



2nd Global Congress on Combating Counterfeiting and Piracy

Presentation by Guy Sebban, Secretary General, International Chamber of Commerce

14 November 2005, Lyon France

- I am very pleased and very honoured to be here and to address this Congress as one of the representatives of the business community. Our organization, ICC, embodies companies of all sizes in all sectors, in every part of the world. As the Secretary General and spokesperson for this "World Business Organization", I am pleased to be able to share the podium with the many esteemed colleagues from intergovernmental organizations and national governments.
- I believe that the problem of counterfeiting and piracy is so serious that it will take an equally serious, long-term effort to stop it. And I believe that it will be essential that government and business work together – seriously – if we are going to have any real chance of success.
- In this respect, this Congress is a critical step towards uniting the key players in business and government around our common goal.

But, accomplishing our goals begins with an understanding that we must move past the abstract statements that have largely characterized the problem. We must put in place concrete actions. When we leave this Congress we should not forget that these actions must remain at the top of our priority list. We must respect the progress and commitments we make here in Lyon. We must take the steps necessary to ensure that intellectual property rights are respected and enforced. This is not an easy task!

- I would like now to address three main topics this morning:
 1. A key misconception about counterfeiting and piracy;
 2. Suggestions for steps forward on the part of national governments and intergovernmental organizations; and,
 3. Commitments that the business community will make as part of the ICC BASCAP initiative.



First, for any of us to move forward, I believe it is necessary to address one of the key misconceptions many groups have about the problem of counterfeiting and piracy. This faulty view is often contained in a question that we in the business community are frequently asked:

“Why should consumers really care about your corporate losses, if they can get products at a lower price? Why should consumers care about counterfeiting and piracy?”

- Certainly, part of the answer must acknowledge that counterfeiting and piracy is an economic problem. This is because intellectual property is an essential capital input that is just as important to business as concrete and steel. As companies seek to deliver products and services to consumers, we are investing more and more in “intellectual capital.” Therefore, for companies to continue to grow and to deliver goods and services, we must find a better way to protect this valuable asset from theft.

For example, creative industries, such as publishing, music, film, software and arts, are a powerful generator of economic growth and employment in both the developed and developing world. These industries alone are heavily reliant on copyright protection – *and*, they contributed more than €1.2 trillion to the EU’s economy and employed 5.2 million persons in 2000.

So yes, it is an economic problem. But it has also a social and developmental dimension. In fact, this is the root of the misconception about counterfeiting and piracy: The costs are not just economic -- they include dramatic social and developmental costs.

- For example, counterfeiting and piracy lead to widespread loss of lawful employment. This is not just a problem for business – it is a social problem and a developmental problem. The manufacture of fake goods strips jobs from the economy, and employees have no reliable income upon which to build a career or support their families. Employees have no benefits and no security. Furthermore, when these illegal factories close, so do the opportunities for wider economic development in the community.



International Chamber of Commerce

The world business organization

An ICC initiative

BASCAP

Business Action to Stop
Counterfeiting and Piracy

- It is also worth noting that counterfeiting and piracy lead to massive deterioration of tax revenues for governments. This is also a social problem and a developmental problem. When intellectual property is stolen, it deprives governments of revenues needed for other social priorities – like education and health care.

Counterfeits and pirated goods also have many direct and damaging consequences for consumers, such as poor product quality and no after sales service. This is not good for society – and clearly, society is at risk when products such as toys, food, beverages, airplane and car parts, and medicines are counterfeited without the quality and safety features of the originals.

- It is not surprising that businesses are less likely to transfer advanced technology or invest in production or R&D in countries where they are likely to have their products copied or technology stolen. I believe there is little question that a country's larger developmental objectives are undermined by the few illegitimate actors who steal intellectual property.
- And finally, trafficking in counterfeit goods is a relatively easy – and growing – criminal activity. Our friends at Interpol are finding that IP theft is profitable to criminals and often ends up financing other criminal activity. This is not good for business and it's not good for society at all.



International Chamber of Commerce
The world business organization

An ICC initiative

BASCAP
Business Action to Stop
Counterfeiting and Piracy

Therefore, the **second point** I would like to make today is that the business community is outspoken that counterfeiting and piracy are not good for business. It is *imperative* that governments recognize that counterfeiting and piracy are not good for governments. Not good for society and not good for development.

Only when policy-makers understand the full economic and social costs of counterfeiting and piracy can we expect IP enforcement to become a priority on government agendas.

That time is now... Governments must elevate the attention, commitment and resources towards the protection of this valuable asset.

With respect to the many intergovernmental organizations here today, the global business community is very pleased with the commitment you have demonstrated to combating counterfeiting and piracy, by creating task forces and devoting resources to these problems.

In this spirit, we call upon you to build upon your current successes:

- We must have the right legal framework - TRIPS
Clearly, the problem is a global, cross-border problem – and will require strong international tools of engagement before we can be effective at the national level. The WTO TRIPS Agreement is certainly an important place to focus our work. TRIPS is an attempt to narrow the gaps in the way IP rights are protected around the world – and to bring them under common international rules. However, while many WTO members have brought their laws into compliance with TRIPS, many others have significantly failed to meet those obligations in significant ways. The actual protection and enforcement of intellectual property rights on the ground in many countries fall far short of the standards contained in TRIPS. This trend needs to change and TRIPS implementation must become a priority worldwide.
- Law should be enforced
The lack of trained intellectual property judges or specialized IP courts also undermines enforcement efforts against counterfeiters. I am certain that organizations such as WIPO can assist us in highlighting the importance of continued judicial training in the field of intellectual property.



International Chamber of Commerce
The world business organization

An ICC initiative

BASCAP
Business Action to Stop
Counterfeiting and Piracy

- The first 2 points need strong intergovernmental cooperation
It is also imperative that the exchange and coordination of intelligence information between police operatives at the local, federal and international level be improved so as to facilitate enforcement action against transnational organized criminals involved in intellectual property crime. To this end, we applaud the activities of entities such as the Interpol Intellectual Property Crime Action Group – and we stand prepared to provide support to this effort.
- Customs officials should be trained
Likewise, we welcome the WCO's efforts to intensify its fight against the trafficking of counterfeit and pirated goods with the formation of its new task force on IPR protection. For this effort to be effective, it will be important that customs officials world wide to commit to training for product identification and to allocate the resources necessary to make border control an effective deterrent.
- The most visible part of government actions is interception and seizure of goods
Improving the interception of counterfeit and pirated goods within free trade zones and goods passing through for transshipment. We applaud the recent commitment made by the Dubai Customs Authority to create a specialized IP unit to combat the entry, exit and transshipment of such goods; and we encourage the World Customs Organization to continue to work with its members to facilitate more such initiatives.



International Chamber of Commerce
The world business organization

An ICC initiative
BASCAP
Business Action to Stop
Counterfeiting and Piracy

The third and final point I would like to communicate is on the part of the business community. The ICC has recently established the BASCAP initiative (Business Action to Stop Counterfeiting and Piracy) and we are committed to working with governments in every way possible to put an end to this illegal activity.

Members of BASCAP are companies, trade organizations and also governmental and intergovernmental organizations like WIPO and WTO, Interpol. We will continue to work with these organizations to bring together government and business leaders from around the world to assess current strategies and promote systems for improved IP protection.

We have decided to launch 4 products:

Product 1

We are mobilizing companies, large and small, to share information and to connect business-oriented strategies against counterfeiting and piracy, including the exchange of best practices.

Products 2 and 3

We are also initiating a public education campaign through the international media – to ensure that policy-makers understand the full social and economic costs of counterfeiting and piracy and to build public awareness so that consumers are better informed about the risks they face and the harmful costs of their behaviour on others.

Product 4

We are creating a set of counterfeiting and piracy indices to identify issues that deserve greater attention within national IP protection programmes; to highlight areas where a country might best allocate funding or political attention; and to showcase governments that have devoted resources to make progress.

Since 1919, the ICC has worked for our member companies to create an international market economy based on economic development, open international trade and investment, and sound market rules.



International Chamber of Commerce
The world business organization

An ICC initiative

BASCAP
Business Action to Stop
Counterfeiting and Piracy

On a daily basis, we tackle the spectrum of issues critical to global business, from trade and investment and sustainable development to international arbitration and customs reform.

With the formation of BASCAP, we are now prepared to tackle the critical economic dislocations posed by mass piracy and counterfeiting of intellectual property.

Conclusion

Counterfeiting and piracy are much more damaging than is currently understood. It is time that we all accept this threat to the world's intellectual property and create systems to enable our most precious capital flourish.

:-:-:-:-: