



February 25, 2009

**Submitted to <http://www.regulations.gov>**

Carmen Suro-Bredie  
Chairman, Trade Policy Staff Committee  
Office of the U.S. Trade Representative  
600 17<sup>th</sup> Street NW  
Washington, DC 20508

Re: Notice of Intent to Testify at, and Testimony for, a Public Hearing Concerning the Proposed Trans-Pacific Partnership Free Trade Agreement with Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru and Vietnam (74 Fed. Reg. 4480, Jan. 26, 2009)

To the Trade Policy Staff Committee:

This written notification responds to the TPSC's Request for Comments and Notice of Public Hearing concerning the proposed Trans-Pacific Partnership Free Trade Agreement with Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru and Vietnam. The request requires persons wishing to testify orally at a hearing that will be held in Washington, DC beginning on March 4, 2009, to provide written notification of their intention, as well as a copy of their testimony.

**Notice of Request to Testify**

We hereby notify you that the following person wishes to testify orally at this hearing on behalf of the International Intellectual Property Alliance (IIPA):

Eric H. Smith  
International Intellectual Property Alliance  
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**Summary of Testimony**

The following is a short summary of IIPA's testimony, as required by the Federal Register notice. IIPA's full testimony follows this summary.

The International Intellectual Property Alliance (IIPA) strongly supports the initiation of negotiations for a Trans-Pacific Partnership Free Trade Agreement with Singapore, Chile, New



Zealand, Brunei Darussalam, Australia, Peru and Vietnam (“TPP FTA”). Enhancement of copyright standards and enforcement consistent with those agreed to by current FTA partners, Australia, Singapore, Chile and Peru, would greatly benefit the creative and business communities in the U.S. and in our new FTA partners.

Extension of these obligations and standards to Brunei Darussalem, New Zealand and Vietnam will benefit all parties and establish a trade framework in intellectual property that will link the Asian countries to each other, and to the TPP FTA members from the Americas.

A TPP FTA should also eliminate many of the market access barriers that now inhibit U.S. companies from doing business with at least one of the potential TPP members, Vietnam. The IIPA is particularly pleased that Vietnam has agreed to join the negotiations.

Specific problems in some of the TPP countries are outlined in the Special 301 reports from 2009 for Chile,<sup>1</sup> Peru, Brunei, and Vietnam.<sup>2</sup>

We thank the TPSC for permitting us to testify on this important initiative.

Respectfully submitted,

Eric H. Smith  
International Intellectual Property Alliance

Attachment: IIPA Testimony

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<sup>1</sup> See IIPA’s Chile report at <http://www.iipa.com/rbc/2009/2009SPEC301CHILE.pdf>, which identifies Chile’s current FTA obligations to:

- Establish ISP liability provisions to meet its current FTA obligations, including notice and take down procedures;
- Increase the level of deterrent civil and criminal sanctions for copyright infringement;
- Provide an effective civil *ex parte* search remedy;
- Establish statutory damages;
- Take immediate steps to complete and fully implement its 2001 government software legalization decree, and adopt appropriate provisions to regulate the acquisition and management of software by government agencies; and
- Generate new legislation to implement its FTA obligations regarding technological protection measures (TPMs) and the enforcement (both criminal and civil) against their circumvention (the FTA deadline was December 31, 2008).

<sup>2</sup> See Peru <http://www.iipa.com/rbc/2009/2009SPEC301PERU.pdf>, Brunei <http://www.iipa.com/rbc/2009/2009SPEC301BRUNEL.pdf>, and Vietnam <http://www.iipa.com/rbc/2009/2009SPEC301VIETNAM.pdf>.



**ORAL TESTIMONY OF**  
**ERIC H. SMITH**  
**INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE**

**AT THE PUBLIC HEARING**  
**CONCERNING A PROPOSED**  
**TRANS-PACIFIC PARTNERSHIP FREE TRADE AGREEMENT**  
**WITH SINGAPORE, CHILE, NEW ZEALAND,**  
**BRUNEI DARUSSALAM, AUSTRALIA,**  
**PERU, VIETNAM AND THE U.S.**

**WEDNESDAY, MARCH 4, 2009**

**BEFORE THE TRADE POLICY STAFF COMMITTEE**

**WASHINGTON, DC**



- The International Intellectual Property Alliance appreciates this opportunity to present the views of the U.S. copyright industries on proposed negotiations toward a Trans-Pacific Partnership Free Trade Agreement with Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru and Vietnam (“TPP FTA”).
- IIPA is a coalition of seven trade associations comprising over 1,900 U.S. companies, accounting for almost 6.5% of U.S. GDP, and 4% of U.S. workers -- 5.4 million in all -- producing and distributing creative works protected by copyright laws throughout the world.
- IIPA strongly supports the initiation of negotiations for a TPP FTA.
- The U.S. creative industries have already reaped significant benefits from the FTAs currently in place with Australia, Singapore and Chile and look forward to the same with the newest FTA partner, Peru. These countries have undertaken significant IPR obligations that represent high standards of protection and enforcement. Not only do these standards help to ensure free and fair trade in physical copyright-protected products but they also provide the legal infrastructure for protection of those works in the online environment. These agreements have established a benchmark of protection and enforcement that will ensure continued revenue and job growth for the creative industries in the U.S. as well as within each of our FTA partners.
- Extending the template of obligations already in place in these four agreements to Brunei, New Zealand and Vietnam would reap similar benefits to the U.S. and to those countries, including
  - high standards of protection that take into account technological changes and that reflect the global consensus on minimum standards already embodied in international copyright treaty instruments, such as the WIPO Internet treaties;



- high standards of enforcement that will help lower rates of copyright piracy and that implement the “best enforcement practices” that have developed in the almost 19 years since the TRIPS enforcement text was developed. TPP countries would be obligated to strengthen enforcement against Internet and hard goods piracy of movies, recorded music, business and entertainment software, and books and journals, as well as tackling specific issues such as end-user piracy of business software, unauthorized use of software or other copyright materials by governments or state-owned enterprises, and optical disc pirate production; and
- the elimination of many market access barriers faced by U.S. copyright industries in at least one of these countries, Vietnam.
- IIPA is particularly pleased that Vietnam has decided to join these negotiations. Vietnam is a market that will be very significant for our industries in time. Our companies have just begun to enter this market, but unfortunately face quite high piracy rates and many onerous market access barriers. Implementing the disciplines of the IPR text of a new TPP FTA will expedite the ability of U.S. companies to succeed in this market of over 86 million people and will also be of significant benefit to Vietnam as well by opening the markets of all TPP FTA partners to its products.
- This FTA would be a milestone linking all these trading partners to each other in offering the benefits of free trade and significantly improved IPR protection across all their markets. This linking of countries together in a free trade relationship will set an important precedent for expanding such arrangements among other countries in Asia and Latin America.
- The existing FTAs have also offered the opportunity to address specific problems that are unique to each country, and to enter into agreements, often in side letters, to resolve those problems.
- Finally, by providing a specific mechanism to settle disputes that arise under the various TPP FTA chapters, the U.S. and each of the other partners in the



Agreement would embark upon a more mature trading relationship befitting all these countries now living in an increasingly intertwined globalized economy.

- Specific problems in some of the TPP countries are outlined in the Special 301 reports from 2009 for Chile,<sup>3</sup> Peru, Brunei, and Vietnam.<sup>4</sup>
- Thank you very much, and I would be pleased to answer any questions.

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<sup>3</sup> See IIPA's Chile report at <http://www.iipa.com/rbc/2009/2009SPEC301CHILE.pdf>, which identifies Chile's current FTA obligations to:

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