

Statement of

The Honorable Orrin Hatch.

United States Senator
Utah
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Statement of Chairman Orrin G. Hatch

Before the United States Senate Committee on the Judiciary

Hearing on

"Counterfeiting and Theft of Tangible

Intellectual Property: Challenges and Solutions"

I would like to thank my distinguished colleague from Pennsylvania, Senator Arlen Specter, for requesting and presiding over this hearing on the critical topic of counterfeiting and the theft of intellectual property rights embodied in tangible goods.

I also want to thank all of our distinguished governmental and private witnesses for appearing today to discuss these increasingly important issues. In particular, I want to thank Tom Donohue and the United States Chamber of Commerce for their leadership in calling for renewed attention to this important threat to the health and safety of our citizens, the growth of our national economy, and the reputations of our American manufacturers.

I believe that education and enforcement are the two key issues in any discussion of intellectual property theft and counterfeiting. These two issues are really two facets of a broader systemic problem that is easy to state, but difficult to solve.

Simply put, intellectual property rights are under siege. Intellectual property theft and counterfeiting are growing problems that are becoming even more difficult to detect and prevent. And these problems will continue to grow until we start taking stronger enforcement actions. Our markets are globalizing and copying technologies are becoming cheaper, better and more readily available. To combat the growing problems of intellectual property theft and counterfeiting, policymakers and intellectual property owners must bring two critical tools to bear: education and enforcement.

Education: Recently, the Chamber of Commerce asserted that American businesses need to pursue a "rebranding" strategy on the issues of intellectual property theft and counterfeiting. I agree with the Chamber that the industries that depend on intellectual property rights need to re-educate the public about the continuing importance of those rights.

I worry that it is easy for policymakers and business executives to underestimate the importance of this educational effort. Users of intellectual property have long educated government policymakers and enforcement officials about the importance of intellectual property rights. As a result, executives and government officials know that copyrights and patents protect incentives to research, create and innovate. Most executives and policymakers know that trademarks protect not only corporate reputations and revenues, but also the safety of the food that nourishes us, the drugs that heal us, and the products that enrich our lives and homes.

But too many members of the public do not share this understanding of the importance of intellectual property rights. Mainstream news outlets now regularly report claims that copyrights are "tyranny" and that the patent system is

"broken." Too many law professors are now teaching that intellectual property rights are antiquated, dysfunctional concepts that impair the creativity and choice that they were meant to empower.

Those who know differently need to start speaking out. It is time for coordinated efforts to educate all Americans about the benefits of intellectual property rights. These efforts must also be proactive: If individual members of the business community wait until their particular rights are threatened directly, the appearance of self-interest may weaken the force of their message. As a result, wise policymakers, inventors, artists, and executives are all speaking out against the theft of intellectual property even when the rights of others are more directly at stake.

For example, I was pleased to see that that HP CEO Carly Fiorina recently spoke out against Internet piracy of copyrighted works. It took real courage for the leader of the computer industry to speak out on that issue. But speaking out was also smart business. Ms. Fiorina recognizes that our technology industries can thrive by providing safe, legal content over the Internet - but only if piracy can be beaten back.

For these reasons, I hope that we will all support the Chamber's efforts to re-educate the public about the importance of all intellectual property rights.

Enforcement: A second critical concern in any effort to combat intellectual property theft and counterfeiting is enforcement. As a legislator, I am committed to helping intellectual property owners develop the tools that they need to protect their rights. But Congress must have input from our enforcement agencies and our industries if it is to assure that enforcement tools are available and effective.

Let me give you an example of how industry can work with Congress to ensure that the law keeps pace with the pirates. In the last Congress, I co-sponsored with Senator Biden S. 2395, the Anticounterfeiting Amendments of 2002.

This bill recognized that our copyright and trademark holders increasingly use sophisticated authentication features to distinguish genuine goods from counterfeit products. But our current laws do not provide rights holders with adequate remedies against third parties who tamper with authentication features or traffic in falsified authentication features. I understand that Senator Biden has reintroduced this legislation, and I look forward to working with all members of this Committee to attempt to address this important issue in this Congress.

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