



**For Release**  
October 7, 2004

**CONTACT:**  
Eric Smith, IIPA  
(202) 833-4198

## **IIPA Celebrates the 10th Anniversary of the WTO TRIPS Agreement and the 20th Anniversary of the Formation of the Alliance of the Copyright Industries**

### **IIPA Continues to Press Countries to Improve Their Enforcement Systems in the Fight Against Copyright Piracy**

Washington, D.C.— The International Intellectual Property Alliance (IIPA), a coalition representing the U.S. copyright-based industries, today identified the vast progress in global copyright law reform made in the last 10 years as a result of the 1994 signing of the WTO TRIPS Agreement. IIPA also celebrated the 20<sup>th</sup> anniversary of its founding as an alliance of the copyright industries to collectively fight the global scourge of copyright theft through better laws and more aggressive enforcement. The Appendix to this release details the history and contributions of the TRIPS Agreement and the role of IIPA in promoting copyright law reform and improved enforcement globally. IIPA's recognition of these two anniversary events is made in conjunction with today's release of IIPA's new report, Copyright Industries in the U.S. Economy: The 2004 Report, which details the economic impact and contributions of U.S. copyright industries on the U.S. economy (see separate IIPA press release).

“The TRIPS Agreement has ensured that well over 100 countries now have adequate laws on the books to support their participation in a new global economy based on creativity,” noted IIPA President Eric H. Smith. “The progress over these last ten years has brought billions of dollars in new revenue and millions of new jobs to all WTO member countries, including the U.S. which leads the world in the production of entertainment and high technology products protected by copyright laws. By enhancing the ability of countries to grow their local copyright industries, TRIPS has been a key factor in promoting local creativity and protecting cultural diversity.”

“The TRIPS Agreement, by adding an international obligation to enforce these new laws in practice to reduce piracy levels, establishes the infrastructure to advance the goal of the knowledge economy in the new Millennium. Unfortunately, many countries have to date failed to live up to these enforcement obligations and until they do, they will forego the vast benefits in economic growth and cultural and technology expansion that the TRIPS Agreement has promised. IIPA will continue to work with the U.S. government and foreign governments to redeem this promise for all countries, but government policy makers must create the political will to enforce their new laws aggressively.”

“IIPA has been a key participant in this global intellectual property renaissance,” Smith added. “This alliance of copyright-based associations came together in 1984 to fight widespread piracy and inadequate copyright laws around the world. Companies were facing 90%-100% levels of piracy, causing them tremendous damage. Starting in 1984 with its work to amend U.S. trade laws to target inadequate

intellectual property protection, through its active participation in the negotiations leading to the TRIPS agreement, NAFTA, bilateral trade/intellectual property agreements worldwide, and by pressing for effective use of these trade tools with our trading partners, IIPA has been at the forefront of the successful effort to improve copyright laws and enforcement globally.”

Smith concluded, “Still, the scourge of piracy, in all its constantly changing forms, daily threatens the viability and health of these vital industries. In particular, today piracy on the Internet, and the influence of organized crime elements in commercial piracy operations, make it more important than ever that governments take sustained and aggressive steps to halt this type of economic crime which devastates legitimate industries, harms cultural development and undermines the rule of law. Working together as an alliance, the creative community will do everything in its power to bring to realization the promise of strong, diverse technological and cultural progress globally.”

About the IIPA: The International Intellectual Property Alliance is a private sector coalition representing the U.S. copyright-based industries in bilateral and multilateral efforts to improve international protection of copyrighted materials. IIPA is composed of six trade associations – the Association of American Publishers (AAP), the Business Software Alliance (BSA), the Entertainment Software Association (ESA), the Independent Film & Television Alliance (I.F.T.A.), the Motion Picture Association of America (MPAA), and the Recording Industry Association of America (RIAA) – 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).

(continued)

***APPENDIX to IIPA 's PRESS RELEASE***

**10 YEARS OF THE WTO TRIPS AGREEMENT**

**Basics of the TRIPS Agreement:** At the conclusion of the Uruguay Round negotiations in 1994, a new chapter on intellectual property rights (IPR) -- 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 copyright protection, and for the first time, standards of enforcement, gave a jump start to countries improving their levels of IPR protection and enforcement.

With respect to substantive copyright standards, TRIPS outlines the minimum level of protection expected of WTO members. TRIPS accomplished several goals: it incorporates by reference the 1971 Berne Convention; it protects computer software and databases; it affords rental rights to computer software and sound recordings (and cinematographic works in certain cases); it establishes a minimum term of protection; it affords certain rights regarding protections for performers, producers of phonograms and broadcasting organizations; it outlines a three-part test for the limitations/exceptions on the rights conferred; and it establishes provisions on national treatment and most-favored-nation status. On January 1, 2000, TRIPS entered into force for almost all the world's developing countries who were WTO members at that time. 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.

**Enforcement under TRIPS standards:** Unfortunately, full compliance with TRIPS' enforcement obligations (both substantive and performance requirements) remains sparse but is essential to returning the commercial benefits envisioned at the conclusion of the Uruguay Round a decade ago. In general terms, TRIPS requires countries to have an enforcement system that: permits effective action against infringements; provides expeditious remedies which constitute a deterrent; is fair and equitable; is not unnecessarily complicated or costly; and does not entail any unreasonable time limits or unwarranted delays. TRIPS' enforcement provisions provide a comprehensive foundation for the development of civil, administrative and criminal procedures and remedies necessary for effective enforcement against copyright piracy.

In IIPA's view, the continuing challenge remains whether countries' enforcement systems comply with TRIPS' enforcement norms in-practice. TRIPS requires that member countries must apply their criminal laws in cases of commercial piracy; it is not enough to merely have laws on the books unless those laws are used effectively. The U.S. copyright industries believe that it is this aspect of TRIPS that will bring real commercial benefits that were contemplated by the TRIPS negotiators. Piracy (both physical/hard-goods piracy and online/internet piracy) remains the primary market access barrier for the copyright industries around the world; such theft of our legitimate product results in job losses (here and abroad), lost investment opportunities, and significant losses of government tax revenues.

To date, the U.S. has brought TRIPS/copyright-related actions against five countries in six cases, successful in each instance: (1) against Japan for inadequate protection for pre-existing sound recordings (U.S. joined by the European Community (EC)); (2) against Denmark for inadequate enforcement and failure to provide civil *ex parte* search remedies; (3) against Sweden for inadequate enforcement and failure to provide civil *ex parte* search remedies; (4) against EC/Ireland for inadequate copyright law and enforcement; (5) against Ireland for inadequate copyright law and enforcement; and (6) against EC/Greece for inadequate enforcement against rampant television piracy. The U.S. has been a defendant in one copyright case involving an action brought by the EC against a U.S. copyright law exception

permitting the performance of copyrighted music in certain sized restaurants and bars; the U.S. is paying sanctions awarded as part of the dispute resolution of this case.

**TRIPS and its Impact on Bilateral/Regional Negotiations:** At the end of the Uruguay Round in 1994, there were 128 members of the GATT. Now there are 147 members of the WTO, with over 30 countries either engaged in the WTO accession process or serving as observers. IPR issues have been high on the U.S. accession negotiations agenda (including China and Taiwan, and in Russia's ongoing talks).

TRIPS certainly has served a positive role as a baseline foundation for substantive copyright law and enforcement reform. Since 1994, however, technologies have changed and the way commercial pirates steal copyrighted materials has also changed. As a result, in 1996 the World Intellectual Property Organization (WIPO) adopted two new internet treaties (WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty) which raise the international standards for copyright protection even higher. The TRIPS enforcement provisions continue to be a basic guideline for countries' efforts to improve their enforcement regime.

Nevertheless, TRIPS remains a treaty of "minimum" standards, and countries are free to provide higher forms of protection. To this end, the IIPA supports ongoing efforts by the U.S. government to engage in Free Trade Agreement (FTA) negotiations which contain very modern and comprehensive IPR chapters necessary to effectively protect copyrighted materials.

## **IIPA ACCOMPLISHMENTS: 1984-2004**

Listed below are illustrative examples of the copyright / trade actions which the IIPA and its members have been active over the last two decades. For further details on IIPA's 20 years of copyright and trade activities, see our document "IIPA Milestones: 1984-2004" which is posted on the IIPA website at [http://www.iipa.com/pdf/IIPA\\_Milestones\\_20\\_years\\_100704b.pdf](http://www.iipa.com/pdf/IIPA_Milestones_20_years_100704b.pdf).

- **Annual reports to the U.S. government:** Since 1989, IIPA has filed comprehensive reports on numerous countries' copyright legislative efforts and enforcement measures in the U.S. government's annual "Special 301" review on intellectual property. In February 2004, IIPA filed its sixteenth (16<sup>th</sup>) Special 301 submission with the U.S. Trade Representative (USTR) which detailed piracy rates and estimated losses due to piracy, analyzed legal and enforcement deficiencies, and recommended corrective actions in dozens of countries. IIPA's 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).
- **Special 301 and Section 301 IPR cases:** 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.
- **WIPO Treaties:** The adoption of adequate legislation on a global basis and its effective enforcement online will both prevent online piracy and promote the healthy growth of legitimate electronic commerce in copyrighted materials. Governments need to adopt stronger laws to address online copyright piracy and vigorously enforce those laws.
- **Enforcement of the WTO TRIPS Agreement:** On January 1, 2000, the TRIPS Agreement entered into force for most of the world's developing countries. Unfortunately, full compliance with TRIPS

enforcement obligations (both substantive and performance requirements) remains sparse but is essential to returning the commercial benefits envisioned at the conclusion of the Uruguay Round in 1994.

- Free Trade Agreements: The negotiation of bilateral and regional free trade agreements (FTAs) has assumed significant importance in recent U.S. trade policy. These negotiations offer an important opportunity to persuade our trading partners to modernize their copyright law regimes so they can maximize their participation in the new e-commerce environment, and to improve enforcement procedures. IIPA strongly supports these FTA efforts.
- GSP IPR reviews: Over the years, IIPA has been involved with IPR investigations conducted by the U.S. government under the Generalized System of Preferences (GSP) trade program against the following countries: Indonesia, Thailand, Egypt, Brazil, Russia, Turkey, Paraguay, Panama, Honduras, Cyprus, Dominican Republic, Lebanon, Kazakhstan, Uzbekistan, Armenia, Moldova, and Pakistan.
- Economic studies: Working with Economists Incorporated, IIPA has 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. IIPA's Copyright Industries in the U.S. Economy: The 2004 Report 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.
- U.S. Trade/IPR Legislation: IIPA and its members worked with the U.S. Congress over the years on establishing and strengthening IPR-related aspects in trade legislation such as the Caribbean Basin Initiative (CBI) and the U.S.-Caribbean Trade Partnership Act (CBTPA); the GSP trade program; the Andean Trade Preferences Program (ATPA) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA). IIPA was also very active in implementing legislation for NAFTA (the North American Free Trade Agreement) and the Uruguay Round Agreements Act (URAA).

For more information on IIPA, its members and its issues, visit the IIPA website at [www.iipa.com](http://www.iipa.com).

# # #