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| Mr. Daniel Lee  Assistant U.S. Trade Representative for Innovation and Intellectual Property  Office of the United States Trade Representative  600 17th St., NW  Washington, DC 20508  7 March 2023  **Responses to the Written Questions from the Special 301 Subcommittee of the Trade Policy Staff Commmitee, The Football Association Premier League Limited for the 2023 Special 301 Review**  **(Docket No. USTR-2022-0016)** |

Dear Mr Lee,

**Questions**

1. Your submission notes that “recent changes in [China’s] amended Copyright Law appear positive, [but] in [your] experience there is still minimal proactive enforcement action being taken by Chinese authorities to address issues of infringement . . . .” Please specify what amendments to China’s Copyright Law you found positive. What specific additional enforcement actions do you recommend Chinese authorities take to address infringement?
2. Regarding Thailand, your submission observes that there remains a “shortage of deterrent prosecutions and sanctions following raids.” Can you be more specific as to whether your concerns are with the lack of criminal prosecution actions undertaken by the public prosecutors in the Office of the Attorney General, or is it with, in your view, the lack of deterrent sentencing and imposition of deterrent penalties in such cases by the Thai Central Intellectual Property and International Trade Court, or both?
3. In your submission, you describe difficulties in progressing a case through the legal system in Argentina. Do these challenges derive from deficiencies in the law, judicial system, or other something else? Please provide more details.
4. Regarding Vietnam, your submission cites as an example of the lack of coordination among ministries and agencies responsible for enforcement, a criminal complaint filed in August 2020, which “has since been moved between various law enforcement bodies and has still yet to be meaningfully progressed.” Can you provide more specifics as to the current status of this complaint and with which Government agency it is currently pending, as well as which other law enforcement agencies have been involved in reviewing or handling it?
5. Your submission describes EVPAD, and a footnote cites a website indicating it is located in Hong Kong. Does EVPAD operate out of Hong Kong? Where does the manufacturing occur?

1. You mention that local rights owners in Iraq tried to raise concerns to the government about notorious markets such as Shabakaty and Chaloos. Do you have more detailed information about these efforts and the government’s response?

**Responses**

1. There have been multiple amendments to the Copyright Law that should benefit sports rights owners such as the Premier League, including:

i. the introduction of a new concept of audiovisual work[[1]](#footnote-2) that expanded the scope of the old concept ‘cinematographic work’ by weakening the ‘fixed’ requirements; accordingly, cases based around the unauthorised live streaming of sport should no longer be as dependent on the discretion of judges considering other protections, such as unfair competition or neighbouring rights;

ii. the expansion of the broadcasting right to include both ‘wired’ and ‘wireless’ means[[2]](#footnote-3); and

iii. a clarification of the scope of broadcasting organisations’ rights which essentially means that the unauthorised live broadcasting of sports may now infringe the rights of both the broadcaster and the sports rights owner[[3]](#footnote-4).

However, in the Premier League’s experience, any legislation needs to be enforced through impactful and swift actions against all parties involved in the piracy ecosystem, which dismantle the operations and lead to sufficient deterrent sanctions to reflect the severity of infringement.

This should include (but not be limited to) those responsible for manufacturing illicit streaming devices for distribution around the world, for which China has become a key source. Although the Premier League understands that the apps often loaded on the devices are related to and/or developed by the manufacturers themselves (for example because the apps will only function on those hardware devices, as is the case with EVPAD devices), it is often very challenging to secure the requisite evidence to prove this. As a minimum, manufacturers should also therefore be required to provide clear, verified and up-to-date identity and contact information for themselves and any providers of apps pre-installed on their devices or own-branded app stores. Those operating their own app stores should also at least take steps to expeditiously remove any apps reported to them as infringing legitimate IP rights.

2. The concern is predominantly the speed at which cases are progressing through law enforcement to the public prosecutors and the courts. The Premier League has had a number of cases with law enforcement for several years following raids and, as far as we are aware, those cases are still yet to be referred to the public prosecutor. Although we of course greatly appreciate the support of law enforcement in carrying out the raids, it is also vital to deter operators and consumers of pirate services through subsequent prosecutions and associated sanctions.

3. The Premier League has been advised that the challenges described are caused by the application of the law rather than deficiencies in the law itself. For example, there appears to be insufficient experience and inclination within the judicial system to prioritise combatting IP infringement, together with an unwillingness to pursue novel actions in the jurisdiction.

4. Unfortunately the Premier League has been advised that disclosing specific details could jeopardise ongoing investigations. However, the Premier League can confirm that the case has been considered by at least three different law enforcement bodies since it was filed in 2020 but is still pending further investigations before any enforcement action will be taken. Howev

5. The website link provided is to a reseller of EVPAD devices. EVPAD operates through a wide network of resellers based in many territories around APAC including Hong Kong, Singapore and Malaysia. The Premier League’s investigations point to Shenzhen, China as the manufacturing source for the devices.

6. As the Premier League has not itself been directly involved in attempts to pursue enforcement action against the services in question, we are unable to provide further specific details.

Please let us know if the Premier League can assist any further.

Yours sincerely,



The Football Association Premier League Limited

1. Article 3, Copyright Law of the People’s Republic of China (<https://www.natlawreview.com/article/china-s-national-people-s-congress-releases-translation-amended-copyright-law#:~:text=The%20amended%20Copyright%20Law%20is,civil%20fines%20for%20copyright%20infringement>.) [↑](#footnote-ref-2)
2. Article 10, item 11, Copyright Law of the People’s Republic of China [↑](#footnote-ref-3)
3. Article 47, Copyright Law of the People’s Republic of China [↑](#footnote-ref-4)