



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE  
MINISTRY OF ECONOMIC AFFAIRS

January-March 2014

# Quarterly Report on Taiwan's Intellectual Property Rights Protection

*A partial amendment to the Patent Act passed the third reading at the Legislative Yuan on January 3, 2014 and was later promulgated by Presidential Order on January 22. This amendment added four border protection provisions (Article 97(1-4)) on the “request to detain” to safeguard the rights and interests of patentees.*

*Newly-added amendments concerning border protection measures of Patent Act were authorized by Executive Yuan and entered into force on March 24, 2014. On the same day, Ministry of Economic Affairs (MOEA) and Ministry of Finance jointly promulgated “Regulations Governing Customs Detaining Goods Suspected of Patent Infringement.”*

## Special Report

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### TIPO Attends 38<sup>th</sup> APEC/IPEG Meeting

A delegation led by TIPO division director, Mr. Huang Wen-fa, attended the 38<sup>th</sup> APEC/IPEG Meeting held on February 17-18, 2014 in Ningbo, mainland China. While there, TIPO delegates reported on “The Creation of a mechanism to facilitate the use of orphan works and accessible format copies - Chinese Taipei's experience and views” and “The Amendment to Patent Act — Introducing Border Measures.” Exchanges and experience sharings were also carried out with attending members.

### WTO Secretariat IP Division Counsellor Visits TIPO

On February 18, 2014, WTO Secretariat IP Division Counsellor Mr. Roger Kampf visited TIPO to deliver a speech on “IP Provisions in FTAs and the TRIPS Agreement” and gave an overview of a draft Secretariat report on Taiwan's third Trade Policy Review (TPR). While here, Mr. Kampf was given an update on the IPR work since the last TPR and exchanged views on the issues addressed. Mr. Kampf complimented Taiwan's efforts in becoming the first country to have completed amendments to its Copyright Act in compliance with the WIPO Marrakesh Treaty since its passage.

### USPTO Chief Policy Officer and Director for International Affairs Visits TIPO

On February 25, 2014, Ms. Shira Perlmuter, USPTO Chief Policy Officer and Director for International Affairs, visited TIPO to deliver a speech on “The Green Paper on Copyright Policy, Creativity, and Innovation in the Digital Economy” and shared her views on the topic with TIPO staff, copyright experts and right holders. Later in the afternoon, Ms. Perlmuter was joined by DG Wang and TIPO executives in a roundtable on current TIPO-USPTO ties and potential areas of cooperation in the future.

### Zhejiang Provincial IP Office Deputy Commissioner Visits TIPO

A delegation of 14 officials from mainland China's Zhejiang Provincial IP Office led by Deputy Director General Chen Long-gen visited TIPO on January 15, 2014 to share experiences and exchange views regarding IPR affairs, legal regimes and industrial policies.

### 1<sup>st</sup> 2014 Coordination Meeting on IPR Protection

On February 21, 2014, the 1st 2014 Coordination Meeting on IPR Protection was held by the Ministry of Economic Affairs where representatives from the Executive Yuan's Council of Agriculture and TIPO respectively reported on “Cross-strait Plant Variety Working Group: Exchanges and Progresses Made” and “Copyright Act Amendments.” The participants also reviewed implementation of the IPR Action Plan 2013.

## Legislative Amendments

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### One Giant Step for Persons with Disabilities: Partial Amendment to Copyright Act Passes Third Reading

A partial amendment to the Copyright Act (Articles 53, 80-2 and 87-1) passed the third reading at the Legislative Yuan on January 7, 2014 and was later promulgated by Presidential Order on January 22. This amendment symbolizes the establishment of a better IPR regime conducive to easier reproduction and accessibility regarding accessible-format copies, thereby strengthening the rights and interests of people with disabilities accessing such materials.

### Partial Amendment to the Patent Act Concerning Border Protection Measures Passes Third Reading

A partial amendment to the Patent Act passed the third reading at the Legislative Yuan on January 3, 2014 and was later promulgated by Presidential Order on January 22. This amendment added four border protection provisions (Article 97(1-4)) on the “request to detain” to safeguard the rights and interests of patentees.

Major revisions are as follows. a patentee may request Customs to detain the imported articles suspected of infringing patent rights. The request shall be made in writing, shall state the facts of infringement and shall include a security amounting to the duty-paid price of the imported articles. The owner of the detained articles may request Customs to repeal the detention by providing a security amounting to two times the security or equivalent assurance. Where confidential information protection is not compromised, Customs may allow the requester and the owner of the detained articles to examine detained articles, thereby enabling both to gauge the severity of the infringement.

### “Regulations Governing Customs Detaining Goods Suspected of Patent Infringement” Came into Effect

Newly-added provisions concerning border protection measures of Patent Act were authorized by Executive Yuan and entered into force on March 24, 2014. On the same day, Ministry of Economic Affairs (MOEA) and Ministry of Finance jointly promulgated “Regulations Governing Customs Detaining Goods Suspected of Patent Infringement.”

For any details, please check TIPO website at <http://www.tipo.gov.tw>. For the detention request form and relevant procedure, please contact Department of Investigation of Customs Administration, Ministry of Finance at +886-2-2550-5500 ext. 2941.

## The Communication Security and Surveillance Act Passes Third Reading in January 2014

The Communication Security and Surveillance Act was amended to include provisions governing trade secret infringement with the intent to use in foreign jurisdictions, alleged infringers will be subject to communication surveillance. In accordance with the added criminal liabilities of the Trade Secrets Act, this amendment passed the third reading in January 2014 and will take effect on June 29, 2014. Witness Protection Act applies to alleged infringers with the intent to use trade secrets in foreign jurisdictions and in violation of Article 13-2 of Trade Secrets Act.

## Compile the indigenous peoples intellectual property related regulations

Based on the “Protection Act for Traditional Intellectual Creations of Indigenous Peoples”, the Council of Indigenous Peoples was amending 4 subordinate legislations.

A pilot program was carried out to demonstrate the acquirement of exclusive right for tribes; experts and scholars were also invited to the workshop for further discussion.

The 4 draft subordinate legislations, “Rules Governing the Selection of Representatives for the Traditional Intellectual Creations of Indigenous Peoples or Tribes”, “Regulations Governing Application and Registration for the Traditional Intellectual Creations of Indigenous Peoples”, “Criteria for the Traditional Intellectual Creations of Indigenous Peoples” and “The Income, Expenses, Custody and Utilization of Mutual Fund Assets for the Traditional Intellectual Creations of Indigenous Peoples” are now under review.

## Latest Developments

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### Restructuring of IPRP into CIBr

The restructuring of the Intellectual Property Rights Police (IPRP) into the Criminal Investigation Brigade (CIBr) on January 1, 2014 did not change its original mission and responsibilities, the enforcement of intellectual property rights (IPR). In response to the changing criminal pattern, an internet specialty on criminal investigation hereby demonstrates its importance. Furthermore, the CIBr is equipped with right of referral for criminal cases, which can have closer cooperation with prosecutor.

### Conference on Government Efforts for Promoting the Use of Legitimate Software

A conference on Government Efforts for Promoting the Use of Legitimate Software was held by TIPO on January 14, 2014. Representatives from the Executive Yuan's Directorate General of Budget, Accounting and Statistics, the Research, Development and Evaluation Commission, the Office of Information and Communication Security, the MOEA's Small and Medium Enterprise Administration, the Ministry of Justice, National Police Agency of the Ministry of the Interior, the Customs Administration of the Ministry of Finance and Business Software Alliance (BSA) were invited to the event to share their views regarding implementing measures for the use of legitimate software and promoting the use of open source software.

### TIPO and Ministry of Culture Opening Dialogue on Operation of CMOs

On January 15, 2014, TIPO Director General Wang Mei-hua led a staff team and went to the Ministry of Culture to discuss issues regarding cross-strait copyright consultation and disposition mechanism and difficulties in the operation of CMOs in Taiwan. The participants were able to reach a consensus on strengthening guidance for cultural and creative industries and promotion of the said mechanism.

### TIPO Launches “Integrated Search Platform for Musical Works of CMOs”

The “Integrated Search Platform for Musical Works of CMOs” launched by TIPO is now available to the public. This platform enables simultaneous search for the latest copyrighted works of music administered by Music Copyright Society of Chinese Taipei (MÜST), Music Copyright Association of Taiwan (MCAT) and Music Copyright Intermediary Society of Taiwan (TMCS).

The public is welcomed to use this convenient and efficient search tool. It is now available at: <http://www.tipo.gov.tw/ct.asp?xItem=334083&CtNode=7563&mp=1>

### TIPO Launches “Online Copyright Management Prototype Database”

The “Online Copyright Management Prototype Database” launched by TIPO enables radio station proprietors and CMOs to create, search and compare entries of musical composition. This database also allows radio station proprietors to carry out input/output of information on their usage of copyrighted works of music. A training session designed to educate radio station proprietors in central and southern Taiwan on the use of the database was held in late February 2014. The database currently houses entries from three CMOs of musical works and two CMOs of sound recordings in Taiwan; the number of entries in both categories is expected to exceed 820,000. Radio station proprietors across Taiwan are encouraged to use the database to facilitate market transparency for copyright licensing and to establish a fair royalty mechanism.

2014 US-Taiwan Symposium on Trade Secrets Rounds Off

On March 28 and 31, TIPO convened the “2014 US-Taiwan Symposium on Trade Secrets” in Taipei and Tainan respectively. Mr. John Hauser, senior special agent from Federal Bureau of Investigations (FBI), Dr. Dale Hoscheit, U.S. attorney from Banner & Witcoff, along with Ms. Lin Chih-Chieh, Associate Professor at National Chiao Tung University, were invited as speakers to introduce and analyze the difference of trade secret legal regimes between Taiwan and U.S.. The U.S. speakers addressed on civil and criminal litigation practices of trade secret infringement, elaborating definition of a trade secret, inevitable disclosure doctrine, non-compete clause, non-disclosure investigation, recognition standard in civil and criminal liability, discovery proceeding, and security or identification for electronic recording. A total of 220 representatives from Judicial Yuan, Ministry of Justice, Investigation Bureau, National Police Agency and Ministry of Economic Affairs took part in this symposium.

Consultation Meeting on “ISP’s Forwarding Infringement Notice and Action Taken for Repeated Infringements”

On March 14, 2014, TIPO invited National Communications Commission (NCC), ISPs and rightholder groups to consult on “ISP’s Forwarding Infringement Notice and Action Taken for Repeated Infringements” in regard to P2P infringement notice and repeated infringements.

Enforcement and Latest Statistics

National Police Agency (NPA)

1. Enforcement News (January-March 2014)

From January to March 2014, a total of 103 copyright infringement cases were uncovered involving 125 suspects and 173 trademark infringement cases were uncovered involving 226 suspects. The market values of these uncovered infringing goods were estimated by rightholder to be around NT\$959,682,291. The types of infringement are as follows:

- a) Internet infringement: 150 cases involving 164 suspects
- b) Night market inspection: 17 cases involving 21 suspects
- c) Store inspection: 96 cases involving 149 suspects
- d) Factory (Warehouse) inspection: 1 case involving 1 suspect
- e) Other types of infringement: 12 cases involving 16 suspects

Total: 276 cases involving 351 suspects

2. Major Cases Involving Economic Crime (January-March 2014)

One case involving TR1 GPS tracker’s registered records, packing list, project files, TR1 host computer and accessories, and a USB flash drive were uncovered by CIbr (under the Second Police Special Headquarters) and transferred to New Taipei District Prosecutors Offices for further investigation and prosecution on charges of Copyright Act violation.

3. International Exchange

- (1) A delegation of twelve people from the Cultural Market Administrative Law Enforcement Office of Beijing visited CIbr on February 6, 2014 to exchange views on issues regarding enforcement.
- (2) Mr. Tarun Sawney, Asia Pacific Director of the Business Software Alliance (BSA), along with a team of BSA senior management paid a visit to CIbr on March 13, 2014. Both sides had a communication about IPR enforcement and awareness.
- (3) To strengthen the further investigation, CIbr on March 18, 2014 invited 10 representatives from Business Software Alliance (BSA), Information Product Anti- Piracy Alliance (IPAPA), Recording Industry Foundation in Taiwan (RIT), Taiwan International Screen Foundation (TISF) and Taiwan Book Publishers Association (TBPA) to discuss current infringement types and countermeasures.

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 Jan. -Mar.	912	1,094	478	571	434	523	2,875
2013 Jan. -Mar.	1,317	1,522	799	900	518	622	14,089
Percentage Change: 2014/2013 Jan. -Mar.	-30.75	-28.12	-40.18	-36.56	-16.22	-15.92	-79.59

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

Joint Optical Enforcement Taskforce (JODE)

From January to March 2014, JODE conducted 163 inspections (92 daytime and 71 nighttime) of OD factories, printing plate factories and related facilities. This total is 10 times more than those of the same period in 2013 (153 inspections; 83 daytime and 70 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 CIBr, JODE officials during the same period also took part in a total of 31 night market sweeps.

JODE’s Inspection Results (January – March, 2014)

Number of Inspections		2013		2013		2014	
		Jan.-Dec.		Jan. -Mar.		Jan. -Mar.	
		700		153		163	
		Day	Night	Day	Night	Day	Night
		380	320	83	70	92	71
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 January to March 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	38	0	2	0	3	0	25
Number	0	22,137	0	602	0	88,617	0	-

2. Major Inspections

Major inspection results from this quarter include: Taipei Customs’ January 2 and 4 discovery of 12,000 pieces of imported counterfeit facial treatment masks bearing “My Beauty Diary” trademark shipped via express; Taipei Customs’ January 8 discovery of 1,500 pieces of exported counterfeit memory sticks bearing “microSDHC” trademark shipped via express; Taipei Customs’ January 13, 17, February 12, and March 13 discovery of 614 pieces of imported counterfeit headphones bearing “Beats” trademark shipped via express; Taipei Customs’ January 1 and March 23 discovery of 318 pieces of imported counterfeit mobile phone cases bearing “Chanel” trademark shipped via express; Kaohsiung Customs’ February 19 discovery of 720 pieces of imported counterfeit infant formula bearing “Mead Johnson” trademark shipped via express; and Taipei Customs’ March 15 discovery of 200 pieces of counterfeit medicine bearing “Viagra” trademark carried by traveller upon entry. 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 January to March 2014 provided international counterparts with information on 18 counterfeiting and piracy cases.
- (2) In order to increase the information exchange and cooperation with other law enforcement agencies, the representative from CIBr on March 28, 2014 visited the Customs Administration to exchange views on strengthening further investigation of IPR infringing goods.
- (3) Enhancing Exchange and Cooperation between Rights holders and Rights holder Groups
  - a) On March 26, 2014, the representative of REACT in Guangzhou visited the Customs Administration to exchange views on IPR border protection.
  - b) A representative team of 6 people from Louis Vuitton (LV), Microsoft Taiwan Corporation, Nike Taiwan Limited, and the trademark agency of Oniarai visited the Customs Administration, MOF on March 27, 2014. Both sides discussed about current infringement type and trend, as well as practical cases against counterfeiting and piracy.

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 27 off-campus photocopy centers, involving 31 suspects, totaling NT\$2,018,278 and US\$ 37.98 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-March, 2014)

Affirmed IPR infringement cases by district prosecutor’s offices of Taiwan totaled 838. Of these, 169 suspects in 140 cases were indicted under ordinary procedures; 214 cases involving 218 defendants filed for summary judgment; 456 indictments involving 480 defendants were deferred; and 22 cases involving 28 defendants were closed by ex officio action. During the same period, 426 defendants were sentenced to prison terms at a conviction rate of 92.41%. Compared to the same period of 2013, the status of court rulings on IPR infringement cases (summary judgment included) is as follows. There were 387 indictments in 2014 and 416 in the year 2013, or a 7% less than the previous year. As for the number of convictions, there were 426 defendants being convicted this year and 347 in 2013, which accounted for a 22.8% increase over the same period of last year. The adjudication of IPR cases by district prosecutor’s offices in the same period between 2014 and 2013 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	2014 Jan.-Mar.	534	426	143	14	1	0	-	245	21	35	5
	2013 Jan.-Mar.	420	347	174	6	3	0	-	151	15	16	-
	Percentage Change(%)	27.14	22.77	-17.82	133.33	200.00	0.00	-	62.25	40.00	118.75	100.00

Source : The Prosecutors’ Office for the Taiwan High Court

IPR Awareness

● Workshops on “IPR Protection Service Group”

- TIPO organizes a series of 2014 “Workshop on IPR Protection Service Group” starting March 2014. From March to April, workshops in connection with IPR legislation were arranged at 9 agencies such as Department of Industrial Technology (DoIT) to elaborate relevant issues.
- At a meeting of “Information Flow” held on March 18, 2014 at Investigation Center in Taipei Customs, officials from Customs Administration of MOF introduced that how the utilization of reports/notices and the Customs’ IPR database can further facilitate the enforcement of investigation.
  - 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 January 2014.
  - From January to March 2014, seven IPR related news reports were published by the Ministry of Foreign Affairs (MOFA) on Taiwan Today’s English and Japanese e-newsletters, Taiwan Info (French) and Taiwan Review (French).
  - In the “2014 Island-wide University Principal Meeting” held on January 9-10, MOE shared with principals the importance of campus IPR protection and expanded the awareness.
  - Official notices were sent by MOE on March 27, 2014 to universities and colleges for public awareness on campus IPR protection. The notice served as a reminder of copyright infringement for using illegitimate textbooks (second-hand textbooks included) and making illegal photocopying of books or materials.