

**From:** [REDACTED]  
**To:** [FN-OMB-IntellectualProperty](#)  
**Subject:** Comments on Docket Number USTR-2010-0003  
**Date:** Monday, March 15, 2010 11:54:14 AM

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Ms. Groves

RE: 2010 Special 301 Review  
Docket Number USTR-2010-0003

Jennifer Choe Groves  
Senior Director for Intellectual Property and  
Innovation and Chair of the Special 301 Committee  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508 USA  
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Dear Ms. Groves:

Thank you for hearing the comments of consumers of entertainment products.

U.S. copyright laws must balance the interests of intellectual property content owners with the rights and interests of their consumers. Copyright laws may provide owners with the exclusive rights to use their works as they see fit, though such rights are not absolute, and are limited in time, nature and scope.

As a consumer of entertainment products, copyright laws are already imbalanced in favor of stronger rights for content owners. The fundamental principles that benefit a strong and productive consumer and content creator relationship should be defined as follows:

? Copyright laws should seek to protect consumers - wherever they may reside - and the public interest, as well as content creators - not just the technology limiting access to content, which shifts the law in favor of the content creator.

? These laws should encourage a better understanding through intellectual property education of the fundamental concepts of intellectual property throughout all societies, in the Court systems, government and with the general public. Before making any rulings, it would be wise for governments to undertake an unbiased review of new technologies for the purposes of understanding their functions and how they might benefit or harm consumer, in addition to industry, interests. Such new technology may include new forms of data distribution such as Peer-to-Peer networks, digital content creation, as well as devices that may potentially circumvent the copyright protection features of current technology.

? Modifying copyright laws to modern technologies should not undermine consumer rights or constrain common consumer practices that have been in place for many years in those nations. Selecting narrow, specific provisions that define a particular type of copyright or trademark infringement is one particular method that will defend and laud not only content owners' rights, but also protect consumers from egregious blanket policies.

? Technology which weakens the existing rights of consumers while strengthening the protection of content should not be valued nor promoted. As it has never been a violation of copyright law for a consumer to listen to music or read a book in the privacy of one's residence, electronic copies of such works should be treated in the same fashion. Further, current laws, which allow making a personal backup copy for data, either in digital form or in physical form, should not be diminished.

? Encourage governments, including our own legal system, as well as those of other nations, to further define penalties for copyright and trademark violations so that the Courts will have a common, shared

threshold of consequences for violations. If the Courts are to uniformly enforce intellectual property, common standards throughout the provinces must be made and adhered to. Again, this concept returns to the importance of intellectual property education in our society.

History has shown that consumers will not accept a series of laws that place industries ahead of them. A balance must be met between content creators and consumers in order for a healthy and productive society to be achieved. Any copyright legislation to advance business and consumer interests must embody these principles. Consumers will continue to push for legislation which not only protects copyright owners, but also protects consumers from potentially egregious and one-sided policies.

If you have any questions on this or other similar issues please contact Jennifer Mercurio, the Entertainment Consumers Association's Vice President & General Counsel, at [jenn@theeca.com](mailto:jenn@theeca.com).

Sincerely,  
Daniel Boeve

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