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**BREAKING**

# IP BUZZ ON CAPITOL HILL

## *What They're Saying About Today's Senate Hearing on Intellectual Property (IP)*

### **Senate Judiciary Committee Chairman Patrick Leahy (D-VT) Opens Hearing With Call For "Truly Non-Partisan Legislation" On IP**

"Today the Committee addresses a significant economic issue confronting our Nation. It should have no partisan flavor whatsoever. Intellectual property, and the creativity and innovation it represents, are the fuel in the engine of our economy. For the United States to maintain its position as the world's economic leader, we must focus on protecting its industries' intellectual property. In a year like this, partisan legislation is impossible; even bipartisan legislation is unlikely. It is only truly non-partisan legislation that presents an opening for progress. I will give intellectual property enforcement legislation that chance.

...

"One need only look at reports of poisoned counterfeit toothpaste or dangerous counterfeit automobile parts that are entering U.S. markets -- and which are sold disproportionately to lower income Americans -- to see how important the enforcement of IP laws is to protecting the health and safety of the American people.

...

"The lack of coordination among the Federal agencies responsible for IP enforcement seems to be one of the biggest hurdles we face... These rights in intellectual property have been fundamental to Americans since our founding and have never been more important than they are today. Enforcement and protection of these rights is too important to be addressed piecemeal. In order to effect the greatest change, we must examine enforcement efforts from the top down and from the bottom up." ("Opening Statement of Senator Patrick Leahy," *Senate Judiciary Committee Hearing on "Protecting Consumers by Protecting Intellectual Property,"* 6/17/08)

### **On IP, Senator Orrin Hatch (R-UT) Says "Doing Nothing Is Not An Option"**

“We should be mindful that abuse of IP rights is not just about downloaded music, pirated software, or fake designer handbags. All sectors of our economy are affected, including pharmaceuticals, auto parts, and the quality and safety of our food. Indeed, robust IP protection promotes the health and safety of the American people. ... Furthermore, I believe any meaningful solution will need to take an integrated approach with both domestic and international prongs which incorporate educational, judicial, and enforcement components to halt this insidious attack on our intellectual property. In order to accomplish this task, all stakeholders must cooperate and work in an integrated fashion with state, federal, and international governments. ... But, doing nothing is not an option. As technology advances and becomes more sophisticated, so does the enemy.” (“Statement of Senator Orrin Hatch, *Senate Judiciary Committee Hearing on “Protecting Consumers by Protecting Intellectual Property,”* 6/17/08)

### **U.S. Government Accountability Office Cites “Need for Effective Coordination Among A Wide Range of Policy and Law Enforcement Agencies”**

“Along with the costs to the U.S. economy, the illegal importation and distribution of counterfeit and pirated goods poses a threat to the health and safety of U.S. citizens. ... The current U.S. government coordinating structure that has evolved for protecting and enforcing U.S. intellectual property rights lacks leadership and permanence, presenting challenges for effective and viable coordination for the long term. ... [A]gencies have taken little initiative to improve their data or evaluate their enforcement activity in ways that would enable them to identify and track certain trends or enforcement outcomes. ... Collecting better data, analyzing them, and reporting on progress toward goals could help make the IP enforcement agencies more accountable to the public and Congress, particularly regarding public health and safety.

...

“The challenges of IP piracy are enormous and will require the sustained and coordinated efforts of U.S. agencies, their foreign counterparts, and industry representatives to be successful. As the title of the hearing suggests, the issue of IP protection is not only important for U.S. producers, but also for the health and safety of U.S. consumers.” (“Statement of Loren Yager, U.S. Government Accountability Office,” *Senate Judiciary Committee Hearing on “Protecting Consumers by Protecting Intellectual Property,”* 6/17/08)

### **Underwriters Laboratories Warns Of “Leaving Consumers With A False Sense Of Security About The Safety Of The Products They Purchase”**

“A variety of counterfeit products enter the stream of commerce everyday, many posing potentially serious fire and electrical hazards that endanger the American public. ... For 114 years, UL’s mission has been the protection of human life and property from product risks and hazards. UL has built our reputation on the integrity of the UL Mark and what it represents to consumers. But the UL Mark, a registered Certification Mark, is being

counterfeited – leaving consumers with a false sense of security about the safety of the products they purchase.

...

“There can be no doubt about the correlation between counterfeiting and product safety. In 2007 alone, UL issued warnings about fire extinguishers, smoke alarms, electrical cords, decorative light strands, lighting fixtures, grounding rods, power adapters, and surge protectors bearing counterfeit UL Certification Marks. Many of these are life safety products purchased specifically for the protection of life and property. With Certification Mark counterfeiting reaching into the fire protection and electrical sector, particularly in low-cost, high-volume goods, the risk of fire, shock, and other hazards become a serious life and safety threat to American consumers.

“The Electrical Safety Foundation estimates that 64.2% of counterfeit electrical goods were purchased at legitimate shops and retailers – higher than any other product type. This is troubling evidence that counterfeiters continue to penetrate the distribution chain with poor quality, noncompliant and hazardous products that endanger life and property.

...

“Without stringent and effective consequences for counterfeiting products and certification marks, which pose direct threats to public safety, criminals will continue to choose the monetary rewards of cheating, ignoring the potential risks. ... Additionally, by authorizing increased resources to support cross-agency communication, this committee would strengthen the government’s ability to prosecute organized fraud attempts, enforce existing IP laws, and educate consumers about the importance of intellectual property rights.

“Protecting intellectual property protects lives. ... Through intergovernmental cooperation and improved enforcement resources and channels, we can secure not only our nation’s economic interest and innovation, but can more importantly protect people and property in the very place they are meant to feel safe – their own homes.” (“Statement of Brian Monks, Underwriters Laboratories,” *Senate Judiciary Committee Hearing on “Protecting Consumers by Protecting Intellectual Property,”* 6/17/07)

### **Gates Corporation Underscores Need To Put The Brakes On Counterfeiting & Piracy Of Auto Parts**

“Our aim is to continually develop the most innovative technology in our market sectors, patent the products that our technology creates, then lead the market in those sectors. This approach allows us to create high-wage, high-skill jobs in America. For example, at Gates, we are developing a range of energy efficiency solutions that reduce the cost of operating motor vehicles, reduce the impact on our environment, and reduce dependency on foreign oil. However, every time our technology and the integrity of our brand and technology is violated by intellectual property pirates our business model and industry

leadership are further compromised. ... IP protection is critical to the health and safety of American families as well as the economic health of the industries that manufacturer these goods and the communities that support these industries.

...

“Even more disturbing than the economic impact of counterfeit motor vehicle parts is the fact that vehicle performance and safety is severely impacted by counterfeit products such as brakes and brake pads, brake fluid, tires, belts, and automotive lighting. The use of counterfeit parts can result in sudden, catastrophic engine failure, brake failure, or other system malfunction.

...

“In general, we strongly support what this Committee is attempting to do to combat the problem by encouraging better coordination by Federal agencies, greater penalties to infringers and greater resources for enforcement.” (“Testimony of Jeff Thurnau, Gates Corporation,” *Senate Judiciary Committee Hearing on “Protecting Consumers by Protecting Intellectual Property,”* 6/17/08)

### **Johnson & Johnson Reminds That “Counterfeiters Don’t Care About Product Quality, Safety Or Efficacy”**

“Counterfeit healthcare products present an extraordinary risk to patients and consumers. According to the FDA, the United States pharmaceutical supply chain is one of the safest in the world. Nonetheless, counterfeiting of healthcare products is a growing concern for society. The World Health Organization estimates that 8-10% of pharmaceutical products outside the United States are counterfeit. In some countries, counterfeit products may represent 50% of medicines in the marketplace.

...

“Counterfeiters show total disregard for the safety of consumers, patients, doctors and nurses who unwittingly encounter the counterfeit product. Counterfeiters don’t care about product quality, safety, of efficacy. People who use a counterfeit healthcare product run the risk of a wide variety of medical problems ranging from experiencing no therapeutic benefit ...to new illnesses ... and even death.

...

We cannot overemphasize that the integrity of the pharmaceutical and medical device supply chain is essential to the well being of all of our citizens. Patients and consumers rely on our medicines, medical devices and personal products everyday to improve the quality of their lives and, in many cases, to save their lives. Healthcare manufacturers depend upon the integrity of our supply chain to ensure that patients and consumers receive genuine products from approved sources.” (“Testimony by Mike Rose, Johnson &

Johnson, *Senate Judiciary Committee Hearing on "Protecting Consumers by Protecting Intellectual Property,"* 6/17/08)

### **ContentAgenda: NBC Universal General Counsel Rick Cotton Previews Senate Action On IP**

“The Senate Judiciary Committee turns its attention to intellectual property rights enforcement Tuesday, one month after the House of Representatives passed the most far-reaching IPR enforcement bill in decades, the Prioritizing Resources and Organization for Intellectual Property (PRO-IP) Act. ... ‘The hearing is a big step of starting the process of introducing a companion to PRO-IP in the Senate,’ said Rick Cotton, general counsel for NBC Universal and chairman of the Coalition Against Counterfeiting and Piracy, the leading force behind the PRO-IP Act. ‘We hope the committee leadership will move expeditiously on it.’” (“PRO-IP Backers Hopeful on Senate Action,” *ContentAgenda.com*, 6/16/08)

### **Politico: Copyright Alliance Discusses Increased Momentum For IP In Congress**

“In homage to Tuesday’s Senate Judiciary hearing, ‘Protecting Consumers by Protecting Intellectual Property,’ we thought we’d catch up with a guy who cares: Patrick Ross, the executive director of the Copyright Alliance... Q: The issue is getting traction on the Hill. Is it hard to get people to care about copyrights...? A: There has been a lot of support for the PRO-IP [Prioritizing Resources and Organization for Intellectual Property] Act, which had a winning margin in the House of about 400 votes. Clearly, members support its improved coordination and enforcement of U.S. intellectual property rights worldwide. ... The U.S. copyright industries provide millions of jobs and billions of economic growth in the U.S. every year. Conversely, piracy results in the loss of jobs, lost wages and lost taxes for the federal government, so when the economy is struggling, it’s that much more important to focus on these issues.” (“This Copyright Issue Is Never Going To End,” *Politico*, 6/17/08)

### **U.S. Chamber Touts IP’s Benefits to Consumer Safety**

“As we heard today, protecting intellectual property and protecting consumers go hand in hand. A strong intellectual property system brings out the best in our innovators, while ensuring that high-quality, safe and effective products reach the masses. Intellectual property violators endanger people, while shaking our confidence in the products we rely on and the brands we trust. Today’s hearing marks another important step as we look towards a Senate vote and ultimately having a strong IP bill signed into law this year. It is essential that Congress solidify the government’s permanent focus on intellectual property and dedicate the resources required to protect it. (“Consumer Safety Takes Center Stage in the Senate,” *ChamberPost.com*, 6/17/08)