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Statement of

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before the

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Good morning. IIPA would like to thank the Committee for giving us the opportunity to appear today. My name is Eric Smith and IIPA is a coalition of seven trade associations representing over 1,900 U.S. companies that depend on adequate and effective copyright protection and enforcement by our trading partners.

Special 301 has been critical to growing the U.S. economy, jobs and exports ever since its passage by Congress in 1988.

This mechanism has focused the spotlight on the massive problem of piracy and counterfeiting that undermines economic growth and job creation in all countries, including the U.S. It brought regular and persistent attention to the need for the countries appearing on Special 301 lists to improve and enforce their IP laws as part of a mature trading relationship with the U.S. and the rest of the world.

Special 301 also spurred the development of binding multilateral rules in the WTO TRIPS agreement that obligated countries to improve their laws and enforcement systems to protect trade in IP-based products. Special 301 also contributed to the successful conclusion of the WIPO “Internet” treaties in 1996 which established the global legal infrastructure that would govern the protection of content in the digital age. These treaties, the WCT and the WPPT, now have 88 and 86 members, respectively, and their key obligations have been implemented in over 100 countries, most of which are developing countries.

In the 1980’s, many countries had no copyright laws, and little or no enforcement. As a consequence, piracy rates were 90% or greater. Today, as a result of Special 301

attention and the impact of multilateral rules, virtually all countries have significantly improved their copyright legal regimes and most have enhanced their enforcement systems.

These improvements over the last 25 years have made our copyright-based industries among the most productive and fastest growing sectors of our economy. They have also resulted in significant growth of the creative sectors among our trading partners.

The “core” copyright industries contributed over one-fifth (22.74%) of the total real growth of the U.S. economy in 2007. These industries (and the upstream and downstream sectors that are critically dependent on the output of the “core” creative industries) employed 11.7 million people (8.51% of the U.S. workforce) and generated over 11% of U.S. GDP in that year.

Exports and foreign sales of the “core” creative industries increased to over \$126 billion in 2007 and led other key sectors of the economy.

But much remains to be done. The President has called for the doubling of U.S. exports in the next five years. Our industries could be at the forefront of this achievement, if piracy -- the most acute trade barrier our industries face -- is reduced. To accomplish this, we need the help of our government and other governments worldwide.

The failure of many of our trading partners to provide adequate and effective protection of U.S. copyrighted materials harms our economy, deprives us of high-paying jobs, lowers U.S. exports by damaging commercial opportunities for legitimate products, and adversely affects our path to economic recovery.

In its 2010 submission, IIPA has highlighted progress and remaining deficiencies in the copyright regimes in 39 countries/territories. Persuading them, through the Special 301 process, to improve their copyright protection and enforcement, and to eliminate unfair barriers to market access, is a critical element in meeting the President’s goals and in harnessing U.S. creativity to drive our economic recovery.

This year, we ask the U.S. government to pay heightened attention to countries where enforcement is inadequate and non-deterrent. We should ask our trading partners to --

- Undertake more criminal actions against piracy of software in the corporate environment; against growing online and mobile device piracy of music, motion pictures, software, videogames and books and journals; against continuing piracy of optical disc products and the unauthorized printing and commercial photocopying of books and journals; and, against the manufacturing and trafficking in circumvention devices.

- Dedicate sufficient enforcement resources, and train and empower enforcement authorities, in a manner commensurate with the scale of the problem.
- Remove onerous and unnecessary procedural barriers to the judiciary acting in civil and criminal cases.
- Impose deterrent penalties in criminal cases and adequate (and deterrent) damages and remedies in civil cases.

The U.S. government should also ask our trading partners to:

- Encourage cooperation of ISPs with all content owners, including workable and fair notice and takedown systems and graduated response mechanisms to deal with repeat infringers online.
- Direct government agencies, contractors and educational institutions to use only legal software and legal copies of textbooks, and to ensure that their networks or computers are not used for infringement of any copyrighted content.
- Enact and enforce laws against camcording motion pictures.
- Implement the obligations in the WIPO Internet treaties and to ratify those treaties, if they have not yet already done so.
- Dismantle market access barriers and refrain from establishing market access conditions based on the nationality of the IP owner.

One or more of these problems and solutions apply to the countries we have reported on in our submission. We would be happy to answer any of your questions on these problems and solutions or on any country we have surveyed this year. Thank you.