

# INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE®



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## **IIPA Supports USTR's 2010 Special 301 Efforts to Promote Effective International Copyright Protection and Enforcement**

**Copyright industries urge strong global protection  
of American jobs and exports threatened by online and physical piracy of  
software, movies, games, music, and books**

**China and Russia remain major concerns for the copyright industries**

**Washington** — Today the International Intellectual Property Alliance (IIPA), a coalition of seven trade associations representing the copyright-based industries, welcomed the decisions announced by U.S. Trade Representative Ron Kirk in USTR's annual Special 301 Report which addresses intellectual property rights' issues and practices in 42 countries. IIPA's February 2010 Special 301 public submission to USTR discussed copyright protection, enforcement, and market access problems in 39 countries/territories, and recommended that 35 be placed on a Special 301 list. On behalf of the IIPA members, Eric H. Smith of the IIPA issued the following statement in response to the release of USTR's 2010 Special 301 report:

"The Administration has emphasized that **increasing exports by reducing trade barriers like piracy** is essential to our country's economic recovery and long term growth. The U.S. creative industries – business software, entertainment software, film, television and home video entertainment, music and recordings, and book and journal publishing – are important drivers of the U.S. economy, contributing substantially to domestic growth and employment, including over \$126 billion annually in revenue from foreign trade."

"For over two decades IIPA has participated in Special 301, providing public comments reflecting the views of the U.S. based copyright industries in other foreign countries. We welcome the increased participation in recent years of other governments (including an invitation to testify at hearings instituted this year), who are increasingly recognizing the importance of copyright to their own domestic strategies for economic growth and sustaining creativity and innovation. The annual **Special 301 process also remains an important tool** in reducing piracy losses and re-building U.S. employment in companies critical to our 21<sup>st</sup> century economy."

"Now is a critical time to generate increased awareness of **the importance of creativity and innovation** to both national and global economic recovery. With the U.S. and many other economies working to recover from the global fiscal crisis, our government needs to redouble its efforts to stem massive global theft of U.S. copyrighted works, whether in physical forms or on the Internet. We applaud all those dedicated individuals in U.S. IP and trade agencies who have fought tirelessly to ensure that our trading partners respect intellectual property rights in order to improve the economic climate in those countries. The U.S. Government under the leadership of the new U.S. Intellectual Property Enforcement Coordinator is working on developing a **national IPR enforcement strategy**, and IIPA and its members have provided formal comments to, and look forward to working with, her office. We appreciate the efforts of these government officials to better protect copyright around the world."

(more)

“In addition to the Special 301 process, USTR notes other key elements of a trade strategy that would improve the protection and enforcement of copyright globally. For example, the **Anti-Counterfeiting Trade Agreement** (ACTA) negotiation capitalizes on the increasing realization of our key trading partners that high enforcement standards and greater cooperation among governments are necessary to lower trade barriers caused by piracy and counterfeiting and to promote global economic recovery.”

“IIPA also urges the Administration and Congress to approve promptly the Korea, Colombia, and Panama **Free Trade Agreements**. These FTAs have very strong IPR obligations and will be critical in opening foreign markets and encourage free and fair trade for America’s most productive companies. IIPA also supports the commencement in March 2010 of negotiations leading to a **Trans-Pacific Partnership FTA**.”

“IIPA and the U.S. government have urged other governments to ratify and implement the **WIPO Internet Treaties** which provide the necessary tools to protect copyrighted materials in the digital environment. The European Communities’ March 2010 deposit of the WIPO Treaties brings the number of adherents to 88 (WIPO Copyright Treaty) and 86 (WIPO Performances and Phonograms Treaty) respectively. Effective implementation into national legislation remains an imperative step on the path to providing an adequate legal framework for healthy electronic commerce in copyrighted products.”

### **SUMMARY OF COUNTRY PLACEMENTS in USTR’S REPORT**

**Priority Watch List:** USTR placed 11 countries on this list (see our chart at the end of this release).

**China** continues to fail to dedicate the manpower and resources necessary to deal with widespread copyright piracy, whether corporate end user piracy of software, the online theft of music, movies, books and journals, and entertainment software, or the piracy of books, CDs, DVDs and other “hard goods.” While there has been some progress, low administrative fines, an inadequate number of criminal cases, and the lack of criminal penalties against some forms of piracy continue to fail to deter piracy. At the same time, continuing – and in some cases more onerous – limitations on the ability of U.S. companies to conduct lawful business and to provide access to legitimate content in China have contributed to an unfair and discriminatory environment in which only pirates, or companies who provide access to infringing materials are permitted to operate. Recently, market access limitations and “indigenous innovation” policies appear to be aimed at discriminating against products with foreign-developed IP or using conditions on market access as leverage to compel transfers of IP and technology to Chinese entities. Engagement with China must be multi-faceted, including through the Special 301 initiative as well as through regular discussions and negotiations in the bilateral Strategic & Economic Dialogue and Joint Commission on Commerce and Trade.

**Canada** merits continued placement on the Priority Watch List. Over the past three years, the government’s top leaders acknowledged many of the deficiencies in its current copyright laws. Later this spring the government is poised to introduce copyright reform legislation, and the copyright community will be closely tracking those developments. In addition, enforcement against piracy -- both online and offline -- remains problematic as Canadian law enforcement officials are denied the legal tools and the resources needed to secure Canada’s borders against pirate imports and to crack down effectively on infringing activities being carried out by organized criminal groups within its borders.

In **Russia**, for the past two years, criminal enforcement activity has declined, while piracy levels remain high (over 70% for some industries). While progress has been made for the business software industry, major problems still persist in other areas, and for all the copyright industries, especially against digital piracy. We hope that the Russian authorities will put IPR enforcement high on the agenda for urgent attention. In 2006, Russia signed a binding intellectual property rights agreement with the U.S., but it has not yet fully implemented that agreement, and in particular, it has not focused on the Internet enforcement obligations in that agreement. Moreover, the Russian government should adopt updated and uniform procedures for investigation and prosecution of copyright infringement. The Russian government must also ensure that collecting societies that have received State accreditation operate in a fair and transparent manner that adequately addresses the interests of U.S. and other foreign rights holders, and that it take action against rogue societies and the pirate sites that claim to be licensed by them. Additionally, Russian authorities need to work aggressively to combat camcording in theaters, and focus on organized crime syndicates.

In Southeast Asia, IIPA appreciates USTR's recognition that the government in **Thailand** has indicated commitment at a high level to improve its record on copyright, and hopes that the Creative Thailand initiative and positive movement on several important pieces of copyright and related (e.g., anti-camcording) legislation will lead to concrete gains for companies that rely on good copyright protection there. IIPA also appreciates USTR's recognition of the continued seriousness of the piracy situation in **Indonesia**.

**Out-of-Cycle Reviews:** IIPA views out-of-cycle reviews as important to achieve mid-term results, and strongly supports USTR's decision to conduct out-of-cycle reviews with respect to **the Philippines**, which will soon have a new government but which has not, under the previous regime, lived up to its potential to be a vibrant copyright market, and **Thailand**, which has hopeful legislative initiatives that, if passed soon, could result in significant gains to the creative economy there.

**Watch List and Other Special 301 Recommendations:** USTR placed 29 countries on the Watch List this year. In particular, IIPA believes that the continued Watch List placement and bilateral attention regarding copyright developments in **Brazil, Italy, Malaysia, Mexico** and **Spain** is warranted, and we hope that significant progress on copyright issues is made to strengthen these important markets, as described in IIPA's 2010 Special 301 reports on these countries. Markets in some developed countries, such as Spain and Italy, have been particularly hard hit by internet piracy, and we express our hopes that these governments will take quick and effective action to address an intolerable situation. We also welcome the recent adoption of *ex officio* authority by Mexico, and look forward to robust implementation as part of a national plan to address a huge piracy problem that has not been affected notwithstanding the tremendous efforts of the PGR, IMPI and other relevant Mexican bodies.

This year USTR announced the removal of **Poland, Hungary** and the **Czech Republic** from the 301 lists. All three markets are important ones for the copyright industries and we hope continued progress there will be made to maintain strong markets for the distribution of legitimate copyrighted materials.

USTR will continue to monitor developments in **Paraguay** under Section 306 of the Trade Act of 1974 and engage in regular consultations to effectively implement their bilateral IPR Memorandum of Understanding with the U.S.

#### **MORE ON THE IIPA AND ITS MEMBERS**

**Global Copyright Challenges and Solutions:** IIPA has a succinct summary of the copyright industries' 2010 global challenges and solutions posted online, which includes reducing copyright piracy, removing market access barriers and strengthening laws. Go to the IIPA homepage at [www.iipa.com](http://www.iipa.com) or access this paper via direct link at <http://www.iipa.com/pdf/2010Special301Challenges.pdf>. A more detailed description of IIPA's 2010 priorities also is found in our cover letter to our 2010 Special 301 submission to the U.S. Trade Representative (direct link at [http://www.iipa.com/2010\\_SPEC301\\_TOC.htm](http://www.iipa.com/2010_SPEC301_TOC.htm)).

**The Contributions of the U.S. Copyright Industries on the U.S. Economy and Foreign Trade:** On July 20, 2009, the IIPA released an economic report entitled *Copyright Industries in the U.S. Economy: The 2003 - 2007 Report*, the twelfth study written by Stephen Siwek of Economists Inc. for the IIPA. This report details the economic impact and contributions of U.S. copyright industries to U.S. Gross Domestic Product, employment, economic growth and trade.

This is the third IIPA report which follows the statistical methodology outlined by WIPO in its 2003 *Guide on Surveying the Economic Contribution of the Copyright-Based Industries*. The latest data show that the "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. Our 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. Those sectors include: chemicals and related products (not

including medicinal and pharmaceutical products); motor vehicles, parts and accessories; aircraft and associated equipment; food and live animals; and medicinal and pharmaceutical products.

<b>SPECIAL 301 CATEGORY</b>	<b>COUNTRY PLACEMENT IN USTR's 2010 SPECIAL 301 REPORT</b>	
<b>PRIORITY WATCH LIST  (11)</b>	Algeria Argentina Canada Chile India Indonesia	Pakistan People's Republic of China Russia (GSP) Thailand (OCR) Venezuela
<b>WATCH LIST  (29)</b>	Belarus Bolivia Brazil Brunei Colombia Costa Rica Dominican Republic Ecuador Egypt Finland Greece Guatemala Italy Jamaica Kuwait	Lebanon (GSP) Malaysia Mexico Norway Peru Philippines (OCR) Romania Spain Tajikistan Turkey Turkmenistan Ukraine Uzbekistan (GSP) Vietnam
<b>STATUS PENDING</b>	Israel	
<b>SECTION 306 MONITORING</b>	Paraguay	

(OCR) refers to a Special 301 out-of-cycle-review to be conducted later this year  
(GSP) refers an ongoing GSP IPR investigation conducted by the U.S. government

**About the IIPA and its Members:** The International Intellectual Property Alliance (IIPA) is a coalition of seven trade associations – Association of American Publishers (AAP), Business Software Alliance (BSA), Entertainment Software Association (ESA), Independent Film & Television Alliance (IFTA), Motion Picture Association of America (MPAA), National Music Publishers' Association (NMPA) and the Recording Industry Association of America (RIAA) – which represent the U.S. copyright-based industries in bilateral and multilateral efforts to open up foreign markets closed by piracy and other market access barriers. These member associations represent over 1,900 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 discs and cartridges, personal computer CD-ROMs, and multimedia products); theatrical films, television programs, DVDs and home video and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and textbooks, trade books, reference and professional publications and journals (in both electronic and print media).