

# The Authors Guild, Inc.

*Corporate Member of the Authors League of America, Inc.*

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March 24, 2010

Victoria A. Espinel  
U.S. Intellectual Property Enforcement Coordinator  
Office of Management and Budget  
Executive Office of the President  
Washington, D.C.

Re: Coordination and Strategic Planning of the Federal Effort Against Intellectual Property Infringement: Request of the Intellectual Property Enforcement Coordinator for Public Comments Regarding the Joint Strategic Plan

Dear Ms. Espinel:

We write on behalf of the 8,900 members of the Authors Guild, the largest society of published book authors in the United States, to discuss the growing threat of digital piracy to the livelihoods of American authors. This threat, if not quickly and aggressively addressed, could work to undermine the economics of the U.S. book industry.

Over the past several years, we've all seen that those who depend on effective copyright protection for their livelihoods are vulnerable as never before, and no group is more dependent on effective copyright protection than book authors. The music industry was hit first and hardest by online piracy. It has never fully recovered from that, but individual musicians have several sources of revenue other than sales of recorded music. Musicians have performance rights societies that pay musicians hundreds of millions of dollars annually for broadcast and other uses of their works. Musicians are also able to earn a living by selling performances. The movie industry also suffers the effects of online piracy, largely through lost DVD sales, but movie

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piracy can't replace the experience of going to a movie theater: piracy affects only one of the movie industry's important revenue streams.<sup>1</sup>

Most authors, on the other hand, have only one significant source of revenue for their literary efforts: the licensing of their book rights. If the value of that license erodes due to unlawful competition from pirates, then the ability of authors to earn a living will inevitably diminish. Many authors will be compelled to work in other fields, resulting in an immeasurable loss to our culture and society.

Compared to the movie and music industries, authors and the book industry have been fortunate, so far. Digital piracy of trade books<sup>2</sup> has, for the most part, been a relatively minor (though growing) annoyance rather than a substantial economic encumbrance. The trade book industry's good fortune, however, is poised to run out.

Until very recently, the book industry has been protected by the poor quality of e-book reading devices: digital copies have not been a good substitute for physical books. For years, the most popular e-book reading device was the Palm Pilot. (This may be why some experiments with giving away digital versions of books appear to not detract from book sales – given an option, few people have chosen to read a digital version of a book.) Amazon's introduction of the Kindle and particularly the Kindle 2, about a year ago, has started to change that. So, too, has the introduction of high quality e-book reading applications for Apple's iPhone and other mobile phones with advanced display screens. Next week's launch of Apple's iPad, which is expected to support several e-book reading applications, may finally bring an end to the time when book authors could take some comfort in the protections afforded by a clearly superior technology – traditional print-on-paper books – to the efforts of digital pirates.

Book pirates are poised to take advantage of the shift in technology. Already there are dozens of websites that allow and sometimes encourage users to illegally share e-books. Many of these sites are offshore, in countries with poor records of copyright enforcement. Some purport to be in jurisdictions where notice-and-takedown rules don't apply. All pose a direct threat to authors.

Our proposal is simple: we recommend that the office of the Intellectual Property Enforcement Coordinator, as a first but critical step, maintain a watch list of piracy websites. Authors and publishers need a place to report websites that are commonly used to trade unauthorized copies of books. The office would then assess the threat posed by such websites and establish priorities for, as appropriate, civil, criminal, and diplomatic action. A brief, annual online book

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<sup>1</sup> The newspaper and magazine industries suffer less from piracy than from a race to the bottom: once a few news sources give away content for free in order to draw additional readers to their websites, nearly all newspapers and magazines had to do so to remain relevant online.

<sup>2</sup> "Trade books" are books for general readers found in typical bookstores, the category doesn't include, for example, works such as textbooks or books intended for medical, legal, and other professionals. Digital piracy of textbooks appears to already be significant.

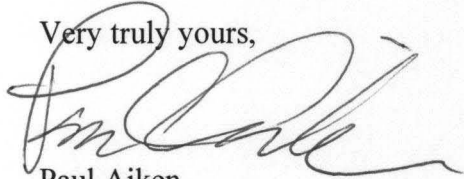
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piracy survey should also be prepared, so that stakeholders can measure the effectiveness of enforcement measures. To get things started, we would be happy to provide the office with our list of websites that serve as hubs of e-book piracy.

The Authors Guild stands ready to be of any assistance we can be in this matter of vital importance to everyone who cares about high-quality literature.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul Aiken", written in a cursive style.

Paul Aiken  
Executive Director