

# The Trans-Pacific Partnership Agreement

Your guide to copyright in the TPP

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## Leaked Texts & Negotiator Info

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### Leaked IP Chapter Proposals from February 2011

- US: [pdf form](#), [KeepTheWebOpen Forum](#)
  - [New Zealand](#)
  - [Chile](#)
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### Leaked IP Chapter Proposals from July 2012

- US and Australia, counter-proposal by New Zealand, Chile, Malaysia, Brunei, and Vietnam: [KEI](#)
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## Information from the US Government

- [USTR TPP website](#)
  - [USTR's outline of the TPP](#)
  - [USTR's TPP blog](#)
  - [Congressional Research Service TPP Report, September 2012 \[pdf\]](#)
  - [Congressional Research Service TPP Report, December 2011 \[pdf\]](#)
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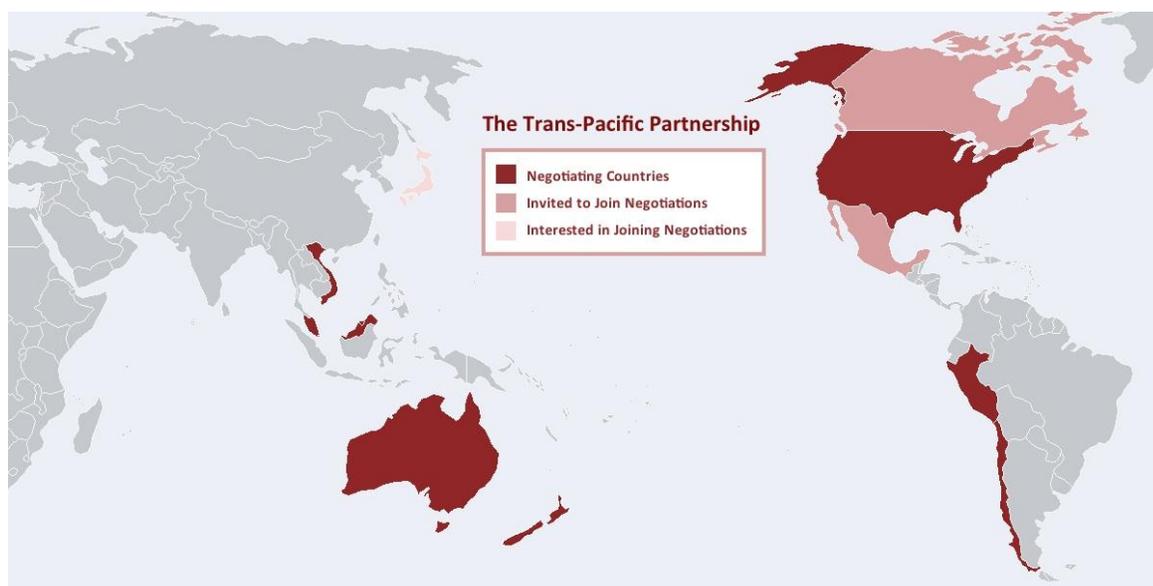
## Information from Other TPP Governments

- [Australia](#)
- [Brunei](#)
- [Chile](#)
- [Malaysia](#)
- [New Zealand](#)

The Trans-Pacific Partnership Agreement ("TPP") is a free trade agreement currently being negotiated by nine countries: The United States, Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam. Although the TPP covers a wide range of issues, this site focuses on the TPP's intellectual property (IP) chapter.

The TPP suffers from a serious lack of transparency, threatens to impose more stringent copyright without public input, and pressures foreign governments to adopt unbalanced laws.

Many of the same special interests that pushed for legislation like SOPA and PIPA have special access to this forum—including privileged access to the text as well as US negotiators.



Excessive copyright rights and enforcement adversely affect that ability of creators to create content, the ability of technology companies to make innovative products, and that ability of users to use content in new ways.

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## Why you should care about the TPP

# Problems with the TPP Negotiation Process

- **The TPP needs transparency.** The TPP countries have not released any texts or negotiating positions to the public. The only information the public has about the contents of the TPP intellectual property chapter is from a leaked draft US proposal from February 2011.
- **The TPP needs public input.** The TPP intellectual property chapter isn't limited to provisions on trade and tariffs—it would implement substantive provisions of copyright law, which affects users, technology companies, and creators. Despite this, the US hasn't meaningfully tried to inform or engage the public. Only large companies—not public interest advocates—are allowed to view and influence the US's negotiating positions.

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## Building Balanced Copyright in the TPP

It's hard to know the full extent of the harms the TPP's copyright provisions may pose to the public interest, because the public has been kept in the dark. Based on a US draft that leaked in February 2011, Public Knowledge can identify a number of proposals that would have adverse consequences for consumers and should be removed from the TPP or modified. The actual text of the TPP may be far worse, but it is impossible to know until the text is released to the public.

- **The TPP should not protect incidental copies.** The TPP would provide copyright owners power over “buffer copies”—the small copies that computers need to make in the process of moving data around. With buffer copy protection, many more transactions would require a license from the copyright owner and many more uses would expose consumers to liability.
- **The TPP should not prohibit breaking digital locks for legal uses.** The TPP would prevent users from breaking digital locks (known as DRM), even if users intend to make non-infringing uses of the protected work.
- **The TPP should not criminalize small-scale copyright infringement.** The TPP could make downloading music a crime. Police could seize a computer as a device that aids this offense and send the end-user to jail for downloading. The TPP's criminal rules go beyond US law and would impose similar rules on other countries.
- **The TPP should not kick people off the internet.** The TPP would encourage ISPs to institute measures like “three strikes”—which kicks users off their internet connection after three infringement accusations—and deep packet inspection.
- **The TPP should include limitations and exceptions to copyright.** The leaked proposal has no limitations and exceptions, to uses such as fair use, use by libraries preservation, and use of works in accessible formats by the disabled. The draft only has a placeholder where these provisions may be added later. The public has received no assurance that the TPP now includes limitations and exceptions necessary to balance the interests of users and copyright owners.

### TPP Timeline

**Timeline of the Trans-Pacific Partnership**

2006		Original TPP goes into effect, joined by Brunei, Chile, New Zealand, and Singapore.
2008	March	US joins negotiations for a new TPP.
	September	President Bush notifies Congress of intent to negotiate with current TPP members.
2009	December	President Bush notifies Congress of intent to negotiate with Australia, Peru, and Vietnam.
	January	USTR asks for public comments on the US's negotiating position for the TPP.
	March	- First negotiations scheduled for the new TPP, but postponed due to new US administration. - Parties submit comments on the US's TPP negotiation position to the USTR.
	November	- President Obama announces intent to engage on the TPP to achieve economic integration and increase US exports. - US Trade Representative (USTR) Ron Kirk pledges to work in close consultation with Congress and stakeholders in the US.
	November-December	USTR staff brief the Senate Finance and House Ways and Means Committees, as well as the House Asia-Pacific Economic Cooperation (APEC) Caucus, on the TPP.
2010	December	USTR officially notifies Congress of the US's intent to enter into negotiations on the TPP. USTR asks for public comments on the TPP.
	January	- 28 members of the House Trade Working Group ask the USTR for an initial briefing and ongoing consultation on the TPP negotiations. - Parties submit public comments on the TPP to the USTR.
	February	USTR updates the House Ways and Means Committee and Senate Finance Committee on its briefings with Industry Trade Advisory Committees (ITACs) and stakeholders and on public comments submitted to the USTR.
	March	<b>1<sup>st</sup> round of negotiations in Melbourne, Australia.</b> Parties exchange views, agree to gather information and draft papers, and discuss including more countries.
	June	<b>2<sup>nd</sup> round of negotiations in San Francisco, California.</b> Parties discuss agreement's architecture and the relationship between the TPP and existing Free Trade Agreements (FTAs).
	October	- <b>3<sup>rd</sup> round of negotiations in Brunei Darussalam.</b> Parties focus on preparation of consolidated texts and proposals for cooperation. - USTR notifies the Speaker of the House and Senate President that Malaysia has joined the TPP negotiations.
	December	- <b>4<sup>th</sup> round of negotiations in Auckland, New Zealand.</b> Parties' working groups met to work toward creating text for individual TPP chapters. - <b>Leak:</b> Document explaining New Zealand's position for the TPP intellectual property chapter is leaked. - <b>Leak:</b> List of goals for the TPP written by a group representing the Pharmaceutical Research and Manufacturers of America (PhRMA), the US Chamber of Commerce, and the Motion Picture Association of America (MPAA) is leaked.
	February	- <b>5<sup>th</sup> round of negotiations in Santiago, Chile.</b> Parties took part in issue-specific seminars, agreed to request improvements in their initial tariff offers, and sought to narrow differences in countries' proposed legal texts. - <b>Leak:</b> Draft text of the US proposal for the TPP's intellectual property chapter is leaked. - <b>Leak:</b> Draft text of the New Zealand proposal for the TPP's intellectual property chapter is leaked. - Chile submits considerations for the TPP IP chapter.
	March	<b>6<sup>th</sup> round of negotiations in Singapore (extended length).</b> Parties consolidate some texts and propose new texts.
	June	<b>7<sup>th</sup> round of negotiations in Ho Chi Minh City, Vietnam (extended length).</b> Negotiations continue; the US and other countries table new texts in a number of areas, including intellectual property. Parties agree to intensify intersessional work.
2011	June-July	US sends negotiating teams to Hanoi, Vietnam, and Kuala Lumpur, Malaysia to identify issues for the next round of negotiation and seek agreement on those issues.
	September	- <b>8<sup>th</sup> round of negotiations in Chicago, Illinois.</b> Parties establish consolidated texts for most TPP chapters. The TPP's customs, technical barriers to trade, telecommunications, and government contracts move toward closure. - USTR releases a white paper entitled "Trade Enhancing Access to Medicines"
	October	<b>9<sup>th</sup> round of negotiations in Lima, Peru.</b> Parties continue negotiations and move toward closure on a number of chapters.
	November	TPP negotiators release a report to APEC leaders with broad outlines of the agreement.
	December	- <b>10<sup>th</sup> round of negotiations in Kuala Lumpur, Malaysia.</b> The parties only negotiate intellectual property, rules of origin, services, and investment, in addition to some bilateral negotiations. Parties discuss a roadmap for finishing negotiations. - Deputy USTR testifies on the TPP before the House Ways and Means Committee Subcommittee on Trade.
2012	February	- <b>Intersessional meeting in Los Angeles, California.</b> - Civil society groups arrange an informational presentation for delegates, but the groups' venue is cancelled by the hotel because it would be too close to the intersessional meeting.
	March	<b>11<sup>th</sup> round of negotiations in Melbourne, Australia.</b> Parties continued to negotiate on a broad range of issues.
	April	Intersessional meetings on intellectual property, the environment, financial services, government contracts, investment, labor, rules of origin, and technical barriers to trade.
	May	<b>12<sup>th</sup> round of negotiations in Dallas, Texas.</b> Parties closed discussion on small- and medium-sized enterprises and moved toward closure on regulatory coherence, regional supply linkages between TPP countries, and promoting development. Parties discussed goods, services, investment, telecommunications, e-commerce, customs, intellectual property, labor, environment, competition, and tariff packages.
	June	US invites Mexico and Canada to join the TPP after receiving assurances that the countries would be willing to meet the standards of the agreement. Mexico and Canada will likely not be able to negotiate or observe negotiations until late 2012.
	July	<b>13<sup>th</sup> round of negotiations in San Diego, California.</b> US announces that it has tabled a new proposal for copyright limitations and exceptions.
	August	<b>Leak:</b> draft text of US and Australia copyright limitations and exceptions is leaked, along with counterproposal by New Zealand, Chile, Malaysia, Brunei, and Vietnam.
	September	<b>14<sup>th</sup> round of negotiations in Leesburg, Virginia.</b>
	December	<b>15<sup>th</sup> round of negotiations anticipated.</b> Canada and Mexico expected to join the negotiations.

The US entered into negotiations for a regional trans-pacific trade agreement in March 2008. As of mid-2012, there have been 13 rounds of secretive negotiations, 5 leaks of proposed text, and very little involvement of the public.

Everything we know about the TPP, we know from leaks. The negotiators have not once willingly given the public, or public interest organizations, any information.

The schedule for negotiation has recently accelerated in order to bring the agreement to a close. The process has become more and more closed—stakeholder forums, which were more common toward the beginning of the process, have now been replaced with “stakeholder tables” – a table staffed by interested stakeholders to which negotiators may or may not go. The negotiators are also holding off-the-record "*intersessional*" meetings between official sessions.

### **Links to Public Knowledge:**

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