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**STATEMENT OF INTEL CORPORATION CONCERNING THE WORLD INTELLECTUAL PROPERTY ORGANIZATION'S PROPOSED TREATY ON THE PROTECTION OF BROADCASTING ORGANIZATIONS**

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**Background.** The World Intellectual Property Organization is drafting a proposed "Treaty on the Protection of Broadcasting Organizations." For many countries (including the United States) the treaty, if adopted, will create an entirely new type of intellectual property right. Under the treaty, broadcasting organizations obtain new legal rights to control uses of content that they broadcast—rights that are separate from and in addition to any existing copyright rights in the content. Adopting countries can choose to extend these new rights to "webcast" content in addition to traditional broadcast content.

**Intel's position.** Intel opposes the WIPO Broadcast Treaty. Proponents have not demonstrated that the benefits of creating new exclusive rights outweigh the burdens that these new rights impose. These burdens include:

- *Control of mobile device and digital home innovation.* The treaty could give broadcasting organizations the right to control uses of content within the home—uses that are legitimate and non-infringing under copyright law. For example, makers of digital video recorders could be required to obtain licenses and agree to limitations imposed by broadcasters in order to enable "time shifting" of broadcast content. Similarly, mobile device designers could be required to get permission from broadcasters (in addition to copyright owners) in order to enable innovative uses of broadcast content. This regime will increase consumer costs and reduce technical innovation.
- *Technical Protection Measure (TPM) provisions will become regulatory mandates that limit design freedom.* The treaty requires that the new broadcaster rights be protected by TPMs. Because broadcasting signals are generally subject to government standards, TPMs will need to be incorporated into these standards. Government-mandated TPMs will limit design freedom and distort markets.
- *Liability risk for software developers, device makers, and ISPs.* Under copyright law, in some circumstances one party can be liable for infringement committed by an unrelated party. The treaty raises similar questions of secondary liability for infringement of its new broadcaster rights, but provides no guidance or safe harbors that limit risks for those non-infringing parties that might inadvertently enable infringement. These unquantifiable risks will inhibit innovation and market development.
- *Increased rights clearance complexity.* Users of content already face a nearly impenetrable thicket when trying to clear traditional copyright rights. Adding more complexity to the clearance process will inhibit innovative uses of content.
- *Harm to copyright owner interests.* Content users will pay licensee fees to broadcasters in addition to copyright owners, likely resulting in reduced revenues for copyright owners. Reduced incentives for creators may result in less created content.
- *Harm to public interests.* The treaty could limit "fair uses" and other publicly beneficial uses of content, and restrict content that is otherwise in the public domain.

Intel believes that efforts to enact the WIPO Broadcast Treaty should be abandoned. Alternatively, and less optimally, Intel believes that the scope of the treaty should be dramatically narrowed, to focus specifically on signal theft.