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**U.S. Copyright Industries Concerned about
USTR's 2005 Special 301 Decisions on China and Russia**

IIPA reiterates need for effective use of WTO dispute mechanisms against China but hopes that the alternative actions USTR announces today will result in the immediate improvements critical to significantly reducing piracy levels in China. The copyright industries will review China's progress by November 1 and will push for further actions if piracy rates are not significantly reduced through effective enforcement.

IIPA expresses disappointment over USTR's failure to remove Russia's GSP trade benefits and to designate Russia a Priority Foreign Country.

Washington — The International Intellectual Property Alliance (IIPA) reacted to today's 2005 Special 301 decisions on copyright piracy and market access problems in 57 trading partners which were announced by Acting U.S. Trade Representative Peter Allgeier.

IIPA President Eric H. Smith noted, "The creative industries continue to face high levels of piracy in key markets throughout the world. These include in particular China, Russia, Pakistan, Thailand, Brazil, Bulgaria, and many others. IIPA members report an estimated **\$12 billion** in economic harm suffered by our industries in the 57 trading partners in today's decision, and an estimated **\$25-\$30 billion** in all countries globally. The annual Special 301 process is designed to reduce these increasingly damaging losses and to ensure the expansion of U.S. jobs and U.S. economic growth through the effective protection of intellectual property. Those jobs and growth continue to be threatened when the countries highlighted in the report fail to take action to curb economic crime, in this case massive copyright piracy.

"Today USTR announced that it will elevate the **People's Republic of China** to the Priority Watch List, to demonstrate its continuing concern at the lack of definitive action against piracy. USTR also will request WTO TRIPS Article 63 consultations to obtain more information from the Chinese government about its IPR enforcement system. As the first step in engaging China through the WTO process, this measure could help demonstrate the fact, already established through the extensive information provided by IIPA members, that the Chinese enforcement system for protection of copyright is overly reliant on non-deterrent administrative measures and fails to meet the standards of effective criminal enforcement required by TRIPS. IIPA hopes that the Chinese government will immediately take deterrent actions required by the TRIPS Agreement against rampant piracy that continues to prevail in China, including in particular criminal enforcement actions – essential to significantly reducing piracy

rates. IIPA and its members will closely track steps taken by the Chinese government to reduce piracy rates and to increase market access for the copyright industries over the next six months. If, by November 1, 2005 criminal copyright enforcement by China has not significantly lowered piracy rates, the copyright industries expect that the U.S. Government will then immediately commence WTO consultations. IIPA believes that China is out of compliance with its WTO TRIPS obligations, with respect to both substantive law and enforcement, particularly by its failure to deter further infringements by applying criminal remedies.

“IIPA is deeply concerned that USTR chose not to make an immediate announcement to suspend **Russia’s** eligibility for GSP benefits under the ongoing GSP IPR investigation nor to identify Russia as a Special 301 Priority Foreign Country this year. While IIPA greatly appreciates the work that USTR and other agencies have devoted to trying to address the many problems in Russia, we are concerned that today’s announcement maintaining Russia on the Priority Watch List fails to convey a clear warning that unless the situation dramatically changes, we are on a collision course with respect to Russia’s hoped-for WTO accession. Russia’s copyright piracy problem, already one of the most serious in the world, is worsening. Piracy rates in 2004 are estimated at around 80% for most sectors and conservatively estimated losses come close to \$1.7 billion. Exports of pirated U.S. copyright products have been seized in at least 27 other countries, causing tremendous loss to U.S. right holders. Despite the repeated efforts of industry and the U.S. government to convince the Russian government to provide meaningful and deterrent enforcement of its copyright and other laws against optical disc factories and all types of piracy – including some of the most open and notorious websites (such as www.allofmp3.com) selling unauthorized materials– little progress has been made. Russia’s WTO accession must not be finalized until these serious copyright enforcement issues have been resolved. USTR’s announcement of an out-of-cycle review will hopefully result in Russia acting quickly to address the longstanding piracy problems before USTR announces its decision on IIPA’s GSP petition. Based on present status, such a decision would undoubtedly result in the removal of Russia as a country eligible to participate in the GSP program as it is clear that Russia is not meeting its obligations under this statute.

“With respect to both Russia and China, IIPA is pleased at the great concern that the U.S. Congress has shown for the continuing high piracy levels in these two markets and its acknowledgement of the resulting grievous harm caused to the U.S. and to these critical industries,” Smith added.

“**Pakistan** continues to remain on the Priority Watch List despite its having largely ignored the growing production and massive export of pirate U.S. copyright products by illicit optical disc factories and its failure to take action to stop rampant book piracy and commercial photocopying.

“USTR did not place **Thailand** on the Priority Watch List, instead keeping it only on the Watch List. We urge USTR to remain vigilant in expressing concern over growing optical disc plant piracy, pirate commercial photocopying of books, videogame piracy (including an increase in the quantity of exports of cartridge-based videogames), business software end-user piracy, cable piracy, Internet piracy of music, and unauthorized public performances of motion pictures and television programs.

“The U.S. government must closely monitor **Brazil’s** progress on combating copyright piracy and improving enforcement. The U.S. has again extended its GSP IPR review of Brazilian actions until September 30, 2005, in order to evaluate the implementation of recent developments, including an IPR action plan drafted by the new National Council to Combat Piracy and Intellectual Property Crimes (known as the CNCP) in March 2005. IIPA appreciates that this is the first time that the Brazilian government has outlined such a national plan and has involved private sector representatives in the process. The key remains the swift and effective implementation of prioritized, concrete anti-piracy actions which reduce the high piracy levels.

“**Bulgaria** remains on the Watch List this year even though current laws to monitor optical media production are weak, and proposed legislation purporting to strengthen that law still has major gaps, which the industries believe, if implemented, would not significantly strengthen the legal enforcement regime there. Despite good cooperation between the industries and enforcement officials on raids, street piracy remains widespread, and certain municipal and federal government agencies have been uninterested in taking anti-piracy actions.”

A table of USTR’s decisions, including IIPA’s estimated trade losses and piracy levels (2004) on a country-by-country and industry-by-industry basis, is attached to this release.

Background: On February 11, 2005, IIPA submitted its Special 301 recommendations to USTR, and this submission discussed copyright protection and/or enforcement problems in 67 countries/territories, including ranking some placing 42 countries on a 301 list. There IIPA reported that the U.S. copyright-based industries suffered estimated trade losses due to piracy in those 67 countries/territories of \$13.4 billion in 2004. On a global basis (that is, in all countries including the U.S.), IIPA conservatively estimates that total global losses due to piracy were at a very minimum \$25-30 billion in 2004, not counting significant losses due to Internet piracy, for which meaningful estimates are not yet available.

About IIPA & the Impact of the U.S. Copyright Industries on the U.S. Economy & Foreign Trade

The International Intellectual Property Alliance (IIPA) is a coalition of six trade associations representing U.S. copyright-based industries in bilateral and multilateral efforts to open up foreign markets closed by piracy and other market access barriers. 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 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, tradebooks, reference and professional publications and journals (in both electronic and print media). Visit www.iipa.com.

In October 2004, the IIPA released its latest economic report entitled *Copyright Industries in the U.S. Economy: The 2004 Report*, the tenth such study written by Stephen Siwek of Economists Inc. for IIPA. The latest data shows that in 2002, the U.S. “core” copyright industries¹ accounted for an estimated 6% of U.S. Gross Domestic Product (GDP), or \$626.6 billion and the “total” copyright industries accounted for an estimated 12% of U.S. GDP or \$1.25 trillion. The “core” copyright industries employed 4% of U.S. workers in 2002 or 5.48 million persons. Factoring out the difficult economic year of 2002, from 1997-2001 the “core” copyright industries’ employment grew at an annual growth rate of 3.19% per year, a rate more than double that of the annual employment rate achieved by the U.S. economy as a whole (1.39% per year). Finally, in 2002, the U.S. copyright industries achieved foreign sales and exports estimated at \$89.26 billion, leading other major industry sectors such as: chemicals and related products, motor vehicles, equipment and parts, and aircraft and aircraft parts.

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USTR 2005 "SPECIAL 301" DECISIONS ON INTELLECTUAL PROPERTY

*IIPA's 2004 ESTIMATED TRADE LOSSES DUE TO COPYRIGHT PIRACY (in millions of U.S. dollars)
and PIRACY LEVELS IN-COUNTRY*

	Motion Pictures		Records & Music		Business Software ¹		Entertainment Software ²		Books	TOTAL LOSSES
	Losses	Piracy Levels	Losses	Piracy Levels	Losses	Piracy Levels	Losses	Piracy Levels	Losses	
PRIORITY FOREIGN COUNTRY										
Ukraine (OCR)	45.0	90%	115.0	65%	64.0	91%	NA	NA	NA	224.0
PRIORITY WATCH LIST										
Argentina	30.0	45%	41.5	55%	63.0	75%	NA	80%	4.0	138.5
Brazil (GSP)	120.0	30%	343.5	52%	330.0	63%	120.4	74%	18.0	931.9
Egypt	NA	NA	7.5	40%	35.0	68%	NA	90%	30.0	72.5
India	80.0	60%	67.3	50%	220.0	74%	59.5	86%	38.0	464.8
Indonesia (OCR)	32.0	92%	27.6	80%	112.0	87%	NA	NA	32.0	203.6
Israel	30.0	40%	34.0	40%	36.0	37%	12.4	88%	1.0	113.4
Kuwait	12.0	95%	8.0	65%	24.0	68%	NA	NA	1.0	45.0
Lebanon (GSP)	10.0	80%	3.0	70%	15.0	75%	NA	75%	3.0	31.0
Pakistan (GSP)	12.0	NA	70.0	100%	9.0	83%	NA	NA	52.0	143.0
People's Republic of China	280.0	95%	202.9	85%	1465.0	90%	510.0	90%	50.0	2507.9
Philippines (OCR)	33.0	85%	20.0	40%	38.0	70%	NA	90%	48.0	139.0
Russian Federation (OCR +GSP)	275.0	80%	411.9	66%	751.0	87%	255.8	73%	42.0	1735.7
Turkey	50.0	45%	15.0	70%	99.0	66%	NA	NA	23.0	187.0
Venezuela	25.0	NA	31.0	80%	36.0	75%	NA	NA	NA	92.0
WATCH LIST										
Azerbaijan	NA	NA	12.0	83%	NA	NA	NA	NA	NA	12.0
Bahamas	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Belarus	NA	NA	26.0	71%	NA	NA	NA	NA	NA	26.0
Belize	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Bolivia	2.0	NA	16.0	90%	7.0	78%	NA	NA	NA	25.0
Bulgaria	4.0	35%	6.5	75%	16.0	71%	NA	50%	NA	26.5
Canada (OCR)	NA	NA	NA	NA	486.0	36%	NA	NA	NA	486.0
Chile	2.0	40%	24.8	50%	41.0	63%	37.9	70%	1.0	106.7
Colombia	40.0	75%	51.6	71%	34.0	50%	NA	NA	6.0	131.6
Costa Rica	2.0	40%	NA	NA	10.0	68%	NA	NA	NA	12.0
Croatia	2.0	25%	NA	NA	22.0	55%	NA	50%	NA	24.0
Dominican Republic	2.0	20%	10.3	75%	3.0	76%	NA	NA	1.0	16.3
Ecuador	NA	NA	20.0	95%	7.0	69%	NA	NA	2.5	29.5
European Union (OCR)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Guatemala	2.0	40%	NA	NA	6.0	77%	NA	NA	NA	8.0
Hungary	20.0	35%	11.5	38%	56.0	42%	21.5	59%	4.0	113.0
Italy	160.0	15%	45.0	23%	567.0	47%	NA	34%	23.0	795.0
Jamaica	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Kazakhstan (GSP)	NA	NA	23.0	68%	NA	NA	NA	NA	NA	23.0
Latvia	NA	NA	12.0	85%	9.0	58%	NA	80%	NA	21.0
Lithuania	1.5	65%	15.0	80%	11.0	58%	NA	85%	NA	27.5
Malaysia	36.0	50%	55.5	52%	74.0	63%	12.9	91%	10.0	188.4
Mexico	140.0	70%	326.0	60%	230.0	65%	132.2	76%	42.0	870.2
Peru	4.0	75%	68.0	98%	18.0	67%	NA	NA	8.5	98.5
Poland	30.0	35%	36.0	37%	175.0	58%	109.3	94%	5.0	355.3
Romania	8.0	55%	18.0	78%	32.0	74%	NA	65%	2.0	60.0
Saudi Arabia (OCR)	20.0	40%	15.0	35%	85.0	56%	NA	68%	14.0	134.0
Slovakia	2.0	25%	NA	NA	26.0	51%	NA	NA	NA	28.0
South Korea	40.0	20%	2.3	16%	263.0	46%	349.0	43%	42.0	696.3
Taiwan	40.0	40%	49.4	36%	83.0	43%	123.0	63%	20.0	315.4
Tajikistan	NA	NA	5.0	81%	NA	NA	NA	NA	NA	5.0
Thailand	30.0	60%	24.9	45%	90.0	78%	NA	76%	30.0	174.9
Turkmenistan	NA	NA	7.0	85%	NA	NA	NA	NA	NA	7.0
Uruguay	2.0	35%	NA	NA	6.0	68%	NA	NA	NA	8.0
Uzbekistan (GSP)	NA	NA	31.0	81%	NA	NA	NA	NA	NA	31.0
Vietnam	10.0	NA	NA	NA	27.0	92%	NA	NA	16.0	53.0
306 MONITORING										
Paraguay ³	2.0	95%	127.8	99%	6.0	83%	NA	NA	2.0	137.8
	1635.5		2437.8		5687.0		1743.9		571.0	12075.2

Endnotes:

¹ BSA's 2004 piracy statistics are preliminary and reflect the U.S. publishers' share of software piracy losses in each country. These figures follow the methodology found in the BSA/IDC July 2004 Global Software Piracy Study, and cover, in addition to business applications software, computer applications such as operating systems, consumer applications such as PC gaming, personal finance, and reference software.

² ESA's reported dollar figures reflect the value of pirate product present in the marketplace as distinguished from definitive industry "losses." The methodology used by the ESA is described in Appendix B of IIPA's February 2005 report.

³ Paraguay: RIAA reports that its estimated losses to the records and music industry include both domestic piracy in Paraguay and estimated losses caused by transshipment.

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

OCR means out-of-cycle review to be conducted by USTR.