

Protecting Intellectual Rights Against Theft and Expropriation Act.

• SECTION 1. SHORT TITLE.	1
• SEC. 2. AUTHORIZATION OF CIVIL COPYRIGHT ENFORCEMENT BY ATTORNEY GENERAL.	1
• SEC. 3. AUTHORIZATION OF FUNDING FOR TRAINING AND PILOT PROGRAM.	3

108th CONGRESS

2d Session

S. 2237

IN THE HOUSE OF REPRESENTATIVES

June 25, 2004

Referred to the Committee on the Judiciary

AN ACT

To amend chapter 5 of title 17, United States Code, to authorize civil copyright enforcement by the Attorney General, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. ➡

This Act may be cited as the `Protecting Intellectual Rights Against Theft and Expropriation Act of 2004'.

SEC. 2. AUTHORIZATION OF CIVIL COPYRIGHT ENFORCEMENT BY ATTORNEY GENERAL. ➡

- a. IN GENERAL- Chapter 5 of title 17, United States Code, is amended by inserting after section 506 the following:

`Sec. 506a. Civil penalties for violations of section 506

- a. **IN GENERAL-** The Attorney General may commence a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 506. Upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty under section 504 which shall be in an amount equal to the amount which would be awarded under section 3663(a)(1)(B) of title 18 and restitution to the copyright owner aggrieved by the conduct.
- b. **OTHER REMEDIES-**
 1. **IN GENERAL-** Imposition of a civil penalty under this section does not preclude any other criminal or civil statutory, injunctive, common law or administrative remedy, which is available by law to the United States or any other person;
 2. **OFFSET-** Any restitution received by a copyright owner as a result of a civil action brought under this section shall be offset against any award of damages in a subsequent copyright infringement civil action by that copyright owner for the conduct that gave rise to the civil action brought under this section.'
- b. **DAMAGES AND PROFITS-** Section 504 of title 17, United States Code, is amended--
 1. in subsection (b)--
 - A. in the first sentence--
 - i. by inserting `, or the Attorney General in a civil action,' after `The copyright owner'; and
 - ii. by striking `him or her' and inserting `the copyright owner'; and
 - B. in the second sentence by inserting `, or the Attorney General in a civil action,' after `the copyright owner'; and
 2. in subsection (c)--
 - A. in paragraph (1), by inserting `, or the Attorney General in a civil action,' after `the copyright owner'; and
 - B. in paragraph (2), by inserting `, or the Attorney General in a civil action,' after `the copyright owner'.
- c. **TECHNICAL AND CONFORMING AMENDMENT-** The table of sections for chapter 5 of title 17, United States Code, is amended by inserting after the item relating to section 506 the following:

`506a. Civil penalties for violation of section 506.'.

SEC. 3. AUTHORIZATION OF FUNDING FOR TRAINING AND PILOT PROGRAM. ➡

- a. TRAINING AND PILOT PROGRAM- Not later than 180 days after enactment of this Act, the Attorney General shall develop a program to ensure effective implementation and use of the authority for civil enforcement of the copyright laws by--
 1. establishing training programs, including practical training and written materials, for qualified personnel from the Department of Justice and United States Attorneys Offices to educate and inform such personnel about--
 - A. resource information on intellectual property and the legal framework established both to protect and encourage creative works as well as legitimate uses of information and rights under the first amendment of the United States Constitution;
 - B. the technological challenges to protecting digital copyrighted works from online piracy;
 - C. guidance on and support for bringing copyright enforcement actions against persons engaging in infringing conduct, including model charging documents and related litigation materials;
 - D. strategic issues in copyright enforcement actions, including whether to proceed in a criminal or a civil action;
 - E. how to employ and leverage the expertise of technical experts in computer forensics;
 - F. the collection and preservation of electronic data in a forensically sound manner for use in court proceedings;
 - G. the role of the victim copyright owner in providing relevant information for enforcement actions and in the computation of damages; and
 - H. the appropriate use of injunctions, impoundment, forfeiture, and related authorities in copyright law;
 2. designating personnel from at least 4 United States Attorneys Offices to participate in a pilot program designed to implement the civil enforcement authority of the Attorney General under section 506a of title 17, United States Code, as added by this Act; and
 3. reporting to Congress annually on--
 - A. the use of the civil enforcement authority of the Attorney General under

section 506a of title 17, United States Code, as added by this Act; and

- B. the progress made in implementing the training and pilot programs described under paragraphs (1) and (2) of this subsection.
- b. ANNUAL REPORT- The report under subsection (a)(3) may be included in the annual performance report of the Department of Justice and shall include--
 - 1. with respect to civil actions filed under section 506a of title 17, United States Code, as added by this Act--
 - A. the number of investigative matters received by the Department of Justice and United States Attorneys Offices;
 - B. the number of defendants involved in those matters;
 - C. the number of civil actions filed and the number of defendants involved;
 - D. the number of civil actions resolved or terminated;
 - E. the number of defendants involved in those civil actions;
 - F. the disposition of those civil actions, including whether the civil actions were settled, dismissed, or resolved after a trial;
 - G. the dollar value of any civil penalty imposed and the amount remitted to any copyright owner; and
 - H. other information that the Attorney General may consider relevant to inform Congress on the effective use of the civil enforcement authority;
 - 2. a description of the training program and the number of personnel who participated in the program; and
 - 3. the locations of the United States Attorneys Offices designated to participate in the pilot program.
- c. AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated \$2,000,000 for fiscal year 2005 to carry out this section.

Passed the Senate June 25, 2004.

Attest:

EMILY J. REYNOLDS,

Secretary.