

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

May 30, 2012

Mr. Christopher Jon Sprigman
IP Professor
Virginia Law School
580 Massie Road
Charlottesville, VA 22903-1738

Dear Mr. Sprigman:

Thank you for your letter concerning transparency of the negotiations on the intellectual property provisions of the Trans Pacific Partnership Agreement (TPP). Every trade negotiation requires the balancing of transparency, which is a principle and an active policy to which this Administration is strongly committed, with confidentiality sufficient to enable negotiators for various governments to share information and have frank conversations that result in progress toward concluding a trade agreement.

The Obama Administration invites a wide range of stakeholders - far beyond the "cleared advisers" who serve as part of our advisory committee system - to meet with USTR officials in Washington and on-site at the TPP negotiating rounds, including the negotiations in Dallas earlier this month, to provide direct input on issues from intellectual property to agriculture and market access.

Based on the direct input of U.S. stakeholders, which often have opposing views, we undertake our job to develop negotiating positions that will benefit the widest number of Americans possible while at the same time reflecting principles that reflect core U.S. values like transparency, due process, and good governance. We also provide direct briefings to a wide range of stakeholders - again, far beyond those who sit on our Advisory Committees - on what negotiating positions have been reached and why and would welcome the opportunity to sit down with you and your colleagues to discuss the TPP negotiation. In Dallas, we had over 300 individuals representing a wide variety of constituencies and groups and more than 45 organizations, associations, and businesses that accepted the invitation to the four-hour stakeholder event and spoke directly with negotiators.

The input we receive from stakeholders also supports our efforts to ensure that the TPP reflects the incentives and stable framework that can nurture a healthy digital environment in the Asia-Pacific region. That outcome is very much in the interest of the United States, which boasts some of the world's most innovative companies in the digital economy. That means, in our view, not just protecting IPR in the digital environment in a manner consistent with existing U.S. law, but also supporting the ability of consumers and businesses to access e-mail, Internet search, web hosting, social networking, mobile app, and cloud services from suppliers throughout the region, and prohibiting arbitrary government restrictions on the ability of businesses and consumers to access and transfer their data, or to access information or information in the public domain.

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Importantly, it also means that we respect and advocate key balancing aspects of U.S. law like safe harbors that shield legitimate providers of cloud computing, user-generated content sites, and a host of other Internet-related services against copyright liability if they comply with procedures similar to those set out in U.S. law. In these and other ways we aim to achieve, with the input of diverse stakeholders, our goal of a 21st-century trade agreement.

Thank you again for your attention and engagement on these important issues.

Sincerely,



Ambassador Ron Kirk