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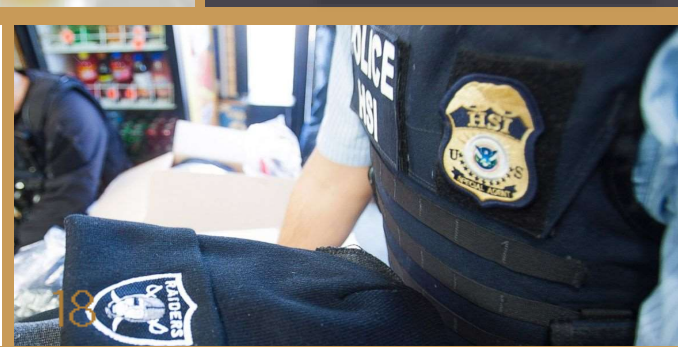
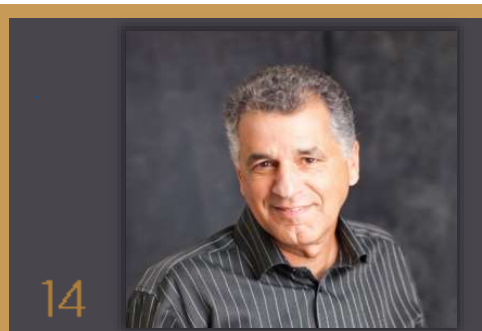
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## 10 COVER STORY

### USPTO'S IP ATTACHÉS PROGRAM: HOW IT CAN HELP



Intellectual Property Attaches' from the USPTO serve as a valuable resource for **Brand Protection Professionals**. In our Cover Story, we learn about this program's origin, the IP attaches' scope of duties and their unique ability to assist US rights holders with protection and resolution of crucial IP challenges in key regions around the world.

# USPTO'S INTELLECTUAL PROPERTY ATTACHÉ PROGRAM: HOW IT CAN HELP

## **Conrad Wong,**

*Attorney-Advisor, China and Enforcement Teams, Office of Policy and International Affairs, U.S. Patent and Trademark Office*

## **Dom Keating**

*Director, Intellectual Property Attaché Program, U.S. Patent and Trademark Office*

## **Importance of Protecting Intellectual Property**

Intellectual property (IP) comprises an increasing, and increasingly important, portion of the U.S. economy. The Economic Statistics Administration and the U.S. Patent and Trademark Office (USPTO) estimate that IP-intensive industries accounted for 27.7 percent of total employment in 2010—and that the weekly-wage premium for jobs in these industries increased from 22 percent in 1990 to 42 percent in 2010. (ESA, USPTO 2012)

IP-intensive industries are typically global—and need global vigilance and protection. To provide these, the USPTO assigns U.S. diplomats with IP expertise to embassies and consulate abroad to serve as Intellectual Property attachés.

## **Where it All Began**

The origins of the USPTO's Intellectual Property-Attaché Program may be traced to 1992. During the Uruguay Round negotiations then that established the World Trade Organization (WTO), the Japan Patent Office posted an IP attaché to Geneva, leveraging his technical expertise in negotiating the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). In 1993, the USPTO followed suit by the posting an attaché to the U.S. Mission to the World Trade Organization (WTO) in Geneva. Almost 10 years later, because of the importance of IP matters in China, the USPTO posted an IP attaché to the U.S. embassy in Beijing.

Based on the success of these postings, the USPTO expanded the program in 2006 to include attaché positions in major trade areas and IP "hot-spots" around the world, including Brazil, Russia, India, Thailand, and Egypt, and their geographic regions. Since then, the IP-Attaché Program has continued to expand its reach, with IP attaché offices now active in the respective cities of Bangkok, Beijing, Brussels, Geneva, Guangzhou, Kuwait City, Lima, Mexico City, Moscow, New Delhi, Rio de Janeiro, and Shanghai.



## A Little Help from Friends

The IP-Attaché Program is funded and directed by the USPTO. In conducting this program, USPTO works closely with the Office of the U.S. Trade Representative (USTR), the U.S. Department of State, and the Department of Commerce’s U.S. and Foreign Commercial Service. As USPTO does not have statutory authority to directly assign officers to embassies, it enters into agreements with other agencies to do so. For example, one of the attachés in Geneva is detailed to the State Department to serve at the U.S. Mission to the U.N. Organizations. The other attaché in Geneva is detailed to the USTR to serve at the U.S. Mission to the WTO. The remaining attachés have been assigned to the U.S. and Foreign Commercial Service under limited appointments. All attachés must commit to an initial two-year term, extendable in one-year increments to a maximum of five years.

## Marching Orders

The attaché’s role is to advocate U.S. Government IP policy positions for the benefit of U.S. stakeholders. This includes

- Directly advocating with host governments, seeking changes in policies, laws, and regulations relating to intellectual property.
- Helping to educate host-government officials on IP matters. This includes providing training to judges, prosecutors, patent and trademark examiners, Customs officials, police officers, and policy makers. This training provides a better understanding of the U.S. Government perspective on IP matters, and enhances the effectiveness of IP protection in that country or region.
- Building grass roots support for U.S. policy positions by conducting public-awareness programs on intellectual property. These programs are directed toward professors, local politicians, business people, and students.
- Directly supporting U.S. stakeholders, such as rights holders, often helping them to navigate the legal environment in a host country, and sometimes assisting with a specific IP-related problem.

## Calling Home

The attachés constantly interact with USPTO headquarters in Alexandria, Virginia. This interaction is coordinated by the Director of the IP Attaché Program and draws upon the USPTO's resources and expertise. The USPTO has teams of specialized patent, trademark, copyright, and enforcement attorneys who provide support and guidance to the attachés. The attaché also works closely with other U.S. agencies in the region. See the [Learning and Resources](#) tab on the USPTO website.

## Attachés at Work

As noted, the IP attachés have several roles. One example of indirect advocacy through education and public awareness programs occurred in Guangzhou, China, when the attaché organized and delivered presentations on the importance of IP in advancing a nation's economy. Speakers from the provincial and local courts, the provincial IP office, Chinese academics, Chinese IP practitioners, and Chinese and foreign rights holders all shared their views on the critical role that IP plays in national development and economic evolution. The program also featured a mock U.S. IP trial that included presentations by two federal jurists, one a trial judge, the other an appellate judge.

Offering counsel to U.S. stakeholders on the local IP climate is another important role of the IP attachés. An example of an IP attaché helping U.S. stakeholders occurred in Brazil when a major U.S. fashion label that produces shoes for export to the United States was seeking to open retail stores in Brazil and to promote its brand to Brazilian consumers but had unresolved concerns about local sales of counterfeit products. The IP attaché in Rio de Janeiro met with the company's import-export director to provide advice and guidance on IP enforcement under Brazilian law. The attaché's guidance resolved the manufacturer's concerns, facilitating the successful launch of its retail stores in Brazil.

Advocacy on behalf of U.S. stakeholders is also an important IP attaché role. Another example of directly supporting U.S. stakeholders occurred when some U.S. businesses encountered difficulties working with Chinese contractors to manufacture goods. A U.S. apparel maker was working with a factory in the Pearl River Delta region of southern China when the facility abruptly shut down and the owners disappeared. This U.S. rights holder found itself entangled in the bankruptcy proceedings: Its tooling, dies, and proprietary intellectual property were locked inside the now-abandoned factory. The firm contacted the Guangzhou IP attaché and requested assistance from the U.S. Consulate General. Working together with State Department Economic Officers and the Consulate's local Chinese staff, the IP attaché explained to the leaders of the municipality where the insolvent firm was located how the U.S. firm was also a victim, and that it could not complete its contractual obligations to customers, or protect its IP unless it could remove its tooling, dies, and proprietary intellectual property from the premises. After lengthy discussions, the municipal leaders agreed to allow the rights holder to retrieve its proprietary items.

Wrap-up

Since the IP-Attaché Program’s inception, the attachés have provided significant benefits to U.S. rights holders. They also continue to be highly valued by other U.S. Government agencies in their cooperative role. Their expertise is a key component of their success, allowing them to address everything from broad policy issues to specific legal problems of U.S. rights-holders.

Rights holders needing the assistance of an IP attaché can find appropriate contact information [here](#). ■



**Dom Keating** is the Director of the Intellectual Property Attaché Program at the U.S. Patent and Trademark Office. He provides legal and policy direction to U.S. Intellectual Property Attachés based in Brazil, Russia, India, China, Switzerland, Thailand, Kuwait, Belgium and Mexico. From 2010 to 2011, he was a Patent Attorney in USPTO’s Office of Policy and External Affairs and led a team of twelve attorneys to address IP issues in South Asia. He also headed a Task Force to reform USPTO’s Intellectual Property Attaché Program. From 2006 to 2010, he served as the First Secretary for IP in the U.S. Embassy in New Delhi, where he promoted high standards of intellectual property protection and enforcement in India and other South Asian countries. He was awarded a Silver Medal by the U.S. Secretary of Commerce for his work.



**Conrad Wong** is an Attorney-Advisor with the China and Enforcement Teams of the Office of Policy and International Affairs at the headquarters of the U.S. Patent and Trademark Office. He handles IP enforcement issues concerning China and Taiwan, as well as countries forming the Association of Southeast Asian Nations and Asia-Pacific Economic Cooperation economies. From 2007 to 2012, he was the Intellectual Property Rights Officer with the United States Consulate General in Guangzhou, China, with responsibility for American intellectual-property issues in southern China and supervising the PTO branch there. See recent [statement](#) of Mr. Wong before the U.S. Senate Judiciary Committee.

