

## **Questions of Senator Tom Coburn, M.D.**

*“Oversight of the Office of the Intellectual Property Coordinator”*

United States Senate Committee on the Judiciary

June 28, 2010

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### **To All Panel II Witnesses**

1. Which country is the biggest violator of American Intellectual property rights and laws? Why?
  - **While China appears to be the biggest violator of American IP rights, mostly because of its size and explosion of online traffic, smaller countries pose just as much of a concern. Some prevent or greatly inhibit copyright enforcement and others engage in allowing jurisdictional “off-shore” protection to infringers, e.g., Vanuatu. Nevertheless, we agree with and applaud the IPEC report’s focus on China.**
    - a. I realize the Joint Strategic Plan outlines the fourth critical component of the strategy as enforcing our rights internationally. However, I believe individual countries pose different threats to our rights that necessitate specific responses. From your industry perspective, what do you believe, specifically, should be done by the Intellectual Property Enforcement Coordinator (IPEC) to address the problems created by the country you indicated above as the biggest violator of our rights?
  - **Regarding China, the problem is best addressed at a macro level (i.e., direct bi-lateral negotiations between governments). China seems to be open to this approach, as the recently signed bi-lateral agreement on intellectual property protection between Taiwan and China clearly shows. But the US should also engage in multi-lateral approaches through WIPO and regional approaches with the help of other regional economic powers committed to stronger copyright laws and enforcement, e.g., South Korea and Japan.**

- b. How should that response differ from the U.S. response to violations by other countries which may create different and more nuanced problems related to American intellectual property protection?
- **Smaller countries systematically violating American IP rights as a result of lax enforcement and laws, as well as by allowing for undisturbed hosting of illegal off-shore websites or hosting (“leeching”) sites, should be confronted in a number of different creative ways:**
  - 1. **Bi-lateral negotiations resulting in mutual assistance treaties and preferable trade benefits.**
  - 2. **Multi-lateral pressure through WIPO.**
  - 3. **Greater inclination to impose trade sanctions.**
  - 4. **Enhanced 301 trade designation.**
  - 5. **Focusing on using domain name enforcement, like the recent bittorrent DOJ/Homeland Security enforcement action in California.**
  - 6. **Expansion of extraterritorial jurisdiction which will allow US copyright owners to better enforce their rights in other countries.**
  - 7. **Increased cooperation with INTERPOL**
  - 8. **Support for an International Criminal Court with jurisdiction over intellectual property claims and disputes.**