

FOR BACKGROUND PURPOSES

## THE PROTECT IP ACT: COMBATING ONLINE INFRINGEMENT

### PROTECTING AMERICAN JOBS, AMERICAN INNOVATION, AND AMERICAN CONSUMERS

*The bipartisan PROTECT IP Act was approved by the Senate Judiciary Committee by a unanimous voice vote on May 26, 2011. The legislation will protect American businesses and American workers by making it more difficult for operators of rogue websites, often based overseas, to steal American intellectual property.*

#### The PROTECT IP Act targets the worst online offenders.

**The PROTECT IP Act supplements existing authority** used for Operation In Our Sites to authorize the Justice Department to file a civil action against the registrant or owner of a rogue website, or the foreign-registered domain name directly. Under the PROTECT IP Act, if the court issues a cease and desist order, law enforcement is authorized to serve that order on Internet service providers, payment processors, online advertising network providers, and search engines.

**The PROTECT IP Act similarly authorizes rights holders that are the victims of the infringement**, or law enforcement, to bring an action against the registrant or owner of a rogue website, whether foreign or domestically registered, and to seek a cease and desist order from the court.

**The PROTECT IP Act ensures that third-parties are not overly burdened** to comply with an order by stipulating that the party is not required to take action beyond what is technically feasible and reasonable. The third-party would not be liable for any action or inaction, unless in contempt of court.

**The PROTECT IP Act includes due process safeguards for operators of alleged rogue websites** by explicitly ensuring courts follow the traditional Federal Rules of Civil Procedure for notice and opportunity to respond, and allowing the domain name owner or site operator to petition the court at any time to suspend or vacate the order, including in the situation in which the Internet site at issue is no longer, or never was, dedicated to infringing activities, or the interests of justice require it.

**The PROTECT IP Act also protects payment processors and Internet advertising networks that voluntarily cease doing business with infringing websites**, even in the absence of a court order, by immunizing those parties from damages resulting from actions taken against a rogue website if they have a good faith belief on credible evidence that the site is dedicated to infringing activities.

**The PROTECT IP Act protects consumers against counterfeit, adulterated, or misbranded pharmaceutical products** sold on the Internet by providing a safe harbor for domain name registries, registrars, search engines, payment processors, and advertising networks to take voluntary action against any infringing website that “endangers the public health” by offering such dangerous medication.

#### Online infringement costs the American economy billions of dollars, and thousands of jobs.

**American intellectual property accounts for more than \$7 trillion in the nation’s economy and IP-intensive industries employ 19 million American workers.** These industries pay both highly-skilled and low-skilled employees more than non-IP intensive industries.

**It is estimated that more than \$50 billion dollars is stolen annually through counterfeiting and infringing goods, costing federal, state, and local governments more than \$2 billion in tax revenue.** The AFL-CIO reports that online infringement of copyrighted material alone results in hundreds of thousands of lost jobs and severely reduces the income of those who are employed.

**The PROTECT IP Act will make it harder for thieves, primarily based overseas, to steal American intellectual property and the jobs that go with it.** That is why the legislation has bipartisan support and the endorsement of both the U.S. Chamber of Commerce and the AFL-CIO.

The PROTECT IP Act is specifically drafted to target websites primarily designed to market counterfeit goods and pirated materials, and that have no demonstrative purpose other than the marketing of these goods. **These “worst of the worst” online websites knowingly break the law,** and in some instances, threaten the welfare of American consumers.

<p><b>There is broad support for The PROTECT IP Act.</b></p>
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The PROTECT IP Act is supported by companies and organization representing businesses and workers in virtually all sectors of the U.S. economy, from the **U.S. Chamber of Commerce** to the **AFL-CIO**; from the **National Association of Manufacturers** to the **International Brotherhood of Teamsters**; from the **Motion Picture Association of America and Recording Industry of Association of America** to the **National Cable and Telecommunications Association**; and from the **National Association of Broadcasters to the Software and Information Industry Association**, among many others.