

Remarks by U.S. Trade Representative Susan C. Schwab

U.S. Chamber of Commerce

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Thank you Suzanne, members of the Chamber and guests, thank you for inviting me here today. This annual event focuses needed attention on one of the most serious and elusive problems confronting modern commerce.

Whether it is referred to as counterfeiting or piracy or willful infringement of trademarks and copyrights, it all comes under the less elegant heading of stealing - pure and simple. According to figures from the National Chamber Foundation, annual global losses by industry are staggering due to this problem: 22 billion dollars for the pharmaceutical industry, 12 billion for the software industry, 12 billion for the apparel and footwear industry, 4.6 billion for the recording industry and 3.5 billion for the motion picture industry. This data also shows that counterfeiting and piracy are costing the United States 200 to 250 billion dollars each year. In addition, counterfeit merchandise is responsible for the loss of more than 750,000 American jobs, according to U.S. Customs and Border Protection. We must work together to stop this.

Tackling this problem is important to all nations. For the global trading system to work, companies, entrepreneurs and investors – as well as workers and consumers – must have confidence that the rules of the game are fair and evenly-applied.

This is especially important for the United States. We are the world's largest economy, the largest exporter, the largest importer. Trade is critical to America's prosperity – fueling economic growth, supporting good jobs at home, raising living standards, and helping Americans provide for their families with affordable goods and services.

More precisely, tackling this problem is important to the United States because the kinds of innovations in which this country excels are also the fields where piracy and counterfeiting are most rampant. The ideas and products Americans come up with are the source of a significant portion of our current prosperity and the basis for our continued growth and competitiveness. Technology and a shrinking world are making it easier to steal these types of products and services, and all of us must rise to the challenge of protecting them.

Over the past several years, this Administration has shown that it is rising to that challenge through the STOP initiative and all the other efforts of the agencies you will see represented at this summit. This summit is an opportunity for all of us – whether in industry, the U.S. government, or among our guests from foreign governments -- to check our progress and map the road ahead.

Our top priority at USTR is opening markets around the world and making sure U.S. exporters enjoy the best possible international environment of rules and relationships. Every day, we are using the tools of U.S. trade policy to build a critical infrastructure of market access, intellectual property

protection, and rules for secure e-commerce in markets around the world so that U.S. companies can fully harness the opportunities of growing markets.

Stopping trade in fakes and protecting our intellectual property right holders is not a separate and distinct part of this priority. It is an integral part of our market opening efforts.

Today, I would like lay out some of the specific steps we have undertaken on the multilateral and bilateral fronts to thwart the pirates and rip-off artists and to discuss with you some developments since last year. These activities include playing a leadership role in many international dialogues and agreements as well as adding to and refocusing our resources within USTR.

### Using Trade Tools

First, let me discuss how we are using some of our trade tools to seek resolution of U.S. concerns regarding IP protection and enforcement.

### Special 301

The Special 301 process of country-by country intellectual property reviews is at the heart of these efforts. Through that process USTR is actively engaged on a daily basis in working with trading partners around the world to improve the IPR climate.

We are continually refining these tools to improve their effectiveness. For instance, this year for the first time, USTR included, in its Special 301 report, a list of “notorious markets” which pointed to a number of virtual and physical markets as examples of marketplaces that have been the subject of enforcement action, or merited further investigation for possible IPR infringements, or both.

Also unprecedented in this year’s Special 301 report was the announcement of a special review of China’s efforts on IPR at the provincial level. Back in 2005, the U.S. Chamber called on USTR to develop a new approach to evaluating China’s provinces for IPR protection and enforcement. That was a good idea, and we are pleased to be following through on it. It is an example of how industry can generate concrete suggestions about how USTR and other agencies can carry forward the Administration’s fight against counterfeiting and piracy. I hope we’ll hear more suggestions like that over the course of the next two days.

### Focusing USTR Resources

In order to better use our trade tools, I have created a new Intellectual Property and Innovation office, headed by Assistant USTR Victoria Espinel, who has become a real expert in this field. The office also includes a new Chief Negotiator for Intellectual Property Enforcement, Stanford McCoy.

This new office is tasked with using the full range of trade policy tools around the world to combat piracy through strong laws and effective enforcement, and to ensure that protection remains effective as technology

continues to develop and IP pirates become more sophisticated. It is complex work that requires a coordinated effort across the U.S. Government, as well as close cooperation with foreign governments and affected industries. This work is never done, but the effort over the years has been quite successful.

## Negotiating Agreements

Another way that we are working in the global system to promote more respect for and enforcement of IPR, is in the free trade agreements we negotiate. These agreements are raising the bar for IP protection. The intellectual property provisions of our recent U.S. free trade agreements and those under negotiation set high standards, similar to our own laws.

The reason we do this is two-fold. One, to protect our own intellectual property rights. And two, to assist our trading partners to reform their legal and regulatory structures so that they can attract foreign investment and become more prosperous nations.

## China

Of course, there is no way to discuss IPR without devoting considerable attention to China. Our trading relationship with China is very important to us and our economy benefits from a strong trade relationship with China. However, China is a top IPR enforcement concern for us.

It is clear that China's IPR enforcement regime remains inadequate. Chinese officials have launched anti-piracy campaigns and stepped up prosecution of IPR violators but counterfeiting and piracy levels in China remain unacceptably high. The share of infringing product seizures of Chinese origin at the U.S. border increased to 69 percent in 2005 from 63 percent in 2004. There are more infringing goods from China seized at U.S. borders than from all other countries combined.

However, we are working on many fronts to address these issues. We have augmented our focus on the unique challenges of China with the appointment of a new Chief Counsel for China Trade Enforcement, who has joined our China Enforcement Task Force. Claire Reade, whom I am sure many of you know, brings more than 20 years of experience as a litigator in international trade cases. The position was created as part of USTR's top-to-bottom review of U.S. - China trade relations, completed last spring. Reade will coordinate USTR's efforts to ensure China's compliance with its international trade commitments, particularly its WTO obligations and the important commitments that China has made within the U.S.-China Joint Commission on Commerce and Trade (JCCT). She will also co-chair USTR's newly formed China Enforcement Task Force. Certainly, securing effective enforcement of intellectual property rights will require a lot of her attention.

On the diplomatic front, we have communicated unequivocally to our Chinese counterparts that significant and measurable reductions in counterfeiting and piracy are needed to preserve balance in the U.S. trade relationship with China. We have also pressed China to recognize that IPR

protection must go hand in hand with full and fair access to China's growing and more affluent market.

We have used our bilateral dialogue to press for strong and specific actions and commitments that matter to the U.S. industries, such as prosecuting infringers and imposing tough penalties, to back up the expressed commitment of China's leaders to improving IPR enforcement. For example, we want to see China put in place the necessary rules and enforcement mechanisms to ensure that its rapidly emerging Internet market is not swallowed up by piracy the way its CD and DVD markets have been.

As I noted, we also use our annual Special 301 report to identify the specific shortcomings that China needs to address and press for real solutions.

We are utilizing WTO rules and bilateral discussions to bring greater transparency to the results of IP enforcement actions in China.

We are conducting a provincial review to look at China's enforcement system as it is applied by the local authorities to problems our industries confront, ranging from retail piracy and counterfeiting in major cities to manufacturing in key industrial areas.

We just completed a working level meeting of the U.S.-China Joint Commission on Commerce and Trade (JCCT) IPR Working Group, at which U.S. experts communicated the specifics of U.S. concerns about China's IPR protection and enforcement regime with their Chinese expert counterparts.

We are working with China to improve their enforcement efforts against manufacturers and sellers of counterfeit and pirated goods – for example at those “notorious markets” I mentioned earlier.

Among the concrete, positive outcomes of the JCCT meeting in April was the Chinese government’s agreement to take action against specific factories producing illegal optical disks and its pledge to step up its efforts in combating copyright piracy of films, music, and software. China and the U.S. will also explore new ways to strengthen cooperation in this area.

In addition, the Chinese government has issued a notice requiring the pre-loading of legal operating system software on all computers produced or imported into China, as well as a notice requiring government agencies to purchase computers with pre-loaded software. In line with these requirements, several Chinese computer manufacturers have recently signed agreements to purchase U.S. operating system software.

As we remain vigilant in these efforts, I will note that another option we have is to bring a case against China’s measures in the WTO. Chinese officials are aware we are reviewing this option in the IPR area and could initiate legal proceedings as early as this fall.

### Russia

Russia, like China, is a top priority. We have used the Special 301 report to highlight the issues and press our counterparts in the Russian



government for solutions. Through another of our trade policy tools – bilateral and multilateral WTO accession talks – we are working to get the problems addressed and get systems and initiatives in place that will allow Russia to turn things around.

For example, in the 2006 Special 301 report, at the top of the "notorious markets" list is Russia's **allofmp3.com**, the Web's number one pay-per-download music site whose catalog consists of illegal copies of music from U.S. recording artists and other right holders. So far, the Russian authorities have allowed this site to operate with impunity. We have made clear to Russia that improved protection for intellectual property is critical to its joining the WTO and we have specifically raised our concerns with allofmp3.com, the drafting of a new section of the Civil Code, and other key issues. We are very supportive of our industries' concerns in Russia and we are working to achieve better IPR protection and enforcement there.

### Long Term Efforts to Engage Other Nations

Now, let me turn my attention to some of our ongoing efforts to work with other nations on thwarting the thieves and how we have been applying some of the tools at our disposal to combat counterfeiting and piracy.

As you know, two years ago, we announced the Strategy Targeting Organized Piracy or STOP initiative. STOP brings together all the major players – the federal government, private sector and trade partners – to take

concerted action in cracking down on piracy and counterfeiting. The initiative is part of an effort to enhance coordination among all relevant U.S. Government agencies and U.S. trading partners to tackle this global problem.

As part of STOP, USTR has advocated adoption of best practices guidelines for enforcement. Currently, the global minimum standard for IPR protection and enforcement is the WTO agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), which came into effect eleven years ago. Eleven years might not seem like a long time but in the world of technology it is a few generations. It is remarkable how much the world has changed in just the last eleven years when TRIPS was created. For example, the rate and impact of Internet piracy has exploded. Counterfeiters and pirates have become very sophisticated in manufacturing, packaging and distributing their contraband. And their market has gone global.

If we are to succeed in the battle against this unfair and illegal activity, it is imperative that we look to new and creative ways to strengthen IPR protection and enforcement around the world and deepen our cooperation with our trading partners.

In 2005, USTR led interagency teams to meet with a number of key trading partners, including Japan, Korea, Hong Kong, Singapore, UK, France, Germany, and the European Union, to establish greater cooperation on IPR enforcement. USTR will continue these efforts to strengthen IPR

laws and enforcement and create an international alliance against counterfeiting and piracy. We are working closely with key trading partners to explore ways of carrying forward these initiatives.

Also, as part of this effort, USTR, in coordination with other agencies, is introducing new initiatives in multilateral fora, to improve the global intellectual property environment that will aid in disrupting the operations of pirates and counterfeiters.

For example, at their meeting last November, APEC Leaders adopted best practices guidelines to improve border enforcement, protect digital copies and combat internet piracy. USTR is spearheading an effort to have APEC Leaders endorse additional IPR guidelines that would keep supply chains free of pirated and counterfeit goods and improve IPR public awareness campaigns throughout the Asia-Pacific region as well as commit to ensure governments do not allow illegal software on government computer networks at their meeting this November.

USTR has also played a leading role in the Administration's efforts to enhance the focus on IPR in various international fora, such as the Security Prosperity Partnership with Canada and Mexico, the G-8 summit, and the US-EU Summit. These efforts will produce new initiatives, such as law enforcement cooperation and coordinated outreach to third countries, that will improve the global intellectual property environment and aid in disrupting the operations of pirates and counterfeiters.

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The United States has the strongest intellectual property laws and enforcement in the world. This Administration is committed to combating counterfeiting and piracy around the world.

As such, it is important that we are out in front, that we play a leadership role and lead by example to encourage other countries to do more. However, we cannot do it alone. We need our trading partners and industry to work with us in raising the standard of IPR protection and enforcement worldwide.

We also need continued teamwork within the U.S. Government. All of the efforts I've described today are team efforts, sometimes with USTR at the helm and sometimes with other agencies. None of them can succeed without close coordination. As a testament to the success of that coordination, the Administration is publicly releasing today the report of our National Intellectual Property Law Enforcement Coordination Council. That report is packed with examples of the way we work together on IP issues. I want to thank U.S. Intellectual Property Coordinator Chris Israel for his hard work in putting together the report and maintaining the interagency teamwork that is critical to our past and future success.

Conclusion

So as you can see, we have been busy on many fronts – using existing tools, engaging our trade partners on the multilateral and bilateral level, beefing up our efforts within USTR and across the U.S. Government, and thinking about ways to work with other countries to stay a step ahead of the pirates and counterfeiters.

The Chamber has been a steadfast ally as we have worked toward opening trade flows and a constructive partner in efforts to crack down on piracy and counterfeiting. I know we can count on all of you to continue your strong support in our efforts.

As I said at the outset, we all have a stake in the success of the global trading system. Therefore, we must make sure the rules of trade are fair and evenly applied for there to be confidence in the global trading system. I look forward to working with you in these efforts.

Thank you.