



December 2, 2005

*Via electronic submission: FR0528@ustr.gov*  
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Office of the U.S. Trade Representative  
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Re: Special 301 Out-of-Cycle Review: Russia

To the Section 301 Committee:

Attached are the International Intellectual Property Alliance (IIPA) comments regarding the Special 301 Out-of-Cycle Review of the Russian Federation.

Sincerely,

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International Intellectual Property Alliance



**Out-of-Cycle Review Submission of the  
International Intellectual Property Alliance  
Regarding the Intellectual Property Rights Practices of the Russian Federation**

December 2, 2005

The International Intellectual Property Alliance (IIPA) appreciates the opportunity to provide these comments and to summarize the very serious copyright enforcement issues confronting our members in Russia. In short, the government of Russia is not complying with its bilateral or multilateral commitments to provide adequate and effective copyright protection and enforcement.

In our view, the Section 301 Committee should designate Russia as a Priority Foreign Country and begin an immediate review of the necessary trade sanctions to force Russia to improve its IPR regime.

In addition, IIPA believes the GSP Subcommittee should terminate its current investigation with a finding that Russia is not complying with the eligibility requirements for GSP benefits, and should remove Russia's eligibility to participate until such time as it has achieved adequate and effective protection of intellectual property rights (IPR) as contemplated by the GSP statute.

Last, Russia should not be permitted to accede to the WTO until Russia fully complies with the WTO obligations for IPR protection and enforcement.

For nine straight years, Russia has been on the Priority Watch List while the number of optical disc plants producing illegal material and exporting it abroad has grown exponentially—from 2 plants in 1996 to over 42 today. The fact that Russia has run raids at a handful of plants in October and November 2005 is a positive step, but it can hardly qualify as rising to the level of needed enforcement. Effective enforcement means that illegal plants are closed and plant operators convicted and sentenced. That, to date, has not occurred.

It has been almost five years since the IIPA GSP petition was first filed, and over four years since the U.S. government accepted the petition, which as a threshold matter, acknowledged Russia's shortcomings under the GSP program.

The U.S. government has, in effect, given the Russian government many years to address IPR protection and enforcement concerns, and the Russians have repeatedly failed to meet their commitments to do so. We believe the U.S. government should immediately designate Russia as a Priority Foreign Country, and should revoke Russia's eligibility from the GSP program.

Regarding GSP eligibility, Russia is not nearly providing the mandated “adequate and effective protection” in accordance with sections 502(b) and 502(c) of the 1974 Trade Act (the intellectual property provisions in the GSP statute found at 19 U.S.C. §§ 2462(b) and (c)). The U.S. suspension of all of Russia’s GSP benefits should remain in effect until Russia meets a series of U.S. proposed IPR performance standards on copyright enforcement. We offer suggestions below on what these enforcement standards should look like; in short, steps that Russia must take to begin to provide effective enforcement.

The IIPA represents associations and companies that have a significant economic interest in the adequate and effective protection of copyrights in Russia. Specifically, the 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. The IIPA is comprised of seven trade associations: the Association of American Publishers (AAP), the Independent Film & Television Alliance (IFTA), the Business Software Alliance (BSA), the Entertainment Software Association (ESA), 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 – theatrical films, television programs, home videos and DVDs; musical records, CDs, and audiocassettes; musical compositions; 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); and textbooks, tradebooks, reference and professional publications and journals (in both electronic and print media). The copyright-based industries are a vibrant force in the American economy.<sup>1</sup>

Simply stated, Russia’s current copyright piracy problem is enormous—it is one of the worst piracy problems of any country in the world, second only to China. Piracy of all copyright materials – motion pictures, records and music, business and entertainment software, and books – is at levels ranging from a low of about 66% to a high of 87% – levels totally unacceptable for a country and economy of the size and sophistication of Russia. Moreover, exports of infringing products from Russia are eroding the copyright industry’s legitimate businesses in third country markets.

Inadequate copyright laws and ineffective anti-piracy enforcement adversely affect employment, market development, job creation and revenues both in the United States and abroad. With many of these U.S. companies increasingly relying on foreign licensing and sales revenues, piracy has become a major impediment to continued revenue growth and has become the major market access barrier for the copyright industries.

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<sup>1</sup> According to Copyright Industries in the U.S. Economy: The 2004 Report, prepared for the IIPA by Economists, Inc., the U.S. “core” copyright industries accounted for an estimated 6% of U.S. Gross Domestic Product (GDP), or \$626.6 billion, and employed 4% of U.S. workers in 2002 (according to the latest data available through that year), or 5.48 million persons. IIPA’s report is available at: [http://www.iipa.com/copyright\\_us\\_economy.html](http://www.iipa.com/copyright_us_economy.html).

In August 2000, the IIPA filed a petition with the U.S. government to initiate a review of Russia's eligibility to participate in the GSP program due to its failure to provide adequate effective copyright protection for U.S. copyright owners, as required by Sections 502(b) and 502(c) of the 1974 Trade Act.<sup>2</sup> Hearings were held in March 2001 and October 2003 in Washington, D.C. at which the IIPA testified. The situation in Russia has gotten significantly worse since the IIPA petition was initially filed, and even since the 2003 hearings. There were only 10 optical disc plants in Russia at the time of our original submission in 2000. By 2003, that number had climbed to 26 plants. At present, there are no fewer than 42 optical disc plants operating in Russia, the great majority of which are involved in the production of infringing materials, and their export to a wide variety of third country markets. It is a matter of the highest importance that Russia undertakes clear, immediate, and unambiguous improvement in its enforcement copyright regime, especially including immediate steps to curtail the production and export of pirate optical discs.

## **II. Inadequate and Ineffective Copyright Enforcement in Russia**

Russia's current legal framework for copyright protection is inadequate, ineffective, and in need of many reforms. However, the legal reforms are of secondary importance to the need for Russia to immediately enforce its IPR laws under its existing legal regime. In short, Russia is not doing nearly enough to meet its bilateral or multinational obligations for comprehensive effective enforcement.

Without question, the most serious threat to the copyright industries in Russia is the explosive growth of optical media (i.e., CD and/or DVD) production facilities and distribution systems that are currently operating unabated. Today, the number of optical disc plants in Russia is at least 42 plants (a number acknowledged by the Russian government and with very recent reports that there may be as many as 46 plants), including thirteen dedicated DVD plants. There are more than 80 known operational production lines (with reports that there may be as many as 120 lines). Production capacity has nearly tripled in the past few years as criminal operations have encountered little hindrance in expanding their activities. Even more troubling, the IIPA is aware of nine production plants located on the facilities of the Russian government, so-called restricted access regime enterprises (although the Russian government has publicly acknowledged that there may be as many as 18 such plants). Forensic evidence links at least 24 of the 42 plants to the production of pirate product. Of course, without proper surprise inspection procedures in place, there is no way of knowing for certain the size and scope of what the plants are producing.

Moreover, Russia's annual manufacturing capacity now stands conservatively at over 370 million CDs and more than 150 million DVDs, despite the fact that the demand for legitimate discs is unlikely to exceed 80 million in all formats (including an estimated current demand for legitimate DVDs at around 10 million discs per year). Thus, Russian pirates are clearly producing material for export markets which hurt the copyright industries' competitiveness in third country markets. Russian-produced optical discs (CDs) have been positively identified in at least 27 countries.

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<sup>2</sup> See 19 U.S.C. §§ 2462(b) and (c).

The immediate cessation of illegal production using existing law is the number one priority for the copyright industries, along with the adoption of a comprehensive optical media regulatory and enforcement scheme. This step should include the withdrawal of licenses for all plants engaged in illegal conduct, and especially for those operating on government property which can be undertaken swiftly.

The Russian government touts its “success” by noting plant raids in 2004 and 2005. In 2004, there were eight actions taken by the Russian government against the optical disc (“OD”) CD/DVD plants, including raids and seizures of illegal materials according to our industry, and Russian government reports. In September and October the Russian government undertook a series of additional raids (reportedly as many as nine), including the seizure of thousands of copies of illegal product. The raids are obviously a positive step. But, the end-results of the earlier raids are telling, and underscore the significant amount of work Russia must undertake to meet the GSP eligibility criteria:

First, much of the seized material ends up back in the marketplace either through lax enforcement (or corruption), laws permitting charitable sales of such property, or the conclusion without prosecution of criminal investigations. As an example, over half of the one million illegal CD and DVD copies seized in a raid last year “disappeared” before the case went to trial.

Second, it would appear that virtually all of the optical disc plants that were raided in 2004 and 2005 remain in operation after those raids. A recent raid in mid-November 2005 on the Roff plant in Odintsovo, near Moscow, has led to a suspension of a license while a criminal prosecution proceeds. This was the first such suspension (by the new Federal Service charged with compliance with licensing regulations). In the case of several plants raided in 2004, truckloads of illegal material were seized weeks later from the same plants by Russian government enforcement officials – and still these same plants remain in operation and their licenses have not been suspended by the Ministry of Culture (i.e., the Federal Licensing Service – Rosokhrankultura).

Third, the plant owners remain unscathed by the criminal justice system. A few plant employees have been convicted – after extensive delays in criminal investigations – but virtually all received suspended sentences. Consequently, there is no deterrence to continuing to conduct commercial piracy in Russia at present.

Years of inaction have allowed the optical disc problem to mushroom. The existence and location of the plants (including as noted, some on land leased from the government) have been known for many years to the Russian authorities, yet little or no meaningful action has been undertaken. The Government of Russia has taken some positive steps, including passage in 2004 of much-needed copyright amendments, and some raids, but the fact remains that these are too few and far between, and they have thus far done little to stem the rising tide of pirate production.

The record industry has been involved in 24 cases against optical disc plants in the past two years. Twenty-one of those 24 cases remain without a resolution – that is, no prosecutions of the operators of illegal CD plants have been initiated, as investigations have dragged on. In

the other three cases, the pirate CDs were destroyed, but no deterrent sentences were handed down. The only exception to this pattern (which has been true for years) was in June 2002 when the Disc Press MSK plant (raided in September 1999) was finally closed and a Zelenograd court handed down 4-year prison sentences to two operators of the plant. In February 2004, there was a one-year conditional sentence given to a manager of the Zelenograd plant which was raided in December 2002, resulting in the seizure of 234,493 pirate CDs (over 59,000 were music CDs). The more typical case is that of the Synograph plant, raided in October 2000. There was a four year criminal investigation aimed at the director of the plant; a court hearing was supposed to be undertaken this year, but the plant is still in operation.

The optical disc problem that IIPA members confront in Russia is one that has been regulated in virtually all other countries where we have found these levels of massive production of pirate product – countries like Taiwan, China, Hong Kong, Macau, Bulgaria and Malaysia. Russia's regulation of the plants is virtually non-existent, and is based on a weak 2002 licensing law. Quite simply, Russia is the largest un-regulated and un-enforced producer of pirate optical disc product in the world.

To solve this problem, Russia must undertake vigorous criminal enforcement backed by the highest political officials in the government, since much of the piracy is undertaken by organized criminal syndicates. For example, according to the Entertainment Software Association (ESA), Russian organized crime syndicate pirates of videogame material are so well-entrenched that they "label" their product. The Motion Picture Association of America (MPAA) reports that DVDs are being locally produced in seven or eight foreign languages, not including Russian, indicating that the organized crime syndicates are producing these DVDs strictly for export. Markets that have been negatively impacted by imports of pirate Russian DVDs include: Poland, Estonia, Finland, Ukraine, the Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Germany, Israel, the United Kingdom, and Turkey.

This brief focuses in particular on problems pertaining to hard-copy piracy. But there are growing and very serious problems related to digital piracy as well. In fact, the world's largest server-based pirate music website – [allofmp3.com](http://allofmp3.com) – remains in operation after a criminal prosecutor in early 2005 reviewed the case and (wrongly) determined that current Russian copyright law could not prosecute or prevent this type of activity. The case is on appeal. In fact, this interpretation of the Russian law is contrary to all the assurances the Russian government gave the U.S. government and private sector during the years-long adoption of amendments to the 1993 Copyright Law; those amendments were finally adopted in July 2004.

The business software industry (Business Software Alliance, BSA) is confronting its own unique digital piracy problem relating to copyright enforcement. The Russian government has failed to take effective action against the broad distribution of counterfeit software over the Internet, primarily through unsolicited e-mails (spam) originating from groups operating in Russia. Separately, the BSA has had success with Russian law enforcement agencies taking action against channel piracy (i.e., illegal software preloaded on computers sold in the marketplace), not only in the Moscow area, but also in other Russian regions, and has made some progress in software legalization in the public sector.

The book industry (Association of American Publishers, AAP) reports the widespread piracy of an array of reference works and textbooks, an increasingly large market in Russia as the penetration of English-language materials in the market grows. Lax enforcement, including poor border enforcement – endemic to all copyright sectors – results in the import (and export) of illegal materials. For the book industry, this includes unlicensed imports of pirated reprints from neighboring countries and pirated reference books and medical texts; there is also widespread illegal commercial photocopying, especially in the academic sector.

We have indicated the devastating consequences of piracy in Russia to the U.S. copyright owners and authors. The harm to the Russian economy is also enormous. The motion picture industry alone estimates annual lost tax revenues on DVDs and videos in Russia are \$130 million. In another study undertaken by the software industry, it was estimated that if levels of piracy could be reduced to regional norms (that is, realistic levels), ten of thousands of jobs and several hundred million dollars in tax revenues would be realized from that sector alone in Russia.

IIPA urges the U.S. government to continue to insist on the adoption of a more effective licensing scheme, including one that links criminal sanctions and plant closures to noncompliance. That is why the U.S. government and the IIPA have sought the adoption of legal reforms to provide a more comprehensive enforcement authority. Over four years ago, the U.S. government provided the Russian government with a proposal for a comprehensive optical disc regulatory regime to address this problem, including tough enforcement provisions to control import, export, and the manufacture of optical discs and related raw materials and equipment. To date, the Russian government has not moved to adopt a comprehensive regulatory regime for optical disc replication.

During the past several years, the Russian government has run raids against some optical disc plants and warehouses. But as noted, these measures fall far short of an effective and comprehensive program to halt the widespread production and distribution of piratical optical discs.

Linked with the optical disc production problem is the need for the enactment and enforcement of effective border measures to stop the export and import of illegal material. Russia is a major transshipment point for illegal product. Coupled with illegal production from Russia, border enforcement to stop the shipment of illegal material to the other 25-plus countries receiving this material is thus another priority for the copyright industries. President Putin signed a new Customs Code that went into force on January 1, 2004, providing for measures to prevent the trade of counterfeit goods across borders. Unfortunately, the law failed to provide for *ex officio* enforcement authority. Consequently, even if customs officers discover shipments of obviously infringing products, they are not able to act on their own authority. Instead they are limited to act only in those cases where rightsholders have filed written applications to suspend the release of suspect goods.

The only way to combat the organized crime syndicates engaged in optical disc production and distribution, as well as the other forms of piracy that they conduct, is by effective criminal enforcement. Unfortunately, the criminal enforcement system in Russia is the weakest

link in the Russian copyright regime. This deficiency has resulted in extraordinarily high piracy levels and trade losses. The federal police and the IP unit in the Ministry of the Interior have generally been cooperative in running raids against major pirates. At the retail level, however, anti-piracy actions must be conducted by municipal authorities (even though the criminal police have the authority—they just do not use it), and in these cases pirates are subject to administrative, not criminal, remedies that have proven ineffective.

Thus, the major shortcoming is the failure by the Russian legal system to use its existing criminal law provisions to impose deterrent penalties. Any street raid and/or small administrative fine imposed pales in comparison to the size and scale of the criminal activity. In general, swift criminal prosecutions do not follow raids. Prosecutors continue to drop cases without a justifiable reason (or, citing a lack of public interest). When cases are prosecuted, the penalties imposed are not at deterrent levels. Prison sentences are usually suspended. According to the Russian authorities, in 2005 only eight non-suspended prison sentences were imposed on IP infringers. There have been exceptions, of course, but as a result of the light sentencing, many police and prosecutors are discouraged from investigating and prosecuting offenders.

As a result of these enforcement failures, there are very high estimated piracy levels in all copyright sectors accompanied by massive financial losses. The piracy levels reported by the copyright industries are as follows: the recording industry is at 66%; the motion picture industry is at 80% (and likely over 90% for DVD piracy); the software industry is at 87% for business software and 73% for entertainment software; and the book publishing industry reports high levels of piracy, although current statistics are unavailable.

In sum, Russia is not providing adequate and effective enforcement as required by its bilateral and multilateral obligations to the United States.

We also want to address an issue that has been raised by certain senior members of the Russian government in our meetings, which raises serious questions about Russia's commitment to fighting piracy. We have seen a number of reports in which Russian officials blame Russia's piracy problem on prices for legitimate goods and the lack of local manufacturing of legitimate products. This comment reflects both an ignorance of what is happening in the marketplace, and a misunderstanding of the nature of the problem that we confront in Russia. The organized criminal enterprises manufacturing and distributing pirate product are largely servicing foreign markets (local manufacturing capacity is at least a multiple of six or seven times that of local demand), making the Russian price for legitimate materials wholly irrelevant to their motivation or profitability. As noted earlier, Russian manufactured product has been found in over 27 countries over the past two years.

In addition, existing efforts by certain industries to offer low cost Russian editions have not had the effect of reducing local piracy rates. The record industry, for example, is already manufacturing locally, and sells legitimate copies for an average price of \$6.00 to \$8.00 U.S. dollars—a price that is extremely low not just in relation to prices for music elsewhere, but also with respect to other consumer goods sold in Russia. The motion picture industry is also replicating DVDs locally and has considerably reduced the prices of legitimate product to below \$10 in many cases. It is not the price of legitimate product that is creating opportunities for piracy—it is the opportunity for easy profits that has brought criminal enterprises into this business, and Russia should stop offering such excuses for its continuing inaction.

Another matter that the Russian government continues to raise is the need for the U.S. copyright industries to use civil remedies for effective enforcement. The copyright industries (especially the record industry) have recently attempted to bring civil cases against illegal plant operators – although procedural hurdles are significant.

However, in no country of the world, including Russia, can copyright owners be left to civil remedies in lieu of criminal remedies to effectively address large-scale organized crime commercial piracy. The government of Russia needs to play a major role in an effective criminal enforcement regime. The copyright industries generally report good police cooperation with raids and seizures, mostly of smaller quantities (with some exceptions) of material, but prosecutorial and other procedural delays and non-deterrent sentencing by judges remains a major hindrance to effective enforcement. In addition, corruption is hampering effective enforcement; the government needs to take urgent and effective measures to combat corruption.

#### Steps the Russian Government Can Take to Properly Enforce IPR Crimes – Focusing on Optical Disc Piracy

There are several critical steps that the Russian government could take immediately to effectively confront its optical disc and related piracy problems:

1. Inspect, on a regular, unannounced and continuous basis, each of the 42 known OD plants, and immediately close and seize the machinery used to produce pirate product (some of these steps require additional legislative or regulatory measures);
2. Announce, from the office of the President, that fighting copyright piracy is a priority for the country and law enforcement authorities, and instruct the Inter-Ministerial Commission, headed by the Prime Minister, to deliver reports every three months to the President on what steps have been taken to address the problem. Also, it is imperative to establish a central coordinating body for law enforcement authorities with wide powers, derived directly from the President, to combine the efforts of the Economic Crime Police, the Police of Street Order, Police Investigators (who investigate major cases from the beginning to trial) and Department K (the New Technologies Police);
3. Adopt in the Supreme Court a decree setting forth sentencing guidelines for judges—advising the courts to impose deterrent penal sanctions as provided under the penal code as amended (Article 146). We also recommend amending Article 146 to a minimum penalty of six years, not the current penalty of five years (since only penalties of six or more years are treated as “serious” crimes);
4. Immediately take down websites offering infringing copyright materials, such as [allofmp3.com](http://allofmp3.com), and criminally prosecute those responsible;
5. Improve border enforcement, including the import of machinery used to produce illegal product and the export of large shipments of that product abroad;
6. Initiate investigations into and criminal prosecutions of organized criminal syndicates that control piracy operations in Russia (including operations that export pirate material to markets outside Russia);

7. Introduce, either via executive order or legislation, the necessary modifications of the optical disc licensing regime so that it clearly provides more effective control over the operations of the plants, including the granting of licenses to legal plants and withdrawing and sanctioning of illegal plants; stricter controls on the importation of polycarbonate and machinery; mandatory seizure and destruction of machinery used to produce pirate materials; and the introduction of criminal penalties for the owners of such plants. In addition, any plant licensing regime (including current law) should extend in scope to the operators of telecine machines and mastering laboratories used to pirate audiovisual works; and
8. Take action to undo the situation in St. Petersburg where legitimate video and DVD markets have been effectively lost due to the activities of a collective management organization known as the Association of Collective Management of the Authors' Rights (which falsely claims to represent MPA member companies and which incredibly, enjoys the support and protection of local officials, and requires, in violation of federal law, the application of a pirate hologram on all products sold with its license).

A full list of enforcement and legal reforms necessary in Russia were detailed in our Special 301 Report of February 2005.

### **III. Inadequate and Ineffective Copyright Protection in Russia**

The Russian legal regime remains inadequate and ineffective in many key areas.

The most egregious short-coming is the failure to properly address the optical media problem with comprehensive legislative and regulatory reforms. In 1996, the IIPA first identified optical disc plant production as a problem and suggested the need for an enforcement "action plan" to address this problem, including legislative reforms. Two optical disc ("OD") plants were identified in the IIPA's February 1996 Special 301 Report. As noted, there are now 42 OD plants, and still Russia has failed to even consider legislation to provide proper plant licensing, inspection and criminal penalties for violators. At all levels of the Russian government there have been promises to address this problem (starting in 1999) including a pledge, never met, in 2002 to issue an "action plan"— but to date, there has been virtually no comprehensive action taken against the plants, no comprehensive plan of action issued by the Russian government, and no legislative reforms on this point have even been introduced. There is no excuse for why the Russian government has been unable to properly license and inspect all the known (now 42) plants, and to close and repeal (i.e., cancel) the licenses of those engaged in illegal production and distribution, as well as to criminally prosecute the plant owners and operators.

As one example of the failure to regulate the plants: late in 2004, in bilateral talks with the U.S. government and IIPA, the Russian government promised it would "meet with the 18 plants" (their figure) on restricted access (i.e., military) property to ascertain the legal or illegal status of their production, and to report back to the U.S. government. The meeting, scheduled for December, was cancelled and never rescheduled. The reason: the Russian government confessed it was unable to determine all the owners of the plants from its records (because of its

inadequate licensing law) and therefore could not identify with whom the government needed to meet.

The Russian government must also introduce, and then implement with proper enforcement, effective measures against camcording motion pictures in Russian theaters so that infringers cannot claim to be making private copies for their personal use. At present, Russian pirates are obtaining high-grade pirate copies of movies by duplicating films in the projection booths of theaters, by making telecine copies of stolen or borrowed theatrical prints on their way to local theaters, and by camcording from local theater screens.

A short list of the other failed commitments relating to legal reforms includes:

Never properly implementing *ex parte* search provisions nor incorporating them into the Civil Procedure Code; (enacted in 2003).

Not providing police and prosecutors with the proper authority to confiscate illegal material nor *ex officio* authority to commence criminal investigations (the 1996 Criminal Procedure Code requires rightholders to formally press charges to commence investigations in some instances); and

Not fully implementing the 2003 amendment to the Criminal Code which fixed the grave harm threshold problem (i.e., it is unclear if it is working properly as it is not being utilized).

#### **IV. Russia's WTO Accession**

Russia's WTO accession negotiations are at a critical juncture. We believe that accession candidates must ensure that they have met in full their WTO obligations prior to accession, including ensuring that their copyright laws and enforcement systems comply with the substantive and enforcement provisions of the WTO/TRIPS Agreement. The Russian IPR regime is nowhere close to compliance with the WTO TRIPS obligations. As a consequence, the U.S. government should not assent to Russia's accession into the World Trade Organization until its copyright regime, both legislative and enforcement related, is brought into compliance with the WTO TRIPS obligations

IIPA urges USTR and the U.S. government as a whole to continue using the WTO accession process to encourage movement in Russia toward effective implementation of the TRIPS obligations as a member of the international trading community. We note, however, that such attention in the WTO sphere must not be undertaken at the expense of holding Russia accountable to its current multilateral and bilateral IPR obligations to the U.S. under the GSP trade program.

#### **V. Estimated Trade Losses Due to Copyright Piracy in Russia**

Below is a chart tracking the estimated trade losses due to copyright piracy and their estimated piracy levels in Russia. Data for this chart is provided to IIPA by its member associations. The methodology, which is basically the same used when we filed our 2000

petition, is available on the IIPA website.<sup>3</sup> The IIPA estimates that the copyright industry lost over \$1.7 billion due to piracy last year, and over \$6 billion in the last five years in Russia.

<b>RUSSIAN FEDERATION</b>										
<b>Estimated Trade Losses Due to Copyright Piracy</b>										
<b>(in millions of U.S. dollars)</b>										
<b>and Levels of Piracy: 2000-2004</b>										
INDUSTRY	2004		2003		2002		2001		2000	
	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level
<b>Motion Pictures</b>	275.0	80%	275.0	75%	250.0	80%	250.0	80%	250.0	90%
<b>Records &amp; Music</b>	411.9	66%	405.0	64%	371.9	66%	285.0	64%	250.0	70%
<b>Business Software<sup>4</sup></b>	800.0	87%	704.0	87%	370.0	89%	90.6	87%	89.0	88%
<b>Entertainment Software<sup>5</sup></b>	255.8	73%	NA	80%	NA	90%	173.6	90%	NA	94%
<b>Books</b>	42.0	NA	40.0	NA	40.0	NA	48.0	NA	48.0	NA
<b>TOTALS</b>	1784.7		1424.0		1031.9		847.2		637.0	

## VI. Conclusion and Request for Action

Copyright law and enforcement in Russia clearly fails to conform to the “adequate and effective protection” standard demanded of our trading partners. Russia has been placed on the Priority Watch List for 9 straight years while the number of optical disc plants grew from 2 in 1996 to at least 42 today. Russia is failing to comply with our GSP eligibility rules. For too many years, Russia has been on-notice that it must take appropriate action to meet its “part of the bargain” in receiving these unilateral trade benefits. So far, its part of the bargain has not been met.

IIPA believes that the U.S. government should immediately designate Russia a Priority Foreign Country, and should suspend Russia’s eligibility to participate in this trade program given its overall enforcement deficiencies and its lack of compliance with the requirements of the GSP program.

Respectfully submitted,



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International Intellectual Property Alliance

<sup>3</sup> The methodology used by IIPA member associations to calculate these estimated piracy levels and losses is described in IIPA’s 2005 Special 301 submission, and is available on the IIPA website at [www.iipa.com/pdf/2005spec301methodology.pdf](http://www.iipa.com/pdf/2005spec301methodology.pdf).

<sup>4</sup> BSA’s 2004 statistics represent the U.S. publishers’ share of software piracy losses in Russia, and follow the methodology compiled in the Second Annual BSA/IDC Global Software Piracy Study (May 2005), available at <http://www.bsa.org/globalstudy/>. These figures cover, in addition to business applications software, computer applications such as operating systems, consumer applications such as PC gaming, personal finance, and reference software.

<sup>5</sup> ESA’s reported dollar figures reflect the value of pirate product present in the marketplace as distinguished from definitive industry “losses.” The methodology used by the ESA is further described in Appendix B of IIPA’s 2005 Special 301 report (see link above).