

*The Impact of Counterfeit Products: A Look at the Statistics and Threats*¹

Author: Katie J.L. Scott, Dickstein Shapiro LLP²

Edited By: Elizabeth Ann “Betty” Morgan, The Morgan Law Firm PC³

I. Introduction

This paper attempts to give an overview of the extent of counterfeiting and piracy in the United States and globally. As will be discussed, the dangers from counterfeiting range from public health and safety to issues of national defense.

A challenge to measuring the problem is that virtually all the data underestimate the problem. This is inherent in the difficulty of detecting counterfeit goods and of identifying pirates in the marketplace.

Nonetheless, the economic impact and the range of dangers posed from counterfeiting and piracy are both astounding.

II. Counterfeiting and Piracy – By The Numbers

A. Estimates of the Impact of Counterfeiting and Piracy

Numerous organizations around the globe have attempted to quantify the effect of counterfeiting and piracy on the U.S. and global economies, and while some have questioned the methodology of such studies, the results of these studies undoubtedly demonstrate a significant problem.⁴ In a 2009 report commissioned by the International Chamber of Commerce’s BASCAP group and prepared by Frontier Economics, it was estimated that:

¹ The opinions expressed are those of the authors and do not necessarily reflect the views of their respective firms or clients. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

² Katie J.L. Scott is a Counsel in Dickstein Shapiro’s IP group in Silicon Valley. She focuses on patent and technology-related litigation. Ms. Scott represents global companies in litigation involving a wide range of technologies, including biotech, medical devices, and electronics.

³ Elizabeth Ann “Betty” Morgan is the founder of The Morgan Law Firm P.C. a litigation boutique in Atlanta, Georgia, which concentrates in intellectual property and business tort litigation. Ms. Morgan is a former member of AIPLA’s Board of Directors.

⁴ U.S. Government Accountability Office, “Intellectual Property, Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods,” at 15-27 (April 2010) (discussing difficulty in accurately estimating the impact of counterfeiting and piracy).

- Based on 2008 data, “[t]he total global economic value of counterfeit and pirated products is as much as \$650 billion every year.”⁵ Projecting to 2015, “these estimates imply that the upper bound of the global value of counterfeit and pirated could be *\$1.77 trillion*.”⁶
- Based on 2008 data, “[d]igitally pirated music, movies and software accounts for between \$30 billion and \$75 billion.”⁷ Projecting to 2015, “[d]igitally pirated music, movies and software accounts for between \$80 billion and \$240 billion.”⁸
- Based on 2008 data, “[c]ounterfeiting and piracy are estimated to cost G20 governments and consumers over \$125 billion every year.”⁹
- “Approximately *2.5 million jobs* have been destroyed by counterfeiting and piracy.”¹⁰
- “G20 economies lose approximately \$77.5 billion in tax revenues and higher welfare spending, \$25 billion in increased costs of crime, \$18.1 billion in the economic cost of deaths resulting from counterfeiting and another \$125 million for the additional cost of health services to treat injuries caused by dangerous fake products.”¹¹

B. Seizures of Counterfeit Goods

The U.S. Customs and Border Protection (CBP) Office of International Trade, an agency of the Department of Homeland Security, released the “Intellectual Property Rights Fiscal Year

⁵ Int’l Chamber of Commerce, “Global Impacts Study,” <http://www.iccwbo.org/Advocacy-Codes-and-Rules/BASCAP/BASCAP-Research/Economic-impact/Global-Impacts-Study/> (last visited Apr. 9, 2013); *see also* Frontier Economics Ltd., “Estimating the global economic and social impacts of counterfeiting and piracy, A report commissioned by Business Action to Stop Counterfeiting and Piracy (BASCAP)” (Feb. 2011), *available at* <http://www.iccwbo.org/Advocacy-Codes-and-Rules/BASCAP/BASCAP-Research/Economic-impact/Global-Impacts-Study/>; Frontier Economics Ltd., “Estimating the global economic and social impacts of counterfeiting and piracy, An executive summary commissioned by Business Action to Stop Counterfeiting and Piracy (BASCAP)” (Feb. 2011), *available at* <http://www.iccwbo.org/Data/Documents/Bascap/Global-Impacts-Study-Executive-Summary/>.

⁶ Int’l Chamber of Commerce, “Global Impacts Study,” <http://www.iccwbo.org/Advocacy-Codes-and-Rules/BASCAP/BASCAP-Research/Economic-impact/Global-Impacts-Study/> (last visited Apr. 9, 2013) (emphasis added).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* (emphasis added).

¹¹ Frontier Economics Ltd., “Estimating the global economic and social impacts of counterfeiting and piracy, An executive summary commissioned by Business Action to Stop Counterfeiting and Piracy (BASCAP)” at 5 (Feb. 2011), *available at* <http://www.iccwbo.org/Data/Documents/Bascap/Global-Impacts-Study-Executive-Summary/>.

2012 Seizure Statistics” on January 19, 2013.¹² These Seizure Statistics not only provide a window into the efforts and successes of CBP’s efforts to combat counterfeit and pirated goods, they also illuminate the magnitude of the threat facing the United States. CBP describes counterfeit and pirated goods as “a serious threat to America’s economic vitality, the health and safety of American consumers, and our critical infrastructure and national security.”¹³

The seizure statistics prepared by CBP demonstrate the severity of the problem. With respect to the estimated manufacturer’s suggested retail price (MSRP) value of seized goods — not including all those goods that passed through to United States consumers undetected — the CPB provides the following statistics:

- “The MSRP of seized goods increased from ***\$1.11 billion*** in FY 2011 to ***\$1.26 billion*** in FY 2012, with an average seizure value of more than \$10,450.”¹⁴
- “Seizures of infringing goods from China and Hong Kong totaled ***\$1.1 billion*** as valued by MSRP. . . .”¹⁵
- In FY 2012, there were 22,848 seizures of counterfeit or pirated goods.¹⁶
- “The total number of IPR seizures in FY 2012 decreased by 7.8 percent compared to FY 2011.”¹⁷ However, the number of seizures in FY 2012 was still higher than in any year between FY 2003 and FY 2010.¹⁸

The primary source of counterfeit and pirated goods is not surprising: “China remains the primary source economy for counterfeit and pirated goods, representing 72 percent of all IPR seizures by MSRP. The MSRP of these seized goods increased by 12.5 percent from FY 2011 to FY 2012.”¹⁹ There was an estimated \$906 million and \$156 million in seizures from China and

¹² Int’l Anti-Counterfeiting Coalition, “CBP, HSI Announce Fiscal Year 2012 Intellectual Property Rights Seizure Statistics” (Jan. 18, 2013), <http://members.iacc.org/news/114211/CBP-HSI-Announce-Fiscal-Year-2012-Intellectual-Property-Rights-Seizure-Statistics.htm>; U.S. Customs and Border Protection Office of Int’l Trade, “Intellectual Property Rights Fiscal Year 2012 Seizure Statistics” (2012), available at http://www.cbp.gov/linkhandler/cgov/newsroom/publications/trade/fy_2012_final_stats.ctt/fy_2012_final_stats.pdf.

¹³ U.S. Customs and Border Protection Office of Int’l Trade, “Intellectual Property Rights Fiscal Year 2012 Seizure Statistics,” at 2 (2012), available at http://www.cbp.gov/linkhandler/cgov/newsroom/publications/trade/fy_2012_final_stats.ctt/fy_2012_final_stats.pdf.

¹⁴ *Id.*

¹⁵ *Id.* at 11 (emphasis added).

¹⁶ *Id.* at 4.

¹⁷ *Id.* at 5.

¹⁸ *Id.* (bar graph of “Number of Seizures” for FY 2003 – FY 2012).

¹⁹ *Id.* at 11.

Hong Kong, respectively, as valued by MSRP, reported by CBP for FY 2012.²⁰ However, after Hong Kong, the next three countries with the next most valuable seizure totals were Singapore with \$9.3 million, India with \$7 million, and Taiwan with \$4.5 million (as valued by MSRP).²¹ Thus, in terms of the sources of harm to the U.S. economy, China and Hong Kong clearly lead the pack.

It is also interesting to consider the extent of counterfeiting and piracy in terms of the type of goods seized. For this purpose, CPB classifies the seized goods into commodity categories, including handbags/wallets, watches/jewelry, wearing apparel/accessories, consumer electronics/parts, footwear, pharmaceuticals/personal care, digital media, computers/accessories, labels/tags, toys, and all other commodities.²² The top three commodity categories in order of estimated MSRP in FY 2012 were handbags/wallets, watches/jewelry, and wearing apparel/accessories.²³ “As ranked by MSRP, there was no change in the top three commodity categories for seizures from FY 2011 to FY 2012, though the MSRP for the top two increased.”²⁴ “The MSRP of [handbag/wallet] seizures increased 142.2 percent compared to FY 2011. This was followed by watches/jewelry, which grew 8.3 percent in MSRP from FY 2011 to FY 2012.”²⁵ Seizures of counterfeit and pirated goods in the “handbags/wallets” commodity category totaled over \$511 million as valued by MSRP, or 40% of the total estimated MSRP of seized goods. As compared to “handbags/wallets,” the “watches/jewelry” commodity category was a distant second place, with \$187 million as valued by MSRP, or 15% of the total estimated MSRP of seized goods, and wearing apparel/accessories was an even more distant third with \$133 million as valued by MSRP, or 11% of the total estimated MSRP of seized goods.²⁶

II. Counterfeiting and Piracy – Risks Beyond Dollars and Cents

A. The Harm Caused by Counterfeiting and Piracy is Not Only Economic

It is not only the U.S. economy that is harmed by counterfeiting and piracy, but there are also substantial risks to the health and safety of Americans caused by these goods. What is most disconcerting is that these risks come in unexpected places.

²⁰ *Id.* at 22.

²¹ *Id.* at 23.

²² *Id.* at 6.

²³ *Id.* at 18.

²⁴ *Id.* at 7.

²⁵ *Id.*

²⁶ *Id.* at 18.

In October 2012, the U.S. Department of Transportation's National Highway Traffic Safety Administration issued a safety advisory regarding the danger associated with counterfeit airbags.²⁷ The advisory warned that counterfeit airbags were being sold as replacement parts, and that while they looked nearly identical to certified original parts, they had "consistent malfunctioning ranging from non-deployment of the air bag to the expulsion of metal shrapnel during deployment."²⁸ In another 2012 case involving counterfeit airbags, one man entered a guilty plea after agents recovered over 1,600 counterfeit airbags and found records showing he had sold at least 7,000 other counterfeit airbags between February 2011 and 2012, resulting in over \$1.4 million in revenue.²⁹

Similar to the airbag cases, in November 2012, a Texas man was sentenced to a year in prison for trafficking in counterfeit circuit breakers over eBay.³⁰ Agents seized tens of thousands of counterfeit circuit breakers, electronic products, and labels, which if genuine would have had an MSRP of more than \$4.7 million. Like airbags, circuit breakers are important safety devices, which if the counterfeit versions malfunction, pose a threat to human safety.

Aside from automotive and electronic parts, children's toys are prime targets for counterfeiters. In November 2012, CBP officers seized shipments containing nearly 24,000 toys that were counterfeit or had illegally high levels of lead.³¹ Similarly, in February 2012, five individuals were indicted for their involvement with counterfeit and dangerous toys. The Homeland Security Investigations special agent described the case: "The people and companies involved in this illegal trade not only allegedly infringed on intellectual property rights, they placed the lives of innocent children in danger. . . . They allegedly sold toys with high lead content and cheap knock offs with substandard parts that break easily and pose a choking hazard. HSI is firm on using its unique customs expertise and law enforcement partnerships to put an end to the importation and sale of dangerous goods."³² Simply based on these isolated incidents, the potential harm to American's health and safety is readily apparent.

²⁷ National Highway Traffic Safety Admin., "Safety Advisory: NHTSA Alerting Consumers to Dangers of Counterfeit Air Bags" (Oct. 10, 2012), <http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/Safety+Advisory:+NHTSA+Alerting+Consumers+to+Dangers+of+Counterfeit+Air+Bags>.

²⁸ *Id.*

²⁹ Office of the U.S. Intellectual Prop. Enforcement Coordinator, "Intellectual Property Spotlight," at 3 (Sept./Oct. 2012).

³⁰ *Id.*

³¹ U.S. Customs and Border Protection, "CBP Seizes Shipment of Lead-Contaminated Toys" (Nov. 26, 2012), http://www.cbp.gov/xp/cgov/newsroom/news_releases/national/11212012.xml; Office of the U.S. Intellectual Prop. Enforcement Coordinator, "Intellectual Property Spotlight," at 3 (Nov./Dec. 2012).

³² U.S. Immigration and Customs Enforcement, "Corporations charged for allegedly importing hazardous and counterfeit toys from China for sale in the US" (Feb. 6, 2013), <http://www.ice.gov/news/releases/1302/130206newyork.htm>.

B. Counterfeit Pharmaceuticals Pose a Substantial Health and Safety Risk

Arguably the acts of counterfeiting and piracy that frighten the average American most are counterfeit pharmaceutical products. Counterfeit pharmaceuticals pose a substantial threat to the health and safety of Americans, as they may contain too much, too little, or none of the active ingredients for which they are intended. Such counterfeits may also include toxic materials.³³ According to a 2009 report, counterfeit drugs intended to treat nearly every disease have been confiscated, including 19 of the 25 best selling drugs.³⁴

For the most part, counterfeit drugs reach American medicine cabinets via sales over the Internet.³⁵ However, what consumers often do not realize is that counterfeiters go to great lengths to disguise their identity and location.³⁶ For example, many Americans feel comfortable buying pharmaceutical products from online pharmacies that purport to be located in Canada,³⁷ in essence trusting the website to accurately identify itself and further trusting a Canadian pharmacy to sell legitimate drugs. Yet, these consumers have no way of verifying the online pharmacy's location or the legitimacy of the drugs being sold. Indeed, in 2009 it was reported there were only 300 registered online pharmacies in Canada, but over 11,000 online pharmacies advertising themselves as being located in Canada.³⁸ Thus, even relatively savvy consumers may be fooled into buying potentially life-threatening counterfeit products.

The U.S. Customs and Border Protection Office of International Trade (CBP) Fiscal Year 2012 Seizure Statistics³⁹ report a decline of pharmaceutical and personal care seizures of counterfeit products as compared to other commodities. In terms of MSRP value, the value of pharmaceuticals and personal care product seizures decreased from 13% in FY 2011 to 7% in FY 2012.⁴⁰ This decline resulted in consumer electronics/parts and footwear categories surpassing the pharmaceutical and personal care category, in terms of percentage MSRP value between

³³ Nat'l Intellectual Prop. Rights Coordination Ctr., "Intellectual Property Rights Violations: A Report on Threats to United States Interests at Home and Abroad," at 31 (Nov. 2011) (citing ICC Counterfeiting Intelligence Bureau (CIB), *The International Anti-Counterfeiting Directory 2009*, at 25).

³⁴ *Id.*

³⁵ *Id.* at 31 (citing industry interviews).

³⁶ *See, e.g.*, Nat'l Intellectual Prop. Rights Coordination Ctr., "Intellectual Property Rights Violations: A Report on Threats to United States Interests at Home and Abroad," at 31 (Nov. 2011).

³⁷ Pew Prescription Project, "Americans' Attitudes on Prescription Drug Safety," at 7 (Apr. 2010).

³⁸ Nat'l Intellectual Prop. Rights Coordination Ctr., "Intellectual Property Rights Violations: A Report on Threats to United States Interests at Home and Abroad," at 31 (Nov. 2011) (citing ICC Counterfeiting Intelligence Bureau (CIB), *The International Anti-Counterfeiting Directory 2009*, at 25).

³⁹ U.S. Customs and Border Protection Office of Int'l Trade, "Intellectual Property Rights Fiscal Year 2012 Seizure Statistics" at 6 (2012), available at http://www.cbp.gov/linkhandler/cgov/newsroom/publications/trade/fy_2012_final_stats.ctt/fy_2012_final_stats.pdf.

⁴⁰ *Id.*

FY 2011 and FY 2012. This reported decline may be misleading because of the difficulty in using seizures to measure the extent of counterfeiting and piracy.

Efforts to curtail the worldwide sale of counterfeit drugs have required a coordinated effort by global authorities and corporate stakeholders. For example, from September 25 to October 2, 2012, authorities from around the globe conducted Operation Pangea V, a global attack on the organized crime networks behind the online counterfeit drug industry.⁴¹ Operation Pangea V was conducted and supported by numerous global organizations, including INTERPOL, the World Customs Organization, the Permanent Forum of International Pharmaceutical Crime, the Heads of Medicines Agencies Working Group of Enforcement Officers, the Pharmaceutical Security Institute, Europol, and the Center for Safe Internet Pharmacies (CSIP), as well as companies including Legitscript, Visa, Mastercard and PayPal.⁴² In total, there were over 100 participating countries in Operation Pangea V.⁴³ This global effort utilized a “dedicated operations room” in the INTERPOL General Secretariat headquarters in Lyon, which provided for a central information exchange point for updates on interventions and seizures.⁴⁴

In the United States, both U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) participated in Operation Pangea V.⁴⁵ Through what was called “Project Better Pill,” ICE coordinated with the Department of Justice to execute seizure warrants for 686 U.S.-based domain names associated with the sale of counterfeit pharmaceuticals.⁴⁶

While Operation Pangea V was an enormous undertaking, it was also very successful. Interpol reported that these efforts “resulted in more than 18,000 websites linked to illicit online pharmacies being identified and shut down, the suspension of payment facilities of online rogue pharmacies, and the disruption of a massive number of spam emails and social networking messages.”⁴⁷ In addition to online pharmacies and payment facilities being shut down, customs authorities and other officials around the world inspected 133,000 packages, with around 6,700

⁴¹ Interpol, “Global crackdown on illicit online pharmacies” (Oct. 4, 2012), <http://www.interpol.int/News-and-media/News-media-releases/2012/PR077>.

⁴² *Id.*

⁴³ Office of the U.S. Intellectual Prop. Enforcement Coordinator, “Intellectual Property Spotlight,” at 3 (Sept./Oct. 2012).

⁴⁴ Interpol, “Global crackdown on illicit online pharmacies” (Oct. 4, 2012), <http://www.interpol.int/News-and-media/News-media-releases/2012/PR077>.

⁴⁵ U.S. Customs and Border Protection Office of Int’l Trade, “Intellectual Property Rights Fiscal Year 2012 Seizure Statistics,” at 9 (2012), available at http://www.cbp.gov/linkhandler/cgov/newsroom/publications/trade/fy_2012_final_stats.ctt/fy_2012_final_stats.pdf.

⁴⁶ Office of the U.S. Intellectual Prop. Enforcement Coordinator, “Intellectual Property Spotlight” (Sept./Oct. 2012).

⁴⁷ Interpol, “Global crackdown on illicit online pharmacies” (Oct. 4, 2012), <http://www.interpol.int/News-and-media/News-media-releases/2012/PR077>.

being confiscated.⁴⁸ The drugs confiscated during Operation Pangea V included anti-cancer medication, antibiotics, erectile dysfunction pills as well as diet and food supplements.⁴⁹ In total, Operation Pangea V resulted in approximately 80 arrests and the seizure of 3.75 million units of potentially life-threatening medicines worth USD 10.5M.”⁵⁰ The success of Operation Pangea V is extraordinary for a week-long period. In comparison to the 6,700 confiscated packages during this short period, the U.S. CBP reports only 2,350 seizures of pharmaceutical/personal care commodities in all of FY2012.⁵¹

Considering the danger of distributing counterfeit pharmaceuticals to large numbers of innocent consumers, the punishment for such crimes can be astonishingly light. In February 2013, the Office of the United States Intellectual Property Enforcement Coordinator announced the sentencing in three separate counterfeit pharmaceutical cases. In January, a Puerto Rican man suspected to be a “key member of an organization that distributed large quantities of Chinese-made, counterfeit pharmaceuticals” was sentenced to two years in federal prison and ordered to pay \$324,530 in restitution for obtaining 140,000 counterfeit pills from China and packaging and shipping them to individuals in the United States.⁵² On February 20th, a Pennsylvania man was sentenced to 33 months for smuggling 13,000 counterfeit pills from China into the United States through the U.S. Postal System.⁵³ Then, on February 28th, a North Carolina man was sentenced to two years in prison and ordered to pay a \$10,000 fine for offenses related to possession and sale of counterfeit pharmaceuticals.⁵⁴ These sentences — all fewer than three years of incarceration — may not be effectively deterring the counterfeiters.

C. Protecting our Defenses and Ourselves from Counterfeit Goods

Another serious threat of piracy to the United States comes from counterfeit products making their way into the supply chains of the Department of Defense. For example, it has been reported that the Army has purchased counterfeit seatbelt clasps, the Navy and Marines have purchased counterfeit computer routers, and the Air Force has purchased counterfeit microprocessors intended for flight control computers in F-15 fighter jets and counterfeit

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ U.S. Customs and Border Protection Office of Int'l Trade, “Intellectual Property Rights Fiscal Year 2012 Seizure Statistics,” at 18 (2012), available at http://www.cbp.gov/linkhandler/cgov/newsroom/publications/trade/fy_2012_final_stats.ctt/fy_2012_final_stats.pdf.

⁵² Office of the U.S. Intellectual Prop. Enforcement Coordinator, “Intellectual Property Spotlight,” at 2 (Jan./Feb. 2013).

⁵³ *Id.*

⁵⁴ *Id.* at 3.

microcircuits for the U.S. Missile Defense Agency.⁵⁵ Government investigations indicate that between 2009 and 2010, there were 1800 cases of suspected counterfeit electronic parts, leading to the use of more than a million individual counterfeit electronic parts.⁵⁶

In response to these threats posed by counterfeit goods, “[i]n FY 2012, CBP implemented the information-sharing provisions of the National Defense Authorization Act of 2012, which provided for strong anti-counterfeiting measures within the defense supply chain and gave CBP authority to share more information and samples of suspected counterfeit imports with trademark holders.”⁵⁷

III. Unintended Consequences of Getting Something for Nothing

The threat of counterfeit products is not only to our defense supply chain, but in that such sales may also serve to fund the organizations that those defenses are intended to protect against. For example, in February 2011, U.S. Marshalls in Paraguay took someone into custody on criminal charges including the sale of counterfeit goods, which were alleged to have been performed to raise money for the terrorist group Hezbollah.⁵⁸ Indeed, for many years it has been widely reported that counterfeiting is one of the ways terrorists and criminal organizations raise funds to support their efforts.⁵⁹ While most Americans would probably not willingly support terrorists and criminal organizations, the public appears to be unaware that this in fact is the consequence of purchasing a counterfeit purse, wallet or watch, unintended or not.

In fact, a major impediment to curtailing counterfeiting is the public’s continuing demand for counterfeit goods. An area where this is becoming increasingly apparent is in the arena of digital media. Consumers’ expectation of free access, particularly with respect to digital media, has become increasingly noticeable. Recently, one commentator described an informal survey of

⁵⁵ Bliss, J. et al., “Agencies Join to Target Counterfeit Military Parts” (June 6, 2011), <http://www.bloomberg.com/news/2011-06-14/u-s-agencies-band-together-to-target-counterfeit-military-parts.html>.

⁵⁶ Committee on Armed Services, “Inquiry Into Counterfeit Electronic Parts in the Department of Defense Supply Chain, Report of the Committee on Armed Services,” United States Senate (May 21, 2012), available at <http://www.armed-services.senate.gov/Publications/Counterfeit%20Electronic%20Parts.pdf>; see also Poitras, Colin, “Conference on Counterfeit Electronics Addresses Growing National Concern,” UConn Today, <http://today.uconn.edu/blog/2013/02/conference-on-counterfeit-electronics-addresses-growing-national-concern/>.

⁵⁷ U.S. Customs and Border Protection Office of Int’l Trade, “Intellectual Property Rights Fiscal Year 2012 Seizure Statistics,” at 9 (2012), available at http://www.cbp.gov/linkhandler/cgov/newsroom/publications/trade/fy_2012_final_stats.ctt/fy_2012_final_stats.pdf.

⁵⁸ Office of the U.S. Intellectual Prop. Enforcement Coordinator, “Intellectual Property Spotlight,” (Feb./Mar. 2011).

⁵⁹ See, e.g., O’Donnell, J., “Raids crack down on counterfeit goods,” USA Today (Dec. 18, 2009) at http://usatoday30.usatoday.com/money/industries/retail/2009-12-18-counterfeit_CV_N.htm; Wright, K., “Officials: Counterfeit Goods Fund Terrorism,” FOXNews.com (July. 16, 2003), at <http://www.foxnews.com/story/0,2933,92094,00.html>; K. Millar, “Financing Terror. Profits from counterfeit goods pay for attacks,” (Nov. 2002), at <http://www.cbp.gov/xp/CustomsToday/2002/November/interpol.xml>.

whose HBO Go account people in their office used, and only a few of those polled had their own accounts.⁶⁰ The commentator concluded that “while our office is fairly young and not representative of HBO’s broader customer base, it is representative of a rising generation of people who 1) like watching HBO shows and 2) cannot fathom paying for them.”⁶¹ While the prevalence of digital piracy in the United States doesn’t even come close to that of some countries,⁶² the expectation of free (or nearly free) access to digital media will itself come with the unintended consequence of increasing demand for, and public acceptance of, pirated and counterfeit products.

IV. Conclusion

Counterfeiting and piracy impose serious threats to our nation’s health, its defense and its economy. Government efforts to crack down on counterfeit goods have had some success as the seizure statistics show, but the resources of the government are limited. A significant part of the problem appears to be the public’s continued demand for purchasing counterfeit goods, which only stricter penalties and additional education regarding the unintended consequences of such purchases will curtail.

⁶⁰ Herrman, J., “Whose HBO Go Account Do You Use?,” BuzzFeed FWD (Mar. 25, 2013), <http://www.buzzfeed.com/jwherrman/whose-hbo-go-account-do-you-use>.

⁶¹ *Id.*; see also Wortham, J., “No TV? No Subscription? No Problem,” NYTimes.com (Apr. 6, 2013), http://www.nytimes.com/2013/04/07/business/streaming-sites-and-the-rise-of-shared-accounts.html?ref=television&_r=0

⁶² See, e.g., Ambassador Ronald Kirk, Office of the United States Trade Representative, 2012 Special 301 Report at 29, available at http://www.ustr.gov/sites/default/files/2012%20Special%20301%20Report_0.pdf (“For example, total music revenue (which includes both legitimate physical and digital sales) in China for 2010 was only USD\$64.3 million. This compares to almost \$4.2 billion in the U.S., USD\$178.4 million in South Korea and USD\$68.9 million in Thailand — a country with less than 5 percent of China’s population and with roughly the same per capita GDP. If Chinese sales were equivalent to Thailand’s on a per capita basis, music sales would be almost USD\$1.4 billion.”).