Comparative Table of Patent Linkage Provisions in U.S. Free Trade Agreements and the U.S. Proposal to the Trans-Pacific Partnership (TPP) Agreement

Item	U.S. TPP Proposal	U.S.-Singapore FTA (2004)	U.S.-Chile FTA (2004)	U.S.-Australia FTA (2005)	U.S.-Peru FTA (2006)
Obligation ("each Party shall")	**X**	**X**	**X**	**X**	N/A[1]
Provide a system	**X** transparent and effective				**X** transparent
To identify	**X** patents or approved method of use		"make available" the identity of third person	**X** third person	
To notify patent holder …	**X** of identity of third person applying for marketing approval	**X** of identity of third person applying for marketing approval		**X** that there is a request for marketing approval	**X** that another party seeks marketing approval
	of product that is "the same … or similar"				
Automatic delay of marketing approval	**X**	Do not grant marketing approval unless by consent or acquiescence of the patent owner.	Do not grant marketing approval unless by consent or acquiescence of the patent owner.	Provide measures to prevent other persons from marketing products claimed in a patent.	Provide sufficient time and opportunity for patent holder to seek remedies.
Provisional measures	**X**				
Safeguards	**X** Imports U.S.-style measures to deter abuses by patent holders.	*Parties are free to provide their own safeguards.*	*Parties are free to provide their own safeguards.*	*Parties are free to provide their own safeguards – see Australian anti-evergreening measures (Therapeutic Act of 1989, Section 26C and 26D).*	*Parties are free to provide their own safeguards.*

[1]According to the "Congressional Democrats' Concept Statement on Peru & Panama FTA Changes," the May 10, 2007 Agreement "Amend[s] [the] FTA so that there is no "linkage" requirement between drug regulatory agencies and patent issues: in particular, no requirement that the drug regulatory agency withhold approval of a generic until it can certify that no patent would be violated if the generic were marketed. Available at: http://waysandmeans.house.gov/Media/pdf/110/05%2014%2007/05%2014%2007.pdf.