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October 5, 2015

Christine Peterson
Director for Intellectual Property and Innovation
Office of the U.S. Trade Representative
600 17th Street, NW Washington, D.C. 20508

Re: Request for public comment on
the 2015 Special 301 Out of Cycle
Review of Notorious Markets.
Docket No. USTR-2015-0016

Dear Ms. Peterson:

The Motion Picture Association of America submits the following response to the request for written submissions issued September 10, 2015, by the Office of the U.S. Trade Representative, inviting submissions from the public on notorious markets outside of the United States.

The American motion picture and television industry is a major U.S. employer that supported 1.1 million jobs and \$113 billion in total wages in 2013. Over 302,000 jobs were in the core business of producing, marketing, manufacturing and distributing motion pictures and television shows. These include people employed in film and television production-related jobs on a free-lance basis, part time or full time at major studios, independent production companies, and core industry suppliers like film labs, special effects and digital studios, location services, and prop and wardrobe houses dedicated to the production industry, among others.

Another nearly 358,000 jobs were in related businesses that distribute motion pictures and television shows to consumers, including people employed at movie theaters, video retail and rental operations, television broadcasters, cable companies, and new dedicated online ventures. The industry also supports indirect jobs in the thousands of companies that do business with the industry, such as caterers, dry cleaners, florists, hardware and lumber suppliers, and retailers.

The American motion picture and television production industry remains one of the most highly competitive in the world. In 2013, the enduring value and global appeal of U.S. entertainment earned \$15.8 billion in audiovisual services exports. Moreover, this industry is one of the few that consistently generates a positive balance of trade. In 2013, that services trade surplus was \$13.4 billion, or six percent of the total U.S. private-sector trade surplus in

services. The industry exported six times what it imported in 2013.

The industry distributes its films and TV shows to over 140 countries and with approximately half of MPAA member companies' distribution revenue annually earned from overseas, MPAA has a strong interest in the health and sustainability of these international markets. MPAA greatly appreciates USTR's interest in identifying notorious markets that jeopardize the growth of legitimate markets and commerce and impair U.S. global competitiveness. It is critical that our trading partners protect and enforce intellectual property rights.

The MPAA has identified both online and physical notorious markets that offer a significant volume of infringing film and television content. This list should not be understood to be comprehensive. It does, however, indicate the scope and scale of global content theft and some of the ongoing challenges rights holders face in protecting their intellectual property. The list also discusses several forms of content theft which seriously impact the ability of the U.S. motion picture and television industry to compete successfully overseas, underscoring the need for a focused, strategic U.S. policy.

In the U.S. and around the world, the motion picture and television industry is a community of creators and innovators who work tirelessly at the art and craft of storytelling. The criminals who profit from the most notorious markets throughout the world threaten the very heart of our industry and in so doing they threaten the livelihoods of the people who give it life. USTR's efforts to shine a light on the most egregious instances of copyright theft around the world is an essential step in fostering creativity and innovation, not only in the film and television industry but throughout the creative economy.

I. Online Notorious Markets

While the legitimate digital marketplace for creative content is flourishing – there have never been more ways to find and watch legitimate film and television online –online content theft continues to pose a significant and ever-evolving challenge. Content thieves take advantage of a wide constellation of easy-to-use online technologies, such as direct download and streaming, to create sites and applications with the look and feel of legitimate content distributors.

Online enforcement efforts are complicated when intermediaries do not take adequate steps to ensure their services are not being used to facilitate copyright infringement, a problem compounded by the fact that some website operators and intermediaries operate anonymously and outside the boundaries of the law. All stakeholders in the Internet ecosystem – including hosting providers, advertising networks, payment processors, and search engines – should be actively seeking to reduce support for notoriously infringing sites such as those we have nominated in these comments, including through voluntary initiatives aimed at combating online content theft in a balanced and responsible manner.

The list of online markets below is not intended to be comprehensive but, rather, reflects an attempt to identify sites particularly illustrative of the nature and scope of online content theft.

When possible, we have attempted to provide the specific information requested in the NOI,

including popularity rankings from Alexa¹ and site traffic data from comScore², as well as information on revenue sources, volume, and enforcement activity, among other details. In most instances, criminal enterprises work to obfuscate identifying information such as location, and can hide behind anonymizer services with ease. With this in mind, with regard to online markets, MPAA has aimed to identify each site's predominant location determined by a number of factors including server location, host location and domain registrant location, recognizing that frequently these may be different which underscores the need for cross-border law enforcement cooperation.

It is important to note that websites that traffic in infringing movies, television shows, and other copyrighted content do not harm only the rights holder. Malicious software is increasingly a source of revenue for pirate sites. A study by the Digital Citizens Alliance (DCA)³ evaluating the appearance of advertising on infringing websites found that one-third of the 589 infringing websites studied included links with the potential to infect users' computers with viruses and other malware. A related study, also by DCA⁴, found that approximately 70% of all the malware on the Internet today is some kind of Trojan, including the Remote Access Trojan (RAT). This malware opens a user's device to a hacker, exposing their pictures, documents and personal information, as well as turning on a user's webcam to spy on them, send emails that appear to be from the user, and even to launch malicious attacks against others from the hacked computer. Such risks jeopardize legitimate e-commerce and the general public.

Direct Download and Streaming Cyberlockers: Direct download and streaming cyberlockers are websites that provide centralized hosting for infringing content which can be downloaded and/or streamed by the public. The distribution process is simple. A user uploads an infringing file and the cyberlocker gives the user a link for accessing the file. The user posts the link on one or several linking sites. Clicking the link will either initiate a download, a stream, or both of the uploaded file.

It is common for links to illegal copies of movies and television programs to be widely disseminated across the Internet, not just via linking sites, but also via mobile and other web applications, social media platforms, forums, blogs and/or email. Complicating enforcement, cyberlockers frequently provide several unique links to the same file and use proxy services to mask the locations of where the site and content are hosted. If a content owner sends an

¹ Alexa rank represents the approximate number of web sites in the world that have popularity higher than the given site – the more popular a site, the smaller the number. To put this in context, Wikipedia is ranked sixth in worldwide traffic and Netflix is 76. See <http://www.alexa.com/> for more information.

² comScore site traffic data represents worldwide unique visitors for the last available month and is developed from panels which include Internet users ages 15+ at work and at home. See <http://www.comscore.com/> for more information.

³ Digital Citizens Alliance, "Good Money Still Going Bad: Digital Thieves and the Hijacking of the Online Ad Business," May 2015. Available online at: <http://illusionofmore.com/wp-content/uploads/2015/05/latest-DigitalCitizensAlliance5.pdf>

⁴ Digital Citizens Alliance, "Selling 'Slaving', Outing the Principal Enablers that Profit from Pushing Malware and Put Your Privacy at Risk," July 2015. Available at: <https://media.gractions.com/314A5A5A9ABBBBC5E3BD824CF47C46EF4B9D3A76/07027202-8151-4903-9c40-b6a8503743aa.pdf>

infringement notice for one of the links, the others may remain up, enabling continued infringement. And, many cyberlockers, including Nowvideo.sx and the sites included in the Movshare group, do not respond at all to takedown notices.

According to a NetNames and Digital Citizens Alliance report,⁵ “[u]nlike legitimate cloud storage services ... the cyberlocker business model is based on attracting customers who desire anonymously to download and/or stream popular, copyright infringing files that others have posted.” NetNames found that the 30 direct download and streaming cyberlockers it analyzed took in close to \$100 million in total annual revenue and generated average profit margins of 63 to 88 percent from a mix of advertising and subscription services. The principle use and purpose of these cyberlockers is to facilitate content theft.

The cyberlockers listed below include examples of both direct download and streaming models. By making vast amounts of infringing premium content available to the public, these sites attract huge amounts of traffic.

- **Letitbit.net** – the Netherlands. Letitbit.net is a direct download cyberlocker with a global Alexa ranking of 5,309 and a local rank of 632 in Russia. The website is owned by a company registered in the Seychelles and Cyprus. Letitbit.net allows anonymous uploads (ie. no account is required) and offers paid accounts as well. It also has a rewards scheme where uploaders are paid up to USD \$60 per upload and where downloaders are paid up to USD \$15 per 1,000 downloads. Via a cooperation with Moevideo.net they also offer USD \$50 USD per 10,000 views for video content. Letitbit.net had 3,320,274 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. The site is part of a larger group of cyberlockers that includes ShareFlare.net and VIP-file.com. The site is hosted at Webzilla in the Netherlands.
- **Nowvideo.sx and the “Movshare Group”** – Several locations. Nowvideo.sx, formerly Nowvideo.eu, is one of the top streaming cyberlocker sites worldwide and offers its uploaders about USD \$20 per 1,000 downloads. Nowvideo.sx had 6,660,581 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. The site also has a global Alexa rank of 1,853. Notably, Nowvideo.sx belongs to a family of problematic sites in the “Movshare Group”, which includes cyberlockers such as the popular Movshare.net, Novamov.com, Videoweed.es, Nowdownload.ch, Divxstage.to, linking sites such as Watchseries.lt (nominated separately below), and forums, all under the same operators. Nowvideo.sx is hosted in multiple locations by both Private Layer in Switzerland and Felicity Netbrella Corporation in Sweden. Furthermore, unlike other major cyberlockers, Nowvideo.sx and other hosting platforms from the “Movshare Group” systematically refuse to comply with takedown notices. Right holders have therefore no way to have infringing files removed from these platforms, which explains why they are becoming more and more popular. Both the Court of Rome and Delhi High Court have

⁵ NetNames, “Behind The Cyberlocker Door: A Report on How Shadowy Cyberlocker Businesses Use Credit Card Companies to Make Millions,” September 2014. Available online at: <http://www.digitalcitizensalliance.org/cac/alliance/content.aspx?page=cyberlockers>.

ordered ISPs in Italy and India to block various Nowvideo and Movshare sites in 2013 and 2014.

- **Rapidgator.net** – Russia. The site has a global Alexa ranking of 751. Rapidgator.net had 7,405,192 unique visitors in August 2015 according to comScore Media Metrix, World Wide data, and offers monetary rewards, which encourage uploaders to distribute popular content such as copyrighted movies and television programs as widely as possible. Users who upload files are rewarded up to approximately USD \$40 for every 1,000 downloads and for every initial purchase of a premium membership, the user making the referral is paid 50% of the sale. Premium subscription plans are available for \$12.99 a month, allowing users to avoid throttled download speeds and data- download limits. According to NetNames’s “Behind the Cyberlocker Door” report,⁶ Rapidgator.net generated approximately \$3.7 million in annual revenue, most of which comes from premium accounts. ISPs in Italy were ordered by the Court of Rome to block Rapidgator.net in April 2013. RapidGator.net is hosted by Netvillage Network in Russia.
- **Uploaded.net** – Netherlands/Switzerland. Uploaded.net is a direct download cyberlocker that incentivizes users to upload large files, such as those associated with television episodes and motion pictures, by paying rewards based on the file size, as well as a percentage of premium account sales referred by the user. The popular site also has a global Alexa rank of 449 and a local ranking of 127 in Germany. NetNames’ September 2014 report on cyberlockers⁷ found that Uploaded generates approximately USD \$6.6 million in annual revenue, largely through premium accounts but also in part through advertising. Users who upload files are rewarded up to approximately USD \$50 for every 1,000 downloads; for every initial purchase of a premium membership, the user making the referral is paid 60% of the sale. Additional renewals of the premium membership earn the user making the referral 50% of the sale. Download speeds are throttled for users who do not purchase the USD \$78.99 annual premium membership. Following the Megaupload.com takedown, Uploaded.net blocked traffic from U.S. IP addresses and expanded their server capacity to accommodate a “massive growth” in traffic. While the website has since allegedly changed hands, the site continues to offer infringing content with file names clearly associated with content theft and release groups. The site operator switched TLD’s to “.NET” in 2013 and began redirecting traffic from the “.TO” to the new domain name. The website operates through multiple redundant domains that include Uploaded.to and Ul.to. ISPs in Italy were ordered by the Court of Rome to block Uploaded.net in April 2012. In addition, ISPs in India were ordered by the Delhi High Court to block Uploaded.net, Uploaded.to and Ul.to in July 2014. Uploaded.net had 11,793,084 unique visitors in August 2015 according to comScore Media Metrix, World Wide data, is owned by Swiss company Cyando AG and is hosted at Eweka Internet Services B.v. in the Netherlands.
- **Videomega.tv** – Romania. Videomega.tv is a streaming cyberlocker with a global Alexa ranking of 1,435. The website offers three types of accounts: a basic free account, a premium

⁶ Ibid

⁷ Ibid

free account (which requires registration), and a paid premium cloud account. All accounts offer unlimited uploads and unlimited traffic. However, only premium accounts protect user videos from deletion due to inactivity. Premium cloud accounts protect user videos from deletion for any reason. With free accounts, videos are deleted after a year of inactivity. Premium accounts also provide search engine optimization (SEO). Videomega.tv had 37,826,007 unique visitors in August 2015, which was a 121% increase compared to August 2014, according to comScore Media Metrix, World Wide data. The site is hosted at M247 in Romania, and is being masked behind a proxy service to curb rights holders' ability to identify its precise host.

- **VK.com** – Russia. VKontakte, or VK.com, is the leading social networking site in Russia and Russian speaking territories and a hotbed of illegal distribution of movie, television and music files. Searching for content and then downloading it is easy and the site supports streaming playback through embedded video players. The site is available worldwide in multiple languages, including English, and is easily one of the most visited sites in the world, with a global Alexa ranking of 20 and a local ranking of 2 in Russia. Internet service providers (ISPs) in Italy were ordered by the court of Rome to block VK.com in November 2013. VK has recently started blocking infringing sites from accessing videos stored on VK. VK.com had 83,623,914 unique visitors in August 2015, which was a 10% decrease compared to August 2014, according to comScore Media Metrix, World Wide data. The site operates on corporate-owned servers in Russia. There are indications that VK may be starting to take steps to address the rampant piracy on its platform and hope that any such effort is diligently pursued and is successful.

Linking and Streaming Websites: Linking sites aggregate, organize and index links to content stored on other sites. Linking sites that offer unauthorized movies and TV shows, typically organize posts by title, genre, season and episode, and often use the official cover art to represent the content. The sites then provide one or more active links so users can access the infringing content. Depending on the website, users are commonly presented with the options of either streaming the content in a video-on-demand format or downloading a permanent copy to their computer. Many streaming linking sites also iframe or embed video players from third-party websites, reducing the number of clicks needed to get to content for a more seamless user experience. Some also appear to be hosting the underlying content files on servers they control to maintain continuity of infringing offerings and avoid takedowns on third-party file hosting sites.

- **Cuevana.tv** – Argentina. Historically, Cuevana.tv was among the most popular Spanish language streaming link sites in the world. However, in March 2014, the site was converted from a website offering high-quality streaming content to a landing page for a BitTorrent application entitled “Cuevana Storm” (“Storm”). Despite this change in the service's format, the new application provides access to similar content to users through a Cuevana API (hosted at <http://api.cuevana.tv>), which appears to be the backbone of the entire application. The list of available content, the metadata required for the application to access that content, and the application itself still appear to come from Cuevana's services. However instead of traditional streaming from cyberlockers, Cuevana Storm

streams video content utilizing BitTorrent technology. Storm is an open source project with its source code available on GitHub's platform. In late 2011, the MPAA's members initiated a private criminal action against Cuevana's operators in Buenos Aires, Argentina. Due primarily to disputes among several Argentine courts as to which one properly has jurisdiction, the case has yet to make significant forward progress. Although the site is intermittently down it has been pervasive over the last half decade. Cuevana.tv is currently hosted by PrivateLayer, located in Switzerland.

- **Kinogo.co** – Ukraine. Kinogo.co, formerly Kinogo.net, is one of the most popular streaming link sites worldwide. It is a Russian language site with a global Alexa rank of 2,159 and a local rank of 2,792 in the U.S. Kinogo.co had 23,437,186 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. Analysis suggests that Kinogo hosts some of its own video content, and that it is becoming increasingly common practice on other major Russian-language video streaming links sites.
- **Megafilmeshd.net** – Brazil/Poland/Bulgaria. Megafilmeshd.net is a popular streaming linking site that currently offers more than 150,000 links to more than 6,000 illegally reproduced national and international titles including films, television series, and concerts. The site has been active since August 2010 and offers frequently updated illegal content in Portuguese. The availability of illegal content has earned the site a global Alexa ranking of 1,499 and a rank of 51 in Brazil. Megafilmeshd.net had 9,726,920 unique visitors in August 2015, which was a 4% increase compared to August 2014, according to comScore Media Metrix, World Wide data. Administrators of the website monetize it through advertising served by a large number of national and international Ad Networks. The website is believed to be hosted with Verdina in Bulgaria and We-Host-Servers in Poland
- **Movie4k.to** – Romania and the Netherlands. Movie4k.to is a popular streaming linking site with a current global Alexa rank of 1,151 and a rank of 59 in Germany. Movie4k.to had 3,989,971 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. The site boasts: “We are one of the biggest internet movie websites today with free movies from years ago to the current date.” The site organizes movies by genre. Currently, the site indicates it is linking to tens of thousands of copies of free movies. Variants of the site have been subject to blocking orders in the United Kingdom, Denmark and Italy. Movie4k is hosted in Romania and the Netherlands and is being masked behind a proxy service that curbs rights holders' ability to identify its precise host.
- **Pelis24.com** – Spain/Mexico/Argentina/Colombia/Peru/Chile. Pelis24.com is a popular streaming linking site that currently offers more than 80,000 links to more than 8,000 illegally reproduced titles including films and television series. The site has been active since February 2008, and has a global Alexa rank of 2,101 and the following Alexa ranks per Spanish speaking country: Spain, 146; Mexico, 200; Argentina, 224; Peru, 124; Colombia, 186. Pelis24.com had 6,490,613 unique visitors in August 2015, which was a 139% increase compared to August 2014, according to comScore Media Metrix, World Wide data. Administrators of the website monetize it through advertising served by a large number of national and international Ad Networks.

- **Primewire.ag** – France/Sweden. Formerly known as 1channel.ch, Primewire.ag is one of the most visited websites in the world for locating links to illicit copies of first run motion picture and television content. The site claims to link to more than 50,000 free copies of movies. In 2013, the streaming link site was hijacked by a group who moved the site to a new domain, Vodly.to. The original operators of 1channel then launched a new site, Primewire.ag, which now has a global Alexa rank of 846 and a local U.S. rank of 385. Primewire.ag had 3,473,533 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. Primewire.ag has been the subject of blocking orders in the United Kingdom, Norway and Denmark. Over the years, the site has employed numerous tactics attempting to make it “bullet proof” from enforcement measures and stay online, including hosting through a rotating inventory of 30 or more domains and a variety of hosting locations. The site is currently hosted at OVH in France and is being masked behind a proxy service that curbs rights holders’ ability to identify its precise host.
- **Putlocker.is** – Switzerland and Vietnam. PutLocker.is is a video linking site that provides links to illicit content located on various Cyberlockers. It currently has links to an estimated 22,100 infringing movie titles and 500 infringing television shows and has a global Alexa rank of 395 and a US Alexa ranking of 238. Putlocker.is had 17,832,855 unique visitors in August 2015, which was a 60% increase compared to August 2014, according to comScore Media Metrix, World Wide data. Putlocker.is provides illicit copies of movie and television content, utilizing embedded video players to stream content directly from the website itself. The website has also been subject to site blocking in Italy. Putlocker.is continues to be hosted by Private Layer, located in Switzerland. The site’s operator is located in Vietnam.
- **Solarmovie.is** – Canada and Latvia. Previously Solarmovie.eu and solarmovie.so, the site continues to rise in popularity as a source of links to first run motion picture and television streaming content, with a global Alexa rank of 1,843 and a rank of 917 in the U.S. Solarmovie.is had 1,561,125 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. Each title is offered with dozens of links from multiple sources that are graded by users for quality. The community forum serves as a platform for requesting content and monitoring the service of the streaming hubs. A variant of the site, solarmovie.so, was blocked in the United Kingdom following a November 2013 order by the High Court of London. Solarmovie.is has also been the subject of blocking orders in Italy and Denmark. In September 2014, the Bucharest Court granted a preliminary injunction and ordered hosting provider Voxility to temporarily interrupt the hosting on its servers and not to resume in future hosting of the website Solarmovie, regardless of its extensions. With this precedent, the Romanian court is the first to successfully apply Article 8.3 in Central Eastern Europe and opens the door for intermediary injunctions in this region including site blocking. The website is hosted in Canada and Latvia with Netelligent.
- **Viooz.ac** – Estonia. Viooz.ac is a linking site that links to and streams movie and TV content from cyberlockers. Viooz is one of the most-visited websites in the world to locate links to illicit copies of motion picture and television content. The site has a global Alexa rank of 5,816. Viooz.ac had 1,346,458 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. Viooz.ac changed domains from Viooz.co in what is believed to be an attempt to circumvent site blocking orders. Viooz.co has been blocked in Denmark, Norway and the United Kingdom. Viooz.ac

streams infringing content directly on the website in the form embedded video players. The website is currently hosted by Dragees, located in Estonia.

- **Watch32.is** – Germany. Watch32.is is a popular streaming site that embeds popular movie content from third-party cyberlockers. Users of the previously known watch32.com are now redirected to the new domain at watch32.is. The site has a global Alexa rank of 7,149 and a local rank of 3,169 in the U.S. Watch32.is had 1,304,217 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. Before the re-direct, watch32.com was subject to site blocking in both the United Kingdom and Malaysia. The site is currently hosted by Contabo in Germany and is being masked behind a proxy service that curbs rights holders' ability to identify its precise host.
- **Watchseries.lt** – Switzerland. Watchseries.lt is one of the most popular websites in the world to find and view copyright infringing content. The site is owned and operated by the same group of operators that runs the "Movshare Group" of websites discussed above. The site has a global Alexa rank of 5,297, and a local rank of 2,782 in the U.S. Watchseries.lt had 689,148 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. Watchseries.lt is currently hosted by Private Layer located in Switzerland. Watchseries.lt has been the subject of blocking orders in the United Kingdom and Denmark.

Peer-to-Peer Networks & BitTorrent Portals: Users of Peer-to-peer (P2P) or file-sharing networks use software that allows them to join "swarms" of other users who are sharing a particular title (movie, TV show, book). As each user downloads pieces of the file, his/her computer shares the pieces with others in the swarm. The most popular P2P software is "BitTorrent". BitTorrent websites facilitate file sharing by organizing and indexing torrent files, and initiating and managing the download process. The BitTorrent landscape remains popular, serving millions of torrents to tens of millions of users at any given time.

The sites identified in this year's filing were identified in part because of their high-quality, recently-released content and because, in some cases, they coordinate the actual upload and download of that content.

- **Extratorrent.cc** – Ukraine. Extratorrent.cc is a highly popular BitTorrent indexing website. The site has a global Alexa rank of 312 and a rank of 66 in India. Extratorrent.cc had 11,233,357 unique visitors in August 2015, which was a 14% increase compared to August 2014, according to comScore Media Metrix, World Wide data. Extratorrent.cc claims astonishing piracy statistics: offering almost 1.4 million free files with sharing optimized through over 43 million seeders and more than 60 million leechers. Extratorrent.com has been the subject of blocking orders in the United Kingdom, Italy, Denmark, Norway and Belgium. In addition, Extratorrent.cc is currently has been the subject of blocking orders in Malaysia. Extratorrent.cc is currently hosted by Server.ua in the Ukraine.
- **Kat.cr** – Several locations. This website, formerly known as kickass.to, facilitates the distribution of infringing copies of movies, TV shows, music files, apps, videogames and

books. In total, over 6 million torrent files are verified and available for download. Nearly every movie torrent is described in terms that, by definition, denote infringement (e.g., BRRip, CAM, DVDrip, DVDScr, TS). The site has steadily increased in popularity since 2009 and is the biggest torrent site in terms of visitors, surpassing ThePirateBay in 2014. Kat.cr has a global Alexa rank of 75, and ranks in the top 100 most visited sites in the U.S., Canada, India and Saudi Arabia. Originally known as Kickasstorrents.com, the website transitioned to a new domain, Kat.ph, weeks after the U.S. Department of Homeland Security seized several domains associated with motion picture piracy in 2011. In 2013, following a temporary domain seizure by the Philippines government, the site switched to the domain Ka.tt, which was soon thereafter deactivated by the ccTLD registrar for violating the copyright infringement terms of service. The domain then transitioned again to Kickass.to and moved to the currently used kat.cr domain. The site monetizes its illegal conduct by selling advertising space throughout the site, including adjacent to posts of torrents relating to infringing content. Kickass.to and Kat.ph have been the subject of blocking orders in the United Kingdom, Italy, Belgium, Denmark, Ireland, and Malaysia. Kat.cr had 25,236,818 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. The site is simultaneously hosted by several companies in different locations around the world: Canada (Netelligent), Germany (PlusServer and GHOSTnet), Hungary (23VNET), Spain (SoloGigabit), Singapore (SoftLayer), Moldova (Alexhost), Latvia (RN Data DC), and Turkey (Sayfa Net). Kat.cr is also related to Kat.sx.

- **Rutracker.org** – Russia. This BitTorrent portal was launched in 2010 in response to the takedown of Torrent.ru by the Russian criminal authorities. Rutracker.org is a BitTorrent indexing website with 13.9 million registered users and 1.5 million active torrents. It is one of the world's most visited websites with a global Alexa ranking of 363, and a local rank of 17 in Russia. Rutracker.org had 7,025,929 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. The site is hosted in by Dreamtorrent Corp. believed to be in Russia and Seychelles.
- **ThePirateBay.gd (in addition to .la, .mn, and .vg TLDs)** – Sweden. ThePirateBay.gd (TPB) is one of the largest BitTorrent websites on the Internet with a global Alexa rank of 958, and a local rank of 813 in the U.S. Available in 35 languages, this website serves a wide audience with over 43.5 million peers. Traffic arrives on this website through multiple changing ccTLD domains and over 90 proxy websites that assist TPB in circumventing site blocking actions. Swedish prosecutors filed criminal charges against TPB operators in January 2008 for facilitating breach of copyright law. The operators were found guilty in March 2009 and sentenced to prison and a multi-million dollar fine. This judgment has since been affirmed by Sweden's Supreme Court and the European Court of Human Rights. In 2012, one of the site's co-founders was found guilty on hacking charges in Sweden after his extradition from Cambodia. He was then extradited to Denmark and sentenced for similar charges in 2013. In addition, another operator was captured in 2014 in Sweden. The last operator was captured in Thailand and extradited to Sweden in 2014 for an outstanding sentence. TPB continued to combat efforts to protect the interests of copyright holders by changing their top level domain to .SE in an effort to thwart site blocking orders in Austria, Belgium, Denmark, Finland, France, Iceland, Ireland, Italy, Malaysia, Norway, Portugal, Spain and the United Kingdom. TPB promoted its tenth year as an index

website by releasing the PirateBrowser, a self-contained portable web browser with preset bookmarks to BitTorrent websites hosted on the TOR network. The website has been reported to have multiple alternative domains hosted in various countries around the world. In December 2014, TPB's hosting provider was raided and the site went offline, only to reappear online a few months later under various TLDs. TPB (under .gd, .la, .mn, and .vg TLDs) had 13,828,380 unique visitors in August 2015, which was a 66% decrease compared to August 2014 under the .se TLD, according to comScore Media Metrix, World Wide data. Users visiting the previously know .se domain are now redirected to one of these domains.

- **Torrentz.eu** – Poland. One of the oldest and most popular BitTorrent websites on the Internet, Torrentz.eu has been in operation for ten years. Torrentz.eu had 15,831,107 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. The site has a global Alexa rank of 478, and a U.S. rank of 795. The site currently claims to index 31,955,643 active torrents via 28 major BitTorrent websites that include ThePirateBay.gd, ThePirateBay.la, ThePirateBay.mn, ThePirateBay.vg, extratorrent.cc and kat.cr. The website temporarily shut down in 2004 in response to a takedown notice from a copyright holder and then came back online with a more hardened configuration. The website transitioned to the .eu domain following the U.S. Department of Homeland Security seizure of multiple domains. It has been the subject of blocking orders in the United Kingdom, Denmark, and Malaysia. It is currently hosted through Inventoris Sp. Z O. O on four IP addresses in Poland.
- **Yts.to** – Several locations. Yts.to is a torrent website owned and operated by one of the largest release groups in the world, YTS (previously YIFY). The site has a global Alexa rank of 594 and a local rank of 985 in the U.S. Yts.to had 3,471,348 unique visitors in August 2015 according to comScore Media Metrix, World Wide data. It facilitates the downloading copies of popular movies, and currently lists 4,479 high-quality movie torrents available for free download. Additionally, the content on Yts.to supports desktop torrent streaming application “Popcorn Time,” which has an install base of 1.4 million devices and more than 100,000 active users in the United States alone. Yts.to, previously Yts.re, rebranded from its original domain, Yify-torrents.com, after it was announced in January 2014 that their leader, “Yify,” was retiring. Yify-torrents.com (and its alternate ccTLD sites) was blocked by the six largest ISPs in the United Kingdom in 2013 following a High Court decision. The Malaysian Government also took action to block Yify-torrents.com after a referral from rights holders in 2014. Yts.to utilizes multiple IP addresses in an effort to evade enforcement. The site is currently hosted in several locations by several companies: Private Layer (Switzerland), Makonix (Sweden), VNET (Slovakia), Zappie Host (Canada or New Zealand).

Registrars: Registrars sell domain names to registrants (website operators). The authority to sell domain names flows from ICANN through its registrar accreditation process. In order to secure the authority to sell domain names, registrars must sign a contract with ICANN known as the Registrar Accreditation Agreement (RAA)⁸. This contract requires that registrars take certain

⁸ ICANN's Registrar Accreditation Agreements (RAA) are available at www.icann.org/resources/pages/approved-

actions to curb illegal activity on the internet, including that registrars must obtain from all registrants a certification that they are not operating the domain in a way that infringes the rights of third parties. Registrars must also take reasonable steps to enforce compliance with these terms, including an obligation to receive and investigate claims of abuse and to respond appropriately to such claims. These contractual obligations were developed through an extensive multi-stakeholder process.

The domain name registration function plays an important part in the ongoing operation of the notorious online markets recognized by the USTR each year. Websites engaged in massive copyright infringement depend upon the services provided by Internet domain name registrars to operate and perpetuate their illegal activities on such a massive scale. Without the ongoing support of the registrars, these sites would find it difficult, if not impossible, to operate. Unfortunately, many domain name service providers facilitate this illegal conduct by refusing to take action – notwithstanding their RAA obligations - upon being notified that their domain names are being used in clear violation of the law and their own registration agreements.

USTR’s 2014 notorious markets report included, for the first time, a registrar nominee that engaged in or facilitated IPR infringement, as “an example of a registrar that fails to take action when notified of its client’s infringing activity” and encouraged “trading partner governments and ICANN to investigate and address this very serious concern.” (pages 12, 16). Unfortunately, this submission did little to deter other registrars from shirking their contractual responsibilities. This year, the Motion Picture Association of America sent abuse reports to several ICANN-accredited registrars around the world. The complaints identified websites unequivocally devoted to copyright infringement, many offering films still in theatrical release. Each of the registrars contacted declined to take action or seriously assess the validity of MPAA’s complaint. When MPAA referred the matter to ICANN, ICANN declined to take any action and informed the MPAA that it considered the matters closed.

By way of example, the below registrar, Public Domain Registry (PDR), has proven unwilling to investigate, or even address, credible reports of egregious copyright infringement. As USTR explained in its 2014 report, “the IPR enforcement system can break down when the tools available for rightholders become ineffective, due to, among other things, the failure of domain name registrars or other similarly situated entities to follow rules to help combat illicit activity.” (page 10). We encourage USTR and other U.S. government agencies to continue working with our trading partners and ICANN to enforce the RAA.

As USTR explained in its 2014 report, “the IPR enforcement system can break down when the tools available for rightholders become ineffective, due to, among other things, the failure of domain name registrars or other similarly situated entities to follow rules to help combat illicit activity.” (page 10). Unfortunately the example below is merely illustrative, and PDR is not

with-specs-2013-09-17-en; and www.icann.org/resources/pages/ra-agreement-2009-05-21-en. The 2013 ICANN RAA includes: Section 3.7.7.9, “[registrant] shall represent that, to the vest of [his/her] knowledge and belief, neither the registration of the Registered Name nor the manner in which it is directly or indirectly used infringes the legal rights of any third party”; Section 3.7.7 “Registrar shall use commercially reasonable efforts to enforce compliance with subsections 3.7.71-3.7.712.”; Registrar shall take reasonable and prompt steps to investigate and respond appropriately to any reports of abuse.”

alone in its refusal to respond to notice of illegal use of its domains. We encourage USTR and other U.S. government agencies to continue working with our trading partners and ICANN to ensure meaningful implementation and enforcement of the RAA by ICANN-contracted parties.

- **Public Domain Registry (PDR): India.** On multiple occasions, PDR has refused to take any action, or even investigate, reports of illegal activity on its domains. After the notorious Pirate Bay was shut down by the Swedish government (and listed on the USTR report), copycat sites sprung up around the internet. One such site, oldpiratebay.org, was registered with PDR. When notified in January of 2015 that this site operated in violation of the law, and was related to the notorious Pirate Bay criminal enterprise, PDR responded disclaiming control over the content hosted on the site or any responsibility under the RAA to investigate or respond further. Just a few months later, PDR received another report of abuse related to fullonlinefilmizle.com, and PDR's response was the same. In addition, PDR currently provides domain services to two sites identified in USTR's 2014 Notorious Market report, movie2k.ws and solarmovie.eu.

II. Physical Notorious Markets

Perhaps more familiar to the public are the myriad physical markets located around the world that offer consumers burned or pressed infringing optical discs. Many of the markets discussed below are particularly challenging for rights holders because of the strong connections with organized criminal syndicates. Examples of notorious physical markets include:

- **Galeria Pagé, Avenida Paulista, Faria Lima (São Paulo), Camelodromo Uruguaiana (Rio de Janeiro) and Feira dos Importados (Brasilia)** – Brazil. The country's largest city, São Paulo, is a key hub of national piracy networks. Not only are pirate products widely sold in the city, but local distributors supply many similar retail operations in other parts of the country. Thus, the pressure applied against the pirate market in Sao Paulo in recent years, especially since the initiation of the "City Free of Piracy" project in 2011, had a positive ripple effect for some time. Conversely, the retrenchment of enforcement efforts in Sao Paulo under the current municipal administration has had negative impacts in other cities as well. In 2014, not only are piracy-friendly shopping complexes such as Galeria Pagé thriving in Sao Paulo, with levels of pirate product not seen for several years, but street vendors are also returning to high profile areas in that city, such as the Avenida Paulista and Faria Lima. In other major cities, big outdoor markets such as the Camelodromo Uruguaiana in Rio de Janeiro, and the Feira dos Importados (also known as Feira do Paraguai) in Brasilia, are epicenters for the trade in pirate videogames and audiovisual products. The largest and most famous shopping market in Rio, the Camelodromo Uruguaiana is set on four street blocks and contains more than 1,500 kiosks, many of which sell counterfeit optical discs. Minas Gerais and Pernambuco are other cities with serious physical piracy problems.
- **Greater Toronto Area (GTA)** – Ontario, Canada. Lack of police enforcement due to limited resources has contributed to the continuation of the illegal sale of counterfeit discs in several GTA flea markets. In collaboration with a number of other brand owners across several industries, a series of operations was conducted in 2015 in several GTA

markets, however almost immediately following the successful actions, the counterfeiters had resumed selling goods.

- **Harco Glodok (Jakarta)** – Indonesia. This market remains the largest and most active in Indonesia for counterfeit and pirated optical discs of all types, including music, games, and movies in both DVD and Blu-ray formats. Enforcement officials have consistently shown a lack of interest in enforcing against the widespread illegal activity taking place in this market. In addition, ITC Mangga Dua has emerged as a major center for counterfeit and pirated goods of all kinds, including optical discs.
- **Jonesborough Market** – Northern Ireland. Infamous within the UK and Ireland, this market sits in an isolated area on the border of Northern Ireland and Ireland and is monitored by illegal traders deploying counter-surveillance measures. Despite enforcement activity since 2012, it remains a problematic market and illegal traders often escape across the porous border during raids. However, recent enforcement has led to several arrests in the area and all are waiting to appear in court. Operators of this market have historically strong ties to paramilitary groups and sell an array of counterfeit products, including pirated optical discs.
- **7 Kilometer Open Market (Odessa) and Barabashovo Open Market (Kharkov)** -Ukraine. These Ukrainian markets are still the most prominent locations for an array of counterfeit products given their sheer size of more than 20,000 kiosks each. Although there has been a decline in the number of counterfeit discs available following an increase in police raids, Russian-replicated counterfeit movies continue to be sold. These market locations, one near a major seaport and both near Russian railway terminals, attract a broad range of visitors and facilitate illicit imports from Russia. While there are signs of diminishing numbers of counterfeit products sold in Mayak Open Market (Donetsk) and Petrovka Open Market (Kiev) following police raids, counterfeit movies, many of which are burned on demand, continue to be sold in Mayak's and Petrovka's respective 40 and 20 kiosks.
- **Mutino and Gorbushka Markets** – Moscow, Russia. The Mutino Market in Moscow continues sell counterfeit products with the number of outlets selling pirated content more than doubling in 2015. In some kiosks, the physical display of counterfeit product has been replaced with titles burned to order, sometimes in nearby premises which provide further challenges to successful enforcement. Unfortunately, the Gorbushka market, after many years of effective enforcement by the Government and being clear of pirate audiovisual content, now has 29 operational kiosks selling pirated content.
- **Panthip Plaza, the Klom Thom, Saphan Lek, Baan Mor Shopping Area, Patpon and Silom Shopping Areas, Mah Boon Krong Center, and the Sukhumvit Road Area (Bangkok); Rong Klua Market, Sakaew, Samui (Surat Thani)** – Thailand. These locations are notorious for openly selling pirated and counterfeit goods; all have been designated as “red zones” by Thailand authorities. Unfortunately, the situation failed to improve between 2011 and 2015, with many vendors openly selling counterfeit movies as well as child pornography.

- Street markets located in **Tepito, Lomas Verdes, Juarez or Central Camionera, Toreo Subway Station (State of Mexico) and Salto del Agua and Toreo Markets (Federal District)** are the main suppliers of pirated optical discs in the Federal District of Mexico. Labs and warehouses are also located in **Pulga Guadalupe, Pulga Mitras, Mercado del Norte and Zona Centro (Monterrey); San Juan de Dios, Parian and La Fayuca or La 60 (Guadalajara); La Cuchilla, Murat, la Fayuca, la Central Camionera and Zona Centro (Puebla); Plaza Lido, Plaza Zona Rosa, and Plaza Degollado (Cuernavaca Morelos), Alameda Central, Hidalgo, Mariano Escobedo, De la Cruz (Querétaro), Las Vías and Salinas Hidalgo (San Luis Potosi); Premises located at 54 por 65 Street and 56A por 65 Street, (Merida); Central Camionera, Mercado Pescadería, Jalapa Centro and Veracruz Centro (Veracruz); Central Camionera, Lerma and Zona Centro (Toluca); Las Carpas 1 and 2, Siglo XXI, Fundadores and Mercado de Todos, las Brisas or la Mesa, and Carpas Santa Fe (Tijuana)**. This long list of notorious Mexican markets, which contain over 1,000 stalls and warehouses and are responsible for approximately \$1.5 million USD in monthly sales, is merely a small subset of the nearly 90 well-known markets which specialize in pirate and counterfeit products and operate across Mexico. A significant number of these notorious markets are owned by municipalities despite the fact that organized crime is clearly involved in their operations. Numerous operations have occurred within the past year, notably several actions by PGR's specialized intellectual property crimes unit (UEIDDAPI) to address infringing activity in Tepito, after years of no meaningful enforcement there. MPAA appreciates UEIDDAPI's efforts to root out and deter content theft in Mexico.
- **Richie Street, Censor Plaza and Burma Bazaar (Chennai); Bara Bazaar (Kolkata); Chandini Chowk, Palika Bazaar (underground market) and Sarojini Nagar Marke (Delhi) Navyuk Market Ambedkar Road and Nehru Nagar Market (Ghaziabad); Kallapur Market and Laldarwajah (Ahmedabad); Jail Road and Rajwada (Indore); Manish Market, Lamington Road, Dadar Train Station, Andheri Station Market, Borivili Train Station and Thane Station Market (Mumbai) – India**. These Indian markets with clusters of street vendors attract significant pedestrian traffic and are known for their high volume of pirated DVDs and other counterfeit products.

III. Closing

The six major studios of the MPAA support the U.S. economy by generating billions of dollars from filmed entertainment distributed around the globe. Notwithstanding this singular achievement, the U.S. motion picture and television industry faces relentless challenges to the integrity of its product, challenges extracting an increasingly unbearable cost. The economic and cultural vitality of the creative industries is one of our nation's most valuable assets. MPAA supports USTR's efforts to identify foreign notorious markets. These markets are an immediate threat to legitimate commerce, impairing legitimate markets' viability and curbing U.S. competitiveness. We strongly support efforts by the U.S. government to work with trading partners to protect and enforce intellectual property rights and, in so doing, protect U.S. jobs.

MPAA appreciates the opportunity to comment and is ready to provide further information or answer questions as required.

Sincerely,

A handwritten signature in black ink, appearing to read "Joanna McIntosh". The signature is fluid and cursive, with a long horizontal stroke at the end.

Joanna McIntosh Executive Vice President
Global Policy and External Affairs