

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

2006 SPECIAL 301

SPECIAL MENTION

BOSNIA AND HERZEGOVINA

Piracy: High levels of copyright piracy exist in Bosnia and Herzegovina. The motion picture industry reports that piracy in 2005 worsened. All forms of audiovisual piracy exist in the country, much of it involving “burned” discs. Pirated films – increasingly optical discs – are easily found in retail businesses and street markets. Similarly, most of music compact discs (largely on CD-Rs), video tapes and DVDs sold in the country also are pirate. CD shops routinely sell pirated business software, and computers regularly are sold with illegal software pre-installed. The music industry reports that CD shops located in urban areas tend to sell legitimate copies of regional and local repertoire. International repertoire is widely sold in street stalls by pirate vendors, and in numerous specialist shops located by, and catering to, troop bases of the multinational Stabilization Force (EUFOR) in the country. Specialized CD shops are invariably located in what are almost exclusively pirate music/games enclaves. The business software industry reports that no significant change in the nature and scope of piracy in 2005; the market continues to experience both commercial and personal use piracy. Unlicensed business software is often pre-installed on new PCs (also known as “hard disk loading”). Lowering business software piracy levels could significantly improve the local economy.¹ Pirated copies of media is easily transported to neighboring countries, including Croatia, Slovenia, and Serbia and Montenegro, and is also believed to be entering the wider European market. There is also concern about unauthorized retransmissions by cable of broadcast signals from neighboring Croatia and Serbia and Montenegro. In sum, the ready availability of cheap, illegal products has created a hostile environment that makes establishment of a legitimate market very difficult. Companies distributing in this territory find it almost impossible to remain competitive.

Enforcement problems: In order to achieve adequate and effective protection of intellectual property rights for all copyright industries, the Government of Bosnia and Herzegovina must take immediate and decisive measures to establish an effective IPR enforcement regime. The copyright law is adequate, but there are serious problems and deficiencies in enforcement. In spite of the successes of—and experience gained in—IP operations in December 2004 (referred to below), the recording industry is not aware of continued momentum. There is a lack of sufficient law enforcement expertise and training necessary to conduct raids, perform investigations, and commence cases against copyright infringers by the relevant agencies, including police, customs officials, prosecutors and courts.

¹ BSA and International Data Corporation (IDC) released a new study on December 8, 2005, which illustrates global economic gains from reducing software piracy. This report, [Expanding the Frontiers of Our Digital Future: Reducing Software Piracy to Accelerate Global IT Benefits](http://www.bsa.org/idcstudy/pdfs/Bosnia.pdf), using 2004 data, found the following: a 10-point drop in Bosnia’s piracy rate (from 70% to 60%) would add \$53 million to its economy, create 235 more jobs, and increase local industry revenues by more than \$30 million. That, in turn, would generate an additional \$3 million in tax revenue to help the Bosnian government pay for public benefits and services. See <http://www.bsa.org/idcstudy/pdfs/Bosnia.pdf>.

The motion picture industry reports that there continued to be little enforcement in 2005. In 2005, following investigations by the local anti-piracy program, APAW, the police initiated criminal cases against 15 copyright infringers in Bosnia and Herzegovina, and administrative cases against an additional 25 infringers in Republika Srpska. These and prior displays of cooperation by the government, such as the destruction of over 100,000 pirate videocassettes in July 2002, have done little to reduce the massive levels of piracy throughout the country. At the end of 2004, the motion picture anti-piracy operation, APAW, succeeded in securing raids on over 100 locations (mostly flea markets) across Bosnia and Herzegovina by police, customs officers and trade inspectors. Over 100,000 pirate discs and cassettes were seized in the raids which also netted pirate duplication labs in the towns of Bosanski Samac and Bihac. In the town of Mostar alone, raids on four addresses resulted in the seizure of over 20,000 items, mostly movies. APAW's office in Bosnia and Herzegovina provided target information to the State Attorney's Office, and cooperated closely with it in the conduct of this major operation. The government needs to address this issue on a consistent basis if its plans to stabilize the economy and encourage foreign investment.

The Business Software Alliance (BSA) plans to commence an enforcement program in 2006, focusing on ensuring that computer resellers and businesses are in compliance with the copyright law. However, as always, the primary aim of the BSA program in a developing market such as Bosnia will be IPR education, awareness and training for local law enforcement.

Copyright Law: Although the basic copyright law (Law on Copyright and Related Rights, 2002) is generally adequate, there are a few deficiencies which require additional amendment.² Reports indicated that there is a team within the government working on a draft amendment to the existing law. The industries have no additional information on the scope of this process or its legislative timetable. Reports indicate that the European Union has granted funds for a new copyright law project and, within the next year or so, it is anticipated that a new law will be prepared and adopted. It is unclear whether the law will go through the regular parliamentary procedure or be imposed by the Office of the High Representative.

Trainings: The motion picture industry, through APAW, has conducted training seminars for judges and prosecutors. BSA believes that the main enforcement problem for software enforcement is the lack of knowledge and experience on the part of law enforcement. In the past, various seminars on intellectual property protection have been initiated, but they were often very general. BSA plans to organize trainings and seminars in 2006 to tackle this problem. The recording industry (IFPI) made presentations to an assembly of judges and prosecutors from around the country at a UNESCO/CISAC-sponsored IP seminar and training session in 2005. The seminar included a brief presentation by the prosecutors who had launched successful country-wide actions in December 2004.

² For example, deficiencies in the 2002 law include: the absence of clear protection for temporary copies; an overly broad decompilation rule that is not in line with the EC Copyright Directive; and the fact that possession of illegal software for commercial purposes is not an infringement.