



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE
MINISTRY OF ECONOMIC AFFAIRS

October to December 2017

Quarterly Report on Intellectual Property Rights Protection in Taiwan

On November 28, 2017, TIPO held a seminar on the IP landscape in Southeast Asian countries in Taipei. During the event, IP officials from a number of Southeast Asian countries, including the Philippines, Vietnam, Thailand, Malaysia, and Indonesia, were invited to give a talk and share the IP legal regimes, application practices, and law enforcement situation in the region with the Taiwanese audience of all circles.

Special Report

Executive Yuan passed draft amendment to Copyright Act on October 26

In response to the advanced development in digital technology and the Internet, on October 26, the Executive Yuan passed the draft amendment to the Copyright Act, which is composed of 145 articles. The draft amendment has been sent to the Legislative Yuan for further review. The key revisions are:

1. Definitions for “public broadcasting” and “public transmission” were adjusted. New provisions on the “right to simultaneous further communication to the public” were added.
2. New provisions were added that performers whose performances are fixated on audiovisual fixations such as DVDs may enjoy the same rights currently stipulated as singers whose performances are fixed on phonograms.
3. Provisions on fair use of copyrighted works by the general public were adjusted.
4. Provisions on compulsory licensing of works of unknown economic right holders were added.
5. Outdated provisions on criminal liability were amended.

This draft amendment to the Copyright Act is the largest-scale modification in nearly twenty years. After the amendment, the Copyright Act will increase protection of right holders, effectively deter infringement, as well as appropriately harmonize social interests so as to guarantee the public’s rights to legally use copyrighted works, to facilitate growth in domestic cultural industries, and add values to creativity. All of these will ultimately add to Taiwan’s competitive advantage.

On December 1, 2017, Taiwan and the UK sign an MOU on the deposit of biological materials for the purposes of patent procedure, which has come into effect immediately

On December 1, 2017, Director General Hong Shu-min of TIPO and Chief Executive Officer Tim Moss of the Intellectual Property Office of the UK (UK IPO) signed an MOU on the deposit of biological materials for the purposes of patent procedure. The two offices later held a Director-General meeting to exchange views on a number of issues of mutual concern, including measures to combat online copyright infringement and to improve the quality of patent examination, patent e-filing system, and the post-Brexit impact on IP matters. The two sides also agreed to continue strengthening cooperation on intellectual property matters in the future.

Legislative Amendments

On October 30, 2017, TIPO published “the Guidelines for formality examination of trademark dispute cases”, which took effect on November 1 of the same year. For more information, please visit:

<https://www.tipo.gov.tw/ct.asp?xItem=646736&ctNode=7452&mp=1>

Latest News

1. TIPO organizes information sessions on “Design patent application strategies and examination practices” on September 27, October 3, and 6, 2017

On September 27, October 3 and 6, TIPO organized a series of information sessions on “Design patent application strategies and examination practices” in Taipei, Taichung, and Tainan to enhance professional knowledge and capability of patent attorneys, patent agents, patent engineers, and personnel in related fields. These sessions focused on analyzing examination practices and there were lively discussions between attendees and TIPO’s representatives. The events drew over 280 people in attendance.

2. During November 14-16, 2017, TIPO holds an exchange program between Taiwanese and Japanese patent and trademark trial examiners

During November 14-16, 2017, TIPO’s patent and trademark trial examiners met their JPO counterparts in Taipei for an exchange program. During the event, the JPO participants shared their oral procedures regarding the examination of invalidity of patents as well as their trial practices regarding the opposition system. In the meantime, TIPO’s participants shared their guidelines for examination governing patent infringement and their latest examination criteria for patents. The two sides also exchanged views on quality management in the trademark trial system as well as relevant issues of mutual concern.

3. During November 20-24, 2017, TIPO holds an exchange program between Taiwanese and Korean patent examiners

During November 20-24, 2017, TIPO’s patent examiners met their KIPO counterparts in Taipei for an exchange program. During the event, the two sides exchanged views on issues related to the substantive examination of patent applications, including the prior art search, the examination process, and the examination result. The two sides also discussed about the inventive step test in the patent system.

4. TIPO holds the Seminar on the IP Landscape in Southeast Asian Countries on November 28, 2017

To encourage Taiwanese businesses to engage in exchanges and cooperation with Southeast Asian countries, and to promote the New Southbound Policy of Taiwan, TIPO held the Seminar on the IP Landscape in Southeast Asian Countries on November 28, 2017. During the event, a number of IP officials from Southeast Asian countries were invited, including Mr. Nelson P. Lalluces, Deputy Director General of the IPOPHL; Mr. Phan Thanh Hai, Head of the Patent Division No.1 of the NOIP; Mrs. Fatimah Rohada Dahalan, Assistant Director General of the MyIPO; Mr. Sirapat Vajraphai, Acting Head of International Cooperation Section of the DIP; and Mr. Ronald S. Lumbuun, Head of Sub-directorate of Prevention and Dispute Settlement of the DGIP. Speakers shared the IP legal regimes, application practices, and law enforcement in the region with the Taiwanese audience. About 220 people showed up for the seminar, with heated discussions taking place throughout the sessions.

5. TIPO holds a seminar on patent legal regimes and practices with the TPAA on December 15, 2017

On December 15, 2017, TIPO jointly held a seminar on patent legal regimes and practices with the Taiwan Patent Attorneys Association (TPAA). Topics touched upon include the patent exhaustion, whether to introduce the Contributory Infringement system for patents and the adversarial system in patent administrative proceeding. A total of 220 people from a variety of circles took part in the event, including judges from the IP court, scholars, government officials, lawyers, patent attorneys, patent agents, and representatives from industries. Heated discussions took place throughout the sessions, offering valuable reference materials to sound patent systems and patent administrative litigation practices in Taiwan.

6. TIPO holds a public hearing on draft amendments to the Patent Act on December 21, 2017

On December 21, TIPO held a public hearing on draft amendments to the Patent Act. Suggestions for amendment include: extending the claim for international priority from 12 to 14 months; loosening rules regarding division of patent applications after decisions for approval are served; adding rules governing the legitimate types of using patent documents after the patent application has been laid open or the patent has been published; adding an exception allowing the request for substantive examination that hasn't been filed within 3 years from the date of filing to be filed within 2 months after the three-year term; extending the protection period for design patents from 12 to 15 years; introducing the license of right system; changing the period of time of the application file should be kept; and improving the post-grant amendment system for utility model patents. As attendees have shown great enthusiasm about certain topics with heated discussions, TIPO held a second public hearing on January 15, 2018.

7. The CIBr changes its email address for reporting IP infringement

The Criminal Investigation Brigade of the Second Special Police Corps of National Police Agency of the Ministry of the Interior announced on October 6 that the original email address yell@tipo.gov.tw for reporting IPR infringement had been closed and changed to 0800016597@iprp.spsh.gov.tw. Any person wishing to report IPR infringement may use the new email address or call toll-free at 0800016597. The reports will be handled by specialist personnel.

8. MOE denies access to overseas websites offering pirated textbook materials through the TANet

To strengthen IPR protection among universities and colleges, the Ministry of Education (MOE) has signed an MOU with the Taiwan Book Publishers Association, a rights-holder group, on August 29, 2016, and denied the access to overseas websites offering pirated textbook materials through the Taiwan Academic Network (TANet), in November 2017.

9. The Council of Indigenous Peoples grants exclusive rights to seven traditional intellectual creations of the indigenous peoples

To afford greater protection to traditional cultures of the indigenous peoples, the Council of Indigenous Peoples has granted exclusive rights to seven traditional intellectual creations of the indigenous peoples at the end of October, 2017. In addition, the Council has designated eight universities and colleges to hold a talent-cultivation program dedicated to promoting good knowledge of the Protection for the Traditional Intellectual Creations of Indigenous Peoples.

Law Enforcement Results and Latest Statistics

The National Police Agency (NPA)

1. Law Enforcement Results (October to December 2017)

From October to December 2017, a total of 643 copyright infringement cases involving 703 suspects and worth NT\$ 726.66 million; a total of 493 trademark infringement cases involving 575 suspects and worth NT\$ 272.85 million; and a total of 5 trade secret infringement cases involving 10 suspects and worth NT\$ 1.45 billion, were recorded. In total, there were 1,141 IPR infringement cases involving 1,288 suspects, with the amount of money lost as a result reaching about NT\$ 2.45 billion. The abovementioned cases were later transferred to district prosecutors' offices for further investigation.

2.Major Cases (October to December 2017)

The CIBr of the NPA of the Ministry of the Interior has cracked down on scam gangs involved in selling fake products through Facebook fan pages. The gangs have conned people into buying counterfeit goods by marketing slogans such as “buy one get one free” and “outlet clearance sales”. The CIBr made three searches, and seized a total of 3,108 counterfeit trademarked products worth NT\$ 10.15 million by market value.

Statistics for IP Infringement Cases

Unit: Case / Person (Jan-Dec 2017)

Year	Total		Trademarks		Copyright		
	No. of Cases	No. of Suspects	No. of Cases	No. of Suspects	No. of Cases	No. of Suspects	No. of CDs Confiscated
Jan-Dec 2017	2,163	2,587	1,405	1,643	746	922	89,649
Jan-Dec 2016	2,520	2,886	1,788	1,987	729	899	121,806
Percentage Change (%) (Jan to Dec 2017 / 2016)	-14.17	-10.36	-21.42	-17.31	2.33	2.56	-26.40

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

JODE’s Inspection Statistics

(Jan-Dec 2017)

		2016	2016	2017
Number of Inspections		331	Jan-Dec	Jan-Dec
			331	322
No. of Documented Audits / Consultations		37	37	38
Number of Cases Found Violating the Optical Disk Act		0	0	0
Number of Plants Closed	Manufacturing Plants	1	1	3
	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.Law Enforcement Results

(1)The Customs Administration of the Ministry of Finance has been carrying out its duties regarding border protection in accordance with the Regulations Governing Customs Measures in Protecting the Rights and Interests of Trademark, and the Operational Directions for Customs Authorities in Implementing Measures for Protecting the Rights and Interests of Patent and Copyright. Results of the Customs Administration from October to December 2017 are listed as follows:

Oct-Dec 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	2	47	0	0	0	0	63
No. of items	15,426	27,553	0	0	0	0	1,605,475

(2)From October to December 2017, there are a total of 62 trademark infringement cases lodged either by a complaint or by an advice; and an extension for protection was filed for a total of 107 cases lodged by an advice.

2.Major Cases

- (1)Taipei Customs: In November 2017, the Taipei Customs uncovered 3,000 fake Viagra tablets imported via express delivery.
- (2)Keelung Customs: The Keelung Customs uncovered 4,800 sets of fake UNO card games, 2,300 cases of fake Red Bull sports drinks, and 117 fake Tumi folding umbrellas and 1,139 fake Futai Leighton folding umbrellas imported by sea freight in October; 4,110 fake Burberry cutlery bags imported by sea freight in November; and 92,000 fake NSK ball bearings imported by sea freight in December 2017.
- (3)Kaohsiung Customs: In October 2017, the Kaohsiung Customs uncovered 7,720 and 7,666 fake Apple mobile phone cases and Apple logos, respectively.

3.International Exchanges

- (1)As part of its efforts to improve the flow of information regarding counterfeiting offences, the Customs Administration has provided ten pieces of information to customs authorities of other countries, from October to December 2017.
- (2)On October 25, 2017, officials of the Customs Administration met with representatives of the Japan Intellectual Property Association (JIPA) and exchanged views on border control measures.
- (3)On October 27, 2017, the Customs Administration and the IPR Business Partnership, an international organization, jointly held the 2017 National Training Workshop on the Identification of Counterfeit Goods, offering a platform for customs officials to work together with rights-holders in their fight against counterfeit offences.
- (4)On December 14, 2017, officials of the Customs Administration met with representatives of the Japan External Trade Organization (JETRO) Seoul and exchanged views on border control measures. Representatives of the Japan-Taiwan Exchange Association were also present.
- (5)On December 22, 2017, the Director General of the Customs Administration met with representatives of Apple Asia, who thanked the Customs Administration and praised officials of the Kaohsiung Customs for their great performance as they have uncovered a large number of fake Apple logos in October of the same year.

The Taiwan High Prosecutors’ Office (THPO)

1.Law Enforcement Results

In 2017, the District Prosecutors’ Offices of the MOJ have uncovered 15 photocopying stores, on campus and off campus, involved in illegal photocopy activities. Twenty three suspects were arrested, with seized materials worth a total of NT\$90.57 million. unit: person

2.Court Rulings

From October to December 2017, the District Prosecutors’ Offices in Taiwan have investigated and closed a total of 615 cases suspected of IPR infringement, involving 681 suspects. Among them, 208 suspects in 172 cases were indicted under ordinary procedures; 167 suspects in 161 cases had their cases heard in a summary judgment; 235 suspects in 214 cases were granted a deferred prosecution; and 71 suspects in 68 cases were not indicted on ex officio grounds. In total, 208 people were convicted guilty by the court during this period, resulting in a conviction rate of 91.63%.

In comparison with statistics from the same period of time last year (2016): the number of suspects indicted (including those applied to have their cases heard in a summary judgment) in 2016 stood at 439, while that in 2017 reached 375, resulting in a 14.58% year-on-year decrease. With regard to the number of suspects convicted, the figure stood at 208 in both 2016 and 2017, showing no difference between the two periods.

Status of Adjudication of Taiwan District Courts on IPR infringement Cases

Categories	Year	Results of Court Rulings													
		Total	Sentences								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-Dec 2017	1,224	940	257	8	3	0	0	611	61	1	59	10	212	2
	Jan-Dec 2016	1,338	977	265	9	4	0	0	608	91	1	104	13	243	0
	% YoY %	-8.52	-3.79	-3.02	-11.11	-25	0	0	0.49	-32.97	0	-43.27	-23.08	-12.76	0

Source: The Taiwan High Prosecutors’ Office

IPR Awareness Campaigns

1.Customs Administration Information exchange meeting

- (1)The Customs Administration conducted its forth information exchange meeting on December 11, 2017, to brief customs officials on measures and laws regarding IPR protection at the border.
- (2)The Customs Administration held an information event on rules concerning the declaration of cargo by air in Taipei for air freight operators on December 13, 2017, to promote measures and laws regarding IPR protection at the border.
- (3)The Customs Administration held its second information event for the year in Taichung for customs brokers, transport operators, as well as warehouse and storage operators on December 27, 2017, to promote measures and laws regarding IPR protection at the border.

2.MOE IPR awareness campaigns

- (1)The MOE has provided funds to the departments of education of special municipalities and of other local governments, to hold training courses on internet literacy for principals and teachers of primary and secondary schools. From October to December, 2017, a total of 75 training sessions were held, with 2,250 people attending the events.
- (2)The MOE has provided funds to university law departments in the country to hold law-related educational sessions for primary and secondary schools as well as local communities. Intellectual property protection on campus was also covered in the events. A total of 50 sessions have been held from October to December 2017.

3.MOEA IPR awareness campaigns

(1)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 2017, a total of 64 promotional talks were held, with 5,251 people attending the events.

(2)The IPR on the Campus Task Force

From October to November 2017, the IPR on the Campus Task Force, a group composed of 152 seed instructors from 26 universities, visited 47 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 10,633 students took part in these events. According to a survey conducted by the task force after the promotional events, more than 80 percent of student learned 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 80 percent of them said that they know that uploading newly released movies to the internet with P2P software or photocopying an entire textbook in separate times (even if not in one go) has constituted an infringement of copyright.

(3)Online copyright campaign activities

- I.Two promotional videos about copyright (one about copyright lightning round in the creators' market and the other was live streamed with a gift-giving activity) were made and later put on TIPO's Facebook fan page "Let's Support Original Works", as well as other digital platforms such as Youtube and Dailymotion to reach a wider audience.
- II.Two promotional videos concerning copyright issues related to live online streaming (lasting 30 seconds and 120 seconds, respectively) were made, each available in three languages (Mandarin Chinese, Taiwanese, and Hakka). They were broadcasted in an intensive manner on six domestic terrestrial television stations simultaneously. In addition, they were also put on audio-visual platforms such as Youtube, Facebook, Xuite, Yam, Instagram, and Vimeo, to promote the public's awareness about the use of copyrighted works on the internet.
- III.During November 1-30, 2017, promotional banners were put on 40 MRT carriages of four MRT routes in Taipei (the Tamsui-Xinyi line, the Songshan-Xindian line, the Bannan line, and the Zhonghe-Xinlu line), to promote the use of legal websites as well as encouraging people to pay attention to copyright issues during live online streaming. It is estimated that more than 10 million passengers have been reached in this campaign.

(4)IPO holds the "Let's Support Music Creations along with CMOs" workshop

On December 20, TIPO held the "Let's Support Music Creations along with CMOs" workshop. In the event, TIPO officials introduced the collective management system in Taiwan. Representatives from the Music Copyright Society of Chinese Taipei (MÜST) and the Asia-Pacific Music Collective Management Association (ACMA), two renowned collective management organizations (CMOs) for music creations in Taiwan, made presentations about how they work, how to join them, and the rights of their members.