



**Testimony of Mark M. Ishikawa, CEO
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**Before the
Commission On Online Child Protection
“Other Technologies and Methods”**

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Thank you for the opportunity to provide testimony and answer questions about the developing technological methods, tools, and software applications that are available for the protection of children online. My name is Mark Ishikawa and I am the Chief Executive Officer and cofounder of BayTSP.com. Over the course of twenty years in the computer services industry I have engineered and managed database, networking, branding, and encryption systems for organizations ranging from the U.S. Department of Defense to Hewlett Packard.

Founded in June of 1999, BayTSP.com is a San Jose, California-based corporation and developer of a patent-pending solution and provider of a service for tracking online content to deter its theft, prosecute those engaged in copyright infringement, and ensure compliance with Federal anti-child pornography and child exploitation laws, including the record keeping law 18 U.S.C Section 2257. We recently began marketing our services and are now developing a client base, which includes The Whitehouse News Photographers Association (WNPA), the Professional Photographers Association (PPA), and workbook.com. We have met with numerous organizations including Sony, Paramount, Mandalay Films and the Motion Picture Association of America (MPAA). We are also currently discussing a joint venture with the Hyundai Corporation to bring our technology into Korea and Asia.

BayTSP.com now also markets some of the available technologies to webmasters, specifically several of the adult online companies to which the requirements of the Child Online Protection Act are directed. BayTSP.com can provide an inside view of the industry and its available capabilities, as well as supply the Commission with insight into

the potential and planned technical tools that will, or could be made available to the adult and other online businesses in the furtherance of protecting children.

There is no individual solution alone-- be it an increase in parental control, additional legislation, filtering and blocking systems, or the .xxx domain--that will adequately solve the problem of reducing the exploitation of children and keeping harmful matter from minors. BayTSP.com proposes a global cooperative solution combining the efforts of technology professionals, law enforcement, parents, and the adult industry.

BayTSP.com strongly believes the solution lies in all of the pieces working together to create the most efficient system to protect children, privacy, and first amendment rights. BayTSP.com's technological solutions are available to aid in the enforcement of existing laws, ensure that the adult industry complies with these laws, and assist parents, educational institutions and libraries to keep harmful matter from children.

Law Enforcement

Congressman Gary Miller of California recently testified before Congress, and compared the number of prosecutions of illegal pornography in the Clinton administration with the Reagan and Bush administrations. He indicated that since President Clinton has been in office, prosecution of illegal pornographers and obscenity has gone down 75%. In addition, he expressed his frustration that in 1997 there were only a total of 6 prosecutions of illegal pornographers by all 93 U.S. Attorneys.

The problem doesn't lie in the fact that new laws need to be created to deal with illegal material available on the Internet; the laws exist, they just need to be enforced. In fact, the government found it necessary to propose a bill-- H.R. 4710-- which provides

additional funding to enforce existing obscenity and child exploitation laws.

Title 18 of the United States Code contains laws that pertain to the enforcement of illegal pornography, including both obscenity and the sexual exploitation of children. 18 U.S.C. 2257 requires adult content creators and web masters keep records on file at their place of business, indicating that each performer in their library of material is over 18 years of age. Regrettably, due to the lack of enforcement, this has created a “who cares” attitude by webmasters, many of whom have said “there is a greater likelihood of being run over by a bus than of law enforcement asking for such legal documentation.” Lawyers in the industry have told us 95% of adult web masters are not in compliance with the laws.

BayTSP.com’s 2257BrandSM, and the accompanying suite of applications and services, present content providers and webmasters with the only truly effective means to comply with existing Federal anti-child pornography laws. Developed with the assistance of one of the nation’s top Internet, Intellectual Property and First Amendment law firms-- Brull, Piccionelli, Sarno, Braun, and Vradenburgh-- the 2257 system embeds compliance documentation into each image, making age verification records available electronically to content providers, web masters and law enforcement, simply at the right click of a mouse. BayTSP.com’s 2257 compliance products and services have been specifically designed to address the records keeping and documentation requirements for 18 U.S.C. 2257 and 28 C.F.R. 75 in a complete, manageable, and cost effective manner.

By employing BayTSP.com’s 2257 products and services, and enforcing these laws, the amount of illegal material available on the Internet can be substantially reduced and will create a move toward self-regulation by those in the adult entertainment

business.

A further problem with enforcing laws is the efforts of law enforcement officials to combat the high incidence of illegal pornography are highly fragmented. Federal, state, and local agencies are independently conducting child pornography investigations, and there is little centralized coordination among these agencies-- investigative resources are not being maximized. Dialog between agencies is rare, and the potential for duplication of investigative efforts not only exists, but also is highly likely.

Congresswoman Judy Biggert expressed her support for H.R. 2708, which allows ISPs and web users to report incidents of child pornography to the CyberTipline at the National Center for Missing and Exploited Children. Similar bills have been introduced to make U.S. Customs the central location for the training of enforcement officials as well as a central depository for known pornographic pictures and, even further, to make the FBI's Innocent Images Center the central force for the investigation and prosecution of child pornographers.

BayTSP.com supports bills that promote the centralization of information and technology, and coordination between agencies. Various law enforcement agencies have access to tens of thousands of "known images" that have been deemed child pornography. BayTSP.com's copyright infringement technology could be employed to track these images more effectively if one central agency were responsible.

Briefly, BayTSP.com's technology extracts the DNA equivalent from known child pornography content and compares it to all the images on various newsgroups and websites throughout the Internet. The process can effectively identify the location of the content, and enable prosecution of those who are responsible making the illegal images

available. And unlike watermarking and other tracking methods, which embed or hide information in the file, the technology can locate images which may have been distributed days, months, or even years ago.

BayTSP.com also has the ability to spider hard drives seized by the government to detect known child pornographic content. Searching a hard drive with BayTSP.com's technology involves minutes to receive conclusive results, versus current manual investigative forensic examinations that can take months, to achieve only limited results.

BayTSP.com is actively pursuing partnerships with local and federal law enforcement agencies in this effort to eliminate child pornography and clean up the Internet. By utilizing BayTSP.com's suite of applications law enforcement will now have the ability to recognize content that is not in compliance with anti-child pornography laws, as well as locate on the Internet known images that have already been classified as child pornography.

The Adult Industry

Previously, solutions have focused on filtering and blocking the adult industry and its content, but no one has yet addressed the possibility of working with that industry to help protect children. Most of the major players in the adult industry are against child pornography, would prefer to self regulate, want to comply with local obscenity laws, and want to be able to effectively block children from accessing their sites.

For example, BayTSP.com will be working with Andrew Edmond of Flying Crocodile in the near future to spider its free web hosting sites and newsgroups for child pornography and copyright violations. The results of this joint effort will then be reported to the appropriate authorities for prosecution. This is a perfect example of the

adult industry wanting to combat this problem and expressing the willingness to work together to achieve a solution.

The Web is a global village, without geographic barriers, that links people, businesses, and governments around the world, but does not take community standards into account. Unfortunately, local communities that want to restrict access to certain types of material, by minors and adults, due to the content's inappropriate or obscene nature (as defined by those communities), have been unable to do so without requiring everyone on the Internet to abide by the community's standards. At the same time, adult webmasters often risk obscenity prosecution in those areas that have more restrictive local standards.

BayTSP.com has developed a product to address this very issue. 2257FilterSM allows webmasters to make specific files available based on the geographic location of the user. Webmasters who utilize this "electronic stop light" that has been embedded in online graphic, video, text, and audio files can automatically filter out "obscene" material, as defined by the user's local community standards, and have this material replaced by content that is more acceptable. This technology benefits local communities by blocking inappropriate material to its residents.

Currently, there is not an effective method of preventing minors from accessing inappropriate and obscene material on the Internet. In fact, the 3rd U.S. Circuit Court of Appeals reluctantly upheld an earlier ruling by a lower court judge, who found that the Child Online Protection Act (COPA) violated the First Amendment right to free speech, partly because web site owners had no effective means of screening out minors.

Products that block URL's and Internet addresses exist, but are not completely

effective. Every day 2,000 new adult sites go up on the web. It is very difficult, if not impossible, for the filtering technologies to keep up with the amount of material posted. Kids are also able to easily circumvent filtering technologies. For example, web sites such as anonymizer.com allow children and others to secretly access any site in the world, defeating most filtering systems. Yet another concern with filtering systems is that they could block access to informational or educational sites such as those that apply to health issues, abortion, gay rights, etc.

Age verification systems (AVS) create a breach of privacy as the user's activities including geographical location, interests, browsing habits, and even the computer being used can be tracked. Many web sites and ISPs log this information, compile dossiers on their users, and sell such information to advertisers and marketing firms.

Web site owners are reluctant to implement any mandatory registration because they believe it would drive away their users. Web users are hesitant to give out personal information unless they are prepared to make a purchase.

The BayTSP.com Age Verification System (AVS) will allow parents to disclose the age category of their children and the type of material they do not wish to be viewed as well as the type of material they wish to filter, while protecting the identity of the user. Using this anonymous method makes the tracking of the user's identity and surfing habits difficult, if not impossible, to identify.

BayTSP.com's patent pending AVS system allows parents to create a profile for their children indicating the child's age only. The profile interacts with adult web sites prior to displaying the page. Users under the age of 18 will be denied access to this site, and in some instances will be redirected to another site more appropriate for the age

group. This technology is unique because the only information exchanged is the age of the user, not any personally identifiable information such as name, address, or credit card number.

For public locations such as libraries the system can interface with an Age Verification System or, with the use of a magnetic stripe reader, verify the age of a user from the magnetic stripe on the back of, for example, a drivers license, to prevent minors from gaining access to inappropriate material.

The cooperation from web masters is essential to prevent the viewing of inappropriate material. Restrictions placed on web sites by the federal government have been met with resistance as web publishers have successfully claimed that these limitations would negatively affect their income stream, and they would be subjected to the most restrictive community standards in order to avoid criminal liability.

Giving web masters “safe harbor” from certain types of prosecution when they include an appropriate type of filtering system could induce voluntary compliance. Similar to 47 U.S.C., Section 223, web masters would be provided an affirmative defense to prosecution if they had “taken, in good faith, reasonable, effective, and appropriate action under the circumstances to restrict or prevent access to minors” to those who implemented a suitable blocking or filtering system.

We at BayTSP.com are evaluating the possibility of giving the end user component of this system free of charge to government agencies (Schools, libraries, etc.), and selling it to the public in a non-profit model. We would license the server components of the system to the web masters for a reasonable fee.

Parental Control

Any system that effectively blocks material from children must ultimately give parents the control of the types of material they want their children to view. To date, the courts have leaned towards placing the burden of online censorship with the parents, as it constitutes a less restrictive alternative than government regulation and guarantees the protection of adult free speech. While there are alternative means at assisting parents in limiting minors' access to inappropriate material, these user-based blocking programs fail to screen all objectionable content and are of little value in areas of public access, locations such as schools and libraries. Nonetheless, the main responsibility for making these choices should ultimately be placed on the parent.

This point bears repeating: The most vital feature of any technology is the power to determine which material is suitable for children must inevitably be left to the parents. BayTSP.com's software, which will be available to parents for under \$20, will be easy to install, simple to use, and the only truly effective means at restricting content and empowering parental control. BayTSP.com intends to offer this software to the government, public libraries, and all educational institutions free of charge.

BayTSP.com's unique solution for the elimination of child pornography and the sexual exploitation of children must include the cooperative efforts of parents, law enforcement, the adult industry, and technology. BayTSP.com's technological solutions are available to aid in the enforcement of existing laws, ensure the adult industry complies with these laws, and assists parents, educational institutions and libraries to keep harmful matter from children without infringing on an individual's freedom of speech.