



October 16, 2017

Christine Peterson  
Director for Intellectual Property and Innovation  
Office of the United States Trade Representative

Re: Rebuttal comments regarding the Request for public comment on the 2017 Special 301  
Out of Cycle Review of Notorious Markets Docket. No. USTR-2017-2015

Dear Ms. Peterson:

Cloudflare is an internet infrastructure company that provides optimization services to more than 6 million web properties. In support of our mission to help build a better internet, we introduce at scale the most technologically-advanced tools to allow websites to protect themselves from cyberattack. For example, last month we announced that we would provide “unmetered mitigation” for DDoS attacks, which means that websites that are victims of massive DDoS attacks won’t be faced with massively increased fees at the end of the month. We hope this becomes the industry standard.

My colleagues and I at Cloudflare were surprised to see that several entertainment industry groups included criticisms of Cloudflare and similar companies that provide Internet security and Content Distribution Network services in their public comments regarding the 2017 Special 301 Out of Cycle Review of Notorious Markets Docket. Most surprising is that their comments were basically the same complaints they filed in 2016 and contain the same mistakes and distortions that we pointed out in our rebuttal comments from October, 2016 (attached). Simply repeating the same mischaracterizations for a second year in a row does not convert them into facts, so we are compelled to reiterate our objections.

In addition to referring you to the arguments we made last year, we think it is important to highlight other facts that refute attempts to paint Cloudflare and similar services as being in the business of facilitating piracy online:

- 1) An excellent analysis submitted to USTR by the Niskanen Center in October, 2016. [https://niskanencenter.org/wp-content/uploads/2016/10/NiskanenCenter\\_USTRCommentsNotoriousMarketsRebuttal.pdf](https://niskanencenter.org/wp-content/uploads/2016/10/NiskanenCenter_USTRCommentsNotoriousMarketsRebuttal.pdf)
- 2) The continuing efforts of Cloudflare to help content owners who are members of our Trusted Reporter system (which include RIAA, MPAA, and AAP) track down the hosting companies who have the ability to close down websites that make unauthorized use of others’ content.
- 3) Cloudflare provides services to many media websites which can identify and block automated scraping software that cybercriminals can use to steal thousands of copyrighted images, documents, and videos in just a few minutes.

- 4) A recent blog post by our CEO, Matthew Prince, which discusses free speech and who should monitor and censor what is available online. He clearly explains the very different roles of the different players in the Internet ecosystem and calls for a multistakeholder discussion of how best to address these issues. We hope USTR and the representatives of the content industry will join in that discussion. (<https://blog.cloudflare.com/why-we-terminated-daily-stormer/>)

We trust that USTR will once again agree with Cloudflare that complaints implying that Cloudflare is aiding illegal activities have no place whatsoever in USTR's Notorious Markets inquiry. It would seem to distract from and dilute the message of that report to focus on companies that are working to make the internet more cybersecure. If it is helpful in any way, Cloudflare would be happy to provide any additional information, respond to any specific questions, or make ourselves available for a meeting to discuss any of the docket and related issues further.

Sincerely,

Doug Kramer  
General Counsel

Attachment