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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*
MICHAEL O'NEILL, *Republican Chief Counsel and Staff Director*

March 1, 2007

The Honorable Marybeth Peters
Register of Copyrights
Library of Congress
Washington, D.C. 20559

The Honorable Jon Dudas
Director, United States Patent
and Trademark Office
Madison West Building 10th floor
600 Dulany Street
Alexandria, Virginia 22313

Dear Register Peters and Director Dudas:

We write to you to express our concern with the latest developments in the Broadcasting Treaty debate at the World Intellectual Property Organization ("WIPO"). While we support WIPO and its efforts to further respect for intellectual property throughout the world and applaud your work in encouraging a constructive dialogue within WIPO, we have concerns with the latest Revised Draft Basic Proposal for the WIPO Treaty on the Protection of Broadcasting Organizations (the "Revised Draft Broadcasting Treaty").

The Revised Draft Broadcasting Treaty appears to grant broadcasters extensive new, exclusive rights in their transmissions for a term of at least 20 years, regardless of whether they have a right in the content they are transmitting. While we support the need to protect against signal theft of broadcast transmissions, the treaty appears to go beyond this purpose and grant broadcasters a right in their transmissions similar to a content holder's copyright. As a result, the rights that would be granted to broadcasters by the Revised Draft Broadcasting Treaty could limit legitimate, fair use of the content and would add an unnecessary layer of uncertainty in consumer use. The Revised Draft may also have the effect of restricting the rights of the underlying content owners and have implications, perhaps unintended, for intermediary liability. In short, the terms of the Revised Draft Broadcasting Treaty appear to be inconsistent with United States law.

We strongly urge you to advocate for a treaty that is significantly narrower in scope, providing protections to broadcasters no greater than necessary to protect their signals, and make this position known at the upcoming meeting of the Standing Committee in June. If the proposed treaty is not limited to true signal theft, we encourage you to oppose any effort to move to a Diplomatic Conference.

We reiterate our strong support for the multilateral approach evident in the United States' participation with WIPO. It is important to improve international obligations for the protection and dissemination of protected works. The Draft Broadcasting Treaty, however, would needlessly create a new layer of rights that would disrupt United States copyright law.

Thank you for your attention to this matter.

Sincerely,



PATRICK LEAHY
Chairman



ARLEN SPECTER
Ranking Republican Member