

28 January 2022

Jacob Ewerdt
Director for Innovation and Intellectual Property
U.S. Trade Representative for Innovation and Intellectual Property
Office of the United States Trade Representative

Ref: “2022 Special 301 Review,” Docket Number USTR-2021-0021

Dear Office of the United States Trade Representative,

The TIC Council Americas is pleased to provide comment on request for comment “2022 Special 301 Review” issued on 13 December 2021. Testing, Inspection, and Certification (“TIC”) industry marks serve an important role in the United States by signifying to consumers that a product has been testing, inspected, and certified as meeting U.S. regulation and industry requirements¹. However, the counterfeiting of TIC industry Marks threatens to weaken this important source of trust and reliability for consumer.

In a U.S Department of Homeland Security (DHS) study, it is estimated that seizures of counterfeit or infringing products had increased 10-fold between the years of 2000 and 2018 and has only continued to grow.² These products include not only counterfeit branding from manufacturers and retailers, but counterfeit TIC marks and in some instances, counterfeit test reports.

As outlined in “Recommendations for Combating the Growth of Counterfeit Goods Sold in the United States,” published in October 2021³, the TIC Council recommends the

- Continued Collaboration between the Public and Private Sector and Greater Information Sharing with Rights Holders.
- Inclusion of Strong IP Protections and Enforcement Mechanisms in Trade Agreements.
- Strengthened Penalties for Counterfeiters
- Dedication of Resources for IP Enforcement and Education
- Regulatory and Legislative Action to Ensure That Products Sold on E-Commerce Sites are not Counterfeit

The TIC Council supports all efforts to enforce IP protection requirements, address the growing counterfeiting epidemic, and looks forward to our ongoing engagement and discussion on this topic.

¹ “Falsified: Test Reports & Certifications, Identification and Impact of Counterfeit Test reports and Certifications in the Global Marketplace,” TIC Council, June 2020, https://www.tic-council.org/application/files/1216/0078/9309/TIC_Council_White_Paper_of_Identification_of_Falsified_Test_Reports_and_Certificates_finalv2.pdf

² Combating Trafficking in Counterfeit and Pirated Goods; Report to the President of the United States, January 24, 2020, Office of Strategy, Policy, & Plans, Homeland Security, https://www.dhs.gov/sites/default/files/publications/20_0124_plcy_counterfeit-pirated-goods-report_01.pdf

³ Recommendations for Combating the Growth of Counterfeit Goods Sold in the United States,’ TIC Council, October 2021, https://www.tic-council.org/application/files/8315/8316/0439/TIC_Council_Americas_-_Sale_of_Counterfeit_Products_on_ECommerce_Platforms.pdf

TIC Council is a global association representing over 90 international independent third-party testing, inspection, certification and verification organizations. Testing, Inspection and Certification (TIC) companies cater to a diverse range of industry sectors and a variety of standards and legislation. The industry represents an estimated one million employees across the world with annual sales of approximately USD 200 billion.

We appreciate the opportunity to give feedback on “2022 Special 301 Review” issued on 13 December 2021. Should you have any questions, please don’t hesitate to contact Karin Athanas at +1 240 762 8069 / kathanas@tic-council.org.

Sincerely,



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