

**WRITTEN STATEMENT OF  
PAUL E. ALMEIDA,  
PRESIDENT,  
DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO**

**BEFORE THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES HOUSE OF REPRESENTATIVES**

**on**

**H.R. 3261, THE “STOP ONLINE PIRACY ACT”**

**November 16, 2011**

Good morning, Chairman Smith, Ranking Member Conyers, and distinguished Members of the Committee. My name is Paul Almeida. I am the President of the Department for Professional Employees (DPE), a coalition of 22 national unions affiliated with the AFL-CIO. I have listed those unions at the end of this written statement. I am honored to speak today on behalf of the more than four million professional and technical people whom our affiliated unions represent.

Those people include creators, performers, and craftspeople in the arts, entertainment, and media: writers, broadcast journalists, singers and musicians, stage employees, actors, and many more. They include professional and technical people in education, health care, and public administration; in aerospace and other manufacturing sectors; in pharmaceuticals, science, engineering, and information technology; and in professional sports. In these times of high unemployment and economic crisis, their occupations range across several of the most vibrant sectors of the U.S. economy. These are sectors where professional and technical people – seeking the ability to do their jobs right – have organized into unions in large numbers; where creativity and ingenuity propel success; and where, unlike other segments of the economy, industries like aerospace and entertainment enjoy a trade surplus.

Just as the people I represent work in a wide range of occupations and industries, they bring to the Stop Online Piracy Act a wide range of interests: as workers and consumers as well as ardent defenders of the First Amendment. On their behalf, permit me to commend and thank you. Many of you have worked on a bipartisan basis with business and labor over many years to combat digital theft, piracy of intellectual property, and counterfeiting. I am pleased to acknowledge your expertise and

effectiveness. The unions that the professional and technical people whom I represent have organized unanimously support the Stop Online Piracy Act.

Their strong support has brought the support of the entire AFL-CIO, 12.2 million workers in 57 national and international unions. In May, AFL-CIO President Richard Trumka applauded the introduction of the PROTECT IP Act, S. 968, in the Senate. His words apply equally to the Stop Online Piracy Act: "The economic well-being of workers in the United States – jobs, income, and benefits – turns more and more on our protecting the creativity and innovation that yield world-class entertainment, cutting-edge and sustainable manufacturing and construction, and disease-ending pharmaceuticals. In a tough economic time, [this legislation] will help to protect U.S. workers and consumers against digital thieves and counterfeit scammers." President Trumka's statement followed a unanimous AFL-CIO Executive Council statement in March 2010, "Piracy is a Danger to Entertainment Professionals," that is attached to my written testimony below.

My message is simple. It has three parts. First, strengthening protections for U.S. intellectual property helps American workers, jobs, incomes, and benefits. Theft of intellectual property raises unemployment and cuts income.

Second, counterfeit goods endanger workers, both as workers and as consumers.

Third, freedom of speech is not the same as lawlessness on the Internet. There is no inconsistency between protecting an open Internet and safeguarding intellectual property.

Start with American workers, jobs, incomes, and benefits. A May 2011 report from the U.S. International Trade Commission focused on China, its infringement on U.S. intellectual property rights, and American jobs. The report estimated conservatively

that if China enforced intellectual property rights as the United States does, U.S. firms operating in China would add “approximately 923,000 new jobs” in the United States. A second, less conservative forecast foretold an increase of 2.1 million jobs – and please remember, this report focused on China alone.

For too many workers in the United States today, jobs, income, and benefits are hard to come by. If the United States allows attacks on intellectual property to go unanswered, it puts good livelihoods at risk.

Online access continues to accelerate and expand. It increasingly displaces traditional models for distributing content and thus heightens the potential for digital theft. High-speed broadband has, for example, enabled illegal online streaming of television shows, films, and sports events.

Among the unions affiliated with the Department for Professional Employees are nine representing creators, performing artists, and craft workers. Those unions include the Actors’ Equity Association, the American Federation of Musicians, the American Federation of Television and Radio Artists, the American Guild of Musical Artists; the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts; the International Brotherhood of Electrical Workers, the Office and Professional Employees International Union, the Screen Actors Guild, and the Writers Guild of America, East.

As I testified before the Senate Judiciary Committee last year, estimates of the number of jobs lost to digital theft *in the arts, entertainment, and media sector alone* run to the hundreds of thousands. While exact numbers are difficult to find, there can be no

question about the magnitude of the problem for the entire United States: billions of dollars in lost revenues for U.S. industries and millions of lost U.S. jobs.

Losses of income arise because entertainment professionals depend on compensation at two points: first when the professionals do the work, and later when others use and reuse the intellectual property that the professionals created. Royalties and residuals from downstream revenues enable entertainment professionals to survive between projects.

A second example is manufacturing. Among the unions affiliated with the Department for Professional Employees are the International Association of Machinists and Aerospace Workers, the International Brotherhood of Electrical Workers, the International Federation of Professional and Technical Engineers, and the United Steelworkers. Again, the estimates of losses from counterfeiting run to billions of dollars. Again, the victims include workers, who face lost jobs and income. From auto parts to circuit breakers, counterfeiting endangers all of us with unreliable products. We should not allow rogue websites to facilitate the distribution of counterfeit goods.

Only last week the Senate Committee on Armed Services heard about the astonishing extent of counterfeit electronic parts in the military supply chain. Counterfeits taint the original products with their inferior quality. More important, counterfeits kill. When brakes are fake, drivers die. When prescription drugs are fake, patients die. When protective vests are fake, soldiers and police officers die. And when smoke detectors are fake, homeowners and firefighters die.

This is my second point. Counterfeits endanger workers, as workers and as consumers.

Permit me to share one example of many. In May, the Atlanta, Georgia Fire Rescue Department recalled roughly 18,500 smoke detectors that it distributed for free since 2006 as a part of the Atlanta Smoke Alarm Program. The smoke detectors were counterfeit. So too were the Underwriters Laboratories seals on the smoke detectors.

The vendors of the counterfeit smoke detectors had attributed initial delays in delivering the counterfeits to the Chinese New Year. Investigation by a local broadcast journalist revealed that the vendors served prison time for selling counterfeit smoke detectors to the federal government and were banned from doing business with it.

An alert about the smoke detector recall from the U.S. Consumer Product Safety Commission on May 27 noted: “Some alarms did not respond within an adequate time for life safety and other alarms did not respond at all.” It concluded that the alarms “pose a life safety hazard to the occupants in the event of a fire.”

Counterfeit smoke detectors pose “a life safety hazard” not just to homeowners, but to firefighters. Delays when a fire begins mean the fire may rage out of control. In September, Harold A. Schaitberger, General President of the International Association of Fire Fighters, another union affiliated with the Department for Professional Employees, wrote to Chairman Smith, Ranking Member Conyers; Subcommittee on Intellectual Property, Competition, and the Internet Chairman Goodlatte and Ranking Member Watt; as well as Senators Leahy and Grassley, to support the PROTECT IP Act and companion legislation in the House. In President Schaitberger’s words, “The preparedness and safety of our members depend on sound, reliable equipment.”

President Schaitberger also observed that rogue websites deprive local governments of much needed taxes: “lost tax revenue means fewer police officers and

firefighters.” I would like to underscore that point. Criminal syndicates in Russia are unlikely to pay federal, state, or local taxes. They generally prefer the Al Capone model.

Unfortunately, this story does not end with President Schaitberger’s letter. A blog titled [techdirt.com](http://techdirt.com) this month attacked the International Association of Fire Fighters for striving to keep consumers and firefighters safe. Permit me to quote directly from the post:

What are the chances that the International Association of Fire Fighters has received large checks from those associated with the movie business? But, more seriously, who does the MPAA actually think it's fooling? Is Congress so stupid that it can't figure out for itself that firefighters have no clue what this debate is about? Otherwise, why would they be supporting censorship in America?

This defamatory blast brings me to my third point: Freedom of speech is not the same as lawlessness on the Internet. There is no inconsistency between protecting an open Internet and safeguarding intellectual property. Protecting intellectual property is not the same as censorship; the First Amendment does not protect stealing goods off trucks. In the words of First Amendment advocate and expert Floyd Abrams, “It is one thing to say that the Internet must be free; it is something else to say that it must be lawless.”

Those words come from an analysis that three unions affiliated with the Department for Professional Employees – the American Federation of Television and Radio Artists, the International Alliance of Theatrical Stage Employees, and the Screen Actors Guild – in combination with the Directors Guild of America and the Motion Picture Association asked Mr. Abrams to undertake. Noting that the Internet is subject to

the same principles of libel, privacy, and copyright that govern other media, Mr. Abrams concluded that the Stop Online Privacy Act “is consistent with the First Amendment.”

As the Supreme Court declared, “copyright supplies the economic incentive to create and disseminate ideas.” H.R. 3261, Mr. Abrams wrote, “would protect creators of speech, as Congress has done since this Nation was founded, by combating its theft.” (Letter of November 7, 2011 to Chairman Smith and Ranking Member Conyers from Floyd Abrams, Esquire.)

I mentioned earlier that the people whom I have the honor to represent today include ardent defenders of the First Amendment. They work as newspaper journalists, broadcast journalists, radio broadcasters, news writers, scriptwriters, and in many other aspects of the arts, entertainment, and media. When they oppose wage theft, they see no inconsistency with the First Amendment.

In June, the Writers Guild of America East hosted a briefing in the U.S. Senate Committee on the Judiciary hearing room, “The Internet from the Creators’ Perspective.” The Writers Guild message had two parts: Keep the Internet open, and fight digital theft. None of the presenters saw the two parts as inconsistent. Nor do I. Nor does Secretary of State Hillary Rodham Clinton. In an October 25, 2011 letter to Representative Howard L. Berman, she declared that the State Department “is strongly committed to advancing both Internet freedom and the protection and enforcement of intellectual property rights on the Internet” – priorities that are not contradictory, but consistent.

In April, the Department for Professional Employees highlighted this same consistency at a White House meeting about Internet policy in the Organisation for Economic Co-operation and Development:

We view our support for the unfettered flow of information as distinct from suggesting that all content on the Internet should be available without cost to the consumer. Permitting digital theft and other violations of intellectual property rights will lead to less rather than more economic growth, and to a poorer, less creative rather than more vibrant Internet.

The consequences from digital theft and rogue websites include a diminished incentive to invest and a downward spiral for U.S. workers and our economy. That's the bad news. The good news is that you are taking action. On behalf of the professional and technical workers and their unions whom I have the honor to represent, I look forward to your passing the Stop Online Piracy Act into law.

Thank you for inviting me to participate in this hearing. I would be happy to answer any questions you may have.

**Unions Affiliated with the Department for Professional Employees, AFL-CIO**

Actors’ Equity Association (AEA)  
American Federation of Government Employees (AFGE)  
American Federation of Musicians (AFM)  
American Federation of School Administrators (AFSA)  
American Federation of Teachers (AFT)  
American Federation of Television and Radio Artists (AFTRA)  
American Guild of Musical Artists (AGMA)  
Federation of Professional Athletes (FPA)  
International Alliance of Theatrical Stage Employees, Moving Picture Technicians,  
Artists and Allied Crafts (IATSE)  
International Association of Fire Fighters (IAFF)  
International Association of Machinists and Aerospace Workers (IAM)  
International Brotherhood of Electrical Workers (IBEW)  
International Federation of Professional and Technical Engineers (IFPTE)  
International Plate Printers, Die Stampers and Engravers Union of North America  
International Union of Painters and Allied Trades (IUPAT)  
Office and Professional Employees International Union (OPEIU)  
Retail, Wholesale and Department Store Union (RWDSU)  
Screen Actors Guild (SAG)  
Seafarers International Union of North America (SIU)  
United Steelworkers (USW)  
Utility Workers Union of America (UWUA)  
Writers Guild of America, East (WGAE)

AFL-CIO Executive Council Statement  
Orlando, Florida  
March 2, 2010

**PIRACY IS A DANGER TO ENTERTAINMENT PROFESSIONALS**

*Submitted by the Department for Professional Employees, AFL-CIO (DPE)  
for the Arts, Entertainment and Media Industries Unions Affiliated with DPE*

Motion pictures, television, sound recordings and other entertainment are a vibrant part of the U.S. economy. They yield one of its few remaining trade surpluses. The online theft of copyrighted works and the sale of illegal CDs and DVDs threaten the vitality of U.S. entertainment and thus its working people.

The equation is simple and ominous. Piracy costs the U.S. entertainment industry billions of dollars in revenue each year. That loss of revenue hits directly at bottom-line profits. When profits are diminished, the incentive to invest in new films, television programs, sound recordings and other entertainment drops. With less investment in future works comes less industry activity that directly benefits workers: fewer jobs, less compensation for entertainment professionals and a reduction in health and pension benefits.

Combating online theft and the sale of illegal CDs and DVDs is nothing short of defending U.S. jobs and benefits. In the case of music, experts estimate that the digital theft of sound recordings costs the U.S. economy \$12.5 billion in total output and costs U.S. workers 71,060 jobs.<sup>1</sup> In the motion picture industry, piracy results in an estimated \$5.5 billion in lost wages annually, and the loss of an estimated 141,030 jobs that would otherwise have been created.<sup>2</sup>

Illegal CDs and DVDs have afflicted even live theatre. Websites sell illegal DVDs of Broadway shows, which reduces sales of tickets and authorized CDs and DVDs. Selling illegal CDs or DVDs of plays, musicals and other shows not only steals the work of the entertainment professionals, but makes quality control impossible.

Most of the revenue that supports entertainment professionals’ jobs and benefits comes from the sale of entertainment works including sales in secondary markets—that is, DVD and CD sales, legitimate downloads, royalties and, in the case of TV shows or films, repeated airings on free cable or premium pay television. Roughly 75 percent of a

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<sup>1</sup> Siwek, Stephen. (8/21/07). *The True Cost of Sound Recording Piracy to the U.S. Economy*. Retrieved from:  
<http://www.ipi.org/IPI/IPublications.nsf/PublicationLookupFullText/5C2EE3D2107A4C228625733E0053A1F4>

<sup>2</sup> Siwek, Stephen. (9/20/06). *The True Cost of Sound Recording Piracy to the U.S. Economy*. Retrieved from:  
<http://www.ipi.org/IPI/IPublications.nsf/PublicationLookupFullText/E274F77ADF58BD08862571F8001BA6BF>

motion picture’s revenues comes after the initial theatrical release, and more than 50 percent of scripted television production revenues are generated after the first run.

In most work arrangements, a worker receives payment for his or her effort at the completion of a project or at set intervals. The entertainment industry, however, operates on a longstanding unique business model in which compensation to workers—pay and benefit contributions—comes in two stages. Film, television and recording artists, as well as film and television writers, receive an initial payment for their work and then residuals or royalties for its subsequent use. Those payments also generate funds for their health and pension plans. The below-the-line workers, the craft and technical people who manage equipment, props, costumes, makeup, special effects and other elements of a production, also receive compensation for their work, while payment for subsequent use goes directly into their health and pension plans.

Motion picture production is a prime example. The professionals involved with the initial production of a film—the actors who perform, the craftspeople behind the scenes, the musicians who create the soundtrack and the writers who craft the story—each receive an initial payment for their work. When that work is resold in the form of DVDs or CDs, or to cable networks or to airlines or in foreign sales, a portion of these “downstream revenues” are direct compensation to the film talent or recording artists who were involved in those productions or recordings.

These residuals help keep entertainment professionals afloat between projects. Entertainment professionals may work for multiple employers on multiple projects and face gaps in their employment. Payment for the work they have completed helps sustain them and their families through underemployment and unemployment. For AFTRA recording artists in 2008, 90 percent of income derived from sound recordings was directly linked to royalties from physical CD sales and paid digital downloads. SAG members working under the feature film and TV contract that same year derived 43 percent of their total compensation from residuals. Residuals derived from sales to secondary markets funded 65 percent of the IATSE MPI Health Plan and 36 percent of the SAG Health and Pension Plan. WGAE-represented writers often depend on residual checks to pay their bills between jobs; in some cases, the residual amounts can be as much as initial compensation. Online theft robs hard-earned income and benefits from the professionals who created the works.

There are tools that can be used to fight digital piracy. Internet service providers (ISPs) have the ability to find illegal content and remove or limit access to it. To be truly effective, these sanctions must depart from the costly and ineffective legal remedies traditionally employed to counter theft of copyrighted material. The European Union is developing and implementing model policies for which the trade union movement is providing strong and critical support. These policies illustrate that there are answers that make sense in a digital age.

At the core of any effort to combat digital theft is reasonable network management, which should allow ISPs to use available tools to detect and prevent the illegal downloading of copyrighted works. With respect to lawfully distributed content, ISPs should not be allowed to block or degrade service so that both consumers and copyright would be protected.

The unions of the AFL-CIO that represent professionals in the Arts, Entertainment and Media Industries (AEMI) include Actors’ Equity Association (AEA), the American Federation of Musicians (AFM), the American Federation of Television and Radio Artists (AFTRA), the American Guild of Musical Artists (AGMA), the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts (IATSE), the International Brotherhood of Electrical Workers (IBEW), the Office and Professional Employees International Union (OPEIU), the Screen Actors Guild (SAG) and the Writers Guild of America, East (WGAE). The AEMI unions are wholly in support of the widest possible access to content on the Internet and the principles of net neutrality, so long as intellectual property rights—and the hundreds of thousands of jobs that are at stake—are respected.

Some would like to portray the debate over Internet theft as one in which a few wealthy artists, creators and powerful corporations are concerned about “giving away” their “product” because they are greedy and cannot change with the times to create new business models. The hundreds of thousands of people represented by the AEMI unions of the AFL-CIO are a testament to the falsity of that proposition.

Online theft and the sale of illegal CDs and DVDs are not “victimless crimes.” Digital theft costs jobs and benefits. It is critical, at this important moment in the evolution of the Internet and potential Internet policy, for union members and leaders to publicly and visibly engage in a sustained effort to protect members’ livelihoods, the creation and innovation that are the hallmark of their work and the economic health and viability of the creative industries in this country. The AEMI unions and other unions in U.S. entertainment stress that pirated content is devastating to the entertainment professionals who create the underlying works.

The AFL-CIO strongly supports the efforts of the AEMI unions and the Department for Professional Employees, AFL-CIO, to combat piracy. It commends their work with government and industry to develop workable solutions to protect the interests of their members. The AFL-CIO urges its affiliate unions to educate their members about the adverse impact of piracy; to support efforts to ensure that government officials and lawmakers are aware of, and support the protection of, entertainment industry jobs that will be lost to online theft; to encourage their members to respect copyright law; and to urge their members, as a matter of union solidarity, to never illegally download or stream pirated content or purchase illegal CDs and DVDs.

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