

**Remarks of
The Honorable Orrin G. Hatch
International Confederation of Societies of Authors and Composers
World Copyright Summit
Ronald Reagan Building, Washington, DC
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I appreciate the opportunity to be with you this morning. You are an impressive group to behold. There is no doubt in my mind that you represent some of the brightest and most capable individuals in the copyright community.

I am honored to be here with you. I also acknowledge the distinguished list of participants on your program, including Senator Pat Leahy and Representative John Conyers. Over the years, I have enjoyed partnering with them on IP-related legislation and I look forward to even more opportunities to work on new initiatives.

You in this room are the artists, the innovators, and leaders of the world copyright industry. Not only do your artistic works continue to encourage the creation of new works that inspire and delight us, but also your industry is one of the few that consistently generates a positive balance of trade.

Conversely, copyright piracy is the very antithesis of creativity – crippling growth and stifling innovation in its wake. Beyond the cost to the copyright industries, piracy negatively affects all aspects of our economy.

In fact, one study reports that each year, copyright piracy from motion pictures, sound recordings, business and entertainment software, and video games costs the U.S. economy \$58 billion in total output, costs American workers 373,375 jobs and \$16.3 billion in earnings, and costs federal, state, and local governments \$2.6 billion in tax revenue.

During this time of economic turmoil, we must ensure that all copyrighted works, both here and abroad, are protected from online theft and traditional physical piracy. After all, U.S. copyright-based industries continue to be one of America's largest and fastest-growing economic sectors.

Just a few weeks ago, the Congressional International Anti-Piracy Caucus, on which I serve as co-chairman, unveiled its 2009 Country Watch List identifying several countries with ineffective intellectual property protections.

For years, countries like China and Russia have been viewed as providing the least hospitable environments for the protection of intellectual property. But this year, it was particularly disappointing to see that Canada, one of America's closest trading partners, was listed on the Watch List. This is another sobering reminder of how pervasive – and now how even close to our country's borders – copyright piracy has become in the global IP community.

Some of you have heard me say this before, but it bears repeating: There are many who do not understand that ideas, inventions, artistic works, and other commercially-viable products created out of one's own mental processes deserve the same protection under the law as any other tangible product or piece of real estate. Appallingly, many believe that if they find it on the

Internet then it must be free. I have heard some estimates cite no less than 80 percent of all Internet traffic comprises copyright-infringing files on peer-to-peer networks.

That is why the *Pirate Bay* case is so important. While the decision does not solve the problem of piracy and unauthorized file sharing, it certainly is a legal victory and one that sends a strong message that such behavior will not be tolerated. We can and must do more.

I strongly believe that if we're going to be successful in this fast-paced digital age, a solid partnership between the copyright community and the Internet Service Providers is crucial. I am confident that such a partnership can break up the current viral spread of copyrighted works on the Net. Many countries have begun to take action by working closely with ISPs to curb online piracy.

For example, France has adopted a *three strikes law*, which calls for ISPs to suspend a subscriber's service if they are accused three times of pirating copyrighted material. Across the globe, from Japan to the UK, from Australia to Brazil, there have been engaging discussions within the industry on how best to proceed on this front.

In the United States, I am encouraged with the developments that have transpired between content owners and *some* ISPs. Obviously, we still have a ways to go, but we are seeing a promising level of participation within the industry. I believe a flexible and free-market solution is essential if we are to be successful in this endeavor. As more of these discussions turn into actions, it is vital that these principles remain front and center. On a side note, there is another benefit of stopping online piracy that is often overlooked. By reducing some of the infringing content online, the networks will be more efficient, thereby making more broadband capacity available for paying customers.

As I hope you can tell, the protection of intellectual property has been and is one of my top priorities in the Senate.

I am reminded of the time when Senator Leahy and I worked together on the Berne Convention Implementation Act of 1988, which made the United States a party to the Berne Convention for the Protection of Literary and Artistic Works. Passage of this law extended copyright protections beyond our borders to the worldwide coverage by the multilateral treaty.

We worked night and day to resolve some of the more controversial aspects of the debate, ranging from copyright formalities to the so-called moral rights issue. We wanted to ensure that our country's adherence to the Berne Convention would neither enlarge nor diminish rights as protected by federal and state law.

When we passed the Digital Millennium Copyright Act in 1998, one of my goals was to address the problems caused when copyrighted works are disseminated through the Internet and other electronic transmissions without the authority of the copyright owner.

By establishing clear rules of the road, the Digital Millennium Copyright Act served as the catalyst that has allowed electronic commerce to flourish in a way that does not undermine America's copyright community. I believe the DMCA is responsible for moving our nation's copyright law into the digital age.

In 1998, Congress also passed the Sony Bono Copyright Term Extension Act to ensure adequate protection for American works abroad by extending the U.S. term of copyright protection for an additional 20 years. This bill made certain that America maintained its international trading advantage by keeping pace with emerging international standards

Currently, Congress is very active on a wide array of intellectual property bills. In between filling a Supreme Court vacancy and working on health care reform, I am focused on updating our patent system, enacting legislation that expands the public performance right to include analog radio transmissions, passing orphan works legislation, and reauthorizing the Satellite Home Viewer Extension and Reauthorization Act.

To say the least, the IP agenda is chock-full this Congress. And I hope we can count on your continued support and input.

Let me say a few words about the Performance Rights legislation. It is time to amend copyright law to establish performance rights in sound recordings. Some people are under the wrong impression that everyone in the music industry is making a fortune, but they are not aware that all too often it is a struggle to survive.

I believe that artists should be compensated for their work. This is an issue of fairness and equity. I agree with the position of the Department of Commerce Working Group on Intellectual Property Rights, which reported that the lack of a performance right in sound recordings is “an historical anomaly that does not have a strong policy justification – and certainly not a legal one.” From an international perspective, it’s time for the United States to align itself with all the other countries that recognize a performance right in sound recordings.

The pending legislation would ensure that musical performers and songwriters receive fair compensation from all entities across the broadcast spectrum, not just from Web casters, satellite radio providers, and cable companies.

There is no question that radio play promotes artists and their sound recordings. There is also no question that radio stations profit directly from playing the artists’ recordings.

I understand the concerns of the songwriting community and the difficulty some have in recouping royalties on infringed works. We must ensure that our songwriters are not placed in situations where their property rights are ignored by infringers. I continue to have discussion with my colleagues on how best to address the issue of willful infringement. I hope you will continue to provide your support in this area.

Indeed, we must strike a fair balance, one that fosters a vibrant broadcast radio community and compensates artists for their work. Now that the Performance Rights Act has passed the House Judiciary Committee, I believe you will see the Senate Judiciary Committee act, maybe this summer, as Senator Leahy suggested at last week’s mark-up.

I also continue to be very active on passing orphan works legislation. Last year, the Senate unanimously passed bipartisan legislation to encourage the use of *orphan works* – works that may be protected by copyright but whose owners cannot be identified or located. Countless artistic creations – books, photos, paintings and music – around the country are effectively

locked away and unavailable for the general public to enjoy because the owner of the copyright for the work is unknown.

Unfortunately, it often isn't easy to identify or find these owners of copyrighted work. To make matters worse, many are discouraged or reluctant to use these works out of fear of being sued should the owner eventually step forward.

For years, I have been working with industry stakeholders and copyright experts, including Marybeth Peters, Register of Copyrights, to pass orphan works legislation. The bill seeks to unite users and copyright owners, and to ensure that copyright owners are compensated for the use of their works.

I couldn't agree more with Register Peters when she said, "A solution to the orphan works problem is overdue and the pending legislation is both fair and responsible."

Please help us pass this important copyright legislation.

Finally, let me say a few words about the Satellite Home Viewer Extension and Reauthorization Act (or SHVERA), which is set to expire at the end of this year. SHVERA supplies satellite television providers the necessary authority and copyright license to retransmit over-the-air broadcast television stations to their subscribers. Because SHVERA is codified in both the Copyright Act and Communications Act, I am working with my colleagues from both the Senate Judiciary and Commerce committees.

Since the last time reauthorization took place in 2004, the digital television transition was not a part of discussions. Accordingly, as we work on reauthorizing the bill this year, modernizing, simplifying, and in some cases, narrowing the licenses for the digital age are paramount.

As you can see, there is plenty of work ahead of us, and I hope you will continue to provide your valuable insights and expertise on these and many other issues before Congress. I have an open-door policy and invite you to visit me and my staff to discuss some of your thoughts and ideas.

Thank you, again, for the opportunity to speak at this impressive assembly. I commend you for participating in this important World Copyright Summit.

I have really enjoyed being with you this morning.

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