



[Greetings to hearing members and participants as appropriate]

My name is William Mansfield and I am the Director of Intellectual Property for ABRO Industries, Inc. ABRO is a small company with only 25 employees based at our location in South Bend, Indiana. We have a wide variety of non-electronic consumer goods produced under our brand name “ABRO”. About half our products are made in the United States while the other half are made in China. None of our products, however, are sold in the United States. Instead, all are sold overseas, mostly in developing nations such as Nigeria, Ecuador, Pakistan, and others.

For a variety of reasons, ABRO has long faced serious threats from counterfeit versions of our products. I have spent the past 10 years fighting against these counterfeits and protecting our brand name so that we can continue to offer good quality products at competitive prices.

As one might expect, many of the counterfeit versions of our products are made in China. As such, I have spent a great deal of time in China over the past decade. ABRO has developed an incredibly effective anticounterfeiting approach for China – an approach that has worked very well. I am speaking here today because I feel that too often attempts like this to gather information regarding China and intellectual property protection are unfairly skewed toward a viewpoint that claims that there is no viable option for IP enforcement in China. We have found that to be completely untrue. I cannot speak to anyone’s experience except my own, but it is my belief that brands who are failing to successfully protect their IP in China have primarily themselves to blame.

As I noted, most of the fake versions of our products are produced in China. I believe that most brand owners face a similar situation. I can see why a reasonable person might look at this fact and think that China is doing something (or failing to do something) that makes them more attractive for counterfeit production than other countries. Certainly this is an argument put forward by many in the U.S. and Western Europe.

At first glance, this might make sense. But this view falls apart when you remember that, while most fakes are made in China, most of EVERYTHING is made in China! China is where you go to have products made. So it is absolutely no surprise that that is also where you go to have products made that violate other people’s intellectual property.

It would be a different situation if the vast majority of authentic products were made in China, but the majority of fake products were made somewhere else....like, Luxembourg (to choose a country at random). After all, Luxembourg isn’t generally known as a major product manufacturing and export location, so if counterfeiters were consistently using it as their

manufacturing location a reasonable person would wonder what specifically about Luxembourg was causing this choice.

But that is not the case here. Here we have a country that excels at the production and export of products – mostly authentic products, but a smaller amount of fake products as well. The connecting factor is that China is a great place to produce and export products. The authentic or counterfeit nature of those products is clearly secondary.

Of course, even if there is nothing specific to China that causes them to be used as a manufacturing point by counterfeiters, they still have to deal with the fact that many fake products are made and shipped from there. This they do, and I believe – from my own experience – that they do this as well as any nation does. Unfortunately, they get virtually no credit for their efforts.

The problem most western brand owners have is not that the Chinese have a bad system, but that the brand owners don't know how to make that system work.

A key factor that western brand owners get wrong about China is assuming it is monolithic and centralized. The Chinese system is actually very decentralized. So one of the things western brand owners do wrong is to assume they can solve all their problems in Beijing. What we have done at ABRO is to reach out to the key officials in the regions and cities where the counterfeiters are actually located.

Like all government officials, Chinese anticounterfeiting officials have very limited resources and unlimited requests for their help. ABRO goes directly to these officials in order to make our case for why they should expend some of their limited resources in protecting our brand. After all, there is no immediate positive impact for their area and it would be reasonable for their tax base to question why they are spending their money helping outsiders who do not pay taxes there.

But we almost always find common ground with these officials in two areas – the importance of legality and the value of commerce.

Chinese officials strongly value the role that the law plays in keeping society well-functioning. They are bothered by a violation of the law – even if the consequences of that violation take place in another nation. They did not end up in their profession by accident and do not look kindly on a knowing violator of the law regardless of a shared nationality.

Chinese officials are often swayed by arguments of the importance of IP protection for the proper functioning of international commerce. More than any other officials I have dealt with globally (and I've had occasion to travel to and meet with officials in over 50 countries) Chinese officials understand the central importance that international commerce plays in their domestic prosperity. They are prepared to work to protect the economic driver that is international commerce even when there is no immediate payoff for their own region. This sort of far sightedness is too often missing in other nations.

And the cooperative approach ABRO takes has paid off.

In China ABRO has benefited from 67 administrative raids, 20 Customs seizures, and 8 criminal raids. Over 2.7 million fake items have been seized and subsequently destroyed. 9 criminals have been arrested and have served a total of 14 years in prison for their crimes. We have developed such a strong reputation as a brand that fights hard to protect our intellectual property that a major counterfeiter recently told an undercover investigator who was posing as a potential buyer of fake products that his company would produce whatever fake brands they needed – but not ABRO. “It’s not worth it to make them angry” he told the undercover investigator.

Our strong position in China, where in we now not only stop counterfeiters, but scare them off before they even begin, comes from our focus on working with the Chinese as equals.

In fact, the most valuable step we take is that ABRO comes to China respectfully asking for help. There is an ugly strain of Neo-Imperialism that often pops up when I hear other brand owners discuss China. An undertone of the idea that China just needs to do what we tell them to and that if they do not it is only because they are not as clever as us. This is sometimes framed as helping China because they are a “developing” nation. But let us not forget that the Chinese civilization is over 5,000 years old. We are viewing them through the framework of a 100-year temporary disruption in a relatively unbroken line of high culture that has lasted for 5 millennia. They are a sovereign nation with the right to develop and adopt their own rules and systems – just as we are and we do. It is beholden to us the brand owners to adapt to them, not them to adapt to us.

Which brings me to this hearing and the recent focus on attacking the Chinese government for its intellectual property protection system.

We must not make the mistakes of the past. We are not the English Empire, the world doesn’t need another Treaty of Nanjing, and the time of gunboat diplomacy has long since past. The current administrations bellicose tone toward China may serve the short-term interests of the President’s base, but it does not serve the long-term interests of America, nor is it based in fact and reality. The Chinese intellectual property protection system isn’t perfect – no system designed and implemented by humans ever is – but the only productive way America can and should attempt to influence it is by approaching the Chinese as equals and in a spirit of mutual advantage. To do otherwise is to be doomed to failure.