

## **Report on China's Intellectual Property Protection in 2006**

With the gradual perfection of the socialistic market economy system and the speedy development of the economic globalization, the function of the intellectual property (IP) in Chinese economic construction and scientific and technological innovation has become increasingly noticeable. In 2006, Chinese government attached great importance to the IP work. The status and role of IP had been enhanced to a historical height and great improvement was achieved in the protection of IP in China.

In 2006, three kinds of patent applications accepted by the State Intellectual Property Office (the SIPO) amounted to more than 570 thousand, and the trademark registration applications accepted by the Trademark Office under the State Administration for Industry and Commerce (the TMO) were more than 990 thousand. Fruitful results had been obtained in copyright protection. Notable results were attained for customs offices, public security organs and cultural departments to crack down on IP infringement and piracy. The protection of new varieties of plants achieved new progresses. The standard of IP judicial protection was raised continually. The level of IP international cooperation was improved constantly.

### **I. The Role of IP being Enhanced to a Historical Height**

Hu Jintao, Secretary General of the CPC Central Committee, aiming at strengthening China's IP system and paying more attention to IP work, delivered an important speech in the Politburo's 31st collective study on May 26, 2006. He said: "We should give full play to IP system in strengthening national economic, scientific and technological capabilities as well as our international competitiveness and safeguarding national interests and economic security, so that it can provide a strong backbone for China to enter the ranks of innovation-oriented countries." In the Central Economic Work Conference in December 2006, Secretary General Hu Jintao emphasized again that we should accelerate the establishment and improvement of the system of IP protection and form a number of world famous brands with independent intellectual property rights (IPR).

From April 16 to 23, an exhibition of achievements in IP protection, co-sponsored by 11 departments such as the Leading Group of IP Protection of the State Council, Ministry of Commerce and the State Intellectual Property Office of China (SIPO) was held in Beijing. It was the first time for Chinese government to hold a large-scale exhibition that focused on the overall situation and achievements in China's IP protection. Premier Wen Jiabao and Vice Premier Wu Yi visited the exhibition respectively and made important speeches. Premier Wen Jiabao pointed out in his speech, "To protect IPR is to respect knowledge, encourage innovation and protect productivity." He also stressed, "China would strengthen enforcement, administrative supervision, international cooperation and Education for All (EFA) to form a relatively complete IP protection system."

Premier of the State Council Wen Jiabao delivered a speech at China-EU Industry and Commerce Summit 2006 on September 12, entitled "Insisting on Mutual Benefit and Win-win, Strengthening Cooperation and Innovation". He pointed out, "Protecting IP is not only the need of fulfilling the international obligations, but also the need of China's own development and the need of improving the capability of independent innovation. China's attitude towards IP protection is clear and the commitment is firm. "

In 2006, the formulation of the National IP Strategy achieved important initial results. The research of 20 themes had been basically completed. The formulation of the core outline of the National IP Strategy had made important progress. Based on the extensive investigation and in-depth research on China's IP development and international situation, the goal, the strategic focus and the support measures of the National IP Strategy were put forward preliminarily. On September 29, Chairman of the National IP Strategy Formulating Leading Group, Vice-premier Wu Yi held the second meeting of the leading group and made an important speech. Wu Yi stressed, "The CPC Central Committee and the State Council attach great importance to the formulation of the National IP Strategy. All relevant thematic groups should guide the overall groups based on the scientific development outlook and in close connection with the building of an innovation-oriented country, should seek the truth and innovate, and should complete the task with high standards and high quality."

On July 31, Vice-chairman of the NPC Standing Committee, president of the All-China Women's Federation Gu Xiulian inspected the SIPO and fully affirmed the work of IP. She also pointed out, "It is essential to attach importance to independent innovation and IP protection in the path of build an innovation-oriented country, and it is necessary to improve China's IP system by means of further strengthening IP legislation, law enforcement inspection and supervision and construction of professionals."

## **II. High-speed Increase in Patent Application and Granting, Notable Progress in Every Task**

In 2006, the construction of patent laws and regulations was continuously strengthened. In July, the official implementation of the revised version of the Guidelines for Examination indicated that Chinese patent examination had entered a new development stage. In December, Patent Law Amendment Bill of the People's Republic of China (the item) was officially formed. It was the third revision after that of 1992 and 2000.

In 2006, a total of 573,178 patent applications were accepted by the SIPO, an increase of 20.3% over 476,264 of the previous year. 3,826 international patent applications were accepted by the SIPO and 332 international preliminary examination reports were completed. By December 31, 2006, a total of 3,334,374 patent applications had been accepted by the SIPO. Of these applications, 2,727,626 were from domestic applicants

and 606,748 were from foreign applicants, accounting for 81.8% and 18.2% of the total, respectively.

The patent applications in 2006 were characterized by the following facts: (1) The number of three kinds of patent applications continued to see substantial growth, and among three kinds of patent applications, the invention patent applications had a greater increase. In 2006, the increase rate of three kinds of patent applications was 20.3% and the increase rate of the invention patent applications was 21.4%. From 2000 to 2006, three kinds of patent applications and the invention patent applications have had an average growth rate of over 20% for seven consecutive years, respectively. (2) The annual increase rate of domestic applications was 12.4% higher than that of foreign applications. The former was 22.8%, 12.4% higher than the latter, which was 10.4%. (3) The increase rate of domestic invention patent applications was significantly higher than that of foreign invention patent applications. For the invention patent applications with relatively higher technical contents, the domestic applications increase 30.8%, 20.4% higher than the latter, which was 10.4%. (4) The increase rate of service invention applications was higher than that of non-service invention applications in three kinds of domestic patent applications. The increase rate of service applications of three kinds of domestic patent applications was 28.1% over the previous year, 9.1% higher than that of non-service applications, which was 19.0%.

In 2006, 268,002 patents were granted by the SIPO, an increase of 25.2% over 214,003 of the previous year. Of the granted patents, 223,860 were from domestic applicants, an increase of 30.4% over 171,619 of the previous year, and 44,142 were from foreign applicants, an increase of 4.1% over 42,384 of the previous year. By December 31, 2006, 1,737,507 patents had been granted by the SIPO. Of them, 1,488,725 were from domestic applicants and 248,782 were from foreign applicants, accounting for 85.7% and 14.3% of the total granted patents, respectively.

In 2006, 2,894 requests for patent re-examination were accepted by the SIPO showing a decrease of 336 or 11.6% over the previous year. Of all the above requests, 2,824 were related to those against decisions rejecting the applications for invention patents and those against decisions on requests for revocation by the examination departments, accounting for 97.58% of the total. 2,667 re-examination request cases were concluded in 2006, and 4,442 cases were pending at the end of 2006. In 2006, 2,468 requests were filed for the patent invalidation, 381 more than that of 2005, an increase of 18.26%. 2,022 cases filing for the patent invalidation were concluded in 2006 and 2,707 cases were pending at the end of 2006.

In 2006, 417 applications for registration of layout design of integrated circuits were received by the SIPO, an increase of 55% over 269 of the previous year. 373 of them were registered and issued related public notices as well as certificates, an increase of 41.8% over 263 of the previous year. By December 31, 2006, the SIPO had received a total of 1,380 applications for registration of layout design of integrated circuits, and 1,219 of them were published and issued certificates.

In 2006, the patent administration departments at provincial levels across the country accepted 1,227 patent infringement cases and 43 other kinds of disputation cases. 973 cases of them were concluded and the rate was 76.6%. They also dealt with 33 cases of unauthorized use of others' patents and 933 cases of patent counterfeits. In the year, local patent administration departments dispatched 20,475 enforcing administrators and checked 7,780 commercial establishments and 2,968,249 pieces of goods. 12 cases were transferred to the public security authorities, 35 cases were accepted from other departments and 469 times of coordinated enforcement with other departments were launched.

### **III. Sharply Increase of Trademark applications, Continuously Enhancement of Trademark Protection**

In 2006, all kinds of trademark related applications in China had a continuously substantive growth and amounted to 996 thousand, an increase of 158 thousand or 18.8% over 838 thousand of 2005. The number of trademark registration applications is 766 thousand, an increase of 102 thousand or 15.4% over 664 thousand of 2005, the third time more than 100 thousand pieces of annual growth after 2002 and 2004. The trademark registration applications from foreign applicants had risen to a new high and amounted to 97,043, an increase of 26,408 or 37.4% over 70,635, the first time more than 20 thousand pieces of annual growth, accounting for 12.7% of total applications in the year. China's trademark registration applications have been ranked first in the world for five consecutive years.

In 2006, 54,444 registered trademark renew applications, 16,879 registered trademark opposition applications, 69,664 registered trademark change applications, 61,698 registered trademark assignment applications, 7,806 registered trademark revocation & cancellation applications, 15,609 registered trademark licensing contract record applications were accepted by the TMO.

In the year, 313,055 trademark registration applications were examined and 275,641 applications were approved by the TMO. And 49,366 registered trademark change applications, 46,312 registered trademark assignment applications, 43,041 registered trademark renew applications, 59,818 registered trademark revocation & cancellation applications, 4,074 trademark opposition adjudication applications and 17,983 registered trademark licensing contract on record applications were transacted.

In 2006, 180 well-known trademarks were certified by the TMO and the Trademark Review & Adjudication Board of the State Administration for Industry & Commerce (the TRAB). Of these well-known trademarks, 139 were certified in the trademark management cases and 10 were in the registered trademark opposition cases by the TMO, and 31 were certified in the cases of disputes over ownership of trademark by the TRAB. 170 well-known trademarks were attained by Chinese enterprises (including 2

enterprises from Hong Kong, 2 enterprises from Taiwan) and 10 well-known trademarks were attained by foreign enterprises (including 3 from Japan, 2 from the United States, 1 from Germany, 1 from France, 1 from Switzerland, 1 from South Korea, and 1 from Thailand).

By the end of 2006, the registered trademarks relating to China's agriculture products reached 370 thousand, or about 13% of the total registered trademarks. China's registered geographical indications had reached 219(including 21 from foreign applicants) and 81 of them were approved in 2006. Among 800 well-known trademarks certified by the TMO and the TRAB, nearly 100 were the well-known trademarks relating to agriculture products and 4 were well-known geographical indications ("Jingdezhen porcelain", "Anxi Tie-Guan-Yin oolong tea", "Zherong Radix Pseudostellariae" and "Korla pear").

In 2006, there were 14,960 trademark review applications received by the TRAB. Of these applications, 11,893 were filed for review on refusal, accounting for 79.5% of the total, 295 were filed for review on decisions of cancellation, accounting for 1.97% of the total, 1,450 were filed for review on decisions of opposition, accounting for 9.69% of the total, 1,322 were filed for adjudication on disputation, accounting for 8.84% of the total. In the past year, there were 4,219 trademark review and/or adjudication cases handled by the TRAB. Of them, 2,925 were filed for review on decisions of refusal and cancellation, accounting for 69.33% of the total, 1,294 were filed for review on opposition and adjudication on disputation, accounting for 30.67% of the total. And the TRAB acted as one party in 215 administrative litigations of first instance, as well as in 111 administrative litigations of second instance.

In 2006, the State Administration for Industry and Commerce (the SAIC) organized a focus on commodity wholesale and retail markets of public concern to restore order, intensified the supervision and management over commodity wholesale markets in Beijing, Shanghai, Guangdong, Zhejiang and so on, and also investigated and disposed and even banned a large number of illegal operators. In addition, local administrations of industry and commerce actively explored a long-term mechanism to control trademark infringement. 164 markets in Beijing implemented the "trademark authorization management system." Luohu commercial market in Shenzhen imposed the "one strike, you are out" system on the traders selling counterfeit goods.

In 2006, all levels of administrations of industry and commerce across the country supervised and dealt with a series of serious trademark related cases which were abominable in nature and affected a wide range. According to the statistics, 50,534 trademark violation related cases covering different categories were investigated and disposed, an increase of 2.27% over 2005. Of these cases, 9,562 were foreigner-related, an increase of 41.24% over 2005. About 30.36 million pieces (sets) of trademark violation related marks were seized and destroyed and RMB398 million was fined; 252 cases and 263 involved persons were transferred to judicial system for criminal liabilities, an increase of 6.78% and 22.33% over 2005, respectively.

#### **IV. Improvement in Mechanism of Administrative Enforcement, Prominent Effects in Copyright Protection**

In 2006, according to the general idea of "keeping promise, corresponding to national conditions, consummating regulations, protecting vigorously", various levels of copyright administrative authorities across the country worked highly effectively in improving policies and regulations, strengthening administrative enforcement, enlarging publicity and popularity, intensifying external communication and so on.

Regulations for the Protection of Information Network Transmission Right was published by the State Council on May 18 and entered into force on July 1. Thus a relatively complete system of copyright laws and regulations, which was constructed by one law and four regulations including Copyright Law of the People's Republic of China, Implementing Regulations of The Copyright Law of the People's Republic of China, Regulations for the Protection of Computer Software and Regulations on the Collective Management of Copyright, had been formed in China. National copyright laws and regulations conformed to the requirements of socialism market economy and international rules further.

In the year, a working mechanism of inter-regional case transformation, information announcement and investigation cooperation was established gradually by means of strengthening communicating and cooperating with various levels of copyright administrative authorities across the country. In March, the National Copyright Administration (the NCAC) set up a cooperating mechanism with Customs and Excise Department of Hong Kong Special Administrative Region for some issues concerned such as continuing implementation of Co-operative Arrangement for Copyright Protection and Crackdown on Pirated Discs. The NCAC, cooperating with the external copyright holders organizations including the International Federation of the Phonographic Industry, the American Film Society, the American Business Software Alliance and so on, also set up an information communicating mechanism of cracking down on transnational infringement and piracy.

On June 1, the NCAC issued the Notice of Launching Special Action of Crackdown on Illegally Pre-installing Computer Software and started a three-month special crackdown on illegally pre-installing computer software. The actions centered on 60 large-scale computer markets in 20 big cities. During the period, 9,369 computer enterprises and 605,110 computers were inspected. The fine of RMB 171 thousand was imposed. 42 computers and 75,774 discs of computer software products were confiscated. One suspected criminal case was transferred to judicial authority. Prominent effects were received.

In October, the NCAC issued the Notice of Launching Special Crackdown on Internet Infringement and Piracy that focused on illegal operations of offering online downloads of

movies, music, software and textbooks for seeking profits. In the special action, the copyright administrative management departments across the country investigated and dealt with 436 cases, alleged infringers in 361 cases of which were ordered to cease their infringement. Also in the campaign, fines worth RMB 705 thousand were imposed, 8 computers and 71 illegal servers confiscated, 205 illegal websites closed, and 6 cases transferred to judicial departments for investigating criminal liabilities.

In 2006, 10,559 cases were received, and 10,344 of the cases, or 98%, were resolved by various levels of copyright administrative authorities across the country. Of all the resolved cases, 8,524 were resolved with administrative punishment, 1,585 were resolved with settlement agreement, and 235 were transferred to judicial authorities. And in the year, more than 73 million pieces of different kinds of pirated products were confiscated. Of all confiscated pirated products, more than 18 million were pirated books, about 1.1 million were pirated periodical magazines, 48 million were pirated audio-video products, 2.01 million were pirated electronic publications, 3.79 million were pirated software discs, and 240 thousand were other kinds of pirated products.

In 2006, cooperating with related departments, the NCAC promulgated and issued a series of documents and continuously deepened the work of using legitimate software. The documents include the Implementation Program of Promoting the Use of Legitimate Software in Enterprises, the Notice About Computer's Pre-installation of Legitimate Operating System Software, the Notice About Government Official Purchases of Computers That Must Be Pre-installed Legitimate Operating System Software, and so on.

Chinese government feasibly executed the strategy of "going out" and continued to expand the space of copyright trade.

## **V. Continuous Improvement of Legal System, Reinforcement of IP Customs Protection**

In 2006, Chinese customs continued to reinforce IP customs protection and achieved prominent effects with regard to various aspects such as improving the legal system of IP customs protection, exploring new approaches of legal enforcement and strengthening striking power towards the IP infringement in the field of importation and exportation.

In order to facilitate the IPR holders to apply to the customs for protective measures, the General Administration for Customs of China (the GACC) issued the Proclamation on the General Security of Intellectual Property Rights Customs Protection on May 30, 2006. In accordance with the provisions of this proclamation, since July 1, the IPR holder, who had been granted the general security by the GACC, would no longer be required to provide security case by case to local customs offices before these authorities taking protective measures towards any import or export goods suspected of infringing the trademark rights. This provision has greatly lightened the economic burden of IPR holders when requesting

the customs to detain the suspected infringing goods and also eased the enforcement procedures of the customs.

To strengthen the striking power over the illegal and criminal activities of IP infringement, the Ministry of Public Security (the MPS) and the GACC jointly printed and distributed the Provisional Regulations on the Reinforcement of Intellectual Property Rights Enforcement Cooperation on March 24, implementing the effective linkage between the administrative enforcement by the customs and the criminal enforcement by the public security organs. Under the guidance of the provisional regulations, local customs offices and public security organs cooperated closely and investigated a passel of large and influential cases, such as the illegal assembly case of "Motorola" and "Philips" used mobile phones, the counterfeit case of branded sports shoes like Nike, Adidas, Puma, and so on.

With the significantly increasing volume of supervision and management, Chinese customs offices have been making tremendous efforts to explore new technologies in enforcement and to adopt many measures like utilizing the advanced instruments and equipments, and applying risk analysis methodology during the course of IP legal execution, by which means the seizure efficiency of infringement goods and the pertinence of enforcement have been greatly improved without lowering or influencing the speed of passing through the customs or the efficiency of seizure. In 2006, the customs offices throughout the country investigated a sum of 2,473 import and export IP infringement goods cases of various types. Of these cases, the quantity of infringement goods reached nearly 200 million, and the value of involved goods was over RMB 200 million.

In 2006, Chinese customs offices actively took special campaigns towards import and export infringement activities in specific areas and particular channels. The GACC launched two campaigns, namely "the special campaign of concentrated striking on the IP infringement activities through the mail delivery channel of express luggage" and "the special IP enforcement campaign by the customs within the Yangtze Delta area", in August and in September respectively. During these two campaigns, the customs offices across the country seized a total of 426 mail delivery and express luggage infringement cases, with goods value of RMB 2.32 million; while, the customs offices around the Yangtze Delta area seized altogether 162 import and export infringement cases, with RMB 16.51 million involved. The seizure of the large amount of cases was effectual in keeping the illegal tendency of import and export infringement goods within the limits and in helping establish the IPR consciousness of relevant enterprises, especially those engaged in manufacturing trade. When they accepted OEM orders, a number of enterprises were getting used to initiatively inquiring whether the contractors held the products' IPR or the products were licensed by IPR holders, which consequently led to the avoidance of unconscious IP infringement to some extent.

The system of IP customs protection central recordation, which was founded in 1995 and well developed through the past decade, obtained remarkable achievements during 2006.



By the end of the year, the number of the effective records maintained in the IP recordation database of the GACC amounted to 9,917, among which nearly 2,000 new records were added in 2006 alone, with an almost 50% increase compared with the previous year.

During the period of "World Anti-Counterfeiting Day" on June 14, 2006, the International Anti Counterfeiting Coalition granted Chinese customs "Global Anti-Counterfeiting Governmental Organization Award of the Year", indicating the international community's recognition of the outstanding performance China customs had achieved in IP protection for the past years.

## **VI. Strict Crackdown on Infringement and Piracy, the Audio-video Market in Good Order**

In 2006, the Ministry of Culture (MOC), emphasizing on inspection and management of the audio-video market as well as IP protection, coordinated prosperity and standardization in the work of audio-video market management. The approach had given impetus to the deployment of various tasks. Cultural administration authorities throughout the country adopted effective measures to treat strict crackdown on illegal audio-video product businesses and rectify and standardize the order of the audio-video market. In the year, cultural administration authorities throughout the country dispatched over 5.03 million enforcing administrator times, inspected over 1.02 million audio-video market times and confiscated over 110 million copies of pirated audio-video products. The order of the audio-video market was improved markedly.

In dealing with the obvious problems and current situations of these years' audio-video market, the MOC revised and improved the Management Measures for Audio-video Products' Wholesale, Retail and Rent in the year. The new measure strengthened the construction of distributional networks of legitimate audio-video products by means of lowering thresholds for entering the market and simplifying the examination and approval procedures. In the aspect of administrative punishment, the new measure described concerned rules regulated in the Management Regulations of Audio-video Products in detail and was easy to apply. It is an effective legal support for cultural administration authorities at all levels to fight against illegal business abilities.

In September, the MOC released the Notice on Improving a Long-lasting Management Mechanism in the Audio-video Market's Management Construction. The notice claims that cultural administration authorities at all levels should comply with the follow four aspects. First they should estimate the business situations of the audio-video markets as well as managerial centers in accordance with the law and keep their information on file. Second they should advance the announcement system of enforcement and inform the public by news media about the markets, warehouses, delivery companies and spots which are punished for illegal audio-video products' business. Third they should rigorously carry out responsibility system of administrative enforcement, definite obvious problems and key

links and separate inspecting and managing obligations into parts. Fourth they should strengthen the construction of distributional network of audio-video products and improve the circulation channel.

In March, the MOC released the Working Plan on Audio-video Market Rectification 2006, which deployed the rectification tasks of the whole year and decided to start the national "Sunshine Campaign" in audio-video market. During the first and second quarter, to build a sound market environment, "Sunshine Campaign I" was focused on rectifying the audio-video market during the period of CPC and CPPCC as well as the holiday of the Labor's Day. During the summer vacation, to safeguard the legal rights and interests of the copyright holders and minors, "Sunshine Campaign II" was focused on the clearance of infringing and pirated audio-video products sold by legal wholesale, retail and renting stores. During the National Day and New Year's Day, "Sunshine Campaign III" was focused on providing protection for important Chinese-made movies' distribution. The national "Sunshine Campaign" in audio-video market intensified inspection and disposition of the crucial links, major regions and serious cases, aggravated the criminal and administrative punishment and treated strict crackdown on illegal operations of audio-video products.

From July to October, the MOC organized "the Intensive Enforcement Season" and "100-day Campaign against Piracy" in cultural market nationwide. During these two campaigns, 26 supervision groups from cultural administration authorities across the country thoroughly checked situations in conducting the campaigns of 66 cities from 24 provinces, autonomous regions and municipalities. The supervision groups checked over 1,900 cultural operation sites including audio-video shops and Internet bar, held 11 on-the-spot official meetings, released 3 announcements as well as supervised and disposed a series of serious cases. Cultural administration authorities across the country confiscated over 38.95 million copies (discs) of illegal audio-video products just in the third quarter. On December 8, under the unified arrangement of the MOC, cultural administration authorities of regional city level and above across the country took concerted actions to destroy 37.85 million copies (discs) of illegal audio-video products.

In accordance with the spirit of the Notice on Launching the Activity of "IP Protection Publicity Week"2006 that was cooperatively released by 13 departments such as the National Office of Rectification and Standardization of Market Economic Order and the MOC, in April, the MOC and the country's cultural administration authorities conducted the 8th national legal system publicity in audio-video market ---"Protecting IPR and Attacking Infringement & Piracy" . By means of publicity sites, mass media and confiscation activities, cultural administration authorities at all levels extensively publicized IP laws and regulations, effects of the rectification campaigns and the meaning of IP protection. Public opinions had been guided positively.

## **VII. 100-day Campaign against Piracy Intensively Implemented, Prominent Achievements on Anti-Piracy Gained**

During the year of 2006, the public security organs across the country launched a more deep "100-day Campaign against Piracy" and fought intensively against infringement and piracy with all their strengths for IP protection.

Nationwide public security organs continuously strengthened the striking power against the illegal and criminal actions of infringement and piracy, and successfully solved a passel of infringement and piracy cases as well as seized a number of involved suspects through the measures of mainly two levels, one reinforcing the criminal execution and intensifying striking against infringement and piracy crimes, the other consolidating public security supervision and enhancing the monitoring and controlling capabilities towards concerned regions, key departments and specific industries. According to the official statistics, nationwide public security organs accumulatively inspected the publication sales market and operating units 105,000 unit times, seized more than 28.316 million illegal publications of pirated audio-video products, software and others, and investigated over 2,300 infringement and piracy cases during the "100-day Campaign against Piracy". For the whole year of 2006, 14 illegal CD production lines were seized by public security organs across the country.

To increase the striking power against infringement and piracy activities and implement the coordination and cooperation between the administrative and criminal enforcement, the MPS, together with the NCAC, formulated on March 26 the Provisional Regulations on the Reinforcement of the coordination and cooperation on striking against copyright infringements and crimes, which further particularized the working mechanism of dual-direction case transmission and clue sharing and consultation for serious cases. During the "100-day Campaign against Piracy", the public security organs accepted and dealt with over 270 piracy or infringement criminal cases, which symbolized the formation of join forces fighting against piracy and infringement.

The public security organs at various levels continued to strengthen their capabilities in fighting against illegal CD production lines through effective measures including awarding for informing and making secret inquiries and investigation. On September 5, the public security authorities in Dongguan City, Guangdong Province, successfully demolished an illegal CD production spot, seized 3 criminal suspects as well as 2 lines of illegal VCD production equipment, over 640 illegal matrices, more than 4 thousand finished pirated discs and large quantities of plastic materials producing pirated discs. On September 13, the Public Security Office of Guangdong Province closed down 2 illegal DVD production lines and seized 11 criminal suspects at the same time. On November 11, the Public Security Bureau of Jiangxi Civil Airport destroyed an illegal production spot producing pirated discs, seized 2 illegal CD production lines and over 100 thousand pirated discs as well as a large amount of semi-manufactured goods and raw materials, and captured 18 involved suspects on the spot. According to official statistics, the number of illegal CD production lines seized by the public security organs had reached an aggregated 231 since 1996.

In 2006, local public security organs made tremendous efforts to expand the sources of effective clues and successfully shut off a number of warehouses and distributing channels for pirated publications through such measures as strengthening the public security inspection of the publication market and encouraging the public to report illegal activities. During the first ten days of August, the Public Security Office of Anhui Province succeeded to terminate 3 pirated discs wholesale spots and confiscated over 286 thousand illegal discs. On September 13, the Public Security Bureau of Nanchang City, Jiangxi Province knocked out a giant underground spot for selling and storing pirated audio-video products and confiscated more than 480 thousand pirated copies with an amazing case value exceeding 1.3 million involved. On September 17, the Public Security Bureau of Shenzhen City, Guangdong Province knocked out a spot for storing a great number of pirated copies and confiscated more than 4.9 million pirated copies with a case value over 10 million. This pirated discs case kept the record of the largest quantity and the highest value involved since the launching of the "100-day Campaign against Piracy".

The public security organs across the country brought their functions into full play and successfully solved a number of serious cases of production and sale of pirated publications. On August 14, the Public Security Bureau of Nanjing City, Jiangsu Province cracked the case of distribution of pirated discs with its networks covering the entire city, seized 21 involved suspects and confiscated over 200 million pirated discs and more than 170 thousand RMB proceeds of crime. On August 22, the Public Security Bureau of Hefei City, Anhui Province knocked out a giant criminal group of piracy, seized 7 suspects and confiscated more than 649 thousand pirated books on the spot, with the total involved value amounting to 3.05 million RMB. According to official statistics, during the "100-day Campaign against Piracy", the public security organs altogether solved 370 criminal cases and 379 suspects were arrested or taken into custody. Of all these cases, the piracy criminal cases investigated by the public security organs of three provinces including Guangdong, Jiangsu and Henan were beyond 40 in number.

#### **VIII. Emphasis on System Development and International Cooperation, New Achievements in the Protection of New Varieties of Plant**

In 2006, in accordance with the general idea of "examining scientifically, guaranteeing rights and interests, inspiring innovation and enhancing industries" the Ministry of Agriculture (the MOA) and the State Forestry Administration (the SFA) grasped four aspects including cultivation, protection, utilization and management of plant new varieties. The MOA and the SFA promoted a series of work in the field of system development, advancement plan, strict examination as well as international cooperation and gained a great deal of new achievements.

In 2006, 883 applications for new agricultural plant variety rights were accepted by the MOA and 201 new agricultural plant variety rights were granted. The applications from foreign enterprises and individuals amounted to 35. By the end of 2006, the overall

application and granting quantities respectively reached 3,879 and 899 and the applications had covered 41 genera and species. The domestic applicators were from 30 provinces, autonomous regions and municipalities of Chinese Mainland, and the foreign applicants were from 10 countries including the Netherlands, the United States, Republic of Korea, Japan, Israel, New Zealand, Australia, Spain, South Africa and Germany. In the year, the SFA accepted 51 domestic and foreign applications of new forestry plant variety rights and granted 8 new forestry plant variety rights. The overall quantity of new forestry plant variety rights reached 121.

In dealing with the problems existing in the new agricultural plant varieties examination and test, the MOA researched and put forward the Draft Revision of Implementing Rules for the Regulations on the Protection of New Varieties of Plants (Agriculture Part) in the year of 2006. The draft revision provides a safeguard system which further standardizes the examining, testing and approving procedures of new agricultural plant varieties and reasonably coordinates various kinds of interests.

In 2006, the MOA organized three field crop group conferences of the Re-examination Commission of New Agricultural Plant Varieties. The Conferences reexamined the cases of rejecting the applications for new agricultural plant varieties, changing the names of the approved varieties and declaring the invalidation of new agricultural plant varieties. It was a fact that the dignity of examining and approving the new agricultural plant varieties and the legitimate rights and interests of the concerned ones had been effectively ensured.

In 2006, the SFA obtained remarkable developments in establishment and promotion of new forestry plant varieties test system. On the basis of one test center, five sub-centers, two molecular test laboratories and four special test bases which had been established during the past years, the SFA combined the resources of facilities and categories of related provinces and cities with environmental factors (for instance, the climate factor) and the arrangement of test systems, the establishment of Taiping special test base of new bamboo varieties being initiated in the Huang Mountain, Anhui Province where the international network center of bamboo liana is located. At the same time, the formulation of test guidelines for 14 genera (species) (including *Ginkgo biloba*, *Chimonanthus Praecox*, *Osmanthus fragrans*, *Liriodendron Linn.*, etc.) as well as the establishment of database of known plants categories were also initiated.

On April 12, the SFA, in cooperation with International community of breeders of asexually reproduced ornamental and fruit varieties, conducted an "All Asian Plant Breeders Rights Protection Conference" in Beijing. More than 60 representatives from foreign flower enterprises and over 50 from domestic flower enterprises attended the conference. The conference effectively publicized the protection of new forestry plant varieties, provided communicating groundwork for internal and external flower enterprises and promoted international cooperation.

In order to follow up-to-the-date international test technologies of new forestry plant varieties, the SFA dispatched representative to attending the 10th Seminar on Biomolecular Technology and DNA Print for the first time, which was held by the International Union for the Protection of New Varieties of Plants in November 2006. The report of "Experiences and Prospects of Biomolecular Technology in the Field of China's New Forestry Plant Varieties" was delivered by Chinese representative and strengthened other countries' understanding about development situations of China's new forestry plant varieties.

#### **IX. Increasingly Enhancement in Judicial Levels, Further Reinforcement in IP Judicial Protection**

In 2006, focusing on strengthening judicial capabilities and enhancing judicial levels, people's courts at all levels across China brought every IP trial functions into full play, conducted all kinds of IP cases according to law, coordinated IP relationship appropriately and severely punished activities of IP infringements and crimes. Right holders' legitimate rights and interests as well as public interests were safeguarded effectively and IP judicial protection was strengthened.

In the year, people's courts at all levels across the country accepted total 14,219 IP civil cases of first instance and concluded 14,056 ones, with respective increases of 5.92% and 4.95% over that of last year. These accepted cases were composed of 3,196 patent cases, 2,521 trademark cases, 5,719 copyright cases, 681 technological contract cases, 1,256 unfair competition cases and 846 other IP cases. The concluded cases were composed of 3,227 patent cases, 2,378 trademark cases, 5,751 copyright cases, 668 technological contract cases, 1,188 unfair competition cases and 844 other IP cases. A total of 2,686 IP civil cases of second instance were accepted, 2,652 of which were concluded, decreasingly by 13.74% and 12.07% respectively than those of last year. Another 42 cases were of re-trial proceedings, with a decrease of 3 over the previous year, and 42 cases were concluded.

In the year of 2006, IP cases involved parties of foreign countries, Hong Kong, Macau and Taiwan accepted by national people's courts raised obviously. 353 IP civil cases of first instance involving foreign litigants were concluded, with an increase of 52.16% over that of 2005. 229 IP civil cases of first instance involving litigants from Hong Kong, Macau and Taiwan were concluded, with an increase of 34.71%. In addition, just from January to October in 2006, national people's courts accepted and concluded IP civil cases of first instance involving "three kinds of external-invested enterprises" respectively amounted to 752 and 447. Of these cases, 533 accepted cases and 308 concluded ones were foreign-invested ventures related. 219 accepted cases and 139 concluded ones were Hong Kong, Macau and Taiwan-invested ventures involved. These kinds of external-related IP cases accounted for considerable proportion.

The people's courts sternly implemented the judicial review function over the cases related to authorization of patent and trademark as well as the IP administrative enforcement, to regulate and supervise the enforcement actions of administrative organs in accordance with laws. In 2006, people's courts across the country accepted 1,396 IP administrative cases of first instance, 1,436 cases were concluded during the same period. Of these accepted cases, 458 were patent cases, with an increase of 36.72%; 235 were trademark cases, with an increase of 12.44%; 10 were copyright cases, with a decrease of 67.74%; 690 were technological supervision cases; and 3 were other cases.

As for the IP criminal protection, a total of 2,277 IP criminal cases were concluded by people's courts across the country in 2006, with 3,508 suspects sentenced to be effective judgments and 3,507 suspects sentenced to be guilty. Among them, 769 cases of IP infringement crimes (an increase of 52.28% than that of last year), 437 cases of manufacturing or selling false and inferior commodity crimes, 1,066 cases of illegal business crimes with IP infringement involved in and 5 cases of other crimes were concluded, with 1,212 (an increase of 62.21% than that of last year), 766, 1,525 and 5 suspects sentenced respectively per effective judgements.

In order to further improve IP litigation system, the Judicial Committee of Supreme People's Court discussed and passed two judicial interpretations about adjudicating unfair competition and new plant varieties cases, revised the judicial interpretation about network copyright cases and deeply investigated and appraised the judicial interpretations (Draft Version) about conflict of IP rights and MTV copyright cases.

To reasonably deploy the IP judicial resources, in 2006, the Supreme People's Court (the SPC) appointed 11 intermediate people's courts (such as Intermediate People's Courts in Zhuzhou of Hunan Province, Mianyang of Sichuan Province, Dongguan of Guangdong Province, and so on) to adjudicate the patent related cases of first instance, and Intermediate People's Court in Mianyang of Sichuan Province to adjudicate the cases of new plant varieties of first instance. The SPC also approved two Primary People's Courts in Gulou District of Nanjing City and Changshu City of Jiangsu Province to accept IP civil cases of first instance without designated jurisdiction. By the end of 2006, the numbers of the intermediate people's courts with the appropriate jurisdiction over patent, new plant varieties and layout designs of integrated circuits in first instance had respectively reached 62, 38 and 43 across the country. Meanwhile, altogether 17 primary people's courts had been granted the jurisdiction over IP civil cases.

On March 10, 2006, the IP Tribunal of the SPC, in cooperation with the web site of China's courts ([www.chinacourt.org](http://www.chinacourt.org)), officially launched the web of Chinese IP court decision documents ([http:// ipr.chinacourt.org](http://ipr.chinacourt.org)) which provided an integrated platform for making effective IP verdict documents of national people's courts known to the public.

## **X. Enlarging Extent of International Cooperation, Increasingly Improving Cooperating Levels**

In 2006, The SIPO has conducted a series of cooperation and exchange activities with the World Intellectual Property Organization (WIPO), including WIPO National Roving Seminars on PCT in Beijing, Harbin, Nanjing, Qingdao, Chengdu and other places and the Seminar on the Hague System for the International Registration of Industrial Designs in Shenzhen. A High-Level Seminar on Intellectual Property for Central and Northeast China were held in Hunan Province, China and in Geneva, Switzerland. The WIPO Inter-regional Seminar on Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources was held successfully in Henan. WIPO High-level Roundtable on Intellectual Property Enforcement was held in Beijing. In April, the Asian Regional Seminar on Patent Examination Practice was held for the first time in Beijing successfully, with 22 participants from 14 Asian countries.

In September, Tian Lipu, Commissioner of the SIPO, accompanying Premier Wen Jiabao in a visit to Germany, attended the Symposium on the 25th Anniversary of Cooperation between SIPO and GPTO. He and Dr. Jürgen Schade, President of the German Patent and Trademark Office, signed a bilateral cooperation summary in 2007. In December, Commissioner Tian Lipu and President Alain Pompidou of the European Patent Office, hosted the 17th Joint Committee Meeting of the two offices in Munich. The cooperation of the two offices has been further strengthened.

In February, Commissioner Tian Lipu and the Director of the United States Patent and Trademark Office held the first formal talk in Washington and signed the Work Plan for Strategic Cooperation, which established a formal mechanism for regular meetings between the two offices. In April, Commissioner Tian accompanied the Chinese government delegation led by Vice Premier Wu Yi and took part in the 17th China-U.S. Joint Commission on Commerce and Trade held in the United States.

On December 4th, the Sixth Trilateral Policy Dialogue Meetings among the Commissioners of SIPO, Japan Patent Office (JPO) and Korean Intellectual property Office (KIPO) was held in Beijing. Mr. NAKAJIMA Makoto, commissioners of JPO, and Mr. Jun Sang Woo, commissioner of KIPO headed their delegations to attend the meeting. The meeting set the mid-term objectives of the blueprint for the trilateral cooperation and signed a Record of Discussion.

In June, Commissioner Tian Lipu and Mr. Omorov Roman Omorovch, Director of State Agency on Intellectual Property of the Government of Kyrgyz Republic, signed in Beijing the Intellectual Property Cooperation Agreement between the Government of the People's Republic of China and the Government of Kyrgyz Republic. In August, Commissioner Tian Lipu led a delegation to Vietnam and signed an Agreement of Cooperation on Intellectual Property between the State Intellectual Property Office of the People's Republic of China and the National Office of Intellectual Property of Vietnam, unveiling Sino-Vietnamese cooperation in intellectual property.



From March 13 to 30, the TMO Deputy Director Hou Liye led the Chinese delegation to attend the Diplomatic Conference of WIPO about passing the revision of Trademark Law Treaty in Singapore. Deputy Director Hou acted as the vice-chairman of the conference as well as the commissioner of the Directing Committee and signed the last version of Trademark Law Singapore Treaty.

From September 25 to 28, Mr. Li Dongsheng, Deputy Commissioner of the SAIC, attended the 42nd Series of Meetings of the Assembly of WIPO in Geneva.

From November 13 to 17, Mr. An Qinghu, Director of the TMO, attended the 16th meeting of Standing Committee on the Law of Trademark, Industrial Designs and Geographical Indications in Geneva of Switzerland.

From November 22 to 24, "International Seminar on International Registration of Trademarks", co-hosted by the SAIC and WIPO was held in Dongguan, Guangdong province. More than 150 representatives and experts from WIPO, 19 foreign countries (including Brunei, Cambodia, India, Malaysia and so on, most of which are developing countries) and China's related departments participated the conference.

In May, the NCAC, in cooperation with Asia-Pacific Cultural Center of the United Nations Educational, Scientific and Cultural Organization (UNESCO), held "Seminar on Copyright Protection in Digital Environment" which lectured and examined issues concerning copyright protection under the condition of high and new technology. Domestic and foreign experts from UNESCO, WIPO and other departments attended the meeting.

On September, the NCAC and WIPO jointly held "International Copyright Seminar 2006" whose subject was "Development and Innovation of Copyright-related Industries". More than 300 representatives from WIPO, American Walt Disney Corporation, the American Film Society, the American Business Software Alliance and domestic prominent enterprises attended it and were engaged in giving counsels on China's copyright-related industries development.