

**Testimony of Barry M. Meyer  
Chairman and CEO  
Warner Bros. Entertainment Inc.  
Senate Judiciary Committee  
Hearing on  
“Oversight of the Office of the Intellectual Property Enforcement Coordinator”  
June 23, 2010**

Chairman Leahy, Ranking Member Sessions and Members of the Committee. My name is Barry Meyer, and I am Chairman and CEO of Warner Bros. Entertainment, a global leader in the creation, production and distribution of all forms of entertainment and their related businesses. Warner Bros. stands at the forefront of every aspect of the entertainment industry, from feature films to television, home entertainment, animation, comic books, interactive games, product and brand licensing, and international cinemas.

I appreciate the opportunity to appear before you today and want to start first by thanking you and your colleagues for passing the PRO-IP Act to establish the important role of the Intellectual Property Enforcement Coordinator (IPEC) and strengthen the government’s commitment to copyrights, American creativity and innovation. As the release of the Joint Strategic Plan demonstrates, consumers are being well-served by the appointment of Victoria Espinel, who has already begun to do an incredible job of bringing together the many resources of the federal government to coordinate and share information, which is vital to achieving the most beneficial results in a cost-effective manner.

The Joint Strategic Plan is another important step in achieving a higher level of cross-agency collaboration on intellectual property (IP) issues. While we have not had a chance to fully review the plan, we understand it contemplates examining current laws and future needs for meeting the growing challenges from IP crimes. We commend the efforts of all those in the Administration who

played a role in developing the plan, and especially thank President Obama and Vice President Biden for their strong and thoughtful leadership. We stand ready to work with Ms. Espinel to implement this ambitious blueprint for strengthening the government's coordinated IP enforcement activities.

Mr. Chairman, the work being undertaken by the IPEC goes to the heart of what we and others in the creative community do to inform, educate and entertain. We value the Internet as a powerful means by which to distribute our media properties in innovative new ways. While the Internet provides the high-speed link, what we do connects people all around the world, and now more than ever, closely couples technology with media that consumers have seamlessly integrated into their lives.

While today the average consumer still spends more time watching content on television than over the Internet, online video views were up more than 200% at the end of 2009 compared to the beginning of 2008, and video viewers increased 23%.<sup>1</sup> In fact, we continue to see double digit growth in time spent with online media as consumers continue to shift day to day behaviors and engagement habits.<sup>2</sup> Added to this is another 200 minutes or so per month using a mobile device, a segment that grew more than 50% in that same timeframe.<sup>3</sup>

By no means has the marriage of technology and media occurred without disruptive effects to the industry's core businesses. Technological advances coupled with marked changes in

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<sup>1</sup> comScore Video Metrix reports, January 2008 through December 2009.

<sup>2</sup> eMarketer, April 2010, "US Internet Users 2010."

<sup>3</sup> Nielsen, Three Screen Report, Volume 8, First Quarter 2010.

consumer behavior have required us to constantly re-think our models. We do this more than willingly and use such disruptive events as opportunities to innovate.

Mr. Chairman, responding to these trends and recognizing a series of critical inflexion points that will determine the overall welfare and stability of the motion picture industry in the future, Warner Bros. has adapted its strategies and integrated multiple new digital delivery models that enable consumers to access content across multiple platforms and a myriad of devices. Our goal is straightforward: to deliver content to consumers in the highest quality, with the greatest variety of choices, with reliable convenience and portability and at reasonable price points, while diminishing the risks of unauthorized reproduction and distribution using a variety of tactics.

Beginning more than 15 years ago, Warner Bros. led the effort to work with consumer electronics and technology companies in the development of the DVD. We continue to collaborate with the technology industries on new business models and on accompanying strategies to deliver content in smart, consumer-friendly ways. For example, today we release our Blu-ray titles with not only the high definition version but also versions in standard definition that can be used on a PC, Mac or mobile device. Numerous products that we launch incorporate some form of access to a user's social network whether it's Facebook, Twitter, MySpace and others through functions like BD-Live that allow users to coordinate online movie screenings with friends and post commentaries via their Internet-connected Blu-ray players. With recent data showing that 58% of TV/Internet households, at least a third of the time, use the television and web simultaneously, incorporating "lean back and lean forward" experiences is a key component to our studio's digital strategy.

We have also partnered with Apple, Microsoft, Amazon, Sony and many others to distribute our products to personal computers, media servers, gaming consoles and mobile devices. Warner Bros. content is now available on a wide variety of video-on-demand, subscription and electronic sell-through services over the Internet, cable and satellite platforms and mobile networks. We license streaming of our movies and television shows in both paid and advertising supported services over the Internet. For example, within twenty-four hours from the initial broadcast of a new episode of our hit television series “Gossip Girl,” it is available for sale by download over the Internet via Amazon and the iTunes video store. Viewers can also watch the episode online for free on the advertising supported streaming site Hulu. At the same time we release one of our new feature films on DVD and Blu-ray, electronic copies are available for purchase online through such services as CinemaNow and Blockbuster and can be enjoyed on a variety of devices from a personal computer to a Playstation3 to an Xbox or an Internet connected television set.

By placing consumer access and technology enablers as key strategic determinants, Warner Bros. is at the forefront of modifying the traditional distribution windows. Typically, studios released motion pictures on DVD at least two months before they were available via video-on-demand rental services. Today, Warner Bros.’ video-on-demand window coincides with our packaged media release dates so consumers can access both physical and digital options of our content sooner. Furthermore, as a result of the FCC’s recent decision promoting use of secure digital outputs, we are actively pursuing opportunities for an early window release of our films over cable and satellite systems in advance of DVD and Blu-ray.

Mr. Chairman, none of this innovation would be possible without the tireless efforts of millions of talented professionals working in the film and television industries, which extends far

beyond just the studio lots in California or the streets of New York. In 2008, the motion picture industry was responsible for over 2.4 million jobs and over \$140 billion in total wages – across *all fifty states*.<sup>4</sup> The industry is made up of more than 95,000 small businesses across the country - 82% of which employ 10 people or less. The industry also makes more than \$40 billion in payments to businesses around the country, with film productions infusing on average \$225,000 per day into a local economy. This includes local hires for production, such as extras and electricians, as well as a network of small businesses in that community, such as lumberyards, apparel retailers, caterers, florists, and dry cleaners. Nationwide, the motion picture industry generated \$15.7 billion in public revenues in 2008, and we consistently boast a positive balance of trade in virtually every country in which we do business. In fact, the trade surplus for motion picture and television exports is larger than the surpluses of the U.S. telecommunications, management and consulting, legal, medical, computer and insurance services sectors.

Fueled by this combined innovation on both the technology and creative sides, we are excited about the future. We recognize that consumers seek more control over where, when and how they enjoy our content. In just the last year, for example, the number of subscribers watching video on their phones or other mobile devices grew by more than 50%.<sup>5</sup> That is why we are embracing new technologies to deliver our content to consumers on every conceivable platform. In addition, we understand that more consumers want to make our content part of their online social interactions. Whether by Facebook or by live online discussions, such as the one we recently arranged with Daniel Radcliffe, the star of the “Harry Potter” movies, we are increasingly providing social networking opportunities around our content.

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<sup>4</sup> MPAA, The Motion Picture & Television Industry Contribution to the U.S. Economy, Supplementary Report, April 2010.

<sup>5</sup> Nielsen, Three Screen Report, Volume 8, First Quarter 2010.

While high-speed broadband networks bring immense opportunities for the exchange of information and ideas, and new business prospects for media companies, the inappropriate use of these networks can also facilitate the anonymous theft and rapid, ubiquitous illegal distribution of copyrighted works. Indeed, the rampant theft of IP and the growing proliferation of stolen goods on the Internet strikes at the very heart of our nation's economy, our core values of reward for innovation and hard work, and our ability to compete globally. According to a study by the Institute for Policy Innovation, motion picture piracy costs the U.S. economy more than \$20 billion in total output, results in the loss of more than 141,000 jobs for American workers, and costs Federal, state and local governments \$837 million in lost tax revenue.<sup>6</sup>

Copyright infringement, in other words, is a threat to every American entrepreneur, from the guy in the garage with the next big idea, to our nation's leading high-tech companies that are busy creating next generation computer software and the exciting new devices that can access high quality content on advanced digital platforms. As President Obama recently said, the United States must act to "aggressively protect our intellectual property," which he called one of our nation's greatest "asset[s] . . . the innovation and the ingenuity and creativity of the American people." The motion picture industry deeply shares this view.

We face challenges in this effort, however, as online piracy has become highly commercial and professionally run. For example, while the misuse of peer-to-peer networks still represents a major threat, consuming 39% of all Internet traffic<sup>7</sup> for primarily infringing files<sup>8</sup>, streaming sites

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<sup>6</sup> Institute for Policy Innovation "*The True Cost of Motion Picture Piracy to the U.S. Economy*," by Stephen E. Siwek, September 2006.

<sup>7</sup> Cisco Visual Networking Index: Forecast and Methodology, 2009-2014, June 2, 2010.

<sup>8</sup> Princeton Center for Information Technology Policy, Freedom to Tinker, "Census of Files Available via BitTorrent," by Ed Felten, January 29, 2010.

and cyberlockers are increasingly becoming the tools of choice for online thieves. These sites often use traditional revenue models, like advertising and subscriptions. Consumers are often unaware they are providing their personal and financial information to an illegal distributor who then often sells such data to third parties. To give a sense of the scope of the problem, within one week from our theatrical release of “Sherlock Holmes” in the United States in December 2009, three unique illegal camcorder versions of the film were available on the Internet (English, Russian and Thai). Over the next few weeks pirate versions in every major language were also put online. There were more than 1.7 million downloads of the film in the first 30 days through peer to peer networks alone and thousands of copies posted to cyberlockers and streaming sites, each serving as the source for further pirate copies or unauthorized viewing.

Even more troubling is the fact that sophisticated criminal enterprises are behind many of these web sites, which are usually run from safe havens abroad and generate hundreds of millions of dollars each year. Furthermore, a RAND report released last year, which focused on the distribution of pirated DVDs and detailed fourteen case studies found a link between piracy, narcotics trafficking and organized crime.<sup>9</sup> This included the New York Chinatown Yi Ging organization, which reportedly has netted \$1.2 million per year from film piracy.

Warner Bros. is doing everything it can to help combat the piracy of our content, and we spend tens of millions of dollars annually directly on our anti-piracy activities. We have secured our production and distribution chains such that there has been no pre-theatrical leak of a Warner Bros. film in more than five years. We partner with a variety of different industries and companies to create new and attractive secure distribution channels for our content. We are working with

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<sup>9</sup> RAND Corporation, Safety and Justice Program and the Global Risk and Security Center, “Film Piracy, Organized Crime, and Terrorism,” by Gregory F. Treverton, et al, 2009.

technology companies to develop and implement technical tools, such as watermarking and filtering, to reduce digital piracy. And we are reaching out to Internet service providers and online intermediaries to enlist their assistance in reducing the vast amounts of digital piracy that clog their networks. Indeed, future gains in the fight against piracy can be greatly influenced by the continued (and in some cases increased) participation by broadband network providers, website operators, search engines, online payment processors, advertisers and both hardware and software product manufacturers.

While the release of the IPEC's Joint Strategic Plan is a critical step forward with respect to government led efforts, we acknowledge that no "silver bullet" exists — either in the public or private sector — that can fully eradicate the problem of piracy. Rather, the problem must be pursued on a variety of levels and through multiple approaches, which include providing robust legitimate alternatives, ensuring cross-industry cooperation to prevent infringement, and vigorous enforcement efforts at home and abroad. In conjunction with the implementation of the Joint Strategic Plan, we recommend the following steps:

1. More education on the societal, cultural and economic value and importance of copyright and IP;
2. More effective enforcement of IP rights online, particularly with respect to the major sites and sources of pirated content, for which criminal prosecutions should be pursued;
3. Development and implementation of technologies and practices that make copyright infringement in the digital world less reliable and less "user friendly." The government should not take any actions that might impede the ability of the content industries and broadband network operators to cooperatively use an array of technological tools and approaches to address online theft;



4. Expanded collaboration among content owners, Internet service providers, online payment processors, advertising placement networks, search engines and other intermediaries to disable or disrupt sites and services devoted to aggregating and distributing pirated content.
5. Increased cooperative efforts by Internet service providers to work with content owners to educate and deter individual broadband subscribers from engaging in the unauthorized peer-to-peer uploading and downloading of copyrighted content;
6. Ensuring that the federal government adopts a high standard for IP in its international trade negotiations – specifically through the ongoing talks on the Anti-Counterfeiting Trade Agreement (ACTA), where anti-copyright activists have aggressively pursued weaker online copyright protections, and with the Trans-Pacific Partnership (TPP) agreement;
7. Stress to foreign leaders the importance of strong IP protection to their bilateral relationships (specifically in countries such as Spain, Canada, Mexico and China, that are on the USTR Special 301 Watch List) and support the steps several governments have taken, or are taking, to strengthen their IP enforcement regimes, such as France, the UK, Korea and Taiwan.

With respect to the above, continued government reiteration regarding the value of copyright protection and the responsibility of all participants to address piracy would be highly valuable.

Government encouragement of Internet service providers, online payment processors, search engines, advertising networks and other intermediaries to work cooperatively with copyright owners and to take reasonable pro-active measures to disable or disrupt digital piracy would be very helpful to achieve the results that both the government and the private sector seek with respect to preserving the value of creativity and intellectual property.

As the IPEC Joint Strategic Plan recognizes, Warner Bros. and others in our community have a significant role in the vibrancy of the American economy, and to American workers. Enforcement of laws to ensure that consumers continue to enjoy what we create has broad benefits, and we appreciate that today's hearing and the efforts described by the Coordinator recognize that fact. In closing, I'd like again to thank the Coordinator for her hard and thoughtful work to date, and thank you, Mr. Chairman, for allowing me the opportunity to address this important topic. I am happy to answer any questions you may have.