March 24, 2010

Ms. Victoria Espinel
Executive Office of the President
Office of Management and Budget
Office of the Intellectual Property Enforcement Coordinator
725 17th Street, NW
Washington, District of Columbia 20503

RE: Federal Register, Vol. 75, No. 35, Tuesday, February 23, 2010; Notice from the Intellectual Property Enforcement Coordinator Requesting Written Submissions Regarding the Joint Strategic Plan (the "Notice")

Dear Ms. Espinel,

Intellectual Property Owners Association (IPO) appreciates being given the opportunity to provide comments in response to the above referenced request. IPO, established in 1972, is a trade association for companies, inventors, law firms and others who own or are interested in patents, trademarks, copyrights and trade secrets. IPO is the only association in the United States (U.S.) that serves all intellectual property owners in all industries and all fields of technology. Governed by a 50-member corporate board of directors, IPO advocates effective and affordable intellectual property (IP) ownership rights in the U.S. and abroad on behalf of its more than 200 corporate members and more than 11,000 individuals involved in the association.

As the United States is a leader in fostering the creation and protection of intellectual property, IPO recognizes the challenges in ensuring effective enforcement of those rights as economies become increasingly global and subject to diverging local interests. Nevertheless, it is critical that U.S. intellectual property practices remain a gold standard throughout the world, and that the U.S. Government serves as a catalyst for improvements to intellectual property laws and enforcement worldwide. In today's struggling economy, U.S. intellectual property assets, which remain among the most valuable and innovative in the world, have the potential to help to secure America's economic future and drive sustainable job growth, but only if those assets are safeguarded against widespread theft.

1501 M Street, NW, Suite 1150 ● Washington, DC 20005
T: 202-507-4500 ● F: 202-507-4501 ● E: info@ipo.org ● W: www.ipo.org

As is no doubt widely recognized, one of the intellectual property issues being faced in the U.S. is trademark counterfeiting (in addition to, or as a subset of, trademark infringement and dilution), which occurs when a mark is copied for use on an imitation product usually with the intent of fraudulently passing it off as genuine – *i.e.*, a fake. As has been widely publicized, trademark counterfeiting is no longer limited to knock-off luxury brand items, such as fake Rolex® watches or Louis Vuitton® purses. It is an issue that impacts a broad spectrum of domestic trade endeavors, including such diverse industries as medical technology, pharmaceuticals, and the automotive and aviation industries, to name just a few, and carries with it the potential for catastrophic consequences for the ultimate consumer.

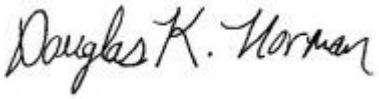
IPO supports government and industry working together to address the spread of counterfeit and pirated products in the U.S. and throughout the world. Certainly, we would like to note the hard work and commitment made by U.S. Customs in its efforts to identify what may be trademark counterfeit products crossing U.S. borders. In order to support their vast and important efforts, continued resources and training will, no doubt, be needed, as well as an emphasis on consumer education.

In response to Part 2 of the Notice, we would like to take this opportunity to raise a practice currently employed by U.S. Customs and Border Protection (CBP) that has become an impediment to effective counterfeit enforcement measures to both CBP and brand owners in their efforts to address trademark counterfeiting. Specifically, despite being frequently asked by CBP investigators to determine whether a particular seized product is genuine or counterfeit, trademark and/or brand owners are no longer being provided with identifiable product markings and/or product codes appearing on the product in question. Instead, the common practice is to send a photograph or photocopy of the seized item to the brand owner with the identifiable product markings or product codes redacted to render them illegible to anyone, let alone the brand owner who likely is the best source to confirm whether a seized article is genuine or fake.

Thus, the hands of the brand owners are tied as, quite often, such information is absolutely necessary for determining the status of the product, especially as products become more and more complex and the global distribution channels expand in support of a global economy. As a result of this information loophole, counterfeit products may be released into the U.S. marketplace simply because the appropriate information was not provided to the brand owner by CBP's current practice. IPO respectfully requests that this loophole be closed so that trademark/brand holders are provided with the information necessary to support CBP in determining whether a product is genuine or counterfeit. Resolving this issue, by clarifying that the disclosure of product markings would not be a violation of 18 U.S.C. §1905 (whether through the CBP Re-authorization Act, the Tariff Act, or some other regulatory or legislative means) would greatly enhance communication between trademark rights holders and CBP and promote the effectiveness of U.S. border enforcement efforts.

IPO looks forward to working with the office of IPEC and would welcome the opportunity to provide further comment and insight as the Joint Strategic Plan develops.

Sincerely,



Douglas K. Norman
President