

## Taiwan to be Removed from Special 301 List

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On January 18, 2005, the Office of the United States Trade Representative (USTR) issued a press release announcing its intention to remove Taiwan from the “Special 301” Priority Watch List and place it on the less stringent Watch List instead, due to progress made by Taiwan’s authorities in addressing the USTR’s long-standing concerns over piracy and counterfeiting of intellectual property and products in Taiwan.

In May of 2004, the USTR had placed Taiwan on the Priority Watch List for the fourth straight year and told the government to take certain steps, including amending the Copyright Law, increasing protection of pharmaceutical and agrochemical test data, and improving IPR enforcement. Since the 2004 report was issued, Taiwan has not made all the recommended changes, but it did amend the Copyright Law, began taking steps to create a special IPR court, began offering specific IPR training for judges and prosecutors and increased IPR enforcement at ports and on the streets.

The USTR remains concerned over the need to provide data exclusivity for pharmaceutical and agrochemical products – protecting the results of efficacy and safety tests prior to government approval – but some progress may be made soon in that regard, as relevant draft amendments to the Pharmaceutical Affairs Law are presently being considered by Taiwan’s lawmakers.

The USTR also remains concerned over the need to crack down on online piracy. As in most developed nations, peer-to-peer file sharing is rampant in Taiwan. Among other perceived problems, two local music file-swapping companies, kuro.com.tw and ezpeer.com.tw, have been the subject of pending criminal actions since December 2003. In response to the USTR’s concern, Taiwan’s Intellectual Property Office has announced an intention to shift resources from cracking down on pirated optical media to cracking down on online piracy and rights holders are eager for verdicts in the Kuro and Ezpeer

cases (it remains to be seen what effect that will have on optical media piracy).

While Taiwan will likely be removed from the Priority Watch List in this year's Special 301 report, it is unlikely the further actions described above will get Taiwan off the Watch List completely. As many who do business in Taiwan are aware, much work remains to be done. However, slowly but surely, appropriate laws are being enacted and Taiwan's police, prosecutors, investigators and judges are beginning to understand that the theft of IPR is a serious crime and vigorous enforcement will not only appease the USTR but will benefit the business environment and the economy of Taiwan.

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