

## Client Alerts

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### New Efforts in Bilateral Brand Protection

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The U.S. Joint Strategic Plan on Intellectual Property Enforcement was only published two months ago, but there are already encouraging signs of progress on the global brand protection front between the U.S. and China. On August 2nd, Shanghai No. 1 Intermediate People's Court ruled, for the first time, in favor of a company protecting its trade secrets against misappropriation by a former employee. The industry-friendly decision came just two days after U.S. Customs and Border Protection (CBP) announced the seizure of more than 243,000 counterfeit consumer electronics, resulting from a successful joint enforcement operation with China, often considered the world's most prolific violator of intellectual property rights (IPR).

The CBP seizure also represents an important first, as the inaugural joint effort between CBP and the General Administration of Customs for the People's Republic of China (GACC). GACC's Vice Minister, Zou Zhiwu, noted that the results are "very inspiring and have consolidated our confidence and resolve to jointly fight" IPR violations. The agencies seized goods bearing counterfeit Apple, Blackberry, Sony, Samsung and Beats by Dr. Dre trademarks. The joint operation also resulted in an arrest by local law enforcement in the New Orleans area of a U.S. citizen who repeatedly imported counterfeit headphones, which he then sold online. CBP warned that additional joint enforcement operations are planned.

China's new success in pursuing IPR violators was quickly echoed in the Shanghai court decision, the first to protect trade secrets under a new law enacted January 1, 2013. The Chinese court ruled in favor of a U.S.-based pharmaceutical company against a former employee who was fired for downloading documents containing trade secrets. The judge remarked that "the new Civil Procedure Law has filled a gap in protection of trade secrets, and the decision of the court will help the plaintiff hedge risks from secrets being leaked." Those risks are colossal; fakes account for 50% of online pharmaceutical sales, according to the World Health Organization. The pharmaceutical company sought \$3.3 million in damages against the employee.

Together, these developments signal much-needed improvement in global supply chain security and brand protection. Approximately 70% of all counterfeits seized between 2008 and 2010 came from China, according to a 2013 report by the U.N. Office on Drugs and Crime. China was the source of 87% of CBP seizures over the same period. Annually, G20 countries lose \$120 billion to counterfeiting and piracy, according to a 2011 report by Frontier Economics. In 2011, Business Action to Stop Counterfeiting and Piracy (BASCAP) estimated that the economic impact will reach \$1.7 trillion by 2015, in part prompting the U.S. and Chinese legislative reform to bolster IPR enforcement.

In addition to the economic impact, the U.S. has also renewed its focus on IPR enforcement as a matter of national security. Counterfeiting is an increasingly important financial means for criminal and terrorist organizations; in 2010, Lebanese police confirmed that militant group Hezbollah earned millions annually counterfeiting banned stimulants. Accordingly, the 2013 Joint Strategic Plan on Intellectual Property Enforcement prioritizes supply chain security by **expanding information-sharing on counterfeit goods**, increasing cooperation with international carriers, and facilitating voluntary initiatives to reduce online piracy.

**These recent actions demonstrate the importance of working with and supporting government agencies that enforce IPR. For more information on the implications of either of these developments or to better understand how to enhance your global brand protection program, please contact Venable's [Brand Protection Team](#) for more details.**