappropriation and increased criminal penalties for corporations convicted of trade secret theft. The statute also included a requirement that the Attorney General, in consultation with the Intellectual Property Enforcement Coordinator, the Director of the U.S. Patent and Trademark Office, and the heads of other appropriate agencies, submit to Congress and make public a report on the scope and breadth of trade secret theft affecting United States companies occurring outside the United States¹, and steps taken by the U.S. government to address the problem of trade secret theft in other countries.²

This report will describe the (1) nature and scope of the existing challenges to trade secret owners doing business overseas, and the legal landscape of U.S. trading partners in protecting trade secrets through civil and criminal legal structures, (2) U.S. government response to the theft of trade secrets through investigation and prosecution, with particular focus on the efforts of the Federal Bureau of Investigation and Department of Justice prosecutors responsible for addressing intellectual property crime, and (3) U.S. government response through engagement with victims, industry, and foreign counterparts to increase awareness and effective trade secret protection overseas. A number of resource materials are also provided in the Appendices.

I. Nature of the Threat and International Response

The threat of trade secret theft to U.S. corporations conducting business internationally is a well-recognized and extensively documented phenomenon. As it has in all recent years, the United States Trade Representative's 2018 Special 301 Report identifies trade secret theft as one of the key challenges in the protection and enforcement of intellectual property rights among U.S. trading partners, a problem that places highly valuable U.S. trade secrets at unnecessary risk.³ The Director of National Intelligence reported in 2011 about the growing risk of cyber-enabled theft of trade secrets, both by individual malicious actors and through State-sponsored intrusions.⁴ In cases where there is jurisdiction to investigate and prosecute under the Economic

¹ The statute refers repeatedly to "theft of trade secrets occurring outside of the United States," although that phrase is not defined in the statute. Given the wide variety of fact patterns involving theft of trade secrets from U.S. companies, which may involve international state or corporate actors, computer intrusions from (or routed through) foreign computer systems, and the use of misappropriated trade secrets outside of the U.S., this report addresses trade secret thefts that involve some non-U.S. aspect. This report does not cover trade secret thefts that are committed by and for a U.S.-based person through acts committed entirely within the U.S.

² The initial report is due one year following the enactment of the Defend Trade Secrets Act of 2016, Pub. L. No. 114-153, with subsequent reports due on a biannual basis. The text of Section 4, setting out the requirements for the report, is included in Appendix A.

³ The 2018 report may be retrieved at:

<https://ustr.gov/sites/default/files/files/Press/Reports/2018%20Special%20301.pdf>. Reports from prior years may be accessed at: <https://ustr.gov/issue-areas/intellectual-property/Special-301>.

⁴ "Office of the National Counterintelligence Executive: Foreign Spies Stealing U.S. Economic Secrets in Cyberspace." Oct. 2011, available at

https://www.dni.gov/files/NCSC/documents/Regulations/Foreign_Economic_Collection_2011.pdf

Espionage Act of 1996, the United States has responded forcefully, bringing charges of economic espionage and theft of trade secrets against multiple international defendants, and extensively investigating the role of foreign governments in supporting this conduct. Examples include the indictment of foreign military officials for an extensive course of computer system intrusions and trade secret theft,⁵ prosecution of individuals and corporate entities responsible for trade secret theft on behalf of foreign-owned entities,⁶ and numerous instances of trade secret theft committed by foreign nationals.⁷

While the Economic Espionage Act specifically provides for jurisdiction over a wide array of cases with a foreign nexus, the reach of U.S. law enforcement is limited to foreign instances of trade secret theft where (1) the offender is a U.S. citizen or permanent resident alien or an organization organized under U.S. law, or (2) an act in furtherance of the offense is committed within the United States.⁸ Due to the jurisdictional limits contained in the Economic Espionage Act, U.S. law enforcement officials do not typically receive reports of trade secret thefts affecting U.S. corporations that occur entirely in other countries.

In addition to the Economic Espionage Act, the U.S. has other criminal statutes that can be used to investigate and prosecute the conduct involved in a particular theft of trade secrets. Depending on the circumstances, these may include protections against computer network intrusions, fraud, money laundering, smuggling and export controls.

In addition to criminal tools, there is the potential to freeze the assets of international actors who conduct large-scale malicious cyber intrusions, including using hacking to steal U.S. trade secrets. Sanctions may be imposed through the authority of Executive Order 13964, “Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled

⁵ Press Release, U.S. Dep’t of Justice, “U.S. Charges Five Chinese Military Hackers for Cyber Espionage Against U.S. Corporations and a Labor Organization for Commercial Advantage,” May 19, 2014, available at <https://www.justice.gov/opa/pr/us-charges-five-chinese-military-hackers-cyber-espionage-against-us-corporations-and-labor>

⁶ Press Release, U.S. Dep’t of Justice, “Chinese Company Sinovel Wind Group Convicted of Theft of Trade Secrets,” January 24, 2018, available at <https://www.justice.gov/opa/pr/chinese-company-sinovel-wind-group-convicted-theft-trade-secrets>;

Press Release, U.S. Dep’t of Justice, “Kolon Industries, Inc. Pleads Guilty for Conspiring to Steal DuPont Trade Secrets Involving Kevlar Technology,” April 30, 2015, available at <https://www.justice.gov/opa/pr/kolon-industries-inc-pleads-guilty-conspiring-steal-dupont-trade-secrets-involving-kevlar>

⁷ Descriptions and statistics relating to FBI investigations and DOJ prosecutions of intellectual property cases, including theft of trade secrets and economic espionage, are documented in the annual report to Congress prepared pursuant to the PRO-IP Act of 2008. Archived copies of the DOJ and FBI reports may be found at <https://www.justice.gov/ip/f/pro-ip-act-reports>.

⁸ 18 U.S.C. § 1837

Activities,” as amended by Executive Order 13757, “Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities.”⁹

There is a developing body of criminal and civil statutory protections for trade secret protections in other countries. Many U.S. trading partners recognize the economic benefit and increased investment potential that results from a strong intellectual property regime, and there is ongoing work in several fora to identify statutory frameworks and best practices for the protection of trade secrets.

Important multilateral commitments on the protection of trade secrets and other intellectual property rights are found in the World Trade Organization’s Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which has been signed by the United States along with 163 other countries and economies. TRIPS Article 39 addresses the protection of undisclosed information, and requires that signatories provide, at a minimum, natural and legal persons the possibility of preventing information lawfully within their control from being disclosed to, acquired by, or used by others without their consent in a manner contrary to honest commercial practices, so long as such information is secret, it derives economic value from being secret, and the owner has taken reasonable steps to maintain the secrecy of that information.

Enactment and enforcement of laws complying with the trade secret requirements of TRIPS is an ongoing process in many countries, and all parties must confront the additional challenges presented by the growth in global trade and the rapid increase of online economies since the Agreement was negotiated in the early 1990s.

Recent reporting on implementation of trade secret legal structures includes two studies by the Organisation for Economic Co-operation and Development (OECD) to identify existing international legal structures and to measure the effectiveness of various legal regimes. Section III.D. of this Report discusses these studies in more detail.

The European Union issued a directive to members to develop and implement civil protections for trade secrets. The directive sets a deadline of June 9, 2018 for complying legislation.¹⁰

The United States welcomed the endorsement in November 2016 of a set of “Best Practices in Trade Secret Protection and Enforcement Against Misappropriation”¹¹ by Asia-Pacific Economic Cooperation (APEC) Leaders and Ministers in Lima, Peru. The result of a

⁹ The text of the original Executive Order 13694 may be retrieved here: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cyber_eo.pdf. The amendments in Executive Order 13757 may be retrieved here: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cyber2_eo.pdf. The President has extended to April 1, 2019, the national emergency declared in EO 13694 as amended (Notice of March 27, 2018, on “Continuation of the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities”).

¹⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016L0943>

¹¹ The best practices document may be retrieved at: http://mddb.apec.org/Documents/2016/IPEG/IPEG2/16_ipeg2_028.pdf

multi-year drive by the United States, this set of recommended best practices build on a multi-year review of member economies' trade secret legal structures by the APEC Intellectual Property Rights Experts Group (IPEG).¹² Importantly, among other issues, the best practices recommend broad standing to assert claims for the protection of trade secrets and enforcement against trade secret theft, civil and criminal remedies and penalties for theft of trade secrets, robust procedural measures in trade secret enforcement proceedings, and the adoption of written measures that enhance protection against further disclosure when governments require the submission of trade secrets. The Best Practices complement existing international standards and provide a model to advance cooperation and to develop a consistent set of legal principles across APEC economies and globally.

In addition to the noted studies and best practices recommendations, both the U.S. government and private industry regularly assess the international intellectual property landscape. With input from interested stakeholders (including foreign governments), U.S. embassies, and an array of U.S. government agencies, the U.S. Trade Representative prepares the annual Special 301 Report,¹³ identifying foreign trading partners where IP protection and enforcement, including as to trade secrets protections, has deteriorated or remained at unacceptable levels and where market access for Americans who rely on IP protection has been unfairly undermined.. Failure to protect trade secrets is an area of particular concern in the report. The report is a valuable information resource on trade secrets deficiencies as well as good practices and positive developments. It also provides an important basis for U.S. government engagement with trading partners and multilateral organizations on trade secrets protection challenges.

For the past six years, the U.S. Chamber of Commerce also has generated a review of international IP protections. This report, the annual International IP Index, uses statistical scoring to measure the overall environment for IP, and includes a measure of the trade secret protections offered. The IP Index has expanded its coverage over the years, and the 2018 IP Index covers 50 countries.¹⁴

¹² The review of members' trade secret protections may be retrieved at : http://mddb.apec.org/Documents/2015/IPEG/IPEG1/15_ipeg1_027.pdf

¹³ The 2018 report may be retrieved at: <https://ustr.gov/sites/default/files/files/Press/Reports/2018%20Special%20301.pdf>.

¹⁴ The 2018 IP Index may be retrieved at: http://www.theglobalipcenter.com/wp-content/uploads/2018/02/GIPC_IP_Index_2018.pdf

II. U.S. Efforts to Protect Trade Secrets—Criminal and Trade Law Enforcement

A. Federal Bureau of Investigation

The FBI dedicates significant agent resources to the investigation of trade secret and economic espionage matters, which are consistently a top intellectual property priority. Within the Bureau, multiple components have responsibility for trade secret matters. Investigations of theft of trade secrets sponsored by foreign governments, foreign instrumentalities, or foreign agents are managed by the Counterintelligence Division's Economic Espionage program. Non-state-sponsored theft of trade secrets investigations are managed by the Criminal Investigative Division's Intellectual Property Rights program. The Cyber Division investigates computer intrusion cases, many of which result in theft of proprietary data, and sometimes trade secrets.

FBI investigations of theft of trade secrets from United States companies typically focus on misappropriation occurring inside of the United States, though the crimes may be perpetrated by subjects located in any geographic region.

Anecdotally, it is clear that the threat posed by theft of trade secrets occurring outside of the United States is as significant as thefts occurring inside the United States. Although the FBI does not have jurisdiction over wholly-foreign trade secret theft, when U.S. companies report being victimized abroad, the FBI takes steps to coordinate the law enforcement response with foreign counterparts and other U.S. agencies.

1. Examples of Activity Referred to the FBI

The following are several examples of current matters referred to or investigated by the FBI, that are representative of the types of threats facing U.S. businesses competing in a global economy.

a. In March 2017, the FBI received information from a United States manufacturing company that a former employee admitted to downloading proprietary information for personal economic gain. The employee used the stolen trade secret to secure employment with a non-U.S. company headquartered outside the United States but with offices in the United States. This non-U.S. company is in direct competition with the United States company. The possible economic loss to the United States company is in the hundreds of millions of dollars.

b. In December 2016, the FBI received information from a United States equipment company that an employee located outside the United States resigned to work for a

competitive non-U.S. company located outside of the United States. A forensic review of the departed employee's laptop revealed approximately 19,000 proprietary files were stolen from the United States company and uploaded to the former employee's personal cloud storage.

c. In October 2016, Mo Hailong, a Chinese national, was sentenced to 36 months in prison for conspiracy to steal trade secrets. The investigation was initiated when DuPont Pioneer security staff detected suspicious activity and alerted the FBI. During the course of the conspiracy, Mo Hailong was employed as the Director of International Business of the Beijing Dabeinong Technology Group Company, commonly referred to as DBN. DBN is a Chinese conglomerate with a corn seed subsidiary company, Kings Nower Seed. Mo Hailong participated in the theft of inbred corn seeds from fields in the Southern District of Iowa and elsewhere for the purpose of transporting the seeds to DBN in China. The stolen inbred, or parent, seeds were the valuable trade secrets of DuPont Pioneer and Monsanto. The theft of agricultural trade secrets poses a grave threat to our national economic security.¹⁵

d. In September 2016, the FBI received information from a United States pharmaceutical subsidiary of a foreign-owned company that an employee located inside the United States sent trade secret information to a competitive non-U.S. company located outside the United States.

e. In July 2014, Walter Liew was sentenced to serve 15 years in prison, forfeit \$27.8 million in illegal profits, and pay \$511,667.82 in restitution, following his conviction after a two-month trial. The jury found that Liew and others conspired to steal trade secrets from DuPont regarding a commercially valuable white pigment with numerous uses, and he sold those secrets for large sums of money to state-owned companies of the People's Republic of China, including his co-defendant, the Pangang Group. Evidence at trial showed that Liew met with the government of China, was informed that the China had prioritized the development of such technology, and conspired with former DuPont employees to transfer illegally obtained DuPont technology to help Chinese companies. The case marked the first federal jury conviction for economic espionage under 18 U.S.C. § 1831, as well as the first indictment of a foreign, state-owned enterprise for economic espionage. The Department of Justice's National Security Division along with the U.S. Attorney's Office for the Northern District of California are actively litigating whether Pangang has been adequately served and should be sanctioned for failing to appear.

f. In May 2014, five uniformed members of the Chinese military were indicted on charges of hacking and conducting economic espionage against large U.S. nuclear-power,

¹⁵ Press Release, U.S. Department of Justice, "Chinese National Sentenced to Prison for Conspiracy to Steal Trade Secrets," October 5, 2016, *available at* <https://www.justice.gov/opa/pr/chinese-national-sentenced-prison-conspiracy-steal-trade-secrets>

metal and solar-energy companies. The 48-page indictment described numerous, specific instances where officers of the People’s Liberation Army (PLA) hacked into the computer systems of American companies to steal trade secrets and sensitive, internal communications for economic gain and competitive commercial use by Chinese companies. Although the five individuals have not been arrested, the indictment sent a strong message that enforcement authorities can attribute hacking to particular individuals and that state actors engaged in cyber espionage for economic advantage are not immune from the law simply because they act abroad with the permission or knowledge of their country.

g. Sinovel Wind Group Company Limited is a wind turbine manufacturer headquartered in Beijing, China. On June 27, 2013, a Federal Grand Jury returned a three-count indictment against Sinovel, two of its employee managers, and Dejan Karabasevic, a former employee of American Superconductor Corporation (AMSC), for theft of trade secrets, wire fraud, and conspiracy resulting in approximately \$1.2 billion in total economic losses to AMSC. The FBI investigation also documented a loss of more than 600 jobs at AMSC in the United States and abroad. In January 2018 the case proceeded to trial, and resulted in a guilty verdict on all counts. Sentencing is scheduled for June, 2018.¹⁶ The prosecution is supported through the United States Attorney’s Office for the Western District of Wisconsin and DOJ’s Computer Crime and Intellectual Property Section (CCIPS). Additionally, DOJ’s Office of International Affairs in the Criminal Division (OIA) provided substantial assistance in this matter. The case has garnered significant national and international media attention and is believed to be the first federal criminal trial in the United States involving a Chinese corporate defendant, and in which the defendant is also a Chinese State-Owned Enterprise.

h. In 2011, Karabasevic, the former AMSC employee, was indicted by an Austrian court for (1) the crime of fraudulent misuse of data processing; and (2) the misdemeanor of industrial espionage for the benefit of a foreign country. Karabasevic pled guilty to both counts and was sentenced by the Regional Court of Klagenfurt (Department 15) to three years of imprisonment. Of those three years, two years were “suspended on probation with a probation period of three years,” for an actual prison sentence of one year. Karabasevic was also ordered to pay AMSC 200,000 EUR in restitution.

B. Department of Justice Resources Addressing Trade Secret Theft and IP Crime

¹⁶ The DOJ Press Release following the trial is linked in fn. 6

1. CCIPS, the CHIP Network, and OIA

CCIPS and the Computer Hacking and Intellectual Property (CHIP) Network are the backbone of the Department of Justice's response to trade secret theft. OIA also plays a key role in those matters that have an international component.

The Department carries out its overall IP criminal prosecution mission through the United States Attorneys' Offices and CCIPS, which works closely with a network of over 270 specially-trained federal prosecutors who make up the Department's Computer Hacking and Intellectual Property Network.

CCIPS is a section within the Criminal Division consisting of a specialized team of up to forty-five attorneys who are devoted to enforcing laws related to computer and IP crimes. Fourteen CCIPS attorneys are assigned exclusively to IP enforcement. These attorneys prosecute criminal cases, assist prosecutors and investigative agents in the field, and help develop and implement the Department's overall IP enforcement strategy and legislative priorities. CCIPS attorneys are available to provide advice and guidance to agents and prosecutors on a 24/7 basis. CCIPS attorneys also provide training on criminal enforcement of IP laws to prosecutors and investigative agents both domestically and abroad.

CCIPS also houses the Cybercrime Lab, which provides support in evaluating digital evidence in IP cases. The Lab is currently staffed with nine digital investigative analysts. In addition to evaluating digital evidence, the Lab's experts have provided extensive training on the use of digital forensics tools in IP cases to law enforcement audiences around the world.

The CHIP program is a network of experienced and specially-trained federal prosecutors who aggressively pursue computer crime and IP offenses. Each of the 94 United States Attorneys' Offices has one or more CHIP coordinators. In addition, 25 United States Attorneys' Offices have CHIP Units, with two or more CHIP attorneys. CHIP attorneys have four major areas of responsibility : (1) prosecuting computer crime and IP offenses; (2) serving as the district's legal counsel on matters relating to those offenses and the collection of electronic evidence; (3) training prosecutors and law enforcement personnel in the region; and (4) conducting public and industry outreach and awareness activities.

OIA, another section within the Criminal Division, returns fugitives to face justice and obtains essential evidence for criminal investigations and prosecutions worldwide, including violations relating to theft of trade secrets and economic espionage. OIA is the Department of Justice's nerve center for international criminal law enforcement coordination.

2. CES and the NSCS Network

Within NSD, the Counterintelligence and Export Control Section (CES)—one of NSD’s principal litigating components—is responsible for coordinating and conducting investigations and prosecutions of economic espionage offenses and national security-related cyber incidents. In June 2015, NSD, recognizing the increasingly acute and costly threat that economic espionage poses to the U.S. national and economic security, released its “Strategic Plan for Countering the Economic Espionage Threat.” This plan aims to heighten awareness of the threat in order to deter and mitigate economic espionage. The plan also seeks to coordinate efforts within the government to counter the threat, including through operational disruption, increased and improved training, and the provision of technical advice and expertise.

In 2012, the Department established the National Security Cyber Specialists (NSCS) Network to create a “one-stop-shop” for attorneys, investigators, and members of the private sector looking to combat national security cyber thefts—including economic espionage and trade secret theft—with all appropriate legal tools. Each U.S. Attorney’s Office has at least one representative to the NSCS Network, and in each of the last five years NSCS Network representatives have convened in the D.C. area for specialized training focusing on legal and other issues at the intersection of national security and cybersecurity.

C. Office of the United States Trade Representative

The Office of the United States Trade Representative (USTR) is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and overseeing negotiations with other countries. USTR uses a wide range of trade tools to promote strong intellectual property protection and effective enforcement worldwide, including with respect to trade secrets.

1. Section 301 Investigation

On August 14, 2017, the President of the United States instructed the U.S. Trade Representative to consider whether to investigate under Section 301 of the 1974 Trade Act any Chinese acts, policies or practices that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technology development. On August 18, 2017, the U.S. Trade Representative initiated a Section 301 investigation, which included a public hearing on October 10, 2017, and two rounds of public written comments from interested members of the public. Based on the investigation the Trade Representative reached the following findings, the last of which pertains specifically to trade secret theft:

First, China uses foreign ownership restrictions, such as joint venture requirements and foreign equity limitations, and various administrative review and licensing processes, to require or pressure technology transfer from U.S. companies.

Second, China's regime of technology regulations forces U.S. companies seeking to license technologies to Chinese entities to do so on non-market-based terms that favor Chinese recipients.

Third, China directs and unfairly facilitates the systematic investment in, and acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generate the transfer of technology to Chinese companies.

Fourth, China conducts and supports unauthorized intrusions into, and theft from, the computer networks of U.S. companies to access their sensitive commercial information and trade secrets.

The President instructed the Trade Representative to take all appropriate actions under Section 301 to address the referenced acts, policies, and practices of China that are unreasonable or discriminatory and that burden or restrict U.S. commerce.

Pursuant to the statute and the instructions from the President, the Trade Representative proposed that appropriate action would include increased tariffs on certain goods of Chinese origin and provided notice of a public hearing and opportunity to submit comments on the proposed action. The USTR also initiated dispute settlement proceedings at the World Trade Organization to address China's discriminatory licensing practices, a concern highlighted repeatedly in past Special 301 reports. The President also directed the Secretary of the Treasury to address concerns about investment in the United States directed or facilitated by China in industries or technologies deemed important to the United States.

III. U.S. Engagement with Foreign Governments and Activities to Increase Victim and International Awareness

The U.S. Government plays an active role in educating companies in the U.S. and abroad about the risks of trade secret theft and potential responses. Additionally, agencies work with foreign counterparts to increase the effectiveness of criminal and civil response to trade secret thefts taking place overseas. This work is carried out through the Department of Justice's IP Law Enforcement Coordinator (IPLEC)¹⁷ program, USTR, the Commerce Department's IP Attaché program,¹⁸ the U.S. Patent and Trademark Office's Global Intellectual Property Academy (GIPA), and ongoing outreach through the State Department, FBI, and Office of the IP Enforcement Coordinator. Specific efforts in this area are described in greater detail below.

¹⁷ A more detailed description and contact information for the IP Law Enforcement Coordinators is contained in Appendix B.

¹⁸ More information about the IP Attaché program is contained in Appendix C.

A. Victim Resources to Report Instances of Trade Secret Theft

In addition to training and outreach, U.S. agencies have developed a number of avenues for victims to report trade secret thefts and other IP crimes.

In addition to direct, case-specific outreach to U.S. agencies, these reporting mechanisms include:¹⁹

- The Department of Justice's *Reporting Intellectual Property Crime*
- The National Intellectual Property Rights Coordination Center²⁰ Web Button
- The reporting page at the Department of Commerce's web page Stopfakes.gov

B. Department of Justice and FBI Outreach

The Department of Justice and FBI actively develop opportunities to interact with affected industries, international law enforcement counterparts, and other foreign officials in order to promote the protection of trade secrets and intellectual property.

In order to address the international problem of trade secret theft, CCIPS and OIA continue to place a high priority on fostering international cooperation and coordination of criminal IP enforcement efforts. These sections have developed relationships with foreign law enforcement through international casework as well as through training and outreach. An important component of the Department's international enforcement efforts is the Intellectual Property Law Enforcement Coordinator (IPLEC) program. Through the current program, the Department has had an experienced federal prosecutor in Bangkok, Thailand, to coordinate law enforcement activities in Asia since 2006, and the Department, with State Department support, deployed a second IPLEC to Sofia, Bulgaria in 2007. In FY 2015, the Eastern Europe IPLEC position was shifted from Sofia to Bucharest, Romania. The IPLEC program expanded in FY 2016, and with the continued support of the State Department, as DOJ has posted two new regional IPLECs in Hong Kong and Sao Paulo, Brazil. In the first quarter of FY 2018, another new IPLEC, the fifth, was deployed to Abuja, Nigeria. Additionally, non-IPLEC DOJ attachés, who are currently posted in six U.S. Embassies,²¹ may assist with operational matters involving IP enforcement in their areas of responsibility.

¹⁹ Additional information about each of these resources is contained in Appendices D-F

²⁰ <https://www.iprcenter.gov/>

²¹ DOJ attachés are currently posted in London, Paris, Rome, Mexico City, Bangkok, and Manila. The DOJ attaché in Bangkok is dually-designated as the regional IPLEC.

The Justice Department, along with other U.S. Government agencies, engages directly, as an example, with China on a number of IP-related issues, including trade secrets. Law enforcement issues are discussed at the Ministerial-level Law Enforcement and Cybersecurity Dialogue (which, in 2017, replaced the former U.S.-China High-Level Joint Dialogue on Cybercrime and Related Issues) and at the sub-Ministerial level in the Joint Liaison Group on Law Enforcement Cooperation (JLG). Components of DOJ's Criminal Division which participate in the JLG include OIA, CCIPS, and the Office of Overseas Prosecutorial Development Assistance and Training (OPDAT). The Intellectual Property Criminal Enforcement Working Group (IPCEWG) of the JLG meets annually to discuss ongoing case cooperation, joint identification of priority areas, best practices, and the development of future technical exchange and training opportunities.

The FBI is a primary partner at the National Intellectual Property Rights Coordination Center (IPR Center) along with U.S. Immigration and Customs Enforcement, Homeland Security Investigations (HSI). The IPR Center regularly hosts foreign government representatives to further international investigations. The FBI also regularly utilizes its Legal Attaché network abroad to engage with law enforcement counterparts in foreign countries. Collaboration with INTERPOL, EUROPOL, and specific country governments occurs on a regular basis regarding theft of trade secrets inside of the United States, where subjects or victims may be located abroad and international assistance is required. FBI personnel regularly conduct training as part of the United States Patent and Trademark Office's (USPTO) GIPA in Alexandria, Virginia. Past attendees have included law enforcement officers, prosecutors, and judges from China, Pakistan, Sri Lanka, Brazil, Colombia, Chile, Mexico, Panama, Uruguay, Thailand, Vietnam, Malaysia, and Philippines.

In addition to collaborative work through the IPR Center, the FBI's Counterintelligence Division develops training and outreach materials, participates in conferences, and visits members of private industry.

Working with the National Counterintelligence and Security Center, the FBI launched a nationwide campaign and released a short film aimed at educating businesses, industry leaders, and trade secret owners about the threat and how they can help mitigate it. Based on an actual case, *The Company Man: Protecting America's Secrets* illustrates how one U.S. company was targeted by foreign actors and how that company worked with the FBI to resolve the problem and bring the perpetrators to justice.²²

Since the release of the film in 2015, the FBI has provided more than a thousand briefings on the economic espionage threat to companies and industry leaders, using *The*

²² *The Company Man* may be accessed here: <https://www.fbi.gov/video-repository/newss-the-company-man-protecting-americas-secrets/view>

Company Man as a training tool. The FBI hopes to expand the scope of the audience to include a wider range of industry representatives, trade associations, and smaller companies and to encourage them to come forward if they suspect they are a victim of economic espionage and/or theft of trade secrets.

C. U.S. Commerce and Trade Agencies' Activities

The Office of the U.S. Trade Representative (USTR), the U.S. Department of Commerce (including its Patent and Trademark Office), and other U.S. government agencies cooperate closely in engaging foreign governments and industry stakeholders on a broad array of trade matters, including on the need for foreign governments to ensure that U.S. companies can protect their trade secrets in markets overseas. The Commerce Department and U.S. Patent and Trademark Office (USPTO), in addition to collaborating with USTR, address trade secret misappropriation through the IP Attaché program, direct engagement with foreign governments in bilateral discussions and multilateral forums, and through capacity-building programs offered to foreign officials through the GIPA at USPTO headquarters in Alexandria, VA., and overseas. A representative sample of recent activities is set out below.

1. APEC

USPTO attorneys supported colleagues from the Office of the United States Trade Representative (USTR) on a multi-year Asia Pacific Economic Cooperation (APEC) project, referenced previously, to promote the protection of trade secrets among the APEC member economies, which include such diverse economies as Russia, China, Canada, Peru, and Thailand. As described below in greater detail, the first phase of the project resulted in a comprehensive study of the trade secret systems of the APEC economies. The second phase of the project concluded with a set of trade secrets best practices endorsed at the highest levels by all APEC members.

2. USPTO Trade Secret Symposium

On May 8, 2017, USPTO held a public symposium on developments in the protection of trade secrets. Topics discussed included: (1) Measuring the Value of Secrecy; (2) Use of the Defend Trade Secrets Act in Practice; (3) Differences in Trade Secret Protection in Foreign Jurisdictions; and (4) Considerations of Business Owners in International Cases. Experts from U.S. government, academia, private legal practice, international organizations, and industry served as panelists.

3. USPTO "China IP Roadshows"

From April to November 2017, the USPTO organized and presented "China IP Roadshows" in twelve cities throughout the United States, including Boston, Dallas, Grand Rapids, Salt Lake City, and Seattle. These programs focused on reaching out to and working with American individuals and small- and medium-sized enterprises, emphasizing the importance of first registering and protecting intellectual property in the United States, understanding the remedies available to redress infringement in the United States, and the challenges of enforcing intellectual property rights in China. In addition to group presentations,

USPTO personnel conducted related consultations and discussions with individual participants. In almost every program, trade secret protection was discussed. Average attendance at each program was approximately 110 people.

4. USPTO Regional Offices

On April 21, 2017, the director of the Midwest Regional Office participated in a panel discussion entitled, “The Intersection of Trade Secrets, Patents, and Other IP-Recent Changes in the Law Require a Fresh Look.” The panel was part of a one-day conference hosted by the Intellectual Property Institute at Mitchell Hamline School of Law. The conference - entitled, “The New Era of Trade Secret Law: The DTSA and Other Developments” - included panel discussions on recent changes in 35 U.S.C. §101; the obligation of law firms to protect the trade secrets of their clients; and practical tips for protecting a company’s data from being misappropriated by current or former employees.

On May 2, 2017, the director of the Texas Regional Office participated in a panel discussion entitled, “Protecting Your IP Rights in China: A Texas Perspective.” The panel was part of a one-day conference hosted by the Dallas Bar Association and the U.S. Commercial Service. The DTSA was discussed extensively at this event.

On September 27, 2016, the director of the West Coast Regional Office spoke at a trade secrets forum in Palo Alto, California hosted by Managing Intellectual Property (MIP). The forum had approximately 110 attendees.

5. Trade Secret Video

On March 1, 2017, the USPTO’s GIPA released a Trade Secrets video on its GIPA YouTube playlist.²³ The video is available to the general public worldwide, and provides a brief, yet informative introduction on the nature of trade secrets and the reasons for protecting them.

6. USPTO GIPA Programs

The USPTO’s GIPA regularly conducts programs on “Intellectual Property & Exporting” for U.S. Small and Medium Enterprises. The cross-cutting IP agenda included discussion of trade secret protection. Each program also included one-on-one consultations with USPTO representatives, who routinely refer those companies that may have experienced trade secret theft to the appropriate law enforcement authorities. In addition to the export programs, GIPA also hosted two trade show booths with associated workshops, including information on trade secret protection and theft.

When USPTO speaks to foreign officials about its varied IP protection programs, it typically includes a discussion on trade secret protection to support awareness on the importance of trade secrets to an effective IP regime.

²³ The GIPA YouTube channel may be accessed at:
<https://www.youtube.com/watch?v=1dXA5A4l0Rg&list=PL9BtHzl4w-dmTr-FkkjxMYwEITvwBjjGh&index=1>

Specific discussion of trade secrets was included in the following USPTO-hosted workshops:

Sri Lanka Judicial Exchange	Colombo and Jaffna	May 2016
Pakistan Judicial Exchange	USPTO Headquarters	August 2016
Advanced Workshop on Intellectual Property Protection and Enforcement for prosecutors and investigators from the Philippines, Malaysia and Vietnam	USPTO Headquarters	April 2017
Joint PTO/CLDP Judicial Dialogue on the Protection of Intellectual Property Rights	Kobuleti, Georgia	July 2016
Judicial Dialogue on the Protection of Intellectual Property Rights	Astana, Kazakhstan	September 2016
Judicial Dialogue on the Protection of Intellectual Property Rights	Baku, Azerbaijan	April 2017

7. Bilateral Exchanges with China

USTR, USPTO, and others engage directly with Chinese officials in a number of ways to improve trade secret protections for U.S. companies doing business in China.

Bilateral Dialogues: Serious inadequacies in China’s protection and enforcement of trade secrets have been the subject of high-profile attention and engagement between the United States and China in recent years. In an effort to address these shortcomings, the United States secured

commitments from China not to condone state sponsored misappropriation of trade secrets for commercial use and to issue judicial guidance to strengthen its trade secrets regime. The United States urged China to make certain key amendments to its trade secrets-related laws and regulations, particularly with regard to draft revisions of the Anti-Unfair Competition Law. Additionally, the United States also has urged China to take actions to address inadequacies across the range of state-sponsored actors and to promote public awareness of trade secrets disciplines.

Engagement with Chinese Legislative Branch: In March and September of 2017, USPTO, USTR, and other interagency colleagues prepared official U.S. government comments on draft amendments to China's Anti-Unfair Competition Law (AUCL), devoting the majority of comments to the trade secrets provisions of that law, including on the need to broaden the scope of persons protected by the law, to make pre-trial compulsory measures available (such as preliminary injunctions and evidence preservation orders), to provide sufficient damage awards, and to enact measures to keep trade secret information confidential during enforcement procedures, among other issues. On January 1, 2018, an amended AUCL went into effect but it failed to adopt many key U.S. recommendations.

Engagement with Chinese Judicial Branch: From May 11, 2016 – May 11, 2017, members of the USPTO China Team met repeatedly with China's Supreme People's Court and the Beijing Intellectual Property Court to discuss several issues related to trade secret protection, including inevitable disclosure, challenges in litigating trade secret cases in the U.S. and China, and the handling of confidential information during trade secret-related judicial proceedings, among other issues, at times assisted by members of the U.S. federal judiciary.

Engagement with Chinese Administrative/Executive Branch: From May 11, 2016 – May 11, 2017, members of the USPTO China Team repeatedly met with the State Administration for Industry and Commerce in Beijing to discuss trade secret protections.

8. Engagement with U.S. Industry on Trade Secret Issues in China

To inform the government-to-government discussion with China, USTR and USPTO regularly interact with U.S. industry to understand trends in trade secret enforcement and the challenges faced by U.S. businesses.

Meetings with Trade Secret Holders: USTR and USPTO's China Team met regularly with trade secrets rights holders to obtain detailed descriptions of obstacles to protection of trade secrets in China as well as perceived threats of retaliation from Chinese government agencies for bringing trade secret claims in China during the period at issue.

Meetings with Industry Associations: USTR and USPTO's China Team met with industry associations, including, but not limited to, the U.S. Chamber of Commerce and the U.S.-

China Business Council, to hear from members regarding trade secret protections in China, and to update industry association membership on the latest bilateral developments with regards to trade secrets, on a regular basis, during the period at issue.

Presentations to Industry: From May 11, 2016 – May 11, 2017, members of the USPTO’s China Team gave lectures and presentations, and participated in panel discussions on trade secret protection in China at The George Washington University Law School and the Antonin Scalia Law School, of George Mason University, the Sedona Conference, as well as at programs sponsored by the Boston Bar Association, the Dallas Bar Association, the Asian American Bar Association of Houston, the American Bar Association, Intellectual Property Law Section, among others. Members of the business community, U.S. federal and state officials, as well as academia, attended these programs.

9. Data-driven Policy-making

USPTO China Resource Center: During the period at issue, USPTO’s China Resource Center analyzed trade secret litigation trends in the U.S and China, examined differing approaches towards defining unfair conduct, non-public information and other elements in trade secrets cases, and analyzed Chinese IP and industrial plans as they related to trade secrets.

10. IP Attaché Work Concerning Trade Secret Protection

a) Regional IP Attaché to China (Beijing)

The Beijing Attaché assisted in developing the Ambassador’s IPR roundtable in October 2016. The discussion focused on IPR enforcement, including a range of related topics such as evidence gathering, preliminary injunctions, and other issues within judicial (both civil and criminal) enforcement that are associated with weak trade secrets enforcement systems. While this advocacy was not limited to trade secrets, the impact of these issues on trade secrets is significant. The roundtable was a high-level event that included advocacy for stronger trade secret enforcement systems.

b) Regional IP Attaché to China (Shanghai)

Meeting with Jiangxi High Court Discussion on trade secrets April 6, 2017

DOJ Criminal IPR Workshop in Hong Kong Speeches and discussions on trade secrets March 8-9, 2017

Meetings with Taiwan Intellectual Property Office, Ministry of Justice and IP Court	Discussions on trade secrets	February 23-24, 2017
Meeting with Taizhou Market Supervision Office	Discussion on trade secrets	February 17, 2017
Meeting with Shanghai Pudong District Court	Discussion on trade secrets	January 24, 2017
2016 JCCT Plenary Session in Washington, D.C.	Negotiations on trade secrets	November 19-23, 2016
US-China IP Conference by University of California at Berkeley and Renmin University	Speeches and discussions on trade secrets	November 15, 2016
US Ambassador's IPR Roundtable	Speeches and discussions on trade secrets	October 14, 2016
Meeting with Shanghai IP Court	Discussion on trade secrets	May 13, 2016

c) Regional IP Attaché to the World Trade Organization - Geneva

On November 9, 2016, the United States, the European Union and Japan held a side event on the margins of the Council of TRIPS at the World Trade Organization (WTO). The presentation focused on the initiatives several WTO members undertook to modernize their regimes for trade secrets protection, addressing motivations for the changes as well as controversies that arose during the legislative processes. The speakers discussed how trade secrets are managed on the ground, across sectors and countries, to stimulate flows of technology and knowledge. Special emphasis was given on how trade secrets protection can benefit SMEs, in developed as well as emerging economies.

d) Regional IP Specialist for India

The Regional IP Specialist for India presented on trade secret protection as part of a number of programs covering IP protection in India, and engaged the government of India in

discussions about ways to improve trade secret enforcement despite the absence of a specific statute.

World IP Forum: Panel discussion on Trade Secrets	Bangalore	April 26 – 28, 2017
FICCI Roundtable on Effective Implementation of IPR Policy	Mumbai	July 2016
National IP Policy program-APTDC	Patna	July 2016
National IP Policy (APTDC)	Hyderabad	July 2016
National IP Policy (APTDC)	Kochi	August 2016
National IP Policy (APTDC)	Chandigarh	August 2016
INBA Program	Bangalore	September 2016
Trade Secrets Roundtable	Delhi	October 2016
Trade Secret Workshop	Delhi	October 2016
IHIPP Conference	Bangalore	October 2016

e) Regional IP Attaché to the U.S. Mission to the European Union

The U.S. government was extremely active in Brussels in support of the EU trade secret directive that was adopted in spring of 2016. Engagement through the Transatlantic IPR Working Group (co-chaired by the IP Attaché) pushed this topic to the forefront on EU action on intellectual property matters. Between May 2016 and now, U.S. government has engaged the European Commission on implementation of the new Directive, and is developing programming for Member States, starting with two roundtables in Austria in June 2017.

f) Regional IP Attaché to the U.S. Mission to the UN - Geneva

The IP Attaché facilitated discussions between WIPO and the USPTO regarding an international conference on trade secrets currently being planned by WIPO for 2018.

g) Regional IP Attaché for Southeast Asia

The IP Attaché in Bangkok regularly met with foreign officials and U.S. companies to discuss the role of trade secret protection and its effect on U.S. businesses in the region.

Meeting with U.S. Financial Services Company	Discussion of recent trends in technology investment, entrepreneurial startups, ecommerce, and trade secret protection in Thailand, Indonesia, and Singapore	May 2016
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Work on Thailand-Country Commercial Guide on IPR section.	Trade secret and plant variety issues	May 2016
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Meeting with U.S. Consumer Goods Company	Discussion of trade secret protection and trademark infringement and counterfeiting in the region, specifically, in Myanmar, Thailand, and Vietnam	June 2016
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Provided information to Burma/Myanmar, Cambodia, and Laos Desk Officer, International Trade Administration, Department of Commerce	Current status of design protection, trade secret and other IP related matters	July 2016
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Presentation at IP Enforcement Summit	Manila, Philippines	October 2016
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Discussion with Laos Ministry of Industry and Commerce	The role of intellectual property in trade agreements including trade secret issues and the current negotiations on the Regional Comprehensive Economic Partnership (RCEP)	November 2016
TCTP ASEAN IP Enforcement Workshop, organized with IP Academy of Singapore	Singapore	November 2016
Meeting with , the Chair, IP and Law Committee of the AmCham in Thailand	Discussion of a proposal to cooperate on a seminar for start-ups and SMEs on protection and enforcement of trade secrets in Thailand	January 2017
Presentation at Thai Judicial Program	Bangkok, Thailand	January 2017

11. USTR Efforts

USTR is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and overseeing negotiations with other countries. USTR uses a wide range of trade tools to promote strong intellectual property protection and effective enforcement worldwide, including with respect to trade secrets. Key areas of work include:

- the negotiation, implementation, and monitoring of intellectual property provisions of trade agreements;
- bilateral and regional engagement through such vehicles as the annual "Special 301" review and report and numerous IP dialogues with trading partners;
- engagement on IP issues through the World Trade Organization (WTO) and other organizations;
- implementation of trade policy in support of U.S. innovations, including those in the pharmaceutical and medical technology industries; and
- providing interagency trade policy leadership.

USTR's annual Special 301 Report and National Trade Estimate Report²⁴ contain information relevant to the reporting requirements of the Defend Trade Secrets Act. In terms of the scope of, and threats posed by, trade secret theft occurring outside the United States, the Special 301 Report indicates there is a growing need for trading partners to provide effective protection and enforcement of trade secrets. Companies in a wide variety of industry sectors, including information and communications technologies, services, pharmaceuticals, manufacturing, and environmental technologies, rely on the ability to protect and enforce their trade secrets and rights in proprietary information. Indeed, trade secrets, such as business plans, internal market analyses, manufacturing methods, customer lists, and recipes, are often among a company's core business assets. A company's competitiveness may depend on its capacity to protect such assets. Trade secret theft threatens to diminish U.S. competitiveness around the globe, and puts U.S. jobs at risk. The reach of trade secret theft into critical commercial and defense technologies poses threats to U.S. national security interests as well.

In terms of the ability of trade secret owners to prevent the misappropriation of trade secrets outside the United States, and countries in which insufficient trade secrets protections pose significant problems for U.S. companies, the Special 301 Report indicates that various sources, including the U.S. Office of the National Counterintelligence Executive (ONCIX), have reported specific gaps in trade secret protection and enforcement, particularly in China. Theft may arise in a variety of circumstances, including those involving departing employees taking portable storage devices containing trade secrets, failed joint ventures, cyber intrusion and hacking, and misuse of information submitted by trade secret owners to government entities for purposes of complying with regulatory obligations. In practice, effective remedies appear to be difficult to obtain in a number of countries, including China and India.²⁵

Lack of legal certainty regarding trade secrets protections also dissuades companies from entering into partnerships or expanding their business activities in these and other countries. Many countries do not provide criminal penalties for trade secret theft sufficient to deter such behavior. Some foreign countries' practices and policies, including evidentiary requirements in trade secrets litigation and mandatory technology transfer, put valuable trade secrets at risk of exposure. For example, in Brazil, Indonesia, and Nigeria, government procurement regulations may require companies to disclose valuable source code.²⁶

Given the global nature of trade secret theft, action by our trading partners is essential. The United States uses all trade tools available to ensure that its trading partners provide robust protection for trade secrets and enforce trade secrets laws. As explained in more detail in the

²⁴ See <https://ustr.gov/sites/default/files/files/Press/Reports/2018%20National%20Trade%20Estimate%20Report.pdf>

²⁵ Additional detail may be found in the 2018 Special 301 Report: <https://ustr.gov/sites/default/files/files/Press/Reports/2018%20Special%20301.pdf>

²⁶ *Id.*

2018 Special 301 and NTE Reports, several trading partners have recently strengthened or have been working toward strengthening their trade secret regimes, including the EU and Taiwan.²⁷ USTR engages closely with stakeholders to identify real world developments and trends, and works bilaterally to remedy these concerns via a variety of engagement formats.

USTR also presses for progress in international organizations. Culminating a multi-year USTR-led engagement, in November 2016, USTR welcomed the endorsement of a set of “Best Practices in Trade Secret Protection and Enforcement Against Misappropriation” by Asia-Pacific Economic Cooperation (APEC) Leaders and Ministers in Lima, Peru. Establishing these best practices is essential to protecting and promoting the many innovative American businesses and workers. The document is the culmination of a multi-year initiative led by the United States, with the support of APEC Leaders and Ministers, which also resulted in a four volume report on Trade Secrets Protection in APEC Economies. APEC economies identified eight best practices that are part of a toolkit for good policy development across the region, including:

- Broad standing to assert claims for the protection of trade secrets and enforcement against trade secret theft;
- Civil and criminal liability, as well as remedies and penalties, for trade secret theft;
- Robust procedural measures in enforcement proceedings; and
- Adoption of written measures that enhance protection against further disclosure when governments require the submission of trade secrets.

USTR also pursued stronger trade secrets protection awareness and action via the World Trade Organization Council on Trade-Related Aspects of Intellectual Property Rights (TRIPS Council). In addition to other IP-related initiatives, the United States in November 2016 joined the EU, Canada, Japan, New Zealand and Chinese Taipei in introducing to the TRIPS Council their respective national legislation on the protection of trade secrets. Many of the presenters noted that protecting trade secrets is essential for maintaining the competitive edge of industries. The United States, the EU and Japan also hosted a trade secrets event on the margins of that meeting, featuring speakers from the UN, OECD and private sector to address recent updates of trade secrets protection regimes and how trade secrets are used and managed.

The United States has also strongly supported continued work in the OECD on trade secret protection, building off the two studies released by the OECD in 2014. The first study, entitled “Approaches to Protection of Undisclosed Information (Trade Secrets)” (January 30, 2014),²⁸ surveyed legal protection for trade secrets available in a sample of sixteen OECD and

²⁷ See 2018 Special 301 Report (<https://ustr.gov/sites/default/files/301/2017%20Special%20301%20Report%20FINAL.PDF>) and 2018 NTE Report (<https://ustr.gov/sites/default/files/files/Press/Reports/2018%20National%20Trade%20Estimate%20Report.pdf>).

²⁸ Schultz, M. and D. Lippoldt (2014), “Approaches to Protection of Undisclosed Information (Trade Secrets): Background Paper”, OECD Trade Policy Papers, No. 162, OECD Publishing, Paris.
DOI: <http://dx.doi.org/10.1787/5jz9z43w0jnw-en>

Brazil, Russia, India, China and South Africa (BRICS) countries as measured by the authors “Trade Secret Protection Index.” The second study, entitled “Uncovering Trade Secrets—An Empirical Assessment of Economic Implications of Protection for Undisclosed Data” (August 11, 2014),²⁹ examined the protection of trade secrets for a sample of 37 countries, provided historical data for the period since 1985, and considered the positive relationship between the stringency of trade secret protection and relevant economic performance indicators.

With respect to trade agreements, USTR has worked to promote high standards related to trade secret protection and enforcement. Through free trade agreement negotiations, USTR has sought enhance standards found in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) and in our existing FTAs to address evolving concerns regarding trade secret protection and enforcement, including criminal enforcement against the theft of trade secrets, including by cyber means.

²⁹ Lippoldt, D. and M. Schultz (2014), “Uncovering Trade Secrets - An Empirical Assessment of Economic Implications of Protection for Undisclosed Data”, OECD Trade Policy Papers, No. 167, OECD Publishing, Paris. DOI: <http://dx.doi.org/10.1787/5jxz15w3j3s6-en>

Appendix A

Section (4) of the Defend Trade Secrets Act of 2016, Pub. L. No. 114-153, sets out the topics to be addressed in the report:

- (1) The scope and breadth of the theft of the trade secrets of United States companies occurring outside of the United States.
- (2) The extent to which theft of trade secrets occurring outside of the United States is sponsored by foreign governments, foreign instrumentalities, or foreign agents.
- (3) The threat posed by theft of trade secrets occurring outside of the United States.
- (4) The ability and limitations of trade secret owners to prevent the misappropriation of trade secrets outside of the United States, to enforce any judgment against foreign entities for theft of trade secrets, and to prevent imports based on theft of trade secrets overseas.
- (5) A breakdown of the trade secret protections afforded United States companies by each country that is a trading partner of the United States and enforcement efforts available and undertaken in each such country, including a list identifying specific countries where trade secret theft, laws, or enforcement is a significant problem for United States companies.
- (6) Instances of the Federal Government working with foreign countries to investigate, arrest, and prosecute entities and individuals involved in the theft of trade secrets outside of the United States.
- (7) Specific progress made under trade agreements and treaties, including any new remedies enacted by foreign countries, to protect against theft of trade secrets of United States companies outside of the United States.
- (8) Recommendations of legislative and executive branch actions that may be undertaken to—
 - (A) reduce the threat of and economic impact caused by the theft of the trade secrets of United States companies occurring outside of the United States;
 - (B) educate United States companies regarding the threats to their trade secrets when taken outside of the United States;
 - (C) provide assistance to United States companies to reduce the risk of loss of their trade secrets when taken outside of the United States; and
 - (D) provide a mechanism for United States companies to confidentially or anonymously report the theft of trade secrets occurring outside of the United States.

Appendix B

U.S. Department of Justice's Computer Crime and Intellectual Property Section, "Intellectual Property Law Enforcement Coordinator (IPLEC) Program," *available at* <https://www.justice.gov/criminal-ccips/overseas-work>



INTELLECTUAL PROPERTY LAW ENFORCEMENT COORDINATOR (IPLEC) PROGRAM

- Created in 2006, with the first IPLEC stationed in Bangkok, Thailand.
- The Program deploys DOJ Attorneys overseas (Hong Kong, Bangkok, Bucharest, São Paulo, and Abuja) to:
 - assess the capacity of law enforcement authorities throughout the region to enforce intellectual property rights (IPR);
 - develop and deliver training designed to enhance the capacity of justice sector personnel to enforce IPR;
 - assist in developing or strengthening institutions dedicated to enforcing IPR;
 - monitor regional trends in IPR protection and computer crimes; and
 - provide expert assistance in support of the United States' IPR policies and initiatives in the region.

Appendix C

U.S. Patent and Trademark Office, “Intellectual Property (IP) Attaché Program,” *available at <https://www.uspto.gov/learning-and-resources/ip-policy/intellectual-property-rights-ipr-attach-program/intellectual>*

The screenshot shows the top portion of the USPTO website. On the left is the USPTO logo and the text "UNITED STATES PATENT AND TRADEMARK OFFICE". On the right are links for "About Us", "Jobs", "Contact Us", and "MyUSPTO", along with a search bar containing "Search uspto.gov". Below this is a navigation menu with tabs for "Patents", "Trademarks", "IP Policy", and "Learning and Resources", plus a "Quick links" button. A breadcrumb trail reads: "Home / Learning and Resources / IP Policy / Intellectual Property Rights (IPR) Attaché Program / Intellectual Property (IP) Attaché Program". On the far right of the breadcrumb trail are "Share" and "Print" icons.

International affairs

US IP attachés overseas

IP in China

Intellectual Property (IP) Attaché Program

The United States Patent and Trademark Office's (USPTO) IP Attaché program works to improve intellectual property systems internationally for the benefit of U.S. stakeholders.



IP Attaché Susan Wilson meets with Alliance for American Manufacturing during Hannover Messe trade fair in Germany.

IP Attachés serve at U.S. embassies, consulates and missions throughout the world. Select a country/city on the map to identify the IP attaché, his or her contact information, related IP climate information and related links.

You may also access a country/city using the text links below the map.



Text links for country/city:

Belgium	India	Thailand
Brazil	Kuwait	Switzerland – WTO
China - Beijing	Mexico	Switzerland – U.N.
China - Guangzhou	Peru	Ukraine
China - Shanghai	Russia	

Contact List of all IP Attaches

Primary Goals and Objectives of the IP Attaché Program

- To promote U.S. government IP policy internationally, including helping to secure high standards in international agreements and host country laws
- To encourage effective IP protection and enforcement by U.S. trading partners for the benefit of U.S. stakeholders

Appendix D

U.S. Department of Justice's Computer Crime and Intellectual Property Section, "Reporting Intellectual Property Crime: A Guide for Victims of Copyright Infringement, Trademark Counterfeiting, and Trade Secret Theft," *available at* <https://www.justice.gov/criminal-ccips/file/891011/download>



Appendix E

National Intellectual Property Rights Coordination Center, “Report IP Theft,” *available at* [https://www.iprcenter.gov/referral/@ @download/file](https://www.iprcenter.gov/referral/@@download/file)

Report IP Theft

To report violations of intellectual property rights, including counterfeiting and piracy, to the National IPR Coordination Center, [click here..](#)



Appendix F

U.S. Department of Commerce’s International Trade Administration STOPfakes.gov, “Need Help with an IPR Issue?” available at <https://www.stopfakes.gov/IRP-Assistance>

STOPfakes.gov
Intellectual Property Rights Information & Assistance

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NEED HELP WITH AN IPR ISSUE?

Several U.S. Government agencies are charged with protecting and enforcing intellectual property rights. Here you will find essential websites, phone numbers and email addresses of offices that are ready to help answer your questions.

U.S. GOVERNMENT AGENCIES

These Federal agencies are responsible for protecting and enforcing intellectual property rights, preventing counterfeits and pirated goods from entering the market.

- [Federal Bureau of Investigation \(FBI\)](#)
- [Food and Drug Administration](#)
- [National Intellectual Property Rights Coordination Center](#)
- [Office of the United States Trade Representative](#)
- [U.S. Department of Commerce](#)
 - [Office of Intellectual Property Rights](#)
 - [U.S. Commercial Service](#)
 - [U.S. Patent and Trademark Office \(USPTO\)](#)
- [U.S. Consumer Product Safety Commission](#)
- [U.S. Copyright Office](#)
- [U.S. Customs and Border Protection \(CBP\)](#)
- [U.S. Department of Justice, Computer Crime Initiative](#)
- [U.S. Department of State, International Intellectual Property Enforcement](#)
- [U.S. Immigration and Customs Enforcement \(ICE\) and U.S. Homeland Security Investigations \(HSI\)](#)
- [U.S. Intellectual Property Enforcement Coordinator \(IPEC\)](#)
- [U.S. International Trade Commission](#)

Business Guide Consumer Guide Assistance Events & Training U.S. & Global Initiatives My Boards

Intellectual Property Rights (IPR) Basics
Country IPR Toolkits
Country IPR Resources
Industry IPR Resources

Online Intellectual Property Training Module
Roadshows
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