



**US-CHINA Economic and Security Review Commission
Intellectual Property Rights, Issues and Dangers of
Counterfeited Goods Imported Into the United States**

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Panel IV: Entertainment Record Associations

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Comments***

Good afternoon, and thank you co-chairs D'Amato and Houston for holding this hearing today. My name is John McGuire and I am Senior Advisor for Screen Actors Guild. I speak today on behalf of 120,000 members of Screen Actors Guild who live and work around the world. SAG members have brought countless hours of entertainment to global audiences and are proud to be a part of the creative community and to contribute to our American culture.

Piracy is of grave concern to actors and has a direct and painful impact on their earnings. In addition to compensation for original session work, actors receive residual payments based on the supplemental use of their work product. We have fought hard over our almost 75-year history to improve wages and working conditions for Guild members through the collective bargaining process. Many times this means we are giving up our front end compensation in return for additional payments when and if a movie or television program has an afterlife. The more successful the project is, the more the copyright holder and the creative artists receive in back end compensation. It's a simple equation. A popular movie will enjoy big box office numbers, more DVD sales and cable exhibitions, etc. For the vast majority of actors, these residual payments help to offset slow periods between jobs, the lack of adequate work opportunities and the lower upfront payments. Pirating takes those payments right out of our member's pockets and puts them into the pockets of criminals.

Much is said about the growing loss of revenues the studios are incurring as a result of piracy. We agree that those losses are profound and impact our employer's ultimate ability and desire to make movies. But there is also a very personal impact on every actor who works on a project when thieves preempt legitimate box office and DVD sales. Not only are residual paychecks smaller or non-existent, but as a result actors may not meet the earnings threshold to

qualify for the union's health and pension plans, thus leaving SAG members and their families without health insurance.

Not one of us in this room today would instruct our child to go into a store and steal a DVD. Yet the practice of illegal downloads and buying bootleg DVDs has been condoned in many households around the world. Writers, directors, technicians and craftspeople all share in the loss of revenue each time a movie is sold in some back alley. All under the misdirected guise of "who cares if we are ripping off corporate America," when in reality, the pain is felt the most by middle class American workers.

We have worked with the FBI and many American universities to help educate young children and college students about the consequences of piracy. Our highest profile members have spoken out and made the case for legal downloading. Like the burgeoning iPod generation, people are getting used to the idea of buying music on the Internet. We want the same practice to apply when it comes to our work product.

We need more help. Law enforcement agencies around the world must enforce anti-piracy laws and shut down the offenders. We need pirates prosecuted to the full extent of the law. We need to continue and bolster our education and outreach efforts to inform the public that they are in fact, committing a crime when they use unauthorized copyrighted materials in any manner.

But, in truth, our own country and our own producers, have failed to take the steps necessary to protect the rights of performers to share in the proceeds from supplemental markets and, equally as important, to protect their images, their voices and their reputations.

Presently, producers and authors and soon broadcasters, are protected by International Treaties. Performers whose work is contained in sound recordings are also protected by treaty. Only audio-visual performers are denied this protection.

Our members receive some level of protection through our collective bargaining agreements but thousands of performers around the world have no protection at all. It is a disgrace that we fight to stop the piracy of their performances and yet do nothing to ensure that they share in the legitimate proceeds that flow from the legal sale of those same performances.

Again, thank you for inviting me here today and for focusing on this important topic.