

2024 Special 301 Report



Office of the United States Trade Representative

ACKNOWLEDGEMENTS

The Office of the United States Trade Representative (USTR) is responsible for the preparation of this Report. United States Trade Representative Katherine Tai gratefully acknowledges the contributions of staff to the writing and production of this Report and extends her thanks to partner agencies, including the following Departments and agencies: State; Treasury; Justice; Agriculture; Commerce, including the International Trade Administration and the Patent and Trademark Office; Health and Human Services; and Homeland Security, including the United States Customs and Border Protection, Homeland Security Investigations, and the National Intellectual Property Rights Coordination Center. USTR also recognizes the contributions of the Office of the Intellectual Property Enforcement Coordinator, as well as those of the United States Copyright Office.

In preparing the Report, substantial information was solicited from U.S. embassies around the world, from U.S. Government agencies, and from interested stakeholders. The draft of this Report was developed through the Special 301 Subcommittee of the interagency Trade Policy Staff Committee.

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EXECUTIVE SUMMARY

The Special 301 Report (Report) is the result of an annual review of the state of intellectual property (IP) protection and enforcement in U.S. trading partners around the world, which the Office of the United States Trade Representative (USTR) conducts pursuant to Section 182 of the Trade Act of 1974, as amended (the Trade Act, 19 U.S.C. § 2242). Congress amended the Trade Act in 1988 specifically “to provide for the development of an overall strategy to ensure adequate and effective protection of intellectual property rights and fair and equitable market access for United States persons that rely on protection of intellectual property rights.”¹ In particular, Congress expressed its concern that “the absence of adequate and effective protection of United States intellectual property rights, and the denial of equitable market access, seriously impede the ability of the United States persons that rely on protection of intellectual property rights to export and operate overseas, thereby harming the economic interests of the United States.”²

This Report provides an opportunity to put a spotlight on foreign countries and the laws, policies, and practices that fail to provide adequate and effective IP protection and enforcement for U.S. inventors, creators, brands, manufacturers, and service providers, which, in turn, harm American workers whose livelihoods are tied to America’s innovation- and creativity-driven sectors. The Report identifies a wide range of concerns, including: (a) challenges with border and criminal enforcement against counterfeits, including in the online environment; (b) high levels of online and broadcast piracy, including through illicit streaming devices; (c) inadequacies in trade secret protection and enforcement in China, Russia, and elsewhere; (d) troubling “indigenous innovation” and forced or pressured technology transfer policies that may unfairly disadvantage U.S. right holders in markets abroad; and (e) other ongoing, systemic issues regarding IP protection and enforcement, as well as market access, in many trading partners around the world. Combating such unfair trade policies can foster American innovation and creativity and increase economic security for American workers and families.

A priority of this Administration is to craft trade policy in service of America’s workers, including those in innovation- and creativity-driven export industries. The Report serves a critical function by identifying opportunities and challenges facing U.S. innovative and creative industries in foreign markets and by promoting job creation, economic development, and many other benefits that effective IP protection and enforcement support. The Report informs the public and our trading partners and seeks to be a positive catalyst for change. USTR looks forward to working closely with the governments of the trading partners that are identified in this year’s Report to address both emerging and continuing concerns and to build on the positive results that many of these governments have achieved.

¹ Omnibus Trade and Competitiveness Act of 1988, § 1303(a)(2), 102 Stat. 1179.

² *Id.* § 1303(a)(1)(B); *see also* S. Rep. 100-71 at 75 (1987) (“Improved protection and market access for U.S. intellectual property goes to the very essence of economic competitiveness for the United States. The problems of piracy, counterfeiting, and market access for U.S. intellectual property affect the U.S. economy as a whole. Effective action against these problems is important to sectors ranging from high technology to basic industries, and from manufacturers of goods to U.S. service businesses.”).

This Administration also recognizes that counterfeit products in particular, including counterfeit medicines, may harm the citizens of the trading partners where those counterfeit products are sold. In that regard, appropriate enforcement can also serve the interests of foreign governments. Counterfeit products are more likely to be made of substandard materials or contain toxic or harmful chemicals. They also are more likely to be manufactured in workplaces that are not subject to the same regulations and safety standards as legitimate commerce. As such, these products can pose serious potential health and safety risks to consumers. The production and sale of counterfeit goods also harms local businesses and governments by undermining fair market values and disincentivizing investment. The Report calls for adequate and effective enforcement against trademark counterfeiting, which plays a key role in reducing the potential health and safety risks due to counterfeit products.

THE 2024 SPECIAL 301 LIST

The Special 301 Subcommittee received stakeholder input on more than 100 trading partners but focused its review on those submissions that responded to the request set forth in the notice published in the *Federal Register* to identify whether a particular trading partner should be named as a Priority Foreign Country, placed on the Priority Watch List or Watch List, or not listed in the Report. Following extensive research and analysis, USTR has identified 27 trading partners as follows:

Priority Watch List	Watch List	
<ul style="list-style-type: none"> • Argentina • Chile • China • India • Indonesia • Russia • Venezuela 	<ul style="list-style-type: none"> • Algeria • Barbados • Belarus • Bolivia • Brazil • Bulgaria • Canada • Colombia • Ecuador • Egypt 	<ul style="list-style-type: none"> • Guatemala • Mexico • Pakistan • Paraguay • Peru • Thailand • Trinidad and Tobago • Türkiye • Turkmenistan • Vietnam

The Special 301 review of Ukraine has been suspended due to Russia’s full-scale invasion of Ukraine in February 2022.

OUT-OF-CYCLE REVIEWS

An Out-of-Cycle Review is a tool that USTR uses to encourage progress on IP issues of concern. Out-of-Cycle Reviews provide an opportunity to address and remedy such issues through heightened engagement and cooperation with trading partners and other stakeholders. Out-of-Cycle Reviews focus on identified IP challenges in specific trading partner markets. Successful resolution of specific IP issues of concern can lead to a positive change in a trading partner’s Special 301 status outside of the typical period for the annual review. Conversely, failure to address identified IP concerns, or further deterioration as to an IP-related concern within the specified Out-of-Cycle Review period, can lead to an adverse change in status.

USTR may conduct additional Out-of-Cycle Reviews of other trading partners as circumstances warrant or as requested by a trading partner.

REVIEW OF NOTORIOUS MARKETS FOR COUNTERFEITING AND PIRACY

In 2010, USTR began publishing annually the *Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List)* separately from the annual Special 301 Report. The *Notorious Markets List* identifies illustrative examples of online and physical markets that reportedly engage in, facilitate, turn a blind eye to, or benefit from substantial copyright piracy and trademark counterfeiting, according to information submitted to USTR in response to a notice published in the *Federal Register* requesting public comments. In 2023, USTR requested such comments on August 24, 2023, and published the *2023 Notorious Markets List* on January 30, 2024. USTR plans to conduct its next Review of Notorious Markets for Counterfeiting and Piracy in the fall of 2024.

THE SPECIAL 301 PROCESS

The Congressionally mandated annual Special 301 Report is the result of an extensive multi-stakeholder process. Pursuant to the statute mandating the Report, the United States Trade Representative is charged with designating as Priority Foreign Countries those 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. (See ANNEX 1.) To facilitate administration of the statute, USTR has created a Priority Watch List and a Watch List within this Report. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IP protection, enforcement, or market access for U.S. persons relying on IP. Provisions of the Special 301 statute, as amended, direct the United States Trade Representative to develop action plans for each country identified as a Priority Watch List country that has also been on the Priority Watch List for at least one year.

Public Engagement

USTR solicited broad public participation in the 2024 Special 301 review process to facilitate sound, well-balanced assessments of trading partners' IP protection and enforcement and related market access issues affecting IP-intensive industries and to help ensure that the Special 301 review would be based on comprehensive information regarding IP issues in trading partner markets.

USTR requested written submissions from the public through a notice published in the *Federal Register* on December 6, 2023 (*Federal Register* notice). In addition, on February 21, 2024, USTR conducted a public hearing that provided the opportunity for interested persons to testify before the interagency Special 301 Subcommittee of the Trade Policy Staff Committee (TPSC) about issues relevant to the review. The hearing featured testimony from witnesses, including representatives of foreign governments, industry, and non-governmental organizations. USTR posted on its public website the testimony received at the Special 301 hearing and offered a post-hearing comment period during which hearing participants could submit additional information in

support of, or in response to, hearing testimony.³ The *Federal Register* notice drew submissions from 45 non-government stakeholders and 16 foreign governments. The submissions filed in response to the *Federal Register* notice are available to the public online at www.regulations.gov, docket number USTR-2023-0014.

Country Placement

The Special 301 listings and actions announced in this Report are the result of intensive deliberations among all relevant agencies within the U.S. Government, informed by extensive consultations with participating stakeholders, foreign governments, the U.S. Congress, and other interested parties.

USTR, together with the Special 301 Subcommittee, conducts a broad and balanced assessment of U.S. trading partners' IP protection and enforcement, as well as related market access issues affecting IP-intensive industries, in accordance with the statutory criteria. (See ANNEX 1.) The Special 301 Subcommittee, through the TPSC, provides advice on country placement to USTR based on this assessment. This assessment is conducted on a case-by-case basis, taking into account diverse factors such as a trading partner's level of development, its international obligations and commitments, the concerns of right holders and other interested parties, and the trade and investment policies of the United States. It is informed by the various cross-cutting issues and trends identified in Section I. Each assessment is based upon the specific facts and circumstances that shape IP protection and enforcement in a particular trading partner.

In the year ahead, USTR will continue to engage trading partners on the issues discussed in this Report. In preparation for, and in the course of, those interactions, USTR will:

- Engage with the U.S. Congress and U.S. Government agencies, as well as U.S. stakeholders and other interested parties to ensure that USTR's position is informed by the full range of views on the pertinent issues;
- Conduct extensive discussions with individual trading partners regarding their respective IP regimes;
- Encourage trading partners to engage fully, and with the greatest degree of transparency, with the full range of stakeholders on IP matters;
- Develop an action plan with benchmarks for each country that has been on the Priority Watch List for at least one year to encourage progress on high-priority IP concerns; and
- Identify, where possible, appropriate ways in which the U.S. Government can be of assistance. (See ANNEX 2.)

USTR will conduct these discussions in a manner that both advances the policy goals of the United States and respects the importance of meaningful policy dialogue with U.S. trading partners. In

³ Available at <https://ustr.gov/issue-areas/intellectual-property/special-301/2024-special-301-report>.

addition, USTR will continue to work closely with other U.S. Government agencies to ensure consistency of U.S. trade policy objectives.

STRUCTURE OF THE SPECIAL 301 REPORT

The 2024 Report contains the following Sections and Annexes:

SECTION I: Developments in Intellectual Property Rights Protection, Enforcement, and Related Market Access discusses global trends and issues in IP protection and enforcement and related market access that the U.S. Government works to address on a daily basis;

SECTION II: Country Reports includes descriptions of issues of concern with respect to particular trading partners;

ANNEX 1: Special 301 Statutory Basis describes the statutory basis of the Special 301 Report; and

ANNEX 2: U.S. Government-Sponsored Technical Assistance and Capacity Building highlights U.S. Government-sponsored technical assistance and capacity building efforts.

April 2024

SECTION I: Developments in Intellectual Property Rights Protection, Enforcement, and Related Market Access

An important part of the mission of the Office of the United States Trade Representative (USTR) is to support and implement the Administration’s commitment to protect American jobs and workers and to advance the economic interests of the United States. USTR works to protect American innovation and creativity in foreign markets employing all the tools of U.S. trade policy, including the annual Special 301 Report (Report).

Intellectual property (IP) infringement, including patent infringement, trademark counterfeiting, copyright piracy,⁴ and trade secret theft, causes significant financial losses for right holders and legitimate businesses. IP infringement can undermine U.S. competitive advantages in innovation and creativity, to the detriment of American workers and businesses.⁵ In its most pernicious forms, IP infringement endangers the public, including through exposure to health and safety risks from counterfeit products, such as semiconductors, automobile parts, apparel, footwear, toys, and medicines. In addition, trade in counterfeit and pirated products often fuels cross-border organized criminal networks, increases the vulnerability of workers to exploitative labor practices, and hinders sustainable economic development in many countries.

This Section highlights developments in 2023 and early 2024 in IP protection, enforcement, and related market access in foreign markets, including: examples of initiatives to strengthen IP protection and enforcement; illustrative best practices demonstrated by the United States and our trading partners; U.S.-led initiatives in multilateral organizations; and bilateral and regional developments. This Section identifies outstanding challenges and trends, including as they relate to enforcement against counterfeit goods, online and broadcast piracy, protection of trade secrets, forced or pressured technology transfer and preferences for indigenous IP,⁶ geographical indications (GIs), innovative pharmaceutical products and medical devices, trademark protection issues, copyright administration and royalty payment, and government use of unlicensed software. This Section also highlights the importance of IP to innovation in the environmental sector and considerations at the intersection of IP and health. Finally, this Section discusses the importance of full implementation of the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and developments on the use of WTO dispute settlement procedures by the United States to resolve IP concerns.

⁴ The terms “trademark counterfeiting” and “copyright piracy” may appear below also as “counterfeiting” and “piracy,” respectively.

⁵ The Issue Focus of the *2022 Review of Notorious Markets for Counterfeiting and Piracy* examines the impact of online piracy on U.S. workers. Workers, such as content creators and the creative professionals who support the production of creative works, rely more than ever on adequate and effective copyright protection and enforcement to secure their livelihoods in today’s digital era. Online piracy is not only highly detrimental to the U.S. economy as a whole, but it also has a strong impact on the everyday lives of individual workers.

⁶ In certain countries, preferences or policies on “indigenous IP” or “indigenous innovation” refer to a top-down, state-directed approach to technology development, which can include explicit market share targets that are to be filled by producers using domestically owned or developed IP.

A. Initiatives to Strengthen Intellectual Property Protection and Enforcement in Foreign Markets

The Office of the United States Trade Representative (USTR) notes the following important developments in 2023 and early 2024:

- The **Dominican Republic** is removed from the Watch List this year for making significant progress on addressing concerns with intellectual property (IP) enforcement and transparency. Through the leadership of and coordination by the Interministerial Council on Intellectual Property, Dominican Republic agencies increased enforcement actions and interagency cooperation on combating signal piracy, improved resource allocation for agencies, made publicly available enforcement-related statistics, increased the number of specialized IP prosecutors, and worked with various U.S. agencies to receive training and technical assistance. In 2023, the Dominican Republic also increased enforcement actions against counterfeit medicines, including the opening of 8 cases by the Office of the Special Prosecutor for Crimes and Offenses Against Health targeting counterfeits sold at pharmacies and illicit markets, seizing more than 4 million units of counterfeit medicines. The Dominican Republic has committed to continue taking enforcement actions to combat copyright infringement, including signal piracy, and to increase capacity through training and engagement with the United States.
- **Uzbekistan** is removed from the Watch List this year due to sustained progress on long-standing issues pertaining to IP protection and enforcement. Uzbekistan enacted new Customs Code amendments in February 2024 that introduce *ex officio* authority to suspend and seize counterfeit imports and exports, announced plans in the *2022 National Strategy for the Development of Intellectual Property* to combat counterfeit goods and online piracy, acceded in 2019 to the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties, and has made continuous efforts since 2021 to move government agencies to licensed software. The United States also recognizes the continued high-level political attention to IP, including Uzbekistan's support for and participation in the Intellectual Property Working Group under the United States-Central Asia Trade and Investment Framework Agreement (TIFA). The United States will continue working with Uzbekistan and will closely monitor implementation of the new Customs Code amendments and the continued transition to licensed software across the government. The United States also encourages Uzbekistan to address reported increases in the availability of counterfeit goods within the country.
- **Bulgaria** passed the *Act Amending and Supplementing the Criminal Code*, which provides for the criminal prosecution of persons who create conditions for online piracy. The amendments entered into force in August 2023. Bulgaria has been a safe haven for online piracy, and the United States will monitor the use and impact of the amendments.
- In **Peru**, Congress passed an amendment to its *Law Against Organized Crime* to expand its application to intellectual property crimes. This amendment enables the Peruvian

National Police and the Prosecutor's Office to use Peru's *Law Against Organized Crime* procedures when investigating potential organized crimes related to intellectual property infringement. Moreover, the amendment will permit the imposition of harsher prison sentences (ranging from 8 to 15 years) for members of criminal organizations involved in customs offenses and crimes against intellectual property.

- **India** finalized the *Patents (Amendments) Rules, 2024*, which include amendments to the procedures for pre-grant oppositions, an update to the reporting form for patent working, and decreased reporting time for reporting foreign applications. The amendments have the potential to reduce long-standing burdens on patent applicants.
- In March 2023, **China** acceded to the Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (Apostille Convention), which entered into force with respect to China in November 2023. For certain documents from Contracting States of the Apostille Convention, China will reportedly replace its current system for consularization procedures with a new authentication procedure based on Apostille certificates, which may reduce the authentication process from 20 working days to a few working days.
- In October 2023, **Indonesia**'s Directorate General for Intellectual Property and Indonesian enforcement authorities collaborated with the International Criminal Police Organization (INTERPOL), the U.S. Department of Justice International Computer Hacking and Intellectual Property Attorney Advisor for Asia, and Korean enforcement authorities to arrest operators of an illicit Internet Protocol television (IPTV) service and seize servers and streaming equipment.
- As of March 2024, there are 62 members of the 1991 Act of the International Union for the Protection of New Varieties of Plants Convention (UPOV 1991). The treaty requires member countries to grant IP protection to breeders of new plant varieties, known as breeder's rights. An effective plant variety protection system incentivizes plant-breeding activities, which leads to increased numbers of new plant varieties with improved characteristics such as high-yield, tolerance to adverse environmental conditions, and better food quality. In addition, promoting strong plant variety protection and enforcement globally helps improve industry competitiveness in foreign markets, encourages the importation of foreign plant varieties, and enhances domestic breeding programs. Since the publication of the 2023 Special 301 Report, **Armenia** has acceded to UPOV 1991.
- As of March 2024, there are 112 parties to the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty and 116 parties to the WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties. These treaties, which were completed in 1996 and entered into force in 2002, have raised the standard of copyright protection around the world, particularly with regard to online delivery of copyrighted content. The treaties, which provide for certain exclusive rights, require parties to provide adequate legal protection and effective legal remedies against the circumvention of technological protection measures (TPMs), as well as certain acts

affecting rights management information (RMI). Since the publication of the 2023 Special 301 Report, **Saint Vincent and the Grenadines** has acceded to the WCT.

The United States will continue to work with its trading partners to further enhance IP protection and enforcement during the coming year.

B. Illustrative Best Intellectual Property Practices by Trading Partners

The Office of the United States Trade Representative (USTR) highlights the following illustrative best practices by trading partners in the area of intellectual property (IP) protection and enforcement:

- Cooperation and coordination among national government agencies involved in IP issues are examples of effective IP enforcement. Several countries, including the United States, have introduced IP enforcement coordination mechanisms or agreements to enhance interagency cooperation. In **Saudi Arabia**, the Saudi Authority for Intellectual Property (SAIP) created the permanent National Committee for the Enforcement of Intellectual Property to coordinate IP enforcement, issue reports and case studies, and develop IP legislation and regulations. **Brazil**'s National Council on Combating Piracy and Intellectual Property Crimes comprises representatives from executive branch ministries and the private sector, and works to discuss ongoing IP enforcement issues, propose public policy initiatives, and organize public awareness workshops. **Indonesia** expanded the Intellectual Property Enforcement Task Force to include coordination on IP enforcement with the Attorney General's Office, for a total of ten member agencies. Indonesia's Directorate General for Intellectual Property (DGIP) has encouraged its investigators to take a proactive role in IP-related complaints and used an online system for complaints to facilitate better coordination with the Indonesian National Police. **South Africa**'s Companies and Intellectual Property Commission, South African Revenue Service, and South African Police Service share responsibility for IP enforcement and coordinate on enforcement raids led by the new national IP enforcement unit called the South African Police Service National Counterfeit Unit. In 2023, the **Dominican Republic** Interministerial Council of Intellectual Property, led by the Ministry of Industry, Commerce, and Micro, Small, and Medium Enterprises, coordinated the agencies involved in IP protection and enforcement to better advance cooperation and information sharing.
- Specialized IP enforcement units and specialized IP courts also have proven to be important catalysts in the fight against counterfeiting and piracy. For example, in March 2024, the **Philippines** launched a new E-Commerce Bureau under the Department of Trade and Industry, which is intended to focus on protecting consumers and merchants engaged in e-commerce transactions, including to protect against the sale of counterfeit goods online. In **India**, the Intellectual Property Rights Divisions provide specialist courts for hearing IP disputes in the Delhi High Court and Madras High Court, with a forthcoming new Intellectual Property Rights Division announced at the end of last year for the Calcutta High Court.

- Many trading partners conducted IP awareness and educational campaigns, including jointly with stakeholders, to develop support for domestic IP initiatives. In **Spain**, the Ministry of Industry, Trade, and Tourism’s Patent and Trademark Office carried out campaigns against IP theft. In **Algeria**, the Office of Copyright and Neighboring Rights (ONDA) hosts counterparts from other North and West African countries for regional training on protecting IP rights. The **United Arab Emirates (UAE)** launched an IP Ecosystem program to advance IP protections in key economic and creative sectors of the UAE, including support for new technologies and student awareness programs. In **Indonesia**, DGIP dispatched around 350 trainers to educate over 5,000 elementary school students on IP awareness. In **Thailand**, the Department of Intellectual Property conducted outreach via podcasts, a singing contest in collaboration with the popular JOOX music app, and IP awareness campaigns at physical markets. In the **Philippines**, the Intellectual Property Office of the Philippines organized an “IP and Citizen Journalism for Schools” program for youths, launched a “Pirated Inferno” comic, and collaborated with stakeholders on an anti-piracy campaign. **Uzbekistan** conducted a “counterfeit prevention month” with awareness-building events around the country, and the Ministry of Justice has developed a catalogue of counterfeit products to help educate consumers to differentiate between counterfeit and legitimate goods. In **Kazakhstan**, the Ministry of Justice established 20 regional IP branches to conduct public outreach and education throughout the country. In **Peru**, the Ministry of Production organized a course for 1,930 undergraduate students from ten universities on IP taxation and customs issues. **Brazil**’s National Council to Combat Piracy (CNCP) received funding for the first time in the agency’s history, which it plans to use in part to develop a campaign to raise awareness of the damage caused by IP crimes.
- Another best practice is the active participation of government officials in technical assistance and capacity building. In 2023, U.S. Embassy Jakarta hosted the Intellectual Property Rights Investigative Methods Workshop in **Indonesia** for investigators, prosecutors, regulators, and customs officials from DGIP, Ministry of Law and Human Rights, Indonesian Food and Drug Authority (BPOM), Attorney General Office, Ministry of Health (Kemenkes), and Ministry of Trade. The training was developed as a collaboration of the U.S. National Intellectual Property Rights Coordination Center; U.S. Homeland Security Investigations; the U.S. Department of Homeland Security Attaches for Jakarta, Singapore, and Thailand; the U.S. Department of Justice (DOJ), the U.S. International Computer Hacking and Intellectual Property Attorney Advisor (ICHIP) for Asia; the U.S. Federal Bureau of Investigation; the U.S. Customs and Border Protection; the U.S. Patent and Trademark Office (USPTO); the Royal Thai Police; and the Pharmaceutical Security Institute. Indonesia’s judges participated in an Indo-Pacific Judicial Colloquium on Intellectual Property, Innovation, and Technology, which was organized by the USPTO. Judicial and customs officials in **Morocco** participated in a series of IP border enforcement workshops hosted by the USPTO to strengthen networks between industry officials and bolster enforcement of intellectual property. **Saudi Arabia** hosted a patent examiner training program led by USPTO experts for officials from Saudi Arabia, **Oman**, and **Qatar**. In collaboration with the World Intellectual Property Organization (WIPO), IP Key Latin America, USPTO, and the Japan Patent Office, **Paraguay** hosted its first Subregional Seminar on the Enforcement of Intellectual Property

Rights with participation from special agents, experts from the private sector, prosecutors, judges, customs officials, and police officers in charge of combating counterfeiting and piracy from the United States and countries across Latin America. The Intellectual Property Office of the **Philippines** conducted a National Judicial Colloquium on Intellectual Property Adjudication, which included participation from judges from Australia and Singapore to share best practices. In **Thailand**, the Department of Intellectual Property organized workshops for law enforcement officers on “Prevention of Intellectual Property Violations,” trainings on how to examine counterfeit goods, and a workshop with the Economic Crime Department officers and local law enforcement in Bangkok. Copyright officials from **Kenya** and **Nigeria** participated in a USPTO training on broadcasting, communication to the public, making available, and equitable remuneration rights. Representatives from the **Dominican Republic**’s National Copyright Office, Institute of Telecommunications, Attorney General’s Office, judiciary, and police forces participated in a September 2023 Digital Piracy Working Group meeting led by the DOJ and a January 2024 USPTO workshop on digital piracy crimes. In **Peru**, the Ministry of Production organized 64 workshops in 2023 for 1,959 officials from various Peruvian ministries engaged in IP and customs work on identifying, controlling, and seizing illicit goods. Separately, the Superior Court of Justice of Lima hosted its first specialized course in November 2023 on crimes against IP, which included presentations from representatives of the DOJ and the USPTO. Approximately 100 participants from a variety of ministries and law enforcement agencies participated in the course, learning about the harmful impacts of a wide range of IP crimes, including the sale of adulterated medicines, counterfeit clothing, and pirated books, and the streaming of pirated digital content. In **Bulgaria**, the Prosecutor General’s Office provided a course on investigating IP and computer crimes at the National Institute of Justice for 15 investigators.

- Micro, small, and medium-sized enterprises (MSMEs) play a positive role in the global economy as they contribute widely to innovation, trade, growth, investment, and competition. According to a study by the European Patent Office (EPO) and the European Union Intellectual Property Office (EUIPO) in 2019, small and medium-sized enterprises (SMEs) that have at least one IP right are 21% more likely to experience a growth period.⁷ Many trading partners provide capacity building, technical assistance, or other resources to help MSMEs better understand IP and how to protect and enforce their IP. For example, the **United Kingdom** provides IP audits to help potential high growth, innovative MSMEs with a tailored assessment of the IP within their business to help them develop IP management strategies, and **India** provides administrative and financial incentives for the creation and use of IP by SMEs and startups. In **Liberia**, the Intellectual Property Office established IP Management Clinics for SMEs. In 2023, the **Dominican Republic** Ministry of Industry, Commerce, and Micro, Small, and Medium Enterprises provided trainings to 926 MSMEs enterprises through the Ruta Program raising awareness about the importance of registering intellectual property assets.

⁷ See EPO/EUIPO, *High-growth Firms and Intellectual Property Rights: IPR Profile of High-potential SMEs in Europe* (May 2019), https://link.epo.org/web/high_growth_firms_study_en.pdf.

C. Multilateral Initiatives

The United States works to promote adequate and effective intellectual property (IP) protection and enforcement through various multilateral institutions, notably the **World Trade Organization** (WTO). In 2023, the United States advanced its Intellectual Property and Innovation agenda in the WTO Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council) through a series of different initiatives that cover often unexplored areas connected to IP and innovation. Over the course of three meetings, the United States and co-sponsors presented on cross-border cooperation among IP offices, research collaboration across borders, and incubators' and accelerators' support of startups operating in a cross-border environment. The discussions were wide-ranging and spurred Members to consider the links between these areas.

Throughout 2023, the United States, together with other Members of the WTO, worked to orient Members' efforts toward a pandemic response and greater preparedness, and sought to identify priority steps that could be taken, including in the area of trade facilitation and IP protections. In the TRIPS Council, discussions were held with respect to lessons learned, including best practices and shortcomings, on issues such as domestic COVID-related IP measures that WTO Members have taken during the pandemic, licensing and technology transfer partnerships that were formed during the pandemic, and access to COVID-19 therapeutics for certain upper-middle income countries. These issues are complex, which is why the U.S. Trade Representative requested that the U.S. International Trade Commission conduct an investigation and prepare a report regarding access to COVID-19 diagnostics and therapeutics. This report, published in October 2023, has helped to inform a thoughtful and constructive policy discussion and deliberative process at the WTO and in other fora.⁸

D. Bilateral and Regional Initiatives

The United States works with many trading partners on IP protection and enforcement through the provisions of bilateral instruments, including trade agreements and memoranda of cooperation, and through regional initiatives.

The following are examples of bilateral coordination and cooperation:

- Trade and Investment Framework Agreements (TIFAs) between the United States and more than 50 trading partners and regions around the world and other similar frameworks for bilateral engagement have facilitated discussions on IP protection and enforcement. In February 2023, the United States and **Peru**, through its Trade Promotion Agreement, held the sixth meeting of the Free Trade Commission to discuss the implementation of the agreement. In July 2023, the Intellectual Property Working Group under the United States-**Central Asia** TIFA met to discuss and share ideas about customs enforcement in each country. In August 2023, the United States and **Thailand** held a technical meeting to discuss issues raised under the United States-Thailand TIFA, followed by a TIFA meeting in September. In September 2023, the United States and **Paraguay** met for the second time under the United States-Paraguay TIFA and reviewed implementation of the 2022

⁸ U.S. International Trade Commission, *COVID-19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities* (October 2023), <https://www.usitc.gov/publications/332/pub5469.pdf>.

Intellectual Property Work Plan. The twelfth meeting of the United States and **Ukraine** Trade and Investment Council was held in November 2023 to discuss Ukraine’s ongoing efforts to develop a strong IP environment despite Russia’s full-scale invasion in 2022. In December 2023, the United States and **Vietnam** held a TIFA Intellectual Property Working Group meeting to discuss issues such as IP enforcement, which were reported in the TIFA meeting. The fourteenth Ministerial-level meeting of the **India**-United States Trade Policy Forum (TPF) held in January 2024, and several meetings of the Intellectual Property Working Group under the TPF throughout the year, discussed India’s efforts to modernize its patent system and exchanged ideas on other patent, copyright, and trademark issues. In February 2024, the United States and **Armenia** met under the United States-Armenia TIFA and discussed efforts to update Armenia’s IP environment.

Regional coordination and cooperation also increase the effectiveness of engagement on IP protection and enforcement challenges that extend beyond individual jurisdictions:

- In 2023, the United States hosted the **Asia-Pacific Economic Cooperation** (APEC) with a host year theme of “Creating a Resilient and Sustainable Future for All.” The United States continued to use the Intellectual Property Experts Group and other APEC sub-fora to build capacity and raise standards in the Asia-Pacific region. This included continued discussions with APEC economies on effective practices for enforcement against illicit streaming in a United States-led initiative on illicit streaming, which previously included the joint publication of the *Report on Results of Survey Questionnaire on Domestic Treatment of Illicit Streaming Devices (ISDs) by APEC Economies* and a virtual workshop. The United States also organized workshops on the margins of the Intellectual Property Experts Group Meeting. The “Roundtable on Copyright and Creativity in the Digital Economy” provided diverse perspectives from independent creators, producers, and union workers on the importance of copyright protection and enforcement for promoting inclusive growth for individuals and small and medium-sized enterprises (SMEs) in the creative industries. The “Workshop on Geographical Indications and Preservation of Common Names” fostered a dialogue on inclusive trade by featuring SME producers and other stakeholders who spoke about the economic benefits of preserving the use of common names and the problems they encounter when common names are not preserved. The United States organized a workshop on “Leveraging Industrial Design Protections for Small-and-Medium Sized Enterprises,” as the United States continues to lead an initiative on industrial design protection. This workshop highlighted industrial design protection as a critical component of any IP portfolio for competitive businesses in the modern innovation economy, particularly for small and medium-sized businesses in the APEC region. The United States also organized a “Green Technology One Day Program,” bringing together policymakers and individuals involved in the research, development, and commercialization of green technologies. Together with Intellectual Property Experts Group delegates, they discussed the importance of IP protection and enforcement as essential tools for their work and outlined issues associated with fostering a green economy.
- Under its trade preference program reviews, the Office of the United States Trade Representative (USTR), in coordination with other U.S. Government agencies, examines

IP practices in connection with the implementation of Congressionally authorized trade preference programs, including the Generalized System of Preferences (GSP) program, the African Growth and Opportunity Act, the Caribbean Basin Economic Recovery Act, and the Caribbean Basin Trade Partnership Act. USTR has pending GSP reviews of IP practices in **Indonesia** and **South Africa** but is not making any determinations about ongoing reviews while duty-free benefits under GSP remain lapsed. USTR continues to work with trading partners to address policies and practices that may adversely affect their eligibility under the IP criteria of preference programs.

In addition to the work described above, the United States anticipates engaging with its trading partners on IP-related initiatives in fora such as the **Group of Seven (G7)**, **WIPO**, the **Organisation for Economic Co-operation and Development (OECD)**, and the **World Customs Organization**. USTR, in coordination with other U.S. Government agencies, looks forward to continuing engagement with trading partners to improve the global IP environment.

E. Intellectual Property Protection, Enforcement, and Related Market Access Challenges

Border, Criminal, and Online Enforcement Against Counterfeiting

Trademark counterfeiting harms consumers, legitimate producers, and governments. Consumers may be harmed by fraudulent and potentially dangerous counterfeit products,⁹ particularly medicines, automotive and airplane parts, and food and beverages that may not be subject to the rigorous good manufacturing practices used for legitimate products. Infringers often disregard product quality and performance for higher profit margins. Legitimate producers and their employees face diminished revenue and investment incentives, adverse employment impacts, and reputational damage when consumers purchase fake products. Counterfeiting may also increase costs for firms to enforce their intellectual property (IP) rights. Governments lose the tax revenues generated by legitimate businesses and may find it more difficult to attract investment when illegal competitors undermine the market. For a further discussion on the potential health and safety risks posed by counterfeit goods, please see the Issue Focus section of the [2023 Review of Notorious Markets for Counterfeiting and Piracy](#).

The problem of trademark counterfeiting continues on a global scale and involves the production, transshipment, and sale of a vast array of fake goods. Counterfeit goods, including semiconductors and other electronics, chemicals, medicines, automotive and aircraft parts, food and beverages, household consumer products, personal care products, apparel and footwear, toys, and sporting

⁹ See Organisation for Economic Co-operation and Development and European Union Intellectual Property Office, *Dangerous Fakes: Trade in Counterfeit Goods that Pose Health, Safety and Environmental Risks* (March 2022), <https://www.oecd.org/publications/dangerous-fakes-117e352b-en.htm> (identifying types of potentially dangerous counterfeit products, associated health and safety risks, and global trade statistics from 2017 to 2019 for these products).

goods, make their way from **China**¹⁰ and other source countries, such as **India** and **Türkiye**, directly to purchasers around the world.

The counterfeits are shipped either directly to purchasers or indirectly through transit hubs, including in **Hong Kong, Kyrgyzstan, Singapore, and Türkiye**, to third-country markets such as **Brazil, Kenya, Mauritius, Mexico, Nigeria, Paraguay, and Russia**, that are reported to have ineffective or inadequate IP enforcement systems.

According to an Organisation for Economic Co-operation and Development (OECD) and European Union Intellectual Property Office (EUIPO) study released in June 2021, titled *Global Trade in Fakes: A Worrying Threat*, the global trade in counterfeit and pirated goods reached \$464 billion in 2019, accounting for 2.5% of the global trade in goods for that year.¹¹ **China** (together with **Hong Kong**) continues to be the largest origin economy for counterfeit and pirated goods, accounting for more than 85% of global seizures of counterfeit goods from 2017 to 2019.¹² The report identified **Bangladesh** as one of the top five source economies for counterfeit clothing globally, which stakeholders have also identified as a concern this year.¹³ Stakeholders also continue to report dissatisfaction with border enforcement in **Singapore**, including concerns about the lack of coordination between Singapore's Customs authorities and the Singapore Police Force's Intellectual Property Rights Branch.

The manufacture and distribution of pharmaceutical products and active pharmaceutical ingredients bearing counterfeit trademarks is a growing problem that has important consequences for consumer health and safety and is exacerbated by the rapid growth of illegitimate online sales. Counterfeiting contributes to the proliferation of substandard, unsafe medicines that do not conform to established quality standards. The United States is particularly concerned with the proliferation of counterfeit pharmaceuticals that are manufactured, sold, and distributed by numerous trading partners. The top countries of origin for counterfeit pharmaceuticals seized at the U.S. border in Fiscal Year 2023 were **India, Singapore, and China** (together with **Hong Kong**).¹⁴ A recent study by OECD and EUIPO found that **China, India, Indonesia, Pakistan, the Philippines, and Vietnam** are the leading sources of counterfeit medicines distributed globally.¹⁵ U.S. brands are the most popular targets for counterfeiters of medical products, and counterfeit U.S.-brand medicines account for 38% of global counterfeit medicine seizures.¹⁶ While it may not be possible to determine an exact figure, the World Health Organization (WHO)

¹⁰ In fiscal year 2023, China (together with Hong Kong) accounted for over 83% of the value (measured by manufacturers' suggested retail sale price) of counterfeit and pirated goods seized by U.S. Customs and Border Protection.

U.S. Customs and Border Protection, *Intellectual Property Rights (IPR) Seizures Dashboard*, (April 1, 2024), <https://www.cbp.gov/newsroom/stats/intellectual-property-rights-ipr-seizures>.

¹¹ OECD/EUIPO, *Global Trade in Fakes: A Worrying Threat* at 9 (Jun. 2021), <https://www.oecd-ilibrary.org/sites/74c81154-en/index.html?itemId=/content/publication/74c81154-en>.

¹² *Id.* at 27.

¹³ *Id.* at 48.

¹⁴ U.S. Customs and Border Protection, *Intellectual Property Rights (IPR) Seizures Dashboard*, (April 1, 2024), <https://www.cbp.gov/newsroom/stats/intellectual-property-rights-ipr-seizures>.

¹⁵ OECD/EUIPO, *Trade in Counterfeit Pharmaceutical Products* at 35 (Mar. 2020), <http://www.oecd.org/gov/trade-in-counterfeit-pharmaceutical-products-a7c7e054-en.htm>.

¹⁶ *Id.* at 12.

estimated that substandard or falsified medical products comprise 10% of total medical products in low- and middle-income countries.¹⁷ Furthermore, the increasing popularity of online pharmacies¹⁸ has aided the distribution of counterfeit medicines. A 2020 study by Pennsylvania State University found that illicit online pharmacies, which provide access to prescription drugs, controlled substances, and substandard or counterfeit drugs, represent between 67% to 75% of web-based drug merchants.¹⁹ The U.S. Government, through the U.S. Agency for International Development and other federal agencies, supports programs in sub-Saharan Africa, Asia, and elsewhere that assist trading partners in protecting the public against counterfeit and substandard medicines in their markets.

Counterfeiters increasingly use legitimate express mail, international courier, and postal services to ship counterfeit goods in small consignments rather than ocean-going cargo to evade the efforts of enforcement officials to interdict these goods. Approximately 90% of U.S. seizures at the border are made in the express carrier and international mail environments. Counterfeiters also continue to ship products separately from counterfeit labels and packaging to evade enforcement efforts that are limited by laws or practices that require counterfeit items to be “completed” and which may overlook the downstream application of counterfeit labels.²⁰

Counterfeiters also increasingly sell counterfeit goods on online marketplaces, particularly through platforms that permit consumer-to-consumer sales. The Office of the United States Trade Representative (USTR) urges e-commerce platforms to take proactive and effective steps to reduce piracy and counterfeiting, for example, by establishing and adhering to strong quality control procedures in both direct-to-consumer and consumer-to-consumer sales, vetting third-party sellers, engaging with right holders to quickly address complaints, and working with law enforcement to identify IP violators.²¹

The United States continues to urge trading partners to undertake more effective criminal and border enforcement against the manufacture, import, export, transit, and distribution of counterfeit goods. The United States engages with its trading partners through bilateral consultations, trade agreements, and international organizations to help ensure that penalties, such as significant monetary fines and meaningful sentences of imprisonment, are available and applied to deter

¹⁷ WHO, *Substandard and Falsified Medical Products* (Jan. 2018), <https://www.who.int/news-room/fact-sheets/detail/substandard-and-falsified-medical-products>.

¹⁸ See Alliance for Safe Online Pharmacies (ASOP Global) / Abacus Data, *2020 National Survey on American Perceptions of Online Pharmacies* (Oct. 2020), <https://buysaferx.pharmacy/wp-content/uploads/2020/10/ASOP-Global-Survey-Key-Findings-October-2020-FINAL.pdf> (based on a July 2020 poll of 1500 American consumers, “35% of Americans have now reported using an online pharmacy to buy medication for themselves or someone in their care” with “31% [doing] so for the first time this year because of the pandemic”).

¹⁹ Journal of Medical Internet Research, *Managing Illicit Online Pharmacies: Web Analytics and Predictive Models Study* (Aug. 2020), <https://www.jmir.org/2020/8/e17239/>; cf. ASOP Global / Abacus Data, *infra* (“At any given time, there are 35,000 active online pharmacies operating worldwide, 96% of which are operating illegally in violation of state and/or federal law and relevant pharmacy practice standards.”); FDA, *Internet Pharmacy Warning Letters* (Mar. 2021), <https://www.fda.gov/drugs/drug-supply-chain-integrity/internet-pharmacy-warning-letters> (listing illegally operating online pharmacies that have been sent warning letters by the FDA).

²⁰ For more information on these trends, see CBP’s intellectual property rights seizure statistics at <https://www.cbp.gov/trade/priority-issues/ipr>.

²¹ For more examples, see DHS, *Combating Trafficking in Counterfeit and Pirated Goods* (January 2020), https://www.dhs.gov/sites/default/files/publications/20_0124_pley_counterfeit-pirated-goods-report_01.pdf.

counterfeiting. In addition, trading partners should ensure that competent authorities seize and destroy counterfeit goods, as well as the materials and implements used for their production, thereby removing them from the channels of commerce. Permitting counterfeit goods, as well as materials and implements, to re-enter the channels of commerce after an enforcement action wastes resources and compromises the global enforcement effort.

In addition, trading partners should also provide enforcement officials with *ex officio* authority to seize suspect goods and destroy counterfeit goods in-country as part of their criminal procedures and at the border during import, export, or in-transit movement without the need for a formal complaint from a right holder. For example, regarding criminal enforcement, **Türkiye** provides its National Police with *ex officio* authority only in relation to copyright violations and not for trademark counterfeiting violations. **Pakistan** has not provided criminal enforcement authorities *ex officio* authority to take action against counterfeit goods. Regarding border enforcement, in **Colombia**, for example, the customs police reportedly do not have authority to enter primary inspection zones and lack *ex officio* authority to inspect, seize, and destroy counterfeit goods in those zones. Similarly, in **Ecuador**, stakeholders have reported concerns with a lack of *ex officio* authority. Although **Indonesia** provides *ex officio* authority for its customs authorities and has a recordation system, right holders can only benefit from the system if they meet several stringent requirements, including local permanent establishment requirements and large deposit requirements. Similarly, border authorities in **Canada** have *ex officio* authority to seize suspected counterfeit goods, but they do not consistently use this authority. **Turkmenistan** also lacks *ex officio* authority for border enforcement.

The United States coordinates with and supports trading partners through technical assistance and sharing of best practices on criminal and border enforcement, including with respect to the destruction of seized goods. (See ANNEX 2.)

As supply chains have grown more complicated, such increased segmentation has provided more opportunities for counterfeit goods to enter into the sourcing, production, manufacturing, packaging, and distribution process. This practice can taint the supply chain for goods in all countries, harm consumers, and create reputational risk for companies. Countries must work together to detect and deter commerce in counterfeit goods. To this end, the United States strongly supports continued work in the OECD and elsewhere on countering illicit trade. For example, the OECD recently adopted recommendations for enhancing transparency and reducing opportunities for illicit trade in free trade zones (also known as foreign-trade zones).²² The United States encourages the OECD and our trading partners to build off the *Governance Frameworks to Counter Illicit Trade* OECD report²³ and the International Chamber of Commerce (ICC) *Know Your Customer* initiative²⁴ aimed at tackling the problem of counterfeit goods transported by international shipping companies. The United States commends these efforts by the OECD and the ICC.

²² OECD, *Recommendation of the Council on Countering Illicit Trade: Enhancing Transparency in Free Trade Zones* (Oct. 2019), <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0454>.

²³ OECD, *Governance Frameworks to Counter Illicit Trade* (Mar. 2018), <https://www.oecd.org/corruption-integrity/reports/governance-frameworks-to-counter-illicit-trade-9789264291652-en.html>.

²⁴ International Chamber of Commerce, *Know Your Customer* (Mar. 2018), <https://cdn.iccwbo.org/content/uploads/sites/3/2018/09/icc-2018-kyc-and-supply-chain-paper.pdf>.

Online Piracy and Broadcast Piracy

The increased availability of broadband Internet connections around the world, combined with increasingly accessible and sophisticated mobile technology, has led to the development of legitimate digital platforms for distribution of copyrighted content. This development in turn has allowed consumers around the world to enjoy the latest movies, television, music, books, and other copyrighted content from the United States.

However, technological developments have also made the Internet an extremely efficient vehicle for disseminating pirated content that competes unfairly with legitimate e-commerce and distribution services that copyright holders and online platforms use to deliver licensed content. Online piracy is the most challenging copyright enforcement issue in many foreign markets. For example, during the review period, countries such as **Argentina, Bulgaria, Canada, Chile, China, Colombia, India, Mexico, the Netherlands, Pakistan, Poland, Romania, Russia, Switzerland, Thailand, and Vietnam** had high levels of online piracy and lacked effective enforcement. A June 2019 report, titled *Impacts of Digital Video Piracy on the U.S. Economy*, estimated that global online video piracy costs the U.S. economy at least \$29.2 billion and as much as \$71 billion in lost revenue each year.²⁵

Stream-ripping software can be used to create infringing copies of copyrighted works from licensed streaming sites, and stream-ripping is now a dominant method of music piracy, causing substantial economic harm to music creators and undermining legitimate online services. During the review period, stream-ripping was reportedly popular in countries such as **Canada, Korea, Mexico, Nigeria, Russia, South Africa, and Switzerland**.

Furthermore, illicit streaming devices (ISDs), also referred to as piracy devices, continue to pose a direct threat to content creators, sports leagues, and live performances, as well as legitimate streaming, on-demand, and over-the-top media service providers. Similarly, illicit Internet Protocol television (IPTV) services unlawfully retransmit telecommunications signals and channels containing copyrighted content through dedicated web portals and third-party applications. Today, there are many illegal IPTV services worldwide, many of which are subscription-based, for-profit services with vast and complex technical infrastructures. Stakeholders continue to report notable levels of piracy through ISDs and illicit IPTV apps, including in **Argentina, Brazil, Canada, Chile, China, Guatemala, Hong Kong, India, Indonesia, Iraq, Jordan, Mexico, Morocco, Singapore, Switzerland, Taiwan, Thailand, United Arab Emirates, and Vietnam**. China, in particular, is a manufacturing hub for these devices, and Iraq is reportedly a source of satellite receivers pre-loaded with pirate IPTV apps.

²⁵ Blackburn, David et al, *Impacts of Digital Video Piracy on the U.S. Economy* at Foreword, ii (Jun. 2019), <https://www.project-scope.org/wp-content/uploads/2020/08/digital-video-piracy.pdf>. See also Danaher, Brett et al, *Piracy Landscape Study: Analysis of Existing and Emerging Research Relevant to Intellectual Property Rights (IPR) Enforcement of Commercial-Scale Piracy*, USPTO Economic Working Paper No. 2020-2 (Apr. 2020) (evaluating peer-reviewed studies addressing the scope and magnitude of economic harm from piracy, particularly via digital channels, across music and books as well as movies and television), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3577670.

Signal theft by cable operators continues to be a problem. In most cases, infringers circumvent encryption systems or otherwise unlawfully access cable or satellite signals to access copyrighted content. For example, in **Brazil**, signal theft is used as a source of premium live content. **Argentina**'s law enforcement authorities do not prioritize prosecuting theft of pay-tv signals. **Honduras** continues to have one of the highest rates of signal piracy in Latin America and the Caribbean, with lack of enforcement being an ongoing problem. There are also ongoing concerns that a major cable provider in the country is offering unlicensed programming, is using that pirated content to expand its market share, and is now moving to illegal streaming as well. Unauthorized distributors may also steal "overspill" broadcast or satellite signals from neighboring countries, access broadcast signals, or otherwise hack set-top boxes to allow consumers unauthorized access to copyrighted content, including premium cable channels. Hotels remain common sites of this type of infringement as they may use their own on-site facilities to intercept programming services and retransmit them throughout the hotel without paying right holders.

The proliferation of "camcords" continues to be a significant trade problem. Unauthorized camcording is the primary source of infringing copies found online of newly released movies. The recordings made in movie theaters today are very different from those by a single person sitting in a theater with a bulky videotape recorder. The results are not shaky, inaudible recordings. It is now easy for a surreptitious recording in a movie theater to result in a clean digital copy of a movie with perfect audio that can be quickly distributed online. The pirated version of the newly released movie may be available online while it is still showing in theaters. The economic damage is magnified because movies may be released in different markets at different times. Thus, a camcord of a movie released in one market can be made available unlawfully in another market before the movie hits the theaters there. In addition to theater owners who lose revenue, legitimate digital platforms, which often negotiate for a certain period of exclusivity after the theatrical run, cannot fairly compete in the market due to unauthorized camcording.

Stakeholders continue to report serious concerns regarding unauthorized camcords. For example, in **Russia**, stakeholders continue to report significant levels of camcording. The withdrawal of major U.S. right holders from the market following Russia's full-scale invasion of Ukraine in 2022 has only exacerbated the issue. **China** remains a notable source of unauthorized camcords, including live streams of theatrical broadcasts online. China has taken some enforcement actions in recent years but still lacks a specific criminal law to address the issue. Additionally, stakeholders report that unauthorized camcords originating from **India** continue to be a concern.

Countries also need to update legal frameworks to effectively deter unauthorized camcording and keep up with changing practices. For example, the requirement in some countries that a law enforcement officer must observe a person camcording and then prove that the person is circulating the unlawfully recorded movie before intervening often precludes effective enforcement. Countries like **Argentina**, **Brazil**, **Ecuador**, **Peru**, and **Russia** do not effectively criminalize unauthorized camcording in theaters. The United States urges countries to adopt laws and enforcement practices designed to prevent unauthorized camcording, such as laws that have been adopted in **Canada**, **Japan**, the **Philippines**, and **Ukraine**. The Asia-Pacific Economic Cooperation (APEC) has also issued a report titled *Effective Practices for Addressing*

*Unauthorized Camcording.*²⁶ As the practice of camcording evolves, so too must methods for detecting and preventing camcording. One best practice to supplement, but not replace, such effective legal measures is building public awareness. Another important practice is for the private sector to work on capacity building to help theater managers and employees detect camcording and assist law enforcement.

In addition to the distribution of copies of newly released movies resulting from unauthorized camcording, other examples of online piracy that damage legitimate trade are found in virtually every country listed in the Report and include: the unauthorized retransmission of live sports programming online; the unauthorized cloning of cloud-based entertainment software through reverse engineering or hacking onto servers that allow users to play pirated content online, including pirated online games; and the online distribution of software and devices that allow for the circumvention of technological protection measures, including game copiers and mod chips that allow users to play pirated games on physical consoles. Piracy facilitated by online services presents unique enforcement challenges for right holders in countries where copyright laws have not been able to adapt or keep pace with these innovations in piracy.

The availability of recourse to right holders, enforcement procedures, and remedies are critical components of the online ecosystem. For all the above reasons, governments should avoid creating a domestic environment that offers a safe haven for online and broadcast piracy.

Trade Secrets

This year's Report continues to reflect the growing need for trading partners to provide effective protection and enforcement of trade secrets. Companies in a wide variety of industry sectors, including information and communications technology, services, environmental technologies, and other manufacturing sectors, rely on the ability to protect and enforce their trade secrets and rights in proprietary information. Trade secrets are particularly important to small businesses, which often rely on trade secret protection to preserve the secrecy and value of their technology. Small businesses may not have the resources to obtain and enforce patents, which require disclosure of the technology and risk infringement by others, and therefore rely on the protection of trade secrets for their proprietary technology. Trade secrets, such as business plans, internal market analyses, manufacturing methods, customer lists, and recipes, are often among a company's core business assets. A company's competitiveness may depend on its capacity to protect such assets. Trade secret theft threatens to diminish U.S. competitiveness around the globe and puts U.S. jobs at risk. The reach of trade secret theft into critical commercial and defense technologies poses threats to U.S. national security interests as well.

Various sources, including the National Counterintelligence and Security Center (NCSC), have reported specific gaps in trade secret protection and enforcement, particularly in **China** and **Russia**.²⁷ Theft may arise in a variety of circumstances, including those involving departing employees taking portable storage devices containing trade secrets, failed joint ventures, cyber

²⁶ APEC, *Effective Practices for Addressing Unauthorized Camcording* (Nov. 11, 2011), https://www.apec.org/docs/default-source/groups/ip/11_amm_014app05.doc.

²⁷ NCSC, *Foreign Economic Espionage in Cyberspace* at 5-9 (2018), <https://www.dni.gov/files/NCSC/documents/news/20180724-economic-espionage-pub.pdf>.

intrusion and hacking, and misuse of information submitted by trade secret owners to government entities for purposes of complying with regulatory obligations. In practice, effective remedies appear to be difficult to obtain in a number of countries, including in **China, India, and Russia**. Lack of legal certainty regarding trade secrets also dissuades companies from entering into partnerships or expanding their business activities in these and other countries. Many countries do not provide criminal penalties for trade secret theft sufficient to deter such behavior. In some foreign countries, certain practices and policies, including evidentiary requirements in trade secrets litigation and mandatory technology transfer, put valuable trade secrets at risk of exposure. Certain data governance regimes (whether proposed or implemented) also raise concerns for intellectual property protection in general and trade secret protection of proprietary data in particular. The United States continues to monitor this trend and its impact on incentivizing innovation and market access.

The United States uses all trade tools available to ensure that its trading partners provide robust protection for trade secrets and enforce trade secrets laws. Given the global nature of trade secret theft, action by our trading partners is also essential. Several trading partners have recently strengthened or have been working toward strengthening their trade secret regimes, including **Taiwan**.

The United States-Mexico-Canada Agreement (USMCA), which entered into force in July 2020, has the most robust protection for trade secrets of any prior U.S. trade agreement. It includes a number of commitments addressing the misappropriation of trade secrets, including by state-owned enterprises: civil procedures and remedies, criminal procedures and penalties, prohibitions against impeding licensing of trade secrets, judicial procedures to prevent disclosure of trade secrets during the litigation process, and penalties for government officials for the unauthorized disclosure of trade secrets. The United States-China Economic and Trade Agreement (Phase One Agreement), signed in January 2020, also includes several trade secret commitments to address a number of long-standing concerns in **China**, including on expanding the scope of civil liability, covering acts such as electronic intrusions as trade secret theft, shifting the burden of producing evidence, making it easier to obtain preliminary injunctions to prevent use of stolen trade secrets, allowing criminal investigations without need to show actual losses, ensuring criminal enforcement for willful misappropriation, and prohibiting unauthorized disclosure of trade secrets and confidential business information by government personnel or third-party experts.

Action in international organizations is also crucial. For instance, the United States strongly supports continued work in the Organisation for Economic Co-operation and Development (OECD) on trade secret protection, building off two studies released by the OECD in 2014. The first study, titled *Approaches to Protection of Undisclosed Information (Trade Secrets)*,²⁸ surveyed legal protection for trade secrets available in a sample of countries. The second study, titled *Uncovering Trade Secrets - An Empirical Assessment of Economic Implications of Protection for Undisclosed Data*,²⁹ examined the protection of trade secrets for a sample of 37 countries, provided

²⁸ Schultz, M. and D. Lippoldt, *Approaches to Protection of Undisclosed Information (Trade Secrets): Background Paper* (Jan. 2014), <https://doi.org/10.1787/5jz9z43w0jnw-en>.

²⁹ Lippoldt, D. and M. Schultz, *Uncovering Trade Secrets - An Empirical Assessment of Economic Implications of Protection for Undisclosed Data* (Aug. 2014), <https://doi.org/10.1787/5jxzl5w3j3s6-en>.

historical data for the period since 1985, and considered the relationship between the stringency of trade secret protection and relevant economic performance indicators. Also, in November 2016, the Asia-Pacific Economic Cooperation endorsed a set of *Best Practices in Trade Secret Protection and Enforcement Against Misappropriation*,³⁰ which includes best practices such as: broad standing for claims for the protection of trade secrets and enforcement against trade secret theft; civil and criminal liability, as well as remedies and penalties, for trade secret theft; robust procedural measures in enforcement proceedings; and adoption of written measures that enhance protection against further disclosure when governments require the submission of trade secrets.

Forced or Pressured Technology Transfer, Indigenous Innovation, and Preferences for Indigenous Intellectual Property

Right holders operating in other countries report an increasing variety of government measures, policies, and practices that require or pressure technology transfer from U.S. companies. While these measures are sometimes styled as means to incentivize domestic “indigenous innovation,” in practice they disadvantage U.S. companies, conditioning market entry on surrendering their intellectual property (IP). These actions serve as market access barriers and deny U.S. companies reciprocal opportunities to access foreign markets relative to market access provided to foreign companies operating in the United States. Such government-imposed conditions or incentives for technology transfer to domestically owned companies may also introduce non-market distortions into licensing and other private business arrangements, resulting in commercially suboptimal outcomes for the firms involved and for innovation in general. Furthermore, these measures discourage foreign investment in national economies; hurt local manufacturers, distributors, and retailers; and slow the pace of innovation and economic progress. This kind of government intervention in the commercial decisions that enterprises make regarding the ownership, development, registration, or licensing of IP is not consistent with international practice and may raise concerns regarding consistency with international obligations as well.

These government measures often have a distortive effect by forcing or pressuring U.S. companies to transfer their technology or other valuable commercial information to domestically owned entities. Examples of these policies include:

- Requiring the transfer of technology as a condition for obtaining investment and regulatory approvals or otherwise securing access to a market or as a condition for allowing a company to continue to do business in the market;
- Directing state-owned enterprises in innovative sectors to seek non-commercial terms from their foreign business partners, including with respect to the acquisition and use or licensing of IP;
- Providing domestically owned firms with an unfair competitive advantage by failing to effectively enforce, or discouraging the enforcement of, U.S.-owned IP, including patents, trademarks, trade secrets, and copyright;

³⁰ *Best Practices in Trade Secret Protection and Enforcement Against Misappropriation*, <https://ustr.gov/sites/default/files/11202016-US-Best-Practices-Trade-Secrets.pdf>.

- Failing to take meaningful measures to prevent or to deter cyber intrusions and other unauthorized activities;
- Requiring use of, or providing preferences to, products or services that contain domestically developed or owned IP, including with respect to government procurement;
- Manipulating the standards development process to create unfair advantages for domestically owned firms, including with respect to participation by foreign firms and the terms on which IP is licensed; and
- Requiring the submission of unnecessary or excessive confidential business information for regulatory approval purposes and failing to protect such information appropriately.

In **China**, investment and regulatory approvals, market access, government procurement, and the receipt of certain preferences or benefits may be conditioned on a firm's ability to demonstrate that IP is developed in or transferred to China, or is owned by or licensed to a Chinese party. China has made enforceable commitments to address forced or pressured technology transfer in the United States-China Economic and Trade Agreement (Phase One Agreement).

The United States urges that, in formulating policies to promote innovation, trading partners, including **China**, refrain from forced or pressured technology transfer and local preferences for indigenous IP and take account of the importance of voluntary and mutually agreed commercial partnerships or arrangements.

Geographical Indications

The United States is working intensively through bilateral and multilateral channels to advance U.S. market access interests in foreign markets and to ensure that geographical indications (GI)-related trade initiatives of the **European Union** (EU), its Member States, like-minded countries, and international organizations do not undercut such market access. GIs typically include place names (or words associated with a place) and identify products as having a particular quality, reputation, or other characteristic essentially attributable to the geographic origin of the product. The EU GI agenda remains highly concerning because it significantly undermines protection of trademarks held by U.S. producers and imposes barriers on market access for U.S.-made goods that rely on the use of common names, such as parmesan or feta.

First, the EU GI system raises concerns regarding the extent to which it impairs the scope of trademark protection, including exclusive rights in registered trademarks that pre-date the protection of a GI. Trademarks are among the most effective ways for producers and companies, including micro, small, and medium-sized enterprises, to create value, to promote their goods and services, and to protect their brands, even with respect to food and beverage products covered by the EU GI system. Many such products are already protected by trademarks in the United States, in the EU, and around the world. Trademark systems offer strong protections through procedures that are easy to use, cost-effective, transparent, and provide due process safeguards. Trademarks also deliver high levels of consumer awareness, significant contributions to gross domestic product and employment, and accepted international systems of protection. The EU GI system undermines

trademark protection and may result in consumer confusion to the extent that it permits the registration and protection of GIs that are confusingly similar to prior trademarks.

Second, the EU GI system and strategy adversely impact access for U.S. and other producers in the EU market and other markets by granting protection to terms that are considered in those markets to be the common name for products. The EU has granted GI protection to thousands of terms that now only certain EU producers can use in the EU market, and many of these producers then block the use of any term that even “evokes” a GI. However, many EU Member States, such as Denmark and France, still produce products that are claimed as GIs of other European countries, such as feta, and export these products outside of the EU using the protected GIs as the common name of the products. Furthermore, in 2017, the EU granted GI protection to the cheese name danbo, a widely traded type of cheese that is covered by an international standard under the Codex Alimentarius (Codex). Argentina, South Africa, Uruguay, and other countries produce danbo. Similarly, in 2019, the EU granted GI protection to havarti, notwithstanding the long-standing and widespread use of this term by producers around the world. Australia, New Zealand, the United States, and other countries produce havarti. Like in the case of danbo, the Codex established an international standard for havarti in 2007, premised on the fact that havarti is produced and marketed in many countries throughout the world under that name. The EU’s approval of GIs for havarti and danbo undermine the Codex standards for these products, and World Trade Organization (WTO) Members have repeatedly challenged the EU to explain its treatment of Codex cheese standards at the WTO, including in the Technical Barriers to Trade Committee. Moreover, havarti is included in the EU’s most favored nation tariff rate quota, indicating that havarti was expected to be produced outside of and imported into the EU. Several countries, including the United States, opposed GI protection of these common names, both during the EU’s opposition period and at the WTO, but the European Commission granted the protection over that opposition and without sufficient explanation or notice to interested parties.

As part of its trade agreement negotiations, the EU pressures trading partners to prevent any producer, except from those in certain EU regions, from using certain product names, such as fontina, gorgonzola, parmesan, asiago, or feta. This is despite the fact that these terms are the common names for products produced in countries around the world, precisely because of Europe’s role in globalization over the past several centuries. In the EU and other markets that have protected EU GIs within their own GI systems, U.S. producers and traders either are effectively blocked from those markets or must adopt burdensome workarounds. They either cannot use the descriptors at all, or anything even evoking them, in the market or at best may sell their products only as “fontina-like,” “gorgonzola-kind,” “asiago-style,” or “imitation feta.” This is costly, unnecessary, and can reduce consumer demand for the non-EU products, as well as reduce consumer choice and cause consumer confusion.

The United States runs a significant deficit in food and agricultural trade with the EU. The EU GI system contributes to this asymmetry, which is acute in trade in agricultural products subject to the EU GI system. In the case of cheese, for example, where many EU products enjoy protection under the EU GI system, the EU exported more than \$1.3 billion of cheese to the United States last year. Conversely, the United States exported only about \$6.1 million of cheese to the EU last year. Based on this evidence, EU agricultural producers exporting to the United States are doing quite well, benefiting considerably from the effective U.S. system of trademark protection of GIs,

despite the absence of an EU-style GI system. Unfortunately, U.S. producers, as evidenced by the deficit, are not afforded the same level of market access to the EU.

Despite these troubling aspects of its GI system, the EU continues to seek to expand its harmful GI system within its territory and beyond. Within its borders, the EU is enlarging its system beyond agricultural products and foodstuffs to encompass non-agricultural products, including apparel, ceramics, glass, handicrafts, manufactured goods, minerals, salts, stones, and textiles. The United States continues to remain concerned about certain changes to the EU's Common Agricultural Policy, adopted in November 2021 and entered into force on January 1, 2023, which would transfer much of the GI application review process to interested EU Member States and sharply reduce the period for filing a reasoned basis in support of an opposition to register a GI. As noted above, the EU has also sought to advance its agenda through trade agreements, which impose the negative impacts of the EU GI system on market access and trademark protection in third countries, including through exchanges of lists of terms that receive automatic protection as GIs without sufficient transparency or due process.

The EU has pursued its GI agenda in multilateral and plurilateral bodies as well. For example, in 2015, the EU, several EU Member States, and others expanded the World Intellectual Property Organization (WIPO) Lisbon Agreement for the Protection of Appellations of Origin and their International Registration to include GIs, thereby enshrining several detrimental aspects of EU law in that Agreement. The Geneva Act of the Lisbon Agreement that emerged from these negotiations was the product of a decision led by the EU and certain Member States to break with the long-standing WIPO practice of consensus-based decision-making and to deny the United States and 160 other WIPO countries meaningful participation rights in the negotiations. In 2020, the EU became party to the Geneva Act of the Lisbon Agreement. In other international organizations, such as the United Nations Food and Agriculture Organization, the EU has attempted to pursue its agenda by alleging a connection between GIs and unrelated issues, such as biodiversity, sustainability, and food safety.

In response to the EU's aggressive promotion of its exclusionary GI policies, the United States continues its intensive engagement in promoting and protecting access to foreign markets for U.S. exporters of products that are identified by common names or otherwise marketed under previously registered trademarks. The United States is advancing these objectives through its trade agreements, as well as in international fora, including in the Asia-Pacific Economic Cooperation, WIPO, and the WTO. In addition to these negotiations, the United States is engaging bilaterally to address concerns resulting from the GI provisions in existing EU trade agreements, agreements under negotiation, and other initiatives, including with **Argentina, Australia, Brazil, Canada, Chile, China, Ecuador, Indonesia, Japan, Kenya, Korea, Malaysia, Mexico, Moldova, New Zealand, Paraguay, the Philippines, Singapore, Taiwan, Thailand, Uruguay, and Vietnam**, among others. U.S. goals in this regard include:

- Ensuring that the grant of GI protection does not violate prior rights (for example, in cases in which a U.S. company has a trademark that includes a place name);
- Ensuring that the grant of GI protection does not deprive interested parties of the ability to use common names, such as parmesan or feta;

- Ensuring that interested persons have notice of, and opportunity to oppose or to seek cancellation of, any GI protection that is sought or granted;
- Ensuring that notices issued when granting a GI consisting of multiple terms identify its common name components; and
- Opposing efforts to extend the protection given to GIs for wines and spirits to other products.

Pharmaceutical and Medical Device Innovation and Market Access

The COVID-19 pandemic highlighted the importance of pharmaceutical, medical device, and other health-related innovations, as well as a lack of widespread, timely, and equitable global distribution of these innovations. It also highlighted that extraordinary circumstances such as pandemics call for extraordinary measures. With that in mind, the Office of the United States Trade Representative (USTR) continues to seek adequate and effective protection for pharmaceutical and other health-related IP around the world to ensure robust American innovation in these critical industries to fight not only the current, but also future pandemics. USTR also recognizes that access to medicines in developing economies is important to development itself. USTR has also sought to level the playing field abroad by reducing market access barriers, including those that are not adequately transparent or do not offer sufficient opportunity for meaningful stakeholder engagement.

As evidenced by the October 2023 U.S. International Trade Commission (USITC) report on “COVID-19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities,” the price of medicines can be untenably high for some countries. At the same time, according to an October 2021 Geneva Network report titled *How Tariffs Impact Access to Medicines*, low and middle-income countries maintain the highest tariffs on medicines and pharmaceutical inputs among the World Trade Organization (WTO) Members identified in the report.³¹ The report notes that, in particular, large developing countries such as **Brazil**, **India**, and **Indonesia** have the highest tariffs for such products. Also, in Brazil, combined federal and state taxes account for 31% of the cost of medicines.³² A holistic approach to promoting access to medicines is required.

Moreover, unreasonable regulatory approval delays and non-transparent reimbursement policies can impede a company’s ability to enter the market. The criteria, rationale, and operation of such measures are often non-transparent or not fully disclosed to patients or to pharmaceutical and medical device companies seeking to market their products. By contrast, various countries have implemented policies that significantly decrease regulatory timelines by “relying” on regulatory approvals by stringent health regulatory authorities in other countries, or relevant assessments by the World Health Organization. These policies are especially critical during health emergencies, where expediency is of the essence. USTR encourages trading partners to provide appropriate

³¹ Geneva Network, *How Tariffs Impact Access to Medicines* (Oct. 2021), <https://geneva-network.com/research/how-tariffs-impact-access-to-medicines/>.

³² IQVIA, *Market Prognosis Country Report: Brazil* (2021).

mechanisms for transparency, procedural and due process protections, and opportunities for public engagement in the context of their relevant health care systems.

Among other examples, USTR engagement in the past year included:

- Monitored and enforced **China**'s commitments with respect to: (1) a mechanism for the early resolution of potential pharmaceutical patent disputes, including a cause of action to allow a patent holder to seek expeditious remedies before the marketing of an allegedly infringing product; and (2) patent term extensions to compensate for unreasonable patent office and marketing approval delays that cut into the effective patent term;
- Monitored and enforced the implementation of **Canada** and **Mexico**'s IP commitments in the United States-Mexico-Canada Agreement (USMCA), including the implementation of provisions to ensure that national-level government processes for the listing and reimbursement of pharmaceutical products and medical devices are transparent, provide due process, are nondiscriminatory, and provide full market access for U.S. products;
- Engaged with **Japan** on the importance of providing regular and sufficient opportunities for the private sector to provide public comments concerning Japan's medical pricing and reimbursement rules;
- Engaged with **India** on the administration of its patent regime, including on disclosure requirements, treatment of confidential information, and patent application oppositions.

The IP-intensive U.S. pharmaceutical and medical device industries have expressed concerns regarding the policies of several trading partners, including, **Australia, Brazil, Canada, China, Colombia, Japan, Korea, Mexico, New Zealand, Russia, Saudi Arabia, and Türkiye**, on issues related to pharmaceutical innovation and market access. Examples of these concerns include the following:

- Stakeholders have expressed concerns about delays by **Australia** in its implementation of the notification process as required, for example, under Article 17.10.4(b) of the United States-Australia Free Trade Agreement.
- While stakeholders welcomed the 2023 drug pricing reform package abolishing the price maintenance premium (PMP) and adding premiums to incentivize the early introduction of innovative drugs in Japan, they continue to express concerns about **Japan**'s shortcomings in terms of transparency, especially with regard to including meaningful stakeholder input regarding pricing and reimbursement policies for advanced medical devices and innovative pharmaceuticals. Other concerns raised by stakeholders relate to a reported lack of meaningful stakeholder input in the development of a health technology assessment system, as well as a lack of transparency and predictability associated with Japan's implementation in April 2021 of annual repricing for drug reimbursement, which applies to a larger-than-expected range of products.

- Stakeholders continue to report concerns regarding a lack of transparency in **Korea's** pricing and reimbursement policies for pharmaceuticals and medical devices.
- Stakeholders continue to raise concerns regarding **Türkiye's** pharmaceutical manufacturing inspection process. The United States urges Türkiye to build upon its recent accession to the Pharmaceutical Inspection Convention and Co-operation Scheme (PIC/S) and to recognize Good Manufacturing Practices certificates issued by any of the PIC/S members to improve regulatory timelines.

The United States seeks to establish or continue dialogues with trading partners to address these and other concerns and to encourage a common understanding on questions related to innovation and pricing in the pharmaceutical and medical device sectors. The United States also looks forward to continuing its engagement with our trading partners to promote fair and transparent policies in these sectors.

Trademark Protection Issues

Trademarks help consumers distinguish providers of products and services from each other and thereby serve a critical source identification role. The goodwill represented in a company's trademark is often one of a company's most valuable business assets.

However, in numerous countries, right holders consider bad faith trademarks to be a significant challenge, with an overwhelming number of bad faith applications filed and registrations granted. For example, while some progress occurred in 2023, the trademark system in **China** still largely lacks effective tools to combat widespread bad faith trademark applications, in part because it unnecessarily constrains examiners from considering marks for related goods or services in different classes when evaluating bad faith, likelihood of confusion, and other matters. While China published draft amendments to its *Trademark Law* in 2022 that appear to expand the definition of bad faith trademarks, which would allow for greater enforcement, it remains to be seen whether the steps China has previously taken with respect to commitments in the United States-China Economic and Trade Agreement (Phase One Agreement) will address these issues. Stakeholders also raise concerns about the need for improved and reliable opposition procedures in **Indonesia**, as well as decisions that provide reasoning and evidence, to help prevent counterfeiters from obtaining registrations for similar but not identical trademarks.

Trademark holders also continue to face challenges in protecting their trademarks against unauthorized domain name registration and trademark uses in some country code top-level domain names.

Robust protection for well-known marks, another internationally recognized means of protecting marks outlined in the Paris Convention for Protection of Industrial Property, is also important for many U.S. producers and businesses who have built up the reputation of their brands. Stakeholders report that some countries that do have well-known mark provisions, such as **China**, nevertheless impose significant burdens on brand owners that attempt to establish their marks as well known.

Another concern includes mandatory requirements to record trademark licenses, such as in **Brazil, Ecuador, Egypt, Spain, Turkmenistan, and Uzbekistan**, as they frequently impose unnecessary administrative and financial burdens on trademark owners and create difficulty in the enforcement and maintenance of trademark rights.

Certain formalities and documentation requirements, such as requirements for obtaining traditional pen-and-ink signatures, notarized or legalized powers of attorney, and original documents, can create trade barriers. Numerous countries including **Algeria, China, Indonesia, Iraq, and the United Arab Emirates** require formalities for filing documents, such as intellectual property (IP) applications, registration maintenance, transfer of ownership submissions, and in opposition and cancellation proceedings, even though such formalities do not appear to advance any legitimate public policy goals.

The absence of default judgments in opposition and invalidation proceedings in certain countries, such as **China**, incurs significant costs to U.S. companies. Companies are forced to submit detailed arguments and evidence in proceedings when the owners of the applications and registrations have no interest in or intention of defending their claims to exclusive rights in such marks, particularly in the case of bad faith trademark registrations and trademark squatters. One means of addressing this situation, according to some U.S. stakeholders, is to require owners of challenged trademarks to submit a written statement that they have an ongoing interest in their trademark in order to continue with a full proceeding before the relevant authorities.

A number of countries do not provide the full range of internationally recognized trademark protections. For example, many countries, such as **Argentina, Barbados, Belarus, and Indonesia**, do not provide protection for certification marks that are used to show consumers that particular goods or services, or their providers, come from a specific geographic region; meet standards with respect to quality, materials, or manufacturing methods such as with environmentally “green” products; or that labor was performed by a union member or member of a specific organization. In other countries, the nature of the requirements imposed for registration of certification marks creates undue burdens on certifying entities. Direct-to-consumer global e-commerce flourished during the COVID-19 pandemic, and certified products have been valued by an ever-growing marketplace of purchasers. Providing for registration of and mechanisms to enforce rights in certification marks are essential to ensure safe, compliant, and reputable products and services.

Companies use letters of consent to resolve potential disputes and overcome refusals based on a likelihood of confusion when multiple trademark owners agree that their marks may coexist in the marketplace without confusion as to the source of the identified goods or services. Some countries refuse to recognize letters of consent. Some countries accept the letters yet view them as informational only. Other countries allow submission of the letters with the caveat that they may be ignored. When letters of consent are rejected, or given little or no effect, companies may be forced to employ alternative measures. Such measures could include the submission of detailed arguments and evidence, and even litigation. This could be avoided through the recognition of and deference to letters of consent. Some countries such as **Türkiye** now accept letters of consent.

Strict use of the Nice Classification or a country's own sub-classification system to determine conflicts with prior marks does not reflect the realities of the relatedness of underlying goods or services in the current marketplace and introduces uncertainty into the registration process. Goods and services should be considered based on their commercial relationship and not solely in light of classification systems developed for administrative convenience.

Many countries, including **India, Malaysia, Pakistan,** and the **Philippines**, reportedly have slow opposition or cancellation proceedings, while **Panama** and **Russia** have no administrative opposition proceedings.

Delays in obtaining registrations present a significant obstacle for protecting IP rights in foreign markets, with stakeholders identifying **Bangladesh, Iraq,** and **South Africa** as countries with extreme delays in processing trademark applications.

A number of countries do not consider a likelihood of confusion with previously filed applications and registrations during examination, otherwise known as "relative grounds" refusals. The failure to make these rejections costs U.S. companies millions of dollars a year in unnecessary opposition proceedings. Some countries that do consider relative grounds provide a pre-examination opposition period to allow third parties to submit objections before the national office conducts its own examination, thus resulting in unnecessary expenses to oppose marks the national office would likely refuse during examination.

The absence of adequate means for searching trademark applications and registrations, such as by online databases, makes obtaining trademark protection more complicated and unpredictable. The lack of such online systems leads to additional costs, both in terms of initial filing and in relation to docketing and maintenance of multiple registrations.

Copyright Administration and Payment of Royalties

Collective management organizations (CMOs) for copyright can play an important role in ensuring compensation for right holders when CMO practices are fair, efficient, transparent, and accountable. Also, the collection and distribution of royalties to U.S. and other right holders should be carried out on a national treatment basis. Unfortunately, CMO systems in several countries are reportedly flawed or non-operational. In some countries, like **India, Kenya,** and **Nigeria**, withdrawals of, or changes in, a CMO's authorization to operate leave right holders in defunct CMOs and music users confused over whom to pay. In the **United Arab Emirates**, the Ministry of Economy and the International Federation of the Phonographic Industry (IFPI) signed an MOU in 2022 to draft procedures for the creation of a CMO in a first step to address an 18-year-plus challenge to introduce CMOs for music rights that has prevented right holders from receiving compensation for their works.

In addition, it is important for right holders of a work or phonogram to be able to freely and separately transfer their economic rights by contract and to fully enjoy the benefits derived from those rights. Unclear limitations on the freedom to contract raise concerns because they reduce the ability of right holders to choose the terms by which they exploit their works or phonograms and reduce public access to the work or phonogram.

Government Use of Unlicensed Software

According to a 2018 study, the commercial value of unlicensed software globally was at least \$46 billion in 2018.³³ The United States continues to work with other governments to address government use of unlicensed software, particularly in countries that are modernizing their software systems or where there are infringement concerns. Considerable progress has been made under this initiative, leading to numerous trading partners mandating that their government agencies use only legitimate software. It is important for governments to legitimize their own activities in order to set an example of respecting intellectual property for private enterprises. Additionally, unlicensed software exposes governments and enterprises to higher risks of security vulnerabilities. Further work on this issue remains with certain trading partners, including **Argentina, China, Guatemala, Indonesia, Moldova, Pakistan, Paraguay, Romania, Turkmenistan, Uzbekistan, and Vietnam**. The United States urges trading partners to adopt and implement effective and transparent procedures to ensure legitimate governmental use of software.

Other Issues

U.S. stakeholders have expressed views with respect to the **European Union (EU) Directive on Copyright in the Digital Single Market**. The United States continues to monitor copyright issues in the EU and its Member States as implementation progresses. Stakeholders have expressed concern with the inconsistencies in Member States' approaches to implementation. The United States urges the European Commission to engage closely with stakeholders as it develops guidance on certain implementation issues. It is also critical that EU Member States ensure full transparency in the implementation process with meaningful opportunities for stakeholders to provide input. The United States will continue to engage with various EU and Member State entities to address the equities of U.S. stakeholders. As of December 2023, the following countries still had not transposed the European Union's *Copyright Directive* in full: **Bulgaria, Denmark, Finland, Latvia, Poland, and Portugal**.

The *Digital Services Act (DSA)* went into effect in November 2022 and is intended to regulate certain online services, including through rules for how content is shared online. U.S. stakeholders expressed concern that the *DSA*'s adoption of a framework for limitations of liability included modifications to the eligibility threshold and conditions that had been set in the *E-Commerce Directive*, which may adversely impact their IP rights, in particular for copyright and trademarks.

F. Intellectual Property and Sustainability

Strong intellectual property (IP) protection and enforcement are essential to promoting investment in innovation for a sustainable future. Such innovation not only promotes sustainable economic growth and supports jobs, but also is critical to responding to environmental challenges such as climate change. IP provides incentives for research and development in this important sector, including through university research.

³³ BSA, *2018 Global Software Survey* at 12 (Jun. 2018), https://gss.bsa.org/wp-content/uploads/2018/05/2018_BSA_GSS_Report_en.pdf.

G. Intellectual Property and Health

The 2024 Special 301 review period has taken place in the wake of the COVID-19 pandemic, the largest global health crisis in more than a century. The U.S. Government continues to work to fight COVID-19 and is committed to building back a better world, one that is prepared to prevent, detect, and respond to future biological threats, and where all people can live safe, prosperous, and healthy lives.

The United States recognizes the role of voluntary licensing as one mechanism to promote greater access to pandemic response products. For example, right holders have entered into voluntary licensing agreements with the Medicines Patent Pool (MPP) to enable sublicenses with generic manufacturers in order to help facilitate broad access to COVID-19 therapeutics in all low-income countries, all or nearly all lower-middle-income countries (depending on the license), and several upper-middle-income countries. In some cases, right holders have entered into voluntary licensing agreements directly with generic manufacturers for COVID-19 therapeutics, including agreements that do not require the generic manufacturers to pay a royalty to the right holder. Additionally, in May 2022, the United States, through the National Institutes of Health, licensed critical U.S.-owned COVID-19 technologies to the MPP through the COVID-19 Technology Access Pool (C-TAP).

Numerous comments in the 2024 Special 301 review process highlighted concerns arising at the intersection of intellectual property (IP) policy and health policy. IP protection plays an important role in providing incentives for the development and marketing of new medicines. An effective, transparent, and predictable IP system is important for both manufacturers of innovative medicines and manufacturers of generic medicines.

The 2001 World Trade Organization (WTO) Declaration on the TRIPS Agreement and Public Health (Doha Declaration) recognized the gravity of the public health problems afflicting many developing and least-developed countries (LDCs), especially those resulting from HIV/AIDS, tuberculosis, malaria, and other epidemics. As affirmed in the Doha Declaration, the United States respects a trading partner's right to protect public health and, in particular, to promote access to medicines for all. The United States also recognizes the role of IP protection in the development of new medicines while being mindful of the effect of IP protection on prices. The assessments set forth in this Report are based on various critical factors, including, where relevant, the Doha Declaration.

The United States respects its trading partners' rights to grant compulsory licenses in a manner consistent with the provisions of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the Doha Declaration. The United States also recognizes that the TRIPS Agreement provides for additional flexibilities in public health emergencies and other circumstances of extreme urgency within a Member's territory.

Article 31 of the TRIPS Agreement establishes requirements that must be met with respect to compulsory licenses. Importantly, a Member choosing to issue a compulsory license may waive some of these requirements in certain circumstances. For example, in cases of national emergency or extreme urgency or in cases of public non-commercial use, Members may waive the

requirement to seek prior authorization from the patent holder before issuing a compulsory license. In addition, under Article 31*bis*, the requirement that compulsory licenses must be authorized predominantly for the supply of the Member's domestic market may be waived in certain circumstances. Recognizing that Members with insufficient pharmaceutical manufacturing capacities could face difficulties in making effective use of compulsory licensing, Article 31*bis* and its related Annex set forth a system whereby such Members can import from another Member pharmaceutical products produced subject to a compulsory license. The United States respects the right of its trading partners to exercise the full range of existing flexibilities in the TRIPS Agreement, including Article 30, Article 31, and Article 31*bis*, and the Doha Declaration. The United States further recognizes that these flexibilities are available in order to scale up the production and distribution necessary to overcome the challenges of the COVID-19 pandemic.

The United States also strongly supports the WTO General Council Decision on the Implementation of Paragraph 6 of the Doha Declaration, concluded in August 2003. Under this decision, WTO Members are permitted, in accordance with specified procedures, to issue compulsory licenses to export pharmaceutical products to countries that cannot produce drugs for themselves. The WTO General Council adopted a Decision in December 2005 that incorporated this solution into Article 31*bis*, as described above, to the TRIPS Agreement, and the United States became the first WTO Member to formally accept this amendment. In January 2017, the necessary acceptance by two-thirds of WTO Members was secured, resulting in the formal amendment to the TRIPS Agreement. Additional notifications of WTO Member acceptances of the amendment have followed.

In May 2021, USTR announced support for a waiver of IP protections for COVID-19 vaccines as part of the U.S. Government's comprehensive effort to end the pandemic, which helped spur text-based negotiations that resulted in the June 2022 WTO Ministerial Decision on the TRIPS Agreement. This Ministerial Decision contains time-bound accommodations to certain IP rules for COVID-19 vaccines to help facilitate a global health recovery.

As part of the Ministerial Decision, WTO Members agreed to decide within six months whether to extend the Ministerial Decision to the production and supply of COVID-19 diagnostics and therapeutics. The issues involved in this decision were complex, which is why the United States Trade Representative requested that the USITC conduct an investigation and prepare a report regarding access to COVID-19 diagnostics and therapeutics. The USITC published its report, titled "COVID-19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities," on October 17, 2023.³⁴ The facts in the report and the record the USITC meticulously gathered have helped to inform a thoughtful and constructive policy discussion and deliberative process at home, around the world, and at the WTO on matters critically important to global public health and economic resilience.

At the Thirteenth Ministerial Conference of the WTO (MC13) in February and March 2024, WTO Members did not extend the Ministerial Decision on the TRIPS Agreement to COVID-19

³⁴ Press Release, Office of the U.S. Trade Representative, Statement from Ambassador Katherine Tai on the Release of the USITC Report on COVID-19 Diagnostics and Therapeutics (October 17, 2023), *available at* <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/october/statement-ambassador-katherine-tai-release-usitc-report-covid-19-diagnostics-and-therapeutics>.

diagnostics and therapeutics. However, discussions in the WTO TRIPS Council have been and will continue to be held with respect to lessons learned regarding pandemic response and preparedness, including best practices and shortcomings, on issues such as domestic COVID-related IP measures that WTO Members have taken during the pandemic, licensing and technology transfer partnerships that were formed during the pandemic, and access to COVID-19 therapeutics for certain upper middle-income countries. Work on public health and pandemic preparedness issues is continuing not just in the TRIPS Council, but across the WTO, including under the June 2022 Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics. This Declaration directs multiple WTO bodies to analyze lessons that have been learned and challenges experienced during the COVID-19 pandemic. The Abu Dhabi Ministerial Declaration adopted at MC13 in March 2024 recalled the Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics and encouraged the relevant WTO bodies to continue their work, to which the United States is contributing.

The U.S. Government works to ensure that the provisions of its bilateral and regional trade agreements, as well as U.S. engagement in international organizations, including the United Nations and related institutions such as the World Intellectual Property Organization (WIPO) and the World Health Organization (WHO), are consistent with U.S. policies concerning IP and health and do not impede its trading partners from taking measures necessary to protect public health. For example, in recent U.S. trade agreements, the U.S. Government has clarified that notwithstanding provisions on the protection of undisclosed test or other data, a Party may take measures to protect public health in accordance with the Doha Declaration, or any waiver or amendment of the TRIPS Agreement to implement the Doha Declaration.

H. Implementation of the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights

The World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) requires all WTO Members to provide certain minimum standards of intellectual property (IP) protection and enforcement. The TRIPS Agreement is the first broadly subscribed multilateral IP agreement that is subject to dispute settlement provisions.

Developed country WTO Members were required to implement the TRIPS Agreement fully as of January 1, 1996. Developing country WTO Members were given a transition period for many obligations until January 1, 2000, and in some cases until January 1, 2005. Nevertheless, certain WTO Members are still in the process of finalizing implementing legislation, and many are still engaged in establishing adequate and effective IP enforcement mechanisms.

Recognizing the particular issues faced by WTO Members that are least-developed countries (LDCs), the United States has worked closely with them and other WTO Members to extend the implementation date for these countries. Most recently, on June 29, 2021, the WTO Council for the Trade-Related Aspects of Intellectual Property Rights (TRIPS Council) reached consensus on a decision to again extend the transition period under Article 66.1 of the TRIPS Agreement for LDC WTO Members. Under this decision, LDC WTO Members are not required to apply the provisions of the TRIPS Agreement, other than Articles 3, 4, and 5 (provisions related to national

treatment and most-favored nation treatment), until July 1, 2034, or until such a date on which they cease to be an LDC WTO Member, whichever date is earlier. Previously, on November 6, 2015, the TRIPS Council reached consensus to extend the transition period for LDC WTO Members to implement Sections 5 and 7 of Part II of the TRIPS Agreement with respect to pharmaceutical products until January 1, 2033, and reached consensus to recommend waiving Articles 70.8 and 70.9 of the TRIPS Agreement with respect to pharmaceuticals for LDC Members also until January 1, 2033.

At the Thirteenth Ministerial Conference of the WTO in February 2024, WTO Members reached consensus to extend the moratorium on non-violation and situation complaints under the TRIPS Agreement until the next Ministerial Conference. The moratorium was originally introduced in Article 64 of the TRIPS Agreement, for a period of five years following the entry into force of the WTO Agreement (i.e., until December 31, 1999). The moratorium has been extended in several WTO Ministerial Decisions.

The United States participates actively in the TRIPS Council's scheduled reviews of WTO Members' implementation of the TRIPS Agreement and uses the WTO's Trade Policy Review mechanism to pose questions and seek constructive engagement on issues related to TRIPS Agreement implementation.

I. Dispute Settlement and Enforcement

The United States continues to monitor the resolution of concerns and disputes announced in previous Reports. The United States will use all available means to resolve concerns, including bilateral dialogue and enforcement tools such as those provided under U.S. law, the World Trade Organization (WTO), and other dispute settlement procedures, as appropriate.

Under Section 301 of the Trade Act of 1974, as amended (19 U.S.C. § 2411) (Section 301), the Office of the United States Trade Representative (USTR) has been taking action to address a range of unfair and harmful Chinese acts, policies, and practices related to technology transfer, intellectual property (IP), and innovation. USTR has also successfully pursued dispute settlement proceedings at the WTO to address discriminatory licensing practices. The United States and China signed the United States-China Economic and Trade Agreement (Phase One Agreement) in January 2020, which included commitments to address numerous long-standing concerns in the areas of trade secrets, patents, pharmaceutical-related IP, trademarks, copyrights, geographical indications, and technology transfer. The United States has been closely monitoring China's progress in implementing its commitments.

Following the 1999 Special 301 review process, the United States initiated dispute settlement consultations concerning the European Union (EU) regulation on food-related geographical indications (GIs), which appeared to discriminate against foreign products and persons, notably by requiring that EU trading partners adopt an "EU-style" system of GI protection, and appeared to provide insufficient protections to trademark owners. On April 20, 2005, the Dispute Settlement Body (DSB) adopted a panel report finding in favor of the United States that the EU GI regulation is inconsistent with the EU's obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights and the General Agreement on Tariffs and Trade 1994. On March 31,

2006, the EU published a revised GI Regulation that is intended to comply with the DSB recommendations and rulings. There remain some concerns, however, with respect to this revised GI Regulation that the United States has asked the EU to address. The United States continues monitoring this situation. The United States is also working bilaterally and in multilateral fora to advance U.S. market access interests and to ensure that the trade initiatives of other countries, including with respect to GIs, do not undercut market access for U.S. companies.

SECTION II: Country Reports

UKRAINE – REVIEW SUSPENDED

Ukraine was placed on the Priority Watch List in 2021. Despite Russia’s full-scale invasion in 2022, Ukraine has continued to engage meaningfully with the United States on long-standing areas of concern with Ukraine’s intellectual property regime, including: (1) the administration of the system for collective management organizations that are responsible for collecting and distributing copyright royalties to right holders; (2) the use of unlicensed software by government agencies; and (3) the implementation of effective means to combat widespread online copyright infringement. However, due to Russia’s ongoing full-scale invasion of Ukraine, the Special 301 review of Ukraine remains suspended.

PRIORITY WATCH LIST

ARGENTINA

Argentina remains on the Priority Watch List in 2024.

Ongoing Challenges and Concerns

Argentina continues to present long-standing and well-known challenges to intellectual property (IP)-intensive industries, including those from the United States. Enforcement of IP rights in Argentina remains a challenge, and stakeholders report widespread unfair competition from sellers of counterfeit and pirated goods and services. The physical market of La Salada in Buenos Aires was identified as a notorious market again in the *2023 Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List)*, and online orders of counterfeit goods continue through its social media applications. Counterfeit sales in other physical locations remain high, with surges in the selling of counterfeit goods occurring in small markets, through illegal street vendors, and in the Barrio Once and other markets in Buenos Aires and throughout the country. In addition, Argentine police generally do not take *ex officio* actions, and prosecutions can stall and languish in excessive formalities. Also, when a criminal case does reach final judgment, infringers rarely receive deterrent-level sentences. Online piracy continues to grow due to nearly non-existent criminal enforcement against such piracy. As a result, IP enforcement online in Argentina consists mainly of right holders trying to convince Argentine Internet service providers to take down specific infringing works, as well as attempting to seek injunctions in civil cases, both of which can be time-consuming and ineffective.

In addition, another ongoing challenge to the innovative agricultural chemical and pharmaceutical sectors is inadequate protection against the unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for products in those sectors. The National Institute of Industrial Property (INPI) continues to operate with a reduced number of patent examiners, with limited resources posing challenges to recruitment and retention.

Developments, Including Progress and Actions Taken

Argentina made limited progress in IP protection and enforcement in 2023. In 2023, INPI continued working on a project to digitize its historical patent applications. INPI also implemented a system for receiving fee payments online and uploaded all the statistical information that reflects their operations in real time online in order to increase transparency. To further improve patent protection in Argentina, including for small and medium-sized enterprises, the United States urges Argentina to ratify the Patent Cooperation Treaty. The United States urges Argentina to ensure transparency and due process in the protection of geographical indications (GIs) and to ensure that the grant of GI protection does not deprive interested parties of the ability to use common names, particularly as Argentina proceeds with the European Union-MERCOSUR Trade Agreement.

While Argentine customs officials carried out limited raids in 2023 targeting the sale of counterfeit products, illegal activity largely persists in Argentina in the absence of systemic measures. The United States encourages Argentina to create a national IP enforcement strategy to enhance interagency coordination in enforcement efforts and move to having a sustainable, long-lasting impact on IP infringements. During 2023, Argentina did not approve any new legislation to update IP laws. The United States encourages legislative proposals to provide for landlord liability and stronger enforcement on the sale of infringing goods at outdoor marketplaces such as La Salada and to amend the trademark law to increase criminal penalties for counterfeiting carried out by criminal networks. In 2017, Argentina formally created the Federal Committee to Fight Against Contraband, Falsification of Trademarks, and Designations, formalizing the work on trademark counterfeiting under the National Anti-Piracy Initiative. The Committee has not met since 2019, but the United States encourages Argentina to continue this initiative and expand it to include online piracy. Revisions to the criminal code that had been submitted to Argentina's Congress, including certain criminal sanctions for circumventing technological protection measures, have stalled. The creation of a federal specialized IP prosecutor's office and a well-trained enforcement unit could potentially help combat online piracy as well as prevent lengthy legal cases with contradictory rulings.

In 2023, the U.S. Department of Justice's International Computer Hacking and Intellectual Property (ICHIP) liaison based in Brazil organized the U.S.-led regional Digital Piracy Working Group (DPWG) with the active participation of Argentina's federal and state prosecutors as well as the federal police. This collaboration involved both trainings and cross-border law enforcement cooperation. Since its inception in September 2023, the DPWG has seen new levels of working-level investigations and interactions between the Federal Police, the Public Ministry, and the Attorney General's Office in the Province of Buenos Aires tackling various digital piracy operations. The United States intends to monitor all the outstanding issues for progress and urges Argentina to continue its efforts to create a more attractive environment for investment and innovation.

The United States will continue to engage through the United States-Argentina Innovation and Creativity Forum for Economic Development, which was established under the United States-Argentina Trade and Investment Framework Agreement (TIFA), to continue discussions and collaboration in these areas.

CHILE

Chile remains on the Priority Watch List in 2024.

Ongoing Challenges and Concerns

The United States continues to have serious concerns regarding long-standing implementation issues with a number of intellectual property (IP) provisions of the United States-Chile Free Trade Agreement (Chile FTA). Chile must establish protections against the unlawful circumvention of technological protection measures (TPMs), including civil and criminal liability for the act of circumvention as well as criminal and civil or administrative measures for trafficking circumvention devices and providing circumvention services. The United States continues to urge Chile to ratify and implement the 1991 Act of the International Union for the Protection of New Varieties of Plants Convention (UPOV 1991) and improve protection for plant varieties. The United States also urges Chile to improve its Internet service provider liability framework to permit effective and expeditious action against online piracy. Chile passed legislation in 2018 establishing criminal penalties for the importation, commercialization, and distribution of decoding devices used for the theft of encrypted program-carrying satellite signals, but without clarifying the full scope of activities criminalized in the implementation of the law. The United States also urges Chile to provide remedies or penalties for willfully receiving or further distributing illegally decoded encrypted program-carrying satellite signals, as well as the ability for parties with an interest in stolen satellite signals to initiate a civil action. Concerns remain regarding the availability of effective administrative and judicial procedures, as well as deterrent-level remedies, for right holders and satellite service providers.

Concerns also remain with the lack of copyright enforcement efforts by the Chilean authorities. As a result, stakeholders note the high levels of online piracy, including through stream-ripping, streaming, piracy apps, signal theft, and circumvention devices. In addition, pharmaceutical stakeholders continue to raise concerns over the efficacy of Chile's system for resolving patent issues expeditiously in connection with applications to market pharmaceutical products and over the provision of adequate protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products.

The United States encourages Chile to provide transparency and due process to all interested parties in connection with potential recognition or protection of geographical indications (GIs), including in connection with trade agreement negotiations.

Developments, Including Progress and Actions Taken

Chile has made some progress in strengthening its legal framework for IP. The National Institute of Industrial Property's (INAPI) modernization efforts continue, which has resulted in a reduction of trademark and patent application pendency, and all patent and nearly all trademark applications were filed online last year. Chile enacted two laws in 2023 that may help in the investigation and prosecution of online piracy and other intellectual property crimes. *Law 21,577* intends to strengthen the prosecution of organized crime offenses, allow for the use of special investigative

techniques, and bolster the legal basis for confiscation of illicit profits. *Law 21,595* created new categories of “economic crimes,” new penalties such as the confiscation of profits, and new criminal liability for legal entities. Chile also issued *Decree 7/2023*, which requires each national agency to develop and ensure compliance with an Information Security and Cybersecurity Policy. Right holders understand that this *Decree* will prevent government computer systems from having unlicensed software.

The United States appreciates Chile’s engagement with the United States and the steps Chile has taken as an attempt to resolve ongoing issues pertaining to the Chile FTA, but it has been over twenty years since the Chile FTA entered into force. It remains important that Chile show tangible progress in addressing the long-standing Chile FTA implementation issues and other IP issues in 2024.

CHINA

China remains on the Priority Watch List in 2024 and is subject to continuing monitoring pursuant to Section 306 of the Trade Act of 1974, as amended (19 U.S.C. § 2416).

Ongoing Challenges and Concerns

In 2023, the pace of reforms in China aimed at addressing intellectual property (IP) protection and enforcement remained slow. Stakeholders acknowledge some positive developments but continue to raise concerns about implementation of the amended *Criminal Law*, *Copyright Law*, and *Patent Law*. Stakeholder concerns remain about long-standing issues including technology transfer, trade secrets, counterfeiting, online piracy, copyright law, and patent and related policies. China needs to complete the full range of fundamental changes that are required to improve the IP landscape in China.

Statements by Chinese officials that tie IP rights to Chinese market dominance continue to raise strong concerns. For example, the president of the Supreme People's Court (SPC) wrote in a 2021 essay that the courts should serve the Chinese Communist Party and industrial policy goals. Following a June 2022 statement in which President Xi stressed the need for China to allow no delays in breaking through the “chokehold” of critical core technologies, Chinese officials and judges have continued to publish statements highlighting their efforts in that regard. Such statements recall long-standing concerns about requiring or pressuring technology transfer from foreign individuals or companies to Chinese companies, as well as about whether IP protection and enforcement will apply fairly to foreign right holders in China. China should provide a level playing field for IP protection and enforcement, refrain from requiring or pressuring technology transfer to Chinese companies at all levels of government, open China's market to foreign investment, and embrace open, market-oriented policies.

Under Section 301 of the Trade Act of 1974, as amended (19 U.S.C. § 2411) (Section 301), the Office of the United States Trade Representative (USTR) has been taking action to address a range of unfair and harmful Chinese acts, policies, and practices related to technology transfer, IP, and innovation. USTR has also successfully pursued dispute settlement proceedings at the World Trade Organization (WTO) to address discriminatory licensing practices. The United States and China signed the United States-China Economic and Trade Agreement (Phase One Agreement) in January 2020, which included commitments to address numerous long-standing concerns in the areas of trade secrets, patents, pharmaceutical-related IP, trademarks, copyrights, geographical indications (GIs), and technology transfer. The United States has been closely monitoring China's progress in implementing its commitments.

China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

In 2018, USTR reported that its investigation under Section 301 found that China pursues a range of unfair and harmful acts, policies, and practices related to technology transfer, IP, and innovation. These include investment and other regulatory requirements that require or pressure technology transfer, substantial restrictions on technology licensing terms, direction or facilitation of the

acquisition of foreign companies and assets by domestic firms to obtain cutting-edge technologies, and conducting and supporting unauthorized intrusions into and theft from computer networks of U.S. companies to obtain unauthorized access to IP.

In March 2018, the United States initiated a WTO case challenging Chinese measures that deny foreign patent holders the ability to enforce their patent rights against a Chinese joint-venture partner after a technology transfer contract ends and that impose mandatory adverse contract terms that discriminate against and are less favorable for imported foreign technology as compared to Chinese technology. Consultations took place in July 2018, and a panel was established to hear the case at the United States' request in November 2018. In March 2019, China announced the withdrawal of certain measures that the United States had challenged in its panel request, including the *Regulations on the Administration of Import and Export of Technologies*. The United States considered that China's actions had sufficiently addressed U.S. concerns, and the authority of the panel expired on June 9, 2021.

As part of the Phase One Agreement, China agreed to provide effective access to Chinese markets without requiring or pressuring U.S. persons to transfer their technology to Chinese persons. China also agreed that any transfer or licensing of technology by U.S. persons to Chinese persons must be based on market terms that are voluntary and mutually agreed, and that China would not support or direct the outbound foreign direct investment activities of its persons aimed at acquiring foreign technology with respect to sectors and industries targeted by its industrial plans that create distortion. In addition, China committed to ensuring that any enforcement of laws and regulations with respect to U.S. persons is impartial, fair, transparent, and non-discriminatory. USTR continues to work with stakeholders to evaluate whether these commitments have resulted in changes in China's ongoing conduct at the national, provincial, and local levels.

Trade Secrets

Stakeholders report that judicial enforcement of trade secret protections continues to be weak, and implementation of the amended *Criminal Law* remains incomplete. In January 2023, the SPC and Supreme People's Procuratorate (SPP) issued for public comment a draft *Interpretation of Several Issues Concerning the Application of Laws for Handling Criminal Cases of Infringement upon Intellectual Property Rights*, which would define key terms in the amended *Criminal Law*. However, further changes are needed to implement a new threshold for triggering criminal investigations and prosecutions in the draft Interpretation and to update a related standard issued by the SPC and Ministry of Public Security. Moreover, stakeholders continue to identify significant enforcement challenges, including high evidentiary burdens, limited discovery, difficulties meeting stringent conditions to enforce agreements related to protection of trade secrets and confidential business information against theft, and difficulties in obtaining deterrent-level damages awards.

China needs to address concerns regarding the risk of unauthorized disclosures of trade secrets and confidential business information by government personnel and third-party experts, which continue to be a serious concern for the United States and U.S. stakeholders in industries such as software, manufacturing, and cosmetics. The draft *Guiding Opinions on Strengthening the Protection of Trade Secrets and Confidential Business Information in Administrative Licensing*

was published for public comment in August 2020 by the Ministry of Justice but has not been finalized. U.S. stakeholders continued to express concerns about the potential for discriminatory treatment and unauthorized disclosure of their information by local authorities under the proposed expansion of administrative trade secret enforcement, for which the State Administration of Market Regulation (SAMR) issued draft rules in 2020 that have not been finalized.

Manufacturing, Domestic Sale, and Export of Counterfeit Goods

China continues to be the world's leading source of counterfeit and pirated goods. For example, a 2022 report identified China and Hong Kong as the largest exporters of counterfeit foodstuffs and cosmetics, accounting for approximately 60% of counterfeit foodstuffs customs seizures and 83% of counterfeit cosmetics customs seizures.³⁵ China and Hong Kong accounted for over 83% of the value measured by manufacturers' suggested retail price of counterfeit and pirated goods seized by U.S. Customs and Border Protection in Fiscal Year 2023.³⁶ The failure to curb the widespread manufacture, domestic sale, and export of counterfeit goods affects not only right holders but also the health and safety of consumers. The production, distribution, and sale of counterfeit medicines, fertilizers, pesticides, and under-regulated pharmaceutical ingredients remain widespread in China.

Stakeholders continue to express concerns about the production, distribution, and sale of counterfeit medicines and unregulated active pharmaceutical ingredients (APIs), as well as about the *Drug Administration Law* and *Criminal Law*, which give local officials substantial discretion in allowing companies that import unapproved drugs to escape liability or face lighter penalties. Furthermore, as the top manufacturer and a leading exporter of pharmaceutical ingredients, China still lacks effective regulatory oversight. In particular, China does not regulate manufacturers that do not declare an intent to manufacture APIs for medicinal use. It also does not subject exports to regulatory review, enabling many bulk chemical manufacturers to produce and export APIs outside of regulatory controls. Furthermore, China lacks central coordination of enforcement against counterfeit pharmaceutical products and ingredients, resulting in ineffective enforcement at the provincial level and with respect to online sales.

Availability of Counterfeit Goods Online, Online Piracy, and Other Issues

China's e-commerce markets, the largest in the world, remain a source of widespread counterfeits as infringing sales have migrated from physical to online markets. Right holders also raise concerns about the proliferation of counterfeit sales facilitated by the confluence of e-commerce platforms and social media in China. Right holders continue to report difficulties in receiving information and support from platforms in investigations to uncover the manufacturing and distribution channels of counterfeit goods and sellers, as well as onerous evidentiary requirements and excessive delays in takedowns. Counterfeiters continue to exploit the use of small parcels and minimal warehouse inventories, the separation of counterfeit labels and packaging from products

³⁵ Organisation for Economic Co-operation and Development and European Union Intellectual Property Office, *Dangerous Fakes: Trade in Counterfeit Goods that Pose Health, Safety, and Environmental Risks* at 68, 70 (Mar. 9, 2022), <https://www.oecd.org/social/dangerous-fakes-117e352b-en.htm>.

³⁶ U.S. Customs and Border Protection, *Intellectual Property Rights (IPR) Seizures Dashboard*, (Mar. 22, 2024), <https://www.cbp.gov/newsroom/stats/intellectual-property-rights-ipr-seizures>.

prior to the final sale, and the high volume of packages shipped to the United States to escape enforcement and to minimize the deterrent effect of enforcement activities.

Widespread online piracy also remains a major concern, including in the form of “mini Video on Demand (VOD)” facilities that screen unauthorized audiovisual content, illicit streaming devices (ISDs), and unauthorized copies of or access codes to scientific journal articles and academic texts. As a leading source and exporter of systems that facilitate copyright piracy, China should take sustained action against websites and online platforms containing or facilitating access to unlicensed content, ISDs, and piracy apps that facilitate access to such websites.

There was no progress in 2023 on finalizing amendments to the *E-Commerce Law*, which were issued by SAMR for public comment in August 2021. The draft amendments to the *E-Commerce Law* include changes that would extend the deadline for right holders to respond to a counter-notification of non-infringement, and impose penalties for fraudulent counter-notifications and penalties that restrict the business activities of platforms for serious circumstances of infringement. Although noting improvements under the draft amendments, right holders have raised concerns about the failure to codify the elimination of liability for erroneous notices submitted in good faith, as well as proposed changes that would allow reinstatement of listings upon posting a guarantee.

China’s most recent version of its *Foreign Investment Negative List*, which entered into force in January 2022, continues to maintain prohibitions on foreign investment in online publishing and online audiovisual programming (with the exception of services under China’s WTO accession commitments), as well as radio and TV broadcasting, transmission, production, and operation. The List does not restrict foreign investment in online music services.

Also, right holders report significant obstacles to releasing content in China, including limited windows to submit content for review, a non-transparent content review system, and significantly slowed processing and licensing of content for online streaming platforms. Another challenge has been burdensome requirements for documentation of chain of title and ownership information. These barriers have severely limited the availability of foreign content, prevented the simultaneous release of foreign content in China and other markets, and created conditions for greater piracy. Right holders also report that a draft bill published in March 2021 could restrict participation of foreign companies in production, distribution, and broadcasting of radio and television programs, including when provided online. Also, China’s extension of its content review system to cover books intended for distribution in other markets has imposed heavy burdens on foreign publishers.

Additionally, it is critical that China fully implement the terms of the 2012 United States-China Memorandum of Understanding (MOU) regarding the importation and distribution of theatrical films and abide by its commitment to negotiate further meaningful compensation that China owes the United States.

Copyright

Right holders continue to highlight the need for effective implementation and clarification of criminal liability for the manufacture, distribution, and exportation of circumvention devices, as well as new measures to address online piracy. Right holders also report continuing uncertainty

about whether amendments to the *Copyright Law* in 2021 protect sports and other live broadcasts, and recommend clarification in the copyright regulations. While right holders welcomed some effective, but limited, enforcement actions, such as the 2023 Sword-Net Special Campaign that targeted unauthorized live broadcasts of sporting events and other online piracy of copyrighted content, they encourage China to develop these periodic campaigns into sustained, long-term enforcement measures.

Patent and Related Policies

Right holders raised concerns that, although the *Patent Law* allows the filing of supplemental data to support disclosure and patentability requirements, the rules for accepting post-filing data are opaque and patent examiners have applied an overly stringent standard to reject such data. Right holders continue to express strong concerns about obstacles to patent enforcement, such as lengthy delays in courts, lack of preliminary injunctions, and undue emphasis on administrative enforcement.

Following the implementation of a mechanism for the early resolution of potential pharmaceutical patent disputes in 2021, right holders have expressed concerns about the lack of transparency in decisions issued by the China National Intellectual Property Administration (CNIPA), the cumbersome registration system, and the lack of any penalties for erroneous patent statements. Right holders continue to raise concerns that they had identified prior to implementation, such as regarding potential difficulties in obtaining preliminary injunctions, the length of the stay period, and the possibility of bias in favor of Chinese companies.

Obstacles to patent enforcement continue to include lengthy delays in the court system, the reported unwillingness of courts to issue preliminary injunctions, burdensome invalidity proceedings, onerous evidentiary requirements, and ambiguity about whether a patentee's right to exclude extends to manufacturing for export.

With respect to patent prosecution, right holders continue to express concerns about the lack of transparency and due process, including a lack of notice of third-party submissions or the opportunity to respond, despite the reliance of examiners on arguments from such submissions. Long-standing concerns also include a lack of harmonization between China's patent grace period and international practices.

China continues to impose unfair and discriminatory conditions on the effective protection against unfair commercial use, as well as unauthorized disclosure, of test or other data generated to obtain marketing approval for pharmaceutical products. The United States and China agreed to address this issue in future negotiations.

Stakeholders continue to express concern regarding the 2019 *Human Genetic Resources Administrative Regulation* and the 2020 *Biosecurity Law*, along with the *Implementing Rules for the Regulations on the Management of Human Genetic Resources* that entered into effect in May 2023. These measures mandate collaboration with a Chinese partner and shared ownership of patent rights arising out of any research generated by using human genetic resource materials in China. According to stakeholders, these measures create uncertainty about the type of research

that would trigger the sharing of IP rights, a need for greater clarity on the requirements for approved IP arrangements, and the risk of forced or pressured technology transfer. These measures also impose non-transparent requirements for government approval before any transfer of data outside of China. Right holders continue to raise concerns about the lack of transparency in government pricing and reimbursement processes for pharmaceutical products.

With respect to standards, China should establish standards-setting processes that are open to domestic and foreign participants on a non-discriminatory basis, eliminate unreasonable public disclosure obligations in standards-setting processes, and provide sufficient protections for standards-related copyrights and patent rights.

The issuance of anti-suit injunctions by Chinese courts in standard essential patent (SEP) disputes has not occurred in recent years, but the issue continues to raise due process and transparency concerns for right holders, including regarding how such rulings may favor domestic companies over foreign patent holders. Although some stakeholders have compared anti-suit injunctions in China to their use in other jurisdictions, right holders have raised concerns that Chinese courts appear to use the issuance of anti-suit injunctions in support of their attempts to assert jurisdiction over global SEP disputes. High-level political and judicial authorities in China have called for extending the jurisdiction of China's courts over global IP litigation and have cited the issuance of an anti-suit injunction as an example of the court "serving" the "overall work" of the Chinese Communist Party and the Chinese State.

In June 2022, the National People's Congress passed amendments to the *Anti-Monopoly Law (AML)*, which entered into effect in August 2022. Right holders have raised concerns about the implementation of the amended *AML*, particularly regarding the draft implementing rules that define anti-competitive behavior in the development of standards and the licensing and implementation of SEPs. Right holders stated concerns that *AML* enforcement can be misused for the purpose of depressing the value of foreign-owned IP in key technologies, including by finding violations of the law with respect to the licensing of patents without actual harm to competition or the competitive process.

It is critical that China's *AML* enforcement be fair, transparent, and non-discriminatory; afford due process to parties; focus on whether there is harm to competition or the competitive process, consistent with the legitimate goals of competition law; and implement appropriate competition remedies to address the competitive harms. China should not use competition law to advance non-competition goals when there is no harm to competition or the competitive process.

China's "Secure and Controllable" Policies

China continues to build on its policies for "secure and controllable" information and communications technology (ICT) products under the *Cybersecurity Law (CSL)* and the *Cryptography Law*. In 2022, the Cyberspace Administration of China issued final implementing measures for conducting cybersecurity reviews under the *CSL*. Right holders continue to raise concerns about the invocation of cybersecurity as a pretext to require disclosure of trade secrets and other types of IP and to restrict market access. Furthermore, encryption laws, which impose

mandatory approval requirements with unclear exemptions, create an uncertain business environment for foreign companies.

U.S. right holders should not be forced to choose between protecting their IP against unwarranted disclosure and competing for sales in China. Going forward, China must not invoke security concerns in order to erect market access barriers, require the disclosure of critical IP, or discriminate against foreign-owned or -developed IP.

Developments, Including Progress and Actions Taken

Bad Faith Trademarks and Other Trademark Examination Issues

In 2023 and early 2024, China addressed some concerns regarding bad faith trademark applications, including by issuing a measure intended to provide more consistent and predictable application examination results, as well as providing a non-use ground for cancellation of a collective or certification mark in another measure. Also, in January 2023, CNIPA issued the *2023-2025 Work Plan for Systemically Governing Bad Faith Trademark Registration and Promoting High-quality Development*, which established goals over the next three years for combating bad faith trademark registrations, including for enforcement actions against trademarks with significant adverse effects and obviously deceptive characteristics, bad faith preemptive registrations, trademark hoarding, and abuse of trademark rights, as well as for the regulation of trademark agencies aiding perpetrators of bad faith trademark registrations.

Despite these developments, bad faith trademarks remain one of the most significant challenges for U.S. brand owners in China. The United States continues to urge China to take further steps to address concerns, including adoption of an intent-to-use requirement for trademark applications.

In 2023, stakeholders raised concerns regarding reforms that appear primarily focused on increasing the speed rather than quality of trademark examinations. While CNIPA continues to tout downward trends in the average period for obtaining a trademark from the date of application to registration (currently less than 7 months), and the average time for appeals of trademark oppositions and rejections has been cut to 11 months and 5.5 months, respectively, stakeholders continue to indicate that the quality of trademark examination is inconsistent across the board.

Stakeholders also continue to express other concerns relating to trademark examination, including regarding unnecessary constraints on examiners' ability to consider applications and marks across classes of goods and services, as well as the refusal to consider co-existence agreements and letters of consent during the trademark registration or process. They also noted that, in 2023, CNIPA's Trademark Office continued to erroneously refuse trademark applications on absolute grounds (such as lacking distinctiveness, being deceptive as to product quality or source, and being offensive to socialist morality), which are much more difficult to overcome on appeal and often lead to refusals in future applications for the same trademark. In addition to denying right holders the ability to register their legitimate trademarks, erroneous refusals on absolute grounds significantly impact business operations because, in such cases, the right holders must immediately cease use of the mark even if the product already has launched or face significant potential penalties by administrative enforcement officials. Right holders also continued to report in 2023

that CNIPA is rejecting defensive filings allowed under the *Guidelines for Trademark Examination and Trial*, denying brand owners a useful proactive tool to defend against bad faith filings.

Stakeholders continue to urge the adoption of reforms to address the difficulties faced by legitimate right holders in obtaining well-known trademark status. The United States urges China to address these concerns from right holders concerning the administration of trademarks.

Legislative, Administrative, and Judicial Developments

In 2023, the National People's Congress (NPC) and its Standing Committee issued no new or amended legislation directly addressing IP. China still has not addressed right holder concerns with respect to preliminary injunctive relief, evidence production, evidentiary requirements, establishment of actual damages, insufficient damage awards, burdensome thresholds for criminal enforcement, and lack of deterrent-level damages and penalties.

Right holders continue to raise concerns about their ability to meet consularization and notarization requirements for documents submitted to the Beijing Intellectual Property Court and in other IP-related proceedings. As a positive step, the Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (Apostille Convention) entered into force with respect to China in November 2023. For certain documents from Contracting States of the Apostille Convention, China will reportedly replace its current system for consularization procedures with a new authentication procedure based on Apostille certificates, which may reduce the authentication process from 20 working days to a few working days. In December 2023, the Beijing IP Court released *Guidelines for Handling Supporting Documents Certifying the Subject Qualification in Foreign-related Cases*, which seek to address concerns about documentation for U.S. right holders from only two U.S. states (California and Delaware).

The decrease in transparency and the potential for political intervention with the judicial system, as well as the emphasis on administrative enforcement, remain as critical concerns. A long-standing concern has been that Chinese courts publish only selected decisions rather than all preliminary injunctions and final decisions. Moreover, the number of verdicts uploaded online has drastically decreased in the past year, further hampering transparency and making it more difficult for right holders to determine how China protects and enforces foreign IP. In January 2024, the SPC admitted to the decrease in case publications and announced the launch of a National Court Judgments Database. Initial details shared in December 2023 indicated the database would not be available to the public, and the SPC has not clarified the extent to which case decisions will be accessible to the general public or foreign firms. Additional concerns include interventions in judicial proceedings by local government officials, party officials, and powerful local interests that undermine the authority of China's judiciary and rule of law. In January 2024, amendments to the *Civil Procedure Law* entered into effect that expanded the jurisdiction of Chinese courts in cases involving foreign parties. Chinese courts appear to be interested in exercising jurisdiction in cases involving complex technologies, such as SEPs. A judiciary truly independent from the Communist Party of China is critical to promote rule of law in China and to protect and enforce IP rights. Right holders also expressed concerns about the increased emphasis on administrative enforcement, as

authorities often fail to provide right holders with information regarding the process or results of enforcement actions.

In 2023, China took additional steps to develop “social credit” systems for IP, inserting a new social credit provision in the draft *Trademark Law*. CNIPA issued *Provisions on Intellectual Property Rights Credit Management* in January 2022 to expand the scope of conduct that will result in social credit penalties, such as addition to a blacklist and potential joint punishment by a wide range of agencies. A March 2022 document issued by the Central Committee of the Communist Party of China and the State Council emphasized the expansion of the social credit system to IP. In July 2022, CNIPA identified the first confirmed use of social credit penalties in IP, as punishment for an instance of willful patent infringement. These measures lack critical procedural safeguards, such as sufficient notice to the entity targeted for punishment, clear factors for determinations, and opportunities for appeal. The United States continues to object to any use of the “social credit system,” including in the field of IP.

Patent and Related Developments

In December 2023, CNIPA issued new *Implementing Regulations of the Patent Law*, which entered into force on January 20, 2024. CNIPA also issued supporting documents, such as amended *Patent Examination Guidelines*. Right holders continue to express concern about the implementation of patent term extensions for unreasonable marketing approval delays, including limits on the type of protection provided.

The large quantities of poor-quality patents that are granted continue to be a concern. Although CNIPA announced in January 2021 the elimination of patent subsidies by 2025, local incentivization mechanisms continue to include subsidies for patent licensing, validity disputes, and litigation that can potentially distort the commercial market for patents.

SAMR issued the amended *Provisions Prohibiting Intellectual Property Abuse to Preclude or Restrict Competition*, which took effect in August 2023 and included new provisions on SEPs. SAMR also issued draft *Anti-Monopoly Guidelines in the Field of Standard Essential Patents* in June 2023. In December 2023, the SPC overturned the decision of a local intermediate court that had found that certain patents of a foreign company to be an “essential facility” and that the company’s failure to license this IP to Chinese plaintiffs to be an abuse of dominance. Despite this positive development at the SPC, stakeholder concerns remain about the potential misuse of *AML* enforcement.

Industrial Designs

In 2022, China acceded to the Hague Agreement Concerning the International Registration of Industrial Designs. As a positive development, the *Implementing Regulations of the Patent Law*, issued in December 2023, clarified the connection between international design application procedures and domestic procedures. Also, in January 2023, CNIPA issued interim measures to provide guidance on procedural issues for design applications to replace the previous April 2022 interim measures.

Geographical Indications

In January 2024, China finalized the *Measures for Protection of Geographical Indication Products*. The new measures fail to require the identification of individual components of multi-component terms that are being considered for GI protection when GI applications that contain multi-component terms are published for opposition. Without this information, interested parties may assume that all individual components of multi-component terms in an application for GI protection will also be protected as GIs, which imposes onerous burdens on parties seeking to oppose such applications. In addition, right holders continue to raise concerns about certain trademark examination cases that involve the use of common names (generic terms). It is critical that China ensure full transparency and due process with respect to the protection of GIs, including safeguards for common names, respect for prior trademark rights, clear procedures to allow for opposition and cancellation, and fair market access for U.S. exports to China that rely on trademarks or the use of common names.

INDIA

India remains on the Priority Watch List in 2024.

Ongoing Challenges and Concerns

Over the past year, India has remained inconsistent in its progress on intellectual property (IP) protection and enforcement. Although India has worked to strengthen its IP regime, including raising public awareness about the importance of IP, and engagement with the United States on IP issues has increased, there continues to be a lack of progress on many long-standing IP concerns raised in prior Special 301 Reports. India remains one of the world's most challenging major economies with respect to protection and enforcement of IP.

Patent issues continue to be of particular concern in India. Among other concerns, the potential threat of patent revocations and the procedural and discretionary invocation of patentability criteria under the *Indian Patents Act* impact companies across different sectors. Moreover, patent applicants continue to confront long waiting periods to receive patent grants and excessive reporting requirements. Stakeholders continue to express concerns over vagueness in the interpretation of the *Indian Patents Act*.

Despite India's justifications of limiting IP protections as a way to promote access to technologies, India maintains high customs duties directed to IP-intensive products such as information and communications technology (ICT) products, solar energy equipment, medical devices, pharmaceuticals, and capital goods. Stakeholders also continue to raise concerns as to whether India has an effective system for protecting against the unfair commercial use, and unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical and agricultural chemical products. In the pharmaceutical sector, the United States continues to monitor the restriction on patent-eligible subject matter in Section 3(d) of the *Indian Patents Act* and its impacts. Pharmaceutical stakeholders also express concerns as to whether India has an effective mechanism for the early resolution of potential pharmaceutical patent disputes. In particular, India does not have a system to provide notice to a patent holder or to allow for a patent holder to be notified prior to the marketing of follow-on product, which limits transparency.

While steps to improve IP Office operations and procedures are to be commended, India's overall IP enforcement remains inadequate. During the last year, India has continued to take actions against websites with pirated content. Nonetheless, weak enforcement of IP by police officers, a lack of familiarity with investigation techniques, and the continued absence of coordination among India's many national- and state-level IP enforcement agencies, continue to hamper enforcement efforts. India remains home to several markets that facilitate counterfeiting and piracy, as identified in the *2023 Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List)*. While some of India's state authorities continue to operate dedicated crime enforcement units, given the scale and nature of the problem, the United States continues to encourage the adoption of a national-level enforcement task force for IP crimes.

Overall, the levels of trademark counterfeiting continue to remain problematic. In addition, U.S. brand owners continue to report excessive delays in trademark opposition proceedings and a lack

of quality in examination. Initiatives taken by the Department for Promotion of Industry and Internal Trade (DPIIT) reduced trademark application examination to less than 30 days, but right holders remain concerned with trademark examination quality and the trademark opposition proceedings backlog. The United States encourages continued efforts toward resolving the extensive trademark opposition backlog pursuant to the directions of the Delhi High Court. Additionally, it remains unclear whether trademark owners need a prior Indian court or trademark office decision in order to apply for recognition of “well-known” trademark status. The United States continues to urge India to join the Singapore Treaty on the Law of Trademarks.

Companies also continue to face uncertainty due to insufficient legal means to protect trade secrets in India. The Department Related Parliamentary Standing Committee on Commerce (DRPSCC), in its July 2021 report titled *Review of the Intellectual Property Rights Regime in India*, recommended “to consider enacting a separate legislation or a framework” and “to examine the relevant and best practices” for protection of trade secrets. The Law Commission of India subsequently undertook a comprehensive study on the desirability and feasibility of legislation on trade secrets in India. However, as of 2024, no civil or criminal laws in India specifically address the protection of trade secrets. Criminal penalties are not expressly available for trade secret misappropriation in India, and civil remedies reportedly are difficult to obtain and do not have a deterrent-level effect. U.S. and Indian companies have identified trade secret protection as a growing concern and expressed interest in India eliminating gaps in its trade secrets regime, such as through the adoption of trade secret legislation that comprehensively addresses these concerns. The United States encourages India to continue working toward providing adequate and effective protection of trade secrets in India.

Copyright holders continue to report high levels of piracy, particularly online. In August 2021, the DPIIT issued a notice requesting comments on the recommendation of a Parliamentary committee to extend statutory licensing under Section 31D of the *Indian Copyright Act*, which provides statutory licenses for broadcasting sound recordings and literary and musical works, to “internet or digital broadcasters.” Amending Section 31D to permit statutory licensing of interactive transmissions would have severe implications for right holders who make their content available online, and the United States urges India to ensure consistency with its international obligations. Moreover, the September 2016 Department of Industrial Policy and Promotion (which is now DPIIT) memo interpreting Section 31D to cover “internet broadcasting” has not yet been withdrawn or superseded, even though in 2022, the Bombay High Court Division Bench affirmed the 2019 Bombay High Court finding that the memo is contrary to the legislation. The lack of predictability around Section 31D and overly broad exceptions for certain uses have raised concerns about the strength of copyright protection in India. Despite India’s commitment at the United States-India Trade Policy Forums (TPF) in November 2021 and January 2024 to comply with the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties, to which India acceded in 2018, amendments to the Indian Copyright Act are still needed to fully implement the WIPO Internet Treaties and bring India’s domestic legislation into alignment with international best practices. Furthermore, stakeholders have reported continuing problems with unauthorized file sharing of video games, signal theft by cable operators, commercial-scale photocopying and unauthorized reprints of academic books, and circumvention of technological protection measures.

Developments, Including Progress and Actions Taken

Over the past year, India made meaningful progress to promote IP protection and enforcement in some areas and took steps to improve long-standing issues with trademark infringement investigations and patent pre-grant opposition proceedings. India has also made progress in engaging on its copyright provisions in view of commitments under the WIPO Internet Treaties. In addition, the United States welcomes the expansion of Intellectual Property Divisions at the High Courts. The Delhi High Court established an Intellectual Property Division to handle matters related to IP in July 2021. This was followed by the Madras High Court establishing an Intellectual Property Division in April 2023 and the Calcutta High Court notifying draft rules in December 2023 to establish an Intellectual Property Division in the near future. The United States continues to monitor these developments and to encourage allocating resources for training and staffing. The United States is monitoring India's next steps, including any actions taken on the many recommendations in the earlier referenced DRPSCC July 2021 report, *Review of the Intellectual Property Rights Regime in India*.

India took steps to address some stakeholder concerns over the costs and time related to pre- and post-grant oppositions, strict requirements in applying for divisional patents, and burdensome patent reporting requirements by finalizing *Patents (Amendments) Rules* in March 2024. While issues remain, the amendments include provisions that are likely to increase the efficiency of the patent regime and reduce current burdens on patent applicants. The United States will monitor the implementation, including with respect to Form 27, and encourages India to continue moving forward with these and other reform efforts to reduce patent pendency times and improve the patent system for all users.

The Indian government facilitated a memorandum of understanding between the Indian Singers Rights Association (ISRA) and the Indian Music Industry (IMI) as a step to helping performers receive compensation for broadcasts and other performances. The United States encourages India to take necessary additional steps, including authorizing a collective management organization to collect for the use of sound recordings so that royalties can flow to producers and performers.

The Cell for Intellectual Property Rights Promotion and Management, organized under the guidance of DPIIT, continues to promote IP awareness, commercialization, and enforcement throughout India. In December 2020, the U.S. Patent and Trademark Office and DPIIT signed a new memorandum of understanding relating to IP technical cooperation mechanisms.

The United States intends to continue to engage with India on IP matters, including through the TPF's Intellectual Property Working Group.

INDONESIA

Indonesia remains on the Priority Watch List in 2024.

Ongoing Challenges and Concerns

U.S. right holders continue to face challenges in Indonesia with respect to adequate and effective intellectual property (IP) protection and enforcement, as well as fair and equitable market access. There continues to be widespread piracy and counterfeiting, and concerns regarding IP enforcement remain, including lack of enforcement against counterfeit goods, the lack of deterrent-level penalties for IP infringement in physical markets and online, and ineffective border enforcement. Stakeholders have raised concerns over Indonesia's *Copyright Law*, including with respect to the circumvention of technological protection measures, and have urged Indonesia to consider revisions to the *Copyright Law*. Online piracy through piracy devices and applications continues to be widespread, and unauthorized camcording and unlicensed use of software remain problematic. Although the Ministry of Finance issued regulations in 2018 clarifying its *ex officio* authority for border enforcement against pirated and counterfeit goods and instituting a recordation system, few foreign right holders are able to benefit from the system because of local domicile and large deposit requirements. The effectiveness of the Directorate General for Customs and Excise (DGCE) has been limited because its recordation system only contains a small number of trademarks and copyrights, and DGCE has not been able to make full use of its *ex officio* authority to detain infringing goods.

Other concerns include Indonesia's law concerning geographical indications (GIs), which raises questions about the effect of new GI registrations on pre-existing trademark rights and the ability to use common food names. Stakeholders have also expressed concern about the lack of an effective system for protecting against the unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical and agricultural chemical products.

In March 2023, Indonesia amended its 2016 *Patent Law* through the *Omnibus Law No. 6 on Job Creation*. The new law modified requirements for patents to be worked in Indonesia so that the requirements can be met by importation or licensing. The United States continues to urge Indonesia to undertake a more comprehensive amendment to the 2016 *Patent Law* to address remaining concerns about the *Patent Law*, including by clarifying the patentability of inventions that incorporate computer programs and by clarifying how applicants can comply with disclosure requirements for inventions related to traditional knowledge and genetic resources. As Indonesia amends the 2016 *Patent Law* and other legislation and develops implementing regulations, the United States also urges Indonesia to provide affected stakeholders with meaningful opportunities for input.

In addition, the United States remains concerned about a range of market access barriers in Indonesia, including certain measures related to motion pictures. Specifically, *Ministry of Education and Culture Regulation 34/2019*, which is an implementing regulation for the 2009 *Film Law*, includes screen quotas and a dubbing ban for foreign films. If enforced, this regulation would restrict foreign participation in this sector.

Developments, Including Progress and Actions Taken

Indonesia has made progress in addressing some of these concerns, but significant concerns remain in other areas.

U.S. stakeholders continue to note positive developments related to Indonesia's efforts to address online piracy, including increased enforcement efforts and cooperation between the Ministry of Communications and Informatics and the Directorate General for Intellectual Property (DGIP). According to stakeholders' surveys, such efforts have changed the viewing habits of a large percentage of Indonesian consumers. Indonesia has also increased its engagement with various online platforms to combat the sales of counterfeit goods, but stakeholders continue to raise concerns about increasing sales of counterfeit goods online.

In 2023, Indonesia expanded its IP Enforcement Task Force, which aims to improve intra-government coordination on enforcement, to include the Attorney General's Office. The Task Force's activities have included efforts to improve coordination between government agencies, raise awareness of IP challenges among such agencies, and push for increased investigation of IP cases. For example, in October 2023, DGIP and Indonesian enforcement authorities collaborated with the International Criminal Police Organization (INTERPOL), the U.S. Department of Justice International Computer Hacking and Intellectual Property Attorney Advisor for Asia, and Korean enforcement authorities to arrest operators of an illicit Internet Protocol television (IPTV) service and seize servers and streaming equipment. The United States urges Indonesia to use the IP Enforcement Task Force to address insufficient IP enforcement by increasing cooperation among relevant law enforcement agencies and ministries. The United States continues to encourage Indonesia to develop a specialized IP unit under the Indonesia National Police to focus on investigating the Indonesian criminal organizations behind counterfeiting and piracy and to initiate larger and more significant cases. There were few IP prosecutions in 2023 relative to the country's population. Indonesia also has imposed excessive and inappropriate penalties on patent holders as an incentive to collect patent maintenance fees. The United States continues to monitor the issue.

The United States also continues to urge Indonesia to fully implement the bilateral Intellectual Property Rights Work Plan and plans continued engagement with Indonesia under the United States-Indonesia Trade and Investment Framework Agreement (TIFA) to address these issues.

RUSSIA

Russia remains on the Priority Watch List in 2024.

Ongoing Challenges and Concerns

In response to Russia's full-scale invasion of Ukraine in 2022, the United States, in conjunction with its allies and partners, has taken additional steps to isolate Russia from the global economy and hold President Putin accountable for his war against Ukraine. Consequently, the ability of the Office of the United States Trade Representative to raise and resolve intellectual property (IP) protection and enforcement issues in Russia is limited.

The overall IP situation in Russia remains extremely challenging. In 2022, Russia took measures to target IP rights of foreign right holders from countries whose governments have taken action to hold Russia accountable for its full-scale invasion of Ukraine. For example, Russia implemented *Decree 299*, which would not require Russian companies and individuals to pay compensation for the use of inventions, utility models, and industrial designs under Article 1360 of the *Russian Civil Code*, if the right holder comes from a list of countries designated by Russia as "unfriendly" due to factors including publicly supporting or calling for sanctions against Russia. Another measure, *Decree 322*, restricts the ability of foreign right holders from "unfriendly states" to collect license payments for most types of IP.

Challenges to IP protection and enforcement in Russia include continued copyright infringement, trademark counterfeiting, and the existence of nontransparent procedures governing the operation of collective management organizations (CMOs). In particular, the United States is concerned about stakeholder reports that IP enforcement remains inadequate and that Russian authorities continue to lack sufficient staffing, expertise, and, most importantly, the political will to effectively combat IP violations and criminal enterprises.

The lack of robust enforcement of IP rights is a persistent problem, compounded by burdensome court procedures. For example, the requirement that plaintiffs notify defendants a month in advance of instituting a civil cause of action allows defendants to liquidate their assets and thereby avoid liability for their infringement. Additionally, requiring foreign right holders to abide by strict documentation requirements, such as verification of corporate status, hinders their ability to bring civil actions.

Inadequate and ineffective protection of copyright, including with regard to online piracy, continues to be a significant problem, damaging both the market for legitimate content in Russia as well as in other countries. Although implementation of 2017 anti-piracy legislation has shown some promise, the withdrawal of foreign-based entertainment companies from the Russian market left online content piracy unchecked due to poor enforcement of anti-piracy legislation by the government. Russia remains home to several sites that facilitate online piracy, as identified in the *2023 Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List)*. Stakeholders continue to report significant piracy of video games, music, movies, books, journal articles, and television programming. Mirror sites related to websites that offer infringing content and smartphone applications that facilitate illicit trade are also a concern. Russia needs to direct

more action against rogue online platforms targeting audiences outside the country. In 2018, right holders and online platforms in Russia signed an anti-piracy memorandum, which was extended until March 2023, to facilitate the removal of links to websites that offer infringing content. Despite expectations from stakeholders that this memorandum would be implemented as legislation covering all works protected by copyright and applying to all Russian platforms and search engines, no further progress has been made. Although right holders are able to obtain court-ordered injunctions against websites and smartphone applications that offer infringing content, Russia must take additional steps to target the root of the problem, namely, investigating and prosecuting the owners of the large commercial enterprises distributing pirated material, including software. Moreover, prominent Russian online platforms continue to provide access to thousands of pirated films and television shows. Stakeholders report that, in 2023, Russia remained among the most challenging countries in the world in terms of video game piracy. While an August 2021 government decree on rules for showing films in theaters allows exhibitors to remove viewers attempting to record films illicitly, the decree does not remedy the existing lack of legal liability under Russian law for unauthorized camcording.

Royalty collection and distribution by CMOs in Russia continue to lack transparency and do not correspond to international standards. Reports indicate that right holders are denied detailed accounting reports, making it difficult to verify how much money is being collected and distributed. Also, right holders are excluded from the selection and management of CMOs. The United States encourages Russia to update and modernize its CMO regime and institute practices that are fair, transparent, efficient, and accountable.

Russia remains a thriving market for counterfeit goods sourced from China, and stakeholders report that enforcement appears to have substantially decreased over the past two years.

Stakeholders also report that, in practice, Russia's trade secret regime places an undue burden on right holders in terms of requiring specific prerequisites for protection that do not reflect the commercial realities of most businesses. In terms of trade secret enforcement, stakeholders report that, despite their availability, deterrent-level penalties and preliminary measures are rarely imposed by courts for trade secret misappropriation.

The United States is also concerned about Russia's implementation of its World Trade Organization commitments related to the protection against the unfair commercial use, as well as the unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products. Stakeholders report that Russia is eroding protections for undisclosed data, and the United States urges Russia to adopt a system that meets international norms of transparency and fairness. Stakeholders also report that Russia lacks an effective mechanism for the early resolution of potential pharmaceutical patent disputes and continue to express concerns regarding certain evidentiary standards applied by the judiciary.

Developments, Including Progress and Actions Taken

Over the course of 2023, Russia continued to take steps backward with respect to IP protection and enforcement. Russia continues to consider measures that would allow uncompensated use of IP held by right holders based in countries that have sanctioned Russia, including a reported

proposal to allow exploitation of copyright-protected works of right holders from “unfriendly states” without authorization from the right holder. Stakeholders report that third-party operators have recently begun organizing illegal screenings of U.S. films in theaters throughout Russia, with content sourced through online piracy. There is also evidence of recording occurring at these illegal screenings, compounding the harm.

The United States urges Russia to develop a more comprehensive, transparent, and effective enforcement strategy to reduce IP infringement, particularly the sale of counterfeit goods and the piracy of copyright-protected works. The United States continues to monitor Russia’s actions on these and other matters through appropriate channels.

VENEZUELA

Venezuela remains on the Priority Watch List in 2024.

Ongoing Challenges and Concerns

Recognizing the significant challenges in Venezuela at this time, the United States has several ongoing concerns with respect to the country's lack of adequate and effective intellectual property (IP) protection and enforcement. Venezuela's reinstatement several years ago of its 1955 Industrial Property Law, which falls below international standards and raises concerns about trade agreements and treaties that Venezuela subsequently ratified, has created significant uncertainty and deterred investments related to innovation and IP protection in recent years. Piracy, including online piracy, as well as unauthorized camcording and widespread use of unlicensed software, remains a persistent challenge. Counterfeit goods are also widely available, and IP enforcement remains ineffective.

Developments, Including Progress and Actions Taken

While Venezuela's Autonomous Intellectual Property Service (SAPI) granted new patents and also waived various filing fees for small and medium enterprises to encourage IP system usage in 2021, the country did not make any notable progress toward improving IP protection in 2023.

WATCH LIST

ALGERIA

Algeria remains on the Watch List in 2024. Algeria continues to take steps to improve intellectual property (IP) protection and enforcement, including by introducing a draft law to amend the IP regulatory framework, creating a new specialized commercial court responsible for adjudicating IP- and international trade-related disputes, and engaging in capacity building and training efforts for law enforcement, customs officials, judges, and IP protection agencies. Algeria is also considering legislative amendments to address outstanding concerns, including measures to address counterfeiting. As Algeria plans to amend and implement its IP-related laws, the United States encourages Algeria to provide interested stakeholders with meaningful opportunities for input. However, despite these anticipated future improvements, there has been little change as yet to the overall IP environment. Stakeholders report that counterfeiting and digital piracy remain widespread. Algeria needs to increase enforcement efforts against trademark counterfeiting and copyright piracy, particularly online and Internet Protocol television (IPTV) piracy. Algeria also needs to provide adequate judicial remedies in cases of patent infringement and provide administrative opposition, as well as fewer formalities, in its trademark system. Algeria still lacks an effective mechanism for the early resolution of potential pharmaceutical patent disputes, and there is a lack of clarity about whether Algeria's system protects against the unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products. The United States will continue to engage with Algeria to improve Algeria's IP protection and enforcement environment.

BARBADOS

Barbados remains on the Watch List in 2024. Barbados acceded to the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties, in 2019. After delays in 2023, the revised *Copyright Bill* to implement the treaties was introduced in Parliament for debate in February 2024. While a passage date for the revised bill is unknown, the United States welcomes this development. Despite this progress, the lack of enforcement of intellectual property judgments, weak enforcement of existing legislation, and long-standing backlogs in the judicial system remain as concerns. In the realm of copyright and related rights, the United States continues to have concerns about the unauthorized retransmission of U.S. broadcasts and cable programming by local cable operators in Barbados, particularly state-owned broadcasters, without adequate compensation to U.S. right holders. Outstanding copyright infringement cases filed by stakeholders against local media operators remained unresolved in 2023. The United States also has continuing concerns about the refusal of Barbadian television and radio broadcasters and cable and satellite operators to pay for public performances of music. The United States urges Barbados to take all actions necessary to address such cases to ensure that all composers and songwriters receive the royalties they are owed for the public performance of their musical works. The United States looks forward to working with Barbados to resolve these and other important issues.

BELARUS

Belarus remains on the Watch List in 2024. Belarus was removed from the Watch List in 2016 after demonstrating commitment to improve its laws on intellectual property (IP) protection and enforcement. However, in 2022, Belarus passed a law (*Law No. 241-3*) that legalizes unlicensed use of copyrighted works, including computer programs, broadcasts of a broadcasting organization, audiovisual works, and musical works if the right holder or collective management organization (CMO) is from a government list of foreign states “committing unfriendly actions.” Furthermore, the law requires Belarus’s National Center of Intellectual Property (NCIP) to collect royalties on this unlicensed use of copyrighted works on behalf of the individuals and entities from “unfriendly” states. While NCIP is instructed to retain this remuneration for three years on behalf of the right holder or CMO, after this period, any royalties not requested by the right holder or CMO will be transferred to Belarus’s general budget within three months. In this event, the Lukashenko regime would directly financially benefit from the unlicensed usage of others’ IP. Following the imposition of sanctions by the United States and other countries on Belarus for its role in Russia’s full-scale invasion of Ukraine in February 2022, many U.S. stakeholders withdrew from the market, and U.S. government engagement with Belarus has been limited. The United States urges Belarus to rescind this law and to ensure that it complies with its international obligations, including with respect to copyright and related rights.

BOLIVIA

Bolivia remains on the Watch List in 2024. Challenges continue with respect to adequate and effective intellectual property (IP) protection and enforcement in Bolivia. The IP laws in Bolivia are outdated, and constitutional restrictions limit effective IP protection. For example, Bolivia relies on a century-old industrial privileges law, which does not address important areas such as trade secrets. In addition, Bolivia has not acceded to the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties. While the National Intellectual Property Service (SENAPI) announced in 2022 that they would be drafting an updated national IP law, there has been little movement on this initiative. In 2022, Bolivia established new administrative procedures for filing and processing IP infringement complaints. Stakeholders have reported that firms may now only file claims against counterfeit goods that pass through official border points and that they cannot seek action against counterfeit goods entering illegally through uncontrolled border crossings into Bolivia. Similarly, Bolivian Customs lacks *ex officio* authority necessary to interdict potentially infringing goods without an application from the right holder. Additional capacity building could help the customs authority effectively address shipments containing counterfeit goods at Bolivia's international borders. Significant challenges also persist with respect to adequate and effective IP enforcement and communication between SENAPI and Customs. Video, music, literature, and software piracy rates are among the highest in Latin America. Rampant trademark infringement persists, and counterfeit medicines remain prevalent throughout the country. Bolivian law provides for substantial penalties for IP offenses, but criminal charges and prosecutions remain rare. Bolivian Customs has authority under the *Cinema and Audiovisual Arts Law of 2018* to pursue criminal prosecutions for IP violations of foreign and domestic visual works, but Bolivia has not promulgated implementing regulations that are necessary to exercise this authority.

BRAZIL

Brazil remains on the Watch List in 2024. The United States has long-standing concerns about the widespread importation, distribution, sale, and use of counterfeit goods, modified gaming consoles, illicit streaming devices, and other circumvention devices in Brazil, despite some significant intellectual property (IP) enforcement actions taken by authorities in 2023.

Brazil conducted several effective enforcement campaigns against online piracy, some of which were in conjunction with enforcement officials in the United States and other countries. The Ministry of Justice and Public Security's Cybernetic Operations Lab (Ciberlab), the Ministry of Justice and Public Security's National Council to Combat Piracy and Intellectual Property Crimes (CNCP), the Brazilian Audio-Visual Agency (ANCINE), and the cybercrime unit of the State of São Paulo's Prosecutor's Office (CyberGaeco) have been particularly active in this area. In addition, Brazil's National Telecommunications Agency (ANATEL) inaugurated its anti-piracy lab in 2023 to combat the use of illicit streaming devices. Nevertheless, piracy of copyrighted content remains a significant barrier to the adoption of legitimate content distribution channels. The United States encourages Brazil to join, as soon as possible, the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties, which are aimed at preventing unauthorized access to creative works online.

Enforcement of criminal laws and customs regulations to address the importation and trafficking of counterfeit goods remains an area of concern. Despite large-scale raids and seizures conducted over the past decade, the Rua 25 de Março area, which was identified in the *2023 Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List)*, has remained one of the largest markets for counterfeit goods for decades, in part because the raids are not followed by deterrent-level penalties and long-term disruption of illicit business practices. The port of Santos, which is the busiest container port in Latin America, and the Brazil-Paraguay-Argentina tri-border area also continue to be significant entry points for counterfeit goods. Factors that reduce the effectiveness of enforcement against counterfeit goods include the lack of clear *ex officio* authority for customs officials to seize counterfeit goods upon inspection, the lack of deterrent-level penalties authorized by statute and issued by the courts, insufficient numbers of customs officers posted at border points, and lengthy prosecution times. Right holders also report difficulties in obtaining information about seized counterfeit goods from customs, which prevents effective follow-on investigations into the source and distribution networks of the counterfeits.

Brazil continues to implement the country's first National Strategy on Intellectual Property and has recently adopted the 2023-2025 Action Plan, which provides specific actions for the National Strategy implementation. As part of the Action Plan, Brazil has been taking concrete steps toward its goal of reducing the average patent pendency to two years by 2026, although the overall average pendency of patent applications remains high, particularly for biopharmaceutical patent applications. The United States is also concerned about the impact of the current average patent application pendency of almost 7 years (and 9 years for pharmaceutical patents) on the effective patent term. Also, Brazil should provide protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test and other data generated to obtain marketing approval for pharmaceutical products like it does for veterinary and agricultural chemical products.

The United States urges Brazil to ensure transparency and due process in the protection of geographical indications (GIs) and to ensure that the grant of GI protection does not deprive interested parties of the ability to use common names, particularly as Brazil proceeds with the European Union (EU)-MERCOSUR Trade Agreement. The United States is also concerned about the additional market access impact of Brazil's revocation of the previous determination of entities that qualified as prior users for certain GIs under the EU-MERCOSUR Trade Agreement, requiring these entities to reapply but with criteria that now disqualifies many U.S. producers.

Strong IP protection, available to both domestic and foreign right holders, provides a critical incentive for businesses to invest in future innovation in Brazil, and the United States will engage constructively with Brazil to build a strong IP environment and to address remaining concerns.

BULGARIA

Bulgaria remains on the Watch List in 2024. Bulgaria has been a safe haven for online piracy but, in 2023, took an important step to address deficiencies in its investigation and prosecution of online piracy cases by passing the *Act Amending and Supplementing the Criminal Code*, which is intended to improve the investigation and prosecution of online piracy cases. The Act makes it a crime to create conditions for online piracy through the development and maintenance of websites and applications for the online exchange of pirated content. Since the passage of the Act in August 2023, Bulgaria has not yet prosecuted anyone responsible for the online piracy sites that are hosted or operated from within the country, and the United States is monitoring developments. Although Bulgaria raised the maximum sentence for certain intellectual property (IP) crimes from five years to six (under Bulgarian law, certain investigative techniques such as subpoenas and search warrants can only be used to investigate crimes with a maximum sentence of six or more years) and also created a new cybercrime department within the National Investigative Service, long-standing IP enforcement concerns remain. These include inadequate prosecution efforts, lengthy and inefficient procedures, and the lack of the imposition of deterrent criminal penalties despite the availability of such penalties. The United States looks forward to continuing to work with Bulgaria to address these IP concerns.

CANADA

Canada remains on the Watch List in 2024. The lack of intellectual property (IP) enforcement remains a significant concern, particularly at the border and against online piracy. The low number of seizures of counterfeit goods at the border and lack of training for border enforcement officials suggest that Canadian authorities have yet to take full advantage of expanded *ex officio* powers. For counterfeit goods that are seized in Canada, right holders report that enforcement is frustrated by the courts failing to issue consistent deterrent-level penalties against those responsible for the importation, distribution, and sale of the goods. Levels of online piracy remain very high in Canada, including through direct downloads and streaming. Piracy devices, apps, and subscription services are reportedly sold throughout Canada, both in physical retail locations and through online channels. The United States remains deeply concerned by continued stakeholder reports that broad interpretation of the fair dealing exception for the purpose of education, which was added to the copyright law in 2012, as well as the relevant case law on the subject, has significantly damaged the market for educational authors and publishers. Other concerns with Canada's IP environment include inadequate transparency and due process regarding GIs protected through free trade agreements, and limited duration, eligibility, and scope of protection in Canada's system to provide for patent term restoration for delays in obtaining marketing approval.

COLOMBIA

Colombia remains on the Watch List in 2024. In 2023, Colombia made minimal progress on the outstanding provisions related to its obligations under Chapter 16 of the United States-Colombia Trade Promotion Agreement (CTPA), including on provisions regarding enforcement against online copyright infringement. In addition, Colombia's accession to the 1991 Act of the International Union for the Protection of New Varieties of Plants Convention (UPOV 1991) remains outstanding. With respect to concerns raised about Article 72 of the *2014 National Development Plan*, passed as a law in 2015, Colombia issued *Decree 433* in March 2018 and *Decree 710* of April 2018 to clarify that Colombia would not condition regulatory approvals on factors other than the safety and efficacy of the underlying compound. Due to a legal action challenging one of the decrees, the Council of State provisionally suspended *Decree 710* in September 2019. Colombia is still considering how it will resolve the uncertainty remaining from the suspended decree. Colombia's success in combating counterfeiting and other intellectual property (IP) violations remains limited. High levels of digital piracy persist, and Colombia has not curtailed the number of free-to-air devices, community antennas, and unlicensed Internet Protocol television (IPTV) services that permit the retransmission of otherwise-licensed content to a large number of non-subscribers. Stakeholders also report that piracy of licensed content through mobile apps continues to be a growing concern in Colombia. Colombia continues to face a large number of pirated and counterfeit goods crossing the border or sold at markets, on the street, and at other distribution hubs around the country, and stakeholders report that the number of seizures and criminal raids remains low. The United States recommends that Colombia increase efforts to address online and mobile piracy and focus on disrupting organized trafficking in illicit goods, including at the border and in free trade zones. The United States encourages Colombia to provide key agencies with the requisite authority and resources to investigate and seize counterfeit goods, such as expanding the jurisdiction of the customs police. The United States looks forward to continuing to work with Colombia to address outstanding issues, particularly with respect to full implementation of the CTPA, in 2024.

ECUADOR

Ecuador remains on the Watch List in 2024. While Ecuador has made some efforts to improve intellectual property (IP) enforcement in 2023, particularly in the area of border enforcement, Ecuador continues to lack effective laws and regulations covering IP protection and enforcement. Ecuador's *Organic Code on Social Economy of Knowledge, Creativity, and Innovation (Ingenuity Code)* governs the protection, exercise, and enforcement of IP rights. The *Ingenuity Code's* implementing regulations, issued in December 2020, do not address concerns raised by the U.S. Government and various stakeholders on issues related to overly broad or vaguely defined copyright exceptions and limitations, patentable subject matter, and geographical indications (GIs), including opposition procedures for proposed GIs, the treatment of common food names, and the protection of prior trademark rights. While Ecuador still plans additional revisions to the *Ingenuity Code*, little tangible progress has been made. The United States remains open to any engagement on this process. Enforcement of IP rights against widespread counterfeiting and piracy remains weak, including online and in physical marketplaces. Stakeholders report that Ecuador is also a source of unauthorized camcording. Despite some increased enforcement activity, Ecuador needs to take additional steps to address continued concerns regarding online piracy. For example, even though the National Assembly reformed Ecuador's *Penal Code* in 2023 and established a regulatory framework for undercover agents to investigate digital actions online, Ecuador has not approved implementing regulations for this reform. The United States urges Ecuador to continue to improve its IP enforcement efforts and to provide for customs enforcement on an *ex officio* basis, including actions against goods in-transit. The United States also encourages Ecuador to ensure that all government ministries use licensed software and to make meaningful progress to ensure that all right holders receive the royalties they are owed for their copyrighted works. The United States will continue working with Ecuador to address these and other issues.

EGYPT

Egypt remains on the Watch List in 2024. Egypt has made some efforts to strengthen intellectual property (IP) protection and enforcement, including passing legislation to establish the Egyptian Agency for Intellectual Property in 2023. However, implementation of Egypt's five-year *National Intellectual Property Strategy* has been slow, and there have not been noticeable improvements in the overall IP environment in the past year. To improve enforcement, Egypt should provide deterrent-level penalties for IP violations, grant *ex officio* authority for customs officials to seize counterfeit and pirated goods at the border, and increase training for enforcement officials. Stakeholders raise concerns regarding the lack of an effective mechanism for the early resolution of potential patent disputes and the mandatory requirement to record trademark licenses. Egypt should also complete its plans to update and publish the remainder of its patent and trademark examination guidelines online. Additionally, the United States encourages Egypt to join and fully implement the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties. The United States looks forward to continuing to work with Egypt to address these and other issues.

GUATEMALA

Guatemala remains on the Watch List in 2024. Despite a generally strong legal framework in place, inconsistent enforcement actions against counterfeiting of apparel and other products, as well as a lack of coordination among law enforcement agencies continue to result in insufficient intellectual property (IP) enforcement. The United States urges Guatemala to strengthen enforcement, including criminal prosecution, administrative and border measures, and intergovernmental coordination to address widespread copyright piracy and commercial-scale sales of counterfeit goods. The sale of counterfeit goods such as clothing, sports footwear, and accessories continued to occur openly, extensively, and with little interference by Guatemalan law enforcement throughout 2023. Signal piracy continues to be a concern, with online piracy through Internet Protocol television (IPTV) services increasing in 2023. The production and sale of counterfeit apparel and pharmaceuticals in Guatemala remains a concern, as does the presence of unlicensed software on government computers, and stakeholders report that the government, while aware of such activity, lacks capacity to effectively curtail the activity. While the number of raids and seizures of counterfeit products increased in 2023, the Guatemalan government has yet to fully address IP enforcement issues. Stakeholders also continued to report significant delays in the patent registration process remain, that the judiciary continues to lack specialization and knowledge to hear and adjudicate IP issues, and that poor communication and coordination between enforcement agencies delayed notifications of alleged counterfeit cases. The United States continues to urge Guatemala to take effective actions in 2024 to improve the protection and enforcement of IP in Guatemala.

MEXICO

Mexico remains on the Watch List in 2024. The United States continues to engage with Mexico and urges Mexico to fully implement the United States-Mexico-Canada Agreement (USMCA) and to address long-standing concerns, including with respect to enforcement against counterfeiting and piracy, protection of pharmaceutical-related intellectual property (IP), pre-established damages for copyright infringement and trademark counterfeiting, and enforcement of IP rights in the digital environment. The United States continues to monitor Mexico's outstanding USMCA commitments, including those with transition periods that end in 2024 and 2025.

As part of its IP commitments under the USMCA, Mexico undertook significant legislative reforms, with amendments to its *Copyright Law* and *Criminal Code*, and the passage of the *2020 Federal Law for the Protection of Industrial Property*. Unfortunately, Mexico still has not issued implementing regulations for the *Copyright Law* amendments or the *Industrial Property Law*, which has created uncertainty for the creative and innovative sectors looking to protect and enforce their IP. In addition, stakeholders continue to report that Mexican authorities are not enforcing certain provisions of the *Copyright Law* while a constitutional challenge of the *Copyright Law* remains unresolved with Mexico's Supreme Court.

Mexico continues to suffer from very high rates of copyright piracy including through online streaming, peer-to-peer file sharing, direct downloads, stream ripping, illicit streaming devices and apps, circumvention devices for video games and consoles, and physical media. As broadband access increases, online piracy has been increasing, and stakeholders report that Mexico has one of the highest rates of music and video game piracy in the world. A barrier to effective criminal copyright enforcement is the requirement to prove a direct economic benefit to the infringer and the submission of a legitimate physical copy of the pirated content, even if the pirated copies were distributed online. The "direct economic benefit" requirement also prevents effective criminal enforcement against not-for-profit acts of piracy, such as interrupting and distributing cable and satellite signals. According to stakeholders, civil copyright enforcement is difficult and expensive due to the lack of secondary liability for Internet service providers (ISPs), no pre-established damages, no lost profit recovery, no recovery of attorney fees, and lengthy court cases.

Mexico also continues to suffer from widespread importation, manufacture, sales, distribution, re-export, and transshipment of counterfeit goods. The prevalence of counterfeit goods at notorious physical marketplaces remains a significant problem, exacerbated by the involvement of transnational criminal organizations. In the past, Mexican authorities conducted meaningful IP enforcement raids against markets listed in the *Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List)* such as Mercado San Juan de Dios and Tepito, but this enforcement activity appears to have ceased in recent years. While administrative actions against counterfeiters through the Mexican Institute of Industrial Property (IMPI) remain effective, they are very limited due to budget cuts and staffing reductions. Regarding enforcement at the border, the National Customs Agency's (ANAM) effectiveness is limited due to its inability to make determinations, seize, or destroy the counterfeit goods without an order from IMPI or Attorney General's Office (FGR). Stakeholders also continue to raise ongoing issues pertaining to bad faith trademark filings and registrations.

Historically, Mexico has created investigative and regulatory bodies equipped with the expertise and authority to provide meaningful enforcement against both pirated content and counterfeit goods. However, Mexico currently operates with reduced resources for numerous government agencies. Criminal investigations and prosecutions for trademark counterfeiting and copyright piracy appears to be non-existent, with the FGR failing to report any IP enforcement statistics for the past four years. Right holders report that FGR has imposed an internal ban on seeking search warrants in IP cases, which eliminates an essential tool in IP investigations. To combat growing levels of IP infringement in Mexico, the United States encourages Mexico to restore funding for federal, state, and municipal enforcement, improve coordination among federal and sub-federal officials, prosecute more IP-related cases, and impose deterrent-level penalties against infringers. Right holders also express concern about the length of administrative and judicial IP infringement proceedings and the persistence of continuing infringement while cases remain pending.

With respect to geographical indications (GIs), the United States urges Mexico to ensure transparency and due process in the protection of GIs and to ensure that the grant of GI protection does not deprive interested parties of the ability to use common names, particularly with respect to protection granted pursuant to trade agreements.

PAKISTAN

Pakistan remains on the Watch List in 2024. Pakistan has made gradual improvements toward better coordinating its intellectual property (IP) enforcement efforts and updating its IP laws. For example, Pakistan enacted the *Trade Mark Amendment Act (2023)*, and the Intellectual Property Organization (IPO) continues to make efforts to coordinate various government bodies involved in IP. Also, the IP Policy Board met regularly in 2023, and the Competition Commission of Pakistan has made some progress in cases involving counterfeit trademarks and other trademark-related anti-competitive violations. Nonetheless, serious concerns remain, particularly in the area of IP enforcement. Counterfeiting and piracy remain widespread, including with respect to pharmaceuticals, printed works, digital content, and software. Stakeholders report an increase in domestic manufacturing of counterfeit goods. There are also reports of numerous cable operators providing pirated content. Pakistan's establishment of IP tribunals in three cities in 2016, expansion to two additional cities in 2023, and approval for two more cities in the future are encouraging developments. However, litigants with experience in these tribunals have raised concerns over the extensive backlog of cases, inconsistency of rulings, nominal fines, general lack of expertise among tribunal judges, and confusion over the standards by which courts review tribunal decisions. In addition, judicial bodies in Pakistan have limited jurisdiction to adjudicate criminal complaints for IP violations. Effective trademark enforcement also continues to be a challenge due to the lack of *ex officio* authority to commence criminal enforcement actions without a right holder's complaint. Pakistan must address the lack of deterrent-level penalties and focus on judicial consistency and efficiency in order to improve overall IP enforcement. A strong and effective IPO will support Pakistan's reform efforts, yet the United States notes that the IPO continues to face challenges in coordinating enforcement among different government agencies and operates at levels well below approved staffing. The United States encourages Pakistan to continue to work bilaterally, including through U.S. Patent and Trademark Office capacity building programs, Commercial Law Development Program programs, and Trade and Investment Framework Agreement (TIFA) meetings, and to make further progress on IP reforms, with a particular focus on aligning its IP laws, regulations, and enforcement regime with international best practices. As Pakistan continues to amend its IP laws, the United States encourages Pakistan to undertake a transparent process that provides stakeholders with sufficient opportunity to comment on draft laws. The United States also welcomes Pakistan's interest in joining international treaties, such as the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties, and the Patent Cooperation Treaty (PCT).

PARAGUAY

Paraguay remains on the Watch List in 2024. In 2022, the United States and Paraguay agreed on an intellectual property (IP) Work Plan that serves as a roadmap to address issues on the protection and enforcement of IP rights in Paraguay. Paraguay has recently focused on improving IP enforcement, including through the Interagency Coordination Center (CODEPI), and right holders report strong IP enforcement efforts by the National Directorate for Intellectual Property (DINAPI), the IP Prosecutor's Office, and the Economic Crimes Unit of the National Police. However, these efforts are overshadowed by the scale of the IP enforcement challenges, particularly challenges with effective and consistent prosecutions and judicial actions. Ciudad del Este, which is listed in the *2023 Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List)*, serves as one of the main distribution and sales hubs for counterfeit goods in the region and has reportedly become a home to manufacturing and “finishing” facilities for counterfeit goods. The United States urges Paraguay to ensure transparency and due process in the protection of geographical indications (GIs) and to ensure that the grant of GI protection does not deprive interested parties of the ability to use common names, particularly as Paraguay proceeds with the European Union-MERCOSUR Trade Agreement. The United States looks forward to continuing to work with Paraguay to address outstanding IP issues through bilateral engagement, including through the IP Work Plan.

PERU

Peru remains on the Watch List in 2024. The primary reasons are the long-standing implementation issues with the intellectual property (IP) provisions of the United States-Peru Trade Promotion Agreement (PTPA), particularly with respect to Articles 16.11.8 and 16.11.29(b)(ix). The United States urges Peru to implement fully its PTPA obligations and recognizes the steps that Peru has taken toward establishing statutory damages. Peru introduced a working paper addressing statutory damages for copyright and trademark infringement, but the working paper remains pending with a ministerial working group and has not significantly progressed since 2022. With respect to IP enforcement, Peru took a number of positive steps in 2023. Stakeholders have noted that Peru's National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI) serves as a model for strong IP enforcement practices in the Andean region. INDECOPI has increasingly taken action to fine individuals and legal entities that violate Peru's copyright laws. However, stakeholders continue to raise concerns regarding *Proyecto de Ley 878/2021-CR*, known as the *General Internet Bill*, arguing that this draft legislation needs amendments to require Internet service providers (ISPs) to expeditiously take down infringing content and to provide adequate legal incentives for ISPs to work in conjunction with right holders to take down infringing content. The United States recognizes Peru's efforts to increase the number of prosecutions against piracy and counterfeiting, particularly its efforts with respect to the sale of counterfeit medicines. The United States urges Peru to continue these efforts and to expand the imposition of deterrent-level fines and penalties for counterfeiting and piracy more broadly. The United States further encourages Peru to continue its public awareness activities about the importance of IP protection and enforcement. The United States also continues to encourage Peru to enhance its border enforcement measures and to continue to build the technical IP-related capacity of its agencies, law enforcement officials, prosecutors, and judges. The United States looks forward to continuing to work with Peru to address outstanding issues, particularly with respect to full implementation of the PTPA, in 2024.

THAILAND

Thailand remains on the Watch List in 2024. Thailand continues to make significant progress on improving intellectual property (IP) protection and enforcement. In July 2023 and January 2024, Thailand published draft *Copyright Act* amendments for public comment, which are intended to facilitate accession to the WIPO Performances and Phonograms Treaty (WPPT). The United States continues to urge Thailand to complete the amendment process and accede to the WPPT. Right holders have reported improvements in IP enforcement, including good working relationships with Thai police and Customs, increased efficiency in seizures by Customs, and positive impressions of the Thai Customs IPR Recordation System established in 2022. The Department of Intellectual Property and Economic Crime Suppression Division of the police (ECD) are implementing an action plan to identify physical markets and other areas for high-priority enforcement actions against counterfeit and pirated goods. Thailand remains in the process of amending its *Patent Act* to streamline the patent registration process, to reduce patent backlog and pendency, and to help prepare for accession to the Hague Agreement Concerning the International Registration of Industrial Designs. While Thailand is making progress in these areas, concerns remain. Counterfeit and pirated goods are still readily available, particularly online, and right holders express concerns that enforcement authorities focus disproportionately on small operator offenses instead of targeting high-level distributors and manufacturing operations. The United States urges Thailand to improve on its provision of effective and deterrent enforcement measures, especially against upstream suppliers. Although some right holders have reported positive results from Thailand's 2021 memorandum of understanding (MOU) with e-commerce platforms relating to physical copies of pirated goods, other right holders have reported little practical impact against growing online sales of counterfeit and pirated goods. Right holders also report insufficient enforcement and deterrence against growing online piracy by devices and applications that allow users to stream and download unauthorized content. While recognizing the successful enforcement actions Thailand has taken against online piracy, which were enabled by enhanced intra-agency coordination, stakeholders remain concerned about the lack of resulting criminal prosecutions. In addition, the United States urges Thailand to consider additional amendments to its *Copyright Act* to address concerns expressed by the United States and other foreign governments and stakeholders, including regarding procedural obstacles to enforcement against unauthorized camcording, unauthorized collective management organizations, and a process established by the 2022 *Copyright Act* amendments that may lead to overly broad exceptions to the circumvention of technological protection measures. Thailand should also address the backlog in pending patent examinations in particular sectors. In December 2023, Thailand published draft amendments to the *Geographical Indication Protection Act*. The United States urges Thailand to ensure transparency and due process in the protection of geographical indications (GIs) and to ensure that the grant of GI protection does not deprive interested parties of the ability to use common names. Other U.S. concerns include continued use of unlicensed software in the private sector, lengthy civil IP enforcement proceedings, and low civil damages. U.S. right holders have also expressed concerns regarding legislation that allows for content quota restrictions for films. Stakeholders also continue to encourage Thailand to provide an effective system for protecting against the unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical and agricultural chemical products. The United States looks forward to continuing to work with

Thailand to address these and other issues through the United States-Thailand Trade and Investment Framework Agreement (TIFA) and other bilateral engagement.

TRINIDAD AND TOBAGO

Trinidad and Tobago remains on the Watch List for 2024. In 2023, the Telecommunications Authority of Trinidad and Tobago (TATT) continued to conduct audits of compliance with the concessions agreement it requires of domestic broadcasters, which mandates respect for intellectual property (IP). The concessions agreement prohibits broadcasters from transmitting any program, information, or other material without first obtaining all required permissions from relevant IP right holders. Although reportedly all major subscription television providers were generally compliant, TATT has yet to take any enforcement action against the remaining non-compliant broadcasters. Specifically, the United States remains concerned about the lack of enforcement action or other resolution of the long-running violation of the agreement by state-owned telecommunications facilities, which continue to profit from the unlicensed use of U.S. over-the-air signal content through commercial television subscription packages. While Trinidad and Tobago made some effort to address this concern in 2023, there have been no meaningful enforcement actions. TATT continued to liaise with the Caribbean Community Secretariat to address broadcasting of copyright-protected cable programming and the theft of satellite signals within the Caribbean region. Trinidad and Tobago is also currently in the process of amending the *Telecommunications Act* Chapter 47:31 to allow for greater enforcement powers in relation to intellectual property rights breaches by broadcasters and telecommunications providers, which is expected to become law sometime later in 2024.

TÜRKIYE

Türkiye remains on the Watch List in 2024. Over the last few years, Türkiye has worked to strengthen its intellectual property (IP) regime, including through continued implementation of the *2016 Industrial Property Law* and training and capacity building efforts within the Turkish Patent and Trademark Office (TürkPatent) and the Justice Academy. However, right holders continue to have concerns regarding overall IP protection and enforcement in Türkiye and noted few positive developments over the past year. Türkiye remains a significant source of, and transshipment point for, counterfeit and pirated goods across sectors, despite the increases in criminal sanctions for these activities, and is one of the world's largest sources of counterfeit medicines and apparel. This has continued throughout 2023 with stakeholders continuing to report high levels of counterfeit good production and purchasing, as well as high levels of online piracy. Although Turkish enforcement efforts appear to have increased in recent years with continued seizures by the Turkish National Police and Turkish Customs, Türkiye's enforcement processes are hampered by poor coordination between the police, Ministry of Trade, and Customs. Türkiye's Intellectual Property Coordination Board, which brings together the Ministry of Trade, Ministry of Justice, TürkPatent, and the Turkish National Police to discuss IP-related issues, last met in 2021. Effective criminal enforcement is further limited by lax penalties and inadequate procedures under current law. Stakeholders specifically note a lack of judicial expertise in IP and burdensome evidence requirements to obtain search warrants continue to hamper enforcement efforts. The Turkish National Police should be given *ex officio* authority over trademark violations to help enhance IP enforcement capabilities. The United States encourages Türkiye to fully implement its obligations under the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties, and to develop effective mechanisms to address online piracy. The United States continues to encourage Türkiye to require that collective management organizations adhere to fair, transparent, and non-discriminatory procedures. U.S. companies also report that Türkiye's national pricing and reimbursement policies for pharmaceutical products continue to suffer from a lack of transparency and due process. Stakeholders also continue to raise concerns that Türkiye does not adequately protect against the unfair commercial use, as well as unauthorized disclosure, of test or other data generated to obtain marketing approval for pharmaceutical products and has not done enough to reduce regulatory and administrative delays in granting marketing approvals for products. Furthermore, the United States urges Türkiye to establish an effective mechanism for the early resolution of potential pharmaceutical patent disputes. The United States will seek to engage with Türkiye to address these and other issues.

TURKMENISTAN

Turkmenistan remains on the Watch List in 2024. While the adoption of a *Programme of Development of the Intellectual Property System of Turkmenistan for 2021-2025* increased efforts to educate the public about intellectual property, and Turkmenistan's participation at meetings of the Intellectual Property Working Group under the United States-Central Asia Trade and Investment Framework Agreement (TIFA) are positive steps, Turkmenistan's lack of tangible progress in recent years in raising its IP protections to international standards remains concerning. Several long-standing IP concerns raised in previous Special 301 Reports remain unaddressed. Although some government agencies have started to use licensed software, Turkmenistan has yet to issue a presidential-level decree, law, or regulation mandating the use of fully licensed software by government ministries and agencies. Additionally, Turkmenistan has yet to modernize its copyright protection for foreign sound recordings, including through accession to and implementation of the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties. The United States continues to encourage Turkmenistan to undertake legislative IP reforms, including to provide *ex officio* authority for its customs officials and to improve its IP enforcement procedures. The United States also continues to have concerns with Turkmenistan's reported failure to enforce its IP laws, resulting in counterfeit and pirated goods reportedly remaining widely available in major cities in Turkmenistan. Publishing the activities of the State Service for Intellectual Property and providing data pertaining to the seizures facilitated by the State Customs Service would provide transparency that may help inform and enhance IP enforcement in Turkmenistan. The United States stands ready to assist Turkmenistan in improving its IP regime through engagement facilitated by the Intellectual Property Working Group under the United States-Central Asia TIFA.

VIETNAM

Vietnam remains on the Watch List in 2024. In 2023, Vietnam took some steps to improve intellectual property (IP) protection and enforcement, including implementation of the June 2022 amendments to the *Intellectual Property Law*. Right holders have reported an uptick in raids and seizures of counterfeit goods, more engagement with enforcement authorities, and increases in enforcement activity by Vietnam Customs at the northern border. However, serious concerns remain regarding IP protection and, in particular, enforcement.

Vietnam has increasingly become a leading source of online piracy, including through online piracy services that capitalize on the widespread use of illicit streaming devices and applications. Vietnam currently hosts some of the most popular piracy sites and services in the world that target a global audience. Despite having criminal laws imposing substantial fines and years of incarceration for copyright and trademark infringement, Vietnam has almost no criminal investigations or prosecutions. Stakeholders note there has yet to be a single criminal conviction for a copyright offense in Vietnam, as a criminal investigation against the operators of Phimmoi.net has stalled and Vietnamese authorities have not addressed other criminal complaints submitted by stakeholders. Vietnam's continued reliance on administrative enforcement actions has consistently failed to deter widespread counterfeiting and piracy, and a few successful efforts by stakeholders to negotiate directly with operators of piracy sites to shut down the sites are no substitute for enforcement actions and criminal prosecutions by government authorities. Moreover, although Vietnam issued a decree to address the online sale of counterfeit goods, the trafficking of pirated and counterfeit goods through e-commerce sites and elsewhere online continues to grow. Counterfeit goods remain widely available in physical markets as well.

According to right holders, weak IP enforcement in Vietnam is due to poor coordination among ministries and agencies responsible for enforcement, delays in investigations and court proceedings, and the lack of familiarity with IP law among police, prosecutors, and judges. The United States is closely monitoring and engaging with Vietnam on the ongoing implementation of amendments to the 2015 *Penal Code* with respect to criminal enforcement of IP violations and on Vietnam's efforts to set up a specialized IP court. In addition, right holders have raised concerns about trademark application backlogs. Furthermore, Vietnam's system for protecting against the unfair commercial use, as well as the unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products needs clarification.

The United States is also monitoring the implementation of IP provisions pursuant to Vietnam's commitments under trade agreements with third parties. The European Union-Vietnam Free Trade Agreement (EVFTA) grandfathered prior users of certain cheese terms from the restrictions in the geographical indications (GIs) provisions of the EVFTA, and it is important that Vietnam ensure market access for prior users of those terms who were in the Vietnamese market before the grandfathering date of January 1, 2017.

The United States urges Vietnam to address these issues, particularly deficiencies in enforcement against online piracy, and to engage with interested stakeholders as part of such efforts. The United States will continue to press on these and other IP issues with Vietnam through the United States-Vietnam Trade and Investment Framework Agreement (TIFA) and other bilateral engagement.

ANNEX 1: Special 301 Statutory Basis

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988, the Uruguay Round Agreements Act of 1994, and the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. § 2242), the Office of the United States Trade Representative (USTR) is required to identify “those foreign countries that deny adequate and effective protection of intellectual property rights, or deny fair and equitable market access to United States persons that rely upon intellectual property protection.”

The United States Trade Representative shall only designate as Priority Foreign Countries those 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 the relevant U.S. products. Priority Foreign Countries are subject to an investigation under the Section 301 provisions of the Trade Act of 1974. The United States Trade Representative may not designate a country as a Priority Foreign Country if it is entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of intellectual property (IP). The United States Trade Representative is required to decide whether to identify countries within 30 days after issuance of the annual *National Trade Estimate Report*. In addition, USTR may identify a trading partner as a Priority Foreign Country or re-designate the trading partner whenever the available facts indicate that such action is appropriate.

To aid in the administration of the statute, USTR created a Priority Watch List and Watch List under the Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IP protection, enforcement, or market access for persons relying on IP rights. Countries placed on the Priority Watch List are the focus of increased bilateral attention concerning the specific problem areas.

The Trade Facilitation and Trade Enforcement Act of 2015 requires USTR to develop “action plans” for each foreign country that USTR has identified for placement on the Priority Watch List and that has remained on the list for at least one year. The action plans shall include benchmarks to assist the foreign country to achieve, or make significant progress toward achieving, adequate and effective IP protection and fair and equitable market access for U.S. persons relying on IP protection. USTR must provide to the Senate Finance Committee and to the House Ways and Means Committee a description of the action plans developed for Priority Watch List countries and any actions taken by foreign countries under such plans. For those Priority Watch List countries for which an action plan has been developed, the President may take appropriate action if the country has not substantially complied with the benchmarks set forth in the action plan.

Section 306 of the Trade Act of 1974 requires USTR to monitor a trading partner’s compliance with measures that are the basis for resolving an investigation under Section 301. USTR may take trade action if a country fails to implement such measures satisfactorily.

The Trade Policy Staff Committee, in particular the Special 301 Subcommittee, in advising the USTR on the implementation of Special 301, obtains information from and holds consultations with the private sector, civil society and academia, U.S. embassies, foreign governments, and the U.S. Congress, among other sources.

ANNEX 2: U.S. Government-Sponsored Technical Assistance and Capacity Building

In addition to identifying intellectual property (IP) concerns, this Report also highlights opportunities for the U.S. Government to work closely with trading partners to address those concerns. The U.S. Government collaborates with various trading partners on IP-related training and capacity building around the world. Domestically and abroad, bilaterally and in regional groupings, the U.S. Government remains engaged in building stronger, more streamlined, and more effective systems for the protection and enforcement of IP.

The Office of Policy and International Affairs (OPIA) of the U.S. Patent and Trademark Office (USPTO) conducts programs through its Global Intellectual Property Academy (GIPA) in the United States, around the world, and through distance learning to provide education, training, and capacity building on IP protection, commercialization, and enforcement. These programs, conducted for the benefit of U.S. stakeholders, are offered to patent, trademark, and copyright officials, judges and prosecutors, police and customs officials, foreign policy makers, and U.S. right holders. OPIA-designed GIPA programs are frequently conducted in collaboration with Intellectual Property Attaches and other U.S. Government agencies.

Other U.S. Government agencies bring foreign government and private sector representatives to the United States on study tours to meet with IP professionals and to visit the institutions and businesses responsible for developing, protecting, and promoting IP in the United States. One such program is the Department of State's International Visitor Leadership Program, which brings groups from around the world to cities across the United States to learn about IP and related trade and business issues.

Internationally, the U.S. Government is also active in partnering to provide training, technical assistance, capacity building, exchanges of best practices, and other collaborative activities to improve IP protection and enforcement. The following are examples of these programs:

- In Fiscal Year (FY) 2023, USPTO developed and delivered capacity building programs that addressed a full range of IP protection and enforcement matters, including enforcement of IP rights at national borders, online piracy, express mail shipments, trade secrets, copyright policy, and patent and trademark examination. Coming out of the COVID-19 pandemic, the USPTO began returning to face-to-face training programs and also continued to provide live online training by leveraging various technologies. During FY 2023, USPTO provided 144 programs serving over 10,126 individuals, including over 4,677 government officials representing 121 countries and intergovernmental organizations. More information is available at www.uspto.gov/GIPA.
- In addition, the USPTO's OPIA provides capacity building in countries around the world and has formed partnerships with 31 national, regional, and international IP organizations, such as the Japan Patent Office, the European Patent Office, the German Patent and Trademark Office, government agencies of China, the Mexican Institute of Industrial

Property, the Korean Intellectual Property Office, the Association of Southeast Asian Nations (ASEAN), the Oceania Customs Organisation (OCO), the African Regional Intellectual Property Organization (ARIPO), the African Intellectual Property Organization (OAPI), and the World Intellectual Property Organization (WIPO). These partnerships help establish a framework for joint development of informational and educational IP content, technical cooperation, and classification activities.

- The Department of Commerce’s International Trade Administration (ITA) Office of Standards and Intellectual Property (OSIP) leads and manages the United States government interagency STOPfakes program, which helps U.S. companies navigate IP processes globally. STOPfakes presents Roadshows across the country with over 10 U.S. Government partner agencies. These Roadshows are day-long, in-depth seminars for U.S. companies focused on guidance regarding protecting IP at home and abroad. U.S. companies can also find specific IP information on the [STOPfakes.gov](https://www.stopfakes.gov) website, including valuable resources on how to protect patents, copyright, trademarks, and trade secrets as well as targeted information about protecting IP in more than 80 global markets. The website also includes IP highlights on industry- and policy-specific IP topics, including the newest resource, the Clean Technology Industry toolkit. Consumers can also find webinars focused on best practices to protect and enforce IP in China. In addition to STOPfakes, ITA develops and shares small business tools to help domestic and foreign businesses understand IP and initiate protective strategies. Under the auspices of the Transatlantic Intellectual Property Rights Working Group, ITA collaborates with the European Union’s Directorate-General for Trade to identify areas of cooperation to help protect IP in third countries as well as in the United States and the EU. All of the ITA-developed resources, including the United States-EU TransAtlantic Portal, as well as information and links to the other programs identified in this Annex, are accessible via <https://www.stopfakes.gov/>. ITA also manages the STOPfakes X (formerly known as Twitter) account, @STOPfakesGov, which publicizes the release of new resources, live-tweets the STOPfakes Roadshows, and supports IP social media posts from other agencies.
- In FY 2023, the Department of Homeland Security (DHS) and its agencies provided trainings, technical legal assistance, and capacity building to law enforcement agencies around the world. In FY 2023, the Homeland Security Investigations (HSI)-led National Intellectual Property Rights Coordination Center (IPR Center) conducted Intellectual Property Rights Investigative Methods Training programs in Indonesia, Namibia, and Nepal. These programs included representatives from Namibia, South Africa, Botswana, Zambia, Malawi, Indonesia, India, Nepal, Bangladesh, Maldives, and Sri Lanka and were supported by U.S. Customs and Border Protection (CBP), USPTO, the Department of Justice (DOJ) International Computer Hacking and Intellectual Property Advisors (ICHIPs), and other U.S. federal agencies. Additionally, the IPR Center, with support from the Department of State, participated in 12 IP-related international training programs sponsored by the USPTO and the ICHIPs for audiences from Indonesia, Malaysia, Philippines, Thailand, Costa Rica, Dominican Republic, Argentina, Brazil, Paraguay, Peru, Uruguay, Colombia, Ecuador, Ghana, Central Asia, Romania, Morocco, Panama, Guatemala, Trinidad and Tobago, Eurasia, Ukraine, Romania, Bulgaria, Hungary, ASEAN

Regional, Moldova, South Africa, Uganda, Zambia, Senegal, Niger, Sierra Leone, Namibia, Kenya, Nigeria, Liberia, and Botswana.

- In FY 2023, the IPR Center expanded its support of the U.S. Transnational and High-Tech Crime Global Law Enforcement Network (GLEN) through the deployment of a Temporary Duty Assignment ICHIP Agent to enhance the ongoing work of the IPR Center and the existing ICHIP network. The ICHIP Agent deployed to Bangkok, Thailand with regional responsibilities to build capacity for foreign law enforcement counterparts, including investigators, police, prosecutors, policy officials, and lawmakers. This capacity building work is accomplished through practical technical training and case-based mentoring focused on efforts to effectively interdict, investigate, and prosecute IP crime and related cybercrime in order to protect U.S. national and economic security from transnational organized crime threats. This capacity building work is designed to deliver the technical skills and resources to targeted countries to interdict and investigate IP crimes and obtain and preserve evidence at trial.
- During FY 2023, the IPR Center hosted foreign government officials with an interest in IP enforcement. These included delegations from Denmark, Guatemala, Indonesia, Jamaica, Panama, and Trinidad and Tobago, as well as a multi-national delegation from the African Pharma Crime Working Group. The IPR Center also engaged with foreign counterparts in meetings and various outreach and training efforts throughout the world. Among these were representatives from Argentina, Bangladesh, Benin, Botswana, Brazil, Bulgaria, Cabo Verde, Chile, Colombia, Costa Rica, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, El Salvador, Ghana, Guatemala, Hungary, India, Indonesia, Jamaica, Kazakhstan, Kyrgyz Republic, Malawi, Malaysia, Mexico, Moldova, Morocco, Namibia, Nepal, Nigeria, Panama, Paraguay, Peru, Philippines, Romania, Senegal, Sierra Leone, South Africa, Sri Lanka, Tajikistan, Thailand, The Gambia, Trinidad and Tobago, Türkiye, Turkmenistan, Ukraine, Uruguay, Uzbekistan, and Zambia.
- In FY 2023, IPR Center personnel were provided access to SIENA, an advanced messaging service provided by the European Union Agency for Law Enforcement Cooperation (EUROPOL) to quickly exchange crime-related operational and strategic data between European Union law enforcement authorities. Utilizing this access, intelligence reports regarding Bulgarian exporters of counterfeit auto parts shipping to the United States were shared with EUROPOL law enforcement partners as part of a new deconfliction process highlighting the collaboration of the IPR Center, the National Cyber Forensics and Training Alliance, and EUROPOL.
- Within DHS, CBP officials assigned to the IPR Center participate in many engagements with public, private, and international stakeholders hosted by any of the IPR Center's 27 partner agencies. In FY 2023, CBP participated in six meetings with trademark holders and two meetings with international delegations. These engagements promoted U.S. leadership in customs matters, illuminated current trends and issues in global IP protection, and developed trade intelligence for further review.

- CBP officials routinely provide technical legal assistance and capacity building to customs administrations around the world through bilateral engagements, participation in multilateral organization meetings and workshops, such as the Asia-Pacific Economic Cooperation (APEC), EUROPOL, the International Criminal Police Organization (INTERPOL), WIPO, the World Customs Organization (WCO), and the ASEAN Secretariat, and in partnership with other U.S. Government agencies involved in IP enforcement. In FY 2023, CBP provided capacity building assistance in IP border enforcement to the customs administrations of 63 nations and participated in 6 multi-lateral organization meetings concerning IP border enforcement such as the Organisation for Economic Co-operation and Development (OECD) Working Party on Countering Illicit Trade and the WIPO Respect for IP webinar series.
- In FY 2023, CBP engaged bilaterally with the customs administration of Kuwait, the Saudi Authority for Intellectual Property, Uzbekistan customs, the government of Cabo Verde, Thailand customs, and the government of Argentina, providing assistance building and improving their electronic e-recording database and improving their IP border enforcement regime through adopting U.S. best practices. CBP provided technical legal drafting assistance to the governments of Pakistan, Uzbekistan, Vietnam, Iraq, Argentina, and Peru in relation to the IP border enforcement provisions in their customs codes.
- In FY 2023, CBP participated in the following programs sponsored by the Commercial Law Development Program (CLDP): Lithuania and Central Asia customs workshop; three engagements with Kazakhstan, Uzbekistan, Tajikistan, Turkmenistan, and Kyrgyzstan pursuant to the U.S.- Central Asia Trade Investment Framework Agreement (TIFA); the South Caucasus and Eastern Europe Working Group and Transcaspian Forum with government officials from Georgia, Moldova, and Armenia; and the Bosnia and Herzegovina study tour. CBP also participated in a law enforcement workshop in Jakarta, Indonesia, and an investigative workshop in Kathmandu, Nepal sponsored by HSI, as well as the following programs sponsored by the DOJ ICHIP network: an IP enforcement program directed to Romania, Ukraine, and Moldovan enforcement authorities in Cluj Napoca, Romania; the African Pharma Crime Working Group; IP Law Enforcement program in Warsaw, Poland including the customs administrations of Latvia, Lithuania, and Estonia; and an IP Enforcement Workshop in Vientiane, Laos.
- CBP routinely partners with the USPTO when their programs include a customs portion. For example, in FY 2023, CBP provided capacity building assistance to government personnel from Algeria, Guatemala, Honduras, India, Kenya, Morocco, Spain, Trinidad and Tobago, and the United Arab Emirates.
- The Department of State provides foreign assistance anti-crime funds each year to U.S. Government agencies that provide cybercrime and IP enforcement training and technical assistance to foreign governments. The agencies that provide such training include the DOJ, USPTO, CBP, and Immigration and Customs Enforcement (ICE). The U.S. Government works collaboratively on many of these training programs with the private sector and with various international entities, such as WIPO and INTERPOL. Department programs feature deployment of a global network of ICHIPs, who are experienced DOJ

attorneys dedicated to building international cooperation and delivering training. Additionally, the State Department leads the U.S. delegation to the OECD's Working Party on Countering Illicit Trade, working to establish best practices in free trade zones and addressing the challenges that illicit trade poses.

- IP protection is a priority of the government-to-government technical assistance provided by the Department of Commerce's CLDP. CLDP programs address numerous areas related to IP, including legislative reform, enforcement, adjudication of disputes, IP protection and its impact on the economy, and IP curricula in universities and law schools, as well as public awareness campaigns and continuing legal education for lawyers. CLDP supports capacity building in creating and maintaining an innovation ecosystem, including technology commercialization as well as in patent, trademark, and copyright examination and management in many countries worldwide. CLDP also works with the judiciary in various trading partners to improve the skills to effectively adjudicate IP cases and conducts interagency coordination programs to highlight the value of a whole-of-government approach to IP protection and enforcement.
- DOJ, with funding from and in cooperation with the Department of State and other U.S. Government agencies, provides technical assistance and training on IP enforcement issues to thousands of foreign officials around the globe. As noted above, much of this occurs through the ICHIP programs, which includes a dozen prosecutors, two agents, and two digital forensic examiners who are stationed around the globe. During 2023, the ICHIP attorneys conducted 57 IP enforcement trainings, while also providing numerous individual consultations and supporting other U.S. Government programs. Topics covered in training programs include: investigating and prosecuting IP cases under various criminal law and criminal procedure statutes; disrupting and dismantling organized crime networks involved in trafficking in pirated and counterfeit goods; fighting the distribution of infringing goods that represent a threat to public health and safety; combating online piracy; improving officials' capacity to detain, seize, and destroy illegal items at the border and elsewhere; increasing intra-governmental and international cooperation and information sharing; working with right holders on IP enforcement; and obtaining and using electronic evidence. Major ongoing initiatives include programs in Africa, the Americas, Asia, and Central and Eastern Europe.
- The U.S. Copyright Office hosts international visitors, including foreign government officials, to discuss and exchange information on the U.S. copyright system, including law, policy, and registration and recordation functions, as well as various international copyright issues. The Copyright Office also implements a full program of outreach and communications activities, many of which are available to global audiences, in a wide range of formats and media, including live presentations, video tutorials, social media, and through our participation in programs hosted by outside organizations. These programs educate the public regarding copyright protection and provide important updates about recent changes to U.S. law such as the Music Modernization Act and the creation of the Copyright Claims Board, as well as initiatives on issues such as Artificial Intelligence.

The United States reports to the World Trade Organization (WTO) on its IP capacity building efforts, including most recently in September 2023 (see Technical Cooperation Activities: Information from Members-United States of America, IP/C/R/TC/USA/4 at <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/CRTC/USA4.pdf&Open=True>). The United States also reports annually on international IP capacity building and training in the annual report issued by the U.S. Intellectual Property Enforcement Coordinator pursuant to Section 304 of the PRO IP Act of 2008 (15 U.S.C. § 8114), issued most recently as the *Annual Intellectual Property Report to Congress* in April 2023. The report is available at https://www.whitehouse.gov/wp-content/uploads/2023/04/FY22-IPEC-Annual-Report_Final.pdf.