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CONTACT:

Eric H. Smith
President, IIPA
+1 202 833 4198

Copyright Industries Support the U.S. Trade Representative's Commitment to Combat Piracy

The U.S. copyright industries support USTR's continued focus on fighting copyright piracy, including optical disc piracy, Internet piracy, corporate end-user piracy of business software, and book and journal piracy; enforcing the WTO TRIPS Agreement's enforcement obligations; pressing for ratification and implementation of the WIPO Internet Treaties; improving standards of IPR protection through Free Trade Agreements; and supporting foreign governments' efforts to use legal software.

Washington — The International Intellectual Property Alliance (IIPA), a coalition of six trade associations representing 1,100 U.S.-based copyright companies, today acknowledged the efforts and leadership taken by the Office of the U.S. Trade Representative in engaging with its trade partners to improve copyright protection and enforcement around the world.

IIPA President Eric H. Smith said, "In the annual Special 301 review, the U.S. government aims to open foreign markets closed by high levels of piracy or market access barriers that keep out the copyrighted products of among the U.S.'s most productive industries. While this announcement marks the end of USTR's country-ranking effort, the Special 301 mechanism is a year-round process in which both the U.S. government and the industry work to improve copyright laws and enforcement actions abroad. We look forward to working with USTR and the other agencies involved in Special 301 to achieve concrete progress resulting in the lowering of piracy rates in countries around the world." Smith added, "The U.S. government's role in reducing global piracy is a critical one; without government will and assistance, industry is simply unable to combat this criminal activity and secure many of these markets for legitimate business, both international and domestic."

"Estimated losses to the U.S. economy due to copyright piracy in the 49 countries listed in today's USTR's Special 301 decision amounted to almost \$9.8 billion in 2002, and an estimated \$20-\$22 billion globally. Unfortunately, levels of piracy have not been shrinking as optical disc piracy has grown over the last few years," Smith remarked. "Markets worldwide are being swamped by illegal CDs, CD-ROMs, DVDs, CD-Rs, and DVD-Rs that threaten to undermine many of the anti-piracy gains made in the last decade. The IIPA calls upon all governments to halt the rapid spread of optical disc piracy and to fight collectively to bring to justice the organized criminal syndicates that control it." Smith also noted the significant losses attributable to business software piracy in governmental agencies as well as rampant, illegal commercial photocopying, calling on governments to take more action toward legitimizing uses in these arenas.

Smith added, "The rapid growth of e-commerce and the Internet bring new opportunities and challenges, particularly for these copyright industries whose products will increasingly be traded globally using this new distribution technology." He continued, "Unless we safeguard the Internet from the scourge of intellectual property theft, the medium will never reach its full potential to contribute to global economic growth and cultural diversity through local creativity. We appreciate the efforts by the U.S. government to secure ratification and full implementation of the WIPO Internet Treaties by all countries. Furthermore, governments must take actions to ensure that their enforcement regimes comply with their WTO TRIPS Agreement obligations and, in addition, use legitimate software in governmental offices."

Problem countries identified for significant bilateral attention

IIPA supports USTR's continued monitoring of the **People's Republic of China** under Section 306 of the Trade Act to ensure compliance with its bilateral commitments on copyright law and enforcement and on market access. Under Section 306, failure to comply with these commitments can result in virtually immediate trade sanctions. China continues to have inadequate criminal enforcement against copyright piracy, despite its recent accession to the WTO.

USTR's decision to maintain **Ukraine** as a Priority Foreign Country under Special 301 is justified. The U.S. government already removed Ukraine's Generalized System of Preferences duty-free trade benefits, and imposed \$75 million in trade retaliation in early 2002. Ukraine has still failed to adopt and enforce an adequate law controlling pirate optical media production.

Taiwan properly remains on the Priority Watch List. This country is the primary source of uncontrolled growth of optical disc production facilities which contribute to high levels of OD piracy. Organized crime elements continue to control production in Taiwan contributing to a lawlessness that Taiwan can ill afford. For Taiwan to meet its TRIPS obligations, much work is still needed to improve and sustain enforcement activities in combating piracy in all forms, including optical disc piracy, book piracy, and business and entertainment software piracy. Taiwan must also complete the process of amending immediately its copyright law and then its 2001 Optical Media Management Statute.

Brazil and **Russia** stay on the Priority Watch List, and both remain under review for their eligibility to continue to receive duty-free trade benefits under the GSP program due to failure to afford adequate and effective protection to U.S. copyright owners. IIPA believes that GSP hearings should be scheduled to update the records in both these countries. In Brazil, the growing problem of CD-R piracy and continuing ineffective criminal enforcement plague the shrinking legitimate markets there. Russia has, in the past two years, seen an explosive growth of optical disc production and distribution causing major problems in the Russian market and in many other neighboring and European markets. The Russian government must address this problem and its overall enforcement regime quickly and effectively.

IIPA applauds the elevation of **Poland** to the Priority Watch List. A notorious symbol of unchecked piracy, ineffective enforcement, and the role that organized crime plays in piracy, is the thriving pirate marketplace at the government-owned Dziesiecolecie Stadium in Warsaw. Despite regular but ultimately ineffective raids, the Polish government has not taken the necessary step to shut down the stadium or entirely halt the sale of infringing copyrighted materials there. Organized crime elements are increasingly involved in distributing pirated materials, especially of videogames, throughout the country. More optical disc plants are coming on-line in Poland, and strong regulations on the production, distribution and export of optical media are sorely needed. Border enforcement measures in Poland are also very weak.

Mexico has been added to the Watch List this year. For years the U.S. government has engaged bilaterally with Mexico outside the Special 301 context. Despite some recent improvements in criminal raids and prosecutions, criminal enforcement in Mexico still fails to provide needed deterrence, and as a result, copyright piracy inflicted over \$770 million in estimated trade losses in 2002 alone. Furthermore, very recently adopted amendments to the 1996 copyright law reportedly contain numerous deficiencies; the industries were gravely concerned about a prior text which failed to comply with TRIPS and NAFTA IPR standards and omitted necessary provisions to implement Mexico's obligations under the two WIPO "Internet" treaties. IIPA and its members strongly urge that this bill not enter into force.

IIPA concerns with 301 placements and the need for active bilateral engagement

IIPA's February 2003 Special 301 recommendations highlighted serious problems in several other countries, and IIPA was disappointed that some of these were placed only on the Special 301 Watch List.

Thailand faces growing challenges with rampant optical media piracy and ineffective enforcement against most forms of piracy. It has failed to pass an effective law to curtail rampant pirate optical disc production, thus devastating its domestic market, and pirate exports threaten other markets throughout the region. A group of copyright associations filed a GSP petition in 2001 requesting that the U.S. government initiate an investigation into Thailand's IPR practices; the U.S. government has not yet made a decision on this petition. Given that Thailand is fast becoming the next Taiwan in its level of optical disc production including for export, these copyright associations believe that it is imperative that this GSP IPR petition be accepted and a full review of its continued GSP eligibility be initiated. **South Korea** will be the subject of an out-of-cycle review this fall in order to review progress made in fulfilling its previous commitments to update its laws and improve enforcement. Book piracy continues unabated, audiovisual piracy is resurgent due to the issuance of video ratings to applicants presenting fraudulent licensing documents; and internet downloading of videogames, sound recordings and other protected content is widespread in Korea, which leads the world in access to broadband connections.

The Dominican Republic achieved success in amending its copyright law in 2000, but its record on improving copyright enforcement and lowering piracy levels has been inconsistent at best. While the business software industry reports positive progress on criminal and administrative enforcement measures, the recording industries' criminal cases have stalled in the courts, resulting in no effective deterrence. The motion picture industry reports that broadcast piracy levels in the Dominican Republic are the worst in the entire hemisphere. It is essential that the government of the Dominican Republic, at the highest level, ensure that all broadcast television stations are operating in accordance with the law. **Lithuania** is the only Baltic state with an optical disc plant and industry reports indicate that it serves as a transshipment point for pirated material produced primarily in Russia and shipped to other countries in Eastern and Central Europe. Border enforcement is ineffective. **Israel** has again failed to criminalize the unlicensed use of computer software in a business setting, as required by TRIPS. In addition, CD-R burning of copyright content is on the rise in Israel, and special police units for IPR remain understaffed and underfunded.

IIPA is also disappointed that South Africa, Bulgaria and Estonia do not appear on any of the Special 301 lists, and urges USTR to increase its active engagement on copyright issues with these countries.

South Africa has an alarming increasing in audiovisual piracy (especially in DVD format) as well as book and videogame piracy, few criminal convictions, and no TRIPS-compatible evidentiary

presumptions in its copyright law. USTR noted with concern the recent efforts in **Bulgaria** to weaken its optical disc regulatory system. Persistent ineffective enforcement remains; Bulgaria has two bilateral agreements with the U.S. regarding IPR and optical disc measures which need to be enforced in-practice. In **Estonia**, while progress on copyright legislation and criminal, civil and administrative remedies have been made in recent years, further legislative amendments are needed. Estonia continues to experience problems in providing effective enforcement and fails to provide full national treatment to U.S. recording companies for their broadcasting and public performance rights.

Reviews are also ongoing regarding whether countries adequately and effectively protect U.S. copyrighted works under the GSP Program, which provides unilateral duty-free trade privileges to many developing countries. An adverse finding can result in withdrawal or limitation of these substantial trade benefits. In 2001, USTR accepted GSP petitions submitted by IIPA in 2000 to review the copyright protection practices of **Brazil** and **Russia**. Reviews of six other countries recommended by IIPA (**Armenia, the Dominican Republic, Kazakhstan, Ukraine, Uzbekistan, and Turkey**) in prior years are ongoing. Later in 2001, IIPA filed GSP petitions against **Lebanon, Pakistan and Uruguay**. A coalition of copyright industry associations also filed against **Thailand** that year. In early 2003, IIPA requested that its petition against Uruguay be withdrawn, given recent passage of copyright amendments there. All 2001 petitions are still waiting for U.S. government action.

PRIORITY FOREIGN COUNTRY	SECTION 306 MONITORING	PRIORITY WATCH LIST	WATCH LIST	
Ukraine	People's Republic of China Paraguay	Argentina Bahamas Brazil European Union India Indonesia Lebanon Philippines Poland Russian Federation Taiwan	Azerbaijan Belarus Bolivia Canada Chile Colombia Costa Rica Croatia Dominican Republic Ecuador Egypt Guatemala Hungary Israel Italy Jamaica Kazakhstan Kuwait Latvia Lithuania	Malaysia Mexico Pakistan Peru Romania Saudi Arabia Slovak Republic South Korea Tajikistan Thailand Turkey Turkmenistan Uruguay Uzbekistan Venezuela Vietnam
1	2	10 + EU	36	

The table above reflects USTR's May 1 decisions in the 2003 Special 301 review: A table of USTR's May 1 decisions, including estimated trade losses and piracy levels on a country-by-country and industry-by-industry basis compiled by IIPA, is attached to this release.

About the IIPA and the U.S. Copyright Industries on the U.S. Economy and Foreign Trade

The International Intellectual Property Alliance (IIPA) is a coalition of six trade associations representing U.S. copyright-based industries in bilateral and multilateral efforts to open up foreign markets closed by piracy and other market access barriers. These six members – the Association of American Publishers, AFMA, the Business Software Alliance, the Interactive Digital Software Association, the Motion Picture Association of America and the Recording Industry Association of America -- represent over 1,100 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 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, tradebooks, reference and professional publications and journals (in both electronic and print media).

According to Copyright Industries in the U.S. Economy: The 2002 Report, a study prepared for IIPA by Economists, Inc., the core U.S. copyright industries accounted for 5.24% of U.S. Gross Domestic Product (GDP) or \$535.1 billion in value-added in 2001. In the last 24 years (1977-2001), the core copyright industries' share of GDP grew at an annual rate more than twice as fast as the remainder of the economy (7.0% vs. 3.0%). Also over these 24 years, employment in the core copyright industries more than doubled to 4.7 million workers (3.5% of total U.S. employment), and grew nearly three times as fast as the annual employment growth rate of the economy as a whole (5.0% vs. 1.5%). In 2001, the U.S. copyright industries achieved foreign sales and exports of \$88.97 billion, a 9.4% gain from the prior year. The copyright industries' foreign sales and exports continue to be larger than almost all other leading industry sectors, including automobiles and auto parts, aircraft, and agriculture.

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USTR 2003 "SPECIAL 301" DECISIONS ON INTELLECTUAL PROPERTY

*IIPA's 2002 ESTIMATED TRADE LOSSES DUE TO COPYRIGHT PIRACY (in millions of U.S. dollars)
and PIRACY LEVELS IN-COUNTRY*

	Motion Pictures		Records & Music		Business Software Applications ¹		Entertainment Software		Books	TOTAL LOSSES
	Loss	Piracy Level	Loss	Piracy Level	Loss	Piracy Level	Loss	Piracy Level	Loss	
PRIORITY FOREIGN COUNTRY										
Ukraine (GSP)	40.0	90%	150.0	80%	75.4	86%	NA	NA	NA	265.4
306 MONITORING										
Paraguay ²	2.0	80%	204.4	99%	4.3	69%	NA	NA	2.0	212.7
People's Republic of China	168.0	91%	48.0	90%	1593.3	93%	NA	96%	40.0	1849.3
PRIORITY WATCH LIST										
Argentina	30.0	45%	26.0	60%	70.7	62%	NA	NA	NA	126.7
Bahamas	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Brazil (GSP)	120.0	35%	320.4	53%	317.0	55%	NA	NA	14.0	771.4
European Union	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
India	75.0	60%	6.6	40%	350.0	75%	NA	NA	36.5	468.1
Indonesia	28.0	90%	92.3	89%	102.9	90%	NA	NA	30.0	253.2
Lebanon (GSP petition pending)	8.0	80%	2.0	65%	NA	74%	NA	NA	2.0	12.0
Philippines	30.0	80%	20.9	40%	20.1	61%	NA	NA	45.0	116.0
Poland	25.0	30%	45.0	45%	78.4	50%	337.7	91%	5.0	491.1
Russian Federation (GSP)	250.0	80%	371.9	66%	93.9	87%	NA	90%	40.0	755.8
Taiwan	42.0	44%	98.6	47%	NA	48%	596.1	56%	20.0	756.7
WATCH LIST										
Azerbaijan	NA	NA	14.8	99%	NA	NA	NA	NA	NA	14.8
Belarus	NA	NA	22.0	73%	NA	NA	NA	NA	NA	22.0
Bolivia	NA	NA	15.0	85%	6.0	74%	NA	NA	5.5	26.5
Canada	22.0	NA	NA	NA	NA	NA	NA	NA	NA	22.0
Chile	2.0	40%	14.0	35%	59.4	51%	NA	NA	1.1	76.5
Colombia	40.0	90%	56.3	65%	16.2	50%	NA	NA	5.3	117.8
Costa Rica	2.0	40%	7.0	50%	8.6	61%	NA	NA	NA	17.6
Croatia	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Dominican Republic (GSP)	2.0	60%	6.9	65%	2.9	61%	NA	NA	1.0	12.8
Ecuador	NA	NA	18.0	90%	5.5	59%	NA	NA	2.3	25.8
Egypt	NA	NA	8.2	41%	NA	50%	NA	NA	28.0	36.2
Guatemala	2.0	60%	4.8	NA	14.5	67%	NA	NA	2.5	23.8
Hungary	18.0	30%	6.0	30%	22.2	47%	NA	NA	4.0	50.2
Israel	30.0	50%	34.0	50%	NA	39%	17.2	68%	1.0	82.2
Italy	140.0	20%	42.0	23%	380.4	45%	215.4	55%	23.0	800.8
Jamaica	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Kazakhstan (GSP)	NA	NA	23.0	78%	NA	NA	NA	NA	NA	23.0
Kuwait	10.0	95%	3.4	64%	NA	NA	NA	NA	2.5	15.9
Latvia	NA	85%	8.0	67%	7.9	57%	NA	NA	NA	15.9
Lithuania	NA	90%	12.0	85%	4.9	53%	NA	80%	NA	16.9
Malaysia	42.0	75%	110.2	70%	82.7	70%	NA	NA	8.3	243.2
Mexico ³	50.0	40%	459.0	68%	182.2	54%	NA	NA	40.0	731.2

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	Motion Pictures		Records & Music		Business Software Applications ¹		Entertainment Software		Books	TOTAL LOSSES
	Loss	Piracy Level	Loss	Piracy Level	Loss	Piracy Level	Loss	Piracy Level	Loss	
WATCH LIST (continued)										
Pakistan (GSP petition pending)	12.0	95%	60.0	83%	NA	83%	NA	NA	44.0	116.0
Peru	4.0	50%	70.2	98%	10.3	58%	NA	NA	8.5	93.0
Romania	6.0	55%	15.0	75%	16.4	72%	35.2	97%	2.0	74.6
Saudi Arabia	20.0	35%	16.0	42%	NA	47%	NA	NA	14.0	50.0
Slovak Republic	2.0	NA	NA	NA	NA	NA	NA	NA	0.5	2.5
South Korea	27.0	25%	6.9	20%	121.4	50%	381.0	36%	36.0	572.3
Tajikistan	NA	NA	5.0	87%	NA	NA	NA	NA	NA	5.0
Thailand (GSP petition pending)	26.0	70%	30.0	42%	28.7	75%	47.3	86%	28.0	160.0
Turkey (GSP)	50.0	45%	18.0	75%	NA	50%	NA	NA	25.0	93.0
Turkmenistan	NA	NA	6.5	>90%	NA	NA	NA	NA	NA	6.5
Uruguay (withdrawal of GSP pending petition requested)	2.0	40%	1.4	60%	5.2	60%	NA	NA	1.5	10.1
Uzbekistan (GSP)	NA	NA	32.0	>90%	NA	NA	NA	NA	NA	32.0
Venezuela	25.0	65%	29.0	75%	27.1	52%	NA	NA	18.0	99.1
Vietnam	5.0	NA	NA	NA	NA	NA	NA	NA	2.0	7.0
TOTALS	1357.0		2540.7		3708.5		1629.9		538.5	9774.6

Endnotes:

"GSP" means a review of the country's IPR practices is ongoing by USTR. "GSP pending" means that a petition to initiate a review has been submitted to USTR.

¹ BSA's estimated piracy losses and levels for 2002 are preliminary, and will be finalized in mid-2003. BSA's trade loss estimates reported here represent losses due to piracy which affect only U.S. computer software publishers in this country, and differ from BSA's trade loss numbers released separately in its annual global piracy study which reflects losses to (a) all software publishers in this country (including U.S. publishers) and (b) losses to local distributors and retailers in this country.

² Paraguay: RIAA reports that its estimated losses to the records and music industry include both domestic piracy in Paraguay and estimated losses caused by transshipment.

³ Mexico: RIAA reports that the 2002 estimated losses due to recording piracy in Mexico reflect losses experienced by the overall industry, including both U.S. and Mexican record companies.