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Verbatim, as delivered

## **Chairman Berman's opening remarks at hearing "Protecting US IP Overseas: The Joint Strategic Plan and Beyond"**

Last year the Committee held a hearing with witnesses from industry and labor to examine the impact of intellectual property theft on the U.S. economy. Today's hearing will focus on government efforts to stem the problem of piracy.

In my district, I have seen first hand how piracy and counterfeiting impacts not only creativity, but jobs. The lengthy credits at the end of every movie remind us how many people it takes bring a film to the screen – and there are many who play supporting roles to the projects who don't even appear in the credits (motel owners, caterers, accountants etc.). When a movie is pirated, it puts all of those jobs at risk.

The ease of distribution in the case of CDs and DVDs make them an obvious target for piracy but counterfeiting and IP theft impacts many other industries from pharmaceuticals to auto parts, and from clothing to sporting goods. As such, intellectual property is an integral part of many important policy issues, from climate change, to fighting infectious disease in the developing world, to Russia's accession to the WTO.

The geographic scope of intellectual property theft has also grown. While our attention was previously focused on a relatively small number of countries – most notably Russia and China – we have now seen an explosion of piracy and counterfeiting in many nations. And the situation is further exacerbated by Chinese policies like "indigenous innovation" which may discriminate against foreign IP holders in favor of their own domestic businesses. Today, piracy and counterfeiting has become so effortless, and enforcement resources spread so thin, that the legitimate marketplace for music and movies is disappearing in countries such as Spain.

The current situation is untenable – and I commend the Obama Administration for taking aggressive action to improve enforcement. We were pleased to see Vice President Biden call industry leaders together back in December, and eagerly awaited the Joint Strategic Plan on Intellectual Property Enforcement, which was recently issued by U.S. Intellectual Property Enforcement Coordinator Victoria Espinel, one of our distinguished witnesses today.

In the 2009 Pro-IP Act, we envisioned that the intellectual property enforcement coordinator would work with all the key players in the Administration and make policy recommendations to help Congress and the relevant agencies and departments more efficiently and more effectively protect this vital part of our economy. The Joint Strategic Plan takes an important step in the right direction by including IP-enforcement guidelines stretching across eight different federal agencies. We look forward to hearing Ms. Espinel speak on behalf of the Administration about improving and modernizing our laws, and look forward to working with her and ensuring she has adequate resources to do her job.

The Coordinator has a tough job that is enhanced by the many agencies it works with to coordinate our IP enforcement strategy. Most recently, I was interested to read about the initiative undertaken by Immigration and Customs Enforcement, or ICE, to seize the domain names of Web sites that were unlawfully offering first-run movies. That is exactly the kind of innovative thinking the Vice President called for – and I am curious to hear from Assistant Secretary Morton on how it came about, the obstacles that you faced, and how we can scale Operation "In Our Sites" to enterprises that facilitate the theft of music, books and other products prone to counterfeiting.

I understand that the program isn't a panacea – I know that some unlawful sites that we take down today will spring up with new names, and in new jurisdictions, tomorrow. But part of the idea is to educate users – looking for the many legitimate sites such as Hulu, Vevo, Pandora, Rhapsody and others coming online everyday.

Senator Leahy and I are exploring legislative approaches to expand on the ICE program, and would like to learn from your experiences before introducing legislation later this month. But we are committed to reining in the rogue sites and the intermediaries that facilitate or support financially the online businesses predicated on theft. As was described at a subcommittee hearing I held three years ago, Visa testified that its credit card system should not be used for illegal transactions. Furthermore, they stopped processing transactions for ALLOFMP3.com, a notorious foreign website based in Russia for downloading illegal music in part because it was the “right thing to do.” This should be the guiding principle.

Our frustration with lackluster foreign enforcement is nothing new. The office of the U.S. Trade Representative has been publishing its Special 301 report for about two decades, detailing the state of intellectual property enforcement in all its forms on a country-by-country basis. While there is some positive news in this year's report in that three countries (the Czech Republic, Hungary and Poland) have been removed from the watch list much more work needs to be done. Some of the largest countries and largest markets in the world such as China, Russia, and India remain on the priority watchlist. The same goes for one of our closest trading partners, Canada, which is on the priority watchlist for failing to fulfill international commitments to strengthening its copyright laws and for demonstrating weak enforcement in the IP and online arenas.

This Committee should play a positive role in moving the ball forward. After last year's hearing on copyright issues, the Committee engaged in conversations with the Government of the Bahamas on their compulsory license of pay television which had been on the books for almost 10 years. As a result of our intervention, the Bahamas repealed its compulsory license and copyright owners are now negotiating for their goods and services for market value.

In the State Department authorization bill passed by the House last year, we included a provision that would expand the IP attaché program to provide for greater focus on intellectual property protection in our embassies around the world and station additional personnel in countries where greater U.S. involvement could result in better enforcement.

The Committee needs to continue to engage on these issues and I look forward to hearing from all of our distinguished witnesses on the ways we can support a strong and productive government role in protecting one of our most treasured assets.