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April 12, 2011

The Honorable Kevin Brady
Chairman
Subcommittee on Trade
Ways and Means Committee
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Brady,

RE: U.S.-Korea Free Trade Agreement

The International Trademark Association (INTA) wishes to express its support for the prompt approval of the pending Free Trade Agreement (FTA) with the Republic of Korea. Consistent with practice in the United States and in many other countries worldwide, the Republic of Korea FTA includes important measures that will enable the more efficient protection of trademarks, which are key intellectual property assets to United States businesses. Congressional approval of this agreement would be significant for trademark owners as the FTA includes important requirements for the Republic of Korea by committing to provide a broad scope of protection for trademarks and to streamline administrative requirements and to prohibit mandatory recordation of trademark licenses.

INTA is a 133-year-old not-for-profit membership association of more than 5,700 trademark owners and professionals, from more than 190 countries, dedicated to the support and advancement of trademarks and related intellectual property as elements of fair and effective national and international commerce. INTA members share the common interest in the protection and development of trademark law and rely on INTA to represent their trademark interests in government affairs and to help promote those interests throughout the international community.

The Republic of Korea FTA includes important provisions dealing with the scope of trademark protection for: well-known marks, including dilution protection; certification marks; non-traditional marks, leaving open the possibility to protect sound and scent marks and the like. Strong provisions also are included with regards to trademark office practices in order to

The Honorable Kevin Brady

April 11, 2011

Page 2

establish a clear framework for the registration of trademarks, including for opposition and cancellation proceedings. The trademark section includes major provisions that should serve trademark owners from the US but also local trademark owners, in protecting their intellectual property rights. Importantly, the Republic of Korea is committed to making its best effort to ratify the Singapore Treaty on the Law of Trademarks, which basically updates the Trademark Law Treaty for which the Republic of Korea has been a member since 2003.

To address uncertainty and confusion that results when there are no transparent mechanisms to determine whether a GI should be granted protection, the Republic of Korea FTA provides clear language setting a framework for the procedures involved in the registration of geographical indications and establishing the proper relationship between geographical indications and trademarks. The FTA also calls for the possibility that geographical indications can be afforded protection as registered trademarks, which is the case in the United States.

Another challenge faced by trademark owners doing business in the Republic of Korea is its burdensome license recordation requirement. Compliance with mandatory recordation is costly to small businesses and larger companies with expanding product lines and multiple licenses. Failure to follow the procedures of recordation can result in the loss of substantive trademark rights. The Republic of Korea FTA specifically includes a provision that eliminates the recordation requirement for trademark licenses as a prerequisite for establishing license validity or asserting any trademark rights.

In conclusion, a main objective of the Republic of Korea FTA is to strengthen intellectual property protection. With its implementation, trademark registration procedures in the Republic of Korea would be further streamlined and harmonized. Trademark owners, especially those working with limited budgets, would benefit from a simplified and standardized trademark system. The prompt approval by Congress of the Republic of Korea FTA is crucial to advancing the protection of trademarks. Therefore we respectfully urge the committee to act favorably on the measure.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Gerhard Bauer".

Gerhard Bauer
President

