

April 30, 2015

The Honorable Michael Froman
United States Trade Representative
600 17th Street NW
Washington, DC 20508

RE: Balanced Intellectual Property Trade Negotiation Objectives

Dear Ambassador Froman:

Every American consumer is a user of intellectual property. Entire domestic industries are premised on its creation; even more—nearly every business in the country—are premised on its use. We draw your attention to these facts because we are concerned that language in the proposed trade promotion authority bill—S. 995, the Trade Priorities and Accountability Act of 2015—may prejudice the interests of consumers and businesses alike.

Currently, the bill names the promotion of intellectual property protection as a negotiation objective of the United States, and that the United States should engage in this promotion by ensuring that trade agreements “reflect a standard of protection similar to that found in United States law.”

While this is a worthy goal, the strength of United States copyright and patent laws lies not only in the level of protections afforded to authors and inventors, but also in the rights assured to the users of creative works and inventions. The limitations and exceptions to intellectual property rights enshrined in our law create the basis for essential consumer freedoms to access and share ideas and information; and to engage in the commentary, criticism, and education that are essential to free speech. Limitations and exceptions like fair use, first sale, and many others also generate trillions of dollars in economic activity through industries that give consumers access to competitive markets for creative works.¹

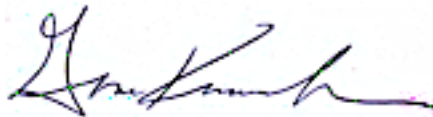
The existing bill language risks connoting a dangerous imbalance in the negotiating objectives—suggesting that the objectives of the United States are solely concerned with maximizing the legal power assigned by the law to authors or inventors.

¹ Thomas Rogers & Andrew Szamoszegi, *Fair Use in the U.S. Economy: Economic Contribution of Industries Relying on Fair Use*, Computer & Communications Industry Association, <http://www.ccianet.org/wp-content/uploads/library/FairUseStudy-Sep12.pdf>

We therefore urge you to address this imbalance, ensuring that we do not hamper, through trade agreements and their enforcement mechanisms, the ability of U.S. industries to export goods and services that rely upon strong limitations and exceptions like those found in our laws. Even more importantly, guaranteeing this critical balance will protect the rights of individuals in the United States and its trading partners to speak freely, access knowledge, and innovate within a diverse global culture.

We believe it is possible—and even ideal—that our international agreements promote both strong protections and also strong limitations to intellectual property. We look forward to working with you to ensure that U.S. trade policy protects all of us who are affected by intellectual property rights every day.

Sincerely,



Gene Kimmelman
President & CEO



Sherwin Siy
Vice President, Legal Affairs



Carolina Rossini
Vice President, International Policy