

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE®



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Reduce Copyright Piracy and Market Access Barriers to Secure American Creative Jobs, Increase Exports, and Grow the Economy *IIPA's 25th Piracy Report Documents the Challenge of Online & Physical Piracy in 40 Countries*

Washington — The International Intellectual Property Alliance (IIPA) – a coalition of seven member associations, each of which represents a significant segment of the U.S. copyright industries – today submitted recommendations to the U.S. Trade Representative (USTR) in its annual “Special 301” review. IIPA’s recommendations aim to protect our nation’s creative industries, reduce piracy abroad, and topple barriers erected in foreign markets to U.S. copyrights. Strong copyright protection and effective enforcement around the world would help boost U.S. exports, create good jobs here at home, and contribute to U.S. economic growth.

The IIPA report documents increasingly devastating online and physical piracy of copyrighted works in numerous countries throughout the world. It advocates concrete solutions to address the “Copyright Industries’ Initiatives and Challenges for 2011.”¹ The report surveys problems and developments in 40 countries, recommending that 33 of them be placed on the USTR list of countries that fail to adequately or effectively protect IPR or that do not afford creators with adequate market access.

Regarding this year’s IIPA submission, Eric H. Smith, counsel to IIPA, commented, “The Special 301 process remains an effective trade tool for pursuing strong copyright protection, anti-piracy measures, and open markets for creative content. The U.S. core copyright industries – business software, entertainment software, motion picture, television and home video entertainment, music, and book and journal publishing – remain important drivers of the U.S. economy, contributing mightily to domestic growth and employment, including more than 6.4% to the U.S. economy, over 4% of all U.S. jobs, and over \$126 billion annually in revenue from foreign trade. Increasing exports by reducing trade barriers like piracy is essential to our country’s economic recovery and long term growth.”

IIPA counsel Steve Metalitz added: “In this year’s IIPA report, we highlight not only the severe harm caused by piracy in the online and physical environment, but also the promise that swift action will foster legitimate commerce in copyright works, benefiting creators and consumers of this material worldwide. We thank the U.S. Government, the many senior officials at USTR, Commerce, State, USPTO, the Copyright Office, the Office of the IP Enforcement Coordinator and others, along with their staffs, who have worked steadfastly over the years to ensure that our trading partners respect U.S. intellectual property and open their markets to our products and services. We also express our support to the Administration to urge swift approval of the Korea, Colombia, and Panama FTAs, and for a robust Trans-Pacific Partnership. These initiatives with strong IP chapters are critical vehicles to open foreign markets and encourage free and fair trade for America’s most productive companies.”

¹ The “Initiatives and Challenges” include 1) The Need for Deterrent Enforcement Responses to Copyright Piracy, 2) Enterprise (Including Government) End-User Piracy of Software and Other Copyright Materials, 3) Internet and Mobile Piracy, 4) Implementation of the WCT and WPPT, 5) Circumvention of Technological Protection Measures (TPMs), 6) Illegal Camcording of Theatrical Motion Pictures, 7) Game Cartridge Piracy, 8) Piracy of Books and Journals, 9) Using FTAs to Improve Global Standards of Copyright Protection and Enforcement, 10) Optical Disc Piracy, 11) Pay TV Piracy and Signal Theft, and 12) Market Access.



Background on the IIPA 2011 Special 301 Country Recommendations

IIPA recommends that 13 countries be placed on the Priority Watch List in 2011: **Argentina, Canada, Chile, China, Costa Rica, India, Indonesia, the Philippines, Russia, Spain, Thailand, Ukraine, and Vietnam**. IIPA recommends that Spain, Ukraine, the Philippines, Vietnam, and Costa Rica be elevated to this list.

China should remain on the Priority Watch List. China's many notorious online piracy sites and services, its failure to effectively lower enterprise end-user software piracy or legalize government and state-owned enterprise (SOE) use of software or publications, and myriad market access barriers remain serious irritants to the U.S. content industries. The report highlights measures that would help in the fight against online and physical piracy, including the need for deterrent civil and criminal actions, and key commitments the Chinese Government has made (and must follow through on) regarding liability for those who facilitate online infringement, legalization of software by government agencies and SOEs, strengthening copyright protection in China's libraries, and non-discriminatory market access for products with IP owned or developed outside of China.

Spain should be elevated to the Priority Watch List in light of the explosion of online piracy in recent years and the failure of the Spanish Government to address it effectively. Internet piracy has decimated the Spanish market for some copyright industries. Adoption of the Law on the Sustainable Economy would establish a mechanism for the removal of pirated content on websites and would mark an important first step toward combating Internet piracy in Spain. Addressing consumption of infringing materials, removing the protective cloak of anonymity for infringers, and securing greater cooperation on the part of Internet service providers with respect to the use of their proprietary networks and platforms for infringing purposes, are greatly needed.

Canada merits continued placement on the Priority Watch List, standing virtually alone among developed economies in failing to bring its laws up to global minimum standards for the digital networked environment. Pending Canadian legislation was introduced with sound objectives, but its overall approach to the role of service providers in combating online piracy and excessively broad proposed exceptions to copyright protection need amendment to ensure the legal framework is effective. Canada's enforcement record also falls short, with ineffective border controls, insufficient enforcement resources, inadequate enforcement policies, and a seeming unwillingness to impose deterrent penalties on pirates.

Russia should remain on the Priority Watch List to reflect continuing serious concerns about Russia's legal and enforcement regime related to all aspects of piracy—on the Internet and the streets, in corporations and government offices, as well as the current chaotic situation with respect to the collective administration of the rights of performers and record companies. Of particular importance is ensuring that present consideration of regulations to address Internet piracy by various ministries, under the lead of the Ministry of Culture, produces a robust response to the problem, and that it clearly prohibits entities like vKontakte from operating businesses based on providing access to infringing materials. We note a decline in the number of criminal actions undertaken, very little action taken against Internet piracy, and stalled progress in addressing illegal use of software by corporations and government agencies. The independent film and music industries report piracy has reached disastrous levels.

Thailand should remain on the Priority Watch List due to insufficient progress over the past year on key concerns, both legislative and enforcement, notwithstanding the dedicated efforts over the past year on the part of many officials and departments. We appreciate these efforts, but they have thus far failed to produce the kind of concrete results that are needed to address the serious piracy problems in the market, including physical and online markets, and the rapidly growing problem of illegal camcording.



IIPA appreciates the Royal Thai Government’s high-level commitment to grow its economy through increased creative output and its transparency with industry on enforcement and a timetable for legislation. We hope that 2011 will produce results that will foster Thailand’s creative economy by providing a more robust response to all forms of piracy that currently undermine the Thai market.

IIPA asks USTR to place or maintain 19 countries on the Watch List: **Belarus, Brazil, Brunei, Greece, Israel, Italy, Kazakhstan, Kuwait, Lebanon, Malaysia (OCR), Mexico, Poland, Romania, Saudi Arabia, Singapore, Tajikistan, Turkey, Turkmenistan, Uzbekistan**. IIPA again recommends that USTR continue to monitor developments in **Paraguay** under Section 306 of the Trade Act of 1974.

IIPA’s full submission is posted on the IIPA website at www.iipa.com.

IIPA’s 2011 SPECIAL 301 RECOMMENDATIONS			
PRIORITY WATCH LIST	WATCH LIST²	SECTION 306	SPECIAL MENTION
Argentina	Belarus	Paraguay	Albania
Canada	Brazil		Bulgaria
Chile	Brunei		Croatia
China	Greece		Latvia
Costa Rica	Israel		Moldova
India	Italy		Pakistan
Indonesia	Kazakhstan		Switzerland
Philippines	Kuwait		
Russia	Lebanon		
Spain	Malaysia (OCR)		
Thailand	Mexico		
Ukraine	Poland		
Vietnam	Romania		
	Saudi Arabia		
	Singapore		
	Tajikistan		
	Turkey		
	Turkmenistan		
	Uzbekistan		
13	19	1	7

About the IIPA: 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 comprises seven trade associations, each representing a significant segment of the U.S. copyright community. These member associations represent over 1,900 U.S. companies producing and distributing materials protected by copyright laws throughout the world—business software (operating systems, Internet enabling software, browsers, search engines, office productivity software, database management software, green technology enabling software, security software and mobile technologies); entertainment software (interactive games for video game consoles, handheld devices, personal computers, and the Internet); theatrical films, television programs, home videos and digital representations of audiovisual works; musical compositions, recorded music, CDs, and audiocassettes; and textbooks, trade books, reference and professional publications and journals, in both print and electronic media. IIPA has participated in every Special 301 cycle since the 1988 Trade Act created this process, providing public comments on acts, practices and policies regarding copyright law, piracy, enforcement and market access in selected foreign countries.

The economic report *Copyright Industries in the U.S. Economy: The 2003 - 2007 Report*, the twelfth 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, economic growth and trade. The latest data show that the

² Egypt is currently on USTR’s Special 301 Watch List. IIPA’s 2011 recommendation for Egypt is for USTR to defer its consideration of Egypt’s status until the political situation has stabilized.



“core” U.S. copyright industries accounted for an estimated \$889.1 billion or 6.44% of the U.S. gross domestic product (GDP) in 2007. These “core” industries were responsible for 22.74% of the real economic growth achieved by the U.S. economy in 2006-2007. In addition, the “core” copyright industries employed 5.6 million workers in 2007 (4.05% of U.S. workers) in 2007. The report also provides data on the estimated average annual compensation for a worker in the core copyright industries: \$73,554, which represents a 30% premium over the compensation paid the average U.S. worker. Finally, estimated 2007 foreign sales and exports of the core copyright industries increased to at least \$126 billion, leading other major industry sectors.

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