

The Honorable Orrin G. Hatch  
U.S. Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Patrick Leahy  
U.S. Senate Committee on the Judiciary  
152 Dirksen Senate Office Building  
Washington, DC 20510

October 6, 2004

Dear Chairman Hatch and Senator Leahy,

The Center for Democracy and Technology thanks you and your staff for including us in the ongoing discussion surrounding S.2560, the "Inducing Infringements of Copyright Act," and for your thoughtful approach to the hard problems raised by peer-to-peer copyright infringement. After spending many hours as part of the ongoing deliberations, we believe some real progress has been made in crafting a bill. Unfortunately, this process is just now reaching the most difficult drafting issues, and many concerns remain to be addressed before a broadly acceptable draft can be created that does not jeopardize legitimate consumer products.

CDT has been supportive of the dual goals you set forth for this process: punishing bad actors who intentionally encourage the massive piracy found on some peer-to-peer networks, but without banning whole technologies or undermining legal precedents so important for innovation. However, the latest drafts fall far short of the goal, set out in your letter to the Register of Copyrights, of a "technology-neutral law directed at a small set of bad actors while protecting our legitimate technology industries from frivolous litigation." Instead, the draft circulated by the RIAA early this morning would sweep in a broad range of legitimate consumer technologies, leaving those who simply design and distribute products like TiVo, online collaboration tools, new instant messaging systems, and even web browsers subject to litigation under S.2560.

We understand that S.2560 is still scheduled for markup by the Judiciary Committee this week. Despite the progress being made, **current drafts would chill the development of legitimate consumer technologies, and we urge you not to pass S.2560 out of Committee at this time.**

CDT remains committed to working with you and with the Committee to craft a bill narrowly targeted at bad behavior by a small set of actors. In the meantime, however, we urge you not to move forward with S.2560 because of the real risks it presents to communication and innovation on the Internet.

Sincerely,

/s/

Alan Davidson  
Associate Director  
Center for Democracy and Technology

cc: Senate Judiciary Committee