

COLOMBIA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

2009 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA submits this Special Mention report on Colombia to urge that additional attention be directed at book and music piracy problems in Colombia during 2009.

IIPA and its members reiterate our longstanding support for the U.S.-Colombia Trade Promotion Agreement (TPA). This agreement contains a comprehensive chapter on intellectual property rights that will raise the level of copyright law and enforcement obligations in Colombia to the benefit of both Colombian and U.S. creators.

Summary on book piracy: Academic publishers, local and international alike, are plagued by continued unauthorized photocopying of books and journals in educational institutions throughout Colombia. Photocopy shops near universities in Bogotá use both traditional photocopying machines and digital scan-and print techniques to copy most textbooks used by university students and lecturers. The activity is unabashed and blatant, with some stores featuring white boards containing information about adopted texts designed to facilitate mass copying at the request of student customers. Examples of affected universities include Autónoma, Gran Colombia, Salle, Inca, Central, Católica, Piloto, Santo Tomás, Politécnico Gran Colombiano and Libertadores in Bogotá. Off-campus establishments also are prevalent in such places as the District Kennedy in Bogotá, Santa Rosa in Cali, and Centro Popular del Libro in Medellin.

Unauthorized photocopying also takes place within the universities themselves. For example, inside public universities, as the Universidad Nacional de Colombia in Bogotá and Medellin and the Universidad del Valle in Cali, commercial shops routinely sell photocopies of complete books. The push for curriculum development by local lecturers has resulted too often in unauthorized compilations passed off as original works (for example, chapters of several competing legitimate books on a particular subject are cobbled together to form a new so-called "original" book). Likewise, these types of unlicensed, unauthorized compilations, often in digital form, are often disseminated to students engaged in distance learning programs at universities such as Militar Nueva Granada and San Martín. Photocopying in libraries is also common, with some library officials even digitizing materials for public circulation without seeking appropriate clearance.

Rights holders and licensing bodies in Colombia have led educational initiatives and public awareness campaigns aimed at creating a culture of respect for intellectual property and emphasizing the socio-economic benefits that intellectual property development and protection bring to the country. It is time for the Colombian government to take affirmative actions to combat the copyright infringements -- in both hard copy and digital formats -- occurring in and near educational institutions. Furthermore, the Ministry of Education and the universities should take action to stop such illegal activities. IIPA believes it is important that all higher education institutions (both public and private) in Colombia look toward the establishment of policies that will serve to minimize the impact of this activity in the academic sector. Active measures taken by universities and the governing bodies to ensure that library activities and on-campus use of materials are legitimate will serve the Colombian educational sector, as well as the publishers trying to support it.

Summary on music piracy: The Colombian recording industry continued to be harmed by piracy during 2008. Regarding physical piracy, millions of burned CD-Rs were sold on streets and flea markets in major cities (Bogotá, Medellin, Cali). Because of this situation, the level of music piracy was 71%, the equivalent to almost 13 million units. Internet piracy of music is almost 100% of the total market, mainly because the lack of action to identify and prosecute administrators and owners of websites, blogs and "hubs" involved in the distribution of illegal music files.

The National Police (DIJIN) and the Specialized Prosecutor's Office did, however, make some strides in fighting music piracy last year. 857 raids were conducted on streets, warehouses and laboratories, resulting in the seizure of 2,290,537 pirate copies of sound recordings. A total of 1,796 CD burners and 567 DVD burners were also seized during

those operations. Considering the challenges and priorities faced by Colombian government, these results represent a valuable effort in favor of Colombian and international artists and producers. There is no doubt that police action played a role in the relatively small decrease on physical sales experienced by Colombian music industry (less than 1% compared to 2007) in the last year. These efforts should be consolidated in 2009.

Regarding its Cyber-cafés campaign, DIJIN also conducted a significant amount of raids (approximately 200), mainly in capital city area, for the purpose of combating the illegal exchanges of music, movies and child pornography files using facilities and computers located at these commercial places. The Cyber-cafes program, which was initiated in 2005, is a clear example of consistent leadership and strong actions taken by DIJIN.

The weak part of the music anti-piracy campaign involves the prosecution of cases. Although 1,132 individuals have been processed, none of them served time in jail. Piracy is still considered a minor offense by Colombian criminal judges and appellate courts. This negative perception is exemplified by the Supreme Court (Criminal Chamber) in its unfortunate decision issued on April 30, 2008. There the Court declared that "the illegal download of music to personal computers is something insignificant that can't be considered a crime." An exceptional appeal before the Constitutional Tribunal was filed by IFPI's national group along with other rights holders' organizations, and this appeal is still pending.

In 2008, Colombia continued its sustained production of successful new talents (like Fonseca, Fanilu, Jorge Celedon), all of whom are developing international audiences. The Government of Colombia should carefully consider keeping its attention toward protecting the creative output of such talents.