



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE

MINISTRY OF ECONOMIC AFFAIRS

October – December 2011

Quarterly Report on Taiwan's Intellectual Property Rights Protection

The IPR Action Plan 2012-2014 was ratified by the Executive Yuan on December 21, 2011 to effectively curb the increasingly rampant Internet infringement and to strengthen measures for Internet copyright protection. A total of 33 implementation guidelines and 67 concrete enforcement measures are included in this Action Plan.

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Special Report

Taiwan-EU IPR Working Group Holds Second DVC of 2011

The 2nd 2011 Taiwan-EU IPR Working Group Digital Videoconference was held on October 6 and co-chaired by TIPO's Secretary General, Ms. Sherry Hong, and the European Commission's Policy Officer for Taiwan, Hong Kong, Macao and Mongolia, Mr. John Richards. During the meeting, the two sides exchanged updates on IPR legislative changes, status of IPR enforcement by IP Court, IP Branch of Taiwan High Prosecutors Office, Directorate General of Customs, and IPR Police, and discussed about GIs and new avenues for IPR-related cooperation. Later, at the annual Taiwan-EU Consultation Meeting on October 25, TIPO presented an achievement report and both parties continued talks on future cooperation.

2011 International Trademark Conference Successfully Concluded

On October 13 and 14, the 2011 International Trademark Conference was held where the invited trademark competent authority officials and experts from the United States, Japan, the E.U., Australia, and Singapore exchanged views on the current status of trademark administration management, future development, and other trademark-related issues.

USPTO Deputy General Counsel Mr. Raymond Chen Visits TIPO

Mr. Raymond Chen, USPTO Deputy General Counsel for Intellectual Property Law and Solicitor, was at TIPO on October 24 to exchange views on the U.S. patent law amendment and patent litigation practices. Representatives from local industries were also invited to the discussion where they were debriefed on USPTO's future implementation of patent-related measures. Afterwards, Mr. Chen paid a visit to the IP Court and was given an update on IP litigation cases.

2011 Taiwan-EU Seminar on Internet Copyright Protection Successfully Concluded

TIPO and the European Economic and Trade Office (EETO) on October 31 co-organized the 2011 Taiwan-EU Seminar on Internet Copyright Protection which included in-depth analyses of legal and practical aspects of Internet copyright protection and exchange of relevant experiences by copyright owners. Around 200 participants attending the seminar were representatives from the EETO, prosecutors offices, NPA, IPR Police, customs offices, and the industries.

Two Czech IPO Directors Visit TIPO

The Czech Industrial Property Office (IPO) International Department Director, Ms. Svetlana Kopecka, and Director of Head Office, Mr. Josef Dvornak, visited TIPO on November 9, 2011, to exchange opinions with TIPO officials on IPR-related practices and on deepening future bilateral cooperation.

MOI and MOEA Ministers Attend 23rd APEC Ministerial Meeting

The then MOI Minister Yi-huah Jiang and MOEA Minister Yen-shiang Shih attended the 23rd APEC Ministerial Meeting in Hawaii, U.S., on November 11, 2011. During the meeting, the two Ministers showed support for the "Joint Ministerial Application of Customs Border Enforcement Measures" to facilitate in respective member economies the development of practical guidelines that assist customs authorities in combating IPR infringement through the identification of effective IPR enforcement practices at the border. There were updates given by customs officials on the inspection achievements for the year 2011, such as the seizure of more than 1,000 cargos of counterfeit pharmaceuticals. Other enforcement samples were also studied and adopted as useful reference for future capacity building projects by relevant government agencies in Taiwan. Meanwhile, the two Ministers also showed support for the "APEC Anti-Piracy Measures against Illegally Recorded Movies" to facilitate in respective member economies the cooperation with private sectors on capacity-building projects and the development of effective legal frameworks to fight against movie piracy. The eager participation in APEC meetings by ministers from relevant government agencies in Taiwan has effectively contributed to creating further IPR-related dialogues and cooperation with other member economies.

USPTO Patent Attorney Mr. Jeffrey Siew Visits TIPO

Mr. Jeffrey Siew, the USPTO patent attorney, visited TIPO on November 24, 2011 to give an update on the promotion of Patent Prosecution Highway (PPH) project. In the afternoon, Mr. Siew attended a forum and exchanged views with local industries to promote the Taiwan-US PPH pilot project.

EPO International Affairs Director Mr. Valentin Mir Visits TIPO

Mr. Valentin Mir, the EPO International Affairs Director, visited TIPO on the morning of December 5, 2011, to discuss issues including trial application and training for the EPOQUE.net and reciprocal exchange of patent information and examiners.

European Commission Head of Unit for Trade Relations with Far East Visits TIPO

Ms. Helena Konig, Head of Unit for the Trade Relations with Far East of the Directorate General for Trade of the European Commission, visited TIPO on the afternoon of December 5, 2011, to exchange opinions on compulsory license as provided in the Patent Act and Taiwan's cooperative relations with mainland China after the signing of Cross-strait Agreement on IPR Protection and Cooperation.

Executive Yuan Ratifies IPR Action Plan 2012-2014

On December 21, 2011, the Executive Yuan ratified the IPR Action Plan 2012-2014, which includes continuous crackdown on piracy, on-campus IPR awareness campaign and protection, as well as analysis of ACTA texts in order to stay abreast of international IPR trends and issues. In addition, to effectively curb the increasingly rampant Internet infringement, the Action Plan also includes strengthening measures for Internet copyright protection and studying legislative developments of other countries on foreign websites access blockage. In all, this Action Plan contains 33 implementation guidelines and 67 concrete enforcement measures.

Legislative Amendments

Legislative Yuan Passes Third Reading of Draft Amendment to Patent Act

On November 29, 2011, the Legislative Yuan passed the third reading of a draft amendment to the Patent Act submitted by the Executive Yuan. This comprehensive amendment involves many system changes to the current Patent Act, covering a total of 159 articles (108 amended, 36 added, and 15 deleted). The enforcement date of the newly-amended Act will be decided by the Executive Yuan, allowing all sectors to gain a thorough understanding of the new system and to adapt to its operation. For more information, please visit the TIPO website.

TIPO Completes Reviews to Provide Specific Standards for Authorized Collection of Royalties

To improve the environment for copyright authorization and to provide specific standards for the collection of royalties, TIPO in 2011 completed a total of nine royalty reviews for CMOs on the exploitation of copyrighted works of art in various mediums or venues that included satellite TV, private broadcasters, hotels, hospitals, and concerts.

Latest Developments

Customs Staff Training Sessions

Taiwan's Directorate General of Customs (DGOC) held a total of seven rounds of the 2nd training sessions on the techniques of distinguishing genuine products from counterfeit ones in the Keelung, Taichung, Kaohsiung, and Taipei Customs Offices, respectively on November 15, 16, 23, and 29, 2011. About 403 customs staff attended these sessions.

4th Cross-strait Patent Forum Held in Fuzhou, Mainland China

A delegation of TIPO officials headed by Director General, Ms. Mei-Hua Wang, attended the 4th Cross-strait Patent Forum in Fuzhou, Mainland China, from November 24 to 25, 2011. The main issues included the latest development of two patent systems, prosecution of patent administrative remedies, IPR litigation practices, patent management and operation, the role of patent agent in boosting economic development and technology innovation, independent innovation of enterprises, and maintenance of legal rights.

Enforcement and Latest Statistics

National Police Agency (NPA)

1. Enforcement News (October-December 2011):

Between October and December 2011, a total of 625 copyright infringement cases were uncovered involving 748 suspects and 924 trademark infringement cases were uncovered involving 999 suspects. The market values of these uncovered infringing goods were estimated by rights holders to be around NT\$5.534 billion.

- a) Internet infringement: 815 cases involving 855 suspects
- b) Pirated software: 47 cases involving 81 suspects
- c) Newspaper inserts: 1 case involving 1 suspect
- d) Other types of infringement: 686 cases involving 810 suspects
- e) Total: 1,549 cases involving 1,747 suspects

2. Major Cases Involving Economic Crime (October-December 2011)

- a) One case involving unapproved or unauthorized reproduction of 57 copies of graphics software was uncovered and transferred for further investigation and prosecution on charges of violation of Copyright Act.
- b) One infringement case involving exploiting unregistered cyber space and uploading unauthorized materials of PokerKing was tipped off and transferred for further investigation and prosecution on charges of violation of Copyright Act.
- c) One case involving allegedly establishing a cyber-bookstore and distributing catalogues for the sale of pirated books, test sheets, and ODs of examination question prediction was uncovered and transferred for further investigation and prosecution on charges of violation of Copyright Act.

Statistics for IP Infringement Cases

Unit: case/person

Year	Total		Trademark		Copyright		
	Cases	Suspects	Cases	Suspects	Cases	Suspects	ODs Confiscated
2011 Oct. -Dec.	1,549	1,747	924	999	625	748	15,076
2010 Oct. -Dec.	1,720	2,009	1,014	1,175	706	834	220,915
Percentage Change: 2011/2010 Oct. -Dec.	-9.94	-13.04	-8.88	-14.98	-11.47	-10.31	-93.18

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

Joint Optical Enforcement Taskforce (JODE)

From October to December 2011, JODE conducted 151 inspections (70 daytime and 81 nighttime) of OD factories, printing plate factories and related facilities. This total is 21 times lower than that of the same period in 2010 (86 daytime and 86 nighttime). JODE also conducted 40 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 also took part in a total of 10 night market sweeps during the same period in 2011.

JODE's Inspection Results (October-December, 2011)

Number of Inspections		2011 Jan.-Dec.		2010 Oct. -Dec.		2011 Oct. -Dec.	
		665		172		151	
		Day	Night	Day	Night	Day	Night
		315	350	86	86	70	81
Number of Cases Found Violating the Optical Disk Act		0		0		0	
Number of Plants Closed	Manufacturing Plants	4		3		1	
	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 October to December 2011 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	0	24	0	4	0	4	0	119
Number	0	36,188	0	727	0	9,315	0	-

2. Major Inspections

Major inspection results from this quarter include: Taichung Customs' October 11 discovery of 100 imported counterfeit Disney sleeping bags; Taipei Customs' October 17 discovery of 20 imported counterfeit iPhones, November 17 discovery of 1,437 imported counterfeit Kingston memory cards, November 20 discovery of 20 imported counterfeit LV wallets, December 1 discovery of 5,700 imported counterfeit SanDisk micro SDHCs, and Kaohsiung Customs' December 21 discovery of 54 imported counterfeit OMEGA+Ω watches. All evidence was seized and turned over to prosecutors according to Taiwan law.

3. International Exchange

- As part of active efforts to increase the flow of information between foreign customs offices on counterfeiting offenses, DGOC from October to December 2011 provided international customs offices with information on 11 counterfeiting and piracy cases.
- The Taiwan-US Anti-Smuggling Information Exchange Seminar was held at DGOC from December 5 to 7, 2011, where experts from the Homeland Security Investigations (HSI) of the U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and Drug Enforcement Administration (DEA) of the Department of Justice were invited to share information on smuggling offenses and to give lessons on IPR infringement, trends for drug trafficking, investigation techniques, data analysis, and application of investigation tools. A total of 80 officials and staff from Taiwan's customs offices, Coast Guard Administration of the Executive Yuan, Investigation Bureau of the Ministry of Justice, and National Policy Agency of the Ministry of the Interior attended the seminar.

Taiwan High Court Prosecutors Office (HCO)

1. Enforcement Results (January-December, 2011)

District Prosecutors Offices of the Ministry of Justice island-wide uncovered illegal photocopying of textbooks at 59 off-campus photocopy centers, involving 63 suspects and totaling NT\$34.11 million worth of copyright infringement. The HCO will continue to conduct such investigations to effectively deter infringing acts of off-campus illegal photocopying of textbooks.

2. Status of Court Rulings (January-December, 2011)

Affirmed IPR infringement cases by District Prosecutors Offices of Taiwan District Courts totaled 4,485. Of these, 1,071 suspects in 861 cases were indicted under ordinary procedures; 1,263 cases involving 1,321 defendants filed for summary judgment; 2,050 indictments involving 2,154 defendants were deferred; and 311 cases involving 328 defendants were closed by ex officio action. During the same period, 1,523 defendants were sentenced to prison terms at a conviction rate of 89.6%. Compared to the same period of 2010, the status of court rulings on IPR infringement cases (summary judgment included) is as follows. There were 2,392 indictments in 2011 and 2,004 in the year 2010, or a 19.36% increase over the previous year. As for the number of convictions, there were 1,150 defendants being convicted and 1,574 in the year 2010, which accounted for a 3.2% decrease than in the same period of the previous year. The adjudication of IPR cases by Taiwan District Courts in the same period between 2011 and 2010 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	2011 Jan.-Dec.	1,925	1,522	777	78	19	4	-	604	40	176	1
	2010 Jan.-Dec.	1,949	1,573	807	71	23	5	-	632	35	130	3
	Percentage Change(%)	-1.23	-3.24	-3.72	9.86	-17.39	-20.00	-	-4.43	14.29	35.38	-66.67

Source: The Prosecutors Office for the Taiwan High Court

IPR Awareness

• 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 October 7, 2011 sent an official notice to all public and private colleges/universities about an upcoming random inspection and by the end October completed the inspection on photocopying facilities in 7 universities. The MOE also responded to the information provided by Taiwan Rights Holder Group on the status of universities handling cases of suspected infringement and forwarded the information to relevant government agencies to facilitate their understanding of on-campus IPR enforcement.

• Explanatory Sessions on IPR Laws and Regulations and Campus IPR Awareness Cultivation Campaigns Successfully Concluded

In the spirit of public service, TIPO in 2011 organized a series of activities to promote IPR concepts to rights holders and users and the smart use of IPR by the general public based on actual needs. In addition, TIPO in the same year organized a total of 261 explanatory sessions that addressed IPR issues concerning legal aspects of textbook reproduction encountered by teachers, public distribution of e-books, copyright as administered by libraries, Copyright Collective Management Organization Act, legal system of copyright in mainland China, and legal use of software by government agencies, schools of all levels and state-run enterprises. A total of 34,793 people attending these seminars agreed that they gained a better understanding of IPR and that these seminars contributed to establishing correct IPR protection concepts among the general public.

• Deepening Campus Awareness of IPR Protection

To help promote IPR awareness on school campuses, TIPO in 2011 continued to coordinate the outreach efforts of the Campus IPR Assistance Team, formed by students from legal service clubs at 20 local colleagues and universities. Each year, team members travel to elementary, junior high, and senior high schools to help teach and advocate IPR protection concepts. So far the team has assisted cultivating 169 seed teachers in 20 universities and organized a total of 105 visits (9 vocational/senior high schools, 22 junior high schools and 74 elementary schools) and attracted participation by 20,493 students. In all, these visits have effectively established the correct IPR protection concepts among junior high and elementary school students.

• Meeting Local Creative Masters

To help students appreciate the importance of copyright and facilitate the protection of their own creation, TIPO organized two sharing sessions of Meeting Local Creative Masters at Tunghai University and

National Taiwan Normal University respectively on October 5 and 14, 2011, attracting a total of 450 teachers and students. Cyber comic artist Wan Wan and pop lyricist Vincent Fang were respectively invited to the two sessions to share with audiences their secret sources of originality and how they had dealt with copyright issues during creative processes. The copyright issues mentioned were then given in-depth analysis by attending attorneys, which helped deepen correct copyright concepts among students.

- **24-Hour Nonstop Physical Creation**

To strengthen public support for legal authorization and IPR protection, TIPO from October 7 to 8, 2011, organized the 24-Hour Nonstop Physical Creation, an activity which centered on promoting concepts such as “Legal authorization for the exploitation of copyrighted works” and “Respect for IPR means encouragement for creative life.”

- **Educational Training and IPR Campaign for Economic Police Officers**

To enhance the nation-wide professional expertise of economic police officers in their investigation of IPR infringement cases, TIPO and the National Police Agency (NPA), on November 7 and 14, 2011, co-organized the Educational Training and IPR Campaign for 120 police officers and 1,300 police cadets from Taiwan Police College. During the event, a special emphasis on observing IPR investigation procedures was made to all of the attending members of the police force.

- **Campus IPR Awareness Promotion through Multimedia and Printed Campaign Materials**

To facilitate the flow of online information and proper use of IPR promotional materials by schools of all levels, TIPO in November 2011 completed a list of existing audio-visual (cartoon animation, 30-second campaign clips, RAP animation clips, short films about obtaining copyright authorization, radio commercials and computer interactive games) and printed (comics, IPR Q&A, posters, printed advertisements, talking points, and promotional booklets) promotional materials currently available at its official website and submitted a written request to the MOE to notify schools of all levels to place TIPO's URL link onto their websites so as to consolidate school education of correct IPR concepts.

- **TV and Online Promotional Clip**

A 30-second promotional clip entitled “IPR Protection—Creation Went Missing” from the series “Say No to Illegal Download” was produced by TIPO in order to strengthen public support for obtaining legal copyright authorization. This clip was recorded in three languages (Mandarin, Taiwanese, and Hakka) and aired intensively during public service broadcasting periods on Taiwan's 6 analog TV stations in December. The clip has been uploaded to TIPO website, YouTube, I'm Vlog, Wretch Video, and Xuite in hopes of bringing more people to appreciate the importance of correct copyright concepts.

- **Micropedia on Publication (including E-Publication) and Copyright Now Available to the Public**

To provide the publishing, cultural and creative industries with an easy-to-read, easy-to-understand, and easy-to-use reference guide on copyright, TIPO commissioned Mr. Hsiuing-Lin Hsiao, a lawyer and an expert on copyright laws, to compile the book based on common legal scenarios and practices along with an analysis of the problems involving copyright frequently encountered by domestic publishing, cultural and creative industries. It is hoped that this reference guide, entitled Micropedia on Publication (including E-Publication) and Copyright, and now available at TIPO website, will facilitate deeper understanding among domestic publishing, cultural and creative industries, and other sectors of the society, of the principles and practices of copyright.

- **2011 Higher Education Campus IPR Protection Experience Sharing and Observation Forum**

The 2011 Higher Education Campus IPR Protection Experience Sharing and Observation Forum was held where opinions concerning the implementation of campus IPR protection action plan were exchanged among college and university staff handling IPR-related matters through topic-specific presentation, group discussion, general panel discussion, and IPR work exhibition.

- On November 17, 2011, an official notice was sent to schools of all levels to place the URL link of TIPO's audio-visual and printed IPR promotional materials onto their websites so as to consolidate school education of correct IPR concepts.

- **IPR Promotional Announcements on TV**

A series of IPR promotional announcements produced by the MOEA were aired under the directive of Government Information Office of the Executive Yuan 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). These promotional announcements include: “IPR Protection—Vanishing Creation” (December 2-31, 2011), “Taiwan Design Year—A Chance Encounter” (October 1-31, 2011), and “Creative Ideas Squatted” (November 1-30, 2011).

- **Public Service Advertisement on Backlit-Billboards**

- a) From September 1 to November 30, 2011, the MOEA's “Taiwan-made MIT (made in Taiwan) Smile Logo” was placed on the public service advertisement backlit-billboards at Taiwan Taoyuan International Airport.
- b) From November 1 to December 31, 2011, the MOEA's “Taiwan-made MIT Smile Logo” was placed on the public service advertisement backlit-billboards at Kaohsiung International Airport.