



May 25, 2004

Mr. Steven Falken
Executive Director for GSP
Chairman, GSP Subcommittee
Office of the U.S. Trade Representative
1724 F Street NW, Room F-220
Washington, DC 20508

Re: Pakistan GSP Petition for Review, Case No. 024-CP-02

To the GSP Subcommittee:

As the U.S. government nears its decisions regarding the 2003 GSP country eligibility review, IIPA takes this opportunity to reiterate its position regarding the still pending petition against Pakistan.

On February 14, 2004, IIPA provided this Subcommittee with a copy of IIPA's February 2004 Special 301 report on Pakistan to supplement to the public GSP file regarding IIPA's pending petition for an investigation of Pakistan's intellectual property rights practices under the GSP trade program. In both these documents, IIPA specifically requested that this Subcommittee accept IIPA's GSP IPR petition against Pakistan (filed on June 13, 2001) and that a hearing be held.

Since our 2004 301 report, the Pakistanis have apparently gauged the seriousness of the situation with respect both to the Special 301 process and the GSP petition. Unfortunately, the response has been for the Government to take some cosmetic steps forward early in the year, while failing to deal fundamentally with the piracy phenomenon. The result is that CD piracy in the markets in Pakistan is as vibrant as ever and the optical disc over-production remains a serious concern (although there is some evidence that production has shifted somewhat to non-Western repertoire – the copyright for much of which, at least on the recorded music side, is owned by U.S. record companies). Moreover, continued unmonitored operation of such excessive production capacity in disregard of copyright law raises the likelihood that pirated production of American repertoire will again occur. Here are some key points to note:

- ✚ **Optical disc plants remain in operation (and there may be growing capacity):** While four of the eight plants had briefly shut their doors in March 2004, according to reliable information, all eight plants are once again back to their normal production capacity. This information is supported by the confirmed importation of polycarbonate



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(the raw material used to make discs) into Pakistan of over 500,000 kg for the month of April – a new monthly ‘record’ for polycarbonate importation in Pakistan. The plant “Perfect Engineering Works” is still in operation (it apparently was closed only for a week in April 2004 until it received more “orders”). Industry reports that an additional four optical disc mastering lines have been brought into Pakistan since October 2003, which would dramatically increase production capacity.

- ✚ **Pirate exports continue to be found all over the world sourced from Pakistan:** The export of pirated optical discs containing recorded music has gone back to former unacceptable levels. In the first two weeks of May 2004, over 100 air freight consignments of pirated optical discs are known to have been shipped from Karachi International Airport. As of March 2004, Pakistani audiovisual products were still coming into the UK at the same rate as in 2003. For the fiscal year ending March 31, 2004, UK Customs ranked Pakistan as the number two country of origin list for pirate discs, behind only Malaysia. Preliminary Customs figures showed that over 291,000 DVDs were seized en route from Pakistan (327,121 from Malaysia) from March 2003 to March 2004 - a substantial increase over the previous year. Between January and March 2004, UK Customs seized over 94,000 pirate DVDs from Pakistan. Many products are being exported into the United Arab Emirates from Pakistan. Dubai Customs has indicated seizures in 2003 of a total of 242,073 pirated/counterfeit optical discs from Pakistan. DVDs believed to be sourced from Pakistan are still being found on a regular basis containing the latest titles. Four distinct moulds have been identified, including one from a known plant in Pakistan. Pakistani pirates have also followed the example of the Malaysians and have begun to use other countries as transshipment points for their products.
- ✚ **Customs took some actions in April 2004, but pirate exports continue:** During the first two weeks of April 2004, Customs took some strict actions against pirate shipments at Karachi Airport, the result of which was that the number of shipments of exports of pirated optical discs dropped precipitously. However, the latest intelligence indicates that Central Board of Revenue (CBR) has instructed Customs to allow the export of pirated CDs containing non-Western repertoire.¹
- ✚ **CD Piracy in retail markets continue in full force:** The CD pirate retail market has returned in full force. The Government announced it would crack down on retail piracy, and this caused some slow down of sales of pirated materials in April 2004. Most CD vendors have apparently concluded that the Government will not follow through with enforcement of the law and consequently believe that the pressure is off. Apparently the

¹ It has been reported to IIPA that corruption may have taken hold at Karachi International Airport since the CBR instruction, and that Customs agents may be being offered payments to allow pirate shipments by ‘air-cargo services’ as well as ‘couriers’ carrying pirated optical discs as hand luggage.



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Deputy Inspector General (DIG) of Karachi Police had a meeting with the head of the infamous Rainbow Centre (Karachi's largest pirate retail mall with more than 150 retail outlets selling pirated materials) in mid-April 2004, giving a "final warning" to the members of the association to withdraw all pirated optical discs from Rainbow Centre within 20 days or face raids and seizures of the pirated optical discs. However, thus far this warning has not had any deterrent effect on the market. All formats of optical discs are available at the markets of Karachi, Lahore, Islamabad and Rawalpindi. A recent development in Rawalpindi is the availability of some "pre-release" CDs (i.e., pirated sales before the legitimate is distributed anywhere in the world) of international repertoire.

We continue to support our earlier recommendations that this Subcommittee accept IIPA's GSP petition against Pakistan, and that such an investigation should be initiated promptly.

Sincerely,

Michael Schlesinger
Vice President and Associate General Counsel
International Intellectual Property Alliance

cc: Ashley Wills (USTR)
Betsy Stillman (USTR)
Mark Wu (USTR)
Brian Peck (USTR)
Jon Rosenbaum (USTR)
James Mendenhall (USTR)
Paul Aceto (State)
Allison Areias (State)
Chris DeAngeles (State)
Molly Williamson (Commerce)
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Christopher Johnson (USITC)