



February 11, 2005

Mr. James Mendenhall  
Assistant USTR for Services, Investment  
and Intellectual Property  
Office of the United States  
Trade Representative  
600 17th Street, N.W., Room 303  
Washington, D.C. 20508

Re: Request for Public Comment on the Identification of  
Countries under Section 182 of the Trade Act of  
1974 (as amended) ("Special 301"), 70 Fed. Reg.  
134 (Jan. 3, 2005)

Dear Mr. Mendenhall:

This filing responds to the Request for Written Submissions appearing on January 3, 2005 in the Federal Register. The request invites submissions from the public on policies and practices that should be considered in connection with designating countries as Priority Foreign Countries pursuant to Section 182 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. § 2242 ("Special 301"). The Special 301 provisions call upon the United States Trade Representative to identify countries which, *inter alia*, "deny adequate and effective protection" to U.S. intellectual property or deny "fair and equitable market access" to U.S. persons who rely on intellectual property protection.

The International Intellectual Property Alliance (IIPA) submits our discussion of the status of copyright law reform and enforcement in 42 separate country reports and identifies two countries where FTA dispute settlement proceedings should be initiated if changes in implementing legislation/regulations aren't promptly made. We also highlight six challenges and initiatives in this letter that define our agenda for the coming year. Finally, we mention 23 additional countries/territories that we have not recommended be on a Special 301 list but which merit attention by the U.S. government.

## A. IIPA AND THE COPYRIGHT INDUSTRIES IN THE U.S. ECONOMY

The International Intellectual Property Alliance (IIPA) is a private sector coalition formed in 1984 to represent the U.S. copyright-based industries in bilateral and multilateral efforts to improve international protection of copyrighted materials. IIPA is comprised of six trade associations, each representing a significant segment of the U.S. copyright community. These member associations represent over 1,300 U.S. companies producing and distributing materials protected by copyright laws throughout the world—all types of computer software, including

business applications software and entertainment software (such as videogame CDs, DVDs and cartridges, personal computer CD-ROMs and multimedia products); theatrical films, television programs, home videos and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and textbooks, tradebooks, reference and professional publications and journals (in both electronic and print media).

In October 2004, the IIPA released an economic report entitled *Copyright Industries in the U.S. Economy: The 2004 Report*, the tenth such study written by Stephen Siwek of Economists Inc. This report details the economic impact and contributions of U.S. copyright industries to U.S. Gross Domestic Product, employment, and trade. The latest data show that the “core” U.S. copyright industries<sup>1</sup> accounted for 6% of U.S. GDP or \$626.6 billion in value-added in 2002. In the last 25 years (1977-2002), the core copyright industries’ share of GDP grew at an annual rate more than twice as fast as the remainder of the economy (7.0% vs. 3.0%). Also over these 25 years, employment in the core copyright industries grew to 5.48 million workers (4% of total U.S. employment). In 2002, the U.S. copyright industries achieved foreign sales and exports of \$89.26 billion. The copyright industries’ foreign sales and exports continue to be larger than other major industry sectors, including chemicals and related products, automobiles, parts and accessories, and aircraft and associated equipment sectors. It is essential to the continued growth and future competitiveness of these industries that our trading partners provide not only free and open markets, but also high levels of protection to the copyrights on which this trade depends. This protection upon which so much U.S. economic performance rests is under constantly evolving threats, and it is critical to sustaining U.S. economic competitiveness that our response remains flexible, innovative and committed. There are certain sectors of the U.S. copyright community, notably the music sector, that are already witnessing significant declines in foreign sales as a consequence of increased levels and new forms of piracy, and it is essential that we address these problems on an urgent basis.

## **B. OUTLINE OF IIPA’S SPECIAL 301 SUBMISSION**

As in prior years, IIPA’s submission contains several separate sections. It is important for the reader to review not only each country survey in Appendix C, but also the other appendices that describe key elements (e.g., industry initiatives, methodology) that may be referenced in the country survey. Included in this year’s submission are the following:

- This letter, which (1) outlines IIPA’s recommendations for cross-cutting initiatives to be undertaken by the copyright industries and the U.S. government for 2005; (2) summarizes our submission this year; and (3) points the reader to various appendices;
- Appendix A, which contains IIPA’s country placement recommendations, estimated trade losses due to piracy, and estimated levels of piracy;
- Appendix B, which describes our members’ methodology for calculating estimated trade losses, piracy levels, and global data on optical disc factories and production capacity;
- Appendix C, which includes all the country surveys<sup>2</sup> and at the end lists 23 countries/territories that deserve continued U.S. government attention but which we have not recommended for placement on the Special 301 lists;

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<sup>1</sup> The “total” copyright industries include the “core” industries plus those that, under conservative assumptions, distribute such products or other products that depend wholly or principally on copyrighted materials. The “core” copyright industries are those that create copyrighted materials as their primary product.

<sup>2</sup> Country surveys were prepared by Eric H. Smith, IIPA President; Steven J. Metalitz, IIPA Senior Vice President; Maria Strong, IIPA Vice President and General Counsel; Eric J. Schwartz, IIPA Vice President and Special Counsel; Michael Schlesinger, IIPA Vice President and Associate General Counsel, and Ryan Lehning, counsel to IIPA, and

- Appendix D, which provides a historical chart of countries/territories' placement on Special 301 lists by USTR since 1989; and
- Appendix E, which contains the Special 301 histories of countries/territories which we have recommended for placement on a list this year, many other countries that have appeared on USTR's lists in the past and are still candidates for monitoring intellectual property practices, and certain other countries/territories that have never appeared on a USTR list but which deserve attention.

### **C. COPYRIGHT INDUSTRIES' INITIATIVES AND CHALLENGES IN 2005**

The goal of this submission is to improve copyright protection by employing the various bilateral, plurilateral and multilateral tools available to the U.S. government. Without these trade tools and their full implementation, the U.S. copyright industries would still be facing a world of inadequate copyright laws—a world which our industries faced in the early 1980s. This was a world where most countries' laws did not even protect U.S. works at all, and 90% to 100% piracy levels prevailed in most developing countries. Since the first marriage of intellectual property and trade in the Trade and Tariff Act of 1984 and formation of the IIPA, the later adoption of the "Special 301" provisions in the 1988 Trade Act, and the adoption or modification of the U.S. unilateral trade preference programs, such as GSP, CBERA, ATPA and others, U.S. government initiatives have produced significant legal and enforcement improvements. This largely untold success story has produced billions of dollars of increased revenue and millions of new jobs to both U.S. and local copyright industries. However, despite these successes, the U.S. copyright industries (and copyright creators and their industries worldwide) still face grave, and in many respects, growing, threats in the 21st century. These threats emanate largely from the growth of digital and on-line technology, the increased organization of commercial pirates, and the failure of governments to adequately enforce their new laws. An effective response to these challenges will require a renewed commitment to use both the old and new tools available to industry and governments.

In our last six Special 301 filings, IIPA outlined a series of challenges facing the copyright-based industries. This year, we have updated these challenges/objectives to take into account new developments and new challenges.

The copyright industries are extremely grateful for the U.S. government's efforts in promoting copyright reform and effective enforcement. But, as is clearly demonstrated in the country surveys included in this report, organized commercial piracy, whether digital or analog, tangible or over the Internet, threatens to outpace the fight to combat it. IIPA believes that a significantly heightened effort is called for to make further progress on these objectives in 2005. We believe the tools exist to make significant progress—the issue is whether all governments have the political will to take the actions necessary to address piracy meaningfully and to lower piracy rates locally and globally. The following objectives are not necessarily listed in order of priority, since different issues may demand priority attention in different countries.

#### **Internet Piracy, Electronic Commerce and the WIPO Internet Treaties**

**The Scope of the Problem:** Copyright piracy on the Internet, a serious problem for the past several years, has undergone explosive growth, and threatens to undermine the very

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are based on information furnished by IIPA member associations. We also thank Smith & Metalitz law clerks Frank Lattuca and Helena Robinson, and the Smith & Metalitz staff, Pam Burchette, Melissa Braford, Lauren Braford, and Kristen Schumacher for their contributions in preparing, producing and distributing this submission.

foundations of electronic commerce in this new millennium. While broadband offers exciting prospects for the legitimate dissemination of copyrighted materials of all kinds, too often access to high-speed Internet connections is being used to distribute unauthorized copies of sound recordings, software, videogames, literary material, and motion pictures. This has suppressed legitimate consumption.

The unprecedented growth of the Internet and increased availability of broadband connections, coupled with the absence of adequate copyright law and/enforcement in the online environment in many countries, has provided pirates with a highly efficient distribution network to reach the global market. Pirates offering and distributing infringing product can now reach any part of the world with ease, no matter where they are located. Consequently, the U.S. copyright industries face the daunting task of trying to enforce their legal rights in an online world where borders and distances have decreasing practical significance.

Quantifying the economic losses due to Internet piracy and allocating those losses to particular countries are extremely challenging problems. Because of these challenges, IIPA's estimates of piracy levels and of trade losses due to piracy do not yet take into account piracy on the Internet. Internet piracy is growing rapidly and an urgent response is greatly needed. We must act quickly and on a global basis to secure the adoption of legal provisions that will prevent piracy and create a legal and regulatory environment that will facilitate the growth of legitimate on-line delivery of copyrighted materials.

**The Legal and Enforcement Solutions:** IIPA recommends that USTR work with our industries to adopt a focused and comprehensive strategy to attack Internet piracy. The challenge is two-tiered. First, governments need to adopt stronger laws that are tailored to address online copyright piracy. Second, those laws must be vigorously enforced.

Well established international norms such as the WTO TRIPS Agreement contribute valuable elements to the needed legal infrastructure to protect electronic commerce and combat Internet piracy. In particular, WTO TRIPS contains a technology-neutral obligation to provide "expeditious remedies to prevent infringements and remedies which constitute a deterrent to future infringements" (Article 41). The fight against this new form of piracy must be conducted under the copyright principles contained in this agreement, and particularly through application of the existing enforcement tools described there. In addition, the two treaties adopted by the World Intellectual Property Organization (WIPO) Diplomatic Conference in Geneva in December 1996 provide an additional and more tailored framework for what is needed to protect the transmission of content in e-commerce. These treaties, the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), are now in force, and their effective implementation is critical in the fight to control this new and ominous threat. These treaties are part of the international legal standards that countries must comply with in order to provide the "adequate and effective" copyright protection that is demanded under the Special 301 program. These standards include clarifying exclusive rights in the online world, and, in addition, specifically prohibiting the production of or trafficking in tools that circumvent technological protection measures (TPMs) for copyrighted works.

IIPA and its members have joined with their counterpart copyright industries around the world to push for ratification and full implementation of the WCT and WPPT in all countries. The first phase of these efforts—bringing the treaties into force through the accession to each of at least 30 countries—was completed in 2002. As of February 4, 2005, official deposits of the treaties with WIPO stand at 51 for the WCT and 49 for the WPPT. More and more countries are now beginning to legislate in this area.

Ensuring that these standards are effectively embodied in national law is the heart of the critical second phase of the WIPO Treaties implementation effort. Since the treaties were adopted, IIPA has been monitoring those countries that are amending their statutory regimes to make them compatible with their TRIPS obligations as well as with the WIPO Internet Treaties. If countries delay in making these needed changes, the prejudicial impact on electronic commerce and the protection of intellectual property online might be irreversible. The coming into force of the WCT and WPPT provides a powerful additional reason for countries to make the necessary legal changes now. The U.S., which has already implemented the changes to its laws needed to meet the standards of the treaties by enacting Title I of the Digital Millennium Copyright Act (DMCA), should continue to make it a priority to encourage other countries to follow this path.<sup>3</sup>

Even in the online world, there is no substitute for vigorous enforcement of new and existing laws. To protect the revenue streams and millions of new jobs created by the copyright industries, governments must become flexible and fast moving if they want to deal with a medium that is constantly shifting and evolving. Renewed emphasis on training is vital to giving enforcement authorities the tools to quickly locate infringing Internet sites and pursue actions against the offenders who commit the most damage and/or refuse to remove the infringing content. Public education about the dangers of online infringement must be emphasized as well. As global boundaries continue to lose much of their practical relevance because of Internet growth, so must the usual lines separating the roles of industry and government in policy, enforcement and education. Close coordination will be the key to success in this challenging new environment. We also mention that efforts should be undertaken to encourage global adoption of the Council of Europe Cybercrime Convention, which requires countries to adopt effective remedies for online copyright infringement, and which facilitates law enforcement cooperation across borders—something which must develop if governments are to be successful in addressing this pressing problem.

These law reform and enforcement measures are critical to deter pirates from destroying the incredibly promising new tools for making copyrighted products available globally before right holders have had a chance to gain a foothold. IIPA members have significantly increased their monitoring of pirate product traveling over the Internet in many of the countries discussed in this submission. Webcrawlers and other search technologies have been employed to ferret out piracy occurring in many languages in addition to English. One essential tool that should be made available globally is notification of ISPs by copyright owners through cease and desist letters in order to obtain their cooperation to “take down” or block access to infringing material immediately, and otherwise to prevent infringing conduct of all kinds. The effective use of such a “notice and takedown” tool is, in turn, dependent on a system of secondary liability, which exists in some but not all countries, and which must be effectively multilateralized to encourage responsible conduct at all levels of the delivery chain. Finally, as we know from our own experience here in the U.S., we must find a global solution that discourages unauthorized peer-to-peer file sharing, through aggressive enforcement against unauthorized uploaders of infringing product, whether of musical recordings, movies, business or entertainment software or literary material, as well as against services that provide these tools for the purpose of encouraging and profiting from infringement. For new legal Internet-based services for delivery of copyrighted material to succeed, we all need to ensure that legal services do not face unfair competition from unauthorized sources.

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<sup>3</sup> Digital Millennium Copyright Act of 1998, Pub. L. No. 105-304, 112 Stat. 2860 (1998). The United States deposited instruments of accession for both treaties on September 14, 1999.

It is critical that governments, educational institutions and similar enterprises that provide broadband interconnections to their employees, students or others be encouraged to develop executive orders and other strong internal policies to prevent illegal file sharing of copyrighted materials, including through the use of peer-to-peer technologies. In addition, governments should help to ensure that Internet cafés use only legitimate software in the operation of their business, and that they prohibit use of their facilities for the commission of further infringements

Industry has been hard at work on these critical issues, but we need the help of the U.S. and foreign governments to make the Internet safe for e-commerce in copyrighted material.

### **Optical Disc Piracy and Its Effective Regulation**

Piracy of optical disc (OD) products today causes grave losses to all the copyright industries. Increasingly, all sectors of the copyright industry are using a common set of media to distribute their products worldwide. These “optical disc” products include formats such as compact discs (CD), video CDs (VCD), CD-ROMs, CD-Recordables (CD-Rs), digital versatile discs (DVDs) and DVD-Recordables (DVD-Rs). An explosion in the world’s capacity to produce optical disc products has been driven by the ever-growing worldwide demand for copyrighted high-tech and entertainment products and the potential for pirates to generate billions of dollars in illegal income. Unfortunately, production capacity now greatly exceeds legitimate demand, with the difference inuring to the benefit of illegal pirate enterprises. Increasingly, recordable optical media are also used to “burn” unauthorized copies on a commercial basis. Pirate CDs, VCDs, CD-ROMs and DVDs containing protected music, sound recordings, audiovisual works, business and entertainment software and books and journals have quickly decimated the market for legitimate U.S. products.

The growth in the number and capacity of optical disc factories around the globe has been staggering. Based on our survey of optical disc production in 77 countries/territories:

- There were as many as 973 optical disc production plants producing “finished” optical discs worldwide, having 4,405 production lines, with a production capacity of nearly 16 billion discs in 2004.<sup>4</sup>
- Well over 1,100 optical disc plants exist worldwide producing both finished and blank discs, having over 7,800 production lines, with a production capacity of more than 27.8 billion discs in 2004.
- Production capacity of finished discs shot up to as much as 16 billion discs in 2004, from a reported 9.5 billion discs in 2003, a 66% increase in reported production capacity over the previous year.

The following chart details this information. It is noteworthy that the greatest optical disc piracy threat continues to be in Asia and Eastern Europe/Russia. Also, it is important to note that while this chart provides capacity for finished and blank discs, it does not report the number of blank discs being used for CD-R burning, a global problem the impact of which is especially severe in Asia; in several European countries, such as Italy, Germany and Spain; and in Latin America.

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<sup>4</sup> For several major optical disc producing countries, there is no breakout between plants producing finished optical discs and blank CD-R/DVD-R.

**ESTIMATED OPTICAL DISC PRODUCTION CAPACITY IN 77 COUNTRIES/TERRITORIES<sup>5</sup>**

	PLANTS (EXCL. CD-R) <sup>6</sup>		ESTIMATED PRODUCTION LINES (EXCL. CD-R)		ESTIMATED CAPACITY IN MILLIONS (EXCL. CD-R)		PRODUCTION LINES (INCL. CD-R)		ESTIMATED CAPACITY IN MILLIONS (INCL. CD-R)	
	2004	2003	2004	2003	2004	2003	2004	2003	2004	2003
<b>ASIA</b>										
AUSTRALIA	11	9	59	19	206.5	66.5	59	96	206.5	374
BANGLADESH	2	NA	6	NA	21	NA	6	NA	21	NA
BURMA	1	1	2	1	7	3.5	2	1	7	3.5
CAMBODIA	1	1	1	1	3.5	3.5	1	1	3.5	3.5
CHINA	83	71	763	569	2,670.5	1,191.5	763	808	2,670.5	3,875
HONG KONG	88	112	455	623	1,592.5	2,181	805	538	2,817.5	2,455
INDIA	12	9	35	14	122.5	49	378	334	1323	1,353
INDONESIA	40	27	75	31	262.5	108.5	75	37	262.5	197
JAPAN	21	34	237	NA	829.5	231	297	941	1,039.5	2,783
KOREA	32	31	72	96	252	336	72	93	252	404
LAOS	0	2	0	2	0	7	0	2	0	7
MACAU	4	2	5	2	17.5	7	16	NA	56	0
MALAYSIA	32	38	93	86	325.5	301	126	NA	441	1,871
PAKISTAN	10	8	25	25	230 <sup>7</sup>	180 <sup>8</sup>	25	25	230	140
PHILIPPINES	16	7	26	21	91	73.5	26	21	91	73.5
SINGAPORE	14	15	76	29	266	101.5	96	169	336	698
SRI LANKA	2	NA	2	NA	7	NA	2	NA	7	NA
TAIWAN	44	61	315	310	1,102.5	1,085	2,818	2,171	9863	7,779
THAILAND	40	39	135	126	472.5	441	157	98	549.5	556
VIETNAM	4	3	12	3	42	10.5	12	3	42	10.5
<b>SUB-TOTAL</b>	<b>457</b>	<b>470</b>	<b>2,394</b>	<b>1,958</b>	<b>8,521.5</b>	<b>7,177</b>	<b>5,736</b>	<b>5,338</b>	<b>20,218.5</b>	<b>22,583</b>
<b>EASTERN EUROPE/CIS<sup>8</sup></b>										
BELARUS	1	NA	1	NA	5.2	NA	1	NA	5.2	NA
BULGARIA	8	7	12	7	55	24.5	12	9	55	19
CROATIA	1	NA	1	NA	3.5	NA	1	NA	3.5	NA
CZECH REPUBLIC	4	4	44	25	154	87.5	44	43	154	193
ESTONIA	1	NA	1	NA	3.5	NA	1	NA	3.5	NA
HUNGARY	4	3	14	3	49	10.5	14	7	49	37
KAZAKHSTAN	1	1	1	1	8.1	3.5	1	0	8.1	0
LITHUANIA	1	1	2	1	7	3.5	2	1	7	5
POLAND	9	9	101	48	597.2	385.6	101	154	597.2	501
ROMANIA	1	1	2	2	7	7	2	1	7	6
RUSSIA	34	32	80	52	390	371.6	83	52	390	220
SERBIA AND MONTENEGRO	4	NA	5	NA	25	NA	5	NA	25	NA
SLOVENIA	2	NA	5	NA	17.5	NA	5	NA	17.5	NA
UKRAINE	5	4	11	7	42.5	24.5	13	5	49.5	31
<b>SUB-TOTAL</b>	<b>76</b>	<b>62</b>	<b>280</b>	<b>146</b>	<b>1,364.5</b>	<b>918.2</b>	<b>285</b>	<b>272</b>	<b>1,371.5</b>	<b>1012</b>
<b>WESTERN EUROPE<sup>9</sup></b>										
AUSTRIA	4	NA	6	NA	21	NA	6	NA	21	NA
BELGIUM	4	NA	25	NA	87.5	NA	25	NA	87.5	NA
DENMARK	4	NA	16	NA	56	NA	16	NA	56	NA
FINLAND	3	NA	6	NA	21	NA	6	NA	21	NA

<sup>5</sup> The methodology used by IIPA to calculate the estimated capacity in 2003 and 2004 for production of finished optical media product encoded with infringing content, as well as a combined estimated capacity for production in 2003 and 2004 of finished as well as "blank" media such as CD-R and DVD-R, is described in Appendix B of IIPA's 2005 Special 301 submission at [www.iipa.com/pdf/2005spec301methodology.pdf](http://www.iipa.com/pdf/2005spec301methodology.pdf).

<sup>6</sup> For the following major optical disc producing countries, there is no breakout between plants producing finished optical discs and blank CD-R/DVD-R, but it is believed that most of the capacity in these countries is devoted to finished discs: Australia, China, Indonesia, Korea, Pakistan, Philippines, Bulgaria, Czech Republic, Hungary, Poland, Belgium, Denmark, France, Germany, Ireland, Luxembourg, Netherlands, Spain, Sweden, Switzerland, United Kingdom, Argentina, Canada, Colombia, United States, Venezuela, Israel, Turkey, Nigeria, and South Africa.

<sup>7</sup> Pakistan: This number represents what is believed to be actual production based on polycarbonate imports and various countries' customs data.

<sup>8</sup> In Belarus, Bulgaria, Kazakhstan, Poland, Russia (2003 number), and Serbia and Montenegro, the capacity numbers are based either on more specific on-the-ground knowledge of a plant's production capacity, or different numerical methodologies than that described in Appendix B at [www.iipa.com/pdf/2005spec301methodology.pdf](http://www.iipa.com/pdf/2005spec301methodology.pdf).

<sup>9</sup> Plant numbers are not broken out by finished and blank (CD-R/DVD-R) production for the following countries in Western Europe: Austria, Belgium, Denmark, France, Germany, Ireland, Luxembourg and Netherlands; and Canada and the United States.

**ESTIMATED OPTICAL DISC PRODUCTION CAPACITY IN 77 COUNTRIES/TERRITORIES<sup>5</sup>**

	PLANTS (EXCL. CD-R) <sup>6</sup>		ESTIMATED PRODUCTION LINES (EXCL. CD-R)		ESTIMATED CAPACITY IN MILLIONS (EXCL. CD-R)		PRODUCTION LINES (INCL. CD-R)		ESTIMATED CAPACITY IN MILLIONS (INCL. CD-R)	
	2004	2003	2004	2003	2004	2003	2004	2003	2004	2003
FRANCE	23	NA	156	NA	546	NA	156	NA	546	NA
GERMANY	44	NA	132	NA	462	NA	132	NA	462	NA
GREECE	5	5	19 <sup>10</sup>	11	66.5	38.5	40	73	140	NA
IRELAND	8	NA	70	NA	245	NA	70	NA	245	NA
ITALY	23	23	102	51	357	178.5	119	182	416.5	801
LUXEMBOURG	2	NA	19	NA	66.5	NA	19	NA	66.5	NA
NETHERLANDS	18	NA	62	NA	217	NA	62	NA	217	NA
PORTUGAL	3	NA	5	NA	17.5	NA	5	NA	17.5	NA
SAN MARINO	2	NA	NA	NA	NA	NA	NA	NA	NA	NA
SPAIN	16	12	123	98	430.5	343	123	100	430.5	600
SWEDEN	7	NA	9	NA	31.5	NA	9	NA	31.5	NA
SWITZERLAND	3	NA	11	NA	38.5	NA	11	NA	38.5	NA
UNITED KINGDOM	19	NA	90	NA	315	NA	90	NA	315	NA
<b>SUB-TOTAL</b>	<b>188</b>	<b>40</b>	<b>851</b>	<b>160</b>	<b>2,978.5</b>	<b>560</b>	<b>889</b>	<b>355</b>	<b>3,111.5</b>	<b>1401</b>
<b>WESTERN HEMISPHERE<sup>16</sup></b>										
ARGENTINA	11	10	26	26	91	91	26	26	91	142.8
BRAZIL	11	9	88	11	308	38.5	91	128	318.5	624.9
CANADA	17	NA	78	NA	273	NA	78	NA	273	NA
CHILE	2	2	5	2	17.5	7	5	3	17.5	19
COLOMBIA	2	2	9	8	31.5	28	9	8	31.5	48
COSTA RICA	1	NA	1	NA	3.5	NA	1	NA	3.5	NA
DOMINICAN REPUBLIC	1	1	1	1	3.5	3.5	1	1	3.5	7
MEXICO	12	12	211	136	738.5	476	231 <sup>11</sup>	101	808.5	514
PARAGUAY	1	NA	1	NA	3.5	NA	1	NA	3.5	NA
PERU	3	3	5	5	17.5	17.5	5	3	17.5	17
UNITED STATES	143	NA	348	NA	1,218	NA	348	NA	1,218	NA
URUGUAY	1	NA	1	NA	3.5	NA	1	NA	3.5	NA
VENEZUELA	2	2	7	4	24.5	14.0	7	7	24.5	40
<b>SUB-TOTAL</b>	<b>207</b>	<b>41</b>	<b>781</b>	<b>193</b>	<b>2,733.5</b>	<b>675.5</b>	<b>804</b>	<b>277</b>	<b>2,814</b>	<b>1412.7</b>
<b>MIDDLE EAST</b>										
ALGERIA	3	NA	NA	NA	NA	NA	NA	NA	NA	NA
EGYPT	4	4	6	6	21	21	6	4	21	23
IRAN	2	NA	2	NA	7	NA	2	NA	7	NA
ISRAEL	7	5	18	5	63	17.5	18	23	63	114
JORDAN	1	NA	NA	NA	NA	NA	NA	NA	NA	NA
LEBANON	1	1	1	1	3.5	3.5	1	1	3.5	7
PALESTINIAN AUTHORITY	3	2	4	2	14	7	4	4	14	23
SAUDI ARABIA	3	1	6	1	21	3.5	7	NA	24.5	NA
SYRIA	1	1	1	1	3.5	3.5	1	NA	3.5	NA
TURKEY	8	8	23	18	80.5	63	23	NA	80.5	NA
<b>SUB-TOTAL</b>	<b>33</b>	<b>22</b>	<b>61</b>	<b>34</b>	<b>213.5</b>	<b>119</b>	<b>62</b>	<b>32</b>	<b>217</b>	<b>167</b>
<b>AFRICA</b>										
NIGERIA	8	NA	25	NA	87.5	NA	25	NA	87.5	NA
SENEGAL	1	NA	1	NA	3.5	NA	1	NA	3.5	NA
SOUTH AFRICA	3	3	12	7	42	24.5	12	NA	42	NA
<b>SUB-TOTAL</b>	<b>12</b>	<b>3</b>	<b>38</b>	<b>7</b>	<b>133</b>	<b>24.5</b>	<b>38</b>	<b>NA</b>	<b>133</b>	<b>NA</b>
<b>TOTALS</b>	<b>973</b>	<b>638</b>	<b>4,405</b>	<b>2,498</b>	<b>15,945</b>	<b>9,474</b>	<b>7,814</b>	<b>6,275</b>	<b>27,786.5</b>	<b>26,575.7</b>

The growing optical disc problem confronting the copyright sector, now familiar to governments worldwide, has demanded new and creative legislative and enforcement solutions. Traditional enforcement mechanisms have not been sufficient to prevent optical disc piracy from spinning out of control and flooding national, regional, and even global markets with millions of high-quality pirate products. As part of countries' WTO TRIPS obligations to provide deterrent enforcement against piracy "on a commercial scale," every country whose optical disc production facilities are producing significant pirate product should create and enforce a specialized regulatory framework for tracking the growth of optical disc production capacity,

<sup>10</sup> Greece: Most DVD capacity in Greece is hybrid CD/DVD-5.

<sup>11</sup> Mexico: There are believed to be several "underground" mass duplication CD-R replicators in Mexico



including the cross-border traffic in production equipment and raw materials, principally optical-grade polycarbonate. These regulatory regimes must include strict licensing controls on the operation of optical disc mastering and replication facilities, and the requirement to use identification tools that identify the plant in which production occurred and that help lead the authorities to the infringer. So far such regimes have been established in Bulgaria, China, Hong Kong, Malaysia, Philippines, Singapore, Taiwan and Macau, and are under consideration in Thailand, India and other countries. Ukraine has adopted a system of regulatory controls as well, but this law is flawed and must be corrected.<sup>12</sup> Increasingly, pirate optical disc production is migrating from jurisdictions with optical disc production regulatory regimes to countries that as yet have not adopted these regulatory tools, such as Russia, Pakistan, India, Thailand, Vietnam, and many others mentioned in this submission. We urge the U.S. to press every country in the regions most affected by pirate optical disc production and export—including East Asia, South Asia, Eastern Europe, Russia and the countries of the former Soviet Union—to put comprehensive optical disc regulatory controls into place promptly. Otherwise, pirate syndicates will continue to transfer their optical disc operations across borders in an effort to stay one step ahead of enforcement efforts.

IIPA and its members have developed a number of resources to help governments in fashioning an effective optical disc regulatory system. We also note that governments have recognized the importance of effective regulations. In October 2003, APEC leaders agreed on the need to “stop optical disc piracy” and endorsed on a set of “Effective Practices” which we suggest that governments addressing this problem carefully study. We stand ready to work with USTR to assist governments in understanding, drafting and implementing these recommendations into national law.

As these regimes have been adopted and enforcement under them has matured, the pirates have again taken advantage of technological developments, and moved production increasingly from the “factory” locus to smaller venues that are more private and harder to police. The newest generation of pirates uses much less expensive and more portable consumer “recordable” technology—CD and DVD “burning” on CD-Rs and DVD-Rs. That technology has now advanced so that with a very small investment, pirates can easily and cheaply replicate thousands of copies of copyrighted products for commercial sale. We refer here not to individual consumers “burning” copies but to aggressive commercial exploitation—often by the very same syndicates that operated the factories and generate millions of dollars for the pirate operators. In some countries, like Taiwan, Brazil, Mexico, Spain and many others, seizures of pirate product in 2004 were overwhelmingly of “burned” product. This new development calls for innovative responses—in this case, through improved enforcement machinery aimed at implementing zero tolerance policies against the offer for sale of pirate product. If pirates have no place to sell their products, their ability to manufacture becomes superfluous. Some countries are already responding by enacting absolute bans on street sales, with some positive results. Commitment from more countries to do the same is sorely needed.

In sum, regulations controlling and monitoring production need to be adopted, implemented and enforced, and must be accompanied by general copyright enforcement. Governments must be given the authority to conduct surprise inspections of optical disc production facilities to ensure full compliance, and to deal effectively with commercial “burning” operations, and they must use that authority vigorously. Deterrent penalties—including license revocation, confiscation of equipment and raw materials, and heavy fines and imprisonment—

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<sup>12</sup> As a consequence, the U.S. government has levied sanctions against Ukraine under Special 301 and removed its GSP benefits. Such sanctions remain in place today.

must be consistently and efficiently imposed on optical disc pirates, and governments must adopt and implement zero tolerance policies on the sale of infringing materials.

### **Piracy by Organized Crime Syndicates**

Because of the immense profits that can be garnered by producing pirate optical disc products, this illegal business has been taken over in many countries by organized crime syndicates, making it even more difficult for local authorities to combat the problem. These criminal syndicates are highly organized, are linked across national boundaries, and have powerful friends within governments. They have access to and control of large amounts of capital, and exploit complex distribution networks to engage in many kinds of criminal activity. In many cases, these powerful criminal networks are involved in multiple lines of criminal activities, including copyright piracy, drug smuggling, trade in illegal munitions, and money laundering. In some cases, the proceeds of copyright piracy have been used to fund terrorist organizations.

These syndicates control not only the production but the distribution of pirated and counterfeit optical disc products within the domestic market and around the world. For example, syndicates with optical disc production facilities in Southeast Asia work with partners in South America to conduct a thriving trans-Pacific trade in pirate music CDs, entertainment software, and other optical disc products. These criminal networks are highly sophisticated and are becoming increasingly dangerous to deal with. Starting in 2003, responding to improved enforcement against factory pirate production, the syndicates began moving their illegal trade into CD-R and DVD-R "burning" and to the Internet (see, for example, the country survey on Taiwan). This phenomenon will be even more pronounced in 2005.

*Time/Europe*<sup>13</sup> has reported that a drug dealer pays about \$47,000 for a kilo of cocaine, and can sell it on the street for about \$94,000, a 100% profit. But for \$47,000 and with a lot less risk, a pirate can buy or produce 1,500 pirated copies of Microsoft's Office 2000 Professional and resell them for a profit of 900%! Examples of the involvement of organized crime on a global basis include:

- In August 2004, the owner of a pirate video shop in a popular Bangkok, **Thailand** shopping mall was shot dead in the Mall by an assailant on a motorbike. Police suspect the murder was ordered by the criminal gang that controls the piracy business in this and other malls. Police believe the murdered man was trying to break the protection racket that insulated the shops from possible police raids.
- In **Australia**, by the middle of 2004 the number of stalls selling pirated film DVDs at Melbourne's Caribbean Gardens Markets had increased fivefold (to more than 135 stalls); the price of pirated DVDs had substantially dropped (from AU\$15-\$20 per disc to AU\$10); traders not affiliated with two main organized criminal gangs were forced to pay protection money or were simply muscled out of the market; and a well-organized lookout system had been put in place. In August 2004, the Caribbean Market hosted the largest concentration of DVD sellers under one roof in the Asia-Pacific region and an at times armed battle for control between two criminal gangs resulted in physical intimidation of investigators from the motion picture industry's Australian anti-piracy program.

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<sup>13</sup> "Busting Software Pirates," *Time/Europe*, November 18, 2002.

- In March 2002, the largest seizure ever in **Australia** took place—35,000 pirate VCDs and DVDs. The disks were produced in **Malaysia** and a Malaysian national was arrested at the time. Further investigation led to the arrest of another Malaysian entering Australia with false documents. The authorities determined that this was a well organized syndicate including Malaysian and Australian nationals operating in cell-type structures to protect the ultimate kingpins. Unfortunately, both suspects were assessed inadequate fines, and were deported without the fine being paid.
- In 2004, enforcement authorities in the United Kingdom uncovered the involvement of Triad and Snakehead gangs in **China** in forcing illegal immigrants from China to sell pirate DVDs on the street to pay for their illegal passage to the UK.
- An April 2004 Interpol report on the links between terrorism and IPR crimes noted a year 2000 case of a CD plant in **Russia** run by Chechens who remitted funds to the Chechen rebels. The average monthly earnings of the organization were estimated at US\$500,000-\$700,000. During the raid on suspects' houses, a number of explosives and arms were seized.
- In 2004, turf wars between syndicates operating out of **Russia** and Bulgarian organized crime gangs were numerous, particularly over control of piracy at some of **Bulgaria's** most blatant pirate hotspots. Bulgaria's anti-organized crime agency has acknowledged the involvement of these syndicates in the pirate distribution business.
- A recent press report noted that a new OD factory had been set up in **Burma** close to the border with northern Thailand near Chiang Rai. The plant produces pirate CDs, VCDs, and DVDs and is owned by the notorious drug lord Wei Hseuh-kang. The production lines reportedly were imported from China and the blank discs are reportedly also from China. Annual profit from this plant was estimated at US\$6.5 million. Pirates in the border town in Thailand near the plant sold pirate product from the plant and DVDs of the newest U.S. films imported from China.
- In November 2004, police in Bangkok, **Thailand** raided a night market at King Rama I Bridge and were attacked by 30 piracy gang members. Some of the officers were injured.
- A pair of shipments intercepted by **Australian** Customs in October 2003 and described as containing "staircase fittings" was found to contain four steel cylinders large enough to hold 200 DVDs each. The airfreight shipments, seized in Sydney on October 17, 2003, were intended for an importer well-known to the Motion Picture Association (MPA) and involved in previous pirate disc smuggling operations. The "staircase fittings" shipment was intercepted as part of a long-term investigation into a very well organized syndicate operation.
- In late 2004, **Hong Kong** Customs smashed an extensive OD piracy syndicate allegedly run by a woman dubbed the "queen of piracy" and her sons. Ten locations were raided and close to US\$200,000 worth of pirate copies and equipment were seized. It was estimated that this ring generated more than US\$1.5 million per year over a four year period. In this same period, another sweep led to the arrest of 284 organized crime gang members with more than US\$330,000 worth of pirate product seized. The raids were aimed at the revenue sources of Triad societies in West Kowloon. The sweep involved over 500 law enforcement officials.

- Also in 2004, **Hong Kong** Customs ran “Operation Sunrise,” which disrupted a criminal syndicate run by the Sun Yee On Triad Society, yielding the arrests of 30 people, including a 12-year-old girl. Police raided 435 locations and inspected 1,921 entertainment premises, making arrests at 18 gambling establishments, 9 pirate optical disc shops, 23 brothels and 6 drug dens. Seizures included 1,700 Ecstasy tablets, 200 grams of ketamine, weapons, 160,000 pornographic or pirate optical discs, 9,500 liters of unlicensed gasoline and about 3.9 million cigarettes. The operation followed another successful anti-organized crime operation on June 25, 2004 when Hong Kong police and other agencies conducted a three-day operation code-named “Windpipe” that resulted in the arrest of 499 people and the seizure of over 12,200 copyright-infringing items including pirate optical discs.
- In August 2004 in **Malaysia**, it was reported that one of the suspected members of a Malaysian criminal syndicate distributing pirate ODs crashed his van into several vehicles while attempting to escape MDTCA officers. The suspect was apparently unloading 250,000 discs of local and international musical repertoire worth US\$400,000.
- In July 2001 in a **Malaysian** city, a City Council President received a personal death threat along with a threat that his daughter would be raped if he continued his crackdown on the city’s illegal VCD traders. He also received a handwritten letter containing a ten-centimeter-long razor blade. Newspaper reports noted seven death threats reported to the police in the months following aggressive action by the enforcement officers against VCD pirates. The then-Minister of the Domestic Trade and Consumer Affairs Ministry (MDTCA)—the main enforcement arm in Malaysia—also received a personal death threat. The Deputy Prime Minister stated publicly that it was clear that piracy is linked to criminal elements in Malaysia.
- Also in **Malaysia**, the police reported in October 2002 that pirate production of thousands of copies of protected films were carried out aboard ships anchored in international waters off the Malaysian coast. The ships later offloaded their cargo at obscure points along the coast.
- In February 2001, **Indonesian** police broke into a heavily fortified factory and discovered four production lines, three of which were in operation. During the search the raiding team was forced to abandon the premises after a local armed militia group sought to engage the police in a firefight in an effort to recover the premises.
- A raid in **Taiwan** in May 2001 turned up several illegal firearms, along with 70,000 suspect CD-Rs and other optical disc products containing music and pornography. This led to the discovery of an illegal arms factory alongside a sophisticated CD-R facility.
- In September 2002, in central **Taiwan**, the police arrested a 19-year-old in connection with the production of firearms to equip gang members protecting the local marketplace of a pirate optical disc production syndicate.
- In **Hungary**, criminal syndicates have assumed control of illegal CD-R burning, as well as all other aspects of duplication and distribution of entertainment software. For example, these criminal groups are using the Petöfi Stadium, which belongs to the local

municipality, as a distribution point to supply the surrounding region, including into Germany.

- In **Lithuania**, distribution of pirated entertainment software product (especially manufactured discs produced in Russia) is controlled by Russian organized crime syndicates that are now affixing their own logos and brand names to their illicit products. These pirated materials are then stored in Lithuania for distribution locally and throughout Eastern and Central Europe.
- CDs carrying extremist propaganda found in **Argentina, Mauritius, Pakistan** and **Paraguay** have been demonstrated to come from the same source as much of the illegally produced music in these regions. Other extremist or terrorist groups, for example in **Northern Ireland**, are partly funded by music piracy.
- In **Paraguay**, in April 2004, a key organized crime leader, Antonio Gonzalez Neira, was jailed for seven and a half years. The conviction was for the illegal import of blank CD-Rs suspected of being used in piracy. Neira was one of the most powerful pirates in Paraguay, and his family has a long and documented history of assisting Chinese and Taiwanese organizations involved in smuggling in the country.
- In **Brazil**, the notorious piracy kingpin Law Kim Chong was arrested in June 2004 for attempting to bribe the Chairman of Brazil's Congressional Anti-Piracy Committee. As part of the follow-up to this arrest, authorities raided one warehouse owned by Chong at which over 7.5 million blank CD-Rs and 3.5 million blank DVD-Rs were seized. The bribe was alleged to be for between US\$1 million and \$2.3 million. Chong owned numerous shopping centers and supplied product from China to over 10,000 points of sale throughout the country. Chong is now in jail and the investigation continues.
- In **Mexico**, police discovered a massive CD-R operation in raids in October 2001 on 11 houses, three linked internally by tunnels. Over one million blank CD-Rs, half a million pirated CD-Rs and 235 CD burners were found. Together the operation had the capacity to produce 14 million CD-Rs annually. It is believed the profits were invested in narcotics and prostitution.
- In February 2003, a high level Camorra crime boss in Naples, **Italy**, Luigi Giuliano, confessed to Italian prosecutors that the Camorra gang earned €100,000 per week (US\$125,000 or US\$6.5 million annually) from the drug trade, extortion and video and music piracy. In late 2004, a Naples Fiscal Police officer was shot at by suspected Mafia gang members. He was uninjured and was the coordinator of "Operation Jolly Roger," which had recently uncovered a major criminal syndicate producing and distributing pirate CDs and DVDs. During the Jolly Roger raids, seven people were arrested and more than 3 million music and movie CDs and DVDs were seized.
- In early 2004, a series of 13 raids by the National Police in Madrid, **Spain** led to the arrest of 40 persons involved in the mass duplication of CD-Rs. The suspects, many of whom were illegal immigrants from China and who had been brought to Spain by the other members of a criminal gang, were found in possession of 346 high speed burners, 168,400 blank CD-Rs, 24,450 recorded CDs, 39,000 DVDs, 10,500 VCDs containing movies, 515,000 jewel cases, 210,000 inserts and €48,000 (US\$60,000) in cash. The

gang used a number of computer shops and restaurants to launder the money generated by the pirate product.

- In **Germany** in August 2004, law enforcement authorities seized a major “release group” server (named “dRAGON”) at a university in Frankfurt. The server was being used by three of the largest release groups believed by the authorities to be responsible for up to 80% of online releases of German-language versions of movies, since a prior operation in March 2004 resulted in closing down 19 such servers. The server contained approximately 180 copies of newly-released films and about 20 interactive games. It was being used as a so-called mux-server (combining picture material with German soundtracks) by three of the largest and recently reorganized release groups, FLT (Flatline), TOE (Titans of Entertainment) and BBP (Block Buster Productions).
- Interpol has reported that in **Lebanon**, in February 2000, an individual was arrested for piracy and suspected of fundraising for Hezbollah. The individual sold pirated music CDs, Sega, Sony and Nintendo game discs to fund a Hezbollah-related organization. Among the discs recovered were discs containing images and short films of terrorist attacks and interviews with suicide bombers. The discs were allegedly used as propaganda to generate funds for Hezbollah.
- One individual, who has been identified by the U.S. Treasury Department as a “Specifically Designated Global Terrorist,” is understood to be a principal financier of one or two of **Pakistan’s** largest optical media plants.

The copyright industries alone cannot fight such organized criminal activity. Company representatives and counsel have in some countries already experienced threats on their lives or physical intimidation when their investigations began to make progress. In some cases, this has prevented any enforcement activity by the private sector. We look to the U.S. government for additional leadership, both here and in the appropriate bilateral and multilateral fora, to assist in placing the issue of effective copyright piracy enforcement on the agenda of agencies dealing with organized economic crime—generally, cybercrime, fraud, extortion, white-collar crime, drug enforcement, money laundering, and border and customs control. The U.S. government should encourage countries with existing anti-organized crime laws and investigative procedures to bring them to bear against syndicate operations involved in piracy. Where such laws and procedures are not in place, the U.S. government should encourage governments to adopt them and to include, among predicate offenses, intellectual property right violations.

### **End-User Piracy of Business Software and Other Copyrighted Materials**

The unauthorized use and copying of software by businesses result in tremendous losses to the U.S. and global economies. The great majority of the billions of dollars lost to U.S. software companies from business software piracy in 2004 was attributable to this end-user software piracy. To safeguard the marketplace for legitimate software, government must have in place both substantive standards of protection and adequate enforcement mechanisms.

For the business software industry, it is particularly critical, given the growing use of electronic networks to make software available commercially to corporate and other end users, to ensure that the reproduction right covers both temporary as well as permanent reproductions. It is likely that very soon, virtually all consumers will engage in the full exploitation of software they license and receive over a network without ever making a

permanent copy on their hard drive. They will simply access the software, in accordance with mutually agreed license terms, then load it into the random access memory (RAM) of their workstation or server, use the software and, when finished, close the program or shut down the computer—all without the software ever being permanently stored on the computer's or server's hard drive. Failure to make clear that such temporary reproductions are covered by the exclusive reproduction right is a violation of the Berne Convention, the WTO/TRIPS Agreement and the WIPO Copyright Treaty. Great progress has been made globally on this critical issue, and IIPA calls upon the U.S. government to continue to seek legislative changes and clarifications on this point. As of today, at least 90 countries either provide express protection, or do so by interpretation, for temporary reproductions, or have committed to provide such protection.

Enforcement is a critical part of reducing global piracy rates for business software, which exceed 50% in the developing world. The biggest challenge to the business software industry is to persuade governments to take effective enforcement action against enterprises that use unlicensed software in their businesses. To effectively enforce against corporate end-user piracy, it is critical that countries provide an effective civil system of enforcement, provisional remedies to preserve evidence, and deterrent criminal penalties for piracy. More specifically, it is critical that countries provide *ex parte* search orders in an expeditious manner, deterrent civil damages and criminalization of corporate end-user piracy as required by Article 61 of TRIPS. Industry, along with USTR, has raised the need for strong procedural and remedial enforcement measures around the world. Although some countries have made attempts to improve enforcement through special enforcement periods and action plans, most of these proposals for action have not been sustained over time or resulted in deterrent criminal fines and jail terms. Additionally, most countries still do not criminalize corporate end-user piracy or provide civil *ex parte* measures—both in violation of their TRIPS obligations.

End-user piracy is of course not limited to software but, in part because of the Internet, now affects all copyright sectors. Hard goods piracy using the Internet to advertise and sell pirate product, and unauthorized downloading of music, movies, videogames and books from websites as well as through peer-to-peer file swapping services have all skyrocketed. Unauthorized digital streaming, where bandwidth permits, is also growing. A great deal of this activity is being conducted through government-owned Internet Service Providers and from servers owned and operated by governments, schools and universities. Likewise, in government, school and university facilities photocopy machines are routinely used for commercial scale book piracy. Where the government is directly involved or directly responsible for the facilities and implements used, policies and decrees must be promulgated and strictly enforced to ensure that these facilities are not used for infringing conduct.

Where the activity is confined to the private sector and to private individuals, the mechanisms for strict enforcement against pirate websites, P2P services and against individual uploaders and downloaders must be put into place and deterrent penalties imposed. Where lacking, legislation must be passed clarifying secondary liability as well as infringement liability for unauthorized uploading and downloading. Statutory notice and takedown regimes, with narrowly-crafted safe harbors for ISPs, should be adopted, which allow for expedited action (with minimal and reasonable notification procedures) to block access to infringing material or take down infringing websites or FTP sites. Piracy directly by individual or enterprise or government end-users is on the increase; the appropriate and effective enforcement tools must be put into place immediately.

## **Piracy of Books and Journals**

The book and journal publishing industry faces not only the same challenges encountered by other entertainment and high-tech industries (digital and online piracy), but must contend with other methods of infringement as well. This piracy comes primarily in two forms—commercial photocopying and print piracy.

Unauthorized commercial-scale photocopying of books and journals is responsible for the industry's biggest losses in most territories worldwide. This photocopying takes place in a variety of venues—commercial photocopy shops located on the perimeters of university campuses and in popular shopping malls; on-campus copy facilities located in academic buildings, libraries and student unions; and wholly illicit operations contained in residential areas or other underground establishments. Publishers also suffer from unauthorized photocopying for commercial research purposes in both for-profit and non-profit institutions (often accompanied by failure to compensate reprographic rights organizations (“RROs”) in countries where they exist to collect photocopying royalties). These operations are highly organized and networked, and technology advances are making the problem worse. Digitally scanned covers, for instance, allow pirates to conceal text that is often of poor quality, misleading consumers into believing they are purchasing a legitimate product, and electronic files containing book text are now routinely recovered as part of enforcement actions against copyshops.

In addition, the U.S. publishing industry continues to lose hundreds of millions of dollars per year from unauthorized printing of entire books, including academic textbooks, professional reference books and trade books. These printers come in two varieties. Often, they are licensed printers or distributors who are engaged in offset printing beyond the scope of a valid license granted by the publisher. Others are wholly illegal pirate operations that have no license from the copyright owner at all. Print piracy is especially prevalent in Egypt, Pakistan, India and China, where printing is to some extent still less expensive for pirates than photocopying. Sophisticated printing technologies result in extremely high-quality pirate editions of books, making it difficult for users to distinguish between legitimate and pirate products.

Publishers continue to suffer from unauthorized translations of books and journals of all kinds and genres, as well as counterfeiting in the form of “bogus” books or trademark misuse. Plagiarism also abounds, most often in the form of compilations of English language material or directly translated material marketed as a local professor's own product.

These types of piracy call for the same kind of aggressive enforcement techniques discussed throughout this submission, accompanied by the political will and awareness of governments to recognize the serious damage done to economies, culture and the educational environment by letting such infringements persist. IIPA urges the U.S. government to ensure that such acts of piracy are fully covered in all bilateral, plurilateral and multilateral engagements.

## **Improving Copyright Protection and Enforcement, Including Through Free Trade Agreements**

The tools available to the U.S. government to improve copyright laws around the world and to ensure that these laws are effectively enforced are many and varied. They include not only the Special 301 mechanism, but various trade preference programs, such as the Generalized System of Preferences (GSP) program, which incorporate copyright (and other



IPR) criteria as conditions for continuing benefits. Along with these bilateral tools, the TRIPS agreement in the WTO has also caused many countries not only to improve their statutory laws to meet their new international obligations to protect intellectual property rights, but also to improve their enforcement systems to bring them into compliance with the new enforcement obligations in TRIPS. As we have noted, most countries have now brought their substantive laws into compliance with the TRIPS substantive law obligations. The same cannot be said, however, for the TRIPS enforcement obligations, and this submission is a testament to the need for WTO members to do much more in this critical area. The enforcement challenge is now accompanied not only by the need to upgrade substantive laws to deal with the new digital and online world, through implementation of the WIPO Treaties, but also to ratchet up enforcement systems once again, to match the technological challenges brought on by factory pirate OD production, OD burning, and the rising tide of Internet piracy.

The first yardstick that countries must measure up to is their obligation under the TRIPS agreement, both in respect of substantive law and enforcement. In addition, the U.S. government, beyond the bilateral and multilateral tools available to it, is now making effective use of the Free Trade Agreement process to adjust protection and enforcement to the new piracy and technology challenges of the 21st century. The biggest challenge today, of course, is correcting enforcement deficiencies. The TRIPS agreement and the FTA process are central to this effort.

**The TRIPS Agreement:** On January 1, 1996, the World Trade Organization (WTO) TRIPS Agreement entered into force for the U.S. and for all other WTO members that do not qualify for, and take advantage of, the transition periods of four and ten years.<sup>14</sup> Even for WTO members that did qualify for a transition period, the national treatment and MFN provisions of TRIPS applied fully as of January 1, 1996.<sup>15</sup>

On January 1, 2000, all TRIPS copyright obligations, including providing effective and deterrent enforcement, entered into force for all the world's developing countries (except those classified by the U.N. as the "least" developed countries). Before 2000, many of these countries successfully amended their statutory laws to bring them into compliance (or close to compliance) with TRIPS obligations. As we note throughout this submission, compliance with TRIPS *enforcement* obligations remains sparse, but is essential to returning the commercial benefits that were envisioned at the conclusion of the Uruguay Round.

**Non-Compliance with TRIPS Enforcement "Performance" Requirements:** A good number of developing countries simply have not taken sufficient measures to ensure that their laws and enforcement regimes (civil, criminal, provisional remedies, and border measures) are compatible with their TRIPS obligations. TRIPS obligations, both with respect to substantive law and to enforcement, are the worldwide "floor" for copyright and other intellectual property protection. Compliance with TRIPS obligations is necessary, though not alone sufficient, to

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<sup>14</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Articles 65 and 66.

<sup>15</sup> TRIPS, Article 65.2, provides that "any developing country Member is entitled to delay for a further period of four years [following the expiration of the one year period after the entry into force of the WTO generally] the date of application, as defined in paragraph 1 above, of the provisions of the Agreement other than Articles 3, 4 and 5 of Part I." Articles 3 and 4 establish the national treatment and MFN obligations of the Agreement and Article 5 excludes these obligations with respect to WIPO treaties. This exception to the use of transition is also provided in all other categories of countries that may take advantage thereof. As of February 11, 2005, 148 countries were members of the WTO, including all countries surveyed in this submission with some exceptions, e.g., Lebanon, Russia, Saudi Arabia, and Ukraine.

meet the Special 301 statutory standard of “adequate and effective” protection.<sup>16</sup> Accordingly, in the country surveys and as part of the Special 301 process itself, IIPA has paid special attention to the extent to which the countries (or territories) surveyed in this submission are in compliance with these obligations. Where TRIPS incompatibilities are found, they can appropriately be dealt with in the context of Special 301, as well as directly through the initiation of a dispute settlement proceeding in the WTO.

All countries must acknowledge that the TRIPS enforcement text requires effective enforcement against all types of infringements and particularly against copyright piracy on a commercial scale. This includes not only the new forms of piracy discussed throughout this submission, such as piracy of movies, records and music, entertainment and business software and books and journals on optical disc formats and on, or involving, the Internet, but also piracy of works in traditional formats. We refer here to piracy of movies on VHS tapes, as well as broadcast/cable/satellite piracy and unauthorized public performances, music on audiocassette, entertainment software in cartridge format, and traditional textbook, trade book and journal offset printing piracy, as well as commercial photocopying.

**U.S. Government Actions on TRIPS:** USTR has already brought a number of successful cases in the WTO against developed countries for violations of TRIPS copyright and copyright enforcement obligations. Five of the copyright cases which the U.S. has brought have been resolved to the satisfaction of the U.S. and U.S. industry, without proceeding to a formal decision by a panel: (1) Japan, for its failure to provide 50 years of retroactive protection to U.S. sound recordings; (2) Sweden, for its failure to provide civil *ex parte* searches; (3) Ireland, for its inadequate copyright law; (4) Greece, for its failure to enforce its laws against broadcast piracy; and (5) Denmark, for its failure to provide civil *ex parte* searches.<sup>17</sup>

IIPA continues to urge USTR and the U.S. government as a whole to use the Special 301 process as a leverage and consultation tool to move developing countries, whose obligations under TRIPS became fully effective on January 1, 2000, toward bringing their laws and particularly their enforcement regimes fully into compliance with TRIPS. This year we have, in particular, highlighted China’s failure to meet its TRIPS obligations in the enforcement area and have recommended that consultations be commenced in the WTO in a new effort to persuade the Chinese authorities that complying with their international obligations is not only their duty as global citizens, but is firmly in the interest of China itself. We have also highlighted the need for Pakistan to comply with the enforcement obligations of TRIPS, given its nearly 100 percent piracy rate and the massive exports of pirated product flowing out of Pakistan.

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<sup>16</sup> Uruguay Round Agreements Act, Pub. L. No. 103-465, § 314(c), 108 Stat. 4809 (1994) (also known as the URAA).

<sup>17</sup> [Snapshot of WTO Cases in the United States](http://www.ustr.gov/assets/Trade_Agreements/Monitoring_Enforcement/Dispute_Settlement/WTO/asset_upload_file287_5696.pdf) (updated Jan. 15, 2005 at [http://www.ustr.gov/assets/Trade\\_Agreements/Monitoring\\_Enforcement/Dispute\\_Settlement/WTO/asset\\_upload\\_file287\\_5696.pdf](http://www.ustr.gov/assets/Trade_Agreements/Monitoring_Enforcement/Dispute_Settlement/WTO/asset_upload_file287_5696.pdf)). The case numbers at the WTO are: WT/DS 28 (Japan), WT/DS 86 (Sweden), WT/DS 83 (Denmark), WT/DS 125 (Greece), WT/DS 82 (Ireland).

IIPA urges USTR to use all the tools available to it, including GSP,<sup>18</sup> CBI,<sup>19</sup> CBTPA,<sup>20</sup> ATPA,<sup>21</sup> ATPDEA,<sup>22</sup> and AGOA,<sup>23</sup> to reach the objective of strong global copyright protection, including, as the “floor” of this protection, compliance with TRIPS. IIPA identifies TRIPS-inconsistent laws or practices in the country surveys.

**The Free Trade Agreement Process:** The negotiation of bilateral and regional free trade agreements (FTAs) now occupies a place of overriding importance to the copyright industries and to U.S. trade policy. These negotiations offer an important opportunity to persuade our trading partners to modernize their copyright law regimes so they can maximize their participation in the new e-commerce environment, and to improve enforcement procedures. Since copyright issues are not being addressed in the Doha Round of multilateral negotiations under the World Trade Organization, the FTA process has become by far the most fruitful avenue to address the law reform challenges brought on by developments in technology. At the time of this letter, FTAs with Singapore, Chile, Australia, Jordan and Morocco have entered into force. FTAs with Central America, the Dominican Republic and Bahrain have been concluded. Negotiations with Panama and the Andean Pact countries of Colombia, Ecuador and Peru are slated to end soon, and negotiations with Thailand have begun. IIPA trusts that the valuable precedents established in these earlier agreements will be carried forward to the ongoing FTA negotiations with the South African Customs Union (SACU) and also to the newly announced negotiations with the United Arab Emirates and Oman, and hopefully many more to come. In all these negotiations we have achieved, and will continue to seek, full implementation of the WIPO Internet Treaties; stronger substantive protection in other areas, including the extension of the term of copyright; and detailed and effective enforcement obligations that make clear the requirement to enforce copyright in all areas, including on the Internet, with expeditious and deterrent civil and criminal remedies. We again compliment the Administration and Ambassador Zoellick for moving swiftly and aggressively to secure new high levels of protection and enforcement that will be critical to the development of e-commerce in the coming years. Finally, we next expect all this effort to come together in an unprecedented Free Trade Agreement of the Americas in which the standards of copyright protection and enforcement continue to reflect the new global framework of protection established in the FTAs negotiated to date. IIPA looks forward to working closely with U.S. negotiators to achieve these goals in the FTA and FTAA fora.

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<sup>18</sup> Generalized System of Preferences Renewal Act of 1984, Pub. L. No. 98-573, tit. V, 99 Stat. 2948 (1984) (codified at 19 U.S.C. § 2461 *et seq.*).

<sup>19</sup> Caribbean Basin Economic Recovery Act, Pub. L. No. 98-67, Tit. II, 97 Stat. 369 (1983) (codified at 19 U.S.C. § 2701 *et seq.*).

<sup>20</sup> U.S.-Caribbean Trade Partnership Act, Trade and Development Act of 2000, Pub. L. No. 106-200, tit. II (May 18, 2000) (codified at 19 U.S.C. § 2703 *et seq.*).

<sup>21</sup> Andean Trade Preference Act of 1990, Pub. L. No. 102-182, Tit. II, 105 Stat. 1233 (1991) (codified at 19 U.S.C. § 3201 *et seq.*).

<sup>22</sup> Andean Trade Promotion and Drug Eradication Act, Pub. L. No. 107-210 (2002) (codified at 19 U.S.C. § 3201 *et seq.*).

<sup>23</sup> African Growth Opportunities Act, Trade and Development Act of 2000, Pub. L. No. 106-200, tit. I (May 18, 2000) (codified at 19 USC § 2461 *et seq.*).

#### **D. IIPA RECOMMENDATIONS FOR THE 2005 SPECIAL 301 LISTS**

This year IIPA has considered deficiencies in copyright protection in 42 countries/territories and has recommended them for placement in the categories of Priority Foreign Country, Priority Watch List, Watch List, and Section 306 Monitoring. We also identify two countries that have failed to comply with their copyright or enforcement obligations under FTAs currently in force. Finally, we mention specific issues in 23 additional countries/territories that deserve increased U.S. government attention.

IIPA recommends that USTR designate Russia as a Priority Foreign Country in 2005 and that Russia's eligibility for GSP benefits be immediately suspended. Russia's copyright piracy problem remains one of the most serious of any country in the world. Piracy rates for most sectors are estimated at around 80% in 2004 and losses exceed \$1.7 billion.<sup>24</sup> Despite the repeated efforts of industry and the U.S. government to convince the Russian government to provide meaningful and deterrent enforcement of its copyright and other laws against OD factories and all types of piracy—including some of the most open and notorious websites selling unauthorized materials such as [www.allofmp3.com](http://www.allofmp3.com)—little progress has been made over the years. Meanwhile, piracy continues unabated in the domestic market and pirate exports continue to flood both Eastern and Western Europe.

IIPA also recommends that Pakistan be designated as a Priority Foreign Country. The government of Pakistan has largely ignored the growing production of pirate U.S. copyrighted products by illicit optical disc factories. Exports of these pirate goods are flooding the world market. Efforts to persuade the Pakistani government to halt such pirate production and export have, to date, produced few results. Furthermore, the Pakistani government has failed to take adequate measures to stop rampant book piracy and commercial photocopying, which decimate the market for legitimate publishers.

IIPA recommends that USTR should keep Ukraine as a Priority Foreign Country and that trade sanctions should continue accordingly in 2005. This includes the continued suspension of Ukraine's duty-free trade benefits under the Generalized System of Preferences ("GSP"); those benefits were suspended in August 2001 for Ukraine's copyright shortcomings. We make these recommendations because Ukraine's copyright piracy problem remains very serious almost five years after it agreed to a Joint Action Plan signed by then-President Clinton and President Kuchma which Ukraine has neither effectively nor completely implemented. By its failure to fully implement an optical disc regulatory scheme and by its overall criminal enforcement failures, Ukraine is not in compliance with the June 2000 bilateral agreement, nor with the 1992 Bilateral NTR Trade Agreement with the United States (which Ukraine agreed to implement by December 31, 1993). IIPA hopes that last year's historic elections will produce an environment conducive to the resolution of these long-standing issues, and that Ukraine will take the necessary steps to restore its trading benefits with the United States.

IIPA recommends that the remaining countries/territories be placed on, or maintained on, the Priority Watch List or the Watch List, where they are subject to ongoing bilateral scrutiny.

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<sup>24</sup> The methodology used by IIPA member associations to calculate these estimates is described in IIPA's 2005 Special 301 submission, at [www.iipa.com/pdf/2005spec301methodology.pdf](http://www.iipa.com/pdf/2005spec301methodology.pdf). For example, ESA's reported dollar figures reflect the value of pirate product present in the marketplace as distinguished from definitive industry "losses."

IIPA recommends that 15 countries be placed on the Priority Watch List: Argentina, Brazil, Bulgaria, Chile, Colombia, the Dominican Republic, Egypt, India, Indonesia, Kuwait, Lebanon, the People's Republic of China, the Philippines, South Korea, and Thailand. IIPA also recommends that 23 countries/territories be designated or kept on the Watch List. We also recommend that out-of-cycle reviews be taken in three countries that already appear on the various 301 lists: Malaysia, the People's Republic of China, and the Philippines.

With respect to the People's Republic of China, IIPA recommends that USTR immediately request consultations with China in the World Trade Organization, and that it place China on the Priority Watch List pending an out-of-cycle review to be concluded by July 31, 2005, at which time further appropriate multilateral and bilateral action, including the possible establishment of a dispute settlement panel in the WTO, would be considered. China has failed to "significantly reduce piracy rates," as promised by China's Vice Premier Wu Yi at the Joint Commission on Commerce and Trade (JCCT) meetings in April 2004. Piracy rates continue to hover around 90%, where they have been for years, and losses are estimated at \$2.5 billion in 2004.<sup>25</sup> While there have been some raiding improvements, the copyright industries are concerned that, without moving to a hopefully more effective forum and a new dialogue, little will happen in the near term to change the current dismal picture.

IIPA commends Paraguay for the efforts that it has made over the course of this past year, and recommends that USTR continue to monitor developments in Paraguay under Section 306 of the Trade Act of 1974.

Appendix C contains a survey of a total of 67 countries or territories. The countries/territories appear by recommended category and in alphabetical order within each category.

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<sup>25</sup> See footnote 24, *supra*.

PRIORITY FOREIGN COUNTRY	PRIORITY WATCH LIST	WATCH LIST	SECTION 306 MONITORING	FTA DISPUTE SETTLEMENT	OTHER COUNTRIES DESERVING SPECIAL MENTION
Pakistan (GSP) Russia (GSP) Ukraine	Argentina Brazil (GSP) Bulgaria Chile Colombia Dominican Republic Egypt India Indonesia Kuwait Lebanon (GSP) PRC + OCR Philippines + OCR South Korea Thailand	Bolivia CIS (5) <sup>26</sup> Belarus Kazakhstan (GSP) Tajikistan Turkmenistan Uzbekistan (GSP) Ecuador Hungary Israel Italy Latvia Lithuania Malaysia +OCR Mexico New Zealand Peru Poland Romania Saudi Arabia Serbia and Montenegro Taiwan Turkey Venezuela	Paraguay	Jordan Singapore	Bahamas Bangladesh Bosnia and Herzegovina Burma Cambodia Canada CIS (2) Azerbaijan Georgia Croatia Cyprus Czech Republic Estonia Greece Hong Kong +OCR Iceland Kenya Laos Macedonia Nigeria South Africa Spain Switzerland Vietnam
3	15	23	1	2	23

Appendix D provides a history of countries/territories appearing on IIPA and USTR lists since 1989, a year after the Special 301 legislation became effective. Fifteen of these countries/territories have appeared on a Special 301 list each year since 1989, and are recommended by IIPA to appear there again. A 1994 amendment to Section 182 of the Trade Act, dealing with identification of “priority foreign countries,” provides that the U.S. Trade Representative must take into account “the history of intellectual property laws and practices in the foreign country, whether the country has been identified as a priority foreign country previously, and U.S. efforts to obtain adequate and effective intellectual property protection in that country.”<sup>27</sup> Under this criterion, these 15 countries/territories named by IIPA are particularly vulnerable, having failed to correct their piracy and/or market access problems during the 17 years that Special 301 has been in existence.

**Ongoing GSP IPR Reviews:** IIPA also calls attention to ongoing intellectual property rights reviews under the Generalized System of Preferences (GSP) trade program. IIPA has been a strong supporter of the GSP program and over the years has filed petitions requesting the U.S. Government to initiate review of copyright law and enforcement practices in targeted

<sup>26</sup> “CIS” in this filing denotes ten former Soviet republics. Russia and Ukraine are treated separately from the CIS in this filing.

<sup>27</sup> Uruguay Round Agreements Act Statement of Administrative Action, *reprinted in* H.R. Doc. No. 103-316, vol. I, at 362 (1994).

countries. In June 1999, IIPA filed 11 GSP petitions against: Poland, Peru, Lebanon, Dominican Republic, Ukraine, Moldova, Uzbekistan, Armenia, Kazakhstan, Belarus, and the Kyrgyz Republic. On February 7, 2000, IIPA withdrew its petition against Peru in light of the commitments made by that country to improve enforcement. On February 14, 2000, USTR accepted IIPA's GSP petitions against six countries: Dominican Republic, Ukraine, Moldova, Uzbekistan, Armenia, and Kazakhstan. Our Belarus petition was not accepted because GSP benefits were being withdrawn from that country for other reasons. Hearings on these six countries were held on May 12, 2000.

In August 2000, IIPA filed five more petitions for GSP reviews of the copyright practices of Brazil, Russia, Guatemala, Costa Rica, and Uruguay as part of the 2000 Annual Review. On January 10, 2001, USTR decided to initiate GSP IPR reviews against Brazil and Russia. GSP hearings were held on March 9, 2001. USTR announced that it was terminating the GSP review against Moldova due to legislative progress recently made in that country. For the 2001 GSP Annual Review process, IIPA filed GSP petitions against Lebanon, Pakistan and Uruguay. A coalition of six copyright-based associations also submitted a petition against Thailand. On August 6, 2002, the GSP program was renewed for four years through December 31, 2006.

On September 3, 2003, USTR announced its decisions in both the 2001 and 2002 GSP Annual Reviews for country practices. USTR accepted IIPA's GSP IPR petition against Lebanon; acknowledged IIPA's requests to withdraw its petitions against Thailand and Uruguay; announced the termination of the IPR reviews against Armenia and Turkey; and postponed its decision whether to accept or reject IIPA's petition against Pakistan. GSP hearings were held on October 7, 2003, and IIPA presented testimony in the cases against Brazil, Russia, the Dominican Republic, Kazakhstan, Uzbekistan and Lebanon. On July 2, 2004, USTR announced its decisions in seven copyright cases in the 2003 GSP cycle by accepting the Pakistan petition, extending a special 90-day review in the Brazil case, terminating the investigation against the Dominican Republic, and keeping the cases open against Russia, Lebanon, Kazakhstan and Uzbekistan. On December 6, 2004, USTR extended its investigation of Brazil through March 31, 2005.

## **E. FTA DISPUTE SETTLEMENT COUNTRIES**

As discussed above, the FTAs negotiated to date have set new global precedents in copyright protection and enforcement, providing further impetus to e-commerce and to global economic growth and employment. However, these benefits will not be realized unless the obligations agreed to are rigorously implemented into the national laws of our FTA partners. In the submission we identify two such partners—Jordan and Singapore—which have not yet fully implemented their FTA obligations. Unless the current issues with these countries are promptly and satisfactorily resolved in current informal negotiations, the U.S. should not hesitate to use the FTA dispute settlement process set up for just this purpose.

## **F. COUNTRIES DESERVING SPECIAL MENTION IN 2005**

In addition to the 42 countries/territories for which IIPA has provided comprehensive country reports, IIPA also highlights issues in 23 countries/territories which deserve special attention this year but which are not recommended for placement on the Special 301 Lists. These countries/territories and the problems encountered in them can be found at the end of Appendix C in a new Section entitled "Countries Deserving of Special Mention." These countries/territories are: Azerbaijan, Bahamas, Bangladesh, Bosnia and Herzegovina, Burma,

Cambodia, Canada, Croatia, Cyprus, Czech Republic, Estonia, Georgia, Greece, Hong Kong, Iceland, Kenya, Laos, Macedonia, Nigeria, South Africa, Spain, Switzerland, and Vietnam.

## G. ESTIMATED LOSSES DUE TO PIRACY

As a result of deficiencies in the copyright regimes of the 67 countries/territories highlighted in this submission, the U.S. copyright-based industries suffered estimated trade losses due to piracy of \$13.4 billion in 2004.<sup>28</sup> On a global basis (that is, in all countries/territories including the U.S.), IIPA conservatively estimates that total losses due to piracy were at very minimum \$25-30 billion in 2004, not counting significant losses due to Internet piracy, for which meaningful estimates are not yet available.

Appendix A presents a chart which quantifies losses for the five copyright-based industry sectors—the entertainment software, business software, motion picture, sound recording and music, and book publishing industries—for 2003 and 2004. In most surveys, IIPA has described the piracy levels in each of the sectors in each of these countries/territories (where available). This should prove helpful in identifying trends and in determining whether enforcement efforts have actually been successful in reducing piracy levels in the particular country.

<b>ESTIMATED TRADE LOSSES DUE TO COPYRIGHT PIRACY IN 67 SELECTED COUNTRIES IN 2004 (in millions of U.S. dollars)</b>	
<b>Industry</b>	<b>Estimated Losses</b>
<b>Motion Pictures</b>	<b>1,800.7</b>
<b>Records &amp; Music</b>	<b>2,657.4</b>
<b>Business Software</b>	<b>6,448.0</b>
<b>Entertainment Software<sup>29</sup></b>	<b>1,847.5</b>
<b>Books</b>	<b>603.0</b>
<b>Total</b>	<b>13,356.6</b>

Appendix B summarizes the methodology used by each IIPA member association to calculate these estimates. They represent a crushing burden on the U.S. economy, on U.S. job growth, and on world trade generally. They result from the blatant theft of one of this country's most valuable trade assets—its cultural and technological creativity. Appendix B also describes how IIPA and its members estimate global OD production capacity, including factories, types of

<sup>28</sup> The methodology used by IIPA member associations to calculate these estimates is described in IIPA's 2005 Special 301 submission, at [www.iipa.com/pdf/2005spec301methodology.pdf](http://www.iipa.com/pdf/2005spec301methodology.pdf).

<sup>29</sup> ESA's reported dollar figures reflect the value of pirate product present in the marketplace as distinguished from definitive industry "losses." The methodology used by the ESA is further described in Appendix B of this report.

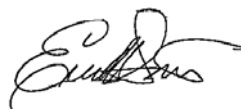


OD production lines, and capacity for both production of content and blank media (CD-Rs and DVD-Rs). The use of recordable media has now come close to becoming the pirate's tool of choice, particularly as enforcement pressure on factory production has increased.

## H. CONCLUSION

Special 301 remains a cornerstone of U.S. intellectual property and trade policy. We urge the Administration to use Special 301—as well as the tools available under the GSP, CBI, ATPA, CBTPA, and AGOA programs—to encourage the countries/territories identified in our recommendations this year to make the political commitments, followed by the necessary actions, to bring their copyright and enforcement regimes up to international standards. The U.S. government should also use the multilateral tools in the WTO dispute settlement machinery to encourage countries/territories to bring their substantive and enforcement regimes into compliance with their international obligations under TRIPS. We look forward to our continued work with USTR and other U.S. agencies to bring about major improvements in copyright protection and enforcement worldwide.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric H. Smith", is positioned above a vertical red line.

Eric H. Smith  
President  
International Intellectual Property Alliance