

Patent Public Advisory Committee  
Quarterly Meeting

Office of Policy and International Affairs

**Shira Perlmutter**

Chief Policy Officer and Director for International Affairs

March 2, 2017

UNITED STATES  
PATENT AND TRADEMARK OFFICE

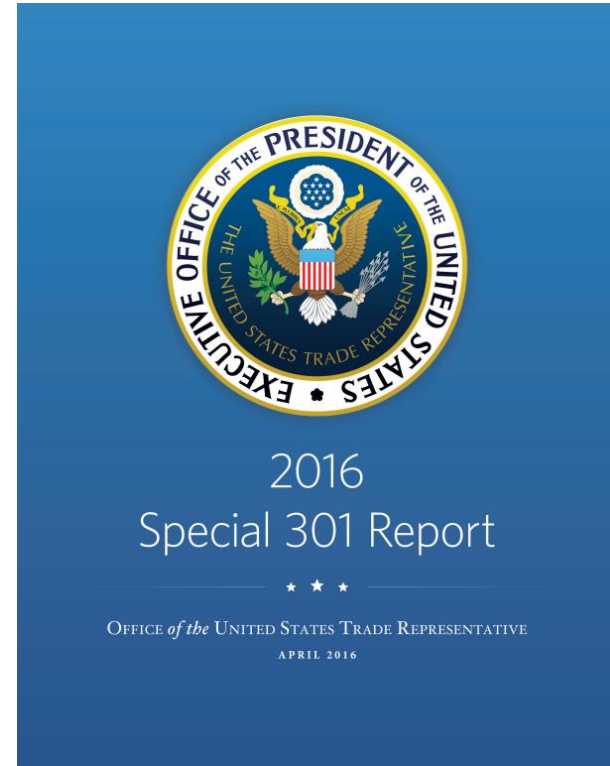


# USPTO Role in Trade Discussions

- North American Free Trade Agreement (NAFTA)
- Bilateral Agreements
- Trade Policy Reviews
- Special 301 Report
- Notorious Markets Report

# Special 301: Annual Review of IPR

- Since 1989, the United States Trade Representative (USTR) must annually identify countries that deny:
  - **adequate and effective IPR protections;** or
  - **fair and equitable market access** to U.S. persons who rely on intellectual property protection.



# Special 301: Designation & Consequences



Priority  
Foreign  
Country

- **Egregious violator of IPR**
- Special 301 investigation and possible removal of U.S. trade benefits
- Additional sanctions or case at World Trade Organization

Priority  
Watch List  
(statutory)

- **Key country and serious IPR deficiencies**
- Increased attention and monitoring
- Mandatory bilateral IPR action plan if PWL for more than a year

Watch List  
(Non-Statutory)

- **Concerning IPR behavior** that warrants some bilateral engagement and possibly an IPR action plan

# Special 301: 2016 Report – Selection of Priority Watch List Patent Concerns

- **China**

- “concerns that patent holders and other participants are involuntarily forced to contribute technology to standards or license on certain terms.”
- “denied pharmaceutical patent applications and invalidated existing patents, while the United States and other jurisdictions have generally granted patent protection in similar cases.”

- **Indonesia**

- “lack of clarity surrounding legal procedures under the Indonesian patent law in connection with the grant of compulsory licenses”



# Special 301: 2016 Report – Selection of Priority Watch List Patent Concerns

- **India**

- “concerning new incentives to pressure patent applicants to localize manufacturing in India”
- “rejections of patent applications for innovative pharmaceutical products”
- “lack of an effective system for notifying interested parties of marketing approvals for generic pharmaceuticals in a manner that would allow for the early resolution of potential patent disputes”

- **Thailand**

- “concerns include a backlog in pending patent applications”

uspto


# Special 301: 2016 Report – Selection of Priority Watch List Patent Concerns

- **Argentina**
  - “challenges to innovation in the agricultural chemical, biotechnology, and pharmaceutical sectors, including with respect to patent pendency, scope and term of patent protection”
- **Chile**
  - “implement an effective system for addressing patent issues expeditiously in connection with applications to market pharmaceutical products”
- **Venezuela**
  - “not issued a new patent since 2007”



# Promote Adoption of the Patent Prosecution Highway

- Recent PPH Programs in Latin America:

A grey silhouette map of Latin America is positioned on the left side of the slide, partially overlapping the text and the table.

Partner	Launch	Term	Scope
<b>Argentina</b>	March 3, 2017	3 years (March 2, 2020)	All Technologies
<b>Brazil</b>	January 11, 2016	2 years (Jan. 10, 2018)	US: All Technologies Brazil: Qualifying Technologies (Oil and Gas) and Filing Dates



# Questions and Comments

**Shira Perlmutter**

Chief Policy Officer and Director for International Affairs

(571) 272-9300

[Shira.Perlmutter@USPTO.GOV](mailto:Shira.Perlmutter@USPTO.GOV)



