

**REQUEST FOR US GOVERNMENT OPPOSITION TO ADVANCING A DIPLOMATIC TREATY
CONFERENCE ON THE PROPOSED WIPO TREATY ON THE PROTECTION OF
BROADCASTING ORGANIZATIONS FROM CERTAIN INFORMATION TECHNOLOGY,
CONSUMER ELECTRONICS AND TELECOMMUNICATIONS INDUSTRY REPRESENTATIVES**

On behalf of the undersigned companies and associations, many of whom attended last week's SCCR 15th session in Geneva, we would like to express our concerns about the controversial decision to convene a Diplomatic Conference on the proposed WIPO Treaty on the Protection of Broadcasting Organizations which is proposed for mid-2007. We ask that the US Government reach out to other country delegations and express its objections to proceeding with a Diplomatic Conference at this time.

The outcome of last week's meeting leaves us with broad draft treaty language which is not limited to signal theft, does not address network intermediary liability, does not adequately address limitations and exceptions, and includes broad technical protection measure (TPM) protections language. In addition, the actual text of proposed treaty language, which would form the basis of a diplomatic conference, was, at the end of last week's meeting, very much up in the air.

During the last day of the 15th SCCR, the Chairman did promote a different approach to developing a treaty. His approach appears to provide a basic framework more consistent with both US law and the undersigned companies' interests. In addition, it is our view as observers that there was growing support for such an approach on the floor. Given the amount of disagreement regarding the SCCR 15/2 text, and the strong support throughout these negotiations by most delegations for protecting signals only, we do not believe that it is appropriate to proceed to a Diplomatic Conference without doing so on the basis of a text which clearly has consensus and is focused on such an approach.

In discussions between industry and delegations, we detected shared concerns regarding the state of the SCCR 15/2 text. We believe that the US Delegation should engage in bilateral outreach to a number of countries that expressed concern and seek support to: (1) reject moving forward with a Diplomatic Conference until there is a stable text; (2) narrow the treaty's scope to signal theft; (3) narrow the term of protection; (4) ensure limitations on network intermediary liability; (5) ensure other appropriate limitations and exceptions, such as excluding home and personal networks; and, (6) exclude TPMs from the scope of the treaty.

We appreciated the opportunity to consult with the US Delegation and we were disappointed that the initial objections they raised at the meeting about proceeding with a Diplomatic Conference were ignored. We therefore would encourage the USG to send a follow up letter to the Director General of WIPO and other appropriate parties further expressing its strong objections to authorizing a Diplomatic Conference at the General Assembly.

Should there be a proposal to convene the SCCR again in early 2007 to consider a redraft of the Draft Basic Proposal based on the Chairman's outline and associated comments, as

well as the many interventions of a similar nature by other delegations including the USA at SCCR 15, such a draft text should be developed and broadly circulated *before* such a meeting is held. No Diplomatic Conference should be authorized until there is a real consensus text.

The role of WIPO in norm setting is extremely important to the undersigned, all of whom are significant intellectual property holders. Given the unstable condition of the current draft treaty, there is a low probability of a successful Diplomatic Conference. The damage to the institution of a failed Diplomatic Conference would detract from international intellectual property norm setting - a fate all of the undersigned wish to avoid.

We recognize that there is limited time to undertake outreach to other country delegations; however, we believe this outreach is critical. We stand ready to meet with the US Delegation at any time to further express our concerns and lend our support.

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Broadband Service Providers
Association
Cingular Wireless
Computer and Communications Industry
Association
Consumer Electronics Association
CTIA - The Wireless Association
Dell Inc.
Hewlett Packard Company

Home Recording Rights Coalition
Intel Corporation
Panasonic Corporation of North America
RadioShack Corporation
Sony Electronics Incorporated
TiVo Inc.
U.S. Internet Industry Association
USTelecom
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