

# INDONESIA

## INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

### 2012 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

**Special 301 Recommendation:** IIPA recommends that Indonesia remain on the Priority Watch List in 2012.<sup>1</sup>

**Executive Summary:** Indonesia remains a market dominated by pirated material in physical form and supplied or distributed online. Indonesia also retains some of the most restrictive market access barriers in the region, closing off opportunities to the creative industries to supply legitimate product into the country. Unfortunately, the situation did not improve in 2011, notwithstanding some good relationships between right holders and Indonesian authorities. Raiding was down across the board according to industry reports, and significant raiding reportedly did not occur against very high levels of mall and retail piracy<sup>2</sup> until November and December 2011. The court system remains largely non-deterrent (with the exception of one hard-goods piracy case resulting in a conviction and jail sentence) and largely non-transparent. Internet and mobile penetration continued to deepen in 2011, but Indonesia did little to address the growing concerns of online and mobile piracy. To our knowledge, there has never been an Internet piracy case investigated or brought by the Indonesian Government. It is critical that Indonesia develop the policies and practices necessary to enforce IP rights in these environments.

Market access restrictions remain significant. While industry appreciates the Indonesian Government's responsiveness to the film industry's concerns about royalties being included in duty assessments, Indonesia Customs subsequently increased its customs duty valuation on imported film prints using a fixed tariff on a per-minute basis which is significantly higher than the effective previous amounts and is inconsistent with the WTO Customs Valuation Agreement and other international norms. The Film Law includes a film quota that, if implemented, would make it extremely difficult for foreign filmmakers to operate in the market. A requirement to print films locally for theatrical distribution remains on the books, and while its implementation has been postponed several times (including again until January 2013), the threat of this local replication requirement continues to disrupt foreign-produced motion pictures' distribution release timing and planning and damages the local distribution network. There remains a ban on investment and distribution in audiovisual products which hits the motion picture, television, and music industries extremely hard and further narrows market access for the entire audiovisual sector. A new Decree issued in October 2011 has virtually destroyed a window of revenue for the music industry, by banning its sale of ring-back tones. The specter of a single Government-mandated collective licensing window continues to give industry serious pause. As a result of deficiencies in its IPR regime and ongoing market access issues, on December 30, 2011, IIPA submitted a request that the eligibility of Indonesia as a GSP beneficiary country be reviewed, specifically, whether Indonesia is providing adequate and effective copyright protection for U.S. copyright owners, and equitable and reasonable access to the markets of Indonesia. IIPA believes that Indonesia is not meeting these standards and requested in its GSP Petition that the U.S. Government work with the Indonesian Government on means to address these deficiencies, and, if Indonesia fails to adequately address these concerns, suspend or withdraw GSP benefits, in whole or in part.

The Indonesian Government's previous statements indicating its intent to provide high levels of IPR protection,<sup>3</sup> and the October 31 Cabinet reshuffle, by which Minister Mari Pangestu became the head of a new

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<sup>1</sup>For more details on Indonesia's Special 301 history, see Additional Appendix available at <http://www.iipa.com/pdf/2012SPEC301HISTORICALSUMMARY.pdf>. Please also see previous years' reports at <http://www.iipa.com/countryreports.html>.

<sup>2</sup>The music industry reports piracy levels approaching 90-95%.

<sup>3</sup>In February 2011, then Trade Minister Mari Pangestu included the following in a letter to USTR Ambassador Kirk:

Indonesia's continued growth and competitiveness rely upon thriving sectors that create jobs and exports. One of the sectors is creative industry. This sector needs a strong and effective IP protection as it provides incentives for creativity and innovation. It is essential

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Ministry of Tourism and Creative Economy,<sup>4</sup> express and signify the positive aspirations of the Indonesian Government. It is hoped these aspirations can be realized by improvements in the priority areas highlighted just below.

## **PRIORITY ACTIONS REQUESTED IN 2012**

### **Enforcement Issues**

- Bring and conclude more high-profile deterrent criminal piracy cases, including against Internet and mobile piracy, distributors, warehouses, factories, and high-profile cases involving enterprise end-user piracy of business software.
- Follow through on the National IP Task Force's "Campaign" to take deterrent action against all forms of piracy, and establish a National IP Task Force website tracking prosecutions completed, including parties, legal bases of the prosecution, penalties assessed, and evidence found during the raid. In particular, Ensure Directorate of Special Crimes ('Ditreskrimsus') and "Type A" Police Commands run sustained IPR police investigations with deterrent results.
- Commit to expand Commercial Courts in Medan, Jakarta, Semarang, Surabaya and Makassar to adjudicate copyright cases, and establish special IP courts for criminal cases, with trained judicial officers.

### **Legislative Issues**

- Modernize the Copyright Law (2002), to, among other things,
  - maintain *ex officio* enforcement authority,
  - establish landlord liability and ensure that business licenses of stores and distributors engaging in infringement are revoked,
  - provide minimum criminal penalties for copyright infringement, including end-user piracy of business software,
  - ensure effective measures are in place to combat online infringements by introducing notice and takedown procedures and taking steps to encourage the active cooperation of Internet service providers with rights holders to prevent the use of networks for the commission of infringing acts, including but not limited to establishing fair and effective processes for dealing with non-hosted infringements and repeat infringers,
  - outlaw illegal camcording,
  - provide WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) compatible rights (including the public performance, public communication and making available rights) for works and sound recordings,
  - fully implement the WCT and WPPT,
  - extend terms of protection for works and related rights to follow the international trend in this area, and
  - introduce an exclusive right of importation to ensure that pirated products do not get across the border masking as genuine products from other countries.
- Reject proposals for a single licensing window through a mandated national collective management organization. Right owners and collective management organizations should be free to make commercial decisions on collective licensing.
- Ensure copyright infringement is considered a predicate offense under anti-organized crime laws that permit the government broader criminal investigation authority, including the ability to seize/freeze assets, etc.
- Make optical disc regulations more effective by 1) making inspections routine, unannounced and off-hours; 2) ensure the availability of effective and consistent enforcement against SID Code violations, including gouging off

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therefore that the Government provides high level of IP commitments and effective enforcement for our own benefits and for the sake of Indonesia's sustainable growth. Please be assured that the Government of Indonesia will maintain effective IP protection and enforcement nationwide.

Letter from Mari Pangestu, Minister of Trade of the Republic of Indonesia, to "H.E. Ambassador Ron Kirk," *Indonesia 2010 [sic] Special 301 Submission*, February 14, 2011 (available at regulations.gov).

<sup>4</sup>Risti Permani, *Developing a Creative Economy*, The Jakarta Post, November 1, 2011 (in which Minister Pangestu noted "creative economy sector in Indonesia contributed about Rp 140 trillion (US\$15.73 billion) to the state and thus the sector should be seriously managed").

or non-use of source identification codes; 3) providing transparency in raids and results; 4) covering imports of raw materials; 5) ensuring that the Department of Industry collects exemplars; and 6) ensuring exemplars collected by the Ministry of Industry will be provided for forensic examination to be conducted by the Police's forensic laboratory ("PusLabFor").

### **Market Access and Related Issues**

- Ensure that import duties for audiovisual works are fully consistent with WTO rules, i.e., that they are calculated on a per-meter basis against the carrier medium, in line with standard international practice.
- Immediately and permanently remove the requirement to locally replicate all theatrical prints and home video titles released in Indonesia.
- Repeal Film Law that creates market access barriers to foreign audiovisual producers by imposing film quota, strict censorship requirements, and other restrictions on film industry.
- Amend the blanket prohibition on foreign company participation in, or even investment in, importation, direct distribution, exhibition, or retailing.
- Ease the recently introduced restriction on ring-back tone sales.

## **PIRACY AND ENFORCEMENT UPDATES IN INDONESIA**

IIPA's previous reports describe in detail various piracy and enforcement issues and the harm caused to the U.S. content industries. Piracy rates remain unacceptable and extremely high in Indonesia, at 87% unlicensed PC software usage, and even higher for other industries (mall/retail piracy reportedly stands at 90% piracy, while the music industry reports an overall loss of 95% of the market in Indonesia due to piracy of all kinds – physical, Internet, mobile).<sup>5</sup> The following provides updates on ongoing and emerging issues.

**Court System Lacks Transparency and Deterrence in Most Cases, and Fails to Address Online Piracy:** A major hurdle over the years for copyright owners in Indonesia has been the failure of the court system to effectively deter piracy. Most cases brought involve small-scale distribution of pirated materials in the physical environment; very few involve major source piracy, such as warehouses, or cases against ringleaders causing the most damage up the supply chain.<sup>6</sup> No cases or investigations to our knowledge involve piracy occurring over the Internet or through mobile networks. Industry reports that of the raids and investigations that do ensue, only a few are brought before the courts. There is a lack of transparency on case proceedings and results. In cases that proceed to a conviction, most result in extremely low and non-deterrent criminal fines. One exception was a case against replicators/duplicators of pirate CDs, VCDs, and DVDs who were sentenced in February 2011 to a fine of IR3 million and three years in prison, although the status of the case is unknown.<sup>7</sup> In another case, a Public Prosecutor in Lubuk Sikaping, Padang eventually (after a complaint to the National Public Prosecutor) brought a case against a suspect selling unlicensed music, seeking three years imprisonment. It was only due to the persistence of the industry that this case was brought, and only after significant delay; we have no information due to general lack of transparency on the case which was brought more than a year ago.

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<sup>5</sup>A recent survey by Hong Kong-based Political and Economic Risk Consultancy (PERC) of 1,285 expatriate managers found that Indonesia scored worst, behind Vietnam and China, among all Asian countries in terms of protecting IPR. See *Indonesia No.1 in Copyright Piracy in Asia*, Daily Indonesia, August 29, 2010, at <http://www.dailyindonesia.com/news/top/2010/08/indonesia-no1-in-copyright-piracy-in-asia.php>.

<sup>6</sup>In its submission in this docket in 2011, the Indonesian Government reported some 135 cases of copyright infringement that were investigated by the Indonesian National Police (INP), 4 cases in the entire country investigated by DGIPR, only 28 for which the files were completed and were "soon to be proceeded to court." The cases against optical discs are somewhat more positive, with 107 cases and detections of over 200,000 discs and 142 "duplicators." It is not made clear whether this represents seizures. Attorney General cases are not fully broken out between copyright, trademark and patent cases so it is difficult to evaluate this date; of over 100 cases, only 4 had been decided in 2010. There were reportedly 44 surprise inspections on "optical disc producers" which we assume are the factories, but this is not specified. See Ministry of Trade of the Republic of Indonesia (Dr. Mari Pangestu), *Intellectual Property Rights System of Indonesia: Progress and Achievements in 2010*, February 14, 2011, available at [regulations.gov](http://regulations.gov), Tables 1-5. There

<sup>7</sup>Judgment No. 2537/Pid.B/2010 dated 28 February, 2011 against Ng Tek San, The North Jakarta District Court, February 11, 2011.

IIPA recommends establishing a National IP Task Force website to track case results.<sup>8</sup> IIPA understands that special IP courts have been established under the jurisdiction of five commercial courts in Medan, Jakarta, Semarang, Surabaya and Makassar and that they are handling copyright cases. IIPA also understands that the Attorney General Letter No. SE-003/A/JA/02/2009, 26 February 2009 has categorized IP cases as “Important Cases” “in order to accelerate case prosecutions.”<sup>9</sup> Nonetheless, with little transparency (the government notes that the number of cases went down between 2009 and 2010, only a few were transferred to the court, and a few were sent back “to be completed”), there is no way right holders and industry can assist with these cases, and furthermore, these cases cannot begin to have the deterrent effect needed to reduce piracy levels in the country. We also urge the Attorney General’s office to initiate and aggressively pursue far greater numbers of cases involving Internet and mobile piracy, as well as important enterprise end-user software piracy cases.

**Berne and TRIPS-Compatible Presumptions Not Being Afforded:** Industry has reported that court processes are sometimes hampered by defendants simply placing in issue the copyright ownership of the infringed work or sound recording, and reversing the presumption without any proof to the contrary. Indonesia’s Berne Convention obligations (as well as TRIPS obligations) require it to provide a presumption of copyright ownership, and that presumption cannot be rebutted unless the defendant shows proof to the contrary. Defendants should be asked to rebut the presumption, for example, by showing that they have a requisite license to conduct the relevant activities.

**Ex officio Authority for Police Must be Maintained, While Directorate of Special Crimes Directorate of Investigation Must be Activated:** It remains critical in Indonesia that police retain flexibility to run raids on an *ex officio* basis.<sup>10</sup> In many instances, *ex officio* action by the government is the only practical remedy available to independent and small rights holders, as well as right holders in general. Any proposal for an amendment which would remove such authority should be rejected. At the end of 2010, a new Directorate of Special Crimes (‘Ditreskrimsus’) was established to manage all economic crimes, including IPR infringements. In addition, some regional police commands have restructured their internal crime investigation departments, with some classified as ‘Type A’ Police Commands (headed by a two-star police general) separating economic crimes, including IPR infringement, from general or conventional crimes. IIPA views these developments positively, as an opportunity to empower and train specialized IP police units, and they should now exercise their authority to combat online, mobile and physical piracy as well as enterprise end-user piracy of business software.

**Enterprise End-User Software Piracy Causes Significant Losses, But Enforcement Cooperation Improved:** The widespread use of unlicensed software by businesses and other organizations causes the greatest harm to the business software industry in Indonesia. The enterprise end-user software piracy rate in Indonesia remains high.<sup>11</sup> Lowering software piracy would bring significant benefits to the Indonesian economy.<sup>12</sup> The Business Software Alliance (BSA) reports that its relationship with enforcement authorities remained good in 2011. In 2011, police continued to take some *ex officio* raids against software piracy, and raids initiated by police against enterprise

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<sup>8</sup>All case records are manually written into a log book in each District Court, making it difficult to identify outcomes in particular cases, obtain copies of court decisions, contact public prosecutors requesting updates, and ultimately, leverage publicity on cases of copyright infringement and get the message into the public domain that copyright infringement is a serious violation of the law with serious legal consequences.

<sup>9</sup>The Attorney General has stipulated the following, as examples: 1) for IP infringement where the evidence of pirated CDs are less than 5,000, the cases are directly handled by the District Attorney; 2) for IP infringement where the number evidence of pirated CDs in the range of 5,000-10,000, the cases are directly handled by the High Attorney; and 3) for IP infringement where the evidence of pirated CDs are more than 10,000 (bulk production), the cases are directly handled by the Attorney General. Reports are to be submitted directly to the Attorney General. See Ministry of Trade of the Republic of Indonesia (Dr. Mari Pangestu), *Intellectual Property Rights System of Indonesia: Progress and Achievements in 2010*, *supra* note 6.

<sup>11</sup>BSA’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](http://www.iipa.com). In 2010, the software piracy rate in Indonesia was 87% (one of the highest in the world), representing a commercial value of unlicensed software attributable to U.S. vendors of US\$727 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>.

<sup>12</sup>A 2010 study done by IDC for the Business Software Alliance found that decreasing Indonesia’s software piracy rate by ten points over a four year period would add US\$2.43 billion to GDP, generate US\$124 million in additional tax revenues and create 1,884 new IT jobs. The benefits would be even greater if the 10 point reduction was achieved in two years, yielding \$3.18 billion in added GDP and \$162 million in new tax revenues.

end-user software piracy based on BSA complaints. In all, the police initiated 70 end-user piracy raids in 2011. As a recent example, on December 1, 2011, the South Jakarta District Police carried out retail raids on four stores in Ambassador Mall, confiscating more than 3,000 pieces pirated business software. The law is not the problem (Indonesia's law contains an excellent provision criminalizing end-user software piracy (Article 72(3)) which should be replicated elsewhere); implementation remains the key hurdle.

**Retail Piracy, Mall Piracy, Including Physical and Mobile Device Piracy Remain Rampant, With Seizures Down in 2011:** Indonesia's notorious markets<sup>13</sup> remain replete with retail piracy in kiosks and malls including factory and burned-to-order CDs, VCDs, DVDs, and CD-ROMs of music, movies (including pirate movies in or claiming to be Blu-ray), business software, videogames, and published materials. Also problematic are mobile device piracy (loading illegal copyrighted files onto various mobile devices or carriers) and hard disk loading, in which computers are loaded with the latest software or other copyright materials – all of it unauthorized – at the point of sale of the hardware. Some industry sectors report hard goods piracy as comprising an extremely high level – upwards of 90-95% – of the retail/mall marketplaces for creative content. Jakarta and surrounding areas remain the base for production of piracy, and therefore are also the retail bases and distribution hubs for the country. All indicators suggest that criminal syndicates support illegal production and distribution, with burned recordable discs well outnumbering factory discs due to the lower expense and the fact it can be done out of the home. Enforcement officials are reportedly reluctant to conduct regular enforcement actions because of the presence of organized criminal gangs. Discouragingly, enforcement was spotty in 2011, with most raids conducted by Indonesian National Police (INP) and IPR investigators in November and December 2011, leading to much smaller numbers in terms of overall seizures of hard goods piracy (CDs, VCDs, and DVDs). The Government of Indonesia should introduce landlord liability for the infringing activity of tenants, and should ensure that the business licenses of stores and distributors engaged in infringement are revoked.

**Book Piracy:** Piracy of published materials in Indonesia, especially academic books and journals, continues to be a major concern. While commercial-scale photocopying (mainly on and near university campuses) remains the primary challenge, print piracy and unauthorized translations are also problematic. Most copy centers provide catalogs to facilitate the business of copying academic texts for students, with shops operating on a "print to order" basis upon customer demand, thus avoiding the stockpiling of illegal copies. The Government of Indonesia should take swift effective actions against illegal photocopying, print piracy, and unauthorized translations. As one step, the Indonesian government should work with right holder groups to tackle this problem effectively and take steps to legitimize the use of published materials at schools and universities.

**Internet Piracy and Wireless Mobile Piracy:** Internet usage in Indonesia reached 39.6 million users as of December 2010, or 16.1% of the population, and has grown steadily over the past several years. Broadband penetration has been slower, mainly due to infrastructure difficulties, and by mid-2011, was just over two per cent of the population (5 million).<sup>14</sup> Wireless broadband is increasingly popular among the youth market, and the mobile subscriber base has exploded in recent years – now over 180 million as of March 2011. As a result, online and mobile piracy has become a problem,<sup>15</sup> including direct download sites and illicit P2P file sharing, mainly from servers located outside Indonesia. Some of the most notorious piracy websites in the world are servicing the Indonesian market.<sup>16</sup> The evasive behavior of online pirate services in Indonesia, switching online locations and website names

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<sup>13</sup>Major cities including Jakarta, Padang, Java Island, Semarang, Medan, Makassar, Bandung, and Surabaya have hotspots replete with pirate materials. Notorious markets in 2011 included Harco Glodok, Ratu Plaza, Pinangia Plaza, and Ambassador Mall/ITC, and Mangga Dua Mall. Other notorious spots in the Jakarta area include Glodok Penampungan, Jalan Pinangia, and Glodok Jakarta. Harco Glodok was listed by USTR as a "notorious market" in its Out-of-Cycle Review of Notorious Markets, published December 20, 2011.

<sup>14</sup>Point-Topic, *Indonesia Broadband Overview*, November 2, 2011, at <http://point-topic.com/content/operatorSource/profiles2/indonesia-broadband-overview.htm>.

<sup>15</sup>The independent film and television segment of the motion picture industry (IFTA) reports that online piracy remains 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 their films and programming in Indonesia. These authorized distributors find it almost impossible to compete with pirates. Producers and distributors confirm that DVD sales have been particularly impacted since pirated digital copies are offered for free online and with the same quality viewing experience as a DVD. Unable to compete with free, legitimate distributors are unable to commit to distribution agreements or offer drastically lower license fees which are inadequate to assist in financing of independent productions.

<sup>16</sup>For example, *Sohu.com*, ranked 9th in China and 44th globally in terms of Internet traffic, and *Sogou.com*, ranked 25th in China and 123rd globally, provide search functionality for infringing music files to the Chinese-speaking community in various countries in Asia, including Hong Kong, Taiwan, Singapore, Malaysia, (...continued)

to avoid detection, using other fraudulent practices, and using offshore servers, has created hurdles to effective enforcement. Without a legal infrastructure in place fostering responsibility of service providers for helping deal with online infringements, e.g., through a statutory notice and takedown procedure in the hosted environment and ways to deal with non-hosted infringements in a fair and efficient manner, right holders lack an effective remedy against online infringement. Perhaps the most egregious effect of rampant online piracy is the dampening of the growth and evolution of a legitimate digital marketplace which benefits consumers, local and foreign right holders as well as the local distribution infrastructure. The record industry notes international illegal sites such as *4shared.com* and others that are marketed toward the Indonesian population, notwithstanding that their servers are offshore. Services like the notorious *Sogou* (and its parent company *Sohu*) are also harming the Indonesian market.<sup>17</sup>

While some discussions ensued between right holders and Internet service providers, the ISP community maintains they are not associated with infringing activity, and therefore, should not be held liable. While ISPs have no mandatory legal requirement under current law to address infringing activities on their networks, steps should be taken to encourage more active, voluntary cooperation of ISPs with right holders to prevent the use of their networks for infringement, including but not limited to establishing fair and effective processes for dealing with non-hosted infringements and repeat infringers. ISPs recently participated in a focus group meeting with right holders hosted by the Indonesia ISP Association (APJII). Issues such as the use of offshore servers were agreed to pose challenges under the current laws (for example, such activity is not covered under the Cyber Law). In July 2011, the Ministry of Information and Communication announced that it would be seeking to block websites that distribute pirated files, indicating its focus on *4shared*, which it said is a high-capacity website that provides videos, music and graphics, violating government regulations on copyright. The Minister also indicated that as part of the “Hail Our Music” initiative, music industry and ISPs would cooperate to seek closure of the most notorious sites (most of which are local services).<sup>18</sup> In September 2011, the Government reportedly held talks with ISPs about their significant role in digital transactions. IIPA calls upon the Indonesian Government Ministry of Communication and Information to continue helping to devise a strategy among all stakeholders to deal with growing Internet and mobile piracy. It is also important to devise strategies to deal with fraud occurring over the Internet, such as the use of fake names, addresses, or identities, as there remain weaknesses in the administrative enforcement system in this regard (e.g., one may reportedly easily register a website by using a fake identification).

## **MARKET ACCESS AND RELATED ISSUES**

**Customs Valuation of Film Imports:** The historical valuation of film imports is made on a per-meter basis against the carrier medium, in line with standard international practice. This past year, Indonesian Customs unfortunately went down a different path before realizing the negative impact that it would have on the local economy. Indonesian Customs initially implemented a radical revaluation of import duties on 35mm film under its 1995 Customs Law (as amended)<sup>19</sup> which would have cost the local and foreign film industries millions per year in additional taxes. This year, they relented from this previous valuation, but then issued Decree No. 102, imposing a new scheme of value-added tax (VAT) for imported film prints using a fixed tariff on a per-minute basis which is significantly higher than the effective previous amounts, and which is inconsistent the WTO Customs Valuation

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Macau, Thailand and Indonesia, causing substantial damage to the music markets there. More than 260 other websites are known to provide links to unauthorized Indonesian sound recording files which subsequently locate overseas cyberlockers, including *4shared.com*, *mediafire.com*, and *ziddu.com*. *4Shared.com* is a popular “one-click hosting” site or cyberlocker site, has a current Alexa ranking of 73, and is operated by a company based in the British Virgin Islands. *4Shared*’s service incorporates search functionality, a complete contradiction to any claims that the service is designed for private “locker” use. The site includes a dedicated “music” section and has featured messaging encouraging users to upload their favorite songs and share them with friends.

<sup>17</sup>*Sohu/Sogou* was listed by USTR as a “notorious market” in its Out-of-Cycle Review of Notorious Markets, published December 20, 2011.

<sup>18</sup>See Tomi Tresnady, *Hari Ini*, *Kemenkominfo Tutup 20 Situs Musik Ilegal*, *Okazone*, July 27, 2011, at <http://music.okezone.com/read/2011/07/26/386/484624/hari-ini-kemenkominfo-tutup-20-situs-musik-ilegal> (citing 20 websites noted at a meeting between MOCI and the music industry).

<sup>19</sup>Under that Law, Customs was demanding payment of customs duties on the contractual amounts paid by the importer for the exclusive rights to commercially exploit the underlying content contained on the carrier medium (so-called license fees for often exclusive “distribution rights”), i.e., the content of the film.

Agreement and other international norms.<sup>20</sup> The Government should reverse this scheme and resume valuation based solely on the carrier medium, in line with the accepted international methodology.

**Local Printing Requirement:** The Government of Indonesia Ministry of Tourism and Creative Economy (MTCE) just suspended MOCT Ministerial Decree No. 55 (2008) requiring the local replication of all theatrical prints and home video titles (e.g., DVDs) released in Indonesia until January 1, 2013. The Decree should be formally and permanently eliminated as soon as possible. The regulation, if implemented, would harm local interests in several ways: 1) it would have serious negative consequences on the long-term viability of Indonesia's film industry, 2) it would threaten any incentive for the continued development of local cinemas, 3) it remains opposed by Indonesian filmmakers due to their own concerns about the quality of local labs matching that of overseas facilities, and 4) it could jeopardize arrangements local filmmakers have for post-production work overseas. Far from boosting the local industry as a whole, the Regulation would appear to be aimed at benefiting only the local duplication facilities, and ends up and harming other industry stakeholders. The Regulation also negatively affects foreign motion picture companies' release and distribution schedule for the country, and raises concerns over existing local facilities' ability to handle its volume and quality output requirements as well as lab and duplication facility security issues.<sup>21</sup>

**Film Law Imposes Quota and Strict Censorship Requirements:** In September 2009, the Indonesian Parliament enacted a new Film Law. This Law could seriously limit foreign participation in various film businesses in ways that are inconsistent with the U.S.-Indonesia Letter Agreement on Market Access for Films and Videos. The Law is so ill-conceived that even local Indonesian filmmakers came out vehemently against it upon passage.<sup>22</sup> The Law includes a 60% local content (screen) quota for local exhibitors that would, if enforced, severely limits local industry's exposure to the expertise and skills of foreign-based producers, harms local theaters, and fosters piracy of films excluded by the quota but for which there is consumer demand. The Law would also aim to limit the number of imported films. Industry has been assured that the 60% quota will not be enforced to its fullest extent and that the Law is "not intended to restrict" foreign films in Indonesia, but this questions the rationale behind the Law's passage. The Indonesian Film Society (*Masyarakat Film Indonesia*) has sought a constitutional review of the Law which may lead to a judicial review. Implementing Regulations should at least recognize international best practices including the ability of right holders to determine whether, how, and where their works are made available. IIPA also objects to Article 44 of the law which bans dubbing of imported films. Dubbing of imported films into a local language is a commercial decision that should not be unduly regulated.

**Trading and Distribution Rights, and Media Investment Ban:** Indonesia maintains a blanket prohibition on foreign company participation in, or even investment in, importation, direct distribution, exhibition, or retailing in many copyright products in Indonesia. The motion picture and music sectors are particularly hard hit by this ban. Presidential Decree 118 of 2000 remains in force and stipulates that all importation and distribution of films and video products is restricted to wholly-owned Indonesian companies. An annexure to the Decree lists those media sectors closed to foreign investment, including 1) radio and television broadcasting service providers, radio and television broadcasting subscription service providers, and print media information service providers, and 2) film making businesses, film technical service providers, film export and import businesses, film distributors, and movie house operators and/or film showing services. The Broadcast Law allows foreign ownership up to a 20% cap, and IIPA understands that the Broadcast Law overrides the Presidential Decree. IIPA notes the longstanding promise made by the government of Indonesia that it would open investment in media companies to foreigners as soon as the Indonesian market was opened to the direct distribution of any other foreign goods (which occurred many years ago). Broader investment in the distribution structure would benefit local and foreign-based producers alike in creating more legitimate channels over which to distribute films.

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<sup>20</sup>Regulation of the Minister of Finance Number 102/PMK.011/2011 Concerning Other Value as the Tax Imposition Base on Utilization of Intangible Taxable Goods From Outside the Customs Area Within the Customs Area in the Form of Imported Feature Films and Delivery of the Imported Feature Films, and Imposition Base of Article 22 Income Tax on the Activity of Importing the Feature Films, July 13, 2011, at [http://www.depkeu.go.id/Eng/Data/Regulation/102\\_PMK.011\\_2011.pdf](http://www.depkeu.go.id/Eng/Data/Regulation/102_PMK.011_2011.pdf).

<sup>21</sup>With respect to home video, the Decree would serve as a barrier as there is unlikely to be any capability to replicate Blu-ray locally in the near future.

<sup>22</sup>Liz Shackleton, *Indonesian Filmmakers Condemn New Film Law*, September 10, 2009, at ScreenDaily.com. According to the new legislation, violating the rules could result in a prison sentence of up to five years and a maximum fine equivalent to about US\$500,000.

**New Decree Has Destroyed Ring-Back Tone Market:** In 2011, we saw yet another example of the Indonesian Government impeding right holders and ironically, hindering the ability of a new business model to emerge that could benefit local musicians, artists, and recording labels. The Information and Communications Ministry, on October 18, 2011, issued Decree (BRTI) No. 177/2011 which was aimed at phone credit fraud (e.g., phone cards which deduct significant amounts prior to first use), but has virtually destroyed the mobile phone ring tone market. Ring tones and ring-back tones provide significant market opportunities for recording artists, both Indonesian and foreign. In the Decree, BRTI instructed telecommunications companies to: 1) stop offering content through SMS broadcast/pop-screen/voice broadcast until a time to be later determined; 2) deactivate/unregister as of the date of issuance (October 18, 2011) each Premium Message Service, including but not limited to SMS/MMS premium subscriptions, ring tones, games, or wallpaper services. As a result of the Decree, all “pay SMS” messages (including those in which ring tones and ring-back tones are purchased) were made illegal. Ring-back tones were a significant market in Indonesia. The recording industry in Indonesia estimates it has lost almost 95% of the ring-back tone market due to this new and unprecedented restriction, on top of illegal ring tone and ring-back tone businesses. While the government claims the process of selling ring-back tones will be able to recommence once the fraudulent practices are undercut, the damage has been done. In addition to repealing this damaging Decree, IPR investigators and the Police should immediately initiate investigations into identifying parties involved in illegal ring tone and ring-back tone operations.

## **COPYRIGHT LAW AND RELATED ISSUES**

**Copyright Law Revision Process Stalled:** Copyright protection in Indonesia is governed by the Law of the Republic of Indonesia, Number 19 Year 2002 Regarding Copyright (effective July 29, 2003).<sup>23</sup> Indonesia joined the WCT on June 5, 1997 (in force March 6, 2002) and the WPPT on February 15, 2005.<sup>24</sup> IIPA understands that the copyright revision process that was underway in 2010 is now on hold. IIPA encourages the Indonesian Government drafters to make necessary changes to modernize the statute and fully implement Indonesia’s treaty obligations, while duly enforcing the current law (which is adequate to address physical, online, and mobile piracy as well as end-user piracy of business software). In particular, the Government should ensure that any proposed changes are open for public consultation and comment, and notes the following key points for any amendments which come forward (including some longstanding issues):<sup>25</sup>

- **Retain *ex officio* Authority:** IIPA recommends retaining *ex officio* raids but imposing a transparency requirement to avoid abuse of power by police officers or the problem of “case broker” payoffs. The recording industry group ASIRI has in trainings on the Copyright Law raised the chief concern that *ex officio* authority must be maintained.<sup>26</sup>
- **Provide Minimum Criminal Penalties for All Forms of Copyright Infringement on a Commercial Scale:** The current Copyright Law provides minimum criminal penalties only for the production or manufacture of pirated

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<sup>23</sup>*Undang-Undang RI No. 19 Thn 2002 Tentang Hak Cipta.* In addition, the Government of Indonesia is quick to point out that a *Fatwa* also exists indicating that infringement is forbidden by Islamic law. The Indonesian Ulema Council (*Majelis Ulama Indonesia/MUI*) has released a religious decree (*fatwa*) emphasizing that —any kind of IPR infringement, including but not limited to, using, disclosing, producing, utilizing, selling, importing, exporting, distributing, giving out, providing, publishing, reproducing, copying, counterfeiting, and hijacking others’ IPR illegally is *haram*, or legally forbidden by Islamic law. (MUI Decree No. 1/MUNAS VII/MUI/15/2005 concerning IP Protection). In a country with the most populous Moslem in the world, the MUI has been playing an instrumental role in public daily life and *fatwas* originating from this institution will be observed obediently.

<sup>24</sup>Regulations dealing with “rights management information” were finalized in 2005, but implementing regulations regarding technological protection measures (TPMs) (as covered in Article 27 of the Copyright Law) are still missing and are needed to fully implement the WCT and the WPPT. An April 2003 Report issued by the Indonesian government indicated, “[t]he Law No. 19 does not provide detailed provisions on the safeguard of technological measures. Rather, such provisions have been accommodated by Law Number 14 of 2001 regarding Patents.” However, no articles in the Patent Law deal with protection of TPMs.

<sup>25</sup>IIPA has in previous submissions commented in detail on the Copyright Law (2002), and provides herein only highlights of significant changes needed in the new amendments. Other issues previously mentioned include: 1) providing TRIPS-compatible protection for pre-existing works and related rights, 2) limiting the private copy exception to a single lawfully obtained copy, and 3) fixing the adaptation right which is curtailed in Indonesia Law in a Berne-incompatible way.

<sup>26</sup>On November 22, 2010, ASIRI arranged a focus group discussion attended by professionals, lecturers, IPR experts, producers, the CMO for composers and music publishers, a regional police officer and IFPI. On December 6, 2010, a follow-up discussion was held with at least 100 attendees including lecturers, music producers, professionals, and students.

goods (see Article 72(1) of the Copyright Law), but should be provided against sellers of pirated goods and other forms of piracy, e.g., enterprise end-user software piracy, and the Law should increase maximum penalties.<sup>27</sup>

- **Provide for Landlord Liability:** Landlords that do not directly infringe but know of infringement or are aware of circumstances from which infringements by tenants are apparent, and financially benefit from such infringement, should be held liable in Indonesia. This would ensure that all mall owners would be responsible for ridding their premises of piracy. Articles 55 and 56 of the Penal Code should provide guidance, as they hold criminally liable one who forces others to commit or jointly commit a criminal act (Article 55(1)) or one who provides an “opportunity” or “intentionally ‘persuades’ others” to commit a criminal act.
- **Deal Effectively With Online Infringement:** Given the recent growth of Internet, broadband, and wireless mobile broadband connectivity in the country, any amendments should aim at removal of online and mobile infringements, promoting service provider responsibility and fostering cooperation with right holders. The law should ensure expeditious removal of infringing content, including statutory notice and takedown as well as effective and fair policies in place by ISPs for dealing with repeat infringers. Draft Article 39 had reportedly taken up the issue of ISP liability, but was deleted in the latest Bill (from November 2011).<sup>28</sup> The law should also ensure assistance to right holders in identifying and removing infringing content and P2P piracy. The law should avoid blanket immunities and ensure that injunctive relief is always available. While the Indonesian Government has enacted a Cyber Law,<sup>29</sup> Article 27 does not impose a measure comparable to that in the Council of Europe Cybercrime Convention related to copyright infringement through use of a computer.<sup>30</sup>
- **Include Anti-Camcording Piracy Provisions and Consider Standalone Provisions:** The amendments should define the act of using (or attempting to use) an audiovisual recording device in cinemas to camcord, record, or transmit a film, in whole or in part, as a *strict liability* criminal offense. The APEC Ministers and Leaders, including from Indonesia, recently agreed on “Effective Practices for Addressing Unauthorized Camcording,” and the steps recommended therein should also be taken.<sup>31</sup>
- **Include Anti-Circumvention Provisions:** Indonesia joined the WCT and WPPT, but has not implemented Article 27 of the Law on technological protection measures (TPMs), which are measures that prevent the unauthorized access to, or exercise of exclusive rights in, works and other subject matter. The WCT and WPPT require adequate and effective protections against the circumvention of TPMs used to protect against unauthorized access to, or unauthorized exercise of copyright in, works. Protections should cover the trafficking in circumvention technologies, devices, or components as well the act of circumventing a TPM (and services related to both).
- **Establish Statutory Damages:** The TRIPS Agreement permits WTO members to adopt a system of pre-established damages. In cases where it is difficult or impossible to determine actual damages, whether involving pirate distributors or cases in which the infringer achieved an unjust enrichment (e.g., enterprise end-user software piracy), it is important for right holders to be able to elect, in advance of final judgment, to receive pre-established damages equivalent to compensation for the injury suffered by the right holder.
- **Confirm WCT- and WPPT-Compatible “Making Available” Right**

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<sup>27</sup>The Indonesian Government indicated they are proposing raising the maximum fine from Rp. 500 million to Rp.1 billion.

<sup>28</sup>The Draft Bill is still reportedly with the Indonesian Government and has not yet been delivered to their House of Representatives. The Program to revise the Bill has been removed from the list of National Legislation Programs 2012 since the Government has changed the original deadline.

<sup>29</sup>Law of Indonesia No.11 of 2008 Concerning Electronic Information and Transactions.

<sup>30</sup>The Council of Europe Cybercrime Convention contains, in Article 10, “Offences related to infringements of copyright and related rights,” an obligation to “adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright [and related rights] ... where such acts are committed wilfully, on a commercial scale and by means of a computer system,” and Article 11 contains the obligation to “establish as criminal offences under its domestic law, when committed intentionally, aiding or abetting the commission” of Article 10 offenses.

<sup>31</sup>*Effective Practices for Addressing Unauthorized Camcording*, 2011/AMM/014app05, 23<sup>rd</sup> APEC Ministerial Meeting, Hawaii, United States 11 November 2011. The document notes,

Steps that affected economies may take to address the challenges of unauthorized camcording in cinemas include: (1) educating the public about the problems posed to businesses and the consumer by unauthorized camcording; (2) working with the private sector to identify and prevent unauthorized camcording in cinemas; and (3) developing and implementing legal measures to effectively deter unauthorized camcording.

- **Provide Rights for Producers of Sound Recordings, Consistent With WPPT:** Producers of sound recordings must be granted exclusive rights to control the dissemination of their products over the Internet. These include an exclusive communication to the public right including all forms of wire and wireless transmissions (including broadcast), including an interactive “making available” right, as well as exclusive distribution and public performance rights. Producers also need the ability to authorize or prohibit importation into Indonesia of copies of phonograms, and the right to control the distribution of copies of phonograms.
- **Importation Right:** The law should provide right holders the ability to authorize imports. This will ensure that pirated products do not get across the border masking as parallel imports of genuine products from other countries.
- **Avoid Single Window Licensing:** The Indonesian Government should scrap any plan to mandate collective licensing across copyright categories, and set a joint tariff rate through the establishment of a “National Collective Management Organization.” Experience has shown that licensing markets function effectively where right holders remain free to find the most efficient way to administer their rights and engage in face to face negotiations to secure authorized distribution of the copyrighted property. Freeing the market from any restrictions means that competition between different players is maintained, and market powers can determine the best solutions for both right holders and users. To ensure that these conditions exist in Indonesia, right holders should be allowed to determine for themselves if and which collecting society to join and entrust their rights, and whether or not to collect copyright remuneration jointly with other right holders. Collective Management Organizations (CMOs) should be permitted to operate in a commercial manner, free from interference from the government. Further, there should not be any mandatory process for tariff pre-approval which is bound to disrupt royalty collection and prejudice right holders by requiring them to bear unnecessary costs associated with rate-setting procedures and by denying from them the ability to collect royalties that are set in free and open market conditions. The local record industry group ASIRI held a seminar in late 2010 to explain why right holders should not be forced into collective management schemes, including single licensing windows.
- **Modernize Term of Protection:** Term of protection should be provided consistent with international trends and U.S. standards (e.g., life of the author plus 70 years, or in the case of works whose term is calculated based on the date of publication or for which authorship is corporate, 95 years).
- **Availability of Interlocutory Injunctions:** IIPA members have long awaited an amendment making available interlocutory injunctions (‘Anton Piller Orders’) against IPR infringers. If not dealt with in the amendment, an implementing regulation should be implemented by the Supreme Court on an urgent basis, to allow right holders to file for injunctions with the Commercial Courts.

**Strengthen Organized Crime Statute:** It has been established that criminal syndicates behind pirate enterprises which manufacture and distribute optical discs are also involved in many other forms of crime such as trafficking in persons, illegal logging and illegal gambling. As such, the government of Indonesia needs to ensure that copyright infringement is included as a predicate crime for remedies under its organized crime law, e.g., as grounds for broader criminal investigations, seizure, freezing of assets, etc.

**Optical Disc Regulations Should be Strengthened and Made GATT/WTO-Consistent:** The Optical Disc Regulation (2005),<sup>32</sup> a Ministry of Trade Regulation on the import of machines and raw materials,<sup>33</sup> and another Regulation on reporting by registered producers,<sup>34</sup> were enacted and issued to address rampant optical disc piracy. The Regulations need to be updated to: 1) prohibit the unlawful use of or manipulation of source identification (SID) code, including gouging off SID Codes and/or total non-use of SID codes; 2) provide for centralized licensing of

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<sup>32</sup>Government Regulation Number 29 of 2004 Concerning High Technology Production Facilities for Optical Discs” (in force April 5, 2005). This Regulation requires reporting of annual production of optical discs to the Minister of Trade.

<sup>33</sup>Regulation of the Minister of Trade No. 11/M-DAG/PER/3/2010 regarding the Importation Requirements on Machine, Machine Apparatus, Raw Materials, Empty Optical Discs and Preloaded Optical Discs. This Regulation requires importers of optical discs to provide an annual reporting to the Directorate General of Foreign Trade of the Ministry of Trade.

<sup>34</sup>Ministerial Decree of the Minister of Trade and Industry of Republic of Indonesia, Number 648/Mpp/Kep/10/2004 (October 18, 2004), Regarding Reporting and Monitoring of Optical Disc Industrial Company.

production of prerecorded or blank optical discs; 3) remove the requirement that imported, pre-recorded discs be marked with identification code, which violates GATT/WTO rules and could have other negative ramifications; 4) adequately cover stampers and masters; 5) expressly cover (imports and) exports of discs, equipment and raw materials; 6) expressly authorize forcible entry in an inspection in case a suspect target refuses entry; 7) require the government to keep records of “permits” and raids run; and 8) expressly impose corporate liability on individuals. The Regulation on import reportedly covers optical disc production machinery, raw materials (optical grade polycarbonate) and, unfortunately, finished discs (in addition to blank discs). This importation Decree is not working as intended in that it allows anyone to import polycarbonate, whereas under the OD Regulation, only those industries directly related to the optical disc industry were permitted to import polycarbonate. The Government of Indonesia should give assurances that this Regulation will not be used as a tool to keep legitimate copyright owners or authorized distributors from importing discs into Indonesia.<sup>35</sup> In addition, a fatal flaw of the regulatory framework is that it does not provide clear enforcement authority or grounds for routine inspections on manufacturers’ or importers’ premises. Spot, unannounced, inspections are needed.

## **GENERALIZED SYSTEM OF PREFERENCES**

The GSP program, designed to promote economic growth in the developing world by providing preferential duty-free entry for products from designated beneficiary countries and territories, expired on December 31, 2010, but on October 21, 2011, President Obama signed legislation to reauthorize the program through July 31, 2013. GSP trade benefits became effective 15 days after the President signed the bill (November 5, 2011) and apply retroactively from January 1, 2011. Indonesia has been a major beneficiary of the GSP program. During the first eleven months of 2011, almost US\$1.8 billion in imports to the U.S. from Indonesia enjoyed duty-free treatment under the GSP Program, or 10.2% of Indonesia’s entire imports into the U.S.<sup>36</sup>

Among the criteria the President must take into account in determining whether a country should continue to be designated as a GSP beneficiary country are “the extent to which such country is providing adequate and effective protection of intellectual property rights,” and “the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets ... of such country.” 19 USC 2462(c)(4) and (5). IIPA believes that Indonesia is not meeting these standards. Thus, on December 30, 2011, IIPA submitted its request that the eligibility of Indonesia as a GSP beneficiary developing country be reviewed, and that its GSP benefits be suspended or withdrawn, in whole or in part, if requisite improvements are not made by Indonesia to remedy deficiencies which have adversely affected U.S. copyright owners. IIPA has requested that the U.S. Government work with the Indonesian Government on means to address these deficiencies and, if Indonesia fails to adequately address these concerns, suspend or withdraw GSP benefits, in whole or in part.

Specifically, Indonesia does not meet the GSP eligibility criteria due to 1) lack of adequate and effective intellectual property rights protection and enforcement (including court enforcement) which has resulted in extremely high levels of physical and online piracy (it is estimated that 87% of PC software is unlicensed, while piracy rates for other industries are even higher); and 2) a lack of equitable and reasonable access to the Indonesian market, through, among many barriers, a requirement to locally replicate all theatrical prints and home video titles released in Indonesia, a customs valuation method for audiovisual products that is inconsistent with the internationally accepted practice, the ban on foreign company participation in, or even investment in, importation, direct distribution, exhibition, or retailing in many copyright products in Indonesia, and a Film Law that includes a 60% local content quota for local exhibitors, strict censorship requirements, a prohibition (in Article 44) on the dubbing of imported films, and other restrictions on film industry.

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<sup>35</sup>The Government of Indonesia reported in its 2011 Special 301 submission the existence of 34 “legally registered OD manufacturers in Indonesia in 2010; comprising of 26 filled optical discs manufacturers, 3 empty optical discs manufacturers, and 5 stamper companies.” The Government noted that among the 44 inspections of plants conducted in 2010, 15 plants were found to have “disobeyed” the Regulations, with one company “suspended/frozen” due to “indication of piracy and no production code,” and two companies “suspended” due to “expired registration.”

<sup>36</sup>During 2010, more than US\$1.85 billion in imports to the U.S. from Indonesia enjoyed duty-free treatment under the GSP Program, or almost 11.4% of Indonesia’s entire imports into the U.S.

It is essential to the continued growth and future competitiveness of these industries that our trading partners, including Indonesia, provide free and open markets and high levels of protection to the copyrights on which this trade depends. Unfortunately, piracy and lack of equitable and reasonable market access in countries like Indonesia harm U.S. creators and contribute to the maintenance of an imbalanced playing field. Countries like Indonesia cannot expect to continue to receive trade preferences if they do not live up to their end of the bargain by providing adequate and effective protection for the intellectual property rights of U.S. creators, and/or if they fail to afford equitable and reasonable market access to U.S. creative products and services.

## **TRAINING AND PUBLIC AWARENESS**

We thank the U.S. Government for its continued engagement through the Indonesia-U.S. Comprehensive Partnership plan “to promote better protection and enforcement of intellectual property rights,” through the Trade and Investment Framework Agreement, and through the ICITAP program.<sup>37</sup> We also recognize efforts of the Indonesian Government, including its recognition of the importance of training and public awareness.<sup>38</sup> In 2011, as in previous years, the copyright industries conducted and participated in various training and public awareness activities in Indonesia. BSA regularly works with Indonesian police conducting capacity building and education on software licensing and enterprise end-user software piracy, technical aspects in conducting raids, and evidence seizure/preservation methods. The Indonesian Police have also agreed to the publication of advertisements and posters bearing strong messaging against software piracy. In 2011, BSA provided capacity building for police investigators. BSA also partnered with the Directorate General of Intellectual Property Rights (DGIPR) to re-launch the Piagam HKI (Copyright Program) program and a new campaign website which offered a BSA-Police certification to companies that verified their software. The local recording industry group, ASIRI, remained active in training courses for Indonesian Police Department cadets. Regular training workshops (once a month) are provided to the Police Department in which 25 new Police Investigators hear about effective IPR investigation skills from industry representatives. The industry suggests that in 2012 regular technical training be provided to IPR investigators, police investigators, and prosecutors in the investigative process. The motion picture industry has focused its recent activities on public awareness of the importance of strong copyright protection to the development of the local film industry.<sup>39</sup>

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<sup>37</sup>The “International Criminal Investigative Training Assistance Program” (ICITAP) commenced in October 2006, comprising an anti-piracy enforcement initiative and an optical disc piracy initiative. The program has led in the past to some concrete positive results in terms of facilitating better enforcement against copyright infringements. It has also helped build capacity, mentored, and provided technical assistance to optical disc factory inspection teams that include officials from the Department of Industry (DOI), Police, Customs, the Department of Trade and the DGIPR.

<sup>38</sup>The Government has noted its attempts to implement the “Presidential Instruction on the Development of the Creative Economy,” under which some 27 ministries and regional governments are tasked to “socialize the importance of IPR and appreciation towards IPR,” including “campaigning the importance of creativity and IPR as the main source of competitiveness in the creative economy era,” “enforcing efforts to bring to an end the piracy of creative products,” “formulating and implementing IPR policy in a consistent manner,” “laying the foundation for business interaction between companies and creative workers by establishing the standards for a business contract that clearly specifies the importance and respect of IPR,” and “conducting IPR public education, including organizing annual exhibition of Indonesia’s Creative Product since 2008.”

<sup>39</sup>For example, in late 2009 MPA hosted (with the Indonesian Embassy) a screening in Washington of the Indonesia movies *Garuda di Dadaku* and *Naga Bonar Jadi*. MPA also supported the ‘Democracy Video Challenge,’ in which one Grand Prize Winner (from more than 1,600 young artists from 110 countries) came from Indonesia. MPA provided support for the Asia-Pacific Screen Awards (APSA). On August 9, 2010 (and in conjunction with the local film body Balinale), MPA held a Film Forum & Workshop in Jakarta, attended by over 50 Indonesian filmmakers and students who learned about film industry development and infrastructure. In October 2010, MPA supported Balinale on the Bali Film Festival, securing a number of U.S. movies including *Eat, Pray, Love*.