

INTERNATIONAL PROPERTY RIGHTS

TABLE CONTENTS

China

David E. Reuther 1987-1989 China Desk, Washington, DC

G. Eugene Martin 1993-1996 Consul General, Guangzhou

Colombia

Anthony Gillespie Jr. 1985-1988 U.S. Ambassador to Colombia, Bogota

India

Grant Smith 1985-1988 Country Director for India, Nepal, and Sri Lanka, Washington, DC

1988-1991 Deputy Chief of Mission, New Delhi

Anne O. Cary 1987-1989 Econ/Commercial/Trade Policy Officer, New Delhi

William Clark Jr. 1989-1992 U.S. Ambassador to India, New Delhi

Kuwait

Paul H. Tyson 1993-1996 Economic Counselor, Kuwait City

Singapore

Harry E.T. Thayer 1980-1984 U.S. Ambassador to Singapore, Singapore

Daryl Arnold 1987-1989 U.S. Ambassador to Singapore, Singapore

Slovenia

Johnny Young 2001-2004 U.S. Ambassador to Slovenia, Ljubljana

South Korea

Thomas Dunlop 1987-1989 Country Director for South Korea, Washington, DC

Taiwan

Clark N. Ellis 1981-1984 American Institute in Taiwan, Taipei

David Dean 1987-1989 Director, American Institute in Taiwan, Taipei

Thailand

Victor M. Tomseth 1986-1989 Asia Desk, Washington, DC

	1989-1992	Deputy Chief of Mission, Bangkok
Daniel A. O'Donohue	1988-1991	U.S. Ambassador to Thailand, Bangkok
David Lambertson	1991-1995	U.S. Ambassador to Thailand, Bangkok
	USA	
Teresa Chin Jones	1985-1986	Office of Science and Technology Cooperation, Washington, DC
Howard H. Lange	1992-1994	Office of Intellectual Property and Competition, Washington, DC

DAVID E. REUTHER
Head of External Reporting, US Embassy
Beijing, China (1987-1989)

REUTHER: ...So, that was one type of negotiation. Another one, and one that would continue for years as it had in Taiwan, was intellectual property rights. We began to address IPR issues in the mid-1980s. As is typical of Foreign Service work, we in the embassy looked around and said, "Okay, we are about to talk to the Chinese about intellectual property rights. What do you suppose their position is going to be?" We took the initiative to plumb the various ministries, determine which ones might be on a Chinese IPR delegation, and gain an understanding of each ministry's approach to IPR issues. It was easy for us to contact the ministries because the Chinese side saw the Economic Section as commercial officers. So I, or my colleagues in the economic section, had the widest range of contacts around Beijing. We interviewed people at the party schools. We talked to people on the factory floor. We had complete access to the ministries. The whole town was ours. In fact, we had better contacts around Beijing than the Political Section, and often had better insights into the Chinese government and policy debates.

Q: This was in advance of the negotiation team coming?

REUTHER: Yes, in advance of the negotiation. This is what the Foreign Service does to prep for these things. What we found out was that the National Science Foundation and the educational establishment in China opposed IPR. They opposed it on the basis that since China had no patent or copyright legislation of its own, and it was un-Marxian to be paid for the results of your own intellectual endeavors, they saw no benefit in it. We also found out that the R&D sections of industrial enterprises practiced what might be called reverse engineering. It seems counterintuitive, but the Chinese intellectual establishment was not pro-IPR in the mid-1980s.

Q: Reverse engineering? Figure out how something works and is put together?

REUTHER: Exactly. When you get your Time-Life book on how to do your deck in the back—that is what they were doing. On the other hand, when we talked to MOFERT officials they were very eager to obtain some agreement on intellectual property rights because foreign investors had come to them and said, "I am not going to bring my plant here until you can protect my industrial process." So, we reported our findings on the Chinese views on IPR to Washington. This research was in preparation for making the U.S. delegations' presentation as sharp as possible. A fairly sizable American delegation arrived and we had a fascinating week or so with the Chinese. This preliminary effort was pretty much an educational one. We tried to explain how we looked at patents and copyrights and why we deemed it important; why it was important to our trade; how much of our trade involved IPR issues. We argued how unfortunate it would be for them if they were unable to take advantage of the IPR gateway to technology by paying a few royalties. We pointed out that the industrial world would not be favorably disposed, if China

continued to violate these patents. For the Chinese ministries that had intellectual rights offices, and not all of them did, we learned that there was another major input into Chinese thinking on IPR negotiations. These offices were very much aware of the status of our negotiation with the Japanese and Taiwanese on some of the same issues. During my ministry interviews, one of the very sharp comments I received, and reported, was from a senior cabinet secretary who supervised economic ministries, who said, "You cannot expect China to get ahead of what you have gotten out of the other governments."

Q: "We will not give more."

REUTHER: Exactly, they would not give more. So, what we had obtained from Taiwan or Japan was a cap for them in negotiating with us. It made sense to me that they would not want to be seen as giving more, or acting weaker, than Taipei or Tokyo.

G. EUGENE MARTIN
Consul General, US Consulate in Guangzhou
Guangzhou, China (1993-1996)

MARTIN: In Guangdong we had a tremendous IPR (Intellectual Property Rights) problem. I used to call it the pirates' den, as it was the world's largest operation, many little operations, pirating CDs, pirated computer software, books, most everything else. There were probably 15 or 20 major CD manufacturing companies that were ripping off copyrighted intellectual property, making CDs and movies, movie videos, and computer tapes for a fraction of the price that you would pay legally. We went after them, working closely with the business community. U.S. companies were frustrated because they had to do and provide everything. They had to do the investigations, buy the research as to where these people were. They had to get the goods on these people. Then they had to pay the police to go out and do the raid. They had to participate in the raid so the police would go into the right house instead of the house next door; and they would have to be careful to try to keep confidentiality. Often the raid would go into the plant where the U.S. company knew counterfeit goods were being manufactured, and there would be nothing there. Or there would be one machine and a few boxes of product in the corner, which the police would seize. You knew that the guy had been tipped off, and he'd moved the stuff next door; or in the back room and they wouldn't go look for it. So it was a frustrating event. We had a lot of people who worked with us on IPR. Lee Sands from USTR (Office of the United States Trade Representative) came through many times for negotiations on intellectual property rights agreements and tried to curtail the issue. I think, finally, the government began to clamp down, and they began to really take some serious action. Much of the problem was that municipal governments were invested in township, village enterprises (TVEs) that were doing the counterfeiting. So local leaders weren't about to cut off a company which was providing income to municipal coffers, or individual officials.

CHARLES ANTHONY GILLESPIE JR.
US Ambassador to Colombia
Bogotá, Colombia (1985-1988)

GILLESPIE: On the business side I might mention another, major dispute which I didn't touch on previously. I think that it has come to mark a lot of our trade relationships during this period. This involved intellectual property. Colombia, like many other countries, was pirating audio and videotapes and things of that nature. Satellites were coming into service, and people were taping material over satellite transmissions. They weren't just handing it around but were selling it. Jack Valenti, the President of the Motion Picture Exporters' Association, came to Colombia several times to discuss this matter. He stayed with me at the Embassy residence. We would go in to see Colombian Government officials on this matter. The government didn't really have a policy on the situation and wasn't sure how to handle it.

We had similar problems with pharmaceutical licensing and patenting. This whole area of intellectual property rights and patent protection involved many countries whose development had reached a certain stage. They were beginning to understand that patent and copyright protection was important, although they had previously felt that it didn't hurt them to allow this kind of activity to go on. Until they began to develop, they didn't care much about the matter. However, all of a sudden Colombian authors were becoming known around the world. For example, Gabriel Garcia Marquez had won the Nobel Prize for literature. He was world renowned, as were other Colombian authors. Incidentally, I will mention him later as a consular case.

Regarding this intellectual property matter, I was interested to see that certain members of the Colombian Government and the intellectual and economic elite, if you will, were beginning to say, "Wait a minute, this intellectual property issue does not just involve the industrialized and developed countries trying to freeze us out. We're going to have these same problems to deal with as our economy develops and the level of our activity goes up, whether it's cultural or whatever. For example, software development, licensing of patents, and so forth." So we were able actually to develop some cooperative efforts with the U.S. Patent Office to send people down to Colombia to move this issue along. However, it is still an area of great contention.

GRANT SMITH
Country Director for India, Nepal, and Sri Lanka
Washington, DC (1985-1988)

Deputy Chief of Mission, US Embassy
New Delhi, India (1988-1991)

Q: In this '85-88 period, is there anything else we should discuss before we move on?

SMITH: Well, intellectual property rights I'm sure was an issue in this period, but it was more of

an issue in the later period when I was in New Delhi. I must admit that I have a little bit of trouble remembering which was which, since one blends into the other, but this is a major problem for the Indians, still, although the creation of WTO [World Trade Organization] provides, I believe, a framework for resolving it. The big issue with the Indians is whether they grant patents for items or for processes. And they are only granting process patents, not patents for items - chemical - and it was basically a problem with chemical and pharmaceutical patents.

Q: Well, they basically wanted to produce their one, and it is a bicost. And it's something we deal with all over.

SMITH: Right, and I was a little bit ambivalent about it, in the sense that India does have a situation where basic medicines are available at reasonable cost, unlike Africa, where somebody may have to pay a month's salary for a series of shots of penicillin, where in India, basic medicine was really quite widely available and quite reasonable in price. On the other hand, because of this policy, the more advanced, more modern medicines were not available at all because pharmaceutical companies would not bring them in. So you had a situation which was good from some standpoints - in fact, if you took the "most-good-for-the-most-people," may have been the preferable situation, but also was a real problem. Our approach was to talk to the Indians about their interest, to try and persuade them that it was in their interest to change in this respect and to cite, of course, the example of the Indian position on copyright and how they dealt with piracy on CD's and software and things like that, where their position was quite good - films - because they a stake, because the Indian film industry, of course, is the largest in the world, produces something like an average of two films a day, I think was the figure. So their laws and regulations there were quite good because they saw themselves as having a stake in that. On the other hand, in the case of the pharmaceutical and chemical industries (I think those were the main two that were affected), they didn't yet see that they had a stake in it. At least my approach to it was to try to persuade them that if they wanted to convert to world-class industries here with domestic R & D, they needed to come up with a better patent machine. And certainly towards the end of the time I was DCM there, we were beginning to make some progress there. We'd occasionally even get some of their pharmaceutical manufacturers to recognize that. Also we had, I can remember an American pharmaceutical manufacturer telling me that the U.S. firms could compete even without the patent protection because the Indian firms did such a poor job of selling and providing product information, whereas the American firms in India, as in the United States, had representatives who were going around to doctors with information, really explaining and pushing the product. The Indian firms never did that, so the American firms had tremendous brand recognition, which the Indians didn't have, and could maintain significant market share through that alone. So I thought we were making progress, but ultimately this has been resolved in the context of WTO, which is much easier for the Indians...

Q: Did the embassy crank up to be quite aggressive in promotion of American investment there but American sales there with this opportunity, or did we... How did we work this, or was this really something that we said, "Here it is, fellows, come on in," and to the private sector?

SMITH: In most case, the American companies which were coming in, were coming in with an Indian partner. We were aggressive in some areas, where there was a case of government contracts - not always successfully. We were very aggressive... One of the biggest issues there, which was only been resolved and not completely resolved up to now, was intellectual property rights, and this was an area where we were, I think, tough and aggressive. It basically involves pharmaceuticals and some chemicals.

Q: And how about computer type things? That hadn't come yet?

SMITH: The Indians, on copyright, are okay, because the Indians are the world's largest producer of films, and they make something over 700 a year - two a day - and they realized very early that copyright protection was very much in their interests. And as I recall they quickly extended it to computer things as well. So copyright was not particularly an issue. What was an issue were pharmaceuticals.

Q: Was that a philosophical difference? I know in some places the feeling is if this medicine protects people, and you charge big money for it, you are cheating humanity, really.

SMITH: It is a philosophical difference, and the Indians would make several arguments. We may have discussed some of this on the last tape, but one of the arguments was the one you made - that the Indians saw it important to have basic medicines widely available at a reasonable price. Now this is something that I'm sort of sympathetic about because serving in Francophone Africa, a shot of penicillin there when I was there was one month's salary for a lot of people, whereas in India, basic pharmaceuticals actually are quite reasonable. Another India argument was basically the "infant industry" argument: that they need this to get going, and other countries, including the United States, had only introduced product-patent production very late in the game. The issue is product-patent protection versus process-patent protection. The Indians provided process-patent protection but not product-patent protection on pharmaceuticals. However, we argued that it was in the Indians' interest to go into product-patent protection because India itself was getting into the realm - it was developing things - and if it really wanted to have a strong pharmaceutical industry, in addition to having those high-tech more recent pharmaceuticals available in India (which had not been available in India because foreign companies had been unwilling to sell them there because of the patent protection issue, so if you need something that is fairly new, you can't get it in India), but we argued that the Indians should start providing product patent, because then they could develop their own R&D and really develop their pharmaceutical industry, not as a derivative but as a real industry. Of course, this has been resolved through the WTO.

ANNE O. CARY

**Econ/Commercial/Trade Policy Officer, Near East Asia Bureau
New Delhi, India (1987-1989)**

CARY: ... We negotiated a Science and Technology agreement. Intellectual property rights were a main concern for us both because there is an awful lot of piracy of US films and US music in India and we were trying to get the Indians to change the law. On the patent side we had major battles. India didn't provide product patent protection. For US pharmaceutical companies this was the main issue. In the GATT rounds, improving intellectual property was a key US goal and we were very far apart. That was really a lot of the nuts and bolts that I was working on. You could see where the Indian position had come from, straight from the economic socialism of the planned economy. The state should be able to get some benefit; the individual shouldn't get all the money from an invention. Something that was good for mankind should be spread out. So, they allowed that if something was good, then anybody could make it. Overlaid on this system was an incredibly extensive and corrupt license system where they figured out if they needed ten thousand teaspoons they would give licenses to people to manufacture ten thousand teaspoons. So there was no competition and quality was absolutely miserable. But, they felt the Western system was not equitable and left people out, so they refused to provide the same kind of intellectual property protection that we thought was important, except in computers. The Indians excel in computer software. Indians hold many copyrights. They provide copyright protection for 50 years as opposed to the 17 of a patent. So, you could see things changed when their interests were at stake.

Q: You mentioned intellectual and patent rights. What weapons did we have to deal with them and what was the outcome of some of these issues?

CARY: Super 301, which is a US trade law saying that if countries don't provide adequate protection for intellectual property rights or use unfair trade practices, they can be cited and the US, can take retaliatory action against them. And India was cited. We spent so much time going back and forth working with the Special Trade Representative's Office at USTR in terms of what unfair trading practice India should be cited for because there were lots of things to choose from. We were all absolutely shocked at the end. USTR cited India for unfair trade practices for the insurance industry, which had been nationalized some years earlier. We were surprised because none of the insurance companies had ever said they wanted back in the market. Under the terms of the Trade Act specific dates were set for when they must make progress hold talks. The Indians said they were not going to talk about this although they eventually did sit down and talk. There was a lot of posturing. It was watch listed for intellectual property rights. As is often the case when the US acts under mandated fiat you get these laws passed which would restrict your action so somebody comes up with a way to maneuver around it. The watch list was a maneuver to avoid citing a country; because once you have actually cited a nation then the incentive to negotiate is gone. You retaliate, they retaliate back and it is a trade war. So, what you want to do is keep the pressure on to keep things improving. India was one of 20 countries that were watch listed the first year the trade law went into effect in 1988. There was an awful lot of back and forth with the desk, with USTR, who really was the office calling the shots on who was going to be listed. They were out on a regular basis negotiating various things.

WILLIAM CLARK JR.
US Ambassador to India
New Delhi, India (1989-1992)

CLARK: ...The economic relationships between the U.S. and India were not always smooth sailing. About the time I arrived in India, the administration announced that it would start an investigation under the "super 301" law. We never really pursued it, but I was repeatedly accused by Indians for having ruined their economy through the application of the "301" rules. I had a hard time convincing them that the U.S. had done nothing; the common perception was that we had landed on them like a ton of bricks. The accusation of having applied the law to India was always followed by a plaintive question, "Why poor us?" The investigation was completed and then the decision was made not to take any action. You have to remember that the "301" target was really Japan and that Brazil and India were thrown into the mix just to make it look more "balanced." But it was hard to convince the Indians that we had not interfered with their exports to the U.S. or their domestic economic development, although we were unhappy with Indian production of pharmaceuticals. The American companies would have liked to sell their pills in India, but it was not a big market. What concerned them was that as their patents were expiring, the Indians would manufacture generics, which then became competitors with American products. I suggested, and Washington did, that we remove the GSP protection from ibuprofen in India, which in effect took it out of the US market, since it didn't enjoy duty free status any longer. The word about what we had done got around in India and I think reduced the Indian spurt into the pharmaceutical exports arena. But the US action was taken very quietly and only those immediately concerned ever really knew about it. It was a lesson for the Indians who then understood that we took intellectual property rights seriously.

PAUL H. TYSON
Economic Counselor, US Department of State
Kuwait City, Kuwait (1993-1996)

Q: What sort of tasks were you getting assigned from Washington, on the economic thing particularly?

TYSON: I think Washington was terribly interested in Kuwait's economics and some of their foreign investments: the whole structure of the oil industry and its refurbishment, returning Kuwait to being a player in the world oil market and in OPEC, some major investment projects like petrochemical plants and a number of other things. Pretty much a wide range of economic and commercial things, worked with my commercial counterpart. It would depend. We were starting to get a lot more on copyright infringements, bootlegs, tapes and software, IPR [Intellectual Property Rights], and trademark stuff.

Q: Where would this come from, because this sounds like real third-world stuff?

TYSON: Oh it is.

Q: You know, China or India or that sort of thing?

TYSON: Well it was, or it was coming out of places like Indonesia or Jebel Ali down in the UAE [United Arab Emirates], and anybody with a tape duplicator can buy masters in Amsterdam and run twenty copies. The cassette shops were all over the place. People were doing bootleg software. For a wealthy country, the Kuwaitis can be cheap about things. So there's an interesting market; you get really high-end designer goods and absolute crap out of the factories of China. For many people the difference between buying the trademark stuff versus a good bootleg that you got from your cousin more than outweighed the ability to have servicing. It's a tough issue, and in that sense Kuwait was a Third World country.

HARRY E.T. THAYER
US Ambassador to Singapore
Singapore, Singapore (1980-1984)

Q: Were there any issues where you found yourself at loggerheads on world policy issues?

THAYER: We were not at loggerheads on really major issues. We had a problem on international copyrights, for example, which, as you know, is not unique to Singapore. But the Singaporeans were quite reluctant, while I was there, to move on the protection of American intellectual property rights, particularly books, for example. The American book publishers were up in arms about the Singaporeans. In fact, while I was there, they were very critical of the failure of the Embassy to do what they thought was enough in support of them. But I will say that within a couple of years, partly because of Secretary Shultz's intervention with the prime minister, that we did come to--after my departure--I think, a satisfactory agreement with the Singaporeans.

Q: Outside of just plain economic interest, I would think a country where many of the people had been trained in Great Britain would have a respect for the rights of authors to receive the fruits of their labor. What was the rationale for not being very protective of this?

THAYER: As I recall, the rationale was that textbooks were often expensive and students shouldn't be asked to pay such huge amounts of money for textbooks if they didn't have to. I

think that was the basic spoken rationale. I think there was kind of an underlying feeling of, "Well, hell, the Americans can afford it." This is not at the top so much as kind of the environment in which they're operating. (I handled book piracy for our then-Embassy in Taipei in the '60's, and the Chinese there had made the same argument about "poor students.") Remember, audio tapes were also a big thing. I mean--the piracy of American music--you could go into a thousand different stores in Singapore and buy for two cents, roughly, tapes of almost anything, low-quality tapes, but without the slightest bit of royalties being paid. That was pretty upsetting to the American music publishers.

DARYL ARNOLD
US Ambassador to Singapore
Singapore, Singapore (1987-1989)

ARNOLD: ...The prime minister's son was in the original negotiations when we were trying to get intellectual property rights passed in Singapore. He was the negotiator for Singapore and he was asking for additional benefits under GSP.

Q: Intellectual property rights, the right of authors...

ARNOLD: To try to protect our movies, our tapes, they were copying our tapes, or movies, everything.

Q: In that part of the world they copy everything.

ARNOLD: Right. In Singapore we wanted them to stop copying, and we were insistent. The negotiations were concluded with the prime minister's son. They had GSP privileges and they wanted more tax-free benefits if they were going to pass an Intellectual Property Right Law. We negotiated and settled an agreement that gave them more benefits and they passed the law with the prime minister's son being the key figure. Under that agreement, and I am sure there are two sides to the story, under the GSP agreement, it was stated that either in 1992 or when a country reached \$8,500 in per capita income, it would no longer be entitled to GSP benefits. Well there was a third thing. The president of the United States can cancel those benefits any time he wants to, in addition to 1992 and \$8,500, it was a gift we were giving to countries and if he wanted to cancel it, he could. Well in those negotiations it was never brought up that he could cancel them, it was never brought up about 1992 and \$8,500, they knew what those provisions were. So we gave them the added benefits, then we got into our big tax problems back in the United States and trying to see where we could get more revenue, how we were going to get more money, and so six months later, not only did they take away the added benefits we had given them, they took them all away. They said "you are now a developed country; we are graduating Taiwan, Singapore, South Korea and Hong Kong". Well that made this young man,

who was 34 years old, irate. And he went after Clayton Yeutter and George Shultz. He went after us because in his estimation we negotiated these benefits to get a law passed knowing that we were going to take the benefits away.

JOHNNY YOUNG
US Ambassador to Slovenia
Ljubljana, Slovenia (2001-2004)

YOUNG: ...After being in the country a very short time, it was very clear to me that Slovenia was indeed a very good candidate for NATO. I favored strongly supporting their candidacy although we had not committed yet. I continued to press them on the reform of the law on intellectual property. What had happened was in preparation for their European Union candidacy, Slovenia had passed a law that made it illegal for companies to use the intellectual property of someone else to support generics. That was good, but they did that well in advance of their candidacy for European entry. What happened was their own pharmaceutical companies were furious. They realized what this meant to them. They pressured the government, which immediately passed a law that rescinded the law that they passed. Pharmaceutical companies reverted back to using this data developed by other drug companies.

Q: When you're talking about pharmaceutical companies, you're talking about the indigenous pharmaceutical companies.

YOUNG: Yes.

Q: Because in no way could a country go into the European Union which is engaging in stealing of intellectual property.

YOUNG: That's correct, right, that's why they passed this law, but they passed it almost two years before they had to meet this requirement. The pharmaceutical companies said my God, that's two years that we can continue stealing, so rescind the law. That's what happened. The American companies of course were furious. I continued to pressure. They thought, oh God, if we don't do this we won't get the U.S. support for our candidacy for NATO and they knew that if we didn't support them for NATO, they would never get in. They had had an opportunity to join NATO in 1999. It was a foregone conclusion at that time that of any of the countries to be considered, Slovenia was going to be number one. Slovenia was going to be number one, not the Czech Republic, not Hungary, not Slovakia, but in the end Slovenia was cast aside and it was Hungary and I think it was Hungary, Poland and Czech. They were brought in. The Slovenes were devastated...

Q: Okay, you were mentioning a whole series of things to talk about. Do you want to start with intellectual rights and explain what that was and what the problem was?

YOUNG: At my confirmation hearing I had put down a marker in terms of intellectual property rights being one of the issues that I would take on. I knew that this would get people stirred up in Slovenia, but I wanted them to really engage with us in dialogue on this particular issue. I arrived and the press was waiting for me to just shock me to pieces. The pharmaceutical companies in Slovenia had put pressure on the politicians in the country and on the press to go after me. The issue was a very simple one. American pharmaceutical companies had spent considerable money in developing their brand name products. Slovenia has a very extensive and successful generics industry and they would take the data developed to support the American brand name products to produce generics and then sell these generics throughout Europe, Africa, India, you name it, making lots of money.

Q: With no money going to the drug companies?

YOUNG: Oh, absolutely. None going to the American drug company for the use of their data. The drug companies were very upset. All of them, Pfizer and Wyeth and all of them were there and they were quite upset. They would come to me and they appreciated that I had taken this on as an issue. They wanted me to move ahead on it and I did in press conferences, in TV interviews and in special meetings that I would hold. In other words, press conferences that I would call to speak on this issue. I was just relentless in raising this and in making it known that this was something that had to be dealt with.

Q: Would you call it stealing?

YOUNG: Well, that's what it is. We just said it was wrong and it was wrong and Slovenia knew that it was wrong. What had happened was in preparation for its candidacy to enter the European Union it had passed a law that made it illegal to use data and intellectual property illegally. That was fine. It had passed this law well in advance of the time that it would be required to be passed. Then the pharmaceutical industry in Slovenia pressured the politicians to pass a law to repeal the law that they had passed. They basically said, look we've got a good thing here. We don't need to have this law in place for another year and a half to two years, so why do we do it now. Let's repeal it and enjoy for the next two years the benefits of being able to use the intellectual property and data from these American companies. Now the Europeans didn't concern themselves with this. It was only the Americans who were carrying the ball on this.

Q: Were the pharmaceutical companies doing this in Slovenia really homegrown or were they sort of offshoots of other outfits in other parts of Europe?

YOUNG: These were companies developed locally. These two companies were Slovene inventions and were part of the Slovene success story. These two companies together had sales of \$1 billion, which is quite substantial for a small country of two million people. They were just quite a force to be reckoned with. Since during my time there one of them was bought out by Novartis and is a part of Novartis at the moment. I had all kinds of meetings with the parliamentarians and I told them, this is not going to look good. If you want to be a real member of the alliance you've got to demonstrate that you carry yourself in a way that is consistent with the standards expected of the members of the alliance. I used that as part of my argumentation as well.

Q: Was there any illicit threat on our part?

YOUNG: No, our only threat was how they would be viewed in the alliance and the kind of support we would give them. We were giving them military support as well in order to prepare them for their membership in the alliance. No out and out threats. This was through jawboning and moral persuasion that we finally succeeded and we got the law repealed and the American pharmaceutical companies were very happy. The Slovene pharmaceutical companies were not and it was amazing how they bounced back though after that. For example, shortly after that I mentioned one of the companies became part of Novartis and then what they began doing was bid on American contracts for generics. They had still some requirements to fulfill before they could really succeed in that era in that way and they finally did and then began selling generics to the United States. It was a win-win all the way around. Now, that didn't end all of the problems in terms of pharmaceuticals. Let's face it, American pharmaceutical companies I don't think are 100% happy in any country that they're in. They are constant moaners and groaners and that's just the way it is and it's our job to try and help them in whatever way we can.

Their next complaint was that the government had concocted a scheme to bring down medical costs which is something that I think governments around the world are faced with and it's no different in this country as well. The government's program was very similar to one in Italy. It was similar I think to one in practice in one or two of the Scandinavian countries. It was basically to limit the amount of reimbursement patients could receive for their medications with the highest reimbursement going to those patients who use generics versus those who used name brand products. Those who used name brand products got a very small reimbursement. This had an impact on those American pharmaceutical products because all of the American products were name brand products and some of them of course were able to stand on their own and really didn't have generics to equal them. This was another complaint. They wanted my support in trying to get the government to implement a scheme that would be more generous to brand name products. I did my best on that, but really there was little defense that I could offer for that. This was a problem that is being dealt with internationally.

I just wanted to add one thing on the success of our program in Slovenia. It was cited in telegrams that went out worldwide as an example of how this can be done. I remember Tony Wayne, the assistant secretary for economic affairs, sending out a telegram and we took great pride in that I must say.

Q: What was the reaction among the Slovenian contacts, the ones who were not specifically connected to the pharmaceutical thing? I mean did they understand what they should?

YOUNG: They did. Many Slovenes who were anti the regime in power gave me a pat on the back. You're showing them. This government needs to be shown that it can't get away with anything and it needs to do the right thing. They were pleased with the moral implication of pushing the government to do the right thing. That is not inconsistent with Slovene morals. They are very strict people, very moralistic. They don't look for sideways to do things. They're very straight.

Q: How did you find the government reaction in the people you would meet in government? Were they just sort of uncomfortable?

YOUNG: They knew that it had to be done. They knew that it was something they had to do. It was a requirement to join the European Union. They just wanted to postpone it as long as possible. I got cooperation from the folks in the government and they knew that it was political, that it was the money and the influence of the pharmaceutical firms that brought about this problem.

Q: How did you find the media? Was the media a good response?

YOUNG: The media was after me. They were after me because of what I had mentioned earlier in terms of Slovenia's entry into NATO. They thought that I was going to sabotage Slovenia's entry into NATO by working to deny them support from the U.S. government for their candidacy. They learned very shortly that they had one of the best allies they could find in me and applauded my efforts.

Q: Was there any other intellectual property problems like books?

YOUNG: No, you didn't find counterfeit books and you didn't find counterfeit CDs and tapes and that sort of thing. They had a good record in that regard, but that was petty business. It's not a country that specializes or has much of that kind of gray market trade.

Q: Sometimes border countries are basically smuggling countries. It's what they do for a living.

YOUNG: Yes, but this is not a smuggling country. This is a very successful country with a

developed economy and a sound political system so they don't have those kinds of problems. It was just in pharmaceuticals because it was such a big business. Those two pharmaceutical companies there, they were national treasures and they were regarded as part of the patrimony. These companies were incredible. In many ways they were exactly like Hershey. It's not just the product that they produce, but it's their impact on the total community where that product is produced. That was true in the case of these two pharmaceutical companies. They run schools, they run clinics, they have basketball teams, and they have soccer teams. I mean they have all of these different things, all of these different institutions that you find in the community and very often maybe just supported in a small way. I mean they literally run them and it's so funny to see the basketball team. They've brought in a couple of black players from the United States and those few black players and myself, we were the only blacks in the entire country. Of course they stood out even more than I did because they were so tall.

THOMAS P.H. DUNLOP
Country Director for South Korea
Washington, DC (1987-1989)

DUNLOP: We had some trading problems. When the South Korean economy became a world scale economy, they tried as long as they could to have the benefits of "Third World" preferences and all of the advantages of being highly competitive on the world market. They tried to do this. By golly, they tried. [Laughter] It wasn't just the Clinton or the Bush administrations that tried to talk them out of it. The Reagan administration also tried. We were constantly engaged in a pulling and tugging game over things like the issue of intellectual property rights, which is another term for copyrights. Refusing to provide recognition and protection for copyrights is a "soft" way to provide protection to domestic industry. The South Koreans are great imitators and, like the Japanese, are prepared to take the products of other countries and then make them better. Then they sell them back around the world under the label of the original manufacturer, as in the case of "Nike" brand shoes, "Intel" computer chips, and so forth.

I remember an amusing account told me by the IBM representative in Seoul before I left to go back to Washington. It must have been some time in 1987, not long before I left. When he had arrived in South Korea in 1981, his job was to sell IBM equipment to the South Koreans and to watch, like a hawk, to be sure that they didn't "pirate" any of this material. In 1982 my friend had a visit from whoever was the head of IBM at the time. My friend gave the IBM President a kind of "warning" briefing about the South Koreans. He said: "You know, these people are really about to start getting into the computer business, not just as consumers but as producers who are very competitive." This high IBM official almost fired my friend on the spot for making such a stupid statement. He said: "How could you believe that a South Korean could ever get into electronics? Are you serious?" This high IBM official evidently thought to himself: "What are we doing with a man like that in Seoul?" Well, my friend was still laughing about it a few years later. It had been kind of a scary experience to be so severely reprimanded by his boss. He was also wrong.

CLARKE N. ELLIS
American Institute in Taiwan
Taipei, Taiwan (1981-1984)

Q: What about intellectual property rights? Taiwan used to be the place that you served in the Far East where you'd have whoever when there to pick up bootleg books and records.

ELLIS: Then, they graduated to Rolex watches, computers, and things like that. That was a major problem, and we had a number of negotiations and tough negotiations with them on intellectual property rights. As Taiwan moved up the economic ladder, they began to see the benefit of having intellectual property rights protecting themselves. In the late 1980s and early 1990s, when I was dealing with Taiwan again from the Washington side, they had a much more cooperative attitude because they were being ripped off by the Mainland Chinese.

Q: Ever since I can remember, Taiwan is the place you went to get bootleg copies of any books, like Encyclopedia Britannica or to have a set of Kipling.

ELLIS: Yes, that was the case. Taiwan now makes its own computers. As they began to develop their own computers, they invested in technological research and development and have some of their own brands out there. They soon found that some of their inventions and technology had been ripped off by the Chinese on the mainland, and so the Taiwanese have started getting religion and are much better on intellectual property rights because they have a vested interest now in seeing that their own creations are protected.

DAVID DEAN
Director, American Institute in Taiwan
Taipei, Taiwan (1987-1989)

Q: Were we much involved in economic promotion as far as trade with the United States and all that?

DEAN: The U.S. was Taiwan's major export market, but we really didn't get into serious trade problems until a few years later. We did negotiate textile agreements as we did in Hong Kong, and we got into some other agreements. But, the real problems blossomed in terms of intellectual property rights. This first manifested itself in book pirating. Book publishers would get a best seller, pirate it, and sell it for a pittance, usually locally, but then the Chinese began to send them abroad, books like the Encyclopedia Britannica. You could buy the whole set for \$50. This was true in the late '50s and through the '60s. Finally we were able to clamp down on pirating and

copyright infringement by the end of the 1960s and into the 1970s. Still, it was a really big problem, particularly when you get to cassette tapes and music, and then videotapes and CDs and software. The billowing trade surplus became an enormous problem until in the '80s. In 1987, we had a trade deficit with Taiwan, a deficit just in our bilateral trade, of \$19.4 billion in that one year. This was building up. When I was there, it wasn't nearly that way in the '60s, but through the '70s and into the '80s our trade defect really began to blossom, and it was a serious issue. I can get into that later...

DEAN: ...We were also active on the intellectual property rights front, all the copying of tape cassettes, CDs, and videocassettes, home movies everything.

Q: Computer program software.

DEAN: Everything you can think of.

Q: It exploded in that decade.

DEAN: It was a major problem for us. We had negotiation after negotiation trying to get Taiwan to draw up laws, pass them, and then enforce them against these abuses. They had all sorts of gimmicks. They had Henry Hsu, a businessman and a good friend of mine, who headed the businessman's campaign to stamp out piracy. He'd get a great big steamroller and run it over pirated videocassettes, things like that. The government was very much like the government on the mainland on these same issues. It was very difficult to get them to make any effective moves. They would agree, but then to enforce these decisions was very difficult. They had a lot of little storefront places where people could go and see rented videos for a very small amount of money. They were a bit like social clubs. You could bring in the whole family or a whole group. They were all showing pirated movies. There were thousands of them in every city. It was hard to close them all down. The police weren't willing to get into confrontations all the time with the people about these things. Every block seemed to have one of them. But, eventually they saw the light because they wanted to preserve copyrights for their own software. They were beginning to get into that in a big way, and they were getting into their own CDs and so on, so they wanted to protect their own. Stiffer laws were passed and the problem was brought down to manageable proportions, but it kept everybody busy going back and forth to negotiate. USTR would come out to Taiwan or Taiwan would send a group to Washington. Then we had problems about fisheries. We were trying to save certain species and also to outlaw the use of these huge mile and a half long drift nets that would catch everything in the sea. Taiwan had a large fishing fleet. They really didn't want to limit their efforts at catching fish; it was very lucrative. They would send these ships out. There would be a mother ship. They would put their catch on ice. It was very profitable. They were fishing in waters they weren't supposed to be fishing in and all sorts of things. We wanted an agreement where our Coast Guard and other search vessels could board their vessels and see if they had made any illegal catch. They claimed this was an infringement

on their sovereignty. There were demonstrations and arguments on the radio and in the universities about this effort to curtail their sovereignty. We had a lot of speeches, debates, and conversations about issues like that, too. It was quite an active period with all these things going on. I think we solved them reasonably. We did persuade the Chinese about the fisheries issues, and they did pass laws allowing their ships to be boarded. We did persuade them on the intellectual property rights. We did persuade them on the value of the NT Dollar and other trade issues. Sometimes they would complain that they felt behind the eight ball because of our military sales and other things, they relied on us so much that they had to do what we asked in these other areas. I think they protected their own interests as well as anybody could have regardless of this dependency. Certainly when we brought up an issue, they didn't say right away we will go and do it. It took years of argument, negotiation, and persuasion to get them to agree. They were very similar with negotiations we had with the mainland on similar subjects.

VICTOR M. TOMSETH
Asia Desk, US State Department
Washington, DC (1986-1989)

Deputy Chief of Mission, US Embassy
Bangkok, Thailand (1989-1992)

Q: What about intellectual property rights, patents and that sort of thing? That has been one of those bones of contention that's been there foremost and all. How was this?

TOMSETH: Again, both when I was on the desk from 1986 1989 and while I was in Thailand as DCM from 1989 1992, intellectual property rights were an issue. It was more the copyrights of video and audio than it was trademarks, although there was some pirating of trademarks going on in Thailand as well. I remember every time a congressional delegation would come out and rail at the Thais about their failure to protect intellectual property rights and then the next thing they wanted to do was go buy their fake Rolexes somewhere. But there was a fair amount of video and audio and then increasingly software piracy in Thailand during that period. So, that was on the trade agenda one of the things that we discussed perpetually. Ultimately, we made some progress, but again, it was one of those serendipitous things that probably helped more than the actual negotiations themselves. That was that during this period increasingly you had Thai artists or intellectuals who were producing not so much videos, but music and increasingly software that was also being pirated. When that began to happen, the Thai authorities had a greater interest in protecting intellectual property rights than they did when it was only American or foreign intellectual property rights that were being violated.

DANIEL A. O'DONOHUE
US Ambassador to Thailand
Bangkok, Thailand (1988-1991)

Q: May we move on to the intellectual property issue?

O'DONOHUE: Thailand is actually a very open society. It is unlike South Korea, where the success of any business "outsiders" is often the prelude to pressures to take them over. Thailand is quite an open market. The two largest, gasoline distributors were ESSO and Shell. Caltex was smaller but was also to be found around the country. In addition, there were government-owned oil companies. If you went into the Thai department stores, you could find Gillette razor blades or other foreign goods. There were foreign made goods all over the place. On the whole, Thailand is an open market. Years ago, the Thai had even "grandfathered" as the largest, domestic insurance company, the AIG [American International Underwriters Insurance Group]. AIG had been in the Thai market for so long that it was given special status. You had American lawyers operating in Thailand.

In other words, Thailand was an open society, with generally open markets. However, there were some pitfalls, for instance, all sorts of regulations, which usually could be surmounted. Nonetheless, there were certain areas in which there was either "piracy" or, in the case of pharmaceutical products, outright ignoring of patents justified because of lower prices. In fact, the two, most sensitive issues in terms of intellectual property rights were economically minor issues.

One of these issues was in the field of pharmaceuticals. There we had the most constant and aggressive pressures by American pharmaceutical companies to force the Thai to honor their patents. Regarding pharmaceuticals, we were resisted the hardest by the Thai, on the grounds that we were trying to increase the costs of medicines. We made incremental progress on pharmaceuticals, but the atmosphere was very, very bitter. In fact, in real dollar terms, this was a small problem. The initial estimates were that the American companies might be losing about \$15 million per year. When they realized that their losses were so small, they somehow got it up to--I forget what the estimated loss figure was.

Q: Can you explain what you mean by "losing."

O'DONOHUE: They were calculating their losses by totaling the estimated sale of equivalent Thai pharmaceutical products.

Q: Were the Thai pharmaceutical manufacturers "pirating" these medicines for the Thai market, or were they selling them elsewhere?

O'DONOHUE: It was for the Thai market. And it was not a big loss to the American pharmaceutical manufacturers. The other area of high sensitivity was the pirating of tapes of music and other trademark items. Thailand is a country where a lot of these companies which pirate tapes of music operate. In the case of the pharmaceuticals the company representatives were very aggressive and pressed very hard, because, in effect, they had very little to lose in Thailand. In other words, Thailand wasn't an important market.

There was a similar problem with videotapes. Frankly, Thailand was singled out by the American trade groups to make an example of it, in great part because it didn't pose much of a risk in retaliation.

The Thai deserve much of the blame for the constant abrasiveness of this issue of trade "piracy." At the beginning you could have had a non-acrimonious and reasonable settlement of the issue. However, the Thai engaged in such evasion and delay that it permanently "soured" the negotiating atmosphere. As a result, the American negotiators never, ever, trusted the Thai in these negotiations. They were prone to believe the worst of the Thai because, at the very beginning, the Thai had dragged their feet, had thrown up one obstacle after another, and had been so clearly reluctant to settle these issues. As time went on, and our pressures became much, much stronger, and the Thai started moving toward a solution, a double problem emerged. First, the American negotiators were "disenchanted" with the Thai and were suspicious of them. Secondly, NAFTA was emerging.

Q: NAFTA means the North American Free Trade Agreement.

O'DONOHUE: As we moved toward the end of this negotiation on pharmaceuticals, we were dealing with the government headed by Prime Minister Anand Panyarachun, which had entered office after the military coup. He and his cabinet weren't politicians and were ready to move on this issue. Because NAFTA was coming up, the Office of the US Trade Representative (USTR) was most interested in placating the major US pharmaceutical and trademark associations. The USTR wasn't going to agree on anything in Thailand that didn't represent a clear "victory." No compromise was acceptable, from the point of view of the USTR. They could have accepted a compromise the year before. However, to get the support and acquiescence of the major pharmaceutical and trade organizations for NAFTA, the USTR wasn't about to appear to have "compromised" on the negotiation in Thailand.

At this point we were dealing with a Thai Minister of Commerce who appeared willing to agree on a compromise settlement, and the Thai went off to meetings to negotiate this issue. The signals we originally received from Washington indicated that we could work things out. Unfortunately, at the last minute, the signals changed in Washington, and it became clear that the USTR wanted "victory or nothing." So that was an embarrassment that cost me somewhat.

Q: What was your analysis of why the Thai, who were initially pretty forthcoming in coming up with a compromise, were initially unwilling to compromise and this intellectual property negotiation turned into such a mess?

O'DONOHUE: From the Thai point of view there was a combination of considerations. First, it was a sensitive, public issue--particularly the pharmaceuticals. Secondly, there was the practical matter that the owners of the Thai pharmaceutical companies were very well placed, politically. Thirdly, there was the attitude that we run into often in other countries, that Thailand "is such a small country. Why are you 'dumping' on us?" All of these considerations resulted in the Thai doing what they had done before. The Thai generally try to avoid formal agreement. Rather they try to find an accommodation. The Thai feel that an agreement commits you permanently. In the case of an accommodation, you can adjust to changing circumstances. So there was a combination of circumstances, which resulted in their making a bad mistake in these negotiations.

If you look at overall American interests in Thailand and the amounts involved in this matter, this was almost a minor issue. However, due to a combination of factors, including, as I said, the American companies looking at Thailand and feeling that we should exercise leverage and make the Thai an example, these considerations had a disproportionate weight on the American side. On the Thai side, this issue was something, which had high visibility. If they wanted to retreat, it was difficult. However, they did retreat, and we eventually got an agreement, but it was reached after I had left Thailand. Throughout the whole time that I was in Thailand, this was the most difficult, long-term issue.

DAVID LAMBERTSON
US Ambassador to Thailand
Bangkok, Thailand (1991-1995)

Q: In addition to the businessmen's interest out there, the USG was beginning at this time to be very interested in intellectual property rights. I remember I was in Beijing at this time and we were pressing the Chinese on this. An interesting conversation in which the guys, our counterparts basically said, this is fine, we'll go along with it, but you don't get anything more than Taiwan gave you. In fact I think you said that most of your calls on government officials had to deal with economic issues.

LAMBERTSON: No, a majority of my calls on government officials on economic matters probably had to do with some aspect of intellectual property rights, either copyright issues or pharmaceutical patent issues. In both cases, of course, our emphasis on those issues reflected pressures from industry associations in the United States - the Motion Picture Association and the Pharmaceutical Manufacturers Association. But they had legitimate reasons to be concerned about what was going on in Thailand. There was a tremendous amount of piracy, of computer software, for example. Experts in the United States estimated that the pirated share of software sold in Thailand was probably above 90%. It was very high elsewhere as well. You could find

figures that high even in places in Europe, and certainly other places in Asia. Even in the United States a surprisingly high percentage of software, then at least, was considered to be pirated. We had that issue to deal with, and certainly there were pirated editions of every new American film easily available on the streets of Bangkok shortly after release in the United States. We spent a lot of time trying to get that situation improved and we made some progress, but I'm sure it's an issue on the agenda for the American Embassy in Bangkok today.

Q: It raises an interesting question, to be successful, doesn't the other government have to have enforcement mechanisms and laws and all that?

LAMBERTSON: It has to have enforcement mechanisms and laws. But IPR protection is going to continue to be a problem until the country in question begins to develop its own intellectual property that it wants to protect. Then you see a change in the culture. I think that has happened in a number of developing countries. I think in Thailand it is beginning to happen. There's a change in mindset that comes with growing affluence which I guess makes it easier for people to afford the copyrighted versions of stuff, but also, as an economy develops, it begins to develop its own areas of expertise and its government leaders begin to see the logic of intellectual property rights as property, as something that should be protected. And then with that come more effective enforcement mechanisms. It's kind of a maturation process as economies develop. I doubt that you can rush it much, frankly.

TERESA CHIN JONES
Office of Science and Technology Cooperation
Washington, DC (1985-1986)

JONES: OK '85 to '86 is when economic training. Then '86 to '88 would have been science and technology cooperation, office of Science and Technology Cooperation in OES. It was basically one of the traditional science counselor, science counselor wannabe positions because the office dealt with science and technology cooperation agreements with the world. The State Department has prime lead in something called the umbrella agreement, the agreement under which all the individual agreements-- say energy researchers, health researchers with their counterparts takes place. In most countries there was not much problem until we decided that we needed to cover the intellectual property rights that might result from the cooperation. The intellectual property rights would be covered in an annex to the main agreement. It was long, legalistic, and covered every conceivable type of discovery and invention. There was a fair amount of opposition from the various scientists, as basic research almost never resulted in intellectual property. If a U.S. government entity were involved on the one end, the intellectual property belonged the U.S taxpayer and not the Agency.

I could very easily understand the basic reasoning on protecting intellectual property rights. I had after all had a summer job at American Cyanamid examining Japanese patents and looking for

usable loopholes. However, the real problems with intellectual property rights were things more related to outright theft, counterfeits, and so on. On those, USTR had the lead and worked very hard, not too successfully, because the governments either colluded or they were unable to stop the violations. So science and technology agreements were an easy target for bureaucratic triumphs. To give you an example on how this was received, we went to the South Koreans and said, "Here it is." They said, "What are you going to do to us if we don't sign on?" Well, we weren't going to do anything. We have a very open system and they were already doing all the research and cooperation they wanted to do in the U.S. Then they said, "Well what is in it for us?" And there wasn't special benefit to offer either. At this point they said bye bye Charlie. In fact I had charge of the Asia, India, and Japan science and technology agreements.

HOWARD H. LANGE
Office of Intellectual Property and Competition
Washington, DC (1992-1994)

LANGE: To the Office of Intellectual Property and Competition. "Competition" referred to anti-trust. They needed to put that function somewhere. But the main job was the protection of intellectual property rights.

Q: You were doing this in 1992 to when?

LANGE: 1992-94.

Q: Can you explain what intellectual property rights meant at the time and what you were doing about it?

LANGE: Intellectual property rights (IPR) are the rights enjoyed by originators of works protected by copyrights, patents and trademarks. In today's global economy, defense of those intellectual property rights often has a very important international dimension, whether they relate to motion pictures, musical recordings, videos, computer software, written materials, trademarked goods, or patented items or processes. This is a significant aspect of our international economic policy, and increasingly it has taken on a trade policy aspect.

Q: What sorts of issues were you dealing with this '92-94 period?

LANGE: ...There were two aspects of the job that absorbed most of my energy. One was our interface with the World Intellectual Property Organization, located in Geneva, which goes by the wonderful acronym WIPO. It is an UN-affiliated agency, and it administers something like

17 international agreements having to do with intellectual property. It was sort of a special animal because it generated a lot of income on its own from fees it charged on filing of patents. It had a beautiful, relatively new headquarters building overlooking Lake Geneva. WIPO was very well off and was the envy of other UN officials in Geneva. This actually corresponds to the situation with respect to our own Patent and Trademark Office, which generates income from patent fees and which as an institution lives better than other government agencies.

WIPO had been headed for many years by an American citizen by the name of Arpad Bogsch. He was originally from Hungary, had spent some years in the U.S., but most of his working life had been in Geneva. He was secretary-general of the organization, and he ran it with an iron hand. He was a good secretary-general from our policy point of view, and we managed to keep him in the position during my tenure. We began work on negotiating new international arrangements with respect to copyright, to address the new copyright environment created by the Internet and new technology that change the questions you ask with respect to protecting intellectual property. I can't pretend that I ever became expert in this arcane field. The real experts are in the Patent and Trademark Office, the Office of the Register of Copyrights, which is a function of the Library of Congress, and to a lesser but increasing extent the Office of the U.S. Trade Representative. Collectively, they are the ones who were principally responsible for negotiating in this area.

The other focus of the office was the trade aspect of IPR. A lot of effort here revolved around the so-called Special 301 provisions of our Trade Act. The trend toward making IPR a trade issue was resisted by some. But it became very explicitly a matter for our trade negotiators to pay attention to, and one of our tools to force governments to take seriously protection of IPR was trade retaliation. Consumers in other countries were feeding off our intellectual property products. Our producers in the recording industry, the software producers, the motion picture industry, represented by Jack Valent, were extremely effective and influential in attacking piracy of IP. The tool of choice was the Special 301 provision. Every year, countries would be assessed with respect to their effectiveness in protecting IPR. The law itself provided only for identifying a country that was not doing an adequate job of protection, and was therefore subject to trade retaliation in the form of punitive tariffs on selected imports from such a country. This action was to be taken only in extreme instances, preceded by a number of other steps. Part of the expression of this law, as it developed over the years, was the separation of malefactor countries into three tiers: watch list, priority watch list, and priority foreign country, the latter being the most egregious category and a designation that could trigger retaliation. The list was revised and renewed annually. The system worked remarkably well. Countries would take their position on the list quite seriously, and this afforded us leverage to negotiate IPR protection. Naturally, it also became an issue in bilateral relations. The IP industry was extremely demanding and aggressive. USTR was responsible for putting the list together, and it had very close relationships with all of the IP lobbies. USTR would essentially carry the IP industry message to foreign governments in terms of measures they should take with respect to protecting intellectual property. Well, that may be overstating the matter a bit, but the message we delivered, as a government was frequently the industry message, not much adulterated.

Each country presented a different problem. In Italy, for example, it was Disney videos. For some reason, Italians just loved pirating Disney product. So the weight of Disney was brought down on the Italians. From our point of view, Italy became a success story, partly because the Italians responded. They took it on board. We had a meeting with the Italians, and they outlined a program, part of which was for public consumption, making a big TV event of rounding up pirated videos and running over them with steamrollers, that sort of thing, all good theater. But they made a serious and effective effort to get on top of the problem.

Countries at the other end of the spectrum had no interest in protecting intellectual property. Their perspective was that the recording companies for example are becoming wealthy and they charge too much for tapes and CDs. "We're a tiny little market so why should we go out of our way to protect intellectual property?" We had to convince them that if they didn't, they'd be slapped with retaliation.

Q: What about some of the larger countries, particularly China and Thailand?

LANGE: China became the big issue during the time I was in this office. Taiwan was also a problem, and this went back for years, starting with books, moving to sound recordings, then to visual recordings. But part of the story with Taiwan is that as it became more prosperous, it developed a domestic constituency for protecting its own national product, and it turns out that's rather important. The same thing happened with Korea. They became interested domestically in protecting intellectual property rights, and that helps a lot. We're not in the position of saying, "Protect it for us!" We're saying, "Protect it for yourself as well." An element of our mythology, going back to the early days of the Republic, is that protecting intellectual property rights inspires creation of intellectual property. Well, yes sometimes it does, but not always, and in my humble opinion, it is possible to carry protection too far, beyond the point of diminishing returns. (For example, copyright protection 70 years after the death of the original copyright holder.) But to return to the main point, it is certainly true that if you get an interest group made up of artists, authors, inventors and others, it helps to sell protection of IPR.

I had a bit of exposure to the influence of domestic IPR stakeholders in Malta. Talk about a tiny market. The concern started with videos and audiocassettes. You could buy any cassette in the open markets in Malta, and they were always pirated. You couldn't buy or rent a legitimate video there. All the videos we watched at home for three years were pirated. The Maltese approach, not surprisingly, was, "Look, these are available at a fraction of the cost of legitimate products. We don't do the pirating, and our people are poor." Many countries take that approach: that their people can't afford the legitimate product. In Malta's case, they didn't believe, with some reason, that sale of pirated products there had much impact on the world market. We began to make some progress, though, and one thing that helped was a fairly influential guy who wanted to open a multiplex cinema. He wanted to show legitimate movies and make a profit. It was against his interest to have immediately pirated videos in the market, if he was going to be showing the same movies in his multiplex. So that, combined with our threat, and like the proverbial mule, to

get their attention you had to hit them with a two by four, then gradually persuaded them to take the problem seriously. No government wants to address this politically unpopular issue: they all want to ignore it and hope that it goes away.

Diplomat Biographies

Arnold, Daryl

A Californian, Ambassador Arnold was closely associated with President Reagan and other Republican officials. He served as member of Commissions dealing with agriculture issues in Japan and other Pacific Rim nations. In 1987 he was appointed Ambassador to Singapore, where he served until 1989. Ambassador Arnold was interviewed by Hank Zivetz in 1989.

Cary, Anne O

Anne O. Cary was born in Washington, DC in September of 1952. She received a bachelor's degree from the University of Wisconsin and entered the Foreign Service in 1974. Her career included positions in Brussels, Port-au-Prince, Paris, Addis Abba, New Delhi, Casablanca, and Washington, DC. Ms. Cary was interviewed by Charles Stuart Kennedy on November 30, 1995.

Clark Jr., William

Ambassador William Clark, Jr. was born in California in 1930. He graduated from San Jose State College with a B.A. degree in 1955. He served in the U.S. Navy intermittently from 1949 to 1953. In 1957, he joined the State Department, serving in Sierra Leone, Japan, South Korea, Egypt, India, and Washington, DC. He was interviewed by Thomas Stern on January 11, 1994.

Dean, David

David Dean was born in New York City in 1925 and graduated from Harvard. He entered the Foreign Service in 1951. He served in numerous posts including Kuala Lumpur, Rotterdam, Taichung, Hong Kong and Taipei. He was interviewed by Charles Stuart Kennedy in 1998.

Dunlop, Thomas

Mr. Dunlop was born in Washington, D.C. and raised in North Carolina. He was educated at Yale University and the University of Berlin. After serving in the US Air Force, he entered the Foreign Service in 1960. His foreign assignments took him to Saigon and Seoul in the Far East and to Belgrade and Zagreb in Eastern Europe. In Washington, he also dealt primarily with matters concerning Romania and Korea. Mr. Dunlop was interviewed by Charles Stuart Kennedy in 1996.

- Ellis, Clark N** *Clarke N. Ellis was born in Boston in 1939. He was raised in California and attended the University of Redlands in Redlands, California. He entered the Foreign Service in 1962 and was assigned as a Junior Officer to Munich. He later served in Italy, Eritrea, Austria, Switzerland, and Taiwan. He was interviewed by Charles Stuart Kennedy in 1998.*
- Gillespie Jr., Anthony** *Charles Anthony Gillespie Jr., was born in Long Beach, California in March, 1935. He graduated from UCLA in 1958 with a bachelor's degree in psychology. Following a six-year term with the U.S. Army, he entered the Foreign Service in 1965 and was nominated by President Reagan as Ambassador to Colombia in 1985. In addition to Colombia, he was posted to the Philippines, Indonesia, Belgium, Mexico, Nicaragua, and Chile.*
- Jones, Teresa Chin** *Mrs. Jones was born in the Soviet Union of Chinese diplomatic parents. She was raised in the USSR and the United States. A specialist in Scientific Affairs, both civilian and military, Mrs. Jones' Washington assignments were primarily in the fields of international nuclear and scientific matters and included non-proliferation, arms control, East-West Trade as well as general Political/Military subjects. Her foreign assignments were in the scientific and consular fields. She holds two degrees from the University of Pennsylvania. Mrs. Jones was interviewed by Charles Stuart Kennedy in 2007.*
- Lambertson, David** *David Lambertson was born in Kansas in 1940. He received his BA from the University of Redlands in 1962. He entered the Foreign Service in 1963, and his assignments abroad included Saigon, Medan, Paris, Canberra and Seoul with an ambassadorship to Thailand.*
- Lange, Howard H.** *Mr. Lange was born in 1937 and raised in Nebraska and educated at the Universities of Nebraska and Washington. After service in the US Air Force, he joined the Foreign Service in 1969. After Vietnam training in Washington Mr. Lange was posted to Vietnam. Many of his future assignments, both in Washington and abroad concerned the Far East, China and Taiwan matters in particular. Mr. Lange's overseas posts include Hue, Saigon, Manila, Taipei, Beijing, Warsaw and Malta. Mr. Lange was interviewed by Charles Stuart Kennedy in 2000.*
- Martin, G. Eugene** *A Specialist in Chinese Affairs and a speaker of Chinese, Mr. Martin spent the major part of his career dealing with matters relating to China, both in Washington and abroad. His overseas assignments included Hong Kong, Taipei, Huangzhou (formerly Canton), Beijing, Manila and Rangoon. His Washington assignments also concerned China and the Far East. Mr. Martin was born in Indiana of Missionary parents and was raised in the US. and India. He is a graduate of Kalamazoo College and Syracuse University. Mr. Martin was*

interviewed by Charles Stuart Kennedy in 1999.

O'Donohue, Daniel A *Ambassador Daniel A. O'Donohue was born in Michigan in 1931. He received a BS from the University of Detroit in 1953 and an MPA in 1958 from Wayne State University. He served overseas in the US Army from 1953 to 1955 and entered the Foreign Service in 1959. His assignments abroad include Genoa, Seoul, Accra and Bangkok, with ambassadorships to Burma and Thailand. Charles Stuart Kennedy interviewed Ambassador O'Donohue in 1996.*

Plaisted, Joan *Ambassador Joan M. Plaisted was born in 1958 in Minnesota. She attended America University and received both her Bachelor's and Master's Degree. Her postings abroad include Paris, Hong Kong, Geneva, Rabat and Marshall Island as Ambassador. Ambassador Plaisted was interviewed by Charles Stuart Kennedy on July 30, 2001.*

Reuther, David E *David E. Reuther was born in Washington in 1942. He received a BA from Occidental College in 1965 and entered the Foreign Service in 1970. His assignments abroad include Udorn, Bangkok, Songkhla, Taipei, Beijing, Khartoum, and Kuwait. Mr. Reuther was interviewed by Raymond C. Ewing in 1996.*

Smith, GrantR *Grant Smith was born on Long Island in 1938. He graduated from Princeton University in 1960. He later earned a master's degree from Columbia University. He joined the Foreign Service in 1963 and held positions in Pakistan, Nepal, and India. In 1995 he began his ambassadorship in Tajikistan. Ambassador Smith was interviewed by Charles Stuart Kennedy in 1999.*

Thayer, Harry E.T. *Ambassador Harry E. T. Thayer was born in Massachusetts in 1927. He received his bachelor's degree from Yale University in 1951. He served in the US Navy from 1945-1946. His overseas posts include Hong Kong, Taipei, and Beijing. He was ambassador to Singapore from 1980 to 1984. Ambassador Thayer was interviewed by Charles Stuart Kennedy in 1990.*

Tomseth, Victor M *Victor L. Tomseth was born in Oregon in 1941. He received his bachelor's degree from the University of Oregon in 1963 and his master's degree from the University of Michigan in 1966. After joining the Peace Corp and going to Nepal he joined the Foreign Service. During his career he had positions in Thailand, Iran, Sri Lanka, and was ambassador to Laos. Ambassador Tomseth was interviewed by Charles Stuart Kennedy in 1999.*

Tyson, Paul H *Mr. Tyson was born in Virginia into a US military family and was raised in army posts in the United States and abroad. Educated at Dartmouth*

College and George Washington University he entered the Foreign Service in 1974. As a trained Economic Officer, Mr. Tyson served in a number of foreign posts, including Bonn, Dhahran, London and Kuwait City. His Washington Assignments were primarily in the petroleum and international economic fields. Mr. Tyson also served with the Sinai Multi-National Force & Observers. Mr. Tyson was interviewed by Charles Stuart Kennedy in 2001.

Young, Johnny

Ambassador Young was born in Georgia and raised in Georgia, Pennsylvania and Delaware. He was educated at Temple University and entered the Foreign Service in 1967. Before being named Ambassador, Mr. Young served in a number of embassies in the administrative field, including Madagascar, Guinea, Kenya, Qatar, Barbados, Jordan and the Netherlands. In 1989 he was named US Ambassador to Sierra Leone, where he served until 1992. He subsequently served as US Ambassador to Togo (1994-1997), Bahrain (1997-2001) and Slovenia (2001-2004). Ambassador Young was interviewed by Charles Stuart Kennedy in 2005.

End of Reader