



Mexico City, April 30<sup>th</sup>, 2025

## 301 List: between intellectual property and U.S. economic interest

Each year, the Office of the United States Trade Representative (USTR) publishes the annual "Special 301 Report". The 301 Report presents the latest developments related to intellectual property in the issuing country and also identifies countries that, in the US government's judgment, do not provide adequate or effective protection for the intellectual property rights of their nationals. In the midst of ongoing trade tensions between the United States and the international community, it should be kept in mind that its reference to external countries is mainly intended as a means of economic and diplomatic pressure.

The report classifies the observed countries into two levels:

**1. Watch List:** This list brings together countries with certain deficiencies in the protection or enforcement of intellectual property rights that merit close monitoring.

**2. Priority Watch List:** Includes countries with the most serious intellectual property deficiencies that require immediate attention by the USTR.

Mexico had been on the "Watch List" for 20 continuous years. That is, since 2004. However, in the 2025 edition of the 301 Report, our country was included in the Priority Watch List. As the main cause, it points to the lack of effective mechanisms for the enforcement of the Federal Copyright Law and the Federal Law for the Protection of Industrial Property, as well as the lack of updated secondary regulations that are far from providing certainty in the protection of rights over intangible assets. More specifically, it refers to a negative impact on the pharmaceutical sector, plant varieties, trademark and copyright infringements through physical merchandise and in the digital sphere (*streaming*).

While some of these concerns may be shared by Mexican rights holders and other jurisdictions, the insistence on certain issues reveals specific economic interests, such as privileged access of U.S. companies to key markets.

Far from being an impartial exercise in international monitoring, the 301 List has shown to be a tool of economic diplomacy. The United States uses this list to pressure its trading partners, including Mexico, to favor its creative, pharmaceutical, biotech and software industries. This mechanism operates on the sideline of multilateral forums such as the WIPO or the WTO, which has generated criticism about its legitimacy. Moreover, it often coincides with treaty negotiations or trade revisions, as occurred during the renegotiation of the T-MEC, when provisions favorable to U.S. holders were included under the argument of "regional harmonization".

Mexico's presence on the 301 List should be analyzed beyond technical indicators of compliance. The USTR report is a clear manifestation of how the United States uses intellectual property as an instrument of foreign economic policy. While it is important to strengthen enforcement and respect for copyright and industrial property rights, it is also necessary to evaluate the ways and interests underlying the external assessments. Mexico must aspire to an effective and inclusive protection, but from a sovereign, balanced and development-oriented agenda.

**ECIJA Mexico**

socios.mexico@ecija.com

+52 55 5662 6840

