

IP Attachés: Global Advocates for U.S. Stakeholders in Foreign Markets

D. Beryl Gardner

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Many are familiar with diplomatic attachés, such as cultural attachés, naval attachés, or agricultural attachés. What some don't know is that the United States is also represented overseas by intellectual property (IP) attachés.

The IP Attaché Program began in 1993, shortly after the establishment of the World Trade Organization (WTO), when the U.S. Patent and Trademark Office (USPTO) sent an attaché to the U.S. Mission to the WTO in Geneva, Switzerland. By 2003, the USPTO had posted an IP attaché to the U.S. Embassy in Beijing due to increasing IP challenges in China. Since that time, the IP Attaché Program has expanded to include positions in major trade markets where IP enforcement is critical. Today, 13 IP experts currently serve as U.S. diplomats in embassies and consulates in cities around the globe:

- **Brazil:** Mercosur countries (Argentina, Brazil, Paraguay, Uruguay), French Guiana, Guyana, and Suriname
- **China—Beijing:** National issues in China, plus Beijing and Shenyang regions
- **China—Guangzhou:** Southern, southwestern, and southeastern regions of China, including Hong Kong and Macao
- **China—Shanghai:** Eastern and central regions of China, plus Taiwan
- **Europe:** European Union, European institutions, United Kingdom, Iceland, Liechtenstein, Norway, and Switzerland

- **India:** South Asia
- **Mexico:** Mexico, Central America, and the Caribbean
- **Peru:** Bolivia, Chile, Colombia, Ecuador, and Peru
- **Thailand:** Southeast Asia
- **Ukraine:** Central Eurasia and the Western Balkans
- **United Arab Emirates:** Middle East and North Africa
- **U.S. Mission to WIPO/WTO:** World Intellectual Property Organization (WIPO), United Nations, and WTO 1

IP attachés perform a variety of functions. Among the most important is that they can assist U.S. IP rights holders doing business in the countries or regions in which they are based. Depending on the particular jurisdiction involved, IP protection and enforcement mechanisms may be lacking, or the means for securing IP protection may be unclear. While local counsel can be critical to addressing those situations, the IP attachés, based on both their knowledge of the local IP system and their relationships with foreign government officials, can help U.S. rights holders navigate these unfamiliar IP landscapes.

Cross-Border Collaboration Yields Positive Results for a U.S. Trademark Holder

Sometimes, IP attachés posted in different parts of the world are able to work in tandem with one another to assist U.S. stakeholders. One such instance involved collaboration between IP attachés posted, respectively, in Latin America and Asia. In early 2021, a U.S. manufacturer submitted a trademark application with Brazil's IP office, wishing to rely on that filing to obtain a priority filing date with the China National Intellectual Property Administration (CNIPA).

Under the Paris Convention for the Protection of Industrial Property, trademark applicants filing in two or more countries at different times can request that the jurisdiction of later filing recognize the first foreign filing date. 2 Applicants for trademark registration are entitled to such priority filing dates provided that they meet certain requirements, including, in some jurisdictions, presenting a certified paper copy of the original filing.

This was the case with the CNIPA. But due to COVID-19 restrictions, Brazil's IP office was not issuing certified paper copies of its documents, only electronic ones. After the manufacturer contacted

the USPTO's Beijing-based IP attaché, he put the company in touch with his Brazil-based counterpart. The Brazil-based IP attaché worked with Brazil's IP office and, after a series of meetings and follow-up communications, was able to convince Brazilian officials to provide a paper copy of the original filing to the U.S. manufacturer.

Capacity Building and International Engagement Help Enforce IP Rights

Apart from assisting U.S. rights holders in individual cases, the IP attachés also engage extensively with government officials in their host countries and regions on improving IP protection. These engagements can take the form of joint training programs on IP protection and enforcement, informal and formal exchanges of information and experiences, and discussions about pending IP-related legislation and proposed regulations. Often, these interactions can result in concrete improvements to the IP landscape. For example, various IP attachés, posted to different countries, have collaborated with local officials who are responsible for enforcing laws and regulations against the distribution and sale of counterfeit and pirated goods. These collaborations have helped facilitate enhanced seizure and destruction of such goods.

In Ukraine recently, the IP attaché based in Kyiv teamed up with the USPTO staff attorneys and its Global IP Academy to train staff of the Antimonopoly Committee of Ukraine (AMCU) to better enforce trademark rights in that country. Such capacity-building efforts have brought results: when a travel company in Ukraine was subsequently found to be using a trade name and logo confusingly similar to a U.S.-based competitor, the AMCU fined the company and forced it to cease using the similar mark.

Relatedly, in Ukraine and Central Asia, gray-market goods continue to enter the marketplace from Russia, despite international sanctions on trade with that country. This trade increases the likelihood of potentially dangerous counterfeit products being sold. To help reduce the risk, the IP attaché in Ukraine has engaged with government officials in his region through several IP rights working groups that focus on customs, enforcement, and capacity building. This engagement supports U.S. stakeholders' interests in the enforcement and protection of patents, trademarks, and copyrights throughout the region.

Public Education Is Also a Tool

The attachés' engagements on IP are not limited to interactions with government officials. They also educate the public in their respective regions on IP matters.

In Mexico recently, the IP attaché worked with the USPTO and the International Trade Administration to coordinate the production and release of an anti-counterfeiting campaign in Spanish that educates the Mexican public (and specifically young people) about the criminal, financial, and safety risks that counterfeit goods and pirated content create for consumers. Among other things, the IP attaché helped to secure the participation of the Mexican Institute of Intellectual Property (IMPI) in the campaign, which is part of the ongoing “Go for Real” program first launched in the United States by the USPTO in partnership with the National Crime Prevention Council. ³ In September 2022, “Elige el Original”—a Spanish-language anti-counterfeiting video—was officially released in a live ceremony with IMPI’s director. ⁴

Navigating IP Challenges Around the World

For 17 years, the USPTO’s IP attachés have used their expertise to serve the best interests of U.S. stakeholders. ⁵ And the need for this expertise continues to grow ⁶ : as the Office of the U.S. Trade Representative details in its most recent *Special 301 Report*, there are markets around the world that routinely present challenges to IP rights holders, including counterfeit goods, gray-market goods, digital piracy, and compulsory licenses. ⁷

In the face of these challenges—even through the global COVID-19 pandemic—the [USPTO’s IP attachés](#) have demonstrated that they are ready to assist U.S. stakeholders facing IP challenges in foreign markets, whether a small, medium, or large business, in any sector.

Endnotes

1. *Find an Attaché*, USPTO, <https://www.uspto.gov/ip-policy/ip-attache-program/regions> (last modified Aug. 2, 2023).
2. Paris Convention for the Protection of Industrial Property art. 4, Mar. 20, 1883, 21 U.S.T. 1583.
3. *Anti-Counterfeiting Campaign*, USPTO, <https://www.uspto.gov/ip-policy/enforcement-policy/anti-counterfeiting-campaign> (last modified Sept. 29, 2022).
4. *Elige el Original*, IMPI, <https://eligeeloriginal.impi.gob.mx> (last visited Nov. 30, 2023).
5. For more examples, see Dominic Keating, *IP Attachés: Providing Services Around the World to IP Practitioners and Their Clients*, 10 *LANDSLIDE*, no. 3, Jan./Feb. 2018, at 30.
6. IP attachés serve an initial two-year term, which can be extended in one-year increments to a maximum of five years. Attachés are recruited from both government and the private sector, and come to their positions with extensive experience in IP law. Interested in becoming an IP attaché? Visit <https://www.uspto.gov/jobs/ip-attache-careers>.

7. OFF. OF THE U.S. TRADE REP., 2023 SPECIAL 301 REPORT (2023),

<https://ustr.gov/sites/default/files/2023-04/2023%20Special%20301%20Report.pdf>.

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Author

D. Beryl Gardner

U.S. Patent and Trademark Office

D. Beryl Gardner is a trademark examining attorney at the U.S. Patent and Trademark Office. She recently completed a detail with the USPTO's IP Attaché Program.

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