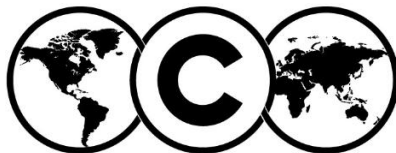


INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE®



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February 15, 2011

Submitted to <http://www.regulations.gov>

Stanford K. McCoy
Assistant U.S. Trade Representative
for Intellectual Property and Innovation
Office of the U.S. Trade Representative
600 17th Street NW
Washington, DC 20508

Re: Request to Testify at 2011 Special 301 Hearing
(75 Fed. Reg. 82424, Dec. 30, 2010)

To the Special 301 Committee:

The International Intellectual Property Alliance (IIPA) hereby submits its request to testify at the Special 301 Committee Public Hearing scheduled for March 2, 2011.

Under separate cover, IIPA has formally filed our 2011 Special 301 submission which contains reports on 40 countries. Our submission is accessible on our website, www.iipa.com.

This letter also includes our Hearing Statement. Participating in the hearing will be:

Michael Schlesinger
Counsel for International Intellectual Property Alliance
2101 L Street NW, Suite 1000
Washington, DC 20037
Tel: 202 833 4198 Email: schlesin@iipa.com

Respectfully submitted,

Eric H. Smith



Hearing Statement of

Michael Schlesinger
International Intellectual Property Alliance (IIPA)
before the
301 Committee
2010 Special 301 Hearing
March 2, 2011

Good morning. I appear before you this morning on behalf of IIPA – a coalition of seven associations - 1,900 companies - which make up the major sectors of the U.S. copyright industries. We appreciate the opportunity to weigh in on the 2011 Special 301 process.

In this year's Special 301 submission, IIPA has identified 40 countries that deny adequate and effective protection of intellectual property rights and/or fair and equitable market access. By denying such basic protections and access to their markets, these countries' practices harm our creative content businesses – movies, music, software, videogames, and book publishing. These businesses remain critical to the future growth of the U.S. economy, provide millions of jobs, and help expand exports in line with the Administration's goals. It should therefore be a critical part of the Special 301 process to define concrete plans of action for the year ahead and, longer-term, to improve copyright protection, reduce global piracy levels, and open markets to U.S. copyright content around the world.

There are massive costs attributable to piracy, market access barriers, investment barriers, and discriminatory treatment to U.S. firms. Unfortunately today, not only physical piracy but more than ever Internet and mobile piracy threaten businesses built on copyright. Legitimate online business models, while growing in number and size, are still dwarfed by and have significant difficulty competing with the massive proliferation of illegal services.

IIPA's filing seeks to help the U.S. Government define and implement concrete solutions. We do this through identifying key "Copyright Industries' Initiatives and Challenges for 2011."

We first address the overarching need for deterrent enforcement responses to copyright piracy through passage and implementation of good, TRIPS-compatible and WIPO Internet Treaties- (WCT- and WPPT-) compatible laws, and enhanced enforcement procedures to deal with specific problems. We discuss the enormous challenge posed by



Internet and mobile piracy, including the need for a multi-faceted approach, a strong legal framework, appropriate levels of responsibility for online infringements that foster cooperation among all stakeholders involved in the online supply chain, and strict enforcement by governments against online theft of copyright.

The IIPA submission also addresses the unauthorized use of software within businesses – “enterprise end-user software piracy” – the principal and most damaging form of infringement to the business software industry today. More than \$55 billion worth of unlicensed software was used globally in 2010, including more than \$32 billion of U.S. vendor software. This problem requires a specific enforcement response including deterrent level civil and criminal actions, inspections, audits, and ensuring legal software licensing practices ensue among corporate entities and governments which should be setting a good example for the populace at large.

We talk about the critical nature of technological protection measures (TPMs) used to ensure that works made available in the digital and online environments are not easily stolen, and the need to address the ever-increasing threat from those who build their business models around providing devices, tools or technologies to gain unlawful access to our content and defeat these TPMs.

We address illegal camcording, by which 90% percent of newly released movies that are pirated can be traced to thieves who use a digital recording device in a movie theater to literally steal the image and sound off the screen. 1,000 major motion pictures were stolen this way in 2010, causing dramatic harm to the markets for those motion pictures. The motion picture industry urgently needs help to address this problem, through adequate laws, training of cinema personnel, and strict enforcement.

The submission addresses book piracy – large-scale photocopying of entire books, commercial print piracy, and increasing unlawful digitizations or online copying of published materials. This form of piracy decimates the trade, education, and scientific publishing industries, and governments need to recognize the extreme harm caused by allowing commercial-scale photocopying, and need to help set a good example in the educational sector.

We address game cartridge counterfeiting which is essentially a Chinese export damaging the world’s markets for cartridge based games. We also discuss physical optical disc piracy and signal theft of Pay TV.

The IIPA submission draws out the direct relationship between piracy and market access barriers and calls upon policymakers to recognize and draw on this relationship to



help make the reduction of market access impediments a key component of ongoing efforts to combat piracy.

Recognizing all these challenges, in each country report in our submission, IIPA has sought to identify specific “Priority Actions,” short-term goals with real returns, or longer-term systemic changes sought.

Commonalities include: 1) ensuring adequate civil damages, civil and provisional search and seizure remedies, deterrent criminal enforcement and ensuring the criminal system works from raid to prosecution to conviction, 2) the need for increased resources and manpower dedicated to reduce piracy levels and increased training and awareness in emerging or new areas that may not encompass part of their normal routine, 3) asking governments and their state-owned enterprises to set proper examples for the legal use of software, books, and other copyright materials, and to ensure government online networks are not used for infringement of copyright content, and 4) dismantling market access or other barriers to entry into a market.

We thank the Committee for the time to speak about these critical issues for the copyright industries of the United States, and we would be happy to answer any of your questions.

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