

TRANSITIONAL REVIEW MECHANISM OF CHINA

Communication from China

The following communication, dated 20 October 2006, 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 12 October 2005, the Supreme People's Court of China and the Supreme People's Procuratorate jointly issued a *Reply on Relevant Issues concerning Audio-visual Products Involved in the Handling of Criminal Cases of Infringing upon Copyrights*, which went into effect on 18 October 2005.

On 18 May 2006, the State Council issued the *Regulations on the Protection of the Right of Communication through Information Network*, which was brought into effect on 1 July 2006. The Regulations will contribute further to the regulation of activities relating to the spread of works on the internet, to the enhancement of the copyright protection on the Internet, and will promote the further development of the Internet industry.

2. Trademark

On 26 September 2005, the State Administration of Industry and Commerce promulgated the *Rules for Trademark Review (second revision)*.

On 31 December 2005, the State Administration of Industry and Commerce and the Committee of Trademark Review jointly issued the *Trademark Review and Review Standard*.

On 10 January 2006, the Ministry of Commerce, the State Administration of Industry and Commerce and the State Intellectual Property Office (SIPO) promulgated the *Measures on Protecting the IPR of Exhibition*.

On 13 January 2006, the *Provisional Rules on Promoting the Join and Cooperation in Combating the Infringement of the Exclusive Rights to Use Trademarks*, issued by the Ministry of Public Security and the State Administration of Industry and Commerce, went into effect.

3. Patents

On 29 November 2005, the State Intellectual Property Office issued the *Measures on the Compulsory Licensing for Exploitation of Patents Relating to Public Health* in accordance with the Decision on Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health adopted by the WTO General Council on 30 August 2003. The Measures went into effect on 1 January 2006.

On 24 May 2005, the State Intellectual Property Office issued the *Guidelines for Patent Examination*, which went into effect on 1 July 2006.

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

In August of 2004, the State Council led a one-year nationwide special action on IPR protection. In early 2005, the State Council decided to prolong the special action until the end of 2005.

From November 2004 to December 2005, the public security authorities across China staged "Mountain Eagle" Action to combat IPR infringement, with the following achievements: among 3,534 cases of IP infringement reported and investigated, 3,149 cases were closed; 5,981 suspects were apprehended; total value concerned amounted to RMB 2.65 billion and the redemptive economic loss amounted to RMB 1.3 billion. In the special action to combat piracy, public security authorities seized and destroyed 17 illegal CD production lines in 2005.

During the special action, press and publication authorities investigated and dealt with 10,442 cases of copyright infringement with a total value concerned of RMB 230 million, seized and destroyed 3,879 cases of pirate copies and outlawed 14,000 illegal business operators. The patent authority investigated and dealt with 3,923 cases of patent counterfeiting, of which 515 cases involved counterfeiting the patent of another person and 3,078 cases involved patent infringement. The culture authority investigated and dealt with some 10,000 cases, seized and destroyed 180 million illegal audio and video products, and outlawed 7,559 illegal business operators.

In 2005, 4,413 IPR criminal cases were accepted by procuratorial organs upon application for arrest on a nationwide basis, of which 3,389 cases were authorized; 4,645 cases were accepted upon prosecution initiatives transferred by public security authorities, of which 3,490 cases were prosecuted.

In 2005, the courts across the nation received 3,567 criminal cases involving IP infringement, production of counterfeit and inferior goods and illegal business operation, of which 3,529 cases were closed. During the same period, the courts across the nation received 13,424 first trial civil cases involving IPR infringement (of which 13,393 cases were closed), and 575 first trial administrative cases involving IPR infringement.

In 2005, 39,107 trademark counterfeit cases were investigated and dealt with by industry and commerce administrative authorities at all levels. During the same period, 50,787,500 pieces/sets of illegal marks were seized and destroyed, 18,414 molds, printing plates and other tools directly used in trademark infringement were confiscated, 7,346.75 tons of infringed products were destroyed, up to

RMB342 million in fines were imposed and 236 cases involving 215 persons were transferred to the judicial proceedings.

In 2005, a total of 1,210 intellectual property infringement cases involving import and export goods with a total value concerned up to RMB99.78 million were investigated and dealt with by the customs offices across China.
