

Testimony of
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Committee on Oversight Reform

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Mrs. Chairwoman, Members of the Committee, thank you for convening this hearing today and inviting me to participate.

No issue is as important to the member companies of the Motion Picture Association of America¹ than the protection of intellectual property. Intellectual property – the ideas and creativity behind every image on the screen – is the lifeblood of our industry. Intellectual property and its protection, both at home and overseas, is critical to our nation’s economic strength. The American film and television production industry – which is just one part of the overall American creative community – results in millions of jobs created each year in states all across this nation. Our industry is bolstered by over a hundred thousand small businesses, entrepreneurs and start-ups from nearly every state. Protecting intellectual property preserves these jobs, creates new production-related employment opportunities, and results in consumers having more choices in how they view entertainment.

The US motion picture and television industry is one of the few US industries that consistently generates, even in these difficult economic times, a positive balance of trade, bringing dollars back home and creating good high-paying jobs in the US. International

¹ The Motion Picture Association of America and its international counterpart, the Motion Picture Association (MPA) serve as the voice and advocate of the American motion picture, home video and television industries, domestically through the MPAA and internationally through the MPA. MPAA members are Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Twentieth Century Fox Film Corporation, Universal City Studios LLP, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment Inc.

markets are vital to the continued success of our industry; over half of our members' revenues are derived from outside of the United States. These accomplishments have not come easily. Our industry faces the relentless challenge of the theft of its creative content, a challenge extracting an increasingly unbearable cost.

MPAA views coordination among the stakeholder agencies with IPR protection and enforcement responsibilities as critical to the effective enforcement of US intellectual property rights. This is why MPAA heartily supports the PRO-IP Act (Prioritizing Resources and Organization for Intellectual Property Act of 2007), which passed last fall with broad bipartisan support. This legislation recognizes the importance of intellectual property to our nation's economic future and, under the leadership of Victoria Espinel as this nation's first Intellectual Property Enforcement Coordinator, should improve interagency coordination. I've had the pleasure of working with Ms. Espinel. She is well-qualified and I am fully confident that she will provide the leadership necessary to harness US resources, both human and financial, to more efficiently and effectively protect intellectual property at home and abroad. It is now imperative that Congress works quickly to realize the full potential of PRO-IP by funding its remaining elements.

It is also important that Miriam Sapiro's nomination for Deputy US Trade Representative move forward expeditiously. The Deputy US Trade Representative is a critical senior level official in the US interagency team for protecting and enforcing US intellectual property rights abroad and her absence is a notable void in interagency process.

Annually, a broad interagency team considers foreign governments' protection of US intellectual property through the Special 301 process. This critical tool identifies deficiencies in foreign markets and serves as the Administration's overall roadmap for the overseas intellectual property rights agenda each year. We believe it should also guide our work with governments that benefit from our trade preference programs.

The Generalized System of Preference (GSP) program, along with several other trade preference programs, is intended to offer trade benefits to developing countries while at

the same time protecting US economic interests, notably the leverage to seek and secure improvements in IPR legislation and enforcement in beneficiary countries. In some instances, the threat of suspending GSP benefits has motivated recipient countries to take meaningful steps to improve IPR protection. Too frequently, however, there is a disconnect between Special 301 and trade preference programs with some of the most egregious offenders of US intellectual property rights receiving preferential access to the US market despite their long-standing failure to effectively protect US creativity. In my view, our foreign policy should be more cohesive.

Linking Special 301 and trade preference program eligibility would provide the US government a powerful enforcement tool. This could be achieved by requiring, as a condition for continuing to receive benefits, that GSP beneficiaries listed on the Special 301 Priority Watch List develop and implement an action plan, in cooperation with the U.S. government, to address the IPR deficiencies discussed in the 301 report.

Throughout the process – from developing the action plan to its implementation – countries would be compelled to consider and address IPR deficiencies.

Another critical tool for improving intellectual property protection and enforcement overseas are trade agreements. The improvements in intellectual property rights enforcement that these agreements have required of our FTA partners are vital to our industry's continuing contribution to America's economic strength. All US FTAs call for protections that exceed the minimal requirements of the WTO's Trade Related Aspects of Intellectual Property Agreement (TRIPS) and USTR has continuously improved the level of protections in these agreements. We are eager to work with you and your colleagues to see the three pending FTAs implemented so that we can benefit from the negotiated IPR obligations of our trading partners. Without implementation, these agreements are simply a series of complex, unfulfilled promises.

While not a Free Trade Agreement, the US motion picture industry – producers, studios and guilds -- has a keen interest in the Anti-Counterfeiting Trade Agreement (ACTA), in particular the provisions to address Internet piracy. We firmly believe that for the ACTA

to address the enforcement challenges our industry confronts today, it **MUST** include robust protections for intellectual property online. Practical secondary liability regimes for online infringement are essential to motivate stakeholders to cooperate in implementing the reasonable practices that promote legitimate consumer options and make the online marketplace less hospitable for infringers. ACTA parties should refine their secondary liability regimes to reflect current realities and adopt modern, flexible systems where they do not exist.

In all of these efforts, diplomats at our embassies and consulates play a vital role in cultivating political will. To meet the challenges the American IP industries will face in the coming years, we need to expand the corps of intellectual property attachés serving in our embassies.

Having worked with some of the current and former IPR attachés, we can attest to their value in serving as a resource in combating piracy, serving as a focal point for embassy efforts with the host government, and providing advice and guidance on how we can best mobilize our efforts and marshal them in concert with other rights holders. I am sure that increasing the number of attachés and ensuring that they are posted to priority countries will strengthen our world-wide campaign to protect American movies from theft, as well as all US intellectual property.

Throughout my career, I have been engaged in political issues. The protection of intellectual property is different. It is not a partisan issue. Fundamentally, we are talking about advocating for the creative industries; protecting property rights; bolstering small and medium sized enterprises; and, supporting a driver of US global competitiveness and well-paying American jobs. The American creative community and the hard working men and women that produce the movies and television programs that are enjoyed the world over are second to none. The results of their efforts are worth protecting.

I am continually appreciative of your interest in seeking ways to improve the enforcement and protection of US intellectual rights and I look forward to answering any questions you might have for me.