

# STATEMENT OF CONCERN COPYRIGHT AND TECHNOLOGY

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## **BACKGROUND**

Intellectual property, particularly copyright, is of utmost importance to artists and arts organizations of all backgrounds and disciplines. Without assurances that they will be duly compensated for copyrights to the works they create, artists would be unable to finance and/or license their projects. Copyright protection is crucial to artists' ability to make a living, and therefore important to safeguard. There is, however, a need to balance enforcement efforts with expression and creative entrepreneurship so that creators can participate directly in innovations that appropriately reflect their artistic and economic contributions.

The Internet has been a powerful tool for individual artists and arts organizations alike, yet it also presents challenges to the protection of intellectual property (IP). The unauthorized distribution of copyrighted material has made it increasingly difficult for copyright holders to maintain control over the distribution of their work. Creators are further harmed by foreign websites that profit from ill-gotten American IP. Without mechanisms to deal with the Internet's bad actors, there is a negative impact on careers in the creative industries. Wide-scale infringement also undermines the legitimate digital marketplace, which must be nurtured if business models that reward creators are to evolve.

Congress deliberated over controversial proposals that would expand the U.S. government's powers to enforce intellectual property protections domestically and abroad for the past two years. Both the PROTECT IP Act in the Senate and the Stop Online Piracy Act (SOPA) in the House have been deliberated, and a counterproposal, the Online Protection and Enforcement of Digital Trade Act (OPEN), has also recently been introduced in both chambers. Each of these bills contains a range of provisions and mechanisms to combat the unauthorized distribution of copyrighted material, though they differ significantly in scope and application.

Due to unprecedented public pressure to reconsider the scope and application of both SOPA and PIPA, Congress has paused its efforts to pass these bills in favor of further consultation with stakeholders. It is unclear whether Congress will succeed in passing legislation that satisfies the broad body of stakeholders—including copyright holders, artists, arts organizations, Internet users, and technology companies—this year.

## **STATEMENT OF CONCERN**

Achieving a legitimate digital marketplace is a top priority for artists and other copyright owners. In order to do so, Congress should seek solutions that protect intellectual property online and mitigate the ability of websites to profit from infringement. In addition, Congress must consult with all stakeholders—including artists, arts organizations consumer groups, and information technology experts—to arrive at policies that protect rights holders while preserving the dynamics of free expression and entrepreneurship that are the engines of the Internet.

Copyright protection and freedom of speech are not mutually exclusive. Freedom of expression is the very foundation of the work artists create, and our commitment to the First Amendment is decades old and long established. Artists should remain free to utilize platforms that amplify their contributions to culture and society, and to explore potentially rewarding new business models, but such activity must not be confused with the deliberate and systemic infringement Congress is attempting to address. We believe that it is possible to achieve legislation that is appropriately tailored to prevent the Internet's true bad actors from profiting from American intellectual property, while allowing legitimate platforms for free expression to flourish. Further discussion about the best means by which to accomplish this goal is welcome and encouraged.