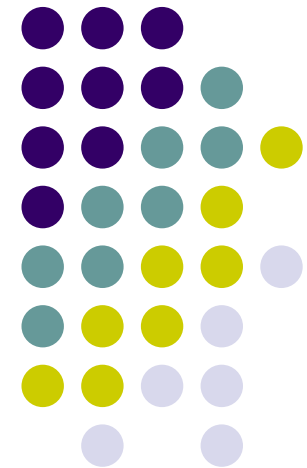


# From Pooling Interests to Joint Activity

Peter Khizhnyak

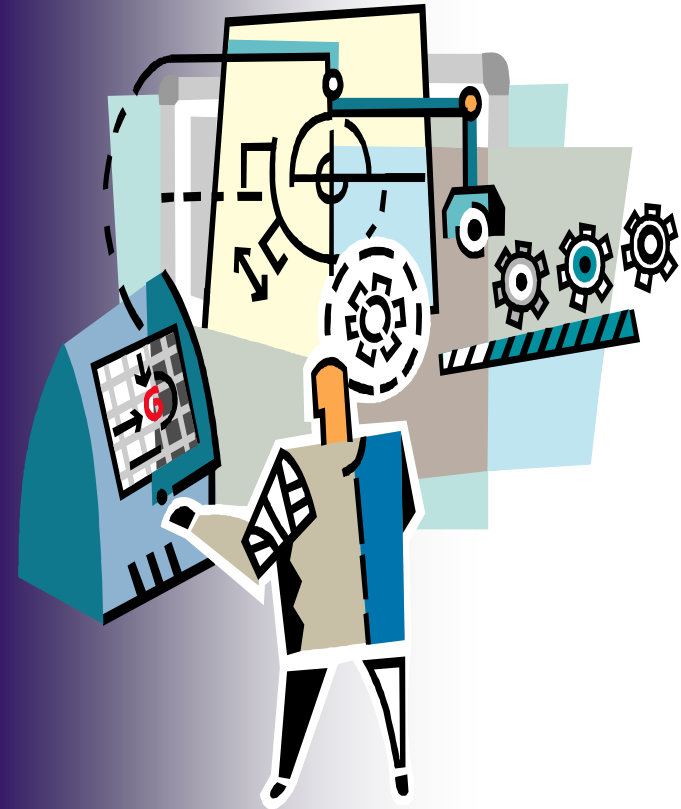
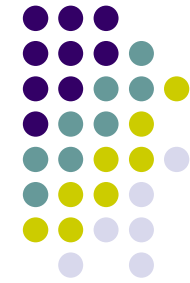
Round Table  
“Work Experience with Intellectual  
Property Right in Russia”

24<sup>th</sup> June, 2008



# Messages

- 1 Piracy of Intellectual Property (IP) in Russia and Worldwide
- 2 Background of Computer Piracy in Russia
  - 2.1 Qualification of Lawyers and Top-Mangers
  - 2.2 Mentality
  - 2.3 Legal System
  - 2.4 Established Quotas
  - 2.5 Money
  - 2.6 Confused Users
  - 2.7 Unfriendly Copyright Holders
- 3 Unreasonable Prices
- 4 Potential Threats and Alternatives to Commercial IP
  - 4.1 Open Source (Free) Software
  - 4.2 Open Source Hardware
- 5 Can Situation with Computer Piracy in Russia be Improved Quickly?
- 6 Gradual Pressing Piracy Out
- 7 Making Unions and Associations
- 8 Cooperate with Government
- 9 Position of Vendors, IP Owners



# IDC & BSA 2007 Annual Report



## Study Highlights: Fifth Annual Global Software Piracy Study May 2008



### 2007 Worldwide PC Software Piracy Figures

- Global piracy rate: **38%**
- Total packaged PC software losses: **nearly \$48 billion (USD)**
- Changes from 2006: **3% rise in global piracy rate; losses increased 20%**

#### Countries with Highest Piracy Rates

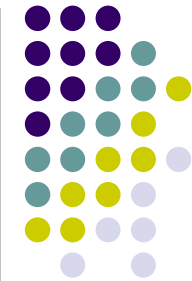
	2007	2006
Armenia	93%	95%
Bangladesh	92%	92%
Azerbaijan	92%	94%
Moldova	92%	94%
Zimbabwe	91%	91%
Sri Lanka	90%	90%
Yemen	89%	--
Libya	88%	--
Venezuela	87%	86%
Vietnam	85%	88%
Iraq	85%	--

#### Countries with Lowest Piracy Rates

	2007	2006
United States	20%	21%
Luxembourg	21%	--
New Zealand	22%	22%
Japan	23%	25%
Austria	25%	26%
Belgium	25%	27%
Denmark	25%	25%
Finland	25%	27%
Sweden	25%	26%
Switzerland	25%	26%
United Kingdom	26%	27%

Russia led the way with a one-year PC software piracy drop of seven points to **73%**, and a five-year drop of 14 points.

# BSA & IDC Global Software Piracy Study



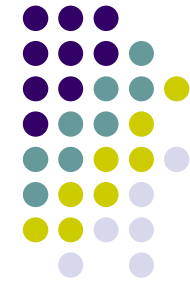
Country	Reported 2006 piracy rate	Pro forma 2007 piracy rate	Reported 2007 piracy rate
China	82%	80%	82%
Vietnam	88%	81%	85%

FIFTH ANNUAL BSA AND IDC GLOBAL SOFTWARE PIRACY STUDY

**Russia: 87% (2002), 80% (2006), 73% (2007)**

**i.e. -7% (within a year), -14% (over 5 years)**

# Some International Organizations

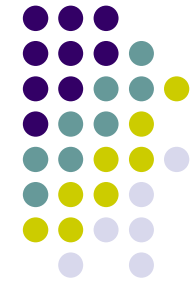


**Business Software Alliance** ([www.bsa.org](http://www.bsa.org)) is the foremost organization dedicated to promoting a safe and legal digital world. BSA is the voice of the world's software industry and its hardware partners before governments and in the international marketplace. Its members represent one of the fastest growing industries in the world. BSA programs foster technology innovation through education and policy initiatives that promote copyright protection, cyber security, trade and e-commerce. BSA members include Adobe, Apple, Autodesk, Avid, Bentley Systems, Borland, CA, Cadence Design Systems, Cisco Systems, CNC Software/Mastercam, Corel, Dell, EMC, HP, IBM, Intel, McAfee, Microsoft, Monotype Imaging, PTC, Quark, Quest Software, SAP, Siemens PLM Software, SolidWorks, Sybase, Symantec, Synopsys, and The MathWorks.



**The International Intellectual Property Institute (IIPI)** is a not-for-profit corporation located in Washington, DC. As an international development organization and think tank, IIPI is dedicated to increasing awareness and understanding of the use of intellectual property as a tool for economic growth, particularly in developing countries. Since 1998 the Institute has been engaged in a wide range of activities both abroad and within the United States, including critical research, public education, policy and training workshops, technical assistance, institution building and consultative services.

## Some International Organizations (continued)



- **European Patent Organization (EPO)**

[www.epo.org](http://www.epo.org)

*The European Patent Office (EPO) provides a uniform application procedure for individual inventors and companies seeking patent protection in up to 38 European countries. It is the executive arm of the European Patent Organisation and is supervised by the Administrative Council.*



- **World Intellectual Property Organization (WIPO)**

[www.wipo.int](http://www.wipo.int)

*The World Intellectual Property Organization (WIPO) is a specialized agency of the United Nations. It is dedicated to developing a balanced and accessible international intellectual property (IP) system, which rewards creativity, stimulates innovation and contributes to economic development while safeguarding the public interest.*

*WIPO was established by the WIPO Convention in 1967 with a mandate from its Member States to promote the protection of IP throughout the world through cooperation among states and in collaboration with other international organizations. Its headquarters are in Geneva, Switzerland.*



## Some Russian organizations



**Роспатент**

**Federal Service for Patents and Trade Marks (Rospatent)** is the sole body of federal executive authority entitled to grant, register and maintain the rights to inventions, utility models, industrial designs, trademarks, service marks, appellations of origin, or to register computer programs, databases and topographies of integrated circuits in the territory of Russia. It performs the functions of Russia's state patent office, including legal protection of computer programs, databases, and integrated circuits topographies.



**Federal Institute of Industrial Property (FIPS) of Rospatent**  
[www.fips.ru](http://www.fips.ru)



**Chamber of Patent Disputes**



**Russian State Educational Institute For Intellectual Property (RGIIS)**



**Public Advisory Council at Rospatent**

[www.fips.ru/ruptoru/konsovet.htm](http://www.fips.ru/ruptoru/konsovet.htm)

# Do Russian Authorities Take any Efforts to Protect IP? ... Not Much Enough.



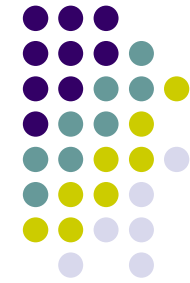
## Conferences and seminars on IP held in Russian regions in 2007

- Conferences and seminars have been held along with the corresponding local administrations of 31 regions, namely 41 conferences and seminars devoted to intellectual property
  - Orel – 1,
  - Tver – 1,
  - Belgorod – 1,
  - Moscow – 2,
  - Tula – 1,
  - Kaluga – 1,
  - St. Peterburg – 5,
  - Kaliningrad – 1,
  - Arkhangelsk – 1,
  - Izhevsk – 1
  - Perm – 1,
  - Cheboksary – 2,
  - Saratov – 1,
  - Togliatti – 1,
  - Kirov – 1,
  - Kazan – 1,
  - Samara – 1,
  - Upha – 1,
  - Saransk – 1
  - Tyumen – 1,
  - Ekaterinburg – 3,
  - Magnitogorsk – 1,
  - Kurgan – 1,
  - Chelyabinsk – 1,
  - Volgograd – 1,
  - Sochi – 2,
  - Astrakhan – 1,
  - Krasnodar – 1,
  - Novosibirsk – 1
  - Irkoutsk – 1
- In the Central federal district – 8

# 1. Piracy of Intellectual Property (IP) in Russia and Worldwide



# 1. Piracy of Intellectual Property (IP) in Russia and Worldwide



A number of analytical surveys show that the piracy level in economically developed countries is considerably lower than that in less developed world.

The **piracy level correlates with the economical situation** (and welfare of people) in various countries.

## Conclusion

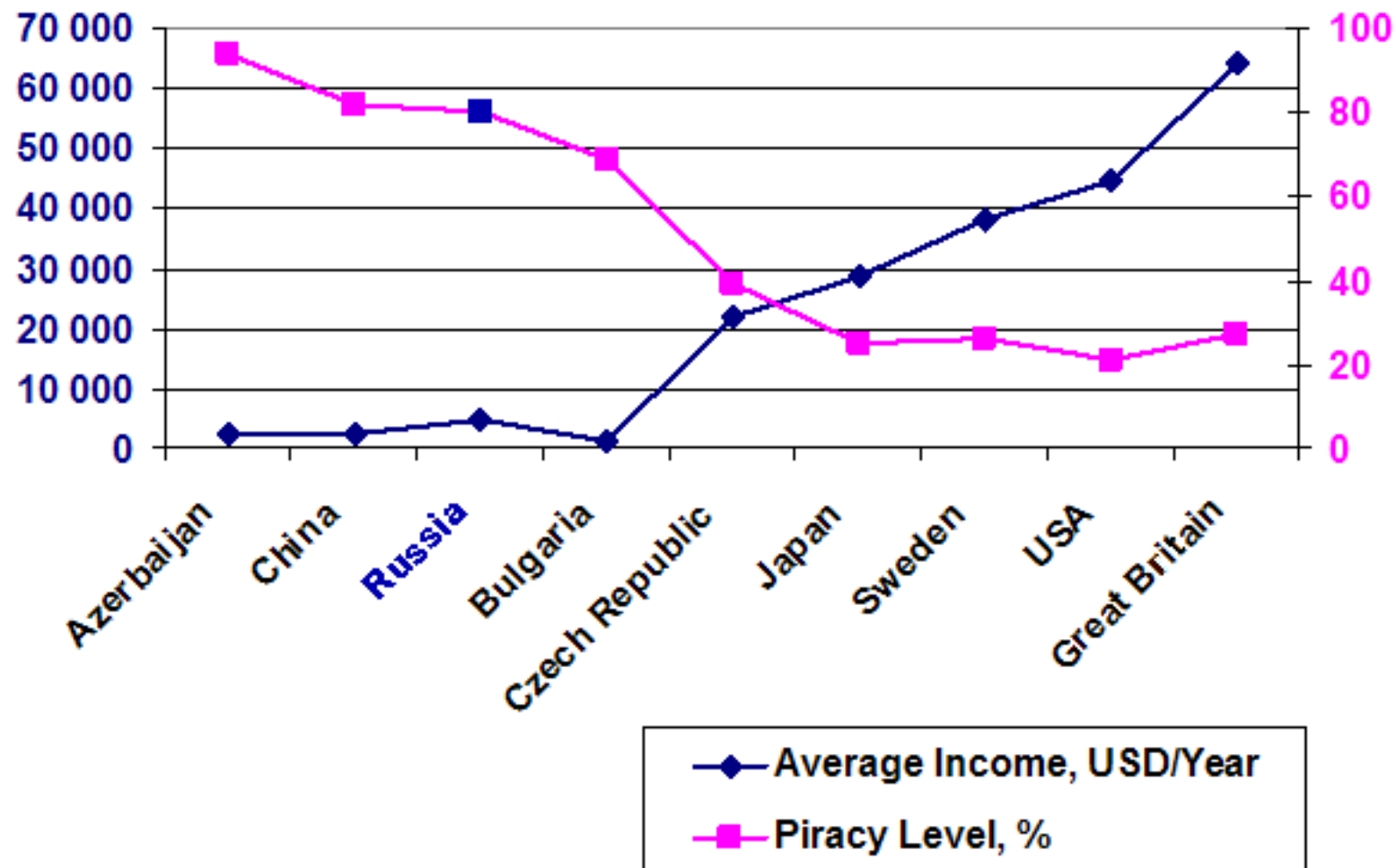
Software licensing and pricing **policies** should correspond to the economical situation and living standards of people.

## Remark

The level of piracy in Russia has reduced by **14%** over the **last five years**, a decrease for the **past year** being as high as **7%**.



The **piracy level** correlates with the **yearly income** (salary) of people in various countries



## 2. Background of Computer Piracy in Russia



## 2. Background of Computer Piracy in Russia



### 2.1 Competence of Lawyers and Top-managers



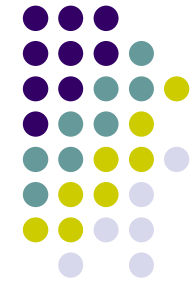
Businessmen, top-managers and even lawyers are **not** skilled and do **not** have proper experience in copyright, intellectual property, patents, licensing, etc.

### 2.2 Mentality

Over 70 years of Soviet system **Russians lost a tradition to be at Law**. To strictly observe the Law is not highly prestigious in Russia. Private property is far from being a Holy Caw to public persons, officials and, as a consequence, to ordinary people.



Many people do not recognize Illegal use of counterfeit (unlicensed) software as a theft.



## 2. Background of Computer Piracy in Russia (continued 1)

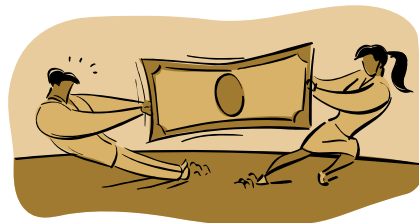


### 2.3 Legal System

Laws relating to copyright and related rights, intellectual property (IP) rights and private property rights in general are yet **very young and imperfect**. For instance, Part 4 of the Civil Code took effect only from the 1st of January, 2008.

### 2.4 Established Quotas

Relevant standards are **lacking** for operating and maintenance costs, expenditures on software, patents, and licenses.





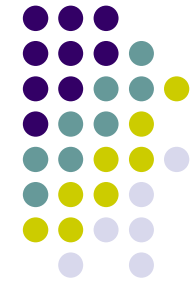
## 2. Background of Computer Piracy in Russia (continued 2)

### 2.5 Money

Planning budgets in private companies and governmental institutions does not allow for (or with insufficiently allows for) necessary expenditures for IP objects. The main problem here is **underfunding** at all levels, including federal.

If all costs necessary to purchase IP objects would be budgeted some fine day, then **private companies could get bankrupted**. And the slender budgets of government institutions could not bear such a burden.





## 2. Background of Computer Piracy in Russia (continued 3)

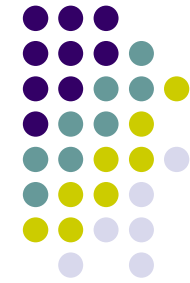


### 2.6 Confused users

Ordinary law-abiding people are confused not only by the wide variety of software, versions and prices (e.g., today there are 8 versions of MS Office 2007), they often don't know how to purchase software, how to make an update or renew a license. Moreover, even a legal expert, with a second (computer) education **can hardly puzzle out** the text of a License Agreement (EULA).

Besides, for some reason the License Agreement usually becomes available for reading only after you plunked down your money for the software, come home and opened the box.

## 2. Background of Computer Piracy in Russia (continued 4) \*



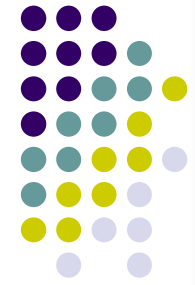
... And it is quite **unclear** how to get the money back in case you decide to decline the License Agreement and return the software. Often users don't get whether they may sell the software they don't need any more, to gift or to lend it.

### 2.7 Unfriendly Copyright Holders

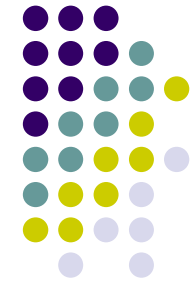


Sometimes a shopper finds out (already at home) that the purchased license is valid for only one year. Feeling cheated he or she decides not to be so trustful next time. Hence, users believe that software developers **behave unfriendly** and pay back in kind.

### 3. Unreasonable Prices



### 3. Unreasonable Prices

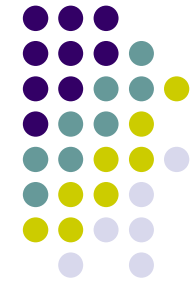


Often software users in Russia **do not get the service level** they could expect and which is available to customers in other countries. After all the service costs are a part of the license price. And this price is pretty much the same everywhere.

The **quality of localized versions** (translation first of all) has still been fairly low. There are so called “induced” bugs and localization “features”. Some of them were fixed but will stay remembered for a long time.

People don't want to pay for low quality localized software the same money that for the original versions (which they are unable to use due to poor foreign language knowledge or inability to purchase).

### 3. Unreasonable Prices (continued 1)

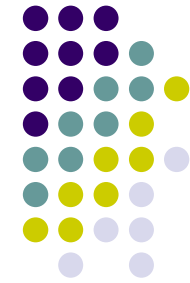


Many software vendors cannot be proud of full-functionality Russian-language web sites, with [technical support](#) pages and Russian hot-line telephone numbers. Many information materials are just not available in Russian.

Local call centers are much worse in Russia, and their operators are not competent enough to solve a problem on the spot. They contact to a service center in the country of origin at best, or make a helpful gesture at worst.

Thus, users of original versions get [advantages](#) that Russians don't, but can see, understand and recognize.

### 3. Unreasonable Prices (continued 2)



The **income level** of many Russian people is an order lower than that of legal software users in other countries. However, the local software prices in Russia (for Russian versions) do not differ very much from the world prices (for the original, i.e. non-localized versions).

An ordinary Russian user just **cannot afford** to purchase all the needed software. In this case someone looks for free products and someone steals commercial products. Both are equally easy (or difficult) to get, and some people can barely understand the difference between these (as long as both are downloaded from the Internet).



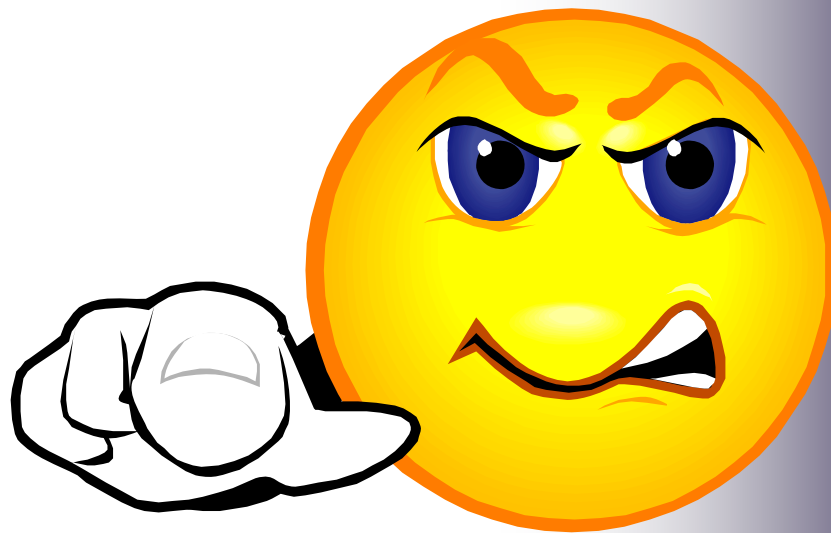
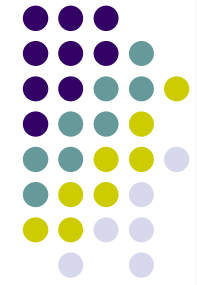
### 3. Unreasonable Prices (continued 3) \*

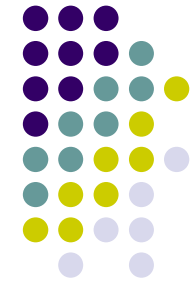
**Remark.** Usually the electronic End User License Agreement does not say that you must pay (and how much) for the license. The Purchase Contract (if any) and the License Agreement are split.

Thus, it's probably worth to consider lowering the IP product prices in Russia. It should result in sales increase. Similarly, the **reduction of income tax** in Russia has lead to an increase in its collectability by **50%**.



## 4. Potential Threats and Alternatives to Commercial IP

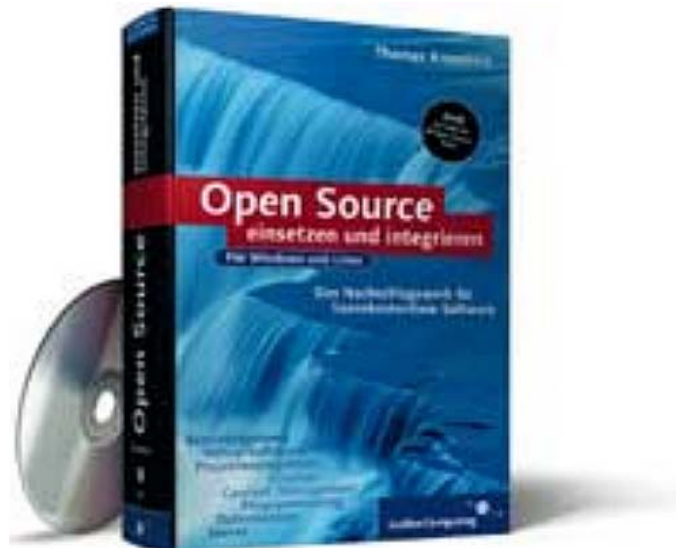




## 4. Potential Threats and Alternatives to Commercial IP

### 4.1 Open Source and Free Software

See “Concept for Open Source Software development in Russia until 2010” by the Ministry for Information Technologies and Communications (Mininformsvyaz) of the Russian Federation.

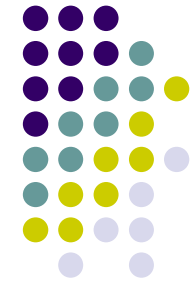


## 4. Potential Threats and Alternatives to Commercial IP (continued) \*

### 4.2 Open Source Hardware

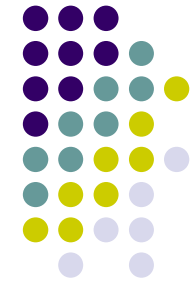
The brightest example of Open Source Hardware in action is the UltraSPARC T1 (Niagara) processor, created by SUN Microsystems within the OpenSPARC project.

Another example of Open Source Hardware is a project of OpenMoko company (Open Mobile Kommunikations) to create an Open Source GSM Smartphone. The platform is based on the GNU/Linux kernel and uses ipkg package system. The phone also features an A-GPS system (with an additional GPS chip). Also the OpenMoko platform is an open source competitor to Windows Mobile.



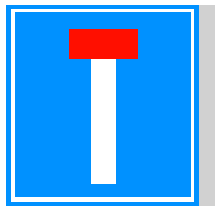
## 5. Can Situation with Computer Piracy in Russia be Improved Quickly?





## 5. Can Situation with Computer Piracy in Russia be Improved Quickly?

### No-win ways:

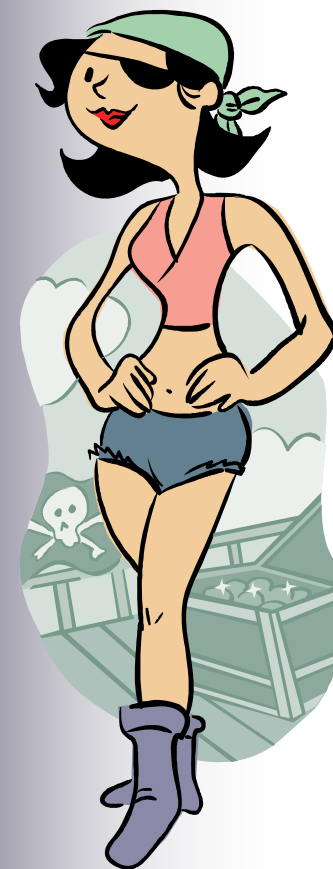
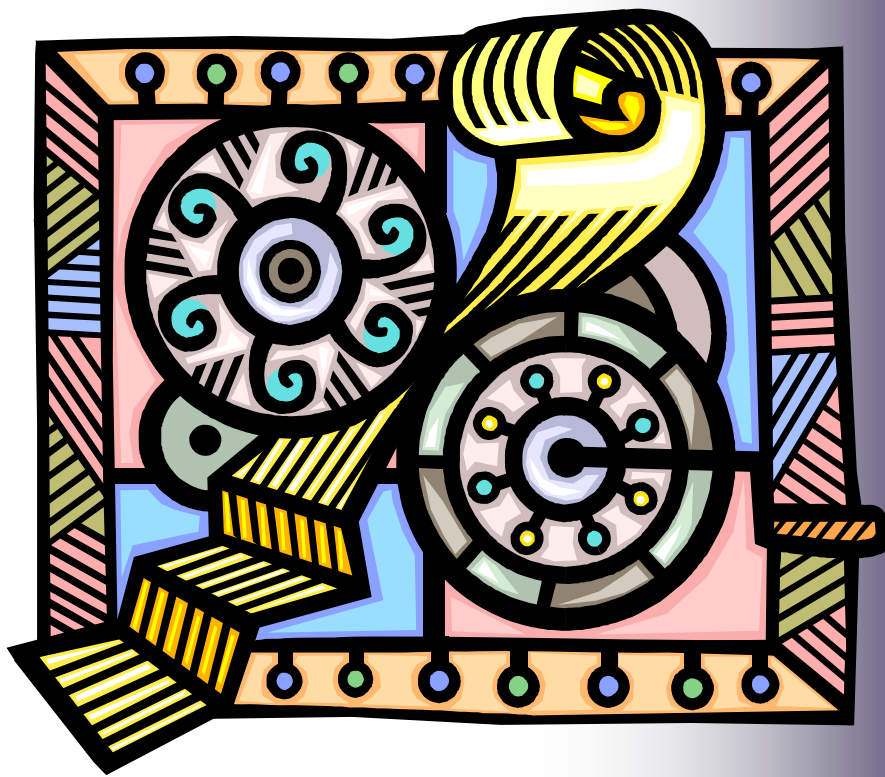


- Urge the government to use the Stabilization Fund, Federal reserves for centralized purchase of software and other IP objects (products).
- Provide for targeted budgeting by law.
- Further severe the responsibility for piracy and infringement of IP rights.

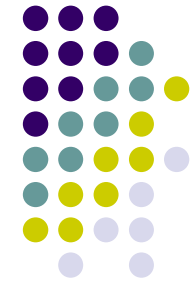
Considered below are more real and reasonable ways.



## 6. Gradual Pressing Piracy Out

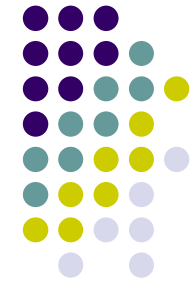


## 6. Gradual Pressing Piracy Out

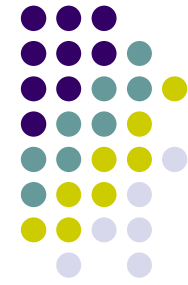


- **Analytical work.** Examining situations. Planning concordant actions of IP copyholders, low-abiding commercial community, users, and government.
- **Education** (including goal-oriented creation and explanation of the advantages of legal IP use), provision of favourable conditions for legal purchaser. PR campaigns.
- **Dissemination of special knowledge**, literature, software and other implements focused on diminishing the piracy level. For example, distribution of free inventory systems to take stock of installed software products, systems for centralized (and probably standardized) license management, evaluation, needs identification, updating and upgrading, procurement planning etc.

## 6. Gradual Pressing Piracy Out (continued 1)



- **Negotiations with government authorities** on funds (with gradual increase thereof) for the purchase of IP objects to be planned in budgets. Probably, conduct negotiations on mutual concessions, improvements in lawmaking and law-enforcement practice.
- **International exchange of experience** in the fight of government and non-governmental organizations against piracy.
- Elaboration, application, and broad advocacy of **special licensing schemes**, including home, non-commercial, volume (bulk), educational, student schemes, etc.

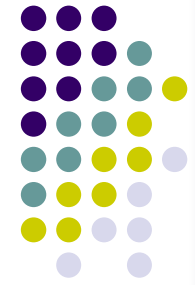


## 6. Gradual Pressing Piracy Out (continued 2) \*

- Amnesties. **Price adjustment** for previous (legacy) versions of software (after issuing new ones).
- **Facilitate** the processes of evaluating (studying and testing) and **purchasing** software products and other IP objects. Including special stores, shop sections, and auctions. Schemes of commission trade, leasing etc.



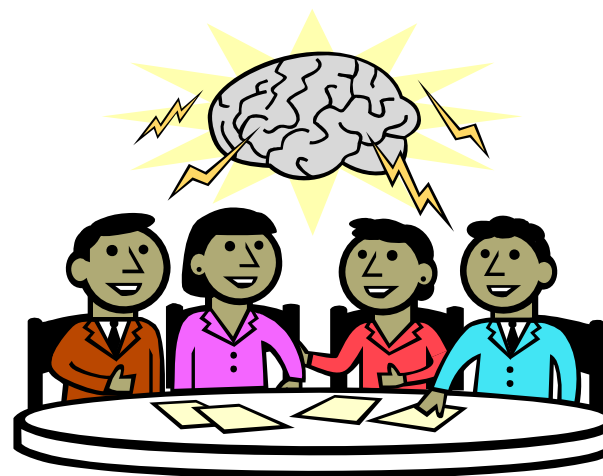
## 7. Making Unions and Associations



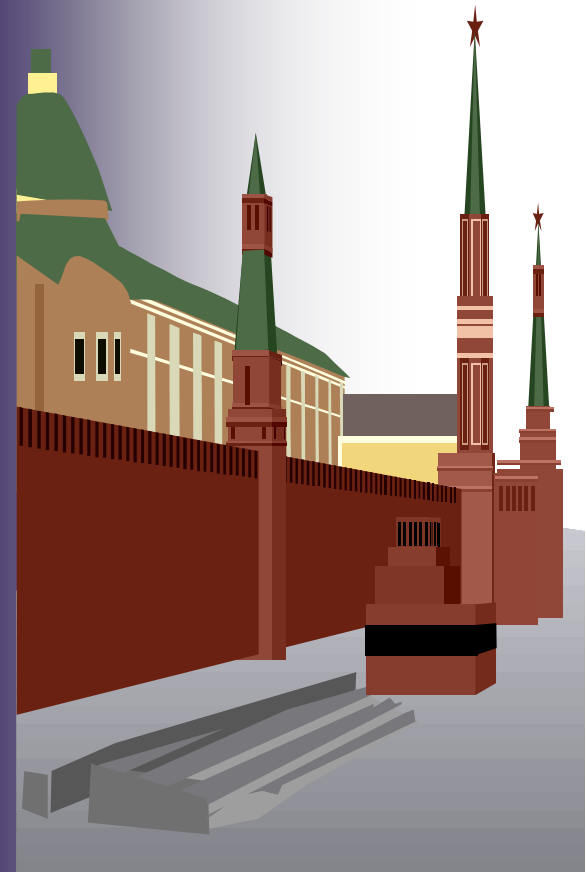
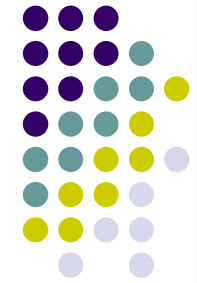


## 7. Making Unions and Associations

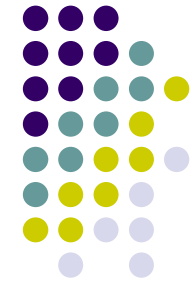
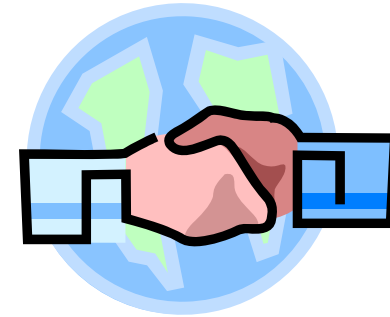
Business community should consider foundation of **Associations** and other non-governmental organizations in Russia that will unite vendors (manufacturers), and legal users of software and other products based on IP, to **act together against IP piracy**.



## 8. Cooperate with Government



## 8. Cooperate with Government



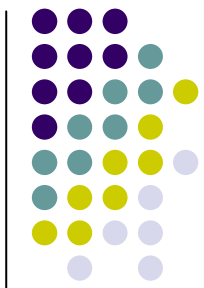
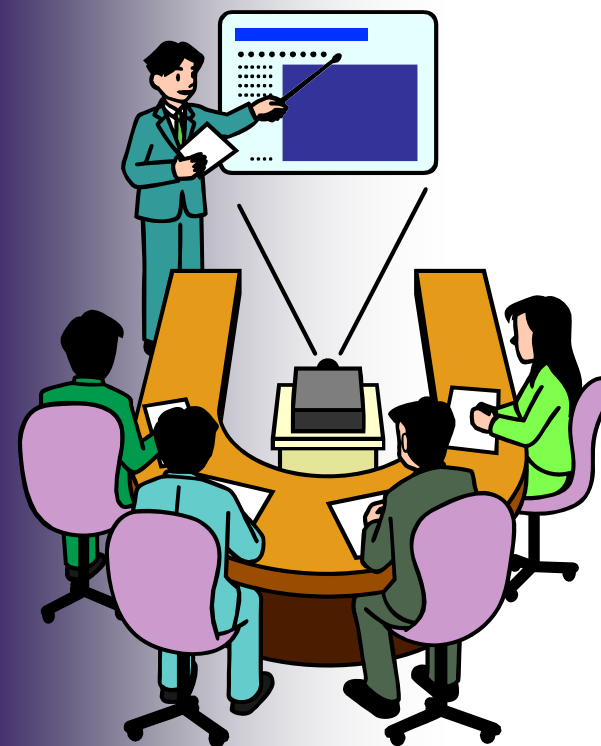
**Combine** efforts of the government and communities (associations) in fighting piracy and **elaborate** concordant policy and methods.

**Certification and accreditation of IP objects (e.g. software products).**

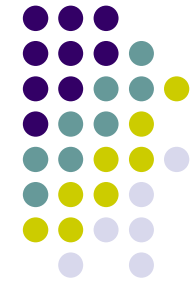
Since the Russian government most probably will be interested in that only those IP products that are **certified and licensed** by official competent authorities shall be used at governmental institutions, law-enforcement authorities, in medicine, industry etc.



## 8. Position of Vendors, IP Holders



## 9. Position of vendors, IP holders

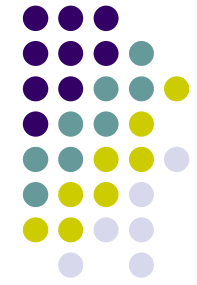


**QUESTION:** What **vendors** can propose to improve the situation with IP piracy in Russia?

May they use all or some of the above-mentioned ways? For example:

- conduct a systematic **educational work** and agitation;
- **reduce prices** for localized software and other IP objects in Russia;
- establish an anti-piracy **association** in Russia (community of companies and legal IP users);
- organize **cooperation** between the association and government;
- **something else?**





**Thank you !**