



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE
MINISTRY OF ECONOMIC AFFAIRS

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Quarterly Report on Taiwan's Intellectual Property Rights Protection

On June 29, 2010, the Cross-Strait Agreement on Intellectual Property Right Protection and Cooperation was signed in Chongqing, China during the fifth round of talks between the Straits Exchange Foundation and the Association for Relations Across the Taiwan Straits, marking a new milestone in cross-strait IPR exchange.

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Special Report

USTR releases Special 301 Report on April 30, 2010, Taiwan remains off Watch List

The annual Special 301 Report, a review of IPR protection and enforcement efforts in foreign countries conducted by the United States Trade Representative (USTR), has left Taiwan off its Watch List for the second consecutive year, underscoring the recognition of Taiwan's recent IPR accomplishments by the U.S. government. The only area of concern mentioned by the USTR toward Taiwan was on issues relating to pharmaceuticals.

The Special 301 report focuses on the interests of U.S. industries under threat of infringement outside American borders, while also examining a number of key international IPR issues. Unlike those of previous years, the 2010 report was written with the solicited input of outside agencies and organizations. This input was received in the form of written reports from foreign governments, non-governmental organizations and IPR rights groups, followed by a series of public hearings to further gauge opinions of various related interest groups.

Cross-Strait IPR agreement signed in Chongqing, China on June 29, 2010 during 5th round of SEF-ARATS talks

On June 29, 2010, the Cross-Strait Agreement on Intellectual Property Right Protection and Cooperation was signed in Chongqing, China during the fifth round of talks between the Straits Exchange Foundation and the Association for Relations Across the Taiwan Straits. The content of the agreement contains consensus that was reached on the following points: mutual recognition of priority rights for patents, trademarks and plant varieties; mutual protection of variety rights; certification of published audio/visual works owned by Taiwanese right holders in Mainland China will be conducted by Taiwanese-designated agencies; establishment of cooperative mechanisms to combat cross-strait piracy and counterfeiting and prevent malicious squatting of well-known trademarks and illegal labeling of Taiwanese-grown fruit on the Mainland. The goal of these measures is to provide stronger assurances of IPR protection for businesses and individuals on both sides of the Taiwan Strait. The agreement also establishes a platform for direct communication between IP administrative bodies in Taiwan and the Mainland, marking a new milestone in cross-strait IPR protection and exchange.

The successful implementation of this agreement will result in more direct, effective and prompt solutions for Taiwanese IP rights holders facing protection obstacles in Mainland China. The agreement will also increase national competitiveness by enhancing the innovation, application, management and protection of IP rights in Taiwan.

EU-Taiwan Judges-Prosecutors DVC held June 8, 2010

On June 8, 2010, a delegation from TIPO attended the Taiwan-EU Prosecutors and Judges Digital Videoconference (DVC). Participating EU judges each delivered presentations on the judicial systems of their respective countries. Prosecutors from the Taiwan IP Prosecutors Office then presented and discussed with the EU a series of proposals on how to defend against new forms of online copyright infringement through effective investigation, punishment and prosecution strategies. Taiwan prosecutors also introduced the office's new system of sentencing guidelines and shared experiences on early implementation.

EU-Taiwan IPR Working Group holds first DVC of 2010

On June 17, 2010, the year's first digital videoconference of the Taiwan-EU IPR Working Group was convened by TIPO. Chairing the delegation from Taiwan was TIPO Deputy DG Margaret Chen, while the EU side was chaired by Mr. Antonio Parenti, Deputy Head of Unit, Trade Relations with the Far East, DG Trade. Among the items on the agenda were recent developments and updated statistics on Taiwan's IP Court and IP Prosecutors Office, progress reports on amendments to the Patent Act, Trademark Act and Copyright Act, protection of well-known trademarks, IPR enforcement, and preparations for the upcoming Taiwan-EU joint seminar on design patents, as well as the possibility of a second seminar on copyright protection over the Internet.

Taiwan-UK holds inaugural DVC

On July 26, 2010, the first Taiwan-United Kingdom digital videoconference on IPR affairs was convened. Both sides began the meeting with presentations on the current administrative affairs of their respective IP offices (UK-IPO and TIPO), before exchanging opinions on key issues of mutual interest. These issues included the development of an agreement on design patent data exchange, the possibility of visits by UK-IPO pharmaceutical patent examiners to Taiwan to educate TIPO examiners on examination guidelines and other relevant practices, and litigation procedures for IP infringement cases heard by Taiwan's IP court.

The DVC proved to be a successful activity toward increasing mutual understanding of general IPR affairs in both governments, representing an effective new channel of communication for future bilateral cooperation. Both sides agreed to adopt a series of similar DVCs on a regular, biannual basis.

Legislative Amendments

TIPO publishes draft regulations on pledge registry and copyright licensing from unknown rights holders

In conjunction with the enactment of the Developmental Act for Creative and Cultural Industries, TIPO is currently developing draft versions of 'Regulations on Pledge Registries and Pledge Registry Inspections for Created Works' and 'Regulations on Licensing and Royalties for Created Works Owned by Unknown Rights Holders'. The two drafts will be previewed to all sectors from June 28 to July 5, 2010 and then announced by the MOEA once the date of promulgation for the Developmental Act for Creative and Cultural Industries is determined by the Executive Yuan Council for Cultural Affairs.

Partial draft amendments to the Trademark Act and Patent Act submitted to Legislative Yuan for review

According to Article 2 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), all members shall comply with Article 4 of the Paris Convention, which states that anyone who has, within a legally-designated time period, submitted a patent or trademark application in a member country may enjoy priority rights in all other member countries. Although both Taiwan and Mainland China are members of the World Trade Organization (WTO), neither region currently engages in mutual recognition of priority rights. This absence of priority rights creates a high risk of third parties illegally filing preemptive applications before actual rights holders due to differences in filing dates between Taiwan and the Mainland. With the signing of the Cross-Strait Agreement on IPR Protection and Cooperation on June 29, 2010, both sides agree to act in the spirit of TRIPS regulations and engage in mutual recognition of patent and trademark priority rights. However, due to the relative lack of clarity in the current Trademark Act and Patent Act regarding priority rights claims by WTO members, the Executive Yuan is planning to submit partial draft amendments of these acts to the Legislative Yuan on July 1, 2010.

Latest Developments

1. Registration forms and related information about the 6th annual Taipei International Invention Show and Technomart were posted on the official show website on March 15, 2010, with registrations being accepted beginning on March 22. This year's show will take place from September 30 to October 3 and is expected to be the biggest show yet, with plans for over 1,000 exhibition booths and nearly 90,000 visitors from Taiwan and abroad. The three central themes will continue to be "smart life", "biotech and medicare", and "green future". A diverse collection of some of the world's finest new innovations and technologies will be on display, giving show-goers a fascinating glimpse into lifestyle trends of the future while creating new market opportunities for both budding entrepreneurs and established enterprises. The show website can be viewed at the following URL: www.inventaipai.com.tw. For additional questions, interested exhibitors are welcome to contact Show Manager Ms. Jamie Lee of the Taiwan External Trade Development Council (TAITRA) at (02)2725-5200, Ext.2622, or send an e-mail to: invent@taitra.org.tw.
2. On June 29, 2010, the Ministry of Education convened the first meeting of the 2010-2011 Campus IPR Protection Executive Supervisory Group. At the meeting, participants reviewed implementation progress of the Campus IPR Action Plan at colleges and universities over the first semester of the 2009-2010 academic year. On July 13, the Inter-Agency Consultation Group for Campus IPR Protection also held its first meeting of the 2010-2011 year. The group meets at regular intervals to discuss implementation of copyright protection measures, such as effective supervision of textbook photocopying, lawful Internet use, and IPR awareness campaigns.
3. On July 15, 2010, the MOEA Small and Medium Enterprise Administration (SMEA) formally launched the SMEs IP Consulting Center (IPCC), an online portal featuring program outlines, information on seminars and other events, IP-related news, industry developments, and other IP services. In addition, factory visits were made to 40 SMEs, where short-term diagnoses of IP systems were made and consultation services were offered on topics such as patent searches and design-arounds, protection of trade secrets, and IP management systems. The services are offered to encourage SME operators to put a greater emphasis on IP issues and become more adept at obtaining, protecting, and employing IP rights for the sake of enhancing core competitiveness.
4. The MOEA Small and Medium Enterprise Administration (SMEA) hosted two intellectual property-related seminars on May 26 and June 29 at the Taipei Technology Building as part of implementation measures for the 2010 Innovative SME Intellectual Property Promotion Plan. The first of these seminars included presentations by well-known Taiwanese IP experts who were invited to share their experiences on patent searches and applications of patent value-added with SME operators in attendance. The two seminars attracted a total of 219 attendees.

Enforcement and Latest Statistics

National Police Agency (NPA)

1. Enforcement news (April - June 2010):
 - a) On June 28-30, the NPA launched "2010 Anti-Piracy Project 2", an intensive, three-day, island-wide search of night markets, shopping areas, night markets, factories, warehouses, storage containers, newspaper inserts and the Internet for illegal production, sale or smuggling of pirated or counterfeit goods.
 - b) In June and July 2010, the NPA held a series of 17 seminars on economic policing, which included three basic-training seminars for Taiwan Police College students. All classes focused on increasing understanding of copyright laws, and helped improve the abilities of current and future officers to investigate IPR infringement cases. A total of 2,154 officers and students took part in the seminars.
2. Inspection news (April - June 2010):
 - a) In the period from April to June 2010, NPA enforcement agencies uncovered a total of 1,338 IPR infringement cases involving 1,535 suspects and the seizure of 132,485 optical disks (see Table 1). These figures mark a 9.5% decrease in cases and a 5.6% decrease in suspects compared to the same period in 2009, which saw 1,479 cases (772 trademark and 707 copyright) involving 1,626 suspects (844 trademark and 782 copyright). There was also a significant decrease in the number of confiscated ODs last quarter when compared to the second quarter of 2009; in all, 132,485 ODs were confiscated from April to June 2010, representing a 17.2% drop from the 160,061 ODs seized from April to June 2009. Among cases uncovered

last quarter, 739 involved trademark infringement (874 suspects), and 599 involved copyright infringement (661 suspects).

- b) NPA enforcement agencies uncovered two cases of newspaper inserts with advertisements for counterfeit and pirated products during this quarter, a decrease from the eight such cases handled during the same period in 2009. The NPA did not conduct any infringement-related phone disconnections during this quarter, as was the case during the second quarter of 2009.
 - c) NPA officers discovered 73 cases of infringement at night markets and other popularly-known locations from April to June 2010, a slight decrease from the 82 such cases handled during last year's second quarter.
 - d) The number of Internet infringement cases decreased by 26.48% from the same April - June period in 2009, from 857 last year to 630 this past quarter.
3. Future objectives:
- a) The NPA last quarter uncovered roughly 10% fewer cases when compared to the second quarter of 2009. This decrease was found mainly in the area of copyright infringement, where there was a 15.27% drop in cases opened. Because copyright offenses cannot be prosecuted without formal complaint by a third party, any decrease in copyright cases over a certain period is simply a reflection of a reduced number of complaints filed within that timeframe.
 - b) In relation to sales of pirated or counterfeit goods via newspaper inserts, transactions at night markets and over the Internet remain the more common types of infringement. With regard to future tactics, the NPA recognizes the need for stronger enforcement of online infringement and illegal night market sale investigations.

Table 1: Statistics for IP Infringement Cases (April – June 2010)

Unit: case/person

Year	Total		Trademark		Copyright		
	No. of Cases	No. of Suspects	No. of Cases	No. of Suspects	No. of Cases	No. of Suspects	No. of CDs Confiscated
2010 (Apr.– Jun.)	1,338	1,535	739	874	599	661	132,485
2009 (Apr. – Jun.)	1,479	1,626	772	843	707	782	160,061
Percentage Change: 2010 (Apr. - Jun.) /2009 (Apr. - Jun.)	-9.53	-5.59	-4.27	3.55	-15.27	-15.47	-17.22

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

IPR Police

1. IPR Police inspection results (April to June 2010):

- a) Total cases uncovered: 184 copyright infringement cases involving 161 suspects, and 326 trademark infringement cases involving 408 suspects. The total market value of these infringed products was estimated by right holders at approximately NT\$2.4 billion.
- b) Internet infringement: 236 cases involving 246 suspects
- c) Storefronts: 174 cases involving 248 suspects
- d) Night markets: 75 cases involving 45 suspects
- e) Newspaper inserts: no cases
- f) Factories: 3 cases involving 4 suspects.
- g) Miscellaneous: 22 cases involving 26 suspects

2. Major cases:

- a) On April 10, investigators at a location in Taipei City apprehended two individuals suspected of selling counterfeit Chrome Hearts fashion accessories over the Ruten online auction website. Seized evidence included 73 counterfeit items, 21 manufacturing molds, and one computer hard drive. The case was subsequently turned over to district prosecutors for further investigation in accordance with Trademark Act regulations.
- b) On April 15, investigators in Gangshan Township, Kaohsiung County apprehended an individual suspected of selling pirated copies of school examination sample questions on both paper and optical disk in violation of copyright laws. Seized from the scene were one stack of catalogs, one utec-brand cellular phone, one cellular phone SIM card, two photocopier machines, one Hewlett-Packard notebook computer (with OD burner installed) one desktop computer hard drive (with burner installed), one external burner, 281 ODs with pirated examination preparatory questions, 3153 photocopied paper test booklets, and 309 printed test booklets. All evidence was subsequently turned over to district prosecutors for further investigation in accordance with Copyright Act regulations.
- c) On April 19, an individual in Zhonghe City, Taipei County was arrested under suspicion of publicly transmitting audio and video music files to unspecified persons via online streaming of song clips. A total of 250 songs were found on the website, 179 of which were in violation of music copyrights. The website had received 1,642,997 browser hits. The case was subsequently turned over to district prosecutors for further investigation in accordance with Copyright Act regulations.
- d) On May 6, investigators in Taiping City, Taichung County uncovered a case involving the manufacture and sale of counterfeit hardware tools trademarked by GS King Tools. Police arrested two suspects and seized evidence that included 124,111 counterfeit tool sets, 18,500 paper containers, and one assembly machine. The case was subsequently turned over to the district prosecutors for further investigation in accordance with

Trademark Act regulations.

- e) In May 2010, investigators broke open a landmark IPR infringement case in the 'Computer Alley' area of Kaohsiung City. An investigation team raided a business on Kaohsiung's Jianguo Road, discovering a supply of over 20,000 pirated DVDs and Blu-Ray disks, along with over 70 DVD and Blu-Ray burners. The case marks the first-ever large-scale seizure of pirated Blu-Ray disks in Taiwan. Among the movie titles seized were 'Fish Tank', which won the Jury Prize at the 2009 Cannes Film Festival and was selected to be shown in Taipei on June 4, 2010 as part of the iSummer Season of Movies festival; 'Whatever Works', a 2009 film directed by Woody Allen that premiered at the Tribeca Film Festival in New York; 'Tooth Fairy', a 2010 comedy starring Dwayne 'The Rock' Johnson; and 'The Messenger', which is scheduled to open in Taiwan theatres on July 29, 2010 and features Woody Harrelson, who won the 2009 National Board of Review Award for Best Supporting Actor for his performance in the movie. All evidence was later forwarded to the Kaohsiung District Prosecutors Office for further investigation under suspicion of violating the Copyright Act.
- f) On June 20, investigators in Kaohsiung City apprehended an individual suspected of engaging in the sale of pirated Blu-Ray DVDs in Kaohsiung's Sanmin District. Police uncovered a supply of more than 4000 ODs – 1,990 of which were Blu-Ray disks – at the scene. The suspect was accused of transporting the disks from Mainland China via personal luggage in order to elude customs officials, before attempting to sell the items in Kaohsiung. All evidence was later forwarded to the Kaohsiung District Prosecutors Office for further investigation.

Joint Optical Disk Enforcement Taskforce (JODE)

From April to June 2010, JODE conducted 214 inspections (105 daytime and 109 nighttime) of OD factories, printing plate factories and related facilities. This total is identical to that during the same period last year (103 daytime and 111 nighttime inspections in April-June 2009; see Table 2). JODE also conducted 69 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 took part in a total of 13 night market sweeps from April to June 2010. As a result of these sweeps, two cases involving the suspected sale of pirated ODs were uncovered.

Following an IPR Police discovery of a supply of nearly 30,000 pirated DVDs – which included mostly pornographic videos and a smaller number of movies yet to be released in Taiwan theatres, as well as roughly 300 pirated Blu-Ray DVDs -- in Kaohsiung on May 18, JODE immediately dispatched inspectors to assist with identification work and report their findings back to the IPR Police.

On May 19, the inaugural OD Manufacturing and Inspection Symposium was hosted by TIPO. The symposium, which was chaired by former TIPO Deputy Director General Margaret Chen, was attended by representatives from 22 OD factories and a delegation of officials from JODE partner agencies.

A total of 20 national service draftees – divided into two ten-person teams – have been assigned to JODE in 2010 in order to replenish personnel ranks for inspection tasks. The recruits help JODE to provide more effective implementation of IPR protection policy and OD factory inspections.

Table 2: JODE Inspection Results (April – June 2010)

		2009		2009		2010	
		Jan. – Dec.		Apr. – Jun.		Apr. – Jun.	
Number of Inspections		820		214		214	
		Day	Night	Day	Night	Day	Night
		387	433	103	111	105	109
Cases Found In Violation of the Optical Disk Act		2		0		0	
Number of Plants Closed	Manufacturing Plants	6		0		0	
	Packaging Plants	0		0		0	
Packaging Plants		0		0		0	
Suspects Prosecuted		0		0		0	
Number of Administrative Dispositions		2		0		0	
Number of Machines Seized		0		0		0	
Number of Illegal ODs (Pieces)		2000		0		0	

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

Directorate General of Customs (DGOC)

1. Inspection results:

Table 3: DGOC Inspection Results (April – June 2010)

Apr.- Jun. 2010	Trademark Infringement		Copyright Infringement		No SID Codes on Export ODs	False Declaration of Export ODs	Violation of SID Code	False Declaration of Trademark
	Export	Import	Export	Import				
Cases	0	41	0	7	0	3	0	161
Amount	0	3,326,927	0	3,468	0	0	0	0

2. Major cases:

On April 13, the Taipei Customs Office uncovered an import shipment of 820 cellular phone battery packs illegally labeled with the Nokia brand; Taipei Customs also uncovered an import shipment of 755 counterfeit Jaguar

wallets on June 11. On April 29, the Taichung Customs Office uncovered an import shipment of 930 counterfeit Disney leather accessories, and, on May 28, the Keelung Customs Office uncovered an import shipment of 1000 counterfeit MOMO automobile steering wheels. All relevant evidence was seized by customs officials in accordance with Taiwanese law.

3. International exchange:

- a) As part of active efforts to increase the flow of data between foreign customs offices on counterfeiting offenses, the DGOC provided international customs offices with information on 12 counterfeiting and piracy cases from April to June 2010.
- b) On May 26, customs officials from South Korea met with the DGOC to share experiences and exchange views on current enforcement of IPR protection measures in South Korea and Taiwan.
- c) In a partnership with U.S. Customs to improve inspections of counterfeit drugs, the DGOC invited representatives from well-known pharmaceutical factories to Taiwan to conduct a series of training seminars on counterfeit drug identification techniques. In all, four courses were held – one in each of the DGOC’s four regional customs offices – from June 14 to 18. Representatives from law enforcement agencies such as the Department of Prosecutorial Affairs, Investigation Bureau, Department of Health, Coast Guard Administration, National Police Agency, Military Police Command, and TIPO were all invited to attend.
- d) On June 8, representatives from the Motion Picture Association of America (MPAA) and the Taiwan Foundation Against Copyright Theft (TFACT) visited the DGOC to discuss issues relating to improved inspection of pirated goods. The visitors also expressed their satisfaction with Taiwanese customs officials for their recent anti-piracy and anti-counterfeiting accomplishments.

Status of Court Rulings(Taiwan High Court Prosecutors Office, HCO)

Between January and June 2010, district courts in Taiwan closed a total of 1,794 IPR infringement cases. Of these, 411 suspects in 333 cases were indicted under ordinary procedures, 469 cases involving 495 defendants resulted in summary judgment, and 844 indictments involving 877 defendants were deferred. During the same period in 2009, 1000 defendants were sentenced to prison terms with a conviction rate of 92.3%.

The adjudication of IPR cases by Taiwan District Courts from January to June 2010 is outlined below (Table 4):

Table 4: Status of Adjudication of Public Prosecutors’ Offices of District Courts

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	2010 (Jan.-Jun.)	1006	815	418	41	13	1	-	324	18	68	1
	2009 (Jan.-Jun.)	1110	881	437	65	10	1	-	332	36	62	2
	Change (%)	-9.4	-7.5	-4.4	-36.9	30	-	-	-2.4	-50	9.7	-50

Source: Prosecutors’ Office for the Taiwan High Court

IPR Awareness

1. In response to the demands of external sectors, the IPR Service Group held a series of 43 informational meetings on IP-related laws in April and May 2010. Also during this period, the group held 14 special meetings on specific subjects of interest such as the recently-amended Copyright Collective Management Organization Act, recent amendments to copyright law, proper use of copyrighted library material, and copyright licensing practices. In all, approximately 4,000 people attended the meetings.
2. Operators of Taiwanese creative and cultural industries were invited by TIPO to attend a series of three meetings on the copyright system of Mainland China, held in June 2010 in Taipei, Taichung, and Kaohsiung. By gaining a greater understanding of Mainland copyright laws and practices, attendees would become more aware of how to increase protection of created works on both sides of the Taiwan Strait. A total audience of 264 attended the meetings.
3. On April 24, TIPO hosted the 2010 World Intellectual Property Day Program – Independent Music Festival on April 24 at the Huashan 1914 Creative Park in Taipei. In addition to a lineup of live music performances, the program included an IP trivia game and an audience vote for the top performance of the day. The goal of the event was to encourage young music lovers to become active in creating original music while maintaining respect for and protection of IP rights. The show drew a crowd of nearly 1000 listeners.
4. At the 2010 National Conference for University Administrators, held at Chang Jung Christian University in Tainan County on May 26-27, the Ministry of Education introduced a series of proposals for post-secondary schools to adopt to strengthen IPR protection on campuses. Among the measures proposed were supervision of photocopying machine use in relevant departments, adoption of photocopying service regulations that include provisions against illegal photocopying, adding warnings against illegal photocopying to student manuals or other campus material and suggesting teachers attach the warnings to curriculum outlines, and the planning of IPR awareness activities during freshman orientation periods.