

Congress of the United States
Washington, DC 20515

April 3, 2008

The Honorable Susan Schwab
United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Schwab:

We write with regard to Israel's status on the United States Trade Representative (USTR) Special 301 Report for 2008. It is our understanding that the USTR has been encouraged to designate Israel on the Priority Watch List. While we recognize that concerns may have been raised with regard to Israel's intellectual property rights (IPR) laws, we firmly believe that this recommendation is unwarranted, and we therefore urge you to remove Israel from the Priority Watch List and the entire List altogether.

In recent years Israel has made great strides to update and improve its intellectual property laws relating to data exclusivity and patent term restoration. Data exclusivity is allotted for 5 ½ years from the date an innovative drug is first approved for use in a recognized country¹, or five years from the date of approval for use in Israel, whichever is earlier. This model is adapted from the North American Free Trade Agreement. A similar model has recently been acknowledged in the FTAs with Peru, Colombia and Panama. Patent term restoration is allotted for up to five years beyond the twenty-year patent term required under the most comprehensive multilateral agreement on IPR, the World Trade Organization agreement on Trade Related-Aspects of Intellectual Property Rights.

Israel's protections far exceed the current level of protection with regard to both data exclusivity and patent term restoration provided by many other countries on the Priority Watch List (PWL) or the Watch List (WL). In fact, at least four countries on the 2007 PWL lacked data exclusivity protections altogether. Furthermore, at least 23 of the countries on the 2007 WL and at least 8 PWL countries provide no patent term restoration protections.

Israel has made significant progress on data exclusivity by ensuring non-reliance for export. In October 2007, the Minister of Health's practice with respect to such non-reliance was codified and the new rules clarify that the conditions for exporting drugs from Israel are focused on good manufacturing practices.

¹ A "recognized country", as defined in the Pharmacists Regulations (Pharmaceutical Products), 1986, includes any one of the following countries: United States, Canada, the EU-15, Norway, Switzerland, Iceland, Japan, Australia and New Zealand.

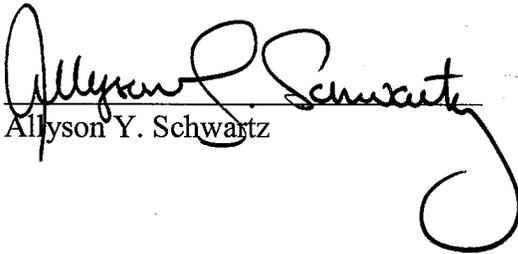
Israel made progress on copyright issues by enacting a new and modern copyright law in 2007. As a consequence, the International Intellectual Property Alliance recommended in its 2008 submission to the USTR to improve Israel's designation from the PWL to the WL.

Additionally, as you know, trade relations are an integral component of our strategic partnership with Israel. The United States entered into its first ever free trade agreement with Israel in 1985, and since then trade has been key to maintaining a mutually beneficial and strong U.S.-Israel relationship. We are concerned that Israel's designation on the Special 301 list impairs this trade relationship, and is ultimately detrimental to our relations with our most important ally in the Middle East. We are also concerned that the USTR's approach may also be detrimental to Israel's accession to the Organisation of Economic Co-operation and Development, which would be contrary to the unanimous support of Congress for Israel's candidacy.

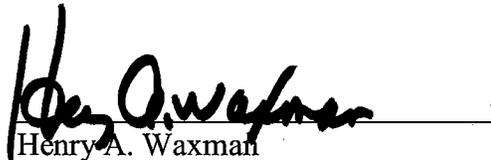
Therefore we respectfully request that Israel be removed from the USTR Special 301 Report. We would also like to take this opportunity to ask the USTR to provide Congress a rationale for its development of Special 301 standards for determining the adequacy and effectiveness of the intellectual property protections enforced by U.S. trading partners. Given our concerns over Israel's placement on the list, we are interested in ensuring that the development of the Special 301 Report is both transparent and fair.

Thank you for your consideration of our concerns and requests.

Sincerely,



Allyson Y. Schwartz



Henry A. Waxman



Brad Sherman



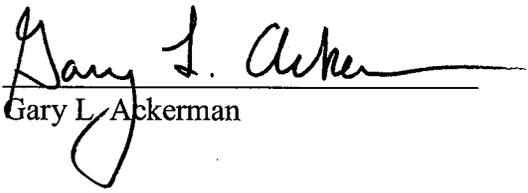
Ileana Ros-Lehtinen

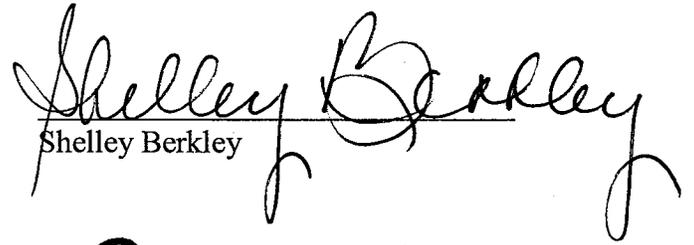


Rahm Emanuel

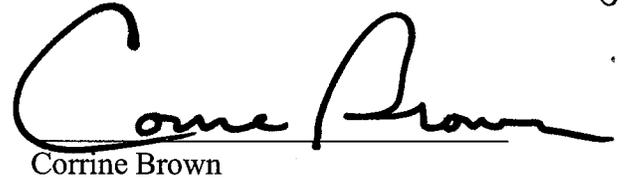


Joseph Crowley


Gary L. Ackerman


Shelley Berkley

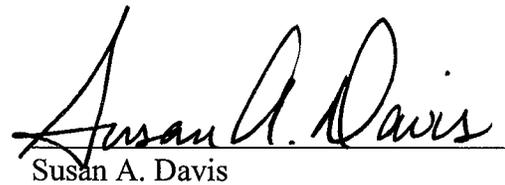

Earl Blumenauer

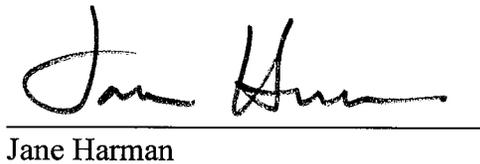

Corrine Brown


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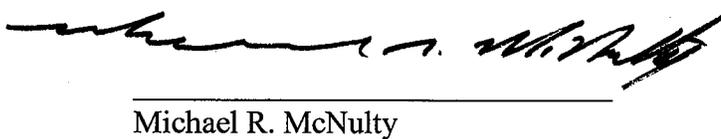

Susan A. Davis


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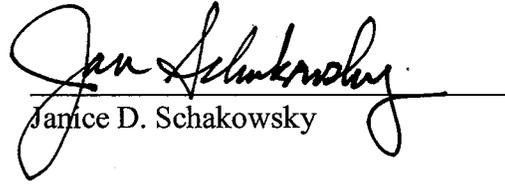

Michael R. McNulty


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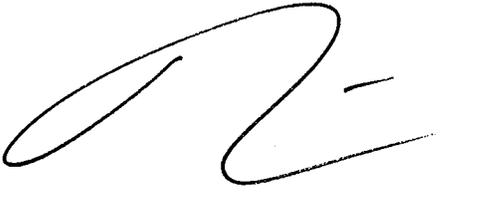

Debbie Wasserman Schultz



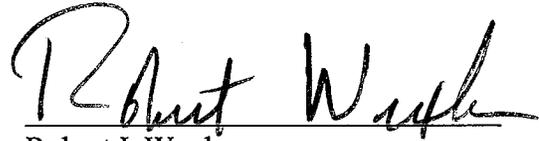
Steven R. Rothman



Janice D. Schakowsky



Anthony D. Weiner



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cc: The Honorable Condoleezza Rice, Secretary of State
The Honorable Carlos Gutierrez, Secretary of Commerce