

APPENDIX D

Intellectual Property Report – FY 2012

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.

FY 2012 - TOTALS (All Districts)

Referrals and Cases:

Number of Investigative Matters Received by U.S. Attorneys:	22
Number of Defendants:	36
Number of Cases Filed:	10
Number of Defendants:	17
Number of Cases Resolved/Terminated:	7
Number of Defendants:	21

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pleaded Guilty:	9
Number of Defendants Who Were Tried and Found Guilty:	1
Number of Defendants Against Whom Charge Was Dismissed:	11
Number of Defendants Acquitted:	0
Other Terminated Defendants:	0

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	4
1 to 12 Months Imprisonment:	4
13 to 24 Months:	1
25 to 36 Months:	0
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.

FY 2012 - TOTALS (All Districts)

Referrals and Cases:

Number of Investigative Matters Received by U.S. Attorneys:	79
Number of Defendants:	120
Number of Cases Filed:	40
Number of Defendants:	59
Number of Cases Resolved/Terminated:	33
Number of Defendants:	52

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pleaded Guilty:	40
Number of Defendants Who Were Tried and Found Guilty:	1
Number of Defendants Against Whom Charge Was Dismissed:	11
Number of Defendants Acquitted:	0
Other Terminated Defendants:	0

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	16
1 to 12 Months Imprisonment:	11
13 to 24 Months:	7
25 to 36 Months:	3
37 to 60 Months:	4
61 + Months:	0

*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. However, the statutes were run together to eliminate any double counting of cases/defendants where more than one of the statutes was charged against the same 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.

FY 2012 - TOTALS (All Districts)

Referrals and Cases:

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:	0

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 Charge Was Dismissed:	0
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.)

*This chart 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.

FY 2012 - TOTALS (All Districts)

Referrals and Cases:

Number of Investigative Matters Received by U.S. Attorneys:	223
Number of Defendants:	361
Number of Cases Filed:	110
Number of Defendants:	154
Number of Cases Resolved/Terminated:	110
Number of Defendants:	150

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pleaded Guilty:	107
Number of Defendants Who Were Tried and Found Guilty:	2
Number of Defendants Against Whom Charge Was Dismissed:	34
Number of Defendants Acquitted:	2
Other Terminated Defendants:	5

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	61
1 to 12 Months Imprisonment:	20
13 to 24 Months:	12
25 to 36 Months:	8
37 to 60 Months:	8
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. 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

Referrals and Cases:

	<u>FY 08</u>	<u>FY 09</u>	<u>FY 10</u>	<u>FY 11</u>	<u>FY12</u>
Number of Investigative Matters Received:	303	243	343	330	314
Number of Defendants:	467	404	543	481	496
Number of Cases Filed:	179	150	158	158	152
Number of Defendants:	239	203	239	203	218
Number of Cases Resolved/Terminated:	174	175	152	135	144
Number of Defendants:	270	230	212	206	205

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pled Guilty:	220	198	185	178	183
Number of Defendants Who Were Tried and Found Guilty:	8	5	7	13	4
Number of Defendants Against Whom Charges Were Dismissed:	26	21	14	11	11
Number of Defendants Acquitted:	8	2	2	1	2
Other Terminated Defendants:	8	4	4	3	5

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	101	114	114	92	88
1 to 12 Months Imprisonment:	46	31	33	26	43
13 to 24 Months:	39	27	25	31	25
25 to 36 Months:	20	6	9	15	15
37 to 60 Months:	19	17	7	21	15
61 + Months:	3	8	4	6	1

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

Referrals and Cases:

	<u>FY 12</u>
Number of Investigative Matters Received:	155
Number of Defendants:	224
Number of Cases Filed:	91
Number of Defendants:	120
Number of Cases Resolved/Terminated:	90
Number of Defendants:	112

Disposition of Defendants in Concluded Cases:

Number of Defendants Who Pleaded Guilty:	103
Number of Defendants Who Were Tried and Found Guilty:	1
Number of Defendants Against Whom Charges Were Dismissed:	4
Number of Defendants Acquitted:	1
Other Terminated Defendants:	3

Prison Sentencing for Convicted Defendants (# represents defendants):

No Imprisonment:	61
1 to 12 Months Imprisonment:	19
13 to 24 Months:	11
25 to 36 Months:	8
37 to 60 Months:	5
61+ Months:	0

*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. However, the statutes were run together to eliminate any double counting of cases/defendants where more than one of the statutes was charged against the same 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 statutes. 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.