



經濟部智慧財產局
INTELLECTUAL PROPERTY OFFICE
MINISTRY OF ECONOMIC AFFAIRS

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Quarterly Report on Taiwan's Intellectual Property Rights Protection

On October 13, 2015, TIPO invited experts and scholars to discuss issues concerning the amendment to the Copyright Act. From October 30 to November 30, TIPO ran an announcement seeking input from various sectors on the third draft amendment to the Copyright Act. On December 23, TIPO hosted a joint meeting, inviting representatives from judicial agencies and copyright experts for discussion. The discussion revolved around provisions that are relevant to participating agencies, including fair use in the digital era, duration of copyright protection, performers exercising their right in respect of sound recordings, and criminal liability.

Special Report

The 2015 TIPO-JPO exchange of APJs

On October 6-8, 2015, JPO's Chief Administrative Judge Massaki Kurano and Administrative Judge Masayuki Hoshino came to Taiwan for the 2nd exchange of administrative patent judges (APJs) and discussed with TIPO's representatives on practices concerning corrections (made to erroneous translation, claims in combination, clarification of unclear statements, narrowed scopes of patents), cases involving inventive step (capabilities of a PHOSITA, instruction on combining evidence, whether the invention can be easily made), procedure and management of court rulings on patent invalidation (request for ruling, methods of ruling, notice of defense), and determining patent infringement.

TIPO-JPO exchange of trademark examiners in 2015

On October 19-23, 2015, two JPO trademark examiners visited TIPO for the 4th exchange. During the exchange, TIPO gave a presentation in answer to JPO's inquiries regarding registration of certification marks and trademark coexistence agreement and registration. In turn, JPO examiners provided an overview of the office's examination of non-traditional trademarks, which began April 1, 2015. Accordingly, registration applications for non-traditional trademarks are not only large in number but diverse in types. The two sides had a lively discussion on positional and sound trademarks, which was inspirational to all the participants. In addition, there were in-depth discussions and case studies on respective practices regarding same applications filed with both offices, which helped attending examiners gain a comprehensive understanding. The JPO examiners also visited the IPR Police Corps to learn more about trademark protection in Taiwan.

Taiwan and US hold videoconference under TIFA to share experiences in the investigation of trade secrets

On December 3, 2015, Taiwan and the US held a videoconference under TIFA to share experiences in the investigation of trade secrets. The key issues for discussion included "applying burden of proof to investigation of trade secrets and defining complaints and scopes thereof," "key evidence for initiating criminal proceedings on cases involving infringement of trade secrets," and "avoiding malicious litigation and other measures or considerations." All the participants believed that the event could benefit investigators, police, and prosecutors, and that it should be held in the future to significantly strengthen IPR protection in Taiwan and the US.

Legislative Amendments

Government agencies discuss the third draft amendment to the Copyright Act

On October 13, 2015, TIPO invited experts and scholars to discuss issues concerning the amendment. From October 30 to November 30, TIPO ran an announcement seeking input from various sectors. On December 23, TIPO hosted a meeting and invited for discussion officials from the Judicial Yuan, National Development Council, National Communications Commission, Ministry of Justice, Ministry of Culture, Ministry of Education, as well as experts on copyright. The discussion revolved around provisions that are relevant to participating agencies, including fair use in the digital era, duration of copyright protection, performers exercising their right in respect of sound recordings, and criminal liability. So far TIPO has received feedback from relevant agencies, groups, and the general public. There are also foreign groups that have expressed wish to give their thoughts on the third draft amendment. The final version of the draft will be proposed after further analysis and modification are completed.

Amended Patent Attorney Act now effective

Since its promulgation in 2007, the Patent Attorney Act has only been amended once, which took place in 2009. There are, however, provisions on key practices that require further amendment. To this purpose, TIPO began the amendment process. The Act was later promulgated on July 1, 2015, and then became effective on January 1, 2016. Key revisions include: 1. Simplified administrative procedures; 2. Allow for employment by a registered corporation; 3. Broader areas of practice; 4. Compulsory in-service training; 5. Heavier punishment for patent attorney malpractice.

Latest Developments

Press conference and information session on TPP

Following the release of the text of the Trans-Pacific Partnership (TPP) Agreement on November 5, 2015, the Ministry of Economic Affairs (MOEA) delegated initial translation work of the text to competent authorities in the agriculture, industry and service sectors. This was done in accordance with the MOEA's TPP Promotion Strategy and Action Plan. The ministry later held a press conference to provide an explanation of the TPP text.

Most of the IP protection standards prescribed in the TPP/IP is higher than those of the existing international agreements, and these standards could become globalized in the future. The final version of the TPP/IP includes issues concerning cooperation (patent examination, traditional knowledge), trademark, geographical indication, patent/undisclosed test data, industrial design, copyright and related rights, enforcement, as well as ISPs. This TPP/IP prescribes comprehensive and tangible regulations, and upholds higher standards than the TRIPS Agreement.

TIPO kept a close watch on the development of the TPP/IP for some time, and, when the final and negotiated version came out, immediately took stock of the legislative discrepancies found in the existing laws and regulations. According to TIPO, the existing laws and regulations are mostly in line with those of the TPP/IP. There are, however, discrepancies regarding the following: extension of grace period for patent disclosure; extension of patent terms due to stalled examination; imposition of criminal liability on any person importing counterfeit tags or packages; performers exercising

the right of public transmission or performance reproduced in sound recordings, or requesting payment of a single equitable remuneration; extension of copyright protection to life of the author plus 70 years; plant variety rights covering all plant species; data exclusivity for agrochemicals, pharmaceuticals and biologics; patent linkage; and protection of encrypted signals.

On December 29, 2015, TIPO hosted an information session on the TPP/IP at NTU's Tsai Lecture Hall. Director General Wang, Mei-hua introduced key points of the TPP/IP, analyzed legislative discrepancies in the existing laws and regulations, while also seeking consensus on certain issues. A total of 400 people attended the event, including judges, lawyers, patent attorneys, as well as representatives from academic, industrial, and government sectors. To watch the event online, please go to: <http://www.tipo.gov.tw/ct.asp?xItem=577768&ctNode=7127&mp=1>

TIPO holds meetings on the amendment to the Copyright Collective Management Act

Five years since the promulgation of the Copyright Collective Management Act on February 10, 2010, there have been controversies surrounding issues regarding whether the royalty rate review system should be abolished, blanket license serving as the system for calculating per-use-per-work royalties, and whether to introduce the international extensive management system. To seek input from relevant sectors, TIPO held three meetings on the amendment to the Copyright Collective Management Act in July, October, and December, 2015. On maintaining the current royalty review system, there was consensus among CMOs on negotiations with users prior to adding or revising rates. This could effectively reduce the number of cases that require subsequent review. On using blanket license for calculating per-use-per-work royalties, however, there was no consensus after a thorough discussion. On whether to introduce the extensive management system, all the attendees found that it is currently infeasible on grounds that Taiwan has multiple CMOs and that users have to pay more royalties. To read meeting minutes online, please go to: <http://www.tipo.gov.tw/lp.asp?CtNode=7744&CtUnit=3808&BaseDSD=7&mp=1>.

The 2015 workshop on fair use in the Copyright Act

On November 6, 2015, TIPO held the 2015 workshop on fair use in the Copyright Act at NTU's Tsai Lecture Hall. Invited to the event were eight copyright scholars, lawyers, and IP Court judges, who elaborated on the latest copyright legislative trends in Taiwan and abroad regarding fair use for educational, research purposes, or by libraries, fair use for private, non-commercial purposes, impact on the exhaustion of rights in the digital era, and general provisions on fair use. Academic scholars, government officials and industry representatives partook in the event, which was very well received. To read keynote slides online, please go to: <http://www.tipo.gov.tw/ct.asp?xItem=570612&ctNode=7127&mp=1>.

The 2015 information sessions on China's Trademark Law

From October 27 to 30, 2015, TIPO held four information sessions on trademark laws in Taipei, Taichung, Kaohsiung, and Tainan. These sessions mainly focused on China's amendment to the Trademark Law (effective May 1, 2014) and were intended to help local companies and trademark agents learn more about the law's key points and relevant practices, as well as how to maintain their trademark rights in China. With 273 people in attendance, the sessions provided an overview of the Trademark Law's new features and case studies on application practices and maintenance of trademark rights. For more information, please go to: <http://www.tipo.gov.tw/ct.asp?xItem=569048&ctNode=7127&mp=1>.

TIPO visits universities to encourage patent protection and application of R&D results

In July 2015, TIPO began its successive visits to six universities to learn why they were decreasing the number of patent applications. On November 18, TIPO held a meeting on encouraging patent protection and application of R&D results by universities, inviting for discussion experts and representatives from the Ministry of Education (MOE), the Ministry of Science and Technology (MoST), the Department of Industrial Technology and the Industrial Development Bureau of the MOEA, as well as technology transfer centers of National Taiwan University and five other universities. The meeting addressed issues regarding why universities were decreasing their number of patent applications, universities' strategies for patent application, how universities can balance between number of patent applications and results of technology transfer, should universities' technology transfer centers be integrated, and ways to boost universities' capacity for patent application and technology transfer. In addition to offering patent training courses, TIPO is also encouraging universities to work with the industries to generate more patent applications. Such applications that claim commercial use are eligible for expedited examination. The MOE and the MoST should relax relevant laws and provide incentives to help universities boost R&D capacity and ultimately energize development of the industries.

Elite forum on analysis of patent trends and litigation in the communications industry

In November 2015, an elite forum was held at NTU's Tsai Lecture Hall to showcase the results of analysis of patent trends and litigation in the communications industry conducted by NARLabs under the IP Management and Cultivation Program commissioned by TIPO. The forum addressed issues regarding IoT out-supplying chain competition, prediction of broadband technology development and application service from B4G to 5G, analysis of patent portfolios for 4G LTE, development in small cell base stations from the perspective of patents, how Taiwan integrates available resources to work with standards setting organizations, application of PTAB's Inter Partes Review, and division and transformation of patent regimes—the US's recent rulings of key patent law suits. The event was attended by 420 experts from the communications sector.

TIPO publishes the latest compilation of patent administrative litigation cases (2014-2015)

This latest compilation (2014-2015) comprises studies on 22 litigation cases, including 10 administrative judgements from the IP Court and 12 decisions on patent appeals from the Ministry of Economic Affairs between July 2014 and

March 2015. These studies focus on inventive step and interpretation of patent scope, and are designed to enrich IP personnel's patent knowledge and to increase patent examination quality. This compilation also aims to seek insights from different sectors for the well-rounded construction of patent examination standards. To access this latest compilation, please go to: <http://www.tipo.gov.tw/public/data/512913111271.pdf>.

TIPO holds meetings in 2015 on trade secret practices to assist in judicial investigation

These past few years have seen continuous emergence of cases involving infringement of trade secrets due to hyper globalization, digitalization of information storage or burgeoning development in cloud storage, as well as frequent transfer and exchanges of technologies and personnel between industries, particularly across the Taiwan Strait. The growth of infringement cases has been ongoing in terms of quantity, complexity, scope, frequency, and breadth and depth of impact. In 2015, TIPO continued to host three meetings at Hsinchu, Taichung, and Tainan science parks in May, July, and November, respectively. Prosecutors, court judges, and judicial personnel from the Secondary Special Police Corps of the National Police Agency of the Ministry of the Interior were invited to discuss “status and development in the practices involving trade secret infringement,” and “collection and security of evidence indicating trade secret infringement.” The meetings provided opportunities for legal counsels from technology industries and enforcement personnel to jointly discuss key issues regarding evidence collection and security in relevant criminal cases. The discussion was important because it helped strengthen investigation and adjudication of trade secret cases.

Review committee on application for exclusive right to traditional intellectual creations of indigenous peoples and training camps for seed talents protecting traditional intellectual creations of indigenous peoples

In November 2015, the Council of Indigenous Peoples set up a review committee on application for exclusive right to traditional intellectual creations of indigenous peoples. The committee so far has reviewed 18 applications and will later release the results. These results are available on the CIP website (www.apc.gov.tw) or on the TITIC website (Taiwan Indigenous Traditional Intellectual Creations, <http://ctm-indigenous.vtm.nthu.edu.tw/>).

From October 17, 2015 onward, a total of five training camps were organized in Hualien, Taitung, Taichung, Pingtung, and Taipei to cultivate seed talents in terms of their actual ability to protect traditional intellectual creations of indigenous peoples. These camps gave an overview of the Protection Act for the Traditional Intellectual Creations of Indigenous Peoples to help indigenous peoples protect their own creations and file applications.

Enforcement and Latest Statistics

National Police Agency (NPA)

1. Enforcement News (October-December 2015)

From October to December 2015, a total of 496 copyright infringement cases involving 586 suspects and 596 trademark infringement cases involving 645 suspects were uncovered. The total market value of all the seized goods was estimated by right holders at NT\$5,013,394,929. These cases were transferred to district prosecutors offices for further investigation and prosecution

2. Enforcement results (October-December 2015)

The IPR Police Corps uncovered over 600 pieces of counterfeit Victoria's Secret underwear, which was estimated at nearly NT\$1,000,000 in market value. The case was transferred to district prosecutors offices for further investigation and prosecution.

3. International exchanges

- (1) On October 6, 2015, members of the Taiwan Intellectual Property Training Academy (TIPA) visited the IPR Police Corps to give an overview of how works are divided in its investigation of infringement cases, how the organization represents brand corporations as guardian ad litem in litigation, and key IPR protection campaigns organized over the years.
- (2) A total of five people including Director Toichiro Gokan of Economic Section of Taipei Office of Interchange Association of Japan and chairman Sakamoto of Japanese Chamber of Commerce in Taipei visited the IPR Police Corps on October 13, 2015 to exchange feedback on issues regarding certain Japanese brand corporations taking a long time to identify counterfeit goods, and whether it is feasible that Japanese brand corporations teach basic courses and authorize enforcement personnel in the matter of identifying counterfeit goods, which in turn will boost investigation efficiency.
- (3) A total of five people including JPO trademark examiners Yoshioka and Satomi Akazawa visited the IPR Police Corps on October 21, 2015 to learn about its history (now under the Second Special Police Corps), major infringement cases uncovered over recent years, and how it interacts with right holders. Later, a showcase of counterfeit goods led to constructive dialogues.
- (4) Managing Director Takero Goto of CODA and Executive Director Jonathan Chu of Taiwan International Screen Foundation visited the IPR Police Corps on December 16, 2015 to express thanks for the team's raids on OD factories and seizure of over 50,000 ODs.

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 CDs Confiscated
2015 Oct. -Dec.	1,092	1,231	596	645	496	586	639
2014 Oct. -Dec.	1,320	1,491	779	849	541	642	180,144
Percentage Change: 2015/2014 Oct. -Dec.	-17.27	-17.44	-23.49	-24.03	-8.32	-8.72	-99.65

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

Joint Optical Enforcement Taskforce (JODE)

From October to December 2015, the JODE conducted 83 inspections (83 daytime and 0 nighttime) of OD factories, printing plate factories and other related facilities. This total is 52 times less (-27 daytime and -25 nighttime) than in Q4 2014 (135 inspections; 110 daytime and 25 nighttime). In addition, the JODE conducted 11 documented audits of the internal control and audit systems of outstanding OD factories after advising them on the establishment of such systems.

JODE’s Inspection Results (October – December, 2015)

		2015		2014		2015	
		Jan.-Dec.		Oct. -Dec.		Oct. -Dec.	
		444		135		83	
Number of Inspections		Day	Night	Day	Night	Day	Night
		444	0	110	25	83	0
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 October to December 2015 yielded the following results:

Category	Trademark Violations		Copyright Violations		Export ODS Without Source ID Code	False Declaration of Source ID Code	False Declaration of Trademark
	Exports	Imports	Exports	Imports			
Cases	0	21	0	3	0	4	85
Number	0	10,146	0	199	0	60,330	-

2. Major Inspections

- (1) Taipei Customs: October 4 seizure of 90 counterfeit “Hello Kitty” purses imported through express delivery; October 26 seizure of 104 pairs of counterfeit “Chanel” shorts imported through express delivery; and November 17 seizure of 25 counter “Babyliss” hair curlers.
- (2) Keelung Customs: December 16 seizure of 4,500 counterfeit “Poka Family” hand warmers; and December 17 seizure of 4,656 counterfeit “Aihao” writing pens and “Taipei 101” key chains.
- (3) All the seized goods have been detained according to the laws and regulations of Taiwan.

3. International Exchange

- (1) As part of active efforts to increase the flow of information between foreign customs offices on counterfeiting, the Customs Administration from October to December 2015 provided information on 11 counterfeiting and piracy cases to customs offices of other nations.
- (2) On December 8-9, 2015, the Customs Administration of the Ministry of Finance and the United States Customs and Border Protection (CBP) jointly held the “Workshop on Taiwan-US Anti-Smuggling Information Exchange.” The workshop addressed passenger and goods inspection, IPR protection, analysis of narcotics smuggling trends, money laundering, and aircraft inspection. There were lectures and experience sharing by ICE, CBP, DEA, HMRC, CBSA, ACC, CID, and IAJ experts, as well as experience sharing by the Customs Administration officials. Also present were people from Taiwan’s customs offices, the Investigation Bureau of the Ministry of Justice, the Coast Guard Administration of the Execution Yuan, and Criminal Investigation Bureau of the National Police Agency. In all, the workshop benefited attendees in terms of their knowledge and performance of investigation.
- (3) Enhancing Exchange and Cooperation between Rights holders and Rights holder Groups
On November 19, 2015, the TOD’s anti-counterfeiting specialist, HK branch specialist, and Taiwan branch brand manager visited the Customs Administration to share information on the infringement suffered by the company. Both sides then exchanged views over protection of trademark rights and Taiwan customs’ implementation of IPR border measures.

Taiwan High Prosecutors Office (THPO)

1. Enforcement Results (January-December, 2015)

District prosecutors offices across Taiwan uncovered 17 off-campus photocopying stores involving 17 suspects, and seized 132 illegally printed textbooks, which were worth NT\$101,196,041. The prosecutors offices will continue investigation to effectively deter such infringement.

2. Status of adjudication (January-December, 2015)

In the table below, affirmed IPR infringement cases processed by Taiwan’s district prosecutors offices from January to

December 2015 totaled 3,476. Of these, 950 suspects in 757 cases were indicted under ordinary procedures; 819 cases involving 860 defendants were filed for summary judgment; 1,600 indictments involving 1,675 defendants were deferred; and 300 cases involving 317 defendants were closed by ex officio action. In the same period, 1,150 defendants were sentenced to prison terms at a conviction rate of 91.49%. Compared to the same period in 2014, the status of court rulings on IPR infringement cases (summary judgment included) is as follows. There are 1,810 indictments in 2015 and 1,585 in 2014, accounting for a 14.20% increase. As for the number of convictions, there are 1,150 defendants being convicted in 2015, accounting for a 14.18% decrease from those (1,340) of the same period in 2014.

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	2015 Jan.-Dec.	1,518	1,150	303	20	3	0	0	760	64	107	261
	2014 Jan.-Dec.	1,739	1,340	445	39	8	0	0	782	66	120	279
	Percentage Change(%)	-12.71	-14.18	-31.91	-48.72	-62.50	0	0	-2.81	-3.03	-10.83	6.45

Source : The Prosecutors’ Office for the Taiwan High Court

IPR Awareness

● Ongoing IPR awareness informational meeting series

From October to December, 2015, TIPO held a series of “IPR protection service group” information meetings to raise the public’s IPR awareness. The topics and effects of the meetings are:

Informational Meetings	Time, Venue and Number of Participants	Issues addressed and results
1.IPR Laws and Regulations	From October to December, TIPO and the Service Group organized 27 meetings (6 at government agencies, 6 at corporations, and 15 at universities) across the island with 2,909 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 people's IPR awareness. Survey shows that 90% of the attendants gained better knowledge of copyright; 97% of the attendants learned that photocopying a book in separate times constitutes copyright infringement.
2.Legal use of software by government agencies and state-run enterprises	One meeting was held in Tainan City on October 2, with 108 people in attendance.	The meetings gave an overview and provided explanations regarding software piracy commonly seen in government procurement, types of misleading licensing, computer programs, legal use of computer software, and regulations governing licensing. Survey shows that 80% of the participants have learned more about “types of software licensing.”

● Campus IPR assistance team

In October and November, the “Campus IPR assistance team” comprising 133 seed instructors from 21 universities went to 37 elementary, junior high, and senior (vocational) high schools using lively activities and short skits to promote IPR awareness to more than 9,000 students. A subsequent survey shows that over 90% of elementary schoolers became aware that downloading musical works online and sharing them with classmates constitutes violation of copyright; over 90% junior high school students became aware that plagiarism is violation of copyright; and over 90% of senior (vocational) high school students became aware that photocopying an entire textbook is violation of copyright.

● “Internet copyright” campaign activities

1. One campaign was held October 22, 2015 to enable university teachers and students to learn more about Internet copyright. Invited to the event was copyright lawyer Mann C.C. Liu, who gave an overview of copyright, lectured on emerging copyright issues, and answered questions raised by participants. The campaign drew a total of 63 people.
2. In 2015, TIPO continued to use Facebook to quickly disseminate IPR campaign information. To this purpose, a series of online quizzes with prizes (“Let’s stick up for creation,” “Speak up for creation today,” and “Year-end goodies”) were organized. As of December, TIPO had posted over 200 pieces of information, responded to 95 online inquiries about copyright, and added more than 3,700 friends.

● The 4th meeting on customs information exchange

On November 26, 2015, the Customs Administration held the 4th meeting on customs information exchange to promote use by customs personnel of the database on advised or requested customs judicial protection, and to strengthen investigation of IPR-infringing goods. From October to December of 2015, customs offices received a total 47 cases of suspected trademark infringement reports and lodged advice; the number of advised extension of protection totaled at 141 cases.

● The MOE’s campus IPR protection awareness campaigns

1. Starting 2015, on-site university visits and guidance are jointly conducted under the MOE’s supervision. These on-site visits and guidance are conducted every four years. From October to December, a total of 25 universities were visited.
2. The MOE commissioned National Yunlin University of Science and Technology to host two workshops on IPR technical and vocational training and practices on August 19 and October 22 in northern and southern Taiwan. The workshops promoted use of legal teaching materials and related matters.