

# Intellectual Property Guidelines for the 114<sup>th</sup> Congress

AN OPEN LETTER



# *Dear Members of Congress,*

**C**ongratulations to the Members of the 114th Congress! It is an exciting time for America, particularly in the knowledge-based economy. American entrepreneurship, ingenuity and creativity lead the world, and we believe that Intellectual Property Rights are the key to maintaining global competitiveness.

The undersigned organizations represent millions of Americans through both state and national advocacy or engage in rigorous research and educational work on intellectual property rights. We would like to share with you our strong support for all types of intellectual property, by providing you with the following information and guidelines that our respective organizations look to when we consider intellectual property.

## **Intellectual Property Rights Are Grounded in the Constitution**

The Founding Fathers recognized the importance of IP in Article 1, Section 8 of the Constitution: "To promote the Progress of Science and useful Arts, by securing for limited times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

This clause, articulated by the founders, is rooted in the notion that the best way to encourage creation and dissemination of new inventions and creative works to the benefit of both the public good and individual liberty is to recognize one's right to his or her intellectual property.

## **Intellectual Property Rights Are a Fundamental Property Right Deserving the Same Respect as Physical Property**

James Madison elaborated on this provision of the Constitution in Federalist Paper #43; with regard to intellectual property, as with all property rights protected in the common law, "[t]he public good fully coincides ... with the claims of individuals."

## **Intellectual Property Rights Promote Free Speech and Expression**

Strong IP rights go hand in hand with free speech as creators vigorously defend their ability to create works of their choosing, free from censorship.

By affording innovators and creators the ability to support themselves, IP rights promote free expression unencumbered by government.

## **Intellectual Property Rights Are Vital to Economic Competitiveness**

IP rights create jobs and fuel economic growth, turning intangible assets into exclusive property that can be traded in the marketplace.

The most recent report on IP-related jobs in the U.S. from the Department of Commerce and the Patent and Trademark Office found that in 2010, direct employment in the most IP-intensive industries in the U.S. accounted for 27.1 million jobs, and indirect activities associated with those industries provided an additional 12.9 million jobs for a total of 40 million jobs, or 27.7 percent of all jobs in the economy.

According to economists Kevin A. Hassett and Robert J. Shapiro, in 2010 the value of IP in the U.S. was between \$8.1 trillion and \$9.2 trillion, or the equivalent of 55-62.5 percent of GDP. In a knowledge-based global economy, America's ability to remain a world leader in innovation depends on strong protection of IP.

## **Intellectual Property Rights Must Be Protected Internationally Through Effective IP Provisions in Trade Agreements**

Far too many foreign governments look the other way when it comes to the theft of IP. The lure of access to the U.S. market should be used as an incentive to convince trading partners that they should increase their protection of IP rights. Therefore, strong IP protections are integral to all trade agreement negotiations.

## **Intellectual Property Rights Are Integral to Consumer Protection and National Security**

IP rights protect consumers by enabling them to make educated choices about the safety, reliability, and effectiveness of their purchases. The protection of IP rights is also vital to national security by preventing counterfeit parts, which compromise the reliability of weapons systems and the safety of military personnel, from entering the defense supply chain.

## **Intellectual Property Rights Must Be Respected and Protected on the Internet**

The Internet is an incredible platform for innovation, creativity and commerce enabling widespread distribution of ideas and information. However, IP theft online is a persistent and growing problem. Protecting IP and Internet freedom are both critically important and complementary; they are not mutually exclusive.

A truly free Internet, like any truly free community, is one where people can engage in legitimate activities safely, and where bad actors are held accountable.

## **Voluntary Initiatives to Address Intellectual Property Theft Are Positive**

Good faith actors in the Internet ecosystem should engage in private sector, voluntary initiatives to address illegal conduct. These voluntary efforts can empower consumers to make educated decisions about their online activities and encourage investment, innovation and jobs.

We encourage you to consider these guidelines as you review and discuss existing laws and regulations governing IP. The Founding Fathers understood that by protecting the proprietary rights of artists, authors, entrepreneurs, innovators, and inventors, they were promoting the greater public welfare. The continued protection of these fundamental rights is essential to American innovation and competitiveness.

Sincerely,

**James L. Martin**  
Chairman  
60 Plus Association

**Phil Kerpen**  
President  
American Commitment

**Daniel Schneider**  
Executive Director  
American Conservative Union

**Carly Fiorina**  
Chairman  
American Conservative Union Foundation

**Steve Pociask**  
President  
American Consumer Institute  
Center for Citizen Research

**Thomas Sydnor II**  
Visiting Fellow  
Center for Internet, Communications,  
and Technology Policy  
American Enterprise Institute

**Ned Ryun**  
Chairman  
American Majority

**Douglas "Dee" Stewart**  
President  
Americans for a Balanced Budget

**Stephen DeMaura**  
President  
Americans For Job Security

**Grover G. Norquist**  
President  
Americans For Tax Reform

**Jeffery Mazzella**  
President  
Center for Individual Freedom

**Peter Pitts**  
President  
The Center for Medicine in the  
Public Interest

**Adam Mossoff**  
Professor of Law, George Mason  
University School of Law  
Co-Founder and Director of  
Academic Programs,  
Center for the Protection of  
Intellectual Property

**Mark Schultz**  
Professor of Law, Southern Illinois  
University School of Law  
Co-Founder and Director of  
Academic Programs,  
Center for the Protection of  
Intellectual Property

**Chuck Muth**  
President  
Citizen Outreach

**Col Francis X. De Luca USMCR(Ret)**  
President  
Civitas Institute

**Thomas A. Schatz**  
President  
Council for Citizens Against  
Government Waste

**Katie McAuliffe**  
Executive Director  
Digital Liberty

**Hance Haney**  
Director and Senior Fellow, Technology  
and Democracy Project  
Discovery Institute

**Charles Sauer**  
President  
Entrepreneurs for Growth

**Robert Roper**  
President  
Ethan Allen Institute

**Eric Feinberg**  
Executive Director  
Fans Against Kounterfeit Enterprises

**George Landrith**  
President  
Frontiers of Freedom

**Grace-Marie Turner**  
President  
Galen Institute

**Michael Krull**  
Adj. Professor of Politics and Public Policy  
Georgetown University

**Louie Hunter**  
Chairman  
Georgia Center Right Coalition

**Dr. Kel'i Akina**  
President  
Grassroot Institute of Hawaii

**Mario H. Lopez**  
President  
Hispanic Leadership Fund

**Harold Furchtgott-Roth**  
Senior Fellow  
Hudson Institute

**Sabrina Schaeffer**  
Executive Director  
Independent Women's Forum

**Robert D. Atkinson,**  
Founder & President  
Information, Technology & Innovation  
Foundation

**Andrew M. Langer**  
President  
Institute for Liberty

**Tom Giovanetti**  
President  
Institute for Policy Innovation

**Geoff Manne**  
Executive Director  
International Center for Law & Economics

**Ambassador Mark Green**  
President  
International Republican Institute

**Sal J. Nuzzo**  
Vice President of Policy  
The James Madison Institute

**Seton Motley**  
President  
Less Government

**Colin Hanna**  
President  
Let Freedom Ring

**Bartlett D. Cleland**  
Managing Principal  
Madery Bridge Associates, LLC

**Mary Adams**  
Leader  
Maine Center-Right Coalition Leader

**Matthew Gagnon**  
Chief Executive Officer  
Maine Heritage Policy Center

**Stephen Parente, PhD**  
Director  
Medical Industry Leadership Institute  
(MILI) University of Minnesota

**Brian McClung**  
Chairman  
Minnesota Center Right Coalition

**Kim Keenan**  
President & CEO  
Minority Media & Telecommunications  
Council

**Lieutenant Colonel Allen B. West**  
(US Army, Ret) President/CEO  
National Center for Policy Analysis

**Justin Vélez-Hagan**  
Founder / Executive Director  
National Puerto Rican Chamber of  
Commerce

**Scott Cleland**  
Chairman  
Net Competition

**Sally C. Pipes**  
President and CEO  
Pacific Research Institute

**Kevin P. Kane**  
President  
Pelican Institute for Public Policy

**Charlie Gerow**

Chairman  
Pennsylvania Center Right Coalition

**Ron Nehring**

Chairman  
Project for California's Future

**Lorenzo Montanari**

Executive Director  
Property Rights Alliance

**Don Racheter, PhD**

President  
Public Interest Institute

**Steve Smith**

Executive Director  
Rainbow PUSH Coalition

**Jason Llorenz, JD**

Senior Fellow  
Rutgers University School of  
Communication & Information

**Karen Kerrigan**

President & CEO  
Small Business & Entrepreneurship  
Council

**David Williams**

President  
Taxpayers Protection Alliance

**Patrick Rosenstiel**

Executive Director  
Trade Alliance to Promote Prosperity

**Javier Palomarez**

President and CEO  
United States Hispanic Chamber of  
Commerce

**Gregory Dolin**

Associate Professor of Law & Co-Director,  
Center for Medicine and Law  
Associate Director, Center for Law of  
Intellectual Property & Technology  
University of Baltimore School of Law

**Chris Holman**

Professor of Law  
University of Missouri-Kansas City  
School of Law

**Kristen Jakobsen Osenga**

Professor of Law  
University of Richmond School of Law

**Jonathan Taplin**

Director, Annenberg Innovation Lab  
University of Southern California

**Ron Busby**

President and CEO  
US Black Chambers, Inc.

**Susan Au Allen**

National President and CEO  
US Pan Asian American Chamber  
of Commerce  
Education Foundation

**Barbara Kasoff**

President and Co-Founder  
Women Impacting Public Policy, Inc.