

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

June 21, 2013

VIA EMAIL

Mr. William E. New
Editor in Chief of Intellectual Property Watch
6 Beverly Road
Bronxville, New York 10708
wnew@ip-watch.ch

Dear Mr. New:

This letter is USTR's final response to your Freedom of Information Act (FOIA) request of March 23, 2012, and a slightly modified version of the request you submitted on April 11, 2012 after speaking with the USTR FOIA Office on April 5, 2012. USTR received your FOIA appeal via fax on January 11, 2013, seeking a response to your initial FOIA request. You sought copies of the following records:

- (1) Records and correspondence consisting of, describing or concerning the U.S. negotiating position with respect to the Trans-Pacific Partnership ("TPP"), and any U.S. proposals or draft texts of the TPP;
- (2) Records, correspondence, and minutes consisting of, describing or concerning all communications between USTR and any member of the Industry Trade Advisory Committee (ITAC) on Intellectual Property Rights, the ITAC on Chemicals, Pharmaceuticals, Health Science Products and Services, and the ITAC on Services and Finance Industries related to the TPP;
- (3) Joint texts of the TPP or any of its provisions that have been circulated to negotiating parties;
- (4) Records and correspondence indicating the 2012 schedule of official negotiation rounds of the TPP (including locations) and the schedule for and locations of side meetings; and
- (5) The full text of, and records or correspondence referencing, the Memorandum of Understanding dated March 4, 2010, as well as any subsequent amendments or Memoranda of Understanding.

As I noted in my March 19, 2013, letter to you, we did not conduct searches for records in categories (1) and (3) above because draft text of the TPP, circulated among TPP negotiating parties is classified confidential per Executive Order 13526 and thus exempt from disclosure under Exemption 1 of the FOIA. Similarly, USTR internal proposals and deliberations related to the United States TPP negotiating positions would be withheld in full pursuant to the deliberative process privilege under FOIA Exemption 5. Instead, we focused our initial search efforts on categories (4) and (5) and released 277 pages of records in full to you with my March letter.

Additionally, we agreed to search for communications between USTR and the members the ITACs you identified above and to segregate any releasable communications from those that qualify for protection under FOIA exemption (b)(5) as deliberative communications and/or exemption (b)(4) which shields third party commercial and/or financial information from

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disclosure. Accordingly, we conducted a detailed review of email messages and attachments and located two hundred ninety-eight (298) responsive emails/ attachments. Of these, we are releasing in part seventy-seven (77) emails/attachments amounting to one hundred and twenty-seven (127) pages of electronic correspondence. We have redacted small portions of these emails to protect third party email addresses and phone numbers pursuant to FOIA exemption 5 U.S.C. 552(b)(6) which exempts from disclosure information where release would constitute an unwarranted invasion of personal privacy. In addition, two pages contain redactions pursuant to 5 U.S.C. 552(b)(4) to exclude business confidential information. We are withholding the remaining two hundred twenty-one (221) emails/attachments in full as deliberative process under 5 U.S.C. 552(b)(5) with thirteen (13) of these emails also withheld under 5 U.S.C. 552(b)(4) as business confidential.

This constitutes a complete response to your request. Under 15 C.F.R §2004.6(d), if you are not satisfied with this response, then within sixty (60) days you may appeal it in writing to:

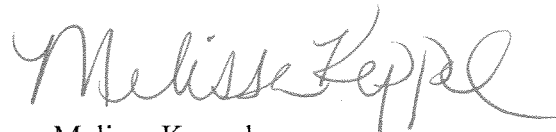
USTR FOIA Appeals Committee
GSD/RDF; Jacqueline Caldwell
Anacostia Naval Annex
Bldg. 410/Door 123
250 Murray Lane, S.W.
Washington, DC 20509

Phone number: 202-395-3419

Both the letter and the envelope should be clearly marked: "Freedom of Information Act Appeal" and should include a reference to the FOIA case number listed below. Heightened security in force may delay mail delivery; therefore we suggest that you also email any such appeal to FOIA@USTR.EOP.GOV. In the event you are dissatisfied with the results of any such appeal, judicial review will thereafter be available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia, where we searched for the records you requested.

Should you have any questions, please feel free to contact the FOIA office at (202) 395-3419.

Sincerely,



Melissa Keppel
Associate General Counsel

Case File # 1232317