



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE
MINISTRY OF ECONOMIC AFFAIRS

April-June 2014

Quarterly Report on Taiwan's Intellectual Property Rights Protection

From May-July 2014, TIPO organized five public hearings soliciting feedback on the draft amendment to Copyright Act with emphasis on the following: adjustment to limitations on economic rights (e.g. rights of producers of phonograms and of performers), prohibition on parallel import of genuine goods, assigning criminal liability to copyright violations, fair use rules in education settings, libraries, nonprofits, blanket use exemption, as well as snapshots and parody of original work.

Special Report

2014 EU-Taiwan Seminar on Patent Systems

On 14 April 2014, TIPO, the European Economic and Trade Office (EETO), and European Chamber of Commerce Taiwan (ECCT) cohosted the “2014 EU-Taiwan Seminar on Patent Systems” at the Tsai Lecture Hall of NTU’s College of Law.

With main emphasis on the latest development in respective patent systems, the seminar invited Dr. Joseph Straus with Max Planck Institute to lecture on relevant provisions and give suggestions to Taiwan applicants filing European Patent or Unitary Patent. Two patent attorneys from the EU, Dr. Tomas Kurig and Dr. Eberhard Becker, presented cases to discuss the latest development in patenting computer software and biotechnology. Also, Ms. Grace Lei, HTC’s general legal counsel, shared experiences in patenting practices.

Director Lin with TIPO’s Legal Affairs Office discussed the new Patent Act’s replacing “two applications for the same creation” with “continuation of rights” and elaborated on similarities and differences in patent border protection measures across countries.

The seminar closed with patent agents sharing experiences in filing patent applications and corporate litigation in Taiwan and the EU. A total of more than 200 people comprising Taiwan government officials, representative offices of EU member states, tech industry representatives, patent firm personnel, and university staff attended the event.

The 1st 2014 Taiwan-EU Economic and Trade Consultation IPR Working Group Videoconference

The 1st 2014 Taiwan-EU Economic and Trade Consultation IPR Working Group Videoconference was held on the afternoon of 22 April. TIPO’s Deputy Director General May Lee, as chair on the Taiwan side, along with representatives from the Judicial Yuan, Council of Agriculture, Dept. of Prosecutorial Affairs of the Ministry of Justice, Customs Administration of the Ministry of Finance, IP Police Corps, MOEA’s Bureau of Foreign Trade, and TIPO, attended the event. Mr. Laurent Bardon, Policy Officer of Trade Relations with the Far East, DG Trade of the European Commission as DVC chair on the EU side, exchanged feedback with attending representatives on Taiwan and EU’s recent legislative amendments, IPR enforcement, mutual taking over of DUS reports of Phalaenopsis and Doritaenopsis, as well as areas of future cooperation.

The 1st TIPO-JPO Patent Appellate Officer Exchange Successfully Concluded

On June 16 of this year, two JPO officials, Chief Administrative Judge Masaaki Kurano and Deputy Director Yukio Ono of Trial and Appeal Department visited TIPO for the 1st patent appellate officer exchange between the two offices. While here, TIPO and JPO officials exchanged views regarding Taiwan’s Patent Act amendment and shared experiences in patent invalidation and re-examination practices.

Legislative Amendments

TIPO Holds Public Hearings on the Draft Amendment to Copyright Act

The meetings were held addressing different issues of the amendment:

- 1.The second hearing on May 30 discussed adjustment to limitations on economic rights (e.g. rights of producers of phonograms and of performers), prohibition on parallel import of genuine goods, and assigning criminal liability to copyright violations.
- 2.The third hearing on June 9 discussed adjustment to moral rights, copyright ownership of works made for hire and audiovisual works, and whether the term of copyright protection should be extended.
- 3.The fourth hearing on June 23 discussed fair use rules in education settings, libraries, and nonprofits, as well as blanket fair use exemption.
- 4.The fifth hearing on July 9 discussed fair use rules for distribution of information and new provisions on fair use of snapshots and parody of original work.

These public hearings, however, led to general misunderstandings about certain provisions due to the complexity involved in this comprehensive amendment. Faced with uncertainty among sectors, TIPO would resume subsequent hearings after further review and discussion of disputed provisions with relevant agencies, industries, rights holders (e.g. songwriters), scholars, and experts have been conducted.

Ministry of Justice Amends Relevant Laws Following the Introduction of Criminal Liability to the New Trade Secrets Act

The Communication Security and Surveillance Act was amended earlier this year in January and took effect on June 29. The Act now enforces surveillance against the crime of misappropriating trade secrets in foreign jurisdiction.

The Witness Protection Act was also amended and took effect on June 18 of this year. The Act now protects witnesses providing evidence of trade secret misappropriation committed overseas.

The Operational Directions for Customs Authorities in Implementing Measures for Protecting the Rights and Interests of Patent, Trademark, and Copyright was amended by Customs Administration of the Ministry of Finance and promulgated on April 7 of this year.

Latest Developments

Information Meetings on Successful Patent Portfolios for the Industries

In the first half of 2014, TIPO organized a series of information meetings on successful patent portfolios to help the industries learn more about patenting trends in targeted fields, improve patent application quality, and develop strategies for coping with patent litigation across borders. With emphasis on information communications, green energy, and biopharmaceuticals, the series offered courses instructed by patent examiners and industry representatives, hoping to strengthen industrial competitiveness, spurring development and transition in the industry.

From April-June, TIPO joined hands with Taiwan Internet and E-Commerce Association, Taiwan Electrical and Electronic Manufacturers' Association, and Green Energy & Environment Research Laboratories to hold a series of nine meetings on e-commerce, telematics, green energy, and biopharmaceuticals. The series attracted 500 people, offering courses that covered general (e.g. patent basics and litigation involving patent disputes) and specific topics (e.g. trends in patent application).

Workshop on Enforcement Practices Involving Trade Secrets

On May 23, 2014, TIPO held a workshop at Hsinchu Science Park (HSP) on enforcement practices involving trade secrets, with an attendance of 50 comprising judges from the Judicial Yuan, IP Court, and district courts, as well as representatives from the Ministry of Justice and Investigation Bureau. The workshop was aimed at stepping up communication between judicial enforcement personnel and the industries in the event of trade secret investigation. The increased mutual understanding would, on the one hand, strengthen investigation, prosecution, adjudication, and imposition of criminal liability in accordance with the new Trade Secrets Act; on the other, it would improve Taiwan's trade secret protection and industrial competitiveness. During the event, participants were given a guided tour to HSP corporations to learn about different products, manufacturing processes, and services.

2014 Information Meetings on Trademark Act and Regulations

In May 2014, TIPO held a series of four "Trademark Use" information meetings at its Kaohsiung and Taichung satellite offices, as well as at NTU's Tsai Lecture Hall and National Tainan Living Art Center. With 254 people in attendance, the meetings introduced trademark uses and analyzed court rulings involving trademark maintenance and infringement use for giveaways. In addition, the meetings also provided explanations concerning examination practices (e.g. verifying proof of use and determining goods/services) in four trademark cancellation cases.

Coordination Meeting on Online Survey Results Regarding Radio Station Proprietors Using TIPO's "Database of CMO-Administered Works"

TIPO on May 15, 2014 held a coordination meeting to discuss user survey results of its pilot-run database with radio station proprietors, CMOs and representatives from information industries. Through this discussion, TIPO hopes to improve database service and information transparency in terms of usage statistics on copyrighted works and CMOs setting up royalty rates.

"Patent FAQ" and "Flowcharts on Patent Examination and Administrative Remedy" now Available in English at TIPO Website

In line with the January 1, 2013 implementation of the amended Patent Act, the English versions of "Patent FAQ" and "Flowcharts on Invention, Utility Model, and Design Patent Application Examination and Administrative Remedy" have been updated and are now available (starting June 11, 2014) for public access at TIPO's English website.

The 2nd Copyright Examination and Mediation Committee Meeting of 2014

TIPO on April 18 held the 2nd Copyright Examination and Mediation Committee Meeting of 2014 to discuss in length "Zuei Ing Co., Ltd. applying for license of use of works of unknown copyright ownerships" and "whether downloading from foreign sources apps not available in Taiwan using IP filtering mechanisms (e.g. VPN) violates Paragraph 1 (protection measures shall not be disarmed, destroyed, or circumvented....) and Paragraph 2 (offering equipment to disarm, destroy, or circumvent protection measures....) of Article 80-2 of Copyright Act."

A Meeting on Investigations of Online Infringement Following the Amendment to Communication Security and Surveillance Act

On May 6, 2014, TIPO held a meeting to discuss investigations of online infringement with representatives from the Judicial Yuan, Ministry of Justice, Intellectual Property Branch of Taiwan High Prosecutors Office, and right holder groups. The discussion centered on whether the new Act is imposing hurdles to obtain a warrant for accessing communications records. (According to Paragraph 1 of Article 11-1, for instance, "When a prosecutor investigates an offense punishable by term imprisonment of more than 3 years, if there are facts leading to the belief that communications records and information of the communications users are necessary and relevant to the investigation of the case, unless in the situation of an emergency for which prior application is not possible, a written application should be filed with the court for an access warrant.")

A series of meetings to discuss royalty rates

On June 5, 12, and 19, 2014, TIPO held a series of meetings to discuss royalty rates (per song, and for radio and TV broadcasting) with representatives from MUST, MCAT, RPAT, radio stations, Commercial Radio Broadcasting Association, Satellite Television Broadcasting Association, and Copyright Review and Mediation Committee.

IPR Training Program for Ministry of Justice Personnel

The Ministry of Justice and TIPO from May 6-10, 2014, co-organized a training program focusing on IPR investigation case studies. A total of 39 prosecutors and administrative prosecutors were enrolled in this capacity building program.

Enforcement and Latest Statistics

National Police Agency (NPA)

1. Enforcement News (April-June 2014)

From April to June, 2014, a total of 214 copyright infringement cases were uncovered involving 254 suspects and 330 trademark infringement cases were uncovered involving 367 suspects. The market values of these uncovered infringing goods were estimated by rights holders to be around NT\$2,553,715,579. The types of infringement are as follows:

- a) Internet infringement: 358cases involving 385 suspects
 - b) Store inspection: 132 cases involving 176 suspects
 - c) Night market inspection: 41 cases involving 46 suspects
 - d) Factory (warehouse) inspection: 3 cases involving 3 suspects
 - e) Other types of infringement: 10 cases involving 10 suspects
- Total: 564 cases involving 620 suspects

2. Major Cases Involving Economic Crime (April-June 2014)

- a) One case involving 842 pirated video game items (719 game discs, 1 card adaptor, 1 memory card, 93 game cartridges, 19 game consoles, 1 desktop computer, and 8 portable drives) was uncovered and transferred to Pingtung District Prosecutors Office for further investigation and prosecution on charges for violating Copyright Act.
- b) Another case involving 9,764 pirated items (Playboy handbags and related accessories) was also uncovered.

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
2014 Apr. - Jun.	1,277	1,456	714	798	563	658	98,426
2013 Apr. - Jun.	1,464	1,704	877	1,015	587	689	67,615
Percentage Change: 2014/2013 Apr. - Jun.	-12.77	-14.55	-18.59	-21.38	-4.09	-4.50	-28.38

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

Joint Optical Enforcement Taskforce (JODE)

From April to June 2014, JODE conducted 183 inspections (102 daytime and 81 nighttime) of OD factories, printing plate factories and other related facilities. This total is 18 times more than those of the same period last year (165 inspections; 88 daytime and 77 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 Team, JODE officials during the same period also took part in a total of 36 night market sweeps.

JODE's Inspection Results (April-June, 2014)

Number of Inspections		2013		2013		2014	
		Jan.-Dec.		Apr.-Jun.		Apr.-Jun.	
		700		165		183	
		Day	Night	Day	Night	Day	Night
		380	320	88	77	102	81
Number of Cases Found Violating the Optical Disk Act		0		0		0	
Number of Plants Closed	Manufacturing Plants	0		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		0		0		0	
Number of Machines Seized		0		0		0	
Number of Illegal ODs (Pieces)		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 2014 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	39	0	3	0	6	0	50
Number	0	12,987	0	76	0	24,465	0	-

2. Major Inspections

Major inspection results from this quarter include: Taipei Customs' April 8 and June 12 discoveries of 2,500 pieces of counterfeit "My Beauty Diary" facial masks; Taipei Customs' April 13 and May 22 discoveries of 690 pieces of counterfeit "Talking Tom Cat," "Hello Kitty," and "LOZ" toy items; Taipei Customs' April 15 discovery of 110 counterfeit "HTC" and "Samsung" car chargers; Taipei Customs' April 29 discovery of 545 pieces of counterfeit "Adidas," "Burberry," and "Puma" assorted items; Taipei Customs' May 5 and June 6 discoveries of 285 counterfeit "Chanel" smartphone cases imported through express delivery; Keelung Customs' May 6 discovery of 344 pieces of counterfeit "UGG" and "Lacoste" footwear brought in though ship transport; Taipei Customs' May 9 discovery of 190 pieces of counterfeit "Hello Kitty" tableware imported through express delivery; and Taipei Customs' May 21 discovery of 47 counterfeit "LV" and "Gucci" leather pieces brought in by incoming passengers. 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 2014 provided international counterparts with information on 22 counterfeiting and piracy cases.
- (2) Upon the completion of his term, the former Chief Representative of the Interchange Association (Japan), along with the incoming Chief Representative, visited the Customs Administration on June 24, 2014, to talk with officials on strengthening bilateral cooperation and partnerships.

(3) Enhancing Exchange and Cooperation between Rights Holders and Rights Holder Groups

A total of four lectures on "identifying authentic and counterfeit goods by customs officials" were held by the Customs Administration on April 21-24, 2014, in Keelung, Taipei, Taichung, and Kaohsiung Customs. With an attendance of 373 people, these lectures were given by Japanese corporate experts (appointed by the Association) and agents of well-known brand owners, hoping to strengthen professional capacity of customs personnel.

Taiwan High Prosecutors Office (THPO)

1. Enforcement Results (January-June, 2014)

Thanks to the success in campus IPR awareness campaigns, the district prosecutors offices of the Ministry of Justice during this period did not uncover any case of illegal textbook photocopying. The THPO will continue its efforts to effectively deter off-campus textbook photocopying.

2. Status of Court Rulings (January-June, 2014)

Affirmed IPR infringement cases processed by Taiwan's district prosecutors offices between January 1 and June 30, 2014 totaled 1,485. Of these, 338 suspects in 290 cases were indicted under ordinary procedures; 392 cases involving 404 defendants filed for summary judgment; 748 indictments involving 784 defendants were deferred; and 55 cases involving 65 defendants were closed by ex officio action. In the same period, 791 defendants were sentenced to prison terms at a conviction rate of 92.95%. Compared to the same period in 2013, the status of court rulings on IPR infringement cases (summary judgment included) is as follows. There are 742 indictments in 2014 (Jan-Jun) and 863 in 2013 (Jan-Jun), accounting for a 14.02% decrease. As for the number of convictions, there are 791 defendants being convicted in 2014 (Jan-Jun), accounting for a 17.88% increase over the same period (671) of last year. The adjudication 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	2014 Jan.-Jun.	166	132	44	4	1	0	0	77	6	10	1
	2013 Jan.-Jun.	137	112	52	4	1	0	0	52	3	6	0
	Percentage Change(%)	21.17	17.86	-15.38	0	0	0	0	48.08	100	66.67	100

Source : The Prosecutors' Office for the Taiwan High Court

IPR Awareness

● **Publishing the new “Operational Directions for Customs Authorities in Implementing IPR Protection Border Measures”**

In May of this year, the Customs Administration published and distributed to all customs and investigation agencies the new “Operational Directions for Customs Authorities in Implementing IPR Protection Border Measures,” now becoming part of the new Patent Act and related regulations.

● **Seminars on Customs IPR Border Measures**

On June 4, 11, 18, and 25, 2014, senior executives of the Customs Administration visited Taichung, Taipei, Keelung, and Kaohsiung Customs to give a series of eight lectures on “Customs IPR Border Measures,” highlighting legalities and practices of relevant regulation and new measures. The lectures drew an attendance of 359 people.

● **The Ministry of Education Holds the 1st Interagency Consulting Committee Meeting of 2014 on Campus IPR Protection**

On June 10, the Ministry of Education held the 1st Interagency Consulting Committee Meeting on Campus IPR Protection to review the implementation of related policies and exchange feedback with relevant government agencies, educational institutions, students, right holder groups, and scholars.

● **Campus IPR Assistance Team**

In May and June of this year, 133 students from 24 colleges and universities formed the Campus IPR Assistance Team and went to 26 elementary, junior high and senior high (vocational) schools across Taiwan using lively activities, short skits, and fun Q&A games to promote proper IPR concepts. Of the 7,597 student participants, over 90% of elementary school students understand that it is copyright infringement to upload, download, and share music without legitimate authorization from right holders; over 90% of junior high school students understand that plagiarism is copyright infringement; and over 90% of senior high (vocational) school students understand that distributing in-class sound recording without right holder permission is copyright infringement.

● **Campus IPR awareness**

On April 7, 2014, brochures on campus IPR awareness published by the Ministry of Education were distributed by TIPO to higher education institutes. It is hoped that these brochures can educate people to use licensed textbooks (including used ones) and avoid illegally photocopying copyrighted books or teaching materials.

● **“IPR Protection Service Group” Information Meeting Series**

From April-June of this year, TIPO organized a series of “IPR Protection Service Group” information meetings to raise people’s IPR awareness. The topics and effects are as follows.

Information Meetings	Time, Venue and Number of Participants	Topics and Effects
1. IPR Laws and Regulations	From April-June, TIPO and the Service Group organized 61 meetings (10 at government agencies, 13 at enterprises, and 23 at universities) across the island with 5,445 people in attendance.	The meetings addressed patent, trademark, copyright, trade secrets, and layout designs of integrated circuits; on-site counseling was also available to step up public IPR awareness. Subsequent surveys found 95.7% of the participants would go to similar events and 83.4% said the events were very informative.
2. Copyright at Business Venues	One meeting was held on May 21 in Taipei, with an attendance of 54 people.	The meeting addressed common types of use, karaoke machine rentals, and obtaining licenses of use. Radio, TV, shopping mall proprietors attending the events all gained a better understanding of copyright licensing involving broadcasting music in public.
3. Internet Copyright	One meeting was held on May 27 in Taipei, with an attendance of 63 people.	The meeting addressed copyright in blogs, online sales, and legal use of online music, movies and photographs. Subsequent surveys found all of the participants gained a better understanding of copyright regulations on the use of Wikipedia contents, and copyright infringement involving uploading and sharing musical works as a paid P2P member.
4. Copyright in culture and creative industries— “Performance and visual arts industries” and “Copyright across the Strait”	Two meetings were held on June 17 and 26 in Taipei and Kaohsiung, with an attendance of 107 people.	The meetings addressed copyright basics, common licensing disputes facing cultural and creative industries, as well as copyright maintenance and remedy employed in the event of infringing scenarios in China.

● **IPR Awareness Ad**

A 30-second audio IPR awareness ad “Obtaining legal licenses for music broadcast in business venues” in three languages (Mandarin, Taiwanese, and Hakka) was aired 4,188 times from April 1-30 this year by 35 radio stations across the island. TIPO hopes that the ad would strengthen copyright awareness among business proprietors.

● **Internet Copyright Protection Carnival Kicks Off**

On June 21, TIPO organized the Internet Copyright Protection Carnival on the ground floor of the Taipei Main Station to announce the launch of this year’s Internet copyright protection campaign series. Invited to the event were director of the movie “Step Back to Glory” and special-effects artist for the film “Avatar,” both sharing experiences in artistic creation with the public. Also in the event were attorneys explaining legal issues involving online copyright and their importance.

● For every two months, the Ministry of Education compiles results of educational institutions handling infringement cases reported by right holder groups. The latest results concluding in April of this year were compiled and forwarded to said groups and relevant government agencies.