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ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

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November 9, 2011

Ambassador Ron Kirk  
United States Trade Representative  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20508

Dear Ambassador Kirk,

We are writing to express our serious concerns over continuing gaps and lapses in the protection and enforcement of intellectual property rights (IPR) by the Government of Russia, even as the negotiations regarding Russia's accession to the World Trade Organization (WTO) are moving forward. A high standard accession package will be essential before both Houses of Congress can consider a vote to remove Russia from Title IV of the Trade Act of 1974, which is necessary for the United States to enjoy the full benefits of Russian membership in the WTO.

According to the most recent annual report on the global state of IPR protection and enforcement prepared by your office pursuant to section 182 of the Trade Act of 1974, as amended, there are a number of significant concerns with respect to the denial of adequate and effective IPR protection, or the denial of equitable market access for persons that rely on IPR protection, in Russia.

Specific examples cited include: widespread counterfeiting and piracy of hard goods; storage of pirated CDs and DVDs on several government-controlled military-industrial sites; gaps in Russian law and enforcement efforts with respect to piracy over the Internet; varying levels of enforcement among regions; and, indications of selective enforcement. Even when initial enforcement efforts are conducted in a sustained and vigorous manner, your report notes that prosecutions and convictions do not necessarily follow.

With respect to gaps in Russian law, your report states that it is the position of the United States to urge Russia to enact online infringement legislation that addresses all forms of piracy over the Internet and provides for the swift removal of infringing content. In addition, your report encourages Russia to enact legislation establishing a specialized IPR court and calls for Russia's enforcement officials to increase the number of IPR-related investigations, as well as for Russian prosecutors to seek deterrent penalties in judicial proceedings. Because of these and other ongoing concerns, Russia remains on the "Priority Watch List" for 2011, which identifies countries with the most onerous or egregious IPR policies, acts, or practices that have the greatest adverse impact on relevant products of the United States.

Separately, the recent report to Congress of the Office of the National Counterintelligence Executive identifies Russian cyber-espionage as a dangerous threat to our economy and national security. Specifically, the report warns that "[f]oreign economic collection and industrial espionage against the United States represent significant and growing threats to the nation's prosperity and security," and that "[e]conomic espionage inflicts costs on companies that range from loss of unique intellectual property to outlays for remediation . . . ."

This report further finds that "Moscow's highly capable intelligence services are using [human intelligence], cyber, and other operations to collect economic information and technology to support Russia's economic development and security," and that "the governments of China and Russia will remain aggressive and capable collectors of sensitive U.S. economic information and technologies, particularly in cyberspace."

We acknowledge that important progress has been made since 2006, when the United States and Russia reached a bilateral agreement on IPR protection and enforcement in Russia. Yet, the findings in these reports raise serious questions about the intention and commitment of the Russian Government to abide by and enforce the obligations it will assume as a member of the WTO, particularly with respect to the Agreement on Trade-Related Aspects of Intellectual Property Rights.

In our view, the questions and concerns raised by these reports must be addressed. The Government of Russia must demonstrate via transparent, substantive and prompt actions its commitment to adhere fully to the obligations it will assume as a future member of the WTO. Not only is the credibility of the rules-based system of international trade at stake, but should Russia fail to conform to its obligations in a thorough and timely manner, the adverse consequences for U.S. innovators and their workers will continue to be significant.

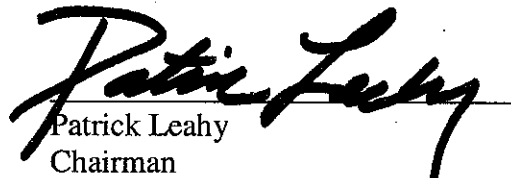
Ambassador Ron Kirk  
November 9, 2011  
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In addition, we expect that you will continue to consult the House and Senate Judiciary Committees as future developments warrant; such ongoing consultations will be particularly valuable in the event that Congress considers legislation to authorize termination of the provisions of title IV of the Trade Act of 1974 with respect to Russia.

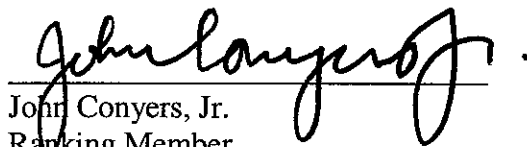
Sincerely,



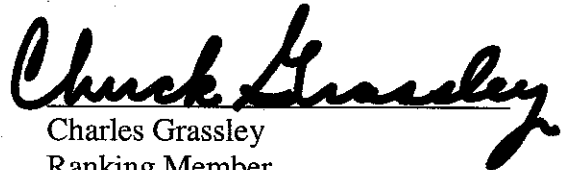
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