

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
November 18, 2010

Statement Of Senator Patrick Leahy (D-Vt.)
Chairman, Senate Judiciary Committee
Opening Statement
Executive Business Meeting
November 18, 2010

I welcome the Committee back into session and extend a special welcome to our newest Member. Senator Coons succeeds Senator Kaufman who was an extraordinarily productive Member of the Committee during his time in the Senate. Delaware has provided this Committee with wonderful leadership and Members, including three previous Chairmen: Senator John Clayton, Senator James Bayard and, of course, Senator Joe Biden. Senator Coons, we welcome you as a Member of the Senate Committee on the Judiciary.

Today we have the opportunity to make significant progress on presidential nominees. We have six judicial nominees who had hearings in mid-September and were on the agenda for the meeting scheduled for September 30. That meeting was postponed when the Senate recessed on September 29. Under our rules, any Member could ask that Committee action on those six judicial nominations--Susan Carney to be a Second Circuit Judge, Amy Totenberg to be a trial judge in the Northern District of Georgia, James Boasberg and Amy Jackson to be trial judges for the District of Columbia, and James Shadid and Sue Myerscough to be trial judges in the Central District of Illinois--be delayed. I hope that they will not be further delayed. They have, in effect, been delayed through the last recess for seven additional weeks already. Because we will not be meeting next week, on Thanksgiving, a request for delay will mean another two weeks before the Committee can act. With the Senate session coming to a close, I ask all Senators to allow these nominations to proceed today. I believe that when we are allowed to proceed, they will be reported to the Senate with bipartisan support.

We also have on the agenda today judicial nominees who participated in a hearing seven weeks ago. I would hope Members would allow our consideration of these five judicial nominees, as well. I believe they, too, can be reported to the Senate with bipartisan support--I know that Senator Cornyn supports the nominee from Texas. Again, with the time for this session winding down and judicial vacancies over 100 across the country, I will ask that we consider and report those nominations.

Then I intend to call up the bipartisan bill I introduced with Senator Hatch to help combat online copyright infringement and counterfeits, S.3804. I thank Senators Klobuchar, Whitehouse, Schumer, Kohl, Specter, Durbin, Feinstein, Coburn, Cardin, Graham and Grassley for also

cosponsoring the bill. I will offer a substitute when we turn to the measure. The bipartisan Combating Online Infringement and Counterfeits Act grew out of our June hearing on intellectual property enforcement. This Committee heard testimony about copyright theft resulting in the loss of millions of jobs. At that hearing representatives from the Chamber of Commerce and labor found common cause. Few things are more important to the future of the American economy and job creation than protecting our intellectual property. That is why the legislation is supported by both labor and industry, and Democrats and Republicans are standing together. I hope we can report that bill today.

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Statement Of Senator Patrick J. Leahy (D-Vt.),
Chairman, Committee On The Judiciary,
On The Combating Online Infringement And Counterfeits Act
November 18, 2010

I am pleased to have introduced the bipartisan Combating Online Infringement and Counterfeits Act with Senator Hatch, who has been a long-time partner of mine on intellectual property issues. Senators Klobuchar and Whitehouse raised the profile of this important issue at our hearing earlier this year with the Intellectual Property Enforcement Coordinator. I have worked with those Senators and the other nine Committee cosponsors, in consultation with Senator Sessions, to carefully craft legislation which will protect American companies, American jobs and American consumers from online infringement and counterfeit products.

This legislation provides law enforcement with an important and improved mechanism to stop rogue websites that are dedicated to online piracy and the sale of counterfeit goods. Protecting intellectual property is not uniquely a Democratic or Republican priority - it is a bipartisan priority, and this legislation is a great example of our ability to come together to on an issue that is critical to our economic and job growth.

Each year, online piracy and the sale of counterfeit goods cost American creators and producers billions of dollars, and result in the loss of hundreds of thousands of jobs. This impacts companies of all types and sizes, the people who work there, and consumers who rely on the authenticity of the products they purchase.

Rogue websites are essentially digital stores selling illegal and sometimes dangerous products. If they existed in the physical world, the store would be shuttered immediately and the proprietors would be arrested. We cannot excuse the behavior because it happens online and the owners operate overseas. The Internet needs to be free - not lawless.

What these rogue websites do is theft, pure and simple. Some have argued that the conduct should be excused as free speech because it happens on the Internet. That argument contradicts the basic tenet of copyright law which, as Justice O'Connor explained, is the very "engine of free expression." Ensuring that creators have the exclusive right to be compensated for their work is not only a critical characteristic of our economy, but is endowed as an essential right. Our Constitution provides for this in the Copyright Clause, and United Nations' Universal Declaration of Human Rights, which has become a model for treaties and constitutions around

the world, proclaimed this "right of authors" as inalienable. Copyright law does not exist in opposition to our guarantee of free speech, it supports it.

The Combating Online Infringement and Counterfeits Act will give the Department of Justice a new and more efficient process for cracking down on rogue websites, regardless of where overseas the criminals are hiding. The substitute amendment I offer today addresses many of the concerns that we have heard in the numerous meetings we have had with stakeholders on all sides of this issue. The amendment will ensure that a court must find the rogue website is dedicated to infringing activity before any action is required, and it contains safeguards to ensure parties required to take action have the ability to do so effectively.

This bill enjoys a broad support from American industry and workers who often find themselves at odds. The Chamber of Commerce, organized labor, content owners, and a tremendous cross-section of industry groups all support this legislation. Further, we have received extremely constructive input and assistance from the third party registrars, registries, Internet service providers, payment processors, and ad networks which will be required to take action to stop the infringing websites targeted by this legislation from doing business with United States consumers. Companies in each of those industries, which are critical to the ultimate success of this initiative, support this legislative framework.

We should not expect that enactment of the legislation will completely solve the problem of online infringement, but it is a significant first step that will make it more difficult for the most egregious infringers to profit off American hard work and ingenuity.

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