

**TRANSITIONAL REVIEW MECHANISM OF CHINA**

Communication from Canada

By means of a communication from the Delegation of Canada, dated 20 October 2008, the Secretariat has received the following contribution in the context of the transitional review mechanism under Section 18 of China's Protocol on Accession.

1. Canada is encouraged by China's formal recognition of the importance of intellectual property protection and enforcement through the release of its National Intellectual Property Strategy this past June. Canada also notes a considerable, and growing, number of patent and trademark registration applications in China as well as associated delays and processing backlogs. With this in mind, Canada would be most grateful to learn what resources and measures will China devote to improve the functioning of systems protecting intellectual property rights?

2. In the Strategy, China also distinguishes between developed and developing economies approach to intellectual property rights, noting that "[d]eveloped countries...make full use of the intellectual property system to maintain their competitive advantage" and that "[d]eveloping countries actively adopt intellectual property policies and measures suitable for their respective national conditions to promote development". Canada would be most grateful if China could explain the distinction it offers between developing and developed countries IPR regimes and which aspects of developed economies' intellectual property rights policies and measures it considers unsuitable for China?

3. Canada would be grateful to learn about China's experiences with respect to the registration and use of the Beijing Olympic trademarks.

**I. CHINA'S ACTION PLANS ON INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION**

4. Canada would be most grateful for details/results of the enforcement activities undertaken by China through its 2007 Action Plan on IPR Protection as well as the nature of infringement activities involved (i.e. number of campaigns, where they were conducted, charges laid, convictions, type of infringement, category of goods, etc.)

5. Canada would also be grateful if China could identify the direct channels or specific web addresses to access those measures, regulations and judicial interpretations listed in the 2008 Action Plan on IPR Protection as well as a timetable for their announcement.

6. A complete list of all Chinese agencies responsible for or dealing with IPR issues and activities, as well as their respective roles and responsibilities would also be most helpful.

7. Canada would be most grateful for further information on the objective and function of IPR Protection Aid Centres mentioned under the Plan for Providing Services for the Rights Owners section of the 2008 Action Plan. Furthermore, do foreign right owners have access to the same services provided to Chinese rights holders by these Centres?

8. It would also be helpful for Canada to understand what reporting mechanisms are being used by the Centres and the frequency of foreign right holders accessing the services of the Centres.

## **II. PATENT LAW REVISIONS**

9. China's National People's Congress announced the draft Patent Law Amendments in August 2008 for public comments. Noting that the revising process of China's Patent Law has been ongoing for some time, could China please provide a timetable for the finalization of the amendments?

10. Article 21 of the draft allows any entity or individual to apply a patent in other countries for invention-creation made in China, but a confidentiality review by the Chinese patent authority is required beforehand. Canada would be most grateful if China could explain the procedures involved and provide a possible timeframe for a confidentiality review?

11. Article 23 of the draft requires "absolute novelty" - only technology which is undisclosed both in China and internationally before the date of filing may be granted with a patent. Canada would be most grateful for China's understanding of how this approach might impact on foreign investment in China.

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