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**COMMENTS: SPECIAL 301 OUT-OF-CYCLE REVIEW – TAIWAN
SEPTEMBER 8, 2008**

To: Jennifer Choe Groves
Director for Intellectual Property and Innovation/
Chair of the Special 301 Committee
Office of the United States Trade Representative
600 17th Street N.W.
Washington, D.C. 20508

Submitted Via Email: FR0606@ustr.eop.gov (Subject: Taiwan Out-of-Cycle Review)

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Dear Ms. Groves,

On behalf of the US-Taiwan Business Council, I am pleased to submit the following comments in connection with Taiwan's "Out of Cycle Review" (OCR) under USTR's Special 301 procedures. The Council strongly supports removing Taiwan from the USTR Special 301 Watch List, given their many recent accomplishments in improving the protection of intellectual property rights (IPR).

The US-Taiwan Business Council is a membership-based non-profit association dedicated to supporting and developing trade and business relations between the United States and Taiwan. We work on behalf of our member companies on Taiwan issues that include investment, business development, and IPR matters.

The Council believes that Taiwan's policies on IPR protection and enforcement should serve as a model to others in the Asia Pacific region. Indeed, domestic Taiwan companies are enthusiastic supporters of the government's IPR policies, especially since many of Taiwan's high-tech producers are engaging in campaigns designed to promote their own brands around the world. The success of these efforts in turn reinforces the Taiwan government's messages to the general public that IPR is important in its own right.

The past few months in particular have seen Taiwan take important strides ahead in implementing institutions and legal protections promoting IPR. Key developments include:

Establishment of an Intellectual Property Court

Inaugurated on July 1, 2008, the IP Court is on the same level as Taiwan's High Court. The Court heard its first case on July 22, and had already accepted about 30 administrative, civil, and criminal IP-related cases by mid July.

Because it will only deal with IP cases, the IP Court will expedite litigation proceedings for IP right holders, and will significantly improve the quality of IP-related jurisprudence.



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The Taiwan High Prosecutors Office IPR Branch was inaugurated the same day as the IP Court. Both of these institutions mark important milestones in the development of Taiwan's judicial system, while ably supporting Taiwan's efforts to deal with IPR issues.

Drafting of the ISP Bill

The Taiwan Intellectual Property Office (TIPO) has worked closely with USTR and with rights holders groups to develop legislation outlining the responsibilities of Internet Service Providers (ISPs) when their users are found to be transmitting infringing materials. The intent of the legislation is to create a "safe harbor" for ISPs regarding liability, while also specifying the actions that they are to take with regards to infringing materials. TIPO submitted the final version of the draft legislation to the Executive Yuan on August 27, 2008.

Implementation of the Campus IPR Action Plan

On October 25, 2007, the Ministry of Education (MOE) issued an IPR Action Plan, and it has been working closely with Taiwan's colleges and universities to carry out the Plan over the past year. Important action areas for the Plan include restrictions on the illegal photocopying of textbooks, as well as strict enforcement actions against students found to be using school Internet services to download infringing copies of music or games. In addition, the MOE has been promoting IPR awareness among students – not only on university campuses but also at the elementary to high school level.

As of January 31, 2008, 77% of colleges and universities in Taiwan had established IPR protection offices on campus. The MOE has systematically reviewed the Plan implementation results by colleges and universities, and will continue to do so each May and November. In the future, the MOE will give consideration to the efforts by colleges and universities to promote IPR protection when determining the level of subsidies that each institution qualifies for. This should provide the institutions with a strong incentive to make progress on implementing the various elements of the Campus IPR Action Plan.

Taiwan has made great efforts over the years to coordinate IPR enforcement actions among a number of ministries and offices. The Taiwan government has also consulted widely with IP rights holders, and has taken U.S. government concerns into careful account. These sustained activities have paid dividends - such as earning international recognition for the effective investigations conducted by the Taiwan IPR Police. The creation of the IP Court enhances Taiwan's policy and legal infrastructure for dealing with IP matters, and the passage of the ISP bill will create clearer lines of accountability regarding the presence of infringing materials on the Internet. Finally, the Campus IPR Action Plan shines the spotlight on infringing activities on campuses, and institutes a monitoring and implementation review effort involving school administrators at the highest levels. This is a record of achievement for which Taiwan can be truly proud.

Taking all this progress into account, the US-Taiwan Business Council requests that Taiwan be removed from the Special 301 Watch List as a result of the Out of Cycle Review. Making the action official as part of the outcomes from the upcoming TIFA meeting would give well-deserved recognition to Taiwan's many constructive actions, and to the Taiwan government's responsiveness to the concerns expressed by U.S. right holders.

Thank you for the opportunity to submit these comments. Should you have any questions regarding this submission, please do not hesitate to contact me.

Sincerely,

Rupert Hammond-Chambers
President