

October 16, 2015

U.S. Intellectual Property Enforcement Coordinator
Executive Office of the President
725 17th Street, NW
Washington, DC 20503

Electronically submitted via www.regulations.gov

Re: Request for Written Submissions from the Public Issued on September 1, 2015 by the Office of the U.S. Intellectual Property Enforcement Coordinator

The Independent Film & Television Alliance (IFTA) respectfully submits these comments in response to the Office of the U.S. Intellectual Property Enforcement Coordinator's (IPEC) request for written submissions to assist in developing the Administration's third Joint Strategic Plan on intellectual property enforcement for the three-year period 2016-2019.¹ IFTA previously submitted comments in connection with the first and second Joint Strategic Plans on Intellectual Property Enforcement² and welcomes this opportunity to contribute to the continued development of the enforcement strategy, as expressed in the Prioritizing Resources and Organization for Intellectual Property (PRO-IP) Act of 2008.³ IFTA has also joined in the comments filed by the International Intellectual Property Alliance.

About IFTA and its Member Companies

Based in Los Angeles, California, IFTA is the trade association for the independent motion picture and television industry worldwide and is dedicated to protecting and strengthening its Members' ability to finance, produce, market and distribute independent films and television programs in an ever-changing and challenging global marketplace. Representing more than 137 companies in 21 countries with over half of IFTA Members based in the United States, IFTA Members, are the world's foremost independent production and distribution companies, sales agents and institutions engaged in film finance.⁴ IFTA Members have financed, produced and distributed many of the world's most prominent films, 21 of which have won the Academy Award® for "Best Picture" since 1980.

IFTA defines 'independent' producers and distributors as those companies (apart from the major U.S. studios) that assume the majority of the financial risk for the production of a film or television program and control the licensing of its distribution throughout the world.

¹ See [80 Fed. Reg. 52800 \(September 1, 2015\)](http://www.federalregister.gov).

² See Comments of the Independent Film & Television Alliance, [March 24, 2010](http://www.ifta-online.org) and [August 10, 2012](http://www.ifta-online.org).

³ 15 U.S.C. § 8113

⁴ A complete list of IFTA Members is available online at: <http://www.ifta-online.org/>.

The economic importance of independent films and television programs evidences that copyright drives innovation, creation and prosperity. Collectively IFTA Members finance, produce and distribute more than 400 feature films and countless hours of television programming annually. The independent sector accounts for over 75% of all films produced in the U.S. and IFTA Members' collective worldwide sales for 2013 totaled over \$6.6 billion, of which approximately \$2.5 billion came from foreign (non-U.S.) revenue and \$4.1 billion from domestic revenue. Of the amount for export revenue, \$1.56 billion was generated from Europe, \$202 million from Latin America, \$312 million from Asia, and \$436 million from other territories.⁵

A Unique Perspective on Copyright Infringement and its Damage to the Independent Film and Television Industry

The financing, production and distribution models of independents differ substantially from the major U.S. studios that characteristically self-finance and distribute their content through wholly owned subsidiaries and affiliates around the world. In stark contrast, independent producers regularly secure both financing and distribution for each project on a territory-by-territory basis by means of exclusive licensing arrangements with local distributors who, prior to production, contractually commit to pay a minimum guaranteed license fee ("minimum guarantees") in exchange for the exclusive right to distribute the finished product to the public in their particular territory. Those minimum guarantees provided in each distribution agreement are then collateralized by financial institutions which loan the funds to support the production (or are informally used to support private investment). Once revenue is generated from exploitation, the production loan is repaid and the parties endeavor to recoup their investment.

Since the independents' ability to raise production financing relies on the health of the overall legitimate distribution network to which they license, copyright infringement not only undercuts the anticipated revenue from exploitation of a particular film or television program, it also severely impacts the ability to secure financing for future projects by reducing (and in some cases eliminating) the pre-production advanced minimum guarantees. A prime example of the devastating impact of piracy on independent producers is the 2009 Academy Award[®] winning "Best Picture" *The Hurt Locker*. The \$15 million dollar budget for this Voltage Pictures' film was 50% financed by pre-sales to distributors in France, Germany, Italy, Benelux, Brazil, Canada, and Eastern Europe.⁶ While the film ultimately won six Oscars[®], sadly it was one of the lowest box office earners of any Best Picture which threatened the producer's and authorized distributors' ability to recoup their investment.⁷ According to the film's producer, this low box office performance was directly affected by infringing copies that appeared online during the theatrical release which led to millions of instances of illegal downloads, peer-to-peer "sharing" and streams. Piracy is most damaging during the critical time period prior to and during the theatrical release when a film is most likely to generate significant revenue (and all online versions are presumed to be infringing).

⁵ Information based on IFTA Membership Sales Surveys (1984-2013).

⁶ <http://www.screendaily.com/comment/a-locker-full-of-gold/5009159.article>

⁷ <http://www.hollywoodreporter.com/thr-esq/hurt-locker-producer-nicolas-chartier-763982>

Damage to the local marketplace lowers license fees and impacts the ability to finance future independent production.

IFTA Members continue to report the destructive effect of content theft on individual business negotiations as local distributors around the globe frequently cite “piracy,” even for content that is not yet released in a particular country, as a reason to pay reduced license fees or to refuse to distribute a film or television program at all.

Independents utilize the same local distribution companies around the world as do indigenous film producers, and the strength of those local distributors and film industries is of the utmost importance to U.S. independent producers. Quite simply, legitimate distributors cannot compete against unauthorized content that is made available for free or nearly free either online or via physical media. As local distributors assess the potential marketplace value of a proposed film or television program, their assessment will reflect declines in, for example, DVD sales because of rampant online infringement. Consequently, the minimum guarantee to which a local distributor is prepared to commit for a new project – that is, the financial risk the distributor is prepared to assume -- drops accordingly (and in the case of films produced primarily for the direct-to-DVD market, may disappear completely). For independent producers, the drop in the minimum guarantee translates into loss of production funding which may prove to be fatal to a project.

Moreover, even if a film or television program is financed from other sources, licensing the finished product to local distributors is still in question. Legitimate distributors face lost revenues across the board and may not be able to assume the financial obligations for marketing and distribution, especially when they cannot rely on DVD revenue or a viable commercial online marketplace. As a result, independent producers are forced to limit their production activity to meet the reduced demand and lack of financing.

Content theft damages the ability to employ American workers and pay taxes to local governments.

The creative industries are seriously jeopardized by the theft of their protected works. In particular, such content theft calls into question their sustained business operations and ability to employ American workers. As a result, the corresponding taxes that are paid to support federal and local government are compromised as well. In 2014, independent production companies shot 365 films in the U.S. This independent production activity resulted in the creation of 23,175 direct full-time jobs and another 69,836 full-time jobs for the various vendors that service the industry. Combined, both classes of employees earned over \$9.3 billion. Total business revenue that resulted from this independent production activity totaled over \$14.4 billion in economic output. It also generated nearly \$1.95 billion in income and sales taxes for both the federal government and individual state governments. The Federal Government’s share of income tax received was over \$1.22 billion.⁸

⁸ Information provided by IFTA Research & Strategic Analysis Department.

The evolving marketplace requires new and enhanced tools for protection and enforcement.

New online digital platforms and distribution technology create opportunities for the independent film and television industry. Yet those same technologies also dramatically expand the ease with which a single act of infringement can rapidly spread online across multiple mediums and decisively undermine revenue expectations and financing options.

As consumers increasingly demand delivery of content in digital formats via the Internet, online piracy poses the biggest threat to the independent film and television industry. Stronger criminal deterrents are needed in today's "click and stream" digital environment where even one illegal upload of a copy of a film or television program online can be commercially and creatively devastating. Online piracy is particularly damaging when it occurs before or during the critical initial release of a project, effectively obliterating the copyright owner's exclusive right to distribute its film or television program. The rise of infringing content available on the Internet damages the ability of all rights holders throughout the distribution chain to recoup their investment and thwarts the development of legitimate online distribution services.

It is imperative that enforcement strategies and laws account for changes in technology utilized by infringers. Current tactics utilized by rights holders to address infringement are increasingly expensive and must encompass notification of Internet service providers (ISPs), payment processors and advertisers. While there is "no magic bullet" that is completely effective against content theft, the best opportunity for success is created by tightly coordinated efforts that include appropriate laws, cross-border agreements, educational initiatives, the availability to consumers of legal alternatives (especially in the online environment), and a governmental commitment to enforcement.

IFTA's Recommendations for Improving the U.S. Government's Intellectual Property Enforcement Efforts

IFTA advises its Members about the need for strict security protocols and employing technology to provide copyright protection within the production and distribution chain.⁹ However, when the theft occurs, there is no way to stop the proliferation of infringing copies. Enforcement is scattered and sporadic and there is no effective mechanism for efficient notice and takedown that prevents the spread of piracy. This is especially troubling in cases of pre-release theft where the appearance of a copy online is itself proof of criminal action. It is in this context that IFTA offers the following recommendations in the areas of government activity, legislation and private industry voluntary agreements to improve the U.S. Government's intellectual property enforcement efforts.

Government Activities

Government, including the IPEC's Office, has a critical role in making sure that all copyright owners have the tools (voluntary or legally mandated) and a framework of laws and enforcement necessary to protect their investment and exclusive rights. This includes the ability to trigger both enforcement action and cooperation from other stakeholders in the online

⁹ See [IFTA Practical Guide to Copyright Protection 2015](#).

infrastructure to immediately address and prevent illegal uploads and commercialization of pre-release infringing copies, especially since those copies have been sourced and are the results of criminal acts such as cyberattacks and hacks.

- ***As Congress reviews the need to update the Copyright Law, it continues to be important for the IPEC to lead in publicly supporting copyright owners' right to exclusively control their works***, including coordinating cross-agency Government resources and directing producers to effective enforcement solutions, convening all stakeholders to discuss better methods of protection especially in light of evolving anti-piracy technologies, and ensuring that voluntary measures are crafted effectively. It is also important that the IPEC lead the way in educating the public on the need to honor creators' exclusive rights in order to guarantee ongoing production of content, on the impact of online infringement on creators and on the U.S. economy and on the vastly expanding legal availability of content, so as to develop a more favorable atmosphere to address this issue. Educational initiatives should include plain language explanations of the law and surrounding concerns such as with freedom of expression, privacy and cybersecurity risks.
- ***Government action necessary to combat online infringement.*** Private rights of action – civil suits -- are cost prohibitive for independents and require rights holders to legally pursue millions of prospective customers through the courtroom months, if not years, after the incident has occurred. Even those companies that attempt this inefficient enforcement method find that courts are inhospitable and monetary penalties are insufficient to deter future massive instances of piracy. Other non-litigious private responses are also unrealistic for the independent sector. For example, since independents do not own their worldwide distribution channels, they cannot realistically coordinate a same day worldwide release strategy (employed by the major U.S. studios) in order to “out run” piracy. Similarly, independents do not have marketplace leverage to negotiate preferential agreements with ISPs or others in the eco-system to obtain heightened content protection obligations beyond what is required in the DMCA. Both the law and economics mean that private action alone is insufficient. Stronger criminal enforcement or mechanisms are required and must be available to all rights holders.

Adequate funding for enforcement activities. The U.S. Government must provide sufficient funding and other resources for the effective enforcement of intellectual property protection laws and other measures. It is imperative that the U.S. Government enforce the Federal camcording law¹⁰ and Copyright Law violations on an *ex officio* basis where there is *prima facie* evidence that an intellectual property right is being infringed, without waiting for a formal complaint from an injured rights holder. For example, camcording in cinemas continues to plague the marketplace and fuel online infringement activities; laws prohibiting camcording¹¹ must be vigorously enforced to protect the return on investment of the producers and distributors especially when the film is in its crucial first weeks of release.

¹⁰ 18 U.S.C. § 2319(B) - Unauthorized recording of Motion pictures in a Motion picture exhibition facility

¹¹ 18 U.S.C. § 2319(A); Cal Penal Code § 653z (and other state statutes)

- ***Effective coordination and training.*** The IPEC should seek to facilitate participation and information exchange among as many Government agencies as possible, in order to avoid duplication or working at cross-purposes, and to ensure that valuable training and assistance resources are targeted as intelligently and expended as efficiently as possible.

Internationally, there is a perception that intellectual property enforcement is valuable only for U.S.-based industry and product. In fact, intellectual property protection is a key to building the export capability of the local film industries since it defines the norms for international distribution. IFTA supports using existing resources to enhance training programs in high-priority countries through the Intellectual Property Rights Attaché program operated by the U.S. Patent and Trademark Office in cooperation with the International Trade Administration/Global Markets, the U.S. Trade Representative's Office, and the U.S. Department of State.¹² Training programs in developing countries must build upon the needs of the local industry and should be coordinated with international agencies such as WIPO and local organizations to reach the intended audiences.

IFTA is pleased that the Department of Justice has recently expanded its regional Intellectual Property Law Enforcement Coordinator (IPLEC) program with two new IPLECs, one in Hong Kong, SAR and one in Sao Paulo, Brazil. The IPLECs are key to combating international piracy of intellectual property and will allow the Department to quickly address IP threats.

- ***The National Intellectual Property Rights Coordination Center (IPR Center) should expand its "Operation in Our Sites" program.*** The program is designed as a strategic offensive targeting entities that distribute counterfeit products, pirated movies and television content through Internet websites.¹³ IFTA supports enhanced funding for the program, to increase the number of actions that can be taken to protect our industry. Also, with the rise of foreign rogue websites marketing to U.S. consumers, the IPR Center should continue to collaborate and partner with international agencies to maximize resources available to combat worldwide online counterfeiting and piracy.
- ***Border measures should provide ex officio authority*** for U.S. Customs and Border Protection (CBP) officials to share information with affected right holders pre-seizure. This will help determine whether suspected goods are infringing or if devices illegally allow the circumventing technological measures that control access to and copying of copyrighted works. Obtaining input from right holders pre-seizure will greatly assist CBP with infringement determinations. Destruction of infringing goods seized by CBP officials remains crucial to preventing such seized items from being returned to the country of origin or re-shipped to the U.S. through another port.
- ***Promote use of U.S. Immigration and Customs Enforcement (ICE) service.*** As the principal investigative arm of the Department of Homeland Security, ICE's enforcement efforts have been limited to addressing substantial piracy at websites having web

¹² <http://www.uspto.gov/learning-and-resources/ip-policy/ip-attach-program>

¹³ <https://www.iprcenter.gov/ip-theft/ongoing-operations>

addresses for which U.S. based registries act as the official registry operator. Many independent producers are unaware of ICE's authority and of how to trigger support from this agency in cases of commercial scale infringement. The IPEC should support full development of ICE's capabilities to act in this arena and assist in promoting these resources to rights holders. For example, a joint investigation between ICE and the City of London's Police Intellectual Property Crime Unit led to the arrest of a man in the U.K. suspected of leaking top hit movies on the Internet, including the independent production, *The Expendables 3*. This particular investigation stemmed from a tip regarding possible movie piracy from film industry representatives in Los Angeles and the arrest likely prevented the leak of other motion pictures.

- ***Enforce existing free trade agreements (FTAs) and negotiate new international agreements with trading partners*** (both bilateral and multilateral). The U.S.-Korea Free Trade Agreement provides the highest level of protections for intellectual property rights holders achieved to date and should be used as the standard going forward with other free trade negotiations. Congress should ensure an active and ongoing pursuit of additional bilateral and multilateral measures in support of open markets and intellectual property protection, including, for example within the Transatlantic Trade and Investment Partnership under negotiation between the European Union and the United States.
- ***Utilize the United States Trade Representative's Special 301 Action Plans*** that build on the annual Special 301 review of intellectual property protection and market access practices in foreign countries and provide clear benchmarks for gauging progress – or lack thereof – over the ensuing year.

Endorse legislation to more effectively deter infringement and to incentivize all stakeholders to take effective and rapid action to mitigate piracy, especially pre-release theft.

Individual rights holders acting on their own behalf cannot combat content theft without an effective legal framework and ongoing Government action so that financing requirements can be met, creators can be remunerated and new distribution models can be fostered. In order for legitimate online distribution platforms to develop, Government must establish a legal framework that addresses the major causes of content theft at their root.

- ***Amend U.S. law to keep up with technology.***

In April 2015, the U.S. Department of Commerce's Internet Policy Task Force released a document titled, "*DMCA Notice-and-Takedown Processes: List of Good, Bad, and Situational Practices*"¹⁴ designed to improve the operation of the Digital Millennium Copyright Act (DMCA)¹⁵ notice and takedown system through a set of agreed upon practices by interested stakeholders. The document was developed as part of a multistakeholder forum established as a result of the Commerce Department's 2013 Green Paper on Copyright Policy, Creativity, and Innovation in the Digital Economy¹⁶,

¹⁴ http://www.uspto.gov/sites/default/files/documents/DMCA_Good_Bad_and_Situational_Practices_Document-FINAL.pdf

¹⁵ <http://www.copyright.gov/title17/92chap5.html#512>

¹⁶ <http://www.uspto.gov/sites/default/files/news/publications/copyrightgreenpaper.pdf>

but it fails to address the inherent deficiencies of the current DMCA notice and takedown system.

The notice and takedown provisions of the DMCA – requiring individual identification and notification of every illegal copy -- provides no workable mechanism to fight the widespread proliferation that comes from the first individual act of theft and illegal uploading or sharing. For independent producers, the substantial resources (financial and otherwise) necessary to support monitoring and notification services on an ongoing basis beginning prior to a film or program’s initial release alone make this untenable; for all rights holders, the process is too slow to catch up with the immediacy of the Internet. Producers require a notice and takedown/stay down mechanism for today’s digital environment.

What was envisioned as a tool to address online infringement in 1998 (when streaming audiovisual content over the Internet was not feasible) is simply not a meaningful tool in 2015 or for the future, especially for independent producers. The inefficiency of the system for copyright holders (who cannot afford effective notice and takedown in the current digital environment) and ISPs (who routinely complain of receiving high volumes of notices) is evident. Updating this enforcement mechanism means requiring ISPs, after having received clear notification and identification from a rights holder, to then take proactive steps and use existing technology to prevent any hosting of the infringing file in order to preserve their legal “safe harbor.” Such technology is currently in use on a voluntary basis by some hosting online services. For example, YouTube’s Content ID Program operated by Google provides some copyright owners with a dashboard to assist in fingerprinting their content and tracking unauthorized uses of the content.¹⁷ Statistics published by Google in 2014 indicate that more than 300 million videos have been claimed with the help of Content ID.¹⁸ Similarly, eBay’s Verified Rights Owner (VeRO) Program allows rights holders to request eBay to remove certain listings that contain infringing content.¹⁹ Facebook is also testing a system in which they are able to match and monitor videos uploaded to their system which will be a key component in its new advertising revenue model.²⁰ None of these systems are offered generally for copyright protection -- they are made available to enable the placement of advertising – but the technology is available and can be deployed for anti-piracy as well.

YouTube does offer some rights holders a portal which allows for “easier” DMCA notice sending to YouTube.²¹ This portal makes it more convenient *for YouTube* to deal with rights holders that submit large amounts of notices, but this is not a solution for all rights holders and YouTube routinely rejects rights holders’ applications to participate in this program for not being “large enough,” leaving independents disadvantaged and

¹⁷ <https://support.google.com/youtube/answer/2797370?vid=1-635803642254244490-3403564610>

¹⁸ *How Google Fights Piracy*, 2014; available at

<https://drive.google.com/file/d/0BwxyRPFduTN2NmdYdGdJOnFTeTA/view?pli=1>.

¹⁹ <http://pages.ebay.com/vero/intro/index.html>

²⁰ <http://media.fb.com/2015/08/27/an-update-on-video-management-on-facebook/>

²¹ YouTube’s Content Verification Program, designed specifically for large copyright-holding companies to issue multiple takedown requests, allows users to search for infringing material and provide YouTube with sufficient information to locate and remove it.

emphasizing that voluntary, discretionary programs alone are not a substitute for effective governmental and legislative action.

- ***Include special provisions for major security breaches that result from cyberattacks.*** ISPs, search engines and other third party intermediaries should be encouraged to commit to a protocol (or obligated by law) to assist rights holders to control and mitigate the damage in extenuating circumstances following notification of a specific criminal act such as when a pre-release film or program has been stolen and leaked online. Upon notification, the notified parties should not only remove the infringing material from its systems and should employ technology to identify individual digital files to prevent the further upload of the particular leaked content; search engines should de-list results offering such material; and others in the chain of distribution should act with similar dispatch. In the absence of such special provisions, rights holders who have been victimized by hacking and other forms of theft must rely on existing inadequate DMCA provisions, which are incapable of stopping the worldwide spread of the stolen film or program. The Justice Department recently recognized the importance to responding to data breaches by creating a new office to help companies prevent cyberattacks and respond when they occur.²² The IPEC should work to ensure that adequate funding is supplied to this initiative and assist with promoting its efforts.
- ***Need for stronger deterrents - classify large-scale unauthorized streaming as a felony.*** A recent study concluded that online piracy is shifting significantly to video streaming from file-sharing and downloading.²³ It is imperative that the criminal penalties for online infringement reflect the massive damage that may be inflicted on rights holders and the emergent businesses offering legally acquired audiovisual content to consumers. Specifically, the federal criminal law should be modernized to include felony criminal penalties for those who engage in large-scale streaming of illegal, infringing content in the same way the law already provides for the reproduction and distribution of infringing content.

Under current federal law, a legal distinction exists between the penalties for illegal streaming and downloading – two methods of distributing the same stolen digital content. To ensure that federal law keeps pace with infringers, and that Department of Justice and U.S. law enforcement agencies are able to effectively combat infringement involving new technology, IFTA recommends that Congress clarify that large-scale copyright infringement by streaming or other technology with similar impacts is a felony in appropriate circumstances. This would require amending the federal criminal code to provide for imprisonment for up to five years, a fine, or both, for criminal infringement of a copyright where the offense consists of 10 or more public performances by electronic means, during any 180-day period, of one or more copyrighted works and where: (1) the total retail value of the performances, or the total economic value of such performances to the infringer or to the copyright owner, would exceed \$2,500; or (2) the total fair market value of licenses to offer performances of those works would exceed \$5,000.

²² <http://www.latimes.com/business/technology/la-fi-tn-doj-sony-hack-20151006-story.html>

²³ <http://variety.com/2015/biz/news/report-piracy-shifts-away-from-downloading-to-video-streaming-1201430189/>

Such a clarification would reconcile a disparity that exists in current law between illegal streaming and downloading, the latter of which is already considered a felony, and serve as a strong deterrent for large-scale willful reproduction, distribution *and streaming* of illegal, infringing content for profit.

- ***Enact effectively tailored laws or procedures to address online infringement from foreign sources.*** Many websites engaged in illegal activities are foreign-owned and operated or reside at domain names that are not registered through a U.S.-based registry or registrar. These illegal websites harm the U.S. economy, our workforce and the very ability of American creators to continue to invest in the production of motion pictures, television programs and other creative content. The U.S. Government and rights holders are currently limited in their legal options to go after these foreign websites and reliant on the laws and cooperation of officials worldwide, even when the website is directed at U.S. consumers and steals U.S.-owned intellectual property. The profitability of these foreign-owned websites and the minimal legal risk their operators face has contributed to unprecedented growth in online infringement. Preventing proprietors of rogue websites from relying on legitimate financial service providers to enable transactions is an important step in combating online infringement.

Congress should pass legislation that strengthens law enforcement’s ability to “follow the money” and pursue rogue websites that offer or link to unauthorized content, especially those foreign-based and foreign-controlled websites and web services that target U.S. consumers. Such legislation must cover criminal activity clearly prohibited under existing U.S. laws and be effectively tailored, with strong due process procedures.

Voluntary Agreements

Voluntary agreements provide means to educate and to affect long-term attitudes and marketplace conditions but do not currently offer mechanisms to immediately prevent or mitigate the damage from a specific illegal act. Voluntary agreements also do not negate the need for Government intervention to facilitate stakeholder cooperation or replace the need for strong legislation in the area of IP enforcement. IFTA is acutely aware that any such industry agreements can create the potential for disenfranchising or disadvantaging those who are not involved in the relevant discussions, including the public and providers of new services. Accordingly, IFTA strongly urges the Administration itself to continue to act as convener of such groups and exercise oversight to ensure: (1) that *all* stakeholders are actively included and involved in “industry at large” discussions and solutions; (2) that the policy and solutions that emerge are transparent and address actual content theft (not merely the “risk” of infringement); (3) implementation is financially and practically reasonable for all rights holders and (4) that the public’s right to enjoy legal access to new services, applications and content without interference is preserved.

IFTA participates in the Copyright Alert System to address P2P piracy on the five largest U.S.-based ISPs.²⁴ Other voluntary agreements adopted in the U.S., such as the payment system operators’ “Best Practices to Address Copyright Infringement and the Sale of Counterfeit

²⁴ <http://www.copyrightinformation.org/the-copyright-alert-system/>

Products on the Internet”²⁵ and the “Best Practices Guidelines for Ad Networks to Address Piracy and Counterfeiting,”²⁶ are intended to help create conditions that enhance the legal online marketplace and to reduce the financial rewards of online infringement by cutting off revenue to sites that are “principally dedicated to selling counterfeit goods or engaging in copyright piracy and have no substantial non-infringing uses” and eliminating the indicia of credibility that attaches to rogue sites from legitimate advertisements and credit card logos. IFTA encourages such self-regulatory efforts but also encourages the reporting of any metrics that reflect the effectiveness of each of these efforts

IFTA also endorses the Brand Integrity Program Against Piracy²⁷ recently established by the Trustworthy Accountability Group (TAG) to help prevent ad placement on websites that facilitate distribution of pirated content and/or the illegal dissemination of counterfeit goods in an effort to cut off the revenue stream to those websites. Under the program TAG will designate validated technology companies – known as “Digital Advertising Assurance Providers” – to help advertisers and their technology partners identify and screen out websites that do not meet each advertiser’s brand standards, ensuring that their advertisements do not appear on those websites.

IFTA recommends that the IPEC facilitate outreach to the online industry in order to build a consensus regarding best practices for Internet search engines, domain name registrars, and registries to take action with respect to copyright infringement occurring on their systems, with full deference given to First Amendment issues that may be implicated.

Conclusion

IFTA continues to support the efforts of the IPEC to shape the intellectual property enforcement strategy for the U.S. and remains available to provide further information as the Joint Strategic Plan for 2016-2019 is developed. Thank you very much.

Respectfully submitted by,

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Eric D. Cady, Senior Counsel

On behalf of the Independent Film & Television Alliance

²⁵<http://www.inta.org/Advocacy/Documents/INTA%20Best%20Practices%20for%20Addressing%20the%20Sale%20of%20Counterfeits%20on%20the%20Internet.pdf>

²⁶ <http://www.2013ippractices.com/bestpracticesguidelinesforadnetworkstoaddresspiracyandcounterfeiting.html>

²⁷ <https://www.tagtoday.net/advertising-industry-launches-initiative-to-protect-brands-against-piracy-websites/>