

May, 2003

AND WE QUOTE...

"Copyright is not a right to a thing, that is the copy, but a right inherent in one's own person; the right to prevent someone else from speaking for the person in the public without his consent"

-Immanuel Kant (1724-1804)

ALLIANCE ACTIVITIES....

Representatives of the Alliance, DAMIC (Droit d'auteur/Multimedia/Internet/Copyright), and the Creators' Copyright Coalition (CCC) met with the Minister of Industry, Hon. Allan Rock on April 11th in Toronto. Michel Beauchemin and Susan Crean, along with Anne-Marie Des Roches (Union des Artistes) and Claudette Fortier (SODRAC) for DAMIC and Bill Freeman (TWUC) for the CCC, spoke at length with the Minister about the critical pressures on creators' rights. ~~~~ S. Crean and Audrey Churgin (CAR/FAC) subsequently met with Marie-Josée Thivierge, Director General, Marketplace Framework Policy at Industry Canada. The introductory meeting was also attended by Susan Bincoletto, Michel Patenaude and Albert Cloutier of the department's Intellectual Property Policy Directorate. A briefing session with Industry Canada officials and the three creators' alliances will be held in June. ~~~~ The Alliance has applied to WIPO for observer status, and asked for an invitation to the next meeting of the Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore (Fifth Session) in July. A similar application has been submitted to the World Trade Organization. Garry Neil who was in Geneva for ACTRA presented our application to WIPO and also spoke with WTO officials. ~~~~ The Alliances' annual conference and general assembly was held on May 22nd and 23rd. Watch for a full report in next month's Briefings.

UPDATES....

Egypt is set to host a WTO mini ministerial meeting in June. WTO sources say the meeting will attempt to resolve "contentious issues" ahead of the Fifth Ministerial Conference scheduled to be held in Cancun, Mexico, from 10 to 14 September. Mini Ministerials are staunchly opposed by many developing countries, who say they are fundamentally undemocratic and illegitimate. Minis are by "invitation only", and no written record is kept of the deliberations that take place at the sessions.

"Unless we change the manner in which [mini] Ministerials are conducted, we are wasting our time holding negotiations in Geneva. As deals are done and positions are reached when the chosen few meet amongst themselves, the rest of the membership will be persuaded and coerced to accept such positions", said Ambassador Boniface Chidyausiku of Zimbabwe.

WTO insiders say minis are necessary to achieve consensus. The November 2002 Sydney (Australia) mini-ministerial was denounced by over 150 civil society groups world-wide. Twenty-five of the WTO's 146 Member States are expected to attend the Egypt mini-ministerial.

INDIGENOUS LEADERS WANT TK REGISTER

The leaders of 44 indigenous communities from all over Argentina have called on the Argentinean government to create a national register of their traditional knowledge in a bid to prevent its exploitation without any benefits returning to its custodians. A spokesperson for the indigenous leaders said the register will provide a means for indigenous communities to prove their 'prior knowledge' of particular techniques. The ability to prove prior knowledge has become increasingly important as more and more traditional knowledge is being appropriated, especially by huge corporations from the developed world.

"We approved [the call for a register] because we want to stop our economic impoverishment while non-indigenous people enrich themselves with our knowledge", said Sapallitan Pereya, a member of the Tonocote group of northern Argentina.

The call for a register for TK is backed by Teodora Zamudio, a law professor at the University of Buenos Aires School of law, who says "indigenous production needs its own copyright category".

AFRICA NEEDS TO PROTECT ITS TK

Africa should devise ways to protect its traditional knowledge, says Dr Chirambo Muzondi, Director - General of the African Regional Patent Office (ARIPO). Dr Chirambo called for a "special instrument" to protect traditional knowledge because, he said, it is impossible to protect TK by way of patents.

" A patent is only used to protect a new and original invention" or idea which could be applied to industry. Traditional knowledge is not new although it is only known and used by ethnic groupings", Chirambo said.

STUDENT PIRATES REACH SETTLE WITH RECORDING INDUSTRY

Four U.S. college students - from Princeton University and Michigan Tech and two from Rensselaer Polytechnic - have agreed to pay as much as \$17,000 each to settle copyright infringement lawsuits brought by the Recording Industry Association of America (RIAA) against them. The students were accused of running services that allowed thousands of copyrighted songs to be swapped online.

According to the Los Angeles Times, the settlement marks the first time the recording industry has recovered money from individuals in the U.S. accused of piracy on file-sharing networks. Under the terms of the settlements, the four students agreed not to infringe or support the infringement of copyrighted songs.

The Recording Industry Association of America is a trade group that represents the U.S recording industry.

Visit RIAA at : [http:// riaa.org](http://riaa.org)

SLICE THIS! ITALIAN GROUP WANTS COURT TO UPHOLD ITS INTELLECTUAL PROPERTY RIGHTS IN HAM

The European Union's supreme court is expected to deliver its ruling this month in the trademark dispute involving Britain's ASDA supermarket chain (owned by Wal-Mart) and the Parma Ham Association of Italy. The Parma Ham Association (Consorzio del Prosciutto di Parma) charges that the ASDA chain is breaching EU rules by selling ham from Parma which is not sliced and packaged in Parma.

The Parma Ham Association launched its case against ASDA back in 1997. The Association suffered a setback when the EU Court of Justice ruled that where parma is sliced is not restricted by EU rules covering the use of geographical names for traditional products. The EU has adopted geographic-indications laws governing nearly 600 products sold inside the EU. For example, only Greek companies can market and sell feta cheese inside the EU.

The long-awaited decision of the European Union's supreme court is expected by May 15.

LEGISLATION

SRI LANKA TO DEBATE INTELLECTUAL PROPERTY BILL

The Sri Lankan Parliament is set to debate a draft Intellectual Property Bill later on this month. According to Dr D.M. Karunaratne, Director of the National Intellectual Property Office, the proposed law will extend the term of copyright from the current period of author's life plus 50 years , to life plus 70 years. Dr Karunaratne is quoted in the Sri Lankan Daily News as saying that singers, actors and performers who have not received any rights under the current law will be given certain rights pertaining to their songs and performance in the future. Under the new law, Sri Lanka will establish a special settlement mechanism to handle intellectual property disputes pertaining to intellectual creators.

To see the story, click on : www.dailynews.lk/2003/04/26/new28.htm

REPORTS, PUBLICATIONS....

SPECIAL 301 REPORT 2003 IS OUT!

Ukraine is once again at the top of the U.S. Trade Representative's annual list – published in its "Special 301" Report – of countries with the worst record of protecting copyright materials and other intellectual property. Being the worst intellectual property rights offender has earned Ukraine the designation of "Priority Foreign Country". The term is reserved for countries that have "the most onerous and egregious acts, policies and practices which have the greatest adverse impact on relevant U.S products, and are not engaged in good faith negotiations or making significant progress in negotiations to address those problems".

Sanctions totalling US\$75 million were imposed on Ukraine in January 2002. These sanctions will remain in place, according to the Office of the US Trade Representative.

"SECTION 306 MONITORING": China and Paraguay occupy the second berth in the USTR's hierarchy of offenders. Both countries are listed as being in need of "Section 306 monitoring". Section 306 scrutiny is imposed to ensure that countries comply with the commitments made to the US under bilateral trade agreements. China and Paraguay could face trade sanctions if monitoring reveals an unsatisfactory rate of compliance.

"PRIORITY WATCH COUNTRIES" constitute the next group in the hierarchy. This year's priority watch list includes the following: Argentina, the Bahamas, Brazil, the European Union, India, Indonesia, Lebanon, the Philippines, Poland, Russia and Taiwan.

WATCH LIST: This category comprises countries with the slightest offenses. This year's qualifiers include: Azerbaijan, Belarus, Bolivia, **Canada**, Chile, Colombia, Costa Rica, Croatia, the Dominican Republic, Ecuador Guatemala, Hungary, Israel, Italy, Jamaica, Kazakstan, Kuwait, Latvia, Lithuania, Malaysia, Mexico, Pakistan, Peru, Romania, Saudi Arabia, Slovak Republic, South Korea, Tajikistan, Thailand, Turkey, Turkmenistan, Uzbekistan, Venezuela and Vietnam.

The Office of the USTR prepares its annual list pursuant to the Special 301 provisions of the Trade Act 1974, as amended in 1988. Special 301 was amended in the **Uruguay Round Agreement Act** (1994) to clarify that a country can be found to deny adequate intellectual property protection even if it is in compliance with its obligations under the WTO's TRIPs agreement.

EU WANTS TO STAMP OUT ELECTRONIC PIRACY

"Electronic piracy must be stamped out to protect Europe's competitiveness", says a European Commission report, issued on April 29. The report assesses the implementation of the 1998 Directive on legal protection for electronic pay services (paid services provided via TV, radio and internet). The Directive (98/84/EC) aims to provide a minimum level of legal protection for so-called "conditional access". Conditional access is provided by an operator (to a consumer) in return for payment.

The report is available at: [http:// europa.eu.int](http://europa.eu.int)

PUBLICATIONS....

Go to: www.wto.org (click on Free Publications) to download the WTO Report, **The Road to Doha and Beyond**. The report details the work and planning which led to the launch of the so-called Doha Development Agenda. **FOCUS** Focus is the official newsletter of the WTO.

To subscribe click on : icd.wto.org

WATCH FOR

(meetings, conferences and seminars)

- June 3-5 Council for Trade Related Aspects of Intellectual Property Rights (TRIPS),WTO.
- June 16-18 WTO Public Symposium: "Challenges on the Road to Cancun".
- June 18-20 Ad Hoc Informal Meeting on Protection of Audiovisual Performances, Geneva.
- June 23-27 Standing Committee on Copyright and Related Rights (Ninth Session), WIPO.
- July 2- 3 Special Session of Council for TRIPS, WTO.
- July 7 -15 Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore (Fifth Session),WIPO.
- Sept. 10-14 Fifth Ministerial Conference of WTO, Cancun, Mexico

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