

INTELLECTUAL PROPERTY GUIDELINES FOR THE TRUMP ADMINISTRATION & 115TH CONGRESS

An Open Letter



AMERICAN COMMITMENT



Congratulations to the Trump Administration and Members of the 115th Congress!

It is an exciting time for America, particularly in the knowledge-based economy. American entrepreneurship, ingenuity and creativity lead the world, and we believe that intellectual property (IP) rights are a key ingredient in job creation.

The undersigned organizations represent millions of Americans through both state and national advocacy or engage in rigorous research and educational work on intellectual property rights. We would like to share with you the following information and guidelines that our respective organizations look to when we consider our strong support for intellectual property rights.

Intellectual Property Rights Are Grounded in the Constitution

The Founding Fathers recognized the importance of IP in Article 1, Section 8 of the Constitution: "To promote the Progress of Science and useful Arts, by securing for limited times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

This clause, articulated by the founders, is rooted in the notion that the best way to encourage creation and dissemination of new inventions and creative works to the benefit of both the public good and individual liberty is to recognize one's right to his or her intellectual property.

Intellectual Property Rights Are a Fundamental Property Right Deserving the Same Respect as Physical Property

James Madison elaborated on this provision of the Constitution in Federalist Paper #43: With regard to intellectual property, as with all property rights protected in the common law, "[t]he public good fully coincides ... with the claims of individuals."

IP rights are not regulations—they are property rights that, when combined with the freedom to contract, facilitate markets. Government limitations and restrictions on property rights and licensing cause friction in the function of markets. No one would say that the right to keep people out of your home is a regulation: it is a right of ownership. It is the limitations on the use of one's property that are regulations.

Intellectual Property Rights Promote Free Speech and Expression

Strong IP rights go hand-in-hand with free speech as creators vigorously defend their ability to create works of their choosing, free from censorship.

By affording innovators and creators the ability to support themselves, IP rights promote free expression unencumbered by government.

Intellectual Property Rights are Vital to Job Growth & Economic Competitiveness

IP rights create jobs and fuel economic growth, turning intangible assets into exclusive property that can be traded in the marketplace.

The most recent report on IP-related jobs in the U.S., by the Department of Commerce and the Patent and Trademark Office, found that in 2014, direct employment in the most IP intensive industries accounted for 27.9 million jobs. Indirect activities associated with those industries provided an additional 17.1 million jobs, for a total of 45 million jobs, or 30 percent of all jobs in the economy.

The report also found that IP-intensive industries added \$6.6 trillion to the value of GDP in 2014, equal to 38.2 percent of total GDP. In a knowledge-based global economy, America's ability to remain a world leader in creativity and innovation depends on strong protection of IP.

Intellectual Property Rights Must Be Protected Internationally Through Effective IP Provisions in Trade Agreements

Far too many foreign governments look the other way when it comes to the theft of IP. State-sanctioned IP theft from other countries costs the U.S. economy more than \$320 billion annually.¹ The lure of access to the U.S. market should be used as an incentive to convince trading partners that they should increase their protection of IP rights. Therefore, strong IP protections are integral to all trade agreement negotiations.

Intellectual Property Rights Are Integral to Consumer Protection and National Security

IP rights protect consumers by enabling them to make educated choices about the safety, reliability, and effectiveness of their purchases. In 2014, consumer electronics and parts represented 24 percent of total counterfeit goods seized, presenting a dangerous risk to American consumers if those products malfunction.²

Illegal intangible goods are also dangerous. One-third of websites offering stolen movies and television shows were found to contain malware, putting consumers at risk of identity theft, credit card fraud, and more.³

The protection of IP rights is also vital to national security to prevent counterfeit parts, which compromise the reliability of weapons systems and the safety of military personnel, from entering the defense supply chain. A May 21, 2012 Senate Armed Services Committee report revealed 1,800 cases of counterfeiting, involving more than 1 million parts.⁴

Intellectual Property Rights Must Be Respected and Protected on the Internet

The internet is an incredible platform for innovation, creativity and commerce enabling widespread distribution of ideas and information. However, IP theft online is a persistent and growing problem. For example, between 2001 and 2015, U.S. recorded music revenues fell from \$14 billion to \$7 billion—losses largely attributed to online theft.

Protecting IP and internet freedom are both critically important and complementary—they are not mutually exclusive. A truly free internet, like any truly free community, is one where people can engage in legitimate activities safely, and where bad actors are held accountable.

Voluntary Initiatives to Address Intellectual Property Theft Are Positive

Good faith actors in the internet ecosystem should engage in private sector, voluntary initiatives to address illegal conduct. These voluntary efforts can empower consumers to make educated decisions about their online activities and encourage creativity, innovation, investment and jobs.

We encourage you to consider these guidelines as you review and discuss existing laws and regulations governing IP. The Founding Fathers understood that by protecting the proprietary rights of artists, authors, entrepreneurs, innovators, and inventors, they were promoting the greater public welfare. The continued protection of these fundamental rights is essential to American innovation and competitiveness.

¹ http://www.ipcommission.org/report/IP_Commission_Report_052213.pdf

² <https://www.cbp.gov/sites/default/files/documents/2014%20IPR%20Stats.pdf>

³ <https://media.gractions.com/314A5A5A9ABBBBC5E3BD824CF47C46EF4B9D3A76/0f03d298-aedf-49a5-84dc-9bf6a27d91ff.pdf>

⁴ <http://www.armed-services.senate.gov/press-releases/senate-armed-services-committee-releases-report-on-counterfeit-electronic-parts>

Sincerely,

Jim Martin

President
60 Plus Association

Lisa Nelson

CEO
American Legislative
Exchange Council

John Russell

Director
American City County Exchange

Phil Kerpen

President
American Commitment

Dan Schneider

Executive Director
American Conservative Union

Matt Schlapp

Chairman
American Conservative Union

Steve Pociask

President
American Consumer Institute

Thomas Sydnor II

Visiting Fellow
American Enterprise Institute

Ned Ryun

Chairman
American Majority

Stephen DeMaura

President
American Potential

Douglas "Dee" Stewart

President
Americans for Balanced Budget

Grover G. Norquist

President
Americans for Tax Reform

Jonathan Taplin

Founding Director Emeritus
Annenberg Innovation Lab, University of
Southern California

Adam Mossoff

Professor of Law
Antonin Scalia Law School
George Mason University

Nicol Turner-Lee

Fellow, Center for Technology
Innovation, Governance Studies
The Brookings Institute
*[Affiliation is provided for identification
purposes only. The Brookings Institute
does not take institutional positions]*

Jeffrey Mazzella

President
Center for Individual Freedom

Ginevra Joyce-Myers

Executive Director
Center for Innovation and Free Enterprise

Matthew Barblan

Executive Director
Center for the Protection of
Intellectual Property

Chuck Muth

President
Citizens Outreach

Col. Francis De Luca

President
Civitas Institute

Thomas Schatz

President
Council for Citizens Against
Government Waste

Katie McAuliffe

Executive Director
Digital Liberty

Hance Haney

Director and Senior Fellow,
Technology and Democracy Project,
Discovery Institute

Charles Sauer

President
Entrepreneurs for Growth

Eric Feinberg

Executive Director
Fans Against Kounterfeit Enterprises

William Buckley Jr

Founder & Executive Director
FarePlay

George Landrith

President
Frontiers of Freedom

Grace Marie Turner

President
Galen Institute

Carly Fiorina

Former CEO
Hewlett Packard

Mario Lopez

President
Hispanic Leadership Fund

Rosa Mendoza

Executive Director
Hispanic Technology and
Telecommunications Partnership

Harold Furchtgott-Roth

Senior Fellow
Hudson Institute

Sabrina Schaeffer

Executive Director
Independent Women's Forum

Robert D. Atkinson

Founder & President
Information Technology &
Innovation Foundation

Andrew Langer

President
Institute for Liberty

Tom Giovanetti

President
Institute for Policy Innovation

Geoffrey Manne

Executive Director
International Center for Law
& Economics

James Edwards

Co-Director
Inventor's Project

Sal J. Nuzzo

Vice President of Policy
The James Madison Institute

Ashley Varner

Senior Director
Jeffersonian Project

Seton Motley

President
Less Government

Colin Hanna

President
Let Freedom Ring

Bartlett D. Cleland

Managing Principal
Madery Bridge Associates, LLC

Mary Adams

Leader
Maine Center-Right Coalition

Matthew Gagnon

Chief Executive Officer
Maine Heritage Policy Center

Stephen Parente, PhD

Director Medical Industry Leadership
Institute (MILI) University of Minnesota

Brian McClung

Chairman
Minnesota Center Right Coalition

Kim Keenan

President & CEO
Minority Media, Telecommunications
& Internet Council

Jim Amos

President & CEO
National Center for Policy Analysis

Justin Vélez-Hagan

Executive Director
National Puerto Rican
Chamber of Commerce

Todd McCracken

President and CEO
National Small Business Association

Scott Cleland

Chairman
NetCompetition

Sally C. Pipes

President and CEO
Pacific Research Institute

William Booher

Interim Executive Director
Pelican Institute for Public Policy

Charlie Gerow

Chairman
Pennsylvania Center Right Coalition

Lorenzo Montanari

Executive Director
Property Rights Alliance

Gerald (Gerry) D'Imperio

Senior Executive Director
Protect Our Futures

Karen Kerrigan

President & CEO
Small Business & Entrepreneurship
Council

Mark Schultz

Co-Founder & Senior Scholar, Center for
the Protection of Intellectual Property
Antonin Scalia Law School, George Mason
University Professor of Law, Southern
Illinois University School of Law

David Williams

President
Taxpayers Protection Alliance

Sara Croom

Executive Director
Trade Alliance to Promote Prosperity

Ron Busby

President and CEO
U.S. Black Chambers, Inc.

Javier Palomarez

President & CEO
United States Hispanic
Chamber of Commerce

Gregory Dolin

Associate Professor of Law & Co-Director,
Center for Medicine and Law University of
Baltimore School of Law

Christopher Holman

Professor of Law
University of Missouri-Kansas City

Kristen Osenga

Professor of Law
University of Richmond School of Law

Sean O'Connor

Boeing International Professor of Law
Director, Center for Advanced Research
and Studies on Innovation Policy, University
of Washington School of Law

Paul Morinville

Chairman
US Inventor

Jane Louise Campbell

President
Women Impacting Public Policy, Inc.

Thank You