

March 24, 2010

U.S. Intellectual Property Enforcement Coordinator
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Electronically submitted to: intellectualproperty@omb.eop.gov

Re: Request for Written Submissions from the Public Issued on February 23, 2010 by the Office of the Intellectual Property Enforcement Coordinator

The Independent Film & Television Alliance (IFTA) respectfully submits these comments in response to the Office of the Intellectual Property Enforcement Coordinator's request for written submissions to assist in shaping an intellectual property enforcement strategy.¹ IFTA welcomes this opportunity to contribute to the development of a Joint Strategic Plan for intellectual property enforcement, as expressed in the Prioritizing Resources and Organization for Intellectual Property (PRO-IP) Act of 2008, P.L. 110-403. IFTA has also contributed complimentary comments to this submission focusing on international frameworks and enforcement through its copyright coalition, the International Intellectual Property Alliance.

About IFTA and its Member Companies

Based in Los Angeles, California, IFTA is the non-profit trade association for the independent film and television industry worldwide. IFTA Members consist of over 150 companies from around the world, the majority of which are U.S.-based producers and exporters.² IFTA regularly provides input to governments around the world on a wide range of copyright, trademark, financing and export issues that impact the independent industry.

IFTA Members are independent production and distribution companies, as well as sales agents, television companies and financial institutions. They produce, distribute and finance some of the world's most successful films. Since 1982, IFTA Members have been involved with the financing, development, production and distribution of 64% of the Academy Award Winning Best Pictures® including *The Hurt Locker*, *Slumdog Millionaire*, *No Country for Old Men*, *The Departed*, *Crash*, *Million Dollar Baby*, *Braveheart*, *Lord of the Rings*, *Dances with Wolves* and *Gandhi*. In the past year, IFTA Members films have also included *The Twilight Saga: New*

¹ See 75 Fed. Reg. 8137 (Feb. 23, 2010).

² For a complete list of IFTA Members, visit www.ifta-online.org.

Moon, The Last Station, Inglorious Basterds and *Tyler Perry's Madea Goes to Jail*, to name just a few.

Independent films and television programs are made at every budget level and may be mainstream, commercial or art house. Independent producers and distributors are those companies (apart from the major U.S. studios) that assume the majority of the financial risk for the production of a film or television program and control its distribution in a majority of territories worldwide.

IFTA Members finance, produce, and distribute about 500 feature films and countless hours of television programming annually, accounting for nearly 80% of all films produced in the United States and exported around the world. IFTA Members' collective worldwide sales for 2008 totaled over \$2.8 billion, of which approximately \$2.3 billion came from foreign (non-U.S.) revenue and \$503 million from domestic revenue. Of the amount for export revenue, \$1.7 billion was generated from Europe, \$129 million from Latin America, \$222 million from Asia.³

IFTA also produces the American Film Market (AFM) each year in Santa Monica, California, where more than 8,000 industry leaders and participants from over 70 countries come together to carry out worldwide film and television production and distribution deal-making. Over \$800 million in production and licensing deals are closed each year at AFM. The AFM provides a birds-eye view into the economic interactions that underpin the independent financing and worldwide distribution of audiovisual product and the impact of piracy on the health of the independent industry.

Independent Producers' Production Financing Model

Independent producers routinely secure financing and distribution for each project on a one-by-one, country-by-country basis by means of licenses to commercial users (e.g., to film and video distributors, broadcasters, online platforms, etc.). The production, financing and distribution models of independent producers and distributors differ substantially from those of the major Hollywood studios who may self-finance and then control their own distribution through worldwide subsidiaries and affiliates.

Independents work closely with local distributors in each country to secure distribution of each film. The distributors assess the value of the film (gross receipts across all distribution media) based upon many factors including script, director, writer or key cast; subject matter or genre; estimated production budget; and projected season and year of release. In turn, distributors may enter into license agreements with the producer that provide minimum guarantees (minimum license fees to be paid) to secure the exclusive rights to a film or program in a particular territory or region in advance of production. For example, the budget for *The Hurt Locker*, which sought financing in 2006 and 2007, was under \$15 million and was 50% financed by presales to distributors in France, Germany, Italy, Benelux, Brazil, Canada, and Eastern Europe.⁴

³ Information based on IFTA Membership Sales Surveys (1984-2008).

⁴ See Appendix A: Mike Goodridge, *A Locker Full of Gold*, Screen International, Dec. 18, 2009 at 3.

Once enough minimum guarantees are secured from local distributors, those license agreements are then collateralized by financial institutions which loan production funds for the underlying project (or are informally used to support private investment), providing the financial means needed to create the project. Such financing deals are based on the confidence of local distributors and financiers that they will receive the expected return on their investment from the exploitation of the film.

Part I: Piracy's Impact on the Independent Film and Television Industry

Due to the unique financing and distribution models (some would say challenges) for the independent production and distribution industry, piracy has damaging effects beyond lost revenues. Independent production and distribution companies must also contend with the negative impact piracy has on their businesses in the following ways:

Damage to the local marketplace lowers license fees and impacts the ability to finance future content.

IFTA Members utilize the same local distribution companies worldwide as do the indigenous film producers, and the health of those local distributors and film industries is of the utmost importance to U.S. independent producers. Quite simply, legitimate distributors cannot compete against the pirates when such pirated product is free or nearly free. As the local distributor assesses the value of a proposed film, the local distributors' assessment will reflect declines in, for example, DVD sales because of rampant online piracy in the marketplace. The minimum guarantees to which a distributor is prepared to commit for a new film drop accordingly (and in the case of direct-to-DVD films, may disappear completely). For the producer, the drop in the minimum guarantee translates into loss of production funding and may kill the project completely due to the inability of the producer to secure financing.

Spain, historically one of the strongest export markets for films, provides a clear example of this phenomenon. In 2006, Blockbuster cited piracy as one reason it was closing its 86 stores in Spain: of DVDs viewed in Spanish households, the company contended, 60% were pirated.⁵ Whereas producers used to count on Spanish distributors' minimum guarantee commitments to cover up to 10% of a proposed film budget, advance distribution commitments today are rarely above 3-5%.⁶ This is the direct reaction to rampant online piracy and almost total collapse of the DVD market.

Similarly, presale commitments have eroded in the United Kingdom and Italy, and distributors point to piracy as the specific cause for the deterioration. DVDs used to be a huge revenue source for independent distributors, but when the DVD business is worth a fraction of what it used to be, distributors are willing to pay much less money upfront for our films.⁷ In the current economic climate, with limited financing available, the loss of these key markets erodes

⁵ Michael Hiltzik, *The Casual Purchase of a Counterfeit DVD Shines Light on Piracy*, Los Angeles Times, Jan. 4, 2010 at B1.

⁶ See Appendix B: Elizabeth Guider, *The Going Rate*, The Hollywood Reporter, Oct. 30, 2009 at S-42.

⁷ Michael Hiltzik, *The Casual Purchase of a Counterfeit DVD Shines Light on Piracy*, Los Angeles Times, Jan. 4, 2010 at B1.

investment and production. The loss of even one film production jeopardizes jobs; each independent film produced for theatrical release employs on average 84 skilled individuals on the production and [three times as many in other businesses serving the production or its crew].⁸

Moreover, even if a film is financed through other sources, the finished film itself may not be saleable to distributors around the world. Legitimate distributors face lost revenues across the board and may not be able to assume the financial obligations for marketing and distribution of a further film, especially when there is little DVD revenue and no commercial online marketplace available. Again, producers must limit their own production to meet the reduced demand and lack of financing.

Damage to existing business models due to government inaction.

Government must establish a legal framework that addresses the major causes of piracy at the root and shelter the existing industry from piracy long enough for legal online alternatives to emerge. Certain governments are complacent about online piracy's damage to existing business models. In countries such as Spain and China, government has failed to take effective legislative or regulatory action to combat the damage that online piracy is causing to their own local creative industries. This "blind eye" allows ISPs to build market share and finance network expansion on the basis of consumer demand for programming supplied by pirates and their illegal operations. Governments can prevent piracy (e.g., no counterfeit Olympic merchandise or pirated broadcasts were allowed in China during the 2008 Olympics), but some chose not to enact or enforce copyright laws.

Individual rightsholders acting on their own behalf cannot combat piracy without an effective legal framework and ongoing government action so that existing business models can be preserved and new models established. This legal framework must recognize current risks and mechanisms that fuel piracy. For example, camcording in cinemas is a major source of illicit copies of new film releases; laws prohibiting camcording must be enacted and must be vigorously enforced to protect the return on investment of the producers and distributors when the film is in the first crucial weeks of release. The legal framework must also include clear and workable Notice and Takedown regimes that are appropriate for other countries' legal systems, but address rampant online piracy. The Notice and Takedown regimes must be available easily to all rightsholders and the costs of triggering this remedy or others provided in local legislation must not impose monitoring or legal costs that are prohibitive for independent rightsholders. For example, the new graduated response mechanism adopted in France requires that participating rightsholders bear the burden of costs of extensive online monitoring, estimated at nearly \$1 million annually for the local industry.

The independent production sector is limited in its ability to shift from traditional business practices to new business practices that might counteract piracy. For example, worldwide same day release (referred to as "day and date" release) may prove an effective

⁸ See Appendix C: IFTA analysis of calendar year 2007 weekly production charts contained in "Daily Variety" and "The Hollywood Reporter" and production models contained in *What is the Cost of Runaway Production? Jobs, Wages, Economic Output and State Revenue at Risk When Motion Picture Productions Leave California*, Los Angeles Economic Development Corporation, May 2005.

method to curb or delay piracy for the major Hollywood studios, which control their own worldwide distribution, but for independents, whose national distributors release on their own schedule, this prevention technique is impossible. New business models will emerge only when local distributors around the world are assured that the new channels of distribution can be protected from piracy and can generate sufficient revenue to support ongoing production. The necessary protections can only be provided by concerted governmental action.

Piracy damages the ability to employ American workers and pay taxes to local governments.

Piracy jeopardizes the valuable and much needed economic benefits to American businesses and the American workers they employ, as well as the taxes to support federal and local government. In 2007, independent production companies shot 477 films in the U.S. This independent production activity resulted in the creation of 39,879 direct full time jobs and another 120,000 full time jobs for various vendors that service the independent film industry in 34 states. Both classes of employees earned nearly \$19 billion combined. This independent production activity resulted in business revenue totaling over \$27 billion in economic output. It also generated nearly \$2.9 billion in federal income tax and nearly \$1 billion in individual state income and sales tax.⁹

If piracy is allowed to further infiltrate and damage the independent film industry, not only are the creative results of the independent producers' work lost, but the economic benefits that flow to the economy and government will disappear too. Piracy must be addressed at many levels with strong intellectual property laws worldwide, effective criminal and civil enforcement and sufficient governmental resources.

Piracy in the U.S.

A discussion of intellectual property piracy's impact on the independent film and television industry would not be complete without recognizing the role the U.S. plays in fueling piracy. While it is imperative that the U.S. Government press other governments for more effective intellectual property protections and enforcement abroad, it must also implement greater protections against widespread copyright infringement domestically.

The first theatrical release of a film often occurs in the U.S. and this provides the first opportunity for pirates to camcord or otherwise copy and duplicate or upload the intellectual property. Similarly, the first point of retail DVD sales typically occurs domestically in the U.S. and provides pirates a source for perfect digital copies for online piracy.¹⁰ It is imperative that the U.S. Government enforce federal camcording laws and copyright law violations on an *ex officio* basis.

⁹ See Appendix C: IFTA analysis of calendar year 2007 weekly production charts contained in "Daily Variety" and "The Hollywood Reporter" and production models contained in *What is the Cost of Runaway Production? Jobs, Wages, Economic Output and State Revenue at Risk When Motion Picture Productions Leave California*, Los Angeles Economic Development Corporation, May 2005.

¹⁰ Michael Hiltzik, *The Casual Purchase of a Counterfeit DVD Shines Light on Piracy*, Los Angeles Times, Jan. 4, 2010 at B1.

IFTA recently commissioned an online piracy survey monitoring a 90 film sample of its Members' films for instances of online piracy. In a three month period, there were more instances of piracy recorded and detected in the United States on U.S.-owned networks than in any country; over 525,000 instances of P2P infringement in the U.S. were detected during that period for the 90 films in the survey. Notice and takedown procedures were implemented where available with limited impact. And without substantial financial resources to support such scanning and notification services on an ongoing basis beginning prior to a film's first release, the current notice and takedown provisions of Title II of the DMCA provide virtually no workable mechanism for the independent producer.

Part II: Recommendations for the Joint Strategic Plan for Improving the Government's Intellectual Property Enforcement Efforts

IFTA believes that crucial elements of the Joint Strategic Plan should contain:

(1) Adequate Funding for Enforcement.

(2) Special 301 Action Plans that build on the Special 301 process and provide clear benchmarks for gauging progress – or lack thereof – over the ensuing year.

(3) Adequate Coordination and Training. The Administration should facilitate participation by as many agencies as possible, in order to avoid duplication or working at cross-purposes, and to ensure that these valuable training and assistance resources are targeted as intelligently and expended as efficiently as possible. Internationally, there is a perception that IP enforcement is valuable only for U.S. product. In fact, IP protection is a key to building the export capability of the local film industry since it defines the industry norms for international distribution. Additionally, the risks of online piracy are difficult to assess in nations still struggling to achieve wide Internet availability. Training programs in developing countries must build upon the needs of the local industry and should be coordinated with international agencies such as WIPO and local organizations to reach the intended audiences.

(4) Effective Border Measures provide for ex officio authority to be granted to customs officials to detain or seize imports that are suspected of being pirated copies or illicit circumvention devices. Destruction of goods seized by customs officials is crucial in preventing such seized pirated goods or equipment from being returned to the country of origin or re-shipped through another port.

(5) Enforcement of existing trade agreements and the negotiation of new international agreements with our trading partners (both bilateral, such as FTAs, and multilateral, such as the WTO TRIPS Agreement);

(6) Adequate legal framework that includes a TRIPS compliant copyright regime and ex officio enforcement by police and customs officials. *Ex officio* actions are crucial to independents who may not have the resources to fund mass raids, investigations, monitoring, or effectively use Notice and Takedown services.

(7) *Effective Enforcement of Online Infringement.* Private industry agreements to combat piracy are not necessarily good solutions when achieved without the engagement of all stakeholders and, in other countries, efforts to negotiate such agreements may run at cross-purposes to official action. U.S. Government officials must engage formally with their foreign government counterparts to combat widespread copyright infringement in the global digital environment and, in particular, must establish a framework that creates strong incentives for ISPs to effectively address online infringement with due respect for the rights both of copyright owners and the public.

With respect to graduated response schemes, IFTA notes that few jurisdictions have accepted this form of remedy due to inherent conflicts between affected parties and the financial and time costs of using such a system. IFTA believes that, at a minimum, a fair and workable system must include adequate notification to the alleged infringer for each instance of infringement and the opportunity for a hearing before a neutral decision making body of any asserted legal defenses prior to any interruption of ISP services.

Industry Solutions Must Include All Stakeholders and be Effective for Independents

Given the technological complexities of online piracy, as well as the social and financial aspects implications, it is desirable to have the direct involvement of all shareholders, including the content owners, technology providers and broadband companies, in crafting effective means to recognize and prevent online piracy. However, there are inherent risks in allowing self-selected groups to undertake such a function. IFTA strongly believes that government must act as convener of such groups and exercise oversight to ensure: (1) that all stakeholders are actively included and involved in “industry at large” discussions and solutions; (2) that the policy and technology solutions that emerge must be realistic for all copyright holders and address actual piracy (not merely the “risk” of piracy); and (3) that the public’s right to enjoy legal access to new services, applications and content without interference is preserved.

Part III: Responses to Selected Supplemental Questions

2. Identify specific existing enforcement actions, methods, procedures or policies employed by the U.S. Government or governments of other countries that have been particularly effective at curtailing or preventing infringement (including, if possible, specific examples illustrating the effectiveness of those methods).

IFTA has a Memorandum of Understanding with the Copyright Division of the National Copyright Administration of the People’s Republic of China (NCAC), whereby the NCAC coordinates rights verification on behalf of the Government of China and recognizes official Certifications issued by IFTA on behalf of its Members identifying the legitimate importers/distributors of Member product imported into China. Periodically, Chinese authorities through the NCAC also provide lists to IFTA and the MPAA of titles that have been subject to local customs seizures in order to verify distribution rights to the seized titles. This type of certification and rights verification program is an effective first line of defense against fraudulent licensing and piracy. While it does not eliminate hard good or online piracy, it does provide local distributors with an officially recognized mechanism to protect their legitimately licensed films and programs.

3. Identify specific existing processes involving cooperation between stakeholders and the U.S. Government (or between stakeholders and other governments) that have been particularly effective at curtailing or preventing infringement.

In addition to the China certification and rights verification program described above, IFTA has a similar program in place with the Korea Media Ratings Board (KMRB), the censorship authority in South Korea. This program enables the KMRB to deny censorship to films submitted by unauthorized claimants. Legitimate distributors now have an administrative process that preserves the value of their exclusive rights. The successful implementation of the certification and rights verification program in South Korea is due in large part to the KMRB's active engagement and cooperation. This type of program may be useful in other countries in which false licensing or rampant piracy occurs before government censorship.

4. Provide examples of existing successful agreements, in the U.S. or abroad, that have had a significant impact on intellectual property enforcement, including voluntary agreements among stakeholders or agreements between stakeholders and the relevant government.

Both examples described above with respect to agreements with agencies of the Chinese and South Korean Governments have been implemented successfully and resulted in a positive impact on intellectual property enforcement for IFTA Members. These programs not only protect IFTA Members' intellectual property interests in those territories, the programs also provide a more efficient and direct manner to demonstrate distribution rights to the local governments.

7. Describe existing technology that could or should be used by the U.S. Government or a particular agency or department to more easily identify infringing goods or other products.

To identify and address infringement online, content owners attach identification technologies like fingerprinting and watermarking technologies to their films and television programs.¹¹ Fingerprinting includes embedding a unique identification code onto each copy of audio and/or video content that can later be used to identify the content by comparing it with reference fingerprints stored in databases. Watermarking embeds an imperceptible data set into the audio and/or video content, which enables tracking and investigation of the copyright infringement and the individual(s) responsible. These technologies enable monitoring services for anti-piracy purposes; enable filtering to identify and block content on the Internet; and can support tracking of copies to source.

8. Suggest approaches for increasing standardization among authentication tools and technologies applied by rights holders to products to enable identification of these goods as genuine through a physical examination of the goods or product.

As previously mentioned, the rights verification and certification procedures implemented by IFTA and MPAA with foreign governments like China and South Korea are authentication tools that enable identification through physical examination of the product and accompanying Certification of Rights. These mechanisms help identify the legitimate rightsholders and are effective in countries that require distribution rights registration. In

¹¹ See Appendix D: How Technology Protections Work.

addition, digital content identification technologies such as fingerprinting and watermarking are used to authenticate content electronically. Authentication services such as Bay TSP's Content Authentication Platform (CAP) use watermarking and fingerprinting technologies to locate and authenticate content on the Internet. Upon authentication, CAP allows attachment of business rules with respect to how the content is to be used, which are applied to all of the technologies and all user-generated content hosting websites. YouTube also encourages rightsholders to use its Content Identification System which fingerprints works and allows rightsholders to establish business rules including monetization and blocking.¹²

9. Suggest how state and local law enforcement authorities could more effectively assist in intellectual property enforcement efforts, including whether coordination could be improved, if necessary, and whether they should be vested with additional authority to more actively participate in prosecutions involving intellectual property enforcement.

The U.S. has a strong federal camcording act that makes the unauthorized recording of motion pictures in a motion picture exhibition facility a federal felony that subjects first time offenders to not more than three years imprisonment; a fine, or both. For recidivists, that penalty doubles to a possible six years of federal imprisonment.¹³

State laws are also effective in deterring and stopping piracy through either state camcording statutes¹⁴ or true name and address statutes, which require DVD manufacturers to display the true name and address of the manufacturer of the goods or be subject to statutory damages.¹⁵

For independents who do not run their own large scale raids, piracy is likely to be uncovered in individual instances at a local level. Rightsholders must have the ability to easily locate and report to the appropriate law enforcement authorities. Since state and local enforcement authorities frequently do not take action on reports of instances of piracy, a centralized method for reporting instances of piracy would be beneficial for independent rightsholders. This may include a national telephone "hotline" and website to report instances piracy. It is important that complaints to law enforcement or hotlines are acted upon *ex officio* and are not used solely as a means to collect statistical information.

19. Suggest specific strategies to significantly reduce the demand for infringing goods or products both in the U.S. and in other countries.

A critical factor in reducing the demand for infringing goods in foreign markets is to reduce or eliminate market access barriers to legitimate copyrighted products and create a climate where lawful distribution can be established. The unavailability of legitimate product in a marketplace inevitably drives consumers to pirate sources. As an example, long-standing market access restrictions, including the application of discriminatory censorship processes, limit the

¹² See YouTube's website at: http://www.youtube.com/t/content_management.

¹³ Family Entertainment and Copyright Act, Pub. L. No. 109-9, § 2319B, 119 Stat. 218 (2005).

¹⁴ NY CLS Penal § 275.32 (2010) *Unlawful operation of a recording device in a motion picture or live theater in the third degree.*

¹⁵ Cal Pen Code § 653w (2009) *Failure to disclose origin of recording or audiovisual work.*

legitimate distribution of U.S. motion pictures in China and fuel ongoing piracy, despite any enforcement efforts the government has undertaken. Aggressive efforts to achieve bilateral and multilateral trade agreements that remove such barriers are an important component in the effort to substitute legal product for pirated copies.

20. Provide specific suggestions on the need for public education and awareness programs for consumers, including a description of how these programs should be designed, estimates of their cost, whether they should focus on specific products that pose a threat to public health, such as counterfeit pharmaceuticals, or whether should they be general infringement awareness programs.

Since the 1950's when France ran an anti-piracy campaign nationwide, educational awareness of the benefits of copyright protection have been promulgated and are necessary to combat a culture of infringement. The campaigns, training programs, and pro-IP messages should be geared to combat the culture of piracy; i.e., that copyrighted works should be free and there are no "victims of piracy," while also educating consumers on available and emerging legal alternatives to piracy. This is especially important in the age of YouTube and user-generated content, with many anti-piracy ads spoofed to criticize IP industries and their attempts to combat piracy. For a survey of public education campaigns undertaken in the U.S. and elsewhere see attached Appendix E.

Conclusion

IFTA supports the efforts of the Intellectual Property Enforcement Coordinator to shape recommendations for an intellectual property enforcement strategy for the United States and remains available to provide further information as the strategy is developed.

Respectfully Submitted,

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Mike Goodridge
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A Locker full of gold

Only in this business can a success story like *The Hurt Locker* unfold. Sixteen months ago, the film had its world premiere in Venice and Toronto with no domestic distributor attached. Nicolas Chartier, whose Voltage Pictures produced and sold the film, laughed when he told me this week that several major studio distributors didn't even show up to the Toronto screening. There was no pre-buy interest for the US; only after the Toronto screening did Summit Entertainment step in with a \$1.5m offer for domestic rights.

This week, as the film and its director, Kathryn Bigelow, scooped top honours from the Los Angeles and New York film critics' bodies as well as key Golden Globe nominations in picture (drama), director and screenplay categories, the heart-pounding film about a US bomb-disposal team in Iraq is looking like the one to beat at the Academy Awards on March 7.

After talking to Chartier on the day of the Globes announcement — and he is a nominee as a producer — it's intriguing to look at how the film was greenlit by a handful of key pre-sales to international distributors. The budget, which Chartier says was "under \$15m", was 50% financed by pre-sales to SND in France, TMG/Concorde in Germany, Videax in Italy, Belga in Benelux, Imagem in Brazil, Equinoxe in Canada and EAP in Eastern Europe among others. That was in 2006 and 2007 when you could still pre-sell a movie of this nature.

Some buyers were wary of the Iraq subject matter. After all, movies about the conflict such as *In The Valley Of Elah*, *Home Of The Brave* and *Redacted* were tanking all through that period. But the buyers who did commit responded to Mark Boal's screenplay and the Bigelow name. It certainly wasn't the no-star cast, led by Jeremy Renner.

The remaining 50% of the budget came from hedge funds and an equity investment from Voltage itself. "It was

a tough movie to put together," recalls Chartier.

The film was a strong performer in the UK (\$1.6m) and France (\$1.7m) and, now that awards groups are lining up to honour the film, distributors will be able to capitalise on the buzz for DVD releases. In the case of some territories which haven't opened, such as Japan and Spain, theatrical openings will benefit. Summit, which took \$12.7m on the film in the summer in the US, is re-releasing it in 120 theatres this weekend on the back of awards.

To me, *The Hurt Locker* is a classic independent package. It's a film that studios deemed too risky. It's the work of a visionary film-maker and its production was enabled by territorial distributors. It is also set to make

considerable financial gains because of awards recognition. It's the kind of film that awards were designed to help.

For Voltage, the success of *The Hurt Locker* is a validation of its efforts to produce and invest in its

6 The *Hurt Locker* is a classic independent package. It is the kind of film that awards were designed to help'

own projects by top-class directors such as Bigelow. And, although the climate for making daring independent films on the \$15m scale has deteriorated, Chartier feels there are more opportunities than ever for independents.

"There are a lot of great directors not working at the moment," he says. "We are actively looking to finance more movies with these interesting film-makers."

So has Voltage recouped yet on its investment in *The Hurt Locker*? Chartier hesitates. "We didn't do it for the money," he chuckles. "Hopefully we will go into profit one day. I don't know in how many years. But we did it to do a good first one, so we could do others in the future."

In the midst of the gloom that has shrouded the independent film marketplace in 2009, it is heartening to refocus on *The Hurt Locker* and be reminded that sometimes the toughest films to get made can often reap the greatest rewards.



WHAT DO YOU THINK?
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AFM
the going rate

PERCENTAGES TO BANK ON

Below are percentages of a film's budget that key foreign territories will currently pay to acquire all rights to a movie costing between \$5 million and \$15 million to produce:

WESTERN EUROPE	
Britain	7%-10%
Germany	7%-10%
France	6%-7%
Italy	4%-6%
Spain	3%-5%
Scandi	1.5%-2.5%
Netherlands	1.5%-2.5%
EASTERN EUROPE	
Russia	2%-3%
All others	1%
ASIA	
Japan	0%-5%*
Australia	2%-4%
South Korea	1.5%-2%
LATIN AMERICA	
All territories	2%-3%
OTHERS	
India, China, Mideast, Turkey, South Africa	2%

* Japan is generally considered the most difficult territory to sell into.

The Going Rate

IT'S NEVER EASY for indie producers and distributors, but rarely have things been as dicey as they are now. For one thing, attendance is declining at the same time as an influx of hedge fund money has created a glut of product. As indie producer and former studio boss Bill Mechanic put it recently: "We simply have too many insignificant movies clogging our distribution channels even as vibrant markets such as DVD and TV seemingly have evaporated in front of our eyes."

Not only is it harder than ever to secure screens in the U.S. without the backing of a Hollywood behemoth, but the situation abroad is even trickier.

Folks in places as far-flung as France, India and Korea tend to prefer homegrown fare (and if they don't, government regulation helps nudge

them in that direction). Or they flock to American tentpole franchises and animated blockbusters — everything from "Transformers" and "X-Men: Wolverine" to "Up" and "Ice Age" — which the Hollywood majors are increasingly betting the house on.

In addition, the Tinseltown titans have set up shop in key territories abroad to co-produce local fare with well-connected partners in those places, further limiting the screens for unaligned indie fare.

Our Going Rate chart suggests the percentage of an American film's budget that can be made up in foreign sales for all rights in key territories. Obviously there are disparities, and for a pic that, for whatever reason, is really hot, competitive bidding can drive the price up. Still, for most sellers it's a slog.

— Elizabeth Guider





THE ECONOMIC IMPACT OF INDEPENDENT FILM PRODUCTION IN THE UNITED STATES During 2007

Analysis Prepared by Independent Film & Television Alliance Research & Strategic Analysis Department

April 17, 2008

For calendar year 2007, independent production companies shot 477 films in the United States. This resulted in **39,879 full time jobs directly related to this production** activity and over another **120,000 full time jobs for the various vendors** that service the film industry. Combined **both classes of employees earned nearly \$19 billion**. Total business revenue that resulted from this production activity totaled over **\$27 billion** in economic output. Independent production generated nearly **\$3.9 billion in income and sales tax** for both the federal government and individual state governments. **Federal government share of income tax** received was over **\$2.8 billion**.

The impact of independent production on the U.S. economy during 2007 is detailed in the table below.

2007 Independent Feature Film Production Estimated Employment & Economic Impact*

	Budget Range				Totals
	Under \$10M	\$10 to \$25M	\$25 to \$50M	Over \$50M	
Feature Films Produced**	202	126	78	71	477
Employment***					
Direct Jobs	3,030	9,450	10,998	16,401	39,879
Indirect Jobs	8,888	28,728	33,150	49,487	120,253
Total	11,918	38,178	44,148	65,888	160,132
Earnings	\$608,020,000	\$3,238,200,000	\$4,446,000,000	\$10,579,000,000	\$18,871,220,000
Economic Output	\$967,580,000	\$5,531,400,000	\$7,020,000,000	\$14,129,000,000	\$27,647,980,000
Taxes Paid					
Federal Income Tax	\$90,838,188	\$483,787,080	\$664,232,400	\$1,580,502,600	\$2,819,360,268
Income Tax to States	\$24,279,455	\$129,307,802	\$177,537,672	\$422,440,628	\$753,565,557
Sales Tax to States	\$11,290,650	\$60,381,437	\$77,423,913	\$171,024,868	\$320,120,868
Total State Taxes Paid	\$35,570,105	\$189,689,240	\$254,961,585	\$593,465,496	\$1,073,686,425
Total Taxes Paid	\$126,408,293	\$673,476,320	\$919,193,985	\$2,173,968,096	\$3,893,046,693

*Analysis based on production models contained in "What is the Cost of Run-Away Production? Jobs Wages, Economic Output and State Revenue.....", Los Angeles Economic Development Corporation, May2005.

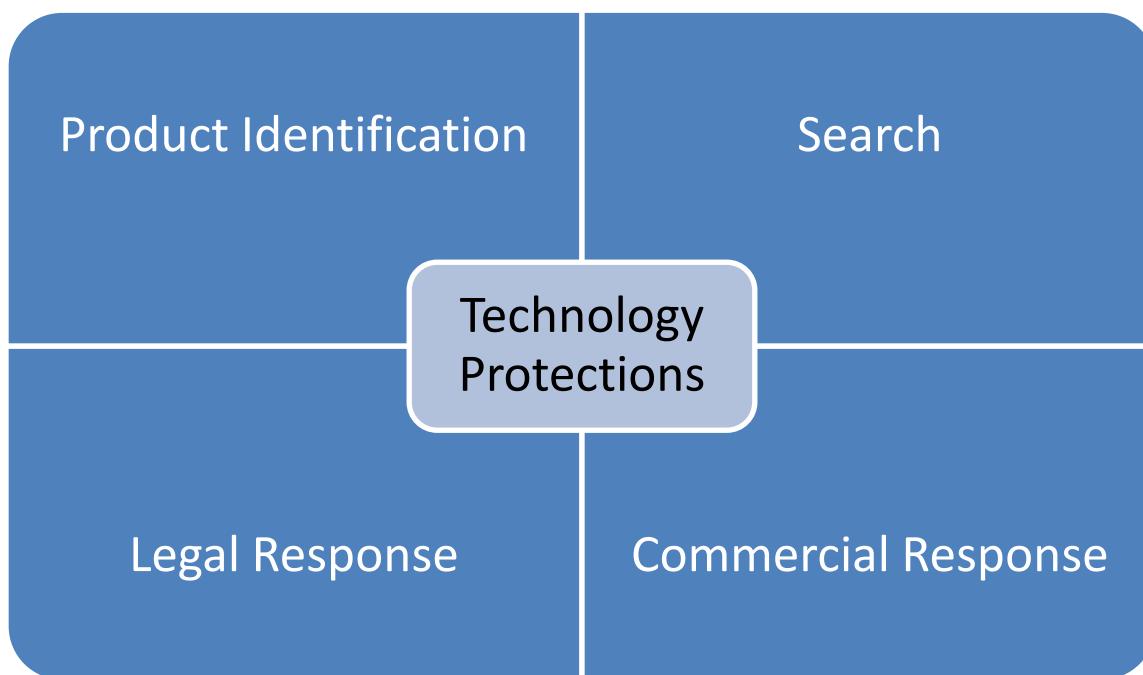
** Source: Weekly Production Charts in "Daily Variety" & the "Hollywood Reporter"

*** Full Time, annual equivalents. The actual number of people employed is much greater. Many of those employed work for a few days or weeks.

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HOW TECHNOLOGY PROTECTIONS WORK

Technology protection has several steps: Identification, Search, and Legal and Commercial Response. IFTA has identified a number of Anti-Piracy Services which may differ in terms of functions they perform; their pricing packages; and their philosophies, which range from a heavy-handed ‘arm of the law’ attitude to a more flexible interest in meeting commercial needs first.



Product Identification: Watermarking, fingerprinting, and numbering systems designed to allow individual copies to be tracked and, in an online environment, to enable rapid and sure identification of an illicit copy.

Search: Technologies (frequently involving “bots” and “spyzers”) that scan websites, troll through blogs and message boards, and interact with P2P clusters to locate files containing copies of some or all of a protected work. One key element today is whether the search technology is adequate to determine whether the file(s) are of sufficient length to constitute a true copy and an infringement: small quantities or incomplete elements may be either a mistake or “fair use” and cannot support further action.

Legal Response: Usually, the identification of files will support automatic issuance of “notice and takedown” to the internet service provider. The certainty of identification may be crucial if the takedown is challenged or if the ISP hesitates in takedown situations. At the same time, a record is being compiled that, in some jurisdictions, may allow the ISP to disclose the identity of the consumer involved in illicit downloading or sharing, thus allowing full legal action to be initiated.

Commercial Response: Various companies now offer an alternative to the traditional legal remedies. For example, YouTube offers to place advertising and share revenues with the content owner if that is preferable to

simple (and oft-repeated) takedown notices. Others are prepared to communicate directly to the consumers asking for payment of a ‘penalty’ to avoid litigation or offering to withdraw legal action if the consumer purchases a legal copy. Still other services hope that identifying the location of major outbreaks of piracy of a given film will be enough to allow the content owner to target a concentrated release and marketing campaign to increase legal sales to enthusiastic consumers.

FURTHER DEFINITIONS:

Anti-Rip Copy Protection: Anti-rip copy protection protects content from common ripping programs, which in turn prevents duplication of the content.

Content Scramble System (CSS) Encryption: CSS is used to encrypt the data on a DVD so that only licensed DVD players pre-loaded with decryption keys can decode it.

Counter-Measures: Measures taken by the content owner to frustrate the unauthorized use of the protected material, including Decoys that have the capability to divert the illegal downloader to a legitimate site to buy the title or find out where to buy the title; and Spoofing, which means flooding the Internet with fake files of a specific title, or with decoys, to frustrate the illegal downloader’s attempts to locate that pirated title. These fake files will never completely download and take a very long time to download.

Fingerprinting: Embedding a unique ID onto each users’ copy of audio or video content that can later be used to identify the content by comparing it with reference fingerprints stored in databases. Fingerprinting is more effectively used pre-release.

Internet Piracy Tracking/Monitoring: Internet Piracy Tracking is an automated system that monitors (“surfs” or “spiders”) the Internet 24 hours a day through web sites, P2P networks, chat sites, and various other places to determine whether titles are being distributed illegally on the Internet. Companies that provide this service compile the information into a report informing the client of the IP address, the Internet Service Provider and the location.

ISP Filtering: The ISP uses software which filters content before it is allowed to reach users.

Monetization: Once unauthorized uses of protected content are identified, mechanisms are implemented to monetize the use - e.g., after identifying where and how content is being used, targeted ads are placed on the offending sites.

Notice and Takedown: The infringing party is sent a notice which identifies the work being infringed and its location, coupled with a demand that the offending material be removed or that access to it be disabled.

Watermarking: Watermarking embeds an imperceptible data set into the audio or video content, which enables tracking and investigation of the copyright infringement and the individual(s) responsible. Watermarking is more effectively used pre-release and often used on screeners.

Company Name: **Auditude**
Contact Person: Marc Zachary, SVP Business Development
Telephone: (310) 470-4055
Website: www.auditude.com
Services Provided: Fingerprinting, Monetization, Monitoring
Auditude uses fingerprinting to track content and provides an advertising platform to monetize those clips and other promotional material on the Internet. The system automatically identifies uploaded video clips and displays an overlay when the clip is played that shows which episode the clip originally came from, its original air-date, and links to online stores so users can buy the entire episode.
Regions Serviced: United States

Company Name: **Bay TSP**
Email: info@baytsp.com
Address: PO Box 1314, Los Gatos, CA 95031-1314
Telephone: (408) 341-2300; **Fax:** (408) 341-2399
Website: www.baytsp.com
Services Provided: Fingerprinting, Monitoring, Notice and takedown, Watermarking
BayTSP's piracy tracking system crawls through web sites, FTP (file transfer protocol) sites, P2P networks, IRC (Internet Relay Chat) sites, newsgroups, and auction/retail sites. BayTSP also offers enforcement administration.
Regions Serviced: Worldwide

Company Name: **Civolution**
Contact Person: Adrienne Pierre, Executive Director Business Development
Address: High Tech Campus 48, 5656 AE Eindhoven, the Netherlands
Telephone: 858-449-9056; Adrienne.pierre@civolution.com
Website: www.civolution.com
Other Locations: **Los Angeles** (310 425 5000); **London** (+44 20 7845 7300); **New York** (212-913-0965)
Services Provided: Fingerprinting, Monetization, Monitoring, Notice and Takedown, Watermarking.
Civolution uses fingerprinting and watermarking to identify and monitor content on the internet, which allows rights-holders to manage and generate new revenues from their assets. Civolution's services include blocking unauthorized content at the time of upload, sending take-down notices, sending relevant links/coupons and triggering targeted advertisements.
Regions Serviced: Worldwide

Company Name: CoPeerRight Agency
Contact Person: Stephane Michenaud, Director General
stephane.michenaud@cpragency.com
Eric Petit, CTO
Eric.petit@cpragency.com
Email: legal@co-peer-right-agency.com
Address: 52 Boulevard Sebastopol, 75003 Paris, France
Telephone: +33149030744; **Fax:** +33149030844
Website: www.co-peer-right-agency.com
Services Provided: Counter-Measures (including clones and decoys), File Poisoning; Internet Piracy Monitoring; Research, Removal and interdiction of infringing materials on P2P networks and www., Reporting, Sending C&D orders/Takedown notices, Warning messages to pirates/users, Watermarking, Webscanning, Marketing (trailer distribution in “fake sites,” chat function), Smart decoy (allows the customer to decide what’s on file), Clone decoy (of pirated file).
CoPeer’s offers pre-piracy services such as watermarking, decoying, and research of sites hosting illegal content and also offers post-piracy services, including jamming or saturating P2P networks, notice and takedowns to ISPs and P2P individual users and other enforcement administration.
Languages Serviced: English, French, German, Italian, Russian, Spanish, Japanese

Company Name: Deluxe’s WebWatch
Contact Person: Alan McNeil
Email: maggie.macconnell@deluxe-europe.com
Address: 1377 North Serrano Avenue, Hollywood, CA 90027
Telephone: (818) 980-5791; **Fax:** (919) 980-5799
Website: www.bydeluxe.com
Services Provided: Monitoring, Watermarking
Deluxe’s piracy tracking system (WebWatch) crawls the Internet and searches for the use of feature films or television programs that have been illegally made available via P2P and file sharing programs. Deluxe offers watermarking services and forensic analysis of pirated physical DVDs providing a “StreetWatch” report, which analyzes the content, disk, artwork/graphics and physical characteristics of the DVD to help link to the source of manufacturing. Deluxe also offers web-based customer market reports.
Regions Serviced: Worldwide

Company Name: DtecNet
Contact Person: Brad Beutlich, Sales Director
Email: info.usa@dtecnet.com
Address: 9595 Wilshire Blvd., Beverly Hills, CA 90210
Telephone: (310) 492-4340
Website: www.dtecnet.com
Other Locations: **Europe-** info.dk@dtecnet.com **France-** info.fr@dtecnet.com
P.O. Box 170 18 rue Pasquier
1005 Copenhagen 75008 Paris
Denmark +33 (0) 1 7841 4113
+45 333 880 08

Services Provided: Cease and Desist Letters, ISP Filtering, Legal and Technical Consulting, Monitoring (including Pre-Release Monitoring).
DtecNet monitors websites and P2P services both for early leaks of music, games, and motion pictures and for any illegal distribution of copyrighted works. DtecNet will generate Cease & Desist letters to infringers asking for immediate removal of the content. DtecNet offers an ISP filtering solution that specifically targets copyrighted content. DtecNet also offers web-based customer market reports.

Regions Serviced: Worldwide

Company Name: Fortium Technologies Ltd.
Contact Person: Mathew Gilliat-Smith, CEO
Email: info@fortiumtech.com
Address: 6 Bridgend Business Centre, Bennett Street, Bridgend, CF31 3SH, Wales, UK
Telephone: +44 (0) 1656 663 725; **Fax:** +44 (0) 1656 651 299
Website: www.fortiumtech.com
Services Provided: Anti-Rip Copy Protection, CSS, Fingerprinting, Monitoring, Watermarking
Fortium offers Patronus, its DVD anti-rip copy protection technology that incorporates CSS and watermarking. Fortium also offers "Similis," its image and video fingerprinting identification software which combines proprietary high-speed file fingerprinting and identification technology to accurately match image and video content. Its "Harvester" software scans and detects unauthorized content on the web.
Regions Serviced: Worldwide

Company Name: TMG
Contact Person: Bastien Casalta
Email: casalta@tmg.eu
Address: 44, Boulevard des Pas Enchantes
44230 Saint Sebastien Sur Loire
France, FR
Telephone: +33 (0)240 12 00 97; **Fax:** +33 (0)240 35 36 79
Website: www.tmg.eu
Services Provided: Monitoring, Watermarking, Protection (TIMS), Marketing & Communication service (PeerLink)
LeakFinder service monitors P2P networks in order to detect pirated files. During Leakfinder term, every new pirated release is automatically detected, reported, and submitted to the concerned rights owner with an analysis provided by TMG. TMG offers a unique monitoring service based on their identification technologies of pirated files (audio and video recognition, algorithms of files analysis) and their files counting methodologies). PeerWatch accurately measures the availability of pirated files on various P2P networks. Trident Internet Media Secure (TIMS) is a technology which fights online piracy through P2P networks. TMG also offers PeerLink which redirects P2P users towards websites in order to develop an interactive marketing campaign. They redirect important flows of users towards the website of their customers. PeerLink also collects CRM data (email addresses, phone numbers, answers to an online survey, etc.). PeerLink may be combined with TIMS anti-piracy service in order to build strategic P2P campaigns for albums, films, and series.
Regions Serviced: Worldwide

Company Name: GuardaLey
Contact Person: Ben Perino, Managing Director
Email: BEN.PERINO@GUARDALEY.COM
Address: 5 Jupiter House, Calleva Park, Aldermaston, Reading,
Berkshire RG7 8NN, UK
Telephone: 49 721 60 595 21 / Ben Perino cell # 00 49 1577 8090633
Website: www.guardaley.com; www.guardaley.net
Services Provided: Monitoring, Removing illegal content
GuardaLey offers general monitoring of websites, FTP servers, peer to peer networks, IRC channels, news groups, online auctioneer platforms as well as file and streaming hosters. It has fully automated services for the elimination of illegal content. GuardaLey also offers stand-alone web crawlers which perform 24/7 tracking to guarantee the observation of newly released file variations of content owners' products.
Regions Serviced: Worldwide

Company Name: IP Echelon
Email: enquiries@ip-echelon.com
Address: 11601 Wilshire Blvd., Los Angeles CA 90025
Telephone: (310) 606 2747; **Fax:** (310) 606 2747
Website: <http://ip-echelon.com>
Other Locations: Level 8, 350 Collins St., Melbourne VIC 3000
Telephone: +61 (0)3 9623 6983; Fax: +61 (0)3 8610 1649
Services Provided: Monitoring, Notice and Takedown
IP Echelon monitors the web for pirated content and maintains the information regarding the location of the infringers indefinitely so the content owner can use it for enforcement or monetization. IP-Echelon will also issue takedown notices.
Regions Serviced: Worldwide

Company Name: MBargo
Website: No Website
Contact Person: Ansgar Künne
Email: Ansgar.kuenne@bertelsmann.de
Services Provided: Mbargo is a business unit under Bertelsmann. The service monitors the Internet for file sharing and disrupts the unlicensed sharing of content by employing counter-measures which either prevents the downloading of the file or has the download process never end.
Regions Serviced: Worldwide

Company Name: Peer Media (f/k/a Mediadefender)
Email: info@mediadefender.com
Address: 2461 Santa Monica Blvd., D-520, Santa Monica, CA 90404
Telephone: (310) 956-3300; **Fax:** (310) 956-3391
Website: www.mediadefender.com
Services Provided: Counter-measures (including decoys and spoofing), Monetization, Reporting
Peer Media is a provider of several anti-piracy services, including countermeasures such as “decoying” and “spoofing” where P2P users are sent blank data and files in response to title searches. The “Leak Alert” service identifies pirated content and sends that information back to the client. Peer Media also provides technology that allows content owners to market to P2P users. Peer Media offers web-based customer market reports.
Regions Serviced: United States

Company Name: USA Video Interactive Corp
Contact Person: Edwin Molina, President, CEO and Director
Email: contact@usvo.com
Address: 8 West Main Street, Suite 3-12, Niantic, CT 06357
Telephone: (860) 739-8030
Website: www.usvo.com
Other Locations: 50 507 – 837 West Hastings Street, Vancouver, BC, V6C 3N6, Canada
Tel: (604) 685-1017
Services Provided: Fingerprinting, Watermarking
USA Video Interactive created MediaSentinel software which inserts a watermark into every frame of uncompressed video content. Attempts to remove the watermark will cause serious degradation to the video rendering it virtually unviewable. Users customize the watermark message and the length of the “key.” The MediaSentinel Reader software reads the key and it is used to compare an original video with a suspect video.
Regions Serviced: United States, Canada

Company Name: YouTube Content ID Service
Website: www.youtube.com/t/contentid
Services Provided: Content Identification Program. This Program, free to rights holders, allows content owners to enter into an agreement with You Tube to monitor the site for unauthorized uses of films or TV programs. Upon discovery of an unauthorized use, the content owner can arrange for an automatic takedown, content monetization, viewing matrices, or a combination of the foregoing. When applying for the Video Content Identification Program, IFTA Members should indicate “IFTA MEMBER” on their application for a reduced Member rate.
Regions Serviced: Worldwide

Public education campaigns have been conducted worldwide, initially focusing on copying of computer disks and VHS tapes and then shifting to online piracy, downloading and camcording. Often led by local anti-piracy organizations, guilds or other industry groups, campaigns have ranged from celebrity messages to harsh threats to comic books to entreaties from below-the-line workers. Campaigns may be video spots posted on the Internet; ironically, the most frequently viewed videos on sites such as You Tube are often spoofs of the original industry message. Campaigns can also be curriculum-based *i.e.*, the Copyright Alliance Foundation’s curriculum that enhances the understanding of copyright among students through information and activities at age-appropriate levels. Less refined offerings, such as brochures and informational websites such as www.wipo.int are also available from governmental and international bodies.

Year	Country	Description
2009	Germany	ICC Germany launches BASCAP to connect all business sectors and cut across all national borders in the fight against counterfeiting and piracy. ZKM, an initiative of German film associations, distributes “Female Pirates Are Also Thieves” ads.
	UK	Creative Partnership creates commercials that try to get people to appreciate the money they spend legitimately on film and TV.
	Australia	IPAF provides education resources to schools to promote IP rights and teach children about copyright.
	New Zealand	NZFACT implements IP programs in all schools.
2008	Brazil	APCM participates in training programs for young executives, officials, and law enforcement. The House approves the College Opportunity and Affordability Act.
	US	IPR announces an Anti-Piracy poster competition for children.
	Russia	“What are you really burning?” led by NZFACT, sought to raise public awareness of how piracy damages the country’s economy, job prospects, and the film industry.
	New Zealand	
2007	UK	ACG publishes “Get Real...Say no to Fakes” brochure to explain the harm caused by counterfeit goods. IFPI distributes “Young People, Music, and the Internet” booklets to teach young people to download legally. Ilovemusicibuymusic.org is created.
	Asia	MPAA distributes “Illegal File Sharing: The Risks Aren’t Worth It” brochures to every school and library to warn of the wrongs of P2P and file sharing.
	China	MPA and China Film Copyright Protection Association (CPCPA) launched a nation-wide anti-piracy campaign at the 10th Shanghai International Film Festival (SIFF).
2006	Italy	“A Fake Present Is Not A Real Christmas,” led by the Fiscal Police in Rome, leads to the seizure of CDs, CD burners, and the prosecution of pirate music dealers.
	Canada	The Captain Copyright initiative is canceled.
	Japan	JPO launches “So, I never buy” campaign including TV spots, posters, and advertisements aimed at Japanese tourists.
	South Africa	“Tsotsi Anti-Piracy” campaign diminished the demand for piracy by having TBWA representatives act as “pirates.”
2005	Spain	The Spanish Minister of Culture launches “Defiende tu Cultura” campaign, which features TV, radio, and print ads that present the fight against piracy as an act of protection of the country’s cultural patrimony.
2004	UK	The Industry Trust for IP Awareness (ITIPA) was set up in 2004 to help promote copyright.
	France	Comite National Anti-Contrefacon (CNAC) informs the public about the new health and security risks of counterfeit products through their “Contrefacon Danger” campaign by creating posters and a website.
	Australia	AFACT is established to protect against copyright theft by working closely with the government and law enforcement.
	US	Better Business Bureau (BBB) launches “Counter/Act” campaign to increase awareness about counterfeiting, using the slogan “Don’t let counterfeit products make you a victim!” MPAA puts “You Wouldn’t Steal A Car” ad before actual content on many DVDs.
	Japan	The Anti-Counterfeiting Association (ACA) ran a large scale street campaign to eradicate counterfeited goods.
2003	US	MPAA launches an ad campaign to educate people on the effects of movie piracy on jobs, and develops a curriculum on copyright for classroom use.
	Poland	Anti-Piracy Coalition initiates a campaign on how to avoid threats related to uploading and downloading files. A special educational project is introduced into schools with the goal of shaping attitudes towards piracy.
1998	Poland	ZPAV, FOTA and BSA join to form the Anti-Piracy Coalition, which launches a national media campaign “Kill Piracy.”
1994	Poland	Foundation for the Protection of Audiovisual Works (FOTA) is established.
1985	Benelux	The Belgian Anti-Piracy Federation fights piracy through informative campaigns and legal action.
1951	France	Unifab creates the Museum of Counterfeiting to educate and inform visitors.

Survey of Public Educational Campaigns

1951

France

Union des Fabricants (Unifab)- In 1951 Unifab created the Museum of Counterfeiting to educate and inform visitors about counterfeiting, its impact on the world economy and the importance of protecting intellectual property. The museum, which receives more than 15,000 visitors each year, displays counterfeit products alongside the authentic items so that visitors can learn to differentiate them. In addition to the permanent collection, the museum organizes temporary exhibitions dealing with a range of topics including counterfeit toys, software items, and other everyday products. (www.wipo.int).

1985

Benelux

The Belgian Anti-piracy Federation is a non-profit association established by Belgian video manufacturers in 1985. They have since grown into a non-profit association defending the interests of the film, music and games industries, or rather the “entertainment industry”, both in Belgium and Luxembourg.

In their fight against piracy, they take a two-pronged approach; firstly, they launch information campaigns and legal action, but in addition: BAF informs people of the risks of illegal downloading, the existence of legal alternatives, the consequences of piracy, how to recognize illegal products, etc. To this end, they have invested in campaigns targeting young people, video shops, companies, schools, etc. The purpose of their government-aimed efforts is recognition of the consequences of piracy for the Belgian film, music and television sector. BAF also instigates legal action against pirates. People who intentionally buy or sell illegal products, or distribute copyright protected files over the Internet could be guilty of a criminal offense and risk imprisonment and high fines.

1994

Poland

Foundation for the Protection of Audiovisual Works (FOTA)- established in **July 1994** based on a conviction that there was no institution in Poland which, having broad knowledge of the trade of economic rights to audiovisual works and of the types of technical measures used by producers and distributors to protect carriers with such works, could forward such information to enforcement and judicial authorities with the purpose of using it in criminal proceedings against “audiovisual piracy.”

1998

Poland

The Anti-Piracy Coalition was founded in 1998 at the initiative of ZPAV, FOTA, and BSA. During 7 years since its founding the coalition has: increased the participation of representatives of the injured parties- owners of copyright and neighboring rights in preparatory proceedings against intellectual property rights infringements; conducted a national media campaign “Kill Piracy”; founded annual “Golden Badge” and “Golden Barrier” Awards for police and customs authorities most efficient in fighting piracy; organized series of training sessions throughout the country for prosecutors, judicial authorities, customs, police and border guard officers; organized the two-stage “Top 500” action during which letters were sent to 627 companies and 84 academic institutions explaining the threats arising from the unauthorized use of files with music, film and software in computer networks. A special software was provided, which allowed for the identification and deletion of such illegal

files; has been cooperating with the police, border guard, customs authorities and prosecution in fighting intellectual property piracy; has been participating in the works of the Intergovernmental Committee for the Prevention of Copyright and Neighboring Rights Infringements; has been involved in drafting of the annual report on the level of intellectual property rights protection in Poland and the government Strategy of Action for IPR Protection in Poland; has been working on a special educational project raising IPR awareness to be introduced in junior high schools throughout Poland.

2003

U.S.

The Motion Picture Association of America (MPAA) launched an advertising campaign to educate people on the effects of movie piracy in 2003. They have also developed a curriculum on copyright for use in classrooms.

March 5, 2003

20th Century Fox Chairman Jim Gianopulos unveiled a public service announcement produced by Fox on behalf of the motion picture industry and intended to counter the growing threat of digital piracy piracy, robbery committed or attempted on the high seas. It is distinguished from privateering in that the pirate holds no commission from and receives the protection of no nation but usually attacks vessels of all nations. The industry's first anti-piracy theatrical PSA, the 72-second film features individuals at all levels of the movie-making business - from actor Ben Affleck and director Jim Cameron to concession-stand workers, security guards, and animal wranglers - advocating the message that piracy costs real people real jobs.

Gianopulos also announced that Fox had reached agreements with a number of major motion picture exhibitors to play the PSA in domestic theaters, including the world's largest, the Regal Entertainment Group. Also signing on are two of the country's largest exhibitors, Loews Cineplex Entertainment and CineMark USA, Inc.; plus Century Cinemas, Cinemas Guzzo, Consolidated Theatres, and Rave Review Cinemas.

The PSA has generated support from all the studios of the Motion Picture Association of America and will become an important element of the MPAA's comprehensive piracy education campaign. It is the first in a series of anti-piracy messages that will be produced for use in theaters; on TV and cable networks; on DVDs and VHS.

Poland

On **June 2, 2003**, the Anti-Piracy Coalition founded by ZPAV, FOTA (Polish branch of MPA) and Business Software Alliance initiated an information campaign to raise awareness of intellectual property rights infringements in computer networks. The main goal of the campaign was to inform the users of computer networks about the threats related to uploading and downloading unauthorized files with music, films and software and how such hazards can be avoided. In the first stage of the campaign, 627 letters were sent to the biggest Polish companies and 84 academic institutions.

In **October 2003** the campaign was continued- the Anti-Piracy Coalition provided free of charge the computer software GASP to those companies and academic institutions that responded to the initial appeal. The software is designed to audit the IT resources and allows for deleting large graphic, music and film files which are insignificant to the activities of those companies or institutions. The action raised extensive interest of companies and academic institutions- 203 of them received GASP to date.

ZPAV, within the framework of the Anti-Piracy Coalition, together with the Author's Society ZAiKS, in cooperation with the Ministry of Education and Ministry of Culture coordinated a research on the awareness of intellectual property protection among junior high school students.

In result of extensive consultations a questionnaire was designed for 2nd and 3rd grade junior high school student. The questionnaire was prepared by an academic from the Pedagogical Department of the Wroclaw University, who specializes in intellectual property issues. The questionnaire was anonymous and was conducted among 1,200 from 6 chosen regions of Poland.

Based on the result of the research a special educational project was prepared. It explains what intellectual property is and shapes the appropriate attitudes towards its theft. The introduction of this project in all junior high schools in Poland was approved by the Ministry of Culture and Ministry of Education.

2004

U.K.

The Industry Trust for IP Awareness (ITIPA)(including UK Film Council and Pathe) was set up in 2004 to help promote copyright. It is funded by more than thirty member companies, ranging from film studios to retailers, working together to spread the word about the positive role copyright plays in protecting creative ideas and securing the livelihoods of the 200,000 people who work in film and TV in the UK. ITIPA also support the important work of its partners including the Federation against Copyright Theft (FACT) and the Alliance against IP Theft. Liz Bales, Director General of the Trust, Email: info@copyrightaware.co.uk, www.copyrightaware.co.uk

France

The 2004 "Contrefacon Danger" campaign was designed by Comite National Anti-Contrefacon (CNAC) to inform the public about the new health and security risks of counterfeit products and how to avoid them. As part of the campaign, more than 2,500 posters were placed in some 100 cities throughout France. Other communication efforts included a website dedicated to the campaign, a counterfeiting quiz with prizes, and a page insert in the January 22 edition of the Paris-Match magazine.

Japan

From 2004 to 2007, there were raids on illegal street vendors. Reports of these raids were published in newspapers, magazines, TV, and internet. Lectures were held at the police academy on copyright law and pirated goods. The police worked closely with enforcement agencies to eradicate the illegal street vendors. In December 2007, no illegal street vendors were identified in the Osaka area in which such illegal businesses had frequently been reported. The Anti-Counterfeiting Association (ACA) then ran a large scale street campaign to eradicate counterfeited goods. The campaign, aimed at consumers, was held in Kyoto and Sendai, and twice in Osaka. In addition, ACA targeted all ages through the "Intellectual Property Right Symposium" which was sponsored by Ministry of Education, Culture, Sports, Science, and Technology (MEXT). The campaign took place in Matsuyama, Tottori, Ibaraki, and Okayama cities. As a result of the ACA's efforts more than 5,000 people, including students, showed increased sensitivity to copyright protection. (MPA/JIMCA is a member of ACA).

Australia

The Australian Federation Against Copyright Theft was established in 2004 to protect the film and television industry, retailers and movie fans from the adverse impact of copyright theft in Australia began a campaign to educate, the public, industry, government and law enforcement authorities of the impact of piracy on the 50,000 Australians directly impacted by copyright theft including independent cinemas, video rental stores and film and television producers across the country. AFACT maintains its own free anti-piracy hotline: 1800 251 996.

U.S.

Better Business Bureau, Inc. (BBB): In **December 2004**, the BBB launched a six-month "Counter/Act" campaign in Eastern Massachusetts, Maine and Vermont. The goal of the campaign was to increase awareness about counterfeiting and the role that consumers and businesses can play in eradicating this problem. The campaign used the slogan "Don't let counterfeit products make you a victim!" to emphasize the threat to health and safety caused by counterfeiting. The different materials produced for the campaign also informed consumers on what to do if they encountered counterfeit products and encouraged them to stick to reputable vendors. The campaign also educated businesses on how they are affected by counterfeiting and suggested reasonable steps that businesses can take to protect themselves and their clients. The BBB involved several partners, including The Gillette Company and the United States Customs, in the Counter/Act campaign. It used press releases, media briefings, interviews, opinion editorials, radio and TV public service announcements, and posters to communicate its message to consumers and businesses. (www.wipo.int)

"You Wouldn't Steal a Car" was a 2004 advertisement by the MPAA that is put before the actual content on many DVDs. It is sometimes made impossible to skip on most mass market DVD players, so the viewers must sit through the advert in its entirety every time the disc is viewed. It is possible to get around this by using a DVD player with some software that ignores user operation prohibition. The voiceover (and text) of the ad says "You wouldn't steal a car. You wouldn't steal a handbag. You wouldn't steal a mobile phone. You wouldn't steal a DVD. Buying pirated films is stealing...Stealing...Is Against...The Law...Piracy: It's a crime."

The ad has been parodied several times and was known to appear in many copies of pirated DVDs. The trailer uses a sound-alike version of "No Many Army" by Prodigy.

2005

U.S.

The Motion Picture Association of America, Inc., and the Video Software Dealers Association (VSDA), both of Encino, California, have launched a public-education effort to focus attention on the problem of movie theft. MPAA developed two anti-piracy trailers that began airing in video stores nationwide in December. The in-store trailers, "Street Vendor" and "Downloader" will alternate monthly in video stores for an indefinite period. VSDA reports that the average U.S. video store loses \$10,000 in video rental income a year because of Internet-based theft. MPAA estimates that the U.S. motion picture industry loses in excess of \$3 billion annually due to various types of theft, including video piracy (for more information on this issue, visit www.mpa.org/anti-piracy). VSDA has also launched a competition for filmmakers to create anti-piracy public service announcements. For more information, visit www.projectfair.com.

Spain

In **mid-December 2005**, the Spanish Minister of Culture held a press conference to launch an anti-piracy campaign with the slogan, “Defiende tu Cultura.” The campaign is part of the larger Anti-Piracy Plan adopted by the Spanish Council of Ministers in April 2005. The campaign aimed at increasing awareness among consumers of how piracy is not only detrimental to famous authors or large companies. By presenting the fight against piracy as an act of protection of the country’s cultural patrimony, the Ministry aimed to discourage consumers from purchasing pirated goods. The campaign was publicized via ads on national TV stations, cinemas in Spain’s main cities, radio spots, and print ads at metro stations in Madrid and Barcelona. The campaign also included a dedicated website where all the communications material could be downloaded and further distributed by individuals. (wipo.int).

2006

Italy

Fiscal Police in Rome led a campaign in 2006 named “A Fake Present Is Not A Real Christmas” to clean the streets of pirate compact discs. Their campaign led to the seizure of 170,000 CDs, 243 CD burners and the prosecution of 183 pirate music dealers. The campaign lasted throughout **November and December** and saw nearly 250 raids across Rome. The Fiscal Police were supported by anti-piracy experts from FPM (Federazione Contro la Pirateria Musicale) and IFPI London.

Canada

Captain Copyright was a **propaganda** cartoon character created by Canada's Access Copyright agency to educate children about the agency's stance on copyright and copyright infringement. As of August 18, 2006, the Captain Copyright initiative had been canceled.

As of March 3, 2007, the website has a three-paragraph statement explaining that "we have come to the conclusion that the current climate around copyright issues will not allow a project like this one to be successful".

Japan

In **December 2006**, the JPO launched a campaign aimed at Japanese tourists, to try to reduce their purchases of counterfeit/pirated products. The campaign, which used the slogan, “So, I never buy”, included a TV spot broadcast in 4 major cities and international airports; a poster displayed in related governmental offices and major train stations; window stickers placed in trains servicing international airports; advertisements on magazines of Japanese airlines; banner advertisements on an internet auction site; a dedicated website; and an exhibition at the lobby of the Ministry of Economy Trade and Industry’s headquarters.(www.wipo.int).

South Africa

November 16, 2006 - An example of taking a brilliant creative execution and leveraging the idea for national and international coverage is the “Tsotsi Anti-Piracy” campaign, on behalf of The Anti-Piracy Board of South Africa. For those who don’t know the campaign, TBWA\Hunt\Lascares was able to diminish the demand for piracy by becoming the “pirates” themselves. They created their own copies of South Africa’s most-pirated DVD at the time, Tsotsi, and sold them on the streets. But there was a catch: TBWA’s copies stopped 10

minutes into the film and thanked the purchasers for their anti-piracy donation. Brilliant. The campaign took a creative, above-the-line execution and leveraged it to generate word-of-mouth and high-profile media coverage, both locally and internationally. See http://www.tbwa.com/content/pdf_store/7/TBWA__Thursday_by_JMD_2006_178.pdf

2007

U.S.

New York - Mayor Michael R. Bloomberg today unveiled a public awareness campaign featuring a series of print and broadcast advertisements designed to combat the creation, distribution, and sale of illegally recorded films in New York City. Featuring PSAs to run on TV and in movie theaters and several bus shelters advertisements, the campaign sends the message that movie piracy harms our economy, kills jobs and impacts all New Yorkers. The Mayor also signed legislation that strengthens the penalty for illegally videotaping a film from a violation to a misdemeanor with increased jail time. The campaign and bill signing follow the October 2006 announcement of the City's three-pronged approach to combating piracy: tougher legislation, stepped-up enforcement and increased public awareness.

Using the universally recognizable look and feel of the iconic ratings system, the campaign highlights the inferior quality of illegally videotaped movies, and features unique television spots with a corresponding series of print advertisements asking all New Yorkers to stop film piracy with the slogan "Get the Real Picture: Don't Buy Illegal DVDs Off The Street." The advertisements underscore the losing proposition of purchasing bootlegged DVDs with mock ratings of "RO" for Ripped-Off, "PS" for Poor Sound, "SP" for Stupid Purchase, "OV" for Obstructed View and "F" for Fake. To support the campaign, the City is committing outdoor bus shelter advertising space around New York for the summer release season starting in mid-May.

This combined effort comes after Mayor Michael R. Bloomberg signed Introductory 383-A, a bill that criminalizes the illegal videotaping of films by strengthening the penalties from a violation to a misdemeanor, punishable by imprisonment, a fine or both. Under current New York State law, penalties imposed for conviction are only up to 15 days in jail and a maximum fine of up to \$250. Introductory 383-A makes illegal videotaping a misdemeanor offense with penalties of up to six months imprisonment, fines ranging from \$1,000 to \$5,000 and a civil penalty of not more than \$5,000.

U.K.

The Anti-Counterfeiting Group (ACG) in the UK uses high profile media campaigns, road shows and conferences to communicate the negative economic and social impact of counterfeiting and change consumer attitudes. It publishes the "Get Real...Say no to Fakes" brochure to explain the harm caused by counterfeit goods.

The International Federation of the Phonographic Industry had a "Young People, Music, and the Internet" booklet campaign. They distributed the booklet through schools and colleges, libraries, record stores, teaching portals and websites in 21 countries. The goal was to "help young people use the Internet and mobile phones safely and legally to download music."

In the United Kingdom, educational campaigns have raised public awareness of the consequences of piracy. However, two university researchers there noted that "people [they surveyed] are more accepting of [copyright infringement], even if they didn't engage in it themselves."

The DCI Debate: Educational Campaigns. 2007. <http://library.thinkquest.org/06aug/02220/measures-against-dci/educational-campaigns>.

Ilovemusicbuymusic.org was established in 2007 with the goal to “eradicate piracy and bring good times back to music industry.” They have sponsored advertisements featuring bands and how they are affected by illegal downloading.

Asia – Singapore and Malaysia

April 6, 2007 - In another move to curb piracy in Asia, the MPAA has decided to distribute anti-piracy brochures to every school and library in Singapore. The brochures are meant to warn the citizens of Singapore about the wrongs of P2P and file sharing in general.

The brochures, entitled “Illegal File-Sharing: The Risks Aren’t Worth It” will be available in all 23 national Library branches as well as distributed to all of Singapore’s 164 secondary schools and 16 junior colleges.

The Intellectual Property Office of Singapore (IPOS) will be distributing over 200,000 copies of the brochure starting today. The booklets note "that since many P2P applications require users to upload – often invisibly – content at the same time they are downloading, users may be exposing themselves to criminal liability as well." The decision to distribute the brochures began after the raids in Malaysia a month ago in which a large ring of piracy was busted. Singapore customers who are dialing or emailing their orders to Malaysia and asking for the products to be delivered here are involved and supporting organized crime. A quote from the Booklet, “Today’s students are tomorrow’s creators, developers, and owners of intellectual property, and there is a very real danger that unless young people begin thinking meaningfully about the consequences of wholesale copyright theft, the future will be much less bright for the next generation of creators.”

China

MPA and China Film Copyright Protection Association (CPCPA) launched a nation-wide anti-piracy campaign at the 10th Shanghai International Film Festival (SIFF). On the opening night of the festival on 16 June 2007, the MPA distributed more than 40,000 posters featuring a message from Hong Kong movie star Jackie Chan: "Save the movies, say no to piracy!" More than 100 movie stars and celebrities, including Chen Kun, Xia Yu, Huang Xiaoming and Hu Jun, took a stand against film piracy at the campaign launch in Shanghai, adding their handprints to an anti-piracy display bearing the slogan, "Hold out your hand to stop piracy." The posters will be displayed throughout China in Internet telecommunications business centers, DVD shops, movie theaters and on university campuses. The same message already appears on Beijing city buses traveling routes that travel past the city's top universities and through the central business and embassy districts.

2008

Brazil

During 2008, APCM participated in two important training programs. The first was with FIESP (Federation of Industries of the State of São Paulo) and training approximately 200 officials in the key ports of Santos, Vitoria, Recife and in Foz do Iguaçu. The second training, in conjunction with the software industry, was for law enforcement (civil and military police, federal police and municipal authorities), and involved more than 40 training sessions in 30 cities, training more than 3,000 agents. Through a partnership with ABES and the American Chamber of Commerce, BSA offered training to enforcement officials in 14 Brazilian States in 2008. The program has been extended to reach young executives, as well as key management officials within companies and to create awareness of software asset management and of companies’ possible exposure to damages arising from a judicial prosecution.

U.S.

In 2008, the House approved the College Opportunity and Affordability Act which says that higher-education institutions participating in federal financial aid programs “shall” devise plans for “alternative” offerings to unlawful downloading—such as subscription-based services—or “technology-based deterrents to prevent such illegal activity.

Russia

05/29/08- Anti-Piracy Poster Competition Announced and Website Launched-

As part of the information campaign on protection of intellectual property rights (IPR), Russia held an anti-piracy poster competition for children. The winner received a cash prize as well as their design displayed on the streets of St. Petersburg. Competition details are available at project website: www.nofake.org which was recently launched. Website provides information about audiovisual and software piracy, focuses on copyrights issues and counterfeit goods and aims at raising awareness among children and youth in Russia. Poster competition and anti-piracy website are realized as a part of the Nordic-Russian project on “Enhancing intellectual property rights competence and cooperation in St. Petersburg, Finland, Denmark and Sweden” funded by the Nordic Council of Ministers.

The project “Enhancing intellectual property rights competence and cooperation in St. Petersburg, Finland, Denmark, and Sweden” developed by the Baltic Institute of Finland and funded by the Finnish Ministry of Employment and Economy and by the Nordic Council of Ministers within the frames of the Knowledge-Building and Networking Programme for the North-West Russia. This project aims at enhancing Nordic-Russian cooperation in protection and enforcement of intellectual property rights, in developing IPR education and raising public awareness on the importance of protecting intellectual property.

See Nordon: The Information Office of the Nordic Council of Ministers. [Anti-piracy poster competition announced and website launched](http://www.norden.ru/News.aspx?id=175&lang=en). May 29, 2008. <http://www.norden.ru/News.aspx?id=175&lang=en>.

New Zealand

New Zealand Federation Against Copyright Theft led a campaign “What are you really burning,” which sought to raise public awareness of how piracy damages the country’s economy, job prospects, and the film industry. (15 August 2008). The trailer can be viewed at <http://www.Nzfact.co.nz/>.

2009

Germany

The International Chamber of Commerce has launched BASCAP (Business Action to Stop Counterfeiting and Piracy) to connect all business sectors and cut across all national borders in the fight against counterfeiting and piracy. This global approach is designed to support individual company and organizational efforts and amplify business messages with national governments and intergovernmental organizations. This country gateway, provided by ICC Germany, the Federation of German Industries (BDI), the Association of German Chambers of Industry and Commerce (DIHK), and the Brand Association, facilitates specific research and connects German actors by providing contact information for government agencies and officials; legislative initiatives and enforcement activities; information and statistics; and recent news. www.original-ist-genial.de/english.html

ZKM Zukunft Kino Marketing GmbH is an initiative of German film associations, which has produced in the past few years a series of campaigns to prevent film piracy. The latest campaigns define piracy as a criminal activity with penal consequences. ZKM distributes posters with catchy anti-piracy slogans at movie theaters and video stores throughout Germany. The campaigns target specific groups, for example, one of the latest posters consisted of a woman's photograph accompanied by the tagline "Female Pirates Are Also Thieves." (www.wipo.int).

U.S.

May 5, 2009- The Electronic Frontier Foundation (EFF), long-time opponents of the anti-piracy lawsuit campaign by the RIAA and others launched a new "Teaching Copyright" campaign aimed at educating people regarding copyright.

The Copyright Alliance has partnered with the award-winning curriculum experts at Young Minds Inspired (YMI) to develop this comprehensive program for teachers. Additionally, they have compiled a library of free curricula that helps teachers of all grades and subject areas incorporate copyright into existing lesson plans.

U.K.

April 2, 2009- Heavy-handed commercials that run before films and DVDs reminding consumers that piracy is a crime are to be replaced with a positive message thanking viewers for supporting the industry in a series of ads spoofing classic films such as Jaws, Life of Brian and Lord of the Rings. Rather than trying to shame the public into not buying pirated DVDs, the entertainment industry is now trying to get people to appreciate that the money they spend legitimately on film and TV merchandising helps pay for more high quality content.

All three commercials have been made by ad agency Creative Partnership, and each ad ends by urging consumers to visit a website www.youmakethemovies.co.uk

The previous campaign, also developed by the Industry Trust for IP Awareness, used the "piracy is a crime" approach with a heavy-handed message that illegal downloading is the same as stealing a car, handbag, or TV from someone.

Australia

June 2, 2009- Intellectual Property Awareness Foundation (IPAF). In a bid to thwart piracy of the Australian film and television industry, IPAF will take its message to schools, providing them with educational resources, run online education and conduct research in a bid to "promote creativity and IP rights and raise awareness and understanding of the importance of copyright." Part of its charter is "motivating a change in attitudes and behavior to reduce public demand for illegal copies of film and television programmes." See

www.ipawareness.com.au/

New Zealand

NZFACT conducted educational awareness campaigns with positive impacts on public awareness. They have an IP Program in all schools and have an NCEA qualification at the end of the year. New Zealand also uses Temuera Morrison (an actor in Star Wars) as their front man for our educational messaging which has been given wide media coverage by the media.