

TRANSITIONAL REVIEW MECHANISM OF CHINA

Communication from China

The following communication, dated 21 October 2008, from the Delegation of China, providing information specified in Annex 1A of its Protocol of 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.**

On 5 June 2008, the State Council issued the *Circular of the State Council on Issuing of the Outline of the National Intellectual Property Strategy*, which identified guidelines, strategic goals, strategic priorities, specific tasks and strategic measures of the national intellectual property strategy.

1. Trademark

On 18 February 2008, the Supreme People's Court issued the Regulation on Certain Issues in Trial of the Conflicts between Registered Trademarks, Enterprise Names and Prior Rights in Civil Litigations, which comes into force on 1 March 2008.

2. Patent

On 5 August 2008, the State Council submitted the *Draft of the Amendment on the Patent Law of the People's Republic of China* to the Standing Committee of the National People's Congress for deliberation.

On 25 August 2008, the State Intellectual Property Office issued the Measures for the Implementation of Patent Agents Qualification Examination and the Rules for Patent Agents Qualification Examination. Both come into effect on 1 October 2008.

3. Customs Protection

In January 2007, the General Administration of Customs issued the *Customs' Administrative Measures on Enterprises Classification*, which takes into consideration enterprises' IPR violation records in classification.

4. Other

On 25 December 2007, the Ministry of Agriculture issued the *Administrative Measures on the Geographical Indications of the Agricultural Products*, which comes into force on 1 February 2008.

On 25 August 2007, the Ministry of Agriculture issued the *Detailed Rules for Implementation of the Regulations on the Protection of New Varieties of Plants* (the Part of the Agriculture), which comes into effect on 1 January 2008.

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

From 2007-2008, while strengthening IPR law enforcement, China continued to carry out dedicated campaigns with good results.

- Ten agencies, including the National Office for Fighting against Pornography, Illegal Publications and Piracy, the Publicity Department of the CPC and culture, public securities authorities, jointly launched a *Fight Piracy Every Day* campaign.
- The National Office for Fighting against Pornography, Illegal Publications and Piracy, the Ministry of Public Security, the Ministry of Construction, the Ministry of Culture, the General Administration of Press and Publication, and the State Administration for Industry and Commerce jointly cracked down on street vendors of pirate goods and illegal publications and sales of unlicensed businesses.
- The State Copyright Bureau and public security and telecommunications authorities launched a campaign to combat internet infringement and piracy.
- The Ministry of Commerce and the State Bureau of Industry & Commerce, together with IPR bureaus, continued actions under the *Blue Sky Special Operation* with regard to trade exhibitions.
- The State Copyright Bureau carried out a nationwide operation against pre-installed illegal computer software, actively advanced the building of copyright digital supervision platform and established the *State Copyright Bureau Anti-piracy Centre*.
- The Ministry of Culture clamped down on street vendors of pirate goods and illegal publications and sales of unlicensed businesses and launched the Internet Purification Action focusing on Internet games and on-line music market. It also designated 26 April as the day for destroying illegal audio and video goods.
- The Ministry of Agriculture conducted geographical indications registration for agro-products and continued to crack cases of imitating authorised varieties and infringement on varieties rights.

5. Statistics of IPRs Enforcement

- In 2007, public security authorities across the country cracked 2008 IPR-violating cases which involved 1.49 billion RMB.
- In 2007, procuratorial organs arrested 2,174 IPR-violating suspects in 1,256 cases and prosecuted 2,637 IPR-violating suspects in 1,525 cases.

- In 2007, local courts across the country ruled on 2,684 IPR-violating criminal cases. Court ruling became effective for 4,328 people, among whom 4,322 were found guilty.
 - In 2007, copyright administrative agencies at all levels imposed 9,816 administrative punishments, confiscated 75.69 million pirate goods.
 - In 2007, industry and commerce administrators at all levels investigated and handled 50,318 cases of trademark violations.
 - In 2007, IPR Bureaus across the country accepted 986 patent disputes, investigated and handled 32 cases of imitated patent and 681 cases of counterfeited patent.
 - In 2007, nationwide culture administrative authorities at all levels investigated and handled 20,657 cases of IPR infringement and confiscated 108 million illegal audio and video discs.
 - In 2007, the Customs intercepted 7,456 batches of IPR-violating goods worth 440 million RMB.
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