

The Economic Impacts of IPR Infringement



Paul Salmon
Office of International Relations
U.S. Patent and Trademark Office

Counterfeiting and Piracy are Growing Threat

- Copying or Appropriation of Another's Intangible Property Without Permission or Legal Right
 - Brand name, logo, shape, color, inventions, music, written works, film, software or other content
- Most Always Done for Financial Gain
 - No research and development costs
 - No need to build brand, consumer trust
 - Virtually no labor or overhead

Q. What's Wrong with IPR Infringement?

A. Organized Crime and Terrorism

- IPR Infringement Is Connected to Other Types of Illegal Organizations and Activities
 - Organized crime
 - Possibly terrorism
 - Why?
 - High profits
 - Low risk of getting caught
 - Low costs of production

IPR Piracy Breeds Crime and Corruption

- When reciprocal IPR enforcement exists in theory, but not in practice, IPR piracy and black markets flourish.
- The rise of “black market” economies has predictable consequences.
 - It breeds crime and lawlessness.
 - It breeds governmental corruption.
- These predictable consequences have followed when the norm of reciprocal IPR protection is violated.
 - Interpol: “organized criminals and terrorists are heavily involved in planning and committing [IPR] crimes.”

IPR Piracy and Organized Crime

- The *Organized Crime* Problem: Organized crime evolves when illegal commerce cannot seek protection from the police or the courts.
 - In 2003, Italian Mafia boss Luigi Giuliano testified that Camorra clans earn “100,000 Euros each week dealing with drugs, extortion, video and music piracy.”
 - In 1999, criminal syndicates converted a 35-foot concrete bridge support into a submarine for smuggling pirate CDs and DVDs into Hong Kong.
 - The violent Asian Triad syndicates are heavily involved in international DVD and CD piracy.

IPR Piracy Breeds Corruption

- Where organized crime goes, official corruption follows.
 - Paraguay (2003): Alleged improprieties in the handling of seized pirate CDs result in the resignations of the Minister of the Interior, the heads of the Police and Customs Services.
 - Brazil (2004): An illegal importer is filmed as he attempts to bribe the head of the Congressional Anti-Piracy Committee.

Q. What's Wrong With IPR Infringement?

A. Public Health and Safety Suffer

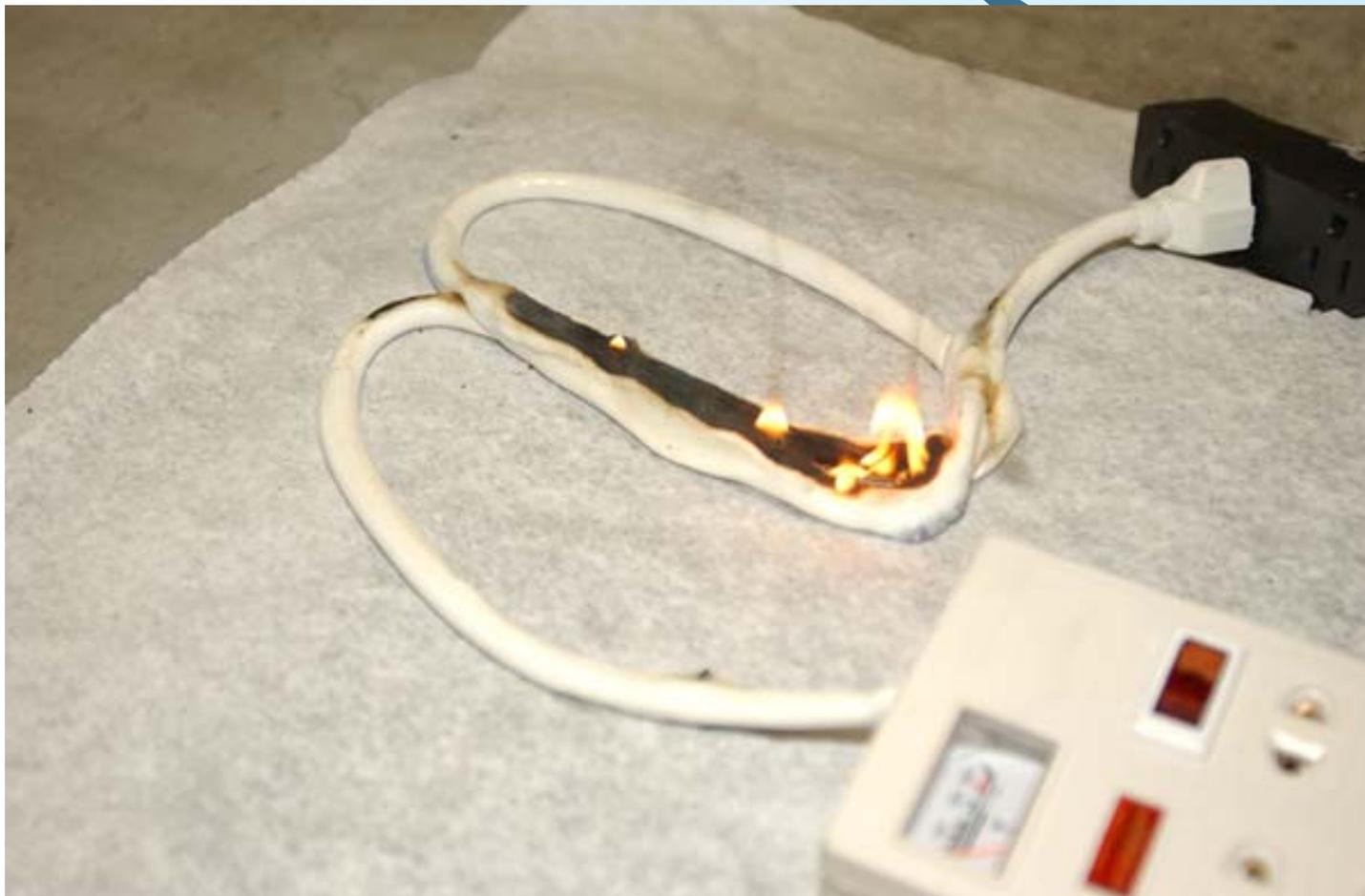
- Trademarks Signify Source, Characteristics of Products
 - Coke is from Coke
 - Viagra is from Pfizer
- Develops Confidence Among Consumers that Products are Safe, Effective and Deliver What They Promise
- Counterfeit Consumer Products Are Generally of Low Quality and Can Be Dangerous:
 - Automobile brakes made of sawdust
 - Baby formula with no nutritional value
 - Vodka containing methyl alcohol

Low Quality Products—Apparently Innocent

Counterfeit Nokia Battery:



Counterfeit cords – same problem



Counterfeit Drugs—Not Innocent



Counterfeit Drugs—Not Innocent

- Types of Counterfeit Drugs:
 - Identical copies containing same ingredients, formulas and packaging, by other than the original manufacturer
 - Look-alikes—high quality packaging with little or no active ingredients or harmful substitutes
 - Rejects—rejected by authentic manufacturer
 - Re-labels—past expiration date
 - Devices—aortic pumps, implants, etc.

Counterfeit Drugs—Not Innocent

- Rough Breakdown by WHO
 - 59% no active ingredients
 - 17% incorrect amount of active ingredients
 - 16% different active ingredients
 - 7% correct amount of active ingredients

Counterfeit Drugs—Not Innocent

- The Scope of the Problem:
 - Links to organized crime
 - 5-10% of pharmaceuticals worldwide are counterfeit, up to 25% in least developed countries
 - Reporting is sporadic, hard statistics are difficult to collect
 - Includes fake contraceptives, HIV/AIDS medications, antibiotics, etc.
 - Niger—2,500 deaths in 1995 from fake meningitis vaccine
 - Haiti—89 deaths in 1995 from cough syrup containing antifreeze
 - Cambodia—30 deaths in 1999 from counterfeit antimalarial drugs

Counterfeit Drugs—Not Innocent



United Nations International Narcotics Control Board

- March 7, 2007 Report:
 - www.incb.org/incb/en/annual_report_2006
 - UN panel warns that unregulated sales of pharmaceutical drugs, including counterfeit medicines, are threatening the lives of patients due to lack of safety or efficacy
 - Urges UN agencies such as the World Health Organization and the UN Office on Drugs and Crime to help Member States better understand the ramifications of illegal drug sales on the unregulated market and to prevent the trafficking of these drugs.

In Today's Economy, IP is King

- “In recent decades, the fraction of the total output of [the U.S.] economy that is essentially conceptual rather than physical has been rising. This trend has, of necessity, shifted the emphasis in asset valuation from physical property to intellectual property and to the legal rights inherent in intellectual property.”
 - Former U.S. Federal Reserve Chairman, Alan Greenspan, February 27, 2004

Copyright Industries in the U.S.

- Core Copyright Industries – 819 Billion, or 6.56% of Total US GDP
- Total Copyright Industries – 1.388 Trillion, or 11.12% of Total US GDP (“total” includes core, partial, non-dedicated support and interdependent industries.
 - International Intellectual Property Alliance 2006 Report “Copyright Industries in the U.S. Economy”

Impacts of Counterfeiting and Piracy

- Loss of Tax Revenue
- Loss of Employment
- Loss of Culture
 - A country's creative industries – movies, music, TV and publishing – record and disseminate its culture.
 - But when a country's piracy rates are high, its creators are forced from the market by pirates who incur no creation costs and sell pirated products (usually from other countries) at lower prices.

Case Studies of “Cultural Piracy”: South Korea

- In the 1960s, South Korea had an agricultural economy and a per-capita income of under \$100.
- South Korea credits pro-IPR policies for helping to transform it into an advanced industrial economy.
 - It now has a per-capita income of over \$12,000.
 - It has the highest rate of broadband Internet adoption.
 - It also had “Asia’s hottest” music industry.
- BUT South Korea was slow to curb Internet-based piracy.
 - Its legal market has declined 55% since 2001.
 - Korea has now pledged to spend \$90 million “to rescue the staggering music label market.”

Case Studies of “Cultural Piracy”: Mexico

- Mexico’s once ranked among the world’s top ten music markets and supported a vibrant local music industry.
- Today, Mexico has an estimated music piracy rate of 60%.
 - Legal sales have plunged, decreasing 25% from 2002 to 2003.
 - Employment in the local music industry has dropped 50% since 2000.
 - The government’s lost tax revenues are estimated at US\$ 100 million per year.
- Mexico’s situation is not unique: Piracy rates of over 50% are common in Latin America

IPR Piracy Robs Local Culture

- IPR piracy harms foreign rightsholders, but it decimates local IP industries and silences local culture.
 - The resulting loss to history and global cultural diversity is incalculable.
- This loss is particularly tragic because digital technologies can now give local creators access to global markets.
 - Local creators can become export industries. (Bollywood, Nigerian film industry, Latin American soap operas).

THANK YOU