Enforcing Copyright Law Within and Between Nations

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The United States has successfully enforced copyright law between nations through trade pressure. This success has been due primarily to the efforts of the International Intellectual Property Alliance, which unites the book, motion picture, computer software, and music and record industries. The General Agreement on Tariffs and Trade (GATT) is a major element of these efforts. Enforcement within national boundaries requires both adequate legal provisions and training and education.

Enforcing the copyright law between nations, through trade pressure, has been an outstanding success in the United States. This has been due primarily to the powerful position of the International Intellectual Property Alliance, which consists of the book publishing industry, the motion picture industry, the music and record industry, and the computer software industry.

In 1984 the United States Congress joined with the executive branch to provide, for the first time, explicit recognition in U.S. trade law that the massive piracy of intellectual property was an unfair trade practice which had a devastating effect on U.S. companies and on the American economy. The year 1984 also marked the union of the major copyright industries affected by piracy to form the International Intellectual Property Alliance to press for improved copyright protection around the world. The message was simple: the U.S. computer software, motion picture, music and record, and book publishing industries are among the most productive and the most creative in our economy with a worldwide audience. Unless our government assisted us in providing a safer trading environment, our country’s most valuable trade asset—the creativity of our own people—was at grave risk.

A recent study, commissioned by the International Intellectual Property Alliance to quantify the economic contributions of America’s copyright industries, shows that these industries are among the largest and fastest-growing sectors of the U.S. economy. International sales by the core U.S. copyright industries exceeded $22 billion in 1989—more than the aircraft and aerospace exports which are frequently cited as America’s most successful export industries. The Alliance study was intended to place the copyright industries in an economic context to provide guidance to the U.S. government in establishing priorities, particularly in the GATT negotiations and other critical bilateral and multilateral trade negotiations. Through the International Intellectual Property Alli-
ance, the Association of American Publishers has played a major role in helping to shape the U.S. government position on inclusion of intellectual property in the General Agreement on Tariffs and Trade, the GATT, which now governs world trade in tangible goods. If successful, this effort can result in calling a halt to widespread piracy and to low-level protection generally, not only for printed books but for other intellectual property products utilizing the new technologies. The copyright part of the negotiations involved includes:

1. an agreement on standards of protection to be based on the levels of protection now in the Berne Convention
2. an agreement on standards of enforcement which would ensure that adequate and effective enforcement mechanisms are available to copyright owners, including accessible civil remedies and strong deterrent criminal sanctions for piracy
3. an agreement on a dispute-settlement mechanism allowing signatory states injured by another state's failure to live up to new standards of protection and enforcement to take the offending state to a GATT dispute-settlement panel.

Critical for all publishers is the achievement of a strong trade-related intellectual property rights (TRIPS) agreement.

The copyright-based industries have been supporting a strong GATT agreement, including trade disciplines on intellectual property protection, for several years. The international community has spent much of the last five years in efforts to negotiate a multilateral agreement on the standards for intellectual property protection. Although the final agreement is expected to be concluded within the next twelve months, increased efforts will be needed to ensure that each signatory is living up to its international obligations.

On enforcement of copyright within national boundaries, the moving forces will have to be the copyright and related industries involved. A national publisher's association and an organization of industries concerned with intellectual property, possibly organized along the lines of the Western European or American counterparts, may prove as effective as the U.S. example. Copyright issues have not always been able to attract political or government circles because there has been a lack of conviction that such interest and actions are justifiable on economic grounds. If, however, the economic factors and the growth of the industry carry a powerful message, the results will be stronger legislation and enforcement provisions. Among the provisions required now are the following:

1. Making importation of books, where there exists an exclusive license, an infringement. This is particularly applicable in countries that share a common language.
2. Making the possession of infringing copies an infringement.