



January 22, 2018

The Honorable Robert Lighthizer
Ambassador
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Lighthizer:

Creativity and innovation are engines for U.S. economic growth – and intellectual property (IP) protection is their fuel. American IP-intensive industries power the United States’ competitive advantage – leading by virtually every metric, whether economic input, job creation, salary, trade surplus, or cultural influence.

U.S. trade agreements catalyze this competitive advantage by ensuring strong protections for American creators and innovators as they open international markets to American goods and services. A trade policy that is pro-creator and pro-innovator is vital to the economic livelihood of the United States, with the Office of the United States Trade Representative as its long-standing champion.

Too often, our trading partners erect barriers to U.S. exports, by failing to protect and enforce IP rights and allowing massive theft of American creativity and innovation. These countries have become safe havens for piracy, counterfeiting, and other forms of theft, turning IP infringement into a “business model.” Such policies and practices not only have devastating effects on American creative and innovative industries, they also threaten U.S. economic growth and well-paying American jobs.

Trade negotiations have proven instrumental in dismantling these trade barriers and expanding market access for U.S. exports to the benefit of American workers and businesses. Our trade agreements have long served as exemplars to the world in terms of how to promote and protect creativity and innovation, leveling the playing field for American creators and innovators. Our agreements also offer tremendous new potential for U.S. IP-intensive industries, which are digitally intensive and technologically innovative and benefit from trade provisions designed to promote legitimate digital trade.

Yet, a new threat to IP-intensive industries has emerged. Certain internet platforms have [Re:Created](#) these damaging policies and practices, developing highly lucrative business models around the theft of American creativity and innovation. At the same time, these few, but powerful, voices ask that our negotiators subvert U.S. free trade agreements with provisions that would otherwise merit condemnation in USTR's National Trade Estimate, Notorious Markets, and Special 301 reports.

If these anti-IP voices succeed, they will turn long-standing trade policy, with creativity and innovation at its core, on its head by transforming our trade agreements into blueprints for how to evade liability for IP theft. These voices call for new chapters and vast new immunities for their online services. At the same time, they insist that outdated and imperfect trade provisions that perpetuate the misuse of "safe harbors" from liability for online copyright theft should be mandated in trade agreements, even where they fail to reflect key safeguards for rights holders found in U.S. law.

These voices assert that the North American Free Trade Agreement (NAFTA) should be "modernized," except when they say it should not. Such beggar-thy-neighbor trade agreement provisions are not the safe harbors intended in U.S. statute, but a poor copy. These trade agreement provisions would create exceptions to strong IP protection that some hope will swallow the copyright rule. To support such a provision would place the U.S. in the position of compelling our trading partners to adopt policies used to abet theft of American IP. This would be a perverse outcome indeed.

We are at a crossroads in trade policy, and we look to you to continue to chart a pro-IP course that promotes American creators and innovators and U.S. economic strength, in the modernization of NAFTA. We look forward to continuing to work with you to achieve this critical objective, which is an essential priority for the future of U.S. trade policy.

Sincerely,

American Association of Independent Music
American Federation of Musicians
Americana Music Association
American Society of Composers, Authors and Publishers
American Society of Media Photographers
Association of American Publishers
Association of Independent Music Publishers
Authors' Guild
Azoff Music Management
Broadcast Music, Inc
Christian Music Trade Association
Church Music Publishers Association
Creative Future

Digital Media Licensing Association
Directors Guild of America
Gospel Music Association
Global Music Rights
Independent Film and Television Alliance
International Alliance of Theatrical Stage Employees
International AntiCounterfeiting Coalition
Living Legends Foundation
Motion Picture Association of America
Music Managers Forum, U.S.
National Music Publishers' Association
National Press Photographers Association
Nashville Songwriters Association International
News Media Alliance
Recording Industry Association of America
The Recording Academy
Rhythm & Blues Foundation
Screen Actors Guild-American Federation of Television and Radio Artists
Society of European Stage Authors and Composers
Songwriters Guild of America
SoundExchange
USAlliance for Music