

## China's Intellectual Property Protection in 2008

The year 2008 was the 30th anniversary of China's reform and open-up and the inaugural year for the implementation of the national IP strategy. The year carried great weight for the IPR system in China.

Leadership of the Communist Party of China (CPC) attaches great importance to IPR Protection. During the Ninth Collective Study of the 17th CPC Politburo, General Secretary Hu Jintao stressed specifically the importance of sticking to innovation with Chinese characteristics, energetically implementing the strategy of making the country prosperous with science and technology, the strategy of capitalizing on talent to make the country strong, IP strategy, and accelerating the construction of innovative country. When addressing the Party's meeting mobilizing the study and practice of scientific outlook on development, Premier Wen Jiabao said, "One thing necessary to stress is to concretely strengthen IPR protection. In the new era, competition of world science and technology as well as economy is mainly competition of IPRs. Underscoring IP protection is underscoring and inspiring innovation." Vice Premier Wang Qishan attended the Fourth Sino-US Strategic Economic Dialogue, he presided over the closing ceremony together with US Treasury Secretary Henry Paulson and summarized the fruits of the dialogue. Vice Premier Wang Qishan published an article in his own name entitled China no longer tolerates piracy, infringement on the Chinese version of the Wall Street Journal, briefing on the achievements China made in recent years on IPR protection and also elaborating Chinese government's endeavor to intensify IPR protection from four aspects.

The year 2008 was a crucial year for the development of the Chinese IPR system. The national IPR strategy entered the stage of implementation from that of formulation. The Chinese IPR system moved into the new phase of scientific development.

IPR protection fared in depth. Work of many aspects scored well. The year saw 828,328 patent applications and 698,000 applications for trademark registration. Notable achievements were made in copyright protection. Protection of new varieties of plants went on steadily. Customs, police and cultural authorities combated IPR violations effectively. IPR judicial protection was getting on more proficiently. IPR publicity and training were increasingly strengthened. IPR international cooperation expanded. The entire IPR system displayed strong trend that represented coordinated and sustainable development.

### **I. IPR Legislation Advances and Construction of Policy and Framework Refines**

In 2008, IPR legislation advanced with new developments. Legal and policy framework made new achievements.

On December 27, the Sixth Session of the Eleventh Standing Committee of the National People's Congress approved the Decision Regarding the Amendment of the Patent Law of the People's Republic of China, which was released under the No.8 Chairman's Decree signed by Chairman Hu Jintao. The amended Patent Law of the People's Republic of China (hereinafter referred to as the Patent Law) will be in force from October 1, 2009. The smooth completion of the third amendment of the Patent Law was another milestone in the development of the Chinese patent system.

In an effort to ensure the simultaneous implementation of the Implementing Regulations of the Patent Law and the Patent Law, SIPO finished the draft amendment of the Implementing Regulations of the Patent Law in early March. In early September, after holding conferences to invite comments from its various departments, SIPO forwarded the Draft Amendment of the Implementing Regulations of the Patent Law of the People's Republic of China (Comment Soliciting Version), inviting comments and suggestions from the general public.

With a view to supporting the amendment of the Patent Law and its Implementing Regulations, improving the work of patent examination and approval, SIPO started the amendment of Examination Guidelines, Measures on Depositing Patent Licensing Agreement, and Measures on Registration of Patent Pledging Agreement.

The State Administration for Industry and Commerce (SAIC) contacted more frequently with the Legislative Affairs Office of the State Council in 2008 to accelerate the amendment of the Trademark Law of the People's Republic of China (hereinafter referred to as the Trademark Law). Through holding special topic conferences, SAIC studied conscientiously the guiding concepts and contents of the third amendment and made clear the principles and directions. This facilitated the legislative process of the Trademark Representation Regulations, accelerated the Amendment of the Unfair Competition Law, which further strengthened trade secret protection. With emphasis on raising the quality of identification and fending off the risks of supervision and corruption, Rules on Well-known Trademark Determination was drafted. SAIC also drafted and implemented the Standards for Trademark Examination and Adjudication, Instructions of Trademark Substantive Examination, Provisional Measures on Trademark Examination Quality, Evaluation Standards of Trademark Examination Quality. Scope of Trademark Cases for Earlier Adjudication and Working Mechanism for Trademark Case Adjudication were also refined.

The National Copyright Administration of China (NCAC) completed its research and study of the second amendment of the Copyright Law of the People's Republic of China (hereinafter referred to as the Copyright Law) in 2008, shaping an 800,000-word report in this regard. It organized experts and scholars to take a close look at the priority issues concerning the Rules on the Copyright Protection of Folklore Works (Comment-Soliciting Draft) and relevant legislation. The comments from them led to amendment of the draft and accelerated the drafting process. In addition, after amendment, relevant copyright laws of Hong Kong SAR are compliant with the World Copyright Treaty (WCT) and the

WIPO Performances and Phonograms Treaty (WPPT). Per the request of the SAR government, NCAC on September 23 submitted to WIPO the declaration on the application of the two treaties in Hong Kong SAR. From October 1, 2008, the two Internet treaties became applicable in Hong Kong, China.

In May 2008, Ministry of Culture issued the Provisional Measures on Certifying and Administering Representative Inheritors of State Intangible Cultural Heritage, providing specific rules on the standard of certifying representative inheritors and support measures.

In 2008, in a bid to solve practical problems when handling cases and to make more uniform decisions, Ministry of Public Security (MPS) set up a task force to formulate the Police Standard for Registering Cases of Economic Crimes, with a view to setting up concrete standards of amount of money and quantity of goods relating to the 84 economic crimes (including the IPR crimes) under the administration of Economic Crimes Investigation Department of MPS for investigation and prosecution cause of action of crimes was also specified. A draft was made to invite comments from relevant agencies and experts.

Ministry of Agriculture (MOA) released the Seventh Group of Agricultural New Varieties of Plants, Measures on Regulating Symbols of Agricultural Products, Registration Procedure of Agricultural Geographical Indications and Regulations on Use of Agricultural Geographical Indications. Ministry of Agriculture also amended the Examination Guidelines of Agricultural Plant Variety Applications, Manual on Test of Agricultural Plant Varieties and Manual on Deposit of Agricultural Plant Varieties.

Rules on Naming Agricultural Plant Varieties (for Review Version) was drafted and the research and study for amendment of the Regulations on Protection of New Varieties of Plants had been conducted.

In 2008, the Supreme People's Court (SPC) began drafting the Judicial Interpretation on Application of Laws in the Trial of Trade Secret Criminal Cases. The Judicial Interpretation on the Application of Laws for Protection of Well-Known Marks in the Trial of Trademark Infringement Civil Cases drafted by the IPR Tribunal is currently under revision. SPC's draft Provisions on Issues Concerned in the Trial of IPR Administrative Cases was finished. In particular, on February 18, 2008, SPC announced the Provisions on Issues Concerned in the Trial of Cases of Civil Disputes over the Conflict between Registered Trademark or Enterprise Name with Prior Right, offering definitive principles and standard for handling such disputes and regulating market competition and promoting fair competition more effectively.

## **II. IPR Examination and Registration Advance Steadily with Various Missions Accomplished**

In 2008, both filings and grants increased rapidly. IPR examination and registration

advanced steadily.

In 2008, patent applications maintained steady and relevantly fast growth. SIPO received 828,328 patent applications, up 19.4%; 717,144 of which were from home, representing 86.6% of the total and up 22.3%; 111,184 of which were from abroad, representing 13.4% of the total and up 3.5%.

As of December 31, 2008, China received cumulative 4,853,506 patent applications, 4,028,393 of which were from home, representing 83.0%; 825,113 of which were from abroad, representing 17.0%.

In 2008, SIPO granted 411,982 patents, up 17.1%; 93,706 patents for invention were granted, which was a big increase of 37.9%; among which, 352,406 were granted to domestic filers, representing 85.5% of the total and up 16.8%; 59,576 were granted to foreign filers, representing 14.5% of the total and up 18.8%. Invention patents granted to domestic filers accounted for 49.7%, further narrowing the gap with foreign filers.

As of December 31, 2008, SIPO had granted cumulative 2,501,268 patents, 2,142,785 of which were to domestic filers and 358,483 to foreign filers, representing 85.7% and 14.3% of the total respectively.

In 2008, 4,360 requests for reexamination were received, up 1,795 or 70%; 2,038 requests for invalidation were received, down 145 or 6.6%. Since 1985, the Patent Reexamination Board has received a total of 21,087 requests for invalidation.

In 2008, SIPO received 743 applications for registration of layout designs of integrated circuits, and 738 registrations were published and certificates issued. Since the implementation of the Regulation on Protection of Layout Designs of Integrated Circuits on October 1, 2001, SIPO had received a total of 2,551 applications for registration, and 1,564 registrations were published and certificates issued.

In 2008, Chinese nationals field 6,089 PCT applications, up 11.9% and ranking No.6 in the world. There were a total of 146 countries and regions filing patent applications in China.

In 2008, SAIC adopted a series of measures to accelerate trademark examination and made historical breakthrough with workloads for both trademark examination and opposition, hitting historical highs.

In 2008, Trademark Office (TMO) of the SAIC received 698,000 trademark registration applications wherein, the number of domestic trademark registration applications was 590,000, down 15,000 (605,000) or down 2.48% and the number of foreign trademark registration applications was still in rapid increase reaching 108,000, up 5,000 (103,000) or up 4.85%. In 2008, TMO received 48,000 applications for extension of registration, 25,000 applications for opposition, 89,000 for change of registration entries, 68,000 for assignment

and 18,000 for deposit of licensing agreement.

Ensuring examination quality, TMO examined 750,000 trademark registration applications, up 345,000 as compared with that of 2007(405,000) or up 85.2%. This was the first time the annual number of trademark registration applications examined exceeded the number of applications filed. In 2008, TMO approved in total 403,000 registered trademarks over the year. The cumulative number of registered trademarks in China was 3,441,000. TMO handled 103,000 cases for change of registration entries, 72,000 for assignment, 60,000 for extension of registration, 11,000 for opposition (up 26.75%), and 11,000 for deposit of licensing agreement. TMO also dealt with 17,343 trademark registration applications filed by foreign companies via the International Bureau (one trademark covering multiple classes), up 4.9% and the cumulative number reached 131,801 (one trademark covering multiple classes), ranking No.1 in the world for four years in a row. Domestic companies filed 2,059 applications for international registration via TMO, up 12.7% as compared with that of 2007, the cumulative number reached 8,453 (one trademark covering multiple classes).

TMO accelerated examination of geographical indications (GIs). From beginning of 1994 to end of 2007, TMO registered in total 301 GIs, and 230 of which were registered in 2008, equivalent to 76% of the total of the first 15 years. Up to end of 2008, TMO had granted 600,000 trademark registrations for agricultural products.

In 2008, Trademark Review and Adjudication Board (TRAB) received 26,609 applications for review, up 51% as compared with that of 2007. TRAB resolved 30,314 cases, a number times that of 2007. Cases resolved exceeded cases filed for the first time. The number of pending dropped from 54,784 at the end of 2007 to 47,753, down 7031.

In 2008, NCAC promoted registration of computer software. Software registrations maintained steady and relevantly fast growth, registering 49,087 pieces of computer software, up 91.25% as compared with that of 2007. Monthly growth rates between September and December averaged over 100% as compared with that of the same period of 2007. Software registrations logged at 47,398, up 93.3% and representing 96.56% of the total. Registrations of software copyright assignment or exclusive licensing agreement, registrations of software copyright pledging agreement and changes or addition of information to the existing registrations were 144, 109 and 1,436, up 200%, 9% and 43.6% respectively. Software registrations in 2008 equaled that of the combined total of 2006 and 2007.

In 2008, NCAC was committed to establish and improve participation of the public in copyright protection and to facilitate copyright management and trade. The construction of collective management and collecting societies made great progress. China Audio-Video Copyright Association, China Written Works Copyright Society and China Photography Copyright Society were approved for establishment in May, November and December respectively and each held inaugural meetings. Swift development of copyright trade

promoted cultural innovation and development in China. Many works were exported overseas.

In 2008, MOA and State Forestry Administration (SFA) strived to improve the protection of new varieties of plants. Up to December 31, 2008, MOA had received cumulative 5,563 applications for new varieties of plants and granted 1,866. In 2008 alone, it received 868 and granted 449. Foreign users filed cumulative 273 applications and obtained 24 granted rights. In 2008, SFA received 77 applications, up 26% as compared with that of 2007. Up to end of 2008, it had granted cumulative 239 new varieties of plants, representing 42% of the total.

### **III. IPR Enforcement Makes Breakthrough. Protection Environment Refines**

In 2008, authorities focused on combating piracy and regulating market order, effectively protecting Olympic IPRs and cracking down on various IPR violations.

IP administrations across the nation waged IPR special enforcement campaigns aggressively, initiated assistance to IP enforcement, intensified processing of patent disputes and cracked down on cases of faking patent identity and faking other's patent.

In February 2008, SIPO issued a circular on the launch of Thunderstorm and Skynet IP enforcement campaigns, demanding the local administrative authorities for patent affairs wage both campaigns for a year, with the former aiming to combat IP violations, in particular malicious, group and repeated infringement, faking identity and faking others' IP, and the latter to strike frauds relating to patent. The two special campaigns seriously curbed patent frauds and effectively upheld the legitimate rights and interests of right holders and the public.

In November 2008, SIPO held the National IP Enforcement Assistance Roundtable. Up to end of 2008, SIPO had already approved operation of 44 IPR enforcement assistance centers nationwide.

In 2008, local IP administrations nationwide received a total of 1,092 patent disputes over infringement and 34 other types of patent disputes. They investigated and handled 59 cases of counterfeiting patents and 601 cases of passing off others' patents. In law enforcement actions, 17,056 officers/times were dispatched to inspect and investigate 7,671 commercial premises, checked 2,110,822 pieces of goods, handed over 21 cases to the police and received 11 cases from other authorities to them. 327 joint law enforcement actions were organized and 262 cross-region actions were launched.

In 2008, administrations for industry and commerce (AICs) at all levels across China investigated 56,634 cases of trademark violations, 47,045 of which were infringement and counterfeiting and 9,589 of which were general violations; 10,965 of which involved Hong Kong, Macao, Taiwan and foreign trademark holders. AICs seized and removed 19.63

million sets of illegal trademark labels, seized and destroyed 22.87 million pieces of goods, imposed 467.4 million Yuan in fines, handed over 137 cases and 145 suspects to judicial authorities for suspected criminal violation.

From June 1 to September 30, 2008, NCAC, MPS, Ministry of Industry and Information Technology (MIIT) waged a four-month special campaign against piracy on Internet. During the campaign, authorities across the country handled 453 Internet infringement cases, shut down 192 websites engaging in piracy, and ordered 173 websites to delete or block infringing contents. With regard to the 88 websites with serious violations, apart from being ordered to delete or block infringing contents, they were also administratively penalized by fines, seizure of servers and computer hardware equipments (fine, 1,079,853 Yuan, number of servers and computer hardware equipments seized, 184); handed over 10 serious copyright cases suspected of criminal violation to judicial authorities.

In 2008, NCAC made great progress in promoting use of licensed software in enterprises. According to statistics, on top of 1,500 large enterprises' use of licensed software in 2007, another 7,600 enterprises were listed to be users of legitimate software within 2008. The central and local leader group for the task checked 6,100 enterprises, supervised almost 3,900 enterprises and caught 570 wrongdoers. Some 300 training courses in this regard entertained 8,200 enterprises and 18,200 people. Use of licensed software achieved substantial progress in central enterprises, large private enterprises, foreign-funded enterprises and key sectors such as finance, coal mining, printing, hotels, Internet cafes, design studios etc.. The activity fared very smoothly.

In 2008, customs nationwide seized 11,135 batches of imported or exported cargo involving 600 million pieces of infringing goods, up 49.3% and 93% respectively. IPR holders continued depositing their right information with the customs. From January to November, General Administration of Customs (GAC) certified 2,292 deposits, even with the number of 2007.

In 2008, centering on Beijing Olympics and celebration of 30 years of reform and open-up, Ministry of Culture waged an operation to safeguard the Olympics in the cultural market, cracking down on illegal audio-video products, regulating market order. Ministry of Culture directly monitored the proceeding of Hainan January 13 illegal reproduction of CDs, Tianjin June 3 organization distributing pirated disks. IPR protection was effectively strengthened.

In 2008, MPS formed coordination mechanism in IPR protection with SAIC, GAC, NCAC respectively. In June, MPS and SIPO jointly issued a circular On the Establishment of Inter-Agency Coordination Mechanism in IPR Protection, formally shaped the mechanism coordinating the two agencies in IPR protection and offered strong systematic safeguard for tightening IPR protection.

#### **IV. Leading Role of Judicial Protection is Further Enhanced. Interests of Right Holders and Public are Effectively Upheld**

In 2008, with the collective efforts of courts at various levels and IPR judges, trial of IPR cases continued to make tremendous progress. Courts of law nationwide took 24,406 and resolved 23,518 first-instance IPR civil cases, up 36.52% and 35.2% respectively. Among them, there were 4,074 patent cases, up 0.82%; 6,233 trademark cases, up 61.69%; 10,951 copyright cases, up 50.78%; 623 technology contracts cases, down 6.88%; 1,185 unfair competition cases, down 1.58%; 1,340 other types of IPR cases, up 58.58%. The courts concluded 1,139 first-instance IPR civil cases involving foreign parties, up 70.51%; 225 first-instance IPR civil cases involving parties from Hong Kong, Macao and Taiwan, down 30.34%. The courts also took 4,759 and resolved 4,699 second-instance IPR civil cases, up 66.11% and 63.73% respectively; took 102 and resolved 71 cases for retrial, up 161.54% and 57.78% respectively.

In terms of IPR criminal justice, courts seriously struck IPR criminal acts according to law, upholding its duty of trying criminal cases. In 2008, local courts resolved 3,326 IPR criminal cases; sentenced 5,388 suspects, 5,386 of which were found guilty. Among the cases resolved, 996 were rendered sentence on the account of criminal violation of IPRs, 1,657 suspects sentenced, up 34.78% and 20.86% respectively; 610 were sentenced on the account of manufacture and distribution of goods with inferior quality (involving IPR violation), 1,040 suspects sentenced; 1,707 were sentenced on the account of illegal business operation (involving IPR violation), 2,667 suspects sentenced; 13 were sentenced on the account of other crimes (involving IPR violation), 24 suspects sentenced.

Courts also upheld its duty of trying administrative cases, monitoring and supporting the enforcement of law carried out by administrative authorities. In 2008, local courts took 1,074 and resolved 1,032 first-instance IPR administrative cases. Among them, there were 578 patent cases, down 3.51%; 484 trademark cases, up 23.47%; 7 copyright cases, up 16.67%; 5 other types of cases.

In 2008, prosecution authorities worked closely with administrative enforcement authorities and police, approving apprehension of 2,107 suspects involved in 1,210 cases, prosecuted 2,697 suspects in 1,432 cases. The Supreme People's Procuratorate monitored its local offices to proceed of 6 IPR criminal cases and supervised the police authorities to investigate 32 IPR criminal cases.

Prosecution authorities promoted linkage between administrative enforcement and criminal justice, in particular establishing the mechanism of Connection on the Internet and Share of Information through using of high tech means. Currently, such linkage was shaped in all regions of Shanghai and Yunnan, and in some of the regions in Jiangsu, Guangdong, Zhejiang and Hubei, effectively promoting criminal justice of IPR cases and preventing the phenomenon of "sentence being replaced by fine".

In 2008, police nationwide placed great emphasis on IPR protection by fulfilling its criminal enforcement duties. In 2008, police uncovered 1,455 IPR criminal cases with 1.65 billion Yuan in proceeds and apprehended 2,642 criminal suspects. Some other IPR violation



related cases were sanctioned on the account of manufacture and distribution of goods with inferior quality and illegal business operation.

In terms of combating piracy, according to an incomplete statistics, allied with other authorities in 2008, police uncovered 5,119 cases of illegal publications involving piracy, investigated 8,771 suspects, and seized 13.917 million pieces of illegal publications and 7 illegal assembly lines of optical disk. Since 1996, police had altogether seized 238 illegal assembly lines of optical disk.

In response to rampant IPR crimes on the Internet, police viewed the Internet as a new battlefield for striking IPR crimes and conducted in depth investigations. In 2008, police handled 62 aggravated criminal cases of selling counterfeit products or misappropriating trade secrets, uncovered 46 crimes involving online gaming personal servers and 7 criminal cases of distributing pirated software, all involving the Internet.

## **V. Publicity of IPR advances. Cultural construction scores first points**

In 2008, IPR publicity centered on the release of the Outline of the National IPR Strategy, Beijing Olympics, 30 years of reform and open-up, and patent law amendment. All these top events obtained extensive coverage on important pages and timeslots of major central media. The coverage reflected the development process of the Chinese IPR system and IPR cultural construction in the past 30 years, elevated IPR awareness of the public and propelled the development of the Chinese intellectual property system.

After the release of the Outline of National Intellectual Property Strategy, a series of publicity activities unfolded. The website [www.gov.cn](http://www.gov.cn) published the Chinese and English versions of the Outline on its homepage. Xinhua News Agency, People's Daily and China Intellectual Property News published the Outline. The State Council Information Office invited six agencies SIPO, SAIC, NCAC, National Development and Reform Commission, MOST and MOFCOM for a press conference to brief the media on the Outline. SIPO also published Guidance Materials for the Study of the Outline of National IP Strategy.

CPC Ministry of Publicity offered a guiding opinion on the publicity of 2008 Action Plan for IPR Protection in China, issuing the Publicity Plan on Campaign of Cleansing Publication Market and IPR Protection. It also organized central media to cover important events and activities such as the nationwide centralized destruction of pirated and illegal publications, the implementation of using network to supervise the quality of China product, the campaign of No Counterfeit Sold in Thousands of Shops in Hundreds of Cities, and the April 26 World IP Day.

Taking April 26 2008, the eighth World IP Day as a juncture, SIPO organized the activities of IP Protection Publicity Week with 18 agencies. SIPO had its third Open to the Public Day; held 2007 Press Conference on IP Protection in China jointly with State Council Information Office, State Administration for Industry and Commerce and National Copyright

Administration, 2008 Press Conference on IP Protection Publicity Week, and the first national roving exhibition on paintings or calligraphy by a hundred celebrated Chinese artists with IP culture as the theme. SIPO also participated in organizing Shanghai IP Protection Summit Forum and IP Criminal Protection Forum, held press conference on Patent Information Press Release and Patented Technology Recommendation, published the book Intellectual Property Culture Reader and the video Intellectual Property Culture in China, carried out a series of publicity activities on the Olympic related IP. Teamed with SAIC, NCAC, General Administration of Customs, Ministry of Agriculture, State Forestry Administration and Supreme People's Court, SIPO held the IP Section of the Exhibition Reviewing 30 Years of China's Open-up. Published the book IP and 30 Years of Reform and Open-up.

SAIC held in succession the East-West China Company Trademark Strategy Forum, One Agency, One Trademark Conference and Conference on Implementing the Trademark Strategy under the Outline of the National IPR Strategy, introducing trademark registration and protection in China and stepping up publicity of trademark strategy.

In 2008, NCAC continued publicity in copyright, using multiple forms, channels and means to conduct diversified public education activities; published Selected Works of Zheng Chengsi on Copyright; completed the third phase of national roving speeches on Copyright Protection and Innovative Country; organized Awarding Ceremony for Papers Written by College Students on Copyright and the interaction between the Commissioner of NCAC and the college students; organized Creation and Future-Copyright Protection Activities of Young People and compiled a book Copyright Protection and its Little Defenders; organized and held in Beijing the Second Collegiate Debate Contest on Copyright Protection; held the BIBF International Copyright Trade Seminar; held the inaugural International Copyright Expo together with Beijing government; initiated edition of Almanac of Copyright in China.

Customs nationwide waged IPR protection publicity activities based on their own features. During the April 26 IPR Protection Publicity Week in 2008, customs introduced custom protection legislations, helping right holders, importers and exporters, the general public to understand customs enforcement and IPR deposit procedures; targeted import, export and OEM companies, express mail services, outbound and inbound tourists; made full use of ports and of mass media to educate the public on policies. Some customs held IPR protection seminars sitting IPR right holders and OEM companies together, having questions of these companies answered immediately by the right holders. GAC also chose 10 typical IPR cases and presented them to the public.

In April 2008, Ministry of Culture deployed the Tenth National Audio-Video Market Publicity activities featuring Protect IPR, Combat Infringement and Piracy. Through setting up publicity desk, invoking media and organizing destruction, cultural authorities at all levels extensively publicized IPR legislations, achievements of audio-video market regulation, importance of IPR protection to guide the public opinion. These activities further awoke the self-discipline of Audio-Video product distributors, made the public understand the

damages caused by piracy and inspired them to stay away from piracy.

MPS always deemed public education as an important part of combating infringement crimes, invoking multiple ways to extensively and intensively combat and prevent crimes. In January 2008, it worked with NCAC to hold a press conference on special campaigns on combating infringement and piracy on the Internet in 2007, publicizing effectiveness of the police in this line of work and creating deterrent atmosphere against crimes. In April, MPS worked with the CPC Ministry of Publicity and 20 central agencies including SIPO and Ministry of Commerce to wage 2008 National IPR Publicity Week; organized 2008 China IP Criminal Protection Forum in Shanghai. Over 600 participants from police around the country, central agencies, European and American law enforcement agencies or police liaison officers to China as well as 200 Chinese and foreign famous companies discussed IPR policies, theories, judicial and enforcement practices. This was the sixth such forum organized by the MPS since 2003. It had become an important forum for the police to conduct public education and enhance communication with others.

In the entire November 2008, the courts across the nation waged an IPR judicial protection month featuring Judicial Protection for IPR, Inspire Innovation. SPC, high courts, the intermediate and grassroots courts which had certain amount of IPR cases held press conferences, invited congress deputies and political advisors to hear trials and collecting their comments, announced decisions for some influential IPR cases, enacted specific measures for implementing the Outline of the National IPR Strategy. These activities displayed the great achievements and important missions of IPR judicial protection. During these activities, SPC drafted the Several Opinions on Implementing National IPR Strategy by People's Courts (Comment Soliciting Version); the Judicial Interpretation on the Application of laws for Protection of Well-Known Marks in the Trial of Trademark Civil Infringement Cases (Comment Soliciting Version); selected the top 100 IPR typical cases that influenced the Chinese IPR legal system in the past 30 years. The one month activity was the longest, largest, most specialized and most diversified special activity with extensive and intensive impact in the IPR judicial trial area in the past 30 years. It vividly displayed the commanding role of IPR judicial protection, promoted implementation of the National IPR Strategy and elevated the public's awareness of IPR protection.

## **VI. Outstanding Achievement is Made in Olympic IPR Protection. Special Enforcement Campaigns Reap Effective Results**

In 2008, the 29th Olympic Games successfully concluded in Beijing. IPR protection for the Olympics made evident achievements and was fully recognized by the Chairman of the International Olympic Committee (IOC) Jacques Rouge and the international community at large.

In July 2008, Forum on Protection of Olympic IPRs, sponsored by SIPO, was organized by Beijing Intellectual Property Office, during which Olympic IPR protection was extensively discussed. Local offices prioritized their enforcement actions on patent infringement

relating to the Olympics. Beijing Intellectual Property Office also teamed with other agencies to establish a contingent mechanism for IPR protection in this regard.

In a bid to intensify protection of Olympic symbols, AICs waged nationwide campaigns in this regard, handling 1,721 cases of illegal use of Olympic symbols worth 16.59 million Yuan and imposed 7.27 million Yuan in fines; handled 5,858 cases of infringement of Olympic symbols worth 34.84 million Yuan and imposed 29.76 million Yuan in fines. A large quantity of infringing products was seized and destroyed, offering a favorable IPR protection environment for the smooth operation of the Olympics. At the end of August, Hein Verbruggen, IOC Coordination Commission Chairman for the Olympic Games in Beijing and Beijing Organizing Committee for the 29th Olympic Games (BOCOG) sent a special letter to thank AICs around the nation for their efforts in protecting Olympic IPRs.

In 2008, in an effort to fulfill its duty in protecting Olympic symbols, as well as to emphasize actions and public education, customs nationwide adopted a series of concrete and effective measures to create favorable environment for a clean Olympic Games. In addition to distribute pamphlets, customs also used vivid ways to educate the public on IPR protection. Great responses were gained. Through efficiently allocating enforcement resources, customs also intensified inspection of key areas, companies and products, seized 450,000 pieces of cargo infringing Olympic IPRs worth 3.83 million Yuan and effectively curbed export and import of goods infringing Olympic IPRs.

In April 2008, Ministry of Culture issued the Circular on Initiating Action to Regulate Cultural Market to Safeguard the Olympics. The ministry dispatched 11 groups of officials to monitor enforcement actions in cultural market in the host as well as assisting cities of the Olympics and other key areas; directed the Jiangsu Cultural Bureau to penalize the forgery of document of Taizhou (Jiangsu) government and BOCOG for staging illegal performances. Such action defended the reputation of BOCOG and provoked favorable social and cultural environment for the success of the Olympics.

In an effort to ensure smooth operation of the Olympics, MPS worked closely with the BOCOG and other related departments to monitor closely criminal activities infringing Olympic IPRs, organized and deployed police nationwide to crackdown on related piracy and counterfeiting activities, uncovered in time counterfeit Olympics gold medals in Beijing, counterfeit Olympic torches in Zhejiang and counterfeit Olympic memorabilia coins in Heilongjiang. In July, MPS joined NCAC, MIIT and other agencies to establish a Rapid Response Mechanism in Proceeding Illegal Broadcast of Olympic Games, invoking technical means to monitor illegal webcast or broadcast of the Games around the clock. Such effective rapid response and measures seriously struck illegal broadcast. From August 6 to 24, the responsible unit discovered and received 242 leads of illegal broadcast, investigated 117 illegal sites, shut down or blocked 84 sites and ordered 33 sites to delete illegal contents or stop infringing. The actions made tremendous impact on the Internet community. IOC expressed their "content over broadcast of Beijing Olympics and media coverage" and "China set an example for copyright protection of the Olympics".

## **VII. IPR Training Enhances with Constant Growth of Talents**

The year 2008 was a crucial year in implementing the national IP strategy. Further IP training expanded the talent pool.

SIPO advanced the Eleventh Five-Year Plan for IP Talents and the Grand Project of IP Talents. Apart from holding cooperative training programs for top IP law and administration talents with Tsinghua University and Tongji University, SIPO teamed with foreign educational institutions to train top talents. SIPO also used many other ways such as research subjects, academic seminar and post-switching to train such high-level talents.

SIPO focused on training programs of all kinds, special seminars on IP strategy courses for city (district) leaders, courses for IP office heads and courses for university IP teachers all achieved great results. SIPO commissioned local offices to hold 60 training courses that benefited 10,000 people. The 653 Project held jointly by SIPO and the Ministry of Human Resources and Social Security to update IP knowledge for technical specialists concluded successfully. SIPO also held national video lecture on IP with the Ministry of Justice.

SAIC sent officials to the Promotional Conference of Shanghai Trademark Development and Liaoning Award Conference on Implementation of Branding Strategy, guiding local trademark protection; sent officials to courses of the Japan International Cooperation Agency (JICA) and the Association for Overseas Technical Scholarship (AOTS) organized by the Japan Patent Office, learning from experiences of advanced countries in IPR protection. Through training courses, skill contests, meetings, experience sharing and case study, local AICs elevated enforcement officers' skills in handling cases.

In 2008, in an effort to elevate enforcement skills of local agencies under new technology environment, NCAC held four series of conferences for experience sharing, introducing the features and status quo of piracy and infringement under new technology environment, exchanging best practice in this regard and solving the practical problems met by the frontline officers.

Customs stressed on elevating the skills of custom officers in checking infringing goods and intensified routine training in this regard. It often invited IPR holders to give training courses on how to identify infringing goods, improving the officers' practical skill and passion in work.

MOA held specific training courses for enforcement agencies of new varieties of plants in 22 provinces (autonomous regions, municipalities directly under the State Council) including Shandong and gradually established cooperation mechanism with SAIC, MPS, SIPO and judicial authorities. In order to effectively link administrative enforcement of variety right with judicial protection, MOA worked with SPC to hold the National Conference on Enforcement of Plant Variety Right, tackled some important and difficult issues concerning enforcement of variety right.

SFA held a conference on research of enforcement of plant variety right on November 10 in Beijing. Thirty representatives from the Institute of Botany under the Chinese Academy of Sciences, Kunming Institute of Botany under the Chinese Academy of Sciences and Chinese Forestry Academy attended the meeting. Representatives discussed over the major issues relating to protection of plant variety right, in particular those concerning enforcement.

Through seminars on application of laws, conferences on specific topics, SPC encouraged communication in IP trial knowledge and improvement of trial skills. In 2008, SPC held multiple seminars with other agencies including Seminar on Patent Trials, Advanced Seminar on Application of IPR Laws, 2008 International Seminar on IPR Judicial Protection, Seminar on Laws concerning Protection of Well-Known Marks, Seminar on IPR Infringement Liability and Seminar on Anti-Monopoly Civil Disputes.

### **VIII. International Cooperation Intensifies with New Stages for Both Bilateral and Multilateral Cooperation**

In 2008, international cooperation and communication in the IPR field continued expanding with higher level, more diversified and more substantial activities, which strongly promoted the development of the Chinese IPR system.

In coordination with other agencies, SIPO continued cooperation with WIPO and IPR authorities in some countries to promote mutual understanding and elevate government and companies' skills in using, protecting and managing IPRs.

From March 3 to 8, SIPO, National Copyright Administration of China (NCAC) and State Administration for Industry and Commerce (SAIC) teamed up to attend the inaugural session of the Committee on Development and Intellectual Property (CDIP) under the World Intellectual Property Organization (WIPO) in the organization's headquarters in Geneva.

From April 21 to 22, Germany Federal Ministry of Justice and China State Council Legislative Affairs Office (LAO) jointly organized the Eighth China-Germany Law Seminar in Munich. Over 100 government officials, experts and scholars from China and Germany attended the meeting and centered discussion on three topics, Legal Basis for Enforcing IPR Protection, State Agencies and Procedures for Enforcing IPR Protection and IPR Judicial Protection.

From May 13 to 14, SIPO led a delegation to the WIPO Coordination Committee meeting, during which Francis Gurry was elected Director General of WIPO.

From June 16 to 20, SIPO, African Regional Intellectual Property Organization (ARIPO) and WIPO jointly organized the China-Africa Heads of IP Offices Meeting in Beijing. Strongly supported by the Ministry of Foreign Affairs and WIPO, the gathering enhanced communication and cooperation between China and African countries in IPR.

In 2008, SAIC sent officials to meetings of the WIPO Assembly, the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), Standing Committee on Information Technologies (SCIT), Coordination Committee, Working Group on the Legal Development of the Madrid System for International Registration of Marks and participated in discussions on new types of trademarks, trademark opposition, Paris Convention Article 6ter, Madrid System for International Registration of Marks and trademark IT development; sent officials to the 26th and 27th Session of APEC IP Expert Group, the Seventh US-JP-EU Trilateral Meeting of Heads of Trademark Offices and the Fourth Sino-US Strategic Economic Dialogue, strengthening cooperation with relevant countries.

NCAC actively participated in international normative activities concerning copyright protection, signed China-US Memorandum of Understanding on Copyright Strategic Cooperation, promoted advancement of important bilateral ties with Europe, Japan and Australia, communicated on copyright legal system Australia, Peru and Norway, intensified cooperation in copyright protection on the basis of upholding international conventions and domestic legislations. NCAC and WIPO jointly held the Third Beijing International Copyright Forum, successfully introducing WIPO's global awarding mechanism into China and designing the inaugural world copyright creation gold medal activities. NCAC also worked with WIPO on conducting a joint research program on Contribution of the Chinese Content Industry to National Economy, followed WIPO's discussion on folklore protection and participated in APEC discussion of copyright issues.

GAC participated in the relevant enforcement activities initiated by the World Customs Organization (WCO). Customs in China, Japan and Korea formed a trilateral IPR working group and had the first meeting with an IPR action plan signed. According to the Memorandum of Understanding on Collaboration of IPR Border Enforcement, customs in China and US also determined their contact mechanism, started to have data and intelligence exchange as well as case assistance.

MOA actively participated in formulation of meeting documents of the International Union for the Protection of New Varieties of Plants (UPOV) and norm setting activities; completed its share of drafting UPOV testing guidelines on tea tree and sorghum, which were highly praised by UPOV and the Member countries. MOA actively contacted with relevant countries and international organizations and promoted international communication on geographical indications of agricultural products.

From April 15 to 16, 2008, SPC, WIPO, German Federal Supreme Court and Mexican Supreme Court jointly organized the International Advanced Seminar on IPR Judicial Protection in Beijing with 40 judges and experts from both home and abroad attending discussion. From July 10 to 11, SPC held the International Seminar on IPR Judicial Protection in Shanghai with participation of 200 representatives from judiciary authorities, academic institutions, companies and other communities of the United Kingdom, France, Germany, India, US, Japan, the Netherlands and China. Reform of IPR trial system,

evidence and litigation acts, determination of infringement, arguments for defense and remedies were among the issues discussed.

The Supreme People's Procuratorate actively participated in external negotiations, field trips abroad, communication and training activities, strengthened communication and cooperation with IPR international organizations and relevant countries; worked with the Ministry of Commerce to take on the US case against China in WTO. With the Procuratorate's full participation and efforts of many agencies, China won the part on criminal threshold. It also sent officials to meeting of the China-EU IPR Working Group, China-EU IPR II Project, China-Switzerland IPR Working Group, China-US Joint Commission on Commerce and Trade (JCCT), WTO trade policy review on China, WTO transitional review, China trade policy report, introducing the prosecution authorities' role in IPR criminal and judicial protection.

By enlisting international resources such as China-EU IPR II project, China-US Joint Liaison Group (JLG) on Enforcement and China-Germany IPR Enforcement Training Program, MPS sought to elevated enforcement skills of police officers. In 2008, MPS interacted 19 times with the visiting law enforcement agencies, industrial associations and company representatives from the US, EU, Japan and many other countries; assisted and organized local police departments eight times to attend training or communicate abroad and reaped positive results. After the successful cooperation with the Interpol on Operation Jupiter, with the approval from the State Council, MPS in March worked with Interpol, World Health Organization, law enforcement agencies in six ASEAN countries to wage a joint operation on striking counterfeit drugs (codenamed Operation Thunderstorm), which was greatly appreciated by the Interpol. In November, MPS joined NCAC and US Ministry of Justice, United States Patent and Trademark Office in holding the China-US Seminar on IPR Criminal Enforcement on the Internet, discussing trend of infringement and piracy on the Internet, formulation of strategies of enforcement agencies, application of detective measures, fixation of electronic evidences and China-US enforcement cooperation. The seminar built understanding and trust and promoted enforcement cooperation between the two countries.