



May 16, 2017

The Honorable Robert Lighthizer
United States Trade Representative
600 17th Street, NW
Washington, DC 20508

RE: Renegotiation of the North American Free Trade Agreement

Dear Ambassador Lighthizer:

Congratulations on your confirmation as U.S. Trade Representative. The International Intellectual Property Alliance (IIPA), representing the major trade associations of the U.S. copyright industries, looks forward to working with you and the Administration generally to promote American creators and innovators, and the copyright law principles that protect them, around the world.

We note that in your post-hearing Responses to Questions for the Record of the U.S. Senate Finance Committee, you highlighted the importance of building on earlier negotiated trade agreements stating, “In the case of NAFTA and TPP, there is much in TPP that goes well beyond NAFTA. So, in a renegotiation of NAFTA, we should consider incorporating those provisions as well as improving areas where we may be able to go beyond TPP.” We agree with this approach and write to underscore the importance of building on (and where feasible, improving upon) previously negotiated trade agreements to elevate standards of copyright protection and enforcement among our trading partners, and open markets for U.S. industries reliant on copyright protection.

The U.S. copyright industries make an enormous contribution to our nation’s economy, workforce, and global trade competitiveness. The most recent study found that, in 2015, the core copyright industries added \$1.2 trillion in value to the U.S. economy; created more than 5.5 million U.S. jobs, which pay far above the national average; and, were responsible for foreign sales and exports that exceeded \$177 billion. Taking into account U.S. manufacturing and other industries partly dependent on copyright (such as paper manufacturing and printing services for books), the study found a contribution of \$2.1 trillion in value to the U.S. economy and 11.4 million U.S. jobs. Likewise, licensing of copyright and other intellectual property rights is among the largest contributors to the U.S. trade surplus for services. Consumers worldwide are hungry for American music, movies, TV shows, books, and video games. If we can further open foreign markets, and take vigorous action to combat widespread copyright piracy and to dismantle other market access barriers, we can build on this record, and produce more good American jobs.



Strong trade agreements that are assiduously enforced are key to this strategy. Such agreements should commit our trading partners to high standards of copyright protection that take into account technological changes and that reflect the global consensus on minimum standards (including duration of copyright protection, and effective legal protection of technological measures used by copyright owners to control access to their works); comprehensive obligations regarding copyright enforcement and the scope of criminal penalties and civil remedies; and enforcement measures addressing online infringement that mandate deterrent civil and criminal remedies, and provide incentives for online service providers to cooperate with right holders. An excellent starting point for negotiating such obligations can be found in the copyright-related provisions of the Korea-U.S. Free Trade Agreement (KORUS FTA), negotiated during the George W. Bush Administration, which entered into force in 2012. In certain respects, the KORUS copyright provisions exceed the standards found in TPP. Future trade agreements should therefore build on the KORUS copyright provisions, particularly where the KORUS standards exceed those in TPP, such as enforcement against camcording and cable and signal theft. Other market access barriers to digital commerce in works protected by copyright should also be targeted.

The copyright provisions of the North American Free Trade Agreement are long overdue for updating. In 2017, the global marketplace for goods and services protected by copyright is overwhelmingly a digital marketplace, characterized by cross-border licensing and transfer of data in the online environment. When NAFTA was negotiated, a quarter century ago, the Internet was embryonic and digital commerce in copyrighted works was practically non-existent. It is no surprise that the copyright standards and obligations taken on by Canada and Mexico in NAFTA, while perhaps ambitious for the early 1990's, fall far short of guaranteeing that the American creative industries can compete on a level playing field in those countries today.

Of course, no international agreement can effectively promote American exports unless it is vigorously enforced. But setting the right standards in such agreements for a fair, transparent and open marketplace, one in which piracy, counterfeiting and similar unfair competition are not tolerated, is the critical first step. The U.S. copyright industries stand ready to assist you and your colleagues in taking that step in any new trade agreement negotiation, including in a revision of NAFTA.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Steven J. Metalitz".

Steven J. Metalitz, Counsel
International Intellectual Property Alliance

cc: Senator Orrin G. Hatch
Senator Ron Wyden
Congressman Kevin Brady
Congressman Richard E. Neal
Congressman David G. Reichert
Congressman Bill Pascrell, Jr.
Peter Navarro, Chair, Office of Trade and Manufacturing Policy