

President Signs PRO-IP Act of 2008

October 14, 2008

On October 13, 2008, the President signed the Prioritizing Resources and Organization for Intellectual Property Act of 2008, also known as the PRO-IP Act of 2008. The PRO-IP Act includes a variety of provisions aimed at bolstering intellectual property owners' abilities to fight copyright and trademark infringement.

The key portions of the Act include:

- **Copyright Registration Errors:** In a civil copyright proceeding, an innocent mistake on a registration form will not defeat the validity of the copyright registration. This is largely how courts handled innocent mistakes, so this provision doesn't really change existing law except that now it is codified. The mistake will only be detrimental if it was made knowingly, or if the inaccuracy, if known, would have caused the Copyright office to refuse registration.
- **Copyright Infringement for Unauthorized Exportation:** The Act makes unauthorized exportation of a copyrighted work an infringement of the distribution right of the copyright owner. Previously, only unauthorized importation was illegal.
- **Civil Copyright Infringement Remedies:** The Act expands the list of items that can be impounded to include all documentation and records regarding manufacture, sale, and receipt of things involved in the alleged copyright infringement.
- **Trademark Counterfeiting:** The Act expands the list of violations for which treble damages may be obtained by the trademark owner to include, in addition to intentionally using a counterfeit mark, providing goods or services necessary to the commission of the infringement with intent that the recipient will knowingly commit the trademark violation. Statutory damages are increased from the previous range of \$1,000 – \$100,000 (up to \$1,000,000 if willful) to \$2,000 to \$200,000 (and up to \$2,000,000 if willful).
- **Expansion of Criminal Copyright Infringement:** The Act expands liability and penalties for criminal copyright infringement to include more expansive forfeiture, destruction, and/or restitution, in addition to jail time, for criminal copyright infringement.
- **Creation of national Intellectual Property Enforcement Coordinator (IPEC):** The Act establishes a new position in the Executive Branch, appointed by the President with the advice and consent of the Senate. The IPEC is responsible for chairing the interagency intellectual property enforcement advisory committee established under the Act and coordinating the development and enforcement of a Joint Strategic Plan against counterfeiting and infringement created by the advisory committee also established by the Act. The IPEC also has additional administrative oversight with respect to enforcement of intellectual property laws by the United States. The advisory committee is composed of representatives from various Federal agencies.

Please click [here](#) to view a copy of the legislation.

This information provides an introduction to the PRO-IP Act. If you have any questions or require more detailed information, please [contact](#) an attorney at Banner & Witcoff for assistance.

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