

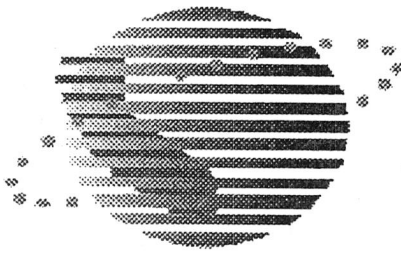
# California Council for International Trade



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CCIT would like to thank the following companies for their help in producing our Web Site

- Otis McAllister, Inc.: Design and Development
- USC Center for Telecommunications Management: HTML
- KPMG International: Graphics
- Milagro
- Synergy Labs



# ABOUT CCIT

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## MISSION:

CCIT's mission is to facilitate - through education, promotion, and advocacy - communication between its member companies and policy makers to protect and promote trade policies and programs which advance the global trade and investment interests of California businesses.

## PRINCIPLES :

- International trade creates economic prosperity and social stability.
- CCIT supports strengthening organizations and institutions that develop and enforce the international rule of law that governs trade.
- CCIT supports measures that facilitate U.S. imports and exports.
- CCIT supports reducing tariff and non-tariff barriers to U.S. exports of goods, services and investment and to imports from other nations.
- CCIT supports bilateral and multilateral agreements to deal with unfair trade practices, to protect intellectual property rights, to permit free flow of investment, and to extend the provisions of the GATT, GATS and the WTO.
- CCIT supports policies that ensure fair treatment of U.S. goods in foreign markets.
- CCIT opposes unilateral economic sanctions.

CAN WE USE YOUR NAME IN ASSOCIATION WITH THESE PRINCIPLES?

Yes : ☐

No : ☐

Name :

Phone :

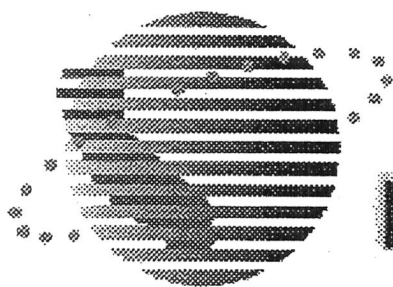
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## WHO IS CCIT ?

## STAFF:



# POLICY POSITIONS

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## ANALYSIS OF KEY POLICY ISSUES

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## INTERNATIONAL INTELLECTUAL PROPERTY RIGHTS PROTECTION

### ISSUE

The protection of International Intellectual Property Rights (IPR) in overseas markets and reduction of the widespread pirating and counterfeiting of American products.

### BACKGROUND

IPRs provide the foundation for innovation in global industry. According to the World Trade Organization, Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his creation for a limited amount of time.

Intellectual property rights can be divided into two classifications:

1. Copyrights and rights related to copyright. The authors of literary and artistic works (e.g. books, musical compositions, paintings, computer programs and films) are protected by copyright. Also protected by rights related to copyright are performers, producers of sound recordings and broadcasting companies. The main purpose of protection of copyrights and related issues is to encourage and reward creative work.
2. Industrial property. Divided into two main areas:

A. The protection of distinctive signs, in particular trademarks (which distinguish the goods or services of one undertaking from those of other undertakings) and geographical indications. This protection of such distinctive signs aims to stimulate and ensure fair competition and protect customers, by enabling them to make informed choices between various goods and services. The protection may last indefinitely.

B. The protection of industrial property to stimulate innovation, design and creation of technology. In this category fall inventions, industrial designs and trade secrets. The purpose is to provide protection for the results of investment in the development of new technology, thus giving the incentive and means to finance research and development activities. A functioning intellectual property regime should also facilitate the transfer of technology in the form of foreign direct investment, joint ventures and licensing. The protection is usually given for a finite term.

IPR-dependent industries are predominant among the most dynamic and critical sectors of the US economy. Almost 5 percent of the US workforce is employed in copyright dependent sectors: software, music, film, print, etc. Growth rates in these sectors are twice that of the US GDP. High-technology, another IP-dependent sector, is crucial to the future growth and competitiveness of the United States.

In addition to contributing to the US growth rate, IPR-dependent industries are important because they export. High-technology goods for example are increasingly important to trade, growing 17 percent faster than trade in all goods from 1985 to 1993.

Factories abroad churn out millions of copies of illegal products for both domestic and, more worrisome, international markets. A 1993 report by the USTR estimated that \$60 billion annually is lost by US innovators due to the infringement of their intellectual property. Some estimates of American losses to piracy run as high as \$200 billion annually.

The violation of American IPR around the world is an epidemic that must be dealt with immediately for the sake of America's long-term vitality. A report by the Council on Foreign Relations states that "piracy is, therefore, a scourge because it affects the symbols of American industrial strength—modern information-intensive industries—in which the United States places its greatest hopes for the future."

Yet it is not only the competitiveness of a handful of industries that is at stake. The shape of the entire

international research and development system – who pays for and benefits from innovation – is also in jeopardy. When piracy is rampant, industrial research and development becomes a nonexcludable and nonrival good (i.e., companies at home and abroad have no incentive to invest in research because its fruits are readily available for free.)

Despite antagonism from abroad, from 1986 to 1996, the US managed to work toward the improvement of international IPR protection. Dozens of bilateral agreements have raised protection levels globally through a concocted policy of unilateral pressure. The GATT Agreement on Trade Related aspects of Intellectual Property (TRIPs) was signed and NAFTA included an IPR agreement.

As part of the WTO, TRIPs provides the most effective multilateral tool for addressing IPR issues. The US has taken more than five IP-related disputes before the WTO since its inception. Even with TRIPs, however, multilateral efforts to address widespread IPR infringement in the developing world remain limited. US allies are hesitant to join the US in its efforts and significant progress in harmonizing the IP laws of the developed economies is a prerequisite.

While the USTR under Special 301 maintains a significant effort to monitor IPR protection in foreign countries, the task is a difficult one. Piracy and counterfeiting are increasingly easy and inexpensive. The companies involved are often small and mobile. If shutdown, they can relocate and resume business with relative ease. This and other factors move much of the required monitoring and enforcement to behind the borders of foreign countries and outside the reach of US agencies.

### PROBLEM

Infringement of IPR makes market entry into countries whose economies are growing very difficult. In addition, pirated goods are increasingly exported, cutting into the market share of legitimate products in third countries.

Current US and multilateral policy has made significant progress during the last 15 years to address these problems, but the task is far from complete. Issues to be addressed can be broken down into three basic categories:

1. Harmonization of IPR standards across countries (developed and developing economies).
2. Incorporation of new technologies into existing IPR protection regimes (developed economies).
3. Monitoring and enforcing existing IPR laws around the world (developing economies).

While pirates and counterfeiters can be found all over the world, the big emerging markets (BEMs) in Asia and Latin America are of greatest concern. They represent some of America's most important markets. The ITC expects the BEM's share of US exports to reach 50 percent by the turn of the century. The BEMs are home to some of the world's most virulent pirate producers. In software, 80-90 percent of all applications in the developing countries are illegally copied (with the exception of Latin America where numbers are significantly lower).

Contemporary Latin America provides fewer IPR problems than Asia. A greater percentage of films, music, software and print occur in Asia than in Latin America.

### IMPACT ON CALIFORNIA

California is a national and global leader in many IPR-dependent sectors crucial to the American economy: software, high-technology, biotechnology, motion pictures, music, fashion and even print.

Hardest hit by the IPR infringement are the high-technology and entertainment sectors. These are two of the pillars of the California economy.

California accounts for 24 percent of US shipments of high technology products. The state is home to 21 percent of US high-tech jobs. Successive records of venture capital investment in the state underscore the dominant role California plays in the global high-technology industry. Moreover, high-technology forms the lion's share – more than 50 percent – of California exports. In China, computer disks containing up to \$20,000 worth of stolen software can be bought for a few dollars.

In entertainment, nearly 70 percent of new film starts take place in California, a number that has been increasing in recent years. Piracy in the \$40 billion global entertainment industry is estimated to be \$2 billion and growing.

Pharmaceuticals is another area hit hard by IPR infringement. Many pharmaceuticals that required hundreds of millions of dollars to research and develop are trivial to duplicate. Knockoff drugs sell in developing markets at one-tenth the cost charged by the original inventor. Thirty percent of US biotechnology firms are located in California.

California accounts for 9 percent of the nations publishing.

## OUTLOOK

On the multilateral agenda, the key issue for the next several years is bringing developing countries to consistency with TRIPs, including enforcement, by January 1, 2000. Two WIPO copyright treaties are in the Senate for approval before ratification. Senate action is expected this summer. The WIPO is also proposing beginning negotiations of a Performers' Rights Treaty. Key countries being engaged in response to violation of IPRs include China (multiple industries), Paraguay (multiple industries), Greece (movies and television broadcasts) and Honduras (television broadcasts).



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