

Submission of the United States of America
To the Standing Committee on Trademarks, Industrial Designs and Geographical
Indications
June 3, 2011

The Delegation of the United States would like to offer suggestions as to how the informational session on secondary liability of trademarks on the Internet could be structured. This delegation would like the sessions to explore the different policy interests at play in order to better assist policy makers in evaluating the appropriate role of trademark law in the online environment.

More specifically, this delegation would like to see informational sessions that are optional for delegates and which do not unduly impinge on the current work of the Committee. For that reason, we envision sessions on various topics to be held on the margins of the SCT meeting. These sessions could be structured as one optional 5th day (or half day) covering multiples topics or a series of hour long sessions presented each day of the week of the SCT, during the lunch break or prior to the start of the day's work.

This delegation envisions three sets of stakeholders to present on various issues: 1) Internet intermediaries; 2) trademark owners; and 3) legal experts.

- I. Internet intermediaries operating in the sectors of social media, online marketplaces, search engines, domain name registries and registrars, and Internet service providers could discuss:
 - a. The roles they currently play in protecting trademarks.
 - b. The legal and regulatory provisions that allow and do not allow their businesses to grow.
 - c. The opportunity for collaboration between intermediaries and brand owners to ensure effective trademark protection.
- II. Trademark owners could discuss:
 - a. The challenges they face in protecting their marks in the online environment, including a discussion of the different challenges in the different environments (*i.e.*, social media vs. search engines vs. auction sites, *etc.*).
 - b. What mechanisms or collaborations at the national or international level might prove useful for trademark enforcement efforts.
- III. Legal experts could discuss:
 - a. How issues related to copyright might or might not be relevant for addressing online trademark infringement or counterfeiting.
 - b. How existing international mechanisms or national law provisions work to balance competing policy interests to ensure appropriate and fair trademark protection in the online environment.