

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

2004 SPECIAL 301 REPORT

SPAIN

EXECUTIVE SUMMARY

Special 301 recommendation: IIPA recommends that Spain be added to the Watch List in 2004.

Overview of key problems/achievements in Spain: The copyright industries express their grave concerns about the problems affecting the music, film and entertainment software sectors in Spain. Factory-produced pirate music CD products dominate the street market. Pirated entertainment software remains readily available on the street, as do pirate movie DVDs. The piracy level for sound recording in Spain is 25%, the highest among developed countries. Spain has had at least two online music services which are distributing music without authorization from the record companies. Many top videogame titles are being downloaded from the Internet before they are localized for launch in the domestic market.

While the Internet is used for hard goods distribution (as it gives pirates an additional layer of protection, because judges have to authorize special warrants to allow police to search their homes), Internet downloading is a rapidly growing concern, especially via P2P (peer-to-peer) systems and IRC (Internet relay chat) channels. To make matters worse, organized crime syndicates are becoming active in the production and distribution of pirated materials, especially recorded music.

There have been some reports of progress in the overall anti-piracy fight. The copyright industries continue to promote copyright protection. For example, in September 2003, the recording industry teamed up with the Spanish authors' society in an anti-piracy campaign. The local motion picture industry continues to maintain good contact with police on operational matters. The business software industry also has seen several positive developments in 2003, including an improved commitment to fight software piracy on the part of the national police. The Guardia Civil has been equally supportive. Despite this improved commitment by law enforcement and legislative improvements, problems remain with the judiciary. While improving, and much more expedient in 2003, delays in rulings on civil search applications are still encountered; in fact, the business software industry also has seen unreasonably high bond/security requests for civil search applications. The Anti-Piracy Roundtable, a cross-industry platform, was created at the end of 2001 to raise public awareness and lobby the government regarding the seriousness of intellectual property crime. On the legislative front, the Spanish criminal code and criminal procedure code were amended in 2003. The creation of new specialized courts for IP matters and amendments to the criminal codes — strengthening the penalties for copyright infringement and offering more effective enforcement procedures — demonstrate the Spanish government's efforts to fight piracy.

Actions to be taken by the Spain government in 2004

Enforcement

- Announce a nationwide anti-piracy campaign focusing on all types of piracy, including Internet piracy;
- Implement the mandates issued by the Spanish Senate included in the report of the sub-commission on piracy. These mandates ask the government to strengthen the fight against piracy by increasing penalties for copyright infringement, ensuring procedural legislation facilitates prosecution for copyright infringement and eases the burden for rightsholders in copyright cases, increasing law enforcement resources for copyright cases and developing a law enforcement strategy for fighting piracy, enacting legislation which complies with EU copyright legislation, and formulating public awareness measures on the seriousness of piracy.
- Increase raids, prosecutions, and, in particular, the imposition of deterrent penalties.
- Institute judicial reform to speed up criminal and civil proceedings.
- Encourage the Spanish government to (1) eliminate bond requests or ensure that unreasonable security requests are not made by amending the intellectual property law or civil procedure law to introduce appropriate limitations on bonds; (2) provide necessary training in IP matters for judges; (3) increase resources for law enforcement in order that they may pursue copyright crime effectively.
- Encourage the Spanish government, as part of a government software asset management initiative, to require the legal use of business applications software as a condition for private companies having access to public funds.

Legal Reform

- Move promptly to implement the EU Copyright Directive and to do so in a manner that fully and faithfully reflects that directive. The deadline for implementation was December 22, 2002; no advances in the Spanish legislature are expected until the second semester of 2004.
- Revise the Spanish legislation implementing the EU E-commerce Directive because it creates a limitation on liability for Internet service providers (ISPs) which goes beyond that permitted by the directive.

SPAIN
ESTIMATED TRADE LOSSES DUE TO PIRACY
(in millions of U.S. dollars)
and LEVELS OF PIRACY: 1999 – 2003¹

INDUSTRY	2003		2002		2001		2000		1999	
	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level
Motion Pictures	30.0	10%	25.0	7%	25.0	5%	25.0	5%	25.0	7%
Records & Music	60.0	25%	63.0	25%	N/A	21%	N/A	N/A	N/A	N/A
Business Software Applications ²	N/A	N/A	79.4	47%	85.0	49%	121.4	51%	69.0	37%
Entertainment Software	N/A	N/A	N/A	34%	N/A	N/A	N/A	N/A	115.7	68%
Books	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	21.0	N/A
TOTALS	N/A		167.4+		110.0+		146.4 +		230.7+	

COPYRIGHT PIRACY IN SPAIN

Internet piracy is growing, and growing fast

Online piracy in Spain is increasing. The Internet is still used for hard goods distribution, since it gives pirates an additional layer of protection because judges have to authorize special warrants to allow police to search their homes. Moreover, Internet downloading is a rapidly growing concern, especially via peer-to-peer systems and Internet Relay Chat (IRC) channels. The copyright industries cooperate with the National Police and Civil Guard's special departments for investigating Internet crime.

In 2003, a new Madrid-based pay-music download service called "Puretunes" launched its new service. According to press reports, Puretunes claims to have found a loophole in the Spanish copyright law which permits it to charge for music without getting authorization/permission from the recording companies. The service is now not operational. Another Spanish online service called WebListen.com is currently the subject of litigation brought by the recording industry, and so far, has had several verdicts issued against it. As regards the criminal proceedings against Weblisten, the trial is still pending. Weblisten's manager is charged with copyright violation under Article 271 of the Spanish Criminal Code (this article refers to the more serious infringements). The charges have been also filed by the Public Prosecutor.

¹ The methodology used by IIPA member associations to calculate these estimated piracy levels and losses is described in IIPA's 2004 Special 301 submission at <http://www.iipa.com/pdf/2004spec301methodology.pdf>.

² BSA's 2003 piracy statistics were not available as of February 13, 2004, and will be made available in the near future and posted on the IIPA website at <http://www.iipa.com>. BSA's statistics for 2003 will then be finalized in mid-2004 and also posted on the IIPA website. BSA's trade loss estimates reported here represent losses due to piracy which affect only U.S. computer software publishers in Spain, and differ from BSA's trade loss numbers released separately in its annual global piracy study which reflect losses to (a) all software publishers in Spain (including U.S. publishers) and (b) losses to local distributors and retailers in Spain.

Internet rightsholders contemplating legal action against Internet pirates in Spain face difficulties in identifying infringers due to restrictions imposed by Spanish data protection laws. Rightsholders cannot generally obtain from ISPs, via a civil procedure, the identity of an infringing end user upon communication to the ISP of an IP address. Such information may, however, be obtained via a criminal prosecution.

Optical disc piracy is on the rise in Spain

CD-R and DVD-R burning and other forms of digital piracy are on the rise in Spain. The motion picture industry reports that digital piracy is affecting its industry as CD-Rs and DVD-Rs contain movie titles in the DivX format, a decompression technology that facilitates the downloading of a movie from the Internet.

Currently, industry reports that there are 14 OD plants in Spain that contain machinery to replicate optical discs. In total, these plants represent approximately 100 lines, with an estimated maximum annual capacity of over 600 million discs (including both CD and DVD systems). All but three of these plants have SID (source identification) codes; two of these are devoted to the manufacturing of blank discs and the third was raided in 2002 because of piracy.

Spain has high levels of copyright piracy for all industries

Many of the copyright-based industries report relatively high levels of piracy in Spain — high levels especially for a European country.

Annual losses due to widespread piracy of sound recordings in Spain were estimated at \$60 million, with a 25% piracy rate in 2003. The situation for the recording industry in Spain has continued to deteriorate, and pirate recordings are sold in the most open and notorious manner. Some 20 million pirate units were sold in 2003, more than any other country in Europe. This grave situation has been widely reported in the national media, and the pirates grow bolder and more organized each day. Given the government's relative indifference to the problem, organized criminal syndicates are rapidly taking over the market. According to the local sound recording association, here is a summary of the major piracy concerns in several cities. In Madrid, the usual piracy level is about 40%; during the December 2003 holiday season, the police became very active and the piracy level in the city dropped to 20-25%. Police cooperation with industry is excellent in Barcelona, yet the music piracy level approaches 20% of the market. In Sevilla, networks (often gypsies) are organized to distribute pirate product. Valencia is the city which experienced the sharpest decrease of piracy during the last quarter of 2003. The piracy of sound recordings in Granada is supported by a large university population. In the cities of Alicante, Murcia, and Zaragoza, the piracy levels are less stable, in the range of 15-20% of the market, with higher levels in the summer.

The Motion Picture Association of America (MPAA) reports that the number of street vendors selling pirate optical disc products (music, software, interactive games and movies) in major Spanish cities grew significantly in 2003. These street vendors are called "blanket men" (*manteros*) locally, referring to the blankets that they use to exhibit pirate products and to remove them quickly whenever the police show up. Generally speaking, the blanket men are illegal immigrants, which can create additional judicial hurdles. FAP, the local anti-piracy organization, estimates that there are approximately 5,000 blanket men in Spain, mainly located in the cities of Madrid, Granada, Sevilla and Alicante (and to a lesser extent in Barcelona and Valencia). FAP estimates that around 30% of the blanket men are selling illegal audiovisual products and that, on average, 40% of their stock comprises illegal movies recorded on CD-Rs

or DVD-Rs. In contrast, smart card piracy seems to have been effectively eradicated and the cable piracy situation has improved markedly. Annual trade losses due to audiovisual piracy in Spain are estimated at \$30 million for 2003.

The entertainment software industry is also experiencing difficulties in Spain, though there has been relative improvement in some areas. While there has been an increase in the level of cooperation with Spanish authorities, piracy of entertainment software remains a problem. Domestic CD-R piracy continues, but it is now primarily at flea markets and not through legitimate retail outlets. A member-company of the Entertainment Software Association (ESA) reports that in 2003, Spanish law enforcement authorities conducted approximately 35 raids (in several major cities and the Canary Islands), resulting in the seizure of over 140,000 pirate and counterfeit cartridge-based entertainment software products. The company's efforts revealed that the pirated products were being imported from Hong Kong and Thailand, transshipped through Germany and later transported to Spain. The company is also working with Europol, and Spanish and German customs authorities, to investigate and halt the importation of pirate and counterfeit cartridge-based products. There have also been a significant number of raids which have resulted in the seizure of pirate discs. A substantial number of legal actions were also initiated by ESA members, and while only a few actually wound their way through the courts, the few that did resulted in decisions favorable to the rightsholder. Internet piracy remains a growing concern. As noted last year, many top videogame titles are being made available for download from the Internet before they are localized for launch in the domestic market. Piracy at Internet cafés is also on the rise.

The Business Software Alliance (BSA) reports that end-user piracy in small and medium-sized businesses is the main source of economic harm for software companies. The good news is that Spain has reduced its piracy rate by 16 points between 1996 and 2002. In turn, this helped the Spanish software industry grow by 15.9% and generate \$13 billion in sales.³ Despite these positive developments, Spain continues to have one of the highest piracy rates in the EU for business software. Further reduction of piracy will require continued strong enforcement. For example, BSA would encourage the government to require that all private sector entities seeking recourse to public funds be required to demonstrate that their use of software is compliant with all applicable laws and licenses. To this end, BSA cooperated with AENOR (a local certification and normalization body) in 2001 to create a Certification on Legal Use and Management of Software, available to companies that wish to certify legal use of software and implementation of proper internal policies to ensure legal use. Private sector entities seeking to demonstrate legal use of software could do so via this certification process. Demonstration of legal software use could be done via this certificate, and its promotion by the Spanish Government would be a significant step in piracy reduction.

COPYRIGHT ENFORCEMENT IN SPAIN

The Spanish government has undertaken several initiatives aimed at improving enforcement. In 2000, the Spanish government set up an inter-ministerial commission to coordinate its actions. The commission initially worked well, but has since become far less effective. The Anti-Piracy Roundtable (*Mesa Anti-Pirateria*), a cross-industry platform created at the end of 2001 to raise public awareness and lobby the government regarding the seriousness of intellectual property crime.

³ See Business Software Alliance, "Eighth Annual Global Software Piracy Study" (research compiled by International Planning and Research Corporation, published June 2003), available at <http://global.bsa.org/globalstudy/>.

In early 2003, Parliament established a sub-committee, with the representatives of the intellectual property sector, to examine and develop effective solutions to fight piracy. The sub-committee issued its conclusions in early November. The sub-committee called for stronger criminal penalties, for increased *ex officio* police actions against the *manteros*, for increased police coordination and for the inclusion of IP violations in the list of cases that qualify for "Fast Hearings." The conclusions are expected to be approved by the Parliamentary Culture Commission and will then be forwarded to the government for implementation.

Good cooperation with police authorities: There has been a specialized unit within the Guardia Civil and National Police that also deals with technological crimes and organized crime, but this is not new or created by the anti-piracy roundtable.

The motion picture industry generally enjoys excellent cooperation with the government and with the enforcement authorities. FAP is using its high-profile membership in the government's inter-ministerial Anti-Piracy Commission to further the cause of improved intellectual property protection and enforcement in Spain. FAP estimates that the number of pirate optical discs containing movies sold by street vendors exceeded 9 million in 2003. Organized criminal gangs are manufacturing the pirate CD-Rs and DVD-Rs and distributing them to the street vendors. Since September 2003, FAP has noticed that groups of *manteros* have begun to arrange their own duplication to reduce their reliance on the organized gangs. When police activity on the streets increases, the *manteros* seek customers in bars and restaurants rather than waiting for them on the streets or in flea markets.

MPA reports that since September 2002, when FAP refocused its resources against street vendor piracy at the request of its members, FAP and the police have conducted over 400 raids, resulting in the arrest of more than 425 individuals. In addition, FAP and the police have successfully dismantled some of the main networks supplying the *manteros* in over 50 operations in the cities of Madrid, Sevilla, Barcelona, Grenada, Malaga, Huelva and Lerida. Overall, these networks had the cumulative capacity to produce over 50 million pirate copies a year. These particular operations led to the arrest of 119 individuals and to the seizure of 1,726 DVD-R and CD-R burners, 21,537 CD-Rs with movies, 21,907 DVD-Rs, 290,506 music CD-Rs, 14,907 interactive games, more than 825,000 blank CD-Rs and DVD-Rs, 268,107 inlays and over €63,000 in cash (US\$80,024). FAP estimates that the market value of these seizures amounted to approximately €9 million (US\$11,431,776). Despite these excellent results, the number of so-called *manteros* on the streets has not significantly decreased. FAP believes that this is due to insufficient governmental priority, prosecutorial delays that enable the *manteros* to disappear and avoid judgment, and a lack of deterrent sentencing.

During 2003, the sound recording industry (including the local industry association, AFYVE) maintained great cooperation with all the police and customs bodies, supporting in investigations, prosecutions and training. To this end, training is going to be once again reinforced in 2004 to improve the police awareness of the piracy problem and get better expertise with it. This effort by the music industry is going to be especially relevant in the case of the local police, dependent on the city council, considered to be the ones who can exercise more control over the sale in the streets. For example, local police have seized in 2003 1.6 million pirate discs, almost 40% of the total. In addition, AFYVE, the Spanish National Group of IFPI, and SGAE, the Spanish authors' society, teamed up in September 2003 to tackle piracy.

The sound recording industry has focused its main operations in Spain against pirate networks run by China and North Africa criminals. The average action of this kind usually results in seizures of tens of burners and thousands of music CD-Rs. For example, the Policía

Nacional broke a Chinese network in Madrid, conducted 13 searches, arrested 40 Chinese nationals and seized 346 CD burners in raids in January 2003. The Policía Nacional in June 2003 raided a large distributor in Barcelona, seizing over 1,000 CD burners and 1,212 units of ripping software, all worth an estimated €500,000 (about US\$635,099). In February –March 2003, two customs-led operations in Barcelona resulted in the seizure of approximately 200,000 discs (60% pressed discs, 40% blank discs with Morocco as destination).

BSA has enjoyed excellent cooperation over the past few years with the Cuerpo Nacional de Policía and with the Guardia Civil. Cooperation with the respective computer crime units in both of these entities is especially strong. National police have undertaken raids against illegal resellers, assisting BSA in ridding the channel of illegal software. As part of this cooperation, in late 2002/early 2003, police raided 18 resellers in a three month period. Further channel actions are planned in 2004. Police assistance also enabled BSA to take action against a large Spanish end-user (a printing and copying company); the action involved simultaneous raids on 11 of the company's sites in five different cities across Spain.

Prosecutions and criminal sentences: The Spanish judicial system remains slow, with many judges still not regarding piracy as a serious offense.

The MPA reports that FAP's strategy to join criminal cases as private prosecutor is yielding good results, as court decisions are generally positive. However, the Courts generally apply the lowest penalties (6 to 12 month fines at a rate of €6 per day, whereas the Law provides for sentences ranging from six-month fines to a four-year jail term). This minimizes the deterrent effect of the positive decisions. More work needs to be done to improve judicial awareness of the dangers of copyright piracy and the benefits of deterrent sentences. Although street vendor piracy is generally considered by the Spanish judicial community to be a social problem rather than a criminal one, the first decision was handed down against a *mantero* in April 2003. This represents a positive sign that the courts have started to appreciate the increased piracy problems created by the *manteros*. The defendant was sentenced to a six-month fine (3 Euro per day) and ordered to pay damages of €40,000 (US\$50,811). The general problem posed by the prosecution of illegal immigrants is that they cannot be automatically expelled, and they can take advantage of procedural delays to disappear, resulting in many legal procedures being filed with no decision (since no decision can be made if the defendant cannot be located). Nonetheless, efforts to promote awareness of piracy have had a positive effect, with judges imposing more deterrent sentences, including imprisonment. The conviction rate is higher than 90% and at least 15% of offenders receive more than a one-year jail sentences.

The recording industry reports that the number of criminal prosecutions against *manteros* who distribute illegal pirate music CD-Rs has sharply increased during 2003 with a high rate of convictions (low fines, in most cases).

Although nearly all BSA actions against end-user business pirates have been civil cases, BSA has experienced some success in criminal cases. As result of the major action against the printing and copying company described above, the relevant Court of Appeal confirmed that it is not necessary to have a search warrant to conduct raids on establishments open to the public. This decision will help to facilitate future criminal cases. In a separate criminal action involving a training center (initiated in 1997), the defendant pled guilty in 2003. The court imposed a fine of 4869 euros and awarded damages of €27,000 (US\$34,297). (The low level of fines was negotiated by defendants and the public prosecutor as part of the plea agreement).

Judicial reform in criminal and civil cases: Judicial reform to speed up criminal and civil proceedings is needed. It is hoped that the creation of specialized commercial courts with jurisdiction over IP matters will expedite civil copyright cases considerably. The new courts are expected to commence hearing cases in September 2004; thus it is likely that the benefits from these courts in this regard are not likely to be seen until 2005. With respect to criminal cases, amendments have been introduced concerning criminal court procedure which are also hoped to reduce delays in criminal cases.

SPAIN – CRIMINAL COPYRIGHT ENFORCEMENT STATISTICS FOR 2003
(as of January 1, 2004)

ACTIONS	MOTION PICTURES	BUSINESS SOFTWARE (End User)	BUSINESS SOFTWARE (Retail)	SOUND RECORDINGS
Number of investigations initiated	922	0	145	N/A
Number of raids conducted	804	0	32	9,548
Number of pirate product seized (not optical media)	6,939	0	0	82,804
Number of DVDs seized	49,633	0	0	294,608
Number of CD-Rs or CD-ROMs seized	1,241,643	0	1904	3,956,851
Other equipment seized	2,674	0	50 Floppy disks, 509 PCs	2,607 (burners)
Number of cases commenced	272	0	34	108
Number of indictments		0	33	
Number of defendants convicted (including guilty pleas)	68	0	0	61
Number of acquittals/dismissals	10	None	None	12
Number of cases pending	1,128	3	5	N/A
Total number of cases resulting in jail time		0	1	24
Suspended prison terms				
Maximum 6 months				14
Over 6 months				3
Over 1 year				7
Total suspended prison terms				24
Prison terms served (not suspended)		None	None	
Maximum 6 months				0
Over 6 months				0
Over 1 year				0
Total prison terms served (not suspended)		None	None	0
Number of cases resulting in criminal fines			2	37
Up to \$1,000				34
\$1,000 to \$5,000				2
Over \$5,000		0	\$ 15,375.58	1
Total amount of fines levied (in US\$)		0	\$ 15,375.58	N/A

Civil copyright cases: Delays in civil cases have been reduced significantly. Spanish Courts now only take days to rule on civil search applications, and it is hoped that the creation of the specialized IP courts above mentioned will further expedite rulings on civil searches. BSA has seen more efficient rulings on civil search applications in 2003. On average, BSA-initiated civil search applications were pending 15 days. BSA is, however, significantly concerned by recent, unreasonably high security deposits required by courts as a precondition for granting a civil search application, especially in Madrid's civil courts. In one case, a security was ordered by a Madrid court in the amount of €150,000 (US\$190,534). Other Madrid courts have also requested unreasonably high bonds as a condition to executing civil searches, thus rendering Madrid an increasingly difficult jurisdiction in which to undertake civil end-user cases. Unreasonably high security deposits are a significant impediment to effective copyright enforcement.

COPYRIGHT ENFORCEMENT STATISTICS IN SPAIN: CIVIL CASES

CIVIL COPYRIGHT ENFORCEMENT STATISTICS 2003	
ACTIONS	BSA
Number of civil raids conducted	9
Amount of pirated product seized in the above raids (copies)	653.020,81 € (US\$ 825.483,61)
Post Search Actions	
Cases Pending	1
Cases Dropped	1
Cases Settled or Adjudicated	6
Value of loss as determined by Right holder (\$USD)	653.020,81 € (US\$ 825.483,61)
Settlement/Judgment Amount (\$USD)	Damages: 354,937 € (US\$447,613)

COPYRIGHT LAW AND CRIMINAL LAW REFORM

The Spanish Parliament recently approved reforms to the Criminal Code and to the Criminal Procedure Law. More work is needed to properly implement various EU directives affecting copyright.

Criminal Code: Amendments to Criminal Code (Organic Act 15 of 25th November 2003) will enter into force in October 2004. These amendments include provisions for: (i) increased penalties for IP infringements; (ii) community service penalties as an alternative to lower prison penalties, which will help to increase public awareness and consciousness on piracy; (iii) police commencement of actions against IP infringers without the rightsholders' filing a complaint (*ex officio* action); and (iv) direct liability of companies through which IP crimes have been committed for the payment of fines imposed on the managers of the companies, in order to guarantee payment of such fines. More specifically, it will be considered a criminal offense to manufacture, import or hold any instrumentalities specifically intended to allow the unauthorized removal or circumvention of any technical device used to protect works/other subject matter. The amendments increase the minimum penalties ("from 6 months imprisonment or a fine of 6 months" to "6 months imprisonment and a fine of 12 months"),

increase penalties for the circumvention of technological protection devices (“from 6 months to 2 years imprisonment or a fine from 6 to 24 months” to “from 6 months to 2 years imprisonment and a fine of 24 months”), and increase the penalties for aggravating circumstances (e.g., to belong to a criminal organization or to employ minors in illegal activities).

Criminal Procedure Law: Reform of the Criminal Procedure Law has resulted in including flagrant intellectual property violations in the list of cases that qualify for “fast hearings.” Police forces are now able to conduct preliminary investigations without the need of judicial warrant or rightsholder’s filing of complaint. The amendments also include the expulsion of immigrants who do not have legal documents. These amendments to the Criminal Procedure Law entered into force in December 2003.

Civil procedures: The 2000 amendments to the Civil Procedure Act have significantly reduced delays in civil matters. Also, the creation of dedicated IP courts (these Commercial Courts are expected to begin operation in September 2004) is expected to further increase effectiveness and efficiency in civil cases.

Legal reform needed for the digital age: Spain also has incorrectly implemented the EU E-Commerce Directive⁴ in its June 2003 law, *Ley de Servicios de las Sociedad de la Información y de Comercio Electronico*. Spanish law creates a limitation of liability for Internet Service Providers (ISPs) in that if fails to correctively implement the constructive knowledge standard and imputes liability only on the basis of “effective knowledge.” For years, rightsholders have been working with Spanish officials to seek improvements to this legislation.

Spain has failed to implement the EU Copyright Directive by the December 22, 2002 deadline,⁵ and therefore has yet to fulfill its implementation of the two WIPO Internet treaties. The draft Spanish implementation legislation, proposed originally in November 2002 and revised in January 2003, continues to contain deficiencies and requires amendments/clarifications in several areas. The Parliament is not expected to pass any legislation to implement this directive until after the March 2004 parliamentary elections (and the draft could change, depending on the outcome of the elections). A more realistic date for legislative passage might be October 2004.

⁴ The EC Directive 2000/31/EC on Certain Legal Aspects of Information Society Services, in Particular Electronic Commerce, in the Internal Market (the “EU E-Commerce Directive”) came into force on June 8, 2000, and was to have been implemented by Member States by January 17, 2002.

⁵ The EC Directive 2001/29/EC on the Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society (the “EU Copyright Directive”) came into force on June 22, 2001, and was to have been implemented by Member States by December 22, 2002.