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November 4, 2011

To: Federal Trade Commission Commissioners and the Director of the Bureau of Competition

via fax

Greetings:

As Attorneys General, we represent 36 states and 3 U.S. territories that are home to 186.2 million consumers and 184,131 manufacturing businesses with 6,720,200 employees. Our states and territories receive \$801.3 billion annually in manufacturing imports from around the world. Over the past decade, our states have been hard hit by the decline in domestic manufacturing. Indeed, from 2001 to 2008 alone, some 2.04 million jobs across the U.S. have been replaced by manufacturing in China, India, Mexico and Russia. While we recognize that our manufacturers must compete in the global economy, our companies should not be forced to compete on an unfair playing field. That is why each of us is seeking ways to use the traditional power of our offices to address the unfair advantage that results when foreign and other manufacturers use stolen information technology, including pirated software, to illegally slash their costs. Such unfair competition hurts law-abiding businesses in our states, costing jobs and slowing economic recovery.

Competition is the bedrock of free enterprise. Healthy, fair competition – whether between U.S. companies or between U.S. and foreign producers – creates opportunities for innovation and growth that provide consumers with greater choices, better products and lower costs. It also offers producers access to new markets, customers, innovation, revenue growth and the ability to create new jobs in our states. Open markets in the U.S. are based on these principles. Competition is unfairly distorted, however, when a manufacturer gains a cost advantage by using stolen information technology, whether in its business operations or manufacturing processes. It offends our sense of fairness when such wrongdoers reap a commercial advantage from their illegal acts.

Theft of intellectual property is endemic in countries to which our manufacturing jobs have been transferred. Indeed, the piracy rates for software in some of our largest trading partners are above 80% and in some cases, above 90%. The theft of our intellectual property represents economic losses not only to U.S. information technology companies, but also real losses to law-abiding manufacturers doing business in our states that pay the costs of legally acquiring information technology. In the course of researching this issue, we have encountered compelling examples:

- A California-based apparel manufacturer must compete with an Indian manufacturer that steals over \$14 million in software;
- A Washington-based paper mill must compete with a Mexican paper manufacturer that uses over \$10 million in stolen software;
- An Indiana-based parts manufacturer must face a Chinese competitor that steals over \$5.2 million in software.

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The importance of the manufacturing sector to the U.S. economy cannot be overstated. One in six private sector jobs depends on the U.S. manufacturing base. Every \$1 in sales of products manufactured in the U.S. contributes \$1.40 in output from other sectors, the largest multiplier among all sectors of our economy.

Many of our states have laws that can be used to address this harm, including statutes patterned after the Federal Trade Commission Act, other consumer protection laws and, in the case of Washington and Louisiana, statutes specifically designed to address this problem. We believe that the use of stolen information technology causes precisely the type of anti-competitive harm that these statutes are intended to remedy. In fact, the original focus of the Federal Trade Commission Act (on which the state versions of the Act are based) was on unfair methods of competition that impacted competitors, not consumers. Theft of information technology is the type of competitive wrong that falls easily within the traditionally broad definition of unfair methods of competition.

We are committed to exploring the enforcement of these and other state statutes to attack this problem and to ensure a level playing field for manufacturers selling their goods in our states. We urge you to consider how the unfair method of competition prohibition in Section 5 of the Federal Trade Commission Act itself can be brought to bear on this problem at the federal level. Your leadership in this effort is particularly important given the fact that not all states have enacted versions of the Federal Trade Commission Act or other laws that could be used to address these serious competitive problems.

Sincerely,

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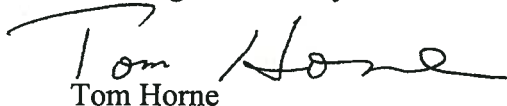
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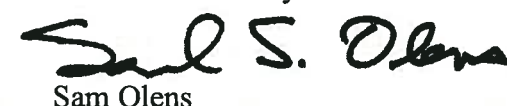
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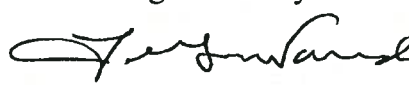
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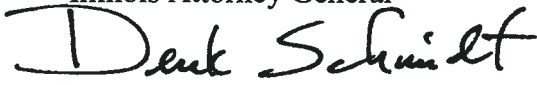
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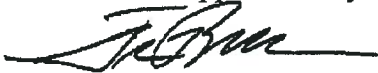
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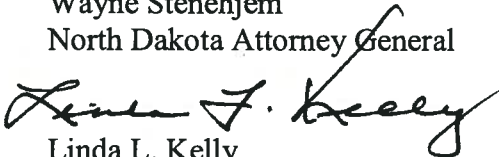
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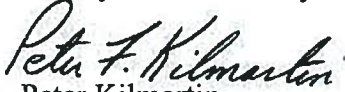
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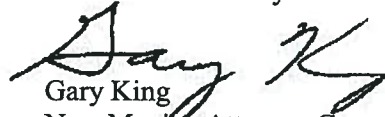
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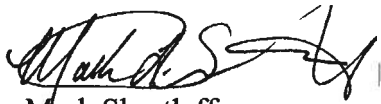
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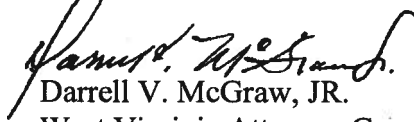
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Attachment:

State-Specific Data Table

State	[a] Importance of Manufacturing		[b] Reach of Letter		[c] Pressure on Manufacturing from Foreign Competition		[d] Importance of IT		[e] Potential Gains From Piracy Reductions		[f] Additional GDP in State
	Mfg. Employment (2010)	Total Manufacturers (2008)	Consumers (Population - 2010)	Raw mfg imports (2010)	% of mfg. jobs lost since 2000	Mfg. jobs lost due to high piracy nations (2001-2008)	IT Employment (2010)	Wages Generated by IT Workers (2010)	Additional IT Jobs	Additional Wages for IT	
Alaska	12,700	561	710,231	\$1,088,800,000	7.70%	1,232	5,300	\$365,234,600	37	\$2,554,800	\$126,000,000
Arizona	147,900	4,959	6,392,017	\$11,842,600,000	-29.50%	14,935	64,840	\$4,920,027,280	454	\$34,415,371	\$685,000,000
Arkansas	160,000	3,017	2,915,918	\$6,126,300,000	-33.40%	25,083	22,100	\$1,268,550,881	155	\$8,873,457	\$272,000,000
Colorado	125,100	5,225	5,029,196	\$8,537,000,000	-33.80%	10,931	90,970	\$7,609,461,400	636	\$53,227,844	\$676,000,000
Connecticut	166,200	4,826	3,574,097	\$17,528,600,000	-29.50%	12,027	49,370	\$4,015,328,400	345	\$28,087,043	\$594,000,000
Delaware	26,100	644	897,934	\$9,017,900,000	-37.30%	N/A	13,320	N/A	93	N/A	\$160,000,000
Florida	306,800	13,867	18,801,310	\$48,040,300,000	-35.70%	25,160	156,170	\$10,768,914,800	1,092	\$75,328,079	\$1,966,000,000
Georgia	344,800	8,571	9,687,653	\$57,224,600,000	-35.90%	36,483	106,370	\$8,166,138,900	744	\$57,121,778	\$1,060,000,000
Guam	N/A	N/A	159,358	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Idaho	52,900	1,934	1,567,582	\$3,834,300,000	-24.70%	4,986	12,340	N/A	86	N/A	\$144,000,000
Illinois	559,100	15,378	12,830,632	\$79,428,900,000	-35.80%	74,885	146,220	\$11,094,497,100	1,023	\$77,605,513	\$1,674,000,000
Iowa	200,100	3,826	3,046,355	\$5,779,000,000	-20.50%	4,183	30,510	\$1,922,040,000	213	\$13,444,584	\$367,000,000
Kansas	199,500	3,171	2,853,118	\$8,573,100,000	-20.50%	2,191	31,220	\$2,030,067,000	218	\$14,200,228	\$333,000,000
Kentucky	209,000	4,107	4,339,367	\$30,575,000,000	-32.70%	49,993	31,160	\$1,954,182,500	218	\$13,669,420	\$417,000,000
Louisiana	137,700	3,485	4,533,372	\$14,863,000,000	-22.30%	230	20,500	\$1,203,580,700	143	\$8,418,993	\$562,000,000
Maine	50,900	1,773	1,328,361	\$3,296,400,000	-3.6%	1,613	10,000	\$616,301,800	70	\$4,311,004	\$137,000,000
Massachusetts	254,400	7,560	6,547,629	\$26,035,400,000	-36.90%	42,141	138,630	\$12,700,813,900	970	\$88,841,628	\$977,000,000
Michigan	473,800	13,342	9,883,640	\$81,439,800,000	-47.20%	40,448	93,750	\$6,305,613,525	656	\$44,107,486	\$973,000,000
Mississippi	135,900	2,565	2,967,297	\$6,913,700,000	-3.9%	19,066	10,570	\$561,970,800	74	\$3,930,961	\$256,000,000
Missouri	242,600	6,744	5,988,927	\$12,319,400,000	-33.50%	18,481	76,040	\$5,283,709,400	532	\$36,959,312	\$638,000,000
Montana	16,500	1,320	989,415	\$631,500,000	-26.90%	288	6,340	\$351,519,700	44	\$2,458,865	\$96,000,000
Nebraska	91,600	1,946	1,826,341	\$2,672,300,000	-19.60%	5,528	24,410	\$1,576,849,500	171	\$11,029,992	\$228,000,000
Nevada	37,800	1,938	2,700,551	\$5,662,600,000	-11.70%	7,190	15,560	\$1,045,200,700	109	\$7,311,132	\$337,000,000
New Mexico	29,000	1,556	2,059,179	\$2,926,900,000	-30.60%	4,353	15,660	\$1,158,916,600	110	\$8,106,570	\$201,000,000
North Carolina	431,400	9,832	9,535,485	\$40,476,700,000	-43.10%	141,853	105,640	\$8,294,476,600	739	\$58,019,494	\$1,075,000,000
North Dakota	22,700	759	672,591	\$1,768,900,000	-4.80%	238	6,280	N/A	44	N/A	\$85,000,000
Oklahoma	123,000	3,924	3,751,351	\$5,171,800,000	-30.50%	6,476	25,350	\$1,488,090,700	177	\$10,409,128	\$416,000,000
Pennsylvania	561,300	15,174	12,702,379	\$52,123,400,000	-35.10%	75,577	133,020	\$9,870,885,400	930	\$69,046,404	\$1,477,000,000
Puerto Rico	86,400	149	3,725,789	\$18,530,000,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Rhode Island	40,300	1,749	1,052,567	\$6,979,500,000	-43.40%	5,708	12,210	\$939,927,600	85	\$6,574,752	\$128,000,000
South Carolina	207,500	4,373	4,625,364	\$24,206,700,000	-38.30%	37,289	31,910	\$1,926,462,000	225	\$13,475,516	\$426,000,000
South Dakota	36,900	1,048	814,180	\$627,800,000	-15.70%	4,572	6,050	\$328,342,041	42	\$2,296,738	\$105,000,000
Texas	810,800	20,820	25,145,561	\$163,474,100,000	-24%	99,250	281,980	\$22,240,600,600	1,972	\$155,572,011	\$3,076,000,000
Utah	111,200	3,374	2,763,885	\$7,161,800,000	-11.40%	6,524	33,410	\$2,215,192,100	234	\$15,495,170	\$304,000,000
Vermont	30,800	1,073	625,741	\$2,830,900,000	-33.40%	6,612	6,970	\$471,651,800	49	\$3,299,183	\$68,000,000
Virgin Islands	2,100	N/A	106,405	\$703,000,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Washington	257,600	7,561	6,724,540	\$29,364,000,000	-22.40%	14,138	117,810	\$10,259,574,600	824	\$71,765,267	\$907,000,000
West Virginia	49,100	1,389	1,852,994	\$2,998,900,000	-35.30%	7,923	9,140	\$545,960,900	64	\$3,818,972	\$168,000,000
Wyoming	8,700	591	563,626	\$616,600,000	-17.10%	1,086	2,310	\$132,277,900	16	\$925,278	\$101,000,000

Sources:

- [a]** Bureau of Labor Statistics, 2010
- [b]** U.S. Census, 2008
- [c]** U.S. Census, 2010
- [d]** U.S. Census, 2010
- [e]** Bureau of Labor Statistics, 2010
- [f]** Bureau of Labor Statistics, 2000-2010
- [g]** Keystone Job Loss Model. Bureau of Labor Statistics, Census, Bureau of Economic Analysis (2001-2008)
- [h]** Bureau of Labor Statistics, 2010
- [i]** Bureau of Labor Statistics, 2010
- [j]** Total IT jobs gained in US due to 10% reduction in software piracy over 4 years (BSA) broken down by state level distribution (BLS)
- [k]** [f] * Average IT worker wage (Bureau of Labor Statistics 2010)
- [l]** Total GDP gained in US due to 10% reduction in Piracy (BSA) broken down by state level distribution (Bureau of Economic Analysis)