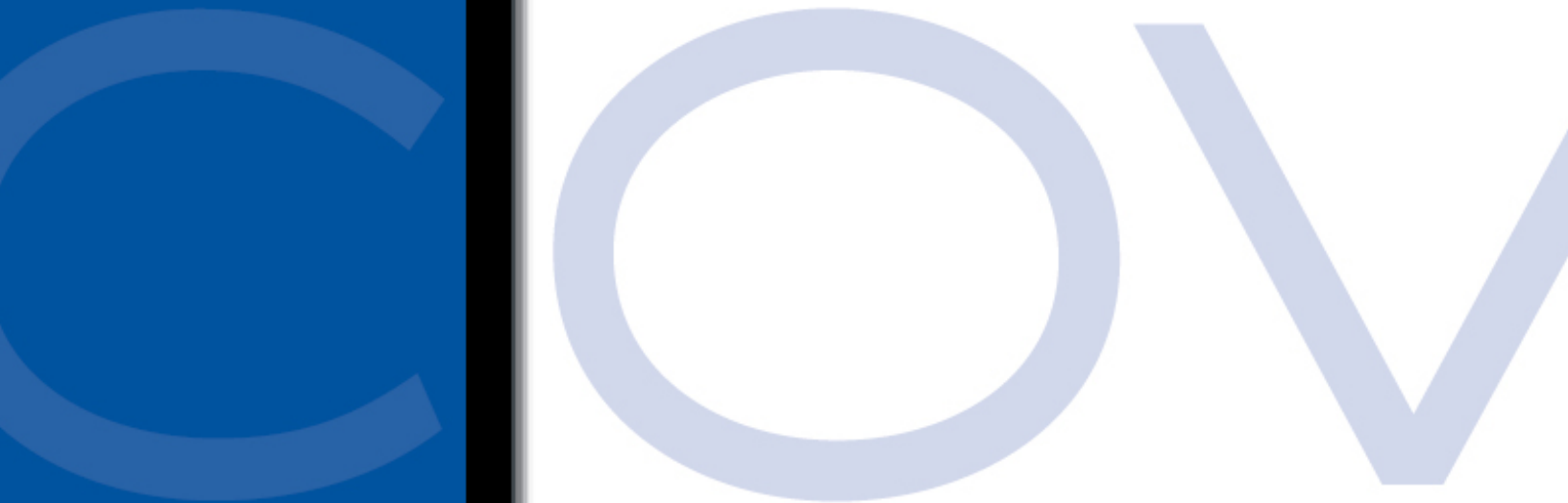


ANTI-COUNTERFEITING & ANTI-PIRACY



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CONTENTS

Anti-Counterfeiting & Anti-Piracy Practice.....	1
Global Enforcement Against Counterfeiting, Diversion & Piracy.....	1
Supply Chain & End User Compliance Programs.....	3
Global Intellectual Property Policy Initiatives.....	4

ANTI-COUNTERFEITING & ANTI-PIRACY PRACTICE

Covington & Burling LLP has unparalleled experience in devising innovative and effective international legal strategies to combat product counterfeiting, grey market diversion and copyright piracy. Covington pioneered the concept of a coordinated global approach to protecting our clients' intellectual property rights more than 20 years ago. Since then we have devised and executed highly successful programs for the enforcement and enhancement of trademarks and copyrights in some 60 countries worldwide, and have built an extensive international network of local counsel, investigators and government contacts to accomplish our clients' goals.

We bring a sophisticated, results-oriented approach to problems of intellectual property diversion and theft, spearheading campaigns that combine:

- all manner of civil, administrative and criminal enforcement, including a state-of-the-art Internet monitoring program;
- supply chain and end user compliance programs; and
- national, regional and multilateral intellectual property policy initiatives.

We understand the critical importance of developing programs that are tailored to the diverse objectives of our clients within specific budgetary constraints. We work closely with each of our clients to understand the impact of piracy, diversion and counterfeiting on their products, consumers and markets; to define and implement those strategies and tactics most appropriate for each client; and to ensure that each client's program yields tangible results, whether in the form of seizures, settlements, increased revenues and market share, heightened awareness, increased law enforcement activity, or stronger IP laws and penalties.

Covington's worldwide anti-counterfeiting group includes highly experienced partners, associates at all levels of seniority, and investigators in our Washington, San Francisco, London, Brussels and Beijing offices. Outside of these markets, we coordinate anti-counterfeiting campaigns through a far-reaching network of experienced and well-trained local counsel, government affairs experts and investigators, who have been selected for their legal expertise, negotiating skills, relationships with public officials, professionalism, integrity, and willingness to work quickly and efficiently. Our clients can achieve the efficiency and economic benefit of one-stop shopping through our coordination of this comprehensive global counsel network. And this approach permits us to retain the very best lawyers in each market for the particular program that we are implementing.

GLOBAL ENFORCEMENT AGAINST COUNTERFEITING, DIVERSION & PIRACY

From its Washington and London offices, we have coordinated programs to enforce intellectual property rights in more than 60 countries. Throughout the world, the firm has overseen thousands of civil, administrative and criminal enforcement actions, targeting all links in the counterfeit and grey market supply chain and generating significant settlements for our clients.

EMERGING MARKETS: Many of our clients are particularly interested in emerging markets, where counterfeiting is a growing threat and where the IP enforcement framework is often nascent or non-existent. In response, we have helped to develop and implement enforcement strategies on the fringes of Europe – in Russia and nearly 30 countries in Central and Eastern Europe – complementing our existing expertise in the broader EMEA region, Latin America, China and the US. In several developing countries, we have been the first to take successful legal action against counterfeiters and pirates, requiring creative legal strategies and intensive training of law enforcement officials.

CHINA: Our Beijing office significantly enhances our anti-counterfeiting capabilities in China. Our colleagues in Beijing have decades of experience defending IPR rights throughout China. Moreover, they possess the necessary government relationships and understanding of the complex cultural and political dynamics to obtain effective action for our clients. We are particularly focused on efforts to improve China's IP enforcement regime. We have worked to identify and document existing weaknesses in the criminal and administrative enforcement system and, utilizing mechanisms like the US-China JCCT, to seek improvements to that regime. These efforts contributed to China's recent commitments to increase criminal prosecutions for IP enforcement and improve police coordination on IP crimes.

GLOBAL INTERNET ENFORCEMENT: With the dramatic growth of the Internet as a vehicle for worldwide distribution of counterfeit and pirated works, global Internet enforcement has become a centerpiece of Covington's IP enforcement practice. Our Internet enforcement group, comprised of in-house investigators, seasoned attorneys and state-of-the-art software tools, monitors the web daily to identify illicit counterfeiting activity in all parts of the world and across all protocols, including online auction sites, spam solicitations and websites marketing counterfeit goods. The group conducts global, high-volume notice and take-down programs with an overall compliance rate of over 90%. Where appropriate, Covington's investigators employ evidence-gathering and forensics skills to build civil and criminal cases against the individuals behind these sites; we have supported several international "busts" led by US Department of Justice and FBI.

Representative assignments include:

- We have coordinated thousands of civil, administrative and criminal enforcement actions in over 60 countries worldwide for software industry clients. Enforcement campaigns annually produced millions of dollars in settlements and tens of thousands of seized pirated copies. We conducted training in IP laws, enforcement procedures, and investigative techniques for numerous local law enforcers, prosecutors, customs agents, and judges throughout the world.
- We worked closely with BSA to establish a successful anti-piracy program in Russia (Moscow and the regions) involving criminal enforcement and prosecution, civil settlements, trainings for public authorities, law reform and outreach to the Russian Government. We have coordinated and overseen similar programs in nearly 30 markets in Central and Eastern Europe and the former CIS.
- Our attorneys in Beijing have spearheaded a number of enforcement cases against trademark and copyright infringers in China, including taking action against a range of manufacturers and retailers who were misusing famous Warner Bros. Entertainment trademarks ("Batman", "Superman", "Harry Potter").
- Covington investigated and successfully sued high-volume optical media replicators responsible for producing millions of look-alike counterfeit CD-ROMs. Resolutions included six- and seven-figure settlements to compensate right holders for infringement.
- On behalf of our software industry clients, we have worked to prevent channel piracy, coordinating test purchases and infringement actions against resellers, and working to develop programs and policies to ensure channel members respect our clients' IPRs.
- On behalf of the National Basketball Association, we obtained a temporary restraining order, a seizure order, and a preliminary injunction against the sale of counterfeit NBA merchandise during NBA All-Star Game weekend.

ANTI-COUNTERFEITING & ANTI-PIRACY

- Our Internet enforcement team coordinated a global notice and takedown program to search out and prevent illegal Internet distribution of pirate software and circumvention technologies used in such piracy; pirate eBooks; pirate video content; and illicit offerings of counterfeit branded goods.
- On behalf of leading luxury goods manufacturers, including Givenchy, Montblanc and a Coty subsidiary, we have devised innovative legal strategies to obtain injunctive relief against unauthorized sellers of imported gray market products.

SUPPLY CHAIN & END USER COMPLIANCE PROGRAMS

Counterfeiters and pirates rely on a network of upstream and downstream manufacturers, raw material suppliers, resellers, transport companies, Internet Service Providers, auction sites, and search engines, among others, to manufacture and distribute their illegal wares. Moreover, a largely unregulated grey market can serve as a gateway for counterfeits to enter the legitimate supply channel. Strategies to cut off counterfeiters from essential suppliers, distribution channels and service providers can be a vital and effective component of an anti-counterfeiting campaign.

The firm has advised a broad range of copyright and brand owners on supply chain controls and compliance measures that help guard against the supply of materials, equipment, and services to counterfeiters and pirates. On behalf of the software industry, for example, we devised and negotiated voluntary codes of conduct that foster responsible business practices by legitimate software resellers, optical media replicators, ISPs and auction sites. In all such matters, we are sensitive to potential antitrust implications and ensure that compliance programs fully adhere to relevant federal and EU laws.

To deter end-user piracy and purchases of counterfeit goods, the firm works closely with clients to develop and implement IP audit and asset management programs, company-wide IP usage policies, and employee and consumer educational materials. Recognizing that government agencies are often unwitting consumers of pirated and counterfeit products, the firm has led many successful efforts to promote responsible procurement and usage practices within the public sector. For example, we spearheaded the adoption of government software management policies in the US and numerous other countries throughout the world, and have developed model procedures and training programs to promote responsible procurement practices within the public sector (including in China).

We also understand the importance of maximizing the visibility and deterrent impact of anti-counterfeiting programs through effective messaging and media outreach. The firm routinely works closely and effectively with our clients' public relations firms and in-house staff to ensure a harmonized legal and communications strategy. We also serve as spokespersons and legal experts for our clients on piracy and counterfeiting issues, appearing at press conferences, providing interviews, and speaking at high-profile conferences throughout the world.

Representative assignments include:

- Covington has planned and coordinated IP inventories and asset management assessments for a broad range of clients. We have worked with our clients to develop internal IP asset management procedures and databases, employee usage and procurement policies, and other tools to promote compliance.
- On behalf of our software industry clients, we have developed a variety of channel compliance programs designed to encourage and reward responsible reseller practices and identify the source of diverted and counterfeit products.

ANTI-COUNTERFEITING & ANTI-PIRACY

- On behalf of the Business Software Alliance, we worked closely with the Department of Commerce and the US Council of Chief Information Officers to develop government legalization guidelines and training materials to implement the Executive Order on Computer Software Piracy.
- The firm worked closely with the World Bank to ensure that IT procurement policies and standard bidding documents adequately guard against the supply and use of illegal software.
- We drafted and negotiated a voluntary code of conduct for optical media replicators requiring adoption of internal controls and record-keeping procedures to guard against duplication of counterfeit CD-ROMs.
- We drafted and negotiated on behalf of the software industry model business practices for global ISPs and Internet auction sites requiring, among other things, implementation of notice and takedown procedures and repeat infringer policies.

GLOBAL INTELLECTUAL PROPERTY POLICY INITIATIVES

Covington has engaged in intellectual property law reform efforts at the local, regional, and international level throughout the world. Our extensive IP enforcement experience, IP industry expertise, and history as a leading public affairs firm make us a persuasive voice on these issues.

In the US, the firm has worked closely with current and past Administrations and Congress to strengthen laws against counterfeiting and piracy. On behalf of our clients, the firm spearheaded enactment of the Anti-counterfeiting Act of 2004, the Anti-counterfeiting Consumer Protection Act of 1996 and issuance of the 1998 Executive Order on Computer Software Piracy. We have devised successful strategies to strengthen federal laws and regulations governing customs enforcement against counterfeit products and have advised clients on procedural and statutory reforms necessary to strengthen federal enforcement tools and remedies for intellectual property crimes. We also work closely with the Office of the US Trade Representative, the Department of Commerce and other federal agencies to ensure that China, Russia, Brazil and other important markets meet their commitments to protect and enforce US rights.

At the international level, the firm's Washington, London, and Brussels offices have worked for over a decade with governments throughout Latin America, Western, Eastern, and Central Europe, and in Asia, Africa, and the Middle East to improve national IP protections. Our longstanding involvement with the EU Commission, Council, and Parliament dates back to the first EU copyright legislation, the 1991 Software Directive, and continues to this day. We have also been called upon regularly to provide input to the Council of Europe, as well as to multilateral organizations, including the World Intellectual Property Organization, the World Trade Organization, the World Health Organization, and the World Customs Organization, on cutting-edge issues including cybercrime, counterfeit pharmaceuticals, and cross border trade in counterfeit goods.

Representative assignments include:

- For almost 20 years, Covington has represented the Business Software Alliance in major US and international efforts to modernize copyright laws in the digital age, including the U.S. Digital Millennium Copyright Act, the WIPO Treaties, and the EU Software, Copyright and IPR Enforcement Directives.

ANTI-COUNTERFEITING & ANTI-PIRACY

- We have advocated the reform of national laws and enforcement regimes in over 40 countries worldwide — most recently in China, Russia and other parts of Eastern Europe and the CIS — on the basis of the WTO TRIPS Agreement and other treaties.
- The firm regularly engages with US, EU and other trade officials to combat efforts to weaken or break the IP rights of our clients through industrial policy measures and other non-tariff trade barriers, including discriminatory technical standards, government procurement preferences, compulsory licensing schemes and competition laws.
- We drafted and lobbied for issuance of the 1998 U.S. Executive Order on Computer Software Piracy, which mandates licensed software use by federal government agencies and recipients of federal funds. We also worked closely with the Department of Commerce to develop implementing guidelines for federal agencies and coordinated similar government legalization campaigns throughout Europe, with successes in Ireland, Greece, and the Czech Republic, among others.
- On behalf of PhRMA, we conducted a comprehensive survey of counterfeiting laws, remedies and enforcement regimes in China, India, Russia, Brazil and Mexico, and developed a framework of legal reforms necessary to combat effectively the escalating counterfeit drug trade.
- We were appointed by the WHO's anti-counterfeiting task force to participate in a panel of experts tasked with developing model principles for national legislation against counterfeit medical products.
- We regularly engage with US trade officials on behalf of our clients' interests in the various bilateral and regional trade negotiations in which the United States is engaged, including Free Trade Agreements with Australia, the Andean region, Central America-Dominican Republic, Chile, Korea, Thailand and Singapore. We are similarly engaged with US and European officials on ongoing negotiations on the proposed Anti-Counterfeiting Trade Agreement.
- We were active participants in negotiations of the WIPO Copyright Treaty, WTO TRIPs Agreement, Council of Europe Treaty on Cybercrime, and in the reform of the World Customs Organization's Model Laws.

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