FDRA FOOTWEAR DISTRIBUTORS & RETAILERS OF AMERICA

January 28, 2026

The Honorable Daniel Lee
Assistant U.S. Trade Representative for Innovation and Intellectual Property
Office of the United States Trade Representative
600 17th Street Northwest
Washington, D.C. 20508

Re: ***2026 Special 301 Review: Identification of Countries Under Section 182 of the Trade Act of 1974 (Docket Number USTR-2025-0243)***

Dear Mr. Lee:

On behalf of the Footwear Distributors & Retailers of America (FDRA), thank you for the opportunity to provide comments to the Office of the United States Trade Representative (USTR) for the 2026 Special 301 Review. I request to testify at the public hearing on February 18, 2026.

FDRA is the footwear industry's trade and business association, representing more than 500 footwear companies and brands across the U.S. This includes the majority of U.S. footwear manufacturers and over 98 percent of the industry. FDRA has served the footwear industry for more than 80 years. Our members include a broad and diverse cross section of the companies that make and sell shoes, from small family-owned businesses to global brands that reach consumers around the world.

International trade supports hundreds of thousands of footwear jobs in communities across the U.S. – good-paying jobs in design, innovation, materials, sourcing, compliance, logistics, warehousing, marketing, and retail. A strong intellectual property (IP) environment in the U.S., and globally, is critical to these footwear jobs. Many of our companies sell footwear that reaches consumers in markets around the world. These companies manage supply chains that span the globe, so they understand the importance of protecting IP and innovation outside the U.S.

Our comments will focus on four key IP issues for U.S. brands: the unintended consequences of tariffs, strengthening IP protection in Mexico, the current environment in China, and best practices around the world.

Tariffs and Counterfeits

We urge the administration to employ a more strategic approach to tariff policy. Increasing tariffs on U.S. imports can have the unintended consequence of driving more counterfeit goods into the U.S. market. This is because U.S. companies – and their consumers – pay the tariffs to the U.S. government.

Footwear tariffs remain among the highest of any consumer product category. While the average tariff on consumer goods is just over 2 percent, footwear tariffs average more than 12 percent. For some categories, including many children's shoes, rates often exceed 48 percent, not counting the added reciprocal tariffs.

As these consumers continue to see prices rise with new tariff increases, they will shift to lower-priced alternatives. In difficult economic times, consumers will sacrifice quality for cheaper products that resemble well-known brands. This is an environment where counterfeiters thrive.

Legitimate footwear brands must comply with multiple laws and regulations at both the federal and state level. These companies maintain robust chemical safety programs and undertake time-consuming and expensive product testing. U.S. footwear companies must now pay more than $5 billion a year to the U.S. government in the form of tariffs.

Counterfeiters have the advantage, because they operate outside the system. These counterfeiting entities show a disregard for the law when they steal the IP of U.S. brands. Therefore, how do we know the products they put into the U.S. market are free of forced labor or harmful chemicals? How do we know these entities have followed the same burdensome importing requirements as those undertaken by legitimate brands?

Footwear consistently ranks among the most counterfeited products sold to U.S. consumers. These illicit goods have also achieved such a level of sophistication that it can be nearly impossible for a consumer to distinguish a legitimate good from a fake.

Brands face an additional challenge with the growing trend of sales facilitated via social media platforms through influencer endorsements. These platforms often compensate influencers to promote IP infringing products, thereby normalizing such purchases and expanding the reach of counterfeit operations. Some influencers convey that buying counterfeit merchandise is socially acceptable. They promote knock-off "dupes" that resemble a popular brand at a much lower price, at a time when consumers face affordability concerns due in part to an increasing tariff burden.

In countries like Brazil, which put in place high tariffs to protect the domestic footwear market, making imported consumer goods often more highly priced than other markets, counterfeits have surged. These high prices fuel the smuggling of counterfeit goods onto the illegal market. FDRA members, which are some of the more popular consumer brands in Brazil, must often compete with a flourishing parallel market of illicit goods. Markets for fake goods operate openly in Brazil and are supplemented by a thriving network of counterfeit goods producers.

For these reasons, as USTR advises the President on tariff policy, we recommend a more surgical approach that will reduce the burden on U.S. footwear companies and consumers.

The need for ex officio authority in Mexico

IP enforcement challenges persist in Mexico-U.S. trade relations, particularly due to counterfeit goods in physical and online markets in Mexico. This includes systemic issues with Mexico's customs authority, lengthy legal proceedings, and limited resources that hamper effective IP protection and prosecution.

Updating laws in Mexico to provide the National Customs Agency with *ex officio powers* to detain, seize, and destroy counterfeit goods – without needing prior approval from the Mexican Institute of Industrial Property (IMPI) or the Attorney General's Office (FGR) – would greatly improve border enforcement, especially amid the rise of e-commerce. Under the current law, the agency's *ex officio power* is limited to detaining goods and merely notifying intellectual property rights holders about suspicious products. The law does not effectively allow customs officials to make a determination to seize and destroy IP infringing goods.

When goods are suspected of IPR infringement, an order must be obtained either from IMPI (administrative) or FGR (criminal) – after a lengthy process – to allow for inspection and detainment. The administrative action is usually helpful when the infringer is a well-established business and there is a way of finding a domicile for notifications. However, the proceeding is executed as a trial, which makes the costs extremely high for rights holders. The criminal option had become the preferred go-to action for rights holders to enforce, especially through the FGR's Specialized Unit dedicated to investigating crimes against copyrights and industrial property. The work of the FGR, however, has been reduced due to austerity programs in Mexico.

We strongly recommend the Mexican government advance its enforcement framework by granting Customs the authority to seize and destroy counterfeit goods independently. The 2026 review of the U.S.-Mexico-Canada agreement (USMCA) provides an important opportunity to address this issue and help U.S. brands that sell product in Mexico.

China

FDRA is hopeful that the Chinese government, both at the national and sub-national levels, will over time become increasingly aware of the value – both to Chinese consumers and to the Chinese economy – of vigorously protecting IP. Our member companies continue to experience challenges with bad faith trademarks and other IP protection shortfalls in China. It is also difficult to foster collaboration with different platforms that are not required by law to work with brands to reduce counterfeits and knockoff goods.

Fighting counterfeits in China

China is still the number one source of counterfeit goods imported into the U.S. Within China, local officials often turn a blind eye to counterfeiting activity. FDRA members have raised several concerns regarding counterfeit goods sold in China:

- *Continued rise in knockoff products*: FDRA members have witnessed a rise in knockoff products made in China that copy iconic product designs and replace or remove famous trademarks. Such infringement steals the IP of U.S. footwear brands, misleads and confuses consumers (including Chinese consumers), and undermines the significant investments and goodwill U.S. brands have made in protecting their product designs. Chinese IP laws provide some legal remedies for knockoff infringement, such as the protection of iconic product design under China's Anti-Unfair Competition Law (AUCL). FDRA remains hopeful that companies will see more guiding cases from Chinese courts on AUCL enforcement against knockoffs and that the administrative authorities will apply the AUCL more broadly to target knockoff infringements.

- *Problematic regions*: The Provinces of Guangdong, Zhejiang, and Fujian pose challenges for footwear brands, because all three are major footwear hubs, producing both legitimate footwear as well as counterfeit products. Putian still remains the largest counterfeit manufacturing area and the major source of high-quality counterfeit shoes. FDRA member companies observed an increasing trend where unauthorized retailers in brick-and-mortar markets sell genuine and fake products with misleading storefront decoration. The rights holders bear a high burden of proof in verifying all seizures onsite while counterfeit sale records are not able to be obtained.

- *Online to Offline (O2O) enforcement gaps*: O2O enforcement brings numerous new challenges, and there is a need for greater collaboration from platforms. Working with platforms in China can be time consuming for brands. In some cases, it may take months to obtain data in collaboration with platforms. The quality of data provided is often limited, as some platforms have no obligation to provide full disclosure and transparency of transactions involving counterfeits. In addition, there is no consistent standard for adopting digital evidence in different procuratorates and courts. In practice, courts in Eastern China are more accepting of online transaction records, whereas courts in other provinces are much more conservative. In criminal proceedings, there is an increasing trend for courts to impose monetary fines rather than imprisonment; for civil litigation, courts have awarded lower compensation amounts than in the past. Despite these challenges, some platforms remain supportive of rights holders and undertake efforts for investigations and cross regional enforcement to try to eradicate counterfeit supply chains – tracing all the way from online or offline retail targets to counterfeit manufacturing sources. FDRA members appreciate such efforts and hope to maintain this momentum.

Navigating the difficult legal landscape

China's complex legal landscape poses many challenges for U.S. brands. FDRA member companies have raised the following issues:

- *Bad faith trademark filings*: Because China is a first-to-file jurisdiction, a well-established U.S. brand may discover that an unrelated Chinese party has already registered the brand's trademark. Bad actors do this to exploit the reputation of the U.S. brand or to force the American company to pay a fee to "buy back" the rights to its own trademark. FDRA members continue to see a high volume of bad faith infringing trademark applications allowed to publish for register. This forces legitimate brand owners to file opposition and invalidation actions. Doing so wastes limited resources, increases pressure on China's National Intellectual Property Administration (CNIPA), and drives up costs for American companies. While CNIPA has been an active partner for U.S. brands in working to combat bad faith filers, it must continue to prioritize this challenging issue.

- *Trade dress concerns*: China technically recognizes trade dress registration as an available protection in its trademark legislation. In practice, however, standards of review for trade dress applications are unclear and burdens of proof are unrealistically high, making it very difficult and often impossible for brands to obtain registration for a nontraditional mark. FDRA member companies would like to see more realistic and consistent standards of review so that trade dress is, in practice, a granted right.

- *Design patent filing shortfalls*: China has a limited grace period for design patent filings. There is a need for further harmonization with the majority of other countries where the grace period has only a timing limitation, such as requiring the filing within one year from the date of disclosure.

Best practices

FDRA would also like to highlight three country developments when it comes to adopting best practices.

China has made improvements in the following areas:

- New regulations issued by the State Administration for Market Regulation (SAMR) and the Cyberspace Administration of China (CAC) should strengthen supervision of social media/e-commerce platforms. Measures include rules for live-streaming e-commerce, online trading platforms, and personal information collection. These regulations seek to create a transparent online business environment and better protect consumers. Platform operators are prohibited from false advertising, commercial defamation, selling illegal goods, imposing unreasonable restrictions or fees, limiting consumer rights, practicing data-driven price discrimination, or unilaterally changing membership terms.

- Trademark law is currently under revision and there is an opportunity to add guidance for examination of non-traditional trademarks and add provisions to prevent the recurrence of bad-faith trademark filings.

Vietnam has made key updates through IP legislation:

- Vietnam's IP Law was amended with two substantial changes: IP rights can be valued, traded, and used as loan collateral, with pilot IP-backed financing policies planned. The law also shortens publication, opposition, and examination periods for IP applications to speed up processing.

- A new e-commerce law has been introduced, requiring e-commerce and social media platform owners to take on greater responsibilities. These include verifying seller ID and checking product and service information to prevent the sale of counterfeit and IP infringing products. The law also adds requirements related to livestreaming activities.

The EU continues its efforts to modernize the MoU on the sale of counterfeit products on the Internet:

- Key areas of modernization cover the inclusion of social media platforms in scope, due to the increased exploitation of these platforms by counterfeiters; the need for greater transparency on the identification of listings with the use of more advanced technologies and information sharing; and increased consumer awareness and education.

Conclusion

FDRA appreciates the opportunity to provide feedback to USTR on the challenges faced by our member companies trying to protect their IP rights in global markets. Now more than ever it is critical that the U.S. government work to protect footwear innovations, designs, brands, and images worldwide.

We stand ready to work with USTR to bolster respect for, and enforcement of, IP by our trading partners. Doing so protects American jobs and benefits U.S. consumers.

Sincerely,

Matt Priest
President & CEO
Footwear Distributors and Retailers of America