

**Remarks by
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Deputy U.S. Trade Representative**

at

National Academy of Recording Arts and Sciences

Recording Arts Day

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Terry, thank you for the kind introduction. On behalf of President Bush and his Administration, let me welcome you all to Washington this morning. I am really delighted to have been asked to speak to you today. I have to tell you, I deliver a lot of speeches, and in a lot of cases, that's a stock line – "I am delighted to be here...". But this time I really mean it. Because last night, which I mentioned to my oldest son that I was going to be speaking to the Recording Artists and that Kelly Clarkson was going to be in town for the event, I think I may have – for a brief instant – actually approached "cool."

Importance of International Trade

In all seriousness, I'm delighted that you have chosen to turn your attention on Recording Arts Day to the topic of international trade.

I can't imagine a more exciting time for NARAS to be focused on both the challenges and the opportunities of doing business abroad. The fact is that our economy is more deeply integrated into the global economy than ever before.

- In a study released just yesterday, the Economist Intelligence Unit predicted that global flows of foreign direct investment will rise more than 22 percent this year – breaking the \$1 trillion level for the first time ever. And the United States is forecast to be the biggest recipient of FDI.
- As transportation becomes cheaper, more Americans are traveling abroad and more foreigners visiting the United States.
- And – in the area of trade in goods and services -- statistics released last month show our exports and imports to be at record levels.

The recording industry is no exception. In fact, it's typical of what we are seeing in more and more sectors – particularly IP-intensive sectors.

- Last year, North America represented less than 40 percent of the \$34 billion global music market.

- More U.S. recordings are sold and more revenue is earned outside the United States than inside our borders.
- And the U.S. music industry and the other U.S. copyright industries are at the forefront of U.S. export growth.
- From 1991 to 2002, the yearly growth of exports from U.S. copyright industries outpaced total U.S. exports by an average of six percent.
- And these trends are not going to slow down. They are only going to increase, as more and more developing countries grow their middle class and themselves become integrated into the global economy.

Where we are doing business is also changing. It used to be that companies interested in doing business abroad might have had one representative in Europe. Today, it's the rare major U.S. company that does not have marketing and distribution strategies for China, India, Southeast Asia, the Middle East, and Latin America.

I'm pleased to tell you that American business is at the forefront of this globalization trend. In most sectors, American businesses can compete with anyone else out there. And in a lot sectors – and recording arts is one of them – I believe that we are world beaters. In other words, left to its own devices, American industry can compete with anyone, anywhere.

The President's Trade Agenda

Which brings me to the President's trade agenda and the work of the U.S. Trade Representative's Office. Our goal is to ensure that pretty much you are "left to your own devices" – in other words, that you are allowed to compete fairly in markets that are open and conform to basic international legal rules and not distorted or protected by governmental prohibitions.

To do that, we are using the tools of U.S. trade policy to build a "critical infrastructure" that has at least three components: (1) market access, (2) rules for secure e-commerce in markets around the world, and (3) intellectual property protection.

Let me talk about each a bit in turn.

Market access is precisely what it sounds like – the ability for you to access foreign markets without confronting prohibitive barriers to entry. In some cases, those barriers are tariffs. In many others, the barriers are "non-tariff barriers" – licensing requirements or distribution prohibitions or any of the hundreds of creative ways that bureaucrats the world over have devised over the years for protecting domestic markets or extracting fees from foreign companies. Our job is to try to remove those barriers. We do this through bilateral negotiations – like the free trade agreement negotiations we've concluded with fourteen countries since 2001. We do it through regional trade

arrangements, like APEC. And we do it through multilateral arrangements – principally the World Trade Organization and major rounds of trade negotiations like the Doha Round.

Helping to establish rules for secure e-commerce is needless to say a far newer area for USTR, but it is a critically important endeavor, as we and the world are still at the infancy of this industry. I'm well aware of how important it is for your industry, as you confront the challenges of the Internet and digital technologies. Each of our FTAs contains a state-of-the-art chapter on e-commerce, designed to ensure that our trading partners will respect the enormous potential of this potentially revolutionary mode of distribution.

And last – but by no means least – we work to ensure that U.S. performers, record companies, and other intellectual property owners enjoy adequate and effective protection of their intellectual property rights around the world.

Let me make two observations about encouraging our trading partners to protect intellectual property.

- First – it's incredibly important. Given the United States' strength in IP-intensive industries, having in place laws, systems and regimes that protect U.S. intellectual property abroad is perhaps the most important trade enforcement challenge we face. And – I should note – having in place such laws, systems and regimes should be important to our trading partners, many of whom are themselves trying hard to develop their own IP-intensive industries.
- Second, it's incredibly hard. Whether working with our trading partners cooperatively to root out piracy and copyright infringement or trying to enhance appreciation that violating IP is theft, this is one of the hardest tasks we face.

At the US Trade Representative's office, we recognize both its importance and its difficulty. Which is why we have increased staff and funding for intellectual property initiatives including protection of copyright. Ambassador Schwab recently established a new Intellectual Property Office staffed by experienced IP experts, including a Chief IP Enforcement Negotiator. Victoria Espinel who does a great job heading up that office is here with me today.

We've tasked that new office with using the full range of trade policy tools around the world to combat piracy through a coordinated effort across the U.S. Government, as well as close cooperation with foreign governments and affected industries like yours.

We have also recently hired a Chief Counsel for China Trade Enforcement. Claire Reade brings more than 20 years of international trade litigation experience to our China enforcement efforts.

China is a top enforcement concern for us. China's IPR enforcement regime remains inadequate and despite anti-piracy campaigns and an increasing number of IPR cases in Chinese courts, overall piracy levels in China remain unacceptably high.

- Industry sources in 2005 estimated that levels of piracy in China across all lines of copyright business are 85 to 93 percent, indicating little to no overall improvement.
- The share of infringing product seizures of Chinese origin at the U.S. border, that is both counterfeit and pirated goods, increased to 69 percent in 2005 from 63 percent in 2004. There are more infringing goods from China arriving in the United States than from all other countries combined.

This is a grave problem – for you, for the United States, and for China, which must shed the label of being a haven for IP violators if it is ever to advance up the economic chain.

And so we are bringing the full range of policy tools to bear:

- We have used our bilateral dialogue to press China for strong and specific actions and commitments that matter to the U.S. music industry, such as
 - prosecuting infringers and imposing tough penalties, to back up the commitment that China's leaders have expressed to improving IPR enforcement; and
 - putting in place the necessary rules and enforcement mechanisms to ensure that China's emerging Internet market is not swallowed up by piracy the way its CD and DVD markets have been.
- We are using our annual Special 301 report -- where we rank countries on how well they are protecting intellectual property -- to identify the specific shortcomings that China needs to address and to press for real solutions. This year, we are conducting a provincial-level review to look at China's enforcement system as it is applied by the local authorities to problems our industries confront, ranging from retail piracy in major cities to pirate manufacturing in key industrial areas.
- We are working with China to improve their enforcement efforts against manufacturers and sellers of pirate CDs and DVDs. Thus far this year, as a result of US efforts, China has taken action against 14 plants that we had identified as producing illegal optical disks, and a large scale campaign is underway as we speak with the stated aim of cracking down on the market for pirated disks.

- We are utilizing World Trade Organization rules and bilateral discussions to bring greater transparency to the results of IP enforcement actions in China. And, yes, we are working closely with your industry and other copyright industries to step up consideration of whether to use additional tools, including bringing a case against China at the WTO.

China, of course, is not our only area of concern. Russia is another top priority. We have used the Special 301 report to highlight the issues and press our counterparts in the Russian government for solutions. For example – for the first time ever – the 2006 Special 301 report identified "notorious markets" – both physical and Internet – that are key flashpoints in the global battle against piracy and counterfeiting.

At the top of that list is Russia's **allofmp3.com**, a notorious website that is probably stealing from many people here in this room. Through another of our trade policy tools – bilateral and multilateral World Trade Organization accession talks – we are working to get the problems addressed and get the systems in place that will allow Russia to turn things around. We have made clear to Russia that improved protection for intellectual property is critical to its joining the WTO and we have specifically raised our concerns with allofmp3.com. We are very supportive of your industry concerns in Russia and we are working to achieve better protection for copyright.

There are success stories:

- We've worked hard with countries like Brazil, where we have cooperated closely with the copyright industries to bring about a shift in attitudes, and with Pakistan, where there's been dramatic improvement in enforcement.
- We have implemented an innovative initiative – the Strategy Targeting Organized Piracy (STOP) Initiative – which brings together the US government, foreign governments and the private sector to take coordinated action in cracking down on piracy and counterfeiting. Under STOP, we have devised best practices guidelines for enforcement, and have sent interagency teams around the world to establish greater cooperation in IP enforcement.
- We have successfully negotiated rigorous IP commitments in the FTAs we have concluded, and we remain committed to keeping international standards for IP high.

But we recognize that, in the modern economy, all it takes is one bad apple – one "safe harbor" for copyright infringement – for the value of your products to be eroded. Which in turn, has a profound effect on your work and businesses.

And so we will not stop. We will continue to advance our agenda. As we do that, I hope that we can count on all of you in the music industry to continue your strong support for free trade.

Your voice matters. The success of the free trade agenda is not something any of us should take for granted. More and more, we hear Americans questioning the value of an open, rules-based system of international trade. We saw it in last year's tough vote on the Central American Free Trade Agreement, which eliminated tariffs that had long stymied American exports to promising markets just beyond our border. And we see it now, with voices from industry, Capitol Hill, and elsewhere questioning whether free trade is, at the end of the day, worth the candle. I'm sure some of those voices will be heard again soon when we seek the approval of Congress for permanent normal trade relations status for Vietnam – a fast-growing economy of more than 82 million people. But I'm hopeful that supporters of free trade, including performers, record companies, and others in the music industry, will make their voices heard as well.

In this year's State of the Union address, President Bush articulated the challenge well, saying, "In a complex and challenging time, the road of isolationism and protectionism may seem broad and inviting – yet it ends in danger and decline. The only way to protect our people, the only way to secure the peace, the only way to control our destiny is by our leadership – so the United States of America will continue to lead."

Simply put, we believe that free trade is worth the effort to defend and advance, on behalf of the nation's economy and the American workers, farmers and businesses that depend on the prosperity of our economy. I hope that you agree, and I hope that we can continue to count on your support.