Keynote speech by Congressman Robert Wexler to the World Copyright Summit (Washington DC, 9 June 2009)
Thank you so much for welcoming me here today.

I am sorry that Stanford McCoy from the United States Trade Representative could not be with us today, but in his place I would like to offer you my thoughts about the global outlook for intellectual property and copyright issues.

It is my goal today to look at the broader picture of international property protection.

I especially want to examine the recent trends I see in our community’s efforts to win the messaging battle both here in the United States and abroad.

Selling our message that intellectual property rights must be protected and that such rights promote economic development in first world and developing countries seems self-evident.

Unfortunately too often these ideas do not carry the day – not only among the younger generation – but also within international governing bodies.

President Obama has communicated the importance he places on technological progress through the creation of a technology czar position in the White House.
In addition, we can anticipate in the near future the designation of an IP Czar whose role will center on coordinating the efforts of federal agencies to more effectively combat piracy and counterfeiting. This particular position was empowered through legislation during the last Congress.

In the United States House of Representatives, I am privileged to sit on both the Judiciary and Foreign Affairs committees.

In both of these committees we confront a great number of intellectual property issues from a variety of perspectives.

I hear strong voices in favor of intellectual property rights both throughout the United States and in international venues like this one here today.

But what do we hear from the larger international community?

What is the message?

Too often - I am sorry to say – our perspectives and goals are losing ground.

In the public debate, outside Washington and Brussels – and beyond trade journals and economic reports, most people, first, would not be able to describe what intellectual property is. Second, too many do not see digital piracy – for example - as the serious theft that we here in this room know it to be.

These regrettable opinions from the public at large are being harnessed by a ground swell of anti-intellectual property sentiment from the so called ‘Napster generation,’ which has come of age in a digital file-sharing era.

Their position is buttressed by those in the business world who do not stand in support of intellectual property rights and instead enable those who violate these international laws for their own gain.

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For many years, I have been concerned about issues relating to intellectual property rights. This focus led me to found the Congressional Caucus on Intellectual Property Promotion and Piracy Prevention.

Two years ago, as Chair of the Caucus, I sent a letter to my colleagues in the House of Representatives focusing on some of the major problems and challenges we face on intellectual property issues around the globe.

In a tongue and cheek manner, I used the genuine formation of the “Pirate Political Party” in Sweden as an abstract way to point out how silly and extreme those on the other side of this debate had become. Evidently, I was quite wrong about the extreme part.
As nearly everyone in this room knows, this week that same "Pirate Political Party" won a seat in the EU parliament. It won 7.1% of the total vote in Sweden, and even more shockingly, it had the HIGHEST percentage of 18-25 year-old voters. That statistic should alarm all of us in this room who care about intellectual property law.

The fact that younger people came out to vote in such large numbers is significant because we know that getting someone to the poll the FIRST time is the hardest part.

Those young voters are now much more likely to vote in the next election -- and the election after that. Soon, those 18-25 year olds will be home owners, and business owners and employees of major companies.

We know that one’s political identity is often shaped in the early years of voting. If you first vote Democratic – in this country for example – you will more than likely vote for that same party for the reminder of your life. That is why the Reagan generation of young voters was so helpful to Republican success and why the Obama generation of young Democratic voters will be so helpful to Democrats in the future.

We can’t lose this generation on intellectual property issues and we can’t fool ourselves. In Sweden this week we saw a group of political newcomers start to embed their perspectives in stone.

While my other colleagues will speak to some of the specific legislation underway in the House and the Senate, I'd like to discuss what government can NOT do, and where both government and the private sector have fallen short of where we need to be.

First and foremost, those of us who understand the importance of intellectual property law have failed to do the job in educating others toward our point of view. Artists, creators, governments, and industry must join together to spread this message.

The truth is that we have a great story to tell and we must tell it better.

Our collective job is to raise awareness of the potential of intellectual property to contribute to the social, cultural and economic advancement of countries and individuals throughout the world.

We must send an unequivocal message that the theft of intellectual property – whether the corporate piracy of software, organized crime manufacturing of optical disks, or personal Internet downloading – will not be tolerated.

It is unquestionably important that we, as public officials and people who care about intellectual property, promote the benefits of strong intellectual property legal structures throughout the world, while also insisting on the enforcement of laws designed to protect intellectual property rights globally.

But we cannot believe that this traditional advocacy is enough.
We are facing two significant problems simultaneously. First, our voices are getting increasingly lost in a sea of misinformation from the anti-intellectual property community. And second, our opponents don’t necessarily have to play by the rules.

The anti-intellectual property advocates are free to make simple arguments that often resonate with an audience because they are not based in “facts” or “legal rights.”

They often use exaggerated or falsified examples to serve as the face of the dispute. So, when the Swedish Pirate Party talks about how music is universal and has always been available for everyone to enjoy for free, we end up with the unenviable task of explaining the finer points of copyright laws to a public that has no interest in the longer explanation, however accurate, responsible and correct it may be.

I found this out on a personal level, when I was in Congress during the original file-sharing debate about Napster. I remember unveiling a strongly worded statement against Napster and a defense of our intellectual property legal regime. I thought I sounded pretty good. I knew I wouldn’t be popular with high school and college students in my district. But I was shocked when my father called me and said I sounded like I was on the wrong side of the issue. I knew if I couldn’t even convince my own father – that we had a big problem.

Julian Sanchez from CATO has discussed this exact problem, which he calls a "one-way hash" where "for every confused or muddled claim, it would take about a dozen paragraphs of explication to make clear to someone not intimately familiar with [the subject] what’s wrong with it."

So, what a blogger in Sweden writes in a few minutes would take hours or days for the copyright community to answer in an appropriate factual response. It takes much longer to argue using facts and precedent than it does to say anything you want because it sounds plausible -- just like it takes far longer to make a movie than it does to steal it.

And to add to this, there are significant business interests, both legitimate and grey market, that benefit from weakening intellectual property protection. Sadly, some companies who have a strong interest in WEAKENING copyright are spending lots of money to influence voters.

Even worse, the less someone knows about the subject, the more likely they are to be swayed by these empty arguments --and the more likely they are to be convinced that they are right. And none of this is going away.

While meetings like this are important and extremely valuable, what also needs to happen is a concerted undertaking that understands the vast problems we face and designs solutions and strategies so we can win the debate and truly win the hearts and minds of this younger generation.

Government effort alone is not the answer. The fact that the Pirate Party and others are moving their agenda toward and into governmental structures demonstrates that government-only solutions are not going to be enough.
Copyright, patent and trademark industries need to work together cooperatively, and to use resources more efficiently in messaging to ensure that no anti-intellectual property message is allowed to go effectively unchallenged. And while we have all been working towards this, to date we are falling short.

For example, a recent UN-sponsored internet governance forum in India brought together various international leaders to discuss the many global issues related to the Internet. This is an important topic, which should have rightfully generated a tangential interest in related intellectual property issues. However, at almost every single panel and discussion there was a significant intellectual property component. And the opinions expressed about intellectual property rights were largely unfavorable. So what we ended up with was a UN-sponsored event educating an international government audience about how strong intellectual property protection is a hindrance to the developing world.

This message is particularly frustrating for me, as I am sure to those in this room, because I believe so strongly that vibrant intellectual property law is a KEY to economic development in these same developing countries.

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The creativity and innovation that have transformed the United States and enhanced our standard of living should stand as MODELS for nations still in transition to healthy and resilient modern economies. Everyone here knows that intellectual property is the backbone of global economic competitiveness.

Intellectual property is the only place where the United States has a trade surplus with every nation in the world. In America today, our capacity to come up with new ideas actually outstrips the value of the goods we make.

Almost three quarters of real business value in the US is intangible. The most recent report found that the total copyright industry contributed $1.38 trillion to the US economy or 11.12 percent of the Gross Domestic Product. In 2005, the total copyright industry employed 11.3 million workers in the US or 8.5 percent of the total workforce. The licensing of U.S. patents contributed an additional $150 billion according to KPMG, and that number is growing.

There are millions of jobs created by the U.S. copyright industries -- and these jobs are more important than ever based on our economic crisis. With American, and international, businesses in such dire straights, the value of innovation of these businesses is even more important than ever. And while our overall economy has contracted, the innovation industries continue to grow both in American and internationally.

So why is this not a home run?

When we in this room recognize the increasing importance of intellectual property in rebuilding our global economy, it is amazing that some groups and interests instead see this as the time to dismantle key protections and erode the value of creative works.
The Office of the U.S. Trade Representative cited 50 countries, even key allies, such as Canada and India, for failure to adequately protect U.S. intellectual property rights. A study by the Business Software Alliance showed that software piracy alone amounted to $53 billion in losses in 2008. Intellectual property theft isn’t just software and movies anymore either. It is everything from copies of machine tools and counterfeit car parts to knock offs of golf clubs, designer handbags, watches and jewelry.

That said, we are not perfect here either.

The United States of America certainly has had our own problems protecting and valuing intellectual property.

The United States Patent and Trademark Office has been under tremendous pressure to keep pace with all of the applications for patents, trademarks and copyrights that have poured into their offices during the past decade. Unfortunately, without the funding - they haven’t always been successful. While significant improvements have been made recently, pendency is still high, which means that inventors have to wait longer than they should have to in order to place their ideas into the marketplace.

And just as in Sweden and elsewhere across the world, this young generation of Americans does not see intellectual property as worth protecting. The proliferation of illegal file-sharing networks at universities means that when they graduate from college, our young people will have become completely accustomed and desensitized to this form of theft. In fact, it is in our high schools and colleges where we must improve our outreach and spread our message of respecting the value of intellectual property.

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In order to harness the strength that the intellectual property economy has to offer -- and to maintain that growth – we in government must first continue to protect intellectual property and ensure that our encouragement is sparking growth rather than stifling invention and progress.

This commitment to protection must be the baseline for moving forward, and -- as I am sure you heard from Senator Hatch and will soon hear from Representative Conyers and Senator Leahy – faces its own challenges.

But from a broader perspective, we need to use our shared appreciation of intellectual property to unite us internationally and this is the perfect moment for us to do just that.

For the last eight years the United States foreign policy was self defeating, and counterproductive. Too often the Bush Administration acted in supposed self interest only to anger our allies and doom alliances that would be in both the interest of the United States and the international community. This strategy prevented success on countless vital issues including the military efforts against terrorist extremists, global climate change, nuclear proliferation, trade, and economic growth.
This all changed with the election of President Barack Obama. I decided to endorse Barack Obama for President very early because I knew that he could have a transformative effect on both politics in the United States and throughout the world. I knew President Obama would rebuild our international alliances and work to forge new relationships that would make the United States and the world more secure. This is now happening. We saw this happening just last week in Cairo.

The intellectual property community must ride President Obama’s coat-tails in this respect. As the President re-builds the transatlantic relationship, we also must use this momentum to harmonize and cooperate on vital intellectual property issues with Europe.

As this Administration builds a new strategic partnership with Russia and China, we must capitalize on this re-birth of relations to place vitally important intellectual property concerns on the agenda.

Those of us in this room know how intellectual property can bring us together as you create the very technologies that speed communications and make physical borders obsolete. Let us capture and utilize the spirit of international reconciliation that will be fostered over the next four (or eight) years as impetus for us as an international intellectual property community to come together and work collaboratively.

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In conclusion, intellectual property is a tool not to build up one country or industry but to strengthen and unite us globally.

We must encourage all our respective governments to send a message that piracy cannot be ignored nor condoned by the state. But even that message alone is not enough. If we truly care about protecting intellectual property for the next generation, we must change our message and our approach.

Quite frankly, international copyright piracy is crippling American businesses overseas.

Piracy overseas cost the U.S. copyright industries billions each year. The losses of European and other foreign businesses are no doubt staggering. And even this dramatic estimate understates the magnitude of the problem, since it fails to capture the impact of export piracy and the escalating losses due to Internet theft.

I still believe that strong and ongoing enforcement is crucial to ending piracy and must include vigorous implementation and enforcement. This must include shutting down all plants and prosecuting owners of all plants that are found to be pirating but also supporting those factories and owners who are found to be working in good faith under the law.

However, we must recognize that punitive measures and enforcement-focused outreach alone are doomed to failure in this digital age. It is the battle of message that we must win first and foremost. We can and we will succeed in this effort, but our tactics and messages must improve.
I respect your commitment to these issues, and I am grateful for the opportunity to share my thoughts.

Thank you.

I want to particularly thank CISAC Chairman Brett Cottle and President Robin Gibb along with ASCAP Chairman Paul Williams and BMI President Del Bryant.