

QUARTZ

NOT HELPFUL

Trump's efforts to protect American brands will be a disaster, say American brands

By Marc Bain • March 20, 2018



REUTERS/MIKE BLAKE

Nike is just one of more than 100 companies unhappy with Trump's plan for tariffs.

American brands have battled for years for more protection of their intellectual property in China, including better ways to address knockoffs. But some tough talk by US president Donald Trump has them worried that his cure might be worse than the disease.

More than 100 prominent American retailers and footwear brands wrote to Trump on March 19 to urge him to reconsider tariffs he has threatened against China, saying that the measures have the potential to harm the global economy and harm American consumers.

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Many argue it's about time the US cracked down on Chinese companies stealing American intellectual property (IP). Section 301 of the Trade Act of 1974 authorizes the US government to investigate any unfair restrictions on US commerce, and allows the president to unilaterally impose trade restrictions on China.

Since August, the Trump administration has been investigating China under section 301. The Washington Post (paywall) reports that the president is now planning to unveil a package of \$60 billion in annual tariffs against the country by the end of the week.

In their letters yesterday, two groups of American retail and footwear sellers told the president they think the tariffs are a bad idea—even though they're among the companies that have been pushing the US to be harder on Chinese IP theft.

"We've been seeking intellectual property protections and encouraging this investigation, and now what we're hearing is that the remedy for our concerns and the concerns of many in the business community is to tax those very companies that were looking for additional engagement with China on IP protection," says Matt Priest, president and CEO of the Footwear Distributors and Retailers of America (FDRA), the group that sent the letter representing the footwear brands. "It's very ironic that you would tax American consumers. Those taxes will do nothing to alter Chinese intellectual property law whatsoever."

Any tariffs against China, the groups warn, are going to raise prices for American consumers. That's because more than 97% of shoes and clothes sold in the US are made overseas and then imported to be sold in American stores. When they cross into the country, the goods are hit with various duties, depending on the country of origin, and those costs get baked into the final price

of these goods than any other country. The US imports about 1.7 billion pairs of shoes each year, representing more than 70% of shoes on US store shelves, according to the FDRA.

Priest points out that duties on footwear in particular are already far higher than those on other industrial products. Because of the way standard price markups work in retail, on a pair of \$120 rubber-soled athletic shoes, as much as \$20 of that price could be the result of duties.

In one letter (pdf) to the president, 25 of the largest brands in US retail, including Walmart, Target, Kohl's, Levi's, Macy's, and more, voiced their concern that any tariff on imports from China “would hurt American households with higher prices and exacerbate a U.S. tariff system that is already stacked against working families.” A separate letter (pdf) from the FDRA and dozens of footwear sellers—among them Nike, Under Armour, Keds, Wolverine Worldwide, and Payless ShoeSource—raised the same point about higher costs.

At the same time, retail and footwear brands have been among those fighting for greater IP protections in China. Just a few weeks ago, Priest testified about the importance (pdf) of protecting American IP to the office of the US trade representative.

The way trademark law works in China, the first brand to register a name gets it, and that can create problems for US brands. Basketball star Michael Jordan fought in Chinese court for years to win the rights to the Chinese translation of his name, which a Chinese company had previously registered. Other companies have had to battle blatant imitations of their brands, as Under Armour did against against a Chinese knockoff called Uncle Martian.

Even so, tariffs or other import restrictions make footwear companies nervous. “Given the price sensitivity of our products, any additional increases in our costs would strike right at the heart of our ability to keep product competitively priced for our consumers,” they wrote in their letter to the president.