

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE 2004 SPECIAL 301 REPORT

SPECIAL MENTION

KYRGYZ REPUBLIC

Even as a member of the WTO (and WIPO digital treaties), the Kyrgyz Republic is still not providing the type of effective enforcement necessary to stem the copyright piracy there, nor is it in compliance with the enforcement obligations of the WTO TRIPS Agreement. As the U.S. Trade Representative noted after an out-of-cycle review (in February 2002), “the U.S. government is concerned with key gaps in the legal regime...” and noted in particular “the lack of *ex officio* authority (the authority to undertake action without a rightholder’s complaint) for customs and criminal authorities, as well as the lack of civil *ex parte* search and seizure procedures conducted without notice to the alleged infringers.” Now, two years after this report by the U.S. government, the Kyrgyz Republic has still not corrected these deficiencies. In addition, a lingering problem is that the civil code, amended in 1998 by introducing a new Part IV (of the former Soviet Code) with very detailed provisions on intellectual property, including 40 articles on copyright and neighboring rights, contradicts the 1998 Copyright Law. As IIPA has noted in past filings, this is a problem that needs repair to clarify that the copyright law provisions take precedent over the civil code amendments, so that Kyrgyz copyright law is consistent with international norms and obligations.

According to the recording industry (the International Federation of the Phonographic Industry, IFPI), the level of music piracy in the Kyrgyz Republic is estimated at about 85%, with trade losses estimated at \$5 million. It is also estimated by the recording industry that in total, 5 million cassettes and 0.9 million CDs were sold in the Kyrgyz Republic in 2003 and that, of these, 4.3 million cassettes and 0.7 million CDs were pirated copies. The industry also reported 35 raids and the seizure of US\$44,700 worth of pirate material (1700 CDs, 797 CD-Rs, 4300 cassettes, and 18 recording devices) in 2003 by local enforcement agencies.