

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Docket No. USTR-2026-0364

Initiation of Section 301 Investigation and Request for Public Comments: Vietnam's Acts, Policies, and Practices Related to Intellectual Property Protection and Enforcement

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Initiation of investigation; proposed determination; and request for comments.

SUMMARY: Pursuant to section 182(a)(2) of the Trade Act of 1974, as amended (Trade Act), the U.S. Trade Representative (Trade Representative) identified Vietnam as a priority foreign country due to Vietnam's denial of adequate and effective protection of intellectual property (IP) rights and its denial of fair and equitable market access to persons that rely on IP protection. Pursuant to section 302(b)(2) of the Trade Act, the Trade Representative is initiating a Section 301 investigation of the acts, policies, and practices of the Government of Vietnam related to IP protection and enforcement that resulted in the identification of Vietnam as a priority foreign country. The Office of the U.S. Trade Representative (USTR) proposes to determine that these acts, policies, and practices are actionable under section 301(b). USTR invites interested persons to submit written comments concerning the issues covered in the investigation.

DATES:

April 30, 2026: The Trade Representative identified Vietnam as a priority foreign country in the 2026 Special 301 Report.

May 29, 2026: The Trade Representative initiated a Section 301 investigation.

May 29, 2026: USTR will open the docket for submission of written comments.

July 2, 2026, at 11:59 p.m. EDT: To be assured of consideration, submit written comments by this date.

ADDRESS: Submit documents in response to this notice through the online USTR portal: <https://comments.ustr.gov/s/>.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning comments, contact the USTR Section 301 support line at (202) 395-5725. Direct all other questions regarding this notice to Megan Grimball, Chair of the Section 301 Committee, or Christina Olson, Senior Associate General Counsel, at (202) 395-5725.

SUPPLEMENTARY INFORMATION:

I. Identification of Vietnam as a Priority Foreign Country

Section 182 of the Trade Act (19 U.S.C. 2242) (“Special 301”) authorizes the Trade Representative to identify foreign countries that deny adequate and effective protection of IP rights or that deny fair and equitable market access to persons that rely on IP protection. In making Special 301 determinations, USTR chairs the Special 301 committee of the statutory, interagency Trade Policy Staff Committee (TPSC), which reviews information from many sources, including written submissions from the public and a public hearing, and makes recommendations to the Trade Representative on Special 301 country identifications.

Under section 182(b) of the Trade Act (19 U.S.C 2242), the Trade Representative shall only identify as “priority foreign countries” those foreign countries (1) that “have the most onerous or egregious acts, policies, or practices”; (2) whose acts, policies, and practices “have the greatest adverse impact (actual or potential) on the relevant United

States products”; and (3) that “are not entering into good faith negotiations, or making significant progress in bilateral or multilateral negotiations,” to provide adequate and effective protection for IP rights. Section 182 provides that identification of priority foreign countries shall take into account the history of IP laws and practices of the foreign country, including any previous identifications as a priority foreign country, and the history of efforts of the United States to achieve adequate and effective protection and enforcement of IP rights.

In the April 30, 2026, Special 301 Report, the Trade Representative identified Vietnam as a priority foreign country. The 2026 Special 301 review found that Vietnam has demonstrated a persistent failure to resolve long-standing concerns about IP protection and enforcement. USTR first approached Vietnam in 2020 with a proposal for an IP Work Plan to address issues identified in the 2020 Special 301 Report, which Vietnam minimally engaged on. USTR supplemented its outreach to address these long-standing IP protection and enforcement concerns by sending Vietnam a revised IP Work Plan proposal in 2023. However, Vietnam failed to make meaningful progress on these issues in subsequent bilateral engagement, as well as in recent negotiations for an Agreement on Reciprocal, Fair, and Balanced Trade. The 2026 Special 301 Report also finds that Vietnam’s weak IP protection and enforcement harms the industries reliant on IP protection both in Vietnam’s market and in other markets as well.

A full discussion of the basis for Vietnam’s designation as a priority foreign country is set out in the April 30, 2026, Special 301 Report, which may be found at <https://ustr.gov/sites/default/files/files/Press/Releases/2026/2026%20Special%20301%20Report.pdf>. A summary of the basis for identification is set out below.

The first ground for the Trade Representative's identification of Vietnam as a priority foreign country is the failure to provide persistent and effective enforcement to combat online piracy. The United States has repeatedly raised strong concerns about Vietnam's role in online piracy worldwide. Vietnam remains a significant source of online piracy and continues to host popular English-language copyright infringement sites and services that target a global audience. Some of these sites provide piracy services, including extensive libraries of pirated movies and TV shows. A locally popular cyberlocker offering such services operates within Vietnam. The operators of these sites and services likely based themselves in Vietnam because Vietnam's IP enforcement efforts have historically lacked the follow-through and substantial penalties needed to deter infringement. Stakeholders report that Vietnam has the highest incidence of online piracy in the Asia-Pacific region, has high levels of music piracy, and is ranked eighth in the world for piracy of certain mobile video games.

Despite Vietnam having criminal laws that provide for substantial fines and years of incarceration for copyright infringement, the defendants in recent criminal prosecutions received suspended sentences and were only ordered to pay relatively low financial penalties. Other obstacles to effective criminal enforcement in Vietnam include the lack of clarity regarding the threshold for criminal enforcement under amendments to the *2015 Penal Code*, including the proof required to meet that threshold, and regarding how to handle intangible evidence, such as digital assets and domain names. Vietnam's continued reliance on administrative enforcement actions over civil or criminal enforcement has been another long-standing concern, particularly as administrative enforcement does not have the same deterrent effect as civil remedies and criminal

penalties. Right holders face informal pressure from enforcement authorities to submit complaints for administrative enforcement proceedings instead of directly pursuing civil enforcement or obtaining a referral for criminal enforcement.

The second ground for Vietnam's identification as a priority foreign country is the failure to provide sufficient enforcement against widespread counterfeiting. Counterfeit goods—both locally manufactured and imported—remain widely available and openly sold in physical markets, which persist in major urban and tourist centers. Counterfeit goods are widespread and increasingly sold through e-commerce platforms and through the use of livestream videos. Stakeholders report the dangerous spread of fraudulent listings on e-commerce platforms for counterfeit products with health and safety risks, such as counterfeit milk, food, and supplements.

In 2025, Vietnam underwent a significant reorganization of its government, and stakeholders report that this transition has resulted in gaps in enforcement that counterfeit sellers have exploited. Even with multiple enforcement campaigns, administrative enforcement in physical markets and online markets decreased in 2025, with the number of violations found by Vietnamese authorities involving IP-infringing goods and goods of unknown origin or inferior quality declining by 50 percent compared to 2024. Vietnam's continued reliance on administrative enforcement actions over civil or criminal enforcement has been a long-standing concern, particularly as administrative enforcement does not have the same deterrent effect as civil remedies and criminal penalties. Weak enforcement against counterfeiting has also been due to poor coordination among ministries and agencies responsible for enforcement, delays in initiating enforcement

actions, and the lack of familiarity with trademark law among police, prosecutors, and judges.

The third ground for Vietnam's identification is the lack of effective border enforcement, including failure to utilize *ex officio* authority for IP seizures and lack of *ex officio* authority over in-transit goods. Vietnam's Department of Customs has demonstrated a lack of consistency in enforcement at the border over the years, and some stakeholders report a lack of transparency and communication. Notably, the Department of Customs has possessed *ex officio* authority to suspend customs procedures for suspected pirated and counterfeit goods at the border since the 2022 amendments to the *Intellectual Property Law* but has rarely exercised that authority. Moreover, Vietnam's laws and decrees do not provide this authority with respect to in-transit goods.

The fourth ground is the lack of enforcement actions against unlicensed software use. Vietnam has been recognized by stakeholders as a rapidly growing technology hub in the region. At the same time, Vietnamese authorities reportedly have not conducted significant enforcement against the use of unlicensed software by corporate end users in the past three years. The lack of deterrence has resulted in widespread use of unlicensed software.

The fifth ground is the lack of criminal measures against cable and satellite signal theft. Although Article 35 of Vietnam's *Intellectual Property Law* was amended in 2022 to define infringement of related rights with respect to the unauthorized decoding of encrypted program-carrying satellite signals, the corresponding provision in Vietnam's *Criminal Law* has not been amended to provide criminal penalties with respect to such

signals. The *Intellectual Property Law* and *Criminal Law* also do not expressly address cable signal theft.

II. Initiation of Section 301 Investigation

Under Section 302(b)(2) of the Trade Act (19 U.S.C. 2412(b)(2)), the Trade Representative shall initiate an investigation under Chapter 1 of Title III of the Trade Act (commonly referred to as “Section 301”) with respect to any act, policy, or practice that was the basis of the identification of a country as a priority foreign country under section 182 of the Trade Act (19 U.S.C. 2242). Section 302(b)(2) provides exceptions where such acts, policies, and practices are already subject to investigation or action under Section 301, or where an investigation would not be in the national economic interest.

Pursuant to Section 302(b)(2), and taking into account the advice of the Special 301 committee of the TPSC and appropriate advisory committees, on May 29, 2026, the Trade Representative initiated a Section 301 investigation of the acts, policies, and practices of Vietnam related to IP protection and enforcement that resulted in the priority foreign country identification.

The investigation will examine whether these acts, policies, and practices of Vietnam are actionable under section 301(b) of the Trade Act (19 U.S.C. 2411(b)), and, if so, what action the Trade Representative should take under Section 301(b). Acts, policies, or practices of a foreign country are actionable under section 301(b) if they are unreasonable or discriminatory, and burden or restrict U.S. commerce. Under section 301(d)(3)(B)(i)(II) of the Trade Act (19 U.S.C. 2411(d)(3)(B)(i)(II)), unreasonable acts, policies, or practices include any act, policy, or practice which denies fair and equitable provision of adequate and effective protection of IP rights, notwithstanding the fact that

the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).

Furthermore, under section 301(d)(3)(B)(i)(III) of the Trade Act (19 U.S.C. 2411(d)(3)(B)(i)(III)), unreasonable acts, policies, or practices also include those which deny fair and equitable nondiscriminatory market access opportunities for persons that rely upon IP protection.

Pursuant to Section 303(a) of the Trade Act (19 U.S.C. 2413(a)), USTR is requesting consultations with the Government of Vietnam. Because the issues under investigation do not involve a trade agreement, the request for consultations does not involve formal dispute settlement procedures under a trade agreement.

If the Trade Representative determines that unreasonable or discriminatory acts, policies, and practices exist that burden or restrict U.S. commerce, the Trade Representative also will determine under Section 304(a)(1)(B) (19 U.S.C. 2414(a)(1)(B)) what action, if any, to take.

Section 304(a)(3)(A) of the Trade Act (19 U.S.C. 2414(a)(3)(A)) provides that in an investigation initiated pursuant to a priority foreign country designation, and not involving a trade agreement, the Trade Representative shall make the determinations under section 304(a)(1)(A) and (B) no later than six months after the date of initiation. Under Section 304(a)(3)(B) (19 U.S.C. 2414(a)(3)(B)), in certain circumstances the Trade Representative may extend the investigation for an additional three months.

III. Proposed Determination on Actionability

In light of Vietnam's persistent failure to resolve long-standing concerns about IP protection and enforcement, and its identification as a priority foreign country in the

Special 301 process, the Trade Representative proposes to determine that the acts, policies, and practices of the Government of Vietnam related to IP protection and enforcement that resulted in the identification of Vietnam as a priority foreign country are actionable under section 301(b) (19 U.S.C. 2411(b)).

IV. Request for Public Comments

USTR invites comments regarding:

- The acts, policies, and practices described in Section I above.
- Information on other acts, policies, and practices of Vietnam related to the denial of adequate and effective protection of IP rights and the denial of fair and equitable market access to persons that rely on IP protection.
- Whether the acts, policies, and practices of Vietnam are unreasonable or discriminatory.
- Whether the acts, policies, and practices of Vietnam burden or restrict U.S. commerce, and if so, the nature and level of burden or restriction on U.S. commerce.
- Whether the acts, policies, and practices of Vietnam are actionable under section 301(b) of the Trade Act, and what action, if any, should be taken, including tariff and non-tariff actions.

To be assured of consideration, USTR must receive written comments by 11:59 p.m. EDT on July 2, 2026. Additional instructions on how to submit written comments are provided below in Part V.

V. Submissions Instructions

Interested persons must submit written comments using the appropriate docket on the portal at <https://comments.ustr.gov/s/>. To make a submission, use the docket on the

portal entitled 'Request for Comments on the Section 301 Investigation Regarding Vietnam's Identification as a Priority Foreign Country,' docket number USTR-2026-0364.

You do not need to establish an account to submit comments. The first screen allows you to enter identification and contact information. Third party organizations such as law firms, trade associations, or customs brokers should identify the full legal name of the organization they represent and identify the primary point of contact for the submission. Information fields are optional. However, USTR may not consider your comment if insufficient information is provided. Fields with a gray Business Confidential Information (BCI) notation are for BCI information that will not be made publicly available. Fields with a green (Public) notation will be viewable by the public. After entering the identification and contact information, you can complete the remainder of the comment, or any portion of it, by clicking 'Next.' You may upload documents at the end of the form and indicate whether USTR should treat the documents as business confidential or public information. Any page containing BCI must be clearly marked 'BUSINESS CONFIDENTIAL' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that the information would not customarily be released to the public. Parties uploading attachments containing BCI also must submit a public version of their comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact the USTR Section 301 support line at (202) 395-5725 to discuss whether alternative arrangements are possible. USTR will post attachments uploaded to the docket

for public inspection, except for properly designated BCI. You can view submissions on USTR's electronic portal at <https://comments.ustr.gov/s/>.

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Office of the United States Trade Representative.