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**VIA E-MAIL: [FR0711@ustr.eop.gov](mailto:FR0711@ustr.eop.gov)**

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**RE: Case # 006-CP-07 IPR-Uzbekistan: IIPA  
Responses to USG Questions from the GSP Hearing**

To the GSP Subcommittee:

The International Intellectual Property Alliance (IIPA) offers the following additional information in response to the questions posed by the U.S. Government (USG) at and following the GSP Country Practice Hearing (Oct. 4, 2007):

**Questions that were asked during the hearing**

**Question #1:**

You have indicated a number of legislative deficiencies in the Uzbek IPR regime with respect to TRIPs compliance. Would you please describe in practical terms how this effects the enforcement and protection of IP in Uzbekistan?

**IIPA Response:**

First, Uzbekistan is not a member of any neighboring rights treaty (such as, the Geneva Phonograms Convention – an obligation of the U.S.-Uzbekistan Bilateral Agreement of 1994), and thus does not provide any protection or rights for U.S. or other foreign sound recordings. Second, Uzbekistan joined the Berne Convention in 2005 (over 10 years after its obligation to do so under the 1994 Bilateral Agreement). Uzbekistan conditioned its Berne accession with reservations regarding Article 18 of Berne which international copyright officials agree is inconsistent with the obligations of the Berne Convention (and the 1994 Bilateral Agreement) to provide protection for pre-existing works. Thus, Uzbekistan does not protect any U.S. or foreign pre-existing work – that is, a book, film, software, musical composition, etc. – created before April 19, 2005.

Last, there are many missing elements in the basic IPR regime in Uzbekistan as detailed in our Pre-Hearing Brief – that is, deficiencies in the Copyright Law (even after the 2006 amendments), the Civil Code, the Customs Code, the Criminal Code and the Criminal Procedure Code, and as a result of Uzbekistan’s failure to accede to or implement the WIPO digital treaties (WCT/WPPT). These deficiencies make protection and/or enforcement of works and sound recordings in hard copies or on the Internet in Uzbekistan near impossible. As one example, the absence of *ex officio* authority by customs and criminal enforcement authorities means that there can be no seizures or criminal cases commenced at the border by customs or within Uzbekistan by police authorities on their own initiative.

**Question #2:**

How is your industry engaging with local Uzbek rights holders and government officials to encourage the passage of legislation and commitment to international treaties that you are encouraging the Uzbek government to undertake?

**IIPA Response:**

In 2003 and 2004, in particular, IIPA met extensively with the Government of Uzbekistan at their request (and at the request of the U.S. Government). IIPA provided detailed comments on the existing IPR laws in Uzbekistan, recommendations on new laws – including draft provisions – to get Uzbekistan up to international norms (and in order to comply with the Bilateral Agreement and WTO/TRIPs standards), as well as to review and comment on several draft laws that the Uzbek Government was considering. Unfortunately, Uzbekistan did not act on those recommendations and has not yet adopted the civil, customs, criminal code, nor copyright law revisions that were part of those discussions. The 2006 Copyright Law amendments were made, for the most part, without discussions with U.S. (or foreign) copyright experts or right holders.

IIPA has in the past worked with local (regional) right holders and others interested in improving the IPR regime in Uzbekistan, as well as with the government, and is ready to continue to do so.

**Question #3:**

Given the small amount of GSP benefits to the Uzbek government, how would removal of GSP benefits impact GOU initiatives to undertake IPR reforms?

**IIPA Response:**

The size of the GSP benefits should not be relevant to the discussion of whether Uzbekistan is meeting the requirements of U.S. trade law (i.e., to provide “adequate and effective protection”) to be eligible for GSP benefits. Uzbekistan is, unfortunately, not meeting those requirements. IIPA’s goal is to see Uzbekistan provide an IPR regime that will encourage the development of local, regional and foreign copyright right holders in Uzbekistan. GSP benefits should serve as an incentive to do so. Alternatively, the failure by Uzbekistan to meet its

existing Bilateral Agreement obligations and the withdrawal of GSP benefits, however small, should not deter Uzbekistan from improving its IPR regime.

**Question #4:**

Is Uzbekistan currently in violation of any bilateral or multilateral agreements with respect to IPR?

**IIPA Response:**

Yes, as noted in Question #1, Uzbekistan is currently in violation of its 1994 Bilateral Agreement (which provides Normal Trade Relations to Uzbekistan), in particular the copyright and neighboring rights obligations in that agreement. There are many obligations it is not meeting, including: (1) its obligation in the Bilateral to provide explicit protection for pre-existing works; (2) its Geneva Phonograms Convention obligation – Uzbekistan has not acceded 12 years after its obligation to do so; and (3) its overall failure to provide “adequate and effective protection and enforcement.” It is also in violation of the Berne Convention’s obligations under Article 18 – a point which has been noted to the Uzbek Government by U.S. and foreign copyright law experts and right holders.

**Question #5:**

Have you seen improvements in IPR protection in Uzbekistan in 2006 and 2007, compared to previous years?

**IIPA Response:**

No. The passage of the 2006 Copyright Law amendments, without proper accession to international treaties (as detailed above), and absent proper laws for and active enforcement of those laws, has not resulted in any appreciable changes in Uzbekistan to our knowledge.

**Question #6:**

What do you think made Uzbekistan do what they did in July 2006?

**IIPA Response:**

According to international news and internal accounts, Uzbekistan adopted its copyright law as a move toward eventual WTO accession; the Uzbek Government believed that adoption of the Copyright Law of 2006 was a step in that direction. Unfortunately, because the law was adopted without consultation by foreign experts and right holders, it has many deficiencies – both for WTO and eventual WIPO digital treaty accession. Full compliance with the WTO/TRIPs obligations and the digital treaties (WCT/WPPT), and Uzbekistan’s membership and compliance with those treaties and obligations is the goal of IIPA members for Uzbekistan.

**Additional Question**

**Question #7:**

What is the status of copyright protection for European rights holders?

**IIPA Response:**

The status is the same as for U.S. copyright right holders: there is no protection for European (or other foreign) sound recording producers or performers in Uzbekistan – due to the failure of Uzbekistan to join the Geneva Phonograms Convention or the WPPT. Also, there is no protection for European (or other foreign) authors, publishers or right holders of pre-existing works (books, films, musical compositions, software etc.) prior to April 19, 2005, the date of Berne Convention accession due to the improper reservation taken under Article 18 of that treaty.

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Please let me know if you have any further questions or comments regarding our filing. Thank you again for the opportunity to testify and to fully describe our concerns regarding IPR protection and enforcement in Uzbekistan.

Respectfully submitted,  
/s/  
Eric J. Schwartz  
On behalf of IIPA