



February 28, 2017

VIA EMAIL AND U.S. MAIL

The Honorable Wilbur Ross
Secretary of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

RE: The North American Free Trade Agreement

Dear Mr. Secretary:

Congratulations on your confirmation as U.S. Secretary of Commerce. The International Intellectual Property Alliance (IIPA), representing the major trade associations of the U.S. copyright industries, looks forward to working with you and the Administration generally to promote American creators and innovators, and the copyright law principles that protect them, around the world.

We note that in your confirmation hearing on January 18, you identified the North American Free Trade Agreement (NAFTA) as “logically the first thing for us to deal with” in the new Administration’s trade policy agenda. Contemporaneous press reports suggest that the Administration has already identified, and communicated to our trading partners, some topics that will be central to the discussions on NAFTA. We urge you and your colleagues to include the copyright provisions of NAFTA on that list. These provisions predate the dawn of the digital age, a technological revolution that changed the landscape for the copyright industries, and are seriously outmoded.

The U.S. copyright industries make an enormous contribution to our nation’s economy, workforce, and global trade competitiveness. The most recent study found that, in 2015, the core copyright industries added \$1.2 trillion in value to the U.S. economy; created more than 5.5 million U.S. jobs, which pay far above the national average; and, were responsible for foreign sales and exports that exceeded \$177 billion. Taking into account U.S. manufacturing and other industries partly dependent on copyright (such as paper manufacturing and printing services for books), the study found a contribution of \$2.1 trillion in value to the U.S. economy and 11.4 million U.S. jobs. Likewise, licensing of copyright and other intellectual property rights is among the largest contributors to the U.S. trade surplus for services. Consumers worldwide are hungry for American music, movies, TV shows, books, and video games. If we can further open foreign markets, and take vigorous action to combat widespread copyright piracy and to dismantle other market access barriers, we can build on this record, and produce more good American jobs.



Strong trade agreements that are assiduously enforced are key to this strategy. In this regard, NAFTA's copyright provisions – both basic protections and enforcement requirements for the online environment – are long overdue for updating. In 2017, the global marketplace for goods and services protected by copyright is overwhelmingly a digital marketplace, characterized by cross-border licensing in the online environment. When NAFTA was negotiated, a quarter century ago, the Internet was embryonic and digital commerce in copyrighted works was practically non-existent. It is no surprise that the copyright standards and obligations taken on by Canada and Mexico in NAFTA, while perhaps ambitious for the early 1990's, fall far short of guaranteeing that the American creative industries can compete on a level playing field in those countries today.

A much more appropriate template for 21st century provisions in a trade agreement with our neighbors and largest trading partners can be found in some of the more recent bilateral trade agreements. In particular, the copyright provisions of the Korea-U.S. Free Trade Agreement, negotiated during the George W. Bush Administration, were state-of-the-art at that time, and today would provide an excellent starting point for revising this critical aspect of NAFTA. Other market access barriers to digital commerce in works protected by copyright should also be targeted as part of NAFTA modernization; under the NAFTA, Canada failed to take any market access obligations for the creative industries.

Of course, no international agreement can effectively promote American exports unless it is vigorously enforced. But setting the right standards in such agreements for a fair, transparent and open marketplace, one in which piracy, counterfeiting and similar unfair competition are not tolerated, is the critical first step. The U.S. copyright industries stand ready to assist you and your colleagues in taking that step in the revision of the North American Free Trade Agreement.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Steven J. Metalitz".

Steven J. Metalitz, Counsel
International Intellectual Property Alliance

cc: Senator John Thune
Senator Bill Nelson
Senator Orrin G. Hatch
Senator Ron Wyden
Congressman Kevin Brady
Congressman Richard E. Neal
Congressman David G. Reichert
Congressman Bill Pascrell, Jr.
Dr. Peter Navarro, Chair, National Trade Council
Ms. Maria Pagan, Acting United States Trade Representative