

I N T E R N A T I O N A L I N T E L L E C T U A L P R O P E R T Y A L L I A N C E



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October 23, 2000

Mr. Jon Rosenbaum
Office of the U.S. Trade Representative
600 17th Street NW, Room 518
Washington, DC 20508

Re: IIPA GSP Petition Republic of Moldova

Dear Jon:

On June 16, 1999, the International Intellectual Property Alliance (IIPA) formally submitted a request that the U.S. government review the eligibility of the Republic of Moldova as a GSP beneficiary developing country, and that Moldova's GSP benefits be suspended or withdrawn if requisite improvements were not made by Moldova to remedy the serious deficiencies outlined in our petition which adversely affected U.S. copyright owners. As a result of several improvements in the legal and enforcement copyright regime in Moldova since the filing of that petition, and after productive consultations with Moldovan (and U.S.) officials to address outstanding issues, the IIPA now requests that our petition be formally withdrawn.

The IIPA is pleased to report that a recent exchange of letters between the IIPA and Moldovan officials (IIPA letter dated June 7, 2000; Republic of Moldova Ministry of Economy and Reforms letter dated October 16, 2000, both attached) resolved almost all of our remaining concerns in the Moldovan copyright regime. We expect to continue the constructive dialog that began last year with the Moldovan government on those matters that have not been fully resolved. Also, we wish to express our appreciation to the Moldovan copyright experts and other government officials there, as well as to USTR and other U.S. government officials, who facilitated constructive progress this past year.

More specifically, the exchange of letters addressed the following issues:

- 1. The protection for preexisting works and sound recordings:** The Moldovan government shared Parliamentary Decision No. 294-XIII of 23/11/1994 and the official government's interpretation of that law, that it currently provides clear protection for preexisting sound recordings and works in Moldova that are less than fifty years from publication, or failing publication, fifty years from creation. The Moldovan government asserts that this Parliamentary Decision is in full compliance with the Berne Convention and the TRIPS Agreement.
- 2. Civil *ex parte* search provisions:** The current Moldovan Civil Procedure Code, provided to IIPA by the Moldovan government, provides *ex parte* search provisions as required by TRIPS Article 50. These provisions are necessary for effective enforcement, especially of end-user software piracy. We remain concerned that there are no similar criminal *ex parte* search provisions and hope to work with the Moldovan government on the adoption of such provisions as part of the Criminal Code revision currently underway in the Parliament.
- 3. Criminal Code:** There are existing provisions in Moldovan law (Art. 38 of the Copyright Act), that if applied, would be strong enough to deter commercial piracy through its sanctions including up to 3 years imprisonment; and, such provisions do apply to infringements of both works and sound recordings. We remain concerned, however, that the current Criminal Code provisions only apply to works, not to sound recordings, and that secondly they need to be strengthened overall. Moldovan officials promised that revisions currently before Parliament would apply "significantly higher penalties" for IPR crimes, including violations of copyright and neighboring rights. We look forward to receiving drafts of these laws and to seeing them adopted soon by the Moldovan Parliament.
- 4. Customs Code:** The current Customs Code does not provide *ex officio* authority for customs officials to properly seize works and sound recordings at the border. Strong border enforcement is essential because of the widescale regional optical media piracy production and distribution problems. Moldovan officials acknowledged the border enforcement problems in their letter to the IIPA, as well as the need to adopt such *ex officio* authority as required by TRIPS into the Moldovan Customs Code; these amendments are now under consideration by the Parliament.

All of the concerns above detail legal reforms in the copyright, civil, criminal and customs laws. IIPA is also concerned about actual "on the ground enforcement" and we continue to urge Moldovan authorities to work to improve the level of effective enforcement for works and sound recordings, which we suggest would include commencement of raids and seizures, as well as criminal prosecutions.

In sum, we hope to continue the productive work that resulted from the GSP petition activities, and look forward to working with the government of the Republic of Moldova (and with U.S. government officials) to improve the protection and enforcement of copyrighted works and sound recordings in Moldova.

Sincerely,

Eric J. Schwartz
Counsel
International Intellectual Property Alliance

cc: Claude Burcky, USTR
Vlad Spanu, Embassy of the Republic of Moldova