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April 12, 2011

The Honorable Kevin Brady
Chairman
Subcommittee on Trade
Ways and Means Committee
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Brady,

RE: U.S.-Panama Free Trade Agreement

The International Trademark Association (INTA) wishes to express its support for the prompt approval of the pending Free Trade Agreement (FTA) with Panama. Consistent with practice in the United States and in many other countries worldwide, the Panama FTA includes important measures that will enable the more efficient protection of trademarks, which are key intellectual property assets to United States businesses. Congressional approval of this agreement would be significant for trademark owners as the FTA includes important requirements for Panama such as moving towards adherence to the Madrid Protocol and other important international agreements concerning intellectual property, calls for broadening and clarifying the scope of protection for well-known marks, non-traditional marks and geographical indications, and ending the mandatory recordation of trademark licenses.

INTA is a 133-year-old not-for-profit membership association of more than 5,700 trademark owners and professionals, from more than 190 countries, dedicated to the support and advancement of trademarks and related intellectual property as elements of fair and effective national and international commerce. INTA members share the common interest in the protection and development of trademark law and rely on INTA to represent their trademark interests in government affairs and to help promote those interests throughout the international community.

In recent years, INTA intensified its advocacy for the adoption by Latin American countries of both the Trademark Law Treaty (TLT), dealing with national office practice and procedures, and the Madrid Protocol, which facilitates the international registration of trademarks. Importantly, the FTA requires Panama to accede to the TLT and to make all reasonable efforts to ratify or

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accede to the Madrid Protocol. Although there are presently 83 contracting parties to the Madrid Protocol, only one Latin American country is a member. The Madrid Protocol is significant because it provides companies with the ability to simplify and increase their trademark protection by filing a single application in one language with a single set of fees.

Panama's membership to the Madrid Protocol would greatly benefit both American companies doing business in Colombia and Colombian exporters who want to protect their trademarks abroad with greater efficiency and minimal cost.

The Panama FTA also includes important provisions dealing with the scope of trademark protection to include famous and well known marks and Non-Traditional Marks such as sound and smells. Strong provisions were agreed also with regards to office practices establishing a clear framework for the registration of trademarks, including for opposition and cancellation proceedings. The trademark section includes major provisions that should serve trademark owners from the U.S. but also local trademark owners, in protecting their intellectual property rights.

One of the major problems for trademark owners deals with geographical indications in particular when there are no clear mechanisms to determine whether a GI should be granted protection. The Panama FTA provides clear language setting a framework for the procedures involved in the registration of geographical indications and establishes the proper relationship between geographical indications and trademarks.

Another challenge faced by trademark owners doing business in Panama is its burdensome license recordation requirement. Compliance with mandatory recordation is costly not only to small businesses but to larger companies with expanding product lines and multiple licenses. Failure to follow the procedures of recordation can result in the loss of substantive trademark rights. The Panama FTA specifically includes a provision that eliminates the recordation requirement for trademark licenses as a prerequisite for establishing license validity or asserting any trademark rights.

In sum, one of the main objectives of the Panama FTA is to strengthen intellectual property protection. With its implementation, trademark registration procedures in Panama would be streamlined and harmonized. Trademark owners, especially those working with limited budgets, would benefit from a simplified and standardized trademark system. The prompt approval by

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Congress of the Panama FTA is crucial to advancing the protection of trademarks. Therefore we respectfully urge the committee to act favorably on the measure.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Gerhard Bauer".

Gerhard Bauer

President