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IIPA Details Significant Copyright Piracy and Market Access Barriers in Key Markets; Requests Designation of Ukraine as a Priority Foreign Country

IIPA Special 301 Report Documents Piracy and Other Barriers that Harm U.S. Creators in Online & Physical Markets, Posing Threats to U.S. Job and Export Growth, in 48 Countries

Washington — The International Intellectual Property Alliance (IIPA) – a coalition of seven associations comprising more than 3,200 companies, representing the U.S. copyright industries – will issue tomorrow a detailed report to the U.S. Trade Representative (USTR) in its annual “Special 301” process, highlighting the depth and breadth of copyright piracy and market access barriers faced by U.S. creative industries in key overseas markets, and recommends urgent reforms needed to address these impediments.

The IIPA report documents online and physical piracy of copyright materials, market access barriers, and other developments in 48 countries/territories. Notably, IIPA recommends the designation of Ukraine as a Priority Foreign Country (PFC)¹ under the Special 301 statute as a result of severe legal and copyright enforcement problems. IIPA also recommends that 7 countries be placed on the Priority Watch List, and that 25 countries be placed on the Watch List, for denial of adequate and effective IPR protection or fair and equitable market access. IIPA further advocates solutions to address “Copyright Industries’ Initiatives and Challenges for 2013.”² USTR will hold a public hearing on Special 301 recommendations on February 20, and is expected to issue the U.S. government’s Special 301 report around the end of April.

IIPA Counsel³ released this joint statement:

“Special 301 is an important trade tool to identify country practices that warrant attention for lax copyright protection or for maintaining onerous market barriers. Special 301 also fosters a sound approach to establish IP policy objectives for the year. Strong copyright protection and enforcement around the globe will buttress our nation’s creative industries, benefit creators and consumers worldwide, boost U.S. exports, create good high-wage jobs here at home, and contribute to U.S. economic growth. The U.S. core copyright industries, which produce and provide music, motion pictures and television, all types of software including entertainment software, and book and journal publishing, remain important drivers of the U.S. economy. These industries contribute mightily to domestic growth and employment, accounting for roughly 6.4% to the U.S. economy,

¹USTR’s designation of Ukraine as a Priority Foreign Country would set in motion a process that could impose significant consequences on Ukraine if needed reforms are not made.

²The “Initiatives and Challenges” include: 1) The Need for Deterrent Enforcement Responses to Copyright Piracy, 2) Internet Piracy, 3) Enterprise (Including Government) End-User Piracy of Software and Other Copyright Materials, 4) Unauthorized Loading onto PCs (Hard-Disk Loading), Mobile Devices (Mobile Device Piracy) and “Media Boxes,” 5) Circumvention of Technological Protection Measures (TPMs), 6) Illegal Camcording of Theatrical Motion Pictures, 7) Piracy of Books and Journals, 8) Optical Disc and Game Cartridge Piracy, 9) Pay-TV Piracy and Signal Theft, 10) Implementation of IPR Provisions in Trade Agreements, 11) Implementation of the WCT and WPPT, and 12) Market Access Barriers.

³Steven J. Metalitz, Eric Schwartz, Michael Schlesinger, Amanda Denton.



nearly 5.1 million U.S. workers, and \$134 billion annually in revenue from foreign sales and exports. These industries increasingly depend on access to overseas markets, so piracy in the online and physical environments and other market access barriers inflict severe harm on U.S. companies and workers. Governments must take swift action to address these concerns in order to foster legitimate commerce in copyright materials.”

We thank all those in the U.S. government who work steadfastly throughout the year to ensure that our trading partners respect U.S. intellectual property and open their markets to our products and services.”

Background on the IIPA 2013 Special 301 Country Recommendations⁴

IIPA recommends that USTR designate **Ukraine** as a Priority Foreign Country and immediately suspend Ukraine’s eligibility to continue receiving Generalized System of Preferences (GSP) benefits. Problems in Ukraine include rampant online and hard goods piracy, governmental decisions to act against the legitimate collecting society instead of against rogue societies, and the pervasive use of unlicensed software by businesses and government ministries. The piracy rates and level of copyright protection in Ukraine have worsened over the past two years. Both free and pay-for-download piracy of music and film are widespread in Ukraine, which is also the source of some of the world’s top BitTorrent systems.⁵ Ukraine remains a global hot spot for high-quality unauthorized camcording of films uploaded to top sites and distributed across the Internet. Ukraine’s many open air markets and street stalls remain replete with illegal copies of recorded music, films, and software of all kinds including entertainment software. The IPR “Action Plan” with the U.S. government was never implemented, and indeed, recent actions taken by Ukrainian officials would weaken, not strengthen, enforcement.

IIPA also recommends that 7 countries be placed or maintained on the Priority Watch List in 2013: **Argentina, Chile, China (306), Costa Rica, India, Indonesia (GSP), and Russia (GSP)**.

IIPA further asks USTR to place or maintain 25 countries on the Watch List: **Belarus, Brazil, Bulgaria, Canada, Ecuador, Egypt, Greece, Israel, Italy, Kazakhstan, Kuwait, Lebanon (GSP), Mexico, Pakistan, Romania, Saudi Arabia, Spain, Switzerland, Tajikistan, Thailand (OCR), Turkey, Turkmenistan, United Arab Emirates, Uzbekistan (GSP), and Vietnam**.

⁴IIPA’s full submission will be posted on the IIPA website at www.iipa.com.

⁵IIPA members appreciate that a multi-national effort to stop the operations of *demonoid.me* is still ongoing, including actions in August 2012 by Ukraine enforcement officials against a server located in Ukraine. This is but one of many illegal Internet distribution services in Ukraine that should be addressed—most notably, *ex.ua* which is back in operation after the highly publicized raid last year, and which has resumed its role as a primary hub for the distribution of infringing materials.



IIPA 2013 SPECIAL 301 COUNTRY RECOMMENDATIONS⁶

| PRIORITY FOREIGN COUNTRY | PRIORITY WATCH LIST | WATCH LIST | COUNTRIES DESERVING SPECIAL MENTION |
|--------------------------|---|---|--|
| Ukraine (GSP) | Argentina Chile China (306) Costa Rica India Indonesia (GSP) Russian Federation (GSP) | Belarus Brazil Bulgaria Canada Ecuador Egypt Greece Israel Italy Kazakhstan Kuwait Lebanon (GSP) Mexico Pakistan Romania Saudi Arabia Spain Switzerland Tajikistan Thailand (OCR) Turkey Turkmenistan United Arab Emirates Uzbekistan (GSP) Vietnam | Albania Estonia Hong Kong Malaysia Malta Moldova Paraguay Philippines Taiwan |
| 1 | 7 | 25 | 9 |

The IIPA is a private sector coalition, formed in 1984, of trade associations representing U.S. copyright-based industries working to improve international protection and enforcement of copyrighted materials and open foreign markets closed by piracy and other market access barriers. IIPA’s seven member associations represent over 3,200 U.S. companies producing and distributing materials protected by copyright laws throughout the world—all types of computer software, including operating systems, systems software such as databases and security packages, business applications, and consumer applications such as games, personal finance, and reference software, free software, open source software, and software as a service, entertainment software including interactive games for videogame consoles, handheld devices, personal computers and the Internet, and educational software; motion pictures, television programming, DVDs and home video and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and fiction and non-fiction books, education instructional and assessment materials, and professional and scholarly journals, databases and software in all formats. Members of the IIPA include [Association of American Publishers](#), [BSA | The Software Alliance](#), [Entertainment Software Association](#), [Independent Film & Television Alliance](#), [Motion Picture Association of America](#), [National Music Publishers’ Association](#), and [Recording Industry Association of America](#).

⁶(GSP) denotes a country that receives trade benefits under the Generalized System of Preferences program. (306) refers to monitoring of a country’s compliance with trade agreements with the U.S., as provided under section 306 of the Trade Act. (OCR) means IIPA recommends an out-of-cycle review of the country’s 301 status.



In November 2011, IIPA released the latest update of the comprehensive economic report, *Copyright Industries in the U.S. Economy: The 2011 Report*, prepared 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 (GDP), employment, and trade. The “core” copyright-based industries in the U.S. continue to be major contributors to the U.S. economy, accounting for an estimated \$931.8 billion or 6.36% of the U.S. GDP in 2010. These industries provide nearly 5.1 million U.S. jobs, which is 4.75% of the entire private sector labor force in 2010, and pay on average over \$78,000, 27% higher than the overall workforce average. Estimated 2010 foreign sales and exports of key sectors of the core copyright industries amounted to \$134 billion, a significant increase over previous years, and more than foreign sales of other major U.S. industry sectors such as aircraft, automobiles, agricultural products, food, and pharmaceuticals. Linkages between copyright protection and economic development in other countries are documented by the World Intellectual Property Organization’s 2012 study on the *Copyright + Creativity = Jobs and Economic Growth: WIPO Studies on the Economic Contribution of the Copyright Industries*, compiling similar studies in 30 countries.⁷

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⁷World Intellectual Property Organization, *Copyright + Creativity = Jobs and Economic Growth: WIPO Studies on the Economic Contribution of the Copyright Industries*, 2012 (on file with IIPA). In 2003, the World Intellectual Property Organization (WIPO) published a guidebook on the economic parameters to develop such studies entitled *Guide on Surveying the Economic Contribution of the Copyright-Based Industries* (WIPO Publication No. 893) (2003), at http://www.wipo.int/copyright/en/publications/pdf/copyright_pub_893.pdf. The guidelines have been implemented in over 39 countries around the world, and studies have been published so far in 30 countries, including: Australia (2007), Bhutan (2011), Brunei (2012), Bulgaria (2011), Canada (2004), China (2011), Colombia (2010), Croatia (2010), Finland (2011), Hungary (2006), Jamaica (2008), Kenya (2011), Latvia (2006), Lebanon (2008), Malaysia (2011), Mexico (2008), Netherlands (2011), Pakistan (2011), Panama (2011), Peru (2011), Philippines (2008), Republic of Korea (2012), Romania (2010), Russia (2010), Singapore (2004), Slovenia (2011), South Africa (2012), Thailand (2012), and Ukraine (2010), and United States (2011).