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IIPA Statement on USTR's Decisions in its 2009 Special 301 Review Affecting Copyright Protection and Enforcement Around the World

**China and Russia remain major concerns for the copyright industries
 Canada and Indonesia elevated to the Priority Watch List**

Washington — Today the International Intellectual Property Alliance (IIPA), a coalition of seven trade associations representing the copyright-based industries, welcomed the decisions announced by U.S. Trade Representative Ron Kirk in USTR's annual Special 301 report. IIPA's February 2009 Special 301 submission to USTR discussed copyright protection, enforcement, and market access problems in 48 countries/territories, and recommended that 39 be placed on a Special 301 list.

Eric H. Smith of the IIPA made the following statement in response to the release of USTR's 2009 Special 301 report:

"Special 301 is a critical tool by which the U.S. government has been able to secure improved copyright protection and enforcement as well as fair and equitable market access with our trading partners. While it is important and appropriate to recognize progress made by countries, it is equally essential to identify and highlight those countries that fail to make significant progress to strengthen copyright law or enforcement mechanisms. We look forward to working closely with the new Administration, including Ambassador Kirk, Secretary of Commerce Locke, Secretary of State Clinton and their staffs in a combined effort to secure the adequate and effective copyright protection and enforcement mandated by Congress in our trade laws."

"IIPA and its members applaud Ambassador Kirk's commitment to use 'all the tools in the toolbox' with our trading partners to support and grow the creative industries. Committed and effective action by government is essential to stemming the massive global theft of U.S. copyrighted works in physical form and on the Internet. Global piracy causes significant economic losses to our country, undermining copyright-based industries that contribute significantly to U.S. economic growth and domestic employment and greatly impairing these companies' abilities to continue to create and export signature American products."

"**China and Russia** both continue to be major concerns to the copyright industries, as they were in 2008 and prior years. While there have been some positive developments in both these key markets over the past year, enforcement efforts generally remain inadequate, and the copyright industries continue to await sustained, effective and deterrent enforcement, enhanced legal reform, and greater market access for legitimate copyrighted materials."

"While the **Chinese** government has launched enforcement efforts, these have so far not proven to be effective in dealing with pervasive piracy in the physical and online markets. These problems have been exacerbated by the maintenance of severe and discriminatory market access restrictions for the distribution of some categories of U.S. content. China must significantly expand its use of criminal measures in appropriate circumstances and employ all available tools, including administrative sanctions, to prevent companies such as Baidu and Kangjian Shixun from continuing to profit from providing access to infringing materials."

“**Russia** must meet its obligations under the U.S.-Russia IPR Agreement of 2006. The Russian government must take action against entities that knowingly distribute infringing product, combat the growing threat of Internet piracy, and address illegal optical disc manufacturing. We are troubled by the continued operation of rogue collecting societies who act in concert with online and physical distributors by the issuance of fraudulent licenses, and we call upon the Russian government to act quickly against these rogue societies. We also look to completion of the accreditation process in a fair and reasonable manner so that operations in the entire arena of collective administration of rights can be normalized.”

IIPA highlights the importance that the copyright industries attach to securing major legal and enforcement reforms in **Canada**, our country’s largest trading partner. Smith said, “We commend USTR for the decision to elevate Canada to the Priority Watch List. Canada remains woefully behind the rest of the developed world (and many countries in the developing world as well) in adopting critical legislation that will facilitate the development of a healthy online marketplace for copyright materials. More than a decade has passed since the global community agreed to two international treaties providing minimum standards for protecting copyright in the digital age, but Canada has yet to join these treaties or to implement their obligations in domestic law. Canada also needs to act now to address long-standing deficiencies in its system for legal enforcement of intellectual property rights. We urge the Canadian Government to promptly advance legislation that will provide a more secure digital environment for the protection of copyright works.”

IIPA also appreciates USTR’s elevation of **Indonesia** to the Priority Watch List. High copyright piracy levels, including involvement by organized crime, continue to plague the market. Despite some successful enforcement efforts against end-user piracy of software and optical disc pirate production, enforcement difficulties, lack of transparency, poor prosecutions and other systemic judicial failures remain. There are also a variety of market access barriers that interfere with the ability of copyright owners to distribute their products locally.

In light of progress made in **South Korea**, USTR removed it from all lists this year. IIPA urges USTR to remain engaged with the South Korean government to promote more effective action against the unacceptably high levels of digital piracy that affect all copyright sectors in Korea’s world-leading Internet environment. Continued vigilance in tackling piracy on university campuses -- both digital and hard copy -- is also necessary. Prompt ratification and implementation of the copyright and enforcement provisions of the Korea-U.S. Free Trade Agreement (KORUS) would be a major step forward, which IIPA urges both countries to take as soon as possible.

USTR also announced that it will conduct out-of-cycle-reviews of Israel, the Philippines, Poland, Saudi Arabia and Fiji later this year.

Controlling Piracy: Smith noted, “To control piracy it is necessary for governments to impose deterrent criminal sanctions, provide for damages in civil cases that fully compensate right holders and deter further piracy, and expeditiously issue seizure warrants and injunctive relief. Some important examples have occurred in recent weeks when several countries have taken tough action against Internet piracy. A Swedish court issued criminal sanctions against four defendants in the infamous ‘The Pirate Bay’ case. A Taiwan court issued a criminal indictment against a major online pirate enterprise known as ‘Foxy.’ A major action against warez sites in Hungary resulted in the seizure of 43 servers and six arrests. Actions such as these are to be applauded and must continue.” Also, Spain convicted its first online pirate just two weeks ago; the Spanish market has been destroyed by Internet piracy and insufficient government initiative. Equally critical is the forging of further cooperation between the copyright community and those companies engaged in the distribution of content -- such as the Internet service provider (ISP) community. Cooperative and responsible action by the ISP community is an essential element in dealing with rampant illegal file-sharing around the world.”

IIPA's Country Reports and Chart of USTR's 2009 Decisions: IIPA provides a table of USTR's 2009 Special 301 decisions, including estimated 2008 trade losses and copyright piracy levels for several industry sectors on a country-by-country and industry-by-industry basis (attached and posted on the IIPA website). All of the country reports in IIPA's 2009 Special 301 submission are posted on the IIPA website, www.iipa.com.

About the IIPA: The International Intellectual Property Alliance (IIPA) is a private sector coalition of seven trade associations representing U.S. copyright-based industries in bilateral and multilateral efforts working to improve international protection and enforcement of copyrighted materials and open up foreign markets closed by piracy and other market access barriers.

IIPA's seven member associations are: the Association of American Publishers (AAP), the Business Software Alliance (BSA), the Entertainment Software Association (ESA), the Independent Film & Television Alliance (IFTA), the Motion Picture Association of America (MPAA), the National Music Publishers' Association (NMPA) and the Recording Industry Association of America (RIAA).

The IIPA member associations represent over 1,900 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 discs and cartridges, personal computer CD-ROMs, and multimedia products); theatrical films, television programs, DVDs and home video and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and textbooks, trade books, reference and professional publications and journals (in both electronic and print media).

The Impact of the U.S. Copyright Industries on the U.S. Economy and Foreign Trade: Two years ago, the IIPA released an economic report entitled *Copyright Industries in the U.S. Economy: The 2006 Report*, written by Stephen Siwek of Economists Inc. This report, the eleventh in a series dating back to 1990, details the economic impact and contributions of U.S. copyright industries to U.S. Gross Domestic Product, employment, and foreign trade, and is available on the IIPA website. IIPA is in the process of preparing an updated study which should be released later this Spring.

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2009 "SPECIAL 301" USTR DECISIONS
2008 ESTIMATED TRADE LOSSES DUE TO COPYRIGHT PIRACY
(in millions of U.S. dollars)
2008 ESTIMATED LEVELS OF COPYRIGHT PIRACY

	Business Software ¹		Records & Music		Motion Pictures		Entertainment Software		Books	Totals
	Losses	Levels	Losses	Levels	Losses	Levels	Losses	Levels	Loss	Loss
	2008	2008	2008	2008	2008	2008	2008	2008	2008	2008
PRIORITY WATCH LIST										
Algeria	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Argentina	265.0	75%	75.1	60%	NA	NA	NA	NA	NA	340.1
Canada	742.0	32%	NA	NA	NA	NA	NA	NA	NA	742.0
Chile	109.0	66%	21.0	66%	NA	NA	NA	NA	NA	130.0
India	1060.0	66%	36.2	55%	NA	NA	NA	NA	NA	1096.2
Indonesia	302.0	86%	20.0	95%	NA	NA	NA	NA	NA	322.0
Israel (OCR)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Pakistan	77.0	85%	NA	NA	NA	NA	NA	NA	NA	77.0
People's Republic of China	2940.0	79%	564.0	90%	NA	NA	NA	NA	NA	3504.0
Russian Federation (GSP)	2773.0	70%	NA	NA	NA	NA	NA	NA	NA	2773.0
Thailand	295.0	76%	17.8	65%	NA	NA	NA	NA	NA	312.8
Venezuela	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
WATCH LIST										
Belarus	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Bolivia	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Brazil	1068.0	60%	117.1	48%	NA	NA	NA	NA	NA	1185.1
Brunei	NA	NA	2.4	100%	NA	NA	NA	NA	NA	2.4
Colombia	85.0	60%	NA	NA	NA	NA	NA	NA	NA	85.0
Costa Rica	15.0	60%	14.8	60%	NA	NA	NA	NA	NA	29.8
Czech Republic	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Dominican Republic	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Ecuador	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Egypt	81.0	59%	NA	NA	NA	NA	NA	NA	NA	81.0
Finland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Greece	127.0	57%	NA	60%	NA	NA	NA	NA	NA	127.0
Guatemala	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Hungary	92.0	43%	NA	NA	NA	NA	NA	NA	NA	92.0
Italy	1242.0	49%	350.0	25%	NA	NA	NA	NA	NA	1592.0
Jamaica	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Kuwait	43.0	63%	NA	NA	NA	NA	NA	NA	NA	43.0
Lebanon (GSP)	28.0	74%	3.0	70%	NA	NA	NA	NA	NA	31.0
Malaysia	180.0	60%	26.2	60%	NA	NA	NA	NA	NA	206.2
Mexico	497.0	60%	419.7	80%	NA	NA	NA	NA	NA	916.7
Norway	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Peru	52.0	74%	57.2	98%	NA	NA	NA	NA	NA	109.2
Philippines (OCR)	105.0	70%	117.0	83%	NA	NA	NA	NA	NA	222.0
Poland (OCR)	438.0	55%	100.0	27%	NA	NA	NA	NA	NA	538.0
Romania	115.0	70%	10.0	40%	NA	NA	NA	NA	NA	125.0
Saudi Arabia (OCR)	126.0	54%	NA	NA	NA	NA	NA	NA	NA	126.0
Spain	624.0	42%	13.4	20%	NA	NA	NA	NA	NA	637.4
Tajikistan	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Turkey	239.0	65%	NA	NA	NA	NA	NA	NA	NA	239.0
Turkmenistan	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Ukraine	308.0	85%	NA	NA	NA	NA	NA	NA	NA	308.0
Uzbekistan (GSP)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Vietnam	123.0	83%	NA	95%	NA	NA	NA	NA	NA	123.0
SPECIAL 306 MONITORING										
Paraguay	7.0	81%	NA	NA	NA	NA	NA	NA	NA	7.0
OCR only										
Fiji (OCR)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
TOTALS	14158.0		1964.9		NA		NA		NA	16122.9

Endnotes:

¹BSA's 2008 statistics are preliminary. They represent the U.S. software publishers' share of software piracy losses in each country, and follow the methodology compiled in the Fifth Annual BSA and IDC Global Software Piracy Study (May 2008), available at <http://global.bsa.org/idcglobalstudy2007/>. These figures cover, in addition to business applications software, computer applications such as operating systems, consumer applications such as PC gaming, personal finance, and reference software.

"GSP" means that the U.S. government is reviewing this country's IPR practices under the Generalized System of Preferences trade program.

"OCR" means an that an out-of-cycle review will be conducted by USTR later in 2009.

IIPA's members' methodology is described in Appendix B of IIPA's submission, see http://www.iipa.com/2009_SPEC301_TOC.htm