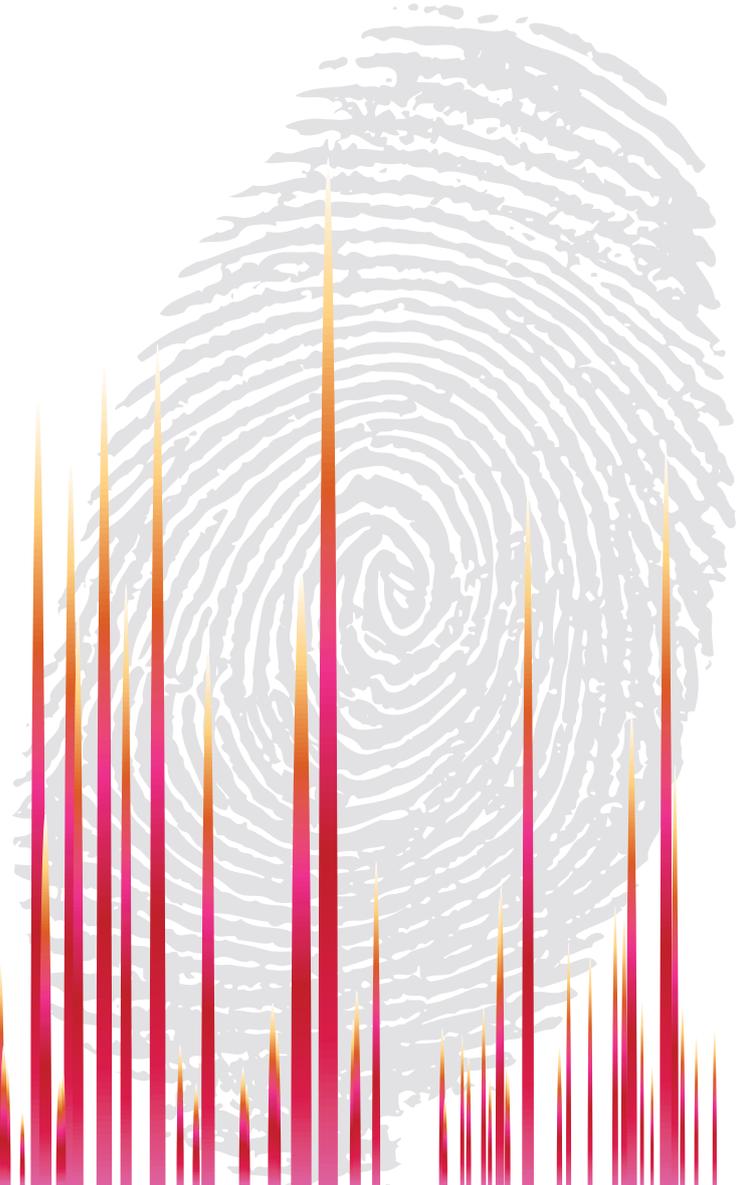




INTELLECTUAL
PROPERTY OFFICE

Prevention and Cure
The UK IP Crime Strategy 2011



Foreword – by Baroness Wilcox



The UK is committed to action against Intellectual Property crime.

As the recent Hargreaves Review of IP and Growth recognises, investment in copyright and trade marks are important to a substantial part of the UK's economy, and indeed to those of a growing number of other countries. Criminal infringement of these rights is of concern both as a barrier to growth and because of the wider ills to which it has been linked, which include dangerous goods, online fraud and serious organised crime. Whilst there are differences of opinion over the scale of the issues at hand, and an urgent need for better evidence, the UK is therefore committed to action against counterfeiting and piracy, both domestically and internationally.

The ability of holders of IP rights to enforce their rights through the courts in a particular jurisdiction is vital to that country's attractiveness to overseas investment. The UK sees its own IP enforcement system, whether civil or criminal, as crucial to its own economic future and other successful countries are taking a similarly robust view.

The IP Crime Strategy provides a framework within which the UK Government will progress its work on tackling IP crime. Much of that framework is directed at the UK, but there is a vital role for influencing and knowledge sharing with our EU and other international counterparts. That includes continuing engagement with IP authorities in key markets to encourage effective approaches to enforcement.

The Government is acting on this global scale as well as nationally. The UK is developing a network of IP attachés based in key global markets, starting with China and India in 2011 and followed by East Asia and the Americas in 2012. IP attachés will engage actively with host country Governments to understand and influence IP policy making, including around enforcement, and to promote the IP interests of UK business overseas.

This is the context within which the Government's domestic action against IP crime set out in this strategy is framed.

Executive summary

This document sets out the Government's strategy for tackling IP crime, roles and responsibilities in delivering it and some new areas for action. The Strategy:

- Builds on the progress of the first UK IP Crime Strategy and prepares for developments in legislation, technology and responses across the public, commerce, government and law enforcement;
 - Focuses on:
 - ▶ Developing cost-effective, evidence-led and credible measurements of IP crime and its impact;
 - ▶ Engaging and co-ordinating resources concerned with IP crime;
 - ▶ Seeking more efficient and effective means of working together and working more smartly;
 - ▶ Building with industry better and more sophisticated preventive measures aimed not just at prosecution, but disrupting the means by which criminals commit and benefit from IP crime, leading to a reduction in harm;
 - ▶ Integrating IP crime enforcement with other areas of criminality, contributing and benefitting from best practice and specifically engage with Organised Crime Mapping techniques;
 - ▶ Continuing the excellent work at international levels to enhance legitimate trade and disrupt illegal conduct.
 - Is therefore consistent with the Hargreaves review of IP and Growth's recommendation of an integrated approach based upon education and measures to strengthen legitimate markets, and aligns the UK with international developments within the World Trade Organisation, European Union, USA and developing economies worldwide.
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1. The UK's IP Crime Strategy: what it is and why

Successes to date

The first UK IP Crime Strategy dates from 2004. It set out some key building blocks; an IP crime group bringing together key players; a regular IP crime report; and a central coordination mission for the IPO. The strategy was revised in 2006 but not substantially updated.

Since the introduction of the first UK IP Crime Strategy in 2004 there has been extensive and consistent marketing, liaison and joint working between law enforcement agencies, government departments and commercial sectors. Significant structures have been developed under the leadership of the IP Crime Group and the investment in enforcement by the Intellectual Property Office (IPO). Today, far more agencies are involved in dealing with IP crime, including Regional Asset Recovery Teams (RART), the Serious and Organised Crime Agency (SOCA), Trading Standards, Police Forces throughout the country, but particularly the City of London Police and the National Fraud Intelligence Bureau. The Scottish and Northern Irish equivalent agencies and police have taken the subject further forward than ever before. Her Majesty's Revenue and Customs and the UK Border Agency lead on Alcohol and Tobacco counterfeiting matters and interception at borders. The Medicines and Healthcare products Regulatory Agency lead on pharmaceuticals, whilst industry both individually and collectively have invested in pro-active and reactive investigations and intelligence systems that integrate with statutory bodies through the adoption of common standards of professional conduct. Similarly, technology and consumer behaviour have changed rapidly with the growth of online communication and capabilities, whilst economic and industrial changes involving both growth and recession have dominated the world scene and dramatically affected the UK.

The positive response to these challenges from the UK has been echoed in the United States, where there is now an IP Crime Strategy and Action Plan, in Europe where the issues posed by IP Crime are recognised as a threat to growth and innovation, and the rapid changes in the developing economies of China, India and South America are leading changes in their responses.

The need for a new strategy

This progress now needs to be built upon. Since 2004, the IP landscape has changed dramatically. Technological advances have continued apace. The online music business has grown from almost nothing to be worth \$4.2 billion in 2010¹. Electronic book viewers are now available and e-books are enjoying considerable growth. Computer games have continued to develop, both on consoles and on a growing range of other devices. Online marketplaces are used by many consumers and by small businesses who want to reach a wider range of potential customers. Meanwhile, some consumers still prefer to buy goods in person, whether from shops or market traders.

It is inevitable, given the size of these markets and the scope of IP rights, that some trade in goods that infringe those rights will take place. Copyright and trade mark protections contribute to a substantial part of the UK's economy. And the importance of IP continues to grow. Almost half of the UK's £137 billion annual investment in intangible assets is in intellectual property²; IPO is currently working to help provide better estimates of the impact of investment in copyright and trade marks on the UK economy.

¹ *IFPI Digital Music Report 2010*, <http://www.ifpi.org/content/library/DMR2010.pdf>, p4

² Farooqui S, Goodridge P and Haskel J, 2011, *The Role of Intellectual Property Rights in the UK Market Sector*, Report for the Intellectual Property Office, working paper available on http://www.coinvest.org.uk/pub/CERIBA/IPRsGrowth/IPO_ROLE_OF_IPRS_26April11.pdf

Because these IP rights are valuable, people try to make money from them without the owner's permission, often in ways that are best described as organised crime. This damages both the economy and society. Available data suggests a strong link between IP crime and other forms of criminal behaviour, with offenders convicted of counterfeiting and piracy offences also found to be engaged in illegal money-lending as well as benefit frauds and anti-social behaviour. There is also evidence of the involvement of some engaged in IP crime in drugs, human trafficking, serious fiscal and non-fiscal fraud and associated money laundering offences.

The UK is therefore committed to tackling both piracy (criminal infringement of copyright) and counterfeiting (willful infringement of trade marks). The objectives are to:

- Reinforce the attractiveness of the UK as a place to do business by protecting legitimate marketplaces and providing a strong platform for business growth;
- Make the UK unattractive to criminals seeking to engage in IP crime; and
- Protect consumers from the considerable harms posed by dangerous and untested fakes and by wider criminality.

To do this we aim to:

- Prevent and deter criminality;
- Disrupt trade in fake and pirated goods, online and offline, at various stages of the supply chain; and
- Reduce incentives for IP crime, for example by confiscating criminals' assets.

By its very nature, IP crime affects a wide range of industries and is within the remit of a variety of law enforcement agencies and government departments. While intellectual property policy covers the UK as a whole, responsibility for operational activity to tackle it is (in most cases) devolved at the national level. Building on previous UK approaches³, this strategy sets out the UK Government's strategy to tackle emerging threats, including infringement of IP rights via the internet. It does not aim to cover wider issues like the use of technology to infiltrate IT systems and extract IP secrets⁴, which is being considered by the Office of Cyber Security and Information Assurance.

UK an attractive place to do business

Businesses in a range of sectors that create and use IP typically lose sales from counterfeiting and piracy; how much will depend on the substitution rate for particular products, as not every fake or pirated product is a lost sale, and whether or not there are any countervailing factors such as advertising the copyright work or brand⁵. Brand reputation may also suffer, for example if low quality fakes were to damage consumer confidence. Other businesses can also be affected, such as retailers who are deprived of genuine custom and income when consumers chose to purchase through informal and illegal routes. They may also suffer a loss of custom if poor quality fakes affect customer demand for legitimate products.

The UK has a strong IP regime and is a place where rights holders can have confidence that the UK will protect their investments. This is about reducing the sales lost by genuine business because of pirated and fake products, but it also goes wider. Doing so can deliver wider financial

³ See outline of the 2006 IP Crime Strategy at Annex A.

⁴ The Office of Cyber Security and Information Assurance recently estimated that the economic cost to the UK of such activity is around £9 billion for IP

⁵ Supporting Document CC of the Hargreaves Review, [Data on the prevalence and impact of counterfeiting and piracy](#), mentions substitution rates as high as 100% and as low as 1%. A few studies have found negative substitution rates for particular markets, while in principle a rate greater than 100% would be possible if the existence of fakes reduced general willingness to buy the real product.

benefits to the UK by protecting public revenues and deterring wider criminality. Companies trading in fake and pirated goods are unlikely to be paying VAT, corporation taxes or tobacco or alcohol duties. Significant sums of money can be at stake: in one raid on a fake alcohol plant in London in 2010, HMRC identified over £1.6 million in unpaid duty.

UK unattractive to criminals

A key part of this IP Crime Strategy is to reduce and prevent IP crime. As well as intercepting counterfeit and pirated goods at points of manufacture, transportation, storage and retail, existing powers and legislation will be used to disrupt the activities of criminals determined to engage in IP crime. The Proceeds of Crime Act (2002) is a primary avenue to both remove assets from criminals who have been convicted and to increase the risk to those considering such involvement. Other enabling and facilitating mechanisms, such as legitimate payment systems, will also be examined in a co-ordinated approach to disrupting the ability of criminals to successfully trade in counterfeit and pirated property. A key part of this unattractiveness will however need to stem from competitive legitimate offers in the markets concerned.

Protecting consumers and society

A key appeal of legitimate goods and service to customers is that rights exist to ensure that consumers rights are protected. The Government sees appropriate consumer rights – in both the physical and digital worlds – as an important part of helping consumers see legitimate goods as the default, best and only choice, and thus tackling the demand for IP crime. An important part of this is product safety.

Some counterfeit goods pose health and safety risks for customers, from fake pharmaceuticals and counterfeit aircraft parts to dangerous alcohol containing methane and unsafe hair straighteners being sold to UK consumers. Fakes can also undermine age related sales legislation, exposing young people to inappropriate products and

content. The Government has both social and economic reasons to tackle IP crime in these contexts.

‘The scope and scale of IP crime – a principles based approach’

The US Government Accountability Office (GAO) published a report in April 2010 following their examination of the data and evidence on the scope and scale of counterfeiting and piracy. They concluded that it was hard to quantify the exact impact and that there were weaknesses in existing studies, in particular that methodologies would often appear to exaggerate the impact on genuine sales through the use of generous substitution rates. However, they did suggest that there were a number of negative effects for consumers, rights holders, governments and the economy as a whole, and that the problem is sizeable.

We agree with the US that the lack of clear and credible data is a problem which needs to be urgently addressed. The lack of a clear picture on the scope and scale of IP crime and its impact poses a real problem for policy makers and for operational decision makers who must decide how to prioritise IP crime alongside other issues. We recognise that there are difficulties in quantifying criminal activity given that much of the trade takes place within the informal economy. However, even where figures are available it is impossible to compare sectors or aggregate impacts because of the range of methodologies.

While much more needs to be done to better understand the scale and impact of IP crime, we will continue to plan and take action based on the information and intelligence we do have, which points to negative economic and social consequences from IP crime.

Since the introduction of the first UK IP Crime Strategy, there has been extensive and consistent marketing, liaison and joint working between law enforcement agencies, government departments and commercial sectors. Significant structures

enabling this have been developed under the leadership of the IP Crime Group and the investment in enforcement by the IPO. Today, far more agencies are involved in dealing with IP Crime, including Regional Asset Recovery Teams (RART) the Serious and Organised Crime Agency, Police forces throughout the country but particularly the City of London Police and the National Fraud Intelligence Bureau. The level of co-operation and exchange between customs and trading standards has resulted in some outstanding seizures and investigations. In 2010 a Proceeds of Crime Confiscation Order of £11m was made against a person convicted of Trade Marks Act 1994 offences. In May 2011, orders totalling £643,000 were made against a criminal organisation trading in counterfeit golf clubs. Seizures of containers filled with counterfeit goods have been made at Felixstowe and other UK ports and police forces have worked in partnership with industry and trading standards to seize pirated goods and disrupt manufacturing sites. The Metropolitan Police has worked with Nominet and removed sites used to sell counterfeit goods.

These are a reflection of the growing expertise and involvement across law enforcement in IP crime, which will be enhanced and refined within the new IP Crime Strategy and sets the UK on course for achieving even better outcomes for the robust intervention in criminal activity directed at IP crime.

The core focus of the UK's IP Crime Strategy

This strategy builds on successes from previous UK strategies while tackling new issues.

A focus on enhancing co-ordination and co-operation across enforcement and industry will help to share best practice and improve the success rate of investigations and prosecutions. More can be done to ensure that those responsible for detecting, preventing and prosecuting IP crime have the necessary awareness of IP crime and its complexities and are equipped with the skills,

knowledge and powers they need. The focus on intelligence led enforcement is more important than ever; helping to ensure that interventions are well targeted and maximising the chances of success.

These activities provide the building blocks for effective action but they will not be enough on their own. There must be a sufficient focus on **operational activity** and that enforcement agencies understand the importance of tackling IP crime and prioritise it appropriately. That means not just having a sound evidence base but also presenting the evidence in ways that can best inform enforcement bodies' difficult decisions on prioritisation and levels of response, where there are other competing (or maybe linked) priorities such as firearms, illegal immigration or drugs. There is a need to improve co-ordination and communication at the tactical level and in some situations operational level support may be needed to progress particular multi-agency investigations.

2. The roles of government, enforcement bodies and industry

Delivery of effective enforcement in the UK requires a collective effort with government, enforcement agencies and industry continuing to work together to deliver practical solutions on the ground. The successes of the past few years have shown that such an approach can yield positive results – and it will be more important than ever going forward.

The **role of central government** is to put the right legal framework in place, both domestically and through international influence and to support the agencies that are the front line of action against IP crime. This includes working to ensure that enforcement agencies have the right powers and skills they need to tackle IP crime and to deliver national processes that support better co-ordination and intelligence led enforcement. In some areas – like medicines – it involves establishing dedicated organisations and teams to drive forward enforcement. The nature and scope of Government’s role will depend upon the evidence base and on overall enforcement priorities.

Government also seeks to provide a clear vision for work on IP crime so that partners can understand roles and responsibilities, what action is being taken and how initiatives link up. The Minister for IP, based in the Department for Business, Innovation and Skills, has a key role to play, working alongside Ministerial colleagues to improve dialogue at the highest level, with IPO facilitating official level co-operation.

The role of the IPO and the IP Minister

The IPO is the national co-ordinator on IP crime but it does not co-ordinate operational activity across the UK. It focuses on facilitating co-ordination through networks like the UK’s IP Crime Group, establishing a network of government officials, enforcement bodies and private sector interests engaged in work to tackle IP crime and through

information sharing and awareness roles. It also works across government to engage other government departments in IP related issues.

The IP Minister works across government in the best interest of the UK, which involves reaching a balance between the interests of rights holders, consumers and users in the IP system. Within the context of IP crime the Minister works to raise awareness of the issue within government, agencies and industry and to promote the core goals of the IP Crime Strategy.

Role of the devolved administrations - There are separate legal systems in the devolved administrations for the civil and criminal enforcement of intellectual property rights. For example, in Scotland there is a different prosecuting authority to England that is subject to the Scottish Parliament. Therefore proceedings and practice, such as rules on the admissibility of evidence may differ. Criminal enforcement remains the duty of local trading standards authorities to enforce throughout the UK. Although enforcement is devolved, intellectual property legislation and policy is not.

Local government also has a role because it oversees local level enforcement and has wider community responsibilities. It must respond appropriately to the evidence presented on IP crime and take action consistent with the Priority Regulatory Outcomes set by Local Better Regulation Office (LBRO) to ensure that local prioritisation and budgeting decisions reflect IP crime issues appropriately.

Enforcement agencies take the lead in tackling IP crime on the ground. They must continue to work together to share intelligence and resources and must co-operate with each other (and industry) to tackle activities at local, regional and national levels to avoid unnecessary duplication of effort and a sharper focus on intelligence led enforcement.

They should also continue to work to raise the profile of IP crime within their agency to ensure that it has an appropriate priority within the context of wider constraints and priorities, in line with the available evidence. The accurate identification of cases as IP cases and the laying of appropriate IP charges is important here as it will help to improve the evidence base on scope and scale.

IP rightsholders retain a critical role, perhaps even more so due to the pressures on public sector spending cuts. There is a clear economic incentive on them to engage in enforcement, and many do. However, their activity varies across sectors and organisations and there may be lessons that can be learnt (on structure, engagement, evidence etc) to improve the support they give to law enforcement. Market monitoring, intelligence collection and sharing and more general support like forensics provide much needed support for enforcement agencies, especially in view of constraints on public finances and demands from other priority enforcement areas. Recent initiatives on physical markets have showcased the benefits that collaboration can bring. In addition, they have a key role to play in providing evidence to governments and enforcement agencies.

Other businesses such as market operators, shipping and courier companies and those who support the infrastructure of the world wide web (like Nominet) and deliver e-services like auction sites and online storage facilities are relevant to IP crime issues. We must make new efforts to bring these parties into effective dialogue.

3. Areas for additional action

Operational delivery is central to effective action against IP crime and remains at the heart of UK policy. The principles that should guide the activity of enforcement agencies are:

- Encouragement to use the Proceeds of Crime Act 2002 (PoCA) in order to recover the criminal gains from IP crime⁶;
- A well collaborated approach, including intelligence sharing and increasing the knowledge base, between enforcement bodies, government agencies and industry in order to maximise their operational activities;
- Resilience in the light of the current climate surrounding the dedication of resources - a harmonised approach will enable authorities and agencies to be more resilient in their efforts in combating IP crime at a regional and national level.

As indicated by the Hargreaves Review of IP and Growth, there is insufficient reliable evidence to justify a major shift of the UK's approach to IP. We will continue to seek additional evidence to inform priorities for enforcement and determine the most effective techniques for it. But there are some areas where action is needed in advance of evidence, or in order to obtain it. New or enhanced action is planned on:

A. *Technology and IP crime. This will involve:*

- An internet action plan that is about proportionate action to tackle use of the internet in the sale and distribution of fake and pirated goods, based on reliable evidence;

- Encouraging a greater focus on designing out IP crime – in particular, better use of technology to make counterfeits harder to make and easier to detect.
- B. *Clarity from government.* Government, led by IPO, will provide an overview to businesses and enforcement bodies of the broad case for action against IP crime, who does what to tackle it and how to get involved. This includes work within government to improve the effectiveness of enforcement action, such as further training of Crown Prosecution Service prosecutors about IP crime. Government will also be clear about what it is expecting others to deliver, for example by providing guidance on what constitutes good evidence.
- C. *Improved coordination,* including bringing new partners such as Nominet and payment services firms into dialogue on tackling IP crime and better collaborative working on investigations and intelligence flows, both in the UK and internationally. This includes building awareness among partners about which other bodies are involved in tackling IP crime and what is being done.
- D. *A stronger evidence base to support policy making and operational decision making.* Decisions on allocating resources to tackle IP crime would benefit from better information about the prevalence and impact of IP crime than is currently available. This includes information about the likelihood and severity of harm from dangerous fake goods from drugs to electrical appliances and about online copyright and trade mark offending.

⁶ Intellectual property offences are considered a lifestyle offence under PoCA. This allows the prosecuting authority to recover up to 50% of the confiscation with the remaining amount being allocated between the treasury and other parties. There is also civil recovery, under Part 5 of PoCA, which can be used to recover criminal assets without necessarily gaining a criminal conviction. Enforcement agencies can engage with the Serious Organised Crime Agency (SOCA) who has the power, under Part 6 of PoCA, to raise a tax assessment against individuals and companies involved in IP crime.

A. Technology and IP crime

Industry has a strong interest in reducing the scope for IP crime by making it harder for IP criminals to target their goods and services. Technological protection systems are not new in the IP field. They have existed for many years and are already used by many rights holders to make it harder to copy their products and easier to spot fakes. There may be scope for greater progress. Technology is constantly evolving – with new and more cost effective track and trace technologies, the capacity to check the legitimacy of alcohol using a mobile SIM card or to offer an online service which lets consumers check the legitimacy of retailers. Opportunities may emerge to improve the systems used by rights holders, retailers and to involve consumers more in their use.

We believe that the threat posed to consumers from dangerous fakes can be reduced by more resilient legitimate supply chains. This is well recognised across the globe, with new initiatives in the US to support resilience and new systems, while the World Customs Organisation and the EU already have well advanced projects developing and studying aspects of supply chain security. New processes for tackling fake medicines have been proposed.

Technology has a role to play in making further progress. Industry, including retailers, should spread best practice on supply chain strategies and technological solutions. Equally, better-informed consumers will understand the dangers posed by fake goods and follow safe shopping routes for genuine products.

To address this:

- **IPO will facilitate discussion across industry interests of how technology can be better used to prevent counterfeiting and piracy.** Progress will be highlighted in the annual IP Crime Report published by the IPO on behalf of the public/private IP Crime Group.

The key technology for IP infringement is the internet. Its increasing importance as a medium for infringing copyright and selling fakes raises concerns across all parties. The web is a global marketplace for those wishing to engage in IP crime, just as it is for legitimate traders, and it is often hard for consumers to tell the two apart. It has triggered notable changes in how goods are transported and sold to consumers and presents new challenges for enforcement officers as traders can sell to UK based consumers from across the globe.

Providers of online services such as marketplaces/trading platforms, advertising and card payment facilities have a role in tackling IP crime by reducing the ability of criminals to profit from their crimes. Similarly, within the existing international arrangements for responsibilities in moving goods around the world, there are fresh challenges posed by the shift from importation via large containers to small parcels shipped directly to consumers from overseas.

The UK is already responding in other ways. For example, the Metropolitan Police's e-crime Unit are working with Nominet and others to remove infringing sites at the domain name level, while the City of London Police have been engaged with rights holders and card payment companies to disrupt sites run by criminals. It will be important for lessons learned from work like this to be shared with the wider enforcement community, to the extent possible.

The issues we face in the online world are not unique to the UK; they are as global as the internet. We are already in dialogue with other countries to learn about the steps that they are taking and to help them learn from us. The professional criminals engaged in IP crime do not stand still and neither will we.

To address this:

- **IPO will draw together existing work and develop an action plan on tackling counterfeiting and criminal piracy online which will identify the key threats and bring new industry and enforcement partners into mainstream dialogue with government partners including DCMS.** This will include work on websites that are predominantly used for digital piracy, sales via auction sites and pop up websites of pirate and counterfeit goods, and the challenges posed by the increased use of small parcels bought online from overseas to import infringing goods. We will work with other states to develop international responses to these issues.

B. Clarity from government

There are a range of government departments and agencies involved in work to tackle IP crime and a number of different enforcement agencies who have specific remits. A series of programmes and initiatives are currently operating to address specific issues, for example work by DCMS on online piracy issues and work by the Home Office on cyber crime and a range of enforcement bodies are active on IP crime issues.

This diversity enables the UK response to be flexible but it is important that there is a clear picture of organisations' respective roles and how initiatives link up to avoid confusion and make it easier to build partnerships to tackle IP crime.

To address this:

- IPO will publish and maintain clear information on the respective roles and activities of agencies and government departments.

- IPO will work to improve co-ordination across government departments and agencies (at Ministerial and official levels) of work on IP crime and to enhance communication and dialogue across enforcement agencies on emerging issues. Progress will be highlighted in the annual IP Crime Report.

Awareness of IP crime across enforcement agencies has increased over recent years, and tackling IP crime should remain a priority. Officers, prosecutors and industry may benefit from additional information on ways to litigate or otherwise resolve IP crime cases, if it can be made available on a consistent basis. Given the likely impact of public spending cuts over the next few years such collaborative working is essential.

Messages on the dangers of fakes need to be both well-founded and powerful if they are to have an impact on the awareness of consumers and of enforcers. The messenger is also important. Rights holders should continue to play a significant role in such campaigns but trusted intermediaries like the Citizens Advice Bureau and local community groups can play a key role. These groups may be in a far better position (with appropriate support from rights holders and local enforcement) to connect with consumers and highlight the potential risks than industry or government. New Government controls on marketing expenditure make it even more important to develop these partnerships.

To address this:

- IPO will promote pooling of information, tools and training on IP crime into a virtual library for enforcement professionals.
- The IP Crime Group will be invited to take a role in the evaluation of training and awareness activities to improve co-ordination and consistency.

C. Better collaborative working on investigations and intelligence flows

Agencies already collaborate and disseminate information, experience and best practice on tactics and operations to improve their collective response to IP crime, but significant gaps remain. This may be due to institutional barriers, practical difficulties or different priorities (or a combination of these factors). We want to understand these barriers better so we can help break them down. There are some good examples of collaboration between industry and enforcement agencies but in the current economic climate it is likely that more will be needed.

Improving links between existing intelligence databases and their interface with industry intelligence can help track and disrupt criminal activity. A single database is not needed as long as we have effective flows of information between sources. Currently there are gaps which may be allowing some criminal activity to go undetected.

The problems faced by the UK are not unique – IP crime is a global business. We will continue to work with EU and international partners like the US to learn from their experiences and to develop common or joint solutions where that will work best.

To address this:

- Improve dialogue between those who hold IP related intelligence to improve co-ordination.
- Encourage SOCA, ACPO, ACTSO and their Scottish equivalents to work together to understand existing barriers to collaboration and to overcome them.
- Push forward operational success (via SOCA and police and trading standards) through greater use of threat assessments and alerts on IP crime and the mainstreaming of innovative tactics for tackling IP crime.

- Initiate discussions between enforcement and industry on how industry can best support enforcement action.
- Use the UK's new IP attachés to encourage effective enforcement in other jurisdictions.
- IPO will support some regional coordination of trading standards work on IP crime in 2011-12 and – subject to satisfactory performance – in 2012-13.

D. A stronger evidence base to support policy making and operational decision making

As noted by the Hargreaves Review of IP and Growth⁷, reliable, credible and comparable data on the scope and scale of IP crime and its impact on businesses, society and the economy is needed to make better decisions on how best to tackle it. There is a considerable distance to go for the UK, or any other country for that matter, in achieving this.

Developing common methodologies for research and for recording seizures and calculating their economic value will help us establish a baseline. It is not for government to prescribe the methodology for industry research or to dictate how local and central government enforcement agencies should record seizure data and calculate its value. But the benefits of a common approach are clear and the Government will champion its adoption. UK based work will be most valuable if it aligns with work being taken forward at the EU level. This will build a clearer evidence base through the EU Observatory on Counterfeiting and Piracy and, with efforts by WIPO to do likewise, is also our intention.

It is also important for enforcement bodies to be able to rank the significance of IP crime alongside that of other crimes, if they are to give due importance to tackling the problem. There is accordingly a need to be able to describe not only

⁷ [Digital Opportunity](#) (2011), chapters 2 and 9, with Annex CC [Data on the Prevalence and Impact of Piracy and Counterfeiting](#)

the economic impact of IP crime but also the criminal gains that result from it. For example, the sale of obviously counterfeit luxury fashion goods at a fraction of their full price could have a very limited economic impact on the rights holder – the brand's customers wouldn't want to be associated with a fake – yet could still result in substantial criminal gains for the perpetrator.

Understanding consumer awareness

As noted by the Hargreaves Review, the evidence in this area about consumer receptiveness to awareness campaigns is fairly anecdotal. More professional evaluation is required to understand the effectiveness of such campaigns and to help shape campaigns that will have the desired outcomes.

To address this:

- Facilitate (via IPO):
 - ▶ a move towards a common methodology for assessing the scale and economic impact of IP crime, building on work by the OECD, and criminal gains resulting from it;
 - ▶ action by enforcement agencies to develop and apply common methods for calculating the volume and value of seizures where these are not already in place.
- Work with the new EU Observatory on Counterfeiting and Piracy to ensure that any UK-based action informs and aligns with the EU approach.

One area on which further evidence is necessary is that of dangerous fake goods. Not all counterfeits are more hazardous than their legitimate equivalents but the risk of them being defective and dangerous is real. Potential harms arise from a wide range of goods including alcohol, tobacco, fake medicines, electrical components and spare parts for cars and planes. In some cases the price of the item or the location of its sale may provide an indication that it is fake but this is not always the case. In many cases the price will be close enough to the genuine item to suggest that the goods are genuine. In other cases fake goods can actually penetrate legitimate supply chains and be moved through wholesalers and retailers as genuine items.

4. Timelines and deliverables

IPO will set out timelines and deliverables for the strategy and report on them in the annual IP Crime Report.

Annex –The 2006 Strategy

The previous IP Crime Strategy was launched in 2004 (with an update in 2006). It identified a range of actions, all of which were focused on improving the practical response to IP crime within the UK. Its key aims were to:

- ▶ **Establish IPO as a driving force for co-ordination** to enable and support enforcement action across the UK by industry and enforcement agencies (not to provide tactical co-ordination on operations);
 - ▶ **Improve co-ordination of practical activity** through the establishment of key networks and groups and by encouraging others to share information and to co-operate on operational matters;
 - ▶ **Move IP crime up the agenda** in agencies, industry and across government to improve their understanding of the issue and its importance to get them engaged in collaborative work to tackle IP crime;
 - ▶ **Help equip enforcement agencies with the required knowledge and skills** to tackle IP crime cases with confidence by providing training, guidance on key issues and by promoting best practice and information exchange; and
 - ▶ **Provide direct support for intelligence-led enforcement** by agencies investigating criminal IP cases by providing a national intelligence database on IP crime.
- ▶ a greater mainstreaming of IP crime into wider enforcement discussions with active involvement in the National IP Crime Group from a wider range of government departments and recognition of IP issues in key policy areas such as cyber crime and organised crime;
 - ▶ a renewed/enhanced focus on IP crime by overarching enforcement agencies and a desire to take proactive action, such as the renewed drive by the Serious and Organised Crime Agency under Programme 18 and significant activity in Scotland led by the Scottish Crime and Drug Enforcement Agency;
 - ▶ an increased awareness of IP crime within enforcement agencies –with training being provided by IPO, industry and enforcement agencies. IPO support in this area has ranged from the delivery of bespoke training courses for Scottish investigators, guides on IP offences, a comprehensive e-learning programme for prosecutors and a new dedicated section on IP crime in the National Fraud Course;
 - ▶ a notable growth in reported co-ordination across agencies and regional borders with trading standards services reporting that over 75% had worked with another trading standards service in 2009/10 on IP crime cases. The figure for co-ordinated working with the police was 93% for the same period;

It provided a solid platform for progress by government, industry and enforcement agencies in the UK's efforts to tackle IP crime. IPO has taken forward the aims of the Strategy both by direct action and by influencing and facilitating action by others. Over the past few years we have seen:

- ▶ an increase in prosecuted cases on counterfeiting and piracy. Between 2004 and 2009 (latest available figures) there was a notable rise in prosecutions under the Copyright, Designs and Patents Act 1988 and the Trade Marks Act 1994, from 763 in 2004 to 1711 in 2009;
- ▶ the growing recognition of the relevance of the Proceeds of Crime Act 2002 aided by work by the IPO's POCA Advisor and Accredited Financial investigator and by the work of the National Policing Improvement Agency. High profile cases have seen the confiscation of millions of pounds in IP cases;
- ▶ the creation of the Intellectual Property Intelligence Database (IPID) and the IPO Intelligence Hub to provide direct support for investigations. IPID holds in excess of 17,000 reports and so far in 2011 alone the Hub has processed over 4000 data searches against the database thereby creating a valuable resource for the enforcement community and enabling a coordinated response to tackle IP crime.
- ▶ since its inception the Hub has conducted over 370 investigations enabling industry, police and trading standards to initiate criminal investigations into individuals and groups engaged in copyright and trade mark infringement which would otherwise have gone undetected; and
- ▶ growth in information sharing, collaboration and best practice tools supported by networks like the National IP Crime Group which provide a forum for discussion and help link up interested parties.

IP rights holders have played a vital role in the progress that has been seen, both in terms of their practical work with enforcement officers on intelligence and investigations and through training and awareness events and policy campaigns like the Real Deal campaign on fake free markets.

This progress has also been made against the backdrop of an increasingly active Europe on IP crime issues with the establishment of the EU "Observatory" on Counterfeiting & Piracy which has similar goals to the UK's approach and the new US IP Enforcement Strategy.

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Published: August 11



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