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TO: Victoria Espinel, U.S. Intellectual Property Enforcement Coordinator and Colleagues
Office of Management and Budget, Executive Office of the President

RE: Coordination and Strategic Planning of the Federal Effort Against Intellectual Property Infringement: Request of the Intellectual Property Enforcement Coordinator for Public Comments Regarding the Joint Strategic Plan

DATE: March 24, 2010

This filing is in response to the U.S. Intellectual Property Enforcement Coordinator's (USIPEC) request for public comments concerning the development of a strategic plan against intellectual property infringement. See 75 Fed. Reg. 8137-39 (Feb. 23, 2010). The Copyright Alliance appreciates the opportunity to present its views in this important inquiry.

The Copyright Alliance is a nonprofit, nonpartisan 501(c)(4) educational organization dedicated to promoting copyright as an engine for creativity, jobs, and growth. It is a membership organization comprised of individual artists and institutions, including guilds and unions, corporations, trade associations, and sports leagues. Its members come from a full range of creative industries including musical composition, music publishing, performing rights organizations and sound recordings; book, magazine and newspaper publishing; business and entertainment software; visual arts, including illustration, graphic arts and photography; and motion pictures and broadcasting.

The Copyright Alliance has over forty institutional members, consisting of the Advertising Photographers of America; American Federation of Musicians; American Federation of Television & Radio Artists; American Intellectual Property Law Association; American Society of Composers, Authors and Publishers; American Society of Media Photographers; Association of

American Publishers; Association of Independent Music Publishers; AT&T; Broadcast Music, Inc.; Business Software Alliance; CBS Corporation; Church Music Publishers Association; Directors Guild of America; Entertainment Software Association; Graphic Artists Guild; Langley Productions; Magazine Publishers of America; Motion Picture Association of America; National Association for Stock Car Auto Racing (NASCAR); National Association of Broadcasters; National Collegiate Athletic Association; National Music Publishers' Association; National Basketball Association Properties, Inc.; NBC Universal; News Corporation; Newspaper Association of America; Picture Archive Council of America; PPL and VPL; Professional Photographers of America; Professional School Photographers Association; Recording Industry Association of America; Reed Elsevier; SESAC; Software & Information Industry Association; Sony Pictures Entertainment; Time Warner; Universal Music Group; Viacom; The Walt Disney Company; and Writers Guild of America, West.

The Copyright Alliance was a strong supporter of the Prioritizing Resources and Organization for Intellectual Property Act of 2008 (Public Law 110-403) or PRO-IP Act, which created the USIPEC position within the Executive Office of the President. The Copyright Alliance in several public statements has also commended the Administration for appointing Victoria Espinel as the first USIPEC, which reflects the Administration's commitment to the enforcement and preservation of U.S. intellectual property rights.

We applaud U.S. President Barack Obama for his recognition of the inherent value of intellectual property to our nation. It was welcome to hear his strong and vocal commitment to intellectual property protection in a recent address, in which he said:

[W]e're going to aggressively protect our intellectual property. Our single greatest asset is the innovation and the ingenuity and creativity of the American people. It is essential to our prosperity and it will only become more so in this century.¹

We also applaud U.S. Vice President Joseph Biden, Jr., for his many decades of commitment to copyright owners. The Vice President is forceful on the subject, last year saying of copyright piracy:

It's pure theft, stolen from the artists and quite frankly from the American people as consequence of loss of jobs and as a consequence of loss of income.²

¹ See "Remarks by the President at the Export-Import Bank's Annual Conference," at the Omni-Shoreham Hotel in Washington, D.C., March 11, 2010 (<http://www.whitehouse.gov/the-press-office/remarks-president-export-import-banks-annual-conference>).

² The Vice President spoke at a dinner at the "Business of Show Business" at the U.S. National Portrait Gallery, April 21, 2010. See the White House press pool report (<http://thepage.time.com/pool-report-of-biden-remarks-at-mpaa-event/>) and the

These statements echo the commitment to intellectual property protection espoused by leaders across the Obama Administration.³

The Copyright Alliance agrees with the President and the USIPEC that it is critical for all agencies of government, led by the federal government, to recognize the key role intellectual property (IP) plays in the U.S. economy, and that these agencies protect IP accordingly. The breadth of IP's importance is reflected in the fact that so many U.S. government agencies in both the Executive and Legislative branches are critical in ensuring the

summary of the address on the Copyright Alliance blog (<http://blog.copyrightalliance.org/2009/04/live-from-business-of-show-business-2-vp-biden-and-the-administrations-commitment-to-ip-protection/>).

³ The number of strong endorsements of intellectual property and enforcement made by Obama Administration officials is too large to list in its entirety, but we will highlight a few: 1) President Obama addressing a Town Hall Meeting in Elyria, Ohio, January 22, 2010 (<http://www.whitehouse.gov/the-press-office/remarks-president-during-town-hall-meeting-elyria-ohio>). 2) President Obama speaking on "innovation and sustainable growth" at Hudson Valley Community College in Troy, New York, September 21, 2009 (<http://www.whitehouse.gov/the-press-office/remarks-president-innovation-and-sustainable-growth-hudson-valley-community-college>). 3) Vice President Biden February 15, 2010, in a statement endorsing the Department of Justice Task Force on Intellectual Property created by U.S. Attorney General Eric Holder (http://www.toplawyernews.com/TopLegalNews/IntellectualPropertyRights/id_102817/). 4) Attorney General Holder speaking at the Rio De Janeiro Prosecutor General's Office in Rio De Janeiro February 24, 2010 (<http://www.justice.gov/ag/speeches/2010/ag-speech-100224.html>). 5) U.S. Trade Representative Ron Kirk speaking September 30, 2009, before the Global Intellectual Property Center Annual Summit in Washington, D.C. (<http://www.ustr.gov/about-us/press-office/speeches/transcripts/2009/september/remarks-ambassador-ron-kirk-global-intelle>). 6) USTR Kirk addressing the American Chamber of Commerce in Sao Paulo, Brazil, September 16, 2009 (<http://www.ustr.gov/about-us/press-office/speeches/transcripts/2009/september/remarks-ambassador-ron-kirk-american-chamb>). 7) David J. Kappos testifying at his nomination hearing to be U.S. Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office before the U.S. Senate Judiciary Committee July 29, 2009 (<http://judiciary.senate.gov/pdf/07-29-09KapposTestimony.pdf>). 8) U.S. Secretary of Commerce Gary Locke January 13, 2010, in Los Angeles offering "Remarks to Entertainment Industry Officials on Protecting Intellectual Property," (http://www.commerce.gov/NewsRoom/SecretarySpeeches/PROD01_008799). 9) Commerce Secretary Locke December 15, 2009 "Commends European Union and Member State Ratification of WIPO Internet Intellectual Property Treaties" (http://www.commerce.gov/NewsRoom/PressReleases_FactSheets/PROD01_008732). 10) Commerce Secretary Locke October 27, 2009 in Guangzhou, China offering "Remarks at International Forum on Innovation and Intellectual Property" (http://www.commerce.gov/NewsRoom/SecretarySpeeches/PROD01_008556). 11) U.S. General Accountability Office Director of International Affairs and Trade Loren Yager in testimony December 9, 2009 before the U.S. Committee on Oversight and Government Reform Subcommittee on Government Management, Organization, and Procurement (<http://www.gao.gov/new.items/d10219t.pdf>).

continued protections of the rights of copyright owners, and recognize the central importance of doing so as a matter of economic necessity.

This submission provides a snapshot of the economic vitality of the creative industries and their importance to the American economy. We do so because that very vitality is greatly threatened by unabated theft, and we will not allow our contributions to the economy and our culture to be dissipated in the face of a threat left unchallenged.

The Copyright Alliance is committed to assisting the USIPEC fulfill the assigned mission to “develop an Administration strategy for enforcement against intellectual property infringement,”⁴ including by submitting these comments. Our submission is organized into two parts. Part I provides a literature survey of the latest data on the contributions copyright makes to the U.S. economy and job creation, while also highlighting the harms resulting from infringement of the rights of copyright owners. Part II offers recommendations for improving enforcement of IP rights.

Accompanying this filing is a letter signed by more than 11,000 artists and creators urging the Administration to “pursue policies supportive of the rights of artists and the encouragement of our creative efforts.”⁵ We are also aware that hundreds of individual artists and creators who are part of the Copyright Alliance *one voi@e* advocacy network are filing personal comments in this proceeding, and they are extremely grateful for the opportunity to be heard.

The Copyright Alliance invites USIPEC and all policymakers focused on IP rights enforcement to engage with it and its members in further discussion of this critical issue.

PART I: Analysis of the Role of Intellectual Property Enforcement in the Performance of the U.S. Economy

A. U.S. Economic Growth Statistics

Copyright industries are significant contributors to the U.S. economy, to its Gross Domestic Product (GDP), and to job creation. In addition, as a whole the economic contribution of copyright industries has been growing, a trend that must be encouraged and fostered in tough economic times.

⁴ See *Federal Register*, February 23, 2010 (Volume 75, Number 35, pages 8137-8139).

⁵ That letter was delivered November 16, 2009 to the White House by the Copyright Alliance and several artists and creators. Artists and creators continue to sign the letter on the Copyright Alliance web site, and that total now exceeds 12,000 (<http://www.copyrightalliance.org/letter/>).

However, every copyright industry is being hard hit by rampant counterfeiting and piracy, which leads to lost sales and challenges in exports. In some cases, total industry revenues and jobs are in decline.

A recent study by economist Stephen E. Siwek, sponsored by the International Intellectual Property Alliance, demonstrated convincingly that intellectual property is a major contributor to real U.S. economic growth and GDP.⁶ The comprehensive study conducted using the same statistical approach of the World Intellectual Property Organization found that in each year from 2004 to 2007, real annual growth rates from both core and copyright industries were more than twice that of the total U.S. economy. In 2004, 2005, 2006 and 2007, the real annual growth rates achieved by both the core and total copyright industries were more than twice the real growth rates achieved by the U.S. economy as a whole.⁷

This significantly positive contribution by copyright industries to real U.S. growth was demonstrated in 2006-2007, the most recent period with current available data. In that period, core copyright industries contributed 22.74% of the U.S. economy's real growth; for the total copyright industries the contribution was 43.06% of total real U.S. growth.⁸ The value added in 2007 by core copyright industries was \$889.1 billion, approximately 6.44% of U.S. GDP, with the value added for total copyright industries rising to \$1.52 trillion, or 11.05% of GDP.⁹

The data on jobs and GDP contributions in the Siwek study produce very similar results to a new study released on March 17, 2010 by the independent Paris-based economics firm TERA Consultants. That study concluded if European leaders do not implement significant changes to improve IP enforcement, by 2015 EU nations could lose 1.2 million jobs and 240 billion euro in retail revenues.¹⁰

⁶ See "Copyright Industries in the U.S. Economy: The 2003-2007 Report" prepared for the International Intellectual Property Alliance (IIPA) by Stephen E. Siwek of Economists Incorporated, 2009 (<http://www.iipa.com/pdf/IIPASiwekReport2003-07.pdf>).

⁷ Core copyright industries are those that create copyrighted works as their primary product. These industries include the motion picture industry, recording industry, music publishing industry, book, journal and newspaper publishing industry, computer software industry, legitimate theater, advertising, and the radio, television and cable broadcasting industries. Total copyright industries include those whose revenues are dependent on core copyright industries. See World-Information.org, *The Copyright Industry*, <http://world-information.org/wio/infostructure/100437611725/100438658710/?ic=100446326381>

⁸ Siwek, "Copyright Industries in the U.S. Economy: The 2003-2007 Report," IIPA, 2009.

⁹ Siwek, "Copyright Industries in the U.S. Economy: The 2003-2007 Report," IIPA, 2009.

¹⁰ See "Building a Digital Economy: The Importance of Saving Jobs in the EU's Creative Industries," prepared for the International Chamber of Commerce/BASCAP

The TERA Consultants study, titled “Building a Digital Economy: The Importance of Saving Jobs in the EU Industries,” found that just as in the U.S., copyright industries in EU countries — the study focused on film, TV, recorded music and software — were found in 2008 to contribute 558 billion euro value-added to the EU economy (4.5%) and 8.5 million jobs (3.8% of total jobs), with non-core but related industries combining to total 862 billion euro value-added (6.9%) and 14.4 million jobs (6.5%).¹¹

The TERA Consultants study did not quantify direct losses affecting all creative industries. For example, major industries such as publishing (book, magazine, newspaper and journal publishing) and visual arts (photography and graphic arts) were not included. In addition, some segments of the markets of those industries included also were not calculated, such as total piracy losses experienced by TV sports broadcasters and sports interests throughout the EU. The researchers noted that the addition of these piracy rates would have resulted in even more devastating figures both in job losses and revenues.¹²

An earlier study by Siwek documented total IP industries achieving an annual value-added growth rate twice that of the U.S. GDP as a whole, representing about 20% of U.S. GDP in 2003 but responsible for nearly 40% of its growth. Ten-year growth estimates of U.S. GDP based on this data would be approximately 30% lower without IP industry contributions.¹³

Not surprisingly, an analysis of a decade’s worth of data compiled by the U.S. Bureau of Labor Statistics’ Bureau of Economic Analysis demonstrates that personal consumption of creative works is steadily rising. Analyzing among other data sales of books, recorded audio, and video media, the National Arts Index 2009 from Americans for the Arts found a growth in expenditures in current dollars from \$108 billion in 1998 to \$169 billion in 2007, a 44% growth rate. Calculating for inflation at a constant dollar rate, the growth over 10 years is an impressive 16%.¹⁴

by TERA Consultants, March 2010

(<http://www.iccwbo.org/uploadedFiles/BASCAP/Pages/Building%20a%20Digital%20Economy%20-%20TERA%281%29.pdf>).

¹¹ See executive summary for TERA Consultants “Building a Digital Economy: The Importance of Saving Jobs in the EU’s Creative Industries,” March 2010

(<http://www.iccwbo.org/uploadedFiles/BASCAP/Pages/Building%20a%20Digital%20Economy%20-%20Exec%20Summary.pdf>).

¹² TERA Consultants “Building a Digital Economy,” March 2010.

¹³ See “Engines of Growth: Economic Contributions of the U.S. Intellectual Property Industries,” prepared for NBC Universal by Stephen E. Siwek of Economists Inc., 2005

(http://www.nbcuni.com/About_NBC_Universal/Intellectual_Property/pdf/Engines_of_Growth.pdf).

¹⁴ See “National Arts Index 2009: An Annual Measure of the Vitality of Arts and Culture in the United States” for Americans for the Arts by Roland J. Kushner of

The newspaper industry is among the copyright industries affected by online infringement. As described more fully in comments by the Newspaper Association of America, in a study released in December 2009, Contributor, Inc. and the Fair Syndication Consortium tracked 100,000 articles from 157 American newspapers for one month. Over a 30-day period, more than 75,000 unlicensed websites reused U.S. newspaper content, including 112,000 unlicensed near-exact copies reproducing more than 80 percent of the original article.¹⁵

The photographic industry is subject to significant online infringement, which costs photographers and photo licensing agencies significant revenues every year. Once an image is online, it is often just a right-click away from appearing elsewhere – online or offline – in an unauthorized display. In one study, approximately nine out of every ten images found online were unauthorized.¹⁶

A follow-up to that study was conducted in which 20,000 images from major stock photo distributors were identified across the Internet. The sample was limited to images not previously licensed for website use and not subject to royalty-free licensing, and infringements were tracked in only three countries, including the United States. Over a four-month period, 1,200 infringements were identified. Eighty percent of those images were licensed by Getty Images, and those images were infringed about one out of every fifteen appearances. Based on that ratio and Getty's total image collection and an average license fee of \$600, Getty faced an annual loss in just those three markets of \$42 million per year.¹⁷ That is particularly significant when one considers there are thousands of stock image sites across the United States, many of them managed by non-profits such as museums and educational institutions.

A recent follow-up to that study conducted for the Picture Archive Council of America (PACA) by PicScout found that in 2009 levels of infringement were more than three times that of 2006. Of an estimated 5,000,000 or more rights-managed images found on commercial web sites, about 80% were not properly licensed.¹⁸

Muhlenberg College and Randy Cohen of Americans for the Arts, January 2010 (http://www.americansforthearts.org/information_services/arts_index/001.asp).

¹⁵ See "How U.S. newspaper content is reused and monetized online," Fair Syndication Consortium Research Brief, December 2009 (<http://fairsyndication.org/guidelines/USnewspapercontentreusementudy.pdf>).

¹⁶ See "Infringements of Stock Images and Lost Revenues," Stock Artists Alliance, September 2007 (http://www.stockartistsalliance.org/files/SAA_Infringements_Report_2007a.pdf).

¹⁷ "Infringements of Stock Images and Lost Revenues," Stock Artists Alliance, September 2007.

¹⁸ PicScout works with stock agencies to track non-legitimate usage of rights-managed images using advanced visual recognition technology. This data was provided by PicScout to PACA on March 19, 2010.

The online music industry internationally grew about 27% to \$4.2 billion in 2009, with digital platforms now totaling about 27% of recorded music sales. Single track downloads globally rose 10% to 1.5 billion units.¹⁹ But that promise is undercut by piracy, with the IFPI estimating that there were more than 40 billion files illegally file-shared in 2008, a piracy rate of 95%.²⁰ The percent of the U.S. Internet population participating in illegal file-trading reached 19% in 2007, with P2P music sharing continuing to grow among teens.²¹ More than one-fourth of U.S. children ages 9 to 14 that year were found to share infringing files on a popular P2P site.²²

Internet video is in high demand, totaling 22% of global consumer Internet traffic in 2007, with that percentage expected to reach 90% by 2012.²³ The number of U.S. online video viewers reached 137.5 million in 2007, and is expected to reach 190 million by 2012.²⁴ However, the Organisation for Economic Co-Operation and Development noted that online video piracy is on the rise, from peer-to-peer technology to infringing use of “cyberlockers,” often with the infringed video available for instant streaming.²⁵ Consumers “subscribe” to these sites through credit card transactions on the site, and the sites are also funded by advertisers. These offerings help to make the infringing sites appear legal, and put consumers at risk of identity theft, as the Federal Trade Commission has noted.²⁶

¹⁹ See “IFPI Digital Music Report 2010,” International Federation of the Phonographic Industry, January 2010 (<http://www.ifpi.org/content/library/DMR2010.pdf>).

²⁰ See “IFPI Digital Music Report 2009,” IFPI, January 2009 (<http://www.ifpi.org/content/library/DMR2009-summary.pdf>).

²¹ See “NPD’s Digital Music Study and NPD MusicWatch,” NPD Group, 2008 (press release at http://www.npd.com/press/releases/press_080226a.html), via “The Digital Economy Fact Book: Tenth Edition,” Grant Eskelson, Adam Marcus, and W. Kenneth Ferree, The Progress & Freedom Foundation (PFF), 2009 (http://www.pff.org/issues-pubs/books/factbook_10th_Ed.pdf).

²² See 2008 survey by NPD Group of 3,376 completed surveys of U.S. parents with kids age 2 to 14 living in the household, focusing on children between the ages of 9 and 14 (press release at http://www.npd.com/press/releases/press_080130b.html) via “The Digital Economy Fact Book: Tenth Edition,” PFF, 2009.

²³ See “Cisco Visual Networking Index – Forecast and Methodology, 2007–2012,” Cisco, June 16, 2008 (http://newsroom.cisco.com/dlls/2008/ekits/Cisco_Visual_Networking_Index_061608.pdf).

²⁴ See “The Kelsey Group’s US Local Video Forecast (2007-2012),” The Kelsey Group, June 25, 2008 (press release at <http://www.kelseygroup.com/press/pr080625.asp>).

²⁵ See “Economic Impact of Counterfeiting and Piracy,” Organisation for Economic Co-Operation and Development, June 2008 (http://www.oecd.org/document/4/0,3343,en_2649_33703_40876868_1_1_1_1,00.html).

²⁶ See “Widespread Data Breaches Uncovered by FTC Probe: FTC Warns of Improper Release of Sensitive Consumer Data on P2P File-Sharing Networks,” Federal Trade Commission alert from February 22, 2010. The FTC notified nearly 100 organizations that the private data of their organizations, employees and customers may have

The business software industry in 2008 saw revenue losses due to unlicensed software at a retail value exceeding \$50 billion. Worldwide losses that year increased 11% to \$53.0 billion. Worldwide PC software piracy rose in 2008 to 41% of all software, driven by high piracy rates in large markets such as China and India.²⁷

A recent study by the Entertainment Software Association (ESA) documents the extent to which online piracy is affecting the computer and video game industry. The ESA study estimated the number of pirated copies made of roughly 200 member game titles through popular peer-to-peer networks (BitTorrent, eDonkey, Gnutella, and Ares) during December, 2009. The total number of successful game downloads detected during this one-month period was 9.78 million – with year-round impact obviously being many times greater. It should also be noted that this figure under-represents the true magnitude of online game piracy as it reflects downloads of a small selection of ESA member titles. In addition, these figures do not reflect illegal downloads that occur from “cyberlockers” or “one-click” hosting sites, which continue to account for high volumes of infringing downloads.²⁸

Online piracy has joined physical counterfeiting as a daunting economic challenge to all copyright industries and to the U.S. economy. According to a study conducted for the Institute for Policy Innovation, piracy costs the U.S. economy \$58 billion annually in total output, including revenue and related measures of gross economic performance.²⁹ A conservative estimate of 2005 data from four major U.S. copyright industries – motion pictures, sound recordings, business software and entertainment software/video games – demonstrate at least \$25.6 billion in lost revenue. This results in federal, state and local governments forfeiting at least \$2.6 billion in tax revenues annually, with \$1.8 billion of that total lost personal income taxes and \$0.8 billion lost corporate income and production taxes.³⁰

B. Exports and International Trade

been compromised through data breaches caused by use of peer-to-peer file-sharing sites (<http://www.ftc.gov/opa/2010/02/p2palert.shtm>).

²⁷ See “Sixth Annual BSA-IDC Global Software 08 Piracy Study,” commissioned by the Business Software Alliance, May 2009

(<http://global.bsa.org/globalpiracy2008/studies/globalpiracy2008.pdf>).

²⁸ See “IIPA Special 301 Letter to USTR” of February 18, 2010

(<http://www.iipa.com/rbc/2010/2010SPEC301COVERLETTER.pdf>). The ESA data is cited on pages 11-12.

²⁹ See “The True Cost of Copyright Industry Piracy to the U.S. Economy,” prepared for the Institute for Policy Innovation by Stephen E. Siwek of Economists Inc., October 2007

(http://www.copyrightalliance.org/files/siwekcopyrightpiracy_studypdf.pdf).

³⁰ Siwek, “The True Cost of Copyright Industry Piracy to the U.S. Economy,” IPI, 2007.

U.S. copyrighted works are valued around the world. U.S. copyright industries historically have posted positive balances of trade with U.S. trading partners. Copyright industries face challenges in other countries, however, when there is insufficient respect for and enforcement of intellectual property rights. U.S. copyright owners, particularly Small and Medium Enterprises (SMEs), do not have the full resources or means to ensure legal markets for U.S. copyrighted works abroad. A proactive approach by all U.S. government agencies is essential in this area.

Sales of U.S. copyrighted works continue to expand overseas. The total core copyright sales in foreign markets increased 8% from \$116 billion in 2006 to nearly \$126 billion in 2007. Not only are foreign sales of U.S. copyrighted goods on the rise, total foreign sales surpass those of other leading U.S. industries, including aircraft (\$95.6 billion), automobiles (\$56.8 billion), agricultural products (\$48.1 billion), food (\$39.4 billion) and pharmaceuticals (\$27.9 billion).³¹ Total IP industries make up about 40% of the GDP of U.S. exportable products and services, while contributing nearly 60% of the growth of U.S. exportable high-value-add products and services.³²

The United Nations Conference on Trade and Development (UNCTAD) concluded that "creative industries are among the most dynamic sectors in world trade."³³ UNCTAD found that from 2000 to 2005 creative industries achieved an "unprecedented" annual growth rate in international trade of 8.7%, with the value of total exports in creative goods and services reaching \$424.4 billion in 2005. UNCTAD concluded that "[n]owadays in the most advanced countries, the creative industries are emerging as a strategic choice for reinvigorating economic growth, employment and social cohesion."³⁴

International trade has a significant impact on SME copyright owners. Just as the digital age empowers these SMEs to reach new international markets, new technologies also enable massive infringement of their works.

There has been a significant growth in the U.S. in what the Americans for the Arts calls "independent artist-entrepreneurs," from 509,000 in 2000 to 680,000 in 2007.³⁵ Approximately 84% of motion picture and video firms and

³¹ Siwek, "Copyright Industries in the U.S. Economy: The 2003-2007 Report," IIPA, 2009.

³² Siwek, "Engines of Growth," NBC Universal, 2005.

³³ See "Creative Economy Report 2008," United Nations Conference on Trade and Development (UNCTAD), 2008 (http://www.unctad.org/en/docs/ditc20082cer_en.pdf).

³⁴ "Creative Economy Report 2008," UNCTAD, 2008.

³⁵ Kushner and Cohen, "National Arts Index 2009," Americans for the Arts, 2010.

60% of all software publishing firms in 2004 employed fewer than ten workers.³⁶

Business is also booming for those involved in international trade of pirated goods, however. According to a recent study by the Organisation for Economic Co-Operation and Development (OECD), global trade in counterfeit and pirated goods could have been as high as \$200 billion in 2005.³⁷ According to World Bank data for that year, that amount exceeds the GDP of approximately 150 separate economies. The OECD further estimates that this total would be several more hundreds of billions of dollars larger if purely domestic counterfeiting and piracy were included.³⁸

A follow-up study by the OECD found the problem is continuing to grow. The study estimates the share of counterfeit and pirated goods in world trade – again, not including domestic counterfeiting or piracy in any country – to have grown from 1.85% in 2000 to 1.95% in 2007. From 2005 to 2007, trade in counterfeit and pirated goods grew more than 25%, to as much as \$250 billion.³⁹

There is a documented correlation between respect for private property rights in a given country and respect for IP rights, as demonstrated by the 2010 International Property Rights Index.⁴⁰ What is particularly striking, however, is that outside of North America and Western Europe, enforcement of IP rights significantly trails the lackluster levels of enforcement of physical property rights in those countries and regions.⁴¹ That is a significant indicator of the challenges U.S. copyright industries face in competing in global markets with IP exports.

C. IP Enforcement and U.S. Employment

Given the significant contributions by copyright industries to the U.S. economy and international trade, it is not surprising that copyright industries are not only a source of significant U.S. employment, but are perhaps the nation's best hope for near- and long-term job growth.

³⁶ U.S. Census Bureau, *Statistics of U.S. Businesses – 2004*, for NAICS 5121- Motion Pictures and Video Industries and NAICS 5112 – Software Publishing Industry – via Siwek, "The True Cost of Copyright Industry Piracy to the U.S. Economy," IPI, 2007.

³⁷ "Economic Impact of Counterfeiting and Piracy," OECD, June 2008.

³⁸ "Economic Impact of Counterfeiting and Piracy," OECD, June 2008.

³⁹ See "Magnitude of Counterfeiting and Piracy of Tangible Products: An Update," OECD, November 2009 (<http://www.oecd.org/dataoecd/57/27/44088872.pdf>).

⁴⁰ See "International Property Rights Index," prepared for the Property Rights Alliance (PRA) by PRA Hernando de Soto Fellow Victoria Strokova, February 2010 (<http://www.internationalpropertyrightsindex.org/>).

⁴¹ "International Property Rights Index," PRA, 2010.

The core copyright industries in the U.S. employed nearly 5.6 million workers in 2007, more than 4% of the U.S. workforce, while total copyright industries employed 11.7 million, or more than 8.5% of the U.S. workforce.⁴²

Jobs in U.S. copyright industries pay more than those in other sectors. In 2007, annual compensation for core copyright workers was \$73,554, exceeding the average annual compensation of all U.S. workers, \$56,817, by 30%. Compensation was also higher in total copyright industries, which averaged \$66,498 annually, 18% higher than average annual compensation across all forms of employment.⁴³ Compensation paid to employees in IP industries in 2003 exceeded \$1.1 trillion, approximately 22% of total compensation paid by all U.S. private industry employees.⁴⁴ A recent study by IDC estimates that for every \$1 of PC software sold in a given country, \$3 to \$4 of revenue for local IT service and distribution firms is generated, leading to more jobs.⁴⁵

The benefits of copyright enforcement enhance employment not just in large corporations but with individual artists, union members and SMEs.

There has been a significant increase in the number of professionals belonging to arts unions over the last decade. Based on data from the Office of Labor Management Standards in the U.S. Department of Labor, from 2004 to 2008, total arts union membership in the United States rose 26.4% from 431,869 to 545,932.⁴⁶

Similar growth has been seen in the broader area of commercial and professional independent artists, writers and performers. Based on numbers compiled by the U.S. Census Bureau, there has been a 33.6% increase in individual artists in the U.S. from 508,608 in 2000 to 679,247 in 2007.⁴⁷

U.S. composers have seen an increase in the collection of royalties for live performance of their compositions over the last decade, according to data provided by the two largest U.S. performing rights organizations, the American Society of Composers, Authors, and Publishers (ASCAP) and Broadcast Music, Inc. (BMI). Even after adjusting for inflation, royalties to composers belonging to ASCAP and BMI grew from \$1.09 billion in 2003 to \$1.37 billion in 2008, a 20% increase.⁴⁸

⁴² Siwek, "Copyright Industries in the U.S. Economy: The 2003-2007 Report," IIPA, 2009.

⁴³ Siwek, "Copyright Industries in the U.S. Economy: The 2003-2007 Report," IIPA, 2009.

⁴⁴ Siwek, "Engines of Growth," NBC Universal, 2005.

⁴⁵ "Sixth Annual BSA-IDC Global Software 08 Piracy Study," BSA, 2009.

⁴⁶ Kushner and Cohen, "National Arts Index 2009," Americans for the Arts, 2010.

⁴⁷ Kushner and Cohen, "National Arts Index 2009," Americans for the Arts, 2010.

⁴⁸ Kushner and Cohen, "National Arts Index 2009," Americans for the Arts, 2010.

Another indicator of increased importance of copyright to all copyright owners is an increase in registrations for copyrights with the U.S. Copyright Office in the Library of Congress. After copyright registration fees increased in 2006 there was a drop in applications, but registrations have begun to increase in that time, up from 541,212 in 2007 to 561,428 in 2008.⁴⁹

As with U.S. economic growth, the positive story of copyright and jobs is tempered by the harm resulting from copyright piracy. One study estimates that the U.S. economy loses annually 373,375 jobs due to piracy. Nearly 124,000 of those jobs would have been added in copyright industries or in downstream retail industries, with nearly 250,000 additional jobs not otherwise added to related U.S. industries.⁵⁰

This piracy directly costs American workers. The loss of jobs results in a loss of \$16.3 billion in earnings, \$7.2 billion from copyright industries and related retail industries, and an additional \$9.1 billion by workers in other U.S. industries.⁵¹

D. Returns on Federal IP Enforcement

There are few economic stimulus initiatives in which the U.S. government can engage that yield larger economic rewards than increased IP enforcement. The U.S. Government Accountability Office has produced numerous analyses of the direct correlation between U.S. spending on anti-counterfeiting and anti-piracy efforts and increases in U.S. GDP and tax revenue.⁵²

The U.S. Congress took note in the 110th Congress of a significant study by LECG on the economic return on investment by U.S. government spending

⁴⁹ Kushner and Cohen, "National Arts Index 2009," Americans for the Arts, 2010.

⁵⁰ Siwek, "The True Cost of Copyright Industry Piracy to the U.S. Economy," IPI, 2007.

⁵¹ Siwek, "The True Cost of Copyright Industry Piracy to the U.S. Economy," IPI, 2007.

⁵² See GAO reports and testimony including "Intellectual Property: Enhancements to Coordinating U.S. Enforcement Efforts," December 2009 (<http://www.gao.gov/new.items/d10219t.pdf>); "Overseas U.S. Government Personnel Involved in Efforts to Protect and Enforce Intellectual Property Rights," February 2009 (<http://www.gao.gov/new.items/d09402r.pdf>); "Intellectual Property: Federal Enforcement Has Generally Increased, but Assessing Performance Could Strengthen Law Enforcement Efforts," March 2008 (<http://www.gao.gov/new.items/d08157.pdf>); "Intellectual Property: Risk and Enforcement Challenges," October 2007 (<http://www.gao.gov/new.items/d08177t.pdf>); and "Intellectual Property: Strategy for Targeting Organized Piracy (STOP) Requires Changes for Long-term Success," November 2006 (<http://www.gao.gov/new.items/d0774.pdf>).

on IP enforcement.⁵³ The LECG study was cited repeatedly during the development and passage of the PRO-IP Act of 2008 and some of its recommendations are now part of U.S. law.

LECG found that following the recommendations of the Coalition Against Counterfeiting and Piracy (CACP) would increase U.S. economic output from \$27 billion to \$54 billion annually, and boost U.S. employment by about 174,000 to 348,000 after three years. In present value terms, total federal tax revenues during this three-year period would increase \$1.4 billion to \$2.8 billion.⁵⁴

In other words, for every dollar spent by the U.S. government on increased IP enforcement, federal tax revenues would increase by as little as \$2.90 to as much as \$9.70. This increase in tax revenue would stem from increased economic output per dollar of federal IP enforcement spending of anywhere from \$38 to \$127. That boost in economic output would also reward state and local governments with as much as \$1.5 billion in additional revenues over three years.⁵⁵ Reducing business software piracy by 10 percentage points over four years would create an additional 600,000 jobs, according to a recent IDC study, while generating \$24 billion in additional government revenues.⁵⁶

It must also be noted that counterfeiting and piracy have been linked with organized crime and terrorism around the world. In a 2009 study by the RAND Corporation's Safety and Justice Program and the Global Risk and Security Center⁵⁷, researchers identified film piracy as a key source of income for all manner of organized criminal behavior, with millions of dollars documented flowing to Hezbollah, a group designated as a foreign terrorist organization (FTO) by the U.S. State Department. Seventeen separate organized crime rings in the U.S., Canada, Hong Kong, Italy, Japan, Malaysia, Mexico, Pakistan, Paraguay, Russia, Spain, and the U.K. were found to be profiting from motion picture piracy.⁵⁸

⁵³ See "Economic Analysis of the Proposed CACP Anti-Counterfeiting and Piracy Initiative," prepared for the Coalition for Counterfeiting and Piracy (CACP) by LECG Directors Laura Tyson, Ph.D., Tapan Munroe, Ph.D., and George Schink, Ph.D., November 2007

(http://www.lexisnexis.com/documents/pdf/20080610072737_large.pdf).

⁵⁴ See "Economic Analysis of the Proposed CACP Anti-Counterfeiting and Piracy Initiative," CACP, 2007.

⁵⁵ See "Economic Analysis of the Proposed CACP Anti-Counterfeiting and Piracy Initiative," CACP, 2007.

⁵⁶ "Sixth Annual BSA-IDC Global Software 08 Piracy Study," BSA, 2009.

⁵⁷ See "Film Piracy, Organized Crime, and Terrorism," prepared for the Motion Picture Association of America by Gregory F. Treverton, Carl Matthies, Karla J. Cunningham, Jeremiah Goulka, Greg Ridgeway, Anny Wong of The RAND Corporation Safety and Justice Program and the Global Risk and Security Center, 2009 (http://www.rand.org/pubs/monographs/2009/RAND_MG742.pdf).

⁵⁸ "Film Piracy, Organized Crime, and Terrorism," RAND, 2009.

Perhaps the greatest return on IP enforcement is one that is of immeasurable value. Copyrighted works embody our culture. As our Founding Fathers envisioned when enshrining copyright in the U.S. Constitution, copyright provides an incentive to allow creative minds in the U.S. to pursue their expression, to the benefit of all of society. There is a tremendous amount of creativity within the copyright industries, whether one is employed with a producer of copyrighted works, is an arts union member working on a creative project, or is an individual artist or creator. All contribute to the economy, but all also create our enviable and invaluable arts culture.

More than 11,000 individual artists and creators recognized this, when in a November 16, 2009, letter to the U.S. President and Vice President they emphasized the fact that “[o]ur work brings significant cultural and economic value to our society.”⁵⁹ In addition, we encourage the USIPEC to read carefully the hundreds of submissions being made in this proceeding by individual artists and creators in the Copyright Alliance *one voice* network, who are sharing why copyright is important to them both as a component of our economy as well as a contributor to our culture.

Part II: Policy Recommendations

Many Copyright Alliance members are filing separate comments in this proceeding, and we strongly advise the USIPEC to closely examine their data and recommendations.

The Copyright Alliance would like to offer recommendations in two key areas relevant to the USIPEC and its mission – enforcement and K-12 education.

A. Increased Domestic and International Enforcement of Copyright

The Copyright Alliance welcomes the commitment to domestic and international copyright enforcement by the Obama Administration. As highlighted in Footnote 3 (above), many Administration officials have spoken out in support of copyright and enforcement of domestic law and international treaty commitments. Those words, however, have accompanied strong domestic and international action.

We welcomed the February 12th, 2010, announcement by U.S. Attorney General Eric Holder of the creation Department of Justice Task Force on

⁵⁹ As noted above, that letter was distributed by the Copyright Alliance and several artists and creators to the White House on November 16, 2010, and a copy of the letter and signatures is included with this filing. The letter can be found on the Copyright Alliance web site with signatures, and those signatures now total well over 12,000 (<http://www.copyrightalliance.org/letter/>).

Intellectual Property, intended as “part of a Department-wide initiative to confront the growing number of domestic and international intellectual property (IP) crimes.”⁶⁰ The Task Force – which the U.S. Department of Justice noted followed a “summit meeting convened last December by Vice President Biden, a long-standing champion of U.S. intellectual property rights-holders” – is a very positive development for all copyright owners.⁶¹

The Copyright Alliance and its members will work closely with the Task Force chairman - the U.S. Attorney General – and its representatives from the offices of the Attorney General, the Deputy Attorney General, and the Associate Attorney General; the Criminal Division; the Civil Division; the Antitrust Division; the Office of Legal Policy; the Office of Justice Programs; the Attorney General’s Advisory Committee; the Executive Office for U.S. Attorneys and the FBI.⁶² We are also pleased the Task Force is committed to working closely with the USIPEC.

The Copyright Alliance urges the USIPEC and the U.S. Department of Justice to act quickly on this broad policy commitment by the Obama Administration to “step up policy engagement with foreign law enforcement partners, develop a plan to expand civil IP enforcement efforts, and leverage existing partnerships with federal agencies and independent regulatory authorities such as the Department of Homeland Security and the Federal Communications Commission.”⁶³

As Congress and the U.S. Government Accountability Office identified during deliberations on the PRO-IP Act, the dedicated federal employees fighting for the rights of copyright owners are in need of more resources – both financial and human -- for domestic and international enforcement. The U.S. government faces tough choices in its allocation of federal spending, but as highlighted above, data shows that for every dollar spent on IP enforcement, federal revenues from increased taxes exceed that dollar spent.⁶⁴

International piracy of physical goods such as software, DVDs and CDs is widespread, often easily identifiable, and connected in some cases to international organized crime and terrorism.⁶⁵ There are various measures that the USIPEC and the interagency advisory committee should consider building into its intellectual property enforcement strategy in order to target physical piracy abroad, as well as entry of counterfeit goods into the U.S. These measures should promote coordination among and provide more resources to law enforcement agencies such as the U.S. Department of

⁶⁰ See February 12, 2010, U.S. Department of Justice (US DoJ) announcement -- <http://www.justice.gov/opa/pr/2010/February/10-ag-137.html>

⁶¹ February 12, 2010 US DoJ.

⁶² February 12, 2010 US DoJ.

⁶³ February 12, 2010 US DoJ.

⁶⁴ “Economic Analysis of the Proposed CACP Anti-Counterfeiting and Piracy Initiative,” LEGC, 2007.

⁶⁵ “Film Piracy, Organized Crime, and Terrorism,” RAND, 2009.

Justice, the U.S. Department of Homeland Security and U.S. Customs, and state governments.

Online piracy is also rampant. As documented by the OECD, there is a growth in web sites offering unlicensed video through peer-to-peer technology, funded by user subscriptions transacted by credit card companies as well as hosted advertising.⁶⁶ These sites profit from infringement while putting consumers at risk of identity theft, as the Federal Trade Commission noted.⁶⁷

The Copyright Alliance welcomes the strong commitment to intellectual property enforcement made by U.S. trading partners across the globe, but is dismayed by the frequent lack of strong adherence to those commitments by many countries. We urge the USIPEC to closely examine the data provided by U.S. copyright industries on international piracy in the annual Special 301 proceeding and to consider how this data might also inform ongoing strategic planning efforts.⁶⁸

The USIPEC should work closely with the USTR and other federal agencies in promoting strong IP language in future trade treaties. The USIPEC should also assist the USTR in its commitment to advancing the Anti-Counterfeiting Trade Agreement (ACTA) with U.S. trading partners committed to improvement in coordination and implementation related to enforcement of copyright enforcement obligations.⁶⁹ It is critical that this country serve as a role model abroad as our officials work with other governments to encourage more IP enforcement within the borders of those countries.

It is imperative that copyright owners be able to counter piracy by operating in a marketplace that supports and encourages legal licensing models. In addition, it should be noted that content creators are just one part of the ecosystem. The decisions and behaviors of third parties -- ISPs, advertisers, search engines, financial processers, and device makers -- all affect that ecosystem, and produce an environment that is more or less conducive to legitimate commerce.

⁶⁶ OECD Piracy of Digital Content p. 28-32

⁶⁷ See "Widespread Data Breaches Uncovered by FTC Probe: FTC Warns of Improper Release of Sensitive Consumer Data on P2P File-Sharing Networks," Federal Trade Commission alert from February 22, 2010. The FTC notified nearly 100 organizations that the private data of their organizations, employees and customers may have been compromised through data breaches caused by use of peer-to-peer file-sharing sites (<http://www.ftc.gov/opa/2010/02/p2palert.shtm>).

⁶⁸ See "International Intellectual Property Alliance 2010 Special 301 Report," IIPA, 2010 (http://www.iipa.com/2010_SPEC301_TOC.htm).

⁶⁹ See statement by U.S. Trade Representative Ron Kirk reiterating the Obama Administration's commitment to continuing ACTA negotiations -- <http://www.ustr.gov/about-us/press-office/press-releases/2009/june/ambassador-ron-kirk-announces-plan-move-forward-negot>.

We hope that the Joint Strategic Plan will recognize this reality, and encourage all parties to work together, using commercially reasonable efforts, to impede infringement and promote legitimate commerce.

B. Education

Enforcement of IP rights is critical to the continued creativity and production of creators and copyright industries. However, as significant as enforcement, the critical role of education on the importance of copyright and its essential role in encouraging the production of creative works cannot be overstated. IP education that promotes awareness and understanding of, and respect for, copyright among children can serve to pre-empt infringing behavior as these children mature and begin using computers and the Internet. Not only the U.S. economy but our culture is fueled by copyright.

Since its launch, the Copyright Alliance has dedicated itself to education of the positive role of copyright in our economy and our culture. In 2009 we launched the Copyright Alliance Education Foundation (CAEF), a 501(c)(3) charitable non-profit.⁷⁰ CAEF provides a wide cross-section of free curricula for K-12 schools on the value of copyright as well as other critical tools to ensure the nation's youth are responsible digital citizens, enjoying empowerment of their own creativity.

Curricula provided by CAEF come from numerous sources, including Copyright Alliance members – the American Society of Composers, Authors and Publishers (ASCAP) Foundation; the Business Software Alliance; the Directors Guild of America (through The Film Foundation); the Entertainment Software Association; the Motion Picture Association of America; and the Recording Industry Association of America -- and other organizations including i-SAFE, the Close Up Foundation, the National Association for Music Education, Microsoft, Weekly Reader, Young Minds Inspired!, the U.S. Patent and Trademark Office, and the World Intellectual Property Organization.⁷¹

CAEF has also partnered with Young Minds Inspired! to produce a robust Teach-the-Teacher program to assist K-12 principals, librarians and media specialists to assist teachers in incorporating this wide variety of curricula into the classroom.⁷² To date CAEF materials have been distributed to more than 25,000 K-12 librarians and media specialists, with a favorable feedback rating from U.S. educators of 97%.

⁷⁰ The launch of the Copyright Alliance Education Foundation was announced on May 21, 2009 (see press release -- <http://www.copyrightalliance.org/news.php?id=65>) and can be found online at <http://www.copyrightfoundation.org/>.

⁷¹ See a complete chart of free curricula distributed by the Copyright Alliance Education Foundation at http://www.copyrightfoundation.org/library_of_classroom_curricula.

⁷² Find a list of curricula distributed by the Copyright Alliance Education Foundation at <http://www.copyrightfoundation.org/curriculum>.

While educators across the U.S. are finding value in the free curricula distributed by CAEF, one driver of adoption of these materials is a growing trend in U.S. states to establish digital citizenship education standards. A majority of U.S. state governments have legislated or regulated digital citizenship education requirements, ensuring our nation's youth understand the benefits and risks inherent in our online world.

Respect for copyright and the rights of copyright owners - and the ways in which respect for copyright benefits society and individual creators such as our nation's youth – plays a prominent role in many of these state standards.

One positive model was put in place in the state of Tennessee. Tennessee's Computer Technology Standards begin in Kindergarten.⁷³ Commencing in the 3rd grade is a focus on "the ethical, cultural, and societal issues related to Technology," including expectations that students will "[o]bey the copyright laws," "adhere to software licensing agreements," and learn how to properly cite sources.⁷⁴ Beginning in 4th grade, students are expected to "[l]ist ways of obtaining permission for using copyrighted material."⁷⁵ The standards expand in 6th grade by calling on students to "[d]iscuss copyright laws/issues and model ethical acquisition and use of digital information, citing sources using established methods" as well as "[d]escribe the consequences regarding copyright violations including, but not limited to, computer hacking, computer piracy, intentional virus setting, and invasion of privacy."⁷⁶ Beginning in 9th grade, a computer literacy course has students "[c]ollaborate with peers, experts, and others" in producing original creative works while incorporating the lessons on copyright learned in previous grades.⁷⁷

There are many ways the USIPEC can work to promote similar initiatives throughout public, private and parochial schools across the United States. For example, we would encourage the USIPEC to coordinate with the U.S. Department of Education. U.S. Secretary of Education Arne Duncan on March 5th unveiled a draft National Educational Technology Plan. The Copyright Alliance was pleased to see this among its top five goals: "All learners will have engaging and empowering learning experiences both in and outside of

⁷³ See State of Tennessee Standards, Learning Expectations and Performance Indicators for Computer Technology at

<http://www.state.tn.us/education/ci/computer/index.shtml>

⁷⁴ See State of Tennessee 3rd grade standards at

http://www.state.tn.us/education/ci/computer/grade_3.pdf

⁷⁵ See State of Tennessee 4th grade standards at

http://www.state.tn.us/education/ci/computer/grade_4.pdf

⁷⁶ See State of Tennessee 6th grade standards at

http://www.state.tn.us/education/ci/computer/grade_6.pdf

⁷⁷ See State of Tennessee Computer Literacy course for 9th and 10th graders at

<http://www.state.tn.us/education/ci/computer/compliteracy.pdf>

school that prepare them to be active, creative, knowledgeable, and ethical participants in our globally networked society.”⁷⁸

This welcome approach by the U.S. Secretary of Education mirrors the objectives of the state of Tennessee in its guidelines outlined above. The Tennessee model could be promoted to the U.S. Department of Education by the USIPEC as a way to ensure all U.S. students receive all the tools they need to be productive and safe in our digital 21st Century.

We also call upon the Department of Education to actively enforce the portions of the Higher Education Opportunity Act of 2008 (HEOA) and the promulgated regulations that require that all institutions of higher learning that receive federal student aid to certify that, among other things, they have “developed and implemented written plans to effectively combat the unauthorized distribution of copyrighted material by users of the institution’s network.” It is important for the Department of Education to signal the university community that it takes this matter seriously, and that failure to devise such a plan could subject the university to serious sanctions.⁷⁹

Additionally, on March 16th the Federal Communications Commission (FCC) issued an ambitious National Broadband Plan.⁸⁰ It notes that the legal distribution of copyrighted works is a driver of broadband adoption, and contains proposals related to education. The USIPEC should remain apprised of FCC initiatives in the area of education and accommodate them appropriately into the strategic planning process.

The Copyright Alliance noted that President Obama on March 13th pledged to send to the U.S. Congress a “blueprint for an updated Elementary and Secondary Education Act that will overhaul No Child Left Behind. The plan will set the ambitious goal of ensuring that all students graduate from high school prepared for college and a career, and it will provide states, districts and schools with the flexibility and resources to reach that goal.”⁸¹ We would encourage the USIPEC to participate in this effort to seek ways that digital literacy education, including education on copyright, be a part of educational offerings in every U.S. school.

⁷⁸ See “Transforming American Education: Learning Powered by Technology,” Draft National Educational Technology Plan, U.S. Department of Education Office of Educational Technology, March 5, 2010 (<http://www.ed.gov/sites/default/files/NETP-2010-final-report.pdf>).

⁷⁹ See the Higher Education Opportunity Act 2008 fact sheet on the U.S. Department of Education site at <http://www2.ed.gov/policy/highered/leg/hea08/index.html>

⁸⁰ See “National Broadband Plan: Connecting America,” by the Federal Communications Commission, released March 16, 2009 (<http://www.broadband.gov/>).

⁸¹ See “Weekly Address: President Obama to Send Updated Elementary and Secondary Education Act Blueprint To Congress on Monday,” President Obama, March 13, 2010 (<http://www.whitehouse.gov/the-press-office/weekly-address-president-obama-send-updated-elementary-and-secondary-education-act->).

The Copyright Alliance agrees with the President that it is critical our students develop the tools to be productive members of the U.S. work force. Many of those students will find themselves employed in copyright industries, and the understanding of technology and copyright they learn in school will be of great use to them. The U.S. Department of Education cited one example in its recent announcement of its draft National Educational Technology Plan: "Filmmakers use everyday computers and affordable software for every phase of the filmmaking process – from editing and special effects to music and sound mixing."⁸²

The Copyright Alliance welcomes the many initiatives occurring at the federal and state level to help the nation's children thrive in our digital world, respect the rights of copyright owners, and achieve the maximum benefit from their own creativity. The USIPEC can play a critical role in encouraging and fostering the spread of digital citizenship education across the U.S.

Conclusion

The Copyright Alliance was a strong supporter of the Prioritizing Resources and Organization for Intellectual Property Act of 2008 (Public Law 110-403) or PRO-IP Act, and welcomed the creation of the USIPEC position within the Executive Office of the President. We also welcomed the appointment of Victoria Espinel who, in a post on the White House Blog, wrote the following:

Intellectual property are the ideas behind inventions, the artistry that goes into books and music, and the logos of companies whose brands we have come to trust. My job is to help protect the ideas and creativity of the American public. One of the reasons that I care about this is because I believe it is enormously important that the United States remain a global leader in these forms of innovation – and part of how we do that is by appropriately protecting our intellectual property. Our intellectual property represents the hard work, creativity, resourcefulness, investment and ingenuity of the American public. Infringement of intellectual property can hurt our economy and can undermine U.S. jobs. Infringement also reduces our markets overseas and hurts our ability to export our products. Counterfeit products can pose a significant threat to the health and safety of us all. Imagine learning that the toothpaste you and your family have used for years contains a dangerous chemical. U.S. Customs officials have seized several shipments of counterfeit toothpaste containing a dangerous amount of diethylene glycol, a chemical used in brake fluid, and that in sufficient doses is believed to cause kidney failure. All of

⁸² "Transforming American Education," U.S. Department of Education, 2010.

these are reasons why your government has renewed its efforts to challenge this illegal activity.

My job is to help coordinate the work of the federal agencies that are involved with stopping this illegal behavior. We are going to work together to develop a strategy to reduce those risks to the public, the costs to our economy and to help protect the ingenuity and creativity of Americans. We want to be able to reduce the number of infringing goods in the United States and abroad. The examples are almost endless: counterfeit car parts, illegal software, pirated video games, knockoff consumer goods, dangerous counterfeit medicines, and many other types of products – including very sophisticated technology. Our goal is to better use taxpayer dollars and other government resources to be more effective in reducing any threat to our economy and our safety.⁸³

The goal of the USIPEC is the goal of the Copyright Alliance. Our guilds and unions, corporations, trade associations and individual artists and creators have come together as a resource for the USIPEC and the Administration in its efforts to better protect, as Ms. Espinel wrote, the “hard work, creativity, resourcefulness, investment and ingenuity of the American public.”

It is clear that copyright industries contribute significantly to U.S. economic growth, exports and job creation. It is also clear that counterfeiting and piracy erodes considerably the legal market domestically and internationally for copyrighted works, harming U.S. artists and creators and creative industry workers, those industries, and the U.S. economy.

There are positive steps being taken in the area of education by policymakers across the United States. The Copyright Alliance strongly supports those efforts, and encourages the USIPEC to encourage those efforts and coordinate U.S. government resources and activities with those educational outreach efforts.

The Copyright Alliance also supports more active enforcement, both domestically and internationally, to target counterfeiting and piracy. The USIPEC is in an important position to encourage the dedication of resources to this effort, particularly when there is a demonstrated positive return to the U.S. economy and job creation for every dollar spent on federal enforcement.

We encourage the USIPEC to consider these comments, as well as the strong endorsement of protecting the copyrights of artists and creators expressed in

⁸³ Victoria Espinel, “Intellectual Property and Risks to the Public,” White House Blog, February 23, 2010 (<http://www.whitehouse.gov/blog/2010/02/23/intellectual-property-and-risks-public>).

the attached letter to the President and Vice President from more than 11,000 artists and creators.

We also urge you to consider the hundreds of comments filed by individual artists and creators who belong to the Copyright Alliance *one voice* advocacy network. You will see that many of them are including their affiliation with the Copyright Alliance in their comments. These individual artists and creators are sharing their personal stories – in their own words -- of what copyright means to their creativity and their production of creative works, as well as their ability to support themselves and contribute to the U.S. economy. They are also sharing how piracy has harmed them and their efforts to contribute to our economy and culture.

The Copyright Alliance and all of its members thank the Obama Administration and USIPEC for this opportunity to comment in this important proceeding, and looks forward to working with this Administration in pursuing stronger protection of intellectual property rights.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick C. Ross". The signature is fluid and cursive, with a long horizontal stroke at the end.

Patrick C. Ross
Executive Director
Copyright Alliance

Attachment: November 16, 2009, Letter to President Obama and Vice President Biden from more than 11,000 Artists and Creators urging the Administration to Support Artists' Rights