

# USTR NEWS

## UNITED STATES TRADE REPRESENTATIVE

[www.ustr.gov](http://www.ustr.gov)

Washington, D.C. 20508

202-395-3230

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**Contact:**

Sean Spicer/Gretchen Hamel (202) 395-3230

### **USTR Announces Conclusion of the Special 301 Out-of-Cycle Review for Taiwan**

WASHINGTON, D.C. – The Office of the U.S. Trade Representative today recognized Taiwan’s progress on protection and enforcement of intellectual property rights by removing Taiwan from the Special 301 Watch List.

“Taiwan has come a long way on this issue over the last eight years,” said USTR spokesperson Sean Spicer. “In 2001, USTR called Taiwan ‘a haven for pirates.’ Today, Taiwan has strengthened its enforcement, strengthened its laws, and demonstrated a commitment to becoming a haven for innovation and creativity. This is a credit to the hard work done by Taiwan as well as to our close bilateral cooperation. We hope that this progress can continue and be duplicated in other areas of our trade relationship.”

The decision to remove Taiwan from the Special 301 Watch List resulted from an “Out-of-Cycle Review” announced last April in the 2008 Special 301 report. The review examined in detail the adequacy and effectiveness of intellectual property rights (IPR) protection and enforcement in Taiwan, with a focus on specific issues identified in the 2008 Special 301 Report.

The United States will continue to carefully monitor Taiwan’s progress in improving its IPR regime, including enactment of pending legislation to fight Internet piracy, efforts to improve customs and border enforcement to prevent the import and export of IPR infringing goods, implementation of effective policies to reduce IPR theft on school campuses and over the Internet, and continued progress to ensure the protection and enforcement of IPR for pharmaceutical products and medical devices, including working to reduce the import, export and availability of counterfeit drugs.

### **Background**

In recognition of progress Taiwan had made toward improving IPR protection and enforcement, the United States announced last April in the annual Special 301 Report that it would conduct an Out-of-Cycle Review (OCR) in 2008. Today’s decision to remove Taiwan from the Watch List is the result of that OCR.

The review focused on three specific issues identified in the 2008 Special 301 Report: 1) establishment of a Special IPR Court, 2) continuing efforts to improve implementation of the Action Plan for Protecting Intellectual Property Rights on School Campuses, and 3) progress toward passage of amendments to the Copyright Law that provide incentives for Internet service providers (ISPs) to cooperate in addressing infringing activities by users on their networks.

The OCR concluded that during 2008 Taiwan made further progress on improving its overall IPR enforcement climate, including progress in the three specific areas identified in the 2008 Special 301 Report. First, Taiwan established a Specialized IPR Court in July, 2008. The court began accepting cases on July 1 and by year's end had received over 700 cases. Taiwan also established an IPR branch in the High Prosecutor's Office to concentrate on IPR enforcement.

Second, the OCR found that Taiwan has taken important steps to improve respect for IPR on campuses and fight both internet and textbook piracy. For example, in October 2007, the Taiwan Ministry of Education (MOE) launched a Campus IPR Action Plan. The action plan provides specific guidelines to universities for combating IPR violations on the Taiwan Academic Network (TANet), the island-wide high-school and university broadband internet service, and on reducing the prevalence of illegal textbook copying by on-campus copy shops. During 2008, Taiwan has made progress in implementing this action plan

Third, Taiwan also made progress with respect to passing amendments to the Copyright Law aimed at assisting right holders in their efforts to stop copyright infringement on the Internet. On August 27, Taiwan's IP Office submitted draft legislation to the Executive Yuan (EY). The legislation would create an incentive for ISPs to assist with addressing infringing activities by those using their networks by limiting liability for ISPs that follow specific procedures. The EY approved and submitted the draft legislation to the Legislative Yuan on October 1, 2008, where it is now under consideration for final approval.

### **Background on Special 301:**

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act (enacted in 1994), under Special 301 provisions, USTR must identify those countries that deny adequate and effective protection for IPR or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products must be designated as "Priority Foreign Countries."

USTR has created a "Priority Watch List" and a "Watch List" under the Special 301 provisions. Placement of a trading partner on the Priority Watch List or the Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property.