



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE
MINISTRY OF ECONOMIC AFFAIRS

October - December 2016

Quarterly Report on Taiwan's Intellectual Property Rights Protection

On October 27, TIPO and Music Copyright Society of Chinese Taipei (MÜST) cohosted 2016 Collective Management Organizations' Practice Symposium in NTU's Tsai Lecture Hall. Surrounding the main theme of CMOs' practice development in global context, the symposium highlighted CMOs' management practice as well as challenges and prospects in the wave of digitalization.

Special Report

2016 Collective Management Organizations' Practices Symposium

On October 27, TIPO and Music Copyright Society of Chinese Taipei (MÜST), Taiwan's leading collective management organization (CMO) in music copyright, cohosted 2016 Collective Management Organizations' Practice Symposium in NTU's Tsai Lecture Hall. Surrounding the main theme of CMOs' practice development in global context, the symposium highlighted CMOs' management practice as well as challenges and prospects in the wave of digitalization.

At the symposium, a number of experts were invited to serve as moderators of different sessions, including Dr. Shieh Ming-yan, professor of law at the NTU; Dr. Chang Chung-hsin, assistant professor of law at Soochow University; Simon Yeh, lawyer at the DaVinci Personal Data and High-tech Law Firm; and Benjamin Ng, Regional Director for Asia-Pacific at the International Confederation of Societies of Authors and Composers (CISAC).

A few keynote speeches were delivered in the symposium, including one on the good governance of CMOs in Europe by Christine Wang, lawyer of PRS for Music (UK), and one on the role of CMOs in the digital age by Regional Director Benjamin Ng. In addition, Scot Morris, Director of International Relations of the Australasian Performing Right Association & Australasian Mechanical Copyright Owners' Society (APRA AMCOS), and Satoshi Watanabe, General Affairs Bureau Senior Administrator of the Japanese Society for Rights of Authors, Composers and Publishers (JASRAC), also shared their experiences in licensing practices and membership services. In the last session entitled "Challenges and Prospects faced by the CMOs", participants exchanged ideas on issues faced by CMOs in different countries, including licensing, tariff review, and internal management.

There are around 210 people representing CMOs, academia, users, industries and the public who are interested in collective management practice. This symposium is focused on the global trend in CMOs' practice along with the impacts and prospects as a result of emerging media industry. The general public's comprehension in this field contributes to constructing a more friendly and more convenient licensing system.

Information Session on Japan's Regional Collective Trademark System

Aiming to encourage Taiwan's agricultural and fishery export products originating from well-known areas to be registered as Japan's Regional Collective Trademarks under Japanese Trademark Act, avoiding unauthorized use and bolster competitiveness in global market for domestic products, TIPO held an information session on Japan's Regional Collective Trademark system in NTU's Tsai Lecture Hall on December 21, 2016. A Japan expert introduced the system for around 100 attendees representing Council of Agriculture of Executive Yuan, county/city governments, township offices, Farmers Association and right-holders of geographical certification marks and geographical collective trademarks. The right-holders were greatly benefited as all the participants enthusiastically engaged in the intense discussion. The event successfully raised awareness of seeking trademark protection for exports in Japan.

On that day, a Japanese expert was invited to make an introduction about the system. Up to one hundred people took part in the event, including representatives from the Council of Agriculture, city and county governments, rural and urban township governments, farmers associations, as well as rights-holders of produce traceability marks and relevant collective trademarks. Taiwanese rights-holders have all benefited greatly from the discussion, as a huge amount of knowledge was gained as to how to seek trademark protection when exporting to Japan.

In total, about a hundred of people attended the event, including representatives of government agencies, farmers associations, colleges and universities, as well as patent and trademark agencies.

Legislative Amendments

The Trademark Act, the Copyright Act, and the Optical Disk Act are amended and promulgated by a presidential decree, in line with amendments to the chapter regarding confiscation in the Criminal Code

The amended Criminal Code was promulgated on December 30, 2015, and accordingly, "confiscation" is no longer an accessory punishment but has an independent legal effect. The amendment took effect on July 1, 2016. Subsequently, Article 98 of the Trademark Act, Article 98 of the Copyright Act, and Articles 15 and 17 of the Optical Disk Act were amended and then promulgated by Presidential Order on November 30, 2016. These amendments have come into force on December 15, 2016.

Latest News

The 9th Cross-Strait Patent Forum

The 9th Cross-Strait Patent Forum was held on December 6-7, 2016 in Taipei. Thirty seven participants from mainland China to the event comprised SIPO Patent Office Deputy Commissioner Xu Cong, Vice President Bonan Lin of All-China Patent Attorneys Association, Deputy Commissioner He Jufeng of Guangdong Intellectual Property Office, Director Chen Yuanqing of Lenovo Group's IP Department, IP Director Song Qiaoli of Northern Microelectronics Corporation, and Chairman Ding Jian of Beijing Zhongjin hao Assets Appraisal Co., Ltd. Participants on the Taiwan side included CNFI secretary-general Tsai Lien-sheng, TIPO Director General Hong Shu-min, Division-Chief Judge Chen Jhong-sing of the IP Court, President Justin Wu of the Taiwan Attorneys Association, Director Steven Liu of MediaTek's IP Division, NARL researcher Zheng Kai-ren, Faith Intellectual Assets Corporation CEO Joseph Chang, and General Director Wang Peng-yu of ITRI's Technology Transfer and Law Center. Lectures were given by these participants and the event saw attendance by over 380 people from government agencies, academia, and research institutes.

The forum's addressed topics such as "experience sharing in assisting private sectors to increase patent quality and values," "development and coping strategies of standard essential patents," "new developments in invalidation examination and administrative litigation," "strategies and management for corporations tackling controversies over global patents," "strategies for building up patent portfolios in next-generation technology," and "patent operation, pledge insurance financing, and value assessment." Experts from either side who are well versed in patent practices shared their insights. China's experience in, inter alia, patent value assessment, insurance, and financing is valuable reference given that China's fast-growing patent pledge financing reached 56 billion RMB in 2015.

Explanatory materials on copyright issues involving pictures, clips, or other information transferred through Line

The communication software Line has been popular in recent years with users sending pictures or clips among friends belonging to the same networking groups. TIPO has produced explanatory materials based on actual cases to foster people's copyright awareness.

Line users are advised to take extra care when sending pictures or clips and to refrain from their misuse which could incur infringement. For instance, usage of copyrighted materials may be deemed legitimate among family groups, whereas in the context of friend groups such usage should be examined on a case by case basis. For more information, please visit TIPO's website.

Copyright is a private right and therefore it should be respected. As such, users should know if the pictures, clips, or articles they are sending are copyrighted so as to avoid possible litigation.

The 2016 Trade Secret Symposium on Appropriate Confidentiality Measures for Businesses

To assist companies in building a robust management mechanism for trade secrets, TIPO and Taiwan Association for Trade Secrets Protection (TTSP) cohosted 2016 Trade Secrets Seminar: Reasonable Measures to Maintain Secrecy. The pundits representing TSMC, HTC, AUO and TIPO's staff had a discussion on legislations and practices. They shared years of experience in a number of issues including corporate information security, signing confidentiality agreement, non-compete agreement and the US case study. There were around 200 people attended.

A meeting on how to cease placing advertisement on rogue websites to deter infringement

On December 14, 2016, TIPO convened a meeting on how to cease placing advertisement on rogue websites to deter infringement. An expert from the Motion Picture Association of America was invited to give talks on relevant international practices and measures, while rights-holders and advertisers held discussions about advertisements placed on infringing websites. During the meeting, a preliminary voluntary agreement was reached, in which advertisers receiving lists of rogue websites from right-holder groups will refrain from placing ads on such sites to deter infringement.

In the future, TIPO will continue its intermediary role to actively facilitate coordination and participation.

Information events to promote knowledge of laws protecting traditional intellectual creations of Indigenous Peoples

To give people a better understanding about the Protection Act for the Traditional Intellectual Creations of Indigenous Peoples and relevant subsidiary laws, a total of eight information events funded by the Council of Indigenous Peoples were held at several municipalities, cities, counties, as well as rural and urban townships, with a total of 394 people attending.

Enforcement and Latest Statistics

National Police Agency (NPA)

1. Enforcement Statistics (October-December 2016)

From October to December 2016, a total of 554 copyright infringement cases involving 624 suspects and 529 trademark infringement cases involving 573 suspects were uncovered. The total market value of all the seized goods was estimated by right holders at NT\$1,857,509,653. These cases were transferred to district prosecutors offices for further investigation and prosecution.

2. Major Cases (October-December 2016)

The Intellectual Property Rights Police (IPRP) of the NPA of the Ministry of the Interior has cracked down a total of 2,804 cases, involving counterfeit goods such as purses, wallets, bibs, necklaces, bracelets, perfume, glasses, and make-up pouches of a variety of well-known brands, including Chanel, Louis Vuitton, Gucci, Dior, Hello Kitty, Adidas, YSL, Hermes, Michael Kors, and Givenchy. The total amount of the fake goods seized was estimated at NT\$27 million.

3. International Exchange

- (1) On October 6 and 19, 2016, the IPRP received delegations from the Japan-Taiwan Exchange Association, and discussed about the investigation of new types of infringements, such as fake copper tubes used in air conditioners and fake engine oils for vehicles, as well as about measures adopted by both governments to fight against counterfeit products.

- (2) On October 18, 2016, the IPRP received representatives from Pfizer and Eli Lilly, two American pharmaceutical corporations, who provided collected information regarding suspected online infringement cases for IPRP's references.
- (3) On November 10, 2016, the IPRP received representatives from Hugo Boss, a German brand, and exchanged views about Taiwan's efforts to fight counterfeiting as well as possibilities for cooperation in the future.
- (4) On November 15-16 and December 15, 2016, the IPRP convened joint meetings with representatives from the Japanese Chamber of Commerce and Industry in Taipei, the Japan-Taiwan Exchange Association, as well as a number of Japanese businesses, respectively. Topics touched upon included problems occurred when investigating infringement cases, as well as measures adopted to step up efforts to fight against new types of counterfeiting crimes.
- (5) On December 9, 2016, the IPRP received representatives from iQiyi, a mainland Chinese Internet media service operator, its Taiwanese partner Oudidi Entertainment, as well as the Motion Picture Association of America, and exchanged views on issues such as the investigation of infringement cases involving online streaming services as well as possibilities for cooperation in the future.
- (6) On December 16, 2016, the IPRP received representatives from the Motion Picture Association of America and talked about possibilities to work together in their investigations over infringement cases as well as providing mutual assistance in the area of infringement analyses.

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
Oct. -Dec. 2016	1,083	1,197	529	573	554	624	6
Oct. -Dec. 2015	1,092	1,231	596	645	496	586	639
Percentage Change: Oct. -Dec. 2016/2015	-0.82	-2.76	-11.24	-11.16	11.69	6.48	-99.06

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

Joint Optical Enforcement Taskforce (JODE)

From October to December 2016, the JODE conducted 87 inspections on OD factories, printing plate factories and other related facilities. This total is 4 inspections more than in Q4 2015 (83 times). In addition, the JODE conducted 10 documented audits of the internal control and audit systems of outstanding OD factories after advising them on the establishment of such systems. No major violation was found as a result.

JODE's Inspection Statistics (October – December, 2016)

		2015	2015	2016
Number of Inspections		Jan.-Dec.	Oct. -Dec.	Oct. -Dec.
		444	83	87
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

The Customs Administration

1. Inspection Statistics:

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 2016 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	1	44	0	2	0	0	61
Number	492	8,678	0	1,049	0	0	723,260

2. Major Inspections

- (1) Taipei Customs: October 14 and 29 seizure of 130 sets fake Dior perfume imported through express delivery; Nov. 8 seizure of 540 sets of fake Chanel perfume imported through express delivery.
- (2) Keelung Customs: October 24 seizure of 94 counterfeit Baby Trend bassinets imported using sea transport; and November 16 seizure of 492 fake Smith & Wesson airsoft guns, exported using sea transport.
- (3) The abovementioned suspected infringing goods have been all seized in accordance with the law.

3. International Exchange

- (1) As part of its efforts to increase the flow of information between foreign customs offices on counterfeiting, the Customs Administration from October to December 2016 provided information on 10 counterfeiting and piracy cases to customs offices of other nations.
- (2) On October 19 and November 28, 2016, the Customs Administration received a five-people delegation from the Japan-Taiwan Exchange Association. During the meeting, the two sides exchanged view on the Administration’s efforts to crack counterfeiting cases, the current cooperation between customs authorities in Taiwan and Japan, as well as the practice of recording trademarks at the customs.
- (3) **Exchanges with rights-holders**
The Customs Administration and the IPR Business Partnership, an international organization, cohosted a seminar on November 24-25, 2016, to discuss practices to differentiate authentic products from counterfeit ones, in the hope of further increasing custom officials’ capabilities to tell the difference between the two, thereby strengthening trademark protection at the border. There were 75 people including custom officials and prosecutors attended.

Taiwan High Prosecutors Office (THPO)

1. Enforcement Results (January-December, 2016)

The District Prosecutors’ Offices across Taiwan uncovered two off-campus photocopying stores involved in illegal photocopy activities. Two suspects were arrested, while one photocopy machine; three host computers; 14 photocopied elementary school textbooks in different disciplines, including math, social sciences, and natural sciences; 11 photocopied school exercise books; 22 pre-recorded optical discs and nine blank optical discs; as well as 29 course materials regarding police affairs were seized, totaling NT\$4.05 million. In the future, The District Prosecutors’ Offices will continue their efforts on this front, so as to effectively deter similar infringement activities.

2. Status of adjudication (January-December, 2016)

From January to December 2016, the District Prosecutors’ Offices Taiwan have investigated and closed a total of 2,867 cases suspected of IPR infringement. Among them, 807 suspects in 625 cases were indicted under ordinary procedures; 698 suspects in 677 cases had their cases heard in a summary judgment; 1,363 suspects in 1,278 cases were granted a deferred prosecution; and 297 suspects in 285 cases were not indicted on ex officio grounds. In total, 978 people were convicted guilty by the court, resulting in a conviction rate of 90.39%.
In comparison with statistics from the same period of time last year (2015): the number of suspects indicted (including those applied to have their cases heard in a summary judgment) in 2015 stood at 1,810, while that in 2016 reached 1,505, resulting in a 16.83% year-on-year decrease. With regard to the number of suspects convicted, it stood at 1,150 in 2015 and 977 in 2016, respectively, resulting in a 14.96% year-on-year decrease.

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	Jan.-Dec. 2016	1,338	977	265	7	4	0	0	608	91	104	0
	Jan.-Dec 2015	1,518	1,150	303	20	3	0	0	760	64	107	3
	YoY %	-11.86	-15.04	-12.54	-65	33.3	0	0	-20	42.19	-2.8	0

Source : The Taiwan High Prosecutors' Office

IPR Awareness

● IPR promotional talks

To foster people's awareness of intellectual property protection, TIPO's IPR Protection Service Group has been giving promotional talks at the request of business and industrial circles, civil groups, and schools at all levels, on professional topics such as patents, trademarks, copyright, and trade secrets. Such talks are free of charge and consulting services are available on site. From October to December 2016, a total of 59 promotional talks were held, with 3,410 people attending.

● Campus IPR Assistance Team

From October to December 2016, the "Campus IPR assistance team" comprising 135 seed instructors from 23 universities, visited 68 elementary, junior and senior high schools, as well as vocational schools, to promote the concept of IP protection by fun, lively group activities. A total of 14,897 students took part in these events. A survey shows that more than 80 percent of student respondents are aware that sound or video recording, digital scanning, and photocopying are all considered as "reproduction", an illegal activity prescribed in the Copyright Act; while more than 90 percent of them said they know that uploading newly released movies to the internet with P2P software and photocopying an entire textbook in separate times have both constituted an infringement of copyright.

● "Internet copyright" campaign activities

From October to December 2016, "Let's Support Original Works", a TIPO's fan page on Facebook, attracted 1,687 new followers, posted 52 new articles, and answered 17 questions relating to copyright matters. In addition, an online prize-winning event held by the fan page has reached 13,390 Facebook users, received 1,573 messages, and effectively boosted its fan base by another 1,394 followers.

Moreover, six more Q&A passages regarding copyright matters were added to the fan page. These passages were put in words, and made into illustrations and videos. Bosonx and Sixiaozhe, two Taiwanese illustrators, were also invited to create five relevant pieces of campaign materials, which have all been posted on the fan page.

● Information exchange meetings for customs officials

On December 14, the Customs Administration conducted its fourth information exchange meeting, to introduce a database of contact records between customs officials and rights-holders, and to promote the use of it, in the hope of boosting the officials' abilities to crack IPR-infringing goods.

● The MOE's campus IPR protection awareness campaign

1. Starting from 2015, on-site university visits and evaluations are jointly conducted under the MOE's supervision. As of December 2016, 78 colleges and universities have been visited and all have passed preliminary evaluations.
2. On November 18, 2016, the MOE sent an official notice to both public and private colleges and universities in Taiwan, to inform the update of the Guidelines on Intellectual Property Protection for Teachers, an IPR campaign material issued by TIPO, to promote the distribution of these copies, in the hope of fostering teachers' awareness of copyright when they use digital teaching materials in class.
3. On December 29, 2016, the MOE held a meeting for executive staff of colleges and universities in Taiwan, during which the Ministry particularly asked deans of academic affairs present to step up their efforts to promote intellectual property protection on campus and a relevant action plan.