TOP 10 MYTHS ABOUT THE IP CHAPTER OF THE TRANS-PACIFIC PARTNERSHIP AGREEMENT

GIPC
Global Intellectual Property Center
U.S. CHAMBER OF COMMERCE

MYTH:	FACT:
Access to affordable medicines will decrease if TPP is ratified.	1 The U.S. proposals, based on existing federal laws, will bring safe, lower cost generics to the market in a timely manner and reward innovators' continuing efforts to find breakthrough medications.[1]
A strong IP chapter in the TPP will stifle growth in developing nations.	2 In the United States, innovative and creative industries support 40 million American jobs and contribute $5 trillion to the U.S. economy.[2] IP laws in the United States have been a key ingredient in that success. Increases in IP protections will boost foreign direct investment to developing nations and strengthen their economic growth.[3]
TPP would lengthen copyright protections, which would harm consumers by keeping works out of public domain for far longer than under current law.	3 The reported U.S. proposal for copyright protections is consistent with federal law and the global trend adopted by more than 90 countries.
TPP poses financial and administrative burdens on Internet Service Providers (ISPs) by making them the "copyright police."	4 The U.S. proposals in the TPP create a structure that promotes cooperation between ISPs and copyright owners in addressing copyright infringement, and are flexible enough to allow voluntary agreements between them.[4]
TPP may force ISPs to 'filter' all their Internet communications.	5 U.S. law contains no obligation for ISPs to filter online communication, and neither does the TPP proposal.[5]

[1] *See* the Korea-U.S. Free Trade Agreement (KORUS) Art. 18.9.2; *see also* The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417), Title I].

[2] "Intellectual Property and the U.S. Economy: Industries in Focus," prepared by the Economics and Statistics Administration and the United States Patent and Trademark Office, March 2012 (http://www.esa.doc.gov/sites/default/files/reports/documents/ipandtheuseconomyindustriesinfocus.pdf).

[3] "Charting the Course, GIPC International IP Index," p. 9–13, January, 2014 (http://www.theglobalipcenter.com/GIPCindex).

[4] *See* KORUS Art. 18.10.30(a); *see also* 17 U.S.C. §512.

[5] *See* KORUS Art.18.10.30(b)(vii); *see also* 17 U.S.C. §512(m)(1).

MYTH:	FACT:
ISP customers could suddenly have their accounts terminated due to infringement complaints against them.	6 The U.S. proposal in the TPP, based on existing federal law, allows for termination of repeat infringement offenders' accounts. This is also consistent with ISP terms of service, which routinely prohibit the use of their services for illegal activity.[6]
TPP makes a copyright violation an offense punishable by criminal and civil penalties.	7 The reported U.S. proposals in the TPP reflect longstanding federal law and globally agreed-upon standards, providing for criminal penalties in the worst cases, and prohibiting the hacking of copyrighted works.[7]
A high standards IP chapter will only help developed countries with access to medicines and biomedical research.	8 Countries that have a robust level of IP protection for medications, including emerging economies, tend to enjoy a greater level of foreign direct investment and activities by multinational, research-based companies, and better access to medicines, and biomedical research.[8]
IP leads to processes like "evergreening," which delay the availability of generics.	9 Science is built on cumulative innovation. Examples of follow-on innovations include improving malaria treatments in developing countries and simplifying strict Type II diabetes treatments.[9]
IP protections, particularly data protection for medicines, grant monopoly status to medicines, even when patents no longer apply or exist, and delays generic competition.	10 Protections for regulatory data and patents are separate and distinct. Data protection does not extend the life of a patent, but provides incentives for the development and launch of new medicines. If data protection did not exist, innovators would bear the full cost of generating clinical data, while their competitors would have a "free pass" to use the data, granting them an unfair advantage in the marketplace.[10]

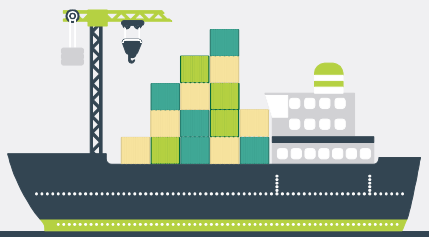
[6] *See* KORUS Art.18.10.30(b)(vi)9a); *see also* 17 U.S.C. §512(i)(1)(A).

[7] *See* KORUS Art. 18.4.7(a); *see also* WIPO Copyright Treaty Art. 11; see also17. U.S.C. §1204.

[8] *See* note 3.

[9] "The Importance of Incremental Innovation for Development," May, 2005 (http://www.who.int/intellectualproperty/submissions/SubmissionsInternationalChamberofCommerce.pdf?ua=1).

[10] *See generally*, "Data Exclusivity for Biologics: What is the Appropriate Period of Protection?," Grabowski, American Enterprise Institute for Public Policy Research, Sept. 2009 (http://www.aei.org/files/2009/09/08/10-HPO-Grabowski-Sep08-g.pdf).



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