

Chairman Issa, Ranking Member Johnson, and distinguished Members of the IP subcommittee, thank you for inviting me to speak with you on behalf of America's creative communities today.

I have been a filmmaker for over 30 years, producing films such as *The Bourne Identity*, *Finding Neverland*, *The Cider House Rules*, and *Pulp Fiction* among others. I am currently the Executive Director at Brooklyn College's Feirstein Graduate School of Cinema, a part of the City University of New York, where we are educating the next generation of diverse storytellers.

I have lived between New York and Los Angeles my entire career, while shooting films all over the country and the world. As this committee knows, our nation's copyright laws protect American jobs in every state. What you may not know is that each film contributes on average \$250,000 to the local economy each day it shoots. Smaller budget films may shoot for 24 days, and larger-budgeted films shoot in excess of 70 days. In the U.S., the film and television industry employs 2.4 million Americans across the country.¹

Those numbers bear out what I have always known in my heart to be true – that creativity is not just an important part of American life, it is the backbone of our nation's cultural and economic strength, both here and around the world.

Despite being such a robust engine for the U.S. economy, our industries have been besieged by widespread digital piracy from the inception of the internet. And, we have been fighting with one hand tied behind our backs ever since. Let me be clear, we like that the internet helps us reach audiences. But it has also, in many ways, exacerbated piracy.

I am not here to discuss fair use or the widespread use of clips of films and television shows online. Rather, what I am talking about is the wholesale theft of our movies and TV shows by criminal enterprises.

Large-scale commercial piracy operations today are criminal enterprises, not kids in the basement. They are sophisticated operators, creating sites that look deceptively similar to legitimate streaming services. A recent study found that as many as 30 million consumers, across 9 million American homes, use illegal streaming services, often without even realizing it.²

Another report found that digital video piracy causes domestic losses of at least \$29 billion and as much as \$71 billion every year, resulting in losses between \$47 (billion) and \$115 billion to the GDP.³ That same study found that this is costing the U.S. economy between 230,000 and 560,000 jobs each year.

The majority of these jobs are taken from the workers behind the cameras who put in long hours every day to make the entertainment that audiences around the world love. The production designers, costume designers, cinematographers, make-up artists, caterers, and every other member of their crews including seamstresses, carpenters, drivers, assistants and more – rely on these jobs to provide for their families. These are well-paid, skilled jobs for craftspeople that do not require a four-year college degree.

Many people look at us as huge corporations, but it is really these people who work on film and television sets every day who are the backbone of our industry. Actors and directors and producers are just a few of the people on a film set. Grips, electricians, carpenters, and more are the majority. And the vast majority

¹ <https://www.motionpictures.org/what-we-do/driving-economic-growth/>

² <https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA-Money-for-Nothing-Report.pdf>

³ <https://www.theglobalipcenter.com/wp-content/uploads/2019/06/Digital-Video-Piracy.pdf>

of a film's budget is devoted to those people. In fact, 92% of the businesses in film and television employ fewer than 10 people.⁴ Indeed, most of these workers are freelancers and part of what is now widely referred to as a gig economy.

Most independent and smaller budget films struggle just to break even on their investment, and piracy only makes it more difficult by jeopardizing the ability to develop and fund future films like the ones I have spent my career making. Many directors of the big Hollywood movies that we know started out by making small, independent films. Without a thriving independent film market, we would not have new and interesting voices.

And the loss of film productions is not only catastrophic to the crews whose livelihoods depend on them – it harms the communities that are home to these productions⁵. I currently live and work in Brooklyn, surrounded by the vibrant creative metropolis that is New York City. Our skilled workers are some of the most dedicated and industrious American citizens – and have an even greater need for protection from piracy.

Their pension and health plans are funded by residuals paid *from the profits* of movies and television shows. We know that piracy cuts into those profits and sometimes even eviscerates them. Residuals, which are based on revenue from legitimate and legal viewership, are shrinking because of piracy – a direct threat to pension and health care plans.

Every day, this problem gets worse. According to a prominent piracy tracking firm, there was a 36% increase in film piracy in 2022 over 2021, with exponential increases during 2023.⁶

So how are we letting this happen to one of America's most vital cultural exports? And why are we allowing hundreds of thousands of American jobs to disappear each year as a result of piracy?

The truth is, most piracy happening in the United States is occurring through illegal services based in countries overseas, beyond the reach of U.S. law enforcement. Which begs the question: what can you do as lawmakers here in America to help us protect against the harms caused by these offshore piracy operations that are actively targeting U.S. consumers?

The good news is that there are laws now in place around the world that have proven to be effective tools against this kind of piracy. The bad news is that those tools are not yet available to copyright owners in the U.S.

One such tool, broadly available in developed countries around the world, allows courts to issue no-fault injunctive relief – or “site blocking” – orders, directing internet service providers – after a full judicial process – to block local access to offshore websites that are found to be dedicated to piracy. This tool has proven to be an effective remedy against piracy in the more than 40 countries that have implemented it – including western democracies like Canada, the UK, and most of the countries in the E.U.⁷

⁴ https://www.motionpictures.org/wp-content/uploads/2023/01/MPA_US_Economic_Contribution_2021_Final.pdf

⁵ <https://www.motionpictures.org/what-we-do/driving-economic-growth/#map>

⁶ <https://www.thecinemaoundation.org/wp-content/uploads/2023/03/MUSO-Piracy-Report-1.pdf>

⁷ <https://www.motionpictures.org/press/mpa-applauds-philippine-government-and-isps-on-uniting-to-block-websites-offering-pirated-content/>

Numerous studies have shown not only that reductions in traffic to these pirate sites result from the introduction of this simple tool, but also that traffic to legitimate sites increases with consumers moving instead to the many legitimate options that are widely available to them – options that actually compensate creatives for their work.⁸

This kind of shift away from illegal pirate sites and toward legal choices could be a game-changer not only for America’s film and television industry and its 2.4 million workers, but for all Americans. Film and television projects pay out \$21 billion per year to more than 260,000 businesses in cities and small towns across the country.⁹ I have seen this firsthand during the production of my films, in towns from Colorado to Wyoming to Georgia and beyond.

On the flip side of the monetary benefits of the industry to everyday Americans, there are the very real consumer dangers of piracy sites like malware and identity theft. One in three visitors to piracy sites get malware or compromise their identity – simply by landing on the site.¹⁰

Early objections to site blocking suggested that it would be abused by rightsholders, would negatively impact free speech, and harm the internet as we know it. Creatives like me are fierce advocates for free speech and in no way would I advocate for that right to be diminished. But we now have well over a decade of experience and have learned that site blocking works, without any harm to consumers or democracies. Blocking sites that traffic in illegal activity is not a violation of free speech. With more than 40 countries now actively blocking these sites, the internet is still alive and well.

Protecting intellectual property and the creative industries has always been a bipartisan issue. And I hope that Members of Congress can begin to have a serious discussion about site blocking legislation.

In sum, I am here to ask you, our lawmakers, to find reasonable solutions that curtail blatant theft of our creative work. Those engaged in what is clearly illegal behavior, as well as those internet intermediaries that aid and abet such theft, should be appropriately disincentivized from doing so.

No one understands this as well as you, Chairman Issa, and the members of this IP Subcommittee. My community is incredibly grateful for the Committee’s dedication to protect our livelihoods. I ask you to please consider what I have said and let us work together to ensure that we create robust protections for one of our country’s most valuable exports and important cultural contributions.

Thank you for your invitation to speak with you here today and for your consideration of my testimony.

Submitted by:
Richard N. Gladstein
December 11, 2023

Submitted to:
Subcommittee on Courts, Intellectual Property, and the Internet of the Committee on the Judiciary hearing titled, “Digital Copyright Piracy: Protecting American Consumers, Workers, and Creators.”
scheduled for Wednesday, December 13, 2023, at 10:00 a.m. in 2141 Rayburn House Office Building.

⁸ <https://www.judiciary.senate.gov/imo/media/doc/Smith%20Testimony1.pdf>

⁹ <https://www.motionpictures.org/what-we-do/driving-economic-growth/>

¹⁰ <https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/malware.pdf>