



U.S. Department of Justice

Office of Legislative Affairs

MAY 10 2011

Hon Ron Wyden

Office of the Assistant Attorney General

Washington, D.C. 20530

May 2, 2011

The Honorable Ron Wyden
United States Senate
Washington, D.C. 20510

Dear Senator Wyden:

This responds to your letter dated February 2, 2011, concerning Operation In Our Sites, and the seizures of domain names used to commit or facilitate criminal copyright piracy and trademark counterfeiting. The Administration regards intellectual property ("IP") as one of the cornerstones of our economy, and effective protection of IP is crucial not only to our economic future but also to the health and safety of the public, a view that we know you and your colleagues in Congress share. Prosecution of criminal IP violations is a critical component of effective IP protection, and the Department of Justice is committed to the aggressive pursuit of criminal IP infringements.

In addition to providing significant penalties against individuals and groups engaged in criminal IP violations, including fines and imprisonment, federal law also authorizes the civil and criminal forfeiture of property involved in IP crime. In enacting the Prioritizing Resources and Organization for Intellectual Property ("PRO-IP") Act of 2008, Congress made clear that forfeiture is available for not only pirated or counterfeit items, but also for other property that is "used in any manner or part to commit or facilitate" criminal copyright infringement, trafficking in counterfeit goods, or other IP crimes, as well as any proceeds of such crimes. *See* 18 U.S.C. § 2323. Forfeiture is an effective and important tool for law enforcement in all areas of criminal law, including IP. It allows law enforcement to remove contraband items from circulation, denies criminals the ability to profit from their crimes, and serves to prevent the tools, equipment, and other property used to commit crime from being used to engage in additional crimes in the future. Forfeiture is especially useful in cases where those engaged in criminal activity have been able to elude U.S. authorities, either through hiding their identities, or by locating themselves outside the United States while continuing to direct criminal activities across our borders.

As you note in your letter, over the past year, the Administration has stepped up its use of forfeiture authorities in order to combat IP crime. In particular, we have made greater use of these authorities to seek the seizure and forfeiture of domain names used by websites involved in large scale copyright and trademark offenses. Operation In Our Sites, an effort spearheaded by

the National Intellectual Property Rights Coordination Center (“IPR Center”) and U.S. Immigration and Customs Enforcement (“ICE”), in coordination with the Department of Justice, has resulted in the seizure of an array of property, including over 100 domain names being used by websites involved in IP crime. In the first phase of the operation (“In Our Sites I”) in June 2010, the IPR Center and ICE, working with the United States Attorney’s Office (“USAO”) for the Southern District of New York (“SDNY”), executed multiple search warrants and seized seven domain names belonging to websites that offered large volumes of pirated, newly-released movies and television shows for online viewing and download. ICE also executed seizure warrants for two other domains involved in criminal copyright infringement during this period. In the second phase of the operation (In Our Sites II), ICE worked with the Department’s Computer Crime and Intellectual Property Section and nine USAOs around the country to seize 82 domain names. Of these, the vast majority belonged to websites that sold counterfeit goods to consumers, although several of the domains were seized based on their use in criminal copyright infringement involving the music, movies, and software which the sites offered for download or streaming. On February 2, 2011, the IPR Center and ICE, working with SDNY, seized ten domain names of websites offering pirated digital streams of pay-per-view sporting events and other copyrighted broadcasts. And, in the most recent phase, coordinating again with SDNY and the USAO for the Southern District of Texas, on February 14, 2011, the IPR Center and ICE seized an additional 18 domains names being used to sell counterfeit luxury goods.

The domain name seizures described above have been effective in disrupting a large number of sites involved in criminal copyright infringement and trafficking in counterfeit goods. The seized domains have been redirected to a seizure notice that provides notice not only to the domain owners, but also to both witting and unwitting consumers, that the domain has been seized for violation of criminal IP laws. These notices have been viewed by millions of potential visitors to the sites, many of whom were attempting to reach these sites in order to obtain pirated copyright material or counterfeit goods, but were prevented from doing so as a result of the domain seizures. Many other potential visitors may have been unaware that the content and products offered by these sites were pirated or counterfeit, and these users were likewise prevented from inadvertently obtaining pirated content or purchasing counterfeits. Although some of the underlying sites have come back online or remained operational using different domain names, many of the sites involved in these seizures remain offline. Operation In Our Sites appears to have had some deterrent effect even on sites not targeted in the operation; a number of other websites offering pirated content and counterfeit goods whose domains were not seized by U.S. authorities were nevertheless shut down shortly after the initial phases of the operation.

Each of the domain name seizures in Operation In Our Sites was conducted pursuant to a seizure warrant issued by a United States Magistrate Judge, based on a showing of probable cause to believe that the domain name in question was subject to forfeiture pursuant to 18 U.S.C. § 2323. The showing of probable cause was made using evidence gathered by law enforcement during criminal investigations. Once the court issued a seizure warrant for a domain name, ICE agents then served the warrant on a domain name registry, such as Verisign or Afilias, which effectuated the seizure by locking the domain name to prevent its transfer to another party, and redirecting the domain name to a web page containing a notice announcing the seizure.

Because Operation In Our Sites involves ongoing investigations, we cannot comment on specific details of these cases. However, it is important to emphasize that forfeiture laws provide an array of important procedural protections for the owners of the seized domain names and other interested parties. For example, in addition to clarifying and in some respects expanding the Department's authority to pursue forfeiture of property used to facilitate IP crime, the PRO-IP Act also expressly incorporated the procedures and protections for innocent owners and other claimants provided in the Civil Asset Forfeiture Reform Act of 2000 (CAFRA). *See* 18 U.S.C. § 2323(a)(2). Property owners are entitled to challenge the forfeiture of their property, in which case the government would be required to demonstrate the basis for forfeiture by a preponderance of the evidence. Even where the government can demonstrate that property was used to commit a criminal offense, an innocent owner who was unaware of the criminal activity, or who took reasonable measures to notify law enforcement upon learning of the criminal conduct, may nevertheless avoid forfeiture.

The Department is keenly aware of the important role that the Internet plays in commerce and expression. We understand and share your concern that indiscriminate takedowns of Internet sites could impinge on legitimate, protected speech. In considering whether forfeiture of a domain name is appropriate, we are not only mindful of the protections and limitations imposed by CAFRA and other forfeiture laws, including possible defenses or claims that may be raised by owners or third parties, but we are also careful to minimize the impact of our seizure on innocent parties, legitimate businesses, and protected expression.

The ability to seize and forfeit the domain names of websites is a valuable tool in the fight against trafficking in counterfeit goods and copyright piracy, allowing law enforcement to disrupt, at least temporarily, sites engaged in serious, criminal, and often highly profitable IP infringement. However, we also recognize domain name seizures are no panacea. We must, and we will continue to, use the full range of our enforcement tools and strategies to search for, identify, and arrest the worst offenders and bring them to justice.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'R Weich', written in a cursive style.

Ronald Weich
Assistant Attorney General

June 2010 ("In Our Sites I") seizures:

tvshack.net
movies-links.tv
filespump.com
now-movies.com
planetmoviez.com
thepiratecity.org
zml.com

November 2010 ("In Our Sites II") seizures:

1. 2009jerseys.com
2. 51607.com
3. amoyhy.com
4. b2corder.com
5. bishoe.com
6. borntrade.com
7. borntrade.net
8. boxedtvseries.com
9. boxset4less.com
10. boxsetseries.com
11. burberryoutletshop.com
12. burberryoutlet-us.com
13. cartoon77.com
14. cheapscarfshop.com
15. coachoutletfactory.com
16. dajaz1.com
17. discountscarvesonsale.com
18. dvdcollectionsale.com
19. dvdcollects.com
20. dvdorderonline.com
21. dvdprostore.com
22. dvdscollection.com
23. dvdsetcollection.com
24. dvdsetonline.com
25. dvdsuperdeal.com
26. eluxury-outlet.com
27. getdvdset.com
28. gofactoryoutlet.com
29. golfstaring.com
30. golfwholesale18.com
31. handbag9.com
32. handbagcom.com
33. handsbagpop.com
34. icqshoes.com
35. ipodnanouk.com

36. jersey-china.com
37. jerseyclubhouse.com
38. jordansbox.com
39. lifetimereplicas.com
40. louis-vuitton-outlet-store.com
41. louisvuittonoutletstore4u.com
42. louisvuittonoutletstores2u.com
43. lv-outlets.com
44. lv-outlets.net
45. lv-outletstore.com
46. massnike.com
47. merrytimberland.com
48. mycollects.com
49. mydreamwatches.com
50. mygolfwholesale.com
51. mytend.com
52. nfljerseysupply.com
53. nibdvd.com
54. nystylerolex.com
55. odvdo.com
56. oebags.com
57. onsmash.com
58. overbestmall.com
59. rapgodfathers.com
60. realtimberland.com
61. rmx4u.com
62. scarfonlineshop.com
63. scarvesviponsale.com
64. shawl-stor.com
65. silkscarfonsale.com
66. silkscarf-shop.com
67. skyergolf.com
68. sohob2b.com
69. sohob2c.com
70. storeofeast.com
71. stuff-trade.com
72. sunglasses-mall.com
73. sunogolf.com
74. tbl-sports.com
75. thelouisvuittonoutlet.com
76. throwbackguy.com
77. tieonsale.com
78. timberlandlike.com
79. topabuy.com
80. torrent-finder.com

- 81. usaburberryscarf.com
- 82. usaoutlets.net

February 2, 2011 seizures:

atdhe.net
channelsurfing.net
hq-streams.com
hqstreams.net
firstrow.net
ilemi.com
iilemi.com
iilemii.com
rojadirecta.org
rojadirecta.com

February 14, 2011 seizures ("Operation Broken Hearted"):

1designerscarves.com
chanel-newcoco.com
chanel-wholesale.com
coach-handbagsstore.com
choosemyhandbags.com
ecreplica.com
fabaaa.com
icoachoutletstore.com
krza.com
onsaletiffany.com
replica-handbags-online.com
shopping-louis-vuitton.com
store-aol.com
tiffanyjewellery-us.net
tiffanysale-us.com
tiffanysale-us.net
tiffanysilversale.com
uscoachoutlet.com