

**COMMITTEE ON THE JUDICIARY
MARKUP
DECEMBER 15, 2011**

AMENDMENT ROSTER

H.R. 3261, *the Stop Online Piracy Act*

Amendment in the Nature of a Substitute

	Smith (069)	Manager's Amendment	
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Amendments to the Amendment in the Nature of a Substitute

Amendments Related to Section 101			
1.	King (287)	Changes the definition of a "Domestic Internet Site" to include an Internet site operated by an entity that is located within a judicial district of the United States.	
2.	Johnson (095)	Clarifies the definition of internet site.	
3.	Polis (081)	Clarifies the definition of non-authoritative domain name servers to ensure that the bill is aimed at for-profit activities and not the internal DNS servers of universities, research institutions and local governments.	
4.	Polis (092)	Strikes IP address from definition of internet website.	
Amendments Related to Section 102			
5.	Chabot (012)	Conforms the obligations of payment network providers with the definition of a "U.S. Directed Site" in Section 101(23) of the Manager's Amendment to effectively target Internet sites providing goods or services to users located in the United States who also have accounts originating in the US.	

6.	Lofgren (051)	Clarifies that the operator of a domain name server has no obligation to block a website in response to an order issued under Sec. 102(c)(2)(A), if there is no feasible and reasonable way to do so without impairing the security or integrity of the domain name system or the operator’s system or network.	
7.	Issa (072)	Strikes the provisions that would block American’s access to certain foreign based websites and that would require Internet search engines to remove hyperlinks.	
8.	Lofgren (052)	Strikes the requirement that a service provider block the resolution of the domain name of a foreign infringing site, in order to qualify for the safe harbor from further obligations under Sec. 102(c)(2)(A)(ii).	
9.	Issa (074)	Precludes the Attorney General from bringing an action on behalf of a non-United States Person.	
10.	Lofgren (053)	Strikes the filtering/domain blocking mandate in Sec. 102(c)(2)(A).	
11.	Chaffetz (186)	Provides that the Attorney General may delegate his authority under Section 102 to the Associate Attorney General or an Assistant Attorney General, but such authority may not be redelegated.	
12.	Watt (068)	Requires the Attorney General to personally approve all actions under section 102 in which the DNS solution is sought as a remedy.	
13.	Lofgren (055)	Clarifies that, under Sec. 102(c)(3)(A)(ii), the Attorney General may not enjoin a product or service that is designed or marketed for the circumvention of measures to block or filter websites taken by foreign governments.	
14.	Lofgren (059)	Clarifies that the designation of a website as a “foreign infringing site” under Sec. 102(a) can only be based upon acts that violate the statutes listed in subparagraph (a)(2), and cannot be based solely upon acts that “facilitate” those offenses.	

15.	Lofgren (063)	Requires the Attorney General to publish on a central website any notices sent to website operators and domain name registrants under Sec. 102(b)(3).	
16.	Polis (080)	Provides that no funds will be spent protecting the intellectual property rights of pornography.	
17.	Polis (202)	Strikes the provisions that would bar DNS circumvention, which is currently also used for legitimate purposes.	
Amendments Related to Section 103			
18.	Sensenbrenner (042)	Strikes private right of action in 103.	
19.	Lofgren (058)	Replaces the definition of a site “dedicated to theft of U.S. property” under Sec. 103(a)(1). The new definition would require that the site be operated willfully and primarily to commit violations of relevant law, and exclude sites that have a practice of expeditious removal of infringing material upon notification.	
20.	Sensenbrenner (043)	Permits a rights holder to seek an order against a site dedicated to theft of US property and to serve that order on intermediaries (payment networks and Internet advertising services) but gives the authority to enforce those orders to the Attorney General, rather than creating a separate private right of action against the intermediaries.	
21.	Lofgren (064)	Requires qualifying plaintiffs to send to the Copyright Office copies of all notices that they send to website operators and domain name registrants under Sec. 103(b)(3). Requires the Copyright Office to publish all such notices it receives on a central website.	
22.	Chabot (013)	Clarifies the circumstances under which service of process by qualifying plaintiffs on non-infringing third parties for purposes of enforcing a court’s order is proper.	
23.	Issa (076)	Requires that a person must be both a US copyright or trademark holder and a US Person to file under section 103.	

24.	King (286)	Changes the definition of an "internet site dedicated to theft of U.S. property" to "a U.S. directed site" AND an "internet site for which the registrant of the domain name used by the Internet site, and owner or operator of the Internet site, are not located and cannot be found within the United States."	
25.	Chaffetz (185)	Provides that, in the event that no order or injunction is issued by the court under Section 103, the qualifying plaintiff shall bear all costs and fees, including reasonable attorneys' fees, of all parties to the litigation and of all witnesses, including experts, whether or not compelled by process.	
26.	Quayle (036)	Provides that, if a plaintiff knowingly misrepresents that an internet site is dedicated to theft of U.S. property, the plaintiff will be required to pay the defendant's attorney's fees and court costs.	
27.	Quayle (037)	Provides that the losing party must pay the prevailing party's attorney's fees and court costs.	
Amendments Related to Section 104			
28.	Goodlatte (219)	Seeks to ensure that section 104 of the bill is construed in a manner consistent with subparagraph (A) of section 102(c)(2). The amendment's purpose is to eliminate potential confusion regarding the responsibilities of service providers who may be subject to receiving a copy of a court order in a DOJ-initiated action under the bill.	
29.	Scott (036)	Deletes sections granting corporate immunity.	
30.	Issa (073)	Limits the voluntary actions that would give immunity only to those taken against an Internet site that endangers the public health.	
Amendments Related to Section 105			
31.	Scott (037)	Makes it clear that any immunity granted in Section 105 is for actions take subject to a court order.	

32.	Lofgren (057)	Strikes the following entities from Sec. 105(a), which gives immunity to take voluntary action to block foreign websites: service providers, domain name registries, domain name registrars, and Internet Protocol Allocation entities. Preserves immunity under Sec. 105(a) for search engines, advertising networks, and payment network providers.	
33.	Lofgren (062)	Clarifies that voluntary action to block a foreign website under Sec. 105(a) must in fact be narrowly tailored and consistent with an entity’s terms of services or other contractual rights, in order to qualify for immunity.	
34.	Polis (085)	Clarifies that an entity shall only qualify for immunity under section 105 if it is acting on a court order.	
Amendments Related to Section 106			
35.	Chaffetz (184)	Delays the effective start date of Sections 102(c)(2)(A) and 102(c)(2)(B) until a study assessing the potential impact of Title I of this Act upon U.S. critical infrastructure, U.S. and global cybersecurity and Internet functionality has been completed.	
36.	Polis (082)	Requires the State Department to issue a report on DNS blocking, search filtering, and blocking payment processors and advertising networks.	
37.	Polis (083)	Requires the Department of Commerce to conduct a study on the effect the bill would have on employment, economic growth and availability of capital. Delays the bill from taking effect until nine months after the publication of the report.	
38.	Polis (089)	Requires the effectiveness study conducted by the Register of Copyrights to include the costs on service providers, internet sites and consumers that would be imposed by this bill.	
Amendments Related to Title II			
39.	Poe	Closes a legal loophole and authorizes CBP to release information on seized circumvention devices to the parties which are injured by the device.	

40.	Scott (001)	Would remove the mandatory minimum fine of \$1Million while leaving the change in the maximum fine from \$500,000 to \$5Million.	
41.	Lofgren (056)	Removes the “facilitation” of offenses as a basis for the seizure or forfeiture of property, including domain names, under 18 USC 2323(a)(1)(B). As a result of this amendment, only property used to actually commit the relevant offenses may be seized or subject to forfeiture.	
42.	Johnson (093)	Clarifies willful infringement standard.	
43.	Sanchez (REPAM_001)	Raises the penalties for trafficking in counterfeit drugs under section 202 of the Manager’s Amendment.	
44.	Polis (086)	Adds DMCA safe harbor to the streaming provision, Section 201.	
45.	Polis (088)	Strikes section 204, which would give infringers free publicity by publicly listing them as “notorious infringers.”	
46.	Polis (091)	Makes first-time offences of section 201, the streaming provision, misdemeanors.	
Amendments to/Creating Other Sections			
47.	Lofgren (060)	Adds a savings clause to Sec. 2 stating that nothing in title I shall impair Domain Name System Security Extensions, or discourage their implementation.	
48.	Johnson (094)	Sunsets the provisions in the bill after 5 years, beginning on the date of enactment.	
49.	Polis (087)	Applies federal copyright protections to sound recording published before 1972. This text is taken from Mr. Polis’ H.R. 2933, Sound Recording Simplification Act.	
50.	Polis (084)	Clarifies termination rights to ensure that artist are able to reclaim their intellectual property rights in a more efficient and timely manner.	
Amendments Filed Very Late			
51.	Polis (093)	Changes the section that creates the State Department IP attachés to ensure they also consider fair use, consumers and licensees as part of their duties.	
52.	Quayle (041)	Requires the completion of a test transaction prior to serving an order to a payment provider.	

53.	Issa (078)	The Attorney General can only serve a court order on a service provider or Internet search engine after the Attorney General certifies to the court that any actions taken by payment processors or Internet advertising networks were insufficient to stop the foreign rogue website from engaging in its infringing activity.	
54.	Cohen (067)	Clarifies that nothing in the Act shall be construed to restrict access to or provide immunity under Section 105 with respect to safe, non-counterfeit prescription medication over the Internet.	

Substitute for the Amendment in the Nature of the Substitute

55.	Issa (077)	Inserts the Online Protection and Enforcement of Digital Trade Act. A bill which uses the International Trade Commission as the forum for dealing with foreign rogue websites.	
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