

February 6, 2020

Submitted electronically to USTR via <http://www.regulations.gov>

Re: Federal Register Vol. 84, No. 246; *Request for Comments and Notice of a Public Hearing Regarding the 2020 Special 301 Review*, Office of the U.S. Trade Representative



## **SPECIAL 301 HEARING STATEMENT**

*Presented by:*

Kelly Anderson, Director, International Policy  
Global Innovation Policy Center (GIPC)  
U.S. Chamber of Commerce

The Chamber is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America's free enterprise system. The Chamber also is home to a significant international team providing global coverage to advance the many policy interests of our members.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on issues are developed by Chamber members serving on committees, subcommittees, councils, and task forces. Nearly 1,900 businesspeople participate in this process.

**Statement  
to the  
SPECIAL 301 SUBCOMMITTEE OF THE TRADE POLICY STAFF  
COMMITTEE  
on behalf of the  
U.S. CHAMBER OF COMMERCE  
Wednesday, February 26, 2020**

Good morning. My name is Kelly Anderson. I am a director for international policy at the U.S. Chamber of Commerce's Global Innovation Policy Center (GIPC).

The GIPC is the division of the U.S. Chamber of Commerce that represents the IP-driven innovative and creative industries which underpin economic growth and drive global competitiveness.

Thank you for the opportunity to testify on the Chamber's Special 301 submission.

Our submission seeks to highlight both systemic and country-specific challenges.

In my testimony today, I will highlight some of the issues that are top of mind for the Chamber's member companies.

## **HIGHLIGHTS OF U.S. CHAMBER SUBMISSION**

### **Measuring IP & Access**

The Chamber's Special 301 submission was informed by two of our signature research products: *The International IP Index* and *The Creativity & Innovation Access Barometer*.

Now in its 8<sup>th</sup> edition, the Index benchmarks the IP framework in 53 global markets, representing over 90% of global GDP.

The Index evaluates economies across 50 unique indicators which were developed in collaboration with industry as the criteria that they believe are indicative of a robust and effective IP system.

While the Index evaluates the strengths and weaknesses of a country's IP ecosystem, at the Chamber, we recognize that presence or absence of IP laws is just one piece of the puzzle.

In fact, our members have witnessed how a country's investment in IP-driven innovative and creative sectors can be undone by negative market interventions.

The Chamber's Innovation & Creativity Access Barometer evaluates policies beyond traditional IP laws that limit the availability of innovative or creative products, services, and technologies in global markets.

The Barometer specifically evaluates localization policies, forced technology transfer, local content requirements, and pricing and reimbursement policies that prevent consumers from accessing 21<sup>st</sup> century innovation in markets around the world.

### **Emerging Challenges**

Building upon the Chamber's research products, the Chamber's Special 301 submission highlights a number of emerging challenges on IP which our member companies face.

First, free trade agreements provide a critical mechanism to elevate IP standards in global markets.

The 2020 IP Index illustrates how countries with FTAs with the U.S. have more robust and effective IP standards than those without them.

For this reason, the Chamber believes the **USMCA** was a significant missed opportunity to elevate IP standards with two of the United States' largest trading partners.

As the Administration begins to focus on future agreements with the **UK**, **EU**, **Japan**, and **Kenya**, the Chamber believes the USMCA should not be used as a template for future agreements as the provisions do not represent 21<sup>st</sup> century IP protections.

Second, our member companies remain concerned about the erosion of IP protection in developed markets.

In **Australia, Canada, the EU, and Japan**, the governments have pursued policies or regulations which undermine life sciences IP protection in the name of cost containment.

These policies not only diminish the value of American IP in these markets, but may reduce the availability of new medical innovation for patients.

Third, while emerging markets are taking steps to address long-standing IP concerns, many challenges remain.

In **China**, the government has acknowledged a need to bolster its protection of IP and implemented reforms to reorganize its IP institutions and introduce legislation to strengthen China's IP framework.

However, China's regulatory environment is increasingly emphasizing industrial policy outcomes that raise the cost and create uncertainty for U.S. companies operating in China.

The ongoing trade negotiations between the U.S. and China provide an opportunity to address systemic challenges on IP and technology transfer that keep us from realizing the full potential of bilateral trade and commercial relations.

Additionally, in **India**, the Ministry of Commerce and Industry has taken incremental steps to improve the national IP environment since the inception of the National IP Policy in 2016.

Yet, work remains to enforce patent terms, institute a coherent vision on trade secrets protection, and establish a solid technology transfer mechanism.

## **CONCLUSION**

In conclusion, many governments are increasingly recognizing the importance of IP to their economic and social development.

The Chamber stands as a partner to help countries address outstanding concerns, which places countries on the path to developing true knowledge-based economies.

The Chamber greatly appreciates USTR's dedication to furthering IP protection in markets around the world.

It is critical that the U.S. Government work together with other nations to prevent a deterioration of IP standards abroad.

The countries and challenges discussed today are merely a representative sample of challenges faced by the IP industry.

Our Special 301 submission offers a more comprehensive look at the IP-specific trade barriers and country concerns. I would ask that The Index and The Barometer be incorporated by reference in the record of this proceeding.

We look forward to working with you and our trading partners to secure meaningful improvements to IP that create jobs, support innovation, create access to technology, and protect consumers in the United States and around the world.

Thank you.

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