

§ 8101. Definition

In this Act, the term “United States person” means—

- (1) any United States resident or national,
- (2) any domestic concern (including any permanent domestic establishment of any foreign concern), and
- (3) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern,

except that such term does not include an individual who resides outside the United States and is employed by an individual or entity other than an individual or entity described in paragraph (1), (2), or (3).

(Pub. L. 110–403, §3, Oct. 13, 2008, 122 Stat. 4257.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 110–403, Oct. 13, 2008, 122 Stat. 4256, known as the Prioritizing Resources and Organization for Intellectual Property Act of 2008, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 110–403, §1(a), Oct. 13, 2008, 122 Stat. 4256, provided that: “This Act [enacting this chapter, section 2323 of Title 18, Crimes and Criminal Procedure, and sections 3713a to 3713d of Title 42, The Public Health and Welfare, amending sections 1116 and 1117 of this title, sections 109, 111, 115, 119, 122, 411, 412, 503, 506, 601, and 602 of Title 17, Copyrights, sections 1834 and 2318 to 2320 of Title 18, section 1595a of Title 19, Customs Duties, and section 3713 of Title 42, and repealing section 1128 of this title and section 509 of Title 17] may be cited as the ‘Prioritizing Resources and Organization for Intellectual Property Act of 2008.’”

SUBCHAPTER I—COORDINATION AND STRATEGIC PLANNING OF FEDERAL EFFORT AGAINST COUNTERFEITING AND INFRINGEMENT

§ 8111. Intellectual Property Enforcement Coordinator**(a) Intellectual Property Enforcement Coordinator**

The President shall appoint, by and with the advice and consent of the Senate, an Intellectual Property Enforcement Coordinator (in this subchapter referred to as the “IPEC”) to serve within the Executive Office of the President. As an exercise of the rulemaking power of the Senate, any nomination of the IPEC submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on the Judiciary.

(b) Duties of IPEC**(1) In general**

The IPEC shall—

- (A) chair the interagency intellectual property enforcement advisory committee established under subsection (b)(3)(A);
- (B) coordinate the development of the Joint Strategic Plan against counterfeiting and infringement by the advisory committee under section 8113 of this title;

(C) assist, at the request of the departments and agencies listed in subsection (b)(3)(A), in the implementation of the Joint Strategic Plan;

(D) facilitate the issuance of policy guidance to departments and agencies on basic issues of policy and interpretation, to the extent necessary to assure the coordination of intellectual property enforcement policy and consistency with other law;

(E) report to the President and report to Congress, to the extent consistent with law, regarding domestic and international intellectual property enforcement programs;

(F) report to Congress, as provided in section 8114 of this title, on the implementation of the Joint Strategic Plan, and make recommendations, if any and as appropriate, to Congress for improvements in Federal intellectual property laws and enforcement efforts; and

(G) carry out such other functions as the President may direct.

(2) Limitation on authority

The IPEC may not control or direct any law enforcement agency, including the Department of Justice, in the exercise of its investigative or prosecutorial authority.

(3) Advisory committee**(A) Establishment**

There is established an interagency intellectual property enforcement advisory committee composed of the IPEC, who shall chair the committee, and the following members:

- (i) Senate-confirmed representatives of the following departments and agencies who are involved in intellectual property enforcement, and who are, or are appointed by, the respective heads of those departments and agencies:

(I) The Office of Management and Budget.

(II) Relevant units within the Department of Justice, including the Federal Bureau of Investigation and the Criminal Division.

(III) The United States Patent and Trademark Office and other relevant units of the Department of Commerce.

(IV) The Office of the United States Trade Representative.

(V) The Department of State, the United States Agency for International Development, and the Bureau of International Narcotics Law Enforcement.

(VI) The Department of Homeland Security, United States Customs and Border Protection, and United States Immigration and Customs Enforcement.

(VII) The Food and Drug Administration of the Department of Health and Human Services.

(VIII) The Department of Agriculture.

(IX) Any such other agencies as the President determines to be substantially involved in the efforts of the Federal Government to combat counterfeiting and infringement.

(ii) The Register of Copyrights, or a senior representative of the United States Copyright Office appointed by the Register of Copyrights.

(B) Functions

The advisory committee established under subparagraph (A) shall develop the Joint Strategic Plan against counterfeiting and infringement under section 8113 of this title.

(Pub. L. 110-403, title III, §301, Oct. 13, 2008, 122 Stat. 4264.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original “this title”, meaning title III of Pub. L. 110-403, Oct. 13, 2008, 122 Stat. 4264, which is classified principally to this subchapter. For complete classification of title III to the Code, see Tables.

EX. ORD. NO. 13565. ESTABLISHMENT OF THE INTELLECTUAL PROPERTY ENFORCEMENT ADVISORY COMMITTEES

Ex. Ord. No. 13565, Feb. 8, 2011, 76 F.R. 7681, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including title III of the Prioritizing Resources and Organization for Intellectual Property Act of 2008 (Public Law 110-403) (15 U.S.C. 8111-8116) (the “PRO IP Act”), and in order to strengthen the efforts of the Federal Government to encourage innovation through the effective and efficient enforcement of laws protecting copyrights, patents, trademarks, trade secrets, and other forms of intellectual property, both in the United States and abroad, including matters relating to combating infringement, and thereby support efforts to reinvigorate the Nation’s global competitiveness, accelerate export growth, promote job creation, and reduce threats posed to national security and to public health and safety, it is hereby ordered as follows:

SECTION 1. *Senior Intellectual Property Enforcement Advisory Committee.*

(a) *Establishment of Committee.* There is established an interagency Senior Intellectual Property Enforcement Advisory Committee (Senior Advisory Committee), which shall be chaired by the Intellectual Property Enforcement Coordinator (Coordinator), Executive Office of the President.

(b) *Membership.* The Senior Advisory Committee shall be composed of the Coordinator, who shall chair it, and the heads of, or the deputies to the heads of:

- (i) the Department of State;
- (ii) the Department of the Treasury;
- (iii) the Department of Justice;
- (iv) the Department of Agriculture;
- (v) the Department of Commerce;
- (vi) the Department of Health and Human Services;
- (vii) the Department of Homeland Security;
- (viii) the Office of Management and Budget; and
- (ix) the Office of the United States Trade Representative.

A member of the Senior Advisory Committee may, in consultation with the Coordinator, designate a senior-level official from the member’s department or agency who holds a position for which Senate confirmation is required to perform the Senior Advisory Committee functions of the member.

(c) *Mission and Functions.* Consistent with the authorities assigned to the Coordinator, and other applicable law, the Senior Advisory Committee shall advise the Coordinator and facilitate the formation and implementation of each Joint Strategic Plan required every 3 years under title III of the PRO IP Act (15 U.S.C. 8113), consistent with this order.

(d) *Administration.* The Coordinator shall coordinate and support the work of the Senior Advisory Committee in fulfilling its functions under this order. The Coordinator shall convene the first meeting of the Senior

Advisory Committee within 90 days of the date of this order and shall thereafter convene such meetings as appropriate.

SEC. 2. *Intellectual Property Enforcement Advisory Committee.*

(a) *Establishment of Committee.* There is established an interagency Intellectual Property Enforcement Advisory Committee (Enforcement Advisory Committee), which shall be chaired by the Coordinator. The Enforcement Advisory Committee shall serve as the committee established by section 301(b)(3) of the PRO IP Act (15 U.S.C. 8111(b)(3)).

(b) *Membership.* The Enforcement Advisory Committee shall be composed of the Coordinator, who shall chair it, and representatives from the following departments and agencies, or units of departments and agencies, who hold a position for which Senate confirmation is required, who are involved in intellectual property enforcement, and who are, or are designated by, the respective heads of those departments and agencies:

- (i) the Office of Management and Budget;
- (ii) relevant units within the Department of Justice, including the Criminal Division, the Civil Division, and the Federal Bureau of Investigation;
- (iii) the United States Patent and Trademark Office, the International Trade Administration, and other relevant units of the Department of Commerce;
- (iv) the Office of the United States Trade Representative;
- (v) the Department of State, the Bureau of Economic Energy, and Business Affairs, the United States Agency for International Development and the Bureau of International Narcotics and Law Enforcement Affairs;
- (vi) the Department of Homeland Security, United States Customs and Border Protection, and United States Immigration and Customs Enforcement;
- (vii) the Food and Drug Administration of the Department of Health and Human Services;
- (viii) the Department of Agriculture;
- (ix) the Department of the Treasury; and
- (x) such other executive branch departments, agencies, or offices as the President determines to be substantially involved in the efforts of the Federal Government to combat counterfeiting and infringement.

Pursuant to the PRO IP Act (15 U.S.C. 8111), the Coordinator shall also invite the Register of Copyrights, or a senior representative of the United States Copyright Office designated by the Register of Copyrights, to serve as a member of the Enforcement Advisory Committee.

(c) *Mission and Functions.*

(i) Consistent with the authorities assigned to the Coordinator and the Enforcement Advisory Committee, and other applicable law, the Enforcement Advisory Committee shall develop each Joint Strategic Plan as provided for in title III of the PRO IP Act. In the development and implementation of the Joint Strategic Plan, the heads of the departments and agencies identified in section 2(b) of this order shall share with the Coordinator and the other members of the Enforcement Advisory Committee relevant department or agency information, to the extent permitted by law, including requirements relating to confidentiality and privacy, and to the extent that such sharing of information is consistent with law enforcement protocols for handling such information. Such information shall include:

- (A) plans for addressing the Joint Strategic Plan;
- (B) statistical information on the enforcement activities taken by that department or agency against counterfeiting or infringement; and
- (C) recommendations to enhance cooperation among Federal, State, and local authorities responsible for intellectual property enforcement.

(ii) The Coordinator may establish subgroups, consisting exclusively of Enforcement Advisory Committee members or their designees, who must be officials from the designating member’s department or agency, to support the functions of the Enforcement Advisory Committee. The subgroups shall be chaired by the Coordinator, or the Coordinator’s designee with expertise

and experience in intellectual property enforcement matters, and may include:

- (A) an Enforcement Subcommittee; and
 - (B) other subcommittees as the Coordinator deems appropriate, including subcommittees addressing particular enforcement issues, efforts, training, and information sharing among departments and agencies.
- (d) *Administration.* The Coordinator shall coordinate and support the work of the Enforcement Advisory Committee in fulfilling its functions under this order and under section 301(b)(3)(B) of the PRO IP Act (15 U.S.C. 8111(b)(3)(B)). The Coordinator shall convene meetings of the Enforcement Advisory Committee as appropriate.

SEC. 3. General Provisions.

(a) Nothing in this order shall be construed to impair or otherwise affect the:

- (i) authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or
- (ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations. Consistent with section 301(b)(2) of the PRO IP Act (15 U.S.C. 8111(b)(2)), the Coordinator may not control or direct any Federal law enforcement agency in the exercise of its investigative or prosecutorial authority.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§ 8112. Definition

For purposes of this subchapter, the term “intellectual property enforcement” means matters relating to the enforcement of laws protecting copyrights, patents, trademarks, other forms of intellectual property, and trade secrets, both in the United States and abroad, including in particular matters relating to combating counterfeit and infringing goods.

(Pub. L. 110-403, title III, §302, Oct. 13, 2008, 122 Stat. 4266.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title III of Pub. L. 110-403, Oct. 13, 2008, 122 Stat. 4264, which is classified principally to this subchapter. For complete classification of title III to the Code, see Tables.

§ 8113. Joint Strategic Plan

(a) Purpose

The objectives of the Joint Strategic Plan against counterfeiting and infringement that is referred to in section 8111(b)(1)(B) of this title (in this section referred to as the “joint strategic plan”) are the following:

- (1) Reducing counterfeit and infringing goods in the domestic and international supply chain.
- (2) Identifying and addressing structural weaknesses, systemic flaws, or other unjustified impediments to effective enforcement action against the financing, production, trafficking, or sale of counterfeit or infringing goods, including identifying duplicative efforts to enforce, investigate, and prosecute in-

tellectual property crimes across the Federal agencies and Departments that comprise the Advisory Committee and recommending how such duplicative efforts may be minimized. Such recommendations may include recommendations on how to reduce duplication in personnel, materials, technologies, and facilities utilized by the agencies and Departments responsible for the enforcement, investigation, or prosecution of intellectual property crimes.

(3) Ensuring that information is identified and shared among the relevant departments and agencies, to the extent permitted by law, including requirements relating to confidentiality and privacy, and to the extent that such sharing of information is consistent with Department of Justice and other law enforcement protocols for handling such information, to aid in the objective of arresting and prosecuting individuals and entities that are knowingly involved in the financing, production, trafficking, or sale of counterfeit or infringing goods.

(4) Disrupting and eliminating domestic and international counterfeiting and infringement networks.

(5) Strengthening the capacity of other countries to protect and enforce intellectual property rights, and reducing the number of countries that fail to enforce laws preventing the financing, production, trafficking, and sale of counterfeit and infringing goods.

(6) Working with other countries to establish international standards and policies for the effective protection and enforcement of intellectual property rights.

(7) Protecting intellectual property rights overseas by—

(A) working with other countries and exchanging information with appropriate law enforcement agencies in other countries relating to individuals and entities involved in the financing, production, trafficking, or sale of counterfeit and infringing goods;

(B) ensuring that the information referred to in subparagraph (A) is provided to appropriate United States law enforcement agencies in order to assist, as warranted, enforcement activities in cooperation with appropriate law enforcement agencies in other countries; and

(C) building a formal process for consulting with companies, industry associations, labor unions, and other interested groups in other countries with respect to intellectual property enforcement.

(b) Timing

Not later than 12 months after October 13, 2008, and not later than December 31 of every third year thereafter, the IPEC shall submit the joint strategic plan to the Committee on the Judiciary and the Committee on Appropriations of the Senate, and to the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives.

(c) Responsibility of the IPEC

During the development of the joint strategic plan, the IPEC—

- (1) shall provide assistance to, and coordinate the meetings and efforts of, the appro-