



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE
MINISTRY OF ECONOMIC AFFAIRS

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Quarterly Report on Taiwan's Intellectual Property Rights Protection

To reflect the occasion and the spirit of the 2009 World IP Day, TIPO teamed up with experts in academia, industry and research to plan a variety of events which advocated the importance of IPR protection and the spread of international trade and investment.

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Special Report

Taiwan remains off Watch List in 2009 USTR Special 301 Report, rewarding continued efforts toward Taiwan IPR protection

On January 17, 2009, after the conclusion of an Out-of-Cycle Review (OCR), the United States Trade Representative (USTR) announced its removal of Taiwan from the 2008 Special 301 Watch List, citing Taiwan's much-improved efforts on behalf of IPR protection in recent years. This recognition was reinforced with the release of the USTR 2009 Special 301 Report on May 1, as Taiwan was once again left off the Watch List.

In the 2009 report the USTR noted Taiwan's considerable improvement of IPR protection measures and accomplishments, namely the opening of Taiwan's new IP Court in July 2008, positive results from the Ministry of Education Campus IPR Plan, adherence by Taiwan prosecutors to regulations in the 2007 Copyright Act amendment regarding P2P file-sharing, and passing of the ISP Bill, which was approved by the Legislative Yuan in April 2009 and signed into law on May 13. The report also expressed USTR concern, however, for Taiwan's progress in combating online infringement and expediting market access for pharmaceutical patents.

TIPO welcomes the USTR's recognition of these efforts and its decision to remove Taiwan from the Special 301 Watch List. This success was made possible in large part through the hard work of private enterprises and judicial, executive and legislative agencies in the Taiwan government. These recent accomplishments will be used as a foundation on which to continue the mission of protecting IP rights in the months and years ahead.

IPR Working Group efforts praised at Bilateral Taiwan-EC Consultation Midterm Review Meeting

At the Bilateral Taiwan-EC Consultation Midterm Review Meeting, held in Taipei on May 25, the IPR Working Group reported on the minutes from their digital video conference of March 24. The Working Group also confirmed that IP Court statistics on foreign cases received have been delivered to the EC as requested. Also discussed at the meeting were plans to hold a seminar on geographical indications (GIs) in fall 2009 and future cooperation between Taiwan and the EC regarding prosecutor training. Following the report, both sides expressed their satisfaction with the recent achievements and progress of the Working Group on all matters.

Taiwan delegation attends WTO-TRIPS Council Meetings and Special Session in Geneva

A Taiwan delegation composed of representatives from TIPO, the National Treasury Agency of Ministry of Finance and Taiwan's permanent mission to the WTO were dispatched to Geneva, Switzerland to attend the WTO Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) regular meeting and special session on June 8-10, 2009.

The regular meeting included discussion by all members of issues such as review of member legislation, the relationship between the TRIPS Agreement and the UN Convention on Biological Diversity (CBD), technical cooperation and capacity building and detaining generic drugs in transit. The special session focused on developing a multilateral system of notification and registration of geographical indications for wines and spirits.

Taiwan-Japan Economic and Trade Conference holds midterm review meeting

On June 18, 2009, representatives from TIPO were present at a midterm review meeting of last year's 33rd Japan-Taiwan Economic and Trade Conference. The two sides gave follow-up analysis of the 12 Taiwan proposals and 16 Japan proposals (including joint proposals) originally presented by the IPR Working Group at the November 2008 conference. Due to the thorough preparation of both sides, the meeting was both productive and harmonious.

Legislative Amendments

Copyright Act draft amendment (ISP Liabilities Bill) officially signed into law

In recent years, increasingly rampant Internet infringements have struck a severe blow to copyright protection. These infringement activities require the services provided by Internet service providers (ISPs) before they can be operational. To tackle this growing problem, the Executive Yuan proposed an amendment to the Copyright Act (ISP liability limitation bill) after a thorough examination of "safe-harbor" legislation adopted by other countries. This bill completed third reading at the Legislative Yuan on April 21 and was signed into law by the Presidential Office on May 13.

The passing of this new bill will induce ISPs to better assist copyright holders in defending against the illegal uploading and circulation of infringing material over the Internet. Furthermore, by ensuring a stable legal framework for ISPs and the legal rights of all Internet users, TIPO expects these new measures to serve as a lasting, positive influence on copyright protection in Taiwan.

TIPO holds public meetings for Copyright Act and Copyright Intermediary Organization Regulations amendment

In order to help solve and prevent the frequent music broadcast licensing disputes which occur in Taiwan, TIPO completed preliminary drafts of an amendment to the Copyright Act and a revision to the Copyright Intermediary Organization Regulations. These drafts were presented at a public hearing convened by TIPO on March 5, 2009, which featured a thorough discussion by all sectors present. Following this hearing, the Copyright Examination & Mediation Committee convened on March 25 and April 15 to solicit opinions from academic experts; these meetings were followed by a second public hearing on May 6. After having received the new feedback from all sectors during this period, the two drafts underwent further revision by TIPO before being posted on the TIPO website on May 22. An outline of each draft and their respective subsequent revisions is stated below:

1. Copyright Act draft amendment:

The preliminary draft included an amendment to Article 37, Paragraph 1 of the Copyright Act, which would incorporate the licensing of second usage of public broadcast into collective management system. However, due to the unsatisfactory response expressed by various sectors at the public hearing, it was decided to postpone legislation of this section of the Act and amend Article 37, Paragraph 6 instead to avoid negatively impacting the current copyright licensing industry. The revised amendment includes the insertion into Paragraph 6 of Sub-paragraphs 2 and 3, which stipulate that in cases where original sounds or images are illegally rebroadcast or transmitted via loudspeaker or other device to the public without permission from the copyright holder, only civil remedies may be sought by the copyright holders, with criminal action no longer to be available. These revisions were to be presented at another public hearing scheduled for August 4, 2009.

2. Copyright Intermediary Organization Regulations draft amendment:

Key features of this amendment will include the following: regulation of the number of collective management groups in operation; establishment of unified remuneration rates among collective management society amendment of the review system for remuneration rates; measures to help prevent unnecessary criminal lawsuits; and production and distribution of a registry of CMOs and a list IPR usage for users. Through the measures proposed in this bill, TIPO aims to solve common practical licensing disputes and the flow of the copyright licensing market. The bill has been submitted to the Executive Yuan by the MOEA and is currently under review.

Latest Developments

1. To help Taiwan's small and medium enterprises (SMEs) gain valuable business capital through proper utilization and management of IPR, the MOEA Small and Medium Enterprise Administration (SMEA) has commissioned the Chinese Management Association to help promote Small and Medium Enterprises Intellectual Property Financing Program.

In order to underline the importance of IPR-related infringement and licensing management, through educational awareness and case-study approach, the SMEA has developed an array of strategies to attract the interest of enterprises and increase their knowledge of IPR. Topics included problems arising from IP structure and IP infringement, patent filing and patent litigation strategies, and the benefits of registering well-known trademarks. A total of eight presentations were held in the first half of 2009, attracting over 245 participants.

On May 8, an audience of 36 attended the IP Management Community Forum in Taichung. A panel of experts was invited to the forum to share experiences and discuss opinions on IPR-related concerns with SMEA representatives.

In the first half of 2009, the SMEA completed visits to 50 factories throughout Taiwan, where SMEA officials examined the IPR management system of each business and provided consultation and preliminary assistance on IP matters where needed.

2. In order to promote the distribution and application of IP and to build an active marketplace of trade for IP distribution, the MOEA Industrial Development Bureau (IDB) authorized the Industrial Technology Research Institute of Taiwan (ITRI) to execute the TWTM plan. Taking foreign technology transfer and relating valuable IP experiences as models, the TWTM plan organized the "Taiwan-Japan Promotion Seminar on IP Distribution and Application" on April 20-24, 2009 at the Taipei Technology Building. Speakers from the National Center for Industrial Property and Training (INPIT) and IP Trading Japan (IPTJ) were invited to share their experiences on technology transfer and patent trade. The agenda for the symposium included enlightening lectures by the INPIT and IPTJ on the following topics: "Brief Guide on Chartered Distribution and Promoted Enterprise", "AD Activities of Patent Distribution and Successful Case Introduction", "Authorized Negotiations before Contract Conclusions", and "Review of Methods on Patent Technology Enterprisization". IPTJ lectures included "Successful Case Introduction on Buying, Transferring and Licensing Japanese Patents" and "Evaluation on IPRs". Through the experience-sharing and exchanging between foreign experts of technology transfer, we hope to raise the capacity of R&D and IP services in Taiwan. The five-day event drew a total of 199 participants and successfully attained the goal of international exchange and cooperation.
3. To help celebrate World IP Day, recognized annually worldwide on April 26, TIPO kicked off its schedule of events with the "Cultural Creativity and Intellectual Property Symposium", held on April 22 at the SPOT-Taipei Film House Conference Room in Taipei. Prominent speakers from academia, industry and research were invited to the event to discuss key issues relating to IPR and cultural creativity. On April 25, the 2009 World IP Day Outdoor Awareness Fair was held at the west side of the National Dr. Sun Yat-sen Memorial Hall in Taipei. Officials from the Consumer Protection Commission, Department of Health, and the Council of Agriculture were invited to the event to educate the public on the dangers of counterfeit alcohol, tobacco and pharmaceutical products, which cause major economic losses to businesses and pose threats to the health and safety of consumers. The venue included 30 booths displaying both original and counterfeit samples of everyday items such as agricultural and pharmaceutical products, clothing, and alcoholic beverages. Experts were on hand to give presentations on counterfeit identification techniques in order to educate consumers on popular counterfeiting practices. A total of nearly 1000 spectators attended the day's activities. Well-known Taiwanese singer-songwriters Tai, Ai-ling and Hsiao, Hung-jen were also invited to perform songs and promote a public pledge to support original works and stand up against piracy. All spectators bringing original DVDs or CDs to the event were eligible to sign the pledge.
4. Through the assistance of the Chinese National Federation of Industries (CNFI), TIPO invited a delegation from the All-China Patent Agents Association (ACPAA) to visit Taipei on May 8-15, 2009. The visit included the two-day, six-session 2009 Cross-Strait IPR Exchange Forum, on May 13-14.

5. To improve knowledge of copyright regulations among Taiwan’s law enforcement officials and prevent avoidable disputes caused by improper copyright investigation procedures, TIPO has joined forces with the National Police Agency (NPA) to plan a series of training seminars for police agencies throughout Taiwan in 2009. Beginning on June 18, a total of 10 seminars were scheduled for nine city and county police departments, including Taoyuan County, Changhua County, Hualien County, Tainan County, Yunlin County, Taipei County, Taipei City, Taichung City and Kaohsiung City.

The role of these seminars is to provide law enforcement officials with a clear, comprehensive outline of Copyright Act laws and the role of copyright intermediary groups. Instructors examine common types of copyright cases relating to karaoke and KTV broadcasts, CDs and DVDs sales, and online shopping, and the key points to know during investigation of such cases. Also introduced are the types of criminal litigations that can be brought about by copyright intermediary groups due to infringement of public broadcast and public performance rights. It is TIPO’s hope that these seminars will establish a solid foundation in copyright laws and concepts among law enforcement officials in Taiwan when investigating infringement. This foundation, in turn, will help uphold the rights of business and consumers while maintaining the public trust in Taiwan’s investigative agencies.

Enforcement and Latest Statistics

National Police Agency (NPA)

In accordance with the “NPA-assisted IPR Anti-infringement Implementation Plan,” all police agencies in Taiwan are directed by the NPA to keep up the ongoing fight against piracy and counterfeiting by continually strengthening investigative efforts. Local police authorities have established special task forces for periodic sweeps of major night markets and other market venues, and strengthened the investigation of Internet infringement and the sales of counterfeit and pirated products using newspaper inserts.

In the period from April to June 2009, the NPA uncovered a total of 1,478 IPR infringement cases involving 1,625 suspects. Of the infringement cases, there were 771 trademark infringement cases involving 843 suspects and 707 copyright infringement cases involving 782 suspects. A total of 160,061 pirated ODs were uncovered during this period (see Table 1).

During the same period, the NPA also uncovered 8 cases of newspaper inserts with advertisements for counterfeit and pirated products. This compares to 2 similar cases during the second quarter of 2008. Discovered cases of infringement at night markets and other popularly-known locations from April to June 2009 totaled 82, a 44.6% decrease from the 148 such cases handled during last year’s first quarter, while the number of Internet infringement cases increased by 3.75% from the same April-June period in 2008, from 826 to 857. The NPA did not handle any cases involving infringement-related phone disconnections during this quarter, a sharp difference from the 133 disconnections performed over the same three months in 2008.

In relation to sales of pirated or counterfeit goods via newspaper inserts, transactions at night markets and over the Internet remain the more common types of infringement. The NPA will work to continue improving investigation of newspaper insert cases while recognizing the need for stronger enforcement of online infringement and illegal night market sale investigations.

On June 15-17, the NPA also launched “2009 Anti-Piracy Project 2”. In total, the crackdown produced 474 cases involving 524 suspects.

Table 1: Statistics for IP Infringement Cases (April – June 2009)

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
2009 (Apr.–Jun.)	1,478	1,625	771	843	707	782	160,061
2008 (Apr.–Jun.)	1,790	1,969	924	1,044	866	925	152,122
Percentage Change: 2009 (Apr.–Jun.) /2008 (Apr.–Jun.)	-17.43%	-17.47%	-16.56%	-19.25%	-18.36%	-15.46%	5.22%

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

IPR Police

To strengthen the investigation of IPR infringement cases, the IPR Police has remained diligent in making Internet and night market sweeps. From April through June 2009, the IPR Police uncovered 66 night market cases involving 40 suspects; 38 store cases involving 50 suspects; 384 Internet cases involving 406 suspects; 8 newspaper insert cases involving 15 suspects; and 1 factory case involving 1 suspect. In total, the IPR Police uncovered 216 copyright infringement cases involving 205 suspects, and 320 trademark infringement cases involving 357 suspects.

Major infringement cases during this quarter included the following:

- On April 1, the IPR Police Special Task Force uncovered a business suspected of illegally selling counterfeit bedding accessories in violation of the Trademark Act. A total of 581 items printed with an unauthorized Louis Vuitton trademark were found at a storefront and warehouse in Wugu Township, Taipei County. The case was subsequently turned over to the Banchiao District Prosecutors Office for further investigation.

- On June 6, investigators in Xinyi District, Taipei City, uncovered a business suspected of using advertisements in newspaper inserts to illegally sell pirated ODs in violation of the Copyright Act. Total evidence seized on site included 3,057 pirated music CDs, 25,566 pirated DVDs, 5,428 pirated pornographic CDs, 2 hard drives, 19 OD burners, 24 cellular phones, 5 SIM cards, 820 blank ODs, and one box each of catalogs and order forms. The case was subsequently turned over to the Taipei District Prosecutors Office and the Tainan District Prosecutors Office for further investigation.
- On June 8, investigators uncovered a case of one suspect accused of uploading copyrighted song files without authorization to a personal blog site. The suspected URL had a total of 102 song files and had received a total of 203,581 hits by unspecified users as of March 30, 2009. IPR Police investigators subsequently forwarded the case to the Taoyuan District Prosecutors Office for further investigation.

Joint Optical Disk Enforcement Taskforce (JODE)

From April to June 2009, JODE conducted 214 inspections (103 daytime and 111 nighttime) of OD factories, printing plate factories and related facilities. This total is a decrease of 36 from the 250 inspections (126 daytime and 124 nighttime; see Table 2) performed over the same period last year. JODE also conducted 66 documented audits of the internal control and audit systems of outstanding OD factories after advising them on the establishment of such systems. In June, a symposium was organized featuring representatives from JODE and OD companies, creating useful communication between government and industry on OD-related issues.

In order to help prevent illegal circulation of OD-manufacturing equipment, an island-wide inspection of all OD factories in Taiwan was conducted by JODE and completed in late May. JODE officials visited 75 OD factories around Taiwan, where they gave presentations on declaration of machines for import/export.

In collaboration with the IPR Police on night market sweeps, JODE participated in uncovering 2 cases involving suspected sale of pirated ODs from January to March 2009. Investigators seized a total of 424 ODs and NT\$1,400 in cash in these cases. The estimated market value of all illegal items was more than NT\$6,000,000.

Table 2: JODE Inspection Results (April – June 2009)

Number of Inspections		2008		2009			
		Jan.-Dec.		Apr. -Jun			
		916		250			
		Day	Night	Day	Night		
		408	508	126	124	103	111
Number of Cases Found Violating the Optical Disk Act		0		0		0	
Number of Plants Closed	Manufacturing Plants	4		1		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

Directorate General of Customs (DGOC)

Customs enforcement of the Operational Directions for Customs Authorities in Implementing Measures for Protecting the Rights and Interests of Patent, Trademark, and Copyright and other border measures yielded the following results from April to June 2009 (see Table 3):

Table 3: DGOC Inspection Results (April – June 2009)

April – June 2009	Trademark Infringement		Copyright Infringement		No SID Codes on Export ODs	False Declaration of Export ODs	Violation of SID Code	False Declaration of Trademark
	Export	Import	Export	Import				
Cases	0	58	0	8	0	3	1	98
Amount	0	819,009	0	8,045	0	902	50	0

In the area of major inspections, the Kaohsiung Customs Office uncovered an transit shipment of 424,990 packages of counterfeit King brand cigarettes on April 14. On April 22, the Taipei Customs Office uncovered an imported shipment of 2,650 pirated Nintendo Wii video game ODs. On May 6, the Keelung Customs Office uncovered an import shipment of 1,800 unlicensed toys produced from characters from the DreamWorks animated film Kung Fu Panda. Keelung customs officials also uncovered an import shipment of 800 counterfeit Philips brand radio tuners on June 8. On May 12, an imported shipment of 1,813 pairs of counterfeit DVS and eS brand skateboarding shoes was uncovered by the Taichung Customs Office. All evidence from these seizures was turned over to prosecutors according to Taiwan law.

In the area of international cooperation, the DGOC provided international customs offices with information on 17 counterfeiting and piracy cases from April to June 2009 as part of active efforts to increase the flow of data

between foreign customs offices on counterfeiting offenses. On April 1, April 17 and May 25, the DGOC was visited by right holder groups (including Nokia, among others) and their Taiwan agent representatives to discuss investigation of counterfeit products and related issues with DGOC officials. The visitors also took time during the meeting to acknowledge the anti-counterfeiting efforts of DGOC in Taiwan.

In the area of personnel training, three counterfeit identification seminars were held on April 7 and 15 at the Kaohsiung and Taichung Customs Offices. The seminars served to enhance professional knowledge and enforcement abilities among DGOC officials. A total of 408 officials took part in these seminars.

Status of Court Rulings

(Taiwan High Court Prosecutors Office, HCO)

Between January and June 2009, district courts closed a total of 2,003 IPR infringement cases. Of these, 373 suspects in 282 cases were indicted under ordinary procedures; 586 cases involving 612 defendants filed for summary judgment; and 899 indictments involving 929 defendants were deferred. During the same period, 881 defendants were sentenced to prison terms with a conviction rate of 93.4%.

The adjudication of IPR cases by District Courts is outlined below (Table 4):

Table 4: Status of Adjudication of Public Prosecutors' Offices of District Courts

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	2009 (Jan.-Jun.)	1,110	881	437	65	10	1	-	332	36	62	167	
	2008 (Jan.-Jun.)	1,753	1,465	805	72	15	1	-	528	44	86	202	
	Change (%)	-643	-584	-368	-7	-5	-	-	-196	-8	-24	-35	

Source: The Prosecutors' Office for the Taiwan High Court

IPR Awareness

1. With the aim of curbing copyright infringement and raising public consciousness for copyright protection in today's digitized society, TIPO in 2008 helped develop and organize a large-scale poster design competition for adults and students alike. Armed with the widespread support this event from all fields, TIPO this spring kicked off the 2nd annual 2009 Copyright Awareness Poster Design Competition, calling on all professional, budding and student designers to participate. Entrants may compete in either senior/vocational high school, college/university, and open categories.

This year's competition hopes to attract more of the best artistic designs by increasing the number of qualified entrants and through extending the registration period to five months, from April until September 7. This year's competition was expanded to include college and university students. Participants are encouraged to create designs addressing themes pertaining to the protection of copyright in our daily lives, such as illegal blog posts, P2P file sharing, copyright on the World Wide Web, copyright on campus, and protecting musical creations. First prizes in all categories will include cash prizes of NT\$50,000. More details can be viewed on the event website: <http://www.ipposter.com.tw/>

2. This year once again saw the creation of valuable young reinforcements for the teaching of IP awareness in schools across Taiwan. A total of 150 students from legal service clubs in 20 colleges and universities around the island are, since completion of their training in April 2009, travelling throughout the year to 150 elementary and junior high schools, where they will plan and perform entertaining IPR awareness activities for their student audiences. The 2009 itinerary will include visits to schools in rural mountainous regions as well as Taiwan's outer islands, such as Matsu, in order to maximize the reach of IPR awareness concepts to all students at an early age.

With the complementary aims of suppressing illegal textbook photocopying and protecting the copyrighted works of authors, TIPO continues to promote outlets for the exchange of second-hand textbooks. This year's campaign kicked off in May 2009 with the set-up of 26 centers for the sale and purchase of used textbooks in campus bookstores across Taiwan, providing students with an additional, cost-effective method for obtaining originally published material. With the enlisted help of 26 post-secondary schools and student clubs, a "Used Textbook Recycling Week" was also declared for the period of June 20-30. By focusing student attention on this practice, TIPO aims to encourage a stronger trend on all campuses toward the use, and re-use, of original copyrighted textbooks.

TIPO has also continued operation of a second-hand textbook website at which college and university students and all other interested Internet users across Taiwan may exchange used textbooks online. The site provides yet another economic and convenient method for acquiring copyrighted scholastic work while simultaneously deepening respect for IPR among all users.