

China's Intellectual Property Protection in 2010

The year of 2010 was the closing chapter for the 11th Five-year Plan and the key year to fully initiate the implementation of the national intellectual property (IP) strategy of China. Closely focusing on the central task of economic construction, the Chinese government stuck to the independent innovation program with Chinese characteristics and strengthened the implementation of the national IP strategy. Remarkable achievements have been made in 2010.

I. Legislation

In 2010, regular IP legislations were made according to the needs of economic and social development with the outcome of steadily improved IP laws, regulations, rules and relevant regulatory documents.

Patent system has been improved with the completion of the 3rd revision of Patent Law. The amended Implementing Regulations of the Patent Law came into force on February 1, 2011. The amended Patent Law and Implementing Regulations of the Patent Law prescribed stricter conditions to patent granting, improved examination system for patents for design and compulsory license system, added system of preservation of evidence in proceedings, supplemented measures to protect public interests, and strengthen patent protection. In the meantime, 12 regulations like Measures on Patent Administrative Enforcement and Guidelines for Patent Examination were formulated and revised.

Ministry of Agriculture (MOA) published The 8th Protection List of Agricultural Varieties of Plants and organized the revision and formulation of a series of regulations, like Regulations on Settling Infringement Cases Involving New Agricultural Varieties of Plants, Examination Regulations of Reexamination Board of New Varieties of Plants of The Ministry of Agriculture and the Naming Regulations on Agricultural Varieties of Plants.

In consideration of characteristics of various IPRs and protection needs, Supreme People's Court (SPC) formulated and published regulatory documents to standardize and unify trial of IP cases.

II. Examination and Registration

2010 witnessed the steady advances in IPR examination and registration and new breakthroughs in terms of quality and quantity.

In 2010, State Intellectual Property Office (SIPO) accepted 1,222,286 patent

applications in total, exceeding 1 million for the first time and a year-on-year increase of 25.1%. Among them, 1,109,428 were from home, representing 90.8% of the total and a year-on-year increase of 26.4%; 112,858 of which were from abroad, representing 9.2% of the total and a year-on-year increase of 13.9%.

In 2010, SIPO granted 814,825 patents, a year-on-year increase of 40.0%; among which, 740,620 were granted to domestic applications, representing 90.9% of the total and a year-on-year increase of 47.6%; 74,205 were granted to foreign applications, representing 9.1% of the total and a year-on-year decrease of 7.5%. 135,110 invention patents were granted, representing 16.6% and a year-on-year increase of 5.2%. 344,472 utility model patents were granted, representing 42.3% of the total and a year-on-year increase of 69.0%; 335,243 industrial design patents were granted, representing 41.1% of the total and a year-on-year increase of 34.3%.

III. Enforcement

1. Special campaign

IP administrations across China dramatically intensified the patent enforcement with remarkable growth of settlement of patent cases since the implementation of the Special Campaign. From October to December of 2010, 805 patent cases were settled in total, 44.16% of the yearly amount, among which 458 cases were patent disputes; 347 cases involved counterfeiting patents.

Administrations for Industry and Commerce (AICs) at all levels across China actively implemented the Special Campaign. By January 7, 2011, a total number of 722,350 person times of enforcement officials were dispatched and 1,694,779 business entities as well as 108,213 wholesale and retail markets and fairs were inspected. 1,372 businesses manufacturing or selling counterfeiting commodities were raided.

Ministry of Public Security (MPS) launched the Operation Strike of the Sword in line with the Special Campaign. By the end of 2010, public security departments nationwide uncovered 2,049 cases involving IPR infringements and counterfeits worth 2,307,000,000 yuan.

2. Regular enforcements

In 2010, local IP administrations across the country received a total of 1,095 patent disputes concerning infringement and 18 of other types. 728 cases relating to counterfeiting patents were investigated and dealt with. In those

actions, 20,646 person times of enforcement officials were dispatched; 10,642 business premises were inspected.

AICs at all levels across China investigated and dealt with 56,034 cases of trademark violations, among which 7,486 were general violations of trademark, and 48,548 were related to trademark infringement and counterfeiting.

National Copyright Administration of China (NCAC) intensified administrative enforcement by launching special campaign Swordnet to crack down the internet infringement and piracy in 2010. Local copyright enforcement authorities investigated and dealt with 204 cases involving copyright infringement in the first stage of the special campaign.

3. Judicial protection of IPR

In 2010, people's courts nationwide received 42,931 first-instance IPR civil cases and concluded 41,718 ones. People's courts received 6,522 second-instance IPR civil cases and concluded 6,481 ones. In 2010, SPC received 313 IPR civil cases and concluded 317 ones (including those from previous years), among which 198 retrial IPR civil cases were received and 206 ones (including those from previous years) were concluded.

In 2010, the procuratorate agencies nationwide accepted 1,887 arrest approval applications relating to IPR criminal cases with 3,368 suspects involved in. They also approved arrest of 2,613 suspects in 1,566 cases.

IV. Construction of Mechanism and Capability

SAIC studied and established 53 state trademark strategy demonstration cities (regions) and 41 demonstration enterprises and promoted the signing of Wuhu Proclamation by 41 enterprises.

NCAC further regulated the business of collective management of copyright and supported the central copyright related associations and the regions with favorable conditions to tentatively establish copyright mediation mechanism.

V. IPR Special Campaigns for the Shanghai World Expo and the Guangzhou Asian Games

SIPO, jointly MPS, GAC, SAIC, NCAC, SPP, China Council for the Promotion of International Trade (CCPIT), State Council Information Office (SCIO), issued the Circular on Organizing IPR Special Campaigns for the 2010 World Expo, and provide a more effective guidance to and coordination with the local administrations.

SAIC registered 3,107 marks, special marks and trademarks related to the Expo logo in various classes, investigated and dealt with 1,132 cases for infringement of the exclusive right of the Expo logo, and examined and approved 2,539 registration applications for trademarks of the Asian Games logo.

In the special campaign of cracking down pirated audio and video products, the local copyright law-enforcing departments altogether prohibited 2,933 illegal stalls, confiscated 4,940,000 pirated audio and video products.

VI. Publicity

The IP-related departments in China organized a great amount of publicity activities in 2010 with continuing improvement of IPR protection environment. SIPO elaborately organized the “2010 National IP Publicity Week”, established the Committee of Publicity Week composed of 25 ministries and commissions including the Central Publicity Department, jointly carried out the IP publicity activities with a theme on "Creation, Protection and Development" nationwide through launching startup ceremony and holding press conferences.

SAIC launched extensive publicity activities to enhance the influence. At a press conference held by the State Council Information Office (SCIO) on December 9th, the situations about how SAIC completely solved backlog in trademark examination and appraisal and the campaign in which national SAIC systems actively engaged in combating infringements and counterfeits were released and received favorable feedback home and abroad.

VII. Education and Training

In 2010, IP education and training work was actively promoted with the IP professional training mechanism continuously improved.

SIPO formulated and promulgated the 12th Five-Year Plan for IP Talents. Meetings and seminars on national IP training work were organized to summarize findings and exchange experiences.

SAIC fully promoted the organization and implementation work of trademark strategy through training. The Second Workshop for Trademark Strategy and Protection of the Logo of Asian Games was held in Guangzhou, through which more than 200 officials from local agencies were trained.

NCAC organized two seminars on copyright-related topics for the media, a workshop on copyright-related work and two training sessions for copyright

managers and agents to respectively provide targeted training towards the main media, deputy directors of local copyright bureaus from provincial capitals and central cities, copyright managers and agents nationwide.

VIII. International Cooperation

SIPO gave a full play to its function of comprehensively coordinating foreign-related IP affairs by thoroughly participating in the discussion and negotiation of the development agenda of the World Intellectual Property Organization (WIPO), PCT reform and other topics.

In 2010, SAIC carried out a series of bilateral and multilateral exchanges and cooperation programs in the trademark field, handled 295 foreign-related documents, arranged to receive or participated in the receiving of 42 visiting groups, and dispatched 28 groups (35 persons) abroad.

In 2010, NCAC actively participated in the negotiation of important copyright issues and formulating of new copyright treaties of WIPO, enhanced the cooperation with international organizations, and organized the 4th International Copyright Forum.