

Testimony
of
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**PIRATING THE AMERICAN DREAM: INTELLECTUAL
PROPERTY THEFT'S IMPACT ON AMERICA'S PLACE IN THE
GLOBAL ECONOMY AND STRATEGIES FOR IMPROVING
ENFORCEMENT**

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TESTIMONY OF TIMOTHY E. DEMARAIS

PIRATING THE AMERICAN DREAM: INTELLECTUAL PROPERTY THEFT'S IMPACT ON AMERICA'S PLACE IN THE GLOBAL ECONOMY AND STRATEGIES FOR IMPROVING ENFORCEMENT

Good afternoon, Mr. Chairman and Members of the Subcommittee:

Thank you for giving me the opportunity to testify regarding one of America's most contentious foreign trade issues – the theft of intellectual property worldwide.

My name is Tim Demarais and I am the Vice President of ABRO Industries which we believe is one of the most unique and innovative international trading companies in the USA today. ABRO Industries traces its corporate roots back to 1939 when our founder began working with manufacturers in the USA selling their products in the international market place. In the 1970's, the "ABRO" brand was developed as part of a long term sales strategy to sell USA automotive products internationally under a single brand name. We initially concentrated on selling our ABRO products in third world markets and there was no place in the world we would not travel to introduce our ABRO brand. We visited such diverse markets as Nigeria, Congo, Pakistan, Lebanon, Saudi Arabia and Sierra Leone just to name a few. We now sell our ABRO products in over 150 countries. We continue to "ABROnize" new products on an annual basis and we now offer over 200 ABRO products to our dedicated ABRO customer base internationally.

In time, our ABRO automotive products became the brand of choice in most global markets but unfortunately today the ABRO name has also become the brand of choice to "counterfeit" by unscrupulous manufacturers worldwide. They say that imitation is the "ultimate form of flattery" but we certainly are not "flattered" that companies are literally stealing millions of dollars of legitimate ABRO sales annually in clear violation of international intellectual property rights. We recognized early that our trademark was one of the most important assets we own and over the past 38 years, we have registered the ABRO trademark in 167 countries. We also own 1,085 registrations in numerous international classifications as we consider intellectual property protection of paramount importance. We have spent hundreds of thousands of dollars registering our ABRO trademark and ironically, we have spent an equal amount of money in defending our ABRO trademark worldwide against importers of counterfeit ABRO products.

Although we can point to many examples of counterfeiters overseas, one foreign company who has taken intellectual property violation to a new level is Hunan Magic of China. We did not know we had a problem with this company until 2001 when we received an e-mail from our Bosnian distributor requesting that he would like to buy ABRO products from our Chinese subsidiary. I knew we did not have a Chinese subsidiary and went to the Canton Trade Fair later that year and was absolutely shocked to see Hunan Magic's booth which had a full display of all of our ABRO products and

the company was actively selling ABRO products to many overseas customers visiting the show. The company had literally “stolen” our corporate identity stating they owned the ABRO name.

I immediately contacted the show officials and advised them that this company was illegally selling our ABRO products as we own the ABRO trademark. After I substantiated the fact that we hold the official ABRO trademark registration in China, the show officials agreed to “raid” the booth with me and I was stunned when the General Manager of the Chinese company produced documentation that showed they had the rights to the trademark in China. Later it was discovered this “documentation” was an application and not the actual trademark itself. There was obviously uncertainty at that point at the show until I picked up a sample of our ABRO Epoxy that Hunan Magic was displaying at their booth. Our ABRO Epoxy is a product that I personally developed 20 years ago. At that time, we were not doing \$100 Million a year in sales and we were somewhat “low budget” and I had taken a picture of my wife applying epoxy to our bicycle and then put this photo on a blister card. The product has become one of our most popular selling ABRO products with millions of units being sold annually. I immediately asked the General Manager of Hunan Magic who the lady was on his ABRO Epoxy card and he told the show officials it was some “western” model. I reached in my wallet and pulled out a picture of my wife which finally convinced the show authorities we actually owned the trademark and they closed down the booth and Hunan Magic was cited for using our ABRO trademark illegally. We thought the matter was settled until the next trade show when Hunan Magic changed the packaging slightly by deleting the face of my wife and replacing it with a face of an Asian woman but keeping everything else the same including our ABRO name. This story was the subject of a cover story article in The Wall Street Journal in November 2004 and we thought the notoriety would convince the Chinese government to do something about controlling this renegade Chinese manufacturer. Unfortunately, their illegal activity has become even more blatant as Hunan Magic is now selling the ABRO brand of products in all of our major markets and their General Manager has publicly stated that “his” ABRO brand is one of the most successful brands they have ever introduced.

Since the Chinese government will not enforce intellectual property laws to protect our ABRO name, we are forced to take legal action in the various markets where these counterfeit products are being sold. For the past several years, we have spent most of our time traveling overseas not actively marketing our ABRO products as we should be but basically working with in-country attorneys and local police and Custom officials to try to seize and destroy these counterfeit products once they enter the foreign country. Last month, I took a business trip to West Africa and in Cameroon successfully led raids against wholesale shops who were selling counterfeit ABRO products. Thousands of cartons of counterfeit ABRO products were seized and will be eventually destroyed. I did hold meetings with the Commercial Attaches at U.S. Embassies in Nigeria, Ghana and Cameroon and was told by all of the Embassy personnel that intellectual property violations are growing rapidly in their respective markets and they wish they had more “teeth” to try to enforce intellectual property laws.

That is why we are thrilled by the new Intellectual Property Rights Enforcement Act that is now being introduced in the Senate by Senator George Voinovich and Senator Bayh. We all know about the War on Terror that is being fought globally but in the business community we look at intellectual property violations as a war on economic terrorism as these companies who are counterfeiting are stealing patents, trademarks, ideas and designs from American companies. We are all aware this illicit activity is costing U.S. companies sales, profits and jobs.

It was encouraging to note that recently the U.S. Government announced it will ask the World Trade Organization to organize meetings to address deficiencies in China's protection of intellectual property rights on books, music, videos and movies. However, there is no mention of many other U.S. products that are being counterfeited including automotive parts and accessories. We hope that the U.S. Government will address deficiencies in all areas of intellectual property violations. When the U.S. agreed to grant China WTO status, China certainly received tremendous trade benefits which is evident by all of the Chinese goods that are sold in the U.S. However, with WTO benefits come WTO obligations and the U.S. Government must insist that the Chinese government live up to these obligations as counterfeit merchandise from China is responsible for the loss of more than 750,000 American jobs.

We feel very passionate about the new Intellectual Property Rights Enforcement Act as we deal with counterfeit issues on a daily basis and this is not just a growing trade problem for ABRO Industries but a problem all USA manufacturers face internationally. The past five years have been most frustrating as ABRO's biggest competitor is not STP, General Electric, Bondo, ITW or some other well known automotive chemical manufacturer but our biggest competitor has become ABRO products from China which is clearly not how our American dream to "ABRONize" the world was expected to play out. It was mentioned in the The Wall Street Journal article in November 2004 that the intellectual property problem we are facing in China is a classic "David vs. Goliath" story. The 23 people at ABRO Industries can only do so much against this economic super power. We only ask that the U.S. Government treat the intellectual property matter more vigorously and pass legislation that will correct these trade injustices and then provide various agencies overseas the effective "muscle" to enforce this new trade legislation.

Thank you for giving me the opportunity to testify today and allow me to vent some of my personal past frustrations on this matter. We continue to fight the battle in the overseas sales trenches every day – but we do need some help from the "generals" back here in Washington. This war on economic terrorism can be won but it is going to take a concentrated effort by everyone here in Washington to force China to comply with their WTO obligations which requires this economic super power to enforce intellectual property laws in their own country.