

# United States Senate

WASHINGTON, DC 20510

August 13, 2004

Marybeth Peters, Register of Copyrights  
United States Copyright Office  
James Madison Memorial Building  
101 Independence Avenue, SE  
LM-403  
Washington, DC 20540-4000

Dear Register:

Thank you for agreeing to assist our efforts to find a technology-neutral, behavior-based solution to the problems of rampant on-line piracy of copyrighted materials. We request that you play a leadership role as we meet with the interested parties designated by our offices during the next few weeks in order to identify proposed solutions to any legitimate concerns raised about S. 2560, the "Inducing Infringement of Copyrights Act of 2004."

Specifically, we would like your assistance in identifying key concerns that have been raised about S. 2560 and serving as our principal copyright adviser in a series of meetings designed to resolve any remaining issues.

There is little dispute that entities intentionally encouraging and promoting widespread infringement should be held secondarily liable for the infringement that they intend to induce. The imposition of such liability is particularly appropriate given that much filesharing software automates the redistribution of infringing files so effectively that people making hundreds of works available for distribution to millions of persons across the globe can testify that they had no idea that they were engaged in the massive, global redistribution of those protected works.

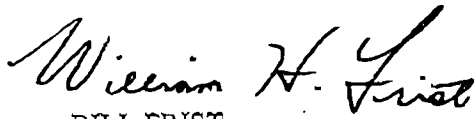
We do recognize, however, that some technology companies are concerned that claims for intentional inducement of infringement might be misused frivolously against entities who distribute legitimate copying devices or programs such as computers, CD-burners, personal video recorders, email services, etc. We are open to any constructive input on how Congress can best frame a technology-neutral law directed at a small set of bad actors while protecting our legitimate technology industries from frivolous litigation.

We continue to believe that the existing law of secondary liability provides considerable protections against potential abuses of a cause of action for intentional inducement of copyright infringement. Indeed, we suspect that many concerns about such claims may be resolved by making explicit principles already present in the body of law against which this cause of action would operate. Nevertheless, we remain open to other approaches. When possible, we would like you to attempt to achieve consensus proposals.

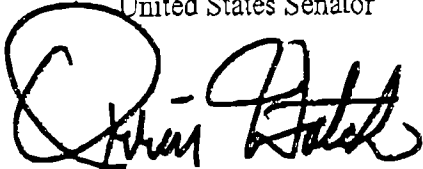
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As noted at the Judiciary Committee hearing, we intend to resolve this serious threat to artists, consumers, and the development of safe, lawful Internet commerce as soon as possible. As a result, we request that you present us with any recommendation you may have no later than the close of business on September 7, 2004. Thank you again for your efforts to assist Congress in addressing the many difficult issues related to transitioning our system of copyrights into a networked, digital age.

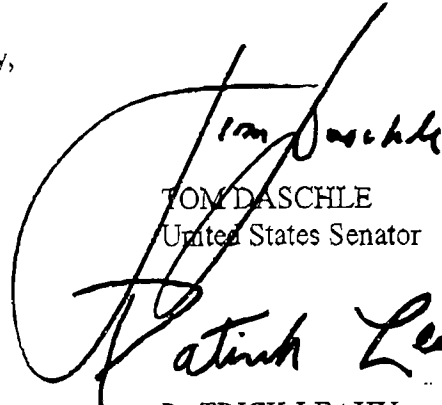
Sincerely,



BILL FRIST  
United States Senator



ORRIN HATCH  
United States Senator



TOM DASCHLE  
United States Senator



PATRICK LEAHY  
United States Senator