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Daniel Lee
Assistant U.S. Trade Representative
for Innovation and Intellectual Property
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20006

Re: IIPA Written Submission in Response to: 2024 Review of Notorious Markets for Counterfeiting and Piracy: Comment Request, 88 Fed. Reg. 66754 (August 16, 2024)

Dear Mr. Lee:

In response to the Federal Register Notice (“Notice”) referenced above, the International Intellectual Property Alliance (IIPA)¹ appreciates the opportunity to provide the Special 301 Subcommittee with written comments on notorious markets. According to the Notice, notorious markets are “online and physical markets that reportedly engage in or facilitate substantial copyright piracy or trademark counterfeiting that infringe on U.S. intellectual property (IP).” We commend USTR for continuing the notorious markets reporting process, which identifies key online and physical marketplaces that engage in the infringement of intellectual property rights and cause commercial harm to creators.

POSITIVE DEVELOPMENTS

The Notorious Markets List has contributed to some concrete developments in favor of the U.S. creative copyright industries, including through actions of marketplaces identified in previous

¹IIPA is a private sector coalition, formed in 1984, of trade associations representing U.S. copyright-based industries working to improve copyright protection and enforcement abroad and to open foreign markets closed by piracy and other market access barriers. Members of the IIPA include Association of American Publishers (www.publishers.org), Entertainment Software Association (www.theesa.com), Independent Film & Television Alliance (www.iftaonline.org), Motion Picture Association (www.motionpictures.org), and Recording Industry Association of America (www.riaa.com). Collectively, IIPA’s five member associations represent over 3,200 U.S. companies producing and distributing copyrightable content. The materials produced and distributed by IIPA member companies include: video games for consoles, handheld devices, personal computers, and online; motion pictures, television programming, DVDs and home video and digital representations of audiovisual works; music recorded in all formats (from digital files to DCs and vinyl) for streaming and other online services, as well as broadcasting, public performance and synchronization in audiovisual materials; and fiction and non-fiction books, educational, instructional and assessment materials, and professional and scholarly journals, databases and software in all formats.

years' lists and by governments and courts in countries where digital marketplaces are hosted. Some of the more recent positive developments include:

- The Delhi High Court in India issued a decision in *Universal City Studios LLC & Ors vs. dotmovies.baby & Ors.*, which ordered domain name registrars to “lock and suspend” certain domain names found to be infringing IP.
- *Fmovies*, a massive Vietnamese streaming piracy service was shutdown with the help of the Alliance for Creativity and Entertainment.

IIPA's members are encouraged by these positive developments, which serve to emphasize the effectiveness and value of the Notorious Markets List Out-of-Cycle Review process. Despite these improvements, many notorious markets still exist, putting the U.S. copyright-based creative industries at risk and threatening the broader U.S. economy.

The industries represented by IIPA and its members make significant economic contributions and are essential to the health of the overall U.S. economy. The core copyright industries added more than \$1.8 trillion dollars of value to the U.S. GDP in 2021, and the value added by the total copyright industries exceeded \$2.9 trillion.² 9.6 million workers were employed by the core copyright industries in 2021, and their average compensation far exceeded the average annual compensation of U.S. workers.³ The growth rate of the copyright industries was more than three times that of the average annual growth rate of the U.S. economy from 2018-2021.⁴ The copyright industries also contribute over half of the value added to and nearly half of all employment in the U.S. digital economy.⁵ These statistics show that the copyright-based industries are fast-growing, dynamic, and exceptionally important to the U.S. economy overall, and to the U.S. digital economy in particular. However, the sustainability of this staggering growth rate and hefty contribution to employment and the economy depends in large part upon the reduction of overseas piracy and market access barriers.

THE ADVERSE IMPACT OF ONLINE PHARMACIES AND COUNTERFEIT MEDICINE

IIPA appreciates USTR's decision to focus on “online pharmacies and counterfeit medicine.” While IIPA is not able to address some of the unique harms to consumers caused by online pharmacies and counterfeit medicines, online pharmacies and counterfeit medicines present many of the same risks to consumer health and safety as other forms of counterfeiting and piracy. For example, every person who visits a website designed to distribute or host pirated content opens themselves up to digital invasions of privacy. The moment that a website designed for piracy is accessed, pop-ups and advertisements calculated to deceive users into downloading viruses and

² *Copyright Industries in the U.S. Economy: The 2022 Report*, by Robert Stoner and Jéssica Dutra of Economists Incorporated, prepared for the International Intellectual Property Alliance (IIPA), (December 2022), p. 8, available at https://www.iipa.org/files/uploads/2022/12/IIPA-Report-2022_Interactive_12-12-2022-1.pdf.

³ *See id.*

⁴ *See id.*, at 9.

⁵ *See id.*

divulging personal information pose a threat.⁶ Even if consumers do avoid pop-ups and deceptive links, downloading pirated content still opens the door for invasion of malware. In 2018, Carnegie Mellon University found that the more time a user spent on infringing sites directly correlated to their likelihood of downloading malware.⁷ A pirated copy of a movie may contain a few lines of code that records the user's keystrokes, captures their screen, or allows a remote connection to be made by a third party.⁸ When a pirate webpage requires a user to create an account before accessing stolen content, the user may need to create a password or answer security questions. This type of information can easily be repurposed or sold by pirates to breach bank accounts, social media accounts, and more.⁹ According to the Digital Citizens Alliance (DCA), 72% of users who sign up for piracy subscription services with a credit card experience credit card fraud.¹⁰ Using websites designed to circumvent copyright law can lead directly to a serious breach in a user's online safety.

There are several other harms to consumers caused not only by the illicit trade in counterfeit medicines, but also other forms of piracy and counterfeiting. While the problem may be more apparent in the case of counterfeit medicines, a lack of oversight of other types of pirated and counterfeit goods also risks consumers' safety. The United States (and most other countries) has dedicated agencies to ensure that consumers who purchase goods from legitimate marketplaces can be confident that their products are safe. However, counterfeit and piratical goods, such as merchandise featuring infringing images of beloved children's characters and electronic devices like counterfeit game consoles, have not passed inspection for safety standards. A child wearing counterfeit character pajamas that violate Consumer Product Safety Commission (CPSC) guidelines is at serious risk for harm through exposure to toxins and lack of compliance with fire and choking safety standards. Consumers who play video games on counterfeit consoles risk fire hazards, electrical shocks, and burns if those devices do not meet necessary safety standards, which is often the case.¹¹

Criminal organizations are often behind commercial-scale piracy and counterfeiting, including the trade in counterfeit medicines. Thus, in addition to the immediate health and safety concerns discussed above, consumers are also negatively affected by how these criminal organizations use the funds derived from piracy and counterfeiting. When a consumer purchases game software from a video game company or a legitimate storefront, the purchaser knows where

⁶ See Creative Content Australia, *If you visit pirate websites, even the law can't protect you*, MPA-APAC (Feb. 25, 2020) <https://www.mpa-apac.org/2020/02/if-you-visit-pirate-websites-even-the-law-cant-protect-you/>.

⁷ Rahul Telang, *Does Online Piracy Make Computers Insecure? Evidence from Panel Data*, Carnegie Mellon University (March 12, 2018) p.1., https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3139240.

⁸ See Alvaro Puig, *Malware from illegal video streaming apps: What to know*, FEDERAL TRADE COMMISSION CONSUMER ADVICE, May 2, 2019, <https://consumer.ftc.gov/consumer-alerts/2019/05/malware-illegal-video-streaming-apps-what-know>.

⁹ See Interpol, *Accessing free or cheap content is not the bargain you think it is!*, INTERPOL, <https://www.interpol.int/en/Crimes/Illicit-goods/Shop-safely/Digital-piracy>.

¹⁰ Digital Citizens Alliance, *Giving Piracy Operators Credit: How Signing Up for Piracy Subscription Services Ratchets Up the User Risk of Credit Card Theft and Other Harms* (June 2023) p. 1., available at <https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/Giving-Piracy-Operators-Credit.pdf>.

¹¹ Chrissie Redford, Lincolnshire World, *Fake games consoles seized – and some are dangerous* (Dec. 11, 2019) available at <https://www.lincolnshireworld.com/news/crime/fake-games-consoles-seized-and-some-are-dangerous-1337990>.

the money is going. This is not the case with money spent on pirated materials, especially with the rise of unregulated cryptocurrency transactions.¹² Money spent on an illegally burned DVD, for example, typically goes to fund more illegal activities, including hacking efforts, gangs, and other criminal activities.¹³ Sometimes these illicit funds are used for organized crime or terrorism.¹⁴

NOTORIOUS MARKETS

IIPA refers the Special 301 Subcommittee to the separate filings submitted by IIPA members Association of American Publishers (AAP), Entertainment Software Association (ESA), Motion Picture Association (MPA), and Recording Industry Association of America (RIAA). These filings relate specifically to the industries that each of our members operate within, they identify both online and physical marketplaces and offer comprehensive information on additional marketplaces at issue that are not identified in this filing. Notably, these filings identify cyberlockers, BitTorrent indexing websites, linking and streaming websites, piracy apps, stream-ripping websites, direct download websites, and hosting providers that make infringing content accessible to users around the world. The following digital marketplaces are identified in more than one of our members' filings:

Torrent Indexing Websites

- **1337x.to** is an extremely popular torrent indexing website that launched in 2014. In August of 2023, this site featured over 3,000 uniform resource locations (URLs) that lead to torrents of ESA member video game titles. This platform additionally hosts over 100 publishing-related piracy websites such as *Z-Library.se*, *Sci-Hub.se*, and *Annas-Archive.org*. In August of 2024, 39.08 million visits were recorded to *1337x.to*, according to SimilarWeb.¹⁵

Cyberlockers

¹² See Anshu Siripurapu and Noah Berman, *Cryptocurrencies, Digital Dollars, and the Future of Money*, COUNCIL ON FOREIGN RELATIONS (Feb. 28, 2023) available at <https://www.cfr.org/background/cryptocurrencies-digital-dollars-and-future-money#:~:text=The%20rapid%20rise%20of%20cryptocurrencies.well%20as%20broader%20financial%20stability.>

¹³ See Interpol, *Accessing free or cheap content is not the bargain you think it is!*, INTERPOL, available at <https://www.interpol.int/en/Crimes/Illicit-goods/Shop-safely/Digital-piracy>; see also Interpol, *Mobilizing global action against intellectual property crime*, October 12, 2021, available at <https://www.interpol.int/en/News-and-Events/News/2021/Mobilizing-global-action-against-intellectual-property-crime..>

¹⁴ See Edson Luiz Vismona, *A Victimless Act? How Organized Crime Profits from Pirated Goods*, AMERICAS QUARTERLY (Jan. 17, 2019) available at <https://www.americasquarterly.org/article/a-victimless-act-how-organized-crime-profits-from-pirated-goods/>; see also *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact*, UNITED NATIONS OFFICE ON DRUGS AND CRIME (2019) available at https://www.unodc.org/roseap/uploads/archive/documents/Publications/2019/SEA_TOCTA_2019_web.pdf (linking some counterfeiting and piracy activities to organized crime syndicates as sources of revenue).

¹⁵ SimilarWeb Global ranks websites based on global traffic – the smaller the number, the more popular the site. SimilarWeb also provides site traffic data that represents worldwide unique visitors on desktop and mobile for the last available month. See <http://similarweb.com> for more information.

- **Rapidgator** launched in 2011 and has consistently been a major source of unreleased content and infringing published material. This site offers a rewards program that incentivizes users to upload popular copyrighted content in order to share in revenue and advertises “extra fast downloads” and “unlimited file storage.” Google’s most recent Transparency Report shows that Google has received more than 54 million delisting requests related to *Rapidgator* URLs.¹⁶ On average, *Rapidgator* has 29 million visits per month.

Bulletproof ISPs

- **DDoS Guard** is a Russian-based ISP offering DDoS protection and web hosting. *DDoS Guard* hosts such notorious online markets as *The Pirate Bay*, *Dbree*, *Rapidgator*, *Ddownload*, *bs.to*, and *DoodStream.com* and does not respond to takedown requests. *DDoS Guard* offers a reverse proxy service, which anonymizes the registrant of the websites.

Other Online Intermediaries

- **Njal.la** or **Njalla**, holds itself out as a domain registrar, but operates more as a domain name buyer and privacy service provider. Further, *Njalla* is a VPN and hosting provider, which prevents rights holders from identifying the operators behind the pirate websites hosted therein. *Ytmp3.cc*, *mp3juices.cc*, *123-movies.rs*, *1337c.so*, and *Z-Library* are known customers of this marketplace.
- **Shopee** is an ecommerce marketplace that is popular in southeast Asia and South America. Primarily, third-party sellers post listings of pirated and counterfeit copies of academic textbooks, vinyl, CDs, and other illicit materials. Verification of third-party seller information is insufficient – reporting mechanisms are available, but sellers retain their posting privileges on the platform and almost immediately repost any listings that are removed due to IPR infringement.
- **Telegram** is an instant messaging app that allows private groups and public channels to use bots to automate requests for downloads of illegal content. In 2024, *Telegram* reports 900 million+ active users.¹⁷ The platform is encrypted, so despite a framework for a copyright infringement reporting mechanism, penetrating private groups to takedown illegal content is extremely difficult. Larger marketplaces and intermediaries, such as *Z-Library* and *Katmovie HD*, utilize *Telegram* to disseminate pirated materials. *Telegram*’s response and reaction to takedown notices varies greatly, and reuploads are rampant. In 2020, 2021, and 2022, the European Commission added *Telegram* to its Counterfeit and

¹⁶ See Google Transparency Report, Explore the Data, available at https://transparencyreport.google.com/copyright/explore?hl=en©right_data_exploration=q::ce:domain:size:10&lu=copyright_data_exploration. Sort by “domains” on the right hand side, and results show that rapidgator.net is the 7th most reported domain with 54,328,221 copyright removal requests.

¹⁷ Hannah Murphy, *Telegram hits 900mm users and nears profitability as founder considers IPO*, Financial Times (March 11, 2024), <https://www.ft.com/content/8d6ceb0d-4cdb-4165-bdfa-4b95b3e07b2a>.

Piracy Watch List. Enforcement actions in Israel, Italy, and India have been successful in blocking access to infringing content and disclosing information on alleged infringers.

- **The Pirate Bay** is one of the most long-standing notoriously infringing markets. *The Pirate Bay* has been found to infringe on copyrights in more than 6 million separate instances. According to SimilarWeb, in August 2024, there were 21.75 million visits from 6.26 million unique visitors recorded to ThePirateBay. One of the cofounders of this content delivery network (CDN), Peter Sunde, is responsible for founding another market on this list, *Njalla*. Courts in more than 22 different countries have issued orders to block access to this network. *The Pirate Bay* refuses to respond to any takedown notices.

OTHER NOTORIOUS MARKETS IDENTIFIED BY IIPA MEMBERS

In addition to the markets listed above, IIPA members provided details on additional notorious markets that threaten their industries. Each of the filings detail the difficulties faced by each industry due to restricted access to domain name registration data, reverse proxy services, and offshore ISPs.

Due to investigational blocks, many of the sites about which IIPA members raise concerns have no identifiable jurisdictional nexus. This could be ameliorated by restoring the availability of identifying data for the operators (or their proxies) of sites engaged in illegal activity such as IP infringement. IIPA members therefore encourage the European Union's ongoing national implementation of Article 28 of the NIS-2 Cybersecurity Directive, which was finalized in December 2022. This Directive entered into force on January 16, 2023, and Member States then had 21 months, until October 17, 2024, to transpose its measures into national law. Article 28 imposes general obligations on domain name registries, registrars, and other registration service providers to collect, verify, maintain, and grant access to legitimate requests for the data of domain name registrants (often referred to as WHOIS data) for purposes of intellectual property enforcement. Accurate WHOIS data is critical to copyright owners seeking to enforce their rights against websites engaged in blatant piracy.

RIAA's filing stressed the pervasiveness of stream-ripping websites and their ability to multiply through simple and subtle changes in their domain names. This makes tracking and enforcement especially difficult. Sites like *Y2mate*, *Savefrom*, and *Ytmp3.nu* receive billions of visits globally and generate revenue through advertisements and subscriptions. Some of these marketplaces exist to facilitate the unauthorized reproduction and distribution of copyrighted music from licensed marketplaces through the circumvention of technological protection measures (TPMs). Music download/streaming sites offer on-demand streaming and/or downloading of protected works. *Newalbumreleases* and *Intmusic* specialize in offering works that have yet to be released. Cyberlockers such as *Dbree* also pose a threat to RIAA members – over 1 million infringing URLs have been reported to this cyberlockers in particular. RIAA also raised concerns about bulletproof ISPs that fail to respond to notices of infringement. These sites include *PRQ*, *FlokiNET*, and *Frantech Solutions*. Physical marketplaces in China and Russia are

also of concern to the recording industry, especially considering advancements in re-packaging and manufacturing. RIAA stressed the importance of verifying the legitimacy of sellers within marketplaces to ensure the sellers' supply sources are legitimate.

In MPA's filing, linking and streaming sites were highlighted as significant sources of pirate activity. These sites included *Vegamovies*, *Cuevana3.ch*, and *Animeflv.net*. Cyberlockers and streaming video hosting services are also of great concern to the motion picture industry, specifically because of their ability to offer downloaded and streamed material. These sites attract large amounts of traffic and often do not respond to takedown notices. Some of the most critical markets offering these types of services include *DoodStream.com*, *Mixdrop.co*, and *Streamtape.com*. MPA highlighted the global threat of illegal internet protocol television (IPTV) services, which provide stolen signals and channels to a global audience through websites and applications such as *MagisTV*, *Gogo IPTV*, and *Apollo Group TV*. Devices and applications designed to facilitate piracy are also of great concern as they often come pre-loaded with infringing material or subscription services that provide infringing matter. *EVPAD* and *LokLok* are two of the most threatening applications due to their expansiveness and quantity of infringing material. Peer-to-Peer (P2P) networks and BitTorrent portals are still of concern to the motion picture industry, and hosting providers that enable high-quality video playback also pose a substantial threat. MPA's filing also highlighted Piracy-as-a-Service (PaaS) offerings, which remove barriers to entry for would-be-pirates around the world – some of the most concerning PaaS marketplaces include *2embed*, *Fire Video Player*, and *HDVB*. Hosting providers and domain registries that offer essential infrastructure to sites that engage in large-scale infringement include *Private Layer*, *Squitter*, *.cc Registry*, and *.io Registry*.

ESA addressed the problem of hyperlinking websites, which enable piracy of a high volume of copyrighted video game material. Examples of large-scale offenders include *nsw2u.com* and *fitgirl-repacks.site*, which pre-release illicit copyrighted content and garner millions of visits per month. Cyberlockers are also of great concern to ESA because these marketplaces serve as piracy havens for dissemination of unauthorized copies of copyrighted material. *Ifichier.com* and *megaup.net* are among the most egregious offenders, especially given their systematically low response rate to takedown notices. Unauthorized digital goods, including cheat software, pose a significant threat to the video game industry. Sites like *unknowncheats.me* and *cosmocheats.com* host millions of listings and attract millions of users to buy and sell cheats, accounts, and in-game items in violation of end-user license agreements and copyright law. ESA emphasized the danger of malware delivered through digital ads and illegal copies of copyrighted content. The video game industry is especially threatened by physical marketplaces such as Tepito in Mexico City and Rua Uruguaiana in Rio de Janeiro. These physical forums host an abundance of pirated material and historically evade enforcement efforts due to their large scale and high crime rates.

AAP's filing focused on digital marketplaces that are dedicated to the unauthorized selling or distribution of copyrighted books and journal articles materials. *Sci-hub.se*, *Annas-archive.org*, and *Libgen.rs* are some of the most notorious offenders. These websites are noncompliant with takedown notifications, have extensive repositories of pirated books, journal

articles, scholarly materials, and more, and receive large percentages of their traffic from the U.S. Some of these marketplaces have been in operation for over a decade and continue to evade enforcement through mirroring and linking domains from across the world. AAP's filing also highlighted "read online" sites, which allow infringing copies of text of ebooks to be read online. *Full-english-books.net* and *novel22.net* are two particularly large-scale offenders. AAP also highlighted the growing threat of audio book piracy sites, which are primarily designed to allow for mobile access. This specific framework invites a large group of new consumers to consume these illicit works. *IPaudio.club* serves as a file host for many audiobook piracy sites which cumulatively incur more than 1 million visits per month.

The Independent Film & Television Alliance (IFTA) did not file separately to identify notorious markets but does report that illegal digital streaming and reproduction of their members' independently financed, produced, and distributed films and television shows deeply affects the investment into and success of future works.

While the majority of markets identified by IIPA members are located online, physical marketplaces are still a threat to the creative copyright industries. China, Russia, Mexico, and Brazil pose substantial harm to our member industries, and each of our members in their filings emphasized the persistent threat that these physical marketplaces pose.

IIPA appreciates the opportunity to provide input to the Special 301 Subcommittee in this Out-of-Cycle Review regarding notorious markets for copyright piracy. Once again, we refer the Subcommittee to IIPA's members' filings for consideration of the numerous markets listed therein. We thank the Subcommittee and all those in the U.S. Government who work resolutely to reduce threats to U.S. copyright interests.

Respectfully submitted,

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