

**Post-Hearing Comments of the
Footwear Distributors and Retailers of America**

To the

Office of the U.S. Trade Representative

Regarding the

2017 Special 301 Review

Docket No. USTR-2016-0026

March 14, 2017

Introduction

The Footwear Distributors & Retailers of America (FDRA) appreciates the opportunity to provide additional information in response to questions from the March 8, 2017 Special 301 hearing. In this post-hearing submission, we respond to questions raised at the hearing from the Department of State regarding Intellectual Property Rights (IPR) best practices and the Department of Labor regarding specific improvements needed in IPR protection and enforcement in Russia.

Responses to Hearing Questions

1. Question from the U.S. Department of State - *Regarding best practices that FDRA would highlight for fighting counterfeiting and piracy globally*

Counterfeiting continues to be a growing, global problem that affects all industries and in particular U.S. footwear companies. FDRA strongly agrees with the principles highlighted by USTR in prior Special 301 Reports that best practices in IPR protection and enforcement involve predictability, transparency, and meaningful engagement between governments and stakeholders. Governments should achieve these principles in developing and implementing national laws, regulations, procedures, and other measures. As emphasized in prior Reports, ensuring industry participation helps companies comply with legislative and regulatory changes and allows governments to avoid unintended consequences.

Fighting counterfeiting globally involves, first, countries having in place both adequate legislation that protects IPR and efficient legal and judicial systems. In addition, governments and LEAs must support brand owners in enforcement activities. In many countries where legislation and legal and judicial systems are in place, there remains a need for updates and improvements. This includes laws adapted to tackle new situations and scenarios such as online IPR infringements, penalties that serve as effective deterrents against counterfeiting, IP expertise among LEAs, and improving judicial processes so that they are not lengthy and burdensome on footwear companies that are working to combat counterfeiting. Governments and LEAs should also recognize IPR protection as a top priority, taking a proactive approach to the problem and devoting adequate resources and funding to IPR protection and

enforcement. FDRA also agrees with USTR's acknowledgment in prior Reports that coordination and cooperation among government agencies is an important best practice in this area.

U.S.-led international trade agreements are also critical to achieving best practices globally for IPR protection. The Trans-Pacific Partnership (TPP) agreement between the U.S. and 11 Pacific nations was particularly important for the footwear industry and a number of U.S. industries because it served as a 21st century free trade agreement, with specific provisions aimed at protecting IPR and combating counterfeiting and piracy, including trade secret theft.

2. Question from the U.S. Department of Labor – Regarding specific improvements that FDRA would like to see in Russia


As Russia prepares for World Cup 2018, it is essential that Russia make commitments to address counterfeit problems, both online and in-market ahead of the tournament. This would include addressing the problem by means of legislative and administrative reform. We would encourage the government to increase funding and training for Customs and LEAs and to strengthen controls on the borders, especially those with Kazakhstan and Kyrgyzstan. It is also crucial to involve intermediaries, Internet service providers (ISPs), online platforms, social media, carriers, and payment service providers to tackle the increasing threat posed by counterfeiting. It is especially important that ISPs and Registrars cooperate with brand holders and take timely action to remove infringing content when notified by the brand holder.

The design of apparel and footwear for global sporting events is done several years in advance, and these designs must be closely guarded and protected, since the release of new uniforms and footwear is an important component of international sports for both teams and fans. For the World Cup, new product releases may be done at different stages of the tournament. Given the fact that a single counterfeit in this area can be devastating to U.S. companies who depend on the protection of IPR, we encourage USTR to focus closely on this issue in the 2017 Special 301 Report.

Conclusion

FDRA appreciates the opportunity to submit post-hearing comments on the challenges faced by our Member companies around the world in the protection of their intellectual property. We thank the Commission for the opportunity to testify at the hearing and stand ready to work with USTR to bolster respect for, and enforcement of, IP by our trading partners.

Respectfully submitted,



Matt Priest
President & CEO
Footwear Distributors and Retailers of America