

Your step-by-step guide to IP lobbying

As IP issues move up the political agenda IP owners and their lawyers have their biggest opportunity yet to influence the policy making process. **Emma Barraclough** and **Eileen McDermott** explain how to do it

Pig farmers protesting in Munich, anti-software patent activists kayaking around Strasbourg, copyright-campaigning orchestras playing on Capitol Hill and now illicit downloaders forming their own political parties: things aren't what they used to be for IP owners. Gone are the days when lobbyists could rely on shaping the finer details of IP policy over a cappuccino with European Commission officials in Brussels or a beer with a Congressional staffer in Washington DC.

In part the new policy-making climate reflects the success IP owners have had in putting intellectual property on the political agenda: by stressing its importance to society and the economy, an area of policy that was previously seen as purely technical has been opened to scrutiny from a far wider range of people. Now campaigners have wholeheartedly joined in the debate and the growth of web 2.0 tools such as Twitter and social networking sites means that grassroots activists can mobilise and conduct campaigns in a way that was impossible even five years ago.

Since politicians and regulators want to be seen to be taking action on IP issues that have made it onto the political agenda, from copyright reform to access to medicines, it is more important than ever that IP owners get involved with the policy-making process, from preparing amicus briefs to working with cross-industry groups. To help you be as effective as possible, *Managing IP* has prepared a step-by-step guide to lobbying. Get ready to make your case.

Marshall a range of talents

Building a lobbying team that balances political clout with legal expertise is key, says Laurie Self of Covington & Burling who represents a number of clients in lobbying efforts: "We don't focus purely on the politics of a campaign. We also staff people with legal knowledge and IP background. On patent reform for example, there are dozens of lobbyists working the issue, but few have IP experts on their teams. We've always approached it from both sides." IP legislation can be so enormously complex and if you get it wrong it can have big ramifications for the client, she adds.

Lobbyists should also ensure that people from businesses with first-hand experience of the issues should meet with decision makers. Tom DiLenge, general counsel at the Biotechnology Industry Organization (BIO), which, according to Open Secrets, has spent \$3,720,000 on lobbying so far in 2009, says that one of BIO's key tactics is to let legislators hear directly from their constituents. BIO recently played an instrumental role in securing a 12-year data exclusivity period for patents on biologics and DiLenge says the victory was due in part to the organisation's comprehensive approach. "We solicit the help of not just our big member companies, but also smaller, emerging companies [which comprise 85% of BIO's member-



ship]. We also have affiliates in virtually every state of the country and we bring them to Washington every year to help us lobby. Members of Congress want to hear from their constituents and we serve as a coordinating body for that.”

Ilias Konteas, a senior adviser at BusinessEurope, agrees: “Although I find it is more effective to lobby for change as part of an industry association, politicians always want to know what individual companies think and to hear their experiences.”

When it comes to making contact, a letter setting out the issues can be helpful but you should aim to meet soon after. “I liked to meet people [who wanted to discuss IP policy] as soon as possible,” says Ron Marchant, former head of the UK IP Office and on the receiving end of lobbying efforts himself. “You need to talk to people to find out what they’re thinking.”

Provide solutions

Policy makers almost always make proposals that are designed to benefit the public – a fact often overlooked by lobbyists who can adopt an adversarial approach.

“Come with good analysis and proposed solutions. From my experience in government, advocates are often only prepared with ‘please don’t’. This creates a lot of anxiety for policy makers and isn’t helpful,” says Thaddeus Burns, senior counsel, IP and trade at GE and former IP attaché to the WTO and WIPO for the USTR. “You need to stand outside of your own concerns and have fundamental respect for the policy objectives they are trying to achieve. Then you need to be creative about how to achieve the objective without unintended consequences. The IP system is so complex and finely tuned, almost any change will reverberate in ways that policy makers can’t anticipate. Our job is to help them understand all the connections with economics, health, environment, whatever.”

Ron Marchant stresses how important it is for those seeking to influence policy to anticipate the needs of officials. “We need lobbyists to say ‘I see where you’re coming from,’” he says. “Don’t confuse the issue with your solution to it.” Olivia Regnier, regional counsel for the music industry association IFPI, says that her organisation tries to be as proactive as possible when it comes to shaping policy. “We come not just with a problem but also with a solution. That way we are showing that we don’t just make a lot of noise and expect them to do all the work – we have data and ideas about how things should go.”

Keep in touch

Companies and associations that want to influence policy should make an effort to build long-term relationships with politicians and officials. It may sound obvious, but many organisations realised that they had spent insufficient time cultivating contacts when they were outflanked by activists in the hard-fought battle over the computer-implemented inventions (CII) directive (see page 42). “We learnt that we need to be proactive not reactive, especially when reaching out to the European Parliament. If you’re reactive there’s inevitably a time delay and of course you need more time and resources to reverse things. That was a lesson from the CII,” says Ilias Konteas of BusinessEurope. As a result, the group now spends more time briefing Brussels movers and shakers even when there isn’t legislation on the table that directly affects its members. That’s a strategy recommended by Emma Greenow, a government relations specialist with DLA Piper in Brussels. “Don’t just go in in the bad times,” she says. “Meet people for lunches and briefings and tell them what you’re up to.”

Turnover in the centres of political power can be one of the biggest challenges for lobbyists when it comes to getting com-

plex messages across, says one vice-president of a major pharmaceutical company: “The biggest problem lobbying on patent issues is getting people to understand the implications of what changes to the system could mean. That understanding filters up to Congressmen and Senators from staffers. When you lose a staffer you’ve been working with for a long time, you lose that understanding.”

Nurturing relationships with decision makers will also help industry tackle one of its biggest failings when it comes to lobbying: making assumptions. Companies whose business models are built on IP assume that everyone will share their enthusiasm for intellectual property. They won’t.

“You need to assess what you consider self evident – why IP is good and why it benefits society,” says Konteas. “For many politicians the word monopoly has bad connotations and they think that their job is to tackle monopolies. You need to explain IP. That’s another of the lessons of the CII.”

It’s also crucial to talk to officials in a language that they understand. “When you’re talking to MEPs you’re not talking to IP specialists,” says Thierry Sueur, vice-president of IP at Air Liquide. “If you talk the language of specialists you’re dead.”

Be credible

Building successful, long-term relationships with policy makers also requires companies and organisations to prove their reliability. That means giving politicians and civil servants data about your industry. If you are going to become a trusted source of information you need to make sure that you respond quickly to requests, and that what you give them is comprehensive and relevant. You also need to ensure that you don’t play fast and loose with the facts and be ready to admit where the facts are not in your favour. That way you’ll keep your credibility – a valuable asset in any lobbying effort.

“I’ve dealt with the same people on the Hill for years and they know that I’m credible,” says Phil Corwin of the Internet Commerce Association (ICA) and Washington DC law and lobbying firm Butera & Andrews. “Coalitions are important but, particularly when you’re in the underdog position, personal credibility is key.” Corwin says that by representing domain name companies he is often up against brand owning Fortune 500 companies with large political action committees (PACs). “I’m usually outnumbered and out-moneyed; I can’t begin to match them,” he says. As a result, it is important that the ICA’s positions are well thought out and that it is not isolated in its arguments, he says. “It’s important to present them with fact-based positions.”

That is a view echoed by Richard Heath, vice-president of legal and global anti-counterfeiting counsel at Unilever. Not only do you need to ensure that your message is consistent, he says, you also need to support it with empirical evidence because hearsay and anecdotes won’t convince politicians to take action. Until the middle of the decade, for example, no authoritative body had undertaken a comprehensive study of the scale of the trade in fakes. “We needed a respected, independent body to come up with some numbers,” says Heath, who welcomed the OECD’s decision to carry out a study into the global trade in counterfeits. When it came up with a figure of around 2% of world trade in manufactures, it was far lower than previous estimates cited by business leaders who had suggested that up to 7% of goods traded were knock-offs. “But 2% is still a huge number,” says Heath. “It wasn’t what everyone was expecting but it was still worth doing because finally we had some serious, empirical data.” The BSA (which has spent \$860,000 on lobbying this year, according to Open Secrets) commissions leading IT industry research company International Data

Corporation (IDC) to publish an annual Global Software Piracy study, as well as an Economic benefits of Reducing Piracy study, which keep the issue prominent before governments and the public.

Set your goals

No industry or company will get everything that it wants from an IP regime. That makes prioritising objectives crucial. “You need to keep in mind political realities, budget and other constraints,” says Laurie Self of Covington. “Set realistic goals, and consider whether there are incremental changes that might be easier to achieve, and equally effective in terms of impact.”

When setting your goals it is vital to see to what extent they align with official priorities. If they do, your lobbying efforts will be far more successful. “We look at the European Commission’s work plan and see where we can fit in,” says the IFPI’s Olivia Regnier. “We prioritise issues by how important it is to us and also how important it is in the wider environment.”

Jesse Feder, director of international trade and IP policy at BSA, says it’s crucial to hone in on one particular point: You should know what you want and have a specific request, he says. Not only is this important for effective communications with lawmakers; it also helps forge consensus and common purpose with your allies.

One of the most difficult tasks for companies and industry associations is tempering their demands. With business leaders ordering action against a range of perceived IP ills, IP lobbyists can make the mistake of demanding too much – a mistake because there is a danger that the demands of the most powerful players will be met. Florian Müller, a leading figure in the

movement that fought the proposed CII directive, says that companies need to consider whether their requests are defensible in an environment where opposition to IP laws is mounting. He cites recent calls for governments to extend copyright terms. “[IP owners] may have won the battle but it could have an adverse effect in the broader war because you expose yourself to populist attacks by people like the Pirate Party.” The danger of a PR backlash is particularly acute when industries lobby on politically sensitive issues such as access to medicines or downloading, or persuade governments in developing countries to accept their policy proposals wholesale, even though local officials may lack IP capacity and civil society is weak.

Identify the decision makers

Now you have prioritised your demands, you’re ready to start influencing – but who should you seek to influence? On any issue there will be a range of key players, each with differing abilities to affect the outcome. As well as ministers, civil servants and members of legislative committees, appealing to public opinion is becoming more important than ever.

When it comes to communicating with politicians, BSA’s Feder says it is crucial to foster relationships “on both sides of the aisle” and points to the Association’s close relationship with both the liberal Democrat who chairs the House Judiciary Committee, Representative John Conyers of Michigan, and Representative Lamar Smith of Texas, the Committee’s conservative ranking Republican. “We make every effort to develop trusted, personal relationships with these lawmakers through meet and greets, official meetings, visits to their districts, and social occasions,” says Feder.

But while getting your message across is important, lobbyists

A history of IP lobbying

Over the next five pages, *Managing IP* profiles some of the most heavily lobbied IP issues worldwide and considers how IP owners and activists shaped the debate – and the outcome

The CII directive

When members of the European Parliament voted against the Commission’s so-called software patent directive in July 2005, opponents of the patenting of computer-implemented inventions (CII) hailed it as defeat of old-style lobbying. “If I had spent so much money, I’d want to walk out of the shop with something more than a failed attempt to enshrine software patents in European statutory law. They could have had that for free any time,” said Florian Müller, the founder of the NoSoftwarePatents.com campaign, the day after the vote. So how did a European Commission proposal that was backed by so many of the world’s biggest companies fail?

The campaign waged by anti-software patent activists was successful for a number of reasons. First, it enthused technophile protesters who were able to mobilise novel internet campaigning

techniques. “I think the way that we used the web was quite innovative,” says Benjamin Henrion, president of the FFII. The organisation called for a black day in 2003, for example, where supporters replaced their website home pages with an anti-software patent protest page. That kind of technological mobilisation was crucial to its success, says Henrion, who believes that had the CII directive been proposed 10 years earlier, the pro-software lobby would have won. Even Müller admits that the people he calls the “nerds” had a disproportionate influence on the debate. He says that vocal minorities – especially tech-savvy ones – can use their arsenal to achieve political influence. “That can be problematic because it might not be reflective of what society wants. I’m amazed that politicians didn’t realise that all the emails, letters and calls they got on the CII didn’t represent large parts of the electorate.”

Secondly, the anti-software campaign consisted of enthusiastic individ-

uals and professional open source software companies – a combination that gave them both critical mass and strategic focus. “My strategy was to be more reasonable with politicians,” says Müller. “They’re used to debating issues and then going for a beer. In the Twitter world you have to polarise issues but in a 45-minute meeting you have to present a more balanced message. The FFII had a less aggressive message online but they maintained that stance with MEPs, whereas I didn’t – and I don’t think that any politician saw me as a radical.”

Finally, the group took the corporate lobbyists by surprise: “[The anti-CII campaign] was run by first-time lobbyists but because we were novices we were able to think outside the box,” says Müller. By reaching out to MEPs who were not specifically in charge of the topic, anti-software patent campaigners by-passed the traditional communication routes in Brussels, in which professional lobbyists spend time



Many of the top US lobbying spenders are active IP players

Top spenders 1998-2009

Lobbying client	Total
US Chamber of Commerce	\$488,458,180
American Medical Assn	\$208,472,500
General Electric	\$183,895,000
American Hospital Assn	\$172,940,431
AARP	\$164,072,064
Pharmaceutical Rsrch & Mfrs of America	\$154,533,400
Northrop Grumman	\$133,515,253
Edison Electric Institute	\$128,645,999
Business Roundtable	\$127,980,000
National Assn of Realtors	\$127,977,380
Exxon Mobil	\$124,626,942
Blue Cross/Blue Shield	\$120,491,385
Verizon Communications	\$118,344,841
Lockheed Martin	\$115,567,888
Boeing Co	\$108,728,310
General Motors	\$104,774,483
Southern Co	\$97,670,694
Freddie Mac	\$96,194,048
Altria Group	\$88,380,000
Ford Motor Co	\$86,329,808

Source: OpenSecrets.org

– particularly those with limited resources – should be careful not to spend time and energy convincing the invincible. “Some people are incapable of adjusting their position,” says Müller. “In both my work on the CII and then on football broadcasting rights I’ve seen people waste a lot of time either preaching to the converted or trying to turn people around who are already in an entrenched position. You should really identify the swing voters.”

You should also consider talking to politicians on the periphery, as well as those at the centre of any issue. Müller says that’s because although those in charge of a policy area want to be seen to be accessible to stakeholders, in reality the people closest to an issue are the ones most likely to have made up their minds about it. Anti-software campaigners spent much of their time lobbying ordinary MEPs – not just those on key legislative committees in the European Parliament – and when it came to plenary votes their tactic paid off.

Build coalitions carefully

For many companies that lack the resources required to hire full-time staff to lobby, or who are concerned about having their name at the forefront of commercially sensitive campaigns such as anti-counterfeiting, lobbying through industry associations can make a great deal of sense.

“Coalitions are critical to political success, even if the objective relates primarily to a particular industry or company,” says Self. Feder of the BSA also underscores the importance of linking up with existing associations and coalitions rather than trying to go it alone. BSA participates in the International Intellectual Property Alliance, the US Chamber’s anti-piracy coalition, the Copyright Alliance and the Coalition



appealing to well-briefed officials and parliamentary rapporteurs. In doing so, they forced their opponents to reassess how they lobby in Brussels, teaching them the importance of proactive, rather than reactive, campaigning. It also marked a shift in the way that lobbyists treated the European Parliament – which proved so crucial to the demise of the CII. “It was a real lesson not to

take the European Parliament for granted,” says Ron Marchant, former head of the UK IP Office. “I think it was when the Parliament finally found the confidence to challenge the Commission.”

LOBBYING IMPACT



US copyright reform

Those lobbying for copyright reform have a powerful weapon in their armoury: a group of media-friendly music stars to help make their case. Tony Bennett, Alanis Morissette, Macy Gray and Bono are among the musicians who have backed attempts to change the law to pay artists for music played on the radio.

As a result of the 1994 Digital Performance Right in Sound Recordings Act (DPRA), internet, cable and satellite radio all pay royalties to both publishers and performers of sound recordings played on their stations. However, radio broadcasters are exempt from compensating performers under the original US copyright law. The recording industry has always opposed this practice, but in 2007 it stepped up lobbying efforts by urging Congress to introduce the Performance Rights Act, which seeks to grant a performance right for artists whose songs are aired on traditional radio.

These efforts culminated on March 4 this year, when more than 100 artists gathered on Capitol Hill to urge Congress to support the legislation. An opposing resolution – the Local Radio Freedom Act

for Patent Fairness. With these alliances, Feder says that IP owners are able to bring resources and institutional knowledge to bear that an individual company simply would not have.

But while trade associations such as INTA, AIPLA, BIO and PhRMA play an invaluable role in the advocacy process, Self says that IP owners should also consider creating smaller, ad hoc coalitions because they can be more nimble and focus more intensively on particular issues. Florian Müller agrees. Having witnessed at first hand the lobbying tactics of large corporations in the software patent debate, he says he is sceptical about the impact big industry groups can have on specialist issues such as IP policy: “You need the ability to react quickly and the problem with large associations is that you can’t just convene a general assembly to decide what to do next ... Shortly before the European Parliament voted [on the CII] some of the main proponents distanced themselves from other companies on the issue of interoperability. I don’t know if made a key difference but it created confusion and disunity and got the politicians concerned.” Instead, Müller recommends three or four companies with a mutual interest team up, create their own campaigning war chest and target their efforts. That advice is echoed by DLA Piper’s Emma Greenow: “Too many companies rely too much on associations. Sometimes it is best to seek individual advice because it can take a long time to reach an agreed position and it avoids lobbying on the lowest common denominator.”

Link your aims to broader issues

For a company whose bottom line is being hurt by counterfeiting or badly-conceived IP laws it can be difficult to focus on the wider political and economic environment. But doing so is crucial.

“To be an effective lobbyist you should forget a bit about IP and concentrate on economics. You need to think a little less in terms of ‘my patent’, ‘my IP’,” says Thierry Sueur, who played an important role in efforts to persuade the French government to ratify the London Agreement (see box).

“Lobbyists can be really one-dimensional, and that can be a problem,” says former IP official Ron Marchant. “They can be single-issue to the exclusion of all else.” If you want to avoid that lobbying trap, you need to frame the issue in terms of the government’s and citizens’ interests, not just the industry’s, says Dale Curtis, vice-president of communications at the BSA. He adds: “We emphasise, for example, that software piracy hurts IT firms’ ability to hire new workers and invest in new facilities; it gives dishonest firms a competitive advantage over law-abiding firms; and it reduces government tax revenues and contributes to budget deficits and/or cuts in government services.”

Self urges lobbyists to make use of tools such as fact sheets, white papers, economic data, academic scholarship, websites and blogs to develop arguments that highlight the broader importance of the relevant legislative position to economic growth, global competitiveness, innovation and other domestic and international priorities.

Knowing your audience and tailoring your arguments to match its unique concerns is one of the most essential elements of effective lobbying, she adds: “You have to explain to the relevant congressional committee or federal agency why the issue is one they should care about. Translate it into an economic or property rights issue. Explain it in a way that it becomes plain why it is important to the economy or their constituents.” On IP issues, this often means explaining the impact of the issue on the economy, workers and innovation.

– has been signed by a total of 144 bipartisan House members and the National Association of Broadcasters has dubbed the compensation sought by the Performance Rights Act a “tax”. The legislation has been introduced in both the House and the Senate and has the support of recording artists including Billy Corgan of “The Smashing Pumpkins”, who testified before congress in March that the issue is one of “fundamental fairness”.

LOBBYING IMPACT



The London Agreement

There are times in any lobbying campaign when activists must seize the right opportunity to effect change. In the case of the London Agreement, that moment came in March 2007 when France’s President Chirac – a long-standing opponent of the patent translation deal which depended on France’s ratification – announced that he would not run for a third term in office.

Supporters of the Agreement, who included Thierry Sueur of Air Liquide and French industry group MEDEF,

and Benoît Battistelli, the head of the national IP office, got to work persuading presidential hopeful Nicolas Sarkozy of the merits of the deal. “We could talk, through various people, to Sarkozy, who was then building his programme, about what IP was all about,” says Sueur. They succeeded in persuading him to pledge to ratify the London Agreement in his manifesto, a commitment he was held to once elected. In the meantime, supporters of the deal were writing reports, holding meetings with politicians in both the French Senate and the lower chamber and organising hearings, says Battistelli: “We even met with French-speaking African ministers of economy and persuaded them to support a resolution backing the London Agreement in France.”

In October 2007 The French Senate overwhelmingly voted for the adoption of the London Agreement, clearing the way for lower patent costs throughout Europe. That followed a vote in favour of the Agreement in the National Assembly a month earlier.

Although those who backed the London Agreement were ultimately successful, Thierry Sueur admits they could have waged their campaign more effec-



tively: “One thing that we missed was that we didn’t bother trying to convince the heads of the national patent offices. We thought that many of them were against the Agreement because they thought they would lose money. We didn’t realise that actually it was the other way around.” Sueur says that since Sweden ratified, for example, the number of designations of Sweden in patent applications filed at the EPO has gone up 17% because applicants are spending the money they saved on translations on protecting their inventions in more EPO member states. “We should have foreseen that. It would have had a tremendous

Florian Müller adopted that tactic when he helped a group of leading football clubs fight proposals put forward by the European Commission that would have exempted the broadcasting of football matches from antitrust rules, enabling the sector to create its own regulatory structure for broadcast rights. Müller spent time persuading politicians in Brussels of the danger to the wider economy if more sectors were able to press for *sui generis* IP rules. It was an argument that convinced a number of MEPs. “One said ‘I haven’t cared about football since I was a child but if we allow this it will come back to haunt us’,” says Mueller.

Enlist help from professionals

In-house, BSA retains four media relations staff globally but also regularly enlists the help of Washington PR agency FD. Outside of the US, the organisation employs local agencies on either a retainer or project basis. Self, who works with BSA, says that it is vital to choose a PR firm with grass roots skills when working on anti-piracy campaigns. “For that kind of communications you want a PR firm with experience on public policy campaigns, rather than product marketing,” she says. “In DC, you find quite a few that are focused on public policy.” BIO also uses a Washington DC PR firm, The Harbour Group, “to expand our strategic sensibilities and tactical capabilities”.

Curtis adds that, while IP experience can be helpful, “PR people tend to be generalists and quick learners, and the issue knowledge can be acquired relatively quickly”. When it comes to skills and experience, it is crucial that a PR agency is able to write and speak about policy issues in a clear, compelling way, know how to communicate with government policy makers,

can deal with the media and understand what reporters need, and can offer skills such as grassroots organising, designing and producing materials and video, and managing online media and events.

Be creative

Says Self: “IP advocacy can be a complicated, uphill process with numerous obstacles – including political inertia – in your path. Be creative and strategic when considering which vehicles, alliances, messages or other tools might increase your chances of success.”

To better engage its audience, for instance, BSA created a magazine-style explanation of patent reform, including illustrations, experts’ faces, and real-world anecdotes for lawmakers and staff. It is also making increased use of new media tools such as its viral videos, “Faces of Internet Piracy” and “To Catch a Pirate”, the latter of which earned 5,000 views on YouTube in its first week online.

Similarly, BIO posts on social networking sites, maintains web pages and blogs to promote specific issues and the organisation’s president and CEO, Jim Greenwood, writes about important industry news on his blog, “Jim’s Corner”.

Self says that a key tactic in the patent reform debate has been to bring together alliances that are not politically united, but share a common interest, such as right-wing groups working alongside labour unions. “Part of my job is to translate issues to disparate groups and to look beyond IP-based industries and ask who else should care about this. We reach out to them directly and say: ‘Here’s why you should care about patents.’” ■

impact – but no-one’s perfect!”

LOBBYING IMPACT



ICANN and new gTLDs

When it comes to internet governance, ICANN has become something of a virtual microcosm of Washington. With the proposed introduction of new generic top-level domain names in 2008, the internet body has found itself at the centre of one of the hottest IP debates of the digital era. Trade mark owners strongly opposed the plan to expand the number of gTLDs from the start, and at ICANN’s Mexico City meeting in March, their opposition grew. “A group of us within the IP constituency of the Generic Names Supporting Organization (GNSO) had been talking about whether to create a panel of experts to address the problem,” says Kristina Rosette of Covington & Burling. “I had a number of informal conversations with the ICANN staff about what their plans were and I was concerned.”

Rosette said that ICANN’s failure to address the issues raised in written com-

ments by the IP community in its first Draft Applicant Guidebook, released just prior to the meeting, had created a buzz among IP constituents. “During the course of that week we had all coalesced around this idea of creating a panel of experts,” says Rosette. Thus, at a joint meeting of the GNSO and the Government Advisory Committee, Rosette says “it seemed like a really good opportunity to make a statement about our concerns, so I drafted one and read it”. That statement ultimately gave rise to the formation of the Implementation Recommendation Team (IRT). In June, the IRT released its final report, which included having a centralised database of IP rights; establishing a faster, cheaper version of the UDRP; creating a globally protected trade marks list; making registry operators liable for contributory infringement; and having a comprehensive, centralised Whois database. Rosette says while it is unlikely that ICANN will adopt all of the IRT’s recommendations, it is likely to take at least some, since the Board has repeatedly and publicly acknowledged that the IP community’s concerns are legitimate.

LOBBYING IMPACT



Piracy/ PRO-IP Act

When IP owners began to lobby for tougher legislation to fight fakes and piracy they decided to join forces with an unlikely ally – America’s labour unions. Together they backed a piece of draft legislation called the Prioritizing Resources and Organization for Intellectual Property (PRO-IP) Act of 2008, which was signed into law by President Bush last October. The Act called for the appointment of a so-called IP Tsar to head a newly established executive branch office, the Office of the United States Intellectual Property Enforcement Representative. This individual, still to be named by President Obama, will coordinate the IP-related enforcement efforts of the US Trade Representative, the Department of Homeland Security, the State Department and the Department of Justice. Although the bill was amended to address the concerns of consumer rights groups including the Electronic Frontier Foundation and Public Knowledge before it was passed, it still provides significant leverage to rights owners.

“Industries pushing for it took time to reach out to labour and explain to