

ARGENTINA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

2012 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Argentina remain on the Priority Watch List in 2012.

Executive Summary¹: Digital piracy in Argentina is widespread and takes many forms. The rise in online piracy has not diminished the piracy of hard goods found at street fairs such as the public market near Buenos Aires known as “La Salada”; indeed, smaller “saladitas” are appearing in the region based on the same model. End-user piracy of business software applications, especially in corporate settings, causes serious economic harm, and the Argentine government should review its agencies’ use and procurement of computer software to ensure that legal software is being used. Although the copyright industries appreciate the continued cooperation of the police with enforcement raids, only a small number of criminal cases result in final judgments with deterrent sanctions. In one positive development, Argentina’s courts confirmed indictments of the founders of one of the country’s most popular sources of unauthorized content online, the advertising-based website Taringa.net. Civil infringement actions suffer from extensive court delays and the lack of a statutory damages remedy. The police corps and the judiciary simply lack the resources or the awareness to permit effective enforcement against copyright piracy. Government involvement is needed to forge new cooperative solutions to halt the transmission of illegal copyrighted materials on telecommunications networks. IIPA urges the Government of Argentina to adopt a comprehensive national strategy aimed at protecting and enforcing the Argentine Copyright Law.

PRIORITY RECOMMENDED ACTIONS FOR ARGENTINA IN 2012

- Commit, at the highest levels of the Argentine Government, to develop and implement a coordinated anti-piracy campaign that addresses hard goods and online infringements as a matter of national priority.
- Develop processes that enhance cooperation between rights holders and intermediaries in ways that are likely to contribute to a decline in online piracy.
- Require that the federal and Buenos Aires provincial governments take appropriate measures to:
 - Identify distributors of pirate products in public markets and revoke licenses to those points of sale.
 - Halt the distribution of pirate and counterfeit merchandise at the “La Salada” Fair and similar markets.
- Support efforts to issue an executive decree requiring government legalization of current business software, within a balanced and neutral system to select technical solutions and improve procurement practices.
- Provide more resources and high-level support for police Internet crime units to address illegal downloading.
- Instruct prosecutors to seek deterrent criminal sentences on major piracy cases. Encourage judges around the country to resolve these cases expeditiously and to impose deterrent sentences.
- Improve border enforcement, partnering with Paraguayan and Brazilian officials to establish a program to inspect goods in-transit for potential pirate product.

Generalized System of Preferences: Argentina is a beneficiary country under the U.S. Generalized System of Preferences (GSP) program, which requires that a beneficiary country provide “adequate and effective” protection to U.S. copyrighted materials. During the first 11 months of 2011, more than US\$425 million in imports to

¹For more details on Argentina’s Special 301 history, see IIPA’s “History” appendix to this filing at <http://www.iipa.com/pdf/2012SPEC301HISTORICALCHART.pdf>, as well as the previous years’ reports, at <http://www.iipa.com/countryreports.html>. For a summary of IIPA’s 2012 global issues, see our cover letter at <http://www.iipa.com/pdf/2012SPEC301COVERLETTER.pdf>.



the U.S. from Argentina enjoyed duty-free treatment under the GSP Program, or more than 14% of Argentina's entire imports into the U.S.²

COPYRIGHT PIRACY IN ARGENTINA

The nature and scope of piracy in Argentina remained unchanged over the past year. Street piracy continues to rise, mostly in the form of DVDs burned with movies, but illegal copies of other copyright products are also available in hard goods. In just the past year, the number of fairs where pirate products are sold has increased. The highest levels of this activity are seen in Buenos Aires, Capital Federal, Córdoba, Mendoza, San Juan, and Tucumán. For most copyright industries, however, digital piracy does the most damage, most frequently in the form of Internet direct downloads of pirated content from hyperlinks and cyberlockers. End-user piracy continues to be the most damaging form of infringement for the business software industry, as it limits the ability for legitimate business software to enter the Argentinean market. A combination of extremely high piracy and market access impediments makes Argentina one of the least hospitable markets for entertainment software publishers in the region.

Internet piracy: Argentina is a highly connected country, but one that suffers from such a lack of enforcement that its market of 27.6 million Internet users³ is largely out of reach for legitimate copyright sectors. With the increased availability of pirated content via broadband in homes, Internet cafés, and public telephone call center/LAN houses, Internet piracy is having significant prejudicial consequences on the sale and distribution of legitimate materials. Increased broadband penetration has altered Argentina's Internet piracy landscape, resulting in the proliferation of piracy through peer-to-peer (P2P) file sharing services (including BitTorrent and eDonkey) and sites offering links to download movies and entertainment software from free file hosting sites.

The recording industry reports that digital piracy continues to represent 99% of the entire digital music market in 2011. Digital piracy for this sector occurs predominantly via direct download, for example from cyberlockers that host infringing content. Within the legitimate 1% of total music consumption in Argentina, legitimate digital sales represent 12% of the local legitimate music market, and are made up of two segments: mobile (96%) and Internet (4%). There are two prominent "topsites," sources at the top of the distribution chain for illegal copies, that facilitate music piracy in Argentina: Taringa (www.taringa.net), and Musicuo (www.musicuo.com). Taringa, a site financed through revenue from banner ads, recently faced criminal charges for facilitating copyright infringement. The Criminal Superior Court of Buenos Aires affirmed the indictments of Hernán Botbol, Matias Botbol and Alberto Nakayama, Taringa's founders, on 29 counts for providing the means for the unauthorized reproduction and distribution of literary works. The court pointed to the fact that Taringa's owners and administrators knew that the site's users used the website to commit infringement on a daily basis, but continued to knowingly facilitate the downloading of unauthorized content. The Court ordered the first-instance judge to submit the three accused to a full criminal trial.

Musicuo is an on-demand streaming music site similar to www.grooveshark.com, that offers thousands of unauthorized music titles. The founder of Musicuo (also founder of Cuevana, an on-demand streaming movies site) has openly admitted that the site's activity might be infringing copyright, and that he hopes to reach an agreement with rights holders soon. Musicuo incentivizes infringement by rewarding users who upload to a single account at least 1000 songs not already existing on the site, and who offer those files to be shared to other users, with an advertisement-free VIP account. The site is becoming increasingly popular in the Internet community, and has even been featured by the Rolling Stone Magazine-Argentinean edition.

The local recording industry group reports that over 50% of Argentinean Internet users who download unauthorized music from the web believe that the activity is included in their ISP connection charges.

²During 2010, more than US\$528 million in imports to the U.S. from Argentina enjoyed duty-free treatment under the GSP Program, or more than 10% of Argentina's entire imports into the U.S.

³This figure reflects about 66% of the population, according to internetworldstats.com, as of June 2011.

For the business software industry, the Internet offers local packages of pirated and counterfeit software, including compilations containing dozens of computer programs. The Business Software Alliance (BSA) notes the use of P2P sites is the favored method to access unauthorized copies of software programs; there are a few pirate websites but they are not the largest source of pirated programs. BSA does perform take-down operations with local ISPs and there is a high degree of success; however, for every site removed, more appear.

For 2011, Argentina placed 21st in the world in the number of connections by peers participating in the unauthorized file sharing of select ESA member titles on public P2P networks.

MPAA notes that Peer Media Technologies reported that during 2011, users initiated over 11 million downloads/uploads of unauthorized copies of major U.S. movie titles via certain P2P protocols in Argentina.⁴

Internet-based piracy prevents the establishment of legitimate online distribution platforms and services for consumers, which independent film producers may use to finance future productions. For independent producers who license content country-by-country, online piracy instantly exports troubled marketplaces and high piracy rates to other markets. The independent production sector is limited in its ability to shift to technology-enabled new business practices that might limit piracy. For example, worldwide same day releases (referred to as “day-and-date” releases) may prove an effective method to curb or delay piracy for major studios that control their own worldwide distribution, but for independents, whose national distributors release on their own schedule, this technique is impossible.

Piracy of business software programs: The most damaging form of piracy to the business software industry is business end-user piracy of software, which remains quite high in Argentina, especially in small- and medium-sized organizations. While a good number of businesses have legalized their software applications, just as many newcomers in the market have yet to acquire legal software. This problem involves the federal, provincial and municipal government offices as well as a number of private companies. According to a 2010 report issued by BSA and IDC called *The Economic Benefits of Reducing PC Software Piracy*, the information technology sector’s contribution to the Argentine economy could be even bigger if Argentina’s PC software piracy rate were to be lowered 10 percentage points over four years. This would create an additional 4,420 jobs, US\$949 million in local industry revenues and US\$202 million in additional tax revenues for federal, regional, and local governments.⁵ There was no positive news to report on any progress made by the government to legalize its software last year. It is still easy to find hardware dealers selling computers with illegal original equipment manufacturers (OEM) versions or simply illegal copies pre-installed on computer hard disks.

Hard goods piracy, La Salada and end-user piracy: The sale of pirate product, including optical discs, by street vendors continues unabated throughout Argentina. La Salada Fair is an enormous central market in Buenos Aires that provides pirated and counterfeit merchandise to retailers and re-sellers from Argentina and neighboring countries. La Salada Fair is clearly the most important center of manufacturing, distribution and selling of illegal products in Argentina. But as a result of its profitability, it has also been the most imitated business model in the last year. Thus, a number of “Saladitas,” or smaller versions of the Salada Fair market, have appeared across Argentina. There are Saladitas in the City of Buenos Aires and every town of the province of Buenos Aires. The phenomenon has not gone unnoticed, and the activity in Saladitas is now considered a priority for possible regulation by law. A bill

⁴A major U.S. movie is defined as a movie released in 1,000 or more theaters in the U.S., so these numbers reflect only a small subset of movie-related piracy activity (since it excludes non-major releases, including local titles, other peer-to-peer protocols, and non-peer-to-peer ones, such as websites, and streaming via other technologies). Also, since local language title versions for scanning are not always available from established sources, and access to foreign language BitTorrent sites may fluctuate, results in certain countries are likely underrepresented.

⁵This report is posted on BSA’s website at <http://www.bsa.org/idcstudy>. 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. In 2010, the software piracy rate in Argentina was 70%, representing a commercial value of unlicensed software attributable to U.S. vendors of US\$409 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>.

currently under consideration by the province of Buenos Aires Congress would impose certain requirements on fairs having more than six stores.

As for La Salada Fair itself, the physical area continues to grow. It is made up of four markets – *Punta Mogotes*, *Urkupiña*, *Ocean* (indoor fairs) and *La Ribera* (open-air fair) – built up on the Riachuelo shore. It is a sprawling area with about over 30,000 stands selling everything from music to bags, and it provides pirate and counterfeit merchandise to retailers and re-sellers from Argentina and neighboring countries. This market opens twice a week – on Tuesdays and Sundays – at changing times but mostly at midnight, and is visited by approximately 1 million people each day. The total volume of sales in 2010 amounted to around US\$2.9 billion (equivalent to around ARS\$12 billion), of which around 10% came from counterfeit music CDs and film DVDs, and accounts for four percent of the country's GDP. Although La Salada is mainly a physical market, it has its own websites where customers can check out information about the market hours and directions (official sites: <http://www.puntamogote.com.ar/>; <http://www.mercadolasalada.com>). Additionally, the pirate and counterfeit merchandise is openly advertised and sold on such websites, though no CDs or movies are offered online. The social and economic dimensions of this phenomenon are so extraordinary that a documentary has been filmed by the Argentine film director Julián D'Angiolillo. *Hacerme feriante* (Becoming a Stall-Holder) was released on February 10th, 2011, showing the large numbers of visitors to the market, the manufacturing of the products, and role of the Fair in the region. Police are well aware of the illegal activities taking place at the fair. Local government officials and flea market administrators simply do not cooperate with the private sector in raiding actions and refuse to close stands engaged in the sale of infringing works.

Flea market fairs are appearing in more and more cities across the country. The interior of the country remains plagued with street vendors selling pirate product (for example, in the cities of Tucuman and Santa Fe). Pirate stands are often seen around train stations and other high-traffic areas. In general, the largest concentration of pirate product of films and music is in the greater Buenos Aires district, but the industries face serious challenges in larger cities throughout the provinces. In addition, blank optical media products, mostly from Southeast Asia, continue to enter the Argentine market via Uruguay and Paraguay. This media serves as the basis for the local "burning" of copyrighted materials on these discs, a widespread phenomenon that adversely affects the legitimate markets of almost all the content industries.

The Business Software Alliance (BSA) reports that physical commercial software piracy has nearly disappeared in Argentina, owing to the realization on the part of the business community of the costly risks involved in infringement suits, on one hand, and the rise in Internet piracy, on the other.

Piracy of music and sound recordings in both the physical and online environment continues unabated in Argentina. Hard goods (physical) piracy of music accounted for 60% of the music market in 2011, up 10% from the previous year. The local recording industry group has noticed an increase in the hard goods piracy of music in general, but that the products sold on the street most often are DVDs burned with movies. There has been an increase in the number of fairs where pirate products are sold.

The independent sector of the film and television industry (IFTA) reports that Internet and physical piracy of DVDs remain 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 film and television programming. These authorized distributors find it nearly 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 a similar quality viewing experience as a DVD can provide. Unable to compete with free, legitimate distributors often cannot commit to distribution agreements or offer drastically reduced license fees which are inadequate to assist in financing of independent productions. Piracy undermines and may permanently damage legitimate distribution networks essential to reaching consumers, and leaves little confidence for investment in intellectual property.

COPYRIGHT ENFORCEMENT IN ARGENTINA

Local industry representatives describe their relationships with Argentinean authorities as fluid and cooperative, as in years past. Unfortunately, the limited training, resources, and human capital available to police forces and the judiciary in Argentina make effective enforcement of copyright in the country extremely difficult. Federal and state police forces lack sufficient resources to provide expert reports on seized products, which delays processing cases. There is no dedicated police force to handle piracy cases. Industries report continued good cooperation with Argentina's police forces and border officials. While there also has been significant support from the Federal Police Cyber Crime division on Internet cases, few prosecutions are pursued and few criminal cases reach final judgment. The minimum penalty of one month is so low as to be considered negligible, deterring courts from issuing any prison terms at all. Anti-piracy enforcement actions rely entirely on private sector initiative, resources, and complaints.

Inter-industry cooperation on Internet piracy cases: IIPA reported just one year ago that local ISPs were slowly beginning to collaborate in certain limited circumstances, such as taking down infringing sites in very specific instances. Unfortunately, that cooperation has improved little in the past year. Takedowns are limited to hosted content, and ISPs refuse to cooperate with rights holders on any copyright actions within P2P networks. While ISPs claim to have no responsibility for the activities of users on their networks, Argentineans have a different impression; one out of two Argentineans who download unauthorized music believes that the activity is covered by their ISP's charges.

Since 2007, the local sound recording and film industry sectors have been trying to achieve broader voluntary cooperation with Argentine ISPs on Internet piracy matters. ISP industry groups have rejected proposals by the local sound recording group to negotiate terms of cooperation. Also, despite appeals from the sound recording industry to the Ministry of Telecommunications and ISP trade groups, the Argentine authorities view Internet piracy as a problem of private interests, and have refused to engage in industry talks, leaving rights holders unable to organize roundtable discussions with ISPs on a voluntary campaign to curb piracy. The disengaged attitude of the Argentine authorities has proven to be the most problematic in the region. With no mechanism in place for rights holders and ISPs to work together on this serious and damaging problem, it is time for the Government of Argentina to reconsider its "hands off" approach and work with industry groups to find solutions to halt the transmission of illegal copyrighted materials on telecommunications networks.

The recording industry continues to be very active in Internet piracy enforcement in Argentina. With the cooperation of ISPs in the removal of hosted content, from July 2010 to June 2011 the local recording industry organization, CAPIF, produced the following takedown results: 25,555 web pages and blogs posts, 780,878 links to cyberlockers containing infringing files, 798 music videos, 100,087 forum posts, 29,063 P2P links to infringing content, 22 domain names, and 46,846 pre-release copies of sound recordings.

Software actions: BSA reports cooperation on the part of the police and the courts in general, noting that preliminary measures are executed rapidly. However, BSA has experienced problems with confidential information being leaked to targets of investigation and a general slowness in resolving judicial procedures. The business software industry is unaware of any *ex officio* actions being taken against software piracy. The industry continues to support any effort by the Argentine federal, provincial or municipal levels of government to legalize business software currently installed on government computers and improve their procurement practices.

BSA takes a variety of actions in Argentina, ranging from civil claims to non-judicial procedures (such as cease and desist letters, notices to ISPs, and the like). During 2011, the BSA program in Argentina conducted 79 raids or court actions against commercial computer software end users, with successful results in 100% of its claims. In the past, criminal copyright actions in the software area were not widely used by BSA. More recently, the various agencies (including the Federal Police, Gendarmería, etc.) are improving their technical capacities to support the courts in the investigation of computer crimes (including piracy) and the provision of technical reports, which is useful

evidence in judicial cases. In smaller provinces, local police are not trained in computer crimes, and there have been problems caused by pre-raid leaks. In some cases, it is possible to replace local police with the better trained Gendarmería. In addition, preliminary injunctions and searches performed by court officers and the police under instructions from civil courts have been effective to obtain the legalization of commercial software in use and the payment of damages.

Criminal actions involving hard goods: The recording industry indicates that both the police and customs authorities do take *ex officio* actions and industry supports those actions. The recording industry focuses on investigating complex organized crime cases, and planning street piracy actions. From January to November of 2011, rights holders assisted in 185 raids (including street vendors, fairs, warehouses, laboratories, retail stores, newsstands, and border actions), resulting in the seizure of 338,249 copies of media with infringing content (most of which were CD-Rs or DVD-Rs containing music and movies) and 642 pieces of optical disc burning equipment. These figures have dropped compared to 2010, in which there were 309 raids resulting in the seizure of 3,819,434 copies and 2,188 pieces of equipment.

Difficulties, however, that create bottlenecks include the fact that obtaining search warrants is increasingly difficult; enforcement authorities do not have enough physical space for the storage of raided products; and forensic analysis can take months.

Slow prosecutions and non-deterrent judgments: The Argentine judicial system is formal and heavy on written submissions, which means that the process of administering justice is time-consuming. Perhaps even more frustrating, very few criminal cases that reach final sentencing, and most copyright infringement cases close with a suspension of judgment. In 2011, there were no convictions but courts issued 142 suspensions of judgment. This problem can also be attributed to the lack of human resources and poor infrastructure in the courts. But clearly, there is a lack of will by both prosecutors and judges to push these cases through.

Delays and weak damages in civil infringement cases: The business software industry continues to rely on civil enforcement in Argentina, given the systemic problems with criminal enforcement. Even so, there remain problems in some provincial judicial jurisdictions, where there are procedural delays in obtaining and conducting civil searches in business software piracy cases. Civil actions are also weakened by the unavailability of deterrent civil damages; this important problem could be corrected if Argentina were to introduce an effective statutory damages system.

Border enforcement: The Argentina Customs Code currently provides for *ex officio* actions. Customs authorities have a good understanding of the damage that piracy causes, not only to the owners of intellectual property rights, but also to the State itself, since pirate products evade taxes and do not generate legitimate employment. For about four years the Argentina Customs, has implemented a forum aimed to IP right holders to generate a communication space, but at present, the forum has become a formal meeting instead of an active organism to act against piracy. Given the extent of the piracy and counterfeiting problems in the tri-border area, Argentina should forge a working plan with Brazilian and Paraguayan customs officials to inspect goods in-transit for potential pirate product.

Industry trainings and public awareness efforts: The sound recording and business software sectors offer courses and seminars for the judiciary and commercial chambers in Argentina. The national affiliate of IFPI has provided training courses to cybercrime police forces, but there is just one police department investigating cybercrime in Argentina, which is unable to handle the workload at hand. Training for additional specialized forces to investigate IP cybercrime is needed. The national affiliate of IFPI also organizes a seminar for judges of various jurisdictions every year. To improve judicial awareness of intellectual property and end user software piracy, BSA has developed a training program for provincial judges, which is pending approval to be conducted in 2011. (For more information, see <http://www.jufejus.org.ar/>.)

COPYRIGHT LAW REFORM IN ARGENTINA

Argentina's Copyright Act (1933, as amended), while one of the oldest in the Western Hemisphere, has remained remarkably flexible over the years. Argentina is a member of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (the "WIPO Internet Treaties"), and those provisions are self-executing, taking precedence over national law. Still, further refinements are needed. Specificity in national legislation helps to provide clear "rules of the road" for rights holders, consumers and enforcement authorities, including the courts.

IIPA and its members have identified the following important elements that would benefit from clarifications or express incorporation in the copyright law:

- Provide express protection for the "communication to the public" and "making available" rights as required by WIPO Internet Treaties, to give legal background to digital businesses for authors, performers and phonogram producers;
- Extend the scope of the reproduction right to explicitly cover temporary copies;
- Protect against the act of circumvention as well as the manufacture or distribution of devices aimed at circumventing TPMs;
- Protect against the removal or alteration of digital rights management information (RMI);
- Increase the minimum penalty for piracy (currently one month under Article 72bis of Act 11.723 of the Copyright Act) up to at least two years to apply deterrent sanctions;
- Establish statutory damages provisions in civil infringement cases;
- Explicitly provide for the seizures of infringing equipment;
- Provide clear guidelines regarding liability for ISPs, and include notice and takedown provisions; and
- Provide equitable and balanced treatment for all rights holders, treating juridical entities no less favorably than natural persons.

Government software legalization: Unfortunately, no progress was made on this important issue last year, and it is clear that the current government is not going to make any effort in this area. With respect to government legalization efforts, the business software industry continues to call upon the Argentine Government (in particular, the Subsecretaría de la Gestión Pública—the Undersecretariat for Public Administration) to issue an executive decree that would require government legalization of current business software programs on computers and improve procurement practices. While several "standards" have been issued by the Subsecretaría, the Argentine Government has not taken action toward legalizing its software inventories.

MARKET ACCESS ISSUES

Legal offer of sound recordings: In 2012, the recording industry expects to see additional openings of Musimundo (Megatone) retail record stores, and there are expectations that iTunes will become available in Latin America. These operations face enormous challenges to compete with rampant piracy, but the content industries are optimistic about the opportunity to provide more legal options in the market.

Tax exemptions for the local culture industry: During 2011, two important and positive tax exemptions were passed for the local culture industry. The first was adopted by the Government of the Province of Buenos Aires, establishing an exemption from payment of gross receipts taxes for revenue from CD/DVD publishing and sales in the territory of the province of Buenos Aires. The second was adopted by the Government of the City of Buenos Aires, establishing an exemption from payment of gross receipts taxes for revenue from DVD publishing and sales in the territory of the City of Buenos Aires. The recording industry supports such tax exemptions as an important benefit for the proliferation of cultural products. Exemptions of this kind should be extended to other provinces, and all formats and devices.

Customs duties affecting audiovisual works: The Argentine Customs Valuation Code requires that all audiovisual works, excluding computer software, must pay an *ad valorem* customs duty based on the value of the “authors’ rights,” that is, on the potential royalty generation of the film, rather than solely on the value of the physical materials which are being imported. The Motion Picture Association (MPA) opposes this burdensome practice, which is a form of double taxation since royalties are subject to remittance, withholding and income taxes. Customs duties should be based on specific fees, such as weight or length, or, if *ad valorem*, be based on the value of the carrier medium only. Because of this duty, MPA member companies import negative prints on a temporary basis and copy positive prints locally. There have been no new developments in this matter in 2011.

Withholding taxes and royalties on computer software: The software industry continues to report a problem regarding the withholding that local licensees must perform when wiring royalties to foreign licensors. The local tax collection authority, AFIP, refuses to apply the special rules that the Income Tax Law provides for “authors’ rights” international transfers. AFIP contends that the legal nomenclature “author” is limited to physical persons, and that a legal person (e.g., a corporation) cannot be an author and, as a result, cannot hold these “authors rights.” In 2011, AFIP’s position was upheld by the Argentinean National Supreme Court of Justice, resulting in a considerable increase in the international license cost for end users. This problem could be solved by amending the Income Tax Act to establish a concrete withholding rate for software license payments, similar to what was done for music and motion pictures several years ago. There is also a clear need for the U.S. and Argentina to reach agreement on a treaty to avoid double taxation.

Audiovisual Communications Services Law: In September 2010, Argentina’s Federal Authority on Audiovisual Communication Services passed a bill that limits advertising on pay TV to six minutes per hour and discriminates against foreign pay TV networks by disallowing advertisers to write off investments in these networks, yet permitting advertisers to write off investments in Argentine pay TV networks.