

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
June 17, 2008

Statement of Senator Patrick Leahy,
Chairman, Senate Judiciary Committee
Hearing on "Protecting Consumers by Protecting Intellectual Property"
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There is no dispute that our Nation is in economic and political turmoil. Gas prices have exceeded our worst fears - and are continuing to rise - and they highlight the entrenched power of overseas oil suppliers. Subprime mortgages have devastated many homeowners, and they have revealed serious flaws in our lending systems. Health insurance is still only a distant dream for millions of Americans. The costs in lives and dollars of the Iraq war mount higher by the day. We are deep into a Presidential election year, so the debate on these issues will only intensify as summer turns to fall, and as partisan politics becomes ever more intense.

Today the Committee addresses a significant economic issue confronting our Nation. It should have no partisan flavor whatsoever. Intellectual property, and the creativity and innovation it represents, are the fuel in the engine of our economy. For the United States to maintain its position as the world's economic leader, we must focus on protecting its industries' intellectual property. In a year like this, partisan legislation is impossible; even bipartisan legislation is unlikely. It is only truly non-partisan legislation that presents an opening for progress. I will give intellectual property enforcement legislation that chance.

The piracy and counterfeiting of intellectual property has reached unprecedented levels in recent years. This theft costs the American economy at least \$200 billion and results in the loss of 750,000 jobs per year. While this theft alone is unacceptable, it is not the only cost incurred by piracy and counterfeiting. One need only look at reports of poisoned counterfeit toothpaste or dangerous counterfeit automobile parts that are entering U.S. markets -- and which are sold disproportionately to lower income Americans -- to see how important the enforcement of IP laws is to protecting the health and safety of the American people. We have representatives of pharmaceutical, automotive, and product safety industries here today who can attest to these dangers, and to the vast resources they must expend to protect American consumers from the dangers of these counterfeits, resources that they could put to much better use in research and development of new products.

Our other witness today is from the Government Accountability Office. I have been troubled by reports from the GAO that have shown the ineffectiveness of the current enforcement strategies being employed by the Federal Government. The lack of coordination among the Federal agencies responsible for IP enforcement seems to be one of the biggest hurdles we face; I am interested in hearing what other roadblocks are preventing effective IP enforcement and what suggestions the GAO has for improvements to the current system.

I have worked for years both to strengthen our existing laws and to give our law enforcement agents the necessary tools to combat infringement. Other members of Congress have been active this session in offering legislation to strengthen the enforcement of IP laws. Even the Chinese government, which allows some of the most rampant theft of intellectual property in the world, has realized the value and importance of IP enforcement now that their own IP has been threatened, and they have begun to crack down on infringement of their Olympic copyrights.

Justice Kennedy reminded us in his opinion for the Supreme Court in the case of *Boumediene v. Bush* last week that "the only mention of the term 'right' in the Constitution, as ratified, is in its clause giving Congress the power to protect the rights of authors and inventors," referring to Article I, Section 8 of the Constitution. These rights in intellectual property have been fundamental to Americans since our founding and have never been more important than they are

today. Enforcement and protection of these rights is too important to be addressed piecemeal. In order to effect the greatest change, we must examine enforcement efforts from the top down and from the bottom up. I hope that with the help of our witnesses today, as well as that of other interested members of Congress, we can work to ensure not only the protection of American intellectual property, but the protection of the health and safety of the American public.

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