

Talking Points on Piracy, Rogue Websites and S.3804
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On Piracy and Rogue Websites

- **Online piracy is pervasive** – On any given day, you can easily find and download a vast number of books and other copyrighted works from a myriad of websites situated all over the world for free and without the approval of, or compensation to the authors, illustrators, publishers and other rights holders.
- **Online piracy is a major threat to publishing and costs jobs** – This activity undermines the economic viability of publishing and threatens the livelihoods of all its constituents: authors, publishers, booksellers, printers, paper companies, etc.
- **Online piracy is hurting the economy** – Intellectual property is the foundation of our “knowledge economy” and a primary source of growth and jobs creation. By undermining the economic value of intellectual property, online piracy discourages creativity and innovation, costs jobs, and damages our national “asset base.”
- **Online piracy damages America’s global standing** – American IP is one of our most valuable national assets and a long standing source of exports. By undermining the economic value of intellectual property, online jeopardizes our nation’s creative, scientific, cultural, and political leadership.
- **There are numerous “Rogue Websites” dedicated to piracy** – Online piracy is facilitated by both “legitimate” websites (primarily engaged in lawful activity) and “rogue” websites (primarily engaged in facilitating or conducting unlawful activity). We are most concerned with rogue websites whose primary function is to engage in and facilitate online IP theft. These websites are often commercial businesses that attract both uploaders and downloaders of content and then monetize their audience through the sale of content, membership fees, advertising, and other means.
- **Current legislation is inadequate** – While existing legislation, such as the DMCA and the Pro-IP Act, provide useful frameworks, the vast and growing number of websites and the tremendous volume of online piracy activity have rendered the existing “notice and takedown” regime ineffectual and left the owners of IP defenseless. It is quite easy for a website to comply with the letter of the existing laws while still facilitating massive amounts of piracy.

On S.3804

- **S 3804 targets only the worst offenders** – S. 3804, the new "rogue site" bill, targets the only the most flagrant offenders: sites fully dedicated to trafficking in stolen IP and to facilitating online piracy. Every one of the WTO’s 153 member countries has agreed that this conduct is illegal and agreed to provide civil AND criminal penalties against their operators.
- **S 3804 authorizes the Attorney General to pursue actions against rogue websites** – The bill defines a rogue website and enables the attorney general to pursue specific actions to stop their infringing activity. These actions include requiring Internet Service Providers to block end user access to the

websites, requiring credit card companies to stop processing transactions for these sites, and requiring companies that serve advertising to website to stop serving ads to the rogue sites.

- **S. 3804 is a reasonable first step** – While fully eradicating online IP theft will likely be impossible, S. 3804 is a common sense move in the right direction since its goal is simply to identify and shut down the illegal activities of websites whose strategies and business models are dedicated to the sale or distribution of pirated IP.
- **Publishers are 100% committed to free speech** – Publishing exists and flourishes based on the right to free speech granted in the First Amendment. Further, the right to free speech is strengthened by a vibrant publishing industry. As such, publishing vigorously defends the right to free speech when challenged. So, while some may argue that S.3804 undermines free speech, it is hard to see how the restricting the clearly illegal activities of a small set of websites dedicated to the wholesale theft of intellectual property damages the right to free speech. On the contrary, it strengthens it by ensuring a vital and viable press.
- **S. 3804 adheres to constitutional requirements** – The legislation adheres to constitutional process requirements and does not require any action unless it has been ordered by a federal court. This serves as an additional safeguard of constitutional protections.