

The Sports Coalition

February 7, 2019

Via Electronic Submission at <http://www.regulations.gov>

Mr. Sung Chang
Director for Innovation and Intellectual Property
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: Docket No. USTR-2018-0037: 2019 Special 301 Review

Dear Mr. Chang:

On behalf of the Sports Coalition, we submit this response to the United States Trade Representative's request for comments regarding its upcoming 2019 Special 301 Report.

The Sports Coalition consists of the following amateur and professional sports leagues, associations and related entities: Major League Baseball; National Basketball Association; National Collegiate Athletic Association; the National Football League; NFL Productions LLC; NHL Enterprises, L.P. (the licensing arm of the National Hockey League); and United States Tennis Association.

Pursuant to existing treaties, existing laws and privately negotiated contracts, sports organizations, including members of the Sports Coalition, typically own all rights, including intellectual property rights such as copyrights and related rights, in telecasts of their live sports events. They license the rights to telecasts and retransmit telecasts of thousands of live sports events, as well as highlights of those events, each year. They derive significant revenue from and make significant investments in live telecast distribution at the local, national and international levels, and across various media, including over-the-air, cable and satellite television and the Internet, including wireless devices. Third party telecast rights holders, including many leading television networks in the United States, similarly derive significant revenue from and make significant investments in these commercial relationships.

Sports organizations, including Sports Coalition members, are heavily affected by live sports telecast piracy, including the unauthorized live retransmission of sports telecasts over the Internet.¹ Internet piracy of live sports telecasts is a growing problem, occurring through means (collectively, "Infringing Service(s)") including: unicast streaming; streaming over peer-to-peer networks; illicit IPTV streaming devices, "linking" sites (sites that collect and catalogue links to pirated live sports

¹ See also *Piracy of Live Sports Broadcasting Over the Internet, Hearing Before the House Comm. on the Judiciary*, 111th Cong., 1st Sess., Serial No. 111-94 (December 16, 2009), available at http://judiciary.house.gov/hearings/printers/111th/111-94_54075.PDF; Organisation for Economic Cooperation and Development, *Piracy of Digital Content*, pp. 87-115 (2009), available at <http://browse.oecdbookshop.org/oecd/pdfs/browseit/9309061E.PDF>.

telecasts from other sources); “embedding” sites (sites that present pirated sports telecasts from other sources); and content distribution networks.

The Internet piracy of live sports telecasts is not only a persistent problem, but also a global one, often involving bad actors in more than one nation. Pirate services and those complicit with them (such as content distribution networks and hosting services) are believed to be located in many nations including the Netherlands, Hong Kong, Switzerland, Ukraine, Saudi Arabia, and Russia. Due to the material number of pirated game and event telecasts identified in these locations by the Sports Coalition members, the Sports Coalition recommends that in its 2019 Special 301 Report, USTR puts the Netherlands and Saudi Arabia, on the Priority Watch List; and Hong Kong, Russia, Ukraine, and Switzerland on the Watch List.

Sports programming is an important part of the global media business sector. Most nations are simultaneously exporters and importers of sports programming, many with significant investment-backed expectations involving their respective presenting sports organizations, telecast rights holders and pay television and Internet service providers. Clearly, there is common ground – both in terms of shared economic interests and legal obligations to protect and enforce intellectual property and related rights – for the United States and the nations with which it engages in international trade to work cooperatively to stop Internet piracy of sports programming.

Sports Coalition members are devoting significant resources to curb this emerging – and particularly egregious – variant of digital piracy. Important outreach and rights enforcement initiatives are ongoing, and they have shown that sites and services offering live online video are able to prevent the unauthorized retransmission of sports telecasts. United States copyright law is clear that Internet piracy of live sports telecasts is copyright infringement² and can be a crime.³ However, since Internet piracy is a global phenomenon, often involving sites and services that operate entirely offshore, this problem cannot be comprehensively addressed without international action and coordination.

² See, e.g., *WPIX, Inc. v. ivi, Inc.*, 765 F. Supp. 2d 594 (S.D.N.Y. 2011), *aff'd*, 691 F.3d 275 (2d Cir 2012); *Twentieth Century Fox Film Corp. v. iCraveTV*, 2000 U.S. Dist. LEXIS 11670 (W.D. Pa. Feb. 8, 2000); *cf.* Register of Copyrights, Satellite Home Viewer Extension and Reauthorization Act Section 109 Report at p. xii, 181-189 (June 2008), *available at* <http://www.copyright.gov/reports/section109-final-report.pdf> (retransmissions of television programming over the Internet require licenses from copyright owners).

³ See *U.S. v. The Following Domain Names: HQ-STREAMS.COM et al.*, 11 MAG 262 (S.D.N.Y. Jan. 31, 2011) (seizing ten domain names associated with Internet sports telecast piracy sites on the basis of probable cause that they are property used or intended to be used to commit or facilitate the commission of criminal copyright infringement).

The Sports Coalition commends USTR for identifying this problem in its 2008-2018 Special 301 Reports. Since the problem is continuing, we recommend that USTR considers this matter in its formulation of the 2019 Special 301 Report. The members of the Sports Coalition look forward to continuing to work in partnership with USTR to address the problem of Internet sports telecast piracy.

Respectfully submitted,



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Major League Baseball

On behalf of the Sports Coalition

cc: Scott Bearby, Esq. – National Collegiate Athletic Association
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Appendix A

Hong Kong

During 2018, Infringing Services operating either in whole or in part in Hong Kong, including webtv.ws, wlive.tv, and Amarutu Technology, pirated or provided services contributing to the piracy of a material number of Sports Coalition game and event telecasts.

Recommendation: Watch List.

The Netherlands

During 2018, Infringing Services operating either in whole or in part in the Netherlands, including sportshd.me, strikezone.co, wiz1.net, vip7stream.pw, livebar.ow, 9stream.pw, ucasterplayer.com, Quasi Networks, Severius Holding, Leaseweb, Server Hosting Pty, and SNEL, pirated or provided services contributing to the piracy of a material number of Sports Coalition game and event telecasts.

Recommendation: Priority Watch List.

Russia

During 2018, Infringing Services operating either in whole or in part in Russia, including bro.adca.st, mlb-live.stream, ustreamix.com, sportstream365.com, telerium.tv, Fishnet Communications, and Maros Net, pirated or provided services contributing to the piracy of a material number of Sports Coalition game and event telecasts.

Recommendation: Watch List.

Saudi Arabia

During 2018, an Infringing Service, beoutQ, operating either in whole or in part in Saudi Arabia pirated Sports Coalition game and event telecasts via unauthorized IPTV streaming devices and the beoutQ.se website.

Recommendation: Priority Watch List.

Switzerland

During 2018, Infringing Services operating either in whole or in part in Switzerland, including telerium.tv and Network Dedicated SAS, pirated or provided services contributing to the piracy of a material number of Sports Coalition game and event telecasts.

Recommendation: Watch List.

Ukraine

During 2018, Infringing Services operating either in whole or in part in Ukraine, including whostreams.net and aliez.me, and WeHostServers pirated or provided services contributing to the piracy of a material number of Sports Coalition game and event telecasts.

Recommendation: Watch List.