



## IIPA MILESTONES

### NINETEEN YEARS OF GLOBAL COPYRIGHT REFORM (1984-2003)

#### 19 Years Ago (1984-85)

- The Addition of IPR Protection to U.S. Trade Law: In 1984, the U.S. copyright industries pressed the Congress to make ineffective IPR protection an “unfair trade practice” under Section 301 of the U.S. trade law. Congress made this and other similar changes (to the GSP Program, for example) which marked the first time IPR protection was made part of the U.S. trade agenda.
- Formation of the IIPA: At the same time as U.S. trade legislation was being amended, eight copyright industry associations representing over 1,500 U.S. companies united in a coalition called the “International Intellectual Property Alliance” for the purpose of improving copyright laws and fighting massive piracy of U.S. copyrighted products. IIPA and its members together began a global campaign to improve copyright protection and enforcement.
- In 1985, IIPA prepared the first-ever comprehensive review of piracy losses and the status of current laws in 10 selected countries in Asia, in the Middle East, Latin America, and Eastern Europe. This first effort revealed staggering piracy levels in many of these countries and led to a new effort to secure improved protection and enforcement for U.S. copyrighted products.
- IIPA Trade Policy Report: In 1985, IIPA wrote its first report recommending to the U.S. government what actions it should take in this area. Entitled “U.S. Government Trade Policy: Views of the Copyright Industries” (1985), these recommendations have either been fulfilled or still remain U.S. government strategy.
- First IPR 301 Action: The U.S. Government, at IIPA’s urging, self-initiated the first IPR-based Section 301 case against Korea, which at that time provided no legal protection for U.S. works. This case was successfully settled in 1986 with Korea passing a copyright law protecting U.S. works for the first time.

#### 15 YEARS AGO (1988-89)

- From 1984 through 1988, pressed by IIPA and its members through bilateral engagement by the U.S. government, many countries, particularly in Asia, revised their copyright laws and/or protected U.S. works for the first time.

- U.S. Adherence to the Berne Convention: With the strong support of and lobbying by IIPA and its members, the U.S. passed the Berne Convention Implementation Act in 1988 and adhered to the Berne Convention (1971 Paris text) in 1989, after decades of congressional reflection. This gave added credibility to U.S. government and industry efforts to secure further global copyright reforms.
- Special 301 Mechanism Adopted by Congress and IIPA Releases its First Special 301 Submission to USTR: At the instance of IIPA and the copyright industries, in 1988, Congress passed amendments to Section 301 making the status of global IP protection an annual exercise in what is now called “Special 301.” USTR then released its first request for public comments in the annual “Special 301” review. IIPA filed its first set of Special 301 comments in February 1989 (in a format similar to its first such submission in 1985). In April 1989, USTR Carla Hills followed by announcing which countries failed to meet the criteria of the statute, including creating the “priority watch” and “watch” list categories. USTR’s and the rest of the government’s IPR focus then greatly expanded over the last decade, urged on by IIPA and its members as well as by other IPR-based industries. For example, in April 1999, Ambassador Charlene Barshefsky announced USTR’s survey on IPR practices in over 70 countries, a huge increase from 1989.

### **13 YEARS AGO (1990)**

- First IIPA “Regular” 301 Petition Filed on IPR Grounds: Twelve years ago, IIPA, MPAA and RIAA filed the first IPR “regular” Section 301 petition (not under Special 301) against Thailand in November 1990. Trade retaliation was averted when the Thai Government outlined specific pledges of actions. Similarly, other countries have taken concrete steps to improve their IPR regimes after their IPR practices have been investigated after being designated as “Priority Foreign Countries” under Special 301. IIPA has participated in Section 301 and Special 301 investigations into the intellectual property practices of Taiwan, India, Thailand, Brazil, the People’s Republic of China, Paraguay, Honduras, and Ukraine.
- NAFTA Negotiations Begin with an IPR Chapter: Almost a dozen years ago, in 1990, formal discussions among the U.S., Mexico and Canada to create a North America Free Trade Agreement (NAFTA) started. IIPA was instrumental in developing the text of the intellectual property rights chapter and was a strong supporter of NAFTA’s 1993 passage in Congress.

### **9 YEARS AGO (1994)**

- TRIPs Agreement Reached in the New WTO: At the conclusion of the Uruguay Round, a new chapter on intellectual property rights, the TRIPs Agreement, was included for the first time ever in a global trade instrument. The establishment of new, higher standards of protection, and for the first time, standards of enforcement, gave another jump start to countries’ improving their levels of protection and enforcement of IPR.
- WTO Members Increase: The number of member nations that have joined the international trade community, through the new WTO, has significantly increased. At the end of the Uruguay Round in 1994, there were 128 members of the GATT. As of mid-2003, there are 146 members of the WTO, with over 30 more countries engaged in the WTO accession process.

### **7 YEARS AGO (1996)**

- With the continuing forceful urging of the U.S. Government, supported by IIPA and its members over a period of many years, a Diplomatic Conference called by the World Intellectual Property Organization (WIPO) culminated at the end of 1996 with the signing of two new international copyright treaties, this time clarifying and extending the Berne Convention to the digital and Internet environment and significantly enhancing protection for sound recordings. IIPA and many of its members served on the U.S. delegation to this Convention.
- China and the U.S. agreed on an enforcement “action plan” and, seeking to avoid up to \$2 billion in trade retaliation by the U.S., China closed 15 pirate CD factories, and virtually shut down massive worldwide exports of pirate optical media product. This followed the 1995 U.S.-China IPR Agreement, setting out comprehensive obligations on IPR protection which went far to bring China into the modern age in this field.

### **5 YEARS AGO (1998)**

- Congress Passes the Digital Millennium Copyright Act: In October 1998, the U.S. passed the Digital Millennium Copyright Act (DMCA) which amended U.S. law to meet the obligations of the two “digital” or “Internet” treaties -- the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). These treaties raised the minimum standards of copyright protection, particularly with respect to the networked-based delivery of copyrighted materials. Adoption of this legislation permitted the U.S. to ratify and accede to these treaties. From this time to the present, IIPA has been working diligently to ensure global accession to, and proper implementation of, these treaties which are critical to fostering the growth of electronic commerce.
- WTO Declaration on E-Commerce: At the Fourth WTO Ministerial Conference in May 1998, trade ministers of all the WTO member nations adopted a “Declaration on Global Electronic Commerce” whereby nations agreed to a moratorium on imposing customs duties on electronic transmissions. While there remains wide agreement among nations on this point, this moratorium was not extended at the 2000 Seattle Ministerial Meeting because talks there were not completed.

### **4 YEARS AGO (1999)**

- U.S. Ratifies and Joins the WIPO “Internet” Treaties: The United States deposited its instruments of accession to both the WCT and the WPPT in September 1999. IIPA then began its major effort to persuade countries to ratify and accede to the two Treaties. This effort was successful and as of November 2003, 43 countries have deposited their instruments and have formally joined the WCT and 42 have joined the WPPT. Ratification and deposit in Geneva by 30 countries was needed before the treaties would enter into force. The WCT entered into force on March 6, 2002 and the WPPT on May 20, 2002.

### **3 YEARS AGO (2000)**

- All developing countries and countries in transition (though not U.N. designated least developing countries) became obligated to meet the substantive and enforcement provisions of the WTO TRIPS agreement on January 1, 2000. Over the ten or so years prior to this 2000 date and for three years following, at least 100 countries adopted legislative reforms as a result of both bilateral U.S. and their multilateral “incentives.”

### **One Year Ago (2002)**

- **Copyright Industries in the U.S. Economy:** IIPA released its ninth economic study on the copyright industries' impact on the U.S. economy -- "Copyright Industries in the U.S. Economy: The 2002 Report," prepared by Economists Inc. The report concluded that the U.S. copyright industries accounted for 5.24 percent of U.S. GDP in 2001, or \$535.1 billion, and were responsible for employing new workers in the U.S. at over three times the rate of the remainder of the economy. These industries also estimated foreign sales and exports of \$88.97 billion, again leading all major industry sectors.
- **WIPO Treaties Enter Into Force:** Both the WCT and the WPPT Treaties entered into force by mid-2002. As of November 2003, 43 nations had ratified the WCT and 42 the WPPT, Most of them developing countries. In an effort to raise awareness of these critical treaties, IIPA sponsored a major celebration of this event on Capitol Hill honoring key U.S. Congressman and Senators responsible for the DMCA and the Ambassadors from the countries that helped bring the treaties into force.
- **Trade Promotion Authority:** IIPA and its members celebrated the passage of the Trade Act of 2002, which included Trade Promotion Authority which permits the President, in consultation with Congress, to negotiate bilateral, regional and multilateral trade agreements. This was intended to give a jump start to the new Doha Round and to the various bilateral and plurilateral Free Trade Agreements now in process, in all of which the U.S. government, at IIPA's urging, has sought greatly improved levels of copyright protection and enforcement.
- **China and Taiwan Become WTO Members:** These two key U.S. trading partners became WTO members in December 11, 2001 and on January 1, 2002, respectively. IIPA is engaged in an ongoing effort to bring these countries' laws and enforcement regimes up to TRIPs levels of protection as required by the WTO.

### **In 2003**

- **Special 301 Review:** In February 2003, IIPA filed its fifteenth Special 301 submission with USTR. This submission again comprehensively detailed piracy rates and estimated losses due to piracy, analyzed legal and enforcement deficiencies, and recommended corrective actions in dozens of countries. Estimated 2002 trade losses due to piracy in the 49 countries placed on USTR's 2003 Special 301 amounted to over \$12.3 billion, with global losses to the copyright industries conservatively estimated at \$20-22 billion (not including internet piracy).
- **Singapore and Chile Free Trade Agreements Signed:** On May 6, 2003, President George Bush signed the Singapore FTA. One month later, on June 6, 2003, the President signed the Chile FTA.
- **Ongoing Free Trade Agreement Talks:** During 2003, the U.S. government continues FTA negotiations with Australia, five Central American countries, and Morocco. More concerted negotiations will continue into 2004 with the Southern African Customs Union (SACU), Bahrain, Dominican Republic, the Andean nations, and Panama. IIPA prepared and is negotiating with USTR its "Model FTA" copyright and enforcement text.

- GSP Used as Trade Tool: IIPA participated in six GSP hearings involving the review of the copyright protection and enforcement in Brazil, Russia, Dominican Republic, Kazakhstan, Lebanon, and Uzbekistan – all of which were based on petitions submitted by IIPA in prior years.
- Berne Convention Membership Grows: Between 1984 and 2000, membership in the Berne Convention, the premier international copyright convention, has more than doubled (74 countries at the end of 1984 versus 151 as of November 2003), in part as a result of IIPA and its members global reform efforts.
- WIPO Treaties: IIPA and its members remain actively engaged in a major effort to ensure full and prompt implementation of these treaties in as many key countries as possible, including preparation of model legislative provisions for countries in the process of implementation.