Section 301 Exclusion Request
Hearing Testimony

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Good afternoon. I am Andy Binder, General Manager of Office Supplies Solutions at HP. I have been with the company for 29 years, serving in various engineering, sales and marketing roles. I appreciate the opportunity to testify today regarding the impact that certain of the proposed tariffs would have on HP's technology leadership and alternative solutions that can achieve the same result without the unintended negative consequences of broad based tariffs. HP's print business is an IP intensive business and the company's substantial R&D and IP investments have helped build long term economic value and jobs. Infringers, and cloners who either steal HP's IP or infringe it as a means of providing cheaper rip-offs have posed an ongoing challenge. In this regard, we are very supportive of efforts to curb these abuses. We are concerned, however, that the proposed tariffs would actually help cloners and infringers, and, thus, are seeking a few HTS exclusions related to ink and toner cartridges.

HP is the worldwide leader in the design, manufacture and sale of printing systems. Starting with our innovations in thermal inkjet printing, we developed our industry-changing LaserJet brand of laser printers, which are now ubiquitous in homes and offices around the world. Our technology leadership in print has been enabled by our significant investments in innovation. HP invests hundreds of millions of dollars in research and development on imaging and printing every year resulting in 19,000 patents worldwide related to various aspects of its ink and laser-based printer technology. A significant portion of this investment is in our print-related R&D facilities located in California, Idaho, Oregon, and Washington, which together support thousands of high-paying U.S. jobs.

We therefore appreciate USTR's commitment to assuring a level playing field for IP-intensive industries globally given the importance of IP development, protection, and enforcement to our business.

HP's business would be adversely impacted by a number of the proposed broad-based tariffs because it would still allow products tainted by IP violations to enter the U.S. market. Such tariffs would not distinguish between legitimate and illegitimate goods (those that infringe on the IP rights of US companies) and therefore would indiscriminately raise prices for all customers. Ironically, an across-the-board tariff would make these illegitimate products more accessible and attractive relative to the innovative products that customers might otherwise purchase. Frankly, for the printing supplies industry these tariffs will do more damage to consumers and intellectual property rights holders, like HP, than it will to the IP infringing products coming from China. Such a result would conflict with the Administration's goal of

minimizing "consumer impact"[1] and would not be "effective" in advancing the goals of the Section 301 investigation.[2]

We have certainly encountered IP-related challenges in China; however, we don't view broad-based tariffs as the most effective response. Alternatively, we have found Section 337 of the Tariff Act of 1930 to be a more effective tool because they completely exclude patent-infringing imports from the U.S. market. At least with respect to the printer supplies industry, HP and others in our sector have been successful in combatting IP violations by using Section 337. In 2011, through several cases brought against Chinese firms, HP obtained exclusion orders that are still in effect today. These orders block imports that infringe our patents for ink containers and printheads. A number of other printer technology companies have also used Section 337 actions successfully in recent years.

Based on our experiences to date, and those of others in our industry, IP violations in the printer supplies sector have been effectively remedied through Section 337 actions. We are committed to continuing to invest the resources to pursue such a targeted approach. To avoid unintended consequences on HP's technology leadership, consumers and efforts to stop IP theft, HP respectfully requests that the Administration exclude the ink and toner cartridges specified in our submission from the proposed tariff list, and encourage the expanded utilization of the trade remedies already provided under Section 337 to exclude IP infringing products into the US market.

On behalf of HP, we appreciate the Administration's consideration of our request.

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[1] *Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 14,906, 14,907 (Apr. 6, 2018).

[2] *Id.* at 14,908.