

**EXECUTIVE SUMMARY**  
**Testimony of Eric H. Smith, President**  
**International Intellectual Property Alliance (IIPA)**  
**before the Subcommittee on Courts, the Internet, and Intellectual Property**  
**United States House of Representatives**  
**“Intellectual Property Theft in China”**  
**May 17, 2005**

The IIPA is a coalition of six trade associations which in turn represent 1,300 U.S. companies that rely on strong copyright protection and enforcement to create U.S. jobs and revenue. In 2002, 4% of U.S. workers were employed in the copyright industries and they generated value added to our economy of over \$625 billion and contributed over \$89 billion in exports and foreign sales to the U.S. economy. Increasingly, the growth of these critical industries is fueled by international trade.

- China’s potential market and demand for U.S. copyright products is huge; but that market is virtually closed to U.S. companies through onerous market access barriers and a staggering **90% piracy rate**, cheating the U.S. economy of potentially billions of dollars annually. Losses to these industries exceeded an estimated **\$2.5 billion in 2004** and are growing.
- Despite repeated efforts of the U.S. government to persuade China to reduce piracy levels over the last 15 years, the piracy rates in China remain as high as ever. Through persistent and onerous market access barriers (and piracy), the Chinese market is more closed to the copyright industries than almost any other U.S. business sector, denying the U.S. a major trade comparative advantage.
- The key problem is China’s almost complete failure to bring criminal copyright piracy cases with deterrent penalties in violation of its TRIPS obligations. In addition, China’s criminal law statute is TRIPS-deficient on its face.
- U.S. government efforts, in April 2004, to engage the Chinese government through the Joint Commission on Commerce and Trade (JCCT), two and one-half years after China’s WTO accession, resulted in a commitment by China to “significantly reduce IPR infringements.” One year later, in May 2005, piracy rates remain at virtually the same levels (in some sectors have gotten worse) and the market has only very marginally improved, if at all.
- As a result of these failures, IIPA, its members and the U.S. government are looking closely at a possible challenge in the WTO. IIPA supports a new and tougher dialogue with China, including in the JCCT, to deal both with piracy and market access barriers.
- China must
  - Immediately bring its enforcement regime into compliance with its TRIPS obligations by undertaking a significant number of criminal prosecutions resulting in real deterrent penalties and significantly increasing administrative fines imposed on pirates
  - Immediately revise its market access regime to afford effective access to the Chinese market and remove all existing (and withdraw all threatened) barriers which discriminate against U.S. businesses.

