July 9, 2026

The Honorable Jamieson Greer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Re: Follow-Up on 2026 Special 301 Report and Ongoing Concerns Regarding SEP Injunction Abuse

Dear Ambassador Greer:

Save Our Standards writes to respond to the recently released 2026 Special 301 Report and to reiterate concerns previously raised in coalition submissions regarding the increasing use of standard-essential patent (SEP) injunctions in certain foreign jurisdictions, particularly Germany and the Unified Patent Court (UPC). We are concerned that the report misidentifies the principal threat facing American manufacturing by criticizing legitimate fair, reasonable, and non-discriminatory (FRAND) rate-determination proceedings for SEPs while overlooking the harms caused by foreign courts that readily grant SEP injunctions without meaningful FRAND analysis or reviewing essentiality or validity. We respectfully urge USTR to acknowledge the value of judicial proceedings that enforce voluntary FRAND contractual commitments for SEP licensing and to recognize the barrier to market access posed by systems that permit abusive SEP holders to use injunction threats to extract above-FRAND licensing terms.

The Importance of Technical Standards and SEP Licensing

As we emphasized in our January and March 2026 letters, collaboratively developed technical standards promote interoperability, competition, and innovation across the global economy. Technical standards are particularly important to many critical areas of the American economy—including artificial intelligence, advanced manufacturing, connected vehicles, quantum technologies, and the Internet of Things—making SEP licensing practices a consequential issue for U.S. trade policy. SEP holders voluntarily contribute patents to those standards and make binding contractual commitments to license them on FRAND terms. Those commitments are essential to preserving confidence in the standards development process and ensuring that companies and manufacturers that do business in the U.S., who are among the most innovative in the world, can continue to invest in interoperable products and technologies.

The Problem Posed by Foreign SEP Injunctions

Unfortunately, certain foreign jurisdictions readily enable abusive SEP licensors to leverage injunctions and exclusionary orders to renege on their FRAND commitments and distort licensing negotiations. German courts and the UPC continue to issue injunctions for alleged SEP infringement without meaningful scrutiny of whether SEP holders have complied with their FRAND obligations, including whether the demanded terms are actually FRAND. These injunctions lead to product bans and disrupt manufacturing and distribution operations that can only be lifted if a manufacturer pays the SEP holder's unilateral demanded rate on global sales.

This creates significant market access barriers for manufacturers and product companies operating in the U.S. that seek to license and use standardized technologies. In practice, these foreign proceedings impose a difficult choice on companies – abandon the foreign market or enter into a global license with royalty terms that greatly exceed FRAND rates. These practices disproportionately harm companies doing business in the United States that make substantial long-term investments in research and development, supply chains, product design, manufacturing facilities, and workforce development—as well as American consumers, who are forced to pay higher prices for products or lose out on products when manufacturers leave the unpredictable markets. Consumers could also be forced to use products that may not be interoperable on a global scale.

Foreign Injunctions Threaten American Manufacturing and Technological Leadership

The problem of SEP injunctions is particularly harmful at a time when the Administration seeks to strengthen domestic manufacturing and maintain global leadership in emerging technologies. Foreign policies and legal frameworks that enable SEP abuse undermine these objectives.

SEP abuse can deter companies from adopting standardized features which ultimately increases the cost and time it takes to bring products to market. It also places American exporters at a competitive disadvantage by allowing foreign SEP licensors, including patent assertion entities, and foreign courts to impose excessive licensing costs and litigation risks on U.S. products sold abroad. Taken together, these foreign policies that enable SEP abuse are impacting American innovation and manufacturing.

American technological leadership and competitiveness depend not only on strong intellectual property protections, but also on balanced, predictable, transparent, and fair SEP licensing environments to encourage investment, manufacturing, competition, and product development across the innovation ecosystem. The SEP remedies that FRAND commitments are supposed to ensure balance the legitimate interests of SEP holders to seek reasonable royalties based on the value of their technology while incentivizing the companies that actually manufacture products to continue making significant upstream and downstream investments in innovation. This is the longstanding approach taken by U.S. courts that powers America's innovation economy.

The Role of USTR and the Special 301 Report in Solving This Problem

We appreciate USTR's engagement throughout the Special 301 process and the thoughtful questions posed by the Special 301 Subcommittee during the public hearing regarding standards and the impact of SEP disputes on U.S. competitiveness and innovation. However, we are concerned that by failing to address the ongoing threat to U.S. businesses, from the risks associated with German and UPC SEP enforcement practices in the 2026 Special 301 Report, USTR has missed an important opportunity to defend U.S. manufacturers' competitiveness, supply chain resilience and investment in standards-enabled industries.

We respectfully encourage USTR to continue examining how SEP injunctions in foreign jurisdictions pressure manufacturers into paying rates that are well in excess of FRAND rates. These policies deprive U.S. companies of fair market access guaranteed by FRAND commitments and international trade obligations and should be recognized as a barrier to trade.

We also respectfully encourage USTR to recognize the important distinction between the German courts' and UPC's SEP injunction practices and the United Kingdom's contract-based FRAND adjudication framework. As our prior submissions explained, U.K. courts generally seek to determine and enforce the terms of the voluntary FRAND commitments made by SEP licensors during standards development. This approach is fundamentally different from systems that permit injunctions without meaningful FRAND analysis. The U.K. inquiry aligns more closely with the balanced approach reflected in U.S. jurisprudence that rewards inventors based on the value of their invention and not based on the investments and innovation made by the manufacturer.

We appreciate USTR’s leadership on these important issues and welcome continued engagement with the agency as it evaluates the impact of SEP policies and enforcement practices on American innovators, manufacturers, workers, and consumers.

Sincerely,

Save Our Standards