

GAO

Report to the Chairman, Committee on  
Government Reform, House of  
Representatives

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November 2006

# INTELLECTUAL PROPERTY

## Strategy for Targeting Organized Piracy (STOP) Requires Changes for Long- term Success





Highlights of [GAO-07-74](#), a report to the Chairman, Committee on Government Reform, House of Representatives

# INTELLECTUAL PROPERTY

## Strategy for Targeting Organized Piracy (STOP) Requires Changes for Long-term Success

### Why GAO Did This Study

U.S. government efforts to protect and enforce intellectual property (IP) rights are crucial to preventing billions of dollars in losses and mitigating health and safety risks from trade in counterfeit and pirated goods. These efforts are coordinated through the National Intellectual Property Law Enforcement Coordination Council (NIPLECC), created by Congress in 1999, and the Strategy for Targeting Organized Piracy (STOP), initiated by the Bush administration in 2004. This report describes the evolution of NIPLECC and STOP, assesses the extent to which STOP addresses the desirable characteristics of an effective national strategy, and evaluates the challenges to implementing a strategy for protecting and enforcing IP rights. GAO examined relevant documents, interviewed agency and industry officials, and assessed STOP using criteria previously developed by GAO.

### What GAO Recommends

To improve strategic planning for IP protection, GAO recommends that the IP Coordinator, in consultation with the National Security Council and the STOP agencies (1) take steps to ensure that STOP fully addresses the six characteristics of a national strategy and (2) clarify how NIPLECC will carry out its oversight and accountability responsibilities in implementing STOP as its strategy. The IP Coordinator concurred with both recommendations.

[www.gao.gov/cgi-bin/getrpt?GAO-07-74](http://www.gao.gov/cgi-bin/getrpt?GAO-07-74).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Loren Yager at (202) 512-4128 or [yagerl@gao.gov](mailto:yagerl@gao.gov).

### What GAO Found

Although NIPLECC and STOP originated under different authorities, the lines between them have become increasingly blurred. NIPLECC is a coordinating council, while STOP is a strategy involving coordination led by the National Security Council. While NIPLECC has struggled to define its purpose, STOP generated coordination and attention to IP protection from the outset. Congress gave NIPLECC an oversight role, funding, and an IP Coordinator as its head in 2005, but STOP remains prominent. Their functions, however, increasingly overlap. The IP Coordinator regularly conducts STOP activities and speaks for STOP before Congress and private industry. Most significantly, NIPLECC recently adopted STOP as its strategy.

STOP is a good first step toward a comprehensive integrated national strategy to protect and enforce IP rights and has energized protection efforts. GAO found, however, that STOP's potential is limited because it does not fully address the characteristics of an effective national strategy, which GAO believes helps increase the likelihood of accountability, as well as effectiveness. STOP does not fully address characteristics related to planning and accountability. For example, its performance measures lack baselines and targets. STOP lacks a discussion of costs, the types and sources of investments needed, and processes to address risk management. Finally, STOP lacks a full discussion oversight responsibility.

The current structures present several challenges to implementing a long-term strategy. First, NIPLECC retains an image of inactivity, and many private sector groups GAO interviewed were unclear about its role. STOP, despite its energy and prominence, lacks permanence beyond the current administration. Second, NIPLECC's commitment to implementing an effective strategy is unclear. For instance, NIPLECC's recent annual report does not explain how it plans to provide oversight. NIPLECC officials have sent mixed signals about STOP's role, with one saying STOP should include metrics to measure progress, and another calling STOP an account of administration efforts, not a strategy.

**Extent STOP Addresses GAO's Desirable Characteristics of an Effective National Strategy**

1. Clear purpose, scope, methodology	●
2. Detailed discussion of problems and assessment of risks	●
3. Desired goals, objectives, activities, and performance goals	●
4. Description of resources, investments and risk management	○
5. Delineation of organizational roles, responsibilities, and coordination	●
6. Description of strategy's integration with other agencies	●

● Fully addresses      ● Partially addresses      ○ Does not address

Source: GAO.

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# Contents

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<b>Letter</b>		<b>1</b>
	Results in Brief	3
	Background	6
	Lines between NIPLECC and STOP Have Blurred into Overlapping Structures	8
	STOP Is a Good Initial Effort but Does Not Yet Fully Address the Desirable Characteristics of an Effective National Strategy	15
	Current Structures Create Challenges to an Effective Integrated Strategy	21
	Conclusions	24
	Recommendations for Executive Action	24
	Agency Comments and Our Evaluation	25
<b>Appendix I</b>	<b>Scope and Methodology</b>	<b>27</b>
<b>Appendix II</b>	<b>GAO's Analysis of STOP as an Effective National Strategy</b>	<b>29</b>
<b>Appendix III</b>	<b>Bush Administration: Strategy for Targeting Organized Piracy Accomplishments and Initiatives</b>	<b>39</b>
<b>Appendix IV</b>	<b>Comments from the Department of Commerce</b>	<b>50</b>
<b>Appendix V</b>	<b>GAO Contact and Staff Acknowledgments</b>	<b>51</b>
<b>Tables</b>		
	Table 1: Comparison of Features of NIPLECC and STOP	11
	Table 2: Summary of Desirable Characteristics for an Effective National Strategy	30

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## Figures

Figure 1: Primary U.S. Government Agencies and Entities Supporting U.S. Intellectual Property Rights	8
Figure 2: Key Events Relevant to NIPLECC and STOP	13
Figure 3: Extent to Which STOP Addresses GAO's Desirable Characteristics of an Effective National Strategy	17

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## Abbreviations

APEC	Asia Pacific Economic Cooperation
CACP	Coalition against Counterfeiting and Piracy
CBP	Customs and Border Protection
CAFTA-DR	Central America-Dominican Republic Free Trade Agreement
CHIP	Computer Hacking and Intellectual Property
CRM	Case Referral Mechanism
DOJ	Department of Justice
DHS	Department of Homeland Security
EU	European Union
FDA	Food and Drug Administration
FBI	Federal Bureau of Investigation
GPRA	Government Performance Results Act
ICE	Immigration and Customs Enforcement
IP	intellectual property
IPR	intellectual property rights
NIPLECC	National Intellectual Property Law Enforcement Coordination Council
MOFCOM	China's Ministry of Commerce
OECD	Organization for Economic Cooperation and Development
SPP	Security and Prosperity Partnership
STOP	Strategy for Targeting Organized Piracy
USPTO	U.S. Patent and Trademark Office
USTR	U.S. Trade Representative
WTO	World Trade Organization

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United States Government Accountability Office  
Washington, DC 20548

November 8, 2006

The Honorable Tom Davis  
Chairman  
Committee on Government Reform  
House of Representatives

Dear Mr. Chairman:

U.S. government efforts to protect and enforce intellectual property (IP) rights overseas are crucial to preventing billions of dollars in losses to U.S. industry and IP rights owners and addressing health and safety risks resulting from the trade in counterfeit and pirated goods. IP protection and enforcement cut across a wide range of U.S. agencies and functions, as well as those of foreign governments, making coordination among all parties essential.

The U.S. government has developed a complex structure to achieve coordination of IP enforcement efforts. In 1999, Congress created the interagency National Intellectual Property Law Enforcement Coordination Council (NIPLECC) as a mechanism to coordinate U.S. efforts to protect and enforce IP rights in the United States and overseas.<sup>1</sup> In October 2004, the President announced the Strategy for Targeting Organized Piracy (STOP) to “smash the criminal networks that traffic in fakes, stop trade in pirated and counterfeit goods at America’s borders, block bogus goods around the world, and help small businesses secure and enforce their rights in overseas markets.” STOP also calls for collaboration among U.S. agencies. Then, in the Consolidated Appropriations Act of 2005, Congress created the position of Coordinator for International Intellectual Property Enforcement to head NIPLECC.<sup>2</sup> In addition, the act mandated, among other things, that NIPLECC promulgate a strategy for protecting American intellectual property abroad and oversee its implementation. Recently, NIPLECC adopted STOP as that strategy.

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<sup>1</sup>NIPLECC was established under Section 653 of the Treasury and General Government Appropriations Act, 2000 (Pub. L. No.106-58), 15 U.S.C. 1128.

<sup>2</sup>The Consolidated Appropriations Act, 2005 (Pub. L. No. 108-447), Division B, Title II.

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In response to your request to understand more fully U.S. government efforts to develop a comprehensive and integrated strategy with a long-term perspective to combat IP counterfeiting and piracy, this report (1) describes the evolution of the relationship between NIPLECC and STOP, (2) assesses the extent to which STOP addresses the desirable characteristics of an effective national strategy, and (3) evaluates the challenges to ensuring the implementation of a long-term integrated strategy for protecting and enforcing IP rights.

To meet these objectives, we examined NIPLECC and STOP official documents and reviewed the legislative history of NIPLECC. To determine the extent to which STOP serves as a national strategy for combating trade in counterfeit and pirated goods, we assessed STOP using the six desirable characteristics of an effective national strategy developed in previous GAO work.<sup>3</sup> GAO has used this methodology to assess and report on the administration's strategies relating to combating terrorism, restructuring DOD's global force posture, and rebuilding Iraq.<sup>4</sup> National strategies with these desirable characteristics offer policymakers and implementing agencies a management tool that can help ensure accountability and more effective results.<sup>5</sup> We also obtained and analyzed documents required under the Government Performance Results Act (GPRA) of 1993, as well as IP-related planning documents from the government agencies involved with STOP. We assessed the extent to which these agency documents support STOP goals and add information that may support elements necessary for an effective national strategy. In addition, we interviewed agency officials involved in NIPLECC and STOP, including the Coordinator for International Intellectual Property Enforcement. We also interviewed members of the private sector, which we selected

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<sup>3</sup>GAO, *Combating Terrorism: Evaluation of Selected Characteristics in National Strategies Related to Terrorism*, [GAO-04-408T](#) (Washington D.C.: Feb. 3, 2004).

<sup>4</sup>GAO, *Defense Management: Comprehensive Strategy and Annual Reporting Are Needed to Measure Progress and Costs of DOD's Global Posture Restructuring*, [GAO-06-852](#), (Washington D.C.: Sept. 13, 2006); and *Rebuilding Iraq: More Comprehensive National Strategy Needed to Help Achieve U.S. Goals*, [GAO-06-788](#) (Washington D.C.: June 28, 2006).

<sup>5</sup>The six characteristics are (1) a clear purpose, scope, and methodology; (2) a discussion of the problems, risks, and threats the strategy intends to address; (3) the desired goals and objectives, activities, and performance measures; (4) a description of the resources needed to implement the strategy; (5) a clear delineation of the organizational roles and responsibilities, including oversight as well as mechanisms for coordination; and (6) a description of how the strategy relates to subordinate levels of government and their plans to implement the strategy. These six characteristics can be subdivided into 29 separate elements for more detailed assessment.

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judgmentally to ensure that we obtained the views of major cross-industry associations, as well as individual associations and companies representing key industries that are heavily affected by IP violations such as the manufacturing, entertainment, and pharmaceutical industries. In all we spoke to 20 representatives from 16 private sector groups. We conducted our work from January 2006 through October 2006 in accordance with generally accepted government auditing standards. See appendix I for a more detailed description of our scope and methodology. See appendix II for a detailed discussion of GAO's analysis of STOP using the six desirable characteristics of an effective national strategy. See appendix III for the STOP strategy.

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## Results in Brief

NIPLECC and STOP originated under different authorities, but the lines between them have become increasingly blurred, creating overlapping structures to protect and enforce IP rights. NIPLECC is a coordinating council created by Congress in 1999, while STOP is a strategy initiated by the White House in 2004 under the auspices of the National Security Council, with a strong coordination component; both involve nearly the same agencies.<sup>6</sup> However, unlike NIPLECC, which has struggled to define its purpose, STOP generated active coordination and has sponsored IP protection related activities from the outset. Although Congress augmented NIPLECC's capabilities and clarified its purpose through passage of the Consolidated Appropriations Act of 2005,<sup>7</sup> STOP remains more prominent. NIPLECC's Coordinator for International Intellectual Property Enforcement (also known as the IP Coordinator), a position created by the 2005 act and filled by presidential appointment in July 2005 to head NIPLECC, has regularly been participating in STOP activities and acted as a STOP spokesperson to Congress and private industry. In addition, NIPLECC cites STOP activities as among its accomplishments in

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<sup>6</sup>NIPLECC legislation includes Departments of Commerce (U.S. Patent and Trademark Office and International Trade Administration), Homeland Security (originally Legacy Customs), Justice (Criminal Division), State (Bureau of Economic and Business Affairs), and the Office of the United States Trade Representative. STOP includes the same agencies with the addition of the Federal Drug Administration.

<sup>7</sup>In December 2004, Congress augmented NIPLECC's capabilities in the Consolidated Appropriations Act of 2005, which created the Coordinator for International Intellectual Property Enforcement position and provided \$2 million for NIPLECC's expenses through fiscal year 2006.



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its September 2006 report to Congress and the President.<sup>8</sup> Significantly, the NIPLECC principals recently identified STOP as their strategy for protecting American IP overseas, as one of the requirements under the Consolidated Appropriations Act. (See app. III for the complete STOP strategy.)

STOP is a good first step toward a comprehensive, integrated national strategy to protect and enforce U.S. intellectual property, and it has energized agency efforts. However, we found that STOP's full potential as a strategy is limited because it does not fully address the six desirable characteristics of an effective national strategy. We believe these characteristics would improve the likelihood of STOP's long-term effectiveness and ensure accountability.<sup>9</sup> STOP does not fully address key characteristics related to planning and accountability, missing key elements such as a discussion of performance measures, resources, risk management, and designation of oversight responsibility. While STOP generally addresses goals and subordinate objectives and activities, it only partially addresses performance measures; for example, it reports the number of calls to the U.S. Patent and Trademark Office (USPTO) hotline, but it does not provide data on baselines or targets to assess how well the activities are being implemented. The strategy does not address resources, investments, and risk management; for instance, it lacks a discussion of current or future costs, the types or sources of investments needed to target organized piracy, and processes to effectively balance the threats from counterfeit products with the resources available. In addition, STOP also partially addresses organizational roles and responsibilities by citing many examples of agency roles with respect to their STOP activities; however, it does not discuss a framework for accountability among the STOP agencies, such as designating responsibility for oversight. While some of these elements are addressed in individual agency documents, the need to consult multiple agency documents underscores the strategy's lack of integration and limits its usefulness as a management tool for effective oversight and accountability.

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<sup>8</sup>*Report to the President and Congress on Coordination of Intellectual Property Enforcement and Protection*, September, 2006. The National Intellectual Property Law Enforcement Coordination Council.

<sup>9</sup>While national strategies are not required by executive or legislative mandate to address a single, consistent set of characteristics, GAO has identified six desirable characteristics of an effective national strategy.

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Several challenges to the implementation of an effective long-term strategy result from the current structures. First, despite NIPLECC's key role of providing permanence, it continues to have leadership problems. NIPLECC retains an image of inactivity among the private sector despite its enhanced mandate and, in July 2006, Senate appropriators expressed concern about the lack of information provided by NIPLECC on its progress. Second, while agency and private sector officials praise STOP for energizing U.S. IP protection efforts, STOP lacks permanence. The authority and influence STOP enjoys as a presidential initiative could disappear after the current administration. Third, NIPLECC's commitment to implementing STOP as a successful strategy remains unclear, creating a challenge for accountability. NIPLECC's September 2006 report describes numerous STOP activities but does not articulate how NIPLECC plans to carry out its oversight responsibility mandated by Congress. Agency officials we interviewed generally considered STOP to be the U.S. government's IP strategy. However, NIPLECC officials have sent mixed signals about the extent to which they believe STOP is meant to provide performance measures and information on resource levels. For instance, one NIPLECC representative said that STOP should include metrics to measure progress that should be reported on by the IP Coordinator. Yet, another NIPLECC representative told us that STOP was a fact sheet rather than a strategy. While the IP Coordinator stated in congressional testimony that STOP is NIPLECC's strategy, he also told us that STOP was never meant to be an institutional method for reporting priorities and metrics to the President or Congress. Furthermore, the STOP strategy neither makes reference to NIPLECC's oversight role, nor does STOP articulate a framework for oversight and accountability among the STOP agencies carrying out the strategy.

To improve STOP's effectiveness as a planning tool and its usefulness to Congress:

We recommend that the IP Coordinator, in consultation with the National Security Council and the six STOP agencies, including the Departments of Commerce, Homeland Security, Justice, and State; and the Office of the U.S. Trade Representative; and the Food and Drug Administration, take steps to ensure that STOP fully addresses the six characteristics of a national strategy.

To clarify NIPLECC's oversight role with regard to STOP:

We recommend that the IP Coordinator, in consultation with the National Security Council and the six STOP agencies, including the Departments of

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Commerce, Homeland Security, Justice, and State; and the Office of the U.S. Trade Representative; and the Food and Drug Administration, clarify in the STOP strategy how NIPLECC will carry out its oversight and accountability responsibilities in implementing STOP as its strategy.

We provided USTR, the Departments of Commerce, Justice, Homeland Security, and State; and USPTO, Food and Drug Administration, and the IP Coordinator with a draft of this report for their review and comment. The IP Coordinator, through the Department of Commerce in consultation with the USPTO and the International Trade Administration, provided technical comments. The Department of Homeland Security, the Food and Drug Administration, and the Office of the U.S. Trade Representative also chose to provide technical comments. We modified the report where appropriate. The Departments of Justice and State did not provide any comments. We also received written comments from the U.S. Coordinator for International Property Enforcement (IP Coordinator), which are reprinted in appendix IV. The IP Coordinator reiterated our message that STOP was a good first step toward a comprehensive, integrated strategy to protect and enforce U.S. intellectual property rights and that it had energized U.S. efforts. He concurred with our recommendations, stating that his office would review them, and planned to identify opportunities for improvement based on those recommendations, where appropriate.

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## Background

Intellectual property is an important component of the U.S. economy, and the United States is an acknowledged global leader in its creation. However, the legal protection of intellectual property varies greatly around the world, and several countries are havens for the production of counterfeit and pirated goods. Technology has facilitated the manufacture and distribution of counterfeit and pirated products, resulting in a global illicit market that competes with genuine products that complicates detection and actions against violations. High profits and low risk have drawn in organized criminal networks, and the public is often not aware of the issues and consequences surrounding IP theft. The Department of State has cited estimates that counterfeit goods represent about 7 percent of annual global trade, but we note that it is difficult to reliably measure what is fundamentally a criminal activity.<sup>10</sup> Industry groups suggest,

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<sup>10</sup>The Organization for Economic Co-operation and Development (OECD) is conducting a study on IP, examining the extent to which counterfeit goods are entering global trade and associated data reliability issues.

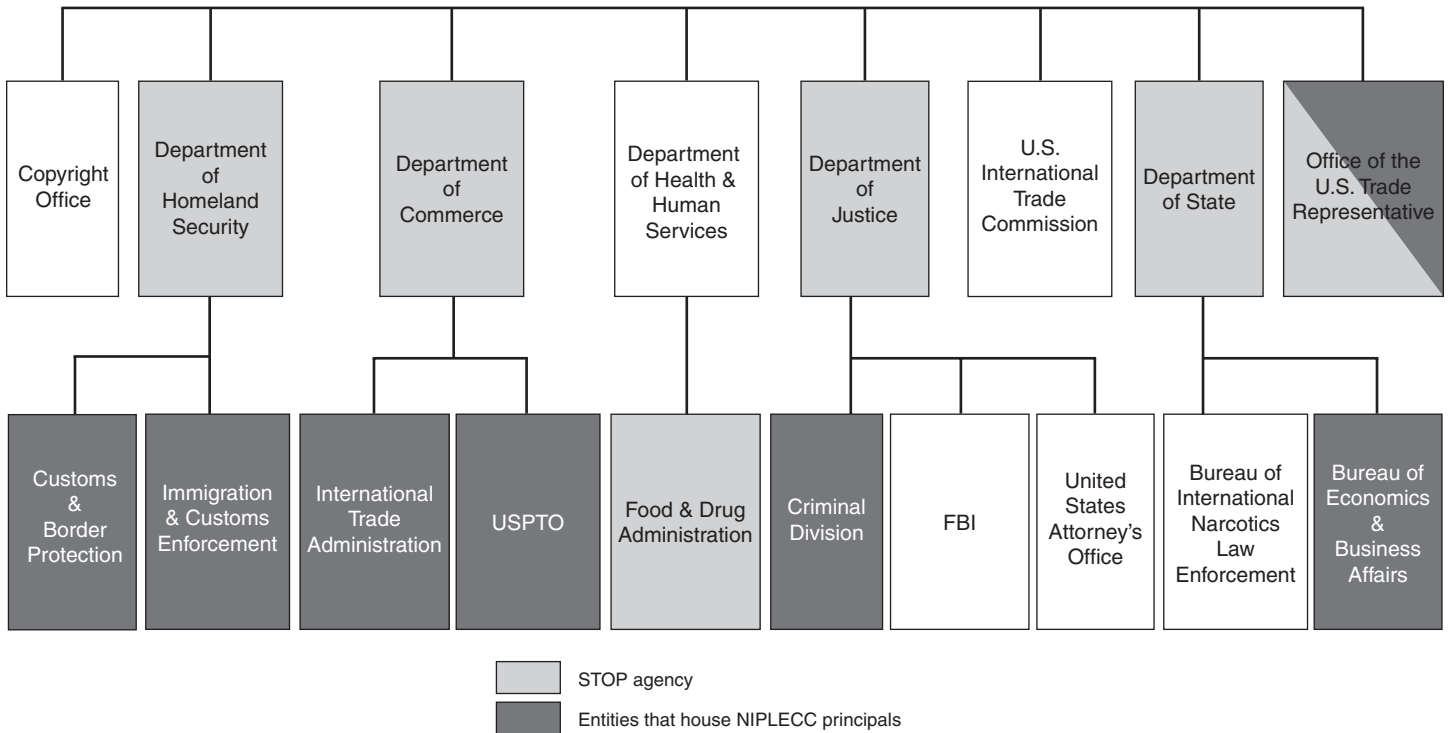
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however, that counterfeiting and piracy are on the rise and that a broader range of products, from auto parts to razor blades, and from vital medicines to infant formula, are subject to counterfeit production. Counterfeit products raise serious public health and safety concerns, and the annual losses that companies face from IP violations are substantial.

Eight federal agencies, as well as entities within those agencies including the Federal Bureau of Investigation (FBI) and USPTO, undertake the primary U.S. government activities in support of IP rights. These eight agencies are: Departments of Commerce, State, Justice, and Homeland Security; the U.S. Trade Representative (USTR); the Copyright Office; the U.S. Agency for International Development; and the U.S. International Trade Commission. These agencies undertake a wide range of activities that fall under three categories: policy initiatives, training and technical assistance, and law enforcement. U.S. international trade policy initiatives to increase IP protection and enforcement are primarily led by USTR, in coordination with the Departments of State, Commerce, USPTO, and the Copyright Office, among other agencies. The policy initiatives are wide ranging and include reviewing IP protection abroad and negotiating agreements that address intellectual property. Key activities to develop and promote enhanced IP protection through training or technical assistance are undertaken by the Departments of Commerce, Homeland Security, Justice, and State; the FBI; USPTO; and the Copyright Office.

A smaller number of agencies and their entities are involved in investigating IP violations and enforcing U.S. IP laws. Working in an environment where counterterrorism is the central priority, the Department of Justice, including the FBI, and the Department of Homeland Security take actions that include engaging in multicountry investigations involving intellectual property violations and seizing goods that violate IP rights at U.S. ports of entry. The Food and Drug Administration (FDA) also investigates intellectual property violations for FDA-regulated products as part of its mission to assure consumer safety. Finally, the U.S. International Trade Commission has an adjudicative role in enforcement activities involving patents and trademarks. These agencies, and their entities, may be affiliated with NIPLECC, STOP, or both as indicated by figure 1.

**Figure 1: Primary U.S. Government Agencies and Entities Supporting U.S. Intellectual Property Rights**



Source: GAO.

Note: NIPLECC is required to consult with the Register of Copyrights on copyright law enforcement matters. Immigration and Customs Enforcement, while not an original member, was reported as a member of NIPLECC in the council's fifth annual report issued in September 2006.

## Lines between NIPLECC and STOP Have Blurred into Overlapping Structures

NIPLECC and STOP originated separately under different authorities, but the lines between them have become increasingly blurred. They share similar goals, including coordination of IP protection and enforcement, and involve nearly the same agencies. Five of the six STOP agencies house NIPLECC principals. NIPLECC is a coordinating council created by Congress, while STOP is a strategy initiated by the White House with a strong coordination component. NIPLECC has struggled to define its purpose, while STOP has generated active coordination and sponsored IP protection related activities from the outset. Although Congress passed legislation to enhance NIPLECC's mandate, STOP remains more prominent and is characterized by a high level of activity and visibility. The IP Coordinator, who heads NIPLECC, regularly participates directly in STOP-sponsored activities and represents STOP before Congress and

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private industry. Finally, significantly, NIPLECC adopted STOP as its strategy for protecting IP overseas in February 2006.

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### NIPLECC and STOP Originated under Different Authorities but with Similar Goals

NIPLECC and STOP were created under different authorities, NIPLECC as a congressional mandate and STOP as a presidential initiative. In 1999, Congress created NIPLECC to coordinate domestic and international intellectual property law enforcement among U.S. federal and foreign entities. The council's membership is designated by statute and includes (1) Assistant Secretary of Commerce and Commissioner of Patents and Trademarks (USPTO); (2) Assistant Attorney General, Criminal Division (Justice); (3) Under Secretary of State for Economic and Agricultural Affairs (State); (4) Ambassador, Deputy United States Trade Representative (USTR); (5) Commissioner of Customs (Legacy Customs);<sup>11</sup> and (6) Under Secretary of Commerce for International Trade (Commerce). NIPLECC is also required to consult with the Register of Copyrights on copyright law enforcement matters. In addition, officials from the USPTO and the Department of Justice are the co-chairs of NIPLECC. Congress required NIPLECC to report its coordination efforts annually to the President and to the Committees on Appropriations and the Judiciary of the Senate and the House of Representatives. NIPLECC's authorizing legislation included no specific dollar amount for funding or staff.

Although created to coordinate U.S. IP law enforcement efforts, NIPLECC has had difficulties. In our September 2004 report, we stated that NIPLECC had struggled to define its purpose. Our 2004 report noted that NIPLECC had little discernible impact and had not undertaken any independent activities, according to interviews with both industry officials and officials from its member agencies, and as evidenced by NIPLECC's own annual reports. From 1999 through the end of 2004, NIPLECC produced three annual reports that did little more than provide a compilation of individual agency activities. Indeed, we reported that officials from more than half of the member agencies offered criticisms of

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<sup>11</sup>NIPLECC's authorizing legislation designates the Commissioner of Customs as a council member. This individual remained a NIPLECC member after the formation of the Department of Homeland Security in 2003, but under the new title of Department of Homeland Security's Commissioner of Customs and Border Protection. NIPLECC's fifth annual report, issued in September 2006, added a second representative from the Department of Homeland Security, the Assistant Secretary for Immigration and Customs Enforcement, which includes investigative functions that had been conducted under the former Legacy Customs.

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NIPLECC, remarking that it was unfocused, ineffective, and “unwieldy.” In official comments to the council’s 2003 annual report, major IP industry associations expressed a sense that NIPLECC is not undertaking any independent activities or having any impact. However, some officials interviewed did cite positive contributions supporting IP efforts, including an IP training database Web site. Finally, we noted in our 2004 report that if Congress wished to maintain NIPLECC and take action to increase its effectiveness, it should consider reviewing the council’s authority, operating structure, membership, and mission.<sup>12</sup>

In October 2004, the President launched STOP, a separate initiative led by the White House under the auspices of the National Security Council, to target cross-border trade in tangible goods and strengthen U.S. government and industry IP enforcement actions. While STOP made no mention of NIPLECC’s role, STOP members are the same agencies that house NIPLECC members, except that STOP includes the FDA. According to a high-level official who participated in the formation of STOP, the initiative was intended to protect American innovation, competitiveness, and economic growth. It stemmed from the recognition that U.S. companies needed protection from increasingly complex and sophisticated criminal counterfeiting and piracy. As part of STOP, agencies began holding meetings, both at working levels and higher, to coordinate agency efforts to tackle the problem.

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## Congress Enhanced NIPLECC While STOP Continues to Play the Prominent Role in Coordination

Congress addressed NIPLECC’s lack of activity and unclear mission in the 2005 Consolidated Appropriations Act in December 2004. The act called for NIPLECC to (1) establish policies, objectives, and priorities concerning international IP protection and enforcement; (2) promulgate a strategy for protecting American IP overseas; and (3) coordinate and oversee implementation of the policies, objectives, and priorities and overall strategy for protecting American IP overseas by agencies with IP responsibilities. The act appropriated \$2 million for NIPLECC’s expenses through the end of the fiscal year 2006. It also created the position of the Coordinator for International Intellectual Property Enforcement, also known as the “IP Coordinator,” to head NIPLECC. The IP Coordinator is appointed by the President and may not serve in any other position in the federal government. The co-chairs for NIPLECC are required to report to

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<sup>12</sup>See GAO, *Intellectual Property: U.S. Efforts Have Contributed to Strengthened Laws Overseas, but Challenges Remain*, [GAO-04-912](#) (Washington D.C.: Sept. 8, 2004).

the IP Coordinator. In July 2005, the Secretary of Commerce announced the presidential appointment of the IP Coordinator. Table 1 compares NIPLECC and STOP.

**Table 1: Comparison of Features of NIPLECC and STOP**

<b>Features</b>	<b>NIPLECC</b>	<b>STOP</b>
<b>Origin</b>	Congressional mandate	White House initiative
<b>Leadership</b>	<ul style="list-style-type: none"> <li>• Coordinator for International Intellectual Property Enforcement (IP Coordinator)</li> <li>• Co-Chairs from USPTO and Justice report to Coordinator</li> </ul>	<ul style="list-style-type: none"> <li>• National Security Council</li> </ul>
<b>Membership</b>	By agency and position: <ol style="list-style-type: none"> <li>1. Department of Justice: Assistant Attorney General, Criminal Division</li> <li>2. Department of Commerce: Under Secretary for IP and Director of USPTO; and the Under Secretary for International Trade</li> <li>3. Department of Homeland Security: Commissioner of U.S. Customs and Border Protection; and the Assistant Secretary for Immigration and Customs Enforcement</li> <li>4. Department of State: Under Secretary for Economic, Business, and Agricultural Affairs</li> <li>5. Office of the U.S. Trade Representative: Deputy U.S. Trade Representative</li> </ol>	By agency: <ol style="list-style-type: none"> <li>1. Department of Justice</li> <li>2. Department of Commerce</li> <li>3. Department of Homeland Security</li> <li>4. Department of State</li> <li>5. Office of the U.S. Trade Representative</li> <li>6. Food and Drug Administration</li> </ol>
<b>Dedicated funding</b>	\$2 million (for fiscal years 2005 and 2006)	None
<b>Dedicated staff</b>	Seven (IP Coordinator, four staff members, and two detailees)	None
<b>Meetings</b>	Quarterly	Approximately monthly (scheduled on an ad hoc basis)

Source: GAO.

Note: NIPLECC is required to consult with the Register of Copyrights.

Since obtaining enhanced capabilities under the 2005 Consolidated Appropriations Act, NIPLECC has made some progress, through NIPLECC's administrative staff, including the IP Coordinator, an assistant, a policy analyst, part-time legislative and press assistants, and detailees from USPTO and CBP. Examples of the office's activities include working with the Commercial Law Development Program<sup>13</sup> to train foreign governments on IP enforcement, co-hosting an IP regulation training and

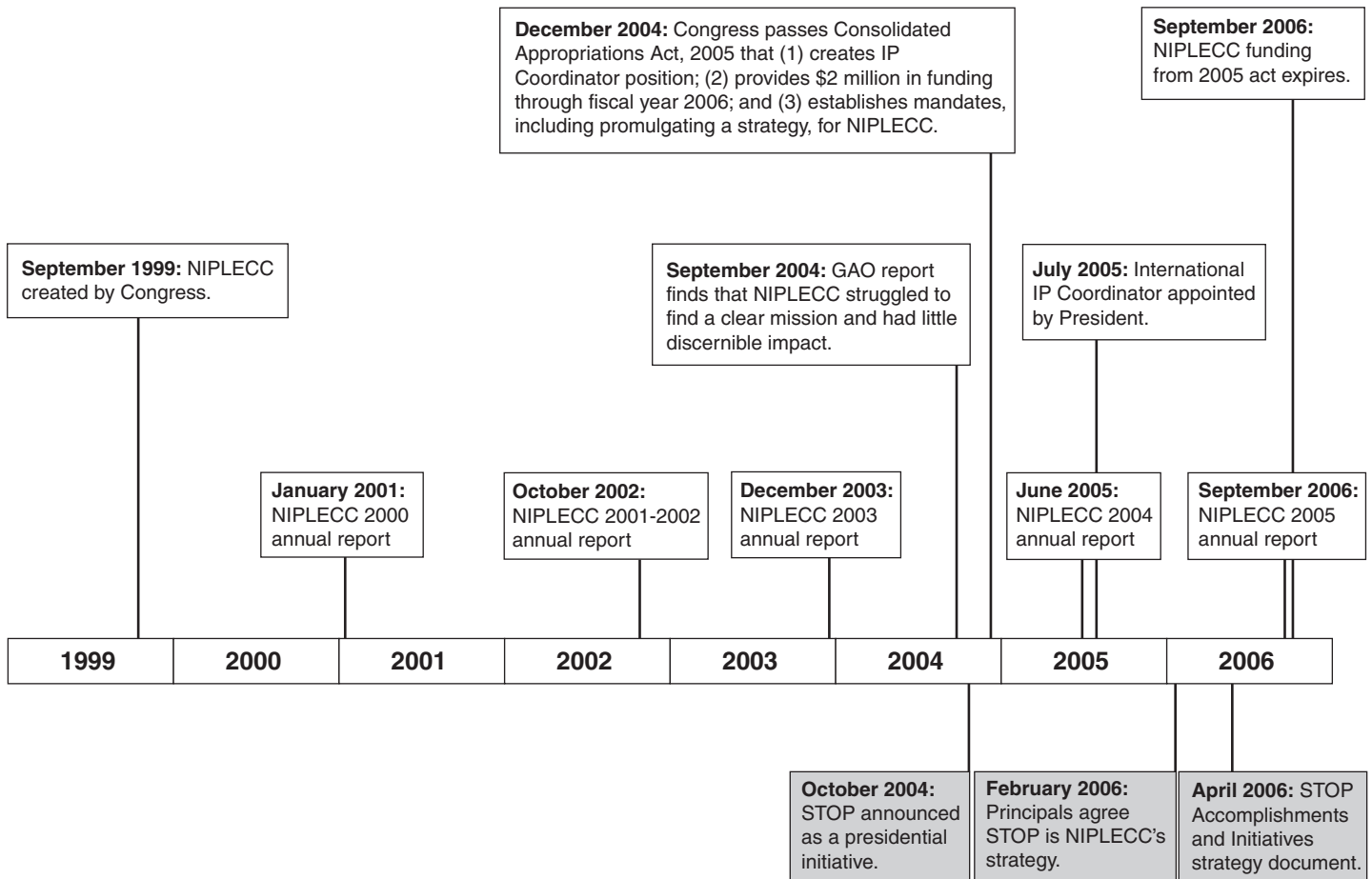
<sup>13</sup>The Commercial Law Development Program, a program of the U.S. Department of Commerce Office of the General Counsel, is uniquely tasked with providing technical assistance in the commercial law arena to the governments and private sectors of transitional countries in support of their economic development goals.



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industry partnership conference in Chicago, working with the Department of State on an IP-related Web site for information sharing among U.S. agencies, working with USPTO to implement a workshop on border enforcement of IP rights in India, working with the Department of Justice to identify IP regulation enforcement needs in India, and producing four country fact sheets highlighting the status of IP protection. In addition, the IP Coordinator has facilitated two NIPLECC meetings, established the practice of holding NIPLECC meetings quarterly, and NIPLECC has issued two annual reports since the 2005 act. The 2004 annual report was made available in June 2005 and is similar to earlier reports in that it is a compilation of individual agency activities. However, the 2005 annual report, which was released in September 2006, represents a departure in substance and style. For example, it provides a broad overview of the problem of IP violations and how the U.S. government is supporting U.S. business to address it, as well as a description of the activities of the IP Coordinator's office. Another new aspect of the report is that it provides examples of U.S. government actions to improve IP protection in China. (See fig. 2 for a time line of key NIPLECC and STOP events.)

**Figure 2: Key Events Relevant to NIPLECC and STOP**



Sources: NIPLECC annual reports, www.Stopfakes.gov, and Office of the Intellectual Property Coordinator.

Note: STOP participants meet on an ad hoc basis approximately once or twice a month. According to NIPLECC annual reports, NIPLECC principals met four times in 2000, once in 2001, twice in 2002, and once in 2003. No NIPLECC principals meetings were reported to have been held in 2004 or 2005. NIPLECC principals held two meetings in 2006 with the IP Coordinator, and hereafter plan to meet on a quarterly basis.

Unlike NIPLECC, STOP from its beginning has been characterized by a high level of active coordination and visibility. Agency officials with whom we spoke said that STOP meetings occurred once or sometimes twice a month, and were driven by particular issues or events, and also involved status checks on ongoing efforts and discussing and prioritizing new ones. For example, agency officials met to ensure that IP was given attention at the European Union summits and to share talking points for international trips. In addition, USPTO established a hotline to give businesses a point

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of contact for information on IP rights enforcement and report problems in other countries. The hotline is fielded by attorneys with regional expertise. Commerce developed a Web site to provide information and guidance to right holders on how to register and protect their IP assets in markets around the world. STOP also launched multiagency delegations to engage foreign officials and the private sector on IP protection and enforcement. Officials from STOP agencies traveled to Asia during April 2005 and 2 months later to countries in the European Union. STOP agencies also work with the Coalition Against Counterfeiting and Piracy (CACP), an association jointly led by the U.S. Chamber of Commerce and National Association of Manufacturers, which U.S. private sector officials we interviewed have stated is their primary mechanism of interfacing with agency officials representing STOP. STOP officials work with CACP on their “No Trade in Fakes” program to develop voluntary guidelines companies can use to their supply and distribution chains are free of counterfeits.

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## NIPLECC Adopts STOP As Its Strategy

The lines between NIPLECC and STOP have become increasingly blurred. The IP Coordinator, who heads NIPLECC, regularly participates directly in STOP activities. For example, the IP Coordinator has effectively functioned as a STOP spokesperson overseas, to Congress, and to U.S. private industry. Significantly, NIPLECC has adopted STOP as the strategy it is required to promulgate under the 2005 Consolidated Appropriations Act. The IP Coordinator told us that STOP was not meant to cover all aspects of IP but represented a good start toward an effective strategy. He believed that it made sense to use STOP as NIPLECC’s strategy rather than starting anew. The STOP strategy was updated since it was announced in October 2004 and is encompassed in the June 2006 document, *Bush Administration: Strategy for Targeting Organized Piracy, Accomplishments and Initiative*. The document consists of five general goals and discusses activities associated with each goal. The goals are (1) empowering American innovators to better protect their rights at home and abroad, (2) increasing efforts to seize counterfeit goods at our borders, (3) pursuing criminal enterprises involved in piracy and counterfeiting, (4) working closely and creatively with U.S. industry, and (5) aggressively engaging our trading partners to join our efforts. (See app. III to view this latest document representing the STOP strategy, which we evaluate in the next section.)

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## STOP Is a Good Initial Effort but Does Not Yet Fully Address the Desirable Characteristics of an Effective National Strategy

STOP represents progress toward developing a comprehensive integrated national strategy for IP protection and enforcement and has experienced some success. However, we found that STOP does not fully address the six desirable characteristics of an effective national strategy that we believe would improve the likelihood of its long-term effectiveness and ensure accountability. Our analysis showed that STOP does not fully address key characteristics related to planning and accountability, missing elements such as a discussion of performance measures, resources, risk management, and designation of oversight responsibility. While we found that some strategy documents belonging to individual STOP agencies supplemented some of the characteristics not fully addressed in STOP, the need to consult multiple agency documents limits the usefulness of STOP as an integrated strategy to guide policy and decision makers in allocating resources and balancing priorities with other important objectives.

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## Effective National Strategic Planning Has Six Desirable Characteristics

While national strategies are not required by executive or legislative mandate to address a single, consistent set of characteristics, GAO has identified six desirable characteristics of an effective national strategy. It is important that a national strategy contain these characteristics, and their underlying elements, because they enable implementers of the strategy to effectively shape policies, programs, priorities, resource allocations, and standards so that federal departments and other stakeholders can achieve the desired results. National strategies provide policymakers and implementing agencies with a planning tool that can help ensure accountability and effectiveness. A summary of the six characteristics is presented below, and appendix II provides a more detailed discussion of GAO's criteria.

- *Purpose, Scope, and Methodology*—addresses why the strategy was produced, the scope of its coverage, and the process by which it was developed.
- *Problems, Risks, and Threats*—discusses or defines problems the strategy intends to address, their causes, and the operating environment, and also provides a risk assessment, including an analysis of the threats and reliability of available data.
- *Goals, Objectives, Activities, and Outcome-Related Performance Measures*—addresses what the strategy strives to achieve and the steps needed to reach the goals, as well as priorities, milestones, and performance measures to monitor and evaluate results.

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- *Future Costs and Resources Needed*—addresses what the strategy will cost, the sources and types of resources and investments needed, and a risk management framework to guide where those resources and investments should be targeted.
  - *U.S. Government Roles, Responsibilities, and Coordination Mechanisms*—clarifies implementing organizations’ relationships in terms of leading, supporting, and partnering, and designates responsibility for the overall framework for accountability and oversight.
  - *Strategy’s Integration among and with Other Entities*—addresses both how the strategies’ goals and objectives relate to those of government agencies and how the agencies plan to implement the strategy.

We believe a national strategy should ideally contain all of these characteristics and present them in this order because they flow logically from conception to implementation. Specifically, the strategy’s purpose leads to the definition of the problems and risks it intends to address, which in turn leads to specific actions for tackling those problems and risks, allocating and managing the appropriate resources, identifying different organizations’ roles and responsibilities, and finally to integrating action among all relevant parties and implementing the strategy.

We recognize that strategies themselves are not end points, but rather dynamic, working documents. As with any strategic planning effort, implementation is the key. The ultimate measure of these strategies’ value will be the extent to which they are useful guidance for policy and decision makers in allocating resources and balancing priorities with other important objectives. It will be important over time to obtain and incorporate feedback from the “user” community as to how the strategies can better provide guidance and how Congress and the administration can identify and remedy impediments to implementation, such as legal, international, jurisdictional, or resource constraints.

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## STOP Is Missing Several Elements Important to Planning and Accountability

Figure 3 shows that STOP partially addresses five of the six characteristics and their key elements, and does not address any of the elements within one characteristic. Our analysis noted that STOP does not address any elements related to resources, investment, and risk management and only partially addresses a number of elements within the other five characteristics that are important for planning and accountability, including performance measures and designation of oversight

responsibility. A full discussion of each characteristic and our analysis can be found in appendix II.

**Figure 3: Extent to Which STOP Addresses GAO’s Desirable Characteristics of an Effective National Strategy**

<b>1. Purpose, scope, methodology</b>		<input type="radio"/>	<input type="radio"/>
<b>Purpose</b>	1a. The impetus that led to the strategy being written, such as a statutory requirement, mandate, or key event		<input type="radio"/>
	1b. The strategy’s purpose		<input checked="" type="radio"/>
<b>Scope</b>	1c. Key terms, major functions, mission areas, or activities the strategy covers		<input checked="" type="radio"/>
<b>Methodology</b>	1d. The process that produced the strategy, (e.g., what organizations or offices drafted the document, whether it was the result of a working group, or which parties were consulted in its development)		<input type="radio"/>
<b>2. Problem definition and risk assessment</b>		<input type="radio"/>	<input type="radio"/>
<b>Problem definition</b>	2a. The problems the strategy intends to address		<input checked="" type="radio"/>
	2b. The causes of the problems		<input type="radio"/>
	2c. The operating environment		<input type="radio"/>
<b>Risk assessment</b>	2d. The threats the strategy is directed toward		<input type="radio"/>
	2e. Discusses the quality of data available, e.g., constraints, deficiencies, and “unknowns”		<input type="radio"/>
<b>3. Goals, subordinate objectives, activities, and performance measures</b>		<input type="radio"/>	<input type="radio"/>
<b>Goals and subordinate objectives</b>	3a. Addresses the overall results desired, i.e., an “end-state”		<input checked="" type="radio"/>
	3b. Identifies strategic goals and subordinate objectives		<input type="radio"/>
<b>Activities</b>	3c. Identifies specific activities to achieve results		<input checked="" type="radio"/>
<b>Performance measures</b>	3d. Priorities		<input type="radio"/>
	3e. Milestones		<input type="radio"/>
	3f. Output-related and outcome-related performance measures		<input type="radio"/>
	3g. The process to monitor and report on progress		<input type="radio"/>
	3h. The limitations on progress indicators		<input type="radio"/>
<b>4. Resources, investments, and risk management</b>		<input type="radio"/>	<input type="radio"/>
<b>Resources and investments</b>	4a. The cost of the strategy		<input type="radio"/>
	4b. The sources (e.g., federal, state, local, and private) of resources or investments needed		<input type="radio"/>
	4c. The types of sources or investments needed (e.g. budgetary, human capital, information technology, research and development, contracts)		<input type="radio"/>
<b>Risk management</b>	4d. Where resources or investments should be targeted to balance risks and costs		<input type="radio"/>
	4e. Resource allocation mechanisms		<input type="radio"/>
	4f. How risk management will aid implementing parties in prioritizing and allocating resources		<input type="radio"/>
<b>5. Organizational roles, responsibilities, and coordination</b>		<input type="radio"/>	<input type="radio"/>
<b>Organizational roles and responsibilities</b>	5a. Who will be implementing the strategy		<input checked="" type="radio"/>
	5b. Lead, support, and partner roles and responsibilities of specific federal agencies, departments, or offices (e.g., who is in charge during all phases of the strategy’s implementation)		<input type="radio"/>
	5c. Which organizations will provide the overall framework for oversight and accountability		<input type="radio"/>
<b>Coordination</b>	5d. How they will coordinate both within agencies and with other agencies		<input type="radio"/>
	5e. The process for how conflicts will be resolved		<input type="radio"/>
<b>6. Integration</b>		<input type="radio"/>	<input type="radio"/>
	6a. Addresses how the STOP! strategy relates to each agency’s strategies, goals, and objectives		<input type="radio"/>

Fully addresses                     
 Partially addresses                     
 Does not address

Source: GAO.

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STOP partially addresses the third characteristic, which is important for planning and accountability. Although STOP identifies five main goals, it does not always provide subordinate objectives and is missing key elements related to performance measures such as priorities, milestones, and a process for monitoring and reporting on progress. For example, under its goal of pursuing criminal enterprises, STOP clearly lists subordinate objectives of increasing criminal prosecutions, improving international enforcement, and strengthening laws. But, subordinate objectives under its goal of working closely and creatively with U.S. industry can only be inferred. Also, STOP mentions implementing a new risk model to target high-risk cargo but does not specify time frames for its completion. Although STOP cites output-related performance measures<sup>14</sup>—such as the USPTO STOP hotline receiving over 950 calls during fiscal year 2005 and a 45 percent increase in the number of copyright and trademark cases filed from fiscal year 2004 to fiscal year 2005—these figures are presented without any baselines or targets to facilitate the assessment of how well the program is being carried out. In addition, STOP cites outcome-related performance measures for a few activities.<sup>15</sup> For example, STOP goal of pursuing criminal enterprises includes shutting down sophisticated international peer-to-peer networks used by over 133,000 members. Without effective performance measures, STOP’s goals, objectives, and activities cannot be effectively measured, and policymakers cannot effectively monitor STOP’s progress.

STOP does not address any of the elements within the fourth characteristic related to resources, investments, and risk management. As a result, decision makers are limited in their ability to determine necessary resources, manage them, and shift them with changing conditions. STOP neither identifies current or future costs of implementing the strategy, such as those related to investigating and prosecuting IP-related crime or conducting IP training and technical assistance, nor does it identify the sources or types of resources required. While the strategy states that “American businesses lose \$200 to \$250 billion a year to pirated and counterfeit goods,” it does not provide a detailed discussion of the economic threat to U.S. business, discuss other risks such as the potential

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<sup>14</sup>An “output measure” records the actual level of activity or whether the effort was realized and can assess how well a program is being carried out.

<sup>15</sup>An “outcome measure” assesses the actual results, effects, or impact of an activity compared with its intended purpose.

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threats to consumer health and safety from counterfeited products, or discuss how resources will be allocated given these risks.

STOP also partially addresses elements within the fifth characteristic of organizational roles, responsibilities, and coordination. STOP identifies lead, support, and partner roles for specific activities. For example, it identifies the White House as leading STOP and indicates partnering roles among agencies, such as the Department of Homeland Security's Immigration and Customs Enforcement (ICE) and the Department of Justice's FBI joint role of running the National Intellectual Property Rights (IPR) Center. However, STOP does not discuss a process or a framework for oversight and accountability among the agencies carrying out the strategy. Although STOP discusses specific instances of coordination among member agencies, it lacks a clear and detailed discussion of how overall coordination occurs. For instance, there is no mention of STOP meetings, their frequency, objectives, or agendas.

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### Some Agency Planning Documents Contain Characteristics Missing in STOP

We found that some STOP agency planning documents provided additional detail on missing elements important to planning and accountability. For example, the October 2004, *Report of the Department of Justice's Task Force on Intellectual Property*, and, June 2006, *Progress Report of the Department of Justice's Task Force on Intellectual Property* clearly sets forth the Department of Justice's strategies, objectives, activities and associated milestones and performance measures for improving the department's overall intellectual property enforcement. The June 2006 progress report details how the Department of Justice implemented the 31 recommendations made by the Task Force in 2004 and, where appropriate, how it exceeded those milestones and objectives in a number of important areas. For instance, the 2004 report recommended increasing the number of Computer Hacking and Intellectual Property (CHIP) units by 5; the progress report indicated that, by June 2006, an additional 12 units were added, increasing the total number of CHIP units nationally to 25.

CBP articulates its strategies, objectives, activities, and associated milestones and performance measures related to STOP in its 2006 *Priority Trade Issue: IPR Trade Strategy*.<sup>16</sup> For example, the first objective within

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<sup>16</sup>IPR Goal: Improve the effectiveness of IPR enforcement by actively supporting the administration's STOP initiative and by ensuring a single uniform approach and focusing on known or alleged violators with high aggregate values or whose infringing products threaten health, safety, and economic security or have possible ties to terrorist activity.



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CBP's strategy identifies the IPR risk model as a STOP deliverable and provides targets, measures, and milestones to track performance. Associated targets included a 15 percent increase in efficiency, using cargo selectivity criteria to develop a baseline, indicating a milestone of completing a pilot test by March 2005 with implementation pending. Another example of an agency document that addresses other characteristics not addressed in STOP is USPTO's annual Performance and Accountability Report for 2005, which discusses the resources available for USPTO's IP-related operations during that fiscal year, including the costs associated with patent and trademark related programs.

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## STOP Does Not Fully Integrate Agencies' Planning Documents

We found that STOP partially addresses the sixth desirable characteristic regarding integration, which involves the extent to which the STOP strategy consistently articulates how it relates as a national strategy to STOP agencies' own strategies, goals, and objectives. This characteristic also encompasses how STOP demonstrates the extent to which the agencies' strategies have shared goals and objectives. While STOP refers to agency strategies for some STOP agencies, it does not do so for others. For example, STOP cites the Department of Justice's October 2004 *Report of the Department of Justice's Task Force on Intellectual Property* and links one of its STOP objectives, increasing criminal prosecutions, to the task force. However, STOP does not clearly link its objectives with those cited in other agencies' planning documents relevant to IP enforcement, such as CBP's most recent *Priority Trade Issue: IPR Trade Strategy*.<sup>17</sup> In addition, STOP does not consistently show the linkages among the agencies' goals and objectives supporting STOP. For example, under its objective of pursuing criminal enterprises, STOP does not discuss how the objectives of the Department of Justice's task force might be linked to the goals and objectives found in an ICE strategy. It is important that STOP not only reflects individual agencies' priorities and objectives but also integrates them in a comprehensive manner, enhancing collaboration among the agencies and providing a more complete picture to policy makers with oversight responsibilities. The absence of clear linkages underscores the strategy's lack of integration and limits the usefulness of STOP as a management tool for effective oversight and accountability...

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<sup>17</sup>CBP's most recent *Priority Trade Issue: IPR Trade Strategy* was issued on May 16, 2006. The prior *IPR Trade Strategy* was issued on May 20, 2005.

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## Current Structures Create Challenges to an Effective Integrated Strategy

Several challenges to implementation of an effective long-term integrated strategy result from the current structures. First, NIPLECC continues to have leadership problems despite enhancements made by Congress. Second, in contrast, STOP has a positive image compared with NIPLECC but lacks permanence. STOP's authority and influence, which results from its status as a presidential initiative, could disappear after the current administration. Third, NIPLECC's commitment to implementing STOP as a successful strategy remains unclear, creating a challenge for accountability.

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## IP Coordinator Praised, but NIPLECC Retains an Image of Weak Leadership

Since Congress enhanced its powers, NIPLECC has been given a key leadership role in overseeing the development of policies, objectives, and priorities for IP protection and enforcement and in implementing an overall strategy. Yet, NIPLECC retains an image of inactivity within some of the private sector. For example, almost half of the 16 private sector groups with whom we spoke expressed the opinion that NIPLECC was inactive or a nonplayer. In addition, representatives from 10 of these groups were unclear about NIPLECC's role, and many said that they were unclear about the difference between NIPLECC and STOP. Finally, in July 2006, Senate appropriators expressed concern about the lack of information provided by NIPLECC on its progress.

On the other hand, both agency officials and private sector representatives with whom we spoke consistently praised the IP Coordinator, who heads NIPLECC, saying that he was effectively addressing their concerns by making speeches, communicating with their members, and heading U.S. delegations overseas, although they most often associated his activities with STOP. In fact, most of the activities of the IP Coordinator's office cited in NIPLECC's latest annual report are part of STOP. While the IP Coordinator has noted in congressional testimony that NIPLECC has made some valuable contributions, such as updating a database for IP training overseas and contributing legislative suggestions to improve domestic IP laws, he acknowledged that there is unmet potential for NIPLECC.

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## Energized STOP Has Features That May Limit Its Long-term Effectiveness

Agency officials and members of the private sector attribute STOP's effectiveness to its status as a White House initiative and its resulting authority and influence. However, there is uncertainty whether this authority and influence will continue beyond the current administration because priorities may shift after the next presidential election. In addition, STOP has weaknesses as a national strategy, including its failure to fully address key characteristics related to planning and accountability

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such as performance measures, resources and investments, risk management, and designation of oversight responsibility. Uncertainty as to whether STOP will have the same White House support in a new administration and its current shortcomings as a strategy may impact NIPLECC's ability to successfully implement and monitor it.

However, despite STOP's lack of permanence, it is viewed as energizing U.S. IP protection and enforcement efforts and is generally praised by agency officials and industry representatives. The IP Coordinator stated in congressional testimony that STOP has built an expansive interagency process that provides the foundation for U.S. government efforts to fight global piracy. Several agency officials participating in STOP cited its advantages. They said that STOP gave them the opportunity to share ideas and support common goals. Many agency officials with whom we spoke said that STOP had brought increased attention to IP issues within their agencies and the private sector, as well as abroad, and attributed that to the fact that STOP came out of the White House, thereby lending it more authority and influence. One agency official pointed out that IP was now on the President's agenda at major summits such as the G8 and the recent European Union summits.<sup>18</sup> Another agency official praised STOP for giving constituent agencies the flexibility to add to and enhance existing IP enforcement and protection efforts.

Private sector representatives with whom we spoke generally had positive views on STOP, although some thought that STOP was a compilation of new and ongoing U.S. agency activities that would have occurred anyway. One industry representative noted that STOP is a coordinated outreach to foreign governments that provided a collaborative alternative to the Special 301 process,<sup>19</sup> whose punitive aspects countries sometimes resented. Another indicated that his association now coordinates training with CBP that is specific to his industry as a result of contacts made through STOP. In addition, most private sector representatives with whom we spoke agreed that STOP was an effective communication mechanism between business and U.S. agencies on IP issues, particularly through

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<sup>18</sup>The G8 is an annual summit that involves nine countries, including Canada, France, Germany, Italy, Japan, the United Kingdom, Russia, and the United States. The European Commission President is also a G8 member.

<sup>19</sup>The "Special 301" provisions of the Trade Act of 1974, as amended, require USTR to identify foreign countries that deny adequate and effective protection of intellectual property rights or fair and equitable market access for U.S. persons that rely on intellectual property protection.

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CACP, a cross-industry group created by a joint initiative between the Chamber of Commerce and the National Association of Manufacturers. Private sector officials have stated that CACP meetings are their primary mechanism of interfacing with agency officials representing STOP. There were some industry representatives, though, who questioned whether STOP had added value beyond highlighting U.S. IP enforcement activities. Some representatives considered STOP to be mainly a compilation of ongoing U.S. IP activities that pre-existed STOP. For example, Operation Fast Link<sup>20</sup> and a case involving counterfeit Viagra tablets manufactured in China, both listed as STOP accomplishments, began before STOP was created.

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### NIPLECC's Unclear Commitment Impairs Accountability

Ambiguities surrounding NIPLECC's implementation of STOP as a successful strategy create challenges for accountability. How NIPLECC will provide accountability through STOP, in practice, remains unclear. For instance, although NIPLECC's most recent annual report describes many STOP activities and the IP Coordinator's direct involvement in them, it does not explain how the NIPLECC principals and the IP Coordinator plan to carry out their oversight responsibilities mandated by Congress to help ensure a successful implementation of the strategy. In addition, the STOP strategy document has not been revised to mention NIPLECC's oversight role or articulate a framework for oversight and accountability among the STOP agencies carrying out the strategy.

Furthermore, while agency officials we interviewed generally considered STOP to be the U.S. government's IP strategy, NIPLECC officials have sent mixed signals about the extent to which they believe STOP is meant to provide accountability in terms of performance measures and resource levels. One official representing NIPLECC said that the STOP strategy should have goals and objectives, including metrics to measure progress about which the IP Coordinator should report. However, a NIPLECC representative from another agency told us that this document was a fact sheet rather than a strategy and that it should not be assessed as a national strategy but as an account of administration efforts. Similarly, a NIPLECC representative from a third agency was skeptical whether STOP should be assessed as NIPLECC's strategy. Finally, the IP Coordinator stated in

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<sup>20</sup>Under the Department of Justice's Operation Fast Link, on April 2004, law enforcement authorities executed over 120 total searches during the previous 24 hours in 27 states and in 10 foreign countries. Four separate undercover investigations were simultaneously conducted, striking all facets of the illegal software, game, movie, and music trade online.

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congressional testimony that STOP is NIPLECC's strategy but also told us that STOP was never meant to be an institutional method for reporting priorities and metrics to the President or Congress, or to manage resources. Yet, as mentioned earlier, these are key characteristics of any strategy.

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## Conclusions

Combating IP counterfeiting and piracy requires the involvement of many U.S. agencies. The STOP strategy has brought attention and energy to IP efforts within the U.S. government. Agency participants and industry observers have generally supported the new effort. At the same time, 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. The current structure presents several challenges. STOP is an important first step in the development and implementation of an integrated strategy, but it is not well suited to address the problem over the long term. As a presidential initiative, STOP lacks permanence beyond the current administration. This poses challenges to its long-term effectiveness because STOP depends upon White House support. In addition, STOP does not fully address the six desirable characteristics of an effective national strategy that we believe would improve the likelihood of its long-term effectiveness and ensure accountability. This limits its usefulness as a tool to prioritize, guide, implement, and monitor the combined efforts of multiple agencies to protect and enforce IP rights. While NIPLECC offers STOP some permanence and congressional oversight, it is unclear how NIPLECC will carry out its responsibilities in practice, which, along with its legacy of inactivity, raises questions about the prospects for improving STOP and sustaining its positive momentum. NIPLECC's persistent difficulties create doubts about its ability to carry out its mandate – that of bringing together multiple agencies to successfully implement an integrated strategy for IP protection and enforcement that represents the coordinated efforts of all relevant parties.

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## Recommendations for Executive Action

To improve STOP's effectiveness as a planning tool and its usefulness to Congress:

We recommend that the IP Coordinator, in consultation with the National Security Council and the six STOP agencies, including the Departments of Commerce, Homeland Security, Justice, and State; and the Office of the U.S. Trade Representative; and the Food and Drug Administration, take steps to ensure that STOP fully addresses the six desirable characteristics of a national strategy.

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To clarify NIPLECC's oversight role with regard to STOP:

We recommend that the IP Coordinator, in consultation with National Security Council and the six STOP agencies, including the Departments of Commerce, Homeland Security, Justice, and State; and the Office of the U.S. Trade Representative; and the Food and Drug Administration, clarify in the STOP strategy how NIPLECC will carry out its oversight and accountability responsibilities in implementing STOP as its strategy.

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## Agency Comments and Our Evaluation

We provided USTR; the Departments of Commerce, Justice, Homeland Security, and State; USPTO; Food and Drug Administration; and the IP Coordinator with a draft of this report for their review and comment. The IP Coordinator, through the Department of Commerce in consultation with USPTO and the International Trade Administration, provided technical comments. The Department of Homeland Security, the Food and Drug Administration, and the Office of the U.S. Trade Representative also chose to provide technical comments. We modified the report where appropriate. The Departments of Justice and State did not provide any comments.

We also received written comments from the U.S. Coordinator for International Property Enforcement (IP Coordinator), which are reprinted in appendix IV. The IP Coordinator reiterated our message that STOP was a good first step toward a comprehensive, integrated strategy to protect and enforce U.S. intellectual property rights and that it had energized U.S. efforts. He concurred with our recommendations, stating that his office would review them, and planned to identify opportunities for improvement based on those recommendations, where appropriate.

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As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to appropriate congressional committees; the U.S. Trade Representative; the Secretaries of the Departments of Commerce, Justice, Homeland Security, and State; the Director of the United States Patent and Trademark Office; and the Director of the U.S. Food and Drug Administration. We also will make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

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If you or your staff have any questions concerning this report, please contact me at (202) 512-4128 or at [yagerl@gao.gov](mailto:yagerl@gao.gov). Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix V.

Sincerely yours,

A handwritten signature in black ink that reads "Loren Yager". The signature is written in a cursive style with a large initial "L" and "Y".

Loren Yager  
Director, International Affairs and Trade

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# Appendix I: Scope and Methodology

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As part of GAO's review of U.S government efforts to develop a comprehensive and integrated strategy with a long-term perspective to combat intellectual property counterfeiting and piracy, we reviewed documents related to the National Intellectual Property Law Enforcement Council (NIPLECC) and the Strategy for Targeting Organized Piracy (STOP). Specifically, we reviewed legislation authorizing NIPLECC and augmenting its capabilities and mandate, as well as its legislative history. We also examined official STOP documents including the strategy document, Web site contents, IP fact sheets, NIPLECC meeting minutes, and NIPLECC's annual reports.

To determine the extent to which STOP serves as a national strategy for combating trade in counterfeit and pirated goods, we assessed STOP using the six desirable characteristics of an effective national strategy developed in previous GAO work.<sup>1</sup> The six characteristics are (1) the purpose, scope, and methodology; (2) the problem definition and assessment of risks the strategy intends to address; (3) the goals, subordinate objectives, activities, and performance measures; (4) resources, investments and risk management; (5) organizational roles, responsibilities and coordination, including oversight; and (6) the strategy's integration into the goals, objectives and activities of its implementing agencies. (See app. II for a full description of the six characteristics). First, we developed a checklist using the six desirable characteristics of an effective national strategy and verified the relevance of the checklist to the STOP strategy. Specifically, three analysts from the audit team independently reviewed the April 2006 *Bush Administration: Strategy for Targeting Organized Piracy, Accomplishments and Initiatives* document by applying the checklist to the strategy, then met to discuss the relevance of the checklist to the information contained in the document. The analysts concluded that the checklist was relevant and appropriate for assessing STOP as a strategy. Second, six analysts—three from the audit team and three with experience using the methodology for prior GAO work—independently assessed STOP using the checklist. The six analysts then divided into two panels, each with a mix of audit team and nonaudit team members and an adjudicator. Each panel discussed their observations and reached consensus on a consolidated assessment. Finally, the two panels met to reconcile any differences in their consolidated assessments using adjudicators as facilitators if needed. On the basis of these evaluations, we developed a consolidated summary of the extent that STOP addressed the

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<sup>1</sup>[GAO-04-408T](#).



six characteristics and 29 elements of an effective national strategy. We repeated this process when the June 2006 *Bush Administration: Strategy for Targeting Organized Piracy, Accomplishments and Initiatives* document became available. These results are presented in figure 3 of this report.

We gave each of the 29 elements under the six characteristics an individual rating of either: “fully addresses,” “partially addresses,” or “does not address.” According to our methodology, a strategy “fully addresses” an element of a characteristic when it explicitly cites all parts of the element, and the strategy has sufficient specificity and detail. Within our designation of “partially addresses,” one or more of the element’s individual parts should be addressed. A strategy “does not address” an element of a characteristic when it does not explicitly cite or discuss any parts of the element of that characteristic, or any implicit references to the elements are either too vague or general to be useful. We conducted our review of STOP as a national strategy from April to October of 2006.

We also obtained and analyzed documents required under the Government Performance Results Act (GPRA) of 1993, and IP-related planning documents, from the government agencies involved with STOP. The GPRA documents we reviewed included the “Performance Annual Report,” the “Annual Performance Plan,” and the “Strategic Plan.” We assessed the extent to which these agency documents support STOP goals and add information that may support characteristics and elements necessary for an effective national strategy.

In addition, we interviewed agency officials involved in NIPLECC and STOP, including the Coordinator for International Intellectual Property Enforcement. We also interviewed representatives from the private sector. We used U.S. Customs and Border Protection data on commodities seized for IP violations to select the private sector groups judgmentally to ensure that we obtained the views of major cross-industry associations, as well as individual associations and companies representing key industries that are heavily affected by IP violations such as the manufacturing, entertainment, and pharmaceutical industries. In all we spoke to 20 representatives from 16 private sector groups. Interviewees included the 6 cross-industry associations addressing IP violations, 7 industry level associations, and representatives from three companies. We also reviewed their testimonies before Congress when available. We conducted our audit work from February to October of 2006 in accordance with generally accepted government auditing standards.

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# Appendix II: GAO's Analysis of STOP as an Effective National Strategy

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In prior work, GAO identified six desirable characteristics of an effective national strategy that would enable its implementers to effectively shape policies, programs, priorities, resource allocations, and standards and that would enable federal departments and other stakeholders to achieve the identified results. GAO further determined that national strategies with the six characteristics can provide policymakers and implementing agencies with a planning tool that can help ensure accountability and more effective results. GAO has applied this set of characteristics in our assessment of strategies for combating terrorism, defense management costs, and the National Strategy for Victory in Iraq.

National strategies are not required by executive or legislative mandate to address a single, consistent set of characteristics, and they contain varying degrees of detail based on their different scopes. Furthermore, we found there was no commonly accepted set of characteristics used for an effective national strategy. Nonetheless, after consulting numerous sources, GAO identified a set of desirable characteristics that we believe would provide additional guidance to responsible parties for developing and implementing the strategies—and to enhance their usefulness as guidance for resource and policy decision makers and to better ensure accountability.

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## Six Desirable Characteristics Were Developed from Numerous and Diverse Sources

To develop these six desirable characteristics of an effective national strategy, GAO reviewed several sources of information. First, GAO gathered statutory requirements pertaining to national strategies, as well as legislative and executive branch guidance. GAO also consulted the Government Performance and Results Act of 1993, general literature on strategic planning and performance, and guidance from the Office of Management and Budget on the President's Management Agenda. In addition, among other things, GAO studied past reports and testimonies for findings and recommendations pertaining to the desirable elements of a national strategy, as well as recommendations by national commissions and research organizations that have commented on national strategies. Furthermore, we consulted widely within GAO to obtain updated information on strategic planning, integration across and between the government and its partners, implementation, and other related subjects.

GAO developed these six desirable characteristics, identified in table 2, based on their underlying support in legislative or executive guidance and the frequency with which they were cited in other sources. We believe a national strategy should ideally contain all of these characteristics. Although the authors of national strategies might organize these

characteristics in a variety of ways and/or use different terms, we present them in this order because they flow logically from conception to implementation. Specifically, the strategy's purpose leads to the definition of the problems and risks it intends to address, which in turn leads to specific actions for tackling those problems and risks, allocating and managing the appropriate resources, identifying different organizations' roles and responsibilities, and finally to integrating action among all relevant parties and implementing the strategy.

**Table 2: Summary of Desirable Characteristics for an Effective National Strategy**

<b>Desirable characteristic</b>	<b>Description</b>	<b>Examples of elements</b>
Purpose, scope, and methodology	Addresses why the strategy was produced, the scope of its coverage, and the process by which it was developed.	<ul style="list-style-type: none"> <li>Principles guiding development.</li> <li>Impetus: e.g., legislation.</li> <li>Definition of key terms and mission areas.</li> <li>Process and methodology to produce strategy (via interagency task force, private input, etc.).</li> </ul>
Detailed discussion of problems, risks, and threats	Addresses the particular national problems and threats at which the strategy is directed.	<ul style="list-style-type: none"> <li>Discussion and definition of problems, causes, and operating environment.</li> <li>Risk assessment, including analysis of threat and vulnerabilities.</li> <li>Quality of data: constraints, deficiencies, unknowns.</li> </ul>
Desired goals, objectives, activities, and output-related and outcome-related performance measures	Addresses what the strategy is trying to achieve, steps to achieve those results, as well as the priorities, milestones, and performance measures to gauge results.	<ul style="list-style-type: none"> <li>Overall results desired.</li> <li>Hierarchy of goals and subordinate objectives.</li> <li>Priorities, milestones, and performance measures to gauge results.</li> <li>Specific performance or activity measures.</li> <li>Limitations on progress indicators.</li> </ul>
Description of future costs and resources needed	Addresses what the strategy will cost, the sources and types of resources and investments needed, and where resources and investments should be targeted by balancing risk reductions and costs.	<ul style="list-style-type: none"> <li>Resources and investments associated with strategy.</li> <li>Types of resources required.</li> <li>Sources of resources.</li> <li>Economic principles, e.g., balancing benefits and costs.</li> <li>Resource allocation mechanisms.</li> <li>Mandates/incentives to spur action.</li> <li>Importance of fiscal discipline.</li> <li>Linkage to other resource documents.</li> <li>Risk management principles.</li> </ul>
Delineation of U.S. government roles and responsibilities and coordination mechanism	Addresses who will be implementing the strategy, what their roles will be compared to others, and mechanisms for them to coordinate their efforts.	<ul style="list-style-type: none"> <li>Lead, support, and partner roles and responsibilities.</li> <li>Accountability and oversight framework.</li> <li>Potential changes to structure.</li> <li>Specific coordination processes.</li> <li>Conflict resolution mechanism.</li> </ul>

<b>Desirable characteristic</b>	<b>Description</b>	<b>Examples of elements</b>
Description of strategy's integration with implementing agencies	Addresses how a national strategy relates to the strategies' goals, objectives, and activities of implementing agencies.	<ul style="list-style-type: none"> <li>• Integration with other national strategies (horizontal).</li> <li>• Integration with relevant documents from other implementing organizations (vertical).</li> <li>• Implementation guidance.</li> <li>• Details on subordinate strategies and plans for implementation (e.g., human capital, enterprise architecture).</li> </ul>

Source: GAO.

We recognize that strategies themselves are not end points, but rather, are starting points. In our view, the strengths of some strategies are useful in suggesting ways to enhance the value of other strategies, fill in gaps, speed implementation, guide resource allocations, and provide oversight opportunities. As with any strategic planning effort, implementation is the key. The ultimate measure of these strategies' value will be the extent they are useful as guidance for policy and decision makers in allocating resources and balancing stated priorities with other important objectives. It will be important over time to obtain and incorporate feedback from the "user" community as to how the strategies can better provide guidance and how Congress and the administration can identify and remedy impediments to implementation, such as legal, international, jurisdictional, or resource constraints.

**STOP Partially Addresses Five Characteristics and Does Not Address One**

Our analysis showed that the strategy partially addresses five of the six desirable characteristics of an effective national strategy and fails to address one characteristic. As indicated in figure 3, shown earlier, the Strategy for Targeting Organized Piracy (STOP) is missing key elements within each characteristic related to planning and accountability such as performance measures, resources and investments, and designation of oversight responsibility. The following section discusses the STOP strategy as it relates to each of the desirable characteristics of an effective national strategy.

**STOP Discusses Purpose and Scope but Lacks Detailed Discussion of Methodology**

This characteristic addresses why the strategy was produced, the scope of its coverage, and the process by which it was developed. For example, a strategy should discuss the specific impetus that led to its being written (or updated), such as statutory requirements, executive mandates, or other events. Furthermore, a strategy would enhance clarity by including definitions of key, relevant terms. In addition to describing what it is meant to do and the major functions, mission areas, or activities it covers, a national strategy would ideally address its methodology. For example, a

strategy should discuss the principles or theories that guided its development, the organizations or offices that drafted the document, or working groups that were consulted in its development. A complete description of purpose, scope, and methodology make the document more useful to organizations responsible for implementing the strategies, as well as to oversight organizations such as Congress.

STOP clearly identifies the purpose of the strategy as protecting and enforcing IP through targeting organized piracy, which encourages American innovation and keeps American businesses competitive throughout the world. However, STOP does not provide a complete discussion of the purpose because it does not clearly discuss the specific impetus that led to the creation of this particular strategy at the time it was written. Such an impetus might include a discussion of increasing demand by the victims of IP violations, relevant legislation or executive mandates, or key events related to piracy that may have functioned as a catalyst in developing the strategy. STOP fully addresses the element regarding the scope of the strategy. The five general goals serve to clearly identify the major functions and mission areas the strategy covers and provides supporting activities for each goal. STOP, however, does not include a discussion of its methodology such as the process that produced the strategy, what organizations or offices were involved in drafting the document or whether it was the result of a working group.

STOP Identifies the Problem but Lacks Detailed Discussion of Risk Assessment

This characteristic addresses the particular national problems and threats at which the strategy is directed. Specifically, this means a detailed discussion or definition of the problems the strategy intends to address, their causes, and operating environment. In addition, this characteristic entails a risk assessment, including an analysis of the threats to and vulnerabilities involved with the problem and implementing the strategy. Specific information concerning a risk assessment helps responsible parties better implement the strategy by ensuring that priorities are clear and focused on the greatest needs. A discussion of the quality of data available regarding this characteristic, such as known constraints or deficiencies, would also be useful.

Global piracy and counterfeiting are identified as the problem in the strategy addresses. While these terms are not defined in detail, the strategy contains additional information on the types of piracy and counterfeiting that affect U.S. businesses such as references to software piracy, counterfeit labels, and counterfeit Viagra.

STOP only partially addresses the causes of the problem and the operating environment. The strategy implies, but does not clearly discuss, some causes of global piracy and counterfeiting when describing its activities. For instance, STOP discusses efforts to assist companies with supply chain management and U.S. government case referral mechanisms to address instances where foreign governments fail to provide adequate IP protection to U.S. businesses. In addition, STOP refers to, but does not clearly discuss, a variety of operating environments relevant to counterfeiting, such as references to IP violations on the internet and seizures of counterfeit products at the U.S. border, as well as in warehouses in China.

Further, STOP does not provide a detailed risk assessment of the threats involved in counterfeiting and piracy. While the strategy states that "American businesses lose \$200 to \$250 billion a year to pirated and counterfeit goods," it neither provides a detailed discussion of the economic threat to U.S. business nor does it discuss other risks such as the potential threats to consumer safety from counterfeited products. STOP also states that profits related to piracy are "one way for criminal networks to support their heinous activities" but does not discuss the issue any further. In addition, STOP does not include any discussion regarding the quality of data it cites in the strategy or on counterfeiting and piracy in general.

#### STOP Addresses Goals and Activities but Lacks Important Elements for Measuring Performance

This characteristic addresses what the national strategy strives to achieve and the steps needed to garner those results, as well as the priorities, milestones, and performance measures to gauge results. At the highest level, this could be a description of the overall results desired, followed by a logical hierarchy of major goals, subordinate objectives, and specific activities to achieve results. In addition, it would be helpful if the strategy discussed the importance of implementing parties' efforts to establish priorities, milestones, and performance measures, which help ensure accountability. Ideally, a national strategy would set clear desired results and priorities, specific milestones, and outcome-related performance measures while giving implementing parties flexibility to pursue and achieve those results within a reasonable time frame. If significant limitations on performance measures exist, other parts of the strategy should address plans to obtain better data or measurements, such as national standards or indicators of preparedness. Identifying goals, objectives, and performance measures aids implementing parties in achieving results and enables more effective oversight and accountability. Identifying priorities and milestones would provide decision makers with information to better assess progress and manage time and resources. In

addition, identifying and measuring outcome-related performance, rather than output measures alone, would allow for more accurate measurement of program results and assessment of program effectiveness.<sup>1</sup> STOP fully addresses goals and activities in its strategy document, while partially addressing subordinate objectives and performance measures.

STOP clearly identifies its goals and further identifies overall results desired with references to a level playing field for American businesses throughout the world. STOP goals are to

- empower American innovators to better protect their rights at home and abroad,
- increase efforts to seize counterfeit goods at our borders,
- pursue criminal enterprises involved in piracy and counterfeiting,
- work closely and creatively with U.S. industry, and
- aggressively engage our trading partners to join U.S. efforts.

STOP also presents numerous activities clearly associated with each goal. In general, STOP only partially addresses subordinate objectives because they are clearly stated under some goals, but implied or otherwise, unclear in other goals. Under the third goal for example, to pursue criminal enterprises involved in piracy and counterfeiting, STOP clearly identifies increasing criminal prosecutions, improving international enforcement and strengthening laws as the subordinate objectives. In contrast, the subordinate objectives are not clearly identified under the fourth goal— to work closely and creatively with U.S. industry— although they can be inferred based on the activities, such as helping businesses to ensure their supply and distribution chains are free of counterfeiters and correcting faulty business practices.

STOP is missing a number of elements within this characteristic that are important for effective monitoring and oversight, including a clear discussion of priorities, milestones, and processes for monitoring and reporting on progress. For example, STOP mentions implementing a new

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<sup>1</sup>An “output measure” records the actual level of activity or whether the effort was realized and can assess how well a program is being carried out. An “outcome measure” assesses the actual results, effects, or impact of an activity compared with its intended purpose.

risk model to target high-risk cargo but does not specify time frames for its completion.

STOP only partially addresses output-related and outcome-related performance measures, lacking information relevant to assessing how well programs are implemented and their impacts as compared with the intended purpose. For example, STOP cites output-related performance measures such as the number of calls received on the U.S. Patent and Trade Mark Office (USPTO) STOP hotline, the number of small businesses that attended four intellectual property Road Show events in 2005, the number of prosecutors in the Computer Hacking and Intellectual Property (CHIP) units within the Department of Justice and the percentage increase in copyright and trademark cases filed. However, these figures are presented without any baselines or targets needed to assess progress. In addition, STOP cites outcome-related performance measures for a few activities, such as shutting down a sophisticated international peer-to-peer network used by over 133,000 members. It should be noted that performance measures should be carefully chosen to be meaningful for each goal, acknowledging limitations, and avoiding perverse incentives where possible.

STOP provides no discussion of any processes for monitoring and reporting on progress or the limitations of its output-related and outcome-related performance measures. Without effective performance measures in place, STOP's goals, objectives and activities cannot be effectively measured. In the absence of these elements policymakers cannot effectively monitor STOP's progress toward its stated goals.

STOP Does Not Address  
Elements Relevant to  
Resources, Investments, or  
Risk Management

This characteristic addresses the costs and resources involved in implementing the strategy and how the strategy balances those costs with the benefits and risks. This characteristic discusses the current and future costs of the strategy, the sources of resources and investments associated with the strategy (e.g., federal agencies, private sector), and the types of investment needed (e.g., human capital, information technology, research and development, budgetary). Ideally, a strategy would also identify where those resources and investments should be targeted and appropriate mechanisms to allocate resources. A national strategy should also address the difficult, but critical, issues about who pays and how such efforts will be funded and sustained in the future.

A national strategy should also discuss linkages to other resource documents, such as federal agency budgets or human capital, information technology, research and development, and acquisition strategies. Finally,



a national strategy should also discuss in greater detail how risk management will aid implementing parties in prioritizing and allocating resources, including how this approach will create society-wide benefits and balance these with the cost to society. Guidance on costs and resources needed using a risk management approach helps implementing parties allocate resources according to priorities; track costs and performance; and shift resources, as appropriate. Such guidance also would assist Congress and the administration in developing a more effective strategy to achieve the stated goals.

STOP does not address elements related to resources and investments or risk management. STOP does not identify current or future costs of implementing the strategy. Costs related to implementing STOP would include, among other things, costs related to investigating and prosecuting of IP related crime, conducting IP training and technical assistance, and developing new risk assessment technologies. STOP also does not identify the sources, or types, of resources required by the strategy. While the strategy document lists numerous activities, some involving multiple agencies, it neither indicates which agencies have employed what types of resources to carry out the activity, nor does it identify the level and type of resources needed in order to effectively implement the activity. Furthermore, with no established priorities or discussion of risk management, the strategy does not address how to allocate resources in order to best manage the threats of counterfeit products with the resources available to target organized piracy. As a result, the resources necessary to implement STOP cannot be reliably determined and policymakers are limited in their ability to manage resources and shift them as appropriate with changing conditions.

STOP Partially Addresses  
Organizational Roles and  
Coordination but Lacks  
Framework for Oversight

This characteristic addresses which organizations will implement the strategy, their roles and responsibilities, and mechanisms for coordinating their efforts. This characteristic entails identifying the specific federal departments, agencies, or offices involved, as well as the roles and responsibilities of private and international sectors, if appropriate. A strategy would ideally clarify implementing organizations' relationships in terms of leading, supporting, and partnering. In addition, a strategy should describe the organizations that will provide the overall framework for accountability and oversight, such as the National Security Council, Office of Management and Budget, Congress, or other organizations. Furthermore, a strategy should also identify specific processes for coordination and collaboration between sectors and organizations—and address how any conflicts would be resolved. Addressing this

characteristic fosters coordination and enhances both implementation and accountability.

STOP provides some information on organizational roles and responsibilities, such as identifying lead, support, and partner roles for specific activities. For example, it identifies the White House as leading STOP and indicates partnering roles among agencies, such as between the Department of Homeland Security's Immigration and Customs Enforcement (ICE) and the Department of Justice's Federal Bureau of Investigation (FBI), which jointly run the National Intellectual Property (IPR) Center. However, STOP neither discusses the need, nor designates any agency with responsibility for providing framework for oversight and accountability within the strategy.

STOP also partially addresses mechanisms for coordination. For example, the strategy discusses some coordination among member agencies in its description of STOP activities but lacks a clear and detailed discussion of how overall coordination occurs among agencies. For instance, there is no mention of STOP meetings, their frequency, objectives, or agendas. In addition, there is no discussion of how agencies coordinate on IP issues that may involve law enforcement sensitive material among agencies and other entities with which they collaborate. Furthermore, STOP does not address how conflicts among member agencies should be resolved.

STOP Partially Addresses  
Integration with Member  
Agencies but Lacks Linkage to  
Individual Agency Goals and  
Objectives

This characteristic addresses both how a national strategy relates to other strategies' goals, objectives, and activities (horizontal integration)—and to subordinate levels of government and other organizations and their plans to implement the strategy (vertical integration). For example, the strategy could indicate how it relates to implementing agencies' shared goals, subordinate objectives, and activities. Similarly, related strategies should highlight their common or shared goals, subordinate objectives, and activities. In addition, the strategy could address its relationship with relevant documents from implementing organizations, such as the strategic plans, annual performance plans, or annual performance reports required of federal agencies by the Government Performance and Results Act. A strategy should also discuss, as appropriate, various strategies and plans produced by the state, local, private, or international sectors. A strategy also should provide guidance such as the development of national standards to link together more effectively the roles, responsibilities, and capabilities of the implementing parties. A clear relationship between the strategy and other critical implementing documents helps agencies and other entities understand their roles and responsibilities, foster effective implementation, and promote accountability.

STOP partially addresses this characteristic. STOP associates its goals with specific member agencies. For example, pursuing criminal enterprises is associated with the Department of Justice, and increasing efforts to stop counterfeit goods at the border is associated with the U.S. Customs and Border Protection. However, STOP does not consistently articulate how it relates to agencies' strategies, goals, and objectives. While STOP is missing many elements related to the desirable characteristics, we found that agency planning documents contained some of the missing information. For example, we identified federal agency planning documents that provide additional detail on missing elements important to planning and accountability that STOP did not adequately address. However, the need to consult multiple agency documents underscores the strategy's lack of integration and limits the value of STOP as a management tool for effective oversight and accountability. Clearly linking STOP to the agencies' own strategies is important to ensure that the strategy not only reflects individual agencies' priorities and objectives but also integrates them in a comprehensive manner, enhancing collaboration among the agencies and providing a more complete picture to policymakers with oversight responsibilities.

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# Appendix III: Bush Administration: Strategy for Targeting Organized Piracy Accomplishments and Initiatives

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Bush Administration

**Strategy for  
Targeting  
Organized  
Piracy**

Accomplishments and  
Initiatives

June 2006

**Appendix III: Bush Administration: Strategy  
for Targeting Organized Piracy  
Accomplishments and Initiatives**



**BUSH ADMINISTRATION STRATEGY FOR TARGETING ORGANIZED PIRACY**  
June 2006

*"In order to keep this economy innovative and entrepreneurial, it's important for us to enforce law, and if the laws are weak, pass new laws, to make sure that the problem of counterfeiting, which has been growing rapidly... is held in check."*

- President George W. Bush (March 16, 2006)

Our competitive advantage is only as good as our ability to protect our ideas. And to protect our ideas we need to ensure that there is a level playing field for American businesses throughout the world.

In October of 2004, the Bush Administration announced an initiative that reinforced this objective – the Strategy Targeting Organized Piracy (STOP). STOP! is led by the White House and brings together USTR, the Department of Commerce, the Department of Justice, the Department of Homeland Security, the Food and Drug Administration and the State Department. STOP! is the most comprehensive initiative ever advanced to fight global piracy where it starts, block bogus goods at America's borders and help American businesses secure and enforce their rights around the world.

The problem of global piracy and counterfeiting confronts many industries, exists in many countries and demands continuous attention. That's why this Administration is committed to stopping trade in pirated and counterfeit goods. And through President Bush's leadership, we created a five-point plan under STOP!:

1. Empower American innovators to better protect their rights at home and abroad.
2. Increase efforts to seize counterfeit goods at our borders.
3. Pursue criminal enterprises involved in piracy and counterfeiting.
4. Work closely and creatively with U.S. industry.
5. Aggressively engage our trading partners to join our efforts.

Through effective coordination we have effectively implemented this plan. U.S. government agencies are working more closely together and we have made significant progress. We are achieving results, maintaining the commitment of senior Administration officials, institutionalizing an unprecedented level of coordination within the federal government and receiving attention around the world. The message that we are delivering is – the United States takes the issue of intellectual property enforcement very seriously, we are leveraging all of our resources to address it and we have high expectations of all of our global trading partners.

The following pages describe the approaches that we are taking and the results we have achieved.

Office of the U.S. IPR Coordinator  
1

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**Appendix III: Bush Administration: Strategy  
for Targeting Organized Piracy  
Accomplishments and Initiatives**

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**EMPOWER AMERICAN INNOVATORS TO BETTER PROTECT THEIR RIGHTS AT HOME AND ABROAD**

*"This administration is committed to helping U.S. businesses remain competitive by protecting intellectual property so that American ingenuity remains a driving force in the United States and the world's economy."*

- Secretary of Commerce Carlos Gutierrez (March 16, 2006)

*"The development of intellectual property is one of the driving forces of U.S. economic competitiveness, and we will utilize all tools at our disposal to ensure that U.S. intellectual property rights are protected."*

- U.S. Trade Representative Rob Portman (October 26, 2005)

**To help American innovators secure and enforce their rights across the globe, we have new federal services and assistance:**

We created a hotline (1-866-999-HALT), which is staffed by specialized attorneys who counsel businesses on how to protect their intellectual property rights (IPR) and work with callers on how to best resolve problems. In cases where the individual or company has properly registered its rights, its issue can then be referred to a trade compliance team that will monitor their case and work to see what next steps can be taken.

We also developed a website ([www.stopfakes.gov](http://www.stopfakes.gov)) and brochure to provide information and guidance to rights holders on how to register and protect their IPR in markets around the world.

We created downloadable "IP toolkits" to guide businesses through securing and enforcing their rights in key markets across the globe. These toolkits are available at the [Stopfakes.gov](http://Stopfakes.gov) website, and cover key trading partners such as China, Russia, India, Mexico, Korea and Taiwan.

In November 2005, Commerce Secretary Gutierrez announced the China Intellectual Property Rights (IPR) Advisory Program. This program is done in conjunction with the American Bar Association, the National Association of Manufacturers and the American Chamber of Commerce in China. It offers small and medium-sized U.S. businesses free IPR consultation with an attorney.

We are continuing to expand our IP attaché program in China and positioning new attachés in Brazil, Russia, India, Thailand and the Middle East. Having IP attachés stationed in these countries will enhance our ability to work with local government officials to improve IP laws and enforcement procedures in addition to assisting U.S. businesses to better understand the challenges of protecting and enforcing their IPR.

Also, we are providing training for U.S. embassy personnel to be effective first responders to IPR issues in order to identify problems abroad and assist rights holders before fakes enter the market and the supply chain.

- The Stopfakes.gov website has received over 1.8 million visits.
- In FY 2005, the STOP! Hotline received over 950 calls and during the first quarter of FY 2006 we have received over 550 calls.
- During our four 2005 IP Road Show events, in Salt Lake City, Phoenix, Austin and Miami we had a total of 740 small business attendees.

Office of the U.S. IPR Coordinator

2

**Appendix III: Bush Administration: Strategy  
for Targeting Organized Piracy  
Accomplishments and Initiatives**



**INCREASE EFFORTS TO SEIZE COUNTERFEIT GOODS AT OUR BORDERS**

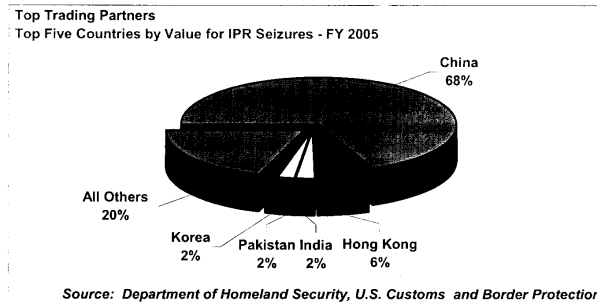
*"Illicit profits from counterfeit or pirated goods are one way for criminal networks to finance their heinous activities. We are confronting counterfeiters with the full force of the law and we're moving aggressively to seize their assets and put them out of business."*

- Secretary of Homeland Security Michael Chertoff (April 6, 2006)

**We need to increase our efforts to stop fake and counterfeit goods at America's borders:**

The Department of Homeland Security (DHS), through the enforcement efforts of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), is a key player in the STOP! Initiative, working to stop counterfeiters and pirates from bringing fake products into the United States. In fiscal year 2005, DHS seized 8,022 shipments of counterfeit and pirated goods valued at more than \$93 million. Since 2001 CBP has made over 31,000 seizures of fake and counterfeit goods.

The following chart provides a break down of the major countries from which CBP IP-related seizures originated:



We have begun implementing a new risk assessment model and technologies to cast a wider, tighter net on counterfeit and pirated goods and to stop these goods at our borders. CBP's new risk assessment model uses several sources of data, including historical seizure information, to target high-risk cargo while facilitating the flow of legitimate goods. With post-entry verification (IPR audits), CBP added a new IPR enforcement tool to complement traditional physical examination of goods at the border. We are issuing penalties on imports of fakes uncovered during IPR audits, and working with businesses to develop internal control systems to prevent imports of counterfeit and pirated goods.

Additionally, we have developed an online recordation tool for rights holders to record their trademarks and copyrights with CBP. Recordation provides a higher level of protection for trademarks and copyrights and makes it easier for CBP to identify fake goods at our borders. CBP's online recordation tool is linked to the U.S. Patent and Trademark Office's website, and will soon be linked to the Copyright Office's website as well. This resource helps businesses protect their rights.

We are working with our trading partners to share information and improve our capabilities to assess and anticipate risks. We are already seeing early results of this effort with the European Union. We have followed up on the U.S./EU Economic Ministerial held last year, where leaders of both governments committed to expand information sharing of customs data and information. The United States and the

Office of the U.S. IPR Coordinator  
3

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**Appendix III: Bush Administration: Strategy  
for Targeting Organized Piracy  
Accomplishments and Initiatives**

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European Union, as part of a bilateral IP working group, are implementing an action plan to strengthen IPR enforcement, including through greater customs cooperation.

The Department of Homeland Security's Immigration and Customs Enforcement (ICE) and the Department of Justice's Federal Bureau of Investigation (FBI), two of the lead investigative agencies in the fight against both domestic and international IPR crime, jointly run the National IPR Center. The Center identifies and addresses developing IPR issues and trends and advances that information through outreach and training with foreign governments. Additionally, the FBI serves as the co-chair for Interpol's IPR international training sub-committee, and in that role provides regular training to officials overseas on IPR enforcement.

The tools and relationships developed under STOP! have produced real results. For example, ICE special agents working in conjunction with the Chinese government and U.S. industry conducted the first ever joint US-Chinese enforcement action on the Chinese mainland and disrupted a network that distributed counterfeit motion pictures worldwide. More than 210,000 counterfeit DVDs were seized. Chinese authorities also destroyed three warehouses that were being used to store the counterfeit DVDs that would have been distributed worldwide.

**PURSUE CRIMINAL ENTERPRISES INVOLVED IN PIRACY AND COUNTERFEITING**

*"In the United States, we have made the protection of intellectual property rights a law enforcement priority, and we are waging an aggressive and successful campaign against intellectual property crime on multiple fronts."*

- Attorney General Alberto Gonzales (November 18, 2005)

**Law enforcement continues to play a leading role in dismantling criminal enterprises that steal intellectual property:**

U.S. law enforcement agencies are also working closely with industry to gather information, develop cases and bring convictions against the criminals who steal their IP. We need to be as sophisticated and creative as the criminals. It is important that government and industry work together with coordinated efforts.

The Department of Justice (DoJ) plays a key role in dismantling criminal enterprises that steal intellectual property, improving international enforcement efforts, and ensuring that there is a strong legal regime for the protection of intellectual property throughout the world. To that end, as part of the STOP! Initiative, the Attorney General formed an Intellectual Property Task Force to examine how it could maximize its efforts to protect intellectual property rights. In October of 2004, the first Task Force Report was released and it included a comprehensive set of recommendations on steps that the Department of Justice could take to better protect IPR. U.S. law enforcement agencies, the Justice Department in particular, have achieved significant results as discussed below.

**Increasing Criminal Prosecutions**

- Increased the number of copyright and trademark cases filed from FY 2004 to FY 2005 by 45%.
- Increased the number of defendants prosecuted for intellectual property offenses by 97% from FY 2004 through the end of FY 2005.
- Created five new Computer Hacking and Intellectual Property (CHIP) Units in the U.S. Attorney's Offices in Nashville, Orlando, Pittsburgh, Sacramento, and Washington D.C., bringing the total number of specialized units to 18.
- Increased the total number of CHIP prosecutors nationwide to 230.
- Continued to dismantle and prosecute multi-district and international criminal organizations that commit intellectual property crimes, including:

Office of the U.S. IPR Coordinator  
4



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**Appendix III: Bush Administration: Strategy  
for Targeting Organized Piracy  
Accomplishments and Initiatives**

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- Leading the international takedown against members of over 22 major online software piracy groups in Operation Site Down in June 2005, involving 12 countries, the simultaneous execution of over 90 searches worldwide, the eradication of at least eight major online distribution sites, and confiscation of an estimated \$50 million in pirated software, games, movies, and music. Prosecutors have indicted 44 defendants and obtained 17 felony convictions in connection with this operation to date;
- Shutting down a sophisticated international peer-to-peer network known as Elite Torrents, used by over 133,000 members, in the first-ever criminal action against a Bit Torrent file-sharing network;
- Obtaining felony conspiracy and copyright convictions against 26 software, game, movie, and music pirates as part of the ongoing Operation FastLink, the largest law enforcement action ever taken against online intellectual property offenders;
- Obtaining convictions against two Los Angeles-area men for conspiracy and trafficking in over 700,000 counterfeit Viagra tablets manufactured in China and worth over \$5.6 million.
- Indicting the four leaders of one of the largest counterfeit goods operations ever uncovered in New England – breaking up a scheme to sell more than 30,000 luxury goods worth more than \$1.4 million.

**Improving International Enforcement**

The Justice Department recently deployed an IP law enforcement coordinator for Asia, who is stationed in Bangkok, Thailand. This individual will work closely with prosecutors in the Department's Computer Crime and Intellectual Property Section and Office of International Affairs to oversee IP law enforcement training and assist U.S.-based enforcement efforts in the region.

In addition, DoJ has executed agreements to implement obligations of the US/EU Mutual Legal Assistance and Extradition Agreements. These agreements ensure cooperation regarding intellectual property crimes with Austria, Belgium, Denmark, Finland, France, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Slovenia, Spain, Sweden, and the United Kingdom; and we have completed negotiations with the nine remaining E.U. countries – Cyprus, Czech Republic, Estonia, Germany, Greece, Italy, Malta, Poland and Slovakia.

We trained and provided technical assistance to more than 2,000 prosecutors, investigators, judges and IP experts from 94 countries regarding the protection and enforcement of IPR.

We have initiated bilateral discussions with China on criminal IP enforcement and are working toward establishing a bilateral law enforcement experts group to improve operational cooperation and coordination in joint and cross-border investigations. We are also working closely with other member countries in a G8 IP Experts working group, and will soon be proposing and pursuing specific IP enforcement projects in the G8 Lyon-Roma Group on Crime and Terrorism.

**Strengthening Laws**

The Bush Administration is working with Congress to strengthen laws and penalties related to intellectual property rights enforcement, including the:

- *Stop Counterfeiting in Manufactured Goods Act, H.R. 32 (March 2006)*
  - Prohibits the trafficking of counterfeit labels, emblems, containers or similar labeling components that may be used to facilitate counterfeiting; provides for forfeiture of articles bearing or consisting of a counterfeit mark and proceeds of any property derived from proceeds of, or used in the commission of, a violation; expands the definition of "trafficking"

Office of the U.S. IPR Coordinator

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**Appendix III: Bush Administration: Strategy  
for Targeting Organized Piracy  
Accomplishments and Initiatives**

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for certain counterfeiting crimes and clarifying that trafficking in counterfeit goods or labels includes possession with intent to traffic in such items.

- *Family Entertainment and Copyright Act, S. 167 (April 2005)*
  - Outlaws camcording in movie theaters and provides a new 3-year felony for the distribution of a pre-release work by making it available on a publicly-accessible computer network. Recognizes the premium value of copyrighted works before they are released to the public.
- *Anti-Counterfeiting Amendments of 2004, H.R. 3632 (December 2005)*
  - Allows law enforcement officials to seize material and equipment used to make counterfeit products and labels.
- *Intellectual Property Protection Act of 2005*
  - The Department of Justice transmitted to Congress the Administration's proposed legislation entitled the "Intellectual Property Protection Act of 2005," a comprehensive reform package that would toughen penalties for intellectual property crimes, expand criminal intellectual property protections, and add investigative tools for criminal and civil intellectual property rights enforcement.

**WORK CLOSELY AND CREATIVELY WITH U.S. INDUSTRY**

*"We believe that successful 21st century economies will be those that unleash the power of private enterprise and innovation. Innovation is the most important resource in our increasingly knowledge-based economy. Global trade in pirated and counterfeit goods threatens innovation."*

- Secretary of Commerce Carlos Gutierrez (February 26, 2006)

We are conducting extensive outreach with U.S. industry and trade associations, and want to hear their stories. Companies need to be aggressive advocates of their own IP. We are working actively with the business community as we go forward. They are our eyes and ears on the ground and know better than anyone how inadequate IPR enforcement affects their businesses. We will continue to work together to find solutions and lead enforcement efforts.

We are working with U.S. and international trade associations such as the American Bar Association, American Chamber of Commerce in China, Business Software Alliance, Entertainment Software Association, International Chamber of Commerce, International Intellectual Property Alliance, International Federation of Phonographic Industries, Motion Picture Association, National Association of Manufacturers, The Pharmaceutical Research and Manufacturers of America, Quality Brands Protection Committee, Recording Industry Association of American, U.S. Chamber of Commerce and the U.S.-China Business Council, to name just a few.

Additionally, we are working with the Coalition Against Counterfeiting and Piracy, a U.S. Chamber of Commerce and National Association of Manufacturers led association on the "No Trade in Fakes" program to develop voluntary guidelines companies can use to ensure their supply and distribution chains are free of counterfeits.

We are also conducting post-entry verifications (IPR audits) on companies vulnerable to IP violations and working with them to correct their faulty business practices. U.S. Customs and Border Protection (CBP) uses post-entry verifications of importing companies to detect discrepancies and systemic weaknesses in the area of IPR protection. We then work with audited companies to devise solutions and remedies for deficient and vulnerable areas.

Office of the U.S. IPR Coordinator

6

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**Appendix III: Bush Administration: Strategy  
for Targeting Organized Piracy  
Accomplishments and Initiatives**

---



We have education campaigns that take place across America to teach small and medium-sized enterprises how to secure and protect their rights and where to turn for federal resources and assistance. It is important to note that only 15% of small businesses that do business overseas know that a U.S. patent or trademark provides protection only in the United States. Companies need to make sure that they register for intellectual property protection overseas. We recently had education programs in Northern Virginia, San Diego and Atlanta, and we have upcoming programs in Nashville and Columbus. These events help educate businesses on what intellectual property rights are, why they are important, and how to protect and enforce these rights domestically and internationally.

With China, an important tool that we use to help our industry is the IPR Case Referral Mechanism (CRM) which was created by the U.S. government to facilitate the submission of individual U.S. company IPR cases through China's Ministry of Commerce (MOFCOM) to relevant Chinese agencies. Our inter-agency team reviews cases where the Chinese government fails to provide adequate protection of IPR to U.S. businesses, and after an internal vetting process, sends approved cases to the Chinese government to facilitate their resolution. Five cases have already been submitted to the Chinese through the Case Referral Mechanism.

**AGGRESSIVELY ENGAGE OUR TRADING PARTNERS TO JOIN OUR EFFORTS**

*"But while innovation will push our economies forward, a lack of fairness will hold us back. American businesses lose \$200 to \$250 billion a year to pirated and counterfeit goods. Innovation stimulates economic growth, but innovation will suffer without proper protection for intellectual property rights."*  
- Secretary of State Condoleezza Rice (March 19, 2005)

*"Trade can raise living standards for millions. But a vibrant trade system must be based on fairness and trust. All countries benefit from honest commerce. All countries suffer from dishonest commerce. Today's pirates are more clever and steal more than the bandits of the high seas from an earlier time. It is tougher to track them down and shut them down but we must succeed."*  
- U.S. Trade Representative Rob Portman (March 15, 2006)

**We are reaching out to our trading partners and building international support. U.S. leadership is critical and we are active on a number of fronts:**

When U.S. government officials meet with our global trading partners for bilateral and multilateral discussions, IPR protection and enforcement are always top priorities.

**Promoting International Engagement:**

**G-8:** At the 2005 G8 meeting, President Bush secured an agreement from fellow leaders to focus on IP enforcement, and we are working with our G8 counterparts to develop a strong IP enforcement program in 2006.

**APEC:** Within the Asia Pacific Economic Cooperation (APEC) forum last year, we secured an endorsement of a U.S.-Japan sponsored 'APEC Anti-Counterfeiting and Piracy Initiative' to reduce trade in counterfeit goods and to combat online piracy, while increasing cooperation and capacity building. Last November this initiative resulted in agreement by the leaders of APEC's 21 member economies to a set of model guidelines to reduce trade in counterfeit and pirated goods, to protect against unauthorized copies, and to prevent the sale of counterfeit goods over the Internet. We are currently working to implement and expand these model guidelines.

**FTAs:** Constant, high-level engagement to improve enforcement of intellectual property rights has been a vital part of U.S. trade policy for many years. The importance of intellectual property enforcement is

Office of the U.S. IPR Coordinator  
7

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**Appendix III: Bush Administration: Strategy  
for Targeting Organized Piracy  
Accomplishments and Initiatives**

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reflected, for example, in the provisions of U.S. trade agreements and in the Administration's utilization of the "Special 301" provisions of U.S. trade law. The Bush Administration makes intellectual property rights a priority when negotiating new free trade agreements. Our free trade agreements provide cutting-edge protection for intellectual property with strong rules to combat counterfeiting and piracy. This was seen in the recent Central America-Dominican Republic Free Trade Agreement (CAFTA-DR), as well as the recently concluded free trade agreements with Colombia and Peru. Over the past year, we worked closely with our CAFTA-DR partners and the governments of Australia, Morocco, Singapore and Bahrain to bring their intellectual property enforcement regimes up to the high standards required by our free trade agreements.

**OECD:** Additionally, we have commissioned a study by the Organization for Economic Cooperation and Development (OECD) to examine the impact of global counterfeiting and piracy. Our inter-agency team has held several meetings with OECD officials to follow-up and assist with this study. We are looking for sound, reliable and accurate information to be produced with this study, so that we may have accurate metrics that can be used effectively by senior policymakers and by industry as we continue building international support to stem the flow of fake and counterfeit goods and keep them out of global supply chains.

**SPP:** The Administration has also launched a cooperative effort under the Security and Prosperity Partnership (SPP) with Canada and Mexico to develop a strategy for combating piracy and counterfeiting in North America. Work is underway through a trilateral task force and efforts will focus on enhancing detection and deterrence of counterfeiting and piracy and expanding public awareness of the need to protect and enforce intellectual property rights.

**Bilateral:** Under the STOP Initiative, we have conducted outreach to Canada, the European Commission, France, Germany, Hong Kong, Japan, Korea, Mexico, Singapore and the United Kingdom laying the basis for increasing cooperation on IP enforcement.

**European Union:** In January, we met with European Union officials at the White House for a series of meetings to address global piracy. Follow up meetings were held in Brussels in March. We are breaking new ground and have begun to expand our cooperation with the EU – focused initially on border enforcement, a strategy to address specific problems in third countries and other international cooperation and working with the private sector.

**Japan:** Japan is one of our key international partners in the fight against counterfeiting and piracy. We continue to work with Japan under STOP!, especially on the APEC initiatives discussed above. Our cooperation under STOP! is just one part of our broader bilateral IPR cooperation. For example, last October, Japan and Switzerland joined with the U.S. in requesting that China disclose key IPR enforcement data under WTO transparency rules.

On March 30, 2006, Secretary Gutierrez and Japan's Minister of Economy, Trade, and Industry announced expanded bilateral cooperation on IPR protection and enforcement. This cooperation will allow the two countries to confront the growing problem of global piracy and counterfeiting together. Highlights of the new agreement include increasing assistance and education for SMEs; sharing information on IPR enforcement activities; strengthening technical assistance to third countries, and streamlining the patent process.

**India:** In March 2006 during President Bush's visit to India, a joint statement was released stating that the U.S. and India would work together to promote innovation, creativity and technological advancement by

Office of the U.S. IPR Coordinator  
8

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**Appendix III: Bush Administration: Strategy  
for Targeting Organized Piracy  
Accomplishments and Initiatives**

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providing a vibrant intellectual property rights regime, and to cooperate in the field of intellectual property rights to include capacity building activities, human resource development and public awareness programs.

Building on President Bush's visit to India in March, U.S. IPR Coordinator Chris Israel recently led an inter-agency delegation to India to discuss issues of IP policy, enforcement and trade. The delegation met with Indian government officials – at both the Central and State Government level; and engaged both U.S. and Indian private-sector stakeholders, academics and legal practitioners to continue our efforts to promote increased trade and economic development through effective IP protection. While in India, Coordinator Israel announced the Bush Administration's framework for engaging India on intellectual property and trade promotion. This plan revolves around three key areas, which include: Bilateral Cooperation, Education and Engaging both U.S. and Indian Industry. Bilaterally, we are working with India on IP through our Trade Policy Forum, High Technology Cooperation Group and the Commercial Dialogue. With the placement of a Bush Administration IP Attaché in New Delhi, we plan on continuing our capacity building and educational outreach efforts with the Indian Government and Industry.

On the IP front, India has made some progress and we are committed to continuing to work with India as they fine-tune their IPR legal framework and develop an effective system to enforce intellectual property rights.

**Training and Capacity Building:** The U.S. has conducted several hundred IP training and capacity building programs around the world to improve criminal and civil IPR protection. To that end, the Administration has established a Global Intellectual Property Academy to consolidate and expand our training programs for foreign judges, enforcement officials and administrators.

Highlights of our Training and Capacity Building Programs:

- Brazil - Since 2001, the U.S. government has sponsored 15 IP-related programs involving Brazilian government officials, nearly half of which took place in Brazil.
- Russia - Since 2001, the U.S. government has conducted well over 15 training and capacity building programs involving Russian government officials.
- India - The U.S. government has conducted over a dozen IP training and capacity building programs with Indian officials and we continue to conduct conferences to train Indian academics and officials on IP enforcement and WTO TRIPS obligations. In addition, U.S. intellectual property experts will participate in a four-city IP enforcement training program in India in May 2006.
- China - Since 2001, the U.S. government has conducted well over 50 training programs involving Chinese government officials.

Addressing Global IP Enforcement Concerns:

**China:** The U.S. government is working on many fronts to engage China on IPR concerns, and under President Bush's leadership, we have developed an effective China IP strategy. The Bush Administration's China IP strategy is built on four pillars: bilateral engagement; effective use of our trade tools; expanding law enforcement cooperation; and working with the private sector. We are utilizing all of our resources to effectively implement our approach.

In February 2006, Ambassador Portman announced the results of a top-to-bottom review of U.S. trade policy with China. It identified weak protection of intellectual property as one reason why the U.S.-China trade relationship lacks balance in opportunity, as well as equity and durability.

Office of the U.S. IPR Coordinator  
9

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**Appendix III: Bush Administration: Strategy  
for Targeting Organized Piracy  
Accomplishments and Initiatives**

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Ambassador Clark Randt at our Embassy in Beijing holds an annual IPR Roundtable which brings together senior U.S. and Chinese officials and U.S. business representatives. The Roundtable gives U.S. rights holders the opportunity to discuss the problems they are facing and find the solutions that they need. Also, our Embassy and Consulate officers on the ground are a valuable asset for U.S. companies. They play a critical role as IPR “first responders” helping U.S. businesses resolve cases when their rights are violated.

**Russia:** The U.S. is working with Russia to strengthen IP protection and enforcement. Ambassador Portman recently raised the issue of intellectual property protection with Russian Minister of Economic Development and Trade German Gref stating that IPR protection and enforcement is a shared responsibility within the Russian government. Recent positive statements made by President Putin recognize that IPR protection is both an economic issue for the Russian government and a public health concern for the Russian people. The Russian government needs to take steps to curb the high rates of piracy that exist in Russia and demonstrate that their enforcement efforts are providing deterrence and producing results.

Also, the work of the U.S.-Russia IP Working Group remains a high priority, as the United States, through USTR, and Russia work to address a number of IPR-related issues and steps that need to be taken.

Office of the U.S. IPR Coordinator  
10

# Appendix IV: Comments from the Department of Commerce



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Office of the U.S. Coordinator for**  
**International Intellectual Property Enforcement**  
Washington, D.C. 20230

October 25, 2006

Loren Yager  
Director, International Affairs and Trade  
U.S. Government Accountability Office  
Washington, DC 20548

Dear Mr. Yager:

Thank you for the opportunity to review GAO's report on overall federal efforts to promote strong intellectual property protection and the specific efforts of the Bush Administration's Strategy Targeting Organized Piracy (STOP!). Our office very much appreciates the dedicated and comprehensive effort which went into drafting this report.

As you stated in the report, "...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." Per our direction from the President and Congress, we have pursued such a coordinated approach since the creation of the Office of International Intellectual Property Coordination in July 2005. We will continue to seek ways to improve coordination and welcome the guidance and suggestions of all parties to ensure the prospect of sustained success for the future.

As your report also indicates, "STOP! is a good first step toward a comprehensive, integrated strategy to protect and enforce U.S. intellectual property and it has energized agency efforts." Despite any perceived weaknesses in its initial structure, we are strongly encouraged that GAO has concluded that the "STOP! strategy has brought attention and energy to IP efforts within the U.S. government [and that] [a]gency participants and industry observers have generally supported the new effort."

We look forward to reviewing further GAO's two primary recommendations to more fully address the six characteristics of a national strategy and to clarify how our office will address oversight and accountability aspects involved with the further development and implementation of the STOP! initiative. In turn, we plan to identify opportunities for improvement, based on those recommendations, where appropriate.

Thank you again for the opportunity to participate in this process and lay the groundwork for incorporating the benefits of your research and insight.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Israel".

Chris Israel  
U.S. Coordinator for International Intellectual Property Enforcement

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# Appendix V: GAO Contact and Staff Acknowledgments

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## GAO Contact

Loren Yager, (202) 512-4128, or [yagerl@gao.gov](mailto:yagerl@gao.gov)

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## Staff Acknowledgments

In addition to the individual named above, Christine Broderick, Assistant Director; Nina Pfeiffer; Jasmine Persaud; and Wendy Ho made significant contributions to this report. Martin De Alteriis, Kelly Baumgartner, Karen Deans, Etana Finkler, Ernie Jackson, Patrick Hickey, and Terry Richardson also provided assistance.



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