

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

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TO THE MEMBERS OF THE UNITED STATES CONGRESS:

The U.S. Chamber of Commerce's Global Intellectual Property Center (GIPC), representing a broad spectrum of intellectual property-intensive companies, is dedicated to protecting and promoting the creativity and innovation that serve as key engines of job creation, economic growth, and global development in the 21st Century. Accordingly, the GIPC believes Congress should make it a top priority to address several issues related to intellectual property in 2010.

Today's global IP system is designed to spur creativity and innovation and promote the spread of knowledge by protecting creators' and inventors' rights. This time-proven system also helps provide assurance to consumers that the products they use are authentic, safe, and effective. Further, sound IP policies and the enforcement of IP rights in the United States and abroad are essential to advancing U.S. and global economic recovery and creating high-quality, high-paying American jobs. Currently, IP-based industries account for more than \$5 trillion of the U.S. gross domestic product, drive more than half of U.S. exports, and employ over 18 million Americans.

Today, however, America's innovation economy faces threats from criminal counterfeiting and piracy networks, as well as from foreign governments and special interest groups determined to weaken IP rights and undermine patent, trademark, and copyright protections around the world. In the face of these challenges, the Global IP Center is committed to working with Congress to accomplish the following priorities during the coming year:

**Fully Fund and Implement the "PRO-IP Act" (P.L. 110-403)**

Congress' approval of this legislation in 2008 was an important step towards better protection and enforcement of IP rights. The GIPC applauds Congress for funding the personnel and programs authorized under the PRO-IP Act in the FY10 appropriations. The GIPC urges Congress to maintain a robust level of funding for these IP enforcement activities while crafting appropriations legislation for FY11. We also recommend that Congress conduct vigilant oversight to ensure that the administration is properly utilizing the legal authorities provided by the new law to protect the rights of inventors and creators.

A real hallmark of the PRO-IP Act was the creation of the first-ever U.S. Intellectual Property Enforcement Coordinator (IPEC) within the Executive Office of the President. Among the many things the IPEC is responsible for, first and foremost is the development of a comprehensive national strategy to protect and promote IP rights. In November 2009, the Senate

confirmed Victoria Espinel as the first IPEC. The GIPC believes Ms. Espinel is eminently qualified for the position, and that Congress should ensure she has the requisite authority, staff, and budget to successfully carry out her duties. Additionally, Congress should place a high priority on, and give careful scrutiny to the IPEC's national strategy to improve, protect and enforce IP rights and laws, which will play an important role in driving job creation and economic growth.

### **Ensure IP Compliance By America's Trading Partners**

Congress should enact legislation to improve the U.S. Trade Representative's "Special 301" process by enhancing the tools available to the administration to engage more effectively with countries that fail to respect and enforce the rights of American innovators and/or live up to their international IP obligations. This legislation should require an action plan for Priority Watch List countries that includes clear benchmarks to measure performance, and meaningful consequences for nations that fail to perform.

The GIPC is also concerned about actions by some trading partners to expropriate trademark rights in ways that are inconsistent with their international treaty obligations, such as, for example, by introducing "plain packaging" legislation that would eliminate the use of well-known trademarks on tobacco products. The GIPC recommends that Congress remain vigilant in ensuring that trademark protections are not undermined around the world.

### **Improve Border Enforcement Against Counterfeiting and Piracy**

In July 2009, Senators Baucus and Grassley introduced S. 1631, the "Customs Facilitation and Trade Enforcement Reauthorization Act of 2009," which contains important provisions to improve the capability of U.S. Customs and Border Protection (CBP) and Immigration Customs Enforcement (ICE) to prevent counterfeit goods from entering the United States. The GIPC strongly supports this legislation and looks forward to continuing to work with the Senate, House, Administration and interested stakeholders to enact this bill into law in 2010.

### **Expand IP Assistance to U.S. Businesses Operating Abroad**

A critical component to America's economic growth and competitiveness is the ability of U.S. businesses to penetrate foreign markets. However, lack of adequate IP protection and enforcement, particularly in developing countries, represents a significant barrier for U.S. companies. IP attachés stationed at American embassies are an important asset in helping address these issues. In addition to assisting U.S. firms, attachés help coordinate IP-related activities of other federal agencies within an embassy, and help provide technical assistance to law enforcement agencies and judges within the host country on IP legal issues.

The current attaché program is a real success. As such, the GIPC urges Congress to enact legislation that expands the program into other countries. The GIPC continues to support attaché provisions passed by the House in 2009 as part of H.R. 2410, the Foreign Relations Authorization Act, and urges the Senate to take up these or similar provisions in 2010.

### **Preserve A Strong International IP Legal Framework**

In 2010, the GIPC urges Congress to continue to promote and defend a robust international system of IP rights and norms by approving trade agreements with strong global IP

protections, opposing international efforts to weaken IP rights in rule-setting institutions, and stopping the imposition or expansion of unwarranted exceptions to patent protections—much as the Congress did in protecting “green tech” patent rights in U.N. climate change talks. It is vital that Congress address these potential threats to American jobs, consumer safety, and innovation by strengthening and defending the current system of international IP laws and norms, and quickly rebutting the misleading claims by some governments, when they arise, that IP rights are a barrier to progress and development

Along these same lines, Congress should support negotiations for an ambitious and comprehensive Anti-Counterfeiting Trade Agreement with America’s major trading partners, and urge the Administration to conclude this agreement in 2010 through a process that maximizes transparency and promotes high standards. The Congress should also consider and encourage other ways to improve coordination and cooperation between the United States and the European Union on a broad range of IP issues.

### **Executive Branch Oversight and Engagement**

Congress should continue to ensure the administration is fulfilling its IP enforcement and promotion responsibilities and that protection of global intellectual property—so vital to the international competitiveness of American companies—remains a centerpiece of the administration’s trade policy. On the domestic side, Congress should consider appropriate measures to aid efforts by the U.S. Patent and Trademark Office to overcome the major challenges that agency faces with regard to the backlog of patent applications, funding shortfalls, and personnel issues.

Congress has much to do in the coming year. The challenges facing America and the world today make Congress’ continued support for IP rights—and the swift passage of legislation to protect and promote IP at home and abroad—essential. The GIPC believes Congress, the administration, the business community, labor, and other stakeholders can work collaboratively to safeguard and create jobs, while protecting consumer health and safety, by protecting the rights of America’s inventors, artists, and entrepreneurs.

The GIPC is eager to work with Congress to offer the business community’s perspective, expertise, and assistance on these issues. To discuss how Congress can advance a pro-IP agenda that will ensure the future strength and competitiveness of America’s innovative and creative sectors, please contact Chris Merida or Chris Cylke at (202) 463-5600.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with the first name "R." and last name "Josten" being the most prominent parts.

R. Bruce Josten