



**GIPC**

Global Intellectual Property Center  
U.S. CHAMBER OF COMMERCE

David T. Hirschmann  
President and CEO  
Global Intellectual Property Center  
U.S. Chamber of Commerce

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April 19, 2013

The Honorable Teresa Stanek Rea  
Acting Under Secretary of Commerce for Intellectual Property  
Acting Director of the U.S. Patent and Trademark Office  
U.S. Patent and Trademark Office  
600 Dulany Street  
P.O. Box 1450  
Alexandria, VA 22313

Dear Ms. Rea:

On behalf of the Global Intellectual Property Center (GIPC) at the U.S. Chamber of Commerce I am writing to you to express concerns about the ongoing meetings of the World Intellectual Property Organization (WIPO) regarding visually impaired persons (VIP).

As representatives of a broad sector of businesses, we wholeheartedly support the goal of enhancing the availability of works in formats accessible to the visually impaired. It has come to our attention, however, that certain proposals are being pushed in the VIP negotiations that are both wholly unnecessary to the goals of those negotiations and seem instead to be driven by an unrelated agenda of undermining copyright.

The U.S. Chamber of Commerce is the world's largest business organization representing the interests of more than 3 million businesses of all sizes, sectors, and regions. Our members range from mom-and-pop shops and local chambers to leading industry associations and large corporations.

The GIPC and the Chamber advocate for the promotion of robust and effective intellectual property (IP) rights and norms, the necessary resources for critical government agencies, and enforcement of the law.

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As the Founders understood so well, copyright provides an incentive for the creation and distribution of creative works. This incentive has helped drive the success of copyright-based industries in the United States and helped produce materials that everyone can enjoy, regardless of their visual abilities.

When we consider measures that provide new exceptions or limitations to the critical property rights recognized by copyright, we must be mindful not to undermine that fundamental incentive. An example of this is the three-step test for limitations and exceptions to copyright. The test is a foundational aspect of international copyright law, and is critical to enabling creative works for consumers available through a wide variety of distribution channels.

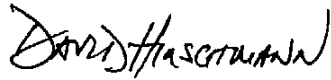
Respecting the three-step test should not be controversial. In fact, the three-step test was reaffirmed by the global community less than ten months ago by its inclusion in WIPO's Beijing Treaty on Audiovisual Performances. We understand that current efforts to ensure the three step test applies to all exceptions adopted pursuant to the VIP instrument are facing resistance. The failure to embody this principle would contradict a century long global consensus as well as, contradict United States policy in its trade agreements. It would not only threaten to permit limitations to copyright that unreasonably prejudice the copyright owner, but would also set a profoundly negative precedent for future agreements.

Another important issue at hand is the effort to appropriate the VIP negotiations as a vehicle for advancing a broad and vague concept of "fair use". This effort has little to do with the goals of the proposed instrument, but has strong potential to undermine the rights of authors significantly. The U.S. should aggressively reject this effort to sidetrack the VIP negotiations to serve a separate and highly controversial agenda.

We understand that the Intellectual Property Owners Association has expressed similar concerns, and we join with them in urging you to uphold the U.S. Patent and Trademark Office's long-standing commitment to vibrant and effective intellectual property.

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Sincerely,

A handwritten signature in black ink that reads "David Hirschmann". The signature is written in a cursive style with a large, stylized initial "D".

David Hirschmann  
President and Chief Executive Officer

cc: The Honorable Victoria Espinel, IP Enforcement Coordinator  
The Honorable Michael Froman, Assistant to the President of the United States and Deputy National Security Advisor for International Economic Affairs  
The Honorable Robert Hormats, Under Secretary of State for Economic Growth, Energy, and the Environment  
The Honorable Cameron Kerry, General Counsel, U.S. Department of Commerce  
The Honorable Demetrios Marantis, Acting U.S. Trade Representative  
The Honorable Maria Pallante, Register of Copyrights