

Statement of Zach Horowitz
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Before the House Foreign Affairs Committee
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My name is Zach Horowitz and I am President and Chief Operating Officer of the Universal Music Group -- the world's leading recorded music company with wholly owned operations or licensees in 77 countries. Our company is also home to the industry's leading global music publishing group. In the interest of time, I will submit for the record a statement by the Recording Industry Association of America that details some of the music industry's most pressing international piracy problems.

Mr. Chairman, let me begin by thanking you for the many hours, over many decades, you have dedicated to America's creative community. Effective copyright laws give us the confidence to make investments in creativity -- to look for the next new sound, to cultivate an aspiring artist, and to introduce music enthusiasts around the globe to talents like Rihanna, Amy Winehouse, Lady Gaga, Duffy, Colbie Caillat, and M I A. Just a few years ago you may not have known any of those names but now they join Gwen Stefani, U2, Stevie Wonder, Will I Am, Kanye West, Mary J Blige and so many other Universal artists who entertain the world.

Simply put, we need your help. One in three CDs sold globally are pirate, and only one in 20 downloads is legitimate. Those facts translate into lost jobs, lost tax revenues, and for artists, lost dreams. It affects everyone from musicians and songwriters, to recording studio engineers, to music retailers, to album cover designers, to truckers who carry CDs to retailers. It is not just the southern California economy, and not just the music and movie businesses. Today, institutionalized, commercial ventures are pirating products from all across our economy.

I fear that the bleak piracy statistics have become so familiar that many have become inured to what they mean. But they are staggering and provide context as to why this hearing is essential. IFPI -- the music industry's international trade group - estimates there were over 40 billion illegal downloads in 2008, based on separate studies in 16 countries. That means that there is an online piracy rate of 95%.

And when it comes to physical piracy, counterfeit records constitute approximately 90% of all recorded music sales in places like China and Russia. Physical piracy rates in many European Union countries are over 50%. But one does not have to go that far to confront rampant piracy. Our closest neighbors are challenged by some of the worst problems anywhere.

The Organization for Economic Cooperation and Development – OECD – has estimated that Canada has the highest level of online piracy in the world. Amazingly, Canada still has not modernized its copyright law for the digital age and is now a haven for those running unauthorized music websites. The fact that Canada ratified the WIPO treaties but did not update its laws to meet its requirements means there is no recourse against online theft -- a fact known by thieves everywhere.

On the physical side, Canadian customs officials are hamstrung because they do not have the power to act without a court order. They have no authority to seize counterfeit goods or even INFORM rights holders when they discover suspicious merchandise. So when a container comes into their ports, they open it, see DVDs, CDs and video games – or sneakers for that matter – and close it back up and pass it through. Much of the time the goods are transshipped to – you guessed it – the United States. I would hope that Members of this Committee would raise these deficiencies with the Canadian officials that you meet with. Ask them to explain their reputation as a nation unfriendly to the policies at the heart of copyright – and the realities of the borderless digital marketplace.

In Mexico, seven out of ten CDs sold are pirated. Just last week there was a raid in Tepito – Mexico’s piracy capital – where more than 300 enforcement officers took part in the raid of six labs and 18 warehouses. They seized five million music and movie covers, 160 thousand recorded CDRs and DVDRs with music and movies and 220 burners.

Earlier in the month the Mexican military conducted a raid in Veracruz that resulted in the seizure of 1,800 burners and approximately 700 thousand recorded CDRs and DVDRs with music and movies. It has been reported that the raid caused an organized crime group called “Los Zetas” to make threats against the anti-piracy team and that drug cartels may have diversified into piracy. Piracy remains an epidemic in Mexico. If there is further deterioration it might not make sense for companies to invest in local artists, or to stay active in the Mexican recorded music business.

We urge the Committee to add its voice to those calling for more consistent enforcement initiatives – especially as the presence of organized crime heightens the broader challenge to Mexico’s law enforcement problems. To fight the piracy epidemic we need a constant, concerted effort from Mexico’s leading officials.

Global piracy imposes real costs to the U.S.: According to the Institute for Policy Innovation, the U.S. sound recording industry suffers direct losses of \$5.3 billion annually as a result of global music piracy. While the U.S. represents approximately one-third of the world’s music sales, U.S. originated music is the most popular genre sold around the world. As a result, piracy outside the U.S. disproportionately affects U.S. artists and the U.S. economy.

Global piracy imposes cultural costs -- if we can't get a return on our investments we cannot invest in new and developing artists, or market established ones. Since 2000 -- when internet piracy exploded into our lives -- industry gross revenues at retail have fallen over 27% -- from \$14.3 billion to \$10.4 billion. As a result, record labels big and small have cut back on their artist roster and have made significant cuts to the number of new artists that are signed to recording contracts.

Global piracy imposes a cost on our economic future. While the phrase "intellectual property" is unwieldy, even amorphous, it is at its core creativity, innovation and ingenuity. America is driven by ideas -- it is what defines us as a nation. As manufacturing jobs disappear, intellectual property is how our kids will earn their livelihoods. The stakes are so high yet, for whatever reason, intellectual property protection has not been the national priority that it needs to be.

We appreciate the complexities of trying to protect U.S. intellectual property in a world with different legal regimes and cultures. But every country should be expected to abide by basic principles of fairness and the rule of law. And the U.S. can be a powerful force in sending that message.

Allofmp3.com, a Russian company, provides a perfect illustration. It was an online service that sold the best music in the world -- catalog and new releases -- without the authorization of the artists or rights holders. Users were charged a few cents per track through their Mastercard or Visa -- which gave the site a patina of legitimacy -- but none of the monies were paid out to artists, songwriters or other rights holders. The proceeds were kept by the Russian "entrepreneurs" who took advantage of an antiquated and vague law, and an unpredictable legal system. By 2006, it was selling music to anyone in the world with a PC and a credit card. In fact, in the UK it had become second to iTunes for download sales among all online buyers.

When the music industry brought the site to the attention of Congress, concerned Members like you made the rogue operation the focal point in dialogs on global piracy. When Russian officials and policymakers wanted to discuss their country's entry into the World Trade Organization, Administration officials including USTR's Ambassador Schwab, Secretary of State Rice and Commerce Secretary Gutierrez used allofmp3 as an illustration of why Russia was not ready to join the global alliance.

Over time, the spotlight led to action by the Russian government. Of course, smaller copycats have sprung up to take the place of allofmp3 and problems persist. But what was then one of the world's most notorious illegal music sites was reined in because U.S. officials brought attention to its indefensible business model.

We could use that kind of spotlight and attention on a number of businesses – including in China where we confront online services such as Baidu. Baidu is a search engine that provides links to unauthorized MP3 music files through its proprietary, dedicated music service. Once again, Baidu does not have the authority to let users search for and listen to song files free of charge. But the music links helped Baidu become China’s biggest search engine. Baidu is responsible for 50% of the internet-based piracy in China, and has taken the place of allofmp3 as the leading symbol of a business that makes a profit through the unauthorized use of copyrighted music.

You may have read a recent announcement from Google about an online music service in China that will be free to users. Universal and other music companies licensed our catalog to Google, and will be paid through advertising. If it works, it could be a model for markets everywhere. But can it compete with a service that doesn’t compensate the artists and rights holders? Can Google overcome Baidu’s “first mover” advantage coupled with the fact that it does not compensate creators?

Baidu demands the kind of scrutiny and attention that was brought to bear on allofmp3 – a case that demonstrated that legislation is not the only tool in the congressional arsenal, and that traditional law enforcement is not the only leverage point for the Administration.

And, by the way, the influences of intellectual property protection don’t only flow out from the United States. We, too, can learn from and benefit from the ideas of our international trading partners.

The primary example right now is the way other nations are exploring mechanisms by which Internet Service Providers (ISPs) can be involved in the fight against the copyright theft that flows through their networks. All over the world, governments are looking at ways to confront users who take music, movies, games and software without the copyright owner’s authorization. Governments are bringing parties together and brokering agreements between ISPs and content providers. Their goal is to combat piracy in a way that is fair to rights holders and fair to consumers.

The RIAA submission catalogs the different approaches being considered by our trading partners – in countries like France, Ireland, the UK and New Zealand. The discussions and agreements will provide American-based ISPs, rights holders and consumer groups with insights and models that will inform the private conversations that are going on here.

We welcome the ideas. We applaud the efforts.

USTR will soon release its annual Special 301 list. We believe it would be productive for you to convene private meetings in Washington with the Ambassadors from the most problematic countries. Private meetings may be the right forum to make it clear that lax IP enforcement is untenable, and to identify ways the U.S. Government can work with our trading partners to resolve the issues that USTR has identified. It would be especially valuable for you to hear what your colleagues from Mexico and Canada have to say about the current situation.

I know that in some U.S. embassies there are special IP attachés with a portfolio that is part law enforcement, part IP education and part diplomacy. I understand that the Congress may authorize even more IP attachés. I urge you to talk with those officials who are currently fulfilling that role to ascertain what is working, what isn't, and what additional tools and authority they need. We would welcome the chance to work with you on a law that increases our capacity to enforce the IP laws of jurisdiction outside the U.S.

Mr. Chairman, we are in the midst of a revolution – a revolution in technology. With the advent of new communication technologies, EVERY creator, whether it is a musician in Ireland, an actor in India, a poet in Africa, or a teenager in a garage in Van Nuys, can find a global audience.

The fact that most internet “commerce” in copyrighted materials is infringing will stymie the coincidental revolution in global economics. And as the traditional economies of agriculture and manufacturing become increasingly automated, it will be the products of the mind that will define the future for all of us – including aspiring creators who live in countries where IP protection is not a priority. While we are home to a great many creators, gifted individuals exist in every culture and country and strong IP enforcement will allow them to earn a livelihood from the artistic and innovative gifts that they possess.

We hope that this Committee, and the Congress, can send this powerful message to the world.

You have already done amazing work in defense of intellectual property. But as is all too obvious from my comments here today, there remains much to be done.

Thank you for your interest, thank you for your concern, and thank you for your continuing efforts on behalf of creators.