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October 7, 2016

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 2016 Special 301 Out of Cycle
Review of Notorious Markets.
Docket No. USTR-2016-2013

Dear Ms. Peterson:

The Motion Picture Association of America submits the following response to the request for written submissions issued August 25, 2016, 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 1.9 million jobs and \$121 billion in total wages in 2014. Over 305,000 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 348,000 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 2014, the enduring value and global appeal of U.S. entertainment earned \$16.3 billion in audiovisual services exports. Moreover, this industry is one of the few that consistently generates a positive balance of trade. In 2014, that services trade surplus was \$13.1 billion, or six percent of the total U.S. private-sector trade surplus in

services. The industry exported five times what it imported in 2014.

The industry distributes its films and TV shows to over 130 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 commerce and that 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.

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 evolving challenge. Content thieves take advantage of a wide constellation of easy-to-use online technologies, such as direct download and streaming, to create infringing sites and applications, often 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, cloud (and anonymizing) services, advertising networks, payment processors, social networks, 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 SimilarWeb², 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(s) determined by a number of factors including server location, host location and domain registrant location, recognizing that frequently these may be different, underscoring 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 2015 study by the Digital Citizens Alliance (DCA) found that consumers' computers are 28 times more likely to be infected by malware from a content theft site than similar mainstream sites³. Another DCA study⁴ evaluated the appearance of advertising on infringing websites and 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 study⁵ found that approximately 70% of all the malware on the 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. Increasingly, illegal services also expose users to high-risk advertisements.⁶ Such risks jeopardize the general public, the health of the internet and legitimate e-commerce.

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.

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 SimilarWeb site traffic data cited here represents worldwide unique visitors on desktop for the last month available. SimilarWeb is a market intelligence company that uses a combination of panel, crawler, ISP and other data for its data estimations. See <http://similarweb.com> for more information.

³ Digital Citizens Alliance, "Risk IQ," Available Online at: <https://media.gractions.com/314A5A5A9ABBBBC5E3BD824CF47C46EF4B9D3A76/d88c7e51-cb31-46a9-8365-87161afbef22.pdf>

⁴ 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>

⁵ 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>

⁶ See, e.g., Dr. Paul A. Watters, The Impact of High Risk Advertising on Thai Social Values: The Role of Piracy Websites, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=257058, March 2015.

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 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,⁷ “[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.

- **Allmyvideos.net** – Netherlands. Allmyvideos.net is a streaming cyberlocker with a global Alexa ranking of 2,658. The site had 5.07 million global unique visitors in August 2016 according to SimilarWeb data. The site’s premium account option allows users to view and download unlimited videos, have unlimited storage for video files, ad-free access, the ability to upload larger files (up to 5gb), create custom links to track traffic, and with no risk that their files will be deleted due to inactivity. Premium accounts range from \$1.99 for one day to \$24.99 for 180 days. 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. It pays its uploaders about USD \$20 per 1,000 downloads. Nowvideo.sx had 5.85 million worldwide unique visitors in August 2016 according to SimilarWeb data. The site also has a global Alexa rank of 3,022. 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 and Divxstage.to; linking sites such as Watchseriesfree.to; and, forums, all under the same operators. Globally, the Movshare group receives an estimated 83 million unique visitors on a monthly basis (more than KickAss Torrents at the time of the shutdown) thus having an enormous reach around the world. Nowvideo.sx is hosted in multiple locations by Private Layer in Switzerland and, in Sweden, by Felicity

⁷ 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>.

Netbrella Corporation, Altus Host and Kirgyservers. Both the Court of Rome in 2013 and Delhi High Court in 2014 have ordered ISPs in Italy and India to block various Nowvideo and Movshare sites.

- **Openload.co** – Netherlands. Openload.co is a streaming/download cyberlocker with a global Alexa ranking of 311. The site had 25.13 million worldwide unique visitors in August 2016 according to SimilarWeb data. The site incentivizes users to upload large files, such as those associated with television episodes and motion pictures, by paying a fixed reward per 10,000 downloads/streams. The site offers five reward tiers with the “Very high Tier” for files downloaded by users in Australia, Canada, United Kingdom and United States. This tier pays \$40 per 10,000 downloads. There are no download speed limits and although they reserve the right to delete streamable files after 60 days they claim “your files will never be deleted, especially if somebody is downloading them.” The site is hosted at FDCServers in The Netherlands and is being masked behind a reverse proxy service to curb rights holders’ ability to identify its precise host.
- **Rapidgator.net** – Russia. This site has a global Alexa ranking of 707 and had 15.71 million global unique visitors in August 2016 according to SimilarWeb data. Rapidgator.net offers monetary rewards, which encourage uploaders to distribute popular content such as copyrighted movies and television programs as widely as possible. Rapidgator.net had 15.71 million worldwide unique visitors in August 2016 according to SimilarWeb data. 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 up to 15% of the sale. Premium subscription plans are available for \$14.99 a month, allowing users to avoid throttled download speeds and data-download limits. According to NetNames’ “Behind the Cyberlocker Door” report,⁸ 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. The hosting location of RapidGator.net is being masked behind a reverse proxy service to curb rights holders’ ability to identify its precise host.
- **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 488 and a local ranking of 118 in Germany. NetNames’ September 2014 report on cyberlockers⁹ 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 \$69.99 annual premium membership. While the website has since allegedly changed hands,

⁸ Ibid

⁹ Ibid

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 27.57 million worldwide unique visitors in August 2016 according to SimilarWeb data. It is owned by Swiss company Cyando AG and is hosted at Eweka Internet Services B.v. in the Netherlands.

- **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 is relatively easy and the site supports streaming playback through embedded video players. In September 2016, VK took steps to limit access to third party applications dedicated to downloading content from the site, which has made it more difficult for users to download content directly and it has also experimented with content recognition technologies. In addition, VK blocks infringing sites from accessing videos stored on VK. In spite of these limited measures, VK.com continues to be a major infringement hub; MPAA and its member companies continue to find thousands of infringing files on the site each month. Available worldwide in multiple languages, including English, it is easily one of the most visited sites in the world, with a global Alexa ranking of 18 and a local ranking of 1 in Russia. VK.com had 111.4 million worldwide unique visitors in August 2016 according to SimilarWeb data. For these reasons, MPAA continues to recommend its inclusion in the Notorious Markets list. ISPs in Italy were ordered by the Court of Rome to block VK.com in November 2013. The site operates on corporate-owned servers in Russia.

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 frame 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 to avoid takedowns on third-party file hosting sites. They largely derive their revenue from advertising and referrals.

2015 saw several notable successes in the linking and streaming landscape: the shutdown of MegafilmesHD.net by the Brazilian Federal Police, as well as the shuttering of Cuevana.tv. Both sites had been featured in past MPAA Notorious Markets filings. Solarmovie.is also went down, seemingly related to the action against Kickass Torrents (KAT) discussed below.

- **123movies.to/.ru/.cz** – Unknown. 123movies is a very popular streaming website that embeds popular movie and series content from third-party cyberlockers. The site uses

multiple TLDs for the purpose of circumventing siteblocking actions, as declared by the website administrator. The site has a global Alexa rank of 559 and a local rank of 386 in the U.S. 123movies.to had 9.26 million worldwide unique visitors in August 2016 according to SimilarWeb data. The site is currently using a chain of reverse proxy services in the United States, Iran and Romania to curb rights holders' ability to identify its precise host.

- **Filmesonlinegratis.net** – Brazil/Portugal. Filmesonlinegratis.net is a popular Spanish streaming linking site that embeds popular movie content from third-party cyberlockers. It currently offers more than 150,000 links to more than 9,000 illegally reproduced titles including films and television series. The website has been active since August 2011. Its global Alexa rank is 2,058; it ranks 59 in Brazil and 299 in Portugal. Filmesonlinegratis.net had 5.62 million worldwide unique visitors in August 2016 according to SimilarWeb data. The website is monetized through advertising secured by national and international Ad Networks. The site's hosting location is masked behind a reverse proxy service.
- **Kinogo.club** – Netherlands. Kinogo.club, formerly Kinogo.co, is one of the most popular streaming link sites worldwide. It is a Russian language site with a global Alexa rank of 461 and a local rank of 21 in Ukraine. Kinogo.club had 22.52 million worldwide unique visitors in August 2016 according to SimilarWeb data. Analysis suggests that Kinogo hosts some of its own video content, which is becoming an increasingly common practice among major Russian-language video streaming links sites. The website is currently hosted by 3NT Solutions, a hosting provider registered in the UK.
- **Movie4k.to** – Russia. Movie4k.to is a popular streaming linking site with a current global Alexa rank of 1,287 and a rank of 84 in Germany. Movie4k.to had 4.10 million worldwide unique visitors in August 2016 according to SimilarWeb 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. The site currently indicates that it links to tens of thousands of copies of free movies. The site operates from a number of TLDs including .me, .tv and .nu and variants of the site have been subject to blocking orders in the United Kingdom, Denmark, Italy, Norway and Austria. Movie4k is hosted in Russia and is being masked behind a reverse proxy service curbing rights holders' ability to identify its precise host.
- **Newmovie-hd.com** – Thailand. Newmovie-hd.com has consistently been the top provider of Thai dubbed and subtitled motion pictures. While non-paying users can freely stream videos from various cyberlockers with embedded players on the site, including Google Drive, paying subscribers also have the option to download. Newmovie-hd.com had 2.52 million worldwide unique visitors in August 2016 according to SimilarWeb data. The site is the 16th most popular website in all of Thailand with a global ranking of 2,678 according to Alexa. Newmovie-hd.com hides behind the CloudFlare reverse proxy service.
- **Pelis24.com** – Spain/Mexico/Argentina/Venezuela/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 1,644: 457 positions ahead of its rank

compared to the same month in 2015. Some local Alexa ranks are: Spain, 151; Mexico, 113; Argentina, 175; Peru, 112; and, Venezuela, 197. Pelis24.com had 6.43 million unique worldwide unique visitors in August 2016, according to SimilarWeb data. Administrators of this website monetize it through advertising served by a large number of national and international ad networks. The site is currently hosted at Quasi Networks LTD, a company located in Seychelles.

- **Primewire.ag** – Switzerland. 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 68,000 free copies of movies. The site encourages users to use a VPN and directly links to the provider Windscribe. Variants of the site have been subject to blocking orders in Norway, Portugal and the UK. 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 1068 and a local U.S. rank of 564. Primewire.ag had 3.87 million worldwide unique visitors in August 2016 according to SimilarWeb 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 PrivateLayer in Switzerland and is being masked behind a reverse proxy service that curbs rights holders’ ability to identify its precise host.
- **Projectfreetv.at** – Romania. Project FreeTV.at, previously projectfreetv.so and projectfreetv.in, is a large site that links to streaming cyberlockers and frequently changes its domain. Projectfreetv.at provides access to a massive amount of infringing content including movies and TV series. As of October 2015, Project Free TV contained 1,439 unique television titles comprising a total of 530,616 episodes as well as 12,076 motion picture titles. The site supports English language only. Projectfreetv had a global Alexa ranking of 1,800. Its popularity has been impacted by its domain name changes but projectfreetv.at is on the rise. The site is currently hosted by M247-Europe, located in Romania.
- **Putlocker.is** – Switzerland/Vietnam. Putlocker.is is the most visited infringing English language video streaming link site in the world. The site had with 23.16 million worldwide unique visitors in August 2016 according to SimilarWeb data. Believed to operate from Vietnam with servers in Switzerland (hosted by Private Layer), Putlocker.is allows users to stream pirated versions of first run motion pictures and television content directly from Thevideos.tv cyberlocker via an embedded player on the site, as well as through links to various other cyberlockers. Putlocker.is ranks as one of the top five most visited piracy sites in the Asia-Pacific region, and is ranked 230 globally and 163 in the United States according to Alexa. The site currently uses the CloudFlare reverse proxy service, and has been subject to judicial blocking orders in Italy, Portugal and Malaysia.
- **Repelis.tv** – Mexico/Argentina/Spain/Peru/Venezuela. Repelis.tv is a popular streaming linking site that offers more than 150,000 links to more than 10,000 illegally reproduced titles including movies and television series. The website has been active since December 2013. Its global Alexa rank is 1,040 with the following Alexa ranks per country: Mexico, 44;

Argentina, 67; Peru, 70; Venezuela, 101; and, Spain, 226. Repelis.tv had 8.81 million worldwide unique visitors in August 2016 according to SimilarWeb data. Administrators of the website monetize it through advertising served by a large number of national and international ad networks.

- **Watchseries.ac** – France. Watchseries.ac previously watchseries.lt, remains 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. Watchseries.ac had 8.41 million worldwide unique visitors in August 2016 according to SimilarWeb data. The site has a global Alexa rank of 1,181, and a local rank of 763 in the U.S. Watchseries.ac is currently hosted by OVH in France. Watchseries.ac 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 distributing a particular title (movie, TV show, book). As each user downloads pieces of the file, his/her computer distributes the pieces to 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.

An important recent development in the BitTorrent landscape is the July 20, 2016, arrest of a Ukrainian man charged with owning and operating Kickass Torrents, the world’s most visited illegal file-sharing website, and seizure of the associated domain names. The owner was arrested on a charge of criminal copyright infringement. According to the US Department of Justice, Kickass Torrents was responsible for distributing over \$1 billion of copyrighted materials. Separately, in late 2015, following a lawsuit by the six member companies of the MPAA, the High Court of New Zealand issued an interim injunction against the operator of YTS, ordering him to shut down YTS and refrain from operating or promoting the site. This was part of a coordinated legal action against Popcorn Time in Canada. YTS, like Kickass Torrents, had been included in prior years’ Notorious Markets filings by the MPAA.

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.

- **1337x.to** – Switzerland. 1337x.to is a popular torrent website with a global Alexa rank of 856 and a local rank of 2,191 in the U.S. The site provides access to a range of content including movies, TV series, music and software. 133x.to had 8.6 million worldwide unique visitors in August 2016 according to SimilarWeb data. The site is hosted in Switzerland in by Private Layer Inc. Variants of the site have been subject to blocking orders in the United Kingdom, Greece, Denmark, Portugal and Italy.
- **Extratorrent.cc** – Latvia. Extratorrent.cc is a highly popular BitTorrent indexing website. The site has a global Alexa rank of 265 and a rank of 111 in India. Extratorrent.cc had 22.8 million worldwide unique visitors in August 2016 according to

SimilarWeb data. Extratorrent.cc claims astonishing piracy statistics: offering almost three million free files with sharing optimized through over 64 million seeders and more than 39 million leechers. The homepage currently displays a message warning users to use a VPN when downloading torrents. Extratorrent.cc is affiliated with Trust.Zone. Extratorrent.com has been the subject of blocking orders in the United Kingdom, Italy, Denmark, Norway, Belgium and Malaysia. Extratorrent.cc is currently hosted by Bighost in Latvia.

- **Rarbg.to** – Bosnia and Herzegovina. Rarbg.to is a popular torrent website with a global Alexa rank of 462 and a local rank of 798 in the U.S. The site provides access to a range of content including movies and TV series. Rarbg.to had 12.61 million worldwide unique visitors in August 2016 according to SimilarWeb data. The site is hosted in Bosnia and Herzegovina in by NETSAAP Transit Services. The site has been subject to blocking orders in Portugal.
- **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 418, and a local rank of 23 in Russia. Rutracker.org had 12.82 million worldwide unique visitors in August 2016 according SimilarWeb data. The site is hosted in Russia by Dreamtorrent Corp., a Seychelles company that is also believed to be the owner of the site. The site has been subject to blocking orders in Russia.
- **ThePirateBay.org** – Unknown. Available in 35 languages, ThePirateBay.org (TPB) is one of the largest BitTorrent websites on the internet with a global Alexa rank of 167, and a local rank of 112 in the U.S. 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 over the years. 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. While it has never returned to its number one position, it has had a significant comeback after kat.cr and torrentz.eu went offline in 2016. ThePirateBay.org had 47.16 million worldwide unique visitors in August 2016 according to SimilarWeb data. The hosting location of the website is kept hidden by two intermediaries: first by a reverse proxy service and then by a system located at the

hosting provider VinaHost in Vietnam. In addition, users visiting the previously known .se domain are now redirected to the .org domain.

Hosting Providers: Hosting companies provide the essential infrastructure required to operate a website. Websites engaged in massive copyright infringement depend on a hosting provider to make their website accessible online. The hosting provider has the ability to take websites engaged in massive copyright infringement offline or to disable or otherwise shut them down.

Some hosting providers allow sites to hide behind a content delivery network (CDN). A CDN is typically used to effectively and efficiently deliver content to a global user base by placing servers all around the world that cache the pages of the website. One of the by-products of using a CDN is that they mask the true IP and hosting provider of a website. An example of a CDN frequently exploited by notorious markets to avoid detection and enforcement is Cloudflare. CloudFlare is a CDN that also provides reverse proxy functionality. Reverse proxy functionality hides the real IP address of a web server.

Given the central role of hosting providers in the online ecosystem, it is very concerning that many refuse to take action upon being notified that their hosting services are being used in clear violation of their own terms of service prohibiting intellectual property infringement and, with regard to notorious markets such as those cited in this filing, in blatant violation of the law.

- **Private Layer: Panama/Switzerland.** For years, Private Layer has served as a trusted partner for infringing sites. Private Layer operates in anonymity, refusing to respond to outreach notices. They host a large number and array of infringing sites including nowvideo.sx, one of the top streaming cyberlockers in the world; 1337x.to a very popular torrent indexing site; and, Primewire.ag, the-watch-series.to, and projectfree-tv.to, all highly notorious linking sites. The company is registered in Panama and uses servers located in Switzerland.
- **Altushost: Netherlands.** Altushost operates a number of data center facilities across Europe and is host to a number of infringing websites including the popular torrent indexing sites torrentfunk.com and torlock.com. Altus host is not compliant to MPAA notices. Their headquarters are in the Netherlands and they have an office in Sweden.
- **Netbrella: Panama/Sweden/Netherlands.** Netbrella is known to host numerous infringing websites and is consistently noncompliant to MPAA notices. Netbrella does not have a website with identifying information though it is operated out of Panama City with servers located in Sweden and the Netherlands.

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)¹⁰. This contract requires that registrars take certain

¹⁰ ICANN's Registrar Accreditation Agreements (RAA) are available at www.icann.org/resources/pages/approved-with-specs-2013-09-17-en; and www.icann.org/resources/pages/ra-agreement-2009-05-21-en. The 2013 ICANN

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 registries and registrars to operate and perpetuate their illegal activities on such a massive scale. Without the ongoing support of these entities, these sites would find it difficult, if not impossible, to operate.

This past year, MPAA has seen some positive developments in this area of the domain name online ecosystem: the establishment of a voluntary partnership with Donuts, a US registry, and a similar partnership with Radix, a UAE registry, to reduce large-scale online infringement. Under the terms of both agreements, the MPAA will be treated as a “Trusted Notifier” for the purpose of referring large-scale pirate websites that are registered in domain extensions operated by the relevant registries. The agreements impose strict standards for such referrals, including that they be accompanied by evidence of clear and pervasive copyright infringement, and a representation that the MPAA has first attempted to contact the registrar and hosting provider for resolution. Initiatives like these are essential to fostering a healthy online ecosystem and we commend the voluntary efforts of Donuts and Radix.

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. 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 to even investigate, reports of illegal activity on its domains. After the notorious Pirate Bay was shut down by the Swedish government, copycat sites sprung up around the internet. One such site was registered with PDR. As in the past, when notified that this site operated in violation of the law, and was related to the notorious KickAss Torrents (KAT) criminal enterprise, PDR responded disclaiming control over the content hosted on the site or any responsibility under the RAA to investigate or respond further.

Website Portals for Piracy Apps: An ecosystem has emerged around piracy apps for mobile, handheld, and other compatible devices. Websites provide the portal through which the app can

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.”

be downloaded. Once downloaded and/or registered/subscribed, these apps provide users access to myriad pirate motion picture and television titles, including MPAA member studio content. These apps attract millions of consumers, who register, and often pay, for subscriptions.

- **BeeVideo.tv** and **MoreTV** – China. The websites beevideo.tv and moretv.com.cn are portals for users to download the “Beevideo” and “MoreTV” apps, respectively, which facilitate access to infringing copies of the latest run motion pictures and television content. Additionally, one can download these apps on many third party sites including shafa.com and dangbei.com. Different versions of the Beevideo and MoreTV apps facilitate viewing of infringing content on a smart TV or a mobile device. The Beevideo app has been downloaded more than 12 million times, while the MoreTV app has been downloaded more than 10 million times. The portal websites, which are popular in China, also contain or lead to infringing materials directly. The developer of Beevideo is an IT company situated in Shenzhen. The website moretv.com.cn is running on CDN service provided in China.
- **IpPlayBox.tv** – Thailand. The website ipplaybox.tv is a portal that allows users to register to download the IpPlayBox app. This app allows users to access the latest run motion pictures, television content, sporting events, and live streamed PPV events and concerts. The site is extremely popular in Thailand, ranking the 477th most visited site in that country. Users have to pay a monthly subscription fee of US\$7.20. The app has been downloaded 1.2 million times, with estimated revenues of \$8.6 million a month.

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 2016, not only are piracy-friendly shopping complexes such as Galeria Pagé thriving in Sao Paulo, but street vendors are also returning to high profile areas in that city, such as the Avenida Paulista and Faria Lima. The increased success of the Sao Paulo market is attributable to the cancellation of the GGI project (Integrated Cabinet Initiative) and the Sao Paulo city’s complete lack of action to curb the sales of general counterfeited and pirated goods in this area for the past four years. 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.

- **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.
- **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 and a decrease in market stalls, it remains a problematic market and illegal traders often escape across the porous border during raids. However, recent enforcement has led to several arrests court appearances are occurring. Operators of this market have historically strong ties to paramilitary groups and sell an array of counterfeit products, including pirated optical discs.
- **Mutino and Gorbushka Markets** – Moscow, Russia. The Mutino Market in Moscow continues sell counterfeit products with 14 outlets selling pirated content. 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 31 operational kiosks selling pirated content, a slight increase over 2015.
- **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. One can still find pirated and counterfeit goods at these locations; all have been designated as “red zones” by Thailand authorities.
- 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 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,



Joanna McIntosh Executive Vice President
Global Policy and External Affairs