



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE

MINISTRY OF ECONOMIC AFFAIRS

January – March 2012

Quarterly Report on Taiwan's Intellectual Property Rights Protection

TIPO's Director General, Ms. Mei-hua Wang and Director of Trademark Division, Ms. Su-mei Lee, were invited by the Interchange Association, Japan (IAJ) to pay a short visit to the country from February 27 to March 2, 2012. While there, DG Wang and Director Lee respectively delivered speeches on "An Introduction to Taiwan's Newly-amended Patent Act and Trademark Act" and "Supporting Measures of Taiwan's Newly-amended Trademark Act," to facilitate better understanding among the attending Japanese industry representatives of the latest IPR development in Taiwan. During their stay, both DG Wang and Director Lee also visited Japan Patent Office (JPO), Japan Attorneys Association (JPAA), and Japan Intellectual Property Association (JIPA) to enhance exchange and cooperation between TIPO and the country's IP-related agencies.

Wang, Mei-hua
Director General, Intellectual Property Office (TIPO)

185, Hsin-hai Road, Sec. 2, 3F, Taipei 106, Taiwan

Tel: 886-2-2738-0007 • Fax: 886-2-2735-2656

Website: <http://www.tipo.gov.tw> • E-mail: ipo@tipo.gov.tw

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Special Report

3rd Taiwan-UK Digital Videoconference on IPR

The 3rd Taiwan-UK Digital Videoconference on IPR was held on January 16, 2012, and co-hosted by Ms. Su-Mei Lee, Director of Trademark Division, TIPO, and Mr. Bill Russell, Head of Bilateral Relations, UKIPO.

During the conference, both TIPO and the UKIPO exchanged updates on the trademark systems of both countries and respectively gave briefings on the 2011 International Symposium on Trademark Administration and Management, held in mid-October in Taipei. The two sides then exchanged information regarding the following: subsequent development of the design issue discussed during the 2nd videoconference and new avenues for future collaboration. In view of the success of this videoconference, both sides believed that it would facilitate beneficial bilateral cooperation and exchange in the future.

TIPO Attends 34th APEC/IPEG Meeting

TIPO divisional directors Mr. Wen-fa, Huang, Mr. Chen-wei Liao, and trademark examiner, Mr. Hung-chieh Chen on February 5-6, 2012 attended the 34th APEC/IPEG Meeting Moscow, Russia. While there, TIPO delegates delivered presentations on “A Briefing on the Preparations Before the Newly-amended Trademark Act Takes Effect” and “Patent Backlog Cleanup Project and Expected Results,” and exchanged views with representatives from other member economies.

Dr. Jasmine Chambers, Deputy Administrator of the Office of Policy and External Affairs, USPTO, Visits TIPO

To facilitate exchange with international IPR bodies, TIPO invited Dr. Jasmine Chambers, Deputy Administrator of the Office of Policy and External Affairs, USPTO, to visit TIPO on February 8-9, 2012. While here, Dr. Chambers shared her views and experiences with TIPO patent examiners on the following: Current status on Biotechnology Patent Law, USPTO implementation of the AIA, and implications of the AIA on international patent harmonization efforts.

Delegation from the Cultural Market Administrative Law Enforcement Office of Beijing Visits TIPO

A delegation of ten people from the Cultural Market Administrative Law Enforcement Office of Beijing led by Counsel, Mr. Lianwen Zhao, visited TIPO on February 6, 2012 to exchange views on issues regarding Taiwan's policies on copyright, relevant legislation and enforcement of copyright protection, as well as the management, services, and inspection of books, audiovisual products, and related publications.

TIPO's DG Wang Gives Talks at IAJ and Visits Japanese IP Agencies from February 27 to March 2, 2012.

TIPO's Director General, Ms. Mei-hua Wang and Director of Trademark Division, Ms. Su-mei Lee, were invited by the Interchange Association, Japan (IAJ) to pay a short visit to the country from February 27 to March 2, 2012. While there, DG Wang and Director Lee respectively delivered speeches on “An Introduction to Taiwan's Newly-amended Patent Act and Trademark Act” and “Supporting Measures of Taiwan's Newly-amended Trademark Act,” to facilitate better understanding among the attending Japanese industry representatives of the latest IPR development in Taiwan. During their stay, both DG Wang and Director Lee also visited Japan Patent Office (JPO), Japan Attorneys Association (JPAA), and Japan Intellectual Property Association (JIPA) to enhance exchange and cooperation between TIPO and the country's IP-related agencies.

BIPPA Delegation Visits TIPO

A delegation of 11 people headed by Mr. Hong Wang, Director General of the Beijing Intellectual Property Protection Association (BIPPA), visited TIPO and was received by Deputy Director General, Mr. Hsin-hua Chu, on March 1, 2012. Both sides exchanged views on issues regarding the innovation, protection, management, and utilization of IPR, as well as the cultivation of IPR professionals. TIPO representatives then shared experiences on implementing IPR protection, encouraging R&D by local industries, facilitating patent commercialization, and promoting Cross-strait Agreement on IPR Protection and Cooperation.

Mr. Frederic Laplanche, Head of EETO, Visits TIPO

Mr. Frederic Laplanche, Head of the European Economic and Trade Office (EETO) and Mr. Tamás Maczák, Deputy Head, visited TIPO on March 2, 2012, to exchange views regarding compulsory licensing stipulated in the implementation regulations of Taiwan's Patent Act, and the progress made promoting the Anti-Counterfeiting Trade Agreement (ACTA).

Legislative Amendments

Applicability Table for Newly-amended Trademark Act During Transition Period Now Available

The newly-amended provisions of the Trademark Act passed the third reading in the Legislative Yuan on May 31, 2011, proceeded with promulgation by Presidential Order on June 29 of the same year, and entered into effect on July 1, 2012. To help people from all sectors understand the differences in the application process under the original and amended Act, TIPO has made an Applicability Table for the Newly-amended Trademark Act during Transition Period and published it on the bulletin board of the TIPO website. It is hoped that by referring to the table, applicants can make better preparation and aptly react to situations arising from the said period.

Regulations on Patent Fees Enter into Effect on March 1, 2012

In compliance with the enforcement, on March 1, 2012, of the “TW-Support Using the PPH Agreement (TW-SUPA)” and the “user-pays” principle, a clause was inserted to the Regulations on Patent Fees governing substantive examination of invention patent application. Accordingly, applicants eligible under the terms of TW-SUPA should pay NT\$4,000 for each application of accelerated examination. It is hoped that this enforcement will lead to the establishment of a reasonable fee collection mechanism.

Latest Developments

2012 Informational Meetings on Newly-amended Patent Act

To facilitate a full understanding among the industries and patent applicants on the key points of the newly-amended Patent Act, TIPO held an informational meeting at NTU's Tsai Lecture Hall on January 11, 2012, which attracted a total of 228 representatives from the industries, academia, and research institutes in Taiwan. Afterwards, TIPO continued to hold similar meetings respectively in Kaohsiung, Taichung, Hsinchu, Tainan, and Taipei, on February 8, 9, 15, 16, and 23. Meanwhile, TIPO is planning to hold more informational meetings in due time once the amendments to implementation regulations, related regulations, patent examination guidelines, and supporting measures have been completed. It is hoped that these meetings could help people from all sectors gain a more comprehensive understanding on the amendments and all of the relevant supporting measures.

Public Hearings on Draft Amendment to Implementation Regulations of Patent Act

Earlier this year, TIPO held five public hearings on the draft amendment to implementation regulations of the Patent Act respectively on February 7, 14, 17, 21, and 24. Opinions from different sectors were then evaluated by TIPO and adopted as the basis for the draft amendment. Key points of the amendment include: A. re-structuring the implementation regulations; B. revising the format of requirement; C. examining and amending rules to clearly specify the formats to be revised and documents submitted for each type of application; D. amending rules governing incomplete specifications and drawings and adding new regulations based on respective applicability of invention, utility model, and design patents; E. amending rules governing unity of invention; F. adding regulations governing the correction of obvious errors by ex-officio action; G. amending rules governing the required matters in the specification along with relevant graphs for a design patent to comply with the expansion of the modes of protection for design patents; H. adding regulations governing the details and technicality of a patent to comply with the changes in invalidation as stipulated by this Act; I. adding regulations requesting agencies handling patent affairs to specify in the written decision the information on the exploitation of the license by the compulsory licensee; and J. adding regulations governing the required matters for the publication of court decisions on approved corrections and invalidation actions.

Public Hearing on Draft Implementation Regulations Governing Foreign-Language Patent Applications

On February 24, 2012, TIPO held a public hearing on the Draft Implementation Regulations Governing Foreign-Language Applications, whose key points include: 1. With reference to the types of languages stipulated in the Patent Cooperation Treaty (PCT), upon receiving a filing date, the languages of the application shall be limited to Arabic, English, French, German, Japanese, Korean, Portuguese, Russian or Spanish; 2. Invention and utility model applications filed in foreign languages shall include specification, (at least 1) claim, and graph; 3. Applicants shall not replace foreign-language applications with foreign-language patent gazettes or priority documents.

DGOC Holds Discussion on Draft Operational Directions for Customs Authorities in Implementing Measures for Protecting Rights and Interests of Trademark Holders

On February 16, 2012, the Directorate General of Customs (DGOC) held a discussion on the Draft Operational Directions for Customs Authorities in Implementing Measures for Protecting the Rights and Interests of Trademark Holders, where opinions were exchanged among DGOC representatives, rights holders and Taiwan Rights Holder Group.

Application for Reviewing Recorded Programs

According to Article 39 of the Enforcement Rules of Radio and Television Act, TV and radio broadcasters are required to apply for review of recorded programs prior to their distribution or broadcast. To do so, these service providers have to fill out application forms, prepare program tapes, complete payment for review and permit fees, and finally submit relevant documents to the Government Information Office (GIO). If the programs are made by other entities, legal proof of authorized use shall also be provided. A permit will then be issued by the GIO to programs reviewed and approved. Programs that are listed as not requiring review by the GIO can be exempted from this procedure.

According to the “Guidelines for Permitting Mainland Publications, Movies, Videos, Radio and Television Programs to Enter, or be Issued, Sold, Produced, Broadcast, Exhibited, and Copied in the Taiwan Region,” broadcasters applying for program review shall submit a public notarization certificate and a certificate of conformity issued by the Straits Exchange Foundation (SEF). From January to March of 2012, a total of 1,589.5 hours worth of recorded programs were reviewed and 349 permits issued (including those of preliminary reviews and renewals).

On May 15, 2012, the Executive Yuan promulgated Paragraphs 1 and 3 of Article 39 and Article 30-1 of the Enforcement Rules of Radio and Television Act governing the authorization and duty of Government Information Office, the Executive Yuan, to be officially taken over by the Ministry of Culture starting from May 20, 2012.

Mainland Radio and TV Applying for Program Review in Taiwan

According to Article 37 of the Regulations Governing the Relations Between the People of the Taiwan Area and the People of the Mainland China Area, Mainland radio and TV programs shall be submitted to Government Information Office for review prior to broadcast. These programs shall be broadcast in Taiwan only after they have been reviewed and found not in violation of Article 4 of the "Guidelines for Permitting Mainland Publications, Movies, Videos, Radio and Television Programs to Enter, or be Issued, Sold, Produced, Broadcast, Exhibited, and Copied in the Taiwan Region."

From January to March, 2012, a total of 139 analogue TV, satellite TV, cable TV, and radio programs were submitted for review. Among them, 85 applications were approved while 54 were in reviewing process. In the same period, a total of 42 Internet TV programs and those from other media were also submitted, where 40 received permit for broadcast and 2 were in process.

Enforcement and Latest Statistics

National Police Agency (NPA)

1. Enforcement News (January-March 2012):

From January to March, 2012, a total of 589 copyright infringement cases were uncovered involving 695 suspects and 456 trademark infringement cases were uncovered involving 522 suspects. The market values of these uncovered infringing goods were estimated by rights holders to be around NT\$4,128,821,186. The types of infringement are as follows:

- a) Internet infringement: 679 cases involving 729 suspects
- b) Night market inspection: 122 cases involving 89 suspects
- c) Store inspection: 159 cases involving 218 suspects
- d) Newspaper inserts: 3 cases involving 3 suspects
- e) Other types of infringement: 458 cases involving 581 suspects
- f) Total: 1,421 cases involving 1,620 suspects

2. Major Cases Involving Economic Crime (January-March 2012)

- a) One case involving unapproved or unauthorized reproduction of 7,801 glasses cases of world-renowned brands was uncovered and transferred to district prosecutors office for further investigation and prosecution.
- b) One infringement case was uncovered involving setting up unauthorized game server, where non-specific users can log in and play the game. This infringing server was also found enabling the sale of virtual game treasure for games via online cash flow mechanism. The case was transferred to district prosecutors office for further investigation and prosecution.
- c) One case was uncovered involving unapproved or unauthorized reproduction of films and music ODs from Walt Disney Company, eight other US film production companies, Taiwan's Rock Records and several other local companies. Suspects distributed printed catalogues and sold these pirated ODs through telephone order. The uncovered case was then transferred to district prosecutors office for further investigation and prosecution on charges of violation of Copyright Act.

Statistics for IPR Infringement Cases (January-March,2012)

Unit: case/person

Year	Total		Trademark		Copyright		
	Cases	Suspects	Cases	Suspects	Cases	Suspects	ODs Confiscated
2012 Jan. -Mar.	1,421	1,620	833	925	589	695	30,907
2011 Jan. -Mar.	1,208	1,408	734	859	474	549	137,467
Percentage Change: 2012/2011 Jan. -Mar.	17.63	15.06	13.49	7.68	24.26	26.59	-77.52

Source: National Police Agency (NPA), Ministry of the Interior

Joint Optical Enforcement Taskforce (JODE)

From January to March 2012, JODE conducted 182 inspections (92 daytime and 90 nighttime) of OD factories, printing plate factories and related facilities. This total is 14 times more than those of the same period in 2011 (168 inspections; 81 daytime and 87 nighttime). JODE also conducted 37 documented audits of the internal control and audit systems of outstanding OD factories after advising them on the establishment of such systems. In collaboration with the IPR Police, JODE officials during the same period also took part in a total of 10 night market sweeps.

JODE's Inspection Results (January-March, 2012)

Number of Inspections		2011		2011		2012	
		Jan.-Dec.		Jan.-Mar.		Jan.-Mar.	
		665		168		182	
		Day	Night	Day	Night	Day	Night
		315	350	81	87	92	90
Number of Cases Found Violating the Optical Disk Act		0		0		0	
Number of Plants Closed	Manufacturing Plants	4		0		0	
	Packaging Plants	0		0		0	
Number of Cases Prosecuted		0		0		0	
Number of Suspects Prosecuted		0		0		0	
Number of Administrative Dispositions Administered According to the Optical Disk Act		0		0		0	
Number of Machines Confiscated		0		0		0	
Number of Illegal ODs (Pieces) Confiscated		0		0		0	

Source: The Joint Optical Disk Enforcement Taskforce (JODE), Ministry of Economic Affairs

Directorate General of Customs (DGOC)

1. Inspection Results:

In compliance with the Operational Directions for Customs Authorities in Implementing Measures for Protecting the Rights and Interests of Patent, Trademark, and Copyright and other border measures, the DGOC from January to March 2012 yielded the following results:

Category	Trademark Violations		Copyright Violations		Export ODS Without Source ID Code	False Declaration of Source ID Code	Violation of SID Code	False Declaration of Trademark
	Exports	Imports	Exports	Imports				
Cases	1	23	0	4	0	2	0	75
Number	64,800	487,111	0	643	0	70	0	-

2. Major Inspections

Major inspection results from this quarter include: Taipei Customs' January 10 discovery of 360 imported counterfeit "iPhone" accessories, January 11 discovery of 64,800 exported counterfeit "microSD" memory cards; Keelung Customs' January 13 discovery of 549 imported counterfeit "New Balance" sports jackets, and February 2 discovery of 1,710 imported counterfeit "New Balance" sneakers. All evidence was seized and turned over to prosecutors according to Taiwan law.

3. International Exchange

- (1) As part of active efforts to increase the flow of information between foreign customs offices on counterfeiting offenses, DGOC from January to March 2012 provided international counterparts with information on 6 counterfeiting and piracy cases.
- (2) The Taiwan-French Joint Workshop on Anti-counterfeiting Actions and IPR Protection was co-organized by DGOC and the French Directorate-General of Customs and Indirect Taxes on February 21, 2012. Inspection officials from both customs offices and representatives from TIPO, National Policy Agency, and IPR Police team totaling more than 100 people attended the event, where they exchanged views and experience on relevant issues. These attendants agreed that discussion and exchange could lead to more effective measures on combatting counterfeit and piracy.

Taiwan High Prosecutors Office (THPO)

1. Enforcement Results (January-March, 2012)

District prosecutors offices of the Ministry of Justice island-wide uncovered illegal photocopying of textbooks at 11 off-campus photocopy centers, involving 11 suspects and totaling NT\$406,400 and US\$37.98 worth of copyright infringement. The THPO will continue to conduct such investigations to effectively deter infringing acts of off-campus illegal photocopying of textbooks.

2. Status of Court Rulings (January-March, 2012)

Affirmed IPR infringement cases by district prosecutors offices of Taiwan totaled 926. Of these, 184 suspects in 160 cases were indicted under ordinary procedures; 269 cases involving 280 defendants filed for summary judgment; 426 indictments involving 443 defendants were deferred; and 71 cases involving 73 defendants were closed by ex officio action. During the same period, 474 defendants were sentenced to prison terms at a conviction rate of 94.42%. Compared to the same period of 2011, the status of court rulings on IPR infringement cases (summary judgment included) is as follows. There were 464 indictments in 2012 and 500 in the year 2011, or a 7.2% decrease than the previous year. As for the number of convictions, there were 474 defendants being convicted this year and 376 in 2011, which accounted for a 26.06% increase over the same period of last year. The adjudication of IPR cases by district prosecutors offices in the same period between 2012 and 2011 is outlined in the following table.

Status of Adjudication of Taiwan District Courts on IPR Infringement Cases

Unit: person

Sentence	Year	Status of adjudication and number of convictions										
		Total	Sentence								Not Guilty	Others
			Subtotal	Under 6 Months	6-12 months	1-2 year(s)	2-3 years	Over 3 Years	Detention	Fines		
Total	2012 Jan.-Mar.	581	474	240	18	3	0	-	190	23	28	2
	2011 Jan.-Mar.	464	376	197	15	8	1	-	147	8	37	1
	Percentage Change(%)	25.22	26.06	21.83	20.00	-62.50	-100.00	-	29.25	187.50	-24.32	100.00

Source: The Prosecutors Office for the Taiwan High Court

IPR Awareness

- **Informational Meetings on Making Use of Government Resources and Creating Opportunities for Enterprises to Upgrade**

The Small and Medium Enterprise Administration (SMEA) of the MOEA in March 2012 held a series of Information Meetings on Making Use of Government Resources and Creating Opportunities for Enterprises to Upgrade, respectively in Taipei, Taichung, and Tainan. These meetings featured the following activities: An introduction to “Value-added IPR Scheme for SMEs Innovation” and “Value-added Innovation Service Scheme for Startup SMEs,” both jointly executed by the SMEA and the Electronics Testing Center (ETC) of the Industrial Technology Research Institute (ITRI). These meetings also showcased on-site counseling services provided by experts to attending enterprises in regard of IPR and innovation issues. Moreover, there were also cases on display where participants learned about successful examples of SMEs making proper use of IP to optimize their business competitiveness. In all, more than 160 business representatives attended these events.

- **Ministry of Education Conducts Random Inspections on on-campus Photocopying Facilities**

In order to learn more about the results of IPR enforcement as administered by higher education institutions in Taiwan, the Ministry of Education (MOE) on March 14, 2012 sent an official notice to all public and private colleges/universities about an upcoming random inspection and by the end of March, the MOE had completed the inspection on photocopying facilities in 4 schools. These inspections were conducted to ensure that those running the facilities abide by the IPR regulations under the supervision of colleges/universities.

- **Ministry of Education Completes Selection and Appointment of Members for 5th MOE Campus IPR Advisory Committee**

On February 15, 2012, the Ministry of Education completed the selection and appointment of members for the “5th MOE Campus IPR Protection Advisory Committee,” which would continue the operation of the counseling mechanism and help review the measures of this year’s on-campus IPR protection policies, providing views on their enforcement.

- **“Copyright TIPS for Teachers” Now Available for High Schools and Above**

To enhance campus IPR awareness, the Ministry of Education on February 4, 2012 sent an official notice to TIPO requesting that the “Copyright Tips for Teachers” be provided and distributed to public and private high schools and above and educational bureaus of local governments.

- **TIPO’s “Copyright Awareness” Materials Added to School Homepages**

To enhance students’ copyright awareness, the Ministry of Education on February 4, 2012 sent an official notice No. tai-gao-ton-tzu 1010019061 to schools of all levels to place the URL links of TIPO’s audio-visual and other IPR promotional materials onto their websites so as to consolidate school education on the proper use of copyrighted textbooks and criminal liabilities regarding illegal copying of copyrighted works.

- **IPR Promotional Announcement on Air**

To promote the importance of obtaining legal copyright authorization among proprietors of business venues and to enhance the concept among general public, TIPO produced a 30-second IPR promotional announcement entitled “Authorized Exploitation of Copyrighted Works of Music.” Recorded in three languages (Mandarin, Taiwanese, and Hakka), the announcement was aired intensively during 1,000 public service broadcasting periods at Taiwan’s 205 broadcasting stations, in hopes of strengthening public awareness for the concept.

- **IPR Promotional Clips on TV**

Two IPR promotional video clips entitled “2012 Taiwan Original Music Awards” (March 24-April 2, 2012) and “2012 National Invention and Creation Award—Selection Process” (March 3-April 30, 2012) were respectively scheduled and aired during public service broadcasting periods on the 6 analog TV stations: TTV (Taiwan Television Enterprise), CTV (China Television), CTS (Chinese Television System), FTV (Formosa Television), TITV (Taiwan Indigenous Television), and Hakka TV (Hakka Television Station).

- **IPR News on GIO’s “Taiwan Today” E-Newsletter**

The news about patent filings by domestic and foreign industries released earlier by TIPO appeared on the February 4 issue of the Japanese version of “Taiwan Today” e-newsletter. According to the report, Hon Hai Precision Industry Co. Ltd. maintained its position as top patent-filing domestic enterprise for 10 consecutive years; Sony Corporation claimed the top spot for foreign patent filing.

An editorial entitled “Commercialization of Patent and Invention Will Boost Taiwan’s Competitive Edge” appeared on the February 6 issue of the Japanese version of “Taiwan Today” e-newsletter.

A report about TIPO’s evaluation regarding the entry into ACTA (Anti-counterfeiting Trade Agreement) appeared on the February 13 issue of the Japanese version of “Taiwan Today” e-newsletter.

A report about AmCham’s (American Chamber of Commerce in Taipei) recognition of Taiwan’s incessant efforts in IPR protection appeared on the March 9 issue of the Japanese version of “Taiwan Today” e-newsletter.

A report entitled “TIPO Expediting Patent Examination for ROC Nationals via US-Taiwan Patent Prosecution Highway (PPH)” appeared on the March 28 issue of “Taiwan Today” e-newsletter.