

HUNGARY

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA) 2009 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Hungary remain on the Watch List in 2009.

Executive Summary: Hungarian consumers and even legislators seem to exhibit an attitude that does not fully support copyright. Over the past year, the copyright industries have continued to actively cooperate with Hungarian law enforcement officials on investigations and prosecutions and have provided educational training to police, customs, prosecutors, and judges. The police, who have generally done a good job supporting Internet piracy investigations, are under-resourced and under-equipped to tackle this grave problem. There also are onerous requirements to prove ownership of rights and requests for expert opinions on all goods seized that strain limited resources of both the government and the rights holders. Some criminal cases involving Internet piracy resulted in indictments in 2007 and prosecutions are underway. Prosecutors and judges are still reluctant to treat copyright infringements as serious crimes, and those few sentences issued are not deterrent. The copyright sector is hopeful that the new national anti-piracy structure created by the Hungarian government, along with the national anti-piracy plan developed in 2008, will create results in 2009 that lower the piracy levels of both hard goods and Internet piracy in Hungary.

Priority actions requested to be taken in 2009: The copyright industries recommend that the following actions be taken in the near term in Hungary in order to improve the adequate and effective protection of copyrighted materials:

Enforcement

- Implement the national action plan against piracy that was developed in mid-2008 through the inter-ministerial task force known as HENT (the National Board against Counterfeiting).
- Allocate more resources to police forces to fight increasing Internet piracy.
- Specify to the police, prosecutors and courts that copyright and intellectual property cases are a priority.
- Take action against piracy in workplaces and educational institutions.
- Ban street sales of pirated products.
- Have the APEH (Tax and Fiscal Control Administration) initiate actions on online piracy cases.
- Develop procedural systems to overcome judicial delays, including streamlining legal investigations.
- Impose stiff criminal penalties to deter piracy.
- Encourage Internet Service Providers (ISPs) to cooperate with content industries in the fight against piracy.
- Develop, with the copyright industries, a joint IPR enforcement public awareness campaign, including instructions on the detrimental effects of Internet piracy, CD-R/DVD-R burning and commercial scale photocopying of books by/in educational institutions (schools, colleges, universities).

Legislation

- Revise the expert opinion system to allow for sampling methodologies, and increase resources allocated to fund the requisite expert opinions.
- Clarify that the private copy exception does not extend to those cases where the persons making the copies have actual or constructive knowledge about the illegal nature of the source.
- Adopt optical media regulations to control optical media production and distribution and to combat pirate optical disc production.
- In view of the reasons for which the European Commission has initiated infringement proceeding against Hungary, adequate norms should be included into the Copyright Law to eliminate the legal monopoly of poorly functioning collective management organizations like the FILMJUS.



COPYRIGHT LAW DEVELOPMENTS IN HUNGARY

Copyright law: In recent years, Hungary has amended its copyright law (the Copyright Act No. LXXVI of 1999, as amended) to comply with international norms and accede to the European Union. It also has implemented the relevant EU Directives, including the EU Information Society Directive, the EU Enforcement Directive, and the EU Resale Right Directive. At the end of 2008, the Parliament adopted a law to amend the Copyright Act (in particular, extending the application of the public lending right and regulating the use of "orphan works"). The bill included a provision that -- similarly to the way this has happened in other EU Member States -- would have clarified that the private copying exception, combined with a levy system, does not extend to those cases where the persons making the copies have actual or constructive knowledge about the illegal nature of the source. This provision was not included in the final law as adopted, unfortunately. IIPA members are concerned that the private copy exception might be interpreted to extend to copying from illegal sources; there is a need for legislative clarification that the exception is not applicable in such a case.

Optical media regulations: The Hungarian government should craft and issue optical media regulations to better regulate the manufacture of optical disc products. The global copyright community is in agreement on the key elements of an effective optical disc law that include the licensing of facilities and equipment where discs are manufactured along with the export and import of materials used. Manufacturers should be obliged to use codes to identify genuine product, and to register for certification to be genuine duplicators, and to keep accurate records. Authorities should have the right to inspect facilities and seize products and equipment where appropriate, with the power to penalize offenders under threat of revocation of license, fines, or plant closure. The copyright industries look forward to working with Hungarian authorities to draft, implement and enforce such comprehensive optical disc regulations.

COPYRIGHT PIRACY IN HUNGARY

Internet piracy: Hungary's Internet user population is approximately 4.2 million people, reflecting about 41% of the population (according to www.internetworldstats.com). Hungary has the highest broadband penetration in Central and Eastern Europe. Internet penetration is approximately 29% nationally, and nearly 54% in Budapest and major cities, with over half of those being broadband connections. Competition among Internet service providers has brought about a slow decrease in prices, and mobile Internet services are on the rise. Internet piracy occurs in two basic ways: (1) marketing and distribution support for offline piracy (ordering burned CDs on the Internet, etc.); and (2) the fast-growing online piracy occurring through FTP (File Transfer Protocol) servers, peer-to-peer (P2P) file-sharing activity, and simple uploading of files to private web pages. More specifically:

- Peer-to-peer piracy: There are an estimated 600,000 P2P users in Hungary. The most commonly used P2P service is DC++, although it is losing popularity. The recording industry, led by ProArt, initiated several criminal actions against operators and major uploaders, and criminal cases against the DC++ hub operators began in 2008. Another file-sharing protocol, BitTorrent, is prevailing. The recording and films industries have successfully filed complaints with police who in turn have run several major raids against BitTorrent and FTP sites.
- Although the number of FTP servers has been reduced, those remaining have more capacity and international connections.
- Video streaming sites (such as YouTube) are gaining in popularity.
- Locally-based FTP servers offering downloads for money (typically via highly priced SMS¹) from local and foreign web-hosting sites is an ongoing problem. The FTP servers typically host content which is available for download through a "store front" website that provides information to users on how to register and pay via SMS for access to the illegal content on the servers. Though some copyright rights holders have had success in shutting down these "store front" websites through takedown notices to ISPs, the associated FTP servers remain in operation as they are typically associated with more than just one "store front." (The actual perpetrators are also very difficult to find in part because homeless people are often used to sign false contracts.)

¹ "SMS" is short message service, which is used in mobile telephone text messaging. Text messaging generates significant incomes for the mobile phone providers.

The Entertainment Software Association (ESA) reports that online piracy, particularly file-sharing and commercial FTP servers offering pirated content, remain a growing concern for the entertainment software industry. Hungary periodically appears among the top 20 countries in which online infringements occur. The industry's one-month P2P monitoring trial on 13 popular titles revealed that more than 50,000 completed copies were made during December 2008. These results placed Hungary 10th on the industry's list of countries with the highest ratio of completed game downloads relative to population. This particularly high level of illegal downloads, which also concerns other categories of works and objects of related rights, confirms the need for legislative clarification concerning the prohibition of private copying in those cases where the persons making the copies have actual or constructive knowledge about the illegal nature of the source.

Domestic "burning" and street/stadium piracy: All the industries report problems with locally mass-produced CD-R and DVD-R pirate materials, which are common because of the relatively low local prices of CD and DVD-R burners and blank CD-Rs. CD-burning is done by private users—especially students and small retail operations, and organized syndicates in the case of music products, that supply many, if not all, of the vendors at flea markets. Although street piracy seems to have declined slightly, it nevertheless remains a serious problem such that the industries continue to request that such street sales be banned. It is increasingly common to find musical albums stored in MP3 format on DVDs; this means that as many as 10-20 albums, even an artist's complete collection, can be obtained on one DVD. The largest market for illegal movie DVD-Rs is the Verseny street market, where as many as 20 vendors may be found each weekend, selling illegal movie copies. In Budapest's largest weekend flea market (Petöfi Hall), there are about a few stalls (2-3 stalls during most of the year, peaking to about 3-4 in December) where customers can place orders for pirate product after consulting lists or inlay catalogs of available titles (a practice also employed by small retail outlets, that also appear to sell legitimate video game product). ProArt requested increased surveillance of flea markets specializing in burned CDs (e.g. at Petöfi Hall, Verseny street market, Gyáli-street market, Veresegyház market), and almost weekly raids now take place there. The Verseny street market and Petöfi Hall are also the primary sources of pirated video game product. Pirate DVD-Rs are also found at other flea markets across Budapest. The special enforcement groups composed Customs, Police and Tax Authorities(APEH—Tax and Financial Control Administration), and led by APEH, will cooperate with ASVA and ProArt to conduct continuous inspections in ten regions nationwide. Piracy appears to occur with even greater incidence in areas outside Budapest.

Entertainment software piracy: In addition to the extensive downloading of games in Hungary described above, ESA also reports that locally burned pirated game discs, produced in small quantities or on demand by mom-and-pop operations in homes and in burning labs, continue to be available at flea markets and through small retail shops that also appear to sell legitimate game products. The small retail shops are also known to accept orders for specific titles, which are then delivered to the customer by messenger or through the post.

Business software piracy: Business Software Alliance (BSA) reports that in 2008, Internet piracy continued to rise (due in part to the declining prices and increased uptake of broadband Internet service) while more traditional forms of software piracy stagnated or even declined. While piracy is declining among businesses, piracy by consumers may be on the rise given the rise in PC sales. BSA estimates that the preliminary trade losses due to business software piracy in 2008 rose sharply to \$92 million, with the estimated piracy rate increasing slightly to 43%. BSA believes its active campaigns in Hungary have helped halt further declines in the legitimate business software market.²

Audiovisual piracy: The motion picture industry also is harmed by the widespread Internet and optical disc piracy problems. The sale of locally burned pirate DVD-Rs at flea markets, by street vendors, in video retail shops as well as in corporate offices remains a concern. Approximately 10 camcording and audio-recording incidents of both Hungarian and Motion Picture Association (MPA) member companies' movies occurred in 2007. MPA has worked with local theaters and police to address this problem. The good news film piracy caused by street piracy appears to have decreased slightly.

Piracy of sound recordings and musical compositions: Online piracy (mostly file-sharing, especially the DC++ system and BitTorrent) is now probably the number one concern for the music industry in Hungary. Although the use of file-sharing systems is widespread, ProArt reports that the number of users has not grown in large part due to its active

² According to a 2008 report issued by BSA-IDC, the information technology sector's contribution to the Hungarian economy could be even bigger if Hungary's PC software piracy rate was lowered 10 percentage points over the next four years. This would create an additional 1,094 jobs, \$274 million in local industry revenues and \$63 million in additional tax revenues for national, regional, and local governments. See [The Economic Benefits of Reducing PC Software Piracy](http://www.bsa.org/idcstudy), released January 22, 2008, and posted at <http://www.bsa.org/idcstudy>.

enforcement efforts. Even though music piracy was slowed in 2007, ProArt reports that new piratical developments have developed; there are more and more compilations of a single recording artist found in MP3 format. The online sales of physical copies of pirated recordings continues. A relatively new development in the distribution of burned CDs is that these products are advertised on the Internet. In addition, the more traditional sale of pirate optical discs at flea markets continues. ProArt stills finds high quality pirated copies in the second-hand stores. However, some of these stores have now closed, while others seem to carry fewer copies in response to criminal cases initiated by ProArt against such second-hand stores. It should be noted, however, that neither the police, nor the judiciary have actively followed up on the well-documented complaints filed by the recording industry against these highly organized pirate shops. Cumbersome formalities and a clear lack of drive from the judiciary are slowing down the process. On the commercial side, further shrinkage in floor space dedicated to music at supermarkets occurred along with a significant drop in local releases. Overall sales volume is expected to be nearly flat compared to last year.

Piracy of books and journals: The book and journal publishing industry reports that the same problems persist—the unauthorized photocopying of printed materials, and of academic textbooks in particular, in and around university campuses. Universities and enforcement authorities should work together to minimize the impact of this piracy on Hungarian and international publishers.

Optical disc plants: Industry reports that there are three factories that produce optical discs. Capacities have not believed to have changed since 2006. There is no evidence or reason to believe any of the factories are used for illegal industrial activities. The existence of these plants, without a comprehensive licensing and inspection scheme or transparency about their operations, clearly calls for regulations on the manufacturing and distribution of optical discs. Obligatory SID (Source Identification) Codes should be a minimum requirement. For years, the copyright industries have urged the government to set up plant monitoring procedures like others in the region, to regulate the facilities and equipment where optical discs are manufactured. Two years have passed since the Anti-Piracy Coalition of the Music, Film and Software Industry sent an extensive paper to the Hungarian Government, stressing the existing problems and need for action and including a list of key elements of an effective optical media law.

HUNGARY										
Estimated Trade Losses Due to Copyright Piracy										
<i>(in millions of U.S. dollars)</i>										
and Levels of Piracy: 2004-2008 ³										
INDUSTRY	2008		2007		2006		2005		2004	
	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level
Business Software ⁴	92.0	43%	75.0	42%	58.0	42%	55.0	42%	65.0	44%
Sound Recordings & Musical Compositions	NA	NA	20.0	35%	20.0	50%	12.0	30%	11.5	38%
Entertainment Software ⁵	NA	NA	15.9	79%	NA	40%	NA	30%	21.5	59%
Motion Pictures ⁶	NA	NA	NA	NA	NA	NA	102.0	73%	20.0	35%
Books	NA	NA	NA	NA	NA	NA	4.0	NA	4.0	NA
TOTALS	92.0		110.9		78.0		173.0		122.0	

³ The methodology used by IIPA member associations to calculate these estimated piracy levels and losses is described in Appendix B of IIPA's 2009 Special 301 submission at www.iipa.com/pdf/2009spec301methodology.pdf. For information on Hungary under Special 301 review, see Appendix D at <http://www.iipa.com/pdf/2009SPEC301USTRHISTORY.pdf> and Appendix E at <http://www.iipa.com/pdf/2009SPEC301HISTORICALSUMMARY.pdf> of this submission. See also IIPA's cover letter to this submission at <http://www.iipa.com/pdf/2009SPEC301COVERLETTER.pdf>.

⁴ BSA's 2008 statistics are preliminary, represent the U.S. software publishers' share of software piracy losses in Hungary, and follow the methodology compiled in the Fifth Annual BSA and IDC Global Software Piracy Study (May 2008), available at www.bsa.org. These figures cover, in addition to business applications software, computer applications such as operating systems, consumer applications such as PC gaming, personal finance, and reference software.

⁵ ESA's estimated piracy level for 2007 in Hungary reflects a weighted average of three forms of piracy: PC piracy, console piracy and handheld piracy. ESA's estimated 2006 piracy rate reflects only the piracy rate for handheld products, which may differ from and often underestimate overall piracy levels in country. ESA's reported dollar figures reflect the value of pirate product present in the marketplace as distinguished from definitive industry "losses."

⁶ MPAA's 2005 estimates used a methodology that analyzed both physical/"hard goods" and Internet piracy.

COPYRIGHT ENFORCEMENT IN HUNGARY

Inter-Ministerial Task Force (HENT): In June 2006, a local Anti-Piracy Coalition of the software, music and film was formed, with the cooperation of the U.S. Embassy. This Coalition identified a list of priority actions which was ultimately submitted to the Hungarian Government. In January 2007, at a U.S. Embassy-organized workshop, the government agreed to establish an Inter-Ministerial IP task force. This Task Force, known as the National Anti-Counterfeiting Body (HENT), is under the Ministry of Justice and Law Enforcement and coordinated by the Hungarian Patent Office and is composed of government and industry representatives. HENT's objectives include cooperating in developing the national strategy against piracy and counterfeiting, preparing awareness campaigns, coordinating the activities of the state bodies and non-governmental organizations, and preparing legislative proposals, among others.

The government accepted a new National Strategy on October 1, 2008. The three pillars of the strategy involve: statistics, raising public awareness, and enforcement. The three major industries involved in this strategy are the food industry, the pharmaceutical industry, and the information technology industry. After the acceptance of the National Strategy, the following six working groups have been set up: statistics, criminal, pharmaceutical, trainings, IT, and Internet. One example of public awareness activities arising from this plan is the fixation of warning labels on all computers and equipment warning about the risk of illegal software and the value of genuine products; such warnings were found major electronic device distributor channels/stores starting in December 2008. The formation of HENT and its spearheading of this initiative is welcomed, and the industries hope that this will serve as a significant step in the fight against piracy and counterfeiting.

Criminal enforcement efforts continue as does cooperation with industry: The copyright industries have been working with law enforcement agencies for years. On October 25, 2005, ASVA (the local film industry), the BSA and ProArt (together the three are known as the Alliance for Copyright Protection) signed a co-operation agreement with the Anti-Crime Division of the National Police Headquarters, confirming their intention to collaborate in a united effort to address copyright crime. These three groups also signed a similar agreement with APEH (the Tax and Financial Control Administration) aimed at assisting government efforts to crack down on the "black economy" and the losses sustained by Hungary's economy as a result of piracy. Parties to the cooperation agreements provide expert assistance, training and technical information.

For 2008, the industries report good police cooperation on raids and seizures and both the police and customs authority take *ex officio* action. The problem is converting the police actions into full prosecutions leading to deterrent sentencing. Also, a new subdepartment of the Budapest Police was established in 2007 to deal specifically with on-line infringements. These industry groups hope for increased involvement by the tax authorities this year.

The entertainment software industry (ESA) reports that its members active in the country continue to have a positive relationship with law enforcement authorities. In 2008, a video game publisher supported over 200 new cases, based on raids in which the quantity of seized products ranged from 1-200, averaging 20-30 titles per raid. Law enforcement have done relatively well in initiating criminal actions on their own, and then contacting the relevant rights holder for information as to product pricing, title verification and damages incurred. However, such notification and request for information does not consistently occur. It has been the experience of the publisher that early notification and involvement of the rights holder has produced better results as the investigation is then typically pursued further along the distribution chain, with law enforcement more thoroughly pursuing the matter. Transparency is, however, lacking and should be encouraged in law enforcement efforts. In addition to initiating actions *ex officio*, law enforcement also follow leads provided by a rights holder, initiating investigations into targets and organizing raids. Unfortunately, the response has varied greatly, with law enforcement at times slow to respond to rights holder referrals for raids and criminal actions. As IPR crimes are not accorded priority, it sometimes takes months before a raid is conducted on a long-identified target. Raids, however, do result in the confiscation of the pirated products and CD-R burning equipment found on the premises, which are eventually destroyed following any forensic examination conducted by state experts.

On the hard goods side, MPA reports in August 2008, the Budapest XV District Police raided a pirate burning lab, yielding 6 computers, 12 DVD burners, 6,700 pirate DVD-Rs with movies and 300 pirate DVD-Rs with PlayStation Games. This operation was against the main supplier of pirate products to the Verseny Street market located in Budapest. The Verseny Street market is the second largest flea market in Budapest with the highest level of pirated product. The supplier was raided

twice previously and will be criminally prosecuted. Special enforcement groups composed of customs, police and tax authorities, usually led by the tax officials (of APEH), generated positive results for the film industry.

BSA reports that the Hungarian authorities conducted approximately 100 raids in business software cases in 2008. The authorities tend to choose the easier way and start the *ex officio* investigations against small targets, taking only very few against business users, which is the sector that causes the largest commercial harm to BSA members. BSA did refer cases against business users to the authorities, and the authorities ordered the investigations.

The recording industry reports indicate that both police and customs initiated *ex officio* cases concerning piracy. Law enforcement officers were supplied with the Hungarian version of the IFPI/MPA Z-Card which contains practical information for on-the-spot identification of pirate optical discs. As a result, they are handling some of the simpler cases with more efficiency. ProArt has established good working connections with investigative authorities.

Internet cases: Hungarian enforcement officials took some impressive actions against Internet piracy in 2008. The industries reports that cooperation with Hungarian authorities improved in 2008 including with the National Bureau of Investigation, the Internet Department of the Budapest Police, Tax authorities, the Budapest Police Central Captaincy/Division of Economy, and Customs, among others.

Most notably, in December 2008, the Budapest Police raided a Topsite location, seizing two servers. Both the film and recording industries worked with law enforcement in this investigation. This 49-Terabyte Topsite was one of the largest Topsites in existence.⁷ In a separate action, one of the most notorious release groups in Hungary was dismantled and in yet another law enforcement action one of the most popular SMS websites in Hungary was raided and closed down. At least 1 more FTP site and 5 BitTorrent portal sites have gone down.

The recording industry also reports additional Internet actions involving music piracy. For example, a major Internet action took place in March 2008 when Hungarian police took action against two Topsites specializing in the illegal distribution of music on the Internet before it is legitimately available for sale online. The clusters of servers seized by the police were called XXS and Z and contained a total of eight terabytes (8TB) of copyright infringing content that was distributed by several release groups, notably XXL and RAGEMP3. The servers were all hosted by a Hungarian company called Sigmanet. All topsites operated under high security, but technical experts from IFPI (the International Federation of the Phonographic Industry) which represents the recording industry worldwide, and ProArt, were able to infiltrate these servers, gathered proof of infringement and provided the Hungarian authorities with the evidence they required to take action against said sites.

In 2007 and 2008, some criminal cases involving Internet piracy moved forward. Customs officials were involved in online cases and prosecutors issued indictments (such as against DC++). Even though these cases have not yet made it to court, the industries are hopeful that the educational trainings they provided to judges will help them understand the technological and legal elements of these cases.

Many industries report that cooperation with Hungarian ISPs is relatively good. BSA reports good ISP cooperation with its software cases, and in 2008 the ISPs usually fulfilled BSA's notice and take down (N&T) requests without any problems. MPA also reports that two large ISPs have been very cooperative, reacting immediately to MPA's notice and take down letters, providing information to the authorities in a timely fashion, and taking action to limit illegal traffic on their systems (such as removing large volume users). ProArt sent 2,000 N&T requests, of which more than 98% were successfully resolved. An ESA member company also reports positive responses to several of its take down notices, resulting in the prompt removal of the infringing material from the website hosting the pirated games.

Prosecutorial bottlenecks with expert reports: On many occasions, the expert opinions given to the police by registered experts of intellectual property are imperfect at best. There are a number of experts in the Hungarian Copyright Experts Council (appointed by the Minister of Justice and Law Enforcement and linked to the Hungarian Patent Office) who work with industry and are well versed in the nature of piracy, but it is always up to the authorities to choose the expert they wish to get the official opinion from. The practical problem is that the authorities have developed their "favorites," who are not

⁷ Topsites are clusters of high-speed computer servers on which copyright infringing material is uploaded for users (who are often involved in "release groups") to distribute further over the Internet.

necessarily fully qualified. ProArt has reported difficulties in trying to convince the authorities to use only qualified experts; the good news is that there has been some improvement in this situation in 2007. In fact, the police and customs are now using better trained experts to help them with online cases, which is clear from the growing number of successful actions in that realm. Rights holders are unable to give expert opinions, as they are considered to be interested parties; at best, rights holders can only act as consultants in criminal cases. Ideally rights holders should be accepted as experts in these cases. It has also been reported that resources allocated to police departments may have been decreased in 2008. If this is true, funding for experts may be among the first cuts and thus, jeopardize any progress made with respect to beefing up the experts' roster. A shortage of qualified experts will likely result in further delays in proceedings.

Delays and non-deterrent penalties: Unfortunately, even given the successes with raids and seizures, prosecutorial delays, weak sentences and non-deterrent penalties (for the few criminal cases that do reach judgment) remain a serious problem. Despite generally good cooperation from the police, Hungarian prosecutors and judges remain reluctant to treat copyright infringements as serious crimes. In most instances, if the matter only involves small scale infringement and the associated damages not deemed significant, the prosecutor typically only issues a reprimand and terminates the investigation. An ESA member company reports that in 2008, 9 of its cases were simply terminated with a reprimand issued to the infringer (while another 9 were terminated due to lack of evidence).⁸ Where an indictment is actually made, the case often languishes before the court for two to four years, with the rights holders typically uninformed of any developments in the proceedings. Proceedings in Budapest also typically last longer given the congestion in the courts of the capital. For cases that actually reach resolution, the usual sentence is a small fine (a few hundred dollars) and a suspended jail sentence (of up to 2 years) or community service. Where a rights holder claims damages, through a civil procedure that is initiated either after or simultaneous with the criminal procedure, the claimant must pay a duty of 3% or 6% of the claimed damages.⁹

Border enforcement: Border enforcement is a longstanding concern, especially because of Hungary's proximity to Ukraine, Slovak Republic, and Russia, which remain the primary producers and exporters of optical disc materials in the region. The border patrol is being integrated into the police. The IPED (Intellectual Property Enforcement Department within Customs) consists of one dedicated IP customs officer in each of the six customs regions. ProArt and ASVA organized special trainings for these officers, and ProArt gave certificates of merit to the most successful customs officers in December 2007. As mentioned above, border officials are also taking part in Internet piracy investigations.

Civil copyright cases: BSA reports that in 2008, the Hungarian civil courts issued approximately 70 judgments in software cases, mostly against targets of smaller significance.

IPR TRAINING AND PUBLIC AWARENESS

The recording, business software and audiovisual industries, individually and collectively, provide trainings for police officials, judges and public prosecutors. In addition, trainings have been held for accountants, CEOs within the framework of HENT's national strategy. As an example, BSA representatives gave a lecture for European officers on a training organized by U.S. State Department Office of International Intellectual Property Enforcement at the International Law Enforcement Academy (ILEA) in Budapest in October, 2008.

MARKET ACCESS IN HUNGARY

Fair compensation for audiovisual producers' shares: Hungary imposes a levy on audio and video carriers and allocates collections among audiovisual rights holders, including authors (scriptwriters), directors and producers. Current Hungarian legislation has empowered local collection society FILMJUS to collect all shares of levies (such as those generated from these levies). The U.S. audiovisual sector has long been concerned over FILMJUS' exercise of monopoly control over levy administration. The European Commission is also concerned with this situation, and it has initiated infringement proceedings against Hungary regarding certain provisions of the Hungarian Copyright Law which guarantee monopoly position for collective

⁸ The game publisher also reports that there was some progress in many of its cases in 2008. 67 of these cases actually resulted in verdicts, with sentences meted out. Though only one resulted in significant jail time.

⁹ The applicable duty rate depends on the amount of damages claimed (if above 1 million HUF – 6%), and on the defendant's denial (6%) or acknowledgment (3%) of the facts.

management organizations. To address these problems, adequate norms should be included into the Copyright Act to eliminate the legal monopoly of poorly functioning collective management organizations like the FILMJUS.

Foreign ownership restrictions on broadcasting: Section 122 of Act 1 of the new Media Law requires that a joint stock company (“a company limited by shares”) licensed to provide national broadcasting services must be such that 26% of its shares (or voting rights) are held by Hungarian citizens residing in Hungary or legal entities having a registered seat in Hungary. Neither a Hungarian nor a foreign enterprise, however, may hold shares in excess of 49% of the joint stock company’s total shares. Foreign investment restrictions are discriminatory, limit competition and inhibit the potential growth of the television industry.