



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE
MINISTRY OF ECONOMIC AFFAIRS

April – June 2013

Quarterly Report on Taiwan's Intellectual Property Rights Protection

The partial amendment initiated by legislators to Article 32, 41, 97, 116 and 159 of the Patent Act passed the third reading on May 31, 2013 and was later promulgated by Presidential Order on June 11, 2013.

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

Special Report

1st Taiwan-EU IPR Working Group Videoconference of 2013

The 1st Taiwan-EU IPR Working Group Videoconference of 2013 was held on April 11 and co-chaired by TIPO's Secretary General Ms. Sherry Hong and Mr. Laurent Bardon, the European Commission's Policy Officer of Trade Relation with the Far East. The two sides discussed issues concerning the latest IPR legislative amendments, enforcement of IPR protection, GI and bilateral IPR.

Delegates from Hebei IPO of Mainland China Visits TIPO

A team of 14 delegates led by Hebei IPO's Deputy Director General Mr. Li Wen-Cai visited TIPO on the morning of April 10, 2013 to exchange views on respective patent legal regimes, administrative and judicial systems of protection. While here, the delegates were given a tour to TIPO's public service center for patent search.

2013 Cross-Strait Working-Level Meeting on Trademark

The Cross-Strait Working-Level Meeting on Trademark was held on April 15, 2013 to strengthen exchanges between trademark agencies under the Cross-Strait Agreement on IPR protection and Cooperation. During the meeting, both sides discussed and exchanged views on the results as of the end of March 2013 of Trademark Implementation Mechanism for Collaboration, Coordination, Disposition and Consultation, annual work plan, trademark examination practices, and reciprocal exchange of literatures.

2013 Cross-Strait Trademark Forum

A delegation of 52 people led by Mr. Fu Shuangjian, vice Minister of the State Administration for Industry and Commerce (SAIC) of People's Republic of China attended the 2013 Cross-Strait Trademark Forum held in Taipei on April 16. About 250 people from related industries, government agencies and academic institutes attended the forum that mainly focused on the key amendments to mainland's Trademark Law, with three subtopics on "Trademark Law amendment and related practices in trademark offices," "Trademark Law amendment and related practices in trademark examination committee" and "Protection and remedy of trademark infringement." Court judges from both sides exchanged views on trademark infringement and remedies of trademark right to enhance understanding of respective legal regimes.

Convening the 2nd Taiwan-Italy IPR Cooperation Conference

Ms. Simona Marzetti, Head of Unit for IP Promotion and International Affairs of the Italian Patent and Trademark Office, visited Taiwan on April 22, 2013 to attend the 2nd Taiwan-Italy IPR Cooperation Conference and to share experiences and exchange views on EU's Unitary Patent System, promotion of IPR awareness and implementing mechanisms for combatting counterfeiting.

2013 Patent Summit—Patent Portfolio in the New Century

The 2013 Patent Summit—Patent Portfolio in the New Century was jointly held by TIPO and the Department of Industrial Technology on May 13 at NTU Hospital's International Conference Center. Attended by a total of 151 high-ranking officials and executives coming from the industries, government agencies and research institutes, the event covers in-depth discussion on practical experiences in corporate patent portfolio in respect of operation strategies, protective schemes for R&D results, patent strategies involving application, licensing and litigation, as well as the issues regarding NPEs. The meeting was well received and that nearly 98% of the participants thought the event provided useful and practical information.

Director General Young-Sik Son of South Korea's IP Promotion Bureau Visits TIPO

A team of five people headed by Mr. Young-Sik Son, Director General of IP Promotion Bureau of South Korea's Office of IP Strategy and Planning, Presidential Council on IP, visited TIPO on June 10, 2013 to exchange views on patent and trademark examination system, patent agency system and patent infringement litigation.

AIT Economic Officer Kris Kvols Visits TIPO

The new American Institute in Taiwan (AIT) Economic Officer Mr. Kris Kvols visited TIPO and met with Deputy Director General Ms. Mei Lee on June 11, 2013 to exchange views on IPR protection.

Deputy Director Kaname Matsumoto of JPO's First Regional Policy Section Visits TIPO

Mr. Kaname Matsumoto, Deputy Director of the First Regional Policy Section of JPO's International Affairs Division, visited TIPO on June 19, 2013 to exchange views on the current status of the TW-Support Using the PPH Agreement (TW-SUPA) examination program, development in the matters of employee invention in Taiwan and how ideas can be effectively communicated among Taiwanese and Japanese users, TIPO and JPO.

TIPO Attends the 37th APEC/IPEG Meeting

TIPO sent delegates to attend the 37th APEC/IPEG Meeting held in Medan, Indonesia on June 28-29, 2013, where they gave two presentations and shared experiences with attending members on the issues of "blocking access to overseas rogue websites" and "handling of Bad faith trademark applications."

Legislative Amendments

Legislative Yuan Passes the Third Reading of Partial Amendment to Provisions of the Patent Act

The partial amendment initiated by legislators to Article 32, 41, 97, 116 and 159 of the Patent Act Passed the third reading on May 31, 2013 and was later promulgated by Presidential Order on June 11. Major revisions are as follows:

1. In Article 32, an applicant respectively filing an invention patent application and a utility model patent application for the same creation on the same date shall make respective declarations for the two applications. If the invention patent application is selected, the utility model patent will become extinguished on the publication date of the invention patent, rather than being deemed as non-existent ab initio, as prescribed before the current amendment. This result is called the "continuation of rights" that guarantees the rights and interests of the patent applicant.
2. In line with the "continuation of rights" as prescribed in Article 32, the amended Paragraph 3 of Article 41 stipulates that the applicant may claim against the person exploiting the creation prior to the publication of the invention patent

either the compensation or the damages for infringement based on the utility model patent right. This is to prevent the patentee from claiming both against the exploiter.

3. In Article 97, the provision on the calculation of damages involving patent infringement is amended; the provision on punitive damages is added.
4. Article 116 stipulates that a utility model patentee shall not make a warning without first presenting the technical evaluation report of utility model patent. This is to prevent the patentee from making a warning in an abusive manner. And in the explanations of amendment, the patentee's presenting the technical evaluation report should not serve as a prerequisite for filing a lawsuit.
5. Article 159 stipulates that the amendment is to be implemented on the date of its promulgation.

Latest Developments

Research Results of IT Industry Patent Trends and Patent Litigation Analysis Now Available

The "IT Industry Patent Trend and Patent Litigation Analysis" is a project conducted by the Taiwan S&T Law Society in 2012 under TIPO's commission that aims to provide a complete analysis on the patent trends of key technologies in domestic industries and to help corporations handle U.S. patent litigations, hoping to strengthen corporations' patent portfolio and management of patent litigation strategies.

In patent trends analysis, the project has completed 3,000 entries on domestic touch technology patents, 1,000 entries on U.S. touch technology patents, reading reports of individually analyzed patents, an index of reading reports and ten cases of patent micro-reading. Corporations can gain a better understanding of the technical aspects of a given patent by accessing the reports on patent reading.

In patent litigation, the project has completed ten case analyses on Apple Inc. v. HTC, Phillips v. Epistar Corp., and Quanta Computer, Inc. v. LG Electronics, Inc. lawsuits, focusing on technical aspects of the patents in dispute and strategies in gaining advantage foothold in IPR patent infringement litigations.

In 2012, TIPO organized a focus group training program attended by 16 high-ranking engineers and patent engineers in the IT industry and six (6) sessions of research result presentation, with attendance totaling 850 people. The report on "IT Industry Patent Trends and Patent Litigation Analysis" is now available for download at TIPONet: <http://tiponet.tipo.gov.tw> (Chinese version only).

Project on Innovating IP Values for SMEs

The Project on Innovating IP Values for SMEs was initiated by MOEA's Small and Medium Enterprise Administration to encourage and help SMEs build up a comprehensive mechanism for IPR protection, to enhance SMEs' capacity for innovation and to facilitate commercialization of quality patents owned by universities. On May 9, an MOU was signed between the Electronics Testing Center (ETC, the agency taking charge of the project for 2013) and National Taiwan University of Science and Technology (NTUST) to promote the "Cooperation Platform Mechanism for Patent Licensing."

The operation of the "Cooperation Platform Mechanism for Patent Licensing" is carried out by the ETC in assisting NTUST in taking stock of, compiling, analyzing, classifying and evaluating in commercial terms the existing patents. Through informational meetings on licensing of technology transfer and explanations by inventor groups, the patents that have been categorized according to their types of technologies can be introduced to relevant business operators for subsequent technology transfer and product development. This transfer of R&D results of the university to the industry promises greater business opportunities.

Since 2010, the "Patent Licensing Cooperation Platform" established under this project among Southern Taiwan University of Science and Technology, Far East University and National Cheng Kung University has facilitated a total of 18 cases of transfer and licensing of patented technologies. The derivative revenue from the flow and application of technology IP is estimated to be up to NT\$400 million.

2013 IPR Symposiums

To discern public opinions on the recent changes in patent and trademark affairs, TIPO held a total of five symposiums this year on June 24 in Taipei, June 25 in Taichung, July 2 in Tainan, July 3 in Kaohsiung and July 10 in Hsinchu.

TIPO's Director General, Ms. Mei-hua Wang led a team of divisional directors to attend the symposiums in order to discern opinions from the industries and agents over issues that include "promotion of patent procedural examination," "introduction to the latest amendment to Patent Act," "correction of translation errors and other amendments," "principle for reinstatement of trademark rights" and "issuance of electronic office notices on patent and trademark."

Enforcement and Latest Statistics

National Police Agency (NPA)

1. Enforcement News (April-June 2013):

From April to June, 2013, a total of 163 copyright infringement cases were uncovered involving 184 suspects and 493 trademark infringement cases were uncovered involving 558 suspects. The market values of these uncovered infringing goods were estimated by rights holders to be around NT\$3,056,460,942. The types of infringement are as follows:

- a) Internet infringement: 420 cases involving 444 suspects
- b) Market inspection: 96 cases involving 107 suspects
- c) Store inspection: 132 cases involving 179 suspects
- d) Factory inspection: 2 cases involving 5 suspects
- e) Other types of infringement: 7 cases involving 9 suspects

Total: 657 cases involving 744 suspects

2. Major Cases Involving Economic Crime (April-June 2013)

One case involving unauthorized copying of licensed music and video files onto 50 computer karaoke machines, along with 20 song albums were seized and transferred to Tainan district prosecutors office for further investigation and prosecution on charges of violation of the Copyright Act.

Statistics for IP Infringement Cases

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 ODs Confiscated
2013 Apr. -Jun.	1,464	1,704	877	1,015	587	689	67,615
2012 Apr. -Jun.	1,293	1,489	806	906	487	583	36,183
PercentageChange: 2013/2012 Apr. -Jun.	13.26	14.44	8.81	12.03	20.53	18.18	86.87

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

Joint Optical Enforcement Taskforce (JODE)

From April to June 2013, JODE conducted 165 inspections (88 daytime and 77 nighttime) of OD factories, printing plate factories and related facilities. This total is 32 times less than those of the same period in 2012 (197 inspections; 92 daytime and 105 nighttime). In addition, JODE conducted 19 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 25 night market sweeps.

JODE's Inspection Results (April-June, 2013)

Number of Inspections		2012 Jan.-Dec.		2012 Apr.-Jun.		2013 Apr.-Jun.	
		699		197		165	
		Day	Night	Day	Night	Day	Night
		351	348	92	105	88	77
Number of Cases Found Violating the Optical Disk Act		0		0		0	
Number of Plants Closed	Manufacturing Plants	2		1		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

Customs Administration, MOF

1. Inspection Results:

In compliance with the Regulations Governing Customs Measures in Protecting the Rights and Interests of Trademark, Operational Directions for Customs Authorities in Implementing Measures for Protecting the Rights and Interests of Patent and Copyright, and other border measures, the Customs Administration from April to June 2013 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	17	0	3	0	0	0	49
Number	12,960	6,070	0	231	0	0	0	-

2. Major Inspections

Major inspection results from this quarter include: Keelung Customs' April 18 discovery of 12,960 counterfeit "Hello Kitty" stickers; Taipei Customs' April 26 discovery of 100 pieces of counterfeit "Adidas" clothing imported through express delivery; Taipei Customs' May 24 discovery of 115 counterfeit "Rolex" and other brand-name wristwatches imported through express delivery.; Taipei Customs' June 6 discovery of 73 counterfeit "Playboy" handbags imported through express delivery; and Taipei Customs' June 14 discovery of 600 counterfeit "Hello Kitty" pencil cases imported through express delivery. All seized goods have been detained 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, the Customs Administration from April to June 2013 provided international counterparts with information on 3 counterfeiting and piracy cases.
- (2) The Customs Administration in April 2013 participated in the U.S.-proposed "IPR Counterfeit Electronics Mutual Enforcement Operation" and carried out an enhanced investigation of counterfeit electronic products on April 8-19. This multi-country participation can facilitate exchange of related experiences and cooperation among international customs authorities in terms of investigation.
- (3) Representatives from the Customs Administration and the Hong Kong Office of the Immigration and Customs Enforcement (ICE) of the U.S. Department of Homeland Security (DHS) met and discussed over a prospective action plan on combatting counterfeiting.
- (4) Enhancing Exchange and Cooperation between Rights Holders and Rights Holder Groups
 - a) Representatives from Yamaha Corporation visited the Customs Administration on April 2, 2013 to exchange views on border protection of rights holders' trademark rights and the trends and types of the import and export of IPR infringing goods.
 - b) A total of 400 volumes of *Collection of Registered Trademarks of Japanese Corporations in Taiwan* (3rd Ed.) were sent as a gift to the Customs' Administration by representatives of the Interchange Association, Japan (IAJ) during their visit to Taiwan on April 30, 2013. The Collection contains contact information of 163 rights

holders of Japanese corporations in Taiwan, providing valuable information to customs personnel in their investigation of suspected trademark infringement.

- c) The 2013 National Training Workshop on the Identification of Counterfeit and Pirated Products was jointly held by the Customs Administration and IPR Business Partnership on June 19-20, 2013 at the 85 Sky Tower Hotel in Kaohsiung. Twenty experts on IPR protection from Taiwan and abroad demonstrated techniques on identifying 23 authentic and counterfeit international brand-name products; over 100 people attending the seminar included representatives from the customs offices, Kaohsiung High Prosecutors Office, Investigation Bureau, TIPO and IPR Corps. The event helped to enhance the customs personnel's ability in implementing IPR border protection measures and contributed to counterfeiting and piracy investigations through the exchange of information among rights holder representatives and personnel from other enforcement agencies.

Taiwan High Prosecutors Office (THPO)

1. Enforcement Results (January-June, 2013)

Thanks to the success of campus IPR awareness promotion, district prosecutors offices of the Ministry of Justice during the period did not uncover any illegal photocopying of textbooks. 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-June, 2013)

Affirmed IPR infringement cases by district prosecutors offices of Taiwan totaled 1,950. Of these, 406 suspects in 334 cases were indicted under ordinary procedures; 438 cases involving 457 defendants filed for summary judgment; 1,074 indictments involving 1,125 defendants were deferred; and 104 cases involving 107 defendants were closed by ex officio action. During the same period, 671 defendants were sentenced to prison terms at a conviction rate of 95.18%. Compared to the same period of 2012, the status of court rulings on IPR infringement cases (summary judgment included) is as follows. There were 863 indictments in 2013 and 930 in the year 2012, accounting for a 7.2% decrease from the year before. As for the number of convictions, there were 671 defendants being convicted in Q2 2013, accounting for a 22.87% decrease from the same quarter (870) of last year. The adjudication of IPR cases by district prosecutor's offices is outlined in the table below.

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	2013 Jan.-Jun.	823	671	314	23	6	0	0	307	19	34	0
	2012 Jan.-Jun.	1,065	870	424	32	6	0	0	374	34	62	2
	Percentage Change(%)	-22.72	-22.87	-25.74	-28.13	0	0	0	-17.38	-44.12	-45.16	-100

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

IPR Awareness

● The MOE compiles a report on how schools have handled alleged infringement

The Ministry of Education continues to compile a report on how schools have handled alleged infringement reports provided by rights holder groups in Taiwan in the preceding two months. This report addresses the concerns of rights holder groups and is forwarded to relevant government agencies. The Ministry has now compiled and responded to rights holders' reports from up to April 2013.

● 2013 World IP Day Celebration

TIPO held the 2013 World IP Day Celebration on April 27 at the front square of the Taipei Metro Tamsui Station. The event showcased inventions created by schools of all levels that had won domestic and international invention awards. In addition, the invited inventors shared their experiences and demonstrated skills to help visitors learn more about the creative process from an idea to a product. These activities were intended to encourage young people to become active in artistic creation while promoting a respect for IPR. Nearly 1,000 people were attracted to the event.

● Publishing Brochures for the “Regulations Governing Customs Measures in Protecting the Rights and Interests of Trademark” and “Operational Directions for Customs Authorities in Implementing Measures for Protecting the Rights and Interests of Patent and Copyright”

In May, the Customs Administration published the Chinese and English brochures for both the new “Regulations Governing Customs Measures in Protecting the Rights and Interests of Trademark” and the newly-revised “Operational Directions for Customs Authorities in Implementing Measures for Protecting the Rights and Interests of Patent and Copyright” and placed them at the customs offices island wide. These brochures are now available to the general public and corporations.

● 2013 IP Professional Training Program—Special Training Class for the Ministry of Justice Personnel

The five-day “2013 IP Professional Program—Special Training Class for the Ministry of Justice Personnel” was jointly organized by the Ministry of Justice and TIPO on May 6-10, 2013 to effectively enhance professional capability of the personnel of investigation agencies. A total of 40 prosecutors and administrative prosecutors enrolled in this training class.

● IPR Training Courses

TIPO from May 13 to June 7 of 2013 organized two basic-level training courses on the legal regime and enforcement of trademark and copyright and one intermediate-level course on trademark and copyright Internet investigation, an overview on the five major CMOs and development trends for infringement, investigation practices such as identifying counterfeit goods, along with a new session on explanation of the amendment to Trade Secrets Act. A total of 75 policemen (basic-level: 50; intermediate-level: 25) attended these courses and 74 of them completed the training and

were awarded a certificate of completion after passing an examination.

● **Lectures on Customs IPR Border Measures**

A total of 449 customs personnel attended the Lectures on Customs IPR Border Measures held by the Customs Administration on May 21 in Taipei, May 23 in Kaohsiung, June 3 in Taichung and June 4 in Keelung to enhance their enforcement skills both legally and in practice.

● **Campus IPR Protection Action Plan**

On June 25, 2013, the Ministry of Education instructed universities and colleges to fill out the “Campus IPR Protection Action Plan” self-evaluation form to effectively carry out IPR protection and to strengthen teachers and students’ awareness of and respect for IPR.

● **Respect for and Protection of Internet IPR on University Campuses**

On April 23, 2013, the Ministry of Education instructed universities and colleges to continue their promotion and implementation of the “Respect for and Protection of Internet IPR on University Campuses” and to refrain from downloading, using and selling software products that are of unidentified or unauthorized resources.

● **2012 Public and Private University Academic Affairs Directors Joint Meeting**

The 2012 Public and Private University Academic Affairs Directors Joint Meeting was held by National Sun Yat-sen University on May 30-31, 2013 under the commission of the Ministry of Education. The event aims to strengthen the promotion of IPR protection action plan, management and internal control of campus photocopying facilities.

● **“IPR Protection Service Group” Informational Meetings**

From April to June 2013, TIPO organized a series of “IPR Protection Service Group” informational meetings in order to strengthen public awareness of IPR. The topics and effects are provided as follows:

Informational Meetings	Time, Venue and Number of Participants	Topics and Effects
1. IPR Laws and Regulations	A total of 74 lectures across the island were organized by TIPO and the Service Group (16 in government agencies, 9 in enterprises, 1 in junior high school and 48 in universities); 6,018 participants.	The topics of concern to respective agencies included patent, trademark, copyright, trade secrets and layout designs of integrated circuits; on-site counseling services were also provided to enhance public awareness of IPR. A survey conducted after the events shows that about 96.3% of the participants think that similar events should be held on a regular basis; and about 95.1% have learned that unauthorized uploading of works of music, clips, pictures, software and articles onto the Internet is tantamount to copyright infringement.
2. Internet Copyright	Held on May 22 in Taipei and June 6 in Taichung City; 128 participants.	The topics included “blog copyright, online sales and how to legally use music, movies and pictures online; the purpose is to enhance public awareness of the laws and regulations regarding copyright. A survey conducted after the events shows that 100% of the participants have learned about the authorization regulations over exploitation of the contents extracted from Wikipedia; 98.4% understand that downloading and uploading works of music as a paid member at various P2P websites could still incur copyright infringement.
3. Copyright System in Mainland China	Held in Taipei on May 28; 91 participants.	An overview of mainland China’s copyright legal regime and the Cross-strait Agreement on IPR Protection and Cooperation was delivered to facilitate smoother entry of domestic audiovisual and software products into the mainland market. According to a survey, 80.2% of the participants have learned more about the similarities and differences in the copyright systems between Taiwan and mainland.
4. Copyrighted Songs in Karaoke Machines	Held in New Taipei City on June 27; 64 participants.	Helped karaoke machine manufacturers and users learn more about how to obtain legal licenses for reproduced songs in karaoke machines and their rental.
5. CMOs Personnel	Held on May 31; 21 personnel from 5 CMOs attended the meeting.	Explanations of the current Copyright Act and status of the amendment, the practices in collective management and protection of personal information were delivered to enhance CMOs personnel in terms of their legal knowledge and professional capability when handling relevant matters.

● **Copyright Awareness Ad on the Air**

A 30-second copyright awareness ad entitled “Obtaining Legal Licenses for Copyrighted Music Played at Business Venues” produced by TIPO to enhance awareness among business venue operators on the importance of obtaining legal licenses for playing copyrighted music was aired from April 1-30 in three languages (Mandarin, Taiwanese and Hakka) during the 3,301 public service broadcasting periods at 43 broadcasting stations island wide.

● **Information Management and Integrated Search Platform for Musical Composition CMOs**

The Information Management and Integrated Search Platform for Musical Composition CMOs was officially launched by TIPO in May 2013 in order to make it more convenient for the public to search licensing information on works of music. By entering key words of the songs or composers, users can perform three simultaneous searches which in turn enhances search efficacy.

● **TIPO’s “Smart IPR” Now Available at Google Play**

To enhance people’s IPR awareness, TIPO in June 2013 officially launched the “Smart IPR” APP. Now available for free download on Android smartphones and tablet PCs, users can watch copyright-related promotional ads and animation shorts, access online copyright Q&A section and partake in trivia games. In all, the “Smart IPR” not only enables users to obtain information but enhances their understanding of copyright. This free “Smart IPR” APP is now available at Google Play for free download.

● **TIPO Goes on “Line”**

To expand services, TIPO in June 2013 created an account entitled “IPR Academy” on Line, a popular platform for instant messaging. Line users can add “IPR Academy” to their friend list and receive copyright-related information in an instantaneous and convenient manner.