

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Opening Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Executive Business Meeting
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Today, this Committee has the opportunity to favorably consider and vote to pass important bipartisan legislation to crack down on rogue websites dedicated to the sale of infringement and counterfeit goods. The Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act, or PROTECT IP Act, is the successor to our efforts last year. The new bill narrows the definition of a rogue website, while ensuring that law enforcement can get at the "worst-of-the-worst" websites dedicated to selling infringing goods.

Few things are more important to the future of the American economy and job creation than protecting our intellectual property. At a time where our country is beginning to regain its economic footing, businesses face an additional hurdle, the severity of which is increasing by the day - digital theft.

In today's business and fiscal climate, the harm that intellectual property infringement causes to the U.S. economy is unacceptable. Copyright infringement and the sale of counterfeit goods can cost American businesses billions of dollars, and result in hundreds of thousands of lost jobs. The Institute for Policy Innovation estimates that copyright piracy online alone costs Federal, state and local governments \$2.6 billion in tax revenue.

Our legislation is intended to protect the investment American companies make in developing brands and creating content, and will protect the jobs associated with those investments. It will help protect American consumers, who should feel confident that the goods they purchase are of the type and quality they expect. While the growth of the digital marketplace has been extraordinary, and benefits businesses by enabling new opportunities to reach consumers, it also brings with it the threat of stealing through copyright infringement and counterfeiting.

The PROTECT IP Act targets the most egregious actors, and is an important first step to putting a stop to online piracy and the sale of counterfeit goods.

As Senator Hatch has said, and I thank him for his generous remarks last week: "With this legislation, we are sending a strong message to those selling or distributing counterfeit goods online that the United States will strongly protect its intellectual property rights. . . . Stolen

movies, music, and other products put many out of work. This is why protecting property rights is a critical imperative and is why we've come together in introducing this common-sense bill."

Senator Grassley has said: "The online distribution and sale of pirated content and counterfeit goods imposes a huge cost on the American economy in terms of lost jobs, lost sales, lost innovation and lost income. Piracy and counterfeiting can also present serious health and safety problems for consumers. This legislation will add another tool to the toolbox for going after these criminals and protecting the American public."

The PROTECT IP Act will provide law enforcement with important tools to stop websites dedicated to online piracy and the sale of counterfeit goods, which range from new movie and music releases, to pharmaceuticals and consumer products.

Both law enforcement and rights holders are currently limited in the remedies available to combat websites dedicated to offering infringing content and products. These rogue websites are often foreign-owned and operated, or reside at domain names that are not registered through a U.S.-based registry or registrar. American consumers are too often deceived into thinking the products they are purchasing at these websites are legitimate because they are easily accessed through their home's Internet service provider, found through well known search engines, and are complete with corporate advertising, credit card acceptance, and advertising links that make them appear legitimate.

The PROTECT IP Act authorizes the Justice Department to file a civil action against the registrant or owner of a domain name that accesses a foreign rogue website, or the foreign-registered domain name itself, and to seek a preliminary order from the court that the site is dedicated to infringing activities. The court is authorized to issue a cease and desist order against a rogue website. If the court issues that order, the Attorney General is authorized to serve that order, with permission of the court, on specified U.S. based third-parties, including Internet service providers, payment processors, online advertising network providers, and search engines. These third parties would then be required to take appropriate action to either prevent access to the Internet site (in the case of an Internet service provider or search engine), or cease doing business with the Internet site (in the case of a payment processor or advertising network).

The Act authorizes a rights holder who is the victim of the infringement from a rogue website to bring a similar action against the rogue site, whether domestic or foreign. If the court issues a cease and desist order, the rights holder is authorized to serve that order, if authorized by the court, on payment processors and online advertising networks, to cut off the financial viability of the criminal activity.

The legislation will also encourage voluntary action by Internet partners that have credible evidence a rogue website is threatening the public health by trafficking in counterfeit, adulterated, or misbranded prescription medication.

This legislation will provide law enforcement and rights holders with an increased ability to protect American intellectual property. This will benefit American consumers, American businesses, and American jobs. Our online infringement legislation is supported across the political spectrum from labor unions to the Chamber of Commerce and the National Association

of Manufacturers, from the National Association of Broadcasters to the cable industry. Just yesterday, Senators received a letter of support from more than 150 businesses and organizations endorsing the PROTECT IP Act.

In February, we held another hearing examining the impact of online infringement and counterfeit sales. The PROTECT IP Act builds on our consensus while incorporating provisions in response to concerns raised by some.

The PROTECT IP Act is sponsored by 12 members of the Judiciary Committee: me, Senator Hatch, Senator Grassley, Senator Schumer, Senator Feinstein, Senator Whitehouse, Senator Klobuchar, Senator Graham, Senator Kohl, Senator Coons, Senator Blumenthal, and Senator Franken. Protecting intellectual property is not uniquely a Democratic or Republican priority - it should be a bipartisan priority.

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