In the final few weeks before the 2004 election, lobbyists for high-tech, entertainment and civil liberties interests were crammed into an icy room in the Dirksen Senate office building, trying to hammer out a bill that would have put Internet song-swapping networks like Kazaa and eDonkey out of business.

It was a controversial measure on a difficult topic, and could have easily been lost in the end-of-year shuffle. But Senate Judiciary Committee Chairman Orrin G. Hatch (R-Utah) was the lead sponsor of the measure and had ordered the warring factions to keep talking until they came up with language everybody liked.

Talks eventually collapsed, but the fact that the measure was being debated at all in the October before a national election testified to the power that an influential committee chairman like Hatch has in managing the legislative agenda.

"People were in that room for two reasons: One, because Senator Hatch has a history of wanting to get stuff done on intellectual property issues; and two, because he's the chairman," said a former Senate Judiciary counsel, who asked to remain anonymous.

In the realm of protecting music and movies from electronic theft, Hatch has been the entertainment industry's most powerful ally in Congress. A songwriter himself, Hatch has waged war against illegal file swapping, backing laws to stiffen copyright protections and keeping the issue in the spotlight with a steady stream of high-profile hearings.

In 2005, term limits require that Hatch hand over his chairman's gavel to Sen. Arlen Specter (R-Pa.) -- an otherwise routine power shift that could have far-reaching implications for high-tech firms, movie studios, record companies and the future of downloading.

In Congress, the Senate and House judiciary committees have jurisdiction over any attempt to change federal law regarding criminal or civil violations. Efforts to outlaw certain kinds of peer-to-peer file swapping, increase penalties for illegal downloading or establish new rules against electronic copying must pass through those committees before they can come to a vote. In both chambers, chairmen set the agendas for their committees, so these individuals hold great sway over which bills go on the fast track and which ones die on the vine.

"Hatch has been a tremendous champion of certainly copyright, but also of all the intellectual property issues. It's not just a constituent issue for him. He's been just a terrific chairman, so it's a loss to not have him at the gavel," said Robert Raben, a former House Judiciary staffer who now lobbies Congress on intellectual property issues on behalf of the Recording Industry Association of America and other clients.

Opponents of the entertainment industry in the copyright debate -- including high-tech companies, Internet
service providers and civil-liberties advocates who have long argued that stiffened protections come at the
expense of lost technological freedom -- see Specter's ascension as an opportunity to gain ground in a fight
that they say has been stacked against them.

In the late 1990s, Hatch led the effort to pass the landmark Digital Millennium Copyright Act in the Senate.
That law, signed by President Clinton in 1998, stiffened protections for legitimate copies of music, movies
and software, making it a crime to circumvent the electronic safeguards that copyright owners use to prevent
illegal duplication. Specter voted for that measure along with 98 other senators, but Hatch was the sole
Senate sponsor.

In 2004, Hatch backed measures intended to ratchet up both criminal and civil crackdowns on people who
illegally share protected songs and other media over services like Kazaa. He was also the prime mover
behind the "Induce Act," the bill that kept industry lobbyists locked in a cold room well into October.

Modern peer-to-peer services like Kazaa, eDonkey and BearShare dodge liability for their customers'
rampant piracy by decentralizing their networks and abandoning the ability to control what files their
customers trade with one another. The Induce Act aimed to close that loophole by making it illegal for a
company to profit by "inducing" people to violate copyright. The problem, according to opponents of the
measure, was that Induce could be interpreted to target popular, legal devices like Apple's iPod.

"It's not clear to me what [Specter's] positions are on these issues but I think he's generally going to be a
little more balanced. Hatch has really been an unabashed friend of the content industry and Specter has no
such record," said Gigi Sohn, the president of Washington-based Public Knowledge.

Wherever Specter comes down on the copyright debate, it's an issue that will almost certainly take a back
seat to other matters, at least at the outset of his chairmanship, former Specter staffers said.

"What he's going to care the most about are the judicial nominations, with asbestos and class action coming
[second and third]. Those are the issues that for the first six months are going to be taking the lion's share of
his time," a former Specter staffer said. Like many of the former congressional aides interviewed for this
story, the staffer still works in politics and asked to remain anonymous so as not to jeopardize his
relationship with the committee.

When he does come to grips with the copyright debate, Specter is unlikely to be too heavily swayed by what
his predecessors have done, said David Urban, managing director of lobbying firm American Continental
Group and a former aide to the senator.

"Everything is on the table. Everything is going to get a fresh look. Everything within the purview of the
committee, he's going to take a big interest in," Urban said of Specter. "He's very deliberative. He wades in
up to his chest in all the details. He's a guy who really likes to know all the subject matter."

Urban and other Specter staffers said it would be very like the senator to invite all the combatants in the
copyright debate up to his office before he settled on any stance.

But while opponents of the recording industry may be salivating at the prospect of starting the Senate debate
from scratch, sources familiar with Hatch doubt the outgoing chairman will cede his copyright role that
easily.

"To the extent that people think ... the center of power over intellectual property issues will shift from
Senator Hatch to Senator Specter, they may be quite mistaken," said a former judiciary staff who now
lobbies on behalf of copyright owners.
The aide, who asked to remain anonymous, said Specter might be inclined to let Hatch keep holding the reins. Specter "has been a follower rather than a leader on these issues," the aide said. "Given his new role and the number of issues he's going to have to deal with off the bat where he has shown an interest, he may choose ... [to] let Hatch and [ranking Democratic panel member Sen. Patrick J.] Leahy take the lead."

Before Hatch assumed the chairmanship, the panel had a subcommittee that dealt exclusively with intellectual property matters. A former staffer for Hatch said the senator did away with that subcommittee largely because he wanted to keep the issue under his own jurisdiction, but Specter could spearhead an effort as chairman to reestablish it.

Former staffers for both senators said that if Hatch wanted to re-launch the intellectual property panel, Specter would probably play along. Nobody in the committee or in the senators' offices would comment on whether such a move had been discussed, but lobbyists on the issue, former staffers and observers suspect it's already in the works.

"Specter and Hatch work pretty well together and [Hatch] was pretty good during the whole discussion of [Specter's] chairmanship. That's something where Specter would be willing to help," one of Specter's former aides said.

Hatch getting the subcommittee nod could significantly shift the dynamic of the debate. Congress watchers point out that the House, which still has an intellectual property subcommittee, has been far more prolific than the Senate in drafting measures on the topic in recent years. Were Hatch to chair a subcommittee, he would have an entire staff and a huge chunk of his time to devote to those issues.

And even if he isn't given a new chairmanship, Hatch will remain a force in the intellectual property debate, said Harris Miller, president of the Information Technology Association of America. "He's still a senior member of the U.S. Senate and if he stands up on January 1st and says, 'This is an issue that needs to be dealt with,' it's not like people are going to suddenly ignore him because he's no longer chairman."

Still, regardless of where Hatch ends up, Specter will play a major role in how the electronic piracy debate evolves in the upcoming congressional session. Even if Hatch is chairing a subcommittee and churning out bills, it'll be up to Specter to determine what moves.

He may get a chance to make those decisions early in the term. In addition to Induce, two other anti-piracy measures supported by Hatch -- one which would have allowed the Justice Department to slap downloaders with financial penalties, and another which would have made it easier to jail file swappers -- failed to pass at the end of the 2004 session.

"Copyright issues are important and they're going to percolate up, and it's really impossible for [Specter] to ignore them," said David Green, vice president for technology and new media at the Motion Picture Association of America. "He might be right now more interested in something else, but because these issues are important to America they are going to be important to Arlen Specter."

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