



Convened by:



## CANCUN DECLARATION

*Fifth Global Congress on Combating Counterfeiting and Piracy  
Cancun, Mexico  
1-3 December 2009*

### OVERVIEW

The Fifth Global Congress on Combating Counterfeiting and Piracy was co-hosted by the International Criminal Police Organization (INTERPOL) and the Mexican Government agency, Instituto Mexicano de la Propiedad Industrial (IMPI). The Congress was convened by INTERPOL, the World Customs Organization (WCO), and the World Intellectual Property Organization (WIPO) in partnership with the International Chamber of Commerce (ICC) through its Business Action to Stop Counterfeiting and Piracy (BASCAP) initiative, the International Trademark Association (INTA), and the International Security Management Association (ISMA).

The Congress attracted over 800 delegates representing 80 countries and more than 75 speakers, including heads of international organizations, government leaders, senior representatives of customs and police, business executives and IP experts from around the world.

The leaders of the Congress member organizations reaffirmed their commitment to the Congress partnership and called for governments, organizations and the business community to step up actions against the growing problem of the illegal trade of counterfeit and pirated goods.

The Fifth Global Congress was organized around the theme, *Bridging Boundaries for Shared Solutions* to showcase the need for enhanced cooperation to more effectively combat the scourge of counterfeiting and piracy. The Congress headlined seven Challenges that consistently have emerged as the key focus areas for concrete actions in dealing with the illegal trade. In addition, the Fifth Global Congress also featured a special session on Dealing with Counterfeiting and Piracy in a period of Economic Crisis. There was consensus among speakers and delegates that governments, enforcement authorities and the private sector needed to enhance their efforts. It was agreed that coordination and cooperation between and among enforcement agencies and the private sector was critical to meeting the counterfeiting and piracy challenges.

In the course of the presentations and discussions, a number of dynamic suggestions and proposals were made on how the various stakeholders might more effectively combat counterfeiting and piracy. These suggestions and proposals are summarized in the following outcome document.

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*The Global Congress is a collaboration between World Intellectual Property Organization, World Customs Organization, INTERPOL, International Chamber of Commerce, International Trademark Association and International Security Management Association*

## **I. COOPERATION AND COORDINATION**

Congress participants reaffirmed that the global problems of counterfeiting and piracy could not be solved by individual governments, enforcement authorities, or the business community. Diverse regional and multilateral initiatives were discussed, including the Heiligendamm process and the ACTA negotiations. The consensus was that more could possibly be done to improve cooperation and coordination between public agencies and with private sector, and that the liability of intermediaries and third party carriers, involved in the counterfeit trade, should be investigated.

### Panel #1: Global & Regional Initiatives

- Continue to build awareness of, and respect for, intellectual property rights by enhancing efforts to foster better understanding on the importance of those rights.
- Analyze the findings of the first report of the European Counterfeiting and Piracy Observatory.
- Expand the counterfeiting and piracy databases of WCO and INTERPOL.
- Develop political will and priority at the G8 and G20 levels.

### Panel #2: Case Studies – Enforcement/Private Sector Cooperation

- Explore opportunities to simplify IPR enforcement training and provide it electronically where appropriate.
- Encourage more companies to become involved in the INTERPOL, WCO, and Europol operational initiatives.
- Enhance strategic and operational cooperation with a focus on multi-agency participation.
- Encourage an exchange of experience in the detection and deterrence of counterfeiting and piracy.
- Continue to build bridges between customs, police and the private sector.

### Panel #3: Case Studies – Intermediaries and Third Party Carriers

- Strengthen cooperation with intermediaries including landlords, internet service providers (ISPs) and carriers. The liability of intermediaries and third party carriers involved in the counterfeit trade should be investigated.
- Following the inclusion of counterfeit and pirated products in its list of prohibited items, support the Universal Postal Union in its pilot program with France in the second half of 2010.
- Analyze and further develop solutions regarding the problem of storage and destruction of counterfeit goods.
- Provide more transparency and information in shipping documents in order to better detect the origin of counterfeit and pirated products.

## **II. LEGISLATION AND ENFORCEMENT**

Speakers and delegates supported WIPO's strategic direction: to build respect for intellectual property in a sustainable manner; strengthen capacity for the enforcement of IP rights in the interests of social and economic development and consumer protection; and integrate development-oriented concerns in enforcement related activities. Moreover, the Congress called on governments to further improve legislation dealing with the enforcement of IP rights, streamline procedures and implement already existing international obligations. The effectiveness of the judicial system is dependent on laws and procedures, enforcement agencies, prosecutorial services, a sensitized judiciary and evidence from rights holders. However, for many judicial bodies there are systemic problems in dealing with IP cases such as judicial priorities, overburdened courts and lack of IP expertise, resulting in long delays and/or inappropriate sentences.

### **Panel #1: Role and Readiness of the Judiciary**

- Assist the judiciary to deal more effectively with counterfeiting and piracy cases, including through training and specialization.
- Appreciate the duty of the judiciary to balance in an appropriate manner the rights of IP producers and users in the interest of socio-economic development.

### **Panel #2: Criminal Sanctions – Models for Deterrent Penalties**

- Develop an IP enforcement focus on organized criminal groups that are behind the large scale production and distribution of counterfeit and pirated goods.
- Recognize that deterrent sentences should be proportionate to the various degrees of criminality at the stages of manufacture, distribution and commercialization of the counterfeit and pirated goods.

## **III. HEALTH AND SAFETY RISKS**

The Congress noted with concern that there is a continuing and growing problem with fake products of many types – medicines, foods, healthcare products, auto parts, electrical goods, and agricultural products among others – posing a grave threat to the health and safety of the consumers.

### **Panels #1 & 2: Africa and Private Sector Case Studies**

- Promote adequate solutions to regulate the sale of medicines over the internet.
- Analyze the interconnectivity of the formal and informal markets to improve intervention strategies.
- Encourage efforts to improve public/private cooperation.
- Develop more effective methods to determine the impact of counterfeiting on public health.
- Increase liability and responsibilities of internet search engines and payment providers.
- Develop specific solutions, in terms of infrastructure and industrial capabilities, to secure the supply chain and detect counterfeit spare parts and “after-market” components for long-life cycle products, such as cars, aircraft and other mechanical goods, since these spare-parts and components often remain available for years after their manufacture and distribution, and even after the main product is deemed to be obsolete.
- Customs and police to improve coordination to ensure a more efficient border and in-country enforcement.

#### **IV. CAPACITY BUILDING**

It was reaffirmed that a country's effectiveness in protecting IP rights was partially dependent upon its capacity to enforce them. Specialized training and sharing of experience were seen as important in building competencies and capabilities in both developing and developed countries. The public/private sector partnerships were considered essential in providing long term, sustainable solutions.

Panel #1 & 2: Country Case Studies and Security and Prosperity Partnership (Canada, Mexico and the US)

- Launch a multi-industry/law enforcement pilot joint operation in Mexico and Central America.
- Develop an integrated global network of trainers to assist developing and developed countries to improve their capacity to stop the illicit trade in counterfeiting and piracy.
- Secure industry support for, and participation in, U.S. Customs and Border Protection priority enforcement investigations.

#### **V. AWARENESS RAISING**

Speakers and delegates addressed the need to increase public and political awareness and understanding of counterfeiting and piracy activities and the associated economic, health and safety and other social harms. It was agreed that greater steps in raising awareness could lead to informed consumers that better understand the harm associated with purchasing and consuming counterfeit and pirated goods, and well-informed policymakers who are dedicated to address these issues.

Panel #1: Measuring True Costs

- Encourage the OECD to continue refining its economic modelling and efforts to develop effective measurement methodologies.
- Encourage BASCAP and others in the private sector to develop their data and methodologies on national and regional impacts of counterfeiting and piracy, particularly related to economic growth, employment and the cost of crime.
- Utilize the reporting framework of the WCO for the collection of data.
- Encourage public/private sector partnerships to better understand and curb the socio-economic costs of counterfeiting and piracy.

Panel #2: Case Studies – Awareness Raising

- Utilize WIPO's databases/communication tools and BASCAP's research on consumer attitudes on counterfeiting and piracy when developing awareness campaigns.
- Enhance efforts to educate the youth about the perils of counterfeiting and piracy.
- Encourage greater cooperation and collaboration between governments and the private sector in developing education and awareness campaigns.

#### **VI. FREE TRADE ZONES AND TRANSSHIPMENT COUNTRIES**

The Congress recognized the legitimacy and benefits of Free Trade Zones and the use of countries for transshipment purposes, but noted there was abuse by counterfeiters and organized criminal networks facilitating the movement of counterfeit and pirated goods into third countries.

- Be vigilant in order to prevent abuses of Free Trade Zones and Transshipment Countries which would lead to the promotion of illegitimate trade.
- Continue to develop customs and law enforcement risk analysis techniques and operations in the fight against the counterfeiting and piracy.

## **VII. SALE OF COUNTERFEIT AND PIRATED PRODUCTS OVER THE INTERNET**

Delegates and speakers pointed out that the Internet had become an easy channel through which counterfeiters and purveyors of pirated products could reach out to consumers all over the world. Dealing with these issues was considered an urgent issue, that will require collective responsibility and action by companies, trade associations, intermediaries and government authorities to enforce IP rights.

- Promote the need for industry stakeholders to collaborate more closely with one another and with the enforcement authorities around the world to find creative and practical ways to tackle this problem.
- Encourage additional industry participation in INTA's initiative to identify and promote effective results for search engine operators, shopping sites, payment service providers (PSPs) and trademark owners.
- Increase public awareness and engagement on the issue.
- Move stakeholder dialogue towards effective actions to address this growing concern.