

United States Senate

WASHINGTON, DC 20510-2503

April 28, 2010

Ambassador Ronald Kirk
United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Kirk:

On March 30th and April 1st, I visited Thailand where I discussed issues of bilateral economic, political and strategic concern. As our oldest treaty ally in Asia, Thailand has been a longstanding and reliable security and economic partner in an area where the United States is facing increasing economic and geopolitical competition from China and other regional powers. Among the issues we discussed was Thailand's placement on the Intellectual Property, Priority Watch List (PWL), where it has remained since 2007. Since then, Thailand has taken aggressive steps to improve and strengthen its intellectual property regime and I urge you to consider removing Thailand from the PWL in recognition of the improvements it has made over the past few years.

As you are aware, in 2007 Thailand issued compulsory licenses to purchase generic versions of several medications that were too costly for the government to purchase for its citizens. In doing so, Thailand acted within the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property ("TRIPs Agreement"), as specifically affirmed by the United States and other nations in the Doha Declaration. Nonetheless, USTR added Thailand to the PWL in the annual USTR Special 301 trade report, which cited "a weakening of respect for patents" in Thailand, and a "lack of transparency and due process" in the issuance of the compulsory licenses. Thailand has remained on the PWL since that time.

Thailand, for its part, recognizes the concerns that U.S. industries and USTR have raised with regards to access to medicines. Thailand has encouraged more in-depth consultations between the Government and private sector entities in an effort to reach an amicable solution that allows Thailand to provide its citizens with affordable medicine and also addresses the major concerns of U.S. industries. Thailand has also indicated its understanding that a robust and effective patent protection system is required to ensure continued medical and pharmaceutical research, development and innovation of new life-saving medicines for the health of not only Thai patients, but also patients worldwide.

Thailand has taken concrete steps to address concerns over its intellectual property regime and to strengthen its intellectual property monitoring and enforcement. Immediate actions included the formation of a National Committee on Intellectual Property Policy and, in an effort to formulate policies and coordinate agency actions, the drafting of a Proactive Plan on Prevention and Suppression of IPR Violations. On the legislative front, the Government of Thailand is currently taking action to implement legislation that addresses, among other things: (i) effective monitoring and control over the production of infringing optical disks; (ii) allowing landlord liability for infringing acts or sales that occur on their premises; (iii) banning the unauthorized use of camcorders in movie theaters; (iv) ensuring better protection

of the rights of copyright owners in digital and network-based environments; and (v) enabling customs officials to initiate *ex officio* inspections of transshipped goods and goods in transit in order to confiscate infringing goods.

Thailand has demonstrated a commitment to strengthening its intellectual property regime, and the actions that Thailand has undertaken over the past several years have resulted in some substantive improvements in Thailand's intellectual property monitoring and enforcement. The International Intellectual Property Alliance (IIPA) has recognized Thailand's improved efforts in intellectual property protection and has called on USTR to remove Thailand from the PWL and place it on the Watch List. Consequently, I urge you to consider removing Thailand from the PWL in recognition of the improvements it has made over the past several years to its intellectual property regime.

Removal of Thailand from the PWL will demonstrate to Thailand and other countries that the United States recognizes improvements in the arena of IPR, and that the United States is committed to working with its trading partners to improve collectively the global intellectual property environment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Bond", with a stylized, cursive script.

Christopher S. Bond