



To the Office of the U.S. Trade Representative (USTR):

I am writing to provide written input for consideration as part of USTR’s Country Practice Review of South Africa, as announced in FR 84, 233. I have reviewed the petition filed by the International Intellectual Property Alliance (IIPA) alleging that South Africa does not provide adequate and effective copyright protection for U.S. copyrighted works and therefore may not meet the criteria for GSP eligibility. IIPA requests that the “U.S. government work with the South African government and consider the suspension or withdrawal of South Africa’s GSP benefits, in whole or in part, if requested improvements are not made by South Africa to remedy the deficiencies” of two proposed South African intellectual property rights laws.

For over 26 years, Corporate Council on Africa (CCA) has been the leading U.S. business association focused solely on advancing the U.S.-Africa trade and investment relationship. We have been a strong promoter of policies both in Africa and the United States that promote and facilitate greater U.S.-Africa trade, investment and business engagement. CCA represents a range of both U.S. and African companies, including a number that have a stake in intellectual property (IP) protection.

CCA fully supports the need for and importance of protecting and enforcing U.S. intellectual property rights, in the United States and overseas. We are pleased that South Africa has taken positive steps to improve its IP regime, including the adoption of an IP policy in 2018 and accession to WIPO Internet treaties. It has increased efforts at intellectual property-related inspections, training, and awareness-building. South African law enforcement is active in enforcing IP protections. IIPA’s concerns about copyright laws that President Ramaphosa has not yet signed need to be put into the context of a country that, according to the 2019 U.S. Commerce Department Country Commercial Guide on South Africa, “has a well-developed intellectual property rights environment and enforcement by authorities is generally effective.” Bearing this assessment out, South Africa has been very successful in attracting significant new foreign investment in copyright-sensitive industries, including its motion picture industry.

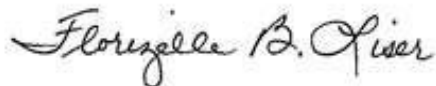
IIPA’s concerns also need to be put into the context of our broad U.S. commercial interests in a country that has the most advanced, productive and diversified economy in in Africa. South Africa has been the largest U.S. trade partner in Africa since 2014. U.S. goods and services trade with South Africa totaled an estimated \$18.9 billion in 2018, supporting an estimated 46,000 U.S. jobs in 2015 (latest data available). South Africa is a key regional investment destination for U.S. firms and more than 600 operate in the

country, often via local subsidiaries. U.S. foreign direct investment (FDI) in South Africa (stock) was \$7.3 billion in 2017, while South Africa has over \$4 billion in direct investments in the United States. Any efforts taken with the goal of improving intellectual property rights in South Africa need to be done in a way that does not jeopardize these substantial broader U.S. commercial interests.

The U.S.-Africa trade relationship is in a period of transition. African Growth and Opportunity Act (AGOA) preferences will expire in 2025 and the United States is still shaping what will come next. At the same time, the first phase of the African Continental Free Trade Agreement (AfCFTA) will come into effect on July 1, 2020. African governments have been keen to get American company views and input on the sectors that will be negotiated in the second phase, including IP rights, services and digital trade. As the AfCFTA helps integrate African countries into a broader, more harmonized and integrated economy, the African market is likely to become a much more important market for U.S. exports and investment. The AfCFTA will also shape the future of U.S. trade and investment relations after AGOA expires. South Africa will be a critical partner to ensure that our trading interests in Africa stay on a positive path over the longer term.

U.S. and domestic South African industry have engaged the South African government actively over the last several years to discuss their concerns about copyright protection and overall IPR issues in South Africa. In order to achieve one of its primary goals and continue to attract investment, South Africa needs to ensure that its intellectual property rights laws protect the rights of U.S. and other foreign businesses operating in the country. However, by threatening South Africa's GSP regime – and therefore its AGOA benefits – the USG would be responding in a disproportionate way to these proposed laws. This approach would undermine broader U.S. trade and commercial interests during a period when we need South African partnership more than ever. I urge USTR to take a balanced and proportionate approach on this issue, and to reject the IIPA petition's call to remove South Africa's GSP eligibility.

Sincerely,



Florizelle Liser

President and CEO

Corporate Council on Africa