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Via Electronic Filing to FR0528@ustr.gov

Ms. Sybia Harrison
Special Assistant to the Section 301 Committee
Office of the U.S. Trade Representative
600 17th Street NW
Washington, DC, 20508

Re: Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment on “Special 301 Out-of-Cycle Review: the Philippines,” 70 Fed. Reg. 56963 (September 29, 2005)

To Ms. Harrison and the Special 301 Committee:

The International Intellectual Property Alliance (IIPA) appreciates this opportunity to comment on the Out-of-Cycle Review (OCR) of the Philippines under Special 301. On balance, IIPA recommends that USTR retain the Philippines on the Priority Watch List as a result of this Out-Of-Cycle Review.

About the IIPA

The International Intellectual Property Alliance (IIPA) is a coalition of seven trade associations formed in 1984 to represent the U.S. copyright-based industries in bilateral and multilateral efforts to improve international protection of copyright materials, and to open up foreign markets closed by piracy and other market access barriers. The IIPA is comprised of: the Association of American Publishers (AAP), the Business Software Alliance (BSA), the Entertainment Software Association (ESA), Independent Television and Film Alliance (IFTA), the Motion Picture Association of America (MPAA), the National Music Publishers' Association (NMPA), and the Recording Industry Association of America (RIAA). These member associations represent over 1,900 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 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). For more information on the IIPA, visit www.iipa.com.



IIPA has been actively engaged in efforts to improve copyright protection and enforcement in the Philippines for many years, and IIPA member organizations or their affiliates in the region continue to work to build a healthy market for legitimate copyright materials in the Philippines. We filed our 2005 Special 301 submission on February 11, 2005, which can be found at <http://www.iipa.com/rbc/2005/2005SPEC301PHILIPPINES.pdf>.

Out-Of-Cycle Review Recommendation and Reasons

On April 29, 2005, the United States Trade Representative announced the results of the 2005 Special 301 review, and stated specifically regarding the Philippines,

The Philippines will remain on the Priority Watch List in 2005. USTR will conduct an out-of-cycle review to monitor progress on IPR issues and possibly to reassess the Philippines’ placement on the Special 301 list. The Philippines made significant progress in 2004 which the U.S. copyright industry noted could lead, if continued, to the elimination of optical media piracy in the Philippines. These important improvements included the passage of the Optical Media Act in February 2004, the creation of the Optical Media Board, accession to the WIPO Internet Treaties, improved coordination of the groups responsible for IPR enforcement, and an increased number of raids of production facilities and retail establishments. The Philippines also implemented the Optical Media Act in early 2005, which should enable Philippine authorities to take decisive action against pirate optical media production facilities. We are encouraged by the notable single seizure of optical discs (over \$8 million worth of optical discs) in December 2004. However, despite these improvements, U.S. industry continues to raise serious concerns about high levels of copyright piracy ... including book piracy, increasing levels of pirated optical media imported into the country, and pervasive end user software piracy. The U.S. copyright ... industries also report continued difficulty protecting their rights through the Philippine legal system due to low conviction rates and imposition of nondeterrent sentences.... The levels of illegal production and consumption of optical media remain consistently high. The U.S. copyright industry estimated its losses due to copyright piracy in the Philippines at \$139 million in 2004. Enforcement efforts such as raids and seizures often have only a temporary effect due to ineffective post-raid follow-up, including prosecution. The U.S. copyright industry reports that counterfeit goods from China, Malaysia, Hong Kong, and Thailand continue to enter the Philippines in large quantities due to weak IPR border enforcement. In response, the Bureau of Customs created a permanent IPR unit in September 2003 to investigate all shipments of counterfeit and pirated goods, but U.S. industry reports that this IPR unit has had inadequate staff and other resources since its inception, and thus has had minimal success. It appears that domestic enforcement in general suffers from lack of sufficient resources, training, and interagency coordination, which



has led to ineffective post-raid management and a growing backlog of cases in the judicial system. We also urge the Philippine Government to implement copyright provisions to make its domestic law consistent with its obligations under the WIPO Internet Treaties, which it ratified in 2002. The United States will use the bilateral Trade and Investment Framework Agreement (TIFA) and the out-of-cycle review to assist the Government of Philippines with strengthening its IPR regime.

IIPA recommends that USTR retain the Philippines on the Priority Watch List as a result of this Out-Of-Cycle Review for, among others, the following key reasons:

- The “Solid Laguna” case (discussed below, in which a search warrant was quashed because the officers requesting the warrant had not “seen any pirated product actually being produced”) creates a TRIPS-deficiency that may seriously hinder enforcement efforts in the Philippines.
- The Optical Media Board (OMB) is inspecting plants, but is taking few preventive actions even when witnessing piratical production. There have been no prosecutions against optical disc plants or plant owners/managers.
- Despite over-capacity to produce in the Philippines today, OMB has apparently approved several new licenses to produce as well as import machinery. This represents a backward step in the fight to curb optical disc piracy.
- OMB’s retail raids have been more successful with seizures of large numbers of pirate discs, but leaks and loss of evidence have been problems, and there is little transparency as to whereabouts of seized equipment or pirate discs.
- Issues with Customs are keeping them from enforcing against known piracy; this problem may warrant government oversight/investigation; meanwhile, pirate imports continue to flood the Philippine market from China, and to a lesser extent from Malaysia and Indonesia.
- The book publishing industry continues to suffer from a failure to resolve the 1203 issue, and from the inability of the court system to stop a convicted pirate from engaging in open commercial piracy.
- The court system continues to be marred by delays; the government of the Philippines has yet to re-establish IPR courts that work to effectively deter piracy.
- Signal theft (cable and satellite piracy) is a growing problem in the Philippines that is not being adequately addressed by the government.
- Piracy rates remain the same for most industries.

Updates to IIPA 2005 Special 301 Report: Piracy and Enforcement

“Solid Laguna” Case Creates TRIPS-Incompatible Standard for Search Warrants

On March 14, 2005, the Supreme Court of the Republic of the Philippines, in *Sony Music Entertainment (Phils.), Inc. et al –v- Hon. Judge Dolores L. Espanol etc. et al.* G.R. No. 156804



(the “Solid Laguna” case), quashed a search warrant in a copyright piracy case involving an optical disc plant, ruling that none of those requesting the search had “seen any pirated product actually being produced.” Setting the proof standard so high for obtaining search warrants would critically hamper enforcement efforts in the Philippines, and would likely constitute a violation of the Philippines’ TRIPS obligations to provide effective action and expeditious remedies against infringement. The decision apparently rejected the principles established in the court’s seminal *en banc* decision of August 28, 1996 in *Columbia Pictures, Inc. et al –v- Court of Appeals et al* G.R. No. 110318.¹ Industry has also reported one other instance in which a warranted raid was quashed as gaining entry to a locked facility by using bolt cutters was deemed “excessive force.”

OMB Inspecting Plants, But Few Resulted in Protective Actions and None Resulted in Prosecution of Plant Owners

The OMB has entered and inspected some manufacturing facilities in 2005 but has not effectively curtailed pirate production for several key reasons. For example, one raid in April 2005 appears to have been compromised by a leak since very little pirate product was found; it had been estimated that the plant was putting out up to 320,000 discs per day – movies, music, and video games. The OMB arrested 11 Taiwanese nationals who were supposedly running the plant, and seized eight replicators, five bonding machines, four printing machines, and several sacks of polycarbonate; the final disposition of the seized items is unknown. There is no word on whether charges were brought against those arrested in the factory raid in April or what happened to the plant’s owners. Other inspections have led to similar results, e.g., there were three inspections in 2005 that resulted in no preventive actions even though illegal manufacture was occurring during the inspections. In addition to these problems, some recorded music product found on the street dates from 2001-2002, suggesting that previously seized product is finding its way back to the market. There is some support for the assertion that persons within the OMB have been allowing the unauthorized release of these formerly seized products from their storage areas.

New Applications for Manufacture of Optical Discs Approved

Despite over-capacity for production of optical discs in the Philippines, since the Optical Media Act was passed and implemented, it is believed that four new applications have been approved by OMB, one for a mastering facility, one for a replicating plant, a third for a ten-line replication facility, and a fourth for another facility. Two established plants have applied and apparently been approved to import more machinery despite the current over-capacity. We understand that OMB members may be under personal political pressure (e.g., threats against

¹ In *Columbia*, the court held that the procedure for obtaining a search warrant “does not rule out the use of testimonial or documentary evidence, depositions, admissions or other classes of evidence tending to prove the *factum probandum*, especially where the production in court of object evidence would result in delay, inconvenience or expenses out of proportion to its evidentiary value.”



personal assets) to approve such applications. These represent backward steps in the fight to curb optical disc pirate production.

Mall Closure Fails to Deter Piracy – Pirate Operators Have Moved

The closing of Virra Mall in 2004 saw a relocation of the pirate vendors to a new, up-market entertainment complex called Metrowalk. The security co-ordinator for Metrowalk was also responsible for the same function at Virra Mall, indicating the linkage between those who were selling pirated product at Virra and the new bazaar. The senior management of the new venue has asked the chairman of OMB not to raid, and while OMB is raiding, we understand that leaks have compromised the raids.

Other raids have been more successful. In one raid, on April 14, 2005, the MPA and OMB, with backup from the Philippines National Police officers, raided the Bartertrade Mall in Quiapo, Manila, serving 96 warrants and seizing a record 1,080,000 pirated optical discs valued at an estimated Php108 million (US\$2 million). This is just one of numerous retail raids undertaken this year by the OMB with industry support, and seizures at these raids are invariably impressive and overall millions of discs have been seized. Unfortunately, there is no transparency in the whereabouts and/or disposal of the discs after seizure, nor are there ever any arrests following the raids; industry has offered to assist in follow up after raids but these offers have not been accepted.²

Unfortunately, as with optical disc manufacture, according to industry representatives, the syndicates are running the business of retail piracy, and, as a result, raids are leaked in advance, and even when raids result in pirate seizures, supporting evidence in the form of paperwork, stampers, etc. has been removed in advance.

Imports, Including Massive Imports from China, Flooding the Philippines

The Bureau of Customs still fails to involve other government or outside agencies in tackling the smuggling of pirate product into the Philippines. Pirate concert DVDs are becoming more prevalent in the marketplace. The majority of these products appear to be of Chinese origin, although significant numbers of Indonesian and Malaysian discs are being found. The quality of the Chinese finished product is generally better but the DVD functions are frequently limited or defective. Sources indicate couriers regularly bring infringing DVDs through Manila airport as checked luggage, and reported seizures are non-existent. IIPA urges the Philippine

² For example of other raids, on October 7, 2005, Bureau of Customs and Optical Media Board (OMB) officials seized around 8,000 pirate movie DVDs in Cebu city, found in a shipment of cargo that had arrived by air last month. In September, a similar shipment of 5,000 pirate movie DVDs was seized. Shipments of optical discs into cities in the southern Philippines appear to be rampant because syndicates are aware that the OMB does not maintain a presence outside of Manila, and relies heavily on other law enforcement agencies when conducting seizures outside of Manila. The 13,000 pirated optical discs are estimated to be worth Php1,300,000 (US\$23,300). Samples of the discs are being returned to Manila for forensic testing, with the rest destroyed at the site.



government to begin oversight and investigation into why Customs is protecting piracy and who they are protecting; we suspect that the Customs problem is linked to the Chinese-sourced product mentioned.

End-User Campaign Launched in August 2005; Early Results Are Promising

On August 24, 2005 the National Bureau of Investigation, the Optical Media Board, and the Philippine National Police, together with the Intellectual Property Coalition, banded to launch the "Pilipinas Anti-Piracy Team" (PAPT), a campaign that aims to curb software piracy in the Philippines. This campaign was suggested by the BSA who also supported the publicity around the impending crackdown. PAPT started with a 30-day countdown beginning August 16, and the crackdown phase involved end-user corporate piracy raids by NBI and retail raids against software copyright violators nationwide. Since the start of the crackdown in mid-September 2005, the NBI has conducted eight end-user raids against corporations for software infringement. In addition, the OMB, in cooperation with Philippine National Police, raided stores selling pirated software in "Shoppesville" in Greenhills, "Harrison Plaza" in Manila, "Orient Pearl" in Recto, "Metro Walk" in Ortigas and "MRT Shaw," Mandaluyong City. An American and his Filipino partner were also arrested by officers from NBI for selling and distributing pirated business software in Cebu. In total, since the crackdown began, Php19 million (US\$351,000) worth of pirated software, computers and servers have been confiscated. The PAPT Team has committed to keep the crackdown ongoing into 2006. As above, there is a need for transparency in the OMB's operations in respect of storage of goods and destruction after seizure.

Book Piracy Continues Due to Failure to Stop "Decree 1203" Reprints, Failure of Court System, and Lack of Anti-Piracy Leadership

The key issue of having the government stop "Decree 1203" reprints remains unresolved. In June 2005, IIPA urged the USG to suggest specific language for a government announcement on this issue. The IPO gathered the distributors of books purporting to be reproduced or left over under Decree 1203, and asked them to remove all the stocks in their stores, but IPO has done nothing else to follow up. We continue to seek a public declaration by the IP authorities clarifying that neither new reprints nor stock of infringing books made under cover of PD 1203 are legitimate and to state what the penalty is for violating this declaration. The next steps should include requiring booksellers to publicly display a government declaration and, as warranted, government inspections of all facilities suspected to be dealers in PD 1203 product should be initiated, and prosecutions for breaching the declaration (i.e., essentially piracy, since sale of unauthorized copies of copyright material is infringement, and 1203 can no longer be used as an excuse/defense).³

³ For the moment, only the private sector is taking any action against the stores purporting to sell "1203" copies of books. Included in the stores that continue to sell copies claiming "1203" as a defense are "Miriam & Webster Bookstore" and "Jade Bookstore."



In addition, IIPA is disturbed that a convicted infringer of books (the owner of Multilinks Book Supply) who was finally convicted and sentenced to a jail term in late 2004, has not gone to jail, and remains in business today. It appears several government-run universities, hospitals and agencies are ordering photocopied books from her. The authorities, on instruction from AAP, raided Multilinks again in August 2005 and a second prosecution has been filed. Another Multilinks store has been seen operating near St. Luke's Hospital and is selling pirated books including color textbooks by Nelson (Textbook of Pediatrics - Elsevier). On a related issue, it is ironic that yet another set of photocopiers is in operation near the Philippine Regulations Commission, the government institution which regulates professional businesses in the country.

One positive note is that the OMB has been working with local publishing representatives to include the industry's optical disc products in its raids – a new development since February 2005.

It is very important at this stage to designate a particular government agency or body to tackle the book piracy problem. It has been proposed that Carmen Peralta of IPO be a possible candidate for this role. However, we caution that tackling book piracy requires operational anti-piracy enforcement, not policy guidance, so we believe the person designated must be someone ready to tackle book piracy on an operational level. In a recent meeting, Adrian Cristobal, Director General of IPO mentioned there was no plan to fight book piracy, and he indicated that the Philippine government is planning to gather all stakeholders for a meeting just for coordination purposes and to learn what the private sector has been doing. The lengthy time being taken for IPO to take a plan into action to curb book piracy in the Philippines is disturbing.

Music Piracy Remains Largely Unchanged Throughout 2005

Music piracy rates are more or less unchanged in the Philippines; music product remains both local (Philippine) and international repertoire (international is only slightly more prevalent than local). In the aftermath of some raids in the first half of 2005, the price of pirate discs increased slightly, but have now returned to former prices. Most noticeably, prices for bootleg DVDs have dropped significantly (with supplies now coming in from China, a slight shift away from manufacturers in Malaysia and to a lesser extent Indonesia). It is notable that retail stalls which formerly sold mainly movie DVDs are now concentrating more intensively on concert DVDs from China.

Court System Marred by Delays, Backlogs; No Re-Establishment of IPR Court

In 2005, the Department of Justice's Secretary Raul Gonzalez ordered prosecutors nationwide to submit the list of all their pending cases of violations of the Intellectual Property Code. The list has, however, not been completed. In the meantime, the Philippine legal system is still mired in long delays. An example is the “Beltron” case. On November 20, 1995, Beltron Computers (a former licensee of Microsoft) was raided under the previous copyright law,



resulting in seizure of 35 CPUs, 2,831 PCs, and unauthorized Microsoft software on CD-ROMs. The criminal complaint by Microsoft against Beltron Computer was dismissed by DOJ on October 26, 1999, stating that the respondent, being a former licensee of Microsoft, had business transactions with the latter, making Beltron's alleged reproduction of Microsoft software civil in nature (breach of contract, not criminal). After several unsuccessful appeals and motions for reconsideration, the case went up to the Supreme Court on a Petition for Certiorari, alleging grave abuse of discretion. On June 21, 2005, nearly ten years after the initial raid, the Supreme Court found in Microsoft's favor that DOJ exhibited a grave abuse of discretion for dismissing the cases filed by Microsoft against Beltron.

The Intellectual Property Office has proposed to the Supreme Court the re-creation of special courts that would solely handle intellectual property rights' cases in an effort to speed up resolution of IP cases. The Supreme Court (SC) has acted favorably on the request – in an *en banc* resolution dated July 26, 2005, the High Court decided to forward the proposal of IPO Director General Adrian S. Cristobal Jr. to the Supreme Court's Office of the Court Administrator to determine which courts would be designated IP courts. To date, however, such courts have not been established. Of course, the mere “reintroduction” of special IPR courts will not solve the problem of slow case progression. Proper training of IPR court judges is needed, as well as choices of which courts will be designated as IPR courts, as despite extensive training seminars already given and attended by numerous judges both in the Philippines and abroad, there remain few judges who are fully aware of IPR issues.

Signal Theft (Cable and Satellite Piracy) a Growing Problem in the Philippines

Signal piracy is a growing problem in the Philippines resulting in a decrease in revenue for broadcasters. The Cable and Satellite Broadcasting Association of Asia estimates revenue losses of US\$70 million in 2005, a 16 percent increase over 2004. Moreover, industry analyst Media Partners Asia estimates that more than 50% of homes in the Philippines receive pay television illegally.

The two major concerns are: that small cable television operators are moving to the use of pirated programming; and that the government fails to effectively enforce rights in legitimate programming. Specifically, the National Telecommunications Commission (NTC) has failed to invoke its authority to revoke the licenses of the operators that utilize pirated programming. This is evidenced by a recent case brought by the Motion Picture Association against a prominent Manila-based cable TV operator openly offering pirated channels to its subscribers. Rather than revoking or suspending the license of the operator, the NTC has merely issued cease and desist orders, which have in turn been ignored by the operator without repercussion.⁴

⁴ As a result of formal complaints filed by the MPA, in November 2005, the NTC issued a second cease and desist letter to Destiny Cable for unauthorized broadcasts. Encouragingly, this letter ordered Destiny Cable to not only cease and desist all unauthorized broadcasts, but instructs Destiny Cable that it will face suspension if it fails to do so. It remains to be seen whether Destiny Cable will comply with the order, and what actions the NTC will take, if



Of note is that the Intellectual Property Office (IPO) and the National Bureau of Investigations (NBI) have been extremely cooperative in three recent industry funded criminal raids of pirate operators. These three operators, unfortunately, were able to return to pirated broadcasts within days, re-joining the ranks of the hundreds of cable TV operators throughout the country that use stolen broadcast signals to serve their subscribers. While the support of the IPO and NBI is much appreciated, the signal piracy problem in the Philippines is systemic and getting worse in the absence of a more comprehensive effort to require the over 800 cable TV operators to refrain from using broadcast signals without authorization or payment.

It is believed that the NTC wishes to transfer responsibility to consider complaints of unauthorized broadcasts and infringement to the IPO. IIPA urges that complaints should remain with the NTC, though any complaints involving alleged intellectual property infringement could be referred to the IPO for determination of that matter alone. In March/April 2005, IIPA also learned that the NTC was forming an Intellectual Property Rights Enforcement Action Panel (“IP-REAP”) and published a Circular announcing the formation of IP-REAP and the Guidelines under which it would operate. The Circular has not been implemented as local cable TV operators, led by FICAP, have filed a case before the Court of Appeals querying the validity of the Circular and seeking a temporary stay of its implementation. Thus, it is believed that IP-REAP is dormant for the moment.

Internet Piracy a Growing Threat

Reportedly, Internet cafés are being targeted for enforcement. Press reports in September 2005 indicated that many Internet cafés closed down temporarily to avoid being raided on suspicion of piratical activity (including unauthorized software). Industry sources indicated that the Internet cafés were tipped off of potential raids and thus only shuttered their doors temporarily.⁵ In late November 2005, the NBI conducted criminal raids in Metro Manila against three Internet cafés using unlicensed software. These raids reportedly led to the seizure of 286 computers. It is important for the government of the Philippines to meet the growing threat to the legitimate marketplace posed by Internet piracy.

Updates to IIPA 2005 Special 301 Report: Laws

Further Improvements to Optical Media Act Needed

All of the registered replication facilities in the Philippines have reportedly been inspected during the last seven months, and a new round of inspections is underway. Industry

any, should Destiny ignore the order. It is known that following completion of the hearings into the complaint in September and the CASBAA driven criminal raids against pirate operators, Destiny Cable merely moved its unauthorized content to a higher “premium” channel.

⁵ At the same time, OMB was warning about some raids carried out by those claiming fraudulently to represent OMB or NBI, resulting in stealing computers and “extortion.”



has assisted in funding and managing inspections. As noted above, items found in inspections are not seized and no warrants have been sought or “plain view” actions taken. In addition to fully implementing the current law, IIPA also note that to further strengthen the OD regime, the government of the Philippines should:

- Require that any Licensee of an OD plant be a significant shareholder or office holder (personal liability clause).
- Require OD plant owners/operators to declare all foreign investment in the company.

IIPA Fully Supports Passage of House Bill 3308 and Senate Bill 1973

IIPA strongly supports passage of House Bill 3308 and Senate Bill 1973, which aims to modernize the Philippines’ protection of copyright and enforcement system, and to fully implement the key international agreements with respect to copyright, including the Berne Convention,⁶ which is incorporated into the WTO TRIPS Agreement,⁷ and the WIPO “Internet” Treaties, the WCT and WPPT.⁸ This legislation would result in the Philippines adopting a world-class copyright that complies with the major international treaties related to copyright, importantly including proper protections for copyright materials in the digital environment.

One of the principal achievements of the Bill is that it would result in full and proper implementation of the WIPO “Internet” Treaties, the WCT and WPPT. The Philippines’ current Intellectual Property Code was enacted in 1997 and, due in part to the proliferation of copyright materials on the Internet, the current Code is no longer able to sufficiently protect and preserve the nation’s Intellectual Property. The Bill would update and expand the scope of copyright protections for the digital environment and to successfully combat Internet piracy. In particular, the legislation would expand the scope of reproduction rights to include temporary copies and would explicitly broaden the right to control all communications to the public, including by providing an interactive “making available” right for the digital world. The Bill also provides critical protections against circumvention of “technological protection measures” and protections against unlawful tampering or use of “rights management information.”

⁶ Berne Convention for the Protection of Literary and Artistic Works, Paris Act of July 24, 1971 (as amended on September 28, 1979).

⁷ Agreement on Trade-Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods, GATT Doc. MTN/FA II-A1C (1994).

⁸ See WIPO documents CRNR/DC/94 (the WIPO Copyright Treaty, or WCT) and 95 (the WIPO Performances and Phonograms Treaty, or WPPT), and, for the agreed statements concerning the treaties, see WIPO documents CRNR/DC/96 and 97. The government of the Philippines joined the WCT and WPPT on October 4, 2002, but has not fully implemented the Treaties. Because of the general nature of some of the key provisions of those treaties (for example, the provisions on protection of “technological protection measures” from unlawful circumvention), it is not possible simply for the WCT and WPPT to be declared “self-executing”; rather, careful and full implementation of the requirements of the WCT and WPPT must be undertaken.



The other principal achievement of this Bill would be to establish a world-class copyright legislation, both in areas of substantive protection and enforcement. Many of the important improvements are listed below, but they include increasing the term of protection for works and sound recordings in line with international trends, providing an importation right, narrowing certain exceptions which were arguably overly broad, providing for Berne and TRIPS-compatible protection for pre-existing works, providing criteria for secondary liability (e.g., as to landlords of pirate malls), criminalizing end-user piracy, providing for a Berne and TRIPS-compatible presumption of ownership, strengthening border measures, providing for ex parte civil searches as required by TRIPS, providing for disclosure of information to right holders to assist in investigations of infringement, allowing “sampling” to efficiently deal with massive seizures of pirated materials, and lengthening the statute of limitations so it is not tied to the vagaries of the court timetable but rather is tied to the initiation of the case by the rightholder/claimant. All of these improvements together, if passed and implemented, will result in one of the strongest copyright laws in the world.

The House Trade and Industry Committee held a public hearing on the Bill on November 22 and some IIPA members participated in this hearing. We understand another hearing is scheduled for December 6 to complete the process at the Committee level. Thereafter, a technical working group will be convened. This is a good start and we urge the House and Senate to treat these as priority bills.

For all of the foregoing reasons, we recommend that the Philippines be retained on the Special 301 “Priority Watch List.” Please feel free to let us know if you have any further questions.

Sincerely,

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

Reference:

IIPA 2005 Special 301 Report on the Philippines, available at
<http://www.iipa.com/rbc/2005/2005SPEC301PHILIPPINES.pdf>