

GREECE

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA) 2012 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Greece remain on the Watch List in 2012.

Executive Summary:¹ Despite some very positive efforts from a small number of Greek enforcement units – especially the Greek tax police (SDOE) – the overall economic environment in Greece has served to prevent the country from making the needed structural changes in its handling of copyright piracy cases, and deficiencies in Greece’s copyright law obstruct the fight against Internet piracy. In general, copyright piracy levels have remained steady in 2011 and are virtually ignored by the country’s leadership. Public sector cuts in police forces, in key police cybercrime units and lack of human and technological resources within the Authority for the Prosecution of Financial Crimes (SDOE) – formerly the tax police (YPEE) – have undermined two of the most effective arms of Greece’s enforcement authorities. Drastic structural improvements within SDOE in 2011 show promise, in particular for anti-piracy in the business software sector, but need additional resources to bear better results. Physical piracy of many copyrighted products remains a problem in the cities and on the streets, although the level of street piracy is declining as Internet piracy takes hold of the Greek market. Discussions between the content industry and Internet Service Providers (ISPs) have been unsuccessful and need stronger political engagement by the government. Attempts to combat illegal peer-to-peer (P2P) file-sharing are frustrated by data protection laws that impede investigations and litigation against infringers. Furthermore, lengthy court delays and a lack of deterrent sentences continue to frustrate judicial efforts.

PRIORITY RECOMMENDED ACTIONS FOR GREECE IN 2012

- Coordinate at the highest levels a national enforcement campaign to involve rights holders, increase raids and prosecutions, allow cooperation from the Immigration and Municipal police in anti-piracy cases, encourage criminal non-suspended sentencing, and conduct public awareness and training.
- Provide the SDOE with technical infrastructure and trained personnel to expand anti-piracy actions affecting all copyright sectors and to support the proactive work they are doing in the software sector.
- Establish annual and monthly targets for the SDOE to perform audits with published results and conduct raids, issue follow-up warnings and conduct raids on non-responsive companies, where appropriate, with published reports of administrative fines imposed.
- Encourage Government ministries and agencies to legalize business software usage in public agencies.
- Direct prosecutors to bring cases more swiftly, and instruct courts to issue deterrent sentences without suspension, including imprisonment and fines as provided by the law.
- Establish specialized IPR courts in more Greek cities and expand their jurisdiction to criminal copyright cases.
- Amend the Copyright Law to provide the same level of protection for technological protection measures (TPMs) utilized in software that is currently afforded to other classes of works.
- Consistent with the 2008 European Court of Justice (ECJ) *Telefonica* decision, amend data protection laws to allow disclosure of the identification of infringers and other necessary information for rights holders to protect their rights in court.

¹For more details on Greece’s Special 301 history, see IIPA’s “History” appendix to this filing, at <http://www.iipa.com/pdf/2012SPEC301HISTORICALCHART.pdf>, as well as the previous years’ reports, at <http://www.iipa.com/countryreports.html>. To read IIPA’s cover letter to this Special 301 submission, go to <http://www.iipa.com/pdf/2012SPEC301COVERLETTER.pdf>.



COPYRIGHT PIRACY IN GREECE

Internet piracy remains high in Greece and, unlike in other European markets, it has done little to diminish the hard goods piracy that remains prevalent in cities throughout Greece. Problems continue in combating end-user piracy of business software in corporate settings.

The scope and depth of Internet piracy in Greece began to soar in 2008 as Internet accessibility outpaced government enforcement online – a trend that only began to subside very recently. There are now nearly 5 million Internet users in Greece, representing about 46% of the population.² Broadband connections numbered more than 2 million by early 2011, and one in four Greeks has Internet access via their mobile phones. However, digital piracy for certain copyright sectors has temporarily declined in the past year thanks largely to successful raids against the administrators of the most popular illegal torrent and forum websites, resulting in a large short-term decline in the data traffic over the Internet in Greece. Nevertheless, these activities have not continued, despite the constant offer of information from rights holders to the Hellenic Police, which is a result of close cooperation between MPA and IFPI. As a result, the number of popular active illegal Greek websites remains at an estimated 70 to 75 sites. P2P file-sharing of infringing content and cyber-lockers containing pirated material (with relevant links offered through forums) continue to be very popular. Mobile piracy is not a serious problem yet, as most of the mobile companies control the downloadable copyrighted works and the exchange of such works (ringtones) between the mobile users.

Software piracy: The Business Software Alliance (BSA) reports that the software piracy rate in Greece remains above fifty percent.³ The high commercial value of software piracy in Greece (in the hundreds of millions of Euros) translates to fewer job opportunities and decreased revenues for local IT businesses. Local IT businesses faced huge financial problems in 2011, in addition to the effects of the economic crisis that hit Greece.

End-user piracy continues to be the biggest piracy threat to its industry in Greece, but Internet software piracy is on the rise. In areas of Greece where Internet access is improving, such as Athens and Thessaloniki, hard goods piracy of software products is giving way to Internet downloads of illegal products. In other areas, unlicensed software continues to be distributed on low-quality pirated CDs.

Music piracy: The pirate music market is gradually migrating from physical product to the Internet. The cities with the largest problems regarding music street piracy are Patra, Kalamata, Corfu, Crete and Thessaloniki, while the situation in the center of Athens has substantially improved, primarily because immigrants find it more profitable to sell other infringing goods, such as bags, clothes, etc, rather than CDs and DVDs. Clearly, there is a network of illegal immigrants operating at all levels from manufacturing to retail distribution of pirate music products, and this accounts for over 95% of the pirate physical market. Piracy of sound recordings and music in Greece represents around 70% for both international and local repertoire. To be clear, the legitimate market for physical copies of recorded music remains in disarray. However, Internet-based piracy of music is rapidly growing, particularly in the form of cyber-lockers containing, and forums referring to, infringing content. This is a primary area in which industry action requires government support, not least in ensuring ISP cooperation.

Audiovisual piracy: The legitimate audiovisual market has shrunken considerably in Greece. Internet piracy hurts operations in all parts of the film and television distribution chain, from theatrical exhibition to video, and

² According to www.Internetworldstats.com, as of June, 2011.

³BSA's 2011 software piracy statistics will not be available until after the filing deadline for this submission, but will be released in May 2012, at which time piracy rates and U.S. software publishers' share of commercial value of pirated software will be available at www.iipa.com. In 2010, the software piracy rate in Greece was 59%, representing a commercial value of unlicensed software attributable to U.S. vendors of US\$166 million. These statistics follow the methodology compiled in the Eighth Annual BSA and IDC Global Software Piracy Study (May 2011), <http://portal.bsa.org/globalpiracy2010/index.html>. These figures cover packaged PC software, including operating systems, business applications, and consumer applications such as PC gaming, personal finance, and reference software – including freeware and open source software. They do not cover software that runs on servers or mainframes, or routine device drivers and free downloadable utilities such as screen savers. The methodology used to calculate this and other piracy numbers are described in IIPA's 2012 Special 301 submission at <http://www.iipa.com/pdf/2012spec301methodology.pdf>.

even video on demand. Online piracy takes many forms. Subtitling websites have become a major concern, comprising 20% of the known active illegal websites, as they allow local Internet users to connect with other foreign top sites (FTP servers at the top of the distribution chain for pirated content). Thousands of video stores have closed in recent years – now reduced to just about 300 nationwide – while 200 new stores have opened trading in DVDs from unverified sources. Overall, thousands of jobs in the audiovisual sector have been lost. Local representatives of the Motion Picture Association (MPA) report that the Internet is the major source of illegal content for optical disc manufacturers, street vendors, and video retailers. New technologies in piracy have enhanced the capacity of pirates to reproduce large numbers of DVDs in relatively short time, and in many cases shop owners load pirated digital files on hard disk drives, which are more difficult to locate during raids. While street piracy declined in 2011, small local groups of pirates continue to deal with major pirate DVD producers and distributors, bringing pirate product to commercial areas of Greece’s major cities and tourist locations. The major problem cities are Athens, Thessaloniki, Patras, and some of the Greek islands, such as Zante, especially during the summer months.

The independent sector of the film and television industry (IFTA) reports that online and physical piracy remain a significant export constraint for independent producers and distributors, the majority of which are small- to medium-sized businesses. Independent producers partner with local authorized distributors to finance and distribute film and television programming. These authorized distributors find it nearly impossible to compete with pirates and report that piracy in Greece has reached disastrous levels. DVD sales have been particularly impacted since pirated digital copies are routinely offered for free online and with a similar quality viewing experience that a DVD can provide. Unable to compete with free, legitimate distributors often cannot commit to distribution agreements, or alternatively offer drastically reduced license fees that are inadequate to support the financing of independent productions. As a result, piracy severely undermines and may permanently damage legitimate distribution networks essential to reaching consumers in Greece and leaves little confidence for investment in intellectual property.

Independent producers and distributors are especially concerned with the impact of Internet piracy because of its harm to legitimate online distribution services – harming consumers and rights holders alike. Revenue from these services, which is licensed country-by-country, is critical for the independents to finance the development of new creative works worldwide. Since Internet piracy instantly exports troubled marketplaces and high piracy rates to other markets, this type of copyright infringement not only undercuts anticipated revenue from the distribution of a particular asset, it also harms the ability of independent producers to secure financing for future productions. The independent production sector is limited in its ability to shift to technology-enabled new business practices that might limit piracy. For example, worldwide same day releases (referred to as a “day-and-date” release) may prove an effective method to curb or delay piracy for the major studios, which control their own worldwide distribution, but for independents, whose national distributors release on their own schedule, this technique is impossible.

Videogame piracy: For 2011, Greece placed thirteenth in the world in the number of connections by peers participating in the unauthorized file sharing of select Entertainment Software Alliance (ESA) member titles on public P2P networks, up from its sixteenth place ranking position in 2010.⁴ Analysis by ISP shows that OTEnet S.A. and FORTHnet SA subscribers are responsible for more than 60% of this activity occurring in Greece. Circumvention devices, such as jailbreak devices, illegal firmware, and mod chips, to disable anti-piracy measures in videogame consoles are widely available in Greece.

COPYRIGHT ENFORCEMENT IN GREECE

Several years have passed since the Government of Greece organized its IPR enforcement efforts under a coherent plan with top-level leadership. The copyright industries report very positive working relationships with the Greek police, but economic constraints in 2011 led to disappointing cutbacks in key enforcement divisions. BSA also

⁴ESA’s reporting on P2P activity does not take into account downloads of these titles that occur directly from hosted content, such as games found on “cyberlockers” or “one-click” hosting sites, which appear to account each year for progressively greater volumes of infringing downloads.

reports that, in 2011, the software industries had excellent relationships with SDOE. More specifically, SDOE's Directorate of Planning and Coordination of Audits and the new SDOE's IPR Department were highly active in combating software piracy. The challenges, meanwhile, for copyright enforcement in Greece remain unchanged: court delays, postponements of hearings, and a lack of deterrent sentences are the main obstacles to effective enforcement. Defendants often receive suspended sentences, and courts do not impose the fines provided by law. Prosecutors must place greater priority on copyright crimes, courts need to facilitate speedier cases with deterrent sentences, and government leaders need to establish the tools for ISPs and rights holders to cooperate against Internet piracy.

We note that lack of results in the protection of intellectual property is not a side effect of the economic crisis, but lack of political decision-making. A special division for intellectual property protection was formed in SDOE, which so far deals only with big companies that use pirated software. Also, the division of electronic crimes of the Hellenic Police was upgraded and enriched with manpower, but does not address internet piracy. Finally, following immense pressure from commercial chambers regarding counterfeit and pirate products, the various officials admit that measures should be taken against illegal market as it causes overall damages of around 10 billion euros. However, very little has been done to address these problems.

Comprehensive Action Plan on the Protection of Intellectual Property Rights: In the past, the Ministry of Foreign Affairs led an Interministerial Steering Committee to ensure more efficient coordination of all intellectual property initiatives for the prevention of piracy and counterfeiting. Members of this "Coordination Committee for Monitoring and Coordinating IPR" included eight Greek Ministries, as well as the Hellenic Copyright Organization, the Hellenic Industrial Property Organization and the Municipality of Athens. In February 2009, the Coordination Committee issued a Greek national IPR plan. This document provided a summary of piracy and counterfeiting issues, the Greek legal framework, and the work of the legal offices and enforcement agencies, among other issues. It also outlined a 7-point action plan, with the following objectives: (1) ameliorating the legal framework; (2) collecting and processing statistical data and forming a database; (3) enhancing IPR enforcement measures; (4) coordinating law enforcement authorities; (5) training; (6) raising public awareness; and (7) promoting a dialogue on intellectual property rights. Unfortunately, the Interministerial Committee took no action on the plan and, to the knowledge of the copyright industries, ceased to meet. The copyright industries continue to urge the Government of Greece to coordinate enforcement efforts at an operational level; to adopt procedures for ISPs to deal effectively with repeat infringers; to develop and fund public awareness and education efforts; and to develop an open dialogue with industry to assist in these and any other enforcement efforts.

Actions by the tax police on business software cases: In April 2010, a new department specializing in IPR protection, was established within the Authority for the Prosecution of Financial Crimes (SDOE, or Tax Police) (by art. 88 Law 3842/2010), which has the authority to conduct raids and impose administrative fines on infringers. The new department was activated in the beginning of 2011 and has already conducted 14 raids against end-users and resellers within small and medium companies, seven taking place in Athens and seven in Thessaloniki. The majority of these were against end-users. Greek Intellectual Property law provides a fine of €1,000.00 for each copy of illegal software used and €20.00 for each illegal sound recording that is distributed by street vendors. The new department within SDOE imposed administrative fines of approximately €9,000,000 on infringers in 2011. Also, in accordance with the Greek Intellectual Property Law, SDOE submitted the above results to the Hellenic Copyright Organization (OPI) and OPI provided them to the affected software companies so they could seek compensation for these IPR violations. In addition, in September 2011 the SDOE Directorate of Planning and Coordination of Audits sent 3,216 audit letters to Greek companies requesting: a) a software inventory list, b) a copy of software invoices and c) software licenses, in order to check their software compliance. The subject companies included construction, architectural and engineering, public relations, design, pharmaceutical, and medical companies, and Internet cafes. As part of this proceeding, SDOE says it will proceed with raids against the non-responsive companies within 2012.

Moreover, in February 2011, (art. 4c of Presidential Decree 9/2011) a new Copyright Protection Department was established within the Cybercrime Unit of the Greek Financial Police (part of the Greek Police and independent

from the Ministry of Finance), authorized to conduct raids against Internet business software piracy. The Department was activated in August 2011 and has already conducted raids against operators of websites with illegal copyright products, although it faces a long, uphill battle against software piracy in Greece. Experts expect software piracy to remain at the same level in 2012, due to Greece's ongoing economic crisis and a need for greater publicity about SDOE's software piracy activities.

Some needed improvements within SDOE are still advised. In 2000, SDOE circulated instructions to its inspectors to include IPR, including software compliance, as part of their regular audits. In February 2011, SDOE issued a Circular, that was notified to its regional Directorates all over Greece, requesting that its inspectors not only check targets for infringing software and sound recordings, but also impose administrative fines on those found to be infringers. This action was pursuant to an innovative amendment adopted in January 2007 that introduced administrative fines for infringement of software and sound recording recordings. However, inspectors often do not have the technical knowledge to conduct software audits, and should receive adequate training to fulfill these duties. Technical infrastructure, including basic computer equipment in the Athens offices, and additional personnel are still needed. SDOE should be obliged to perform specific numbers of audits per year and to publicize all the results online (by reopening its currently inactive website) and in the media. BSA also urges that SDOE publish monthly statistics on the number of raids conducted and the resulting administrative fines imposed. BSA would like to see more raids against the companies that did not respond to SDOE's warning letters. The Greek Government should publicly commit to fight software piracy, an action that would increase public awareness regarding the risks of using illegal unlicensed software and codify the government's commitment to protect intellectual property.

Need to implement administrative fines in software and sound recording piracy cases: Enforcement authorities have not yet implemented the innovative law amendment adopted in January 2007 that introduced administrative fines for software infringements. For the last several years, the only enforcement activity implemented by the government has been audit letters and raids by the tax police. Proper implementation, as industry has proposed, would: (a) apply more deterrent administrative fines to be paid before legal proceedings in non-software related cases, (b) expand the scope of the regulation to include DVDs, (c) establish authority to inspect establishments (cafés, restaurants, etc.) where there may be illegal reproduction of phonograms for public performance, and (d) post the statistics of the results and the total amounts of the imposed administrative fines online.

Suspects caught with infringing music and software simply refuse to pay fines for pirated CDs, preferring to face a full trial where judges are known to issue light penalties that are often suspended (despite the available fines of €1,000–10,000 (US\$1,335–\$13,350), depending on the quantities seized). The Ministry of Culture ignored suggestions of the recording industry and the local collecting society for music rights (AEPI) in issuing a directive on procedural details, resulting in a new law that is so vague and full of gaps that the police are reluctant to proceed on the basis of the administrative fine procedures. The only new fine legislated is regarding the use of phonograms in cafés and restaurants that are copied/stored in hard drives without permission. IFPI is pressing SDOE to initiate inspections in such enterprises.

Civil infringement actions on business software: BSA has no major issues to report regarding civil litigation during 2011. Search orders are normally granted without major difficulties and parties typically settle the cases out of court. BSA reports that one court decision was issued in respect of an application for interim measures that determined that the software had been infringed and ordered the discontinuance of the illegal use of the software products.

Criminal actions (raids): Although the copyright industries report good cooperation with law enforcement authorities in Greece, judicial inability to follow through with speedy prosecutions and deterrent sentences is a major obstacle to progress against piracy in Greece.

The motion picture industry reports positive cooperation with Greek police, but the related court procedures face expected delays. The local film industry organization, the Company for the Protection of Audiovisual Works (EPOE), filed close to 50 criminal complaints by the end of 2011, of which 26 referred to video clubs, 13 to small-scale laboratories and distributors of pirate DVD-Rs, and seven to Internet cases. Authorities worked with industry to conduct 77 *ex officio* raids in the first 11 months of 2011, compared to 70 in 2010. In 2011, 57,000 pirate DVD-Rs and 7,000 counterfeit videogames were confiscated, an overall decrease compared to 2010. Police reports cite 103 IP criminal cases (including for pirate DVDs, music, and software) in the first part of 2011, a reduction by 63% from the same time period in 2010. EPOE reports that customs authorities took no action in 2011 against counterfeit optical discs (ODs), and that there is no indication of imported OD piracy. Customs also took no action for certain videogame peripherals for which industry investigations revealed pirate product being imported from China.

Many of the positive Internet actions taken in Northern Greece in 2010 were attributable to the valuable support of the Greek Cyber-Crime Unit of Thessaloniki, which to great disappointment was closed in 2011. However, 2011 also brought the closure of the most popular pirate forum site, “the Greekz,” along with four associated sites.

According to BSA, the IPR Department of the Greek Police conducted a small number of raids in 2011, but has not provided BSA with precise details. These included, however, raids against the operators of a website dealing in illegal copies of software, movies, PC games, and music products, and against the operators of a website providing unlicensed movie subtitles. While the IPR Department has the ability to conduct *ex officio* raids for software piracy, with an understanding of current economic constraints, trained personnel and increased raids are needed.

The recording industry reports that although its work and relationship with police authorities, especially in Athens, remained very good, it has transitioned out of anti-piracy actions aimed at physical piracy given the lack of court actions and the imposition of sentences that would establish at least some level of deterrence. As a result, there are no statistics available for comparison of 2011 with 2010.

Challenges in the courts—long delays, non-deterrent sentences: There is very little progress to report in the difficulties rights holders face in the Greek judicial system. Delays and non-deterrent sentences remain at the same level. Internet cases are very difficult to litigate, as the laws are not in place to permit plaintiffs to determine the identity of online copyright infringers, even in criminal cases – this despite opinions issued on behalf of the Attorney General that such data such be disclosed. The specialized IP courts in Athens and Piraeus only deal with civil and not criminal cases, and therefore are ineffectual against piracy. Greek prosecutors, especially at the local level, have largely ignored Supreme Court circulars directing them to prioritize IPR cases. Although this appears slowly to be changing in major Greek cities such as Athens, Thessaloniki, and Patras, more improvement is needed. Apart from the First Instance Court of Athens (which hears cases and renders judgments fairly quickly), when copyright cases do receive prosecutorial attention in Greece, they face inordinate delays and time-consuming procedures. Courts disregard measures requiring defendants to appear for hearings, and as a result most felony defendants are not present before the Court of First Instance or the Court of Appeals. Judges vary in practice from region to region, and often lack adequate knowledge for sophisticated IPR issues.

Industry continues to report that most copyright cases in Greek courts result in suspended sentences, although EPOE reports that it received four verdicts that resulted in non-suspended sentences in 2011. Judges still are prone to defy sentencing guidelines and insist on leniency for first offenders, suspending penalties and eliminating fines. A one-year imprisonment sentence by law may be reduced to three to four months and suspended for three years, and the €3000 fine (US\$3,860) is simply stricken entirely. Meanwhile, some First Instance Courts (especially in Athens, Piraeus, and Thessaloniki) now follow the law with non-suspendable sentences or fines, but defendants may launch an appeal at which point the Appeals Court often annuls the fines. Often, no bail is set to guarantee the appearance of the defendant in the higher court and the sentences handed out in first instance are suspended. In these and in felony courts, when the case reaches hearing after two to five years’ time, if the defendant cannot be located, the result is equivalent to an acquittal. The situation could be improved if the

Immigration Service and the Municipal Police could be directed to assist with court appearances in anti-piracy actions.

Special IP Courts: Specialized IP civil courts have been established in Athens, Piraeus and Thessaloniki. The copyright industries will continue efforts to expand such courts to additional cities, to encourage their judges to be relieved of other (non-copyright) duties, and to expand the scope of these courts to criminal copyright cases. While *ex parte* search orders are still granted without major difficulties, other delays in copyright cases, both in setting hearing dates and issuing orders, have reached untenable levels. Judges in typical cases are not adequately trained in IP matters. These concerns could be ameliorated with an expansion of the specialized IP courts throughout Greece.

Cooperation against Internet piracy: As filesharing of pirated works becomes increasingly common in Greece, the difficulties rights holders face in working with ISPs to identify infringing users in the filesharing environment have created a major obstacle to online enforcement, despite the efforts of copyright holders and the Hellenic Copyright Organization. Greek ISPs do cooperate with rights holders in cases involving websites hosting infringing material, but these cases are few. In the more prevalent file-sharing environment, ISPs refer to data protection legislation and the possibility of government sanctions to avoid cooperation. As a result, Internet investigations in Greece can go so far as identifying an infringing IP address but cannot uncover an infringer's name or physical address without a court or prosecutorial order. The relevant law for disclosure of personal data (Law 2225/1994) is very strict and limited to a specific range of crimes which, unfortunately, does not include even felony copyright infringement. In November 2011, rights holders brought an action against eleven Greek ISPs before the Athens Court of First Instance, with reference to the right of information provided under Article 8 of the EU Enforcement Directive. The ruling is still pending.

For its part, the Government of Greece has effectively shelved all efforts to improve the ability to bring Internet piracy actions for years now. Negotiations between copyright rights holders and ISPs went forward for more than two years under the auspices of the Hellenic Copyright Office (OPI), whose aim was for ISPs to adopt voluntary measures to decrease Internet piracy. The Ministry of Justice further promised to support the inclusion of felony copyright infringement as grounds in the data protection law for disclosure of personal data. Unfortunately, the negotiations came to no result and the data protection provisions remain unchanged.

COPYRIGHT LAW REFORM AND RELATED ISSUES

Greece was the first of the EU member states to complete implementation of the directives in its Copyright Law, and the copyright industries have been generally pleased with that implementation. Greece also has implemented the EU Enforcement Directive. Some reforms are still needed to allow rights holders to enforce copyright in the face of modern challenges, including Internet piracy and circumvention of TPMs.

The Copyright Act: There are currently no known plans for the Greek Government to take up amendments to the Copyright Act that the Ministry of Culture initiated in 2008 but abandoned soon thereafter. Future initiatives to draft amendments should consider the need to: strengthen court-imposed fines and sentences against suspension or non-payment, establish specialized police units, encourage ISP coordination on copyright infringement matters, and rectify shortcomings in provisions regarding TPMs to bring Greece into compliance with the WIPO Internet Treaties. When it initially adopted implementing legislation for the WIPO Internet Treaties, Greece opted for a bifurcated approach under which TPMs used by the creators of computer programs (Articles 66(5)(a) and (c)) are afforded less protection than those utilized in other types of works (Article 66A). Unfortunately, the software provisions fall far short of the requirements mandated by the WIPO Treaties, failing to explicitly cover both copy- and access-controls or provide civil remedies. The software provisions also utilize an impermissible "sole purpose test" for assessing whether a circumvention device runs afoul of the law. To achieve compliance, Greece must afford the same level of protection for TPMs applied to software as that which is applied to other types of works.

Government software legalization: BSA reports no new developments or progress on government legalization efforts during 2010. Governments should lead by example, stressing the importance of protecting intellectual property rights and legal software use within the Public Administration. By taking these positive steps and implementing policies that support legal software use, the Greek Government could raise significant awareness of the problem and help bring down the unacceptably high business software piracy rate.

Problems with obtaining access to personal data from ISPs: There has been no progress in the past year to amend Article 4 of the Data Protection Law (Law 2225/1994) to require ISPs to disclose the identity of users suspected of copyright infringement. In previous years, the Ministry of Culture opposed such an amendment and referred the question to the Ministry of Justice, but efforts within the Ministry of Justice appear to have been abandoned.

A legal structure by which ISPs may reveal the identities of copyright infringers, consistent with the 2008 European Court of Justice (ECJ) *Promusicae vs. Telefonica* decision, is a critical component of an effective campaign against Internet piracy. Such a provision should include appropriate steps to facilitate the ability of rights holders to obtain the necessary information to take civil actions to protect their rights.

Ineffective implementation against street vendors: Ministerial Decree No. K1-1178 was signed June 25, 2007 by the Minister of Public Order, and was intended to help remove street vendors from the streets by empowering the Municipal Police, the Tax Police and the regular Police to confiscate and destroy all items protected by the current intellectual property legislation when sold in the streets by street vendors. This 2007 decree, however, was never applied in practice due to the complexity of its content and the procedures necessary for its implementation. The decree itself did not mandate seizure and immediate destruction, but required boards comprised of municipal servants that would meet one or two times before they would come to a decision that would validate the destruction. As a result, the Municipal Police would rather pass the seized items to the Police. The Municipal Police, who are unarmed and have no authority to make arrests, insist on armed police escort because they are physically attacked by street vendors. Improved efforts are needed to get the three Ministries involved (that is, Internal Affairs, Public Order and Development), to considerably speed up the implementation process. Greek Law 3731/2008 provides the general provisions of jurisdiction of the Municipal Police, but the law does not explicitly provide for the arrest and prosecution of street vendors for IP infringements. Past amendments reportedly were proposed to this Decree that would simplify the procedure for the seizure and destruction of pirate products. New legislation to provide Municipal Police with authority to arrest and prosecute street vendors for IP infringements needs to be issued. The Municipality, the Ministry of Development and the Ministry of Citizen's Protection are still fighting with each other about which one will be the responsible authority. Despite the pressure from commercial chambers regarding counterfeit and pirate markets (including the CD-R market), nothing substantial has been yet done. Even a new law that provides the immediate destruction of pirate goods with the use of spray paint has not been put in effect yet.

IPR TRAINING AND PUBLIC AWARENESS

Greek judges would benefit greatly from IPR training organized by the Greek government, as a critical first step in effective enforcement against piracy.

The motion picture industry's local affiliate, EPOE, conducted training seminars with customs officials from the Athens International Airport and Port of Piraeus, but cites current economic conditions and some redundancies in attendance that negatively affected the usefulness of the trainings. BSA provided a training seminar to SDOE's new IPR Department officials in February 2011. BSA also has developed an awareness campaign in Greece, including outreach to companies and city mayors explaining the risks involved in using illegal software.