

**Written Questions
from the Special 301 Subcommittee of the Trade Policy Staff Committee
in Docket No. USTR-2021-0021**

Washington, D.C.
February 23, 2022

Instructions

Due to COVID-19, USTR is fostering public participation via written submissions rather than an in-person hearing. The Special 301 Subcommittee of the Trade Policy Staff Committee (Subcommittee) has reviewed written comments and poses the following clarifying questions to commenters.

1. The question or questions posed to you by the Subcommittee are directly after the name of your government, organization, or company in this document. If the name of your government, organization, or company is not located below, that means the Subcommittee did not pose any questions for you.
2. Place your responses in a separate Microsoft Word (.doc) or Adobe Acrobat (.pdf) document and name the document “Response to Questions [Commenter Name, Organization, or Government].”
3. On or before March 8, 2022 at 11:59 p.m. EST, submit the document electronically via *Regulations.gov* using docket number USTR-2021-0021.

The Federal Register Notice at <https://www.federalregister.gov/documents/2021/12/13/2021-26899/request-for-comments-and-notice-of-a-public-hearing-regarding-the-2022-special-301-review> contains further information. Email Special301@ustr.eop.gov if you need clarification on the written questions, submission procedures, or deadlines.

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Government of Bulgaria

1. Your submission indicates that actions were taken in 2021 to identify problems in the case law regarding the inability to use seized material as material evidence, also known as evidence sampling, in the investigation of intellectual property (IP) crimes. Your submission also states that the Prosecutor's Office participated in meetings with other ministries to discuss legislative changes relating to this issue. Can you please describe any progress or developments on efforts to introduce legislation that would allow evidence sampling in IP cases?
2. Your submission describes administrative criminal proceedings that have been instituted for violations of the Copyright and Neighbouring Rights Act (CNRA). In terms of civil remedies, are permanent injunctions available for violations of the CNRA? If not, what changes would be required to allow for permanent injunctions?
3. Your submission states that a large majority of Internet websites that provide access to pirated content are hosted on servers outside the country. What actions does Bulgaria plan to take against the websites hosted on servers inside the country and against infringers within the country accessing those servers outside of the country?

Government of Colombia

1. Is Colombia taking steps to ratify 1991 Act of the International Union for the Protection of New Varieties of Plants Convention (known as UPOV 1991)?
2. Your submission states that the Tax and Customs Police can enter primary inspection zones to support the National Tax and Customs Directorate with prior authorization from the Director General of the National Tax and Customs Directorate. Does the Tax and Customs Police have ex officio authority to inspect, seize, and destroy counterfeit goods in those zones, or does it not?
3. Could you provide more information on the exceptions to protection against the circumvention of technological protection measures proposed in relation to article 32 of Law 1915 of 2018?
4. The 2022 Special 301 submission by the International Intellectual Property Alliance describes a lawsuit brought by Pro Musica Colombia challenging Article 3 of the Copyright Law and alleging that it is “discriminatory against artists, performers, and phonogram producers without justification.” Your response notes that Performing Rights Organizations in the United States negotiate different rates. Could you elaborate on why you believe U.S. practice supports the approach in Article 3?
5. Your submission states that an Internet service provider (ISP) liability regime was raised before the High Council for Competitiveness, but that final enactment of an ISP liability regime will require time due to various factors, including the 2022 elections. Could you provide more information on the factors affecting the ISP liability timeline and any plans for addressing them?

Government of Costa Rica

1. On government use of licensed software, your submission states that the National Registry “submitted the [2021 annual] report to the President of the Republic and Ministers for consideration.”
 - a. Can you provide a timeline of when the National Registry’s report will be approved and explain what the next steps are after the President and Ministers approve the report?
 - b. According to the data gathered for the 2021 annual report, what percentage of agencies use licensed software versus unlicensed software?
 - c. When are agencies required to submit 2022 data to the Intellectual Property Registry (IP Registry)?

2. Your submission notes “the IP Registry has just started a process with the aim of amending the [Law on Copyright and Related Rights] in order to include provisions related to collective management of rights.”
 - a. Can you provide a timeline for this process?
 - b. Will Costa Rica have a public consultation period during this process?

Government of the Czech Republic

1. Your submission describes how patterns of consumption of content have shifted online and that sales of infringing goods have also grown online. Your submission also describes how the Czech Customs Administration conducts enforcement actions against sales of counterfeit goods both online and in physical markets. Has the Czech government taken any steps to change its allocation of enforcement efforts in response to these new patterns?

Government of Ecuador

1. Your submission states that the Ecuadorian government has passed a reform to Article 575 of the Código Organico de la Economía Social de los Conocimientos, Creatividad e Innovación (the Organic Code of Social Economic Knowledge, Creativity and Innovation) that permits customs enforcement on an ex officio basis. Is this reform an amendment to the Organic Code of Social Economic Knowledge, Creativity and Innovation? Could you please provide a copy of this measure?
2. What are Ecuador's plans to revise the Organic Code of Social Economic Knowledge, Creativity and Innovation? Could Ecuador describe the procedural steps and timeline to do so?
3. Ecuador recently published implementing regulations "providing more clarity on the application" of the Organic Code of Social Economic Knowledge, Creativity and Innovation.
 - a. How have stakeholders responded to the regulations?
 - b. Are additional regulations or revisions under consideration?
4. Your submission states that Ecuador "promotes and encourages right holders, collective management societies and individuals to comply with their obligations in regards to royalties." Are there any specific actions or initiatives Ecuador has undertaken for promoting and encouraging compliance with royalty obligations?

European Commission

1. Your submission indicates that parties to a trade agreement with the European Union (EU) concerning geographical indications (GIs) “have to follow specific public procedures . . . such as the publication for opposition.” However, stakeholders allege that opposition proceedings involving the EU’s list of GIs are not impartial and objective. How does the EU ensure that such opposition proceedings are impartial and objective?

Government of Greece

1. Your submission from the Directorate General of Customs & Excise describes how the Hellenic Customs Service is aware of and responds to “new trends in counterfeit goods movement.” However, your submission from the Hellenic Police states that the Hellenic Police is responsible for investigating online infringement through the Cyber Crime Division. Can you please describe which authorities are responsible for enforcement against the online sales of counterfeit goods? Can you please also describe any coordination between the Hellenic Customs Service and the Hellenic Police?

Government of Indonesia

1. Your submission notes that several issues with the 2016 Patent Law will be addressed through an amended Patent Law. Can you provide a timeline of when the amendments will be considered by Parliament?
2. On intergovernmental cooperation on intellectual property (IP) enforcement, your submission notes the formation of a new Intellectual Property Task Force and the signing of a cooperation agreement between relevant agencies. Can you describe any specific enforcement actions that have taken place under the purview of the Intellectual Property Task Force?
3. On customs enforcement, your submission quotes from Government Regulation No. 20/2017 and Regulation of the Minister of Finance No. 40/PMK.04/2018, which, among other things, allow customs officials to “conduct prevention against imported or exported goods suspected as or resulted from intellectual property rights infringements based on sufficient evidence.” However, U.S. companies continue to raise concerns that Indonesia’s customs system lacks a thorough processes for detaining suspicious products and seizing counterfeits. Can you further explain the steps Indonesia is taking or can take to improve IP enforcement at the border?

Government of Kuwait

1. Could you provide more details about Kuwait's plans for "expanding accession to treaties and conventions on intellectual property?" What treaties and conventions on intellectual property would be included in this expansion? Will new domestic legislation be introduced?
2. The 2021 Special 301 Report identifies concerns with "the lack of legal consequences for vendors and importers of counterfeit and pirated goods due to long-pending court cases, inconsistent judicial decisions, and inconsistent penalties that do not seem to deter recidivism." The 2022 Special 301 submission by the International AntiCounterfeiting Coalition states that right holders have these same concerns this year despite improvements in other areas of Kuwait's intellectual property enforcement systems. What actions have Kuwait taken, or what actions are Kuwait planning to take, to address these concerns?

Government of Malaysia

1. Your submission notes that the Trademarks Act 2019 has “provisions related to restrictions on the importation of infringing goods.” However, U.S. companies continue to raise concerns with the effectiveness of Malaysia’s customs enforcement system, including the lack of an intellectual property rights recordation system. Does Malaysia have plans to create and implement such a system?
2. U.S. companies have raised concerns regarding an increase in the volume of counterfeit goods available online in Malaysia. Can you explain steps Malaysia is taking or can take to address the concerns?
3. Your submission states that “Malaysia is in the midst of conducting [a] study for the exceptions and limitation in the Copyright Act.”
 - a. Could you provide more details regarding the scope of the study and whether it involves public consultation process?
 - b. Will the study examine how Malaysia’s copyright exceptions and limitations are in line with the three-step test?

Government of Peru

1. What steps have Peru taken to implement Articles 16.11.8 and 16.11.29(b)(ix) of the United States-Peru Trade Promotion Agreement, two provisions that were highlighted in the 2021 Special 301 Report?
2. Your submission reports that Peru is pursuing strategic alliances in the fight against digital piracy and that Peru recently signed memorandums of understanding (MOUs) with Spain and with the International Federation of the Phonographic Industry to that effect.
 - a. Could you provide additional information on the goals, metrics, and timelines contemplated by the MOUs?
 - b. Is Peru considering additional strategic alliances?
3. Your submission states that Peru is undertaking a strategy to understand further the causes of counterfeiting and piracy and to use approaches that do not solely rely upon monetary penalties. Please describe the effectiveness of these other approaches.
4. You note that the National Institute for the Defense of Free Competition and the Protection of Intellectual Property (INDECOPI) will continue “monitoring and surveillance in the digital environment of suspected piracy sites.”
 - a. Could you provide details on any actions expected to be taken or resources used to facilitate the monitoring and surveillance?
 - b. Are there any active initiatives underway?
5. According to your submission, the National Intellectual Property Policy and the Draft Law have been proposed, but not yet fully implemented. What is the timeline for their implementation?

Government of the Philippines

1. Your submission states that, on September 15, 2021, “the draft substitute bill on the Revised IP Code was approved by the [House of Representatives] Committee on Trade and Industry, subject to additional amendments and style.”
 - a. Can you provide a timeline of when the draft substitute bill may be finalized?
 - b. Will the Philippines have a public consultation period on the draft substitute bill before it is finalized?

2. Your submission notes enforcement operations conducted by the National Bureau of Investigation and the Bureau of Customs. Can you provide further details on how many follow-up operations were conducted in 2021 and whether such enforcement actions have led to successful investigations and prosecutions?

Government of the Republic of Korea

1. In its 2022 Special 301 submission, the American Apparel & Footwear Association states that “distinctiveness and descriptiveness standards by the Korean [Intellectual Property (IP)] Office hinder the clarity and consistency that legitimate trademark owners expect.” Please elaborate on the “distinctiveness and descriptiveness standards” applied by the Korean IP Office.
2. In response to the 2022 Special 301 submission of the International Intellectual Property Alliance, your submission mentions a “recent Supreme Court ruling (2021.9.9.) which changed jurisprudence and recognized that providing link for illegal works constituted copyright infringement.” Please elaborate on this ruling and how it changed jurisprudence on this issue.

Government of Saudi Arabia

1. Could you provide more details about Saudi Arabia’s “active steps in combatting online piracy, particularly in the streaming of live sports and copyrighted content through illicit streaming devices?”
2. The 2022 Special 301 submission by the International AntiCounterfeiting Coalition (IACC) states that, “[i]n contrast to the ‘seize and cite’ approach that’s often seen in Saudi Arabia, [IACC members] believe that more comprehensive investigations could help uncover larger networks, lead to more significant charges and impactful penalties, and send a clear signal that the government takes [intellectual property] offenses seriously.”
 - a. Your submission identifies “enforcement campaigns for copyrights and trademarks [that] were conducted in field inspection campaigns,” with “125 shops inspected, 2,286 visits by the ‘mystery shoppers,’ and 95,073 items seized.” Did any of these enforcement campaigns, or enforcement campaigns from prior years, result in more comprehensive investigations? If so, did the investigations uncover those responsible for the counterfeit or pirated goods being sold in the shops, such as the importers, distributors, or manufacturers?
 - b. Regarding significant charges and impactful penalties, your submission identifies that “[f]ines of more than 255,000 SR were imposed for violators depending on the type of violation.” Were any non-monetary penalties, such as shop closure or imprisonment, imposed for serious violations such as willful counterfeiting or piracy on a commercial scale?
3. The 2022 Special 301 Submission by the U.S. Chamber of Commerce states that “pirate services like EVDTV, As-goal, and LiveHD7 continue to operate in” Saudi Arabia. Has Saudi Arabia investigated these “pirate services” or conducted any enforcement activities against their operators?

Taiwan Authorities

1. Your submission states that Articles 44 to 63 of the draft Copyright Act were revised to be “more precise and definite” in consultation with experts and legal scholars. Are there any plans to revise the draft Copyright Act in response to consultations with right holders?
2. Your submission indicates that the Ministry of Education will continue to invite representatives from right holder groups to become members of its “On-Campus IPR Protection Consultation Group.” In what ways do members of this group participate in the evaluation or inspection of on-campus digital systems that may contain pirated materials?

Government of Thailand

1. The 2022 Special 301 submission by the American Apparel & Footwear Association raises concerns that Thai officials “are often reluctant to participate in raids or seize infringing goods sourced in Thailand” and that counterfeits sourced in Thailand are “usually exported to surrounding Southeast Asian countries.” Can you explain steps Thailand has taken or can take to address these concerns?
2. The 2022 Special 301 submission by the International AntiCounterfeiting Coalition states that there is “a need for more in-depth investigations to uncover manufacturing and distribution operations, with an aim towards disrupting the organized networks that continue to enable sales by brick and mortar and online sellers operating in the country.” Other than the several enforcement actions taken against pirated and counterfeit goods that are identified in your submission, can you explain steps Thailand is taking or can take to address this concern?
3. Your submission states that the Department of Intellectual Property (DIP) has considered the public comments submitted on draft amendments to the Patent Act and that DIP “is now improving the single draft and will take further legislative steps in due course.” Can you explain what the “further legislative steps” would entail and provide a timeline?
4. Your submission states that Thailand continues to amend its Copyright Act in two phases.
 - a. Your submission states that legislation implementing the WIPO Copyright Treaty will be completed in “the first half of 2022.” Do you have a more specific idea of when this legislation will go into effect?
 - b. Your submission explains that a preliminary draft amendment implementing the WIPO Performances and Phonograms Treaty “will be finished by the end of 2022” and then “subsequently tailored and refined.” Do you know when this bill will be available for public comment?
5. Your submission states that nine collective management organizations (CMOs) have expressed their intention to comply with the Code of Conduct for Collective Management Organizations. Have any CMOs chosen not to comply? If so, have they provided reasons for their unwillingness to comply?

Government of Ukraine

1. Your submission reports on “generalized amounts of collected, distributed and paid royalties” in 2021 “based on the information received from 13 [collective management organizations (CMOs)]” in Ukraine.
 - a. For each of the 13 CMOs, please provide the following figures for 2021:
 - i. The amount paid by users in each sphere;
 - ii. The amount collected by each CMO; and
 - iii. The amount distributed by each CMO.
 - b. Your 2021 Special 301 submission did not report “generalized amounts of collected, distributed and paid royalties” for CMOs in 2020. Did Ukraine collect this information from CMOs in 2020? If so, please elaborate on how the “generalized amounts of collected, distributed and paid royalties” in 2021 compare to those amounts from 2020.
2. Your submission notes that accreditations for CMOs in four spheres were recently rendered invalid either by court decision or legislation, necessitating open competitions for new CMO accreditations in those spheres. Please elaborate on the timeframe for finalizing the new accreditations.
3. Your submission states that the “Ministry of Economy has drafted a decree of the Cabinet of Ministers of Ukraine ‘On Amendments to Certain Acts of the Cabinet of Ministers of Ukraine,’ which suggests improving at the regulatory level the procedure of software inventory at executive authorities, as well as improving the institutional and legal framework of activity of an inter-institutional working group on licensing of software at executive authorities.” What is the timeframe for issuing that decree?
4. Your submission states that “the Ministry of Economy was entrusted together with the Ministry for Digital Transformation and the stakeholders to draft a methodology for conducting the inventory of software” at executive branch authorities.
 - a. Please elaborate on the role of stakeholders in developing this methodology.
 - b. Will the methodology be released for public review and comment?
 - c. How, if at all, will the methodology affect the “annual scheduled inventory of software at executive authorities” that is also mentioned in your submission?
5. Your submission states that the “establishment of the High Intellectual Property Court in Ukraine is ongoing” and describes several steps Ukraine is taking to make progress toward that goal. Please elaborate on the timeframe for establishing the High Intellectual Property Court.
6. Your submission identifies 218 criminal proceedings initiated in 2021 by the National Police. Your submission further states that “in 63 criminal proceedings, indictments were filed and sent to court with 61 persons notified of being suspected in commitment of a criminal offence.” For those cases where an indictment was filed and sent to court, please elaborate on the outcome of each case, including any penalties assessed against an infringer.

Government of the United Arab Emirates

1. Your submission states that “the UAE Ministry of Economy has recently formed a music working group comprised of [intellectual property] experts in preparation for the launch of a music [collective management organization (CMO)],” and that this “working group will soon be conducting a benchmarking exercise comparing the UAE’s domestic practices against international best practices.”
 - a. Could you please provide more details about this exercise and how it will contribute to establishing a music CMO?
 - b. Could you please detail the remaining steps necessary to establish a music CMO?
2. The 2022 Special 301 submission by the International Intellectual Property Alliance states that “notorious online piracy sites are heavily accessed in the UAE” and the “use of illicit streaming devices (ISDs) is increasing in the UAE.” What actions have the UAE taken, and what actions are the UAE planning to take, to reduce the consumption of pirated content in the UAE?

ACT | The App Association

1. On China, your submission expresses concern about the application of the “essential facilities” doctrine, similar to the concerns expressed in your submission and response to written questions last year. On page 5 of your submission, you state that “The App Association does not support the notion that competitors should have access to ‘essential’ patents (outside of the standardization context, as discussed below) because they allegedly cannot compete without such access, even in the rare cases where there is little damage to the [intellectual property] holder, or consumer interests are allegedly harmed by lack of competition.”
 - a. Have there been any new developments in the Chinese authorities’ application of the “essential facilities” doctrine? Can you provide any examples, other than the series of cases involving Hitachi Metals, where the essential facilities doctrine has been used to require licensing of IP outside of the standardization context?
 - b. Has the State Administration for Industry and Commerce (now the State Administration for Market Regulation) raised the possibility of applying the “essential facilities” doctrine when interacting with any of your members?
2. What do you mean when your submission states that the Chinese government “continues to threaten the ability to utilize [technological protection measures], primarily encryption?” In what ways has the government threatened such use and what are the expected harms?
3. Your submission states that “India has not yet implemented its obligations under the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty.” Please elaborate on the obligations “not yet implemented” and how this issue affects your stakeholders.
4. Your submission states concerns with Indonesia’s 2016 Patent Law, including “localization rules that require foreign patentees to transfer proprietary technologies to local companies, which, in effect, forces American companies with products in Indonesia to protect their rights.” The Government of Indonesia is currently in the process of amending the 2016 Patent Law. Do you believe your concerns will be addressed through the amendments? Why or why not?
5. On Indonesia, your submission states that “[c]ertainty in enforcement is lacking, and continues to present challenges.” Please explain this statement further.
6. Your submission states that Vietnam “continues to present challenges to App Association members with respect to [intellectual property rights] policies and enforcement, where inadequate frameworks and inconsistent enforcement undermine confidence.” Please explain what you mean by “inadequate frameworks” and “inconsistent enforcement.”

Alliance for Trade Enforcement

1. Brazil contends that its patent backlog has been substantially reduced in the past few years.
 - a. How would you respond to this assertion?
 - b. Do you have any data (whether general, industry-specific, or even anonymous company-specific) regarding what percentage of currently pending applications at the Brazilian National Institute of Industrial Property (INPI-BR) still have a pendency in excess of 10 years?
2. Your submission notes that an amendment to Japan’s Copyright Act “which includes a presumptive license to retransmit content online” poses a “significant risk” to contractual freedom. Please elaborate on this “significant risk” and how it affects your members.
3. Your submission states that “India’s legal and regulatory framework for [intellectual property] protection poses significant barriers to patentability,” including “subjective requirements that disfavor foreign patent applicants.” Please elaborate on the “subjective requirements” and how they affect your members.
4. Regarding Brazil, your submission notes member concern regarding a lack of transparency in Product Development Partnerships. Were there any particular instances in 2021 that raised concern?

American Chamber of Commerce in Argentina

1. In your view, what are some of the reasons that Argentina has not acceded to the Patent Cooperation Treaty?
2. Your submission states that intellectual property enforcement in Argentina has “remarkable deficiencies” and is “meaningless,” and that “there is no support for companies or individuals who wish to pursue these criminals.” What areas should Argentina focus on in the short term that would have the most impact on the enforcement situation?

American Apparel & Footwear Association

1. Regarding China, your submission notes that the 2019 amendments to China’s Trademark Law are a step in the right direction toward addressing long-standing concerns. However, your submission also notes that members have not yet seen “measurable improvement” from this effort. In particular, your submission indicates that China’s measures for bad faith trademarks have not been effective in addressing the problem and identifies a number of methods by which bad faith actors can conduct a “targeted attack” on legitimate brand owners, which appear to exploit gaps in China’s system.
 - a. What have your members seen in terms of changes in China’s trademark system?
 - b. Has there been any progress since the implementation of recent amendments to the Trademark Law?
 - c. Can you please provide more detail about your recommendation that stronger class protection and a stronger well-known marks system is needed to address the situation?
2. Your submission provides that, in 2021, China undertook an “action plan” directed at bad faith trademark activity, but that “measurable improvement has not been realized yet from this effort.” Are there specific failures of the action plan that can be reported, or is the lack of measurable improvement a failure of implementation or the plan itself?
3. On Turkey, your 2021 Special 301 submission reported on challenges conducting enforcement raids. Your 2022 submission now reports that, according to one member, attempting even a single raid is almost impossible. Can you please provide more information about this change?
4. Your submission raises concerns regarding China’s State Administration for Market Regulation’s (SAMR) e-commerce law. Can you identify the specific provisions that your members identify as problematic?
5. Your submission appears to recommend that USTR place Pakistan on the Priority Watch List but does not provide an explanation for the recommendation. Could you please elaborate?
6. For Indonesia, your submission notes that “brands have seen no enforcement action in Indonesia” due to corruption. However, the Government of Indonesia’s submission details its new Intellectual Property Task Force and indicates several enforcement actions in the past year.
 - a. In your view, has Indonesia’s new Intellectual Property Task Force been effective?
 - b. How can the Government of Indonesia improve intellectual property enforcement?

Asia Video Industry Association

1. Your submission states that India’s “program supply legislation (which restricts the right of content owners to sign exclusive, or even limited, distribution contracts) could also be interpreted to violate the Berne Convention.” Please elaborate on this interpretation.
2. Since the enactment of the new copyright amendments in China, have you seen any change in the activity of the Chinese hardware suppliers who openly market circumvention capabilities? Have the new copyright amendments led to changes in enforcement efforts?
3. On China, your submission identifies ongoing challenges such as procedural barriers to civil and criminal enforcement and the lack of ability to effectively enforce judgments. Your submission recommends engagement with China about legal reforms and includes the recommendation to remove certain thresholds for criminal enforcement. Are there any specific legal reforms you would recommend with respect to civil enforcement or the enforcement of judgments?
4. Regarding China, on page 6 of your submission, you state that “[intellectual property (IP)] protection for non-China-registered IP remains a challenge and more needs to be done to ensure that infringement by Chinese-based syndicates and pirates is actively sought out and curtailed.”
 - a. Can you provide some additional information regarding the challenges faced for IP protection for non-China-registered IP?
 - b. Are there specific changes that you would recommend to address this issue?
5. Your submission mentions that, in May 2021, the Intellectual Property High Court in Kuala Lumpur held that the sale and distribution of illicit streaming devices (ISDs) that provide unauthorized access to copyrighted works constitutes copyright infringement under the Malaysian Copyright Act of 1987. That decision follows recently criminal cases brought against sellers of ISDs in Malaysia.
 - a. Have these actions resulted in any reduction of ISD sales or use in Malaysia?
 - b. Are AVIA members pursuing similar civil actions and criminal referrals in other countries?
6. On Vietnam, your submission notes that there has been “no concluded criminal case against copyright infringement” despite new legislation and referrals from industry groups. In your view, what are the biggest impediments to effective criminal enforcement in Vietnam?

Association for Accessible Medicines

1. Do you have a ranking of the countries identified in your submission whose market access barriers for the manufacturing, testing, sale, or marketing of generics cause the most harm to your members who rely upon intellectual property protection?
2. What other amendments in addition to those outlined in your submission do you think China should undertake in its “Measures for Implementation of Early Solution Mechanism on Pharmaceutical Patent Dispute?”

beIN Media Group, LLC and Miramax, LLC

1. What is the basis for your claim that “it can be very difficult to convince a public prosecutor to initiate a copyright case against pirates” in Algeria? Could you provide examples?
2. Your submission mentions several vertically integrated supply and service companies from China that facilitate piracy in the Middle East. Have you taken actions against any of these companies in China, and if so, what were the results?
3. Your submission states that “the Ukrainian ISP known as Virtual Systems (vsys.host) is fast emerging as the largest hosting provider for international piracy in the world” and that “[t]here was no meaningful action taken in response to take down requests sent by our service provider to Virtual Systems.” In Ukraine, have you tried to submit notices of copyright infringement to other Internet hosts besides Virtual Systems? If so, please describe the experience and the responses from those hosts.
4. Your submission states that “a significant number of pirate websites based in Ukraine continue to provide streaming access to unlicensed media content.” Have right holders asked Ukrainian law enforcement to investigate such websites for criminal copyright infringement? If so, what have been the results?
5. What actions have you taken to bring the issue of piracy to the attention of authorities in Morocco?

Biotechnology Innovation Organization

1. On China, your submission describes how Article 59 of China’s Biosecurity Law enacted in October 2020 imposes specific requirements on foreign biotech firms to partner with local Chinese entities in the R&D process and share in any relevant interests. Have there been any developments on whether the requirements to “share in any relevant interests” have affected companies’ ownership of intellectual property or on technology transfer practices?
2. On China, your submission notes that the ability to access and obtain data “is significantly impinged and subject to violations at the discretion of Chinese regulators.” Can you please provide more information about the kind of violations that have occurred?
3. With respect to the examination of supplemental data, your submission reports that the China National Intellectual Property Administration has imposed inappropriate limitations on the use of post-filing data to satisfy inventive step requirements in the past and expresses concern that post-filing data may still not consistently be considered. Can you please provide more information about whether these concerns relate to specific measures in the Chinese system or specific practices of the patent examiners?
4. In your 2021 Special 301 submission, you noted that “BIO members continue to face challenges with regulatory data protection” in Saudi Arabia. This concern is absent in your 2022 Special 301 submission. Are BIO members no longer facing “challenges with regulatory data protection” in Saudi Arabia?
5. Your submission states that “Australia’s government has been seeking significant litigation damages from companies that legitimately seek to enforce their patent rights, putting Australia out of step with the rest of the developed world and key U.S. FTA trading partners regarding its treatment of [intellectual property] rights.” In October 2020, the Australian Government announced planned reforms to the notification procedures for prescription medicines that are under evaluation. According to Australia, these reforms are intended to enhance transparency and to reduce the need for protracted and costly litigation.
 - a. Would these reforms address the concerns identified in your submission?
 - b. In April 2020, the Australian Federal Court rejected the Commonwealth Government’s application for compensation from two originator pharmaceutical companies after finding that Commonwealth’s losses were not a “direct result” of the injunction. Are there remaining cases pending before the Federal Court? How does this case impact BIO’s concerns?
 - c. Please elaborate on your claim that this policy is “inconsistent with the spirit and letter of Australia’s international obligations relating to the protection of intellectual property rights.”
6. Have any additional patented products been included in the United Nations Office for Project Services (UNOPS) procurements for Mexico? We understand that all patented products were eventually removed from the invitation to bid on the UNOPS tender.

Brazilian National Confederation of Industry and American Chamber of Commerce for Brazil

1. Your submission notes that Brazil’s National Strategy for Intellectual Property (Estratégia Nacional de Propriedade Intelectual – ENPI) includes action plans with quantifiable targets to pursue each proposed goal.
 - a. In your opinion and experience, what are the strongest or most promising elements of that plan, as well as the items that need significant improvement in either structure or application?
 - b. Has Brazil taken any tangible steps to achieve these targets in 2021?
2. It is our understanding that the sale of illegal goods decreased substantially in 2020 in Brazil due to the COVID-19 pandemic. Do you know the rate of seizure in 2021 compared to pre-COVID years?
3. You stated in your submission that AmCham Brazil participates in the Interministerial Group on Intellectual Property (GIPI). As you know, it has been challenging for law enforcement in Brazil to transport and store large volumes of seized counterfeit and pirated goods, especially in areas far from São Paul such as Santos and cities near Brazil’s border with Paraguay. Does AmCham Brazil have any suggestions about how GIPI could help facilitate cooperation between law enforcement and right holders to reduce this backlog around the country, such as by expediting the destruction of infringing goods?

BSA | The Software Alliance

1. With respect to the use of unlicensed software by governments, are there any specific countries other than Brazil that you can identify with high rates of unlicensed software? For example, can you please provide any updates on the situation with respect to China and Saudi Arabia?
2. Your submission states that South Korea is among the countries “with weak trade secret protection rules, or that have (or are proposing) policies requiring disclosure of sensitive information.” Please elaborate on the situation in South Korea.
3. Your submission notes that China has “weak trade secret protection rules, or that have (or are proposing) policies requiring disclosure of sensitive information,” and then references certain laws.
 - a. Can you provide additional clarification regarding what aspects of trade secret protection laws are weak in China? Additional information regarding the primary concerns of your members with policies requiring disclosure would be appreciated.
 - b. Are there any laws beyond those referenced in the footnote that raise concerns?
 - c. Is your concern with unnecessary and unreasonable amounts of information being requested, inadequate protections when information is disclosed, or something else?
4. On China, your submission notes the existence of measures that create uncertainty regarding the ability to transfer information and data necessary with respect to procedures for the acquisition, registration, and maintenance of intellectual property rights. Can you please provide further detail about the type of measures that create these barriers?

Chamber of Pharmaceutical Specialties and Related Areas in Uruguay

1. What have been the reasons cited by those who are opposed to Uruguay joining the Patent Cooperation Treaty?

China Chamber of International Commerce

1. Your submission notes that that “it is essential to explore and improve the application of anti-suit injunction.” Can you please provide further information about China’s practices and policies with respect to anti-suit injunctions?
2. With respect to the “burden of proof shifting mechanism” provided by the amended Anti-Unfair Competition Law, which your submission asserts is not “widely adopted,” can you please provide further information about the extent to which the mechanism has been adopted and which courts have rejected the application of the mechanism?
3. Your submission noted the reluctance of courts to issue preliminary injunctions. Can you please provide further details about this situation?
4. In your view, what actions are being taken (or should be taken) to fully implement the recent amendments to the Copyright Law in China, particularly with regard to online live-streaming and technological protection measures

CIOPORA

1. On China, your submission indicates that an “improved” Seed Law has been launched in December 2021 although “the number of protectable genera and species is still limited.” In past submissions, you referenced “loopholes” in China’s enforcement system.” Does the new Seed Law address your previous concerns with the system?
2. On Mexico, your submission reiterates the concerns raised in the 2020 Special 301 process regarding shortcomings in the 1991 Act of the International Union for the Protection of New Varieties of Plants Convention (known as UPOV 1991) implementation. What have been the responses from the Government of Mexico in your engagement concerning these shortcomings?

The Clear Sky Initiative

1. Your submission states that “[d]ue to frequent staff rotations,” CSI is “unable to enhance the dialogue” with the Ministry of Economy of Ukraine on “cooperation” between the Ministry and “the international data exchange platform WIPO ALERT which is an internationally recognized and effective tool for combating piracy financing.” Your submission also states that the Ministry “should speed up the approval of its internal regulations/procedures, instruct its staff and, if necessary, hold consultations with WIPO and rights holders for effective interaction with the WIPO ALERT platform.” Have any further efforts at dialogue on this issue occurred with the Ministry since you submitted these comments? If so, what were the results of those efforts?

Colombian Civil Society Organizations

1. Your submission raises concerns about discussions of forced technology transfer in the Special 301 Report, given the importance of technology transfer to access to medicines. Do you see a distinction between voluntary efforts, like the COVID-19 Technology Access Pool, and efforts to compel disclosure of trade secret information?
2. Your submission articulates a need to seek a balance between public interest and intellectual property rights. What is the appropriate balance?

Computer & Communications Industry Association

1. In reference to India’s Personal Data Protection Bill, your submission states that “the ability for the Government to demand the production of extensive datasets collected, inferred, or aggregated by companies, including personal information and confidential business information, may conflict with existing intellectual property law in India.” Please elaborate on how the Bill may conflict with intellectual property law in India.
2. On China, your submission reiterates concerns regarding “discriminatory practices that force the transfer of intellectual property and critical know-how, reputable brand names, and operation over to Chinese authorities and companies in order to operate in the market.” Has the situation in China with respect to the forced transfer of intellectual property and critical know-how, reputable brand names, and operation in the past year changed in a positive or negative manner in the last year?
3. Regarding Article 17 of the European Union’s (EU) Copyright Directive, your submission states that “USTR should work with its EU counterparts to ensure the Directive is implemented in a technologically neutral and future proof manner.”
 - a. What do you mean by “in a . . . future proof manner” with respect to national implementation in EU members states?
 - b. How do you recommend that this issue be addressed within the Special 301 process?

Consortium for Common Food Names

1. What are examples of best practices in domestic laws or in trade agreements with respect to ensuring that the grant of geographical indications (GI) protection does not deprive interested parties of the ability to use common names?
2. On Malaysia, your submission expressed concerns regarding Malaysia's potential regulations on GIs. The Malaysian Parliament passed amendments to its GIs law in December 2021. Have you or your members engaged the Malaysian government on the draft amendments prior to its passage, and do you or your members have specific concerns with the final law as passed?

Ecuadorian American Chamber of Commerce

1. Your submission references various meetings between the National Service for Intellectual Rights of Ecuador (SENADI) and Collection Management Societies to regularize their rates and statutes, as well as meetings between SENADI and citizen groups regarding payment of copyright royalties. Could you describe the outcomes of those meetings and how they will impact rights holders and users?
2. In your submission, you discuss the new law Ecuador passed in August 2021 modifying its Criminal Code, making copyright infringement and trademark infringement crimes again. As you know, before this legislation was enacted, Ecuador had essentially decriminalized infringement of intellectual property rights.
 - a. Could you provide more details on how police and prosecutors in Ecuador have been enforcing the new criminal provisions?
 - b. Have AmCham Ecuador members made any criminal referrals?
 - c. Are any investigations or prosecutions currently pending?
3. Your submission notes that the Intellectual Property Committee of the Ecuadorian American Chamber of Commerce has made extensive inquiries into camcording and has deemed it not to be a significant issue in Ecuador.
 - a. What are the sources and extent of your inquiries?
 - b. Could you provide any data regarding the issue for you to deem it to be an insignificant issue?

Emirates Intellectual Property Association

1. Could you provide information about the “CMO for Reprographic Rights” mentioned in your submission? What progress has been made for this Collective Management Organization (CMO) to begin operation?
2. Your submission stated that in 2021 the Dubai Police seized counterfeit goods in 228 cases and arrested 233 suspects.
 - a. Please provide any information you have on how many individuals in UAE were prosecuted in 2021 for trademark and copyright infringement and any specific fines and terms of imprisonment imposed in those cases.
 - b. Have the increased penalties for trademark infringement (UAE Law No. 36 of 2021) or the increased penalties for copyright infringement (UAE Law No. 38 of 2021) been applied to any case? If so, please identify the increased penalties that were applied.

Engine Advocacy

1. Your submission states that “[I]ast year, India adopted new intermediary liability rules that impose near-impossible content takedown requirements, such as ... an expectation that qualifying social media platforms will use automatic filters to, *inter alia*, prevent previously-removed material from being uploaded.”
 - a. How common are automated filtering tools in India?
 - b. Are more online service providers deploying such tools in response to the new intermediary liability rules?

The Football Association Premier League Limited

1. In Argentina and Vietnam, your submission describes cases that were transferred back and forth between courts on technicalities.
 - a. Are there other instances of attempted enforcement actions experiencing similar challenges?
 - b. Do these sorts of challenges derive from deficiencies in the law in these countries, the jurisdiction of the courts, or from other considerations?
2. Regarding Argentina, are there specific pieces of legislation either (a) currently in force or (b) lacking from Argentina's existing legal framework that cause difficulties and delays in intellectual property enforcement-related legal proceedings, such as in the example reported in your submission?
3. On China, your submission describes a manufacturer of piracy devices that continued to operate despite a default judgment against it. Do you have any specific recommendations for legal reforms or enforcement actions that can address such manufacturers?

Footwear Distributors & Retailers of America

1. Regarding China, on page 7 of your submission you note that: “Customs enforcement in China needs to do more inspection on the small parcels and share information with rightsholders. FDRA recommends increased investigation in this space, including greater collaboration and information sharing between law enforcement authorities and rightsholders.” Can you provide some examples of the types of information that would be most useful for China’s General Administration of Customs (GACC) to share with rights holders? Have these categories of information been requested and refused?
2. On China, your submission identified concerns regarding the prevalence of bad faith trademarks and difficulties for U.S. right holders that endeavor to “work within the system.” Are there any specific recommendations that you have to address these concerns?
3. Regarding the local production of counterfeit goods in Brazil, are you aware of any other locations in Brazil beyond Nova Serrana where such goods are being manufactured?
 - a. To your knowledge, are Nova Serrana’s counterfeit products are being sold exclusively in Brazil, or in other countries as well?
 - b. Has FDRA or its members engaged the Federal Highway Police, State Police, or others in Brazil to conduct an operation in Nova Serrana to target these hubs of counterfeit manufacturing?
4. Your submission states that Indonesia’s customs system “lacks a thorough processes for detaining suspicious products and seizing counterfeits.” Can you further explain your concerns with Indonesia’s customs system and how the Indonesian government could improve intellectual property enforcement at the border?
5. Your submission notes that Brazil’s Council against Piracy and Intellectual Property Crimes (CNCP) released two nonbinding guides: (i) Best Practices Guide for Internet Platforms; and (ii) Guidelines for the implementation of anti-piracy measures by the Government, Right Holders, Payment Service Providers, and Intermediaries.
 - a. How have companies and platforms responded to these guides?
 - b. Does compliance with Brazil’s guides afford companies and platforms with any legal presumptions in the context of an allegation of piracy, counterfeiting, or other form of intellectual property infringement?
6. Your submission states that, in India, “the 10-year trademark backlog at the courts effectively prevents brands from filing utility patents and trademarks in the country.” Please elaborate on this statement and explain how a trademark backlog has affected your members in terms of patent filings.

Fraunhofer USA

1. On China, your submission describes the development of a new, independent cause of action for bringing disputes over royalty rates for standards essential patents, as well as a Supreme People's Court case regarding a Chinese court's jurisdiction to determine global fair, reasonable and non-discriminatory (FRAND) rates. Can you please describe your concerns regarding these developments in more detail, particularly with respect to how such developments in China may interfere with patent infringement proceedings in other jurisdictions?
2. On the European Union (EU), your submission expressed the concern that the new proposed framework for standards essential patents may "negatively impact on licensing and protecting EU [intellectual property] assets." Can you please explain your concerns in more detail?
3. Your submission mentions a "recent Interim Report" issued in Japan by the Ministry for Economy, Trade and Industry Study Group on Licensing Environment of Standard Essential Patents and states that the "potential formation of [licensee negotiation groups (LNGs)] would raise serious concerns about licensee anticompetitive collusion, and seeks to have licensing performed in a manner which does not observe that FRAND gives rise to rights and obligations for both a licensor and potential licensees (as is internationally recognized)." Please elaborate on this statement.

Hortag Seed Company

1. In your submission and exhibits, you describe a number of administrative proceedings before Poland's Research Centre for Cultivar Testing (CORBORU) relating to exclusion of your specific varieties from Poland's National List of protected plant varieties, as well as a criminal court case against an alleged infringer. With respect to CORBORU's denial of Hortag's applications and removal of Hortag's plant varieties from Poland's National List, can you please describe whether you are currently pursuing further civil or administrative litigation and appeals in relation to these matters before CORBORU?
2. Your submission describes several procedural issues in your proceedings before CORBORU and disagreements with the rulings in your criminal court case. Can you please provide more information about specific acts, policies, or practices of Poland, and documentation of such, that you believe form the basis for listing Poland in the 2022 Special 301 Report, such as the specific regulatory or judicial measures?
3. Your submission also indicates that you have unsuccessfully engaged with the government of Germany concerning unlicensed use of your plant varieties. Can you please describe any private litigation or other enforcement activity that you are currently pursuing against alleged unlicensed users?

Independent Film & Television Alliance

1. Your submission describes how private Chinese distributors have required U.S. producers to obtain legalized documentation, which is authenticated by a Chinese embassy or consulate, in order to complete a license agreement or obtain government approvals, “stemming from unknown government requirements” that cause “uncertainty and additional expense.” Can you please provide more information about the kind of delays and costs created by these legalized documentation requirements and about the government entities behind such requirements?

Indian Pharmaceutical Alliance

1. Your submission states that the “Department Related Parliamentary Standing Committee on Commerce . . . presented a Report ‘Review of the Intellectual Property Rights Regime in India’” and that the “Committee is considering amendments with respect to” several issues, including “Section 3 of the Patents Act, which specifies as to ‘what are not inventions’ with regard to the specific sub-sections.” What amendments to Section 3 of the Patents Act are currently under consideration by the Committee?

Intellectual Property Owners Association

1. On China, your submission described the difficulties in meeting threshold for criminal investigation of trade secret theft. In December 2020, China adopted an amended Criminal Law that changed provision for criminal intellectual property (IP) theft. Have you seen any impact on the threshold for criminal investigation from the amended Criminal Law?
2. On China, your submission indicates that “China’s Patent Law gives local and provincial patent administration and enforcement IP offices new powers to investigate patent infringement cases, including . . . authority to inspect sites . . . and copy relevant documents.” Your submission further indicates that members of IPO are concerned with the significant risk of “trade secret disclosure that could result from administrative investigations.” Can you please provide more information about whether such administrative investigations have become more prevalent and any impact on U.S. companies? Please elaborate on this concern, including if possible by detailing any instances in which trade secrets of an IPO member or other company were seized in the course of administrative enforcement against patent infringement.
3. On China, your submission described how anti-suit injunctions have “arguably tipped the scales in favor of domestic businesses,” a development that had also been highlighted in your submission from last year. In the past year, have you seen the increasing prevalence of anti-suit injunctions impact the behavior of Chinese courts and Chinese companies? If so, please describe the impact.
4. Your submission states that industries in India “with which it makes the most sense to join forces rely on trade secrets to protect competitiveness.” Please identify the industries and elaborate on their reliance on trade secret protection.
5. Your submission states that Section 8 of India’s Patent Act “requires disclosure and regular updates on foreign applications” and that “it is possible that the requirement to furnish examination results for co-pending applications conflicts with PCT rules.” Please elaborate on how the requirement possibly conflicts with PCT rules.

International AntiCounterfeiting Coalition

1. On China, your submission described concerns regarding the thresholds for investigation and prosecution under the amended Criminal Law and recommended further clarification to ensure that criminal prosecution remains a viable tool for pursuing counterfeiting. Can you please provide further detail about the clarifications that you would like to see within respect to such thresholds?
2. Regarding China, your submission states that “[r]ights-holders also registered concerns regarding a mandate issued last July by the Supreme People’s Procuratorate and the Ministry of Public Security, directing courts to impose less stringent sentencing for crimes that would typically result in a custodial term of less than three years, and favoring offenders’ release on bail rather than arrest and confinement.”
 - a. Can you provide additional information regarding this mandate, including the date of issuance, as well as clarifying whether these concerns continue following the amendments to sentencing provisions in the criminal law related to intellectual property (IP)?
 - b. Your submission further notes a decrease in the number of counterfeiting cases that lead to custodial sentences. Can you provide any further statistical information on such cases?
3. Your submission states that Egypt’s border enforcement “remains problematic.” Can you explain how the Egyptian government could improve IP enforcement at the border?
4. Could you describe how law 6379 in Paraguay diminishes the jurisdiction of Paraguay’s IP Specialized judges? Has this impacted rights holders’ ability to enforce their rights?
5. Your submission alleges that there is “widespread copyright piracy” occurring in Guatemala. Could you explain if there are particular sectors of works that are targeted here (and also if online or physical)?
6. Some of your stakeholders allege that there is an unwillingness by the Ecuadorian authorities to involve rights holders in the enforcement process. Ecuador restricts their access to target locations and rejects offers of support in connection with authenticating or evaluating evidence. Could you describe any specific examples and describe how this behavior has impacted the ability of rights holders to enforce their rights?

International Broadcaster Coalition Against Piracy, Inc.

1. How does IBCAP identify and categorize Internet service providers as “facilitating piracy?”

International Intellectual Property Alliance

1. On China, your submission described how implementation relating to transfer of administrative IP cases for criminal enforcement has been “uneven.” Can you please provide further information about the current state of implementation and any recommendations you have for addressing this issue?
2. Your submission states that Ecuador is not in compliance with its international obligations and you list various limitations and exceptions in the Organic Code on Social Economy of Knowledge, Creativity, and Innovation (COESCI) perceived to be beyond the purview of the three-step test.
 - a. Please expand on which obligations you are referring to how the alleged non-compliance is impacting right holders? In particular, please identify and elaborate on any concerns you have with permitting libraries to use third parties to reproduce works for preservation purposes (exception 9)?
 - b. Please expand on the “unreasonable harm to the economic interests of copyright and related holders” resulting from exception 26 allowing small businesses to freely communicate works to the public?
 - c. Regarding exception 30, please expand on how a “community radio” differs from a traditional radio broadcast?
3. On Switzerland, your submission highlights a number of concerns relating to the 2020 Copyright Act, as well as other long-standing concerns. Can you please describe whether there have been any positive or negative changes to these concerns since the implementation of the 2020 Copyright Act over the past year?
4. Your submission points out that U.S. authors and publishers have always accounted for a significant share of the textbooks, supplementary materials, and other texts used in the Canadian educational sector. Do you have any quantitative data on how U.S. authors have been affected by Canada’s fair dealing exception for educational materials?
5. On Ukraine, your submission states that “no convictions resulted in deterrent sentencing of those found guilty of intellectual property (IP) crimes”, that “maximum fines for infringement are low”, and that the current damages “threshold for criminal prosecution” is “not accompanied by a unified approach on how to calculate a valuation of seized copyright material.”
 - a. Please elaborate on the level of sentencing that would qualify as “deterrent.”
 - b. Please elaborate on the “unified approach on how to calculate a valuation of seized copyright material” that you recommend.
6. Your submission calls for the rejection of “the Department Related Parliamentary Standing Committee’s (DRPSCC) proposal to amend Section 31D of the Copyright Act to broaden the statutory license to cover all Internet transmissions of sound recordings and musical works, as well as literary works” and “urges the Government of India to . . . provide certainty by committing to not extend the Section 31D statutory license to Internet transmissions”. Please elaborate on the actions your members would like India to take to express such a commitment.

IP Justice

1. What has changed in the past year that warrants removing Canada from the Special 301 Report?

Knowledge Ecology International

1. Your submission comments on the lack of an ability for those that submitted public comments to respond to other public comments. Do you see any inaccuracies in the public comments received for the 2022 Special 301 Report? If so, do you have any responses to those perceived inaccuracies?
2. Your submission notes that there “is not policy on trade-related aspects of public goods.” How are you defining “public goods” and “global public goods” for the purposes of your submission?

National Association of Manufacturers

1. Your submission states that Indonesia’s “[e]nforcement against fake and counterfeit products remains weak, reflecting a lack of political will as well as insufficient government coordination to tackle IP enforcement.” The Government of Indonesia’s submission details its new Intellectual Property Task Force and indicates several enforcement actions in the past year.
 - a. In your view, has Indonesia’s new Intellectual Property Task Force been effective?
 - b. How can the Government of Indonesia improve intellectual property (IP) enforcement?
2. Regarding Russia, your submission notes the “long backlog to seek criminal action and major challenges getting police to tackle counterfeiting issues robustly.”
 - a. How long is the backlog at this time?
 - b. Please elaborate on the “major challenges” and how they affect your members.
3. Your submission states that Section 3 of India’s Patent Act contains “restrictions” in addition to Section 3(d) that India has used to deny patents for “other patentable manufacturing-relevant technologies.” Please elaborate on this statement, particularly the types of “other manufacturing-relevant technologies” denied patents under Section 3 and timeframes for when those denials occurred.
4. Your submission states that IP enforcement in Thailand “continues to be a challenge for manufacturers in a range of sectors” The International AntiCounterfeiting Coalition’s submission notes that “[l]aw enforcement agencies in the country are said to be increasingly receptive to IACC members’ referrals, and the Royal Thai Police and Thai Department of Intellectual Property were cited by rights-holders for their willingness to support raids and investigations.” Can you explain in greater detail your members’ challenges with IP enforcement in Thailand?
5. Your submission states that “manufacturers who frequently register artwork used on packaging as copyrights in other markets continue to have challenges registering those copyrights with Indonesia’s Directorate General of Intellectual Property Rights.” What specific challenges are preventing copyright owners in other markets from registering those copyrights in Indonesia?
6. On Chile, your submission applauds the country’s changes to its IP laws, specifically the overhaul of the design registration process. Since passage of the law in mid-2021, what has been the experience of NAM’s members with the new industrial design system in Chile?

National Milk Producers Federation and U.S. Dairy Export Council

1. What are examples of best practices in domestic laws or in trade agreements with respect to ensuring that the grant of geographical indications (GI) protection does not deprive interested parties of the ability to use common names?
2. Your submission indicates that many government-filed GI applications are not dealt with objectively through an impartial and objective process, but that the public comment process serves as an information gathering exercise to narrow the scope of GIs. Can you please provide any examples of or further information about such situations?

Pharmaceutical Research and Manufacturers of America

1. Your submission requests that USTR designate Japan as a Priority Foreign Country. Can you explain how the acts, policies, and practices of Japan are more problematic for your members than countries that your submission requests be placed on the Priority Watch List, such as China, India, and Russia
2. On China, your submission identifies continuing concerns regarding China's human genetic resource requirements, including "mandatory [intellectual property (IP)] sharing." Can you please provide information about how these requirements, particularly "mandatory IP sharing," have impacted U.S. companies?
3. On China, your submission describes an "increasing concerning impediment" in the form of the NMPA's "unusually detailed" information requirement for manufacturing processes. Can you please provide more information about how these requirements are not in line with international best practice and have raised concerns about unauthorized disclosure of the submitters' information?
4. Please elaborate on any specific improvements over the past year in Korea and Canada that caused PhRMA to change its recommendations for these countries from Priority Foreign Country in 2021 to Priority Watch List in 2022.
5. Brazil contends that its patent backlog has been substantially reduced in the past few years but PhRMA cites patent backlogs as grounds for changing Brazil's designation to Priority Watch List. Can PhRMA provide further explanation?
6. Your submission states that India conditions "patent grant on unclear and subjective access and benefit sharing requirements." Please elaborate on those requirements and how they have affected your members.

Rail Security Alliance

1. Your submission indicates that “[f]orced technology transfers remain a lynchpin of China’s broader rail and high-speed rail development strategy.” Can you please provide further detail about how forced technology transfer has provided Chinese firms with an advantage in the competition against U.S. companies?

SoundExchange, Inc.

1. In your submission, you state that the denial of national treatment in Australia, France, Japan, and the United Kingdom “costs American performers and producers approximately \$130 million annually in lost revenue” Could you explain how this figure was calculated?

The Sports Coalition

1. In your submission, you recommend placing the Netherlands on the Special 301 Watch List “[d]ue to the material number of pirated game and event telecasts” in that country. Your submission identified a number of alleged infringing services. Can you please provide more information regarding the existence and scope of pirate services and associated networks in the Netherlands, particularly as compared to other EU member states?
2. Could you specify what types of “Infringing Services” that pirated Sports Coalition game and event telecasts in Colombia and what constitutes a “material number” of Sports Coalition game and event telecasts?

TIC Council Americas

1. Your submission notes that counterfeiting of testing, inspection, and certification industry marks is increasing in general. Where do you believe such counterfeiting is most prevalent?

Trademark Working Group

1. In Ecuador, your submission notes that the Comprehensive Organic Penal Code establishes punitive-economic sanctions in cases of “harmful piracy” provided that the conditions of article 208-A are met.
 - a. Could you elaborate on the threshold for “harmful piracy?”
 - b. Do the punitive-economic sanctions constitute criminal sanctions under Ecuadorian law?

2. For Ecuador, your submission states that ex officio border measures for intercepting counterfeit goods can only be performed by the IP authority, which renders the application of such measures impractical. Could you provide more details on how this arrangement limits enforcement?

Union of European Football Associations

1. Your submission states that “Ukraine has very weak laws in relation to copyright protection.” What actions would UEFA like Ukraine to take to address this issue?
2. Your submission notes that your exclusive licensee in Jordan has “raised several complaints about piracy in Jordan via the National Library (i.e., a subsidiary body of Jordan’s Ministry of Culture with which copyrights are registered) but has found that this organization is too poorly resourced, and lacking in the necessary support, to take effective action against piracy.” Has UEFA or your licensee pursued any other enforcement actions against piracy in Jordan?

U.S. Chamber of Commerce

1. Your submission states that trade secrets “have no true legal protections in” India. Please elaborate on this statement.
2. Regarding China, your submission provides that “Article 60 Paragraph 2 [of the Trademark Law] has been interpreted by the State Administration of Industry and Commerce (SAIC, now under SAMR) nationwide as preventing authorities from seizing counterfeits from or penalizing resellers who claim no knowledge about the sold items and prove the legitimacy of transactions with details about the sources.” Can you provide any examples of cases where this interpretation has prevented counterfeits from being seized or resellers being penalized?
3. On China, can you please explain how data localization policies contribute to improper circumvention of technological protection measures or hinder tracking of unlicensed use of copyrighted software?
4. Your submission expresses concern that Article 181 of Colombia’s 2019 National Development Plan “seems to limit the ability of the audiovisual industry to enter into private contracts with local parties” and could “put Colombia’s audiovisual production sector at a disadvantage and hamper international investment in creative industries.” How would this law impact U.S. rights holders?
5. Are there patented products made by U.S. companies that remain on Mexico’s United Nations Office for Project Services (UNOPS) list?
6. Your submission states that the Chamber “hopes that the U.S. government will work with the Indonesian government to ensure it continues to put initiatives in place that deter online copyright infringement.” The Asia Video Industry Association’s submission noted that Indonesia “continues to take great strides in mitigating online video piracy” In addition to addressing “mirror sites,” can you elaborate how Indonesia can further improve online IP enforcement?