Comments of Thomas S. Hogan, Jr., President Surge Suppression Incorporated
Pursuant to the "Request for Comments Concerning the Proposed Transatlantic Trade and Investment Agreement" (TTIP)
Docket ID: USTR-2013-0019
May, 2013

Preface:

Surge Suppression Incorporated is a small business entity with offices in Destin and Brooksville, Florida USA. Members of our staff are heavily involved in the standards making bodies that develop standards regarding Surge Protective Devices (SPDs). These organizations include IEEE Surge Protective Device Committee, IEC TAG, UL Standards Technical Panel 1449, CSA and NEMA Low Voltage Surge Protective Device Section.

Although a small business, we do have a healthy presence in the US market. Further, through our international distribution channel, a significant amount of product is shipped outside the US.

The passage of a Transatlantic Trade and Investment Agreement will indeed have a direct impact on our business as well as many other small business entities throughout the USA. The opportunity to provide comment regarding the proposed agreement is appreciated.

In reviewing comments submitted to date, it is interesting to note that many of the organizations/entities making comment are related to commodity type items as well as trade organizations and a few union entities. While some portions of the Surge Protective Device industry may be considered commodity type products, our business, in particular focuses on a customized and generally non-commodity type products. This becomes an important consideration when reviewing this subject and considering U.S. priorities for the TTIP.

Considerations:

1. In many respects, the agreement has the potential to open markets for US as well as European companies, especially if the goals of tariff elimination, protection of intellectual propriety rights and other factors are realized. In the realm of commodity product trade this could be extremely beneficial.

2. One of the challenges that the USTR faces in negotiating such an agreement is to ensure that America is not absorbed by the process and thereby becomes insignificant in the global trade community. As such any trade agreements proposed or developed should not constrain federal, state, and local procurement laws. These laws as well as the Buy

American laws are critical to maintain. It appears that an unintended consequence of the trade negotiations and agreement may well be that these laws would be superseded by or weakened by negotiations. As an example BDI has proposed that: …"The Agreement should also define products and services coming from either market as meeting "Buy National" criteria, preventing all discrimination from these provisions (such as the "Buy America Provision" from 2009). " This is of great concern and should not be included in any such agreement.

It is essential that while meeting the goals of trade facilitation between countries are met, the respect for regulatory authority of each be retained.

3. Because standards are key in the development of U.S.-EU trade relations, the regulatory and standards impact of such an agreement must be carefully considered and issues addressed. For example, The US system of standards development is relatively unique as it is a voluntary consensus standards development process. To quote another commenter, "It is this voluntary consensus process that allows industries and other (global stakeholders to come together to address technical issues involving interoperability, standardization, quality control and safety of the products offered for sale in the marketplace while also ensuring that the proceedings are open and transparent." (ITW) Organizations such as ANSI, IEEE, UL strive to ensure a balanced perspective by bringing participants from various sectors including producers, regulators, users, and general interest membership. The concept and practice of Openness as provided in the ANSI Essential Requirements is critical to maintain. Participation shall be open to all persons who are directly and materially affected by the activity in question. Further, the Lack of Dominance provision states that the standards development process shall not be dominated by any single interest category, individual or organization.

   By contrast, important standards-setting bodies CEN and CENELEC are lacking in transparency and openness as they do not even allow participation by any U.S. interested party regardless of technical or business impact.

4. With specific regard to Surge Protective Devices, the following aspects, very briefly stated, should be considered:

   - Design methods. The EU/IEC focus is primarily on protection against lightning (perceived biggest threat primarily due to differences in their infrastructure and lack of primary and secondary distribution arrestors). In the US, we acknowledge

lightning but also want the SPDs to protect against supply-generated and internally-generated transients as well. There are significant differences in the designs of the "IEC" SPDs and the "UL" SPDs. They protect primarily at the service entrance. We protect throughout the electrical system including the service entrance.

- Safety. Many EU/IEC certified SPDs do not meet the requirements of the US safety standard UL 1449. It could be potentially "dangerous" (strong word) to allow inclusion of IEC certified products into NFPA (National Fire Protection Agency)/NEC (National Electrical Code) installation locations without first requiring them to meet the US standards (particularly ANSI/UL 1449 Standard for Surge Protection).

- Surge Current. Without going into a deep discussion for the purposes of this submission, The EU/IEC standards use the 10/350 microsecond surge waveform (10/350) for testing SPDs for application in virtually the same environment as SPDs tested in North America using an 8/20 microsecond surge waveform (8/20). The 10/350 has its origins in IEC TC81 and was originally developed to test products that are spark gap type products designed for bonding. Effectively, the 10/350 surge test was developed as the result of an SPD design that worked particularly well for that test. The 10/350 test was then proliferated into the IEC standards.

  As stated in Design discussion, there are significant reasons why the US SPDs do not need to comply with the 10/350 surge which is considered by many to be overly burdensome and unnecessary. Fifty-plus years of successful use of SPDs in the US which have been tested using the 8/20 waveform indicates that US designs are adequate for lightning and serve to protect equipment well. This particular test should not be the "defining factor" for SPD applications. Moreover, there should be equal acceptance of the 8/20 tested device in applications where the 10/350 tested device is currently mandated in the EU/IEC.

  Please note this discussion is intentionally abbreviated for the purpose of this submission. Decades of discussion, passionate argument and struggling with standards development are certainly not captured here. This issue is significant.

- Commodity products. Due to the influence of the 10/350 test in Europe there is very limited diversity in the designs of SPDs and manufacturers. This has forced the SPDs into being a commodity

which would not serve the US market or economy well. There are basically three major manufacturers in Europe while there are dozens of significant manufacturers and hundreds of others in the US.

- Liability. If IEC standards are accepted in the US and companies no longer have to meet the US safety standards, this would likely expose US manufacturers to more liability. The safety tests of the IEC standards are not as stringent as the US standard ANSI/UL 1449 Standard for Surge Protective Devices. SPDs have had a "rocky" history as it is and the UL standards technical panel has worked diligently for a decade to improve the safety of SPDs.

Conclusion:

The undertaking of such an agreement has far-reaching ramifications – all of which must be carefully considered and weighed.

Surge Suppression Incorporated stands ready to assist in reviewing these comments or others in greater detail.

Signed:
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President
Surge Suppression Incorporated