

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE



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December 21, 2004

Via electronic filing to ntecomments@ita.doc.gov

Ms. Carmen Suro-Bredie
Chairman, Trade Policy Staff Committee
Office of the U.S. Trade Representative
1724 F Street NW
Washington, DC 20230

Re: The 2005 National Trade Estimate Report
on Foreign Trade Barriers, 69 Fed. Reg.
68437 (Nov. 24, 2004)

To the Trade Policy Staff Committee:

The International Intellectual Property Alliance (IIPA) takes this opportunity to provide the Trade Policy Staff Committee (TPSC) with our continuing efforts toward identifying significant market access barriers to U.S. goods and services for inclusion in the preparation of your 2005 National Trade Estimate Report.

We are providing you with the public materials previously provided to the U.S. government interagency, all taken from our February 2004 "Special 301" submission to USTR. We also include our final 2003 estimated trade losses due to piracy in over 50 countries.

The International Intellectual Property Alliance (IIPA)

The IIPA is a private sector coalition formed in 1984 to represent the U.S. copyright-based industries in bilateral and multilateral efforts to improve international protection of copyrighted materials. IIPA is comprised of six trade associations, each representing a significant segment of the U.S. copyright community. These member associations represent over 1,300 U.S. companies producing and distributing materials protected by copyright laws throughout the world – all types of computer software including business applications software and entertainment software (such as videogame CDs and cartridges, personal computer CD-ROMs and multimedia products); theatrical films, television programs, home videos and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and textbooks, tradebooks, reference and professional publications and journals (in both electronic and print media).

Our Submission for the 2005 NTE

In February 2004, IIPA provided USTR and all its interagency colleagues with our detailed report on copyright legislation, piracy and certain other market access barriers in over 60 countries. Our 2004 Special 301 submission has been distributed to the TPSC and many U.S.

government officials who work on these country issues and who contribute to preparing the NTE. Our 2004 submission also is available to the public in the USTR Reading Room and on our website, www.iipa.com.

Of the ten categories of issues identified by the TPSC for the 2005 NTE, IIPA's 2004 Special 301 submission already addressed at least three of them: (1) lack of intellectual property (copyright) protection; (2) trade restrictions affecting electronic commerce; and (3) discussion of intellectual property rights practices which violate existing U.S. trade agreements as well as multilateral obligations under the WTO TRIPS Agreement;

We direct your attention to the IIPA website for the following information, should the TPSC or other officials wish to refer to it before we forward our 2005 Special 301 filing to the TPSC in February (hyperlinks are underlined and **the documents linked are attached to this letter**):

- A list of USTR's May 3, 2004 Special 301 decisions which includes IIPA's estimated trade losses due to copyright piracy in 2003 in the targeted countries (these statistics were finalized in November 2004). See http://www.iipa.com/pdf/2004_Nov4_Special_301_DECISIONS_full-rev.pdf
- In addition, our four regional charts reflecting these 301 decisions are also available; see <http://www.iipa.com/statistics.html>
- Our methodology for these trade loss and piracy calculations is available at <http://www.iipa.com/pdf/2004spec301methodology.pdf>
- To reach the mainpage of our 2004 Special 301 filing and the table of contents of all the countries discussed in our 2004 submission, please go to <http://www.iipa.com/special301.html> (note, the submission is attached to this filing but please see the above link to view each country report)

Ongoing Developments in 2004 and the 2005 Special 301 Process

Since our February 2004 Special 301 submission, IIPA and its members have kept USTR and other interagency officials, both in the States and abroad, informed of legislative, enforcement and related developments which have taken place in the scores of countries appearing in the 2004 NTE Report. For example, we have provided updates on the various 301 out-of-cycle reviews (for Israel, Poland, Malaysia), and we have participated in public hearings and dockets on China, CAFTA, Panama FTA, Bahrain FTA, AGOA and other bilateral and regional initiatives.

IIPA and its members are gathering information on global copyright law reform and enforcement for our February 2005 Special 301 submission. Our 2005 submission will contain detailed developments in numerous countries, including trade loss and piracy level estimates for the year 2004. As in prior years, IIPA will provide the TPSC with a courtesy copy of our 2005 Special 301 submission in February 2005 (we realize that the TPSC will not accept late-filed materials for this NTE). The NTE report published in March often has incorporated the most current IIPA information and statistics, even though our submission arrives later in the NTE production process.

Final Note

Please be aware that at least one of IIPA's member associations will be submitting a report for the 2005 NTE. The submission of the Motion Picture Association of America (MPAA) will include trade barriers related to the export of U.S. filmed entertainment, including piracy as well as other tariff and non-tariff trade barriers. That report will include estimated piracy losses due to motion picture piracy and other trade barriers during 2004. MPAA's 2004 estimates will appear in IIPA's 2005 Special 301 submission, along with additional industry estimates provided by the other IIPA member associations.

IIPA and its members appreciate the opportunity to continue to provide the TPSC with our views on the significant barriers to trade faced by the U.S. copyright-based industries around the world. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric H. Smith", with a stylized flourish extending to the right.

Eric H. Smith
President
International Intellectual Property Alliance