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Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: IIPA Post-Hearing Submission Regarding *2015 Special 301 Review: Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment and Announcement of Public Hearing*, 79 FR 78133 (December 24, 2014)

To the Special 301 Committee:

The International Intellectual Property Alliance (IIPA) hereby submits its Post-Hearing Submission following the February 24, 2015 Special 301 Committee Public Hearing.

IIPA takes this opportunity to respond to the two questions asked at the hearing (for which written responses were requested):

1. You noted in your written IIPA submission that China's new registration requirements for foreign films and TV shows have had a negative impact on rights holders' ability to license content in China. Can you provide an estimate of the loss or decline in revenue for U.S. content producers due to these new market access requirements?

IIPA Response: The September 2014 State Administration of Press, Publication, Radio, Film and Television of the People's Republic of China (SAPPRFT) *Notice on Further Implementation of Provisions Concerning the Administration of Online Foreign Films and TV Dramas* is already casting a pall on the prospects for legitimate online distribution of U.S. audiovisual content in China. The *Notice* requires online distributors of foreign films and TV dramas to obtain permits, submit content to SAPPRFT for censorship review, register and upload relevant information by March 31, 2015 on SAPPRFT's official registration platform. It also caps foreign content at 30%. Furthermore, foreign films and TV dramas that are not registered by April 1, 2015 will not be allowed for online transmission. Chinese distributors have already delayed or decreased licensing activity, pointing to the uncertainty created by the *Notice*, and conflicting reports about its requirements. There is great concern that delays in clearing legitimate content drive more traffic to rogue sites providing uncensored content. The new *Notice* could also have the unintended consequence of increasing VPN usage (to obtain access to foreign content kept out due to implementation of the *Notice*), which harms legitimate licensees in the market. The *Notice* raises serious concerns, since it imposes a new formality – a registration requirement – which will be difficult and costly to meet; puts the onus on NCAC, NAPP, and MIIT to duly enforce against the anticipated upsurge in piracy activity after April 1; and imposes an unwelcome new quota that will do nothing but stifle the industry. While it is too



early to provide a monetary estimate of loss or decline in revenue for U.S. content producers due to the issuance of this *Notice*, it is clear the delays and decline in legitimate licensing activities are resulting in real economic harm to right holders.

2. The government of Switzerland is following a slow timeline to adopt concrete measures to address copyright piracy in-country. IIPA notes that new infringing services are locating aspects of their businesses in Switzerland. Can you describe to what extent illicit Internet services have moved to Switzerland?

IIPA Response: Switzerland remains a haven for existing and new services heavily engaged in infringing activity that have opened or moved headquarters or servers to Switzerland. From there, they provide a global service to export pirated content.

Some of the world's most popular Internet services for the unauthorized sharing of copyrighted works have opened or moved headquarters or services to Switzerland, including the file storage service *Uploaded.net*, currently ranked the 396th most accessed site in the world according to the web-ranking site Alexa, and has notably global reach, ranking 196th in Japan, 133rd in Germany, 287th in Brazil, and 256th in France. Another site, *Oboom.com*, is an ad-based file sharing host service that fuels piracy by incentive programs and (like *Uploaded*) through the sale of "premium accounts" permitting immediate downloads of multiple files at once. *Oboom* is one of the most accessed sites in Spain and Germany. The hosting provider Private Layer (with data center and hosting operations in Switzerland and corporate operations in Panama) hosts a large number of illegal websites including the linking site *Putlocker.is* (the 579th most accessed site in the world; 114th in the United Kingdom; 285th in Canada; 442nd in Australia; and 575th in India); the BitTorrent indexing site *Bitsnoop* (ranked very high in South Korea and Italy); and the streaming cyberlocker site *Nowvideo.sx* (the 312th most accessed site in Germany; and the 515th most accessed site in Spain), which offers uploaders rewards of about US\$20 per 100 downloads, refuses to comply with takedown notices, and is part of a family of similar sites, including *nowdownload.ch*. As demonstrated by publicly available data, all these services have a worldwide reach and clientele, and are accountable for significant traffic of pirated content, harming markets from Europe to Asia to North and South America to Oceania.

Thank you very much for the opportunity to testify on behalf of the IIPA, and to provide you with this additional information. We are pleased to continue the dialog going forward on these and other matters.

Respectfully submitted,

Michael Schlesinger