

TRANSITIONAL REVIEW MECHANISM OF CHINA

Communication from China

The following communication, dated 26 November 2004, from the Delegation of the People's Republic of China, providing information specified in Annex 1A to its Protocol on Accession, is being circulated in the context of the transitional review mechanism under Section 18 of that Protocol.

(a) Modifications to the Copyright Law, Trademark Law and Patent Law, relevant Implementing Rules that cover all areas included in the TRIPS Agreement and bring these measures into full conformity with the TRIPS Agreement, as well as protections to undisclosed information.

1. Copyright

On 24 July 2003, the National Copyright Administration of China promulgated the revised *Implementing Rules on Administrative Punishment on Copyright*, which was brought into effect on 1 September 2003. The newly revised measures have further improved the copyright administrative enforcement, ensured copyright administrative enforcement procedure and disciplined administrative enforcement actions.

2. Trademark

In April 2002, the State Council promulgated the *Regulations on Protection of the Olympic Symbols*, which strengthened protection of the rights of Olympic symbols holders.

3. Patents

In 2003, the State Intellectual Property Office (SIPO) formulated the *Measures on Compulsory Licensing of Patents* and *Measures on the Administration of Patent Agency*.

4. Customs Protection

In 2003, the State Council issued newly revised *Regulations on Customs Protection of Intellectual Property Rights*, which further strengthened the border protection of intellectual property rights.

(b) As stated in the report, China is strengthening law enforcement in respect of IPR by way of more effective administrative penalties.

China has always attached great importance to the enforcement of IPR protection and has taken substantive measures to further enhance the enforcement of the IPR laws. The local level governments have fully realized the positive effects of IPR protection on the development of economy, abolished local protectionism and taken effective measures in joint operations to crack down upon IPR infringement and counterfeiting.

Statistics show that 37,489 trademark violation cases of various kinds were investigated and dealt with across the country in 2003, among which 26,488 were related to trademark-infringement and counterfeiting. 84,755,000 pieces/sets of illegal marks were seized and destroyed. 15,597 moulds, printing plates and other tools directly used in the trademark infringement were confiscated. 5,754.92 tons of infringed products were destroyed. The fine imposed amounted to RMB 242 million.

In 2003, the intellectual property offices at all levels received 1,517 patent disputes cases, of which 1,237 cases were concluded. The local copyright administrations across the country heard 23,013 cases, nearly 2.6 times increase over 2002. Among them, 22,429 cases, 97.6% of all, were concluded. Of all the cases, 21,032 were subject to administrative penalty, 1,173 were mediated and 224 cases were transferred to the judicial procedures. 67.97 million pieces of pirate copies were confiscated.

A total of 756 IPR infringement cases worth RMB 67.97 million were investigated and solved by the customs offices across China, representing a 76% increase over the last year. The public security authorities across China have handled 3,162 cases of IPR infringement cases, apprehending 5,004 suspects. The Supreme People's Court has received 401 cases of IPR infringement cases involving criminal punishment, of which 399 cases were closed and 551 persons were sentenced.

To achieve more concert results in China's IPR protection, the State Council has decided that through September 2004 to August 2005, under the leadership of the National IPR Protection Working Group, an ad hoc action on IPR protection is to be carried out nationwide. In this action, emphasis is to be put on the "key areas", "key sections" and "key regions" to strengthen overall IPR protection. "Key areas" refer to the protection of the Trademark Right, Copyright and Patent Right; "key sections" refers to imports and exports, exhibitions and wholesale markets, manufacturing for foreign brands, printing and duplications; "Key regions" refer to the regions with high concentration of counterfeit production and sale. Cases of particular concerns to IPR holders as well as the ones with serious consequences will be addressed with special attention and stringent measures have been taken to crack down the violation of IPR protection laws.
