

An Overview of the USTR's 2016 Special 301 Report on the State of IPR in Chile

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In this post, we continue to examine the Office of the United States Trade Representative (USTR) 2016 Special 301 Report (Report) released on April 12, 2016. The Report reviewed the state of intellectual property rights (IPR) protection and enforcement in U.S. trading partners around the world. After extensive research and analysis, Chile remains one of eleven (11) countries on the priority watch list for 2016.

The Report acknowledges that Chile has made an effort to improve the state of IPR protection and enforcement within the country since 2015. Specifically, the Report commends Chile for taking steps to reduce processing times for patents, increase IP enforcement actions, and reduce the use of unlicensed software. However, the Report expresses serious concerns regarding longstanding IPR issues under the United States-Chile Free Trade Agreement.

Specifically, Chile lacks effective protections against unlawful circumvention of technology protection measures (TPMs) and protections for satellite signals carrying encrypted programs. Chile also lacks an effective regime to protect against internet piracy. The Report urges Chile to ensure that effective administrative and judicial procedures are made available to right holders and satellite and cable service providers in order to deter these unlawful behaviors.

The Report also indicates that Chile continues to struggle in the area of pharmaceutical products. Chile lacks an effective system for expeditiously addressing patent issues related to applications for pharmaceutical products. Furthermore, Chile fails to provide adequate protection against the unfair commercial use and unauthorized disclosure of data generated to obtain marketing approval for pharmaceutical products.

In addition to these issues, the Report urges Chile to join the Union for the Protection of New Varieties of Plants Convention (UPOV 91).

Under the Trans-Pacific Partnership Agreement (TPP), which sets strong and balanced standards for IPR protection and enforcement, Chile has committed to strengthen its IPR regime in these and other problematic areas. As indicated in the Report, the United States stands ready to work closely with

Chile in order to improve these issues.

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