

TRANSITIONAL REVIEW MECHANISM OF CHINA

Communication from China

The following communication, dated 24 October 2005, 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. It was circulated as an advance copy for the Council's October 2005 meeting.

(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 28 December 2004, the State Council issued the *Regulations on Copyright Collective Administration*, which was brought into effect on 1 March 2005. The newly issued regulation will regulate the collective administration activity of Copyright, promote the development of China's collective administration organization of copyright and greatly contribute to the protection of the copyright of its holder in China.

On 30 April 2005, the National Copyright Administration of China and the Ministry of Information Industry jointly promulgated the *Measures on Administrative Copyright Protection on Internet*, which was brought into effect on 30 May 2005. Those measures have further regulated the spread of works on the Internet and upgraded the copyright protection on Internet.

2. Trademarks

On 20 October 2004, the State Council promulgated the *Regulations on Protection of the World Exposition Symbols*.

On 19 August 2004, the State Administration of Industry and Commerce promulgated the *Measures on the Printing and Manufacturing of Trademark*.

3. Patents

On 12 February 2004, the State Intellectual Property Office (SIPO) formulated the *Rules on the Electronic Patent Application*, which was brought into effect on 12 March 2004.

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

The statistics show that 51,851 trademark law-breaking cases of various kinds were investigated and dealt with across China in the year of 2004, while 11,680 of which are general law-breaking cases, 40,171 were trademark-infringement and counterfeiting cases. In addition, 5,494 out of the total trademark law-breaking cases involve a foreign party or factor. During the same period, 38,951,800 pieces/sets of illegal marks were seized and destroyed, with 280,800 moulds, printing plates and other tools directly used in the trademark infringement confiscated, 5,638.53 tons of infringed products destroyed, up to RMB268 million fine imposed and 96 cases involving 82 persons transferred to the judicial procedures.

Press publication, culture, copyright and public security authorities have inspected and confiscated 167 million illegal audio and video products and pirate copies, destroyed 24 illegal CD production lines and outlawed 2,960 hideouts of illegal printing and production.

In 2004, 1,414 patent dispute cases were accepted by patent administrative authorities across the country, 1,181 were concluded.

In August 2004, the State Council carried out one year nationwide special action of IPR protection, which will be further extended to the end of 2005 upon a decision made in early of 2005. The public security authorities have launched an operation, focusing on combating the infringement of the exclusive rights to use trademarks as well. By the end of July of 2005, the public security authorities across China have received 2,054 cases of IP infringement cases, of which 1,804 cases were closed and have apprehended 3,667 suspects with a total value concerned of RMB1.33 billion and the redemptive economic losses up to RMB 420 million.

General Administration of Customs has further enhanced the supervision and punishment on IP infringement as well, with the establishment of its special internal institutions for intellectual property right protection. By the end of July 2005, a total of 1,178 intellectual property infringement cases with value concerned up to RMB91.25 million were investigated by the customs offices across China.
