

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 ap-

pointed 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