

ROLE OF IP RIGHTS IN THE SOCIAL AND ECONOMIC DEVELOPMENT OF THE APEC REGION

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GOOD AFTERNOON. THANK YOU FOR THE INVITATION TO PARTICIPATE IN TODAY'S PANEL DISCUSSION.

AS I AM SURE YOU KNOW, MY COMPANY, AOL TIME WARNER, IS IN THE MEDIA AND ENTERTAINMENT BUSINESS. OUR GLOBAL BRANDS, WARNER BROS, CNN, TIME AND FORTUNE, AOL WARNER MUSIC, HBO ETC. WILL BE WELL KNOWN TO THOSE IN THIS ROOM. WHAT IS COMMON TO ALL OF THESE BUSINESSES IS CONTENT. TO BE ABLE TO SUSTAIN AND GROW OUR BUSINESS AND OUR INTERNATIONAL ACTIVITIES, WE RELY UPON THE INTERNATIONAL LEGAL PROTECTIONS AFFORDED TO CONTENT AND CREATIVE WORKS.

WHEN I SPEAK OF OUR GLOBAL BRANDS, I DO SO LITERALLY BECAUSE WE ARE A GLOBAL COMPANY WITH STRONG REPRESENTATION IN VIRTUALLY ALL OF THE APEC ECONOMIES. ALTHOUGH OUR HEAD OFFICES ARE LOCATED IN THE UNITED STATES, WE HAVE OFFICES AND OPERATIONS IN 21 CITIES IN ASIA IN 15 DIFFERENT COUNTRIES OR ECONOMIES. IN ADDITION TO ASIA, WE HAVE STRONG DOMESTIC BUSINESSES IN LATIN AMERICA, AUSTRALIA AND CANADA. THESE INCLUDE THEATRES, FILM PRODUCTION AND STUDIO OPERATIONS, PUBLISHING, MUSIC DEVELOPMENT AND MARKETING, INTERNET SERVICES AND THEME PARKS. YOU MIGHT SAY WE ARE AN INTERNATIONAL COMPANY, HEADQUARTERED IN THE UNITED STATES. AND IT IS AS AN INTERNATIONAL COMPANY THAT I WANT TO DISCUSS THE ISSUE OF IP RIGHTS IN THE APEC REGION THIS AFTERNOON.

FIRST, I WOULD LIKE TO COMMEND THE WORK DONE TO DATE BY ABAC AND APEC LEADERS ON THE PROTECTION OF INTELLECTUAL PROPERTY. THE GROWING IMPORTANCE AND INFLUENCE OF THIS INDUSTRY SECTOR HAS CLEARLY BEEN RECOGNIZED. AT THE OFFICIALS LEVEL, THE INTELLECTUAL PROPERTY EXPERTS GROUP (OR IPEG) HAS DONE SOME EXCELLENT WORK. AT THE OCTOBER MEETING IN LOS CABOS, THE LEADERS ADOPTED THE << **STATEMENT TO IMPLEMENT POLICIES ON TRADE AND THE DIGITAL ECONOMY**, >>WHICH AMONG OTHER THINGS, URGED THE FOLLOWING MEASURES IN THE AREA OF IP;
FULL IMPLEMENTATION AND ENFORCEMENT OF THE WTO AGREEMENT ON TRADE RELATED ASPECTS OF IP RIGHTS (TRIPS);
RATIFICATION AND FULL IMPLEMENTATION OF THE WIPO INTERNET TREATIES;
USE OF LEGAL SOFTWARE BY GOVERNMENTS AND

ADOPTION OF MEASURES TO ENSURE THAT THE INTERNET DOES NOT FACILITATE TRADE IN INFRINGING AND COUNTERFEIT GOODS. THIS IS A GOOD START AND WE SUPPORT THESE EFFORTS.

APEC LEADERS RECOGNIZE THE VERY REAL THREAT OF BOTH PHYSICAL AND ONLINE PIRACY TO DEVELOPMENT OF THEIR ECONOMIES. THEY NOW NEED TO MATCH THIS RECOGNITION WITH A COMMITMENT OF RESOURCES TO CREATE THE TYPE OF REGULATORY AND ENFORCEMENT ENVIRONMENT THAT WILL ATTRACT FOREIGN INVESTMENT, AND BRING BENEFIT TO LOCAL ECONOMIES.

THERE ARE SEVERAL PERSPECTIVES FROM WHICH TO EXAMINE THIS ISSUE. THESE INCLUDE THE IMPACT OF STRONG (OR WEAK) IP PROTECTION ON;

- INVESTMENT
- INNOVATION AND ARTISTIC CREATIVITY
- DOMESTIC MARKET (LEGITIMATE BUSINESS)
- TAX REVENUES
- PUBLIC SAFETY
- SOCIAL VALUES

LET ME BEGIN WITH INVESTMENT.

GOOD IP PROTECTION STIMULATES FOREIGN DIRECT INVESTMENT

I BELIEVE MOST IN THIS ROOM WOULD ACCEPT THIS STATEMENT AT FACE VALUE. IT STANDS TO REASON THAT IF YOUR IP IS GOING TO BE STOLEN, YOU WILL THINK TWICE ABOUT MAKING AN INVESTMENT. IF YOU DO INVEST, YOU WILL INVEST ONLY IN LOW END MANUFACTURING, KEEPING THE HIGH VALUE R AND D JOBS AT HOME, WHERE THE IP IS SAFE. A RECENT STUDY PUBLISHED BY THE WORLD BANK, **COMPOSITION OF FDI AND PROTECTION OF IP RIGHTS: EVIDENCE FROM TRANSITION ECONOMIES (2002)** DREW A NUMBER OF CLEAR CONCLUSIONS:

FIRST, THE DATA INDICATE THAT INVESTORS IN SECTORS RELYING HEAVILY ON PROTECTION OF IP ARE DETERRED BY A WEAK IP REGIME IN A POTENTIAL HOST COUNTRY. THERE IS ALSO SOME EVIDENCE THAT WEAK IP PROTECTION MAY DISCOURAGE ALL INVESTORS, NOT JUST THOSE IN IP INTENSIVE SECTORS.

SECOND, THE LACK OF IP PROTECTION DETERS INVESTORS FROM UNDERTAKING LOCAL PRODUCTION AND ENCOURAGES THEM TO FOCUS ONLY ON DISTRIBUTION OF IMPORTED PRODUCTS.

LET ME TURN TO INNOVATION, WHICH IS CLOSELY TIED TO INVESTMENT. THERE ARE VARIOUS FORMS OF INNOVATION, RANGING FROM R AND D

FOR PATENTS TO COPYRIGHTS ON ARTISTIC PRODUCTS, SUCH AS DOMESTIC MUSIC REPERTOIRE AND LOCAL FILM PRODUCTION.

WIDE-SCALE PIRACY OF MUSIC AND FILM PRODUCTS IN DVD, CD AND VCD FORMATS, AND THROUGH ONLINE PIRACY, IS DESTROYING MUSIC AND FILM MARKETS GLOBALLY. IT IS, OF COURSE, A HUGE ISSUE FOR COMPANIES SUCH AS AOL TIME WARNER THAT PRODUCE

BLOCKBUSTER FILMS AND MUSIC PRODUCTS FOR LOCAL, REGIONAL AND GLOBAL DISTRIBUTION. THE WELL ORGANIZED PIRATE REPLICATORS, OFTEN WITH CONNECTIONS TO ORGANIZED CRIME, CAN DISTRIBUTE A PIRATE VERSION OF A FILM SOMETIMES EVEN BEFORE THE FILM HAS BEEN RELEASED. THEY DESTROY THE MARKET, DESTROY VALUE AND DESTROY JOBS.

THE MUSIC INDUSTRY GENERALLY IS UNDER GREAT PRESSURE AS A RESULT OF PIRACY. LAST YEAR RECORD SALES IN THE TOP 10 MARKETS DECLINED BY 7 PERCENT ACCORDING TO THE INTERNATIONAL FEDERATION OF THE PHONOGRAPHIC INDUSTRY (IFPI). RESEARCH INDICATES THAT PIRACY ACCOUNTS FOR 40 PERCENT OF THE GLOBAL DECLINE. BUT IT IS NOT JUST INTERNATIONAL COMPANIES WHO FEEL THE IMPACT. A RECENT IFPI STUDY SHOWED THAT THE DECLINE OF THE MUSIC MARKET IN ASIA, AS MEASURED IN VALUE AND UNIT TERMS, HIT DOMESTIC REPERTOIRE HARDER THAN INTERNATIONAL PRODUCT. FOR EXAMPLE, WHEREAS UNIT SALES OF INTERNATIONAL REPERTOIRE IN THAILAND DECLINED BY 7 PERCENT FROM 2001 TO 2002, SALES OF THAI REPERTOIRE DECLINED BY 3 TIMES THAT AMOUNT. THE DECLINE OF DOMESTIC REPERTOIRE IN TAIWAN IN VALUE TERMS WAS DOUBLE THAT OF INTERNATIONAL REPERTOIRE. SIMILAR COMPARISONS EXIST FOR INDONESIA, MALAYSIA, THE PHILIPPINES, SINGAPORE AND KOREA.

ASIAN FILMMAKERS ARE FEELING THE FULL BRUNT OF PIRACY. THE PIRATES SHOW NO DISTINCTION ABOUT WHOSE PRODUCTS THEY STEAL. IF A FILM IS SUCCESSFUL, WHETHER FILMED IN CHINA, HONG KONG, KOREA, JAPAN, TAIWAN, AUSTRALIA—OR HOLLYWOOD, IT WILL BE TARGETED BY THE PIRATES. PIRACY COMPOUNDS THE ALREADY SIGNIFICANT BUSINESS CHALLENGES TO PRODUCING A SUCCESSFUL FILM. ONLY ABOUT 1 IN 20 MAKE MONEY.

NOT ONLY DOES PIRACY HIT BUSINESS PROFITS, IT KILLS CULTURAL EXPRESSION AND CULTURAL DIVERSITY. LOCAL FILMS AND MUSIC ARE AN IMPORTANT ELEMENT OF TELLING A CULTURE'S STORY. THE LOSSES TO IP THEFT CANNOT JUST BE MEASURED IN DOLLARS, YEN, OR RINGGIT BUT ALSO IN THE DAMAGE TO LOCAL CULTURE.

IF UNDERMINING THE POTENTIAL OF NEW ARTISTS IS ONE OF THE NEGATIVE IMPACTS OF WEAK IP PROTECTION AND ENFORCEMENT, THEN THE POSITIVE SIDE IS THAT DOMESTIC MARKETS WILL BENEFIT FROM THE COMPETITIVE PRESSURES BROUGHT ABOUT THROUGH GOOD IP PROTECTION. A RECENT IDC STUDY COMMISSIONED BY THE BUSINESS SOFTWARE ALLIANCE CONCLUDED THAT REDUCING LEVELS OF PIRACY THROUGH STRONGER LEGISLATION AND EDUCATION OF CONSUMERS WOULD GENERATE BILLIONS OF DOLLARS FOR LOCAL ECONOMIES. THE ASIA PACIFIC REGION WOULD BENEFIT MORE THAN ANY OTHER REGION. A TEN POINT DROP IN SOFTWARE PIRACY WOULD NEARLY DOUBLE THE RATE OF GROWTH OF THE IT SECTOR IN THE REGION, CONTRIBUTING AN ADDITIONAL \$170 BILLION USD TO ASIA PACIFIC ECONOMIES, CREATING 1.1 MILLION NEW JOBS AND INCREASING LOCAL INDUSTRY REVENUES BY NEARLY \$120 BILLION AND GENERATING \$15 BILLION IN TAXES FOR GOVERNMENT BENEFITS AND SERVICES. AND THIS IS JUST FOR A REDUCTION IN SOFTWARE PIRACY.

THE IDC STUDY FOUND A CLEAR INVERSE CORRELATION BETWEEN THE SOFTWARE PIRACY RATE AND THE SIZE OF THE IT SECTOR AS A PERCENTAGE OF GDP. THE LOWER THE PIRACY RATE, THE FASTER THE IT SECTOR GROWS AND THE MORE ECONOMIC BENEFITS IT DELIVERS.

IN TERMS OF INNOVATION AND CONSUMER CHOICE, THE FINANCIAL INCENTIVE PROVIDED BY STRONG REGULATIONS AND ADHERENCE TO INTERNATIONAL TREATIES CREATES AN ECONOMICALLY EFFICIENT LEVEL OF INNOVATION. THE RESULTS OF THIS ECONOMIC EFFICIENCY ARE WELL DOCUMENTED: MORE COMPETITIVE MARKETS, INCREASED INNOVATION, DEVELOPMENT OF LOCAL BRANDS, AND GREATER CHOICE FOR CONSUMERS.

THESE REALITIES CAN BE SEEN CLEARLY IN A NUMBER OF APEC ECONOMIES.

WHERE THERE ARE HIGH RATES OF PIRACY, THE MARKET FOR LEGITIMATE PRODUCT IS VIRTUALLY NIL. THE INCENTIVE FOR COMPANIES TO DISCOVER, PRODUCE AND PROMOTE WORKS BY LOCAL ARTISTS ARE UNDERMINED BY RAMPANT THEFT. MOREOVER, LEGITIMATE PRODUCT IS NOT EXPORTED, ROBBING THE ARTIST AND ALL THOSE INVOLVED OF ECONOMIC INCENTIVE AND COMPENSATION IN BRINGING CREATIVE WORKS TO MARKET. THIS INCLUDES LEGITIMATE, TAX PAYING, REPLICATORS, DISTRIBUTORS AND RETAILERS.

PIRATES PAY NO TAXES.

AND LOWER TAX REVENUES UNDERMINE THE ABILITY OF GOVERNMENTS TO SUPPORT THE CULTURAL, SOCIAL AND ECONOMIC WELFARE OF THEIR POPULATIONS.

ECONOMICS ASIDE, WEAK IP PROTECTION HAS A MAJOR SOCIAL IMPACT AS WELL.

COUNTERFEIT GOODS, WHETHER THEY ARE TOYS OR OTHER CONSUMER PRODUCTS THAT DO NOT DELIVER THE VALUE PROMISED BY THEIR BRAND RECOGNITION, OR WORSE, CONTAIN HARMFUL PRODUCTS, DEFECTIVE PARTS AND PRODUCTS, CAN BE DANGEROUS. THEY NOT ONLY HAVE A NEGATIVE ECONOMIC IMPACT, BUT DECEIVE CONSUMERS AND CAN EVEN THREATEN THEIR HEALTH OR SAFETY.

TO ALLOW PIRACY TO EXIST AND GROW, WHETHER BY ALLOWING OPEN SALE OF PIRATED PRODUCTS, OR BECAUSE OF WEAK DETERRENCE IN SENTENCING, OR BECAUSE OF FAILURE TO PUT IN PLACE LEGAL AND LEGISLATIVE MEASURES TO PREVENT PHYSICAL AND ONLINE PIRACY, IS TO SEND THE WRONG SIGNAL TO OUR SOCIETIES AND TO THE YOUNGER GENERATION (WHICH IN ASIA COMPRISES ON AVERAGE HALF THE POPULATION). BY INACTION OR WEAK RESPONSE, GOVERNMENTS ARE SENDING THE SIGNAL THAT IT IS ACCEPTABLE TO STEAL THE PROPERTY OF OTHERS.

I KNOW THAT APEC GOVERNMENTS AND BUSINESS COMMUNITIES DO NOT WANT TO SEND THIS SIGNAL. THEREFORE IT IS INCUMBENT UPON US TO ENSURE THAT THE RIGHT SIGNALS ARE SENT, AND THE RIGHT MEASURES TAKEN. ULTIMATELY STRONG PROTECTION FOR IPR BENEFITS ALL STAKEHOLDERS;INDIVIDUAL CREATORS, BUSINESSES, GOVERNMENTS AND CONSUMERS.

ABAC HAS ADDRESSED THIS CHALLENGE THROUGH A SERIES OF RECOMMENDATIONS THAT FOCUS ON THE IMPORTANCE OF IPR, AND A SET OF BEST PRACTICES. WE IN THIS ROOM ALSO HAVE A ROLE TO DEMONSTRATE LEADERSHIP AND TO ADVOCATE DIRECTLY WITH EACH OF OUR OWN GOVERNMENTS TO ENSURE THAT THE BENEFITS OF BETTER IP PROTECTION ARE ENJOYED BY ALL. LET US, AS BUSINESS PEOPLE AND GOVERNMENT OFFICIALS, FOCUS ON THE STIMULATIVE EFFECTS AND SOCIAL BENEFITS OF IMPROVED IP PROTECTION AND THEREBY CONTRIBUTE TO THE GROWTH, INNOVATION, CREATIVITY AND SOCIAL STABILITY OF THE PEOPLES OF THE APEC REGION.

THANK YOU.