



## MILESTONES OF THE INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE®

### TWENTY YEARS OF GLOBAL COPYRIGHT REFORM (1984-2004)

#### 20 YEARS AGO (1984-1985)

- The Addition of IPR Protection to U.S. Trade Law: In 1984, the U.S. copyright industries pressed the Congress to make ineffective IPR protection an “unfair trade practice” under Section 301 of the U.S. trade law. Congress made this and other similar changes (to the GSP Program, for example) which marked the first time IPR protection was made part of the U.S. trade agenda.
- Formation of the IIPA: At the same time as U.S. trade legislation was being amended, eight copyright industry associations representing over 1,500 U.S. companies united in a coalition called the “International Intellectual Property Alliance” for the purpose of improving copyright laws and fighting massive piracy of U.S. copyrighted products. IIPA and its members together began a global campaign to improve copyright protection and enforcement.
- IIPA Trade Policy Report: In 1985, IIPA wrote its first report recommending to the U.S. government what actions it should take in this area. Entitled “U.S. Government Trade Policy: Views of the Copyright Industries” (1985), IIPA’s recommendations have either been fulfilled or still remain U.S. government strategy.
- In 1985, IIPA prepared the first-ever comprehensive review of piracy losses and the status of current laws in 10 selected countries in Asia, in the Middle East, Latin America, and Eastern Europe. This first effort revealed staggering piracy levels in many of these countries and led to a new effort to secure improved protection and enforcement for U.S. copyrighted products.
- First IPR 301 Action: The U.S. Government, at IIPA’s urging, self-initiated the first IPR-based Section 301 case against Korea, which at that time provided no legal protection for U.S. copyrighted works. This case was successfully settled in 1986 with Korea passing a copyright law protecting U.S. works for the first time.

#### 15 YEARS AGO (1988-1989)

- From 1984 through 1988, pressed by IIPA and its members through bilateral engagement by the U.S. government, many countries, particularly in Asia, revised their copyright laws and/or protected U.S. works for the first time.
- U.S. Adherence to the Berne Convention: With the strong support of and lobbying by IIPA and its members, the U.S. passed the Berne Convention Implementation Act in 1988, and in 1989 adhered to the Berne Convention (1971 Paris text). This gave added credibility to U.S. government and industry efforts to secure further global copyright reforms.
- Special 301 Mechanism Adopted by Congress and IIPA Releases its First Special 301 Submission to USTR: At the instance of IIPA and the copyright industries, in 1988, Congress passed amendments

to Section 301 making the status of global IP protection an annual exercise in what is now called “Special 301.” USTR then released its first request for public comments in the annual “Special 301” review. IIPA filed its first set of Special 301 comments in February 1989 (in a format similar to IIPA’s first submission in 1985). In April 1989, USTR Carla Hills followed by announcing which countries failed to meet the criteria of the statute, including creating the “Priority Watch List” and “Watch List” categories. USTR’s and the rest of the government’s IPR focus then greatly expanded in following years, urged on by IIPA and its members as well as by other IPR-based industries. For example, in April 1999, Ambassador Charlene Barshefsky announced USTR’s survey on IPR practices in over 70 countries, a huge increase from 1989.

### **14 YEARS AGO (1990)**

- **First IIPA “Regular” 301 Petition Filed on IPR Grounds:** In November 1990, IIPA, MPAA and RIAA filed the first IPR “regular” Section 301 petition (not under Special 301) against Thailand. Trade retaliation was averted when the Thai Government outlined specific pledges of actions. Similarly, other countries have taken concrete steps to improve their IPR regimes after their IPR practices have been investigated after being designated as “Priority Foreign Countries” under Special 301.
- **IIPA releases its first ever economic report on the U.S. copyright industries:** This study, *Copyright Industries in the U.S. Economy*, prepared by Economists Incorporated for the IIPA, confirmed that these industries contribute powerfully to the U.S. economy, employment and international trade (foreign sales/exports). In 1989, the ‘core’ copyright industries contributed \$173.7 billion to the U.S. economy (or 3.3% of the U.S. Gross Domestic Product), employed over 2.6 million workers, and had foreign sales/exports of at least \$22.3 billion (larger than the U.S. aircraft and spacecraft industries’ exports). This seminal 1990 report established methodologies used in subsequent IIPA reports as well as efforts undertaken by other countries. Subsequent reports conducted by the IIPA confirmed the continued spectacular growth of the copyright industries to the U.S. economy.
- **NAFTA Negotiations Begin with an IPR Chapter:** In 1990, formal discussions among the U.S., Mexico and Canada to create a North America Free Trade Agreement (NAFTA) started. IIPA was instrumental in developing the text of the intellectual property rights chapter and was a strong supporter of NAFTA’s 1993 passage in Congress.

### **10 YEARS AGO (1994)**

- **TRIPS Agreement Reached in the New WTO:** At the conclusion of the Uruguay Round, a new chapter on intellectual property rights -- the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) -- was included for the first time ever in a global trade instrument. The establishment of new, higher standards of protection, and for the first time, standards of enforcement, gave another jump start to countries’ improving their levels of protection and enforcement of IPR. At the end of the Uruguay Round in 1994, there were 128 members of the GATT.

### **8 YEARS AGO (1996)**

- **WIPO “Internet” Treaties Completed:** With the continuing forceful urging of the U.S. Government, supported by IIPA and its members over a period of many years, a Diplomatic Conference called by the World Intellectual Property Organization (WIPO) culminated at the end of 1996 with the signing of two new international copyright treaties, this time clarifying and extending the Berne Convention to the digital and Internet environment and significantly enhancing protection for sound recordings. IIPA and many of its members served on the U.S. delegation to this Convention.
- **China “Special 301” Action Settled:** Following the designation of China as a “Priority Foreign country” under Special 301, China and the U.S. agreed on an enforcement “action plan” and, seeking to avoid up to \$2 billion in trade retaliation by the U.S., China closed 15 pirate CD factories and virtually shut down massive worldwide exports of pirate optical media product. These actions followed the 1995 U.S.-China IPR Agreement which outlined comprehensive obligations on IPR protection which went far to bring China into the modern age in the field of copyright.

### **6 YEARS AGO (1998)**

- **Congress Passes the Digital Millennium Copyright Act:** In October 1998, the U.S. passed the Digital Millennium Copyright Act (DMCA) which amended U.S. law to meet the obligations of the two “Internet” treaties -- the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) which were completed in 1996. These treaties raised the minimum standards of copyright protection, particularly with respect to the networked-based delivery of copyrighted materials. Adoption of this legislation permitted the U.S. to ratify and accede to these treaties. Since this time, IIPA has been working diligently to ensure global accession to, and proper implementation of, these treaties which are critical to fostering the growth of electronic commerce.
- **WTO Declaration on E-Commerce:** At the Fourth WTO Ministerial Conference in May 1998, trade ministers of all the WTO member nations adopted a “Declaration on Global Electronic Commerce” whereby nations agreed to a moratorium on imposing customs duties on electronic transmissions.

### **5 YEARS AGO (1999)**

- **U.S. Ratifies and Joins the WIPO “Internet” Treaties:** The United States deposited its instruments of accession to both the WCT and the WPPT in September 1999. IIPA then began its major effort to persuade countries to ratify and accede to the two Treaties in order to put them into force.

### **4 YEARS AGO (2000)**

- **TRIPS Transition Period Ends for Developing Countries:** All developing countries and countries in transition (though not U.N. designated least developing countries) became obligated to meet their substantive and enforcement provisions of the WTO TRIPS Agreement on January 1, 2000.

### **TWO YEARS AGO (2002)**

- **WIPO Treaties Enter Into Force:** Ratification and deposit in Geneva by 30 countries was needed before the treaties would enter into force. The WCT entered into force on March 6, 2002 and the WPPT on May 20, 2002. In an effort to raise awareness of these critical treaties, IIPA sponsored a major celebration of this event on Capitol Hill honoring key U.S. Congressman and Senators responsible for the DMCA and the Ambassadors from the countries that helped bring the treaties into force.
- **Trade Promotion Authority:** IIPA and its members celebrated the passage of the Trade Act of 2002, which included Trade Promotion Authority which permits the President, in consultation with Congress, to negotiate bilateral, regional and multilateral trade agreements. This was intended to give a jump start to the new Doha Round and to the various bilateral and plurilateral Free Trade Agreements now in process, in all of which the U.S. government, at IIPA’s urging, has sought greatly improved levels of copyright protection and enforcement.
- **China and Taiwan Become WTO Members:** These two key U.S. trading partners became WTO members in December 11, 2001 and on January 1, 2002, respectively. IIPA remains engaged in ongoing efforts to bring these two countries’ laws and enforcement regimes up to TRIPS’ levels of protection as required by the WTO.

### **ONE YEAR AGO (2003)**

- **Singapore and Chile Free Trade Agreements (FTA) Signed:** On May 6, 2003, the President signed the Singapore FTA. One month later, on June 6, 2003, the President signed the Chile FTA. These milestone agreements formed the baseline for new FTAs with many other countries, which will result in improved protection for U.S. copyrighted materials.
- **GSP Continues as an Effective Trade Tool for Improving Copyright Protection in Beneficiary Countries:** In 2003, IIPA participated in six GSP hearings involving the review of the copyright protection and enforcement practices in Brazil, Russia, Dominican Republic, Kazakhstan, Lebanon,

and Uzbekistan – all of which were based on petitions submitted by IIPA in prior years. GSP petitions filed by IIPA over the last 15 years have been effective in securing improved copyright protection.

### **THIS YEAR (2004)**

- **Special 301 Review:** In February 2004, IIPA filed its sixteenth (16<sup>th</sup>) Special 301 submission with USTR. This submission again comprehensively detailed piracy rates and estimated losses due to piracy, analyzed legal and enforcement deficiencies, and recommended corrective actions in dozens of countries. Estimated 2003 trade losses due to copyright piracy in the 52 countries placed on USTR's 2004 Special 301 lists amounted to at least \$10 billion. Estimated annual global losses suffered by the copyright industries are conservatively placed at \$25-30 billion (not including internet piracy).
- **Trade Investigations under Special 301 and Section 301:** Since 1984, IIPA has participated in Section 301 and Special 301 investigations into the intellectual property practices of Korea, Taiwan, India, Thailand, Brazil, the People's Republic of China, Paraguay, Honduras, and Ukraine. Over the years, IIPA and its members have been engaged with progress made (and not made) in dozens of countries which have been placed on the Special 301 "Priority Watch List" and "Watch List."
- **GSP Leverage Continues:** GSP investigations for inadequate and ineffective copyright laws and enforcement continue against Brazil, Russia, Lebanon, Kazakhstan, and Uzbekistan. In June 2004, USTR accepted IIPA's petition against Pakistan.
- **IPR in U.S. Free Trade Agreements:** Between 2000-2004, the U.S. government concluded FTA negotiations with Jordan, Singapore, Chile, Australia, Morocco, five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua) plus the Dominican Republic (DR-CAFTA) and Bahrain. FTA negotiations are underway with the Andean nations (Colombia, Peru and Ecuador), Panama, and the Southern African Customs Union (SACU–Botswana, Lesotho, Namibia, South Africa and Swaziland).
- **Berne Convention Membership Grows:** Between 1984 and 2004, membership in the Berne Convention, the premier international copyright convention, has more than doubled (74 countries at the end of 1984 versus 157 as of September 2004), in part as a result of IIPA and its members' global reform efforts.
- **WTO Members Increase:** The number of member nations that have joined the international trade community, through the new WTO, has significantly increased in the last decade. At the end of the Uruguay Round in 1994, there were 128 members of the GATT. As of October 2004, there are 147 members of the WTO, with over 30 countries either engaged in the WTO accession process or serving as observers. IPR issues remain high on the U.S. accession negotiations agenda for many of these countries (including, for example, Russia).
- **WTO TRIPS Agreement Marks its Tenth Anniversary:** Since the 1994 conclusion of the WTO negotiations, at least 100 countries have adopted copyright legislative reforms as a result of both their multilateral obligations as well as U.S. bilateral engagement. While most WTO members are now compliant with their substantive TRIPS copyright obligations, the continuing challenge for the WTO, the U.S. government and the U.S. copyright industries is to bring these countries fully into compliance with their obligation to have TRIPS-compliant enforcement systems in place "in practice." For the copyright industries, this means, in particular, that countries criminal laws are being used aggressively to fight against the global criminal syndicates that are often at the center of the "pirate trade."
- **Implementation of the WIPO "Internet" Treaties Continues:** IIPA and its members remain actively engaged in a major effort to ensure full and prompt implementation of these treaties in countries worldwide. As of October 2004, 48 nations had ratified the WCT and 44 the WPPT. Recognizing

that effective copyright protection on the internet could provide an important new tool for promoting the creation and distribution of creative materials, most of the early adherents to the treaties thus far have been developing countries. Implementation continues even in countries that have not ratified the treaties yet; the treaties have now become another cornerstone of international copyright law.

- IIPA's Copyright Industries in the U.S. Economy: The 2004 Report: Working with Economists Incorporated, IIPA released its tenth economic report since 1990 on the contribution of the U.S. copyright-based industries to the U.S. Gross Domestic Product (GDP), employment and foreign sales/exports. This study confirms that the U.S. copyright industries remain a driving force in the U.S. economy. The U.S. 'core' copyright industries accounted for 6% of U.S. GDP in 2002, or \$626.6 billion, and were responsible for employing 4% of U.S. workers (5.48 million people) that year. These numbers double when the contribution of the 'total' copyright industries are calculated (to 12% of GDP or \$1.25 trillion, and 8.4% of employment). The copyright industries also contributed foreign sales and exports of \$89.26 billion in 2002, again leading all major industry sectors. This study is the first report in the world to use WIPO's 2003 recommendations for conducting national economic studies on copyright industries.
- 20 years of IIPA: IIPA celebrates its 20<sup>th</sup> Anniversary in the fight for global copyright and enforcement reform that is the *sine qua non* for copyright industries to continue to lead the world in revenue and job growth. This collective effort with governments on a global basis has resulted in billions of dollars of increased revenue to creators and their support organizations, millions of new jobs, and has contributed significantly to cultural diversity throughout the developing and developed world.

Please visit [www.iipa.com](http://www.iipa.com) for more information on the IIPA, its member associations and its issues.

The **International Intellectual Property Alliance (IIPA)** is a private sector coalition formed in 1984 to represent the U.S. copyright-based industries in bilateral and multilateral efforts to improve international protection of copyrighted materials. IIPA is comprised of six trade associations, each representing a significant segment of the U.S. copyright community. These member associations represent 1,300 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).