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2025 Special 301 Public Hearing
Special 301 Subcommittee
Office of the United States Trade Representative
Docket No. USTR-2024-0023

Notice of Intent to Testify and Hearing Statement of the Intellectual Property Owners Association (IPO)

WITNESS

Thomas S. Valente
Senior Director for Global Affairs
Intellectual Property Owners Association
1501 M St. N.W., Suite 1150
Washington, D.C. 20005
T: 202.507.4503
tvalente@ipo.org

HEARING STATEMENT

Special 301 Subcommittee Members:

I am pleased to be with you today. My name is Thomas Valente, and I am Senior Director for Global Affairs at the Intellectual Property Owners Association, also known as “IPO.” On behalf of IPO and its members, thank you for the opportunity to testify today and for your continued work ensuring U.S. trading partners provide adequate and effective protection of intellectual property (IP) rights — and fair and equitable market access to companies who rely on IP protection.

IPO is an international trade association representing a “big tent” of diverse companies, law firms,

service providers and individuals in all industries and fields of technology that own, or are interested in, IP rights. IPO membership includes over 125 companies and spans over 30 countries. IPO members make vital contributions to America's economic success by developing the advances that drive exports and create jobs. Innovators assume considerable risks and rely on IP to protect investments in new technology.

In our comments to the Subcommittee, IPO describes numerous challenges presented to adequate and effective protection of IP rights around the world. It also notes some improvements that have been made on issues previously raised. We thank you for your work that has made these improvements possible. IPO remains optimistic that further progress can be made in 2025 and beyond.

My testimony today will address two impediments to appropriate protection of IP rights abroad: 1) inadequate protection of trade secrets and 2) compulsory licensing.

Trade Secret Protection

For years, Article 39 of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement" or "TRIPS") has required World Trade Organization ("WTO") members to ensure the effective protection of trade secrets.¹ In the years since TRIPS Article 39 was agreed upon on December 15, 1993, however, many WTO member countries have made insufficient efforts to bring the laws, regulations, and enforcement environment up to compliance with the

¹ Agreement on Trade-Related Aspects of Intellectual Property Rights art. 39, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 300.

required standard.² Further, our members are concerned with the significant risk of trade secret disclosure that could result from administrative investigations or data legislation, if sufficient protection for trade secrets is not in place. IPO suggests that improving the global environment for protection of trade secrets be one of the top priorities for the Special 301 Report and for future action.

Further U.S. action should include, for example, setting high levels of trade secret protection as a requirement under bilateral or multilateral trade agreements, both in the negotiation and enforcement stages. Elements of effective protection of trade secrets and undisclosed information include at least minimum standards to fully implement obligations under TRIPS Article 39, adequate and effective remedies (such as injunctions and criminal penalties) to stop misappropriation of trade secrets, and prohibition of compulsory licenses of trade secrets.

Compulsory Licensing of Intellectual Property

Compulsory licenses are, in fact, the second topic that my testimony will address. The IP system drives and enables research and development that delivers valuable new innovations to society and it has facilitated an unprecedented amount of collaboration, advancing solutions to the most pressing issues facing society today. Yet, compulsory licenses of IP have previously been issued in several countries, and several countries and the European Union have adopted or are considering resolutions, laws, or regulations that promote or provide broad discretion to issue compulsory licenses. Our members are also concerned with the possibility that forced technology transfer could be included along with compulsory licenses.

²The Uruguay Round negotiations created the WTO and negotiated the TRIPS Agreement, all of which became effective January 1, 1995. *Overview: the TRIPS Agreement*, WORLD TRADE ORG., https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm (last visited Nov. 11, 2024).

IPO strongly opposes compulsory licensing of IP rights with respect to all industries and technologies. Although IPO recognizes that compulsory licenses of IP rights may be legally permissible in limited and rare situations, IPO believes that licensing of IP rights is best accomplished through voluntary efforts.³ This is because granting compulsory licenses undercuts the importance of a predictable IP system and undermines investment in innovative solutions that benefit society.

Conclusion

In conclusion, innovation-driven jobs depend on high quality IP systems. Effective IP protection in foreign markets is vital for American innovators. It enables investments in research and development and the sharing of information among partners with the knowledge that it will be protected, which results in important offerings in the global marketplace. IPO looks forward to working with you to build a global IP environment that encourages innovation and safeguards quality, high-paying jobs in innovative industries. On behalf of IPO, thank you again to the Subcommittee for its efforts to promote the protection of IP rights globally, which will sustain and grow America's economy and provide new innovations to meet global challenges.

³ See, e.g., IPO Board Resolution dated December 3, 2020: Resolution on Compulsory Licensing, <https://ipo.org/index.php/resolution-on-compulsory-licensing/>.