



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE
MINISTRY OF ECONOMIC AFFAIRS

April-June 2017

Quarterly Report on Taiwan's Intellectual Property Rights Protection

To facilitate subsequent stages of amendment to the Patent Act, TIPO collected and studied nearly 20 issues. So far, TIPO has proposed the result of its study and possible direction for amendment. Feedback from different sectors has also been collected.

Special Report

TIPO continues to facilitate communication and pay attention to progress of cooperation between advertisement associations and rights holder groups.

With reference to the development of follow-the-money measures in the US, the UK, China, and Hong Kong for deterring advertisement money flow into infringing rogue sites, TIPO held a meeting in December 2016 to facilitate initial cooperation consensus between rights holders and advertisement industry. In May 2017, TIPO once again held a meeting to coordinate the two sides in clarifying technical issues such as concrete follow-the-money implementation measures. In June, TIPO discussed with the giant advertiser Google for possible assistance. Google expressed its willingness to comply, saying that follow-the-money measure is the company's global policy. TIPO will continue to bridge communication between advertisement associations and rights holder groups, while also paying attention to progress in cooperation of both sides.

Legislative Amendments

An amendment to the Patent Act has come into effect on May 1, 2017

An amendment to the Patent Act was promulgated on January 18, 2017, and came into force on May 1, 2017. More lenient requirements regarding the grace period were introduced in the amendments. Major revisions to the Patent Act include:

The grace period for invention and utility model patents is extended from six to 12 months preceding the domestic filing date.

Limitations based on the grounds of types of disclosures are removed. The grace period will now apply to the disclosures of invention, utility model and design patents with or without the applicants' intent.

Requirements for applicants to claim the grace period at the time of filing a patent application are removed.

Guidelines for the examination of patent applications involving traditional intellectual creations of indigenous peoples comes into effect on June 26, 2017

The indigenous peoples in Taiwan are very unique in terms of their religious ceremonies, music, dance, songs, sculptures, weaving, patterns, clothing, folk crafts, and any other expression of the cultural achievements. To respect their traditional culture and protect the intellectual property rights of their creations, TIPO has recently drawn up a set of guidelines for the examination of patent applications involving traditional intellectual creations of indigenous peoples. By so doing, it is hoped that the prior art in relation to indigenous skills or craftsmanship that have been publicly disclosed will not be neglected during the examination process and judgements made by examiners will become more consistent. The guidelines have come into effect on June 26, 2017.

TIPO updates its Cross-strait Concordance List of Similar Group Codes (Corresponding to Nice Classification 11th edition, Version 2017 (NCL 11-2017))

As the 11th edition of the Nice Classification (NCL) of the WIPO (11-2017) has come into force this year, TIPO updated its Cross-strait Concordance List of Similar Group Codes (corresponding to Nice Classification 11th edition, version 2017 (NCL 11-2017)). By so doing, it is hoped that the list can serve as a reference when people try to identify the classification of designated goods and/or services or to carry out a search for similar trademarks already pending or registered, thereby affording users of cross-strait the opportunity to develop better advance planning before they file trademark applications.

TIPO updates its classification list and search information of goods and services for the purpose of trademark registration

To keep its services up to date, TIPO has reviewed its current classification list of goods and services for the purpose of trademark registration, and edited and added 33 items, deleted five items, and amended five titles or remarks of similar groups. The change has taken effect from July 1, 2017.

Latest development

TIPO continues its collection and study of issues for amendment to the Patent Act so as to facilitate subsequent stages of amendment work

To facilitate subsequent stages of amendment to the Patent Act, TIPO collected and studied nearly 20 issues. So far, TIPO has proposed the result of its study and possible direction for amendment. Feedback from different sectors has also been collected.

The issues TIPO seeks feedback from different sectors include the following: Should applications that are rejected before early publication continue to be published? Or should they not be published so that applicants may have their innovative results protected as trade secrets? Can the time period for requesting division of an approved application be extended? Should there be a time limit for supplement of reasons and evidence by the invalidation requester?

On May 5, 2017, a public hearing on draft amendments to the Trade Secrets Act is held

On May 5, 2017, TIPO held a public hearing on draft amendments to the Trade Secrets Act. Decisions made at the meeting are as follows:

Punishments for extraterritorial offences will remain offences indictable without complaint.

To promote international trade and encourage multinational companies to invest in Taiwan, it was added in the draft amendments that an unrecognized foreign juristic person may serve as a subject of litigation, in the hope of providing greater protection for their rights. The addition was made in accordance with relevant regulations in the Trademark Act, the Copyright Act, and the Patent Act.

It was decided that protective orders would apply at the investigation stage.

It was added in the draft amendments that, if a foreigner's country of origin and Taiwan are both members of a multinational treaty on trade secrets protection, or if there is a trade secrets protection agreement in place, concluded by and between organizations or institutions, and approved by competent authorities, then relevant trade secrets should also be protected by the law.

Regarding applicability of protective orders during investigation, this will be discussed further as to whether new provisions therefor should be added to the Intellectual Property Case Adjudication Act or the Trade Secrets Act, or whether such orders should be issued by judges or prosecutors.

TIPO conducts a public hearing on May 16, 2017, to discuss the establishment of two more music copyright CMOs

Currently, there are two collective management organizations (CMOs) managing music works in Taiwan: the Music Copyright Society of Chinese Taipei (MÜST) and the Music Copyright Intermediary Society of Taiwan (TMCS). However, many rights-holders of songs in a number of native languages, such as Taiwanese, Hakka and Aboriginal languages, are just not members of these two CMOs, making it difficult for potential users, such as TV stations, radio stations and karaoke bars, to get authorization. It is against the backdrop that the Association of Original Music Copyright Taiwan (AOMT) and the Asia-Pacific Music Creators Alliance (APMA) applied to TIPO in 2016 to establish CMOs, dedicated to facilitating the authorization of classic songs in Mandarin, Taiwanese, and other non-mainstream songs.

On May 16, 2017, TIPO conducted a public hearing to exchange opinions with relevant stakeholders, including rights-holders, music production companies, record companies, radio stations, TV stations, KTVs, karaoke machines providers, as well as online video platforms (OVP).

TIPO hosts a workshop entitled "Why not join a CMO?" on June 5, 2017

To give music creators a better understanding about copyright CMOs and how they function, and to encourage rights-holders to join these CMOs, thereby creating a more favorable environment for copyright licensing, on June 5, 2017, TIPO held a workshop entitled "Why not join a CMO?". In the event, TIPO officials gave an introduction about the CMO system in Taiwan. In addition, renowned musicians were invited to talk about why they joined a CMO, what were the benefits to join a CMO, stories about their music creations, and the development of the music industry as a whole.

TIPO holds a meeting to discuss the patent term extension and relevant examination guidelines on June 20, 2017

To further improve the system governing the patent term extension, TIPO is conducting a comprehensive review of relevant provisions in the Patent Act, in particular Article 53, and considering whether to impose a ceiling on the total length of patent terms after a regulatory approval has been granted. With regard to the examination practice of patent term extension, people from different circles have expressed their concerns about certain examination guidelines. TIPO held a meeting on June 20 to consult people from different circles their opinions on the related topics.

Judicial Yuan continues to expand judicial e-services: "Asymmetric digital litigation service" and "Integrated online file viewing service" go online

In July 2015, the Judicial Yuan launched the electronic litigation (online litigation) system. This system enables real-time, convenient legal document transmission service to be used by professional agents commissioned by plaintiffs in an IP administrative litigation case. In August 2016, the scope of use of electronic litigation was expanded to include IP civil litigation cases. In addition to professional agents, the electronic litigation system was open to the general public. Also, with special emphasis on IP administrative litigation cases, the Judicial Yuan in July 2017 launched "Asymmetric digital litigation service" and "Integrated online file viewing service."

"Asymmetric Electronic Litigation Service" is the legal document transmission service provided to the defendant (MOEA or TIPO) using "Judicial Yuan online litigation and legal document transmission platform" in an IP administrative litigation case filed on paper by the plaintiff. The agent, if commissioned by the defendant or participant, may also subsequently request use of the legal document transmission service. The "Integrated online file viewing service" integrates electronic litigation (online litigation) system, adjudication system, and electronic interrogation record system, and allows defendant authorities and agents in the IP administrative litigation case to browse and download (both free of charge) relevant electronic legal documents, files, and interrogation record via the "Judicial Yuan online litigation and legal document transmission platform."

The Judicial Yuan's continuous provision of judicial e-services increases efficiency in Taiwan's adjudication of IP litigation cases and strengthens judicial efficacy and national competitiveness. This also moves Taiwan towards the goal of comprehensive e-service in litigation.

Investigation results and latest statistics

The National Police Agency (NPA)

1. Enforcement results (Apr-Jun 2017)

From April to June, a total of 558 copyright infringement cases involving 635 suspects and totaling NT\$1,891.13 million were uncovered. Also uncovered were 539 trademark infringement cases involving 598 suspects and totaling NT\$904.12 million. In total, there were 1,097 infringement cases involving 1,233 suspects; the total market value of seized goods were estimated to be at NT\$2,795.25 million. The above cases were transferred to district prosecutors' offices for further investigation according to Taiwan laws.

2. Major inspections (Apr-Jun 2017)

The Criminal Investigation Brigade (CIBr) in May uncovered 6,006 bottles of wine products carrying counterfeit trademarks at container terminals. These counterfeit goods were estimated at approximately NT\$7.4 million.

3. International exchanges

On April 10, BSA visited CIBr to learn more about techniques in collecting evidence and investigation of cases reported anonymously.

On May 9, CIBr and Japan-Taiwan Exchange Association co-organized an anti-counterfeit workshop and invited officials from Japan's Ministry of Economy, Trade and Industry and representatives from Japanese enterprises to give lectures.

On May 18, Motion Picture Association of America (MPA) and Content Overseas Distribution Association of Japan (CODA) visited CIBr to discuss progress in joint investigation of OTT infringement and subsequent areas of cooperation.

On June 12, Mr. Taku FUKUMURA, the newly appointed Director of Economic section of Japan-Taiwan Exchange Association visited CIBr to discuss cooperation on deterring IPR infringement.

Statistics for IP Infringement Cases (Jan - Jun 2017)

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
Jan.-Jun. 2017	1,113	1,333	771	882	337	445	63,502
Jan.-Jun. 2016	1,257	1,480	942	1,065	315	415	853
Percentage Change (2017/2016 Jan.-Jun.)	-11.46	-9.93	-18.15	-17.18	6.98	7.23	7,344.55

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

The Joint Optical Disk Enforcement Taskforce (JODE)

From January to June 2017, JODE conducted 148 inspections of OD factories, printing plate factories and other related facilities. This total is 8 times less (156 inspections) than in the same period of 2016. In addition, JODE conducted 18 documented audits of the internal control and audit systems of outstanding OD factories after advising them on the establishment of such systems. No major violations were found.

JODE's Inspection Results (Jan - Jun 2017)

		2016	2016	2017
Number of Inspections		Jan.-Dec.	Jan.-Jun.	Jan.-Jun.
		331	156	148
Audit/Consultation		37	18	18
Number of Cases Found Violating the Optical Disk Act		0	0	0
Number of Plants Closed	Manufacturing Plants	1	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 of Ministry of Finance

1. Enforcement 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 2017 yielded the following results:

Apr.-Jun. 2017	Trademark Violations		Copyright Violations		Exported ODs without a SID Code	False Declaration of SID Codes	False Declaration of Trademarks
	Imports	Exports	Imports	Exports			
No. of cases	1	74	0	0	0	1	72
No. of items	300	32,184	0	0	0	180	690,327

From April to June 2017, customs across Taiwan received a total of 21 complaints and applications for advice protection of registered trademarks, as well as 150 requests for extending the duration of advice protection of registered trademarks.

2. Major inspections

Taipei Customs: In April, 1,056 counterfeit Hello Kitty plastic bowls and 200 Sony headsets imported via express delivery were uncovered. In June, 155 counterfeit Nike T-shirts and 20 counterfeit Adidas T-shirts imported via air freight were uncovered.

Keelung Customs: In April, 64 counterfeit Parklon mats imported via sea freight were uncovered. In May, 36,000 cans of counterfeit Red Bull energy drink imported via sea freight were uncovered.

3. International exchanges

As part of its active efforts to increase the flow of information between foreign customs offices on counterfeiting, Customs Administration from April to June provided information on 8 counterfeiting and piracy cases to customs offices of other nations.

From May 2 to 5, Customs Administration held seven workshops on verifying genuine goods and identifying counterfeits at Taichung Customs, Taipei Customs, Keelung Customs, and Kaohsiung Customs where rights holders were invited to explain to customs staff techniques of verifying genuine goods and identifying counterfeits so as to enhance their professional capability. A total of 549 customs staff attended the workshops.

On May 10, a delegation of 11 people from Japan-Taiwan Exchange Association and Japanese enterprises visited Customs Administration of the MOF to exchange views on IPR border measures.

On June 29, a delegation from APAA Japan Group visited Customs Administration of the MOF to exchange views on IPR border measures.

The Prosecutors’ Office for the Taiwan High Court (THPO)

1. Enforcement (Jan-Jun 2017)

From January to June 2017, seven stores involved in copyright piracy were uncovered. Eleven people were charged and 10,847 copies of artistic and literary works were seized, totaling NT\$11.3 million.

2. Court rulings (Jan-Jun 2017)

Affirmed IPR infringement cases processed by district prosecutors offices from January to June 2017 totaled 1,084. Of these, 252 suspects in 221 cases were indicted under ordinary procedures; 290 cases involving 301 defendants were filed for summary judgment; 464 indictments involving 467 defendants were deferred; and 109 cases involving 111 defendants were closed by ex officio action. In the same period, 516 defendants were sentenced to prison terms at a conviction rate of 94.3%. Compared to the same period in 2016, the status of court rulings on IPR infringement cases (summary judgment included) is as follows. There are 553 indictments in 2017 and 732 in 2016, accounting for a 24.5% decrease. As for the number of convictions, there are 516 defendants being convicted in 2017 and 527 in 2016, accounting for a 2.1% decrease over the same period.

Status of Adjudication of Taiwan District Courts on IPR infringement CASES unit: person

Categories	Year	Results of Court Rulings													
		Total	Sentence								Exemption	Not Guilty	Not Prosecutable	Case Declined	Others
			Subtotal	Under 6 Months	6-12 Months	1-2 Year(s)	2-3 Years	Over 3 Years	Detention	Fines					
Total	Jan-Jun 2017	688	515	138	4	2	0	0	336	35	1	31	5	134	2
	Jan-Jun 2016	738	527	146	5	3	0	0	321	52	0	59	7	145	0
	YoY %	-6.78	-2.28	-5.48	-20	0	0	0	4.67	32.69	0	-47.46	-28.57	-7.59	0

Source : The Prosecutors’ Office for the Taiwan High Court

IPR protection awareness activities

● Customs information exchange seminars

On June 21, Customs Administration of the Ministry of Finance held the first joint seminar on customs broking, transport industry, warehouse industry, and container terminal industry. It was held to step up promotion of relevant IPR border measures and regulations.

On June 21, Customs Administration of the Ministry of Finance held the second customs information exchange seminar of 2017 to step up promotion of relevant IPR border measures and regulations.

● **MOE IPR awareness activities**

The MOE set up the “Internet knowledge and use for junior high and elementary schools” website where 46 pieces of downloadable teaching materials are available to teachers. Training sessions on “Internet knowledge and use” for junior high and elementary school principals and teachers were conducted by county and municipal governments. A total of 57 sessions were held between April and June, with 2,220 people in attendance. A total of 96 sessions were held between January and June, with 3,984 people in attendance. The “2017 Public and Private University Academic and Administrative Affairs Directors Joint Meeting” was held by the Ministry of Education on June 15-16, 2017. The Ministry asked attending directors to step up promotion of campus IPR protection action plan.

● **MOEA's IPR protection awareness activities**

Onsite visits and seminars on trade secret practices: In April and June 2017, TIPO visited and held seminars on trade secret practices at MediaTek Inc. and TSMC to promote the government’s emphasis on trade secret protection, provide assistance to law enforcement agencies, and facilitate fast tracking of investigations.

Strengthen copyright protection by broadcasting: A 30-second IPR awareness ad “Say no to illegal download of music, movies, and articles” was aired 2,355 times in April 2017 in three languages (Mandarin, Taiwanese, and Hakka) by 29 local radio stations. The ad created by TIPO is very helpful in fostering a sense of respect among the general public towards Internet copyright.

Online copyright campaign activities: TIPO continued to use Facebook fan page “I Support Original Creation” to organize online prize contests “Where Are We Going ? Original Creation” and “Let’s Support Original Creation,” as well as to post self-made “Copyright fast quiz” clips. As of the end of June, TIPO had posted 89 messages and 29 explanations on Internet copyright. The fan page added 1,300 new friends.

IPR on Campus Task Force: Between May and June, 2017, the IPR on Campus Task Force comprising 152 seed instructors from 26 universities went to 26 elementary, junior high, and senior (vocational) high schools to promote IPR awareness to more than 3,500 students. Subsequent survey shows that over 80% of students learned that acts of “reproduction” as provided in the Copyright Act include sound recording, visual recording, digital scanning, and photocopying. Over 90% of students learned that photocopying an entire textbook in separate times is violation of copyright. These campaign activities were successful.

IPR protection service group holds information meetings

Topics	Implementation	Effects and survey results
IPR laws and regulations	According to the requests by enterprises, associations, schools and the public, TIPO and the service group co-organized 85 information sessions, with 4,513 people in attendance from April to June. Staff were sent to these sessions to promote issues of IPR protection and provide consultation service.	Survey conducted after the sessions shows that over 90% of the attendants understood that the principle of automatic protection is adopted by copyright. The author obtains copyright upon completion of the creation and is protected by such right. Registration of the creation at a government agency is not necessary. The attendants also learned that photocopying a book in separate times constitutes copyright infringement.
Copyright issues involving emerging media industries	The sessions were held on May 12 in New Taipei City and June 16 in Taichung City, with 116 people in attendance.	Survey shows that 60% of attendants learned more about types of copyright use in the digital environment and principles of online use of copyrighted works.
Copyright issues involving government administrative affairs	One session was held on April 14 in New Taipei City, with 85 people in attendance.	Survey shows that over 70% of attendants learned more about possibly applicable types of fair use. Over 90% of attendants learned that fair use may not necessarily be claimed where use involves government administrative affairs.
Copyright issues involving government commissions	One session was held on May 19 in Taipei City, with 188 people in attendance.	Survey shows that over 80% of attendants learned more about copyright issues when using works of others in commissioned/ self-organized activities. Over 90% of attendants understood that it's not necessary for government authorities to obtain the copyright for the results of commission. Licenses may be obtained depending on actual needs in administrative affairs.
Forum series on cultural and creative industry and copyright protection —copyright protection and remedy on cultural and creative industry	One session was held on April 28 in Taipei City, with 99 people in attendance. Lecturers from the industry shared experiences in value-added use of cultural and creative products. Lawyers were also invited to explain copyright provisions relating to protection of rights and interests of investors and creators.	Survey shows that nearly 70% of attendants learned more about regulations on fair use by cultural and creative industries, as well as copyright issues involving licensing practices.
Forum series on cultural and creative industry and copyright protection —performing art and practical application of copyright	One promotional information session was held on June 30 in Taipei City, with 66 people in attendance. Lecturers from the industry shared experiences in preparations and practices of performance tours. Lawyers were also invited to explain maintaining and managing copyright, as well as ways of coping with controversies over copyright infringement.	Survey shows that over 60% of attendants learned more about the scope of copyright protection with respect to performing art.