

**BEFORE THE  
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

**Advancing Inclusive, Worker-Centered  
Trade Policy**

**Docket No. USTR–2023–0004**

**COMMENTS OF THE COPYRIGHT ALLIANCE AND THE INSTITUTE FOR  
INTELLECTUAL PROPERTY AND SOCIAL JUSTICE**

The Copyright Alliance and the Institute for Intellectual Property and Social Justice (IIP SJ) appreciate the opportunity to submit the following comments in response to the [request for comments](#) (RFC) published by the Office of the U.S. Trade Representative (USTR) in the Federal Register on June 12, 2023 regarding how trade and investment policy may be designed to expand the benefits of trade to include underserved and marginalized communities here in the United States and with trading partners who share concerns about rising inequality.<sup>1</sup>

The Copyright Alliance is a non-profit, non-partisan public interest and educational organization representing the copyright interests of over 2 million individual creators and over 15,000 organizations in the United States, across the spectrum of copyright disciplines. The Copyright Alliance is dedicated to advocating policies that promote and preserve the value of copyright, and to protecting the rights of creators and innovators. The individual creators and organizations that we represent rely on copyright law to protect their creativity, efforts, and investments in the creation and distribution of new copyrighted works for the public to enjoy. The Copyright Alliance supports initiatives that (i) bolster and encourage participation in the copyright system by creators from underrepresented and marginalized groups, (ii) ensure that our copyright system enables these creators to meaningfully benefit from the fruits of their labor, and (iii) promote representation of underrepresented and marginalized groups in the creative industries and within copyright legal and policy professions.

The Institute for Intellectual Property and Social Justice is a not-for-profit non-governmental organization established to promote social justice in the field of intellectual property law and

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<sup>1</sup> Request for Comments on Advancing Inclusive, Worker-Centered Trade Policy, 88 Fed. Reg. 38118 (June 12, 2023).

practice and advocates for core principles of socially equitable access, inclusion, and empowerment throughout the IP ecosystem. IIPPSJ's work includes scholarly examination of IP law through a social justice rationale; advocacy for social justice in the shaping and implementation of IP law and policy; initiatives to increase the diversity of the IP bar; and programs which promote greater awareness and understanding of IP protection, particularly among historically and currently disadvantaged and underserved groups.

Copyright plays a critical role in the contributions of U.S. creative industries to the economy and to job creation. A report on the economic impact of copyright by the International Intellectual Property Alliance notes that, in 2021, the core copyright industries contributed more than \$1.8 trillion to the U.S. gross domestic product (GDP) (accounting for 7.76% of the U.S. economy) and employed 9.6 million workers (or 4.88% of the workforce).<sup>2</sup> In addition to growing at a rate more than three times that of the rest of the economy, the report notes that the core copyright industries:

(1) make up an increasingly large percentage of value added to GDP; (2) create more and better paying jobs than other sectors of the U.S. economy; (3) grow faster than the rest of the U.S. economy; (4) contribute substantially to U.S. foreign sales and exports, outpacing many industry sectors; and (5) make significantly large contributions to what the [U.S. Bureau of Economic Analysis] defines as the digital economy, which does not even encompass the full scope of the copyright industries' digital activities.<sup>3</sup>

The U.S. continues to be the world leader in intellectual property<sup>4</sup>—an attribute that contributes significantly to this country's vast cultural influence and its standing as the world's leading economy. While marginalized and underrepresented groups have always contributed to creativity and innovation in the United States, these groups have historically been prevented from reaping the benefits of their contributions. It is vital that agencies across government work collectively with the U.S. Copyright Office and similar agencies abroad to foster the success of these groups by (i) removing barriers to entry both domestically and in overseas markets and (ii) ensuring that our copyright system as well as that of our trading partners enable these individuals to

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<sup>2</sup> Robert Stoner & Jéssica Dutra, *Copyright Industries in the U.S. Economy: The 2022 Report*, INT'L INTELL. PROP. ALL. 8 (Dec. 2022), [https://www.iipa.org/files/uploads/2022/12/IIPA-Report-2022\\_Interactive\\_12-12-2022-1.pdf](https://www.iipa.org/files/uploads/2022/12/IIPA-Report-2022_Interactive_12-12-2022-1.pdf).

<sup>3</sup> *Id.* at 7.

<sup>4</sup> U.S. CHAMBER OF COM. GLOB. INNOVATION POL'Y CTR., INTERNATIONAL IP INDEX 6–7 (11th ed. 2023), [https://www.uschamber.com/assets/documents/GIPC\\_IPIndex2023\\_FullReport\\_final.pdf](https://www.uschamber.com/assets/documents/GIPC_IPIndex2023_FullReport_final.pdf).

meaningfully benefit from the fruits of their labor. Doing so will help ensure that historically marginalized and underserved communities can benefit from the economic growth afforded by the core copyright industries.

*Copyright is a powerful tool for empowering marginalized and underrepresented communities.* By incentivizing and rewarding the creation and dissemination of copyrighted works, copyright encourages participation in the creative industries by a diversity of creators and copyright owners. For example, by enabling creators to earn a living from the works they create, copyright law helps to ensure that meaningful contribution to the arts and entertainment is not a privilege reserved for those with financial means. Likewise, the exclusive rights afforded by copyright provides creators the autonomy to create works that are reflective of their experiences, viewpoints, and communities, which in turn aids in increased (and more authentic) representation of marginalized and underrepresented groups in the media and entertainment. As evinced by the data on the contributions of the core copyright industries to job creation, copyright also creates employment opportunities for creators and creative professionals from underserved and marginalized backgrounds.

*Robust enforcement of copyright is also critically important for ensuring that creators from marginalized and underserved communities can reap the benefits of their creative contributions.* Creators rely on copyright to protect their creative efforts and investments in the creation and distribution of new copyrighted works. The ability to recoup their investments in creative works to support their livelihoods and fund their next creative endeavor is the foundation upon which careers are built and jobs are created in these industries. Piracy poses a significant threat to those investments by unjustly enriching bad actors who make no investment and take no risk, at the expense of the creators. Individual creators and small business often face irreparable harm due to piracy, and the impact of those harms on creators, creative professionals, and small businesses from marginalized and underserved backgrounds is likely disproportionate and compounded by existing societal and economic disparities. We encourage USTR to consider including an analysis of the effects of piracy on creators, creative professionals, and small businesses from marginalized and underserved backgrounds in future Notorious Markets Lists.

The digital age affords creators the ability to use new and innovative platforms to distribute their creativities around the world, allowing consumers to access and enjoy all sorts of copyrighted works where and when they want. While the internet's impact on creativity and interconnectivity have given us much to celebrate, digital piracy continues to increase exponentially, causing widespread harm to the economic and creative vibrancy of the copyright community. At the same

time, countries overseas continue to enact barriers to the free flow of digital trade in copyrighted products, which also plays a role in encouraging digital piracy. As USTR stated in its 2022 Notorious Markets List, “Online piracy has real consequences and harms the economic security of workers in the entertainment, media, and other creative industries. Pirating of digital media can result in lowered revenues and wages across the industry, impairing workers’ benefits and job security. Copyright enforcement plays a central role in preventing online piracy.”<sup>5</sup> Addressing piracy on a global scale, in conjunction with our trading partners, through policies that support effective copyright enforcement is essential to advancing the goals of copyright and ensuring that rampant piracy not act as a barrier for foreign and domestic creators.

USTR’s work toward encouraging our trading partners to adopt and maintain strong and effective copyright laws, policies, and enforcement procedures should be a core pillar of an inclusive, worker-centered trade policy. We encourage USTR to work with trading partners to develop and maintain robust copyright laws and enforcement procedures and to provide technical assistance to our trading partners as necessary. Doing so would inure to the benefit of domestic and foreign creators from marginalized and underserved communities alike.

We appreciate the opportunity to submit these comments and we are happy to answer any additional questions.

Respectfully submitted,

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<sup>5</sup> OFF. OF THE U.S. TRADE REPRESENTATIVE, 2022 REVIEW OF NOTORIOUS MARKETS FOR COUNTERFEITING AND PIRACY 3 (2022), [https://ustr.gov/sites/default/files/2023-01/2022%20Notorious%20Markets%20List%20\(final\).pdf](https://ustr.gov/sites/default/files/2023-01/2022%20Notorious%20Markets%20List%20(final).pdf).