



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE  
MINISTRY OF ECONOMIC AFFAIRS

October to December 2018

## Quarterly Report on Intellectual Property Rights Protection in Taiwan

*For the first time, TIPO was funded by APEC to carry out a project entitled the Guidelines on the Best Licensing Practices of Collective Management Organizations (CMOs) to MSMEs. Starting in April this year, through questionnaire surveys, TIPO learned about the licensing conditions, best licensing practices, licensing problems, and policy development of 36 CMOs in APEC's 21 economies. TIPO then held a workshop on licensing practices on October 23 and 24, providing experts and professionals with a channel for sharing experiences. It recently published a booklet whose content can be widely applied and effectively conducted.*

*Patent examination cooperation between Taiwan and Japan just turned a new page. TIPO and the Japan Patent Office will soon cooperate on patent dossier information exchange. The service will be officially provided to the public starting in January 2021, when system establishments and related tests are complete.*

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December 2018

## Special Report

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### TIPO accomplished APEC project and published the Guidelines on the Best Licensing Practices of CMOs to MSMEs

TIPO was funded by APEC to carry out a project entitled the Guidelines on the Best Licensing Practices of Collective Management Organizations (CMOs) to MSMEs. Starting in April 2018, through questionnaire surveys, TIPO learned about the licensing conditions, best licensing practices, licensing problems, and policy development of 36 CMOs in APEC's 21 economies. TIPO then held a workshop on licensing practices on October 23 and 24, providing experts and professionals a channel for sharing experiences. It recently published a booklet whose content can be widely applied and effectively conducted.

The booklet includes analytical data acquired from the CMOs questionnaire survey in 13 economies, Australia, Chile, China, Chinese Taipei, Hong Kong China, Japan, South Korea, New Zealand, Peru, Philippines, Thailand, USA and Vietnam, in addition to in-depth interviews on six best licensing practices. The goal is to learn about the operations of the best licensing models and the difficulties they face, as well as how online licensing mechanisms might develop for the future. TIPO looks forward to assisting MSMEs in participating in network economy and building better licensing environs in the digital era.

### Taiwan and Japan signed an MOU on patent dossier information exchange

On November 30, Taiwan-Japan Relations Association and Japan-Taiwan Exchange Association signed an MOU on patent dossier information exchange between Taiwan and Japan, using a one-stop platform for patent applicants and patent examiners to review documents on patent examination comprehensively and real-time. The service will be officially provided to the public starting in January 2021, when system establishments and related tests are complete.

Once the patent dossier information exchange between Taiwan and Japan becomes effective, patent applicants and patent examiners will be able to use application number or publication number of an application to view its patent family, list of examination documents, and the content of the documents. Users may acquire the IPC and citations of an application. It is hoped that the service can make it more convenient for patent examiners in Taiwan and Japan to draw references on the examination process from one another, thereby improving examination quality and speed.

## Legislative Amendments

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### Legislative Yuan passed the third reading of the amendments of Articles 4, 37 and 40 of the Patent Attorney Act

To fully practice Article 27 of the UN Convention on the Rights of Persons with Disabilities, which emphasizes that persons with disabilities enjoy equal rights to work and the freedom to choose a profession, on November 2, 2018, Legislative Yuan passed the third reading of the amendments of Articles 4, 37, and 40 of the Patent Attorney Act.

In the amendments, the provisions describing that those who have been certified by a medical doctor commissioned by the Competent Authority to be suffering from a mental disability or other physical or mental impairment that prevents him/her from engaging in professional services shall not practice as a patent attorney or a patent agent, were deleted. The amended articles will come into effect after a presidential order is announced.

Click the following link for a general explanation of the amendments and a comparison of the original and the amended articles (Chinese):

<https://www.tipo.gov.tw/dl.asp?fileName=81151528931.pdf>

### Amended Section 1 of Patent Examination Guideline entered into force on November 1, 2018

In response to the Taiwan-UK Cooperation on Deposit of Biological Materials, as well as amendments about extension of patent term and related practices, such as "one creation filed for invention patent and utility model patent" and patent priority document, in Chapters 2, 7, 8, 10, 13, 14, 15, 17 and 18 of Section 1 of the Patent Examination Guideline had been amended and entered into force on November 1.

For more detail (in Chinese), please click the following link:

<https://www.tipo.gov.tw/ct.asp?xItem=685286&ctNode=7127&mp=1>

### Publication of Examination Guidelines on Formality Examination of Applications for Trademark Registration

TIPO published the Examination Guidelines on Formality Examination of Applications for Trademark Registration on October 19, 2018. The Guidelines comprise a total of 15 chapters: preamble, submitting and withdrawing of applications, application fees, trademark application form and filing date, right of priority and right of exhibition priority, applicants, agents, trademark reproductions, designated goods or services, notices stating grounds for intended refusal and disposition of refusal or acceptance of trademark applications, issuing a letter of consent to coexistence, division and restriction of designated goods or services, changes and corrections prior to registration, serving, calculation of period, and request for restoration to the status quo ante. The Guidelines are aimed at helping people understand formality requirements in the application for trademark registration, providing more comprehensive protection of applicants' rights and interests, as well as increasing efficiency in examining trademark applications for registration. TIPO encourages those interested to make use of the Guidelines.

### Modified classification of goods and services comes into force on January 1, 2019

The Nice Classification, 11th Edition, Version 2019 as modified by the World Intellectual Property Organization recently came into force on January 1, 2019. In response, TIPO released modified classification of goods and services

based on the Nice Classification, in hopes of providing references for trademark applicants.

On the modified classification of goods and services, please see the “Combined List of Changes Made to the Class Headings and Explanatory Notes of the Nice Classification, 11th Edition, Version 2019” and “Comparisons between Version 2018 and Version 2019 of the Nice Classification” on TIPO’s website, in the “Goods and Services Information” column.

For more information, please visit TIPO webpage at:

<https://www.tipo.gov.tw/ct.asp?xItem=665008&ctNode=7573&mp=1>

## Latest News

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### **1. List of the 2018 National Invention and Creation Award winners came out**

Organized by TIPO with total grants amounting up to NT\$8.8 million, the 2018 National Invention and Creation Award has just selected 41 outstanding patents out of 465 qualified entries. This includes six golden prizes and 20 silver prizes in the invention category, as well as five golden prizes and 10 silver prizes in the creation category, respectively. Of this year’s winners, companies take up the largest ratio (46.4%), followed by individuals (19.5%), corporates (19.5%), schools (12.2%), and government agencies (2.4%). Most of the awarded works are up to par with commercial use. Holding great market potential, they might bring immense business opportunities.

The winners will be awarded at the 2019 Ministry of Economy Industrial Innovation Joint Award Ceremony, as well as the Award Ceremony and Promotional Display of Award-winning Works of the 2018 National Innovation and Creation Award. It is hoped that, through public display and press coverage, the awarded works will gain more presence. This shall help to draw attention from both domestic and international investors, whilst creating business opportunities for Taiwan’s new inventions. TIPO hopes to encourage academic and research institutes, as well as businesses, to research, develop and innovate more.

### **2. The 2018 International Intellectual Property Litigation Conference was a success**

TIPO and TIPA held the 2018 TIPA International Intellectual Property Litigation Conference on November 29 and 30, inviting patent attorneys from USA, Germany, Japan, South Korea and China to share their experiences on patent litigation in Taiwan. Judges and attorneys in Taiwan were also widely invited to discuss topics at the event. A total of 226 professionals took part.

The conference topics include the procedures and practices of patent litigation in court and trade secret proceedings. The participants also talked about how Taiwan may amend laws and regulations to improve the current procedures. The event was widely acknowledged by participating businesses and IP institutions in Taiwan. TIPO hopes that the conference can help to improve IP litigation in Taiwan, while gathering momentum for new developments.

### **3. TIPO completed Guidelines for SMEs to Take Reasonable Trade Secret Protection Measures**

Facing fierce competition in a globalized world, businesses are attaching more importance to protecting trade secrets by day. Other than keeping crucial techs from being stolen, trade secret protection can ensure market advantage for a company. To assist businesses in setting up strategic steps for protecting trade secrets, TIPO recently proposed the Guidelines for SMEs to Take Reasonable Trade Secret Protection Measures, upon studying related practices and guidelines for trade secret management in Japan. The Guidelines are available on TIPO’s website now and all members of the public are cordially invited to make use of it.

For more detail (in Chinese), please click the following link:

<https://www.tipo.gov.tw/dl.asp?fileName=8112018304063.pdf>

### **4. Seminar on innovation and patent trends came to a fulfilling end**

Technological innovation is crucial for strengthening competitiveness for industry. Companies must grasp hold of innovation trends and use them in their operations. On November 23, 2018, TIPO held a seminar on innovation and patent trends at National Chung Hsing University in Taichung, entitled “Planning a New Future Based on Innovation and Patent Trends.” Renowned designers from Japan attended the seminar to share how smart-machinery companies may adhere to business strategies while upgrading their products from users’ viewpoints, and how user experience design (UXD) may be applied to help companies to learn customers’ needs comprehensively at the R&D frontline, while riding the information and communication technology (ICT) trends. This shall maximize back-end R&D work. TIPO invited China Steel to share the challenges the company often encounters in R&D work and the solutions it has developed. NEXCOM also shared its AI and IoT manufacturing skills and solutions. We hope that, with effort invested by the government and sharing of experiences of experts, businesses can be inspired to come up with more innovations and hands-on practices, thereby widening their R&D paths.

### **5. 2018 Cross-strait Patent Forum**

The 2018 Cross-strait Patent Forum was held on December 11 and 12 in Taipei. With a focus on the patenting trends and strategies of new technologies, the agenda was designed for the top professionals across the Taiwan Strait with a global vision, and hosted discussions on hot topics. The most outstanding representatives from industry, government and academia all gathered up to share their experiences and exchange ideas. The 38 attending guests from mainland

China included Deputy Director-General Xu Cong of the Patent Office of the National Intellectual Property Administration (CNIPA) and Vice President Ma Hao of the All-China Patent Agents Association (ACPAA). On the Taiwan side, participants included Secretary-General Tsai Lien-sheng and representatives of the Chinese National Federation of Industries (CNFI), TIPO Director-General Hung Shu-min and her team, and former Premier Chang San-cheng who gave a wonderful speech. Experts with practical experiences all shared their remarkable thoughts at the forum, and most of the participants noted that the event was worth attending because they had benefited a great deal.

**6.Statistics section of the Taiwan Patent Search System launched in December 2018**

TIPO’s Taiwan Patent Search System offers full-text patent search function for the TW patents, prosecution status and legal status. To improve service quality, TIPO recently set up a statistics section to provide users with customized statistics. At the statistics section, depending on individual needs, a user may set a time range and certain conditions (such as patent type, application type, applicant name, applicant nationality, and IPC) to look at patent files. The related statistics will then be shown in forms of charts and figures. This allows the user to get a picture of granted patents in Taiwan and IP distribution trends. Finally, the user may output the charts for value-added purposes. TIPO encourages all to utilize this new service.

**7.2018 Taiwan-Japan Trademark Examiner Exchange**

TIPO send representatives to attend the “7th Taiwan-Japan Trademark Examiner Exchange” and “2018 Taiwan-Japan Patent Trademark Administrative Judge Exchange,” respectively held from Oct 1 to 5 and from December 15 to 20. By discussing cases and learning about legal regime and examination practices, two sides acquired references for law amendments and case rulings in the future.

**8.MOE sets up an email for reporting TANet-related IP infringement offences**

The MOE has set up an email address (abuse@moe.edu.tw) for reporting TANet-related IP infringement offences. The Taiwan Book Publishers Association, a rights-holder group in Taiwan, has reported 1 time through the email in November, to ask the MOE to thwart access attempts through TANet to link to foreign infringing websites containing pirated textbooks. The MOE has responded and banned such access.

**Law Enforcement Results and Statistics**

**The National Police Agency (NPA)**

**1.Law enforcement results**

From October to December 2018, a total of 447 copyright infringement cases involving 545 suspects and worth NT\$ 980 million; a total of 380 trademark infringement cases involving 440 suspects and worth NT\$ 230 million; and a total of 5 trade secret violation cases involving 16 suspects and worth NT\$ 713 million, were recorded. In total, there were 832 IPR infringement cases involving 1,001 suspects, with the amount of money lost as a result reaching about NT\$ 1.89 billion. The abovementioned cases were later transferred to district prosecutors’ offices for further investigation.

**2.Major Cases**

The Criminal Investigation Brigade (CIbR) discovered that a criminal group has been selling an unauthorized medical management system. More than 50 clinics were involved although they were unaware of the situation. The infringement incurred an NT\$163.2 million loss.

**3.International exchanges**

(1).18 representatives of the Japan Bar Association and the Japan-Taiwan Exchange Association visited the Criminal Investigation Brigade (CIbR) on December 3, to exchange views of IP investigation in Taiwan and Japan, and discussed related experiences in both countries.

**Statistics for IP Infringement Cases by the National Police Agency, NPA**

Unit : case/person (Jan.-Dec. 2018)

| 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 |
| 2018 Jan.-Dec.                            | 4,308        | 4,934           | 1,854        | 2,144           | 2,454        | 2,790           | 25,405                 |
| 2017 Jan.-Dec.                            | 4,523        | 5,191           | 2,123        | 2,446           | 2,398        | 2,742           | 92,306                 |
| Percentage Change:<br>2018/2017 Jan.-Dec. | -4.75        | -4.95           | -12.67       | -12.35          | 2.34         | 1.75            | -72.48                 |

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

**Joint Optical Disk Enforcement Taskforce (JODE)**

From January to December 2018, the Joint Optical Disk Enforcement Taskforce (JODE) of the Ministry of Economic Affairs has conducted a total of 278 inspections on OD factories, printing plate factories, and related facilities, 44 times less in comparison with the same period of time last year (322 times). The JODE also consulted law-abiding OD factories to establish an internal control and audit system and has carried out, during this period, 30 relevant documented audits in this regard. No major violation was found as a result.

## JODE's Inspection Results

(Jan.-Dec. 2018)

|  | 2017 | 2017             | 2018             |
|--|------|------------------|------------------|
| Number of Inspections                                | 322  | Jan.-Dec.<br>322 | Jan.-Dec.<br>278 |
| Audit/Consultation                                   | 38   | 38               | 30               |
| Number of Cases Found Violating the Optical Disk Act | 0    | 0                | 0                |
| Number of Plants                                     | 3    | 3                | 3                |
| Closed   | 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 2018 are listed as follows:

| Oct.-Dec. 2018 | Trademark violations |         | Copyright violations |         |
|----------------|----------------------|---------|----------------------|---------|
|                | Exports              | Imports | Exports              | Imports |
| No. of cases   | 1                    | 41      | 0                    | 0       |
| No. of items   | 49                   | 17,045  | 0                    | 0       |

  

| Oct.-Dec. 2018 | Exported ODs without a SID code | False declaration of SID codes | False declaration of trademarks |
|----------------|---------------------------------|--------------------------------|---------------------------------|
| No. of cases   | 0                               | 3                              | 29                              |

\*Here, "False Declaration of Trademarks" refers to failing to or untruthfully declared trademarks, as prescribed in paragraph 3, Article 17 of the Foreign Trade Act.  
Source: Customs Administration, Ministry of Finance

(2) From October to December 2018, customs across Taiwan received a total of 49 requests for lodging advice on protecting trademark rights, 10 requests for extending the terms for advice on protecting trademark rights, and 40 requests for updating documents.

### 2. Major Cases

- (1) Taipei Custom: In November, a total of 480 counterfeit DIOR perfumes imported via express delivery were uncovered. In December, a total of 700 counterfeit G-SHOCK watches and 40 sets of counterfeit iPhone imported via express delivery were uncovered.
- (2) Taichung Custom: In November, a total of 1,006 counterfeit BATMAN blankets imported via sea freight were uncovered.

### 3. International Exchanges

- (1) On November 29, representatives of the Customs Administration, Ministry of Finance attended the 43rd Taiwan-Japan Economic and Trade Meeting, and discussed how Japan would inform right holders of the exact number of suspicious counterfeit goods seized by customs. Our representatives also asked the Japanese counterparts to provide related information for reference.
- (2) Daio Paper Corp. visited the Customs Administration on December 11 to exchange views about parallel imports and IP law implementations at border customs.
- (3) The Japan-Taiwan Exchange Association visited the Customs Administration on December 27. The Japanese representatives briefly explained how they request right holders to identify counterfeit goods with customs in suspicious cases. The both sides also discussed how Taiwan customs may implement measures for protecting trademark rights.
- (4) As part of its efforts to step up exchange of information on counterfeiting with global counterparts, the Customs Administration from October to December provided 8 pieces of information for customs authorities of other countries.

## The Taiwan High Prosecutors Office (THPO)

### 1. Law Enforcement Results

In the second half of 2018, the District Prosecutors' Offices of the MOJ discovered 2 photocopying stores with 2 suspects, on and off campus, involved in illegal photocopy activities. 4 digital files and 1 printed book were seized, with the amount of NT\$6.71 million.

### 2. Court Rulings

From October to December 2018, the District Prosecutors Offices in Taiwan have investigated and closed a total of 620 cases suspected of IPR infringement, involving 682 suspects. Among them, 236 suspects in 189 cases were



indicted under ordinary procedures; 175 suspects in 169 cases had their cases heard in a summary judgment; 206 suspects in 201 cases were granted a deferred prosecution; and 65 suspects in 61 cases were not indicted on ex officio grounds. In total, 196 people were convicted guilty by the court during this period, resulting in a conviction rate of 89.91%.

In comparison with statistics from the same period of time last year, the number of suspects indicted (including those applied to have their cases heard in a summary judgment) in 2017 stood at 375, while that in 2018 reached 411, resulting in a 9.60% year-on-year increase. With regard to the number of suspects convicted, the figure stood at 208 in 2017, and 196 in 2018, representing a 5.77% year-on-year decrease.

Status of adjudication of Taiwan District Courts on IPR infringement cases

Unit: person

| 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. 2018 | 848                      | 627       | 220            | 6           | 3           | 1         | -            | 360       | 37        | -          | 66               | 3             | 152    | -     |
|            | Jan.-Dec. 2017 | 1,019                    | 779       | 211            | 7           | 3           | -         | -            | 505       | 53        | 1          | 48               | 8             | 181    | 2     |
|            | YoY %          | -16.78                   | -19.51    | 4.27           | -14.29      | 0           | 0         | 0            | -28.71    | -30.19    | -100       | 37.50            | -62.50        | -16.02 | -100  |

Source: Taiwan High Prosecutors' Office

IPR Awareness Campaigns

- 1.National Policy Agency of the Ministry of the Interior conducts awareness campaigns on laws and regulations
- In the fourth quarter of 2018, Criminal Investigation Brigade (CIBr) visited a total of 211 companies. The CIBr provided information relating to trade secret laws, assisted in examining confidentiality measures, and conducted 52 courses on trade secret laws.
- 2.Customs Administration holds information exchange meeting
- (1)On October 1, 2, 3 and 4, the Customs Administration of the Ministry of Finance visited Taipei, Kaohsiung, Taichung and Keelung Customs to hold a course on distinguishing counterfeit goods from authentic ones at customs. Right holders served as lecturers to share their techniques. The goal of the course was to strengthen custom officers' professional capabilities.
- (2)On November 28, the Customs Administration, MOF and REACT, an international organization, hold the 2018 Forum for Distinguishing Counterfeit and Authentic Goods. Custom officers from Taipei, Kaohsiung, Taichung and Keelung attended the event to speak about Taiwan's IPR measures at border customs. Right holders also showed up to share their distinguishment techniques.
- 3.MOFA advocates IPR protection
- At the New Southbound Policy Portal, 1 article on intellectual property rights was published. At Taiwan Today, an electronic newspaper, a total of 11 articles on Taiwan's IPR policies were published, in languages such as English, French, Spanish, German, Japan, and Indonesia.
- 4.MOEA holds IPR protection education campaigns
- (1)IPR awareness lecture series
- To strengthen the public's IPR awareness, TIPO in March began officially accepting registration for the 2018 IPR protection service group lecture series. Corporations, civil groups, and schools of all levels are eligible to register, and, once approved, on-site lectures on issues of interest (including patent, trademark, copyright, and trade secrets) along with consultation will be arranged free of charge. From October to December, 75 lectures had been organized, with nearly 6,000 people in attendance. More than 90% of the attendants noted that the activity was helpful for learning about IP right.
- (2)The IPR on the Campus Task Force
- From October to December 2018, the IPR on the Campus Task Force, a group composed of 166 seed instructors from 29 universities, visited 63 elementary, junior and senior high schools, as well as vocational schools, to promote the concept of IPR protection, by fun, lively group activities. A total of 13,699 students took part in these events. A subsequent survey shows that, more than 90 percent of the students learned that sound or video recording, digital scanning, and photocopying are all considered as "reproduction" prescribed in the Copyright Act. More than 90 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)Internet copyright awareness activities
- To quickly disseminate awareness information through the Internet, TIPO held promotional events such as "In Search of an IP Golden Brain" and "Let's 'Like' IP" on October 26 and December 15, as well as produced and broadcasted 26 cartoons and animations entitled "Court Rulings 1-3," "Ways to Protect Copyright," "Easy-to-Understand Introduction to CMOs" and "Copyright for Wedding Videos". As of the end of December, TIPO had uploaded 193 messages, answered 61 questions on Internet copyright, and 5,000 fans added to the "Let's Support Original Works" fan page.