



October 24, 2014

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Susan F. Wilson

Director for Intellectual Property and Innovation

Office of the U.S. Trade Representative

600 17th Street, N.W.

Washington, D.C. 20508

Re: **IIPA Written Submission Re: 2014 Special 301 Out-of-Cycle Review of Notorious Markets: Request for Public Comments, 79 Fed. Reg. 58026 (September 26, 2014)**

Dear Ms. Wilson:

In response to the September 26, 2014 Federal Register notice referenced above, the International Intellectual Property Alliance (IIPA)<sup>1</sup> provides the Special 301 Subcommittee with written comments on “notorious markets” – those “where counterfeit trademark or pirated copyright products are prevalent to such a degree that the market exemplifies the problem of marketplaces that deal in infringing goods and help sustain global piracy and counterfeiting.” The Office of the United States Trade Representative (USTR) has used this process to identify “potential Internet and physical notorious markets that exist outside the United States and that may be included in the 2013 Notorious Markets List.”

We commend USTR for publishing a notorious markets list as an “Out of Cycle Review” separately from the annual Special 301 Report. This list has successfully identified key online and physical marketplaces that are involved in intellectual property rights infringements, and has led to positive developments, including closures of some Internet websites whose businesses were built on illegal conduct; greater cooperation from some previously identified “notorious” and other suspect sites; and the facilitation of licensing agreements for legitimate distribution of creative materials. Recent noteworthy developments include: closure of **Xunlei’s GouGou** pirate search engine shut down over piracy concerns; the closure of **Isohunt** by virtue of a court settlement; fines against **Baidu Player**, a criminal conviction against the owners of **7yin**, the

<sup>1</sup> The IIPA is a private sector coalition, formed in 1984, of trade associations representing U.S. copyright-based industries in bilateral and multilateral efforts working to improve international protection and enforcement of copyrighted materials and open up foreign markets closed by piracy and other market access barriers. IIPA’s six member associations represent over 3,200 U.S. companies producing and distributing materials protected by copyright laws throughout the world—all types of computer and video games for video game consoles, personal computers, and the Internet; theatrical films, television programs, DVDs and home video and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and fiction and non-fiction books, education instructional and assessment materials, and professional and scholarly journals, databases and software in all formats. Visit [www.iipa.com](http://www.iipa.com). Members of the IIPA include [Association of American Publishers](#), [Entertainment Software Association](#), [Independent Film & Television Alliance](#), [Motion Picture Association of America](#), [National Music Publishers’ Association](#), and [Recording Industry Association of America](#).



closure of the **QVOD** video-on-demand service, and the decision holding liable the owners of the P2P streaming video network and video on demand (VOD) site **Funshion**. Some physical notorious markets previously cited by IIPA that have seen improvement include **Quiapo** in the Philippines.

The “notorious markets” list has successfully identified markets causing commercial harm to creators, but more importantly, successfully resulted in concrete and effective actions taken by the sites themselves, or the governments or courts in the countries in which the sites are hosted. This year, the filings of several IIPA association members, including MPAA, RIAA, and ESA identify specific bad actors which do not respect intellectual property rights and which merit further investigation. The notorious markets list heightens awareness of the extreme harm being caused by these markets and all those whose business models are built upon providing access to infringing materials. The list also reemphasizes the continued importance of addressing physical piracy markets where pirates continue to operate with relative impunity. It is incumbent upon governments to consider ways to address such transnational activity. There is a growing list of examples of law enforcement authorities working together across national borders to address copyright piracy that involves cross-border activities.

Addressing IP theft successfully through processes such as USTR’s “notorious markets” out-of-cycle review inures to the benefit of the U.S. economy as a whole. The latest indicators show that the core copyright industries make up nearly 6.5% of value added to GDP; create nearly 5.4 million well-paying jobs; and contribute \$142 billion to U.S. foreign sales and exports, outpacing many industry sectors.<sup>2</sup> The degree to which this capability is sustained depends in large part upon the extent to which piracy and market access barriers can be reduced. Notorious markets – egregious examples of open and blatant piracy – play a disproportionate role in harming the copyright industries, and thus, have a disproportionately negative impact on the U.S. economy and on U.S. employment.

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IIPA appreciates this opportunity to provide input to the Special 301 Subcommittee in this Out-of-Cycle Review regarding notorious markets for copyright piracy, and refers the Subcommittee to our members’ filings for consideration of the specific markets listed therein. We thank the Subcommittee and all those in the U.S. Government who work steadfastly to reduce harm to U.S. copyright interests through identified “notorious markets.”

Respectfully submitted,

Michael Schlesinger  
International Intellectual Property Alliance

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<sup>2</sup> *Copyright Industries in the U.S. Economy: The 2013 Report*, prepared by Stephen Siwek of Economists Inc., available at [http://www.iipa.com/copyright\\_us\\_economy.html](http://www.iipa.com/copyright_us_economy.html). Core copyright industries are those whose primary purpose is to create, produce, distribute, or exhibit copyright materials.