

Written Questions of Senator Grassley for Judiciary Committee Hearing on Oversight of the Office of the Intellectual Property Enforcement coordinator

Questions for Panel II Witnesses

1. Have you had an opportunity to review the Joint Strategic Plan on Intellectual Property Enforcement ("The Plan") and what are your thoughts? What areas of the plan could be improved?

Yes, I reviewed The Plan, and my initial reaction is that it is very comprehensive and thoughtful. However, it seems there should be greater emphases on online piracy and enforcement issues, as this is the greatest threat to the music industry.

2. What do you see as the greatest impediment to effective enforcement of the intellectual property laws here in the United States?

The greatest impediment may be the indifferent or outright hostile attitude toward copyright stakeholder interests by the technology industries, consumer groups, the legal community (including the legal academic community), and the public. This private sector push- back at times leads to a lack of commitment on the part of the government and the courts to protect the interests of copyright owners. The by-product of this intellectual confusion, among other things, is the lack of recognition of the extent of the economic damage of piracy to the content industry, and a growing belief that copyright is not a property right.

There is also great uncertainty about key provisions of the Copyright Law. This has lead to a misapplication and/or misinterpretation of the DMCA by the legislature, the courts, and the users.

3. What do you see as the greatest impediment to effective enforcement of intellectual property laws abroad?

The greatest impediment to effective enforcement of intellectual property laws abroad is the lack of uniformity of copyright laws and a commitment to better enforcement. Copyrights are distributed globally, but yet the copyright law and the attendant commitment to enforce those laws vary greatly country by country. In some countries, the commitment is stronger (e.g., France, South Korea), but in others the commitment is

sporadic or downright tepid (e.g., Canada, Spain, Brazil). Sometimes this soft attitude is a result of political opposition to strengthening copyright laws and enforcement, e.g the rise of the Pirate Party in some countries.

This divergence in approach results in lack of cooperation and coordination efforts between countries, as well as a lack of commitment to education.

4. Have efforts to improve coordination between government agencies been successful so far? What do you see to be are the biggest obstacles to a smooth working relationship between government agencies?

It is too soon to tell if efforts have been successful, but I do have concern about the perceived lack of inter-agency consensus and vision on copyright. At times, this results in agencies working to some extent at cross purposes.

Influence of powerful tech-oriented corporate interests like Google may impede the development of inter-agency and government wide consensus on copyright policy. Their influence should be minimized as much as possible.

5. The PRO IP Act provided for a number of additional recourses, including U.S. Attorneys and FBI agents, to bolster our law enforcement efforts against copyright infringement and piracy. Have those resources been effective?

I have no direct knowledge, but as a general matter I strongly believe that increased resources will definitely bolster enforcement efforts

6. In your opinion, has the Obama Administration been supportive of IPEC and the goals of the PRO IP Act?

All indications are that the Obama Administration is very supportive of both the PRO-IP Act and IPEC. If I have any criticism, there still appears to be some vacillation on overall copyright philosophy, and how much the tech industry and consumer group interests will influence the ultimate execution of a copyright enforcement plan.

7. How effective has the National Intellectual Property Rights Coordination Center ("IPR Center") been the effort to combat copyright infringement and piracy? Are

you working with the IPR Center? Can the IPR Center's efforts be improved, and if so, how? Do you believe the IPR Center has enough resources?

I have no knowledge of the IPR Center.

8. How can the private sector better assist government efforts to crack down on intellectual property crimes?

There should be constant and meaningful consultation between the private sector and the government on the means and depth of piracy, including information on the extent of damage. The creation of a clearinghouse which would facilitate communication between aggrieved content owners and government agencies could be a positive development.