

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?**

The Plan represents a positive step forward in achieving a higher level of cross-agency collaboration on intellectual property (IP) issues, and does an excellent job in cataloging many of the IP enforcement challenges we currently face. We are particularly encouraged that the Plan calls for greater cooperation with the business community in reducing the spread of online infringement and recommends a comprehensive initiative to pursue foreign-based websites that infringe and steal American IP.

The Plan also provides a good framework for IP owners to work closely with the IPEC to combat copyright infringement domestically and abroad, and we look forward to offering our Company’s expertise as appropriate.

With respect to areas where the Plan could be improved, it currently suggests that U.S. Government to work with search engine operators, advertising brokers and payment processors to “explore methods to prohibit paid advertising for online illegal pharmaceutical vendors.” The U.S. Government should consider a similar effort to engage with intermediaries including advertisers and payment processors that participate with pirate sites that offer infringing content or circumvention devices. And as the IPEC undertakes a review of current laws to determine if legislative changes are necessary, a full evaluation is warranted of the penalties for pirate streaming.

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

Cases involving online IP infringement are often complex and require a deep understanding of the multifaceted and intricate online ecosystem. In order to successfully prosecute complicated online infringement violations, law enforcement officials need to better understand how to identify appropriate targets and how to build strong cases. Our industry is already very active in identifying and referring cases for prosecution as appropriate, and we stand ready to offer our services in public training programs or elsewhere pursuant to DOJ guidelines to ensure prosecutors have the background and resources they need to try these cases.

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

Challenges in enforcing IP laws abroad vary widely. Some countries lack effective legal regimes to address IP crimes while others lack the political will to enforce existing IP laws. The impact of copyright infringement differs depending on the location. In some countries, widespread piracy significantly reduces consumer demand for legitimate content. Other countries, like China, serve as a safe-haven for the manufacture and worldwide export of pirated goods.

One specific example of a global challenge we face in the online environment is the insufficiency or lack of availability of WHOIS data, which can make it difficult to identify the owners and operators of online pirate websites. Even where strong laws exist, enforcement efforts can be stymied if accurate data regarding who owns and operates websites is not being maintained as required pursuant to registry agreements, or is not accessible.

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

Coordination among government agencies has increased, but information sharing among the various IP agencies can still be enhanced significantly. We hope implementation of the Plan will result in more information sharing, which will in turn improve the success of enforcement efforts overall.

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

Because of the amount of time required to investigate and prosecute IP crimes, it is still too early to determine whether the resources provided by the PRO IP Act have made a significant difference. However, enforcement agencies are increasingly reaching out to the private sector and accepting referred cases, which indicates that the additional resources are spurring an increase in enforcement activity. In order to measure improved effectiveness, the commitment to these resources must be multi-year and sustained.

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

Yes. President Obama and Vice President Biden have provided strong and consistent leadership in support of the IPEC's work to promote and cross agency collaboration and increased enforcement of intellectual property laws. We encourage the Administration and Congress to continue to provide the IPEC with the resources and support necessary to

implement her ambitious blueprint for further strengthening the government's coordinated IP enforcement activities.

- 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?**

Working through the MPAA to refer cases, our industry regularly provides the IPR Center with critical information regarding large-scale infringement activity. As the government steps up its efforts to enforce and prosecute IP crimes, the IPR Center will likely need additional resources to ensure a functional and coordinated effort among all relevant agencies.

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

Warner Bros. does everything it can to help combat the piracy of our motion pictures, television programs, games and other entertainment products, and we spend tens of millions of dollars annually directly on our own anti-piracy activities in addition to the millions spent on the anti-piracy work of our trade association, the MPAA. We work actively through the MPAA to provide law enforcement with the most accurate information possible and strive to assist the government by speaking with one voice, prioritizing referrals and providing deep and consistent supporting information. We stand ready to continue to assist the government in these issues which are so crucial to our industry in any way that is deemed appropriate and helpful.