



May 8, 2009

Marideth Sandler  
Executive Director of the GSP Program  
Office of the United States Trade Representative  
600 17th Street, NW  
Washington, DC 20508

**Re: 2008 GSP Annual Review Case 009-CP-08, Uzbekistan, Post-hearing brief**

To the GSP Subcommittee:

The International Intellectual Property Alliance (“IIPA”) appreciates the opportunity to provide the GSP Subcommittee with written responses to two questions – one asked at the hearing, and a second provided to us in writing as a follow-up to the April 24, 2009 Public Hearing regarding the Generalized System of Preferences Country Practice Petition of Uzbekistan. See Generalized System of Preferences (GSP): Notice Regarding the Review of Country Practice Petitions for the 2008 Annual Review, 74 Fed. Reg. 11,141 (Mar. 16, 2009).

We offer the following responses to the two questions posed by the U.S. Government (USG):

**Question #1 (asked at the public hearing):**

Can the IIPA provide any information on its estimated losses in Uzbekistan?

**IIPA Response:**

The IIPA members do not have current industry estimates of losses in Uzbekistan for several reasons.

First, Uzbekistan currently provides no copyright protection for American sound recordings, and thus with no “legal” sales of U.S. recordings to calculate, there are no losses to accurately estimate either. Second, the copyright law of Uzbekistan only protects “works” (films, musical compositions, literary works, software etc.) from its date of entry to the Berne Convention (April 19, 2005), meaning all pre-existing works before that date are unprotected.

Thus, all uses or sales of pre-April 19, 2005 works are not “legal” sales that can be calculated or losses estimated based on legal sales. As a result, the copyright industries have almost no legitimate market share to estimate losses in Uzbekistan. Last, because of the relatively small size of the marketplace and the poor legal regime there, the U.S. copyright industries have little on the ground presence in Uzbekistan to provide complete market forecasts, including losses.

The only industry that has attempted to calculate estimated losses in Uzbekistan, the recording industry, last did so in 2005. According to the International Federation of the Phonographic Industry (IFPI), the level of all music piracy at that time was estimated at 95%; estimated trade losses for the entire recording industry in 2005, the last year they were calculated, exceeded \$30 million.

**Question #2 (in writing follow-up):**

What progress has Uzbekistan made in meeting the international standards for IP protection? Has the government shown a willingness to work with you [IIPA] to improve their standards?

**IIPA Response:**

The Government of Uzbekistan signed a bilateral trade agreement with the United States in November 1993, detailing mutual obligations to improve the protection and enforcement of intellectual property rights; that agreement entered into force on January 13, 1994. Unfortunately, now 15 years later, the Government of Uzbekistan has not met its obligations under that agreement to provide the proper legal regime (copyright and other laws), or adhere to the necessary treaties, to provide adequate and effective protection and enforcement; nor is it providing basic protections or enforcement as required under other international standards.

Here are the legal reforms that the government has undertaken to date: the Copyright Law of Uzbekistan was overhauled in 1996 (in force, September 17, 1996), and two additional copyright law amendments were adopted in 2000. In July 2006, of a new Law on Copyright and Related Rights (in force, July 20, 2006) was enacted. The 2006 law was meant to harmonize Uzbek law with the Berne Convention and with WTO/TRIPs requirements, which the government hopes to accede to at some future date. The 2006 law added: a making available right; a right of communication to the public; provisions pertaining to technological protection measures and copyright management information; regulations pertaining to private copying and public performance royalties; and, extensive provisions and regulations involving collective administration (chapter 4 of the law). Unfortunately, the copyright law could have benefited from more input by copyright rightholders, and as a result, is either missing key provisions (protection for pre-existing works and sound recordings), or has several unclear or incomplete protections (technological protection measures).

The Government of Uzbekistan acceded to the Berne Convention, effective April 19, 2005. Even that accession, however, was made with reservations regarding Article 18 of Berne which international copyright officials agree is inconsistent with the obligations of the Berne Convention to provide protection for pre-existing works. Unfortunately, Uzbekistan has not

acceded to any neighboring rights treaty and thus provides no protection for U.S. sound recordings.

The Government of Uzbekistan did work and cooperate with – some years ago – IIPA and other foreign rightsholders on draft laws, and it did cooperate with USG officials in several meetings with USG and IIPA members on the deficiencies in the Uzbek legal regime. Unfortunately, there have been fewer meetings in the recent past. IIPA looks forward, as it has in the past, to working with the Government of Uzbekistan and with the U.S. Government to provide further comments on draft laws and regulations, and assistance regarding the recommendations we have provided in this and other related proceedings.

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

Respectfully submitted,

/s/

Eric J. Schwartz

On behalf of IIPA