



Concerns with S. 968, the “Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act” (“PROTECT IP” Act).

The Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act is an Internet regulatory proposal that gives the Department of Justice as well as intellectual property owners authority to sue Internet sites for online copyright and trademark infringement. Despite the fact that the bill’s supporters claim the legislation addresses only “the worst of the worst,” the PROTECT IP Act goes far beyond these stated goals. The PROTECT IP Act will not effectively address offshore copyright and trademark infringement. Instead, it puts at risk future innovation and job creation by lawful U.S. technology firms, threatens critical Internet infrastructure and undermines efforts to combat Internet censorship by foreign governments.

- **Threatens Crucial Internet Infrastructure.** The domain-blocking provision proposed by the bill is fundamentally incompatible with the deployment of DNSSEC, a crucial security extension needed to make the Internet more secure. The proposed technological solution to block access to unlawful sites *can be easily evaded* and will only *create security risks to U.S. Internet infrastructure*, as testified to by numerous Internet engineers and cyber-security experts, including the Department of Energy’s Sandia National Laboratories.
- **Creates a New Private Right of Action against U.S. Companies that Operate Lawfully.** PROTECT IP enables rightsholders to obtain orders to block access to online services by intermediary third parties *that have not violated any law and are DMCA-compliant*. PROTECT IP also allows the rightsholders to sue the intermediaries directly if the rightsholders believe that the intermediaries are not doing enough to block access. These private actions are subject to *limited oversight* and *raise serious due process concerns*.
- **Imposes Significant New Burdens on Legitimate Online Commerce Services.** The U.S. regulatory regime under the Digital Millennium Copyright Act protects the growth of start-ups, innovative small businesses and major technology companies. The private right of action contained in PROTECT IP, through both the scope of orders and the costs of litigation, would impose significant burdens on legitimate online commerce services, even for companies acting in good faith to address illegal copyright-infringement. *It would create a regulatory atmosphere stifling small business growth, discouraging investment in start-ups and preventing existing businesses from creating new jobs and providing new services.*
- **Sets a Global Precedent Contrary to Our Values.** The United States has supported a free and open Internet for people across the world and condemned web censorship employed by

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authoritarian regimes. The blocking remedies in PROTECT IP would embolden these regimes to continue their efforts and undermine the U.S. agenda for a collaborative global Internet.

- **Chill Free Speech.** PROTECT IP runs afoul of the prior restraint doctrine because it permits the Department of Justice to order blocking of a domain before a final determination of illegality.

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