



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE

MINISTRY OF ECONOMIC AFFAIRS

October — December 2013

# Quarterly Report on Taiwan's Intellectual Property Rights Protection

*To strengthen public awareness on Internet copyright and to deter the occurrence of Internet infringement, TIPO produced a microcinema video entitled "Next Stop, i(Love)" and uploaded on September 29 to YouTube and Facebook. This video was filmed in the most popular format and told in a well-developed storyline. Internet users can watch on YouTube and TIPO's Facebook fan page.*

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

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

Website: <http://www.tipo.gov.tw> • E-mail: [ipo@tipo.gov.tw](mailto:ipo@tipo.gov.tw)

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## Special Report

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### The 2<sup>nd</sup> Taiwan-EU Economic and Trade IPR Working Group Videoconference

The 2<sup>nd</sup> Taiwan-EU Economic and Trade IPR Working Group Videoconference took place on October 22, 2013 and was jointly hosted by TIPO's Deputy Director General Ms. Mei Lee and Mr. Laurent Bardon, Policy Officer of Trade Relation with the Far East, DG Trade, European Commission. Topics discussed included IPR-related legislative amendments, EU's border measures against patent infringement, IP Court decisions and investigations carried out by the customs and the police. Both parties also exchanged views on IPR chapters of the FTAs/ECAs respectively signed with other countries.

### IPOPHIL Deputy Director General Mr. Allan B. Gepty Visits TIPO

A delegation headed by Intellectual Property Office of the Philippines (IPOPHIL) Deputy Director General Mr. Allan B. Gepty and Senior Deputy State Prosecutor Severino Hunt Gaña, Jr. visited TIPO on November 13, 2013 to exchange views and share experiences regarding policies and measures for IPR protection. During their stay on November 12-15, Mr. Gepty and Mr. Gaña also visited the IPR Police Corps and the IP Court respectively to learn more about IPR protection enforcement in Taiwan.

### IIPA Legal Advisor Michael N. Schlesinger Visits TIPO

Mr. Michael N. Schlesinger, legal advisor of International Intellectual Property Alliance (IIPA), visited TIPO on November 19, 2013 to exchange views on copyright-related laws and regulations as well as current status of law enforcement.

### 2013 U.S. Design Patent Seminar

On December 9, 2013, TIPO held the U.S. Design Patent Seminar, inviting Mr. Joel Sincavage, design practice specialist and Mr. David Gerk, patent attorney of USPTO, to introduce the U.S. design patent system, the direction of amendment for future industrial design protection and case study of design patent examination, and to enhance the mutual cooperation on examination and practice.

### SIPA Delegate Visits TIPO

Shanghai Intellectual Property Administration (SIPA) Director General Mr. Lu Guoqiang led delegates of 5 people to visit TIPO Director General Ms. Wang, Mei-hua on December 10, 2013. Both sides shared experiences in regard with IPR business, legal system and industrial policy and so on.

## Legislative Amendments

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### Meeting on Border Measures for Patent Protection

On October 8, 2013, TIPO convened a meeting on border measures for patent protection and invited relevant agencies to discuss whether provisions should be added to the Patent Act or the Customs Act, allowing a patentee to file a request with the customs to detain suspected infringing goods.

### TMCS Royalty Rate for Satellite TV Channels Reviewed

To build a reasonable licensing environment, TIPO has reviewed Music Copyright Intermediary Society of Taiwan (TMCS) royalty rate for satellite TV channels in 2013 as follows:

1. Music Channel: 0.1% of the sum of the advertising revenue plus the royalty revenue (hereinafter referred to as royalty received from all cable TV stations) in the preceding year as the royalty of the year.
2. General Commercial Channel (comprehensive channels): 0.05% of the sum of the advertising revenue plus the royalty revenue in the preceding year as the royalty of the year.
3. Cinema, Cartoon Channels: 0.025% of the sum of the advertising revenue plus the royalty revenue in the preceding year as the royalty of the year.
4. News and Sports Channels: 0.01% of the sum of the advertising revenue plus the royalty revenue in the preceding year as the royalty of the year.
5. Educational, Religious and Public Beneficial Channels: 0.007% of the sum of program production cost (including news production cost and drama production cost) plus communication cost for broadcasting (satellite uplink cost).
6. Governmental Channel (ex. Aboriginal Channel, Hakka Channel): 0.02% of the budget allocated by the government.
7. Shopping Channel (satellite or cable transmission included): 0.05% of the 30% of the gross profit in the preceding year.

The above-mentioned royalty rate includes the sum of royalty from programs and/or advertisements of satellite broadcasting program supplier as family subscribers review in the course of public broadcasting.

## Latest Developments

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### MOC Holds Workshop on IPR Protection and Value-added Application of Cultural and Creative Industry

The Ministry of Culture (MOC) held a two-day workshop with regard to "IPR Protection and Value-added Application of Cultural and Creative Industry" 11 times from August 7 to November 14, 2013. A total of over 200 participants from diversified fields including arts and crafts, product design, publication, film, as well as museum product development had a thorough knowledge of IPR and its implementation.

### A Copyright-themed Microcinema Video “Next Stop, i(Love)” Now on YouTube

A microcinema video entitled “Next Stop, i(Love)” was produced by TIPO and uploaded on September 29 to YouTube and Facebook. Told in a well-developed storyline and popular format, this video stars media sweetheart Smile Weng Tzymann and aims to strengthen public awareness on Internet copyright and to deter the occurrence of Internet infringement. Internet users can now watch this video on YouTube and TIPO’s Facebook fan page.

### 2013 International Symposium on IPR Trends

To help domestic enterprises stay in the know of the trends in international patent legislative amendments and changes in patent litigation practices, Taiwan Intellectual Property Training Academy (TIPA) held the 2013 International Symposium on IPR Trends on October 18 and invited U.S. patent attorneys Ms. Bobbie Wilson and Mr. David J. Tsai, Japanese patent attorney Mr. Shozo Uemura and German attorney Mr. Alexander Straus to lecture on “Recent changes in the documents proving patent damages in the U.S.,” “Analysis of ten major patent litigation decisions in the U.S.,” “Application and reform in Japan’s patent legal system,” and “An overview of litigation in the EU—now and the future,” respectively. Mr. Hsu Wei-fu, Senior Director & Corporate Counsel of MediaTek Inc. was also invited to share his experience and strategies in international patent litigation.

Through experience sharing and discussion, the invited experts offered many valuable suggestions for litigation strategies that domestic enterprises may adopt as part of their strategic planning in today’s increasingly competitive global patent warfare.

### Cross-strait Copyright Working-Level Forum and Panel Discussion

The 2013 Cross-strait Copyright Working-level Forum took place in Taipei on October 15 and was jointly hosted by TIPO’s Director General Wang Mei-hua and Yu Tzuko, Head of the Copyright Management Department of mainland China’s National Copyright Administration. Representatives from the Ministry of Culture, Investigation Bureau of the Ministry of Justice, National Palace Museum, Taiwan Association for Copyrights Protection (TACP), mainland China’s General Administration of Press and Publication (GAPP) and Copyright Management Department of the National Copyright Administration shared experiences and exchanged views on the results of dispute settlement and copyright authentication, enhancing settlement efficiency, encouraging public reporting of infringement and piracy, protecting the right to Internet access and convening regular CMOs meetings for future cooperation.

On the same day, representatives from Taiwan’s government agencies, film, TV, music, software and publishing industries, mainland China’s National Copyright Administration and Copyright Society, as well as CMOs, copyright and Internet industries attended the panel discussion to exchange views on the development and status in the fields of cross-strait film, TV, music and publishing industries, and the copyright legal systems in China.

### The Symposium of Research Project on Telecom Technology Patent Trends and Patent Litigation Analysis

In November and December 2013, a symposium of TIPO-commissioned NARLabs research project on Telecom Technology Patent Trends and Patent Litigation Analysis, a seminar on “Micro-reading Technology Function Matrix” and an Elite Forum took place in Taipei and Hsinchu respectively.

The project specifically analyzes the patent pool from selected telecommunications corporations in the Asian Pacific region. Also, patents held by NPEs were analyzed to help relevant industries better understand portfolios in the 4G LTE. The said analysis aimed to help domestic telecommunications industries locate their primary competitors, as well as the core patents, portfolio status of these competitors so as to identify gaps and make due improvements, while also providing guidance on future patent trends.

In patent litigation analysis, the project focused on 6 U.S. patent litigation cases (e.g. Interdigital v. Nokia) and 1 (Apple v. HTC) in the U.K. that were filed in the past five years. The project also helped participants gain relevant experiences through interviews with litigants and focus group training.

The topics consisted of “Development and Opportunity of 4G/5G Technology”, “Specific Approach of Corporates’ Participating in 3GPP SSO”, “Analyses for Asian Key Enterprises’ Portfolio of Standard on Mobile Communication Technology”, “Taiwan Companies’ Strategy for Competition on Mobile Communication Industry”, “Litigation Walkthrough with SEPs and FRAND/ RAND”, “Analysis on NEPs’ Coercion with SEPs and on New Counterattack by Corporates” and “Taiwan Companies’ Countermeasures Dealing with U.K. and European Patent Litigation” and so on. Also, a panel discussion, hosted by TIPO Director General Ms. WANG Mei-hua, had attendees of specialist including Senior Director & Corporate Counsel Mr. Hsu Wei-fu of MediaTek Inc, General Counsel Mr. Vincent Hong of ASUSTeK, Mr. Yang Ming-Tao of Finnegan LLP and Mr. Chang Ya-Chiao of Kirkland & Ellis LLP to discuss “How to use SEPs and FRAND/RAND for royalty negotiation?” All participants agreed that taking part in SSO is helpful for domestic companies to better understand the development of technology and that possessing SEPs should be beneficial for a company to increase bargaining chips on licensing.

A total of 1,300 field and corporate professionals attended these events, which in turn may prepare attendees for subsequent patent portfolios.

### SMEA’s Innovation Project of IP Value for SMEs

On November 25, 2013, Small and Medium Enterprise Administration (SMEA) Director-General Mr. Yeh Yun-lung led a team of experts and advisors heading to Marwi Group, located in Dajia, Taichung County. Marwi Group is a company that accepted SMEA’s tailor-made consultation service under “Innovation Project of IP Value for SMEs”. Through various analysis reports including management map, technology roadmap and technology patentability, Marwi Group can use the information as reference on future R&D development and operation strategy, guiding the subsequent investment decision, new product sale and patent portfolio. In addition, key management level’s comprehension of IPR is useful in lowering potential risk on R&D and helps themselves stay in the know of the competitor’s patent portfolio, so as to map out the company’s patent portfolio and define new product specification as early as possible.

## Enforcement and Latest Statistics

### National Police Agency (NPA)

#### Enforcement News (October-December 2013)

From October to December 2013, a total of 208 copyright infringement cases were uncovered involving 235 suspects and 603 trademark infringement cases were uncovered involving 695 suspects. The market values of these uncovered infringing goods were estimated by rightholder to be around NT\$5,243,689,086. The types of infringement are as follows:

- a) Internet infringement: 551 cases involving 595 suspects
- b) Night market inspection: 90 cases involving 105 suspects
- c) Store inspection: 158 cases involving 214 suspects
- d) Newspaper inserts: 1 case involving 1 suspect
- e) Other types of infringement: 11 cases involving 15 suspects

Total: 811 cases involving 930 suspects

#### 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 Oct.-Dec.	1,546	1,767	960	1,091	586	676	15,579
2012 Oct.-Dec.	1,548	1,725	843	978	615	747	39,944
Percentage Change: 2013/2012 Oct.-Dec.	6.04	2.43	13.88	11.55	-4.72	-9.50	-61.00

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

### Joint Optical Enforcement Taskforce (JODE)

From October to December 2013, JODE conducted 201 inspections (113 daytime and 88 nighttime) of OD factories, printing plate factories and related facilities. This total is 50 times more than those of the same period in 2012 (151 inspections; 80 daytime and 71 nighttime). In addition, JODE conducted 13 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 23 night market sweeps.

#### JODE's Inspection Results (October – December, 2013)

Number of Inspections	2013		2012		2013	
	Jan.-Dec.		Oct.-Dec.		Oct.-Dec.	
	700		151		201	
	Day	Night	Day	Night	Day	Night
Number of Cases Found Violating the Optical Disk Act	380	320	80	71	113	88
Number of Plants	0		0		0	
Manufacturing Plants	0		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	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 October to December 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	0	41	0	2	0	8	0	40
Number	0	29,594	0	134	0	9,265	0	-

#### 2. Major Inspections

Major inspection results from this quarter include: Taipei Customs' October 16 discovery of 300 pieces of counterfeit clothing bearing "Burberry" trademark shipped via express; Taipei Customs' discovery of 13,200 pieces of counterfeit facial treatment masks bearing "My Beauty Diary" trademark shipped via express on October 16, 24 and November 9, 15 and 18; Taipei Customs' November 1 discovery of 71 pieces of counterfeit merchandise bearing "Hello Kitty" trademark shipped via express; Kaohsiung Customs' November 13 discovery of 11,053 pieces of counterfeit clothing bearing "Forever 21" trademark shipped by sea; and Kaohsiung Customs' December 10 discovery of 2,000 pieces of counterfeit handbags bearing "Burberry" trademark shipped by sea. 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 October to December 2013 provided international counterparts with information on 19 counterfeiting and piracy cases.
- (2) Taiwan-USA 2013 Seminar on Anti-Smuggling Intelligence Exchange was co-hosted by the Customs Administration, MOF and the U.S. Customs on December 11 and 12. For a multinational and multi-agency interchange, representatives from US Immigration and Customs Enforcement (ICE), Customs Border Protection (CBP), Drug Enforcement Administration (DEA) and Her Majesty's Revenue and Customs (HMRC) met and discussed issues including IPR protection, smuggling trend and investigation skill of drug and precursor, examination on traveller and container, current status of cigarette and wild animal smuggling, and cultural property protection. In addition to the Customs officials, 75 officials from Ministry of Justice Investigation Bureau (MJIB), Coast Guard Administration (CGA), Council of Agriculture (COA), Criminal Investigation Bureau (CIB) and IPR Police Corp of National Police Agency, Ministry of the Interior also attended this seminar, which had a great help on strengthening the Customs' and other related agencies' intelligence and performance on investigation.
- (3) Enhancing Exchange and Cooperation between Rights holders and Rights holder Groups
  - a) On October 1-3, 2013, Asia-Pacific representatives from Beats Electronics of LLC, the trademark proprietor, visited several Taipei Customs' enforcement units and held several informational sessions of distinction between counterfeit and genuine products. The sessions elaborated the identification skills and smuggling trend and enhanced the Customs officials' intelligence on professional knowledge and investigation. A total of 84 officials attended these sessions.
  - b) The trademark proprietor hTC Corporation visited Customs Administration, MOF on October 29, 2013 and gave a lazurite trophy engraved with "Protect Newcomer Brand & Create Taiwan Value" as giftware. Both sides declared their determination to fight against piracy.
  - c) On November 13, 2013, representatives from Louis Vuitton (LV) the trademark proprietor visited Customs Administration, MOF to present certificate of appreciation and shared views on current infringement trend and situation.

## Taiwan High Prosecutors Office (THPO)

### 1. Enforcement Results (January-December, 2013)

District prosecutors offices of the Ministry of Justice island-wide uncovered illegal photocopying of textbooks at 1 off-campus photocopy center, involving 1 suspect, 7 copied textbooks and totaling NT\$2,800 worth of copyright infringement. The THPO will continue to conduct such investigations to effectively deter infringing acts of off-campus illegal photocopying of textbooks.

### 2. Status of Court Rulings (January-December, 2013)

Affirmed IPR infringement cases by district prosecutor's offices of Taiwan totaled 4,058. Of these, 879 suspects in 712 cases were indicted under ordinary procedures; 1,057 cases involving 1,099 defendants filed for summary judgment; 2,077 indictments involving 2,190 defendants were deferred; and 212 cases involving 220 defendants were closed by ex officio action. During the same period, 1,377 defendants were sentenced to prison terms at a conviction rate of 93.07%. Compared to the same period of 2012, the status of court rulings on IPR infringement cases (summary judgment included) is as follows. There were 1,978 indictments in 2013 and 2,031 in the year 2012, or a 2.67% less than the previous year. As for the number of convictions, there were 1,377 defendants being convicted this year and 1,557 in 2012, which accounted for a 11.60% decrease over the same period of last year. The adjudication of IPR cases by district prosecutor's offices in the same period between 2013 and 2012 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	2013 Jan.-Dec.	1,699	1,377	564	54	10	0	0	694	55	93	0	
	2012 Jan.-Dec.	1,915	1,557	738	64	15	0	1	677	62	125	3	
	Percentage Change(%)	-11.29	-11.56	-23.58	-15.63	-33.33	0	-100	2.51	-11.29	-25.60	-100	

Source : The Prosecutors Office for the Taiwan High Court

## IPR Awareness

### ● Informational Meetings on “IPR Protection Service Group”

From October to December 2013, TIPO continues to organize a series of “IPR Protection Service Group” informational meetings in order to raise public awareness of IPR. The topics and effects are provided below.

Informational Meetings	Time, Venue and Number of Participants	Topics and Effects
1. IPR Laws and Regulations	A total of 96 lectures across the island were organized by TIPO and the Service Group (7 at government agencies, 15 at enterprises, and 74 at universities). Participants totaled 9,605.	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 raise public awareness of IPR. A survey conducted afterwards shows that about 98.4% of the participants think that similar events should be held on a regular basis; and about 97.3% have learned that unauthorized uploading of works of music, clips, pictures, software and articles onto the Internet is tantamount to copyright infringement.
2. Copyrighted Songs in Karaoke Machines	A meeting with a total of 52 participants was held in Kaohsiung on October 3.	The meeting focused on song reproduction and rental of karaoke machines, as well as their legal use through licensing. Karaoke machine manufacturers and relevant users expressed that they have gained better understanding regarding licensing systems for karaoke machines.

### ● Informational Meetings for Lecturers of “IPR Protection Service Group”

In order to provide all lecturers with the most updated information on laws and regulations, as well as a thorough comprehension on Service Group’s operation lately, TIPO organized an informational meeting for lecturers of “IPR Protection Service Group”, elaborating on the amendment and practice of Copyright Act, Patent Act, Trade Secrets Act and Trademark Act. A total of 20 lecturers participated in this meeting.

### ● Awareness for IPR Protection Enhanced through Cinemas and TV Channels

In cooperation with the Taiwan International Screen Foundation (TISF), TIPO intensively broadcasted a short, entitled “Support Creation & Stop Camcording” and produced in three languages (Mandarin, Taiwanese and Hakka), at 601 cinemas island-wide in October 2013. Meanwhile, the short was broadcasted on 6 TV channels for 306 time slots to enhance public awareness that camcording at cinemas is an act of copyright infringement and to further strengthen the concept of IPR protection.

### ● Lectures on IPR Border Measures

To facilitate the Customs officials with better understanding on legislative and practical laws and measures, senior officials of Customs Administration toured Taipei Customs’ enforcement units to deliver 4 lectures on “IPR Border Measures”. A total of 176 officials took part in the lecture.

### ● 2013 Taiwan - Hong Kong “My Video” Competition Award Ceremony

To promote respect for IPR and foster creative culture, the Taiwan International Screen Foundation (TISF) and the Hong Kong Intellectual Property Society, under the joint supervision of TIPO and Hong Kong Intellectual Property Department, co-organized the 2013 Taiwan-Hong Kong “My Video” Competition. The award ceremony was held at Huashan 1914 Creative Park on the afternoon of November 30.

The contending entries were produced by senior/vocational high school students, college/university students and the general public from Hong Kong and Taiwan on IPR-related topics such as “Say No to Internet Infringement,” “Say No to Unauthorized Photocopying of Textbooks,” “Promoting Cultural and Creative Industries,” and “Say No to Pirated and Counterfeit Goods.” These inspiring 30-second shorts were intended as joint efforts to raise the awareness of IPR protection.

After a three-month period of preliminary screening and final review conducted by a judging committee composed of well-known professionals from the music, motion picture, animation industries and academia of both Hong Kong and Taiwan, a total of 15 entries in the three main categories (senior/vocational high school, college/university, and the general public) were selected to be awarded gold, silver, bronze and meritorious prizes.

### ● MOE conducts Random Spot-Checks on Campus Copy Shop

The Ministry of Education (MOE) continuously compiles the alleged infringements tackled by schools and reported by rightholder groups prior to 2 months ago. This report was in response to the rightholder groups and forwarded to relevant government agencies for their reference. Currently the reports were sorted and responded as of October 2013.