



November 13, 2018

The Honorable Vishal J. Amin
United States Intellectual Property Enforcement Coordinator
Executive Office of the President
Washington, DC 20500

**Re: Request of the U.S. Intellectual Property Enforcement Coordinator for Public
Comments: Development of the Joint Strategic Plan on Intellectual Property
[Document No. 2018-19863; Docket ID No. OMB-FRDOC-0001-0233]**

Dear Mr. Amin:

The Motor & Equipment Manufacturers Association (MEMA) represents 1,000 vehicle suppliers that manufacture and remanufacture new original equipment and aftermarket components and systems for use in passenger cars and heavy trucks.¹ Our members lead the way in developing advanced, transformative technologies that enable safer, smarter, and more efficient vehicles, all within a rapidly growing global marketplace with increased regulatory and customer demands.

Vehicle suppliers are the largest sector of manufacturing jobs in the United States, directly employing over 871,000 Americans in all 50 states plus the District of Columbia. Together with indirect and employment-induced jobs, the total employment impact of the motor vehicle parts manufacturing industry is 4.26 million jobs. Nearly \$435 billion in economic contribution to the U.S. GDP is generated by motor vehicle parts manufacturers and their supported activity. In total, motor vehicle parts suppliers contribute more than 77 percent of the value in today's vehicles.

On behalf of this industry, I welcome the opportunity to provide these written comments as the U.S. Government develops its third Joint Strategic Plan on Intellectual Property Enforcement in accordance with the cited *Federal Register* notice of September 13, 2018.

Response to Request for Comments

Motor vehicle parts manufacturers continually innovate and develop new technologies making Intellectual Property Rights (IPR) protection critical to the sustained success of the industry and necessary to harbor continued research and development. The intellectual property and brands of a company are among its most valuable assets, while the value and strength of a brand is what makes it vulnerable to counterfeiters.

Suppliers are responsible for two-thirds of the value of today's vehicles, conduct a growing portion of the annual private expenditures on automotive research and development

¹ MEMA represents its members through four divisions: Automotive Aftermarket Suppliers Association (AASA); Heavy Duty Manufacturers Association (HDMA); Motor & Equipment Remanufacturers Association (MERA); and, Original Equipment Suppliers Association (OESA).



investment, and provide much of the intellectual capital required for the design, testing, and engineering of new parts and systems. This focus on innovation by motor vehicle parts suppliers and other industry stakeholders has led to a fleet of vehicles that are safer, more fuel efficient, and cleaner than ever before. These same vehicles also include any number of innovations that make vehicles more comfortable and enjoyable for drivers and passengers alike. However, this innovation comes at a cost; manufacturing and trafficking of counterfeit motor vehicle parts is a serious and growing problem.

MEMA applauds the IPEC's leadership in coordinating federal efforts to better protect intellectual property rights (IPR) in accordance with the Administration's Joint Strategic Plan. In addition to inter-agency coordination, it is critical that the Administration maintain an effective working relationship with Congress in order to enact any necessary legislation to protect IPR. A robust program to protect IPR is essential to support innovation of motor vehicle technologies as well as other sectors.

Strategic Recommendations

The following MEMA comments are in response to the specific issues raised in the IPEC's request for recommendations.

ENGAGEMENT WITH OUR TRADING PARTNERS

Negotiate Strong IPR Chapters in Bi-Lateral or Multi-Lateral Trade Agreements –

MEMA supports the Administration's goals of engaging with our trading partners to improve the protection of IP rights here and abroad. Comprehensive, rules-based agreements are critical to strong IPR protections and should eliminate forced technology transfer, discourage transshipment of counterfeit goods, and limit local advanced technology content rules. Trade agreements must include access to meaningful remedies for intellectual property (IP) theft such as encouraging enhanced laws for stronger punishment and enforcement, including the improving the market valuation of counterfeits based on genuine branded products instead of the value of manufacturing counterfeits to increase the likelihood of enhanced punishments for criminal activity.

MEMA has opposed the imposition of broad tariffs on a wide variety of products based on IPR infringement and violations. In many cases, the products subject to these tariffs are commodities and not technologies or products typically subject to IPR theft. Instead of broad tariffs, the Administration should consider targeted tariffs focusing on products and goods that are most at risk for IPR theft.

ENGAGEMENT AND PARTNERSHIP WITH THE PRIVATE SECTOR AND OTHER STAKEHOLDERS

Online Sales of Counterfeit Goods – Historically, online sales have not been a significant means of counterfeit parts entering the domestic or global marketplace. This is changing as China and other countries experience a phenomenal growth in e-commerce, resulting in an increase in counterfeit parts in the international online environment. Counterfeit goods,

offered as genuine brands, are more readily available online in the local market and globally because of the nature of the internet.

Online sales result in smaller orders and shipments of fake products. Instead of containers or pallets arriving at U.S. ports, which are subject to routine inspection, online orders typically are fulfilled individually. While these shipments are in containers with other individual packages, the nature of the small shipments creates challenges for U.S. Customs and Border Protection to identify and seize counterfeit product.

MEMA urges the IPEC to consider a task force or unit to focus on ecommerce, the unique threats from online sales and actions to mitigate counterfeit goods entering the country from individual shipments. MEMA also urges the IPEC to continue to seek solutions to strengthen IPR enforcement on the internet in order to prevent the initial sale of fake goods.

Public Awareness – Public awareness of the threat and danger posed by counterfeit goods – both economic threats and danger to public health and safety – must be a priority. In late 2014, the IPR Center published a Public Service Announcement (PSA) on the safety hazard presented by counterfeit auto parts. This PSA clearly demonstrates the U.S. government’s understanding of the need to increase public awareness about the harm counterfeit goods can cause. MEMA applauds these efforts to increase public awareness of the benefits of IPR and encourages the Administration to include public awareness and education efforts as a key part of the next Joint Strategic Plan. MEMA welcomes the opportunity to continue to partner with IPEC and enforcement agencies on this endeavor.

Additionally, MEMA urges the IPEC to consider greater efforts to publicize raids conducted by individual companies or groups of companies through shared channels of communication, including social media and other consumer tools. The supplier industry has found these raids can serve as potential deterrents to other counterfeiters and allow the industry to share information on known players, sometimes resulting in further tips or leads.

Industry Best Practices Developed in Coordination with IPEC – MEMA staff has worked to educate past IPEC detailees about the movement of counterfeit parts within the supply and distribution chains. MEMA recommends that the IPEC work with enforcement agencies and industry to collaborate in the development of best practices to combat the growing problem of copyright and trademark infringement. A permanent forum to nurture such collaboration should be considered.

Companies remain reluctant to divulge information relating to their infringed brands and marks. This reluctance is well known. MEMA recommends the government work with the private sector to form innovative partnerships to prevent brand damage while using private sector information to improve IPR enforcement. Existing public-private partnerships may help in developing such collaborative partnerships.

In almost every industry including the supplier industry, there are companies who lead in addressing IPR issues. MEMA encourages the IPEC to identify these companies and work with them to develop best practice standards and suggestions that could be easily integrated in training programs and guidelines for brand managers, supply chain personnel, etc.

Greater Enforcement Presence at Trade Shows – Each year, MEMA’s aftermarket division, the Automotive Aftermarket Suppliers Association (AASA) co-hosts a large trade show known as the Automotive Aftermarket Products Expo (AAPEX). Exhibitors at this show must agree to IPR rules outlining investigations into potential IPR violations and sanctions as outlined in show policies. Additionally, IPR attorneys are on site to investigate allegations. In recent years, representatives from the IPR Center have had exhibits educating show participants on the mission of the IPR Center. Through this participation by the IPR Center, MEMA member companies have increased their understanding of how to utilize IPR Center resources and what their rights are as IPR owners, both positive results. MEMA encourages IPEC to determine other industries for the enforcement agencies to partner with at trade shows.

Conclusion

The creation of the IPEC at the Office of Management and Budget (OMB) provided much needed leadership to better coordinate the federal government’s IPR enforcement efforts. Both the private sector and the government must continue to highlight the critical role IPR plays in the U.S. and global economy and find more effective ways to collaborate on the most pressing IPR issues. While the PRO-IPR Act has done much to improve domestic IPR enforcement, international challenges will continue to grow particularly with large developing economies. MEMA commends the government for pursuing higher IPR standards with our trading partners and urges the government to maintain its ambitious IPR objectives in the implementation of future trade agreements. Of note, the Asia-Pacific region is particularly important given the rapid growth taking place and the growing regional integration which also brings opportunity for IPR infringers.

MEMA appreciates the IPEC’s open engagement with the motor vehicle parts manufacturing industry and welcomes the opportunity to assist the government in helping to address the most important issues relating to IPR enforcement.

Please do not hesitate to contact Catherine Boland, vice president, legislative affairs, at 202-312-9241 or cboland@mema.org should you have questions or concerns after reviewing MEMA’s comments.

Regards,



Ann Wilson

Senior Vice President, Government Affairs