



# THE Connection

Official Newsletter of the Georgia Association of Professional Private Investigators, Inc.

## UPCOMING MEETINGS

The Next  
GAPPI Atlanta  
Chapter Meeting  
September 14, 2010  
at Ryan's Restaurant  
705 Jimmy Carter Blvd.  
Norcross  
(770) 840-9096

Networking and lunch from  
11:30 a.m.—12:00 noon  
Meeting from  
12:00 noon—1 p.m.

The cost is \$15.00 for GAPPI  
members

\$20 for non-members  
(includes lunch and beverage)

\$10 Training only  
(lunch not included)

Students and potential members are  
always welcome.

"We look forward to seeing  
you all there!"

## Intellectual Property Investigations a Growing Practice for Private Investigators

posted by PInow.com Staff | July 8th, 2010

*Editor's note: This is the first article in a two-part series covering intellectual property (IP) investigations. In this article you'll learn what IP investigation is and why private investigators should consider getting involved. In the second article (which begins on page 3), we'll give you tips on how to enter the growing practice.*

According to the World Intellectual Property Organization, intellectual property (IP) consists of "creations of the mind." These include inventions, literary and artistic works, and designs and images used by businesses. The main types of IP are patents, trademarks, designs, and copyrights. Inventors and creators are entitled to earn profits from their IP. Unfortunately, while some forms of IP are not as tangible as other forms of property such as land, there is a growing problem of outright theft of IP worldwide.

To assist individuals and businesses with protecting their IP rights, IP investigators typically provide the following services for brand owners, law firms, and trademark attorneys:

- \* trademark research
- \* audit of royalties
- \* forensic analysis of seized computer evidence
- \* service of Cease and Desist letters

But with the globalization of trade, IP has become more at risk for theft through counterfeiting and piracy. IP investigators have moved out of the office and into the streets and cyberspace.

### What types of IP are criminals targeting?

Counterfeiting and piracy are the two main categories of IP crimes worldwide. Counterfeiting involves branded goods protected by trademarks such as clothing, footwear, and pharmaceuticals. Piracy involves items protected by copyright such as music, film, computer games, and software. Other crimes include the unlawful sale of trade secrets and product creation processes.

The size and scope of these crimes have grown in recent years. Consider the following statistics from the International AntiCounterfeiting Coalition:

- \* Counterfeiting has grown over 10,000% in two decades, costing U.S. businesses at least \$200 billion annually
- \* Since 1982, the global trade in illegitimate goods has increased from \$5.5 billion to approximately \$600 billion annually

According to U.S. Customs, the number one counterfeited item seized in the last few years continues to be footwear. However, there are many other products increasingly counterfeited. Stuart Drobny is president of Stumar Investigations and has more than 25 years of experience in various fields of investigation. One of his firm's specialties is IP anti-counterfeiting/fraud. Counterfeit products that he

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frequently encounters include luxury items (handbags), clothing, printers/toners, car parts, jewelry/watches, cell phone accessories, and tools.

These crimes do not just affect the financial profits of businesses. They also pose a threat to health and safety as well. The Federal Drug Administration estimates that counterfeit drugs account for 10% of all drugs sold in the United States. The World Health Organization estimates that as much as 50% of medicines purchased over the Internet are counterfeit.

**Where is IP crime prevalent, and why is it spreading so quickly?**

The United State Trade Representative's annual Special 301 Report regarding the adequacy and effectiveness of IP rights protection by U.S. trading partners in 77 countries lists several countries in its Priority Watch List. These include China, India, Indonesia, Russia, and Venezuela. According to U.S. Customs, seizures of IP-infringing products from China accounted for 79% of the total domestic value of all IP seizures. But even European countries have problems with enforcing IP rights when it comes to the illegal sharing and downloading of files online.

When asked what country or region he considered a hotbed for IP crimes, Drobny replied that in the manufacturing area, China, the Eastern Bloc, Mexico, the U.K., and Central Africa are leading countries or regions. But he also observed that when it comes to sales, IP crimes are global. He also added that counterfeit pharmaceuticals come mainly from Third World countries.

To add to the spread of IP crimes, a growing trend involves organized criminals using profits from counterfeit and/or pirated products to fund other criminal activities such as terrorism and drug trafficking. This is due to the high financial returns with low investment and low risk of law enforcement attention inherent in IP crimes. In fact, penalties imposed in many countries are too low to offer any form of deterrence. Drobny has been working with Pennsylvania legislators to gain passage of a new criminal statute that would strengthen Pennsylvania's trademark counterfeiting law. Currently, law enforcement agents are limited to charging a trademark counterfeiting case as a misdemeanor.

**Who hires IP investigators?**

While some potential clients seek preventive services in order to avoid IP infringements before they occur, most will approach an IP investigator after their IP rights have been violated. Drobny estimates that about 90% of his clients come to him after they already have an IP problem while 10% are looking for ways to prevent potential IP infringements in advance.

The type and size of clients will vary. While IP thefts and infringements tend to affect mostly the big brand names and companies, smaller businesses can also be the target of IP theft. Drobny's clients range from startups to Fortune 500 companies. But he also says that small companies within the apparel industry are frequent victims of IP crimes.

IP crimes are expected to continue growing until tougher laws are adopted and enforced worldwide. Until then, private investigators may want to consider offering IP investigation services to assist their clients and law enforcement in the continuing battle against IP crimes worldwide.

*Part 2 will discuss issues to consider when deciding to offer IP investigation services and tips from Stuart Drobny.*

**Written by: Cynthia Padilla**

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# 7 Tips for Private Investigators Looking to Offer Intellectual Property Investigations

posted by PInow.com Staff | July 14th, 2010

*Editor's note: This is the second article in a two-part series covering intellectual property (IP) investigations. The first article covered what IP investigation is and why private investigators should consider getting involved. In this article, we'll give you several tips on how to enter the growing practice.*

If you would like to offer IP investigation services, you need to be aware of certain issues. Even if you are not thinking about offering this service, you never know when you will encounter a potential client with IP problems. Stuart Drobny of Stumar Investigations admits that he got involved in IP investigations by accident when a client approached him and he had never done IP investigations before. The same could happen to you. Here are some tips to get you started:

## **1. Make sure you can do undercover work**

When asked what skills are important for a private investigator to have in order to be an effective IP investigator, Drobny listed the ability to blend in and assume an identity for undercover work. When combating counterfeiting and piracy, typical work for IP investigators includes extensive surveillance and field work investigating stores, marketplaces, swap meets, and other sites for evidence of the selling of counterfeit products. The investigator then goes undercover and purchases the counterfeit products for evidence and to identify the parties involved in the counterfeiting operation. This is sometimes referred to as a "trap" purchase.

## **2. Understand finances, the economy, and how businesses work**

You need to be aware of your clients' businesses and understand the financial repercussions of IP theft. You also need to understand how the economy and trade of IP products work. Also be aware of common and popular luxury items and brands that are frequently counterfeited. Keep abreast of current IP crime cases. Read domestic and international government and law enforcement sites for statistics, investigation news about seizures/arrests, and information on combating counterfeiting and other IP crimes. Subscribe to the sites' updates and alerts.

**3. Know enough about intellectual property to perform necessary field work and gather evidence** While you do not need to know all the specifics about intellectual property, you do need to understand how IP crimes are committed in order to properly conduct investigations. For example, in order to identify all parties involved in a counterfeiting operation, you will need to conduct supply chain investigations to find not just the sellers but also the manufacturers, distributors, packagers, and others involved.

You should also be familiar with identifying counterfeit products and gathering evidence. Gathering evidence for criminal and/or civil litigation arising from IP crimes is very important. To assist in the obtaining of evidence, IP investigators frequently accompany and assist local and federal law enforcement in counterfeit raids. Drobny typically will begin an investigation and then turn it over to law enforcement. But he says that the IP investigator is still needed for identification of counterfeit products and handling of evidence.

## **4. It is helpful to have a law enforcement and/or criminal justice background**

While not necessary, Drobny says it is helpful if an IP investigator and/or his staff have a background or education in law enforcement or criminal justice. Many IP investigators come from these backgrounds, including some of Drobny's staff.

Understanding criminal law is also important with the growing problem of terrorist groups and organized crime

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syndicates using profits from IP crimes in order to fund other criminal activities and operations. According to INTERPOL, 12% of IP theft cases worldwide are linked to areas of organized crime.

#### **5. Make sure you are equipped for investigating IP rights worldwide**

The fact that IP crimes are global makes it essential that you are able to conduct international IP investigations. You will need to have contacts worldwide who have local knowledge of the laws and customs. Drobny has a worldwide network that he works with. He is also a member of the World Association of Detectives. It is important that you network and form partnerships with your colleagues overseas. Knowing a foreign language is also advisable. Drobny and his staff speak several foreign languages.

#### **6. You will also do “non-field” work**

As Drobny points out, online counterfeiting is just as big of a problem as “offline” counterfeiting. All kinds of counterfeit products are sold online, especially fake medications and luxury items. One of the services that Drobny and most other IP investigators perform is monitoring online auction websites for counterfeit products.

But the problem goes beyond online auction sites. Some online counterfeit rings are comprised of numerous websites selling counterfeit goods through hundreds and thousands of domain names. Investigators need to be able to connect the dots between owners of the multiple websites and domain names.

#### **7. Join organizations and visit websites that will assist you with your IP investigations**

Drobny belongs to many organizations related to IP including the International AntiCounterfeiting Coalition and the International Intelligence Network. He also belongs to some groups on LinkedIn such as the Intellectual Property Professionals, Pharma Anti-Counterfeiting, and Licensing, Merchandising & Brand Management. Consider joining these and other groups that will help you stay informed about IP issues and crimes. Drobny also recommends looking at relevant websites such as U.S. Customs and the International AntiCounterfeiting Coalition.

#### **Other useful websites include:**

- \* Computer Crime & Intellectual Property Section of the U.S. Department of Justice
- \* U.S. Food and Drug Administration (Counterfeit Medicine)
- \* U.S. Immigration and Customs Enforcement
- \* U.S. Patent and Trademark Office
- \* American Bar Association (International Law Section, International IPR Advisory Program)
- \* World Intellectual Property Organization
- \* INTERPOL

#### **Other tips from Stuart Drobny**

- \* Always handle your work in a professional manner
- \* Be properly licensed in the areas you are doing your work in
- \* Know the local resources that can assist you with your investigations

#### **Written by: Cynthia Padilla**

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## What does GAPPI do for you?

Well one of the most important membership benefits is **legislative advocacy**, designed to help us protect our industry and livelihood. The 2010 Legislative Session was one where several pieces of legislation could have adversely impacted your business. Having a presence at the State Legislative Level is extremely important but we can't do it without your help.

In the coming months we will begin laying out our legislative agenda and working to be more proactive on legislation that can impact GAPPI members. In order to be effective in our efforts we will need your help. It may come in the form of contacting your legislator, contributing to our Political Action Committee, going down to the State Capitol to give testimony at a committee hearing or all of the above.

We know that times are tough and your time is valuable, but we would hope that you will contribute a little of your time and resources so we can be an asset to our legislators. Just remember, without representation you leave your fate in the hands of those who may not have your best interest in mind!