

HEINONLINE

Citation: 3 Protecting America's Intellectual Property A
History of the Pro IP Act of 2008 William H. Manz ed.
2009

Content downloaded/printed from
HeinOnline (<http://heinonline.org>)
Tue Apr 23 13:18:36 2013

- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at <http://heinonline.org/HOL/License>
- The search text of this PDF is generated from uncorrected OCR text.



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 1, 2008

S. 3325

Enforcement of Intellectual Property Rights Act of 2008

As reported by the Senate Committee on the Judiciary on September 15, 2008

SUMMARY

S. 3325 would authorize additional resources for the Executive Office of the President 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 \$429 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 impact would not be significant.

S. 3325 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 3325 is shown in the following table. The costs of this legislation fall within budget functions 750 (administration of justice) and 800 (general government).

	By Fiscal Year, in Millions of Dollars					2009- 2013
	2009	2010	2011	2012	2013	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Intellectual Property Enforcement Coordinator						
Estimated Authorization Level	10	15	20	25	30	100
Estimated Outlays	9	14	19	24	29	95
Department of Justice Enforcement Activities						
Estimated Authorization Level	83	84	85	85	85	422
Estimated Outlays	39	60	71	79	85	334
Total Changes						
Estimated Authorization Level	93	99	105	110	115	522
Estimated Outlays	48	74	90	103	114	429

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the beginning of fiscal year 2009.

Spending Subject to Appropriation

CBO estimates that implementing S. 3325 would cost \$429 million over the 2009-2013 period, subject to 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 and DOJ.

Intellectual Property Enforcement Coordinator. Title IV would establish an Intellectual Property Enforcement Coordinator within the Executive Office of the President. The coordinator would be appointed by the President and confirmed by the Senate and would report to the President and the Congress. The coordinator would provide guidance 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 coordinator would chair an interagency committee and be primarily responsible for developing and implementing a plan for eliminating counterfeiting and infringement of intellectual property.

Based on the costs of similar offices (such as the United States Trade Representative) and programs, CBO estimates that the new office would need about \$30 million a year to fully carry out its responsibilities under title IV. CBO expects that the office would steadily expand its staff over the next three years to reach that level of effort. We estimate that implementing title IV would cost \$95 million over the 2009-2013 period.

DOJ Enforcement Activities. Title V would strengthen DOJ's efforts to enforce intellectual property rights, authorize additional resources for attorneys and Federal Bureau of Investigation (FBI) agents, and authorize state grants to combat cyber-crime (crime related to computer and Internet activities). CBO estimates that implementing title V would cost \$334 million over the 2009-2013 period.

Resources for Attorneys and FBI Agents. Title V would authorize the appropriation of \$32 million a year over the 2009-2013 period to:

- Hire and train law-enforcement officers for the FBI and DOJ's criminal division to investigate cyber-crime;
- Create an operational unit of not fewer than 10 agents at the FBI headquarters that would work with DOJ's computer crime and intellectual property section to coordinate cases;
- Support any DOJ unit with at least two FBI agents (in addition to any agent currently supporting such a unit) who would be responsible for investigating computer hacking or intellectual property crimes; and
- Assign at least two Assistant United States Attorneys to nationwide computer hacking and intellectual property (CHIP) units.

CBO estimates that implementing those activities would cost \$155 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 2009-2013 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 \$167 million over the 2009-2013 period.

International Intellectual Property Law-Enforcement Coordinators. S. 3325 would require the deployment of five additional coordinators in addition to those serving under current law to combat intellectual property crimes in foreign countries. Based on information provided by DOJ, increasing the number of such coordinators would cost \$12 million over the 2009-2013 period.

Direct Spending and Revenues

S. 3325 would increase civil damages and criminal penalties for certain intellectual property offenses. Criminal fines are recorded as revenues, deposited into the Crime Victims Fund, and later spent. In addition, convicted offenders would be subject to seizure of certain assets. 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 S. 3325 could increase revenues and direct spending; however, CBO expects that any net impact would not be significant.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 3325 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 certain activities.

PREVIOUS CBO ESTIMATE

On May 5, 2008, CBO transmitted a cost estimate for H.R. 4279, the Prioritizing Resources and Organization for Intellectual Property Act of 2008, as ordered reported by the House Committee on the Judiciary on April 30, 2008. Although the bills are similar, H.R. 4279 contains additional authorizations of appropriations for intellectual property attaches within the Patent and Trademark Office and for new CHIP units. H.R. 4279 also includes a provision, not in S. 3325, that would allow the new Executive Office of the President position to accept and spend donations. CBO's cost estimates for the bills reflect those differences.

ESTIMATE PREPARED BY:

Federal Costs: Leigh Angres, Mark Grabowicz, and Matthew Pickford
Impact on State, Local, and Tribal Governments: Melissa Merrell
Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

Theresa Gullo
Deputy Assistant Director for Budget Analysis

