

Intellectual Property Guidelines for the 114th Congress

AN OPEN LETTER

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Dear Members of Congress,

Congratulations to the Members of the 114th Congress! It is an exciting time for America, particularly in the knowledge-based economy. American entrepreneurship, ingenuity and creativity lead the world, and we believe that Intellectual Property Rights are the key to maintaining global competitiveness.

The undersigned organizations represent millions of Americans through both state and national advocacy or engage in rigorous research and educational work on intellectual property rights. We would like to share with you our strong support for all types of intellectual property, by providing you with the following information and guidelines that our respective organizations look to when we consider intellectual property.

Intellectual Property Rights Are Grounded in the Constitution

The Founding Fathers recognized the importance of IP in Article 1, Section 8 of the Constitution: "To promote the Progress of Science and useful Arts, by securing for limited times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

This clause, articulated by the founders, is rooted in the notion that the best way to encourage creation and dissemination of new inventions and creative works to the benefit of both the public good and individual liberty is to recognize one's right to his or her intellectual property.

Intellectual Property Rights Are a Fundamental Property Right Deserving the Same Respect as Physical Property

James Madison elaborated on this provision of the Constitution in Federalist Paper #43; with regard to intellectual property, as with all property rights protected in the common law, "[t]he public good fully coincides ... with the claims of individuals."

Intellectual Property Rights Promote Free Speech and Expression

Strong IP rights go hand in hand with free speech as creators vigorously defend their ability to create works of their choosing, free from censorship.

By affording innovators and creators the ability to support themselves, IP rights promote free expression unencumbered by government.

Intellectual Property Rights Are Vital to Economic Competitiveness

IP rights create jobs and fuel economic growth, turning intangible assets into exclusive property that can be traded in the marketplace.

The most recent report on IP-related jobs in the U.S. from the Department of Commerce and the Patent and Trademark Office found that in 2010, direct employment in the most IP-intensive industries in the U.S. accounted for 27.1 million jobs, and indirect activities associated with those industries provided an additional 12.9 million jobs for a total of 40 million jobs, or 27.7 percent of all jobs in the economy.

According to economists Kevin A. Hassett and Robert J. Shapiro, in 2010 the value of IP in the U.S. was between \$8.1 trillion and \$9.2 trillion, or the equivalent of 55-62.5 percent of GDP. In a knowledge-based global economy, America's ability to remain a world leader in innovation depends on strong protection of IP.

Intellectual Property Rights Must Be Protected Internationally Through Effective IP Provisions in Trade Agreements

Far too many foreign governments look the other way when it comes to the theft of IP. The lure of access to the U.S. market should be used as an incentive to convince trading partners that they should increase their protection of IP rights. Therefore, strong IP protections are integral to all trade agreement negotiations.

Intellectual Property Rights Are Integral to Consumer Protection and National Security

IP rights protect consumers by enabling them to make educated choices about the safety, reliability, and effectiveness of their purchases. The protection of IP rights is also vital to national security by preventing counterfeit parts, which compromise the reliability of weapons systems and the safety of military personnel, from entering the defense supply chain.

Intellectual Property Rights Must Be Respected and Protected on the Internet

The Internet is an incredible platform for innovation, creativity and commerce enabling widespread distribution of ideas and information. However, IP theft online is a persistent and growing problem. Protecting IP and Internet freedom are both critically important and complementary; they are not mutually exclusive.

A truly free Internet, like any truly free community, is one where people can engage in legitimate activities safely, and where bad actors are held accountable.

Voluntary Initiatives to Address Intellectual Property Theft Are Positive

Good faith actors in the Internet ecosystem should engage in private sector, voluntary initiatives to address illegal conduct. These voluntary efforts can empower consumers to make educated decisions about their online activities and encourage investment, innovation and jobs.

We encourage you to consider these guidelines as you review and discuss existing laws and regulations governing IP. The Founding Fathers understood that by protecting the proprietary rights of artists, authors, entrepreneurs, innovators, and inventors, they were promoting the greater public welfare. The continued protection of these fundamental rights is essential to American innovation and competitiveness.

Sincerely,

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