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PROTECTING AMERICA'S INTELLECTUAL PROPERTY: A Legislative History of the Pro IP Act of 2008

**Edited by
William H. Manz**

The Prioritizing Resources and Organization for Intellectual Property (PRO IP) Act of 2008 is a United States law that increases both civil and criminal penalties for trademark and copyright infringement. The controversial PRO IP Act is the latest effort in the continual struggle to protect America's intellectual property from infringement and counterfeiting, activities which are estimated to have cost the United States between \$200 and \$250 billion in annual lost sales, as well as 750,000 jobs.

Previous efforts to protect intellectual property include: the successful litigation against the music file-sharing service Napster; the RIAA's controversial lawsuit against more than 30,000 alleged infringers, including housewives and college students; the unsuccessful PIRATE Act introduced into the Senate in 2004, aimed at Internet file-sharing; and the 2004 Intellectual Property Protection and Courts Amendment Act, which strengthened federal laws against trafficking counterfeit labels.

To deter trademark infringement, the new Act doubles statutory damages up to \$2 million if the counterfeiting was "willful." It also extends treble damage liability to persons providing goods and services necessary to an act of infringement if they had knowledge that the recipient would use them for such a purpose.

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Protecting America's Intellectual Property

This Act also includes provisions to make it easier for the Department of Justice to prosecute copyright infringement cases because criminal copyright infringement actions no longer require pre-registration or registration of the copyright before filing suit. Another section of the Act allows copyright owners to impound records "documenting the manufacture, sale, or receipt of things" involved in the infringement, a change from the old law which was limited to infringing copies and articles from which those copies were made.

The Prioritizing Resources and Organization for Intellectual Property Act of 2008 was strongly supported by pharmaceutical companies, manufacturers, and the entertainment industry, as well as such groups as the Recording Industry Association of America (RIAA), the Software and Information Industry Association (SIIA), the U.S Chamber of Commerce, and the AFL-CIO. However, even the milder version of the law as enacted has drawn criticism. It has also been charged that the Act merely creates another layer of federal bureaucracy, and actually won't do much to protect intellectual property rights. Instead, it is claimed that it would make casual and innocent infringers liable for penalties far out of proportion to the offense, similar to a woman who in 2007 was ordered to pay \$220,000 in damages for sharing 24 songs on the Kazaa network.

This set includes the bill versions prepared prior to the passage of the Act, reports, congressional debate, and hearings. The related hearings section includes those held since the enactment of the Intellectual Property Protection and Courts Amendment Act of 2004. Previous hearings relating to the protection of intellectual property are listed in the bibliography, as are a large number of legal periodical articles dealing with copyright infringement, piracy, and counterfeit goods.

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