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CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 5, 2008

H.R. 4279
Prioritizing Resources and Organization for
Intellectual Property Act of 2008

As ordered reported by House Committee on the Judiciary on April 30, 2008

SUMMARY

H.R. 4279 would authorize additional resources for the Executive Office of the President, the Patent and Trademark Office (PTO), and the Department of Justice (DOJ) to enforce intellectual property laws and to reduce counterfeiting and piracy of protected intellectual property. CBO estimates that implementing the bill would cost \$435 million over the 2009-2013 period, subject to the appropriation of the necessary amounts. The legislation could affect direct spending and revenues, but we estimate that any such effects would be less than \$500,000 annually.

H.R. 4279 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 4279 is shown in the following table. The costs of this legislation fall within budget functions 750 (administration of justice), 370 (commerce and housing credit), and 800 (general government).

	By Fiscal Year, in Millions of Dollars				
	2009	2010	2011	2012	2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Title III: Executive Office of the President Enforcement Activities					
Estimated Authorization Level	10	15	20	25	30
Estimated Outlays	9	14	19	24	29
Title IV: PTO Enforcement Activities					
Estimated Authorization Level	12	18	18	20	20
Estimated Outlays	10	17	18	19	20
Title V: DOJ Enforcement Activities					
Estimated Authorization Level	62	67	72	72	47
Estimated Outlays	22	43	58	66	67
Total Changes					
Estimated Authorization Level	84	100	110	117	97
Estimated Outlays	41	74	95	109	116

Note: PTO = Patent and Trademark Office; DOJ = Department of Justice.

BASIS OF ESTIMATE

For this estimate CBO assumes that the bill would be enacted by the beginning of fiscal year 2009.

Spending Subject to Appropriation

CBO estimates that implementing the bill would cost \$435 million over the 2009-2013 period, subject to the appropriation of the necessary amounts. Those amounts would be used to enhance activities to enforce intellectual property rights by the Executive Office of the President, PTO, and DOJ.

Title III: Executive Office of the President Enforcement Activities. Title III would establish an Office of the United States Intellectual Property Enforcement Representative within the Executive Office of the President. The representative would be appointed by the President and confirmed by the Senate to advise the President and report to the Congress. The representative would develop, coordinate, and provide recommendations on governmentwide

policies for enforcing intellectual property rights, including the protection of copyrights, patents, and trademarks, both within the United States and abroad. In addition, the representative would chair an interagency committee and be primarily responsible for developing and implementing a plan for eliminating counterfeiting and piracy of intellectual property.

Based on the costs of similar offices and programs, CBO estimates that the new office would need about \$30 million a year to carry out its responsibilities under title III. CBO expects that the office would steadily expand its staff over the next five years to reach that level of effort. We estimate that implementing title III would cost \$95 million over the 2009-2013 period, assuming appropriation of the necessary amounts.

Title IV: PTO Enforcement Activities. Title IV would authorize the Department of Commerce to appoint at least 10 intellectual property attachés to serve in United States embassies or other diplomatic missions. The attachés would work with foreign governments to enforce intellectual property laws generally and to reduce counterfeiting and piracy of protected intellectual property. The Patent and Trademark Office (PTO) would be responsible for training the attachés and providing managerial and administrative support.

The bill would authorize the appropriation of such sums as necessary for both the intellectual property attachés authorized by title IV as well as other Department of Commerce personnel already serving as intellectual property attachés. Currently, eight attachés are working in Brazil, China, Egypt, India, Russia, and Thailand at a cost of about \$8 million a year. Based on that cost, CBO estimates that implementing title IV of the bill would cost \$84 million over the 2009-2013 period, assuming appropriation of the necessary amounts.

Title V: DOJ Enforcement Activities. Title V would reorganize DOJ's activities involving enforcement of intellectual property rights, authorize additional resources for attorneys and the Federal Bureau of Investigation (FBI), and authorize state grants to combat cyber-crime (crime related to computer and Internet activities). CBO estimates that implementing title V would cost \$256 million over the 2009-2013 period, subject to the appropriation of the necessary amounts.

DOJ Intellectual Property Enforcement Division and FBI Unit. Title V would create an Intellectual Property Enforcement Division within DOJ. Existing DOJ activities relating to the criminal enforcement of intellectual property rights and trade secrets would be transferred to the new division. Under the bill, the head of the division would be the Intellectual Property Enforcement Officer, who would be responsible for coordinating efforts at DOJ for combating counterfeiting and piracy of intellectual property and serving as the DOJ liaison to the Office of the United States Intellectual Property Representative. Because most of the activities of the new division are being performed under current law, CBO estimates that the cost for

creating this new division would be less than \$500,000 a year over the 2009-2013 period, subject to the availability of appropriated funds. Most of that amount would be for hiring the Enforcement Officer and for other administrative costs.

Title V also would create an operational unit of not less than five agents at the FBI headquarters to work with the new DOJ division to coordinate complex, multidistrict, and international intellectual property cases. CBO estimates that hiring five new agents would cost about \$5 million over the 2009-2013 period.

Expansion of Computer Hacking and Intellectual Property (CHIP) Units. The bill would create 10 new CHIP units in different federal judicial districts in addition to the 25 existing units. CHIP units, currently staffed by approximately 80 Assistant United States Attorneys (AUSAs) nationwide, are located in regions that experience a high incidence of intellectual property and cyber-crime. Enforcement activities are supported by FBI agents. CBO estimates that creating the new CHIP units would involve hiring 40 new AUSAs, 20 new FBI agents, and 10 additional support staff.

The bill also would expand the size of the existing CHIP units by adding at least 25 AUSAs and 50 supporting FBI agents. Based on personnel cost information provided by DOJ, CBO estimates that the cost to create and expand CHIP operations would total \$77 million over the 2009-2013 period.

State Grants for Cyber-Crime. Title V would authorize the appropriation of \$25 million annually over the 2009-2013 period for DOJ to make grants to states for programs to combat computer crime. Title V also would authorize the appropriation of \$25 million annually over the 2009-2012 period for grants to state and local governments for programs to combat intellectual property crimes. Assuming appropriation of the authorized amounts, CBO estimates that implementing those provisions would cost \$162 million over the 2009-2013 period.

International Intellectual Property Law Enforcement Coordinators. The bill would require the deployment of five additional coordinators in addition to those serving under current law. The coordinators manage U.S. law enforcement activities to combat intellectual property crimes in foreign countries. Based on information provided by DOJ, increasing the number of coordinators would cost \$12 million over the 2009-2013 period.

Direct Spending and Revenues

H.R. 4279 would increase civil damages and penalties for certain intellectual property offenses. Criminal fines are recorded as revenues, deposited into the Crime Victims Fund, and later spent. In addition, proceeds from forfeited cash and the sale of assets are recorded as revenues, deposited into the Assets Forfeiture Fund, and spent mostly in the same year. Thus, enacting H.R. 4279 could increase revenues and direct spending; however, CBO expects that any such impact would not be significant.

Title III would allow the Office of the United States Intellectual Property Enforcement Representative to accept and use gifts, and therefore, the legislation could increase revenues and direct spending. However, CBO estimates that any revenues from contributions and subsequent direct spending would be less than \$500,000 annually.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 4279 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit state and local law enforcement agencies by authorizing grants for enforcement and prosecutorial activities.

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