

July 14, 2009

VIA Federal Express

Ambassador Ron Kirk
United States Trade Representative
600 17th Street, NW
Washington, DC 20508

RE: Announcement of Anti-Counterfeiting Trade Agreement Negotiations

Dear Ambassador Kirk:

The undersigned organizations do not oppose the Office of the United States Trade Representative (“USTR”) engaging other countries on combating counterfeiting and widespread infringement of copyrighted works. Rather, we believe the USTR also should be pursuing this objective in a manner that benefits, rather than harms, U.S. technology companies and consumers. Based on negotiating documents that have become public—but not made available by the U.S. government—we have good reason to believe that the ACTA negotiations could harm a significant portion of the economy as well as consumer interests.

The Internet is an essential communications tool for consumers and an engine of economic growth for our Nation. The technology industries represented by the undersigned organizations represent a significant portion of the U.S. economy. A 2007 study by the Computer & Communications Industry Association found that industries depending upon balanced copyright contributed \$4.5 trillion in revenues and added \$2.2 trillion in value to the economy, one-sixth of total U.S. GDP. In addition, the Interactive Advertising Bureau recently commissioned a study by two Harvard Business School professors that concluded that the advertising-supported Internet alone represents 2.1% of the total U.S. gross domestic product.

Because you already have announced your intention to quickly move forward with ACTA negotiations, we urge you to take the following action to address the concerns we have raised in prior communications with you, the transition team, and your staff:

- **Delete the Internet-specific provisions of ACTA.** Your staff acknowledges that these issues are some of the most controversial and complex in the ACTA

negotiations. The dynamic and rapidly evolving nature of the Internet add to the difficulty of evaluating the likely impact of provisions in this area. Given the potential harm to the Internet economy and to consumers, therefore, we urge you to delete such provisions from the negotiations.

- **Make available negotiating documents.** ACTA concerns enforcement of trademark and copyright law. There is absolutely no reason for the negotiating documents to be secret. Indeed, given the highly technical nature of intellectual property law, and the inconsistent U.S. court decisions in this area, USTR would benefit from broad public input to ensure that U.S. negotiating positions do not stray from U.S. law. These documents should be available prior to sharing with international trade partners so that stakeholders can provide input prior to any negotiation.
- **Establish advisory committees to represent Internet and civil society constituencies.** The issues that confront the Internet differ significantly from those facing other industry sectors, and cleared advisors with expertise in the Internet industry would be able to provide USTR with information and a perspective that it is not presently receiving. Given the potential impact of trade agreements in general, and ACTA in particular, on consumers, USTR should also establish a consumer advisory committee to ensure that the voices of consumers are being heard as well.

We look forward to meeting with you soon to discuss these issues in greater detail. Thank you for consideration of our views.

Sincerely,

American Association of Law Libraries
American Library Association
Association of Research Libraries
Center for Democracy & Technology
Computer & Communications Industry
Association (CCIA)
Electronic Frontier Foundation
NetCoalition
Public Knowledge
Special Libraries Association

Attachments

May 19, 2009 Letter from CCIA and NetCoalition to Ambassador Kirk

CC: Chairman and Ranking Member, Senate Judiciary Committee
Chairman and Ranking Member, Senate Finance Committee
Chairman and Ranking Member, House Ways and Means Committee
U.S. Copyright Office
U.S. Department of Commerce, International Trade Admin., Office of IP
U.S. Department of State, Office of the Legal Advisor
U.S. Patent and Trademark Office